

EN BANC

[G.R. No. 142431, January 14, 2004]

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. DIONISIO ANCHETA, APPELLANT.

DECISION

YNARES-SATIAGO, J.:

Appellant Dionisio Ancheta was meted the supreme penalty of death by the Regional Trial Court of San Fernando City, La Union, Branch 27, in Criminal Case No. 4806, for the rape committed against his own daughter, Ginalyn Ancheta.

In an Amended Information, appellant was charged as follows:

That on or about the 13th day of July, 1998, in the Municipality of San Gabriel, Province of La Union, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design and by using force and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of his own daughter the aforementioned GINALYN A. ANCHETA who was then below 12 years old, against her will and consent, to her damage and prejudice.

CONTRARY TO LAW.^[1]

Appellant pleaded not guilty to the charge. Thereafter, trial on the merits ensued.

The facts of the case are as follows:

The victim, Ginalyn Ancheta, was born on July 22, 1986. She was almost 12 years old when the rape was committed on July 13, 1998. She was then living with her father, appellant Dionisio Ancheta, at Sitio Bacsayan, Brgy. Poblacion, San Gabriel, La Union.

On the day of the incident, at around 7:00 p.m., Ginalyn was inside her bedroom when appellant entered and forcibly undressed her. After removing his clothes, he lay on top of her. She struggled but her efforts were in vain since appellant was strong. Failing in her plea, she tried to reason with appellant and asked him, "*Why are you doing this father? I am your daughter.*"^[2] Appellant gave no reply. He proceeded to insert his penis into her vagina. After appellant satisfied his lust, he threatened Ginalyn with bodily harm if she would tell anyone what happened.^[3] Ginalyn ran towards the grassy place and hid there until the following morning. Thereafter, she went to the house of her auntie, Perla Andaya-Onaliban, at Brgy. Salangang, San Gabriel, La Union and confided to her the ordeal she experienced with appellant. Since then, Ginalyn never returned to their house.^[4]

However, it was only on July 17, 1998 that Perla accompanied Ginalyn to the police station to report the rape incident. Her statements were reduced into writing and served as the basis for the filing of a formal complaint against appellant. Arcely Viluan, a social worker of the DSWD of San Gabriel, was assigned to assist Ginalyn in the case. Ginalyn was medically examined at Ilocos Training and Regional Medical Center where she was attended to by Dr. Ma. Asuncion Pamuspusan.^[5] The pelvic examination yielded the following results:

PELVIC EXAMINATION

Vaginal Examination: (-) bleeding; with whitish mucoid discharge;
Positive old healed laceration at 4,5,6,9 o'clock positions.

Speculum Examination: Cervix – pinkish; (-) bleeding; (-) foul smelling discharge.

Internal Examination: Cervix – softish; closed; non-tender
Uterus – small; (-) adnexal mass nor tenderness.^[6]

Appellant interposed the defense of denial and alibi. He admitted that Ginalyn is his daughter, and that she was twelve years old and living with him when the alleged incident took place. He, nevertheless, denied the commission of rape and alleged:

- that he could not have had sexual intercourse with Ginalyn at around 7:00 p.m. of July 13, 1998, because he came home late that night after his work at the residence of Councilor Bangsel Liwan at the town proper of San Gabriel, La Union;
- that when he arrived at the house, Ginalyn was not there;
- that he searched for her but when he could not find her he went back to their house and slept;
- that on the following day, as he was on his way to work, Ginalyn arrived home;
- that he scolded and slapped her;
- that afterwards, he went to work; and
- that Ginalyn left the house and did not return there anymore.^[7]

The trial court rendered a judgment of conviction against appellant on December 16, 1999, the dispositive portion of which reads:

WHEREFORE, premises considered, the Court finds the accused GUILTY of the crime of Rape penalized under the Revised Penal Code, Art. 335 amended by the provisions of Republic Act 8353 and it imposes upon the accused Dionisio Ancheta alias Andong the penalty of DEATH.

