

EN BANC

[G.R. Nos. 137828-33, March 23, 2004]

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. JOSE SANTOS Y RUIZ, APPELLANT.

DECISION

SANDOVAL-GUTIERREZ, J.:

For automatic review is the Decision^[1] dated November 27, 1998 of the Regional Trial Court, Branch 78, Malolos, Bulacan in Criminal Cases Nos. 1267-M-97 to 1272-M-97 convicting Jose Santos y Ruiz, appellant, of six (6) counts of rape and sentencing him to suffer the supreme penalty of death in each count and to pay P50,000.00 as moral damages.

The Information in Criminal Case No. 1267-M-97 charges appellant as follows:

"That sometime in the year 1996, in the municipality of Balagtas, province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, and with the use of force, violence and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of the said Vanessa Bancefra y Reyes, 13 years of age, against her will.

"CONTRARY to law."^[2]

The other five (5) Informations in Criminal Cases Nos. 1268-M-97 to 1272-M-97 read:

"That sometime in the year 1997, in the municipality of Balagtas, province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, and with the use of force, violence and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of the said Vanessa Bancefra y Reyes, 13 years of age, against her will.

"CONTRARY to law."^[3]

Upon arraignment on September 26, 1997, appellant, assisted by counsel, pleaded not guilty to the crimes charged. Trial ensued thereafter.

The evidence for the prosecution shows that complainant Vanessa Bancefra, thirteen (13) years old, is the daughter of spouses Ronnie Bancefra and Cristina Santos. After the disappearance and long absence of Vanessa's father, her mother, on September 15, 1990, cohabited with appellant. Sometime in 1992, Vanessa and her three (3) siblings lived with their mother and appellant at First Avenue, Caloocan City. After two (2) years, or in 1994, they transferred to Longos, Balagtas, Bulacan. On June 28, 1996, Cristina and appellant were married.

Sometime in 1996, at about 8:00 o'clock in the evening, appellant, Vanessa and her mother Cristina were at home in Longos, Balagtas, Bulacan. Appellant, then sitting on the stairs of their house, instructed his wife Cristina to buy food in the market. While Vanessa was watching television, appellant suddenly entered the house and sat beside her. Frightened, she moved away but he came closer and placed his arm on her shoulder which she removed abruptly. At that instance, he lighted a cigarette and went out of the house. When he returned, he closed the front door and ordered her to lie down. She refused, hence, he pushed her to the sofa. She resisted by kicking him but to no avail. He undressed her. Then he also removed his shorts and brief and placed himself on top of her. While holding her arms, he inserted his penis inside her vagina and made push and pull movements which caused her pain. After about half a minute, he stopped then resumed his bestial acts. After ravishing her, appellant put on his clothes and ordered her to wear her panty and shorts. She cried and noticed some blood on her vagina. She told him that she will "report the incident." However, he threatened to kill her and her family. Meanwhile, at about 8:30 o'clock in the evening, her mother arrived from the market. Vanessa did not report the incident to her mother because of appellant's threat.

Sometime in 1997, while Vanessa's mother was in the market and her brother Samuel was in their neighbor's house, appellant sexually abused her for the second time. She was watching television when he forced her to lie down. Again she refused but he pushed her to the sofa and undressed her. After removing his clothes, he went on top of her and inserted his penis into her vagina, making push and pull movements. After having carnal knowledge of her, he threatened to kill her should she inform anybody about it. She cried while dressing up and kept the incident to herself.

Also in 1997, appellant sexually ravished Vanessa for the third time. That evening, her brother and her mother were away. She was then cooking while appellant was watching television. He called her but she ignored him. He then grabbed her hands and pulled her to the sofa. Again, against her will and consent, he undressed her, placed himself on top of her and inserted his penis inside her vagina, making push and pull movements. At that instance, she felt pain. After sexually abusing her, appellant smoked a cigarette and threatened to kill her if she reports the incident to anyone. All she could do was to cry.

For the fourth time, appellant had carnal knowledge of Vanessa, also in 1997. That evening, she was alone, reading a book and watching television. Appellant approached her, held her hands and dragged her to the sofa. He then ordered her to lie down and forcibly undress her. He also removed his clothes and placed himself on top of her. As in the past, she felt pain when he inserted his penis inside her vagina. She resisted by pushing him away. Still he succeeded in sexually abusing her. Once more, he threatened her.

For the fifth time and sixth times, also in 1997, appellant sexually ravished Vanessa through force and violence. He made similar threats should she report the incidents to anyone.

On June 23, 1997, when appellant was not at home, Vanessa mustered enough courage to reveal to her mother that he sexually abused her several times. This was prompted by the revelation of her youngest sister Hannah that appellant also sexually molested her by inserting his finger in her vagina.

Immediately, Cristina accompanied Vanessa to the Balagtas Police Station to report the incidents and to the PNP Crime Laboratory at Camp Olivas, PNP, San Fernando, Pampanga for her physical examination. Dr. Edgardo O. Gueco, who examined her, issued a Medico-Legal Report^[4] with the following findings:

"GENITAL:

*PUBIC
HAIR:* Absent

*LABIA
MAJORA:* Full, convex
and coaptated

*LABIA
MINORA:* Light brown
and slightly
hypertrophied

*EXTERNAL VAGINAL
ORIFICE:* Offers strong
resistance to
the
introduction of
the examining
little
finger.

VAGINAL CANAL: Narrow
with prominent vaginal
folds.

CERVIX: Normal

*PERI-URETHRAL AND
VAGINAL SMEARS:*
Negative for
the presence
of
spermatozoa.

REMARKS: Subject is in
non-virgin
state
physically."

Dr. Gueco confirmed on the witness stand that "the lacerations in Vanessa's hymen were deep, healed at 6 and 11 o'clock positions^[5] and shallow, healed at 4 and 7 o'clock positions."^[6]

The defense raised the defenses of *alibi* and denial. He testified that he worked in the Philippine Refining Company, Paco, Manila. He reported early in the morning and went home late in the evening. Hence, he could not have raped Vanessa on the dates she mentioned.

On November 27, 1998, the trial court rendered a Decision, the dispositive portion of which reads:

"WHEREFORE, in view of the foregoing, the Court hereby finds accused JOSE SANTOS GUILTY beyond reasonable doubt of six (6) counts of Rape defined and penalized under Article 335 of the Revised Penal Code, as amended by Republic Act No. 7659, and hereby sentences him to suffer six (6) DEATH penalties (one for each count) and to pay private complainant Vanessa Bancefra the amount of Fifty Thousand (P50,000.00) as moral damages.

"SO ORDERED."^[7]

Hence, this automatic review.

Appellant, in his brief, ascribes to the trial court the following errors:

"A

"THE COURT A *QUO* ERRED IN FINDING AND CONSEQUENTLY CONCLUDING THAT THE ACCUSED IS THE STEPFATHER OF THE PRIVATE COMPLAINANT.

"B

"THE COURT A *QUO* ERRED IN ACCORDING FULL CREDENCE AND WEIGHT TO PRIVATE COMPLAINANT'S VERSION OF THE RAPE INCIDENTS.

"C

"THE COURT A *QUO* ERRED IN TOTALLY DISREGARDING THE UNDISPUTED FACT THAT ON ACCOUNT OF ACCUSED' WORK AS A CARPENTER IN THE PHILIPPINE REFINING COMPANY AT PACO, MANILA, HE LEAVES HOME EARLY IN THE MORNING AND COMES BACK HOME LATE IN THE EVENING.

"D

"THE COURT A *QUO* ERRED IN FINDING THE ACCUSED GUILTY BEYOND REASONABLE DOUBT OF THE FELONY OF RAPE ON SIX (6) COUNTS.

"E

"THE COURT A *QUO* ERRED IN IMPOSING ON ACCUSED SIX (6) PENALTIES OF DEATH DESPITE THE INSUFFICIENCY THEREFOR OF THE EVIDENCE."

As alleged in the Informations, the crimes charged were committed sometime in 1996 and 1997. Thus, the law applicable to the cases at bar is Article 335 the Revised Penal Code, as amended by Republic Act No. 7659,^[8] which provides:

"Article 335. *When and how rape is committed.* — Rape is committed by having carnal knowledge of a woman under any of the following circumstances:

1. *By using force or intimidation;*
2. When the woman is deprived of reason or otherwise unconscious; and
3. When the woman is under twelve years of age or is demented.

The crime of rape shall be punished by *reclusion perpetua*.

X X X

X X X

X X X

The death penalty shall also be imposed if the crime of rape is committed with any of the following attendant circumstances:

1. When the victim is under eighteen (18) years of age and the offender is a parent, ascendant, step-parent, guardian, relative by consanguinity or affinity within the third civil degree, or the common-law-spouse of the parent of the victim.

X X X

X X X

X X X."

Rape under the above provisions is either simple or qualified. It is qualified when the age of the victim (below 18) and her relationship with the appellant are both alleged in the Information and proved.^[9]

Here, the prosecution did not allege in the six (6) Informations the qualifying circumstance that appellant is the victim's step-parent. Also, while the Informations allege that the victim was 13 years old when she was sexually abused by appellant, however, the prosecution failed to prove such minority. Thus, appellant may only be charged of simple rape.

Simple rape is committed under *any* of the following circumstances:

1. *By using force or intimidation;*
2. When the woman is deprived of reason or otherwise unconscious; and
3. When the woman is under twelve years of age (statutory rape) or is demented.

In reviewing rape cases, we are guided by the following principles: (1) to accuse someone of rape is easy, but to disprove it is difficult though the accused may be innocent; (2) considering that in the nature of things, only two persons are usually involved in the crime of rape, the testimony of the complainant should be scrutinized with great caution; and (3) the evidence for the prosecution must stand or fall on its own merit and not be allowed to draw strength from the weakness of the evidence for the defense. Corollarily to these is the dictum that where a victim of rape says that she has been defiled, she says in effect all that is necessary to show that rape has been inflicted on her, and so long as her testimony meets the test of credibility, the accused may be convicted on the basis thereof.^[10] In the light of these principles, we examined the testimony of the victim and found no reason to overturn the trial court's assessment of her credibility.

An extract from Vanessa's testimony, quoted hereunder, indubitably shows that appellant, in all six (6) instances, *had carnal knowledge of her by using force and intimidation, thus:*