

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ALEJANDRO DEVILLERES, ACCUSED-APPELLANT.

G.R. No. 114387. March 14, 1997

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

Incestuous rape is probably the most odious, atrocious and perverted crime against womanhood. It is repugnant to the common standards and basic norms of decency and morality in a just and civilized society.

Accused-appellant Alejandro Devilleres denies succumbing to the throes of bestial lust, claiming that his 15-year old daughter was only avenging herself for the beatings he had inflicted on her.

In an Information filed by the Provincial Prosecutor of xxx on July 23, 1991, accused-appellant was charged with the crime of rape under Article 335 of the Revised Penal Code before the Regional Trial Court of xxx, Branch xxx,[1] committed as follows:

"x x x on or about the 18th day of April, 1991, at about 4:00 dawn, more or less, at xxx, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with deliberate intent and with lewd design, and while his wife was away fetching water, by means of force, threats and intimidation using a scythe and a gaff, did then and there willfully, unlawfully and feloniously succeed in having carnal knowledge with her (sic) 15-year old daughter, AAA, against her will and consent." [2]

To the above charge, the accused pleaded not guilty. Notwithstanding his plea and after due trial, the court a quo convicted him of the crime charged. The decretal portion of its Decision[3] states:

"WHEREFORE, in view of all the foregoing, the Court finds accused ALEJANDRO L. DEVILLERES guilty beyond reasonable doubt of the crime of rape as defined by Art. 335 (as amended) of the Revised Penal Code and hereby sentences him to suffer the penalty of reclusion perpetua. He is likewise ordered to pay AAA the amount of P15,000 as indemnity and to pay the costs."

The Facts

Evidence for the prosecution consisted of testimonies of three witnesses, while for the defense only that of the accused. Their testimonies were accurately summarized by the trial court in its Decision as follows:

"1. Dr. xxx, M.D., resident of xxx, whose expertise as witness was admitted by the defense, identified the living case report she had made (Exhibit A). She told the Court (TSN: Cruz, 12 December 1991, pp. 2-6) AAA went to her for physical examination because, said AAA, she was raped by her father. She found two healed lacerations in AAA's hymen, one at 3 o'clock, the other at 7 o'clock. It was possible that these injuries were the result of sexual intercourse.

On cross, she said it was also possible for hymenal lacerations to be caused by jumping, running, horseback riding or masturbation. Her examination of AAA was made on 12 June 1991, and AAA had told her that she was raped on 18 April 1991. Finding the lacerations to be healed, she could not tell when the lacerations were inflicted.

AAA had also told Dr. xxx that she had been raped 'many times' before 18 April 1991 by her father.

2. Complainant AAA, then 15, single, baby sitter, resident of xxx, and elementary school graduate, testified (12 December 1991, pp. 6-15, direct), thus, in brief:

She had three brothers and five sisters. The oldest is BBB, who had not been living with the family but with her paternal grandfather since BBB's childhood. The second child, CCC, was dead. She, AAA, was next to CCC. She was the oldest among the children who were living with her father and mother in the same house on 18 April 1991. She and her four younger sisters, 6, 4, 3 and 2 years old were still living with their parents.

Her father, a farmer, was Alejandro Devilleres (identified by her in court), 41 years old, and her mother was DDD, 36. She read(s) magazines, such as movie periodicals, she went to movies and watched television. She had been baby-sitting in xxx. She identified as hers the complaint (Exhibit B) and her signature therein (Exhibit B-1).

On 18 April 1991, at 4 in the morning, she was in their house with her younger sisters and their father, while their mother was fetching water at that time. Her mother had awakened her and told her that she was fetching water, because her mother 'used to take a bath in the morning'.

Her sisters were sleeping beside her, but soon she noticed her father already beside her, pointing a gaff on her neck. He told her not to make any noise, and he removed her pants and, next, her panty. Then he touched the top of her vagina, and she felt afraid. (At that time she had not yet been menstruating, but she already had a growth of pubic hair, which was what her father touched). 'I did not say any word,' she told the Court, 'because if I moved, he would kill me.' How did she know that he would kill her? She said, 'He was pointing a gaff on my neck.' His father removed his shorts. Then he placed himself on top of her, and 'my father inserted his penis to my vagina'. She knew it was his penis 'because it is very painful.' After 15 minutes of his penis inside her vagina, he removed his penis and put on back his shorts, and he walked away toward his father's house.

