

EN BANC

[G.R. No. 127126, September 17, 1998]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
RODRIGO CALMA Y SACDALAN, ACCUSED-APPELLANT.**

DECISION

PER CURIAM:

This Court repeats: men who rape children, worse, their own daughters, are "filthier than the slime where they belong. Whatever punishment is imposed on them can never expiate their loathsome offense, for which forgiveness itself from a mortal court, at least, would be a sin".^[1]

There is no fathoming the deluge of rape cases, often involving children, that has swamped the Court. But this particular case is by far, the most bizarre. Not just one but three young girls have been left precipitately stigmatized by the bestial violence perpetrated on them by their own father. The very person who should have protected them with his life, destroyed theirs. What strikes this Court as extremely perverse is that he spared no one, not even his daughter of the tenderest age of 5.

Accused-appellant Rodrigo Calma was charged with two (2) counts of Rape under Art. 335 of the Revised Penal Code, as amended by Sec. 11 of Republic Act No. 7659, and one (1) count of Acts of Lasciviousness under Art. 336 of the Revised Penal Code in relation to Sec. 5(b) of Art. III of Republic Act No. 7610^[2], before the Regional Trial Court, 3rd Judicial Region, Malolos Bulacan, Branch 14^[3] in the following three (3) separate Informations:

In Crim. Case No. 752-M-96, for Rape:

"The undersigned upon the prior sworn complaint of the offended party, fourteen (14) year old minor Annalyn Calma, accuses RODRIGO CALMA Y SACDALAN of Rape, defined and penalized under Art. 335 of the Revised Penal Code as amended by Sec. 11 of Republic Act [No.] 7659, committed as follows:

"That in between the period May 1995 to March 8, 1996, in Marilao, Bulacan and within the jurisdiction of this Honorable Court, the above-named accused, being the biological father of the offended party Annalyn Calma, with lewd designs and by means of threat and violence by arming himself with bladed weapon, did then and there willfully, unlawfully and feloniously lie and had sexual intercourse with private complainant Annalyn Calma against her will and consent.

"CONTRARY TO LAW."^[4]

In Crim. Case No. 752-M-96, also for Rape:

"The undersigned upon the prior sworn complaint of the offended party, ten (10) year old minor Roselyn Calma, assisted by her mother Myrna Calma y Ignacio, accuses RODRIGO CALMA Y SACDALAN of Rape, defined and penalized under Art. 335 of the Revised Penal Code as amended by Sec. 11 of Republic Act [No.] 7659, committed as follows:

"That in between the period May 1995 to March 8, 1996, in Marilao, Bulacan and within the jurisdiction of this Honorable Court, the above-named accused, being the biological father of the offended party Roselyn Calma, with lewd designs, did then and there willfully, unlawfully and feloniously lie and had sexual intercourse with private complainant Roselyn Calma against her will and consent.

"CONTRARY TO LAW."^[5]

In Crim. Case no. 754-M-96, for Acts of Lasciviousness:

"The undersigned upon the prior sworn complaint of Myrna Calma y Ignacio in behalf of her Four (4) year old daughter Irene Calma, the offended party, accuses RODRIGO CALMA Y SACDALAN of ACTS OF LASCIVIOUSNESS defined and penalized under Art. 336 of the Revised Penal Code, in relation to Section 5 (b), Art. III of Republic Act [No.] 7610, committed as follows:

"That in between the period May 1995 to March 8, 1996, in Marilao, Bulacan and with the jurisdiction of this Honorable Court, the above-named accused, by taking advantage of his natural daughter, Four (4) year old Irene Calma, did then and there wilfully, unlawfully and feloniously with lewd designs, touched the private parts of the above-stated offended party.

"CONTRARY TO LAW."^[6]

Accused-appellant pleaded not guilty to the charges.

On May 31, 1996, the three cases were jointly tried upon motion of the prosecution.

The evidence of the prosecution established that between May 1995 and March 8, 1996, accused-appellant forced himself on his two daughters, namely, Annalyn and Roselyn, born on July 11, 1981^[7] and December 28, 1985^[8], respectively. During the same period, accused-appellant inserted his finger into the sex organ of his youngest daughter, Irene, born on June 29, 1991^[9]

At ages 15, 11 and 5 years, Annalyn, Roselyn, and Irene, respectively, testified thus:

Annalyn on the witness stand:

"A One day by the middle of May, 1995, my father arrived home drunk [sic] and he forced me to undress myself while carrying an icepick.
"x x x

"Q. But can you tell us the time?

"A. It was already night time, madam.
"x x x

"Q. And where did this incident happened [sic]?

"A. In our bedroom, madam.
"x x x

"Q. When you said that your father removed your panty and your short[s] and your father was only wearing his short[s] at that time, what did your father do to you if any?

"A. He asked me to lie down on the bed, madam.

"Q. And when you laid down on the bed, what happened next?

"A. He approached me pointing the icepick towards me, sir.
"x x x

"Q. And then when he approached you, what happened next?

"A. He started to kiss me on the different parts of my body, madam.

"Q. Specifically what part of your body did he kiss first?

"A. My vagina, madam.
"x x x

"Q. Did you not resist or cry or ask him the reason why he was doing that to you?

"A. I asked him, madam.

"Q. And what was his answer?

"A. None, madam.
"x x x

"Q. And after your father kissed your whole body, your breast and including your vagina that was all he did to you?

"A. On that particular day, yes madam on that day only.
"x x x

"Q. After that first incident, you did not tell anyone or anybody your mother and brother and your sister what your father did to you?

"A. I did not, sir.

"Q. Why?

"A. Because at the very start, he had already threatened us and he told us that he would kill our mother in our presence, madam.

"Q. And after that first incident in the middle of May, 1995, this act was never repeated again?

"A. It was repeated again, madam.

"Q. How many times?

"A. For many more times, madam.

"x x x

"A. After a week time [sic] or something like that in as much as he seem[s] not to be satisfied he inserted his sex organ [in]to mine, madam.

"Q. Can you recall the first time your father inserted his penis inside your private parts?

"A. No more, madam.

"Q. You can not recall the exact date?

"A. I can no longer recall, madam.

"x x x

"Q. Now, when you were left alone with your father, do you recall what happened if any?

"A. Yes, madam.

"x x x

"A. First he look [sic] our main door and then he ordered me to get inside our bedroom, madam.

"Q. After he instructed you to get inside your bedroom, what happened next?

"A. He ordered me or instructed me to undress myself, madam.

"Q. Did you actually remove your clothes?

"A. Yes, madam because I was frightened then.

"Q. How about your father, what happened to his clothes then?

"A. He likewise removed his short pants, madam.

"Q. So, both of you were totally naked?

"A. Yes, madam.

"Q. After you were both totally naked, did [sic] you kindly tell us what happened next?

"A. He instructed me to lie down on [the] bed, madam.

"Q. After you laid down on [the] bed, what happened next?

"A. He placed himself on top of me, madam.

"Q. And when he laid on top of you, do you recall what happened next?

"A. Yes, madam.

"Q. What was that?

"A. He was making a push and pull motion, madam.

"x x x

"Q. When you say that he was likewise making this push up motion, did you notice anything else?

"A. He inserted his penis on [sic] my vagina, madam.

"Q. How do you know it was his penis that was inserted on [sic] your vagina?

"A. Because I saw it, madam.

"Q. When he inserted his penis inside your vagina, what did you feel?

"A. I cried because it was painful, madam.

"Q. Did you resist or fought [sic] back to [sic] what your father was doing to you?

"x x x

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"Q. What did you do if any?

"A. I cried and cried and when I was struggling to free myself, he pointed again the icepick on [sic] me, madam.

"Q. And can you tell us for how long did this push up movements [which] your father was doing while his penis was inserted in your vagina lasted [sic]?

"A. For less than five (5) minutes, madam.

"Q. After that what happened?

"A. He stood up and seated himself on top of the bed, madam.

"Q. What did you see when your father suddenly stood [sic] up and sit on top of the bed?

"x x x

"A. He took hold and played with his sex organ or penis, madam.

"Q. After playing [with] his sex organ, what happened next?

"A. Something came out of his penis, madam.

"Q. Would you kindly describe to us what you saw coming out from his penis?

"A. A sticky substance, madam.

"Q. Why do you know that this sticky substance came out from the penis of your father?

"A. Because he was showing that to me, madam. He even told me that that substance was the one introducing [sic] baby, madam.

"x x x

"Q. And after this first sexual abuse committed by your father on you, you never relayed this incident to anyone?

"A. Yes, madam I did not.

"Q. Why was this?

"A. As I have stated a while ago, he was threatening us. He was threatening me and he further stated that that will include my mother and even my other sister and brother, madam.

"Q. You stated earlier that this sexual abuse was repeatedly done by your father?

"A. Yes, madam.