

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. GREGORIO PAGUPAT, ACCUSED-APPELLANT.

G.R. Nos. 125313-16. July 31, 1998

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Per Curiam:

By mandate of Article 47 of the Revised Penal Code, as amended by Section 22 of Republic Act No. 7659, otherwise known as the Death Penalty Law, this Court is once more called upon to discharge its duty to review the death sentence imposed upon accused-appellant by Branch 38 of the Regional Trial Court of the Tenth Judicial Region stationed at Cagayan de Oro City for charges of rape under four Informations, reading as follows:

Criminal Case No. 95-85

That on or about the month of May, 1994, at Sitio Li-ang, Barangay Napaliran, Municipality of Balingasag, Province of Misamis Oriental, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, armed with a knife, and being then the step-father of the offended party, Girlie Oliveros, did then and there, willfully, unlawfully, and feloniously and by the use of force, intimidation and threats pinned her down and succeeded in having carnal knowledge with Girlie Oliveros, 14 years old, against her will and without her consent.

Contrary to and in violation of Article 335, as amended of the Revised Penal Code.

(Records, p. 4)

Criminal Case No. 95-86

That on or about June 16, 1994 at 9:00 o'clock in the morning, more or less at Sitio Li-ang, Barangay Napaliran, Municipality of Balingasag, Province of Misamis Oriental, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, armed with a knife, and being then the step-father of the offended party, Girlie J. Oliveros, did then and there, willfully, unlawfully and feloniously pinned her down and succeeded in having carnal knowledge with Girlie Oliveros, 14 years old, against her will and without her consent.

Contrary to and in violation of Article 335, as amended of the Revised Penal Code.

(Records, p. 32)

Criminal Case No. 95-87

That on or about the last week of June, 1994, at Sitio Li-ang, Barangay Napaliran, Municipality of Balingasag, Province of Misamis Oriental, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, armed with a knife, and being then the step-father of the offended party, Girlie J. Oliveros, did there, willfully, unlawfully and feloniously pinned her down and succeeded in having carnal knowledge with Girlie Oliveros, 14 years old, against her will and without her consent.

Contrary to and in violation of Article 335, as amended of the Revised Penal Code.

(Records, p. 36)

Criminal Case No. 95-88

That on or about the month of July 10, 1994 at 9:00 o'clock in the morning, more or less, at Sitio Li-ang, Barangay Napaliran, Municipality of Balingasag, Province of Misamis Oriental, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, armed with a knife, and being then the step-father of the offended party, Girlie J. Oliveros, did there, willfully, unlawfully and feloniously pinned her down and succeeded in having carnal knowledge with Girlie Oliveros, 14 years old, against her will and without her consent.

Contrary to and in violation of Article 335, as amended of the Revised Penal Code.

(Records, p. 40)

The relevant facts on record may be summarized as follows:

During the month of May 1994, private complainant Girlie Oliveros, a 14-year old schoolgirl, together with her mother, was residing at the house of her stepfather, accused-appellant Gregorio Pagupat, a 55-year old farmer, in Liang, Napaliran, Balingasag, Misamis Oriental. Sometime on the second week of that said month, at around 10 o'clock in the morning, she was inside the house and her mother was away, selling vegetables at Balingasag. Accused-appellant pulled Girlie upstairs into a room and made her lie down. Accused-appellant removed his clothes and took off Girlie's skirt and panties. He forced his penis into her vagina, then made push and pull motions. After the sexual intercourse which lasted about 3 minutes, Girlie noticed that her vagina was bleeding. Accused-appellant put on his clothes and told Girlie that he will kill her if she reports the incident to her mother. Accused-appellant left her in the room, crying.

On three more occasions, namely, sometime on the second or third week of June 1994, sometime on the last week of June, 1994, and on July 10, 1994 accused-appellant again raped Girlie. As what happened the first time, Girlie's mother was out selling vegetables at Balingasag. Girlie was ravished in a similar manner: while poking a knife at her, accused-appellant brought her upstairs, made her lie down, removed his and her clothes, lay on top of her, inserted his penis into her vagina and thereafter made pumping motions. On all three occasions, she was threatened with death should she tell anyone about the incident.

Girlie's mother came to know about these events through Girlie's sister, Sofia Ladia, who sometime in October 1994, noticed that Girlie was pregnant. It was only then that Girlie gathered the courage to inform her sister that she had been repeatedly raped by their stepfather.

Thus, on February 17, 1995, four criminal complaint-informations were filed against accused-appellant.

During the trial, accused-appellant admitted having had carnal knowledge of private complainant, but claimed that this was the result of mutual consent. He now claims that if ever he would be convicted of any crime arising therefrom, it may only be for qualified seduction, Girlie having been only 14 years old during the incidents and he being her stepfather.

In his brief, accused-appellant assigns the lone error, shotgun type of argument, that his guilt has not been proved beyond reasonable doubt.

Accused-appellant assails the credibility of Girlie as a witness on account of her almost exactly identical narration of how she was raped on all four occasions, which portrayal, he claims, is far from plausible and persuasive. Withal, the manner in which Girlie testified should, at the very least, accused-appellant claims, generate reasonable doubt in his favor, resulting in his acquittal.

After a thorough examination of the evidentiary record, a duty imposed upon this Court in all kinds of cases, but more so heavy and grave in death penalty cases, we vote to affirm.

The lone error assigned concerns credibility of complainant-witness Girlie J. Oliveros. After deliberate consideration of accused-appellant's arguments in his brief and the entire record of the case, we find no cogent reason to take exception to the generally binding factual findings of the trial court on the matter.

Verily, the uniform manner in which private complainant declared she was raped by accused-appellant on four different occasions does not render her account incredible per se. Understandably, but quite erroneously, accused-appellant would demand greater elaboration from Girlie on how each of the four events took place. He would look for details and thorough description of each harrowing encounter. Had this been his desire, he should have tried to elicit the same on cross-examination. He did attempt to do that, but pulling up short, he cannot now shift the burden upon Girlie at this point. And, of course, there is no rule in our jurisprudence which requires the victim of rape to describe her experience with all its tormenting details. On the contrary, the Court has repeatedly ruled that when a woman says that she has been raped, she says in effect all that is necessary to show that she has indeed been raped (*People vs. Cristobal*, 252 SCRA 507 [1996]). With the testimony of Girlie, which the trial court, after carefully observing her demeanor and manner of testifying, found more credible and real than the defense, there is sufficient basis to convict accused-appellant for the crime charged.

It is doctrinal that the evaluation by the trial court of the testimony of a witness is generally accorded great respect because of its direct opportunity to observe the witness' demeanor on the stand and to determine whether she is telling the truth. Such assessment is generally binding on this Court except when the same was reached arbitrarily or when the trial court overlooked, misunderstood, or misapplied some facts or circumstances of weight and substance which could affect the disposition of the case (*People vs. Caballes*, 274 SCRA 83 [1997]).

As correctly found by the trial court, private complainant's version of sexual violence upon her by accused-appellant is more credible and real (*Decision*, p. 11; *Rollo*, p. 132) because it is more in accord with human experience, unlike accused-appellant's sweetheart theory. We would also like to note and stress that there is truly more reason to believe in the prosecution's version in the light of concrete indications of accused-appellant's tendency for sexual perversion when he, a 55-year old married man, admitted having had sexual intercourse with Girlie, an innocent young girl of 14 years of age and his step-daughter at that. To be sure, we find no evidence on record which is suggestive of even the very least manifestation that Girlie was of loose morals. Although evidence of loose morality will not negate criminal liability for rape, it may have at least lent credence to accused-appellant's sweetheart theory. But since there is none, accused-appellant's claim that his step-daughter was the one who would sit on his lap, embrace him, touch him and thereafter consent to his invitation to have sexual intercourse on three occasions is simply too difficult to believe.

Moreover, we have quite often repeated that under no circumstances would a young Filipina of decent repute publicly admit that she has been criminally abused and ravished unless that is the truth. This is because it is her natural instinct to protect her honor (*People vs. Alib*, 222 SCRA 517 [1993]). Bolstering this truism is the fact that in the present case, Girlie had actually chosen to suffer quietly rather than to publicize her misfortune. Had her sister not noticed that Girlie was pregnant she would have remained silent and concealed the tragic experience to herself. This Court is morally convinced that it is highly improbable for this 14-year old provincial lass to concoct a story of rape if this were not true. Our observations in regard to the private complainant in *People vs. Alib* (*supra.*), are equally applicable to Girlie in this case, to wit:

...Elsa Gustilo's lack of sophistication, coupled with the simple and direct manner in which she described her ordeal, are indicia of truthfulness; her having to undergo the trouble and humiliation of a full-blown trial – where she had publicly disclosed the heinous act of defloration – could have been inspired by nothing short of

the desire to bring to justice the person who had abused her and who had inflicted upon her an excruciatingly painful chapter in her life, leaving her psychologically and emotionally scarred forever.

(pp.538-529)

As an essential part of an automatic review of death penalty cases, a determination of the heinousness of the specific crime committed in contemplation of law is in order. In general, the death penalty is imposed in heinous crimes because the perpetrators thereof have committed unforgivably execrable acts that have so deeply dehumanized a person, or criminal acts with severely destructive effects on the national efforts to lift the masses from abject poverty through organized governmental strategies based on a disciplined and honest citizenry, and because they have so caused irreparable and substantial injury to both their victim and the society and a repetition of their acts would pose actual threat to the safety of individuals and the survival of the government, they must be prevented from doing so (*People vs. Echegaray*, 267 SCRA 682 [1997]).

The heinous character of the crime of rape in the case at bar consists, not only in the violation of one victim in the person of private complainant, but in the outrage against society as a whole. The opening paragraph of our decision in *People vs. Cristobal* (*supra.*), may be apt:

Rape is the forcible violation of the sexual intimacy of another person. It does injury to justice and charity. Rape deeply wounds the respect, freedom, and physical and moral integrity to which every person has a right. It causes grave damage that can mark the victim for life. It is always an intrinsically evil act, an outrage upon decency and dignity that hurts not only the victim but the society itself.

(p. 510)

In *people vs. Ramos* (165 SCRA 400 [1988]), we had occasion to say:

Rape is a nauseating crime that deserves the condemnation of all decent persons who recognize that a woman's cherished chastity is hers alone to surrender of her own free will. Whoever violates that will descends to the level of the odious beast.

(p. 408)

And as was articulated in the same *Ramos* case, we now once again say that the act of rape becomes doubly repulsive where the outrage is perpetrated not only on one's own flesh and blood, but also with the present victim who should have been the object of accused-appellant's fatherly love and selfless caring. The man who rapes his own step-daughter violates not only her purity and her trust but also the very mores of his society which he had so scornfully defied.

Rape is a most repulsive crime that the State, by an express positive act of legislation, attaches the mandatory penalty of death when committed under the following specific circumstances, to wit:

The death penalty shall also be imposed if the crime of rape is committed with any of the following attendant 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.
2. When the victim is under the custody of the police or military authorities.
3. When the rape is committed in full view of the husband, parent, any of the children of other relatives within the third degree of consanguinity.

4. When the victim is a religious or a child below seven (7) years old.
5. When the offender knows that he is afflicted with Acquired Immune Deficiency Syndrome (AIDS) disease.
6. When committed by any member of the Armed Forces of the Philippines or the Philippine National Police or any law enforcement agency.
7. When by reason or on occasion of the rape, the victim suffered permanent physical mutilation.

(Par. 7, Sec. 11, Republic Act No. 7659).

In view of the admission by the accused-appellant on direct-examination that Girlie is his step-daughter (tsn, August 2, 1995, p. 3) as well as the testimony of his wife and Girlie's mother that she and accused-appellant were married on April 23, 1983 in Balingasag, Misamis Oriental by then Mayor Porferio Roa (cf. Tsn, October 17, 1995, p. 14), coupled with the established fact that the victim was only 14 years old when she was raped by accused-appellant, the trial court was mandatorily bound to impose the death penalty under the above-quoted Section 11 of Republic Act No. 7659.

Four members of the Court, although maintaining their adherence to the separate opinions expressed in *People vs. Echegaray* (supra), that Republic Act No. 7659, insofar as it prescribed the death penalty is unconstitutional, nevertheless submit to the ruling of the Court, by a majority vote, that the law is constitutional, and that, the death penalty should accordingly be imposed.

The trial court ordered accused-appellant to indemnify private complainant the sum of P50,000.00 for each rape. In line, however, with the pronouncement in *People vs. Victor* (G.R. No. 127903, July 9, 1998), wherein we said:

One other point of concern has to be addressed. Indictments for rape continue unabated and the legislative response has been in the form of higher penalties. The Court believes that, on like considerations, the jurisprudential path on the civil aspect should follow the same direction. Hence, starting with the case at bar, if the crime of rape is committed or effectively qualified by any of the circumstances under which the death penalty is authorized by the present amended law, the indemnity for the victim shall be in the increased amount of not less than P75,000.00. This is not only a reaction to the apathetic societal perception of the penal law and the financial fluctuations over time, but also an expression of the displeasure of the Court over the incidence of heinous crimes against chastity.

said indemnity for each offense should be raised to P75,000.00.

WHEREFORE, finding the conviction of accused-appellant on four counts of rape justified by the evidence on record, the Court hereby AFFIRMS said judgment, with the modification that the amount awarded to private complainant is increased to P75,000.00 for each act of rape, with costs de oficio.

Upon finality of this decision, let certified true copies thereof, as well as the records of this case, be forwarded without delay to the Office of the President for possible exercise of executive clemency pursuant to Article 83 of the Revised Penal Code, as amended by Section 25 of R.A. 7659.

SO ORDERED.

Narvasa, C.J., Regalado, Davide, Jr., Romero, Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Panganiban, Martinez, Quisumbing, and Purisima, JJ., concur.

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