

EN BANC

[G.R. Nos. 138716-19, September 23, 2003]

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. JOSE PILLAS Y AMORIN ALIAS "CHE-AN," APPELLANT.

D E C I S I O N

SANDOVAL-GUTIERREZ, J.:

"How could you do that to me? You are my father." Arlyn Pillas spoke with a lost heart when appellant subjected her to bestial abuse. With the sheer perversity of her father, Arlyn was unjustly exposed to his libidinous indulgence. Instead of providing protection to his daughter, he stripped her of the only thing she held dear. He, like any father who subjects his child to shameless lechery, deserves not only condemnation but also loss of respect due him as a human being.

For automatic review is the Decision^[1] dated April 19, 1999 of the Regional Trial Court, Branch 16, Zamboanga City, in Criminal Cases Nos. 15199, 15200, 15201 and 15202 convicting appellant Jose Pillas y Amorin of four counts of rape against his own daughter and imposing upon him the supreme penalty of death.

The four Informations filed against appellant are similarly worded, except as to the dates of commission of the crimes, thus:

"That on or about July 16, 1998, in the City of Zamboanga, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, by means of force and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of ARLYN PILLAS y QUIAMCO, against her will; furthermore, there being present an aggravating circumstance in that the accused is the father of said Arlyn Pillas y Quiamco, who is only 16 years of age."^[2]

Upon arraignment, appellant, with the assistance of his counsel, pleaded not guilty. A joint trial of the four criminal cases ensued.

The prosecution presented as its witnesses Arlyn Pillas, private complainant, Teresita Molina, SPO1 Judito Tubaña, Dr. Jocelyn Onari and Barangay Captain Percival Toribio.

The version of the prosecution is as follows: Arlyn was born on October 19, 1981 at Limaong Island, Zamboanga City. She is the only child of appellant and Carmelita Quiamco who separated when she was about one month old. They left her under the care of her paternal grandparents.

In 1993, when Arlyn was 11 years old, appellant took her into his custody in Sitio Anahaw, Dabuy, Upper Vitali, Zamboanga City. He was then living with his

common-law wife, Teresita Molina, and her son (who left for Malaysia in 1995).

In January 1996, appellant ordered Arlyn to discontinue her studies because she stole rice from their house and sold it. From 1996 to 1998, she stayed home and helped her parents in the domestic chores.

On July 16, 1998, at past 8 o'clock in the morning, while Arlyn was washing the dishes, her father asked about Teresita's whereabouts. She informed him that Teresita was at the river washing their clothes. Appellant said, *"You know Lyn, although you are my daughter, I like you."* Taken aback by his perverted words, she responded, *"Why were you able to say that? I am your daughter."* He then said, *"I really like you and you are already a woman."* Arlyn retorted, *"How could you tell that to your own daughter?"* He replied that he does not know. Then he kissed her on the lips and held her breasts. Arlyn struggled and tried to ward off his face. She exclaimed, *"How could you do that to me? You are my father."* Without saying another word, appellant pulled her left hand. Arlyn tried to resist by holding on a piece of wood attached to the lavatory. But her grip was not strong enough. He dragged her to the living room and continued to kiss her and hold her breasts. In spite of her struggle, he was able to undress and pin her down. Again Arlyn asked why he was doing that to her. He answered that it was because her stepmother is already old. Then he unzipped his short pants and pulled out his penis and inserted it into her vagina. Arlyn felt pain. While he was doing the pumping motion, he threatened to kill her if she would shout. Before he rose, he kissed her on her mouth and nipples. Arlyn saw her vagina bleeding. She also saw blood and "something white" on his penis. He wiped off the traces of blood on his penis and on her vagina so that Teresita would not be able to notice what happened.^[3] Before he went out, he reiterated his threat to kill Arlyn and Teresita should she report the matter to anybody.

On July 26, 1998 at around 10 o'clock in the morning, appellant's animal greed again possessed him. At that time, he was playing guitar at the porch while Teresita was away washing clothes. When Arlyn was preparing food for lunch, he suddenly kissed and carried her from the kitchen to the living room. She tried hard to resist, but he was too strong for her petite physique.^[4] After undressing her, he placed himself on top of her. He kissed her and inserted his penis into her vagina, telling her that since he reared and took care of her, *"he should be the first one to take advantage or be benefited."* According to Arlyn, she felt pain.

On July 30, 1998, at around 8 o'clock in the morning, appellant once more gave in to his lust. Arlyn was inside her room fixing her clothes when he hastily pulled and dragged her to the living room. For the third time, he sexually abused her by force and intimidation.

On August 11, 1998, at around 11 o'clock in the morning, while washing clothes at the river, Arlyn at last found the courage to inform Teresita what transpired. They both cried. Teresita then approached Percival Toribio, barangay chairman, who stated that appellant should be immediately arrested.^[5] Teresita, however, did not take any action as she was afraid of him.^[6]

Meanwhile, Arlyn's nightmare was not yet over. On August 25, 1998, for the fourth time, appellant molested her sexually, again by means of force and threat. After the

incident, she told Teresita about it. It was only after appellant left for Zamboanga City to sell his farm products that they decided to report the matter to the police. On August 27, 1998, SPO1 Judito P. Tubaña took Arlyn's statement and instructed her to undergo physical examination by a physician.

On August 28, 1998, Dr. Jocelyn Onari of the Zamboanga Medical Center examined Arlyn. Dr. Onari issued a Medico-Legal Certificate^[7] stating that Arlyn has incomplete hymenal lacerations at 1, 5, 8 and 11 o'clock positions and that her introitus admitted one finger.

Appellant was then charged with four counts of rape and detained. When he pleaded for forgiveness, Arlyn said, *"I do not pity you because you did not pity me."*^[8] Asked if she could quantify her pain and suffering in terms of money, Arlyn replied that even if she will not receive any amount, it is alright with her provided her father "suffer for the things he had done."^[9]

Appellant vehemently denied having committed the crimes. He claimed that the reason why Arlyn charged him was because he asked her to quit school. She resented his command since she did not want to do the household chores and work in the farm. With respect to Teresita, she was angry with him because he could not make love to her even once a month because he was suffering from hernia.

He denied having asked for forgiveness from Arlyn considering that he was dizzy while in detention.^[10]

After hearing, the trial court rendered its Decision, the dispositive portion of which reads:

"WHEREFORE, the Court finds accused JOSE PILLAS y AMORIN alias CHE-AN GUILTY of the crime of Rape charged in Criminal Cases Nos. 15199, 15200, 15201 and 15202, defined and penalized under Articles 266-A and 266-B of the Revised Penal Code (Sec. 2, R.A. No. 8353 known as *'The Anti-Rape Law of 1997'*), committed against his own daughter, Arlyn Pillas y Quiamco who was below 18 years of age at the time of the commission of the crimes charged, and **SENTENCES** said accused as follows:

1. In Criminal Case No. 15199, to suffer the penalty of DEATH with its accessory penalties in the manner provided by law; to pay the offended party, Arlyn Pillas y Quiamco, the sum of P50,000.00 as indemnity, P30,000.00 as moral damages, and P25,000.00 as exemplary damages;
2. In Criminal Case No. 15200, to suffer the penalty of DEATH with its accessory penalties in the manner provided by law; to pay the offended party, Arlyn Pillas y Quiamco, the sum of P50,000.00 as indemnity; P30,000.00 as moral damages, and P25,000.00 as exemplary damages;

3. In Criminal Case No. 15201, to suffer the penalty of DEATH with its accessory penalties in the manner provided by law; to pay the offended party, Arlyn Pillas y Quiamco, the sum of P50,000.00 as indemnity; P30,000.00 as moral damages, and P25,000.00 as exemplary damages;

4. In Criminal Case No. 15202, to suffer the penalty of DEATH with its accessory penalties in the manner provided by law; to pay the offended party, Arlyn Pillas y Quiamco, the sum of P50,000.00 as indemnity; P30,000.00 as moral damages, and P25,000.00 as exemplary damages; and

5. To pay the costs in all the four (4) cases.

"Let the complete records of these cases be forwarded to the Supreme Court for automatic review and judgment as provided by law.

"SO ORDERED."^[11]

Hence, this automatic review, appellant raising the following assignments of error:

"I

THE TRIAL COURT ERRED IN FINDING ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT OF FOUR (4) COUNTS OF RAPE.

"II

ASSUMING ARGUENDO THAT ACCUSED IS INDEED GUILTY OF THE RAPE CHARGES, THE TRIAL COURT, NONETHELESS, ERRED IN IMPOSING THE DEATH PENALTY IN EACH OF THE FOUR (4) CASES."

Appellant contends that the prosecution failed to prove his guilt beyond reasonable doubt. That there were lacerations in Arlyn's hymen does not conclusively show that she was raped. In fact, Dr. Onari testified that those lacerations could also be caused by the insertion of a hard object, masturbation, trauma or horseback riding.

He could not have raped Arlyn because he loves her, being his only daughter. She implicated him because he made her quit her studies.

Appellant assails the imposition of the penalty of death upon him in all four cases considering that the prosecution did not offer in evidence Arlyn's certificate of live birth.

Articles 266-A and 266-B of the Revised Penal Code, as amended by R.A. 8353,^[12] the law governing these cases, provide:

"Article 266-A. *Rape; When And How Committed.* - Rape is committed -

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

- a) Through force, threat, or intimidation;
- b) When the offended party is deprived of reason or otherwise unconscious;
- c) By means of fraudulent machination or grave abuse of authority; and
- d) 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.

"Article 266-B. *Penalties.* – Rape under paragraph 1 of the next preceding article shall be punished by *reclusion perpetua*.

x x x

"The death penalty shall be imposed if the crime of rape is committed with any of the following aggravating/qualifying circumstances:

- 1) When the victim is under eighteen (18) years of age and the offender is a parent, ascendant, step-parent, guardian, relative by consanguinity or affinity within the third civil degree, or the common-law spouse of the parent of the victim"

Thus, for appellant to be convicted of rape, it must be proven that there was physical evidence of penetration and that appellant forcibly subjected Arlyn to have sexual intercourse with him.

Arlyn testified as follows:

1. The rape on July 16, 1998

Q What happened when you informed your father Jose Pillas that your stepmother was in the river washing?

A My father said: `Sabi vo Lyn, masqui anak vo de mio quiere yo contigo.' Which means in English, `You know Lyn, although you are my daughter, I like you.'

Q What response did you give when your father told you this?

A I said, `Porque ya hable tu ansena Anak yo de tuyo?' meaning, `Why is it that you were able to say that I am your daughter?'

Q Did your father say anything when you told him that `I am just your daughter?'

A He said that, `I really like you and you are already a woman.'