

FIRST DIVISION

[G.R. No. 126026, February 06, 2001]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
MAURICIO LOYOLA Y BOTAYA ALIAS "JUNIOR", ACCUSED-
APPELLANT.**

D E C I S I O N

PARDO, J.:

Accused Mauricio Loyola y Botaya alias "Junior" appeals from the decision of the Regional Trial Court, Bukidnon, Branch 8, Malaybalay finding him guilty beyond reasonable doubt of rape, the decretal portion of which reads as follows:

"In view of the foregoing, the court finds the accused Mauricio Loyola GUILTY beyond reasonable doubt of rape as charged in the information and he is hereby sentenced to suffer the penalty of RECLUSION PERPETUA and to indemnify private complainant the sum of P30,000.00, and to pay the costs.

"SO ORDERED."^[1]

On January 25, 1995, Assistant Provincial Prosecutor Guillermo G. Ching of Bukidnon charged MAURICIO LOYOLA Y BOTAYA @ "JUNIOR" with RAPE, committed as follows, to wit:

"That on or about the 11th day of April 1994 at midnight particularly inside the Bachelor's Express Bus with body No. 2654 at New Bus Terminal, Purok 8, Barangay West Poblacion, Municipality of Kalilangan, Province of Bukidnon, Philippines and within the jurisdiction of this Honorable Court, the above-named accused who is still at large, with lewd design and by means of force and intimidation, did then and there willfully, unlawfully and criminally embrace STECY GATILOGO,^[2] a sixteen (16) year-old girl while asleep, cover her mouth with his hand, remove her trouser and underwear and place his body on top of her and forcibly insert his penis into her vagina and have sexual intercourse with STECY GATILOGO, against her will, to the damage and prejudice of the victim in such amount as may be allowed by law.

"Contrary to and in violation of Article 335 of the Revised Penal Code.

"Malaybalay, Bukidnon, January 25, 1995."^[3]

Upon arraignment on February 28, 1995, accused pleaded not guilty.^[4] Trial on the merits ensued.

On April 9, 1994, Stecy Gatilogo, a sixteen (16) year-old girl, took a boat from Cebu

City to visit her grandmother in Wao, Lanao del Sur. She used to live with her grandmother until she transferred to Cebu City and stayed with her aunt to continue her high school studies. From Cagayan de Oro City, where the boat docked in the following morning, she took a bus for Wao. She went first to Pangantucan, Bukidnon for a short visit to her mother. At about five o'clock in the afternoon, Stecy boarded at Pangantucan, Bukidnon a Bachelor Express bus bound for Wao, Lanao del Sur. It was in the bus that she saw and became acquainted with accused Mauricio Loyola, the bus conductor, who seemed to take special interest in her. He saw to it that he could sit by her side after issuing bus tickets to the other passengers, and striking a conversation with her.^[5]

The bus was not able to reach Wao that day because at a place called Balating, a part of Wao, the road became too slippery for the bus to continue. It was then about six-thirty in the afternoon and although the center of Wao was still farther away, Stecy decided to proceed on foot. As she was about to get down from the bus, Loyola blocked her way and advised her not to go anymore as it was getting dark. Besides, the two other remaining passengers who went off were not able to go as far as Wao. Stecy was prevailed upon to stay in the bus. The bus turned around and traveled back to the nearest town known as Kalilangan, Bukidnon.^[6]

At about seven-thirty, the bus parked at the terminal by the market place at Kalilangan. Stecy wanted to urinate and accused accompanied her to the comfort room. Then accused asked Stecy to take dinner with him in the carinderia located in front of the bus terminal. Stecy accepted the invitation to take dinner with him at one of the carinderias.^[7]

At about ten o'clock, Stecy and the accused went up the bus to rest. They talked for a while, then Stecy, already tired and wanting to sleep, occupied one seat near the center of the bus. She noticed accused also lying near the bus door. The driver was asleep at the front-most part of the bus.

At about midnight, Stecy was startled when she felt that someone had touched her breast. When the person told her not to shout, Stecy recognized accused by his voice. Stecy began to cry and became frightened when accused threatened to kill her if she would cry for help. She found herself unable to rise because her arm had stuck into a small gap between the seat and seat armrest during her sleep. With her feet touching the floor, accused rode on top of her and begun to open the button and zipper of her pants. Stecy's pleas were unheeded. With one arm trapped by the seat armrest, Stecy's resistance was futile. Accused drew down her pants and panty, spread her legs and succeeded in having sexual intercourse with her. Afterwards, the accused stood up and said "keep quiet, anyway it was already finished". Then he sat by Stecy and tried to comfort and reassure her even as she continued to sob. Because her own shirt had been badly soiled, she agreed to the offer of the accused to put on his shirt.

The next morning, the bus with only Stecy as its passenger, made another trip to Wao. Balating was still impassable. The driver decided to return to Cagayan de Oro City instead. When the bus passed by Pangantucan, Stecy got off at her mother's house.

Stecy did not have the heart to report the incident to her mother. The next day, April