

FIRST DIVISION

[G.R. No. 220490, March 21, 2018]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ALFREDO OPEÑA Y BACLAGON, ACCUSED-APPELLANT.**

D E C I S I O N

DEL CASTILLO, J.:

This resolves the appeal of Alfredo Opeña y Baclagon (appellant) assailing the February 12, 2015 Decision^[1] of the Court of Appeals (CA) in CA-G.R. CR No. 06527 which affirmed with modification the September 30, 2013 Decision^[2] of the Regional Trial Court (RTC), Branch 95, