

EN BANC

[G.R. No. 130092, July 26, 1999]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ALFREDO BRANDARES Y BOTON, ACCUSED-APPELLANT.**

D E C I S I O N

PER CURIAM:

This is an automatic review of the Decision^[1] dated March 24, 1997, of the Regional Trial Court of Misamis Oriental, Branch 37,^[2] in Criminal Case No. 95-22, convicting accused-appellant Alfredo Brandares of the crime of rape and sentencing him to suffer the penalty of death and to indemnify the victim in the sum of Fifty Thousand Pesos (P50,000.00) as moral damages and Twenty Five Thousand Pesos (P25,000.00) as exemplary damages.

The Information (Complaint) filed before the trial court which charged accused-appellant Alfredo with the crime of rape reads as follows:

"That on or about the 3rd week of August, 1994, in the City of Cagayan de Oro, Philippines, and within the jurisdiction of this Honorable Court, the said accused, did then and there willfully, unlawfully and feloniously, by means of force, violence and intimidation, that is by then and there threatening that he would kill her if she will shout should she not agree to submit herself to his criminal designs, did then and there willfully, unlawfully and feloniously lie with and have carnal knowledge of the undersigned complainant, Arcelyn C. Brandares, his 13 year old daughter, against her will.

Contrary to Article 355 of the Revised Penal Code as amended."^[3]

Upon arraignment, the accused-appellant pleaded not guilty, and trial was conducted.

In support of its case, the prosecution presented three witnesses: Arcelyn Brandares, the victim; Celsa Brandares, the mother; and Dr. Amado Piit.

The thirteen-year old victim, Arcelyn Brandares, who was born on October 20, 1981^[4], testified that on August 14, 1994 at around four o'clock in the morning, she was sleeping in a room she shared with her father, accused-appellant, Alfredo and her nine-year old sister, Annalyn. She was awakened when accused-appellant laid down beside her and then placed his hand over her mouth. At this point, accused-appellant tried to remove Annalyn's underwear but she resisted. She then stood up and tried to run away, but to no avail. Accused-appellant then held Arcelyn, lay down beside her and removed her underwear. He then removed his shortpants and underwear and forcibly inserted his penis in her vagina. Arcelyn felt pain and could

not recall how long the accused-appellant was on top of her. He did threaten to kill her if she would reveal the incident to anybody.^[5]

Celsa Brandares, the mother of the victim, testified that Arcelyn revealed to her, sometime in December 1994, that her father committed the beastly act of rape against her. Celsa testified that she and accused-appellant have five children and Arcelyn was the third child. At the time of the incident in August 1994, she was not in their house. She revealed that she and her husband had a fight previous to the rape incident, and he ordered her to leave the house; otherwise, he would kill her. After he gave her money for her fare, she proceeded to her sister's place in Jasaan, Misamis Oriental. She only went back to their house sometime in September 1994 to get her personal belongings. In October 1994, she went back permanently to their home.^[6]

Celsa further testified that sometime in December 1994, she noticed that her daughter looked depressed and kept asking her about the "white discharges". Celsa thought that it had something to do with her daughter's menstrual period. She examined Arcelyn's sexual organ in order to apply herbal medicine when she saw deformities in it. Arcelyn then confessed that she was raped by her father^[7]. A complaint for rape was then filed at the police station of Puerto, Cagayan de Oro City by Arcelyn, assisted by her mother.

Dr. Amado Piit, Medical Specialist III, Department of Pathology at the Northern Mindanao Regional Hospital, testified that he examined Arcelyn on January 11, 1995 at the request of her mother. He issued a Living Case Report with the following findings:

"Genital Examination:

x x x

Labia majora and labia minora coaptated.

Vaginal orifice - admits a tube, 2.5 cm in diameter

Hymen - Presence of healed laceration at 3:00; 6:00; 9:00; 11:00 o'clock position of a watch."^[8]

Dr. Piit testified that the laceration was indicative of sexual intercourse.^[9]

Accused-appellant, on the other hand, denied Arcelyn's charges against him. He testified that his wife, Celsa Brandares, fabricated the incident of rape and instigated Arcelyn to file a complaint against him because he would not allow Celsa to work as a domestic helper in Iligan City.^[10]

In support of accused-appellant's contention, his sister-in-law, Edna Brandares, testified that Celsa told her that before she brought Arcelyn to the hospital, she inserted her finger in her daughter's vagina, which may have caused the lacerations indicated in the medical report.

On rebuttal, the prosecution called back Arcelyn and Celsa to the witness stand.

Arcelyn testified that her mother did not insert her finger into her vagina. Likewise, Celsa denied the allegations of Edna.

