

EN BANC

[G.R. No. 132783, October 30, 2000]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
CARLOS LAGUERTA Y CORDERO, ACCUSED-APPELLANT.**

DECISION

YNARES-SANTIAGO, J.:

For automatic review is the decision^[1] of the Regional Trial Court of Pasig City, Branch 163, finding accused-appellant Carlos Laguerta y Cordero guilty of rape pursuant to Article 335 of the Revised Penal Code, as amended by Republic Act No. 7659, sentencing him to death and ordering him to pay the victim, Haidie Ecleo, over whom he acts as guardian, the amount of P300,000.00 as moral damages.

In an Amended Information, dated February 12, 1997, it was alleged:

That during the period from September and October 8, 1996, in Taguig, Metro Manila, and within the jurisdiction of this Honorable Court, the accused, with lewd designs and by force and intimidation, did then and there willfully, unlawfully and feloniously have sexual intercourse with Haidie Ecleo, an eight year old child, against her will and consent.

ONTRARY TO LAW.^[2]

Accused-appellant pleaded not guilty to the charge. During trial, the prosecution presented the complainant victim, Haidie Ecleo, as witness, together with the PNP Crime Laboratory Physician, Dr. Anthony Joselito Llamas, who examined Haidie. On the other hand, the defense presented three (3) witnesses, accused-appellant included.

On November 12, 1997, the trial court rendered judgment as follows:

WHEREFORE, foregoing premises considered, this Court finds accused Carlos Laguerta y Cordero guilty beyond reasonable doubt of the crime of rape as principal and imposes upon him the supreme penalty of death. Accused is also ordered to indemnify Haidie Ecleo the sum of P300,000.00 as moral damages.

SO ORDERED.^[3]

In view of the penalty imposed, the records were elevated to this Court for automatic review pursuant to Article 47 of the Revised Penal Code, as amended, and Rule 122, Section 10 of the Rules of Court.

Accused-appellant seeks the reversal of his conviction on the following grounds:

THE COURT A QUO ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT OF THE CRIME OF STATUTORY RAPE.

II

THE COURT A QUO ERRED IN ORDERING THE ACCUSED-APPELLANT TO PAY THE EXCESSIVE AMOUNT OF THREE HUNDRED THOUSAND PESOS (P300,000.00) AS MORAL DAMAGES TO PRIVATE COMPLAINANT.^[4]

In support of his first assigned error, accused-appellant argues that the age of the victim has not been sufficiently established. We agree that the prosecution failed to establish that the age of Haidie was indeed below twelve - one of the essential elements of the crime of statutory rape.

No birth or baptismal certificate was presented below to prove the age of Haidie. Neither was there a showing that said documents were lost or destroyed to justify their non-presentation. In view of this, appellant cannot be convicted of statutory rape. Moreover, the testimony of Haidie as to how the alleged rape happened was full of inconsistencies and lacking in detail. While this was not raised as an issue by accused-appellant, the filing of an appeal in criminal cases throws open the entire case for review and it becomes the duty of the appellate court to correct any error, as may be found in the appealed judgment, whether assigned as an error or not.^[5]

It bears stressing that in rape cases, courts must be guided by the basic rule that the prosecution evidence must stand or fall on its own weight and cannot draw strength from the weakness of the defense. The prosecution must demonstrate the culpability of the accused beyond reasonable doubt, for accusation is not synonymous with guilt. Only when the requisite quantum of proof necessary for conviction exists that the liberty, or even the life, of an accused may be declared forfeit. Correlatively, we must examine with extreme caution the evidence for the state to determine its sufficiency. If the evidence fails to live up to the moral conviction of guilt, the verdict must be one of acquittal, for in favor of the accused stands the constitutional presumption of innocence; so it must be in this prosecution for rape.^[6]

The records show that Haidie repeatedly denied the entry of accused-appellant's penis into her vagina. On direct testimony, Haidie testified as follows:

- Q: What was that unusual thing that was done to you by Carlos Laguesta?
- A: He kissed me on my lips.
- Q: Other than that what else was Laguerta doing to you?
- A: He was sucking my nipple.
- Q: Other than that?
- A: He held my breast.
- Q: Other than holding your breast, what other portion of your body did Carlos Laguerta touch?
- A: He is kissing my sex organ.

Q: After kissing your sex organ what else did he do in your sex organ?
A: He was fingering me.
Q: What else did Carlos Laguerta place inside your sex organ other than his finger?
A: He is kissing my feet.

COURT:

Q: **Aside from the finger what else has been inserted in your vagina.**
A: **No more, Your Honor.**^[7]
(Emphasis added.)

This direct denial was repeated when Haidie once more testified, to wit:

Q: Do you know the meaning of rape?
A: Yes, Ma'am.
Q: What is your understanding of "rape"?
A: No answer.

COURT:

Q: Is that the act of inserting a man's penis into a woman's vagina?
A: Yes, Your Honor.
Q: **Has Carlos Laguerta inserted his penis in your vagina?**
A: **No, Your Honor.**^[8] (Emphasis added.)

On cross-examination, Haidie again confirmed that she was not raped by accused-appellant. She testified:

Q: And during this period, as you earlier testified, during your direct examination, there was no occasion wherein you were raped by Carlos Laguesta, the accused in this case?
A: Yes, sir.
Q: As claimed by you, you were just kissed and hugged by this person, Carlos Laguesta, on several occasion(s)?
A: Yes, sir.^[9]

Apart from twice denying that accused-appellant inserted his penis into her vagina, and confirming this on cross-examination, Haidie also testified that both she and