

FIRST DIVISION

[G.R. No. 129238, February 22, 2001]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
REGALADO BURLAT Y BANAWA ALIAS "DADONG", ACCUSED-
APPELLANT.**

D E C I S I O N

PARDO, J.:

The case is an appeal from the decision^[1] of the Regional Trial Court, Oroquieta City, Branch 13 convicting Regalado Burlat y Banawa of rape, sentencing him to *reclusion perpetua* and to pay the victim, Judith v. Masayon, the amount of thirty thousand pesos (P30,000.00) and the costs.

On May 14, 1996, Assistant Provincial Prosecutor Cecilia S. Carriaga-Omandam of Oroquieta City filed with the Regional Trial Court, Oroquieta City an information charging Regalado Burlat y Banawa alias "Dadong" with rape, committed as follows:

"That on or about October 21, 1995, at about 3 :00 o ' clock in the afternoon, more or less, in barangay New Cartagena, municipality of Plaridel, province of Misamis Occidental, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, armed with deadly weapon, by means of violence and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of the complainant JUDITH V. MASA YON, a 15-year old minor, against her will.

"CONTRARY TO LAW, with the presence of aggravating circumstance of using a deadly weapon in the commission of rape."^[2]

At the arraignment on June 10, 1996, accused Burlat pleaded not guilty to the crime charged.^[3] Trial ensued.

On October 21, 1995, at around 3:00 in the afternoon, Judith Masayon went to the store of accused Regalado Burlat near her house in Barangay New Cartagena, Plaridel, Misamis Occidental. She needed to buy matches for cooking. Judith arrived at the store and found accused Burlat tending the store alone and drinking "Kulafu," a local wine. The store of accused was part of the kitchen of his house. When Judith tendered her payment for the matches, she was standing near the door of the store leading to the kitchen. Suddenly, accused Burlat grabbed her hands and pulled her inside the kitchen. Once inside, accused Burlat took hold of a knife and threatened Judith by saying, "Try to shout and I will stab you with the knife."^[4] Then, accused Burlat closed the door of the store, Meanwhile, Judith managed to take a burning piece of wood from the stove and thrust it at accused Burlat. However, accused was able to parry the thrust with his knife. He gained possession of the burning wood and returned it to the stove. He boxed Judith twice on her lower right shoulder,

causing her to fall to the ground. Before she could get up, accused Burlat boxed her again on her thighs. Then, he removed Judith's skirt and panty. He removed his short pants. He mounted her and forced her thighs to spread open. He held his penis and inserted it in Judith's sex organ. She felt excruciating pain and lost consciousness. She regained consciousness at around 5:00 in the afternoon and found herself still in the kitchen of accused Burlat. She saw her panty and skirt beside her. She noticed accused Burlat in the sala. When accused Burlat realized that she was already awake, he warned her not to tell her mother about the incident, or else, he would cut her tongue. She went home and kept the incident to herself. When she reached her house, she was alone because her mother was in another town, Looc, and her father was in Maigo.

Several months later, or on March 3, 1996, Judith's mother noticed that her daughter's stomach had grown big. She brought Judith to a midwife who, after examining her concluded that she was pregnant. It was then that Judith told her mother about the rape. Judith was thereafter taken to the police authorities to report the crime. Judith executed a sworn statement, on the basis of which a complaint for rape was filed against accused Burlat. Judith and her mother proceeded to the provincial hospital at Oroquieta City for further examination. Dr. Georgina Sta. Maria conducted an examination of Judith and issued a medical certificate, stating that the patient had a fetus inside her womb. On June 16, 1996, Judith gave birth to a baby girl, but the baby died two weeks after delivery .

Judith alleged that she never ventured near the house of accused Burlat after the rape even if her parents worked for accused by picking and gathering coconuts. Judith also stated that accused Burlat threatened her even after the incident, when they saw each other in church and once near the river of the town while she was washing her clothes.

On the other hand, accused Regalado Burlat, 65 years old, vehemently denied that he raped Judith Masayon. According to him, on October 21, 1995, he was not at home because he left for Looc, a neighboring barangay, at around 1:00 in the afternoon to deliver bamboo sticks ordered by Eleuterio Loquero.^[5]

At around 2:00 in the afternoon, accused Burlat arrived at the house of Eleuterio Loquero, in Looc, Plaridel, Misamis Occidental. After being paid for the bamboo sticks, accused Burlat walked to the market place, about half a kilometer away from Loquero's house to buy fish. Thereafter, he went home. He went to the terminal area where motorcabs for Sibolen were parked, waiting for passengers to transport. Finally, at around 4:00 of the same afternoon, the vehicle whereon the accused rode left Looc. Thereafter, he proceeded to his house by riding a carabao. He reached his house at around 5:00 in the afternoon.^[6]

After due trial, on January 30, 1997, the trial court rendered a decision, the dispositive portion of which states:

"WHEREFORE, premises considered, the Court finds accused Regalado Burlat guilty beyond reasonable doubt of the crime of rape, defined and penalized under Article 335 of the Revised Penal Code, amended by Republic Act No. 7659, and there being no aggravating circumstance, and considering further that the complainant was only fifteen years old during the commission of the crime, said accused Regalado Burlat y Banawa