

## EN BANC

[ G. R. Nos. 131261-62, August 10, 1999 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
AUGUSTO CESAR RAMOS Y DELIZO, ACCUSED-APPELLANT.**

### D E C I S I O N

#### PER CURIAM:

Rape is condemnable. It becomes twice reprehensible if committed against one's flesh and blood. The despicability of incestuous rape is depicted in all its sordidness in the instant case brought before us for automatic review pursuant to Article 47 of the Revised Penal Code, as amended by R.A. No. 7659. In its consolidated decision<sup>[1]</sup> in Criminal Cases Nos. Q-96-67745 and Q-96-67746, the Regional Trial Court, Quezon City, Branch 219, convicted accused-appellant Augusto Cesar Ramos y Delizo (hereafter AUGUSTO) of two counts of rape he perpetrated against JUVELYN Ramos (hereafter JUVELYN), his natural daughter. In both cases, the RTC imposed the penalty of death.

On the basis of JUVELYN's complaint<sup>[2]</sup> against her father AUGUSTO, two separate informations for rape were filed against the latter. The information<sup>[3]</sup> in Criminal Case No. Q-96-67745 reads as follows:

That on July 7, 1996, in Agham Road, San Roque St., North Triangle, Quezon City, and within the jurisdiction of this Honorable Court, accused AUGUSTO CESAR RAMOS y DELIZO, did then and there, willfully and unlawfully, and feloniously with force and intimidation had carnal knowledge of his own natural daughter, minor JUVELYN A. RAMOS (then eleven years old in 1994 and now thirteen years old) against her will and consent.

The information<sup>[4]</sup> in Criminal Case No. Q-96-67746 is similarly worded except as to the date of the commission of rape, which is "... during the period from April, 1994 to April, 1996." Upon the filing of both informations, the prosecution moved for the consolidation of both cases.

When arraigned, AUGUSTO pleaded not guilty in each case.<sup>[5]</sup> The information in Criminal Case No. Q-96-67745 was, however, later amended to conform to JUVELYN's initial testimony, in that the first incident of rape occurred on 25 February, 1994. The amended information<sup>[6]</sup> thus reads,

That on February 25, 1994 at about 9:00 o'clock [*sic*] to 10:00 o'clock [*sic*] in the evening, in Agham Road, San Roque St., North Triangle, Quezon City, and within the jurisdiction of this Honorable Court, accused AUGUSTO CESAR RAMOS y DELIZO, did then and there, willfully and unlawfully, and feloniously with force and intimidation had carnal

knowledge[d] *[sic]* of his own natural daughter, minor JUVELYN A. RAMOS (then ten years old in 1994 and now thirteen years old) against her will and consent.

Upon re-arraignment AUGUSTO pleaded not guilty.<sup>[7]</sup>

Trial thereafter ensued. The prosecution presented as witnesses JUVELYN and Dr. Aurea P. Villena, a medico-legal expert. The defense presented AUGUSTO and Sylvia Abeto (hereafter ABETO), the maternal grandmother of JUVELYN as a hostile witness.

JUVELYN testified that since the separation of her parents, she had lived in Bulacan with her grandmother ABETO. Her father, AUGUSTO, who lived in Quezon City usually fetched her on Saturdays and brought her back on Sundays. Sometime however, in February, 1994, her father fetched her but never returned her to her grandmother.<sup>[8]</sup> It was then that her ordeal started.

The first rape occurred in the evening of 25 February 1994. AUGUSTO first touched and kissed her daughter's chest and vagina. He thereafter asked JUVELYN to lie down and undressed her. He then removed his clothes and placed himself on top of her. He ordered her to touch his penis and spread her legs then, he inserted his penis into her vagina. JUVELYN tried to resist but her father was simply strong. She felt pain. She felt fear. Her fears grew knowing that her father is capable of physically hurting her even more since he usually shout, slap and hit her for no apparent reason. She was raped again and again that night until the following morning. When she woke up, she discovered her vagina aching and bloodied. Her whole body was in intense physical pain.<sup>[9]</sup> She was then only ten (10) years old.

AUGUSTO purposely left JUVELYN alone in the house. He returned the following night only to repeatedly rape her daughter. In fact, JUVELYN would be subjected to her father's seemingly insatiable libidinousness, for two straight years. He would repeatedly rape his daughter at his home when he was not working. He would rape her after arriving home from work in such frequency that boggles the mind. All this time, JUVELYN feared and hated her father. Her humiliation did not end in her father's lascivious embrace but would continue when, in full view of other people, he would curse and slap her.<sup>[10]</sup>

The rapes started when JUVELYN was not yet menstruating. When AUGUSTO learned of her menstruation, he forced her to take contraceptive pills everyday.<sup>[11]</sup> JUVELYN's tribulation thus continued.

