

## FIRST DIVISION

[ G.R. Nos. 124338-41, May 12, 2000 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
ARTHUR DE LEON Y LAGMAY ALIAS "JOEL", ACCUSED-  
APPELLANT.**

### D E C I S I O N

**PARDO, J.:**

The case is an appeal from the decision of the Regional Trial Court, Pangasinan, Urdaneta, Branch 49 finding accused Arthur de Leon y Lagmay guilty of four counts of statutory rape and sentencing him to *reclusion perpetua* for each count of rape and to indemnify the complainant in the sum of P50,000.00 as moral damages and costs.<sup>[1]</sup>

Based on a sworn complaint dated March 15, 1993,<sup>[2]</sup> filed by Rosalinda Q. Madriaga, mother of the ten-year old offended party, Maria Adelina Madriaga, on July 12, 1993, 3rd Assistant Provincial Prosecutor Jaime V. Veneigas filed with the Regional Trial Court of Urdaneta, Pangasinan four (4) Informations for rape, as follows: Misact

"Criminal Case No. U-7310

"That on or about the 27th day of February 1993, in the morning, at barangay Pindangan, municipality of Sison, province of Pangasinan and within the jurisdiction of this Honorable Court, the above-named accused, taking advantage of the absence of the parents of Maria Adelina Madriaga from their dwelling, by means of force and intimidation, by slapping, dragging and threatening to kill the offended party, did then and there, willfully, unlawfully and feloniously, have carnal knowledge of said Maria Adelina Madriaga, against her will, to her and her parents' damage and prejudice.

"Accused is indicted before this court in three (3) other separate information for the crime of Rape committed by him upon the person of Maria Adelina Madriaga in different dates and under the same circumstances.

"Contrary to Art. 335, Nos. 1 and 3, Revised Penal Code."<sup>[3]</sup>

"Criminal Case No. U-7311

"That on or about the 28th day of February, 1993, in the morning, at barangay Pindangan, municipality of Sison, province of Pangasinan and within the jurisdiction of this Honorable Court, the above-named accused

taking advantage of the absence of the parents of Maria Adelina Madriaga from their dwelling, by means of force and intimidation, by slapping, dragging and threatening to kill the offended party, did then and there, willfully, unlawfully and feloniously, have carnal knowledge of said Maria Adelina Madriaga, against her will, to her, and to her parents' damage and prejudice.

"Accused is indicted before this Honorable Court in Three (3) other separate information for the crime of rape committed by him upon the person of Maria Adelina Madriaga in different dates and under the same circumstances.

"Contrary to Art. 335, nos. 1 and 3, Revised Penal Code."<sup>[4]</sup>

"Criminal Case No. U-7312

"That on or about the 6th day of March 1993, in the afternoon, at Barangay Pindangan, Municipality of Sison, Province of Pangasinan, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, taking advantage of the absence of the parents of Maria Adelina Madriaga from their dwelling, by means of force and intimidation, by slapping, dragging and threatening to kill the offended party, did then and there, willfully, unlawfully and feloniously have carnal knowledge of said Maria Adelina Madriaga against her will, to her and her parents' damage and prejudice.

"Accused is indicted before these court in three (3) other separate information for the crime of rape committed in different dates and under the same circumstances.

"Contrary to Art. 355, Nos. 1 and 3, Revised Penal Code."<sup>[5]</sup>

"Criminal Case No. U-7313

"That on or about the 13th day of March 1993, in the evening, at Barangay Pindangan, Municipality of Sison, Province of Pangasinan, Philippines within the jurisdiction of this Honorable Court, the above-named accused taking advantage of the absence of the parents of Maria Adelina Madriaga from their dwelling, by means of force and intimidation, by slapping, dragging and threatening to kill the offended party, did then and there, willfully, unlawfully, and feloniously have carnal knowledge of said Maria Adelina Madriaga, against her will, to her and her parents damage and prejudice.

"Accused is indicted before this court in three (3) other separate information for the crime of rape committed by him upon the person of Maria Adelina Madriaga in different dates and under the same circumstances.

"Contrary to Art. 355, nos. 1 and 3, Revised Penal Code."<sup>[6]</sup>

Accused Arthur de Leon y Lagmay failed to file his counter-affidavit despite extension granted by the court. Acctmis

On May 10, 1993, the trial court issued a Joint Resolution<sup>[7]</sup> finding the existence of probable cause that the crime of rape in each of the four cases had been committed and that the accused was probably guilty of the offenses.

Upon arraignment on September 15, 1993, in Criminal Cases Nos. U-7311 and U-7313,<sup>[8]</sup> and on October 14, 1993, in Criminal Case No. U-7310, accused pleaded not guilty to the offense charged.<sup>[9]</sup> Trial ensued. On motion of the accused, the trial court consolidated the cases <sup>[10]</sup> and tried them jointly.

On October 20, 1995, the trial court rendered decision finding accused Arthur de Leon y Lagmay guilty as charged. The dispositive portion of the decision reads:

**"WHEREFORE**, in view of all the foregoing, the accused, **ARTHUR DE LEON**, is found guilty as charged of the crime of rape, four (4) counts, to suffer the penalty of reclusion perpetua in all four cases for each crime of rape.

"The accused is likewise ordered to indemnify the offended party in the sum of P50,000.00 as moral damages, and to pay the cost.

**"SO ORDERED."**<sup>[11]</sup>

Hence, this appeal.<sup>[12]</sup>

The facts are as follows:

On February 27, 1993, Maria Adelina Madriaga, who was then only ten (10) years old, was outside her house at Sison, Pangasinan, playing with her younger brother JR, under a mango tree. Their parents were not at home for they were gathering firewood at Barrio Amagbagan. Accused Arthur "Joel" de Leon came by and told her that he would give her money and candy. She refused and told him that her mama would get angry. Accused then slapped her and pulled her, frightening her younger brother JR into hiding inside their house.

Accused Arthur de Leon y Lagmay slapped and pulled Maria Adelina towards the tobacco field north of her house. Accused brought Maria Adelina to the middle part of the tobacco plantation, where the plants were about one (1) meter high. The place was deserted. Accused then took off Maria Adelina's short pants and panty and laid her down. He removed his pants and brief and placed himself on top of Maria Adelina. He was able to insert his organ into Maria Adelina's vagina. The little girl felt pain and noticed a sticky substance flowing from the organ of the accused.

After consuming his passion, accused put on his brief and pants. Maria Adelina put on her panty and shorts, and the two headed for home with the accused constantly threatening Maria Adelina that she would be killed should she speak of their copulation to her parents. Maria Adelina was so afraid that she kept the incident to herself.<sup>[13]</sup>

However, the lust of accused de Leon was not satiated. He sexually abused the girl three more times.

At around 11:00 in the morning of February 28, 1993, while Maria Adelina and her brother JR were at the back of their house sitting on a "papag", Maria Adelina saw Arthur de Leon approaching. Arthur told her that he would give her money and candy if she would come with him. Maria Adelina told him that her mother would get angry, but Arthur was insistent and pulled her right arm. Her brother JR hid inside their house. Arthur again dragged her in the middle of the tobacco plantation and there Arthur undressed her and placed himself on top of her. She felt pain in her vagina and saw something come out of Arthur's penis. After that, Arthur put on his brief and pants and Maria Adelina also put on her panty and skirt. She noticed that blood was coming out of her vagina. Arthur told her that he would kill her if she told her parents. Maria Adelina did not reveal her ordeal to her parents because of fear.

[14]

Again, in the afternoon of March 6, 1993, when Maria Adelina's parents were away gathering firewood, Arthur went to the house of Maria Adelina and found Maria Adelina and her brother JR playing. Arthur forced Maria Adelina by pulling her left arm and dragging her to the middle portion of the tobacco field. Arthur removed everything that Maria Adelina was wearing and when the girl was naked, he laid her down and placed himself on top of her, mashed her breast and inserted his penis in her vagina. Maria Adelina saw something come out of Arthur's penis and after the sexual act, he put on his pants and brief and Maria Adelina put on her clothes. Arthur threatened Maria Adelina not to tell her parents about what happened. [15]

In the evening of March 13, 1993, for the fourth time, Arthur repeated the sexual assault. He went to the house of Maria Adelina and forced her by pulling her and dragging her to the middle portion of the tobacco plantation. Arthur slapped and undressed Maria Adelina, then removed his brief and pants and had sexual intercourse with Maria Adelina. After the act, Arthur put a sour candy in the mouth of Maria Adelina. She fell asleep and awakened only at around 11:00 in the evening.

[16]

On the night of March 13, 1993, the luck of Arthur de Leon ran out. The parents of Maria Adelina came home that night and found that Maria Adelina was not home, so they searched for her. They did not find her and so they proceeded to report to the police. After they reported to the police, somebody informed them that Maria Adelina was at home. When her parents arrived, they noticed that the clothes of Maria Adelina were dirty and full of dried grass. Her mother asked her what happened and the little girl finally broke her silence and told her parents that she was raped. However, still gripped with fear, she did not disclose the identity of the accused.

The next day, after much prodding from Fiscal Federico Qunit, a relative, Maria Adelina finally revealed the name of her molester, accused Arthur de Leon y Lagmay.

Maria Adelina's parents reported the incident to the police. Dr. Mario Duque of the Rosario District Hospital examined her on March 14, 1993, and found that there were linear abrasions on Maria Adelina's nostril and legs and hematoma on the right chin. Upon internal examination, Dr. Duque found that Maria Adelina's vaginal canal easily admitted the right ring finger and that her hymen was no longer intact. There