

## EN BANC

[ G.R. Nos. 148397-400, July 07, 2004 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF, VS. NICODEMO  
MINON ALIAS "BOYET" AND "NICK," APPELLANT.**

### D E C I S I O N

**TINGA, J.:**

Before us for automatic review is the *Decision* of Branch XLII of the Regional Trial Court, Pinamalayan, Oriental Mindoro<sup>[1]</sup>, finding accused-appellant Nicodemo Minon<sup>[2]</sup> guilty of three (3) counts of QUALIFIED RAPE, and sentencing him to suffer three (3) DEATH penalties; together with the accessory penalties provided by law, and to indemnify the victims Elizabeth and Eloisa Miñon ₱50,000 each, without subsidiary imprisonment in case of insolvency; and to pay the cost.

The four (4) separate *Informations* originally filed against the accused-appellant, all dated 17 July 1998, alleged as follows:

Criminal Case No. P-5795:

"That on or about the 10<sup>th</sup> day of September, 1994, at Sitio Cogonan, barangay Conrazon, municipality of Bansud, Province of Oriental Mindoro, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with lewd and unchaste design, by means of force, threat and intimidation, did, then and there willfully, unlawfully and feloniously lay with and have carnal knowledge with one Maribeth Minon, an 11 year old girl and a cousin of the accused, against her will and without her consent.

"CONTRARY to Article 335 of the RPC in relation to R.A.7659."<sup>[3]</sup>

Criminal Case No. 5796:

"That on or about the 25<sup>th</sup> day of March, 1995, at Sitio Cogonan, barangay Conrazon, municipality of Bansud, Province of Oriental Mindoro, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with lewd and unchaste design, by means of force, threat and intimidation, did, then and there willfully, unlawfully and feloniously lay with and have carnal knowledge with one Elizabeth Minon, a 15 year old girl and a cousin of the accused, against her will and without her consent.

"CONTRARY to Article 335 of the RPC in relation to R.A.7659."<sup>[4]</sup>

Criminal Case No. P-5797:

"That on or about the 4<sup>th</sup> day of October 1997 at Sitio Cogonan, barangay Conrazon, municipality of Bansud, Province of Oriental Mindoro, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with lewd and unchaste design, by means of force, threat and intimidation, did, then and there willfully, unlawfully and feloniously lay with and have carnal knowledge with one Eloisa Minon, an 11 year-old-girl and a cousin of the accused, against her will and without her consent.

"CONTRARY to Article 335 of the RPC in relation to R.A.7659." [5]

Criminal Case No. P-5798:

"That on or about the 14<sup>th</sup> day of January 1998 at Sitio Cogonan, barangay Conrazon, municipality of Bansud, Province of Oriental Mindoro, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with lewd and unchaste design, by means of force, threat and intimidation, did, then and there willfully, unlawfully and feloniously lay with and have carnal knowledge with one Eloisa Minon, an 11 year old girl and a cousin of the accused, against her will and without her consent.

"CONTRARY to Article 335 of the RPC in relation to R.A.7659." [6]

On 08 September 1998, accused was arraigned and pleaded not guilty.[7]

Trial ensued, and considering that the evidence to be presented is common, the parties agreed to have the cases tried jointly.

Private complainants Elizabeth and Eloisa Miñon stated that they are first cousins of the accused, their mothers being sisters.[8] Meanwhile, accused stated that private complainants are his nieces, his father being an uncle of Elizabeth and Eloisa Miñon. [9]

The facts established by the prosecution are summarized as follows:

Elizabeth Miñon testified that since the death of their mother, she and her sisters resided at the house of their uncle, Isagani Miñon at Sitio Cogonan, Brgy. Conrazon, Bansud, Oriental Mindoro.[10] In the early morning of 25 March 1995, while she was sleeping beside the two-year old daughter of Isagani Miñon, she woke up and found her cousin, accused Nicodemo Minon, on top of her. He removed her panty and forcibly inserted his penis into her vagina. He whispered to her not to make any noise.[11] After the sexual act, accused stayed in the room while Elizabeth cried and stood up, went to the other side of the room, and laid down beside Erwin Miñon, a brother of the accused. When Erwin woke up and went downstairs, Elizabeth followed and told him that the accused raped her. Her aunt, Marianita woke up around that time and Elizabeth likewise informed her of the incident. Marianita woke up her husband Isagani Miñon, who upon learning of the incident, ordered the accused to leave the house, which the latter did. A month later, the accused came back and attempted to rape Elizabeth again. Elizabeth decided to leave the place for good and worked in a bakery at the poblacion.[12]

Eloisa Miñon testified that in 1997, she resided in the house of her uncle, Isagani Miñon.<sup>[13]</sup> On the evening of 04 October 1997, while she was sleeping with two children of Isagani Miñon, she was awakened and found that accused-appellant had already removed her clothes. He placed himself on top of her and forcibly inserted his penis into her sex organ. She cried as she felt the pain.<sup>[14]</sup> On 03 December 1997, while Eloisa was in bed with three (3) children, accused-appellant once more forced himself upon her.<sup>[15]</sup> Eloisa stated that she did not report the two incidents to her uncle since the accused threatened to kill her. Thereafter, in the morning of 14 January 1998, the accused instructed Eloisa to clean the kitchen of Isagani's house, to which she complied. While cleaning the kitchen, the accused removed her shorts and forcibly had sexual intercourse with her. After this incident, Eloisa revealed her fateful experience to the accused's sister, Emma, who, upon knowledge of his brother's acts, immediately castigated the latter.<sup>[16]</sup>

Meanwhile, Maribeth Miñon, complainant in Criminal Case No. 5795, decided not to pursue her complaint as she was already married and her husband did not want her to testify.<sup>[17]</sup>

The prosecution likewise presented Dr. Preciosa Soller, Municipal Health Officer of Bansud, Oriental Mindoro, who personally examined the three complainants and issued the corresponding medico-legal reports. Dr. Soller's findings are summarized as follows:

Criminal Case No. P-5795 (Maribeth Miñon):

Findings: Breasts not fully developed; areolae dark colored; scanty pubic hair; hymen-old healed lacerations at 12 o'clock, 3 o'clock, 7 o'clock; uterus not enlarged; vagina admits tightly examiner's gloved index finger, rugae still present; uterus not enlarged physical virginity lost.<sup>[18]</sup>

Criminal Case No. P-5796 (Elizabeth Miñon).

Findings: Breasts developed, conical with pigmented areolae; moderate amount of pubic hair; Perineum moderate amount of white mucus; hymen old healed laceration at 12 o'clock, 3 o'clock and 6 o'clock; vagina admits easily examiner's gloved index finger, rugae still present; uterus not enlarged; physical virginity lost.<sup>[19]</sup>

Criminal Case No. 5798 (Eloisa Miñon).

Findings: Breasts not developed; no pubic hair, labia majora not developed; hymen-old healed lacerations, full at 12 o'clock and 7 o'clock; scanty mucus; vagina admits tightly examiner's index finger; physical virginity lost.

The last witness for the prosecution was POI Mario Matining, who testified that Maribeth Miñon asked for his help because she was raped by the accused. He admitted to having helped prepare the complainants' affidavits and sought their medical examination. He was likewise present when the accused was arrested and identified by the complainants.<sup>[20]</sup>

In a sudden turnaround, complainants Elizabeth and Eloisa Miñon testified for the defense, and manifested that they were no longer interested in further prosecuting the accused as they pity his children.<sup>[21]</sup> They claimed that after having gone under investigation by the Bansud Police, they decided to withdraw the case against the accused-appellant. However, POI Matining and the DSWD officer, Miramelinda Leuterio opposed the withdrawal and pressured them to testify.<sup>[22]</sup> On cross-examination, Eloisa could not explain why she did not inform the trial court, or the prosecuting officer of the alleged pressure from the DSWD officer.<sup>[23]</sup> When questioned by the trial court whether her statements during the 16 March 1999 hearing were all true and correct, Eloisa replied in the negative, and insisted that they were merely forced by the DSWD officer to testify.<sup>[24]</sup>

The defense also presented Rodolfo Rogero, brother-in-law of the accused. He claimed that from 02 October to 28 October 1997, the accused lived with him in his farm in Tiguisan, Bansud, Oriental Mindoro. According to Rogero, the accused never left his farm during the said period as the latter was helping him plow and clean the land in preparation for planting corn.<sup>[25]</sup>

When the accused was placed on the witness stand, he stated that complainants were his nieces,<sup>[26]</sup> but denied the accusations against him. He claimed that from 1994 to 1998, he resided in Odiong, Roxas, Oriental Mindoro, and that on March 25, 1995, the alleged date of the rape of Elizabeth; he was working in a *talyer* in Odiong.<sup>[27]</sup> Thereafter, he stated that on October 4, 1997, the alleged date of the crime against Eloisa, he was selling ice cream and residing in Bauan, Batangas with his wife<sup>[28]</sup>.