In April 1996, JUVELYN's grandparents took her back to Bulacan to finish her schooling. But this did not deter AUGUSTO from perpetrating his disgusting deed.<sup>[12]</sup> He fetched her and then repeatedly raped her at his Quezon City home.

JUVELYN was last raped by her father on 7 July 1996. This time, AUGUSTO verbally threatened to kill her, her mother and grandmother should she (JUVELYN) divulge the sexual violations. He also convinced her to join him in a faraway place as his wife or concubine who will bear his child. He even threatened to sell her to a foreigner. After instilling these threats in her young mind, AUGUSTO brought her back to Bulacan.<sup>[13]</sup>

JUVELYN never told her mother or grandmother of her ordeal, greatly fearing her father and his threats. On 5 September 1996, her father once more fetched her. This time she refused to go with him. Her father eventually left her, but not without first verbally abusing her and her grandmother. This time, JUVELYN mustered enough courage and thus tearfully recounted to her mother and grandmother (who were again living together in Bulacan) the repeated rapes she suffered from her father. She could no longer bear the hurt, insults, physical abuse and harassment. Grandmother ABETO took her to the doctor for physical examination and to the barangay and NBI to file the complaint.<sup>[14]</sup>

The results of the medical examinations were contained in the medico-legal report Living Case No. MG-96-1299,<sup>[15]</sup> thus:

#### GENITAL EXAMINATION:

Pubic hair, fully grown, moderate, Labia majora and minora, coaptated. Fourchette, lax. Vestibular mucosa, pinkish. Hymen, tall, thick, with an old healed complete laceration at the 5:00 o'clock [sic], 7:00 o'clock [sic] and 9:00 o'clock [sic] position corresponding to the face of a watch, edges rounded, non-coactable. Hymenal orifice admits a tube 2.5 cm. in diameter with moderate resistance. Vaginal walls, moderately lax. Rugosities shallow.

#### CONCLUSIONS:

1. No evident sign of extragenital physical injury noted on the body of the subject at the time of examination.
2. Old healed complete hymenal laceration, present.

Dr. Aurea P. Villena who conducted the examinations found hymenal lacerations in JUVELYN and explained that these were commonly caused by sexual intercourse. She then stressed that at the time of the examination, the hymenal lacerations were more than three months old and therefore compatible with the time she was supposedly raped.<sup>[16]</sup>

To further buttress JUVELYN's testimony, the prosecution presented documentary evidence consisting of two handwritten letters<sup>[17]</sup> pleading for forgiveness and compassion which she received from her father during his incarceration.

The first letter was undated and declared, thus:

*Tandaan mo anak huag kang sasama sa hearing, alalahanin mo malapit na ang pasko at huag mong kalilimutan na punitin ang [sic] itapon ang mga sulat ko para huag mabasa ninuman. xxx Ang paraan lamang para matulungan mo ako ay huag kang sasama sa lola mo dito sa Maynila pag may hearing kahit kailan para madismiss ang kaso.*<sup>[18]</sup>

The second letter was dated 30 November 1996 and stated that:

*Ilang araw nalang at pasko na anak sana'y sumaiyo ang diwa nang darating na kapaskuhan at idalangin ko na sapitin pa ang maraming pasko, di tulad ko na mabibilang na lang ang araw ko at naghihintay na lang sa hatol ninyong bitay para sa akin, pero taimtim kong dinadalangin sa panginoong diyos na sana'y mabuksan ang inyong puso't damdamin para mapatawad ako sa aking mga kasalanan. xxx Juvy anak, nasa iyong mga kamay ang susi nang aking kamatayan at kalayaan. Kung ako'y bibigyan mo nang pagkakataon mabuhay sa laya, titiyakin ko sa iyo na malaki ang maitutulong ko sa iyong pag-aaral hanggang sa ikaw ay makatapos. xxx Anak, muli akong nakikiusap sa iyo na sana'y patawarin mo na ako, hayaan mo na akong makalaya at mabuhay nang maayos diyan sa labas. xxx Hayaan mong bawiin ko ang mga nalagas na panahon na lipos ng kadiliman, bigyan mo ako anak nang isa pang pagkakataon at sisikapin kong baguhin ang buhay ko.*<sup>[19]</sup>

The prosecution also presented JUVELYN's birth certificate<sup>[20]</sup> indicating that the date of her birth is 10 July 1983 and that her father is AUGUSTO.