After that she gathered all her clothes, she wanted to get away from home and she cried profusely in her room. Her mother came back. Her mother asked her why she was crying and she told her mother that her father had molested her, describing the steps her father had taken -- removing her panty, touching her vagina and inserting his penis into her vagina and so on -- and her mother now cried and kept on crying. Her mother advised her to get away from their house. Since she did not have money, she went to her grandmother who gave her P80. CalrkyÓ

At her grandfather's house she told only her grandmother about what her father had done. Then on an ABC bus she left xxx and went to xxx, working as househelper at EEE's home. It was her employer in xxx, FFF, who had assisted her in filing the complaint against her father. 'I have lost all sympathy for my father,' she said. 'I have regarded him as long dead. I cannot forgive him for what he had done to me.'

On cross-examination, AAA said (TSN: Patalinghug, 23 March 1992, pp. 2-12; 24 March 1992, pp. 2-17) that she was an elementary school graduate of 1990 and that she turned 16 on 1 February 1992. Since 20 February 1992, she had been staying as househelper with Atty. xxx, private prosecutor in this case, at his house in xxx. Starting 22 April 1991 she went to xxx, upon invitation (on 19 April 1991) from her cousin GGG to join her as househelp (her first time as such) to EEE for half a month; then to xxx as a babysitter there, employed by HHH, whose house is near the municipal hall; then xxx in August 1991 (this time she had already reported the incident to the police) with III for six months; then finally to xxx -- municipalities all of xxx.

The incident happened on 18 April 1991, and she filed her complaint before the police on 1 June 1991. It took her this long to report the matter to the police because, in the intervening period, she was working which, to her, was more important. All this while her father was staying with her mother in xxx, a barangay of xxx some 15 kilometers from the poblacion.

She only stayed for half a month in xxx because her father personally fetched her because he wanted her to go back to xxx. He had been angry with her, and angrier when she refused to go back to xxx.

Like her mother, her grandmother (mother of her father) also cried when she related to her what had happened. The latter gave her P80. She had told her story only to them.

Although her direct testimony in court on 12 December 1991 was done in chambers, and she had mentioned that she was raped only once on 18 April 1991, she said, 'I did not narrate everything because I was ashamed.' She now said she had been raped not only on 18 April 1991 but also raped before that date, the other rapes done also by her father, 'I cannot remember anymore how many times, but many times . . . yes, sir, more than once . . . not four times, but only three times.' They were done in March 1991. She reported these March rapes neither to the police nor to her mother. She did not tell her mother about the three earlier rapes 'because my father would kill me.' But after 18 April 1991, 'I ceased to be afraid,' so she reported the matter to her mother. And she stopped being afraid 'because I already (had) escaped from our house.'

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She said that before the March rapes her father had been maltreating her, that is why she came to be afraid of him always. Once he struck her with a broom on her cheek (which bore scars). It was HHH, her employer in xxx, to whom AAA confided what had happened to her (AAA), who assisted her in filing a complaint against her father with the police.

The family house in xxx had only one bedroom which the father and mother used as their own. The floor is of bamboo slats, and walls were also of bamboo and the roof was of coconut leaves. Her father was 'jobless, idle and lazy, not doing anything at all,' while her mother was doing some farmwork. Her father on days was always drinking tuba, secured from her grandfather.

3. Third witness was JJJ, then 59, married, farmworker, resident of xxx, testified (TSN: Ybañez, 19 May 1992, pp. 2-11) that he finished Grade 3 in schooling and that complaining witness AAA was his granddaughter, 'because the mother of AAA (named DDD) is my daughter.' He knew the accused Alejandro Devilleres (identifying the accused in the courtroom), who 'is my son-in-law' because Alejandro Devilleres 'is the husband of my daughter.'

