

EN BANC

[G.R. Nos. 133586-603, February 19, 2001]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. HENRY QUEIGAN, ACCUSED-APPELLANT.

DECISION

YNARES-SANTIAGO, J.:

Rape is a nauseating crime deserving the condemnation of all decent persons who recognize that a woman's cherished chastity is hers alone to surrender of her own free will. Whoever violates that will descends to the level of the odious beast. The act becomes doubly repulsive where the outrage is perpetrated on one's own flesh and blood for the culprit is reduced to a level lower than an animal. The latter yields only to biological impulses, unfettered by social inhibitions when it mates with its own kin, but the man who rapes his own daughter violates not only her purity and her trust but also the mores of his society which he has scornfully defied. By inflicting his animal greed on her in a disgusting coercion of incestuous lust, he forfeits all respect as a human being and is justly spurned, not least of all by the fruit of his own loins whose progeny he has forever stained with his shameful and shameless lechery.^[1]

For ravishing his daughter who was barely in her teens on June 30, July 2, July 3, July 4, July 6, July 8, July 10, July 11, July 14, July 19, July 20, July 21, July 22, July 30, August 5, August 6, August 7, August 14, August 15, August 18, August 21, August 24, and August 25, all in 1996, Henry Queigan was charged with Rape in twenty-three (23) informations similarly worded except for the date of the commission of the crime. The indictments similarly aver -

That on or about the 30th day of June 1996 in the Municipality of Tanay, Province of Rizal, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, while taking advantage of his superior strength and moral authority over Angela Queigan y Ortega, a thirteen (13) year old girl, did then and there willfully, unlawfully and feloniously engage in sexual intercourse with her against her will and without her consent.

CONTRARY TO LAW.

Upon arraignment on February 18, 1997, accused assisted by counsel pleaded not guilty to the charges. Pre-trial having been waived, trial on the merits ensued. The twenty-three (23) cases were consolidated and tried jointly.

After trial, the court *a quo* found the accused guilty beyond reasonable doubt of Rape on nineteen (19) counts and sentenced him thus:

The prosecution having established the guilt of the accused beyond reasonable doubt in these cases, accused Henry Queigan is hereby sentenced to suffer the extreme penalty of DEATH in each of the following cases: Criminal Case Nos. 2613-M, 2614-M, 2615-M, 2616-M, 2617-M, 2618-M, 2619-M, 2620-M, 2621-M, 2623-M, 2624-M, 2626-M, 2627-M, 2628-M, 2629-M, 2631-M, 2632-M, 2633-M and 2634-M and to indemnify the victim Angela Queigan the total amount of NINE HUNDRED FIFTY THOUSAND (P950,000.00) PESOS.

Regarding Criminal Case Nos. 2612-M, 2622-M, 2625-M and 2630-M, these cases are hereby ordered dismissed for want of evidence on the part of the prosecution.

SO ORDERED.

In his brief, accused-appellant seeks the reversal of his conviction alleging that -

1. THE COURT A *QUO* GRAVELY ERRED IN CONVICTING THE ACCUSED TO DEATH WHEN HIS GUILT HAS NOT BEEN PROVED BEYOND REASONABLE DOUBT.
2. THE LOWER COURT ERRED IN COMPLETELY DISREGARDING THE TESTIMONIES OF THE WITNESSES FOR THE ACCUSED PROVING THE INNOCENCE OF THE LATTER.
3. THE ACCUSED WAS DENIED THE RIGHT TO DUE PROCESS.

The prosecution's version of the incident is summarized thus in the People's brief:

Complainant Angela Queigan was born on August 11, 1983. She was the oldest among the seven (7) children of appellant Henry Queigan and Josephine Queigan. Her mother, Josephine, died while giving birth to the seventh child on June 18, 1996.^[2]

In the evening of June 30, 1996, just a few days after appellant's wife was buried and while in their house, appellant caressed complainant's body, touching her breasts and private part. At first, Angela did not mind it, but as it went on, she got afraid, cried and shoved her father away. The latter stopped.^[3]

Appellant and complainant used to sleep with the latter's younger brothers and sisters between them. On the night of July 2, 1996, at around 11:00 p.m., complainant was surprised when appellant lied (sic) beside her. Appellant then removed her shorts. She struggled from him but the latter held her tightly and embraced her. Appellant inserted his penis slowly into her private organ. She felt pain as if her private organ was being torn ("parang pinupunit"). She pleaded for him to stop but the latter did not accede to her plea. He stayed on top of her for almost an hour, after which she felt something came (sic) out of appellant's private organ which was secreted on her abdomen. After that, she asked appellant why he did it to her. He answered that it was better that "he be the one, because they were of the same blood."^[4]

The incident was repeated on the night of July 3, 1996. While Angela was already sleeping in their house, she was awakened when appellant lied (sic) beside her. The latter started touching her thighs, her breasts and private part for about two (2) minutes, then removed her shorts. He lied (sic) on top of her and raped her. While on top, he told her she was beautiful and loved her not as a daughter but as a wife.^[5]

The same thing happened on the night of July 5, 1996, between 11:00 p.m. and 12:00 m.n. Appellant, who had been resting, changed position and lied (sic) beside complainant. He removed her panty and inserted his penis into her private organ. She pleaded [for] him to stop and told him to look for another girl. Appellant, however, told her that she could better replace her mother. She struggled to get away from him but the latter was stronger than her. After the sexual intercourse, she felt very weak.^[6]

Appellant did the same thing to complainant on July 6, 1996. The latter resisted by uttering bad words towards appellant, but he still succeeded in having sexual intercourse with her. Complainant did not tell anybody about the incidents for fear nobody would believe her.^[7]

On the night of July 8, 1996, appellant again removed complainant's panty and inserted his penis into her private part. She could not resist anymore because her body was already weak. While having sexual intercourse with her, appellant told her that before her mother died, the latter told him that she (complainant) would take her place in taking care of the children as his wife.^[8]

On July 9, 1996, appellant raped complainant again. She tried to fight him and pleaded with him to leave her and look for another person. Appellant did not listen to her. While on top of her, appellant ordered her to embrace him and to hold his organ. Complainant refused to do so. When asked why she did not follow him, she told him she was "nandidiri".^[9]

Again on the nights of July 10 and 11, 1996, appellant transferred to complainant's side, removed her panty and inserted his penis into her private part. Complainant kicked and pushed him but she failed to stop her father from having sexual intercourse with her.^[10]

Appellant repeated the sexual attacks against complainant on the nights of July 14, 19, 21, 22, 23 and 30, 1996. On July 14, complainant struggled from appellant by boxing him and uttering bad words, but the latter prevailed and succeeded in having sexual intercourse with her. On July 19, complainant was awakened when appellant lied (sic) beside her. She told him to go away but the latter said that he would not do anything on (sic) her. Yet, he removed her shorts lied (sic) on top of her and inserted his penis into her vagina. While on top of complainant, appellant hinted that the two of them live as husband and wife; she spurned him and told him that she was not his wife.^[11] The same things happened on

July 21, 22, 23 and 30, 1996. On the latter date, appellant told her that she was very beautiful and that she was very much like her mother, then he raped her. Complainant pulled his hair, pushed him away and told him that she was "nandidiri", that she could not bear it anymore and that her studies was already being affected. Appellant nevertheless went on to satisfy his bestial desire.^[12]

Complainant was not spared from appellant's brutish sexual assaults on the nights of August 5, 6 and 7, 1996. After the August 7 incident, complainant talked to her father and told him that what he was doing to her had already affected not only her body and mind, but also her studies. Nonetheless, on August 14, 1996, appellant succeeded in again raping her. He told her not to resist anymore because he was just practicing her so that when she gets married, she would know what to do.^[13]

On August 18, 21, 24 and 25, 1996, at around 11:00 p.m., the incestuous rape was repeated. It only stopped after the August 25 incident when the family transferred residence to Barrio Manggahan, Tanay, Rizal where there were plenty of houses.

It was on September 27, 1996 that complainant got the courage to confide to a certain Oscar Mitra what had happened to her. Mitra brought her to Barangay Sto. Nino where complainant met a barangay tanod. She narrated to the barangay tanod what her father had done to her. Then the Barangay Captain brought her to the Social Welfare Administration.

Complainant was presented to the PNP Crime Laboratory for physical examination. Dr. Emmanuel Reyes, the medico legal officer, found that her *labia majora* was full, convex and gaping, with shallow healed laceration[s] on her hymen at 3:00 o'clock and 9:00 o'clock positions; her vaginal canal was wide and the external vaginal orifice offered slight resistance when the examining finger was inserted. Dr. Reyes testified that the hymenal laceration could have been caused by the introduction of [a] hard, blunt object such as an erected (sic) penis.^[14]

A contrasting picture of what transpired is painted by the evidence for the defense as summed in the appellant's brief:

Accused Henry Queigan who testified on April 8, 1997 alleged that on June 18, 1996, two men arrived at the Mystical Cave at Sitio Pinagminahan, Antipolo, Rizal which is owned by Inday Nelly Deles where he worked as a carpenter and "hilot". The two men informed him that his wife would be giving birth. From Antipolo they proceeded to the house of Barangay Captain Abalos located at Tanay, Rizal where he was informed that his wife was already dead. The following morning, he returned to his house in Sitio Manggahan, Brgy. Laiban, Tanay, Rizal with the two men who were instructed to assist him at the burial of his wife. After the funeral he stayed with his children in his house.

On June 29, 1996 he was fetched by Engr. Gabon to repair cabinets and sink[s] at his house in Makati. He returned on July 8, 1996 to his family

living in Tanay, Rizal and arrived at 8:00 o'clock in the evening, he slept inside his house with Ninang Jovy. At around 7:00 o'clock in the morning, he went back to his work at Barangay Pinagminahan, Mystical Cave, Antipolo, Rizal. Since he is a stay-in worker in Antipolo, he returned to his family on the 15th and 30th of each month to bring food and money. During the days that he was not with his children, Ninang Belen who lived near their house accompanied his children and slept with them every night. In return, he gave her a little amount of money. Whenever he went home, he talked to his Ninang Belen about his children. Ninang Belen confided to him about a problem with his eldest daughter Angela, who was fourteen years old then. She reported to him that a certain Oscar Mitra used to fetch Angela from school and sometimes slept in their house. When confronted if she had an affair with Oscar Mitra, Angela got angry. She stayed in Antipolo, Rizal until the latter part of August, 1996.

On September 22, 1996, he returned to his house in Barangay Manggahan, Tanay, Rizal. A certain Eufemia told him that his daughter was kidnapped by Oscar Mitra. The kidnapping was reported by him to Barangay Captain Abalos who told him that he would act immediately but was advised to go home because one of his children was sick. In the evening of September 22, 1996, the parents of Oscar Mitra with Barangay Captain Abalos went to his house and pleaded to settle the problem between his daughter and Oscar Mitra, but he refused. On the instruction of Barangay Captain Abalos, he went to the police station in Tanay, Rizal and reported what happened to his daughter. It was only 2:00 o'clock in the morning and the police told him that there was no available police who would accompany him. Instead of waiting at the police station, he decided to go to Tanay market to buy food for his children. Upon returning to the police station, a policeman poked a gun at his head and told him that he was Oscar Mitra who was reported by a father to have raped his daughter. He was mauled and incarcerated. He was not investigated by the police. Neither was an investigation conducted either by the Fiscal or by a Judge from the time of his arrest. He was jailed and had not talked to his daughter Angela.

Corroborating his testimony, witness Belen Masarate testified that she is a resident of Sitio Manggahan, Brgy. Laiban, Tanay, Rizal whose house is about half a kilometer from the house of accused Henry Queigan. On June 18, 1996 after the death of the wife of the accused, she was requested by the latter to live with them to look after his children, 3 girls and 4 boys. Whenever he worked in Antipolo, Rizal as "manghihilot", she agreed with him and live[d] at the house of the accused every night from June 30, July 2, 3, 5, 6, 8, 9, 10, 11, 14, 19, 20, 21, 23, 30, August 5, 6, 7, 14, 18, 21, 24 and 25, 1996. She slept with accused's eldest daughter Angela and her sisters in a room at the second floor of the house. When the accused arrived on the 15th and 30th of July and August 1996, he slept with the boys at the first floor of the house. All the days she was in the house of the accused she learned that Oscar Mitra who lived in the same barangay was Angela's boyfriend. She often saw the two holding hands and sometimes Oscar Mitra slept with Angela at the accused's house. She advised the accused to stop Angela's affair with Oscar Mitra.