

## THIRD DIVISION

[ G.R. No. 114849, August 24, 1998 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ALVIN IGNACIO Y JOCON, ACCUSED-APPELLANT.**

### DECISION

**ROMERO, J.:**

How much suffering can a seven-year old child, sexually victimized by a much older man, endure? No one can really answer this with certainty for it requires entering the mind, perhaps, even the soul, of the tortured child. The offense rarely leaves any tangible trace of injury, but what it does to the victim's mental and emotional well-being goes beyond any imaginable horror which will scar her indelibly for the rest of her lifetime.

The Ignacios and Diños were living peacefully under one roof until March 30, 1993, when seven-year old April Diño was sexually abused by accused-appellant Alvin Ignacio. April testified that on that fateful day, she was asked by her grandmother Myrna to call her Aunt Marilu. As the latter was taking an afternoon nap, April knocked on the door, but Alvin suddenly pulled her into his adjacent room. He pulled down her shorts and panty, unzipped his pants, laid her on the bed, lay on top of her, then mercilessly forced his manhood into her callow vulva. After ravishing her for some time, he casually pulled up her lower garments and warned her not to tell anybody about what had just occurred.

As fate would have it, however, she had to relate her ordeal to a grownup the following day, when Marilu confronted her about the bloody underwear discovered in the washroom. Marilu shared the information with April's "father" Ferdinand, and they listened to April's unwavering story, how she was raped by Alvin, then told to keep it a secret. They examined April and saw that she was still bleeding. April was then brought to the police while Ferdinand stayed in the house to ensure that Alvin would not leave the house. The responding officers questioned April and also inspected her private parts; they were likewise convinced that the young girl was raped. The same day, Alvin was arrested and detained at the police station pending investigation.

In the meantime, upon the request of the police, the National Bureau of Investigation subjected April to a medical and physical examination. Medico-Legal Officer Ruperto J. Sombilon, Jr. prepared a certification dated March 31, 1993, stating that he found April "to have fresh bleeding hymenal lacerations . . . . compatible to (sic) being sexually abused."<sup>[1]</sup>

The only evidence adduced by accused-appellant for his defense was the testimony of his brother Rufino Ignacio, Marilu's common-law spouse. Rufino claimed he was the true father of April and, as such, he was withdrawing the complaint against Alvin. April's birth certificate does state that her mother is Marilu Diño, but it fails to

divulge the identity of her father, which is stated as "unknown." Furthermore, Marilu, testifying as rebuttal witness, disputed Rufino's allegation. She said that her brother Ferdinand agreed to raise April as his own child.

After weighing the evidence thus presented, Judge Bienvenido L. Reyes of the Regional Trial Court of Malabon, Branch 74, convinced of April Diño's sincerity and candor, accordingly rendered a judgment of conviction, to wit:

"WHEREFORE, in the light of the foregoing, and finding the accused ALVIN IGNACIO Y JOCON GUILTY BEYOND REASONABLE DOUBT OF THE FELONY OF RAPE, he is sentenced to suffer an imprisonment of RECLUSION PERPETUA. He is likewise (ordered) to indemnify the victim and her heirs the amount of THIRTY THOUSAND (P30,000.00) PESOS, as and by way of moral damages.

SO ORDERED."

On appeal, accused-appellant maintains his innocence and claims that at her tender age, "it is unbelievable that April could classify the incident as 'rape' without some previous preliminaries and instructions from some legally disposed minds." He then goes on to conclude that "April was well rehearsed on what to say and testify in (sic) the witness stand."<sup>[2]</sup>

This is shallow reasoning which fails to convince this Court that accused-appellant was wrongly convicted. The evidence pointing to his culpability, far from being insignificant as he insinuates, is so overwhelming, and even assaults on the procedure for his prosecution cannot defeat this conclusion. There is no question that April Diño was seven years old at the time she was sexually abused by accused-appellant on March 30, 1993. For all intents and purposes, this type of rape being statutory, no proof of involuntariness on the part of the victim is necessary as she is considered by law to be incapable of consenting to the sexual act. To convict the accused, the only circumstance that need be proved is the fact of intercourse.<sup>[3]</sup> This was amply demonstrated by the prosecution in the case at bar. As we reiterated in *People v. Eudalino*,<sup>[4]</sup> "(a) person accused of rape can be convicted solely on the testimony of the victim provided the testimony is credible, natural, convincing and otherwise consistent with human nature and the course of things."<sup>[5]</sup>

April Diño testified thus:

"Q On 30 March 1993, in the afternoon at or about 3:00 p.m., do you know where you were?

A Yes, sir.

Q Where were you?

A I was at my tita, sir.

Q You said that you are at your tita. Who is this Tita you are referring to?

A Marilu A. Diño, sir.

Q And where is this house of your Tita Marilu?

A At the house of Alvin, sir.

Q In what municipality is the house of your tita Marilu where Alvin is also residing located?

A Navotas, sir.

Q Why were you there in the house of Tita Marilu?

A I was fetching her, sir, because my mommy asked me to call her.

Q Who was this Mommy whom you said was asking you to call your tita?

A Myrna Diño, sir.

Q Were you able to call your tita Marilu?

A No sir.

Q Why?

A She was sleeping, sir.

Q When you were not able to call your Tita Marilu, because she was sleeping, do you know what happened next?

A I knocked, sir.

Q Where did you knock?

A At the door of my tita, sir.

Q While you were knocking at the door of your tita, do you recall what happened next?

A Yes, sir.

Q What was that?

A I was pulled by Alvin, sir, "hinatak."

Q To what place did Alvin pull you?

A Inside his room, sir.

Q Where is this room located? In what house is this room located?

A Next to the room of my tita, sir.

Q You are referring to Tita Marilu's room?

A Yes, sir.

Q And this room of Alvin and the room of your tita are situated inside the house in Navotas?

A Yes, sir.

Q After pulling you to his room, what did Alvin do, if any?

A He removed my shorts and panty, sir.

Q After removing your shorts and panty, what did Alvin do, if any?

A He inserted his penis inside my vagina, sir.

Q What was your position when Alvin inserted his penis into your vagina? Were you in a lying position?

A Yes, sir.

Q When Alvin inserted his penis into your vagina, what did you feel, if any?

A I felt pain, sir.

Q After Alvin inserted his penis into your vagina, what did Alvin do, if any?

A He put on my shorts and panty, sir.

Q How long did Alvin's penis stay in your vagina?

A For a long time, sir.

Q After inserting his penis into your vagina which you said was quite long, what did he do next?

A He put on my panty and shorts back, sir.

Q How about him, did he disrobe before he inserted anything into your vagina?

A No, sir.

Q Did he say anything?

A Yes, sir.

Q What did he say?

A He told me that I should not tell to anybody what happened, sir.

Q This Alvin who inserted his penis into your vagina, is he inside the courtroom?

A Yes, sir.

Q Please point him to us.

(At this point in time witness pointed to a man who responded to the name Alvin Ignacio upon query)

After putting back your panty and shorts, what did Alvin do next, if any?

A He sent me outside the room and told me not to tell it to anybody, sir."

[6]

Even on cross-examination, the seven-year old lass did not waver in fingering accused-appellant as her ravisher:

"Q Do you know what a penis is?

A Yes, sir.

Q Do you know its shape?

A No, sir.

Q So you are not sure whether Alvin had inserted his pennis (sic) into your vagina?

A I am sure, sir, "sigurado po"

x x x x x x x x x

Q Why, are you so sure?

A I saw it, You Honor.

x x x x x x x x x

Q How big was the pennis (sic) of Alvin?

A Big, sir.

Q Is the pennis (sic) of Alvin as big as this microphone?

A Yes, sir.