

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. HENRY QUEIGAN, ACCUSED-APPELLANT.

G.R. Nos. 133586-603. February 19, 2001

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

Rape is a nauseating crime deserving 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. The act becomes doubly repulsive where the outrage is perpetrated on one's own flesh and blood for the culprit is reduced to a level lower than an animal. The latter yields only to biological impulses, unfettered by social inhibitions when it mates with its own kin, but the man who rapes his own daughter violates not only her purity and her trust but also the mores of his society which he has scornfully defied. By inflicting his animal greed on her in a disgusting coercion of incestuous lust, he forfeits all respect as a human being and is justly spurned, not least of all by the fruit of his own loins whose progeny he has forever stained with his shameful and shameless lechery.[1]

For ravishing his daughter who was barely in her teens on June 30, July 2, July 3, July 4, July 6, July 8, July 10, July 11, July 14, July 19, July 20, July 21, July 22, July 30, August 5, August 6, August 7, August 14, August 15, August 18, August 21, August 24, and August 25, all in 1996, Henry Queigan was charged with Rape in twenty-three (23) informations similarly worded except for the date of the commission of the crime. The indictments similarly aver -

That on or about the 30th day of June 1996 in the Municipality of Tanay, Province of Rizal, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, while taking advantage of his superior strength and moral authority over Angela Queigan y Ortega, a thirteen (13) year old girl, did then and there willfully, unlawfully and feloniously engage in sexual intercourse with her against her will and without her consent.

CONTRARY TO LAW.

Upon arraignment on February 18, 1997, accused assisted by counsel pleaded not guilty to the charges. Pre-trial having been waived, trial on the merits ensued. The twenty-three (23) cases were consolidated and tried jointly.

After trial, the court a quo found the accused guilty beyond reasonable doubt of Rape on nineteen (19) counts and sentenced him thus:

The prosecution having established the guilt of the accused beyond reasonable doubt in these cases, accused Henry Queigan is hereby sentenced to suffer the extreme penalty of DEATH in each of the following cases: Criminal Case Nos. 2613-M, 2614-M, 2615-M, 2616-M, 2617-M, 2618-M, 2619-M, 2620-M, 2621-M, 2623-M, 2624-M, 2626-M, 2627-M, 2628-M, 2629-M, 2631-M, 2632-M, 2633-M and 2634-M and to indemnify the victim Angela Queigan the total amount of NINE HUNDRED FIFTY THOUSAND (P950,000.00) PESOS.

Regarding Criminal Case Nos. 2612-M, 2622-M, 2625-M and 2630-M, these cases are hereby ordered dismissed for want of evidence on the part of the prosecution.

SO ORDERED.

In his brief, accused-appellant seeks the reversal of his conviction alleging that -

- THE COURT A QUO GRAVELY ERRED IN CONVICTING THE ACCUSED TO DEATH WHEN HIS GUILT HAS NOT BEEN PROVED BEYOND REASONABLE DOUBT.
- THE LOWER COURT ERRED IN COMPLETELY DISREGARDING THE TESTIMONIES OF THE WITNESSES FOR THE ACCUSED PROVING THE INNOCENCE OF THE LATTER.
- THE ACCUSED WAS DENIED THE RIGHT TO DUE PROCESS.

The prosecution's version of the incident is summarized thus in the People's brief:

Complainant Angela Queigan was born on August 11, 1983. She was the oldest among the seven (7) children of appellant Henry Queigan and Josephine Queigan. Her mother, Josephine, died while giving birth to the seventh child on June 18, 1996.[2]

In the evening of June 30, 1996, just a few days after appellant's wife was buried and while in their house, appellant caressed complainant's body, touching her breasts and private part. At first, Angela did not mind it, but as it went on, she got afraid, cried and shoved her father away. The latter stopped.[3]

Appellant and complainant used to sleep with the latter's younger brothers and sisters between them. On the night of July 2, 1996, at around 11:00 p.m., complainant was surprised when appellant lied (sic) beside her. Appellant then removed her shorts. She struggled from him but the latter held her tightly and embraced her. Appellant inserted his penis slowly into her private organ. She felt pain as if her private organ was being torn ("parang pinupunit"). She pleaded for him to stop but the latter did not accede to her plea. He stayed on top of her for almost an hour, after which she felt something came (sic) out of appellant's private organ which was secreted on her abdomen. After that, she asked appellant why he did it to her. He answered that it was better that "he be the one, because they were of the same blood." [4]

The incident was repeated on the night of July 3, 1996. While Angela was already sleeping in their house, she was awakened when appellant lied (sic) beside her. The latter started touching her thighs, her breasts and private part for about two (2) minutes, then removed her shorts. He lied (sic) on top of her and raped her. While on top, he told her she was beautiful and loved her not as a daughter but as a wife.[5]

The same thing happened on the night of July 5, 1996, between 11:00 p.m. and 12:00 m.n. Appellant, who had been resting, changed position and lied (sic) beside complainant. He removed her panty and inserted his penis into her private organ. She pleaded [for] him to stop and told him to look for another girl. Appellant, however, told her that she could better replace her mother. She struggled to get away from him but the latter was stronger than her. After the sexual intercourse, she felt very weak.[6]

Appellant did the same thing to complainant on July 6, 1996. The latter resisted by uttering bad words towards appellant, but he still succeeded in having sexual intercourse with her. Complainant did not tell anybody about the incidents for fear nobody would believe her.[7]

On the night of July 8, 1996, appellant again removed complainant's panty and inserted his penis into her private part. She could not resist anymore because her body was already weak. While having sexual intercourse with her, appellant told her that before her mother died, the latter told him that she (complainant) would take her place in taking care of the children as his wife.[8]

On July 9, 1996, appellant raped complainant again. She tried to fight him and pleaded with him to leave her

and look for another person. Appellant did not listen to her. While on top of her, appellant ordered her to embrace him and to hold his organ. Complainant refused to do so. When asked why she did not follow him, she told him she was "nandidiri".[9]

Again on the nights of July 10 and 11, 1996, appellant transferred to complainant's side, removed her panty and inserted his penis into her private part. Complainant kicked and pushed him but she failed to stop her father from having sexual intercourse with her.[10]

Appellant repeated the sexual attacks against complainant on the nights of July 14, 19, 21, 22, 23 and 30, 1996. On July 14, complainant struggled from appellant by boxing him and uttering bad words, but the latter prevailed and succeeded in having sexual intercourse with her. On July 19, complainant was awakened when appellant lied (sic) beside her. She told him to go away but the latter said that he would not do anything on (sic) her. Yet, he removed her shorts lied (sic) on top of her and inserted his penis into her vagina. While on top of complainant, appellant hinted that the two of them live as husband and wife; she spurned him and told him that she was not his wife.[11] The same things happened on July 21, 22, 23 and 30, 1996. On the latter date, appellant told her that she was very beautiful and that she was very much like her mother, then he raped her. Complainant pulled his hair, pushed him away and told him that she was "nandidiri", that she could not bear it anymore and that her studies was already being affected. Appellant nevertheless went on to satisfy his bestial desire.[12]

Complainant was not spared from appellant's brutish sexual assaults on the nights of August 5, 6 and 7, 1996. After the August 7 incident, complainant talked to her father and told him that what he was doing to her had already affected not only her body and mind, but also her studies. Nonetheless, on August 14, 1996, appellant succeeded in again raping her. He told her not to resist anymore because he was just practicing her so that when she gets married, she would know what to do.[13]

On August 18, 21, 24 and 25, 1996, at around 11:00 p.m., the incestuous rape was repeated. It only stopped after the August 25 incident when the family transferred residence to Barrio Manggahan, Tanay, Rizal where there were plenty of houses.

It was on September 27, 1996 that complainant got the courage to confide to a certain Oscar Mitra what had happened to her. Mitra brought her to Barangay Sto. Nino where complainant met a barangay tanod. She narrated to the barangay tanod what her father had done to her. Then the Barangay Captain brought her to the Social Welfare Administration.

Complainant was presented to the PNP Crime Laboratory for physical examination. Dr. Emmanuel Reyes, the medico legal officer, found that her labia majora was full, convex and gaping, with shallow healed laceration[s] on her hymen at 3:00 o'clock and 9:00 o'clock positions; her vaginal canal was wide and the external vaginal orifice offered slight resistance when the examining finger was inserted. Dr. Reyes testified that the hymenal laceration could have been caused by the introduction of [a] hard, blunt object such as an erected (sic) penis.[14]

A contrasting picture of what transpired is painted by the evidence for the defense as summed in the appellant's brief:

Accused Henry Queigan who testified on April 8, 1997 alleged that on June 18, 1996, two men arrived at the Mystical Cave at Sitio Pinagminahan, Antipolo, Rizal which is owned by Inday Nelly Deles where he worked as a carpenter and "hilot". The two men informed him that his wife would be giving birth. From Antipolo they proceeded to the house of Barangay Captain Abalos located at Tanay, Rizal where he was informed that his wife was already dead. The following morning, he returned to his house in Sitio Manggahan, Brgy. Laiban, Tanay, Rizal with the two men who were instructed to assist him at the burial of his wife. After the funeral he stayed with his children in his house.

On June 29, 1996 he was fetched by Engr. Gabon to repair cabinets and sink[s] at his house in Makati. He returned on July 8, 1996 to his family living in Tanay, Rizal and arrived at 8:00 o'clock in the evening, he slept inside his house with Ninang Jovy. At around 7:00 o'clock in the morning, he went back to his work at Barangay Pinagminahan, Mystical Cave, Antipolo, Rizal. Since he is a stay-in worker in Antipolo, he returned to his family on the 15th and 30th of each month to bring food and money. During the days that he was not with his children, Ninang Belen who lived near their house accompanied his children and slept with them every night. In return, he gave her a little amount of money. Whenever he went home, he talked to his Ninang Belen about his children. Ninang Belen confided to him about a problem with his eldest daughter Angela, who was fourteen years old then. She reported to him that a certain Oscar Mitra used to fetch Angela from school and sometimes slept in their house. When confronted if she had an affair with Oscar Mitra, Angela got angry. She stayed in Antipolo, Rizal until the latter part of August, 1996.

On September 22, 1996, he returned to his house in Barangay Manggahan, Tanay, Rizal. A certain Eufemia told him that his daughter was kidnapped by Oscar Mitra. The kidnapping was reported by him to Barangay Captain Abalos who told him that he would act immediately but was advised to go home because one of his children was sick. In the evening of September 22, 1996, the parents of Oscar Mitra with Barangay Captain Abalos went to his house and pleaded to settle the problem between his daughter and Oscar Mitra, but he refused. On the instruction of Barangay Captain Abalos, he went to the police station in Tanay, Rizal and reported what happened to his daughter. It was only 2:00 o'clock in the morning and the police told him that there was no available police who would accompany him. Instead of waiting at the police station, he decided to go to Tanay market to buy food for his children. Upon returning to the police station, a policeman poked a gun at his head and told him that he was Oscar Mitra who was reported by a father to have raped his daughter. He was mauled and incarcerated. He was not investigated by the police. Neither was an investigation conducted either by the Fiscal or by a Judge from the time of his arrest. He was jailed and had not talked to his daughter Angela.

Corroborating his testimony, witness Belen Masarate testified that she is a resident of Sitio Manggahan, Brgy. Laiban, Tanay, Rizal whose house is about half a kilometer from the house of accused Henry Queigan. On June 18, 1996 after the death of the wife of the accused, she was requested by the latter to live with them to look after his children, 3 girls and 4 boys. Whenever he worked in Antipolo, Rizal as "manghihilot", she agreed with him and live[d] at the house of the accused every night from June 30, July 2, 3, 5, 6, 8, 9, 10, 11, 14, 19, 20, 21, 23, 30, August 5, 6, 7, 14, 18, 21, 24 and 25, 1996. She slept with accused's eldest daughter Angela and her sisters in a room at the second floor of the house. When the accused arrived on the 15th and 30th of July and August 1996, he slept with the boys at the first floor of the house. All the days she was in the house of the accused she learned that Oscar Mitra who lived in the same barangay was Angela's boyfriend. She often saw the two holding hands and sometimes Oscar Mitra slept with Angela at the accused's house. She advised the accused to stop Angela's affair with Oscar Mitra.

Josephine Natal testified that she is residing at Sitio Pinagminahan, Barangay San Luis, Antipolo, Rizal. Accused Henry Queigan is an employee of her mother-in-law Inday Nelly Deles who is also residing at Sitio Pinagminahan, San Luis, Antipolo, Rizal. Henry Queigan worked as a carpenter, "hilot" and quack doctor for her and [is] a stay-in worker in their house. He went to his family at Sitio Manggahan, Barangay Laiban, Tanay, Rizal every 15th and 30th of the month. She was the one who delivered to the accused the latter's salary every 15th and 30th of the month. Accused used to stay in the house near her house. Accused goes to her house only to watch T.V. or play cards. It was in a newspaper where she learned about accused's incarceration concerning the rape of his daughter.

Witness Inday Nelly Deles corroborated the testimonies of the defense witness except for the fact that according to her, she gave the accused P10,000.00 and instructed one of her helpers to secure the funeral service. After the burial of the wife of the accused, he went back to his work in Antipolo, Rizal. It was only after September 14, 1996 when she failed to return back to his work in Antipolo, Rizal.

The Court has said time and again that in reviewing rape cases, it will be guided by the settled realities that an accusation for rape can be made with facility. While the commission of the crime may not be easy to prove, it becomes even more difficult for the person accused, although innocent, to disprove that he did not commit the crime. In view of the intrinsic nature of the crime of rape where only two persons are normally involved, the testimony of the complainant must always be scrutinized with great caution.[15] Thus, in a prosecution for rape, the complainant's credibility becomes the single most important issue.[16]

Accused-appellant basically seeks to discredit the testimony of the victim. This Court has, however, remained steadfast to the rule that the trial court's assessment of the credibility of complainant's testimony is entitled to great weight, absent any showing that some facts were overlooked which, if considered, would affect the outcome of the case.[17] Guided by the foregoing principles, the Court has meticulously scrutinized the testimony of complaining witness Angela Queigan and ultimately reached the conclusion that the acts charged did in fact occur. Thirteen-year old Angela's testimony on the acts of rape perpetrated against her by her father is clear and could have only been narrated by a victim subjected to such sexual assaults. Indeed, the enormity of accused-appellant's bestiality is graphically detailed in the following sickening account of the victim:

Q Now what happened on July 2, 1996?

A

During the night of July 2, 1996 this is what happened. I was surprised when my father lied (sic) beside me.

Q What was your reaction when your father lied (sic) beside you?

A I became afraid, sir.

x x x x x x x x

Q Now, what did your father do to you when he lied (sic) next to you?

A He removed my shorts, sir.

Q Then what was your reaction while your father was removing your shorts?

A I thought I was only dreaming but it's true.

Q Now, did you make any attempts to resist the advances of your father?

A Yes, sir.

Q What did you do?

A I fought my father by struggling.

Q And what did your father do to prevent you from further struggling from him?

A He held me tightly and embraced me. That's why I cannot move.

Q After embracing you tightly, what did your father do?

A After that he raped me.

Q And what action did he do in raping you?

A He inserted his penis slowly into my private organ.

Q Now, what did you feel while your father was inserting his penis to your private organ?

A My feeling was as if my private organ was being torn (parang pinupunit).

Q

Now, while your father was inserting his penis to your private organ, did you make a plea for him to stop from his action?

A I pleaded for him to stop because it is painful and that nakakadiri, sir.

Q Did your father accede to your request?

A No, sir.

Q

And how long did your father remain on your top?

A Almost an hour, sir.

Q Now, did you feel if something was secreted from the organ of your father?

A Yes, sir, I felt something came out of my father's organ.

Q Where was he secreted?

A My father did not leave it in my organ but outside.

Q Where exactly?

A In my stomach, sir.

Q

And after that, what did your father say to you if any?

A I asked him why he did that to me.

Q And what was the answer of your father?

A He told me that it's better that I will be the one because we're of the same blood rather than the other.

Q And was that incident repeated?

A Yes, sir.

Q How many days after the incident?

A July 3, sir.

Q At what time?

A 11:00 p.m., sir.

x x x x x x x x

Q What was the first thing he did to you that evening?

A He first caressed me.

Q What did he touch?

A Starting from my thigh going upward until it reaches my breast, sir.

Q

Now, when he was touching your thigh and then your breast, what was (sic) you wearing at that time?

A Walking shorts and blouse, sir.

Q How long did he touch your breast and other parts of your body?

A Lasted for two (2) minutes, sir.

Q And after caressing your body, what was the next thing that he do?

A After caressing my thigh and breast, he caressed my private organ before he raped me.

Q Now, while your father was caressing your private organ, were you still wearing your shorts?

A Yes, sir.

Q And after caressing your private organ, what did he do?

A He again raped me, sir.

Q Before raping you, did your father remove your shorts?

A Yes, sir.

Q Now, what was your reaction when your father started to remove your shorts?

A

I felt afraid for what he's going to do to me and then he rolled down my shorts and lied (sic) on top of me.

Q

Did you say anything to your father while he was removing your shorts and while he was on your top?

A I was so afraid that time that I did not say anything.

Q How about your father, did he say anything to you while he was removing your shorts?

A None, sir.

Q Now, while he was on your top, did he say anything to you?

A He told me I am beautiful and that he loved me not as a daughter but as a wife.

x x x x x x x x

Q When was the next time that your father raped you?

A July 5, sir.

Q What time of the day did that incident happen?

A 11:00 to 12:00 p.m., sir.

Q And where did this happen?

A Also in our house, sir.

Q What were you doing when the incident happened?

A I was already resting.

Q And how about your father?

A He was also resting.

Q While you and your father were resting on July 5, 1996 at around 11:00 p.m., what happened?

A

While we two were resting what my father did was he changed his position and lied (sic) beside me and then he removed my panty, inserted his private organ into mine, sir.

Q Did you enjoy what your father was doing at that time?

A No, sir.

Q Did you plead with him to stop what he is doing to you?

A Yes, sir.

Q And what was the reaction of your father?

A I told him to look for another girl and he told me that it is better that it is me that will replace my mother.

x x x x x x x x

Q Did you cry after your father have (sic) sexual intercourse with you?

A

Yes, sir.

Q Were you angry at your father after he violated you again on July 5, 1996?

A

Yes, sir.

Q Now, when was the next time that your father have (sic) sexual intercourse with you?

A July 6, sir.

x x x x x x x x

Q Now, what did your father do to you on July 6, 1996?

A

The same thing he did previously. He lied (sic) by my side, removed my panty and then inserted his private organ into mine.

Q Did you enjoy this action of your father?

A No, sir.

x x x x x x x x

Q Now, were there any again previous sexual as hold (sic) was made on you (sic) by your father?

A July 8, 1996.

x x x x x x x x

Q And will you tell us what your father did to you on July 8, 1996?

A He again removed my panty and inserted his organ into mine.

Q Did you make [any] struggle during this incident?

A I cannot resist anymore because my body was already weak.

Q Why are you weak at that time?

A Because of fear and I lost hope.

Q Did your father say anything to you while he was having sexual intercourse with you?

A

Everytime he raped me, he will tell me that before my mother died she told him that I will take her place in taking care of my brothers and sisters and also as the wife.

x x x x x x x x

Q Now, when was the next rape that took place?

A

July 9, sir.

x x x x x x x x

Q Now, what did your father do to you in the evening of July 9, 1996.

A He again removed my panty and have (sic) sexual intercourse with me.

Q Did you enjoy the incident?

A No, sir.

Q What did you do if any to prevent your father from having sexual intercourse with you again?

A I insisted that he look for another and to leave me.

x x x x x x x x

Q What was the reaction of your father when you refused his command to embrace him and to hold his organ?

A

He asked why I did not follow his instructions and I told him I was nadidiri and I am not his wife.

Q Now, when did the next rape take place?

A July 10 and 11, 1996, sir.[18]

The victim's revolting ordeal at the hands of accused-appellant was repeated on July 14, 19, 20, 21, 22, 23, 1996.[19] While ravishing the victim on July 19, accused suggested that they live together as husband and wife but he was spurned.[20] In the July 21 incident, accused-appellant merely smiled at the crying entreaties of the victim even as he raped her yet again.[21] The victim was subjected by accused-appellant to the same bestial assaults on her virtue on August 5, 6 and 7, 1996. After the August 7 incident, complainant pleaded with

accused-appellant to stop what he was doing because it was already affecting not only her body but also her mind and her studies.[22] For a while, the sexual assaults stopped. It was, however, resumed on August 14, 18, 21, 24 and 25, 1996. In the August 14 incident, accused-appellant told the victim not to resist his advances anymore because he was "just practicing" her so that when she would get married she will know what to do.[23] Before raping the complainant on August 21, accused-appellant again suggested that he and the victim get married and live as husband and wife but was likewise refused by a thoroughly revolted complainant.[24] The sexual assaults only stopped after the August 25, 1996 incident when the family transferred their residence to Barrio Manggahan, Tanay, Rizal where there were many houses.[25]

Under rigorous cross-examination, private complainant remained steadfast and never wavered in her assertion that accused-appellant forced her to have sexual intercourse with him during the occasions alleged.[26] On review, the Court finds that her testimony bears the hallmarks of truth. It is consistent in all material points. The rule is that when a rape victim's testimony is straightforward and candid, unshaken by rigid cross-examination and unflawed by inconsistencies or contradictions in its material points, the same must be given full faith and credit.[27]

In discrediting the credibility of private complainant, accused-appellant first points out that the latter testified that the first rape lasted for about one (1) hour and the succeeding incidents of rape lasted for about half an hour. According to him, it is unbelievable that in any of those instances, not one among her younger brothers and sisters were roused from their slumber although they were sleeping just beside her.

This argument is neither novel nor persuasive.

It is common judicial experience that rapists are not deterred from committing their odious act by the presence of people nearby.[28] The possibility of rape is not negated by the presence of even the whole family of the accused inside the same room with the likelihood of being discovered. Indeed, in *People v. Fernando Watimar*,[29] the Court held that "for rape to be committed, it is not necessary for the place to be ideal or the weather to be fine for rapists bear no respect for locale and time when they carry out their evil deed.[30] Rape may be committed even when the rapist and the victim are not alone, or while the rapist's wife was asleep or even in a small room where other family members also slept, as in the instant case." [31] Truly -

. . . [t]he evil in man has no conscience. The beast in him bears no respect for time and place, driving him to commit rape anywhere - even in places where people congregate such as parks, along the road side, within school premises, and inside a house where there are other occupants.[32] Rape does not necessarily have to be committed in an isolated place and can in fact be committed in places which to many would appear to be unlikely and high-risk venues for sexual advances.[33] Indeed, no one would think that rape would happen in a public place like the comfort room of a movie house in broad daylight.[34]

Accused-appellant likewise accuses one Oscar Mitra as the defiler of complainant's chastity adverting to a Sworn Statement[35] which narrated the details of the sexual assault by Mitra against the complainant. He further alleged that the testimony of the Medico Legal Officer who examined the victim is consistent with the commission of the rapes narrated in the Sworn Statement.

Accused-appellant's claim can not overthrow the victim's positive identification of him as the defiler of her chastity. Indeed, the victim categorically declared on cross-examination that she had no boyfriend and had never been kissed or touched when she was abused by accused-appellant.[36] Thus, even if it were true that indeed Oscar Mitra may also have raped the victim, this incident will not extricate accused-appellant from his predicament because it does not detract from the fact, as borne out by overwhelming evidence on record, that he ravished the complainant.

Accused-appellant next cites the testimonies of defense witnesses Belen Masarate, Josephine Natal and Inday

Nelly Deles to prop up his defense of alibi. Masarate testified that from the time accused-appellant's wife died on June 18, 1996 up to August 25, 1996, she slept in appellant's house to accompany his children while he was away at work. On the other hand, Natal and Deles testified that appellant was a stay-in worker of Deles in Antipolo, Rizal and would go home to his family only during the 15th and 30th of the month.

The tenuousness of this defense has consistently been stressed time and again by the Court in a plethora of cases. This case is no different.

The defense witnesses' collective testimonies that accused-appellant could not have been at the locus criminis at the time of the commission of the offenses pale vis-à-vis the following testimony of June Queigan, a son of accused-appellant:

Q After your mother was buried (sic), where did your father sleep?

A Beside my Ate, sir.

Q When you said Ate, to whom are you referring to?

A Ate Angela, sir.

Q How long did your father sleep in your house?

A Long time, sir.

Q In short, every night your father sleep[s] in your house?

A Yes, sir.

Q How about morning and afternoon. What is your father doing?

A He used to weed, sir.

Q What was he weeding?

A Grasses, sir.

FISCAL:

Q Where was he making his weeding?

A At the halamanan, sir.

Q Do you know if your father was receiving compensation while doing that work?

A Yes, sir.

Q From whom was he receiving that compensation?

A From the one who asked him to weed, sir.

Q Were there many persons who asked your father to weed?

A Yes, sir.

Q How about you, while your father was weeding, do you accompany him?

A No, sir.

Q You were just staying in the house or you goes (sic) to school?

A I stays (sic) home, sir.

Q You were not studying at that time?

A Whenever he is not in our house, we don't go to school but when he is in our house, we go to school, sir.

Q Everytime you went there or you went home, your father is there in the house at night?

A Yes, sir.

Q How about Tiya Belen, do you know her?

A Yes, sir.

Q Was she staying in the house during the night after the death of your mother?

A No, sir.

Q She never slept in your house after the death of your mother?

A No, sir.[37]

Eleven-year old June Queigan steadfastly maintained on cross-examination that accused-appellant did not leave the family home after their mother's death and that Belen Masarate neither lived nor slept there despite persistent efforts of defense counsel to throw him off track:

Q After your mother died, do you know if your father leaved (sic) your house and worked?

A No, sir.

x x x x x x x x

Q After the death of your mother, does your father sleep in some other place?

A No, sir.

Q You want to impress [upon] the Court that your father do (sic) not even go to market at Tanay?

A He used to [go to] market at Manggahan, sir.

Q You stated that you know Aling Belen?

A Yes, sir.

Q Why do you know Aling Belen?

A After Aling Belen did the marketing for us, she used to weed the halamanan, sir.

Q This Aling Belen stayed in with your brothers and sisters in your house?

A No, sir.

ATTY. FANO:

Q Even after the death of your mother, she never lived there and slept there?

