

EN BANC

[G.R. No. 123557, February 04, 2002]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
LEONARDO BAUTISTA Y ADOCA, ACCUSED-APPELLANT.**

DECISION

PUNO, J.:

This is an automatic review of the decision of the Regional Trial Court of Valenzuela, Metro Manila, Branch 75 in Criminal Case No. 3889-V-94 finding accused-appellant guilty of the crime of statutory rape and sentencing him to death.

In an Information dated February 7, 1994, accused-appellant Leonardo Bautista y Adoca was charged with the crime of statutory rape committed as follows:

“That on or about the 4th day of February 1994 in Valenzuela, Metro Manila and within the jurisdiction of this Honorable Court, the above-named accused, did then and there wilfully, unlawfully and feloniously have sexual intercourse with one MA. THERESA BAUTISTA y EBESA, ten years old.

Contrary to law.

Valenzuela, Metro Manila, February 7, 1994.”^[1]

On August 31, 1994, accused-appellant was arraigned and he pleaded not guilty to the crime charged. At the trial, the prosecution presented the testimonies of three (3) witnesses, namely: (1) Evelyn Bautista, the victim’s mother; (2) Ma. Theresa, the victim herself; and (3) Dr. Anabelle Soliman, a medico-legal officer of the National Bureau of Investigation. The prosecution established the following facts: Ma. Theresa Bautista^[2] is the eldest of four (4) children of accused-appellant and Evelyn Bautista.^[3] She has two sisters and a brother and they all reside in Pinalagad, Malinta, Valenzuela, Metro Manila. In February 1993, Evelyn left for Saudi Arabia where she worked as a domestic helper. While she was away, her children were left in the care of appellant and Evelyn’s sister in Pinalagad, Malinta. Evelyn’s stay in Saudi Arabia, however, was short-lived as she returned home in November 1993.^[4]

On January 19, 1994, Evelyn went on a vacation to her hometown in Ozamiz City in Mindanao. She took her youngest daughter with her, leaving her three children with appellant.

On the night of February 4, 1994, appellant and his three children were sleeping in the living room of their house in Pinalagad. The house was a one-room affair. They slept in a lined position with Theresa on one edge, appellant on the other edge with

the two children sandwiched between them. They were all sleeping soundly when Theresa was suddenly awakened, sensing someone was lifting her body from the floor. Theresa saw that the person who lifted her was her father, herein appellant, and he was naked. Appellant laid Theresa down and removed her t-shirt and short pants. Theresa pushed him away and begged him "*Huwag po, ayoko po!*" "*Huwag kang magulo!*" he replied. Appellant reached out to the shelf beside the mirror and took the big bottle of baby oil nearby, poured oil on his hands, and rubbed it on his penis and on Theresa's sex organ. Theresa was surprised but kept quiet. Appellant placed himself on top of the girl and inserted his penis into her vagina and made a push and pull movement. Theresa felt pain in her vagina. She pushed him away but could not move him because he was big. Appellant told her: "*Huwag kang malikot!*" Theresa kept still, scared that he might whip her as he had done in the past. Five to ten minutes later, appellant got up and put on his short pants. He also put Theresa's clothes on her and went back to sleep.^[5]

The following day, February 5, 1994, Theresa's mother, Evelyn, returned home from Mindanao. In the evening of the same day, appellant and his friends had a drinking session in his house. When he became drunk, appellant informed Evelyn that Theresa was always crying at night and he was worried that their neighbors might think he had wronged her. Evelyn was "*kinutuban*" because her husband had molested Theresa before.^[6] Theresa, then seven years of age, had told her mother that her father did something bad to her, but Evelyn refused to believe her.^[7] This time, Evelyn confronted Theresa who just bowed her head and cried. At Evelyn's insistent questioning, Theresa looked up and pointed to the bottle of baby oil by the mirror. In between sobs, Theresa told her mother about her father's dastardly act the night before. Forthwith, Evelyn called her sister and the following morning, they took Theresa to the police station to report the incident. Evelyn and Theresa gave their sworn statements to the police^[8] and appellant was arrested. The day after, Theresa was examined by Dr. Anabelle Soliman, the medico-legal officer of the National Bureau of Investigation.^[9]

Accused-appellant presented two (2) witnesses: himself and one Erlinda Caga. Appellant denied the charge. He counters that the charge was fabricated by his wife after he discovered her illicit relations with another man. His wife was allegedly using their own daughter as an instrument to prevent him from digging further into her affair so she and her lover could continue their adulterous relations.^[10]

On January 31, 1994, he was at their house in Pinalagad when one Erlinda Caga came looking for his wife. Finding appellant instead, Erlinda informed him that Evelyn was having an affair with Erlinda's husband, Leoncio; that the relationship started in Saudi Arabia where they worked under the same employer, and that Leoncio impregnated Evelyn, hence, the latter returned to the Philippines earlier than expected.^[11] To prove her claim, Erlinda showed appellant a love letter written by Evelyn addressed to Leoncio in Saudi Arabia which was forwarded to Erlinda in the Philippines.^[12] Erlinda also showed appellant two letters addressed to her, written and sent anonymously from Saudi Arabia informing her of her husband's illicit relations with Evelyn.^[13] One of the letters notified her that Evelyn was returning home in October or November 1993 and gave the latter's address in Valenzuela.

