

EN BANC

[G.R. No. 131942, October 05, 2000]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
CARLITO BAWANG, ACCUSED-APPELLANT.**

DECISION

YNARES-SANTIAGO, J.:

Incestuous rape, such as that committed by a father against his own daughter is a dastardly and repulsive crime^[1] that has no place in our society. Bestial acts of rape perpetrated by fathers against their daughters have, time and again, been condemned by this Court. This case is no different.

For ravishing his daughter who was barely into her teens, Carlito Bawang was charged with Rape in an Information^[2] which alleged -

That in the morning on or about the 19th day of September 1995, in the municipality of Siayan, Zamboanga del Norte, within the jurisdiction of this Honorable Court, the said accused, armed with a hunting knife, moved by lewd and unchaste desire and by means of force, violence and intimidation, did then and there wilfully, unlawfully and feloniously succeed in having sexual intercourse with one MYRNA BAWANG, his 14 year old daughter, against her will and without her consent.

CONTRARY TO LAW.

Upon arraignment, accused assisted by counsel *de parte* entered a plea of "Not Guilty".^[3]

The case thereafter proceeded to trial on the merits. After trial, the court rendered judgment, the dispositive portion of which reads:

WHEREFORE, judgment is hereby rendered finding the accused CARLITO BAWANG guilty beyond reasonable doubt of the crime of RAPE defined and penalized under Sec. 11 of R.A. No. 7659 often referred to as the Death Penalty Law, amending Art. 355 of the Revised Penal Code, he is hereby sentenced to suffer the penalty of DEATH; and, to pay the complainant Myrna Bawang the sum of P50,000.00 as damages.

Costs de officio.

SO ORDERED.^[4]

In his Brief, the accused raises the following lone assignment of error:

THE TRIAL COURT ERRED IN CONVICTING ACCUSED-APPELLANT GUILTY OF RAPE DESPITE THE INCONCLUSIVE AND WEAK EVIDENCE OF THE PROSECUTION.

The Prosecution's version of the incident is summed thus by the Solicitor General in the People's brief:

1. At around nine o'clock in the morning of September 19, 1995, Myrna Bawang was ordered by appellant Carlito Bawang to wash clothes at a creek which was about six kilometers away from their house in Domoyong, Gibo, Siayan, Zamboanga del Norte. Myrna who was then only fourteen years old, was the eldest child of appellant and Pacita Bawang. She had three younger brothers, namely, Ronaldo, Roberto and Rene, and a younger sister named Genelyn. As the eldest child, Myrna assumed the chores of washing clothes at the Domoyong creek once a week, fetching water, preparing meals and weeding grasses at her family's farm land.^[5]
2. Myrna's mother, Pacita, was present when appellant ordered their daughter to wash clothes. Myrna obeyed her father and proceeded to the creek. Ronald, then only seven years old, also went to the creek to fetch water. Appellant left the house shortly. Pacita herself left the house for their farm where she had to weed grasses.^[6]
3. At the creek, Myrna laundered clothes, while her brother Ronald fetched water. Momentarily, their father arrived and took a bath in the creek. After taking a bath, appellant ordered Ronald to go home. Ronald obeyed his father and proceeded to their house.^[7]
4. After Ronald left, appellant ordered Myrna to have sexual intercourse with him. He poked a "hunting knife" at Myrna, pushed her to the ground and took off her panty. Appellant took off his brief and laid on top of Myrna. He inserted his penis into her vagina. Myrna felt excruciating pain and her sex organ bled. Myrna cried. As appellant was having sexual intercourse with Myrna, he had his "hunting knife" pressing on her neck. After sexually molesting his daughter, appellant threatened to kill her if she revealed what happened between them. Appellant left his daughter by the creek.^[8]
5. After being ravaged by appellant, Myrna went home. She was still crying. She asked her brother Ronald to fetch her mother at the farm. Myrna told Ronald that she had been raped by appellant. Ronald obeyed his sister and went to the farm to fetch his mother.^[9]
6. Upon being told that Myrna wanted her to go home, Pacita, who was weeding grasses at the farm, immediately went home. There, she found Myrna with her siblings. Myrna was crying. Appellant was not in the house at that time. Myrna told her mother that she was raped by appellant. Myrna revealed that appellant had sexual

intercourse with her at the creek of Domoyong and threatened to kill her if she shouted. Pacita raised Myrna's skirt and saw that Myrna's panty was stained with blood. Pacita further noticed her daughter had fever and was emotionally disturbed. While Myrna and her mother were talking, Ronald saw his sister Myrna crying.^[10]

7. Pacita was angered by what happened to Myrna. She later confronted appellant about what he did to their daughter but he denied having raped Myrna.^[11]
8. Despite appellant's assault on Myrna, Pacita did not immediately report the incident to the police authorities or to the barangay captain, nor did she bring her daughter to a hospital. Pacita had been threatened by appellant that he would kill all of them if she revealed the incident. More than two months later, in the month of December, Pacita finally went to the police authorities in Siayan, Zamboanga del Norte. She reported the rape of her daughter to an investigator named "Andus."^[12]
9. On December 6, 1995, Pacita brought her daughter to Dr. Raymund Nadela, the Municipal Health Officer and Rural Health Physician of Siayan, Zamboanga del Norte. Dr. Nadela examined Myrna.^[13]
10. Dr. Nadela found that Myrna's hymen was "not intact" and that such condition could have been caused by sexual intercourse.^[14] Dr. Nadela likewise found that Myrna's hymen did not bear any lacerations. However, the non-existence of lacerations does not necessarily mean that sexual intercourse did not take place. According to Dr. Nadela, the absence of lacerations in the hymen can be an indication that said hymen is elastic.^[15]

Accused-appellant denied the charge^[16] and gave a contrasting account of what happened. He declared that his wife and children were not telling the truth when they accused him of raping the victim.^[17] Professing his innocence, he testified that he was at home the whole day on September 19, 1995 because he could not walk as he was afflicted with boils on his feet,^[18] an ailment he allegedly contracted as far back as September 2, 1995.^[19] Accused-appellant's claim that he was at home on the date of the incident afflicted with boils on his neck and feet was corroborated by his sister Elma B. Sango^[20] and Pedro Alicayos, both his neighbors, who came to visit him at the time.^[21]

In reviewing rape cases, the Court is guided by the following principles: 1] to accuse a man of rape is easy, but to disprove it is difficult though the accused may be innocent; 2.] considering that in the nature of things, only two persons are usually involved in the crime of rape, the testimony of the complainant should be scrutinized with great caution; and 3.] the evidence for the prosecution must stand or fall on its own merit and not be allowed to draw strength from the weakness of the evidence of the defense.^[22] Corollary to these legal yardsticks is the dictum that when a victim of rape says she has been defiled, she says in effect all that is necessary to

show that rape has been inflicted on her and so long as her testimony meets the test of credibility, the accused may be convicted on the basis thereof.^[23]

This Court has said time and again that in reviewing rape cases, it will be guided by the settled realities that an accusation for rape may be made with facility. While the commission of the crime may not be easy to prove, it becomes even more difficult for the person accused, although innocent, to disprove that he did not commit the felony. In view of the intrinsic nature of the crime of rape where only two persons are normally involved, the testimony of the complainant must always be scrutinized with great caution.^[24] Thus in a prosecution for rape, the complainant's credibility becomes the single most important issue.^[25]

Accused-appellant basically seeks to discredit the testimony of the victim. This Court has, however, remained steadfast to the rule that the trial court's assessment of the credibility of complainant's testimony is entitled to great weight, absent any showing that some facts were overlooked which, if considered, would affect the outcome of the case.^[26] Guided by the foregoing principles, the Court has meticulously scrutinized the testimony of complaining witness Myrna Bawang and ultimately reached the conclusion that the acts charged did in fact occur. Fourteen-year old Myrna's testimony on the acts of rape perpetrated against her by her father is clear and could have only been narrated by a victim subjected to such a sexual assault. Indeed, the accused-appellant's bestiality is detailed in the following narration of the victim:

Q: What happened when you went to the creek to wash cloth[e]s last year?

A: He ordered me to wash cloth[e]s then he followed up, sir.

Q: Who ordered you to wash cloth[e]s?

A: My father, Sir.

Q: You mean to say Carlito Bawang the accused in this case?

A: Yes, sir.

Q: You said that you were ordered to go to the creek to wash cloth[e]s and you also said that your father followed you up, tell this Hon. Court what happened when you and your father was (*sic*) at the creek?

A: He requested me to have sexual intercourse with him, sir.

Q: And what did you tell him when he asked that he will have sexual intercourse with you?

A: He pointed his hunting knife to me, sir.

Q: After he pointed his hunting knife at you what happened next?

A: He push[ed] me sir.

Q: And what happened to you when you were pushed by your father?

A: He take (*sic*) off my panty, sir.

Q: Who take (*sic*) your panty, he or you?

A: He, sir.

Q: Was your panty taken off from your body?

A: Yes, sir.

Q: What happened after your panty was taken off?

A: He also take (*sic*) off his brief.

Q: After he take (*sic*) off his brief and your panty was take[n] off what happened?

A: He lay on top of me, sir.

Q: And what happened when he lay on top of you?

A: That is the time I felt pain in my vagina.

Q: Why?

A: Because his penis is inside my vagina.

Q: You said he was holding a hunting knife, at that time what did he do with the hunting knife?

A: He pointed the hunting knife at my neck, sir.

Q: Did he say something?

A: There was that if I will reveal it he will kill me, sir.

Q: You said you felt pain when you notice[d] that his penis was inside your vagina, what happened to your vagina?

A: It was bleeding, sir.

Q: Did he say something to you when he go (*sic*) away?

A: Yes, he warned me not to tell it to my mother.

Assailing the foregoing narration of the victim, accused-appellant first insists that Myrna's claim that she was raped is doubtful because she reported the incident to the police more than two (2) months after the incident took place. He further argues that Myrna cannot claim that her fear of appellant was the reason for the delay because she reported the incident to her mother immediately after it took place.

The argument is sophistic at best and is bereft of merit.

The two-month delay of Myrna and her mother in reporting the victim's ravishment is explained by the fact they were intimidated by accused-appellant. It needs stressing in this regard that accused-appellant was the victim's father who had control and moral ascendancy over her. The victim lived under the same roof with accused-appellant and saw him everyday. In fact, even after the rape, she still slept in the same house with him.^[27] Accused-appellant's threats and constant presence were thus enough to cow Myrna and her mother into silence. Particularly revealing in this regard are the following excerpts of Pacita Bawang's testimony on cross-examination:

Q: So more than one month passed that you reported the incident at Siayan.

A: Yes, sir.

Q: What took you so long?