

SECOND DIVISION

[G.R. No. 179280, August 27, 2009]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. PEDRO CALANGI
ALIAS HAPLAS, APPELLANT.**

D E C I S I O N

CARPIO MORALES, J.:

Pedro Calangi (appellant) was charged before the Regional Trial Court (RTC) of Gumaca, Quezon with two (2) counts of rape of his daughter-in-law AAA and another two (2) counts of rape of his granddaughter BBB,^[1] allegedly committed as follows:

CRIM. CASE NO. 6886-G

"The undersigned accuses Pedro Calangi @ `Haplas' (prisoner), of the crime of rape, committed as follows:

That on or about the month of July 1996, at Sitio Mangahan, Barangay Pagsangahan, Municipality of San Francisco, Province of Quezon, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, armed with handgun of unknown caliber, with lewd design, by means of force, violence, threats and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of one [**AAA**], his daughter-in-law, against her will.

CONTRARY TO LAW."^[2] (Emphasis and underscoring supplied)

CRIM. CASE NO. 6887-G

"The undersigned accuses Pedro Calangi @ `Haplas' (prisoner), of the crime of rape, committed as follows:

That on or about the month of July 1996, at Sitio Mangahan, Barangay Pagsangahan, Municipality of San Francisco, Province of Quezon, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, armed with handgun of unknown caliber, with lewd design, by means of force, violence, threats and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of one [**AAA**], his daughter-in-law, against her will.

CONTRARY TO LAW."^[3] (Emphasis and underscoring supplied)

CRIM. CASE NO. 6888-G

"The undersigned accuses Pedro Calangi alias `Haplas' (prisoner), of the crime of rape, in violation of Article 266-B of Republic Act No. 8353, committed as follows:

That on or about the month of August 1999, at Sitio Mangahan, Barangay Pagsangahan, Municipality of San Francisco, Province of Quezon, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, armed with a firearm of unknown caliber with lewd design, by means of force, violence, threats and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of one [BBB], his granddaughter who is within his second degree of consanguinity, a minor, 15 years of age, against her will.

CONTRARY TO LAW."^[4] (Emphasis and underscoring supplied)

CRIM. CASE NO. 6889-G

"The undersigned accuses Pedro Calangi *alias* `Haplas' (prisoner), of the crime of rape, in violation of Article 266-B of Republic Act No. 8353, committed as follows:

That on or about the month of August 1999, at Sitio Mangahan, Barangay Pagsangahan, Municipality of San Francisco, Province of Quezon, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, armed with a firearm of unknown caliber with lewd design, by means of force, violence, threats and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of one [BBB], his granddaughter who is within his second degree of consanguinity, a minor, 15 years of age, against her will.

CONTRARY TO LAW."^[5] (Emphasis and underscoring supplied)

From the evidence for the prosecution, the following version is established:

At 5:00 p.m. of a day in July 1996, while AAA, a mother of two, was cooking at her house in Sitio Mangahan, *Barangay* Pagsangahan, San Francisco, Quezon, appellant who was brandishing a small gun, arrived. He asked AAA if his son, who is her husband, was at home, to which she replied in the negative. Appellant at once embraced her and removed her clothes. As he poked his gun at her, he succeeded in having carnal knowledge with her. Having been overcome by fear, she could not shout or fight him off.

Appellant, who succeeded in having sexual intercourse with AAA a second time^[6] on the same occasion, was "on top of her" for four hours.^[7]

AAA reported her defilement to her husband CCC who told her to "just let the thing pass and let the law do something about it." She and CCC eventually reported the matter to the authorities, in order to deter appellant from doing the same to others. As to when she reported the rape, she could not remember. She was later to learn

that appellant had also raped her eldest daughter BBB.^[8]

As regards the charge complaint of AAA's daughter BBB, by BBB's account, appellant held her hands, removed her clothes, and touched her breasts before he inserted his penis in her vagina. How old she was and when she was raped by appellant, she does not remember. Only after appellant abused her a second time did she report to her mother AAA what befell her. She in fact begot a child who was adopted by the Department of Social Welfare and Development.^[9]

CCC, AAA's husband and father of BBB, could not remember when BBB actually reported the incidents of rape to him, but he recalled that it was when she was about to give birth.^[10] He remembered that AAA subsequently told him that she was also sexually abused by appellant.^[11] Despite those reports, he did not confront his father-appellant as he wanted him to himself disclose them.^[12] He later sought assistance from a *barangay* captain and *kagawad* who assisted him in reporting to the police.^[13]

BBB was examined by Dr. Teofista Ojeda on March 1, 2000^[14] when she was found to be five to six months pregnant.

Upon the other hand, appellant, interposing alibi, denied going in July 1996 to the house of AAA which can be reached on foot in two hours. He likewise denied raping AAA, or BBB whom he described as "abnormal." He could not, however, think of any reason why his son CCC, together with AAA and BBB, would charge him of rape.^[15]

Defense witnesses Jonaskie Moromoto and Ric Ric Revolio averred that they were with appellant at the time the alleged rape of AAA took place in July 1996.^[16]

By Decision^[17] of June 23, 2005, the trial court convicted appellant in all cases, disposing as follows:

WHEREFORE AND IN VIEW OF ALL THE FOREGOING, the court finds accused PEDRO CALANGI guilty of Rape of [AAA] for two counts defined and penalized under Article 335 of the Revised Penal Code as amended by R.A. [No.] 7659 in Criminal Cases Nos. 6886-G and 6887-G and is hereby sentenced to suffer the penalty of RECLUSION PERPETUA and to pay the amount of Php50,000.00 as moral damages and Php50,000.00 as civil indemnity for each count of rape.

The Court finds PEDRO CALANGI guilty beyond reasonable doubt of the crime of Rape of [BBB] for two (2) counts defined and penalized under Articles 266-A and 266-B of the Revised Penal Code as amended by R.A. [No.] 8353 in criminal cases nos. 6888-G and 6889-G and is hereby sentenced to suffer the penalty of DEATH and to pay the amount of Php75,000.00 as civil indemnity and Php50,000.00 as moral damages and Php25,000.00 as exemplary damages for each count of rape.

SO ORDERED.

On appeal, the Court of Appeals, [18] by Decision [19] of March 21, 2007, acquitted appellant in Criminal Case Nos. 6887-G and 6889-G for insufficiency of evidence, but affirmed appellant's conviction in Criminal Case Nos. 6886-G and 6888-G of which AAA and BBB were the private complainants, respectively. Thus the appellate court disposed:

WHEREFORE, the June 23, 2005 Decision of the Regional Trial Court, Branch 61, Gumaca, Quezon, in Criminal Case Nos. 6886-G to 6889-G, is hereby MODIFIED to read as follows:

WHEREFORE, in Criminal Cases [sic] No. 6886-G, finding the accused Pedro Calangi guilty beyond reasonable doubt of the crime of Rape committed against [AAA], the Court hereby sentences him to suffer the penalty of reclusion perpetua and to pay the amount of P50,000.00 as moral damages and P50,000.00 as civil indemnity.

In Criminal Case No. 6887-G, there being no sufficient evidence, the Court hereby acquits the accused.

In Criminal Cases [sic] No. 6888-G, finding the accused Pedro Calangi guilty beyond reasonable doubt of the crime of Rape committed against [BBB], the Court hereby sentences him to suffer the penalty of reclusion perpetua and to pay the amount [of] P50,000.00 as moral damages and P50,000.00 as civil indemnity.

In Criminal Case No. 6889-G, there being no sufficient evidence, the Court hereby acquits the accused.

SO ORDERED.

In affirming appellant's conviction in Criminal Case Nos. 6886-G and 6888-G, the appellate court noted that

[w]hat makes the complaints of the two victims all the more credible is the fact that the accused is the father-in-law of [AAA] and the grandfather of [BBB]. Even his very own son, [CCC], took the witness stand against him even if his testimony was only on the fact that [AAA] immediately reported what his father did to her and that he reported the crimes to the kagawads in their place. **A son, a daughter-in-law and a granddaughter would not falsely impute the offense of rape against him if it were not true.** It is hardly conceivable that they would fabricate matters and undergo the travails of a public trial, exposing themselves to humiliation and embarrassment by revealing what they underwent because of his insatiable lust. x x x x. (Emphasis and underscoring supplied)^[20]

Hence, the present appeal, appellant proffering the following

ASSIGNMENT OF ERRORS

I

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT OF RAPE OF [BBB] DESPITE THE INDEFINITENESS OF TIME WHEN THE ALLEGED RAPE INCIDENTS WERE COMMITTED.

x x x x

III

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT OF RAPE IN CRIMINAL CASE NOS. [6886]-G AND [6888]-G WHEN THE LATTER'S GUILT WAS NOT PROVEN BEYOND REASONABLE DOUBT.^[21] (Underscoring supplied)

Appellant contends that the prosecution failed to prove that he twice raped BBB sometime in August 1999 as alleged in each of the last two Informations, quoted above as BBB could not even recall the month or the year when the alleged rapes took place; and that even if BBB's pregnancy were true, this does not necessarily mean that he raped her and was responsible for her pregnancy. He adds that the prosecution did not even present the birth certificate of the purported child.^[22]

Appellant underscores that due consideration should be given to his defense of alibi in view of the glaring inconsistencies and improbabilities of the testimonies of the prosecution witnesses.

The Solicitor General counters that the alleged inconsistencies in the private complainants' testimonies do not delve on the elements of rape; that as against the complainants' positive identification of appellant as the perpetrator of the crimes, the latter merely raised denial and alibi as defense; and that the complainants' testimonies, corroborated by medical findings, sufficiently prove that, indeed, they had been ravished.^[23]

During the pendency of the present appeal, the Court received on June 19, 2009 a communication from the Bureau of Corrections informing that **appellant died on April 1, 2009** at the National Bilibid Prisons Hospital in Muntinlupa City.

In view of appellant's death, the dismissal of the cases under review, Criminal Case Nos. 6886-G and 6888-G is in order. The dismissal by reason of appellant's death has the force and effect of an acquittal,^[24] the constitutionally mandated presumption of innocence in his favor not having been overcome by a *final* finding of guilt. His civil liability *ex delicto* is accordingly extinguished.^[25]

The intervening death and resulting absolution of appellant from secular accountabilities notwithstanding, the Court is not precluded from reviewing the present cases, especially as it finds the appeal to be impressed with merit, in order to vindicate his name. The Court thus resolved to take a judicious review of the evidence presented in the cases.