

## EN BANC

[ G.R. No. 130546, July 26, 1999 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RAMON FLORES, ACCUSED-APPELLANT.**

### DECISION

#### PER CURIAM:

Marisol Flores' juvenile innocence was untimely ended by a father who gave free rein to his lustful proclivity. As in most cases of incestuous rape, she would have just kept this experience to herself and opted to suffer in secret. By coming out in the open though to reveal a harrowing tale of forced defloration, she has made a confession of what girls of her age would normally not have done. Her lips unsealed, she exposed herself to all the attendant pains of being embarrassed and ridiculed twice over by a public trial. Accused-appellant, however, despite Marisol's laudable audacity, would now have this Court believe that the victim's story is a mere concoction. As in other criminal cases, the Court's verdict will hinge principally on who of the parties is more credible.

Herein accused-appellant Ramon Flores y Reyes stands accused before the Regional Trial Court, Branch XXVII, in Bayombong, Nueva Vizcaya, for two counts of rape filed pursuant to the following informations, to wit:

Criminal Case No. 3116

"That on or about the first week of February 1994, at Barangay Masoc, Municipality of Bayombong, Province of Nueva Vizcaya, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design, taking advantage of superior strength, by means of force, violence, threat and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of the complainant Marisol Flores y Canapi, who is his daughter and under 12 years of age, against her will and consent, to her damage and prejudice including her parents.

CONTRARY TO LAW."

Criminal Case No. 3117

"That on or about the third week of December 1995 at Barangay Masoc, Municipality of Bayombong, Province of Nueva Vizcaya, Philippines, and within the jurisdiction of the Honorable Court, the above-named accused with lewd designs, taking advantage of superior strength, by means of force, violence, threat and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of the complainant Marisol Flores y Canapi, who is his daughter and under 12 years of age,

against her will and consent, to her damage and prejudice including her parents.

CONTRARY TO LAW."

After accused-appellant pleaded "not guilty" to the above indictments, joint trial ensued leading to his conviction by the trial court in a decision<sup>[1]</sup> dated May 27, 1997, the decretal portion of which reads:

"WHEREFORE, the Prosecution having proved that the accused committed the offenses of statutory rape in Crim. Case No. 3117 and incestuous rape in Crim. Case No. 3116 beyond reasonable doubt, the accused, Ramon Flores y Reyes, is found GUILTY thereof and is hereby sentenced as follows:

In Criminal Case No. 3116, the accused shall suffer DEATH by lethal injection and to indemnify the victim in the sum of P50,000.00 as moral damages and P20,000.00 exemplary damages and to pay the costs of suit;

In Criminal Case No. 3117, the accused shall suffer the penalty of *reclusion perpetua* and shall indemnify the victim in the sums of P50,000.00 as moral damages and P20,000.00 as exemplary damages and to pay the costs of the suit.

SO ORDERED."

The pertinent facts, as borne by the records, are as follows:

At the time of the incidents complained of, the victim was an 8-year old, Grade II student at Masoc Elementary School located at Masoc, Bayombong, Nueva Vizcaya. She is the eldest, legitimate daughter of accused-appellant in a brood of three.<sup>[2]</sup>

In the evening of December 1993, while Marisol was fast asleep inside their residence at Masoc, Bayombong, Nueva Vizcaya, she was awakened by the pressing weight of her father who positioned himself over her back. Her panty having been previously removed, accused-appellant started inserting his penis into her anal orifice. Marisol struggled and exerted all efforts to extricate herself from accused-appellant but to no avail; the latter proved too strong for her. She even tried shouting for help but her mouth was covered by appellant. Thus, accused-appellant successfully parted her thighs and inserted his private organ into her vagina. Although she felt excruciating pain, she could do nothing but cry as accused-appellant, her very own father, consummated his lustful desires.<sup>[3]</sup>

After satisfying himself, accused-appellant stood up and covered the lower part of Mirasol's body with a blanket. He then left, but not without threatening to kill her and the rest of the family should she report the incident to her mother.<sup>[4]</sup>

Mirasol's traumatic experience in the hands of her father, herein accused-appellant, however, did not end that night as sometime in the month of February 1994, she was again violated. As in the previous incident, Mirasol was in deep slumber when she was awakened by the movements and the heavy weight of her father on her

back. She resisted and tried to ward off her father, but again, she was no match to his strength. Accused-appellant succeeded once more in sodomizing her and eventually having carnal knowledge of her.<sup>[5]</sup>

Aware of her father's cruelty and abusive treatment of his family, coupled with the threats made upon her, Mirasol kept her ordeal to herself. She did not dare report the same to her mother who was then working in Manila since accused-appellant always kept an eye on her and her sisters, one of whom accused-appellant also allegedly abused.<sup>[6]</sup>

Subsequently, accused-appellant abandoned his family to live with another woman. Grabbing the opportunity, Mirasol mustered enough courage and disclosed her father's loathsome acts to her mother. As accused-appellant brought with him Mirasol's youngest sister, she expressed fear that accused-appellant would likewise commit the same beastly acts on her sibling.<sup>[7]</sup>

Upon learning what happened to Mirasol, the mother lost no time in reporting the same to the Bayombong Police Station, and then later to the Solano (Nueva Vizcaya) Police Station. In June 1995, the mother, together with her two daughters, went to the Bayombong Police Station to lodge a formal complaint against accused-appellant. Sworn statements of Mirasol and her younger sister were then taken by the police and, afterwards, they were examined by the municipal health officer of Bayombong, Nueva Vizcaya.<sup>[8]</sup>

Dr. Nestor Domingo, Municipal Health Officer of Bayombong, Nueva Vizcaya, conducted rectal and pelvic examination on Mirasol and then issued a medico-legal examination report<sup>[9]</sup> dated June 6, 1995. Said examination yielded the following findings:

"Result of Physical, Pelvic and Rectal Examination conducted upon the person of Marisol Flores.

