

## FIRST DIVISION

[ G.R. Nos. 145339-42, November 26, 2002 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
ARTHUR MENDOZA AND DAVE MENDOZA, ACCUSED-  
APPELLANTS.**

### D E C I S I O N

**YNARES-SANTIAGO, J.:**

This is an appeal from the decision<sup>[1]</sup> of the Regional Trial Court of Lingayen, Pangasinan, Branch 39, in Criminal Cases Nos. L-5973, L-5974, L-5975, and L-5976, convicting Arthur Mendoza and his son, Dave Mendoza,<sup>[2]</sup> of two counts of rape, sentencing them to suffer the penalty of *reclusion perpetua* in each case, and to pay the private complainant, Sheryll Gonzalez, in each case the sums of P50,000.00 as moral damages and P50,000.00 as civil indemnity, and to pay the costs.

The information reads as follows:

That on or about the months of September and December, 1998, in Barangay Domalandan Center, municipality of Lingayen, province of Pangasinan, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping each other by means of force and intimidation, did then and there, willfully, unlawfully and feloniously have sexual intercourse with Sheryl Malicsi Gonzalez, a minor under twelve (12) years of age, to her damage and prejudice.

Contrary to Art.335 of the Revised Penal Code as amended by Republic Act 8353.<sup>[3]</sup>

Upon arraignment on July 7, 1999, accused-appellants pleaded not guilty.<sup>[4]</sup> Trial thereafter ensued.

The prosecution sought to establish the following facts: Private complainant Sheryll Gonzalez is the daughter of Lolita Biata Cruz<sup>[5]</sup> and Apolonio Gonzalez. Sheryll's father died when she was a little girl.<sup>[6]</sup> Subsequently, her mother married Abraham Biata Cruz,<sup>[7]</sup> brother of Rosario Mendoza, who is the wife of Arthur Mendoza. Arthur and Dave Mendoza, together with their other relatives including private complainant, all lived together in a compound in Domalandan Center, Lingayen, Pangasinan.<sup>[8]</sup>

Sheryll claimed that sometime in September 1998, while she was with her siblings in their small hut, and their mother and stepfather were away, Arthur Mendoza asked her to buy cigarettes at a nearby sari-sari store. When she returned and handed him the cigarettes, Arthur pulled her into his room, switched on the

betamax machine and removed her short pants and panties, after which he took off his clothes. He made her lie on the bed, mashed her breast, inserted his finger into her vagina, and had sexual intercourse with her. After a while, Arthur ordered her to dress up and leave. He threatened to kill her family if she told her mother what happened.<sup>[9]</sup>

Sheryll alleged that Arthur raped her again in December 1998, using the same ruse he employed the first time. Her mother was in town working while her stepfather was in Baguio City. She was sent by Arthur to buy cigarettes and, as she was handing them to him, he pulled her to his room and closed the door of their house. Then, he switched on the betamax machine and removed Sheryll's short pants and panties while she was lying on the bed. He lay on top of her, mashed her breast, inserted his penis into her vagina and imitated the pornographic film playing on the betamax. Sheryll felt pain in her private parts. After Arthur finished, he ordered her to dress up. Sheryll cried as soon as she got home. She did not report the incident to her mother because Arthur threatened to kill her and her family.<sup>[10]</sup>

Two days after Arthur raped Sheryll in September 1998, his son, Dave Mendoza, also raped her while she was at home with her siblings and her parents were away. Dave Mendoza sent Sheryll's sister, Amelita, and her brother, Anthony, away to buy bread. Sheryll stayed behind with her baby sister, Abegail. Dave entered the hut, took Abegail and put her down on the bed. Then, he ordered Sheryll to lie down on the bed and undressed her. He went on top of her and inserted his hand and his penis into her vagina while making thrusting motions. She pushed him but her efforts were futile.

Sheryll felt pain in her private parts. When he heard Sheryll's siblings coming, Dave immediately ordered her to dress up and get Abegail. Before leaving, Dave gave some bread to Amelita and Anthony. Sheryll sat on the bed and cried. She did not tell her mother because Dave threatened to kill her family.<sup>[11]</sup>

Dave Mendoza raped Sheryll again in December 1998, two days after Arthur Mendoza raped her. This time, the rape took place inside the toilet, which was located five meters from her hut. While Sheryll was inside the toilet, Dave entered and removed her short pants and panties. He undressed himself and made Sheryll lean on the wall. He inserted his penis into her vagina and made thrusting motions. She pushed him but he had her pinned against the wall. Moments later, Dave heard Sheryll's sister calling her because the baby was crying, so he ordered her to get dressed. She then ran home to feed the baby.<sup>[12]</sup>

