

## THIRD DIVISION

[ G.R. No. 119405-06, November 21, 1996 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
RODOLFO LEOTERIO Y SANOZA, ACCUSED-APPELLANT.**

### D E C I S I O N

**DAVIDE, JR., J.:**

Accused Rodolfo Leoterio y Sanoza appeals from the decision<sup>[1]</sup> of 18 January 1995 of the Quezon City Regional Trial Court, Branch 79, in Criminal Case Nos. Q-93-46506 and Q-93-46507, finding him guilty of two counts of rape committed on separate dates against the same complainant.

Complainant Mergena Manahan y Tahop initiated the aforementioned criminal cases by filing two complaints on 16 July 1993, the accusatory portions of which reads as follows:

#### **CRIMINAL CASE NO. Q-93-46506**

That on or about the 14th day of June 1993, in Quezon City, Philippines, the above-named accused, by means of force, violence and/or intimidation, did then and there, wilfully, unlawfully and feloniously with lewd designs and with the use of a knife, had carnal knowledge of the undersigned, a minor, fourteen (14) years of age, without her consent and against her will, to the damage and prejudice of the said offended party.

Contrary to law.<sup>[2]</sup>

#### **CRIMINAL CASE NO. Q-93-46507**

That on or about the 8th day of July 1993, in Quezon City, Philippines, the above-named accused, by means of force, violence, and/or intimidation, did then and there, wilfully, unlawfully and feloniously with lewd designs and with the use of a knife, had carnal knowledge of the undersigned, a minor, fourteen (14) years of age, without her consent and against her will, to the damage and prejudice of the said offended party.

Contrary to law.<sup>[3]</sup>

These cases were consolidated and jointly tried. Upon arraignment, the accused entered a plea of not guilty in each case.<sup>[4]</sup>

The witnesses presented by the parties were complainant Mergena Manahan, Bienvenida Manahan, SPO3 Ramon Mangadap, and Dr. Vladimir Villasenor of the

Philippine National Police (PNP) Crime Laboratory Service, for the prosecution; and the accused, for the defense.

The evidence for the prosecution established the following facts:

On and prior to 8 July 1993, complainant Mergena Manahan, an orphan from Samar who turned 15 years old on 3 November 1993, and who only reached Grade II, lived with her sister Bienvenida Manahan at No. 643 Apple Street, Barangay Commonwealth, Quezon City, together with their younger brother Proceso, Bienvenida's daughter Joan, and the accused, who was Bienvenida's "live-in partner."<sup>[5]</sup> Their one-room dwelling had an area of about four by six meters.<sup>[6]</sup>

At about 3:00 p.m. of 14 June 1993, Mergena was in their house with her younger brother Proceso and niece Joan, who were then sleeping. The accused, who was drunk, arrived and pointed a knife at Mergena and ordered her to undress. She refused, but the accused threatened to hurt her then slapped her, causing her to fall prone. The accused forcibly pulled down her shorts and removed her panty, removed his shorts and his underwear, placed himself on top of her, forcibly separated her thighs and inserted his penis into her vagina. She could not move because the right hand of the accused held her hands above her head while his left hand was holding a knife. Thereafter, the accused threatened to kill her if she reported the incident to her sister Bienvenida, who was then out selling dusters in Cubao, Quezon City. The accused was asleep when Bienvenida arrived home. Because of the threat, Mergena did not tell Bienvenida that she was raped by the accused.<sup>[7]</sup>

On 8 July 1993 at about 4:30 p.m., Mergena was again in the house with Proceso and Joan. The three of them were asleep. The accused awakened Mergena upon arriving from a drinking session with his brothers, pointed a knife at her and ordered her to stand up. When she refused to obey, he pulled her up. He removed his short pants, then with a knife still pointed at her, removed her skirt and made her lie down. He removed her panty and his underwear, separated her thighs and inserted his penis into her vagina while fondling her breast. This entire time his left hand was holding the knife. After he consummated the sexual act, he told her not to report what happened to her sister Bienvenida, who was again away at that time selling dusters.<sup>[8]</sup>

Upon returning home that afternoon, Bienvenida Manahan found Mergena pale and shaking, sitting with her hands on her chest, while the accused was kneeling with his face touching the complainant's face. The two children, Proceso and Joan, were asleep. Bienvenida asked the accused what he and Mergena were doing, and the accused replied that he was only teasing Mergena. The accused left for work that afternoon. Bienvenida kept asking Mergena what happened until the latter cried and admitted that she was raped by the accused. Bienvenida brought her sister to their Purok Leader who accompanied them to the police station. The police handed them a request for a medical examination at Camp Crame where she was examined by Dr. Vladimir Villasenor, Police Senior Inspector and Medico-Legal Officer of the PNP Crime Laboratory Service. Dr. Villasenor found a hymenal laceration "at four o'clock position" on the private parts of Mergena, but found no spermatozoa. He opined that the injury could have been caused by the insertion of a male organ or some other foreign object into Mergena's vagina.<sup>[9]</sup>

