

## EN BANC

**[ G.R. No. 126575, December 11, 1998 ]**

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
OMAR MEDINA Y LUMBERIO, ACCUSED-APPELLANT.**

### DECISION

**MARTINEZ, J.:**

Accused-appellant Omar L. Medina was convicted of having raped the 13-year old daughter of his common-law spouse four (4) times in 1995, and was sentenced to suffer the death penalty for each of the four (4) counts of rape, with all its accessory penalties. Omar Medina was likewise ordered to pay the victim, Lodalyn Flores, for each count the sum of P50,000.00 as indemnity, P50,000.00 as moral damages and another P50,000.00 as exemplary damages. The judgment of conviction was rendered by the Regional Trial Court of Parañaque, Metro Manila, Branch 259, in a consolidated Decision<sup>[1]</sup> dated September 23, 1996, in Criminal Cases No. 95-710 to 713.

The judgment of the trial court is now before us for automatic review pursuant to Article 47 of the Revised Penal Code, as amended by Section 22 of Republic Act No. 7659,<sup>[2]</sup> and Sections 3 (e) and 10, Rule 122 of the Revised Rules of Court.

These four (4) cases of rape were commenced on the basis of four (4) separate complaints signed by complainant Lodalyn Flores and, upon prior authority by the Provincial Prosecutor, the same were filed with the trial court on November 24, 1995, docketed as Criminal Cases No. 95-710, 95-711, 95-712, and 95-713.

The crime was allegedly perpetrated by Omar Medina on four (4) occasions as set forth in each of the four (4) complaints which are similarly worded (except with reference to the dates the crime was allegedly committed), thus:

"The undersigned complainant accuses Omar Lumberio Medina of the crime of Rape, committed as follows:

"That on or about (July 25, 1995,<sup>[3]</sup> August of 1995,<sup>[4]</sup> September of 1995<sup>[5]</sup> and October of 1995<sup>[6]</sup>), in the Municipality of Parañaque, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, by means of force and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of the complainant LODALYN FLORES, a minor, 13 years old, against her will.

"CONTRARY TO LAW."<sup>[7]</sup> (dates in parenthesis supplied)

Upon arraignment on the four (4) complaints, Omar Medina entered a plea of not guilty.

Based on the testimonies of complainant Lodalyn Flores and Dr. Floresto Arizala, Jr., the evidence for the prosecution runs as follows:

Lodalyn Flores is the stepdaughter of Omar Medina, he being the common-law husband of her mother, Lolita Flores. Having been born on March 26, 1982, Lodalyne was thirteen (13) years of age and a grade four student at the time she was raped by Omar. She has a younger brother, Rizaldy, nine years of age, and a four-year old half-sister, Aileen, who is Omar's daughter with Lolita.<sup>[8]</sup>

On July 25, 1995, at about 1:00 o'clock in the afternoon, Lodalyne was awakened from her nap at their bedroom in Champaca St., UPS IV, Parañaque, when Omar covered her mouth and tied her hands. Omar threatened Lodalyne with a knife which he placed at her side and forcibly removed Lodalyne's T-shirt and shorts, including her undershirt and panty. He then removed his shorts and brief and placed himself on top of Lodalyne. He boxed her thighs and succeeded in sexually penetrating her. Afterwards, Lodalyne noticed some blood and slimy discharge in her vagina. At the time Lodalyne was sexually abused by Omar, there was no one else inside the house as her brother and sister were playing outside.<sup>[9]</sup>

Lodalyn kept mum about the unfortunate incident as she was afraid of Omar's threat to kill her and her mother.

Sometime in August of 1995, Omar again raped Lodalyne when her mother was away from their house and while her younger brother and sister were asleep as it was already 7:00 o'clock in the evening. This happened after Omar asked Lodalyne to prepare her mother's food and to get his T-shirt from the cabinet in the bedroom. While already inside the bedroom, Lodalyne noticed that Omar was at her back. He then gagged her mouth with a piece of cloth he was holding. Lodalyne struggled to free herself, but Omar boxed her stomach to submission and succeeded in sexually ravishing her. Again, Omar threatened to kill her and her mother if she would tell anyone about the incident.<sup>[10]</sup>

The third time Lodalyne was raped by Omar occurred in September of 1995 while her mother was not home yet and her brother and sister were at school. Omar asked Lodalyne to get the P20.00 under the pillow. She complied but as she turned around, Omar was already in front of her. Lodalyne boxed Omar in the chest but he slapped her and placed her on the bed. Omar raised her skirt, removed her panty, then his clothes and sexually assaulted Lodalyne.<sup>[11]</sup>

The fourth and last time Omar ravished Lodalyne took place in October of 1995. This time it was more violent. Omar repeatedly boxed Lodalyne in different parts of her body until she lost consciousness. When she regained consciousness, she felt pain in her vagina and noticed something sticky on the bedsheet where she was lying.<sup>[12]</sup>

On November 17, 1995, after Lodalyne and her mother quarreled when she confronted her mother about Omar's having hurt her brother by hitting the latter at the nape, Lodalyne confided to Consuelo Bofete, a neighbor, what she had suffered in the hands of Omar. In turn, Consuelo relayed to Fely Bofete what Lodalyne told her. Fely then informed Lolita Flores what Omar did to Lodalyne. Lolita was enraged over the report that he ordered Lodalyne, her brother and sister to leave the house.<sup>[13]</sup>

Lodalyn and Fely Bofete sought the assistance of Kagawad Fernando Beltran and the three then went to the National Bureau of Investigation (NBI). Dr. Floresto Arizala, Jr., a medico-legal officer of the NBI, conducted a medical examination on Lodalyn on November 23, 1995. In his medical report, the doctor found, among others, that Lodalyn's hymen has an "old healed deep laceration at 6:00 o'clock position" and "admits a tube 2.5 cm. in diameter."<sup>[14]</sup> Thereafter, Lodalyn lodged a complaint at the police station which eventually led to the filing of the four (4) charges of rape against Omar.

In his defense, Omar Medina admits that Lodalyn Flores, who is about 13 to 14 years of age, is his stepdaughter, he being a common-law husband of Lolita Flores (Lodalyn's mother). He testified that he has never been charged of any crime, except the present four (4) cases of rape. He denied, however, that he sexually abused or raped Lodalyn whom he treats as his very own daughter. During those dates of the alleged rape incidents, he was busy tending his household chores and was then cleaning their pigpens, fetching water and washing their clothes. He believes that the reason why he was charged by Lodalyn is that he used to scold her for entertaining her suitors.<sup>[15]</sup>

Lodalyn's brother, Rizaldy Flores, nine (9) years of age, also testified that Lodalyn seems to dislike Omar since the latter has been telling her not to be too friendly with boys. Lodalyn has a boyfriend by the name of Singcol. Omar washes clothes, cleans the house, takes care of the pigs, fetches water everyday and also cooks for them. He never saw Omar kiss Lodalyn nor did he see them in any intimate situation. It is not true that Omar raped Lodalyn because before he leaves for school and when he comes home, his mother is at their house.<sup>[16]</sup>

After trial, the court a quo rendered judgment finding Omar Medina guilty beyond reasonable doubt of four (4) counts of rape based on the testimony of the victim, Lodalyn, whose version was considered "highly credible."<sup>[17]</sup> He was sentenced to the maximum penalty of death for each count pursuant to Section 11 of Republic Act No. 7659 on account of his relationship with the victim.

In his brief, Omar claims that "it is unlikely" for him to rape Lodalyn since he treats her as his very own daughter.<sup>[18]</sup>

We do not think so.

The bestiality in man whose conscience has been seared by his insatiable greed for lust shows no respect for blood or close kinship with his victim. The blood relationship between a father and a daughter does not by itself discount the probability of the father committing rape against his own daughter. More so in this case, considering that Omar is merely the common-law spouse of the victim's mother. In fact, this Court, in the recent case of **People v. Gallo**,<sup>[19]</sup> has made the following factual observation:

"It is disturbing enough to see that there has been a noticeable increase in the incidents of rape **but one is left completely appalled that this still growing number includes cases of the bestial act being perpetrated on the young and innocent and, no longer too**

**infrequently it seems, compounded by the close kinship of the offender and the victim.**

"In **People vs. Malgar** (238 SCRA 512), the Court has had occasion to state that -

`A father is looked up to as the protector and as the guardian of his family, remaining ever wary of even the slightest harm that might befall it. **It is difficult to thus imagine that any such man could instead stand as the predator of his own flesh and blood. Yet, we occasionally would find ourselves so regrettably contending with it as a fact.**'<sup>[20]</sup> (at p. 513)"[underscoring supplied]

In rape cases, the accused may be convicted solely on the testimony of the victim, provided that such testimony is credible, natural, convincing and consistent with human nature and the normal course of things.<sup>[21]</sup> This is so because by its very nature, rape is committed with the least possibility of being seen by the public.<sup>[22]</sup> In fact, the presence of eyewitnesses could even raise serious doubts of its commission.<sup>[23]</sup>

The court a quo gave credence to the testimony of Lodalyn. And rightly so. Lodalyn was thirteen (13) years old at the time she was raped by Omar four times in 1995. As correctly observed by the trial court, no young and decent Filipina would publicly admit that she was ravished and her honor tainted unless such was true, for it is instinctive of her to protect her honor.<sup>[24]</sup> It is highly inconceivable for a lass of tender age to concoct a tale of defloration, allow the examination of her private parts, and undergo the expense, trouble, inconvenience, not to mention the trauma of a public trial, unless she was in fact raped.<sup>[25]</sup>

Lodalyn's failure to immediately report the rape after its initial occurrence does not cast grave doubts on her credibility. Such delay is understandable. It is not uncommon for a young innocent girl to conceal for some time the assaults on her virtue because of the rapist's threat on her life, more so when the rapist is living with her.<sup>[26]</sup> Omar is Lodalyn's stepfather and he lived with her. She was in constant fear of Omar who threatened to kill her and her mother. Being the stepfather, Omar also exercised moral ascendancy and influence over her, who is thus expected to yield to his threats and intimidation. In **People v. Casil**,<sup>[27]</sup> we held:

". . . in rape committed by a father against his own daughter, the father's moral ascendancy and influence over the latter substitutes for violence and intimidation. The foregoing principle applies in the case of a sexual assault of a stepdaughter by her stepfather and of a goddaughter by a godfather in the sacrament of confirmation.

"In the present recourse, appellant being in fact, if not in law, the stepfather of the victim, who was at the tender age of thirteen years when the first defilement was perpetrated, definitely enjoyed moral and physical ascendancy over complainant. The latter could thus be expected to yield to the threats and intimidation of appellant with less resistance by reason of his dominance over her."

Lodalyn's story was full of details that it could not be a product of fabrication. At her age, she could not have narrated in such a straight-forward and convincing manner her defloration, if it were not true. Note her pertinent testimony:

"Q - At around 1:00 p.m. of July 25, 1995, where were you?

"A - I was at home, in the bedroom.

"Q - What were you doing then?

"A - I was playing with my brother and sister.

"Q - After playing with your brother and sister, what did you do next?

"A - After playing, I was able to sleep at about 1:00 p.m.

"Q - After you woke up, what did you see or what did you notice, if any?

"A - My mouth was gagged and my hands were tied.

x x x

"Q - When you woke up and saw yourself gagged by the mouth and your hands were tied, where was accused Omar Medina?

"A - He was on top of my thigh.

x x x

"Q - So, while Omar Medina was on top of you, did you notice if Omar Medina was armed or not at that time?

"A - He was armed, sir.

"Q - What kind of arm did he have?

"A - A big knife.

"Q - And what was he doing with that knife?

"A - He place the knife on my side.

"Q - While Omar Medina was on top of you, what was he doing to you?

"A - He forcibly removed my panty and shorts and then my t-shirt and sando.

x x x

"Q - After Omar Medina removed your panty as well as your shorts and tore off your t-shirt, what did he do next, if any?

"A - He removed his shorts and brief up to his knees.

"Q - After that, what did he do next?

"A - Pinatungan niya ang dalawa kong hita.'

"Q - 'What was his purpose in laying on top of your legs?

"A - To rape me.

"Q - Madam witness, how did Omar Medina manage to separate your legs?

"A - He boxed my thighs.

"Q - After you were boxed, you already spread your legs, is that correct?

"A - Yes, sir.

"Q - What did you feel when you were boxed by Omar Medina on both thigh?