

## EN BANC

[ G.R. Nos. 135858-61, July 23, 2002 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
ANTONIO ABALA Y LACANARIA, ACCUSED-APPELLANT.**

### DECISION

**PUNO, J.:**

ANTONIO ABALA was charged before the Regional Trial Court of San Pedro, Laguna, Branch 31, with rape in four (4) separate informations, docketed as Criminal Case Nos. 0709-SPL to 0712-SPL. The private complainant, Lea Arevalo y Abala, is his 13-year old niece. The informations read:

CRIM. CASE NO. 0709-SPL

"That on or about May 31, 1997, in the municipality of San Pedro, Province of Laguna, and within the jurisdiction of this Honorable Court, accused ANTONIO ABALA y LACANARIA, with lewd design, by means of force and intimidation did then and there wilfully, unlawfully and feloniously has (sic) carnal knowledge with (sic) one Lea Arevalo y Abala, **13 years old**, against her will and consent, to her damage and prejudice.

CONTRARY TO LAW."<sup>[1]</sup>

CRIM. CASE NO. 0710-SPL

"That sometime in the month of May 1997 in the Municipality of San Pedro, Province of Laguna and within the jurisdiction of this Honorable Court, accused ANTONIO ABALA y LACANARIA with lewd design, by means of force, and intimidation, did then and there wilfully, unlawfully and feloniously has (sic) carnal knowledge of Lea Arevalo y Abala, thirteen (13) years old, against her will and consent to her damage and prejudice.

CONTRARY TO LAW."<sup>[2]</sup>

CRIM. CASE NO. 0711-SPL

"That sometime in the month of May 1997 in the Municipality of San Pedro, Province of Laguna and within the jurisdiction of this Honorable Court, accused ANTONIO ABALA y LACANARIA with lewd design, by means of force, and intimidation, did then and there wilfully, unlawfully and feloniously has (sic) carnal knowledge of Lea Arevalo y Abala, thirteen (13) years old, against her will and consent to her damage and prejudice.

CONTRARY TO LAW.”<sup>[3]</sup>

CRIM. CASE NO. 0712-SPL

“That sometime in the month of May 1997 in the Municipality of San Pedro, Province of Laguna and within the jurisdiction of this Honorable Court, accused ANTONIO ABALA y LACANARIA with lewd design, by means of force, and intimidation, did then and there wilfully, unlawfully and feloniously has (sic) carnal knowledge of Lea Arevalo y Abala, **thirteen (13) years old**, against her will and consent to her damage and prejudice.

CONTRARY TO LAW.”<sup>[4]</sup>

When arraigned, the accused, assisted by counsel, pled “not guilty” to all the charges.<sup>[5]</sup> Trial ensued.

The prosecution presented as its sole witness the private complainant, Lea Arevalo.

At the time the rapes were committed in May 1997, the private complainant was thirteen (13) years old.<sup>[6]</sup> She was born on January 11, 1984, as evidenced by the certification issued by the Office of the Local Civil Registrar of Tarlac.<sup>[7]</sup> The accused is an older brother of her mother, Teresita Arevalo. She was then residing with her aunt, Cristina Mase, sister of her mother and of the accused, at Barangay Langgam, San Pedro, Laguna.<sup>[8]</sup>

The accused was residing in the same *barangay*, but in another house quite far from the house of his sister Cristina. He has two children with his estranged wife, but they were not living with him.<sup>[9]</sup>

In May 1997, the house of Cristina Mase was under construction. The room where the private complainant used to sleep had no door panel. Cristina would sleep in the *sala* and her son and daughter-in-law, in the other room. The house had three doors: the main door in front, the second, at the side, and the third, at the back. The backdoor did not have a door panel then.<sup>[10]</sup>

The private complainant recalled that the first rape took place in the first week of May 1997, at nighttime. She testified that at about 10:00 p.m, she went to bed. The accused entered her room and woke her up. He covered her mouth with his left hand and poked a knife at her. He dragged her out of the house and brought her to his house. She went with him because she feared he would maul her just like what he used to do to his children.<sup>[11]</sup>

Upon reaching his house, the accused closed the door and led the private complainant to his room. He made her lie down on a bed. When he removed her clothes, she fought back by kicking and striking him with her hands.<sup>[12]</sup>

The accused ordered her not to shout. Afraid that he would hurt her, she obeyed.<sup>[13]</sup> After removing her clothes, he disrobed himself. He mounted her and had sexual intercourse with her. During the sexual assault, he held her hands but she managed to kick his legs. He stayed on top of her for about twenty (20) minutes. Thereafter, he told her to put on her clothes. He let her walk back to her aunt’s house alone.<sup>[14]</sup>

The next incident occurred the following week. The accused barged in his sister's house at nighttime while the private complainant and her companions were sleeping. He woke up the private complainant. His eyes were red and he smelled of liquor. Again, he poked a knife at her and brought her to his house. She pleaded with him not to rape her again. He ignored her. Once inside his house, the accused took her to his room. He tried to remove her clothes but she warded off his hands. Her efforts were futile. He succeeded in taking off her sando and T-shirt as well as her shorts and panty. Next, he undressed and made her lie down on the same bed where he first abused her. He went on top of her and had carnal knowledge of her. She felt pain when he went inside her. He was on top of her for about twenty (20) minutes. After the rape, he instructed her to get dressed.<sup>[15]</sup> He warned her not to report the incident to her mother because he could get incarcerated. Again, she went home alone.<sup>[16]</sup>

The private complainant kept silent about the two (2) rape incidents because the accused threatened he would kill her mother.<sup>[17]</sup> After each rape, she returned to her room and went back to sleep as her companions in the house were still asleep.<sup>[18]</sup>

About one and one-half weeks after the second rape, the private complainant was again roused from her sleep when the accused suddenly covered her mouth with his hand. He ordered her not to shout. He seemed inebriated. He poked a knife at her and, as in the previous occasions, he dragged her toward his house. Once they were in his room, he undressed her and himself, mounted her and had sexual intercourse with her. He stayed on top of her for twenty (20) minutes. Thereafter, he instructed her to go home and she did. Again, he threatened her not to report the incident to her mother. Unknown to her, the 17-year old son of the accused, Meliton Abala, saw her in the house of the accused.<sup>[19]</sup>

The last rape was committed on May 31, 1997. Again, the accused entered the room of the private complainant when she and her companions in the house were in deep slumber. He poked a knife at her neck. He told her to be quiet, covered her mouth with his left hand and dragged her out of the house through the backdoor and brought her to his house.<sup>[20]</sup>

When they were inside the room, the accused told her to sit down on his bed. She kicked him and tried to escape. Her attempts were unsuccessful because he was poking a knife at her. While pulling down her shorts and panty, he warned her not to reveal the incident to anyone. He did not remove her T-shirt. Instead, he completely disrobed himself. He forcibly made her lie down on the bed and went on top of her. She struggled but he held her hands. Overpowered, he succeeded in his evil desire. As he thrust his private part into hers, she cried and pleaded with him to stop. He did not listen. He was on top of her for a long time. After his lust was satisfied, he told her to go home.<sup>[21]</sup>

After the fourth rape, Cristina confronted the private complainant with the report she got from Meliton Abala that he saw the private complainant in the house of the accused on the night she was abused for the third time. Cristina asked her what she was doing there at such a late hour of the night. She did not reply. She was afraid of the accused because of his threats that he would kill her mother.<sup>[22]</sup>

Eventually, the report reached the private complainant's mother, Teresita Arevalo, through the private complainant's first cousin, Marites. Apparently, Cristina informed Marites what had happened to the private complainant and the latter relayed it to Teresita. When Teresita confronted the private complainant if her Ate Marites was telling the truth, she finally confessed to her mother that she was molested by the accused. Her mother was furious and she helped her lodge the four (4) complaints for rape against the accused.<sup>[23]</sup>

On June 7, 1997, the private complainant underwent a medical examination at the National Bureau of Investigation in Manila. The examining doctor, Medico-Legal Officer Valentin T. Bernales, found a "deep healed laceration" on private complainant's hymen "at 4:00 o'clock and completed at 6:00 o'clock position, corresponding to the face of the watch."<sup>[24]</sup>

The sole witness for the defense was the accused.

The accused interposed the defense of denial and alibi. He claimed that his son, Meliton Abala, and daughter, Gladys Abala, 15 years old, were living with him in his house at *Barangay* Langgam, San Pedro, Laguna. His wife, Ma. Elena Moran, stayed some place else and would just pay him a visit once in a while. His other companions in the house were his brother, Dominador Abala, and his wife and their children. They occupied the other half of the house.

His story was that he did not see the private complainant the whole month of May 1997. He did not know why the private complainant accused him of violating her on several occasions. He surmised that she filed the cases because he and his brother, Dominador, had a feud over their house. The house belonged to their late mother. Allegedly, he wanted to sell the house to buy a tricycle, but his siblings, namely, Lydia, Cristina, Teresita and Dominador were against his plan.

In its Decision, dated August 19, 1998, the trial court found the accused guilty of four (4) counts of rape. For each rape committed, he was sentenced to suffer the death penalty and ordered to pay the private complainant the sums of P100,000.00 as civil indemnity and P50,000.00 as moral damages, and to pay the costs.<sup>[25]</sup>

The cases are with us on automatic review.

The appellant raises the following assignment of errors:<sup>[26]</sup>

"I

THE TRIAL COURT MANIFESTLY ERRED IN RENDERING A VERDICT OF CONVICTION IN CRIMINAL CASE NOS. 0709 TO 0712 DESPITE (THE) FAILURE OF THE PROSECUTION TO PROVE (THE) ACCUSED-APPELLANT'S GUILT BEYOND REASONABLE DOUBT.

II

THE TRIAL COURT MANIFESTLY ERRED IN CONVICTING (THE) ACCUSED-APPELLANT OF FOUR (4) COUNTS OF RAPE IN CRIMINAL CASE NOS. 0709 TO 0712 NOTWITHSTANDING THE FACT THAT THE SPECIAL QUALIFYING CIRCUMSTANCE OF PRIVATE COMPLAINANT'S RELATIONSHIP TO THE ACCUSED-APPELLANT WAS NOT ALLEGED IN THE SUBJECT INFORMATION THEREBY VIOLATING HIS CONSTITUTIONAL

RIGHTS TO DUE PROCESS AND TO BE INFORMED OF THE NATURE AND THE CAUSE OF THE ACCUSATION AGAINST HIM.”

We affirm the convictions but with modifications as to the penalties imposed.

The first assigned error boils down to the alleged lack of credibility of the private complainant. He cites several reasons why the Court should reject her story, to wit:

First. The appellant claims that he could not have dragged her out of her aunt's house four (4) times without being noticed by its occupants. The private complainant could also shout to attract the attention of the residents in the vicinity. He also points out that he could not have brought her to his house and raped her because his children were living with him.

Second. The appellant claims that he would have been discouraged from going to where the private complainant stayed on those four (4) occasions considering that there was a light coming from outside the house, near the room of the private complainant.

Third. It is not credible that he used the same method in taking the private complainant from her aunt's house, bring her to his house and rape her there because in doing so, he could have been easily identified. It is also doubtful that he used the same knife in forcing her to go with him to his house.

Fourth. The private complainant gave a "tailor-fit" answer regarding his physical condition during the second and third incidents, i.e., his eyes were red and he smelled of liquor.

Fifth. It is also incredible for him to spend the same length of time, about (20) minutes, in raping the private complainant on all the four (4) occasions.

The first assigned error lacks merit.

We find no reason to doubt the credibility of the private complainant. We quote with approval the following observations of the trial court as regards her credibility, thus:

“Considering the evidence on hand, the Court finds that the prosecution has fully established and proven that herein accused had sexually abused his own niece, 13-year old private complainant Lea, not only on one, but (also) on four (4) occasions in May 1997. Lea's ... positive identification of (the) accused as the one who ravished her bespeaks of her spontaneity and veracity. Moreover, her answers to questions propounded to her during the trial on the identity of (the) accused were straightforward and coherent which simply strengthen her credibility. As oftentimes stated by the Supreme Court in rape cases, it is difficult to believe that young unmarried women would tell a story of defloration, allow the examination of their private parts and thereafter, permit themselves to be the subject of a public trial, if they were not instigated by an honest desire to seek justice.... In the case at bar, it is really hard to conceive that a young and immature girl would reveal that she was raped and allow an embarrassing examination of her private part if her motive is not to bring to justice her uncle who had done her wrong. In fact, no young and decent Filipina would publicly admit that she was ravished and her honor tainted unless such was true, for it would be instinctive for her to protect her honor.... The mere fact that the accused wanted to sell the house