PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ARNEL ASUNCION Y VILLADUS, ACCUSED-APPELLANT.

G.R. No. 136779. September 07, 2001

Ponente: PUNO, J.

Read online (full-text search, related cases, audio case brief): https://batas.org/library/g-r-no-136779/

PUNO, J.:

Little Arlin Asuncion was plucked from her world of games and toys when her own flesh and blood, the accused Arnel Asuncion, marred her innocence. She tells us of her sad tale, through the eyes and lips of a seven-year old who hardly understands sex and sexuality. Barely does she comprehend, at least for now, the depth of the violation committed by her own father upon not only her body, but her personhood; painfully, however, she will more fully comprehend when she grows up and remembers her sad childhood memory.

On March 23, 1998, an information was filed against accused-appellant Arnel Asuncion y Villadus, viz:

> "On or about in the month of December, 1997, in Taguig, Metro Manila, and within the jurisdiction of this Honorable Court, the accused, exerting strong moral influence over, and by means of force and intimidation, did then and there willfully, unlawfully and feloniously have sexual intercourse with his daughter, Arlin C. Asuncion, a minor, seven (7) years of age, against her will and consent.
>
> Contrary to law."

The evidence on record shows that sometime after Christmas of 1997, the accused and Arlin were at home in Taguig while Erlinda Asuncion, the accused's wife, was out working. Arlin's siblings were also out watching Kengkoy on television when the accused perpetrated the sordid sexual assault upon his little seven-year old Arlin.[1]

With much effort from the fiscal and the trial judge to elicit the details of her tragic tale, Arlin so innocently narrated that the accused who was then naked asked her to remove her clothes, including her panty. He then asked her to lie down on the bed, and then lay on top of her, face down. The accused spread her legs, then did the push and pull movement which caused severe pain in her vagina.[2] According to Arlin, the accused did not insert his penis into, but rubbed it against, her vagina.[3] On the same day after that incident, Arlin urinated and there was blood in her urine. Sometime after that fateful day, Arlin narrated to her mother, Erlinda, what her father did to her.[4] On February 10, 1998, Erlinda executed a sworn statement regarding the rape. Upon her complaint, an investigation of the incident was conducted, which then gave rise to the present case.[5] Erlinda, however, did not testify as she later had a change of heart and wanted to have the case dismissed.[6]

Emmanuel Reyes, Medico-Legal Officer of the PNP Crime Laboratory, conducted a physical examination on Arlin on February 4, 1998. Arlin was then accompanied by her aunt, Belita Castañeda. Dr. Reyes' findings showed that Arlin's hymen had "deep healed laceration elastic, located 3 o'clock and 6 o'clock positions" He opined that the "insertion of a hard object similar to a male sex organ during the period of sexual intercourse" could cause the lacerations which could have been inflicted more than a month's time from the date of examination on February 4, 1998.[7]

The lone witness for the defense was the accused. He testified that Arlin is his daughter and that she was eight years old at the time of his testimony on August 25, 1997, but he denied having committed the dastardly act on his daughter. According to him, on December 26, 1997, he and his family, including the victim Arlin, were in his father's house in Caloocan. They arrived home in Taguig in the afternoon of that day. He avers that Arlin filed the instant case against him because his sister-in-law, Violeta (also Belita above) Castañeda, did not want her sister Erlinda to marry the accused as he studied only up to Grade 1. Violeta wanted Erlinda and the accused to separate. The accused also claims that Violeta was angry at him because he and Violeta's husband previously had a fist fight.[8]

The trial court gave credence to the evidence of the prosecution and convicted the accused of the supreme penalty of death, viz:

> "WHEREFORE, premises considered, this Court finds Arnel Asuncion y Villadus, guilty beyond reasonable doubt as principal of the crime of rape defined in Art. 266-A and penalized under Art. 266-B, par. 6(1) of the Revised Penal Code, as amended, and imposes upon him the supreme penalty of death; to pay his victim moral damages in the amount of P20,000.00 and to pay the costs"[9]

Hence, this automatic review with the accused's lone assignment of error, viz:

> "THE TRIAL COURT ERRED IN CONVICTING ACCUSED-APPELLANT OF RAPE DESPITE FAILURE OF THE PROSECUTION TO PROVE HIS GUILT BEYOND REASONABLE DOUBT."

