

SECOND DIVISION

[G.R. Nos. 116749-50, August 26, 1996]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. CESAR PONAYO Y ADIM, ACCUSED-APPELLANT.

D E C I S I O N

PUNO, J.:

Appellant CESAR PONAYO y ADIM was charged with two (2) counts of rape for having carnal knowledge with his then fifteen-year old daughter TEODELYN PONAYO against the latter's will.^[1]

Except for the dates, the two identical Informations for rape,^[2] both dated May 20, 1993, filed against appellant on the basis of the complaint of the victim Teodelyn Ponayo, reads:^[3]

"That on or about July 25, 1992 (and August 8, 1992) in the Municipality of Cabusao, Province of Camarines Sur, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, by means of violence and intimidation, did then and there wilfully, unlawfully and feloniously have (sic) carnal knowledge of (sic) Teodelyn Ponayo, his 16-year old daughter, against her will.

"ACT CONTRARY TO LAW."

Appellant pleaded guilty to both Informations. Pursuant to Section 3, Rule 116 of the Rules of Court, the trial court directed the prosecution to present its evidence to prove appellant's guilt and his precise degree of culpability.

Thus, the prosecution called to the stand the sixteen-year old victim TEODELYN PONAYO. She testified that appellant CESAR PONAYO is her father. On July 15, 1992, her mother, Erlinda Badagwas, left the country to work in Damam, Saudi Arabia. Teodelyn was then a fifteen-year old, second year high school student at the Barcelonita High School. She and her family resided in a one-room house in Barangay Biong, Cabusao, Camarines Sur.^[4]

On July 25, 1992, or barely ten (10) days after her mother left for abroad, Teodelyn's unspeakable suffering began. At around 9:00 p.m., she was at home together with her father (appellant), her brother and two (2) sisters. Her siblings asked appellant's permission to watch television in a neighbor's house, which was about 500 meters away. Appellant acquiesced. Forthwith, her siblings left the house. Teodelyn was left behind for appellant instructed her to fix first the beddings before she could watch TV with her siblings. She did as she was told.^[5]

After finishing her chore, Teodelyn left the bedroom and encountered appellant

outside the room. Appellant then held both her hands and forced her to go back in the room with him. She asked: "Why are you hurting me? What will you do to me?" Appellant remained silent and did not respond. He continued to drag her back into the room.^[6]

Once inside the room, appellant locked the door and repeatedly punched Teodelyn on the stomach. Appellant pushed her on the bamboo floor and undressed her. Appellant tied Teodelyn's hands behind her back. He spread her legs apart and tied them to a post. She pleaded with appellant to stop but to no avail. She tried to shout for help but whenever she did, appellant would strangle her.^[7]

After tying her up, appellant started kissing her face, lips, nipples and sex organ. He then inserted his finger into her vagina. Feeling intense pain, she exclaimed: "*Aray ko, aray ko. Tama na po.*" Appellant covered her mouth with his palm to muffle her voice. He then succeeded in having carnal knowledge with her. All this time, she was struggling, trying to free herself, but appellant would either punch or slap her. At times, appellant would strangle her. Appellant also warned her not to move, otherwise he would kill her.^[8]

After satisfying his lust, appellant threatened her with death should she mention the incident to anyone. Appellant then untied her hands and feet. He instructed her to get dressed for her siblings were already back home. When she got up from the floor mat, she found a lot of blood on her buttocks. She could not help but cry when she started putting back her clothes on.

When her siblings entered the room, appellant told them to go to sleep. Noticing the blood on the floor mat, Shirley, Teodelyn's younger sister, asked her if she has her monthly period. Teodelyn did not respond. Teodelyn then laid down on the floor with her sisters, while appellant slept with her brother in the same room. Sleep eluded Teodelyn that night.^[9]

The next day, while appellant was in the farm, Shirley asked Teodelyn again why there was so much blood on the floor mat and why she had so many scratches and hematoma on her neck and body. At first, she said nothing happened. Upon Shirley's insistence, she revealed that she was physically and sexually abused by their father the night before. Shirley cried and advised her to report to the police. Teodelyn refused for fear that appellant would kill them.^[10]

This sexual molestation was repeated on August 8, 1992. At about 12 midnight, Teodelyn and appellant were left alone in the house. Appellant had earlier sent Teodelyn's siblings to sitio Unlad, about a kilometer away, to buy kerosene. Teodelyn was then washing the dishes when appellant suddenly manifested from behind her. Appellant pointed a kitchen knife at her back, dragged her into the room and warned her that if she resisted, he would stab her.^[11]

Inside the room, appellant tore off Teodelyn's clothes and covered her mouth with his palm to forestall any cry for help. Appellant then proceeded to rape her. Teodelyn tried to resist but appellant punched the different parts of her body. Afterwards, she felt a sting on her upper right arm. She noticed that she had wounds on her thigh, left leg and right side of her head.^[12] She passed out. She regained consciousness