

SECOND DIVISION

[G.R. No. 144053, December 11, 2003]

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. JOSEPH DIZON Y NARIDO, APPELLANT.

DECISION

QUISUMBING, J.:

On appeal is the decision^[1] dated March 6, 2000, of the Regional Trial Court of Pasay City, Branch 110, finding appellant Joseph Dizon y Narido guilty of rape, imposing on him the penalty of *reclusion perpetua* and ordering him to indemnify private complainant AAA the amount of P50,000, plus the costs of suit.^[2]

Appellant was charged in an information which reads:

That on or about the 21st day of May, 1996, in Pasay City, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, Joseph Dizon y Narido, being armed with a gun, by means of force, threats and intimidation upon the person of AAA, did then and there willfully, unlawfully and feloniously have carnal knowledge of the said complainant AAA against her will and consent.

Contrary to Law.^[3]

Appellant pleaded not guilty upon arraignment.

During trial, seven witnesses testified for the prosecution, including its principal witness, the private complainant AAA. Hereunder is the prosecution's version of facts in the case.

Complainant AAA testified she was fifteen years old, and had just graduated from Ramon Magsaysay High School at the time of the alleged incident. Sometime in early May 1996, her best friend and classmate Sheryl^[4] Manlulu confided to her through the phone, that she was upset because she (Sheryl) was supposed to meet with a certain Joseph Dizon, but the latter stood her up ("*Inindiyan siya*"). AAA was told that this Joseph had been courting Sheryl since April 1996. Sheryl then gave Joseph's number to AAA, pleading with the latter to call Joseph and find out why the latter did not show up.^[5] AAA obliged and immediately called Joseph. She introduced herself as Sheryl's friend. In the course of their conversation, Joseph asked for her phone number.^[6] Thereafter, Joseph had become an occasional caller.^[7] AAA found him interesting.^[8] Their phone conversations generally dwelt on Sheryl and the state of Joseph's courtship.

On May 18, 1996, Joseph called AAA and asked her to accompany him to Sheryl's

house on the 20th of May, as it was Sheryl's birthday. AAA advised Joseph to ask permission from Sheryl first. Sheryl in turn informed Joseph that the 20th was her enrollment day, and so Sheryl suggested instead that they visit her the following day, May 21st. After asking permission from her mother, AAA agreed to meet Joseph on said date at the LRT Tayuman Station between 4:00 to 4:30 p.m.[9]

On May 20, 1996, Joseph again called AAA. Aside from asking whether she had already greeted Sheryl on her birthday, to which she positively replied, Joseph described what he would be wearing the next day, so that AAA would easily recognize him at their first meeting. Joseph however told AAA that there was no need for her to describe herself, as Joseph already knew what she looked like from the pictures Sheryl had shown him.[10]

On May 21, 1996, AAA was awakened by a telephone call from Joseph, asking her to accompany him in buying a gift for Sheryl but AAA refused. Later that day, at the appointed hour, the two met. Joseph first saw AAA, called out to her, approached and introduced himself. They were talking as they climbed the stairs of the LRT station. Joseph's beeper suddenly sounded. Joseph stepped back, read the message and then told AAA it was his mother. Joseph then asked AAA to accompany him to the Manila Doctor's Hospital where his mother worked as a Medical Assistant. AAA was reluctant at first, because Sheryl might already be waiting for them. However, Joseph assured her that it would only be for a short while, and that it was important.[11]

They proceeded to the 7th floor of the hospital. Joseph entered a room, after which he asked AAA to come in as well. There, Joseph introduced her to his mother, saying, "Ma, si AAA, my friend." [12] Joseph's mother smiled at AAA.

As they were leaving the hospital, Joseph asked AAA to accompany him first to Pasay City in order to deliver some important documents. Again, AAA reminded him that they might be late for their appointment with Sheryl. Joseph however assured her that they won't take long, so AAA agreed to go. They again took the LRT and alighted at the Buendia station. From there they hailed an FX taxi, as Joseph told her it was quite far if they walked. Joseph opened the door of the taxi and got in beside AAA. He then whispered something to the driver, which AAA said she was unable to hear. AAA inquired from Joseph where they were bound, but Joseph only told her "*Diyan lang*." [13] It was about 6:30 p.m. when they boarded the FX taxi. When she asked about the documents to be delivered, Joseph told her that they were the financial reports of his business. AAA then noticed that the taxi suddenly turned right in a very dark place. [14]

AAA asked Joseph why they made a sudden turn, and the latter justified it by saying that somebody had detected he was armed with a gun. [15] He assured her that he would explain everything to her after they had alighted, as the taxi driver might hear them. [16] The taxi entered a compound that appeared to AAA as an apartelle. They were ushered into a room on the second floor. [17] Inside, Joseph took out a calling card from his wallet and told AAA that he was going to call his "boss." AAA saw the name of a certain SPO Gagangco on the card. [18] Joseph instructed AAA to sit in the corner while he made the call. Their conversation was quite long and AAA

only heard bits of it, with Joseph saying, "Send men as soon as possible because I have with me a girl."^[19] Joseph then pulled out his firearm from his beltbag and toyed with the firearm while he talked on the phone.

