

EN BANC

[G.R. Nos. 148673-75, October 17, 2003]

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. FLORENCIO ABANILLA Y RIVERA, APPELLANT.

D E C I S I O N

PER CURIAM:

For automatic review before us is the consolidated decision^[1] rendered by the Regional Trial Court of Batangas City,^[2] in Criminal Cases Nos. 10857, 10858 and 10859, finding appellant Florencio Abanilla y Rivera guilty beyond reasonable doubt of three counts of rape committed against his seventeen-year-old daughter, Lorena Abanilla y Arellano, which resulted in the latter's pregnancy.

On April 7, 2000, the following informations were filed against appellant:^[3]

Criminal Case No. 10857

That in or about June 1999 at around 11:00 o'clock in the evening at Brgy. Pulot Itaas, Batangas City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, motivated by lust and lewd designs, by means of force, threat and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of one Lorena Abanilla y Arellano who was then a minor, 17 years of age, against her will.

That the qualifying aggravating circumstance of relationship is attendant in the commission of the offense, the 17-year old victim/offended party being the daughter of the accused.

Criminal Case No. 10858

That during the first half of October 1999 at Brgy. Pulot Itaas, Batangas City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, motivated by lust and lewd designs, by means of force, threat and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of one Lorena Abanilla y Arellano who was then a minor, 17 years of age, against her will.

That the qualifying aggravating circumstance of relationship is attendant in the commission of the offense, the 17-year old victim/offended party being the daughter of the accused.

Criminal Case No. 10859

That during the last week of October 1999 at Brgy. Pulot Itaas, Batangas City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, motivated by lust and lewd designs, by means of force, threat and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of one Lorena Abanilla y Arellano who was then a minor, 17 years of age, against her will.

That the qualifying aggravating circumstance of relationship is attendant in the commission of the offense, the 17-year old victim/offended party being the daughter of the accused.

Appellant pleaded not guilty to each of the informations charged and a joint trial was conducted. On March 12, 2001, the court *a quo* rendered the aforementioned consolidated decision, the dispositive portion of which reads:

WHEREFORE, the accused, FLORENCIO ABANILLA y RIVERA, is found guilty beyond reasonable doubt of the three (3) counts of aggravated rape under Articles 266-A and 266-B of the Revised Penal Code, and he is hereby sentenced to suffer the supreme penalty of death for each of the charges in these cases, with costs. He is further ordered to indemnify Lorena Abanilla with the sum of P50,000 for each of the three offenses or a total of P150,000 as moral damages.

In convicting appellant, the trial court found the following facts to have been duly established:^[4]

The accused, forty four (44) years old, has been a widower for four (4) years. He was a carpenter and came home in the evening often drunk. In June of 1999, as well as in the second and last weeks of October 1999, the accused came home in Pulot Itaas, Batangas City drunk. At around 10:00 o'clock in the evening he laid beside her daughter, Lorena, who was sleeping. Lorena was then 17 years old for [she was] born on October 3, 1982. He touched her private parts, removed her shorts and pant[y], undressed himself and laid on top of her. He inserted his penis into her vagina causing her pain. He then made the up and down movement and ejected something hot from his penis. He told Lorena not to make any noise since her siblings were sleeping in the same room. He warned her not to tell anyone about the incident because, if she did, he would kill her. Out of fear Lorena did not report to anyone but on April 1, 2000, Modesta Ebor, Lorena's godmother who noticed Lorena's enlarged breasts, hips and abdomen, tried to talk to the latter who related that the accused was the one responsible for her condition. On April 3, 2000, while the accused was having a hair cut, Lorena reported to SPO4 Natividad who arrested the accused. Lorena was examined by a physician and an Ultra Sound examination was done on her which confirmed her pregnancy. On July 14, 2000, Lorena gave birth to a baby boy (see letter of Social Worker, p. 45 of record).

Appellant denied raping his daughter and counters with the following statement of facts in his brief:^[5]

Accused **FLORENCIO ABANILLA** denied having raped his daughter during the incidents charged in the information. On June 12, 1999, he

worked as a carpenter on a house built in their barangay in Pulot Itaas, Batangas City. His companions at their residence were his eight (8) children and a brother-in-law. In October 1999, he got a job at Tiera Verde, necessitating him to stay thereat for two (2) weeks. He labeled the charges made by her daughter as fabrications, and instigated by the relatives of her deceased wife due to a land dispute. He likewise averred that her daughter receives male visitors at their house (TSN, October 2, 2000, pp. 4-10).

The evidence for the prosecution consisted of the testimonies of four witnesses, namely: **Lorena Abanilla**, the complainant herself; **Modesta Ronquillo**, the complainant's godmother; **Dr. Buenaventura Magboo**, the physician who examined the complainant; and **SPO4 Venecio Natividad**, the policeman who arrested appellant. Of the four witnesses, it was only the complainant who testified on the rape incident itself. Modesta Ronquillo's testimony that the complainant disclosed to her that she was raped by appellant is hearsay and is not admissible to prove rape.^[6] The other two witnesses, Buenaventura Magboo and SPO4 Venecio Natividad, respectively testified to the pregnancy of the complainant and the arrest of appellant.

On the other hand, the sole evidence presented by appellant was his own testimony denying the complainant's accusations against him.

Judging by the evidence on hand, determining whether or not the alleged rape occurred ultimately boils down to the word of the complainant against that of appellant. In deciding which party deserves credence, the Court applies the three guiding principles in reviewing rape cases: 1) an accusation of rape can be made with facility - it is hard to prove, and even more difficult for the accused to disprove; 2) in view of the intrinsic nature of the crime in which only two persons are usually involved, the testimony of the complainant must be scrutinized with extreme caution; and 3) the evidence for the prosecution must stand or fall on its own merits and not draw strength merely from the weakness of that of the defense.^[7]

Considering that appellant's conviction was chiefly due to the complainant's testimony, the Court is obliged to examine thoroughly the veracity of such testimony to ensure that it meets the required quantum of proof beyond reasonable doubt necessary to overturn the constitutional presumption of innocence.

The complainant testified on three alleged rape incidents. The first was said to have occurred during the month of June 1999, while the second and the third rape incidents purportedly occurred on the second and last weeks of October 1999, respectively. The pertinent portions of the testimony of the complainant are as follows:^[8]

xxx xxx xxx

[FIRST INCIDENT]

q *Sometime in the month of June, 1999* do you remember if there was an unusual incident that happened to you?

WITNESS:

a There, was, ma'am.

PROS. PANGANIBAN

q What was that?

WITNESS:

a I was raped by my father, ma'am.

q Will you kindly tell this Honorable Court how you were raped by your father?

a My father arrived 10:00 o'clock in the evening at our house, ma' am.

q What did he do to you?

a He was drunk, he asked for light, he asked me to prepare food, and then he ate.

q According to you at 10:00 your father arrived drunk and he asked for light. What kind of light was that which you provide[d]?

a [A] lamp, ma'am.

q And according to you he asked for food. After he [ate] his supper what happened more?

a I slept, ma `am. Afterwards I felt that he laid beside me.

q After he laid down beside you, what happened more?

a He touched my private part and told me not to create noise because he will kill me.

q After that what happened?

a He removed my shorts and panty, removed his under wear and placed himself on top of me and placed his organ into mine and made an up and down movement because he was not able to insert his organ into mine, I felt something hot came out from his organ.

q According to you he placed himself on top of you and made an up and down movement on top of you how long was that?

a About (4) minutes, ma `am

q During the act that he was on top of you because he was not able to insert his organ, did it touch your private part?

WITNESS:

a It touched my private part, ma `am.

PROS. PANGANIBAN:

q And after you have felt that something hot came out front his organ, what did you feel?

a Painful, ma `am.

q Were you then attending school at that time?

a Yes, ma'am.

- q In what year were you then?
a Third year high school, ma'am.
- q Whereat?
a Talahib Pandayan National High School, ma'am.
- q Have you reported the first incident to any authority or to anybody else?
a I did not.
- q Why did you not report the said incident to anybody?
a Because I am afraid of my father, ma'am.
- q Why were you afraid of your father?
a Because he is going to kill me, ma'am.

[SECOND INCIDENT]

- q *After this incident was there any incident that happened to you?*
a *There was, ma `am, second week of October, 1999.*
- q *What was that incident?*
a *He laid beside me, he touched my private part, removed my shorts and panty, he removed his underwear.*
- q *Can you tell the time when this incident happened?*
a *10:00 o `clock in the evening, ma `am.*
- q Where did it happen, the second time?
a At our house, ma `am.
- q What were you doing then when he laid beside you?
a I was sleeping then.

PROS. PANGANIBAN

- q You said you were sleeping, you mean to say you were awakened when he laid beside you?

WITNESS:

- a Yes, ma `am.
- q When your father removed your shorts and panty and he touched your private part, after that what did he do more?
a He placed himself on top of me and forcibly inserted his organ and he was able to insert his organ into mine.
- q For how long [was] he on top of you?
a Five (5) minutes, ma `am.
- q After he inserted his organ into yours what did he do?
a He threatened me not to tell anyone because he will kill