

SECOND DIVISION

[G.R. No. 142606, November 29, 2001]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
NESTOR MUNTA, ACCUSED-APPELLANT.**

D E C I S I O N

MENDOZA, J.:

This is an appeal from the decision^[1] of the Regional Trial Court, Branch 36, Santiago City, Isabela, finding accused-appellant Nestor Munta guilty of rape and sentencing him to suffer the penalty of *reclusion perpetua* and to indemnify the offended party, Luzviminda Borromeo, in the amount of P50,000.00, without subsidiary imprisonment in case of insolvency, and to pay the costs.

The information against accused-appellant alleged -

That on or about the 9th day of October, 1995, in the municipality of Ramon, Province of Isabela, Philippines, and within the jurisdiction of this Honorable Court, the said accused, by means of force, intimidation and with lewd designs, did then and there, willfully, unlawfully and feloniously, lay with, and have carnal knowledge with one Luzviminda D. Borromeo, against her will and consent.

CONTRARY TO LAW.^[2]

Upon arraignment, accused-appellant pleaded not guilty, whereupon he was tried. The prosecution presented evidence showing the following:

On October 9, 1995, at or about 5:30 in the afternoon, Luzviminda Borromeo, then 15 years old, and her classmates were dismissed from class at the La Sallette of Ramon College in Isabela. She went home at Purok No. 2, San Miguel, Municipality of Ramon, in the same province, passing by her sister's house to get an umbrella because it was raining. As she walked towards their house, she noticed accused-appellant Nestor Munta and four others having drinks in a store. She noticed accused-appellant looking at her.

Luzviminda continued to walk. Upon reaching a place near the first electric post,^[3] she noticed someone following her. When she looked back, she recognized the person to be accused-appellant Nestor Munta. Sensing danger, Luzviminda ran but accused-appellant chased her. When he caught up with her, he grabbed her left hand and then subjected her to repeated blows in the different parts of her body, including her right eye. She struggled, but she was no match to accused-appellant. Accused-appellant held her by the neck and then dragged her to a grassy portion of the roadside, where he raped her. After removing her shirt and underwear, accused-appellant parted complainant's legs, went on top of her, and inserted his penis into

her vagina. Complainant cried in pain. After satisfying his lust, accused-appellant left.

Luzviminda started to walk home, crying. On the way, she met her mother, Cynthia Borromeo, and her brother, Kinjay. When asked what had happened to her, Luzviminda told her mother what accused-appellant had done to her.^[4]

Testifying for the prosecution, Cynthia Borromeo said that after she and her son Kinjay learned what happened to Luzviminda, they took her home. Afterward, they proceeded to the house of the barangay captain to report the incident and were advised to refer the matter to authorities.^[5] That same night, accused-appellant was arrested.^[6] The following day, on October 10, 1995, Luzviminda was examined by Dr. Victory L. Taruc, whose findings are as follows:

DIAGNOSIS:

Place of Incident - San Miguel Cemetery.

Findings - Reddish sclera left, Multiple abrasions and hematoma in neck, abrasion on left cheek, Hematoma left clavicle (2), Reddish discoloration of epigastrium.

IE - Admits 2 fingers, Old laceration of Hymen 2 - 6 & 10 o'clock, new laceration 5 & 8 o'clock, linear abrasion 1/3 of inch of the perineum.

Lab. Wet Mount - no sperm cells seen
(U S & H)

BY:

(Sgd.) VICTORY L. TARUC M.D.

MHO^[7]

Accused-appellant denied the allegations against him. He admitted that on October 9, 1995, at about 5 o'clock in the afternoon, he had drinks in a canteen with his friends, whom he identified as Pidong Parazo,^[8] Jose Ruiz, Manning Bibat, and Carlito Simre. He said that before he joined the group, the four had already consumed five bottles of San Miguel gin. Their drinking lasted until 8 o'clock that night. Because he was drunk, accused-appellant was taken home by Ruiz and Parazo. Munta's grandfather and brother were still awake when he arrived home at about 8:30 in the evening. He said he went to bed, but after he had gone to sleep, the police arrived and took him to the police station. He was later charged with rape.

Munta admitted having known Luzviminda Borromeo for two years before the rape incident. He likewise admitted being an admirer of her beauty. However, he denied seeing complainant on the date and place alleged.^[9]

Jose Ruiz, Jr. corroborated Munta's testimony. Upon cross-examination, however, Ruiz, Jr. admitted that, while drinking, their group was singing plaintive songs, such as the song "I Can't Stop Loving You," and he talked of the girls they secretly admired. He, however, denied hearing accused-appellant express his (Munta's)

sentiments of love for Luzviminda, as he also denied seeing Luzviminda pass by the canteen at 5 o'clock in the afternoon of October 9, 1995.

