Supreme Court E-Library

EN BANC

[G.R. No. 144634. December 18, 2002]

PEOPLE OF THE PHILIPPINES, *plaintiff-appellee, vs.* **AURELIO CRUZ *y* RAMOS,** *accused-appellant.*

SYNOPSIS

Appellant was convicted of raping his then sixteen (16) - year old daughter Marivic and was sentenced to death.

The Supreme Court affirmed his conviction on appeal, ruling: that a rape victim like Marivic, who testifies in a categorical, straightforward and frank manner, is a credible witness; that her failure to report the previous incidents of rape to her mother does not dent her credibility, because people react differently to emotional stress; and that accused's state of intoxication at one time by itself does not preclude him from raping Marivic. The Court, however, reduced the death sentence to *reclusion perpetua* because it was not sufficiently proven that accused indeed is the father of Marivic and that Marivic was a minor at the time she was raped.

SYLLABUS

1. **REMEDIAL LAW; EVIDENCE; CREDIBILITY OF WITNESSES; CATEGORICAL AND STRAIGHTFORWARD TESTIMONY OF RAPE VICTIM MUST BE GIVEN FULL WEIGHT AND CREDIT; CASE AT BAR.**— It is doctrinally settled that a rape victim who, like Marivic, testifies in a categorical, straightforward, spontaneous and frank manner, and remains consistent, is a credible witness and her testimony must be given full weight and credit. And the victim's credibility is enhanced when she accuses her own father. For it is unthinkable, if not completely preposterous, that a daughter would audaciously concoct a story of rape against her father in wanton disregard of the unspeakable trauma and social stigma it may generate on her and the entire family.

2. **ID.; ID.; ID.; FAILURE TO REPORT PREVIOUS INCIDENTS OF RAPE DOES NOT DENT VICTIM'S CREDIBILITY;**

Supreme Court E-Library

CASE AT BAR.— Marivic's failure to report the previous incidents of rape to her mother does not dent her credibility, there being no standard form of behavior expected of rape victims who react differently to emotional stress. Accused-appellant's moral ascendancy could have led Marivic to suffer in silence and restrain her from reporting the crime. Besides, in rape cases, young girls usually conceal for some time their ordeals due to threats made by their assailants. That Marivic was overcome by accused-appellant's threats, she so clearly impressed while she was at the witness stand.

3. **ID.; ID.; ID.; ACCUSED'S STATE OF INTOXICATION BY ITSELF DOES NOT PRECLUDE HIM FROM RAPING THE VICTIM; CASE AT BAR.**— As for accused-appellant's argument that it was hard for him to rape Marivic because he was then drunk: His state of intoxication on May 15, 1999, following his attendance of a *fiesta* which started at 11:30 a.m. and lasted until 1:00 p. m., by itself does not preclude him from raping Marivic. For by Marivic's account, she was raped around 7:00 p. m. of May 15, 1999, 6 hours after accused-appellant winded up his drinking, long enough for him to sober up. At all events, by accused-appellant's claim, he was drunk not on the day of the rape incident on May 15, 1999 but in February 1999 when he admitted "abusing" Marivic.

4. **CRIMINAL LAW; REVISED PENAL CODE; ART. 266-B, PAR. 6 THEREOF; MINORITY OF THE VICTIM AND HER RELATIONSHIP TO THE OFFENDER MUST BE ALLEGED AND PROVED WITH CERTAINTY TO WARRANT IMPOSITION OF THE DEATH PENALTY; CASE AT BAR.**— Under Article 266-B, paragraph 6 of the Revised Penal Code, the *concurrence* of the minority of the victim and her relationship to the offender is a special qualifying circumstance which must be alleged and proved with certainty, otherwise the death penalty cannot be imposed. That Marivic was a daughter of accused-appellant was alleged in the information. Accused-appellant admitted during pre-trial and at the witness stand that indeed Marivic is his daughter. This does not, suffice, however, to show that accused-appellant is the father of Marivic. In any event, since the minority of Marivic was not sufficiently proven, there would be no special qualifying circumstance to bring the penalty to death. For even if Marivic's testimony that she was 16 when she was raped on May 15, 1999,

