

EN BANC

[G. R. No. 144305-07, February 06, 2003]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. TACIO
EMILIO Y INTE, ACCUSED-APPELLANT.**

DECISION

PER CURIAM:

On May 22, 2000, in Criminal Cases Nos. 97-CR-2738, 97-CR-2739 and 97-CR-2740, the Regional Trial Court of Benguet, Branch 62, found accused-appellant Tacio Emilio guilty of three (3) counts of rape of his minor stepdaughter and imposed upon him the penalty of death for each.

The prosecution charged accused-appellant in separate Informations,^[1] the inculpatory portions of which read as follows:

Criminal Case No. 97-CR-2738

That on or about the month of October 1995, at [REDACTED], Municipality of [REDACTED], Province of [REDACTED], Philippines, and within the jurisdiction of this Honorable Court, the above-named accused by means of force, violence and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge and sexual intercourse with his stepdaughter AAA, a thirteen year old minor.

CONTRARY TO LAW.

Criminal Case No. 97-CR-2739

That on or about the 20th day of October 1996, at [REDACTED], Municipality of [REDACTED], Province of [REDACTED], Philippines, and within the jurisdiction of this Honorable Court, the above-named accused by means of force, violence and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge and sexual intercourse with his stepdaughter AAA, a thirteen year old minor.

CONTRARY TO LAW.

Criminal Case No. 97-CR-2740

That on or about the month of October 1995, at [REDACTED], Municipality of [REDACTED], Province of [REDACTED], Philippines, and within the jurisdiction of this Honorable Court, the above-named accused by means of force, violence and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge and sexual intercourse with his

stepdaughter AAA, a thirteen year old minor.

CONTRARY TO LAW.

When arraigned on March 26, 1997,^[2] accused-appellant, duly assisted by counsel, pleaded not guilty to the charges, whereupon joint trial commenced.

Culled from the records of the case are the following facts established by the prosecution:

Private complainant AAA and her half-sister █████ were born out of wedlock to █████ of █████. Per her birth certificate,^[3] she was born on December 11, 1983.

On January 18, 1991, AAA's mother █████ married accused-appellant^[4] following which the couple, together with AAA and █████, resided at █████'s house in Sitio █████. Wanting to eke out a more comfortable life for her family, █████ went to work in Malaysia on April 18, 1994,^[5] leaving AAA and her 4-year old^[6] sister █████ under the care and custody of their stepfather-accused-appellant.

As was her wont, AAA slept in their living room while accused-appellant and her half-sister slept at the nearby bedroom.

At around midnight one day in **October 1995**, 11-year old AAA was roused from her sleep by accused-appellant who lay on top of her. By then, the blanket covering her had been removed and her short pants and underwear pulled down. And accused-appellant was inserting his penis into her vagina^[7] on account of which she felt searing pain. Crying unabashedly, she tried to resist by pushing him but to no avail. After accused-appellant succeeded in having sexual intercourse with her, he repaired back to the bedroom.

Already exhausted, AAA eventually fell asleep. She later awoke not long after when she felt that accused-appellant was again on top of her. Although gripped with fear, she managed to push him away, drawing accused-appellant to return to the bedroom. She thus remained awake until daybreak.

AAA then prepared breakfast and partook of it with her sister and accused-appellant who looked at her menacingly.^[8] Around midnight of that day, she again awoke to find accused-appellant on top of her.^[9] Again, accused-appellant had already pulled down her short pants and underwear and was inserting his penis into her vagina.^[10] Overcome by fear, she cried and albeit she struggled to resist his advances by pushing accused-appellant away, her efforts proved to be no match to his strength. His lust satisfied, accused-appellant went back to the bedroom.

When morning came, AAA again prepared and had breakfast with her sister and accused-appellant. She performed the chores she had been accustomed to doing – washing the dishes, cleaning the house, and washing their clothes.

Close to a month after the two October 1995 incidents, or in November of the same

year,^[11] she went to live with her maternal grandmother. It was during this month that her mother █████ arrived from Malaysia for a three-week vacation.^[12] She, however, kept mum about the incidents, fearful of the repercussions that her revelation might bring.

On **October 20, 1996**, AAA and her cousins █████ and █████^[13] went to the house of her mother where they were to stay overnight. As she lay asleep between her cousins in the living room, she awoke to again find accused-appellant on top of her, inserting his penis into her vagina.^[14] She thereupon pushed him away by swinging her right hand, causing accused-appellant to move to her right side to thereby push her cousin █████. She immediately pulled up her underwear and jogging pants with her right foot,^[15] and as she rose up crying, accused-appellant asked her why she reacted that way but she merely cursed him.^[16] By this time, █████ and █████ had awakened and asked her why she was crying. Without answering them, she left and headed toward the house of her grandmother^[17] to whom she revealed her ordeals. She did also later reveal her ordeals to her uncles █████, █████ and █████ who advised her to report to the police.^[18]

On December 13, 1996, AAA finally informed, via telephone, her mother who was in Malaysia about her “Daddy” raping her^[19] and pleaded with her to come home to attend to the matter. Her mother did come to the Philippines not long after.

On January 2, 1997, AAA executed a sworn statement at the Investigation Section of the Sablan Police Station^[20] and went to the Provincial Prosecutor’s Office at La Trinidad, Benguet where she filed the criminal complaints against accused-appellant.^[21] She then proceeded to the Municipal Health Office of Sablan, Benguet where Dr. Judith T. Codamon, medico-legal officer of the municipality, conducted a physical examination on her^[22] which yielded the following results: aileen

Perineal area - no excoriations, no lesions
Hymen lacerated, 3:00 o’clock position
Vagina admits 2 fingers with ease^[23]

The trial court, brushing aside accused-appellant’s denial, found accused-appellant guilty as charged in its decision on review, the *fallo* of which reads *verbatim* as follows:

WHEREFORE, in view of all the foregoing, the Court finds Tacio Emilio y Inte guilty beyond reasonable doubt of the crime of rape in three (3) counts as charged in the three Informations, defined and penalized by Article 335 of the Revised Penal Code, as amended by Republic Act No. 7659, aggravated by the fact that the accused Tacio Emilio y Inte is the stepfather of the victim, AAA, and sentences him to suffer the penalty of DEATH for each count of rape as charged; to indemnify AAA, the victim, the sum of Seventy Five Thousand (P75,000.00) Pesos for each count of rape; and to pay AAA the sum of Fifty Thousand (P50,000.00) Pesos for each count of rape as moral damages.

Pursuant to Administrative Circular No. 4-92-A of the Court Administrator, the Provincial Jail Warden of Benguet Province is directed to immediately transfer the said accused Tacio Emilio y Inte to the custody of the Bureau of Corrections, City of Muntinlupa, Metro Manila.

Conformably with Section 1, Rule 111, Rules of Court, the corresponding filing fee for the Fifty Thousand (P50,000.00) Pesos herein awarded as moral damages for each count of rape shall constitute a first lien on this judgment.

Let a copy of this Judgment be furnished to the Provincial Jail Warden of Benguet Province for his information and guidance.

Let the records of these cases be transmitted to the Supreme Court for automatic review and judgment within the period provided by law.

SO ORDERED.^[24]

The cases are now before this Court for automatic review pursuant to Article 47 of the Revised Penal Code, as amended.

Accused-appellant maintains his innocence and assigns the following errors to the trial court:

- I. THE TRIAL COURT ERRED WHEN IT DID NOT APPRECIATE THE UNREASONABLY LONG AND UNEXPLAINED DELAY OF THE PRIVATE COMPLAINANT IN INSTITUTING CRIMINAL PROCEEDINGS.
- II. THE TRIAL COURT ERRED WHEN IT DID NOT APPRECIATE THE LACK OF CREDIBILITY OF THE PRIVATE COMPLAINANT.
- III. THE TRIAL COURT ERRED WHEN IT DID NOT APPRECIATE THE ODD CONDUCT OF THE PRIVATE COMPLAINANT IMMEDIATELY FOLLOWING THE ALLEGED RAPE.
- IV. THE TRIAL COURT ERRED WHEN IT RELIED ON THE LACK OF MOTIVE OF PRIVATE COMPLAINANT.
- V. THE TRIAL COURT ERRED IN CONVICTING THE ACCUSED WITH A FINDING OF GUILT BEYOND REASONABLE DOUBT.^[25]

In the main, accused-appellant assails the credibility of AAA. He posits that her unreasonable and unexplained delay in reporting the incidents to the proper authorities and to her relatives renders her testimony highly dubious and suspect.^[26] He thus proffers that, in all probability, her charges are fabricated.

This Court is not persuaded. The silence of the offended party in a case of rape, or her failure to disclose her defilement without loss of time to persons close to her and to report the matter to the authorities, does not perforce warrant the conclusion that she was not sexually molested and that her charges against the accused are all baseless, untrue and fabricated.^[27] If delay in making a criminal accusation is satisfactorily explained,^[28] it does not impair the credibility of a witness.

At the time of the rape incidents, AAA was barely at the threshold of adolescence. Her assailant is the husband of her mother whom she lived with and treated as her own parent. Her claim that fear prevented her from at once revealing what had been done to her by accused-appellant whom she had priorly seen fire his gun is not hard to believe. Thus she declared:

Q: In the first two rape incidents, you were raped in 1995. Is that correct?

A: Yes, Sir.

Q: And when your mother arrived in November of 1995, it was barely less than a month that you were raped. Is that correct?

A: Yes, Sir.

Q: But you did not report these two rape incidents that happened in October of 1995 to your mother?

A: No, Sir.

Q: Why?

A: **I was scared at that time or afraid, if I will tell my mother what happened to me, [accused-appellant] might go after me when I will go out of the house.**

Q: From the time you were raped in 1995 October up to the time you reported the matter to the Police, did you not have a chance to. . . were you not free to go around Sablan and have the chance to report to the Police?

A: No, Sir.

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Q: Your answer to the last question is "haan man", stated as "No, Sir." Why?

A: "Mabutengak gamin ta no kasparigan baka rumuarrak diay balay ta kuna no agipulungak." (Interpreted freely as, **I was afraid because to my mind if I will go out of the house my stepfather might go after me because he might think that I will go out and report what happened to me.**) (Emphasis supplied)^[29]

Neither is this Court persuaded by accused-appellant's contention that the improbabilities and inconsistencies in AAA's testimony with respect to the dates and details of, and her conduct during and after, the alleged incidents render her accusations baseless.