

FIRST DIVISION

[G.R. No. 218427, January 31, 2018]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, V.
EMILIANO DE CHAVEZ, ACCUSED-APPELLANT.**

R E S O L U T I O N

DEL CASTILLO, J.:

This is an appeal filed by Emiliano De Chavez (appellant) from the June 20, 2014 Decision^[1] of the Court of Appeals. (CA) in CA-G.R. CR-HC No. 06133, affirming with modification the February 27, 2013 Consolidated Decision^[2] of the Regional Trial Court (RTC) of Calamba City, Branch 92, in Criminal Case Nos. 13940-06-C, 13941-06-C, 13942-06-C, and 13943-06-C finding the appellant guilty beyond reasonable doubt of two counts of rape by sexual assault and two counts of qualified rape.

The Factual Antecedents

Appellant was charged under the following Informations:

Criminal Case No. 13940-06-C

That on or about June 2, 2005; x x x Province of Laguna, and within he jurisdiction of this Honorable Court, the above-name accused, with lewd design through force, threat and intimidation, did then and there wilfully, unlawfully and feloniously commit an act of sexual assault upon his daughter, "XXX,"^[3] a thirteen (13) year-old minor, by inserting his finger inside her genitalia against her will and consent to her damage and prejudice.

Contrary to law.^[4]

Criminal Case No. 13941-06-C

That on or about June 3, 2005, x x x Province of Laguna, and within the jurisdiction of this Honorable Court, the above named accused, with lewd design through force, threat and intimidation, did then and there wilfully, unlawfully and feloniously have carnal knowledge of his daughter, "XXX" a thirteen (13) year-old minor, against her will and consent to her damage and prejudice.

Contrary to law.^[5]

Criminal Case No. 13942-06-C

That on or about September 30, 2005, x x x Province of Laguna, and within the jurisdiction of this Honorable Court, the above named accused,

with lewd design through force, threat and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of his daughter, "XXX," a thirteen (13) year-old minor, against her will and consent to her damage and prejudice.

Contrary to law.^[6]

Criminal Case No. 13943-06-C

That on or about June 4, 2005, x x x Province of Laguna, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design through force, threat and intimidation, did then and there willfully, unlawfully and feloniously commit an act of sexual assault upon his daughter, "XXX" a thirteen (13) year-old minor, by inserting his finger inside her genitalia against her will and consent to her damage and prejudice.

Contrary to law.^[7]

Appellant pleaded not guilty to the crimes charged.^[8]

Version of the Prosecution

During the trial, the prosecution presented the testimonies of private complainant "XXX," her sister "YYY," and Dr. Roy Camarillo, the Medico-Legal Officer of the Philippine National Police Crime Laboratory, Camp Vicente Lim.

The evidence of the prosecution as summarized by the CA is as follows:

Private complainant "XXX" is the daughter of appellant and "ZZZ". Appellant and "XXX" live in x x x Laguna together with "XXX's" two younger siblings, "YYY" and her brother, "AAA".

On June 2, 2005, "XXX," who was then thirteen (13) years old, was sleeping on the floor of their room while her siblings were sleeping with their father on the bed. "XXX" was suddenly awakened when her father lay [beside her]. She asked him what he was doing. Appellant did not answer, then slowly he raised her shirt. He whispered "Sundin mo na lang ako at pag hindi mo ako sinunod ay papatayin ko ang mga kapatid mo at guguluhin ko ang nanay mo x x x," then he told "XXX" "ibaba mo ang jogging pants at panty mo." Because of fear, "XXX" followed her father's order. Appellant then started kissing her and inserted his finger into her vagina. She told her father to stop but he continued what he was doing. "XXX" cried as she felt pain in her vagina. She did not ask for help because she was afraid of her father's threat. After a few minutes, appellant removed his finger and returned to bed.

The following day, June 3, 2005; "XXX" was awakened when her father lay on top of her. He started kissing her lips, neck and breast then he removed her jogging pants and panty. Appellant inserted his penis into "XXX's" vagina. She begged him to stop, saying "Papa masakit" but he just ignored her and did a pumping motion for few minutes, then went back to bed.

Meanwhile, "YYY," "XXX's" younger sister, who was sleeping on the bedside beside the mat where "XXX" was sleeping was awakened when she saw appellant on top of the latter. Moments later, appellant removed his penis and returned to his bed. The following morning, "YYY" told "XXX" that she saw what the appellant did to her. That same day, June 4, 2005, appellant inserted again his finger into "XXX's" vagina.

On September 30, 2005, "XXX" was awakened when her father removed her clothes and inserted his penis into her vagina. The following morning, "XXX" noticed a white discharge on her panty.

"XXX" was prompted to proceed to the house of her mother x x x to report what appellant did to her when the latter hurt her brother. Immediately, they went to the police station and filed a complaint.

Dr. Roy Camarillo, Medico-Legal Officer, PNP Crime Laboratory, Camp Vicente Lim, conducted a laboratory examination on "XXX." The Medical Legal Report contained the following findings and conclusions:

Fairly-nourished, normally-developed, conscious. coherent, ambulatory female subject. Breasts are conical in shape with light brown areola and nipples from which no secretions could be pressed out. Abdomen is soft and flat.

There's scanty growth of pubic hairs. Labia majora are full, convex and coaptated with light brown and non-hypertrophied labia minora presenting in between. On separating the same is disclosed annular type of hymen, thin with PRESENCE OF DEEP HEALED LACERATIONS at 3 o'clock and 9 o'clock positions. The peri-hymenal, urethra, periurethral area and fossa navicularis have no evident injury noted at the time of examination. There is no discharge noted.

Vaginal & Periurethral Swabbing: NON-REACTIVE to Seminal Stain Reagent.

CONCLUSION:

MEDICAL EXAMINATION SHOWS DEFINITE EVIDENCE OF ABUSE OF SEXUAL CONTACT.

THERE ARE NO EXTRA-GENITAL INJURIES NOTED AT THE TIME OF EXAMINATION.^[9]

Version of the Appellant

Appellant, on the other hand, testified that the accusations of his daughter against him were done in retaliation because he scolded his children and severely punished his youngest child.^[10]

Ruling of the Regional Trial Court

On February 27, 2013, the RTC rendered a Consolidated Decision finding the appellant guilty of the charges against him, the dispositive portion of which reads: