

EN BANC

[G.R. Nos. 136317-18, November 22, 2001]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
EDUARDO YAOTO, ACCUSED-APPELLANT.**

DECISION

YNARES-SANTIAGO, J.:

Accused-appellant Eduardo Yaoto was charged with two (2) counts of rape in the following Informations which read, thus:

Criminal Case No. 6203-V-97:

That on or about June 2, 1997 in Valenzuela, Metro Manila and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design and by means of force and intimidation employed upon the person of one ANGELINE YAOTO, 17 years old, did then and there willfully, unlawfully and feloniously have sexual intercourse with the said ANGELINE YAOTO, against her will and without her consent.

Criminal Case No. 6204-V-97:

That on or about June 7, 1997 in Valenzuela, Metro Manila and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design and by means of force and intimidation employed upon the person of one ANGELINE YAOTO, 17 years old, did then and there willfully, unlawfully and feloniously have sexual intercourse with the said ANGELINE YAOTO, against her will and without her consent.

Accused-appellant pleaded "not guilty" to both counts. Thereafter, trial on the merits ensued.

The trial court found the following facts:

At 3:00 in the afternoon of June 2, 1997, seventeen-year old Angeline Yaoto and her father, herein accused-appellant Eduardo Yaoto, were the only persons left in the house of Angelina's grandmother, located at No. 4598 Chico Street, Gen. T. de Leon, Valenzuela, Metro Manila. Accused-appellant suddenly hit Angeline with a belt, then tied her hands to the sofa with a piece of rope, removed her shorts, panties, blouse and bra. When Angeline was completely naked, accused-appellant mashed her breasts and kissed her.

Thereafter, accused-appellant undressed himself, spread Angeline's legs, placed himself on top of her and inserted his penis into her vagina. Angeline's resistance proved futile as accused-appellant easily overpowered her. After thirty minutes, accused-appellant untied Angeline, put back her dress and threatened her with

harm in case she reveals what had just transpired between them.

After the rape incident, accused-appellant would always carry an ice pick and keep watch on Angeline. Even when she had to go to the comfort room, accused-appellant would follow and watch her. He would even chain her whenever he went out to buy food.

At 10:00 in the morning of June 7, 1997, Angeline was sleeping in the sala when accused-appellant lay down beside her, touched her thighs and whispered his intention to have sexual intercourse with her again. Just like the first time, he mauled her but this time, he tied her feet when she refused. He then undressed her and again proceeded to have sexual intercourse with her.

Having satisfied his lust, accused-appellant laid down on a mat and placed a bolo beside him. He ordered complainant to lie down with him. When accused-appellant fell asleep, Angeline seized the opportunity to escape. She proceeded to the "Parada," flagged down a tricycle and directed the driver to take her to the Valenzuela Police Station, where she narrated her ordeal at the hands of her father, causing the police authorities to apprehend accused-appellant.

In her medico-genital examination, Dr. Armie M. Soreta-Umil of the National Bureau of Investigation, certified that Angeline suffered genital and extragenital injuries.^[1] Angeline's sexual orifice bore lacerations on the fourchette and hymen. The hymenal laceration was at 6:00 position. There were contusions on different parts of her body revealing that Angeline was not only sexually but also physically assaulted.

Accused-appellant denied the charges against him. He claimed that in October 1996, he and Angeline moved into his mother's house where his brother and family also resided. At that time, he was jobless while his wife was working in Saudi Arabia.

Accused-appellant described his relationship with Angeline as typical of a father-daughter relationship. He was, however, against Angeline's relationship with her boyfriend, with whom she eloped sometime in 1996 when she was still in high school.

Accused-appellant claimed that Angeline went on vacation from May 25, 1997 to June 2, 1997, but he did not know where she spent her vacation. Angeline allegedly returned only on June 2, 1997 at about 3:00 in the afternoon, and handed him a marriage license. He tore the paper and in his anger slapped Angeline.

On June 8, 1997, accused-appellant asked Angeline to pawn her wristwatch so they would have money to spend on food. When she failed to pawn her wristwatch, accused-appellant told her that had she not eloped, she might still have a job, to which Angeline retorted: "*Why, Papa, is it my obligation to feed you?*" Insulted and angered, accused-appellant beat Angeline with his belt.

On June 9, 1997, Angeline was nowhere to be found. Accused-appellant claimed that on that date, Angeline went to the police station accompanied by her boyfriend and reported that she was raped by her father.

The trial court rendered a decision,^[2] the dispositive portion of which reads:

WHEREFORE, finding the accused EDUARDO YAOTO GUILTY beyond reasonable doubt of the offense charged:

CRIM. CASE NO. 6203-V-97

Accused Eduardo Yaoto is hereby sentenced to DEATH. He is likewise condemned to indemnify the victim the amount of P50,000.00.

CRIM.CASE NO. 6204-V-97

Accused Eduardo Yaoto is hereby sentenced to DEATH. He is ordered to indemnify the victim the amount of P50,000.00.

Costs against the accused.

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 7659.

Hence, this automatic review. Accused-appellant contends that the trial court erred:

I. IN GIVING FULL CREDENCE TO THE TESTIMONY OF THE COMPLAINANT;

II. IN NOT GIVING EVEN AN IOTA OF WEIGHT TO THE TESTIMONY OF THE ACCUSED; AND

III. IN IMPOSING THE DEATH PENALTY IN THE CASE AT BAR.

Basically, accused-appellant assails the credibility of Angeline. He argues that based on Angeline's testimony: 1) it is improbable for accused-appellant to forcibly remove her blouse and bra while her hands were tied during the June 2, 1997 incident; 2) it is improbable for accused-appellant to remove her shorts and panty while her feet were tied together during the June 7, 1997 incident; 3) it is almost impossible for accused-appellant to spread the legs of Angeline and insert his private organ into her vagina while her feet were tied with a rope; and 4) it is highly improbable for accused-appellant to dress Angeline before untying her.

In addition, accused-appellant submits that "it is beyond normal human condition for a man's penis to remain erect for thirty minutes inside the vagina of a woman during sexual intercourse, taking into consideration the age of the accused in this case."^[3]

Accused-appellant also questions Angeline's testimony that he guarded her whenever she went to the comfort room, chained her whenever he went out to buy food, and did not allow her to go out of the house from June 2, 1997 to June 7, 1997. According to accused-appellant, those were "unnatural behavior" that would have aroused the suspicion of household members, particularly, his brother's family.^[4]

Likewise, accused-appellant assails Angeline's testimony that he had a bolo and an ice pick with which he threatened her. He maintains that Angeline's testimony on the

matter was doubtful considering the failure of the prosecution to offer said items in evidence, including the rope with which he allegedly tied her.

Lastly, accused-appellant tries to discredit the medical findings on Angeline. He insists that the healing lacerations in complainant's genitals were caused by the latter's having sexual intercourse with her boyfriend.

The arguments of accused-appellant are not meritorious.

Accused-appellant asserts that it was highly improbable for him to have forcibly removed Angeline's blouse and bra since her hands were tied with a rope on a sofa.

The validity of this argument, however, rests on the assumption that to *remove* the blouse and bra means to take them off *completely* as what accused-appellant claims. At most, the argument is merely an assumption which is not supported by the evidence on record.

While this Court disfavors engaging in assumptions and conjectures, it is possible that accused-appellant removed Angeline's blouse and bra but *not completely*. According to Angeline, during the June 2, 1997 incident, accused-appellant undressed her after her hands were tied. It was not specified however whether she was undressed completely or only partially. In fact in her affidavit, she stated under oath the following:

x x x [N]aganap po ito noong June 2, 1997 sa ganap na ika-alas 3:00 ng hapon sa loob ng aming bahay, pinaggugulpi po ako at saka ako po ay hiniga sa sofa, itinali po ang aking mga kamay at ang ginawa po niya sa akin ay ginulpi at pinalo ng sinturon at habang ako po ay nanlalata na sa kagugulpi ay *inililis* po ang aking damit at nilamas ang aking suso, x x x.

[5]

In Filipino, the term *ililis* means to roll up, pull or lift up.^[6] Hence, what Angeline was actually referring to when she declared "*inililis po ang aking damit*" was that her blouse and bra were only either rolled up, pulled up or lifted up to the point where her breasts were exposed to make it possible for accused-appellant to mash them. Consistently, she also testified that after raping her, accused-appellant put her dress back on her before untying her. This means that her blouse and bra were not completely taken off her body.

During the second rape incident, accused-appellant likewise assumes that for Angeline to be able to remove her shorts and panty, said articles of clothing should be taken off completely. Thus, he argues that it would be impossible to remove Angeline's shorts and panties if her feet were tied. However, this is a mere assumption, which does not find support in the recorded evidence. As testified by Angeline:

Q: And how were you mauled?

A: Also the same. He beat me with a belt and tied my feet.

Q: To where were your hands and feet tied?

A: My feet.

Q: In other words, you would like to convey to this court that