

SECOND DIVISION

[G.R. No. 122757-61, November 28, 1997]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
EDUARDO "EDWIN" TATON, ACCUSED-APPELLANT.
D E C I S I O N**

PUNO, J.:

Accused-appellant EDUARDO "Edwin" TATON appealed from the Decision of the Regional Trial Court of Iloilo City finding him guilty beyond reasonable doubt of five (5) counts of rape.

Except as to the date of commission of the crime, the five (5) Complaints^[1] for rape filed by 13-year old MA. LOURDES PADIN against accused-appellant, were similarly worded as follows:

"That on or about January 19, 1992 (January 26, February 9, February 23, and March 1, all of 1992) in the Municipality of Tubungan, Province of Iloilo, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, armed with a knife, with deliberate intent, by means of force and intimidation, did then and there wilfully and feloniously have carnal knowledge of Ma. Lourdes Padin, 13 years old, against her will and consent."

"CONTRARY TO LAW."

Five (5) witnesses testified for the prosecution, viz: the rape victim MA. LOURDES PADIN, her mother TERESITA PADIN, her uncle ANTONIO TACAISAN, her aunt CONSORCIA TACAISAN, and DR. EDGAR JALAGO, Rural Health physician of Tubungan, Iloilo.

The records show that complainant MA. LOURDES PADIN has been suffering from skin lesions on her left foot, knee and thigh since she was five (5) years old. TERESITA PADIN, Lourdes' mother, has brought her to dermatologists and quack doctors, all with no positive result.^[2] In 1991, ANTONIO TACAISAN, Lourdes' uncle, advised her to consult another quack doctor, accused EDUARDO "Edwin" TATON, for her skin lesions.^[3]

During schooldays, Lourdes stayed in a boarding house in the poblacion and returned to her house in Barangay Bagonanay on Friday afternoons, after her class.^[4]

On December 15, 1991, at about 6:00 p.m., Lourdes met accused in her uncle's house in Barangay Tagpu-an, Tubungan, Iloilo. Accused examined her skin lesions and prescribed some medicine. He advised her to see him again on January 19,

1992 (a Sunday) for follow-up treatment.^[5]

As scheduled, on January 19, at about 6:00 p.m., Lourdes returned to her uncle's house to meet with accused. The treatment was conducted inside the bathroom, located outside her uncle's house and about five (5) feet away from the kitchen. The entrance to the bathroom was covered by a sack cloth. During the treatment, only accused and Lourdes were present. Accused burned some twigs and palm leaves in a coconut shell and directed Lourdes to inhale the smoke coming from the pile. This lasted for about thirty (30) minutes. Afterwards, accused started to remove Lourdes' undies. Puzzled and surprised, Lourdes asked accused what he was doing but got no reply. Instead, accused pointed a knife at her and ordered her to sit on a stool and lean on the wall. Lourdes had no choice but to obey. Accused then raised Lourdes' left foot and tried to insert his organ into hers but in vain. Accused's organ merely touched the outer portion of Lourdes' private part. The sexual molestation lasted for about two (2) minutes. Accused then warned Lourdes not to tell anyone about the incident, otherwise, he would kill her and her family.^[6]

Lourdes spent that night in her uncle's house. She slept in the room of Cherry Ann, her uncle's ten-year old daughter. Lourdes kept mum about the incident for fear of accused's threats to kill them. She was also afraid that accused, being a quack doctor, would cast a spell on them.^[7] Early morning the next day, Lourdes left her uncle's house to attend her classes in the poblacion.^[8] Afterwards, she returned to her boarding house in the poblacion.

That weekend, when Lourdes arrived at her house in Barrio Bagonanay, her mother, Teresita, asked whether she was able to see accused that Sunday for treatment of her skin lesions. Lourdes curtly replied in the affirmative. Teresita then instructed Lourdes to continue her consultation with accused every other Sunday. Lourdes started to cry and refused to go back. Teresita thought that Lourdes was merely throwing a tantrum. Unaware that something untoward happened to her daughter during the treatment session, Teresita admonished Lourdes not to cry and urged her to pursue the treatment so her skin lesions would finally be cured. Helpless, Lourdes did not further remonstrate.^[9]

On January 26, 1992 (a Sunday), upon her mother's prodding, Lourdes returned to her uncle's house for the third follow-up treatment by accused. She suffered the same ordeal. After accused burned the twigs and palm leaves, he started sexually molesting her. Accused removed her undies. He took off his pants and laid it on the bathroom floor. He poked a knife at Lourdes, ordered her to lie on his pants and mounted her. This time, accused succeeded in penetrating Lourdes' organ. Lourdes felt intense pain. After a couple of minutes, accused got up and threatened Lourdes not to tell anyone about the incident. Lourdes did as she was told. She again spent the night in her uncle's house and left the following morning for school.^[10]

