

## EN BANC

[ G.R. No. 142873, July 09, 2002 ]

### PEOPLE OF THE PHILIPPINES, APPELLEE, VS. MAXIMO SALVADOR, APPELLANT.

#### D E C I S I O N

##### PER CURIAM:

This is an automatic review of the Decision<sup>[1]</sup> of the Regional Trial Court (RTC) of Cagayan de Oro City, Branch 19, penned by Judge Anthony E. Santos in Criminal Case No. 99-336 finding Maximo Salvador guilty beyond reasonable doubt of qualified rape and imposing on him the supreme penalty of death.

The Solicitor General (OSG) narrates how appellant raped his own daughter:

“The victim, Merlyn Salvador, is 14 years old and the legitimate child of appellant Maximo Salvador.

“Around 2 o'clock in the afternoon of December 3, 1998, the victim heeded her father's instruction to take a nap inside their bedroom. But as she woke up later, she found herself already naked. She was shocked when she saw her father embracing her. He pinned down her hands while inserting his hard and erect penis into her vagina. He then made pumping motions (TSN, September 15, 1999, pp. 33-35). At that very moment, he looked like a 'devil' to her. She tried to free herself from his embrace, but he was so strong. She felt extreme pain when his penis penetrated her vagina. After a while, she felt something wet that came out of his organ. The incident happened inside the room where her other siblings were also sleeping (TSN, September 15, 1999, pp. 36-37). After he had satisfied his lustful desire, he warned her not to tell any one or he would cut her neck and those of her mother and siblings (TSN, September 15, 1999, p. 37). He later burned her panty which was stained with blood. Her mother, a market vendor, was not home when the incident took place (TSN, September 15, 1999, p. 39).

“In January 1999, he again tried to abuse her. He was already on top of her, but later desisted when she shouted for help. Thereafter, she left their house for she could no longer take the abuses of her own father. She worked as a househelp but did not Inform her family of her whereabouts. After sometime, she finally managed to reveal to her Uncle Lando, her mother's cousin, the sexual abuse she experienced in the hands of her own father. She chose to tell her Uncle Lando, and not her mother because she knew that her mother loved her father so much (TSN, September 15, 1999, pp. 26-41). Even then, her Uncle Lando also told her mother about It. Together, she, her mother and her Uncle Lando reported the incident to the authorities. The medical examination made on her reveals that she sustained old healed lacerations at 4 o'clock and 8 o'clock positions (TSN, September 15, 1999, pp. 16-25).”<sup>[2]</sup>

As a consequence, on March 10, 1999, an Information docketed as Criminal Case No. 99-336 was filed, charging him as follows:

“That sometime in December 3, 1998, at 21st-20th Streets, Nazareth, Cagayan de Oro City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with the use of force, threat and Intimidation, forced the offended party, Merlyn Salvador y Candones, who is his 14 year old daughter to have carnal knowledge with him knowing fully well that he is the father of the victim and the consummated [sic] sexual assault was without the consent of his said daughter.”<sup>[3]</sup>

During his arraignment on May 6, 1999, appellant, assisted by his counsel de oficio Atty. Cesar Merlas, pleaded not guilty to the above-quoted charge.<sup>[4]</sup> Pre-trial was held after which trial on the merits ensued. Appellant was subsequently found guilty of rape in the Court’s appealed Decision disposing thus:

“Wherefore, accused Maximo Salvador Is hereby sentenced to suffer the penalty of death, to indemnify Merlyn Salvador the sum of ₱75,000, to pay her moral damages of ₱50,000 and to pay the costs.”<sup>[5]</sup>

Appellant avers that the prosecution failed to rebut the constitutional presumption of innocence. He claims that the victim’s testimony on the rape incident was incredulous because it defied the ordinary experience of man.<sup>[6]</sup> As such, the defects in the testimony should work towards his acquittal.<sup>[7]</sup> He also adds that the medical examination did not help the victim’s cause in any way, not having conclusively shown that the old healed laceration in the vagina was caused by penile penetration.<sup>[8]</sup>

Thus, he assigns the following errors allegedly committed by the trial court:

“I

THE COURT A QUO ERRED IN CONVICTING THE ACCUSED NOTWITHSTANDING THE FAILURE OF THE PROSECUTION TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.

“II

GRANTING THAT ACCUSED IS GUILTY OF THE CRIME CHARGED, THE COURT A QUO ERRED IN IMPOSING THE SUPREME PENALTY OF DEATH INASMUCH AS THE RAPE IN THIS CASE IS NOT QUALIFIED BY ANY CIRCUMSTANCES UNDER WHICH THE SAID PENALTY IS TO BE IMPOSED.”<sup>[9]</sup>

The contentions of appellant are not meritorious.

Appellant cannot hide behind the constitutional presumption of innocence when, as in this case, his guilt has been proven beyond reasonable doubt. Settled principles enunciated in a long history of jurisprudence work against him. These, together with the evidence adduced by the prosecution during the trial, affirm his conviction.

In reviewing rape cases, this Court has three guiding principles: (1) an accusation for rape can be made with facility; it is difficult to prove but even more difficult for the person accused, though innocent, to disprove it; (2) in view of the intrinsic nature of the crime of rape where only two persons are usually involved, the testimony of the complainant must be scrutinized with extreme caution; and (3) the evidence for the

prosecution must stand or fall on its own merit; the prosecution cannot be allowed to draw strength from the weakness of the evidence for the defense.<sup>[10]</sup>

Corollary to these is the principle that when a victim of rape says that she was defiled, she says in effect all that is necessary to show that rape has been inflicted on her, and so long as her testimony meets the test of credibility, the accused may be convicted on the basis thereof.<sup>[11]</sup> This is a basic rule, founded on reason and experience<sup>[12]</sup> and becomes even more apparent when the victim is a minor.<sup>[13]</sup> In fact, more compelling is the application of this doctrine when the culprit is her close relative.<sup>[14]</sup>

After meticulously perusing the records and evaluating the evidence, the Court is convinced beyond doubt of the credibility and the sufficiency of the prosecution evidence establishing that appellant raped his own daughter. The testimony of the victim is replete with details. She was positive, clear and convincing during the direct examination and unwavering during the cross-examination. Her straightforward testimony on her traumatic experience proceeded as follows:

“ASST. FISCAL ADILAN: (To the witness cont’ng.)

Q. You said, you filed a case against your father for rape on December 3, 1998. Did your father actually rape you at that time?

A. Yes.

Q. Will you describe to this Court how your father raped you?

A. On that day, December 3, 1998 my father told me to sleep. And I was just surprised when I woke up that my pantie and skirts were no longer there.

COURT: (To the witness)

Q. And then what happened?

A. He embraced me and pinned down both my hands.

X X X

X X X

X X X

ASST. FISCAL ADILAN: (To the witness cont’ng.)

Q. Now, you said that, you were only surprised when you woke up because you have no more pantie and skirt. What did you observe of your father at that time?

A. He looked like a devil or demon.

Q. Why do you say that he looked like a devil?

A. Because he can dare to rape his own daughter.

Q. As far as his face is concerned, did you observe him?

A. No.

Q. While he was on top of you, what did he do?

A. He do [sic] the pumping motion.

Q. And what about you, what were you doing?

A. I was trying to wrestle out but I can't do anything because he was strong.

Q. Did you observe if his penis actually penetrate [sic] your vagina?

A. Yes.

Q. Why were you able to observe that his penis was able to penetrate your vagina?

A. Because it was very painful.

Q. What part of the house did your father do that?

A. In our room.

Q. And aside from you and your father, were there other persons at the time when your father raped you?

A. My younger brothers and sisters.

Q. Who were they?

A. Mario and Maria Fe.

Q. And what were they doing at that time?

A. They were sleeping.

Q. Now, you said that, you were able to observe that the penis of your father penetrated your vagina because you felt pain. Right?

A. Yes, Sir.

Q. Now, while your father was doing the sexual act, did your father say anything to you?

A. None, but after the rape he said something.

Q. What is that which he said after the rape?

A. He said that, If I will reveal the incident to anybody, he will cut my neck Including my mother, brothers and sisters.

Q. While your father was having sexual intercourse with you, what did you do?

A. I tried to wrestle.

Q. Now, you said that, when your father was making a pull and push movement did you observe his face?

A. No, Sir, because I closed my eyes.

Q. What made you closed your eyes?

A. Because I don't want to see him.

Q. Did you notice if your father had ejaculated?

A. Yes.

Q. What made you say that?

A. Because there was a wet.

Q. What was that which was wet?

A. My vagina was wet.

COURT: (To the witness)

Q. What was the color of that wet in your vagina?

A. White.

ASST. FISCAL ADILAN: (To the witness cont'ng.)

Q. Did you vagina bleed?

A. I did not know because after he raped me I looked for my pantie and my father told me that he threw my pantie and he said that he burned because there is blood.

Q. For how long was your father on top of you making a push and pull movement?

A. I did not know because I was not able to glance the clock but it was just a brief.

COURT: (To the witness)

Q. What time was this according to your calculation?

A. 2:00 o'clock in the afternoon.

ASST. FISCAL ADILAN: (To the witness cont'ng.)

Q. Now, after your father finished sexually molesting you in that particular time, what did he do if any?

A. No more, Sir, because he went out.

Q. Before he went out, did he say anything?

A. He asked me, is it nice?

Q. And did you make an answer?

A. No. 'Note: when the witness answered that question she [shook] her head.'"<sup>[15]</sup>

In evaluating the credibility of witnesses, much weight and great respect are given to the findings made by the trial court<sup>[16]</sup> since it had the unique opportunity to observe their demeanor on the stand and was, as such, in a position to discern whether or not they were telling the truth.<sup>[17]</sup> Needless to say, its evaluation of their testimonies is binding upon the appellate court in the absence of a clear showing that the trial judge reached such evaluation arbitrarily or plainly overlooked certain facts of substance or value which, if considered, might affect the result of the case.<sup>[18]</sup> Appellant has not given the Court sufficient reason to deviate from this doctrine.

To be sure, we have on many occasions ruled that testimonies of child-victims of rape are to be given full weight and credence.<sup>[19]</sup> This is because it is highly Improbable that