

THIRD DIVISION

[G.R. No. 140995, August 30, 2001]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
DANILO REGALA Y MANUOD, ACCUSED-APPELLANT.**

D E C I S I O N

MELO, J.:

In her desire to look good by wearing dental retainers, Sarah Jane Villaluz did not know that it would cost her her womanhood.

The facts are simple.

Accused-appellant was a dental technician and had his clinic at his residence in Merville Subdivision, Dampalit, Malabon. He had a young son and a wife who works in Libya as a nurse. He was 52 years old. Sarah Jane Villaluz, on the other hand, was a 16-year old, second year high school student at the Eliza Esguerra High School in Hulo, Malabon, who, like any other teenager, was conscious of her appearance and wanted to enhance it.

Sarah Jane testified that on February 17, 1997, she and her friend, Marsha, went to accused-appellant's clinic to order dental retainers. Marsha paid P200.00 for her retainers while Sarah Jane was asked to come back the next day to get hers.

At around 5 o' clock in the afternoon of the following day, February 18, 1997, Sarah Jane returned to accused-appellant's clinic. While waiting to get her retainers, accused-appellant approached her and poked a kitchen knife at the right side of her body. He dragged her inside a room and pushed her down on a bed. Then he started to undress her by pulling her dress, her shorts and her underwear. Thereupon, accused-appellant removed his shorts, went on top of her and sexually abused her. Sarah Jane tried to resist the intrusion into her womanhood but accused-appellant was too strong for her and he threatened to kill her and her family if she refused and also if she reports the matter to the authorities.

On the following day, February 19, 1997, Sarah Jane disclosed the incident to Al, a helper in accused-appellant's house, who accompanied her to the barangay to report the sexual assault. An Information for Rape was filed against accused-appellant and Sarah Jane was then examined at the National Bureau of Investigation by Dr. Armie Soreta-Umil.

Dr. Soreta-Umil testified on the NBI Medico-Legal Report which showed that Sarah Jane's hymen was distensible, *i.e.*, it was still intact, elastic and can receive an average-size Filipino male organ in full erection without causing laceration. Dr. Soreta-Umil clarified that an intact hymen does not necessarily prove absence of sexual intercourse.

All that accused-appellant could interpose in defense was denial. He testified that Sarah Jane had to return several times to his clinic because he could not give her her retainers as she had no money to pay for them. He also claimed that on the date when the alleged rape happened, his son and his helper were in his house. He likewise contended that Sarah Jane charged him with rape because, despite her pleas, he would not give her her retainers without payment.

On October 29, 1999, the trial court rendered judgment finding accused-appellant guilty of the crime of rape. The decretal portion of the decision reads as follows:

WHEREFORE, in view of the foregoing, the Court finds accused Danilo Regala y Manuod guilty beyond reasonable doubt of the crime of Rape and sentences him to suffer the penalty of reclusion perpetua and to pay Sarah Jane Villaluz the amount of P75,000.00 as moral damages and cost of the suit.

SO ORDERED.

(p. 13, Rollo.)

Aggrieved, accused-appellant elevated the case to us, assigning the following as the errors allegedly committed by the trial court, to wit:

ASSIGNED ERRORS

1. THE TRIAL COURT ERRED IN FINDING THE GUILT OF THE ACCUSED BEYOND REASONABLE DOUBT.
2. THE DECISION OF THE TRIAL COURT DOES NOT STATE THE FACTS AND THE LAW UPON WHICH IT WAS BASED.

Accused-appellant capitalizes on the fact that, based on Sarah Jane's narration of the alleged rape, she did not put up a strong and violent resistance to the rape charged. Instead, it would appear that she allowed accused-appellant to engage in foreplay before he had sexual intercourse with her. It is accused-appellant's contention that the sexual act was, therefore, consensual.

With this argument, accused-appellant admits that he had sexual relations with Sarah Jane, only it was with her consent. We have reviewed the record of the case, especially the testimony of Sarah Jane, and nothing therein supports accused-appellant's contention. In her testimony of August 11, 1998, Sarah Jane described how she was raped by accused-appellant, thusly:

- Q. Tell us, what happened when you are securing or getting the retainer from the accused?
- A. He dragged me towards the room, sir.
- Q. Where did the accused hold you?