

THIRD DIVISION

[G.R. No. 87758, June 28, 1996]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ANTONIO ALIMON, ACCUSED-APPELLANT.**

D E C I S I O N

PANGANIBAN, J.:

Rape is a crime repulsive to conscience.^[1] Committed by a father against his own eleven-year old daughter, rape evokes outrage, disgust and the sickening feeling that morality has gone awry.

We are called upon here to review the judgment rendered by the Regional Trial Court, Fourth Judicial Region, Branch 29, San Pablo City,^[2] on December 29, 1988, convicting the accused-appellant of defiling his own flesh and blood with the use of force and intimidation.

The Facts

At the time of the incident subject of this case, appellant Antonio Alimon and his family were residing in Barangay Sta. Maria Magdalena, San Pablo City, in the house of his mother-in-law who was abroad. Appellant worked as a welder-contractor at an iron-works shop "three electric posts" from his house; his wife stayed at home making baby dresses.

The Alimon family had access to the house next door, which was unoccupied and which had been entrusted to their care while its owners were staying in Davao. In said house was a windowless bathroom where Marivic, appellant's 11-year old daughter, used to take her bath, as she felt uncomfortable using the bathroom of her grandmother's place, the walls of which had many holes.^[3]

At around 3:30 in the afternoon of August 13, 1984, Marivic was taking a bath alone in said bathroom. Except for a piece of wood, the bathroom had no locks. There was no one else inside said house. Her father (appellant) unexpectedly entered the bathroom ("*pinasok niya ako sa banyo*"). At first he rubbed her back for about a minute. Then he started mashing ("*nilamas*") her breasts and touching her private parts. This went on for around half an hour. She was warned not to shout, and in any case nobody would be able to hear her anyway. Frightened and helpless, the child could do nothing except yield to her father's lascivious advances.^[4] When her father left the bathroom, Marivic immediately dressed and went to the bedroom of her maternal grandmother's house to change clothes.

While she was dressing up, her father again entered the room, and forced her to remove her panty. He removed his clothes and forced her onto the bed. He placed

himself on top of her, then tried but did not succeed in "fully inserting" his genital organ into hers. She felt pain and must have protested because her father shouted, "*Putang ina mo, huwag kang maingay! Papatayin kita.*" He repeated these words at the same time that he was pointing a knife at Marivic's neck.^[5] After awhile, Marivic felt something watery and sticky coming out of her father's genital organ.^[6] Then he "stopped on that day."

That evening, Marivic, together with her eldest sister, Maribel, slept in their room next to that of her father. In the middle of the night she awoke to find her father mashing her sister's "delicate parts." Realizing that Marivic was watching, her father left hurriedly.^[7]

The next day, Marivic disclosed to her aunt, Susan Briones, her mother's sister, what had taken place. She could not tell her mother because her father was always keeping watch on them, but it was her aunt who related the incidents to her mother. Because she did not want a repetition of what had happened, her mother dispatched Marivic and her sister to the house of her paternal grandparents, where they stayed for about one or two years. It was only when their mother became ill, with nobody to help her, that Marivic and her sister moved back to their maternal grandmother's house.

It was there that, on the night of December 24, 1987, Marivic awoke to find her sister being molested again by her father. Marivic saw her father fondling Maribel's "delicate parts" and pulling down her panty.^[8] In the evening of December 28, 1987, Marivic was herself roused from sleep by her father touching her delicate parts. The following morning, she told her mother what had happened, and that afternoon, her mother accompanied her to the police station where Marivic executed a sworn statement.^[9]

Dr. Marisol Cerda, OB Gynecologist of the San Pablo City District Hospital, examined Marivic on January 4, 1988. She found two healed lacerations in Marivic's hymen at the 2: 00 o'clock and 5:00 o'clock positions. There was no sign of pregnancy but her hymen could admit two (2) fingers.^[10]

Appellant was thereafter charged with acts of lasciviousness under Criminal Cases Nos. 5367-SP and 5369-SP.^[11] Upon agreement of the parties and pursuant to Sec. 14 of Rule 119 of the Rules of Court, Cases Nos. 5368-SP and 5369-SP were consolidated, the private offended party and the accused being the "same persons" in said cases, and "the incidents complained of having occurred in the same place and on the same date."^[12] The information for rape filed against appellant in Criminal Case No. 5368-SP with the Regional Trial Court of San Pablo City reads:

"That on or about August 13, 1984, in the City of San Pablo, Republic of the Philippines and within the jurisdiction of this Honorable Court, the accused above-named, with lewd design, by means of force and intimidation, did then and there wilfully, unlawfully and feloniously rape and have sexual relations with his daughter, undersigned complainant MARIVIC ALIMON against the latter's will, by forcing her to lay down and placing himself on top of complainant and had sexual intercourse with

her.

CONTRARY TO LAW."

Appellant pleaded not guilty to the charge.^[13] In his own defense, he interposed alibi. According to him, at around 3:30 in the afternoon of August 13, 1984, he was at work at the Proceso Velasco Motor Works. But accused admitted that the said shop is only three (3) electric posts away from his residence, and the distance between these two places could easily be negotiated in about three (3) minutes.^[14] At the time of the incident, his wife was allegedly in their house making baby dresses.

It was his own wife who told his parents that she heard that people had been "suspecting" that he raped his own daughter. His parents, brothers and sisters made an inquiry on the matter and found that there was no truth to the rumor. Not even a barangay complaint was filed. In fact, after the investigations, he continued living with his wife and children and supporting his family until 1987.^[15]

Alejo Sode, appellant's brother-in-law, corroborated appellant's testimony that the Alimon family convened a family meeting to discuss the rumored molestation. But since they found that nothing really happened, the family decided to forget the whole thing.^[16] It was Lina Alimon, appellant's wife, who told him that her daughter had been abused by her father ("*sinabi niya sa akin na ang kanyang anak ay ginalaw ng kanyang ama*"), but in the course of the family meeting, the spouses themselves told them that nothing happened.^[17] This witness, however, admitted that because of his job he was in Los Baños during weekdays, and would return home to Sta. Maria Magdalena only on weekends, thus, if anything had happened between Monday and Friday, he would not have known about it. Sode also admitted that there was actually no investigation conducted by any of the family members as to the truth of what happened; instead, a family meeting was held where it was concluded that nothing happened, and so they decided to forget the whole thing.^[18]

Bernardo Alimon, appellant's brother, heard the rumor in his own household. It was his father who summoned their relatives to talk about the rumor but when he asked appellant and his wife whether it was true, they replied that it was not.^[19]

The trial court believed otherwise. In its Decision of December 29, 1988, it discounted appellant's alibi, concluding that "there was no physical impossibility for the accused to have left his place of work, commit the offense, and return thereafter as if nothing happened." As regards the alleged family conference of the Alimons, the trial court observed that "(i)t is not strange, in fact it is only natural for the Alimon clan to adjudge accused, who is a member of significance, not to have committed any transgression" for, after all, "(b)lood is always thicker than water and they have to protect the Alimons' name from any unpleasant taint."

With respect to appellant's reliance on the offended party's testimony that "*(a)ng pakiramdam ko po ay hindi naipasok*, referring to appellant's sex organ, the trial court opined that while said testimony standing by itself might result in a finding that appellant is guilty of only attempted rape or acts of lasciviousness, nevertheless, the complainant's declaration on cross-examination that she noticed "blood and something thick and watery after the sexual assault" could only mean

that "there was ejaculation and penetration no matter how minimal" and that "(t)here would not have been blood unless there were lacerations" and concluded that the rape accounted for the healed lacerations and tear found by the doctor who examined the offended party.

The trial court dismissed appellant's claim that the victim did not put up a determined resistance to the assault, considering the existence of the relationship between the rapist and the victim daughter and the assertion of parental authority in the perpetration of the crime. Thus, the court a quo held:

"Against the position of the prosecution, the claimed defenses of the accused pale into insignificance. Marivic Alimon is fifteen (15) years of age. She testified against the very person who brought her into the world. This must have been done by her after much agonizing thought and soul-searching. The delay in the filing of the complaint is quite understandable because of the relationship of the parties where the dishonor of the head of the family will reflect not only on him but all his relatives particularly his immediate kins. Perhaps, were it not for the fact that the tendency of the accused to continue dishonoring his children was made manifest in December of 1987, the August 13, 1984 incident would have been forgiven and forgotten.

The Court has meticulously observed the complainant on the stand. Her testimony deserves total credibility. It was candid, straight-forward, with no tinge of revenge or rancor.

The Court is convinced of the truth of her declaration.

What further convinced the Court of the guilt of the accused was his plea of guilty to the two offenses of acts of lasciviousness committed by him against his daughter Maribel Alimon in August, 1987 and against complainant Marivic Alimon in December, 1987 for which he has been sentenced to suffer the penalty of imprisonment ranging from two (2) months of arresto mayor to two (2) years and four (4) months of prision correccional in each case. When he admitted having committed the offenses against his very own daughters, one of whom is the complainant in the case at bar, the Court could not help but conclude that there must be truth to the accusation of rape. For if the accused has committed these malicious acts, then the design to commit similar acts must have been there in his mind and it is not farfetched nor illogical for one to conclude that he did commit the act imputed to him in the case at bar.

Then, the accused cannot offer any reason why he was charged with this heinous crime. He chose to hide his alleged reasons that it will only expose the unsavory character of his wife. This is vague and evasive."

Consequently, the trial court disposed of the case as follows:

"WHEREFORE, finding the accused ANTONIO ALIMON guilty beyond reasonable doubt of the crime of rape, defined and penalized under

Article 335 of the Revised Penal Code, attended by the aggravating circumstance of relationship, with no mitigating circumstance, he is hereby sentenced to suffer the penalty of reclusion perpetua and to pay the offended party, Marivic Alimon, the sum of TWENTY THOUSAND (P20,000.00) PESOS as damages. Exemplary damages in the amount of TWENTY THOUSAND (P20,000.00) PESOS is also awarded to deter ascendants from committing sexual abuses against their descendants."

Errors Assigned

Appellant insists that the trial court failed to prove his guilt beyond reasonable doubt contending that the trial court did not consider the following: (a) the testimony of the examining gynecologist; (b) the fact that his family continued to live together after the alleged rape; (c) the behavior of the offended party during and after the commission of the crime; (d) the fact that his wife was at home when the crime transpired; (e) the delay of more than three years before the offended party reported the crime, and (f) his declaration, and that of his wife, during the family council that no rape was committed against Marivic. Appellant also assails the trial court's taking into account his guilty plea to the charges of acts of lasciviousness in the determination of his culpability for the crime of rape.

This Court's Ruling

We affirm the judgment of the trial court.

We are guided by certain well-established principles in reviewing rape cases: (a) an accusation of rape can be made with facility; it is difficult to prove but more difficult for the person accused, though innocent to disprove; (b) due to the nature of the crime of rape where only two persons are usually involved, the testimony of the complainant must be scrutinized with extreme caution; and (c) the evidence for the prosecution must stand or fall on its own merits and cannot be allowed to draw strength from the weakness of the evidence for the defense.^[20] In this particular instance, as in so many other rape cases, the credibility of the offended party's testimony is determinative of the outcome of this case.^[21] It is, however, axiomatic in rape cases that the lone testimony of the offended party, if credible, is sufficient to declare a conviction.^[22]

As a general rule, when the question is raised as to whether to believe the version of the prosecution or that of the defense, the trial court's choice is generally viewed as correct and entitled to the highest respect because it is more competent to conclude so, having had the opportunity to observe the witnesses' demeanor and deportment on the witness stand, and the manner in which they gave their testimonies, and therefore could better discern if such witnesses were telling the truth; the trial court is thus in the best position to weigh conflicting testimonies.^[23] Therefore, unless the trial judge plainly overlooked certain facts of substance and value which, if considered, might affect the result of the case, his assessment on credibility must be respected.^[24] In the instant case, a thorough review of the records uncovers no justification for making a finding contrary to that of the trial court on the issue of