

EN BANC

[G.R. No. 168166, October 10, 2008]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
SALVADOR C. DACO ACCUSED-APPELLANT.**

D E C I S I O N

LEONARDO-DE CASTRO, J.:

Under automatic review is the decision^[1] dated April 5, 2005 of the Court of Appeals (CA) in *CA-G.R. CR-H.C. No. 00621* which affirmed, with modifications, an earlier joint decision^[2] of the Regional Trial Court (RTC) of San Jose, Camarines Sur, Branch 30, in Criminal Case Nos. T-2150 to T-2156, which found herein accused-appellant guilty beyond reasonable doubt of seven (7) counts of qualified **Rape** against his own daughter and sentenced him to suffer the extreme penalty of death on each count, to pay the amount of P75,000.00 as civil indemnity, P50,000.00 as moral damages, and the cost of the suit. However, the CA modified the penalties imposed by the RTC by increasing the award of moral damages from P50,000.00 to P75,000.00 and including the award of P25,000.00 as exemplary damages.

Consistent with our decision in *People v. Cabalquinto*,^[3] the real name of the rape victim in this case is withheld. Instead, fictitious initials are used to represent her. Also, the personal circumstances of the victim or any other information tending to establish or compromise her identity, as well as those of her immediate family or household members, is not disclosed in this decision.^[4] In this regard, the rape victim is herein referred to as AAA; her mother, BBB; her sister, CCC; and the latter's husband, DDD.

In seven (7) separate informations, accused-appellant was charged with seven (7) counts of rape allegedly committed against his daughter AAA on October 7, 1999; and sometime in November 1999, December 1999, January 2000, February 2000, March 2000 and April 2000. Except as to the aforesaid different dates of the commission of the crimes, the Informations are similarly worded. The information in Criminal Case No. T-2150 reads:

That on or about October 7, 1999 at around 2:00 o'clock in the early morning, at Barangay Himanag, Municipality of Lagonoy, Province of Camarines Sur, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, being the father of [AAA], who was then only 13 years old, did then and there willfully, unlawfully and feloniously have sexual intercourse with her against her will, to her damage and prejudice.

Acts contrary to law.

On January 12, 2001,^[5] accused-appellant, duly assisted by counsel, entered a plea of not guilty in each of the seven (7) cases. Thereafter, the cases were tried jointly. The prosecution presented the oral testimonies of victim AAA; Dr. Ma. Geraldine Joy Belmonte, a physician at the Bicol Medical Center, Naga City, where AAA was brought for physical examination; Social Welfare Officers Shiela Marie Galicia, who conducted a case study and prepared a report on AAA; and Jessica Rodriguez, who accompanied the victim during the trial.

The prosecution also offered documentary evidence consisting of the medical certificate issued by Dr. Belmonte, the case study report, and the Certificate of Live Birth of AAA showing that she was born on April 11, 1986 to accused-appellant and his spouse, BBB.

The defense presented, as its main witness, the accused-appellant himself, who vehemently denied committing the crimes imputed to him and claimed that the charges were merely fabricated by AAA. His wife, BBB, also testified to corroborate his testimony.

On February 21, 2003, the trial court rendered its joint Decision finding the accused-appellant guilty of seven (7) counts of qualified rape and imposed the penalties mentioned above.

The records of these cases were forwarded to this Court for automatic review, in view of the death penalty imposed.

In our Resolution^[6] of October 21, 2003, We accepted the appeal and directed Atty. Teresita G. Dimaisip, Chief, Judicial Records Office, to send notices to the parties to file their respective briefs and to the Director of the Bureau of Corrections, to confirm the detention of the accused at the National Penitentiary. Accused-appellant filed his Appellant's Brief^[7] on April 12, 2004, while the People, thru the Office of the Solicitor General, filed its Appellee's Brief^[8] on August 13, 2004.

Pursuant to our pronouncement in *People v. Mateo*,^[9] modifying the pertinent provisions of the Revised Rules on Criminal Procedure insofar as they provide for direct appeals from the RTC to this Court in cases in which the penalty imposed by the trial court is death, *reclusion perpetua* or life imprisonment, and also modifying the Resolution dated September 19, 1995, the cases were transferred, for appropriate action and disposition, to the CA where they were docketed as CA-G.R. CR-H.C. No. 00621.

As stated at the threshold hereof, the CA, in its decision of April 5, 2005 in CA-G.R. CR-H.C. No. 00621, affirmed with modification the judgment of conviction pronounced by the trial court by ordering accused-appellant to pay AAA moral damages in the increased amount of P75,000.00 in addition to P25,000.00 exemplary damages in each case. We quote the *fallo* of the CA decision:

WHEREFORE, premises considered, the Joint Decision dated February 21, 2003 of the Regional Trial Court of San Jose, Camarines Sur, Branch 30, in Criminal Case Nos. T-2150 to 2156 finding accused-appellant guilty beyond reasonable doubt of the crime of rape and sentencing him to suffer the supreme penalty of DEATH in each case, is hereby AFFIRMED

with MODIFICATIONS in that he is ordered to pay private complainant the amount of P75,000.00 as moral damages in each case and P25,000.00 as exemplary damages also in each case.

With costs against the accused-appellant.

Pursuant to Section 13, Rule 124 (A.M. No. 00-5-03-SC in re: Amendments to the Revised Rules of Criminal Procedure to Govern Death Penalty Cases) let the entire records of this case be forwarded to the Honorable Supreme Court for review.

SO ORDERED.

The records of the aforesaid CA case were forwarded to this Court pursuant to Section 13, Rule 124 (A.M. No. 00-5-03-SC in re: Amendments to the Revised Rules of Criminal Procedure to Govern Death Penalty Cases).

In our Resolution of July 12, 2005, We required the parties to simultaneously submit their respective supplemental briefs within thirty (30) days from notice, if they so desired.

In their separate manifestations dated October 10, 2005 and October 12, 2005, the parties waived the filing of supplemental briefs and instead opted to stand by their respective briefs filed before the CA.

In his Brief before the CA, accused-appellant raised the following assignment of errors:

I

THE LOWER COURT ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT OF THE CRIMES CHARGED DESPITE THE PATENT WEAKNESS OF THE PROSECUTION EVIDENCE.

II

THE LOWER COURT ERRED IN NOT GIVING EXCULPATORY WEIGHT TO THE DEFENSE INTERPOSED BY THE ACCUSED-APPELLANT.

The instant appeal was anchored on the catch-all argument that accused-appellant's guilt was not proven beyond reasonable doubt. The following is the CA's summary of the evidence for the plaintiff:

The evidence for the prosecution shows that private complainant [AAA] was born to spouses [accused-appellant], and [BBB] on April 11, 1986 as shown in her Certificate of Live birth. On October 6, 1999, when [AAA] was already thirteen (13) years old, she went to a dance party together with her friends. After the party she went home with her friend, Charry Pitallano, and slept at the latter's house. The following day, or on October 7, 1999, at around 2:00 o'clock in the morning, [AAA] was fetched by accused-appellant and told her that they were going to search for his brother who was allegedly missing. However, instead of searching for her

brother, accused-appellant brought [AAA] to the mezzanine of a copra kiln drier located in Barangay Himanag, Lagonoy, Camarines Sur and started to make sexual advances upon her. [AAA] resisted and kicked accused-appellant on the stomach. Incensed, accused-appellant took his 18 inch bolo and threatened [AAA] with it. Thereafter, accused-appellant took off his pants and brief then inserted his penis into [AAA's] vagina for two (2) minutes. [AAA] felt an excruciating pain. When accused-appellant was finally able to satisfy his lust, he warned [AAA] not to tell anyone of what happened.

The incident was repeated sometime in November 1999. On said date, accused-appellant arrived home and found [AAA] inside their house also in Barangay Himanag, Lagonoy, Camarines Sur. Nobody was there except [AAA]. Her brothers and sisters as well as her mother were working at the mountain at that time. Shortly, thereafter, accused-appellant approached [AAA] and forcibly undressed her. Accused-appellant removed his pants and brief then inserted his penis into [AAA's] vagina. This went on for three (3) minutes. Again, [AAA] felt extreme pain while accused-appellant was doing this. When accused-appellant was already satiated, he again warned [AAA] not to report the incident to anyone or else he would kill her.

