

FIRST DIVISION

[G.R. No. 120280, April 12, 2000]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
NICOLAS RAMOS, ACCUSED-APPELLANT.**

D E C I S I O N

PARDO, J.:

On February 24, 1992, Mary Ann A. Ramos, a ten (10) year old girl, charged her father Nicolas Ramos with rape in a sworn complaint which reads as follows:

"That on or about January 10, 1991, in the evening thereof, at Poblacion, Mobo, Masbate, the above-named accused taking advantage of the confidence repose upon him by the undersigned complainant being his daughter, by use of deadly weapon, did then and there willfully, and feloniously have a carnal knowledge with the private offended party against her will and consent.

Contrary to law.^[1]

On March 27, 1992, Assistant Provincial Prosecutor Edmundo O. Legaspi of Masbate, approved by Provincial Prosecutor Hermenegildo F. Betonio, Jr., filed with the Regional Trial Court, Masbate, Branch 47, an Information against accused Nicolas Ramos for rape.^[2]

On June 15, 1992, upon arraignment, accused assisted by Public Attorney Percival D. Castillo, pleaded not guilty to the charge. Trial ensued.

On March 3, 1995, after trial, the trial court rendered a decision finding accused guilty of rape, and sentencing him thus:

"WHEREFORE, the guilt of accused Nicolas Ramos having been established beyond reasonable doubt, he is CONVICTED of the crime of rape and as a consequence, is hereby sentenced to suffer the penalty of Reclusion Perpetua; to indemnify the victim Mary Ann Ramos in the sum of P40,000.00; to suffer the accessory penalties therefor and to pay the costs.

"In the service of his sentence, credit the said accused with the full period of his preventive detention.

"IT IS SO ORDERED."^[3]

In arriving at its decision, the trial court gave credence to the testimony of complainant Mary Ann Ramos on what the accused did to her, to wit:

"On January 10, 1991, at about midnight, while Mary Ann Ramos was sleeping in the house of her grandmother, she was awakened by her father Nicolas Ramos. Her father undressed her including her panty (sic), then he took off his pants, then opened her thigh and inserted his penis in her vagina. She felt pain on her private part and saw blood coming out from it. The accused covered the victim's mouth using one hand to prevent the latter from shouting. Her grandmother was then at the sea pulling fish net and arrived at about 5:00 o'clock in the morning of the following day but Mary Ann never told her grandmother about what had happened because she was afraid of her father who threatened her.^[4] In fact she did not tell anybody about the incident until about three (3) months later when her aunt Eva Belaguin brought her to Manila for the summer vacation. It was to her that the victim for the first time revealed the incident. Her aunts Eva Belaguin and Lorie Abanador, did not know what to do after Mary Ann's revelations and it was only in October, 1991 that they sought the assistance of the personnel of the Department of Social Welfare and Development which in turn referred them to the PNP Crime Laboratory Service at Camp Crame, Quezon City for medical examination. Four months thereafter, or on February 24, 1992, the complaint was filed before the 7th Municipal Circuit Trial Court of Mobo, Milagro."^[5]

Aside from the complainant Mary Ann Ramos, Dr. Vladimir Villasenor, medico legal officer of PNP Crime Laboratory, Camp Crame testified for the prosecution. His findings indicated:

"Genital:

There is lanugo type growth of pubic hair. Labia majora are full, convex and coaptated with dark brown labia minora presenting in between. On separating the same is disclosed an elastic, fleshy-type and congested hymen with shallow, healed lacerations at 3 and 8 o'clock positions. External vaginal orifice offers strong resistance to the introduction of examining index finger and the virgin-sized vaginal speculum. Vaginal canal is narrow with prominent rugosities. Cervix is normal in size, color and consistency."^[6]

Accused-appellant interposed the defense of denial. He said that in the evening of January 10, 1991, he and his daughter Mary Ann were living in the house of his mother at Poblacion, Mobo, Masbate. The house has a total area of 15 square meters without any room. They used to sleep in that single open hall together with his youngest sister and youngest brother. That evening, he was at sea fishing by means of a net together with Jose Bitoon Ramos, Eduardo Tugbo, Zaldy Masamoc, Poldo Maglente and other persons whose names he forgot. It took them until morning to go home for they had to service their fishing lamps and it would take them two (2) hours to finish each net casting. They finished pulling the net at about 4:00 in the morning. He claimed that it would not be possible for one of the crews to go home at night for there would be not enough persons to pull the net. There were about nine or ten persons involved in net fishing. He was in-charge of casting the net at sea. This job needed skill, so he could not just leave the fishing boat.^[7]

He further claimed that Mary Ann Ramos filed a complaint and testified against him