

## SECOND DIVISION

[ G.R. No. 124453, March 15, 2000 ]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
JOSEPH PAMBID Y CORNELIO, ACCUSED-APPELLANT.**

### D E C I S I O N

**MENDOZA, J.:**

This is an appeal from the decision<sup>[1]</sup> of the Regional Trial Court, Branch 81, Quezon City, finding accused-appellant Joseph Pambid y Cornelio guilty beyond reasonable doubt of two (2) counts of statutory rape and sentencing him to suffer the penalty of *reclusion perpetua*, with all the accessory penalties, and to indemnify the victim, Maricon Delvie C. Grifaldia,<sup>[2]</sup> in the amount of P50,000.00 plus costs for each count of rape.

On the basis of a complaint<sup>[3]</sup> filed by Maricon Delvie C. Grifaldia, six years old, assisted by her mother, Delia Calzada Grifaldia, the Quezon City Prosecutor's Office filed an information charging accused-appellant Joseph Pambid with two counts of rape allegedly committed as follows:

That on or about the period comprising April and May, 1993, in Quezon City, Philippines, the above-named accused, by means of force and intimidation, with lewd designs, did then and there wilfully, unlawfully and feloniously have carnal knowledge with the undersigned complainant, MARYCON DELVIE GREFALDIA Y CALZADA, a minor, 6 years old, against her will and without her consent, to her damage and prejudice.

CONTRARY TO LAW.

When arraigned, accused-appellant pleaded not guilty, whereupon, trial commenced.

The evidence for the prosecution shows that accused-appellant, 23 years old, and Maricon, six years old and a Grade 1 student, were neighbors at Purok 3-A Luzon Avenue, Barangay Culiati, Quezon City, their houses fronting each other. The two incidents of rape happened sometime between April and May 1993. The first rape took place when, one day, as it was almost sundown, Maricon was on her way home after having been sent on an errand. As she was nearing her house, accused-appellant pulled her and took her to his house. As soon as they were inside the house, accused-appellant got a knife from the kitchen and, at knifepoint, ordered Maricon to remove her short pants, then ordered her to lie on the bed while issuing threats that he would beat her up. At first, accused-appellant inserted his forefinger into Maricon's vagina. He then inserted his penis and commenced the sexual act, but was interrupted by the arrival of his mother who asked why the door was closed. At that point, accused-appellant hurriedly hid the knife under the bed and asked Maricon to leave. Because of accused-appellant's threat, Maricon never reported the

incident to anyone.<sup>[4]</sup>

The second rape happened one morning in the house of Antonia Adovera, accused-appellant's aunt, which is situated beside accused-appellant's house. Accused-appellant saw Maricon on her way to a nearby store. As nobody was present, accused-appellant took Maricon to his aunt's house. He ordered her to remove her clothes and to lie down on the sofa. Accused-appellant then went on top of her and inserted his penis into her vagina. Thereafter, he licked her private parts. She was later released and allowed to go home, but not before she was warned not to tell anyone what had happened to her.<sup>[5]</sup>

On May 20, 1993, Maricon and her mother, Delia, went to the house of Melita Calzada Ervi, who is Delia's sister. Melita told Delia how her daughter, Lady Ann Calzada, who was then 10 years old, was nearly raped on May 17, 1993 by their neighbor, Boni Tolentino, then aged 15. Maricon suddenly interrupted them and told her mother: "*Ako po mama, me ginawa sa akin ang anak ng kumare ninyo, si Bong-bong*" (referring to accused-appellant). Maricon narrated to them the two rape incidents. It was then that Delia realized why sometime on April 5, 1993, Maricon had a high fever and experienced difficulty in urinating ("*pahinto-hinto ang ihi*") and irritations in her private parts. Delia then confronted Angelita C. Pambid, accused-appellant's mother, who insisted that accused-appellant was not capable of committing such act. Delia also confronted accused-appellant's brother, Renato Pambid, who then went to his father's house in Caloocan to look for accused-appellant.<sup>[6]</sup>