For the defense, AUGUSTO testified that in 1981 he married Charito Abeto and the union produced a child, JUVELYN. When his wife left him for good, he entrusted JUVELYN to the care of his mother-in-law ABETO, in Bulacan.<sup>[21]</sup>

In February 1994, AUGUSTO took JUVELYN from her grandmother and assumed responsibility over her welfare and well-being.<sup>[22]</sup> He denied molesting JUVELYN or threatening to kill her and his in-laws. He denied writing the letters attributed to him. He claimed that he was tortured to admit the sexual molestations.<sup>[23]</sup>

ABETO, as a hostile witness, confirmed JUVELYN's tearful account of her father's repeated sexual molestations. She claimed to have accompanied JUVELYN to the medico-legal and to the NBI where they lodged a complaint for rape.

On 20 October 1997, the trial court rendered its decision, finding AUGUSTO guilty beyond reasonable doubt of both counts of rape. The dispositive portion reads as follows:

WHEREFORE, in Criminal Case No. Q96-67745, finding the accused guilty beyond reasonable doubt of having committed the offense of rape as charged in the Information and defined and penalized under Article 335 of the Revised Penal Code, as amended by R.A. [No.] 7659, the Court hereby sentences the accused AUGUSTO CESAR RAMOS Y DELIZO (1) to suffer the penalty of death; (2) to pay the complainant the sum of P50,000.00 as moral damages; and (3) to pay the costs.

In Criminal Case No. Q96-67746, finding the accused guilty beyond reasonable doubt of having committed the offense of rape as charged in the information and defined and penalized under Article 335 of the Revised Penal Code, as amended by R.A. [No.] 7659, the Court hereby sentences the accused AUGUSTO CESAR RAMOS Y DELIZO (1) to suffer the penalty of death; (2) to pay the complainant the sum of P50,000.00 as moral damages; and (3) to pay the costs.

The Branch Clerk of Court is hereby directed to immediately transmit the entire records of the cases to the Supreme Court for automatic review.

The trial court gave full credence to JUVELYN's testimony, noting that it was delivered in a consistent, spontaneous and forthright manner despite the rigorous cross-examination. Appreciating that JUVELYN was a minor 10 years old when the rapes commenced and 12 years old when they ended), the trial court concluded that her testimony rang clear of the truth.

The trial court then dismissed AUGUSTO's sole defense of denial as weak, evasive and uncorroborated. It ruled that the same cannot prevail over the positive identification by JUVELYN of AUGUSTO as the perpetrator of the dastardly felony. The trial court also discarded as unsubstantiated AUGUSTO's allegations of torture.

The case is now before us for automatic review and judgment by virtue of the penalty imposed.

In his Appellant's Brief, AUGUSTO assails the credibility of JUVELYN, citing that vengeful motive (*i.e.* anger for his alleged unfaithfulness to her mother and hatred for his alleged cruelty to her) drove her to falsely accuse him of rape. AUGUSTO also questions the delayed report of her rape since five months had elapsed since the alleged last rape was committed when JUVELYN decided to file the charges against him.

We sustain the conviction of AUGUSTO in both cases.

It is fundamental that factual findings of trial courts, particularly the assessment of the credibility of witnesses, are accorded weight and the highest respect on appeal. This is so since trial courts have the opportunity to observe first hand the demeanor and conduct of witnesses and examine other proofs as well, thus they are better situated to form accurate impressions and conclusions.<sup>[24]</sup> These principles thus restrain this Court from disturbing the factual findings of the trial court in the instant case considering that no serious errors or cogent reasons are cited warranting a re-examination or reversal of the same.

This Court is satisfied with the trial court's determination of the credibility of the witnesses and appraisal of the evidence in general. It is not necessary for this Court to describe the abominable coitus details JUVELYN was subjected to and which she tearfully narrated. Suffice it to say that the verdict of conviction is amply supported by the records.

JUVELYN's testimony appeared clear, consistent and direct to the point. In the face of the rigorous cross-examination, her persistent and unwavering declarations that she was virtually made a sex slave by her father whose perverted sexual appetite seemed insatiable, could only mean that she was telling the truth. Nothing on the records bolsters a contrary conclusion. Moreover, her spontaneous emotional breakdowns that could only be occasioned by the forced recollection of the sexual violations she experienced from the hands of her own father at such a tender age and quite offensive to her memory established her credibility beyond reproach. In fact, when she declared that she was raped, she said in effect all that is necessary to show that she had been raped; and since her testimony met the test of credibility, the accused may be convicted on the basis thereof.<sup>[25]</sup>