

EN BANC

[G.R. NO. 174060, June 25, 2007]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. LITO
BEJIC Y ANTONI, ACCUSED-APPELLANT.**

D E C I S I O N

CHICO-NAZARIO, J.:

For review is the Decision of the Court of Appeals in CA-G.R. CR.-H.C. No. 00126-MIN, dated 23 May 2006,^[1] affirming with modification the Decision of the Regional Trial Court (RTC) of Oroquieta City, 10th Judicial Region, Branch 13, in Criminal Case No. 1688-13, dated 15 January 2004,^[2] convicting the accused-appellant Lito Bejic y Antoni of the crime of qualified rape committed against his 14-year old daughter AAA,^[3] imposing upon him the capital punishment of death; and ordering him to pay P75,000.00 as civil indemnity, P50,000.00 as moral damages, and P25,000.00 as exemplary damages.

On 18 June 2003, an Information^[4] was filed with the RTC against appellant for qualified rape allegedly committed as follows:

That on or about the first week of August, 2002, at nighttime in Barangay XXX, Municipality of XXX, Province of XXX, Philippines, and within the jurisdiction of this Honorable Court, said accused LITO BEJIC y ANTONI by means of force and violence and taking advantage of his moral ascendancy and influence over his 14 year-old daughter named AAA, did then and there, willfully, unlawfully, feloniously, have carnal knowledge of his aforementioned daughter against her will.

CONTRARY TO LAW, with the presence of a qualifying aggravating circumstance of minority of private offended party and the accused is her father.

When arraigned on 15 September 2003, appellant pleaded "Not Guilty" to the charge.^[5] Thereafter, trial on the merits ensued.

The prosecution presented as witnesses AAA and her mother BBB. Their testimonies are as follows:

AAA testified that from the last week of July 2002 up to the last day of August 2002, she, together with the rest of her family – herein appellant, BBB, and her five younger siblings - had temporarily resided in the house of BBB's aunt and uncle at Barangay XXX, Municipality of XXX, Province of XXX. They occupied and took care of the said house upon the request of BBB's aunt and uncle who were attending to some concerns in another place. Sometime in the first week of August 2002, at about 7:00 in the evening, she and her three younger siblings slept in the *sala* of

the said house. On the other hand, appellant and BBB, together with AAA's two younger siblings, slept in one of the rooms therein.^[6]

When it was nearly midnight, she was roused from her sleep when appellant held her foot. Appellant then crawled towards her, held her hands, and placed himself on top of her body. Appellant covered her mouth with one hand, and took off her short pants and panty using the other hand. Afterwards, appellant spread her thighs, inserted his penis into her vagina, and made a push and pull movement. Although she felt pain when appellant inserted his penis into her vagina, she was not able to shout because appellant had covered her mouth. Further, she was scared when appellant told her in an angry voice to keep quiet. As she was afraid of appellant, she did not immediately reveal the incident to BBB.^[7]

Sometime in the last week of February 2003, AAA's school principal and class adviser visited BBB and informed the latter of their suspicion that AAA might be pregnant. Subsequently, BBB and AAA's school principal brought AAA to a hospital in Ozamis City. After check-up, the doctor confirmed that AAA was indeed pregnant. BBB confronted AAA as to who was responsible for her pregnancy but AAA refused to answer. After being informed by BBB that AAA was pregnant, appellant left them and disappeared. On 4 May 2003, AAA gave birth. Later, AAA confessed to BBB that it was appellant who had raped and impregnated her.^[8]

BBB narrated that she and appellant were married on 10 September 1987. From the last week of July 2002 up to the last day of August 2002, she and appellant, together with AAA and their other five young children, stayed at her aunt's house located at Barangay XXX, Municipality of XXX, Province of XXX.^[9] She stated that AAA is a good daughter as the latter always stays at home after school, does the laundry, and takes care of her siblings. According to her, AAA does not go to discos and does not have a boyfriend.^[10]

In the last week of February 2003, AAA's class adviser and school principal inquired from BBB as to why AAA was noticeably sad in school and her grades got lower. They also asked her why AAA's stomach was growing bigger. These questions prompted her and AAA's class adviser and school principal to bring AAA to a hospital in Ozamis City for a check-up. The doctor confirmed that AAA was pregnant. Further, the doctor told her to take care of the baby and not to harm AAA. BBB confronted AAA as to who was responsible for her pregnancy but the latter merely cried and refused to respond. Thereupon, BBB informed appellant of AAA's pregnancy but the appellant did not react or show any emotion. By reason of appellant's obvious disregard of and insensitivity to the situation of AAA, she suspected that appellant might be responsible for AAA's pregnancy. Thus, she confronted appellant and asked him, "Did you kill our daughter's future?" Instead of answering, the appellant merely bowed his head and cried.^[11]

On 21 March 2003, appellant told BBB that he would go to Ozamis City. Since then, appellant never returned. On 4 May 2003, AAA delivered a baby. Three days thereafter, AAA admitted to BBB that appellant had raped and impregnated her.^[12]

In addition to the foregoing testimonies, the prosecution also submitted the birth certificate of AAA showing that the latter was born on 13 September 1988 to prove

that AAA was merely 14 years old when the incident occurred.^[13] It also submitted the marriage contract of BBB and appellant to bolster the fact that they are legally married.^[14]

To refute the aforementioned allegations, the defense proffered the sole testimony of appellant.

Appellant alleged that his family temporarily resided at the house of BBB's aunt situated at Barangay XXX, Municipality of XXX, Province of XXX, from July 2002 up to August 2002, upon the request of the said aunt. He, however, chose to remain at their family residence located at Barangay XXX, Municipality of XXX, Province of XXX, because he was then harvesting corn and tending their animals. He visited his family during daytime at BBB's aunt's house to deliver their daily needs but always returned to their family residence at nighttime. He did not notice any unusual incident while visiting his family in August 2002. Nonetheless, he and BBB often quarreled about money matters which prompted him to leave for Ozamis City to look for a job. From Ozamis City, he went to Margosatubig, Zamboanga del Sur, after being informed of his mother's death. He had no knowledge nor was he informed of the fact that AAA was pregnant when he left his family and proceeded to Ozamis City. Further, he has no idea why AAA would accuse him of rape.^[15]

On 15 January 2004, the RTC rendered its Decision finding appellant guilty beyond reasonable doubt of the crime of qualified rape as defined and penalized under Articles 266-A and B of the Revised Penal Code, thus:

WHEREFORE, finding accused Lito Bejic y Antoni guilty beyond reasonable doubt of qualified incestuous rape, the court sentences him to death and orders him to pay his daughter civil indemnity in the sum of P75,000.00 and moral damages in the sum of P50,000.00. With costs.

^[16]

The case was automatically elevated to this Court for review by reason of the death penalty imposed on appellant. However, pursuant to our ruling in *People v. Mateo*,^[17] the case was transferred and referred to the Court of Appeals for proper disposition.

On 23 May 2006, the Court of Appeals promulgated its Decision affirming with modification the assailed RTC Decision. Aside from increasing the amount of moral damages from P50,000.00 to P75,000.00, it also ordered the appellant to pay AAA the amount of P25,000.00 as exemplary damages. The decretal portion of the appellate court's decision reads:

WHEREFORE, the decision of the Regional Trial Court of Oroquieta City, Br. 13, in Crim. Case No. 1688-13 convicting herein appellant Lito Bejic y Antoni of the crime of qualified rape and sentencing him to death and ordering him to pay civil indemnity of P75,000.00 is hereby AFFIRMED, with the MODIFICATION that the award of moral damages in the amount of P50,000.00 is increased to P75,000.00 and that Appellant is further ordered to pay the additional sum of P25,000.00 as exemplary damages.

^[18]

Before us, appellant assigns the following errors:

I.

THE TRIAL COURT ERRED IN NOT FINDING AS INCREDIBLE THE PRIVATE COMPLAINANT'S ALLEGATION OF HAVING BEEN RAPED.

II.

THE TRIAL COURT ERRED IN NOT FINDING AS IMPROBABLE FOR THE ACCUSED-APPELLANT TO HAVE RAPED THE PRIVATE COMPLAINANT.

III.

THE TRIAL COURT ERRED IN CONVICTING THE ACCUSED-APPELLANT OF THE CRIME CHARGED DESPITE THE FACT THAT HIS GUILT WAS NOT PROVEN BEYOND REASONABLE DOUBT.^[19]

Anent the first issue, appellant contends that the testimony of AAA is not credible based on the following reasons: (1) the prosecution failed to present the medical certificate showing that AAA was indeed pregnant, or at the very least, that her hymen suffered lacerations indicating that the latter was no longer a virgin; (2) the prosecution failed to present the attending physician of AAA who could have testified, in the absence of the medical certificate, that he had indeed examined AAA and found the latter to be pregnant, or in lieu of the attending physician, the teacher or principal who allegedly accompanied AAA and BBB during the check-up; and (3) the prosecution failed to present the birth certificate of the child delivered by AAA, or in lieu of such certificate, the testimony of the midwife or the doctor who assisted AAA in delivering the baby.^[20]

Appellant also asserts that the above-stated persons are vital witnesses to establish the fact of AAA's pregnancy. Further, the presentation of the said persons as witnesses, as well as the birth and medical certificates, are material to prove qualified rape.^[21]

We reject the foregoing asseverations.

Article 266-A of the Revised Penal Code as amended by Republic Act No. 8353, otherwise known as the Anti-Rape Law of 1997, identifies the acts constituting rape, to wit:

ART. 266-A. *Rape; When and How Committed*.- Rape is committed:

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

1. Through force, threat or intimidation;

2. When the offended party is deprived of reason or otherwise unconscious;

3. By means of fraudulent machination or grave abuse of authority;
and
4. When the offended party is under twelve (12) years of age or is demented, even though none of the circumstances mentioned above be present.

2) By any person who, under any of the circumstances mentioned in paragraph 1 hereof, shall commit an act of sexual assault by inserting his penis into another person's mouth or anal orifice, or any instrument or object, into the genital or anal orifice of another person.

The elements of rape under paragraph 1 of Article 266-A are: (1) the offender is a man who had carnal knowledge of a woman; and (2) he accomplished such act through force or intimidation upon her; or she is deprived of reason or otherwise unconscious; or she is under 12 years of age or is demented.^[22]

The gravamen of rape is carnal knowledge or sexual intercourse with a woman against her will or without her consent.^[23]

In determining the guilt or innocence of the accused in cases of rape, the victim's testimony is crucial in view of the intrinsic nature of the crime in which only two persons are normally involved. The accused may be convicted on the basis of the victim's lone and uncorroborated testimony provided it is clear, positive, convincing, and consistent with human nature. Hence, the victim's testimony must be scrutinized with extreme caution.^[24]

We have assiduously reviewed the records and found that the prosecution has sufficiently and convincingly proved that appellant had carnal knowledge of AAA through force and intimidation in the first week of August 2002. In her court testimony, AAA positively and categorically identified the appellant as the one who ravished her, viz:

PROS. OMANDAM:

Q What is the name of your mother?

A BBB.

Q And your father?

A Lito Bejic.

Q The accused in this case is Lito Bejic, is he your father?

A Yes.

Q Why did you file a case against your father?

A *Because he raped me.*

Q Where (sic) were you raped by your father?