

EN BANC

[G.R. No. 127572, January 19, 2000]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
SALVADOR VILLAR, ACCUSED-APPELLANT.**

DECISION

MELO, J.:

This Court is once again called upon to discharge the most awesome power in the criminal justice system, where, by way of automatic review, it is mandated to determine whether or not the extreme penalty of death per Section 11 of Republic Act No. 7659, more commonly referred to as the Death Penalty Law, was correctly imposed by the trial court, in this case by Branch 52 of the Regional Trial Court of the Fourth Judicial Region, stationed at Puerto Princesa City, Palawan for the heinous crime of statutory rape committed by a *de facto* guardian against his 10-year old ward.

Accused-appellant was charged in two separate Informations pertinently reading as follows:

Criminal Case No. 11874

That on or about the 19th of January, 1994, at Barangay Bucana, Municipality of El Nido, Province of Palawan, Philippines and within the jurisdiction of this Honorable Court, the said accused with lewd design and by means of force, intimidation, did then and there willfully and feloniously have carnal knowledge with one Mary Ann Ramos, a child below 12 years old, against her will and consent to her damage and prejudice.

(p. 8, Rollo.)

Criminal Case No. 11875

That sometime in the month of January, 1993 at Barangay Bucana, Municipality of El Nido, Province of Palawan, Philippines, and within the jurisdiction of this Honorable Court, the said accused with lewd design and by means of force, intimidation, did then and there willfully and feloniously have carnal knowledge with one Mary Ann Ramos, a child below 12 years old, against her will and consent to her damage and prejudice.

(p. 10, Rollo.)

The narration of facts by the trial court, supported as it is by the evidentiary record, is hereby adopted, to wit:

Mary Ann Ramos is the eldest child of the spouses Danilo Ramos and Josefina Recasa who were joined in wedlock in Masbate, on January 15, 1982. Shortly thereafter, the spouses transferred residence to El Nido, Palawan, where in barangay Bucana of the same town, Mary Ann was born to said spouses on April 7, 1983.

From Masbate, Danilo Ramos and Josefina Recasa-Ramos came to Palawan with several others, among whom were the accused Salvador Villar and his nephew identified only by his surname Ranilo. On getting to El Nido, Palawan, the group all stayed in one house. After a while, however, Salvador Villar built a house of his own in the island sitio of Lalutaya, barangay Bucana, El Nido, Palawan, and the spouses Danilo and Josefina Ramos lived with him in the same house. Being more advanced in age than them, and though still a bachelor, Salvador Villar had been regarded by the spouses as elder member of their family.

Mary Ann Ramos became of school age in 1989. The island-sitio of Lalutaya where the Ramoses and other migrants from Masbate settled some years back, however, was yet without a school. The school nearest to the island-sitio is located in barangay Bucana, El Nido, Palawan. It was that school where Mary Ann Ramos and other children of school ages from sitio Lalutaya go to.

To provide the school children from sitio Lalutaya with a place to stay in during school days, the Ramoses and Salvador Villa built a house where they were to live in barangay Bucana, El Nido, Palawan. Recognizing the need for someone to look after the welfare of the children and attend to their meals and all household needs, their parents engaged the services of Salvador Villar to act as their caretaker and some kind of a guardian.

In that capacity Salvador Villar conducts the school children on a banca from sitio Lalutaya to barangay Bucana late in the afternoon of every Sunday. He stays with the children in barangay Bucana attending to the preparation of their meals and other household chores during school days. He conducts them back to sitio Lalutaya after dismissal from classes in the afternoon of every Friday.

The accused consistently acted as caretaker and guardian of Mary Ann Ramos from the time she was enrolled in Grade I. By the start of school year 1993-1994, though, he had under his care in barangay Bucana, not only Mary Ann but four (4) others, namely; Mae Ramos, a younger sister of Mary Ann; Liezl Ranilo, and the brothers Ernie and Rene Maltos, all cousins of the Ramos sisters. For some time all went well in the manner Salvador performed his duties as guardian of the school children, until the happening of the incident which provided the basis for the institution of the instant twin indictments.

The building serving some kind of a dormitory for Mary Ann and the four (4) other school children with her is a structure of light materials with a floor area measuring about 18 feet long and 16 feet wide. The walls are made of sawali, or wooden buho (reed), and with roof of nipa shingles. Its floor, built about three (3) feet above the ground, is made of bamboo

slats.

The house they were living in is so structured that it could be said to have two (2) rooms. One room serves as bedroom while on one side of the other is the place for the kitchen, and section for the dining room. Mary Ann and the two other girls sleep side by side on mats spread on the floor in the bedroom while the boys, Ernie and Rene Maltos, also sleep beside each other on another side of the room close to the kitchen. Salvador Villar, on the other hand, sleeps on a bed close to the two boys.

Roughly 10:00 o'clock, one evening about the middle of January, 1993, and while all the four (4) other children with her were already asleep, Mary Ann noticed Salvador Villar approached her and with a knife poked at her chest, undressed her. Even as she struggled to prevent him from undressing her he also took off her panty and made her lie down. She attempted to shout but he covered her mouth with his hand. Then he laid on top of her and thereupon forcibly inserted his male organ in her female genitalia. With his penis inside her private organ he executed repeated pumping motions. The entry of his male organ in to her reproductive organ, and his execution of the pumping motions, caused her intense pain which made her momentary loss of consciousness.

When shortly after she regained consciousness, she felt pain in her female organ. Realizing that her organ had been bleeding she became frightened. Just then, Salvador Villar warned her not to tell anyone what happened or he will kill her. (TSN, Roselyn N. Teologo, February 9, 1995, pp. 9-14.) Because of fear instilled in her by that threat she refrained from telling anyone about what the accused did to her.

That was not to be the last time the accused forcibly imposed his sexual gratification on the complainant.

For a period of about a year thereafter the accused repeatedly had forcible carnal knowledge of the complainant at intervals of more or less three days, or about ten (10) times a month. He raped her so many times, about a hundred (100) times, that she was unable to recall the precise dates of each assault on her. Aside from the first occasion which she recalled to have taken place one evening about the middle of January, 1993, the only other occasion which took place also in the house they were staying in barangay Bucana, El Nido, Palawan, was in the evening of January 19, 1994. (TSN, Roselyn N. Teologo, June 9, 1995, pp. 14-23)

In the evening of January 19, 1994, the accused again forcibly had carnal knowledge of the complainant. About 10:00 o'clock that evening, and after all the other school children with Mary Ann have already been asleep, the accused approached her and for nth time forcibly undressed her. Thereafter, he laid on top of her and inserted his male organ into hers. With his penis inside her female organ he executed pumping motions even as she struggled to free herself from him. With his weight over her body and with a knife poked on her she was unable to extricate herself.

Occasioned by the fear instilled in her by the threat to her life by the accused, the repeated sexual assaults on the complainant by the said accused would not have been disclosed to her parents were it not for another unusual incident which may have some bearing to the successive commission of the offenses herein charged.

As usual, on January 20, 1994, a Thursday, Salvador Villar cooked their supper, and at dinnertime set the table for their meals. They ate their supper at about 6:30 o'clock in the evening, as usual. Salvador Villar partook of the meal with them and the children noticed that he was already drunk at the time. After having been through eating, the children, as usual, cleared the table and washed the dishes. Thereafter, Salvador Villar left and some time later the children went to bed, without Salvador Villar having been back.

After the children have been asleep for some time they were awakened when Salvador Villar came. On getting up the house, Salvador Villar drank water first then threw the water container out on the window. Afterwards, he went inside the room where the children have been sleeping and in a drunken mode shouted: "Nasan na Kayo, mga putang ina kayo!" On seeing him with a drawn bolo on hand the children, overcame with fright, rose from bed, jumped out through the window and proceeded together to, and took refuge in, the house of one Minda Mentos. Ms. Mentos welcomed them and made them get up her house. After a while Salvador Villar came, fetching them, but they did not go back with him. Instead, they spent the night in the house of Minda Mentos to whom they related why they jumped out through the window.

The children returned to their place of abode the following morning of January 21, 1994. Salvador Villar prepared their breakfast that morning which they partook with him. When asked while eating why he chased them the night before, the accused told them that he was drunk and did not know what he was doing.

Soon after Mary Ann Ramos was sexually abused by Salvador Villar, she related to her 9-year old cousin, Liezl Ranilo, what the accused did to her. But Liezl likewise refrained from disclosing it to their parents because she was likewise afraid of the threat by the accused. It was that incident which made the children jump out of the window which led to the disclosure by Mary Ann of the sexual abuse on her by the accused.

As was the habit, after dismissal from their classes late in the afternoon of Friday, January 21, 1994, the children proceeded home on a banca to their parents in sitio Lalutaya, barangay El Nido, Palawan. Thru Liezl Ranilo, the mother of Mary Ann Ramos learned about the incident which made them jump out through the window. Thereupon, her mother asked Mary Ann why they jumped out through the window and she related why, including what Salvador Villar had been doing to her. Her mother spanked her. But the following morning they proceeded to the town hall of El Nido and filed a complaint for rape against Salvador Villar. (TSN, Roselyn N. Teologo, 9 February, 1995, pp. 16-17)