

EN BANC

[G.R. Nos. 136147-48, January 24, 2001]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
RONNIE TORRES Y CALLORA, ACCUSED-APPELLANT.**

DECISION

PARDO, J.:

The case is before the Court on automatic review of the joint decision^[1] of the Regional Trial Court, Pampanga, Branch 55, Macabebe, finding accused Ronnie Torres y Callora guilty beyond reasonable doubt of two separate counts of rape and sentencing him to death in each case.

On August 5, 1997, complainant Novilyn^[2] O. Bokingkito, assisted by her mother, filed with the Regional Trial Court, Macabebe, Pampanga, a criminal complaint for rape against accused, alleging -

"That on or about 20th day of April, 1997, at around 10:00 o'clock in the morning in Barangay Sta. Monica, Municipality of San Simon, Province of Pampanga, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused RONNIE TORRES, taking advantage of his superior strength by means of force and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge with Novilyn O. Bokingkito, a minor 15 years of age against the latter's will and without her consent.

Contrary to law."^[3]

On September 12, 1997, complainant Janalyn O. Lugtu filed with the Regional Trial Court, Macabebe, Pampanga a complaint for rape against accused, alleging -

"That sometime in the month of March 1997, in Barangay Sta. Monica, Municipality of San Simon, Province of Pampanga, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, RONNIE TORRES Y CALLORA, with lewd design, taking advantage of superior strength and by means of force and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge with Janalyn O. Lugtu, nine (9) years old, against her will and without her consent.

Contrary to law."^[4]

When arraigned on November 3, 1997, accused pleaded not guilty to the charges.^[5] The cases were jointly tried.

On April 20, 1997 at around 10:00 in the morning, Novilyn's aunt Edna Ortado (Janalyn's mother) asked her to help in the poultry in Sta. Monica, San Simon, Pampanga because she would go to Apalit, Pampanga to buy medicine and rice. As soon as Edna left, accused asked Janalyn to buy cigarettes. Accused and Novilyn remained in the house. While Novilyn was busy washing the plates, accused suddenly embraced her. Novilyn was stunned and became nervous as accused proceeded to lay her on the floor. Accused removed his shorts and placed himself on top of her. Novilyn tried hard to fight back, putting her legs together to prevent accused from pushing his bestial act but he succeeded in forcing her to have sexual intercourse. Novilyn felt pain. After satisfying his lust, accused put on his shorts while Novilyn continued to cry and likewise put on her shorts. Thereafter, she went home and reported what happened to her mother. Both of them went to a doctor for a medical check-up and to the police station.^[6]

Her medical examination revealed the following:

"EXTERNAL GENITALIA & PERINEUM:

LABIA MAJORA: Coaptated

LABIA MINORA: (+) Superficial healed laceration at 2 & 10 o'clock position.

PELVIC EXAM: Introitus admits 2 fingers with ease."^[7]

Dr. Antoinette E. Golding found Novilyn to have "superficial healed lacerations" on her hymen. Dr. Golding explained that the lacerations may be due to a blunt object or the pressure of a male sex organ.^[8]

With respect to the complaint of Janalyn, who was nine (9) years old,^[9] she narrated that at about noon of March 7, 1997, accused asked her to go upstairs of their house located at Sta. Monica, San Simon, Pampanga. She complied and while she was there accused asked her to lie down. Accused removed her underwear and thereafter placed himself on top of her. Accused kissed her on the face and told her not to report what he did to her to anybody. She felt pain when accused had sexual intercourse with her. Notwithstanding the warning, Janalyn told her cousin, Novilyn Bokingkito, what happened to her that day.^[10]

On April 22, 1997, Janalyn underwent a physical examination which showed the following:

"EXTERNAL GENITALIA & PERINEUM:

"LABIA MAJORA: Well coaptated

"LABIA MINORA: (+) Superficial healed laceration at 3, 5 and 9 o'clock position."^[11]

Dr. Antoinette Golding, a gynecologist at Jose B. Lingad Memorial Hospital in Bacolor, Pampanga who examined Janalyn found that there was a superficial healed lacerations which could have been caused by the pressure of a blunt instrument or sexual intercourse.^[12]

Accused denied the charges. According to him, Rosie Lugtu, first cousin of his wife and Janalyn's aunt, had a grudge against him. Rosie was just using Janalyn to get even with him considering that he took Janalyn away from her for the purpose of sending her to school. Rosie used Janalyn and Novilyn by instigating the filing of two (2) counts of rape against him.

Accused claimed that he was working at Sta. Monica, San Simon, Pampanga. He admitted that Novilyn went to the place where he was working on April 20, 1997, to assist his wife. He said that on the said date, his wife came from Minalin at around 5:00 in the afternoon and got medicines from his brother and came back on the same day with Novilyn. The accused also testified that Novilyn was at their house in the morning up to 12:00 noon where she ate her breakfast together with his wife and rested there. He further testified that he picked some eggs until 3:00 in the afternoon then delivered the eggs at Federosa and went home at 7:00 p. m. when he was arrested by the San Simon Police.^[13]

Edna Torres corroborated the testimony of the accused. She claimed that at the time of the alleged incident involving her daughter Janalyn they were all together. She claimed that Novilyn told her that she was raped in the Visayas and that she had a boyfriend with the same name as accused Ronnie Torres.^[14]

On September 21, 1998, the trial court rendered a joint decision finding accused guilty of two (2) separate crimes of rape. The dispositive portion of its decision reads:

"WHEREFORE, the court finds the accused guilty beyond reasonable doubt of the two (2) separate crimes of rape penalized under Article 335 of the Revised Penal Code. He is hereby sentenced to two (2) mandatory penalties of DEATH. The accused is likewise ordered to pay the two victims Janalyn O. Lugtu and Novilyn Bokingkito the sum of P50,000.00 each and to pay the cost of the proceedings.

"SO ORDERED.

"Macabebe, Pampanga, September 21, 1998.

"REYNALDO V. ROURA

Judge"^[15]

Hence, this automatic review.

Accused imputes the following errors to the trial court.

First: His conviction was based not on the strength of the prosecution's evidence but on the weakness of the defense.

Accused contends that the evidence for the prosecution must stand or fall on its own merits and not allowed to draw strength from the weakness of the defense. He claims that the evidence of the prosecution failed to prove his guilt beyond reasonable doubt.

The contention is untenable. The victims positively identified accused as the one who raped them.

Novilyn Bokingito testified, thus:

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Q: When you and Ronnie Torres were left in the farm, what happened next?

A: At about 10:00 in the morning, while I was washing plates, Ronnie Torres went upstairs and he suddenly embraced me.

Q: When Ronnie Torres suddenly embraced you, what did you do, if any?

A: I was surprised and I got nervous because after embracing me, he laid me down on the floor.

Q: When Ronnie Torres laid you down on the floor, what happened next, if any?

A: He removed his shorts, sir.

Q: And then what happened?

A: And then, he placed himself on top of me.

Q: When he placed himself on top of you, what happened next?

A: He inserted his private organ (penis) on my private organ (vagina).

Q: When Ronnie Torres inserted his private organ into your private organ, what did you feel?

A: I was hurt, sir.

Q: When he was on top of you and he was inserting his private organ into your private organ, what did you do?

A: I fought back, sir.

Q: How did you fight him back?

A: I avoided him so that he cannot kiss me.

Q: But was he able to kiss you?

A: Yes, sir.

Q: Aside from avoiding his kiss, what else did you do when you said you fought back?

A: I placed my thighs together, sir.

Q: When you said that Ronnie Torres was able to insert his sex organ into yours, how long did that take?

A: Around one (1) minute, sir.

Q: How many times Ronnie Torres was able to have sexual intercourse with you on that day?