The accused maintained that complainants fabricated the rape charges against him because he saw complainants' father, Diosdado Miñon, having sexual intercourse with a certain Lenlen, one of the complainants' sisters in Roma Roxas, Oriental Mindoro.<sup>[29]</sup>

After trial on the merits, the trial court found complainants' initial testimonies to be credible and noteworthy. It held that the recantation of the complainants was a mere afterthought, made out of pity for the accused and out of gratitude to the family which took them in after their mother died.<sup>[30]</sup> In addition, the trial court found vital contradictions in the testimonies of witnesses for the defense.<sup>[31]</sup> While Rogelio Rogero stated that the accused was with him from October 2 to October 28, 1997 at Tiguisin, Bansud, Oriental Mindoro, the accused himself claimed that on October 4, 1997, he was in Bauan, Batangas selling ice cream. Likewise, accused contradicted himself when he stated that he and his wife stayed in Batangas for less than a year in 1997 even as he earlier stated that he resided in Odiong, Roxas, Oriental Mindoro from 1994 to 1998.<sup>[32]</sup> The trial court rejected private complainants' recantation, gave credence to their previous testimonies, found the qualifying circumstances of minority and relationship and convicted the accused for rape, <sup>[33]</sup> as follows:

"ACCORDINGLY, the Court finds the accused NICODEMO MINON guilty beyond reasonable doubt, as principal of the crime of RAPE three (3)

counts with the attending circumstance in all the three (3) cases, **that the victim is under eighteen (18) years of age and the offender is a relative by consanguinity within the third civil degree** and hereby [sic] sentence him to suffer three (3) DEATH penalties, together with the accessory penalties provided by law, and to indemnify the victims Elizabeth and Eloisa Minon the sum of P50,000 each without subsidiary imprisonment in case of insolvency, and to pay the cost."Criminal Case No. P-5795 is hereby ordered dismissed."(Emphasis ours)

The accused now maintains that the trial court gravely erred in convicting him of qualified rape despite the fact that the age of the victims and their relationship to the accused were not duly alleged in the *Informations*, and raised the following lone error:[34]

THE TRIAL COURT ERRED IN IMPOSING THE  
SUPREME PENALTY OF DEATH UPON THE  
ACCUSED-APPELLANT.

In the Appellee's Brief, the Office of the Solicitor General pointed out that private complainants' relationship with the accused and the fact of their minority were alleged in the information but no proof was presented in court to show their exact ages except for their casual testimony as to their ages.[35] Moreover, the Solicitor General stated that the accused, being a first cousin of the complainants, is a relative within the fourth civil degree.[36] Because of these circumstances, the Solicitor General recommended the reduction of the death penalty to *reclusion perpetua*. [37]

It must be noted that the Appellant's Brief adopted the findings of the trial court, [38] and did not contest the liability of the accused even for simple rape, proceeding directly as it did with the discussion of the propriety of the death penalty. This being a death penalty case, however, the records are open for review.[39]

In resolving rape cases, this Court is guided by the following principles: (a) an accusation for rape can be made with facility; it is difficult to prove but even more difficult for the accused, though innocent, to disprove; (b) in view of the intrinsic nature of the crime where only two persons are usually involved, the testimony of the complainant must be scrutinized with extreme caution; (c) the evidence for the prosecution must stand or fall on its own merit, and cannot be allowed to draw strength from the weakness of the evidence for the defense; and (d) the evaluation of the trial court judges regarding the credibility of witnesses deserves utmost respect on the ground that they are in the best position to observe the demeanor, act, conduct, and attitude of the witnesses in court while testifying.[40]

With these principles in mind and after a careful review of the records of this case, we find no reason to overturn the conclusion reached by the trial court concerning the guilt of the accused-appellant.

It is well-settled that when a woman says that she has been raped, she says in, effect, all that is necessary to show that she has indeed been raped.[41] A victim of rape would not come out in the open if her motive were anything other than to