

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JOSE PAJO Y BAGTONG AND IMELDA LIQUIGAN Y KASIBAYAN, ACCUSED-APPELLANTS.

G.R. Nos. 135109-13. December 18, 2000

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-nos-135109-13/>

PER CURIAM:

Jose Pajo y Bagtong was found guilty beyond reasonable doubt and convicted of three counts of rape and two counts of acts of lasciviousness in Criminal Cases Nos. 97-233, 97-664 to 97-667 while his co-accused, Imelda Liquigan y Kasibayan, was found guilty beyond reasonable doubt as an accomplice of the crime of rape in Criminal case No. 97-664 by the Regional Trial Court (RTC) of xxx. Due to the imposition of the death penalty in Criminal Cases Nos. 97-233, 97-664 and 97-665, the Decision[1] of the RTC dated July 6, 1998 imposing the death penalty therein is now before us on automatic review.

On February 21, 1997, an Information[2] for rape was filed against the accused Jose Pajo y Bagtong (PAJO) upon the complaint of his daughter, AAA[3] committed as follows:

"The undersigned Assistant Prosecutor upon prior sworn statement of AAA, a minor, assisted by her Aunt CCC, a copy of which is hereto attached as Annex "A", accuses JOSE PAJO y BAGTONG of the crime of Rape (Art. 335, R.P.C., in relation to R.A. 7610), committed as follows:

That on or about the 31st day of January 1997, in the City of XXX, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, being the father of said AAA, a 13 year old minor, by means of force, violence and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge with the said AAA, without her consent and against her will, to her damage and prejudice."

The case was docketed as Criminal Case No. 97-233. Upon arraignment, the accused with the assistance of counsel entered a plea of not guilty.[4] Thereafter, trial ensued.

During the pendency of the trial, four more informations were filed against PAJO upon the complaint of AAA and his other daughter, BBB, as follows:

In Criminal Case No. 97-664, PAJO together with his co-accused Imelda Liquigan y Kasibayan were charged, as principal and accomplice respectively, with the crime of rape committed against AAA as follows:

"The undersigned Assistant Prosecutor upon prior sworn statement of AAA, a minor, assisted by her Aunt CCC, a copy of which is hereto attached as Annex "A", accused JOSE PAJO Y BAGTONG as principal and IMELDA LIQUIGAN Y KASIBAYAN as accomplice, of the crime of Rape in relation to R.A. 7610, committed as follows:

That in or about during the month of August 1996, in the City of xxx, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, JOSE PAJO, being the father of said AAA, a 13 year old minor by means of force, violence and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge with the said AAA, without her consent and against her will while accused Imelda Liquigan cooperated in the said act, by holding her legs open, to facilitate the commission thereof by accused

Jose Pajo y Bagtong, to her damage and prejudice."

In Criminal Case No. 97-665, PAJO was charged with the crime of rape committed against AAA as follows:

"The undersigned Assistant Prosecutor upon prior sworn statement of AAA, a minor, assisted by her Aunt CCC, a copy of which is the crime of Rape (Art. 355, RPC in relation to R.A. 7610, committed as follows:

That on or about the 18th day of September 1996, in the City of xxx, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, being the father of said AAA, a 13 year old minor, by means of force, violence and intimidation did then and there willfully, unlawfully and feloniously have carnal knowledge with the said AAA, without her consent and against her will, to her damage and prejudice."

In Criminal Case No. 97-666, PAJO was charged with the crime of acts of lasciviousness committed against AAA as follows:

"The undersigned Assistant Prosecutor on the basis of the sworn statement of AAA, 12 years old, assisted by her CCC, a copy of which is hereto attached as Annex "A", accuses JOSE PAJO y BAGTONG of the crime of Acts of Lasciviousness, in relation to Sec. 5 (b), Article III, R.A. 7610, committed as follows:

That in or about the month of August 1996, in the City of xxx, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design, did then and there willfully, unlawfully and feloniously commits acts of lasciviousness upon one AAA, a 12 year old minor, by then and there ordering her to hold and suck his sex organ against her will and consent, to her damage and prejudice."

In Criminal case No. 97-667, PAJO was charged with the crime of acts of lasciviousness committed against AAA as follows:

"The undersigned Assistant Prosecutor on the basis of the sworn statement of AAA, 13 years old, assisted by her Aunt CCC, a copy of which is hereto attached as Annex "A", accuses JOSE PAJO y BAGTONG of the crime of Acts of Lasciviousness in relation to Sec. 5 (b), Article III, R.A. 7610, committed as follows:

That on or about the 15th day of November 1996, in the City of xxx, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design, did then and there willfully, unlawfully and feloniously commit acts of lasciviousness upon one AAA, a 13 year old minor, by then and there touching and holding her vagina, against her will and consent, to her damage and prejudice."

On June 4, 1997, both PAJO and his co-accused Imelda Liquigan y Kasibayan (LIQUIGAN) with the assistance of counsel pleaded not guilty to the crimes charged.[5]

Subsequently, on June 23, 1997, Judge Roberto C. Diokno ordered the consolidation of Criminal Cases Nos. 97-664, 97-665, 97-666, 97-667 with Criminal Case No. 97-233.[6]

The trial court stated the facts of the case viz:

"Accused JOSE is an ex-convict. He served a prison term for the crime of theft. Accused IMELDA is his live-in partner.

Complainants AAA and BBB are the minor children of JOSE with EEE. AAA is now 14 years old while BBB is 12. (Exhibits "I" and "J"). their natural mother left them when they were still very young.

Upon being released from prison, JOSE moved in with IMELDA at their present residence at xxx.

Subsequently, JOSE took back AAA and BBB from his brother who took care of them while he was in prison.

The family occupied the room at the 2nd floor of their house. The ground floor is rented out to some boarders. At night, JOSE and IMELDA, together with their two-year old baby would sleep together in bed while AAA

and BBB would sleep on the floor. At times, only a curtain would separate the bed from the floor where the sisters would be sleeping.

JOSE drinks a lot and is frequently drunk. He would usually drink two bottles of beer before going to bed.

