

EN BANC

[G.R. Nos. 132239-40, December 04, 2000]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
FRANCISCO NAVIDA, ACCUSED -APPELLANT.**

D E C I S I O N

PER CURIAM:

Before us for automatic review is the consolidated decision^[1] of the Regional Trial Court, Branch 103, Quezon City, in Criminal Cases Nos. Q-96-67996 and Q-96-67997, promulgated on 24 October 1997, which declared accused-appellant Francisco Navida (hereafter FRANCISCO) guilty beyond reasonable doubt of the crime of rape and sentenced him to suffer in each case the penalty of death and to indemnify the victim, his daughter Glenda V. Navida (hereafter GLENDA) in the amount of P50,000 and to pay the costs of suit.

In her *Sinumpaang Salaysay*^[2] dated 25 May 1996, GLENDA narrated the sexual depravity of FRANCISCO. The assaults on her virtue allegedly began sometime in September 1994 and ended only on 6 January 1996. However, the sad and horrible sexual experience she had with FRANCISCO on the 24th and 25th of December 1994 were those she remembered very well.

On 19 June 1996, GLENDA submitted herself to a medico-legal examination by Dr. Jesusa N. Vergara, Chief of the Medico-Legal Division of the Crime Laboratory of the National Headquarters of the Philippine National Police (PNP), Camp Crame, Quezon City. The results of the examination were embodied in Medico-Legal Report No. M-942-96-A.^[3]

On 4 October 1996, after appropriate proceedings, criminal complaints docketed as Criminal Cases Nos. Q-96-67996 and Q-96-67997 were filed by GLENDA with the Regional Trial Court of Quezon City. The complaint in Criminal Case No. Q-96-67996 reads *verbatim* as follows:

The undersigned accuses FRANCISCO NAVIDA of the crime of rape, committed as follows:

That on or about the 24th day of December 1994 in Quezon City, Philippines, the said accused by means of force and intimidation, to wit: by then and there wilfully, unlawfully and feloniously at knife point told her to undress and thereafter placed himself on top of GLENDA V. NAVIDA, 15 years of age, a minor, and thereafter have carnal knowledge with the undersigned complainant against her will and without her consent.

CONTRARY TO LAW.^[4]

The complaint^[5] in Criminal Case No. Q-96-67997 is similarly worded, except as to the date the alleged rape was committed, *i.e.*, 25 December 1994.

FRANCISCO entered a plea of not guilty at his arraignment on 23 January 1997.^[6] Immediately thereafter, trial on the merits ensued.

The prosecution presented as its witnesses GLENDA, Nelda Navida and Dr. Anthony Joselito Llamas, a medico-legal officer. Upon the other hand, the defense relied mainly on the testimony of FRANCISCO.

GLENDA, who was born on 21 January 1979, testified that sometime in December 1994 in their residence in San Juan, Agno, Pangasinan she was entreated by her father FRANCISCO to celebrate Christmas at her Lola Ising's house in Fairview, Quezon City. Since she has never been in "Manila" GLENDA consented. On the morning of the 24th day of December 1994 they took a bus for Manila. They alighted in Quezon Boulevard in Manila and then rode on a jeepney bound for Quezon City Memorial Circle where they got off. It was more or less 8:00 p.m.^[7] FRANCISCO told GLENDA that they would spend the night at the place of her brother Sonny at the Department of Agriculture, Visayas Avenue, Quezon City. They proceeded to that place; but as they walked along the grassy compound of the Department of Agriculture, FRANCISCO told GLENDA that they stop to rest. Fearing the dark, she disagreed and suggested that they go straight to Sonny's place. FRANCISCO, however, told GLENDA that he wanted to have sexual intercourse with her. GLENDA refused but FRANCISCO told her that he will have himself intoxicated and that he will thereafter return to kill her. FRANCISCO left while GLENDA, apparently scared of the threat of FRANCISCO, stayed behind. Upon his return, FRANCISCO poked a knife to her and ordered her to disrobe. Knowing fully well the temperament of FRANCISCO, GLENDA obliged to take off her clothes. Thereafter, FRANCISCO took off his pants and ordered her to lie down on the ground. Then he mounted on top of her and inserted his penis into her vagina. She felt pain in her private parts. After awhile FRANCISCO withdrew his penis and GLENDA noticed that "something came out of his penis and he wipe(d) it with his handkerchief." FRANCISCO ordered GLENDA to dress up and warned her not tell Sonny of the incident, for if she did, he will kill both of them. FRANCISCO and GLENDA proceeded to Sonny's place. FRANCISCO told Sonny that they came to spend the Christmas holiday with Lola Ising. Sonny acceded to the plan. GLENDA could not tell Sonny about her ordeal since she was afraid of the warnings of FRANCISCO.^[8]

