

## FIRST DIVISION

[ G.R. No. 236562, September 22, 2020 ]

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

### D E C I S I O N

**PERALTA, C.J.:**

For review is the Decision<sup>[1]</sup> dated July 17, 2017 of the Court of Appeals in CA-G.R. CR-HC No. 08135, which affirmed the Decision<sup>[2]</sup> dated February 9, 2016 of the Regional Trial Court, Branch 94, Quezon City (RTC) in Criminal Case No. Q-159338, convicting accused-appellant XXX of the crime of statutory rape.

The facts are as follows:

In an Information, accused-appellant was charged with the crime of rape committed against his minor niece AAA,<sup>[3]</sup> viz.:

That sometime during the month of April 2000 at [REDACTED], Philippines, the above named accused, by means of force and intimidation, and exercising moral ascendancy over one [AAA] since he is her maternal uncle, did then and there willfully, unlawfully and feloniously have carnal knowledge of the said [AAA], his very own niece and a minor seven (7) years of age at the time (born May 19, 1993), against the will of the offended party, to her damage and prejudice.

CONTRARY TO LAW.<sup>[4]</sup>

When arraigned on August 25, 2009, accused-appellant pleaded not guilty.<sup>[5]</sup> After the pre-trial, trial proper ensued.

The prosecution presented as witnesses complainant<sup>[6]</sup> AAA, her father CCC, Dr. Editha Martinez and Dr. Zorayda Umipig. However, complainant later recanted her testimony when she testified for the defense. The defense presented as witnesses complainant AAA, her mother BBB, the accused-appellant XXX, and the father of accused-appellant YYY.

The version of the prosecution, as stated by the Court of Appeals, is as follows:

In April 2000, complainant AAA and her family lived in a house in [REDACTED], Quezon City. Living together with them were complainant's maternal uncle, herein

accused-appellant, and complainant's maternal grandparents and two maternal aunts. Complainant was nearly seven (7) years old at that time.<sup>[7]</sup>

One morning in April 2000, complainant's parents and siblings were not home, and complainant was left alone with accused-appellant. Appellant called complainant and dragged her to one of the rooms in the house. Inside the room, appellant pushed complainant towards the bed and pinned her down on the bed. Appellant asked complainant if she knew what her parents were doing and told her that they will do the same. Complainant cried. Appellant removed complainant's short pants and underwear, then he went on top of her and inserted his penis inside her vagina. When appellant finished, he dressed up complainant and poked an ice pick on the right side of her neck, warning her not to tell anyone about what happened. For fear of appellant, complainant kept to herself the incident which was repeated several times until 2003. In 2004, when a neighbor, Ate Beth, observed that complainant was always staring blankly and was thinking deeply, complainant confided what appellant did to her. Complainant, however, begged Ate Beth not to tell her parents about her revelation.<sup>[8]</sup>

In 2006, complainant's mother, BBB, left the country to work in Australia, thus leaving complainant and her siblings in the care of their father. Sometime in October 2008, while BBB was in Australia, she communicated with complainant and was convincing her to live in the house built by BBB's parents in [REDACTED], Rizal where accused-appellant and his wife and child had transferred to in 2007. Complainant told BBB that she refused to live in [REDACTED], Rizal because accused-appellant had raped her. BBB was surprised, but she told complainant that she believed her, although she subsequently changed her stance.<sup>[9]</sup>

In 2009, complainant sought medical attention when she experienced difficulty in breathing and pain in her breasts. It was then that her father finally learned about the rape incident through Ate Beth. Thereafter, complainant and her father lost no time in filing a complaint against accused-appellant. On January 14, 2009, complainant was examined by Dr. Editha Martinez of the Philippine National Police Crime Laboratory, Camp Crame, Quezon City. A medico-legal report<sup>[10]</sup> was issued containing a finding of deep healed laceration at the 4 o' clock position in the hymen of complainant. Dr. Martinez explained that the healed laceration indicated that there was a previous blunt penetrating trauma to the hymen caused by any hard blunt object like an erect penis or finger. She stated that the deep healed laceration was consistent with the commission of the offense charged.<sup>[11]</sup>

In the medico-legal report, complainant was advised to consult an obstetrician-gynecologist. Hence, on January 26, 2009, complainant consulted Dr. Zorayda Umipig who examined her and issued her a certification<sup>[12]</sup> with the same finding of healed hymenal laceration at the 4 o' clock position. Dr. Umipig testified that the laceration could have been caused by an erect penis because it was located at the posterior side of the hymenal orifice.<sup>[13]</sup>

In defense, accused-appellant denied the accusation against him, reasoning that he could not have raped his niece, complainant herein, since at the alleged time of the rape, there were eleven (11) persons living in the same small house at [REDACTED], Quezon City. He said that their house, located in a squatters' area, was about five

(5) by ten (10) meters with two small rooms beside each other. The first room was occupied by complainant's family, while the second room was occupied by appellant's two sisters. Appellant's parents slept in the sala, while appellant either slept in the sala or in his sisters' room. Appellant contended that it was improbable for the crime to have been committed in April 2000, because they were always in the house since only his sister WWW was working at that time and the rest of them were unemployed. Moreover, in April 2000, complainant and her siblings were also on vacation from school.<sup>[14]</sup>

Further, accused-appellant stated that his sister BBB, mother of complainant, left the country to work in Australia in 2006. BBB was sending money to her husband CCC to support their family. However, CCC mishandled the funds; hence, starting in 2007, BBB sent remittance to him instead. This caused a rift between him and CCC; thus, his parents, who were in Australia since 2003, asked him to transfer to their newly-constructed house in [REDACTED], Rizal. He moved to [REDACTED], Rizal with his girlfriend and their child. He would usually fetch complainant and her siblings at [REDACTED], Quezon City every Friday, and they would stay with him [REDACTED], Rizal during the weekend, then he would bring them back to [REDACTED], Quezon City on Sunday. Appellant asserted that nothing has changed in his relationship with complainant. After all, he stood as a second father to her and her siblings. When he learned that complainant had a relationship with a tomboy, he advised her of the impropriety of the same. In 2009, he was surprised when his sister BBB called him up and told him that a case for rape was filed against him.<sup>[15]</sup>

Accused-appellant's sister BBB and their father YYY corroborated appellant's testimony.<sup>[16]</sup>

The defense presented complainant as a witness and she recanted her previous testimony that accused-appellant raped her in April 2000. Complainant stated that she only dreamed of someone lying on top of her, and when she told their neighbor, Ate Beth, about her dream, Ate Beth already said that accused-appellant raped her because she saw him closing the door. Her father told her to file the complaint against the accused-appellant after Ate Beth told him that appellant raped her (complainant). Her father was angry at appellant and said that if they would not file the rape case, he would just kill a person. She just followed what her father told her to do because she was afraid of him. It was their neighbor Ate Beth who coached her what to say when she testified about the rape. She refused to stay in [REDACTED], Rizal because Ate Beth told her that if she (complainant) would stay there with the appellant, her father would leave her and go to Aklan. Complainant said that she had a laceration in her hymen because she had a relationship with a lesbian VVV from 2007 to 2009. VVV inserted her fingers in her vagina and she felt pain. Complainant stated that her father did not tell her to lie, only Ate Beth. Complainant lived with her mother on June 23, 2013.<sup>[17]</sup>

In a Decision<sup>[18]</sup> dated February 9, 2016, the RTC found accused-appellant guilty beyond reasonable doubt of the crime of statutory rape despite the recantation of complainant. The dispositive portion of the Decision reads:

WHEREFORE, premises considered, judgment is hereby rendered finding accused [XXX] guilty beyond reasonable doubt of Statutory Rape and is

sentenced to suffer the penalty of *reclusion perpetua* without eligibility for parole.

Accused is ordered to pay AAA P50,000.00 as civil indemnity, P50,000.00 as moral damages and P30,000.00 as exemplary damages.

SO ORDERED.<sup>[19]</sup>

The RTC found the testimony of complainant for the prosecution to be credible and trustworthy. It stated that complainant's testimony was direct, candid and replete with details of the rape and she categorically pointed to the accused-appellant as her abuser. Moreover, the medical findings showed that complainant suffered a laceration in her hymen, which supported her allegation of rape. Complainant's Certificate of Live Birth indicated that she was born on May 19, 1993. Hence, she was only six (6) years old when the crime was committed in April 2000. Accused-appellant was thus charged and proven guilty of statutory rape. The trial court found the accused-appellant's defense of denial and the recantation of complainant to be unworthy of credence.<sup>[20]</sup>

The accused-appellant appealed the RTC's decision to the Court of Appeals, contending that the trial court erred in convicting him of the crime of statutory rape notwithstanding the recantation by the complainant of her earlier statements, and relying solely on the prosecution's assumptions and speculations without any direct and concrete evidence to prove his guilt beyond reasonable doubt.<sup>[21]</sup>

In a Decision<sup>[22]</sup> dated July 17, 2017, the Court of Appeals found the appeal unmeritorious and upheld the decision of the RTC. It gave full credence to the testimony of complainant who positively identified accused-appellant as the one who raped her several times when she was younger. In addition, the medical finding of deep healed laceration in complainant's hymen corroborated her statement that appellant raped her. The appellate court was not persuaded to reverse appellant's conviction on account of complainant's recantation, as it found her recantation insincere and unacceptable.

The Court of Appeals upheld the penalty meted out by the RTC, but modified the award of damages by increasing to P100,000.00 the civil indemnity, moral damages and exemplary damages; and it imposed interest of six percent (6%) per annum on all damages awarded to be computed from the date of finality of the Decision until fully paid. The *fallo* of the Decision reads:

**WHEREFORE**, premises considered, the appeal is **DENIED**. The Decision dated 09 February 2016 of the Regional Trial Court, Branch 94, Quezon City, is **AFFIRMED** with **MODIFICATION** that accused-appellant is ordered to pay to private complainant the amounts of P100,000.00 as civil indemnity, P100,000.00 as moral damages, P100,000.00 as exemplary damages, plus interest on the aggregate amount at the rate of 6% per annum from the finality of this decision.<sup>[23]</sup>

The accused-appellant's motion for reconsideration was denied by the Court of Appeals in a Resolution<sup>[24]</sup> dated December 12, 2017.

Thus, accused-appellant filed this petition for review on *certiorari*, raising these issues:

1. Whether or not the circumstantial evidence presented by the prosecution were sufficient enough to warrant the conviction of herein accused-appellant for the crime of rape;
2. Whether or not the prosecution was able to establish all the elements for the rape;
3. Whether or not the prosecution was able to discharge "proof beyond reasonable doubt" on the basis of such evidences; and
4. Whether or not the court *a quo* is correct in convicting the accused-appellant for a crime he obviously did not commit based on such flimsy evidence.<sup>[25]</sup>

At the outset, the Court clarifies that under Section 13(c),<sup>[26]</sup> Rule 124 of the Rules of Court, as amended by A.M. No. 00-5-03-SC,<sup>[27]</sup> in cases where the Court of Appeals imposes the penalty of *reclusion perpetua*, life imprisonment or a lesser penalty, it shall render and enter judgment imposing such penalty. The judgment may be appealed to the Supreme Court by notice of appeal filed with the Court of Appeals. Upon advice, the parties may file their respective supplemental briefs before this Court. The title of the case shall remain as it was in the court of origin and the party appealing the case shall be called the "appellant" and the adverse party the "appellee," as in the Court of Appeals.<sup>[28]</sup> In this case, the penalty imposed by the Court of Appeals for the crime charged is *reclusion perpetua*; thus, the proper mode of appeal to this Court is by notice of appeal filed with the Court of Appeals. In the interest of justice, the Court treats this petition for review on *certiorari* filed under Rule 45 of the Rules of Court (where only questions of law may be raised) as an appeal under Section 13 of Rule 124 (where the whole case is thrown open for review). The Court adopts the appropriate terms for the parties in this case as well as retains the title of the case as it was in the court of origin.

Before this Court, appellant contends that the RTC and the Court of Appeals erred in convicting him of the crime of statutory rape notwithstanding the valid recantation by complainant of statements she made earlier. He argues that the prosecution failed to discharge the burden of proving his guilt beyond reasonable doubt since it merely relied on the unsubstantiated testimony of complainant, which she retracted in a subsequent testimony.

The main issues are: