

FIRST DIVISION

[G.R. No. 247007, March 18, 2021]

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

D E C I S I O N

PERALTA, C.J.:

Before the Court is an appeal from the January 24, 2019 Decision^[2] of the Court of Appeals (CA) in CA-G.R. CR-HC No. 01292-WN, which affirmed with modification the November 18, 2013 Judgment^[3] of the Regional Trial Court (RTC), Branch 1, Butuan City in Criminal Case No. 12524, finding accused-appellant AAA guilty beyond reasonable doubt of Rape under Article 266-A, paragraph 1(d) of the Revised Penal Code (RPC) committed against BBB.

The antecedent facts are as follows:

Accused-appellant AAA was indicted for the crime of Rape under Article 266-A, paragraph 1(d) and 2 in relation to Article 266-B of the Revised Penal Code (RPC), as amended, in an Information,^[4] dated September 10, 2007, the accusatory portion of which reads:

That on or about the 23rd day of August, 2007, at [REDACTED], Agusan del Norte, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, by means of force, did then and there willfully, unlawfully and feloniously commit an act of sexual assault by inserting his fingers in the vagina and thereafter have carnal knowledge to one, BBB a 7-year old minor, against the latter's will, to the damage and prejudice of said minor.

CONTRARY TO LAW.

During arraignment, the above Information was read and explained to accused-appellant AAA in the Cebu-Visayan dialect, to which he is fully conversant with, and thereafter, he entered a plea of not guilty to the offenses charged.^[5] During pre-trial, the prosecution and the defense stipulated as to the identity of the accused and the minority of the victim.^[6] After the termination of the pre-trial, trial on the merits ensued.

Version of the Prosecution

To substantiate its charges against AAA, the prosecution presented the minor victim, BBB; her brother, CCC; her sister, DDD; and her father, EEE as its witnesses.

The combined testimonies of these witnesses tend to show that on the evening of August 23, 2007 BBB was at their house located at [REDACTED], Agusan del Norte. Accused AAA arrived at their house before BBB and her siblings had their supper. AAA frequented their house and slept there for many nights, especially during school days. After BBB and her siblings finished eating dinner and while they were watching television, FFF, a close family friend, arrived. Her brothers, CCC and GGG, along with FFF, went out of their house to join their father, EEE, at the barangay hall where a filariasis program and medical mission was being held. After watching television, BBB and her sisters, DDD and HHH went to sleep. AAA was left alone in the living room still watching television.

Later, BBB was awakened and found herself with AAA in the banana plantation near her house. AAA carried BBB to said place. BBB was told by AAA to urinate, but she did not do so. Next, AAA put BBB on the ground, opened his zipper and showed his penis to BBB. He also removed BBB's jogging pants and panty. AAA proceeded to touch her vagina and then inserted his penis into her vagina. AAA inserted his penis into BBB's genitalia more than once and during which, BBB felt so much pain. BBB cried and tried to shout, but AAA's hands were covering her mouth. After AAA was finished, he swiped his penis on her face. He then went home. After AAA left, BBB also went back to their house.

When BBB reached their house, she saw AAA already lying down on the bed in their living room but was not asleep. When BBB returned to their room, she tried to wake up DDD to borrow the latter's jogging pants. DDD answered BBB, but did not fully wake up. BBB also tried to tell DDD of her ordeal, but the latter did not respond because she was so sleepy. AAA, who overheard BBB talking to DDD, warned her, "*Ayaw pagsaba diha BBB.*" (Do not make any noise BBB) Upon hearing this, BBB immediately went to sleep for she was afraid of AAA.

Meanwhile, CCC, GGG and FFF returned home at about 11:00 o'clock in the evening and AAA opened the door for them. AAA immediately told CCC that BBB had a nightmare that she was brought to the banana plantation and that her jogging pants and panty were removed. CCC did not mind what he heard because BBB had previous nightmare episodes. After watching television, CCC and GGG went to sleep, while AAA slept on the bed and FFF slept at the floor of the living room.

EEE arrived home from the barangay hall at around 6:00 o'clock in the morning of the following day, August 24, 2007. BBB, who was then crying, approached EEE and confided to the latter that AAA brought her to the banana plantation and that the latter removed her jogging pants and panty. Before EEE could react, CCC intervened and told their father that according to AAA, BBB just had a nightmare during the night and so, EEE did not believe her. After he ate his breakfast, EEE went on his way to accompany their Barangay Chairman in going to a province. Seemingly undeterred, BBB again told EEE when he arrived home at about 4:00 to 5:00 o'clock in the afternoon of the same day, that AAA brought her to the banana plantation, removed her jogging pants and panty, and added that AAA inserted his penis into her vagina. This time EEE believed her. BBB, CCC and EEE then went to the banana plantation, where they recovered the jogging pants and panty that BBB wore on the night the incident happened.

EEE, CCC and BBB immediately reported the incident to the police. On August 25, 2007; they proceeded to the National Bureau of Investigation (NBI), Caraga to

report the abuse and to execute an affidavit-complaint against AAA. BBB was also submitted to medical examination, where it was found that she sustained recent lacerations on her hymen at 6:00 and 9:00 o'clock positions. Such medical findings highly suggested that BBB was sexually abused.

BBB testified that she was very sure that her sexual molester was AAA because she was able to see his face through the aid of the light (fluorescent light) coming from outside the house of their neighbor, Auntie Neray. BBB also claimed that she recognize AAA's voice to which she is very familiar with.^[7]

Version of the Defense

To exculpate AAA from the charges against him, the defense presented AAA, his cousin, VVV, his brother, WWW and his father XXX.

AAA testified that during his direct examination held on November 25, 2009, that he was thirty (30) years old^[8] and thus he was about twenty eight (28) years old when the rape incident happened on August 23, 2007, he alleged that he was a student at ██████████ High School until the time he was arrested. He recounted that after his classes are over, he would regularly proceed to the house of EEE to sleep there because it has a toilet room. The house of his uncle YYY was also located at Barangay ██████████ but it does not have a comfort room. Upon arrival at the house of EEE on that Thursday night, the last night he slept thereat, he saw CCC watching television and told the latter that he will sleep in their house. He found a spot on the cemented floor near CCC and immediately slept. He did not wake up at any time during the night. Upon waking up early in the morning of the following day, he was surprised to find out that FFF was sleeping beside him and the mosquito net was pinned. FFF was his neighbor at Barangay ██████████. After fixing the mosquito net, he went on his way to the house of his uncle YYY. He recalled that FFF never slept at EEE's house except on that single night. On the following Sunday, he was arrested while in the dancing area and in the presence of lots of people for allegedly raping BBB. He vehemently denied the accusation.

On cross-examination, AAA claimed that although he frequented the house of EEE, he was not familiar with the names and faces of the latter's children, except for CCC with whom he usually had conversation. He maintained that he did not know that BBB is the daughter of EEE. He denied to have opened the door for CCC and his companions on the night of August 23, 2007. He never had a chance to talk to DDD and BBB because they seemed to dislike him. He did not know of any reason why BBB would accuse him of raping her.

VVV and WWW similarly testified that they were residents of Barangay ██████████ and that they went to ██████████ on August 23, 2007 to attend a filariasis program and medical mission held at the barangay hall, as well as to play basketball. Considering that there was no light in the nearby basketball court and since it was already past 8:00 o'clock in the evening then, they decided to proceed to the house of EEE to spend the night there. Upon arrival, they told CCC, who was then watching television, about their intention. They saw AAA and FFF sleeping side by side in the living room of the said house. CCC refused to accommodate them because there were no more sleeping mats available. They recalled that it was dark outside the house of EEE. There was no moonlight nor any light coming from the

nearby houses. But they were carrying a flashlight which illuminated their way towards the house of Kagawad ZZZ where they slept overnight. They went back to the house of EEE at around 6:00 o'clock in the morning of the following day to check if AAA was still there. While thereat, they overheard EEE asked CCC on what happened to BBB, to which query, CCC replied that she just had a nightmare. AAA and FFF were no longer at the house of EEE at that time.

XXX averred that the rape charge against his son AAA was merely fabricated because EEE has a grudge against him. According to XXX, he e illegal logging activity of EEE in their ancestral domain in [REDACTED] before the Department of Environment and Natural Resources (*DENR*). As a result of which, the DENR confiscated all the logs that were cut. The incident was continuously broadcasted over the radio. He considered the accusation of rape against his son as an act of vengeance of EEE. During cross-examination, XXX admitted that it was actually a certain Tata Ambongan who reported the said illegal logging activity and that no criminal or administrative charge was filed against EEE.^[9]

By way of rebuttal, the prosecution recalled to the witness stand CCC and EEE to amplify their claims as well as to refute the allegations of the defense witnesses.

Also during rebuttal, the prosecution presented Dr. Roslyn D. Orais (*Dr. Orais*), a Medico-legal Officer of the NBI, Caraga. Dr. Orais testified that she conducted an examination on the genitalia of BBB. She observed that there was redness on the entire fourchette and a slight touch of the area would bring pain to BBB. She also found that BBB sustained hymenal lacerations at 6:00 and 9:00 o'clock positions. She opined that these injuries could have been caused by the insertion of a blunt object like an erect penis. The injuries in the vagina highly suggested of a sexual abuse committed against BBB. She prepared Medico-legal Report No. CRG-MG-07-075 and her above finding were reflected therein. She recommended that BBB should undergo some psychiatric treatment. She also prepared a preliminary report dated August 26, 2007 in connection with the case.^[10]

RTC Ruling

On November 18, 2013, the RTC rendered a Judgment finding accused appellant AAA guilty of Rape under Article 266-A, paragraph 1(d) of the RPC, as amended. No prosecution evidence was adduced to prove the charge of Rape by Sexual Assault under Article 266-A, paragraph 2. The *fallo* of which reads:

WHEREFORE, after weighing the evidence of both parties, accused AAA aka "NNN" is hereby found guilty beyond reasonable doubt of the crime of rape. Accordingly, he is sentenced to *Reclusion Perpetua* and to pay private complainant the sum of [P]50,000.00 as civil indemnity and another [P]50,000.00 as moral damages.

He shall serve his sentence at Davao Prison and Penal Farms, Panabo City, Davao del Norte. In the service of his sentence, he shall be credited with the full time benefit of his preventive imprisonment if he agrees in writing to abide by the same disciplinary rules imposed upon convicted prisoners otherwise if not he shall only be credited with 4/5 of his preventive imprisonment pursuant to Article 29 of the Revised Penal Code as amended.

SO ORDERED.^[11] (*Italics supplied*)

The RTC sustained the version proffered by the prosecution declaring that the latter was able to establish with certitude that AAA had carnal knowledge of BBB who was only seven years old at the time of the commission of the offense as evidenced by her certificate of live birth. According to the RTC, such fact of the felonious coitus was established mainly through the credible testimony of the minor victim BBB. The trial court rejected the defense of denial interposed by AAA being a mere self-serving assertion that is inherently weak and cannot prevail over the positive and undeviating testimonies of the prosecution witnesses.

Not in conformity, AAA appealed the RTC's verdict of conviction before the CA.

The CA Ruling

On January 24, 2019, the CA rendered its assailed Decision affirming the conviction of accused-appellant AAA of the crime of Rape under Article 266-A, paragraph 1(d) of the RPC, but modified the amounts of damages to be awarded. The dispositive portion of which states:

WHEREFORE, for lack of merit, the instant appeal is DENIED. The November 18, 2013 Decision of the Regional Trial Court, Branch 1, Butuan City, in Criminal Case No. 12524 is AFFIRMED with MODIFICATION. Accused-appellant AAA is found GUILTY beyond reasonable doubt of the crime of Rape under Article 266-A, paragraph 1(d) of the Revised Penal Code.

Accordingly, accused-appellant AAA is SENTENCED to suffer the penalty of *reclusion perpetua*; and is ORDERED to pay private complainant BBB the amounts of Seventy Five Thousand Pesos (P75,000.00) as civil indemnity, Seventy Five Thousand Pesos (P75,000.00) as moral damages, and Seventy Five Thousand Pesos (P75,000.00) as exemplary damages.

All monetary awards for damages shall earn interest at the legal rate of six percent (6%) per annum from the date of finality of this judgment until fully paid.

SO ORDERED.^[12]

In the assailed decision, the CA found no substantial error in the judgment rendered by the RTC. It ruled that the credible testimony of BBB was sufficient to sustain AAA's conviction as said minor victim was able to narrate in great details the circumstances of the rape incident. It found that the age of BBB remained undisputed and supported by the evidence on record. The CA observed that BBB was able to positively identify AAA as the person who sexually abused her. Lastly, the CA rejected the defense of denial proffered by AAA for being self-serving and unsupported by any plausible proof.

The Issues