

FIRST DIVISION

[G.R. No. 120656, March 03, 2000]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ARNEL
FERDINAND OMAR Y ABAD, ACCUSED-APPELLANT.**

D E C I S I O N

PARDO, J.:

What is before this Court is an appeal from the decision of the Regional Trial Court, Branch 155, Pasig City,^[1] convicting accused Arnel Ferdinand Omar y Abad of rape committed against Marilou Moraleda y Valerio, and sentencing him to *reclusion perpetua* and to pay complainant P30,000.00 as civil indemnity, plus costs.

On December 11, 1991, complainant Marilou Moraleda y Valerio filed with the Regional Trial Court, Pasig a criminal complaint for rape against Arnel Ferdinand Omar y Abad, alleging:

"That on or about the 5th day of December 1991 in the municipality of Taguig, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above named accused with lewd designs and by means of force and intimidation, did then and there willfully, unlawfully and feloniously have sexual intercourse with a fourteen (14) year old girl, Marilou Moraleda y Valerio, without her consent and against her will.

"CONTRARY TO LAW."^[2]

Upon arraignment on January 15, 1992, accused Arnel Ferdinand Omar y Abad pleaded not guilty.^[3] Trial ensued.

The facts are as follows:

On December 5, 1991, at about 6:00 in the evening, Marilou V. Moraleda (hereinafter referred to as Marilou),^[4] was walking home from school when accused Arnel Ferdinand Omar y Abad approached her and held her hand. At that moment, Hamsa Pangandaman came and held her other hand. Unmindful of her protests, the two men dragged her to a volleyball court and subsequently brought her to a nearby store. Accused Arnel Omar and Hamsa Pangandaman bought three bottles of beer, forcibly opened her mouth and poured beer into it. Marilou tried to scream but the two men threatened her that they would kill her family.^[5]

Accused Arnel Omar and Hamsa Pangandaman brought her to a room in Taguig Elementary school. Arnel Omar held both her hands while Hamsa Pangandaman fondled her and inserted his penis in her vagina. Then Hamsa Pangandaman left the premises. Arnel Omar also ravished Marilou. Arnel Omar fondled her, kissed her breast and inserted his penis in her vagina.^[6]

After the incident, Marilou proceeded to the house of her friend, Almina,^[7] asking if she could stay during the night since she was afraid that her brother might scold her. Almina refused to accommodate Marilou because there were several guests in the former's house. As Marilou was leaving Almina's premises, she met two men, Zacaria Barauco and Michael Omar Alawi. However, instead of helping Marilou, Zacaria and Micahel forced her to drink beer and subsequently raped her.^[8]

After her ordeal, Marilou went home, arriving thereat on December 6, 1991, at around 3:00 a.m. Marilou told her brother what had happened to her. Thereafter, her brother and aunt accompanied Marilou to the Capitol Command Field Force, PNP CAPCOM, Camp Bagong Diwa, Bicutan, Taguig to report the incident.^[9]

On December 6, 1991, Dr. Louella I. Nario, medico-legal officer of the National Bureau of Investigation (NBI), examined Marilou. Dr. Nario found that Marilou's hymen was "moderately thick, moderately wide, with fresh, complete laceration at 6:00 o'clock position corresponding to the face of a watch, edges still bleeding slightly."^[10] The doctor concluded that while there was no evident sign of extra-genital physical injuries noted on the victim's body, the genital examination was compatible with sexual intercourse with men on or about the alleged date of the rape.^[11] The semenology conducted on Marilou to determine the presence of spermatozoa yielded negative results.^[12]

On January 28, 1992, Estrelita M. Bangalan, a psychologist at the Department of Social Welfare and Development (DSWD), conducted intelligent quotient (I.Q.) and projective tests on the victim. The tests revealed that Marilou had an I.Q. of 61, with an estimated mental age of 7 years and 9 months old, and an intellect classified as "mild mentally retardate level."^[13]

On February 11, 1992, Dr. Sonia Castro-Rodriguez, a psychiatrist, conducted a neuro-psychiatric examination on the victim. Dr. Rodriguez concluded that Marilou was suffering from post-traumatic stress disorder as a result of the rape.^[14]

Accused Arnel Ferdinand Omar y Abad interposed the defense of alibi.

Accused claimed that he knew the victim Marilou, alias Jamela. He considered her as a beautiful girl, and courted her despite having a live-in partner.^[15] Accused said that he last saw Marilou on December 3, 1995, when he, together with his friends, Hamsa Pangandaman, Zacaria Barauco and Micahel Omar Alawi, played volleyball with Marilou and her best friend, Bazir.^[16] After the game, Marilou invited them to drink beer, but accused Arnel Omar declined the offer and opted to go home to his live-in partner, Jerrylyn.^[17] On December 4, 1991, he went to Novaliches to attend to an errand for his father. Due to the heavy traffic during his trip, on December 5, 1991, accused had a headache and flu, and stayed in bed the whole day. On December 6, 1991, accused heard that policemen were looking for him and a neighbor told him to hide. He ignored the advice, and on December 7, 1991, Capcom officers came and arrested him.^[18]

Ruth Molavizar, neighbor of accused Arnel Omar, testified that on December 5, 1991,