

EN BANC

[G.R. No. 130334, July 28, 1999]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
REYNALDO POÑADO, ACCUSED-APPELLANT.**

D E C I S I O N

VITUG, J.:

In the recent case of *People vs. Dimapilis*,^[1] the Court spared a convicted accused from the penalty of death because the information charging him with rape **mistakenly** alleged the victim to be his stepdaughter. The latter, it turned out later when the evidence came in, was the daughter of one with whom the accused merely had a common-law relationship. Here again, for a like thesis, another convicted felon would cheat the extreme punishment of death.

The accused, Reynaldo Poñado, was charged with three counts of rape under Article 335 of the Revised Penal Code in consonance with the amendatory provisions of Republic Act ("R.A.") No. 7659. The corresponding information read:

In Criminal Case No. 3529 -

"The undersigned Assistant Provincial Prosecutor of Albay, upon written complaint of the offended party, Merinor Bombales, hereby accuses the person of REYNALDO POÑADO of the crime of RAPE defined and penalized under Article 335 of the Revised Penal Code as amended by Republic Act 7659, committed as follows, to wit:

"That on September 8, 1996 at about 7:00 o'clock in the evening, at Sitio Tibangray, Brgy. Tinampo, Municipality of Ligao, Province of Albay, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with grave abuse of his parental authority, through force and intimidation, and with lewd design, did then and there wilfully, unlawfully and criminally had sexual intercourse with his **stepdaughter** Merinor Bombales, who is of tender age, she being only 13 years old, against her will and consent, to her damage and prejudice.'

"ALL ACTS CONTRARY TO LAW."^[2]

In Criminal Case No. 3530 -

"The undersigned Assistant Provincial Prosecutor of Albay, upon written complaint of the offended party, Merinor Bombales, Hereby accuses the person of REYNALDO POÑADO of the crime of RAPE defined and

penalized under Article 335 of the Revised Penal Code as amended by Republic Act 7659, committed as follows, to wit:

"`That on October 7, 1996 at about 7:00 o'clock in the evening, at Sitio Tibangray, Brgy. Tinampo, Municipality of Ligao, Province of Albay, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with grave abuse of his parental authority, through force and intimidation, and with lewd design, did then and there wilfully, unlawfully and criminally had sexual intercourse with his **stepdaughter** Merinor Bombales, who is of tender age, she being only 13 years old, against her will and consent, to her damage and prejudice.'

"ALL ACTS CONTRARY TO LAW."^[3]

In Criminal Case No. 3531 -

"The undersigned Asst. Provincial Prosecutor of Albay, upon written complaint of the offended party, Merinor Bombales, hereby accuses the person of REYNALDO POÑADO, of the crime of RAPE defined and penalized under Art. 335 of the Revised Penal Code as amended by Republic Act 7659, committed as follows, to wit:

`"That on October 8, 1995 at about 7:00 o'clock in the evening at Sitio Tibangray, Brgy. Tinampo, Municipality of Ligao, Province of Albay, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design, did then and there willfully, unlawfully and criminally had sexual intercourse with his **stepdaughter**, Merinor Bombales, who is of tender age, she being only 12 years old at that time, against her will and consent, to her damage and prejudice.'

` ALL ACTS CONTRARY TO LAW."^[4]

At his arraignment on 29 January 1997, the accused pleaded NOT GUILTY to all three charges. Upon agreement of the prosecution and the defense, a joint trial was conducted by the court *a quo*.

The spouses Marcelino Bombales and Librada Rectin, 43 years old, had four legitimate children, namely, Maria Ana, Danilo, Merinor, and Marlon. Rectin broke up with and separated from her husband in 1985 when their youngest child was barely six months old. About two years later, Librada started living with appellant, bringing with her the four children, *initially* in Tablon, *then* in San Vicente, of the town of Oas, Albay. Reynaldo Poñado himself had four children, Victor, Alvin, Hedgi, and Rosalie, begotten with his wife, since deceased. The union between Poñado and Rectin bore three more children, namely Mark, Andrew, and Angelica.

Merinor Bombales, also known as Marilou and a grade six pupil of San Vicente Elementary School, is the complainant in the three criminal cases.

The young Merinor looked up to accused Reynaldo Poñado like a "stepfather" from

the time the latter started to care for the family following the separation of her biological father, Marcelino Bombales, from her mother. Narrating the first incident, she testified that at about seven o'clock in the evening of 08 October 1995, she was at home, alone with three-month old Andrew and the accused, studying her lessons for the next school day. Her mother Librada, Marlon and Mark were watching television at a neighbor's house. Ana and Danilo were not in town. Unexpectedly, the accused came in to her room. Without too much ado, he undressed her, made her lie on the bed and then laid on top of her. The accused inserted his penis into her vagina, and there was nothing that she could do about it but cry. She could not shout because the accused covered her mouth. The sexual assault was repeated on 08 September 1996, while she was again alone in the house studying. The accused went into her room, undressed her and made her lie on the bed. He kissed her on the lips and then on the breast down to the vagina until finally taking her. Like before she could only suffer the ordeal in silence. On 07 October 1996, not much different from the two previous occasions, the accused again took the victim in similar fashion. She tried to resist by closing her legs but the accused persisted. He parted her legs, pulled her to the bed and tied her hands and feet with a rope. The accused repeatedly kissed her before entering her.

On 08 October 1996, the day following the third incident, she went to school as usual but this time she spoke to her classmates and her teachers, Mrs. Aquid, Lea Camba and Mrs. Rempillo, about the sexual molestations she had undergone. The group lost no time in relaying the matter to the barangay officials who, in turn, reported the case to the police.

