

SECOND DIVISION

[G.R. No. 210654, June 07, 2017]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. PABLO
LUAD ARMODIA, ACCUSED-APPELLANT.**

DECISION

LEONEN, J.:

The rape of a minor constitutes moral depravity of the highest order. This is an appeal from a conviction for two (2) counts of rape of a child under Article 266-A (1) of the Revised Penal Code by a father, who twice fulfilled his desires on his own daughter.

Accused-appellant Pablo Luad Armodia (accused-appellant) and his wife, BBB, had three (3) children, the oldest of whom was AAA.^[1] They owned a piggery^[2] in Cambanay, Danao City, Cebu, located close to their house.^[3] Beside this piggery was a makeshift room that served as the venue for the material incidents in this case.^[4]

The first incident happened in the last week of March 2003, at about 8:00 p.m. Accused-appellant called for AAA and ordered her to sleep beside him in the makeshift room. The child obeyed her father. While AAA was lying down, accused-appellant pinned her to the ground with his arms and legs. To ensure his success, he placed a *lagting*—a bolo used for cutting sugarcanes—a foot away from her head.^[5]

AAA's agony then began to unfold. Accused-appellant slid his leg down from her hip and removed her shorts and underwear. Then, he stripped off his briefs and shorts and went on top of her. The child tried to push him away, but she was powerless against the figure that lunged towards her.^[6]

Holding his penis, accused-appellant inserted it into his child's vagina. AAA felt pain as he penetrated her. He continued to thrust her until he ejaculated. Sexually satisfied at her daughter's expense, accused-appellant cleaned out the sperm left in her vagina. He threatened to kill anyone to whom she would report the incident. AAA kept quiet out of fear. She was then only 16 years old.^[7]

The second incident happened in the same place. On April 4, 2003, around 3:00 a.m., accused-appellant shouted for her, who was asleep. His booming voice roused her up from slumber. He ordered her to give water to the hogs and she complied. Then, he commanded her to lie down in the makeshift room next to the piggery. Accused-appellant threatened to wield his *lagting* and chop off the heads of those who would find out what he was about to do.^[8]

He grabbed her hands and legs, pinned her down on the floor, stripped off her panty,

and removed his underwear. Going on top of her, he mashed her breasts and forced himself on her body.^[9] His penis abused her vagina until he reached his climax.^[10] Scooping his semen out of her vagina,^[11] accused-appellant told AAA to rest easy as she would not get pregnant.^[12]

The child could no longer remain quiet. The next day, on April 5, 2003, AAA finally revealed everything to her mother, BBB.^[13] Crying and shaking, AAA informed BBB that her father raped her.^[14]

On April 6, 2003, AAA and BBB reported the incident to their *punong barangay*, who thereafter informed the police.^[15] She was brought to Vicente Sotto Memorial Medical Center, then Southern Island Hospital, for examination.^[16]

Dr. Elvie Austria (Dr. Austria) examined AAA and issued a Medical Certificate.^[17] The Medical Certificate stated, "Tanner IV, redundant."^[18] It also stated that the "medical evaluation is suggestive of abuse."^[19]

Accused-appellant was arrested on the same day.^[20] He was charged with two (2) counts of rape of a minor under two (2) separate informations, the pertinent portions of which read as follows:

Criminal Case No. DNO-2983

That on or about April 4, 2003 at 3:00 o'clock (sic) at dawn more or less, in Cambanay, Danao City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, did then and there, with threats, intimidation and influence of moral ascendancy, forcibly, willfully, unlawfully and feloniously have sexual intercourse with [AAA], a virgin over 12 years old but under 18 years of age.

CONTRARY TO LAW.

Criminal Case No. DNO-2998

That sometime in the last week of March, 2003, in Cambanay, Danao City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there, with threats, intimidation and influence of moral ascendancy, forcibly, willfully, unlawfully and feloniously have sexual intercourse with [AAA], a virgin over 12 years old but under 18 years of age.

CONTRARY TO LAW.^[21]

Accused-appellant was arraigned and pleaded "not guilty" to the rape charges.^[22] On October 21, 2003, the State moved for leave to amend the informations and add the phrase, "being the father of the victim."^[23]

On November 7, 2003, the Regional Trial Court denied the State's motion, ruling that the requested amendment was substantial and prejudicial to accused-appellant's right to be informed of the charges against him. The criminal cases were

tried jointly.^[24]

The State presented three (3) witnesses: pediatrician Dr. Naomi Poca (Dr. Poca), BBB, and AAA. Dr. Poca testified that another physician, Dr. Austria, examined AAA. She explained that the phrase "Tanner IV, redundant" in the Medical Certificate issued by Dr. Austria meant that AAA's hymen was "thickened, redundant, estrogenized (effect), and elastic;" in simple terms, it could "accommodate a penis or any object."^[25]

For her part, BBB testified that accused-appellant was her husband and that AAA was their eldest child. On April 5, 2003, at about 7:00 p.m., AAA trembled and cried as she recounted to BBB accused-appellant's acts. The following day, BBB accompanied her daughter to Barangay Captain Tomas Gomez, who then reported the incidents to the police.^[26]

Meanwhile, defense presented accused-appellant as its sole witness. He admitted that AAA was his daughter but denied the rape charges against him. According to him, the criminal cases were filed in retaliation for his strict upbringing of his children. Accused-appellant added that he was physically incapable of having sexual intercourse as two (2) years before the first alleged rape, he sustained a gunshot wound on the right portion of his body. Thus, whenever he had sex, "his wastes would go out of his intestines."^[27]

On July 25, 2011, the Regional Trial Court convicted^[28] accused-appellant of two (2) counts of simple rape.

Citing *People v. Ilaol*,^[29] it held that the "accused [cannot] be convicted of qualified rape, because of the prosecution's failure to include the relationship in the information[.]"^[30] The trial court did not give credence to his defense of physical incapacity, as "his wife BBB testified that they had sexual congress many times."^[31] The dispositive portion read:

WHEREFORE, FOR ALL THE FOREGOING the court finds the accused **PABLO LUAD ARMODIA:**

- a) In Criminal Case No. DNO-2983, **GUILTY** beyond reasonable doubt for the crime of rape [under Article 266-A(1), which is] punished under the provision of Article 266-B of the Revised Penal Code, and hereby sentences him to suffer the penalty of *reclusion perpetua*; and
- b) In Criminal Case No. DNO-2998, **GUILTY** beyond reasonable doubt of the crime of rape [under Article 266-A(1), which is] punished under the provision of Article 266-B of the Revised Penal Code, and hereby sentences him to suffer the penalty of *reclusion perpetua*.

Accused is likewise directed to indemnify private complainant, [AAA], the amounts of P50,000.00 as civil indemnity, P50,000.00 as moral damages and P30,000.00 as exemplary damages for each count of rape pursuant to *People v. Malana*.

SO ORDERED.^[32] (Emphasis in the original, citation omitted)

Accused-appellant appealed before the Court of Appeals, arguing that "the prosecution failed to prove his guilt beyond reasonable doubt."^[33]

The Court of Appeals affirmed^[34] with modification the Regional Trial Court's Decision, adding the payment of six percent (6%) legal interest in the award for damages. The dispositive portion of the Decision reads:

WHEREFORE, premises considered, this appeal is **DENIED**. The *Decision* of the Regional Trial Court, Branch 25, Danao City in Crim. Cases Nos. DNO-2983 and DNO-2998 dated July 25, 2011 is **AFFIRMED** with **MODIFICATION**. Armodia is further **ORDERED** to pay to pay [sic] interest on all damages awarded at the legal rate of 6% per annum from the date of finality of this Decision. No pronouncement as to costs.

SO ORDERED.^[35] (Emphasis in the original)

The case has reached this Court via a notice of appeal.^[36] For resolution is whether accused-appellant is guilty of two (2) counts of simple rape.

We affirm the conviction.

I

The prosecution has proven beyond reasonable doubt that accused-appellant had carnal knowledge of AAA against her will, through force, threat, or intimidation.

Article 266-A (1)(a) of the Revised Penal Code states:

Article 266-A. *Rape; When And How Committed*. - Rape is committed -

1) By a man who shall have carnal knowledge of a woman under any of the following circumstances:

a. Through force, threat, or intimidation[.]

AAA's testimonies established that she was sexually abused by her father in the last week of March 2003 and on April 4, 2003. She categorically and positively identified accused-appellant as the perpetrator of the crime. She adequately recounted the details that took place, the dates of the incidents, how her father committed carnal knowledge against her, and his threats to wield the *lagting* if the crimes were revealed to others.^[37]

Accused-appellant had carnal knowledge of AAA twice, through force and intimidation. His moral ascendancy also intimidated her into submission. This ascendancy or influence is grounded on his parental authority over his child, which is recognized by our Constitution^[38] and laws,^[39] as well as on the respect and reverence that Filipino children generally accord to their parents.^[40]

AAA's story cannot be trivialized as a mere fabrication or a tale allegedly weaved to