On February 18, 1997, CCC had a chance to talk to BBB, her niece. BBB then confided to CCC how their father had been molesting her and her sister (AAA).

The following day, CCC and FFF, their youngest brother brought BBB and AAA to the barangay center. There, they related the ordeal of the two sisters. The Complaint Center, in turn, notified the Office of the Department of Social Welfare and Development (DSWD).

With DSWD Social Workers, the group of CCC proceeded to Police Precinct No.7 at xxx city and sought police assistance for the arrest of JOSE and IMELDA. The two suspects were arrested and their case referred to the Station Investigation Division of the xxx Police.

SPO1 Lilia Hogar and Police Inspector Angelita Alvarico of the Women's Desk Section, investigated the complaint. The written statements of AAA and BBB were taken (Exhibits "A" and "B"). thereafter, AAA was referred to the National Bureau of Investigation and PNP Crime Laboratory for examination (TSN, March 17, 1997).

On February 20, 1997, the Final Investigation Report was issued by SPOI Lilia Hogar with the recommendation that the complaint of AAA and BBB be referred to the City Prosecutor for proper disposition (Exhibit "C").

After inquest, the preliminary investigation, the xxx Prosecution Office filed with the Court three informations for Rape against JOSE (Criminal Case Nos. 97-233, 97-664 and 97-665) and 2 counts of Acts of Lasciviousness (Criminal Case Nos. 97-666 and 97-667). IMELDA was indicted as an accomplice in the charge for rape in Criminal Case No.97-664.

AAA narrated in court how she and her younger sister BBB have been molested by their father on different occasions between August 1996 to January 1997. She testified that the first incident occurred in the night of August 18, 1996. They were all inside their common sleeping area. She was already fearful as her father was them again drunk.

JOSE and IMELDA were already without clothes and in bed when her father called her. She was ordered to undress and to climb in bed.

BBB has been ordered by JOSE to stand guard at their door.

Once in bed, JOSE told IMELDA to spread open AAA's legs. JOSE then called BBB to come near and to suck his penis so he could have an erection.

BBB obeyed her father's command. Thereupon, JOSE laid on top of AAA while IMELDA was holding her legs apart. AAA felt her lower abdomen moving up and down. She told her father that she was hurting already. But still, he did not withdraw his penis.

After a while, JOSE told IMELDA to lie down. JOSE then withdrew from AAA and went on top of IMELDA.

While JOSE and IMELDA were copulating, JOSE told AAA to suck IMELDA's breast.

The abominable scene finally stopped when they heard some noises outside.

AAA further testified that this incident was repeated on September 18, 1996. She was then watching a VHS tape at their uncle's place when her father told her to go upstairs to their room.

Inside their room, JOSE and IMELDA started to take off their clothes. JOSE ordered AAA to take off hers too. Her father was again drunk. He laid on top of her while IMELDA held her legs apart.

JOSE would even slap IMELDA whenever she fails to hold AAA's legs apart.

Again, the detestable incident ended with JOSE and IMELDA having sexual intercourse.

The father again molested AAA in November 1996. AAA though could not remember the exact date.

She testified that she woke up one night when she felt someone touching her most private part. She discovered her father beside her on the floor. She became upset. Her father withdrew her hand. Fortunately for AAA, her father desisted from pursuing his woeful intentions. JOSE climbed back to his bed and slept beside IMELDA.

According to AAA, the last incident happened on January 31, 1997 at about 12:00 o'clock in the evening. She was awoken (sic) by someone tapping her feet.

It was her father again. She was told to go the bathroom downstairs. She thought she would just be asked to fetch water. When she entered the bathroom, her father was already there and naked. She was told to remove her shorts and underwear. Her father was drunk again.

AAA was told to lean back on the wall and open her legs. Thereupon, JOSE proceeded to penetrate AAA. Then she felt pain, and deep inside her she wished her father would die so that her ordeal would stop.

Her father stopped when he heard their dog barking. He then instructed her daughter to bring a pail of water upstairs.

JOSE then woke up IMELDA and told her to prepare coffee. Thereafter, IMELDA told AAA to go back to sleep. AAA went to sleep with IMELDA massaging JOSE. (TSN, April 28, 1997, pp. 18-39; April 30, 1997, pp. 2-22; August 11, 1997, pp. 11-34; August 15, 1997, pp. 3-15).

BBB, the other victim, narrated too in Court how she and her sister were molested by her father and his live-in partner in August 1996. She was only 12 years old then.

They were all inside their one-room quarters. Her father was drunk. She was told to stand guard at their door by her father. later, she was called by her father to the bed and ordered to suck his penis so he could have an erection. AAA was already in bed and without clothes, and so was her father.

JOSE then laid on top of AAA while IMELDA was holding AAA's legs apart.

In the meantime, BBB was again told to stand guard at the door (TSN, August 18, 1997, pp. 2-33).

AAA and BBB are one in telling the Court that they are fearful of their father, especially when he is drunk. They were often beaten up by their father should they refuse or fail to obey his command or wishes. They strongly believe too that their father is on drugs.

Dr. Tomas Suguitan, the Medico-legal Officer from the PNP Crime laboratory, identified his report on the examination conducted on BBB (Exhibit "C"). He confirmed that the "subject is in non-virgin state physically" with "deep healed laceration at 6 o'clock and shallow healed lacerations at 3, 7 and 10 o'clock" in her fleshy-type hymen.

However, the prosecution failed to clarify what appears to be a contradictory report rendered by the NBI Medico-legal Division (Exh. "D") showing that subject's hymen is "intact and its orifice small (2.0 cm. in diameter) as to preclude complete penetration by an average sized adult male organ in full erection without producing genital injury". Further, in Exhibit "C", witness Suguitan found no external signs of application of any form of violence". While in Exhibit "D", "physical injuries were noted on the body of the subject at the time of examination", consisting of, - scar, brownish 0.8 x 0.3 cm., left temple area; scars brownish, two (2) in

number, one is 1.0 x 0.3 cm., the other 1.0 x 0.4 cm. left leg, upper 3rd, anterior aspect, and scar, reddish, 4.0 x 6.0 cms. right gluteal area.

