

FIRST DIVISION

[G.R. No. 244047, December 10, 2019]

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

DECISION

REYES, J. JR., J.:

For our resolution is an appeal from the Decision^[1] dated January 30, 2018 of the Court of Appeals in CA G.R. CR-HC No. 06453, which affirmed the Decision^[2] dated September 30, 2013 of the Regional Trial Court (RTC) of Dagupan City in Criminal Case No. 2013-107-D, convicting XXX (accused-appellant) of qualified rape.

In an Information dated January 30, 2013, accused-appellant was charged with the crime of qualified statutory rape under paragraph 1(d), Article 266-A, in relation to Article 266-B of the Revised Penal Code (RPC), the accusatory portion of which reads:

That on or about the evening of January 2, 2013 and early in the morning of January 3, 2013 in Brgy. Cayanga, San Fabian, Pangasinan and within the Jurisdiction of this Honorable] Court, the above[-]named accused, being the live-in partner[of the] mother of [AAA], a minor 5 years old of age (DOB-June 6, 2007) did then and there, willfully, unlawfully and feloniously have sexual intercourse with said minor against her will and consent and to her damage and prejudice.

Contrary to Art. 266-A part 1, sub-par. d, of the Revised Penal Code in relation to paragraphs a and 5 Art. 266-B thereof, as amended by RA 8353.^[3]

When arraigned, accused-appellant pleaded not guilty to the charge. During pre-trial, the parties stipulated on the following: (1) identity of the parties; (2) minority of the [victim] having been born on June 6, 2007; (3) fact of reporting of the incident at the Philippine National Police (PNP), San Fabian, Pangasinan; and physical existence of Medico Legal Report or Certification issued by Dr. Brenda Tumacder of Region I Medical Center.^[4]

During trial, the prosecution presented the victim (AAA),^[5] the victim's mother, and Police Officer 2 Irene Robosa (PO2 Robosa) as witnesses. The defense, on the other hand, presented the sole testimony of accused-appellant.

Despite the tender age of the victim, she took the witness stand. Under oath, AAA stated that "telling a lie is bad, and she promised to tell the truth." She also said she believes in God, but when asked what God would do to children who are bad, she

blurted out that accused-appellant inserted his penis inside her vagina. When asked if she knows if God loves children who do not lie, she answered in the affirmative. She was then asked what she felt when accused-appellant inserted his penis in her vagina, and she answered, "none, Sir." However, when she relieved herself in the comfort room the next day, she felt pain in her vagina that made her cry. On cross-examination, she stated that she considers her "uncle," accused-appellant, "bad" because he placed his penis inside her vagina. AAA identified accused-appellant in open court.^[6]

AAA's mother testified that accused-appellant was her live-in partner for almost three years until his arrest for the crime charged. She narrated that on January 2, 2013, she left their home to borrow money from her siblings. When she came back after about an hour, she found her daughter asleep. In the morning of the following day, when she was about to clean up her daughter in the comfort room after the latter relieved herself, she found her crying and complaining on how painful her vagina was. When she asked AAA what happened, the latter told her that accused-appellant inserted his penis inside her vagina. Alarmed, she inspected her 5-year-old daughter's vagina and saw that it was "very red." Raged with what she just learned, she confronted accused-appellant, who she claimed to have admitted "play[ing] with the vagina" of the victim. AAA's mother then sought the help of two men to accompany them to the police station. Accused-appellant came with them to the police station and thereat, admitted to "fingering the vagina" of the victim. AAA, thereafter, went to undergo physical examination.^[7]

PO2 Robosa testified that she was the officer-on-duty on the day AAA and her mother reported the incident. She also testified that the incident was also reported to another police officer, SPO2 Bernadette Lopez. She claimed that during the second blotter, accused-appellant admitted to the commission of the crime.^[8]

For his part, accused-appellant admitted to being the live-in partner of AAA's mother. He narrated that on January 2, 2013, AAA's mother left her children in his care. The victim and her two siblings slept beside each other. The next day, he was awakened by AAA's mother, who confronted him about the rape incident. He denied the charge against him and claimed that AAA's mother merely wanted to extort money from him as he allegedly will be receiving a large sum of money from a certain labor case he was involved in.^[9]

On September 30, 2013, the RTC rendered a Decision, the dispositive thereof reads:

WHEREFORE, premises considered, the Court finds the accused [XXX] **GUILTY** beyond reasonable doubt of the crime of **Qualified Rape** and is hereby sentenced to suffer the penalty of **reclusion perpetua**. Furthermore, accused is hereby ordered to indemnify the offended party AAA civil indemnity of P75,000.00, moral damages of P75,000.00[,] and exemplary damages of P25,000.00.

