

EN BANC

[G.R. No. 123980, August 30, 2001]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
MANUEL CALIMLIM Y MUYANO, ACCUSED-APPELLANT.**

D E C I S I O N

QUISUMBING, J.:

Before us on automatic review is the joint decision^[1] of the Regional Trial Court, First Judicial Region, Branch 46, Urdaneta, Pangasinan finding accused-appellant Manuel Calimlim guilty of four (4) counts of rape based on similarly-worded informations in the following criminal cases:

Criminal Case No. U-8525:

That on or about the 2nd day of April, 1995, at the Poblacion of the municipality of Manaoag, province of Pangasinan and within the jurisdiction of this Honorable Court, the said accused, by means of force and intimidation, did then and there wilfully, unlawfully and feloniously have carnal knowledge with the undersigned complainant, a minor, against her will.

CONTRARY TO LAW.^[2]

Criminal Case No. U-8638:

That on or about the 2nd day of April, 1995, at the Poblacion of the municipality of Manaoag, province of Pangasinan and within the jurisdiction of this Honorable Court, the said accused, by means of force and intimidation, did then and there wilfully, unlawfully and feloniously have carnal knowledge with the undersigned complainant, a minor, against her will.

CONTRARY TO LAW.^[3]

Criminal Case No. U-8639:

That on or about the 2nd day of April, 1995, at the Poblacion of the municipality of Manaoag, province of Pangasinan and within the jurisdiction of this Honorable Court, the said accused, by means of force and intimidation, did then and there wilfully, unlawfully and feloniously have carnal knowledge with the undersigned complainant, a minor, against her will.

CONTRARY TO LAW.^[4]

Criminal Case No. U-8640:

That on or about the 2nd day of April, 1995, at the Poblacion of the municipality of Manaoag, province of Pangasinan and within the jurisdiction of this Honorable Court, the said accused, by means of force and intimidation, did then and there wilfully, unlawfully and feloniously have carnal knowledge with the undersigned complainant, a minor, against her will.

CONTRARY TO LAW.^[5]

Appellant pleaded not guilty to the charges. Thereafter, trial on the merits followed.

The prosecution's case was mainly based on the testimony of private complainant, LANIE S. LIMIN. According to her, she was fourteen (14) years old and had been living with the family of Kagawad Manny Ferrer and Cresencia Ferrer (Ferrers) for the past three years. The night of April 2, 1995, she was left alone in one of the two houses of the Ferrers since her usual companions, the sons of Manny and Cresencia, were out for the night. The Ferrers were in the other house about 15 meters away. At around 11:30 P.M., she was awakened when she heard somebody, later identified as appellant, enter her room. Appellant immediately poked a knife at the left side of her neck and said, "Accompany me because I killed my wife."^[6] She was then dragged to the pig pen, about 8-9 meters away from the place where she slept. Afterwards, she was again forcibly taken back to her room, then to her cousin's room and to the kitchen. In each of these places, appellant forcibly had sexual intercourse with her while he poked a knife against her neck. According to her, she first recognized appellant while they were in the kitchen when she was able to remove the cloth covering his face. She stated that she knew appellant because she had seen him always following her whenever she went to school. After the fourth intercourse, appellant threatened that he would kill her if she reported the incidents. Despite the threat, she told her cousin, Manicris Ferrer,^[7] who then reported the matter to Dr. Nancy Quinto who lived nearby.^[8] On cross-examination, complainant stated that she did not struggle nor shout nor resist because she was afraid that appellant might kill her.^[9]

The second witness was CRESENCIA FERRER, who testified that the victim was her niece. Lanie's grandmother was the sister of her mother. Cresencia testified that Lanie was born in Sexmoan, Pampanga, on June 13, 1981, and became her ward starting October 25, 1993. On the evening of April 2, 1995, Cresencia said she was in her shop in front of their house. Lanie was left alone in the other house because her usual companions, the children of the Ferrers, all went to a disco. The other children, Christian and Manicris, were inside their shop with her and her husband. Cresencia recalled that she was still awake at 11:30 P.M. working on some clothing materials. She did not see or notice anything unusual that night. The following morning, she tried to get Lanie to rise but the latter did not want to. Lanie was crying so she decided to leave Lanie alone. At around 8:00 A.M., Cresencia's daughter Manicris called her from outside the shop to inform her that Dr. Quinto was there to talk to her. Dr. Quinto and Manicris told Cresencia that Lanie had been

raped. Cresencia said that when she confronted Lanie about it, Lanie narrated her ordeal and pointed to appellant as her rapist. The women brought Lanie to the Community Hospital in Baritao where she was medically examined. Then they reported the matter to the police.^[10]

On cross-examination, Cresencia recalled that around 3:00 A.M., April 3, 1995, the wee hours after the alleged rape, she heard their gate opening because of the arrival of her three sons from the disco.^[11]

SPO1 MARIO SURATOS testified that he was the duty officer when the rapes were reported to their station by Kagawad Ferrer.^[12] It was not the victim herself who reported the rapes.^[13]

DR. RICARDO FERRER, who conducted the physical examination on Lanie, testified that there was minimal vaginal bleeding and there were lacerations in the hymen, the positions of which were at 9:00 o'clock, 6:00 o'clock and 3:00 o'clock, all fresh, indicating that there were insertions within the past 24 hours. There was also a whitish vaginal discharge which was found positive for spermatozoa.^[14]

During cross-examination, Dr. Ferrer stated that the lacerations found inside the complainant's vagina could have been caused by hard objects other than a penis. He said the lacerations could have also been caused by fingers or a thumb, but would unlikely be the victim's since she would have stopped once she felt the pain. The doctor also stated that it was possible that the spermatozoa was artificially placed inside the vagina, but that it was not possible to determine the identity of the person who emitted it.^[15]

Appellant MANUEL CALIMLIM denied the accusations. He claimed that he was in his house on the evening of April 2, 1995, and that he went to sleep at 10:00 P.M. He recalled that he even had sex with his wife in the early morning of April 3, 1995. He averred that he was just being used as a scapegoat by the Ferrers who hated him since he did not vote for Ferrer who was a candidate during the last elections. He also surmised that the Ferrers could have been irked when appellant allowed the construction of a waiting shed in front of his house. He asserted that as a hollow blocks maker, a physically draining job, he was often tired and weak and had little strength to engage in sex for more than once a month.^[16]

ERLINDA PIMENTEL CALIMLIM, wife of accused, testified that on the night of April 2, 1995, she was with the accused, who slept from 10:00 P.M. until 5:00 A.M. the following morning.^[17]

MARLENE P. CALIMLIM, daughter of appellant, testified that her father was with them on the evening of April 2, 1995 until the following morning. She remembered that her parents slept at 10:00 P.M. that night and she sensed they even engaged in sexual intercourse at around 2:00 A.M. of April 3, 1995. She added that it was possible the Ferrers were angry at her father because her father did not vote for Ferrer during the last elections and also because of their disagreement about the waiting shed.^[18]

On November 17, 1995, the trial court rendered its joint decision finding appellant

guilty of all charges. Appellant was sentenced to death for each count of rape. The similarly-worded dispositive portions of said decision reads as follows:

WHEREFORE, this Court finds the accused MANUEL CALIMLIM y Muyano:

WITH RESPECT TO CRIMINAL CASE NO. U-8525:

GUILTY beyond reasonable doubt of the crime of RAPE defined and penalized under Republic Act No. 7659, the offense having been committed with the attendant circumstance of "with the use of a deadly weapon" and with the generic aggravating circumstances of nocturnity and disguise, hereby sentences him to suffer the supreme penalty of DEATH, to pay the complainant LANIE S. LIMIN the sum of P50,000.00 as damages, and to pay the costs.

IN CONNECTION WITH CRIMINAL CASE NO. U-8638:

GUILTY beyond reasonable doubt of the crime of RAPE defined and penalized under Republic Act No. 7659, the offense having been committed with the attendant circumstance of "with the use of a deadly weapon" and with the generic aggravating circumstances of dwelling, nighttime and disguise, hereby sentences him to suffer the supreme penalty of DEATH, to pay the offended party LANIE S. LIMIN the amount of P50,000.00 as damages, and to pay the costs.

WITH REGARDS TO CRIMINAL CASE NO. U-8639:

GUILTY beyond reasonable doubt of the crime of RAPE defined and penalized under Republic Act No. 7659, the offense having been committed with the attendant circumstance of "with the use of a deadly weapon" and with the generic aggravating circumstances of dwelling, nighttime and disguise, hereby sentences him to suffer the supreme penalty of death, to pay the victim the sum of P50,000.00 as damages, and to pay the costs.

AS TO CRIMINAL CASE NO. U-8640:

GUILTY beyond reasonable doubt of the crime of RAPE defined and penalized under Republic Act No. 7659, the offense having been committed with the attendant circumstance of "with the use of a deadly weapon" and with the generic aggravating circumstances of dwelling, nighttime and disguise, hereby sentences him to suffer the supreme penalty of DEATH, to pay the complainant the amount of P50,000.00 as damages, and to pay the costs.

"The law is harsh, but that is the law."

"*Dura lex, sed lex*, it is said."

SO ORDERED. ^[19]

In his brief, appellant assigns the following errors allegedly committed by the trial court:

I

THAT THE SAID HONORABLE REGIONAL TRIAL COURT GRAVELY ERRED IN NOT FINDING THE ACCUSED NOT GUILTY OF THE CRIME AS CHARGED

II

THAT THE HONORABLE REGIONAL TRIAL COURT MISCONVICTED SAID ACCUSED-APPELLANT FOR FOUR (4) COUNTS OF RAPE CONTRARY TO THE FINDINGS OF THE ATTENDING PHYSICIAN WHO PHYSICALLY EXAMINED THE ALLEGED VICTIM THAT IF EVER THERE WAS A CRIME OF RAPE COMMITTED IT COULD ONLY BE ONCE

III

THAT THE HONORABLE REGIONAL TRIAL COURT WAS GROSSLY MISTAKEN IN NOT APPRECIATING THE MAIN DEFENSE OF SAID ACCUSED-APPELLANT THAT THE NARRATION OF FACTS AS ORCHESTRATED AND TESTIFIED TO BY ALLEGED VICTIM DEFIES IMAGINATION

IV

AND THE FOREMOST, THE HONORABLE COURT OVERLOOKED THE CONSTITUTIONAL RIGHTS OF THE ACCUSED-APPELLANT, SUCH AS THE REQUIREMENT OF GIVING A CHANCE TO ACCUSED-APPELLANT TO FILE COUNTER-AFFIDAVITS AND THAT OF HIS WITNESSES; HIS BEING IMMEDIATELY ARRESTED WITHOUT THE REQUIRED WARRANT OF ARREST; AND WHEN ARRESTED, WAS NOT ACCORDED THE RIGHT TO COUNSEL WHEN BROUGHT TO THE PNP INVESTIGATIVE BODY^[20]

In sum, the issues here involve the credibility of witnesses, the denial of appellant's constitutional rights, the sufficiency of the evidence for his conviction, and the propriety of the death sentence imposed on him.

Appellant raises the defense of denial and alibi while he challenges complainant's credibility. He insists that he was at home during the time the alleged crimes were perpetrated. He also argues that complainant's story is unlikely because a man like him would not be able to consummate four (4) rapes in just one night and within a short time. He asserts that he is just being made a fall guy by complainant's guardians who hold a grudge against him. Appellant also points out that the testimony of complainant shows that she did not exert any tenacious resistance, implying that if there was intercourse, she had consented to it. Appellant also claims he was denied his right against warrantless arrests, his right to remain silent, and his right to due process. For example, he was not allowed to submit any counter-