

## EN BANC

[ G. R. Nos. 150613-14, June 29, 2004 ]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. MANUEL MANTIS,  
APPELLANT.**

### DECISION

**QUISUMBING, J.:**

In its judgment<sup>[1]</sup> dated October 24, 2001, the Regional Trial Court of Guagua, Pampanga, Branch 52, found appellant, Manuel Mantis, guilty beyond reasonable doubt of two counts of rape and sentenced him for each count to suffer the penalty of death and to indemnify the victim, Mary Jane L. Balbin, the sum of P75,000 as civil indemnity and P75,000 as moral damages.

He was charged in two separate informations, both dated August 25, 1999, by the Office of the Provincial Prosecutor of Pampanga as follows:

(1) Criminal Case No. G-4788

That on or about the 3rd day of April, 1999 in the municipality of Floridablanca, province of Pampanga, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, MANUEL MANTIS, did then and there wilfully, unlawfully and feloniously entered (sic) the room of Mary Jane L. Balbin, 12 years old, the daughter of his common-law spouse, and by means of force, threat and intimidation, accused succeeded in having carnal knowledge with Mary Jane L. Balbin, against the latter's will.

Contrary to law.<sup>[2]</sup>

(2) Criminal Case No. G-4797

That on or about the 16th day of July 1998 in the municipality of Floridablanca, province of Pampanga, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, MANUEL MANTIS, did then and there wilfully, unlawfully and feloniously entered (sic) the room of Mary Jane L. Balbin, 11 years old, the daughter of his common-law spouse, and by means of force, threat, and intimidation, accused succeeded in having carnal knowledge with Mary Jane L. Balbin, against the latter's will.

Contrary to law.<sup>[3]</sup>

With the assistance of counsel, he pleaded not guilty to the foregoing charges. The cases were then jointly heard since they involved the same parties and the same

evidence.

The evidence for the prosecution established that:

Private complainant Mary Jane L. Balbin was born on September 28, 1986, as shown by her testimony and a photocopy of her birth certificate.<sup>[4]</sup> She had known the appellant since she was six (6) years of age since he was the common-law husband ("live-in" partner ) of her mother, Merly S. Leona. She had come to consider him as her own father, calling him "Papa".<sup>[5]</sup> Mary Jane lived with her mother, her siblings, and appellant in a three-bedroom house at Valdez, Floridablanca, Pampanga. At the time of the incident in Criminal Case No. G-4788, she was a first year high school student at Guillermo D. Mendoza High School in Guagua, Pampanga.<sup>[6]</sup>

Mary Jane testified that in the afternoon of July 16, 1998, she and her godfather, one Antonio Bartolo, brought her mother to the hospital because she was sick.<sup>[7]</sup> That evening, appellant fetched Mary Jane from the hospital and took her home to Valdez, Floridablanca.<sup>[8]</sup> A certain George Nanquil remained at the hospital to watch over Mary Jane's mother.

Once home, Mary Jane entered her room and was preparing for bed, when suddenly the appellant entered her room. To her surprise, appellant was wearing nothing but a t-shirt.<sup>[9]</sup> Without further ado, appellant grabbed her and removed her shirt, shorts, and panty. She tried to free herself from his tight embrace, but to no avail. Appellant then inserted his phallus inside her private part, causing her much pain.<sup>[10]</sup> When she continued to struggle, appellant threatened to kill her and her mother should she report what he was doing to her.<sup>[11]</sup> Appellant's threat cowed her into submission. Fearful of what she or her mother might suffer in the hands of appellant, Mary Jane endured her ordeal in silence.

In the months that followed, Mary Jane did not breathe a single word to anyone about the harrowing experience she suffered. Not to the authorities or her mother, not to her friends, not to her classmates or teachers.<sup>[12]</sup> Her fearful silence, however, merely emboldened the appellant into repeating his dastardly act.

During the wee hours of April 3, 1999, while Mary Jane was asleep in her room with her two (2) sisters, appellant again entered her room.<sup>[13]</sup> Mary Jane was awakened when she felt him lie beside her. She saw that he was wearing nothing but a shirt.<sup>[14]</sup> Appellant swiftly stripped her of her clothes and proceeded to forcibly insert his organ into her vagina.<sup>[15]</sup> She struggled against the unwanted penile invasion, but her resistance was fruitless as appellant held her very tightly. She did not shout, despite the fact that her mother was in the garage,<sup>[16]</sup> because she was scared of his threat to kill her and her mother.