Prosecution witnesses CCC and SPO1 lilia Hogar testified too in court. CCC narrated how she discovered the sexual abuse committed by her brother JOSE and IMELDA on her nieces (TSN, March 17, 1997, pp. 2-17).

SPO1 Hogar testified on the investigation conducted by the Criminal Investigation Division of the XXX Police Station on the complaint lodged by the victims (TSN, April 23, 1997, pp. 2-19).

Accused JOSE AND IMELDA denied the imputations against them. They advanced the following reasons as possible motive for the false accusations, to wit -

a) He (JOSE) chastised AAA and BBB for "stealing" P2,000.00 in school;

b) His brother and sister are interested in having possession of their house; and

c) His brother and sister are envious of his work entitled "Destiny Philippines 2000" which he allegedly tried to have then President Fidel Ramos and Vice President Joseph Estrada be interested in."[7]

On July 6, 1998 the RTC rendered a decision finding both accused guilty beyond reasonable doubt of the crimes charged. The dispositive portion of the decision reads:

"WHEREFORE, the Court finds Jose Pajo y Bagtong and Imelda Liquigan y Kasibayan GUILTY beyond reasonable doubt of the offenses charged.

Accordingly, accused Jose Pajo y Bagtong is hereby sentenced to suffer the following penalties,

- DEATH for consummated rape as charged in Criminal Case No. 97-97-233;

- DEATH for consummated rape as charged in Criminal Case No. 97-664;

- DEATH for consummated rape as charged in Criminal Case No. 97-665;

- TEN (10) YEARS & ONE (1) DAY of prision mayor as minimum to SEVENTEEN (17) YEARS & FOUR (4) MONTHS of reclusion temporal as maximum for acts of lasciviousness as charged in Criminal Case No. 97-666; and

- TEN (10) YEARS & ONE (1) DAY of prision mayor as minimum to SEVENTEEN (17) YEARS & FOUR (4) MONTHS of reclusion temporal as maximum for acts lasciviousness as charged in Criminal Case No.97-667.

Accused Imelda Liquigan y Kasibayan is hereby sentenced to a prison term of TWELVE (12) YEARS & ONE (1) DAY to FOURTEEN (14) YEARS & EIGHT (8) MONTHS of reclusion temporal as an accomplice in the crime of rape as charged in Criminal Case No. 97-664.

Jose Pajo y Bagtong is ORDERED to INDEMNIFY complainants AAA Joy Pajo and BBB Joy Pajo in the amount of P50,000.00 each for each count of rape and acts of lasciviousness committed, and to pay the costs.

SO ORDERED."[8]

At the outset, we resolve to dismiss the appeals in Criminal Cases Nos. 97-666 and 97-667, wherein the RTC convicted PAJO of two counts of acts of lasciviousness and sentenced him to ten (10) years and one (1) day of prision mayor as minimum to seventeen (17) years and four (4) months of reclusion temporal as maximum for each count, considering that PAJO failed to file notices of appeal for said cases. Under Section 1 (b), Rule 122 of the Rules on Criminal Procedure, the appeal of a judgment rendered by the regional trial court in its original jurisdiction sentencing the accused to other than life imprisonment[9] or death must be taken to the Court of Appeals by the filing of a notice of appeal with the court which rendered the judgment or order appealed from,

and by serving a copy thereof on the adverse party.[10]

We likewise dismiss the appeal of PAJO's co-accused, LIQUIGAN, for the reason that she similarly failed to file a notice of appeal of the judgment convicting her as an accomplice to the crime of rape in Criminal case No. 97-664. The appeal to the Supreme Court in cases where the penalty imposed is life imprisonment[11] or where a lesser penalty is imposed but involving offenses committed on the same occasion or arising out of the same occurrence that gave rise to the more serious offense for which the penalty of death or life imprisonment is imposed shall be by filing a notice of appeal with the court which rendered the judgment or order appealed from, and by serving a copy thereof upon the adverse party.[12]

Inasmuch as both PAJO and LIQUIGAN have taken no appeal with respect to these cases, they became final and executory after the lapse of fifteen (15) days, the period for perfecting an appeal.[13] On the other hand, Criminal Cases Nos. 97-233, 97-664 and 97-665 are now before this Court on automatic review in view of the imposition of the death penalty. It is only in cases where the accused is sentenced to death when the appeal of the decision to the Supreme Court is automatic.[14] We thus limit our discussion to Criminal Cases Nos. 97-233, 97-664 and 97-665 where the death penalty was imposed on PAJO.

In his brief, PAJO assigns the following error allegedly committed by the RTC:

"THE LOWER COURT ERRED IN FINDING THE ACCUSED-APPELLANTS GUILTY OF THE CRIMES CHARGED, WITHOUT THEIR GUILT HAVING BEEN PROVED BEYOND A SHADOW OF A DOUBT." [15]

PAJO maintains that the prosecution failed to establish his guilt beyond reasonable doubt. In support of this claim, PAJO asserts that:

- In her testimony, AAA was uncertain as to whether or not her father penetrated her on August 18, 1996.
- He merely used his two daughters to arouse him in order for him to "trigger" his libido and "to put in action and activate his admitted onset of impotency" caused by his state of alcoholism in order to satisfy the passion of his live-in partner.
- It is unlikely that he committed the alleged rapes and acts of lasciviousness because they admittedly transpired inside their house and in the presence of all the other members of the family. There was no evidence on record to prove that PAJO was sick of some form of medical perversion or that showed him to be of such a detestable human nature.
- It is unbelievable that it took AAA exactly six (6) months and one (1) day or after being assaulted three times and only after her younger sister, BBB revealed the commission of the crime against her that she revealed the assaults committed against her by her father.
- AAA and BBB filed the cases against their own father due to the improper suggestions and desire for revenge of their aunt and uncle (the brother and sister of PAJO) who reared and took care of AAA and BBB.
- Had the cases been filed with the noblest intention of seeking justice, then it would have been for the best interest of the two children to include LIQUIGAN as co-principal in the alleged crimes of rape and not merely as an accomplice to the rape allegedly committed on August 18, 1996.
- There is an irreconcilable conflict between the findings of the physical examination conducted on AAA by the National Police Commission - Philippine National Police Crime Laboratory Group (PNP) and that conducted by the National Bureau of Investigation (NBI) contained in the two medical reports[16] submitted to the RTC. The report of the PNP showed that there was no external signs of application of any form of violence while in the NBI report, physical injuries were noted on the body of AAA at the time of her examination.

Further, the NBI report showed that the hymen of AAA was intact and its orifice small as to preclude complete penetration by an averaged sized adult male organ in full erection without producing genital injury.

Based on the foregoing arguments, PAJO prays for his acquittal for failure of the prosecution to prove his guilt beyond reasonable doubt.[17]

After a meticulous review of the case, we resolve to affirm the judgment of the RTC.

The prosecution convincingly established the commission of the three rapes by PAJO against AAA through her testimony wherein she identified the accused-appellant PAJO as her father and narrated the manner by which he thrice raped her sometime in August 1996, September 18, 1996 and January 31, 1997. AAA first testified in Criminal Case No. 97-233 to prove the rape committed on January 31, 1997 as follows:

"PUBLIC PROSECUTOR:

Could I request the assistance of Court Interpreter.

And do you know the accused Mr. Pajo in this case?

WITNESS:

Yes, Sir.

PUBLIC PROSECUTOR:

Why do you know him?

WTNESS:

Because he is my father, Sir.

PUBLIC PROSECUTOR:

Could you point your father, Mr. Pajo, if he is here in this court

INTERPRETER:

Witness, is pointing to a male person seated on the second row wearing a yellow T-shirt who response in the name of Jose Pajo.

PUBLIC PROSECUTOR:

Why did you file this complaint against your father?

WITNESS:

Because I don't want him to attack me more than 4 times, Sir.

PUBLIC PROSECUTOR:

Let's go to specific, on January 31, 1997 at 12:00 in the evening, could you recall, where were you?

WITNESS:

I was in the house sleeping, Sir.

PUBLIC PROSECUTOR:

Kindly tell the court where is your house located, street, number or city?

WITNESS:

xxx

PUBLIC PROSECUTOR:

Okay, while you were sleeping inside your house, at xxx, could you recall any unusual incident, occur?

WITNESS:

Yes, Sir.

PUBLIC PROSECUTOR:

Kindly, tell the court what was the unusual incident which occurred?

WITNESS:

My father arrived and he woke me up by tapping me on my feet and he whispered and told me to go down to the bathroom, so I went down to the bathroom thinking that he would ask me to fetch water and as I went inside the bathroom he was already naked.

PUBLIC PROSECUTOR:

What else happened after you went down to the bathroom and saw your father already naked?

WITNESS:

As he told me, he instructed me to remove my short and my panty, Sir.

PUBLIC PROSECUTOR:

Did you follow the order of your father to remove your panty and short?

WITNESS:

Yes, Sir.

PUBLIC PROSECUTOR:

Why did you follow the order of your father to remove your underwear?

WITNESS:

Because, I was afraid of him.

PUBLIC PROSECUTOR:

Why are you afraid of him?

WITNESS:

Because, whenever he is drunk, he spans us, he electrocutes us, he even tie cord around our neck, Sir.

PUBLIC PROSECUTOR:

This things that your father did to you, since when did it start to happen to you?

ATTY. OLIVA:

At this state, Your Honor, I would like to put strike off, the case being heard on January 3, 1997 was immediately.

COURT:

Answer may remain on record. It is part of the narration being made by the witness as to how all this things happen.

PUBLIC PROSECUTOR:

I would like to make it clear to counsel, that I am only doing this January 31, 1997 incident. However, the other incident could not be entouched specially the elements thereof, only this January 31, 1997 incident.

ATTY. OLIVA:

We submit, Your Honor.

WITNESS:

The first time, my father treated me harshly, when he frustrate me when I was sleeping he kept confitting (sic) me with the pillow on my face and then covering it.

PUBLIC PROSECUTOR:

Could you recall what was that incident, more or less the date and the year?

WITNESS:

Yes, Sir. August of 1996.

PUBLIC PROSECUTOR:

In what place did it occur?

WITNESS:

In the house, Sir of xxx City.

PUBLIC PROSECUTOR:

Likewise, a while ago, you mentioned or referred that on the word "PINAPARUSAHAN KAMI", to whom are you referring, aside from you?

WITNESS:

My sister and I, Sir, are the one being maltreated.

PUBLIC PROSECUTOR:

What is the name of your, sister?

WITNESS:

BBB Pajo, Sir.

PUBLIC PROSECUTOR:

How old is she?

WITNESS:

She is 12 years old, Sir.

PUBLIC PROSECUTOR

Aside from the sister of yours, do you have any brothers and sister?

WITNESS:

I have another brother who is in xxx, Sir .

PUBLIC PROSECUTOR:

Why is he in xxx?

WITNESS:

My aunties and my uncles told me that my mother left my father, because my father always hurt my mother.

PUBLIC PROSECUTOR:

Could you know more or less, when did your mother left your father?

WITNESS:

They told me that I was very young and small, Sir at that time when she left us.

PUBLIC PROSECUTOR:

AAA, this residence you mentioned at xxx, when this incident occurred, who are the persons staying the house?

WITNESS:

My CCC and my uncle GGG, Sir.

PUBLIC PROSECUTOR:

Let's go back to the incident on January 31, 1997, in the evening, kindly tell the court what happen (sic) after you followed the order of your father to remove your panty and short? What happened next, if any?

WITNESS:

When I took off my short and panty he told me to "SUMANDAL DAW PO AKO SA DINGDING" and he was trying to insert his penis, Sir.

PUBLIC PROSECUTOR:

While he was trying to insert his penis on your vagina, what did you do?

