

THIRD DIVISION

[G.R. Nos. 136870-72, January 28, 2003]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
WILSON SALVADOR Y GAGARIN, ACCUSED-APPELLANT.**

DECISION

PUNO, J.:

Before us is an appeal from the decision of the Regional Trial Court of Cauayan, Isabela, Branch 19, in Criminal Case No. 19-1191 promulgated on October 20, 1998, finding accused-appellant Wilson Salvador y Gagarin guilty beyond reasonable doubt of the crime of rape.^[1]

The Information in Crim. Case No. 19-1191 states:

"That on or about the 30th day of August, 1995, in the [REDACTED], Philippines, and within the jurisdiction of this Honorable Court, the said accused, by means of force and intimidation, and with lewd designs, did then and there, willfully, unlawfully and feloniously, lay (*sic*) with; and have carnal knowledge with (*sic*) one AAA, against her will and consent.

CONTRARY TO LAW."^[2]

Accused pleaded not guilty upon arraignment and underwent trial.

It appears from the evidence that private complainant, AAA, is the niece of the accused, being the daughter of his older sister, [REDACTED]. She was two years of age when her mother died in 1979. Her paternal grandparents brought her up in Manaoag, Pangasinan where she stayed until she finished her secondary education. After graduation from high school, the brothers of her late mother, namely, Maximo, Wenceslao and Nestor, all surnamed Salvador, offered to send her to college. It was agreed that she stay with her maternal grandmother, [REDACTED], at the latter's residence at [REDACTED] to facilitate her studies.^[3] She transferred there around March 1995.^[4]

[REDACTED]'s house consists of two stories. [REDACTED] slept at the ground floor, while accused Wilson, [REDACTED]'s son and AAA's uncle, slept at the second floor. The second floor has only one room but is divided into two sleeping quarters by a collapsible divider. AAA used to sleep with her grandmother [REDACTED]. However, in August 1995, she was advised by [REDACTED], who was then sick, to sleep upstairs to avoid being contaminated by her illness. Accused Wilson slept on a bed at one side while AAA slept on the bamboo floor at the other side of the divider.^[5]

AAA testified that in the early evening of August 30, 1995, she was awakened by a

heavy weight on top of her. She recognized the person to be accused Wilson, her uncle. She froze because the accused was poking a knife at her right neck, at the same time telling her *“saan ka nga agriyao ta no agriyao ka patayin ka’* (Don’t shout or else I will kill you).”^[6] Accused kissed all parts of her body while she was still dressed. Thereafter, still holding the knife with his left hand, accused removed her shirt, short pants, panty and bra with his right hand. He mashed her breasts, forcibly separated her two legs and succeeded in having sexual intercourse with her. Having been seized with fear, she was not able to do anything but cry after the accused was done with his bastarding act. This abuse was repeated on several occasions for over a year during her stay with her grandmother and the accused.^[7]

AAA stopped living in the house of her grandmother when another uncle, Nestor Salvador, took her and brought her to his house in Calamagui, Ilagan, Isabela on January 19, 1997. On February 24, 1997, her father, [REDACTED], fetched her from Nestor’s house because his younger son, [REDACTED], suspected that something was wrong with her. While there, [REDACTED] noticed her pregnancy. AAA thus had to reveal the ordeal she underwent in the hands of the accused. She gave birth to [REDACTED] on June 20, 1997 as a result of the forced coitus.

[REDACTED], the father of AAA, testified as to the efforts of Dolores Ramones, Panting Manuel, Sangguniang member Pulig, Sangguniang member Fermin, Nestor Salvador, Santiago Manguba, Maura Salvador, Angelito Manguba and Kagawad Dominador Bonalos, relatives of the accused, to seek a compromise agreement or settlement of the case of the accused. They first offered to give the land supposed to be inherited by his ([REDACTED]’s) children. They also offered to give the land that was supposed to be inherited by Wilson Salvador. However, the relatives did not comply with their promise so the settlement did not materialize.

Accused-appellant denied the rape charge and alleged that it was AAA who seduced him and that what occurred was consented sexual intercourse as they shared a romantic relationship. He claimed that it was AAA who first came to his bed to sleep with him in the month of July 1995. He scolded her but eventually, they developed mutual love for each other and thus had numerous consented sex. He also denied knowledge of the offer of compromise of his relatives. He allegedly did not authorize them to enter into any settlement with [REDACTED].^[8]

As aforesaid, the trial court rendered a joint decision convicting the accused on one count of rape committed on August 30, 1995, and acquitting him from the two other counts committed on September 6, 1995 and October 4, 1996, the dispositive portion of which states:

“WHEREFORE, in view of the foregoing considerations, judgment is hereby rendered:

1. Finding the accused guilty beyond reasonable doubt of the crime of rape committed on 30 August 1995 and charged in Criminal Case No. 19-1191, and sentencing him to suffer the penalty of reclusion perpetua, and to indemnify the offended party, AAA in the amount of P200,000.00; and
2. For failure of the prosecution to prove the guilt of the accused beyond reasonable doubt, acquitting him from the offense charged

in Criminal Cases Nos. 19-1189 and 1190.

Costs against the accused.

SO ORDERED.”^[9]

From this decision, the accused-appellant interposed the present appeal, raising the following assignment of errors:

“I.

THE TRIAL COURT ERRED IN CONVICTING THE ACCUSED-APPELLANT OF THE CRIME OF RAPE SINCE NO FORCE WAS EMPLOYED IN THE COMMISSION OF THE CRIME.

II.

THE TRIAL COURT ERRED IN CONVICTING THE ACCUSED-APPELLANT DESPITE THE FAILURE OF THE PROSECUTION TO ESTABLISH THE GUILT OF THE ACCUSED BEYOND REASONABLE DOUBT.”^[10]

The appeal has no merit.

At the time the acts were committed by the accused, rape was punished under Article 335, paragraph 1 of the Revised Penal Code. It can be committed “by having carnal knowledge of a woman under any of the following circumstances:

a.) Through force, threat or intimidation;

x x x x x x x x.”

The gravamen of rape is carnal knowledge of a woman against her will or without her consent.”^[11]

Appellant argues that the trial court erred when it failed to appreciate the fact that the victim did not offer any resistance against the alleged sexual assault made by the accused-appellant. He contends that during the act, the victim never shouted for help nor created any commotion that could have aroused her grandmother into coming to her aid. These circumstances, according to him, “show that no force was employed by the accused” and that what happened “was the product of two (2) persons freely and voluntarily consenting to each other’s advances.”^[12]

We disagree. The evidence is clear that accused forced AAA to have sexual intercourse. She testified:

“Atty. Garcia:

Q: While the accused was having sexual intercourse with you, did you not resist him?

A: Yes, sir, I resisted.

Q: How did you resist your uncle?

A: I boxed him, sir.

- Q: With your resistance, was your uncle successful in having sexual intercourse with you?
- A: Yes, sir.”^[13]

It is also shown that the victim was cowed into submission because of the knife poked at her right neck by the accused. She was also warned: “*saan ka nga agriyao ta no agriyao ka patayin ka*,” translated: “Don’t shout or else I will kill you.”^[14]

Furthermore, the fact that the accused is the uncle of the victim bolsters the presence of intimidation. It was found by the trial court that the victim looked upon the accused as her father.^[15] For a young lass from the province, this circumstance is sufficient to shut her up and give in to the whims of the accused.

The accused also contends that the delay of two (2) years in reporting the acts charged “rendered the truth of her charge doubtful.”^[16]

Again, we do not agree. The silence of the victim for a period of time does not necessarily indicate a baseless and fabricated charge.^[17] This Court has often ruled that delay in reporting rape incidents in the face of threats of physical violence cannot be taken against the victim.^[18] Rape victims prefer to suffer in private than reveal their ordeal to the public and suffer the humiliation and simultaneously risk the rapists’ making good the threat to hurt them.^[19] AAA explained why she opted to suffer in silence, *viz*:

“Atty. Garcia:

- Q: Those things did to you by your uncle, did you report them to any authorities?
- A: Because I was afraid then, sir, I did not report.
- Q: Why were you afraid?
- A: Because of his threat to kill me, sir.”^[20]

“Atty. Labog:

- Q: You felt sorry for what happened to you the first time, August 30, 1995?
- A: Yes, sir.
- Q: But you did not tell this experience you had on August 30, 1995 to your lola?
- A: No sir, because I was afraid.
- Q: You were afraid of the accused?
- A: Yes, sir.

x x x x x x x x x

Atty. Garcia:

- Q: You said that you did not tell your lola (about) what