

SECOND DIVISION

[G.R. No. 226494, February 14, 2018]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JOMAR SISRACON Y RUPISAN, MARK VALDERAMA Y RUPISAN, ROBERTO CORTEZ Y BADILLA, LUIS PADUA Y MITRA AND ADONIS MOTIL Y GOLONDRINA, ACCUSED-APPELLANTS.

D E C I S I O N

PERALTA, J.:

This is to resolve the appeal of appellants Jomar Sisracon y Rupisan, Mark Valderama y Rupisan, Roberto Cortez y Badilla, Luis Padua y Mitra and Adonis Motil y Golondrina that seeks to reverse and set aside the Decision^[1] dated August 12, 2015 of the Court of Appeals (CA) in CA-G.R. CR HC No. 05986 affirming the Decision dated September 13, 2010 of the Regional Trial Court (RTC) of x x x, Rizal, Branch 76 finding the same appellants guilty beyond reasonable doubt of nine (9) counts of Qualified Rape as defined and penalized under Article 266-A and Article 266-B, par. 1, in relation to Article 266-B, 2nd par. of the Revised Penal Code (RPC), as amended by Republic Act (R.A.) No. 8353 and in further relation to Section 5 of R.A. 8369.

The facts follow.

According to the victim, AAA, she was fifteen (15) years old and the President of a youth group when the incident happened on February 29, 2004. Around 11 o'clock in the evening of that same day, AAA was about to go home when she passed by the basketball court. She saw a group composed of the following:

1. John Andrew Valderama alias "John John;"
2. Luis Padua alias "Buboy;"
3. Ranil Camaymayan alias "Sedeng;"
4. Rex Dandan alias "Itoy;"
5. Mark Valderama alias "Macmac;"
6. Jomar Sisracon alias "Jomar;"
7. Roberto Cortez alias "Unad;"
8. Randy Mulog alias "Randy;" and
9. Adonis Motil alias "Ulo" or "Dondon."

Appellant Roberto called AAA and asked her to approach them because they wanted to ask her about the organization that they recently joined. AAA agreed and discussed with them the mission and vision of the organization. Thereafter, AAA told the group that she wanted to go home, but the latter asked her to stay longer as they were about to have a drinking spree. AAA told them that she could not stay longer because her mother would get angry at her and that she had to go to school the following day. The group insisted that she stay long and finally, AAA told them that she could stay but only until 11:30 in the evening. The group then told AAA to go with them at the apartment of Ranil's aunt which is just a street away from where they were. When they were on the way to the apartment, the group suddenly ran. AAA inquired why they ran and they replied that a certain Pita was there and that they didn't want the latter to go with them because he was unruly and noisy. Pita was known in their place as "sinto sinto" or "kulang-kulang sa pag-iisip" (mentally deranged). AAA had known Pita for a long time including Ranil, who was a friend of her bother, BBB and who regularly went to their house attending social affairs. Pita eventually joined the group.

The group arrived at the apartment and upon entering, Ranil lit a candle and Adonis closed the door. Ranil then opened a bottle of Emperador Brandy and took a glass from which each of them had their "tagay" (shots). AAA sat beside Jomar and since she was not used to drinking liquor, she forced herself to swallow, the same slowly and by covering her nose. At 11:30 p.m., AAA told the group that she must go home. Pita also told AAA that it's time for them to go home. Since Pita insisted that he and AAA should both go home, he was forced to go home alone because the group started to hurt him by striking him in the nape ("*binabatuk-batukan*"). AAA also tried to leave the apartment but appellants Jomar and Adonis blocked her way. Adonis even proceeded to guard the door of the apartment. AAA was then threatened by the group that they would hurt her older brother ("*Kuya*"), BBB, if she insisted on leaving, thus, she decided to return to her seat. While this was happening, the others were conversing with each other. Shortly, the group opened a second bottle of Emperador Brandy and resumed drinking. AAA had a shot of the liquor that was poured by Ranil and was given to her by Jomar. After five to ten minutes from drinking the liquor, AAA felt her legs and body turning numb, her vision turning blurry and she started feeling dizzy. As she was closing her eyes, AAA felt that she was being carried by Jomar. AAA was familiar with the voice of Jomar and it was the latter who said, "*Dito na, dito na.*" AAA was then placed in a "*papag*" where Jomar proceeded to lower her shorts. AAA tried to resist by bringing up her shorts but to no avail due to her weakness. After successfully lowering AAA's shorts, Jomar went on top of her and inserted his penis into her vagina causing her pain. After performing the deed, Jomar invited the others to take their turns by saying, "*Sino ang susunod?*" A person of heavier weight went on top of AAA and it was then that the latter lost her consciousness. When AAA regained her consciousness, she felt that somebody was putting on her dress and heard shouts that he was coming ("*Si BBB, si BBB andyan na?*"). She then heard footsteps and a commotion ensuing. When she awakened, AAA was already inside a mobile unit with her brother and her mother on their way to a clinic in Camp Crame. From Camp Crame, they proceeded to the Municipal Hall of x x x, Rizal and were brought to the Office of the Prosecutor at around 1 o'clock of March 1, 2004. Thereafter, BBB was told to identify the suspects and pointed at five (5) persons, namely, appellants Adonis, Jomar, Luis, Mark and Roberto. During her identification of the suspects, the parents of the accused; AAA's mother and brother, and the fiscal were present.

Thus, the following nine (9) Informations were filed against the appellants and their other companions:

Criminal Case No. 7693

That on or about the 29th day of February 2004, in the Municipality of x x x, Province of Rizal, Philippines and within the jurisdiction of this Honorable Court, the above-named accused Rex Dandan, Randy Mulog, and Roberto Cortez y Badilla in conspiracy with Adonis Motil y Golondrina, 15 years old, John Andrew Valderama y Rupisan, 16 years old, Jomar Sisracon y Rupisan, 17 years old, Mark Valderama y Rupisan, 17 years old, Luis Padua y Mitra, 16 years old and Ranil Camaymayan alias Sedeng, 17 years old, minors, and with one another by means of force, and intimidation, while the offended party is unconscious, did then and there willfully, unlawfully, and feloniously have carnal knowledge of AAA, the offended party, a minor, fifteen (15) years of age, against her will and without her consent, the said crime having been attended by the qualifying circumstance of commission of the offense of more than two (2) persons, which is aggravated by the circumstances of Treachery, Evident Premeditation, Abuse of Superior Strength and Nighttime.

CONTRARY TO LAW.

Criminal Case No. 7694

That on or about the 29th day of February 2004, in the Municipality of xxxx, Province of Rizal, Philippines and within the jurisdiction of this Honorable Court, the above-named accused Rex Dandan, Randy Mulog, and Roberto Cortez y Badilla in conspiracy with Adonis Motil y Golondrina, 15 years old, John Andrew Valderama y Rupisan, 16 years old, Jomar Sisracon y Rupisan, 17 years old, Mark Valderama y Rupisan, 17 years old, Luis Padua y Mitra, 16 years old and Ranil Camaymayan alias Sedeng, 17 years old, minors, and with one another by means of force, and intimidation, while the offended party is unconscious, did then and there willfully, unlawfully, and feloniously have carnal knowledge of AAA, the offended party, a minor, fifteen (15) years of age, against her will and without her consent, the said crime having been attended by the qualifying circumstance of commission of the offense of more than two (2) persons, which is aggravated by the circumstances of Treachery, Evident Premeditation, Abuse of Superior Strength and Nighttime.

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Criminal Case No. 7699

That on or about the 29th day of February 2004, in the Municipality of xxxx, Province of Rizal, Philippines and within the jurisdiction of this Honorable Court, the above-named accused Rex Dandan, Randy Mulog, and Roberto Cortez y Badilla in conspiracy with Adonis Motil y Golondrina, 15 years old, John Andrew Valderama y Rupisan, 16 years old, Jomar Sisracon y Rupisan, 17 years old, Mark Valderama y Rupisan, 17 years old, Luis Padua y Mitra, 16 years old and Ranil Camaymayan alias Sedeng, 17 years old, minors, and with one another by means of force, and intimidation, while the offended party is unconscious, did then and there willfully, unlawfully, and feloniously have carnal knowledge of AAA, the offended party, a minor, fifteen (15) years of age, against her will and without her consent, the said crime having been attended by the qualifying circumstance of commission of the offense of more than two (2) persons, which is aggravated by the circumstances of Treachery, Evident Premeditation, Abuse of Superior Strength and Nighttime.

CONTRARY TO LAW.

Criminal Case No. 7700

That on or about the 29th day of February 2004, in the Municipality of xxxx, Province of Rizal, Philippines and within the jurisdiction of this Honorable Court, the above-named accused Rex Dandan, Randy Mulog, and Roberto Cortez y Badilla in conspiracy with Adonis Motil y Golondrina, 15 years old, John Andrew Valderama y Rupisan, 16 years old, Jomar Sisracon y Rupisan, 17 years old, Mark Valderama y Rupisan, 17 years old, Luis Padua y Mitra, 16 years old and Ranil Camaymayan alias