

THIRD DIVISION

[G.R. No. 97920, January 20, 1997]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ENRIQUE RAMIREZ Y ANTONIO, ACCUSED-APPELLANT.
D E C I S I O N**

PANGANIBAN, J.:

Rape is a savage and bestial attack that violates a woman's person in the most grievous and odious way imaginable. This abomination revolts this Court no end. Perpetrators of this outrage are a depraved and evil who must be brought to the crucible of justice. In the present appeal, the offender repeatedly ravished and violated his own helpless stepdaughter of tender years. He deserves the severest penalty provided under the laws at the time of its commission.

This is an appeal from the Decision^[1] dated December 20 1989 of the Regional Trial Court of xxx, Branch xxx,^[2] in Criminal Case No. 89-7180-2-SCC, finding appellant guilty of rape.

The Complainant^[3] against appellant reads as follows:

"That on or about the second week of March, 1989, in the City of xxx, Philippines, the said accused did then and there wilfully (sic), unlawfully and feloniously, by means of force, violence and intimidation, to wit: by poking a bladed weapon at her, ordering her to undress and at the same time threatening to kill her and her family should she resist or report the matter, and thereafter have sexual intercourse with the undersigned complainant, a girl 13 years of age, against her will.

CONTRARY TO LAW."

The Complainant was treated as the Information after the City Prosecutor affixed imprimatur thereto. When arraigned, appellant pleaded not guilty to the charge.^[4] After trial, the court a quo found appellant guilty of rape beyond unreasonable doubt. The dispositive portion of the Decision^[5] reads as follows:

"WHEREFORE, judgment is hereby rendered finding the Accused ENRIQUE RAMIREZ guilty, beyond reasonable doubt, as principal, for the crime of "Rape" defined in and penalized by Article 335 of the Revised Penal Code and hereby imposes on the said Accused the penalty of *RECLUSION PERPETUA*, with all the accessory penalties of the law, and hereby condemns him to pay to AAA the amount of P30,000.00 as and by way of moral and exemplary damages and to pay the costs of suit.

The period during which the Accused was detained during the pendency of this case shall be credited to him provided that he agreed in writing to abide by and comply strictly with the rules and regulations of the City Jail of xxx.

SO ORDERED.

The Facts

According to the Prosecution

The version of the prosecution is as follows:

"AAA, a 13 year old lass, naive and unschooled, is the eldest daughter of BBB and CCC. Since July 1975, BBB and CCC lived together as man and wife, without the benefit of marriage, at xxx. Aside from AAA, they had other children: DDD, 10 years old and EEE, the youngest (TSN, September 11, 1989, pp. 10 & 13; pp. 18-19),

As fate would have it, AAA did not grow up under the constant care and guidance of her mother BBB. Since the tender age of 2 years, she has been staying with her paternal grandmother, FFF, at xxx. Ostensibly, AAA's mother gave her up to her mother-in-law, FFF, because the latter kept bothering her and her husband, CCC (Ibid., pp. 7-8).

As the life story of AAA unfolds, the four-year relationship of her father and mother was turning sour and was growing worse and worse everyday. It was the usual case of a daughter-in-law and a mother-in-law fighting for the attention of a husband and son. This animosity was heightened by the fact that prior to his death, CCC was abandoned by BBB sometime in 1979 to live with another man, herein appellant Enrique Ramirez. Her reason was simple: CCC was a 'Mama's Boy'. She claimed that he did not want to separate from his mother and usually gave his earnings to his mother, FFF (Ibid., pp. 13-14).

The sudden death of CCC on April 22, 1982 however did not improve the relationship between his wife BBB and his mother, FFF. As a matter of fact, the demise of CCC, exacerbated the ongoing feud between his mother and his wife.

In any event, BBB cohabited with appellant Enrique Ramirez, a casual laborer and a member of the notorious Sigue-Sigue Commando Gang (Ibid., pp. 6 & 12). At that time, appellant Ramirez was already separated from his lawful wife, Christine Somera, by whom he had a child (TSN, September 21, 1989, pp. 33-35).

Since 1979, appellant Ramirez and BBB stayed and lived in a one-room shanty, a place one can hardly call a house, in a squatter's area in xxx.

As described by AAA, the one-storey room has two windows: one facing the street across which was the house of Ate Laki, and the other window facing the river (TSN, July 12, 1994, p. 6; see also TSN, August 2, 1994, pp. 27 & 43).

In December 1988, when AAA turned 13 years of age, her mother BBB fetched AAA from the house of her mother-in-law, FFF, AAA's paternal grand- mother. BBB took AAA to spend vacation in her house in xxx where BBB resides with her live-in partner, Enrique Ramirez, appellant herein. After the Christmas season, AAA went back to her paternal grandmother's house in xxx (TSN, September 11, 1989, pp. 15-23).

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By then, appellant Ramirez and BBB already had four (4) children namely: GGG, 8 years old; HHH, 6 years old, III, 4 years old and JJJ, about 2 to 3 years old. Appellant was then working as a casual laborer for his brother, Rudy Ramirez, in the latter's construction work along xxx, only about 3 alleys away from the house of appellant Ramirez at xxx (ibid., p. 43-B). Because of the proximity of the house from his place of work, appellant was allowed by his brother to eat his lunch at home and to have some days-off. On the other hand, BBB who finished Grade 6 only, earned a living by selling pails, pans and basins, traveling as far as Marikina and Montalban, from. 8 o'clock in the morning up to 5 o'clock in the afternoon.^[6]

The offended party was violated several times by appellant during that holiday season as follows:

"One day, shortly before Christmas, in 1988, at about 1:30 o'clock in the afternoon, the Accused arrived home. BBB was not in their house at the time. AAA and the Accused, and the latter's four (4) children were inside the house at the time. The Accused ordered his children to leave the house and, once the children were out of the house, the Accused closed the door and the windows of the house, took out his '29 balisong' and poked the same to AAA. The Accused, thereupon, ordered AAA to undress. Afraid of her life, AAA did as ordered. The Accused also ordered AAA to lie down on the floor, she did. The Accused, thereupon, went on top of AAA, kissed her on her cheeks and lips and mashed her breast to boot. The Accused warned AAA not to tell the police authorities and her mother about the incident otherwise he will kill all of them. The Accused, thereafter, inserted his private organ into her privated (sic) parts and had sexual intercourse with AAA. After the Accused was through he then dressed up. The Accused warned AAA anew not to reveal the incident to the police authorities and her mother. Since then, almost everyday the Accused had sexual intercourse with AAA (Exhibits 'E' and 'E-1"). After New Year, FFF took AAA to her house where AAA stayed until March 15, 1989, when BBB took AAA anew because she wanted AAA to study. AAA did not divulge to her grandmother what the Accused did to her."^[7]

Subsequently, the appellant again took advantage of and raped the offended party as follows:

"In the second week of March 1989, at about 3:45 p.m., AAA was in appellant's house in xxx together with CCC, her 10 year old brother and her stepbrothers, stepsister and her stepfather, appellant Ramirez. At that time, her mother BBB, was out selling her wares (TSN, July 12, 1989, pp. 3 and 5; see also TSN, August 8, 1989, p. 27).

Appellant then ordered the children to look for GGG, his eldest son, saying in the vernacular: 'Labas kayo, hanapin si GGG.' (TSN, July 12, 1989, p. 10) Upon hearing appellant telling the other children to look for GGG, AAA volunteered to help look for the latter. However, appellant told her to stay put, so it was only AAA's younger stepsister III and her stepbrother HHH who searched for GGG, who was reportedly watching TV in the house of another relative somewhere within the vicinity (TSN, August 2, 1989, pp. 29- 32).

