

PEOPLE OF THE PHILIPPINES, PLAINTIFF -APPELLEE, VS. RONILO FERRERA, ACCUSED-APPELLANT.

G.R. No. 145727. November 27, 2002

Ponente: BELLOSILLO, J.

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BELLOSILLO, J.:

Automatic review of a death penalty.

In an Information filed by Public Prosecutor Reynaldo R. Guayco it was alleged that in the evening of 26 April 1995 at Sitio Balikbitin, San Nicolas, Coron, Palawan, the accused Ronilo Ferrera "who is the victim's father and who exercises parental authority over her, with lewd design, and with force, threat and intimidation through the use of a fan knife x x x willfully, unlawfully and feloniously have carnal knowledge with his own daughter, one MELANIE C. FERRERA, 13 years old, against her will and consent." [1]

On 16 August 2000 the Regional Trial Court of Puerto Princesa City found accused-appellant Ronilo Ferrera guilty of qualified rape and sentenced him to death. He was also ordered to pay his victim, his own daughter, P75,000.00 as civil indemnity and P50,000.00 as moral damages, and to pay the costs.

Melanie was born on 1 January 1982, the eldest of three (3) children of Ronilo Ferrera and Lita Cabagay. Ronilo and Lita separated when Melanie was still an infant so little Melanie lived with her paternal grandmother, Esmeralda Ferrera, in Barangay Alilay, Bungabong, Oriental Mindoro. In May 1992 when Melanie was about ten and a-half years old accused-appellant brought her to Sitio Balikbitin, San Nicolas, Coron, Palawan, to live with him and his common-law wife Analy Alfonso, together with their three (3) children.

On 26 April 1995 at about 6 o'clock in the evening Ronilo together with his now thirteen (13)-year old Melanie was at the house of his cousin Pablo Rey, Jr., who at the time was having a drinking spree with two (2) companions. They were joined in by Ronilo. While waiting for her father, Melanie went to the house of Pancho Viongan, a neighbor of Pablo, to watch a betamax movie.

At around 9:30 in the evening, Ronilo and Melanie left for home. On their way, he told her that they would rest first in the small hut along the way instead of proceeding straight to their house. Melanie objected so she continued walking only to be berated by Ronilo who then forcibly dragged her on the side of the road until they reached the bridge. Ronilo undressed her and forced her to lie on the ground. He also took off his clothes and poking a knife at the waist of Melanie copulated with her, after which they proceeded home to Sitio Balikbitin.

The following morning Melanie reported the incident to her stepmother but the latter took no heed, so she sought the help of her uncle Pablo Rey, Jr., and together they brought the matter to the police. She underwent medical examination and the result indicated that she suffered new hymenal lacerations at 3 o'clock, 7 o'clock and 11 o'clock positions. [2]

Denying that he raped his daughter, accused-appellant claimed that on the night of the 26 April 1995, at about the time of the incident for which he was charged, he was a chainsaw operator in Barangay Torda which was some

three (3) hours away by boat. He maintained that the charges against him were filed upon the instigation of his cousin Pablo Rey, Jr. who had quarreled with him earlier. Ronilo admitted though that Melanie was his daughter and that when the crime was supposed to have been committed she was thirteen (13)- years old.

Accused-appellant, in his Brief, no longer questions his conviction for rape but prays that his sentence be reduced to reclusion perpetua in view of the failure of the prosecution to prove the minority of his daughter with sufficient evidence within the purview of current jurisprudence.

