

EN BANC

[G.R. Nos. 150523-25, July 02, 2003]

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. ONOFRE GALANG Y MENDOZA, APPELLANT.

D E C I S I O N

PER CURIAM:

ONOFRE GALANG Y MENDOZA was convicted by the court *a quo* of three (3) counts of rape. In Crim. Case No. 1386-99 (now G.R. No. 150523) he was sentenced to *reclusion perpetua*, and in Crim. Cases Nos. 1387-99 and 1388-99 (now G.R. Nos. 150524 and 150525) he was sentenced to death in both cases.^[1] His conviction by the court *a quo* in the three (3) cases is now before us for review.

By living with accused Onofre Galang as her common-law husband, Loida Pacampara could have hoped to have not only a lover but also a "stepfather" to her four (4) children by her late husband Telesforo. She was wrong; instead, she brought a Judas incarnate who deliberately betrayed her trust and affection in exchange for his insatiable lust for her only daughter Edlyn.

In three (3) separate Informations, accused Onofre Galang y Mendoza was charged with having sexual intercourse on three (3) different occasions, i.e., in Crim. Case No. 1386-99 which allegedly took place in March 1997, and in Crim. Cases Nos. 1387-99 and 1388-99 which referred to the rape incidents of 2 April 1999 and 28 March 1999, respectively, against the will and without the consent of seventeen-year old Edlyn Galang, minor daughter of his common-law spouse Loida Pacampara who was living with them in Brgy. Lourdes, Dap-dap Resettlement Area, Bamban, Tarlac.

Edlyn testified that Onofre sexually assaulted her several times. Of these, she could remember those that happened in March 1997 when she was only fifteen (15), and then on 28 March 1999 and 2 April 1999 when she was seventeen (17). She clarified that the accused was her "stepfather" being the live-in partner of her mother Loida Pacamara. The couple lived as husband and wife without the benefit of marriage since she was five (5), and she grew up with them.

Edlyn recounted that in the early morning of 2 April 1999 her mother left for work while her elder siblings went out to other places. She was left at home alone with Onofre. According to her, she was out in the yard that morning when the accused called her. Thinking that Onofre had some errand for her, she went up the house. Thereupon, Onofre ordered her to lie on the cement floor and kissed her on the lips. She tried to ward off his unwanted caresses but the accused, while hissing threats to kill her family, held her by the chin and peppered her with lustful kisses. He then forcibly removed her shorts and panty. While holding Edlyn's legs wide apart, the accused mounted her and inserted his penis into her vagina. She could only

whimper faintly in protest.

According to private complainant, she was also sexually assaulted by Onofre several days earlier, i.e., in the afternoon of 28 March 1999, while she and the accused were alone in the house. He called her from inside the room, and thereafter feverishly kissed her on the lips. He removed her shorts and panty while hurling threats against her family. Her attempts to free herself from his grasp proved futile as he succeeded in inserting his penis into her vagina. When her mother Loida returned home and subsequently entered the room, she found the accused wiping his organ and Edlyn behind the door with her head bowed. Confronted with the compromising scene, Loida became suspicious and asked what the two (2) were doing. Loida berated her live-in partner and an argument followed.

In the evening of 28 March, Loida pulled her daughter aside and inquiringly asked if she had already given up her virginity, to which Edlyn nodded. In a conspiratorial tone, she told Edlyn to pretend as if nothing happened (*`wag magpapahalata*) because she would ask assistance from her brother who was a police officer in Angeles City. Five (5) days later, Loida and some other relatives went to the Bamban police station to report the matter to the authorities. According to Loida, she left Edlyn at home because she did not want the accused to suspect that something was amiss and thus forewarn him of what they were planning to do.

Edlyn also testified that she had been repeatedly victimized by the accused as early as March 1997. She revealed that she could not refuse her "stepfather" every time he summoned her because she was afraid of him.

In his defense, accused Onofre Galang denied the accusations while asserting that the supposed sexual molestations could not have taken place, specifically in March 1997 because complainant, a high school student, was usually in school from 7:00 in the morning until about 3:00 or 4:00 o'clock in the afternoon. He added that Loida was also normally at work at that time. For his part, as an appliance repairman by vocation, he would leave at different times whenever a customer would fetch him. He however could not recall an occasion when he and Edlyn were home alone together.

According to Onofre, the alleged rape on 2 April 1999 could not have possibly happened because there was no instance that he and Edlyn were alone together since all the other members of the family were at home that day. He remembered however that at 8:00 o'clock in the morning, Loida asked permission from him to go to Angeles City. Although he suggested to Loida that she take her daughter Edlyn along, Loida refused because, according to her, she would be back soon enough. In his testimony, he affirmed that as soon as his wife left for Angeles City, the rest of the family, including him and Edlyn, went to the house of his wife's sister to watch a VHS movie.