During his confinement, accused Alejandro, through a member of the CAFGU, requested him to visit him (accused) in the municipal jail of xxx. So he went to jail to see Alejandro who asked forgiveness from him (witness) and who 'told me to convince AAA to release him in jail.' But he did not accept his request for forgiveness and 'AAA did not agree because he had done an evil act on her.' He recalled that after the Court adjourned the hearing of this case on 23 & 24 March 1992, he and the accused met outside the courtroom: 'Alejandro kissed my hand, and again, asked forgiveness from me,' but he refused him. Why? 'I cannot accept his (request for) forgiveness because AAA has still many younger sisters, and I am afraid that Alejandro Devilleres would also do to the other girls in the family what he had done to AAA.' AAA had five sisters, all younger than she, her next younger sister being nine years old, then followed by the six-year-old.

Yes, he had a talk with his daughter, DDD, regarding this matter. According to DDD, her husband Alejandro had sent her a letter requesting her to help him, because he said 'he could not endure the jail.' But she said 'she cannot help her husband because her husband is guilty.'

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SOLE DEFENSE witness, accused himself, Alejandro Devilleres, then 41, resident of xxx and a sixth grader, told

the Court (TSN: Ybañez, 28 July 1992, pp. 2-12) that he had nine children, oldest 20 years old and youngest one year old. She (sic) said complainant AAA was her (sic) daughter. He was asked, 'Did you rape AAA?' He answered, 'No, sir.' And she (sic) was asked, 'So if you did not rape your daughter, why has your daughter charged you for raping her?' And he answered: 'AAA filed this case of rape against me because I always beat her because she is naughty.' Why 'naughty'? Accused explained, 'She is stubborn. She refuses to follow my directions.' Was her naughtiness enough reason to beat her up repeatedly? He said, 'Yes, necessarily.'

He admitted that his wife, AAA's mother, was pregnant on 18 April 1991. During this pregnancy of his wife's did the urge for sexual intercourse so build up inside of him that he could not satisfy himself because of his wife's pregnancy? He answered, 'I did not do it.'

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In the evening of 18 April 1991, after he had come home from the farm he learned that AAA had left for xxx and he didn't know why she went there.

He said there were 10 in the family living in their 20-foot-by-12-foot house, which has only one bedroom where AAA and her younger sisters slept. He and his wife slept in the 'sala.'

On 18 April 1991, AAA slept in the bedroom; that night he slept in the sala."^[4]

In giving credence to the evidence for the prosecution and in convicting the accused, the court a quo ratiocinated:

"Despite minor discrepancies in her testimony which, in the view of the Court, is tolerable after a cautious scrutiny of its quality, complainant, as a whole showed no signs of insincerity in manner and behavior. The Court was impressed by her unburdening of what had happened to her not to anyone else but to her own mother. x x x

If mere entry by the penis of the labia (lips) of the female organ without rapture of the hymen is sufficient to warrant conviction for consummated rape (as consistently ruled and again echoed in *People v. Hangdaan*, L-90035, 13 September 1991) . . . if the slightest penetration is sufficient to consummate rape, then with more reason is there consummated rape where, as complainant AAA evenly described it, her father 'inserted his penis into my vagina . . . (and) it was very painful' (TSN: Cruz, 12 December 1991, p. 11).

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Force and intimidation are not limited to physical force. It includes the moral kind such as fear (*People v. Bugtong*, G.R. 75853, 31 January 1989). Moral intimidation may result from the exploitation of moral ascendancy and influence by the accused, such as in herein case where the culprit is the very own father of the young victim (*People v. Robles* G.R. 53569, 23 February 1989). A smug statement in his own testimony illustrates vividly the moral ascendancy the accused had always been exercising over his daughter AAA, in that he always beat AAA because she was 'naughty and stubborn, refuses to follow directions,' and her naughtiness was already 'enough reason' for him 'necessarily to beat her repeatedly' (TSN: Ybañez, 28 July 1992, p. 4).

