

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. LEOPOLDO VINAS, ACCUSED-APPELLANT.

G.R. Nos. 91363-73. October 15, 1991

Ponente: PARAS, J.

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PARAS, J.:

This is an appeal from the decision of the Regional Trial Court of Macabebe, Pampanga, Branch 54, Hon. Catalino C. Balagtas, presiding, in Criminal Cases Nos. 88-0498-M up to 88-0508-M convicting the accused of eleven (11) crimes of rape, sentencing him to eleven (11) penalties of reclusion perpetua; and ordering him to indemnify the offended party the sum of P30,000.00 as moral damages and P20,000.00 as exemplary damages in each of the eleven (11) cases.

The accused Leopoldo Vinas, was charged with eleven (11) offenses of rape, against his own daughter, with a uniform information as follows:

"That on or about the month of March, 1987, in the municipality of San Simon, Province of Pampanga, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused LEOPOLDO VINAS, with lewd designs and by means of force, threat, and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of his daughter, LUZVIMINDA VINAS, against her will and without her consent.

"All contrary to law." (Rollo, p. 65)

Except as to the dates of commission the other informations are the same. The rest of the dates are November 30, 1987; May 7, 1987; May 10, 1987; June 15, 1987; July 1, 1987; September 1987; October 1987; November 15, 1987; December 1987 and January 15, 1988.

Upon arraignment, the accused entered a plea of "not guilty" to all the charges.

At the trial, the prosecution adduced the testimonies of the complainant Luzviminda Vinas, 17 years old, a high school student, eldest of four (4) children born of Felicitas Maniego and accused as father; Dr. Evelyn Macabulos, an OB-Gyne of San Fernando, Pampanga; and Felicitas Maniego, the mother of complainant.

The prosecution states that the accused is the father of the complainant Luzviminda Vinas who maltreats her, and even the wife of the accused (her mother) at the slightest provocation ever since she was three (3) years old; that the accused rarely goes out to earn a living and that her mother is the real breadwinner who goes to different towns to peddle noodles (sotanghon) everyday in the morning at around 8:00 or 9:00 and comes home late afternoons at around 6:00; that the modus operandi of the accused is (1) to order the victim to go upstairs or downstairs inside one of the rooms (with papag) to pluck his gray hairs or (2) get something upstairs (like clothes) for washing or (3) threaten her with a piece of wood with which to beat her if she did not go inside the house; that the accused sent younger children to fetch water, or to play outside or to sweep their yard to divert their attention from the father's (accused) devilish acts; that the accused would immediately follow complainant inside the house;

that when accused wanted to satisfy his carnal urges thru complainant's person he would pin her down thru force and intimidation, remove complainant's clothes and panty, fondle her breasts then remove his pants or shorts and insert his erect penis inside the vagina of complainant with the poor girl kicking and pushing accused who in turn usually boxed her in different parts of her body particularly in her stomach greatly weakening her in the process; then with coital movements continued violating the dignity of his daughter; that accused did this eleven (11) times within the span of eleven (11) months — from March 1987 up to January 1988; that complainant tried to run away from home a number of times but accused always caught up with her and beat her up severely; that on February 14, 1988 complainant was permitted by the accused to go to a school dance; that she came home the next morning; that the accused was so infuriated and obviously jealous he beat the complainant including the rest of the kids, black and blue. This angered the mother of complainant (wife of accused) and led to a family quarrel; that the mother was likewise beaten; that the accused was like a homicidal beast which fact compelled the complainant, the mother and the rest of the kids to run away from home and sought safety in the forest and houses of neighbors; that when the mother Felicitas came to learn of the rapes and confirmed the reason why complainant was always crying in the past months and very sad most of the time she sought the aid of a lawyer-relative who gave them advice and money; that the mother hid all of them in Caloocan City with a relative; and when assured of safety from the accused, came back with complainant to file charges against the accused.

There was a medical certificate issued by Dr. Evelyn Macabulos (Annex A) an impartial witness, proving sexual assaults:

"Hymen: with healed laceration at 5, 6, and 8:00 o'clock. It is almost obliterated anteriorly."

The wife of the accused and mother of the complainant, Felicitas Maniego, testified as to the inhuman treatment accorded by her husband to their children and to herself as well as the laziness of the husband, among others. She corroborated the testimony of the complainant particularly from the time the accused got jealous and began mauling the complainant and the rest of the family members, up to the filing of the eleven (11) charges of rape.

On the other hand, the accused pleaded not guilty to all the eleven counts of rape alleging that these were filed against him by his daughter and wife, only as a sort of revenge for refusing to kill and/or incarcerate a younger brother who allegedly earlier raped his daughter, when said younger brother was still living with them.

