

EN BANC

[G.R. Nos. 138576-77, July 13, 2001]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JIMMY JACOB Y LOPEZ, ACCUSED-APPELLANT.

DECISION

PER CURIAM:

JIMMY JACOB Y LOPEZ was found guilty by the court *a quo* of two (2) counts of rape and sentenced to death for each count, and to pay the victim, his 14-year old daughter Celina A. Jacob, moral damages in the sum of P100,000.00 for both.^[1]

A week before 1 November 1995 Celina Jacob was fetched by her father, accused Jimmy Jacob, from her grandmother's house in Silang, Cavite, to stay with him in his "barracks" in Kaylaway, Nasugbu, Batangas, to cook for him. At around 6:00 o'clock in the evening of 1 November 1995 she and her father were lying down and preparing to sleep on an improvised bed of wooden planks. Suddenly the accused went on top of her and lasciviously kissed her on the lips. She resisted and bit him on the lips. He forcibly removed her pajama and panty and rammed his penis into her exposed genitalia. She could not effectively repulse his vicious sexual incursion since he threatened to hit her with a hammer. After unleashing his lust in his sexual misadventure with Celina, she sat on the bed to ease the pain in her genitalia. She could not leave the "barracks," which was now "hell" to her, as she did not know how to go back to her grandmother in Silang.

Emboldened quite apparently by the helplessness of his daughter, his libido struck again the following evening. At around 7:00 o'clock, 2 November 1995, while Celina was lying in bed beside him, he mounted her once again and had sexual intercourse with her against her will. His overwhelming strength, coupled with his threats to smash her head with his hammer, virtually rendered inutile any form of resistance from her. It was only providential that an aunt of hers visited her the following morning. The visit gave her the opportunity for escape by going with her aunt home to Lalaan, Silang, Cavite, where she recounted her nightmarish ordeal to Rolando Amon, her uncle and her aunt's husband, who then brought her to the police station to file her complaint.

Explaining the medico-legal certificate he issued to Celina, Dr. Jaime L. Butiong pointed out that she suffered lacerations of the hymen at 4:00, 6:00 and 8:00 o'clock positions most probably as a result of the entry of the male organ into her genitalia. But other than those lacerations, Dr. Butiong found no other physical injuries.

Jimmy Jacob denied the accusations against him. He said that on 1 November 1995 he was idly spending his time with his co-workers at the construction site in Batulao, Nasugbu, Batangas, as work was suspended because of a raging typhoon. At around

7:00 o' clock in the morning of the following day, 2 November, his daughter was with him at the construction site. He instructed her to proceed to their living quarters to prepare lunch. When he followed his daughter a little later, he was taken aback when he saw his brother-in-law on top of Celina and apparently having sexual intercourse with her. Equally stunned by the sudden appearance of the accused, Rolando and Celina immediately stood up and fled. He gave chase but the two (2) were able to run away. The accused then boarded a vehicle bound for Lalaan where he thought the two (2) might have gone.

As soon as Jimmy arrived at Rolando's house around 11:00 o'clock in the morning, Rolando together with some bystanders accosted Jimmy and accused him of raping Celina. They brought Jimmy to the municipal jail where he was detained. The police did not believe his protestations of innocence and his insistence that it was in fact his brother-in-law who raped his daughter. Jimmy and Celina saw each other at the police station but apparently angry at her father, she avoided him like a plague. The accused could only theorize that his daughter was probably brainwashed by Rolando into hating him, and that Rolando even threatened to harm her if she talked to him. Jimmy also said that he was rebuffed by Rolando when he attempted to confront the latter about having abused his daughter.

Upon taking the witness stand again, a privilege which was granted him at this instance, the accused informed the court that his daughter became pregnant in 1997 although she was not married, but did not know who was responsible for her pregnancy although one thing was certain - she was then living with his brother-in-law in Lalaan, Silang, Cavite.

Controverting the version of the accused, Rolando Amon denied that he had sexual intercourse with Celina inside the "barracks" of Jimmy in the morning of 2 November 1995. He asserted that on 1 November he was in fact in Alfonso, Cavite, selling ice cream, and on 2 November he was in Balayan, Batangas, also selling ice cream and stayed there until 3:00 o' clock in the morning of 3 November. The following day he learned from his niece Celina that she had been molested by her father thus prompting him to cause the arrest and detention of his brother-in-law Jimmy Jacob.

The trial court did not sustain the defense of alibi and denial. According to the court, the affirmative testimony of the complaining witness was much stronger than the denial of the accused. It found the defense too weak and far from convincing as against the positive testimony of Celina that her father, the accused, Jimmy Jacob y Lopez, raped her on 1 and 2 November 1995 in his "barracks" in Kaylaway, Nasugbu, Batangas, as it found Celina's testimony straightforward, candid and "free from tergiversation."

Accused-appellant now insists that the prosecution failed to satisfactorily pass the test of moral certainty and/ or standard of proof beyond reasonable doubt required for his conviction. He claims that the testimony of the complaining witness is riddled with contradictions and inconsistencies as to effectively cast serious doubt on her credibility. He also notes that Celina had the tendency not to respond to questions propounded to her at the trial which underscores the improbability of the rape in the "barracks" with so many co-workers of accused-appellant present.^[2]

We find the arguments without merit. The alleged inconsistencies and contradictions are so minor and inconsequential to warrant a reversal of accused-appellant's