On May 21, 1993, Delia brought the matter to the attention of the barangay tanod who reported it to the police. Accused-appellant was arrested in his house by PO1 Ricardo B. Sibayan and PO3 Wilfredo Nazareno. He was positively identified by Maricon as the person who had abused her. Thereafter, accused-appellant was taken to the Criminal Investigation Division (CID), Camp Karingal, Sikatuna Village, Quezon City and turned over to the investigating officer, PO3 Felix Dulin, who took the sworn statement of Delia. In a letter dated May 21, 1993, Chief Insp. Jaime Q. Peralta referred the case to the City Prosecutor of Quezon City.<sup>[7]</sup>

On the same day, May 21, 1993, Maricon went to the Philippine National Police (PNP) Crime Laboratory Service for medical examination. Dr. Florante F. Baltazar, PNP Chief Inspector and Medico-Legal Officer, examined Maricon. His report (Exh. A)<sup>[8]</sup> contains the following findings:

#### FINDINGS:

##### GENERAL AND EXTRAGENITAL:

Fairly developed, fairly nourished and coherent female child subject. Breasts are undeveloped. Abdomen is flat and tight.

##### GENITAL:

There is absence of pubic hair. Labia majora are full, convex and coaptated with the pale brown labia minora presenting in between. On separating the same, disclosed an elastic, fleshy-type hymen with deep,

healed laceration at 3 o'clock. External vaginal orifice admits the tip of the examining little finger.

Peri-urethral smears are negative for gram-negative diplococci and for spermatozoa.

#### CONCLUSION:

Subject is in non-virgin state physically.

There are no external signs of recent application of any form of trauma.

Dr. Baltazar's findings showed that Maricon is in a non-virgin physical condition which could have been caused by the insertion of a foreign object or by sexual intercourse. He clarified that strenuous physical activities could only produce scratches on the private parts and not deep laceration of the hymen.<sup>[9]</sup>

The defense evidence consists of denial, alibi and plea of insanity. Accused-appellant did not testify. It was his father and mother who testified for him.

According to Angelita C. Pambid, accused-appellant's mother, accused-appellant was not home during the time the first incident of rape was alleged to have happened. After he was scolded and beaten up by his elder brother Renato for refusing to fetch water, on March 14, 1993, he went to Bagong Bayan, Caloocan City, and stayed with his father, who was estranged from his mother. Although accused-appellant came home on April 15, 1993, it was only to get some clothes, then he left to stay with his aunt. It was only on May 20, 1993 that accused-appellant returned home. The following day, May 21, 1993, Delia Grifaldia went to accused-appellant's house, accompanied by two policemen, two civilians and some barangay officials. Accused-appellant was then brought to the police precinct for investigation. Angelita Pambid said that Delia Grifaldia had been her neighbor for the past 15 years.<sup>[10]</sup>

Jesus Q. Pambid, accused-appellant's father, corroborated his wife's claim that accused-appellant was not living with his mother in March 1993. He also said that sometime in April 1993, he learned that accused-appellant was residing somewhere in Don Antonio Subdivision, Fairview, Quezon City, and worked as a helper of a meat vendor in Nepa Q-Mart. Jesus admitted, however, that on three separate occasions within the month of April 1993, accused-appellant stayed in his mother's house. He said that, in one of those occasions, he even accompanied his son to get clothes in the house of Angelita Pambid. On May 21, 1993, he learned from his older son, Renato, that accused-appellant had been apprehended for having allegedly raped Maricon. He claimed, however, that accused-appellant was mentally ill, and that was the reason why the latter did not go to school. In fact, according to him, both his maternal aunt and brother had previously been confined at the National Mental Hospital in Mandaluyong City.<sup>[11]</sup>

The defense also presented psychological report (Exh. 1), dated July 15, 1994, of a psychologist, Rosalina V. Nuestro, which stated:

Current assessment of subject's mental capacity is gauged along the Mild Mental Retardation level. A 21-point discrepancy between the 2 major scales favoring the Verbal Scale and both intra and intertest variabilities

are present to indicate mental inefficiency. Pre-morbid level is believed to be higher.

Analysis shows impairment on areas which measure his social intelligence, inductive reasoning and visio-motor functions. Range of general information, judgmental capacity, deductive and ability to solve simple arithmetical problems are very poorly functioning. He is also not so keen in observing details in his surrounding and in differentiating the essential from the non-essential likeness of objects and forms. On the other hand, average score is obtained in the Digit Span, however, only his recall on recent events is adequate but he has difficulty in remembering the most remote events.

