

SECOND DIVISION

[**G.R. No. 176632 (Formerly G.R. Nos. 151570-71), September 11, 2007**]

THE PEOPLE OF THE PHILIPPINES, Appellee, vs. ROBERTO GINGOS y LATABI and NESTOR MARGOTE y CAICDOY, Appellants.

DECISION

TINGA, J,:

For review is the decision^[1] of the Court of Appeals dated 22 December 2006 affirming with modification the judgment^[2] dated 7 March 2003 of the Regional Trial Court (RTC)^[3] of Muntinlupa City, Branch 276, finding appellants Roberto Gingos y Latabi (Gingos) and Nestor Margote y Caicdo (Margote) guilty beyond reasonable doubt of two (2) counts of rape, and sentencing them to suffer the penalty of *reclusion perpetua* for each count.

In two (2) separate Informations^[4] dated 3 November 1999, appellants were charged with rape, thus:

Criminal Case No. 99-1191

That on or about the 28th day of October, [sic] 1999, in the City of Muntinlupa, Philippines and within the jurisdiction of this Honorable Court, the above-named accused **ROBERTO GINGOS Y LATABI @ BOBET**, conspiring and confederating with one **NESTOR MARGOTE Y CAICDOY**, mutually helping and aiding one another, by means of force, threat or intimidation, did then and there willfully, unlawfully and feloniously, alternating one after the other, had carnal knowledge of one [AAA],^[5] a 14-year old girl, against the latter's will and consent.

Contrary to law.

Criminal Case No. 99-1191-A

That on or about the 28th day of October, [sic] 1999, in the City of Muntinlupa, Philippines and within the jurisdiction of this Honorable Court, the above-named accused **NESTOR MARGOTE Y CAICDOY**, conspiring and confederating with one **ROBERTO GINGOS Y LATABI @ BOBET**, mutually helping and aiding one another, by means of force, threat or intimidation, did then and there willfully, unlawfully and feloniously, alternating one after the other, had carnal knowledge of one [AAA], a 14-year old girl, against the latter's will and consent.

Contrary to law.^[6]

When arraigned, appellants pleaded not guilty to the crime charged. A joint trial on the merits followed with the prosecution presenting AAA as its sole witness and espousing the following version of the facts:

On 28 October 1999, at about 8:00 p.m., 14-year old AAA was at home in their family residence in Upper Buli Creek, Muntinlupa City when she was sent on an errand to buy kerosene for a neighbor, Mang Tony. After completing her chore, AAA was grabbed by appellant Margote as she was leaving Mang Tony's home. Margote dragged her into the adjacent house where he and appellant Gingos lived. Gingos, who was with Margote at that time, likewise entered the house as AAA was dragged in.^[7]

Once inside, appellants forced AAA to lie down on the floor and thereafter undressed her. Margote then went on top of AAA, straddled her and inserted his penis into her vagina. In the meantime, Gingos was positioned near the head of the victim, holding both of her arms securely above her head. After Margote had satisfied his lust upon AAA, he switched positions with Gingos who then proceeded to forcefully have intercourse with the victim while the former held AAA's hands over her head. After appellants had each completed their assault on AAA, they told her to dress up and warned her against reporting the incident to anyone under threat of physical harm. AAA, although afraid of being scolded, eventually summoned enough courage to tell her mother of her ordeal three (3) days later. They immediately went to the police to file a complaint against appellants.^[8]

The defense of appellants consisted of denial and alibi. In support thereof, they presented the testimony of Gingos and his grandfather Guillermo Gingos (Guillermo).

Gingos denied the charges and asserted that he and his co-accused could not have committed the crimes imputed to them as they were not in Upper Buli Creek at the time the rapes were alleged to have been perpetrated. He claimed that on the night of the incident, he was with Margote at the residence of his grandfather Guillermo in Carmina Compound, Muntinlupa City. According to Gingos, he and Margote did not return to Upper Buli Creek, about two (2) kilometers away from Carmina Compound, until 7:00 a.m. of 29 October 1999.^[9]

Guillermo testified to corroborate his grandson's alibi and maintained that on 28 October 1999, both Gingos and Margote were with him in his house in Carmina Compound where they all stayed the night. He averred that he did not notice appellants leave the house in the afternoon or evening of the date in question and that at about 10:00 p.m. that day, they had all gone to sleep.^[10]

Finding that the prosecution had proven beyond reasonable doubt the guilt of appellants of the crime of rape, the RTC rendered judgment against them on 7 March 2003. Appellants were sentenced to suffer the penalty of life imprisonment and to pay civil indemnity to AAA in the amount of P50,000.00 and the cost of the proceedings.^[11]

With the penalty imposed on appellant, the case was elevated to this Court on automatic review. However, pursuant to our ruling in *People v. Mateo*,^[12] the case was transferred to the Court of Appeals for intermediate review. On 22 December 2006, the appellate court affirmed with modification the challenged decision. Noting the error of the trial court in imposing the penalty of life imprisonment on appellants, the Court of Appeals modified the decision *a quo* as to penalty and damages, thus:

WHEREFORE, We affirm the conviction of accused-appellants but for two (2) counts of Rape, sentencing each of them to suffer the penalty of two (2) *reclusion perpetua*. Accused-appellants are further directed to pay the victim [AAA] the amount of P50,000.00 as civil indemnity and P50,000.00 as moral damages for each count of rape.