After her repeated molestation in the hands of accused, Lourdes hesitated to return to accused for further treatment. However, each time Lourdes vacillated, her mother, Teresita, would scold her and force her to go back for further treatment.^[11] As expected, Lourdes was molested the fourth and fifth times she was treated by accused on February 9 and 23, 1992. After the 30-minute treatment, accused would rape her at knifepoint.^[12]

March 1, 1992 was the last time accused raped Lourdes. It happened in the same place and under similar circumstances. Again, Lourdes was not able to resist for accused's knife was pointed at her. Neither was she able to shout for help as accused threatened to hack her should she do so. This time, however, accused was not able to fully penetrate her.^[13]

Teresita did not notice any improvement in the condition of Lourdes despite her series of treatment. Instead, Lourdes started experiencing severe pain in her ear and her skin lesion on the foot made it difficult for her to walk. Lourdes' abdomen started to swell and she would vomit occasionally.^[14]

On May 5, 1992, Teresita brought Lourdes to DR. EDGAR JALAGO, rural health physician of Tubungan, Iloilo, for consultation. Seeing Lourdes' enlarged abdomen, Dr. Jalago suspected that she could be pregnant. However, he did not articulate his suspicion as Lourdes was of such tender age to be pregnant and a suggestion of pregnancy might offend her mother. Dr. Jalago did not order any examination to confirm his suspicion. He merely prescribed medicine for Lourdes' ear and skin lesions.^[15]

The next month, June 1992, Lourdes and Teresita returned to Dr. Jalago for follow-up treatment of Lourdes' ear and foot. Dr. Jalago still did not confide to Teresita about his suspicion that Lourdes might be pregnant nor did he conduct tests to confirm his suspicion. He again prescribed medicine for Lourdes' skin lesions.^[16]

All the while, the young Lourdes was unaware that she was carrying a child in her womb. Neither did her parents and relatives suspect that she was pregnant. They noticed that Lourdes' abdomen was getting bigger but they did not pay much attention to it. They thought that Lourdes was merely gaining weight.^[17]

The last time Lourdes met accused was in August 1992 at Barangay Danao, Tigbauan, Iloilo. Her grandmother, Consolacion Tacaisan, wanted to consult accused for an ailment. Teresita asked Lourdes to accompany them to accused's house.

In accused's house, Consolacion was treated by accused. Thereafter, they casually mentioned to accused that they had gone to Dr. Jalago to consult him about Lourdes' swollen abdomen and skin lesions. Accused's face became flushed. He nervously asked them about Dr. Jalago's findings. They replied that the doctor merely prescribed some medicine. Consolacion then sought accused's opinion as to why Lourdes' stomach was swollen. Instead of answering Consolacion, accused turned to Teresita and said: "Your daughter has a tumor and it will develop into cancer and soon she will die." Then, accused gave Lourdes 50 pieces of tablets for her stomach tumor. He directed Teresita to make sure Lourdes take the medicine thrice a day.^[18]

When they reached home, Teresita took from Lourdes the medicine given by accused. She read the label on the medicine bottle and saw that it was for external use only. She then forbid Lourdes to take the tablets.^[19]

On October 7, 1992, at about 3 a.m., Lourdes woke up her mother, pleading: "Ma,

please light a lamp. It seems I would be moving my bowel." Teresita lit a lamp and assisted her daughter. At the urinal, Lourdes complained of stomach pains. Teresita gave her medicine but Lourdes was not relieved. After a while, Lourdes again said she would move her bowel. Teresita accompanied her to the toilet and noticed there was blood in the urinal. She comforted Lourdes by telling her that her tumor might be coming out and she would be relieved. Teresita then rushed to her mother's house and informed her about Lourdes' stomach ache. They returned to where Lourdes was but they were not able to bring her to the hospital as there was no one else to assist them in carrying Lourdes out of the house. Teresita then called her neighbor, Margarita Tabuga, to massage Lourdes' stomach to ease her pain.^[20]

Margarita came and started massaging Lourdes' stomach. She then felt a baby inside Lourdes' womb. She whispered to Teresita that her daughter was pregnant. Teresita refused to believe her and admonished Margarita to refrain from making jokes. At about 8 a.m., while Margarita was massaging Lourdes' stomach, a baby boy came out. Due to immense shock, Teresita cried and fainted. After regaining consciousness, Teresita asked Lourdes about the baby's father. Lourdes did not respond. When Teresita shed tears, Lourdes revealed that the baby was the result of the repeated sexual abuses she suffered in the hands of accused while undergoing treatment in her uncle's house. She explained that she kept silent about her misfortune for fear that accused would kill her and her family.^[21]

