

EN BANC

[G.R. No. 173052, December 16, 2008]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. ROGELIO PELAGIO
Y BERMUDO, APPELLANT.**

D E C I S I O N

AUSTRIA-MARTINEZ, J.:

Rogelio Pelagio (appellant) was charged with three counts of Rape by his own daughter, AAA,^[1] under three separate Informations, to wit:

Crim. Case No. 98-7037:

The undersigned 4th Assistant Provincial Prosecutor of XXX, upon a sworn complaint originally filed by the private offended party, accuses ROGELIO PELAGIO Y BERMUDO of the crime of RAPE, defined and penalized under Article 335 of the Revised Penal Code, as amended by RA 7659, committed as follows:

That on or about the 30th day of August, 1997 at around 10:00 P.M. in the evening thereof, at Bgy. XXX, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with lewd designs, and by means of force and intimidation, being the natural father of herein victim, did then and there wilfully, unlawfully and feloniously have carnal knowledge with one, AAA, her daughter, a minor-15 years old, against her will, to her prejudice.

CONTRARY TO LAW.^[2]

Crim. Case No. 98-7038

The undersigned Assistant Provincial Prosecutor of XXX, upon a sworn complaint originally filed by the private offended party, accuses ROGELIO PELAGIO Y BERMUDO of the crime of RAPE, defined and penalized under Art. 335 of the Revised Penal Code, as amended by RA 7659, committed as follows:

That on or about the 22nd day of August, 1997, at around 9:30 in the evening thereof, at Bgy. XXX, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with lewd designs, and by means of force and intimidation, being the natural father of herein victim, did then and there willfully, unlawfully and feloniously have carnal knowledge with one AAA, her daughter, a minor-15 years old, against her will, to her prejudice.

ACTS CONTRARY TO LAW.^[3]

Crim. Case No. 98-7142

The undersigned Assistant Provincial Prosecutor of XXX upon a sworn complaint filed by the offended party, accuses ROGELIO PELAGIO Y BERMUDO of Zone XXX, Barangay XXX of the crime of RAPE, defined and penalized under RA 7610 in relation to Art. 335 of the Revised Penal Code and further amended by RA 7659, committed as follows:

That on or about 9:00 o'clock in the evening of October 18, 1997 at Barangay XXX, Philippines, the above-named accused with lewd designs, by means of force and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge with AAA, his 15-year old daughter against her will and without her consent as shown by the medical certificate attached and marked as Annex "A" of the complaint to the damage and prejudice of the latter.

CONTRARY TO LAW.^[4]

Appellant was duly arraigned and pleaded "not guilty" on all counts, after which trial ensued.

In a Judgment dated February 19, 1999, the Regional Trial Court (RTC) of Naga City, Branch 25, found appellant guilty of Rape, as follows:

WHEREFORE, premises considered, this court finds the accused ROGELIO PELAGIO Y BERMUDO GUILTY beyond reasonable doubt of the crime of Rape, defined and penalized under Article 335 of the Revised Penal Code, as amended by Republic Act 7659 in Criminal Cases Nos. 98-7037, 98-7038 and 98-7142, and hereby sentences the said accused to suffer the penalty of DEATH for each of the offense committed; accused Rogelio Pelagio y Bermudo is hereby ordered to pay the victim AAA the sum of P50,000.00 for each of the offense committed, by way of moral damages. To serve as a deterrent and a warning to fathers who [sic] may have bestial desire against their children, the accused is also ordered to pay the sum of P75,000.00 by way of exemplary damages; and for destroying the future of a daughter who was a consistent honor student when the incident happened, now could only pass her subjects due to her harrowing and traumatic experience in the hands of her father, the latter is further ordered to pay the victim the total sum of P300,000.00 for the three (3) offenses committed by way of consequential damages to help her secure a brighter future, and to pay the costs.

SO ORDERED.^[5]

In view of the death penalty imposed, the case was brought to this Court on automatic review. Pursuant to *People v. Mateo*,^[6] the case was transferred to the Court of Appeals (CA) for appropriate action and disposition.^[7]

On March 31, 2006, the CA affirmed with modification the RTC Decision. The dispositive portion of the CA Decision^[8] provides:

WHEREFORE, premises considered, the Judgment appealed from convicting accused-appellant Rogelio Pelagio y Bermudo of three (3) counts of rape and sentencing him to suffer the supreme penalty of death in each count is hereby AFFIRMED with MODIFICATION in that for each count of rape, accused-appellant ROGELIO PELAGIO Y BERMUDO is ordered to pay private complainant AAA P75,000.00 as civil indemnity, P50,000.00 as moral damages, and P25,000.00 as exemplary damages.

In accordance with A.M. No. 00-5-03-SC amending the revised Rules of Criminal Procedure, let the entire record of the case be immediately elevated to the Supreme Court for review.

SO ORDERED.^[9]

The Office of the Solicitor General and appellant both manifested that they would not file supplemental briefs and instead, adopt the briefs they had previously filed.

In the Accused-Appellant's Brief, appellant sets forth the following assignment of errors:

I

THE TRIAL COURT ERRED IN COMPLETELY BELIEVING THE HIGHLY INCREDIBLE, UTTERLY BASELESS AND TOTALLY UNFOUNDED ACCUSATION OF PRIVATE COMPLAINANT IN CRIMINAL CASE NOS. 98-7037, 98-7038 AND 98-7142, NOT TO MENTION THE LONG DELAY IN REPORTING THE SAME.

II

THE TRIAL COURT ERRED IN NOT BELIEVING THE DENIAL INTERPOSED BY ACCUSED-APPELLANT RELATIVE TO THE CRIMES CHARGED, NAY THE FACT THAT HIS WIFE WAS MOTIVATED BY ILL WILL IN FILING THE SAME.

III

THE TRIAL COURT ERRED IN NOT ABSOLVING ACCUSED-APPELLANT OF THE OFFENSES CHARGED DESPITE WANT OF CONCLUSIVE EVIDENCE TO PROVE THE SAME AS PER TESTIMONY OF THE PHYSICIAN WHO EXAMINED PRIVATE COMPLAINANT.

IV

THE TRIAL COURT ERRED IN RENDERING A JUDGMENT OF CONVICTION IN CRIMINAL CASE NOS. 98-7037, 98-7038 AND 98-7142 NOTWITHSTANDING THE FACT THAT THE GUILT OF ACCUSED-APPELLANT WAS NOT PROVED BEYOND REASONABLE DOUBT.^[10]

Appellant's defense is denial. He claims that it was his estranged wife, BBB, the mother of AAA, who instigated the filing of the complaint against him after he left BBB in 1986. Appellant points out that there were inconsistencies and flaws in the testimony of AAA, which cast doubt on the credibility of her accusation.

The RTC had dismissed appellant's defense and given credence to the testimony of AAA, ruling in this wise —

In the case at bar, the records are bereft of any evil motive which would move AAA to charge her own father with three (3) counts of rape. Accused alleged anger of his wife as an act of revenge instigated her daughter to file these heinous crimes against her father, cannot be given scant appreciation by the court. The records show that although BBB, the mother was with her daughter AAA when the complaints were lodged against the accused, yet the very complaint (Exhibits "E", "F" and "G") were signed by AAA alone.

x x x x.^[11]

For its part, the CA also gave credence to AAA's testimony, stating that:

In narrating her painful and harrowing unspeakable experience under the unwelcome penile invasion of her own father during those three incidents, AAA's testimony was spontaneous, consistent and categorical. The trial court found her credible and gave full faith and credit to her testimony as sufficient to sustain the conviction of the accused-appellant of rape in all three counts, thus:

x x x x.^[12]

The Court has reviewed the records of this case, including the respective pieces of evidence presented by the prosecution and the defense, and finds no reason to overturn the verdict of guilt handed down by the RTC and affirmed by the CA.

To determine the innocence or guilt of an accused in a rape case, the courts are guided by three well-entrenched principles: (1) an accusation of rape can be made with facility and while the accusation is difficult to prove, it is even more difficult for the accused, though innocent, to disprove; (2) considering that in the nature of things, only two persons are usually involved in the crime of rape, the testimony of the complainant should be scrutinized with great caution; and (3) the evidence for the prosecution must stand or fall on its own merits and cannot be allowed to draw strength from the weakness of the evidence for the defense.^[13] As a result of these guiding principles, credibility becomes the single most important issue.^[14]

AAA categorically testified that her father sexually abused her on the dates stated in the Informations.

As regards the rape that occurred on August 22, 1997, AAA testified:

Q Why were you awakened?

A I was awakened when I saw my father without his shorts on and he was trying to remove my shorts.

x x x
x

Q What did he do with your underwear, if any?

A He removed my panty, sir.

x x x
x

Q When your father was removing your panty as well as your shorts, what was your relative position?

A I was made to lie down face upward.

Q So, what happened next?

A Then he removed his brief and held my private parts.

Q What private parts did he hold?

A He held my both hands, sir.

Q So, it was not your private parts?

A Yes, sir, he held my both hands, then he lied on top of me.

Q What happened next after he lied on top of you?

A I tried to stand up telling my father not to do such thing because as expected, he should be the one to watch over me because my mother was in Fundado.

x x x
x

Q After that, after your father told you that, what happened next?

A He did not listen to me, he held my both hands and he lied on top of me

Q What happened next?

A He exposed his penis, then spread my legs and inserted his penis to my vagina.

Q What was the condition of the penis of your father?

A I did not see it, sir.

Q When he inserted his penis into your vagina, what did you feel?

A I felt pain, sir.

Q After he inserted his penis into your vagina, what happened next?

A He made a push and pull movement, sir,

Q While he was making this push and pull movement, what did you feel?

A I felt pain, sir.

x x x