

FIRST DIVISION

[G.R. No. 113029, February 08, 1996]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
APOLONIO MELIVO Y VALETE, ACCUSED-APPELLANT.**

DECISION

KAPUNAN, J.:

Accused-appellant Apolonio Melivo arrived drunk, late in the evening of June 1, 1992 at the Sampaguita Restaurant in Tarlac, Tarlac to fetch his sixteen (16) year old daughter Maritess, a waitress at the said restaurant. Maritess refused to go with him, but her father was persistent. She reluctantly followed her inebriated father to a waiting tricycle, which took them to the highway in Gerona, Tarlac. Alighting at Padapada, Gerona, Tarlac, they took a footpath, walking three kilometers towards the direction of their home.^[1]

About 100 meters from their house, appellant suddenly grabbed his daughter's arm, and embraced and kissed her. She let out a scream. He promptly silenced her by slapping her. Pushing her hard, he pinned her down towards the ground then pulled a knife, threatening her. She felt dizzy. Even in her dazed state, however, she bravely fought to resist her father's advances, pressing her thighs tightly together. He then pried her lower extremities open by hitting both of her thighs with his fist, causing severe pain. Ignoring her pleas, appellant undressed Maritess, inserted his penis in her vagina and molested her for about thirty minutes. Threatened at knifepoint, and numbed by the pain, Maritess could only protest meekly.^[2]

After satisfying his bestial lust on his daughter, appellant ordered Maritess to put her clothes on. He repeated his threat to kill her if she would reveal the incident to anyone. Walking in silence towards their home, Maritess noticed blood trickling slowly down her thighs, oozing from her vagina. She limped the rest of the way.^[3]

After the first rape, which occurred on June 2, 1992, the appellant again sexually abused Maritess on four (4) different occasions.^[4] All of the subsequent incidents were committed inside their home.^[5] Unable to endure her ordeal any further, she finally summoned the will to report the incidents to her mother, Florida Millado, and to her grandfather, Celestino Millado, on August 11, 1992, in spite of appellant's repeated threats to kill her.^[6] The matter was thereafter immediately reported to the authorities.^[7]

Consequently, on September 30, 1992, an Information was filed by the provincial prosecutor in the Regional Trial Court of Tarlac, Tarlac, charging the appellant with the crime of Rape committed as follows:^[8]

That on or about June 2, 1992 at around 1:00 o'clock in the morning at Barangay Padapada, Municipality of Gerona, Province of Tarlac and within the jurisdiction of this Honorable Court, the said accused by means of force, threat and intimidation, did then and there willfully, unlawfully and feloniously succeed in having sexual intercourse with Maritess Melivo against the latter's will.

Contrary to law.

At the trial, the appellant vigorously disputed the charges against him, insisting that the entire incident was fabricated. He alleged that the charges were concocted by the complainant to retaliate against a beating she received from him on August 7, 1992, a few days before she filed her complaint with the Tarlac police.^[9] Furthermore, he averred that the complainant and his wife conspired with the help of his other relatives to cause his illegal arrest and detention for rape to teach him a lesson, for his maintaining an adulterous relationship with another woman.^[10] His version of the incident was summarized by the trial court as follows:

On June 1, 1992 at around 12:00 o'clock high noon, he went to Manila to get the clothes of the complainant from her former employer at De Guzman Store, Quiapo, Manila. He arrived thereat at 3:00 o'clock in the afternoon. He left the place at around 4:00 o'clock. He proceeded to the Philippine Rabbit Bus Station where he boarded a bus which left for Tarlac at around 5:00 o'clock in the afternoon. He arrived in Tarlac at around 8:00 o'clock in the evening and proceeded to Sampaguita Restaurant where the complainant works as a waitress and handed to her the clothes. The complainant told him that she will go along with him because it was the birthday of her mother. She ordered pansit and loaves of tasty bread. From the said restaurant, they boarded a tricycle in going to Padapada, Sta. Ignacia and it took them thirty (30) minutes to traverse the Romulo Highway. From the highway, they walked to reach home which is about four (4) kilometers from the Romulo Highway. Along the road going to their residence, there are houses which are about 50 meters apart from each other. There are also his cousin Juanito Melivo and that of his son Manny. They walked for about an hour. He was then wearing pants and polo shirt while the complainant was wearing pants and blouse.

They reached their house at around 9:30 o'clock in the evening. They were soaking wet because it was then drizzling. He and the complainant washed their feet because they were covered with mud. His wife was still awake when they reached home. He brought out dry clothes for them to change and she also woke up their children and they ate together. After eating, the children went to bed, his wife washed the dishes while the complainant cleaned the table. The complainant went to bed first and he and his wife went to bed later.

He woke up at around 5:00 o'clock in the morning of June 2, 1992 and he told his wife to accompany the complainant in reporting for work at

Sampaguita Restaurant. The two proceeded to Tarlac, Tarlac. His wife returned home at around 10:00 o'clock in the morning.

On August 7, 1992, while he was having lunch, the complainant asked permission from him that she will go to Padapada High School to get her diploma. In the afternoon of said date, Juanito Melivo, his cousin asked the latter where the complainant was going because according to Juanito, he saw her in a hurry and carrying a bag. He and his son Junar followed the complainant and asked her where she was going and the complainant replied that she will go to her grandfather's house. He told her to return to their house which she did and upon reaching home, he admonished her not to do it again, afterwhich he whipped her three (3) times. The complainant shouted back at him and told him, "You are a playboy, you are a playboy," so he slapped her and he pulled her hair. After that incident, the complainant exhibited changes in her behavior towards him.

His wife told him that if he will not get rid of his mistress Nita Vega, she will have him incarcerated.

On August 15, 1992 at around 5:00 o'clock in the morning, he was at the house of his son Manny helping making a bench. At around 8:00 o'clock in the morning, his wife was digging a canal at the back of their house while the complainant was slicing bamboo shoots (labong). Two hours later, his son Eduardo who is a soldier arrived with two (2) policemen from Gerona. At around 11:00 o'clock in the morning, he and his cousin Juanito Melivo were brought to the Chief of Police of Gerona, Tarlac and they reached his office at around 1:00 o'clock in the afternoon. Perfecto Millado who is the brother of his father-in-law was there. The Chief of Police told them that there was a complaint against them. His son Eduardo left and returned after three (3) hours in the company of his wife and the complainant. He heard the complainant telling the Chief of Police that she was raped by him and his uncle Juanito Melivo. He stayed there from August 15, 1992 to August 19, 1992. From there he was brought to the Provincial Jail of Tarlac while his cousin was left behind in Gerona. He surmised that the complainant filed the instant case because he whipped her and because of his mistress Nita Vega. That on July 4, July 10, August 5 and August 10, 1992, his wife was in their house. He denied that he raped the complainant on said dates and he did not have any sexual intercourse with her)^[11]

The trial court refused to believe the appellant's version and on October 4, 1993 found him guilty beyond reasonable doubt of the crime of rape under Article 335 of the Revised Penal Code. As a consequence, the lower court sentenced him to suffer the penalty of Reclusion Perpetua, together with all its accessory penalties.^[12] The trial court further ordered appellant to indemnify the offended party the amount of P50,000 as moral damages and P25,000 as exemplary damages.

Appealing to us from the lower court's decision, appellant interposes the following assignment of errors:

I

THE COURT A QUO GRAVELY ERRED IN FINDING THE ACCUSED APPELLANT GUILTY OF THE CRIME CHARGED BY GIVING FULL FAITH AND CREDENCE TO THE UNCORROBORATED TESTIMONY OF THE COMPLAINANT, AS IT IS CONTRARY AND CONFLICTING WITH THE PHYSICAL AND TESTIMONIAL EVIDENCE PRESENTED. STANDING AS IT IS, THE TESTIMONY CONTRADICTS THE NATURAL COURSE OF THINGS AND HUMAN EXPERIENCE.

II

THE COURT A QUO GRAVELY ABUSED ITS DISCRETION IN BRUSHING ASIDE EVIDENCE ON RECORD AS REGARDS THE REAL MOTIVE OF THE COMPLAINANTS CONCOCTED CHARGE.

III

THE COURT A QUO SERIOUSLY ERRED IN NOT ACQUITTING THE ACCUSED-APPELLANT ON THE GROUND THAT EVIDENCE WAS NOT PROVEN BEYOND REASONABLE DOUBT.

