

EN BANC

[G.R. Nos. 134628-30, October 13, 2000]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ORLANDO ARVES Y BUENAVISTA, ACCUSED-APPELLANT.**

DECISION

YNARES-SANTIAGO, J.:

In three (3) separate Informations, accused-appellant Orlando Arves was charged before the Regional Trial Court of Sta. Cruz, Laguna, Branch 28, with Rape of his own daughter, to wit:

In Criminal Case No. SC-6701

"That on or about July 27, 1997, in the municipality of Liliw, province of Laguna and within the jurisdiction of this Honorable Court, the above-named accused Orlando Arves y Buenavista, did, then and there willfully, unlawfully and feloniously have carnal knowledge with one Nerissa V. Arves, his own daughter by means of force, violence and intimidation against the latter's will and consent, to her damage and prejudice.

CONTRARY TO LAW."^[1]

In Criminal Case No. SC-6702

"That on or about July 31, 1997, in the municipality of Liliw, province of Laguna and within the jurisdiction of this Honorable Court, the above-named accused Orlando Arves y Buenavista, did, then and there willfully, unlawfully and feloniously have carnal knowledge with one Nerissa V. Arves, his own daughter by means of force, violence and intimidation against the latter's will and consent, to her damage and prejudice.

CONTRARY TO LAW."^[2]

In Criminal Case No. SC-6703

"That on or about August 27, 1997, in the municipality of Liliw, province of Laguna and within the jurisdiction of this Honorable Court, the above-named accused Orlando Arves y Buenavista, did, then and there willfully, unlawfully and feloniously have carnal knowledge with one Nerissa V. Arves, his own daughter by means of force, violence and intimidation against the latter's will and consent, to her damage and prejudice.

CONTRARY TO LAW."^[3]

Accused-appellant pleaded not guilty to each charge. The three (3) cases were jointly tried, during which the prosecution presented four (4) witnesses, including the complainant, while the defense presented two (2) witnesses, including accused-appellant. Their testimonies are summarized by the trial court, thus:

From the testimony of Complainant Nerissa Arves, the following facts and circumstances were clearly and satisfactorily established:

That she was born on September 27, 1981 at Liliw, Laguna, to Spouses REMEDIOS ARVES as mother and ORLANDO ARVES as father. She reached Grade V only as she lost interest anymore to study after being molested by her father Orlando. Since 1994, she had already been sexually abused by her father for several times in their house in Kanlurang Bucal, Liliw, Laguna usually at noon time when she was left alone at home as her mother used to be working away from home, while her youngest brother used to be in school.

Such sexual molestation by her father continuously and persistently existed without let-up through the years 1994, 1995 and 1996.

In the year 1997, she was sexually molested by her father on three occasions specifically on July 27, July 31 and August 27.

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A very important piece of evidence that sealed the culpability of the accused-father for the three cases of rape committed on his own daughter is the corroborative testimony of DR. MARILOU CORDON, who conducted a physical examination on NERISSA ARVES at around 4:30 P.M. of September 2, 1997 at the Laguna Provincial Hospital, the findings of which were reflected in her Medical Report (Exhibit "E") and which clearly established that Nerissa has already been previously subjected to sexual abuse for several times.

x x x x x x x x x

On the other hand, the accused principally interposed the defense of alibi.

The accused ORLANDO ARVES himself in gist testified that:

On July 27, 1997, between 8:00 A.M. to 5:00 P.M., he was fixing the bathroom door of his mother's house in Brgy. Laslum, Liliw, Laguna.

On July 31, 1997, he was fixing the ceiling of his brother's house in the Poblacion of Liliw.

On August 27, 1997, he was cooking "suman" for the coming fiesta at their house in Brgy. Kanlurang Bucal, Liliw, Laguna, while his six (6) children, his wife and mother-in-law were also in their house and therefore it could not have been possible for him to rape his daughter Nerissa in the presence of several persons.^[4]

On May 20, 1998, the trial court rendered judgment as follows -

W H E R E F O R E

Under Criminal Case No. SC-6701, this Court finds the accused ORLANDO ARVES y BUENAVISTA GUILTY BEYOND REASONABLE DOUBT as PRINCIPAL of CONSUMMATED RAPE, defined and punished under Article 355 of the Revised Penal Code as amended by Republic Act No. 7659, otherwise known as the Death Penalty Law and hereby sentences him to suffer the SUPREME PENALTY OF DEATH and to pay the private offended party NERISSA ARVES the following sums:

P50,000.00 - as civil indemnity;
50,000.00 - as moral damages; and
50,000.00 - as exemplary damages.

Under Criminal Case No. SC-6702, this Court finds the accused ORLANDO ARVES y BUENAVISTA GUILTY BEYOND REASONABLE DOUBT as PRINCIPAL of CONSUMMATED RAPE, defined and punished under Article 355 of the Revised Penal Code as amended by Republic Act No. 7659, otherwise known as the Death Penalty Law and hereby sentences him to suffer the SUPREME PENALTY OF DEATH and to pay the private offended party NERISSA ARVES the following sums:

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P50,000.00 - as civil indemnity;
50,000.00 - as moral damages; and
50,000.00 - as exemplary damages.

The accused is further ordered to pay the costs of all the instant suits.

SO ORDERED.^[5]

In view of the penalty imposed, the records were elevated to this Court for automatic review pursuant to Article 47 of the Revised Penal Code, as amended, and Rule 122, Section 10 of the Rules on Criminal Procedure.

Accused-appellant seeks the reversal of his conviction on the following grounds -

I

THE COURT A QUO ERRED IN FINDING THE ACCUSED-APPELLANT

II

THE COURT A QUO ERRED IN AWARDING CIVIL, MORAL AND EXEMPLARY DAMAGES TO PRIVATE COMPLAINANT.^[6]

In support of his first assigned error, accused-appellant argues that no less than the victim's mother, Remedios Arves, testified that the victim is not telling the truth. Indeed, it appears that when Remedios was called by the prosecution, she suddenly made a 180-degree turn in declaring that accused-appellant did not rape their daughter. Instead, she stated the reason why her daughter filed the rape charges against her father, *i.e.*, she was "merely cursed by her father" and she "was being sent away."^[7]

However, it appears that it was Remedios who assisted her daughter Nerissa in filing the complaints for rape against her husband, Orlando Arves, on September 4, 1997. The signature of Remedios appears on Nerissa's complaints, thereby signifying her conformity therewith.^[8] Remedios even executed a Sworn Statement before the Police Station in Liliw, Laguna on September 8, 1997 to support Nerissa's complaints, wherein she expressed her desire to testify against accused-appellant for what he did to their daughter, Nerissa. More particularly, she attested that -

- "T: Bakit ka naririto sa Himpilan ng Pulisya ng Liliw, Laguna?
S: Nais ko pong tumestigo laban sa aking asawa sa ginawang panghahalay sa aking anak na si Nerissa Arves.
T: Sino itong asawa na tinutukoy mo na naghalay sa iyong anak na si Nerissa Arves?
S: Ito po ay si Orlando Arves y Buenavista na ama ng aking anak na si Nerissa Arves.
T: Ilan na bang taong gulang itong iyong anak na si Nerissa Arves na tinutukoy mong ginahasa na iyong asawa?
S: Siya po ay labing-anim (16) na taong gulang na ngayong ika-27 ng Setyembre 1997.
T: Papaano mo nalaman na ginahasa nitong iyong asawa ang iyong anak?
S: Ang aking pong anak ay nagsumbong po sa akin noong ika-31 ng Agosto 1997, humigit o kumulang sa ganap na ika-7:00 ng gabi.
T: Ano naman ang iyong ginawang hakbang matapos mong malaman ang ginawang panggagahasa sa iyong anak?
S: Isinumbong ko po ang aking asawa sa aking nanay na si Miguela Arapan at ang payo ni nanay ay ipacheck-up ko si Nerissa Arves sa doktor.
T: Anong petsa mo dinala sa doktor para ipa check-up si Nerissa Arves?
S: Noon pong ika-2 ng Setyembre 1997, sa Sta. Cruz Provincial Hospital, Sta. Cruz, Laguna.
T: Ano naman ang naging resulta ng medical check-up?
S: Ayon po sa tumingin (na) doktor ang akin pong anak ay positibong ginahasa."^[9]

On the same date, September 8, 1997, Remedios executed a Sworn Statement before the Municipal Circuit Trial Court Judge Renato B. Bercades, to wit -

"TANONG : Anong dahilan at naririto ka sa Tanggapan ng Hukom Pambayan ng Magdalena, Laguna?

SAGOT Nais ko pong magbigay ng isang salaysay tungkol sa :
hablang isinampa naming mag-ina laban sa asawa ko na si Orlando Arves sa salang panggagahasa.

T: Sino ang ginahasa ng iyong asawa?

S: Si NERISSA V. ARVES po na siyang nagsampa ng demanda sa kanyang ama.

T: Kailan at saan nangyari ang panggagahasa?

S: Hindi ko po alam basta nagsumbong lang sa akin ang aking anak noong ika-31 ng Agosto, 1997 humigit kumulang na ika-7 ng gabi, habang kami ay kumakain ng hapunan.

T: Ano ang naging reaksiyon mo ng magsumbong sa iyo ang anak mo?

S: Nagalit po ako sa aking asawa.

T: Nasaan ba ang iyong asawa ng magsumbong sa iyo ang iyong anak?

S: Nasa salas po habang kami ng aking mga anak ay kumakain ng hapunan sa kusina.

T: Narinig ba ng asawa mo ng magsumbong ang anak mo sa iyo?

S: Hindi po dahil pabulong po niya itong sinabi sa akin.

T: Anong ginawa mo matapos na magsumbong sa iyo anak mo?

S: Minura ko po ang asawa ko, subalit tumanggi po siya.

T: Ano pa ang sumunod mong ginawa?

S: Dinala ko po ang aking anak na si Nerissa sa aking ina hindi naman po kalayuan ang bahay sa amin at humingi po ako ng payo at sinabi po niya sa akin na ipakulong ko ang aking asawa.

T: Ilang taon na ba ang iyong anak na si Nerissa?

S: 16 taong gulang po.

T: Ilan ba ang iyong anak na babae?

S: 2 po.

T: Ang sabi mo ba wala kang hanapbuhay bakit hindi mo alam ang buong pangyayari?

S: Sa dahiling sumasaka po upang manggulay.

T: Nag-aaral pa ba ang iyong anak?

S: Hindi na po tumigil po siya kaya siya po ang malimit na maiwan sa bahay.

T: Nasaan ba ang iyong asawa?

S: Nakakulong na po.

T: Totoo bang lahat ang salaysay mong ito at handa mong lagdaan ito?

S: Opo.

T: Ilan beses daw bang ginalaw ng asawa mo ang iyong anak?

S: Wala po siyang sinabi sa akin kung ilan beses siyang ginalaw."^[10]