

THIRD DIVISION

[G.R. No. 123727, April 14, 1999]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ANTONIO GASTADOR Y WAGAS, ACCUSED-APPELLANT.**

D E C I S I O N

PANGANIBAN, J.:

Seldom are there eyewitnesses to a rape. Hence, a conviction must often rest on the credible testimony of the offended party. And appellate courts, not having participated in the trial and not having directly evaluated the demeanor of witnesses on the stand, depend to a large degree on the factual assessments of trial judges.^[1]

The Case

Appellant Antonio Gastador seeks the reversal of the January 29, 1996 Decision^[2] of the Regional Trial Court of Quezon City, Branch 82, which convicted him of rape and sentenced him to *reclusion perpetua*.

On May 5, 1994, Crisanta Balonzo-de Rosas^[3] filed a Complaint^[4] charging Antonio Gastador y Wagas with rape allegedly committed as follows:

"That on or about the 1st day of May, 1994, in Quezon City, Philippines, the said accused by means of force and intimidation, to wit: [did] then and there wilfully, unlawfully and feloniously at knife point, give her fistic blows on the stomach, causing her to lose consciousness and thereafter have carnal knowledge [of] the undersigned complainant against her will and without her consent."^[5]

Upon the certification of Assistant City Prosecutor Leonil G. Reas, the Complaint was treated as the Information.

When arraigned on June 1, 1994, appellant, assisted by Counsel *de Parte*, Manuel Aclo, pleaded not guilty.^[6] Trial proceeded in due course. Thereafter, the court *a quo* rendered its Decision, which disposed as follows:

"WHEREFORE, premises considered, the accused, ANTONIO GASTADOR Y WAGAS, is hereby found guilty beyond reasonable doubt of the crime of rape with which he is charged in the herein Complaint and is accordingly sentenced to the penalty of *reclusion perpetua*, together with all the accessory penalties imposed by law.

"As no evidence was presented to prove actual and/or moral damages, no award therefor can be made by this Court."^[7]

Hence, this appeal direct to this Court.^[8]

The Facts

Version of the Prosecution

In its Brief,^[9] the Office of the Solicitor General^[10] summarized the facts, as viewed by the prosecution, in this manner:

"Complainant Crisanta Balonzo-Derosas, her common-law husband Marlito Derosas (a.k.a. Marlon) and their 1 1/2 months old daughter Marissa reside at 245 Esteve Extension, Commonwealth, Quezon City.

"On May 1, 1994, at 1:00 o'clock in the afternoon, appellant, who is an uncle of Marlito, arrived at the said residence and inquired from Crisanta about Marlito. Crisanta informed him that Marlito had gone out for work in Bicutan early that day.

"After getting a negative reply, appellant entered the house, placed the 'halaan' he was carrying on the kitchen table and went outside. After a short while, appellant returned bringing with him a bottle of Tanduay E.S.Q., which he drank until 6:00 o'clock in the evening.

"Crisanta, on the other hand, went outside the house together with her baby and returned at about 6:00 o'clock in the evening. As she was about to lay her baby on the bed, appellant suddenly approached her, pointed a knife at her neck and told her, 'Babae ka lang at wala dito and asawa mo, kayang-kaya kita.' She resisted appellant's advances by fighting him back. However, appellant punched her at the stomach causing her to lose consciousness while her baby slipped from her arms and fell into the bed.

"When Crisanta regained consciousness, she found herself and appellant naked, with appellant on top of her doing the push and pull movement while pointing a knife at her neck. While appellant was raping her, Crisanta felt blood oozing from her vagina. She bled profusely and continued to bleed for three (3) more days after the incident.

"During the ordeal, Crisanta kept silent since she feared for her and her baby's life.

"After satisfying his lust, appellant warned Crisanta not to tell the incident to Marlito, otherwise, he [would] kill her and her family. Crisanta was left crying in anger and desperation.

"At around 7:00 o'clock in the evening, Marlito arrived from work and saw appellant in their house. He was not surprised to see appellant since appellant [was] a relative who had visited them in the past.