Under the circumstances, the Court must only disregard disparities in details that merely obscured but did not falsify the fact that Alejandro L. Devilleres had really raped his own daughter, AAA. The Court likewise feels horrified having this accused Alejandro L. Devilleres -- a father, then 40 years old (at the time of rape), who had a 35-year-old wife, whom he had known since she was 16, this father who had sired nine (9) children by said wife -- still perpetrating on his own flesh and blood, his own daughter, such an outrageous deed. It is not incorrect to say that insatiable lust or despicable promiscuity can be the child of idleness -- whether in rural or urban settings."^[5]

Issues

In his appeal from the above Decision, the accused-appellant assigns the following errors:

- "1. The lower court erred in convicting the accused-appellant, despite the insufficiency of the prosecution evidence to prove his guilt beyond reasonable doubt.
2. The lower court likewise erred in giving undue weight and credence to the testimony of the complainant despite its inherent contradiction and improbability.
3. The lower court erred in not appreciating the defense of the accused despite the well established motive of complainant to falsely charge his (sic) father of raping her."[6]

The errors raised by the appellant sum up to a question of the prosecution witnesses' credibility in establishing his guilt beyond reasonable doubt. The Solicitor General posits that the inconsistencies cited by appellant are minor and explainable and, as such, cannot affect the credibility of the prosecution witnesses. He maintains that due respect should be accorded to the findings of the trial court since it was in a better position to decide the question of credibility, having heard the witnesses and observed their deportment and manner of testifying during the trial. In refuting the motive imputed by appellant, the Solicitor General argues that private complainant would simply not have charged the serious crime of rape that would have only exposed herself to public scrutiny and ridicule had it not been true.

The Court's Ruling

First Issue: Sufficiency of Prosecution Evidence

The evidence presented by the prosecution establishes with moral certainty that accused-appellant raped his 15-year old daughter, AAA, on April 18, 1991.

Accused-appellant insists that the evidence of the prosecution only lends credence to the constitutional presumption of innocence in his favor, instead of adding weight to the former's case. He first points to the inconclusive testimony of Dr. xxx who could not determine the exact cause (possibly sexual intercourse or masturbation or other physical activities) of the healed lacerations in AAA's hymen, and when said lacerations had been incurred. Thus, appellant claims that there is no certainty in attributing said lacerations to the alleged act of rape "without stretching too much one's suspicion, bias and imagination."

The above averment of accused-appellant is of no moment since the presence of lacerations in the victim's hymen is not even necessary to prove rape. A broken hymen is not an essential element of the crime.[7] This Court has also ruled that a medical examination is not indispensable to the prosecution of rape as long as the evidence on hand convinces the court that a conviction for rape is proper.[8] The complaining witness' candid and detailed account of how the accused raped her more than convinces us that the crime was committed.

Accused-appellant also assails the testimony of JJJ who stated that he had been requested by the accused to visit him at the municipal jail of xxx, and that he did so about the third week of April 1991. During said visit, the accused supposedly asked for his forgiveness; he also asked him to convince AAA to have him released from jail. But records show that accused-appellant was only arrested and consequently incarcerated on June 17 of that year. So how could JJJ have visited him in jail in the month of April? This shows, according to the accused, that the witness is a liar. Hence, the lower court erred in attributing evidentiary weight and value to his testimony.

It is an old maxim that the findings of a trial court on the credibility of witnesses deserve great weight, given the clear advantage of a trial judge over an appellate justice in the appreciation of testimonial evidence.[9] A trial judge can directly observe the witness' deportment and manner of testifying. Besides, inconsistencies and discrepancies in inconsequential details of the testimony of a witness serve to strengthen his credibility as they are

badges of truth rather than indices of falsehood. The most candid witnesses oftentimes make mistakes and fall into confused and inconsistent statements but such honest lapses do not necessarily affect their credibility.[10]

Significantly, appellant did not endeavor to refute the statement of JJJ that the former had sought his forgiveness. All that the accused assails is the improbability of the time JJJ visited him in jail, a detail not essential to the crime charged.

Second Issue: Credibility of Complainant's Testimony

Accused-appellant further capitalizes on the allegedly contradictory statements of AAA as to the number of times she was raped by him — whether only once on the date mentioned in the information, or also on three other occasions as she claimed during cross-examination, or so many other times she could not remember as stated in her sworn statement given to the police. Accused-appellant cites other "marked contradictions" in complainant's statements, which the trial court subsequently disposed of as "minor discrepancies" or "disparities in details that merely obscured but did not falsify the fact" of rape by the accused.