AAA sat in the corner of the room, she was already panicky. She didn't know the place and was also told by Joseph that they would only go to that place "when the situation worsens."^[20] She then felt scared, for if the person who had detected Joseph was a policeman, she feared that she could get involved in his trouble.^[21]

After hanging up, Joseph sat on the floor beside AAA and started to embrace her. Surprised, AAA blurted out, "*Putang ina mo. Anong nangyayari sa `yo?*"^[22] She tried to reach the main door and the door leading to the bathroom, in order to escape from Joseph, but he blocked the way.^[23] Joseph then chased her around the room while she, in turn, screamed and shouted for help.^[24] This prompted Joseph to poke a gun at her neck and threaten to kill her, saying, "Don't make me mad, I am going to kill you."^[25] Frightened, AAA slumped in a corner of the room. Joseph then sat in front of her, and again started to embrace and kiss her. AAA tried to fight back, scream and push him away in vain.^[26] Joseph succeeded in removing her sleeveless cotton shirt and her brassiere, then kissed her all over her face, neck and breast and thereafter, unzipped and removed her pants.^[27]

Joseph dragged the complainant to the bed, laid her down and took off her panty. She kicked him and tried to remove his hands from her forearms but he proved too strong for her.^[28] Joseph then removed his pants and brief and positioned himself between her legs, at the same time pinning her down by holding her wrists with both of his hands.^[29] She then felt Joseph's penis coming in and out of her organ, and she felt terrible pain. She felt so weak and scared.^[30]

After some time, Joseph stopped and she noticed a mucous-looking substance left in her pubic hair.^[31] She then covered her nudity with the bed sheet. She felt scared and mad at the same time. Joseph put on his brief, sat on the bed, and dialed Sheryl's phone number. He ordered AAA to tell Sheryl that they would be arriving soon. He also told her not to tell Sheryl about what had just happened and threatened her again. Out of fear, AAA complied and did as told. While AAA was on the phone, Joseph was beside her, holding his gun.^[32] AAA then got dressed and hurriedly left the room.

Once outside the room, at the gate of the compound, she met two men to whom she related her ordeal. The two men, however, referred her to the cashier where she again narrated what she had gone through.^[33] She told them to report the matter to the police as Joseph was armed with a gun. However, she was ignored and even blamed for going with Joseph.^[34] After more or less 10 minutes, Joseph appeared before the cashier to pay the bill. Short of cash, Joseph asked money from her, but she did not give any. Instead, she discreetly exited towards the driveway. She again related her fateful experience to the guard at the driveway who then advised her to stay so she would not be harmed. Thereafter, a call on the intercom came through to the guard, and AAA was told that it was okay for her to leave.^[35] At past 9:00 p.m. she left the compound of Queensland Lodge. She

arrived home at 10:00 p.m.

As she was nearing her house, her father, [REDACTED], saw her and asked why she was late in coming home. AAA did not answer but instead rushed inside their house. Then she immediately told her mother, [REDACTED], everything that had happened to her.^[36]

The family sought the help of their policeman-neighbor who accompanied them to the Western Police District (WPD) station along Taft Avenue. They were immediately advised to go to the National Bureau of Investigation (NBI) for medical examination.^[37]

At the NBI, the physical examination was conducted by the medico-legal officer, Dr. Eduardo Vargas, Jr. From the NBI, they were referred to the Pasay City Police Station. The police asked for the address of Joseph but AAA did not know it. Thus, AAA was instructed by the police to call Joseph at home to get the exact address, but the person who answered the phone did not entertain her call.^[38]

Together with the police, AAA and her father went to Queensland Lodge for ocular inspection and there, they were able to redeem Joseph's beeper and driver's license which Joseph had earlier used as security for the unpaid balance of his bill. From his driver's license they were able to determine Joseph's exact address.^[39] The following day, May 22, 1996, AAA and her father returned to the police station where Joseph was already held in custody. AAA pointed to Joseph as the person who had raped her.

The defense presented appellant Joseph Dizon and his mother Ma. Cristina Narido Dizon as witnesses. In essence, appellant's defense is a variant of the "sweetheart theory", denying the charge but alleging that appellant and AAA had engaged in sex with her consent at the time and date in question. Hereunder is the defense's version of the incident.

Appellant Joseph Dizon testified that he got to know the complainant, AAA, through the girl he was courting, namely Sheryl Manlulu. In the second week of April 1996, Joseph said AAA called him up on the phone and introduced herself as the best friend of Sheryl. AAA called in order to help him and Sheryl settle a petty argument. Prior to the telephone call, he had already heard AAA's name mentioned by Sheryl, but that was the first time they talked.^[40] The conversation lasted about 30 minutes. They exchanged personal information about each other, such as their likes, dislikes, hobbies, etc. Thereafter, Joseph and AAA would already exchange telephone calls. She called him about five times a week, while he would call her about thrice a week.^[41] Joseph found AAA to be a nice person to talk to and very interesting.^[42] Eventually, they found themselves talking about more serious matters, with her asking him his preference in a woman, and him asking AAA the latter's concept of an ideal man.^[43] The phone conversations usually lasted 30 minutes on the average, and would happen at around 8:00 p.m.

On May 18, 1996, during another phone conversation, Joseph and AAA agreed to meet on May 21, 1996, at 2:00 p.m., at the LRT Tayuman Station. AAA had previously informed him that Sheryl's birthday was forthcoming. Joseph stated that

Sheryl's birthday was actually on the 20th of May but he was informed by AAA that Sheryl will have a birthday party at her house on the 21st. Thus, he made the date with AAA so that she can accompany him to Sheryl's house as it would be his first time to go there. Although he had been courting Sheryl for some time, he would visit her at her grandparents' house as Sheryl tended a store there. Appellant in fact had already professed his love for Sheryl at this time but she was not yet his girlfriend as they had some petty arguments. Joseph also suspected that AAA might have told Sheryl something against him.^[44]

On May 20, 1996, Joseph called AAA in order to finalize the date they had set for the following day, May 21. Since they haven't met before, they each described what they would be wearing. However, Joseph stated that he already had an idea of how she looked, based on AAA's photograph which Sheryl had shown him. He was also aware that Sheryl had shown AAA his picture.

On May 21, 1996, Joseph called AAA in the morning but was told by the person on the other end that AAA was still asleep. Later that day, Joseph arrived at the LRT Tayuman station at about 3:30 p.m. He was late due to the traffic and the fact that he came from Parañaque. AAA was not there when he arrived. He went down from the station and found a pay phone from which he called AAA at her house. He was informed that AAA had in fact left their house since early morning. He then called Sheryl's house, but the latter was also not around. Joseph asked the person who answered the phone if there was indeed a party there. He was informed that there was none. After hanging up the phone, Joseph again went up the LRT station. Joseph had a hunch that AAA was only roaming around the mall, thus, he also went around the mall and returned to the LRT station at around 4:30. AAA was already there waiting for him. AAA appeared friendly and they smiled at each other. After which, Joseph held her hand and apologized for being late. AAA said, "*Okey lang, sige.*"^[45] AAA then told her that she had also been late because she had to pass by her school and also dropped by Sheryl's house as she had to talk to Sheryl. Joseph confronted her about the fact that he learned there was no party at Sheryl's house. AAA insisted that it was Sheryl who had told her. So, the two of them agreed to just stroll around, forgetting about their previous plan of going to Sheryl's party. Joseph then suggested they go first to his mother's office at the Manila Doctor's Hospital, located along U.N. Avenue.

Joseph said he was already courting AAA at this time. Since AAA already said bad things about him to Sheryl ("*Sinisiraan niya ako kay Sheryl*"), his attention became focused on AAA. Joseph added that a week after the first phone call from AAA, he and Sheryl argued over the phone. He suspected that AAA had bad-mouthed him before Sheryl. Sheryl was also asking him why he was courting AAA. Joseph denied that he was courting AAA. However, Joseph admitted that, on the same month of April, his attention had already shifted to AAA, and the reason he agreed to go to Sheryl's party was because of AAA.^[46] Joseph testified later on that he and AAA had been sweethearts since May 10.^[47]

Continuing his testimony,^[48] Joseph admitted he possessed a beeper that day, but he denied that the beeper sounded as AAA testified. Joseph said that the beeper was not his and he only found it that same day, near the LRT. According to him, it could not have sounded as the beeper was not operational then. Appellant said that