As the alleged rape was committed in December 1997, the law applicable to the case at bar is Republic Act No. 8353, otherwise known as "The Anti-Rape Law of 1997" which took effect on October 22, 1997. Articles 266-A and 266-B of this law read:

> "Article 266-A. Rape; When and How Committed.- Rape is committed-
>
> By a man who shall have carnal knowledge of a woman under any of the following circumstances:
>
> a) Through force, threat, or intimidation;
>
> b) When the offended party is deprived of reason or otherwise unconscious;
>
> c) By means of fraudulent machination or grave abuse of authority; and
>
> d) When the offended party is under twelve (12) years of age or is demented, even though none of the circumstances mentioned above be present.
>
> Article 266-B. Penalties. - Rape under paragraph 1 of the next preceding article shall be punished by reclusion perpetua.
>
> The death penalty shall also be imposed if the crime of rape is committed with any of the following aggravating/qualifying circumstances:
>
> 1) 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; x x x " (emphasis supplied)

Jurisprudence dictates that in order for rape to be consummated, there must be penetration of the penis into the vagina. In People v. Salinas,[10] we ruled that perfect or complete penetration is not essential for the offense of consummated rape and that entry, to the least extent of the labia or lips of the female organ is sufficient. We held that, "(i)n a manner of speaking, bombardment of the drawbridge is invasion enough even if the troops do not succeed in entering the castle." [11]

In assailing the decision of the trial court, the accused points out that Arlin testified several times that he did not insert his penis into her vagina, thus negating the finding of consummated rape. He contends that assuming he is found guilty, he should only be convicted of attempted rape consistent with prevailing jurisprudence.[12]

We disagree. Being only eight years old when she testified and only seven when the rape took place, it would be unfair to apply the standards used for adults in assessing the testimony of little Arlin. Her testimony should be viewed as a narration of an eight-year old who barely understands sex and sexuality. It is with this stance and in the context of the other relevant portions of her testimony that we view Arlin's statement that the accused did not insert his penis into her vagina. The following are the relevant parts of her testimony:

COURT:

You said you were raped by your father, how were you rape (sic) by your father?

" A:

Pinahiga po niya ako sa kama tapos dinaganan po niya ako.

FISCAL:

Q:

Nung dinaganan ka niya, saan nangyari iyon?

A:

Sa bahay po.

Q:

Nung nangyari iyon, asan ang Nanay mo?

A:

Nagtatrabaho po.

Q:

Iyong mga kapatid mo, asan sila?

A:

Nanonood po ng T.V.

Q:

Nung dinaganan ka, anong nangyari?

A:

Ni-rape po niya ako.

Q:

Nakadamit ba siya nung dinaganan ka niya?

A:

Nakahubad po.

Q:

Ikaw, nakadamit ka non?

A:

Pinahubad po niya ako.

Q:

Eh ang panty mo?

A:

Hinubad din po.

Q:

Nung nakahubad ang Tatay mo at saka ikaw, ano na ang nangyari pagkatapos non?

A:

Ni-rape po niya ako.

Q:

Meron bang ipinasok sa katawan mo?

A:

Wala po.

Q:

Ano lang ang ginawa niya nung nakapatong siya sa ibabaw mo?

COURT:

Hindi, sa katawan kase ang ginamit mo.

COURT:

Q:

Was there anything that was inserted in your vagina?

A:

Wala po.

FISCAL:

Q:

Wala siyang ipinasok, ano lang ang ginawa niya nung nandun siya sa ibabaw mo?

A:

Dinaganan lang ako.

Q:

Turn this case into an audio lecture - facts, issues, ruling and doctrine - at batas.org

Dinaganan ka lang?

A:

Opo.

Q:

Nung nakadagan siya sa iyo, hindi siya gumalaw?

A:

Gumalaw po siya.

Q:

Nung nakadagan siya sa iyo tapos gumalaw siya, nasaktan ka ba?

A:

Opo.

Q:

Anong masakit sa iyo noon?

A:

Ang Pepe ko po.

Q:

Bakit masakit ang Pepe mo?

A:

Ni-rape po ako.

Q:

Masakit na masakit ba ang Pepe mo noon?

A:

Opo.

COURT

When your father was on top of you, did he insert his penis into your vagina?

A:

No, sir.

FISCAL:

Q:

Eh bakit sumakit and Pepe mo noon?

A:

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

Kase po nung umihi ako may kasamang dugo, konti lang.

Q:

Kailan iyong umihi ka na may kasamang dugo?

A:

Dati po.

Q:

Pagkatapos ng daganan ka ng Papa mo, nung araw na iyon umihi ka ng may kasamang dugo?

A:

Opo.

Q:

Paano mo nalaman ang salitang rape?

A:

Kantot po.

xxx xxx xxx

Q:

Paano mo nalaman ang salitang kantot?

A:

Kase siya ni-rape niya ako.

Q:

Pinasok niya ang titi niya sa Pepe mo?

A:

Kiniskis lang niya.

