

EN BANC

[G.R. NO. 152969, July 07, 2004]

THE PEOPLE OF THE PHILIPPINES, APPELLEE, VS. BOBBY ORENSE, APPELLANT.

DECISION

VITUG, J.:

For review before the Court is the decision^[1] of the Regional Trial Court, Branch 73, of Antipolo City, finding appellant Bobby Orense guilty beyond reasonable doubt of the crime of statutory rape against his own daughter, Grace Anne R. Orense, and sentencing him to suffer the penalty of death.

The information, dated 31 March 1997, averred –

“That on or about the 2nd day of March 1997, in the Municipality of Antipolo, Province of Rizal, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd designs and by means of force and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of one Grace Anne Orense, who is his own daughter, a minor three (3) years of age, against her will and consent.”^[2]

When arraigned, appellant Bobby Orense pled “not guilty” to the charge; whereupon, trial on the merits commenced.

The case for the prosecution. –

The prosecution presented five witnesses, namely: complainant-victim Grace Anne R. Orense; her mother Noralyn A. Ramos; examining physician Tomas D. Suguitan; Dr. Olga M. Bausa, who compared the blood samples of the complainant with the bloodstains found on the “sando” shirt of appellant; and Dr. Norieta Calma-Balderama, a psychiatrist.

Grace Anne identified her father, appellant Bobby Orense, in open court. She testified that her father, whom she curtly called “*bastos*,” did something bad to her and that she prayed that “her father be sent to jail.” She said that she had seen the penis of appellant which he had inserted into her vagina several times. When she bled, appellant wiped the blood off with his shirt and then licked her private parts. When asked about her age, she answered that she was four years old.

Noralyn Ramos Orense, mother of Grace Anne, confirmed being married to appellant Bobby Orense, their marriage twice solemnized, on 08 March 1988^[3] and on 16 April 1988,^[4] and that complainant Grace Anne was born on 08 October 1993 per her birth certificate.^[5] The family lived in Coconut Street, FEU Village, Brgy.

Mambungan, Antipolo, Rizal. Noralyn was not home in the afternoon of 02 March 1997. Returning home at six o'clock that evening, she noticed that Grace Anne was unusually quiet (*matamlay*). Around noontime the following day, Grace Anne, who just had a bowel movement, complained of pains in her private parts while Noralyn was giving her a bath. It was then when she learned for the first time of the rape incident. For about a week, Noralyn had the same observation whenever she would give Grace Anne a bath. Grace Anne also complained of frequent stomach pains and difficulty in urinating. The matter prompted Noralyn to call the "hotline" of *Bantay Bata*^[6] where she was told to have her child examined by a medico-legal officer. She and Grace Anne proceeded to the Sto. Niño de San Antonio Maternity and General Hospital. She was advised to have the child undergo urinalysis. Dr. D. S. Sta. Ana, a pathologist, with the assistance of medical technologist Editha A. Santos, conducted the urinalysis and found Grace Anne to be suffering from urinary tract infection. Dr. Tomas D. Suguitan, a medico-legal officer, examined Grace Anne and found her to be a non-virgin.

On 24 March 1997, Noralyn went to the Rizal CIG Provincial Office, Karangalan Village, in Cainta, Rizal, to execute a sworn statement^[7] on the rape perpetrated by appellant. When apprehended, appellant told Noralyn that he would agree to leave the house and financially support them provided she would drop the charge against him. Noralyn declined. Appellant was detained at the Antipolo Municipal Jail. Since Grace Anne continued to have nightmares, Noralyn brought her daughter to the Child Protection Unit of the Philippine General Hospital for psychiatric treatment.

Dr. Sta. Ana and Editha A. Santos of the Sto. Niño De San Antonio Maternity and General Hospital in Marcos Highway, Barrio de la Paz, Pasig City, undertook urinalysis on Grace Anne. The report,^[8] dated 25 March 1997, read:

"STO. NINO DE SAN ANTONIO
MATERNITY AND GENERAL HOSPITAL
Marcos Highway, Barrio dela Paz
Pasig City
Tel. 645-30-60

URINALYSIS

Name: Orense, Grace Anne Age: Sex: Status: Date: 3/17/97

| | | | | |
|------------------|----------|-----------------------|-----------|---------|
| Physician | | | | Room: 3 |
| Ward OPD | | | | |
| Color | yellow | Pus Cells | 14-16/hpf | |
| Transparency | hazy | RBC | 0-2/hpf | |
| Reaction | ph 6.0 | Cast | | |
| Specific Gravity | 1.020 | Epithelial Cells | few | |
| Sugar | negative | Bacteria | | |
| Protein | negative | Parasite | | |
| Billirubin | | Crystals Uric Acid | few | |
| Ketones | | Pregnancy Test | | |

Sgd.
EDITHA A. SANTOS
MEDICAL TECHNOLOGIST

Sgd.
DR. D. S. STA. ANA
PATHOLOGIST

"STO. NINO DE SAN ANTONIO
MATERNITY AND GENERAL HOSPITAL
Marcos Highway, Barrio dela Paz
Pasig City
Tel. 645-30-60

URINALYSIS

Name: Orense, Grace Anne Age: 3 1/2 Sex: F Status: Date:
3/25/97

| | | | |
|------------------|-----------------|-----------------------|---------|
| Physician | | Room: | |
| Ward OPD: xx | | | |
| Color | yellow | Pus Cells | 2-4/hpf |
| Transparency | slightly turbid | RBC | 0-1/hpf |
| Reaction | ph 6.0 | Cast | |
| Specific Gravity | 1.015 | Epithelial Cells | few |
| Sugar | negative | Bacteria | |
| Protein | trace | Parasite | |
| Billirubin | | Crystals a. urates | few |
| Ketones | | Pregnancy Test | |