Further, the accused Dionisio Ancheta alias Andong shall pay Fifty Thousand Pesos (P50,000.00) by way of civil indemnity to the private complainant Ginalyn (Gina) Ancheta.

With costs.

SO ORDERED.^[8]

The decision was elevated to this Court on automatic review pursuant to Article 47 of the Revised Penal Code, as amended.

In his Brief, appellant raises the lone assignment of error:

THE TRIAL COURT ERRED IN IMPOSING UPON THE ACCUSED-APPELLANT THE SUPREME PENALTY OF DEATH DESPITE THE FAILURE OF THE PROSECUTION TO PRESENT COMPETENT PROOF OF THE VICTIM'S ACTUAL AGE.^[9]

Appellant does not assail the trial court's decision insofar as it concludes that the evidence proved beyond reasonable doubt that he raped his own daughter. However, he faults the trial court for imposing the supreme penalty of death considering that the prosecution failed to prove the actual age of the complainant. He asserts that the records are bereft of evidence, such as complainant's Certificate of Live Birth, Baptismal Certificate or school records accurately showing her age.

This case may easily be disposed of by a simple modification of the penalty as prayed for by appellant. If we do that, however, we would be shirking from our legally mandated duty to review all death penalty cases. This duty has been eloquently summed up by Mr. Justice Reynato S. Puno, speaking for the Court, in this wise:

We hold, however, that there is more wisdom in our existing jurisprudence mandating our review of all death penalty cases, regardless of the wish of the convict and regardless of the will of the court. Nothing less than life is at stake and any court decision authorizing the State to take life must be as error-free as possible. We must strive to realize this objective, however elusive it may be, and our efforts must not depend on whether appellant has withdrawn his appeal or has escaped. Indeed, an appellant may withdraw his appeal not because he is guilty but because of his wrong perception of the law. Or because he may want to avail of the more speedy remedy of pardon. Or because of his frustration and misapprehension that he will not get justice from the authorities. Nor should the Court be influenced by the seeming repudiation of its jurisdiction when a convict escapes. Ours is not only the power but the duty to review all death penalty cases. No litigant can repudiate this power which is bestowed by the Constitution. The power is more of a sacred duty which we have to discharge to assure the People that the innocence of a citizen is our concern not only in crimes that slight but even more, in crimes that shock the conscience. This concern cannot be diluted.^[10]

Thus, we painstakingly sifted through the evidence presented in order to make our own determination as to appellant's guilt or innocence. We have reached the

conclusion that the prosecution sufficiently proved appellant's guilt beyond reasonable doubt.

The trial court convicted appellant based on the testimony of Ginalyn, which it found to be credible, as corroborated by the results of the medical examination conducted upon her showing healed lacerations in various positions. While on the witness stand, Ginalyn could not hold her tears as she narrated the bestial acts committed by her own father. She testified, thus:

PROSECUTOR FERRER:

May we make of record, your Honor, that the witness is crying.

x x x

x x x

x x x

COURT:

Q. What do you mean by he destroyed your womanhood?
How did he touch you?

A. I cannot continue answering anymore, your Honor.

Q. Why, what do you feel?

A. I am hard up in answering question because of what happened to me, your Honor.

Q. How did he touch you?

A. He used to abuse me, your Honor.

PROSECUTOR FERRER:

Q. Now you said that he used to abuse me, what do you mean by that, what does he do to you that you can say that it is abusing?

A. He removed my shortpants and panty, ma'am.

COURT:

Q. When was that?

A. I cannot recall or remember when, your Honor, because of what he did to me.

Q. After removing your shortpants and panty what did he do?

A. He inserted his penis into my vagina, you Honor.

Q. Continue.

PROSECUTOR FERRER:

Q. Now you said that he inserted his penis to your vagina do you know what time was that?

A. 7:00 o'clock, ma'am.

COURT: