

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. PACIFICO RONDILLA, ACCUSED-APPELLANT.

G.R. No. 134368. February 08, 2001

Ponente: VITUG, J.

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VITUG, J.:

A sexual assault in whatever form is deplorable, and it indeed deserves the severe condemnation of society. Worse, this time once again, a father is charged with ravishing his own daughter even while his wife is enslaving herself in a foreign land just so the family could live somewhat comfortably.

Pacifico Rondilla was indicted for rape committed against complainant Roda G. Rondilla in an Information that read:

"At the instance of the complainant Roda G. Rondilla in a complaint filed before the Municipal Trial Court of Santa Cruz, Laguna, the undersigned 2nd Asst. Provincial Prosecutor of Laguna, hereby accuses PACIFICO RONDILLA y ZAIDE alias 'PICO,' 'Junior' of Brgy. San Antonio, Luisiana, Laguna, of the crime of 'RAPE' committed as follows:

"That sometime in the month of February, 1994 and thereafter, in the Municipality of Luisiana, Province of Laguna, and within the jurisdiction of this Honorable Court, being the father of the victim with lewd design and by means of force and intimidation, did then and there wilfully, unlawfully and feloniously have carnal knowledge with said RODA G. RONDILLA, against her will and consent, to her damage and prejudice." [1]

The accused pled "not guilty" to the accusation.

Roda testified that in February of 1994 while she was inside her room at the family residence in Fabricante Street, Luisiana, Laguna, her father, Pacifico, to her astonishment, went close to her, kissed her cheek and lips, removed her underwear, laid on top of her and succeeded in inserting his penis inside her vagina. While there was no light inside the room, she still could recognize her liquor-smelling father by the beam of light coming from an electric post outside the house. She also could distinctly behold the voice of her father when he threatened to kill her if she were to tell anyone about the incident. After Pacifico had left the room, Roda proceeded to the bathroom where she noticed blood and some sticky substance on her. Roda continued to feel the pain in her vagina. She was 15 years and 3 months old at the time. Her brothers Rodel, Reden and Rexon were sleeping in another room of the house. Rosalia, their mother, was in Singapore working as a domestic helper. The incident was repeated on 19 March 1994 and almost twice a week thereafter until Pacifico ultimately impregnated Roda. On 12 August 1995, she gave birth to Rona Rose Rondilla. Roda continued to suffer in silence until her mother returned to the country in September 1997 when Roda, who by then had gathered enough courage, decided to confess her ordeal.

There was, on the part of the defense, virtual silence at the witness stand about the incident. The accused himself, using the words of the trial judge, just feigned ignorance of everything that was said at the trial except for his being married to Rosalia Grespor.[2] The entire testimony of Pacifico, herein reproduced, was barely to the following effect; viz:

"DIRECT EXAMINATION BY ATTY. DE RAMOS:

"Q

Pacifico Rondilla, are you the same Pacifico Rondilla, the accused in this case?

"A

Yes, sir.

"Q

Being the accused in this case, you have the right to present evidence in this case to defend yourself, do you know that?

"A

No, sir.

"Q

I'm now informing you that being the accused, you have the right to testify in your behalf to defend yourself and you also have the right to waive that right?

"A

No, sir.

"ATTY. DE RAMOS:

Your Honor please, considering the reluctance of the accused to answer clearly the questions propounded to him, may we request this Court to ask him as to whether or not he will testify in his behalf or not?

"COURT:

"Q

You said you were married, who is your wife?

"A

Rosalia Grespor, Your Honor.

"Q

You were charged before this Court with having raped your own daughter Roda Rondilla, are you aware of that?

"A

No, Your Honor.

"Q

Last December 2, 1997, the Information was read to you and you entered a plea of not guilty, is that not correct?

"A

No, Your Honor.

"Q

What no?

"Note:

No answer.

"Q

Do you understand what the Court is asking you?

"A

No, Your Honor.

"Q

The Court will repeat. It is your right to present evidence and it is also your right to waive the presentation of evidence in your behalf, what do you want?

"A

Nothing, Your Honor.

"Q

Alright, did you or did you not rape your own daughter as charged in the Information?

"A

No, Your Honor.

"Q

So, what is your defense against the charge of rape filed against you by your own daughter?

"A

I cannot tell anything, Your Honor.

"Q

Do you still recall when your daughter Roda Rondilla testified in open Court?

"A

No, Your Honor.

"Q

Do you remember that your daughter Roda Rondilla narrated in Court how you raped her?

"A

No, Your Honor.

"Q

This Court wants to tell you that your daughter clearly stated in open Court that you raped her, is it true or not?

"A

No, Your Honor.

"Q

And what is the truth if that is not true?

"Note:

Witness bowed his head, reluctant to answer.

"COURT:

Alright, any question from the Public Prosecutor?

"PROSECUTOR:

No cross, Your Honor.

"COURT:

"Q

The Court wants to tell you that if ever you will be found guilty, you may be punished with death, do you know that?

"A

No, Your Honor.

"Q

Do you want to be punished with death thru lethal injection?

"A

No, Your Honor.

"Q

If you don't want to be punished with death, why don't you interpose any defense?

"Note:

Witness reluctant to answer.

"COURT:

Alright, witness excused.

"ATTY. DE RAMOS:

We have no other witness to present aside from the accused who is very reluctant to answer, Your Honor. In that case, we will submit the case for judgment."^[3]

Following the trial, the court a quo found the accused guilty of the offense charged and meted a death sentence.

"WHEREFORE, IN THE LIGHT OF ALL THE FOREGOING CONSIDERATIONS, this Court finds the accused PACIFICO RONDILLA guilty beyond reasonable doubt as PRINCIPAL of CONSUMMATED RAPE defined and punished under Article 335 of the Revised Penal Code as amended by R.A. No. 7659, otherwise known as the DEATH PENALTY LAW and hereby sentences him to suffer the SUPREME PENALTY of DEATH and to pay the private offended party RODA G. RONDILLA the following sums:

P50,000

—

as civil indemnity;

P50,000

—

as moral damages;

P50,000

—

as exemplary damages.

"The accused is further ordered to pay the costs of the instant suit."[4]

With the imposition of the death penalty by the trial court, the case has been elevated to this Court for automatic review.

The Court has closely gone over the records, and it finds the testimony of the victim to be straightforward and unwavering and simply too overwhelming to ignore. In her own words:

"TP. ARCIGAL, JR.:

"Q

Roda Rondilla, would you please tell us the date when you were born?

"A

I was born on November 11, 1978, sir.

"COURT:

"Q

By the way, there is only one charge of rape in this case?

"TP. ARCIGAL, JR.:

Yes, Your Honor.

"COURT:

Go ahead.

"TP ARCIGAL, JR.:

"Q

Now, please tell us the name of your parents.

"A

My father's name is Pacifico Rondilla and my mother's name is Rosalia Rondilla, sir.

"Q

Now, do you have a birth certificate to prove that you were born on November 11, 1978?

"A

Yes, sir.

"Q

I am showing to you a birth certificate appearing on page 3.

"A

(Witness going over page 3 which is Certificate of Birth of one Roda Rondilla)

Yes, sir. This is my birth certificate.

"TP ARCIGAL, JR.:

We request that the birth certificate of the complaining witness be marked as Exh. `B.'

"COURT:

Mark it.

"TP. ARCIGAL, JR.:

"Q

Are you still studying?

"A

No more, sir.

"Q

What grade or year did you finish?

"A

I finish third year high school, sir.

"Q

Why did you stop studying?

"A

Because I was molested by my father.

"COURT:

"Q

And what of it?

"TP. ARCIGAL, JR.:

"Q

What happened to you when you were molested?

"A

I got pregnant, sir.

"INTERPRETER:

(Witness crying while answering the question)

"TP. ARCIGAL, JR.:

"Q

Now, you said, you were raped by your father, what is the name of your father?

"A

Pacifico Rondilla, Jr., sir.

"Q

Now, can you still recall when you were first raped by your father?

"A

It was sometime in February, 1994, sir.

"Q

Now, would you please tell us how you were raped by your father sometime in February, 1994?

"A

He suddenly kissed me on my cheek and lips, sir.

"Q

Where were you when your father suddenly kissed you on your lips and cheek?

"A

I was inside the room of our house, sir.

"Q

And where is your house located?

"A

It is at Fabricante Street, Luisiana, Laguna, sir.

"Q

Now, can you still recall what time of the day, was it daytime or nighttime when your father kissed you?

"A

It was nighttime, which exact hour, I can no longer recall, sir.

"COURT:

"Q

And who were inside the house at that time?

"A

My brothers and sisters, Your Honor.

"Q

How old are they?

"A

My eldest brother by the name of Rodel Rondilla who is 18 years old, Your Honor. My other brother Reden Rondilla who is 14 years old, Your Honor and Rexon Rondilla, another brother, who is 11 years old, Your Honor.

"TP. ARCIGAL, JR.:

"Q

Now, when you said, one of your brothers is 18 years old, is he 18 years old now or in the year 1994?

"A

He was 18 years old in 1994, sir.

"Q

As well as the other two (2) brothers?

"A

Yes, sir.

"Q

And how about your mother, where was she at that time?

"A

She was then in Singapore, sir.

"Q

And how long she was in Singapore on that date?

"A

She was about already a year in Singapore on that year, sir.

"COURT:

"Q

Why was your mother in Singapore at that time?

"A

She was then working as a Domestic Helper, Your Honor.

"TP. ARCIGAL, JR.:

"Q

Who were with you inside the room when your father kissed you?

"A

I was alone, sir.

"Q

And what else did he do to you, aside from kissing you?

"A

He removed my panty, sir.

"Q

And what else did he do to you aside from removing your panty?

"A

He laid himself on top of me, sir.

"Q

And what did he do when he was already on top of you?

"A

What else did he do?

"INTERPRETER:

Witness could not answer the question. She continued crying.

"WITNESS:

"A

`Ginalaw po niya ako.'

"Q

What do you mean by `ginalaw po niya ako.?'

"A

He raped me.

"Q

How did he raped you?

"A

He inserted his penis to my vagina.

"Q

How did you come to know that he was able to insert his penis in your vagina?

"A

I was hurt, sir.

"Q

Was there a light at that time inside your room?

"A

None, sir.

"COURT:

"Q

How do you know that it was your father who raped you when there was no light?

"A

I recognized his voice, Your Honor, and his smell.

"TP. ARCIGAL, JR.:

"Q

Please tell us his smell at that time?

"A

He smelled liquor, sir.

"COURT:

"Q

Do you mean to tell us that you are acquainted with the smell of your father?

"A

Yes, Your Honor.

"TP. ARCIGAL, JR.:

"Q

Did he tell you anything before he raped you?

"A

Yes, sir. (Witness nodded her head)

"Q

Please tell us what did he tell you?

"A

He told me not to tell to anybody. `Huwag daw po akong magsusumbong.'

"Q

And what was your response to your father?

"A

Nothing, sir. I was afraid.

"Q

While your father was raping you, what did you do?

"A

None, sir.

"Q

Why?

"A

I was frightened, sir.

"COURT:

"Q

You were frightened of what?

"A

He told me he would kill me, Your Honor.

"Q

He told you that he would kill you, if what?

"A

He would kill me if I would tell to anybody, Your Honor.

"Q

By the way, when your father raped you, was he dressed?

"A

Yes, Your Honor.

"Q

You mean to say that your father has his pants on?

"A

He had his pants on, Your Honor.

"COURT:

Go ahead.

"TP. ARCIGAL, JR.:

"Q

Now, how were you able to know that he was able to insert his penis when he has his pants and brief on?

"A

He lowered his brief and pants up to his knees, sir.

"Q

Were you able to actually see when your father lowered his pants and brief?

"A

Yes, sir.

"Q

Even though, it was dark at that time?

"A

Yes, sir.

"Q

Was there any light at that time?

"A

There was light coming from a post, sir. `Aninag.'

"Q

Now, what else did he do to you after inserting his penis inside your vagina?

"A

He moved his body, sir.

"Q

Can you demonstrate to us how did he move his body?

"A

(Witness demonstrating by using her left hand on upward-downward movement)

"TP. ARCIGAL, JR.:

"Q

And how long did he rape you?

"A

I don't remember, sir.

"Q

And what happened next after he was through raping you?

"A

He left me, sir.

"Q

And what did you do when he left you inside your room?

"A

I put on my panty, sir.

"COURT:

"Q

Immediately after your father raped you, did your vagina get wet?

"A

Yes, Your Honor.

"Q

Do you know where that wetness came from?

"A

It came from him his private part, Your Honor.

"Q

And when you noticed that your vagina got wet after having been raped, what did you do?

"A

I washed it, Your Honor.

"COURT:

Alright, go ahead.

"TP. ARCIGAL, JR.:

Did you notice anything unusual in your panty at that time?

"A

Yes, sir.

"Q

What was that?

"A

There was blood on my panty.

"Q

Aside from blood, what else did you notice?

"A

And sticky substance, sir.

"Q

And where were you when you noticed that blood on your panty and sticky substance on your panty?

"A

I was inside our bathroom in our house, sir.

"Q

And at that time, there was already a light inside the bathroom?

"A

Yes, sir.

"COURT:

"Q

At the time you were being raped by your father, did you offer any resistance?

"A

No, Your Honor.

"Q

Why did you not resist in advances of your father?

"A

I was afraid, Your Honor.

"Q

Afraid of whom?

"A

I was afraid of him Your Honor.

"Q

Why were you then afraid of your father?

"A

He was threatening me, Your Honor.

"Q

Threatening you of what?

"A

He would allegedly kill me, Your Honor.

"COURT:

Alright, go ahead.

"TP. ARCIGAL, JR.:

"Q

Now, what did you feel when you were being raped by your father? The first time you were raped?

"A

It was painful, sir.

"Q

Can you tell us where that pain was coming from?

"A

Yes, sir.

"Q

Where?

"A

From my vagina, sir.

"Q

Now, after that February, 1994 incident, did your father rape you again?

"A

Yes, sir.

"Q

Can you still recall when?

"A

Yes, sir. It was March.

COURT:

"Q

19. . .?

"A

1994, Your Honor.

"TP. ARCIGAL, JR.:

"Q

And after that March incident, may we know if your father again raped you?

"A

Yes, sir.

"Q

For how many times?

"A

Almost twice a week, sir.

(Witness continuously sobbing while answering the question.)

"Q

Now, can you tell us the result of that raping incident to you by your father?

"A

Yes, sir.

"Q

What happened to you?

"A

I got pregnant, sir.

"Q

And were you able to deliver your baby?

"A

Yes, sir.

"Q

And who is the father of your baby?

"A

My father, sir.

"COURT:

"Q

When did you deliver?

"A

August 12, 1995.

"Q

A baby boy or girl?

"A

A baby girl, Your Honor.

"Q

What is her name?

"A

Rona Rose, Your Honor.

"Q

Who gave her that name?

"A

I did, Your Honor.

"Q

And where is she now?

"A

In our house, Your Honor.

"Q

Who took care of your baby from the time she was born up to the present?

"A

I am the one, Your Honor."[5]

Hardly, indeed, can the defense stand a chance against the unimpeached testimony of the young victim describing in good detail the sexual assault.[6] Much too often it is said, when a woman states that she has been raped, she says, in effect, all that is necessary to show that the crime did take place[7] for it would be inconceivable for a woman, especially one still in her tender age, to merely make up a story of defloration, submit herself to a medical examination and subject herself to a public trial if her motivation were other than to express her true indignation over an actual occurrence.[8] The testimony of a rape victim is entitled to even greater weight than ordinarily it would receive when she accuses a close relative of having been the responsible party therefor.[9]

In the instant case, Roda was fully aware of the gravity of her accusations and the possible repercussions against her own father even as it was made clear to her that he could be put to death for it. Roda, just the same, never once wavered in her testimony.

The defense, in seeking a favorable verdict for the accused, made strong reliance on the fact that Roda had failed to earlier tell anyone, including her mother, of the several acts of rape committed by her father. True, notwithstanding the birth of her child, the victim took more than three years to divulge her misfortune by instead awaiting the return of her mother from Singapore; understandably, however, rape victims would often show strong reluctance in reporting the stigmatizing incident.[10] In *People vs. Malagar*,[11] the Court observed:

"Vacillation in the filing of complaints by rape victims is not an uncommon phenomenon. This crime is normally accompanied by the rapist's threat on the victim's life, and the fear can last for quite a while. There is also the natural reluctance of a woman to admit her sullied chastity, accepting thereby all the stigma it leaves, and to then expose herself to the morbid curiosity of the public whom she may likely perceive, rightly or wrongly, to be more interested in the prurient details of the ravishment than in her vindication and the punishment of the rapist. In *People vs. Coloma* we have even considered an 8-year delay in reporting the long

history of rape by the victim's father as understandable and so not enough to render incredible the complaint of a 13-year old daughter." [12]

Although the trial court may have correctly found the accused guilty beyond reasonable doubt of the crime charged, it has erred, however, in imposing the death sentence upon him. Republic Act No. 7659 does prescribe the penalty of death when rape is committed by a parent and the victim is under eighteen (18) years of age at the time of the incident but, being qualifying circumstances, not only must these circumstances of relationship and minority be established by evidence but they also must be properly alleged in the information. In *People vs. Garcia*, [13] the Court has enunciated:

"x x x Republic Act No. 7659 thereafter introduced seven more attendant circumstances the presence of any of which takes the case out of the purview of simple rape, and effectively qualifies the same by increasing the penalty one degree higher through the imposition of the death penalty. All these new attendant circumstances, just like those introduced by Republic Act No. 4111, partake of the nature of qualifying circumstances, and not merely aggravating circumstances, on the same rationale already explained.

"Now, it has long been the rule that qualifying circumstances must be properly pleaded in the indictment. If the same are not pleaded but proved, they shall be considered only as aggravating circumstances, since the latter admit of proof even if not pleaded. Indeed, it would be a denial of the right of the accused to be informed of the charges against him and, consequently, a denial of due process, if he is charged with simple rape and be convicted of its qualified form punishable with death, although the attendant circumstance qualifying the offense and resulting in capital punishment was not alleged in the indictment on which he was arraigned.

"Recapitulating, the information filed against appellant charged only the felony of simple rape and no attendant qualifying circumstance, specifically that of his being supposedly a guardian of the victim, was alleged. On this additional consideration, he cannot, therefore, be punished with the penalty of death even assuming *arguendo* that he is such a guardian. Neither can that fact be considered to aggravate his liability as the penalty for simple rape is the single indivisible penalty of reclusion perpetua." [14]

The information may have here aptly mentioned the father-daughter relationship of the offender and the victim; it has failed, however, to allege the minority of the victim. The civil liabilities ordered by the court *a quo* are consistent with prevailing jurisprudence except for the exemplary damages which should be reduced to P20,000.00.

WHEREFORE, the judgment, dated 28 April 1998, of the court *a quo* convicting the accused, Pacifico Rondilla, of the crime charged is **AFFIRMED** but with **MODIFICATION** by only imposing upon him the penalty of reclusion perpetua instead of death. The damages awarded by the trial court are **AFFIRMED** except for the award of exemplary damages which is reduced to P20,000.00.

SO ORDERED.

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

[1] Records, p. 2.

[2] Rollo, p. 67.

[3] TSN, 03 March 1998, pp. 2-5.

[4] Rollo, pp. 26-27.

[5] TSN, 27 January 1998, pp. 3-12.

[6] See *People vs. Gungon*, 287 SCRA 618.

[7] *People vs. Atop*, 286 SCRA 157.

[8] *People vs. Taneo*, 284 SCRA 251.

[9] *People vs. Tabugoca*, 285 SCRA 312.

[10] *People vs. Luzorata*, 286 SCRA 487.

[11] 238 SCRA 512.

[12] At p. 521.

[13] 281 SCRA 463.

[14] At p. 489. It might be noted that Rule 110 of the 2000 Revised Rules of Criminal Procedure now provides:

Sec. 8. Designation of the offense. — The complaint or information shall state the designation of the offense given by the statute, aver the acts or omissions constituting the offense, and specify its qualifying and aggravating circumstances. If there is no designation of the offense, reference shall be made to the section or subsection of the statute punishing it.

Sec. 9. Cause of the Accusation. — The acts or omissions complained of as constituting the offense and the qualifying and aggravating circumstances must be stated in ordinary and concise language and not necessarily in the language used in the statute but in terms sufficient to enable a person of common understanding to know what offense is being charged as well as its qualifying and aggravating circumstances and for the Court to pronounce judgment.

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