

## EN BANC

[ G.R. No. 140758, July 23, 2002 ]

### PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROMEO GERON, ACCUSED-APPELLANT.

#### D E C I S I O N

##### KAPUNAN, J.:

Before this Court for automatic review is the decision of the Regional Trial Court of Caloocan City, Branch 128, finding Romeo Geron guilty beyond reasonable doubt of the crime of rape and imposing upon him the penalty of death.

The case originated from an Information that read:

That on or about the month of July 1996 in Caloocan City, Metro Manila, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd designs, did then and there wilfully, unlawfully and feloniously repeatedly lie and have sexual intercourse with the undersigned complainant EMILY GERON y TORENTE, a minor of 15 years of age, against the latter's will and without her consent, and said accused being then the father of said minor.

Contrary to law.<sup>[1]</sup>

On March 3, 1997, Geron was arraigned and pleaded Not Guilty to the accusation.<sup>[2]</sup> However, on July 29, 1997, the accused was re-arraigned. This time, he entered a plea of Guilty.<sup>[3]</sup> The accused confirmed before the court that the plea of guilty was entered freely and voluntarily and that he was aware of the consequences of his plea.

The accused admitted before the court that Emily is his daughter.<sup>[4]</sup> When his wife, Emily's mother, died, he took care of their four (4) children.<sup>[5]</sup> He stated that he raped Emily because she looked so much like her mother.<sup>[6]</sup> He was deeply sorry for what he did and would like to ask forgiveness from his daughter.<sup>[7]</sup> However, he denied that he used any bladed weapon during the incident.<sup>[8]</sup> He likewise stated that Emily neither fought back nor resisted his advances.<sup>[9]</sup>

When called to the witness stand, Emily Geron testified that she was born on May 12, 1981.<sup>[10]</sup> She recalled that sometime in the evening of July 1996, she was fast asleep when she felt somebody pulling her blanket. She was surprised to see her father lying beside her.<sup>[11]</sup> The accused ordered her to face him and he started kissing her. She tried to resist his advances by pushing him but her father shouted and scolded her and because he was stronger, he was able to remove her clothes.<sup>[12]</sup> He next lied on top of her and he succeeded in inserting his penis inside her

vagina.<sup>[13]</sup> She pleaded for her father to stop but to no avail.<sup>[14]</sup> His father raped her on several other occasions until she got pregnant.<sup>[15]</sup>

The victim remained silent about her ordeal until January 10, 1997, when her grandmother, Amparo Torente, visited her. Amparo noticed that Emily was pregnant and she prevailed upon her granddaughter to reveal what happened to her.<sup>[16]</sup> Upon learning that it was Emily's father who raped her, Amparo brought Emily to the Department of Social Welfare and Development (DSWD). At the DSWD, they were assisted in bringing the matter to the authorities and the accused was finally apprehended.<sup>[17]</sup> Emily gave birth on March 16, 1997, but her daughter died three (3) days after birth.<sup>[18]</sup>

Dr. Amparo Annabelle Soliman, who conducted a medical examination of the victim, confirmed before the court<sup>[19]</sup> the following findings:

#### GENERAL PHYSICAL EXAMINATION:

Height: 140 Weight: 78 lbs.

Fairly nourished, conscious, coherent, cooperative, ambulatory subject.

Breasts engorged, with prominent veins, with colostrum. Areolae, dark brown, 4.5 cms. in diameter. Nipples, dark brown, protruding, 1.2 cms. in diameter.

No extragenital physical injury noted.

#### GENITAL EXAMINATION:

Pubic hair, fully grown, scanty. Labia majora, coaptated. Labia minora, coaptated. Fourchette, lax. Vestibular mucosa, violaceous. Hymen, moderately thick, moderately wide, intact but distensible. Hymenal orifice admits a tube 2.5 cms. in diameter. Vaginal walls, lax. Rugosities, shallow.

Bimanual examination reveals a soft, closed cervix attached to an enlarge mass which is the uterus, size of which is compatible to 4th months gestation. Fundie height is 12 cms.