Appellant photocopied the letters. When Evelyn arrived from Mindanao, he confronted her with the information and showed her the letters. Evelyn denied the accusation of infidelity and, angrily, tore the letters. On February 5, 1994, he was arrested by the Valenzuela police and the case of rape was filed against him.

On January 31, 1996, the trial court found accused-appellant guilty of the crime of statutory rape and sentenced him to death, viz:

“WHEREFORE, PREMISES CONSIDERED, the prosecution having established by proof beyond reasonable doubt of the crime of STATUTORY RAPE punishable by Article 335 (1) of the Revised Penal Code, accused LEONARDO BAUTISTA y ADOCA is hereby found GUILTY as charged and is hereby sentenced to a penalty of death by electrocution and to indemnify the victim the amount of Fifty Thousand Pesos (P50,000.00) as damages.

Let the whole records of the case be forwarded to the Supreme Court for immediate review pursuant to Article 47 of the Revised Penal Code as amended by Section 22 of R.A. 7659.

SO ORDERED.”^[14]

Before us, accused-appellant raises the following issues:

- “1. WHETHER OR NOT THE COURT A QUO ERRED IN CREDITING THE TESTIMONIES OF THE ALLEGED VICTIM AND THAT OF HER MOTHER;
2. WHETHER OR NOT THE COURT A QUO ERRED IN SETTING ASIDE AS IMMATERIAL THE DEFENSE OF ILL-MOTIVE PUT UP BY ACCUSED-APPELLANT;
3. WHETHER OR NOT THE COURT A QUO ERRED IN RELYING UNCONDITIONALLY UPON THE DOCTRINE CITED IN THE DECISION UNDER REVIEW;
4. WHETHER OR NOT THE COURT A QUO ERRED IN DECLARING THE CRIME OF STATUTORY RAPE TO BE ‘PUNISHABLE BY ARTICLE 335 (1) OF THE REVISED PENAL CODE;’ AND
5. WHETHER OR NOT THE COURT A QUO ERRED IN IMPOSING UPON ACCUSED-APPELLANT THE “PENALTY OF DEATH BY ELECTROCUTION.”^[15]

In reviewing rape cases, the court is guided by three settled principles: (1) an accusation for rape can be made with facility; it is difficult to prove the charge and more difficult for the person accused, though innocent, to disprove it; (2) only two persons are usually involved in this crime for which reason the testimony of the complainant must be scrutinized with strictness; and (3) the prosecution evidence must stand or fall on its own merits; it cannot be allowed to draw strength from the weakness of the evidence for the defense.^[16]

In the instant case, appellant’s claims are mainly anchored on the insufficiency of the prosecution evidence. Appellant alleges that the trial court erred in upholding

the prosecution evidence because the complainant's testimony is incredible and full of inconsistencies and discrepancies.

Theresa's testimony on the direct is as follows:

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x x x
x x x

[FISCAL NOCHE]

Q: Now, where did you sleep that night?

[THERESA]

A: Beside my brother and sisters, sir.

Q: And in what particular part of your house did you sleep?

A: In the sala or living room.

Q: Would you kindly describe to us the arrangement of your brother and sisters relative to the spot where you were sleeping?

A: My father was sleeping in front of us.

Q: Who was sleeping beside your father?

A: My sister, Liza Bautista.

Q: And next to Liza Bautista, who was sleeping?

A: My brother Bernardo Bautista.

Q: And after Bernardo Bautista, who was sleeping beside him?

A: Me, sir.

Q: And after you, who was sleeping beside you?

A: None, sir.

Q: Now, do you know of any unusual incident that occurred in the night of February 4, 1994, that happened inside your house?

A: There was, sir.

Q: Will you please tell this Honorable Court what that unusual incident was that you are referring to?

A: Ginalaw ako ng Papa ko.

Q: You said you were sleeping, how were you.... By the way, what do you mean by "ginalaw ako ni Papa?"

A: He raped me, sir.

Q: You said you were sleeping at that time, you mean you were awakened that night?

A: Yes, sir.

Q: Now, what prompted you to awaken that night?

A: Because my father lifted me.

Q: Where were you when you were lifted by your father?

A: I was lying next to my brother.

Q: And the lifting of you by your father was the cause why you were awakened?

A: Yes, sir.

Q: Was there a light inside the house when you were lifted by your father?

A: None, sir.

Q: But how were you able to know that it was your father who lifted you that time?

A: When he turned on the light, sir.

Q: By the way, what was the light being used inside your house?

A: It is a light bulb, sir.

Q: And so, since the light bulb was turned on by your father, you were able to see the whole surrounding?

A: Yes, sir.

Q: And so, you also saw your father?

A: Yes, sir.

Q: And will you please tell us the physical condition of your father when he turned on the light?

A: He was naked, sir.

Q: When you said he was naked, will you please tell us specifically what you mean by that?

A: He had no clothes on.

Q: What about you, what were you wearing at that time?

A: I was wearing a T-shirt and shorts, sir.

Q: Earlier, you said that you were lifted by your father that prompted you to be awakened. Now, how was he able to