

EN BANC

[G.R. No. 132058, October 01, 1999]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. EFREN NARIDO, ACCUSED-APPELLANT.

DECISION

KAPUNAN, J.:

Before the Court on automatic review is the decision^[1] rendered by the Regional Trial Court of Carigara, Leyte, Branch 13, in Criminal Case No. 2653, finding accused-appellant Efren Narido guilty of the crime of statutory rape committed against his own daughter, and sentencing him to the supreme penalty of death.

In an Information filed on 24 March 1997, Efren Narido was charged with the crime of rape allegedly committed as follows:

That on or about the month of December, 1996, in the municipality of San Miguel, Province of Leyte, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with deliberate intent and with lewd designs and by use of force and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge with JENNY NARIDO, eleven (11) years old, against her will to her damage and prejudice.

CONTRARY TO LAW.^[2]

Assisted by his *counsel de oficio*, appellant entered a plea of "NOT GUILTY" during his arraignment on 9 June 1997.^[3] Thereafter, trial on the merits ensued.

The prosecution presented evidence establishing the following facts:

Private complainant, Jenny Narido, eleven (11) years of age, is the eldest among the four (4) children of appellant Efren Narido with his deceased wife.^[4] Jenny's mother died in 1995. Since then Jenny lived with appellant and his common-law wife, Delinia Obsomar, in Barangay Cabatianohan, San Miguel, Leyte.

Jenny testified that sometime in the month of December 1996, appellant requested her to accompany him to gather firewood at a nearby field. Jenny acceded and went with appellant. While gathering firewood, appellant undressed Jenny and ordered her to lie down.^[5] He then went on top of her and had sexual intercourse with the latter.^[6] During the sexual encounter, Jenny felt pain in her vagina.^[7] Unable to do anything, Jenny cried.^[8] She narrated that this was the first time appellant defiled her. However, her desecration did not end there. Jenny explained that she

was molested by appellant six times on various occasions.^[9] One of the assaults against her virtue took place on one evening of the same month in their own house. The sexual attack was actually witnessed by appellant's common-law wife, Delinia. On that fateful night, Delinia went upstairs and caught appellant in the act of ravishing Jenny. A fight ensued between Delinia and appellant because of what happened. Afterwards, Delinia left the house. Appellant was left alone with Jenny. When Delinia stepped out of the house, appellant turned his anger towards Jenny and slapped her hard until her lips bled.^[10] Meanwhile, Delinia went back to the house and saw what appellant did to Jenny. Another quarrel then occurred between Delinia and appellant. In the course of the fight, appellant took hold of his long bolo. Seeing this, and fearing for her life, Jenny fled from their house and ran to the direction of the house of the barangay captain, Faustino Bertis. On her way, she met Anna Bencito, a barangay health worker, who brought her to the house of the barangay captain. The barangay captain then referred her case to the police authorities. Jenny, on the other hand, was transferred to the custody of Anabelle Agner who assisted her in filing the complaint for rape.

On 21 February 1997, Jenny was brought to the Eastern Visayas Regional Medical Center (EVRMC) for medical examination. Dr. Ma. Vivian Tauro and Dr. Rodolfo Mabulay conducted the examination which revealed the following findings:

OB-GYNE findings:

Pelvic Exam:

External genitalia - Grossly normal

Introitus - Nullipareus with circular opening of hymen (+) old healed hymenal complete laceration at 4 o'clock position.

(+) old healed, incomplete hymenal laceration at 8 o'clock and 11 o'clock positions.

Speculum Exam: Admits vaginal speculum with ease. Cervix - pinkish, small, closed, midline, smooth, with whitish discharge.

Cervix - firm, closed, non tender

Uterus - Small

Adnexae - Negative

Discharge - Whitish discharge

Vaginal smear - negative for spermatozoa.^[11]

Anabelle Agner, social worker of the Department of Social Welfare and Development (DSWD) assigned at San Miguel, Leyte, testified that Jenny was referred to their agency by Barangay Captain Faustino Bertis. She interviewed Jenny and gathered information about her. During the interviews, she discovered that Jenny was sexually abused by appellant six (6) times on various occasions.^[12] She also observed that Jenny suffered from trauma and refused to be examined by a male

physician.^[13] She related that she interviewed appellant who admitted having molested Jenny once.^[14] Lastly, she informed the court that she assisted Jenny in filing the complaint for rape.

Faustino Bertis also testified for the prosecution. He stated that Jenny was brought to his house by the barangay health officer. He learned that Jenny was subjected by appellant to maltreatment and was threatened by the latter. After hearing Jenny's complaint, he immediately referred her case to the police authorities.