Supreme Court E-Library

she having, by her claim, been born on March 4, 1983, was corroborated by her mother and accused-appellant himself, the same falls short of the quantum of proof of minority. . . . Parenthetically, while a photocopy of what was represented to be the Certificate of Live Birth of Marivic was marked during pre-trial as Exhibit "F" and was referred to during trial particularly when she and her mother were called to testify, the same shows that the name of the father is *Rogelio* R. Cruz and that Marivic's date of birth is March 2, 1983. Additionally, the certificate shows that Marivic's parents, accused-appellant and Juliet Ore, contracted marriage on May 10, 1982 in San Mateo, Rizal which is contrary to Juliet's claim that she and accused-appellant are just "live-in" partners. These discrepancies probably account why the document was withdrawn by the prosecution during the formal offer of exhibits. Accused-appellant can thus only be sentenced to suffer the penalty of *reclusion perpetua.*

APPEARANCES OF COUNSEL

The Solicitor General for plaintiff-appellee.
Public Attorney's Office for accused-appellant.

D E C I S I O N

CARPIO MORALES, *J.*:

Does inebriation render a man amnesic of what he is doing or cause him to lose control of his senses? Or does it enfeeble him to render it difficult or impossible to commit coital assault?

Before us for automatic review is the March 28, 2000 Decision[1] of the Regional Trial Court, Branch 76, of San Mateo, Rizal in Criminal Case No. 4163 convicting accused-appellant Aurelio Cruz *y* Ramos of raping his then sixteen (16) year old daughter Marivic Cruz and imposing upon him the supreme penalty of death.

The Information dated May 20, 1999 charged accused-appellant with rape allegedly committed as follows:

---

[1] Penned by Judge Jose C. Reyes, Jr.; *Rollo*, pp. 18–24.

Supreme Court E-Library

That on or about the 15th day of May, 1999, in the Municipality of San Mateo, Province of Rizal, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, having moral ascendancy over complainant MARIVIC CRUZ *Y* ORE, the latter being his daughter, by means of force, coercion and intimidation and with lewd design or intent to cause or gratify his sexual desire or abuse, humiliate and degrade complainant, while armed with a knife, did then and there willfully, unlawfully and feloniously have sexual intercourse with said complainant, a minor, sixteen (16) years old, without her consent and against her will.[2]

When arraigned on June 17, 1999, accused-appellant entered a plea of not guilty.[3]

Culled from the testimony of five witnesses for the prosecution, namely: Marivic, her mother Juliet, her aunt Susana Quigaman — sister of accused-appellant, a medico legal officer, and a policeman, are the following facts:

Marivic, the eldest of six children of accused-appellant and his common-law-wife Juliet Ore, and her young twin siblings resided with their parents at Doña Pepeng Subdivision, Banaba, San Mateo, Rizal.[4]

On May 15, 1999, at about 2:00 p. m., after accused-appellant, his wife Juliet, Marivic and the twins had returned home following their attendance of a fiesta in neighboring *barangay* Nangka in Marikina City, Juliet left for her usual weekly visit to her ailing mother in Bulacan.

Right after her mother Juliet departed for Bulacan, the then 16 year old Marivic sat teary eyed in front of the house of her aunt-neighbor Susana[5] who, noting her expanding buttocks,[6] asked her what her problem was. Marivic reluctantly revealed

---

[2] *Rollo*, p. 7.

[3] Records, p. 16.

[4] TSN, July 22, 1999, pp. 3, and 5; August 26, 1999, pp. 3–4, 11.

[5] TSN, July 22, 1999, p. 8; TSN, September 24, 1999, pp. 3–4.

[6] TSN, July 22, 1999, p. 8; TSN, September 24, 1999, p. 4.

Supreme Court E-Library

to Susana that she had been molested by her father-accused-appellant since she was 12[7] but that she was afraid to disclose it because he threatened to kill her and her family.[8]

Marivic's tale upset Susana who echoed it to her (Susana's) other siblings.[9]

At around 7:00 p. m., also of May 15, 1999, while inside their house, accused-appellant ordered Marivic to lie down and sleep beside him.[10] He then took off his clothes and asked her to undress.[11] As accused-appellant poked a "*Rambo*" knife[12] at her neck and threatened to kill all of them,[13] Marivic complied.

Although Marivic tried to shout for help, accused-appellant covered her face with a pillow,[14] after which he inserted his penis into her vagina and made a push and pull movement.[15] Marivic could not do anything but cry.[16]

After satisfying his lust, accused-appellant warned Marivic not to tell anyone about the incident under pain of death.[17]

On May 17, 1999, Susana and her relatives, after reflecting on what to do about Marivic's plight, had accused-appellant arrested and detained.[18]

---

[7] TSN, July 22, 1999, p. 8; TSN, September 24, 1999, p. 5.

