

SECOND DIVISION

[G.R. No. 117641, September 16, 1996]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
MAGENCIO PADA ALIAS "MENCIONG," ACCUSED-APPELLANT.**

DECISION

PUNO, J.:

In a complaint dated August 28, 1991, accused-appellant Magencio Pada alias "Menciong" was charged by Angeles Mangala, the mother of Siodaleyte Mangala, with the crime of rape committed as follows:

"That on or about the 19th day of August 1991, at about 9:00 in the morning, more or less, at Barangay San Pedro, Municipality of Matalom, Province of Leyte, Philippines, and within the preliminary jurisdiction of this Honorable Court, the above-named accused, with deliberate intent, with the use of force and intimidation, and with deliberate intent to have carnal knowledge, did then and there, wilfully, unlawfully and criminally, have succeeded in having sexual intercourse with Siodaleyte G. Mangala, a minor and of good reputation, against her will.

This case is attended by the following aggravating circumstances: 1. the offended party is a minor; 2. superior strength; and 3. with the use of a deadly weapon.

Contrary to Art. 335 of the Revised Penal Code."^[1]

The prosecution established that at 9:00 in the morning of August 19, 1991, at the poblacion, Matalom, Leyte, Siodaleyte Mangala, then twelve (12) years of age and a grade six student was buying some paper at the store of a certain Loloy Dampios. Accused-appellant, whose house was across the store, saw Siodaleyte and called her to buy food for him at the market. Appellant gave the girl P25.00 -- P20.00 for the food and P5.00 for her tip. Siodaleyte returned with the food and gave it to appellant at the doorway of his house. Thereupon, appellant pulled her into the house and brought her to a bed. Brandishing a knife, appellant ordered Siodaleyte to undress and lie down on the bed, and threatened that if she refused, he would kill her parents. Siodaleyte did as she was ordered. Appellant then undressed himself and went on top of her while placing the knife on a table two feet away.

Appellant forcibly penetrated Siodaleyte. She felt pain but fear prevented her outcry. After satisfying his lust, appellant ordered Siodaleyte to dress up and leave. He again threatened her parents with death if she would reveal the incident to anyone. Siodaleyte went home and pursed her lips.^[2]

A week later, Siodaleyte's mother heard ugly rumors about her daughter. She

confronted Siodaleyte who disclosed that she was sexually abused by appellant. A medical examination was conducted on August 27, 1991 and Siodaleyte was found to sustain lacerations in her hymen and swelling in her labia and clitoris, thus:

"I EXTERNAL EXAMINATION
HEAD TO FOOT - No sign of trauma

II INTERNAL EXAMINATION

A. EXTERNAL GENITALIA

PUBIC HAIR: No pubic hair noted

LABIA MAJORA: Swollen

LABIA MINORA : Swollen

CLITORIS: Swollen

B. INTERNAL GENITALIA

HYMEN: Lacerations noted at 5 o'clock, 1/3 cm long, posterior fourchet with old laceration;

INTROITUS: Admit one examining finger;

ADNEXA: Tenderness on both sides.

GYNECOLOGIC HISTORY: Menarche and LMP not applicable.

REMARKS: Consummated rape is highly entertained."^[3]

Accused-appellant denied having raped Siodaleyte. He alleged that on August 19, 1990 at 5:00 A.M., he left his house for the public market where he worked as a laborer. He was at the market the whole day and returned home late in the afternoon. He claimed that his left hand had been paralyzed since 1986 and he could not hold a knife or any other object in his left hand.^[4]

The trial court convicted the accused-appellant. In a decision dated July 19, 1994, the court sentenced appellant as follows:

"WHEREFORE, this court pronounced accused MAGENCIO PADA GUILTY of rape beyond reasonable doubt and is hereby sentenced to suffer the penalty of reclusion perpetua and to indemnify the offended party the amount of Thirty Thousand Pesos (P30,000.00) with costs.

In the service of his sentence, accused is hereby credited with the full time of his preventive imprisonment if he agreed to abide by the same disciplinary rules imposed upon convicted prisoners, otherwise, he will only be entitled to 4/5 of the same.

SO ORDERED."^[5]

In this appeal, appellant contends that:

"THE LOWER COURT MANIFESTLY ERRED IN CONVICTING APPELLANT OF THE CRIME CHARGED DESPITE THE FACT THAT THE PROSECUTION