

THIRD DIVISION

[G.R. No. 120988, August 11, 1997]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ROSEMARIE DE LA CRUZ Y NIEVA, ACCUSED-APPELLANT.**

DECISION

MELO, J.:

Accused-appellant Rosemarie de la Cruz was caught holding a seven-year old schoolgirl by the hand and leading her out of the school grounds. Charged with kidnapping and serious illegal detention of a minor, she was convicted, and accordingly sentenced to suffer the penalty of no less than *reclusion perpetua*. Accused-appellant contends that her guilt has not been established by proof beyond reasonable doubt and that the entire case is nothing but an overreaction to the situation.

The Information charged:

That on or about September 27, 1994, in the City of Manila, Philippines, the said accused, being then a private individual and without authority of law, did then and there willfully, unlawfully and feloniously kidnap, detain or in any manner deprive one WHIAZEL SORIANO y CRUZ, seven years of age, of her liberty, against her will and consent.

Contrary to law.

(p. 5, Rollo)

The case was docketed as Criminal Case No. 94-139168 before the Regional Trial Court of the National Capital Judicial Region (Branch 35, Manila). After accused-appellant entered a plea of not guilty, trial commenced. The testimony of the principal witnesses for the prosecution may be summarized in the following manner:

Cecilia Caparos, a neighbor of Whiazel Soriano, the victim, testified that on September 27, 1994, at around 11:30 o'clock in the morning, she was waiting for her two children inside the compound of the Aurora A. Quezon Elementary School when she saw Whiazel held on the hand and being led away by a woman later identified as accused-appellant. Knowing that Whiazel was enrolled in the afternoon class, she went after them and asked accused-appellant where she was going with Whiazel. Accused-appellant answered that she asked Whiazel to bring her to Rowena Soriano, the child's mother. Cecilia then turned to Whiazel and asked her why she was with accused-appellant. Whiazel answered that accused-appellant requested her to look for the latter's child. Cecilia grew suspicious because of the inconsistent answers, Whiazel's terrified look, and the scratches on the child's face. She told accused-appellant that she will bring accused-appellant to a teacher because she did not trust accused-appellant. Accused-appellant was "surprised and reasoned out",

but just the same agreed to go to a teacher (pp. 3-9, 11-13, tsn, April 3, 1995).

The victim, Whiazel Soriano (sometimes referred to in the record as Reazel or Rhiazel), at the time of the incident, was a Grade 1 pupil at the Aurora A. Quezon Elementary School in Malate, Manila. She testified that she voluntarily went with accused-appellant after being asked for help in looking for the school dentist. Whiazel also mentioned that accused-appellant asked for her assistance in looking for accused-appellant's child in a place far away from school. She was neither threatened nor hurt in any way by accused-appellant. She was not led out of the school; in fact they never got out of the school compound. When Cecilia Caparos saw them, Whiazel told accused-appellant that she wanted to go. Accused-appellant refused, and held Whiazel's hand. Whiazel did not try to escape. She did not even cry; well, not until they went to a teacher (pp. 3-9, tsn, April 7, 1995).

For the defense, Eufemia Magpantay, guidance teacher at Aurora A. Quezon Elementary School, testified that on September 27, 1994, at around noontime, accused-appellant, Whiazel, her teacher Mrs. Rioganes, and Cecilia Caparos went to her office. The incident was related to her. Asked what she was doing with Whiazel, accused-appellant said she wanted the child's help in looking for the school dentist. Accused-appellant reiterated this before the assistant principal to whom they all later went. This witness testified that the school allows patients who are not connected with the school to consult at the clinic. Further, she also mentioned that the students of the Aurora A. Quezon Elementary School, the same being a public school, come mostly from low to average income families (pp. 4-9, tsn, April 28, 1995).

Accused-appellant's mother-in-law, Gorgonia Nieva, testified that on the day prior to the incident, accused-appellant had asked her to look for Dr. Luisa Medina, a dentist. Accused-appellant's daughter was then sick. Her inquiries showed that the dentist no longer had her clinic at her house; instead she may be found at the Aurora A. Quezon Elementary School. Thus, the next day, she went with accused-appellant to Manila to look for the dentist. They parted ways when they arrived at the school at around 11 o'clock in the morning (pp. 3-12, tsn, April 24, 1995).

Accused-appellant testified that when she got to the school, she asked a guard where the clinic was. The guard gave her directions, and told her to pass through the same gate on her way out. When she got to the clinic, no one was there so she left. On her way out, a girl, later identified as Whiazel, walked with her at arm's length (nakasabay). She did not hold the child; she did not look at the child; they did not talk; not even smiles were exchanged. Before she could get out of the school, a woman (Cecilia Caparos) called her; hurled invectives at her, and accused her of kidnapping Whiazel. Accused-appellant got mad but nevertheless offered no resistance when Caparos dragged her and brought her to the office of the guidance counselor. There, Caparos repeated her charges against accused-appellant, which accusations the latter denied. Whiazel was asked by the guidance counselor if accused-appellant was really going to kidnap her; she answered no. Very much the same things were said later at the principal's office (pp. 2-8, tsn, April 21, 1995). At the request of the principal, five policemen later came and brought accused-appellant to Station No. 5 of the Western Police District (pp. 14-15, Rollo).

Lending credence to the testimony of the prosecution witnesses, the trial court rendered the appealed decision finding accused-appellant guilty beyond reasonable