

EN BANC

[G.R. No. 137405, September 27, 2002]

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. DELFIN DELA CRUZ, APPELLANT.

DECISION

PANGANIBAN, J.:

Though not specifically assigned as an error, the sufficiency of the prosecution's evidence must be passed upon in all appeals of criminal cases, especially those in which the death penalty was imposed by the trial court.

The Supreme Court must be satisfied that, indeed, the crime charged and the identity of the culprit were proven beyond reasonable doubt by the prosecution.

The Case

Before us for automatic review is the April 14, 1998 Decision^[1] of the Regional Trial Court (RTC) of San Jose, Occidental Mindoro (Branch 46), in Criminal Case No. R-4114. The RTC, which convicted Delfin dela Cruz of rape and sentenced him to death, disposed as follows:

"WHEREFORE, finding the accused Delfin dela Cruz, guilty beyond reasonable doubt of the crime of rape, described and penalized under Article 335 of the Revised Penal Code and Section 11 of Republic Act No. 7659, otherwise referred to as the Death Penalty Law, this Court hereby sentences him to suffer the capital penalty of DEATH.

"The accused is ordered to indemnify the offended party, Marikit dela Cruz, damages in the amount of FIFTY THOUSAND PESOS (P50,000.00).

"The accused, who is presently detained at the Provincial Jail at Magbay, San Jose, Occidental Mindoro, is ordered immediately transferred to the new Bilibid Prisons, Muntinlupa City, Metro Manila."^[2]

During his arraignment on March 5, 1997,^[3] appellant, with the assistance of his counsel,^[4] pleaded not guilty.

In an Information dated January 24, 1997,^[5] he was charged as follows:

"That on or about the 24th day of October, 1996 at around 12:00 o'clock in the evening, in Barangay Lagnas, Municipality of Sablayan, Province of Occidental Mindoro, Philippines and within the jurisdiction of this Honorable Court, the accused, with lewd design, by means of force and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of Marikit dela Cruz, a woman, against her will and consent.

"CONTRARY TO LAW."^[6]

The Facts

Version of the Prosecution

The prosecution's account of the factual antecedents of the case is narrated by the Office of the Solicitor General (OSG) as follows:

"Private complainant Marikit dela Cruz is the seventh (7th) child of appellant Delfin dela Cruz. x x x

"X X X

X X X

X X X

"On October 24, 1996, Marikit, then sixteen (16) years of age, had a reunion with her family x x x at their farm in Lagnas, Sablayan, Occidental Mindoro, on the occasion of the birthday of her father, herein appellant Delfin dela Cruz. The celebration ended at past 9:00 o'clock in the evening when appellant's two drinking buddies left the place.

"Shortly before midnight, when Marikit was already preparing to sleep, she was summoned by her mother telling her that appellant wanted to talk to her. Marikit complained that she was sleepy but her mother told her that her father may have something important to tell her.

"Marikit obeyed and, together with her mother, she went to her father who was waiting at the water pump 'bomba' near their house. There, appellant told Marikit to go with him to the hut of their farm. At first, Marikit declined saying 'it was very cold already. . . and it is bad for my health,' but agreed later on because of fear of her father and considering also that her mother urged her to do so.

"Upon arriving at the hut which was one kilometer from their house, appellant asked Marikit 'what is his gift.' Marikit replied 'I do not have a gift.' Appellant told Marikit 'to just follow what he wants.' Thereafter, appellant suddenly embraced and kissed Marikit, and started undressing her. She tried to resist but he threatened to harm her. After he removed all [his] daughter's clothes, he placed himself on top of her and forcing her to face him. On the witness stand, Marikit exclaimed 'Ginalaw niya ako,' referring to appellant who 'was able to penetrate his private part on my private part.' During their four (4) hours stay inside the hut, appellant sexually abused [his] daughter twice. Marikit 'cried and cried' and asked her father why he raped her. Appellant, however, did not answer. Thereafter, they left the hut and went home. Marikit was no longer able to sleep that night.

“Three (3) days thereafter, on October 28, 1996, Marikit decided to file a complaint against her father. On the same date, she submitted herself to medical examination. The examining Health Officer, Dr. Wilfred G. Kenept, issued a Medico-Legal Certificate dated October 28, 1996, which disclosed the following findings:

'Physical Examination:

CHEST & LUNGS -

ABDOMEN - ESSENTIALLY NORMAL

EXTREMITIES -

Internal Examination shows normal looking external genitalia, with abrasion on the posterior aspect of the left labia minora, hymen not intact.'

"On October 29, 1997, Marikit executed her criminal complaint charging appellant, her own father, with the crime of Rape. In a statement with the police executed on the same date, Marikit also disclosed that appellant had first sexually abused her when she was still thirteen (13) years of age, although she did not formally lodge her complaint then on the belief that appellant would change his ways.

"Sometime in March of 1997, after the Information for Rape against appellant had already been filed in court, appellant wrote to Marikit two (2) separate letters begging for forgiveness. She gave these letters to DSWD Officer Edgar P. Calabio for safekeeping."^[7] (Citations omitted)

Version of the Defense

On the other hand, appellant wrote an abbreviated version of the facts in this manner:

"Accused Delfin dela Cruz testified that complainant is his daughter. That he has a total of twelve (12) children. He admitted the charge of rape filed against him by his daughter. Upon questioning by the Court, he denied having begotten a daughter out of a relationship with his sister-in-law, nor did he [have] a son from his eldest daughter Juliet, as alleged by the complainant. He denied having raped the complainant on the night of October 24, 1996. He admitted that October 24, 1996 was his birthday. He allegedly maltreated (nabugbog ko lang po siya) his daughter (complainant) when the latter was in first year high school but he never sexually abused her. For the sake of his family he will admit that it was his fault."^[8]

The Ruling of the Trial Court

The trial court accorded credence to the testimony of private complainant and explained its ruling in this wise:

"The prosecution has been able to prove by clear and convincing evidence, [accused's] guilt beyond reasonable doubt, foremost of which are the straightforward testimony of the complaining witness, the Medical Certificate issued by Dr. Wilfred Kenept on October 28, 1996 that indeed the private complainant's hymen is no longer intact, and the existence of abrasion on the posterior aspect of her left labia minora, thus indicating recent sexual intercourse conformably with the date when she was sexually abused, and the admission of the accused himself in his two (2) letters he wrote to his daughter Marikit.

"In particular, in his first letter he expressly admitted that he did rape his daughter twice as alleged by her in her complaint, and at the same time

asked for forgiveness. His second letter did not explicitly admit his guilt but attempted to utilize his moral ascendancy as a father over his daughter. He likewise tried to prick his daughter's conscience by reminding her that he was the one who gave her life in this world and had at one time, when Marikit was sick, even risked his health if not life, by crossing the flooded river to secure medicine for her such that he wanted her to forget about her complaint against him.

"x x x

x x x

x x x

"The attempt of the accused to save his neck by changing his plea of not guilty to guilty, has been conveniently resorted to by him in the hope that this Court will be less forgiving [sic] of his crime or at least be lenient to him. This Court, however, is not to be convinced, as the prosecution has fully established his guilt beyond reasonable doubt. His voluntary plea of guilt, while confirming this established fact, simply operates to abbreviate the otherwise long and tedious proceedings.

"Under Article 335 of the Revised Penal Code, as amended by Section 11 of R.A. No. 7659, otherwise referred to as the Death Penalty Law, and as further amended by R.A. 8353, otherwise known as the Anti-Rape Law of 1997, reclassifying rape as a crime against persons, when rape is committed through force, threat or intimidation or when the victim is under eighteen (18) years of age and the offender is a parent, ascendant, step parent, guardian, relative by consanguinity or affinity within the third civil degree, or the common law spouse of the parent of the victim, as in the case at bar, the imposable penalty is death.

"Pursuant to the foregoing provisions, there is no doubt that the accused can be meted the supreme penalty of death."^[9]

Hence, this automatic review.^[10]

The Issue

Appellant does not challenge the finding of guilt arrived upon by the RTC, but questions its imposition of the death penalty, in this lone assignment of error:

"The trial court erred in imposing the penalty of death for the crime charged despite that accused was not properly informed of the nature and cause of accusation against him which is in violation of his constitutional right."^[11]

The sufficiency of the prosecution's evidence was not raised as an issue. Still, the Court reviewed it under the principle that an appeal in a criminal case, especially one in which the death penalty has been imposed, opens the entire record for scrutiny. We shall take up the appropriate penalty as the second issue.

The Court's Ruling

The appeal is partly meritorious.

First Issue

Sufficiency of the Prosecution's Evidence

True, appellant no longer questions his criminal liability, but only seeks to reduce the penalty imposed by the RTC. On its own volition, this Court has nonetheless pored over the records of the case on the theory that an appeal in a criminal case is open to a de novo review.

After a meticulous study of the evidence, we are convinced that the prosecution has clearly and sufficiently established the fact of rape and the culpability of appellant for the crime alleged in the Information. Verily, we find no reason to doubt the trial court's finding of guilt. The victim testified on the details of the rape incident in a clear, straightforward and credible manner as follows:

"Q: On October 24, 1996, at about midnight, where were you, and what were you doing?

A: I was in our hut, sir.

Q: Where is that hut located?

A: It is far from our house, sir.

Q: Where is your house located in relation to the hut?

A: It is far, sir.

Q: How far in terms of meter?

A: Around one (1) kilometer, sir.

Q: Where is this particular hut located?

A: In the farm, sir.

Q: Will you tell us why on that evening of Oct. 24, 1996 at around 12:00 midnight you were in the nipa hut?

A: I was brought by my father there, sir.

Q: Who is this father of yours?

A: Delfin dela Cruz, sir.

x x x

x x x

x x x

Pros. Salcedo

Q: Why did your father bring you to the hut during that night?

A: 'Niyaya po niya ako.'

Q: How did he invite you?

A: He told me that there was something important that he is going to tell me.

Q: What were you doing in your hou[se] when your father invited you to proceed to the hut?

A: I was about to sleep, sir.