

EN BANC

[G.R. NO. 167693 (FORMERLY G.R. NOS. 147678-87), September 19, 2006]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. CORONA,
MELCHOR CABALQUINTO, APPELLANT.**

D E C I S I O N

TINGA, J.:

This case presents an opportunity for the Court not only to once again dispense due requit for the sufferings of a child who has been defiled by her own father, but also to effectuate the provisions of Republic Act No. 7610 (RA 7610), otherwise known as the *Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act*, and its implementing rules, RA 9262, otherwise known as the *Anti-Violence Against Women and Their Children Act of 2004*, and its implementing rules, and our own *Rule on Violence Against Women and their Children*.^[1]

The provisions on confidentiality of these enactments uniformly seek to respect the dignity and protect the privacy of women and their children. Sec. 29 of RA 7610 provides:

Sec. 29. *Confidentiality*.-at the instance of the offended party, his name may be withheld from the public until the court acquires jurisdiction over the case.

It shall be unlawful for any editor, publisher, and reporter or columnist in case of printed materials, announcer or producer in the case of television and radio broadcasting, producer and director in the case of the movie industry, to cause undue and sensationalized publicity of any case of a violation of this Act which results in the moral degradation and suffering of the offended party.

Sec. 44 of RA 9262 similarly provides:

Sec. 44. *Confidentiality*.-All records pertaining to cases of violence against women and their children including those in the barangay shall be confidential and all public officers and employees and public or private clinics or hospitals shall respect the right to privacy of the victim. Whoever publishes or causes to be published, in any format, the name, address, telephone number, school, business address, employer, or other identifying information of a victim or an immediate family member, without the latter's consent, shall be liable to the contempt power of the court.

Any person who violates this provision shall suffer the penalty of one (1)

year imprisonment and a fine of not more than Five Hundred Thousand Pesos (P500,000.00).

Likewise, the *Rule on Violence Against Women and their Children* states:

Sec. 40. *Privacy and confidentiality of proceedings.*-All hearings of cases of violence against women and their children shall be conducted in a manner consistent with the dignity of women and their children and respect for their privacy.

Records of the cases shall be treated with utmost confidentiality. Whoever publishes or causes to be published, in any format, the name, address, telephone number, school, business address, employer or other identifying information of the parties or an immediate family or household member, without their consent or without authority of the court, shall be liable for contempt of court and shall suffer the penalty of one year imprisonment and a fine of not more than Five Hundred Thousand (P500,000.00) Pesos.

It is worth mentioning in this connection that the Court has resolved to refrain from posting in its Internet Web Page the full text of decisions in cases involving child sexual abuse in response to a letter from a mother of a child abuse victim addressed to the Chief Justice expressing anxiety over the posting of full text decisions of the Supreme Court on its Internet Web Page. The mother submitted that confidentiality and the best interest of the child must prevail over public access to information and pleaded that her daughter's case, as well as those of a similar nature, be excluded from the Web Page.^[2]

The Court required the Office of the Solicitor General (OSG), the Integrated Bar of the Philippines (IBP), National Press Club (NPC), Philippine Press Institute (PPI), Kapisanan ng mga Brodkaster sa Pilipinas (KBP) and the Department of Social Welfare and Development (DSWD) to comment on whether or not it is proper to post the full text of decisions of similar cases on the Supreme Court Web Page.

The position of the OSG in its Comment^[3] is noteworthy. The OSG submits that the posting of the full text of decisions in cases involving child abuse on the Supreme Court Web Page violates the right to privacy of the aggrieved parties. In order to determine whether the subject matter upon which the right to privacy being invoked falls within the constitutionally- protected zone of privacy, it must be shown that the person's expectation of privacy is reasonable. The reasonableness of such expectancy depends on a two-part test: (1) whether by his conduct, the individual has exhibited an expectation of privacy; and (2) whether this expectation is one that society recognizes as reasonable.