PHYSICAL EXAMINATION:

-No signs of external physical injury

PELVIC EXAMINATION:

- Mons pubis with no pubic hair
- Labia majora with no lacerations
- Labia minora with superficial abrasion, left
- Hymen is not intact with no laceration
- I.E.: Vagina hardly admits tip of right index finger

RECTAL EXAMINATION:

- No surrounding anal lacerations
- Positive pararectal tenderness
- Positive fecal material on tactating finger and negative for blood

(Sgd.) Dr. Nestor V. Domingo  
Municipal Health Officer"

Defending himself, accused-appellant denied the acts imputed to him by his daughter. On the dates that these acts were supposedly committed, he claimed that he was working as a tricycle driver, usually at night. He then argued that these accusations against him were made upon the instigation of his estranged wife who constantly had quarrels with him, especially when he abandoned the family to live with his wife's youngest sister, Elena. His wife, allegedly a troublemaker, vowed to pursue these cases against him if he would not live with her, such that when he opted to live with Elena, his wife induced Marisol to continue prosecuting him. To prove that his wife was such a troublemaker, he claimed that his wife even set their house on fire in Masoc, Bayombong, Nueva Vizcaya and tried to put the blame on him.<sup>[10]</sup>

As mentioned earlier, accused-appellant was convicted of the offenses charged against him. On review, he now invites the Court to rule on the following errors<sup>[11]</sup> allegedly committed by the trial court:

- I. THE TRIAL COURT ERRED IN RENDERING A VERDICT OF CONVICTION IN CRIMINAL CASE NO. 3116 DESPITE FAILURE OF THE PROSECUTION TO ESTABLISH APPELLANT'S GUILT BEYOND REASONABLE DOUBT.
- II. THE TRIAL COURT ERRED IN CONVICTING APPELLANT OF RAPE IN CRIMINAL CASE NO. 3117 IN GROSS VIOLATION OF HIS CONSTITUTIONAL RIGHT TO BE INFORMED OF THE NATURE AND CAUSE OF THE ACCUSATION AGAINST HIM.

We shall address these issues *seriatim*.

Tackling his first assignment of error, accused-appellant cited a portion of Marisol's testimony wherein she appeared to have negated her claim that her father inserted his private organ into her anal orifice, as well as in her vagina. Marisol's testimony in this regard runs as follows:

"Q: You said earlier that he inserted his penis to your anus, is there any occasion during that night that he inserted his penis to your vagina?

A: None, sir.

Q: Now, Mirasol, is there an occasion also whereby your father inserted his penis to your vagina, your sex organ afterwards?

A: None, sir. xxx<sup>[12]</sup> [Underscoring supplied].

On account of the above-cited testimony, accused-appellant submits, thus:

"Private complainant's foregoing testimony that appellant did not insert his penis into her vagina was categorical, firm, spontaneous and straightforward. Inasmuch as the aforequoted material points were initially asked of her, and even repeatedly asked by the prosecutor, her testimony should have been regarded as gospel truth as she had no more time to concoct. Private complainant's admission even bolster the

testimony of appellant to the effect that during the confrontation in the Prosecutor's Office, the former claimed that she was not raped (TSN, March 5, 1997, p. 3). Since no rebuttal witness was presented by the prosecution, the same is deemed admitted. Likewise, the aforementioned testimony of private complainant lend credence to the testimony of Social Worker Dionita Osio who testified that the former could not even specify how she was allegedly raped (TSN, April 22, 1997, pp. 4-5).

Accordingly, private complainant's sudden change of heart at the resumption of trial which took place almost two (2) months after the initial presentation of prosecution's evidence was clearly shrouded with doubt. Private complainant's claim thereafter that she was raped was an afterthought. Worse, such incredible claim emanated from a polluted source. Withal, the possibility of private complainant being coached to supply lacking details in her direct testimony to pindown (sic) appellant for allegedly inserting his penis into her vagina which she initially denied in the first place is not far-fetched. Realizing that appellant could only be possibly held liable for acts of lasciviousness as clearly reflected in private complainant's direct testimony quoted above the latter had to adopt a different stance. And the opportunity to concoct lies was presented to her after the prosecution sought for continuance of the trial. The prosecution cannot claim that private complainant is too naïve to comprehend the meaning of "rape" because when she was asked about it during trial, she said she understood the same (TSN, November 19, 1996, p. 5). What is more, the claim of rape is of doubtful veracity in view of the considerable period of delay in reporting the same to the authorities."<sup>[13]</sup>

Accused-appellant's arguments fail to persuade us.

It is with the greatest care and caution that the Court examines the story of the complainant to determine its veracity in light of human nature and experience,<sup>[14]</sup> most especially in cases such as the one at bar where capital punishment is being imposed. As we have enunciated in a long line of cases, an accusation for rape can be made with facility, such that it is really difficult for the person accused, though innocent, to disprove the same. In view therefore of the intrinsic nature of the crime of rape where only two persons are usually involved, the testimony of the victim must be scrutinized with extreme caution and that the prosecution must stand or fall on its own merits and cannot be allowed to draw strength from the weakness of the evidence for the defense.<sup>[15]</sup>

The Court took pains to probe deeply into the records to determine the victim's credibility which accused-appellant now puts in issue. In this regard, we are sufficiently convinced that the prosecution successfully discharged its *onus* to show that the testimony of the victim, as to the circumstances of rape upon her person, deserves full faith and credit.

In the first place, the above-quoted testimony of the victim cited by accused-appellant to bolster his claim that he never inserted his private organ into Marisol's anus and vagina was later adequately explained and clarified during the continuation of the victim's subsequent direct testimony. Thus: