

## THIRD DIVISION

[ G.R. No. 225781, November 16, 2020 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. XXX,<sup>[1]</sup>  
ACCUSED-APPELLANT.**

### D E C I S I O N

**HERNANDO, J.:**

Challenged in this appeal is the September 24, 2015 Decision<sup>[2]</sup> of the Court of Appeals (CA) in CA-GR CR HC No. 06715 affirming *in toto* the January 21, 2014 Joint Decision<sup>[3]</sup> of the Regional Trial Court (RTC), Branch 38 of San Jose City, Nueva Ecija in Criminal Case No. 692-06-P which found XXX (accused-appellant) guilty beyond reasonable doubt of the crime of Rape.

#### The Antecedents

Accused-appellant was charged in two separate Informations with the crimes of Rape and Attempted Rape under Article 266-A of the Revised Penal Code (RPC) in relation to Republic Act No. (RA) 7610, otherwise known as the Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act, as amended, allegedly committed as follows:

#### **Criminal Case No. 692-06-P:**

That on or about the 25<sup>th</sup> day of December 2005, at about 8:00 o'clock in the evening, at ██████████,<sup>[4]</sup> Province of Nueva Ecija, Republic of the Philippines and within the jurisdiction of this Honorable Court, the above-named accused armed with a bladed weapon, by means of force and intimidation did then and there wilfully, unlawfully and feloniously have carnal knowledge of one AAA<sup>[5]</sup> a minor, 14 years old, against her will, to her damage and prejudice.

All contrary to law with the aggravating circumstances of nighttime, abuse of confidence with the act done in the house of complainant.

CONTRARY TO LAW.<sup>[6]</sup>

#### **Criminal Case No. 691-06-P:**

That on or about the 5<sup>th</sup> day of January 2006, at about 11:00 o'clock in the morning, at ██████████, Province of Nueva Ecija, Republic of the Philippines and within the jurisdiction of this Honorable Court, said accused armed with a kitchen knife, suddenly pulled the arm and ordered [AAA], a minor, 14 years old, to climb to a wooden bed and forcibly removed her panty and shorts and lied on top of her thereby commencing the commission of Rape in relation to R.A.

7610, which should have produced the crime of Rape in relation to R.A. 7610 but was not able to consummate Rape by reason of accident other than his own spontaneous desistance, that is, the arrival of [BBB],[7] the mother of [AAA] who beat [XXX] with a piece of wood.

Contrary to law with aggravating circumstance of abuse of confidence.

CONTRARY TO LAW.[8]

Upon arraignment, accused-appellant pleaded not guilty to crimes charged against him.[9]

In the course of the trial, the prosecution presented the victim AAA, her mother, BBB, and physician Dr. Ma. Eilyn F. Basco (Dr. Basco), as its witnesses. On the other hand, the defense presented accused-appellant as its witness. However, the victim executed a *Sinumpaang Salaysay ng Pag-uurong ng Habla* [10] dated November 26, 2013, wherein she made the following declarations:

2. Na, ako ay hindi na interesado pang ipagpatuloy ang pag-uusig kay [XXX] dahil ang mga pangyayari ay bunga lamang ng di namin pagkakaunawaan, tampo at galit ko sa naturang akusado kaya ako ay nakagawa ng maling paratang laban sa kanya;

3. Na, naayos na namin ang hidwaang namagitan sa amin at hindi kaya ng aking konsensiya na ipakulong ang taong wala naman talagang kasalanan sa akin[.] [11]

As a result thereof, she also testified for the accused-appellant.

#### **Version of the Prosecution:**

On December 25, 2005, at around 8 o'clock in the evening, BBB was out having a drink with her neighbors, while AAA and her siblings were left in their house. Around the same time, AAA's siblings were already sleeping in a room, while the victim was sleeping on a bench outside the said room. Meanwhile, accused-appellant, the live-in partner of BBB, who earlier declared that he would be going to his ducks or "itikan", returned to their house. He then chanced upon the victim and proceeded to remove her clothes, leaving her totally naked. After undressing himself, accused-appellant went on top of the victim and held her hands. She resisted but he poked a bladed weapon at her neck and told her not to tell anybody or else he would kill her and her family. Thereafter, he inserted his penis into the victim's vagina, and kissed her lips and neck. Being then a virgin, she experienced vaginal pain and bleeding. After feeling something hot spew from accused-appellant's private part, AAA recalled that he removed his penis from her vagina, dressed himself and left. She remained at their house and cried.[12]

On January 5, 2006, AAA and her sister went to the hut erected on the place where accused-appellant was raising ducks to get drinking water from an artesian well. Upon seeing her, he held her hands and brought her inside the hut. He then instructed her to lie down on a wooden bed. When she refused to abide by his instruction, he poked a pointed knife at her neck.[13]

Accused-appellant then went on top of the victim. When he was about to remove his pants, BBB arrived. Upon seeing her live-in partner on top of her daughter who was wriggling her feet, BBB hit him with a piece of wood. Thereafter, BBB tried to wrest the knife from his waist, but failed to do so because he held BBB who suffered an injury on her hands as a result thereof.<sup>[14]</sup>

The victim then left and proceeded to the house of her friend. BBB followed her and asked her how many times had accused-appellant molested her. She then revealed to her that he also sexually molested her the previous month.<sup>[15]</sup>

Together, AAA and BBB reported the sexual molestations to the barangay authorities. On January 8, 2006, AAA underwent a medical examination, wherein Dr. Basco made the following findings:

Contusion with Laceration, 0.5 cms at 5 o'clock, Left Lower Vaginal Orifice.

Contusion, Left upper Anterior Vaginal Wall.<sup>[16]</sup>

### **Version of the Defense:**

Accused-appellant vehemently denied the accusation against him. He claimed that at about 8 o'clock in the evening of December 25, 2005, he was alone in his farm which is about a kilometer away from their house. He had no occasion to leave the place.<sup>[17]</sup>

He also pointed to the victim's affidavit of desistance dated November 26, 2013, and the fact that she also testified for him on November 28, 2013 where she confirmed executing the affidavit of retraction, denied that accused-appellant raped her, and claimed that she filed the cases merely at the behest of her mother, BBB.<sup>[18]</sup>

### **Ruling of the Regional Trial Court:**

In a January 21, 2014 Joint Decision,<sup>[19]</sup> the RTC of San Jose City, Nueva Ecija acquitted accused-appellant of the charge of Attempted Rape but convicted him of one count of Rape.<sup>[20]</sup> The dispositive portion of the Joint Decision reads:

WHEREFORE, his guilt for the offense charged in Criminal Case No. 691-06-P not having been established beyond reasonable doubt, the accused [XXX] is ACQUITTED.

Said accused, however, is hereby found guilty of rape defined and penalized under Art. 266-A in relation to Art. 266-B of the Revised Penal Code in Criminal Case No. 692-06-P and is accordingly sentenced to suffer the penalty of *reclusion perpetua*, and such accessory penalties provided by law.

The accused is likewise found liable to pay [AAA] civil indemnity and moral damages, each in the amount of P50,000.00 both of which must earn interest at the rate of 6% per *annum* from finality of this judgment until fully paid.

SO ORDERED.<sup>[21]</sup>

## **Ruling of the Court of Appeals:**

In its September 24, 2015 Decision, the CA dismissed accused appellant's appeal, and upheld the findings of the RTC. It pointed out that recantations of testimonies are frowned upon by the courts as they are generally unreliable in character.<sup>[22]</sup> The dispositive portion of the appellate court's Decision reads:

**WHEREFORE**, the foregoing considered, the appeal is hereby **DENIED** and the judgment of the Trial Court rendered on January 21, 2014, being in accord with the facts and the law, convicting [XXX] for Rape under Criminal Case No. 692-06-P with the penalty of *reclusion perpetua* and all its accessory penalties, civil indemnity of P50,000.00 and moral damages of P50,000.00, with 6% interest per *annum* for each award from the date of finality of the judgment until fully paid, is hereby **AFFIRMED** in all aspects.

**SO ORDERED.**<sup>[23]</sup> (Emphasis in the original)

Dissatisfied, accused-appellant filed the instant appeal.<sup>[24]</sup>

### **Issue**

Whether or not the prosecution has proven the guilt of accused-appellant beyond reasonable doubt for the crime of Rape.

### **Our Ruling**

We affirm accused-appellant's conviction.

***Accused-appellant is guilty beyond reasonable doubt of the crime of Rape.***

The gravamen of the crime of Rape is carnal knowledge of a woman against her will.<sup>[25]</sup> The following elements must be proven beyond reasonable doubt for the conviction of the accused in the crime of Rape: (i) that the accused had carnal knowledge of the victim; and (ii) the act was accomplished (a) through the use of force or intimidation; or (b) when the victim is deprived of reason or otherwise unconscious; or (c) when the victim is 12 years of age, or is demented.<sup>[26]</sup>

In the instant case, the foregoing elements are all present. The victim testified that accused-appellant had sexual intercourse with her, against her will, while pointing a bladed weapon at her neck.<sup>[27]</sup> She clearly recalled her horrendous experience at the hands of accused-appellant, as can be seen in her testimony below:

[FISCAL LEDDA] In the evening of the same day December 25, 2005, where were you?

[VICTIM]: I was also in our house, sir.

Q: Did you have any companion?

A: I have, sir.

Q: Who was your companion?

A: Also my siblings, sir.

Q: Where were your stepfather [XXX] at that time?

A: He told us that he will be going to his ducks or "itikan", sir.

Q: Did he go there?

A: But he did not go there instead.

Q: Instead, where did he go?

A: He returned to us, sir.

Q: When your stepfather returned to you[,] what happened if there was any?

A: And then he raped me, sir.

Q: Where did your stepfather rape you?

A: Also in our house, sir.

Q: Inside a room?

A: In our bench because I used to sleep in our bench, sir.

X X X X

Q: Where are the other siblings when you were sleeping?

A: They were inside the room, sir.

Q: Before your stepfather raped you, what did he do first?

A: He removed my clothes, sir.

Q: What were you wearing at that time?

A: Only a short, sir.

Q: Were you also wearing a panty?

A: I have a panty, sir.

Q: How about the upper portion of your body, what were you wearing?

A: A t-shirt, sir.

Q: Are you also wearing a bra?

A: I was also wearing a bra, sir.

Q: What clothes were removed by the accused?

A: My panty, sir.