

FIRST DIVISION

[G.R. No. 243988, August 27, 2020]

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

D E C I S I O N

LOPEZ, J.:

The conviction of the accused for the crime of Rape committed against a mental retardate is the subject of review in this appeal assailing the Decision^[2] dated June 29, 2018 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 02447.

ANTECEDENTS

AAA, a 29-year old woman, and XXX were distant relatives and longtime neighbors. Sometime in November 2008, BBB observed that her daughter AAA was constantly feeling sick and vomiting. Thus, BBB asked AAA who confessed her pregnancy and pointed to XXX as the father of the child.^[3] Together with AAA's father, BBB confronted XXX before the barangay. Thereat, XXX expressed his willingness to marry AAA. However, with AAA's father seething in anger, the plans for marriage did not push through. Still, XXX promised to support the child. Soon, AAA gave birth to a baby girl.

After more than four years or on April 13, 2013, AAA was pasturing a cow when XXX suddenly dragged her into the shrubs. XXX removed AAA's underwear, covered her mouth with clothes, and went on top of her. Thereafter, XXX inserted his penis into her vagina. AAA resisted and hit XXX with a piece of wood and a stone. Later, AAA disclosed that she had sex with XXX several times but he threatened to kill her if she told her mother.^[4]

Thus, XXX was charged with Rape under Article 266-A, paragraph I(d) of the Revised Penal Code (RPC) and sexual abuse under Section 5(b) of Republic Act (RA) No. 7610 before the Regional Trial Court (RTC) docketed as Criminal Case Nos. CBU-101439 and CBU-101440, respectively, viz.:

[Criminal Case No. CBU-101439]

That on or about the month of November 2008, at around 6:00 o'clock in the morning, more or less, in [CCC], Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design and **by means of force and intimidation and taking advantage of the mental disability, and of which accused has knowledge of the mental disability of the offended party** at the time of the commission of the offense, did then and there willfully, unlawfully and **feloniously have sexual intercourse** with AAA, a

29[-]year old girl, a mentally retarded [sic] and **with a mental age comparable to a 6-year old child**, without her consent and against her will, resulting in the latter's pregnancy and giving birth to a child, and which act of the accused debases, degrades or demeans the intrinsic worth and dignity of a child as a human which is prejudicial to her welfare, interest and development as a human being.

CONTRARY TO LAW.^[5] (Emphasis supplied.)

[*Criminal Case No. CBU-101440*]

That on the 13th of April 2013 at about 3:00 o'clock in the afternoon, more or less, at [CCC,] Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with deliberate intent did then and there willfully, unlawfully, and feloniously with the use of force subject to sexual abuse AAA. a 29-year old girl, a mentally challenged [sic] and with a mental age comparable to a 6-year old, by waylaying, grabbing, hugging, holding her both hands tightly and dragging her to the grassy area, which act of the accused constitutes psychological and physical abuse, which is prejudicial to the welfare and development of the child and debasing, degrading, and demeaning her intrinsic worth and dignity as a human being.

CONTRARY TO LAW.^[6]

At the trial, BBB testified that AAA is already 29 years old but is a mental retardate and an illiterate.^[7] The psychologist confirmed that AAA has a mental age comparable to that of a six-year old child. Moreover, she had a very poor intelligence quotient and severe reduction in emotional expressiveness. There is a possibility that AAA cannot determine right from wrong.^[8]

In his defense, XXX admitted having sexual intercourse with AAA in November 2008 but alleged that they were lovers. He knew that AAA bore his child since they had sex twice. He financially supported the child and planned to marry AAA but her father and siblings threatened to maul him.^[9] XXX's mother corroborated that her son and AAA had a romantic relationship.^[10] Yet, XXX denied any sexual encounter with AAA on April 13, 2013 and claimed that he never approached her after BBB confronted him in the barangay. Lastly, XXX argued that AAA was not a mental retardate because she spoke well and can perform basic household chores, such as laundry, gardening and baby-sitting.^[11]

On July 4, 2016, the RTC convicted XXX of Rape in Criminal Case No. CBU-101439. It considered XXX's admission and gave credence to testimonies about AAA's mental disability. However, it acquitted XXX of sexual abuse in Criminal Case No. CBU-101440,^[12] thus:

WHEREFORE, the Court finds accused [XXX] guilty beyond reasonable doubt of the crime of Rape and hereby sentences him to suffer the penalty of *reclusion perpetua*, **without possibility for parole**, in accordance with Republic Act No. 9346. The accused is ordered to pay the offended party AAA civil indemnity of P75,000.00, moral damages of

P50,000.00 and exemplary damages of P30,000.00, with interest of 6% *per annum* from the finality of this decision until satisfaction of the award.

The accused is hereby acquitted of the charge of violation of R.A. [No.] 7610 in Criminal Case No. CBU-101440.

SO ORDERED.^[13] (Emphasis supplied.)

