

EN BANC

[G.R. Nos. 135452-53, October 05, 2001]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
IRENEO ALCOREZA Y MARCELINO, ACCUSED-APPELLANT.**

D E C I S I O N

PUNO, J.:

Barely in their teens, **MARY JOY MANILA** and **ESTRELLA MANILA** experienced repeated sexual molestation in the hands of their stepfather --- the man who was supposed to secure their future and protect them from harm. They bore their sufferings in silence. After agonizing for several years over the unceasing sexual assaults, the girls finally found the courage to reveal their sad fate to their mother who merely turned a deaf ear and a blind eye.

Accused **IRENEO ALCOREZA y MARCELINO** was charged with rape by his 14-year old stepdaughter **ESTRELLA MANILA** and two (2) counts of statutory rape by his 11-year old stepdaughter **MARY JOY MANILA**.

He was charged in an Information in **Criminal Case No. 388-M-98**,^[1] thus:

"That on or about the 28th day of October, 1996, in the municipality of Sta. Maria, province of Bulacan, Philippines and within the jurisdiction of this Honorable Court, the above-named accused did then and there wilfully, unlawfully and feloniously, **by means of force, intimidation and with lewd design have carnal knowledge of his stepdaughter, Estrella Manila, 14 years of age**, against her will and without her consent.

"Contrary to law."

Except for the date, the two (2) Informations^[2] for statutory rape (**Criminal Case No. 401-M-98 and Criminal Case No. 402-M-98**) similarly charged the accused, thus:

"That on or about the 21st (and 27th) day of September, 1997, in the municipality of Sta. Maria, province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused did then and there wilfully, unlawfully and feloniously, **by means of force, intimidation and with lewd design have carnal knowledge of his stepdaughter, Mary Joy Manila, 11 years of age**, against her will and without her consent.

"Contrary to law."

The prosecution evidence disclose that **MELITA GONZALES y ALCOREZA** bore five children in her marriage to Benito Manila, Sr., namely: Fernanda, Estrella, Elena, Mary Joy and Benito, Jr. After her husband died, Melita married **accused IRENEO ALCOREZA**.

On **September 21, 1997**, at about 7:00 a.m., 11-year old **MARY JOY** was left in their house with the accused. Her siblings were then in church. The accused called Mary Joy into the bedroom. When she entered, accused wasted no time and forcibly took off her shorts and panty. He then removed his shorts. He pushed Mary Joy on the bed and mounted her. He kissed and embraced her and **inserted his penis into her organ**. She wriggled in pain. She desperately tried to extricate herself from underneath the accused but could not resist his lecherous advances as his heavy weight pinned her on the bed. She could not shout as the accused threatened to kill her if she did. All she could do was cry. After satisfying his lust, the accused removed his penis. Mary Joy felt a mucus-like, slippery substance come out of the accused's organ.^[3]

Barely a week later, on **September 27, 1997**, at about noon, Mary Joy again found herself alone in the house with the accused. Her siblings attended a funeral, while her mother was in the *poblacion* working as a manicurist. The accused called Mary Joy into the bedroom. When she entered the room, the accused approached her and took off her shorts and panty. He laid her down, hurriedly took off his clothes and kissed her. **When the accused mounted her, his penis touched her organ but he failed to insert it as he heard her 8-year old brother, Benito, arrive**. The accused immediately pushed her away and put on his clothing. Benito, however, still saw Mary Joy naked on the bed. Appalled, Benito immediately ran away. Mary Joy could only cry while putting back her undies. Before the accused left, he warned her that if anyone should ask, she should never reveal what he did to her.

