

THIRD DIVISION

[G.R. No. 229862, June 19, 2019]

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

DECISION

LEONEN, J.:

Recantations are viewed unfavorably especially in rape cases. Circumstances in which the recantation was made are thoroughly examined before the evidence of retraction can be given any weight.

Before this Court is a criminal case for rape committed by the common-law spouse of the victim's mother. Accused-appellant ZZZ assails the September 30, 2016 Decision^[1] of the Court of Appeals in CA-G.R. CR-HC No. 01769, which affirmed his conviction in the June 25, 2013 Judgment^[2] of the Regional Trial Court.

On May 23, 2006, an Information^[3] was filed against ZZZ charging him with the crime of rape:

That on or about 11:00 o'clock (*sic*) on the morning of the 12th day of April 2006, in the City of [REDACTED], Philippines and within the jurisdiction of this Honorable Court, the said accused, the live-in partner of the mother of the victim, by means of force and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of the victim [AAA], a minor fourteen (14) years old, against her will.

Contrary to Article 266-A, in relation to 266-B of the Revised Penal Code.

^[4]

ZZZ pleaded not guilty to the crime charged during his arraignment on July 19, 2006. Pre-trial was held on October 25, 2006. Trial on the merits then ensued.^[5]

The prosecution presented AAA^[6] and Dr. Edalin Dacula (Dr. Dacula) as its witnesses.^[7]

AAA narrated that in the afternoon of April 12, 2006, she had fallen asleep after doing laundry, while her stepfather, ZZZ, was doing carpentry works. Suddenly, she woke up and found ZZZ on top of her, his lower body naked. He then sat on the floor with his penis showing and removed her short pants and underwear, after which he went back on top of her and masturbated. He took AAA's hands and put them on his penis,^[8] telling her that if she became pregnant, "he [would] be happy."^[9] ZZZ then inserted his penis into her vagina "and sat, kissed her face,

touched her vagina[,] and kissed her breast."^[10]

AAA later reiterated on cross-examination that ZZZ put his penis into her vagina. She failed to see the act, but felt it. She also felt pain on her vagina's side, caused by the penis' insertion.^[11]

Dr. Dacula, who conducted the medical examination on AAA, testified that she had found redness and abrasion on the right side of the victim's labia minora, "caused by a smooth, soft object"^[12] as indicated in the Medico-Legal Report.^[13]

Meanwhile, the defense presented as witnesses: (1) AAA's mother BBB; (2) ZZZ; and (3) AAA, on her affidavit of recantation.^[14]

BBB testified that ZZZ had been her common-law spouse for four (4) years. At 10:00 a.m. on April 12, 2006, she and her stepdaughter, CCC, went for a 30-minute walk to the barangay hall to request a toilet bowl, as instructed by ZZZ. They went back home after being told that the toilet bowl was not yet available.^[15]

When she arrived at their house, BBB was surprised to see that the door and window were shut. Upon opening the door, she saw AAA sitting and ZZZ standing, both silent. BBB got mad and whipped ZZZ with a plastic hose, but he remained silent.^[16]

Thinking that her daughter was raped, BBB brought AAA to the barangay hall. Then, with the assistance of the Department of Social Welfare and Development and the police, they went to ██████████ City for AAA's physical examination.^[17]

On cross-examination, BBB stated that she brought AAA to the barangay hall "because her vision at that time was blurred as if she cannot notice a person[.]"^[18] Maintaining that their house was closed when she first arrived from the barangay hall, she reiterated seeing ZZZ and AAA inside when she opened the door and thinking that her daughter was raped.^[19]

ZZZ testified that he was BBB's common-law spouse. He took AAA as his stepdaughter, supporting her since childhood. He narrated that at 6:00 a.m. on April 12, 2006, he was working on the kitchen in their house while AAA and DDD did the laundry. Meanwhile, BBB proceeded to the barangay hall to check if the toilet bowl they requested was already available.

ZZZ further narrated that at around 10:00 a.m. on April 12, 2006, DDD and AAA were eating breakfast after they had finished washing clothes. AAA then went up the second floor of their house and slept, while he was then installing an electric bulb in the kitchen. When BBB arrived, she opened the door at once.^[20] AAA "was surprised because [BBB] was shouting as if she was dreaming."^[21] BBB asked ZZZ if he raped AAA, which he denied. He was around 12 meters away from AAA, holding a hammer on the window. BBB then went to AAA and pinched her "bulog[.]"^[22] Afterwards, BBB grabbed a hose and whipped ZZZ, who was able to parry the strike. BBB then went out with AAA only to return the following morning.^[23]

ZZZ claimed that BBB was influenced by her cousins to accuse him.^[24] The cousins were allegedly mad at him and wanted BBB and him to separate since he was "not a useful person."^[25]

On cross-examination, ZZZ stated that the house's window and door were always shut because the house was still unfinished. He restated that when BBB arrived, she saw him standing by the window and AAA sitting at a corner of their house. He reiterated that BBB whipped him with a hose.^[26] He added that when he saw AAA crying, he thought that she would not pinpoint him as her rapist "because her conscience [was] bothered."^[27]

On August 8, 2008, AAA executed her Affidavit of Recantation and Desistance,^[28] praying that the rape case be dismissed. She claimed that her declarations during the direct and cross-examinations "were done under duress and that she was afraid of the authorities at that time[.]"^[29] Maintaining that ZZZ did not rape her, she claimed that she was forced by a certain EEE to file the rape case.

On cross-examination, AAA testified that she was not compelled by the prosecutor to testify. Contrary to her Affidavit, she also admitted that she was not under duress when she was presented as a witness. She recalled crying during the direct examination and pointing to ZZZ as her rapist when she was asked. EEE, she added, was their neighbor.^[30]

In its June 25, 2013 Judgment,^[31] the Regional Trial Court found ZZZ guilty beyond reasonable doubt of simple statutory rape.^[32]

The trial court found that the prosecution failed to establish AAA's minority. It did not present documentary evidence, such as her birth certificate, or even testimonial evidence to prove that AAA was a minor when the crime was committed.^[33]

The trial court further gave weight to AAA's declaration that she was raped. It noted her sincerity during trial and her candid and straightforward manner in giving her testimony. It held that her allegations were corroborated by Dr. Dacula's findings and BBB's subsequent acts in bringing AAA to the barangay officials, the Department of Social Welfare and Development, and the police.^[34]

The trial court did not give merit to ZZZ's denial for being unsubstantiated. It further held that instead of discrediting the prosecution's evidence, AAA's Affidavit of Recantation and Desistance bolstered her earlier statements by reaffirming that: (1) ZZZ sexually molested her; (2) the prosecutor did not force her to testify; and (3) she was not put under duress.^[35]

The dispositive portion of the Regional Trial Court Judgment read:

WHEREFORE, based on the prevailing facts, evidences, law and jurisprudence applicable, the court finds accused [ZZZ] GUILTY BEYOND REASONABLE DOUBT of the crime of simple statutory rape and hereby sentenced him to suffer the penalty of imprisonment of *reclusion perpetua*. He is hereby ordered to pay to the victim civil indemnity in the amount of P50,000.00 and moral damages in the amount of P50,000.00

without proof of its basis.

SO ORDERED.^[36]

ZZZ appealed^[37] before the Court of Appeals. In turn, the People of the Philippines, represented by the Office of the Solicitor General, filed its Brief.^[38]

In its September 30, 2016 Decision,^[39] the Court of Appeals denied the appeal and affirmed the trial court Judgment with modification.^[40] It declared that the trial court erroneously used the word "statutory" since it was not established that AAA was below 12 years old when the crime was committed. Nonetheless, the error was harmless because the penalty meted and the monetary awards granted were for the crime of simple rape.^[41] It sustained ZZZ's conviction based on AAA's "vivid recollection"^[42] of how rape was committed against her.^[43]