The cross-examination gave additional details on the sexual assaults. Merinor testified that during the 07th October 1996 incident, the accused held her by the feet, dragged her through the rough cemented floor with her arms touching the surface and then pushed her hard on the bed. He tied her legs and feet with an abaca rope. In the incident of 08 September 1996, she said that she had wanted to go with her mother to watch television but her stepfather did not allow her. Merinor admitted that Victor and his brood were staying with the family at San Vicente around 08 October 1995 and 08 September 1996, and that Victor left their residence only sometime after 07 October 1996. The house in San Vicente, according to her, had two rooms one of which she occupied.

Dr. Lea Remonte who conducted a medico-legal examination on Merinor on 08 October 1996 gave a fairly exhaustive report on the result of her medical examination. Thus -

"A medium built individual about 4 ft. and 8 inches tall, weighing 38 kgs., brown complexioned-with above shoulder-length straight hair, clad in white blouse and blue skirt over pink underwear. Patient is conscious, coherent, ambulatory, oriented but most of the time refuses to answer questions.

"Breast: conical, nipples prominent, pinkish in color, surrounded by areola

"Abdomen: flat soft, no visible signs of violence such as hematoma or abrasions

"Genitalia:

"External Examination: Normal external genitalia, nulliparous introitus, absence of pubic hair over mons pubis.

"- labia minora slightly projecting beyond the labia majora

"- clitoris noted, pinkish in color

"Internal Examination:

"- Hymen not intact, presence of superficial laceration at 10'clock position

"- two fingers inserted with ease

"- presence of whitish fluid with milk-like consistency coming out of the vaginal canal

"- absence of blood upon withdrawal of examining finger

"Obstetrical and Gynecological History:

"Menarche - at 13 years old date: June 9, 1996

"Subsequent menses regular, occurring every month.

"Last Menstrual Period - September 29, 1996 to October 5, 1996."^[5]

In her testimony, Dr. Remonte explained that the "labia minora slightly projecting beyond the labia majora" could have been caused by the passage of clotted menstrual blood, by sexual intercourse or by heavy physical exercise. The presence of a hymenal superficial laceration at a 1 o'clock position and the admission with ease of two fingers when inserted in Merinor's vagina would display a condition consistent with a woman who could have had sexual intercourse. She noted the presence of milk-like fluid coming out of the vaginal canal and upon close examination proved to be "artifacts or debris" not found in the normal discharge of a woman. No spermatozoa, however, nor signs of violence, like hematoma or scratches on the body of Merinor, were noted.

The accused denied having raped Merinor. He asserted that he was not at home, but in Bacong, Ligao, Albay, during the early evening of 08 October 1995 working with one Celedonio Repeque in fixing the leaking roof of the latter's house. On 08 September 1996, although he was at home that night, he said he could not have raped Merinor since the whole family was there at the time. He gave the same reason to dispute the rape allegedly committed on 07 October 1996. The victim's story, he asseverated, was only concocted and it was really Merinor's own brother, Danilo, who had raped her.

Artemio Poñado, father of the accused, declared that he had been staying with his son, Nanding (Reynaldo Poñado), in 1993, 1995 and 1996 and on five occasions, he had chanced upon Danilo and Merinor apparently having an illicit affair. On cross-examination, he said that he had failed, however, to tell his son about it due to

illness.

Hadji Poñado, a son of the accused by his deceased wife, testifying for his father, stated that Merinor was like a sister to him although he had known her to be an unfortunate flirt. He intimated that Danilo and Merinor could have been having an illicit relationship. When asked on cross examination why he had thought Merinor to be a flirt, he did not answer but, pressed about it, he explained that Meray was "chasing all the children there."^[6]

Assessing the evidence respectively adduced by the prosecution and the defense, the trial court gave this concluding disquisition:

"After a careful scrutiny of the evidence adduced the Court finds there is not an iota of doubt that the accused Reynaldo Poñado sexually ravished his 14-year old stepdaughter Merinor or Marilou Bombales on three (3) occasions as charged in the three (3) separated informations. It is said that when a woman says she had been raped in effect says all that is necessary to constitute the commission of the offense. This is because human experience tells us, no woman would concoct a story of de[f]loration and allow herself to be subjected to a public trial, if she was not motivated solely by the desire to have the culprit apprehended and punished.

"With the innocence and naivety of a barrio lass, talking sometimes inaudibly with tears in her eyes head bowed, Marilou or Merinor, as she is more popularly called, narrated how from 1993 to 1996 she was abused by her own stepfather, Reynaldo Poñado. In a candid and straightforward manner Merinor described how in October 1995 when almost everybody in their house was out watching TV at their neighbor's house except for 3-month old brother Andrew who was a sleeping, the accused sexually attacked her by covering her mouth she could not shout. Marilou testified that her stepfather again sexually attacked her on September 8 and October 7 both in the same year of 1996 when both her mother, Librada, and brother, Danilo, were in Manila, at 7:00 in the evening when everybody in the house was [a]sleep and all she could do, as her stepfather laid on top of her and satisfied his lust, was cry and cry because her mouth was covered. When on the night of October 7, 1996 again the accused wanted to satisfy his bestial desire, Merinor tried to resist by closing her legs but her stepfather pushed her and pulled her to bed and tied both her hands and feet with an abaca rope and then laid on top of her again and parted her legs."^[7]

Whereupon, the trial court held the accused guilty beyond reasonable doubt of the crime of rape and ultimately disposed of the case; thus:

"WHEREFORE, in view of the foregoing consideration and finding the accused guilty beyond any reasonable doubt of the crime of rape committed against his 14-year old common-law daughter Marilou or Merinor Bombales, the Court hereby sentences Reynaldo Poñado:

"1. In Criminal Case No. 3529 to suffer the penalty of DEATH; and