

FIRST DIVISION

[G.R. No. 181497, February 22, 2012]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
PATERNO SARMIENTO SAMANDRE, ACCUSED-APPELLANT.**

D E C I S I O N

LEONARDO-DE CASTRO, J.:

On appeal is the Decision^[1] dated April 25, 2007 of the Court of Appeals in CA-G.R. CR.-H.C. No. 02024, affirming with modifications the Decision^[2] dated December 19, 2002 of the Regional Trial Court (RTC), Branch 21 of Santiago City, which convicted accused-appellant Paterno Sarmiento Samandre of four counts of rape of his minor daughter.

Consistent with the ruling in *People v. Cabalquinto*^[3] and *People v. Guillermo*,^[4] this Court withholds the real name of the private offended party and her immediate family members, as well as such other personal circumstances or any other information tending to establish or compromise the identity of said party. The initials AAA represent the private offended party and the initials BBB refer to her mother.

Accused-appellant was indicted for four counts of rape qualified by his relationship with and the minority of AAA. The Informations read:

[Criminal Case No. FC-3163]

That on or about 11:00 o'clock in the evening of January 11, 2000, at the City of Santiago, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, by means of threats and intimidation and with lewd designs, did then and there, willfully, unlawfully, and feloniously lay with, and have carnal knowledge of [his] sixteen (16) year[s] old daughter, [AAA] against her will to the damage and prejudice of [AAA].^[5]

[Criminal Case No. FC-3164]

That on or about 10:00 o'clock in the evening of January 12, 2000, at the City of Santiago, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, by means of threats and intimidation and with lewd designs, did then and there, willfully, unlawfully, and feloniously lay with, and have carnal knowledge of [his] sixteen (16) year[s] old daughter, [AAA] against her will to the damage and prejudice of [AAA].^[6]

[Criminal Case No. FC-3165]

That on or about January 14, 2000, at midnight in the City of Santiago, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, by means of threats and intimidation and with lewd designs, did then and there, willfully, unlawfully, and feloniously lay with, and have carnal knowledge of [his] sixteen (16) year[s] old daughter, [AAA] against her will to the damage and prejudice of [AAA].^[7]

[Criminal Case No. FC-3068]

That on or about 2:00 to 3:00 o'clock in the early morning of January 14, 2000 at Sinsayon, Santiago City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, by means of threats and intimidation and by reason of his moral ascendancy and influence as a father, did then and there, willfully, unlawfully, and feloniously have carnal knowledge of his 16[-]year[-]old daughter, [AAA], against her will to the damage and prejudice of the latter.^[8]

On July 6, 2000, accused-appellant pleaded not guilty to all charges and waived the pre-trial conference.^[9] Thereafter, trial ensued.

The prosecution presented the lone testimony of AAA,^[10] the private offended party; and formally offered its documentary exhibits consisting of AAA's Certificate of Live Birth issued by the Office of the City Civil Registrar of Santiago City,^[11] the Medico-Legal Certificate^[12] dated January 17, 2000 issued by the Southern Isabela General Hospital, and AAA's Sworn Complaint^[13] dated January 18, 2000. On the other hand, the defense submitted the testimonies of accused-appellant^[14] and his sister, Mary Marquez.^[15]

After trial, the RTC rendered its Decision on December 19, 2002 convicting accused-appellant for the crimes charged. The RTC decreed:

WHEREFORE, in the light of the foregoing considerations, the Court finds the accused Paterno Samandre y Sarmiento GUILTY beyond reasonable doubt of four counts of rape and hereby sentences him to the penalty of death in each of these four cases. He is also ORDERED to pay [AAA] the sum of Fifty Thousand Pesos (P50,000.00) in each of these cases.^[16]

Considering that death penalty was imposed on accused-appellant by the RTC Decision, said cases were directly elevated before us for automatic review. The Public Attorney's Office filed the Brief^[17] for accused-appellant on April 2, 2004, while plaintiff-appellee filed its Brief^[18] on August 10, 2004 through the Office of the Solicitor General.

In our Resolution^[19] dated September 27, 2005, we referred the present case to the Court of Appeals for appropriate action conformably with our ruling in *People v.*

The Court of Appeals, in its assailed Decision dated April 25, 2007, recounted the prosecution's version of events as follows:

AAA was born on May 3, 1983, as evidenced by a Certification dated January 18, 2000 issued by the Office of the City Civil Registrar of Santiago City and is the eldest child of accused-appellant. AAA and her parents, together with her three (3) sisters and four (4) brothers, reside in a one room house in Sinsayon, Santiago City. AAA, [CCC], her six (6) year old sister, and accused-appellant sleep in one bed, while her mother and her other siblings sleep in a bigger bed.

In the evening of January 11, 2000, AAA was awakened by her father, AAA, who told her he wanted to have sex with her. AAA did not say anything and accused-appellant got angry and threatened to hurt her. Accused-appellant went on top of AAA, removed his short pants, as well as AAA's shorts, spread one of her legs and inserted his penis inside her vagina. Because of the pain, AAA cried and tried to struggle with accused-appellant while the latter made a push and pull movement. After removing his penis from the vagina of AAA, he wiped it and the vagina of the latter and then slept beside her. In the evening of January 12, 2000, AAA was again awakened and raped by accused-appellant as what happened the night before. The same sexual molestation was repeated by accused-appellant on AAA at about 2:00 o'clock and 3:00 o'clock in the morning of January 14, 2000. All of the incidents took place while AAA's mother and other siblings were asleep.

On January 14, 2000, accused-appellant brought AAA with him to Cordon, Isabela, to the house of their relative, Lilia Tabuñar. That evening, AAA and Lilia went to a wake and the former took the opportunity to tell the latter what her father had done to her. On January 18, 2000, Lilia accompanied AAA to the Philippine National Police in Santiago City, where she executed a sworn statement before PO1 Arlyn Malabad Guray narrating the sexual molestations of accused-appellant. Said sworn statement was signed by AAA in the presence of Lilia Tabuñar.

^[21]

The Court of Appeals also presented a summary of accused-appellant's defenses, to wit:

Accused-appellant denied having molested AAA. He claimed that on January 11, 2000, AAA left their house after he scolded her because she wanted to marry Freddie Fragata, who is already a married man. He went to Solano, Nueva Vizcaya, which is his province, to look for AAA, because she told her mother that she would go there. He stayed in the house of his father until the morning of January 13, 2000 to wait for AAA, but the latter did not arrive. He then returned to his house in Sinsayon, Santiago City. In the afternoon of January 13, 2000, accused-appellant

was called to the house of his brother-in-law in order to discuss the marriage of AAA. He went to the house of his brother-in-law where he saw AAA and Freddie. He told AAA not to get married yet and brought her home. He stated that AAA filed the cases against him because she wanted him to go to jail so that she could do whatever she wanted. He tried to show that they have three (3) beds in the house, one bed is occupied by his two (2) sons, the big bed is occupied by him, his wife and their other children, including AAA, and that no one occupies the small bed.

Accused-appellant's sister, Mary Marquez, testified that accused-appellant stayed in her house at Tukul, Solano, Nueva Vizcaya on January 11, 2000 while looking for AAA, who stowed away; that accused-appellant left the following day; and that her house is quite far from the house of her father.^[22]

After its evaluation of the foregoing evidence, the Court of Appeals promulgated its Decision on April 25, 2007 affirming accused-appellant's conviction for the four counts of rape, but modifying the penalty and awards for damages rendered against him. The decretal portion of said decision reads:

WHEREFORE, the Decision appealed from is AFFIRMED with MODIFICATION. Accused-appellant Paterno Samandre y Sarmiento is sentenced to suffer the penalty of *reclusion perpetua* without eligibility for parole in each case and is likewise ordered to pay AAA, in each case, the amounts of P50,000.00 as civil indemnity and P25,000.00 as exemplary damages, in addition to the award of moral damages in the amount of P50,000.00 in each case.^[23]

Hence, this appeal.

In a Resolution^[24] dated March 5, 2008, the Court gave the parties an opportunity to file their respective supplemental briefs. However, both plaintiff-appellee and accused-appellant manifested that they had already exhausted their arguments before the Court of Appeals and, thus, would no longer file any supplemental brief.^[25]

In his lone assignment of error, accused-appellant professes his innocence of the crimes charged. Accused-appellant highlights the inconsistencies in AAA's testimony, particularly, on whether or not she has a suitor/boyfriend. Accused-appellant asserts that AAA's initial concealment of the fact that she already has a boyfriend supports accused-appellant's contention that AAA accused him of rape so he could go to jail and no longer prevent AAA from marrying her boyfriend.

The Court sustains accused-appellant's conviction for raping his minor daughter on all four counts.

Article 266-A of the Revised Penal Code provides that the crime of rape is committed by a man having carnal knowledge of a woman under any of the following

circumstances: (1) through force, threat or intimidation; (2) when the offended party is deprived of reason or is otherwise unconscious; (3) by means of fraudulent machination or grave abuse of authority; and (4) when the offended party is under twelve (12) years of age or is demented, even though none of the circumstances mentioned above be present. In *People v. Orillosa*,^[26] the Court held that "in incestuous rape of a minor, actual force or intimidation need not even be employed where the overpowering moral influence of appellant, who is private complainant's father, would suffice."

The prosecution has established beyond reasonable doubt that accused-appellant, taking advantage of his moral ascendancy as a father, had carnal knowledge of his 16-year-old daughter, AAA.

In her Sworn Statement, executed in question-and-answer form, on January 18, 2000, AAA narrated to Police Officer (PO) Arlyn Malabad Guray that she had been sexually abused by her own father, accused-appellant, since she was 10 years old, and the latest incidents took place in January 2000. Below are relevant portions of AAA's Sworn Statement:

Q: What prompted you to appear before the Office of the Investigation section?

A: To file a complaint against my father Paterno Samandre, ma'am.

Q: What is your complaint against Paterno Samandre?

A: He sexually abused and molested me, ma'am.

Q: When and where did the incident happened?

A: Since when I was still 10 years old up to January 14, 2000 in our house and even in the river bank, ma'am.

Q: How many times did your father sexually abused/molested you?

A: He did it for many times, ma'am.

Q: When was the last time that your father sexually abused you?

A: On January 14, 2000 at about 2:00 to 3:00 o'clock in the morning, ma'am.

Q: Will you please narrate how the incident happened?

A: Sometime on the year 1993 we were then living at Tugal, Solano, Nueva Vizcaya, and I was then grade 3, while I was in our house one daylight sewing my cloth, my mother and younger brother and sister were out, my father came to me and wanted me to lay down and he will do something to me. Sensing that he is doing bad to me, I hesitated but forced me and laid me down in a bed. He then went on top of me and instructed me not to move. He is then wearing short pants, he removed my panty in my one leg then he removed his short pants and tried to insert his penis but I continuously move my body and pushed him. He told me that the pain was only in the beginning and later on the pain will no longer feel by me. He was able to insert partially his penis on my vagina and when he is about to ejaculate he immediately removed his penis and poured his semen in my vagina.

Q: What did you feel then?