

EN BANC

[G.R. No. 138805, February 28, 2001]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
EDGARDO MACEDA, ACCUSED-APPELLANT.**

DECISION

MENDOZA, J.:

For review is the decision^[1] of the Regional Trial Court, Branch 76, Quezon City, finding accused-appellant Edgardo Maceda guilty beyond reasonable doubt of the rape of Maribeth Quinto, a mental retardate, and sentencing him to death and to pay the victim the amount of P50,000.00 as moral damages plus the costs of the suit.

The information against accused-appellant alleged —

That on or about the 19th day of February, 1998, in Quezon City, Philippines, the said accused, by means of force and intimidation, did, then and there, willfully, unlawfully and feloniously drag one MARIBETH QUINTO y ARMAZA, into the room of the latter's house at Group 5, Area B. Barangay Payatas, this City, and once inside, undressed her and thereafter have carnal knowledge with the said MARIBETH QUINTO y ARMAZA, a retarded, against her will and without her consent.

CONTRARY TO LAW.^[2]

Upon being arraigned, accused-appellant pleaded not guilty to the charge, whereupon he was tried. The prosecution presented complainant Maribeth Quinto, her mother Editha Quinto, and Medico-Legal Officer Emmanuel Reyes, as its witnesses, while the defense presented accused-appellant, his sister Rosa Dantes, and his cousin Owen Santos.

The prosecution evidence established the following facts:

Complainant Maribeth Quinto is a 32-year old mental retardate. She lived with her mother Editha at Group 5, Area B, Payatas, Quezon City, while her siblings lived elsewhere in the neighborhood.

In the morning of February 18, 1998, complainant's mother went to wash clothes for her employer in Camarin, Caloocan City. Complainant was left in the care of her sister, Veronica. When night came, Veronica left the victim alone in the house as she expected her mother to arrive soon. Editha, however, was unable to go home that night because her employer had some problems.^[3]

Alone in the house, complainant fell asleep while waiting for her mother to arrive.

She was awakened by the barking of the dog at around 1:30 a.m. of February 19, 1998. She heard someone knocking at the door. When she went to open the door, she found it was her neighbor, accused-appellant Edgardo "Boboy" Maceda, asking where complainant's youngest brother Nonoy was. When complainant answered that her brother was not there, accused-appellant got inside the house, closed the door behind him, and told complainant not to make any noise. Accused-appellant then forced her to lie down and started kissing her on the lips and neck. Complainant got scared and began to cry. Accused-appellant then pulled down her panty, spread her legs, and had sexual intercourse with her. Afraid, complainant covered herself with a blanket as soon as accused-appellant left.^[4]

Complainant's mother arrived home at around 11 o'clock in the morning on February 19, 1998. She noticed that the victim was quiet, but, thinking that the latter was just being moody, did not pay attention to her. After a while, complainant, who was crying, approached her mother and told her what had happened. Describing what she felt while being raped, complainant told her mother, "*tulo ng luha ko. Hirap hirap ako.*" (My tears just ran down. It was very difficult for me.)^[5]

On the same day, Editha took her daughter to the barangay captain and reported the incident. Following the advice of the barangay captain, they went to Camp Crame and had complainant physically examined by a medico-legal officer. The following day, February 20, 1998, Editha and complainant went to the police station and gave their sworn statements on the basis of which accused-appellant was arrested and detained at the Quezon City Jail.^[6]

Dr. Emmanuel Reyes, the medico-legal officer at Camp Crame, examined complainant and found the following:

GENITAL:

On separating the same disclosed an abraded posterior fourchette and congested vestibule and an elastic, fleshy type, and congested hymen, with deep-healed lacerations at 3, 6 and 9 o'clock positions. External vaginal orifice offers moderate resistance to the introduction of the examining index finger. Vaginal canal is narrow with prominent rugosities. Cervix is firm and closed.^[7]

Dr. Reyes explained that the abraded posterior fourchette and congested vestibule were probably caused either by a rough or dry surface, such as an erect penis, or, if the sexual intercourse was forcibly made, the absence of lubrication. He added that the findings of an abraded posterior fourchette, congested vestibule, and hymenal lacerations indicate that the victim is no longer a virgin. However, no spermatozoa was found in the victim's vagina. Lastly, Dr. Reyes observed an ecchymosis or a "kiss mark," located at the right lateral part of complainant's neck.^[8]

Accused-appellant denied the allegations against him. He testified that he lived with his parents and other relatives for 18 years in Area B, Group 5, Payatas, Quezon City, about 35 meters from complainant's house. Accused-appellant said he drove a passenger jeepney everyday from 4:30 a.m. until 8:00 p.m., plying the Lagro-Queens route. On the night of February 18, 1998, after arriving home from work, he rested for 20 minutes and afterward went to sleep. He woke up the following

morning at around 4:30 a.m. and went to work.

Accused-appellant testified that the victim and her family had been his neighbors for 15 years. In fact, the victim's youngest brother, Nonoy, would sometimes accompany him during his trips. He said that he did not have any quarrel with complainant's family, although he had some misunderstandings with Nonoy's wife.
[9]

A defense witness, Owen Santos, corroborated the testimony of accused-appellant. Santos testified that he was living with accused-appellant's family at the time of the incident. At around 9:30 p.m. on February 18, 1998, he slept beside accused-appellant, and he was sure that the latter did not leave the house that night. He woke up at around 4:30 a.m., took a bath, and went out with accused-appellant.
[10]

Accused-appellant's sister, Rosa Dantes, who also lived with accused-appellant and her parents, likewise testified in his behalf. According to her, they lived in a semi-concrete house surrounded by a 5-foot steel gate, although she slept in a room outside their house within the compound. She testified that she was the gatekeeper in the family. When every member of the household was already inside the house, usually at around 9 p.m., she would close the main door and would not open it until around 4:00 a.m. of the next day. She explained that no one could leave the house without her permission because she alone had the key to the main door and it could only be opened from the outside with this key. She was therefore sure that accused-appellant did not leave the house at the time of the incident.
[11]

After the prosecution and the defense finished presenting their evidence, the trial court rendered its decision, the dispositive portion of which reads:

WHEREFORE, finding the accused Edgardo Maceda guilty beyond reasonable doubt of the crime of rape now penalized under Art. 266-A and 266-B of the Revised Penal Code in accordance with RA 8353, with the aggravating circumstance that the offender knew of the mental disability of the complainant Maribeth Quinto at the time of the commission of the crime, the Court hereby imposes the death penalty on the said accused. He is also ordered to indemnify the offended party in the amount of P50,000.00 as moral damages and to pay the costs.

SO ORDERED.
[12]

Assailing the decision of the trial court, accused-appellant contends that —

- I. THE TRIAL COURT ERRED IN CONVICTING ACCUSED-APPELLANT OF RAPE ABSENT ANY SHOWING THAT FORCE OR INTIMIDATION WAS EMPLOYED, OR THAT THE MENTAL AGE OF THE COMPLAINING WITNESS WAS EQUIVALENT TO THAT OF A GIRL BELOW TWELVE YEARS OF AGE.
- II. THE LOWER COURT ERRED IN NOT ACQUITTING THE ACCUSED-APPELLANT AT LEAST ON THE GROUND OF REASONABLE DOUBT.
- III. THE LOWER COURT ERRED IN ORDERING ACCUSED-APPELLANT TO PAY CIVIL DAMAGES AND COSTS.
[13]

These contentions are without merit.

First. Accused-appellant puts up the defense of alibi and alleges that he was at home sleeping at the time of the incident. To corroborate his testimony, accused-appellant's sister and his cousin testified that accused-appellant did not leave the house on the night of February 18, 1998. However, both witnesses failed to show that it was physically impossible for accused-appellant to have been at the place where the incident took place at around 1:30 a.m. of February 19, 1998.

Owen admitted that although he slept in the same room as accused-appellant, he could not say for sure that accused-appellant did not leave the house at the time of the incident since he did not guard the latter's movements that night. Owen testified during cross-examination:

FISCAL SANTOS:

Q: You said that accused slept at about 9:30 in the evening?

A: Yes, sir.

. . . .

Q: So, if you slept at 9:30 in the evening and woke up at 4:30 a.m., you will not see if Buboy left the house between those intervening hours because you were then sleeping?

A: He did not leave the house.

Q: How do you know that? Were you guarding him?

A: I was sleeping beside him.

Q: So, what if you were sleeping beside him? You were not guarding him?

A: No, sir.

Q: So, based on your answer that he did not leave the house, it is because you were sleeping beside him?

A: Yes, sir.^[14]

Thus, Owen could not account for accused-appellant's whereabouts during the time that he was asleep.

Similarly, accused-appellant's sister, Rosa, did not categorically state that she saw accused-appellant inside the house on the night of February 18, 1998 until early morning of the following day. She testified that she was the gatekeeper and that nobody could leave the house at night without her permission. But she never stated that accused-appellant did not leave the house at the time of the incident because the door and the gate were locked.

Even if accused-appellant was inside the house from 9:00 p.m. on February 18, 1998 to 4:30 a.m. the following day, it is not improbable that he sneaked out of their house that night and proceeded to complainant's house, considering its proximity to his house. As accused-appellant himself admitted, his house was only 35 meters from complainant's house.

This Court has consistently ruled:

Alibi as a means of defense is weak when not substantiated by the testimony of a credible witness. Courts have always looked upon the defense of alibi with suspicion and have always received it with caution not only because it is inherently weak and unreliable but also because it is easily fabricated. Alibi as basis for acquittal must be established with clear and convincing evidence. The accused must convincingly demonstrate that it was physically impossible for him to have been at the scene of the crime at the time of its commission. And, where accused was positively identified by the victim herself who harbored no ill motive against the rapist, as in this case, the defense of alibi must fail.^[15]

In the case at hand, accused-appellant failed to substantiate his defense of alibi. The testimonies of his witnesses, Owen and Rosa, are rendered suspect because his relationship to them makes it likely that they would freely perjure themselves for his sake. The defense of alibi may not prosper if it is established mainly by the accused himself and his relatives, and not by credible persons.^[16] Correctly then did the trial court state:

Against this overwhelming evidence of the prosecution, the accused and witnesses could only offer denials and the supposed impossibility of his having committed the crime because the keys to the house were kept by the sister and that he could not have gone out without her knowing it.^[17]

Second. Contrary to the claim of accused-appellant, the prosecution evidence clearly shows that he had carnal knowledge of complainant Maribeth Quinto.

On direct examination, complainant testified:

FISCAL SANTOS:

Q: Do you know the accused in this case, [Edgardo]^[18]
Maceda alias Boboy?

A: Yes, sir. (Witness pointing to the accused)

. . . .

FISCAL SANTOS:

Q: Is the nickname of [Edgardo] Maceda, Boboy?

A: Yes, sir.

. . . .

Q: On February 19, 1998, you were in your house at about
1:30 in the morning?

A: Yes, sir.

Q: Where was your mother then at the time?

A: She was working.

Q: So you were alone in your house on said date and time?