A No, sir.[38]

Needless to state, accused-appellant's defense of alibi crumbles in the face of the foregoing facts. The Court has consistently held that for alibi to prosper, it must be proven that during the commission of the crime, the accused

was in another place and that it was physically impossible for him to be at the locus criminis. Alibi and denial are inherently weak defenses and unless supported by clear and convincing evidence, the same cannot prevail over the positive declarations of the victim who, in a simple and straightforward manner, convincingly identified accused-appellant as the defiler of her chastity. Succinctly stated, the positive assertions of accused-appellant's daughter that he raped her is entitled to greater weight.[39] While denial and alibi are legitimate defenses in rape cases, bare assertions to this effect cannot overcome the categorical testimony of the victim.[40]

All told, we find no reason to reverse the ruling of the trial court. The acts of rape are rendered all the more heinous and reprehensible in this case inasmuch as the perpetrator is the father of the victim. In *People v. Lao*,[41] we condemned this kind of criminal thus:

Such a "father" deserves no place in society, and more especially in a country like the Philippines whose fundamental law considers the family as a basic autonomous social institution and the foundation of the nation recognizes the sanctity of family life and mandates the State to defend the right of children to special protection from all forms of neglect, abuse, cruelty, exploitation and other conditions prejudicial to their development.

Nevertheless, while accused-appellant's guilt was proved beyond reasonable doubt, the Court finds the imposition of the death penalty against him unwarranted. The Court has consistently declared that the circumstances under the amendatory provisions of R.A. No. 7659, Section 11, the attendance of which would mandate the imposition of the single indivisible penalty of death, are in the nature of qualifying circumstances. As such, they should be alleged in the information and proved at the trial. The pertinent provisions of Article 335 of the Revised Penal Code, as amended by R.A. No. 7659, state that:

The death penalty shall also be imposed if the crime of rape is committed with any of the following attendant circumstances:

- 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. x x x.

The trial court imposed the penalty of death after taking into consideration the age of Angela who was then thirteen (13) years old.[42] A reading of the accusatory portion of all the nineteen (19) charges against accused-appellant, however, reveals that while the qualifying circumstance of minority has been alleged therein, they contain no averment whatsoever on private complainant's relationship to the offender. The Revised Rules of Criminal Procedure, which took effect on December 1, 2000, now specifically require both qualifying and aggravating circumstances to be alleged in the information,[43] viz:

SEC. 8. Designation of the offense. - The complaint or information shall state the designation of the offense given by the statute, aver the acts or omissions constituting the offense, and specify its qualifying and aggravating circumstances. If there is no designation of the offense, reference shall be made to the section or subsection of the statute punishing it. (Emphasis and italics supplied)

SEC. 9. Cause of the accusation. - The acts or omissions complained of as constituting the offense and the qualifying and aggravating circumstances must be stated in ordinary and concise language and not necessarily in the language used in the statute but in terms sufficient to enable a person of common understanding to know what offense is being charged as well as its qualifying and aggravating circumstances and for the court to pronounce judgment. (Emphasis and italics supplied)

Given the circumstances of this case, the proper imposable penalty is reclusion perpetua. The failure to allege the relationship of the victim to the offender in the information bars accused-appellant's conviction for rape in its

qualified form which is punishable by death.[44] The requirement for complete allegations on the particulars of the indictment is based on the right of the accused to be fully informed of the nature of the charges against him so that he may adequately prepare for his defense pursuant to the due process clause of the Constitution.[45]

The Court notes that while the court a quo awarded indemnity ex delicto, which current jurisprudence has fixed at P50,000.00[46] for the offenses committed, no moral damages have been awarded. It must be stressed in this regard that civil indemnity is separate and distinct from the award of moral damages which is automatically granted in rape cases.[47] Pursuant to controlling case law, the award of P50,000.00 ex delicto is mandatory upon the finding of the fact of rape.[48] Moral damages in the amount of P50,000.00[49] are additionally awarded without need of pleading or proof of the basis thereof.[50] This is because it is recognized that the victim's injury is concomitant with and necessarily resulting from the odiousness of the crime to warrant per se the award of moral damages.[51]

The anguish and the pain a victim had to endure are evident.[52] The Court need not belabor the fact that the offended party in a rape case is victim many times over. In our culture which puts a premium on the virtue of purity or virginity, rape stigmatizes the victim more than the perpetrator.[53] Considering that the offender is the father of the victim, accused-appellant should likewise pay the victim exemplary damages,[54] which pursuant to controlling case law, has been fixed at P25,000.00.[55]

WHEREFORE, the judgment of the Regional Trial Court, finding accused-appellant guilty beyond reasonable doubt of the crime of rape, is AFFIRMED with the MODIFICATIONS that he is sentenced to suffer the penalty of Reclusion Perpetua in all Nineteen (19) counts of Rape and ordered to pay the offended party, in addition to the P950,000.00 awarded as indemnity ex delicto; P50,000.00 as moral damages and 25,000.00 as exemplary damages for each offense committed.

SO ORDERED.

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

[1] People v. Ramos, 165 SCRA 400 [1988].

[2] TSN, 4 March 1997, pp. 2-3.

[3] Ibid., pp. 3-4.

[4] Id., pp. 4-6.

[5] Id., pp. 6-8.

[6] Id., pp. 8-9.

[7] Id., pp. 9-10.

[8] Id., pp. 10-11.

[9] Id., pp. 11-12.

[10] Id., pp. 12-13.

[11] TSN, 5 March 1997, pp. 3-4.

[12] Ibid., pp. 4-7.

[13] *Id.*, pp. 8-9.

[14] TSN, 11 March 1997, pp. 2-5.

[15] *People v. Jimmy Mijano y Tamora*, 311 SCRA 81 [1999].

[16] *People v. Emil Babera y Rabanera*, G.R. No. 130609, 30 May 2000, citing *People v. Dacoba*, 289 SCRA 265 [1998] and *People v. Gagto*, 253 SCRA 455 [1996].

[17] *People v. Rolando Baybado*, G.R. No. 132136, 14 July 2000, citing *People v. Sabredo*, G.R. No. 126114, 11 May 2000.

[18] TSN, 4 March 1997, pp. 4-13.

[19] TSN, 5 March 1997, pp. 2-5.

[20] *Ibid.*, pp. 3-4.

[21] *Id.*, p. 5.

[22] *Id.*, p. 9.

[23] *Id.*

[24] *Id.*, p. 11.

[25] *Id.*, p. 12.

[26] TSN, 11 March 1997, pp. 7-12; 12 March 1997, pp. 2-7.

[27] *People v. Caratay*, 316 SCRA 251 [1999], citing *People v. Bonghanoy*, 308 SCRA 383 [1999], citing *People v. Perez*, 296 SCRA 17 [1998].

[28] *People v. Camilo Villanueva*, G.R. No. 135330, 31 August 2000; *People v. Joselito Baltazar*, G.R. No. 115990, 31 March 2000.

[29] G.R. Nos. 121651-52, 16 August 2000.

[30] *People v. Ildefonso Bayona*, G.R. Nos. 133343-44, 2 March 2000.

[31] *People v. Artech Antonio y Payagan*, G.R. No. 122473, 8 June 2000.

[32] *People v. Agbayani*, 284 SCRA 315 [1998].

[33] *People v. Wilson Mitra*, G.R. No. 130669, 27 March 2000; *People v. David Silvano y Hayag*, 309 SCRA 362 [1999].

[34] *People v. Vicente Balora y Delantar*, G.R. No. 124976, 31 May 2000.

[35] Exhibit A-1.

[36] TSN, 11 March 1997, p. 8.

[37] TSN, 12 November 1997, pp. 10-11; *italics supplied*.

[38] *Ibid.*, pp. 12-14; *italics supplied*.

[39] *People v. Romeo Arillas y Montoya*, G.R. No. 130593, 19 June 2000.

- [40] *People v. Elraine Martinez*, G.R. No. 130606, 15 February 2000, citing *People v. Masalihit*, 300 SCRA 147 [1998] and *People v. Taneo*, *supra*.
- [41] 249 SCRA 137 [1995], citing Article II, Section 12; Article XV, Section 1 and 3, Constitution.
- [42] RTC Decision, p. 18.
- [43] Revised Rules of Criminal Procedure, Rule 110.
- [44] *People v. Ponado*, 311 SCRA 529 [1999], citing *People v. Dimapilis*, 300 SCRA 279 [1998] and *People v. Median*, 300 SCRA 98 [1998].
- [45] *People v. Villanueva*, G.R. No. 135330, 31 August 2000.
- [46] *People v. De Guzman*, G.R. No. 124368, 8 June 2000; *People v. Salazar*, 258 SCRA 55 [1996]; *People v. Caballero*, 258 SCRA 541 [1996]; *People v. Abordo*, 258 SCRA 571 [1996]; *People v. Babera*, *supra*.
- [47] *People v. Decena*, G.R. No. 131843, 31 May 2000.
- [48] *People v. Maglente*, 306 SCRA 546 [1999]; *People v. Penaso*, *supra*.
- [49] *People v. Narido*, 316 SCRA 131 [1999].
- [50] *People v. Prades*, 293 SCRA 411 [1998]; *People v. Candelario*, 311 SCRA 475 [1999].
- [51] *People v. Tabanggay*, G.R. No. 130504, 29 June 2000.
- [52] *People v. Loriega*, G.R. Nos. 116009-10, 29 February 2000; *People v. Garces, Jr.*, G.R. No. 132368, 20 January 2000; *People v. Penaso*, *supra*.
- [53] *People v. Hofileña*, *supra*, citing *People v. Villamor*, 297 SCRA 262 [1998].
- [54] *People v. Arillas*, G.R. No. 130593, 19 June 2000.
- [55] *Ibid*.

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