

EN BANC

[G.R. No. 126019, March 01, 2001]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. MARIO CALDONA Y LLAMAS, ACCUSED-APPELLANT.

DECISION

YNARES-SANTIAGO, J.:

Mario Caldonal is a self-confessed womanizer who admits having several wives. His lechery, however, was not merely confined to these women and breaks new ground in terms of the revolting for he satiated his lust and sexual depravity on not only one but three of his daughters. This case is the sordid tale of one of them.

For ravishing his daughter Maria Lolita Caldonal, accused Mario Caldonal y Llamas was charged in Criminal Case No. C-49696 with the crime of Qualified Rape, in an Information^[1] which reads:

That on or about the 13th day of August 1995 in Kalookan City, MM., Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with lewd designs and taking advantage of his superior strength being her father, by means of force, threats and intimidation employed upon the complainant LOLITA CALDONA Y PONTIVEROS, did then and there wilfully, unlawfully and feloniously lie with and have sexual intercourse with said complainant against her will and without her consent.

Contrary to law.

Upon arraignment, accused, duly assisted by counsel, refused to enter a plea. The trial court thus entered a plea of not guilty in his behalf.^[2] The case thereafter proceeded to trial.

After trial, the court *a quo* rendered judgment finding accused guilty beyond reasonable doubt of the crime charged and imposed on him the supreme penalty of death thus:

WHEREFORE, judgment is rendered CONVICTING Mario Caldonal of the crime of Rape, an offense defined and penalized under Art. 335 of the Revised Penal Code, as amended by R.A. 7659, and the Court sentences MARIO CALDONA to suffer the penalty of DEATH. Ordering Mario Caldonal to pay the victim (Ma. Lolita) P50,000.00 as moral damages and P25,000.00 as exemplary damages.

Mario Caldonal shall be committed immediately to the National Bilibid Prisons. The Branch Clerk of Court is hereby ordered to transmit the entire record of this case to the Hon. Clerk of Court, Supreme Court for

automatic review of the decision of this Court.

SO ORDERED.

On automatic review, accused-appellant alleges that -

I

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED DESPITE THE INCREDIBLE AND INCONSISTENT TESTIMONIES OF THE PROSECUTION WITNESSES.

II

GRANTING THAT ACCUSED-APPELLANT IS GUILTY, THE TRIAL COURT GRAVELY ERRED IN IMPOSING THE SUPREME PENALTY OF DEATH DESPITE THE FAILURE OF THE PROSECUTION TO ALLEGE IN THE INFORMATION THE QUALIFYING CIRCUMSTANCE OF THE OFFENDED PARTY'S AGE TO BE UNDER EIGHTEEN (18) YEARS.

The prosecution's version of the incident is summarized in the People's Brief as follows:

On August 13, 1995, private complainant Ma. Lolita Caldoná and her sister Ma. Cristina went to 148 B. Serrano Street to ask money from their father, appellant Mario Caldoná.^[3]

Appellant gave private complainant money and asked her to go to 59 B. Serrano Street, Kalookan City.^[4] Private complainant proceeded to the said address.^[5] After a while, appellant arrived at 59 B. Serrano Street and started undressing private complainant.^[6] Thereupon, appellant sexually molested private complainant and inserted his penis into the latter's private parts.^[7]

After her ravishment, private complainant proceeded to 148 Macabagdal St. where she saw her sisters.^[8] Private complainant did not tell anybody about her ordeal in the hands of appellant.^[9] She and her sisters went to the Cultural Center of the Philippines.^[10]

Subsequently, private complainant, together with her sisters and mother went to the house of a certain "Auntie Thelma."^[11] They collected their things and went to Payatas, Fairview where they stayed for a week.^[12] Thereafter, they transferred to a rented house in Manggahan, Quezon City.^[13]

Sometime in November 1995, private complainant, accompanied by her aunt, Paz Hontiveros went to Dr. Liza de Guzman of the Mental Hospital for consultation.^[14] Private complainant told the doctor about the rape incident.^[15] Later on, she was confined at the Mental Hospital for three days because she was hallucinating.^[16] She could hear the voice of

appellant threatening her and was imagining what the latter was doing to her.^[17]

On December 14, 1995, private complainant accompanied by her aunt, Paz Hontiveros, proceeded to the National Bureau of Investigation (NBI) to file a complaint against appellant.^[18] Private complainant was examined by Dr. Maximo Reyes, NBI.^[19] The findings of the examination are as follows:

1. No evident sign of extra-genital physical injuries noted on the body of the subject at the time of examination.
2. Hymen, intact but distensible and its orifice wide (2.5 cms. in diameter) as to allow complete penetration by an average-sized, adult Filipino male organ in full erection without producing any hymenal laceration.^[20]

Accused-appellant denied the charge^[21] and gave a different version of what transpired. He claimed that the filing of the rape case against him was instigated by his brother-in-law and sister-in-law to keep him away from his women and also as a reprisal for his interference in his in-laws' quarrel over family inheritance.^[22] More specifically, accused-appellant testified that in the morning of August 13, 1995, at around 7:00 to 7:30 a.m., he was at home in 148 Macabagdal St., Grace Park, Caloocan City with his live-in partner, Honey Bell Meniano, who was then preparing breakfast.^[23] He saw his wife, Lolita, the complainant, Ma. Lolita, her siblings Ma. Teresa, Mario, Jr., Ma. Cristina and Mica pass by all dressed up.^[24] He called them and asked his wife where they were going.^[25] His wife approached and told him that they were going for a walk to the Cultural Center while the children were going swimming.^[26] He berated his wife, telling them it was already late in the morning, but still he gave them P100.00 for their taxi fare.^[27] The complainant then approached him, kissed him and asked for his permission.^[28] He handed the money over and called a cab and after his family left, he went back to eat his breakfast.^[29] Thereafter, he proceeded to 59 Macabagdal Street, Grace Park, Caloocan City to see his son Reynold, who was not with the group that went to the Cultural Center. He found the boy sleeping.^[30] He woke up Reynold and asked him to send a telegram to his new-found flame, Virgie Labata.^[31] Reynold proceeded to the Grand Central Station and sent the telegram.^[32]

Accused-appellant next proceeded to his electro-mechanical shop at 59 Macabagdal Street to inform his worker Lando Yap, that they would be working overtime that day.^[33] There, he found his nephew, Bibeth, who served as his errand boy.^[34] He started working upon his arrival at the shop.^[35] It was already midnight when accused-appellant learned that his wife and children had not yet returned. Alarmed and fearful that they met an accident, accused-appellant boarded a taxicab and went to the house of his wife's parents at 10th Avenue, but he was told that they were not there. From there, he went to the house of Mary Ann Castro, another of his women, and was likewise told that his family did not go there.^[36] He proceeded to the house of his mother to ask for help in the search for his family. He went to the Cultural Center to look for them and reported the matter to the Police Detachment

at Luneta, but to no avail.^[37] He never saw them again.^[38] He only heard from them a month later when he received a letter from complainant telling him not to waste his time and money looking for them anymore because they were already in good hands, and that they wanted to live on their own and to experience life without him.^[39]

Owing to the gravity of the penalty imposed, the Court must once again defer to the following principles in reviewing rape cases: 1] to accuse a man of rape is easy, but to disprove it is difficult though the accused may be innocent; 2.] considering that in the nature of things, only two persons are usually involved in the crime of rape, the testimony of the complainant should be scrutinized with great caution; and 3.] the evidence for the prosecution must stand or fall on its own merit and not be allowed to draw strength from the weakness of the evidence for the defense.^[40] Corollary to these legal yardsticks is the dictum that when a victim of rape says she has been defiled, she says in effect all that is necessary to show that rape has been inflicted on her and so long as her testimony meets the test of credibility, the accused may be convicted on the basis thereof.^[41]

As in most rape cases, accused-appellant assails the credibility of the victim. However, we have consistently held that the trial court's assessment of the credibility of complainant's testimony is entitled to great weight, absent any showing that some facts were overlooked which, if considered, would affect the outcome of the case.^[42]

In the case at bar, the testimony of sixteen-year old Ma. Lolita Caldon on how she was raped by her father clearly shows that she was indeed a victim of sexual assault. Thus:

ATTY. CEBALLOS:

Q Miss Caldon, you mentioned that you brought a complaint for rape against your father, when was the time you were raped?

A When I was nine years old.

Q How did this happen?

A When he arrived home, his eyes were red. He drove away my mother and afterwards he undressed me and I asked him what he was going to do with me. He said, nothing, I will just do something.

Q After your father undressed you on that particular date, what did he do to you?

A He forced his private part inside my private part.

Q Was he able to penetrate his private part into your private part?

A He forced his penis inside my private part and I told him it was painful.

Q When he forced his private part into your private part, what did you do?

A I was fighting back and I refused. I was then noisy and

fighting back but he placed a pillow case inside my mouth.

Q And then after he placed the pillow case inside your mouth, what happened next?

A He tied a wire on my back and he did what he wanted with me.

Q After he was able to do what he wanted to do, what happened next?

A After that I was not talking anymore.

x x x x x x x x

Q After this first incident [of] you being raped by your father, was there any incident that happened?

A After three days, I was then preparing food, he called me and told me to go inside the room.

Q What happened next?

A He told me to get a Vicks (*sic*) to massage his head and afterwards he undressed me and abused me again.

Q On that particular incident, was your father able to penetrate his private part into your private part?

A He forced his penis inside my private part.

Q And what were you doing when he was able to penetrate?

A I was crying and crying.

Q Where did this happen?

A Inside our house.

Q Where is your house?

A At 178 B. Serrano Street, Grace Park, Kal. City.

Q Who was inside your house at the time?

A Our workers who were then busy working on the compressors and my sisters who were there outside playing.

Q What time did it happen?

A It happened in the afternoon.

Q Where was your mother at the time?

A My mother has not returned yet to the house.

Q And after this second incident, was this repeated?

A It happened everyday.

COURT:

Q You were then nine years old?

A Yes, Your Honor.

Q The first time you were abused, when was that?