Q:

Iyong titi niya kiniskis sa pepe mo?

A:

Opo.

xxx xxx xxx

COURT:

Q:

When your father put himself on top of you he spread your legs, is that not correct?

A:

Opo.

Q:

After spreading your legs he made a push and pull movement?

A:

Opo.

Q:

And, it was at that time that you felt pain in your vagina?

A:

Opo.

Q:

How long was that push and pull movement of your father on top of you?

A:

Hindi ko po alam.

Q:

But, was a little longer?

A:

Opo.

Q:

When your father stop (sic) that push and pull movement on top of you, did you notice anything that happened in your vagina?

A:

Opo.

Q:

You noticed that there was some sticky substance in your pepe?

A:

Opo." (emphasis supplied)[13]

On cross-examination, she testified, viz:

"ATTY. LIM:

Q:

Arlin, isn't it the truth that your father never inserted his penis to your vagina?

A:

No, sir.

Q:

She (sic) did not insert his penis to your vagina, isn't it?

INTERPRETER:

Witness shaking her head.

ATTY. LIM:

Q:

When you shook your head you mean that he did not insert his penis, isn't it?

A:

(witness nodded).

COURT:

Q:

What you mean by that is that you did not see the penis of your father put inside your vagina is it not?

A:

Hindi po.

Q:

But, the truth is you feel pain while he was making a push and pull movement on top of you?

A:

Opo.

ATTY. LIM:

Q:

The truth, Arlin, is that your father never made a push and pull movement while he was on top of you, isn't it?

A:

Gumanyan po.

ATTY. LIM:

Q:

Can you demonstrate how he did that movement while he was on top of you?

A:

Hindi ko po alam.

Q:

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

The truth of the matter is that you do not know because it did not happen, there was no push and pull movement?

A:

(witness shaking her head).

Q:

What do you mean by shaking your head, Arlin?

A:

Ayaw ko po.

Q:

What do you not want?

A:

Ayaw ko pong magpakantot.

Q:

Who teach you or who told you that word magpakantot?

A:

Kase sumakit po iyong pepe ko.

Q:

Who told you or who informed you the word rape?

A:

Papa ko po.

Q:

When did he thought you or teach you that word?

A:

Date po.

Q:

Your father never in your words "kiskis" his penis to your vagina, isn't it?

A:

(witness shaking her head)

Q:

What do you mean by shaking your head? Do you mean that he never kiskis his penis to your vagina?

A:

(witness shaking her head).

COURT:

Ang ibig mong sabihin sa pag-iiling ng kaliwa at kanan ay ikiniskis ng Papa mo iyong titi niya sa pepe mo?

A:

(witness nodded).

ATTY. LIM:

Q:

How did he do that?

A:

(no answer).

FISCAL:

Sige na, Arlin, Sagutin mo na ang tanong niya.

WITNESS:

A:

Kiniskis lang po.

COURT:

Q:

Iyong pagkiskis iyong gumaganon-ganon? (Judge demonstrating by using ballpen).

A:

Opo.

ATTY. LIM:

Saan ginaganon, ituro mo kung saan?

COURT:

Ituro mo sa parte ng katawan mo kung saan niya ikinikiskis ng Papa mo iyong titi niya?

A:

Sa pepe ko po.

ATTY. LIM:

Q:

Ituro mo nga, asan ang pepe mo?

COURT:

Nahihiya na rin iyan, hindi niya ipapakita ang pepe niya.

FISCAL:

Turn this case into an audio lecture - facts, issues, ruling and doctrine - at batas.org

You Honor, the witness, toping (tapping) her vagina.

ATTY. LIM:

Q:

Asan naman ang titi ng Papa mo?

A:

(witness toping [tapping] her vagina)."[14] (emphasis supplied)

While it may be true that eight-year old Arlin stated several times that her father did not insert his penis into her vagina, the trial court later on clarified if what she meant was that she did not see the accused insert his penis into her vagina. Arlin answered that she did not see. To the mind of a child like Arlin who hardly understands sexual intercourse, it would be hard to imagine and understand the penis entering the vagina if she did not see and has never seen this. And even if she so understands, it is doubtful whether her limited vocabulary and comprehension could distinguish between full, partial or slight insertion or penetration. The question of whether her father inserted his penis into her vagina could mean to her full penetration, thus she answered in the negative. All she knew for certain was that the accused lay on top of her facing her and while in that position did the push and pull movement rubbing his penis against her vagina and causing severe pain in her vagina.

In a similar case, People v. Castillo,[15] the 6 1/2-year old victim also testified that the accused's penis did not penetrate her vagina, viz:

"Q:

When Edgar Castillo was making a series of up and down movement while you were on top of him, did you feel if the private part of Edgar Castillo penetrated your vagina?

A:

No, sir.

Q:

But it touched your vagina?

A:

Yes, sir.

Q:

That is why you felt pain?

A:

Yes, sir. (TSN, p. 22)"[16]

Nevertheless, the Court concluded that there was penetration in view of the physician's finding that the victim's hymen was lacerated. We held:

"It is true that, standing alone, a physician's finding that the hymen of the alleged victim was lacerated, does not prove that she was raped. A physician is presented not to prove that the victim was raped but to show that

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

> the latter had lost her virginity (People v. Opena, G.R. L-34954, Feb. 20, 1981, 102 SCRA 755). However, when the physician's finding of penetration is corroborated by the testimony of the victim that the appellant's private part touched her vagina, it is sufficient to establish the essential requisite of carnal knowledge."[17] (emphasis supplied)

In People v. Alimon,[18] where the victim was the eleven-year old daughter of the accused, we affirmed the trial court's finding that there was penetration despite the statement of the victim that the accused's penis was not inserted in her vagina, viz:

> "With respect to appellant's reliance on the offended party's testimony that '(a)ng pakiramdam ko po ay hindi naipasok,'referring to appellant's sex organ, the trial court opined that while said testimony standing by itself might result in a finding that appellant is guilty of only attempted rape or acts of lasciviousness, nevertheless, the complainant's declaration on cross-examination that she noticed 'blood and something thick and watery after the sexual assault' could only mean that 'there was ejaculation and penetration no matter how minimal' and that '(t)here would not have been blood unless there were lacerations' and concluded that the rape accounted for the healed lacerations and tear found by the doctor who examined the offended party."[19] (emphasis supplied)

In both the Castillo and Alimon cases, the child victims testified that there was no penetration, but the Court nevertheless found that there was penetration, no matter how slight, in view of the physical evidence shown in their respective medical examinations stating that there were lacerations in their hymen. In the Alimon case, the laceration was proved not only by the medical examination but was also implied by the testimony of the victim that she noticed "blood and something thick and watery" after the sexual assault. In People v. Aguinaldo, [20] another rape case, we also stated that bleeding implies laceration of the victim's sex organ because "in rupture during first coitus, a few drops of blood may exude."[21] We then enunciated the paramount importance of physical evidence, viz:

> "When physical evidence runs counter to testimonial evidence, conclusions as to physical evidence must prevail. Physical evidence is that mute but eloquent manifestation of truth which rate (sic) high in our hierarchy of trustworthy evidence."[22]

Applying these rulings to the case at bar, we conclude that the accused's penis penetrated Arlin's hymen causing its rupture and bleeding, which explains the appearance of blood in her urine when she answered the call of nature on the same day after she was raped. The penetration also accounts for the findings in her medical examination that there were healed lacerations in her hymen which in the medico-legal's opinion could have been caused by the "insertion of a hard object similar to a male sex organ during the period of sexual intercourse" and could have been inflicted more than a month's time from the date of examination on February 4, 1998. With the physical evidence of blood in her urine and lacerations in her hymen, all reasonable doubt is dispelled with respect to whether the accused inserted his penis into Arlin's vagina. The physical evidence, no matter how mute, loudly calls for a conclusion contrary to the accused's assertion that there was no proof of penetration.

In view of the physical evidence corroborated by Arlin's testimony that the accused lay on top of her facing her and while in that position did the push and pull movement rubbing his penis against her vagina and causing severe pain in her vagina, we find that the accused consummated the rape of his then seven-year old daughter Arlin.

The supreme penalty of death imposed by the trial court, however, must be reduced to reclusion perpetua.

The trial court convicted the accused under Art. 266-B of The Anti-Rape Law of 1997 which provides:

> "The death penalty shall also be imposed if the crime of rape is committed with any of the following aggravating circumstances:

> 1) 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."

Under this provision, two special qualifying circumstances -minority and relationship- must concur. As these circumstances raise the penalty of the crime to death, great caution must be exercised in their evaluation. For these circumstances to be appreciated, both must be specifically alleged in the information or complaint and duly proven during trial with proof beyond reasonable doubt or equal certainty as the crime itself.[23]

In People v. Tabanggay, [24] we ruled, viz:

> "In the instant case, we find insufficient the bare testimony of private complainants and their mother as to their ages as well as their kinship to the appellant. . . (W)e cannot agree with the solicitor general that appellant's admission of his relationship with his victims would suffice. Elementary is the doctrine that the prosecution bears the burden of proving all the elements of a crime, including the qualifying circumstances. In sum, the death penalty cannot be imposed upon appellant."[25] (emphasis supplied)

In the case at bar, the trial court imposed the death penalty as the "accused himself in his testimony in court admitted that Arlin is his daughter (TSN, 25 Aug. 1998, 4) and that she is 8 years old (TSN, 25 Aug. 1998, 9)."[26] It found the accused's admission sufficient to establish the special qualifying circumstance of relationship under Art. 266-B. However, in light of the more stringent requirement of proof pronounced in the Tabanggay case, we cannot simply rely on the admission of the accused nor on Arlin's testimony to establish that the accused is Arlin's father. The testimony of the mother or Arlin's Certificate of Live Birth, if as in this case the mother wished to have the case dismissed and did not testify, would have met the stringent requirement of proof beyond reasonable doubt. In the absence of these pieces of evidence, we cannot appreciate the special qualifying circumstance of relationship and thus convict the accused of simple rape punishable by reclusion perpetua.

The accused's defense of denial and ill-motive deserve scant consideration. The accused denied the alleged rape and reasoned out that it could not have happened because on December 26, 1997, his whole family, including Arlin, was in his father's house and not in their own home where the rape allegedly took place. Arlin, however, testified that the rape took place shortly after Christmas but not specifically on December 26, 1997. Thus, their whereabouts on December 26, 1997 does not necessarily negate the finding that he raped Arlin shortly after Christmas. At any rate, the accused's denial, as negative and self-serving evidence, does not deserve as much weight in law as Arlin's positive and affirmative testimony.[27] The accused also testified that the instant case was filed against him because of the bad blood between him and Arlin's aunt, Violeta Castañeda. Such testimony, however, does not in any way prove that the instant case was filed against him only for an ill-motive as it was Arlin's mother, and not Violeta Castañeda, who caused the filing of this case.

Anent the damages, the trial court imposed P200,000.00 as moral damages. In line with prevailing jurisprudence, however, we reduce this amount to P50,000.00. The accused is also ordered to pay the victim P50,000.00 as civil indemnity and P25,000.00 as exemplary damages.[28]

IN VIEW OF THE FOREGOING, we AFFIRM the Decision of the trial court finding accused-appellant Arnel Asuncion guilty of rape, but REDUCE the penalty imposed to reclusion perpetua. The accused-appellant is ordered to pay the victim P50,000.00 as civil indemnity, P50,000.00 as moral damages, and P25,000.00 as exemplary damages.

SO ORDERED.

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

---

[1] TSN, Arlin Asuncion, July 8, 1998, p. 6; Original records, p. 7; Sworn Statement of Arlin Asuncion dated February 10, 1998; Exhibit A.

[2] TSN, supra, p. 9.

[3] Ibid.

[4] Id., pp. 6-11; 17-18.

[5] Rollo, pp. 3-4.

[6] TSN, PO2 Generoso Rillon, August 11, 1998, pp. 9-11.

[7] TSN, Dr. Emmanuel Reyes, August 11, 1998, pp. 2-7; Exhibit D.

[8] TSN, Arnel Asuncion, August 25, 1998, pp. 3-6, 9.

[9] Rollo, p. 16; Decision, p. 8.

[10] 232 SCRA 274 (1994).

[11] Id., p. 279.

[12] Brief for the Accused-Appellant, p. 4; Rollo, p. 38.

[13] TSN, Arlin Asuncion, supra, pp. 6-11.

[14] Id., pp. 15-18.

[15] 197 SCRA 657 (1991).

[16] Id., pp. 660-661.

[17] Id., pp. 661-662.

[18] 257 SCRA 658 (1996).

[19] Id., pp. 666-667.

[20] 316 SCRA 819 (1999).

[21] Id., p. 833, citing 1 TEDESCHI ECKERT TEDECHI, FORENSIC MEDICINE, A STUDY IN TRAUMA AND ENVIRONMENTAL HAZARDS 245 (1977 ed.).

[22] Id., citing People v. Vasquez, G.R. No. 102366, October 3, 1997, 280 SCRA 160, 175, citing People v. Uycoque (Villanueva), 316 Phil. 930, 942; 246 SCRA 769, 779 (1995).

[23] People v. Padilla, G.R. No. 137648, March 30, 2001.

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

[24] 334 SCRA 575 (2000).

[25] Id., p. 601.

[26] Rollo, p. 15; Decision, p. 6.

[27] People v. Virtucio, Jr., 326 SCRA 198 (2000), citing People v. Dela Cruz, G.R. No. 123397, 13 October 1998, 298 SCRA 36.

[28] People v. Alipor, G.R. No. 137282, March 16, 2001.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at https://batas.org

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.