

EN BANC

[G.R. No. 149370, September 23, 2003]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. MARTIN ALEJO,
APPELLANT.**

DECISION

YNARES-SANTIAGO, J.:

Appellant was charged with the crime of rape before the Regional Trial Court of Legazpi City, Branch 6, in Criminal Case No. 7846, in an Information that reads as follows:

That on October 11, 1997 at about 2:00 o'clock in the afternoon, more or less, at Barangay [REDACTED], Municipality of [REDACTED], Province of [REDACTED], Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with lewd and unchaste design, by means of force and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge with his stepdaughter, 13 year old AAA, against the latter's will and consent, to her damage and prejudice.

ACTS CONTRARY TO LAW.^[1]

Upon arraignment, appellant pleaded not guilty. Whereupon, trial on the merits ensued.

The facts as found by the trial court are as follows:

At about 2:00 in the afternoon of October 11, 1997, AAA was playing with her brothers and sisters in front of their house at [REDACTED] when appellant, her stepfather, arrived from attending a wedding celebration at Bayandong, Bacacay, Albay. As a sign of respect, AAA kissed appellant on the cheek but he kissed her back on the lips. Thereafter, he brought her inside in one of the rooms of their house and forcibly removed her underwear. Appellant then undressed himself, mounted himself on top of AAA and inserted his penis into her vagina. AAA felt pain. She did not tell her mother, [REDACTED], for fear that it might aggravate her heart ailment.^[2]

At about the same time, [REDACTED], the brother of AAA's mother, went to their house to ask for rice. When he entered the house, he saw appellant in one of the rooms positioned on top of AAA with his underwear lowered while AAA's dress was raised to her waist. He was able to see the incident because the room had no door, only a provisional curtain. Frightened by what he saw, he immediately went home and reported the matter to her sister [REDACTED],^[3] who told [REDACTED] about the incident and this angered the latter, who confronted AAA. However, AAA just cried, so [REDACTED] slapped her on the face.^[4]

On October 14, 1997, [REDACTED], AAA's grandmother, reported the matter to the police authorities. Appellant, [REDACTED] and AAA were then summoned to the police station. AAA was physically examined by Dr. Danilo Balana, the Municipal Health Officer of Sto. Domingo, Albay,^[5] who found the following:

Internal Examination:

External Genitalia:

(-) pubic hair

Vulva – labia majora and minora are in close contact covering the external os.

Vagina – no bleeding, with clear whitish discharge noted.

Hymen – superficial, multiple, incomplete healed laceration at 3, 9, 11 o'clock positions, no bleeding

Vaginal Canal – on inserting the small finger of examining hand admits with resistance.^[6]

Thereafter, AAA's statement accusing appellant of the crime of rape was taken at the police station which led to the filing of this case.^[7]

Appellant denied the charge against him and alleged that on October 11, 1997, he came home from a wedding celebration at around 2:00 p.m. and found all the children playing at the yard. He went immediately inside the house and took a nap. At about 3:00 p.m., he was awakened by his wife who asked him to go back to the wedding reception to help return the plates. He returned to their house at 7:00 in the evening. He could not have raped AAA since she was outside of the house conversing with Florlyn Mandane when he arrived.^[8]

On June 25, 2001, the trial court rendered judgment finding appellant guilty beyond reasonable doubt of Qualified Rape and sentencing him to the supreme penalty of death, the dispositive of which reads:

WHEREFORE, premises considered, decision is hereby rendered finding the accused Martin Alejo GUILTY beyond reasonable doubt of the crime of rape of her stepdaughter AAA who was then thirteen and a half years old (13½) and hereby sentences him to suffer the supreme penalty of death and to pay AAA the sum of Fifty Thousand (P50,000.00) pesos as indemnity and to pay the costs.

SO ORDERED.^[9]

Hence, this automatic review.