As to the rape which allegedly transpired on 28 March 1999, the accused explained that although he could not recall where he was at that time, he was nevertheless certain that Edlyn and her mother were at home. He denied all the charges hurled against him by his live-in partner and dismissed them as mere rantings of a jealous woman. For him, the filing of the instant cases was but Loida's way of venting her jealousy over him for his closeness to Edlyn who in turn might have been couched by her mother into testifying against him.

The trial court seriously doubted the protestations of innocence by the accused. It viewed his guilt in this wise - [2]

In the course of the testimony of Edlyn, she was crying on her narration of the sad portions of the sexual abuses. "The crying of the victim during her testimony is evidence of the credibility of the rape charge with the verity born out of human nature." "No woman would want to go through the process, the trouble and the humiliation of trial for such a debasing offense unless she actually has been the victim of abuse and her motive is but a response to the compelling need to seek and obtain justice."

Accused-appellant assails his conviction on the following grounds: (a) the complainant's testimony clearly shows absence of any allegation much less detail on how the alleged rape of March 1997 took place; and, (b) the testimonies of the complainant on the alleged incidents of rape on 28 March 1999 and 2 April 1999 did not prove his guilt beyond reasonable doubt.

On the first assigned error, accused-appellant contends that the trial court committed grave error in finding him guilty of the crime of rape in Crim. Case No. 1386-99 despite the failure of the complainant to make any narration with respect to the circumstances surrounding the rape incident supposedly committed in March of 1997. The sweeping and general statements, according to him, do not meet the quantum of evidence required by law to indubitably prove the crime charged.

After sifting through the evidence on record, we find that indeed the narration of private complainant on the alleged rape in March 1997 was miserably wanting in material particulars to establish beyond any pall of doubt that she was in fact a victim of sexual violence in the hands of her "stepfather." As correctly pointed out by the defense, complainant only made a general assertion that she had been sexually abused by her "stepfather" from March 1997 up to April 1999. The records are bereft of essential details to enable us to reconstruct with reasonable clarity the dreadful incident of that day and establish the attendant circumstances constitutive of the alleged rape.

In *People v. Marahay*, [3] we absolved the accused of two (2) counts of rape when upon inquiry as to what occurred on the evening of 25 August 1994, complainant merely replied that her father "did the same thing to her." In that case, we declared that such statements would not suffice to establish accused-appellant's guilt with the required quantum of evidence. We further noted that each and every charge of rape is a separate and distinct crime so that each act of rape charged must be proved beyond reasonable doubt.

More in point is *People v. Supnad* [4] where the Court found the testimony of complainant grossly insufficient to establish the guilt of accused-appellant with complainant's "simple assertion that her uncle had sexual intercourse with her twice in February and once in March." In the opinion of the Court, her testimony was simply "too general as it failed to focus on material details."

As regards the rape charges in Crim. Cases Nos. 1387-99 and 1388-99, accused-appellant argues that complainant's testimony shows that the threat or intimidation he supposedly exerted on her was more apparent than real. He insists that

complainant should have put up an active resistance in order to repel the alleged sexual aggression considering that her life was not in imminent danger. As it was, according to accused-appellant, complainant passively allowed the alleged sexual abuse to take place.

Accused-appellant's contentions deserve scant consideration. Contrary to his assertion, the records are awash with indicia conclusively demonstrating that he raped Edlyn with the use of force or intimidation at the time and place and in the manner described by the victim. Pertinent portions of complainant's direct examination on the 2 April 1999 rape incident amply illustrate the point -

Fiscal Capulong

Q: At the time that he kissed you, what did you do?

A: I could not do anything because he was threatening me, sir.

Fiscal Capulong:

Q: How was he threatening you?

A: Because there was a bolo under the cabinet, sir.

Q: And where is that cabinet?

A: Inside the room. [5]

Then again:

Q: Now at the time when he inserted his penis in your private part, how were you positioned? You were standing or you were lying down or what?

A: We were lying down, sir.

Q: Did he tell you anything when he inserted his penis in your private part?

A: None, sir.

Q: Was he holding anything at that time?

A: He was threatening me, sir.

Fiscal Capulong:

Q: How was he threatening you?

A: He told me that he will (sic) kill us, sir. [6]

x x x

Q: You did not do anything to close your legs?

A: I was trying to put them together but I could not do so, sir.

Q: You did not tell him anything?

A: I told him, "enough, enough" (*tama na po*), sir.

Q: When you told him, "enough, enough" had he inserted his penis into your vagina?