SO ORDERED.^[10]

On appeal, the CA affirmed the RTC ruling of conviction, with modification only as to the monetary awards as follows:

WHEREFORE, premises considered, the instant Appeal filed by accused-appellant [XXX] is hereby **DENIED**. The assailed Decision dated September 30, 2013 of Branch 43, Regional Trial Court of Dagupan City in Criminal Case No. 2013-107-D is **AFFIRMED with MODIFICATION**.

Accused-appellant [XXX] is found **GUILTY** beyond reasonable doubt of the crime of qualified statutory rape as defined under par. 1(d), Article 266-A and penalized under Article 266-B of the Revised Penal Code (RPC) and is hereby sentenced to suffer the penalty of *reclusion perpetua* without eligibility for parole. Furthermore, accused-appellant is hereby ordered to pay the victim, AAA, the following amounts: (1) one hundred thousand pesos (PhP100,000.00) as civil indemnity; (2) one hundred thousand pesos (PhP100,000.00) as moral damages; and (3) one hundred thousand pesos (PhP100,000.00) as exemplary damages. Interest at the rate of 6% *per annum* is imposed on all damages awarded to be computed from the finality of this Decision until such amounts are fully paid. Costs against accused-appellant.

SO ORDERED.^[11]

Accused-appellant, through counsel, then filed a Notice of Appeal^[12] dated February 29, 2018, questioning the above-cited CA Decision.

Both the Office of the Solicitor General (OSG), for the People, and the accused-appellant filed their respective Manifestation In Lieu of Supplemental Brief, averring that they have already sufficiently discussed their arguments in their respective Briefs filed before the CA.^[13]

The appeal before this Court is centered on the issue on the credibility of the victim's testimony. Accused-appellant maintains his theory that the child victim's testimony was coached as she simply blurted out that accused appellant inserted his penis inside her vagina even when a different question was asked. Accused-appellant also pointed out AAA's altercation that she did not see accused-appellant's penis as she was asleep, to be inconsistent with her allegation that she knows that accused-appellant inserted his penis inside her vagina. Accused-appellant also argues that the fact that the victim testified that she did not feel anything when accused-appellant supposedly inserted his penis inside the victim's vagina belies the allegation of carnal knowledge as it is contrary to human nature and experience.

The only issue for our resolution is whether or not accused-appellant's conviction was proper.

We find no merit in this appeal.

In every prosecution for the crime of statutory rape, the following elements must be proven beyond reasonable doubt, to wit: (1) the offended party is under 12 years of age; and (2) the accused had carnal knowledge of the victim, regardless of whether there was force, threat, or intimidation or grave abuse of authority. In fine, it is enough that the age of the victim is proven and that there was sexual intercourse.

^[14]

Further, rape shall be qualified when the victim is below 18 years of age and the offender is a parent, ascendant, step-parent, guardian, relative by consanguinity or affinity within the third civil degree, or the common-law spouse of the parent of the victim,^[15] and/or when the victim is a child below seven years old.^[16]

The RTC, as affirmed by the CA, correctly found that the aforecited elements and circumstances were properly alleged in the Information and proven beyond reasonable doubt during the trial in the present case.

That the victim was only five years old at the time of the commission of the crime was not disputed. Likewise, there was no question regarding accused-appellant's relationship to the mother of the victim, i.e., that they had been common-law spouses at the time of the rape incident. The only element in question, thus, is whether or not accused-appellant had carnal knowledge of the victim.

Contrary to accused-appellant's position, carnal knowledge in this case was proven through AAA's categorical testimony, found credible by the RTC and the CA and corroborated by the medical findings. Despite her tender age, the five-year-old victim was able to clearly and plainly, recount her harrowing experience with accused-appellant, whom she calls "uncle," viz.:

Q: Do you [know] [XXX] whom you called uncle?

A: Yes, sir.

Q: I[s] Uncle inside the courtroom?

A: Yes, sir.

Q: Where is he, can you point to him?

Court Interpreter: Witness is pointing to a man seated in the front row wearing a yellow BJMP T-shirt and when asked his name, he identified himself as [XXX] .

Q: What did uncle do to you?

A: He placed his penis inside my vagina, sir.

Q: Where is your vagina?

Court Interpreter: Witness is pointing at her vagina.

Q: And where is the penis?

Court Interpreter: Witness is pointing to where the penis of the Public Prosecutor is to be.

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Q: Are you sure it was his penis which he placed inside your vagina?

A: Yes, sir.

Q: Q: It is not his finger?

A: No, sir.