WITNESS:

I was in standing position and when I told him that It hurts, he does not want to remove it, Sir.

PUBLIC PROSECUTOR:

What was hurting you?

WITNESS:

In my vagina, Sir. There was an object going up and down.

PUBLIC PROSECUTOR:

What was this object going up and down inside your vagina?

WITNESS:

All I felt, Sir, it was very painful and there was something going up and down in my vagina.

PUBLIC PROSECUTOR:

Did the accused Mr. Pajo, was he able to insert his penis to your vagina?

WITNESS:

Yes, sir.

PUBLIC PROSECUTOR:

For how long, did he insert his penis to your vagina?

WITNESS:

I could not remember it, Sir.

PUBLIC PROSECUTOR:

What did you do during the time he was inserting his penis to your vagina?

WITNESS:

I kept silent. I was thinking and I kept it to my mind that I hope, he die to stop him from doing like this.

PUBLIC PROSECUTOR:

Madam Witness, could you stand up and could you demonstrate, what was your position inside the bathroom when accused fit you on the wall?

INTERPRETER:

Witness demonstrating leaning of the courtroom wall and mentioned that accused instructed her to open her legs.

PUBLIC PROSECUTOR:

How about your two hands, where was in position at the time when the accused was forcing you at the wall and insert his penis in your vagina?

WITNESS:

The accused instructed me to put my hands over his back.

PUBLIC PROSECUTOR:

Ms. Witness, after that, he was able to insert his penis to your vagina, what did he do?

WITNESS:

He heard our dog bark loudly and then he instructed me to get a pail of water, Sir."[18]

After the cases were ordered consolidated, AAA again testified on the two prior rapes committed against her by PAJO. The pertinent portions of AAA's testimony are quoted hereunder:

"Q: How many times were you raped by your father?

A: Three (3) times, Sir.

Q: Let's go to specific, when was the first time that your father raped or abused you?

A: The first incident did my father abuse me was on August.

Q: On what year, AAA?

A: 1996, Sir.

Q: In what place where you abused by your father?

A:

At xxx.

Q:

Could you recall more or less what was the time?

A: around 8:00 o'clock in the evening.

Q: Kindly narrate briefly what happened during the night of August 18, 1996 at your house?

A: Everybody at that time were in the house. And my father called me and he told me to remove my short and panty.

Q: You said, 'EVERYBODY', who were the persons in your house?

A:

My father, my mother, my sister BBB and my two (2) year old sister and myself, Sir.

Q: By the way, your referred to your Mama, what is the name of your Mama?

A: Imelda Liquigan, Sir.

Q: Is she inside the Courtroom?

A: Yes, Sir.

COURT INTERPRETER:

Witness is pointing to a female person seated on the second row wearing a yellow shirt and as mentioned by the witness-she is Imelda Laquigan.

PUBLIC PROSECUTOR:

Q: What's the name of your father?

A: Jose Bagtong Pajo, Sir.

A: Is he inside the Courtroom?

A: Yes, Sir.

COURT INTERPRETER:

Witness is pointing to a male person wearing a yellow shirt and seated on the second row and as mentioned by the witness- he is Jose Pajo.

PUBLIC PROSECUTOR:

Q: By the way, is Imelda is your natural mother?

A: No, Sir.

Q: Why do you call her Mama? Where is your natural mother?

A: She is in xxx, Sir. She got separated with my father, Sir.

Q: When was that?

A: When we were still small, Sir.

Q: When did Imelda come to your house?

A: I could not recall, Sir because we were not staying at that house when Mama Imelda arrived.

Q: Let's go back to the night of August 18, 1996 incident, when your father ordered you to undress, where was your father at that time? What portion of the house?

A: She was also at the bed, Sir.

Q: How about BBB, your sister, where was she at that time?

A: She was told by my father to watch the door, Sir.

Q: Did you follow the order of your father to undress?

A: Yes, Sir.

Q: What kind of dress were you wearing at that time?

A: I was just wearing T -Shirt, Sir.

Q: Did you remove our T-shirt at that time?

A: I removed my T-Shirt when I was about to lay down, Sir.

Q: How about your underwear, did you also remove your underwear?

A: Yes, Sir.

Q: Why did you follow the order of your father?

A: Because he was drunk at that time and I'm afraid to him whenever he is drunk, Sir.

Q: Why, What does he do to you when he is drunk?

A: Because when he is drunk he hits us on the heads, Sir.

Q: After undressing, you went to the bed with your father, what else happened after that?

A: My father told my Mama to spread my legs.

Q: Did, you are referring to Imelda, did Imelda indeed spread or open your legs as told by your father?

A: Yes, Sir.

Q: Imelda, your Mama and Jose Pajo were both lying at the bed at that time when he ordered you to open your legs or Imelda opened your two thighs.

A: Yes, Sir.

Q: AAA, what were did they wearing at that time Jose and Imelda?

A None, Sir.

Q: You mean all of them are already naked at that time?

A. Yes, Sir.

Q: How about you, when Imelda open your legs, you were also naked?

A: Yes, Sir.

Q: What else happened after Imelda open your legs at that time?

A: Before my father inserted his penis of my genital, my father called upon BBB my sister.

Q: Did BBB follow the order of your father?

A: Yes, Sir.

Q: What did your father ordered BBB to do if any at that time?

A: My father told my sister BBB 'come here and suck my penis I just want to know if you could give me an erection.

Q: Did BBB follow the order of your father?

A: Yes, Sir.

Q: After that what else happened?

A: After my sister suck my father's penis he inserted his penis to my vagina.

Q: What was your position at that time that your father inserted his penis to your vagina?

A: I was lying down on the bed while my Mama Imelda was holding my legs apart.

Q: How about your father, what was his position when he inserted his penis to your vagina when you are lying on the bed and your two legs were open by your Mama Imelda?

A: My father was lying on top of me while he was inserted (sic) his penis to my vagina.

Q: Was he able to insert his penis to your vagina?

A: I am not sure anymore, Sir, if he penetrated me. All I felt was my lower abdomen going up and down, Sir.

Q: While he was inserting his penis to your vagina, why did you not resist?

A: He kept on whispering that I may not be noisy or else something happen to me, Sir.

Q: Where was BBB at that time that your father inserted his penis to your vagina?

A: He told BBB to go back to that door.

Q: How long did your father inserted his penis in your vagina?

A:

I could no longer recalled how long it took but I told him that it already hurts and at that time he is still not remove yet his penis and after sometime he inserted his penis to Mama Imelda

Q: Where was Imelda at that time that your father inserted his penis in your vagina?

A:

At that time my Mama Imelda was behind my father while she was holding my legs apart and then my father told her to lye down and that is the time that his penis inserted to my Mama Imelda.

Q: After that, when your father went to Imelda and inserted his penis, what did you do?

A: He told me to suck the breast of my Mama Imelda.

Q: Did you suck the breast of your Mama Imelda?

A: No, Sir. I only touched her breast.

Q: You mean, AAA you touch the breast of Imelda by your lips?

A: Yes, Sir.

Q: How long?

A: I remove it whenever my father would tell me.

Q: After touching the breast of Imelda with your lips, what else happened?

A: Natigil po iyong pag-ano ng Papa ko dahil po sa ingay sa labas.

Q: Okay, let's go to another incident. After that night on August 18, 196 when the first rape by your father and Imelda assisting him, did this incident occurred?

A: Yes, Sir.

Q: When was that incident again occurred?

A: September, Sir.

Q: September, of what year or month?

A: 1996, Sir.

COURT:

September 1996.

A: Yes, Your Honor. September 18, 196 before I had my menstruation on the 23rd, Your Honor. It was September 18, 1996 the second incident.

COURT:

The second incident was September 18, 1996.

PUBLIC PROSECUTOR:

Kindly again narrate and tell the Court how were you abused by your father on September 18, 1996?

A: At that time my Mama Imelda and my father were upstairs and I and my two other sisters were watching VHS downstairs at my uncle's place, Sir.

Q: What time was that?

A: Evening, Sir.

Q: What time, give time?

A: Around 8:00 o'clock in the evening, Sir.

Q: Who were again the persons insider your house?

A: Me and my mother.

Q: And this two year old baby of Imelda was also inside your house?

A: Yes, Sir. She was with us.

Q: The three of you including the two year old girl and BBB were watching VHS inside your house?

A: We were watching VHS at my uncle's house, Sir.

Q:

Where is your uncle's house located?

A: -My father's house is a two storey house and my uncle's means at the ground floor.

Q: While you were watching VHS together with q your sisters, what else happened after that?

A: My father called me and told me to go upstairs.

Q: And did you follow the order to go upstairs?

A: Yes, Sir.

Q: What happened if anything when you went upstairs?

A: He told me to remove my panty and short, Sir.

Q: Where was your father at that time, what portion of the house?

A:

My father and my Mama Imelda were laid down on the bed.

Q: Where these two people wearing anything at that time?

A: They removed their clothes, Sir.

Q: How about you, did you remove your clothes as ordered by your father?

A: Yes, Sir.

Q: By the way, what were you wearing at that time?

A: Wala na po'.

Q: What did you remove?

A: Panty, short and T -Shirt.

Q: Why did you follow again the order of your father?

A: He was drunk.

Q: What he do to you when he was drunk?

A: He again told my Mama Imelda to open my legs, Sir.

Q: What else happened after that?

A: My father lay down on top of me and whenever my Mama Imelda wasn't spreading my legs my father slap Mama Imelda.

Q: That night of September 18, 1996, did Jose Pajo your father slap Imelda?

A: Yes, Sir.

Q:

At the time does Imelda was spreading your legs, what did you do?

A: I was just lying down on the bed, Sir.

Q: You did not try to resist?

A: I could not resist, Sir because I am very afraid at that time.

Q: After your father Jose Pajo slap Imelda what else happened after that?

A:

When my Mama Imelda the way she open my legs that is the time my father penetrated me and when I was hurting already my Mama Imelda laid down on top of me while my father was behind my Mama Imelda .

Q: What was your father doing to your Mama Imelda at that time in that position?

A: While my father's penis was inside Mama Imelda's vagina he was ordering me to also insert my fingers inside the vagina of Mama Imelda.

Q:

What else happened after that?

A: While my other hand was inside Mama Imelda's vagina, my other hand was holding the breast of her.

Q: What else happened after that?

A: 'May naramdaman po akong bumulwak sa ari nilang dalawa, kulay puti na mabaho'.

Q: What else happened after that?

A: They still didn't stop what they were doing, Sir. They only stop when the lights went off.

Q: AAA, after that September 18, 1996, incident, did this special abuse again happened to you?

A: It's a different thing, Sir.

Q: On what date or time?

A: November, Sir.

Q: Of what year?

A: The end of November, Sir.

Q: In what place did I occur?

A:

Still in our house, Sir.

Q: What was that incident?

A: I was sleeping at that time and my father laid beside me.

Q: What time did it happen?

A: Past 9:00 o'clock, Sir, almost 10:00.

Q: In the evening?

A: Yes, Sir.

Q: In what portion or place of the house?

A: Upstairs, Sir.

Q: In the bed of your father?

A: No, Sir on the floor.

Q: Who were the persons at that time?

A: My mama Imelda aNd my two year old sister were on the bed and I and my sister BBB were on the floor.

Q: What did your father do to you?

A: He held my vagina, Sir.

Q: What were you wearing at that time or did you wear at that time?

A: There was, Sir.

Q: What were you wearing at that time?

A: Panty, short and t-shirt.

Q: What were you doing at that time? before your father held your vagina?

A: I was sleeping, Sir.

Q: And, what did you do when you noticed that your father was holding our vagina.

A: I was upset, Sir.

Q:

What else happened after that?

A: May father off his hand and he went back beside Mama Imelda.

Q: What did your father do after that to Imelda?

A: They slept, Sir.

Q: After that November 5, 1996. did it occur again this sexual abuse?

A: January, Sir.

Q: January of what year?

A: 1997.

