

## EN BANC

[ G.R. No. 140723, March 06, 2002 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
NICOMEDES D. PLATILLA, ACCUSED-APPELLANT.**

### DECISION

#### PER CURIAM:

This is an automatic review of the decision<sup>[1]</sup> of the Regional Trial Court, Branch 35, Iriga City, finding accused-appellant Nicomedes D. Platilla guilty beyond reasonable doubt of rape of his minor daughter, Jennifer L. Platilla, and sentencing him to suffer the death penalty and to pay indemnity to the latter in the amount of P50,000.00 and the costs of the suit.

The information in this case alleged –

“That on or about the 28th day of January, 1997, in Sto. Domingo, Nabua, Camarines Sur, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, by means of force, threat, and intimidation, did then and there willfully, unlawfully and feloniously have had carnal knowledge with one Jennifer L. Platilla, his own child, who is a 13-year old minor, against her will, to her damage and prejudice in such amount as may be proven in court.

ACTS CONTRARY TO LAW.”<sup>[2]</sup>

The prosecution evidence is as follows:

At about midnight of January 28, 1997, complainant Jennifer Platilla, then 13 years of age, while asleep with her family on the floor of their nipa house in Sitio Pagboboñgon, Sto. Domingo, Nabua, Camarines Sur, was awakened to find a man on top of her. After a while, she recognized that the man was accused-appellant, her own father. Startled to find her father’s penis inside her vagina, Jennifer shouted, “*Inay, si Tatay pigkakadoan ako.*” (“Mother, Father is raping me.”) Her mother, Crisanta Platilla, who was asleep on the floor with her two younger brothers, was awakened and immediately got up and lighted a kerosene lamp. She saw her husband still on top of Jennifer. Crisanta then kicked, boxed, and shouted at her husband, but he had a bolo and threatened to kill her and Jennifer if their neighbors heard their shouts. After silencing both Crisanta and Jennifer, accused-appellant left and went back to sleep with the bolo still in his hands. Jennifer told her mother that she felt severe pain and that there was blood coming from her vagina.

The next day, Crisanta sought the assistance of Barangay Tanod Uniedo. In the afternoon of the same day, she and Jennifer were taken to the Sto. Domingo Police Sub-Station in Nabua where Jennifer gave a sworn statement regarding the

incident. Jennifer was later examined by Dr. Stephen Beltran, Municipal Health Officer of Nabua, Camarines Sur.<sup>[3]</sup>

Dr. Beltran testified that he found a laceration at the 6 o'clock position, or at the lower portion, of Jennifer's hymen. He also found a blood clot at her perineum. Dr. Beltran opined that the intercourse had been very recent on account of the blood clot he found, and that there had been complete penetration of the vagina by a hard object, most probably an erect penis.<sup>[4]</sup>

On the same day, January 29, 1997, accused-appellant was arrested by SPO2 Rodolfo Tombado and barangay tanods and taken to the police sub-station on the basis of the complaint made by Jennifer Platilla.<sup>[5]</sup>

Accused-appellant claimed he was framed up. He testified that on April 12, 1996, when he returned to his family, after serving sentence for robbery, he observed his daughter Jennifer to be somewhat dazed and absent-minded. He asked his wife Crisanta about the matter and was told that it must be because Jennifer had been watching television too much. Still bothered, accused-appellant said he asked his daughter and Jennifer admitted to him that she had been sexually molested by her maternal grandfather, Platon Luzon. When accused-appellant was in jail, his family stayed in the house of his wife's parents. Accused-appellant said he talked to his wife about it, but the latter asked him to keep quiet because her father would get angry.

Accused-appellant said that in the afternoon of January 28, 1997, he went to see Jennifer in school to verify if she had indeed been sexually abused by her grandfather and Jennifer confirmed that she had been. She also said her mother had been molested by her grandfather. Accused-appellant claims that he confronted his wife and asked her to file a case against her father, but she refused, saying this would only scandalize accused-appellant and place him in a bad light considering that he was an ex-convict. Accused-appellant said his wife and daughter then left him and went to live in her father's house. Hence, accused-appellant says, he could not have raped Jennifer at the midnight of January 28, 1997 because he was then in their house. He was surprised when the following day, at around 9:00 a.m., he was arrested by a policeman and two barangay tanods and was put in jail. Accused-appellant testified that Crisanta later admitted to him that she merely instigated Jennifer into filing a rape case against him as she was pressured by her father to do so.<sup>[6]</sup>

After due deliberation of the evidence proffered by both parties, the trial court rendered its decision on October 1, 1999, the dispositive portion of which is as follows:

"WHEREFORE, as the evidence has conclusively established that Jennifer Platilla was below 18 years old, being only 13, at the time she was raped by her own father Nicomedes Platilla, the court finds accused NICOMEDES PLATILLA guilty beyond reasonable doubt of the crime of rape penalized under Article 335 of the Revised Penal Code, as amended by R.A. 7659, as principal thereof, and hereby sentences him to suffer the supreme mandatory penalty of death, to indemnify Jennifer Platilla P50,000.00 and to pay the costs.