On 25 December 1994, GLENDA and FRANCISCO went to Lola Ising's place at Fairview, Quezon City and thereat celebrated the Christmas day. After the celebration, sometime late in the evening, FRANCISCO told GLENDA that they go back to Sonny's place. She obeyed him and they took a jeepney bound for Quezon City Memorial Circle. They alighted at the Visayas Avenue and walked along the grassy area of the Department of Agriculture. Once again FRANCISCO, driven by his bestial instinct, told GLENDA that he wanted to have sexual intercourse with her and ordered her to undress. GLENDA protested but FRANCISCO threatened her with a knife. Afraid of earning FRANCISCO's ire, GLENDA undressed herself. He then

placed himself on top of her and inserted his penis into her vagina. After he satisfied his bestial desires, he put on his clothes. GLENDA put on her dress. They then proceeded to Sonny's place. Like before, GLENDA was warned by FRANCISCO not to tell her brother Sonny about the incident.^[9] The next day, the two went home to Pangasinan.^[10]

On 6 January 1996, GLENDA was again sexually molested by FRANCISCO in their house in Pangasinan. This time, GLENDA mustered enough courage to end the indignity she experienced in the hands of her own father. She decided to escape to Manila with the help of her brother Ernesto. On the way, GLENDA passed by Alaminos, Pangasinan, to meet her mother Nelda. The latter accompanied GLENDA to Manila while Ernesto was left behind.^[11]

On 7 January 1996, FRANCISCO followed GLENDA in Quezon City. There, he made another indecent proposal to GLENDA, but she rejected it. Her refusal was met with a violent reaction from FRANCISCO who forthwith plunged a knife to her hitting her "left side just above her waistline and another one below her left nipple."^[12] Luckily for GLENDA, she survived the attack and was confined at the East Avenue Hospital where a "certain Ilocana from Fairview" visited and assisted her in finding a lawyer.^[13]

Finally, GLENDA testified that she felt pain in her vagina and in her whole body each time FRANCISCO sexually molested her.^[14]

Nelda Navida, GLENDA's mother and FRANCISCO's wife, testified that on 24 December 1994, GLENDA and her husband FRANCISCO went to Manila to celebrate Christmas. She believed the story of GLENDA since she had witnessed FRANCISCO having sexual intercourse with GLENDA in their own conjugal dwelling in Agno, Pangasinan. Nelda concluded her testimony by saying that FRANCISCO deserves a death sentence for the crime he committed against GLENDA.^[15]

Dr. Anthony Joselito Llamas,^[16] a medico-legal officer of the PNP National Headquarters in Camp Crame, testified that on 19 June 1996, he had personally assisted Dr. Jesusa Vergara, then Chief of the Medico- Legal Division of the PNP National Headquarters Crime Laboratory, who conducted a medical examination on GLENDA. In the course thereof, Dr. Llamas noticed that GLENDA has a scar indicating a "previous history of injury." An examination of GLENDA's hymen revealed that her vagina have a "deep healed lacerations at 3, 6, 9 o'clock position(s)." He opined that there was a "penetration of the hymen by [a] hard blunt object most probably [by an] erect penis." He added that GLENDA is no longer a virgin and must have experienced sexual intercourse for more than three times as evidenced by a finding that her "vaginal orifice offers slight resistance to the introduction of the examining index finger and the virgin-sized vaginal speculum."^[17]

For his defense, FRANCISCO denied the allegations and instead imputed ill-motive on the part of his wife Nelda Navida as justification for the filing of the charges against him. He asserted that his wife Nelda induced GLENDA to concoct the horrible lie so that Nelda and her paramour could carry on their immoral trysts.^[18]

The trial court was fully convinced of the criminal culpability of FRANCISCO. It observed that the story of GLENDA, a young, simple-minded and innocent barrio lass, is "laden with the mine of truth." It refused to give weight and substance to FRANCISCO's imputation of an evil motive. Consequently, in its decision of 24 October 1994, the trial court decreed as follows:

ACCORDINGLY, judgment is hereby rendered finding the herein accused Francisco Navida, GUILTY beyond reasonable doubt in these two (2) cases of the crime of RAPE as sole principal and he is hereby sentenced to suffer the extreme penalty of DEATH in both Criminal Case No. Q-96-67996 and Criminal Case No. 96-67997.

The damage indemnity of P50,000.00 in each case is hereby awarded to Glenda V. Navida, private offended party. Cost against the accused.

SO ORDERED.^[19]

In his Appellant's Brief, FRANCISCO seeks the reversal of the judgment of the trial court because it erred in:

I

...FINDING [HIM] GUILTY OF TWO (2) COUNTS OF RAPE NOTWITHSTANDING THAT THE TESTIMONY OF THE ALLEGED VICTIM, GLENDA NAVIDA, ON WHICH THE PROSECUTION ANCHORED ITS CASE, LACK [*sic*] CREDIBILITY BEING HIGHLY IMPROBABLE AND PREGNANT WITH INCONSISTENCIES.

II

...SENTENCING [HIM] TO DEATH DESPITE THE FACT IT NEVER MENTIONED IN ITS JOINT DECISION ANY QUALIFYING CIRCUMSTANCE CONTEMPLATED IN SEC. 11, R.A. NO. 7659 WHICH WOULD QUALIFY THE CRIMES CHARGED TO MERIT THE IMPOSITION OF THE DEATH PENALTY, NOR DID IT CITE IN ITS FINDINGS THAT THE EVIDENCE ON RECORD SUPPORTS THE ATTENDANCE OF ANY OF THE SAME IN THE COMMISSION OF THE FELONIES.

The first assigned error is anchored on the trustworthiness of GLENDA's testimony. FRANCISCO contends that GLENDA's behavior before and after the alleged ravishment was unreliable and doubtful. She failed to solicit the help of her relatives despite the opportunity to do so; she did not ran away from her alleged molester in order to prevent the happening of the incident; and she was guilty of delay in reporting her defilement to the authorities. Finally, FRANCISCO ascribes evil motive to his wife Nelda who allegedly wanted to get rid of him so that she may continue her illicit affair with another man.

As regards the second assigned error, FRANCISCO argues that the criminal complaints in these cases do not state the essential facts necessary to make out a

case of qualified rape to justify the application of Section 11, of R.A. No. 7659. Moreover, the joint decision of the trial court makes no findings on the presence of the qualifying circumstances. Consequently, his conviction for qualified rape denied him of due process of law.

FRANCISCO further argues that assuming that the prosecution was able to establish that he committed the sexual assault with the use of a knife, then pursuant to Article 335, as amended by R.A. No. 7659, the prescribed penalty therefor is reclusion perpetua to death only. Since the commission of the alleged rapes was unattended by any generic aggravating circumstance, he can be convicted of simple rape only and sentenced to a lesser penalty of *reclusion perpetua*.

In the Appellee's Brief, the Office of the Solicitor General (OSG), prays for the affirmance of the trial court's decision. It maintains that the People has proved the criminal responsibility of FRANCISCO through the honest, forthright and candid testimony of GLENDA. Considering her tender age and relationship with FRANCISCO, who is no less than her father, it is most unlikely that she would fabricate such a serious charge against him if she had not truly been aggrieved. The testimony of GLENDA has the earmarks of truth and candor and is enough to convict FRANCISCO on the basis thereof.

As to the alleged delay in the reporting of the crime, the OSG also argues that considering the seriousness of the threats foisted upon GLENDA by FRANCISCO and the inevitable fact that he exercises moral ascendancy over her, the delay in reporting the rape to the authorities was fully justified.

Anent the imputation of an ulterior motive, the OSG submits that it is inconceivable that GLENDA would allow the examination of her private parts and undergo the humiliation and hardship of a trial if her allegations were untrue; and it is equally inconceivable for a mother, like GLENDA's mother, to expose her daughter to public ridicule unless she was moved by a genuine concern to have the culprit punished. Besides, the results of the medical examination confirmed GLENDA's claim that she was indeed raped.

Anent the second assigned error, the OSG asserts that there is no legal impediment in the imposition of the death penalty. The minority of the victim was particularly alleged in the information and the fact of relationship was established during trial and undenied by FRANCISCO.

Finally, the OSG agrees with the award of P50,000 in each case as damage indemnity but recommends that moral damages of P50,000 in each case should also be awarded.

At the core of FRANCISCO's first assigned error is the assessment of the credibility of GLENDA. When credibility is in issue, settled is the rule that this Court generally defers to the findings of the trial court considering that it is in a better position to decide the question, having heard the witnesses themselves and observed their deportment during trial. There are exceptions to this rule, such as when the evaluation was reached arbitrarily or when the trial court overlooked, misunderstood or misapplied some facts or circumstances of weight and substance which if considered would affect the result of the case.^[20] Unfortunately for FRANCISCO, none of these exceptions appears on the records of these cases. On the contrary,