

## SECOND DIVISION

[ G.R. Nos. 121995-96, April 20, 1998 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
FRANCISCO DACOBA, ACCUSED-APPELLANT.**

### D E C I S I O N

**MELO, J.:**

An accusation for rape can be made with facility; it is difficult to prove but more difficult for the person accused to disprove. The evidence for 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.

These doctrines become material and pertinent in resolving the instant appeal from the October 27, 1994 Joint Decision of the Regional Trial Court of the Fourth Judicial Region (Mauban, Quezon, Branch 64) in Criminal Cases No. 1408 and 1409, finding accused-appellant guilty of two counts of the crime of rape upon Jonalyn Andaya. Francisco Dacoba's conviction for said crime arose from two complaints both dated November 20, 1992, which charged him with raping his then 13-year old sister-in-law on November 7 and November 12, 1992.

Upon agreement of the prosecution and the defense, a joint trial on the merits ensued, following which, a judgment of conviction was rendered, disposing:

WHEREFORE, the Court finds the accused Francisco Dacoba guilty beyond reasonable doubt of having committed the crime of rape, defined and punished under Article 335 of the Revised Penal Code, upon the person of Jonalyn Andaya, on two (2) occasions, and therefore, sentences him to suffer the penalty of reclusion perpetua for each of the two (2) offenses and the disqualifications attached thereto under the law and to indemnify the offended party in the sum of P60,000.00 and to pay the costs.

SO ORDERED.

(pp. 31-32, *Rollo*.)

The trial court's statement of the background facts was quoted by the Office of Solicitor General, with the proper references to the transcript of stenographic notes supplied. The same being supported by the evidentiary facts, we likewise adopt, to wit:

Complainant Jonalyn Andaya recounted that she was living with her sister Ana and the latter's husband, accused Francisco Dacoba, at Barangay Sto. Angel, Mauban, Quezon.

On November 7, 1992, while her sister Ana was in town to buy viand, the accused asked her to go with him to the mountain to gather firewood (tsn, March 2, 1993, p. 13). Upon reaching the mountain, the accused forced himself upon her and inserted his penis in her private parts and succeeded having carnal knowledge with the complainant.

On cross examination, complainant testified that prior to the act of rape, accused boxed her below the right armpit. (*Ibid.*, p. 30)

The second occasion occurred on November 12, 1992. While complainant and accused were left in the house at Barangay Sto. Angel, Mauban, Quezon, accused pulled her in a room, undressed her and then placed himself on top of her and inserted his penis in her private part. Accused succeeded in undressing complainant by punching her below the ribs which rendered complainant weak and defenseless. (*Ibid.*, pp. 14-15)

Thereafter, accused ordered the complainant to put on her clothes and not to tell anyone otherwise he would kill her. (*Ibid.*)

Complainant reported the incident to her aunt, Josie Andaya, after the second rape incident. (*Ibid.*, pp. 15-16)

Prosecution witness Josie Andaya testified that on November 15, 1992, while she was in her store in the public market of Mauban, Quezon, Jonalyn came to her crying. When she asked the complainant what happened, the latter told her that accused raped her twice. (tsn, March 30, 1993, p. 40)

On the following day, November 16, 1992, she brought Jonalyn Andaya to the Mauban District Hospital at Barangay Polo, Mauban, Quezon, for physical examination where she was examined by Dr. Dante R. Diamante, Jr. Jonalyn Andaya related to Dr. Diamante that she was "pinagsamantalahan." (tsn, June 23, 1993, p. 3)

After examination, Jonalyn and Josie Andaya proceeded to Barangay Lincutan, Mauban, Quezon, to see Jonalyn's father, Jose Andaya. Josie Andaya told Jose Andaya the incident that befell her daughter. (tsn, March 30, 1993, pp. 40-41)

The following morning, November 17, 1992, Jonalyn Andaya, Jose Andaya and Josie Andaya went to the police headquarters and filed the complaints charging Francisco Dacoba of the crime of rape.

(*Ibid.*, pp. 41-42)

In defense, accused-appellant pleads denial, insisting that he never committed the crime charged.

Ana Andaya-Dacoba, wife of accused-appellant and sister of complainant, tried to establish that on November 7, 1992, she was at home weaving hats, while her husband was making sticks for nipa shingles and complainant was attending to the couple's 10-month old child. She then invited accused-appellant to go to the mountain to gather pili nuts but since complainant wanted to go with them, they all went to the mountain. She