

FIRST DIVISION

[G.R. No. 242684, February 17, 2021]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. XXX,^[1]
ACCUSED-APPELLANT.**

DECISION

CAGUIOA, J:

Before the Court is an appeal filed under Section 13(c), Rule 124 of the Rules of Court from the Decision^[2] dated May 29, 2018 (Decision) of the Court of Appeals, Tenth Division (CA) in CA-G.R. CR-HC No. 08957, which affirmed the Decision^[3] dated September 5, 2016 of Branch 16, Regional Trial Court of MMM,^[4] Bulacan (RTC), in Criminal Cases Nos. 1063-M-2005 and 1064-M-2005.

The Facts

The accused-appellant XXX (the accused-appellant) was charged with two counts of Qualified Rape under the following Informations:

Criminal Case No. 1063-M-2005

That [o]n or about February, 2004, in the municipality of [NNN],^[5] province of Bulacan, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with lewd designs[,] did then and there willfully, unlawfully, and feloniously, by means of force and intimidation have carnal knowledge of [AAA],^[6] a 23[-]year[-]old mentally retarded woman, against her will and consent, and with full knowledge of her mental disability at the time of the commission of the crime.

Contrary to law.

Criminal Case No. 1063-M-2005

That [o]n or about July, 2004, in the municipality of [NNN], province of Bulacan, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with lewd designs[,] did then and there willfully, unlawfully, and feloniously, by means of force and intimidation have carnal knowledge of [AAA], a 23[-]year[-]old mentally retarded woman, against her will and consent, and with full knowledge of her mental disability at the time of the commission of the crime.

Contrary to law.^[7]

Upon arraignment on June 14, 2005, the accused-appellant pleaded not guilty to the crimes charged.^[8]

Version of the Prosecution

At the time of the rape incidents, the 23-year-old victim, AAA, lived with her siblings. She suffers from epilepsy and mild mental retardation. Her highest educational attainment is Grade Six.^[9]

Sometime in February 2004, while AAA's siblings were out of the house, the accused-appellant, who is the husband of AAA's sister, WWW,^[10] called AAA. AAA obliged. Then, the accused-appellant told her: "[AAA] *para gumaling ang epilepsy mo, may gagawin lang ako sa iyo.*" AAA was perplexed and unwilling. However, the accused-appellant undressed her, took off his own clothes, and inserted his penis inside her vagina while they were on a wooden bed. AAA felt pain in her vagina.^[11]

The second rape incident happened sometime in July 2004. The accused-appellant employed the same pretext that AAA would be cured of her epilepsy once she allowed the accused-appellant to do something to her. Inside the kitchen, the accused-appellant forcibly undressed AAA, took off his own clothes, and inserted his penis inside AAA's vagina.^[12]

GGG,^[13] sister of AAA, testified that on October 2004, she visited AAA, whose house was only adjacent to her own house. GGG noticed that AAA's belly and hips started to become bigger. Thus, GGG brought AAA to Dr. Lucila Gatchalian (Dr. Gatchalian) who performed a pregnancy test using AAA's urine sample, which yielded a positive result. GGG was shocked to discover that AAA was actually pregnant. Then, Dr. Gatchalian referred them to another doctor for an ultrasound. GGG then brought AAA to the hospital which arrived at the same findings. Likewise, GGG brought AAA to a medico-legal officer at Camp Olivas in Pampanga where AAA was found to be 16 to 17 weeks pregnant per Medico-Legal Report No. M-357-04. When she asked AAA who sexually abused her, AAA was initially reluctant and afraid to answer, but AAA eventually intimated to GGG that it was the accused-appellant who raped her. AAA said that it was the accused-appellant who was "*nakagalaw*" her, as he told AAA that her illness would be cured if she would "*nagpagalaw*" or per AAA's own words: "*inasawa.*"^[14]

Together with some companions, GGG went to the police station to report the matter. Thereafter, they filed a case at the Municipal Trial Court of MMM where a preliminary investigation was conducted. After the case was filed and as her belly grew bigger, AAA always looked disturbed and "*tulala.*" AAA gave birth to a baby girl (BBB^[15]) sometime in April 2005.^[16]

Clinical Psychologist Ms. Nimia De Guzman (Ms. De Guzman) of the National Center for Mental Health examined AAA and determined that she has a mental age of an

eight-year-old child as she is unable to perceive things in her environment in relation to her chronological age of 23 years old at that time. Having a mental Intelligence Quotient (IQ) of 54, Ms. De Guzman attested, among others, that AAA is suffering from Mild Mental Retardation. AAA cannot even do a simple mathematical computation and cannot perceive the relationship of things. Ms. De Guzman opined that AAA has no clear perception of what sexual intercourse is and she would probably just allow things to happen without any understanding about it or its consequences. Ms. De Guzman opined that given AAA's psychological illness and epilepsy, AAA needs a guardian to supervise and safeguard her. Ms. De Guzman also stated that based on AAA's actuations, the latter did not like what the accused-appellant did to her. ^[17]

Version of the Defense

The accused-appellant vehemently denied the charges against him. He averred that from February 30, 2004 to July 30, 2004, he was at San Roque, Cabiao, Nueva Ecija working in a poultry farm owned by one Resurrecion Pablo. During this period, he did not go home and it was his wife, WWW, who visited him every payday. Thus, he vouched that it was impossible for him to commit the crimes imputed against him. ^[18]

The accused-appellant added that he went home to Bulacan on July 30, 2004. The following day, he worked for WWW's uncle as a farmer from 7:00 a.m. to 5:00 p.m. He came to know of his indictment for rape on October 20, 2004 without even knowing that AAA was pregnant. After learning that AAA already gave birth, the accused-appellant proposed to GGG that he and the child should undertake Deoxyribonucleic Acid (DNA) Examination. ^[19]

In relation thereto, the defense filed a Motion to Allow Accused and the Putative Child To Undergo Blood Testing, which the RTC granted in its Order dated May 9, 2011. Upon finding that he, AAA, and BBB have the same "O" blood type, the accused-appellant moved for the conduct of DNA examination, which the RTC again granted in its Orders dated November 8, 2012 and February 21, 2013. Thus, on February 28, 2013, Police Chief Inspector Edmar A. Dela Torre (PCI Dela Torre), Chief of the DNA Analysis Section of the Philippine National Police (PNP), Camp Crame, Quezon City took the biological samples of the accused-appellant, AAA, and BBB inside the chambers and in the presence of the RTC judge as witnessed by counsels of both parties. ^[20]

Subsequently, on June 5, 2013, pursuant to the directive of the RTC, PCI Dela Torre appeared before the RTC and submitted the DNA Laboratory Report under Case No. DNA-NHQ-076-13. Eventually, on crossexamination, the accused-appellant was confronted with the results of the DNA examination indicating that he is the father of BBB. The accused-appellant, however, denied that he understood the said results. Nevertheless, the accused-appellant admitted that: (1) he knew that AAA is a mentally retardate woman; (2) she has been such even long before February 4, 2005; (3) due to her epilepsy, even if AAA was 23 years old already in the year 2004, she has been acting like a child; and (4) AAA, at the time of the incident, was acting like a seven or eight-year-old child. ^[21]

Thereafter, on rebuttal, the prosecution presented PCI Dela Torre. He identified before the RTC the same DNA Laboratory Report, which he personally prepared, concluding therein that: "*the DNA profile obtained from [BBB] (076-13-A347) is consistent with that of an offspring of [the accused-appellant] (076-13-A346) and [AAA] (076-13-A348).*"^[22] PCI Dela Torre attested that it can be certain that the accused-appellant is the father of BBB.^[23]

Ruling of the RTC

In its Decision^[24] dated September 5, 2016, the RTC found the accused-appellant guilty beyond reasonable doubt of two counts of Rape. The dispositive portion of said Decision reads:

WHEREFORE, premises carefully considered, this Court finds accused **[XXX] GUILTY BEYOND REASONABLE DOUBT** of two counts of *Rape* as defined and penalized under Article 266-A and 266-B of the *Revised Penal Code*, and he is hereby sentenced to suffer the penalty of **reclusion perpetua** for each case, without eligibility for parole.

Likewise, for each case, the accused is likewise (*sic*) ordered to pay private complainant [AAA] the following:

1. Php75,000.00 as civil indemnity;
2. Php75,000.00 as moral damages; and
3. Php25,000.00 as exemplary damages.

All damages awarded shall earn interest at the legal rate of 6% per annum from the date of finality of this judgment until fully paid.

x x x x

SO ORDERED.^[25]

The RTC held that while paternity is not an element of the crime of Rape, the fact that the child born by AAA is an offspring of the accused-appellant, bolstered by the fact of sexual congress between the accused-appellant and AAA, who is a mental retardate, sufficiently proves all the elements of the crime of Rape.^[26]

Aggrieved, the accused-appellant appealed to the CA.

Ruling of the CA

On appeal, in its Decision^[27] dated May 29, 2018, the CA affirmed the RTC's Decision with modifications:

WHEREFORE, premises considered, the instant appeal is **DISMISSED**. Accordingly, the September 5, 2016 Decision of the Regional Trial Court of [MMM], Bulacan, Branch 16, convicting accused-appellant [XXX] in

Criminal Cases Nos. 1063-M-2005 and 1064-M-2005 of Qualified Rape, is **AFFIRMED** with **MODIFICATIONS** in that accused-appellant is hereby **ORDERED** to **PAY** the increased amounts of P100,000.00 as civil indemnity, Php100,000.00 as moral damages, and Php100,000.00 as exemplary damages for each count of rape with six percent (6%) interest from finality of judgment until fully paid.

SO ORDERED. ^[28]

The CA ruled that the prosecution was able to prove beyond reasonable doubt that the accused-appellant was guilty of raping AAA. ^[29] It further held that rape of a mental retardate falls under paragraph 1(b), not paragraph 1(d), of Article 266-A of the Revised Penal Code (RPC), as the same precisely refers to rape of a female "deprived of reason." ^[30] Furthermore, proof of force or intimidation is not necessary, as a mental retardate is not capable of giving consent to a sexual act. ^[31] Lastly, it held that the rape is qualified because the accused-appellant knew of the mental disability of AAA at the time he raped her. ^[32]

Hence, this appeal.

Issues

The issue before the Court is whether the CA erred in finding the accused-appellant guilty beyond reasonable doubt of two counts of Qualified Rape.

The Court's Ruling

After a careful review and scrutiny of the records, the Court affirms the conviction of the accused-appellant with modification as to the nomenclature of the crime.

***The
accused-
appellant
should be
convicted
of
Qualified
Statutory
Rape
under
Article
266-A,
paragraph
1(d)***

Article 266-A, in relation to Article 266-B of the RPC, as amended by Republic Act (R.A.) No. 8353, ^[33] provides:

Article 266-A. *Rape: When And How Committed.* - Rape is [c]ommitted:

1) By a man who shall have carnal knowledge of a