

EN BANC

[G.R. No. 137696, January 24, 2001]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. EDDIE SERNADILLA, ACCUSED-APPELLANT.

D E C I S I O N

PER CURIAM:

This is an automatic review of the decision^[1] of the Regional Trial Court, Branch 57, San Carlos City, Pangasinan^[2] convicting accused-appellant of the crime of rape committed against April Joy L. Peroche, a six (6) year old minor, and imposing on him the supreme penalty of death.

In an information dated November 19, 1998, accused-appellant Eddie V. Sernadilla was accused by April Joy L. Peroche, a six (6) year old child, of the crime of rape. The information^[3] reads:

"That sometime in the last week of November, 1997, at Barangay Zone V, Municipality of Bayambang, province of Pangasinan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, by means of force or intimidation, did then and there, willfully, unlawfully and feloniously have sexual intercourse with April Joy L. Peroche, a minor of 6 year old, against her will and consent and to her damage and prejudice.

Contrary to Article 335, Revised Penal Code, as amended by R.A. 7659"

Upon arraignment, accused-appellant, assisted by counsel, pleaded not guilty to the crime charged.

The facts of the case, as found by the trial court, are as follows:

"The facts as established by the prosecution culled from the testimonies of Marlene Legaspi, Dr. James Sison, Manuel Peroche and April Joy Peroche are as follows:

That sometime in the month of November, 1997, the accused Eddie V. Sernadilla took the victim April Joy Peroche then six (6) years old to his house located at Barangay Zone V, Bayambang, Pangasinan. The accused then laid the victim down, removed her panty and inserted his penis in her vagina. Result of the medical examination conducted on the victim shows that her hymen was lacerated at 7 o'clock position.

Marlene Legaspi testified that April Joy Peroche is her daughter who is now seven (7) years old was born on April 13, 1991 (Exhibit "X"). In 1997 she resided in Zone V, Bayambang, Pangasinan. On September 14,

1998 she had her daughter April Joy medically examined because the latter reported to her she was sexually abused by the accused in the month of November 1997.

In the cross-examination, she testified that in November 1997, her daughter April Joy used to confine herself inside the room and sometimes chilled and noticed blood in her panty. She did not bring her to the doctor but only gave April some medicines. When she asked April about the blood in her panty, the latter replied she does not know and she was afraid. That sometime in November, 1997, the accused repaired the fence of their house for two (2) days.

James Sison testified that he is a resident physician of the Bayambang District Hospital. He physically examined April Joy Peroche on September 14, 1998 and issued a medico-legal certificate (Exh. "A"). His findings disclosed that April has laceration old, hymen, 7 o'clock which is more than two (2) weeks. The patient told him that she was sexually abused by the accused.

In the cross-examination, he testified that the victim might have been raped more than two (2) weeks ago. The victim has a healed laceration.

Manuel Peroche testified that on September 14, 1998 her daughter April Joy reported to her of the sexual abuse done by the accused. Her daughter was immediately brought to the Bayambang District Hospital for medical examination and then to the Bayambang Police Station.

In the cross-examination, he testified that her daughter reported on September 14, 1998 that the sexual abuse happened sometime in November, 1997 which was ten (10) months after its commission.

April Joy Peroche testified that she is seven (7) years old and Grade II pupil. That sometime in November, 1997, she was abused by the accused in the latter's house. The accused removed her panty and shorts and inserted his penis into her private organ. She had companion namely: Elvie, Tet-Tet, Sha-Sha and Balong when she was sexually abused but left her. She identified her sworn statement (Exh. "C").

In the cross-examination, she testified that the accused called her and that she will be given P10.00. She went to the house of the accused. In the sala of his house the accused removed her panty. When she was abused by the accused, she was alone. Then she Immediately left the house of the accused and ran. She did not tell her parents of the abuse because she might be whipped by her mother. She affirmed that in her statement before the Municipal Trial Court, Judge Bauzon that the sexual abuse was done in the presence of four (4) children, Elvie, Tet-Tet, Sha-Sha and Balong but left her with the accused. When she ran away from the house of the accused she was able to catch up with the aforementioned four (4) children. When she was abused she felt bad but there was no blood in her vagina.

The defense presented the accused Eddie V. Sernadilla, who testified that

he did not know that he was accused of the crime of rape when he was arrested in Quezon City. That from October 1997 to May 1998, he was a construction worker in a house in Malasiqui, Pangasinan. In November 1997 he worked for 2 days in the house of the parents of the victim in Bayambang, Pangasinan. He denied committing the crime of rape.

Defense witness Melquisides A. Gutierrez testified that he is a high school teacher and a resident of No.71 Speaker Perez Street, Bayambang, Pangasinan. He is a teacher at the Malasiqui National High School. That the accused is a live-in worker at the Philippine Benevolent Missionary Association (PBMA) chapter in Malasiqui, Pangasinan from February to December 1997. The accused told him that in November 1, 1997, he made a special visit to his family in Bayambang, Pangasinan. That the accused is happy in his work because he has a sweetheart in the PBMA Chapter in Malasiqui, Pangasinan.

In the cross-examination, he stated that he did not come to know that the accused worked in the house of the parents of the victim in Bayambang, Pangasinan.