The following day, September 28, 1997, after the accused left their house, Mary Joy sought the assistance of her sister Fernanda and revealed to her the sexual ordeal she suffered in the hands of the accused. Fernanda then accompanied Mary Joy to the house of their grandfather **BENITO GONZALES**. Benito proceeded to Mary Joy's house to confront the accused but the latter was nowhere to be found. Benito accompanied Mary Joy to the police station where they executed their statement. The next day, September 29, 1997, they were referred to the provincial hospital for physical examination. Benito then assisted Mary Joy in filing his complaint with the MTC of Sta. Maria, Bulacan.^[4]

When they returned to the house, Benito learned that the accused had also been molesting his other granddaughter **ESTRELLA MANILA** since the latter was eight years old. Her story of sexual abuse: On October 28, **1996**, at about 10:00 p.m., Estrella was sleeping in their bedroom together with her 3 siblings: Benito, Jr. (then 8 yrs. old), Elena (15 years old) and Mary Joy. They kept their bedroom door open as the accused forbade them to lock it. Suddenly, Estrella sensed the presence of the accused in their room when he laid down beside her. She was then an arm's length away from her siblings who were also sleeping. Fear swept her body. She

tried to tinker with the door to call the attention of Melita, her mother, who was sleeping in the next room. This angered the accused. He kicked Estrella and warned her not to make a noise. The accused then repeatedly tried to remove her shirt and lower her shorts but she resisted. The movement awakened Melita who was sleeping in the other room. Sensing that he might be caught, the accused hurriedly stood up. Melita then entered the bedroom and asked the accused what he was doing there. The accused got mad and they quarrelled. In the heat of their argument, Melita threatened to sue the accused. When Estrella revealed to Melita that the accused had been molesting her since she was eight, Melita refused to believe her. Instead, Melita directed Estrella not to tell her siblings about her ordeal.

Estrella turned to her grandfather Benito for help as Melita did not make good her threat to report the rape incidents to the police authorities. Estrella also learned that the accused was also raping her younger sister Mary Joy.^[5] Benito assisted Estrella in filing a complaint for rape and accompanied her to the hospital for medical examination.

As per the letter-request of the Sta. Maria police station, **DR. MANUEL AVES**, the medico-legal officer of the Bulacan Provincial Hospital, conducted a gynecological examination of Mary Joy and Estrella. His examination revealed that both Mary Joy and Estrella were in a non-virgin state. Mary Joy had a healed laceration and abrasion on her hymen while Estrella's hymen sustained 4 healed lacerations.^[6]

The accused, a 49-year old jeepney dispatcher, **simply denied the rape charges of Estrella**. He claimed that on October 28, 1996, at about 10:00 p.m., he was sleeping with his wife in their house, while Estrella and her siblings were sleeping in the other room. Nothing unusual happened that night.^[7] He claimed that the alleged victims could have filed the cases against him as he would spank them once in a while. He theorized that Benito Gonzales, Melita's father, could have also plotted against him and used his granddaughters to file trump up charges of rape. He alleged that Benito was opposed to his marriage to Melita as he was poor. It could also be that Benito harbored ill-feelings against him when he ceased to give him financial support.

As to the rape charge of Mary Joy, the accused proffered an alibi. He claimed that on September 21, 1997, he was out of the house collecting funeral contributions from the jeepney drivers to be given to one of their members.^[8]

The defense presented the accused's wife, **MELITA GONZALES y ALCOREZA**, to the stand. She disclaimed knowledge about the sexual assaults on Mary Joy as she was not in their house on those two dates. Mary Joy did not approach her or ask her help in filing the case. She came to know about Mary Joy's rape charges only after the complaint was filed in court. However, Estrella confided to her that the accused had been molesting her. She was shocked by the revelation. Her daughters then sought the assistance of her father Benito in filing the complaint. **She did not intervene and left the matter to her parents. Neither did she try to dissuade her daughters from filing the cases. She did not talk to her husband or do anything to help him after he was incarcerated. She could not think of any reason that could have motivated her daughters to file the rape charges against the accused.**^[9]

After the trial, the court *a quo* rendered judgment finding the accused guilty only of **attempted rape** in the case of **Estrella** and sentenced him to an indeterminate penalty. However, **on the two counts of statutory rape filed by Mary Joy, the accused was found guilty and sentenced to suffer the supreme penalty of death.** The dispositive portion reads:^[10]

"WHEREFORE, all premises considered, **in Criminal Case No. 388-M-98, the Court resolves that the prosecution has failed to establish the guilt of accused Ireneo Alcoreza Y Marcelino for consummated Rape.** He is, however, found Guilty of Attempted Rape. With the application of the Indeterminate Sentence Law, said accused is hereby sentenced to suffer the indeterminate prison term of ten (10) years and one (1) day of prision mayor as maximum to fifteen (15) years of reclusion temporal/medium.

