

EN BANC

[G.R. No. 134529, February 26, 2001]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
FERNANDO SABALAN Y VILLAMOR, ACCUSED-APPELLANT.**

DECISION

PUNO, J.:

Accused-appellant Fernando Sabalan was charged with rape by his own daughter, Analiza Sabalan. The Information against him reads:

"That on or about the 8th day of November 1996, at Barangay Butaguin, in the Municipality of Gumaca, Province of Quezon, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, who is the father of the offended party, with lewd design, by means of force, threats, violence and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of one Analiza Sabalan, his own daughter, a minor, 12 years of age, against her will.

Contrary to law."

When arraigned, accused-appellant, assisted by counsel, entered a plea of not guilty.^[1] Trial ensued.

The prosecution presented two witnesses, namely: the victim, Analiza Sabalan, and the examining physician, Sonia Elena Leopando, M.D., of Gumaca District Hospital, Gumaca, Quezon.

Analiza testified that she is the daughter of Carmen and Fernando Sabalan (accused-appellant). She said she was born on July 5, 1984. She claimed that accused-appellant raped her on five different occasions inside their house in the month of November 1996. She could not recall the exact dates of her defilement, except for the one that took place in the evening of November 8, 1996. At that time, she was left in the house with her younger siblings. She was allegedly 12 years old. Her mother and her eldest sibling were then working in the house of her grandmother situated about 300 meters away from their residence.

Analiza recalled that she was sleeping when she felt accused-appellant lay beside her. Without much ado, he took off her shorts and placed himself on top of her after removing her shorts. She felt pain when he inserted his penis into her vagina. During the sexual assault, she tried to shout, but accused-appellant boxed her on the stomach and on her thigh. She cried and begged him to stop. Her efforts were futile. After satisfying his lust, accused-appellant warned her not to tell to anybody or he would hurt her. She kept mum about the incident.

According to Analiza, accused-appellant is a drunkard. He maltreated her, her

mother and her siblings. Her parents separated after she was raped. Her mother took her and her siblings to a relative in Libmanan, Camarines Sur.

In February 1997 or three months after the rape incidents, accused-appellant went to Libmanan and tried to get her back. The move made her tell her mother about the rape. Her mother accompanied her to Gumaca and they filed the rape case against the accused-appellant.

Dr. Sonia Elena Leopando of the Gumaca District Hospital conducted the medical examination on the victim. The doctor found healed lacerations in the internal portion of the victim's vagina at 2, 5 and 9 o'clock positions. She opined that the lacerations could have been caused by the introduction of an erect penis into the vagina.

The defense presented accused-appellant Fernando Sabalan as its sole witness. He denied raping her. He claimed that he was a good father to his children, including the victim, and a good husband to his wife, Carmen. He further declared that he did not quarrel with his wife nor scold Analiza before the alleged rape. He had no idea why his daughter charged him with rape. Allegedly, it was not possible for him to rape the victim because he was always with his wife.

After the trial, the court *a quo* found the accused-appellant guilty as charged of incestuous rape and meted him the supreme penalty of death. The dispositive portion of the decision reads:

"WHEREFORE, judgment is hereby rendered convicting the accused Fernando Sabalan y Villamor of the crime of incestuous rape and he is hereby sentenced to suffer the penalty of death, with its accessory penalties under Article 40 of the Revised Penal Code, and to pay the private offended party, Analiza Sabalan, the amount of P50,000.00.

SO ORDERED."

The case is with us on automatic review. Accused-appellant raises the following assignment of errors:

I

THE TRIAL COURT GRAVELY ERRED IN FINDING FULL WEIGHT AND CREDENCE TO THE TESTIMONY OF THE PRIVATE COMPLAINANT.

II

THE COURT A QUO GRAVELY ERRED IN FINDING THAT THE GUILT OF ACCUSED-APPELLANT HAS BEEN PROVEN BEYOND REASONABLE DOUBT.

The judgment of conviction is affirmed, with modification as to the penalty imposed.

Accused-appellant anchors his appeal on the alleged lack of credibility of the victim. He cites the testimony of the victim that she could not forgive him due to the maltreatment she and her family suffered in his hands while they were still living with him. Allegedly, her admission that her relationship with him prior to the rape incidents was not cordial destroyed her credibility.

We are not persuaded.

The settled rule is that when the issue involves the credibility of a witness, the trial court's assessment is entitled to great weight, even finality, unless it is shown that it was tainted with arbitrariness or there was an oversight of some fact or circumstance of weight and influence. The reason is obvious, the trial court has the unique opportunity to observe the witness firsthand and note his or her demeanor and manner of testifying.^[2] We find no cogent reason to depart from this doctrine.

The trial court observed that the victim was straightforward and candid while testifying. She positively identified accused-appellant as her rapist and that she was raped not only once but several times. She testified as follows:^[3]

"(FISCAL FLORIDO):

Q: Miss, how did it happen that your father had raped you?

(ANALIZA):

A: He removed my clothes, Mam.

Q: What part of your clothes was removed by your father?

A: My shorts, Mam.

Q: And during that evening of November 1996 at Barangay Butaguin, you said in your house, Gumaca, Quezon, who was with you aside from your father in that house?

A: My brothers and sisters, Mam.

Q: During that evening, aside from your father, who was with you in that house?

A: Only my brothers and sisters, Mam.

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Q: During that time, where was your mother?

A: In her work, Mam.

x x x x x x x x x

Q: Now, you said your father, Fernando Sabalan had raped you during that time and date, what did he do when you said he raped you?

A: Her removed all my clothes, Mam.

Q: Then after he had removed all your clothes... By the way, what clothes were removed by your father?

A: My short(s) and my T-shirt, Mam.

Q: After he had removed your shorts and T-shirt, what else

did your father do if he did anything more?
A: He placed himself on top of me, Mam.

Q: Now, during the time that your father had placed himself on top of you, was he wearing anything?
A: None, Mam.

Q: And you said your father had placed himself on top of you. What did he do when he was already on top of you?
A: He inserted his penis on (sic) my vagina, Mam.

Q: And when he inserted his penis on (sic) your vagina, did you feel pain?
A: Yes, Mam.

Q: And when he inserted his penis to your vagina and you said it is painful, what did you do if you did anything? Did you shout or what?
A: I cried, Mam.

Q: You cried but you did not shout?
A: He was hurting me whenever I shout, mam.

Q: When you said he was hurting you, what kind -- how did he hurt you?
A: He was boxing me on my stomach, Mam.

Q: And aside from boxing your stomach, where else was he hurting you?
A: On my thigh, Mam.

Q: Now Miss witness, you said you were not shouting because he was hurting you. Did you try, during that time, to prevent your father from raping you?
A: None (sic), Mam, because I was already afraid.

Q: Now, after your father had raped you, what did you do if you did anything?
A: No more, Mam.

Q :Immediately after the incident took place and you said your mother was not there because she was in her work, when did your mother arrive?
A: After he was finished and after my father had already slept, Mam.

Q: When you mother arrived, did you report that matter to her?
A: No, Mam.

Q: Why did you not tell you mother?
A: Because according to him, if ever I report that matter to anybody, he will hurt me again, Mam."