

SECOND DIVISION

[G.R. Nos. 146297-304, August 22, 2002]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ALLAN CASTRO Y GALAPATE, ACCUSED-APPELLANT.**

D E C I S I O N

MENDOZA, J.:

This is an appeal from the decision^[1] of the Regional Trial Court, Branch 163, Pasig City, finding accused-appellant Allan Castro guilty of four counts of rape and sentencing him to suffer the penalty of reclusion perpetua with respect to Criminal Case Nos. 117199-H and 117200-H, an indeterminate penalty of four years, two months, and one day of *prision correccional*, as minimum, to twelve years of *prision mayor*, as maximum with respect to Criminal Case No. 117201-H, and an indeterminate penalty of four years, two months, and one day of *prision correccional*, as minimum, to twelve years of *prision mayor*, as maximum with regard to Criminal Case No. 117202-H. Accused-appellant was likewise ordered to pay Edith Laminoza P200,000.00 by way of civil indemnity and P100,000.00 as moral damages.

Accused-appellant was originally charged with eight (8) counts of rape for which separate informations were filed in Criminal Case Nos. 117199-H, 117200-H, 117201-H, 117202-H, 117203-H, 117204-H, 117205-H and 117206-H. The informations in the eight cases alleged:

CRIMINAL CASE NO. 117199-H^[2]

On or about December 14 to December 15, 1999, in Taguig, Metro Manila and within the jurisdiction of this Honorable Court, the accused, by means of force and intimidation, did then and there willfully, unlawfully and feloniously insert his penis into Edith L. Laminoza's vagina while mashing the breasts of Mary Jean O. Balaoro, against her will and consent.

Contrary to law.

CRIMINAL CASE NO. 117200-H^[3]

On or about December 14 to December 15, 1999, in Taguig, Metro Manila and within the jurisdiction of this Honorable Court, the accused, by means of force and intimidation, did then and there willfully, unlawfully and feloniously insert his penis into the vagina of Edith L. Laminoza, against her will and consent.

Contrary to law.

CRIMINAL CASE No. 117201-H^[4]

On or about December 14 to December 15, 1999, in Taguig, Metro Manila and within the jurisdiction of this Honorable Court, the accused, by means of force and intimidation, did then and there willfully, unlawfully and feloniously insert his finger into Edith L. Laminoza's vagina, against her will and consent.

Contrary to law.

CRIMINAL CASE NO. 117202-H^[5]

On or about December 14 to December 15, 1999, in Taguig, Metro Manila and within the jurisdiction of this Honorable Court, the accused, by means of force and intimidation, did then and there willfully, unlawfully and feloniously put his penis into Edith L. Laminoza's mouth, against her will and consent.

Contrary to law.

CRIMINAL CASE NO. 117203-H^[6]

On or about December 14 to December 15, 1999, in Taguig, Metro Manila and within the jurisdiction of this Honorable Court, the accused, by means of force and intimidation, did then and there willfully, unlawfully and feloniously have sexual intercourse with Mary Jean O. Balaoro, 17 years old, by inserting his penis into her vagina after putting her leg over his shoulder, against her will and consent.

Contrary to law.

CRIMINAL CASE NO. 117204-H^[7]

On or about December 14 to December 15, 1999, in Taguig, Metro Manila and within the jurisdiction of this Honorable Court, the accused, by means of force and intimidation, did then and there willfully, unlawfully and feloniously have sexual intercourse with Mary Jean O. Balaoro, 17 years old, against her will and consent.

Contrary to law.

CRIMINAL CASE NO. 117205-H^[8]

On or about December 14 to December 15, 1999, in Taguig, Metro Manila and within the jurisdiction of this Honorable Court, the accused, by means of force and intimidation, did then and there willfully, unlawfully and feloniously have sexual intercourse with Mary Jean O. Balaoro, 17 years old, after putting her two legs over his shoulders, against her will and consent.

Contrary to law.

CRIMINAL CASE NO. 117206-H^[9]

On or about December 14 to December 15, 1999, in Taguig, Metro Manila and within the jurisdiction of this Honorable Court, the accused, by means of force and intimidation, did then and there willfully, unlawfully

and feloniously have sexual intercourse with Mary Jean O. Balaoro, 17 years old, against her will and consent.

