

FIRST DIVISION

[G.R. No. 248875, September 03, 2020]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
RODOLFO MASUBAY Y PASAGI, ACCUSED-APPELLANT.**

DECISION

REYES, J. JR., J.:

Before us is an appeal assailing the Decision^[1] dated January 31, 2019 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 09516, which affirmed with modification the Decision^[2] dated February 15, 2017 of the Regional Trial Court (RTC) Branch 86, Quezon City, convicting accused-appellant Rodolfo Masubay y Pasagi (Masubay) of the crime of rape under Criminal Case No. Q-05-137304.

Factual Antecedents

Accused-appellant Masubay was charged with two counts of Rape in two separate informations, as follows:

Crim. Case No. Q-05-137303

That on or about the last week of October 2003 in Quezon City Philippines, the abovenamed accused with force and intimidation did then and there willfully, unlawfully and feloniously have carnal knowledge of one AAA, a minor 16 years of age against her will and without her consent to her damage and prejudice."

Crim. Case No. No. 05-137304

That on or about the month of October 2003 in Quezon City Philippines, the above named accused with force and intimidation did then and there willfully, unlawfully and feloniously have carnal knowledge of one AAA a minor 16, years of age against her will and without her consent.

Version of the Prosecution

The following are the facts of the case as presented by the prosecution and narrated by the RTC.

Sometime in October 2003, at about noontime, AAA,^[3] went home from her friend's place. Her house is located at 586 NPC Mendez St., Brgy. Baesa, Quezon City. When AAA was already at their doorstep and about to enter their house, accused suddenly grabbed her hands and pulled her inside his house. The accused is AAA's neighbor

whose house is adjacent to that of AAA. The doors of their house are near and fronting each other. No one was around the place when AAA went home.

After having been brought inside the house, the accused threatened AAA with a knife not to shout. Helpless and afraid of the threat of the accused, she was laid down on the floor by the accused who ordered AAA to remove her clothes. When she resisted, the accused forcibly removed her shorts and panty. After the accused successfully removed AAA's underwear, accused removed his underwear and immediately thereafter, he laid on top of AAA and started kissing her cheeks, lips, held her vagina and then inserted his penis into AAA's vagina. AAA was resisting from the start she was being molested by the accused but with the knife poked on her and the threat that the accused would kill her, the resolve to resist was overpowered by fear and she stopped resisting that gave way to the consummation of the dastardly act of the accused. The accused having satisfied his carnal desire released AAA to go home but was given by the accused a stern warning not to tell anyone lest the accused will kill her. Gripped by fear and terror that the accused will kill her if she tells anyone, AAA kept to herself what the accused has done to her.

Days and months passed by and AAA did not tell anyone what happened to her in the hands of the accused. After three months of living in fear, on January 26, 2004, AAA was able to muster the courage to tell her parents what the accused did to her. The mother of AAA, upon knowing what the accused did to AAA, immediately decided to report the incident to the police and subsequently accompanied AAA to the PNP Crime Laboratory for medical and genital examination. The examination done on AAA shows that there is a deep healed laceration on her hymen at 8:00 o'clock position and shallow healed laceration at 3:00 & 5:00 o'clock positions. AAA, together with her mother, filed a complaint for rape at the Police Station 3, CPD, Quirino Highway, Brgy. Talipapa, Quezon City.

Dr. Reynaldo Dave, the medical doctor who conducted the medical examination upon AAA at the PNP Crime Laboratory on January 28, 2004 stated during his testimony and in the Initial Medico-Legal Report and Medico Legal Report No. M-358-04 that there is a deep healed laceration at 8:00 o'clock position and shallow-healed laceration at 3:00 & 5:00 o'clock positions; that the subject minor is in non-virgin state physically and that there are no external signs of application of any form of trauma. Further, she stated that the deep healed and shallow healed lacerations were caused by a blunt penetrating trauma to the vagina. It could be caused by a finger, erected (sic) penis or hard object.

Version of the Defense

Accused denied that he committed the crime charged in the Information. He claimed that at the time the alleged crime was committed against AAA in October 2003, he was at his work and did not go home to his house. Being a delivery boy, and a "stay in" worker, he usually sleeps at his workplace and would go home to his house in Baesa on a weekly basis. His workplace and his house in Baesa is about 20 kilometers apart.

AAA is his neighbor at his house in Baesa, Quezon City. Whenever he goes home he would only stay for a while to get some clothes. He never stayed long in his house. He cannot recall if he went home sometime in October 2003. There is no truth to the allegation of AAA that he pulled her and forced her to go inside his house to

sexually molest her.

He further claimed that the instant case was filed by AAA at the instigation of the mother who got mad at him when he collected from AAA's mother the money indebted to him by the latter. He was arrested at his workplace sometime on April 2013 and he was 59 years old when the alleged incident happened.

The Ruling of the Trial Court

The RTC rendered its Decision dated February 15, 2017, the dispositive portion reads:

WHEREFORE, in view of the foregoing premises, the accused Rodolfo Masubay y Pasagi, under Criminal Case No. Q-05-137304, is hereby found guilty beyond reasonable doubt of the crime of rape punishable under Article 266-A (1) paragraph (a) in relation to Article 266-B of the Revised Penal Code, as amended, and is hereby sentenced to a penalty of Reclusion Perpetua. For this offense the accused is adjudged to pay the victim damages as follows: (1) One Hundred Thousand Pesos (P100,000.00) by way of civil indemnity *ex delicto*; (2) moral damages in the amount of One Hundred Thousand Pesos (P100,000.00); (3) exemplary damages in the amount of Thirty Thousand Pesos (P30,000.00) with legal interest from finality of decision. The charge under Criminal Case No. Q-05-13730^[3] is dismissed for insufficiency of evidence.

SO ORDERED.^[4]

Dissatisfied, appellant interposed an appeal alleging that the RTC gravely erred: (i) in giving weight and credence to the dubious, incredible and inconsistent testimonies of the prosecution witnesses; (ii) in disregarding his defense of denial.

^[5]

As summarized by the CA, the crux of appellant's defense is that the testimonies of private complainant (AAA) and her witnesses are so incredible in that they cannot justify a conviction. Appellant specifically assails the testimony of AAA, which he alleged were inconsistent and contradictory, to wit: AAA stated in her direct examination and in her sworn statement that she was raped twice; in her cross examination, however, she testified that she was raped only once. Appellant also contends that AAA suffered no physical injuries thus negating her claim that he employed force and intimidation on her. Appellant likewise wails why AAA did not shout for help when she was allegedly pulled from the doorstep of their house to his house in the afternoon of October 2003. Granting *arguendo* that AAA was indeed pulled into his house, appellant avers that "it is quite perplexing how the accused succeeded without having been seen by other people, considering that it happened in a public place and in broad daylight." Appellant further asserts that AAA's declaration that she was raped is belied by the testimony of Dr. Reynaldo Dave that no spermatozoa was found in AAA's hymen during her genital examination. Lastly, appellant argues that his defense of denial and alibi should have been given more credence than the frail and effete evidence of the prosecution identifying him as the one who raped AAA.

The CA, in its Decision dated January 31, 2019, denied the appeal and affirmed with modification the decision of the RTC, to wit:

WHEREFORE, all premises considered, the instant appeal is hereby **DENIED**.

Accordingly, the *Decision dated [February 15, 2017]* of the Regional Trial Court, Branch 86, Quezon City, convicting accused-appellant Rodolfo Masubay y Pasagi of the crime of rape under Criminal Case No. Q-05-137304, is **AFFIRMED** with the **MODIFICATION** that the award of exemplary damages is increased to P100,000.00.

Pursuant to the pronouncement in *Nacar v. Gallery Frames and Felipe Bordey, Jr.*, accused-appellant is further **ORDERED** to pay legal interest on all awarded damages at 6% *per annum* from the filing of the Information on [October 19, 2005] until the finality of this Decision, and another 6% *per annum* from such finality until full payment.

Aggrieved by the Decision of the CA, accused-appellant then appealed to this Court. Both parties filed their respective Manifestations that they are adopting their respective Briefs filed with the CA.^[7]

The Court's Ruling

This Court finds the appeal unmeritorious.

We find no cogent reasons to disturb the findings of the RTC, more so when the same was affirmed by the CA. As we have repeatedly ruled, the trial court's assessment of the credibility of witnesses must be given great respect in the absence of any attendant grave abuse of discretion; the trial court had the advantage of actually examining both real and testimonial evidence, including the demeanor of the witnesses, and is in the best position to rule on their weight and credibility. The rule finds greater application when the CA sustains the findings of the trial court.^[8]

The determination of the credibility of the offended party's testimony is a most basic consideration in every prosecution for rape, for the lone testimony of the victim, if credible, is sufficient to sustain the verdict of conviction. As in most rape cases, the ultimate issue in this case is credibility. In this regard, when the issue is one of credibility of witnesses, appellate courts will generally not disturb the findings of the trial court, considering that the latter is in a better position to decide the question as it heard the witnesses themselves and observed their deportment and manner of testifying during trial. The exceptions to the rule are when such evaluation was reached arbitrarily, or when the trial court overlooked, misunderstood or misapplied some facts or circumstance of weight and substance which could affect the result of the case.^[8]

We agree with the RTC and the CA that the prosecution was able to establish and prove the elements of rape. The RTC noted that the narration of facts by AAA in her testimony on how the accused, by force, threat and intimidation succeeded in having carnal knowledge with her sometime in October 2003 was simple, candid,

straightforward, clear and without any material or significant inconsistency which deserves full credit. The following are the pertinent portion of AAA's testimony:

Q. What happened on October 2003 when the first incident of rape?

xxxx

A. I was on my way home that time, [s]ir.

Q. So, what happened to you?

A. When he suddenly pulled me towards his house. [s]ir.

Q. By whom?

A. Rodolfo Masubay, [s]ir.

Q. That accused on this case?

A. Yes[,] [s]ir.

Q. So, what happened to you when the accused pulled you inside his house?

A. He forcibly tried to remove my short[s][,] sir.

Q. What else happened?

A. And also my panty, [s]ir.

Q. How about the t-shirt or blouse you were wearing at that time?

A. He was not able to remove it, [s]ir[,] because I was struggling.

Q. So, what, happened after the accused removed your short[s] and panty?

A. He poked a knife at me and he uttered for me not to shout[,] sir.

Q. How about the accused[?] [W]hat did he do to himself after removing your short[s] and panty?

A. He also undressed himself[,] [s]ir.

Q. Then afterwards what happened?

A. Something happened to us, sir[.]

Q. So, what something that you are referring to?

A. He inserted his penis into my vagina, [s]ir.

Q. So, at that particular instance, Madam Witness, the accused still holding his knife?

A. Yes, [s]ir.

Q. So, what was your reaction when accused [was] already on top of you?

A. I was terrified, [s]ir.