[AAA] was again raped by accused-appellant sometime in December 1999. On said date, accused-appellant came home drunk. He again found [AAA] alone in the house. When [AAA] saw him, she became very afraid knowing that accused-appellant might again sexually abuse her. And true enough, accused-appellant approached her and forcibly removed her shorts. After undressing her, accused-appellant also took off his clothes. Thereafter, he pushed [AAA] on the floor and threatened her with his bolo. He then mounted her and inserted his penis into her vagina. As accused-appellant was doing this, [AAA] again felt severe pain. When accused-appellant dismounted her, she noticed a sticky fluid coming out of her vagina. After satisfying his lust, accused-appellant put his clothes on and once again warned [AAA] not to report the incident to anyone including her mother or else he would kill all of them. Afraid that accused-appellant might make good his threat, she never told anyone of her harrowing experience.

Accused-appellant raped [AAA] for the fourth time sometime in January 2000. Just like the previous incident, accused-appellant came home drunk. With nobody home except the two (2) of them, accused-appellant was again able to carry out his sinister deed. He forcibly undressed [AAA] and inserted his penis into her vagina. Overcome by fear, [AAA] could do nothing but give in to the bestial desire of accused-appellant. When his libido had been satisfied, accused-appellant left but not without first reminding [AAA] not to tell anyone about what happened or else he would kill her as well as her mother and siblings. [AAA] kept mum about the incident and just cried.

The fifth rape occurred sometime in February 2000. Accused-appellant threatened [AAA] with his bolo and stated that he would kill her if she refused to have sexual intercourse with her. This time [AAA] fought back

and kicked accused-appellant. However, the latter was too strong for her. Accused-appellant dragged her and pointed her bolo at her neck. Then, accused-appellant forcibly removed [AAA's] shorts. He likewise removed his shorts and thereafter inserted his penis into [AAA's] vagina. This lasted for three (3) minutes. Accused-appellant reiterated his threats. Hence, [AAA] decided to just keep the traumatic experience to herself.

[AAA] was again ravished by accused-appellant sometime in March 2000. Accused-appellant arrived home very drunk and started looking for [AAA] and found her inside the house. Holding a bolo, he ordered [AAA] to lie down on the floor. Petrified, she did as was told. Accused-appellant undressed [AAA] and, thereafter, himself. He then mounted [AAA] and inserted his penis into her vagina. Her ordeal lasted for three (3) minutes and she felt pain all throughout. Satisfied, accused-appellant left. [AAA] kept on crying as she again noticed a sticky fluid coming out of her vagina.

The last rape happened sometime in April 2000. On said date, accused-appellant fetched [AAA] from the house of his elder daughter, [CCC], in Sipaco. They rode a banca and disembarked at Barangay Loktob. From there, they started to walk towards the direction of their house. However, while they were passing by a dry culvert, accused-appellant suddenly pulled her inside the culvert. She resisted but accused-appellant placed his bolo against her neck and warned her not to report the incident to her mother, brothers and sisters or else he will kill all of them. He then removed her shorts and panty. Thereafter, accused-appellant took off his pants and brief then inserted his penis into her vagina. [AAA] felt water coming out of her vagina and cried in great pain. When accused-appellant had already satisfied his libido, he put his clothes on and left [AAA] in the culvert. [AAA] dressed up and walked home. However, when she arrived at their house, she did not tell anyone about the incident for fear that accused-appellant might make good his threat.

But sometime in May 2000 she mustered enough strength and confided her ordeal to her elder sister, CCC, who thereafter, accompanied her, to a barangay kagawad to report the matter. She was then advised to proceed to the police station and give her sworn statement which she did on May 16, 2000. On May 19, 2000, she signed seven (7) criminal complaints charging accused-appellant for the crime of rape.

Earlier, or on May 18, 2000, the Philippine National Police (PNP) of Lagonoy, Camarines Sur endorsed [AAA] to Dr. Ma. Geraldine Joy Belmonte of the Bicol Medical Center for physical examination. Dr. Belmonte issued a medical certificate relative thereto with the following findings, to wit:

PPE:

Superficial hymenal lacerations at 2 and 8 o'clock

Position