In contrast, the defense presented only one witness, appellant himself. For his part, appellant interposed denial and alibi as his defenses. He insisted that he knew nothing about the crime for which he was being charged. While he admitted that Jenny is his own daughter, and that she was eleven years old and living with him when the alleged incident took place, he, nevertheless, denied the commission of rape saying that being the father of Jenny he could not do such a thing.^[15] He related that he was summoned by the police authorities and investigated regarding the complaint for rape. He told the police that he did not rape Jenny. Appellant, likewise, averred that on certain days in the month of December 1996, he was at Danao fishing. He explained that he went fishing at least once a week. He also regularly attended to his farm from 7:00 a.m. to 4:00 p.m. Finally, he contended that from the time Jenny was brought to the house of Faustino Bertis and entrusted to the custody of the DSWD, he was unable to meet and talk with her.

After considering the evidence from both sides, the trial court was convinced that appellant was guilty of the crime charged. Thus, on 29 October 1997,^[16] the trial court convicted appellant of statutory rape and sentenced him to death. The dispositive portion of the decision of the trial court reads:

WHEREFORE, IN VIEW OF ALL THE FOREGOING CONSIDERATIONS, judgment is hereby rendered finding the accused EFREN NARIDO Guilty of the crime of Rape and is hereby sentenced to suffer the penalty of Death.

SO ORDERED.^[17]

The above decision is now subject of the present review.

In his brief, appellant ascribes the following errors to the trial court:

I

THE COURT A QUO ERRED IN CONVICTING THE ACCUSED DESPITE THE FAILURE OF THE PROSECUTION TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.

II

THE COURT A QUO ERRED IN PRECIPITATELY DISREGARDING THE DEFENSE OF THE ACCUSED-APPELLANT.^[18]

The first assigned error essentially revolves on the issue of credibility of the witnesses for the prosecution, particularly Jenny. Appellant claims that the trial court wrongfully believed the testimony of Jenny inasmuch as the same is "full of inconsistencies, contradictions, goes against the common experience of man and by itself, is totally incredulous and unworthy of belief."^[19] On the other hand, the

second assigned error refers to the acceptability of appellant's denial and alibi. On this score, appellant faults the trial court in disregarding his defenses when according to him the prosecution was not able to prove his guilt beyond reasonable doubt.

The Office of the Solicitor General (OSG), however, does not agree with the appellant. The OSG is convinced that the trial court correctly convicted appellant since the prosecution was able to establish his culpability. The OSG, likewise, contends that Jenny is a credible witness and that her testimony is sufficient to convict appellant.^[20]

In reviewing evidence in rape cases, the Court is guided by three settled principles, to wit: (a) an accusation for rape can be made with facility; it is difficult to prove it but more difficult for the person accused, though innocent, to disprove it; (b) in view of the nature of the crime in which only two persons are involved, the testimony of complainant must be scrutinized with extreme caution; and, (c) the evidence of the prosecution must stand or fall on its own merits, and cannot be allowed to draw strength from the weakness of the evidence of the defense.^[21]

Generally, when it comes to the issue of credibility, the trial court's assessment is entitled to great weight, even conclusive and binding, if not tainted with arbitrariness or oversight of some fact or circumstance of weight and influence.^[22] The reason is obvious. The trial court is in a better position than the appellate court to properly evaluate testimonial evidence having the full opportunity to observe directly the witnesses' deportment and manner of testifying.^[23] Appellant has not given us any reason, and we find none, to depart from or give exception to this principle.

The trial court considered the following testimony of Jenny as believable and truthful, to wit:

Pros. Merin:

x x x

Q Would you tell the truth to the court today, regarding your case?

A Yes sir.

Q What would happened (sic) to you if you would not tell the truth as told you by your teacher?

A If I tell a lie I will go to hell.

Q So you would promise to the Court today that you will tell the truth and nothing but the truth?

A Yes sir.

Q Do you know the accused in this case, Efren Narido?

A Yes sir.

Q Why do you know him?

A He is my father.

Q Is he inside this courtroom?

A Yes sir.

Q Where is he, kindly point where is your father?

Court Interpreter:

Witness is pointing to a person inside this courtroom [and] when asked of (sic) his name identified himself as Efren Narido.

x x x

Q On the month of December could you recall that you were made to accompany by (sic) your father to gather some firewood, do you recall that?

A Yes I remember sir.

Q Was it in the morning or in the afternoon?

A It was in the day time.

Q Were you alone with your father in taking some firewood?

A Yes sir.

Q Who told you that you have to accompany your father?

A My father.

Q While you were taking this firewood, do you recall what happened to you?

A Yes sir.

Q What did you (sic) father do to you?

A He undressed me and lay (sic) on top of me.

Q You mean he has (sic) made (sic) some sexual intercourse with you?

A Yes sir.

Q How did you feel when your father made (sic) some sexual intercourse with you, did you feel the pain?

A Yes sir.

Q Did you shout or you cried (sic)?

A I cried sir.

Q While your father was doing (sic) some sexual intercourse with you, what next happened (sic) if you could still recall?