# PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RODRIGO LASOLA Y JAIME, ACCUSED-APPELLANT.

*G.R. No. 123152. November 17, 1999*

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**PER CURIAM:**

For automatic review here is a judgment rendered by Branch 16[1] of the Regional Trial Court of Zamboanga City, convicting Rodrigo Lasola y Jaime of two counts of rape of an under-aged relative and sentencing him to suffer the penalty of reclusion perpetua for one count and the supreme penalty of death for the other count.

Filed on April 6, 1995 by the victim, Rudymer Lasola, and her mother, Myrna Lasola, the Complaint against Rodrigo Lasola y Jaime in Criminal Case No. 13196, alleges:

> "That sometime in the year 1991, in the City of Zamboanga, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, by means of force and intimidation, did then and there wilfully, unlawfully and feloniously have carnal knowledge of his own daughter, the undersigned RUDYMER LASOLA y MAGOS, who was the (sic) nine (9) years old, against her will."[2]

Filed on the same day, the other Complaint against the said felon, docketed below as Criminal Case No. 13197, avers:

> "That on or about April 4, 1995, in the City of Zamboanga, Philippines, and within the jurisdiction of this Honorable Court, the above named accused being the father of the undersigned RUDYMER LASOLA y MAGOS, by means of force or intimidation, did then and there, willfully, unlawfully and feloniously have carnal knowledge of the undersigned, 12 years of age, against her will."[3]

With accused - appellant entering a plea of Not Guilty, upon arraignment on May 5, 1995, with the assistance of his counsel, Atty. Pablo Barrera, the two cases were tried jointly, resulting in the rendition of subject judgment of conviction dated November 3, 1995, with the following decretal portion:

> "WHEREFORE, the court finds accused RODRIGO LASOLA Y JAIME GUILTY BEYOND REASONABLE DOUBT OF THE CRIMES OF RAPE defined and penalized under Article 335 of the Revised Penal Code, as amended by Section 11 of R.A. No. 7659, committed against his daughter, Rudymer Lasola y Magos, with the aggravating circumstances of abuse of relationship and abuse of confidence, and sentences him as follows:
>
> - In Criminal Case No. 13196, to suffer the penalty of RECLUSION PERPETUA and its accessory penalties considering that the crime of Rape charged therein was committed before the effectivity of R.A. No. 7659 on December 31, 1993;
>
> - In Criminal Case No. 13197, to suffer the penalty of DEATH and its accessory penalties, in the manner provided by law; and
>
> - To pay the offended party Rudymer Lasola y Magos, moral damages in the sum of P50,000 in each of the two (2) cases or a total of P100,000 and exemplary damages in the amount of P25,000 or a total of P50,000, and to pay the costs.

> Let the complete records of these cases be forwarded to the Supreme Court for automatic review and judgment as provided by law.
>
> SO ORDERED.[4]

In arriving at its aforesaid finding of guilt, the trial court gave credence to the version of the victim, and culled the inculpatory facts and events, thus:

