

## EN BANC

[ G.R. No. 144595, August 06, 2003 ]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. DANTE ILAGAN,  
APPELLANT.**

### DECISION

**YNARES-SANTIAGO, J.:**

For automatic review is the decision of the Regional Trial Court of Malolos, Bulacan, Branch 21, in Criminal Case No. 1246-M-99, convicting appellant Dante Ilagan of Qualified Rape and sentencing him to suffer the extreme penalty of death and to pay the offended party, AAA, the sums of P75,000.00 as civil indemnity and P100,000.00 as moral damages.<sup>[1]</sup>

The information for Rape against appellant reads:

That on or about the 19<sup>th</sup> day of May, 1998, in the [REDACTED], Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and feloniously, with lewd designs, by means of force and intimidation, have carnal knowledge of his daughter AAA, 16 years old, against her will and consent.

Contrary to law.<sup>[2]</sup>

During the arraignment, appellant pleaded not guilty to the charge.<sup>[3]</sup> Thereafter, the trial of the case ensued.

The facts of the case as established by the prosecution are as follows:

The offended party, AAA, lived with her father, appellant Dante Ilagan, and her siblings at [REDACTED]. Her mother, [REDACTED], had gone off to live with another man.<sup>[4]</sup>

On May 18, 1998, AAA's elder sister went with her paternal grandmother, [REDACTED], to Meycauayan to attend the birthday celebration of their eldest sister. Later that evening, while AAA was asleep beside her other siblings, accused woke her up and told her that they would sleep in her grandmother [REDACTED]'s house, located some fifteen meters away,<sup>[5]</sup> leaving behind her other siblings in their own house.

At 3:00 in the morning of the following day, while AAA was asleep, she was awakened by someone taking off her shorts and panties. She saw appellant, naked from the waist down, lying on top of her. Appellant inserted his penis into her vagina, causing her pain. She was unable to cry for fear that appellant might kill her since he had threatened to kill her before. Appellant stopped the sexual intrusion

when a substance, which looked like phlegm, came out of his penis. He then got up and went to the kitchen to boil some water. He told AAA to watch the pot and left the house.<sup>[6]</sup>

On December 10, 1998, while appellant was in Quezon Province, AAA mustered the courage to tell her friend, Jocelyn, about the sexual assault by her father. They went to the Department of Social Welfare and Development (DSWD), which brought AAA to the [REDACTED] Police where she gave her sworn statement. Thereafter, she was brought to the Philippine National Police (PNP) Provincial Crime Laboratory in Malolos, Bulacan for physical examination.<sup>[7]</sup>

Dr. Manuel Aves, the PNP Medico-Legal Officer who examined AAA, found multiple healed deep lacerations on her hymen. He concluded that AAA was a non-virgin at the time of the examination on December 15, 1998.<sup>[8]</sup>

On the same date, AAA filed a complaint for Rape against appellant before the [REDACTED] Municipal Trial Court.<sup>[9]</sup>

In his defense, appellant denied the charges and claimed that he was in Alabang, Muntinlupa City on the date that the alleged rape was committed, working at a project for Nipponville Home Gallery. Moreover, as a furniture worker, he stayed in Manila for several days and went home to Bulacan only on weekends.<sup>[10]</sup> He alleged that AAA had several boyfriends, and presented in court purported love letters sent by AAA to Larry and Rudy, as well as letters she received from her male suitors, namely, Boy Bicol, Dondon Hernandez, Rab and Orly.<sup>[11]</sup> Her grandmother, [REDACTED], and sister, [REDACTED], corroborated appellant's testimony. They alleged that appellant frequently scolded AAA for coming home late, and surmised that this may be the reason why she filed charges against her father.<sup>[12]</sup>

On June 9, 2000, the trial court rendered the appealed judgment, the dispositive portion of which reads:

WHEREFORE, ALL PREMISES CONSIDERED, this Court resolves that the prosecution has successfully undertaken his burden to prove the guilt of the accused beyond reasonable doubt. Accordingly, accused Dante Ilagan is hereby found GUILTY of the crime of RAPE from having violated the provisions of Article 266-B in relation to Article 266-A of the Revised Penal Code, as amended. Considering the presence of aggravating circumstances that the victim is under eighteen (18) years of age and the offender is a parent of the victim in this case, he is hereby sentenced to suffer the Supreme Penalty of DEATH by lethal injection.

One final word. The Court treats the imposition of the capital punishment upon the hereby accused as an unpleasant, if not an unenviable task. Nonetheless, the burden becomes lighter as we ponder on what the Supreme Court stated with regard to a case of Rape of this nature. Thus: "incestuous relations are abhorrent to the nature of man, not only to civilized men, but also to semi-civilized and barbarous people x x x and when a man perpetrates his lascivious desires on his own direct relative, he descends to a level lower than that of a beast. (People vs. Mandap, 244 SCRA 457)

Lastly, the accused is also ordered to indemnify AAA the sum of P75,000.00 and further amount of P100,000.00 as moral damages.

With costs against the accused.

SO ORDERED.<sup>[13]</sup>

In his brief, appellant assigns the following errors:

I

THE LOWER COURT GRAVELY ERRED IN FINDING ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT OF THE CRIME CHARGED AND SENTENCING HIM TO SUFFER THE DEATH PENALTY.

