

EMILIO CAMPOS, Petitioner, vs. PEOPLE OF THE PHILIPPINES, Respondent.

G.R. No. 175275. February 19, 2008

Ponente: YNARES-SATIAGO, J.

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YNARES-SATIAGO, J.:

This petition for review assails the May 30, 2006 Decision[1] of the Court of Appeals in CA-G.R. CR-H.C. No. 00417, which affirmed the November 26, 2004 Decision[2] of the Regional Trial Court of Dagupan City, Branch 43 finding appellant Emilio D. Campos guilty of five counts of qualified rape committed against his 14-year old daughter, AAA.[3] Also assailed is the August 2, 2006 Resolution[4] denying the motion for reconsideration.

On February 27, 2002, five separate Informations were filed before the Regional Trial Court of Dagupan City, charging appellant with qualified rape, as follows:

CRIMINAL CASE NO. 2002-0154-D

That on or about December 9, 2001 in the evening of Brgy. “G”, Mapandan, Pangasinan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, father of herein victim with force, violence, and intimidation, did then and there, willfully and unlawfully and feloniously have sexual intercourse with her [sic] daughter (AAA), a 14-year old minor, against her will and consent to her damage and prejudice.

Contrary to Art. 266-A, par. 1 in relation to Art. 266-B, 6th par. as amended by R.A. 8353.

CRIMINAL CASE NO. 2002-0155-D

That on or about December 8, 2001 in the evening of Brgy. “G”, Mapandan, Pangasinan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, father of herein victim with force, violence, and intimidation, did then and there, willfully and unlawfully and feloniously have sexual intercourse with her [sic] daughter (AAA), a 14-year old minor, against her will and consent to her damage and prejudice.

Contrary to Art. 266-A, par. 1 in relation to Art. 266-B, 6th par. as amended by R.A. 8353.

CRIMINAL CASE NO. 2002-0156-D

That on or about December 7, 2001 in the evening of Brgy. “G”, Mapandan, Pangasinan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, father of herein victim with force, violence, and intimidation, did then and there, willfully and unlawfully and feloniously have sexual intercourse with her [sic] daughter (AAA), a 14-year old minor, against her will and consent to her damage and prejudice.

Contrary to Art. 266-A, par. 1 in relation to Art. 266-B, 6[th] par. as amended by R.A. 8353.

CRIMINAL CASE NO. 2002-0157-D

That on or about December 6, 2001 in the evening of Brgy. “G”, Mapandan, Pangasinan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, father of herein victim with force,

violence, and intimidation, did then and there, willfully and unlawfully and feloniously have sexual intercourse with her [sic] daughter (AAA), a 14-year old minor, against her will and consent to her damage and prejudice.

Contrary to Art. 266-A, par. 1 in relation to Art. 266-B, 6th par. as amended by R.A. 8353.

CRIMINAL CASE NO. 2002-0158-D

That on or about December 5, 2001 in the evening of Brgy. "G", Mapandan, Pangasinan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, father of herein victim with force, violence, and intimidation, did then and there, willfully and unlawfully and feloniously have sexual intercourse with her [sic] daughter (AAA), a 14-year old minor, against her will and consent to her damage and prejudice.

Contrary to Art. 266-A, par. 1 in relation to Art. 266-B, 6[th] par. as amended by R.A. 8353.

Appellant pleaded not guilty to the charges, after which joint trial of the cases ensued.

AAA testified that in the evening of December 5, 2001, she was asleep inside her bedroom in the family residence at Barangay "G", Mapandan, Pangasinan, when appellant entered the room and lay beside her. She was awakened when appellant started massaging her breast and touching her vagina. Thereafter, he removed her panty, inserted his penis into her vagina, and made push and pull movements. After having engaged her in sexual intercourse, appellant told her not to tell anyone. AAA could not resist and was immobilized with fear of her father, who is cruel and ill-tempered.

Appellant repeated the sexual abuse on December 6, 7, 8 and 9, 2001. AAA tried to deter appellant by locking her bedroom on the night of December 7, 2001. However, he was able to enter using a duplicate key. AAA did not try to resist because she was afraid.

On December 12, 2001, appellant again attempted to rape AAA but was prevented by the arrival of Maribel Francisco, appellant's mistress. Appellant immediately left the room, and an altercation between him and Maribel ensued. Maribel later brought AAA to the Region I Medical Center for a physical examination.