Inasmuch as the civil aspect of this case is deemed to be instituted in this case, the accused is further directed to indemnify the complainant Estrella Manila in the amount of P25,000.00 as moral damages.

x x x
x x

x x x

x

In both Criminal Cases Nos. 401-M-98 and 402-M-98, the Court resolves that the prosecution has successfully undertaken its burden to prove the guilt of accused Ireneo Alcoreza Y Marcelino beyond reasonable doubt. For having violated Article 335 of the Revised Penal Code, as amended by Republic Act 7659 with the attendant circumstance that "the victim is under eighteen (18) years of age and the offender is x x x stepfather, x x x or the common-law spouse of the parent of the victim," **the accused Ireneo Alcoreza Y Marcelino is hereby found guilty of the crime of Statutory Rape as charged.** By virtue hereof, **in both these cases, he is sentenced to suffer the supreme penalty of Death by lethal injection.**

In line with established jurisprudence, the said accused is hereby ordered to indemnify the offended party Mary Joy Manila in the sums of P50,000.00 for moral damages in each of the two cases.

With costs against the accused.

SO ORDERED."^[11] (*emphasis supplied*)

On automatic appeal, the appellant assigns the following errors:

I

THE TRIAL COURT COMMITTED REVERSIBLE ERROR IN FINDING THE ACCUSED GUILTY OF STATUTORY RAPE IN CRIMINAL CASES NO. 401-M-98 AND 402-M-98 AND ATTEMPTED RAPE IN CRIMINAL CASE NO. 388-M-

98 DESPITE THE INSUFFICIENCY OF EVIDENCE TO WARRANT
CONVICTION BEYOND REASONABLE DOUBT.

II

THE TRIAL COURT GRAVELY ERRED IN IMPOSING THE DEATH PENALTY
DESPITE THE ERRONEOUS ALLEGATION OF THE QUALIFYING
CIRCUMSTANCE OF RELATIONSHIP IN THE INFORMATION.

We shall discuss the two issues jointly.

On the charge of statutory rape committed on September 21, 1997 (Criminal Case No. 401-M-98), appellant contends that Mary Joy's testimony is far from credible. He points out that during her direct testimony, Mary Joy declared that the accused forced her to lie down on the floor but changed her story on cross-examination and said she was made to lie down on the bed. Appellant also charges that her testimony regarding the rape incident on said date was sketchy as she merely declared that the accused "tried to push inside my private part his penis."

We disagree. The alleged inconsistency in the testimony of Mary Joy regarding the September 21, 1997 rape incident is too flimsy and trivial to merit serious consideration. Indeed, it is not unnatural to find minor discrepancies in the testimony of a rape victim, especially that of a child. She cannot be expected to remember every minute detail of her ordeal. Going over the records, we find her recount of the sexual assault clear, brief and convincing. It had a ring of truth that can come only from the lips of an innocent child victim. Thus:

- "Q. On September 21, 1997, between 7:00 and 8:00 A.M., do you remember your whereabouts?
- A. I was at home, sir.
- Q. Did you have companions in your house at that time?
- A. None, I was alone with my stepfather, sir.
- Q. Can you tell us why your stepfather was there? Was he not working at that time?
- A. No, sir.
- x x x x x x x x x
- Q. While you were alone together with your stepfather on that date and time in your house in Parada, was there any unusual incident that happened?
- A. Yes, sir.
- Q. What was the unusual incident that happened?
- A. He called me and told me to undress, sir.
- Q. Were you not in school on that date?
- A. It was a Saturday, sir.
- Q. Who called you and told you to undress?
- A. My stepfather, sir.
- Q. And did you oblige?
- A. No, he forced me, sir.
- Q. How did your stepfather force you?
- A. He was the one who removed my dress, sir.
- Q. What were you wearing that time?
- A. I was wearing shorts and t-shirt, sir.