> "Rudymer Lasola y Magos was born, per her Certificate of Live Birth (Exh. 'G'), on October 5, 1982 at Kayatian, Poblacion, Siocon, Zamboanga del Norte. She is the only child of accused Rodrigo Lasola and his wife Myrna Magos who were living together as husband and wife since 1980 without the benefit of marriage. In April 1995, they were residing at Pasonanca, Zamboanga City, in a small hut without any room measuring only two meters in width and four meters in length with nipa shingles as roof and sacks as its walls. Its floor which is made of plywood is about 17 inches from the ground.
>
> Rudymer is a frail, petite child with `morena' complexion. She finished Grade III at Pasonanca Elementary School. She testified without much emotion, as if enfeebled by the cruel fate that has befallen her at a tender age. At about 9:00 in the evening of April 4, 1995, she was in the house of Tata Quijano (Marialyn Quijano) watching a television program together with her mother, Myrna Lasola, and an old woman whom she calls `Lola', and the children of Tata Quijano, and Tata Quijano herself. The house of Tata Quijano is adjacent to that of the Lasolas. Myrna Lasola works as a laundry-woman for Tata Quijano and her family. While Rudymer was watching the TV show, her father, Rodrigo Lasola, arrived. He ordered her to go home because there is no one in their house. Rydymer obeyed and went home. She fell asleep. She was awakened by her father who ordered her to take off her short pants and panty. She obeyed because her father had a bolo and told her that if she will not obey, he will kill her. Her father ordered her to spread her legs (`Iya akong gipabika'). He took off his short pants and brief, went on top of her, and inserted his erect penis inside her vagina (`Iyang gipasulod ang iyang utin ug lagay') xxx
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> xxx xxx xxx
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> While Rodrigo was on top of Rudymer doing the sexual act, Myrna Lasola arrived. When she saw what Rodrigo was doing, she upbraided the latter saying "nganong gibuhat nimo ni sa imong anak' (why did you do this to your daughter'). Rodrigo got mad and shouted at her: "Buwisit ka; mogawasay na; naabot ka pa; demonyo ka' (`It is about to come out; you arrive; you devil'). Rodrigo got a bolo and chased Myrna. When he realized that he was naked from the waist down, he stopped chasing Myrna who ran to the house of Tata Quijano. After pulling her short pants and panty, Rudymer followed her mother. Myrna told Tata Quijano what happened and the latter reported the incident to her brother-in-law, SPO2 Efren Asoy, a policeman assigned in the Police Training Center in Pasonanca.
>
> Rudymer declared that prior to April 4, 1995, her father already had sexual intercourse with her many times (tsn, p. 32, May 15, 1995). The first was in 1991 when she was nine years old. She could not remember the exact date. It was after her ninth birthday, maybe in the month of November. While she was sleeping, her father woke her up and ordered her to take off her short pants and panty. Then he went on top of her and inserted his penis into her vagina. Blood came out of her sex organ. Her father warned her not to report the incident to her mother otherwise he will kill her. xxx
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> xxx xxx xxx
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> After the first sexual intercourse, her father had repeated sexual congress with her until her mother caught them in the evening of April 4, 1995 in the act of sexual intercourse. She never reported the incidents to her mother because his father threatened to kill her if she will report to her mother. Her father used to beat her and maul her mother (tsn, p. 38, May 15, 1995).

The facts as testified on by the victim, Rudymer, were corroborated on material points by the testimony of her


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mother Myrna, who actually witnessed what transpired on April 4, 1995. To her testimony, Myrna added that she "remembered that she saw blood in Rudymer's panty and blanket when she was nine (9) years old"[5] and that accused - appellant was lazy, often drunk and used to beat her and Rudymer.

The prosecution likewise presented Tata Quijano and PO2 Renato de la Pena, who brought Rudymer to the Zamboanga City Medical Center for physical examination. Conducted by Dr. Rodolfo M. Valmoria, the medico-legal examination yielded the following report:

> `FINDING:
>
> Scant growth of pubic hair. Labia majora full, convex and slightly gaping. Labia minora is light brown in color and presenting in between is a fleshy type hymen with deep healed lacerations at 12 and shallow healed lacerations at 9 and 3 o'clock positions.
>
> Vaginal canal narrow and hardly admits examining index finger. Abdomen is flat and tight. Breast infantile and flat with dark brown areolae and nipples.
>
> Vaginal and cervical smears negative for spermatozoa and grm negative diplo. Pus cells many.
>
> CONCLUSION:
>
> Subject is of non-virgin state physically[6]

Accused-appellant interposed the defense of denial. He theorized that his wife and daughter concocted the charges against him "because his wife is always mad at him."[7] His testimony also revealed that as early as 1991, his wife already suspected him of raping Rudymer[8] and that notwithstanding the accusations made by his wife, he did not get angry at the latter.[9] Accused-appellant admitted that his wife told him about the blood on their daughter's blanket and underwear. However, he claimed that the blood on Rudymer's panty was that of Myrna because she used the panty of Rudymer as napkin when menstruating.[10]

Accused-appellant did not present any witness other than himself.

