

FIRST DIVISION

[G.R. No. 239892, June 10, 2020]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROGER MENDOZA Y GASPAR, ACCUSED-APPELLANT.

D E C I S I O N

PERALTA, C.J.:

This is an appeal of the Decision^[1] dated January 22, 2018 of the Court of Appeals (CA), affirming the Judgment^[2] dated November 17, 2016 of the Regional Trial Court (RTC), National Capital Judicial Region, Branch 102, Quezon City in Criminal Case Nos. GL-Q-13-180860-61, and finding Roger Mendoza y Gaspar, guilty beyond reasonable doubt of two (2) counts of Rape under Article 266-A, par. 1(a) of the Revised Penal Code (RPC), as amended by Republic Act (R.A.) No. 8353.

The facts follow.

On December 25, 2011, around 7:00 p.m., private complainant AAA,^[3] a thirteen (13)-year-old girl, went out to urinate in the restroom with no light therein, located at the back of a three (3)-storey house where she lived with her father, brother, grandmother, and uncles. While inside the restroom, she was not able to lift the makeshift door of the cubicle to cover herself. After urinating, she was about to pull up her underwear when appellant Mendoza, her neighbor, suddenly went inside the cubicle where she was in and prevented her from raising her underwear and pants. Appellant told her that he will give her One Hundred Pesos (P100.00). Appellant then proceeded to remove his shorts, inserted the tip of his penis into AAA's vagina, and kissed her neck, breasts, and lips. AAA tried to push appellant away, but failed to do so. The entire incident lasted about ten (10) minutes, and thereafter, appellant gave AAA One Hundred Pesos (P100.00) and left. AAA went back to the house and did not tell anyone about what happened.

Then on January 1, 2012, around 7:00 p.m., AAA was alone in the third floor of the house watching television while her father BBB went out to throw the garbage. It was then that appellant suddenly appeared inside the house and found AAA in the third floor. Appellant placed himself on top of AAA and kissed her neck and breasts, and eventually removed his shorts and AAA's underwear and jogging pants. Appellant, thereafter, inserted the tip of his penis in AAA's vagina. AAA tried to fight, back to no avail. Appellant also told AAA that he loved her, but the former did not respond.

AAA's father arrived at the house and caught appellant lying beside his daughter with the zipper of his pants opened. When appellant saw AAA's father, the former stood up and told the father, "*aaregluhin na lang*" and "*nagmamahalan kami*." The father asked AAA if what appellant said was true, but AAA denied it. AAA's father immediately called CCC, AAA's grandmother, and asked her to call the police and

barangay officials. When CCC learned of what happened, she slapped appellant's face. There was tension in the house when appellant challenged AAA's father into a fight. When the police arrived, appellant could no longer be found. The incident was reported to the barangay and it was only then that AAA divulged what happened to her and appellant on December 25, 2011.

AAA was then examined by Dr. Paul Ed C. Ortiz at the police station on January 2, 2012 wherein the genital examination result turned out to be "grossly normal."

On May 15, 2013, or more than one (1) year after the incident, appellant was arrested somewhere in Nueva Ecija.

Thus, two (2) Informations were filed against appellant for the crime of Rape which reads as follows:

Criminal Case No. GL-Q-13-180860:

That on or about the 25th day of December 2011, in Quezon City, Philippines, the above-named accused, by means of force and intimidation, with lewd design, did[,] then and there[,] willfully, unlawfully[,] and feloniously have carnal knowledge with one [AAA], a minor, 13 years old, against her will and without her consent, to the damage and prejudice of the said [AAA].

CONTRARY TO LAW.

Criminal Case No. GL-Q-13-180861:

That on or about the 1st day of January 2012, in Quezon City, Philippines, the above-named accused, by means of force and intimidation, with lewd designs, did[,] then and there[,] willfully, unlawfully[,] and feloniously have carnal knowledge with one [AAA], a minor, 13 years old, against her will and without her consent, to the damage and prejudice of the said [AAA].

CONTRARY TO LAW.

Appellant, during his arraignment on June 26, 2013, with the assistance of counsel, pleaded not guilty to the crime charged. After pre-trial, trial on the merits ensued.

The prosecution presented the testimonies of the victim AAA, BBB, CCC, and Dr. Paul Ed C. Ortiz, the Medico-Legal Officer who examined the victim.

In his defense, appellant denied raping AAA. According to him, on December 25, 2011, around 7:00 p.m., he was in a drinking spree at the house of his best friend located about three (3) houses away from his place of residence. Appellant claimed that he was only able to go home the following day at around 5:00 to 6:00 a.m. and did not see AAA or any of her relatives.

Appellant claimed that he was cooking at his house with his mother and siblings on January 1, 2012, around 7:00 p.m. Thereafter, around 9:00 p.m., he went to the house of his "*kumpare*" for a drink and left there around 10:30 p.m. to go home.

Appellant, before going inside his house, urinated. While urinating, AAA saw him and called him. Appellant then went inside house and saw that AAA's father was there, too. Appellant gave AA A One Hundred Pesos (PI 00.00) as Christmas gift, and before leaving, AAA thanked appellant and told him that his zipper was open.

Sometime in May 2013, appellant was then arrested in Nueva Ecija where he claimed to have already resided for more than a year, and it was only then that he learned about the charge, against him.

On November 17, 2016, the RTC rendered its judgment finding appellant guilty beyond reasonable doubt of two (2) counts of rape. The dispositive portion of the RTC's Decision reads, as follows:

WHEREFORE, in view of the foregoing, judgment is hereby rendered finding the accused ROGER MENDOZA y GASPAR, GUILTY beyond reasonable doubt of the crime of two (2) counts of rape penalized under [Article] 266-A, paragraph 1(a) of the Revised Penal Code as amended by R.A. No. 8353.

Accordingly, said accused is hereby sentenced to suffer the penalty of Reclusion Perpetua without eligibility for parole and to indemnify private complainant [AAA] the amounts of Php50,000.00 as civil indemnity, Php50,000.00 as moral damages and Php30,000.00 as exemplary damages, and interest at the rate of 6% per annum shall also be imposed on all damages awarded from the finality of this judgment until fully paid for each count.

SO ORDERED.^[4]

Appellant elevated the case to the CA, and on January 22, 2018, the appellate court dismissed appellant's appeal and affirmed his conviction of two (2) counts of Rape in a Decision that has the following dispositive portion:

WHEREFORE, the appeal is DENIED. The assailed RTC Judgment dated November 17, 2016 is AFFIRMED with MODIFICATIONS in that the award of civil indemnity is increased from Fifty Thousand Pesos (PhP50,000.00) to Seventy-Five Thousand Pesos (PhP75,000.00), the award of moral damages is increased from Fifty Thousand Pesos (PhP50,000.00) to Seventy-Five Thousand Pesos (PhP75,000.00), and the award of exemplary damages is increased from Thirty Thousand Pesos (PhP30,000.00) to Seventy-Five Thousand Pesos (PhP75,000.00). Costs against the Accused-Appellant.

SO ORDERED.^[5]

Appellant now comes to this Court for the resolution of his appeal pointing out the following issues:

I.

THE COURT A *QUO* GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT OF TWO (2) COUNTS OF RAPE, DESPITE THE CLEAR IMPROBABILITIES AND INCONSISTENCIES IN THE TESTIMONIES OF THE

PROSECUTION'S WITNESSES.

II.

THE COURT A QUO GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT OF TWO (2) COUNTS OF RAPE, DESPITE THE PROSECUTION'S FAILURE TO ESTABLISH THE ELEMENTS THEREOF.^[6]

According to appellant, the testimony of the victim is full of inconsistencies and improbabilities, therefore, it should not have been accorded full faith and credit. Appellant further claims that in both incidents of the alleged rape, the victim did not scream or shout for help. He also argues that there is no evidence to show that there was even a slight penetration of the victim's genitalia and that force, threat, or intimidation was employed by appellant to the victim.

The appeal has no merit.

In reviewing rape cases, we are guided by the following well-entrenched principles: (1) an accusation for rape can be made with facility: it is difficult to prove, but more difficult for the person accused, though innocent, to disprove it; (2) in view of the intrinsic nature of the crime of rape where only two persons are usually involved, the testimony of the complainant must be scrutinized with extreme caution; and (3) the evidence for the prosecution must stand or fall on its own merits, and cannot be allowed to draw strength from the weakness of the evidence for the defense.^[7]

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.^[8] 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.^[9] 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.^[10]

Here, appellant insists that in the victim's testimony in court and in the *Sinumpaang Salaysay*, she mentioned that appellant inserted the tip of his penis into her vagina, while in the Sexual Crime Protocol Form of the Medico-Legal Officer, the victim wrote that appellant inserted his penis into her vagina. Appellant also claims that it was highly improbable that it took more or less ten (10) minutes to insert the tip of his penis in her vagina. Such assertions of appellant are inconsequential because such inconsistencies or discrepancies are just minor details. As aptly ruled by the CA:

x x x The alleged inconsistencies and improbabilities do not negate the statement and narration of the Private Complainant that the Accused-Appellant inserted his organ into her vagina. Moreover, since human memory is fickle and prone to the stresses of emotions, accuracy in a testimonial account has never been used as a standard in testing the credibility of a witness. This, coupled with the fact that the victim is a