

# FIRST DIVISION

[ G.R. No. 230904, January 08, 2020 ]

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

## DECISION

**LAZARO-JAVIER, J.:**

### The Case

This appeal assails the Decision dated December 12, 2016<sup>[1]</sup> of the Court of Appeals in CA-G.R. CR-HC No. 07090 which affirmed the verdict of conviction against appellant for two (2) counts of rape by carnal knowledge, rape by sexual assault, two (2) counts of acts of lasciviousness, and violation of Section 5(c) of Republic Act (RA) 9262.<sup>[2]</sup>

### Proceedings before the Trial Court

### The Charges and Plea

Under six (6) Informations dated August 8, 2006, appellant XXX<sup>[3]</sup> was charged as follows:

1. Criminal Case No. CR-06-8540 for rape by sexual assault:

That on or about the 3<sup>rd</sup> day of August 2006, at around 4:00 o'clock in the morning, in [REDACTED],<sup>[4]</sup> City of Calapan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, motivated by lust and lewd desire, by means of force, threat and intimidation, did then and there willfully, unlawfully and feloniously sexually assault one AAA,<sup>[5]</sup> the seventeen (17) year old daughter of his common-law-wife, and living with him in the same house, by inserting his finger in her vagina, against her will and without her consent, acts of child abuse which debase, degrade and demean the intrinsic worth and dignity of the said AAA, as a human being, to her damage and prejudice.

Contrary to law.<sup>[6]</sup>

2. In Criminal Case No. CR-06-8541 for acts of lasciviousness:

That on or about the 5<sup>th</sup> day of in the evening, more or less, in [REDACTED], City of Calapan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, actuated by lust and lewd desire, by means of force and

intimidation, did then and there willfully, unlawfully and feloniously commit acts of lasciviousness upon the person of **BBB**,<sup>[7]</sup> a fifteen (15) year-old daughter of his common-law-wife, living with him in the same house, by then and there touching her legs and private parts, against her will and without her consent, acts which debase, degrade or demean the intrinsic worth and dignity of the said **BBB**, to her damage and prejudice.

Contrary to law.<sup>[8]</sup>

3. In Criminal Case No. CR-06-8542 for violation of Section 5(c), in relation to Section 6(b) of RA 9262:

That on or about the 5<sup>th</sup> day of August 2006, at around 9:00 o'clock in the evening, more or less, in [REDACTED], City of Calapan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, who is the father of CCC,<sup>[9]</sup> 8-year[s]-old, and stepfather of AAA, **17 year[s] old**, the latter being the daughter of accused's common-law-wife, with utter disregard of the respect owing to his said son and stepdaughter while armed with a bladed instrument, did then and there, willfully, unlawfully and feloniously attempt to cause said children physical harm by chasing them with the intention of causing them harm, thereby inflicting sufferings to the said CCC and AAA, acts which debase, degrade, and demean the intrinsic worth and dignity of the said children, to their damage and prejudice.

Contrary to law.<sup>[10]</sup>

4. In Criminal Case No. CR-06-8543 for attempted rape:

That on or about the 4<sup>th</sup> day of August 2006, at around 3:00 o'clock in the afternoon, at [REDACTED], City of Calapan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and feloniously with lewd design and by means of force, threat and intimidation commence the commission of the crime of rape against **AAA**, the 17-year-old daughter of his common-law-wife and living with him in the same house, directly by overt acts by kissing her, embracing her, forcing her to lay down and touching and mashing her breast, but said accused was not able to perform all the acts of execution that would consummate the crime of rape due to some cause other than his own spontaneous desistance; acts of sexual abuse which debase, degrade or demean the intrinsic worth and dignity of the said **AAA**, to her damage and prejudice.

Contrary to law.<sup>[11]</sup>

5. In Criminal Case No. CR-06-8544 for rape by carnal knowledge:

That on or about the 14<sup>th</sup> day of August 2002, at around 6:00 o'clock in the evening, in [REDACTED], City of Calapan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, motivated by lust and lewd desire, and by means of force, threat and intimidation, did then

and there willfully, unlawfully and feloniously had carnal knowledge of **AAA**, the fourteen (14) year old daughter of his common-law-wife and living with him in the same house, against her will and without her consent, acts of child abuse which debase, degrade and demean the intrinsic worth and dignity of said **AAA**, as a human being, to her damage and prejudice.

Contrary to law.<sup>[12]</sup>

6. 6. In Criminal Case No. CR-06-8545 for rape by carnal knowledge:

That on or about the 21<sup>st</sup> day of August 2002 at around 3:00 o'clock in the afternoon, in [REDACTED], City of Calapan, Philippines, and within the jurisdiction of this Honorable Court, the above named accused, motivated by lust and lewd desire, and by means of force, threat and intimidation, did then and there willfully, unlawfully and feloniously had carnal knowledge of the said **AAA**, the fourteen (14) year old daughter of his common-law-wife and living with him in the same house, against her will and without her consent, acts of child abuse which debase, degrade and demean the intrinsic worth and dignity of said **AAA**, as a human being, to her damage and prejudice.

Contrary to law.<sup>[13]</sup>

The cases were consolidated and raffled to Regional Trial Court-Br. 39, Calapan City, Oriental Mindoro. On arraignment, appellant pleaded *not guilty* to all six (6) charges. Joint trial ensued.<sup>[14]</sup>

### **Prosecution's Evidence**

During the trial, the prosecution offered the testimonies of AAA, BBB, CCC and DDD.<sup>[15]</sup> AAA and BBB were DDD's children with her first live-in partner, while CCC was her son with appellant.

**AAA** testified that she was born on November 24, 1988. She first met appellant when her mother DDD introduced him as her new live-in partner. At that time, she was still six (6) years old and living with her aunt in Barangay Tibag, Calapan City. When she reached third she started living with DDD and appellant in [REDACTED], Calapan City. She considered appellant her real father because her biological father left them when she was younger. Meanwhile, her sister BBB remained under the care of their grandmother in Naujan until she was already in high school. DDD and appellant had a child, CCC.<sup>[16]</sup>

The first time appellant raped her was on August 14, 2002. The night before the incident, on appellant's birthday, she overheard appellant talking to DDD downstairs in their house, asking permission to treat AAA as his wife ("*Hinihingi po ako ng step-father ko sa nanay ko. Gusto niya po akong asawahin*").<sup>[17]</sup> DDD got mad and immediately refused appellant's request. Alarmed by appellant's intention, she confronted DDD regarding the matter but DDD assured her that such incident would never happen. She felt relieved by DDD's assurance at first but realized later that the person whom she looked up to as her own father would still carry out his bestial desires.<sup>[18]</sup>

On the day of the incident, around 6 o'clock in the evening, she was left alone doing kitchen chores when appellant suddenly held her arms and forcibly leaned her against the wall. Appellant covered her mouth and removed her jogging pants. He took off his trousers as well. She struggled to free herself from appellant but the latter was just too strong. She also tried to shout for help but appellant simply covered her mouth again and threatened to kill DDD if she reported the incident to anyone.<sup>[19]</sup>

Appellant was behind her as he pushed her facing the wall. He forcibly inserted his penis into her vagina from behind. She felt a sharp pain during the insertion because it was the first time she had sexual intercourse. And just when she thought that appellant had already satisfied his lust, he sexually assaulted her by inserting his finger inside her private organ. Frightened and helpless, she could no longer fight back. Appellant only stopped when he realized that DDD was already on her way back home. Upon DDD's arrival, appellant acted as if nothing happened. For her part, she was too afraid to tell her mother about the incident for fear that appellant might hurt DDD.<sup>[20]</sup>

On August 21, 2002, appellant raped her once again. Around 4 o'clock in the afternoon that day, while DDD and CCC were away, appellant shoved her face-down on the sofa. While she was in a stooping position (nakadapa), appellant removed her jogging pants and forcibly inserted his penis into her vagina. She felt pain while appellant made push and pull motions with his erect penis. She was too weak to resist. With her mouth against the sofa, she, too, failed to shout for help. Once again, she kept her silence for fear that appellant would kill DDD.<sup>[21]</sup>

The third incident of rape was on August 3, 2006. She was already seventeen (17) years old but still shared a bedroom with all her family members. That morning, she was awakened by the malicious embrace and kisses of appellant who groped her inside her jogging pants with his left hand. He proceeded to insert his middle finger into her vagina several times. She felt pain as appellant's nails scratched the inner parts of her vagina. Although CCC was asleep in the same room, this did not prevent appellant from carrying out the deed.<sup>[22]</sup>

In the evening of August 4, 2006, she was again molested by appellant. While she and appellant were alone inside their house, appellant started kissing and caressing her as she cleaned kitchen utensils. Appellant placed his hands inside her shirt and mashed breasts. He only withdrew from taking advantage of her when he saw DDD about to arrive. Thereupon, he pretended to have sent her to an errand and left the house. The morning after, appellant berated everyone in the house for no apparent reason. He would usually lose his temper and act that way whenever he failed to satisfy his lust at her expense.<sup>[23]</sup>

On the night of August 5, 2006, while her family was watching television, appellant arrived home drunk and again berated everyone. He ridiculed her family, telling them they were good for nothing. He also called them demons and threatened to hack them into pieces. Later, she saw appellant come down the stairs, carrying a *samurai*. She immediately pulled CCC and ran out the house. They were separated from BBB and DDD who ran ahead of them but they were able to catch up with each other along the way. They proceeded to the police station to have the incident

entered in the police blotter but the police did not accompany them back to their house.<sup>[24]</sup>

On their way home, they saw appellant burning their things. Shaken by what they saw, they decided to ask police officers to escort them home. The police officers obliged and immediately arrested appellant in their house.<sup>[25]</sup>

When she saw appellant behind bars, she finally mustered enough courage to report the abuses she experienced in his hands. But she was more shocked to have learned that appellant molested BBB that same night, too.<sup>[26]</sup>

**BBB** testified that she was fifteen (15) years old when appellant performed lascivious acts on her. On August 5, 2006, around 8 o'clock in the evening, an hour before appellant ran amok, appellant molested her by touching her thighs and breasts. She did not cry for help because appellant threatened to kill her family if she disclosed the incident to anyone. This, however, was not the first time she was sexually violated by appellant. She would experience it whenever she was left alone with appellant in their home.<sup>[27]</sup>

**CCC** corroborated AAA's testimony. On August 5, 2006, around 9 o'clock in the evening, appellant berated him and his sister before chasing them with a bladed weapon. They immediately went to the police station to report the incident. But when they returned home, they saw appellant burning their things so they went back to the police station to seek assistance, resulting in appellant's arrest. He was only thirteen (13) years old at that time.<sup>[28]</sup>

**DDD** testified that when she started living together with appellant, AAA was living with her (DDD's) sister while BBB, with her mother. AAA and BBB only came to live with them when they reached third grade and high school, respectively. AAA and BBB considered appellant as their *tatay*.<sup>[29]</sup>

On August 5, 2006, she was at home with all her children when appellant arrived drunk. They got frightened when he told them "*Mga hayop kayo! Mga demonyo kayo! Tatadtarin ko kayo! Papatayin ko kayo!*" Appellant went upstairs and they heard banging noises. When appellant went back downstairs, he was already carrying a bladed weapon so she and the children ran outside. She and BBB ran towards the barangay captain's house while appellant chased AAA and CCC. Appellant stopped chasing them when he saw one (1) of their neighbors Eddie Boy. They reported the incident to the police but when they got back home, appellant was already burning their things.<sup>[30]</sup>

The prosecution and the defense stipulated on the proposed testimony of **Dr. Angelita Legaspi** who examined AAA and found healed hymenal lacerations at 4 o'clock, 8 o'clock and 12 o'clock positions.<sup>[31]</sup> She formalized her findings in the Medical Certificate she issued to AAA.

### **Defense's Evidence**

**Appellant** was the lone witness for the defense. He denied the first and second charges of rape against him. He claimed it was impossible for him to have