

## SECOND DIVISION

[ G.R. No. 230334, August 19, 2019 ]

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

### D E C I S I O N

LAZARO-JAVIER, J.:

#### The Case

This appeal seeks to reverse the Decision dated September 14, 2016,<sup>[1]</sup> of the Court of Appeals in CA-G.R. CR-HC No. 07064, affirming the conviction of appellant XXX for three (3) counts of qualified rape.

#### The Proceedings Before the Trial Court

Appellant XXX was charged with three (3) counts of rape under the following Informations:

#### **Criminal Case No. 4792**

That on or about the 18<sup>th</sup> day of April, 2000, at about 10:00 (o'clock) in the morning, at (MMM), Province of Batangas, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, a (brother-in-law) of one (AAA),<sup>[2]</sup> armed with a knife (kutsilyo), and by means of force and intimidation, did then and there willfully, unlawfully and feloniously lie with and have carnal knowledge with the said (AAA), a sixteen (16) year old minor, against her will and consent.

Contrary to law.<sup>[3]</sup>

x x x                      x x x                      x x x

#### **Criminal Case No. 4793**

That on or about the 16<sup>th</sup> day of April, 2000, at about 3:00 (o'clock) in the afternoon, at (MMM), Province of Batangas, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, a (brother-in-law) of one (AAA), armed with a knife (kutsilyo), and by means of force and intimidation, did then and there wilfully, unlawfully

and feloniously lie with and have carnal knowledge with the said (AAA), a sixteen (16) year old minor, against her will and consent.

Contrary to law.<sup>[4]</sup>

x x x                      x x x                      x x x

**Criminal Case No. 4794**

That on or about the 23<sup>rd</sup> day of April, 2000, at about 4:00 (o'clock) in the afternoon, at (MMM), Province of Batangas, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, a (brother-in-law) of one (AAA), armed with a knife (kutsilyo), and by means of force and intimidation, did then and there wilfully, unlawfully and feloniously lie with and have carnal knowledge with the said (AAA), a sixteen (16) year old minor, against her will and consent.

Contrary to law.<sup>[5]</sup>

x x x                      x x x                      x x x

On arraignment, appellant pleaded not guilty.<sup>[6]</sup> Trial ensued.

AAA, her mother BBB, and Dr. Evelyn Noche testified for the prosecution. On the other hand, appellant, appellant's wife and AAA's sister CCC, and Anacleto A. Legaspi testified for the defense.

*Version of the Prosecution*

On April 16, 2000, around 3 o'clock in the afternoon, AAA was alone in their house when appellant arrived there and borrowed money from her. When AAA declined, appellant poked a long knife on her neck, forced her to lie down on a bamboo bed, and removed her underwear. Appellant forcibly inserted his penis into her vagina. AAA tried to wiggle out but appellant tightly held her. She then could not do anything more but cry. He threatened to kill her and her mother if she told anyone of the incident.<sup>[7]</sup>

On April 18, 2000, AAA was once again alone in their house while her parents were in the farm, and her sister CCC (appellant's wife), was at the town proper. Around 10 o'clock in the morning, while she was asleep, appellant arrived and once more ravished her. The same incident happened on April 23, 2000.

Thereafter, fearing that appellant would take advantage of her for the fourth time, she finally told her mother BBB about the three (3) incidents. BBB accompanied her to the police station to file a complaint against appellant. The police tried to apprehend appellant, but the latter was nowhere to be found.<sup>[8]</sup>

Examining Doctor Evelyn Noche found that AAA's hymen was no longer intact and

had a 7 o'clock laceration. She recorded this finding in her Medico Legal Certificate dated April 26, 2000.<sup>[9]</sup>

The prosecution offered<sup>[10]</sup> the following exhibits: "A" to "A-2" – BBB's *Salaysay* dated April 26, 2000;<sup>[11]</sup> "B" to "B-2" – AAA's *Salaysay* dated April 26, 2000;<sup>[12]</sup> "C" to "C-1" – Medico Legal Certificate dated April 26, 2000 issued by Dr. Evelyn Noche;<sup>[13]</sup> and "D" – AAA's Birth Certificate.<sup>[14]</sup>

### *Version of the Defense*

On the dates in question, appellant was in Barangay Tanggoy, Balayan, Batangas, about one (1) to two (2) hours away by foot from AAA's residence in MMM. He was cutting sugarcane in Barangay Tanggoy and rarely went home to MMM since it was milling season. It was also impossible for him to have had access to AAA because at the time of the alleged incidents, AAA was working as a housemaid in Cavite.<sup>[15]</sup>

He could not do the crime being imputed on him because he was a good person and he loved his wife and his children. He did not flee, nay, evade arrest.<sup>[16]</sup> His wife<sup>[17]</sup> CCC (AAA's sister) and cousin<sup>[18]</sup> corroborated his alibi, *i.e.* he was in MMM on the dates of the alleged incidents and that he did not go into hiding.

The defense did not offer any documentary evidence.

