

EN BANC

[G.R. No. 135964-71, February 21, 2001]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JUAN MANALO Y CASTOR, ACCUSED-APPELLANT.

D E C I S I O N

PER CURIAM:

On April 22, 1997, Juan Manalo y Castor was charged in separate complaints with eight (8) counts of rape before the Regional Trial Court, Branch 4, Pallocan, Batangas City four (4) allegedly committed against Liezel Delica^[1] and four (4) against Ivy Adame^[2].

The criminal complaints read as follows:

"CRIM. CASE No. 8845

That sometime in the period comprising between December 1, 1996 and December 4, 1996, at Brgy. Ilat South, Municipality of San Pascual, Province of Batangas, Philippines and within the jurisdiction of this Honorable Court, the above named accused, by means of force and intimidation, did then and there willfully, unlawfully and feloniously lie with and have carnal knowledge of the said six (6) year old girl, Liezel Delica, against her will and consent.

CONTRARY TO LAW.

CRIM. CASE No. 8846

That sometime in the month of May 6, 1996 at Brgy. Ilat South, Municipality of San Pascual, Province of Batangas, Philippines and within the jurisdiction of this Honorable Court, the above named accused, by means of force and intimidation, did then and there willfully, unlawfully and feloniously lie with and have carnal knowledge of the said six (6) year old girl, Liezel Delica, against her will and consent.

CONTRARY TO LAW.

CRIM. CASE No. 8847

That sometime in the month of June 1996, at Brgy. Ilat South, Municipality of San Pascual, Province of Batangas, Philippines and within the jurisdiction of this Honorable Court, the above named accused, by means of force and intimidation, did then and there willfully, unlawfully and feloniously lie with and have carnal knowledge of the said six (6)

year old girl, Liezel Delica, against her will and consent.

CONTRARY TO LAW.

CRIMINAL CASE No. 8848

That on or about the 5th day of December 1996, at Brgy. Ilat South, Municipality of San Pascual, Province of Batangas, Philippines and within the jurisdiction of this Honorable Court, the above named accused, by means of force and intimidation, did then and there willfully, unlawfully and feloniously lie with and have carnal knowledge of the said six (6) year old girl, Liezel Delica, against her will and consent.

CONTRARY TO LAW.

CRIMINAL CASE No. 8849

That sometime in the month of May, 1996 at Brgy. Ilat South, Municipality of San Pascual, Province of Batangas, Philippines and within the jurisdiction of this Honorable Court, the above named accused, by means of force and intimidation, did then and there willfully, unlawfully and feloniously lie with and have carnal knowledge of the said below seven (7) year old girl, Ivy Adame, against her will and consent.

CONTRARY TO LAW.

CRIMINAL CASE No. 8850

That sometime in the month of June, 1996 at Brgy. Ilat South, Municipality of San Pascual, Province of Batangas, Philippines and within the jurisdiction of this Honorable Court, the above named accused, by means of force and intimidation, did then and there willfully, unlawfully and feloniously lie with and have carnal knowledge of the said below seven (7) year old girl, Ivy Adame, against her will and consent.

CONTRARY TO LAW.

CRIMINAL CASE No. 8851

That on or about the 5th day of December, 1996 at Brgy. Ilat South, Municipality of San Pascual, Province of Batangas, Philippines and within the jurisdiction of this Honorable Court, the above named accused, by means of force and intimidation, did then and there willfully, unlawfully and feloniously lie with and have carnal knowledge of the said seven (7) year old girl, Ivy Adame, against her will and consent.

CONTRARY TO LAW.

CRIMINAL CASE No. 8852

That sometime in the period comprising between December 01, 1996 and December 04, 1996 at Brgy. Ilat South, Municipality of San Pascual,

Province of Batangas, Philippines and within the jurisdiction of this Honorable Court, the above named accused, by means of force and intimidation, did then and there willfully, unlawfully and feloniously lie with and have carnal knowledge of the said seven (7) year old girl, Ivy Adame, against her will and consent.

CONTRARY TO LAW."^[3]

Ivy Adame and Liezel Delica were both six years of age at the time of the alleged rape incidents; they are cousins and Liezel is a niece of the accused Juan Manalo by affinity. The family of Liezel and the accused were living in the same house in Brgy. Ilat, South, San Pascual, Batangas while the family of Ivy Adame is living in a nearby house. The rapes against the two (2) complainants happened on the same occasions.

The evidence for the prosecution is summarized by the trial court as follows:

"Complainant, Liezel Adame Delica, testified that, while she and Ivy Adame, the other complainant in these cases, were playing, accused Juan Manalo, whom they call Tito Juancho, asked them to enter his room; that inside his room, the accused undressed himself and she saw his penis; that he also undressed her and Ivy; that thereafter, the accused placed himself on top of her and kissed her on her cheeks, that while still on top of her, the accused inserted his penis inside her vagina, which cause her pain; that thereafter what the accused did to her, she also saw the same things being done to her cousin, Ivy, by her Tito Juancho; that the undressing, kissing and insertion of Tito Juancho's penis into their vagina happened four (4) times to each of them; once each in the months of May and June and twice in the month of December, 1996, inside the house of their Nanay Loring at Barangay Ilat, San Pascual, Batangas, and all in the afternoon.

Liezel Adame Delica further declared that in all the four (4) occasions during which she and her cousin, Ivy were subjected to the beastly desires of their Tito Juancho, he always told them not to tell their parents what he had done to them or else he will spank them; that when her mother learned of what her Tito Juancho did to her, she was investigated and brought to a doctor for medical examination; and that she gave a sworn statements which she signed together with her complaint.

Complainant, Ivy Adame, in her testimony before the Court, materially corroborated the declaration of her cousin, Liezel, particularly on her seeing the penis of their Tito Juancho, being undressed, kissed on her cheeks, his penis being inserted in her vagina and feeling pain as they lay in bed inside his room with their Tito Juancho on top of them; that these acts done to them happened both once in the month of May and June, and twice in December, 1996 inside his room in the house owned by their Nanay Loring all in the afternoon. She added to these corroborating testimonies, that when their uncle told them not to tell anybody she became afraid of him as he had previously spanked them before; that at the NBI where her mother brought her, she executed a sworn statement which she signed; that she was also brought to the hospital where her

vagina was examined.

Prosecution witness, Mrs. Teodora Adame, mother of complainant Ivy Adame, testified that on December 11, 1996, she overheard her daughter Ivy tell Liezel that her Tito Juancho let her hold his penis again; that confronting her daughter with what she heard; Ivy told her that when she and Liezel play in the house of Nanay Loring, the accused would call them and give them candies; that thereafter, among others, the accused would insert his penis inside her daughter's and that of Liezel's vagina; that whenever the complainants feel pain as the accused insert his penis into their vagina, the accused would withdraw it; that Ivy told her that the penis insertions happened in four separate occasions to her and to Liezel; that the parents of the accused went to her for two times, once in her place of work and another time at her residence and asked her to forgive the accused for his actuations; that later on, the accused and his wife went also to her house; that the accused admitted his actuations on the complainants and asked to be forgiven; that she and husband told him that their answer would depend on the result of the medical examination; that she had noticed Ivy after the incidents on her showing her private part to her playmates; that these cases caused her husband to be hospitalized; and that they filed these cases for what the accused did to her daughter.

Mrs. Lolita Delica, mother of Liezel Delica, also gave evidence in these cases, she corroborated witness Teodora Adame that it was from her that she learned first what the accused did to their children; that afterwards, she confronted Liezel who narrated to her what Ivy had told her mother; that on December 12, 1996, the accused and his family went to Teodora Adame to settle these cases; that on this occasion the accused admitted the wrongful acts narrated by their children and asked forgiveness promising not to do the same things again to the complainants; that these wrongdoings by the accused were reported to the NBI; that she executed a sworn statement for these cases and her complaint because of what the accused did to her daughter.^[4]

Accused Juan Manalo denied the charges imputed to him. He admitted that he showed fondness for Liezel by giving her candies and kissing her cheeks, as he was childless; that once while undressing in his room, Liezel might have seen his penis, but he never deliberately showed it to her.^[5] His wife Rosanna was presented by the defense to corroborate his testimony.

The trial court found the accused guilty beyond reasonable doubt in each of the eight (8) cases:

"WHEREFORE, and pursuant to the provisions of Republic Act No.7659 quoted herein above, said accused is sentenced with the capital penalty of death to be carried out in the manner provided for under Article 81 of Republic Act No.7659. Further, the accused is directed to indemnify each complainants, Liezel Adame Delica and Ivy Mendoza Adame with the sum of P200,000.00 representing moral and exemplary damages and to pay the costs.

SO ORDERED."^[6]

The case is before us on automatic review.

Under the lone assignment of error, accused-appellant claims that the trial court gravely erred in convicting the accused of the crimes charged despite the "incredible testimonies" of the two alleged rape victims which were not in accordance with the ordinary common experience. Thus, Ivy recounted that after the first alleged rape took place, she and her cousin proceeded to play and did not report the experience to their respective mothers. Moreover, if it were true that the two girls were raped one after the other, and the other complained of extreme pain on her vagina, it was not possible for the other girl to just lie in bed and wait for her turn to be ravished, when she could have easily escaped. It was allegedly surprising that both remained passive and did not shed tears. Moreover, no weapon was used to coerce them into submission, and it was only after the accused had inserted his penis that he warned them not to tell their parents of what happened. Accused-appellant also points out that Ivy again succumbed to his invitation despite the fact that Liezel was not around, indicating Ivy did not entertain any fear despite the alleged four rapes committed against her.

Accused-appellant also claims that the prosecution failed to prove the material dates when the rapes occurred; Liezel merely testified that the rapes occurred in the afternoon, without mentioning the dates alleged in the information. Finally, accused-appellant contends that the rape incidents took place in the upper floor of the house occupied by several persons and there was no showing that there were no other people present when the rapes occurred.

We find accused-appellant's contention untenable.

We have examined carefully the records and find that the evidence supports the trial court's finding of guilt.

The trial court gave full weight and credence to the testimonies of the two young complainants. Liezl's testimony is as follows:

"Q: Can you please narrate to the Honorable Court what was (sic) the bad things done to you by your Tito Juancho?

A: Yes, ma'am.

Q: What was that?

A: While we were playing Ate Ivy and I called (sic) by Tito Juancho to go with him to his room, ma'am.

Q: After that, what happened?

A: When we entered to (sic) the room he did something to us, ma'am.

Q: What was that?

A: He undressed us and our shorts too and then he put himself on top of us and I was the one first, ma'am.

Q: What else happened?