

EN BANC

[G.R. Nos. 133759-60, October 17, 2003]

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. LEONITO LORENZO, APPELLANT.

DECISION

PER CURIAM:

This is an automatic appeal from the Decision^[1] of the Regional Trial Court of Oriental Mindoro, Branch 40, in Criminal Cases Nos. 4832 and 4833, convicting appellant Leonito Lorenzo of two counts of qualified rape and sentencing him to suffer the penalty of death for each count, and to pay civil indemnity and moral damages, likewise for each count.

The Indictments

On October 12, 1995, an Information, docketed as Criminal Case No. C-4832, was filed, charging the appellant with qualified rape. The accusatory portion of the Information reads:

That on or about the 24th day of July, 1995, at 2:30 o'clock in the afternoon, at [REDACTED], Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, motivated by lust, lewd design, and by taking advantage of innocence and minority of AAA, who is only four (4) years old, did then and there, wilfully, unlawfully and feloniously had carnal knowledge to said AAA by touching and inserting in some degree his penis within the labia of the pudendum of the offended party but was not able to penetrate deeply due to the accused excitement of the moment caused an untimely ejaculation, all against her will and consent.

Contrary to law.^[2]

A second Information, docketed as Criminal Case No. C-4833, was filed, where the appellant was also charged with qualified rape. The accusatory portion reads as follows:

That on or about the 17th day of August, 1995, at around 1:00 o'clock in the afternoon, at [REDACTED], Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, motivated by lust, lewd design, and by taking advantage of innocence and minority of AAA, who is only four (4) years of age, did then and there, wilfully, unlawfully and feloniously had carnal knowledge to said AAA by touching and inserting in some degree his penis within the labia of the pudendum of the offended party but was not able to penetrate deeply due to the accused excitement of the

moment caused an untimely ejaculation, all against her will and consent.

Contrary to law.^[3]

The appellant was arraigned, assisted by counsel, and entered a plea of not guilty to the charges.

The Evidence of the Prosecution^[4]

██████████ and her husband had seven children: ██████████, 19 years old; ██████████, 12 years old; ██████████, 10 years old; ██████████, 8 years old; ██████████, 7 years old; AAA, 4 years old; and ██████████, 1 1/2 years old. ██████████ made a living by selling vegetables and pastries, while her husband was a fisherman. When the couple parted ways, ██████████ stayed with her children in ██████████, while her husband resided somewhere in Batangas. ██████████ lived about 50 meters away from her aunt Lucinia and the latter's husband, Leonito Lorenzo.

In June 1995, four-year-old AAA, who was born on May 15, 1991,^[5] was seated at her mother's lap. ██████████ was talking to her daughter, and told the child that she was growing up, and that she should not allow others to see or touch her private parts; if she wanted to answer the call of nature, she should be the one to clean her private parts, and not someone else. When AAA asked her mother why, ██████████ replied that it was bad. AAA then asked her mother why her grandfather Leonito Lorenzo, whom she called "Mamay Lito," stripped off her clothes, fondled her private parts. AAA recounted how Mamay Lito exposed his private organ and rubbed it against her private parts; she was even asked to hold his private organ and to rub it against her private parts, but she refused. AAA further stated that she noticed something milky coming out from his penis and that Leonito thereafter placed his organ inside his pants. ██████████ was aghast at her young daughter's revelation. She wanted to confront her Uncle Leonito, but desisted.

On July 24, 1997 at 10:00 a.m., ██████████ and ██████████ left their house to see a doctor as ██████████ was ill. ██████████ and ██████████ were in school, while ██████████, ██████████, AAA and ██████████ were left in the house. At about 2:00 p.m., ██████████ put ██████████ to sleep and left to gather firewood at the foothills. He told ██████████ and AAA to go to sleep. Momentarily, Leonito arrived and asked ██████████ to buy candies. ██████████ left, leaving AAA and ██████████ alone in the house. Leonito removed his pants and AAA's panties, and placed his penis in her vagina. However, only the tip of his penis touched her vagina. Shortly thereafter, Leonito left the house.

██████████ and ██████████ arrived home at 4:00 p.m. AAA told her mother that Leonito had been to their house. She narrated that when ██████████ left to buy candies as instructed, Leonito removed his pants. He then removed AAA's panties and knelt on the floor, caressed her vagina and rubbed his penis against it. He tried to insert his penis into her vagina but only the tip of his penis touched her organ. Declacrosa examined her daughter's vagina and saw that it was swollen and reddish. She saw traces of semen in front of AAA's panties. ██████████ was so furious that she wanted to kill Leonito.

At 1:00 p.m. on August 17, 1995, ██████████ was at the well washing soiled clothes, about 50 meters away from her house. She had instructed ██████████, ██████████, AAA and

██████ to sleep, and that she would be back shortly. On her way to the well, ██████ had seen Leonito standing in front of his house. Aunt Lucinia was also at the well, washing soiled clothes with ██████. The place was also about 50 meters away from a house which was under construction, that belonged to Eddie delos Reyes, ██████'s younger brother.

In the meantime, Wilson Dulce, a member of the *Iglesia ni Cristo*, was on his way home after gathering nipa palm. He passed by the house of Eddie delos Reyes and saw Leonito, holding AAA's hand. Wilson spoke with Leonito for about three minutes and then left. It appeared that aside from AAA and Leonito, there was no one else in the house.

After washing and rinsing clothes, ██████ went home. The door was locked. When she eventually got inside the house, she discovered that AAA was not there. ██████ was so incensed and, in a loud voice, demanded to know where AAA was. ██████ told his mother that AAA had refused to go inside the house after she left, and to tease their sister, he and ██████ closed the door to keep her out.

Momentarily, Leonito and AAA arrived. Leonito declared that they had been to the "house under construction" owned by Eddie delos Reyes. After Leonito left, ██████ noticed that AAA was trembling. Unconsciously, AAA lowered her panties, scratched her crotch and pulled up her panties anew. Suspicious, ██████ pulled down AAA's underwear and was shocked when she saw traces of semen in her daughter's navel, her crotch, and the front portion of her panties. ██████ asked AAA what happened, but the child merely shook her head in reply. After a couple of hours, AAA calmed down and told her mother that Leonito had removed his pants, then her panties and attempted to insert his penis into her vagina. He failed to do so, as only the tip of his penis was able to penetrate her vagina.

██████, who was a member of the *Iglesia ni Cristo*, sought help from their head Avelino Belano and reported the incident to him. ██████ brought Avelino to her house and showed him AAA's panties. Avelino noticed that the panties were wet with a sticky substance. He advised ██████ to report the matter to the minister of the *Iglesia ni Cristo*, who thereafter advised her to report the incidents involving Leonito and her daughter to the police authorities.

On September 22, 1995, ██████ brought AAA to the police, where she gave a sworn statement to SPO1 Dante Abarquez, subscribed and sworn to before the Presiding Judge of the Municipal Circuit Trial Court of Puerto Galera. ██████ also executed a sworn statement.^[6] Mother and daughter signed two criminal complaints for rape against Leonito, thereafter filed with the Municipal Circuit Trial Court.^[7] As suggested by the public prosecutor, ██████ brought AAA to the Provincial Health Office on October 19, 1995 where Dr. Romeo G. Andal, Medical Officer V, conducted a physical examination of AAA. The doctor's report contained the following findings:

PHYSICAL EXAMINATION:

HEENT]	
C/L]	No abrasions nor hematoma
Abdomen]		

VAGINAL SPECULUM & INTERNAL EXAMINATION :

-Absence of pubic hair, with complete healed hymenal

lacerations on 2, 5, 7 & 9 o'clock positions
- Vagina — admits the 5th finger with ease.

LABORATORY EXAMINATION:

Cervice vaginal smear for the presence of spermatozoa revealed.

Negative result. [8]

The Evidence of the Accused

Leonito denied the charge. He testified that on July 24, 1995, he was busy plowing his ricefield, which was about nine meters away from his house. At noontime, while he and his wife Lucinia were resting, [REDACTED] arrived and asked Lucinia to take care of her children as [REDACTED] had to be brought to the doctor. Lucinia agreed and took care of [REDACTED]'s children until 4:00 p.m. when [REDACTED] arrived home from the clinic. There were other previous occasions when Lucinia took care of the children while [REDACTED] was away.

Leonito insisted that he could not have possibly molested AAA on August 17, 1995. He was in the house of Eddie delos Reyes, which was about ten meters away from his house. [REDACTED] and his wife Lucinia were then at the well washing soiled clothes.

Leonito averred that the charges against him were instigated by [REDACTED] because she was envious of him; the farmland, which her deceased mother and her aunt Lucinia inherited from their parents, were given to him to till and work on. Instead of suing Leonito and Lucinia, [REDACTED] fabricated the charges and ordered her daughter AAA to testify against him.

Lucinia corroborated her husband's testimony. She testified that she asked [REDACTED] to have AAA examined by a doctor but [REDACTED] refused. She demanded that [REDACTED] drop the charges against Leonito because they were baseless, but [REDACTED] refused.

The Verdict of the Trial Court

After trial, the court rendered judgment convicting Leonito with two counts of qualified rape. The decretal portion of the decision reads:

ACCORDINGLY, finding the accused Leonito Lorenzo y Maligo guilty beyond reasonable doubt of the crime of rape (2 counts) with the qualifying circumstance that the victim is a child below 7 years old, he is hereby sentenced to suffer the maximum of two (2) death penalties, together with the accessory penalties as provided for by law, and to indemnify the victim AAA the amount of fifty thousand (p50,000.00) pesos for each crime of rape or a total amount of one hundred thousand (P100,000.00) pesos, without subsidiary imprisonment in case of insolvency and to pay the cost.

SO ORDERED. [9]

In this case, the appellant asserts that the prosecution failed to prove his guilt for the felonies charged beyond reasonable doubt. He contends that the private

complainant admitted in her testimony that he merely removed her panties but did nothing to her private parts; and that she was merely instructed by her mother [REDACTED] to testify that the appellant had raped her. The Office of the Solicitor General, for its part, argues that the appellant merely nit-picked the testimony of the private complainant and ascribed ill motive to her mother, in a last ditch effort to extricate himself from certain conviction. It contends that in calibrating the testimony of the private complainant, the entirety of her testimony must be considered.

We agree with the Office of the Solicitor General. In rape cases, the testimony of the private complainant must be considered and calibrated in its entirety and not merely by truncated portions or isolated passages thereof.^[10] The true meaning of answers to isolated questions is to be ascertained by due consideration of all the questions propounded to the witness and her answers thereto. To distill the facts established by the testimony of a witness, everything stated by her on direct examination, on cross-examination, redirect and re-cross-examination must be considered. Facts imperfectly or incompletely stated in answer to one or more questions on direct examination supplied by her answers to other questions on redirect or re-cross-examination; and when from one statement considered by itself an inference may be deduced, that inference may be strengthened or repelled by the facts disclosed in another.^[11] The testimonies of witnesses must not be merely selected to conveniently suit the claim of a party.^[12] In *People v. Ortega*,^[13] this Court ruled:

It is sound policy that self-contradictions in testimonies should be reconciled, if possible, the rule being the same as that which obtains where witnesses apparently contradict each other. These contradictory statements should be considered in light of explanations and attending circumstances, and whether inconsistencies or incongruities result from misconception of an innocent witness or willful and corrupt misrepresentation.v... ^[14]

In this case, the appellant merely quoted a portion of the private complainant's testimony on redirect examination which appeared to support the claim that he did not insert his penis into the vagina of the victim:

PROS. SEÑOREN:

Q How did your Mamay Lito sexually abuse you or "hinindot?"

ATTY. ABAS:

Your Honor, it is improper for the prosecutor to ask that question in the redirect.

COURT:

That is a follow-up question.

WITNESS:

A Mamay Lito first removed my pants and then my panty, sir.

PROS. SEÑOREN:

Q What did your Mamay Lito do after he removed your pants and panty?

A He told me to hold his penis, sir.