

EN BANC

[G.R. No. 132725, September 28, 2000]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ARMANDO QUILATAN, ACCUSED-APPELLANT.**

DECISION

PER CURIAM:

ARMANDO QUILATAN was charged with incestuous rape and found guilty by the trial court. He was sentenced to death. He is now before us on automatic review.

The Information alleged that on 19 July 1995 the accused by means of force and intimidation willfully and feloniously had carnal knowledge of his own 13-year old daughter, Oliva Quilatan.^[1] On 23 February 1997 the trial court found him guilty of rape as defined in Art. 335 of the Revised Penal Code in relation to Sec. 11 of RA 7659, and sentenced him to death. He was also ordered to pay Oliva Quilatan P200,000.00 for moral and exemplary damages.^[2]

The evidence shows that in the early morning of 19 July 1995, Oliva Quilatan, then 13 years old, was sleeping with her younger brothers and sisters in their house at Block 37, Welfareville, Mandaluyong City, when she was awakened by her father, the accused Armando Quilatan. Oliva's mother, Elenita, had left the house earlier to go to the market. With his wife gone the accused then told Oliva to undress. Although she wanted to shout for help she was prevented from doing so by her father who threatened to kill her and all her younger siblings if she did. Oliva had no choice; she had to remove her clothes. The accused touched the different parts of her body. He made her lie down and then went on top of her. He inserted his penis into her vagina; she felt pain.

The incident was not Armando's first sexual assault on his daughter. The first was on the occasion of Oliva's 11th birthday on 13 May 1993. Her mother at that time had left her father and settled in Caloocan City because he was beating her. Oliva was raped by her father for the second time on 14 July 1995. Every time the accused would abuse Oliva he would threaten to "kill them all" if she would reveal to anyone what he was doing to her.^[3]

Elenita Quilatan narrated that there was another incident when in the morning of 18 July 1995 she found the accused no longer beside her. To her surprise she saw him lying beside their daughter Oliva. When she asked Armando the reason for his action he just kept silent. Offended by what she saw she dashed out of the house. The accused followed her and promised not to abuse Oliva again. Elenita then asked her daughter about her father's abuses and Oliva revealed her painful and harrowing experiences, with her father. On 20 July 1995 Elenita and Oliva went to the police station and filed their sworn statements charging Armando Quilatan with rape.^[4]

Dr. Jesusa N. Vergara of the PNP Crime Laboratory at Camp Crame conducted a medical examination of Oliva and found her hymen with shallow healed lacerations at 3 o'clock and 6 o'clock positions, as well as a deep healed laceration at 9 o'clock position.^[5]

The accused interposed denial for his defense. He alleged that when he was still working abroad he learned from a neighbor, whose name he could not recall, that his wife Elenita had a paramour. He confronted her sometime in March 1993 about the P9,000.00 he was sending her every month. When she could not answer him he slapped her. Immediately after, his wife together with all their children left him. But two (2) months later they all returned to their house.

The prosecution presented as its rebuttal witness Brenda Quilatan, 8-year old sister of Oliva. Brenda claimed that she saw her father sexually abuse her sister Oliva twice. She said that one afternoon "a long time ago," she saw her father "play" with the breasts of Oliva who was crying and saying "*tama na, po.*" The accused brought Oliva upstairs and then laid on top of her. Brenda, in another incident, saw her father pumping on top of Oliva who was already naked.^[6]

Convinced beyond reasonable doubt that the accused Armando Quilatan did rape his 13-year old daughter Oliva on 19 July 1995 the trial court convicted him as charged and sentenced him to death.

The accused now contends in his Brief that the trial court gravely erred in convicting him of rape as the testimonies of the victim and other prosecution witnesses were riddled with inconsistencies on material matters which render them unworthy of belief. He cited the following: (a) Oliva testified that she was raped at 3 o'clock in the morning of 19 July 1995, but when she said that her mother was not around as she left for the market at 5 o'clock, she changed her testimony and explained that the rape occurred after 5 o'clock; (b) In her sworn statement before the police, she alleged that the accused was unable to insert his penis into her vagina, which is contradictory to her testimony in court that the accused was able to penetrate her as she felt pain; (c) The testimony of Dr. Vergara disclosed that no rape could have taken place on 19 July 1995 because the laceration was already healed; and, (d) according to Elenita Quilatan, she saw the accused lying beside Oliva on 18 July 1995, which is inconsistent with Oliva's testimony that she was raped on 13 March 1993, 14 July 1995 and 19 July 1995.

We find the arguments of the accused bereft of merit. Courts usually give credence to the testimony of a girl who is a victim of sexual assault, particularly if it constitutes incestuous rape because, normally, no person would be willing to undergo the humiliation of a public trial and testify on the details of her ordeal, especially in the hands of her own father, were it not to condemn a grievous injustice.^[7] The bare denial of the accused cannot overcome the categorical testimony of the victim. Denial, when unsubstantiated by clear and convincing evidence, as in this case, is a negative and self-serving evidence which deserves no greater evidentiary value than the testimony of credible witnesses who testify on affirmative matters.^[8]

The record shows no material inconsistencies in the testimonies of the victim and her mother and younger sister to justify a reversal of her father's conviction. As long

as the inaccuracies concern only minor matters, the same do not affect the credibility of witnesses. Truth-telling witnesses are not always expected to give error-free testimonies considering the lapse of time and the treachery of human memory. Inaccuracies may in fact suggest that the witnesses are telling the truth and have not been rehearsed.^[9]

Oliva's testimony given in a categorical, straightforward, spontaneous and candid manner, as observed by the trial court, is worthy of faith and belief. The crying of the victim during her testimony is evidence of the credibility of the rape charge which is a matter of judicial cognizance.^[10] Oliva's narration of the sexual assault upon her by her father was direct, clear and convincing -

Q: Oliva, do you know accused in this case; Mr. Armando Quilatan

A: Yes, sir.

Q: Why do you know him?

A: He is my father, sir.

Q: Do you still remember the incident or what happened on July 19, 1995, particularly at dawn?

A: Yes, sir x x x x On that day, my mother was not in the house, she went to the market and all my brothers and sisters are (sic) sleeping and he woke me up because one of my sister(s) was crying.

Q: Who was that who woke you up while you were sleeping?

A: My father, sir.

Q: And as soon as you were awaken(ed), what did your father do if he did anything?

A: He told me to undress, sir.

Q: What did you do?

A: I wanted to speak out but he told me that if I will (sic) shout or if I will (sic) report to my mother or to the police he will (sic) kill us all.

Q: And after that what happened?

A: That was when he started touching me and even if I wanted to shout I cannot (sic) because I was afraid of him and he was threatening me.

Q: When he started touching you as you said and you could not shout, what did you do?

A: I did not talk anymore.

Q: And what did he do to you?

A: He asked me to undress, sir.

Q: Did you undress? x x x x

A: Yes, sir.

Q: And when you were already undressed, what did your