

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. DIONISIO ANCHETA, APPELLANT.

G.R. No. 142431. January 14, 2004

Ponente: YNARES-SATIAGO, J.

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YNARES-SATIAGO, J.:

Appellant Dionisio Ancheta was meted the supreme penalty of death by the Regional Trial Court of San Fernando City, La Union, Branch 27, in Criminal Case No. 4806, for the rape committed against his own daughter, Ginalyn Ancheta.

In an Amended Information, appellant was charged as follows:

That on or about the 13[th] day of July, 1998, in the Municipality of San Gabriel, Province of La Union, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design and by using force and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of his own daughter the aforementioned GINALYN A. ANCHETA who was then below 12 years old, against her will and consent, to her damage and prejudice.

CONTRARY TO LAW.[1]

Appellant pleaded not guilty to the charge. Thereafter, trial on the merits ensued.

The facts of the case are as follows:

The victim, Ginalyn Ancheta, was born on July 22, 1986. She was almost 12 years old when the rape was committed on July 13, 1998. She was then living with her father, appellant Dionisio Ancheta, at Sitio Bacsayan, Brgy. Poblacion, San Gabriel, La Union.

On the day of the incident, at around 7:00 p.m., Ginalyn was inside her bedroom when appellant entered and forcibly undressed her. After removing his clothes, he lay on top of her. She struggled but her efforts were in vain since appellant was strong. Failing in her plea, she tried to reason with appellant and asked him, “Why are you doing this father? I am your daughter.”[2] Appellant gave no reply. He proceeded to insert his penis into her vagina. After appellant satisfied his lust, he threatened Ginalyn with bodily harm if she would tell anyone what happened.[3] Ginalyn ran towards the grassy place and hid there until the following morning. Thereafter, she went to the house of her auntie, Perla Andaya-Onaliban, at Brgy. Salangsang, San Gabriel, La Union and confided to her the ordeal she experienced with appellant. Since then, Ginalyn never returned to their house.[4]

However, it was only on July 17, 1998 that Perla accompanied Ginalyn to the police station to report the rape incident. Her statements were reduced into writing and served as the basis for the filing of a formal complaint against appellant. Arcely Viluan, a social worker of the DSWD of San Gabriel, was assigned to assist Ginalyn in the case. Ginalyn was medically examined at Ilocos Training and Regional Medical Center where she was attended to by Dr. Ma. Asuncion Pamuspusan.[5] The pelvic examination yielded the following results:

PELVIC EXAMINATION

Vaginal Examination:

(-) bleeding; with whitish mucoid discharge;

Positive old healed laceration at 4,5,6,9

o'clock positions.

Speculum Examination:

Cervix – pinkish; (-) bleeding; (-) foul

smelling discharge.

Internal Examination:

Cervix – softish; closed; non-tender

Uterus – small; (-) adnexal mass nor

tenderness.[6]

Appellant interposed the defense of denial and alibi. He admitted that Ginalyn is his daughter, and that she was twelve years old and living with him when the alleged incident took place. He, nevertheless, denied the commission of rape and alleged:

-

that he could not have had sexual intercourse with Ginalyn at around 7:00 p.m. of July 13, 1998, because he came home late that night after his work at the residence of Councilor Bangsel Liwan at the town proper of San Gabriel, La Union;

-

that when he arrived at the house, Ginalyn was not there;

-

that he searched for her but when he could not find her he went back to their house and slept;

-

that on the following day, as he was on his way to work, Ginalyn arrived home;

-

that he scolded and slapped her;

-

that afterwards, he went to work; and

-

that Ginalyn left the house and did not return there anymore.[7]

The trial court rendered a judgment of conviction against appellant on December 16, 1999, the dispositive portion of which reads:

WHEREFORE, premises considered, the Court finds the accused GUILTY of the crime of Rape penalized under the Revised Penal Code, Art. 335 amended by the provisions of Republic Act 8353 and it imposes upon the accused Dionisio Ancheta alias Andong the penalty of DEATH.

Further, the accused Dionisio Ancheta alias Andong shall pay Fifty Thousand Pesos (P50,000.00) by way of civil indemnity to the private complainant Ginalyn (Gina) Ancheta.

With costs.

SO ORDERED.[8]

The decision was elevated to this Court on automatic review pursuant to Article 47 of the Revised Penal Code, as amended.

In his Brief, appellant raises the lone assignment of error:

THE TRIAL COURT ERRED IN IMPOSING UPON THE ACCUSED-APPELLANT THE SUPREME PENALTY OF DEATH DESPITE THE FAILURE OF THE PROSECUTION TO PRESENT COMPETENT PROOF OF THE VICTIM'S ACTUAL AGE.[9]

Appellant does not assail the trial court's decision insofar as it concludes that the evidence proved beyond reasonable doubt that he raped his own daughter. However, he faults the trial court for imposing the supreme penalty of death considering that the prosecution failed to prove the actual age of the complainant. He asserts that the records are bereft of evidence, such as complainant's Certificate of Live Birth, Baptismal Certificate or school records accurately showing her age.

This case may easily be disposed of by a simple modification of the penalty as prayed for by appellant. If we do that, however, we would be shirking from our legally mandated duty to review all death penalty cases. This duty has been eloquently summed up by Mr. Justice Reynato S. Puno, speaking for the Court, in this wise:

We hold, however, that there is more wisdom in our existing jurisprudence mandating our review of all death penalty cases, regardless of the wish of the convict and regardless of the will of the court. Nothing less than life is at stake and any court decision authorizing the State to take life must be as error-free as possible. We must strive to realize this objective, however elusive it may be, and our efforts must not depend on whether appellant has withdrawn his appeal or has escaped. Indeed, an appellant may withdraw his appeal not because he is guilty but because of his wrong perception of the law. Or because he may want to avail of the more speedy remedy of pardon. Or because of his frustration and misapprehension that he will not get justice from the authorities. Nor should the Court be influenced by the seeming repudiation of its jurisdiction when a convict escapes. Ours is not only the power but the duty to review all death penalty cases. No litigant can repudiate this power which is bestowed by the Constitution. The power is more of a sacred duty which we have to discharge to assure the People that the innocence of a citizen is our concern not only in crimes that slight but even more, in crimes that shock the conscience. This concern cannot be diluted.[10]

Thus, we painstakingly sifted through the evidence presented in order to make our own determination as to appellant's guilt or innocence. We have reached the conclusion that the prosecution sufficiently proved appellant's guilt beyond reasonable doubt.

The trial court convicted appellant based on the testimony of Ginalyn, which it found to be credible, as corroborated by the results of the medical examination conducted upon her showing healed lacerations in various positions. While on the witness stand, Ginalyn could not hold her tears as she narrated the bestial acts committed by her own father. She testified, thus:

PROSECUTOR FERRER:

May we make of record, your Honor, that the witness is crying.

x x x x x x x x

COURT:

Q.

What do you mean by he destroyed your womanhood?

How did he touch you?

A.

I cannot continue answering anymore, your Honor.

Q.

Why, what do you feel?

A.

I am hard up in answering question because of what happened to me, your Honor.

Q.

How did he touch you?

A.

He used to abuse me, your Honor.

PROSECUTOR FERRER:

Q.

Now you said that he used to abuse me, what do you mean by that, what does he do to you that you can say that it is abusing?

A.

He removed my shortpants and panty, ma'am.

COURT:

Q.

When was that?

A.

I cannot recall or remember when, your Honor, because of what he did to me.

Q.

After removing your shortpants and panty what did he do?

A.

He inserted his penis into my vagina, you Honor.

Q.

Continue.

PROSECUTOR FERRER:

Q.

Now you said that he inserted his penis to your vagina do you know what time was that?

A.

7:00 o'clock, ma'am.

COURT:

Q.

Seven o'clock in the morning or in the evening?

A.

7:00 o'clock in the evening, your Honor.