Projective profile shows an immature individual who is so rigid and constricted in his emotional make-up which renders him unable to relate well with his fellow-beings. He likewise identifies with the opposite sex and with much younger age level signifying sexual difficulty and immaturity. His immaturity fits also hamper his capacity to make sound judgment that is guided more by impulse rather than by intellect.

Flattening of affect is likewise discerned. Sterility of thought process is also evident.

Distortion of the Gestalten and poorly synthesized drawing of human figures are noted which may indicate the presence of dissociative process in which, in a way, he loses his integrative capacity. It also reflects his inability to meet or deal effectively with reality. Ego ineffectiveness is likewise reflected.<sup>[12]</sup>

Dr. Noemi Angeline E. Jularbal of the National Center for Mental Health, Mandaluyong City, also examined accused-appellant. Her findings and recommendations were contained in a report (Exh. 2), dated September 21, 1994, which states that:

#### PSYCHIATRIC EXAMINATION RESULT:

Evaluation shows that patient had suffered from Insanity or Psychosis classified under Schizophrenia. This mental disorder is characterized by poor self-care, perceptual aberrations in the form of hallucinations and delusions. There is marked impairment in intellectual, social and vocational functioning. Insight and judgment are impaired.

He is likewise suffering from Mental Retardation. This is described as a subnormal level of intellectual functioning.

At present, he is behaved and manageable. He is deemed competent to stand court trial.

#### REMARKS AND RECOMMENDATIONS:

He is recommended to undergo regular monthly out-patient check-ups at the National Center for Mental Health.<sup>[13]</sup>

Dr. Jularbal testified that she found accused-appellant to have very poor attention, a blunt facial expression and is easily distracted. According to her, accused-appellant was often deep in thought, hypoproductive and kept on mumbling things to himself. Accused-appellant also exhibited subnormal intellectual functioning which made him experience hallucinations and delusions. Her conclusion was that it was possible that, at the time of the alleged rapes, accused-appellant was suffering from mental illness. Dr. Jularbal also said that at the time she prepared her report, accused-appellant was no longer psychotic nor actively hallucinating, and that he was aware of the case filed against him as he cooperated with his legal counsel who prepared his defense.<sup>[14]</sup>

On the basis of the evidence presented, the trial court rendered its decision, on January 24, 1996, finding accused-appellant guilty of two counts of rape. The dispositive portion of the decision reads:

WHEREFORE, judgment is hereby rendered finding accused JOSEPH PAMBID y CORNELIO guilty beyond reasonable doubt for two counts of rape penalized under Article 335 of the Revised Penal Code and, conformably with said provision, hereby sentences the said accused to suffer the penalty of RECLUSION PERPETUA with all the accessory penalties of the law and to indemnify the complainant Marycon Delvie Grefaldia, the sum of P50,000.00 plus costs for each count of rape.

The period during which the accused is under preventive imprisonment shall be credited to him in full.

SO ORDERED.

Hence this appeal, seeking reversal of accused-appellant's conviction.

**First.** Accused-appellant capitalizes on Maricon's statement, made at some point during her testimony, that she was only "fingered," *i.e.*, accused-appellant merely poked his finger into her vagina. This, he contends, puts in doubt her claim that he succeeded in having sexual intercourse with her. He also makes much of the fact that Maricon failed to inform her family of the incident immediately after she was allegedly violated.

This contention is without merit. Maricon had no motive to falsely claim that she had been raped by accused-appellant if this was not true. We have ruled that a young girl's revelation that she has been raped, coupled with her voluntary submission to medical examination and willingness to undergo public trial where she could be compelled to give details of the assault on her dignity, cannot be easily dismissed as mere concoction.<sup>[15]</sup> If her story had only been contrived, she would not have been so composed and consistent throughout her entire testimony in the face of intense and lengthy interrogation.<sup>[16]</sup> Maricon's testimony is likewise corroborated by medical findings of hymenal lacerations. The evidence on record thus supports the trial court's finding that accused-appellant is guilty of raping Maricon. Appellate courts will generally not disturb the factual findings of the trial court since the latter is in a better position to weigh conflicting testimonies, having heard the witnesses themselves and observed their deportment, unless it is shown that the trial court has plainly overlooked certain facts of substance and value which, if considered, might affect the result of the case.<sup>[17]</sup>