

EN BANC

[G.R. NO. 171020, March 14, 2007]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ALFREDO PANGILINAN Y TRINIDAD, ACCUSED-APPELLANT.**

DECISION

CHICO-NAZARIO, J.:

For review is the decision^[1] of the Court of Appeals in CA-G.R. CR-H.C. No. 01414 dated 16 November 2005 which affirmed with modification the decision^[2] of the Regional Trial Court (RTC) of Dinalupihan, Bataan, Branch 5, in Criminal Cases Nos. DH 586-97 and 587-97, finding appellant Alfredo Trinidad Pangilinan guilty of two counts of rape. The Court of Appeals upheld the two death sentences imposed on appellant but modified the award of damages.

Two informations were filed charging appellant with raping AAA,^[3] his daughter. The informations read:

Crim. Case No. DH-586-97

That in or about the month of September 1995 at Brgy. Pita, Dinalupihan, Bataan, Philippines, and within the jurisdiction of this Honorable Court, the said accused, thru force and intimidation, did then and there willfully, unlawfully and feloniously lie and succeed to have sexual intercourse with the offended party, AAA, an eleven (11) year old minor girl, who is his daughter against the will and consent of the latter, to her damage and prejudice.^[4]

Crim. Case No. DH-587-97

That in or about the month of January 1997 at Brgy. Pita, Dinalupihan, Bataan, Philippines, and within the jurisdiction of this Honorable Court, the said accused, thru force and intimidation, did then and there willfully, unlawfully and feloniously lie and succeed to have sexual intercourse with the offended party, AAA, an eleven (11) year old minor girl, who is his daughter against the will and consent of the latter, to her damage and prejudice.^[5]

On 5 May 1997, appellant, who was arrested and detained with no bail recommended, filed a petition for bail.^[6]

In the hearings for the petition for bail, the prosecution presented the private complainant-victim, BBB, and Dr. Melinda Layug.

From the evidence presented, the prosecution's version of what transpired, as

summarized by the Office of the Solicitor General, is quoted by the Court of Appeals:

BBB is the wife of appellant Alfredo Pangilinan. On May 9, 1985, BBB gave birth to AAA. Their family lived in Barangay Pita, Bayan-bayanan, Bataan.

On September 9, 1995, around 9 o'clock in the evening, AAA, her brother and two (2) sisters were asleep. Suddenly, she felt her father, herein appellant, approach their bed, remove her shorts and lay on top of her. She could not move. Appellant proceeded to remove the rest of her clothes. AAA struggled with all her strength even though her hands were pinned down by appellant above her head. AAA cried and shouted for help, but appellant quickly covered her mouth. When appellant attempted to insert his penis into her vagina, AAA unceasingly resisted until appellant finally stopped his attack and left her.

Around 11 o'clock the following night, appellant once again crawled beside AAA while she was asleep beside her siblings. He removed all her clothes. When AAA woke up, she resisted appellant with all her strength and shouted for her grandmother's help, but he quickly covered her mouth, thus stifling her cries. Appellant, who was naked, mounted AAA and kissed her on different parts of her body. After a while, AAA's energy waned. AAA felt excruciating pain when appellant forcibly inserted his penis in her vagina and had sexual intercourse with her. The following morning, AAA was feverish. She saw blood oozing out of her vagina. Scared and confused, AAA confided to her eight (8) year-old brother CCC that appellant raped her the previous night.

The following week, appellant repeated his dastardly act. While his children were playing in the creek behind their house, appellant pulled AAA, who was busy washing dishes, inside their house. Appellant brought her upstairs and pushed her down to the floor. As before, AAA tried to push appellant away and scream for help but he covered her mouth and easily overcame her resistance. Appellant removed AAA's clothes, mounted her and had sexual intercourse with her. After a few minutes, appellant stood up, put on his clothes and ordered AAA to take a bath.

That same evening, appellant raped AAA again. After doing so, he threatened to kill her and her siblings should she report him to the authorities. During the month of September in 1995, appellant repeatedly raped AAA. AAA lost count of the number of times appellant had raped her. Fearing for her safety and that of her siblings, AAA kept her silence.

For a while, AAA thought that appellant would no longer abuse her. She was wrong. Around 11 o'clock in the evening of January 5, 1997, AAA felt her father grope for her while she was sleeping in their room. Like in the past, appellant removed her clothes. AAA resisted and struggled to free herself in vain. Appellant was too heavy. Appellant mounted her, inserted his penis into her vagina and had sexual intercourse with her.

AAA's fear of her father intensified. His stares stopped her from confiding her ordeal to her mother, who had just arrived from Singapore.

On March 16, 1997, BBB informed her children that she was leaving for Singapore again. DDD, AAA's grandmother, advised BBB not to leave her children. She told BBB that appellant had been molesting AAA. Shocked by the revelation, BBB confronted AAA. AAA tearfully confessed everything to her mother. BBB could only embrace her daughter tightly after hearing the sordid details.

That same day, BBB confronted appellant. As expected, appellant denied any wrongdoing and hastily left their house.

After the confrontation, BBB decided to leave appellant.

On March 17, 1997, BBB brought AAA to the Dinalupihan District Hospital where she was examined by Dra. Melinda Layug. The examination revealed that the victim had a non-parous introitus with an old healed hymenal laceration at the 4 o'clock position. Thus the instant case was filed.^[7]

On 30 October 1997, the prosecution formally offered its evidence consisting of Exhibits "A" to "E," with sub-markings, and the testimonies of its witnesses, praying that they be admitted and considered in the resolution of the petition for bail, and that the same be considered as part of its evidence in chief.^[8] On 15 December 1997, appellant filed his comment and/or opposition to the prosecution's offer of evidence.^[9]

In an Order dated 23 April 1998, the trial court, finding that the evidence against the accused is strong, denied appellant's petition for bail.^[10] Thereafter, the defense presented its evidence with appellant as the sole witness. Appellant testified as follows:

Appellant narrated that he left for Saudi Arabia on 27 May 1990 and returned on 22 September 1992. Upon his return, a lot of people informed him that his wife was having an affair. Complainant even told him he is not the father of his youngest daughter. As a result, he lost interest in going back to Saudi Arabia, merely stayed at home and did not look for work. He revealed that before he left for Saudi Arabia, his daughter AAA was sweet to him, that is, she hugged and kissed him. When he returned from Saudi Arabia, he said AAA became sweeter.

In September 1995, his wife was in Singapore working as an overseas contract worker. He kept in touch with her through phone and letters. Once, while he was writing a letter to his wife, he said he became drunk and was not able to finish the letter. He felt dizzy, lay down and slept. He was awakened by the embraces and kisses of a person who turned out to be his daughter, AAA. He said there was malice in the way his daughter embraced and kissed him. He wondered why his daughter was kissing him the way she did. He embraced her but he did not allow anything to happen, she being his daughter.

Appellant further testified that the same incident happened again, but this time, he

was not drunk. He said AAA approached him wanting to have sex with him by pointing her finger on her palm. He advised her that sex is only done by married couples. He claimed he did not have any sexual relationship with her although she seduced him. He added he did not know of any reason why she is mad at him and why she filed the rape cases against him.

On 9 June 1999, the trial court, having discovered that appellant had not yet been arraigned, scheduled his arraignment. On 17 June 1999, appellant, with the assistance of counsel de oficio, pleaded not guilty to the charges against him.^[11] Since the prosecution adopted all the evidence it adduced during the hearing for the petition for bail as part of its evidence-in-chief, which evidence the trial court admitted, the trial court deemed the cases submitted for decision.

In its Decision dated 9 September 1999, the trial court convicted appellant of two counts of rape and imposed on him the capital punishment for each count. The dispositive portion of the decision reads:

WHEREFORE, this Court finds the accused Alfredo Pangilinan Y Trinidad GUILTY beyond reasonable doubt of RAPE in both cases, Criminal Cases Nos. DH-586-97 and 587-97, and hereby sentences him to suffer the penalty of DEATH for each case and to indemnify the victim, AAA, with the sum of FIFTY THOUSAND (P50,000.00) PESOS.^[12]

The trial court was convinced that private complainant was raped several times by her father during the month of September 1995, and once on 5 January 1997. It accorded credence to the testimony of private complainant who, at 12 years old testified in a spontaneous and direct manner. It found private complainant to be immature, innocent, naïve, unfamiliar with sex and incapable of inventing or fabricating charges against her own father when the sexual assaults were committed in September 1995 and January 1997 when she was only 10 or 11 years old.

The trial court brushed aside appellant's defense of denial. It said it is simply unbelievable for a ten-year old girl to be as malicious as appellant described his daughter. It explained that the minor inconsistencies in private complainant's testimony did not in any way affect her credibility.

In conclusion, the trial court said:

In this society, at a time when incestuous acts are not uncommon, and with the situation where the accused and offended party were in, when the wife of the accused was away working in Singapore, it is easy to believe that his loneliness urged him to sexually abuse his daughter. The offended party had no ill motive in filing the case against him. It was even the paternal grandmother who initially informed her mother that the accused was raping his daughter while she was gone. For fear that the accused might do it again, the paternal grandmother was trying to prevail over the mother who was again planning to leave for abroad. The one responsible for bringing the matter to the attention of the mother who later reported to the police was no less than the mother of the accused. A mother would not allow herself to be used to make her son suffer, especially if the charges are fabricated. She heard the cries/shouts from the offended party while the accused was sexually

assaulting her. What she did was to tell the truth. Is accused blaming her own mother for simply telling the truth?^[13]

Inasmuch as the penalty it imposed was the death penalty, the trial court forwarded the records of the case to the Supreme Court for automatic review pursuant to Section 10, Rule 122 of the 2000 Rules of Criminal Procedure.^[14] However, pursuant to our ruling in *People v. Mateo*,^[15] the case was transferred to the Court of Appeals for appropriate action and disposition.^[16]

On 16 November 2005, the Court of Appeals affirmed the death penalties imposed by the trial court but modified the amounts of damages awarded. The decretal portion of the decision reads:

WHEREFORE, premises considered, the Decision dated September 9, 1999 of the Regional Trial Court, Branch V, Dinalupihan, Bataan in Criminal Case Nos. 586-97 and 1257 (sic), finding appellant Alfredo Pangilinan guilty beyond reasonable doubt of rape in both cases and sentencing him to suffer the supreme penalty of death is AFFIRMED with the modification that he is ordered to pay the victim AAA, P75,000.00 as civil indemnity and P50,000.00 as moral damages in each case. Appellant is further ordered to pay an additional amount of P25,000.00 as exemplary damages, also in each case.^[17]

On 27 January 2006, the Court of Appeals elevated the records of the case to the Supreme Court for automatic review.^[18] Thereafter, in our resolution dated 28 February 2006, the parties were required to submit supplemental briefs, if they so desired, within thirty (30) days from notice. The parties opted not to file supplemental brief on the ground they had fully argued their positions in their respective briefs.

Appellant makes the following assignment of errors:

I

THE TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY OF TWO (2) COUNTS OF RAPE DESPITE THE FACT THAT HE WAS NOT PROPERLY ARRAIGNED, AND WAS NOT INFORMED OF THE NATURE AND CAUSE OF THE ACCUSATION AGAINST HIM BEFORE THE EVIDENCE FOR THE PROSECUTION WAS PRESENTED.

II

THE TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT DESPITE THE INSUFFICIENCY OF EVIDENCE FOR THE PROSECUTION.

On the first assigned error, appellant assails his conviction because he was not properly arraigned. Since he was arraigned only after the case was submitted for decision, said irregularity, he argues, is a procedural error which is prejudicial to the appellant and is tantamount to denial of his constitutional right to be informed of the accusation against him. He claims that his subsequent arraignment did not cure the defect in the trial proceedings because at the time the petition for bail was heard,