

EN BANC

[G.R. Nos. 131384-87, February 02, 2000]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ELEGIO NADERA, JR. Y SADSAD, ACCUSED-APPELLANT.

DECISION

MENDOZA, J.:

These cases are before us on automatic review of the decision of the Regional Trial Court, Branch 40, Calapan, Oriental Mindoro, finding accused-appellant Elegio Nadera, Jr. guilty of four counts of rape of his minor daughters, Oleby and Maricris Nadera, and sentencing him to suffer the penalty of *reclusion perpetua* for one count of rape and death for each of the remaining three counts. Accused-appellant was also ordered to indemnify complainants Oleby Nadera in the amount of P150,000.00 and Maricris Nadera in the amount of P50,000.00, without subsidiary imprisonment in case of insolvency.

Reversal of the decision is sought on the sole ground that -

THE TRIAL COURT GRAVELY ERRED IN ACCEPTING ACCUSED-APPELLANT'S IMPROVIDENT PLEA OF GUILTY TO A CAPITAL OFFENSE AND IN FAILING TO CONDUCT A SEARCHING INQUIRY TO DETERMINE WHETHER THE ACCUSED FULLY UNDERSTOOD THE CONSEQUENCE OF HIS PLEA.^[1]

The facts are as follows:

Accused-appellant Elegio Nadera, Jr. has four children by his wife Daisy, namely: Oleby, born on October 2, 1982; Maricris, born on March 16, 1984; March Anthony, born on January 8, 1986; and Sherilyn, born on September 27, 1987.^[2]

On September 22, 1991, Daisy left for a job in Bahrain, and came home to the Philippines for vacation only in July 1993. She then left again for Bahrain in September 1993 and did not return until September 12, 1995.^[3]

On April 28, 1996, Oleby and Maricris, assisted by a neighbor, Lita Macalalad, told their mother that they had been raped by their father, herein accused-appellant. Thereupon, they went to the police authorities of Naujan and filed a complaint against accused-appellant.^[4]

After preliminary examination, on June 6, 1996, four informations charging accused-appellant with rape on various dates were filed in the Regional Trial Court, Calapan, Oriental Mindoro.

In Criminal Case No. C-4982, the information^[5] alleged-

That on or about the 17th day of May, 1992, at around 10:00 o'clock in the evening, at Barangay Bayani, Municipality of Naujan, Province of Oriental Mindoro, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, motivated by lust and lewd design, and by means of force and intimidation, wilfully, unlawfully and feloniously did lie and succeeded in having carnal knowledge with his daughter, OLEBY NADERA, nine (9) years of age at that time against the latter's will and consent.

In Criminal Case No. C-4983, the information^[6] charged -

That on or about the 17th day of April, 1995 at Barangay Bayani, Municipality of Naujan, Province of Oriental Mindoro, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, motivated by lust and lewd design, and by means of force and intimidation, wilfully, and unlawfully and feloniously did lie and succeeded in having carnal knowledge with his daughter, OLEBY NADERA, twelve (12) years of age at that time against the latter's will and consent.

In Criminal Case No. C-4984, the information^[7] stated-

That on or about the 24th day of April, 1995, sometime in the evening, at Barangay Bayani, Municipality of Naujan, Province of Oriental Mindoro, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, motivated by lust and lewd design, and by means of force and intimidation, wilfully, unlawfully and feloniously did lie and succeeded in having carnal knowledge with his daughter, OLEBY NADERA, twelve (12) years of age at that time against the latter's will and consent.

In Criminal Case No. C-4985, the information^[8] recited -

That on or about the 3rd day of March 1996 at around 8:00 o'clock in the evening, at Barangay Bayani, Municipality of Naujan, Province of Oriental Mindoro, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, motivated by lust and lewd design, and by means of force and intimidation, wilfully, unlawfully and feloniously did lie and succeeded in having carnal knowledge with his daughter, MARICRIS NADERA, eleven (11) years of age against the latter's will and consent.

