

## EN BANC

[ G.R. No. 142779-95, August 29, 2002 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
CAMILO SORIANO, ACCUSED-APPELLANT.**

### D E C I S I O N

#### PER CURIAM:

For automatic review is the judgment of the Regional Trial Court ("RTC"), Branch 6, of Baguio City, dated 21 February 2000, imposing, among other penalties, multiple death sentences on Camilo Soriano for the crime of rape, on several counts, perpetrated against his own 11-year old daughter.

Four Informations for statutory rape through sexual intercourse said to have been committed on 15 October 1998, 28 October 1998, and twice on 29 October 1998, all similarly worded, except for the different dates of commission, thusly -

"That on or about the 15th day of October 1998, in the City of Baguio, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully, and feloniously have carnal knowledge of his daughter Maricel Soriano, a minor, eleven years of age, against her will and consent"<sup>[1]</sup> -

and thirteen Informations for rape through sexual assault averred to have been committed on 14, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26 and 27 October of 1998, all likewise similarly worded, except for the different dates of commission, thusly -

"That on or about the 14th day of October, 1998, in the City of Baguio, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused did then and there willfully, unlawfully and feloniously insert his finger inside the private organ of Maricel Soriano y Espino, his daughter who is a minor, 11 years of age, against her will and consent"<sup>[2]</sup> -

were filed against Camilo Soriano before the court a quo.

When arraigned, the accused pled not guilty to all the charges.

From the prosecution's version of the case, sometime in 1982, Leonora Espino and her husband, with whom she had four children, went on separate ways. Two years later, she began to live with accused Camilo Soriano, the scion of the household where she worked as a housemaid. Whether or not Leonora was ultimately married to the accused remained unclear although, from her testimony, it might be possible that she had merely cohabited with him. According to the accused, however, he married Leonora on 23 July 1984. The birth certificate of Maricel Soriano did indicate that her parents, Leonora and Camilo were married to each other, not on 23 July

1984 but on 24 April 1984. Leonora had eight children with the accused but only four survived - Michael, private complainant Maricel who was born on 22 February 1987, Leonard and Marilou. The familial bliss was interrupted when, on 13 December 1991, Camilo Soriano was confined at the Lingayen Provincial Jail in Pangasinan for the murder of a cousin of Leonora. Determined to keep her family intact, Leonora stayed with Camilo inside the prison premises with her four children in tow. On 29 October 1993, upon his conviction, Camilo Soriano was transferred to the National Penitentiary at Muntinlupa, leaving his family behind, this time in Baguio City. Since then, it was Leonora who fended for her brood, struggling to earn a living by washing clothes and selling cosmetics and underwear.

9 May 1998, the accused was released on probation. He dampened the enthusiasm of his family by opting to stay with his parents bringing with him another woman by the name of Lala Esguerra, whom he had met while in the national penitentiary. When Esguerra left for abroad on 10 September 1998, Camilo at last returned to his family. A cramped space in a house designed to accommodate lodgers was home to the Soriano children. It was one of two rooms on the first floor. The second room on the ground floor and all the rooms on the upper floor were occupied by boarders. Due to the small quarters, two of Leonora's children from her previous marriage slept in the kitchen, one under the table and the other beside it, while Leonora, Camilo and their four children, including Maricel, used the lone 4x5-meter bedroom. The couple slept on the lower portion of a double-decked bed while their children stayed on the upper deck.

On 14 October 1998, Leonora went to San Fernando, La Union, to collect the proceeds of her sales of cosmetic and underwear items. She stayed in La Union until the 16th of October 1998. Unbeknownst to her, her absence had provided accused with an occasion to be alone with the children. On 28 October 1998, her son Michael reported to her, "Mama, papa is raping Maricel and we (referring to her two other children, Leonard and Marilou), saw it." The unbelieving Leonora confronted her daughter about it, and the latter confirmed it, explaining to her mother that the accused had warned her not to tell on him or he would kill them all. That same night, Camilo, drunk as usual, pick on Leonora, and the ensuing quarrel led Leonora to leave and stay with a neighbor. The next morning, she reported her daughter's rape before the barangay captain. Maricel had to be clandestinely spirited out of the house with the aid of helpful neighbors to avoid arousing the suspicions of the accused, a known troublemaker in the vicinity, for an interview with the barangay captain. Maricel was referred to the DSWD where she was questioned by a social worker. From there, Maricel was brought to the Women and Children Desk Section at the Baguio City Police Station where her statement was taken. Forthwith, appellant was apprehended.

In her statement, Maricel Soriano confirmed to her being a virtual sex-slave of her own father from 14 October 1998 to 28 October 1998. On four occasions, the accused forced his own penis into her daughter's vagina, once on 15 October 1998, another on 28 October 1998, and twice in the early morning of 29 October 1998. On thirteen other occasions, specifically on 14, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26 and 27 October, the accused, she said, inserted his finger into her private organ.

At the trial, Maricel Soriano gave further details. She testified that on the night of 14 October 1998, there was a power failure at her house at Teacher's Camp in Baguio City where she was staying with her brother Leonard, her sister Marilou, and the accused. Her elder brother Michael had gone with her mother to La Union. That

night, Maricel, Marilou and Leonard, slept on the lower deck of the bed together with the accused while her stepbrother occupied the upper deck by himself. At about ten o'clock that evening, the accused told Leonard and Marilou to move to the other end of the bed. Soon, the accused started kissing her on the lips. He undressed her and sucked her breast. He also sucked and fingered her vagina. She felt pain, and she cried. Her younger brother and sister also cried with her while they helplessly looked on. The power failure continued the next day. On the evening of 15 October 1998, the accused again undressed the private complainant, kissed her cheeks, breasts, and her vagina. Her father asked her to spread her legs. She resisted by trying to close her thighs but he forced them open. She tried to shout but he covered her mouth. He went on top of her and inserted his penis into her vagina. Her brother and sister were crying at the rear end of the bed, vainly trying to pull her away but they were no match for the accused. His lust sated, the accused went to sleep. During the entire time, her older stepbrother was sleeping at the upper deck, seemingly oblivious to the monstrosity happening below him.

The arrival of his common-law wife from La Union did not deter the accused from his perversity, not even when Leonora had returned to her original place at the first deck beside him. For fear that her younger siblings who were staying at the upper deck with her would fall to the floor, Maricel stayed at the edge of the upper bunk. While the rest of the household slept, the accused rose from bed and lasciviously reached for the private complainant on the second deck and inserted his finger into her vagina. This perversion would continue every day until the early morning of 29 October 1998. On 28 October 1998, Leonora left the house following an altercation with the accused. That night, the accused asked Maricel to sleep with him on the lower deck where again the accused ravished her by inserting his penis into her vagina. Not satisfied, he would repeat the lewd act twice, before the onset of dawn, at one o'clock and then again at three o'clock that morning of 29 October 1998.

Michael Soriano, the elder brother of Maricel, testified that his younger brother Leonard had earlier told him, "Kuya Michael, our father is doing something bad to our sister Maricel." Forewarned, Michael became more observant. On the night of 28 October 1998, Michael tried not to sleep and to remain watchful, but the accused had barred the door and would not let anyone inside the bedroom. Still Michael was able to get a peep through a hole in the door. From his vantage point, he could only see half of the bedroom and only half of the lower deck of the bed. Despite his limited view, Michael was able to see his father, fully clothed in a red T-shirt and black pants, on top of his crying sister, who was lying flat on the floor. The latter was struggling to stand up but the accused held her breasts, and held her down. When he saw his father on top of Maricel, Michael hurried to Sister Neneng, who was then at the second floor of the house. The husband of Neneng told him to return downstairs. When he returned, he saw that the accused had already gone out of the room. When Michael entered the room Maricel was back at the upper deck of the bed.

The results of the medical examination conducted by medico-legal Vladimir Villacorte Villasenor corroborated Maricel's "loss of virginity."

"FINDINGS: x x x

"Genital:

"There is absence of growth of pubic hair. Labia majora are full, convex, congested and gaping, with the light brown and abraded labia minora presenting in between. On separating the same, is disclosed a congested hymen with shallow healing lacerations at 3, 6, 8 and 9 o'clock positions. External vaginal orifice offers strong resistance to the introduction of the smallest finger of the examiner. Vaginal canal is narrow with prominent rugosities.

"Conclusion:

"Findings are compatible with recent loss of virginity. There are no external signs of recent application of physical violence."<sup>[3]</sup>

At the stand, the accused raised the defense of denial and alibi. He claimed that he could not have committed the bestial acts against his daughter because he loved her very much. He asseverated that the complaints were filed against him at the instigation of his wife, who had a paramour and had incited her daughter to twist the truth in order to be able to get out of the relationship with him. He presented before the court a love letter addressed to Leonora and authored by a certain Tony Penullar, a fellow inmate at the provincial jail, which was intercepted by Maricel and handed over to him. The accused admitted that while Leonora was in La Union, he had occupied the lower deck with his two daughters. When his wife arrived, the four - he, Leonora, Maricel and then Marilou - slept "side by side." He denied having been awake in the early morning of 29 October 1998, his waking hour being 6:00 in the morning. Upon getting up, he prepared food for the children.

On 21 February 2000, the Regional Trial Court Branch 6 of Baguio City, rendered its decision finding the accused guilty as charged and so decreeing the penalties therefor -

"WHEREFORE, Judgment is rendered as follows:

"1. In Criminal Case Nos. 16125-R, 16126-R, 16140-R, and 16141-R, the Court finds accused Camilo Soriano guilty beyond reasonable doubt of the offense of Rape (carnal knowledge of his 11 year-old daughter Maricel Soriano) as defined and penalized under letter (d) paragraph 1 of Article 266-A of R.A. 8353 with the qualifying circumstance under number 1 of Art. 266-B of Republic Act 8353 that the victim is under 18 years old of age and the offender is a parent as charged in the Informations and hereby sentences him to the supreme penalty of DEATH in each of the four (4) cases; to indemnify the offended party the sum of P50,000.00 in each of the 4 cases without subsidiary imprisonment in case of insolvency and to pay the costs of the suit in each of the 4 cases; and

"2. In Criminal Cases Nos. 16127-R, 16128-R, 16129-R, 16130-R, 16131-R, 16132-R, 16133-R, 16134-R, 16135-R, 16136-R, 16137-R, 16138-R and 16139-R, the Court finds the accused Camilo Soriano guilty beyond reasonable doubt of the offense of Rape (insertion of his finger into the vagina of his 11-year old daughter Maricel Soriano) as defined and penalized under paragraph 2 of Article 266-A of Republic Act 8353 with the qualifying circumstance under number 1 of Article 266-B of Republic Act 8353 that the victim is under 18 years old and the offender is a parent as charged in the Informations and hereby sentences him,

applying the Indeterminate Sentence Law, to imprisonment ranging from 6 years and 1 day of prision mayor as minimum to 14 years, 8 months and 1 day of *reclusion temporal* as maximum in each of the 13 cases; to indemnify the offended party Maricel Soriano the sum of P30,000.00 in each of the 13 cases without subsidiary imprisonment in case of insolvency and to pay the costs in each of the 13 cases.

"The accused Camilo Soriano being a detention prisoner is entitled to be credited with 4/5 of his preventive imprisonment in the service of his sentence in accordance with Article 29 of the Revised Penal Code in the 13 cases."<sup>[4]</sup>

The death penalty having been imposed, the conviction of the accused is now before the Court for an automatic review. In his brief, appellant contends that—

"THE TRIAL COURT [HAS] ERRED IN NOT ACQUITTING THE ACCUSED DUE TO INSUFFICIENT EVIDENCE CONSIDERING THAT:

"(1) THE TESTIMONIES OF THE PROSECUTION WITNESSES HAVE SPAWNED SERIOUS DOUBTS ON THE ALLEGED COMMISSION OF THE INCIDENTS OF RAPE BY THE ACCUSED.

"(2) THE LETTERS WRITTEN BY THE ACCUSED AND OTHER FACTORS SUSTAIN THE INNOCENCE OF THE ACCUSED.

"(3) THE SCENE OF THE CRIME MAKES THE COMMISSION OF THE INCIDENTS OF RAPE IMPROBABLE IF NOT IMPOSSIBLE."<sup>[5]</sup>

Appellant would have the testimony of his daughter Maricel discredited. He would consider to be highly improbable that Leonora did not immediately confront him upon learning of the rape incidents but waited until the next day to report the matter to the barangay captain. This brief delay would not dent a bit the credibility of Leonora. She explained how she and her children were terrified of the violent outbursts appellant would often display. On the stand, Leonora related how she was not exempted from his brutal ways and how her children from her first marriage had left her because of the ill treatment they had received from him. Leonora described the accused as, and appellant himself admitted to, being a habitual drunkard. That her daughter Maricel had to be secretly spirited out of their house with the aid of helpful neighbors so that she could personally file her complaint before the barangay captain without arousing Camilo's suspicion would reveal Leonora's disinclination towards a direct confrontation with her husband.

Appellant needlessly embarked on a lengthy discourse on the possible motivation of the corroborating witnesses in supposedly fabricating their accounts against him. Appellant might have forgotten that the testimony of his common-law wife Leonora Soriano and his eldest son Michael Soriano, indeed corroborative to the case of private complainant, were not solely determinative of the verdict rendered by the trial court against him. Rather, it was clearly the unwavering, candid, and straightforward narration made by the victim herself on her harrowing 16-day nightmare that ultimately established his guilt. -

Criminal Case No. 16127-R-14 October 1998

"Q. What happened on that night of October 14, 1998?