

EN BANC

[G.R. No. 130985, December 03, 1999]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
EDMUNDO DE LEON Y JESUS, ACCUSED-APPELLANT.**

DECISION

KAPUNAN, J.:

For review by the Court is the decision rendered by the Regional Trial Court of Parañaque City, Branch 259, in Criminal Case Nos. 96-876 to 96-892, finding accused-appellant Edmundo de Leon guilty of seventeen (17) counts of rape and imposing on him the penalty of death. The decretal portion of the decision reads:

WHEREFORE, premises considered, finding accused EDMUNDO DE LEON GUILTY beyond reasonable doubt for the crime of rape for seventeen (17) time as defined and penalized under Article 335 of the Revised Penal Code as amended by Section 11 of the Republic Act No. 7659, this Court hereby sentences him to each count the penalty of DEATH and to suffer the accessory penalties provided by law specifically Article 40 of the Revised Penal Code. For the civil liability, he is hereby further condemned to indemnify the victim the amount of P50,000.00 in each of the seventeen crimes or a total of P850,000.00 in line with existing jurisprudence; P50,000.00 moral damages for each crime or a total of P850,000.00; and P50,000.00 as exemplary damages for each crime or a total of P850,000.00.

The Branch Clerk of Court of this Court is directed to prepare the Mittimus for the immediate transfer of accused Edmundo de Leon from the Parañaque Municipal Jail to the Bureau of Corrections in Muntinlupa City and finally to forward all the records of these cases to the Supreme Court for automatic review in accordance with Section 9, Rule 122 of the Revised Rules of Court and Article 47 of the Revised Penal Code as amended by Section 22 of Republic Act No. 7659.

SO ORDERED.^[1]

Accused-appellant was charged in Criminal Case No. 96-876 with the crime of rape committed against his daughter sometime in 1989 before the effectivity of Republic Act No. 7659. The information reads:

That sometime between the months of March and April at 1989 at Parañaque, and within the jurisdiction of this Honorable Court, the above-named Accused did then and there willfully, unlawfully and feloniously has carnal knowledge of a woman in the person of MARILOU DE LEON y NUYDA, by using force and intimidation.

That the offended party was then under twelve years of age at the time of the commission of the crime and that she is the daughter of herein Accused.

CONTRARY TO LAW.^[2]

Accused-appellant was also charged in Criminal Case Nos. 96-877 to 96-892 with sixteen (16) counts of rape committed against his daughter in December, 1995 after the effectivity of Republic Act No. 7659 in sixteen (16) separate informations similarly worded as follows:

That sometime in the month of December 1995 at Parañaque, and within the jurisdiction of this Honorable Court, the above-named Accused did then and there willfully, unlawfully and feloniously has carnal knowledge of a woman, in the person of MARILOU DE LEON y NUYDA, by using force and intimidation.

That the offended party was then under eighteen years of age at the time of the commission of the crime and that she is the daughter of herein Accused.

CONTRARY TO LAW.^[3]

At his arraignment, accused-appellant pleaded not guilty to the crimes charged.^[4] Thereafter, trial was conducted in the court below wherein both the People and the accused-appellant were afforded full opportunity to establish their respective versions.

The evidence for the prosecution shows that at the time of the first incident, the victim, Marilou de Leon, was only nine years old, having been born on September 19, 1980. One night between the months of March and April, 1989 she fell asleep while watching television in the living room of their home at Pelaez Street, Kabihasanan, Parañaque City. She suddenly woke up when she felt something warm enveloping her and discovered her father, herein accused-appellant, embracing and disrobing her. She was so frightened and could not shout. Her father then laid on top of her and pinned her down with his legs. He held her hands, then forcibly tried to insert his organ into hers. When he was not able to do so, he went to the kitchen, got some cooking oil and rubbed it on his organ. When he tried to insert his organ into hers again, he was only able to do so slightly. Because of this, he moistened his daughter's organ with his saliva. This time, he finally succeeded in fully penetrating her. Marilou could not stand the pain so she cried and cried. Thereafter, accused-appellant pulled out his organ from hers.^[5] At the time of the incident, Marilou's mother was at her place of work in BF Homes, Parañaque City.^[6]

According to Marilou, during the month of December, 1995, her father raped her weekly. During the first week, she was abused four (4) times; the second week, four (4) times; the third week, five (5) times; and the fourth week, four (4) times.^[7] These incidents happened right in their family home at Masville Compound, Sucat, Parañaque City without Marilou's consent and in the absence of her mother who was at her workplace.^[8] During some of these harrowing incidents, her father would

mash and suck her breasts and finger her.^[9] At one time, her father even told her: "Mas masarap ka pang gamitin kaysa sa nanay mo."^[10] In all these instances, her father admonished her not to report the incidents lest they both be jailed. In fact, he even threatened to kill the family should she disclose his despicable crimes.^[11] However, she could no longer bear her unfortunate plight. On August 8, 1996, she found the courage to report the incidents to the National Bureau of Investigation (NBI), hence, the instant complaints.^[12]

Marilou's mother, Maria de Leon, was called to the witness stand only to testify that Marilou was born on September 19, 1980.^[13] Marilou's birth certificate was submitted in evidence and was marked as Exhibit "E."

