

SECOND DIVISION

[G.R. No. 133925, November 29, 2000]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, vs.
AGUSTIN GOPIO, ACCUSED-APPELLANT.**

D E C I S I O N

MENDOZA, J.:

This is an appeal from the decision^[1] of the Regional Trial Court, Branch 12, Bulacan, finding accused-appellant Agustin Gopio guilty of statutory rape and sentencing him to suffer the penalty of *reclusion perpetua* and to indemnify the heirs of the victim in the amount of P3,727.00 as actual damages, P30,000.00, as moral damages, and to pay the costs of the suit.

The information against accused-appellant charged:^[2]

That sometime in the year 1995, in the municipality of Obando, province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the said accused Agustin Gopio y Arcillas, by means of violence, force and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of the said Ma. Princess Millano y San Diego, 11 years of age, against her will.

Contrary to law.

Trial proceeded as accused-appellant pleaded not guilty when arraigned on March 7, 1997. The prosecution presented as witnesses the victim, Ma. Princess Millano, her mother, Luzviminda Millano, and the Municipal Health Officer of Obando, Bulacan, Dr. Rufino Bautista.

The offense charged was committed by Agustin Gopio,^[3] in Brgy. San Pascual, Obando, Bulacan sometime between the months of May and June 1995. At that time, the barangay was celebrating its fiesta. The victim stepped out of their house around 10:00 a.m. to buy cooking oil from accused-appellant's store. However, it was closed.^[4] As she was about to leave the store, accused-appellant called her. When she came near him, he suddenly seized her and brought her inside the house. There was nobody inside the house when the victim was taken by accused-appellant to the bedroom. The victim resisted and screamed but accused-appellant threatened to hurt her and her family. Accused-appellant laid the victim on the bed in such a way that her feet were dangling on the floor. Then, he removed her underwear, bent over the victim, and started licking her vagina. Later on, accused-appellant removed his briefs, knelt on the floor, and placed his penis in the victim's vagina. The victim cried in pain as accused-appellant penetrated her. As the victim would not stop crying, accused-appellant let her go.^[5]

The victim immediately went outside accused-appellant's house and rushed home. On the way to her house, she felt intense pain in her vagina and noticed that she was bleeding. As soon as she reached home, she changed her clothes. She was confused and afraid her mother would get angry because of what happened to her. When her mother saw her inside the house and asked her if she was able to buy cooking oil, the victim told her mother that the store was closed. So, she was again sent out to buy cooking oil from another store.

The victim related that on two other occasions after the incident, also in 1995, she was again molested by accused-appellant. On one occasion, the victim stated that she went to the house of her godsister, Rachel, also in San Pascual, Bulacan, to invite the latter to play, but Rachel was not around. Inside the house were several men playing *tong-its*. Among them was accused-appellant. When the victim was about to leave, she saw Rachel's younger brother inside the bedroom crying, so she went there and picked him up. To the victim's surprise, accused-appellant went to the bedroom and closed the door behind him. The victim tried to cry out for help but accused-appellant tightly covered her mouth and ordered her to put the child down. When she did so, he lowered her shorts and panty and started caressing her vagina. After more or less one month had elapsed, accused-appellant once again molested the victim when she went to her grandfather's abandoned house to get the pail requested by her aunt. She did not know that accused-appellant followed her to the house and she was too afraid to resist the sexual advances by accused-appellant.

The victim did not confide to her family about these incidents because she was very afraid of accused-appellant and of what her parents would do to her. Likewise, the victim was ashamed and worried that her friends would spread the news regarding her unfortunate experience.^[6]

To corroborate the testimony of the victim, Luzviminda Millano initially testified that her daughter, who was born on February 7, 1985, was 10 years old at the time of the rape incident, as evidenced by the victim's birth certificate (Exh. D).^[7] On cross-examination, Luzviminda recalled that when the victim came back from the store, she observed that her daughter looked pale and worried. She also noticed that her daughter had changed her clothes. However, Luzviminda did not bother to ask her daughter what happened to her because she had several things to do and was very busy preparing for lunch. The victim did not eat lunch on that day and ate supper ahead of them. Luzviminda added that since the time of the incident, the victim had become inattentive and withdrawn. She started getting noticeably low grades in school.^[8]

In November 1996, Luzviminda brought the victim to the Municipal Health Center of Obando, Bulacan because the latter had been experiencing pain in her navel. The health officer of Obando, Dr. Rufino Bautista, conducted the physical examination of the victim and made the following findings in his report: ^[9]

On external examination of the genital organ -

Presence of irregular and hardened surface of both labia majora and labia minora, around the edges of both labia

On internal examination -

- a) easily admits size of thumb without any resistant (sic)
- b) ruptured hymen with hard edges (scar)

Medical Opinion:

Virginity was destroyed, sexual intercourse was consummated.

Dr. Bautista's findings showed that the victim's hymen had been ruptured, caused possibly by the insertion of a male organ. He concluded that the victim had already lost her virginity and explained that the looseness of the vaginal canal could not have been caused by strenuous physical activities or accidental falling.^[10]

Based on the result of the physical examination, Luzviminda, with the help of her brother-in-law, asked her daughter if something happened to her. At first, the victim was hesitant but, later on, she finally told them that she was raped by their neighbor, accused-appellant Agustin Gopio.^[11] Thereafter, on November 25, 1996, Luzviminda filed a criminal complaint in behalf of the victim charging accused-appellant with rape. The information for rape was formally filed on February 12, 1997.