According to the OSG, the fact that the aggrieved child may have consented, through a parent or guardian, to a public hearing of the case does not negate the expectation of privacy which the child may later invoke because child victims cannot be presumed to have intended their initial agreement to extend beyond the termination of their case to the posting of the decision reached by the Court on the Web Page. Moreover, such an expectation of privacy is reasonable considering the various statutes and rules which reveal the intention of the State to maintain the confidentiality of information pertaining to child abuse cases.

The OSG invites the Court's attention to a New Jersey statute which provides that all court documents which state the name, address and identity of a child victim in certain sexual assault, endangering the welfare and abuse and neglect cases should remain confidential. The name of the victim shall not appear in any public record; rather, initials or a fictitious name shall appear. The offenses covered by the law include aggravated sexual assault, sexual assault, aggravated criminal sexual contact, criminal sexual contact, endangering the welfare of children, and any action alleging an abused or neglected child. Thus, in *Application of V Pub. Corp.*, 120 N.J. 508 (1990), and *Div. of Youth & Fam. Serv. V. J.B.*, 120 N.J. 112 (1990), the New Jersey Supreme Court provided guidelines in the implementation of this statute.

In conclusion, the OSG suggests the adoption of a system of coding which could include the use of pseudonyms in cases of a similar nature. Short of withdrawing the full text of decisions in such cases from the Web Page, the OSG proposes that the Court instead replace the material information, such as the name of the child-victim, in its decisions.

The DSWD imparted the same sentiment. It submits that the court records of child abuse cases should be treated with strict confidentiality not only throughout the court proceedings, but even after the promulgation of the decision in order to protect the right to privacy of the child and her family and to preclude instances where undue disclosure of information may impair the treatment and rehabilitation of the child-victim.^[4]

The Court likewise appreciates the separate comments of the KBP and NPC. The KBP informs the Court that its members have agreed not to identify in their broadcasts the names of children who are victims of abuse or are in conflict with the law.^[5] The NPC, on the other hand, tells us that the prevailing media practice is to inquire whether these individuals wish to have their names appear in the report. If they do not, media would normally take off the names and merely provide a very general description of the individual in recognition of the need to carefully balance the right to information with the welfare of the parties involved.^[6]

Taking all these opinions into account and in view of recent enactments which unequivocally express the intention to maintain the confidentiality of information in cases involving violence against women and their children, in this case and henceforth, the Court shall withhold the real name of the victim- survivor^[7] and shall use fictitious initials instead to represent her. Likewise, the personal circumstances of the victims-survivors or any other information tending to establish or compromise their identities, as well those of their immediate family or household members, shall not be disclosed.^[8]

On February 18, 2002, the Regional Trial Court of Quezon City, Branch 87, convicted Melchor Cabalquinto (Cabalquinto) on two (2) counts for the rape of his eight-year old daughter, AAA. The dispositive portion of the decision states:

WHEREFORE, finding accused guilty in both Criminal Case No. Q-98-79683 and Criminal Case No. Q-98-79684, for Rape, judgment is hereby rendered sentencing accused MELCHOR CABALQUINTO Y MINGO to suffer the penalty of DEATH on both counts, pursuant to the penalty imposed

under Article 335 of the Revised Penal Code of the Philippines as amended by RA 7659.

Accused is further ordered to indemnify his daughter-victim the sum of Seventy Five Thousand Pesos (P75,000.00) for damages, in each count.

SO ORDERED.^[9]

This case was initiated by a sworn statement filed by AAA, assisted by her mother, ABC,^[10] which resulted in the filing of two (2) Informations for rape, the first alleging:

That on or about the 8th day of November 1998, in xxx City, Philippines, the said accused by means of force and intimidation, did then and there willfully, unlawfully and feloniously undress [AAA], his own daughter, 8 years old, a minor, put himself on top of her, inside the room of their residence located at xxx,^[11] this City, and thereafter have carnal knowledge with her against her will and without her consent.

CONTRARY TO LAW.^[12]

and the second stating:

That on or about the 13th day of November 1998, in xxx City, Philippines, the said accused by means of force and intimidation did then and there willfully, unlawfully and feloniously undress [AAA], his own daughter, 8 years of age, a minor, put himself on top of her, inside the room of their residence located at xxx,^[13] this City, and thereafter have carnal knowledge with her against her will and without her consent.

CONTRARY TO LAW.^[14]

Cabalquinto pleaded not guilty on arraignment. Trial on the merits ensued which resulted in his conviction and the imposition of the penalty of death. The records of the case were thereafter forwarded to this Court on automatic review.

On December 10, 2002, the Court issued a Resolution requiring the parties to submit their respective briefs. The parties complied. Pursuant to the case of *People v. Efren Mateo*,^[15] however, the Court issued a Resolution on September 14, 2004, transferring the case to the Court of Appeals for appropriate action.

The appellate court affirmed the decision of the trial court and added an award of P50,000.00 as moral damages and P25,000.00 as exemplary damages.^[16] The case is again before us for our final disposition.

The prosecution presented as witnesses AAA herself, her mother ABC, and Dr. Stella Guerrero-Manalo (Dr. Manalo) of the Child Protection Unit (CPU) of the Philippine General Hospital (PGH).

ABC testified that she is the common-law wife of Cabalquinto and that they have four children, namely: BBB, CCC, the child-victim AAA, and DDD. At around 8:45

p.m. of November 13, 1998, she was on her way home to xxx, and saw her sons BBB and CCC outside the house, and her youngest daughter DDD playing with a cousin. As she was approaching the house, she noticed that the door was closed although the lights were on. Since there is a half-inch gap between the door and the wall, she peeped through the gap and saw Cabalquinto lying face down making pumping motions on their daughter, AAA, who was lying underneath him with her panties pulled down. When she heard Cabalquinto tell AAA to open her legs ("ibuka mo"), she kicked and pounded the door. Cabalquinto immediately lay down. AAA then stood up and opened the door. ABC entered the room and confronted Cabalquinto who only denied her accusation. She then asked AAA what her father did to her. AAA did not say anything but looked pale. [17]

After regaining her composure, she went to her sister-in-law EEE, who lived on the second floor of the house, and confided to the latter. At around 10:00 o'clock that night, she went to her sister's house in xxx to seek advice. Her sister told her to report the matter to the barangay officials. The barangay officials, in turn, told her to go to the police which she did the following day, November 14, 1998. [18]

AAA's *Salaysay* was taken by the police and they were referred to the CPU of PGH. Because there was no doctor on duty, she and AAA returned to the CPU on November 16, 1998. AAA was examined by a doctor and a medical certificate was issued. They returned to the police station where she executed her *Salaysay*. They then proceeded to the fiscal's office to lodge a complaint. [19]

ABC further testified that during the police investigation on November 14, 1998, AAA revealed to the police that a similar incident happened to her on November 8, 1998, the day of her friend's birthday celebration. [20]

AAA testified that at around 8:45 p.m. on November 13, 1998, she was inside their house in xxx, with her father, Cabalquinto, when the latter instructed her to close the door and windows and turn off the light. She obeyed but did not turn off the light. Her father then told her to lie down and immediately placed himself on top of her. He then undressed her, brought out his penis, asked her to masturbate him and to suck his penis, inserted his penis in her private parts and licked her private parts. He told her not to tell her *ninang* Virgie or her mother; otherwise, he would kill them all. She felt pain in her stomach and pelvis after the incident. [21]

Corroborating her mother's testimony, AAA stated that while they were at the police station, she disclosed that she was also raped by her father on November 8, 1998. She remembered the incident because it was the day her friend, FFF, celebrated her birthday. According to AAA, her father had been drinking that night. When she went home to drink water, she was called by her father, told to close the door and windows and to turn off the lights. She obeyed but did not turn off the lights. Her father then placed himself on top of her and told her to masturbate him. [22]

AAA further testified that she was not enrolled in school because her mother had been abroad. [23]

It should be mentioned that in her *Sinumpaang Salaysay* dated November 14, 1998, AAA stated that her father had raped her seven (7) times since her mother left for