

EN BANC

[G.R. No. 122909-12, June 10, 1999]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
VICTOR REÑOLA Y CORPEN, ACCUSED-APPELLANT.**

D E C I S I O N

PER CURIAM:

The capital punishment of death was imposed^[1] four (4) times on Victor Reñola y Corpen for committing the crime of rape on four (4) different occasions against his own daughter.

The accused, Victor Reñola, was charged by his 16-year old daughter Marivic Reñola with the commission of rape, not once but repeatedly, in four (4) separate criminal complaints following a preliminary investigation conducted by Assistant Provincial Prosecutor Ella M. Delovino. The information in Criminal Case No. 95-708 read:

"The undersigned complainant MARIVIC REÑOLA y DELOBIAR, a minor, 16 years old, accuses her father VICTOR REÑOLA y CORPEN of the crime of rape, committed as follows:

"That on or about the 23rd day of February 1995 at around 11:00 p.m., in the Municipality of Makati, Metro Manila, Philippines, a place within the jurisdiction of this Honorable Court, the above-named accused, with lewd design, by means of force and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of the undersigned complainant against her will."

"CONTRARY TO LAW."^[2] (Emphasis supplied)

The other three (3) informations are similarly worded (a) except that the paternity and filial relationship of the accused and the victim was not expressed and (b) except with respect to the dates of commission of the offenses charged on the 10th October 1994,^[3] 13th October 1994,^[4] and 15th October 1994.^[5] Thus:

"The undersigned complainant MARIVIC REÑOLA y DELOBIAR, a minor, 16 years old, accuses VICTOR REÑOLA y CORPEN, of the crime of rape, committed as follows:

"That on or about 10th October 1994, (13th October 1994,^[6] and 15th October 1994^[7]), in the City of Makati, Metro Manila, Philippines, a place within the jurisdiction of this Honorable Court, the above-named accused, with lewd design, by means of force and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of the undersigned complainant against her will."

"CONTRARY TO LAW."^[8]

When arraigned on the four (4) informations, accused Victor Reñola, assisted by counsel, entered a plea of not guilty. The trial thereupon proceeded.

The inculpatory facts, according to the prosecution in its evidence given at the trial, were synthesized by the Solicitor-General.

"Private complainant Marivic Reñola, 16 years of age, is one among the six (6) children of appellant Victor Reñola (tsn, August 29, 1995, pp. 3-4; tsn, October 12, 1995, pp. 5-6).

"On 10 October 1994, around 2:00 o'clock in the morning, inside their house at No. 5 Upper Plaza, 21st Street, West Rembo, Fort Bonifacio, Makati City, complainant was suddenly awakened as she felt somebody on top of her (tsn, October 21, 1995, pp. 3-5). When she opened her eyes, she saw her father, herein appellant Victor, pointing to her a '*balisong*' and trying to insert his penis into her vagina (ibid., pp. 5-6). Complainant resisted but failed to 'overcome' appellant (id., p. 6) Appellant laid on top of her daughter for five (5) minutes, more or less, (id., p. 7) and succeeded in penetrating his penis into her vagina (id., pp. 6-7), thereafter releasing semen on her belly (id., p. 7).

"After satisfying his beastly lust, appellant went out towards the kitchen (id., pp. 7-8). Complainant felt the pain and cried (id.). Appellant told her not to tell her mother or else he would kill both of them (id., p. 8)

"Complainant's harrowing ordeal was repeated barely three (3) days later, on 13 October 1994, and again on 15 October 1994, on approximately the same time in the morning, at the same place, the same manner, and by the same aggressor - appellant, her very own father (id., pp. 9-12). Appellant then would punch the thighs of complainant when the latter resisted (id, pp. 10 and 12). Complainant could only cry (id., p. 12)) as appellant 'kept on repeating that he will kill me (complainant) and my mother if I will tell my mother.' (id., p. 9) On all those occasions complainant's mother was out of the house (id., pp. 5,11).

"After the third assault on her virtue, complainant found the courage to narrate her experience to a friend and neighbor, Laila Meri (id., p. 13). The latter got 'angry' and 'mad' (id.) and even uttered, 'do you want me to kill him?' (id.) Meri related the story to complainant's mother, who, in turn, confronted complainant about it (id., pp. 13-14). Complainant confirmed the story (id., p. 14). This time, complainant's mother started observing appellant (id.).

"But not for long, on 23 February 1995, as complainant's mother was again out of the house because she had to attend a councilor '*caucus*,' appellant repeated and succeeded in raping complainant for the fourth time (id., pp. 14-15). The following day, 24 February 1995, complainant told the incident to her mother who decided to report it to the police (id.,

p. 15). There, at the South Sector Police Station, complainant, and her mother as well, executed statements complaining of 'what my own father did to me' (id., pp. 15-16).

"On 27 February 1994, around 4:30 p.m., complainant was medically examined by Dr. Jesusa Nieves Vergara, a Medico Legal Officer of the Philippine National Police, Camp Crame, Quezon City (tsn, August 22, 1995, pp. 3, 22). The examination resulted to the following:

'Conclusion:

'Subject is in non-virgin state physically. There are no external signs of application of any form of violence.

'Remarks:

'Vaginal and peri-ureteral smears are negative for gram-negative diplococci and for spermatozoa.' (Decision, p. 4)

"Dra. Vergara however found hymenal 'healed lacerations' at '7 and 9 o'clock' positions, compatible with the victim's claim that she was raped sometime in October of 1994 (tsn, August 22, p. 22); and, opined that since the victim was already in a 'non-virgin' state, it is common and usual not to find any medical signs or indications that she was raped on 23 February 1995 (ibid. pp. 26-27). More so, considering that the examination was made four (4) days from the occurrence of the last rape (23 February) in which case the abrasions or congestions she was supposed to see could have healed (id., pp. 26-27, 33, 36 and 42)."^[9]

The accused professed his innocence, presenting his defense, thusly:

" x x x the physical evidence presented did not show any proof of slight contusion or bruise on any part of her body. Moreover, the Medico-legal officer stated that according to her findings, the offended party had no recent sexual activity which could not back up the alleged rape done on February 24, 1995 but only the alleged sexual abuses done in 1994 because of the presence of healed lacerations. However, said findings of healed lacerations cannot be specifically attributed to the alleged sexual abuses done in 1994 considering that cases were not filed at the earliest opportunity. Moreover, healed lacerations could have been caused by any other activity done in the sex organ whether sexually or not."^[10]

Insisting that the allegations of the complainant should not be taken seriously, the defense further pointed out -

"Digesting the testimony of the offended party, the following observations reveal incredibility:

"FIRST, the allegations of the offended party on the happening of the four counts of rape are the same.

"It was too much to believe that all the alleged instances or rape as to the scenario were all the same. The time, the holding and pointing of the

knife, the force, the struggling, the release of semen on top of the offended party's belly, and the going out towards the kitchen were all present. There have been no major variations in the stories except on the third time that there was boxing on the thigh. It therefore shows rigidity in form which suggests prevarication.

"SECOND, the offended party stated that between October 15, 1994 up to the last incident of rape on February 23, 1995, there were times that she and his father were left alone in their house. She left their house on those times at 4:00 p.m. and came back at 7:00 p.m. because she was scared of him. However, the alleged instances of rape happened at 2:00 a.m.

"It is unbelievable that complainant wished to suggest that she avoided her father to prevent the sexual abuse on her. But, on the first and second instances of rape, they allegedly happened at 2:00 a.m., a time beyond 4:00 p.m. and 7:00 p.m."^[11]

The accused would attribute the filing of the complaints against him on some ulterior motives on the part of the complainant rather than to seek justice.

"Accused-appellant testified that x x x Marivic Reñola, was not a good girl. She had the habit of going out of the house without asking permission. As a father, he was angry with Marivic that he talked to her regarding her behavior. His daughter Marivic was just angry at him because he was very strict on her. That could have been the reason why Marivic filed the instant cases against him."^[12]

In its decision,^[13] dated 13 December 1995, the trial court found Victor Reñola guilty beyond reasonable doubt of the crimes charged and sentenced him to suffer the extreme penalty of death for each count of rape taking into consideration the special qualifying circumstances that the victim Marivic Reñola was then only 16 years old and the daughter of the accused. The trial court likewise ordered the convict to pay the victim the **sum** of P200,000.00 by way of moral damages.

The case has been directly elevated to this Court for automatic review, a process required by law whenever the death penalty is imposed by a trial court. Contending that the prosecution has failed to overcome the constitutional presumption of innocence by the exacting standard of proof beyond reasonable doubt, appellant would here basically downgrade the testimony of the complainant.

In crimes of the nature now on appeal, the testimony of the offended party is certainly most vital, and it must undoubtedly be received with greatest caution.^[14] Since, except for the actual participants, no other witnesses can give an account on what may have really transpired, a conviction or an acquittal of the accused would virtually depend on the testimony of the complainant.^[15] If found to be credible, the lone declaration of facts given by the offended party has been held to suffice in order to sustain a conviction.^[16] It is thus imperative that the testimony meets the test of credibility and should bear the stamp of truth and candor.^[17] The testimony, in fine, not only must proceed from the mouth of a credible witness but it must also be credible in itself for it to deserve approbation.^[18] These stringent measures

should be expected since the accused generally would have little to offer but bare denial and *alibi*, two defenses which jurisprudentially are among the weakest defenses in a criminal prosecution.

The matter of assigning value and weight to the testimony of witnesses, as well as the determination of the credibility of a witness, by and large, is a function of the trial court it being in the best vantage to make that evaluation. This Court has thus consistently adhered to the policy of not unduly disturbing the findings of the trial court on questions relating to that issue. Cogent reasons to the contrary are generally summed up to refer to situations when, quite often postulated, certain facts of substance and significance have been plainly overlooked or when the trial court's findings are shown to be clearly arbitrary.^[19]

Most regrettably for appellant, in this instance, the Court, after taking meticulous care in reviewing the evidence submitted by both the prosecution and the defense, must agree with the trial court in its judgment of conviction.

Cognizant that the pivotal and the crucial point in this review, like in the various cases reaching this Court and as to be so expected, is the testimony of the complainant, the Court here again finds it most fitting to listen to Marivic, in her own words, on the unfortunate tale.

Marivic Reñola, testifying:

"Q Miss witness, can you tell us when were you born ?

"A January 18, 1978, Sir.

"x x x x x x x x x

"Q How about the name of your father ?

"A Victor C. Reñola, Sir.

"Q The accused in this case is named Victor Reñola, do you know him ?

"A Yes, Sir.

"Q Why do you know him ?

"A He is my father, Sir.

"Q Now, point to him if he is inside the courtroom.

"A (witness looked around and pointed to a man wearing orange T-shirt whom when asked stood up and answered by the name of Victor Reñola).

"Q Can you still remember where were you on October 10, 1994 at about 2:00 o'clock in the morning?

"A I was in our house, Sir.