

THIRD DIVISION

[G.R. Nos.88006-08, March 02, 1998]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
GERARDO MOLAS Y CERDEÑA, ACCUSED-APPELLANT.**

DECISION

ROMERO, J.:

The pervasiveness and escalating incidence of sexual crime in our society nowadays is a phenomenon that arouses the highest degree of revulsion in all but the most insensitive. What is even more disgusting is when the victim is a minor barely out of childhood and the offender is a virtual member of the family living under the same roof. For here there is rank betrayal of trust and confidence. Our numerous pronouncements denouncing what is now categorized as a "heinous crime" do not seem to have made an impact on those who give unfettered rein to their bestial instincts. The instant case eloquently shows that the possible dire consequences on their dastardly acts never cross the minds of those who are bent on violating the virginity and purity of young girls such as the accused-appellant.

Appellant Gerardo Molas y Cerdeña was charged with three (3) counts of rape before the Regional Trial Court, National Capital Judicial Region, Branch 93^[1] in a complaint dated December 3, 1985 which reads as follows:

"I. Criminal Case No. Q-43220

The undersigned accuses GERARDO MOLAS Y CERDEÑA of the crime of RAPE, committed as follows:

That on or about the 12th day of July, 1985, in Quezon City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with lewd designs and by means of force and intimidation, did, then and there, wilfully, unlawfully and feloniously, succeed in having carnal knowledge of the undersigned, below 12 years old, without her consent and against her will, to the damage and prejudice of the undersigned in such amount as may be awarded to her under the provisions of the Civil Code.

CONTRARY TO LAW.

Quezon City, Philippines, November 27, 1985.

II. Criminal Case No. Q-43221

The undersigned accuses GERARDO MOLAS Y CERDEÑA of the crime of RAPE, committed as follows:

That on or about the 19th day of July, 1985, in Quezon City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with lewd designs and by means of force and intimidation, did, then and there, wilfully,

unlawfully and feloniously, succeed in having carnal knowledge of the undersigned, below 12 years old, without her consent and against her will, to the damage and prejudice of the undersigned in such amount as may be awarded to her under the provisions of the Civil Code.

CONTRARY TO LAW.

Quezon City, Philippines, November 27, 1985.

III. Criminal Case No. Q-43222

The undersigned accuses GERARDO MOLAS Y CERDEÑA of the crime of RAPE, committed as follows:

That on or about the 22nd day of November, 1985, in Quezon City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with lewd designs and by means of force and intimidation, did, then and there, wilfully, unlawfully and feloniously, succeed in having carnal knowledge of the undersigned, a minor below 12 years old, without her consent and against her will, to the damage and prejudice of the undersigned in such amount as may be awarded to her under the provisions of the Civil Code.

CONTRARY TO LAW.

Quezon City, Philippines, November 27, 1985.”

Upon arraignment, appellant entered a plea of not guilty, after which trial on the merits ensued.

The prosecution’s version of the commission of the crime, narrated through its witness, complainant Lealyne Simangan, reveals the following facts:

Complainant, born on July 5, 1978, was the daughter of the spouses Alejandro G. Simangan and Erlinda M. Simangan. The Simangans and the appellant, who is the half-brother of complainant’s mother, all resided under the same roof.

Upon attaining the age of seven (7) years, complainant was subjected to sexual abuse by the appellant who was her step uncle. The attack on her virtue started on July 12, 1985. On that day, while the complainant was alone watching television, the appellant suddenly emerged and started to make sexual advances on her. To consummate his bestial desire, the appellant undressed the complainant and succeeded in having his carnal desire sated.

Barely a week after the first incident or on July 19, 1985, appellant again molested the complainant. Under the same circumstances, he undressed the complainant and made her lie down on the floor and thereafter forcibly mounted her to satisfy his lust. As in the first incident, complainant did not reveal her traumatic ordeal to her parents for fear of being scolded.

Four months later or on November 22, 1985, appellant saw the complainant playing with her younger sister inside their house. Ostensibly, and as a means to fulfill his seemingly insatiable desire, he asked the complainant’s younger sister to run some errands. Convinced that the sister had left, appellant undressed the complainant and made her lie down. Thereafter, as in the first two instances, he mounted the complainant and was able to have coitus with her. Appellant, however, did not realize