XXX appealed to the CA docketed as CA-G.R. CR-HC No. 02447. He contended that AAA consented to their sexual intercourse. Also, XXX insisted that AAA is not a mental retardate.^[14] In contrast, the Office of the Solicitor General countered that the XXX's sweetheart theory is unsubstantiated. Likewise, the prosecution sufficiently established that AAA suffers from mental retardation, which the psychologist confirmed and the trial court observed in open court.^[15] On June 29, 2018, the CA affirmed the RTC's findings that XXX is guilty of Rape but modified the award of damages,^[16] to wit:

WHEREFORE, the appeal is DISMISSED. The Decision dated July 4, 2016 finding Accused-Appellant guilty beyond reasonable doubt of the crime of Rape is AFFIRMED with the following MODIFICATIONS:

1. Accused-Appellant [XXX] is ORDERED to PAY AAA the following amounts: (a) P75,000.00 as civil indemnity; (b) P75,000.00 as moral damages; and (c) P75,000.00 as exemplary damages; and
2. Accused-Appellant [XXX] is also ORDERED to PAY interest at the rate of 6% per annum from the time of finality of this decision until fully paid, to be imposed on the civil indemnity, moral damages, and exemplary damages.

SO ORDERED.^[17]

Hence, this recourse on the ground that the prosecution failed to establish XXX's guilt beyond reasonable doubt. He interposes the "sweetheart" theory and claims that their sexual intercourse was a free and voluntary act.^[18]

RULING

The appeal has no merit.

The crime of statutory Rape is defined under Article 266-A, paragraph I(d) of the RPC; as amended by RA No. 8353,^[19] and has the following elements: (1) the offended party is under 12 years of age; and (2) the accused had carnal knowledge of the victim.^[20] It is committed regardless of whether there was force, threat, or intimidation; fraud or grave abuse of authority; and whether the victim was deprived of reason or consciousness.^[21] It is enough that the age of the victim is proven and that there was sexual intercourse.^[22] In the recent case of *People v. Castillo*,^[23] the Court En Bane settled that the crime is statutory Rape when the victim has a mental age of a person below 12 years old, thus:

The term "deprived of reason," is associated with insanity or madness. A person deprived of reason has mental abnormalities that affect his or her reasoning and perception of reality and, therefore, his or her capacity to resist, make decisions, and give consent.

The term "demented," refers to a person who suffers from a mental condition called dementia. Dementia refers to the deterioration or loss of mental functions such as memory, learning, speaking, and social condition, which impairs one's independence in everyday activities.

We are aware that the terms, "mental retardation" or "intellectual disability," had been classified under "deprived of reason." **The terms, "deprived of reason" and "demented," however, should be differentiated from the term, "mentally retarded" or "intellectually disabled." An intellectually disabled person is not necessarily deprived of reason or demented. This court had even ruled that they may be credible witnesses.** However, his or her maturity is not there despite the physical age. He or she is deficient in general mental abilities and has an impaired conceptual, social, and practical functioning relative to his or her age, gender, and peers. Because of such impairment, he or she does not meet the "socio-cultural standards of personal independence and social responsibility."

Thus, a person with a chronological age of 7 years and a normal mental age is as capable of making decisions and giving consent as a person with a chronological age of 35 and a mental age of 7. Both are considered incapable of giving rational consent because both are not yet considered to have reached the level of maturity that gives them the capability to make rational decisions, especially on matters involving sexuality. Decision-making is a function of the mind. Hence, **a person's capacity to decide whether to give consent or to express resistance to an adult activity is determined not by his or her chronological age but by his or her mental age. Therefore, in determining whether a person is "twelve (12) years of age" under Article 266-A (1) (d), the interpretation should be in accordance with either the chronological age of the child if he or she is not suffering from intellectual disability, or the mental age if intellectual disability is established.**^[24] (Emphasis in the original.)

Here, all the elements of statutory Rape were proven beyond reasonable doubt. Foremost, it was established that AAA is incapable of giving rational consent and has not reached the level of maturity that would give her the capacity to make prudent decisions, especially on matters involving sexuality.^[25] A series of psychological tests revealed that AAA is a mental retardate. The examining psychologist testified in open court that AAA has a chronological age of 29 years old but has a mental age of a six-year old child, to wit:

Q Madam Witness, could you please tell us why did you conduct a psychological evaluation on the client [AAA]?

A She was referred to me for assessment of her current mental

functioning. COURT: (To the witness)

Q Why? What was her behavior that she was brought to you and required for evaluation?

A **She had flat affect.**

Q What do you mean by that?

A **A severe reduction in emotional expressiveness.**

[x x x x]

Q Based on the result of the test that you conducted on [AAA], will you please tell us the outcome of the examination that you conducted?

A **Client was given the TONI-3. Client's intelligence quotient was of very poor category, significantly indicative of mental slowness. Client's mental age is comparable to a 6 years [sic] old child.**

Q Is that findings [sic] stated in your psychological report?

A Yes.

[x x x x]

Q And at the time that you conducted the psychological evaluation, what was her actual age at that time?

A **She was 29 years old.**

Q **But according to you her mental age at that time was of 6 years old?**

A Yes.

[x x x x]

Q Now, the alleged incident in this case happened in x x x November 2008. Is it possible that in the year, November 2008, her mental age was even lower than six years old?

A **There is a possibility but it is within the bracket of five to six years old.**

[x x x x]

COURT: (To the witness)

Q **At that mental age of six years old, she could be easily lure [sic] or threaten [sic]?**

A **Yes, your Honor.**