

FOURTEENTH DIVISION

[CA-G.R. CR-HC NO. 01953, October 31, 2006]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROMEO MIRANDA Y MICHAEL, ACCUSED-APPELLANT.

DECISION

LAMPAS PERALTA, J.:

This is an appeal from the Decision dated February 13, 2004 in Criminal Case No. 118507-H of Branch 261, Regional Trial Court (RTC), Pasig City which convicted appellant Romeo Miranda of rape and sentenced him to suffer the penalty of death.

The Antecedents

This is a case of incestuous rape committed by a father against his seventeen-year old minor daughter, Ruby Miranda. The facts, as summarized in the People's brief, are as follows:

On June 24, 2000, seventeen-year old Ruby Miranda was staying with her father, appellant, at No. 1908 Morales Street, Pateros, Metro Manila to assist him in taking care of her half-brother and half-sister. Around 10:30 in the evening, Ruby, who was not feeling well, retired early and laid down to rest in her room. She then asked for Vicks vaporub from appellant. Appellant handed her the vaporub and volunteered to apply it on her head. Appellant entered the mosquito net (kulambo) she was in and started to massage her head. Uncomfortable that appellant's right elbow was touching her breast, Ruby tried to remove appellant's elbows from her. Appellant persisted and uttered that he intends to suck her breasts. Ruby threatened appellant that she would report him to her mother. Appellant stopped touching her breast and started to massage her hands instead. Thereafter, appellant started to kiss Ruby's neck. Appellant then lifted Ruby's shirt and sucked her breast. All this time, Ruby was pleading for appellant to stop. Appellant then slowly pulled down her pajama, shorts and underwear. He then gripped her arms and licked her vagina. Ruby tried to kick the wall to make appellant stop, but he did not. Ruby tried to push appellant away but he was too strong for her. Appellant then undressed himself, forced Ruby to face him and laid himself on top of her. He then uttered "I won't explode inside you so that you won't get pregnant." Appellant then prevailed upon her and inserted her penis inside her vagina. Afterward, Ruby felt something warm flow on her vagina.

Around midnight, after appellant fell asleep, Ruby immediately got dressed, clambered up the fence and proceeded to her uncle who accompanied her to the barangay hall. Afterward, Ruby went to the Pateros Police Station to report the sexual abuse. Thereafter, Ruby underwent medical check-up in Camp Crame.

On June 25, 2000, at 12:53 in the morning, Ruby Miranda submitted herself to a gynecological examination. Upon general and extra-genital examination upon the minor, medico-legal officer P/Insp. Ruby Grace Sabino found deep fresh laceration on Ruby's hymen at 6 o'clock position which was possibly caused by penetration of an erect penis. P/Insp. Sabino also found abrasion and congestion on the posterior fourchette. Ruby Miranda likewise tested positive in the acid phosphate test, which indicates the presence of seminal fluid in Ruby's vagina.^[2]

In an information dated June 28, 2000, appellant was charged with rape, to wit:

On or about June 24, 2000 in Pateros, Metro Manila, and within the jurisdiction of this Honorable Court, the accused, with lewd designs and by means of force and intimidation, did then and there willfully, unlawfully and feloniously have sexual intercourse with his daughter Ruby Miranda y Soriano, a minor, seventeen (17) years of age, against her will and consent.

CONTRARY TO LAW.^[3]

When arraigned, appellant pleaded "not guilty" to the charge.^[4] During the pre-trial, the parties stipulated on the following:

- a) fact of identity of the accused;
- b) the case is within the jurisdiction of this Court;
- c) the date of the commission of the crime;
- d) fact of the minority of the offended party;
- e) the relationship of the accused and the complainant as father and daughter;
- f) existence of the medico-legal report.^[5]

Thereafter, trial ensued wherein the parties presented their respective evidence.

In a Decision dated February 13, 2004, the trial court convicted appellant, the decretal portion of which reads:

WHEREFORE, in light of the foregoing, the Prosecution having proved the guilt of the accused, ROMEO MIRANDA y MICHAEL, beyond reasonable doubt, he is hereby meted out the capital punishment of DEATH.

He is likewise hereby ordered to pay the offended party, Ruby Miranda, the amount of Seventy Five Thousand (Php 75,000.00) as civil indemnity and Fifty Thousand Pesos (Php 50,000.00) as moral damages, without the necessity of proving the same. An award of Twenty Five Thousand Pesos (Php 25,000.00) to complainant as exemplary damages is also in order, to deter fathers with perverse behavior from sexually abusing their daughters.

The Warden of the Pateros Municipal Jail, Pateros, Metro Manila is hereby directed to immediately transfer the accused to the Bureau of Corrections, New Bilibid Prisons, Muntinlupa City.

SO ORDERED.^[6]

Hence, the case was elevated to the Supreme Court on automatic review, docketed as G.R. No. 163306. In a Resolution dated January 24, 2006,^[7] the case was

transferred to this Court for appropriate action and disposition, pursuant to the ruling in People vs. Efren Mateo.^[8]

In his brief, appellant raised the following lone assignment of error:^[9]

THE TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED GUILTY BEYOND REASONABLE DOUBT OF THE CRIME CHARGED.

The Issue

Whether the trial court erred in giving weight and credence to the testimony of private complainant and in brushing aside appellant's defense of denial.

The Court's Ruling

It bears stressing at the outset that the minority of private complainant and her relationship with appellant were duly alleged in the information and stipulated upon by the parties during the pre-trial.^[10] Apart from this, the birth certificate of private complainant was presented in evidence^[11] and appellant himself admitted that private complainant was his own daughter.^[12]

Appellant, however argues that the prosecution evidence failed to establish his guilt beyond reasonable doubt because private complainant's testimony lacked credibility. Allegedly, private complainant's failure to struggle or even make an outcry during the incident was contrary to human experience.^[13]

The argument is puerile.

Jurisprudence teaches that in incestuous rape, proof of violence, threat or intimidation is unnecessary as the victim is at a great disadvantage because the assailant, by his overpowering and overbearing moral influence, can easily consummate his bestial lust with impunity. Thus:

Granted that the prosecution failed to prove that appellant employed force and intimidation upon his daughter, appellant's conviction by the trial court for the crime of rape is nevertheless affirmable. We have to bear in mind that, in incest rape, the minor victim is at a great disadvantage because the assailant, by his overpowering and overbearing moral influence, can easily consummate his bestial lust with impunity. As a consequence, proof of force and violence is unnecessary unlike where the accused is not an ascendant or blood relative of the victim. Thus, the failure of the victim to *explicitly verbalize*, as in this case, the use of force, threat, or intimidation by the accused should not adversely affect the case of the prosecution as long as there is adequate proof that sexual intercourse did take place. Here lies the wisdom of the principle first articulated in *People vs. Erardo*,^[*] and affirmed in *People vs. Miranda*^[**] where this Court emphatically held that:

Indeed, in cases of incestuous rape, the accused-appellant's moral ascendancy over the victim takes the place of the force and intimidation in rape. The force and intimidation is subjective and should be viewed in the context of the victim's perception and judgment at that time of the commission of the offense. Teresita testified that she submitted herself to the father because she was afraid that he might hurt her. She noticed that her father was drunk,

knowing that he had a drinking spree in their house at that time. No words of threat were necessary because her father's presence and moral ascendancy was intimidating enough for Teresita not to resist his advances. The fact that Teresita failed to put up a strong resistance or shout for help cannot be considered consent. x x x In Philippine society, the father is considered the head of the family, and the children are taught not to defy the father's authority even when this is abused. They are taught to respect the sanctity of marriage and to value the family above everything else. Hence, when the abuse begins, the victim sees no reason or need to question the righteousness of the father whom she has trusted right from the start. The value of respect and obedience to parents instilled among Filipino children is transferred into the very same value that exposes them to risks of exploitation by their own parents. The sexual relationship could begin so subtly that the child does not realize that it is abnormal. Physical force then becomes unnecessary. The perpetrator takes full advantage of this blood relationship. Most daughters cooperate and this is one reason why they suffer tremendous guilt later on. It is almost impossible for a daughter to reject her father's advances, for children seldom question what grown-ups tell them to do.

The above pronouncement was also lucidly explained in the leading case of *People vs. Pagdayawon*:^[*]

In a rape committed by a father against his own daughter, the former's moral ascendancy and influence over the latter substitute for violence and intimidation. That ascendancy or influence necessarily flows from the father's parental authority, which the Constitution and the laws recognize, support and enhance, as well as from the children's duty to obey and observe reverence and respect towards their parents. Such reverence and respect are deeply ingrained in the minds of Filipino children and are recognized by law. Abuse of both by a father can subjugate his daughter's will, thereby forcing her to do whatever he wants.

Indeed, as between a father and his daughter in incestuous sexual assault, this Court has unqualifiedly upheld the view that the former's moral ascendancy and influence over the latter sufficiently substitute for force and intimidation. Appellant's moral ascendancy over the victim satisfies the elements of force and intimidation. Evidence of force and intimidation is therefore not even necessary to secure conviction of the appellant for the crime of rape.
(Underscoring supplied)^[14]

Contrary to appellant's claim, private complainant, who was weak at the time of the incident due to illness, tried to resist the sexual advances of appellant as she removed appellant's elbows from her breasts, kicked and pushed appellant and kicked the wall of the room. But even assuming that private complainant failed to shout or put up a vigorous struggle while appellant was sexually abusing her, it cannot be denied that appellant exercised moral ascendancy and influence over her. It cannot also be denied that right after the incident, when appellant fell asleep, private complainant immediately went to the house of her uncle and they reported the matter to the barangay and police authorities.

Private complainant's testimony on the material details of the despicable incident is candid and straightforward. It goes:

Q Madam witness, where were you on June 24, 2000, on the evening of June 24, 2000?

A I was at their house, ma'am.

Q. Who is "Nila"?

A My father's house ma'am.

Q Where is his house situated?

A In Pateros, ma'am.

Q Do you remember the exact address or the exact place?

A No. 1908 Morales St., Pateros, ma'am.

Q What were you doing in that house?

A He told me to stay there to watch and take care of my brothers and sisters, so that he can leave for work, ma'am.

Q You mean to say you are staying with your mother in Buting, Pasig? And yet you have two brothers and sister in Pateros? Can you explain to us the circumstances?

A. Yes, ma'am, my friend came informing me that my father's live-in-partner was dead, so I went to Pateros, ma'am.

xxx xxx xxx

COURT: You mean to say your father and mother were separated?

A. Yes, ma'am.

COURT: Since when?

A. 14 years already, when my youngest brother was only 8 months old, ma'am.

xxx xxx xxx

Q Then what happened next?

A Sabi po niya na hindi ako gagaling sa ginagawa ko.

Q What happened next.

A He volunteered to massage my head.

Q Did you allow him to massage your head?

A No, ma'am.

Q What did he do?

A He entered inside the mosquito net, ma'am.

COURT: Who?

A My father, ma'am.

Q What happened after that?

A He started to massage my head and then after that, I felt that both of his elbows was touching both my breast.

Q. What did you do?

A I was trying to remove it and I said I will be the one to do but he refused . . .

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