

SECOND DIVISION

[G.R. No. 119071, June 19, 1997]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ROGELIO ANTIPONA Y LEGASPI, ACCUSED-APPELLANT.**

D E C I S I O N

PUNO, J.:

The biblical cities of Sodom and Gomorrah were destroyed by the Lord with burning sulphur principally due to the sexual perversities of their people. But even the worst account of their sexual perversities did not include incestuous rapes. The case at bar involves the rape of a 12-year old daughter by her own father. At the rate this heinous crime is being perpetrated in our country, we can become the new Sodom and Gomorrah of the world.

In an Information filed on February 28, 1994, Rogelio Antipona y Legaspi was charged before the Regional Trial Court of Valenzuela, in Criminal Case No. 3993-V-94, with the crime of raping his own daughter, Clariza Antipona, allegedly committed as follows:

"That on or about the 24th day of January 1993, in Valenzuela, Metro Manila, and within the jurisdiction of this Honorable Court, the above-named accused, by means of force and intimidation employed upon the person of CLARIZA ANTIPONA Y LEGASPI, 12 years old, did then and there wilfully, unlawfully and feloniously lie with and have sexual intercourse with her against her will and without her consent.

Contrary to law."

Rogelio Antipona was arrested on February 25, 1994. At his arraignment on April 27, 1994, he pleaded not guilty.

At the trial, the prosecution presented Clariza Antipona, the rape victim, who testified as follows:

On the night of January 24, 1993, Clariza, her younger sisters May and Clizza, her younger brother Ramil and their father, appellant Rogelio Antipona, were at their residence in Libis, Canumay, Valenzuela, Metro Manila. Their mother, Clarita Antipona, was in Pampanga.^[1] At about 10 o'clock in the evening, Clariza and her sisters and brother were sleeping in their bedroom measuring 4 meters in width by 3 meters in length. Ramil slept on the left side of a single uncushioned plywood bed measuring about 1 1/2 meters in width by 2 1/2 meters in length. Beside him lay May and Clizza. Clariza, on the other hand, lay on the extreme right side of the bed.^[2] During that time, appellant was watching the television in the living room.^[3]

Although sleeping, Clariza felt that her shorts and panty were being removed.^[4] Awakened by the movement, she sat on the bed and saw appellant in front of her sitting on their bed, naked. Clariza wept upon seeing him. She failed to wake up her sisters and brother because appellant was then forcing her to lie down.^[5] She could not shout for help as appellant warned her to be silent. Despite Clariza's struggle, appellant succeeded in laying her down and removing her shorts and panty. He then kissed her organ and inserted his tongue therein. Subsequently, appellant forcibly inserted his organ into her private part, causing her to bleed and suffer intense pain. Because of the pain and bleeding, appellant stopped his penetration and just masturbated himself. Clariza stood up crying. She was again threatened by appellant if she were to inform anyone of the incident. The following night, appellant used his finger on her private part.^[6]

Clariza kept mum about her ordeal even after her mother returned from Pampanga a week after the incident. She could not tell her defloration to her mother because she was afraid appellant might hurt her mother. Neither did she inform her other relatives because they were all residing in Pampanga.^[7]

A year passed and on February 14, 1994, Clariza's mother died after suffering from systematic lupus erythromatosis.^[8] Clariza and her younger sisters and brother continued to stay in their residence at Canumay, Valenzuela, under the care of Josephine Meyasan, appellant's paramour. Appellant, on the other hand, lived somewhere else following up the death benefits of their mother. Nonetheless, he visited them regularly.^[9]

On February 23, 1994, Lucita Nelmda, a close friend of Clariza's late mother, visited their home. She informed Clariza of her projected trip to Kuwait. Clariza also found out that Meyasan was leaving for Bicol. Fearful that she would be left alone with appellant who would have the opportunity to sexually assault her again, or worse, her younger sisters, Clariza confided to Nelmda of her rape by appellant on the night of January 23, 1993. The next day, Nelmda informed Bonifacio Casimiro, barangay captain of Canumay, Valenzuela, of Clariza's rape by appellant. Casimiro, in turn, reported the incident to the police.^[10]

On February 25, 1994, appellant was apprehended by the police, and Clariza executed her sworn statement (Exhibit "A"). The next day, Clariza was physically examined by Dr. Roberto Garcia, Medico-Legal Officer of the National Bureau of Investigations (NBI), Manila. He issued a medico-legal report (Exhibit "D") which shows the following:

"FINDINGS

GENERAL PHYSICAL EXAMINATION:

Height: 149.0 cm.

Weight: 71.0 lbs.

Fairly nourished, conscious, ambulatory, cooperative subject.

Breast, developing, conical, firm. Areola, light brown 2.8 cm. in diameter.
Nipples, light brown, protruding, 0.4 cm. in diameter.

No extragenital physical injury noted.

GENITAL EXAMINATION:

Pubic hairs, scanty. Labia majora and minora, gaping. Fourchette, tense. Vestibular mucose, pinkish, smooth. Hymen, originally crescentic, tall and thick, with old healed, superficial lacerations at 4:00 and 6:00 o'clock positions, edges of these are rounded and non-coactable. Hymenal orifice, measuring 1.5 cm. in diameter.

CONCLUSIONS:

- 1) No evident sign of any extragenital physical injury noted on the body of the subject at the time of examination.
- 2) Old healed hymenal lacerations, present, consistent with sexual intercourse on or about January 24, 1993 and thereafter.

x x x"

In defense, appellant claimed that the charge against him was a fabrication by Clariza upon the inducement of Lucita Nelmidia. He testified that Clariza, at an early age, had been involved in several love affairs. He discovered from the letters (Exhibits "2-a" to "2-j") he found in their residence that she had four (4) boyfriends. Allegedly, his late wife caught her kissing a man in the basketball court in Libis, Canumay, sometime in January 1994. They had a heated confrontation where he hit her several times with a piece of wood.^[11] This angered Clariza. Since then, his relationship with Clariza became strained.^[12] Clariza even objected to his relationship with Josephine Meyasan.^[13] This was corroborated by Meyasan who testified that when Clariza discovered their relationship, she got mad and started going home late at night.^[14]

To establish Nelmidia's inducement, appellant testified that Nelmidia borrowed money from his deceased wife, and when he tried to collect from her after his wife's death, she refused to pay and even got mad at him.^[15]

In deciding the case, the trial court accorded full faith and credence to the testimony of Clariza on how she was sexually molested by her own father. It found her testimony clear, positive and convincing, and dismissed appellant's claim that the charge against him was only a fabrication upon the inducement of Lucita Nelmidia. Thus, the trial court^[16] convicted appellant of the crime of rape and sentenced him to suffer the penalty of reclusion perpetua and to indemnify the victim the sum of P20,000.00.

Hence, appellant appeals to this forum where he contends: