

EN BANC

[G.R. Nos. 145449-50, August 01, 2002]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. CELSO MORFI, ACCUSED-APPELLANT.

DECISION

PER CURIAM:

Before this Court on automatic review is the consolidated decision rendered by the Regional Trial Court of Batangas City, Branch 4, in Criminal Cases Nos. 9739 and 9916, finding accused-appellant Celso Morfi guilty beyond reasonable doubt of two counts of rape, and imposing upon him the penalty of death for each count and ordering him to indemnify complainant, Merry Jane Morfi, the amount of P150,000.00 as moral and exemplary damages.^[1]

In Criminal Case No. 9739, the Information charged the appellant with the crime of rape as defined and penalized under Article 266-A of the Revised Penal Code, as amended by R.A. No. 8353, as follows:

“That on or about May,, 1998, in the evening, at Barangay Banay-Banay 1st, Municipality of San Jose, Province of Batangas, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, by force and intimidation, did then and there wilfully, unlawfully and feloniously lay with and have carnal knowledge with the said Merry Jane R. Morfi, daughter of the accused and a seventeen (17) year old minor, against her will and consent.”^[2]

The Information in Criminal Case No. 9916 is similarly worded except that it alleged that the crime was committed during the wee hours in the morning of September 22, 1998.^[3]

During the arraignment, appellant pleaded not guilty and hence, trial ensued.

The prosecution’s version of the facts are succinctly stated in the Brief filed by the Office of the Solicitor General, to wit:

“In March 1998, private complainant, aged seventeen (17), came from her mother’s residence in Cavite and arrived at Barangay Banay-Banay 1st, San Jose, Batangas, to live with her maternal uncle (TSN, June 22, 1999, pp. 1, 3 and 10). Her father is the appellant, who is estranged from her mother, and who lives in the same barangay (TSN, June 14, 1999, pp. 3 and 6-7). Private complainant missed her biological father and elder brother Manny (Id., pp. 6-7). On May 2, 1998, she started living with them at the family home at Barangay Banay-Banay 1st (TSN, June 22, 1999, p. 3).

Sometime in the first week of May 1998, around midnight, when private complainant and appellant were the only occupants of the house, the latter lay down beside the former in her bedroom (TSN, June 14, 1999, pp. 4 and 6-7; TSN, June 22, 1999, p. 2). Appellant frankly told her, 'Gusto (kong) magpakaligaya.' Private complainant refused, telling her father that she was her (sic) daughter; that he could get another wife for the purpose, as he was after all separated from her mother. Appellant got angry and told his daughter not to teach him what he should and should not do. He also threatened to kill her mother in Cavite if she (private complainant) did not submit to his desire (TSN, June 14, 1999, pp. 4-5).

Appellant then pulled down private complainant's jogging pants and panty, undressed himself, mounted her and copulated with her (sic) crying daughter until he ejaculated (Id., pp. 5-6). Appellant then told her to keep quiet and not mind what happened, as it would be the last time he would abuse her, and that their relationship would not change (Id., pp. 6-8; TSN, June 22, 1999, p. 6). Thereafter, private complainant kept the incident to herself for fear of appellant's threat against her mother. Private complainant knew her father had a history of violence (TSN, June 22, 1999, pp. 4-5).

In the early morning of September 22, 1998, appellant again abused his daughter while they were alone in the family home. He again copulated with her until he ejaculated, despite his daughter's plea for mercy. He then inserted his finger into her vagina (TSN, June 14, 1999, pp. 8-9).

Private complainant could no longer stand the sexual abuse. That same morning, before going to school, private complainant asked her brother to accompany her to Lipa City. In the church thereat, she told him what their father had been doing to her (Id., pp. 9-10). They resolved to go to Cavite, but due to lack of fare money, they had to return home (Id., p. 10; TSN, June 22, 1999, pp. 6-7).

Around 11:00 a.m., the private complainant saw her father engaged in a drinking spree. The latter brought her into the family home, slapped, boxed, kicked and hit her with a piece of wood (TSN, June 14, 1999, pp. 10-11). Appellant then got a bolo and threatened to hack private complainant with it. Appellant then slammed private complainant's head against a wall of the family home. The latter almost lost consciousness (Id., pp. 10-11).

But appellant's attempt to intimidate her (sic) daughter into silence was in vain. The next day (September 23, 1998), private complainant had her hematomas and injuries sustained from the beatings examined. She filed a formal complaint against her father for rape and physical injuries. San Jose Municipality policemen arrested appellant on September 24, 1998 and placed him under detention (Id., pp. 11-14; TSN, November 15, 1999, p. 11; TSN, February 7, 2000, p. 8).

Batangas Regional Hospital resident obstetrician-gynecologist Dra. Aida Dinulos examined the private complainant for a second time on September 28, 1998. She noted hematomas on various parts of her body

as well as a healed hymenal laceration that was possibly caused by a penis (TSN, August 24, 1999, pp. 6-12)."[4]

The defense presented a different version. Appellant testified that one early morning in the first week of September 1998, he felt the call of nature and when he stood up, he heard somebody moaning from the other room. When he peeped inside the room, he saw his son Manny on top of complainant having sexual intercourse with her. He slowly went upstairs, pushed the door and shouted at them. Appellant ordered them to go down and he talked to them. The children explained they forgot themselves and asked his forgiveness.

On September 22, 1998, appellant was informed that Merry Jane and Manny were seen boarding a jeep. He became apprehensive that they might continue their relationship. When complainant returned that afternoon, she informed appellant that they went to Lipa. Appellant asked why they went there and complainant brusquely retorted that it was none of his business. Appellant slapped complainant who fought back. Complainant got a bolo from the kitchen and they struggled for its possession. During the struggle, appellant was hit by the bolo on the nose and on the left breast. Complainant embraced appellant and asked for forgiveness.

Appellant further testified that he revealed to his parents and siblings about the affair of the complainant and her brother Manny. His parents discussed the matter with complainant. Appellant believes this revelation impelled complainant to file the charges against him.

Complainant and her brother Manny were presented by the prosecution as rebuttal witnesses. Both denied that they have a sexual relationship and that they were caught by appellant in the act of sexual intercourse.

After trial, the trial court convicted the appellant, thus:

"WHEREFORE, accused Celso Morfi y Morados in Criminal Case No. 9739 and in Criminal Case No. 9916 is hereby sentenced to suffer the penalty of Death for each case to be meted out by lethal injection as provided for by law. He is further directed to indemnify his daughter, Merry Jane R. Morfi, the private complainant in these cases, the amount of One Hundred Fifty Thousand Pesos (P150,000.00) as moral and exemplary damages.

Finally, the entire records of these cases are hereby directed transmitted to the Supreme Court for automatic review as these cases involved the imposition of the capital punishment.

SO ORDERED."

As his lone assignment of error, appellant contends that the trial court erred in finding him guilty. With regard to the first rape, appellant avers that there was a considerable delay of five months before complainant reported the incident to the authorities. The delay cannot be justified by his alleged threat to kill her mother as appellant has been separated from his wife and she is living in another province.

As to the second rape, appellant avers that the testimony of complainant lacks essential details and failed to prove rape. He relies on the ruling in the case of *People vs. Edmundo de Leon*. [5]

We affirm appellant's conviction.

After a careful scrutiny of the testimony of the complainant, we hold that the guilt of the appellant was proved beyond reasonable doubt. Complainant testified in a straightforward, direct and categorical manner that she was raped by appellant. Thus:

"Q: Now, during the first week of that month May 1998, do you remember any unusual incident that happened?

A: Yes, sir.

Q: What was that?

A: I was raped by my father, sir.

Q: More or less what time were you raped by your father?

A: Midnight, sir.

Q: The rape was committed where?

A: Inside the bedroom of our house.

Q: Madam witness, will you please tell this Honorable Court how your father raped you on that night of May 1998?

A: My father lay down beside me and told me that he wants to be happy. (Gusto niyang magpakaligaya).

Q: When your father asked you that he wants to be happy what was your answer?

A: (witness crying). I told my father not to do it because I am his daughter and that he gets himself another wife because my mother is being (sic) separated from him.

Q: After that answer of yours, what did you do?

A: My father became angry telling me not to teach me (sic) what to do.

Q: After your father uttered those words, what else happened if anything happened?

A: He threatened me, sir.

Q: You were threatened of what?

A: He threatened me that if I did not give his (sic) desire, he will kill my mother in Cavite.

Q: And after your father threatened you, what did he do next if he did anything?

A: He pulled down my jogging pants and my panty.

Q: And when your father pulled down your jogging pants and panty, what did he do next?

A: He undressed himself, sir.

Q: And after undressed (sic) himself what did he do next?

A: He put himself on top of me.

Q: And after your father put himself on top of you, what did he do next if he did anything?

A: He is pushing up and down on top of me.

Q: While your father was on top of you pumping up and down, what did you feel if you feel (sic) anything?

A: I felt pain and my vagina bleeds (sic).

Q: Why did you felt (sic) pain and your vagina bleeds (sic)?

A: I really felt pain because the penis of my father is penetrated (sic) my vagina.

Q: For how long was your father was (sic) on top of you making pumping up and down?

A: It was quite long until he ejaculated.

Q: During that time that your father was on top of you doing pumping up and down and inserting his penis into your vagina what were you doing then?

A: I was crying and begging for mercy but he did not mind me.

Q: What actual words did you utter when you were begging for mercy to your father?

A: I told him "Huwag po" but he insisted he wants to be satisfied.

Q: Madam witness, aside from inserting his penis into your vagina, what other things did he do to you while he was on top of you?

A: After he had ejaculated, he told me that he will change our relationship and for me not to mind what happened.

Q: On that night, madam witness, do you have any companion in your house?

A: None, sir.

Q: It was only you and your father at that time?

A: Yes, sir.

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Q: And after your father was thru (sic) at that time, what did he do next if any?

A: He told me not to mind everything that happened.

Q: Did you tell your brother about that incident that happened on that night?

A: No, sir.

Q: Why not?

A: Because my father told me not to tell to anyone.

Q: Were you threatened by your father not to tell anyone?

A: Yes, sir. I was threatened by my father if I would tell to anybody he would go to Cavite and kill my mother.

Q: On September 22, 1998, do you remember where you were on the early morning of that date?

A: Yes, sir.

Q: Whereat?

A: I was inside our house.