

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ANTONIO GABAN Y FROMENTO, ACCUSED-APPELLANT.*G.R. Nos. 116716-18. September 30, 1996*

Ponente: BELLOSILLO, J.

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Three times the accused Antonio Gaban y Fromento raped his 15-year old daughter. This the trial court found. Taking into account the manner by which he ravished his own kin, coupled with the pain that accompanied every defloration, and aggravated by the mother's taking her own life when she could no longer endure the shame and agony as a result thereof, the accused, along with the likes of Leo Echegaray,[1] should have been an early recipient of the lethal syringe were it not for the proscription of the death penalty at the time he succumbed to his libido.

Antonio Gaban lived with his family in a small house in Sitio Siwayan, Aroroy, Masbate. He was engaged in gold panning while his wife maintained a sari-sari store. They had four children the eldest being Cristina. In the early morning hours of Saturdays his wife would go marketing leaving behind her husband and their children at home. Antonio was fully aware of his wife's routine.

One Saturday morning in April 1990 when his wife went out on her usual chore and their children were sound asleep Antonio woke Cristina up. With a knife on hand he told Cristina that he was going to have sex with her. He threatened her with death if she made any move to resist. After cowing his daughter into submission Antonio proceeded with his evil scheme. He undressed himself and then pulled down Cristina's shorts and panty. He spread out her legs, laid on top of her, kissed her body and finally inserted his penis into her vagina, while all the time his knife was pointed at her neck.[2] Shocked and petrified, Cristina could do nothing but cry. She could not utter a word in fear for her life.

Meanwhile, Cristina kept her ordeal to herself. She thought everything would be over. But contrary to Cristina's expectation, her father's lust for her was not to be his last. He molested her again in September and repeated the sexual assault in November 1990. Still Cristina did not divulge these incidents to her mother obviously because of her father's constant threats to kill not only her but also her mother, brother and two younger sisters.[3] However, time came when she could no longer keep her woe to herself. On 19 February 1991 she finally narrated her misfortune to a relative, Helen Mariño, through whom the mother of Cristina learned of Antonio's bestiality.

Sometime in September 1991, after having cried and cried that brought her into a state of shock, Cristina's mother, obviously in utter dismay and humiliation, took her own life by drinking poison.[4]

Soon after the interment of her mother, Cristina received a letter from her father expressing his repentance and pleading for forgiveness.[5] But, despite her father's entreaty, Cristina went to the police authorities in the company of Helen Mariño and Lydia Gaban to file her complaint. When the case was being tried the defense counsel asked Cristina if she could forgive her father. But Cristina was averse to the idea as she likened her father to the devil.

Accused-appellant invokes alibi. He said that in the months of April, September and November 1990 he was away from home as he was in Metro Manila attending to his business of renting sidecars in Dagat-dagatan, Navotas. He claims that the relatives of his wife merely concocted the rape charges against him as he was a womanizer, and that they did so only after they had abandoned their previous plan to charge him with parricide for the death of his wife.

After trial, the court a quo found appellant guilty of rape on three counts, sentenced him to reclusion perpetua in each case, and ordered him to indemnify his daughter Cristina P50,000.00 for the three cases.[6]

Appellant still insists on his innocence. First, he harps on the failure of Cristina to resist and to shout for help. Second, he claims he was in Navotas, Metro Manila, when he allegedly abused her in his house in Siwayan, Aroroy, Masbate. Third, the rape charges against him were merely fabricated by relatives of his wife because he was a womanizer.

The defense must fail. The trial court found the testimony of complaining witness Cristina candid, straightforward and persuasive. We have no reason to hold otherwise. We accord full faith and credence to her narration that she was ravished three times on separate dates by her own father. We are convinced that the acts complained of did occur and were perpetrated by appellant and confirmed by the court a quo. It has always been the position of the Court that when the question arises as to which of the conflicting versions of the prosecution and the defense is worthy of belief the assessment of the trial court is generally viewed as correct and entitled to great weight. Highest respect is given to the factual findings of the court below unless it is shown that certain facts of value have been plainly overlooked which, if considered, could affect the result of the case. But appellant has not presented any substantial argument, much less pointed to any material evidence in support of his defense, which may have been overlooked by the trial court to justify a reversal of its conclusion.[7]

The detailed narration of the complaining witness, a girl in her teens, on how she was repeatedly violated by her father is certainly worth credence. It is extremely difficult to believe that the complainant, young as she was, could have the guile and craft to accuse her father of such heinous crime. Hence, the defense of sinister motivation in the filing of the rape charges is incredible aside from its being bereft of evidentiary support. This Court has often held that a 15-year old country girl who barely finished elementary grades would not just complain that she had been raped because no one would wish to be exposed to public ridicule, shame and dishonor, nor would allow her private parts to be examined. No one indeed would want to go through the troubles and humiliation of a trial for such debasing offense unless she was really raped and her motive was solely to seek justice.[8] The innocent but natural and straightforward testimony of Cristina alone is sufficient to sustain the conviction of her father. In fact it is entitled to greater weight since her accusing words are directed against a close relative, her own father.[9] As the court a quo would succinctly put it -

Cristina Gaban was 15 years old and was in Grade Five in 1990. Brought up in a poor family in a barangay deprived of the economic and social abundance and amenities enjoyed by her counterparts in urban centers, Cristina Gaban appeared to be modest and simple in ways, taste, and outlook in life. And yet she was very candid and straightforward when she denounced her father as a devil and the very one who deflowered her in her youth. It is uncommon to see a girl of her likes and upbringing to fabricate a criminal story and come out with a shocking revelation about the beastly act done by her father to her if, indeed, nothing revolting and unconscionable to the conscience of man was ever inflicted upon her person and honor.[10]

The fact that Cristina did not put up a strong resistance nor shout for help did not diminish her credibility. Appellant's threats and intimidation must be considered in light of the perception and judgment of the complainant at the time of the rape and not by any hard and fast rule.[11] Physical resistance need not be established in rape when threats and intimidation are employed and the victim submits herself to the embrace of

her rapist because of fear.[12] In rape, the force used need not be irresistible, as long as it is present and brings the desired result.[13] In this case, not only is appellant her own parent who exercised an overpowering influence, if not moral ascendancy, over her but, worse, he even used a knife to threaten her to submit to his bestial lust and desires. That Antonio resorted to force and intimidation in raping his 15-year old daughter magnifies no end his animal instinct. The failure of Cristina to resist was aptly explained by the court below thus -

True, Cristina Gaban was always in the company of her younger siblings on those occasions when her father had sex with her. But her father seemed to be using his head as he did the thing when his wife was not around and his small children were still sleeping. To shout for help could be her natural reaction, as anyone similarly situated would do, to protect herself from the animalistic and demonic assault of her father. But to Cristina's mind, to shout for help would be very risky for her. Note that her father threatened to kill her, including her mother and the other children if she refused to give in to his beastly desire.[14]

Alibi cannot prevail over the positive and unwavering identification of appellant by the complainant.[15] His allegation that he only went home to Masbate upon invitation of his wife to help her in the running of their business is at most self-serving and bereft of any support. He did not even present the letter purportedly sent to him by his wife. It was awkward and unusual for appellant - assuming that he was indeed in Navotas - to go home to Masbate just to help his wife in her business when she was only operating a small sari-sari store. After all, their children, Cristina in particular, were already capable of helping their mother in tending the store. The business of renting out sidecars in Navotas in which he was engaged could be more profitable than running a small sari-sari store. In fact, even defense witness Danilo Guadayo admitted on cross-examination that he was unsure whether appellant was in Navotas in 1990 when he perpetrated the rapes.[16] The pretension of appellant that he was in Navotas the whole of 1990 does not inspire belief since no one testified that he was really there when the rapes were committed.[17]

Significantly, appellant did not endeavor to refute the evidence for the government that after the commission of the crimes but soon after his wife's demise he sent a letter to Cristina pleading for forgiveness. In that letter Antonio expressly acknowledged the wrong he had done to her, begged for her forgiveness and promised to be a good father to her again. This letter eloquently manifested his admission of guilt.[18]

In fine, we find accused-appellant guilty of raping his own daughter on three separate occasions. The prison terms imposed on him by the court a quo, i.e., reclusion perpetua in each of the three counts, are proper. However, the civil indemnity of P50,000.00 should be for moral damages in each case or a total of P150,000.00.[19] An award of P25,000.00 in each case or a total of P75,000.00 for exemplary damages to deter other sex perverts or two-legged beasts from sexually assaulting or molesting innocent minors and hapless victims, especially their own kins, is likewise appropriate.[20]

WHEREFORE, the decision appealed from finding accused-appellant ANTONIO GABAN Y FROMENTO guilty of rape on three counts and sentencing him to reclusion perpetua in each case is AFFIRMED, with the modification that he should indemnify Cristina Gaban a total of P150,000.00 for moral damages and P75,000.00 for exemplary damages or a total of P225,000.00. Costs against accused-appellant.

SO ORDERED.

Padilla, (Chairman), Vitug, Kapunan, and Hermosisima, Jr., JJ., concur.

[1] Sentenced to death under R.A. 7659 for raping his 10-year old daughter (G. R. No. 117472), 25 June 1996.

[2] Decision, p. 1; Rollo, p. 9.

[3] TSN, 9 February 1993, pp. 2-4.

- [4] Id., p. 7.
- [5] Records, p. 100.
- [6] Decision penned by Judge Manuel S. Pecson, RTC-Br. 47, Masbate.
- [7] People v. Lazaro, G.R. No. 99263, 12 October 1995, 249 SCRA 234.
- [8] People v. Campesino, No. L-45480, 31 July 1984, 131 SCRA 56.
- [9] People v. Lao, G.R. No. 117092, 6 October 1995, 249 SCRA 137.
- [10] Decision, p. 3; Rollo, p. 11.
- [11] See Note 6.
- [12] People v. Padre-e, G.R. Nos. 112969-70, 24 October 1995, 249 SCRA 422.
- [13] People v. Bugtong, G.R. No. 75853, 31 January 1989, 169 SCRA 797.
- [14] Decision, p.4; Rollo, p. 12.
- [15] People v. Munar, No. L-40462, 31 July 1984, 131 SCRA 44.
- [16] TSN, 14 January 1994, p. 7.
- [17] People v. Tampus, No. L-42608, 8 February 1979, 88 SCRA 217.
- [18] People v. Calimquim, G.R. No. 61255, 28 October 1993, 125 SCRA 499.
- [19] People v. Villanueva, G.R. Nos. 112164-65, 28 February 1996.
- [20] Ibid.

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