

SECOND DIVISION

[G.R. No. 176734, January 28, 2008]

THE PEOPLE OF THE PHILIPPINES, Appellee, vs. JACINTO LANTANO, Appellant.

DECISION

TINGA, J.:

A rape victim's actuations are often overwhelmed by fear rather than by reason. It is from this fear that the perpetrator builds a climate of extreme psychological terror which effectively numbs the victim to silence. Incestuous rape magnifies this fear, because the perpetrator is someone normally and traditionally expected to give solace and protection to the victim.^[1] While the victim's option of telling her sordid tale and seeking justice could open doors to expiation, making it is difficult as it is certain to lead ironically to wrecking her family and the family honor with the inevitable shame that flows from the taboo of society.

For consideration of the Court is the Court of Appeals Decision^[2] dated 27 September 2006 that affirmed the judgment of conviction^[3] of the Regional Trial Court of Tagudin, Ilocos Sur, Branch 25 involving appellant Jacinto Lantano for the crime of rape of his own fourteen (14)-year old daughter.

Appellant was charged with violation of Articles 266-A and 266-B of the Revised Penal Code, as amended by Republic Act (R.A.) No. 8353,^[4] in relation to R.A. No. 7610^[5] and R.A. No. 7659,^[6] in an Information^[7] the accusatory portion of which reads:

That on or about April 1998 to January 1999, in the [M]unicipality of Tagudin, [P]rovince of Ilocos Sur, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused did then and there wil[l]fully, unlawfully and feloniously have carnal knowledge with his own daughter, [AAA],^[8] fourteen (14) years of age, by means of force and intimidation and against the latter's will and consent.

Contrary to law, aggravated by relationship.^[9]

Appellant entered a negative plea when arraigned.^[10] At the trial that ensued, the prosecution established the following facts based mainly on the testimony of AAA herself:

At around 10:00 in the morning of 11 April 1998, then dizzied by a terrible headache, AAA was lying in bed beside her barely one-year old sibling in their house in Barangay Ambalay, Tagudin, Ilocos Sur.^[11] Her father, herein appellant, who happened to be around, suddenly approached her, kissed her left cheek and uttered,

"*Iliw ko la ken nanang mo daytoy*"^[12] (I just miss your mother that is why I'm doing this)." In that instant, appellant placed a knife beside her,^[13] pulled her shorts down, removed his own short pants and underwear, spread her legs, held her hands down and then mounted her.^[14] AAA resisted appellant's advances by warding off his hands but the latter pressed her hands strongly against the bed.^[15] Appellant was thus able to insert his penis into her vagina and made a "push-and-pull" movement ("*nagkinod-kinuden*").^[16] AAA felt pain in her genitalia.^[17] As she was powerless to stop appellant on account of her dizziness, coupled with his order for her not to shout for help, AAA was not able to do anything but cry while she was being ravished.^[18] After appellant was able to gratify his lust, he angrily warned AAA not to tell anybody about the incident and made it clear to her that he could kill her because she was only his daughter ("*Saan ka nga agipulpulong ta patayen ka nalaka la a patayen ka anak ka laeng*").^[19] Afraid and confused, AAA suffered in silence from that day on.

Later, noticing her deteriorating physical condition, she informed her mother, BBB,^[20] who was then working in Singapore, about her state through the mail. Thereafter, BBB asked her mother, CCC,^[21] to fetch AAA from their house.^[22] In January 1999, she was brought to Piddig, Ilocos Norte and there, in July of the same year, she revealed her grueling ordeal to her grandfather who in turn lost no time in reporting the incident to the Piddig Police Station where AAA executed a sworn affidavit narrating the incident.^[23] AAA, accompanied by the police and a social worker, was thereafter brought to Don Mariano Marcos Hospital & Medical Center for physical examination.^[24]

The medical certificate^[25] dated 20 July 1999 and signed by Dr. Lyra Evangelista-Blanco, which was submitted by the prosecution, revealed that AAA's vaginal orifice could admit two fingers with ease and that she had sustained lacerations in her hymen at the 2:00, 6:00 and 11:00 positions diagnosed as having been caused by the alleged rape. Also submitted for the trial court's perusal were the marriage certificate^[26] showing that AAA's parents were legally married and a certification^[27] from the Piddig Municipal Civil Registrar to prove that AAA was still a minor at the time the rape was committed on 11 April 1998.

The proffered defense is sheer alibi. To refute the serious allegations of AAA, appellant argued that he was not home when the incident allegedly took place because between 7:00 and 8:00 in the morning of the fateful day, he, together with his eldest son and his brother, had gone to the river to make an artificial reef and catch fish, such work starting at or about 9:00 and completed at around 4:00 in the afternoon that day.^[28] He claimed that he could not have raped his own daughter as he had always been a good and dutiful father to all his children.^[29]

To fortify the defense, Lina Lantano, appellant's mother, testified that at 7:00 in the morning of the subject date, appellant, together with a certain Danilo, was already doing his work in the river as he had been requested by a relative to catch some fish; that at 9:00, she again saw appellant in the house of her sister having a drink;^[30] and that she saw AAA herself at 10:00 on the same day preparing food for her siblings.^[31] Avelardo Pislana, appellant's nephew, also testified that on the date in

question, he saw appellant by the river when he, accompanied by his uncle, Benito Lantano, arrived there between 8:00 and 9:00 in the morning; he said that he headed home at 11:00 while the rest, including appellant, were left behind. [32]

After evaluating the evidence, the trial court found appellant guilty beyond reasonable doubt of the charge and meted out the penalty of death. The dispositive portion of the decision reads:

WHEREFORE, in view of the foregoing, this Court finds the accused[,] JACINTO LANTANO, GUILTY beyond reasonable doubt of the crime of RAPE as defined and punished under Articles 266-A and 266-B of the Revised Penal Code as amended by R.A. [No.] 8353 in relation to R.A. [No.] 7610 and [R.A. No.] 7659 and hereby sentences him to the supreme penalty of DEATH. He is likewise directed to pay his daughter SEVENTY[-]FIVE THOUSAND PESOS (P75,000.00) as civil indemnity, FIFTY THOUSAND PESOS (P50,000.00) as moral damages and TWENTY[-]FIVE THOUSAND PESOS (P25,000.00) as exemplary damages, conformably to current jurisprudence. Pursuant to Supreme Court En Banc Resolution dated September 28, 2004 amending [Rules] 122 and 124 of the Rules of Court and in accordance with People of the Philippines versus Mateo[,] G.R. Nos. 147678[,] promulgated July 7, 2004. Let the record of this case be forwarded to the Court of Appeals on automatic review.

The accused, JACINTO LANTANO, a detention prisoner at the Ilocos Sur Provincial Jail, is hereby ordered transferred to the custody of the Director, New Bilibid Prisons, Muntinlupa City, Metro Manila, pending review of the case filed against him.

SO ORDERED. [33]

In finding appellant guilty as charged, the trial court gave more weight to the prosecution evidence than to the defense's. It noted that AAA's silence after the incident and the delay in reporting it were justified because she feared for her own life on account of the threats made by appellant. [34] In dismissing appellant's alibi, the trial court pointed out that on the date in question, it was not physically impossible for appellant to be at the scene of the crime at or about the same time that AAA claimed she was raped because the river was not too far from his house. [35] Furthermore, in view of the special qualifying circumstances of relationship and minority, which the trial court deemed as having been sufficiently alleged and proven, appellant was sentenced to suffer the supreme penalty of death. [36]

By Order dated 20 June 2005, the trial court directed that the records of the case be transmitted to the Court of Appeals. [37] On 27 September 2006, the Court of Appeals rendered the assailed decision affirming the judgment of conviction as well as the monetary awards, but modifying the penalty to *reclusion perpetua*. [38] Appellant filed a Notice of Appeal [39] with the appellate court on 23 October 2006 which, per resolution dated 29 November 2006, was given due course and, accordingly, the entire records of the case were forwarded to the Court. [40]

In a Resolution^[41] dated 6 June 2007, the Court directed the parties to simultaneously file their respective supplemental briefs should they so desire.^[42] However, appellant manifested that he was adopting his appeal brief previously filed with the Court of Appeals.^[43] The Office of the Solicitor General for its part manifested that there was no necessity to file a supplemental brief inasmuch as its brief submitted to the appellate court suffices in view of appellant's conviction and the modification of the penalty to *reclusion perpetua*.^[44] The case was thereafter deemed submitted for decision.