"Crisanta did not reveal her ordeal to Marlito since she was afraid that appellant might kill them. Marlito, however, noticed Crisanta's swollen eyes and when he asked her about it, she just cried. Crisanta then stood

up to cook. Marlito noticed the bloodstains on Crisanta's short pants and on their bedsheet and when he asked Crisanta about it, she replied that she was having her menstruation. He was, however, puzzled since she had just given birth to their daughter. Crisanta went on with her household work and prepared dinner but only Marlito and appellant dined together. At dinner, Marlito found it unusual that appellant was just silently staring at him and Crisanta.

"At bedtime, Marlito slept beside Crisanta. He noticed that she was profusely perspiring and although he became worried about her, he opted not to question her anymore.

"Appellant slept at the couple's house on that same day. During his slumber, Marlito heard him utter the words, 'Sige na Cris, isa lang,' three (3) times while doing a pumping motion. The next morning, appellant left the house. It was then that Crisanta told Marlito about the rape incident angrily saying, 'Bakit ganoon and tiyo mo, kahayop!' Marlito was stunned and unable to move.

"After regaining his composure, Marlito went to their landlord and borrowed money for Crisanta's medication. Upon learning of the unfortunate incident, the landlord accompanied Marlito and Crisanta to the barangay chairman, who referred them to police station 6 in barangay Batasan, Quezon City, where Crisanta executed her sworn statement.

"Thereafter, Crisanta was subjected to medico-legal examination by Dr. Cristina Freyra at Camp Crame, Quezon City on May 3, 1994. The examination yielded the following findings:

'Subject is in non-virgin state physically.

'There are no external signs of recent application of any form of violence.

'Vaginal and peri-ureth[r]al smears are negative for gram-negative diplococci and for spermatozoa.'

"In the evening of the same day, policemen arrived at Marlito's residence and asked his assistance in the arrest of appellant.

"Appellant was subsequently arrested at his workplace in Pasig."^[11]
(Citations omitted.)

Version of the Defense

In the Brief prepared by the Public Attorney's Office,^[12] appellant set up the defense of denial and narrated the facts as follows:

"ANTONIO GASTADOR denied having raped Crisanta de Rosas. On May 1, 1994 at 1:00 o'clock in the afternoon, he was at the IPM Construction located at Pasig. He worked thereat from 7:00 o'clock in the morning up to 3:00 o'clock in the afternoon on May 1, 1994. After working, he rested

for a while, took a bath and went home to their rented house at Manggahan. He was staying at Manggahan together with his son Jun-Jun, his nephew Marlon and the latter's wife Crisanta and their one and one half (1 1/2) month old daughter. He arrived home at 6:00 o'clock in the evening and thereat he saw Crisanta de Rosas and her daughter. He asked Crisanta for food and the latter obliged. He ate the food which he bought from the market. After eating, he was supposed to go to Villa Beatrice, but he met his son Jun-Jun and nephew Marlon at the door of their house. Marlon requested Crisanta to cook pork which he bought. While Crisanta was cooking, he had conversation with Jun-Jun and Marlon. When Crisanta finished cooking, all of them had dinner. After eating, they slept. Jun-Jun slept beside him while Marlon and Crisanta slept together. Marlon woke him up at 4:00 o'clock in the morning the following morning because he (Antonio) was going to work. He took a bath, had coffee and then went to work at IPM Construction at 5:00 o'clock in the morning. He worked thereat up to 9:00 o'clock in the evening. Thereafter, he was arrested by three (3) persons and was brought to Police Precinct No. 6. They asked him if he raped Crisanta de Rosas which he denied. When they reached Precinct No. 6, he was mauled by policemen which caused his ribs to be broken.

"CIRILO DE ROSAS testified [that] on May 2, 1994 at 7:00 o'clock in the evening he was preparing to sleep at his residence at Villa Beatriz when four (4) persons arrived asking the whereabouts of Antonio Gastador. He told them that Antonio was at his work at the IPM Construction at Pasig. They requested him to accompany them to Antonio's place of work and thereat they arrested Antonio. They brought Antonio to Precinct No. 6 because a case for rape was filed against him by Marlon de Rosas. On May 3, 1994, he brought food for Antonio at Precinct 6. Thereat, he met Marlon who was asking Antonio to admit his guilt. Marlon told him that if they would give P20,000.00, then he would withdraw the case filed against Antonio. They did not agree because Antonio [was] not guilty so he would not pay a single centavo. Then Marlon offered that even for only P5,000.00 to be given to the policemen, they would withdraw the case, but still they did not agree.

"ANTONIO GASTADOR, JR. declared that on May 1, 1994 at about 1:00 o'clock in the afternoon, he arrived at their rented house located at Manggahan. Thereat, he saw Crisanta de Rosas taking care of her baby. He rested and while resting his cousin Marlon arrived. Marlon ate and then invited him to watch a movie. They watched a movie at Ever Commonwealth up to 5:45 in the afternoon. On their way home, they bought pork. They arrived home at around 6:30 o'clock in the evening when his father, Antonio, was about to go out to fetch them. When his father saw them, he returned to the house. Marlon requested his wife Crisanta to cook the pork which they bought while he had conversation with his father and Marlon. When Crisanta finished cooking, all of them ate together. Thereafter, he slept together with his father, while Marlon and Crisanta slept on the 'papag'. At 4:30 the following morning, he and his father woke-up. After taking coffee, they went to work at IPM construction."^[13] (Citations omitted.)

Ruling of the Trial Court

Rejecting the appellant's denial, the court *a quo* gave credence to the victim's account. It ruled:

"Let it be stated that the testimony of the private complainant as to how the offense of rape was perpetrated by the accused, including its lurid and painful details, was clear, sincere, spontaneous and consistent. Whatever inconsistencies there may be therein refer only to minor and collateral matters which do not affect either the substance of her declaration or the weight of her testimony. Her demeanor on the witness stand further adds credence to her testimony, which was moreover supported and corroborated on material points by the testimonies of the other prosecution witnesses.

"In sum, this Court finds that the prosecution has fully discharged its burden of proving the accused guilty beyond reasonable doubt of the offense with which he is charged in the herein Complaint. The prosecution submits in its Memorandum that the aggravating circumstance of abuse of confidence (Art. 14 (4), Revised Penal Code) has also been proven to attend the commission of the offense. As the prosecution puts it:

'The commission of the crime of rape in the instant case was attended by the aggravating circumstance of relationship. The private complainant, it should be noted, has trusted the accused, he being an uncle-in-law, and had no inkling that he [would] rape her when [s]he allowed him entry into her house on the fateful afternoon of 01 May 1994. This abuse of trust and confidence facilitated the commission of the rape and the accused took advantage of the offended party's belief that the former would not abuse said confidence. In her testimony, private complainant allowed the accused entry into her house despite the absence of her husband (TSN, 22 June 1994, p. 5).'

"Undeniably, our jurisprudence is to the effect that an aggravating circumstance, even if not alleged in the Complaint or Information, may be proved over the objection of the defense, provided the same is generic in character. However, an aggravating circumstance should be proved as fully as the crime itself to increase the penalty. In the case of abuse of confidence, it is required that there be sufficient proof that the offended party had trusted the offender; that the offender had abused such trust by committing the offense; and that the abuse of confidence must be a means of committing the crime. From the evidence before it, this Court finds no sufficient proof of the third or last requisite. Evidently, it was not the first time that the accused was in the house of the private complainant on May 1, 1994. He used to visit the place before that date. He thus did not purposely utilize his relationship with the private complainant to commit the crime of rape on her. Although he apparently abused the confidence reposed [i]n him by the offended party, it cannot be definitely and positively concluded that he used said abuse of confidence to facilitate his criminal act. Accordingly, this Court finds that