

EN BANC

[G.R. NO. 166546, September 26, 2006]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ROGELIO ARSAYO Y LAVAQUIZ, ACCUSED-APPELLANT.**

D E C I S I O N

CHICO-NAZARIO, J.:

A child of tender years should be reared under the guidance of her parents with the latter shielding her from any danger that may befall her. Thus, it is very nauseating to see a father tasked to protect her daughter, defile her instead. In the instant case, appellant Rogelio Lavaquiz^[1] Arsayo ravished the victim -his stepdaughter - in order to gratify his sexual desire.

For review is the Decision^[2] of the Court of Appeals in CA-G.R. CR No. 00046 which affirmed with modification the Decision^[3] of the Regional Trial Court (RTC) of Caloocan City, Branch 128, finding accused-appellant Rogelio L. Arsayo guilty of raping his thirteen-year old stepdaughter, AAA^[4] and sentencing him to suffer the penalty of *reclusion perpetua*.

Appellant was charged with rape in relation to Republic Act No. 7610,^[5] committed as follows:

That on or about the 6th day of November 1997 in Caloocan City, M.M. and within the jurisdiction of this Honorable Court, the above-named accused, being then the stepfather of the complainant/victim, with lewd design and with undue influence which accused Rogelio Arsayo y Lavaquiz employed upon AAA, a minor of 13 years old, did then and there willfully, unlawfully and feloniously lie and have sexual intercourse with said complainant against her will and without her consent.^[6]

When arraigned on 11 March 1999, appellant, with the assistance of a counsel *de oficio*, pleaded not guilty to the offense charged.^[7] Thereafter, trial ensued.

The antecedents are as follows:

Private complainant AAA^[8] was born on 15 August 1984.^[9] She is the stepdaughter of appellant Rogelio L. Arsayo. Her mother, BBB, married appellant on 6 June 1986^[10] after AAA's biological father, CCC,^[11] left them sometime in 1984. Appellant has a daughter with BBB named DDD.

At around 5:15 in the afternoon of 6 November 1997, private complainant AAA was at home reading. She was with her stepfather, appellant Arsayo. Her mother was then at the Day Care Center working. While reading, appellant, who was only

wearing short pants, approached her and forced her to lie down. Appellant removed her clothes and licked her breast. He mounted her and removed his short pants. Appellant then succeeded in inserting his penis into her vagina causing AAA to experience severe pain. AAA was crying while she tried to stop appellant by pushing him away but to no avail. Her ordeal lasted a few minutes. After consummating the dastardly act, he threatened her not to report the incident; otherwise, he would kill her and her mother. AAA put her clothes back on, stood up, and went to sleep. After thirty minutes, she woke up and did household chores. Fearful of her stepfather, she did not disclose to her mother her harrowing experience when the latter arrived home from work.^[12]

On 12 December 1997, more than a month after her stepfather ravished her, AAA informed her mother of what transpired between her and her stepfather. With said revelation, mother and child went to the Barangay to report the incident. Barangay Captain Nestor Foronda accompanied them to the Caloocan Police Station where a complaint for rape was lodged against appellant.^[13] SPO2 Vivencio C. Gamboa conducted the investigation and took the statements of AAA and her witnesses. In the evening of 13 December 1997, appellant was apprehended by barangay tanods and was brought to the Caloocan Police Station.^[14]

After conducting the investigation, SPO2 Gamboa referred AAA to the Medico-Legal Office of the Philippine National Police (PNP) Crime Laboratory for medical examination. AAA submitted herself to medical examination. Dr. Dennis G. Bellin issued Medico-Legal Report No. M-3875-97^[15] with the following findings and conclusion:

FINDINGS:

GENERAL AND EXTRAGENITAL:

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

GENITAL:

There is scanty 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 an elastic, fleshy-type hymen with shallow **healed lacerations at 4 and 8 o'clock positions.** External vaginal orifice offers moderate resistance to the introduction of the examining index finger. Vaginal canal is narrow with prominent rugosities. Cervix is firm and closed.

CONCLUSION:

Subject is in non-virgin state physically.

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

For his defense, appellant took the witness stand. He vehemently denied raping private complainant. He said it was he who supports the family and that he has lived happily with his wife. The only reason he could think of why AAA would file a rape

case against him despite his treating her as his own child, allowing her to carry his family name, and sending her to school, is because he once scolded her for having friends in school who are addicts. He added that the reason why his wife assisted in the filing of the case and testified against him is because she is having an affair with another man.^[16]

On 21 January 2002, the trial court rendered its decision as follows:

WHEREFORE, in view of all the foregoing premises, the accused Rogelio Arsayo is found guilty beyond reasonable doubt for (sic) the crime of rape and he is hereby sentenced to suffer imprisonment of Reclusion Perpetua and all the accessory penalties attached thereto. He is further adjudged to pay the victim the sum of P50,000.00 as civil indemnity and the amount of P75,000.00 as (sic) for moral damages with no subsidiary imprisonment in case of insolvency.