AAA, who was wearing a white T-shirt and a maong shorts, was then seated on the floor near the window while appellant in brown-colored shorts was lying on the floor (TSN, July 12, 1989, p. 9). As soon- as the children left the shanty, appellant Ramirez closed the door and locked it. He also closed the window facing outside house (TSN, August 2, 1989, p. 39 & pp. 42-43). A few minutes later, AAA saw appellant already naked. With a fan knife ('veinte nueve' balisong) in his right hand poked at the right chest of AAA, appellant ordered her to undress. Appellant Ramirez then started kissing AAA and afterwards got on top of her and ravished her on the floor of the shanty (TSN, August 2, 1989, pp. 2-8). It was at this point when AAA saw her brother pretending to be asleep (Ibid., p. 29; see also TSN, July 12, 1989, p. 7 and TSN, September 21, 1989, p. 61).

He warned AAA not to complain to the police because he would kill her and her family. After consummating his lustful desires on AAA and reiterating his threat, appellant stepped out of the shanty. Likewise, AAA went out of the house to fetch water and afterwards cooked rice for dinner (TSN, AUGUST 2, 1989, pp. 8-10).

When AAA got out of the shanty, she was approached by a female neighbor, Ate Laki. Ate Laki whispered to AAA that through a hole on the wall of the shanty, she (Ate Laki) saw the appellant on top of AAA. This notwithstanding, AAA just kept her mouth shut (TSN, August 99, 1989, pp. 7-9).

The following morning, AAA approached her mother, BBB, to report the dastardly act of appellant Ramirez. She was with CCC who told their mother, thus: 'Nanay, akala mo sina Ate nakita ko nagpapatungan ' Instead of getting mad at her common-law-husband, BBB surprisingly slapped AAA and defended appellant (TSN, September 21, 1989, pp. 50 & 61).

Angered by their mother's reaction, AAA and her younger brother CCC decided to go to the police station, with the help of a man and a woman, both unidentified. however, they got lost along the way.

Subsequently thereafter, AAA finally found her way to the police station, this time with her paternal grandmother, FFF (TSN, August 9, 1989, pp. 9-10). In the Police Station, she narrated her sexual ordeal with her stepfather, appellant Ramirez, to police investigator Pat. Rodolfo Estrebel. After a lengthy investigation, she was asked to sign her sworn statement (Exh. 'E') assisted by her grandmother, FFF. Afterwards, she was also asked to sign the Complaint with Criminal Case No. 89-71802 for Rape (Exh. 'F') against Enrique Ramirez y Antonio.

On March 15, 1989 AAA was examined at the NBI by Dr. Valentin Bernales, Medico-Legal Officer. Dr. Bernales thereafter summarized his findings in his Report Living Case No. MG-89-185 (Exh. 'A') [8]

On March 21, 1989, police from the xxx Police Department went to the house of the appellant to invite the latter for questioning. They were met instead by BBB who fetched her common-law husband, appellant Ramirez, from the construction site where he was working. As soon as the appellant arrived, the policemen then asked him to go with them to the police station for investigation. At the police station, he was properly identified by AAA as the person who sexually abused her. On Basis of a 'Booking . Sheet and Arrest Report' (Exh. 'B') which, together with an endorsement letter (Exh. 'D') of Capt. Cresencio Cabasal, was forwarded to the City Prosecutor for further proceedings."

The findings of Dr. Valentin Bernales as stated in his report^[9] are as follows:

"GENERAL PHYSICAL EXAMINATION:

Height: 138 0 cms. Weight: 36.8 kgs.

Normally developed, fairly developed, conscious, coherent, cooperative ambulatory subject.

Breasts, developing, conical, firm. Areolae, light brown, 2.5 cm. in diameter. Nipples, light brown, slightly protruding, 0.3 cm. in diameter.

No extragenital physical injury noted.

GENITAL EXAMINATION:

Pubic hairs, fully grown, scanty. Labia Majora, gaping. Labia minora, coaptated. Fourchette, lax. Vestibule, pinkish. Hymen, originally annular, tall, thick, with an old-healed complete laceration at 2:00 o'clock position corresponding to the face of a watch, edges of which are rounded, non-coaptable, base, retracted. Hymenal orifice, admits a tube, 2.8 cm. in diameter. Vaginal walls, moderately tight. Rugosities, moderately