#### CONCLUSIONS:

1. No evident sign of extragenital physical injury noted on the body of the subject at the time of examination.
2. Probable signs of pregnancy present corresponding on or about the first week of the second trimester.<sup>[20]</sup>

After trial, the court ruled, as follows:

WHEREFORE, in view of all the foregoing, the accused ROMEO GERON is hereby sentenced to death by lethal injection.

The accused is also ordered to pay Emily Geron the amount of P50,000.00 as moral and P75,000.00 as actual or compensatory damages.

Further, he shall suffer all the accessory penalties attached to the penalty provided for by law.

Cost against the accused.

SO ORDERED.<sup>[21]</sup>

In assailing the accused's conviction, the defense argued before this Court that:

THE COURT A QUO COMMITTED REVERSIBLE ERROR IN CONVICTING THE ACCUSED-APPELLANT OF THE CRIME OF RAPE NOTWITHSTANDING THAT THE PROSECUTION FAILED TO ESTABLISH HIS GUILT BEYOND REASONABLE DOUBT.

THE COURT A QUO ERRED IN CONVICTING THE ACCUSED-APPELLANT OF THE CRIME CHARGED DESPITE HIS IMPROVIDENT PLEA OF NOT GUILTY.

<sup>[22]</sup>

After a careful review of the records of this case, the Court finds no reason to reverse the decision of the trial court.

It should be stressed that accused-appellant pleaded Guilty to the crime of rape. He declared before the trial court that his plea was made freely and voluntarily and that he was aware of the consequences thereof. He testified:

Atty. Ibañez

Q Earlier you were arraigned before this Court of an offense of rape against your own daughter, and you entered a plea of guilty?

A Yes, sir.

Q Did anybody forced, coerced or promise (sic) you something in order for you to enter a plea of guilty?

A No, sir, because I want to save the complainant from the trouble of coming to this Court.

Q Did this representation advised (sic) you to plead guilty?

A No, sir.

Q So, it was your free and voluntary decision to enter a plea of guilty?

A Yes, sir.

Q You are aware of the consequence of your pleading guilty?

A Yes, sir.

Q And that the Court may impose a penalty of death or life sentence?

A Yes, sir.<sup>[23]</sup>

The defense would like to impress upon the Court that when accused-appellant entered a plea of guilty, he was not fully aware that he would be imposed the penalty of death. The defense cited accused-appellant's testimony whereby he stated that he would ask the court to give him the penalty of life imprisonment.<sup>[24]</sup>

The Court is not convinced. While accused-appellant stated that he would ask for the imposition of life imprisonment, there was nothing in the records that would

show that he was solely motivated by his erroneous assumption that he would be spared the penalty of death.

In any event, even without the admission by accused-appellant, the prosecution was able to duly establish the rape committed against the victim. The candid and straightforward testimony of Emily certainly deserves credence. She testified:

Q While you were sleeping, do you know if there was an unusual incident that occurred?

A Yes, sir.

Q Will you tell us what happened while you were sleeping?

A I felt that someone was pulling my blanket.

Q And did you come to know who was the one pulling your blanket while you were sleeping?

A Yes, sir.

Q Who was the one pulling your blanket?

A My father, sir.

Q And what did your father do next after he pulled your blanket while you were sleeping?

A He laid beside me.

Q What was your position when your father pulled your blanket?

A He was laying by my side.

Q You said that your father laid beside you, what did you do when your father laid beside you?

A He made me face him.

Q And what happened next after your father made you face him?

A When I was already facing him, he kissed me.

Q And what did you do when he kissed you?

A I was removing his face from my face.

Q And what else did he do when you refused his kisses?

A He scolded me.

Q How did he scold you?

A He shouted at me and told me to agree with him.

Q And did you fight back?

A Yes, sir.

Q How did you fight your father?

A I pushed him away from me.

Q And did you succeed in pushing away your father?

A No, sir.

Q Why not?

A Because the place where we were laying down is too small.