Supporting his principal assignment of error, appellant questions complainant's delay in reporting the incidents of rape to the police authorities. Drawing our attention to the medico-legal findings, he avers that the genital injuries sustained by the complainant should have been more severe than those described in the official medical report. Finally, he insists that several contradictions in his daughter's statement ought to have alerted the trial court to the fact that the charges were merely concocted by the complainant and her mother, in collusion with his other relatives because of their resentment over his maintaining a mistress.

We disagree.

In his attempt to have this Court overturn the trial court's finding of guilt, appellant makes much of the fact that the complainant reported the incidents of rape only on August 10, 1992, slightly over two months after the very first incident, asserting that her initial silence "contradicts the natural course of things." We find this contention untenable.

In a long line of cases, this Court has held that delay in reporting rape incidents, in the face of threats of physical violence, cannot be taken against the victim.^[13] A rape victim's actions are oftentimes overwhelmed by fear rather than by reason. It is this fear, springing from the initial rape, that the perpetrator hopes to build a climate of extreme psychological terror, which would, he hopes, numb his victim into silence and submissiveness. Incestuous rape magnifies this terror, because the perpetrator is a person normally expected to give solace and protection to the victim. Furthermore, in incest, access to the victim is guaranteed by the blood

relationship, proximity magnifying the sense of helplessness and the degree of fear.

In this case there is ample evidence indicating that the defendant did not hesitate to use physical violence in order to cow his daughter into submission. Appellant himself averred that he whipped his daughter several times a few days before his arrest. He did not hesitate to use a knife on his own daughter during the first incident of June 10, 1992. That he did not have to use a knife in subsequent incidents indicates the degree of terror and fear he was able to instill into his young daughter's mind. In her young mind, fear and terror constituted a prison from which it was painful and difficult to break out.

The pattern of instilling fear and terror, utilized by the perpetrator in incestuous rape to intimidate his victim into submission is evident in virtually all similar cases which have reached this Court: the rapist perverts whatever moral ascendancy and influence he has over his victim in order to intimidate and force the latter to submit to repeated acts of rape over a period of time. In many instances, he succeeds and the crime is forever kept on a lid. In a few cases, the victim suddenly finds the will to summon unknown sources of courage to cry out for help and bring her depraved malefactor to justice.

Given this pattern, we have repeatedly ruled that the failure of the victim to immediately report the rape is not indicative of fabrication.^[14] "Young girls usually conceal for some time the fact of their having been raped."^[15] In the case, for instance, of People vs. Casil^[16] the victim failed to report several incidents of rape by her father until she could no longer hide pregnancy, because her father not only threatened to kill her but the entire family.^[17] In *People v. Matrimonio*,^[18] the perpetrator took advantage of his daughter's failure to immediately report the two incidents of rape as one of his defense, a posture this Court rejected because the delay in reporting the incident in that case was obviously engendered by the fear wrought by the defendant's threat to kill not only his daughter, but also her mother and her other siblings.^[19] In *People v. Lucas*^[20] this Court gave scant consideration to the defendant's claims that his daughter's 6-month period of silence was an "implied condonation of what her father had done to her," noting that the "extreme cruelty attending the commission of the crime" obviously cowed her into submission.

In all of these and other cases of incestuous rape,^[21] the perpetrator takes full advantage of his blood relationship, ascendancy, and influence over his victim, both to commit the sexual assault and to intimidate the victim into silence. Unfortunately for some perpetrators of incestuous rape, their victims manage to break out from the cycle of fear and terror. In *People v. Molero*^[22] we emphasized that "an intimidated person cowed into submitting to a series of repulsive acts may acquire some courage as she grows older and finally state that enough is enough, the depraved malefactor must be punished."^[23]

Furthermore, an unmarried teenage lass would not ordinarily file a complaint for rape against anyone if it were not true. No matter how courageous the act of filing a complaint might appear to be, rape exacts a heavy psychological and social toll on the victim who is usually twice victimized: by the rapist during the act of rape and by a society which devalues the victim's worth by characterizing the crime principally as an insult to the victim's chastity. With all the attendant social