

## FIRST DIVISION

[ G.R. No. 179030, June 12, 2008 ]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. MARCELINO RAMOS, APPELLANT.**

### DECISION

**CARPIO, J.:**

#### The Case

This is an appeal from the 15 May 2007 Decision<sup>[1]</sup> of the Court of Appeals in CA-G.R. CR-H.C. No. 02403 which affirmed the Decision of the Regional Trial Court of Mandaluyong City, Branch 211, in Criminal Case Nos. MC98-311-H to 314-H, entitled "*People of the Philippines v. Marcelino Ramos*," finding the appellant guilty of four counts of Rape.

#### The Facts

The prosecution charged appellant with raping his minor daughter AAA on four separate occasions taking place over the years 1991 to 1996.

In Criminal Case No. MC98-311-H, the prosecution charged appellant with the crime of statutory rape:

#### Criminal Case No. MC98-311-H:

"That sometime in the middle part of 1991 up to April, 1993, in Mandaluyong City, and within the jurisdiction of this Honorable Court, accused MARCELINO RAMOS, by taking advantage of his moral ascendancy over his then ten (10) year old biological daughter, AAA, and with lewd design, and by means of threat, violence and intimidation employed upon the person of said victim, AAA, did then and there unlawfully, willfully and feloniously lie and succeeded in having sexual intercourse with his minor-daughter, against the latter's will."<sup>[2]</sup>

The prosecution likewise charged appellant with three counts of rape as defined and penalized under Article 335 of the Revised Penal Code, as amended by Republic Act No. 7659, in relation to Republic Act No. 7610:

#### Criminal Case No. MC98-312-H:

"That sometime in April, 1993 up to the middle part of 1994, in Mandaluyong City, and within the jurisdiction of this Honorable Court, accused MARCELINO RAMOS, by taking advantage of his moral ascendancy over his then twelve (12) year old biological daughter, AAA and with lewd design, and by means of threat, violence and intimidation,

did then and there, unlawfully, willfully, and feloniously lie and succeeded in having sexual intercourse with his minor-daughter AAA, against the latter's will."<sup>[3]</sup>

Criminal Case No. MC98-313-H:

"That sometime in the middle part of 1994 up to June, 1996, in Mandaluyong City and within the jurisdiction of this Honorable Court, accused MARCELINO RAMOS, by taking advantage of his moral ascendancy over his then thirteen (13) year old biological daughter AAA, and with lewd design, and by means of threat, violence and intimidation employed upon the person of said victim, AAA did then and there unlawfully, willfully and feloniously lie and succeeded in having sexual intercourse with his minor-daughter, against the latter's will." <sup>[4]</sup>

Criminal Case No. MC98-314-H:

"That sometime in July, 1996, up to the middle part of November, 1996, in Mandaluyong City, and within the jurisdiction of this Honorable Court, accused MARCELINO RAMOS, by taking advantage of his moral ascendancy over his the fifteen (15) year old biological daughter, AAA, and with lewd design, and by means of threat, violence and intimidation, did then and there unlawfully, willfully and feloniously lie and succeeded in having sexual intercourse with his minor-daughter, AAA causing the latter to get pregnant."<sup>[5]</sup>

Upon arraignment, appellant pleaded not guilty.<sup>[6]</sup> Thereafter, trial ensued.

***Version of the Prosecution***

During the trial, AAA testified that her father, the appellant, first raped her when she was 10 years old at their home in Mandaluyong City. According to AAA, one morning, appellant called her to their room to give him a back massage. After the massage, appellant asked AAA to step down, removed AAA's shorts and touched her private parts. Appellant then forced his penis into AAA's vagina. Afterwards, appellant told her that he would kill her if she tells anyone of the incident. Appellant then told her to leave the room.

According to AAA, her father continued to sexually molest her from 1991 up to 1996. This would take place around two to three times a week. The last time appellant raped her was in November of 1996.

AAA further testified that on 3 December 1996, her mother brought her to a "manghihilot" because she observed that AAA's stomach was getting bigger. There it was discovered that AAA was several months pregnant. She then confessed to her mother that it was her father who impregnated her.

Dr. Lolita Largado-Reyes, the physician who conducted a pelvic ultrasound examination of AAA at the Medical Center Muntinlupa, also testified for the prosecution. Dr. Reyes stated on the witness stand that when she examined the

victim on 15 January 1997, AAA was in the second trimester of her pregnancy.<sup>[7]</sup>

### ***Version of the Defense***

For his defense, appellant merely denied raping his daughter. He surmised that AAA filed charges against him because she was pregnant with her boyfriend's child and was afraid that appellant would beat her up when he learns of her pregnancy.

DDD and EEE, both sisters of the victim, took the witness stand in defense of their father. DDD, AAA's eldest sister, testified that AAA fabricated the charges against their father to avoid being punished when he finds out that she was pregnant with her boyfriend's child. EEE, on the other hand, testified that she was at home practically 24 hours a day and she would have been aware if in fact their father raped AAA.

### **Ruling of the Trial Court**

In its Decision<sup>[8]</sup> of 25 April 2003, the trial court found appellant guilty of all four counts of rape. The dispositive portion of the trial court's decision reads:

WHEREFORE, the court, after having overwhelmingly found the accused, MARCELINO RAMOS y BERNABE, GUILTY beyond reasonable doubt of having committed the offenses of two (2) counts of rape under Article 335 of the Revised Penal Code and two (2) other counts of rape under the circumstances prescribed in Article 335 of the Revised Penal Code, as amended by R.A. 7659 upon the person of his minor child, AAA, hereby sentences the above-named accused as follows:

- 1) In Criminal Cases Nos. MC98-311-H to MC98-312-H, he is hereby ordered to suffer the penalty of reclusion perpetua in each case;
- 2) In Criminal Cases Nos. MC98-313-H to MC98-314-H, he is hereby ordered to suffer the mandatory/extreme penalty of death in each case;
- 3) To pay the offended party, AAA, in Criminal Cases Nos. MC-98-311-H to MC-98-314-H the amount of Php75,000.00 as civil indemnity for each count of rape or a total of Php300,000.00; Php50,000.00 for each count of rape as moral damages or a total of Php200,000.00; and Php25,000.00 for each count of rape as exemplary damages or a total of Php100,000.00 in the grand total amount of Php600,000.00 and to pay the costs.

SO ORDERED.

On appeal, appellant questioned the sufficiency of the informations for failure to state with particularity the dates of the commission of the alleged rapes rendering the informations void. Further, appellant argued that the prosecution failed to prove his guilt beyond reasonable doubt and questioned the credibility of AAA.

### **Ruling of the Appellate Court**

In its 15 May 2007 Decision, the Court of Appeals affirmed the trial court's decision

but reduced the two death sentences to *reclusion perpetua* without eligibility for parole in view of the passage of Republic Act No. 9346.

Hence, this appeal.

### **The Issues**

Appellant raises the following errors:<sup>[9]</sup>

THE TRIAL COURT GRAVELY ERRED IN NOT CONSIDERING THE INFORMATIONS IN CRIMINAL CASES NOS. MC98-311-H, MC98-312-H, MC98-313-H AND MC98-314-H CHARGING THE ACCUSED OF THE CRIME OF RAPE INSUFFICIENT TO SUPPORT A JUDGMENT OF CONVICTION.

THE TRIAL COURT GRAVELY ERRED IN GIVING FULL FAITH AND CREDENCE TO THE TESTIMONY OF PRIVATE COMPLAINANT AND NOT CONSIDERING THE DEFENSE INTERPOSED BY THE ACCUSED.

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED OF FOUR (4) COUNTS OF RAPE DESPITE FAILURE OF PROSECUTION TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.

### **The Ruling of the Court**

An appeal in a criminal case opens the entire case for review such that the Court can correct errors unassigned in the appeal.<sup>[10]</sup>

In resolving rape cases, the Court is guided by three principles: (a) an accusation of rape can be made with facility; it is difficult for the complainant to prove but more difficult for the accused, though innocent, to disprove; (b) in view of the intrinsic nature of the crime of rape where only two persons are involved, the testimony of the complainant must be scrutinized with extreme caution; and (c) the evidence for the prosecution must stand or fall on its own merits, and cannot be allowed to draw strength from the weakness of the evidence for the defense.<sup>[11]</sup>

The Court finds that both the trial court and appellate court erred in convicting appellant of statutory rape in Criminal Case No. MC98-311-H.

As provided for in the Revised Penal Code, sexual intercourse with a girl below 12 years old is statutory rape. The two elements of statutory rape are: (1) that the accused had carnal knowledge of a woman; and (2) that the woman is below 12 years of age.<sup>[12]</sup>

The age of the victim is an essential element of statutory rape; thus, it must be proved by clear and convincing evidence.<sup>[13]</sup>

In *People v. Pruna*,<sup>[14]</sup> the Court laid down the following guidelines in determining the age of the victim:

1. The best evidence to prove the age of the offended party is an original or certified true copy of the certificate of live birth of such