SO ORDERED.”<sup>[7]</sup>

It is from this decision that the present appeal has been taken. Accused-appellant contends that the trial court erred on two counts, to wit:

“I. IN DETERMINING THE CREDIBILITY OF THE WITNESSES AND THEIR TESTIMONIES FOR THE PROSECUTION.

“II. IN RELYING ON THE TESTIMONIES OF CRISANTA PLATILLA AND JENNIFER PLATILLA WITHOUT SCRUTINIZING SAID TESTIMONIES WITH EXTREME CAUTION.”<sup>[8]</sup>

In adjudging rape cases, this Court is guided by three well-known principles, namely: (1) an accusation for rape can be made with facility; it is difficult to prove but it is more difficult for the person accused, though innocent, to disprove it; (2) in view of the nature of rape which usually involves only two persons, the testimony of the complainant must be scrutinized with extreme caution; and (3) the evidence of the prosecution must stand or fall on its own merits and cannot be allowed to draw strength from the weakness of the evidence for the defense.<sup>[9]</sup>

Guided by these principles, this Court holds:

**First.** Accused-appellant questions the credibility of the prosecution witnesses, particularly the complainant herself. He adverts to Jennifer’s testimony that when she awoke in the middle of the night of January 28, 1997 she found accused-appellant on top of her with his penis already inside her vagina. He expresses incredulity that Jennifer had not been awakened earlier, when she was just being penetrated.

Jennifer did not really say that when she first became aware of her father being on top of her, he had already succeeded in inserting his penis into her vagina. This is what she said:

“Q Now, Ms. Platilla, you declared that you were awakened your father was on top of you, my question is: When you were awakened have you already recognized that it was your father who was on top of you?

A Yes, sir.

Q What made you recognize your father when you woke up?

A I recognized him as my father who was on top of me because he was illuminated by the light coming from the moon.

Q Will you tell the Honorable Court from where did this light of the moon passing through which made you recognize your father?

A The light was passing through the bamboo slits which served as the wall of our house.

Q *Now, you noticed that your father was on top of you, tell the Honorable Court what was your father doing?*

A *His penis was inside my vagina.*

Q And when you noticed that kind of situation you shouted to your mother?

A Yes, sir."<sup>[10]</sup> (Italics supplied)

Thus, Jennifer did not really say that when she was awakened her father had already penetrated her. She was merely asked what accused-appellant was doing while he was on top of her and Jennifer said that he was performing the sexual act, his organ having been inserted in her vagina. Indeed, as the Solicitor General points out, Jennifer must have been so shocked to find her own father on top of her that she was not able to think and act coherently and the only scene that registered in her mind was the act of the sexual intercourse itself. In any event, the defense should have asked Jennifer directly if she realized that her father was on top of her only after he had been able to penetrate her and he was already doing the sexual act.

Accused-appellant also says that it was improbable for Jennifer to look at her wristwatch to be able to tell the time she was being raped.<sup>[11]</sup> Again this contention is misleading. As the records of this case indicate, Jennifer said she looked at her watch to find what time it was shortly after accused-appellant had left her.<sup>[12]</sup> Thus, she testified:

"ATTY. SERNAL:

Q That was about 11:30 o'clock in the evening?

A It was 12:00 o'clock midnight.

COURT:

Q How did you know the time?

A I had my time piece on.

Q A wrist watch?

A Yes, sir.

Q While you were asleep you were wearing your wrist watch?

A Yes, sir.

Q *At what precise moment you took [a look at] your watch, after the rape or what?*

A *After the rape.*"<sup>[13]</sup> (Italics supplied)

Nor is it unbelievable that Crisanta, Jennifer's mother, first lighted the lamp after Jennifer made an outcry.<sup>[14]</sup> It is not impossible for Crisanta to have been, even for a very brief moment, in a state of unbelief that her own husband was sexually assaulting his own daughter.