

EN BANC

[G.R. No. 144034, May 28, 2002]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. MARIO MASCARIÑAS, ACCUSED-APPELLANT.

D E C I S I O N

BELLOSILLO, J.:

Found guilty of raping his nine (9)-year old daughter and sentenced to death by the court *a quo* as well as to indemnify his victim P75,000.00, accused-appellant Mario Mascariñas now comes to us still insisting on his innocence.

Private complainant Maries Mascariñas testified that at the time of the rape she lived with her family of seven (7) in a tiny shack in Suarez, Iligan City. She claimed that it was in this one (1)-room hut where she was first molested by her father, accused-appellant Mario Mascariñas. She narrated that when she was nine (9) her father placed his finger inside her vagina. Appalled by what her father did, she left home and sought shelter in the house of a neighbor. Her mother though fetched her and took her back home.

Maries' first attempt to run away from home did not dissuade her father from further molesting her. Soon, he touched her again by placing his finger inside her vagina as he did before. Once more, Maries left home and stayed in the house of a classmate somewhere in the city market. A few days later her mother came for her and brought her home.

The cycle of abuse would be repeated over the next two (2) years with Maries fleeing from home every time her father would sexually violate her. She finally left for good at the age of eleven (11), a few months after her father forced himself upon her.

As narrated by Maries, sometime in July 1994 her mother Jesusa and her sister Iosa took her youngest sister Sigarettes to the hospital as the infant was gravely ill. Maries was left home with her father and younger siblings Perla and Chip. On the very same night after her mother and sister left, Maries was awakened by her father who ordered her to undress. She pleaded for mercy but her father refused to listen to her. She wept and even became numb as her father mounted her and placed his penis in between her thighs. His attempt to completely penetrate her however failed thus he retreated and went back to sleep.

The following night was dreadful for Maries. She laid herself on the floor beside her siblings who were already asleep, and quickly covered herself with a blanket hoping that it would quell her father's lust. But late into the night her expectation failed her. Her blanket offered her no protection after all. Her father, armed with a knife, brandished it before her face as he ordered her to undress. Her determination to

resist him soon weakened at the sight of the knife, thus she opted, albeit most unwillingly, to succumb to his sexual desire. Jesusa's arrival from the hospital afforded Maries some relief as she thought it would keep her father at bay and free her from his assault. She was wrong.

Several months later, while Maries was taking care of Sigarettes, she accidentally injured the infant's back. This enraged accused-appellant who punished Maries by biting her hands in front of Jesusa and her siblings. Afterwards, he dragged her inside the house and bit her breast and licked her vagina.

Fearing that her misfortune would repeat itself once more, Maries packed her few belongings and left home. To fend for herself she worked as a housekeeper for one of their neighbors. Later, she left their employ and stayed with another neighbor who took pity on her. After a few weeks she was accompanied by her benefactor to Pagadian City where she worked in another household.

While working in Pagadian City she fell ill and was taken to the hospital where she was diagnosed with peptic ulcer. As her employer could not provide for her medical needs she was referred to the Department of Social Welfare and Development (DSWD) which took her into custody.

Following her discharge from the hospital the DSWD's *Lingap Center* became her new home. Her story of sexual abuse was recorded and her psychological well-being attended to by the center's social workers. Under the auspices of the center Maries successfully completed her elementary education in 1998.

When she was in first year high school, her deep-seated resentment against her father continued to nag Maries. She confided to her counselor her desire to prosecute him for rape. Maries was asked to wait until the end of the schoolyear after which she was taken back to Iligan City where she was medically examined preliminary to her filing a complaint for rape. After having herself examined, where healed hymenal lacerations at one o'clock and ten o'clock positions were noted,^[1] Maries filed a complaint for rape against her father, accused-appellant Mario Mascariñas.^[2]

Accordingly an Information for rape was filed against accused-appellant.^[3] The Information was amended with the supplementary allegation that private complainant Marie Mascariñas was "*his (accused-appellant's) daughter who is a minor.*"^[4] Shortly after, accused-appellant was apprehended.

The defense of accused-appellant was sheer denial. He swore that no unusual incident transpired on that fateful night sometime in July 1994 and attributed the charge for rape to his daughter's avenging nature. According to him, Maries was a stubborn child whom he and his wife would often chastise as part of their filial obligation. Maries though took it against them and ran away. He averred that the story of sexual abuse offered by Maries should not be taken as conclusive in view of the fact that he has another teenage daughter, Iosa, who has not charged him with rape.^[5]

His wife Jesusa echoed his sentiments against Maries. According to Jesusa every time Maries was scolded the latter would secretly leave home and stay with one of