PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. OPENIANO LACISTE Y MATONDO, ACCUSED-APPELLANT.

G.R. Nos. 135853-54. November 22, 2001

Ponente: VITUG, J.

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VITUG, J.:

For review is the decision of the Regional Trial Court of Davao City, Branch 17, finding Openiano Laciste guilty of the crime of rape and imposing upon him the penalty of death. The extreme penalty having been imposed, the case is now before this Court by way of automatic review pursuant to Article 47 of the Revised Penal Code as amended by Section 22 of Republic Act 7659.

Two separate informations were filed against Openiano Laciste, charging him with rape; thus -

> CRIM. CASE NO. 40-423-98
>
> "That on May 21, 1996, in the City of Davao, Philippines, and within the jurisdiction of this Honorable Court, the above-mentioned accused, by means of force and intimidation, did then and there wilfully, unlawfully and feloniously have sexual intercourse with EVANGELINE LACISTE, his daughter with common-law spouse Lydia Senia, against her will."[1]
>
> CRIM. CASE NO. 40-424-98
>
> "That sometime on June 1996, in the City of Davao, Philippines, and within the jurisdiction of this Honorable Court, the above-mentioned accused, by means of force and intimidation, did then and there wilfully, unlawfully, and feloniously have sexual intercourse with EVANGELINE LACISTE, his daughter with common-law spouse, Lydia Senia, against her will."[2]

The accused, upon arraignment, claimed innocence on both charges; thus, trial ensued.

Evidence for the Prosecution. -

Evangeline Laciste, the complainant, is the daughter of accused Openiano Laciste by his common-law wife Lydia Senia.

Openiano, Lydia, Evangeline and their youngest daughter shared a room in their house in Tambubong, Baguio District, Davao City. On 21 May 1996, at about 7:00 o'clock in the evening, Evangeline, then said to be only fifteen years of age, was awakened when the accused pulled her away from bed and demanded to allow him to have sex with her. He mauled her when she refused to accede. He then proceeded to remove Evangeline's underwear, placed himself on top of her and commenced his bestial assault. Evangeline continued to resist but the accused persisted and told her to keep quiet. Awakened by the noise, Lydia was stunned to see what was happening. Instead of desisting and being embarrassed, appellant even became infuriated and slapped Lydia. Noticing that appellant had a bolo, Lydia withdrew from the room. Appellant went on to satisfy his lust. In June 1996, the accused again sexually molested Evangeline ignoring the latter's plea for mercy. Evangeline soon

became pregnant, and she gave birth to a baby boy in April 1997. Unable to contain herself any longer, Evangeline, with the assistance of her mother, filed a complaint against her father for two counts of rape.

Version of the Defense. -

The accused claimed that he was at home one morning in July of 1996. Peeping through the bamboo wall of their house, he saw his daughter Evangeline having sexual intercourse with one Ernesto Bengcas, a resident of Marilog District, Davao City. He placed the time of the incident at approximately 10:30 a.m. when his common-law wife was not at home and his other children were in the farm. The accused said that he gave chase with a bolo but he was unable to overtake the duo. Later, the purok leader, after verifying the matter, told him that what had happened between Ernesto Bengcas and Evangeline was due to a mutual desire. Evangeline conceived and later gave birth to a baby boy.

Judgment of the Trial Court. -

The court a quo found the accused guilty in Criminal Case No. 40-423-98, and he was meted the penalty of death under Article 335 of the Revised Penal Code, as amended by Section 11 of Republic Act 7659. Appellant was likewise ordered to pay Evangeline the amount of P50,000.00 by way of moral damages and civil indemnity and the further sum of P25,000.00 by way of exemplary damages. In Criminal Case No. 40-424-98, the trial court, found the evidence to be wanting and thus acquitted the accused of the crime charged.

In the instant review by the court of his case in Criminal Case No. 40-423-98, appellant would rather have it that the trial court erred, firstly, in giving faith and credit to the testimony of the prosecution witnesses and in disregarding the evidence adduced by the defense and, secondly, in imposing upon appellant the penalty of death despite the fact that the qualifying circumstance of minority was not alleged in the information.

The Court has said many times over that the assessment made by a trial court about the testimony of a witness is accorded highest respect. Verily, It is the trial court, not an appellate court, which has direct opportunity and peculiar province to observe the demeanor of a witness on the stand and determine the veracity of the declarations there given. The trial court's evaluation of testimonial evidence will be set aside only, as has been so repeatedly said, upon showing that the same is tainted with arbitrariness or that the trial court has evidently overlooked, misappreciated, or misunderstood some facts or circumstances of weight and substance which can affect the outcome of the case.[3] The Court finds no exceptional situation in this instance and perceives no cogent reason to disturb the findings of the trial court. There might have been certain inconsistencies on some details in the statements of the victim and those of her mother but, far from seriously damaging their testimony, it has buttressed their credibility for it is absolute congruence that instead can give occasion for doubts.[4] In any event, it is not to be expected that the victim who, understandably, must have been under great stress would be able to narrate minutely her harrowing experience. After all, Evangeline is just a young and naive barrio lass abruptly snatched from the cradle of innocence by the very person who should have even been her protector.

The testimony of Evangeline Laciste was concise but straightforward. Thus -

> "Q.
>
> In the evening of May 21, 1996 at about 7:00 where were you?
>
> "A.
>
> I was at home.

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"Q.

You are referring to your house at Tambubong Baguio District?

"A.

Yes.

"Q.

Who were with you at that time in your house?

"A.

My father, my brothers and sisters.

"Q.

What were you doing at that time on May 21, 1996, at about 7:00?

"A.

We were already sleeping at that time.

"Q.

Where were you sleeping? In what part of the house were you sleeping?

"A.

In the second floor.

"Q.

Who were with you sleeping at that time?

"A.

My father and I, my mother and my youngest sister.

"Q.

Who was directly near you in sleeping that evening?

"A.

My father.

"Q.

How about your mother where was she?

"A.

At the side because the position of our respective beds is that of a T-position.

"Q.

While sleeping that evening what unusual incident happened, if any?

"A.

The incident that evening which was witnessed by my mother was when I was mauled and pulled by my father because I refused to give in to his desire to use me.

"Q.

What happened at that instance when you refused to give in to his desire to use you?

"A.

He removed my panty.

"Q.

What happened next, when he removed your panty?

"A.

He placed himself on top of me and he had sexual intercourse with me.

"Q.

You said your mother was around, what did your mother do?

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"A.

Although my mother was present she was not able to make a move because at that time he had a bolo under the pillow.

"Q.

On your part when your father removed your panty and had sexual intercourse with you what did you do?

"A.

I told him, `do not do it to me since I am your daughter. Why will you do it to me?'

"Q.

What was the response of your father, if any?

"A.

He said, `Do not make any noise.'

"Q.

Please describe exactly what your father did to you in the act of having sexual intercourse with you?

"A.

What he did to me was he held me and pushed me to the bed and forced me to lie down on the bed and he removed my panty and placed himself on top of me.

"Q.

How did your father hold you at that time, please demonstrate?

"A.

He held me here. (witness touching her right waist)

"Q.

All the while when your father was doing that, what did your mother do?

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"A.

As I said we were sleeping and my mother was awakened during that time and she said `Why are you noisy?' and when she looked at us, she discovered us and she was slapped by my father.

"Q.

What did your mother do after she was slapped by your father?

"A.

She cried and after that she went out of the room.

"Q.

Who went out of the room?

"A.

My mother.

"Q.

After your mother left the room what did your father do next?

"A.

He also slapped me.

"Q.

What happened next?

"A.

After slapping me he placed himself on top of me and he said do not make [any] noise or I will hack you.

"Q.

When he said that what did he do to you?