Before us, appellants adopt their brief submitted to the appellate court and once again raise as the sole assignment of error the failure of the trial court to appreciate the testimony of the Gingos and that of their corroborating witness. Appellants maintain that the charges against them are fabricated and that the testimony of AAA merely presented general allegations without supporting evidence. More particularly, they make issue of AAA's failure to offer in evidence the medical certificate and report issued by the physician who allegedly examined her after the incident. Finally, appellants point out as suspicious AAA's failure to manifest physical resistance against her alleged ravishers and her claim that Gingos had raped her for an hour.

We affirm the decision of the Court of Appeals.

The duty to ascertain the competence and credibility of a witness rests primarily with the trial court,^[13] because it has the unique position of observing the witness' deportment on the stand while testifying. Absent any compelling reason to justify the reversal of the evaluations and conclusions of the trial court, the reviewing court is generally bound by the former's findings.^[14]

In rape cases particularly, the conviction or acquittal of the accused most often depends almost entirely on the credibility of the complainant's testimony. By the very nature of this crime, it is generally unwitnessed and usually the victim is left to testify for herself.^[15] Her testimony is most vital and must be received with the utmost caution.^[16] When a rape victim's testimony, however, is straightforward and marked with consistency despite grueling examination, it deserves full faith and confidence and cannot be discarded. Once found credible, her lone testimony is sufficient to sustain a conviction.^[17]

Jurisprudence has established doctrinal guidelines in scrutinizing such trustworthiness, *viz*: (1) the appellate tribunal will not disturb the findings of the lower court unless there is a showing that it had overlooked, misunderstood, or misapplied some fact or circumstance of weight and substance that would have affected the result of the case; (2) the findings of the trial court pertaining to the credibility of witnesses are entitled to great respect and even finality as it had the opportunity to examine their demeanor as they testified on the witness stand; and (3) a witness who testified in a categorical, straightforward, spontaneous and frank manner and remained consistent on cross-examination is a credible witness.^[18]

The trial judge made the following observations on AAA:

In contrast [to the appellants' contentions] the declaration of the 13-year old victim is very credible.

x x x

Complainant has no reason to charge both accused if she was in fact not sexually molested. Her assertion is so detailed, spontaneous and [straightforward], without artifice, which could come only from one who had gone thru [sic] the experience. Her positive identification of the two is not overcome by the alibi of both accused. Their defense is evidently an afterthought. The declarations of Roberto, does not even agree with the assertions of his grandfather. Alibi cannot be sustained against the clear and positive identification of both Accused.(Emphasis supplied)^[19]

We agree that AAA's narration of her tormenting and traumatic experience, both in direct testimony and on cross-examination, is worthy of credit, to wit:

Fiscal Campomanes:

Q On October 28, 1999 at about 8:00 o'clock in the evening, where were you?

A At home.

x x x x

Q What happened while you were at [home] at that time?

A I was sent on an errand by Mang Tony.

x x x x

Q What was the errand you were sent to (sic) by this Mang Tony?

A To buy gas.

Q Where are [sic] you supposed to buy gas?

A In Alabang.

Q Did you actually went [sic] out of your house to buy gas?

A Yes, Ma'am.

x x x x

Q After you gave the gas to Mang Tony[,] what happened?

A When we went downstairs I saw these two men.

Q What is the family name of Nestor?

A Ma[r]gote.

Q And how about Roberto?

A Gingos.

Q Do [sic] you know them at that time?

A Yes, I know [sic] them.

Q Why do you know them?

A They are the *barkada* of the gangmates of my father.

Q And where do (sic) they live if you know at that time?

A I do not know.

Q So what happened after that, Miss Witness?

A They grabbed me.

Q Where in particular in your body?

Clerk of Court:

Witness demonstrating that she was being dragged on [sic] her left arm.

Q Who grabbed you?

A It was Nestor who grabbed me.

Q How about Roberto?

A Roberto went inside the house.

Q What house?

A The house of Roberto and Nestor in Alabang.

Q And where is this house located in relation to the house of Mang Tony?

A It was near [sic] from the house of Mang Tony the house of Roberto & Nestor.

Q And after Nestor grabbed you, what happened next?