

EN BANC

[G.R. No. 127845, March 10, 2000]

**PEOPLE OF THE PHILIPPINES, plaintiff and appellee, vs.
LODRIGO BAYYA, defendant and appellant**

.D E C I S I O N

PURISIMA, J.:

For automatic review here is a judgment handed down by Branch 16^[1] of the Regional Trial Court in Ilagan, Isabela, finding appellant Lodrigo^[2] Bayya guilty of incestuous rape and sentencing him to the ultimate penalty of DEATH.

Filed on October 9, 1995 by Asst. Provincial Prosecutor Pacifico Paas and docketed as Criminal Case No. 2467, the accusatory portion of the Information indicting appellant, alleges:

"That on or about the year 1994 and for sometimes (sic) thereafter in the municipality of Burgos, province of Isabela, Philippines and within the jurisdiction of this Honorable Court, the said accused armed with a knife, did then and there, willfully, unlawfully and feloniously, by means of force, intimidation and with lewd designs, have carnal knowledge with his own daughter ROSIE S. BAYYA for several times against the latters (sic) will and consent.

CONTRARY TO LAW."^[3]

After appellant pleaded Not Guilty upon arraignment on Nov. 22, 1995^[4], trial ensued.

From the decision of Nov. 15, 1996 under review, it can be gleaned that:

"This is a case of a father raping his own daughter, a minor, aged 12 when she was first sexually assaulted up to July 12, 1995, the last molestation having done on her on said date (sic).

xxx xxx xxx

xxx it appears that Rosie Bayya, a minor, revealed to her aunt, Trinidad Garcia, her horrible tale at the hands of her father, the accused herein, six (6) days after the last sexual assault on her when Rosie was asked by her to baby-sit for another aunt of hers at Santiago, Isabela. She was compelled to reveal what befell her when she was informed that her father asked her to go back home but never wanted to (sic), knowing that her father would continue raping her. She told her aunt Trining that she does not like to go home because her father used to have sexual

intercourse with her.

With the revelation made by Rosie Bayya, her aunt Trining went back to Malasin, Burgos, Isabela to inform Melquiades Bayya, Rosie's granduncle who in turn informed a certain Major Turingan of the PNP what the accused did to his daughter (sic). The girl was brought to the PNP station of Burgos to give her statement which she did where she divulged what her father did to her.

The gist of her testimony in court is that sometime in 1994 when she was still 12 years old, her father, the accused, forced her at the point of a knife to have sexual intercourse with her in the family house at Malasin, Burgos, Isabela. Being afraid as he threatened her, the accused succeeded in undressing the young daughter and he inserted his penis into her vagina. She felt pain as a result and just kept to herself what her father did fearing that her father would make good his threats if she squealed on him. She just cried helplessly.

The first sexual molestation happened at an unholy hour at noon time (sic) when her mother and the rest of the siblings were out, her mother working in the field at the time. Her father repeated this bestial act in their house about twice a week when her mother was not at home; at times only a sister six years of age was present but probably did not know what her father was doing to her elder sister. Then later, he used her four (4) times a month and the last that she remembered was on July 12, 1995. After she was advised to file a complaint at her behest, she was brought to the PNP station at Burgos to continue and wind up her ordeal with a physical examination of her by a public physician, Dr. Elvie^[5] Amurao of the Roxas District Hospital at Roxas, a nearby town of Burgos.

Dr. Amurao found old lacerations compatible with the claim of the complainant that she was raped months before her examination."^[6]

Appellant and his wife, Cecilia Bayya, took the witness stand for the defense.

Appellant unhesitatingly admitted having carnal knowledge of his daughter, Rosie Bayya, twice but theorized that he was "out of his mind"^[7] when he did the lecherous acts on her. He traced his criminal behavior to a childhood that was neglected and forlorn in the mountains of Isabela, let alone the maltreatment endured in the hands of his very own parents.^[8]

On the other hand, Cecilia Bayya, mother of the victim and wife of appellant, manifested on the witness stand her "neutral" stance^[9] in the case. Nonetheless, she disclosed that she had forgiven her husband for his salacious conduct since they are poor and she cannot eke out a living without appellant as breadwinner.^[10]

Finding the facts established by the evidence falling squarely under Article 335 of the Revised Penal Code as amended by Republic Act No. 7659, the lower court, after trial on the merits, rendered a judgment of conviction, sentencing appellant to suffer the ultimate penalty of DEATH, disposing thus:

"WHEREFORE, finding the accused guilty beyond reasonable doubt of the offense charged, the court hereby sentences the accused LODRIGO BAYYA to suffer the supreme penalty of death without award to any form of damages for obvious reasons.

SO ORDERED."^[11]

At the outset, it bears stressing that having admitted authorship of the offense charged, appellant does not dispute the trial court's finding of guilt. However, appellant questions the penalty imposed below, contending that since the information made no reference to Republic Act No. 7659, it was a reversible error to convict thereunder. And because the only penal provision relied upon by the prosecution is Article 335 of the Revised Penal Code, he could only be sentenced to the maximum penalty of reclusion perpetua in accordance therewith.

Therefore, the only issue raised by appellant is whether there was a transgression of his right to be informed of the nature and cause of accusation against him, in view of the fact that the Information is silent about the applicability of R.A. No. 7659.

While departing from appellant's strained reasoning, the Court nonetheless agrees with and adopts his submission that the trial court erred in imposing the capital punishment on him.

A careful perusal of the Information indicting appellant reveals a crucial omission in its averments of the minority of the victim, Rosie S. Bayya.

Instructive in this regard is Section 6, Rule 110 of the Rules of Court, which reads:

SEC. 6. Sufficiency of complaint or information. – A complaint or information is sufficient if it states the name of the accused; the designation of the offense by the statute; *the acts or omissions complained of as constituting the offense*; the name of the offended party; the approximate time of the commission of the offense, and the place wherein the offense was committed.

When an offense is committed by more than one person, all of them shall be included in the complaint or information.

The purpose of the above-quoted rule is to inform the accused of the nature and cause of the accusation against him, a right guaranteed by no less than the fundamental law of the land.^[12] Elaborating on the defendant's right to be informed, the Court held in *Pecho vs. People*^[13] that the objectives of this right are:

1. To furnish the accused with such a description of the charge against him as will enable him to make the defense;
2. To avail himself of his conviction or acquittal for protection against a further prosecution for the same cause; and
3. To inform the court of the facts alleged, so that it may decide whether they are sufficient in law to support a conviction, if one should be had.