

EN BANC

[G.R. No. 132138, January 28, 2000]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROMEO LLAMO Y BOLIVAR, ACCUSED-APPELLANT.

DECISION

PER CURIAM:

Of all the so-called heinous crimes, none perhaps more deeply provokes feelings of outrage, detestation and disgust than incestuous rape.^[1] For 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.^[2] By inflicting the primitive, bestial act of incestuous lust on his own flesh and blood,^[3] the culprit is reduced to a level lower than a beast.^[4] He deserves no less than to forfeit his place in human society.^[5]

In an Information, dated January 28, 1997, Romeo Llamo y Bolivar was charged with the crime of rape committed against his own daughter Arlyn Llamo y Sanchez, to wit:

That sometime on October 1996, at Barangay Bismartz, Municipality of Don Carlos, Province of Bukidnon, Philippines and within the jurisdiction of this Honorable Court, the above- named accused, with lewd design, did then and there wilfully, unlawfully, criminally and forcefully have sexual intercourse with her (sic) own daughter ARLYN LLAMO y SANCHEZ, 12 years one (1) month old on the date of the commission, against her will.

Contrary to and in violation of R.A. 7659.^[6]

After trial on the merits, the trial court rendered a decision, dated November 14, 1997, the dispositive portion of which reads as follows:

WHEREFORE, finding the accused Romeo Llamo guilty of rape beyond reasonable doubt for the crime of rape (sic) of his 12-year-old daughter Arlene Llamo, he is hereby sentenced to suffer the maximum penalty of DEATH as defined and penalized under Section 11 of Republic Act 7659 above-mentioned. He is also ordered to indemnify her (sic) victim the sum of P50,000.00 and moral damages of P50,000.00.

SO ORDERED.^[7]

A perusal of the records will reveal that aside from private complainant Arlyn Llamo, the prosecution presented the testimonies of Dionesio Lora, Esterlita Lora, Flordeliza F. Eborde, and Dr. Venus Tagarda.

Complainant Arlyn Llamo (also referred to in the transcripts as "Arlene Llamo") gave her testimony inside the judge's chamber upon motion of the prosecution.^[8] She told the court that her mother Tessie had left their home, taking with her Arlyn's younger sister but leaving Arlyn in the care of her father, herein accused-appellant Romeo Llamo.^[9] She further testified that while she and her father were living in Don Carlos, Bukidnon, her father raped her in a sugarcane plantation.^[10] When asked how she was raped, Arlyn gave the following testimony:

X X X

Q Can you recall how did he rape you?

A He undressed me.

Q Other than undressing you what else did he do to you?

A He placed himself on top of me.

Q When he placed himself on top of you, what did you do?

A He threatened me.

X X X.

Q You said you were raped, was he able to enter your vagina that time?

A Yes.

Q Did you feel anything?

A Yes.

Q What did you feel?

A Pain.

On cross-examination, Arlyn testified as follows:

X X X

Q Now, at the time of the alleged incident of rape you did not shout, is that correct?

A I shouted.

Q How did you shout?

A I said, "help!, help!"

Q Are you sure Arlene that it was your father Romeo who raped you?

A Yes.

Q Did I hear you correct when you said during the direct examination that in fact your father was looking for you?

A Yes.

Q He was looking for you before you were raped or after you were raped?

A He looked for me after I was raped already.

Q During the raped (sic) according to you you shouted for help and nobody interceded or come for help, is that correct?

A There was one.

Q You know who that person was?

A The person was also his relative. (Witness looking at the accused).

Q Do you know the name of that person who came to help you?

A No.

Q What did that person do when he came to help you?

A As I was already undressed the person dressed me.

x x x.

Q Is it not a fact Arlene that it was somebody who raped you, it perhaps your Uncle Totong?

A It was my father.

Q Who told you to file a case against your father?

A Only me.

Q Nobody ordered you or instructed you?

A None.

Q If the person who raped you is inside this chamber will you point out to him?

A That one. (Witness pointing to a person who had already been identified as Romeo Llamó the accused in this case).

Q How do you call this person which you pointed out?

A He is my Papa.^[11] (Underscoring supplied.)

x x x

At this juncture, it is worthy to note that the trial court observed that Arlyn was "somewhat mentally retarded" and appeared tense.^[12] She could not tell the court her age, nor could she distinguish the twelve months of the year or tell the number of days in a month.^[13]

Arlyn's testimony was corroborated by Dionesio Lora who saw accused-appellant in the act of raping his own daughter .^[14]

Dionisio testified that he is the vice-president as well as Peace and Order Committee Chairman of his purok in Barangay Bismartz, Municipality of Don Carlos, Bukidnon; that at about seven o'clock in the evening of October 18, 1996, he was supervising a patrol around the Purok with two companions, namely, Ruby Galarpe and Rogelio Galendez; that he had a flashlight with him; that as they were walking near a sugarcane field, they heard a cry for help from inside said field; that they hurried towards the direction of the voice, and saw and recognized the accused-appellant on

top of his own daughter who was lying on the ground; that he (Dionesio) scolded the accused saying, "Stop that, she is your own daughter!"; that the accused-appellant quickly stood up and left.^[15]

Dionesio further testified that he later brought Arlyn to the house of Esterlita Lora who was also a kagawad of Barangay Bismartz,^[16] and married to Dionesio's cousin, Ricardo "Totong" Lora.^[17] After leaving Arlyn in the care of Esterlita, Dionesio reported the incident to the Punong Barangay, Metrobio Villador.^[18]

Esterlita Lora, for her part, testified that at about nine o'clock in the evening of October 18, 1996, Dionesio Lora brought Arlyn Llamto to her house, requesting that she take care of Arlyn because she had just been raped by her own father in the sugarcane field; that at that time, her husband Totong was also at home; that she let Arlyn sleep in her house; that the next morning she brought Arlyn to one Flordeliza Eborde, a social worker at the Department of Social Welfare and Development (DSWD) of Don Carlos.^[19]

Flordeliza Eborde corroborated the testimony of Esterlita. She testified that in the morning of October 19, 1996, Esterlita Lora brought Arlyn Llamto to her house; that she interviewed Arlyn who told her that she had been molested by her father; that she went to Barangay New Nongnongan to inquire about Arlyn's family, particularly her mother; that she learned therein that Arlyn's mother had run away with her younger daughter; that she went to the municipal jail to interview the accused Romeo Llamto regarding the circumstances of Arlyn's birth; that she then went to the Local Civil Registrar to register the birth of Arlyn because Romeo Llamto himself told her that Arlyn's birth was not registered; that she was able to obtain a Certificate of Live Birth^[20] therefrom which was offered by the prosecution as Exhibit "B;" that, she then brought Arlyn to the Maramag District Hospital for a medical examination; and, that thereafter, they went to the chief of police of Don Carlos, Bukidnon.^[21]

Upon questioning by the court, Mrs. Eborde revealed that every time her father's name was mentioned, Arlyn would involuntarily urinate.^[22]

The prosecution also presented the testimony of Dr. Venus Tagarda, the physician who examined Arlyn. Dr. Tagarda testified as follows:

x x x

Q Please tell the Honorable Court what was the result of your examination?

A In my examination I found old healed laceration of the hymen situated at three, five, seven and nine o'clock. And I found out that there is a positive of sexual abuse (sic).^[23]
(Underscoring supplied.)

x x x

The defense for its part, presented the sole testimony of accused-appellant Romeo Llamto. He testified, thus:

x x x

Q Do you know the victim in this case Arlene Llamo?

A Yes.

Q How are you related to Arlene Llamo?

A My own daughter .

Q In February 1996 when you were residing at Public Market area of Malaybalay, Bukidnon, was Arlene Llamo living with you?

A Yes.

x x x.

Q In 1996 can you recall if you and Arlene resided or went to barangay Bismartz, Don Carlos, Bukidnon?

A I can remember.

Q When was that when you went to Bismartz in 1996?

A October 7.

Q 1996?

A 1996.

Q What was the reason why you and Arlene went to Bismartz in October 7, 1996?

A I harvested palay.

x x x.

Q By the way, when you arrived at barangay Bismartz on October 7, 1996, where did you immediately reside or live with?

A At the house of Monding Estampador.

x x x.

Q When you harvest the palay of Menting Estampador where was your daughter Arlene Llamo?

A She was at the place of Monding Estampador.

x x x.

Q How many days did you stay in Bismartz?

A From 7th of October until after the third day wherein my daughter was lost.

x x x.

Q What is the name of the wife of Monding Estampador?

A Mane.

Q Did you ask Mane where your daughter was?

A I asked her.