The record shows that at his arraignment on July 23, 1996, accused-appellant, assisted by Atty. Manolo A. Brotonel of the Public Attorney's Office, pleaded not guilty to the charges filed against him.^[9] However, on August 5, 1997, after the prosecution had presented Dr. Cynthia S. Fesalbon, accused-appellant pleaded guilty to the crime charged in all the informations.

The prosecution presented four witnesses, namely: Dr. Cynthia Fesalbon, Oleby Nadera, Maricris Nadera, and Daisy Nadera.

Dr. Cynthia S. Fesalbon, Medical Officer IV of the Oriental Mindoro Provincial Hospital, who conducted the medical examination of both complainants, submitted a report on the result of Oleby Nadera's examination as follows:^[10]

PHYSICAL EXAMINATION:

- No sign of external physical injuries as of time of examination.
- Breast developed
- Abdomen: flat, soft non-tender.

EXTERNAL GENITALIA

- Minimal pubic hair
- Healed incomplete hymenal lacerations at 5, 7, 12 o'clock positions.
- No bleeding.

INTERNAL SPECULUM EXAMINATION

- Vagina admits 2 fingers with ease.
- Cervix small, firm, close non-tender (-) bleeding.
- Uterus not enlarged.
- Adnexae negative

LABORATORY EXAMINATION:

- Smear for the presence of spermatozoa revealed positive result.

She testified that the hymenal lacerations may have been caused by the insertion of a hard object, the patient's history of genitalic insertions, a straddle injury, or sitting on hard wood. She could not determine when these lacerations were sustained because they had healed over a period beyond seven days.^[11]

Dr. Fesalbon likewise rendered a report^[12] on the medical examination of Maricris Nadera, the pertinent parts of which state:

PHYSICAL EXAMINATION:

- No sign of external physical injuries as of time of examination.
- Abdomen, flat, soft.

EXTERNAL GENITALIA:

- Absence of pubic hair healed hymenal lacerations, incomplete at 1, 5, 8, 11 o'clock positions.

INTERNAL EXAMINATION:

- Vagina admits 1 finger with ease.
- Cervix small (-) bleeding
- Uterus not enlarged.
- Adnexae (-).

LABORATORY EXAMINATION

- Smear for the presence of spermatozoa revealed Negative result.

In the case of Maricris Nadera, Dr. Fesalbon explained that the hymenal lacerations could have been caused by penetration such as through instrumentation or insertion of an object inside the vagina. They could also have been caused by the penetration of the penis. Upon inquiry from the court, Dr. Fesalbon stated that the fact that Maricris had more hymenal lacerations than Oleby could be due to the difference in the impact of penetration. She added that the number of times each of the girls had sexual intercourse could not be ascertained merely from the hymenal lacerations, although it could be concluded that an object had been inserted in the vagina.^[13]

Oleby Nadera testified about the rapes committed by her father against her as follows:

On May 17, 1992, at around 10 o'clock in the evening, while Daisy was away working as a domestic helper in Bahrain, accused-appellant pulled Oleby, then nine years of age, towards a bed, removed her panties and shorts and ordered her to keep quiet. He then placed himself on top of her and inserted his penis into her vagina. He proceeded to make an up and down motion while on top of his daughter. All the while, Oleby was crying, pleading with her father, "*Huwag po!*", "*Huwag po!*" Accused-appellant again ordered Oleby to keep quiet lest her brother and sisters were awakened. Afterwards, accused-appellant told Oleby to put on her panties and shorts and to go to sleep. Oleby went to the bed where her brother and sisters were sleeping and cried.

On another occasion, on April 17, 1995, accused-appellant sent Sherilyn and Maricris to the sari-sari store while he asked March Anthony to gather firewood. While Oleby was left alone inside their house in Barangay Bayani, Naujan, Oriental Mindoro, accused-appellant again raped her. Oleby was 12 years old at that time. Accused-appellant closed the door and windows, removed Oleby's panties and shorts and sat down. While sitting down, accused-appellant placed Oleby's legs on his thighs and inserted his penis into her vagina. Later on, he told Oleby to put on her panties and shorts and told her to fetch her brother and sisters.

Oleby was raped by her father for the third time on April 24, 1995. That evening, she woke up to find her father on top of her, taking off her shorts and panties and inserting his penis into her vagina. As her father was taking off her clothes, Oleby cried and pleaded, "*Huwag po! Huwag po!*" Instead of desisting, accused-appellant told her to keep quiet so as not to awaken her brother and sisters, and threatened her with harm if she made any noise. Accused-appellant then made a pumping motion, consummating the sexual act with his daughter.^[14]

After Oleby's direct examination had been finished, Atty. Brotonel, accused-appellant's counsel, did not conduct any cross examination on the ground that he was convinced Oleby was telling the truth.^[15]

On that same day, Maricris also testified. She related how she was raped by her father on March 3, 1996, the year before, when she was 11 years old. At about eight o'clock in the evening of said date, while her brother and sisters were sleeping, she was pulled by her father towards his bed and told to lie down. Accused-appellant then placed himself on top of Maricris and inserted his penis into her vagina. Maricris pleaded "*Papa, huwag po, maawa naman kayo sa amin.*" Ignoring his daughter's pleas, accused-appellant continued raping her by making a

pumping motion and threatened to kill all of them if she cried. Accused-appellant afterwards asked Maricris to put on her shorts and panties and return to bed. He told Maricris not to cry so as not to awaken her siblings. She did not tell anyone what befell her because she was afraid. A neighbor, named Lita Macalalad, asked her if Oleby had been raped by their father. It turned out Oleby had told her ordeal to Lita Macalalad while they were washing clothes and talking about Oleby's parents. Oleby also told Lita Macalalad that Maricris had been raped by their father as well, a fact related to Oleby by Maricris.^[16]

Daisy Nadera, accused-appellant's wife, also testified for the prosecution. Her testimony focused on the dates of births of her children and the fact that she was out of the country when the alleged rapes occurred. She testified that she and her daughters filed a complaint for rape against accused-appellant after discovering his hideous acts. Thereafter, her children were subjected to a medical examination.^[17]

On August 12, 1997, the prosecution formally offered its documentary evidence and rested its case thereafter.

Accused-appellant did not present any evidence in his defense.

On August 27, 1997, the trial court rendered judgment finding accused-appellant guilty of four counts of rape against his daughters. The dispositive portion of its decision^[18] reads:

ACCORDINGLY, the Court finds accused Elegio Nadera, Jr., guilty beyond reasonable doubt, as principal, of the crime of Rape [4 counts] with the qualifying circumstance that the victims are under 18 years of age and the offender is a parent. He is hereby sentenced to suffer the penalty of **Reclusion Perpetua** ranging from **20 years and 1 day to 40 years** for the rape committed on May 17, 1992 and three **DEATH PENALTIES** for the rape committed on April 17 and 24, 1995 and March 3, 1996, together with the accessory penalties provided by law. He is also ordered to indemnify victim Oleby Nadera the total amount of P150,000.00 in Criminal Case Nos. C-4982, C-4983 and C-4984 and Maricris Nadera, the amount of P50,000.00 in Criminal Case No. C-4985, without subsidiary imprisonment in case of insolvency, and to pay the costs.

S O O R D E R E D.

As already stated, accused-appellant's lone assignment of error is that the trial court accepted his plea of guilty to a capital offense without making a searching inquiry to determine whether he understood the consequences of his plea. In support of his contention, accused-appellant invokes the ruling in the case of *People v. Dayot*^[19] in which this Court ruled that, in criminal cases, the judge must be convinced that the accused, in pleading guilty, is truly guilty. This could be done by requiring him to narrate the events leading to the crime, making him reenact it, or asking him to supply missing details. The judge must satisfy himself that: (1) the accused is voluntarily pleading guilty, and (2) he is truly guilty and there is a rational basis for a finding of guilt based on his testimony.

We find merit in accused-appellant's allegations. In addition, we find that there was inadequate representation of his case in court, thus necessitating the remand of this