PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. GABRIEL FLORES, ACCUSED-APPELLANT.

G.R. No. 130713. January 20, 2000

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

On August 11, 1997, the Regional Trial Court, Branch 80 of Morong, Rizal imposed the supreme penalty of death on Gabriel Flores y Ladera and correspondingly ordered him to pay P50,000.00 as moral damages after finding him guilty of raping his stepdaughter, Jennifer Flores.[1]

The trial court summarized the prosecution and defense evidence in this wise:

> Culled from the testimonial and documentary evidence adduced by the prosecution, it appears that sometime on April 13, 1996, at about 3:00 A.M., Jennifer Flores, 14 years old girl, was sleeping inside her room of their house located at Sitio Binutas, Barangay San Guillermo, Morong, Rizal. She was awaken (sic) when she felt somebody was touching her breast. When she opened her eyes she saw her step-father Gabriel Flores. Then her step-father ordered her to remove her T-shirt. She undressed because her step-father threatened to kill them. Then he started to kiss her face. She struggled and told her step-father why he was doing it to her. Then Gabriel Flores placed his penis to her vagina until he was able to satisfy his sexual lust. Afterwards, Gabriel Flores told her not to tell to anybody about the incident. After dressing up, Jennifer went to Modesta Llanera who is their neighbor and confided to her about her problem. Then she went home and saw her mother but she did not tell her what happened. It was only when she cannot stomach what her step-father was doing to her that she told her mother about what happened to her on April 13, 1996. When her mother came to know about it, she was very angry at Gabriel Flores. Later, a complaint for rape was filed against Gabriel Flores at Morong, Rizal and he was arrested. Jennifer was accompanied by her mother to Camp Crame, where she was examined and found to have been molested. At the Provincial Capitol in Pasig, there was a confrontation between Jennifer and her step-father where the latter admitted to her mother that he raped Jennifer. Gabriel Flores also gave a letter to her mother admitting what he had done to her.
>
> In his defense, accused testified that he is the step-father of Jennifer Flores; that Jennifer lived with him only sometime in 1995 to 1996 because she spent her vacation in Palay-Palay; that Jennifer is a stubborn child and she had many boy friends; that he often advised her about her activities but she was very stubborn; that in March, 1995, he was working in construction and came home only every Saturday night; that he denied raping Jennifer in March, 1995 because he respects his family; that there was a misunderstanding between him and Jennifer regarding the latter's having a boyfriend and could be the reason for the case that was filed against him; that he also denied that he raped Jennifer in April 13, 1996; that he remembered that in one occasion he scolded Jennifer for going to her lady friend who is their neighbor; that as regards his common-law wife, he had a misunderstanding with her regarding her loan which he did not agree.

The trial court, however, was not swayed by the protestations of Gabriel. As adverted to, it found him guilty of rape and correspondingly imposed upon him the death penalty and ordered him to indemnify Jennifer the amount of P50,000.00 as moral damages.[2]

The court below ruled:

> x x x (T)here is no doubt that all the elements of rape were established beyond reasonable doubt. It is clear that Jennifer Flores was sexually abused by the accused as shown by the medico-legal report dated April 17, 1996 (Exh. "D") issued by Dr. Jesusa M. Vergara. The victim herself categorically stated that she was sexually abused by the accused and the Court finds her testimony credible as shown by her frank, sincere and straightforward manner of testifying. The victim was in fact in (sic) the verge of crying while narrating the ordeal she suffered from her stepfather. That the accused had carnal knowledge of the victim was admitted by him as shown in his letter (Exh. "E") given to his common-law wife Luzviminda Inquito Flores.
>
> The prosecution was also able to prove that the accused was able to consummate the sexual act by means of force and intimidation. This is shown by the following testimony of Jennifer Flores:
>
> Q. What happened after Gabriel Flores removed your t-shirt?
>
> A. He started kissing me, sir.
>
> Q. In what part of your body did he started (sic) kissing you?
>
> A. My face, sir.
>
> Q. At this point, what did you do while he was kissing you in your face?
>
> A. I was struggling, sir.
>
> Q. How were you trying to struggle away from him?
>
> A. I keep on struggling, sir. (TSN, Nov. 11, 1996, p. 5.)
>
> And when the Court asked some clarificatory questions, she answered the following:
>
> Q. Why did you follow your stepfather when he asked you to remove your shirt?
>
> A. He is (sic) threatening me, your honor.
>
> Q. In what way?
>
> A. He is (sic) telling me that we will be killed. (TSN, November 18, 1996, p. 18.)
>
> As can be gleaned from the above testimony, both force and intimidation were employed by the accused.[3]

In this appeal, accused-appellant raises the following assignment of errors:

> - THE TRIAL COURT GRAVELY ERRED IN GIVING CREDIT AND PROBATIVE VALUE TO THE LETTER ALLEGEDLY PREPARED BY THE ACCUSED-APPELLANT GABRIEL FLORES.
>
> - THE TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GABRIEL FLORES GUILTY BEYOND REASONABLE DOUBT OF THE CRIME OF RAPE DEFINED AND PENALIZED UNDER THE PROVISIONS OF THE REVISED PENAL CODE, AS AMENDED BY REPUBLIC ACT NO. 7659.[4]

Accused-appellant’s first contention is without merit. A scrutiny of the trial court’s decision belies the allegation that the trial court heavily relied on accused-appellant’s letter admitting his guilt. On the contrary, it based its decision on the complaining witness’s testimony which it found to be "frank, sincere and straightforward." In rape cases, the accused may be convicted solely on the testimony of the victim, provided that such testimony is credible, natural, convincing and consistent with human nature and the normal course of things. This is so because by its very nature, rape is committed with the least possibility of being seen by the public. In fact, the presence of

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eyewitnesses could even raise serious doubts of its commission.[5]

The court below did not commit reversible error in giving credence to the testimony of Jennifer. In fact, at the time she testified, she was only 14 years old. As observed by the court, she was on the verge of tears when she testified. In addition, her testimony was found to be frank, sincere and straightforward. Besides, it is highly inconceivable on the part of Jennifer to weave such a tale of defloration just to get back at her stepfather who supposedly scolded her for entertaining a boyfriend.

Accused-appellant's second assignment error is likewise without merit. In essence, it assails the factual findings made by the court below. Suffice it to say that factual findings of trial courts are accorded due respect and weight unless there is grave abuse of discretion or misappreciation of facts material to the case. This Court finds none of the exceptions to be present in the instant case, perforce, the factual findings of the trial court shall remain undisturbed.

It is argued that complaining witness made inconsistent testimonies while on the witness stand. While this may be true, a closer examination of the records would reveal that these inconsistencies pertain only to collateral or minor incidents of the case. Specifically, complaining witness was uncertain as to the number of her companions in the house at the time of the incident and as to who actually removed her t-shirt. While they may be inconsistent statements, they simply do not touch on the real issue before this Court. The fact that complaining witness was raped by accused-appellant in the early morning of April 13, 1996 remains unrebutted.

Also, accused-appellant attempted to cast doubt on the credibility of the complaining witness by arguing that with all the opportunity available to her, she could have easily escaped from the clutches of her stepfather. This Court is not persuaded. The doctrine that persons react differently to similar situations is well-entrenched in our jurisprudence. That Jennifer opted to endure her misfortune for a short period of time is her own way of dealing with the situation. Surely, the fact that she did not run away from their home should not be interpreted to mean that she was not telling the truth. In People v. Omar Medina y Lumbero,[6] this Court has ruled:

> Lodalyn's failure to immediately report the rape after its initial occurrence does not cast grave doubts on her credibility. Such delay is understandable. It is not uncommon for a young innocent girl to conceal for some time the assaults on her virtue because of the rapist's threat on her life, more so when the rapist is living with her. Omar is Lodalyn's stepfather and he lived with her. She was in constant fear of Omar who threatened to kill her and her mother. Being the stepfather, Omar also exercised moral ascendancy and influence over her, who is thus expected to yield to his threats and intimidation.

In his reply brief, accused-appellant argues that the court below erred in imposing the penalty of death. On this point, this Court agrees. Article 335 of the Revised Penal Code, as amended by R.A. 7659, provides:

> Art. 335. When and how rape is committed. - Rape is committed by having carnal knowledge of a woman under any of the following circumstances.
>
> - By using force or intimidation;
>
> - When the woman is deprived of reason or otherwise unconscious; and
>
> - When the woman is under twelve years of age or is demented.
>
> The crime of rape shall be punished by reclusion perpetua.
>
> Whenever the crime of rape is committed with the use of deadly weapon or by two or more persons, the penalty shall be reclusion perpetua to death.
>
> When by reason or on the occasion of the rape, the victim has become insane, the penalty shall be death.

> When the rape is attempted or frustrated and a homicide is committed by reason or on the occasion thereof, the penalty shall likewise be death.
>
> When by reason or on the occasion of the rape, a homicide is committed, the penalty shall be death.
>
> The death penalty shall also be imposed if the crime of rape is committed with any of the following attendant circumstances:
>
> - 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 spouse of the parent of the victim.
>
> - When the victim is under the custody of the police or military authorities.
>
> - When the rape is committed in full view of the husband, parent, any of the children or other relatives within the third degree of consanguinity.
>
> - When the victim is a religious or a child below seven (7) years old.
>
> - When the offender knows that he is afflicted with Acquired Immune Deficiency Syndrome (AIDS) disease.
>
> - When committed by any member of the Armed Forces of the Philippines or the Philippine National Police or any law enforcement agency.
>
> - When by reason or on the occasion of the rape, the victim has suffered permanent physical mutilation. (Emphasis supplied)

The information failed to allege the minority of the victim, Jennifer Flores, thus:

> That, sometime in the month of March, 1995, continuously up to 13th day of April, 1996 in the Municipality of Morong, Rizal, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd designs and by means of force, threats and intimidation, did, then and there willfully, unlawfully and feloniously have sexual intercourse with JENNIFER FLORES y INGUITO his stepdaughter, without her consent and against her will.[7]

In People v. Ramos,[8] this Court has ruled:

> While Republic Act No. 7659 did not give a legal designation to the crime of rape attended by any of the seven new circumstances introduced in Article 335 on December 31, 1993, this Court has referred to such crime as qualified rape in a number of its decisions. However, with or without a name for this kind of rape, the concurrence of the minority of the victim and her relationship with the offender give a different character to the rape defined in the first part of Article 335. They raise the imposable penalty upon a person accused of rape from reclusion perpetua to the higher and supreme penalty of death. Such an effect conjointly puts relationship and minority of the offended party into the nature of a special qualifying circumstance.
>
> As this qualifying circumstance was not pleaded in the information or in the complaint against appellant, he cannot be convicted of qualified rape because he was not properly informed that he is being accused of qualified rape. x x x

As stated, the information failed to allege complainant's minority. Nowhere in the information is it stated that complainant was only 14 years old when she was raped. Moreover, the relationship of the victim as the stepdaughter of accused-appellant was not properly proved. Complainant's mother and accused-appellant were never married but had been cohabiting only as common-law spouses. No proof was ever presented by the prosecution that complainant's mother and accused-appellant were married as to qualify the latter as complainant's step-father. Rather, what was shown in the course of the proceedings was that accused-appellant

was the common-law spouse of the mother of complainant. Thus, for failure of the prosecution to conjointly allege and prove the qualifying circumstances of minority and relationship, accused-appellant should be held liable only for the crime of simple rape. Consequently, he should be sentenced only to reclusion perpetua.

As in People v. Prades,[9] this Court additionally awards P50,000.00 as civil indemnity on top of the P50,000.00 award for moral damages.

Under the circumstances, the award of P20,000.00 as exemplary damages is proper. In this sense, the prosecution's effort to prove relationship as an aggravating circumstance was not in vain for the same could be used in awarding exemplary damages. Exemplary damages may be awarded in criminal cases when the crime was committed with one or more aggravating circumstances after proof that the offended party is entitled to moral, temperate or compensatory damages.[10]

WHEREFORE, the decision finding accused-appellant Gabriel Flores y Ladera guilty of qualified rape and imposing upon him the supreme penalty of death is MODIFIED. Accused-appellant Gabriel Flores y Ladera is instead found GUILTY of simple rape and is sentenced to suffer the penalty of reclusion perpetua and to pay Jennifer Flores y Inguito P50,000.00 as civil indemnity, P50,000.00 as moral damages and P20,000.00 as exemplary damages.

SO ORDERED.

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

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[1] Decision penned by Judge Reynaldo G. Ros, Rollo, p. 15.

[2] Decision, p. 5; Rollo, p. 19.

[3] Id., pp. 3-4; Id., pp. 17-18.

[4] Appellant's Brief, Rollo, p. 33.

[5] People v. Omar Medina y Lumberio, G.R. No. 126575, December 11, 1998, citing People v. Pasayan, 261 SCRA 558, 572 (1996); People v. Magana, 259 SCRA 380, 397, (1996), citing People v. Masongsong, 174 SCRA 39, 47 (1989)

[6] Supra.

[7] Rollo, p. 7.

[8] 296 SCRA 575 (1998)

[9] 293 SCRA 411 (1998)

[10] Op. cit., note 7.

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