[8] TSN, July 22, 1999, pp. 8–9.

[9] TSN, September 24, 1999, pp. 5.

[10] TSN, July 22, 1999, pp. 6.

[11] TSN, July 22, 1999, pp. 7.

[12] Exhibit "H".

[13] TSN, July 22, 1999, p. 9; TSN, August 12, 1999, p. 2.

[14] TSN, July 22, 1999, p. 7.

[15] *Id.*

[16] *Id.*

[17] TSN, July 22, 1999, p. 8; TSN, August 12, 1999, p. 2.

[18] TSN, September 24, 1999, pp. 6, 8; TSN, September 30, 1999, pp. 8–9.

Supreme Court E-Library

On Juliet's return from Bulacan, Susana informed her of Marivic's tale.[19] Juliet lost no time in confronting the already detained accused-appellant[20] whom she slapped.

On May 18, 1999, Marivic, accompanied by Juliet and Susana,[21] was examined by Dr. James Margallo Belgira, Medical Legal Officer of the PNP Crime Laboratory Services in Camp Crame, Quezon City,[22] whose findings were incorporated in Medico Legal Report No. M-1032-99.[23]

The doctor found that there was a deep healed laceration in Marivic's hymen at 5 o'clock position, which laceration he opined to be caused by the insertion of a hard blunt object in the vagina, possibly an erect male penis; that the insertion could have been done on May 15, 1999; and that from the pregnancy test he conducted on her *viz a viz* her last menstrual period, Marivic was 12–13 weeks pregnant.[24]

Accused-appellant, confronted with Marivic's claim that he poked a knife at her and "forcibly abused" (the phrase used by defense counsel) her, replied that he did not know because he was drunk:

Q You heard her testify that you forcibly abused her with the use of a bladed weapon?

A No, sir.

Q Why are you saying so?

A *I really did not do it, sir?*

Q Which act you did not commit? Please specify.

A The poking of the *Rambo* knife, sir.

---

[19] TSN, August 26, 1999, pp. 5–6.

[20] TSN, Aug. 26, 1999, pp. 6.

[21] TSN, July 22, 1999, pp. 10.

[22] TSN, July 22, 1999, pp. 10.

[23] Exhibit "G", Records, p. 71.

[24] TSN, September 2, 1999, pp. 6–7; Exhibit "G", Records, p. 71.

Supreme Court E-Library

Q What about the fact of abusing her?

A *That I do not know because I was very drunk, sir.*

Q Earlier you testified that it is not true that you poked a bladed weapon upon Marivic Cruz and now you testified that the incident of abusing is also not true because when it really happened, you were not in your right senses?

Pros. Ramolete:

That question is misleading, your Honor, because his answer is I do not know.

Atty. Garillo:

Let us clarify, Mr. Witness, which fact is that you do not know?

A *The poking of Rambo knife, sir.*

Q *What about the fact of abusing her?*

A *I also do not know because I was drunk, sir.*[25] (Italics supplied)

He eventually admitted "abusing" Marivic, but in February 1999.

Q You were also here when Marivic Cruz testified that you were abusing her since her tender years as early as March 1995, did you hear that?

A Yes, sir.

Q And what can you say about that allegation of Marivic Cruz?

A It is not true, sir.

Q *And what is the truth about it?*

A *Only in February but I cannot remember the date but that was last year, sir.*

Q *February of 1999?*

A *Yes, sir.*

x x x x x x x x x

---

[25] TSN, January 7, 2000, p. 3.

Supreme Court E-Library

Q You claimed that the February incident between you and your daughter Marivic Cruz happened when you were dr[u]nk. My question is, do you usually or occasionally take alcoholic beverages?

A Only sometimes, sir.

Q How often?

A Once or twice a week, sir.

Q And what alcohol do you usually partake?

A Gin, sir.

Q And how many bottles do you usually consume?

A The maximum is four (4) bottles, sir.

Q And you are the only one who consume those bottles?

A Yes, sir, while cooking.

Q *And in that February incident, how many bottles did you consume or partake?*

A *Two (2) gins and one (1) grande, sir.*

Q *And with those quantity you claimed that you were already drunk?*

A Yes, sir.

Q You have experienced being drunk?

A Yes, sir.

Q *And what was your feeling when you considered yourself drunk?*

A *I felt dizzy, sir.*

Q *What about your mental faculty?*

A *I could not understand myself and I lost control of my senses.*[26] (Italics supplied).