Dr. Brenda Tumacder, consultant of the Women and Children Protection Unit's Pediatrics Department of Region I Medical Center, testified that AAA's inner vagina had a positive healed laceration at 7 o'clock position which may have been caused by a blunt object, like a penis. She also testified that AAA told her how she was sexually abused by her father and that she was emotionally depressed because of the said incident.

Appellant denied raping AAA. He claimed that on the night of December 5, 2001, he was playing a card game somewhere at the west direction of their house, and went home only the following day, at about 6:00 a.m. On December 6, and 7, 2001, he slept in the house of Maribel who was ill. On December 8, 2001, he and his playmates played tong-its at Maribel's house until 5:00 a.m. the following morning. Meanwhile, on December 9, 2001, he claimed to have slept in a bahay kubo situated at the back of their house.[5]

Maribel Francisco and Marjorie Campos, AAA's younger sister, corroborated appellant's testimony as to his whereabouts from December 5 to 9, 2001.

On November 26, 2004, the Regional Trial Court rendered a decision finding appellant guilty beyond reasonable doubt of the crime of qualified rape and sentenced him to suffer the penalty of death. Thus:

WHEREFORE, the Court finds EMILIO D. CAMPOS guilty beyond reasonable doubt for the felony of QUALIFIED RAPE and in conformity with law, he is sentenced to suffer the capital penalty of DEATH in each of the above cases.

The accused is further ordered to pay the victim the following amounts, to wit:

- P75,000.00 as indemnity
- P50,000.00 as moral damages
- P40,000.00 as exemplary damages
- And costs.

The BJMP-Dagupan City is ordered to commit the person of the accused to the National Bilibid Prison immediately without necessary delay.

SO ORDERED.[6]

Appellant appealed before the Court of Appeals, which affirmed the decision of the Regional Trial Court in its May 30, 2006 Decision, the dispositive portion of which states:

WHEREFORE, the assailed November 26, 2004 Decision of the Regional Trial Court of Dagupan City, Branch 43, in Criminal Case Nos. 2002-0154-D up to 2002-0158-D, is hereby AFFIRMED in toto.
SO ORDERED.[7]

Appellant's motion for reconsideration was denied, hence this petition.

Appellant claims there was no evidence showing the presence of force, violence, or intimidation; that the prosecution failed to prove that the sexual acts were committed against the will of AAA; and that AAA's narration is contrary to human experience and natural course of things.

The Office of the Solicitor General argues that appellant's moral ascendancy and influence over AAA may substitute for force, violence and intimidation as an element of rape; that the trial court correctly found that the rapes were committed against AAA's will; and that the trial court was correct in giving weight to the testimony of AAA.

The sole issue for resolution is whether appellant is guilty of the crime of qualified rape.

In determining the innocence or guilt of the accused in rape cases, the courts are guided by three well-entrenched principles: (1) an accusation of rape can be made with facility and while the accusation is difficult to prove, it is even more difficult for the accused, though innocent, to disprove; (2) considering that in the nature of things, only two persons are usually involved in the crime of rape, the testimony of the complainant should be scrutinized with great caution; and (3) the evidence for the prosecution must stand or fall on its own merits and cannot be allowed to draw strength from the weakness of the evidence for the defense.[8] The credibility of the complainant is, therefore, of vital importance, for in view of the peculiar nature of rape, conviction or acquittal of the accused depends almost entirely upon the word of the private complainant.[9]

In the instant case, AAA was forthright and candid in recalling her ordeal, as follows:

Q So, when you went to your bedroom, in order to sleep on December 5, 2001, do you recall if there was any unusual incident that happened to you, Madam Witness?

A Yes, sir.

Q What was that?

A I was raped by my Dad, sir.

Q When you said, you were raped by your Dad, you are referring to Emilio Campos, the accused in this case?

A Yes, sir.

x x x x

Q How did your Dad rape you?

A

At first my Dad mashed my breast and he touched my vagina after that he removed my lower clothing, sir.

Q When your Dad did that mashing of your breast and touching your vagina, were you already lying down on your bed?

A I was already lying down, sir.

x x x x

Q You said that you were asleep when your father entered the room and while inside he mashed your breast, touched your vagina and removed your lower clothing. When you sensed the presence of your father doing these lascivious acts, what was he actually doing?

A He was inserting his penis into my vagina, sir.

x x x x

Q Madam Witness, x x x, When you woke up and sense that your father was touching your breast and vagina and pulling down your panty, did you say something to your father? What if any did you say to your father?

A I did not tell him anything because I was frightened, sir.

x x x x

Q When your father was inserting his penis into your vagina, where was he at that time in relation to yourself as lying on the bed?

A He was behind me, sir.

Q How did your father insert his penis into your vagina?

A

He moved one of my legs and he held his penis and then inserted it into my vagina, sir.

Q Your father was lying beside you at that time he was inserting his penis inside your vagina, is it not?

A Yes, sir.

Q How did he insert his penis into your vagina?

A He held his penis and then he inserted it into my vagina, sir.

x x x x

Q After your father inserted his hard penis by the use of his hand into your vagina, what did he do next?

A

He sucked my breast, sir.

x x x x

Q After your father engaged you in sexual intercourse by doing the push and pull movement, what else did your father do?

A

He licked my organ, sir.[10]

She also wept uncontrollably and narrated in an unequivocal manner the four other instances of sexual abuse committed on December 6, 7, 8 and 9, 2001.[11] Time and again, we have held that the crying of the victim during her testimony is evidence of the credibility of the rape charge with the verity born out of human nature and experience.[12]

Moreover, a rape victim's testimony against her parent is entitled to great weight since, customarily, Filipino children revere and respect their elders. These values are so deeply ingrained in Filipino families that it is unthinkable for a daughter to concoct brazenly a story of rape against her father, if such were not true.[13] Indeed, courts usually give greater weight to the testimony of a girl who fell victim to sexual assault, especially a minor, particularly in incestuous rape as in this case, because no woman would be willing to undergo a public trial and bear the concomitant shame, humiliation, and dishonor of exposing her own degradation were it not for the purpose of condemning injustice and ensuring that the offender is punished.[14]

Besides, AAA's testimony was corroborated by the medical findings of Dr. Tumacder, who declared to have found a positive healed hymenal laceration at 7 o'clock position which could have been caused by a blunt source

or penetrating trauma such as a penis.[15] Thus, when the testimony of a rape victim is consistent with the medical findings, sufficient basis exists to warrant a conclusion that the essential requisite of carnal knowledge has been established.[16]

Appellant, on the other hand, merely relied on the defense of denial and alibi. He testified that he was at the west direction of their house on December 5, 2001. On December 6, 7, and 8, 2001, he stayed in Maribel's house, while on December 9, 2001, he slept in a bahay kubo behind their house. Thus, he could not have committed the offenses charged against him.

It must be emphasized that while denial and alibi are legitimate defenses in rape cases, bare assertions thereof cannot overcome the categorical testimony of the victim.[17] For the defense of alibi to prosper, the accused must not only prove his presence at another place at the time of the commission of the offense, but he must also demonstrate that it would be physically impossible for him to be at the locus criminis at the time of the commission of the crime.[18] In *People v. Grefaldia*,[19] we held:

Alibi is one of the weakest defenses. It is easy to fabricate and difficult to disprove. For the defense of alibi to prosper, the accused must establish with clear and convincing evidence not only that he was somewhere else when the crime was committed but also that it was physically impossible for him to have been at the scene of the crime at the time it was committed. Appellant failed to conclusively show that it was physically impossible for him to be at the scene of the crime at the time of its commission. [20]

Appellant failed to show that it was physically impossible for him to be at the scene of the crime at the time of its commission. He failed to establish the distance from his house to where he played a card game on the night of December 5, 2001. On December 6, 7 and 8, 2001, he allegedly stayed in Maribel's house which is only six meters away from his house.[21] Meanwhile, the bahay kubo where he allegedly slept on December 9, 2001, is located just behind his house. Considering the short distances from the scene of the crime, it is clear that appellant's defense of alibi is unavailing.

Likewise, there is no merit to appellant's claim that there is no evidence of force, violence or intimidation, and that the prosecution failed to prove that the sexual acts were committed against AAA's will.

In rape committed by a father against his own daughter, the former's moral ascendancy and influence over the latter may substitute for actual physical violence and intimidation.[22] The moral and physical dominion of the father is sufficient to cow the victim into submission to his beastly desires,[23] and no further proof need be shown to prove lack of the victim's consent to her own defilement.[24]

Further, resistance is not an element of rape and the absence thereof is not tantamount to consent. If resistance would nevertheless be futile because of intimidation, then offering none at all does not mean consent to the assault so as to make the victim's submission to the sexual act voluntary.[25]

AAA's lack of tenacious resistance and failure to immediately report the sexual abuse were caused by overwhelming fear of her father. She was only 14-years old when the incidents took place and she described appellant as cruel and ill-tempered, who would whip her and her siblings for the simplest infractions. Moreover, she tried to prevent him from repeating the sexual abuse by locking the door on the night of December 7, 2001, but her efforts were in vain because he had a key.[26] Thus, she was left with no choice but to suffer in silence in the hands of her father. Such is not uncommon behavior in rape cases, especially incestuous rapes, where the fear which compels non-revelation is further reinforced by the moral ascendancy of the rapist over his ravished relative.[27]

Indeed, it takes extraordinary courage in a child to break her silence and expose herself and her family to the

stigma that incestuous rape brings. The fact that AAA braved the grueling trial to prosecute her father speaks volumes of the truth of her assertions. In *People v. Capareda*,^[28] we held:

Established is the rule that the testimonies of rape victims, especially child victims, are given full weight and credit. It bears emphasis that the victim was barely thirteen when she was raped. In a litany of cases, this Court has applied the well-settled rule that when a woman, more so if she is a minor, says that she has been raped, she says, in effect, all that is necessary to prove that rape was committed, for as long as her testimony meets the test of credibility. No young girl, indeed, would concoct a sordid tale of so serious a crime as rape at the hands of a close kin, undergo medical examination, then subject herself to the stigma and embarrassment of a public trial, if her motive were other than an earnest desire to seek justice. This holds true especially where the complainant is a minor, whose testimony deserves full credence.^[29]

The facts and evidence conclusively show that appellant is guilty of the charges against him. Thus, we find no cogent reason to depart from the findings of the trial court, as affirmed by the Court of Appeals.

On the penalty imposed on appellant, Republic Act No. 9346, otherwise known as “An Act Prohibiting the Imposition of Death Penalty in the Philippines” was signed into law on June 24, 2006. It provides:

SECTION 1. The imposition of the penalty of death is hereby prohibited. Accordingly, Republic Act No. Eight Thousand One Hundred Seventy-Seven (R.A. No. 8177), otherwise known as the Act Designating Death by Lethal Injection is hereby repealed. Republic Act No. Seven Thousand Six Hundred Fifty-Nine (R.A. No. 7659), otherwise known as the Death Penalty Law, and all other laws, executive orders and decrees, insofar as they impose the death penalty are hereby repealed or amended accordingly.

SEC. 2. In lieu of the death penalty, the following shall be imposed.

(a) the penalty of reclusion perpetua, when the law violated makes use of the nomenclature of the penalties of the Revised Penal Code; or

(b) the penalty of life imprisonment, when the law violated does not make use of the nomenclature of the penalties of the Revised Penal Code.

SEC. 3. Person convicted of offenses punished with reclusion perpetua, or whose sentences will be reduced to reclusion perpetua, by reason of this Act, shall not be eligible for parole under Act No. 4103, otherwise known as the Indeterminate Sentence Law, as amended.

Thus, appellant is sentenced to suffer the penalty of reclusion perpetua, without eligibility for parole under the Indeterminate Sentence Law,^[30] instead of death.

As regards the award of damages, we affirm the award of civil indemnity in the amount of P75,000.00, and exemplary damages of P40,000.00. However, the award of moral damages in the amount of P50,000.00 is increased to P75,000.00 pursuant to prevailing jurisprudence.^[31]

WHEREFORE, the petition is DENIED. The May 30, 2006 Decision of the Court of Appeals in CA-G.R. CR-H.C. No. 00417 finding appellant Emilio D. Campos guilty beyond reasonable doubt of five counts of qualified rape is AFFIRMED with the following MODIFICATIONS:

- Appellant is sentenced to suffer the penalty of reclusion perpetua in each case without the benefit of parole;
- The award of moral damages in each case is increased from P50,000.00 to P75,000.00.

SO ORDERED.

Austria-Martinez, Chico-Nazario, Reyes, and Leonardo- De Castro, JJ., concur.

* Vice Associate Justice Antonio Eduardo B. Nachura, per Raffle dated February 13, 2008. Justice Nachura previously participated in this case as Solicitor General.

[1] Rollo, pp. 140-150. Penned by Associate Justice Elvi John S. Asuncion and concurred in by Associate Justices Noel G. Tijam and Mariflor P. Punzalan Castillo.

[2] Id. at 48-70. Penned by Judge Silverio Q. Castillo.