A: That was the incident which your earlier testified?

A: Yes, Sir.

PUBLIC PROSECUTOR:

For the record, Your Honor, she testified on that January 31, 1997.

COURT:

In that testimony, case number is?

PUBLIC PROSECUTOR:

97-233 accused Jose Pajo only, Your Honor."[19]

The testimony of AAA is corroborated fully by the testimony of her younger sister, BBB, who was also a victim of PAJO's sexual assault.[20]

The denial of PAJO cannot prevail over the categorical testimony of AAA and BBB that he raped the former. There was no showing that they were motivated to falsely implicate him in the commission of such a heinous crime and the absence of convincing evidence showing any improper motive on the part of the principal witnesses for the prosecution strongly tends to sustain the conclusion that no such improper motive exists, and that their testimonies are worthy of full faith and credit.[21]

Moreover, it is long settled by jurisprudence that the determination of the competence and credibility of a child to testify rests primarily with the trial judge who sees the witness, notices her manner, her apparent possession or lack of intelligence, as well as her understanding of the obligation of an oath.[22] The findings of the trial court on the credibility of witnesses and their testimonies are accorded great respect unless the court a quo overlooked substantial facts and circumstances, which if considered, would materially affect the result of the case.[23] The evaluation or assessment made by the trial court acquires greater significance in rape cases because from the nature of the offense, the only evidence that can oftentimes be offered to establish the guilt of the accused is the complainant's testimony.[24] In the present case, we find no cogent basis to disturb the trial court's finding disregarding the testimonies of the defense witnesses and upholding the credibility of the complainants AAA and BBB who stood firm on their assertions and remained unfaltering in their testimony on the unfortunate incidents.

PAJO's claim that there was no evidence to show that he was sick of some form of medical perversion or that showed him to be of such detestable human nature to enable him to rape AAA in the presence of other persons deserves no sympathy. It has been repeatedly held that lust is no respecter of time or place.[25] Besides, the mere act of a father of raping his daughter is abhorrent and this Court strongly condemns the perverse acts committed by PAJO against his daughters and is appalled by his defense that he merely used them to arouse him in order for him to "trigger" his libido and "to put in action and activate his admitted onset of impotency" caused by his state of alcoholism to enable him to satisfy the passion of his live-in partner.[26] The bestiality in man whose conscience has been seared by his insatiable greed for lust shows no respect for blood or close kinship with his victim.[27]

PAJO's claim that AAA and BBB filed the cases against their own father due to the improper suggestions and desire for revenge of their aunt and uncle is not believable. PAJO's and LIQUIGAN's bare assertion that the cases were filed against him to allegedly get back at him for scolding AAA and BBB for stealing two thousand (P2,000.00) from their teacher and that his brother and sister were allegedly envious of him because they wanted his house and because he was being commissioned by the then President Fidel V. Ramos to write a book entitled *Destiny 2000* is uncorroborated and is highly unbelievable. It has been consistently held that no member of a rape victim's family would dare encourage the victim to publicly expose the dishonor to the family unless the crime

was in fact committed.[28] Given the circumstances of the resent case, it is most unlikely that AAA nor her aunt, CCC who happens to be the sister of PAJO, would subject AAA to the embarrassment and stigma incident to a rape trial if the charges were not true.

Pajo's insistence that LIQUIGAN should have been charged as a co-principal in all three rapes and not merely an accomplice to one rape, does not affect the culpability of PAJO for the crimes charged and is not enough reason to acquit him. In criminal prosecutions, it is the prosecution that determines the charges to be filed and how the legal and factual elements in the case shall be utilized as components of the information.[29] It is basically the fiscal's function to the fiscal to determine what degree of complicity to the commission of a crime a person should be charged with, whether as principal, accomplice or accessory.

PAJO makes much of the fact that it took AAA exactly six (6) months and one (1) day or after being assaulted three times and only after her younger sister, BBB revealed the commission of the crime against her that she revealed the assaults committed against her by her father. However, this Court has time and again ruled that the fact that the failure of the complainant to report the rape to the immediate members of her family or to the police does not detract from her credibility for her hesitation can be attributed to her age and the moral ascendancy of the accused and his threats against the former.[30] We find this to be true in the present case.

Finally, the alleged inconsistency between the findings of the medical examinations conducted on AAA contained in the medical reports prepared by the PNP[31] and the NBI[32] is not sufficient to warrant the reversal of the judgment of conviction. The overwhelming evidence consisting of the testimonies of both AAA and BBB, which were thoroughly consistent with each other, is sufficient to establish PAJO's guilt beyond reasonable doubt. Moreover, the inconsistency between the two medical reports only gives rise to the question of whether AAA was subjected to force and violence as shown by the presence of external signs of physical injuries. Even assuming that no physical injuries were found on AAA's body, such does not negate that PAJO raped her nor does it render the evidence submitted by the prosecution insufficient to establish the element of force or violence. When a father commits rape against his own daughter, the former's moral ascendancy and influence over the latter substitutes for violence or intimidation.[33]

In sum, AAA's clear and straightforward testimony, as corroborated by that of BBB, leads to the inescapable conclusion that the crimes of rape have been committed and PAJO is guilty of these crimes.

Article 335 of the Revised Penal Code, as amended by Republic Act No.7659, provides:

"The death penalty shall 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, stepparent, guardian, relative by consanguinity or affinity within the third civil degree or the common-law spouse of the parent of the victim."

The three informations charging, PAJO with three counts of rape clearly alleged that he had carnal knowledge with his daughter, AAA, who was 13 years old at the time of the rapes as shown by her certificate of live birth[34] having been born on April 13, 1983. Her birth certificate likewise shows that PAJO is her father. Moreover, the prosecution presented AAA's aunt, CCC, who testified that AAA was her niece and that she was the daughter of PAJO who is her brother.[35] Moreover, PAJO in his testimony admitted that AAA was his daughter.[36]

The concurrence of minority of the AAA and her relationship to PAJO, having been alleged in the information and duly proved with certainty and clearness as the crime itself during trial, constrains the Court to affirm the conviction of PAJO of three counts of qualified rape, justifying the imposition of the death penalty for each count

on him. As to PAJO's civil liability, we award AAA the amounts of P75,000.00 as civil indemnity and P50,000.00 as moral damages for each count of rape considering that the crime was committed under circumstances which justify the imposition of the death penalty in accordance with prevailing jurisprudence.[37]

Four justices of the Court maintain that R.A. 7659 is unconstitutional insofar as it prescribes the death penalty; nevertheless they submit to the ruling of the majority to the effect that the law is constitutional and that the death penalty can be lawfully imposed in the case at bar.

