

FIRST DIVISION

[G.R. No. 135022, July 11, 2002]

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

D E C I S I O N

DAVIDE, JR., C.J.:

A man descends into the depths of human debasement when he inflicts his lechery upon a minor, and all the more when he imposes such lasciviousness upon a woman whose capacity to give consent to a sexual union is diminished, if not totally lacking. Such is the case of Jonalyn Yumang (hereafter JONALYN).

Upon a complaint^[1] dated 5 July 1996 signed by JONALYN with the assistance of her aunt Carmelita Borja, two informations were filed by the Office of the Provincial Prosecutor before the Regional Trial Court of Malolos, Bulacan, charging Bienvenido Dela Cruz (hereafter BIENVENIDO) with rape allegedly committed on 3 and 4 July 1996. The informations were docketed as Criminal Cases Nos. 1274-M-96 and 1275-M-96. The accusatory portion of the information docketed as Criminal Case No. 1275-M-96, which is the subject of this appellate review, reads:

That on or about the 3rd day of July 1996, in the Municipality of Calumpit, Province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused [Bienvenido dela Cruz @ Jun] did then and there wilfully, unlawfully and feloniously with lewd design have carnal knowledge of one Jonalyn Yumang y Banag, a mentally deficient female person, against her will and without her consent.

Contrary to law.^[2]

Upon arraignment on 14 October 1996, BIENVENIDO entered a plea of not guilty.^[3] The cases were consolidated, and joint trial on the merits ensued thereafter.

When JONALYN was presented as its first witness, the prosecution sought to obtain from the trial court an order for the conduct of a psychiatric examination on her person to determine her mental and psychological capability to testify in court. The purpose was that should her mental capacity be found to be below normal, the prosecution could propound leading questions to JONALYN. The defense, through Atty. Jesus M. Pamintuan, vigorously opposed the prosecution's manifestation. Nonetheless, the trial court allowed the prosecutor to conduct direct examination on JONALYN so that if in its perception she would appear to be suffering from mental deficiency, the prosecutor could be permitted to ask leading questions. JONALYN was then made to identify her signature in her sworn statement and to identify the accused, and was asked about her personal circumstances. Thereafter, noticing that JONALYN had difficulty in expressing herself, the trial court decided to suspend the proceedings to give the prosecution sufficient time to confer with her.^[4]

At the next hearing, the trial court allowed the prosecution to put on the witness stand Dr. Cecilia Tuazon, Medical Officer III of the National Center for Mental Health, Mandaluyong City. Dr. Tuazon testified that she conducted a psychiatric examination on JONALYN on 12 July 1996. She found that JONALYN was suffering from a moderate level of mental retardation and that although chronologically the latter was already 20 years of age (at the time of the examination), she had the mental age of an 8½-year-old child under the Wechsler Adult Intelligence Scale. Dr. Tuazon also found that JONALYN could have attained a higher degree of intelligence if not for the fact that she was unschooled and no proper motivation was employed on her, and that she had the capacity to make her perception known to others. She, however, observed that she had to “prompt” JONALYN most of the time to elicit information on the sexual harassment incident. She then narrated that JONALYN was able to relate to her that she (JONALYN) was approached by a tall man named Jun-Jun who led her to a house that supposedly belonged to her cousin, and that Jun-Jun disrobed JONALYN and raped her twice.^[5]

After said testimony or on 11 March 1997, the trial court issued an order^[6] allowing leading questions to be propounded to JONALYN in accordance with Section 10(c), Rule 132 of the Rules on Evidence.^[7] Thus, JONALYN took the witness stand. She again identified her signature and that of her aunt on her *Sinumpaang Salaysay*. She also identified BIENVENIDO as the person against whom she filed a complaint for rape. She declared in open court that BIENVENIDO raped her twice inside the house of a certain Mhel located at Barangay Gatbuca, Calumpit, Bulacan. She stated that BIENVENIDO placed himself on top of her and inserted his private part into her womanhood.^[8]

Dr. Edgardo Gueco, Chief and Medico-Legal Officer of the Philippine National Police Crime Laboratory, Camp Olivas, Pampanga, testified that he examined JONALYN on 8 July 1996, and the results of the examination were indicated in his Medico-Legal Report.^[9] He found that she was in “a non-virgin state physically,” as her hymen bore deep fresh and healing lacerations at 3, 8 and 11 o’clock positions. He then opined that the hymenal lacerations were sustained a week before the examination and, therefore, compatible with the time the rapes were allegedly committed.^[10]

Carmelita Borja, aunt of JONALYN, testified that on 5 July 1996, she accompanied JONALYN to the Philippine National Police (PNP) Office in Calumpit, Bulacan, to lodge a complaint against BIENVENIDO. With them were JONALYN’s mother Conchita Yuson and Barangay Councilman Roberto Dungo. Carmelita testified that in instituting this case, their family incurred expenses amounting to P30,000.^[11]

After the prosecution rested its case and formally offered its exhibits, the defense filed a motion for leave of court to file a demurrer to evidence, which was granted. Thus, the defense filed on 5 December 1997 a Demurrer to Evidence^[12] on the following grounds:

- (a) That the court had no jurisdiction to take cognizance of the cases; and
- (b) The presumption of accused’s innocence had not even [*sic*] been overcome by the prosecution due to the insufficiency of its evidence.