Sgd.
MEDICAL TECHNOLOGIST

Sgd.
DR. D. S. STA. ANA
PATHOLOGIST"

Dr. Tomas D. Suguitan, Police Senior Inspector and Medico-Legal Officer of the Philippine National Police Crime Laboratory Group in Camp Crame, Quezon City, examined Grace Anne. Medico-Legal Report No. M-1058-97,^[9] dated 20 March 1997, yielded the following findings; viz:

"PURPOSE OF LABORATORY EXAMINATION:

To determine physical signs of sexual abuse.

"FINDINGS:

"GENERAL AND EXTRAGENITAL:

Fairly developed, fairly nourished and coherent female child. Breasts are undeveloped. Abdomen is flat and soft.

"GENITAL:

There is absence of pubic hair. Labia majora are full, convex and coaptated with the pinkish brown labia minora presenting in between. On separating the same disclosed an elastic, fleshy-type hymen with shallow healed laceration at 9 o'clock position. External vaginal orifice admits tip of the examiner's smallest finger.

"CONCLUSION:

Subject is in non-virgin state physically.

There are no external signs of application of any form of violence.

"REMARKS:

Vaginal and peri-urethral smears are negative for gram-negative diplococci and for spermatozoa."

Dr. Suguitan testified that he found a shallow healed laceration at the nine o'clock position which could have been caused by the insertion of a blunt object, such as a penis or a finger, and not merely because of a bad fall.

Dr. Olga M. Bausa, Police Senior Inspector and Medico-Legal Officer of the Philippine National Police Crime Laboratory Service in Camp Crame, Quezon City, compared the 2 ml. blood sample taken from Grace Anne with that of the bloodstains found on a "sando" shirt^[10] belonging to appellant. The biochemical examination on the shirt gave positive result for the presence of human blood belonging to blood type "B." Medico-Legal Report No. S-233-97,^[11] dated 10 November 1997, showed that both specimens belong to blood type "B":

"SPECIMEN SUBMITTED:

Specimen A — Living person of Grace Anne R. Orense

Specimen B — One (1) sando shirt colored white with alleged bloodstains.

"PURPOSE OF LABORATORY EXAMINATION:

To determine the presence of blood, its origin and its corresponding blood type.

"FINDINGS:

Biochemical examination conducted on specimen B gave POSITIVE result to the test for the presence of human blood belonging to blood group `B.'

Blood typing conducted on the living person of Grace Anne R. Orense showed that she belong[s] to blood group `B.'

"CONCLUSION:

Specimen A belongs to human blood group 'B'.

Specimen B revealed the presence of human blood belonging to blood group 'B'."

Dr. Norieta Calma-Balderama, an Adult and Child Psychiatrist of the Child Protection Unit of the Philippine General Hospital, testified that she handled the psychiatric treatment. Dr. Balderama used the "play and interview" approach in talking to Grace Anne. During the interview, she observed that Grace Anne repeatedly said the words "*titi ni Papa*," "*dugo*," "*daliri ni Papa*," and "*dito hinawakan*" (referring to her private parts) even without being asked about the abuse. She concluded that the girl was telling the truth. When Grace Anne visited the center for the seventh time, she showed manifestations of one who had experienced a traumatic event.

The version of the defense. –

Appellant Bobby Orense, testifying in his own behalf, admitted being married to Noralyn. The couple had three children born of the marriage, namely, Angelita, Grace Anne, and Norbert. Appellant denied having raped Grace Anne. He claimed that at eight o'clock in the morning of 02 March 1997, he was at his father's house in Blumentritt, Manila, to meet a friend who would accompany him to renew his security guard license. By eleven o'clock in the morning, appellant was at the National Bureau of Investigation (NBI) in U.N. Avenue, Manila, to secure an NBI clearance which he needed for his job application. He stayed there until two o'clock in the afternoon. He then proceeded to Camp Crame to renew his license as a security guard and left the place at four o'clock in the afternoon. At around six o'clock in the evening, appellant arrived home only to find his clothes in a trash can. According to appellant, his wife did it out of anger as he was away for so long. Appellant said that his wife treated him like a house helper and obliged him to do household chores, like washing clothes and doing the dishes, that prompted him to stay with his father at Blumentritt, Manila, for about a month prior to 02 March 1997.

The decision under review. –

On 24 August 2001, the court *a quo* rendered a decision, finding Bobby Orense guilty of statutory rape; it concluded:

"WHEREFORE, premises considered, accused Bobby Orense is hereby found guilty beyond reasonable doubt of the crime of statutory rape and is sentence[d] to suffer the penalty of death in accordance with Republic Act [No.] 7659. The accused is also ordered to pay the victim the amount of ₱50,000.00 as indemnity."^[12]

In this appeal, appellant contends that the prosecution has failed to prove his guilt beyond reasonable doubt.

As so often said, this Court, is guided in its review of trial court decisions in rape cases by certain guidelines, *i.e.*, (1) that an accusation for rape can be made with facility; (2) that the crime is difficult to prove but more difficult for the person accused, though innocent, to disprove; (3) that, in view of the nature of the offense of rape where only two persons are usually involved, the testimony of the