

EN BANC

[G.R. Nos. 130493-98, April 28, 2004]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. ROGELIO
LAYUGAN Y FURUC, APPELLANT.**

D E C I S I O N

SANDOVAL-GUTIERREZ, J.:

For automatic review is the Joint Decision^[1] dated December 12, 1996 of the Regional Trial Court, Branch 19, Cauayan, Isabela in Criminal Cases Nos. 19-970, 19-972 to 19-975, convicting Rogelio Layugan y Furuc, appellant, of five counts of rape and sentencing him to suffer the penalty of death in each count and to pay the victim, his very own daughter, P100,000.00 as moral damages.

The five separate Amended Informations filed against appellant have similar allegations (except the dates of commission), charging him as follows:

"That on or about (**August 25, 1995** – in Criminal Case No. 19-970; **August 30, 1995** – in Criminal Case No. 19-972; **October 11, 1995** – in Criminal Case No. 19-973; **October 18, 1995** – in Criminal Case No. 19-974; and **April 21, 1996** – in Criminal Case No. 19-975), in the municipality of Angadanan, province of Isabela, Philippines, and within the jurisdiction of this Honorable Court, said accused, Rogelio Layugan, did then and there willfully, unlawfully and feloniously have carnal knowledge with his own daughter, Evelyn Layugan, a fourteen-year old girl, against her will and consent.

"Contrary to Law."

Upon being arraigned, appellant, assisted by counsel, entered a plea of "Not guilty" to each of the crimes charged. A joint trial commenced thereafter.

The evidence for the prosecution, as culled from the testimonies of Evelyn Layugan, complainant, her mother Josefina Ramones-Layugan, and Dr. Inocencio Agpaon, may be stated as follows:

Evelyn is the daughter of appellant and Josefina. The spouses have eleven children, three of them are deceased – the two died a day after their birth, while the 24-year old eldest son, Eriberto, was killed by appellant himself.^[2] At the time the crimes were committed, the following children were living with the couple, namely: Charlita (20), an epileptic, Arnel (17), complainant Evelyn (14), Analiza (13), and Gloria (11).^[3] The family reside at Barangay Aniog, Angadanan, Isabela.

On **August 25, 1995**, about 10:00 o'clock in the evening, Evelyn and her sisters Charlita, Analiza and Gloria were at home sleeping in their room. At that time, their

brother Arnel and mother Josefina were in Aglipay, Quirino visiting her ailing mother, Juana Tallud. Suddenly Evelyn was awakened by the weight of her father on top of her. Instinctively, she struggled to extricate herself, but he warned her not to shout if she did not want to be harmed. Overwhelmed with fear as she remembered how he killed her own eldest brother, she just remained still and merely cried. Then he quickly undressed her and kissed the different parts of her body, forcibly inserting his penis in her vagina. She felt pain and sensed something was torn inside. That was the first time she experienced sexual intercourse.^[4]

On **August 30, 1995**, while Josefina and Arnel were still in Aglipay, Quirino, appellant ravished Evelyn for the second time. About 12:00 o'clock midnight, while she and her sisters were sleeping in their house appellant removed her dress and underwear. Before she could shout, he threatened to kill her. He then proceeded to kiss her body and later on inserted his penis inside her vagina.^[5]

In October 1995, Josefina's mother died. Thus, she and Arnel had to stay again in Aglipay, Quirino to attend the wake.

Taking advantage of his wife's absence, appellant sexually abused Evelyn for the third time in their house on **October 11, 1995** at 1:00 o'clock in the morning. That time, while her sisters were sleeping soundly, she woke up when appellant took off her underwear. However, she "could not do anything" considering his strength. After he removed her underwear, he then forcibly shoved his penis into her vagina. She felt something came out from his penis which he later withdrew.^[6]

For the fourth time, or on **October 18, 1995**, appellant sexually molested Evelyn. She cried as she felt helpless against the sexual assault by her own father.^[7]

In the second week of April 1996, appellant and Josefina went to Echague, Isabela to harvest corn in her brother's farm. Only Evelyn and her sister Charlita were left at home.

However, on April 20, 1996, appellant returned home alone. The **following day**, around 1:00 o'clock in the morning, Evelyn was roused from her sleep as he was forcibly undressing her. Once more, she was engulfed with fear and remained motionless. She merely cried as he easily ravished her for the fifth time.^[8]

That same day (April 21, 1996), Evelyn mustered enough courage and revealed to her mother the traumatic incidents she suffered in the hands of her father. Without delay, Josefina reported the matter to Barangay Captain Josie Siquian who accompanied them to the police headquarters. There Evelyn's statement was taken. It was only this time she confided to her mother what took place in detail since she was so terrified of her father's threat. And she believed her father would kill them because according to her, "he already killed my eldest brother."^[9] For her part, Josefina confirmed that appellant killed their son and that when he sought her forgiveness and promised to reform, she desisted from pursuing the case against him.^[10]

The following day (April 22), Evelyn was examined by Dr. Inocencio R. Agpaoa, Municipal Health Officer of Angadanan, Isabela. He issued a Medico-Legal Report/

Certification dated April 22, 1996,^[11] stating his findings he confirmed on the witness stand,^[12] thus:

"Nature Of Incident:

Alleged rape by Evelyn Layugan's own father.

