

EN BANC

[G.R. No. 124097, June 17, 1999]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
CARLOS BONGHANoy, ACCUSED-APPELLANT.**

D E C I S I O N

ROMERO, J.:

The case at hand is an unwelcome addition to the numerous cases of rape involving the young and innocent, appallingly aggravated by the close kinship between the offender and the victim.

On July 26, 1994, an information for rape was filed against accused-appellant Carlos Bonghanoy, as follows:

The undersigned Asst. Provincial Prosecutor, on complaint of the offended party Baby Jane de Guzman y Bonghanoy, assisted by her mother, accuses Carlos Bonghanoy y Agrabiador alias "Caloy" of the crime of rape, penalized under the provisions of Art. 335 of the Revised Penal Code, committed as follows:

That on or about the 28th day of June, 1994, in the municipality of San Jose del Monte, province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the said accused Carlos Bonghanoy y Agrabiador alias "Caloy," armed with a stone, did then and there wilfully, unlawfully and feloniously, by means of force, threats and intimidation and with lewd designs, have carnal knowledge of the said offended party against her will, a minor who is a (sic) fourteen (14) years old.

Contrary to law.^[1]

Upon his arraignment, accused-appellant pleaded not guilty. Trial thereafter ensued, with the prosecution presenting the victim Baby Jane, her mother, and the medico-legal officer who examined her. Based on their testimonies, the prosecution evidence runs as follows:

Baby Jane, a 14-year old second year high school student, is the niece of accused-appellant, the latter being the younger brother of Baby Jane's mother. At 7:00 in the evening of June 28, 1994, accused-appellant went to Baby Jane's house at San Jose del Monte, Bulacan, asking permission from her parents to have her brother Jovy accompany him in looking for his wife. Jovy was, however, busy with his homework, prompting accused-appellant to ask Baby Jane's parents to allow Baby Jane to accompany him instead. On the assurance that they would be gone for only a short while, Baby Jane's parents agreed.

Accused-appellant and Baby Jane went to the residence of the former's parents-in-

law only to find out that accused-appellant's wife had already left. The two proceeded to accused-appellant's paramour who, being sick, did not want to talk to accused-appellant. As a result, accused-appellant decided to go instead to Area D to look for his wife. On the way to Area D, accused-appellant told Baby Jane that they would take a short cut at the San Jose Elementary School.

As the two were passing the elementary school, accused-appellant stopped and said that they should take a rest. Baby Jane demurred, saying she still had some assignments to finish. At this point, accused-appellant seized Baby Jane by her t-shirt and dragged her inside the elementary school compound. Grabbing a big rock, he warned Baby Jane not to scream, otherwise he would hit her with it. Accused-appellant then ordered Baby Jane to strip, who, out of fear, did as she was told. When she had undressed, he ordered her to lie down on the ground. Accused-appellant inserted his middle finger inside Baby Jane's genitalia, moving it in and out. At the same time, accused-appellant began fondling Baby Jane's breasts. This went on for thirty minutes after which accused-appellant mounted Baby Jane and inserted his penis inside her. Simultaneously, accused-appellant sucked on Baby Jane's breasts, and even left a kiss mark on her neck. Baby Jane felt great pain when accused-appellant inserted his organ inside her.

His lechery slaked, accused-appellant told Baby Jane to get dressed. Not unexpectedly, he also warned Baby Jane not to tell her parents what had transpired, threatening to kill them all should she do so. The two arrived at Baby Jane's home at around 11 o'clock in the evening. Accused-appellant told Baby Jane's parents that they had gone to Area D. Baby Jane changed her clothes, her pants and t-shirt being bloodied. Her parents, however, did not notice the unusual appearance of her clothing.

It was only early the following morning when Baby Jane related to her mother that she had been raped by her uncle the previous evening. Not knowing what to do, Baby Jane's mother conferred with a municipal counselor, who advised her to report the matter to the 145th Police Station of the Southern Bulacan Police District Command. Upon reporting the matter to the police, Baby Jane was brought to the Sapang Palay Hospital for the standard medical exam. The hospital, however, lacked the necessary facilities, hence, Baby Jane was transferred to the Camp Crame Hospital where a medico-legal officer of the PNP Crime Laboratory conducted a medical examination on her.

The medical examination revealed that Baby Jane had suffered a compound hymenal laceration at the 6 o'clock position extending beyond the entire width of the hymen to the perineum, just above the anal opening. The medico-legal officer found this laceration to be compatible with recent loss of virginity. On cross-examination, the medico-legal officer testified that the hymenal laceration could not have been self-inflicted unless such a person was insane, a compound laceration being excruciatingly painful.

In his defense, accused-appellant denied the charge hurled against him, claiming that on June 28, 1994, he had a drinking spree with his friends Rolando Gonzales, Edwin Petilla, a certain Casaway, and his brother Abundio Bonghanoy from 5:00 p.m. to 12 o'clock midnight. Accused-appellant testified that he could not have raped his niece on that date, having fallen asleep after consuming three to four bottles of gin mixed with 100 ccs. of a prohibited drug. Accused-appellant attributed

the filing of charges against him to jealousy on the part of Baby Jane's mother, allegedly because their other brothers and sisters, in giving material things, gave him preferential treatment over Baby Jane's mother.

In support of his testimony, accused-appellant presented one of his alleged drinking partners on June 28, 1994, Balvino Alingas, the husband of one of his sisters. Alingas testified that he drank with accused-appellant from 5: 00 p.m. until the time he left at 12:00 midnight, with accused-appellant lying on the floor dead drunk.

On March 14, 1996, the trial court rendered a decision finding accused-appellant guilty of the crime of rape. Noting that the incident took place on June 28, 1994, after the effectivity of Republic Act No. 7659, known as "The Heinous Crimes Law," with the victim a minor below eighteen years of age and the accused-appellant her relative by consanguinity within the third civil degree, the court *a quo* imposed the supreme penalty of death. Hence, this automatic review pursuant to Article 47 of the Revised Penal Code, as amended by Section 22 of Republic Act No. 7659, and Sections 3(e) and 10, Rule 122 of the Revised Rules of Court.

Accused-appellant raises the following errors:

1. THE LOWER COURT ERRED IN NOT GIVING CREDENCE TO THE TESTIMONY OF DEFENSE'S WITNESSES THAT HE DID NOT COMMIT THE CRIME CHARGED.
2. THE LOWER COURT ERRED IN CONVICTING THE ACCUSED AND IMPOSING THE DEATH PENALTY DESPITE THE FACT THAT THE CRIMINAL INFORMATION FILED AGAINST THE ACCUSED DID NOT ALLEGE RELATIONSHIP AS AN ELEMENT OF THE OFFENSE CHARGED;
3. THE LOWER COURT ERRED IN CONVICTING THE ACCUSED AND IMPOSING THE DEATH PENALTY DESPITE THE LACK OF EVIDENCE OF THE AGE OF THE ALLEGED VICTIM AT THE TIME OF THE COMMISSION OF THE ALLEGED RAPE;
4. THE DECISION OF THE LOWER COURT FELL SHORT OF THE CONSTITUTIONAL REQUIREMENT THAT "NO DECISION SHALL BE RENDERED BY ANY COURT WITHOUT EXPRESSING THEREIN CLEARLY AND DISTINCTLY THE FACTS AND THE LAW ON WHICH IT IS BASED." (ART. VIII, SECTION 14, 1987 CONSTITUTION)

It is a cardinal principle in rape cases that the accused may be convicted solely on the testimony of the victim, provided such testimony is credible, natural, convincing and consistent with human nature and the normal course of things. This is so because by its very nature, rape is committed with the least possibility of being seen by the public.^[2]

After a conscientious review of the records and an objective evaluation of the evidence, we agree with the lower court that the charge of rape against accused-appellant was proven beyond reasonable doubt. Baby Jane gave her testimony in a direct, positive and categorical manner. During her cross-examination, she never wavered in her assertion that accused-appellant sexually abused her. Baby Jane's