We find the contention meritorious. Although the Information alleged both the relationship of the offender to the victim and her minority when she was raped, the prosecution did not offer any other evidence, documentary or otherwise, to prove her actual age. The fact that accused-appellant admitted that the victim was his daughter and that she was only thirteen (13)- years old at the time of the rape is not sufficient for purposes of convicting him of qualified rape. The qualifying circumstances of relationship and minority must not only be concurrently and specifically alleged in the Information but must likewise be proved beyond reasonable doubt. Even if the defense did not contest the minority of the victim, it is still incumbent upon the prosecution to prove her age with absolute certainty.[3] In the instant case, no independent evidence was presented by the prosecution to establish the minority of the victim, e.g., a duly authenticated Certificate of Live Birth, Baptismal Certificate, school records, or any other authentic document proving her age. Hence, we have no alternative but to hold accused-appellant liable for simple rape and not qualified rape.[4]

This Court observes that even the trial court failed to make a categorical finding on the age of Melanie. It imposed the death penalty only on the basis of the admission of accused-appellant that Melanie was thirteen (13)- years old at the time of the commission of the crime. Thus -

Although the Live Birth Certificate of the victim was not presented in Court, the age and paternity of the victim was admitted by the accused in open Court when clarificatory question was propounded by the Court where accused declared (TSN-EAP, page 6 and 9, 2000) -

Q – What is your relationship with the victim?

A – My daughter, Sir.

Q – How old is your daughter when she filed a case against you?

A – Thirteen (13) Sir.

Having been proven that the victim Melanie Ferrera is (sic) 13 years old at the time of the commission of the crime and that the accused Ronilo Ferrera is the natural father of the victim, this Court has no alternative but to impose what is provided from what the law commands x x x [5]

The life of the accused cannot be made to depend on mere conjectures or surmises. Considering the severity of the penalty involved, courts must take an extremely careful stance in assessing the evidence presented. All the elements of the crime as well as every qualifying circumstance must be established beyond reasonable doubt. By soliciting an admission from the accused as regards the minority of his victim and thereafter imposing the death penalty based solely on his admission is tantamount to pretending to guide him along a dark tunnel only to lead him directly into the lion's den. This cannot be tolerated in our criminal jurisdiction. After all, in criminal cases, all doubts are still resolved in favor of the accused.[6]

The failure of the prosecution to prove beyond reasonable doubt the minority of the victim at the time of the commission of the crime bars the conviction of accused-appellant for qualified rape. Thus, the proper penalty to be imposed upon him is only reclusion perpetua, not death.

Nonetheless, the aggravating circumstance of relationship was duly established. The Information expressly alleged that accused-appellant was the father of the victim and that he himself admitted this in open court. The aggravating circumstance of relationship having been satisfactorily alleged and proved, exemplary damages in the amount of P20,000.00, in addition to the civil indemnity and moral damages awarded by trial court, may also be properly granted to the victim in line with prevailing jurisprudence.

WHEREFORE, the Decision of the trial court is AFFIRMED with the MODIFICATION that accused-appellant RONILO FERRERA is found guilty of Simple Rape, not Qualified Rape, and sentenced to suffer the penalty of Reclusion Perpetua, instead of Death. The award of P75,000.00 as civil indemnity and P50,000.00 as moral damages imposed by trial court is AFFIRMED. In addition, accused-appellant is further directed to pay Melanie Ferrera P20,000.00 for exemplary damages.

Costs de officio.

SO ORDERED.

Vitug, Mendoza, Panganiban, Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, Corona, Carpio-Morales, Callejo, Sr. and Azcuna, JJ., concur.
Davide, Jr., C.J., and Puno, J., on official leave.

[1] Decision penned by Judge Fernando R. Gomez, Jr., RTC-Br. 52, Puerto Princesa City.

[2] Exh. "B;" Original Records, p. 67.

[3] People v. Javier, G. R. No. 126096, 26 July 1999, 311 SCRA 122; People v. Cula, G.R. No. 133146, 28 March 2000, 329 SCRA 101.

[4] People v. Barrozo, G.R. Nos. 138726-27, 3 July 2002.

[5] See Note 1, pp. 6-7; Rollo, pp. 12-13.

[6] People v. Dumalahay, G.R. Nos. 131837-38, 2 April 2002.

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