

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RODRIGO AMADORE Y OBINA, ACCUSED-APPELLANT.*G.R. Nos. 140669-75 & 140691. April 20, 2001*

Ponente: VITUG, J.

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What could possibly motivate a grown man to vent his lust on a girl not even old enough to desire? Her innocence? Her helplessness? Her inability to give voice to her indignation? Mercifully, Ma. Fe Oquindo would not be silenced. Like the many instances which have found their way to the courts, the plight of this young girl, who was barely ten years old when initiated into the carnal world, is but one of the countless illustrations of an evil plaguing our society today. It is high time that this malaise is addressed not so much by the law as the family and a societal effort to raise the slipping moral value before it degenerates further and becomes too late to be within retrievable level.

The instant case for automatic review brings to fore anew a decision promulgated by the Regional Trial Court, Branch 275 (Las Piñas), of the National Capital Judicial Region, convicting accused-appellant RODRIGO AMADORE (Amadore) of, and imposing upon him the capital punishment for, five (5) counts of rape. The same accused-appellant, furthermore, has been found guilty, on one other count, of attempted rape.

Amadore stood charged with five counts of rape perpetrated on MARIA FE OQUINDO, just 15 years old in 1996, in Criminal Cases No. 96-0468 to No. 96-0472, inclusive, textually reading -

"That on or about the 21[st] day of March, 1991, in the Municipality of Las Piñas, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused being then the stepfather of the private complainant and through moral ascendancy and influence and by means of force, violence and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge with one MARIA FE OQUINDO Y ANDOR, who is 10 years old, against her will and consent." [1] "That on or about the 11th day of January, 1996, in the Municipality of Las Piñas, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused being then the stepfather of the private complainant and through moral ascendancy and influence and by means of force, violence and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge with one MARIA FE OQUINDO Y ANDOR, against her will and consent." [2] "That on or about the 14th day of March, 1996, in the Municipality of Las Piñas, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused being then the stepfather of the private complainant and through moral ascendancy and influence and by means of force, violence and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge with one MARIA FE OQUINDO Y ANDOR, against her will and consent." [3] "That on or about the 1st day of March, 1993, in the Municipality of Las Piñas, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused being then the step-father of the private complainant and through moral ascendancy and influence and by means of force, violence and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge with one MARIA FE OQUINDO Y ANDOR, against her will and consent." [4] "That on or about the 26th day of February, 1996, in the Municipality of Las Piñas, Metro Manila, Philippines and within the jurisdiction of this Honorable Court,

the above-named accused being then the step-father of the private complainant and through moral ascendancy and influence and by means of force, violence and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge with one MARIA FE OQUINDO Y ANDOR, against her will and consent." [5]

Accused-appellant was likewise indicted in three other informations, one, for violation of Section 5, Republic Act No. 7610, in relation to Article 336 of the Revised Penal Code, in an Information, dated 24 October 1996, docketed Criminal Case No. 96-0473 -

"That on or about the 22nd day of March 1991, in the Municipality of Las Piñas, Metro Manila, Philippines and within the jurisdiction of this Honorable Court the above-named accused, with lewd designs and by means of force and intimidation, did then and there willfully, unlawfully and feloniously commit acts of lasciviousness upon the person of one MARIA FE A. OQUINDO, ten (10) years old girl, a minor, by then and there kissing and touching her private parts, against the latter's will and consent." [6] -

two, for attempted rape in an Information, also dated 24 October 1996, docketed Criminal Case No. 96-0474, -

"That on or about the 27th day of June 1996, in the Municipality of Las Piñas, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with lewd designs and by means of force, threat and intimidation, did then and there willfully, unlawfully and feloniously try and attempt to have sexual intercourse with a fifteen (15) year old girl, MARIA FE A. OQUINDO, against her will and consent, thus commencing the commission of the crime of Rape directly by overt acts, but nevertheless did not perform all the acts of execution that would produce the crime of Rape by reason of causes other than his own spontaneous desistance." [7]

and three, for rape in an Information, dated 18 July 1996, docketed Criminal Case No. 96-0328 -

"That on or about the 11th day of June, 1996, in the Municipality of Las Piñas, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, being then the stepfather of the private-complainant, and through his moral ascendancy and influence and by means of force and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge with one MARIA FE OQUINDO, who is 15 years old, against her will and consent." [8]

Accused-appellant pled "not guilty" to all the charges. The cases were consolidated and jointly tried.

Private complainant Maria Fe Oquindo testified that on 21 March 1991 she awoke to see accused-appellant, her "stepfather," standing in front of her with only his brief on. He told her to remove her panty but she refused. Scolding her for her disobedience, accused-appellant got a pillow and placed it over her face. He laid on top of her, removed her panty, inserted his penis into her vagina, and then moved himself up and down. She felt severe pain. The incident happened in their house at 004-A Calabasa Street, Tambakan, Pulanglupa, Las Piñas, Metro Manila.

On 22 March 1991, also in the same place, accused-appellant fondled the young girl's breast and kissed her many times against her will. He did not persist and he threatened her not to tell on him.

On 01 March 1993, while Maria Fe was playing inside the house, accused-appellant called her and ordered her to lie down. Afraid, she obeyed. Accused-appellant then removed her panty, laid on top of her, and succeeded in taking her. She was threatened not to mention the incident to anyone or, if she did, he would kill her mother. At the time, only the victim and accused-appellant were in the house.

On 11 January 1996, Maria Fe, along with her mother, sister and "stepfather," was in Batangas for a vacation. While she was playing with her cousins, she was told by accused-appellant to get back inside the house. She refused. Accused-appellant twisted her arms and pulled her in. He told her to lie down. She tried to fight back but

accused-appellant pushed her down, removed her panty and succeeded in having sexual intercourse with her. After a while, she felt a sticky substance coming from accused-appellant. When told to wash, she saw white sticky substance coming out of her.

On the mid-afternoon of 26 February 1996, back from vacation, Maria Fe was subjected to a like ordeal. She was in their house playing when accused-appellant asked for a massage. The witness obliged. While giving the massage, he suddenly embraced her and made her lie on the floor. He went on top of, and consummated his evil design on, her.

On 14 March 1996, Maria Fe was at her aunt's place located just behind their own house when she was again called by accused-appellant ostensibly to take a bath. He ordered her to remove her panty. When she refused, accused-appellant berated her. He twisted her arms and made her lie down. He removed her panty, laid on top of her and again satisfied his lust.

On 27 June 1996, about two o'clock in the afternoon, while Maria Fe was playing just outside their house, accused-appellant instructed her to bring him a glass of water. Just as she was about to hand the glass of water, accused-appellant pulled her down. She tried to push him away but, as usual, her resistance proved futile. After the sexual congress,[9] she fled out of the house. She was still fixing her panty when one Nora Cañales saw her. Cañales asked what had happened. She pretended to have just urinated. Suspicious, Cañales informed Mely Anda, Maria Fe's aunt, of the incident. When confronted, Maria Fe confessed all that had happened to her in the hands of her "stepfather."

Maria Fe testified that she was even much younger when she was first abused by accused-appellant. She kept things to herself because she was afraid that her mother, Julieta Amadore, would feel more for accused-appellant than she would for her. True to her fears, when she finally revealed the incident to her mother, she was told - "Siguro, kagustuhan mo ito." With the help of a neighbor, she finally filed a complaint against her "stepfather."

Julieta Amadore, for her part, denied having been told of any of the incidents by her daughter Maria Fe.

Accused-appellant denied all the accusations against him, stating that their house is only 12 x 10 feet in area and that Maria Fe had her own room. He claimed that, throughout, he and Maria Fe had a "smooth relationship," and that the only reason he could think of why the cases were filed against him was the misunderstanding that once arose when he scolded her after she had refused to be sent on an errand.

"Q What can you say about her accusation against you Mr. Witness?

"A I did not do anything to her, sir. I am not a bad person.

"x x x x x x x x

"Q How would you say or describe your relationship with your stepdaughter Maria Fe Oquindo?

"A We have a smooth relationship, sir.

"Q Would you say it is a good relationship between you and Maria Fe Oquindo?

"A Yes, sir."[10]

After having heard both parties, the court a quo gave the case for the prosecution. In not giving credence to the denial proffered by accused-appellant, the court said that neither the size of the house nor the misunderstanding between him and the young girl could hardly overwhelm the strong evidence against him. The trial court concluded:

"WHEREFORE, judgment is rendered finding the accused Rodrigo Amadore y Obina GUILTY beyond reasonable doubt as charged in the following cases and sentenced accordingly, to wit:

"1. In Crim. Case No. 96-0468, to die by the method provided by law;

"2. In Crim. Case No. 96-0469, to die by the method provided by law;

"3. In Crim. Case No. 96-0470, to die by the method provided by law;

"4. In Crim. Case No. 96-0471, to die by the method provided by law;

"5. In Crim. Case No. 96-0472, to die by the method provided by law;

"6. In Crim. Case No. 96-0473, to suffer an Indeterminate Prison term of six (6) months of arresto mayor medium as minimum to six (6) years of prision correccional maximum as medium;

"7. In Crim. Case No. 96-0474, to suffer an Indeterminate Prison term of Twelve (12) Years of prision mayor maximum as minimum to Twenty (20) Years of reclusion temporal maximum as minimum, and to pay complainant Maria Fe Oquindo the sum of P100,000.00 in each of dispositions Nos. 1, 2, 3, 4, and 5, and P50,000.00 in each of dispositions 6 and 7, and pay the costs in the foregoing dispositions.

"Accused is ACQUITTED in Crim. Case No. 96-0328 for lack of evidence."[11]

In his appeal to this Court, accused-appellant raised the following assignment of errors -

"1. The Court a quo gravely erred in finding the accused-appellant guilty beyond reasonable doubt of five (5) counts of rape, attempted rape and violation of Section 5 RA 7610 in relation to Article 336 of the Revised Penal Code.

"2. The Court a quo gravely erred in finding that the accused-appellant waived the defect of improper venue in Criminal Case No. 96-0469.

"3. On the assumption that the accused-appellant committed the acts complained of in Criminal Case Nos. 96-0468 to 0472, the Court a quo gravely erred in imposing the death penalty for each of the five counts of rape."[12]

In support of the first assigned error, accused-appellant would argue that it was not right for the trial court to heavily rely on the testimony of MARIA FE OQUINDO. He contended that while she could testify in good detail about each of the incidents covered by seven out of eight criminal informations, a feat indeed, she was unable to recall, however, the other times when she had similarly been sexually assaulted by accused-appellant.

In support of the second assigned error, accused-appellant, citing *People vs. Metropolitan Trial Court of Quezon City*,^[13] asserts that venue in criminal cases is jurisdictional, and that since the incident in Criminal Case No. 96-0469 is said to have taken place in Nasugbu, Batangas, the Regional Trial Court of Las Piñas did not have jurisdiction to try the case.

In his third assigned error, accused-appellant states that the death penalty cannot be imposed in Criminal Cases No. 96-0468 to No. 96-0472, inclusive, all the five informations having averred him to be the "stepfather" when, in fact, Julieta Amadore herself has categorically stated that he is just her live-in partner and that their union has all along been without the benefit of marriage. Furthermore, citing the case of *People vs. Dimapilis*,^[14] he claims that all the informations, except for one, have failed to allege the age of private complainant, another qualifying circumstance, essential to justify the imposition of the extreme penalty of death.

The first assigned error is an issue that relates to the credibility of a witness, a matter best addressed during the trial stage. There is no ample reason shown for this Court to discard the long-standing rule that it should behoove

an appellate court, absent clear and convincing justification to hold otherwise, to accord weight and respect to the findings of the trial court. The inability of private complainant to remember all the other instances of sexual molestations committed against her by accused-appellant can hardly downgrade her credibility. Nor would her minor inconsistencies adversely affect her entire testimony; indeed, such incongruences or inaccuracies in the testimony of a witness reinforce rather than destroy or weaken credibility.[15] Furthermore, rape victims, particularly the young, are known not to cherish the memory of an event they would rather forget.

The argument that the filing of the case against accused-appellant by private complainant has supposedly been motivated by a simple misunderstanding between them is much too flimsy to belabor. It would be quite absurd to think that this young girl would come up with so serious an accusation as rape just for a senseless spite. It has more than once been said that "youth and immaturity are generally badges of truth and sincerity." [16] Neither can it be expected that a woman would publicly admit being a victim of rape, voluntarily allow herself to be medically probed, and endure humiliating questions in the course of trial, if her accusations were but malicious concoctions.[17] Considering the inbred modesty and the consequent revulsion of a woman against airing in public things that affect her honor, it is hard to conceive that private complainant would reveal the ignominy she has undergone unless it were true.[18] The denial of accused-appellant cannot prevail over the clear and convincing testimony of Maria Fe. Neither can his alibi prosper. Accused-appellant himself has testified that he would regularly go home from work. His work as "kargador" elsewhere, not really that distant away, is not one that could have prevented him from going back to the house and committing his nefarious deeds. Alibi cannot prevail over positive identification[19] unless it is found to be so convincing as to preclude any doubt that the accused could not have been physically present at the place of the crime or its vicinity at the time of its commission.[20] Nor can the fact that the house where the incidents have occurred is but 12 x 10 feet be a deterrent for accused-appellant. Lust, it has been said, "is no respecter of time and precinct and known to happen in most unlikely places such as in parks, along roadsides, within school premises or even in occupied rooms." [21] There is merit in the second assigned error relative to Criminal Case No. 96-0469. The concept of venue of actions in criminal cases, unlike civil cases, is jurisdictional.[22] The filing of a criminal case with the wrong court can oust the court from trying the case. The evidence introduced by the prosecution in Criminal Case No. 96-0469 points to Nasugbu, Batangas, as being the scene of the offense. For lack of jurisdiction, the case should have been dismissed by the court a quo.

The defense has likewise made good point in its third assigned error. The relationship between accused-appellant and his victim and the latter's minority are qualifying circumstances that must be correctly alleged and proved in order to warrant the imposition of the death penalty. Apparently, the victim is not the "stepdaughter" of accused-appellant as has been so stated in the informations but is the daughter of his common-law spouse by the latter's marital relation with another. A stepdaughter is a daughter of one's legal spouse by a previous marriage. Except for the information in one of the criminal cases, the minority of the victim has, too, not been alleged. The Court has successively ruled that the circumstances under the provisions of Section 11 of Republic Act No. 7659,[23] the attendance of any of which mandates the penalty of death, are in the nature of qualifying circumstances and the absence of the proper averment thereof in the complaint negates the imposition of that extreme penalty.

In Criminal Case No. 96-0473, where accused-appellant fondled the breast of private complainant and repeatedly kissed her but he did no further and there was no showing that he at the time intended to have sex with the victim, the crime for which he should have been held guilty was the offense of "acts of lasciviousness," not attempted rape, punishable under Article 336 of the Revised Penal Code by prision correccional.[24] In Criminal Case No. 96-0474, accused-appellant may only be convicted of attempted rape, despite what appears to be the consummation of the act, as the information has merely charged accused-appellant with attempted rape. Simple

rape is punishable by reclusion perpetua, and two degrees below that is prision mayor.

