# PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. EDMUNDO DE LEON Y JESUS, ACCUSED-APPELLANT.

*G.R. No. 130985. December 03, 1999*

Ponente: KAPUNAN, J.

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**KAPUNAN, J.:**

For review by the Court is the decision rendered by the Regional Trial Court of Parañaque City, Branch 259, in Criminal Case Nos. 96-876 to 96-892, finding accused-appellant Edmundo de Leon guilty of seventeen (17) counts of rape and imposing on him the penalty of death. The decretal portion of the decision reads:

> WHEREFORE, premises considered, finding accused EDMUNDO DE LEON GUILTY beyond reasonable doubt for the crime of rape for seventeen (17) time as defined and penalized under Article 335 of the Revised Penal Code as amended by Section 11 of the Republic Act No. 7659, this Court hereby sentences him to each count the penalty of DEATH and to suffer the accessory penalties provided by law specifically Article 40 of the Revised Penal Code. For the civil liability, he is hereby further condemned to indemnify the victim the amount of P50,000.00 in each of the seventeen crimes or a total of P850,000.00 in line with existing jurisprudence; P50,000.00 moral damages for each crime or a total of P850,000.00; and P50,000.00 as exemplary damages for each crime or a total of P850,000.00.
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> The Branch Clerk of Court of this Court is directed to prepare the Mittimus for the immediate transfer of accused Edmundo de Leon from the Parañaque Municipal Jail to the Bureau of Corrections in Muntinlupa City and finally to forward all the records of these cases to the Supreme Court for automatic review in accordance with Section 9, Rule 122 of the Revised Rules of Court and Article 47 of the Revised Penal Code as amended by Section 22 of Republic Act No. 7659.
>
> SO ORDERED.[1]

Accused-appellant was charged in Criminal Case No. 96-876 with the crime of rape committed against his daughter sometime in 1989 before the effectivity of Republic Act No. 7659. The information reads:
<blockquotethat sometime="" between="" the="" months="" of="" march="" and="" april="" at="" 1989="" parañaque,="" within="" jurisdiction="" this="" honorable="" court,="" above-named="" accused="" did="" then="" there="" willfully,="" unlawfully="" feloniously="" has="" carnal="" knowledge="" a="" woman="" in="" person="" marilou="" de="" leon="" y="" nuyda.

> That sometime between the months of March and April at 1989 at Parañaque, and within the jurisdiction of this Honorable Court, the above-named Accused did then and there willfully, unlawfully and feloniously has carnal knowledge of a woman in the person of MARILOU DE LEON y NUYDA, by using force and intimidation.
>
> That the offended party was then under twelve years of age at the time of the commission of the crime and that she is the daughter of herein Accused.
>
> CONTRARY TO LAW.[2]

Accused-appellant was also charged in Criminal Case Nos. 96-877 to 96-892 with sixteen (16) counts of rape committed against his daughter in December, 1995 after the effectivity of Republic Act No. 7659 in sixteen (16) separate informations similarly worded as follows:

> That sometime in the month of December 1995 at Parañaque, and within the jurisdiction of this Honorable Court, the above-named Accused did then and there willfully, unlawfully and feloniously has carnal knowledge of a woman, in the person of MARILOU DE LEON y NUYDA, by using force and intimidation.
>
> That the offended party was then under eighteen years of age at the time of the commission of the crime and that she is the daughter of herein Accused.
>
> CONTRARY TO LAW.[3]

At his arraignment, accused-appellant pleaded not guilty to the crimes charged.[4] Thereafter, trial was conducted in the court below wherein both the People and the accused-appellant were afforded full opportunity to establish their respective versions.

The evidence for the prosecution shows that at the time of the first incident, the victim, Marilou de Leon, was only nine years old, having been born on September 19, 1980. One night between the months of March and April, 1989 she fell asleep while watching television in the living room of their home at Pelaez Street, Kabihasnan, Parañaque City. She suddenly woke up when she felt something warm enveloping her and discovered her father, herein accused-appellant, embracing and disrobing her. She was so frightened and could not shout. Her father then laid on top of her and pinned her down with his legs. He held her hands, then forcibly tried to insert his organ into hers. When he was not able to do so, he went to the kitchen, got some cooking oil and rubbed it on his organ. When he tried to insert his organ into hers again, he was only able to do so slightly. Because of this, he moistened his daughter's organ with his saliva. This time, he finally succeeded in fully penetrating her. Marilou could not stand the pain so she cried and cried. Thereafter, accused-appellant pulled out his organ from hers.[5] At the time of the incident, Marilou's mother was at her place of work in BF Homes, Parañaque City.[6]

According to Marilou, during the month of December, 1995, her father raped her weekly. During the first week, she was abused four (4) times; the second week, four (4) times; the third week, five (5) times; and the fourth week, four (4) times.[7] These incidents happened right in their family home at Masville Compound, Sucat, Parañaque City without Marilou's consent and in the absence of her mother who was at her workplace.[8] During some of these harrowing incidents, her father would mash and suck her breasts and finger her.[9] At one time, her father even told her: "Mas masarap ka pang gamitin kaysa sa nanay mo."[10] In all these instances, her father admonished her not to report the incidents lest they both be jailed. In fact, he even threatened to kill the family should she disclose his despicable crimes.[11] However, she could no longer bear her unfortunate plight. On August 8, 1996, she found the courage to report the incidents to the National Bureau of Investigation (NBI), hence, the instant complaints.[12]

Marilou's mother, Maria de Leon, was called to the witness stand only to testify that Marilou was born on September 19, 1980.[13] Marilou's birth certificate was submitted in evidence and was marked as Exhibit "E."

Accused-appellant could only offer bare denials to the incriminating declaration of his daughter.[14] He contended, however, that Marilou filed the instant cases because she was jealous of the attention he was lavishing on his love child by another woman and resented him everytime he quarreled with her mother.[15]

On his cross-examination, however, accused-appellant admitted having written and signed a letter which reads as follows: "Kagalang-galang na Hukom, ako po si Edmundo de Leon Y de Jesus ay kusang-loob na umaamin sa ibinigay na pahayag ng aking anak na si Marilou de Leon. Akin po lamang hinihiling na alisin siya sa


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pangangalaga ng DSWD at ibigay siya sa piling ng kanyang ina na si Maria de Leon.[16] This document, however, was not formally offered in evidence by the prosecution.

On redirect examination, he declared that he only wrote the letter at the insistence of his wife who wanted their daughter, herein victim, released from the custody of the Department of Social Welfare and Development (DSWD) to help in taking care of their family.

After trial, the lower court rendered a decision, which as earlier mentioned, convicted accused-appellant of raping his daughter, Marilou, seventeen (17) times and sentenced him pursuant to the provisions of Republic Act No. 7659 amending Article 335 of the Revised Penal Code.

As his lone assignment of error, accused-appellant reproves the trial court for finding him guilty of the crimes charged despite the prosecution's alleged failure to prove his guilt beyond reasonable doubt.[17] He contends that (1) he should be acquitted of the 1989 rape because Marilou's testimony is doubtful, it having been given seven years after the alleged occurrence and (2) the sixteen counts of rape were not proven beyond reasonable doubt because each offense was not described in detail.

After a thorough and intensive review of the records of this case, we are wholly convinced that accused-appellant is guilty as charged in Criminal Case no. 96-876 for statutory rape.

Notwithstanding her tender age, Marilou was able to give a detailed and vivid account of her agonizing experience on that fateful night. Thus:

> xxx
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> STATE PROS. VELASCO:
>
> Ms. Witness, you have stated in your complaint, in your sworn statement that you were allegedly raped by a certain Edmundo de Leon. My question is, do you know who is this Edmundo de Leon?
>
> A: Yes, sir.
>
> Q: Who is he?
>
> A: He is my father.
>
> Q: Ms. Witness, please look aroung (sic) this courtroom, is this Edmundo de Leon inside the courtroom?
>
> A: Yes, sir.
>
> Q:


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Will you please stand up and point to Edmundo de leon?

A: (WITNESS POINTED TO A MALE PERSON INSIDE THE COURTROOM WHO WHEN ASKED HIS NAME ANSWERED AS EDMUNDO DE LEON)

Q: Ms. Witness, you likewise stated in your complaint that this Edmundo de Leon allegedly have sexual intercourse with you on several occasions, when, if you can still remember, the first time Edmundo de Leon had sexual intercourse with you?

A: Between March and April.

Q: What year, Ms. Witness?

A: 1989, sir.

Q: Where did this happen?

A: In our house at Pelaez Street, Kabihasnan, Parañaque.

Q:

At about what time did it take place?

A: About 7:00 or 8:00.

Q: Morning or evening?

A: Evening, sir.

Q: In what specific part of your house did this alleged incident take place?

A: In the sala.

Q: Before the alleged, (sic) incident, Ms. Witness, immeidately (sic) before the alleged incident took place, what were you doing at that time?

A: I was watching television.

Q:

Ms. Witness, during the period between March and April 1989, how old were you?

A: Going to nine years old

Q:

When were you born?

A: September 19, 1980.

Q: While you were watching television, what happened next?

A: “Nakatulog po ako at may naramdaman po akong mainit. Niyayakap po ako ng tatay ko pero wala naman pong malisya sa akin ‘yon dahil tatay ko naman po siya at natural lang na yakapin niya ako pero hindi ko po akalain na may mangyayari.”

Q: By the way, Ms. Witness, during that time, were there other persons beside you who were inside the house?

A: My brother and sister but they were in the room and only the two of us were in the sala.

xxx

Q:

What specific place in your house were Christian and Angela at that time, the place where they were together?

A: In the room.


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Q: Were there other persons beside Angela and Christian during that time inside the house?

A: None, sir.

Q: What happened next, Ms. Witness, after you felt something hot or warm?

A: “Nagising po ako, unti-unti po akong hinuhubaran ng tatay ko. Nakaipit ang dalawang paa niya sa hita ko. Pinipilit po niyang ipasok ang ari niya sa ari ko.”

Q: You mentioned the word “tatay,” could you be more specific? Who is this “tatay” that you are referring to?

A: Edmundo de Leon.

Q:

Ms. Witness, how were you able to identify that it was Edmundo de Leon who allegedly tried to undress you at that time?

A: Because there were no other persons in the sala of our house “at nakatutok po sa amin ang sinag ng televison.”

Q:

You earlier stated that you were quite sleeping already at that time, what specific place of the house were you sleeping at that time?

A: In the sala.

Q: How far is this sala from the bedroom were (sic) Christain and Angela were sleeping at that time?

A: Our house in Pelaez Street was up and down and they were both upstairs.

Q:

Ms. Witness, what were you wearing at that time?

A: I was wearing sando and pants.

Q: You stated that your father tried to undress you, did he succeed in undressing you?

A: Yes, sir.

Q: What part or what specific clothing which you were wearing at that time did he remove?

A: First, he removed my pants and then my sando and then my underwear.

Q:

What happened next after he undressed you?

A: “Gustuhin ko mang sumigaw, I cannot do so because I was so frightened. And then he placed, himself on top of me that’s why I could no longer ran. He was holding my hands and he was forcing to insert his private organ on (sic) my vagina and when he could not insert it, he went to the kitchen and got an oil.

Q: Could you be more specific? Please enlighten this Honorable Court what is this oil that you are referring to?

A: Cooking oil, sir.

Q: What did he do with the cooking oil, if any?

A: He rubbed it on his sex organ.

Q: Then, what happened next, Ms. Witness?

A: “Pinapasok po niya ng konti. Nang hindi pa rin maipasok, binasa po niya ng laway ang ari ko.”

Q:

Then, what happened next?


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A: He was able to insert his sex organ and I could not stand the pain so I cried and cried and when he was finished, he pulled his sex organ" at 'yon po ang lagi niyang ginagawa, nagwi-withdrawal po."