Another defense witness, Zaldy Sernadilla, testified that he is a tricycle driver. That the accused is his brother and that he saw him in November 1, 1997 in Bayambang, Pangasinan. That he remembered that the parents of April Joy talked to his mother inside a canteen asking the latter if she has a means of settling the case for P200,000.00. His mother replied that they do not have this amount.

In the cross-examination, he testified that there is one house between their house and the house of the parents of April Joy in Bayambang, Pangasinan. That he saw his brother in the road at 8:00 o'clock A.M. in November 1, 1997, and when he arrived home, he was told by his mother that his brother already left for Malasiqui."^[4]

In its Decision^[5] dated February 8, 1999, the trial court believed what it described as the "very candid, spontaneous, and consistent" testimony of April Joy as against the accused-appellant's mere denial of the crime. It characterized April Joy's narration of the events as clear and free from any serious contradiction. In contrast, the trial court characterized accused-appellant's defense as a mere denial which is self-serving negative evidence. In the light of these observations, the trial court convicted the accused-appellant of the crime of rape and imposed the supreme penalty of death, to wit:

"WHEREFORE, in the light of all the foregoing, the court hereby finds the accused, Eddie V. Sernadilla, guilty beyond reasonable doubt of the crime of RAPE as defined and penalized under Article 335 of the Revised Penal Code as amended by Republic Act No.7659 and hereby sentences him to suffer the penalty of death by lethal injection and to indemnify the victim April Joy L. Peroche the amount of P50,000.00 and to pay the costs."^[6]

In accordance with Section 10, Rule 122 of the Rules of Court, the case is now before us for automatic review.

In his lone assignment of error, the accused-appellant contends that:

"THE COURT A-QUO GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT EDDIE V. SERNADILLA GUILTY BEYOND REASONABLE DOUBT OF THE CRIME OF RAPE DEFINED AND PENALIZED UNDER ARTICLE 335 OF THE REVISED PENAL CODE, AS AMENDED BY R.A. 7659."^[7]

In the appellant's brief, counsel for accused-appellant enumerates three reasons why accused-appellant should not be convicted of the crime of rape. First, he claims that the trial court gravely erred in its findings that the victim April Joy Peroche was very candid, spontaneous and consistent in her testimony. Second, he avers that the allegation that April Joy Peroche was raped by the herein accused in the presence of four (4) other children is repugnant to common experience and observation. And third, he argues that the trial court erred in convicting herein accused-appellant despite failure on the part of the prosecution to establish the actual date of the commission of the rape.

After a meticulous review of the evidence in this case, we find no cogent reason to disturb the findings of the trial court. The evidence clearly establishes the guilt of accused-appellant beyond reasonable doubt.

With respect to accused-appellant's first argument in his appellant's brief, we note the well-established rule that the trial court's evaluation of the credibility of witnesses is given great respect by the appellate court in the absence of proof that it was arrived at capriciously or that the trial court disregarded material facts which might affect the outcome of the case.^[8] The rationale behind this rule is that the credibility of a witness can best be determined by the trial court since it is in a position to observe the candor and demeanor of the witnesses.^[9] It is only the trial court which has the unique opportunity to observe the elusive and incommunicable evidence of the witness's deportment on the witness stand while testifying, an opportunity denied to the appellate courts which usually rely on the silent records of the case^[10]

The Court has closely looked into the case and, like the trial court, it is convinced that the evidence presented by the prosecution satisfies the test of moral certainty required to convict the accused-appellant of the crime charged.

The trial court is correct in giving credence to April Joy's testimony over that of accused-appellant. Her testimony was indeed candid, spontaneous and consistent. Thus:

Q: Some time in November 1997, do you remember if there was any unusual incident that happened to you?

A: Yes, sir.

Q: What was that unusual incident?

A: I was abused, sir.

Q: By whom?

A: Uncle Dongdong, sir.

Q: Where did he abuse you?

A: In their house.

PROS. E. MARNOIS

Q: What time did he abuse you?

A: When the TV program "Isang Linggo Na Po Sila" was being shown, sir.

Q: What time was that?

A: I do not know, sir.

Q: Where in particular did he abuse you in his house?

A: In the farther most portion of their house, sir.

Q: Is that a room?

A: No, sir.

Q: How did Uncle Dongdong abuse you?

A: He removed my panty and my shorts, sir.

Q: After he removed your panty and your shorts, what did he do next, if any?

A: Then he abused me, sir.

Q: How did he abuse you?

A: He inserted his penis into my private organ, sir.

Q: What did you feel?

A: It was painful, sir.

Q: How long did he insert his penis into your private organ?

A: I do not know, sir.

Q: What happened after he inserted his penis to your organ?

A: No more, sir.

Q: And what did you do after finishing his acts of inserting his penis to your organ?

A: I already went home, sir .

Q: After you went home, what did you do next, if any?

A: No more, sir.

PROS. E. MANAOIS

Q: You referred to one Dongdong as the one who sexually abused you, can you still recognize him if you can see him again?

A: Yes, sir.

Q: Can you still recognize him?

A: Yes, sir.

Q: Kindly look around and point to the person of