

## SECOND DIVISION

[ G.R. No. 216057, January 08, 2018 ]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. CEFERINO VILLACAMPA Y CADIENTE @ "DADDY GAGA," APPELLANT.**

### DECISION

**CARPIO, J.:**

#### The Case

On appeal is the 13 March 2014 Decision<sup>[1]</sup> of the Court of Appeals (CA) in CA-G.R. CR-HC No. 04970.

This arose from 12 consolidated criminal cases against appellant Ceferino Villacampa y Cadiente @ "Daddy Gaga" (Villacampa) where he was accused of eleven counts of Rape<sup>[2]</sup> and one count of Acts of Lasciviousness<sup>[3]</sup> in relation to Republic Act No. 7610 (RA 7610).<sup>[4]</sup>

The CA affirmed the 28 March 2011 Decision<sup>[5]</sup> of the Regional Trial Court (RTC) of Pampanga, convicting Villacampa for nine counts of rape through sexual assault, one count of simple rape, and one count of acts of lasciviousness in relation to RA 7610. He was acquitted in FC Criminal Case No. 1370 for one count of rape.

#### The Facts

Sometime in March 2006, four minor siblings – AAA, BBB, CCC, and DDD,<sup>[6]</sup> then 11, 6, 14, and 13 years old, respectively, all had incidents with Villacampa, the common-law husband of their mother.

The findings of fact of the RTC for each of the minors, which were affirmed by the CA, are as follows:

#### FC Criminal Case Nos. 1359-1361

At around 6:30 in the evening of 21 March 2006, while AAA, then 11 years old, was making her way to the kitchen, she heard Villacampa call her. When she approached him, he removed her shorts, laid her down near the kitchen, and inserted his finger into her vagina. Villacampa attempted to penetrate AAA with his penis but this did not materialize as her mother and sister timely knocked on the door. Villacampa then instructed AAA to go to the comfort room where her mother followed her. AAA disclosed what Villacampa did to her. However, AAA's revelations fell on deaf ears. We note that while there were two acts involved – the act of inserting the finger and

the attempted act of inserting the penis, the Information only alleged the insertion of the finger into the vagina of AAA.

On 23 March 2006, AAA was about to go to school when Villacampa told her that it was still too early to leave. He then made her lie on the *papag*, where he removed her shorts and underwear. He inserted his finger into her vagina and licked her vagina.

On 25 March 2006, when AAA was left by her mother to care for her siblings, Villacampa ordered her other siblings to play outside. Then, he removed AAA's shorts and underwear, inserted his finger into her genital area, and licked her vagina. AAA felt pain. Thereafter, Villacampa instructed AAA to put on her clothes and to go out and play.

AAA reported the incidents to her mother who ignored her. AAA confided with her father who was very furious with Villacampa's sexual abuse of AAA.

#### FC Criminal Case Nos. 1362-1367

BBB testified that Villacampa inserted his finger into her vagina on several occasions. The first time was when her mother and siblings were away. BBB was sitting alone at home when Villacampa approached her and inserted his finger into her vagina. BBB cried out in pain. When her mother came home, Villacampa removed his fingers from BBB's vagina. Villacampa told BBB not to report the incident to her mother. Another time BBB was molested was when she was eating alone with Villacampa in their house. Villacampa repeated these acts numerous times – when she was playing with her siblings and Villacampa instructed her siblings to leave the house, when she was sleeping, when she was watching television, and when she was playing outside their house and Villacampa instructed BBB to return to the house. The last time the abuse happened, Villacampa threatened BBB that he would kill her mother if she reported the incident. BBB still narrated the incident to her older sister, AAA. At the time she testified before the trial court, BBB stated that she was eight years old.<sup>[7]</sup>

#### FC Criminal Case Nos. 1368 and 1369

On 21 March 2006, CCC, then 14 years old, was on *the papag* of her room when Villacampa entered her room. After threatening that he would kill her father, Villacampa kissed CCC on her lips and inserted his finger into her vagina. CCC could not shout as Villacampa's tongue was inside her mouth. While her testimony revealed that Villacampa inserted his finger into her vagina, the Information for FC Criminal Case No. 1369 merely stated that Villacampa touched her vagina and kissed her lips, face, and neck, against her will and without her consent.

On 25 March 2006, Villacampa and CCC's mother had a drinking spree where they forced CCC to consume a glass of Red Horse beer. Not used to drinking, CCC felt dizzy and retired to her room where she slept alone. At around 10:00 p.m., CCC was roused from her sleep by Villacampa who instructed her to remove her shorts and underwear. When CCC did not budge, Villacampa undressed her and kissed her on the lips, and forcibly inserted his penis into her vagina. CCC could only cry as she was unable to shout because Villacampa's tongue was inside her mouth. After the incident, Villacampa threatened CCC that if she reported what had happened, he

would kill her father. CCC still reported the incident to her mother who refused to believe her. On 6 April 2006, while visiting her father with DDD, CCC divulged the incident to her father. They proceeded to the Municipal Hall where she executed a sworn statement. CCC also underwent medico-legal examination.

In May 2006, CCC found out that she was pregnant. In 2006, she gave birth to a daughter, XXX, who, upon Villacampa's own application for her birth certificate, followed his surname. CCC denied having any romantic relationship with Villacampa.

#### FC Criminal Case No. 1370

On 25 March 2006, at around midnight, DDD, then 13 years old, was asleep in the living room of their house with her sister, BBB. While their mother was in the kitchen, Villacampa roused DDD from her sleep, covered her mouth and warned her not to report to her Mama and Tatay. Villacampa then removed her shorts and underwear and spread her legs. He inserted his penis into her vagina. DDD could not do anything but cry as she felt pain. As she was caught off guard, she was unable to wake up her sister who was sleeping not far from her. After the incident, Villacampa again warned DDD not to report the incident; otherwise, he would make good his threat to kill her father. The following morning, after Villacampa left for work, DDD reported the incident to her mother who did not believe her.

AAA, BBB, CCC, and DDD all underwent medical examination with the assistance of their father and aunt, MMM. AAA and CCC were examined by Dr. Mariglo Grace Chincungco (Dr. Chincungco).<sup>[8]</sup> Per her findings on AAA, Dr. Chincungco found that AAA's hymen had shallow healed lacerations at 1 o'clock and 9 o'clock positions. For CCC, Dr. Chincungco found that CCC's hymen had deep healed lacerations at 3 o'clock and 10 o'clock positions. As to her pelvic examination, CCC's introitus admits one fingertip with ease. Her external examination was described as unremarkable – her uterus is small, no adrenal tenderness, bleeding or injuries.<sup>[9]</sup> Both AAA and CCC were not found to be pregnant at the time of the examination.<sup>[10]</sup> BBB and DDD were examined by Dr. Lorelei Guevarra (Dr. Guevarra).<sup>[11]</sup> The medical records issued by Dr. Guevarra were identified before the trial court by Ronelie Regala, the Administrative Officer III of the Records Section of JBL Hospital.

For his defense, Villacampa argues that the victims' testimonies were not credible and thus not enough to warrant his conviction. He posits that the victims were instructed by their father and Aunt MMM to file the cases against him. For CCC, he claims that he courted her and had a daughter with her. In this appeal, Villacampa argues that the lower courts erred in finding him guilty of the crimes charged as the prosecution failed to establish his guilt beyond reasonable doubt.

#### **The Ruling of the RTC**

In a Decision dated 28 March 2011, the RTC found Villacampa guilty beyond reasonable doubt for violating Section 5(b) of RA 7610 in FC Criminal Case Nos. 1359-1367 (rape through sexual assault) and FC Criminal Case No. 1369 (acts of lasciviousness or sexual abuse). He was likewise found guilty beyond reasonable doubt of simple rape in FC Criminal Case No. 1368. He was acquitted in FC Criminal Case No. 1370 as the trial court found that the testimony of DDD was doubtful as

her description of the incident, particularly the position of Villacampa's hands, was contrary to human experience and thus not enough to overcome the presumption of innocence.<sup>[12]</sup> The RTC held:

WHEREFORE, premises considered, the Court finds the accused CEFERINO VILLACAMPA y CADIENTE @ "Daddy Gaga" GUILTY Beyond Reasonable Doubt of Violating Sec. 5(b) of R.A. 7610 in FC Crim. Case Nos. 1359-1367, hereby imposing the penalty of imprisonment of fourteen (14) years and one (1) day of *Reclusion Temporal* as minimum to seventeen (17) years and four (4) months of *Reclusion Temporal* as maximum, the victims being under twelve (12) years of age and the payment of fine in the amount of fifteen thousand pesos (Php 15,000.00) and moral damages in the amount of twenty thousand pesos (Php 20,000.00) for each count[.] Insofar as FC Crim. Case No. 1369 is concerned, he is likewise found GUILTY Beyond Reasonable Doubt of Violating Sec. 5(b) of R.A. 7610 with the penalty of imprisonment of fourteen (14) years and *one* (1) day of *Reclusion Temporal* as minimum to *Reclusion Perpetua* as maximum as well as to pay moral damages and fine in the same amounts of fifteen thousand [pesos] (Php 15,000.00). In FC Crim. Case No. 1368, he is found GUILTY Beyond Reasonable Doubt of Simple Rape with the penalty of *Reclusion Perpetua* and to pay fifty thousand pesos (Php 50,000.00) as civil indemnity, fifty thousand pesos [Php 50,000.00] as moral damages and exemplary damages in the amount of thirty thousand pesos (Php 30,000[.00]). He is however Acquitted in FC Crim. Case No. 1370.

The Jailer is hereby ordered to make the proper reduction of the period during which the accused was under preventive custody by reason of this case in accordance with law.

SO ORDERED.<sup>[13]</sup>

### **The Ruling of the CA**

In a Decision dated 13 March 2014, the CA affirmed, with modification as to the penalty, the Decision of the RTC. The dispositive portion of the Decision of the CA reads:

WHEREFORE, premises considered, the Consolidated Decision dated March 28, 2011 of the Regional Trial Court (RTC), Third Judicial Region, Branch 45 of San Fernando, Pampanga in FC Criminal Cases No[s]. 1359-1367, 1368 and 1369 is hereby MODIFIED as follows:

(1) In FC Criminal Case No[s]. 1359 to 1367, We find appellant Ceferino Villacampa y Cadiente GUILTY. of rape through sexual assault in relation to R.A. No. 7610. He is ordered to suffer an indeterminate prison term of [ten] (10) years of *prision mayor*, as minimum, to seventeen (17) years,

four (4) months and one (1) day of *reclusion temporal* as maximum and to pay P20,000.00 as civil indemnity, P30,000.00 as moral damages and P30,000.00 as exemplary damages for each count. As a matter of clarification, contrary to the RTC findings, FC Criminal Case No. 1361 pertained to the rape of victim AAA and not to BBB;

(2) In FC Criminal Case No. 1368, We find appellant Ceferino Villacampa y Cadiente GUILTY of simple rape and is ordered to suffer the penalty of *reclusion perpetua* and to pay P50,000.00 as civil indemnity, P50,000.00 as moral damages, and P30,000.00 as exemplary damages;

(3) In FC Criminal Case No. 1369, We find appellant Ceferino Villacampa y Cadiente GUILTY of sexual abuse under Section 5(b) of R.A. 7610 and is ordered to suffer an indeterminate prison term often (10) years of *prision mayor*, as minimum, to sixteen (16) years, five (5) months and ten (10) days of *reclusion temporal* as maximum and to pay P20,000.00 as civil indemnity, P30,000.00 as moral damages, and a fine amounting to P15,000.00.

SO ORDERED.<sup>[14]</sup>

Villacampa filed his Notice of Appeal dated 8 April 2014 with the CA.<sup>[15]</sup>

### **The Issue**

The issue to be resolved in this appeal is whether or not the CA gravely erred in finding Villacampa guilty of nine counts of rape through sexual assault in relation to Section 5(b) of RA 7610, one count of simple rape under the Revised Penal Code (RPC), and one count of sexual abuse under Section 5(b) of RA 7610.

### **The Ruling of the Court**

The appeal is without merit. We affirm the findings of the CA with modification as to the penalty.

Article 266-A of the Revised Penal Code, as amended by the Anti-Rape Law of 1997,<sup>[16]</sup> provides:

Article 266-A. *Rape: When and How Committed.* – Rape is committed:

1) By a man who shall have carnal knowledge of a woman under any of the following circumstances:

a) Through force, threat, or intimidation;

b) When the offended party is deprived of reason or otherwise unconscious;