One reason for the said contradictory statements of AAA could be the shame and humiliation she must have felt due to her harrowing experience. She must have wanted to expunge from her memory the thoughts of the bestial abuse her own father had perpetrated upon her person at such a raw age. She even considered her rapist-parent as "already long dead." This may explain why she initially revealed only one incident of rape and hesitated to state the exact number of times she had been violated by her father.

In addition, accused-appellant brands as "highly implausible and runs center (sic) to human experience" complainant's account that the rape "took place inside a 20 x 12 feet bamboo house divided by a single room likewise made of bamboo slats (sic) wall and flooring," particularly "at the sala where complainant was sleeping at the middle of her 6 other brothers and sisters," considering the "messy and the very nature of the act of doing the rape, coupled by the natural crackling characteristic of a bamboo flooring."

Contrary to the notion of the accused, the Court has held a number of times that rape can be committed in places where people congregate, in parks, along the roadside, within school premises, inside a house where there are occupants, and even in the same room where other members of the family are also sleeping.[11]

Accused-appellant further characterizes AAA's reasons for not immediately filing her complaint -- her work and her father's threat on her life -- as "contrary to the natural course of things and human experiences" for it seemed that she gave more importance to her work than to vindicating her outraged honor, particularly since she stated that she had been raped three times previously.

It is not uncommon for young girls to conceal for some time the assaults on their virtue because of the rapists' threats on their lives.[12]AAA's fear that her father would make true his threat is not unfounded. During her redirect examination, she testified:

"Q Did he (accused) ever harm you before you were raped? (sic) which made you very afraid of him?

A Yes ma'am. He has been maltreating me in fact, inflicting some blows on me. In fact, I was injured on my left cheek because my father struck me with the broom. (Witness is pointing to her cheek)

Fiscal xxx:

May I make of record that there are scars on the face of the girl."[13]

The accused-appellant himself admitted:

"Q So if you did not rape your daughter, why has your daughter charged you for raping her?

A AAA filed this case of rape against me because I always beat her because she is naughty.

Q Why do you say she is a naughty girl?

A She is stubborn. She refuses to follow my directions.

Q Is her naughtiness enough reason for you to beat her up repeatedly?

A Yes, necessarily."[14]

If the accused father finds it necessary to repeatedly beat his daughter simply because of her naughtiness and stubbornness, is it improbable for him to kill her, as he threatened, if she accuses him of raping her several times? This is not unlikely for a teenage rural lass physically maltreated by her father who is always drunk[15] and who would engage in fistfights with persons disagreeing with him.[16] In fact, it is normal behavior for such a young girl to cringe at the mere sight of a father like the accused. It thus took courage for her to file a formal complaint only some time after she had stopped living under the same roof with her bestial father and found support in her employer. Delay or vacillation in making a criminal accusation does not necessarily impair the credibility of the complaining witness if such delay is satisfactorily explained. [17]

Third Issue: No Motive for Complainant to Falsely Charge Her Father of Raping Her

Lastly, accused-appellant imputes ulterior motive to private complainant allegedly arising from the chastisement and cruelty she experienced from him.

It is unthinkable that a 15-year-old rural lass would fabricate a rape charge against her very own father and consequently expose herself to the dishonor, humiliation and embarrassment of a medical examination and public trial, as well as taint her chastity for life, simply to take revenge for the physical maltreatment inflicted upon her. The motive imputed is too shallow to be given any weight and credit by any court. Courts usually lend credence to testimonies of young girls, especially when the facts point to their having been victims of sexual assault.[18]AAA's straightforward and vivid account of her traumatic experience shows that she was impelled by no other impetus than to bring to justice the defiler of her virtue. Parts of that account are reproduced below:

"Q You said that you went back to sleep, what happened while you were sleeping?

WITNESS:

A At first my sisters were sleeping beside me but then later on I noticed it was my father already beside me.

Q What happened while your father lie (sic) down beside you?

A My father pointed a gaff on my neck.