The Court of Appeals did not give merit to ZZZ's argument that the prosecution failed to prove the presence of force, intimidation, threat, fraud, or grave abuse of authority.^[44] Citing *People v. Arpon*,^[45] it held that the moral influence or ascendancy of the common-law spouse of the victim's mother replaced the elements of violence and intimidation.^[46]

Likewise, the Court of Appeals gave no merit to either AAA's recantation or the argument that her lack of hymenal laceration negated the crime of rape.^[47]

The dispositive portion of the Court of Appeals Decision read:

WHEREFORE, the appeal is DENIED. The Judgment dated June 25, 2013, of the Regional Trial Court, Branch 63, Bayawan City, in Criminal Case No. 529 is hereby AFFIRMED, but with modification only in that the word "statutory" in the dispositive portion thereof is DELETED.

SO ORDERED.^[48]

Hence, ZZZ appealed his case before this Court.^[49]

On April 5, 2017, this Court issued a Resolution^[50] requiring the parties to file their supplemental briefs. The parties filed their respective Manifestations,^[51] stating that they would no longer file their supplemental briefs as they had sufficiently exhausted their arguments in their Briefs before the Court of Appeals.^[52]

Accused-appellant argues that the crime of statutory rape was not proven because the prosecution failed to sufficiently establish AAA's minority, which the trial court also noted.^[53]

Assuming that the prosecution established her age, accused-appellant contends that he was still wrongly convicted of statutory rape. Pointing out that AAA's alleged age in the Information was 14 years old, he argues that under the law and jurisprudence, the victim must be below 12 years old for the crime to be statutory rape.^[54]

Accused-appellant avers that since the case does not involve statutory rape, the presence of force, intimidation, threat, fraud, or grave abuse of authority must be established in the alleged crime's commission. He contends that the prosecution failed to show these circumstances.^[55]

Moreover, accused-appellant alleges that AAA's "[inconsistent and improbable statements[,] "^[56] particularly on direct examination and on her Affidavit of Recantation and Desistance, raised doubts on the credibility of her allegations.^[57]

Accused-appellant also points out that Dr. Dacula only found redness and abrasion, and not hymenal laceration, which should have been present had there been sexual intercourse.^[58] These manifestations "could have been easily caused by pinching, scratching, or wearing very tight underwear."^[59]

Lastly, accused-appellant argues that the prosecution should not draw its strength on the alleged weakness of the defense.^[60] He maintains that he should be acquitted considering that his guilt was not proven beyond reasonable doubt.^[61]

Plaintiff-appellee counters that accused-appellant was actually convicted not of statutory rape, but of simple rape, and was meted with the penalty of simple rape. Hence, even if the trial court erroneously included the word "statutory" in describing the crime, there was no effect in the imposed penalty.^[62]

Plaintiff-appellee insists that accused-appellant's guilt was proven beyond reasonable doubt.^[63] It was able to establish the following elements:

First. [AAA] was then 14-year old when appellant had sexual intercourse with her.

Second. Appellant who is the common-law husband of [AAA's] mother exercises moral ascendancy and authority over her.

Third. [AAA] testified that appellant had carnal knowledge of her on April 12, 2006 at about 11:00 o'clock (*sic*) in the morning while her mother went to the Barangay Hall to do an errand for appellant.^[64] (Emphasis in the original)

Plaintiff-appellee maintains that AAA's narration of the incident proves that accused-appellant raped her.^[65] It adds that recantations are usually viewed unfavorably since it can be secured by intimidating the witness or in exchange of monetary consideration.^[66] It alleges that AAA's recantation was doubtful because BBB and accused-appellant continued their common-law relationship and AAA's new claim "was a mere legal conclusion, bereft of any details or other indicia of credibility, much less truth."^[67]

Finally, plaintiff-appellee contends that AAA's intact hymen is not fatal to its cause. In the crime of rape to be consummated, it is sufficient that the penis touched the pudendum or the labia.^[68]