The trial court, on March 24, 1997, rendered a decision finding accused-appellant guilty of rape and sentenced him to suffer the penalty of death. The dispositive portion of the decision reads as follows:

"WHEREFORE, this Court finds accused Alfredo Brandares Y Boton guilty beyond reasonable doubt of the crime of rape against his thirteen year old daughter, and said accused is hereby sentenced to die, said penalty of death to be carried out in accordance with the procedure and method now enforced and implemented by the appropriate and proper authorities of the Executive Department. Moreover, the said accused is hereby sentenced to pay the victim, through her mother, moral damages in the amount of Fifty Thousand Pesos (P50,000.00) and exemplary damages in the amount of Twenty Five Thousand Pesos (P25,000.00). In accordance with Constitution and the rules, let the entire record of this case including the transcript be transmitted or forwarded forthwith to the Supreme Court for automatic review and judgment.

SO ORDERED."^[11]

In this appeal, accused-appellant contends that the trial court erred in convicting him, notwithstanding the failure of the prosecution to prove his guilt beyond reasonable doubt.

Accused-appellant cites the following facts which, if taken together, he avers, would cast a reasonable doubt on his guilt. "First, the defense was able to present Edna Brandares who testified that Celsa inserted her fingers into the vagina of Arcelyn prior to the medical examination conducted on the latter. x x x. Secondly, the result of the medical examination had not been conclusive. Dr. Amado Piit stated that the lacerations he discovered on Arcelyn could have been caused by masturbation, insertion of fingers or other foreign bodies."^[12]

The Office of the Solicitor General, on the other hand, contends that based on the testimony of the victim, Arcelyn, which was made in a straightforward, candid, and spontaneous manner, the prosecution has clearly established the guilt of the accused beyond reasonable doubt.

We find the appeal wanting of merit.

Accused-appellant's main contention is that the crime of rape was not clearly established by the prosecution since the medical finding is not conclusive of rape; that, as testified by Dr. Amado Piit, the laceration may have been caused by masturbation, and this is coupled with the fact that no spermatozoa was found in the vagina of Arcelyn; that this is further supported by the testimony of Edna Brandares, to the effect that Celsa inserted her fingers in Arcelyn's vagina before the medical examination, thereby probably causing the lacerations indicated in the medical report of Dr. Piit. The defense, therefore, argues that the foregoing circumstances cast a reasonable doubt that the accused-appellant committed the crime of rape against his daughter, Arcelyn.

This contention is far from persuasive. The interpretation which accused-appellant places on the medical findings is misplaced. It is a well-established rule that a medical examination of the victim, as well as the medical certificate, is merely corroborative in character and is not an indispensable element in rape. What is important is that the testimony of private complainant about the incident is clear, unequivocal and credible.^[13]

Courts usually give credence to the testimony of a girl who is a victim of sexual assault, particularly if it constitute incestuous, rape because normally, no woman would be willing to undergo the humiliation of public trial and to testify on the details of her ordeal were it not to condemn an injustice. Needless to say, it is settled jurisprudence that testimonies of child-victims are normally given full weight and credit, since when a woman, more so if she is a minor, says that she was raped, she says in effect all that is necessary to show that rape was committed. Youth and immaturity are generally the badges of truth and sincerity.^[14]

In this case, Arcelyn clearly testified that her father, the accused-appellant, raped her on August 14, 1994 at around four o'clock in the morning inside their house. More importantly, she recounted details of her harrowing experience in a credible, convincing and straightforward manner.

The absence of spermatozoa is not an essential element of rape,^[15] and the fact that none was found in the vagina of Arcelyn during her medical examination, standing alone, cannot create a reasonable doubt in favor of accused-appellant. Moreover, the rape occurred on August 14, 1994 and Arcelyn was examined only on January 5, 1995. Thus, it is normal that traces of spermatozoa will no longer be found in the victim's vagina after the lapse of about five months.

The claim of accused-appellant that the criminal charge for rape was a mere fabrication of his wife, Celsa, since he would not allow her to work as a domestic helper in Iligan City, is preposterous. The Court is not convinced that Celsa, a mother in this case, would expose her daughter's misfortune to the public due to minor domestic differences between her and her husband, accused-appellant. No mother in her right mind would subject her child to the humiliation, disgrace and trauma attendant to a prosecution for rape, if she were not motivated solely by the desire to incarcerate the person responsible for the child's defilement.^[16] In fact, Celsa, when she knew about the rape, immediately brought Arcelyn to the hospital to undergo a medical examination and thereafter filed a police report. She did not hesitate to charge her husband with the crime of rape.

We have held, time and again, that the trial courts are in the best position to properly evaluate testimonial evidence, absent any palpable error or arbitrariness in their findings. Because of its unique opportunity to observe the witnesses firsthand and note their demeanor, conduct and attitude under grilling examination, the trial court can be expected to determine, with reasonable discretion, whose testimony to accept and which witness to disbelieve.^[17] In this case, the trial court correctly gave weight and credence to the testimonies of the prosecution witnesses, especially that of Arcelyn, which formed the bases for the conviction of accused-appellant of the crime of rape.

This Court takes note that, upon reviewing the records of this case, accused-