Five days later, Bienvenida obtained Mergena's medico-legal report from Camp Crame. She brought the report to Police Station 5 along Commonwealth Avenue<sup>[10]</sup> where she and her sister executed their affidavits.<sup>[11]</sup> SPO3 Ramon Mangadap and PO3 Mariano Ranjo of the said station, accompanied by Bienvenida and Mergena, went to the house on Apple Street, Barangay Commonwealth, where the accused was still residing. Upon reaching there, Bienvenida and Mergena pointed out the accused to the policeman. PO3 Ranjo apprehended the latter and turned him over to the Desk Officer,<sup>[12]</sup> and consequently the accused was brought into police custody.<sup>[13]</sup> By this time, Bienvenida and Mergena had already moved out of their house at Apple Street, Barangay Commonwealth, Quezon City.<sup>[14]</sup>

The accused told a different story. According to him, at 3:00 p.m. of 14 June 1993, he was at their residence at No. 643 Apple Street, Barangay Commonwealth, Quezon City, busy preparing food for his daughter Joan's birthday. His kumare, his sister, and Bienvenida Manahan assisted him in the preparations. The party lasted until past 7:00 p.m. Nothing unusual happened during that period.<sup>[15]</sup> On 4 July 1993, he was at his sister-in-law's house for her birthday, where he arrived before lunch time and stayed to drink with his brother until 7:10 p.m.<sup>[16]</sup> The house of his sister-in-law was about 200 meters away from his house, a distance which could be negotiated by walking more than five minutes.<sup>[17]</sup>

The accused could think of no ulterior motive on the part of Mergena, who is "malaming," in charging him with rape; but he attributed ill motive against Bienvenida Manahan because he was "about to know" that Bienvenida was having a relationship with his kumpadre. The accused believed that the rape were filed to pre-empt his filing of a case against Bienvenida and his kumpadre.<sup>[18]</sup>

The trial court dismissed what it called the "uncorroborated defense of the accused," and gave greater weight to the positive testimony of Mergena, who described "in open, plain-spoken terms"<sup>[19]</sup> how she was raped by the accused on 14 June 1993 and 8 July 1993, and whose "simplicity" of narration allows no reason for the Court to entertain doubt as to the candor of her testimony."<sup>[20]</sup> Thus, in its decision of 18 January 1995, it found the accused guilty as charged and rendered judgment as follows:

WHEREFORE, judgment is hereby rendered in these cases finding accused Rodolfo Leoterio y Sanoza guilty beyond reasonable doubt of the crime of Rape for two (2) counts punishable under Article 335 of the Revised Penal Code and he is hereby sentenced to suffer the penalty of reclusion perpetua for each count and to indemnify the victim Mergena Manahan y Tahop in the amount of P50,000.00 as damages.

SO ORDERED.

The accused appealed to us from the judgment, and in seeking its reversal assigns in his Appellant's Brief this lone error:

THE TRIAL COURT ERRED IN CONVICTING THE ACCUSED APPELLANT DESPITE THE MATERIAL INCONSISTENCIES IN THE TESTIMONY OF THE

PRIVATE COMPLAINANT WHICH RENDERED IT UNTRUTHFUL.

Thereunder, he questioned the possibility of rape occurring in broad daylight, in a one-room house where two children were sleeping. He likewise raises the complainant's failure to notify the authorities, or at least her sister, about the rape when it first happened, thus seriously affecting the truthfulness of her testimony. Indeed, about one month had gone by before the complainant told her sister about the first rape.

These arguments do not persuade us. We have long adhered to the rule that it is not necessary for the rape to be committed in an isolated place; rapists bear no respect for locale and time when they carry out their evil deed. In the cases at bar, the rapes were committed inside a dwelling which had not been proved to be without walls and in the presence of children who were fast asleep. Rape has been successfully consummated in places where people congregate, like parks or school premises, and even in a house where there are other occupants.<sup>[21]</sup> As to the delay in reporting the first rape, it is not uncommon for young girls to conceal for some time the assault against their virtue because of the rapist's threats on their lives.<sup>[22]</sup> This is especially true in this case where the victim, an orphan of tender years who only completed second grade, was living with the accused. Besides, the fact remains that the complainant reported the two rapes to her sister a few hours after the commission of the second on 8 July 1993.

The accused likewise insist that the complainant's "shifting testimony" as to how she was raped eroded her credibility. He cites the following exchanges where there appears an apparent inconsistency as to which hand of the accused held the knife or was used to undress her:

**ATTY.  
VILLARIN:**

**Q:** Which hand did Rodolfo Leoterio use in holding you, Miss witness?

**A:** Right hand ma'am.

**Q:** Where did Rodolfo Leoterio hold you?

**A:** My both hands, ma'am.

Witness demonstrating by raising his two hands above her head.

**Q:** You mean to say Rodolfo Leoterio held your two hands upward using his right hand only?

**A:** Yes, ma'am.

**Q:** What was the left hand of Rodolfo Leoterio doing?.

**A:** The left hand was holding the knife, ma'am.

**Q:** What were you doing while Rodolfo Leoterio was holding your both arms using his right hand and holding a knife using his left hand?

**A:** I cannot move ma'am.

**Q:** Since you said that Rodolfo Leoterio was holding your both arms using his right hand and holding a knife with his left hand, so what hand did he use to undress you?