Convinced that accused-appellant is guilty beyond reasonable doubt of the offenses charged, the trial court a quo handed down the decision under automatic review. Although accused-appellant was sentenced to reclusion perpetua only in one case, with respect to which automatic review is not required, the penalty imposed in the other case being death, the two cases which were tried jointly below, have to be decided jointly in this decision.

Upon elevation of the cases to this Court, the Free Legal Assistance Group, Anti-Death Penalty Task Force, entered its appearance for the defense. In attacking the judgment of conviction under review, accused-appellant placed reliance on the lone albeit encompassing ground, that:

> "The judgment of conviction is inconsistent with the evidence presented and did not take into consideration the clear motive behind the filing of the complaint."[11]

In more than one instance,[12] this Court has had the opportunity to lay down the basic principles and guidelines for the determination of rape cases, to wit: 1) an accusation for rape can be made with facility, it is difficult to prove but more difficult for the person accused, though innocent, to disprove; 2) in view of the intrinsic nature of the crime of rape where two persons are usually involved, the testimony of the complainant must be scrutinized with extreme caution; and 3) the evidence of the prosecution must stand or fall on its own merits, and cannot be allowed to draw strength from the weakness of the evidence for the defense.

More in point to the present case is this Court's ruling in People vs. David Silvano[13] that in cases of qualified rape of an under-aged relative, the prosecution must allege and prove the ordinary elements of 1) sexual congress,

2) with a woman, 3) by force and without consent, and in order to warrant the imposition of the death penalty, the additional elements that 4) the victim is under 18 years of age at the time of the rape and 5) the offender is a parent (whether legitimate, illegitimate or adopted) of the victim.

Well-settled too, is the doctrine that when a woman testifies that she has been raped, she says, in effect, all that is necessary to constitute the commission of the crime, and this rule applies with more vigor when the culprit is a close relative of the victim.[14] The victim's lone testimony, if credible, is sufficient to convict.[15]

In the case at bar, the trial court found Rudymer's account of her harrowing experience "clear, positive and convincing and free from any serious contradiction. There is thus no reason at all for the Court not to accept her testimony that she was raped by her own father, as true."[16] Also convinced that the victim's mother, Myrna Lasola, was telling the truth, the trial court stated:

> "xxx When she was called to the witness stand and made to identify the accused, she spontaneously pointed to the accused and shouted: `Nia akong bana, baboy, demonyo' (`That is my husband, pig, devil') for which she was reprimanded by the court and threatened to be sent to jail. (tsn, pp.2-3, May 16, 1995) Although her action was met with disapproval and incurred the ire of the court, it really showed her deep revulsion towards the accused for the beastly act he did to her young child. xxx Myrna's asseveration that she saw the accused having sexual intercourse with their only daughter is rendered even more credible by her spontaneous act of running to the house of Tata Quijano asking for help and telling the latter what she saw, after Rodrigo chased her with a bolo, which fact was corroborated by the testimony of Tata Quijano in court. When she was asked why she was accusing her common-law husband of raping her daughter, she readily answered: `Because I saw it your Honor' xxx[17]

Jurisprudential annals is replete with the rule that the findings of facts and assessment of credibility of witnesses are matters best left to the trial court because of its unique position of having observed that elusive and incommunicable evidence of the witnesses' deportment on the stand while testifying, which opportunity is denied to the appellate courts, subject to certain exceptions.[18] Absent any showing that the trial judge overlooked or misapplied some facts or circumstances of weight which would affect the result of the case, or that the judge acted arbitrarily, the trial judge's assessment of credibility deserves the appellate court's highest respect.[19]

After a painstaking examination of Rudymer's narration of the events as well as of Myrna's own account thereof, the Court is of the considered opinion that, indeed, the victim Rudymer and her mother Myrna were telling the truth with all candor and honesty. Their testimonies were positive, straightforward and free from embellishments such that they must prevail over the bare denials of accused-appellant. The Court discerns no cause for doubting the veracity of their testimonies. Except for their desire to put an end to the dastardly deeds perpetrated by appellant and to find vindication in the arms of justice, it cannot conjure of any other reason as to why accused-appellant will be brought to fore by the very people with whom he shares marital as well as filial love and affection.

The Court cannot accept accused-appellant's theory that the charges filed against him were motivated by the desire of Myrna to get rid of him due to the maltreatment which both mother and daughter suffered in his hands. Time and again, this defense has been raised and each time, the Court has struck it down as incredible, contrary to reason and too unnatural to merit faith and credit. As held recently by this Court:[20]

> "the imputation by appellant of wrongful motive to his wife who allegedly used their daughter as an instrument in concocting the rape just to sever their marital ties is too shallow. It is unnatural for a parent to use her offspring as an engine of malice especially if it will subject her child to the humiliation, disgrace and even stigma. No mother in her right mind would subject her child to the humiliation, disgrace and trauma attendant to a prosecution for rape, if she were not motivated solely by the desire to incarcerate the person responsible

> for her child's defilement or if the same is not true. In the same vein, a mother would not expose her daughter to such an ignominy merely to end her relationship with her husband or to retaliate against him for his transgressions as a family man. And it is unbelievable for a daughter to charge her own father with rape at the expense of being ridiculed. Accordingly, as the defense failed to prove that the principal witness was moved by improper motive, the presumption is that she was not so moved and her testimony entitled to full faith and credence."

Accused-appellant's assertion that Myrna's reaction upon seeing her daughter being raped "does not conform to human experience"[21] deserves scant consideration. As aptly argued by the Solicitor General, different people react differently to a given type of situation and there is no standard form of behavioral response when one is confronted with a startling, strange or frightful experience.[22] There is no such thing as "normal human behavior"[23] when a person is faced with an extraordinary circumstance.

Neither is there need to delve at length into the issue that the medico-legal report is "inconclusive proof of the commission of the offense, much less the guilt of the accused."[24] A medico-legal report is not indispensable when evidence other than the same point to the inescapable guilt of the accused. It is merely corroborative evidence, the absence of which would not prevent the prosecution from establishing the fact of rape, which in this case, was proved not just by the lone testimony of the victim but also by another witness in the person of her mother.

Accused-appellant would like this Court to consider that the trial judge acted unjudiciously by participating actively in the trial of the case through adverse questioning, citing as authority the case of People vs. Opida.[25] Appellant maintains that the trial judge went beyond the "accepted parameters for clarificatory questioning"[26] which violated the right of the accused to due process and therefore, ousted the trial court of origin of its jurisdiction.

We disagree. While the Court cannot help but admire the efforts of the defense counsel in ensuring that no avenue for exculpation is left unexplored, the Court is nonetheless constrained to hold that such submission is direly strained and in vain. After a careful perusal of the records on hand and the transcript of stenographic notes of the testimonies of the witnesses there is perceived no indication that the trial judge conducted himself improperly or with bias and prejudice. If at all, the court a quo's actuations merely manifested its desire to get to the bottom of things and to make sure that it would be rendering judgment upon a clear assessment and understanding of the facts. The questioning by the trial court was neither "adversarial, irrelevant nor cruel"[27] and was within the proper bounds of judicial prerogative.

All things studiedly considered, the Court is of the ineluctable conclusion, and so finds, that the accused-appellant is guilty beyond reasonable doubt of raping his own daughter. Consistent with recent rulings,[28] the amount of P75,000.00 should be awarded to the victim as indemnity it appearing that the rape complained of is qualified by circumstances making the imposition of death penalty authorized under the law. For the simple rape, a lesser award of P50,000.00 is proper.

Four members of the Court are steadfast in their adherence to the separate opinion expressed in People vs. Echegaray[29] that Republic Act No. 7659 is unconstitutional insofar as it prescribes the death penalty. However, they bow to the majority opinion that the aforesaid law is constitutional and therefore, the penalty prescribed thereunder has to be imposed.

