

## THIRD DIVISION

[ G.R. No. 140011-16, March 12, 2001 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
EUSTAQUIO "TAQUIO" MORATA Y BIDOL, ACCUSED-APPELLANT.**

### DECISION

**GONZAGA-REYES, J.:**

In a Decision dated July 28, 1999, the Regional Trial Court, Branch 63, Calabaga, Camarines Sur, convicted accused-appellant Eustaquio Morata (accused-appellant) of the two charges of rape out of the six rape charges filed against him by the victim, his sister-in-law, Marites Alamani (Marites). Accused-appellant now seeks exoneration from the two rape charges.

The two charges of rape for which accused-appellant was convicted are embodied in these Informations in Criminal Case No. RTC'98 220 and Criminal Case No. RTC'98 224, which respectively read as follows:

#### "INFORMATION

The undersigned 4th Assistant Provincial Prosecutor of Camarines Sur upon a sworn complaint of the offended party Marites Alamani accuses EUSTAQUIO "TAQUIO" MORATA Y BIDOL of the crime of RAPE, defined and penalized under Article 335 of the Revised Penal Code as amended by Republic Act No. 7659, committed as follows:

That during the month of April, 1997 at Barangay Antipolo, Municipality of Tinambac, Province of Camarines Sur, Philippines and within the jurisdiction of this Honorable Court, by means of force and intimidation, did then and there wilfully, unlawfully and feloniously have carnal knowledge with one Marites Alamani y Balimbing, an 11-year old (sic) minor, against her will and to her damage and prejudice.

ACTS CONTRARY TO LAW."<sup>[1]</sup>

#### "INFORMATION

The undersigned 4th Assistant Provincial Prosecutor of Camarines Sur upon a sworn complaint of the offended party Marites Alamani accuses EUSTAQUIO "TAQUIO" MORATA Y BIDOL of the crime of RAPE, defined and penalized under Article 335 of the Revised Penal Code as amended by Republic Act No. 7659, committed as follows:

That on the 9th day of June, 1997 at midnight at Barangay Antipolo, Municipality of Tinambac, Province of Camarines Sur, Philippines and

within the jurisdiction of this Honorable Court, by means of force and intimidation, did then and there wilfully, unlawfully and feloniously have carnal knowledge with one Marites Alamani y Balimbing, an 11-year old (sic) minor, against her will and to her damage and prejudice.

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

Upon arraignment, accused-appellant pleaded not guilty. During trial, the prosecution presented Victoria Tagum, a social worker of the Lingap Center, Sorsogon, Sorsogon who conducted counseling sessions with the victim and prepared the case study report; Marites, the victim herself; Dr. Salvador V. Betito, Jr. (Dr. Betito), the physician who examined the victim; and Maria Myrna Sarate, another social worker. The defense for its part presented accused-appellant himself, Salve Morata, the sister-in-law of accused-appellant and Shirley Abiog, who knows both accused-appellant and Maritess.

The Office of the Solicitor General (OSG) recounts the version of the prosecution of the rapes allegedly perpetrated by accused-appellant against the then 11-year-old victim in this manner:

"Sometime in April 1997, about midnight, in appellant's house, private complainant was roused from her sleep by the former who was in the act of undressing her. She was gripped with fear. Appellant ordered her to keep quiet and she did not have a choice as he gagged her by putting a handkerchief in her mouth. Her moves were also restrained as appellant held her hands and lay on top of her. Appellant then inserted his penis into private complainant's vagina, causing pain in her genitalia. He warned her not to tell anybody about what had just happened. Then, appellant left private complainant, who was so scared. (*TSN, June 26, 1998, pp. 3-7*). Little did she know that her harrowing experience would be repeated many times over within the next couple of months.

At a subsequent time, again about midnight in the house of appellant, private complainant was lying down when he approached her. He was holding an air rifle which he poked at her. Private complainant naturally got scared. After appellant undressed her and himself, he lay on top of her and attempted to insert his penis into her vagina. His sexual organ, however, touched only the outer part of her genitalia. Shortly, appellant left private complainant, crying in a corner. (*TSN, June 26, 1998, pp. 8-11*).

At another time, private complainant was left home with appellant and his eldest child, Joey. Emma<sup>[3]</sup> left the house early in the morning of that day to bring her younger child to the physician. Appellant again attempted to force himself on private complainant but she was able to bite his ear causing him to stop what he was doing and leave. (*TSN, June 26, 1998, pp. 12-13*).

There was also a time when appellant approached private complainant while she was cleaning the house. He lifted her, making her lie on the floor in a room. Both of them were wearing "shorts." Positioning himself on top of private complainant, appellant was in the course of removing

her clothes, as he in fact had pushed down her "shorts" below the waistline. His dastardly act, however, was interrupted by Joey, who hit him at the buttocks with a coconut stalk. (*TSN, June 26, 1998, pp. 14-17*).

Appellant subjected private complainant to his vile sexual designs on other occasions, the last sexual intercourse he had against her will occurring on June 9, 1997. It was then midnight when he took the liberty of entering the bedroom of private complainant and again forced himself on her. (*TSN, June 26, 1998, pp. 22-23*).<sup>[4]</sup>

Accused-appellant maintained that he did not rape Marites and interposed the defense of denial. On the alleged dates of the rapes, April 1997 and June 9, 1997, accused-appellant claimed that he went to sleep at 7:00 p.m. and wake up 6:00 a.m. the next day. Accused-appellant attributed to another person the rapes committed against Marites. Allegedly, it was Mariano Espartines, also a brother-in-law of Marites, who brought Marites to a grassy place and defiled her. Accused-appellant imputed ill motive on the part of Marites for filing the charges of rape against him. According to accused-appellant, he once spanked Marites after he found out that it was she who had tied a rope around his left ankle with the end of the rope tied to the post of the bed while he was asleep.

After trial, the court a quo rendered the now assailed decision the dispositive portion of which reads:

"WHEREFORE, in view of the foregoing, for failure of the prosecution to prove beyond reasonable doubt the guilt of the accused in Crim. Cases Nos. RTC'98-219, 221, 222 and 223, accused Eustaquio Morata is hereby ACQUITTED of the offense charged. The prosecution having proven the guilt of the accused beyond reasonable doubt in Crim. Cases Nos. RTC'98-220 and 224, the accused Eustaquio Morata is hereby found guilty of the offense of rape. He is hereby sentenced to suffer the following penalties:

1. In Crim. Case No. RTC'98-220, he is sentenced to suffer the penalty of Reclusion Perpetua and to indemnify the victim Marites Alamani the amount of P50,000.00;
2. In Crim. Case No. RTC'98-224, he is sentenced to suffer the penalty of Relcusion Perpetua and to indemnify the victim Marites Alamani the amount of P50,000.00;
3. No pronouncement as to costs.

SO ORDERED."<sup>[5]</sup>

In this appeal, accused-appellant anchors his prayer for an acquittal on this lone assignment of error:

"THE TRIAL COURT ERRED IN FINDING THE ACCUSED GUILTY BEYOND REASONABLE DOUBT OF TWO (2) COUNTS OF RAPE."<sup>[6]</sup>

Accused-appellant calls attention to the pronouncement of the trial court that he was charged with six counts of rape and was being acquitted of four and convicted of only two. Accused-appellant then argues that he should have been consequently acquitted of the two other remaining charges because Marites narrated only four of the alleged rapes. The following portions of the direct testimony of Marites supposedly proves his claim:

"Pros. Cu:

Q: You have already told us at least 4 incidents which has (sic) a bearing in there (sic) cases. Marites Alamani, do you still have other complaints against Eustaquio Morata aside from these cases which you have already related?

A: No more, sir.

Pros. Cu:

That would be all, your Honor. (TSN, June 26, 1998, pp. 18-19)"<sup>[7]</sup>

Accused-appellant limits his arguments in this appeal for the reversal of the assailed judgment of conviction to the foregoing premise. He concludes that his acquittal should have been forthcoming considering that there is no other remaining evidence against him.

The appeal is partially meritorious.

The testimonies of witnesses must be examined in their entirety and must not be merely selected to conveniently suit the claims of a party. In this case, while Marites narrated in her testimony only four of the six counts of rape, two of these four instances of rape she testified on included the rape incidents in April 1997 and on June 9, 1997 for which accused-appellant was convicted.

Admittedly, during direct examination, Marites was unable to recall the exact dates when the rapes occurred, except for the year, which is 1997. However, on cross-examination, she affirmed some portions of the sworn statements she had previously made, statements that pertain specifically to the rapes committed in April 1997 and on June 9, 1997. The confirmation of Marites in open court that the rapes happened in April 1997 and on June 9, 1997 weakens the contention of accused-appellant that these two charges are part of the four charges for which the trial court acquitted him.

More importantly, the trial court clearly set out in its decision the respective criminal charges for which accused-appellant was being acquitted and convicted. The trial court expressly declared that it was acquitting accused-appellant from the rape charges in Criminal Case Nos. RTC `98-219, 221, 222 and 223 on the ground that the prosecution failed to prove beyond reasonable doubt the guilt of the accused.<sup>[8]</sup> Equally categorical was the ruling of the trial court holding accused-appellant guilty of the rapes charged in Criminal Case Nos. RTC `98-220 and 224, the prosecution having proven beyond reasonable doubt the guilt of accused-appellant.<sup>[9]</sup> Criminal Case Nos. RTC `98-220 and 224 respectively cover the rapes that occurred in April 1997 and on June 9, 1997. Thus, accused-appellant cannot claim that the appealed cases are included in the four rape charges for which he was acquitted considering that Marites testified on the two rape charges now under review and the trial court

made it quite clear as to which particular cases he was being convicted for.

In convicting accused-appellant, the trial court accorded great weight to the testimony of Marites. While the testimony of Marites is far from being perfect in all details, the imperfections tend to reinforce the unrehearsed character of her testimony. The fact that Marites consistently pointed to accused-appellant as the one who raped her undermines the defense of accused-appellant consisting merely of bare denial. Denial is an intrinsically weak defense which must be buttressed by strong evidence of non-culpability to merit credence.<sup>[10]</sup> Furthermore, between an affirmative testimony and a negative testimony, the former is considered far stronger than the latter, especially so when it comes from the mouth of a credible witness.<sup>[11]</sup>

Accused-appellant's attempt to ascribe ill motive on the part of Marites for filing the charges is a feeble one. It is inconceivable for Marites, a child victim, to have woven an intricate story of defilement if only to allegedly get even with accused-appellant for spanking her because of a prank she had played on him.

It bears stressing that when it comes to the issue of credibility, the trial court judge is in the best position to rule on this matter considering that he has the vantage point of observing first hand the demeanor and deportment of the witnesses.<sup>[12]</sup> In the absence of proof that the trial court had overlooked or disregarded arbitrarily certain facts and circumstances of significance in the case, as in the case at bar, its appreciation of the credibility of witnesses will not be altered on review.<sup>[13]</sup> It must also be pointed out that Marites was only twelve years old when she testified. We have held that when the offended parties are young and immature girls from the ages of twelve to sixteen, courts are inclined to lend credence to their version of what transpired, considering not only their relative vulnerability but also the shame and embarrassment to which they would be exposed by court trial if the matter about which they testified is not true.<sup>[14]</sup>

Based on the evidence on hand, the trial court correctly convicted accused-appellant of the first incident of rape that occurred in April 1997. The following portions of the testimony of Marites narrates the first incident of rape, viz:

"PROS. CU:

The purpose for which we offer the testimony of Marites Alamani is to prove that on several occasions she was raped by herein accused Eustaquio Morata your Honor. The first incident occurred way back in the month of April, 1997; the other incident your Honor, occurred in the year 1997 also but which the witness seemed to have not a good recollection as to the specific dates when this occurred but the witness had a vivid recollection of the last incident of rape against her which might have happened sometime June 1997, your Honor.

The present witness will also testify that force and intimidation attended the commission of the rape incidents your Honor. Lastly, your Honor, she will testify on all other points which are material to the main purpose for which we offer her testimony.