

EN BANC

[G.R. No. 132124, June 08, 2004]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. ROLANDO LEONOR
Y ANDANTE, APPELLANT.**

DECISION

PER CURIAM:

This is an automatic review of the Decision^[1] of the Regional Trial Court of San Pedro, Laguna, Branch 31, finding appellant Rolando Leonor y Andante guilty beyond reasonable doubt of rape, sentencing him to suffer the death penalty and ordering him to pay the victim Lovely Faith Leonor the sums of P50,000.00 as civil indemnity; P50,000.00 as moral damages; and P50,000.00 as exemplary damages.

The Indictment

On July 11, 1997, an Information charging Rolando Leonor with rape was filed in the Regional Trial Court of San Pedro, Laguna, docketed as Criminal Case No. 0456-SPL. The accusatory portion of the Information reads:

That on or about February 1, 1997, in the Municipality of San Pedro, Province of Laguna, Philippines and within the jurisdiction of this Honorable Court, said accused being the father of 6-year-old LOVELY FAITH LEONOR, did then and there willfully, unlawfully and feloniously lie and succeed in having carnal knowledge with said LOVELY FAITH LEONOR.

CONTRARY TO LAW.^[2]

On July 17, 1997, the appellant, duly assisted by Atty. Jose Imbang, was arraigned and pleaded not guilty to the crime charged.^[3]

The Case for the Prosecution^[4]

The Spouses Emily Pajo and Rolando Leonor were residents of Brgy. Langgam, San Pedro Laguna.^[5] They had four children: Lovely Faith, who was born on October 25, 1990,^[6] Emmanuel; April Jay; and, Jesus Jay.^[7] To support themselves and their children, Rolando worked as a taxi driver,^[8] while Emily worked as a beautician who rendered home service manicure in the neighborhood.^[9] Emily often caught Rolando sniffing prohibited drugs.^[10] Every time she confronted Rolando, he mauled her.^[11] Worse, in July 1996, Rolando stopped giving financial support to his children.^[12] When she could not take it any longer, Emily and her children left Rolando and moved to the house of her mother, Priscilla Pajo and the latter's husband, Romy Pabelando.^[13] Rolando lived in his mother's house, which was just adjacent to

Priscilla's house. Rolando often visited Emily and the children. At times he would sleep with them in Priscilla's house.^[14]

At or about 1:30 p.m. on February 1, 1997, after Emily had to service a customer, Rolando went to the house of Priscilla. The latter was cooking food in the kitchen.^[15] Emmanuel, who was five (5) years old, was seated on the bench in the sala with Lovely Faith. They were watching television. Rolando went near his children, unzipped his pants and pulled up ("*nilislis*") Lovely Faith's shorts and panties. He then inserted his penis inside her vagina. Unable to make a full penetration, Rolando withdrew his penis and inserted his middle finger inside Lovely Faith's vagina. Priscilla heard Lovely Faith crying, "*Aray ko, Nanay, sinundot na naman ako ni Papa.*"^[16] Priscilla rushed to the sala and saw Lovely Faith crying as she held her private part.^[17] Priscilla also noticed that Lovely Faith's shorts were pulled down up to her thigh, while Rolando held the front part of his pants and ran away.^[18] Lovely Faith spontaneously told her grandmother that her father had sexually abused her previously, five times. She also told Priscilla that she did not tell her mother about it because her father threatened to kill her and her mother if she told anyone of the incidents.^[19] Immediately, Priscilla had Rolando arrested by the *Barangay Tanods*.^[20] She also accompanied Lovely Faith to the police station where Priscilla executed a sworn statement regarding the incident. Dr. Jaime A. Barron, Chief of the Department of Public Health and Services of San Pedro, Laguna, conducted a medico-legal examination on Lovely Faith and found a healed laceration in her hymen at 1:00 o'clock position.^[21]

When Emily returned home at 5:00 p.m., Emmanuel told her, "*Mama, si Ate binaboy ni Papa.*"^[22] Emily looked for Lovely Faith, and Emmanuel told her that Priscilla brought her to town. Emily immediately went to the police station of San Pedro, Laguna, and saw Lovely Faith beside Priscilla. Lovely Faith told her story that Rolando had inserted his penis into her vagina and that when he was unable to fully penetrate her vagina, he withdrew his penis and inserted his finger instead. Lovely Faith also told her mother that Rolando had done "*kababuyan*" to her five times^[23] but she did not say anything because her father had threatened to kill her, her mother, and grandmother, if she told anyone of his sexual assaults on her. Lovely Faith related to her mother that Rolando always used a knife to threaten her.^[24]

On February 3, 1997, Lovely Faith executed a Sworn Statement identifying her father, the appellant, as the perpetrator of the crime charged.^[25] A similar sworn statement was executed by Emily.^[26] A complaint for rape against the appellant was, thereafter, filed by Lovely Faith, with the assistance of her mother, Emily.^[27]

The Case for the Appellant^[28]

Rolando denied the charge against him. He testified that on January 31, 1997,^[29] he arrived at the house of Emily and opened the room of Romy Pabelando, his wife's stepfather, and found the two "on top of each other." His mother-in-law, Priscilla, was also inside the room, acting as a "bugaw" (pimp).^[30] At 11:00 a.m. on February 1, 1997, he went to Priscilla's house to bring pork viand to his children. Priscilla, who was tending her store, let him in. Inside the house, some of his

children were sleeping. Lovely Faith was in the sala watching over her youngest brother. He kissed Lovely Faith on the cheek and embraced her. He noticed that Lovely Faith was wearing pajamas and seemed to be sick.^[31] He was later surprised that a complaint for rape was filed against him by his own daughter. He suspected that Lovely Faith was coached by her mother, grandmother and his wife's stepfather and paramour, Romy Pabelando.^[32]

Lucita Leonor, the appellant's sister, testified that the appellant was a responsible father and that he supported his children through his earnings as a taxi driver.^[33] Even when he and Emily separated, he brought food to his children in the house of his mother-in-law. On February 1, 1997, the appellant went to her, crying, and revealed that his wife was having an affair with her stepfather.^[34] She saw Rolando in the afternoon of that day as he went to the house of his mother-in-law to bring pork viand to his children. She was later surprised that a complaint for rape was filed against him.

Ruling of the Trial Court

On November 7, 1997, the trial court promulgated a Decision finding Rolando guilty beyond reasonable doubt of raping his six-year-old daughter. The dispositive portion of the decision read:

IN VIEW OF THE FOREGOING, the Court finds that the prosecution assisted by Assistant Prosecutor Melchorito Lomarda has duly established beyond reasonable doubt the guilt of Rolando Leonor y Andante for the crime of rape defined and penalized in Article 335 of the Revised Penal Code, as amended by RA 7659. To the mind of the Court, incestuous rape is indeed repugnant and outrageous not only to a civilized but also to a barbaric society. Indeed, accused has descended himself to a level lower than a beast when he perpetuated his lascivious design on his own flesh and blood.

WHEREFORE, the Court hereby sentences accused Rolando Leonor y Andante to suffer the penalty of death, to pay the private complainants the sums of P50,000 as civil indemnity, P50,000 as moral damages and P50,000 as exemplary damages, and to pay the costs.^[35]

The trial court gave probative value to the "unshaken, unflawed and consistent"^[36] testimony of Lovely Faith that she was raped by her father. The trial court disbelieved the appellant's claim that Lovely Faith was coached by her mother, Emily, whom he allegedly caught in an uncompromising situation with her own stepfather. It also found that the appellant's defense of denial was weak and could not prevail over the positive assertions of Lovely Faith, especially since the latter's testimony was corroborated by the medico-legal findings of Dr. Jaime Barron.

The appellant assails the decision of the trial court contending that the crime lodged against him was a concoction of his wife and mother-in-law to cover up the illicit relationship between his wife, Emily, and her stepfather, Romy Pabelando.

The Office of the Solicitor General (OSG), for its part, asserts that the trial court correctly found that Lovely Faith, a six-year-old naive girl, lacked ill-motive to testify

falsely against her own father. It also contends that the appellant's defenses of alibi and denial are weak and cannot prevail over the positive, straightforward and sincere testimony of Lovely Faith.

However, the Office of the Solicitor General contends that the trial court erred in awarding only P50,000.00 as civil indemnity to the victim and asserts that the amount should be increased to P75,000.00.

The Court's Ruling

The appellant's contentions have no merit.

At the outset, we reiterate the well-constructed rule that in reviewing rape cases, the appellate court is guided by the following principles: (a) an accusation of rape can be made with facility; it is difficult to prove but more difficult for the person accused, though innocent, to disprove; (b) due to the nature of the crime of rape where only two persons are usually involved, the testimony of the complainant must be scrutinized with extreme caution; and, (c) 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.^[37] Consequently, it is the primordial duty of the prosecution to present its case with clarity and persuasion to the end that conviction becomes the only logical conclusion.^[38]

The legal aphorism is that the findings of the trial court, its calibration and assessment of the testimonial evidence of the witnesses, and its conclusion based on its findings, are accorded by the appellate court high respect, if not conclusive effect.^[39] This is so because the trial judge, having seen and heard the witnesses and observed their behavior and manner of testifying, is in a better position to determine their credibility.^[40] An exception to this rule is when the trial court overlooked, misunderstood or misinterpreted cogent facts and circumstances of substance which, if considered, would alter the outcome of the case.^[41]

Rape is committed by having carnal knowledge of a woman under any of the following circumstances: (1) by using force or intimidation; (2) when the woman is deprived of reason or otherwise unconscious; and, (3) when the woman is under twelve (12) years of age. Even though neither of the circumstances mentioned in the two next preceding paragraphs shall be present, the gravamen of rape is carnal knowledge of a woman against her will or without her consent.^[42]

After careful review of the records, we find no reason to reverse the findings of the trial court. Lovely Faith, who was only six (6) years old when the appellant ravished her, testified in a positive, spontaneous, straightforward and consistent manner that the appellant satisfied his bestial desires, viz:

Q: On that day of February 1, 1997, did you see your father in the house of your Lola?

A: Yes, Sir

Q: Where was your Lola on that date, Lovely?

A: She was in the kitchen, Sir.

Q: What was your Lola doing in the kitchen?

A: She was cooking, Sir.

Q: When your father arrived on February 1, 1997, where were you?

A: In our long bench, Sir.

Q: Were you alone, Lovely?

A: No, Sir.

Q: Who was your companion?

A: My younger brother, Sir.

Q: Who else aside from your younger brother?

A: No more, Sir.

Q: After the arrival of your father in your house, what happened next, Lovely?

A: He removed his zipper, Sir

COURT:

Q: Zipper of what, Lovely?

A: Of his pants, Ma'am.

PROS. LOMARDA:

Q: What did your father do after he unzipped his pants?

A: "Nilislis po ang shorts ko at ipinasok po ang titi niya."

Q: Lovely, when you said "nilislis," what actually did your father do, will you please demonstrate.

A: (Witness demonstrating by pulling up her shorts.)

Q: Were you wearing panty at that time?

A: Yes, Sir.

Q: What did your father do with your panty?

A: "Nilislis din po niya."

COURT:

Q: Lovely, stand up again, how was your panty "lislis," by your father?

A: It was pulled up, Ma'am.

PROS. LOMARDA:

Q: After your father "lislis" your panty and your shorts, what