

## EN BANC

**[ G.R. NO. 168476 [FORMERLY G.R. NO. 154728-30], September 27, 2006 ]**

**THE PEOPLE OF THE PHILIPPINES, APPELLEE, VS. CHARLIE GLORIA, APPELLANT.**

### DECISION

**AUSTRIA-MARTINEZ, J.:**

For review is the Decision<sup>[1]</sup> dated March 17, 2005 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 00089 which affirmed the Decision of the Regional Trial Court (RTC) of Bulacan, Branch 21, finding appellant guilty of the crime of Qualified Rape in Criminal Case Nos. 3115-M-99 to 3117-M-99 and sentencing him to suffer the death penalty. The dispositive portion of the CA Decision reads:

IN LIGHT OF ALL THE FOREGOING, the Decision of the Regional Trial Court of Bulacan, Branch 21, in Criminal Case Nos. 3115-M-99 to 3117-M-99, finding the appellant guilty beyond reasonable doubt of QUALIFIED RAPE and sentencing him to suffer the DEATH penalty, is hereby AFFIRMED.

Let the records of this case be forwarded to the Supreme Court for automatic review.

SO ORDERED.<sup>[2]</sup>

Pursuant to Sec. 29 of Republic Act No. 7610, Sec. 44 of Republic Act No. 9262 and Sec. 40, Rule on Violence Against Women and their Children, to wit:

Sec. 29. *Confidentiality.* - At the instance of the offended party, his name may be withheld from the public until the court acquires jurisdiction over the case.

It shall be unlawful for any editor, publisher, and reporter or columnist in case of printed materials, announcer or producer in the case of television and radio broadcasting, producer and director in the case of the movie industry, to cause undue and sensationalized publicity of any case of a violation of this Act which results in the moral degradation and suffering of the offended party. (R.A. No. 7610)

Sec. 44. *Confidentiality.* - All records pertaining to cases of violence against women and their children including those in the barangay shall be confidential and all public officers and employees and public or private clinics or hospitals shall respect the right to privacy of the victim. Whoever publishes or causes to be published, in any format, the name, address, telephone number, school, business address, employer, or other

identifying information of a victim or an immediate family member, without the latter's consent, shall be liable to the contempt power of the court.

Any person who violates this provision shall suffer the penalty of one (1) year imprisonment and a fine of not more than Five Hundred Thousand Pesos (P500,000.00). (R.A. No. 9262)

Sec. 40. *Privacy and confidentiality of proceedings.* - All hearings of cases of violence against women and their children shall be conducted in a manner consistent with the dignity of women and their children and respect for their privacy.

Records of the cases shall be treated with utmost confidentiality. Whoever publishes or causes to be published, in any format, the name, address, telephone number, school, business address, employer or other identifying information of the parties or an immediate family or household member, without their consent or without authority of the court, shall be liable for contempt of court and shall suffer the penalty of one year imprisonment and a fine of not more than Five Hundred Thousand (P500,000.00) Pesos. (Rule on Violence Against Women and their Children)

as well as the recent case of *People v. Cabalquinto*,<sup>[3]</sup> and per Resolution dated September 19, 2006 in A.M. No. 04-11-09-SC, the Court shall use fictitious initials in lieu of the real names of the victim/s and immediate family members other than the accused, and delete the exact addresses of the victim.

The accused Charlie Gloria (appellant) was charged under three Criminal Informations for Statutory Rape, committed as follows:

(1) Crim. Case No. 3115-M-99

That on or about the 13th day of May, 1999, in the xxx, Province of Bulacan, Philippines and within the jurisdiction of this Honorable Court, the above-named accused did then and there willfully, unlawfully and feloniously, with lewd designs, by means of force and intimidation have carnal knowledge of AAA, his daughter, 11 years of age, against her will and consent.

Contrary to law.<sup>[4]</sup>

(2) Crim. Case No. 3116-M-99

That on or about the 16th day of May, 1999, in the xxx, Province of Bulacan, Philippines and within the jurisdiction of this Honorable Court, the above-named accused did then and there willfully, unlawfully and feloniously, with lewd designs, by means of force and intimidation have carnal knowledge of AAA, his daughter, 11 years of age, against her will and consent.

Contrary to law.<sup>[5]</sup>

(3) Crim. Case No. 3117-M-99

That on or about the 10th day of April, 1999, in the xxx, Province of Bulacan, Philippines and within the jurisdiction of this Honorable Court, the above-named accused did then and there willfully, unlawfully and feloniously, with lewd designs, by means of force and intimidation have carnal knowledge of AAA, his daughter, 11 years of age, against her will and consent.

Contrary to law.<sup>[6]</sup>

When arraigned, the accused pleaded "not guilty" to all three charges.<sup>[7]</sup>

The prosecution's evidence established the following:

The accused was married to ABC with whom he begot five children, including 11-year old AAA, who is the victim in this case. They separated in 1997. The eldest daughter DEF went with her mother to Manila, while the other siblings, including AAA, stayed with their father in a one-room residence in xxx.

On several dates in 1999, particularly, April 10, May 13, and May 16, the accused sexually abused AAA. According to AAA, on April 10, 1999, she slept at around 7 o'clock in the evening. She was awakened at around 10 o'clock by her father who was taking off her shorts and underwear. He then placed himself on top of her and told her not to make any noise, warning her not to report anything to anyone. When she asked her father what he was doing, he said that it was her mother's fault. Her father then placed his penis in her mouth, after which he forcibly inserted it in her vagina. Her father also tied her hands with a plastic straw cord.<sup>[8]</sup>

She was subjected to the same ordeal two more times - on May 13, 1999 at around midnight, and May 16, 1999 at around 10 o'clock in the evening - with his father placing his penis in her mouth first before forcibly inserting it in her vagina.<sup>[9]</sup> AAA could not do anything to repel her father's acts because she was afraid and because her father told her not to say anything to anyone, although she did try to avoid his attempts by moving her body and forcing her legs closed, to no avail. She knew that her father was able to insert his penis into her vagina because she felt pain and her urine was reddish.<sup>[10]</sup>

On June 14, 1999, ABC went to Bulacan with her lawyer, as she wanted to talk to her husband regarding the children's custody. When he refused to talk to her, she went to their old house and met her children. When ABC talked to AAA and told her to "bear everything" since it won't be long before she will take them into her care, AAA told her about her father's misdeeds. They immediately went to the police station to report the matter.

On June 30, 1999, AAA underwent medical examination at the PNP Bulacan Provincial Crime Laboratory Office in Malolos, Bulacan, and it was the Medico-Legal Officer's findings that AAA has "ligature marks at both wrist joint area," "multiple healed lacerations at 1, 3, 5, 6, 7, 9 and 10 o'clock, gaping of the hymen," and she is "in non-virgin state on time of examination."<sup>[11]</sup>

Upon request of the trial court, another medical examination was done on August 9, 2000 at the PNP Regional Crime Laboratory Office in San Fernando, Pampanga, with the following findings, among others: "Hymen: With presence of a deep-healed laceration at 6 o'clock position and shallow healed lacerations at 3, 8 and 9 o'clock positions."

For his defense, the accused lamely denied the accusations against him. He claimed that it was his estranged wife, ABC, who concocted the stories in order to gain custody of the children. A certain Corazon Santiago corroborated his claim, stating that when she and ABC once talked, the latter admitted that the rape charges were not true. ABC, however, vehemently denied this.

On May 31, 2002, the RTC rendered its Decision finding the accused guilty and sentencing him to suffer the supreme penalty of death. The dispositive portion of the RTC Decision provides:

WHEREFORE, all premises considered, this Court finds and so holds Charlie Gloria y Magnaye to be GUILTY beyond reasonable doubt of the crimes of Statutory Rapes as defined and penalized under Articles 266-A and 266-B of the Revised Penal Code, as amended, in Criminal Cases Nos. 3115-M-99, 3116-M-99, 3117-M-99. Considering the presence of the aggravating/qualifying circumstance that "the victim is under eighteen (18) years of age and the offender is a parent x x x of the victim", he is hereby sentenced to suffer the supreme penalty of DEATH by lethal injection in each of these three (3) cases.

Likewise, the accused is also directed to indemnify the offended party AAA<sup>[12]</sup> in the amount of P75,000.00 for each count of rape since these offenses are qualified by circumstances under which the penalty of death is authorized to be imposed by law. In addition, the award of moral damages in the amount of P50,000.00 in each case is also in order considering that in all rape cases, moral damages shall be awarded even in the absence of proof for it is presumed that the complainant has suffered the trauma of physical, mental and psychological sufferings.

Exemplary damages in the amount of P25,000.00 is also awarded in the hope of deterring fathers with perverse tendencies and aberrant sexual behaviors from sexually abusing their daughters (People vs. Francisco Navida, G.R. No. 132239-40, December 4, 2000).

SO ORDERED.<sup>[13]</sup>

Appellant was committed at the New Bilibid Prison on June 8, 2002.<sup>[14]</sup>

The case was then brought to the Court on automatic review in view of the death penalty imposed on the accused. However, with the ruling in *People vs. Mateo*,<sup>[15]</sup> that death, *reclusion perpetua* or life imprisonment cases shall be reviewed first by the CA before it is elevated to this Court, the case was transferred to the CA per Resolution dated August 31, 2004.<sup>[16]</sup>

In his Brief, appellant argued that:

## I

THE TRIAL COURT ERRED IN GIVING FULL FAITH AND CREDENCE TO THE PROSECUTION'S EVIDENCE DESPITE THE PATENT MOTIVE BEHIND THE CHARGES.

## II

THE TRIAL COURT ERRED IN FINDING ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT OF THE CRIMES CHARGED.<sup>[17]</sup>

Appellant harped on the argument that the charges were made up by his estranged wife, ABC, for her to be able to get custody of the children. According to appellant, the fact that the last of the alleged rapes occurred in May 1999, barely a month before ABC went to Bulacan with her lawyer to discuss custody matters with him (appellant) on June 1999 cannot just be a mere coincidence; rather, it was ABC's "ruse" to gain quick custody of their children, specially since appellant refused to give them to her.<sup>[18]</sup>

Appellant also believed that there is a contradiction in AAA's testimony, *i.e.*, during her initial testimony, AAA denied having been tied up by her father; however, when she was recalled to the witness stand, she claimed that her father tied her up.<sup>[19]</sup>

Appellant also claimed that AAA's testimony does not jibe with the medical evidence. According to him, AAA's medico-legal examination, which was done in June 1999, showed ligature marks on both her wrists. The medico-legal expert, however, testified that ligature marks heal within seven to ten days. If AAA was indeed tied the first time she was raped on April, then there should be no more ligature marks on her wrists when she was examined in June. Appellant also argued that AAA's claim is practically improbable given that she was lying beside her siblings in a cramped bed and none of them woke up while her father was raping her.<sup>[20]</sup>

The CA refused to give credit to appellant's arguments, and affirmed his conviction in its Decision dated March 17, 2005, the decretal portion of which reads:

IN LIGHT OF ALL THE FOREGOING, the Decision of the Regional Trial Court of Bulacan, Branch 21, in Criminal Case Nos. 3115-M-99 to 3117-M-99, finding the appellant guilty beyond reasonable doubt of QUALIFIED RAPE and sentencing him to suffer the DEATH penalty, is hereby AFFIRMED.

Let the records of this case be forwarded to the Supreme Court for automatic review.

SO ORDERED.<sup>[21]</sup>

In a Resolution dated July 19, 2005, the parties were given a period within which to file their supplemental briefs, if they so desire.<sup>[22]</sup> Both appellant and the People of the Philippines manifested their intention not to file any supplemental brief since all the issues and arguments have already been raised in their respective Briefs. <sup>[23]</sup>