

## EN BANC

**[ G.R. No. 124639, February 01, 2001 ]**

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
REYNALDO DE VILLA, ACCUSED-APPELLANT.**

### DECISION

**YNARES-SANTIAGO, J.:**

Elevated to this Court by way of automatic review is the decision of the Regional Trial Court of Pasig City, Branch 166,<sup>[1]</sup> in Criminal Case No. 107520-H, sentencing accused-appellant to death for committing the crime of rape and ordering him to indemnify the victim the sum of P50,000.00 and to support the child whom he sired with the victim.

On January 9, 1995, a criminal information was filed against accused-appellant with the Regional Trial Court of Pasig City alleging as follows:

That on or about the month of April, 1994, in the Municipality of Pasig, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with lewd designs and by means of force and intimidation did then and there wilfully, unlawfully and feloniously have sexual intercourse with a thirteen (13) year old girl, Aileen Mendoza y Corales, without her consent and against her will.

CONTRARY TO LAW.<sup>[2]</sup>

On January 26, 1995, accused-appellant entered a plea of not guilty.<sup>[3]</sup>

During the trial, the prosecution established the following:

Sometime in the third week of April 1994, at about 10:00 o'clock in the morning, Aileen Mendoza, 12 years and ten (10) months old, woke up in their rented room in Sagad, Pasig, Metro Manila, and found the accused on top of her. Aileen was unable to shout for help because accused covered her mouth with a pillow and threatened to kill her. Aileen could not do anything but cry, while accused succeeded in inserting his penis inside her vagina and then ejaculated after making up and down motions with his body, resulting in the pregnancy of Aileen which was noticed by Aileen's mother, Leonila Mendoza, in November, 1994. When confronted by her mother, Aileen revealed that she was raped by the accused. Aileen's parents brought her to the Pasig Police Station, where they lodged their complaint against the accused. At the Police Station, Aileen's and her mother's statements were taken by the police. Dr. Rosaline Cosidon, who examined Aileen, confirmed that Aileen was eight (8) months pregnant and found in her hymen healed lacerations at 5:00

o'clock and 8:00 o'clock positions. On December 19, 1994, Aileen, assisted by Dr. Purisima Barbosa, gave birth to her baby.<sup>[4]</sup>

Accused-appellant raised the defense that at the time of the alleged rape committed in April 1994, he was 67 years old. Ten years previous to that, he was suffering from stomach ulcer and confined in a hospital. Since that time, he has been incapable of having an erection. He further alleged that from the time that he got married to the sister of Aileen's father, the family of his father-in-law has held a grudge against him.<sup>[5]</sup>

The trial court rejected the claim of impotency on the ground that there was no convincing evidence to show that at his age of 66 or 67 years old, accused-appellant could no longer engage in sexual intercourse. Thus, finding that accused-appellant is the uncle of the victim, being married to the sister of her father, the trial court applied Article 335 of the Revised Penal Code, as amended by Republic Act No. 7659, and sentenced accused-appellant to suffer the supreme penalty of death, to indemnify the victim the sum of P50,000.00, to pay the cost of the suit and to support the child.<sup>[6]</sup>

In his Appellant's Brief, accused-appellant raises the following assignment of errors:

- I -

THAT THE TRIAL COURT COMMITTED MANIFEST ERROR AMOUNTING TO GRAVE ABUSE OF DISCRETION IN ADMITTING PARAGRAPH 11 OF THE SWORN STATEMENT OF THE COMPLAINING WITNESS AS HER DIRECT TESTIMONY WITH RESPECT TO THE ALLEGED INCIDENT, AS IF THE CASE IS COVERED BY THE RULES ON SUMMARY PROCEDURE;

- II -

THAT THE TRIAL COURT COMMITTED MANIFEST ERROR IN NOT GIVING CREDENCE TO THE PHYSICAL IMPOSSIBILITY OF ACCUSED TO COMMIT THE ALLEGED OFFENSE OF RAPE; CONSIDERING HIS AGE OF 68 YEARS OLD AND HIS DETERIORATING HEALTH;

- III -

THAT THE TRIAL COURT COMMITTED MANIFEST ERROR AMOUNTING TO GRAVE ABUSE OF DISCRETION IN ATTRIBUTING THE BIRTH OF A CHILD OF THE COMPLAINING WITNESS TO A 68-YEAR OLD ACCUSED, AFTER THE LAPSE OF EIGHT (8) MONTHS FROM THE ALLEGED DATE OF INCIDENT; AND THE ALLEGED BIRTH WAS NOT EVEN REGISTERED/REPORTED WITH THE OFFICE OF THE LOCAL CIVIL REGISTRY OF PASIG CITY;<sup>[7]</sup>

More specifically, accused-appellant assails the credibility of the victim since she was not asked details on how the rape was committed, but was merely made to identify her sworn statements. However, the Solicitor General pointed out that, contrary to accused-appellant's claim, Aileen in fact testified that she was raped by her uncle.<sup>[8]</sup>

The claim of the defense is untenable. It is not necessary that the victim narrate all

the sordid details of the rape. To do so would require her to relive the horror and anguish she experienced which, in all probability, she is trying very hard to erase from memory. Especially, this kind of testimony would usually be made in plain view of the accused, who would in all likelihood be present in the courtroom. Hence, it should be enough if the victim merely says she was raped. This is why this Court has consistently held that when a woman declares that she has been raped she says in effect all that is necessary to mean that she has been raped, and where her testimony passes the test of credibility, the accused can be convicted on the basis thereof.<sup>[9]</sup>

Accused-appellant casts doubt on the veracity of the victim's claim since she reported the incident after the lapse of seven (7) months. However, jurisprudence has established that delay in revealing the commission of rape is not an indication of a fabricated charge.<sup>[10]</sup>

Accused-appellant also raises the defense of alibi, averring that at the time of the incident, he was in his hometown of San Luis, Batangas attending the feast day of San Isidro Labrador, Patron Saint of the Farmers. It should be emphasized that the victim positively and categorically testified that she was raped by accused-appellant. Alibi is one of the weakest defenses in criminal cases and it should be rejected when the identity of the accused is sufficiently and positively established by the prosecution. Moreover, in order to overcome the evidence of the prosecution, the accused must establish not only that he was somewhere else when the crime was committed but also that it was physically impossible for him to have been at the scene of the crime at the time it was committed.<sup>[11]</sup> The distance between Pasig City and Batangas can be traversed within a few hours; hence, it was not physically impossible for accused-appellant to be in Pasig City at any time within the third week of April 1994, during which the rape was committed.

In support of his claim that he was already impotent, accused-appellant's wife, Sionita de Villa, testified that they could no longer have any sexual intercourse because of her husband's inability to obtain an erection. It has been held, however, that the advanced age of the accused does not mean that sexual intercourse is no longer possible, as age is not a criterion taken alone in determining sexual interest and capability of middle-aged and older people.<sup>[12]</sup> Moreover, impotency as a defense in rape cases must be proven with certainty to overcome the presumption in favor of potency.

Neither can the claim of impotency by accused-appellant be countenanced. In *People v. Palma* (G.R. No. 69152, 23 September 1986, 144 SCRA 236), we ruled that impotency as a defense in rape cases must be proved with certainty to overcome the presumption in favor of potency. We even rejected that defense in *People v. Olmedillo* (No. L-42660, 30 August 1982, 116 SCRA 193) where a doctor had examined the accused by stimulating his organ with a wisp of cotton for three (3) minutes and there was no erection.

With more reason must we reject such defense in the face of the unsubstantiated allegation of Ablog. For at no time did he present himself for the same kind of examination. Even the expert witness he presented, Dr. Arnold Pasia, could not state with unequivocal conviction that his