

FIRST DIVISION

[G.R. No. 218701, February 14, 2018]

PEOPLE OF THE PHILIPPINES, PLAINTIFF APPELLEE, VS. GIL RAMIREZ Y SUYU, ACCUSED-APPELLANT.

DECISION

DEL CASTILLO, J.:

On appeal is the June 2, 2014 Decision^[1] of the Court of Appeals (CA) in CA G.R. CR-HC No. 05573 modifying the Judgment^[2] of the Regional Trial Court (RTC), Branch 4 of Tuguegarao City, Cagayan, convicting Gil Ramirez y Suyu (appellant) of rape under Article 335 of the Revised Penal Code (RPC), violation of Section 5(b), Republic Act (RA) No. 7610, and attempted rape under par. 1 of Article 335 of the RPC.

The Informations charging appellant read:

Criminal Case No. 11767 (Rape).

That sometime in the year 1989, x x x Province of Cagayan and within the jurisdiction of this Honorable Court, the accused GIL RAMIREZ, father of the private complainant "AAA,"^[3] held and let the private complainant inhale a substance causing her to lose her consciousness and that thereafter, the accused, with lewd design, did then and there willfully, unlawfully and feloniously lie, and succeeded in having sexual intercourse with the private complainant "AAA," who was then a minor being only a seven-year old girl.

Contrary to law.^[4]

Criminal Case No. 11768 (Violation of RA 7610).

That sometime in the year 1996, x x x Province of Cagayan and within the jurisdiction of this Honorable Court, the accused GIL RAMIREZ, who is [the] father of the private complainant "AAA," with lewd design and by mean of force and intimidation, did then and there willfully, unlawfully and feloniously pull towards a bed inside their house the private complainant who [was] then a minor, being only a 14-year old girl; that the accused threatened the private complainant to kill her if she will not succumb to his bestial desires but the private complainant was able to free herself from the clutches of the accused, and then ran away; that the act of the accused debased, degraded and demeaned the intrinsic worth and dignity of the private complainant as a human being which is prejudicial to her development as a minor.

Contrary to law.^[5]

Criminal Case No. 11787 (Attempted Rape).

That sometime in the year 1996, x x x Province of Cagayan and within the jurisdiction of this Honorable Court, the accused GIL RAMIREZ, father of the private complainant "AAA," with lewd design, and by the use of force and intimidation, did then and there willfully, unlawfully and feloniously pull towards a bed inside their house the private complainant who was then a minor, being only a fourteen year old girl; that the accused threatened the private complainant to kill her if she will not succumb to his bestial desires but the private complainant was able to free herself from the clutches of the accused, and then ran away.

The accused commenced the commission of the crime of RAPE directly by overt acts but did not perform all the acts of execution which would have produced it by reason of some causes other than his own spontaneous desistance.

Contrary to law.^[6]

Appellant pleaded not guilty to the charges. Joint trial thereafter ensued.

Version of the Prosecution

The prosecution summarized its version of the incidents in the following manner:

"AAA" was born to "BBB," her mother, and herein appellant, on November 19, 1982.

Sometime in 1989, when "AAA" was only seven years old, and while "BBB" was out of their house, appellant purposely made "AAA" inhale a certain substance which caused "AAA" to lose her consciousness. Upon regaining awareness, "AAA" noticed blood in her shorts and her underwear was no longer worn properly. She also felt pain in her sexual organ.

On another occasion, "AAA" was at home when appellant started touching her breast and tried to insert his penis into her vagina. "AAA" fought back but appellant was stronger. Eventually, appellant was able to insert his penis into "AAA's" anus and vagina. Thereafter, appellant threatened "AAA" not to report to anyone what happened; otherwise, he would kill her and her mother.

Sometime in 1991, while "AAA" was inside their house, appellant suddenly dragged and laid "AAA" on the bed. Armed with a knife, appellant threatened to kill "AAA" and all the members of their family if she would report anything to the authorities. The intended rape was not consummated because "BBB" suddenly arrived.

Sometime in 1996, "AAA" was sleeping in their house when appellant suddenly pulled her out of bed. Appellant's obvious lewd intent was not accomplished because "AAA" was able to extricate herself from appellant's grip and run towards "BBB" who was outside their house at that time.

For several years, "AAA" just suffered in silence because of fear for her own life as

well as that of her family.

On May 23, 2005, Dr. Annabelle Soliman y Lopez (Dr. Soliman) conducted the medical examination of "AAA." Dr. Soliman described the hymen of "AAA" as anular, thick, wide and estrogenized. Dr. Soliman added that there was a possibility that "AAA" could had no injury even after sexual intercourse.