WHEREFORE, the decision of the trial court finding accused-appellant RODRIGO LASOLA y JAIME guilty beyond reasonable doubt of the crimes charged and imposing upon him the penalty of Reclusion Perpetua in Criminal Case No. 13196 and that of DEATH in Criminal Case No. 13197 is AFFIRMED with the modification


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that apart from the moral and exemplary damages awarded below, accused-appellant is sentenced to pay civil indemnity of P50,000.00 in Criminal Case No. 13196 and P75,000.00 in Criminal Case No. 13197.

In accordance with Section 25 of Republic Act No. 7659 amending Article 83 of the Revised Penal Code, upon finality of this decision, let the records of this case be forwarded to the Office of the President for possible exercise of the pardoning power.

**SO ORDERED.**

Davide, Jr., C.J., Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Panganiban, Quisumbing, Purisima, Pardo, Buena, Gonzaga-Reyes, and De Leon, Jr., JJ., concur.
Ynares-Santiago, J., on official business.

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[1] Presided by Judge Jesus Carbon.1

[2] Original Records, p.1 of Criminal Case No. 13196.2

[3] Original Records, p.1 of Criminal Case No. 13197.3

[4] Decision, Rollo, p. 65.4

[5] TSN, Myrna Lasola, p. 48.5

[6] Exh. `C'; `C-1'; `C-2'.6

[7] TSN, Rodrigo Lasola p. 19, May 22, 19957

[8] Ibid, pp. 23, 34 - 358

[9] Ibid, pp.35 - 379

[10] Ibid, p.35.10

[11] Brief for the Appellant, Rollo, p. 93.11

[12] People vs. Antido, 278 SCRA 425, citing People vs. De los Reyes, 203 SCRA 707 [1991]; People vs. Tismo, 204 SCRA 535 [1991]; People vs. Casinillo, 231 SCRA 777 [1992]; People vs. Matrimonio, 125 SCRA 613 [1992]; People vs. Lucas, 232 SCRA 537 [1994].

[13] G.R. No. 127356, June 29, 1999 citing People vs. Mahinay, G.R. No. 122485, February 1, 1999.

[14] People vs. Burce, 269 SCRA 293, citing People vs. Matrimonia, 215 SCRA 613,632.

[15] People vs. Antonio, 233 SCRA 283, citing People vs. Grefiel, 215 SCRA 296 [1992].

[16] Decision, Rollo, p. 51.

[17] Decision, pp. 48-49.

[18] People vs. Silvano, G.R.No. 127356, June 29, 1999 citing People vs. Cura, 310 Phil.237, 247; People vs. Dado, 314 Phil. 635; People vs. Tan,Jr., 264 SCRA 425; People vs. Ganan, et al., 265 SCRA 260; Olondriz, Jr. vs. People, 152 SCRA 65.

[19] People vs. Abangin, G.R. No. 125939 - 40, Oct. 12, 1998.

[20] People vs. Silvano, G.R. No. 127356, June 29, 1999 citing: People vs. Escober, 281 SCRA 498; People vs.

Romua, 272 SCRA 818; People vs. San Juan, 270 SCRA 693; People vs. Zaballero, 274 SCRA 627; People vs. Bugarin, 273 SCRA 384; People vs. Burce, 269 SCRA 293; People vs. Gabayron, 278 SCRA 78; People vs. Arellano, 282 SCRA 500; Ugaddan vs. CA, 275 SCRA 35; People vs. Sancholes, 271 SCRA 527; People vs. Salvame, 270 SCRA 766; and People vs. Tabaco, 270 SCRA 32).

[21] Appellant's Brief, Rollo, pp. 102-103.

[22] Appellee's Brief, p. 12 quoting: People vs. Espinoza, 247 SCRA 66.

[23] Appellant's Reply Brief, Rollo, p. 12.

[24] Appellant's Brief, Rollo, p. 26.

**[25] 142 SCRA 295.**

[26] Appellant's Brief, Rollo, p. 17.

[27] Ibid p. 112.

[28] People vs. Lopez, Feb. 8, 1999; People vs. Calayca, G.R. No. 121212, Jan. 20, 1999.

[29] G.R. No. 117472, Feb. 7, 1997.


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