Alfredo "Pidong" Parazo was the last to testify to corroborate the claim of accused-appellant. However, while claiming that he finished only the third grade in school and that he could not understand English, he answered the questions propounded to him in English without waiting for the questions to be translated into the dialect.

On September 28, 1999, the trial court rendered its decision, the dispositive portion of which reads -

AS A CONSEQUENCE OF ALL THE FOREGOING, the Court finds the accused guilty beyond reasonable doubt of the crime of rape provided for and penalized under Article 335 of the Revised Penal Code, as amended, and hereby sentences him to suffer the penalty of reclusion perpetua, to pay the victim the sum of FIFTY THOUSAND PESOS (P50,000.00), without however subsidiary imprisonment in case of insolvency and to pay the cost.

SO ORDERED.^[10]

Accused-appellant contends that the trial court erred in finding him guilty despite failure of the prosecution to prove beyond reasonable doubt that he is the perpetrator of the crime.^[11]

Accused-appellant's claim fails to persuade us for the following reasons:

First. It must be noted that Luzviminda was only 15 years old at the time of the rape^[12] and only 16 years old when she testified.^[13] Despite her youth and the pressure of testifying in an unfamiliar environment, she gave a simple and direct narrative of her ordeal. She said:

Q: And what time did you have your dismissal in the afternoon of October 9, 1995, in your school?

A: We dismissed at 5:30 p.m., sir.

Q: After being dismissed at 5:30 classes, where did you go if you still remember?

A: (No answer from the witness).

COURT:

Put on record that the witness is speechless.

FISCAL PALOMARES:

We will try some other day, Your Honor, because the witness is speechless and now crying.

COURT:

Alright.^[14]

On further direct examination, Luzviminda testified:

FISCAL PALOMARES:

The last time you testify you stated that you were dismissed from your class at 5:30 o'clock in the afternoon. After being dismissed from your class, where did you go?

A: I rode in a vehicle going to our barrio, sir.

Q: What barrio?

A: San Miguel is the name of our barrio, sir.

. . . .

A: I first went to the house of my sister and then I went home, sir.

. . . .

Q: And why did you [go] to the house of your sister on that afternoon?

A: I went to get my umbrella in the house of my sister, sir.

Q: After getting your umbrella from the house of your sister, where did you go next?

A: I was already on my way home, sir.

Q: And how did you negotiate going home were you walking or did you take a ride?

A: I walk, sir.

Q: Kindly tell the court the road you travel from the house of your sister?

A: First in going home you pass through a number of house (sic) and then along the way there were no more houses, sir.

. . . .

Q: You also stated that you were not able to reach your house, why?

A: When I was already on my way home, sir ...

COURT:

Make it of record that the Social Worker Ms. Vanessa Agustin is extending compassion to the distressed victim in this case.
(The session stopped for a moment)

Make it of record that the wife of the accused is required to [leave] the Courtroom.

A: After passing by the house, and when I am already in the place where there were no more houses, I turned my back and saw a man, sir.

Q: Who was that man?

A: (Witness pointing to the accused).

COURT:

What is your name?

A: Nestor Munta, sir.

. . . .

A: He was a little bit far when I turned back and the next time when I turned my back, he was already at my back and then I run away and then he chased me and grabbed me, sir.

. . . .

Q: And when he [overtook] you and grabbed you, what part of your body did he grab?

A: He took hold of my left hand and he repeatedly boxed me, sir.

Q: How many times did he box you?

A: He boxed me several times then he boxed me right in my right eye, sir.

. . . .

Q: How about you what did you do when he was holding your left hand and continuously boxing you on [the] different parts of your body including your eye?

A: I struggled against him but my strength is not enough because he is strong, sir.

Q: And after that what happened next if any?

A: He took hold of my neck and strangled me, sir.

COURT:

What hand did he [use] in holding your neck?

A: Left hand, sir.

COURT:

Against your throat?

A: Yes, sir, against my throat.

COURT:

Proceed.

Q: And after he boxed you and h[eld] your neck with his left arm, what did he do next if any?

A: He pulled me towards the grassy place, sir.

Q: And when he pulled you to the grassy place, what happened next if any?

. . . .

A: He laid me down (*pinaiddanak*, sir).

Q: And after that, what did he do next if any?

A: He raised my skirt and . . .

COURT:

Make it of record that the witness is sobbing as she relates the horrible experience she had with the accused.