

## EN BANC

[ G.R. Nos. 140779-80, December 03, 2002 ]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. LAURITO ARRIOLA  
Y SANTANDER, APPELLANT.**

### DECISION

**CORONA, J.:**

Before us for automatic review is the decision<sup>[1]</sup> of the Regional Trial Court of Lucena City, Branch 53, in Criminal Case Nos. 97-130 and 97-131, convicting appellant Laurito Arriola of the crime of rape on two counts committed against Judylou Verso and sentencing him to suffer the supreme penalty of death for each count.

The two separate informations charging Laurito Arriola of the crime of rape read as follows:

#### Criminal Case No. 97-130

"That on or about the month of May 1995, at Barangay Marao, in the Municipality of Padre Burgos, Province of Quezon, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, who is the step-father of the offended party, with lewd design, by means of force, violence and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of one Judylou C. Verso, a minor, 9 years of age, against her will.

Contrary to law."<sup>[2]</sup>

#### Criminal Case No. 97-131

"That on or about the 5th day of January 1997, at Barangay Marao, in the Municipality of Padre Burgos, Province of Quezon, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, who is the step-father of the offended party, with lewd design, by means of force, violence and intimidation, did then and there willfully, unlawfully, and feloniously have carnal knowledge of one Judylou C. Verso, a minor, 10 years of age, against her will.

Contrary to law."<sup>[3]</sup>

When arraigned, the accused-appellant, assisted by Atty. Enrico Joaquin Villanueva, counsel *de officio*, pleaded not guilty to the offenses charged.<sup>[4]</sup>

Trial on the merits thereafter ensued with the two cases (Criminal Case Nos. 97-130 and 97-131) jointly tried by the trial court. On September 8, 1999, the trial court rendered its decision, the dispositive portion of which reads:

"WHEREFORE, all the foregoing considered, the Court finds Laurito Arriola y Santander guilty beyond reasonable doubt of two counts of rape.

In Criminal Case No. 97-130 he is sentenced to suffer the supreme penalty of death and he is ordered to indemnify Judylou Verso in the sum of P75,000.00 and to pay the costs.

In Criminal Case No. 97-131 he is sentenced to suffer the supreme penalty of death and he is ordered to indemnify Judylou Verso in the sum of P75,000.00 and to pay the costs.

SO ORDERED."<sup>[5]</sup>

The antecedent facts, as culled from the testimonies of the witnesses, follow.

On January 23, 1997, at 3:40 p.m., Olivia Paulo (hereafter, Olivia), a teacher at the Padre Burgos Elementary School in Quezon Province, was practicing some pupils for a dance number at the school's hall. Suddenly, she heard a noise as if a desk was being dragged. She and Teresita Bejerano, the other teacher inside the hall, went to the adjacent classroom where the noise came from. They saw Judylou Verso (hereafter, Judylou) crying. The accused, Laurito Arriola, was also inside the classroom. Olivia asked the classmates of Judylou why she was crying. They told her that Laurito Arriola, Judylou's stepfather, wanted to fetch Judylou but she refused to go with him. Olivia told her co-teacher, Teresita Bejerano, to take Laurito Arriola out of the classroom. Arriola, who appeared drunk, obliged but when he reached the door of the hall, he boxed the wall. Sensing something wrong, Olivia told Judylou to go with her to the non-formal room which was then vacant. There she asked Judylou why she refused to go with her stepfather. At first, Judylou who looked frightened refused to talk. Eventually, because of Olivia's motivation, Judylou told Olivia that Arriola had sexually molested her ("*ako ay ginalaw niya*").<sup>[6]</sup> Olivia then told Teresita Bejerano (hereafter, Teresita), Judylou's teacher-in-charge, to also talk with Judylou. Teresita got the same information. With this disturbing information, Olivia sent the janitor of the school to the Padre Burgos police station to fetch some policemen. The chief of police, who headed the responding policemen, ordered his men to look for Arriola and advised Olivia to bring Judylou to a physician for physical examination.<sup>[7]</sup>

Judylou Verso was immediately brought to Dr. Grace Santiago, municipal health officer of Padre Burgos, Quezon for physical examination.<sup>[8]</sup> The findings of Dr. Santiago, based on the medico-legal certificate she issued dated January 23, 1997, read:

" watery vaginal discharge; erythematous vaginal wall; (+) hymenal tear; (+) healed lacerations on posterior vaginal fourchette; cervix is closed, long; uterus is small upon palpation.

Recommendation:

Advised psychological follow-up with psychiatrist for emotional preparation & stabilization."<sup>[9]</sup>

Judylou, who gave her age as eleven<sup>[10]</sup> when she took the witness stand on September 29, 1997, testified that, one night in May of 1995 inside their house in

Barangay Marao, Padre Burgos, Quezon Province, she woke up to find the appellant Laurito Arriola whom she had come to consider as her father ("*kinagisnang ama*") [11] on top of her. Laurito stood up to remove her t-shirt, shorts and panty and then he undressed himself. He again went on top of Judylou and inserted his penis into her vagina. [12] The accused moved his buttocks up and down. [13] While on top of her, accused told Judylou not to tell anybody of what he was doing to her or else he would kill her and all members of her family. [14] Judylou could not do anything but cry. She felt pain because of what Laurito was doing to her but she did not say anything; she just continued crying. [15] Not long after, something came out of Laurito's penis. Laurito put on his brief and shorts, and repeated his threat to Judylou not to tell anybody or else he would kill all of them. [16]

Fearful of the threat made by Laurito whom she called Papa, [17] Judylou kept to herself what Laurito did to her. [18]

In the evening of January 5, 1997, Laurito again lay beside Judylou. He repeated what he did to Judylou before — he removed her t-shirt, shorts and panty; he undressed himself; he went on top of her; he inserted his penis into her vagina; and he moved his buttocks up and down. [19] While on top of her, he again repeated his warning to Judylou not to tell anybody what he was doing. [20] He kissed Judylou on the lips but Judylou just kept on crying. [21] Just like before, Laurito stopped when something came out of his penis. He then stood up, put on his shorts and brief and again repeated his warning. [22]

Sometime thereafter, Judylou's mother, Lorena Calalo, returned to the Philippines from Hongkong where she was working as a domestic helper. Judylou told her mother what her stepfather did to her. Lorena cried and uttered bad things at Laurito ("*nagmura po siya*") in Judylou's presence. Before going back to Hongkong, Lorena left Judylou and her younger stepbrother and stepsister, aged 3 and 6 respectively, with their maternal grandmother, Anastacia Calalo. [23]

On January 23, 1997, Laurito tried to fetch Judylou from her school but Judylou created a commotion because she refused to go with him. [24] Judylou was afraid that he might rape her again. [25]

When it was the turn of the appellant to present his evidence, his counsel, Atty. Enrico Joaquin Villanueva, filed his withdrawal as counsel *de oficio* on the ground that he had irreconcilable differences with the accused in the conduct of his defense. After talking to the appellant, the court found the ground for withdrawing cited by Atty. Villanueva as unmeritorious and denied the same. The appellant agreed that Atty. Villanueva would continue to defend him. However, in a subsequent hearing, the appellant informed the court that his family had decided to secure the services of another lawyer. The court relieved Atty. Villanueva as counsel *de oficio*. But when, after several settings, no counsel *de parte* of the appellant appeared, the court, upon the request of the appellant himself, appointed Atty. Rodel Ambas as counsel *de oficio*. [26]

To the charge of raping his stepdaughter, Judylou Verso, the appellant set up the defense of denial. He testified that he did not know anything of the charges filed against him nor the reasons why Judylou charged him with rape. [27]

The trial court, taking into account the straightforward testimony of Judylou Verso and her demeanor while she testified, found the appellant guilty of the two counts of rape filed against him. The trial court did not believe the lame denial of the accused that he did not know anything of the charges filed against him. The trial court also rejected the insinuation of the defense that it was the anger and ill-feeling that Judylou felt towards her stepfather (the appellant) for treating her and her siblings badly that drove her to file the rape charges against the appellant.<sup>[28]</sup>

The trial court said that, Judylou, in her young and innocent mind, could not have concocted the story. She told her teachers of the sexual abuse, and only after some prodding, because it was true. Also, the trial court noted, it was not difficult to deduce that Judylou refused to go with the appellant when he went to fetch her from school in the afternoon of January 23, 1997, because the memory of the sexual assault by the appellant on January 5, 1997 (only about three weeks before) was still fresh in her mind and she was afraid that the appellant was going to do the same thing to her again. Lastly, the testimony of Dr. Grace Santiago gave credence to the allegation of Judylou that she had been raped. Dr. Santiago testified that the genitalia of Judylou had a healed laceration and admitted two fingers with ease during the physical examination. This indicates that she was no longer a virgin and that there was frequent penetration by the male organ. The trial court accordingly convicted the appellant of two counts of rape and sentenced him to suffer the supreme penalty of death for each count.<sup>[29]</sup>

Hence, the instant automatic review by us of the decision of the trial court. The appellant raises the following errors for our consideration:

I

That the Honorable Trial Court gravely erred in believing the claim of the complainant of her being raped by the accused;

II

That the Honorable Trial Court gravely erred in totally discarding the admission of the complainant's examining physician that the victim (complainant) had self induced her laceration;

III

That the Honorable Trial Court likewise gravely erred in disregarding the admission by the complainant of vindictiveness as her motive in falsely accusing the accused; and

IV

That the Honorable Trial Court gravely erred in convicting the accused.

The main argument of the appellant is that the trial court gravely erred in convicting him of the crime of rape in the light of (1) the admission of Dr. Santiago, the examining physician, that the victim self-inflicted the laceration found in her genitalia and (2) the admission of the victim herself that her motive in accusing the appellant of the crime of rape is to vindicate the bad treatment accorded her and her younger stepbrother and stepsister by the appellant.<sup>[30]</sup>

The argument of the appellant does not hold water.

Appellant wants to make it appear that Dr. Santiago categorically stated that the cause of the laceration in JudyLou's vaginal fourchette is self-inflicted. However, this is not true. The testimony of Dr. Santiago, taken as a whole, shows that she merely stated the possible causes of the laceration. She did not categorically state that the laceration was self-inflicted by the victim. Pertinent portions of her testimony are as follows:

"Q: What did you find?

A: In the internal examination there was hymenal tear and healed laceration on the posterior fourchette, sir.

Q: Will you explain it in layman's language?

A: There (sic) a healed laceration at the posterior fourchette of the vagina meaning near the opening of the anus sir.

xxxx xxxx xxxx

Q: What else did you find?

ATTY. VILLANUEVA:

The best evidence is the medical certificate your honor.

COURT:

Witness may answer.

A: When I inserted my finger it readily admit and upon examination of the cervix it was closed and the uterus is small and there was unremarkable adnexae sir.

xxxx xxxx xxxx

Q: When the genitalia of a girl admits with ease the two fingers, what does it mean?

ATTY. VILLANUEVA:

Objection, that is hypothetical statement, your honor.

COURT:

Witness may answer.

A: That would only mean that there was no physical virginity sir.

Q: Does it follow doctor, that when the genitalia of a woman admits two fingers with ease does it mean there was previous penetration of male organ?

ATTY. VILLANUEVA:

That is hypothetical scenario, your honor.

COURT: