

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ABUNDIO MANGILA Y PAREÑO, ACCUSED-APPELLANT.

G.R. Nos. 130203-04. February 15, 2000

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PER CURIAM:

Death is the most severe penalty for crime. It is imposed in incestuous rape, regardless of any mitigating or aggravating circumstance. In the case at bar, sixteen (16) year old MADRILYN D. MANGILA accused her father, ABUNDIO MANGILA y PAREÑO, of two (2) counts of RAPE, allegedly committed as follows:

Criminal Case No. 2356-M[1]

"That on or about the 7th day of June, 1995, in the Municipality of Teresa, Province of Rizal, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with lewd designs and by means of force and intimidation, did then and (t)here willfully, unlawfully and feloniously have sexual intercourse with a sixteen (16) year old girl, Madrilyn D. Mangila, who is his own daughter against the latter's will and consent.

"CONTRARY TO LAW."

Criminal Case No. 2355-M[2]

"That on or about the 9th day of June, 1995, in the Municipality of Teresa, Province of Rizal, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with lewd designs and by means of force and intimidation, did then and (t)here willfully, unlawfully and feloniously have sexual intercourse with a sixteen (16) year old girl, Madrilyn D. Mangila, who is his own daughter against the latter's will and consent.

"CONTRARY TO LAW."

Upon his arraignment, accused, assisted by counsel de officio, Atty. Marcosa U. dela Cuesta, admitted his guilt, but put up the alternative circumstance of intoxication when he committed the rape. The trial court entered a plea of 'not guilty' for the accused and conducted a full-blown trial.[3]

The prosecution evidence consists of the testimonies of the victim, Madrilyn Mangila, and her mother, Nenita Mangila.

Accused and Nenita Mangila were married in 1977. Their union was blessed with five children and 16-year old Madrilyn is their second child. Accused was a caretaker of two (2) houses in Villa Tonang in Teresa, Rizal, near their residence.

At about 1:00 p.m. of June 7, 1995, accused took Madrilyn to Villa Tonang to help him clean one of the houses he was overseeing. While in the kitchen of the house, accused began to take off Madrilyn's shorts. She begged her father to stop. Instead, he poked a knife at her neck and ravished her. During the hour-long sexual assault, Madrilyn felt excruciating pain. Helpless, she could only sit on the floor and cry as the accused threatened to kill her should she reveal her defloration.[4] Fear of reprisal sealed her lips.

Madrilyn's nightmare was not about to stop. Two (2) days later, accused told Nenita that he and Madrilyn would

again clean the house in Villa Tonang. Madrilyn hesitated to go. However, when accused got mad, she was forced to go with him. As she was cleaning the house, accused grabbed her and forced her into a room. He pushed her near the bed and took off her skirt. She begged him to stop but again her pleas were drowned by his bestial desires. He poked a knife at her neck and sexually abused her. Madrilyn could only cry. They returned to their house at about 6:00 p.m.[5]

In the morning of June 16, 1995, on her way to school, accused told Madrilyn that he would fetch her after class. Wary of what accused would again do to her, Madrilyn spent the night with a friend. Her elder sister, Lourdes, and her aunt searched for her. When they found her, she confided to them that accused has violated her. Furious, Lourdes informed their mother of the rape.[6]

Nenita Mangila recounted that in June 1995, a certain Badong delivered to her a letter from Madrilyn informing her that accused had defiled her. Before Nenita could finish reading the letter, the accused came and snatched it from her. They had a heated argument, with the accused denying Madrilyn's accusations. Later that evening, Madrilyn was found hiding in a friend's house. Madrilyn confirmed to Nenita the veracity of what she had written in her letter. Nenita confronted the accused who admitted his transgression. The accused knelt before Nenita in supplication and begged for her forgiveness. Nenita was unmoved.[7] She accompanied Madrilyn to the police station. Madrilyn executed an affidavit[8] on June 24, 1995 narrating the rape incidents. She also underwent a medical examination in Camp Crame. The medical report showed that Madrilyn was in a non-virginal state.

The defense presented the accused as sole witness.

During the direct-examination, the accused admitted committing the rape on June 7, 1995, but alleged that he had three (3) shots of gin shortly before he abused the victim. He imagined Madrilyn to be his wife and forced her to have sex with him. Madrilyn begged him to stop but he ignored her.[9]

In the afternoon of June 9, 1995, accused again imbibed gin while Madrilyn was cleaning the house in Villa Tonang. Again, he ravished her but denied using a knife in the process.[10] Accused declared he took gin to forget his marital problems, particularly his wife's lack of affection for him. His wife refused to make love with him and ignored him whenever he would try to talk to her. She would likewise burn his clothes when they had an argument.[11]

On cross-examination, accused explained that he admitted his guilt because he was sorry for what he did and was hoping that his admission would mitigate his penalty, thus:[12]

"FISCAL RAMIREZ:

Mr. Mangila, during the rape incident of June 7, 1995, while you were raping your child, she was continuously pleading with you to stop, is that correct?

"A

Yes, sir.

"Q

And she started pleading while you were still removing her shorts, is that correct?

"A

Yes, sir.

"Q

And when you were about to insert your organ she continued her pleading?

"A

Yes, sir.

"Q

But you ignored her pleadings?

"A

Yes, sir.

"Q

On June 9, 1995 incident, your daughter likewise plead (sic) for you not to abuse her again, is that correct?

"A

Yes, sir.

"Q

And you likewise ignored her plea?

"A

Yes, sir.

"Q

Now, during the arraignment, you manifested to this Honorable Court that you are already admitting the crimes, is that correct?

"A

Yes, sir.

"Q

And you voluntarily admitted your guilt because you were then sorry for what you did?

"A

Yes, sir.

"Q

And you were hoping that your admission of guilt will somehow be considered in your favor?

"A

Yes, sir.

"xxx xxx xxx."

After trial, the accused was sentenced to suffer the supreme penalty of death on both counts of rape. He was further ordered to pay the victim the total amount of P100,000.00 as civil indemnity.[13]

The case is now before us on automatic review.

In his appeal, accused impugns his conviction on the ground that the trial court failed to conduct a searching inquiry on the voluntariness and full comprehension of his plea, in violation of Section 33, Rule 116 of the 1985 Rules on Criminal Procedure.

We affirm the appealed decision with modification.

Section 3, Rule 116 of the 1985 Rules on Criminal Procedure provides:

"Section 3. Pleas of guilty to capital offense; reception of evidence. - When the accused pleads guilty to a capital offense, the court shall conduct a searching inquiry into the voluntariness and full comprehension of the consequences of his plea and require the prosecution to prove his guilt and the precise degree of culpability. The accused may also present evidence in his behalf." (italics supplied)

To breathe life into this rule, we made it mandatory for trial courts to do the following:[14]

(1)

conduct a searching inquiry into the voluntariness and full comprehension of the consequences of the accused's plea;

(2)

require the prosecution to prove the guilt of the accused and the precise degree of his culpability; and

(3)

inquire whether or not the accused wishes to present evidence on his behalf and allow him to do so if he so desires.

We explained the rationale of the rule in *People vs. Albert*,[15] thus:

"The rationale behind the rule is that courts must proceed with more care where the possible punishment is in its severest form--death--for the reason that the execution of such a sentence is irrevocable and experience has shown that innocent persons have at times pleaded guilty. The primordial purpose then is to avoid improvident pleas of guilt on the part of an accused when grave crimes are involved since he might be admitting his guilt before the court and thus forfeit his life and liberty without having fully understood the meaning, significance and consequences of his plea. Moreover, the requirement of taking further evidence would aid the Supreme Court on appellate review in determining the propriety or impropriety of the plea." (italics supplied)

The records show that the trial court failed to comply to the letter with these guidelines. It did not conduct a searching inquiry on whether accused understood the legal consequences of his admission of guilt. It is not shown that accused was informed of the effect of the concurrence of the special qualifying circumstance of minority of the victim and his parental relationship to her. After the accused testified on how he raped his daughter, he was not apprised that his crime is punishable by death.[16] The trial court also failed to explain to him that as the penalty of death is indivisible, it shall be imposed despite any mitigating or aggravating circumstance attending its commission.[17] Apparently, the trial court entertained the erroneous notion that the alleged intoxication of accused would lessen his liability.

These lapses, however, will not exculpate the accused. In *People v. Derilo*,[18] we held:

"As a rule, this Court has set aside convictions based on pleas of guilty in capital offenses because of improvidence thereof and when such plea is the sole basis of the condemnatory judgment. However, where the trial court receives evidence to determine precisely whether or not the accused erred in admitting his guilt, the manner in which the plea of guilty is made (improvidently or not) loses legal significance, for the simple

reason that the conviction is based on the evidence proving the commission by the accused of the offense charged." (italics supplied)

We find that, independent of the accused's admission of the crime in the case at bar, the prosecution has proved his guilt beyond reasonable doubt by other evidence. The testimonies of the victim and her mother would suffice to convict the accused. The victim unflinchingly narrated the unfortunate fate she suffered in the hands of accused, thus:[19]

"FISCAL:

"Q:

When you and your father reached Villa Tonang, who were there at the house at that time?

"A:

None, sir.

"Q:

What happened when you and your father arrived at Villa Tonang?

"A:

We went to the kitchen, sir.

"Q:

What happened while you and your father are (sic) in the kitchen?

"A:

He undressed me, sir.

"x x x x x x x x

"Q:

What did you do when your father undressed you?

"A:

I was crying, sir.

"Q:

What were you wearing at that time?

"A:

Short and T-shirt, sir.

"Q:

You mentioned that your father tried to undress you. What part of your clothes did he try to remove first?

"A:

My short, sir.

"Q:

Was he able to actually remove your short?

"A:

Yes, sir.

"X X X X X X X X

"Q:

After removing your short, was there anything left on the lower portion of your body?

"A:

None, sir.

"Q:

After he was able to remove your short, what did you do?

"A:

He asked me to turn my back, sir.

"Q:

Were you not complaining or saying anything when your father was removing your short?

"A:

I was pleading to him, sir.

"Q:

Tell us the exact words you used when you were pleading to your father?

"A:

I said, 'tama na po.'

"Q:

How about your father. What was his answer, if any, to your plea to him?

"A:

None, sir.

"Q:

You said that your father asked you to turn your back. Did you comply to (sic) his order?

"A:

No, sir. He was the one who turned my back.

"Q:

Was your father holding anything at his hand at that time?

"A:

Yes, sir.

"Q:

What was he holding?

"A:

Knife, sir.

"Q:

What was he doing with the knife at that time?

"A:

He was poking the knife at my neck, sir.

"Q:

After your father turned your back to him, what else did he do?

"A:

Kinantot po niya ako, sir.

"x x x x x x x x

"Q:

What did you feel when your father inserted his penis in your vagina?

"A:

It hurts, sir."

With respect to the rape committed on June 9, 1995, Madrilyn testified as follows:[20]

"Q:

When was the second time if any that your father committed the same sexual intercourse with you?

"A:

9[th] of June, 1995, sir.

"x x x x x x x x

"Q:

What time did you arrive at Villa Tonang on June 9, 1995?

"A:

5:00 o'clock, sir.

"Q:

After you and your father arrived at Villa Tonang, what did he do with you?

"A:

He first clean(ed) (sic) and then he pulled me, sir.

"Q:

Where did he bring you?

"A:

In the room, sir.

"Q:

After bringing you in the room, what did he do with you?

"A:

He pushed me, sir.

"Q:

Where did you land?

"A:

Near the bed, sir.

"Q:

After that, what did he do?

"A:

He again had sexual intercourse with me, sir."

"x x x x x x x x

"Q:

Was your father holding any object at that time?

"A:

Yes, sir.

"Q:

What was that?

"A:

Knife also, sir.

"x x x x x x x x

"Q:

What were you telling your father while he was having sexual intercourse with you?

"A:

I was begging him to stop, sir."

"Q:

How long did your father had (sic) sexual intercourse with you on June 9,1995?

"A:

Only for a short period of time, sir.

"Q:

After your father finished (sic) with you; what did you do?

"A:

I sat down, sir.

"Q:

What else did you do after that?

"A:

I cried, sir."

The trial court found her testimony worthy of belief. We find no reason to reverse this finding. It correctly noted that the victim, a 16-year old lass, would not narrate her scandalous ordeal and subject herself to the rigors of a public trial, expose herself to ridicule and submit herself to physical examination if her accusation is untrue. Generally, no young woman would accuse her own father of so grave a crime as rape unless she truly has been aggrieved.[21] Moreover, Madrilyn's demeanor during the trial, as observed by the trial court, bolsters her credibility, thus:[22]

"x x x Madrilyn Mangila testified in a straightforward manner, oftentimes staring at her father, the accused in this case, menacingly as if she is still harboring her anger notwithstanding the lapse of time the alleged rape was committed upon her by the father. x x x "

Thus, the evidence on record clearly shows that the accused is guilty of having carnal knowledge with his own daughter, then below eighteen (18) years of age, hence, a minor. His crime is punishable by death.

As to the civil indemnification awarded to the victim, the trial court erred in ordering the accused to pay P50,000.00 for each count of rape, or a total of P100,000.00. We have ruled that if rape is committed or effectively qualified by any of the circumstances under which the death penalty is authorized by the applicable amendatory law,[23] the indemnity for the victim shall be in the increased amount of not less than P75,000.00.[24]

Civil indemnity is different from the award of moral damages.[25] Undoubtedly, rape victims suffer mental anguish, fright, serious anxiety, besmirched reputation, wounded feelings, moral shock, social humiliation and other emotional injuries that entitle them to moral damages,[26] more so if, as in this case, the offender is the father. Thus, in *People vs. Prades*, this Court also resolved to grant moral damages to rape victims, in such amount as the Court deems just, without the necessity for pleading or proof of the basis thereof.[27] The conventional requirement of *allegata et probata* in civil procedure is dispensed with in criminal prosecutions for rape as no appropriate pleadings are filed wherein such allegations can be made. In rape cases, proof of mental and physical suffering provided under Article 2217 of the Civil Code can be dispensed with because it is recognized that the victim's injury is concomitant with and necessarily results from the odious crime of rape to warrant per se the award of moral damages.[28] Thus, in the case at bar, the accused is liable to the victim for the amount of

P75,000.00 as civil indemnity and P50,000.00 as moral damages for each count of rape.

In sum, we find no reason to overturn accused's conviction as his guilt has been established beyond reasonable doubt. His conviction and the penalty imposed on him, subject to the modification discussed above, must be affirmed.

Four (4) members of this Court maintain their position that Republic Act No. 7659 is unconstitutional insofar as it prescribes the death penalty. Nonetheless, they submit to the ruling of the majority of the Court, i.e., that the law is constitutional and the death penalty should be imposed in the case at bar.

IN VIEW WHEREOF, the judgment of the Regional Trial Court of Morong, Rizal (Branch 79), in Criminal Case Nos. 2355-M and 2356-M, imposing the death penalty on accused ABUNDIO MANGILA y PAREÑO is **AFFIRMED**, with the modification that the accused is ordered to pay the victim the sum of P150,000.00 as civil indemnity and P100,000.00 as moral damages for the two (2) counts of rape.

Let the records of this case be forwarded to the Office of the President upon finality of this decision for possible exercise of executive clemency in accordance with Section 25 of Republic Act No. 7659, amending Article 83 of the Revised Penal Code.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Panganiban, Quisumbing, Purisima, Pardo, Buena, Gonzaga-Reyes, Ynares-Santiago, and De Leon, Jr., JJ., concur.

[1] Rollo, p. 2.

[2] Ibid., p. 1.

[3] Original Records of Criminal Case No. 2355-M, p. 20.

[4] TSN, March 13, 1996, pp. 3-7.

[5] Ibid., pp. 7-10.

[6] TSN, March 13, 1996, pp. 10-11.

[7] TSN, June 26, 1996, pp. 2-5.

[8] Exhibit "A", Original Records, p. 5.

[9] TSN, November 27, 1996, pp. 4-6.

[10] Ibid., pp. 6-8.

[11] Ibid., pp. 4-5.

[12] Ibid., pp. 8-9.

[13] Decision, dated February 21, 1997, penned by Judge Alejandro A. Marquez, Regional Trial Court of Morong, Rizal, Branch 79; Rollo, pp. 45-49.

[14] *People vs. Dayot*, 187 SCRA 637 (1990); *People vs. Camay*, 152 SCRA 401 (1987).

[15] Penned by Associate Justice Florenz D. Regalado (now retired); 251 SCRA 136, 145-146 (1995).

[16] Article 335 of the Revised Penal Code, as amended by R.A. 7659, provides that the penalty of death shall be imposed 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.

[17] Article 63 of the Revised Penal Code.

[18] 271 SCRA 633 (1997).

[19] TSN, March 13, 1996, pp. 4-10.

[20] TSN, March 13, 1996, pp. 4-10.

[21] *People vs. Escala*, 292 SCRA 48 (1998).

[22] Decision, dated February 21, 1997, p. 4.

[23] Article 335 as amended by R.A. 7659 and RA 8353 provides: "x x x The death penalty shall also be imposed if the crime of rape is committed with any of the following aggravating/qualifying 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 or any law enforcement or penal institution;

"3. When the rape is committed in full view of the spouse, parent, any of the children or other relatives within the third civil degree of consanguinity;

"4. When the victim is a religious engaged in legitimate religious vocation or calling and is personally known to be such by the offender before or at the time of the commission of the crime;

"5. When the victim is a child below seven (7) years old;

"6. When the offender knows that he is afflicted with Human Immuno-Deficiency Virus (HIV)/Acquired Immune Deficiency Syndrome (AIDS) or any other sexually transmissible disease and the virus or disease is transmitted to the victim;

"7. When committed by any member of the Armed Forces of the Philippines or para-military units thereof of the Philippine National Police or any law enforcement agency or penal institution, when the offender took advantage of his position to facilitate the commission of the crime.

"8. When by reason or on the occasion of the rape, the victim has suffered permanent physical mutilation or disability;

"9. When the offender knew of the pregnancy of the offended party at the time of the commission of the crime; and

"10. When the offender knew of the mental disability, emotional disorder and/or physical handicap of the offended party at the time of the commission of the crime."

[24] *People vs. Victor*, 292 SCRA 186 (1998); *People vs. Prades*, 293 SCRA 411 (1998); *People vs. Pagupat*, 293 SCRA 513 (1998).

[25] *People vs. Silvano*, G.R. No. 127356, June 29, 1999.

[26] Article 2217 of the Civil Code of the Philippines.

[27] 293 SCRA 411 (1998).

[28] People vs. Perez, G.R. No. 122764, September 24, 1998.

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