Q: Ms. Witness, during that time, Edmundo de Leon was able to insert his pennis (sic) into your vagina?

A: Yes, sir.

Q: You stated, Ms. Witness, that he was always doing this withdrawal, what do you mean by withdrawal?

A: "Pag lalabasan na siya, tinatanggal niya ang ari niya at doon lalabas ang lumalabas sa kanya."

Q: What happened next, Ms. Witness, after the alleged sexual intercourse with you between March and April 1989?

A: "Umupo po ako sa likod ng pintuan namin, nang hindi ko na po makayanan ang sakit. Namimilipit po ako sa sakit ng ari ko po."

Q:

Then, what happened next, Ms. Witness?

A: I was able to sleep in the sala. Then, the same incident was repeated the following day.

xxx[18]

From the foregoing testimony, it can be readily observed that the victim candidly and honestly answered the questions propounded to her. Her simple, direct and positive answers denote sincerity and frankness. As we have held, a witness who testifies in a categorical, straightforward and spontaneous manner and remains consistent all throughout is a credible witness.[19]

The failure of the victim to immediately disclose the violation committed against her cannot put her credibility to question. Nor can it be construed as a false accusation. Said behavior cannot be considered as absolutely unnatural and contrary to human behavior. One must remember that the victim of the sexual assault here was a girl of tender age, extremely oblivious of the ways of the world and of men. Surely, she cannot be expected to act like an adult and do what is expected of mature people. Besides, it is not unbelievable that, initially, Marilou preferred to conceal her dishonor and suffer in silence because her disdainful violator was her father, her own flesh and blood. In People vs. Melivo,[20] cited in People vs. Alfredo Alba,[21] this Court held that:

xxx. A rape victim's actions are oftentimes overwhelmed by fear rather than by reason. It is this fear, springing from the initial rape, that the perpetrator hopes to build a climate of extreme psychological terror,


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> which would, he hopes, numb his victim into silence and submissiveness. Incestuous rape magnifies this terror, because the perpetrator is a person normally expected to give solace and protection to the victim. Furthermore, in incest, access to the victim is guaranteed by the blood relationship, proximity magnifying the sense of helplessness and the degree of fear.
>
> xxx The rapist perverts whatever moral ascendancy and influence he has over his victim in order to intimidate and force the latter to submit to repeated acts of rape over a period of time. In many instances, he succeeds and the crime is forever kept on a lid. In a few cases, the victim suddenly finds the will to summon unknown sources of courage to cry out for help and bring her depraved malefactor to justice.
>
> Given this pattern, we have repeatedly ruled that the failure of the victim to immediately report the rape is not indicative of fabrication. 'Young girls usually conceal for some time the fact of their having been raped.' x x x
>
> In all of these and other cases of incestuous rape, the perpetrator takes full advantage of his blood relationship, ascendancy, and influence over his victim, both to commit the sexual assault and to intimidate the victim into silence. Unfortunately for some perpetrators of incestuous rape, their victims manage to break out from the cycle of fear and terror. In People v. Molero, we emphasized that “an intimidated person cowed into submitting to a series of repulsive acts may acquire some courage as she grows older and finally state that enough is enough, the depraved malefactor must be punished.”[22]

We cannot agree with the trial court, however, that accused-appellant is guilty of the other sixteen (16) counts of rape punishable by the supreme penalty of death because, as correctly maintained by the accused-appellant, each and every charge of rape is a separate and distinct crime so that each of them should be proven beyond reasonable doubt.

Marilou testified that she was again violated by her father sixteen (16) times:

> xxx
>
> Q: Ms. Witness, would you still remember when was the last incident of sexual intercourse between Edmundo de Leon and you?
>
> A: December 1995.
>
> Q: Could you still remember how many times you were allegedly abused by your father in December 1995?
>
> A: Four to five times a week.
>
> Q: During the first week of December, 1995 do you remember if your father had sexually abused you?
>
> A: Yes, on the first week of December 1995, I remember that he abused me.
>
> Q: How many times during the first week of December?

A: Four times, sir.

Q:

Where did this take place?

A: In our house at Masville Compound.

Q: This Masville compound, where is this located?

A: Sucat, Parañaque, Metro Manila.

Q: How about during the second week of December 1995, was there any sexual intercourse between you and your father?

A: Yes, sir.

Q: Do you remember how many times?

A: Four times also, sir.

Q: Where did this sexual intercourse take place?

A: Also in our residence.

Q

Where?

A: At Masville Compound, Sucat, Parañaque, Metro Manila.

Q: How about during the third week of December 1995, was there any sexual intercourse between you and Edmundo de Leon?


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A: Yes, sir.

Q: How many times were the sexual intercourse between you and Edmundo de Leon during the third week of December 1995?

A: Five times, sir. Because on the third week of December, the whole day, he used me twice.

Q: How about during the last week or 4th week of December 1995, was there any sexual intercourse between you and your father?

A: Yes, sir.

Q:

How many times?

A: Four times, sir.

Q: Where did these take place, Ms. Witness? These sexual intercourse between you and your father?

A: Also in Masville Compound.[23]

xxx

The foregoing narration falls short of the requirement of the law on the quantum of evidence required in the prosecution of criminal cases. Each and every charge of rape is a separate and distinct crime so that each of the sixteen other rapes charged should be proven beyond reasonable doubt. The victim's testimony was overly generalized and lacked specific details on how each of the alleged sixteen rapes was committed. Her bare statement that she was raped so many times on certain weeks is clearly inadequate and grossly insufficient to establish the guilt of accused-appellant insofar as the other sixteen rapes charged are concerned. In People vs. Garcia,[24] this Court succinctly observed that:

> xxx (t)he indefinite testimonial evidence that complainant was raped every week is decidedly inadequate and grossly insufficient to establish the guilt of appellant therefor with the required quantum of evidence. So much of such indefinite imputations of rape, which are uncorroborated by any other evidence, fall within this category.[25]

Prescinding from the above, accused-appellant is found guilty of one crime of rape committed between March and April 1989 before the effectivity of R.A. 7659 and for which the proper imposable penalty is reclusion perpetua.


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WHEREFORE, the judgment appealed from is hereby MODIFIED. Accused-appellant Edmundo de Leon is hereby declared GUILTY of one (1) felony of statutory rape in Criminal Case No. 96-876 and sentenced to suffer the penalty of reclusion perpetua and to indemnify Marilou de Leon the sum of Fifty Thousand Pesos (P50,000.00) as moral damages and another Fifty Thousand Pesos (P50,000.00) a civil indemnity.

With respect to Criminal Case Nos. 96-877 to 96-892, the accused-appellant is hereby ACQUITTED for failure of the prosecution to prove his guilt beyond reasonable doubt.

**SO ORDERED.**

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

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[1] Records, p. 460.

[2] Id., at 3.

[3] Id., at 20, 26, 32, 38, 44, 50, 56, 62, 68, 74, 80, 86, 92, 98, 104 and 110.

[4] Id., at 117.

[5] TSN, April 15, 1997, pp. 2-12.

[6] Id., at 14.

[7] Id., at 14-17.

[8] Id.

[9] Id., at 18.

[10] Id.

[11] Id.

[12] Id., at 19; See also Rollo, pp. 11-12.

[13] Id., at 164-165.

[14] TSN, July 17, 1997, p. 18.

[15] Id., at 19.

[16] Id., at 23.

[17] Rollo, p. 78.

[18] TSN, April 15, 1997, pp. 5-13.

[19] People vs. Fuentes, G.R. No. 126285, September 29, 1988; People vs. Ernesto Perez, G.R. No. 122764, September 24, 1998; People vs. de Guia, 280 SCRA 141 (1997).


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**[20] 253 SCRA 347, 1996.**

[21] G.R. Nos. 131858-59, April 14, 1999.

[22] People vs. Melivo, supra, pp. 356-358.

[23] TSN, April 15, 1997, pp. 14-17.

**[24] 281 SCRA 463 (1997).**

[25] Id., at 481-482.


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