

EN BANC

[G.R. Nos. 148056-61, October 08, 2003]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. JOSE DE CASTRO,
APPELLANT.**

DECISION

PER CURIAM:

FOR AUTOMATIC REVIEW is the consolidated decision of the Regional Trial Court^[1] of Pallocan, Batangas City, in Crim. Cases Nos. 10242 to 10247, finding appellant Jose de Castro guilty of six (6) counts of rape and sentencing him to suffer the maximum penalty of death in each of the six (6) cases. He is further ordered to indemnify the three (3) complaining witnesses Gemma, Jean and Jenny, all surnamed de Castro, in the sum of P100,000.00 each and to pay the costs.

Spouses Jose and Genoveva de Castro, residents of Barangay Pallocan, Batangas City, have three (3) daughters, namely, Gemma, twin sisters Jean and Jenny, and two (2) sons, Luis and Jose. The father, herein appellant Jose de Castro, earned his living by selling newspapers near the BLTB terminal in Batangas City, while his wife Genoveva was a laundrywoman.

Private complainant Gemma de Castro,^[2] seventeen (17) years old, testified that on 3 June 1998 at around 10:00 o'clock in the morning she was cleaning the house when her father Jose suddenly grabbed her hand and dragged her towards the bedroom. Therein, Jose forced her to lie down on the bed and peppered her body with kisses while removing her clothes. After he undressed himself, he mounted Gemma and forcibly inserted his penis into her vagina. She struggled vainly and tried to shout for help but her father immediately covered her mouth with his hand. Since all attempts at repulsing the advances of her father proved futile, Gemma could only plead for mercy. After satisfying his lust, her father warned her not to tell anybody otherwise he would kill her mother and a sister.^[3] She revealed that the appellant again molested her two (2) days after the first rape incident.^[4] On that day, she was alone with him in their house because her mother and her sister were at their neighbor's house. With the same *modus operandi*, appellant dragged her into the room and there sexually abused her against her will.

According to Gemma, it was only on 10 June 1999, or a week after the first rape incident, that she mustered enough courage to reveal her sordid experience to her *Ate Fely* who accompanied her to the *barangay* captain and the police authorities to report the matter.

Jean de Castro,^[5] fifteen (15) years old, also testified that on 18 April 1999 at around noon she was inside the bedroom of their house with her father when the latter forcibly removed her clothes. The appellant, after taking off his shorts and t-

shirt, placed himself on top of Jean who tried to free herself by wriggling and pushing him away. The appellant, while kissing his daughter on different parts of her body, "put his penis on (sic) her vagina."^[6] Jean testified that the sexual molestation of 18 April was repeated on 7 June 1999 when she was alone with appellant in their house at Pallocan, Batangas City. The appellant again inserted his penis into her vagina. It was then that she went to her aunt Felisa to whom she revealed everything.^[7] Together, they went to the *barangay* captain and reported the incident.^[8] She further stated that her father deserved to die for what he had done to them.^[9]

Jenny de Castro, fifteen (15) years old, twin sister of Jean, also narrated that the appellant sexually abused her on two (2) occasions, i.e., on 5 June 1998 and 24 March 1999. As to the rape incident of 5 June 1998,^[10] she recalled that at about noon of the same day she was alone with her father in the house when the latter removed her clothes. After the appellant took off his clothes, he inserted his penis into her vagina. Jenny shouted for help but nobody heard her cry. By her own account, the appellant once again victimized her in the afternoon of 24 March 1999 in the *sala* of their house.^[11] In answer to the query on what her reaction was to her father's molestations, she said she pushed him.^[12] Jenny confirmed that she was impregnated by her father and gave birth to a baby girl on 3 November 1999.

Dr. Janet B. Esguerra of the Batangas Regional Hospital, OB Gyne Department, testified that she interviewed the private complainants on 10 June 1999 and physically examined them. Her medico-legal certification contained the following findings:^[13]

For Gemma de Castro, the findings were:

Physical Examination: No external Physical Injuries

External Genitalia: Minimal pubic hair, gaping *labia majora*, complete healed laceration at 5:00 o'clock position.

Internal Examination: Vagina admits 2 fingers with slight difficulty, cervix close, firm, uterus small, adnexae (-)

For Jean de Castro, the findings showed:

Physical Examination: No external physical injuries.

External Genitalia: Minimal pubic hair, gaping *labia majora*, complete healed laceration at 9:00 o'clock position, incomplete healed laceration at 6:00 o'clock position.

Internal Examination: Vagina admits 2 fingers with ease, cervix close, softish uterus, small adnexae (-)

For Jenny de Castro, the findings were:

Physical Examination: No external physical injuries

External Genitalia: Minimal pubic hair, gaping *labia majora*, complete healed lacerations at 5, 6 and 7 o'clock positions.

Internal Examination: Vagina admits 2 fingers with ease, cervix softish close, uterus enlarged to 20 weeks size (-) adnexae.

In disputing the imputations against him, the appellant interposed the defense of denial and alibi. He asserted that on 3 June 1998 at around 10:00 o'clock in the morning he was in front of his brother-in-law's house having a drinking spree with him as it was their town fiesta. He likewise denied having raped Gemma two (2) days later. According to him, he was at the BLTB terminal selling newspapers that day from 4:00 o'clock in the morning up to 12:00 noon, and then at 2:00 o'clock in the afternoon he waited for the evening papers to arrive.

He also disputed the allegation that he sexually molested his twin daughters Jenny and Jean on 5 June 1998 and 7 June 1999, respectively. On said dates according to him, he was at the BLTB terminal selling newspapers as usual.

The trial court completely rebuffed the attempts by the appellant to escape culpability. Instead, it gave full credence to the positive assertions of the three (3) young victims that he did in fact commit the offenses as alleged in the six (6) Informations. The trial court further took special note of the medico-legal certification showing that all the private complainants had healed lacerations on their respective hymens. For good measure, it observed that Jenny whom the appellant raped on 24 March 1999, gave birth to a baby girl on 3 November 1999.

[14]

Appellant now comes to us professing his innocence and decrying his conviction on the lone ground that his guilt has not been proved beyond reasonable doubt.

In his brief, appellant draws attention to the alleged inconsistencies that seriously contaminate the veracity and render incredible the testimonies of the private complainants. He points out that Gemma's testimony is fatally flawed as it fails to take into consideration the fact that the room where the alleged rape took place has a grill-less window about 4 ½ feet from the floor which can be opened to facilitate her escape had she felt the need to do so. Moreover, according to him, Gemma had the chance to run outside the house while he was closing the door, but failed to take advantage of such opportunity on the flimsy and simple pretext that she was naked. Worse, according to appellant, the trial court shrugged off the incredible claim that he was on top of Gemma for about an hour. Appellant finds mind-boggling Gemma and Jean's insistence that they knew there were no people in the nearby houses at the time they were being molested. To top it all, he argues that if indeed Gemma and Jenny were raped for the second time, it defies reason why after the first assault they chose to remain at the scene of the crime and wait for their father to repeat his sexual aggression.

The thrust of appellant's arguments is essentially to discredit private complainants for their alleged failure to escape their supposed sexual tormentor despite a myriad of chances to do so.

Time and again, we stress the verity that in incestuous rape where the father/stepfather exercises moral dominance over his daughter/stepdaughter, the victim by the sheer force of this moral influence is reduced to a docile creature, vulnerable and submissive to the sexual depredations of her tormentor. *People v. Matrimonio* elucidates this point^[15] -

In a rape committed by a father against his own daughter, the former's moral ascendancy and influence over the latter substitutes for violence

and intimidation. That ascendancy or influence necessarily flows from the father's parental authority, which the Constitution and the laws recognize, support and enhance, as well as from the children's duty to obey and to observe reverence and respect towards their parents. Such reverence and respect are deeply ingrained in the minds of Filipino children and are recognized by law. Abuse of both by a father can subjugate his daughter's will, thereby forcing her to do whatever he wants (underscoring supplied).

Granting arguendo that herein private complainants had a few precious opportunities to escape, appellant conveniently discounts the fear that his moral influence, coupled with the use of threats and intimidation, has instilled in his minor daughters whenever he succumbed to his perverted proclivities. The testimonies of private complainants give flesh to this conclusion. Gemma de Castro's direct examination reads in part^[16] -

Pros. Suyo: And after that, what did your father do?

A: I was able to shout but, he put his hand to cover my mouth.

Q. After that, what did you do if you did anything?

A. He threatened me not to tell anybody because he would kill my sister and my mother.

And then again^[17] -

Court: The question asked you is this.

Q. You said that your father threatened you that he would kill your sister and your mother if you told this raping incident to anyone. Why did you tell eventually your cousin Ate Fely about this raping incident?

A. I gathered enough strength to tell her.

Q. When did you tell your Ate Fely about this incident?

A. June 10, 1999, sir.

Q. Why did it take so long before you informed your Ate Fely of what happened to you?

A. I was overcome by fear, sir.

On cross-examination, private complainant Gemma de Castro also made the following disclosure^[18] -

Q. You said that before the rape took place, you were undressed by your father and that he likewise undressed himself. At the time that he was undressing himself why did you not try to jump out of the window?

A. Because he closed the window, sir.

Q. In what particular time did he close the window before the rape took place?

A. When I was already undressed.