"A.

He removed my panty and placed [himself] on top of me and had sexual intercourse with me.

"Q.

You said your father sexually molested you, what actually did your father do at that time when your father sexually molested you?

"A.

I cried because of what he had done to me.

"Q.

Please explain to the court. You said you were sexually molested, what do you mean when your father sexually molested you?

"A.

He removed my panty and had sexual intercourse with me.

"Q.

Can you estimate more or less how long your father had sexual intercourse with you?

"A.

I cannot tell. It was quite a longtime."[5]

The seriousness of the charge, as well as the absence of proof of ill motive on the part of the victim, hardly leads to a conclusion that the indictment is but the product of pure imagination. The long-standing rule - that when a woman testifies that she has been raped she says all that is necessary to constitute the commission of this crime[6] - finds no better application than when the indictee is the victim's own father.[7]

The delay in reporting the crime to the authorities cannot alter the results of the case. The Court has often ruled that delay in the filing of the criminal complaint does not necessarily impair the credibility of the witness particularly, indeed, when the offender exercises moral ascendancy over the victim.[8] The hesitation of a rape victim in reporting the crime is quite common. Rape victims not infrequently would prefer silence than not because of either fear of their aggressors or of lack of courage to face the public stigma of having been sexually abused.[9]

The Court, however, would be unable to affirm the penalty of death imposed by the trial court. The minority of the victim, like her relationship to the offender, is a special qualifying circumstance that needs to be alleged in the complaint or information before the death penalty[10] can be imposed. The Constitution guarantees to an accused the right to be properly informed of the nature and cause of accusation against him;[11] it is a right that remains inviolable. While relationship of the victim with the appellant in the instant case is alleged in the Information, no

mention has been made, however, about her minority. Appellant can only thus be convicted of simple, not qualified, rape.[12]

Conformably with prevailing jurisprudence, separate awards of P50,000.00 moral damages and P50,000.00 civil indemnity should be ordered paid to the rape victim, the two amounts being based, the trial judge has apparently overlooked, on different jural foundations.[13] Consistently with the ruling in People vs. Catubig,[14] the additional award of P25,000.00 exemplary damages under Article 2230 of the Civil Code should be sustained.

WHEREFORE, the judgment of the court a quo in Criminal Case No. 40-423-98 is AFFIRMED with MODIFICATION in that appellant Openiano Laciste is found guilty only of simple rape, and he is sentenced to suffer, instead of death, the penalty of reclusion perpetua. Appellant is further ordered to pay complainant conformably with existing jurisprudence the sum of P50,000.00 by way of civil indemnity ex delicto, P50,000.00 moral damages and P25,000.00 exemplary damages. Costs de oficio.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Melo, Puno, Kapunan, Mendoza, Panganiban, Quisumbing, Pardo, Buena, Ynares-Santiago, De Leon, Jr., Sandoval-Gutierrez, and Carpio, JJ., concur.

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[1] Rollo, p. 6.

[2] Records, p. 1.

[3] People vs. Dones, 254 SCRA 696; People vs. Sabellina, 238 SCRA 492.

[4] People vs. Querido, 229 SCRA 745; People vs. Abad, 268 SCRA 246

[5] TSN, 18 June 1998, pp. 5-7.

[6] People vs. Burce, 269 SCRA 293; People vs. Maglantay, 304 SCRA 272.

[7] People vs. Acala, 307 SCRA 330.

[8] People vs. Abad, 268 SCRA 246.

[9] People vs. Perez, 307 SCRA 276.

[10] People vs. Narido, 316 SCRA 131; People vs. Catubig, G.R. No. 137842, 23 August 2001; People vs. Cantos, 305 SCRA 786.

[11] Sec. 1 (2), Article III of the Constitution.

[12] People vs. Calayca, 301 SCRA 192.

[13] People vs. Marabillas, 303 SCRA 352.

[14] G.R. No. 137842, 23 August 2001.

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