

EN BANC

[G.R. No. 140027, March 18, 2002]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
BIENVENIDO VALINDO, ACCUSED-APPELLANT.**

D E C I S I O N

SANDOVAL-GUTIERREZ, J.:

For automatic review is the Decision^[1] dated September 10, 1999 of the Regional Trial Court (RTC) of Malolos, Bulacan, Branch 78, in Criminal Case No. 530-M-98, convicting Bienvenido Valindo y Pilande of rape and sentencing him to suffer the penalty of death.

On April 17, 1998, an Information was filed with the said RTC charging Bienvenido with rape defined and penalized under Article 335 of the Revised Penal Code, as amended by R.A. No. 8353.^[2] The Information reads:

"That in or about the month of November, 1997, in the Municipality of Baliuag, Province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused did then and there wilfully, unlawfully and feloniously, by means of force and intimidation, with lewd designs, have carnal knowledge of **his stepdaughter**, Jewelyn Abat y Franco, a **seven-year old girl**, against her will and without her consent.

"CONTRARY TO LAW." (Emphasis supplied)

Upon arraignment, the accused pleaded not guilty to the charge. Thereupon, trial ensued.

The evidence for the prosecution consisting of the testimonies of Jewelyn Abat, the victim, Dr. Manuel C. Aves and Ramona Franco, the victim's mother, is as follows:

In November of 1997, at about noontime, Jewelyn Abat was at home in Libis, Baliuag, Bulacan. While caring for her two younger siblings, 4-year old Benjie and 3-year old Rosita, and putting them to sleep, the accused, live-in partner of her mother, suddenly undressed her, placed himself on top of her and inserted his penis into her vagina. She could not shout because he threatened to kill her and her mother. While he was still on top of her, she saw a white substance came out of his penis.^[3] Thereafter, sensing that her mother was coming, the accused instructed her to wear her clothes. When she failed to immediately comply, he hit her with his pants. She was already dressed when her mother arrived.^[4] Jewelyn went to sleep without reporting the incident to her mother. She, however, revealed her ordeal to her friend, Rose, who informed her older brother. In turn, he shared the story with his friend Joy. The latter then reported the incident to the *Barangay* and police

authorities.^[5]

On December 5, 1997, Dr. Manuel C. Aves, the Medico-Legal Officer of the Philippine National Police (PNP) Regional Crime Laboratory, Office 3, Malolos, Bulacan, conducted a physical examination on Jewelyn. His Medico-Legal Report dated December 5, 1997^[6] indicates that her genital showed multiple, fresh healed lacerations at 3, 5, 9 and 12 o'clock positions, with abrasion and congestion at the hymenal wall^[7] sustained recently.^[8] He explained that the lacerations in her vagina were caused by the penetration therein of a male organ or any hard object. When interviewed, Jewelyn confessed that she was raped by Bienvenido.^[9]

Ramona Franco testified that she is the mother of Jewelyn who was born on October 16, 1991 in Carpa, Baliuag, Bulacan. She tried to secure a copy of Jewelyn's birth certificate from the Local Civil Registry but was told that her daughter's birth was not registered there. She was then required to submit an "Affidavit To Prove Birth,"^[10] but still she was not issued Jewelyn's birth certificate.

Accused Bievenido Valindo denied having raped Jewelyn in November, 1997. He admitted that he is the live-in partner of Ramona Franco, Jewelyn's mother. From November to December 1997, he was in Talacsan, San Rafael, Bulacan, as he was hired as caretaker by Nardo of his mango trees. The distance between his work place and Baliuag where the incident took place is only a 30-minute jeepney ride.

On September 10, 1999, the trial court rendered its Decision, the dispositive portion of which reads:

"WHEREFORE, the foregoing considered, this Court finds accused Bienvenido Valindo y Pilande GUILTY beyond reasonable doubt of the crime of rape defined and penalized under the provisions of Article 335 of the Revised Penal Code, as amended by Republic Act No. 8353, otherwise known as the Anti-Rape Law of 1997, and hereby sentences him to suffer the penalty of DEATH and to pay private complainant Jewelyn F. Abat the amount of P75,000.00 as moral damages. With costs.

"SO ORDERED."

Hence, this appeal.

Appellant contends that the trial court erred -

"I

IN FINDING THE ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT OF THE CRIME OF RAPE;

"II

IN IMPOSING THE DEATH PENALTY; and

"III

IN ORDERING ACCUSED-APPELANT TO PAY VICTIM THE AMOUNT OF

P75,000.00 AS MORAL DAMAGES."^[11]

We meticulously reviewed the evidence of both the prosecution and the defense and found that appellant, by force and intimidation, succeeded in having sexual intercourse with Jewelyn. She was telling the truth, as observed by the trial court. We have consistently held that the trial court's findings on the credibility of witnesses are accorded great respect and weight on appeal as it is in a better position to decide the question of credibility, having seen and heard the witnesses themselves and observed their behavior and manner of testifying.^[12] The trial court's disquisition on this matter is as follows:

"Sufficiently established by the prosecution is not only the fact that complainant Jewelyn Abat was seven (7) years old at the time of the commission of the crime but, more emphatically, the sexual congress between the accused and the complainant was accomplished by the employment of intimidation by the former.

"The candid, straightforward and categorical narration by the complainant bears the earmarks of truth and credibility.

"Such candid and straightforward narration of the sexual assault unmistakably deserves credence. No woman, especially a child, would concoct a story of defloration, allow examination of her private parts and subject herself to public trial or ridicule if she has not, in fact, been a victim of rape and impassioned to seek justice for the wrong done to her being (*People vs. Gregorio Bersabe*, G.R. No. 122768, April 27, 1998).

"That it is only the complainant who testified on the details of the accused's execrable deed is of no moment. For, so long as the testimony of the offended party meets the test of credibility, as in the instant case, the accused may be convicted on the basis thereof (*People vs. Fernando Tumala, Jr.*, G.R. No. 12210, January 20, 1998).

"Moreover, the complainant's testimony is adequately supported by the medico-legal report of Dr. Manuel Aves (Exh. B) indicating the presence of multiple healing lacerations at 3, 5, 9 and 12 o'clock positions with abrasion and congestion with discharge.

"Equally immaterial, on the basis of Sec. 11, Rule 110 of the Rules of Court,^[13] is the prosecution's failure to give the exact date of the commission of rape.

"The failure of the complainant to state the exact date and time of the commission of rape is a minor matter and can be expected when the witness is recounting the details of a humiliating experience which are painful and difficult to recall in open court and in the presence of other people. Moreover, the date of the commission of the rape is not an essential element of the crime (*People vs. Rodolfo Bernaldez*, G.R. No. 109780, Aug. 17, 1998)."^[14]

The positive, convincing and credible testimony of Jewelyn cannot certainly be overthrown by appellant's self-serving defense of denial and alibi. Well-settled is