In fine, accused-appellant admitted having had sexual intercourse with Marivic, but on a date different from that subject

---

[26] *Id.*, pp. 3–5.

Supreme Court E-Library

of the case at bar, while in a state of drunkenness during which he could not, so he claimed, "understand himself" and "lost control of [his] senses."

Finding for the prosecution, the trial court convicted accused-appellant of rape and sentenced him to death by the decision under review the dispositive portion of which reads:

> WHEREFORE, premises considered, judgment is hereby rendered finding accused Aurelio Cruz *y* Ramos guilty beyond reasonable doubt of the crime of Rape (Violation of Art. 266-A, par. 1 in relation to Art. 266-B, par. 6, RA 8353 in relation to RA 7610 and par. (a), Sec. 5 of RA 8369) and sentencing him to suffer the Penalty of Death, and to indemnify the private complainant Marivic Cruz *y* Ore in the amount of ₱75,000.00 and ₱50,000.00 as moral damages and to pay the costs.[27]

In his Brief, accused-appellant proffers this lone assignment of error:

> THE TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT OF THE CRIME OF RAPE,[28]

he assailing the credibility of Marivic.

Accused-appellant argues that Marivic's failure to report to her mother Juliet that she was being molested by him, and her going back home in the afternoon of May 15, 1999 even after she had confided to her aunt Susan[29] what she claimed to have gone through, infirm her credibility. And he reiterates his claim that he was drunk on May 15, 1999 and concludes that it was hard for him to rape Marivic.[30]

It is doctrinally settled that a rape victim who, like Marivic, testifies in a categorical, straightforward, spontaneous and frank

---

[27] *Rollo*, pp. 54–55.

[28] *Rollo*, p. 44.

[29] *Rollo*, p. 46.

[30] *Id.*

Supreme Court E-Library

manner, and remains consistent, is a credible witness and her testimony must be given full weight and credit.[31]

And the victim's credibility is enhanced when she accuses her own father.[32] For it is unthinkable, if not completely preposterous, that a daughter would audaciously concoct a story of rape against her father in wanton disregard of the unspeakable trauma and social stigma it may generate on her and the entire family.[33]

Marivic's failure to report the previous incidents of rape to her mother does not dent her credibility, there being no standard form of behavior expected of rape victims who react differently to emotional stress. Accused-appellant's moral ascendancy could have led Marivic to suffer in silence and restrain her from reporting the crime.[34] Besides, in rape cases, young girls usually conceal for some time their ordeals due to threats made by their assailants.[35] That Marivic was overcome by accused-appellant's threats,[36] she so clearly impressed while she was at the witness stand.

Marivic's credibility should not thus be tainted with any modicum of doubt.[37]

As for Marivic's returning home after she had revealed her ordeals to her aunt Susana: The rape subject of the case at bar occurred nighttime of May 15, 1999, *after* Marivic had disclosed earlier in the afternoon to her aunt the previous coital assaults on her by accused-appellant. That Marivic still returned home that afternoon of May 15, 1999 is not, under the factual

---

[31] *People v. Alvero*, 329 SCRA 737 (2000).

[32] *People v. Pecayo, Sr.*, 348 SCRA 95 (2000).

[33] *People v. Tresballes*, 314 SCRA 774 (1999).

[34] *People v. Traya*, 332 SCRA 499 (2000).

[35] *People v. Rafales*, 323 SCRA 13 (2000).

[36] TSN, July 22, 1999, pp. 8-9.

[37] *People v. Lomerio*, 326 SCRA 530 (2000).

Supreme Court E-Library

circumstances, thus unusual. After all, she had already been suffering in silence, not to mention fear.

Accused-appellant's answer, however, on whether he raped Marivic — that he does not know as he was then drunk — is a virtual *mea culpa*.

As for accused-appellant's argument that it was hard for him to rape Marivic because he was then drunk: His state of intoxication on May 15, 1999, following his attendance of a *fiesta* which started at 11:30 a.m. and lasted until 1:00 p.m., by itself does not preclude him from raping Marivic.[38] For by Marivic's account, she was raped around 7:00 p.m. of May 15, 1999,[39] 6 hours after accused-appellant winded up his drinking, long enough for him to sober up.

