

## EN BANC

[ G.R. No. 145460, July 03, 2002 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. FELIPE PADILLA, ACCUSED-APPELLANT.**

### D E C I S I O N

**MENDOZA, J.:**

This is an automatic review of the decision<sup>[1]</sup> of the Regional Trial Court, Branch 11, Sindangan, Zamboanga del Norte, finding accused-appellant Felipe Padilla guilty of qualified rape and sentencing him to suffer the death penalty and to pay the victim, Gemma Tadas, the amount of P75,000.00 as civil indemnity and P50,000.00 as moral damages.

The complaint in this case was filed on December 10, 1996 by the offended party, Gemma Tadas, on the basis of which the provincial prosecutor filed an information alleging —

That, in the afternoon, on or about the 24th day of November, 1996, in the municipality of Sindangan, Zamboanga del Norte, within the jurisdiction of this Honorable Court, the said accused, moved by lewd and unchaste desire and by means of force, violence and intimidation, did then and there, willfully, unlawfully and feloniously succeed in having sexual intercourse with one GEMMA L. TADAS, his 13-year old stepdaughter, against her will and without her consent.

CONTRARY TO LAW (Viol. of Art. 335, Revised Penal Code).<sup>[2]</sup>

Upon arraignment, accused-appellant pleaded not guilty to the crime charged,<sup>[3]</sup> whereupon his trial ensued.

The prosecution presented three witnesses: complainant Gemma Tadas, Dr. Ellen Carabaña, and Mely Indig. The gist of their testimonies is as follows:

Gemma was born on July 4, 1983, the eldest of two children of Soterio and Erlita Tadas, both of the Subanen tribe. Soterio died when Gemma was nine years old. One year later, Erlita lived in common law relation with accused-appellant Felipe Padilla. Gemma lived with her mother Erlita and accused-appellant Felipe Padilla in a house in Bato, Sindangan, Zamboanga del Norte. She calls accused-appellant *Papa*.<sup>[4]</sup>

In the morning of Sunday, November 24, 1996, Gemma, then 13 year old, was left alone in their residence at Bato, Sindangan, Zamboanga del Norte, taking care of her one-year old brother. Her mother Erlita had gone to the *tabuan*, or market place, while accused-appellant had gone to the field below the hill on which they

lived to weed grass. Her other siblings, children of her mother and accused-appellant, had gone up the hill.

At 4 o'clock in the afternoon, accused-appellant returned home. Finding Gemma alone, he grappled with her and, after overpowering her, tied both her legs to the bamboo floor with the use of the rope from the baby's cradle. The baby whom Gemma was carrying was thrown to the floor, but accused-appellant did not heed the same. He tore off Gemma's dress and panties, took off his clothes and underwear, and forced himself upon her. He made several push-and-pull movements, after which he ejaculated. Then, after two minutes, he again had sexual intercourse with Gemma. Still not satisfied, accused-appellant, after two minutes, again had sexual intercourse with her. The assault lasted for about an hour. Accused-appellant then left, but not before warning Gemma not to tell anyone about the incident or he would kill her. Gemma suffered pain in her private parts and, as she was untying herself, she saw blood coming out of her vagina.<sup>[5]</sup>

At about 5 o'clock in the afternoon, Erlita arrived. Gemma told her mother what had happened and the latter advised her to leave the house.<sup>[6]</sup> Gemma did as she was told. The next day, she went to Dapaon, Sindangan, Zamboanga del Norte to her maternal aunt, Mely Indig, who took her to the barangay captain.<sup>[7]</sup>

Two weeks later, on December 9, 1996, complainant was examined by Dr. Ellen<sup>[8]</sup> Carabaña, Medical Officer III of the Sindangan District Hospital. Dr. Carabaña's findings, contained in her medical report,<sup>[9]</sup> are as follows:

- Skin - No external physical injury
- Breast - Conical, areola and nipple light brown
- Pubic Hair - Very scarce
- Labia Majora and Minora - in close apposition
- Hymen - No laceration
- Fourchet[te] - Not lax
- I.E.
  - Nulliparous
  - Admits small finger
- Sperm Analysis - Negative

The next day, Gemma, assisted by her aunt and the barangay captain, filed a complaint before Sindangan Municipal Circuit Trial Judge Paciano B. Gallefoso and gave a sworn statement before the Office of the Chief of Police of Sindangan.<sup>[10]</sup>

The defense presented two witnesses: accused-appellant Felipe Padilla and Erlita Tadas, the mother of the complainant.<sup>[11]</sup>