Accused-appellant could only offer bare denials to the incriminating declaration of his daughter.^[14] He contended, however, that Marilou filed the instant cases because she was jealous of the attention he was lavishing on his love child by another woman and resented him everytime he quarreled with her mother.^[15]

On his cross-examination, however, accused-appellant admitted having written and signed a letter which reads as follows: "Kagalang-galang na Hukom, ako po si Edmundo de Leon Y de Jesus ay kusang-loob na umaamin sa ibinigay na pahayag ng aking anak na si Marilou de Leon. Akin po lamang hinihiling na alisin siya sa pangangalaga ng DSWD at ibigay siya sa piling ng kanyang ina na si Maria de Leon.^[16] This document, however, was not formally offered in evidence by the prosecution.

On redirect examination, he declared that he only wrote the letter at the insistence of his wife who wanted their daughter, herein victim, released from the custody of the Department of Social Welfare and Development (DSWD) to help in taking care of their family.

After trial, the lower court rendered a decision, which as earlier mentioned, convicted accused-appellant of raping his daughter, Marilou, seventeen (17) times and sentenced him pursuant to the provisions of Republic Act No. 7659 amending Article 335 of the Revised Penal Code.

As his lone assignment of error, accused-appellant reproves the trial court for finding him guilty of the crimes charged despite the prosecution's alleged failure to prove his guilt beyond reasonable doubt.^[17] He contends that (1) he should be acquitted of the 1989 rape because Marilou's testimony is doubtful, it having been given seven years after the alleged occurrence and (2) the sixteen counts of rape were not proven beyond reasonable doubt because each offense was not described in detail.

After a thorough and intensive review of the records of this case, we are wholly convinced that accused-appellant is guilty as charged in Criminal Case no. 96-876 for statutory rape.

Notwithstanding her tender age, Marilou was able to give a detailed and vivid account of her agonizing experience on that fateful night. Thus:

STATE PROS. VELASCO:

Ms. Witness, you have stated in your complaint, in your sworn statement that you were allegedly raped by a certain Edmundo de Leon. My question is, do you know who is this Edmundo de Leon?

A: Yes, sir.

Q: Who is he?

A: He is my father.

Q: Ms. Witness, please look around (sic) this courtroom, is this Edmundo de Leon inside the courtroom?

A: Yes, sir.

Q: Will you please stand up and point to Edmundo de Leon?

A: (WITNESS POINTED TO A MALE PERSON INSIDE THE COURTROOM WHO WHEN ASKED HIS NAME ANSWERED AS EDMUNDO DE LEON)

Q: Ms. Witness, you likewise stated in your complaint that this Edmundo de Leon allegedly have sexual intercourse with you on several occasions, when, if you can still remember, the first time Edmundo de Leon had sexual intercourse with you?

A: Between March and April.

Q: What year, Ms. Witness?

A: 1989, sir.

Q: Where did this happen?

A: In our house at Pelaez Street, Kabihasanan, Parañaque.

Q: At about what time did it take place?

A: About 7:00 or 8:00.

Q: Morning or evening?

A: Evening, sir.

Q: In what specific part of your house did this alleged incident take place?

A: In the sala.

Q: Before the alleged, (sic) incident, Ms. Witness, immediately (sic) before the alleged incident took place, what were you doing at that time?

A: I was watching television.

Q: Ms. Witness, during the period between March and April 1989, how old were you?

A: Going to nine years old

Q: When were you born?

A: September 19, 1980.

Q: While you were watching television, what happened next?

A: "Nakatulog po ako at may naramdaman po akong mainit. Niyayakap po ako ng tatay ko pero wala naman pong malisya sa akin `yon dahil tatay ko naman po siya at natural lang na yakapin niya ako pero hindi ko po akalain na may mangyayari."

Q: By the way, Ms. Witness, during that time, were there other persons beside you who were inside the house?

A: My brother and sister but they were in the room and only the two of us were in the sala.

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Q: What specific place in your house were Christian and Angela at that time, the place where they were together?

A: In the room.

Q: Were there other persons beside Angela and Christian during that time inside the house?

A: None, sir.