Version of the Defense

The defense, on the other hand, countered that:

Appellant is the father of "AAA." He denied having raped her in 1989. He claimed that during that year, he sometimes did not go home for 10 to 15 days because he had to stay at his work in Cagayan Valley Medical Center where he was in charge of freezing cadavers. Because of this and his low salary, he and his wife always had an argument every time he went home.

Ruling of the Regional Trial Court

Finding the testimony of "AAA" as straightforward and considering her consistent positive identification of the appellant, the RTC gave credence to the version of the prosecution and rejected appellant's defense of denial as well as the imputation of ill-motive on the private complainant. Thus, on April 30, 2012, the RTC rendered its Decision, the decretal portion of which reads:

WHEREFORE, in view of the foregoing circumstances, this Court finds accused GIL RAMIREZ y Suyu,

- 1) GUILTY beyond reasonable doubt in Criminal Case No. 11767, for RAPE x x x and imposes upon him the penalty of RECLUSION PERPETUA. He is likewise ordered to pay the private complainant the amount of SEVENTY-FIVE THOUSAND (P75,000.00) [PESOS] as civil indemnity, SEVENTY[-]FIVE THOUSAND (P75,000.00) PESOS as moral damages and TWENTY[-]FIVE THOUSAND (P25,000.00) PESOS as exemplary damages due to the presence of the qualifying circumstances of minority and relationship;
- 2) GUILTY beyond reasonable doubt in Criminal Case No. 11768, for VIOLATION OF RA 7610, under Article III Section 5 (b), x x x and hereby sentences him to suffer the indeterminate penalty of RECLUSION TEMPORAL or imprisonment of FOURTEEN (14) YEARS and EIGHT (8) MONTHS to TWENTY (20) YEARS. He is ordered to pay the private complainant the amount of TWENTY THOUSAND (P20,000.00) PESOS as civil indemnity, FIFTEEN THOUSAND (P15,000.00) PESOS as moral damages; and
- 3) GUILTY beyond reasonable doubt in Criminal Case No. 11787, for Attempted Rape, x x x and he is hereby sentenced to suffer an imprisonment of SIX (6) YEARS and ONE (1) DAY to TWELVE (12) YEARS of prision mayor.

X X X X

SO ORDERED.^[7]

Unable to accept the RTC's verdict of conviction and insisting on his innocence, appellant appealed to the CA.

Ruling of the Court of Appeals

The CA noted that in Criminal Case No. 11767, there was no direct evidence of penile penetration. However, it found several pieces of circumstantial evidence which constituted evidence of guilt of appellant beyond reasonable doubt for rape, to wit: " (1) "AAA" was sleeping in their house; (2) "AAA" was awakened when [appellant] forced [her] to smell a substance that caused her to lose consciousness; (3) "AAA" positively identified [appellant] as the only person she saw before she lost consciousness; (4) upon regaining consciousness, there was blood on "AAA's" shorts; (5) "AAA's" panty was also reversed; and, (6) "AAA" felt pain in her vagina." ^[8]

Based on the foregoing circumstances, the CA concluded that appellant raped "AAA." It found no reason for her nor her mother to fabricate the charge of rape against appellant. Neither did it consider the delay in reporting the incident as indication of fabricated charge. The CA added that appellant's bare denial was insufficient to exculpate him. ^[9]

Regarding appellant's alleged violation of RA 7610, the CA ruled that the presence of lascivious conduct by appellant was not firmly established by the prosecution. There was no evidence that appellant touched "AAA's" genitalia, anus, groin, breast, inner thigh or buttocks with the intent to abuse, humiliate, harass or degrade "AAA" to gratify his sexual desires. ^[10]

On the charge of attempted rape, the CA found the same unsupported by evidence since the prosecution failed to prove that appellant started to rape "AAA" and had commenced the performance of acts of carnal knowledge. ^[11]

Thus, on June 2, 2014, the CA affirmed with modification the assailed RTC Decision in Criminal Case No. 11767 for rape but acquitted appellant for violation of RA 7610 and attempted rape on ground of reasonable doubt, viz.:

WHEREFORE, premises considered, We find accused-appellant GIL RAMIREZ y SUYU GUILTY of Rape in Criminal Case No. 11767. The assailed Judgment of the court *a quo* in Criminal Case No. 11767 is MODIFIED to the effect that accused appellant is hereby sentenced to suffer the penalty of *reclusion perpetua* without eligibility of parole; and ordered to pay AAA P75,000 as civil indemnity, P75,000 as moral damages, and P30,000 as exemplary damages.

In Criminal Case No. 11768, We find accused appellant GIL RAMIREZ y SUYU NOT GUILTY of Violation of RA 7610, particularly Sexual Abuse, on the ground of reasonable doubt and accordingly ACQUITS him of the said charge; and