

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
RODOLFO CAGUIOA, SR., ACCUSED-APPELLANT.**

G.R. Nos. 105690-91. July 26, 1996

Ponente: MELO, J.

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MELO, J.:

The heinous and abominable crime of rape committed by an accused upon his own flesh and blood arouses our repugnance and indignation as no other crime can.

Rodolfo Caguioa, Sr. was charged with two counts of rape against his own daughter in two separate Informations reading as follows:

In Criminal Case No. L-4494:

That on or about the first week of April 1991 in Barrio Bunagan, Mangatarem, Pangasinan and within the jurisdiction of this Honorable Court, the said accused, by making Aurora Caguioa smell some sort of a chemical causing her to lose consciousness did then and there wilfully and feloniously lie and had carnal knowledge of said Aurora Caguioa while unconscious against her will and consent, to her damage and prejudice.

(p. 7, Rollo.)

In Criminal Case No. L-4495:

That on or about the second week of April 1991 in Barrio Bunagan, Mangatarem, Pangasinan and within the jurisdiction of this Honorable Court, the said accused, by means of force, violence and intimidation, that is, by then and there threatening Aurora Caguioa with a knife, which he was holding at the time, should she not agree to submit herself to her criminal design, did, then and there wilfully, unlawfully and feloniously lie with and had carnal knowledge of said Aurora Caguioa against her will and consent, to her damage and prejudice.

(p. 9, Rollo.)

After trial, the court a quo found the accused guilty on both counts in a decision dated April 7, 1992, the dispositive of portion of which reads:

In Criminal Case No. L-4494, the court finds and holds the accused Rodolfo Caguioa, Sr. guilty beyond reasonable doubt of the crime of Rape charged in the information filed against him, defined and penalized under the provisions of Article 335 of the Revised Penal Code as amended, and conformable thereto, hereby sentences the said accused to suffer the penalty of reclusion perpetua (life imprisonment) and its accessory penalties and to pay the costs of the proceedings.

In Criminal Case No. L-4495, the court likewise finds and holds the accused Rodolfo Caguioa, Sr. guilty beyond reasonable doubt of the crime of Rape charged in the information filed against him, defined and penalized under the provisions of Article 335 of the Revised Penal Code and conformable thereto, hereby sentences said accused to suffer the penalty of reclusion perpetua (life imprisonment), its accessory penalties

and to further pay the costs of the proceedings.

The court further orders the accused to acknowledge and support the child, Babellin Caguioa, as his own spurious child and to indemnify the offended party the sum of fifty thousand pesos (P50,000.00) as civil indemnity without subsidiary imprisonment in case of insolvency.

The penalty imposed by the court against the accused should be served successively or one after the other.

(p. 22, Rollo.)

From said decision, the instant appeal has been interposed on the catch-all argument that no strong evidence exists which would link accused-appellant to the crime, his Sinumpaang Salaysay being inadmissible.

The facts of the case, as borne out by the evidence, are concisely narrated by the appellee's brief submitted by Solicitor General Raul L. Goco, Assistant Solicitor General Roman G. del Rosario, and Solicitor Esperanza Fabon-Victorino, to wit:

Aurora Caguioa is a fifteen-year old barrio lass who used to work as domestic helper at the residence of Mrs. Virginia Organo in Las Piñas, Metro Manila. Sometime on the last days of March 1991, she went home for a vacation in their house at Bonogon, Mangatarem, Pangasinan. She first stayed in the house of her cousin at the Poblacion (Nov. 20, 1991, pp. 4 & 18). Two days thereafter, she proceeded to the barrio where her father appellant Rodolfo Caguioa, brother Randy and sisters Arlene and Rodina live (Id. 22).

On April 5, 1991, at around 10 in the evening, Aurora was alone inside her room when a man held her and placed a piece of cloth on her face which caused her to dozed of. When she opened her eyes the following morning, she felt pain all over her body. There was bloodstain on her underwear and her genitalia was swollen. She knew she was sexually abused but did not know the culprit. She weep in helpless protest but kept the ordeal from her sisters and brothers who slept in the other room (Id., pp. 5-6) as well as to appellant who slept on the papag about two meters away from her room.

On April 10, 1991, Aurora was left in the house together with appellant. Arlene went to Camiling while Rodina and Randy went to Poroc. It was midday, when appellant approached and asked Aurora to submit herself to him as he will repeat what he had previously done to her. He told her to agree otherwise he will not allow her to return to Manila. Aurora refused but appellant poked a knife on her neck and threatened to kill her if she will not give in to his beastly desire. Aurora trembled with fear as appellant undressed her. While holding Aurora, appellant removed his short pants and penetrated her (Id., pp. 6-8). After he had unleashed his lust on his own daughter, appellant left the crime site leaving Aurora, who, just like the first time, felt the pain all over her body.

Meantime, Aurora found refuge in the house of his elder brother Jerry in Parian, Mangatarem, Pangasinan. After three days, she went back to her employer's house in Las Piñas and narrated to Mrs. Organo her ordeal. The latter accompanied Aurora to the Human Rights Commission where she executed a Sinumpaang Salaysay dated May 23, 1991 narrating the criminal incidents (Exh. "A").

Aurora was referred to the National Bureau of Investigation (NBI) where she was investigated by Agents Pedro L. Rivera and Ruel M. Lasala. She executed Sinumpaang Salaysay dated July 5, 1991 naming appellant as the culprit (Exh. "B"). Subsequently, appellant was arrested and brought to the NBI. In the presence of the authorities and press, Aurora identified appellant as the person who raped her twice in their house in Barrio Bunagan, Mangatarem, Pangasinan (Exh. "E"- "E-2").

On May 24, 1991, NBI Medico Legal Ruberto M. Sombilon examined Aurora and thereafter issued Medico Legal Certificate MG-91-573. The report disclosed:

"1. No evident sign of extra-genital physical injuries acted on the body of the subject at the time of

examination.

2. Hymen intact but distensible and its orifice wide (2.0 cm. in diameter as to allow complete penetration by an averaged size adult Filipino male organ in full erection without producing any genital injury).

3. Presumptive signs of pregnancy present, age of which may correspond to the middle part of the first trimester of gestation."

(TSN, November 20, pp. 32-33)

On July 17, 1991, an affidavit of complaint was filed with the fiscal's office for proper action (Exh. "C").

As a result of the criminal act, Aurora became pregnant and gave birth to a baby girl she named Babellin Caguioa who has the physical features of appellant.

(pp. 4-8, Appellee's Brief; ff. p. 106, Rollo.)

Accused-appellant puts forth the defense of alibi, asserting that on April 10, 1991, he was out the whole day plowing a ricefield about one kilometer away from their house and that he did not go home that day to take his lunch. We have consistently hewed to the legal precept that alibi is one of the weakest defenses that can be resorted to by an accused not only because it is inherently weak and unreliable but also because it is easy of fabrication and cannot prevail over the positive identification of the accused (*People vs. Calope*, 229 SCRA 413 [1994]). Accused-appellant was positively identified by his own daughter as the culprit who ravished her. It is inconceivable and contrary to human experience for a daughter, who is attached to her father by the natural bond of love and affection, to accuse him of rape, unless he is the one who raped and defoliated her. And the victim's positive identification of accused-appellant as her rapist negates alibi (*People vs. Escoto*, 229 SCRA 430 [1994]). Moreover, alibi must be supported by credible corroboration from disinterested witnesses, and where the defense of alibi is not corroborated, it is fatal to the accused (*People vs. Calope*, *supra*). The record discloses not a shred of evidence to corroborate accused-appellant's alibi. Further, for alibi to prosper, it must be shown that it was physically impossible for the accused to be present at the place where the crime was committed at the time of its commission (*People vs. Apa-ap, Jr.*, 235 SCRA 468 [1994]). By his own testimony, he was in the ricefield only one kilometer away from his house on April 10, 1991. He could have easily traversed the one-kilometer distance from the rice field to his house. Clearly, there was no physical impossibility for him to be present at the scene of the crime at the time of the commission thereof.

In a further bid at exculpation, accused-appellant assails the admissibility of his Sinumpaang Salaysay (Exhibit G) in which he admitted having raped his daughter. There is no necessity to delve into the admissibility of the Sinumpaang Salaysay. Excluding from consideration the Sinumpaang Salaysay, there is more than ample evidence to establish the guilt of accused-appellant. The testimony of the victim, Aurora Caguioa, stating that her father, accused-appellant, raped her on April 10, 1991, is sufficient to convict accused-appellant. Her testimony is clear, positive, and candid. She narrated her ordeal at the hands of her own father in detail and in a straightforward manner. She recounted how her father raped her on April 10, 1991. Her father told her that he wanted to repeat what he had previously done to her and she had to yield to his demonic demand lest she would not be allowed to return to Manila. Aurora refused but she was seized with fear when accused-appellant poked a knife at her neck and threatened to kill her. She struggled against accused-appellant to ward off accused-appellant from consummating his bestial designs, but accused-appellant succeeded in satisfying his lust on his own daughter. The testimony of Aurora must be given full faith and credibility for there is nothing on record to show that she was actuated by ill motives in making the accusation of rape against her own father. Well-entrenched is the rule that the testimony of a rape victim is credible where she has no ill motive to testify against the accused (*People vs. Matanorosa*, 231 SCRA 509 [1994]). The fact that accused-appellant can not proffer any explanation as to why

the complainant implicated him indicates that no improper motive impelled the complainant to accuse the former of such a serious offense (People vs. Sagaban, 231 SCRA 744 [1994]).

Rape is committed by having carnal knowledge of a woman by using force or intimidation (Article 335, Revised Penal Code; People vs. Paliete, 229 SCRA 543 [1994]). Clearly, the facts of the case show that accused-appellant is guilty of having raped his own daughter on April 10, 1991.

However, as to the alleged rape committed on April 5, 1991 (Criminal Case No. L-4494), it is our considered opinion that there is no sufficient evidence to prove the same. The only piece of evidence adduced to prove it is the testimony of the victim that accused-appellant allegedly told her that he wanted to repeat what he had previously done to her. In fact, she was even candid to admit that she did not know who raped her the first time. We believe that her testimony that the accused told her that he wanted to repeat what he had previously done is merely a conclusion that she made, considering that her father raped her on April 10, 1991.

WHEREFORE, the decision appealed from is hereby AFFIRMED in regard to accused-appellant's conviction in Criminal Case No. L-4495, but REVERSED as to Criminal Case No. L-4494, in which accused-appellant is hereby acquitted.

The last paragraph of the decision of the trial court is thus DELETED.

SO ORDERED.

Narvasa, C.J., (Chairman), Davide, Jr., Francisco, and Panganiban, JJ., concur.

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