At all events, by accused-appellant's claim, he was drunk not on the day of the rape incident on May 15, 1999 but in February 1999 when he admitted "abusing" Marivic.[40]

Article 266-B, paragraph 6 of the Revised Penal Code, as amended provides:

> The death penalty shall also be imposed if the crime of rape is committed with any of the following aggravating/qualifying circumstances:
>
> 1. When the victim is under eighteen (18) years of age *and* the offender is a parent, ascendant, step-parent, guardian, relative by consanguinity or affinity within the third civil degree or the common law spouses of the parent of the victim.
>
> x x x x x x x x x

Under this provision, the *concurrence* of the minority of the victim and her relationship to the offender is a special qualifying circumstance which must be alleged and proved with certainty, otherwise the death penalty cannot be imposed.[41]

---

[38] *Rollo*, p. 98.

[39] TSN. July 22, 1999, p. 6.

[40] TSN. Jan. 7, 2000, pp. 3-5.

[41] *People v. Acala*, 307 SCRA 330 (1999).

Supreme Court E-Library

That Marivic was a daughter of accused-appellant was alleged in the information. Accused-appellant admitted during pre-trial[42] and at the witness stand[43] that indeed Marivic is his daughter. This does not, suffice, however, to show that accused-appellant is the father of Marivic.[44]

In any event, since the minority of Marivic was not sufficiently proven, there would be no special qualifying circumstance to bring the penalty to death. For even if Marivic's testimony that she was 16 when she was raped on May 15, 1999, she having, by her claim, been born on March 4, 1983,[45] was corroborated by her mother and accused-appellant himself, the same falls short of the quantum of proof of minority.

> [T]he testimony of the victim as to her age, even if corroborated by that of her father, is not sufficient proof of her minority. In this case at bar, the concurrent testimonies of the victim and the accused-appellant as to the victim's age fall short of the required proof of the qualifying circumstance.
>
> Neither can a stipulation of the parties with respect to the victim's age be considered sufficient proof of minority. Circumstances that qualify a crime and increases its penalty to death cannot be the subject of stipulation. An accused cannot be condemned to suffer the extreme penalty of death on the basis of stipulations or his own admissions. This strict rule is warranted by the seriousness of the penalty of death.[46]

Parenthetically, while a photocopy of what was represented to be the Certificate of Live Birth of Marivic was marked during pre-trial as Exhibit "F"[47] and was referred to during trial particularly when she and her mother were called to testify, the same shows that the name of the father is *Rogelio* R. Cruz

---

[42] Records, p. 19.

[43] TSN, Jan. 7, 2000, p. 5.

[44] *People v. Tabanggay*, 334 SCRA 575 (2000).

[45] TSN, July 22, 1999, p. 4; TSN, August 26, 1999, p. 4.

[46] *People v. Sitao*, G.R. No. 146790, August 22, 2002.

[47] Records, p. 20.

Supreme Court E-Library

and that Marivic's date of birth is March 2, 1983.[48] Additionally, the certificate shows that Marivic's parents, accused-appellant and Juliet Ore, contracted marriage on May 10, 1982 in San Mateo, Rizal[49] which is contrary to Juliet's claim that she and accused-appellant are just "live-in" partners.[50] These discrepancies probably account why the document was withdrawn by the prosecution during the formal offer of exhibits.[51]

Accused-appellant can thus only be sentenced to suffer the penalty of *reclusion perpetua*. As such, in conformity with prevailing jurisprudence, the civil indemnity due Marivic should be reduced to ₱50,000.00.[52] She is, however, also entitled to an award of ₱25,000.00 exemplary damages due to her relationship[53] with accused-appellant.

WHEREFORE, the decision dated March 28, 2000 of the Regional Trial Court Branch 76, of San Mateo, Rizal, in Criminal Case No. 4163 is *AFFIRMED with MODIFICATION*. As modified, accused-appellant *AURELIO CRUZ y RAMOS* is found guilty beyond reasonable doubt of Simple Rape and is sentenced to suffer *reclusion perpetua*, to pay private complainant Marivic Cruz civil indemnity of ₱50,000.00, moral damages of ₱50,000.00, and exemplary damages of ₱25,000.00.

Costs against accused-appellant.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Puno, Vitug, Mendoza, Panganiban, Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, Corona, Callejo, Sr., and *Azcuna, JJ.,* concur.

---

[48] Exhibit "F", Records, p. 12.

[49] Records, p. 12.

[50] TSN, August 26, 1999. p. 3.

[51] Records, p. 61.

[52] *People v. Rafales*, 323 SCRA 13 (2000).

[53] *People v. Roque*, G.R. No. 130659 and 144002, August 14, 2002, citing *People v. Catubig*, G.R. No. 137842, August 23, 2001.