Contrary to law.

On January 12, 2000, Mary Jean executed an Affidavit of Desistance stating, among others, that:

That after thinking over the matters that resulted in the filing of the above entitled case against Allan Castro y Galapate and after also considering the explanation sincerely given by the accused, I have arrived at the conclusion that the matter that transpired between us was only a matter of misunderstanding and more of communication gap between us;

That in as much as the explanation and reasons given by the above mentioned accused has convinced me that to further prosecute this case against the accused would be totally unfair[.][¹⁰]

On March 7, 2000, accused-appellant, assisted by counsel, was arraigned and entered a plea of not guilty to each of the eight informations of rape.

The prosecution presented three witnesses: Edith Laminoza, the remaining complainant, Winston S. Tan, M.D., and PO3 Ranilo Malijan, the arresting officer.

Edith Laminoza, 23 years old, single, is from Nueva Ecija. She arrived in Manila on December 7, 1999 and lived for a while with her friend, Rose Longgo. When she was employed at the Mode Garments, she left her friend's house and rented a room at No. 26 Bagong Tanyag, Taguig, Metro Manila. The boarding house is owned by Edwin Castro, brother of accused-appellant.

On December 14, 1999, at around 10 o'clock in the evening, she went to the house of her friend, Melody Palma, within the same compound to ask for some cooking oil. When she came back to her room, she felt someone pull her hair. The man poked a pointed object at her neck and said, "*Putang ina, huwag kang maingay, papatayin kita. Ibigay mo lang ang gusto ko.*" ("Son of a bitch, don't make a sound or I will kill you. Just give me what I want.") The man then proceeded to pull her pants down to her knees and told her to lie down, after which the man removed his shorts and tried to insert his penis into her vagina. However, the man was not able to fully penetrate her because her pants were lowered only up to her knees. He therefore had her hold his penis instead. Then, pulling shirt up, she mashed and sucked her breast.[¹¹]

While the man was doing this, someone knocked on the door. This made him stop what he was doing. He told Edith to keep quiet, otherwise he would kill her. Then, he took her near the window. Edith noticed someone light a match outside and heard her roommate Mary Jean asking her to open the door. The man ordered Edith to open the door. Upon seeing Edith half naked, Mary Jean apologized for intruding into her privacy, thinking that the man was her lover. As Mary Jean attempted to withdraw from the room, the man pulled Mary Jean inside by her hair.

The two women were herded into a corner of the room. While Edith was lying down, the man mashed her breasts. Edith pleaded with the man to stop mashing her because she was already tired. The man henceforth ordered Mary Jean to remove her clothes and to lie down. The man went on top of Mary Jean and inserted his penis into her vagina, at the same time poking his finger into Edith's vagina. Then,

according to Edith, the man made her put his penis into her mouth, which she did out of fear.

All this time, Edith said she was not aware of her attacker's identity. She said she came to know accused-appellant Allan Castro to be the attacker only when he had already left because of the light outside the room as he went out. Edith admitted she did not know Allan Castro personally. In fact, she had been staying in the boarding house for only two days before the rape took place.

Thereafter, Edith reported the incident to the Taguig police. Accused-appellant's mother, sister Liza, and Mary Jean accompanied her thereto. Accused-appellant's mother offered Edith P10,000.00 to keep her from pressing charges against her son, but Edith refused.

On cross-examination, Edith testified that the four rooms on the ground floor of the boarding house were all occupied and these were separated by concrete walls.^[12]

Edith Laminoza submitted herself for medical examination.^[13] Upon query from the attending physician, she admitted having had sexual intercourse sometime in September 1999.^[14]

Winston S. Tan, medico-legal officer of the PNP Crime Laboratory, testified as an expert witness. In his direct examination, he testified that complainant Edith Laminoza sustained four injuries, three ecchymoses, and one abrasion on the extra genital portion. The ecchymoses were found on both breasts and on the left side of the victim's neck. He explained that ecchymoses are minute hemorrhages on the skin caused by forceful sucking during the course of sexual intercourse, or what is called *chikinini* in Tagalog slang. There is also an abrasion on the right side of the neck, measuring 1 x 0.1 cm., caused by skin coming into contact with a hard, blunt, and rough surface. The tip of a knife can produce a linear abrasion.

In the genital area, the examination of the hymen revealed a deep healed laceration at the 6 o'clock position, which means that the complainant was no longer a virgin at the time of the examination. The cause of laceration is the insertion of a hard blunt object, such as an erect male organ, into the vagina of the victim. A fresh laceration heals in about seven to 10 days. In her case, she was examined less than 24 hours after the alleged incident.

The posterior fourchette, the lower portion of the female genitalia, was abraded and congested, which means that the superficial layer had been sloughed off. There was redness caused by a male erect organ forcibly inserted into the vagina. Dr. Tan explained that when the sexual act is mutual, the insertion of the penis would not cause any abraded and congested posterior fourchette because the female genitalia is lubricated.

On cross examination, however, Dr. Tan further explained that if the posterior fourchette is abraded and congested, it means that there was no lubrication prior to the insertion but it does not necessarily mean that there was force.^[15]

The testimony of PO3 Ranilo Malijan was dispensed with because the prosecution and defense stipulated that accused-appellant voluntarily surrendered.^[16]

The defense then presented its evidence consisting in the testimony of accused-appellant Allan Castro. Accused-appellant Castro was 30 years old and married at

the time of the incident. He testified that, in the morning of December 15, 1999, he was with his wife and children in their house at No. 15 Purok 8, Bagong Tanyag, Taguig, Metro Manila. On the dates in question, he said he did not go to his parents' house at No. 26 Purok 8, Bagong Tanyag, Taguig. He claimed that, on December 14 and 15, 1999, he had not yet known complainants Edith Laminoza and Mary Jean Balaoro. He said he came to know them only at the CID Office in Taguig by reason of their rape charge against him.^[17]

At the inquest, accused-appellant said he was asked to read the complaint against him, but for reasons not disclosed in the records he was not able to do so. He was thus not able to know its contents. He denied having raped Edith and Mary Jean four times on December 14 and 15, 1999 from 10 o'clock in the evening up to 1 o'clock in the morning of the following day.

On September 15, 2000, the trial court rendered its decision, the dispositive portion of which reads -

WHEREFORE, accused Allan Castro y Galapate of No. 26 Purok 8, Barangay Bagong Tanyag, Taguig, Metro Manila is hereby found GUILTY beyond reasonable doubt as principal of the four (4) counts of rape defined and penalized under Article 266-A and 266-B of the Revised Penal Code and sentenced as follows:

1. In Criminal Cases Nos. 117199-H and 117200-H, to suffer two penalties of reclusion perpetua;
2. In Criminal Case No. 117201-H, applying the Indeterminate Sentence Law and taking into account the aggravating circumstance of dwelling, to suffer an indeterminate penalty of from four (4) years, two (2) months, and one (1) day of *prision correccional*, as minimum, to twelve (12) years of *prision mayor* as maximum; and
3. In Criminal Case No. 117202-H, applying the Indeterminate Sentence Law and taking into account the aggravating circumstance of dwelling, to suffer an indeterminate penalty of from four (4) years, two (2) months and one (1) day of *prision correccional*, as minimum, to twelve (12) years of *prision mayor* as maximum.
4. Accused is further ordered to compensate Edith Laminoza in the total amount of Two Hundred Thousand (P200,00.00) pesos as civil indemnity, and the amount of One Hundred Thousand (P100,000.00) pesos as moral damages.
5. In Criminal Cases Nos. 117203-H, 117204-H, 117205-H, and 117206-H, accused is hereby ACQUITTED of four (4) counts of rape for failure of the People to prove his guilt beyond reasonable doubt.

SO ORDERED.^[18]

Hence this appeal based on the following assignment of errors:

I. THE TRIAL COURT ERRED IN GIVING WEIGHT AND CREDENCE TO THE TESTIMONY OF COMPLAINANT EDITH L. LAMINOZA THAT SHE HAD RECOGNIZED ACCUSED-APPELLANT WHEN THE LATTER WAS ABOUT TO GO OUT OF THE ROOM.

II. THE TRIAL COURT ERRED IN NOT ACQUITTING ACCUSED-APPELLANT OF FOUR (4) COUNTS OF RAPE ON GROUNDS OF REASONABLE DOUBT.^[19]