ANTONIO TACAISAN, Lourdes' uncle, confirmed that accused had treated her niece in his house. He himself has previously gone to accused for treatment of his feet. Accused was able to cure him with the use of a Chinese ointment and he recommended accused to Lourdes for treatment of her skin problems.^[22]

Accused treated Lourdes inside the bathroom, which was located outside their house. Accused told them it was necessary to conduct the treatment in the bathroom so Lourdes could inhale the smoke from the burning twigs and leaves. During the treatment, Antonio and his wife would be upstairs, in their house, preparing accused's supper. After every treatment session, accused would go up to their house and have supper with them.^[23]

Antonio confirmed that Lourdes never complained to him about accused's sexual molestation. Neither did they suspect that anything untoward has been happening to Lourdes during the treatment sessions. They only learned about the sexual abuses when Lourdes gave birth to a baby boy in October 1992. Earlier, he came to know that Lourdes' stomach was getting bigger but it was rumored that it was due to a tumor.^[24]

Accused, for his part, hoisted the defenses of denial and alibi. He claimed he was nowhere near Antonio Tacaisan's house during the five (5) nights he allegedly raped complainant. He declared that the only time he treated Lourdes was in December 1991 and it was in the presence of her uncle.

On January 19, 1992, when complainant allegedly met him at Antonio Tacaisan's house in Tubungan, he was treating Doroteo Carpio in the latter's house in Igaras, Iloilo, about 10 kms. from Tubungan.

DOROTEO CARPIO corroborated accused's alibi. He testified that on January 15,

1992, he suffered from loose bowel movement. He sought the medical assistance of Dr. Arthur Valera and requested him to drop by his house as he was then bedridden. Dr. Valera visited him and prescribed some medicine. However, his stomach started to bloat. He decided to consult accused and requested the latter to come to his house.^[25]

On January 17, 1992, at about 10:00 a.m., accused arrived at his house. Accused applied Danles ointment and holy oil on his stomach. Accused also placed some banana leaves on his stomach and gave him B Propolis and Royal B tablets. Accused stayed in his house for four (4) days, i.e., from January 17-20, 1992, while he was treating him. Thus, accused was not in Tubungan, Iloilo, on January 19, 1992, as alleged by complainant and her witnesses.^[26]

Defense witness JOHNNY TACUBAN sought to establish accused's whereabouts on January 26, 1992, the second time accused raped Lourdes. Tacuban declared that on said date, at about 9:00 a.m., he and his aunt were in accused's house in barangay Danao, Tigbauan, Iloilo, for a massage. Accused massaged his aunt for about 30 minutes. Thereafter, he and his aunt stayed in accused's house until about 4:00 or 5:00 p.m. as her aunt talked with the other members of accused's family. He affirmed that from 9:00 a.m. to 5:00 p.m. of January 26, 1992, accused was in his house and that he even butchered a pig for the barrio fiesta the next day.^[27]

ALFREDO OBAL, a barangay councilman in Barangay Danao where accused resided, declared that at about 5:30 p.m., accused and five (5) other barangay officials constructed a stage near his house for the barangay fiesta the next day. They finished at about 6:30 p.m. They then went to accused's house for supper. They left at around 8:00 p.m. and, together with accused, proceeded to the dance hall. Upon reaching the hall, they each went their own way. Thus, from 5:30 p.m. to 8:00 p.m. of January 26, accused was with them and not in Tubungan treating Lourdes.^[28]

On cross-examination, Obal testified that their barangay is just 5 kms. away from Barangay Tagpu-an where Lourdes claimed he was raped by accused. Obal admitted that accused is his friend and barriomate.^[29]

Accused EDUARDO TATON, 32 years old and unmarried, testified in his defense. He confirmed that he was an agent of herbal medicines and distributor of food supplements since 1987. He has been treating skin lesions and selling herbal medicines for this ailment in various places.^[30]

Accused denied the rape charges. He insisted he did not rape Lourdes on the five (5) dates in question for the only time he saw her was on December 15, 1991 and he merely prescribed medication for her ailment. From then on, Antonio Tacaisan, Lourdes' uncle, just bought medicine from him and applied the cream medication on Lourdes. Accused also pointed out that it would take about four (4) hours to reach the Tacaisan residence from his house.^[31]

Accused claimed that he learned of the rape charges only when he was arrested on April 3, 1993. He, however, declared that he had no misunderstanding with Lourdes, Teresita Padin or Antonio Tacaisan.^[32]