

SECOND DIVISION

[G.R. No. 235662, July 24, 2019]

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

D E C I S I O N

LAZARO-JAVIER, J.:

Prefatory

This appeal assails the Decision^[1] dated August 3, 2017 of the Court of Appeals in CA-G.R. CR-HC No. 08486 entitled "*People of the Philippines v. XXX*," convicting appellant XXX of two (2) counts of qualified rape and one (1) count of lascivious conduct.

The Proceedings Before the Trial Court

The Charges

Appellant XXX was indicted for two (2) counts of rape in Criminal Case Nos. 08-0581-2013 (rape of his daughter AAA) and 08-0631-2013 (rape of his daughter BBB), viz:

Criminal Case No. 08-0581-2013

That on or about the 14th day of March, 2009 in [REDACTED], Lipa City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, through force, threat, or intimidation, being the father of AAA and who was charged for the crime of Attempted Rape docketed under Criminal Case No. 02-0127-2013, motivated by lust and lewd designs and taking advantage of the vulnerability of said AAA, a fifteen (15) year old minor, without any justifiable cause, did then and there willfully, unlawfully, and feloniously have carnal knowledge with said minor, against her will and consent, which acts debased, degraded or demeaned her intrinsic worth and dignity as a human being.

Contrary to law.^[2]

X X X

Criminal Case No. 08-0631-2013

That sometime in 2009 at [REDACTED], Lipa City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, the biological father of BBB, without any

justifiable cause with intent to abuse, arouse and gratify for sexual desire, through force, threat and intimidation or grave abuse of authority, did then and there willfully, unlawfully and feloniously have carnal knowledge of said BBB, a fourteen (14) years old minor, against her will and consent, which acts, debase, humiliate, degrade and demean the intrinsic worth and dignity of said BBB.

The aggravating/qualifying circumstance of minority, the victim being under 18 years of age and the offender being the biological father of the victim, attended the commission of the offense.

Contrary to law.^[3]

Additionally, in Criminal Case No. 08-0630-2013, appellant was indicted for lascivious conduct on his daughter BBB, *viz*:

Criminal Case No. 08-0630-2013

That sometime in 2009 at [REDACTED], Lipa City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, being the father of BBB, without any justifiable cause, with intent to abuse, arouse and gratify his sexual desire, did then and there willfully, unlawfully and feloniously commit lascivious conduct upon said BBB, a fourteen (14) year old minor, by touching her private parts, kissing her lips and breast and trying to insert his penis into her vagina, which acts debase, humiliate, degrade and demean the intrinsic worth and dignity of said BBB.

Contrary to law.^[4]

The three (3) cases were consolidated before the Regional Trial Court, Branch 13, Lipa City.

On arraignment, appellant pleaded not guilty to all three (3) charges.^[5] The cases were, thereafter, jointly tried.

The Prosecution's Evidence

Complainants AAA and BBB are appellant's daughters with MMM. AAA was born on August 12, 1993,^[6] and BBB, on February 7, 1996.^[7] Appellant was a tricycle driver while their mother, MMM, was an Overseas Filipino Worker.^[8]

AAA testified that on March 14, 2009, she was alone with appellant in their home. He brought her to a room, laid her down on the bed, and undressed her. Appellant took off his shorts and inserted his penis into her vagina. She felt pain and blood came out of her vagina and she could not do anything. After sexually ravishing her, appellant told her to put on her dress while he also put on his shorts. Appellant also promised to give her money.^[9]

AAA further recounted that appellant sexually abused her many times more but she could not remember the dates. In some instances, her younger sister BBB was even

in the room. She kept her silence for three (3) years because her mother MMM did not believe her. Eventually, she left their house and told her aunt what appellant had done to her. Her aunt rescued her.^[10]

While intensely crying, BBB testified that sometime in 2009, she and appellant were left alone in their house. Appellant asked her if she wanted money then suddenly pulled down her shorts and panty and raised her t-shirt, exposing her breasts. She resisted but appellant did not stop touching and kissing her private parts. He then took off his t-shirt, shorts, and brief. As he was about to insert his penis into her vagina, CCC, her younger brother arrived. Appellant hurriedly dressed and told her to do the same.^[11]

BBB added that appellant would usually move from his room into theirs while they were asleep. Appellant would usually lie beside them and touch her and AAA's private parts. Eventually, he would have carnal knowledge of her even though AAA and CCC were in the same room. She knew that appellant also raped AAA. Appellant would wake her up by holding her hands while raping AAA. They could not do anything because they were so scared of appellant.^[12]

The prosecution and the defense stipulated that AAA and BBB are appellant's legitimate children.^[13]

The Defense's Evidence

Appellant denied the charges. He claimed he was at work during those times when he allegedly raped and sexually molested his daughters. His daughters were very mad at him because he had another woman. His wife was also mad at him so she asked their daughters to concoct the charges against him.^[14]

The Trial Court's Ruling

By Decision^[15] dated June 21, 2016, the trial court found appellant guilty of two (2) counts of rape and one (1) count of lascivious conduct. The trial court gave full faith and credence to the respective testimonies of AAA and BBB on how each of them was sexually ravished by their own father. BBB was also credited for giving credible and positive testimony on how appellant performed lascivious conduct on her sometime in 2009. In light of the positive and categorical testimonies of these children, the trial court rejected appellant's unsubstantiated defense of alibi. The trial court decreed:

WHEREFORE, in view of all the foregoing and the prosecution having established to a moral certainty the guilt of the accused **XXX**, the Court hereby finds said accused GUILTY beyond reasonable doubt as principal, for two (2) counts of *Rape* under Article 266-A of the *Revised Penal Code* and for *Lascivious Conduct* under *Section 5 (b) of Republic Act No. 7610* otherwise known as the "*Special Protection of Children against Abuse, Exploitation, and Discrimination Act*" and hereby sentences him as follows:

1. In **Criminal Case No. 08-0581-2013** to suffer the penalty of *Reclusion Perpetua* without eligibility of parole and to pay

the minor victim AAA the sum of Seventy Five Thousand Pesos (Php 75,000.00) as civil indemnity, Seventy Five Thousand Pesos (Php 75,000.00) as moral damages and Thirty Thousand Pesos (Php 30,000.00) as exemplary damages.

2. In **Criminal Case No. 08-0630-2013**, to suffer the penalty of imprisonment of Ten (10) years and One (1) day of *Prision Mayor*, as minimum, to Seventeen (17) years and Four (4) months of *Reclusion Temporal*, as maximum. Accused is likewise ordered to pay **BBB** the sum of Fifteen Thousand Pesos (Php 15,000.00) as moral damages.

3. In **Criminal Case No. 08-0631-2013**, to suffer the penalty of *Reclusion Perpetua* without eligibility of parole and to pay the minor victim **BBB** the sum of Seventy Five Thousand Pesos (Php 75,000.00) as civil indemnity, Seventy Five Thousand Pesos (Php 75,000.00) as moral damages and Thirty Thousand Pesos (Php 30,000.00), as exemplary damages.

The period which the accused has undergone preventive imprisonment during the pendency of these cases shall be credited to him provided he agreed in writing to abide by and comply strictly with the rules and regulations imposed upon committed prisoners.

The Jail Warden of the Bureau of Jail Management and Penology (BJMP), Lipa City, Batangas, is hereby directed to immediately commit herein accused to the National Penitentiary, Muntinlupa City, for him to serve his sentence.

SO ORDERED.^[16]

The Proceedings before the Court of Appeals

On appeal, appellant faulted the trial court for rendering a verdict of conviction against him despite the following alleged circumstances: a) he was not armed when the alleged incidents happened; b) mere moral ascendancy should not prevail over his presumption of innocence; and c) the comportment of AAA and BBB in resuming their usual routines and not asking for help belies the charges against him. They did not fight back, shout, or strongly resist his supposed sexual advances. It was also remarkable that AAA and BBB did not immediately report what they had experienced to their mother MMM.^[17]

On the other hand, the Office of the Solicitor General (OSG), through Assistant Solicitor General John Emmanuel Madamba and Associate Solicitor Dominic Victor C. De Alban, riposted that complainants' failure to immediately report the sex crimes perpetrated on them by appellant is not enough to discredit them. The truth is, they reported the same to their mother way before but the latter did not believe them. Their three (3) years of suffering in silence before they jointly mustered the courage to report appellant's despicable crimes is understandable. To begin with, it was unreasonable to demand a standard rational reaction to a rather irrational

experience, especially from young victims of incestuous rape. Actual force or intimidation need not be employed in cases of incestuous rape of minors for moral dominion is sufficient to cow victims to submission. Young rape victims should not be expected to act like mature individuals do.^[18]

The Court of Appeals' Ruling

By its assailed Decision^[19] dated August 3, 2017, the Court of Appeals found appellant guilty of two (2) counts of qualified rape. The Court of Appeals correspondingly increased the monetary awards given to the two (2) minor victims. It also noted that appellant's lascivious conduct was aggravated by the alternative circumstance of relationship, thus, making *reclusion perpetua* as the proper imposable penalty. The Court of Appeals decreed:

WHEREFORE, the appeal is DENIED. The assailed RTC Decision dated June 21, 2016 is **AFFIRMED** with **MODIFICATIONS** in that: 1) In Criminal Case Nos. 08-0581-2013 and 08-0631-2013, the award of civil indemnity is increased from Seventy-Five Thousand Pesos(Php75,000.00) to One Hundred Thousand Pesos(Php100,000.00), moral damages of Seventy-Five Thousand Pesos(Php75,000.00) is increased to One Hundred Thousand Pesos(Php100,000.00), and exemplary damages of Thirty Thousand Pesos(Php30,000.00) is increased to One Hundred Thousand(Php100,000.00); and 2) In Criminal Case No. 08-0630-2013, the Accused-Appellant is sentenced to suffer the penalty of *reclusion perpetua* and ordered to pay BBB the amounts of Fifty Thousand Pesos(Php50,000.00) as civil indemnity, Thirty Thousand Pesos(Php30,000.00) as exemplary damages, and Fifty Thousand Pesos(Php50,000.00) as moral damages.

All awards for damages shall earn legal interest at the rate of six percent(6%) per annum from the date of the finality of this decision until fully paid. Costs against the Accused-Appellant.

SO ORDERED.^[20]

The Present Appeal

Appellant now seeks affirmative relief from the Court and prays anew for his acquittal. For the purpose of this appeal, the OSG^[21] and appellant^[22] both manifested that in lieu of supplemental briefs, they were adopting their respective briefs in the Court of Appeals.

Issue

Did the Court of Appeals err in affirming the trial court's verdict of conviction against appellant for two (2) counts of qualified rape and one (1) count of lascivious conduct?

Ruling

The appeal must fail.