

EN BANC

[G.R. No. 167179, January 28, 2008]

PEOPLE OF THE PHILIPPINES, Plaintiff-Appellee, vs. ELMER CEREDON y PAGARAN, Accused-Appellant.

DECISION

REYES, R.T., J.:

Sa mga karumal-dumal na krimen, walang higit na nagpapasiklab ng galit, pagkarimarim at pagkapoot kaysa sa panghahalay sa sariling laman. Ito ay kasuklam-suklam at nakapandidiri na marapat lamang na maramdaman ng nagkasala ang ngalit at pagtatakwil sa kanya ng lipunan. Sa pagkaka-repeal ng Death Penalty Law noong June 24, 2006 sa pamamagitan ng Republic Act (R.A.) No. 9346, ang akusadong umaapela ay sampung ulit na hinahatulan ng reclusion perpetua. Sa piitan na lilipas ang kanyang mga araw kasama ang umuusig na gunita ng pagkakasala sa kanyang batang-batang kapatid.

AMONG the heinous crimes, none stirs up so much public outrage, repulsion and hatred than incestuous rape. It is so odious and disgusting that the perpetrator rightfully must feel the anger and spurn of society.^[1] With the repeal of the Death Penalty Law^[2] on June 24, 2006 through the passage of R.A. No. 9347,^[3] accused-appellant is sentenced ten times to *reclusion perpetua*. He is to live out his days under incarceration with thoughts of his crimes against his sister of tender age to haunt his conscience.

The Case

Appellant Elmer Ceredon y Pagaran was indicted for ten (10) counts of rape, defined and penalized under Article 266(A) and (B) of the Revised Penal Code, as amended by R.A. No. 8353 and R.A. No. 7659, allegedly committed as follows:

1. In Criminal Case No. 08-1296:

That sometime in 1995, in the Municipality of Gattaran, Province of Cagayan, and within the jurisdiction of this Honorable Court, the above-named accused armed with a knife, with lewd design, by use of force or intimidation, did then and there willfully, unlawfully, and feloniously have carnal knowledge of the herein offended party, AAA,^[4] his youngest sister, a minor, ten (10) years of age, all against her will and consent.CONTRARY TO LAW.^[5]

2. In Criminal Case No. 08-1297:

That sometime in 1995, in the Municipality of Gattaran, Province of Cagayan, and within the jurisdiction of this Honorable Court, the above-named accused armed with a knife, with lewd design, by use of force or intimidation, did then and there willfully, unlawfully, and feloniously have carnal knowledge of the herein offended party, AAA, his youngest sister, a minor, ten (10) years of age, all against her will and consent.CONTRARY TO LAW.^[6]

3. In Criminal Case No. 08-1298:

That sometime in 1995, in the Municipality of Gattaran, Province of Cagayan, and within the jurisdiction of this Honorable Court, the above-named accused armed with a knife, with lewd design, by use of force or intimidation, did then and there willfully, unlawfully, and feloniously have carnal knowledge of the herein offended party, AAA, his youngest sister, a minor, ten (10) years of age, all against her will and consent.CONTRARY TO LAW.^[7]

4. In Criminal Case No. 08-1299:

That sometime in 1995, in the Municipality of Gattaran, Province of Cagayan, and within the jurisdiction of this Honorable Court, the above-named accused armed with a knife, with lewd design, by use of force or intimidation, did then and there willfully, unlawfully, and feloniously have carnal knowledge of the herein offended party, AAA, his youngest sister, a minor, ten (10) years of age, all against her will and consent.CONTRARY TO LAW.^[8]

5. In Criminal Case No. 08-1300:

That sometime in 1995, in the Municipality of Gattaran, Province of Cagayan, and within the jurisdiction of this Honorable Court, the above-named accused armed with a knife, with lewd design, by use of force or intimidation, did then and there willfully, unlawfully, and feloniously have carnal knowledge of the herein offended party, AAA, his youngest sister, a minor, ten (10) years of age, all against her will and consent.CONTRARY TO LAW.^[9]

6. In Criminal Case No. 08-1301:

That sometime in 1996, in the Municipality of Gattaran, Province of Cagayan, and within the jurisdiction of this Honorable Court, the above-named accused armed with a knife, with lewd design, by use of force or intimidation, did then and there willfully, unlawfully, and feloniously have carnal knowledge of the herein offended party,

AAA, his youngest sister, a minor, eleven (11) years of age, all against her will and consent.CONTRARY TO LAW.^[10]

7. In Criminal Case No. 08-1302:

That sometime in 1996, in the Municipality of Gattaran, Province of Cagayan, and within the jurisdiction of this Honorable Court, the above-named accused armed with a knife, with lewd design, by use of force or intimidation, did then and there willfully, unlawfully, and feloniously have carnal knowledge of the herein offended party, AAA, his youngest sister, a minor, eleven (11) years of age, all against her will and consent.CONTRARY TO LAW.^[11]

8. In Criminal Case No. 08-1303:

That sometime in 1998, in the Municipality of Gattaran, Province of Cagayan, and within the jurisdiction of this Honorable Court, the above-named accused armed with a knife, with lewd design, by use of force or intimidation, did then and there willfully, unlawfully, and feloniously have carnal knowledge of the herein offended party, AAA, his youngest sister, a minor, thirteen (13) years of age, all against her will and consent.CONTRARY TO LAW.^[12]

9. In Criminal Case No. 08-1304:

That sometime in 1998, in the Municipality of Gattaran, Province of Cagayan, and within the jurisdiction of this Honorable Court, the above-named accused armed with a knife, with lewd design, by use of force or intimidation, did then and there willfully, unlawfully, and feloniously have carnal knowledge of the herein offended party, AAA, his youngest sister, a minor, thirteen (13) years of age, all against her will and consent.CONTRARY TO LAW.^[13]

10. In Criminal Case No. 08-1305:

That sometime in 2000, in the Municipality of Gattaran, Province of Cagayan, and within the jurisdiction of this Honorable Court, the above-named accused armed with a knife, with lewd design, by use of force or intimidation, did then and there willfully, unlawfully, and feloniously have carnal knowledge of the herein offended party, AAA, his youngest sister, a minor, fifteen (15) years of age, all against her will and consent.CONTRARY TO LAW.^[14]

On August 13, 2001, at his arraignment before the Regional Trial Court (RTC), Branch 8, Aparri, Cagayan, appellant pleaded "not guilty" to all ten (10) charges. However, on September 3, 2001, during the pre-trial conference, his counsel manifested before the trial court the desire of appellant to change his plea to

"guilty" on all ten (10) counts. Said manifestation was granted and appellant was re-arraigned.^{14-a}

Thereafter, joint trial on the merits ensued. Teresa Andres-Teresa, Grade IV teacher of private complainant AAA, and AAA herself took the witness stand for the prosecution.

No evidence was presented for the defense.

The Facts

Criminal Case No. 08-1296

The corruption of AAA's childhood innocence commenced sometime in 1995 when she was merely ten (10) years of age. It occurred at mid-day in her own home at Baraoidan, Gattaran, Cagayan.^[15] She was playing with her brothers BBB and CCC when appellant beckoned to her. She ignored him for fear of getting whipped. His calls unheeded, appellant came out of the house and ordered their two brothers to go down to the river. BBB and CCC did as they were told.^[16]

Holding AAA by the arms, appellant then brought her into the house. She cried but appellant told her in Ilocano "*Uki ni nam, ta bedbedak ta ngiwat mo*" which roughly translates to "Vulva of your mother, I will gag your mouth." Appellant proceeded to search for a handkerchief.^[17]

AAA ran towards her youngest brother's cradle but appellant pulled her away to another room where he gagged her and whipped her with a belt.^[18] After that, appellant tied her hands together behind her back with a rope, pulled her dress down, laid her on a bed and, with more rope, tied each of her legs to separate corners of the bed.^[19] Appellant then left the room.^[20]

When he returned, he was wielding a pair of scissors. He snipped off AAA's shorts and underwear then shed his own clothes. Appellant then mounted her and inserted his penis into her vagina. The penetration caused her great pain.^[21] Afterwards, appellant wiped her genital region with a handkerchief and showed it to her. It was covered with blood.^[22]

Moments later, appellant heard their sister DDD's voice prompting him to procure a towel with which to cover AAA. Having concealed her nudity in this manner, appellant hastily donned his garments and left laughing.^[23]

When DDD and their brothers BBB and CCC entered the room, they found AAA still tied to the bed. One of her brothers pulled off the towel and untied her.^[24] AAA did not tell them that appellant had raped her because of her fear of appellant and his threats that he would kill them all.^[25]

Criminal Case No. 1297

The second incident of rape also occurred in 1995.^[26] AAA was tending to their youngest brother when appellant summoned her to extract his armpit hairs. She

turned a deaf ear. Appellant then instructed their brother BBB to take their youngest sibling to the river to bathe him. BBB complied.^[27] Left alone now with AAA, appellant dragged her inside a room and ordered her to remove her clothes.^[28] When she refused, he forcibly undressed her at knife-point.^[29]

Stripped naked, AAA was then brought to the bed – the same bed on which appellant had previously committed the dastardly deed. While lying on the bed, appellant disrobed and, while poking her with his knife, mounted her. He then penetrated her vagina with his penis. After satisfying himself, he again threatened to kill all of them should she report the matter to anyone.^[30]

Criminal Case No. 08-1298

Later that same year, appellant raped AAA for the third time.^[31] At the time of the incident, their parents were out of the house.^[32] While sleeping on top of their trunk, AAA was awakened when appellant started undressing her. She cried and begged him to stop, but he disregarded her pleas and proceeded to sexually abuse her.^[33] Despite her protestations, appellant proceeded to insert his penis into the young girl's vagina.^[34] After his lust had been sated, he reiterated his threat to kill them all should she reveal the incident to anyone.^[35]

Criminal Case No. 08-1299

A few days after the third rape, AAA was again sexually abused by appellant inside their house, in the same room and upon the same bed. As in the previous incidents, appellant poked a knife at her to compel her to submit to his bestial urges.^[36] Out of fear, she did not struggle or resist. Thereafter, appellant, had carnal knowledge of her.^[37]

Criminal Case No. 08-1300

The fifth rape happened in the same year.^[38] By this time, appellant was already married.^[39] His bestial acts towards his own sister nonetheless continued. It was noontime and AAA had just come home from visiting their grandfather.^[40] When she entered the bedroom, appellant quickly followed her in, closed the door behind him and locked it.^[41]

Poking his knife at her, he told her to strip. When she refused, appellant forcibly undressed her. He then removed his own clothes and laid her on the bed.^[42] While pointing a knife at her, he mounted her and inserted his penis into her vagina.^[43]

She pleaded with appellant to stop doing it to her by saying, "*Manong kaasiindak kadin, husto na kadin,*" which means "Brother, have pity on me, please stop it." Appellant, however, just slapped her mouth and proceeded to rape her. Afterwards, he issued his threat not to divulge the matter to anyone lest he would kill them all.^[44]

Criminal Case No. 08-1301