

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ARLENGEN DEGALA, ACCUSED-APPELLANT.

G.R. Nos. 129292-93. June 20, 2001

Ponente: PUNO, J.

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PUNO, J.:

Accused-appellant ARLENGEN DEGALA seeks to reverse the judgment in Criminal Case Nos. 916 and 917 of the Regional Trial Court (Branch XXV) of Koronadal, South Cotabato, finding him guilty as charged of two (2) counts of rape committed in March 1988 and December 6, 1992.[1] The complainant is his minor daughter, HAILYN DEGALA.

When arraigned, the accused pled not guilty to both crimes.[2]

The records show that the complainant, Hailyn Degala, is the second child in a brood of six children of spouses Heidi Degala and accused Arlengen Degala. She was born on August 3, 1977.[3] Her siblings are Arnel, Helen, Harlyn, Arnold and Arlengen, Jr.[4]

The Degalas used to live in Tubing, Tupi, South Cotabato. On school days, the complainant, Hailyn, and her siblings stayed in the house of their maternal grandparents in Martinez Subdivision, Marbel, Koronadal, South Cotabato. They went home on weekends or when they did not have classes.

In the evening of March 1988, Hailyn and her younger sisters were in their house in Tubing. They slept in one room at the ground floor. The accused slept outside their room near the door. Hailyn's paternal grandparents were in another house, about a meter away from their place. At that time, Hailyn's mother was in Koronadal where she worked as a laundry woman.

Later that night, the accused broke into the room where Hailyn was sleeping. He was wearing only his brief. He crept towards Hailyn. He lifted her T-shirt and touched her body. He mashed her left breast. She resisted and they wrestled. He succeeded in lifting her skirt and taking off her panty. He started to caress her and kiss her on the face, neck and lips. She then kicked his feet and desperately reached out for her sisters who were sleeping beside her. Unfortunately, she failed to awake them. Finally, the accused succeeded in having carnal knowledge of her. She asked the accused: "Why are you doing this to me?" He replied that she was sweet. After satisfying his lust, he rushed out of the room. It was Hailyn's first sexual contact. The experience was painful. She was 10 years and 7 months old.

She wept the whole night until morning. Her sisters woke up and left the room, but did not see her crying because she was lying face down. She kept herself in the room the whole day crying. Nobody was able to talk to her that day because the accused shouted at her siblings when they tried to enter her room.[5]

The rape was repeated several times for four years. Hailyn estimated that she was abused twenty (20) times. Her last sexual molestation happened on December 6, 1992. On that day, the accused directed her siblings to go to the house of their paternal grandparents and ordered her to stay behind. Again, he forced himself on Hailyn. He boxed

her in the epigastric region and violated her.

On December 10, 1992, Hailyn learned from her mother (Heidi) that the accused tried to rape her aunt, Nora Ronquillo. The information enraged her and she finally revealed to her mother that the accused had raped her. Her mother then asked her other daughters (Helen and Harlyn) if the accused also raped them. They made the same revelations. The accused laughed off the charges upon confrontation. He eventually left their house when Hailyn's mother threatened him that she would call the police.

Nelida Ladrillo, a younger sister of Heidi, happened to drop by her sister's house in Marbel. She sensed that something wrong had happened when she talked to Hailyn and her sisters. The three girls were sad. They admitted the rapes to Nelida. Hailyn requested Nelida to accompany them to a doctor.

On December 14, 1992, Dr. Apolinar Hatulan of the Municipal Health Office of Tupi examined Hailyn and her sisters. He found healed lacerations on Hailyn's genitalia at 12, 3, 5 and 7 o'clock positions, indicating the possibility of her sexual molestation.[6] He also confirmed the possible sexual abuses on her sisters. Nelida then brought the three girls to Tupi Police Station where Hailyn executed her sworn statement accusing their father of raping them on separate occasions from 1988 to 1992.

When Nelida finally had the chance to talk to Heidi, she reported that the medical test results confirmed the girls' accusations of rape. Heidi refused to believe her and insisted that Hailyn could have made up the story. As Heidi was disinterested to prosecute the accused, Nelida assisted Hailyn and her sisters in filing the rape cases against him. Helen's complaint was docketed as Criminal Case Nos. 913-914, Harlyn's, Criminal Case No. 915 and Hailyn's, Criminal Case Nos. 916-917. Of the three girls, only Hailyn did not desist from prosecuting the accused. Nelida went to Harlyn's school and talked to her niece about the case. The latter refused to continue with its prosecution because Heidi would not let her go to court. Nelida also tried to talk to Helen but she failed because Heidi sent Helen to work in Davao.

Nelida testified that when Hailyn was still in the custody of her parents, the accused would often beat her up. The beatings only stopped after December 6, 1992 because she ceased living with them.

The defense was anchored on denial. The accused presented Heidi, his mother (Julieta), his mother-in-law (Magdalena Dariaga), and Harlyn as witnesses. They testified that Hailyn was a disrespectful and stubborn child. Allegedly, in the evening of December 6, 1992, Magdalena Dariaga caught Hailyn and her boyfriend having sexual intercourse inside their toilet located in their backyard. The toilet had no roof, its four sides were covered with sacks: three served as walls while one served as its door. The earth served as its floor. Magdalena claimed she saw Hailyn's boyfriend on top of her. She stood by the makeshift door for two minutes and was not noticed by them. She did not stop the two but waited for them to come out from the toilet. She then scolded them.

The next day, Magdalena allegedly went to Tubing and informed Hailyn's parents about her indiscretion. They went to Marbel and there, the accused beat up Hailyn in the presence of Heidi, Helen and Harlyn. He used his leather belt and later a branch of ipil-ipil in hitting her.

The defense charged that Hailyn carried a grudge against the accused for the constant beatings she received from him. Thus, to spite him, she falsely accused him of raping her. The defense witnesses claimed that the rape could not take place in Tubing because they always slept in one room.

As for the rape cases filed by Harlyn, the latter denied that the accused raped her. Allegedly, Nelida threatened them that they would go to prison if they refused to charge the accused in court.

To further discredit Nelida, the defense alleged that Nelida's husband had a fistfight with the accused on one

occasion, in connection with the expenses incurred during the wake of a relative. Since then, Nelida allegedly bore a grudge against him and to get even, she forced the three girls to charge him.

After trial, the court a quo found the accused guilty of two counts of rape.[7] He was sentenced in each case to suffer the penalty of reclusion perpetua and ordered to pay a total of P100,000.00 as civil indemnity by way of moral damages.

Hence, this appeal.

The only issue posed is whether or not the accused-appellant's guilt was established beyond reasonable ground.

In rape cases, the lone testimony of the victim, if credible, is sufficient to sustain a conviction.[8] It is a settled rule that when the issue focuses on the credibility of witnesses, or the lack of it, the assessment of the trial court should be controlling, unless cogent reasons, and none exists in this case, dictate otherwise.

After a study of the evidence, we are convinced that Hailyn narrated the truth in court. Her testimony is full of details and straightforward. As rightly ruled by the trial court, "it can come only from one who has truly and personally undergone the agonizing events." We also note that there were instances when Hailyn was ashamed to narrate her ordeal in court, an indication of a sense of loss of self-pride because of what she had gone through. She testified as follows:[9]

"PROSECUTOR LECHONSITO:

Q:

How did your father rape you, please tell the Court.

A:

He entered the room, sir.

Q:

And then what happened?

A:

Then (he) crept (sic) towards me, then he touched my body and pointed a gun to my head.

x x x

Q:

You said that your father approached you by creeping. How did you know that he approached you by creeping, please tell the Court.

A:

Because I was able to notice.

Q:

So that because you noticed it, you were not yet sleeping at that time, is that correct?

A:

I was already asleep, but I noticed when he crept towards me.

Q:

And then after he crept towards you, what happened?

A:

He pointed a gun at my head (witness pointing at the left temple) and he undressed me by removing my panty.

COURT:

Hailyn, do not be embarrassed, when you testify. If you like, we can have the other people sent outside the courtroom.

WITNESS:

I would like the audience to move out.

COURT:

Those who are not concerned, please step out.

PROSECUTOR LECHONSITO:

Q:

You said that when your father approach (sic) you creeping, he touched you body. Did I get you right when you testified on that a while ago?

A:

Yes, sir.

Q:

What part of your body was touched by your father?

A:

He touched my breast, sir.

Q:

How did he touch your breast, tell the Court.

A:

He mashed my breast.

Q:

You were wearing clothes during that time:

A:

Yes, sir.

x x x

PROSECUTOR LECHONSITO:

Q:

How did he mash your breast, please tell the Court.

A:

He placed his hands under my dress and then he mashed my breast.

Q:

What side of your breast was mashed by your father?

A:

My left breast, sir.

Q:

After he mashed you left breast, what else did he do?

A:

He removed my panty, sir.

Q:

And then?

A:

We wrestled with each other.

Q:

How did you wrestle with each other.

A:

He laid on me.

Q:

What kind of dress were you wearing during that time?

A:

I was wearing a skirt and a t-shirt.

Q:

When he removed your panty, did he remove also your skirt?

A:

No, sir.

Q:

What did he do with your skirt?

A:

He raised my skirt upwards, sir.

Q:

How about your shirt, what did he do with your shirt?

A:

He did not remove it.

Q:

You said that after your father removed your panty, he laid on top of you. What did he do when he laid on top of you?

A:

He caressed me.

Q:

How did he caress you?

A:

He kissed me, sir, on my face and on my lips.

Q:

When your father was doing that to you, what was your reaction, if any?

A:

I was struggling, sir.

Q:

How did you struggle?

A:

I struggled by kicking him.

Q:

Did you kick your father?

A:

Yes, sir.

x x x

Q:

You said that your father caressed you by kissing your face and your lips and what else (sic) did he kiss in you, aside from those:

A:

My neck, sir.

Q:

What else?

A:

No more, sir.

Q:

What else did he do, after kissing you?

A:

He touched my vagina, sir.

Q:

How did he touch your vagina?

A:

He mashed my vagina.

PROSECUTOR LECHONSITO:

Will I be allowed to talk to the witness?

ATTY. SUNGA: (sic)

Atty. Sunga, please come forward.

COURT:

Prosecutor advised the witness not to be ashamed in testifying. The advice was made in the presence of counsel for the accused. Proceed.

PROSECUTOR LECHONSITO:

Q:

When your father mashed your vagina, was your panty still on?

A:

No more, sir.

Q:

When he mashed your vagina, what else did he do after mashing your vagina?

A:

He let his penis touched (sic) my vagina.

Q:

How long did he touch your vagina?

A:

For a short time, sir.

Q:

You said that after mashing your vagina for a short time, he let his penis touch your vagina, how long did he let his penis touch your vagina?

A:

For a long time, sir.

Q:

What was he doing with his penis?

A:

He was inserting his penis into my vagina.

Q:

How did he insert his penis towards your vagina?

A:

He spread my legs.

Q:

How did he spread your legs?

A:

He held both my legs and spread them, sir.

Q:

By the way, when your father approached you by creeping towards your, what was he wearing, if you could recall?

A:

He was wearing a brief and he was naked on the other part of his body.

x x x

PROSECUTOR LECHONSITO:

Q:

What did you feel when his penis entered your vagina?

A:

It was painful, sir.

Q:

Because it was painful, what did you do?

A:

Nothing, sir.

Q:

Did you not cry because of the pain?

ATTY. SUNGA:

We object.

COURT:

Sustained.

WITNESS:

I cried.

x x x

Q:

In your estimate, how long did it take him to let his penis enter into your vagina?

A:

It took a long time.

Q:

And in the process, what did you feel while he was letting his penis enter into your vagina?

A:

It was painful, sir.

x x x

Q:

Did you tell your father not to do that to you?

A:

I told him, "Why are you doing this to me?"

Q:

What was his response to you?

A:

He told me, "Don't tell this to your mother or to others or else, I will kill you."

Q:

What else did you talk about?

A:

I told him, "There is my mother. Why are you doing it to me when in fact, I am your daughter."

Q:

What was his answer?

A:

He told me that I am sweet.

x x x."

We do not believe that Hailyn would accuse her father of rape to spite him for the beatings she received from him when she was still in his custody. Even with these alleged beatings, it would take a most senseless kind of depravity for a young daughter to concoct a story against her father, accusing him of beastly conduct that would put him for most of his remaining life in jail and expose herself and her family to public humiliation.[10] Hailyn was only ten years old at the time of the first sexual molestation.

The accused-appellant claims that the place where he allegedly raped Hailyn was too cramped. Allegedly, it was impossible for him to rape her because they slept in one room with the other members of their household. The argument that rape cannot be committed in a room shared with other members of the family has long been rejected by this Court, lust being no respecter of time and place.[11]

Next, accused-appellant banks on the delayed filing of the rape cases against him. The rule is that delay in reporting the offense of incestuous rape is not necessarily an indication that the charge is fabricated. It does not diminish the complainant's credibility nor undermine the charges of rape where the delay can be attributed to the pattern of fear instilled by the threats of bodily harm, specially by one who exercises moral ascendancy over the victim.[12]

In the cases at bar, it is understandable why it took a long time for Hailyn to reveal to her mother that she was sexually molested by accused-appellant. She was very young. She grew up being beaten up by him. He had threatened her with harm should she tell anyone about the rapes. Obviously, fear cowed her to silence and inaction.

The accused-appellant's mere denial that he raped Hailyn will not exonerate him. Denial cannot prevail over the positive and candid testimony of the victim whose credibility was not eroded. No young girl would concoct a story of sexual assault, undergo gynecologic examination and subject herself to the trauma and embarrassment of criminal prosecution unless she speaks the truth.[13]

The defense's story that Hailyn was caught by her grandmother having sexual intercourse with her boyfriend is incredible. We agree with the trial court's observation, thus:[14]

"Even the allegation of sexual intercourse between complainant Hailyn Degala and her supposed boyfriend which per the defense is the reason why Hailyn Degala was beaten by her father taxes our mind into disbelief. The toilet where the sex act was performed was square-shaped structure, two arms length wide. There was no door which could be secured, only a piece of sack serving as curtain would hide the person attending to his biological needs inside. The walling was also made of sack. There was no roof. The boyfriend was supposed to be five feet and five inches tall. Verily, if the two sex partners would lie on the floor, as what complainant and Marlon did, and with a toilet bowl and other articles such as pail for water inside, the lovers would be in a cramped position. Being lovers, why would the two choose of all places a ramshackle toilet to do their thing."

We add that it is implausible that Hailyn's grandmother would just stand by the sack door of the toilet for two minutes while her granddaughter was having sex with her boyfriend. Common human experience dictates that such a scandalous conduct would have prompted her to call Hailyn's attention right away and not wait for the alleged young lovers to consummate their lustful act. Evidence to be believed must not only proceed from the mouth of a credible witness but must foremost be credible in itself.[15]

The accused-appellant also alleges that Hailyn's maternal aunt, Nelida Ladrillo, induced her and her sisters to file a complaint against him. The reason given was the alleged misunderstanding between him and Nelida's husband. The allegation does not merit serious consideration especially when viewed against the fact that when Hailyn and her sisters were examined by the doctor, all three medical results showed signs that they were sexually molested.

All told, we agree with the judgment of the trial court that the accused-appellant is liable for two counts of rape. At the time the rape incidents were committed, Republic Act Nos. 7659 and 8353 were not yet in effect. Thus, he was correctly sentenced to suffer the penalty of reclusion perpetua.[16]

As regards the damages, the trial court awarded in favor of the complainant the amount of P50,000.00 in each case "as civil indemnity by way of moral damages." We reiterate that civil indemnity is distinct from moral damages and the two are awarded separately from each other.[17] Civil indemnity is mandatory upon the finding of the fact of rape. In the case of *People vs. Victor*.[18] we reemphasized the difference of the two awards, thus:

"The lower court, however, erred in categorizing the award of P50,000.00 to the offended party as being in the nature of moral damages. We have heretofore explained in *People vs. Gementiza* that the indemnity authorized by our criminal law as civil indemnity *ex delicto* for the offended party, in the amount authorized by the prevailing judicial policy and aside from other proven actual damages, is itself equivalent to actual or compensatory damages in civil law. It is not to be considered as moral damages thereunder, the latter being based on different jural foundations and assessed by the court in the exercise of sound discretion."

In *People vs. Prades*,[19] we also resolved that moral damages may be awarded to the rape victim, in such amount as the Court deems just, without the need for pleading or proof of the basis thereof. The conventional requirement of *allegata et probata* in civil procedure and for essentially civil cases was dispensed with in criminal prosecutions for rape with the civil aspect included therein since no appropriate pleadings are filed wherein such allegations can be made.

Accordingly, the damages awarded by the trial court must be modified.[20] Accused-appellant should be held liable to pay the complainant P50,000.00 as civil indemnity and another P50,000.00 as moral damages in each rape case.[21] In addition, accused-appellant should be held liable for exemplary damages in accord with our ruling in *People vs. Antipona*.[22] We held therein that when a man perpetrates his lascivious designs on his own direct blood relative, he descends to a level lower than beasts. Exemplary damages is thus awarded to deter other fathers with perverse tendencies or aberrant sexual behavior from abusing their own daughters.[23]

IN VIEW WHEREOF, the decision of the Regional Trial Court of Koronadal, South Cotabato, Branch 25, in Criminal Case Nos. 916 and 917 is **AFFIRMED**, with the modification that accused-appellant Arlengen Degala is ordered to pay complainant Hailyn Degala, in each criminal case, the amount of P50,000.00 as civil indemnity, P50,000 as moral damages and P50,000.00 as exemplary damages. Costs against accused-appellant.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Kapunan, Pardo, and Ynares-Santiago, JJ., concur.

[1] See Informations, Folder I of Original Records, pp. 3-4 and Folder II of Original Records, pp. 1-2.

[2] Folder I of Original Records, p. 27; Folder II of Original Records, p. 3.

[3] Exhibit B, Folder I of Original Records, p. 125.

[4] TSN, September 21, 1993, p. 4.

[5] TSN, September 20, 1993, pp. 7-18.

[6] Exhibit "D", Original Records, Folder 1, pp. 9-10.

[7] Promulgated on April 2, 1997, Rollo, pp. 39-67.

[8] *People vs. Acala*, 307 SCRA 330 (1999).

[9] TSN, September 20, 1993, pp. 7-15.

[10] *People vs. Acala*, *supra*.

[11] *People vs. Yabut*, 311 SCRA 590 (1999); *People vs. Ambray*, 303 SCRA 697 (1999); *People vs. Antipona*, 274 SCRA 328 (1997).

[12] *People vs. Padil*, 318 SCRA 795 (1999).

[13] *Ibid*.

[14] See Decision, March 3, 1997, pp. 25-26; Rollo, pp. 63-64.

[15] *People vs. Saban, et al.*, 319 SCRA 36 (1999).

[16] *People vs. Casil*, 241 SCRA 285 (1995).

[17] *People vs. Gementiza*, 285 SCRA 478, 492 (1998).

[18] 292 SCRA 186, 200 (1998).

[19] 293 SCRA 411, 430-431 (1998).

[20] *People vs. Caballes*, 274 SCRA 83, 100 (1997).

[21] *People vs. Lomerio*, 326 SCRA 530 (2000); *People vs. Prades*, *supra*.

[22] 274 SCRA 328 (1997).

[23] *Ibid*.

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