The City Warden of Caloocan City is hereby ordered to bring the accused to the National Penitentiary in Muntinlupa City to serve his sentence crediting to his favor his service under preventive imprisonment.

The City Warden is further ordered to file a manifestation of compliance of the order to bring the accused to Muntinlupa City.^[17]

In convicting appellant, the trial court did not accord credence to appellant's denial. It, however, did not impose the capital punishment on appellant because of the supposed failure of the information to contain the allegation that appellant is the stepfather of the victim.

With a Notice of Appeal^[18] filed by appellant, the trial court forwarded the entire records of the case to this Court.^[19] However, pursuant to our ruling in *People v. Mateo*,^[20] the case was remanded to the Court of Appeals for appropriate action and disposition.

After reviewing the case, the Court of Appeals affirmed appellant's conviction but modified the penalty increasing it to death with the explanation that the relationship (*i.e.*, stepfather) of the appellant to the victim has been sufficiently alleged in the information. The decretal portion of the decision reads:

WHEREFORE, in the light of the foregoing premises, the decision appealed from is hereby recommended to be MODIFIED in that the penalty is increased from reclusion perpetua to death.

In accordance with Section 13, Rule 124 of the Rules of Court, this case is hereby certified, and let the records thereof be elevated, to the Supreme Court.^[21]

In our Resolution^[22] dated 12 April 2005, the parties were required to submit their respective supplemental briefs, if they so desire, within thirty (30) days from notice. Appellant manifested that he adopts the appellant's brief and reply brief that he had previously filed as his supplemental brief. On the part of the Office of the Solicitor General, despite notice, it did not file any supplemental brief.

Appellant cites as errors the following:

I.

THE COURT A QUO ERRED IN GIVING WEIGHT AND CREDENCE TO THE HIGHLY INCREDIBLE TESTIMONY OF THE PRIVATE COMPLAINANT.

II.

THE COURT A QUO ERRED IN FINDING ACCUSED-APPELLANT GUILTY OF THE CRIME CHARGED DESPITE FAILURE OF THE PROSECUTION TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.

To determine the innocence or guilt of the accused in rape cases, the courts are guided by three well-entrenched principles: (1) an accusation of rape can be made with facility and while the accusation is difficult to prove, it is even more difficult for the accused, though innocent, to disprove; (2) considering that in the nature of things, only two persons are usually involved in the crime of rape, the testimony of the complainant should be scrutinized with great caution; and (3) the evidence for the prosecution must stand or fall on its own merits and cannot be allowed to draw strength from the weakness of the evidence for the defense.^[23]

Appellant maintains that the trial court erred in giving weight and credence to the highly incredible testimony of the private complainant. He asserts that it was peculiar for AAA to have acted the way she did having remained so calm and composed after the alleged rape, and that she managed to sleep and do her usual household chores thereafter are not consistent with the deportment of a rape victim.

We are not persuaded.

The fact that private complainant acted as if nothing horrible happened to her does not warrant appellant's exoneration. How the victim comported herself after the incident was not significant as it had nothing to do with the elements of the crime of rape.^[24] Not all victims can be expected to act conformably to the usual expectations of everyone. Different and varying degrees of behavioral responses are expected in the proximity of, or in confronting, an aberrant episode. It is settled that different people react differently to a given situation or type of situation and there is no standard form of human behavioral response when one is confronted with a strange, startling or frightful experience.^[25] The workings of the human mind when placed under emotional stress are unpredictable.^[26] This Court, in *People v. Luzorata*,^[27] held:

This Court indeed has not laid down any rule on how a rape victim should behave immediately after she has been abused. This experience is relative and may be dealt with in any way by the victim depending on the circumstances, but her credibility should not be tainted with any modicum of doubt x x x.

After a review of the testimony of the victim, who was thirteen (13) years old when the rape occurred in the year 1997, we find no reason to reverse the findings of the trial court, as affirmed by the Court of Appeals. In a clear and straightforward

manner that is worthy of belief, the victim narrated her ordeal as follows:

Q In this case, you are charging your stepfather with alleged rape, how did that happen?

A I was in our house then with my stepfather. I was reading when he came near me, sir.

Q What happened when he came near you?

A He forced me to lie down and then, he removed my clothings, sir.

Q He forced you to lie down, what happened after that?

A He licked my breasts and then, he went on top of me, sir.

Q Then, what happened?

A He was not wearing T-shirt then, he removed his shorts and then, he started to rape me.

Q How did he rape you?

A That was what I am saying, sir.

Q How did this take place?

A He inserted his penis into my vagina, sir.

Q Then, what did he do after that?

A He wore his clothes already, sir.

Q How long did he stay on top of you when you said he inserted his penis into your vagina?

A For minutes, sir.

Q What did you feel then?

A It was painful, sir.

x x x x

Q During that time he was on top of you, what did you do?

A I was crying, sir.

Q How many times did he do that to you in the afternoon of November 6, 1997?