Luzviminda presented several receipts covering medical, transportation, food, and other expenses which she allegedly incurred on account of the incident.^[12]

The defense, on the other hand, presented accused-appellant Agustin Gopio and his wife, Susita Gopio, as witnesses. Accused-appellant testified that he knew the victim and her family because they were neighbors in Obando, Bulacan. He testified that it was impossible for him to commit the crime of rape against the victim in May and June of 1995 because he was then in Novaliches, Quezon City. Accused-appellant explained that he has been selling fish there almost everyday since 1994. He said that he usually left his house at 1:00 a.m. to buy fish from the "*pondohan*" and sell them in the market from 7:00 a.m. until 11:00 a.m. Accused-appellant would then go home and reach his house between 12:00 noon to 1:00 p.m. Afterwards he would usually go to the cockpit between 1:00 p.m. to 2:00 p.m. Moreover, accused-appellant alleged that the victim's father told him that, sometime in 1995, the victim and the other members of her family were in Quezon. Accused-appellant stated that he last saw the victim in 1994 although he admitted that she used to go to their store either to buy food or play with one of his daughters.

Accused-appellant further declared that at one time he failed to bring along the victim's mother to the market to sell fish and his failure to do so started the animosity between their families. Accused-appellant testified that it could be why the victim's family filed a case against him.

Accused-appellant's wife, Susita Gopio, testified that they had a retail store at home. She opened the store at around 7:00 a.m. and closes it at 10:00 p.m. everyday. Hence, it was unlikely that there was nobody in the house at the time of the alleged incident.^[13]

On November 23, 1996, several policemen came looking for accused-appellant in his house. When accused-appellant arrived and learned about this, he went to their barangay captain for assistance. Thereafter, the barangay captain accompanied accused-appellant to the police station to clear his name. However, when they arrived at the police station, accused-appellant was informed of the charges against him. He was then placed in jail despite his protests. Moreover, while he was imprisoned, accused-appellant executed a sworn statement denying the charges against him.^[14]

After trial, the court *a quo* rendered its decision, dated April 6, 1998, finding accused-appellant guilty of rape. The dispositive portion of its decision reads:^[15]

WHEREFORE, finding accused Agustin Gopio y Arcillas guilty as principal beyond reasonable doubt of the crime of statutory rape as charged in the information, there being no aggravating or mitigating circumstance attending the commission of said crime, he is hereby sentenced to suffer the penalty of *reclusion perpetua*, to indemnify the private offended party in the amount of P3,727.00 as actual damage, and in the further sum of P30,000.00 as moral damages, and pay the costs of the proceedings.

In the award of the above moral damages the filing fee corresponding thereto shall constitute a first lien on said judgment.

In the service of his sentence the accused who is a detention prisoner shall be credited with the time during which he has undergone preventive imprisonment, pursuant to Art. 29 of the Revised Penal Code.

SO ORDERED.

Hence this appeal. Accused-appellant assigns the following errors as having been allegedly committed by the trial court:

I.

THE TRIAL COURT ERRED IN NOT FINDING THAT THE INFORMATION IS INSUFFICIENT TO SUPPORT A JUDGMENT OF CONVICTION FOR ITS FAILURE TO STATE THE PRECISE DATE OF THE OFFENSE CHARGED.

II.

THE TRIAL COURT GRAVELY ERRED IN FINDING ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT OF THE CRIME CHARGED.

In the prosecution for rape cases, this Court has been guided by the following principles in its review of trial court decisions: (1) an accusation for rape can be made with facility; it is difficult to prove but more difficult for the person accused, though innocent, to disprove; (2) in view of the nature of the crime of rape where only two persons are usually involved, the testimony of the complainant is scrutinized with extreme caution; and (3) the evidence for the prosecution stands or falls on its own merits and cannot be allowed to draw strength from the weakness of the defense.^[16]

In the case at bar, our review of the evidence confirms the finding of the trial court that accused-appellant is guilty of statutory rape. The two elements that must be established to hold the accused guilty of statutory rape are: (1) that the accused had carnal knowledge of a woman, and (2) that the woman is below 12 years of age. Thus, the age of the victim, as an essential element for the conviction thereof, must unquestionably be proved by the prosecution.^[17]

The evidence presented by the prosecution shows that accused-appellant had carnal knowledge of the victim. In the sworn statement, dated November 23, 1996, which the victim executed and properly identified during the trial, she stated:^[18]

T: Ano ba ang ginawa sa yo ni Jhun Gopio at gusto mong makulong ito?

S: Dahil po sa ginawang panghahalay niya sa akin.

T: Ano bang klaseng panghahalay ang ginawa sa iyo ni Jhun?

S: Ginahasa po niya ako.

T: Maaari mo bang sabihin sa pagsisiyasat na ito kung paano ka ginahasa ni Jhun?

S: Opo, hinubaran po ako ng panty, pinahiga po ako sa kama, dinila-dilaan po ang ari ko (kiki) at tapos po ay naghubad po siya ng short at brief pinasok po niya ang ari (titi) niya sa kiki ko.

T: Ano pa ang ginawa ni Jhun ng nakapasok na ang titi niya sa ari mo?

S: Hindi ko na po matandaan.

T: Ano ang ginawa mo ng nakapasok na ang titi ni Jhun sa ari mo?

S: Umiiyak po ako at sinasabi ko na "Huwag po, tama na po," pero hindi po siya nakikinig sa akin.

T: Ang ibig mo bang sabihin ng ikaw ay pinahiga sa kama ay pumatong ba ang katawan ni Jhun sa katawan mo?

S: Hindi po, nakaluhod po siya sa sahig at ang dalawa ko pong paa ay nasa sahig.

T: Ikaw ba ay nakakaintindi sa orasan?

S: Opo.

T: Humigit-kumulang, gaano ba katagal na ginawa sa iyo ni Jhun ang bagay na yun?

S: Humigit kumulang po sa isang (1) minuto.