Expounding its theory, the defense first admitted that it could have moved to quash the information but it did not because the complaint on which the information was based

was on its face valid, it having been signed by JONALYN as the offended party. However, the undeniable truth is that JONALYN had no capacity to sign the same considering her mental deficiency or abnormality. The assistance extended to JONALYN by her aunt Carmelita Borja did not cure the defect, as the enumeration in Article 344 of the Revised Penal Code of the persons who could file a complaint for rape is exclusive and successive and the mother of JONALYN was still very much alive.

The defense also insisted on assailing the competency of JONALYN as a witness. It claimed that JONALYN's testimony, considering her mental state, was coached and rehearsed. Worse, she was not only asked leading questions but was fed legal and factual conclusions which she was made to admit as her own when they were in fact those of the prosecution.

In its Order of 26 January 1998,^[13] the trial court denied the Demurrer to Evidence and set the dates for the presentation of the evidence for the defense. However, BIENVENIDO filed a Motion for Judgment, stating in part as follows:

[A]fter going over the Records ... and carefully analyzing the proceedings ... as well as meticulously evaluating the evidence presented and offered [by] the private complainant, in consultation with his parents, and assisted by undersigned counsel, [he] had decided to submit ... the ...cases for judgment without the need of presenting any evidence to explain his terse PLEA OF NOT GUILTY to the charges upon his arraignment.^[14]

Noting this new development, the trial court, in its Order of 17 February 1998, considered the case submitted for decision.^[15]

In its Joint Decision of 3 April 1998, ^[16] the trial court convicted BIENVENIDO of the crime of rape in Criminal Case No. 1275-M-96, but acquitted him in Criminal Case No. 1274-M-96 for insufficiency of evidence. While conceding that JONALYN's narration of how she was sexually abused by BIENVENIDO was not "detailed," the trial court, nonetheless, concluded that it was candidly related by one who had the mental age of an 8-year-old child. The trial court was convinced that JONALYN was able to show in her "own peculiar way" that she was indeed raped by BIENVENIDO on 3 July 1996. Finally, the trial court ruled that BIENVENIDO's culpability was further bolstered by his choice not to offer any evidence for his defense despite ample opportunity to do so. Accordingly, it sentenced him to suffer the penalty of *reclusion perpetua* and to pay JONALYN the amount of P60,000 by way of civil indemnity.

In his Appellant's Brief,^[17] BIENVENIDO asserts that the trial court committed the following errors:

1. ... in having taken the fatally defective criminal complaint for a valid conferment upon it of jurisdiction to try and dispose of said two (2) charges of rape.
2. ... in having accepted as competent the mentally deficient private complainant even without first requiring any evidence of her capacity as such a witness.
3. ... in having considered the narration read to the complaining witness from prepared statements and asked of her simply to confirm as true, as her own.
4. ... in having given full credence and weight to complainant's conclusions of facts merely put to her mouth by leading questions of the prosecutor.

5. ... in having convicted the accused-appellant in Criminal Case No. 1275-M-96, but acquitting in Criminal Case No. 1274-M-96, on the basis of private complainant's purported sworn versions supposedly given in both charges.

BIENVENIDO reiterates the issues he raised in his Demurrer to Evidence. He assails the competency of JONALYN as signatory to the complaint she filed. He adds that the defect in the complaint was not cured by his failure to interpose a motion to quash nor by the assistance lent by JONALYN's aunt, which contravened Article 344 of the Revised Penal Code. Consequently, BIENVENIDO asserts that the trial court had no jurisdiction to try the case.

BIENVENIDO also stresses the incompetency of JONALYN as a trial witness for the reason that the prosecution failed to prove her competency. Further, JONALYN was merely asked to affirm the legal and factual conclusions of the prosecution which evinced quite clearly the girl's lack of comprehension of the court proceedings and the nature of her oath. Besides, her statements concerning the alleged sexual penetration were elicited a month after her initial offer as a witness, which reinforces the rehearsed and coached nature of her testimony.