Thus, before the Court, appellant again points out that the protracted delay on the part of AAA in reporting the rape incident is sufficient to cast doubt on the truth of her accusation, especially that the prosecution has not offered a sufficient explanation on the delay. A mere threat against AAA's life, he believes, was not enough to justify the delay inasmuch the alleged threat was not imminent and AAA was under no continuous intimidation from him. He suspected that AAA, moved by no honest desire to obtain justice, was merely induced by her maternal grandparents to fabricate the charge so that the latter could obtain the entire money remittances of his wife from abroad. Finally, considering the proximity of his parents' house to the place of the incident, he claimed that AAA could have easily cried for help or ran away the moment the rape was allegedly commenced.^[45]

For its part, the Office of the Solicitor General asseverates that contrary to appellant's claim, the failure of AAA in immediately reporting the rape has already been sufficiently explained by AAA herself and that the latter's positive, straightforward and categorical testimony that appellant had raped her should prevail against appellant's mere denial.^[46]

After due consideration of the evidence in this case, we find no reason to reverse appellant's conviction.

To begin with, the prosecution is under no burden to establish acceptable reasons or satisfactory explanation for the delay in reporting a rape. Settled is the rule that delay or hesitation in reporting a case of rape due to threats of the assailant is justified and must not be taken against the victim.^[47] Neither does such delay indicate deceit or a fabricated insinuation inasmuch as it is common that a rape victim prefers silence because of fear of her aggressor and the lack of courage to face the public stigma stemming from the abuse.^[48] With particular regard to incestuous rapes, since the perpetrator in these cases is a parent of the victim, he is able to pervert whatever moral ascendancy and influence he has over the victim in order to intimidate the latter.^[49] Hence, even in the absence of verbal threats against the victim's life, the parent molester's moral ascendancy and influence take the place of intimidation,^[50] especially so when they are living under the same roof.^[51]

Thus, the failure alone of AAA to immediately report the rape to the authorities or her relatives does not necessarily cast serious doubts on the credibility of her accusation. To our mind, such failure is justified in view of appellant's verbal threat that he would kill her should she divulge the incident to anyone. The threat in this case, at least in the mind of AAA, was made even more real by the fact that at the time she was being ravished, a knife was drawn to her side which by itself was

enough to make her cower and submit to appellant's lustful debauchery. To be sure, appellant's use of the knife to ensure AAA's submission was sufficient to animate the latter's fear that her assailant—her own father notwithstanding—was seriously bent on inflicting harm on her,^[52] or at least it placed her in a confused situation that effectively sealed her lips at least for some time. At the time appellant carried out the bestial defloration, and even beyond, fear and terror manacled her to helplessness and misery.

It is no wonder that AAA was able to break her agonizing silence only after she was brought to Ilocos Norte, far away from the place where her father's intimidating presence could be felt. But even that was difficult for her as in fact it took her some time before she could muster enough courage and relate her plight to her grandfather because she was then still confused and anxious that nobody would believe her story.^[53] Furthermore, although she has had several opportunities to inform her mother of the rape through the mail, she nonetheless could not do so because she wrote down only the matters which appellant dictated to her and it was in fact appellant himself who also delivered her letters to the post office.^[54]

It is fear, not reason, which abounds in the mind of a victim of incestuous rape both at the time of the assault and thereafter. For this reason alone, it is as much understandable as it is expected that she conceal for some time the ordeal, especially when the molester, her own father who wields moral ascendancy over her, had already succeeded in instilling in her the certain imminence of bodily harm. The effect of fear and intimidation instilled in the victim's mind cannot be measured against any given hard-and-fast rule such that it is viewed in the context of the victim's perception and judgment not only at the time of the commission of the crime but also at the time immediately thereafter.^[55]

Appellant likewise challenges the credibility of AAA's averments. In his brief, he points out that the confusion in her testimony as to the exact date of the alleged rape should be taken as an ostensible badge of a fabricated charge. He also suspects that AAA, moved by no honest desire to obtain justice, was merely influenced by his parents-in-law to manufacture a rape charge against him so that they could obtain the entire money remittances of his wife from abroad. These arguments, however, are unavailing because appellant in effect would have us reassess AAA's credibility as a witness which, as we have held in countless cases, is a function that is best discharged by the trial court. Suffice it to say that when the issue focuses on the credibility of witnesses, or the lack of it, the assessment of the trial court is controlling because of its unique opportunity to observe the witness and the latter's demeanor, conduct and attitude especially during the cross-examination—unless cogent reasons dictate otherwise.^[56] No such compelling reason obtains in this case.

Although AAA's testimony was allegedly marked by confusion as to the date of the rape, the supposed inconsistency merely touched on a minor detail so inconsequential that it cannot affect the credibility of the testimony as a whole.^[57] On the contrary, instead of weakening AAA's testimony, the lapses do tend to bolster it inasmuch as rape victims are not expected to be errorless and accurate in recounting the details of an utterly harrowing and humiliating experience.^[58] Besides, the exact date of the commission of the crime of rape is extraneous to and