

EN BANC

[G.R. No. 135863, November 22, 2001]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
VIRGILIO LORICA Y MANJAREZ, ACCUSED-APPELLANT.**

DECISION

BUENA, J.:

A father who unleashes raw lust on his own flesh and blood is worse than a beast for humanity has yet to hear a tale of a beast which defiled the sanctity of its own young.

Accused-appellant Virgilio Lorica started sexually abusing his daughter Elenita P. Lorica since she was ten (10) years old when they were still residing in Quezon Province. He raped Elenita whenever his wife and other children were out of their house. He threatened her not to tell anybody about it, otherwise he would kill her.^[1] Elenita, who could not stand his father's abuses, nonetheless told her mother about the rapes but her mother did not believe her.^[2] Thus, Elenita cowered into silence.

When the family transferred to Brgy. Linga, Pila, Laguna, Elenita was not spared of the same ordeal.^[3] Accused-appellant's maniacal assault on Elenita, however, ended on October 20, 1997 when Elenita, after being raped twice on that day,^[4] courageously reported the incident to her Ate Inday and friend Richel Rizal.^[5] Richel accompanied Elenita to Brgy. Captain Rodolfo Enriquez who lost no time in referring the incident to the Philippine National Police in Pila, Laguna. Elenita's statement was taken^[6] and she was also brought to the Laguna Provincial Hospital for medical examination. It was found that Elenita's "vagina admits one finger with ease at 3, 5, 7 and 9 o'clock position with old hymenal tear."^[7] Elenita's mother, Felicidad P. Lorica was informed about the incident.

The following day or on October 21, 1997, a formal complaint for rape was filed by Elenita against accused-appellant before the Municipal Trial Court of Pila, Laguna. He was arrested on the same day. In an order dated October 27, 1997, the court furnished appellant a copy of the complaint and affidavits submitted by the complainant and directed him to appear and file his counter affidavit and those of his witnesses within ten (10) days from receipt of the order in accordance with Section 3 (b) of Rule 112 of the 1985 Rules on Criminal Procedure.

On November 20, 1997, finding reasonable ground to hold accused-appellant for trial, an Information was forthwith filed before the Regional Trial Court of Sta. Cruz, Laguna, the fallo of which reads:

"That on or about October 20, 1997 at Brgy. Linga, Municipality of Pila, province of Laguna and within the jurisdiction of this Honorable Court,

the above-named accused with lewd design and by means of force and intimidation, did then and there wilfully, unlawfully and feloniously have carnal knowledge with his daughter, ELENITA P. LORICA, a thirteen-year old girl, against her will and consent, to her damage and prejudice."^[8]

Upon arraignment, accused-appellant, assisted by counsel, pleaded not guilty. Thereafter, trial ensued.

Accused-appellant denied having raped his daughter Elenita claiming that on the date in question he was working at the pet store of Roderick Ravellas in Brgy. Labuin, Pila, Laguna up to 10 o'clock in the evening. Thereafter, he proceeded to Lando Sultan's house at Victoria, Laguna to cook *kalamay* and stayed there till 7 o'clock the following morning.

On September 18, 1998, the trial court rendered judgment, finding the accused-appellant guilty beyond reasonable doubt of the crime charged and sentenced him to suffer the supreme penalty of death and to pay private complainant P50,000.00 as civil indemnity; P50,000.00 as moral damages; and P50,000.00 as exemplary damages.^[9]

Hence, this automatic review.

In assailing the trial court's decision accused-appellant argues that the prosecution failed to establish his guilt beyond reasonable doubt. He claims that the testimony of the private complainant is wanting in details as to how the imputed rape was committed, and that the prosecution, in fishing for incriminating information, proceeded by propounding a leading question which assumed that appellant did not insert his organ into the private complainant before the latter could be given the chance to even report on this point.

We find such argument without merit.

When Elenita testified that she had been raped, she says in effect all that is necessary to show that the rape has been committed.^[10] Contrary to the allegations of the accused-appellant, Elenita was able to recall the material details of the several assaults on her honor. In court, she narrated said ordeal:

"TRIAL PROSECUTOR:

"Q Please tell us how your father raped you at Brgy. Linga, Pila, Laguna, what did he do to you at first?

"A My mother was not in the house on the date my father raped me.

"COURT:

"Q Did the Court get you right when you stated that your father raped you?

"A Yes, Your Honor.

"Q When you said your father Virgilio Lorica raped you, what did he do to you?

"A My mother was not in the house, my father called me and he raped me, Your Honor.

"TRIAL PROSECUTOR:

"Q Did he touch any part of your body?

"A Yes, sir.

"Q What part of your body?

"A He first touched my thighs, sir.

"Q Did he kiss you?

"A Yes, sir.

"Q In what part of your body did he kiss you?

"A On my lips, sir.

"Q How about on your neck?

"A Yes, sir.

"Q On your cheeks?

"A Yes, sir.

"Q After kissing your lips, your cheeks and your neck, what did he do next? (Witness reluctant to answer)

"COURT:

"Q Aside from kissing your lips, cheeks and neck, what else if any did your father do to you? (Witness reluctant to answer)

"TRIAL PROSECUTOR:

"Q What did he do to your vagina, if any?

"A Yes, sir.

"Q Please tell us what did he do?

"A Yes, sir, he did something.

"Q Did he touch it or insert something on it?

"A Yes, sir, he touched it."^[11]

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"Q During the last hearing, you said that your father inserted something in your vagina, am I correct?

"A Yes, sir.

"Q Please tell the Court what he inserted in your vagina?

"A His penis, sir.

"Q How many times did he insert his penis in your vagina?

"A Twice, sir.

"Q Do you know how to count?

"A No, sir.

"Q So, it would be more than two times that your father inserted his penis inside your vagina?

"A Several times, sir.