Finally, he wonders why he was convicted in Criminal Case No. 1275-M-96 but acquitted in Criminal Case No. 1274-M-96 when it was a joint trial and the evidence was the same. He insists that he should also be acquitted in the case at bar.

In the Appellee's Brief,^[18] the Office of the Solicitor General (OSG) counters that the trial court had jurisdiction over the case, since the complaint and information filed were valid. JONALYN's mental retardation does not render her incompetent for initiating the prosecution of the crime committed against her and for testifying in court. If minors are allowed not only to initiate the prosecution of offenses under Article 344 of the Revised Penal Code and Section 5, Rule 110 of the 1985 Rules of Criminal Procedure, but also to testify under the Rules on Evidence, JONALYN, who had the mentality of an 8-year-old child, was competent to sign the criminal complaint and to be a witness in court. JONALYN's competency as a court witness was aptly proved when she was able to answer the leading questions asked of her as allowed by Section 10(c), Rule 132 of the Rules on Evidence. Moreover, the OSG asseverates that JONALYN's testimony on the fact of rape is corroborated by medical and physical evidence. As to BIENVENIDO's quandary that he should be acquitted also in this case, it is convinced that he should have been convicted for two counts of rape, as JONALYN expressly testified that she was raped twice by BIENVENIDO. Finally, the OSG seeks an award of moral damages in the amount of ₱50,000 for JONALYN, as well as a reduction of the award of civil indemnity to ₱50,000 in conformity with current jurisprudence.

We shall discuss the issues in *seriatim*.

I. Validity of the Complaint for Rape

We agree with the disputation of the OSG that the trial court validly took cognizance of the complaint filed by JONALYN. The pertinent laws existing at the time the crimes were committed were Article 344 of the Revised Penal Code (prior to its amendment by R.A. No. 8353^[19] otherwise known as "The Anti-Rape Law of 1997," which took effect on 22 October 1997^[20]) and Section 5 of Rule 110 of the 1985 Rules of Criminal Procedure. Article 344 of the Revised Penal Code provides:

Article 344. *Prosecution of the crimes of adultery, concubinage, seduction, abduction, rape and acts of lasciviousness.* -- ...

...

The offenses of seduction, abduction, rape or acts of lasciviousness, shall not be prosecuted except upon a complaint filed by the offended party or her parents, grandparents, or guardian, nor, in any case, if the offender has been expressly pardoned by the above-named persons, as the case may be.

Section 5 of Rule 110 of the 1985 Rules of Criminal Procedure states:

Section 5. *Who must prosecute criminal actions.*—All criminal actions either commenced by complaint or by information shall be prosecuted under the direction and control of the fiscal. However, in Municipal Trial Courts or Municipal Circuit Trial Courts when there is no fiscal available, the offended party, any peace officer or public officer charged with the enforcement of the law violated may prosecute the case. This authority ceases upon actual intervention of the fiscal or upon elevation of the case to the Regional Trial Court.

...

The offenses of seduction, abduction, rape or acts of lasciviousness shall not be prosecuted except upon a complaint filed by the offended party or her parents, grandparents, or guardian, nor, in any case, if the offender has been expressly pardoned by the above-named persons, as the case may be. In case the offended party dies or becomes incapacitated before she could file the complaint and has no known parents, grandparents, or guardian, the State shall initiate the criminal action in her behalf.

The offended party, even if she were a minor, has the right to initiate the prosecution for the above offenses, independently of her parents, grandparents or guardian, unless she is incompetent or incapable of doing so upon grounds other than her minority. Where the offended party who is a minor fails to file the complaint, her parents, grandparents or guardian may file the same. The right to file the action granted to the parents, grandparents or guardians shall be exclusive of all other persons and shall be exercised successively in the order herein provided, except as stated in the immediately preceding paragraph.

A complaint of the offended party or her relatives is required in crimes against chastity out of consideration for the offended woman and her family, who might prefer to suffer the outrage in silence rather than go through with the scandal of a public trial. The law deems it the wiser policy to let the aggrieved woman and her family decide whether to expose to public view or to heated controversies in court the vices, fault, and disgraceful acts occurring in the family.^[21]

It has been held that “[w]hen it is said that the requirement in Article 344 (that there shall be a complaint of the offended party or her relatives) is jurisdictional, what is meant is that it is the complaint that starts the prosecutory proceeding. It is not the complaint which confers jurisdiction on the court to try the case. The court’s jurisdiction is vested in it by the Judiciary Law.”^[22]

The complaint in the instant case has complied with the requirement under the Revised Penal Code and the Rules of Criminal Procedure, which vest upon JONALYN, as the