WHEREFORE, the appealed decision of the Regional Trial Court finding the accused JOSE PAJO y BAGTONG guilty beyond reasonable doubt of three counts of qualified rape in Criminal Cases Nos. 97-233, 97-664 and 97-665 is AFFIRMED. The accused-appellant is hereby sentenced to DEATH and he is further ordered to pay the victim, AAA, the amounts of P75,000.00 as civil indemnity and P50,000.00 as moral damages for each count of rape.

The appeals of JOSE PAJO y BAGTONG in Criminal Cases Nos. 97-666 and 97-667 and the appeal of IMELDA LIQUIGAN y KASIBAYAN in Criminal Case No. 97-664 are hereby DISMISSED and the decisions therein are final and executory.

Upon finality of this decision, let certified true copies thereof as well as the records of this case be forthwith forwarded to the Office of the President for possible exercise of his pardoning power.

No pronouncement as to costs.

SO ORDERED.

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

[1] Penned by Judge Dennis M. Villa Iganacio.

[2] Rollo, 8.

[3] Spelled "AAA" as per her birth certificate, record, 87.

[4] Record, p. 25.

[5] Record, 148.

[6] Order dated July 11, 1997; Record, 161.

[7] Decision, 5-12; Rollo, 214-221.

[8] Decision, 15-16; Rollo, 224-225.

[9] The Revised Rules of Criminal Procedure, effective December 1, 2000, added reclusion perpetua to the penalties appealable to the Supreme Court.

[10] In relation to § 3(a), Rule 122.

[11] See Note 9.

[12] § 3 (c), Rule 122, Rules on Criminal Procedure.

[13] People vs. Abapo, G.R. No. 133387-423, March 31, 2000, 4.

- [14] Ibid.
- [15] Brief for the Accused-appellants, 8; Rollo, 78.
- [16] Exhibits "C" and "D"; Record, 82 and 83 respectively.
- [17] Brief for the Accused-appellant, 9-14; Rollo, 79-84.
- [18] TSN, April 28, 1997, 19-26.
- [19] TSN, August 11, 1997, 7-33.
- [20] TSN, August 18, 1997.
- [21] Ibid., 265.
- [22] People vs. Garigadi, G.R. No. 110111, October 26, 1999, 16.
- [23] People vs. Cheng Ho Chua, 305 SCRA 28, 36 [1999].
- [24] People vs. Alitagtag, 309 SCRA 325, 335 [1999].
- [25] People vs. Cabanela, 299 SCRA 153, 160 [1998].
- [26] Brief for the Accused-Appellants, 10.
- [27] People vs. Medina, 300 SCRA 98, 106 [1998].
- [28] People vs. Abangin, 297 SCRA 655, 665 [1998].
- [29] People vs. Perez, 296 SCRA 17, 35 [1998].
- [30] People vs. Emocling, 297 SCRA 214, 226 [1998].

[31] FINDINGS:

GENERAL AND EXTRAGENITAL:

Fairly developed, fairly nourished and coherent female subject. Breasts are conical with pinkish brown areola and nipples from which no secretions could be pressed out. Abdomen is flat and soft.

GENITAL:

There is abundant growth of pubic hair. Labia majora are full, convex and coaptated with the pinkish brown labia minora presenting in between. On separating the same disclosed elastic, fleshy-type hymen with deep healed laceration of 6 o'clock and shallow healed lacerations at 3, 7 and 10 o'clock. External vaginal orifice offers moderate resistance to the introduction of the examining index finger and the virgin-sized vaginal speculum. Vaginal canal is narrow with prominent rugosities. Cervix is normal in size, color and consistency.

CONCLUSION:

Subject is in non-virgin state physically.

There are no external signs of application of any form of violence.

REMARKS:

Vaginal and peri-urethral smears are negative for gram-negative diplococci and for spermatozoa.

[32] FINDINGS:**GENERAL PHYSICAL EXMINATION:**

Height 147.0 cms. Weight: 80.0 lbs.

Normally developed, fairly nourished, conscious, cooperative, ambulatory subject.

Breasts, developing, hemispherical, firm. Areola, light brown, each 2.5 cms. in diameter. Nipples, light brown, protruding, each 0.4 cms. in diameter.

PHYSICAL INJURIES:

Scar, brownish, 0.8 x 0.3 cm., left temple area.

Scars, brownish, two (2) in number, one is 1.0 x 0.3 cm., the other 1.0 x 0.4 cm., left leg, upper 3rd, anterior aspect.

Scar, reddish, 4.0 x 6.0 cms., right gluteal region.

GENITAL EXAMINATION:

Pubic hair, fully grown, moderate. Labia majora and Labia minora, both coaptated.

Fourchette, tense. Vestibular mucosa, pinkish. Hymen, tall, thick, intact.

Hymenal orifice admits a tube 2.0 cm. in diameter. Vaginal walls, tight. Rugosities, prominent.

CONCLUSIONS:

- The above-described physical injuries were noted on the body of the subject at the time of examination.
- Hymen, intact and its orifice small (2.0 cm. in diameter) as to preclude complete penetration by an average-sized adult male organ in full erection without producing genital injury.

[33] *People vs. Bartolome*, 296 SCRA 615, 624 [1998].

[34] Record, 87.

[35] TSN, March 17, 1997, pp. 2-5.

[36] TSN, August 25, 1997, 3-5.

[37] People vs. Torejos, G.R. No. 132217, February 18, 2000, p. 15.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.