

EN BANC

[G.R. Nos. 140218-23, February 13, 2002]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
CARLOS ESCAÑO, ACCUSED-APPELLANT.**

DECISION

PER CURIAM:

For automatic review is the decision of the Regional Trial court, Branch 39, Lingayen, Pangasinan, per Judge Eugenio G. Ramos, finding accused-appellant Carlos Escaño guilty beyond reasonable doubt of six counts of rape, five of which were committed against Mergie Raoet Macam and another one against Zenaida Raoet Macam, and sentencing him in each case to suffer the penalty of death and to indemnify each of the victims in the amount of P75,000.00 and P100,000.00 as moral damages with costs.

Six cases^[1] for rape were filed against accused-appellant.

In Criminal Case No. 5830, the information alleged -

"That on or about the 14th day of January 1998, in the afternoon, at Dorongan, Municipality of Lingayen, Province of Pangasinan, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, being then the stepfather of the complainant, armed with a balisong and by means of force and intimidation, did then and there willfully, unlawfully, and feloniously have sexual intercourse with the complainant Mergie Raoet Macam, a minor, fourteen (14) years and five (5) months old, against her will and consent, to her damage and prejudice.

"CONTRARY to Art. 266-A of the Revised Penal Code, as amended."

In Criminal Case No. 5831, the information charged -

"That on or about the 12th day of February 1998, in the morning, at Don Vicente Solis St. Poblacion, Municipality of Lingayen, Province of Pangasinan, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, being then the stepfather of the complainant, armed with a knife and by means of force and intimidation, did then and there willfully, unlawfully, and feloniously have sexual intercourse with the complainant Mergie Raoet Macam, a minor, [fifteen] (15) years and five (5) months old, against her will, to her damage and prejudice.

"CONTRARY to Art. 266-A of the Revised Penal Code, as amended."

In Criminal Case No. 5832, the information averred -

" That on or about the 16th day of February 1998, in the afternoon, at Don Vicente Solis St. Poblacion, Municipality of Lingayen, Province of Pangasinan, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, being then the stepfather of the complainant, armed with a knife [and] by means of force and intimidation, did then and there willfully, unlawfully, and feloniously have sexual intercourse with the complainant Mergie Raoet Macam, a minor, [fifteen] (15) years and five (5) months old, against her will, to her damage and prejudice.

"CONTRARY to Art. 266-A of the Revised Penal code, as amended."

In Criminal Case No. 5833, the information alleged -

"That on or about the 22nd day of February 1998, in the morning, at Don Vicente Solis St. Poblacion, Municipality of Lingayen, Province of Pangasinan, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, being then the stepfather of the complainant, by means of force and intimidation, did then and there willfully, unlawfully, and feloniously have sexual intercourse with the complainant Zenaida Raoet Macam, a minor who was only thirteen (13) years old when sexually abused against her will, to her damage and prejudice.

"CONTRARY to Art. 266-A of the Revised Penal Code, as amended."

In Criminal Case No. 5834, the information charged -

"That on or about the 23rd day of February 1998, in the afternoon, at Don Vicente Solis St. Poblacion, Municipality of Lingayen, Province of Pangasinan, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, being then the stepfather of the complainant, by means of force and intimidation, did then and there willfully, unlawfully, and feloniously have sexual intercourse with the complainant Mergie Raoet Macam, a minor, fourteen (14) years and five (5) months old, against her will, to her damage and prejudice.

"CONTRARY to Art. 266-A of the Revised Penal Code, as amended."

In Criminal Case No. 5835, the information averred -

"That on or about the month of March 1997, in Barangay Dorongan, Municipality of Lingayen, Province of Pangasinan, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, being then the stepfather of the complainant, armed with a knife, by means of force and intimidation, did then and there willfully, unlawfully, and feloniously have sexual intercourse with the complainant Mergie Raoet Macam, a minor, [thirteen] (13) and seven (7) months old, against her will, to her damage and prejudice.

"CONTRARY to Art. 266-A of the Revised Penal Code, as amended."

The cases were consolidated and jointly tried. Then accused-appellant was arraigned, during which he pleaded not guilty to the charges. Thereafter, trial was held. During the pendency of the case, the trial court granted a petition^[2] of the Department of Social Welfare and Development (DSWD) for custody of the complainants and their sister Jessica.

Per their birth certificates (Exhs. "A" and "H"),^[3] Mergie Raoet Macam was born on August 5, 1983, while Zenaida Raoet Macam was born on October 27, 1984. They have two siblings, Jessica and Jestoni, aged 9 and 5, respectively. They are children of the spouses Jesus Macam and Mercedes Raoet Macam. A year after the death of their father in 1993, their mother and accused-appellant Carlos Escaño started cohabiting in the house of their maternal grandfather, Macario Raoet, in Dorongan, Lingayen, Pangasinan.

The prosecution presented five witnesses, namely: complainants Mergie R. Macam and Zenaida R. Macam; two neighbors, Emiliano Abalos and Veronica Reyes; and Dr. Luisa Fernandez Cayabyab.

Testifying in her behalf, Zenaida told the court that at about 4:00 a.m. of February 22, 1998, she was awakened as she found accused-appellant on top of her and raping her. She did not tell her mother what had happened although the latter was sleeping beside her because accused-appellant threatened to kill her if she did.^[4]

On the other hand, Mergie, narrating how she was abused by accused-appellant, testified as follows:^[5]

At about 1:00 p.m., in March 1997, while she was washing clothes, her mother called her and told her to go upstairs because accused-appellant wanted to tell her something. When Mergie went to see accused-appellant, the latter pulled her towards him and forced her to lie down. Then he raped her. Mergie said she felt pain in her private parts while accused-appellant was forcing his penis into her vagina. She was crying and resisting accused-appellant, but her resistance proved to be futile. She could not shout as accused-appellant threatened her with a *balisong*. After the rape, she sat in a corner of the room and cried, and later went back to her work washing clothes.

Again, at about 2:00 p.m. on January 14, 1998, while she was alone in the house cooking food, she was raped by accused-appellant. He threatened her with a knife if she did not yield to him. Complainant's mother was then in the market selling fish. Her younger sisters were in school while her younger brother was playing.

At about 11:00 a. m. of February 12, 1998, on the occasion of the third rape, complainant was alone in the house, her sister Jessica and her brother Jestoni having gone to their neighbors' houses to play while their mother was away. Complainant was washing clothes when accused-appellant called her. As she was approaching, accused-appellant immediately pulled her towards him and forced her to have sexual intercourse with him. Accused-appellant left the house thereafter, leaving Mergie crying. When Mergie took a bath, she felt a sticky substance inside her vagina.

On the fourth occasion Mergie said she was raped at about 12:00 noon of February

16, 1998. Her mother and her sister Zenaida had gone to the market, while her other siblings were playing in the neighbor's house. She was alone in the house taking a nap when she was awakened by accused-appellant, who tried to remove her clothes and forced her to have sexual intercourse again. Because of his threats, Mergie said she yielded to accused-appellant's advances. He left her crying.

Finally, at about 1:00 p.m. of February 23, 1998, while complainant was taking a bath, accused-appellant entered the bathroom and grabbed her towards him. When her mother saw her resisting, she told her to give in to the demands of accused-appellant, telling her that he was the provider of the family. Her mother watched as accused-appellant had sexual intercourse with her. Then, accused-appellant made her watch as he and her mother performed sexual intercourse.

The following day, February 24, 1998, at about 8:00 a.m., Mergie found her sister Zenaida crying. Zenaida told her that she had been raped by accused-appellant. Mergie confided to Zenaida that she too had been raped several times by accused-appellant. The sisters embraced each other and cried together. Their neighbors, Emiliano Abalos (*Kuya Emy*) and Veronica Reyes (*Atchi Bing*), who happened to pass by their house, saw them crying and asked them what had happened. After learning that the two had been raped, Abalos and Reyes confronted the children's mother and accused-appellant about the matter, but both refused to talk as they went back inside the house. Abalos and Reyes later came back and accompanied the sisters to the DSWD and, later, to the Gov. Teofilo Sison Memorial Hospital in Dagupan City, where they were examined. The sisters later went to the police station where they gave their sworn statements.^[6] That afternoon, February 24, 1998, the police arrested accused-appellant. On that day, Mergie and Zenaida filed their respective criminal complaints^[7] for rape against accused-appellant.

On February 24, 1998, Dr. Luisa Fernandez-Cayabyab, Medical Officer III of the Gov. Teofilo Sison Memorial Hospital in Dagupan City, examined Zenaida and Mergie. She issued to Mergie a medico-legal certificate (Exh. "K"),^[8] which reads:

February 25, 1998

"To whom it may concern:

This is to certify that MERGIE MACAM, 14 years of age, female, single, Filipino, and a resident Solis St., Poblacion, Lingayen, Pangasinan, has been attended in this hospital on February 24, 1998 at 5:00 p.m. for:

- GO : Menarche = Jan. 14, 1997 (5 days)
- LMP : Jan. 13 - 16, 1998
- PMP : Dec. 7, 1997 (6 days)
- Conscious, coherent, ambulatory
- BP = 90/70 ; CR = 96/min.
- HEENT : Pinkish palpebral conjunctivae
- Perineum : No sign of external injury
- Hymen : With fresh superficial laceration at 3 o'clock position,
With healed laceration at 11 o'clock position
- I.E. : Vagina admits 1 finger with ease
Cervix, close; Uterus, small; adnexae, free; bleeding, none

- Cervico vaginal smear for presence of spermatozoa
- Result : Negative for spermatozoa"

On the other hand, the medico-legal certificate of Zenaida (Exh. "L")^[9] reads:

February 25, 1998

"To whom it may concern:

This is to certify that ZENAIDA MACAM, 13 years of age, female, single, Filipino, and a resident Solis St., Poblacion, Lingayen, Pangasinan, has been attended in this hospital on February 24, 1998 at 5:00 p.m. for:

- GO : Menarche = Jan. 12, 1998 (1 week)
- Conscious, coherent, ambulatory
- BP = 100/60 ; CR = 95/min.
- HEENT : Pinkish palpebral conjunctivae
- Perineum : No sign of external injury
- Hymen : With healed superficial laceration at 3, 9 o'clock position
- [I. E. :] Vagina admits 1 finger with ease
- Cervix: close
- Uterus: small
- Adnexae: free
- Bleeding: none
- Cervico vaginal smear for presence of spermatozoa
- Result : Negative for spermatozoa"

Dr. Cayabyab subsequently testified and explained her findings.^[10]

On the other hand, the defense presented five witnesses: Jessica Macam, the younger sister of the two complainants; Corazon Bandong, a fish vendor in Barangay Galarin, Urbiztondo, Pangasinan; Perla Ursua, a resident of Barangay Galarin and a utility worker in the municipal government of Urbiztondo, Pangasinan; Mercedes Macam, the mother of the two complainants and the common-law wife of accused-appellant; and accused-appellant himself. The defense theory was that Mergie had been raped not by accused-appellant but by Mergie's maternal grandfather, Macario Raoet.

Jessica Macam, then 10 years old, testified that at about 1:00 p.m. of March 17, 1997, she saw her grandfather Macario Raoet and her sister Mergie, both naked, having sexual intercourse in Macario's bedroom. She saw Mergie panting and crying. She was warned by Macario not to report the incident to anybody but she reported the same to her mother on July 9, 1998.^[11]

Corazon Bandong claims that she saw accused-appellant in the Urbiztondo Public Market in the mornings of January 14, 1998, February 16, 1998 and February 23, 1998 and saw him leave the market at about 4:00 p.m.^[12]

Perla Ursua stated that accused-appellant was awarded on January 5, 1998 a stall in the Urbiztondo Public Market. She said she saw accused-appellant in the afternoons of January 20 and February 16 and 23, 1998 tending to his store.^[13]