Accused-appellant denied the allegations against him. He claimed that on November 24, 1996, he was at their residence in Bato, Sindangan, Zamboanga del Norte, attending to his wife Erlita because she had given birth just the previous day. From 8 o'clock in the morning until 3 o'clock in the afternoon of the same day, he was shelling and husking corn together with his son by a previous marriage. He rested at about 4 o'clock in the afternoon, after which he fetched water and prepared food for his wife. He contends that it was impossible for him to have raped Gemma, whom he loved as his own daughter, because his wife was in the house.<sup>[12]</sup>

Accused-appellant's testimony was corroborated by Erlita. In addition, she testified that the day after giving birth on November 23, 1996, she stayed in their residence the whole day because she could not walk. She denied going to the *tabuan* and leaving Gemma alone in the house. In fact, she claimed that Gemma was the one who left their house at about 5 o'clock in the morning of November 24, 1996 to go to her friends (*barkada*). She also said that Gemma filed the case against accused-appellant upon the prodding of Erlita's brothers and sisters, who did not approve of her living with accused-appellant because he is a Christian.<sup>[13]</sup>

On August 25, 2000, the trial court rendered a decision,<sup>[14]</sup> the dispositive portion of which reads:

WHEREFORE, IN VIEW OF ALL THE FOREGOING FACTS AND CONSIDERATIONS, the Court hereby finds the herein accused, FELIPE PADILLA, guilty beyond reasonable doubt of the crime of QUALIFIED RAPE charged in the above-entitled case as defined and penalized under Article 335 of the Revised Penal Code in relation to and as amended by Republic Act No. 7659 and, accordingly, he is hereby sentenced to suffer the penalty of DEATH and ordered to indemnify the raped victim, Gemma Tadas, in the amount of P75,000.00 and another sum of P50,000.00 by way of moral damages. (People vs. Bernabe E. Adila, Jr., G.R. No. 133434, March 2[1], 2000)

COSTS de officio.

SO ORDERED.<sup>[15]</sup>

Hence, this appeal. Accused-appellant assails the judgment of conviction. He contends that—

- I. THE COURT A QUO GRAVELY ERRED IN FINDING THE ACCUSED GUILTY BEYOND REASONABLE DOUBT OF THE CRIME OF RAPE ON THE BASIS OF THE INCREDIBLE, INCONSISTENT AND UNCORROBORATED TESTIMONY OF THE ALLEGED VICTIM.
- II. THE TRIAL COURT ERRED IN NOT GIVING CREDENCE TO THE EVIDENCE FOR THE DEFENSE.
- III. THE TRIAL COURT GRAVELY ERRED IN IMPOSING THE PENALTY OF DEATH UPON ACCUSED-APPELLANT DESPITE (1) FAILURE OF THE PROSECUTION TO PROVE THE REAL AGE OF THE VICTIM AND (2) FAILURE OF THE PROSECUTION TO PROVE THE MARRIAGE OF THE COMPLAINANT'S MOTHER TO THE ACCUSED-APPELLANT NOR ALLEGE IN THE INFORMATION THEIR COMMON LAW RELATIONSHIP.<sup>[16]</sup>

In deciding rape cases, this Court has been guided by three principles, to wit: (1) an 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 nature of the crime in which only two persons are usually involved, the testimony of the complainant must be scrutinized with extreme caution; and (3) the evidence for the

prosecution must stand or fall on its own merits and cannot be allowed to draw strength from the weakness of the evidence for the defense.<sup>[17]</sup> An accused in a rape case may be convicted even on the sole testimony of the victim, but such testimony must be credible, natural, convincing, and consistent with human nature and the normal course of things.<sup>[18]</sup>

Applying these principles to the case at bar, we find that the prosecution evidence is on the whole improbable. After a careful examination of the records, we find the evidence to be insufficient to sustain the ruling of the trial court that accused-appellant is guilty of qualified rape.

*First.* Complainant claims that accused-appellant was able to achieve three ejaculations for a period of one hour<sup>[19]</sup> when she testified thus:

Q: So, how many times did your father sexually abuse you?

A: Three times.

Q: What do you mean by three times?

A: After the first intercourse[, ] . . . he went back.

Q: Do you mean to say you felt ejaculation of your father's penis inside your vagina?

A: Yes, sir.

Q: After ejaculating he removed his penis?

A: He was resting. He [took] time after the first intercourse. He was resting, sitting, and after that he went back.

Q: How many minutes was the interval to the first sexual intercourse of your father?

A: Maybe two minutes.

Q: And so after two minutes he again laid on top of you and again inserted his penis into your vagina?

A: Yes, sir.

Q: And again for the third time he did the same act to you?

A: Yes, sir.

Q: Now, while he was resting, what were you doing?

A: He was holding me.

Q: So, do you mean to tell us that everytime he satisf[ied himself,] he sat beside you in between his sexual assault[s]?

A: Yes, sir.<sup>[20]</sup>