Pertinent Physical Findings:

Presence of a **fresh laceration, reddish in appearance, at the lower end portion of her vagina** located at 4:30 o'clock position. Also noted was **old laceration of her hymen at 3:00 o'clock position.**"
(Underscoring ours)

Appellant, upon the other hand, interposed the defenses of alibi and denial. He testified that he could not have committed the crimes charged since he never slept in their house during the dates in question. At that time, he worked as caretaker of Rebecca Tamani's farm situated **about 100 meters away from his house**. He further testified that he loves his children and, therefore, could not have sexually abused his own daughter. He admitted that he killed his own eldest son, Eriberto, resulting in his detention for two years at the Provincial Jail.^[13]

On December 12, 1996, the trial court rendered the appealed Joint Decision, the dispositive portion of which reads:

"WHEREFORE, in view of the foregoing considerations and finding the accused Rogelio Layugan y Furuc guilty beyond reasonable doubt of the five counts of rape charged in the Informations, judgment is hereby rendered sentencing him to suffer the death penalty in each case, or a total of five (5) death penalties, and to indemnify the victim in the amount of P100,000.00 as moral damages.

"SO ORDERED."^[14]

In his Brief, appellant claims that the trial court committed the following lone error:

"THE COURT A QUO ERRED IN FINDING THAT THE GUILT OF THE ACCUSED FOR THE CRIMES CHARGED HAS BEEN PROVED BEYOND REASONABLE DOUBT."

Upon the other hand, the Solicitor General, in his Appellee's Brief, disputed appellant's claim and prayed that the trial court's Joint Decision be affirmed.

As alleged in the five Amended Informations, four of the crimes charged were committed in 1995 and the fifth one in 1996. Hence, the law applicable to the cases at bar is Article 335 of the Revised Penal Code, as amended by Republic Act No. 7659,^[15] which provides:

"Article 335. *When and how rape is committed.* – Rape is committed **by having carnal knowledge of a woman under any of the following circumstances:**

1. **By using force or intimidation;**

2. When the woman is deprived of reason or otherwise unconscious;
and

3. When the woman is under twelve years of age or is demented.

The crime of rape shall be punished by ***reclusion perpetua***.

x x x

The **death penalty** shall also be imposed if the crime of rape is committed with **any of the following attendant circumstances**:

1. When the **victim** is under **eighteen (18) years of age** and the **offender** is a parent, ascendant, **step-parent**, guardian, relative by consanguinity or affinity within the third civil degree, or the common-law spouse of the parent of the victim.

x x x.” (Underscoring ours)

For the charge of rape to prosper under the above provisions, it is required that (1) the offender had carnal knowledge of a woman; and (2) he accomplished such act through force or intimidation upon her; or when she is deprived of reason or otherwise unconscious; or when she is under 12 years of age or is demented.^[16]

The same provisions categorize rape as either **simple** or qualified. It is **qualified** when any of the qualifying/aggravating circumstances which attended the commission of the crime – as when the victim is below 18 years of age and the offender is a parent, ascendant, step-parent, guardian, relative by consanguinity or affinity within the third civil degree, or the common-law spouse of the parent of the victim – is alleged in the Information and proven during trial.^[17] A finding of qualified rape raises the penalty to death.

In a prosecution for rape, the complainant’s credibility is the single most important issue. When her testimony meets the test of credibility, the accused may be convicted solely on the basis thereof.^[18]

We have scrutinized with great caution Evelyn’s testimony, fully mindful of the well-established guiding principles in the adjudication of rape cases that an accusation of rape can be made with facility, but more difficult for the accused to disprove it;^[19] hence, the victim’s testimony must not be received with precipitate credulity.^[20]

We find that the prosecution has sufficiently and convincingly proved that appellant, on five occasions, **had carnal knowledge of Evelyn through force or intimidation**. We quote the following pertinent portions of her testimony:

1. Rape committed on August 25, 1995 –

“Q At around 10:00 o’clock in the evening of August 25, 1995, do you remember if there was any unusual incident that happened at your house at Aniog, Angadanan, Isabela?

A Yes, sir.

x x x

Q What was that incident that happened on August 25, 1995?

A My father abused me, sir.

Q What do you mean by your father abused you?

A *Ginalaw po ako ng tatay ko.*

Q What do you mean by your father abused you?

A My father abused me. He raped me, sir.

PROSECUTOR MENDOZA:

I noticed your Honor, that the witness also said *hinubaran niya ako.*

A He undressed me and raped me, sir.

Q **What did you do when your father was removing your dress?**

A **I cannot do anything because he was stronger than me, sir.**

COURT:

Q Were you awake when your father undressed you?

A Yes, sir.

PROSECUTOR MENDOZA:

Q **It was already 10 o'clock in the evening, how were you able to recognize your father?**

A **He talked, sir.**

Q **What did he tell you?**

A ***Huwag kang sisigaw kung ayaw mong masaktan. (Don't shout if you don't want to be harmed.)***

COURT:

Q In what language or dialect did he say that?

A In Gaddang, sir.

Q Will you repeat to this Court what was said in Gaddang?

A *Mem maggerawa no meme gusto maluwan.*

COURT:

Proceed.

PROSECUTOR MENDOZA: