

FIRST DIVISION

[G.R. No. 122768, April 27, 1998]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
GREGORIO BERSABE, ACCUSED-APPELLANT.**

D E C I S I O N

PANGANIBAN, J.:

No woman, particularly a six-year old child, would concoct a story of rape, allow an examination of her private parts and subject herself to the embarrassment and humiliation of a public trial if she has not, in fact, been a victim of defloration.

The Case

This Court reiterates this holding in denying this appeal from the Decision^[1] of the Regional Trial Court of Naic, Cavite, Branch 15, finding Appellant Gregorio Bersabe guilty of rape and sentencing him to *reclusion perpetua*.

On June 19, 1984, Precita R. Ramos, on behalf of her six-year-old sister, Arlyn^[2] R. Ramos, filed before the First Municipal Circuit Trial Court of Maragondon-Ternate^[3] a complaint for rape^[4] against Appellant Gregorio Bersabe. Finding probable cause, the said court forwarded the records of the case to the Office of the Provincial Fiscal for the filing of appropriate criminal information.^[5] Accordingly, on November 25, 1985, Assistant Provincial Fiscal Simeon R. Jajalla submitted before the court *a quo* the Information charging the accused as follows:

“That on or about [the] 11th day of June 1984, in the Municipality of Maragondon, Province of Cavite, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with the use of force, violence and intimidation, with lewd design, forced one Arlyn Ramos a six (6) year old girl, to lay [sic] down, embrace[d], kiss[ed] and touch[ed] her private parts and while in that condition, did, then and there, wilfully, unlawfully and feloniously, have carnal knowledge and rape her against her will and without her consent, to her damage and prejudice.”^[6]

When arraigned, the accused entered a plea of not guilty.^[7] After due trial, the lower court rendered its assailed Decision,^[8] which disposed as follows:

“Wherefore, this Court finds the accused, Gregorio Bersabe, guilty of the crime of rape beyond reasonable doubt under Art. 335 of the Revised Penal Code and hereby sentences him [to] the penalty of [*r*]eclusion [*p*]erpetua and to indemnify the victim [in] the sum of P50,000.00. Plus cost[s].”^[9]

Hence, this appeal.^[10]

The Facts

Version of the Prosecution

The prosecution presented four witnesses, namely: (1) Pat. Ramiro Ilagan, the investigating officer; (2) Dr. Gregoria Camilo who examined the victim; (3) Precita Ramos, the victim's elder sister; and (4) Arlyn Ramos, the victim. Their testimonies were condensed in the Brief for the Appellee,^[11] the pertinent portions of which are as follows:

"In the morning of June 11, 1984, Arlene Ramos, a six-year old girl who resided with her mother at Naic, Cavite, went to the house of Aida Bersabe at Bukal III, Maragondon, Cavite. Arlene was with her elder sister, Milagros Ramos, wife of appellant's brother, Bernardo Bersabe. They went to Maragondon because it was the feast day of that place. Aida Bersabe is the wife of appellant's other brother whose name is not indicated in the case record [TSN, August 5, 1986, pp. 7, 13; TSN, August 19, 1986, pp. 4-5].

At Aida's house, Arlene met appellant. With nobody else in the house, Arlene and appellant played a game which she described as "kilikilitian" inside Aida's room. In the process, appellant gave her four (4) pieces of caramel candy and 50 centavos. Then appellant pushed Arlene, causing her to lie down on the bed. While in that position, appellant removed Arlene's short[s], underwear and undershirt (sando) while also undressing himself. With Arlene lying naked on the bed, appellant inserted his finger into her sexual organ. Then he inserted his sexual organ into hers. He did that four times. Arlene's sexual organ bled. Although crying, Arlene did not shout because of appellant's threat that he would kill her. Then appellant put Arlene's clothing back on. Thereafter, he also put on his own clothes. Then appellant brought Arlene to the house of Kakang Pila, which was about two (2) meters away from Aida's house, to watch the making of the float for the fiesta (TSN, August 5, 1986, pp. 12-13; TSN, August 19, 1986, pp. 4-13).

On June 14, 1984, about 6:00 to 7:00 p.m., Precita Ramos, Arlene's elder sister, came to fetch Arlene at Bukal III, Maragondon, Cavite. Arlene was at appellant's house, which was just beside Aida's house. Precita was with Merlita, their eldest sister, who however did not go to appellant's house but stayed in the tricycle they were riding on. They came to fetch Arlene to bring her back to Naic, Cavite, since classes had already started. Arlene, however, did not want to go home and acted as if she was afraid of something. Precita had to drag her by the right hand for her to ride the tricycle with them. Upon reaching home, Precita asked Arlene why she did not want to go with them. Arlene replied that appellant inserted his finger and sexual organ into hers and that she did not reveal the same to her Ate Milagros out of fear that appellant would kill her (TSN, August 5, 1986, pp. 7-9, 14-16).

The following day, June 15, 1984, at 10:45 a.m., Arlene, accompanied by Precita, went to the police station at Maragondon, Cavite, and filed a complaint for rape against appellant with Chief Investigator Pat. Ramiro Ilagan. The complaint for rape committed on June 11, 1984, was entered in the blotter as Entry No. 18-76, appearing on page 119 thereof (TSN, February 28, 1986, pp. 3-5; TSN, August 5, 1986, p. 2).

On June 16, 1984, Dr. Gregoria Camilo, the Municipal Health Officer of Naic, Cavite, examined Arlene at the Rural Health Unit Center at Naic. After examination, her findings were: 'the vulva is congested and there are hymenal tears at 1:00 o'clock, 6:00 o'clock, and at 11:00 o'clock.' She described the vulva as reddish and had a slight

swelling, and the laceration of the hymen as still fresh (TSN, May 20, 1986, pp. 3-5).”
[12]

Version of the Defense

Raising the defenses of denial and alibi, appellant presented the following version of facts: [13]

“The accused denied the accusation against him. He declared that he did not sexually abuse the complaining witness, Arlene Ramos. In the afternoon of June 11, 1984 he went to the show. He attended the show from 1:00 o’clock to 3:30 in the afternoon. When he arrived in his house after the show, his parents and brothers were in the house. He saw Arlene Ramos playing with the boys and girls in the house on said date on the occasion of the town fiesta. There was a misunderstanding between the family of the Ramos[es] and the Bersabe[s] (TSN, pp. 3-10, July 14, 1994).”

The Trial Court’s Ruling

In convicting the appellant, the trial court rejected the defenses raised. The court also ruled that the young complainant had no motive to testify falsely against Appellant Bersabe and that the medical findings of Dr. Gregoria Camilo corroborated the victim’s testimony.

Assignment of Error

In his Brief, appellant imputes to the trial court this sole error:

“The Court *a quo* erred in rendering a verdict of conviction despite the fact that appellant’s guilt was not proved beyond reasonable doubt.”[14]

In the main, Appellant Bersabe assails the trial court’s assessment of the credibility of the victim. He also argues that his culpability, if any, should only be for lascivious acts and not for rape.

This Court’s Ruling

The appeal is without merit.

Credibility of Witness

It is axiomatic that findings of trial courts on the credibility of witnesses are accorded with respect and will not be disturbed on appeal, in the absence of any showing that some facts or circumstances of weight or substance have been overlooked, misapprehended or misinterpreted so as to materially affect the disposition of the case. [15] Truly, the trial court is in a better position to assess the credibility of witnesses and their testimonies, as it has the opportunity to observe the witnesses firsthand and to note their demeanor, conduct and attitude while on the witness stand.[16]

In this case, the trial court accorded full faith and credence to the testimony of the six-year old victim. After a careful perusal of the records, this Court finds no reason to overturn or modify such assessment.

In a straightforward, clear and convincing manner, Arlyn testified how appellant perpetrated the sexual assault upon her:

“Q After that candies and money were received by you, what else was done to you by Gorio, the accused Bersabe?

A He lied [sic] me down on the bed.

Q How did he make you lie down on the bed? By force, or by what?

A Yes, sir.

Q After. . .

COURT

Q How did Gorio force you to lie down on the bed?

A He made me lied [sic] down.

COURT:

Q How did he make you lied [sic] down?

A I was pushed.

FISCAL AÑONUEVO:

Q Who pushed you, Gorio?

A Yes, sir.

Q When you were already lying down on bed, what did he do?

A He removed my short, my panty and my undershirt (sando).

Q When you said he, you are referring to Gorio, the accused?

A Yes, sir.

COURT:

Q What were you wearing at that time?

A ‘Sando po.’

Q And you had a short?

A Yes, your Honor.

Q And your panty?

A Yes, your Honor.

Q Aside from those, you don’t have any other apparel?

A No more, your Honor.

FISCAL AÑONUEVO:

Q Was he able to remove your short, your panty and sando?

A Yes, sir.

Q And you were then naked?

A Yes, sir.

Q Lying on the bed?

A Yes, sir.

COURT:

Q While Gorio was removing your short, panty and your sando, what were you doing?

A Gorio removed also his short, his brief and his clothing.

Q While Gorio was removing your short and your sando, did you resist?

A I resisted, your Honor.

FISCAL AÑONUEVO:

Q Did you make any cry? Did you cry?

A Yes, sir.

Q Did you make any outcry?

A No, sir.

Q Why did you not make any outcry?

A He said that he [was] going to kill me.

Q You were threaten[ed], in short?

A Yes, sir.

Q According to you, Gorio also removed his short, brief and shirt. After he ha[d] removed his short, brief and shirt, what did he do to you?

A He inserted his finger into my vagina.

Q After inserting his finger into your vagina or private organ, what else did he do?

A He inserted his penis into my vagina.

Q What did you feel when he inserted his penis into your vagina?

A I felt hurt.

COURT:

Q What was your position while the accused inserted his finger into your vagina? Were you still lying on that bed when Gorio inserted his finger into your vagina?

A Yes, your Honor.

Q How about when he inserted his penis into your sex organ, were you still lying on the bed?