

## EN BANC

[ G.R. Nos. 138662-63, November 04, 2003 ]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. ROBERTO MADERA  
Y AGRAVANTE, APPELLANT.**

### D E C I S I O N

#### PER CURIAM:

For automatic review is the May 11, 1999 decision<sup>[1]</sup> of the Regional Trial Court, Branch 25, Naga City finding appellant Roberto Madera y Agravante guilty beyond reasonable doubt of two counts of incestuous rape.

The two informations dated December 8, 1998 charging accused-appellant read as follows:

Criminal Case No. RTC 98-7309

That on or about 8:00 o'clock in the evening of May 8, 1998 in Barangay Dalipay, Municipality of Milaor, Province of Camarines Sur, Philippines and within the jurisdiction of this Honorable Court, the above-named accused with grave abuse of confidence, **the victim being his daughter**, by means of force and intimidation, with lewd designs, did then and there willfully, unlawfully and feloniously succeed in having carnal intercourse with one **Jonalyn C. Madera**, a **14 year old girl**, against her will and without her consent and said carnal knowledge resulted in the pregnancy of the latter to her damage and prejudice in such amount as shall be proven in court.

Acts contrary to law.<sup>[2]</sup> (Emphasis supplied)

Criminal Case No. RTC 98-7310

That on or about 3:00 o'clock in the afternoon of June 1, 1998 in Barangay Dalipay, Municipality of Milaor, Camarines Sur, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused with grave abuse of confidence, **the victim being his daughter**, by means of force and intimidation, with lewd designs, did then and there willfully, unlawfully and feloniously succeed in having sexual intercourse with one **Jonalyn C. Madera**, a **14 year old girl**, against her will and without her consent and of which carnal knowledge resulted in the pregnancy of the latter to her damage and prejudice in such amount as shall be proven in court.

Acts contrary to law.<sup>[3]</sup> (Emphasis supplied)

The prosecution established the following facts:

The victim, Jonalyn, the seventh of ten children of appellant and his wife Dominga Madera, was born on February 10, 1985.<sup>[4]</sup>

At around 8:00 p.m. of May 8, 1998, the eve of the barangay fiesta at Dalipay, Milaor, Camarines Sur, appellant, after drinking liquor with his friends in the porch of his three-bedroom<sup>[5]</sup> house at said barangay, repaired to his bedroom. He thereupon summoned the then more than 13 years old Jonalyn, who obliged and went to his room upon which "he closed the door but there is a small opening."<sup>[6]</sup> On appellant's request, Jonalyn massaged him in the course of which he took off her shorts and panty, after which he also took off his shorts and brief, and laid down on top of her, spread her thighs and inserted his penis into her vagina.<sup>[7]</sup> She felt pain but was too afraid to complain or ask why he was doing that to her because he threatened to kill all of them in the family if she shouted<sup>[8]</sup> and she feared he would do it as he had often maltreated her and her siblings as well as her mother.<sup>[9]</sup>

On June 1, 1998, at around 3:00 p.m., while Jonalyn's mother was in the fields and her brothers and sisters were playing at a chapel some 150 meters away from their house, appellant entered Jonalyn's room as she was about to sleep on a mat placed on the cemented floor. Again appellant had sexual intercourse with Jonalyn,<sup>[10]</sup> without her shouting for help because he told her that he would kill all of them if she shouted.<sup>[11]</sup>

More than three months after the June 1, 1998 sexual intercourse, or on September 27, 1998, Jonalyn related to her sister Josephine the two sexual molestations committed on her by appellant.<sup>[12]</sup> The following day or on September 28, 1998, Dr. Ma. Linda Llaguno, Municipal Health Officer of Milaor, Camarines Sur, examined Jonalyn and found her to be pregnant.

More than seven months after the sexual molestation committed on May 8, 1998, or on December 25, 1998, Jonalyn gave birth to a baby girl.<sup>[13]</sup>

Appellant, the sole witness for the defense, denied the charges<sup>[14]</sup> and gave the following version:

On May 8, 1998, he was cooking food for the fiesta to be celebrated on the next day. With him were his wife's relatives who were there for the next day's festivities. His older children Joseph, Jobert, Juvy and Jonalyn had gone to the dance hall, while his younger children stayed at home. He finished cooking at 10:00 p.m., and at around 10:30 p.m., he went with his brothers-in-law Dante and Roger to the dance hall but he did not see Jonalyn there.<sup>[15]</sup>

On June 1, 2002, he and his son Jobert harrowed the more than 2-hectare field of one Cipriano San Felipe, some 200 meters away from his house.<sup>[16]</sup> He started working at 8:00 a.m. and stopped at 4:00 p.m., and neither he nor his son went home for lunch as they partook of it at the house of Cipriano's son-in-law.<sup>[17]</sup> After working in the fields, he pastured his carabao and returned home only at 6:00 p.m.<sup>[18]</sup>

He did not know why his wife and Jonalyn, whom he suspected has a boyfriend named Boboy, would charge him with rape, except perhaps because he and his wife were always quarreling.<sup>[19]</sup>

The trial court, finding for the prosecution, convicted appellant of two counts of rape by the decision on review, the dispositive portion of which reads:

WHEREFORE, premises considered, this court finds the accused ROBERTO MADERA y AGRAVANTE **GUILTY** beyond reasonable doubt of two counts of the crime of **RAPE**, defined and penalized under Article 355 of the Revised Penal Code, as amended by Republic Act Nos. 7659 and 8353 in Criminal Cases Nos. 98-7309 and 98-7310 and hereby sentences the said accused to suffer the penalty of **DEATH** for each of the offense committed. Accused Roberto Madera y Agravante is hereby ordered to pay the victim Jonalyn Cadore Madera the amount of P50,000.00 for each offense by way of moral damages and to serve as a deterrent and warning to fathers who may have bestial desire against their daughter, said accused is also ordered to pay the sum of P50,000.00 as exemplary damages. For having impregnated his own daughter resulting to giving birth to a child who is facing an unsecured future and for the traumatic experience suffered by the victim, the accused is further ordered to pay P100,000.00 by way of consequential damages and to pay the costs.<sup>[20]</sup>

SO ORDERED. (Underscoring supplied)

In his brief, appellant raises the following assigned errors, quoted *verbatim*:

I

THE TRIAL COURT ERRED IN GIVING UNDUE IMPORTANCE TO THE INCREDIBLE, UNRELIABLE AND UNWORTHY STANCE OF PRIVATE COMPLAINANT ANENT THE ALLEGED SEXUAL ACTS COMPLAINED OF

II

THE TRIAL COURT ERRED IN NOT CONSIDERING THE FACT THAT PROSECUTION WITNESS DOMINGA MADERA WAS ACTUATED BY ILL WILL IN TESTIFYING AGAINST ACCUSED-APPELLANT

III

THE TRIAL COURT ERRED IN NOT GIVING FULL FAITH AND CREDENCE TO THE DEFENSE INTERPOSED BY ACCUSED-APPELLANT

IV

THE TRIAL COURT ERRED IN CONVICTING ACCUSED-APPELLANT OF TWO (2) COUNTS OF RAPE DESPITE THE FACT THAT HIS GUILT WAS NOT PROVED BEYOND REASONABLE DOUBT.

The settled rule is that when the issue involves the credibility of a witness, the trial court's assessment is entitled to great weight, even finality, unless it is shown that it

was tainted with arbitrariness or there was an oversight of some fact or circumstance of weight and influence. The reason is obvious - the trial court has the unique opportunity to observe the witness firsthand and note his or her demeanor and manner of testifying.<sup>[21]</sup>

The trial court found Jonalyn a credible witness and appreciated her clear and convincing testimony on how the rapes were committed. Thus, after identifying her father in open court by pointing to him during which she was crying,<sup>[22]</sup> she, a month and 14 years of age when she testified on March 4, 1999, declared as follows, quoted *verbatim*:

Pros. Escaro:

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Q : Tell us, the accused being your father did you observe the accused, your father, discipline you and your other brother and sisters?

A : He kicked and boxed my brothers and sisters.

Q : What about you, how does your father discipline you?

A : I was also boxed and kicked by my father.

Q : Do you also observe whenever your father and your mother quarrel, what did you observe?

A : We were hurt whenever our mother and father quarreled.

Q : What does your father do to your mother whenever they quarrel, if you know?

A : He also kicked and boxed my mother.

Q : Now, tell us, Miss Witness, on **May 8, 1998**, at about 8:00 o'clock in the evening, tell the Court, where were you?

A : I was in our house, sir.

Q : Where is your house?

A : At Dalipay, sir.

Q : Alright, where were your brothers and sisters as well as your father and mother at that time?

A : They were viewing TV, sir.

Q : And while you were there at your house, where was your father?

A : He was also in the house, sir.

Q : Were you also viewing the TV?

A : Yes, sir.

Q : Now, while you were viewing the TV on that particular date and time, what happened, if any?

A : While viewing the TV, I was called by my father to massage him.

Q : Where was your father when you were called to massage him?

A : In the room, sir.

Q : By the way, tell us, from where did your father c[o]me from before he went to your house, if you know?

A : At our porch, drinking.

Q : With whom, if you know?

A : With his friends, sir.

Court Drinking what?

A : Gin, your honor.

Pros. Escaro: Now, do you know when did your father and his friends stop drinking wine?

A : Yes, sir.

Q : What time?

A : Around 8:00 o'clock, sir.

Q : So, after father stopped drinking with his friends, do you know where he went?

A : Yes, sir.

Q : Where?

A : Inside the room, sir.

Q : Is that room also occupied by you or your other siblings?

A : It is the room of my Papa and Mama.

xxx

Q : Now, you mentioned to the Court that on May 8, 1998, you were called by your father to the room to massage him, when you were called to the room to massage him, what did he do?

A : While I was massaging him, he undressed me.

Q : When you went to the room, by the way, is there a door in that room?

A : Yes, sir, there is.

Q : Was it closed by your father after you entered?

A : Yes, sir. He closed the door, but there is a small opening.

Q : Tell us, when he ordered you to massage him, what was he wearing then?

A : He was wearing shorts.

Q : What was he wearing on his upper body?

A : He was wearing [a] t-shirt.

Q : Did you obey him in massaging him when he ordered you to massage him?

A : Yes, sir.

Q : Tell us, what were you then wearing when you were told by your father to massage him?