Living in fear and shame, Mary Jane would have kept her silence had she not become pregnant. She then divulged to appellant's employer, one Ruben Cabrera, what appellant had done to her.

On July 26, 1999, the victim was examined by Dr. Grace Salinas, medical officer of the Romana Pangan District Hospital in San Jose, Floridablanca, Pampanga. Mary

Jane disclosed to Dr. Salinas that appellant had been sexually abusing her since she was seven (7) years old. Dr. Salinas confirmed that she was indeed enceinte. Dr. Salinas' findings, as reduced to writing, are as follows:

- . . .
3. Last menstrual period = February 3rd week 1999
  4. Breast = conical
  5. Internal examination = vagina admits one finger with ease, healed hymenal laceration 12, 3, 6, 9 o'clock
  6. Obstetric ultrasound (7-22-99)  
Result - a single live fetus in breech presentation at about 20 weeks and 1 day AOG<sup>[17]</sup>
- . . .

Dr. Salinas testified that she could not make a determination as to how many times the victim had been forced to engage in unwanted sexual intercourse, but Mary Jane most likely had a sexual encounter in February 1999, which resulted in her pregnancy.<sup>[18]</sup>

After her medical examination, Mary Jane filed a sworn complaint with the police authorities alleging that appellant raped her on July 16, 1998 and on April 3, 1999 as well.<sup>[19]</sup> She likewise attested that prior to April 3, 1999, the appellant had engaged in forcible sex with her several times, but she could no longer recall the dates of these incidents.

On November 29, 1999, Mary Jane gave birth to a baby girl, whom she named Mary Grace. She identified appellant as the father.<sup>[20]</sup>

Appellant raised the defenses of denial and alibi to both charges. He testified that he was separated from his legal spouse, a certain Purisima Gamboa, and started living in with the victim's mother, Merly Leona in September 27, 1992.<sup>[21]</sup> Mary Jane came to live with him and Merly sometime in August 1995.

Appellant contended that he could not have raped the victim on the night of July 16, 1998 because he was at the hospital looking after Merly Leona who was then confined. He claimed that he stayed in the hospital from 8:30 p.m. of July 16, 1998 to 3:00 p.m. of the following day.<sup>[22]</sup> Hence, he could not have raped Mary Jane in their house at Valdez, Floridablanca, Pampanga, as claimed by her.

As to the second rape charge, appellant insisted that it could not have happened, since on April 3, 1999, he was at Maligaya Subdivision, Pulungmasle, Guagua, Pampanga up to 5:00 p.m.<sup>[23]</sup> He stayed the night at his employer's office as was his wont and only went home at 6:30 a.m. the following day to have breakfast.<sup>[24]</sup> The appellant explained that he and Merly did not spend their nights at the house where Mary Jane was staying, since they regularly slept at the office of his employer, Ruben Cabrera, located some 600 meters away from said house.<sup>[25]</sup> He insisted that he never slept one single night in the same house where Mary Jane was staying.<sup>[26]</sup> Instead he allowed Jorge Mercado, Joel Casupanan, and Roderick

Manalansan to sleep in the house where Mary Jane stayed, as she and her siblings had no adult companion at nights.<sup>[27]</sup> He claimed that Casupanan was Mary Jane's boyfriend.<sup>[28]</sup> He also made much of the fact that their neighbor, one Rico Pinili, was a frequent visitor of Mary Jane's at night. Appellant tried to portray the victim as a loose and unchaste female who could have been made pregnant by any of the men previously mentioned, as any or all of them could have enjoyed her favors.

In open court, he claimed that he had an ax to grind against Casupanan, whom he suspected of having an affair with Merly Leona. He testified that a few days after he was incarcerated, Merly Leona started living with Casupanan and that he had previously caught them kissing and embracing in the kitchen of his house.<sup>[29]</sup>

Further, appellant testified that the rape charges against him were concocted by Mary Jane at her mother's behest following a violent scolding he gave them, which prompted them to leave the house. He insisted that the fact that Mary Jane only complained of the alleged rapes after she became pregnant casts doubt upon the veracity of her testimony.

The trial court found the prosecution's evidence weighty and convincing. It declared appellant guilty as charged. Accordingly, it decreed as follows:

WHEREFORE, this court hereby (a) finds accused Manuel Mantis GUILTY beyond reasonable doubt of the crime of rape as charged in Criminal Case No. 4797 and Criminal Case No. 4788; and (b) sentences the accused as follows:

1. In Criminal Case No. 4797, to suffer the penalty of death and to indemnify Mary Jane L. Balbin the amount of P75,000.00 and to pay her the additional sum of P75,000.00 for moral damages; and
2. In Criminal Case No. 4788, to suffer the penalty of death and to indemnify Mary Jane L. Balbin the amount of P75,000.00 and to pay her the additional sum of P75,000.00 for moral damages.

The records of these cases, including the transcript of stenographic notes, are hereby ordered forwarded to the Honorable Supreme Court for automatic review pursuant to Article 47 of the Revised Penal Code, as amended by Republic Act No. 7659.

With costs against the accused.

SO ORDERED.<sup>[30]</sup>

Hence, this automatic review pursuant to Art. VIII, Sec. 5 (2d)<sup>[31]</sup> of the Constitution and Rule 122, Sec. 3 (c) and Sec. 10 of the Rules of Court.<sup>[32]</sup> Before us, appellant assigns the following errors:

## I

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT OF THE CRIME OF RAPE WHEN HIS GUILT WAS NOT PROVEN

II

THE TRIAL COURT GRAVELY ERRED IN IMPOSING THE SUPREME PENALTY OF DEATH WHEN THE INFORMATION DID NOT STATE WITH SPECIFICITY THE QUALIFYING CIRCUMSTANCES OF AGE AND RELATIONSHIP.<sup>[33]</sup>

Simply stated, the issues for our resolution concern: (1) the sufficiency of the prosecution's evidence to establish the appellant's guilt beyond reasonable doubt; and (2) assuming that appellant is guilty as charged, the propriety of the penalties imposed upon him.

On the *first issue*, appellant contends that it was error for the trial court to find him guilty of rape committed "by means of force, threat, or intimidation" in Criminal Case No. G-4788 since a perusal of the prosecution's evidence, including the victim's own testimony, would clearly show that there was no use of force on his part, and that the victim did not offer the good faith resistance required by law and jurisprudence against sexual assault. He avers that a closer examination of the private complainant's statements in open court as to what transpired that evening of April 3, 1999, would clearly show that she never shouted for help when she noticed appellant's presence beside her, notwithstanding that her two sisters were sleeping beside her and her mother was in the garage. Nor did she create any commotion of any sort which could have at least caused her sleeping sisters who were in the same room to wake up or cause her mother to rush to her room and find out what was wrong. Appellant insists that this was unusual, considering that he was unarmed at the time and there is no showing that he covered the victim's mouth to prevent her from shouting. Appellant submits that the foregoing circumstances taken together, far from showing that the sexual act was committed by means of force, instead show that the complaining witness had voluntarily consented to the sexual act.

For the appellee, the Office of the Solicitor General (OSG) counters that the appellant's theory of consensual sex is so preposterous as to strain credulity. The OSG points out that in Criminal Case No. G-4797, the Information charged appellant with ravishing Mary Jane on July 16, 1998, when she was but eleven (11) years old. In other words, appellant was indicted for statutory rape. The Solicitor General stresses that under prevailing law, sexual intercourse with a woman below the age of twelve (12) years is statutory rape and her consent to the intercourse, is conclusively presumed by law to be involuntary, as she is considered to have no will of her own.

Anent Criminal Case No. G-4788, the OSG points out that the evidence on record shows that the victim tried to free herself from the appellant's unwanted clutches, but was unsuccessful as he held her tightly. Nor should she be faulted for her failure to shout, says the OSG. The reason she did not shout is that appellant threatened to kill her and her mother if she shouted.

The Solicitor General submits that in this case, the jurisprudential rule – that the degree of force required in rape cases is relative and need not be overpowering or irresistible – should be applied. All that is necessary to show is that the force employed was sufficient to consummate the purpose which the accused had in mind. Furthermore, the law does not impose upon the victim the burden of proving