On March 13, 1998, Sheryll's mother saw her crying. When she asked what was wrong, Sheryll revealed her ordeal. In the afternoon of the next day, March 14, 1998, Sheryll and her mother went to the Lingayen Police Station to report the matter to SPO1 Jessie Galvez, the duty officer that time.<sup>[13]</sup>

The medical examination, which was subsequently conducted on private complainant by Dr. Luisa Cayabyab of the Region I Medical Center in Dagupan City on March 17, 1999, yielded the following findings:

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GO: No menarche yet, conscious, coherent, ambulatory;

HEENT: Pinkish, palpebral, conjunctivae;

Chest: Developed breast

Abdomen: Soft, non-tender

Genitalia: Hymen with healed superficial lacerations at 3, 5, 7 o'clock positions, vaginal introitus admits 1 finger, cervix closed, uterus small, adnexae free, no bleeding.

Request for Vaginal Smear for Presence of Spermatozoa:

Result— NEGATIVE.<sup>[14]</sup>

On the other hand, accused-appellant Arthur Mendoza claimed that the charges leveled against him by private complainant are nothing but a pack of lies, the truth of the matter being that she is a liar ("*ubod ng sinungaling*"). Moreover, he is not capable of the bestial deed imputed to him inasmuch as he is a family man with two daughters of his own.<sup>[15]</sup>

Arthur Mendoza further alleged that private complainant's parents merely fabricated the charges against him and his son, Dave Mendoza, because of a feud between their respective families over Abraham Biata Cruz's share in the property inherited among the latter's siblings, including Rosario Mendoza, Arthur's wife. It was established that Rosario and Abraham Biata Cruz, along with their other siblings, inherited a 376 square meter property from their parents.<sup>[16]</sup> The property was subsequently partitioned among the seven siblings, each getting 56 square meters. Arthur Mendoza's wife, Rosario, bought her brother Rogel's share,<sup>[17]</sup> thereby increasing her lot area to 112 square meters. Apparently, Abraham Biata Cruz resented the fact that he was not around when the property was partitioned. Since then, whenever Abraham Biata Cruz had too much to drink, he would shout and curse Rosario's family, telling them to leave their property.<sup>[18]</sup>

The dispute was aggravated when accused-appellants' family finally filed a complaint<sup>[19]</sup> with the barangay captain of Domalandan Center on February 28, 1999 for grave threats. Abraham Biata Cruz charged the Mendozas of stealing gravel and bamboo from him and of throwing their garbage into his property and threatened to kill Arthur Mendoza. The feuding families' barangay conciliation meeting on March 21, 1999 ended in a shouting match. As Abraham Biata Cruz and his family were walking out of the barangay hall, his wife, Sheryll's mother, cursed and threatened accused-appellants' family, saying she will do something that will make them shed tears of blood and which they will never forget as long as they live.<sup>[20]</sup>

Arthur Mendoza also refuted Sheryll's statement that he asked her to buy for him cigarettes on the occasion of the alleged rapes, claiming that he quit smoking in 1995 following his doctor's advice because of high blood pressure.<sup>[21]</sup>

Accused-appellant Dave Mendoza, for his part, maintained that it was not possible for him to have raped Sheryll because he was suffering from nervous breakdown, a condition he has had since childhood, and was thus on constant medication. This subjected him to periodic loss of consciousness. He averred that a person with his illness is not ordinarily possessed with the strength to have sexual intercourse in a

standing position, much less do it with force. He further testified that Sheryll's allegations were all fabricated and impelled by ill-motives arising from the land dispute between her stepfather, Abraham Biata Cruz, and his mother, Rosario Mendoza.<sup>[22]</sup>

On August 8, 2000, the trial court rendered the assailed judgment finding accused-appellants guilty beyond reasonable doubt of two counts of rape each, the dispositive portion of which reads:

WHEREFORE, in view of the foregoing, judgment is hereby rendered finding accused ARTHUR MENDOZA guilty beyond reasonable doubt of the crime of Rape in Criminal Case Nos. L-5974 and L-5976. Accordingly, he is hereby sentenced to suffer the penalty of RECLUSION PERPETUA in each case, and to pay the private complainant Sheryll Gonzales in each case, the sum of P 50,000.00 as moral damages and the sum of P 50,000.00 as civil indemnity and to pay the costs.

In Criminal Case Nos. L-5973 and L-5975, the Court finds the accused DAVE MENDOZA, guilty beyond reasonable doubt of the crime of Rape, and is hereby sentenced, in each case, to suffer the penalty of RECLUSION PERPETUA. Said accused is also ordered to pay the private complainant Sheryll Gonzales, in each case, the sum of P50,000.00 as moral damages and P50,000.00 as civil indemnity, and, to pay the costs.

SO ORDERED.<sup>[23]</sup>

Hence the present appeal, raising the following errors:

I

THE LOWER COURT GRAVELY ERRED IN COMPLETELY GIVING CREDENCE TO THE PROSECUTION WITNESS HER TESTIMONY BEING NOT ONLY PURE PREVARICATIONS BUT CONSISTENTLY SHOTFUL OF GLARING AND IRRECONCILABLE CONTRADICTIONS ON MATERIAL AND SUBSTANTIAL POINTS.

II

THE LOWER COURT GROSSLY ERRED IN CONVICTING FATHER AND SON ARTHUR AND DAVE MENDOZA OF HAVING RAPED SHERYLL GONZALEZ, THE TWO HAVING BEEN FALSELY ACCUSED OF COMMITTING AN OFFENSE THEY ARE BOTH INNOCENT OF.

III

THE LOWER COURT GRAVELY ERRED IN ORDERING ACCUSED-APPELLANTS TO PAY P50,000.00 MORAL DAMAGES AND P50,000.00 AS CIVIL INDEMNITY, IN EACH CASE, AND TO PAY THE COSTS.<sup>[24]</sup>

The appeal is meritorious.

It is the primordial duty of the prosecution to present its case with clarity and persuasion, so that conviction becomes the only logical and inevitable conclusion. What is required of it is to justify the conviction of the accused with moral certainty.<sup>[25]</sup>

In reviewing rape cases, we are guided with three settled principles, namely: (a) An accusation for rape can be made with facility; it is difficult to prove but more difficult for the person accused, though innocent, to disprove the same; (b) 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 (c) The evidence for the prosecution must stand or fall on its own merits and cannot be allowed to draw strength from the weakness of the evidence for the defense. By the very nature of the crime, judgments in rape cases turn on the credibility of the complainant as only the participants can testify as to its occurrence.<sup>[26]</sup>

The testimony of the complainant should not be received with precipitate credulity but with utmost caution. The test for determining the credibility of complainant's testimony is whether it is in conformity with common knowledge and consistent with the experience of mankind. Whatever is repugnant to these standards becomes incredible and lies outside of judicial cognizance.<sup>[27]</sup> The court *a quo* describes the testimony of the complainant as "firm and consistent, despite lengthy and grueling cross examination;"<sup>[28]</sup> hence, sufficient to convict the accused-appellants of rape.

We believe otherwise.

We are not unmindful of the general rule that the findings of the trial court regarding the credibility of witnesses are generally accorded great respect and even finality on appeal.<sup>[29]</sup> However, this principle does not preclude a reevaluation of the evidence to determine whether material facts or circumstances have been overlooked or misinterpreted by the trial court.<sup>[30]</sup> In the past, we have not hesitated to reverse judgments of conviction, where there were strong indications pointing to the possibility that the rape charge was false.<sup>[31]</sup>

After a thorough examination of complainant's testimony, we find that no conviction can arise from it on the following grounds:

*First.* Private complainant testified that about five days after she was raped by accused-appellant Dave Mendoza, she finally told her mother about her ordeal when the latter discovered her bloodied panties. According to her, they immediately went to the police the very next day to report the incident. When asked when this occurred, private complainant said it was in December 1998. The "Sinumpaang Salaysay"<sup>[32]</sup> that private complainant gave before SPO3 Jaime Bonuan at the Lingayen Police Station was executed on March 24, 1999, or three months subsequent to the alleged discovery of the rape sometime in December 1998. Even granting that what private complainant was referring to was the original complaint before SPO1 Jessie Galvez on March 14, 1999, said date would still mean three months after, and not the very next day, as she categorically declared in court. This material point was not clarified during the hearing.

*Second.* Private complainant's mother, Lolita, went with her to the Lingayen Police Station on March 14, 1999 to file a complaint for rape. In said sworn statement before SPO1 Jessie Galvez, Lolita identified the perpetrator as Abraham Biata Cruz, her husband. One week later, or on March 21, 1999, Lolita went back to the police station to ask SPO1 Jessie Galvez to strike out the name of Abraham and replace it with the names of accused-appellants Arthur Mendoza and Dave Mendoza as the alleged rapists.<sup>[33]</sup> What is even more disconcerting is that Lolita went to the police