Q And then after your father pointed a gaff on your neck, what did your father do?

A My father told me not to make any noise or else he would kill me.

Q And after he did (sic) those threats on you that he would kill you should you make noise, what did your father do?

A My father removed my pants.

Q And after he removed your pants, what did he do?

A After removing my pants, my father removed my panty.

COURT:

Q It was your father who did the removal of your pants and panty?

A Yes, sir.

COURT:

Continue.

FISCAL xxx:

Q And then?

A And after that my father touched my vagina. I did not say any word because if I move, he would kill me.

COURT:

Q How did you know?

A He was pointing a gaff on my neck.

Q What did you feel when your vagina was touched?

A I was afraid.

Q What part of your vagina was touched by your father?

A Not actually my vagina but the top.

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Q You said that your father . . . Let us go back to the portion of your statement where you said that your father removed your pants, your panty and touched your vagina, after that, what else did your father do?

A My father removed his shorts.

Q And then after your father removed his shorts what else did he do?

A My father placed himself on top of me.

Q And then after he placed himself on top of you, what did he do?

A He inserted his penis to my vagina.

COURT:

Q How did you know that it was his penis that was being inserted into your vagina?

A Because it was very painful.

FISCAL xxx:

Q After your father had sexual intercourse with you, what did he do?

A After that my father put on his shorts."[19]

The trial court, therefore, committed no error in convicting accused-appellant of the crime of rape. Carnal knowledge was duly established. Proof of force and intimidation is not even necessary to secure conviction of the accused. In this case, not only is accused-appellant AAA's own father who exercised overpowering influence and

moral ascendancy over her; worse, he even used a gaff to threaten her to submit to his bestial lust. That appellant resorted to force and intimidation in raping his 15-year old daughter magnifies his animal instinct.[20]

Indemnity in the amount of P15,000.00 was awarded by the trial court to AAA. However, in consonance with prevailing jurisprudence, we increase such indemnity to P50,000.00.

WHEREFORE, in view of the foregoing, the appeal is DENIED for lack of merit, and the assailed Decision is AFFIRMED with the modification that accused-appellant is ordered to indemnify AAA in the amount of P50,000.00. Costs against appellant.

SO ORDERED.

Narvasa, C.J., (Chairman), Davide, Jr., Melo, and Francisco, JJ., concur.

[1] Presided by Judge xxx.

[2] Rollo, p.2.

[3] Promulgated on March 12, 1993 in Criminal Case No. CBU-22679, Regional Trial Court of xxx, Branch 21; Rollo pp. 9-15.

[4] Rollo, pp. 9-13.

[5] Ibid., pp. 14-15.

[6] Brief for the accused-appellant, Rollo, pp. 34-58.

[7] People vs. Sanchez, 250 SCRA 14, November 16, 1995.

[8] People vs. Alimon, G.R. No. 87758, June 28, 1996; People vs. Cura, 240 SCRA, 234, January 18, 1995; People vs. Saguban, 231 SCRA 744, April 25, 1994, citing People vs. Rostata, Jr. et al., 218 SCRA 657, February 9, 1993.

[9] People vs. Capinig, G.R. No. 119325, September 26, 1996; People vs. Alimon, supra.

[10] People vs. Prado, 251 SCRA 690, December 29, 1995.

[11] People vs. Cura, supra, citing People vs. Ylarde, 224 SCRA 405, July 5, 1993; People vs. Alimon, supra.

[12] People vs. Errojo, 229 SCRA 49, January 4, 1994; People vs. Jimenez, 250 SCRA 349, November 28, 1995; People vs. Casil, 241 SCRA 285, February 13, 1995.

[13] TSN, March 24, 1992, p. 15.

[14] TSN, July 28, 1992, p. 4.

[15] Supra note 13, p. 12.

[16] Ibid., p. 16.

[17] People vs. Errojo, supra; People vs. Jimenez, supra.

[18] People vs. Casil, supra, citing People vs. Abuyan, Jr., 211 SCRA 662, July 21, 1992.

[19] TSN, December 12, 1991, pp. 9-12.

[20] See *People vs. Gaban*, G.R. Nos. 116716-18, September 30, 1996.

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