WHEREFORE, the decision of the Regional Trial Court is AFFIRMED with MODIFICATION. In Criminal Cases No. 96-0468, No. 96-0470 to No. 96-0472, accused-appellant Rodrigo Amadore y Obina is found guilty of simple rape in each of said cases, and he is thus sentenced to suffer a total of FOUR terms of Reclusion Perpetua. Criminal Case No. 96-0469 is DISMISSED for lack of jurisdiction on the part of the court a quo. In Criminal Case No. 96-0473, accused-appellant is found guilty only of acts of lasciviousness, and he is meted an indeterminate sentence of from 3 months and four days of arresto mayor, as minimum, to three years, 2 months and fourteen days of Prision Correccional medium, as maximum. In Criminal Case No. 96-0474, the conviction of accused-appellant for attempted rape, the crime charged in the information, is AFFIRMED but the sentence imposed by the court a quo is modified by hereby imposing, instead, an indeterminate sentence of from three years, ten months and one day of prision correccional as minimum, to nine years and one day of prision mayor medium, as maximum. The award of civil liability of P100,000.00 in each of the Criminal Cases No. 96-0468, No. 96-0470 to No. 96-0472, inclusive, broken down into P50,000.00 civil indemnity and P50,000.00 moral damages, is AFFIRMED. The civil awards in Criminal Cases No. 96-0473 and No. 96-0474 are REDUCED, respectively, to P10,000.00 and P20,000.00, as and by way of moral damages. Costs de oficio.

SO ORDERED.

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

Pardo, J., on sick leave.

[1] Rollo, p. 7.

[2] Rollo, p. 9.

[3] Rollo, p. 11.

[4] Rollo, p. 13.

[5] Rollo, p. 5.

[6] Rollo, p. 17.

[7] Rollo, p. 19.

[8] Rollo, p. 21.

[9] The information, however, merely indicted accused-appellant for "attempted rape."

[10] TSN, 12 February 1997, pp. 3-4.

[11] Rollo, pp. 37-38.

[12] Rollo, pp. 62-63.

[13] 265 SCRA 645.

[14] 300 SCRA 279.

[15] People vs. Gondora, 265 SCRA 408.

[16] People vs. Escobar, 281 SCRA 498.

[17] People vs. Bautista, 236 SCRA 102.

[18] People vs. Gecomio, 254 SCRA 82.

[19] People vs. Fuensalida, 281 SCRA 452.

[20] People vs. Enriquez, 281 SCRA 103.

[21] People vs. Ramon, 320 SCRA 775.

[22] People vs. Metropolitan Trial Court of Quezon City, *supra*.

[23] "Sec. 11. Article 335 of the same Code is hereby amended to read as follows:

"Art. 335. When and how rape is committed. - Rape is committed by having carnal knowledge of a woman under any of the following circumstances:

"1. By using force or intimidation;

"2. When the woman is deprived of reason or otherwise unconscious; and

"3. When the woman is under twelve years of age or is demented.

"The crime of rape shall be punished by reclusion perpetua.

"Whenever the crime of rape is committed with the use of a deadly weapon or by two or more persons, the penalty shall be reclusion perpetua to death.

"When by reason or on the occasion of the rape, the victim has become insane, the penalty shall be death.

"When the rape is attempted or frustrated and a homicide is committed by reason or on the occasion thereof, the penalty shall be reclusion perpetua to death.

"When by reason or on the occasion of the rape, a homicide is committed, the penalty shall be death.

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

"1. When the victim is under eighteen (18) years of age and the offender is a parent, ascendant, step-parent, guardian, relative by consanguinity or affinity within the third civil degree, or the common-law spouse of the parent of the victim.

"2. When the victim is under the custody of the police or military authorities.

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

"4. When the victim is a religious or a child below seven (7) years old.

"5. When the offender knows that he is afflicted with Acquired Immune Deficiency Syndrome (AIDS) disease.

"6. When committed by any member of the Armed Forces of the Philippines or the Philippine National Police or any law enforcement agency.

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

[24] People vs. Collado, 60 Phil. 610.

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