

EN BANC

[G.R. Nos. 140211-13, May 29, 2002]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. AMADO ISLA, JR., ACCUSED-APPELLANT.

DECISION

PUNO, J.:

As the accused Amado Isla, Jr. was behind bars in far away Palawan for thirteen long years, he did not see the birth and growth of his eldest child, Arsona. Free and home at last after a long wait, it was father and daughter's opportunity to make up for lost time. But the opportunity turned to tragedy as instead of being a caring and guiding hand to his daughter, the accused turned out to be a beast that thrice pounced upon her to satisfy his lustful desires.

Three informations were filed against the accused Amado Isla, Jr. for ravaging his daughter. Except for the dates and places of commission of the offense, the informations are similarly worded, viz:

"The undersigned upon a verified complaint of ARSONA A. ISLA, assisted by her mother THELMA ISLA, hereby accuses AMADO ISLA, Jr.(,) father of the victim (,) of the crime of RAPE, committed as follows:

That on or about September 15, 1997 at Brgy. Capaoay, Municipality of San Jacinto, Province of Pangasinan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, by means of force, threat and intimidation, did then and there, wilfully, unlawfully and feloniously have sexual intercourse with ARSONA A. ISLA, a 14 year old against her will and without her consent, to the (sic) damage and prejudice.

CONTRARY to Art. 335 of the Revised Penal Code as amended by R.A. 7659.

Dagupan City, Philippines, January 28, 1999."^[1]

The accused claimed innocence on all three charges. Forthwith, he was tried.

Arsona Isla was born on September 17, 1984 to Amado Isla, Jr., the accused, and Thelma Aquino.^[2] The accused was in jail at the time of her birth until April 1996 when the accused was released and came home from prison.

On November 13, 1998, Arsona was home. That night, the accused was also home and in a fit of rage. He broke their plates and glasses and destroyed their chairs and aparador. Arsona's mother was home and was afraid of her husband. She ran

outside the house and headed towards the San Jacinto police station to seek help. Arsona followed suit. Her mother reported the incident to the police, prompting several policemen to go to their house. Arsona stayed behind at the station and took the opportunity to report to policeman Corpuz that her father did something to her, but did not have the chance to elaborate. The following day, Arsona went to the house of Norberto Talisic, the *barangay* captain of Capaoay, San Jacinto, and divulged to him that her father raped her three times. Together, Arsona and Talisic went to the San Jacinto police station in the morning of November 15, 1998. Policeman Corpuz took Arsona's statement, after which, she was brought to the office of Nancy Bombarda for interview. She was brought to the Dagupan City provincial hospital where Dr. Bacugan examined her private part and issued a medico-legal certificate dated November 18, 1998.

Arsona revealed how her father thrice ravaged her. The first rape incident happened at about 10:00 a.m. in April 1996 when her family was residing in the house of her grandparents in Barangay Casibong. As far as she could recall, she was then thirteen years old. She had just started living with the accused who was newly released from prison. That fateful morning, the accused asked her mother to buy viand in the market. As she did not yet have any siblings at that time, only she and the accused were left home. Not sensing the harm that would befall her, Arsona was innocently playing with her cousins and friends outside their house. The accused suddenly appeared and told them to stop playing as it was hot. He instructed her cousins and friends to go home. Arsona sat on the stairs, but her father told her to go to a room in their house. Once she was inside the room, the accused told her to sleep, then he went to the kitchen. Through the window of the room, she saw the accused get a *bolo* and knife. She had no clue that her father would abuse her.

When the accused came back, he put the *bolo* and knife by the window of the room where Arsona was. The *bolo* fell. Her father approached her and told her to lie down on the bed, then he lay beside her and kissed her on the lips. He inserted his hand inside her short pants and fingered her. Thereafter, he went back to the kitchen, got cooking oil and rubbed it on his palms. Upon coming back to the room, he ordered Arsona to remove her short pants. She refused. The accused nonetheless straddled her and with one hand removed her short pants. She was not wearing a panty. He brought his penis out of his shorts and rubbed his oiled palms on it. He also rubbed his palms on her private part. He then kissed her on the lips and neck, fingered her again, and told her to hold his penis. She refused. But upon being forced to do so, she complied. He then inserted his private organ into her vagina. It was painful for Arsona. He told her not to shout and repeatedly threatened her that he would kill her and her mother if she refused him and reported the incident to anybody. After satisfying his lust, the accused stood up. Arsona remained on the bed. The accused put back his penis inside his short pants, went to the kitchen, and got a piece of cloth. He ordered Arsona to wipe her organ with it. She did as she was told and put on her short pants. Her father warned her not to tell anybody about what happened. When her mother arrived home about lunch time, the hapless victim was crying. Her mother asked her what was wrong, but she did not divulge her sexual ordeal to her mother as she was afraid of her father.^[3]

The second time Arsona's father abused her was on September 15, 1997 in a *nipa* hut at the back of East Central Elementary School in Barangay Capaoay, San Jacinto, Pangasinan. It was about lunch time. Arsona, her mother and father, and her less than one-year old sister had just taken their lunch. Her father asked her

mother to get grass for their carabao and cow. She walked towards a grassy area, about thirty minutes away from the hut. Arsona was washing plates in the kitchen downstairs. Her father told her to stop washing and go upstairs. She did not know why, but nevertheless obliged. He told her to sleep so she took a pillow and a mat. She did not have an inkling that her father would abuse her again.^[4] Seized by his lustful urges, the accused lay down beside Arsona and asked her if she saw the *kawit*, an instrument for harvesting rice. He warned her not to move and shout. He ordered her to remove her short pants, but she refused, thus the accused removed it himself. The accused, then wearing only shorts pants, mounted her. He kissed and fingered her, put his organ outside his short pants and brushed it against her vagina. He pumped and penetrated her, then pulled out his penis upon satisfying his lust. Arsona felt and saw mucus in her vagina. The accused then placed back his penis inside his short pants. Arsona wiped her vagina and put on her short pants.^[5]

On cross-examination, Arsona testified that the second time the accused raped her was a Saturday. She particularly remembered the date September 15 because it was only two days away from her birthday on the 17th. There was a *nipa* hut beside their hut, but there was nobody home as its occupants were harvesting rice.

The third time the accused molested Arsona was in the middle of June 1998 in a rented room in Tancy Mejia's house in Barangay Capaoay. Two other families each rented a room in the house. Arsona's Kuya Ador and his live-in partner occupied the room across the Islas' room. The rooms were separated by a corridor and their entrances did not directly face each other. Arsona's room had no door or curtain, but Ador's room had a shutter.^[6] At about 3:00 in the afternoon of that fateful day, Arsona was putting her less than a year old brother, Jonathan, to sleep. Her two-year old sister was also home, playing. At that time, her mother was working at a tobacco plantation. When Jonathan was already asleep, Arsona's father told her to go inside the room. Arsona did as she was told and put down her baby brother in the crib. Her father told her to look for a skirt. She was then wearing short pants and a shirt. She obeyed her father but did not wear the skirt as she sensed that her father would violate her again. Although she earlier testified that their room did not have a door or curtain, she later testified that her father closed the door and the curtains, then lifted her and threw her on the bed. He went on top of her, but raised his body a little to remove her short pants and panty. He kissed her, raised his body again, and put his private organ out of his short pants. He inserted his penis into her private part. Arsona was in pain. Having succeeded in having carnal knowledge of Arsona, the accused withdrew his organ and placed it inside his short pants. Arsona went to the bathroom and with a piece of cloth wiped from her vagina a mucus-like discharge.

Arsona filed a criminal complaint for each of the rapes her father committed against her. She submitted to her' father's sexual assaults because she was afraid of him. He warned her that he would kill her if she did not submit to her father's bestial desires and she believed him because he had once killed somebody for which he was sent to jail.^[7]

SPO1 Mario Espiritu corroborated Arsona's testimony. He has been a member of the PNP San Jacinto, Pangasinan since August 1, 1980. On November 13, 1998, he was the desk officer and investigator at the San Jacinto Police Station. At about 10:00 in the evening, Thelma Isla went to his office to complain about her husband, the

accused, who was drunk and causing trouble in their house. He entered the complaint in the police blotter and instructed his companions to proceed to the Islas' abode. Upon coming back from the investigation, his companions reported to him that they found the accused still causing trouble. They arrested him and brought him to the station. He was made to undergo an alcoholic breath examination which yielded positive results. Tancy Mejia, the owner of the Islas' house, went with Thelma Isla to the station and demanded that the accused pay for whatever damages he caused on her property. Thelma's daughter, Arsona, was with Thelma and Tancy. Before the three left the station, Arsona approached Espiritu and told him that she would also file another case against her father because he abused her three times. Espiritu was no longer able to interview Arsona as her mother dragged her outside the station, but he entered Arsona's complaint in the police blotter.

On November 19, 1998, Arsona went back to the station with Nancy Bombarda, the social worker of San Jacinto, and Rosemarie Rosales, the social worker of Urdaneta City. Arsona gave a statement regarding the abuses her father committed against her. Espiritu then prepared the three criminal complaints for rape committed in April 1996, September 15, 1998 (should be 1997), and mid-week of June 1998.^[8]

Norberto Talisig, *barangay* captain of Barangay Capaoay since February 26, 1998, took the witness stand. He knows the accused as one of his constituents and godson in marriage. He also knows Arsona as his neighbor. At about 8:30 a.m. on November 16, 1998, Arsona, accompanied by Tancy Mejia, went to his office to file a complaint against her father for raping her thrice. The first was committed in April 1996 in the house of her grandfather in Barangay Casibong, San Jacinto, Pangasinan. The second happened in September 1997 at the rest house of her grandfather in Barangay Capaoay. The third took place in June 1998 in the Islas' rented room in the house of Tancy Mejia in Barangay Capaoay. Talisig knows Tancy Mejia personally because she is his neighbor and the Mejia family is prominent in their place. Arsona complained about the rape incidents only in 1998 because her father threatened her that he would kill their family if she filed a complaint. Talisig also talked to Arsona's mother, Thelma, and the latter confirmed Arsona's complaint. He did not, however, call for the accused as one of the rapes was committed outside the jurisdiction of his *barangay*. Instead, he referred Arsona to the chief of police.

Talisig accompanied Arsona to the office of the chief of police and told him about Arsona's complaint. The chief asked Talisig to go out of the office, then investigated Arsona. Later, he told Talisig to bring Arsona to the Pangasinan Provincial Hospital. Before proceeding to the hospital, Talisig brought Arsona to the DSWD office and referred the matter to Nancy Bombarda. The three then went to the hospital and on November 18, 1998, got the results of the medical examination. Talisig gave the medico-legal certificate to the police chief who then filed a complaint with the Office of the Prosecutor.^[9]

On cross-examination, Talisig testified that Arsona could not remember the specific dates the three rapes took place. Arsona, however, remembered that the first rape incident happened when she was 12 years old.^[10]

Nancy Bombarda also testified. She has been the Municipal Social Welfare Officer of San Jacinto, Pangasinan since 1992. On November 17, 1998, Arsona went to her office accompanied by Barangay Captain Norberto Talisig^[11] and Tancy Mejia.

Arsona disclosed to her that her father raped her thrice.^[12] In the afternoon of November 18, 1998, she accompanied Arsona to the Pangasinan Provincial Hospital for a medical examination. On the same day, she invited Arsona's mother to the office of the PNP to ask her about Arsona's complaint. Another social worker, Rosemarie Rosales, was with them. Upon being told of Arsona's ordeal with her father, Thelma became very angry with her husband and wanted him placed behind bars. She could not tolerate what her husband did to their daughter and was afraid that he might harm them. Arsona was referred to the DSWD Center for Girls for her not to be dissuaded by the people around her, including her father, from proceeding with the rape cases she filed.^[13]

Dra. Josephine Aquino was the last to testify for the prosecution. She has been a resident physician at the Region I Medical Center since 1990. She was presented to interpret the medico-legal certificate issued by Dr. Casimiro Bacugan in connection with the cases at bar as the latter was abroad. The two doctors worked in the obstetrics department of the Medical Center. According to her, the certificate showed that Arsona's hymen had healed laceration at 8:00 and 10:00 positions. These lacerations may have been caused by penetration of a hard object such as a man's penis.^[14]

For the defense, the accused and his father, Amado Isla, Sr., took the witness stand. In April 1996, Amado Isla, Sr. resided with his wife Susan, his son Amado, Jr., and his wife Thelma, and the latter's daughter Arsona in Casibong, San Jacinto, Pangasinan. Thelma and Arsona had been living with Amado, Sr. since the accused was incarcerated fifteen years ago in Palawan for killing someone. Having been released from prison, the accused started living with his family and parents in Casibong on April 30, 1996. They lived together in Casibong until 1997.

On April 30, 1996, the day the accused arrived in his parents' house in Casibong, his parents, Thelma, and Arsona were home. Father and son embraced and kissed; both were very happy that the accused was finally home. Amado, Sr. introduced his son to the latter's daughter Arsona whom he had not met as he was still in prison when she was born. The accused immediately approached Arsona and embraced her. Arsona cried and ran to her maternal grandparents and told them that she was raped by the accused. Apparently, this was relayed to the Barangay Captain of Casibong, Joe Bambalan, who invited the senior and junior Amado to his house to confront Arsona. Susan and Thelma were present during the confrontation. Bambalan asked Arsona what the accused did to her and she answered that he kissed her. The accused admitted this as it was but natural for him to kiss his daughter, but denied raping Arsona.

With respect to the second allegation of rape in September 1997 in Capaoay, San Jacinto, Amado, Sr. testified that the accused and his family were at that time not residing in Capaoay, but in his (Amado, Sr.'s) house in Guebel, San Jacinto. The accused's family started living there in March 1997. While Amado, Sr. resided in Casibong, he went to his house in Guebel whenever he planted vegetables and rice in his farm. Guebel is about one to two kilometers away from Casibong. He worked with the accused in the farm from 7:00 to 10:00 in the morning. According to him, his son did not rape Arsona on September 15, 1997. He did not even get wind of this accusation of rape in 1997. When he confronted the accused about the rape charges, the accused denied them.^[15]