[3] Pursuant to Section 44 of Republic Act No. 9262 (AN ACT DEFINING VIOLENCE AGAINST WOMEN AND THEIR CHILDREN PROVIDING FOR PROTECTIVE MEASURES FOR VICTIMS, PRESCRIBING PENALTIES THEREFOR, AND FOR OTHER PURPOSES), All records pertaining to cases of violence against women and their children including those in the barangay shall be confidential and all public officers and employees and public or private clinics or hospitals shall respect the right to privacy of the victim. Whoever publishes or causes to be published, in any format, the name, address, telephone number, school, business address, employer, or other identifying information of a victim or an immediate family member, without the latter's consent shall be liable to the contempt power of the court.

Any person who violates this provision shall suffer the penalty of one (1) year imprisonment and a fine of not more than Five Hundred Thousand Pesos (P500,000.00).

Section 63, Rule XI of the RULES AND REGULATIONS IMPLEMENTING REPUBLIC ACT NO. 9262 also provides: During the investigation, prosecution and trial of an offense under the Act, law enforcement officials, prosecution, judges, court personnel and medical practitioners, as well as parties to the case, shall recognize the right to privacy of the victim-survivor of violence. Law enforcement officers and prosecutors shall conduct closed-door investigations and shall not allow the media to have access to any information regarding the victim-survivor. The adult victim, however, may choose to go public or speak with the media, preferably with the assistance of her counsel.

The barangay officials, law enforcers, prosecutors and court personnel shall not disclose the names and personal circumstances of the victim-survivors or complainants or any other information tending to establish their identities to the media or to the public or compromise her identity.

It shall be unlawful for any editor, publisher, reporter or columnist in case of printed materials, announcer or producer in case of television or radio, director and editor of a film in case of the movie industry, or any person utilizing try-media or information technology to cause publicity of the name of identity of the victim-survivor or complainant without her consent. Identities of children shall not in any way be disclosed to the public without the conformity of the DSWD officer of the city or province.

Any person who violates this provision shall suffer the penalty of one (1) year imprisonment and a fine of not more than Five Hundred Thousand Pesos (P500,000.00).

[4] Rollo, pp. 156-158.

[5] TSN, June 11, 2003, pp. 8-16.

[6] Rollo, p. 70.

- [7] Id. at 150.
- [8] *People v. Balonzo*, G.R. No. 176153, September 21, 2007.
- [9] *People v. Almanzor*, 433 Phil. 667, 679-680 (2002).
- [10] TSN, April 24, 2002, pp. 11-18.
- [11] TSN, April 24, 2002, pp. 21-27; April 24, 2002, p. 19; April 29, 2001, pp. 2-12.
- [12] *People v. Lor*, 413 Phil. 725, 737 (2001); *People v. Cariño*, 414 Phil. 577, 586 (2001); *People v. Surilla*, 391 Phil. 257, 267 (2000).
- [13] *People v. Pecayo, Sr.*, 401 Phil. 239, 250 (2000).
- [14] *People v. Balonzo*, supra note 8.
- [15] TSN, April 17, 2002, pp. 12-14.
- [16] *People v. Muros*, G.R. No. 142511, February 16, 2004, 423 SCRA 69, 81.
- [17] *People v. Cachapero*, G.R. No. 153008, May 20, 2004, 428 SCRA 744, 757.
- [18] *People v. Mercado*, 419 Phil. 534, 543 (2001).
- [19] G.R. No. 121637, April 30, 2003, 402 SCRA 153.
- [20] Id. at 166.
- [21] TSN, February 10, 2003, pp. 6-7.
- [22] *People v. Javier*, 370 Phil. 128, 146 (1999).
- [23] *People v. Orillosa*, G.R. Nos. 148716-18, July 7, 2004, 433 SCRA 689, 698.
- [24] *People v. Limio*, G.R. Nos. 148804-06, May 27, 2004, 429 SCRA 597, 613.
- [25] *People v. Dizon*, 419 Phil. 703, 714 (2001).
- [26] Rollo, p. 146.
- [27] *People v. Gomez*, 419 Phil. 732, 738-739 (2001).
- [28] G.R. No. 128363, May 27, 2004, 429 SCRA 301.
- [29] Id. at 323-324.
- [30] *People v. Bidoc*, G.R. No. 169430, October 31, 2006, 506 SCRA 481, 503.
- [31] *People v. Balonzo*, supra note 8, citing *People v. Arsayo*, G.R. No. 166546, September 26, 2006, 503 SCRA 275, 292-293.

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