On August 15, 1989 the lower court in its decision found accused Leopoldo Vinas guilty as charged.

On his appeal, accused in his brief cited three (3) errors allegedly committed by the lower court:

"1.

The Honorable lower court erred in not dismissing the above-entitled cases when counsel for accused-appellant called the attention of the Honorable lower Court that only one (1) criminal complaint as filed before the Municipal Trial Court of Apalit, Pampanga, however, when reproduced eleven (11) informations were filed against accused-appellant.

"2.

The Honorable lower court erred in convicting the accused-appellant in eleven (11) cases of rape;

"3.

The Honorable lower court erred considering that the prosecution had proven beyond reasonable doubt the

guilt of accused-appellant in the above-entitled cases." (p. 47, Rollo)

The first and the second assigned errors were properly refuted by the Solicitor General in his Reply Brief (pp. 75-78, rollo) citing Section 37 of Batas Pambansa Blg. 129, and Section 13 Rule 110 of the Rules of Court, to wit:

"SEC. 37. Preliminary investigation. — Judges of Metropolitan Trial Courts, except those in the National Capital Region, of Municipal Trial Courts, and Municipal Circuit Trial Courts shall have authority to conduct preliminary investigation of crimes alleged to have been committed within their respective territorial jurisdictions which are cognizable by the Regional Trial Courts.

"The preliminary investigation shall be conducted in accordance with the procedure prescribed in Section 1, paragraphs (a), (b), (c), and (d), of Presidential Decree No. 911: Provided, however, That if after the preliminary investigation the Judge finds a prima facie case, he shall forward the records of the case to the Provincial/City Fiscal for the filing of the corresponding information with the proper court."

"SEC. 13. Duplicity of offense. — A complaint or information must charge but one offense, except only in those cases in which existing laws prescribe a single punishment for various offenses."

The last assigned error hinges on the credibility of the prosecution.

A restatement of a consistent ruling is in order. When the issue is one of credibility of witnesses, appellate courts will generally not disturb the findings of the trial court, considering that it is in a better position to decide the question having heard the witnesses themselves and observed their deportment and manner of testifying during the trial (*People v. Ancheta*, 60 SCRA 333).

Records bear out the convincing manner in which the complainant testified. She gave clear and straight forward answers although before being able to do so during the hearings of the eleven cases, she could not help herself from crying out of shame as she had to narrate the details of the rapes in public; out of righteous anger as she was not able to defend herself for so long; and bitterness and sorrow as the rapist is her father who was supposed to be the one to protect her from harm like these rapes (*People v. Borja*, 191 SCRA 120).

Being raped is the cruelest, saddest and most humiliating experience a woman can ever have! It is an irreversible event, a most horrendous incident and considered the most heinous crime against womanhood. It is utmost disrespect and mockery against a woman. These superlatives are further compounded in intensity when the woman's rapist is no other than her father. A father who is supposed to even die for the welfare and interest of his children, who instead, "ate his own flesh" numerous times! What can be more abominable and despicable than this? This is likewise anathema to the Lord (*People v. Herico*, 192 SCRA 655).

The gravity of moral depravity of the father (the accused) is given another chance to shine when he even had the thickness of skin and unbelievable temerity to accuse the complainant and his wife of revenge as their reason for filing the rape cases against him. He could have just weakly and lamely denied them as he initially did. He went further proving his satanic outlook towards what a father should be by exposing alleged earlier rape committed by his younger brother against his already suffering and devastated daughter (the complainant). He should have covered up or protected at all cost whatever shame befell his daughter.

Further delay in reporting the rapes due to death threats is justified (*People v. Aquino*, 186 SCRA 208).

Poor spiritual health contributed much to the accused's frequent yielding to temptations. A healthy fear of God and reverence for an over all Power with some catechetical instruction on the basic biblical tenets and the Lord's commandments could have averted the detestable sex violations committed by the accused upon his daughter (the complainant).

It is hard to believe that the daughter would publicly disclose that she had been raped, practically foreclosing the probability of a blissful married life, exposing herself to the ordeal and embarrassment of a public trial, subjecting her private parts to examination, heaving upon herself untold humiliation in the long days of public trial, UNLESS, she is motivated by a strong desire to bring to justice the culprit who had grievously wronged her (People v. Gargoles, 83 SCRA 282 and People v. Avila, 192 SCRA 635).

In view of all the foregoing We hold that the trial court committed no error in convicting the accused Leopoldo Vinas of the eleven (11) crimes of rape.

WHEREFORE, the decision appealed from is hereby AFFIRMED with costs against accused-appellant.

SO ORDERED.

Padilla and Regalado, JJ., concur.

Melencio-Herrera, J., on leave.

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