

SECOND DIVISION

[G.R. No. 176640, August 22, 2008]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
LUSTRISIMO ARELLANO, ACCUSED-APPELLANT.**

D E C I S I O N

CARPIO MORALES, J.:

On June 25, 2001, four criminal cases, docketed as Criminal Case Nos. 11724, 11725, 11726, and 11727, the first three for statutory rape, and the last for simple rape, were filed against accused-appellant Lustrisimo Arellano before the Regional Trial Court (RTC) of Batangas City. The accusatory portions of the Informations respectively read:

Criminal Case No. 11724:

That in the year 1993 at Brgy. x x x, Batangas City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, motivated by lust and lewd designs, by means of force, threat and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of one [AAA], then a 7-year old minor, against her will.

That the aggravating circumstance of relationship is attendant in the commission of the offense, the accused being the father of the offended party.^[1] (Underscoring supplied)

Criminal Case No. 11725:

That in or about August, 1994, at Brgy. xxx, Batangas City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, motivated by lust and lewd designs, by means of force, threat and intimidation, did then and there willfully, unlawfully, and feloniously have carnal knowledge of one [AAA], then an 8-year-old minor, against her will.

That the aggravating circumstance of relationship is attendant in the commission of the offense, the accused being the father of the offended party.^[2] (Underscoring supplied)

Criminal Case No. 11726:

That in the year of 1997 at Brgy. xxx, Batangas City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, motivated by lust and lewd designs, by means of force, threat and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of one [AAA], then an 11-year old minor, against her

will.

That the aggravating circumstance of relationship is attendant to the commission of the offense, the accused being the father of the offended party.^[3]

Criminal Case No. 11727:

That in or about January, 2000 at Brgy. xxx, Batangas City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, motivated by lust and lewd designs, by means of force, threat, and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of one [AAA], then a 13-year old minor, against her will.

That the aggravating circumstance of relationship is attendant in the commission of the offense, the accused being the father of the offended party.^[4]

From the account of the private complainant AAA,^[5] the following are gathered:

Sometime in 1993, while AAA, then seven years old, was left at home with her father-herein appellant, he carried her to a room in the house where he pulled down her underwear and undressed himself. He then forced her to lie down, kissed her breasts, and placed his penis into her sex organ, causing her to cry as she was in pain. She did not, however, disclose to anyone what appellant did to her because he had threatened to kill her mother if she did.

Sometime in August 1994, while the then eight year old AAA was again left alone at home with appellant, he inserted his hand inside her underwear, and touched her sex organ. He then undressed her, placed himself on top of her, and put his penis into her sex organ. Despite her pleas, appellant was not restrained. Again she did not disclose to anyone what appellant did to her under the same threat made by him.

Sometime in 1997, AAA, then 11 years old, was still again left alone at home with appellant. Anticipating that appellant might again do what he had previously done to her, she hid inside the bathroom, but appellant pursued her and once there he rubbed his penis against her sex organ. He then brought her to, and forced her to lie down on a bed and then inserted his penis into her sex organ, in the course of which something came out of appellant's penis which he wiped with a rug. She did not also disclose what appellant did to her under similar threats made by appellant.

Sometime in January 2000, AAA, then 13 years old and again left alone at home with appellant, the latter touched her breasts, made her lie down on his bed, and as appellant was consummating the sexual act, he withdrew his penis on hearing someone knock at the door, put on his short pants as she did hers. Her elder brother had arrived and on seeing her crying, he inquired why, but she kept mum. Later that day, however, when her mother, a laundrywoman, arrived home, she related all the incidents because she was "already *hirap na hirap*."^[6]

To prove that AAA was below 12 years old at the time of the occurrence of the first,

second, and third offenses and that appellant is her biological father,^[7] the prosecution presented AAA's birth certificate.^[8]

At the witness stand, Dr. Melodee Mercado (Dr. Mercado) who medically examined AAA^[9] opined that her findings after her examination of AAA, viz:

EXTERNAL GENITALIA: Normal looking (+) pubic hair, (+) incomplete healed laceration at 3 o'clock and complete healed laceration at 8 and 9 o'clock, (+) hyperemia of perihymenal area at 3 and 9 o'clock.

INTERNAL EXAMINATION: Admits 1 finger with ease, 2 fingers with slight difficulty.

x x x x,^[10]

could have resulted from penile penetration.^[11]

Also at the witness stand, AAA's eldest sister BBB related^[12] that when AAA told her about the rape incidents, she realized that like her, AAA was also being raped by appellant, drawing her (BBB) to file her own rape charge against him which was raffled to Branch 42 of the RTC of Batangas City.

Denying the charges, appellant surmised that AAA filed the cases against him at BBB's instigation because he was very strict with them and did not allow BBB to have a boyfriend as she was still studying.^[13]

Branch 1 of the RTC of Batangas City, finding the positive testimony of AAA more credible than the denial of appellant, convicted him of all four charges, aggravated by relationship, by Consolidated Decision^[14] of June 3, 2002, disposing as follows:

WHEREFORE, the accused, LUSTRISIMO ARELLANO y ESPIRITU, is found guilty beyond reasonable doubt of THREE (3) COUNTS OF AGGRAVATED STATUTORY RAPE and ONE (1) COUNT OF AGGRAVATED RAPE under Articles 266-A and 266-B of the Revised Penal Code, and is hereby sentenced to suffer the supreme penalty of death for each one of the charges in these four (4) cases, with costs. He is further ordered to indemnify [AAA] with the sum of P50,000.00 for each of the four offenses or a total of P200,000.00 as moral damages.

Considering that the capital punishment in these cases is imposed on the accused, their records are hereby directed to be forwarded immediately to the Supreme Court for automatic review under the law, and the accused is remanded to the New Bilibid Prisons in Muntinlupa City, there to await for the final judgment in these cases.

SO ORDERED.^[15] (Underscoring supplied)

By Decision^[16] of July 31, 2006, the Court of Appeals, to which this Court forwarded the appeal following *People v. Mateo*,^[17] resolving in the negative the sole issue raised by appellant - whether delay in reporting the incidents of rape affected the credibility of AAA, affirmed the trial court's decision. It, however, modified the