II

THE LOWER COURT GRAVELY ERRED IN GIVING FULL WEIGHT AND CREDENCE TO THE TESTIMONY OF PRIVATE COMPLAINANT AAA.<sup>[14]</sup>

Well-entrenched is the rule that a conviction for rape may be made even on the testimony of the victim herself, as long as such testimony is credible.<sup>[15]</sup> It is likewise settled that when a woman says that she had been raped, she says in effect all that is necessary to show that she had been raped, and if her testimony meets the test of credibility, the accused may be convicted on the basis of the victim's testimony. A rape victim would not publicly disclose that she had been raped and undergo the troubles and humiliation of a public trial if her motive was not to bring to justice the person who abused her.<sup>[16]</sup>

Consequently, the issues in a rape case boil down to the credibility of the victim. In assessing her credibility, courts are guided by the following principles:

- (1) As accusation for rape can be made with facility; it is difficult to prove but more difficult for the person accused, though innocent, to disprove;
- (2) In view of the intrinsic nature of the crime of rape where only two persons are usually involved, the testimony of the complainant is scrutinized with extreme caution, and;
- (3) The evidence of the prosecution stands or falls on its own merits and can not be allowed to draw strength from the weakness of the defense.<sup>[17]</sup>

In the case at bar, complainant recounted her harrowing experience in the hands of appellant in this wise:

Q: My question is, where were you on May 1998 at around 3 o'clock early in the morning?

A: I was in the house of my grandmother, sir. My father asked me to undress and remove my panty.

Q: You said that you were then at the house of your

grandmother, what is the name of your grandmother?  
A: Her name is Aida Ilagan , sir.

Q: Where is this house located?

A: Near our house in [REDACTED], sir.

Q: What is the exact place in [REDACTED] where your *lola's* house is located?

A: [REDACTED], sir.

Q: Who were with you in the house of your *lola* at that time?

A: My father, sir.

Q: What about your *lola*?

A: She was in Meycauayan, Bulacan, sir together with my ate.

Q: How about your other siblings? Where were they at that time?

A: They were in our house, sir.

Q: Why did you decide to sleep at the house of your *lola*?

A: I was sleeping there in our house, but my father asked me to go with him and sleep at the house of my *lola* because nobody was there, sir.

Q: After your panty was removed by your father, what happened next?

A: I was molested (*ginalaw*), sir.

Q: Tell me exactly what do you mean by "*ginalaw*"?

A: He placed his body on top of me and inserted his private organ on my private organ, sir.

Q: You said your clothes and panty were removed by your father. Are you saying that you were totally naked when your father placed on top of you?

Court:

By the way, did the witness say that it was not only her panty but also her clothes were removed?

Q: Just to clarify this, your honor. What was removed by your father from your body?

A: My shorts and panty, sir.

Court:

Was it your father or yourself who removed your shorts and panty?

A: My father, your honor.

Court: Proceed.

Q: What were you wearing on your upper apparel?

A: T-shirt, sir.

- Q: What did you feel when your father inserted his private organ into yours?  
 A: It was painful, sir.
- Q: How long did your father placed himself on top of you?  
 A: Half an hour, sir.
- Q: While your father was on top of you, what was he doing?  
 A: He forcibly inserted his penis into my private organ, sir.
- Q: Did you feel anything from the private organ of your father?  
 A: Yes, sir.
- Q: What was that, that you felt came out from the private organ if your father?  
 A: As if phlegm (*sipon*), sir.<sup>[18]</sup>

The aforequoted testimony of the victim is marked by spontaneity, honesty, and sincerity. When the testimony of the victim is simple and straightforward, the same must be given full faith and credit.<sup>[19]</sup> A young girl's revelation that she had been raped, coupled with her voluntary submission to medical examination and her willingness to undergo public trial where she could be compelled to give out the details of an assault on her dignity, cannot be easily dismissed as mere concoction. It is highly inconceivable for a daughter to publicly accuse her father of rape if it were not true. Indeed, it is highly against human nature to fabricate a story that would expose herself as well as her family to a lifetime of dishonor, especially when her charge could mean the death of her own father.<sup>[20]</sup>

Appellant claims that the victim's failure to resist the assault and the delay in reporting the case to the authorities are sufficient to impair her credibility. We disagree. Physical resistance need not be established in rape when intimidation is exercised upon the victim herself. As held in *People v. Las Pinas, Jr.*,<sup>[21]</sup> the test is whether the intimidation produces a reasonable fear in the mind of the victim that if she resists or does not yield to the desires of the accused, the threat would be carried out. When resistance would be futile, offering none at all does not amount to consent to sexual assault. The law does not impose upon a rape victim the burden of proving resistance.

Anent the delay in reporting the case to the authorities, suffice it to state that delay and the initial reluctance of a rape victim to make public the assault on her virtue is neither unknown or uncommon.<sup>[22]</sup> Rape is a traumatic experience, and the shock concomitant with it may linger for a while. Oftentimes, the victim would rather bear the ignominy and the pain in private, rather than reveal her shame to the world or risk the rapist's carrying out his threat to harm her.<sup>[23]</sup>

We find no sufficient basis for disregarding, let alone overturning, the factual assessment made by the court a quo. Once again, we must reiterate the familiar rule that the task of taking on the issue of credibility is a function properly lodged with the trial court, whose findings are entitled to great weight and accorded the highest respect by the reviewing courts, unless certain facts of substance and value were overlooked or misappreciated such as would alter the conviction of the