### **The Trial Court's Ruling**

By Decision dated May 26, 2014,<sup>[19]</sup> the trial court found appellant guilty of three (3) counts of rape, as charged, thus:

In view of the foregoing and by proof beyond reasonable doubt, the Court hereby renders judgment as follows:

1. In **Criminal Case No. 4792**, the Court finds accused (XXX) **GUILTY** beyond reasonable doubt of the crime of Rape as charged and hereby sentences him to suffer the penalty of Reclusion Perpetua without eligibility for parole, and indemnify the victim (AAA) the amount of Php50,000.00 as civil indemnity, Php75,000.00 as moral damages and Php25,000.00 as exemplary damages.
2. In **Criminal Case No. 4793**, the Court finds accused (XXX) **GUILTY** beyond reasonable doubt of the crime of Rape as charged and hereby sentences him to suffer the penalty of Reclusion Perpetua without eligibility for parole, and indemnify the victim (AAA) the amount of Php50,000.00 as civil indemnity, Php75,000.00 as moral damages and Php25,000.00 as exemplary (d)amages.

3. In **Criminal Case No. 4794**, the Court finds accused (XXX) **GUILTY** beyond reasonable doubt of the crime of Rape as charged and hereby sentences him to suffer the penalty of Reclusion Perpetua without eligibility for parole, and indemnify the victim (AAA) the amount of Php50,000.00 as civil indemnity, Php75,000.00 as moral damages and Php25,000.00 as exemplary (d)amages.

**SO ORDERED.**<sup>[20]</sup>

The trial court gave full credence to AAA's testimony. It noted that AAA categorically identified appellant as the one who robbed her of her chastity. She testified in a straightforward and spontaneous manner on how appellant thrice violated her. AAA's testimony was consistent with the physical findings of Dr. Noche. Appellant, on the other hand, offered nothing but denial and alibi. The trial court emphasized that alibi becomes less plausible when corroborated by relatives and friends who may not be impartial witnesses. In any case, it was not physically impossible for appellant to have been at the *locus criminis* on the dates of the alleged incident considering that the distance between the two (2) places can be negotiated by foot for only two (2) hours. It was not shown either that AAA was motivated by ill will to falsely charge appellant with such heinous crime as rape.

### **The Proceedings Before the Court of Appeals**

#### *Appellant's Argument*<sup>[21]</sup>

On appeal, appellant faulted the trial court for rendering the verdict of conviction. He maintained it was physically impossible for him to have been at two (2) places at the same time. When the alleged incidents happened, he was in Tanggoy, Balayan, a kilometer away from MMM, where AAA lived. AAA's residence was at least an hour's walk from where he was. His whereabouts at the time of the alleged incident was duly corroborated by his wife and cousin.<sup>[22]</sup>

Too, the medico legal report itself did not support the assertion that he forced himself on AAA. The medico legal report only showed that AAA was no longer a virgin. This could have been a result of AAA's consensual sex with a man but not necessarily him or could have been due to some other reason.<sup>[23]</sup>

AAA's testimony on how the alleged rape incidents happened was not credible. Aside from AAA's account of the first alleged incident of rape, *i.e.* she was alone at home, he suddenly arrived, he poked her with a knife, threatened to kill her, undressed her, and ravished her, AAA no longer offered any details on how the purported second and third incidents supposedly happened. This raised suspicion that the second and third incidents were merely fabricated. The same possibility existed for the first alleged incident of rape. Considering these doubts, his guilt cannot be said to have been proven beyond reasonable doubt.<sup>[24]</sup>

The Office of the Solicitor General (OSG) through Assistant Solicitor General Nyriam Susan O. Sedillo-Hernandez and Associate Solicitor Byron P. Perez countered that the elements of rape were all proven on three (3) counts. Appellant's bare denial and alibi cannot prevail over AAA's clear and positive testimony. AAA's testimony was corroborated by Dr. Noche's finding that the former's vagina had lacerations and her hymen was no longer intact.<sup>[26]</sup>

Appellant also failed to show that it was physically impossible for him to have been at MMM, Batangas on the dates and time in question. Appellant and his witnesses admitted that MMM was only a kilometer away from Barangay Tanggoy, a distance that may easily be traversed by foot, car, or any vehicle in thirty (30) minutes. In any case, appellant's alibi and denial were not plausible even though corroborated by relatives who were not impartial witnesses.<sup>[27]</sup>

### **The Court of Appeals' Ruling**

By its assailed Decision dated September 14, 2016,<sup>[28]</sup> the Court of Appeals affirmed with modification, thus:

**WHEREFORE**, premises considered, the Decision dated May 26, 2014 of the Regional Trial Court of Balayan, Batangas, Branch 10, finding appellant (XXX) guilty in Criminal Case Nos. 4792 to 4794, is hereby **AFFIRMED** with **MODIFICATION**. Appellant shall suffer the penalty of *reclusion perpetua* without eligibility for parole. Appellant is ordered to pay the private offended party as follows: Php 100,000.00 as civil indemnity, Php100,000.00 as moral damages, and Php100,000.00 as exemplary damages. He is FURTHER ordered to pay interest on all damages awarded at the legal rate of six percent (6%) per annum from the date of finality of this judgment.

**SO ORDERED.**<sup>[29]</sup>

The Court of Appeals found that AAA gave a complete account of the ordeal she suffered in appellant's hands. It held that appellant's denial and alibi were weak, nay, unsubstantiated. The same cannot overcome AAA's positive declaration. Too, jurisprudence has settled that there is no "physical impossibility" in instances where it would take appellant only one and a half hour by foot to traverse the distance between the place where he allegedly was at the time of the offense and the *locus criminis*. More, one could easily fabricate an alibi and ask friends and relatives to corroborate it.

### **The Present Appeal**

Appellant now seeks affirmative relief from the Court and pleads anew for his