In his Brief, appellant assigned the following errors:

I

THE COURT *A QUO* GRAVELY ERRED IN FINDING THAT ACCUSED-APPELLANT IS GUILTY OF THE CRIME CHARGED ON THE BASIS OF THE AFFIDAVIT OF PRIVATE OFFENDED PARTY GIVEN BEFORE THE POLICE OF STO. DOMINGO, ALBAY WHERE MORE OF THE ANSWERS WAS SUPPLIED

BY [REDACTED];

II

THAT COURT A *QUO* GRAVELY ERRED IN HOLDING THE ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT OF THE CRIME OF RAPE DESPITE PRIVATE OFFENDED PARTY'S DENIAL OF THE RAPE INCIDENT COMPLAINED OF BY [REDACTED]; AND

III

THE COURT A *QUO* GRAVELY ERRED BY IMPOSING THE CAPITAL PUNISHMENT OF DEATH TO THE ACCUSED-APPELLANT OF THE CRIME CHARGED ON THE BASIS OF UNSUPPORTED EVIDENCE OF THE RELATIONSHIP OF ACCUSED-APPELLANT TO THE MOTHER OF PRIVATE OFFENDED PARTY.^[10]

Appellant denied raping his stepdaughter. Rather, he alleged that the charge was concocted by [REDACTED], his mother-in-law, who disapproved of his marriage to her daughter, [REDACTED]. Moreover, credence should have been accorded to his testimony, it being corroborated by no less than the offended party, who twice recanted the allegations that she was raped on October 11, 1997 by the appellant.

On March 24, 1998, AAA was called by the prosecution to the witness stand. She contradicted her sworn affidavit-complaint executed on October 14, 1997 as follows:

ASST. PROS. DE MESA:

Q. On that particular date October 11, 1997, do you recall of any incident that happened to you at [REDACTED] in your house?

A. None, sir.

x x x

x x x
x x x

Q. You said you were playing in front of the house of your grandmother. After playing, where did you go?

A. I did not go.

Q. You did not go to your house?

A. I went home, sir.

Q. What did you do in your house?

A. I drank a glass of water and returned to play.

Q. What time?

A. I don't know.

Q. Did you play until the evening?

A. When my mother arrived I stopped playing.

Q. What time?

A. Four o'clock.

Q. In the afternoon?

A. Yes, sir.

x x x

x x x
x x x

Q. Now, when you father arrived, what did you do?

A. I did nothing.

Q. You mean to say you did not greet him?

x x x

x x x
x x x

A. I greeted him.

Q. How did you greet your father?

A. I kissed him on the hand.

Q. You kissed him on the hand or on the cheek?

A. On his hand, sir.

x x x

x x x
x x x

Q. Miss witness, what happened after kissing the hand of your stepfather?

A. Nothing, sir

Q. What do you mean by that answer, nothing?

A. Because at that time when I kissed the hand of my stepfather I left and returned playing.

Q. Now, you returned playing. Until when did you stop playing?

A. (No Answer)

x x x

x x x
x x x

Q. When did you return to your house?

A. After my mother arrived.

Q. What time did your mother arrive?

A. Four o'clock in the afternoon, sir.

Q. Now, after your mother arrived, what happened?

A. I just met my mother.

Q. You did not enter the house?

A. Yes, sir.

Q. And how about your mother. Did she enter the house?

A. Yes, sir.

- Q. When you and your mother entered the house, what did you do?
A. We fed the pigs.
- Q. When you said "we" to whom are you referring?
A. My sister and I, sir.
- Q. And after feeding the pigs, what did you do?
A. We fetched water.
- Q. And then?
A. Nothing more, sir.
- Q. You did not eat?
A. Yes, sir. We ate what our mother brought to us from the wedding celebration.
- Q. After eating, what happened next?
A. Nothing more, sir. ^[11]

Later, on February 12, 2001, the defense presented AAA as its hostile witness. She reaffirmed her denial that she was raped by appellant.

Previously, however, on March 31, 1998, AAA testified that she was indeed raped by appellant, to wit:

PROS. DE MESA

- Q. Do you remember the date when this happened?
A. Yes madam.

- Q. Could you tell us the date if you remember?
A. October 11, 1997.

COURT

- Q. About what time?
A. At 2:00 o'clock in the afternoon.

PROS. DE MESA

- Q. Where this happened?
A. In my house, madam.

- Q. Where is it situated?
A. At [REDACTED] your honor please.

x x x

x x x
x x x

- Q. After playing when did you go up the house?
A. Two o'clock madam.
- Q. When your stepfather arrived?
A. Yes madam.
- Q. When your father arrive, what did you do?