PROSECUTOR FERRER:

Q.

Do you recall where did this happen?

A.

In the room, ma'am.

Q.

Room of what house?

A.

In the room of our house where we were then living, ma'am.

Q.

When you said that he removed your shortpants and panty when he was doing that what did you do if any?

A.

I cannot do anything because I am only his child ma'am.[11]

Well-settled is the rule that findings of trial courts on the credibility of witnesses deserve a high degree of respect. Having observed the deportment of witnesses during the trial, the trial judge is in a better position to determine the issue of credibility; thus, his findings will not be disturbed on appeal in the absence of any clear showing that he overlooked, misunderstood or misapplied some facts or circumstances of weight and substance that could have altered the conviction of appellants.[12] No such circumstances obtain in this case.

Moreover, when a woman, more so if she is a minor, says she has been raped, she says, in effect, all that is necessary to prove that rape was committed. Courts usually give greater weight to the testimony of a girl who is a victim of sexual assault, especially a minor particularly in cases of incestuous rape, because no woman would be willing to undergo a public trial and put up with the shame, humiliation and dishonor of exposing her own degradation were it not to condemn an injustice and to have the offender apprehended and punished.[13] We

further note that Ginalyn broke into tears while testifying. The crying of a victim during her testimony is evidence of the truth of the rape charges, for the display of such emotion indicates the pain that the victim feels when asked to recount her traumatic experience.[14]

At the time of the rape, Republic Act No. 8353 or the Anti-Rape Law of 1997, which repealed Article 335 of the Revised Penal Code and classified rape as a crime against persons, was in effect. The new provisions on rape, pursuant to Articles 266-A and 266-B of the Revised Penal Code, state:

Article 266-A. Rape; When And How Committed. --- Rape is committed---

1) By a man who shall have carnal knowledge of a woman under any of the circumstances:

a)

Through force, threat, or intimidation;

b)

When the offended party is deprived of reason or otherwise unconscious;

c)

By means of fraudulent machinations 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;

x x x x x x x x

Article 266-B. Penalties. --- Rape under paragraph 1 of the next preceding article shall be punished by reclusion perpetua.

x x x x x x x x

The death penalty shall 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 x x x x x.

While the Court affirms the finding of guilt of appellant of the crime of rape, we cannot sustain the death sentence imposed by the trial court.

Where the life of another human being is hanging on the balance, nothing but proof beyond reasonable doubt of every fact necessary to constitute the crime with which the accused is charged must be established in order for the corresponding penalty thereto to be upheld.[15] To justify the imposition of the death penalty in cases of incestuous rape, the concurrence of the minority of the victim and her relationship to the offender constitutes one special qualifying circumstance which must be both alleged and proved with moral certainty.[16] The prosecution failed to do these.

Although the Information specifically alleged the qualifying circumstances of minority and relationship, only the circumstance of minority was proved by the presentation of the birth certificate of Ginalyn. The said birth certificate shows that Ginalyn was born on July 22, 1986, thus, making her only less than twelve years old when she was raped on July 13, 1996. This birth certificate was presented and formally offered as evidence for the prosecution,[17] and appellant did not interpose any objection to its admission.[18]

However, the prosecution failed to adduce independent and competent evidence to prove the special qualifying circumstance of relationship of the victim to the offender. Therefore, aside from the testimony of Ginalyn that appellant is her father and the admission of the appellant during the pre-trial and during the trial that Ginalyn is his daughter with his estranged wife, Erlinda V. Aquino,[19] the trial court has no basis in appreciating the qualifying circumstance of relationship.

We have recently held in *People v. Mendoza*[20] that the bare testimony of the complainant and the admission of the accused during pre-trial and trial as to their relationship do not suffice for an accused cannot be condemned to suffer the supreme penalty of death on the basis of stipulations or his own admissions. This strict rule is warranted by the seriousness of the penalty of death. The fact that appellant is the father of the complainant must be sufficiently established by competent and independent evidence.

Moreover, the fact that appellant admitted that he is the father of Ginalyn during the pre-trial, thus dispensing with the need to present evidence to prove the same, will not justify the trial court's appreciation of the qualifying circumstance of relationship. A perusal of the pre-trial order would readily show that the said stipulation was not signed by the appellant and his counsel. Hence, it cannot be used as evidence against him. Rule 118, Sec. 2 of the Revised Rules of Criminal Procedure provides that "all agreements or admissions made or entered during the pre-trial conference shall be reduced in writing and signed by the accused and counsel, otherwise, they cannot be used against the accused." This requirement is mandatory.[21] Thus, the omission of the signature of the accused and his counsel, as mandatorily required by the Rules, renders the Stipulation of Facts inadmissible in evidence.[22]

Considering that the relationship of the victim and the offender was not proved beyond reasonable doubt, appellant can only be convicted of simple rape, punishable by reclusion perpetua.[23]

Anent the damages imposable upon appellant, we sustain the lower court's award of P50,000.00 as civil indemnity. However, an additional amount of P50,000.00 is awarded to Ginalyn as moral damages. Moral damages are automatically granted in rape cases without need of further proof other than the commission of the crime, because it is assumed that a rape victim has actually suffered moral injuries entitling her to such an award.[24]

WHEREFORE, in view of the foregoing, the decision of the Regional Trial Court of San Fernando City, La Union, Branch 27, in Criminal Case No. 4806, finding appellant Dionisio Ancheta guilty of qualified rape and imposing upon him the supreme penalty of death is MODIFIED. Appellant is instead found guilty of simple rape and is hereby sentenced to suffer the penalty of reclusion perpetua and to pay the complainant the sum of P50,000.00 as moral damages in addition to the civil indemnity in the amount of P50,000.00 awarded by the trial court.

Costs de officio.

SO ORDERED.

Davide, Jr., C.J., Puno, Vitug, Panganiban, Quisumbing, Sandoval-Gutierrez, Carpio, Austria-Martinez, Corona, Carpio-Morales, Callejo, Sr., Azcuna, and Tinga, JJ., concur.

[1] Rollo, p. 10.

[2] TSN, July 26, 1999, p. 5.

[3] TSN, July 19, 1999, pp. 8-12.

[4] TSN, July 29, 1999, p. 2.

[5] Id., pp. 4-6.

[6] Records, p. 6.

[7] TSN, September 7, 1999, pp. 2-5.

[8] Rollo, Decision, pp. 45-46.

[9] Rollo, p. 86.

[10] *People v. Esparas*, 329 Phil. 339, 352 [1996].

[11] TSN, July 16, 1999, pp. 6-8.

[12] *People v. Aliben*, G.R. No. 140404, 27 February 2003.

[13] *People v. Cortezano*, G.R. No. 123140, 23 September 2003, citing *People v. De Guzman*, G.R. Nos. 140333-34, 11 December 2001, 372 SCRA 95.

[14] *People v. Besmonte*, G.R. Nos. 137278-79, 17 February 2003.

[15] *People v. Esureña*, G.R. No. 142727, 23 January 2002, 374 SCRA 424, 429.

[16] *People v. Miclat*, G.R. No. 137024, 7 August 2002, 386 SCRA 515, 534.

[17] Records, Prosecution's Formal Offer of Evidence, pp. 82-83.

[18] Records, Comments/Objections to Prosecution's Formal Offer of Evidence, p. 84.

[19] Also known as Janet Aquino; TSN, September 7, 1999, p. 11.

[20] G.R. Nos. 146693-94, 31 July 2003.

[21] *People v. Agravante*, G.R. Nos. 137297 & 138547-48, 11 December 2001, 372 SCRA 64, 77.

[22] *Fule v. Court of Appeals*, G.R. No. L-79094, 22 June 1988, 162 SCRA 446, 449.

[23] Article 266-B, Revised Penal Code.

[24] *People v. Umayam*, G.R. No. 147033, 30 April 2003.

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