

EN BANC

[G.R. No. 135822, October 25, 2001]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. PIO
DACARA Y NACIONAL, ACCUSED-APPELLANT.**

D E C I S I O N

YNARES-SANTIAGO, J.:

Elevated to this Court for automatic review is the decision^[1] of the Regional Trial Court of Valenzuela, Branch 171, in Criminal Case No. 6030-V-97, sentencing accused-appellant to suffer the penalty of death for the crime of rape and ordering him to indemnify the victim in the amount of P50,000.00.

The criminal complaint against accused-appellant states:

That on or about February 5, 1997 in Valenzuela, Metro Manila and within the jurisdiction of this Honorable Court, the above-named accused, by means of force and intimidation employed upon my person, DITAS DACARA y CARPIO, did then and there wilfully, unlawfully and feloniously have sexual intercourse with me, against my will and without my consent.

Contrary to Law.^[2]

Upon arraignment on March 4, 1997, accused-appellant pleaded not guilty.^[3]

The antecedent facts are as follows:

At around 4:00 a.m. of February 5, 1997, the victim, thirteen-year old Ditas Dacara, was awakened as she felt somebody touching her breasts and sex organ. Although the room was not lighted, she recognized the culprit as his father, herein accused-appellant. He removed all her clothes and placed himself on top of her. Ditas could not shout because accused-appellant's hand was covering her mouth. She tried to push him away but he eventually succeeded in inserting his penis into her vagina. After satisfying his lust, accused-appellant threatened to kill her as well as her mother, brother, and sister if she reveals the incident to anybody. The threat initially deterred Ditas from divulging the rape, but she finally mustered enough courage to disclose to her mother what accused-appellant did to her.^[4] This led to the filing of the above-quoted complaint for rape against accused-appellant.

The medico-legal examination conducted on the victim yielded the following results:

GENITAL:

There is moderate growth of the pubic hair. Labia majora are full, convex and coaptated with pinkish brown labia minora presenting in between. On separating the same disclosed an elastic, fleshy-type hymen with deep healed lacerations at 3 and 9 o'clock positions. External vaginal orifice offers moderate resistance to the introduction of the examining index finger and the virgin sized vaginal speculum. Vaginal canal is narrow with prominent rugosities. Cervix is normal in size, color and consistency.

CONCLUSION:

Subject is in non-virgin state physically.

There are no external signs of application of any form of violence.^[5]

Accused-appellant interposed the defenses of denial and alibi. He contended that from February 3, 1997 to February 17, 1997, he was in Marilao, Bulacan, where he worked as a stay-in construction worker. He stressed that during said period, there was never an instance when he went back to their house in Valenzuela until February 17, 1997.^[6]

To bolster his claim, accused-appellant presented defense witnesses Amanda Rapales and Marilou Navarro.^[7] Amanda Rapales, a neighbor of accused-appellant in Valenzuela, substantially testified that at around 10:00 a.m. of February 3, 1997, accused-appellant passed by her house to leave the key of his house, as he was leaving for work.^[8] Marilou Navarro, on the other hand, testified that accused-appellant stayed in her house in Bulacan from February 3, 1997 up to February 17, 1997, and that he never left her place until February 17, 1997, when he went home to Valenzuela.^[9]

On September 9, 1998, the trial court rendered the decision under automatic review. The dispositive portion thereof reads:

WHEREFORE, finding accused Pio Dacara y Nacional Guilty beyond reasonable doubt of the offense charged/committed on her daughter Ditas Dacara, a girl of thirteen (13) years, four (4) months and twenty-nine (29) days at the time of the commission, he is hereby sentenced to death.

To indemnify the victim the amount of P50,000.00 and to pay the costs.

Let the complete records of the case be immediately forwarded to the Honorable Supreme Court for automatic review pursuant to Article 47 of the Revised Penal Code as amended by Section 22 of Republic Act No. 7659.

SO ORDERED.^[10]

The Appellant's Brief raises the following assignment of errors:

I

THE TRIAL COURT ERRED IN NOT ACQUITTING THE ACCUSED-APPELLANT ON THE GROUND OF REASONABLE DOUBT AND IN CONSIDERING THE INCONSISTENT AND INCREDIBLE TESTIMONIES OF THE PROSECUTION WITNESSES.

II

THE TRIAL COURT GRAVELY ERRED IN NOT GIVING CREDENCE TO THE DEFENSE INTERPOSED BY THE ACCUSED-APPELLANT.

III

THE TRIAL COURT GRAVELY ERRED IN IMPOSING THE SUPREME PENALTY OF DEATH DESPITE THE NON-ALLEGATION OF THE QUALIFYING CIRCUMSTANCE OF RELATIONSHIP IN THE COMPLAINT.^[11]

In his first assigned error, accused-appellant cites two inconsistencies which allegedly destroyed the credibility of the victim. He specifically pointed out the testimony of the victim that she was raped at around 4:00 a.m. of February 5, 1997, as well as the declaration of the victim's mother that she usually leaves the house to sell merchandise at about 4:30 a.m. Accused-appellant contends that assuming both statements are true, then, the victim's mother would still be in the house at the time the rape complained of occurred. Accused-appellant likewise highlights the supposed inconsistency as to the date when the victim intimated to her mother that she was raped by accused-appellant.

The contentions are without merit. The time of the alleged rape and the time when the victim's mother routinely leaves the house, are mere approximations which cannot in any way impair the credibility of the prosecution witnesses. Besides, the presence of the victim's mother in the house will not necessarily preclude the commission of rape. As consistently held by this Court, lust is no respecter of time and place.^[12] In the same vein, whether the revelation of the rape by the victim was on February 9, 1997, as claimed by her, or on March 17, 1997, as testified by her mother, is highly inconsequential. It does not detract from the positive, candid and straightforward testimony of the victim that she was raped by accused-appellant.

Verily, the inconsistencies adduced by accused-appellant refer to minor and trivial matters. Rather than weakening it, said inconsistencies serve to strengthen the veracity of the victim's story as they erase doubts that her testimony has been coached or rehearsed.^[13]

From all the foregoing, accused-appellant utterly failed to destroy the credibility of the rape victim. Her candid and direct narration of the details of the rape as