

SECOND DIVISION

[CA-G.R. CR-HC No. 05624, May 20, 2014]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
RAMIL LALAQUIT Y DE GUZMAN, ACCUSED-APPELLANT.**

DECISION

GAERLAN, S.H., J.:

Challenged before this Court is the 19 June 2012 Decision^[1] of Branch 43 of the Regional Trial Court of Dagupan City in Criminal Case No. 2011-0451-D, wherein the accused-appellant was found guilty beyond reasonable doubt for the crime of Rape defined and penalized under Article 266-A of the Revised Penal Code.

The Information^[2] charging Ramil Lalaquit y De Guzman reads:

“That in the evening of July 4, 2011 in Brgy. Torres, Mapandan, Pangasinan and within the jurisdiction of the Honorable Court, the above-named accused who is the natural father of AAA^[3], a 12-year old minor (DOB-28 February 1999), did then and there, willfully, unlawfully and feloniously had incestuous sexual intercourse with his own natural daughter, against her will and consent, to her damage and prejudice.

Contrary to law.”

During the arraignment on 18 October 2011^[4], accused-appellant, assisted by counsel *de officio*, entered a plea of *not guilty* to the crime charged.

On 18 November 2011, the pre-trial^[5] was conducted. The State and the Defense had stipulated on the following facts: (a) identity of the parties, the accused being the father of AAA; (b) minority of AAA as per her birth certificate; (c) the physical existence of the Certification as to the entry in the Police Blotter Book of Mapandan, Pangasinan; and (d) the physical existence of the Medico Legal Report.

Trial on the merits begun on 5 December 2011.^[6] The prosecution offered the testimonies of the following witnesses: (1) BBB^[7], mother of the victim, and (2) AAA^[8], the private complainant.

The prosecution further formally offered the following as documentary evidence: (a) Certificate of Live Birth^[9] of AAA, to prove the fact of minority of AAA and her relationship to accused-appellant; (b) Police Blotter entry^[10], to prove the fact that the incident was reported to the police of Mapandan and that the same was entered thereon; (c) Medico Legal Certificate^[11], to prove the injuries on the sexual organ of the victim by reason of the alleged carnal knowledge; (d) Sworn Statement of AAA^[12]; and (e) Sworn Statement of BBB^[13].

On the other hand, the defense offered the testimony of herein accused-appellant^[14]. The defense manifested that it has no more witness to present and no documentary exhibits to offer, thus rested its case.^[15] Thereafter, there being no rebuttal evidence on the part of the prosecution, the case was submitted for decision.^[16]

On 19 June 2012, the trial court promulgated the questioned Decision. The dispositive portion of the same decision states:

"WHEREFORE, premises considered, accused **Ramil Lalaquit y de Guzman** is hereby found **GUILTY** beyond reasonable doubt of the crime of rape defined and penalized under Article 266-A of the Revised Penal Code committed against his own daughter and hereby imposes on him the penalty of *reclusion perpetua* without eligibility for parole. He is likewise ordered to indemnify AAA in the amount of seventy five thousand pesos (P75,000.00) as civil indemnity, seventy five thousand pesos (P75,000.00) as moral damages and exemplary damages in the amount of twenty thousand pesos (P20,000.00).

SO ORDERED.

THE FACTS

In the evening of 4 July 2011, private complainant AAA (minor born on 28 February 1999), her mother BBB, her other siblings and his father herein accused-appellant slept in the *salá* of their house in Barangay Torres, Mapandan, Pangasinan. AAA laid down beside her parents with the accused-appellant on her left and her mother on her right. Her siblings slept on the side of their mother.

While they were sleeping, accused-appellant lowered AAA's pajama and underwear. Lying on his right side, accused-appellant inserted his penis into the vagina of AAA who, at that time, was also lying on her side. AAA was awakened while appellant was ravishing her. She felt a stinging pain in her vagina. Frightened of her father, AAA did not talk, nor move. She was afraid of her father because the latter would always threaten to kill them, especially whenever he was drunk. AAA already witnessed accused-appellant choked her mother in the midst of a quarrel. Afraid that accused-appellant might make good on his threats, AAA did not resist nor prevent accused-appellant from sexually abusing her. After accused-appellant was done with the bestial act, he pulled AAA's pajama and underwear up, turned his back on her, and slept. AAA was so frightened that she did not attempt to awaken her mother. She just embraced her mother and slept. And because of fear, AAA did not reveal to anybody what happened to her.

The following day, AAA complained to her mother of her aching vagina.^[17] BBB examined AAA's private parts and saw that it was swollen.^[18] AAA complained of stomach ache until she was brought to the Pangasinan Provincial Hospital in Bolingit, San Carlos City on 18 July 2011.^[19]

After AAA was examined, she was confronted by BBB and her aunt and asked if something had happened to her. It was then that AAA admitted to them that she was raped by her father. The Medico Legal Report^[20] on AAA revealed that her

hymen has, at the time of the examination, healed lacerations at 5, 6 & 7 o'clock.
[21] It also stated that the medical evaluation showed evidence of sexual abuse.[22]

Aggrieved by the decision of the court *a quo*, the accused-appellant is now before this Court interposing this appeal stating a lone assignment of error:[23]

**THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE
ACCUSED-APPELLANT OF THE CRIME CHARGED DESPITE THE
PROSECUTION'S FAILURE TO PROVE HIS GUILT BEYOND
REASONABLE DOUBT.**

THIS COURT'S RULING

In this appeal, the defense averred that the evidence of the prosecution utterly failed to prove accused-appellant's guilt beyond reasonable doubt,[24] mainly anchoring its argument on the credibility of the private complainant as witness. It claimed that if the accused-appellant had indeed employed any force, or made threats or intimidation against her for the purpose of having carnal knowledge with her, then she should have shown reasonable resistance as expected from a rape victim.[25]

This Court is not convinced.

In the case of *People vs. Domingo*[26], the Supreme Court has ruled on the behaviour of a rape victim, to wit:

We find completely understandable AAA's silence and apparent assent to the sexual abuses of her father for a period of time. No standard form of behavior can be anticipated of a rape victim following her defilement, particularly a child who could not be expected to fully comprehend the ways of an adult. *More importantly, in incestuous rape cases, the father's abuse of the moral ascendancy and influence over his daughter can subjugate the latter's will thereby forcing her to do whatever he wants. Otherwise stated, the moral and physical dominion of the father is sufficient to cow the victim into submission to his beastly desires.* AAA sufficiently explained that fear of her father's authority and shame kept her from revealing to others her ghastly ordeal at the hands of her own father. Moreover, AAA's fear of physical harm if she defied her father was real. (Emphasis Ours.)

In the present case, the victim already explained her non-resistance during the rape. In her testimony, she said that -

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Q When he inserted his penis inside your vagina, what did you do, if any?

A None because if I am going to report to my mother, he will kill us, sir.

Q So did you not try to talk to your father to stop of what he is doing?

A No, sir.

Q Did you not try to stand up to prevent your father from

continuing doing what he was doing?

A Not anymore, sir.

Q You said your mother and your siblings were lying down on your right side, why did you not wake up your mother?

A I was frightened, sir.

Q Why are you frightened?

A Because he told me that he will kill us, sir.^[27]

X X X X X X X X

Notably, AAA also testified that prior to the incident, her father would always curse and threaten to kill her, her mother and her other siblings.^[28] She also witnessed how her father choked her mother during a quarrel.^[29] Thus, out of fright, she was not able to put up resistance while she was being ravished by her own father.^[30]

The defense further questioned the credibility of AAA by arguing that her belated report of the alleged rape incident significantly casts doubt on the veracity of her statements.^[31] The defense attempted to impress upon this Court that AAA's testimony is doubtful considering that it took her two (2) weeks before she revealed to her mother the violation of her honor.^[32] This delay, however, can be justified by AAA's fear of her father. Further, she is also threatened by the thought that the accused-appellant would physically harm her mother and siblings, a threat that was made by the accused-appellant even when he is only drunk.^[33]

In the case of *People vs Cañada*^[34], the Supreme Court reiterated its long standing rule that -

The initial reluctance of rape victims to publicly reveal the sexual assault they suffered is neither unknown nor uncommon. Understandably, a young girl will expectedly be hesitant or disinclined to come out in public and relate a painful and horrible experience of sexual violation. Due to this recognition, we have repeatedly ruled *that delay in reporting an incident of rape is not necessarily an indication that the charge is fabricated, particularly when the delay can be attributed to fear instilled by threats from one who exercises ascendancy over the victim.*

The defense is still trying to exculpate the accused-appellant from the charge, averred that the prosecution's failure to present the physician who conducted the physical examination on AAA is fatal considering that the latter's version of the alleged rape incident is far from being believable and credible.^[35] Thus, the testimony of the physician is essential to corroborate the allegations of AAA.^[36]

This Court begs to disagree. Time and again, the Supreme Court enunciates that -

x x x a medical certificate is not necessary to prove the commission of rape, *as even a medical examination of the victim is not indispensable in a prosecution for rape. Expert testimony is merely corroborative in character and not essential to conviction. An accused can still be convicted of rape on the basis of the sole testimony of the private complainant.*^[37] (Emphasis Ours.)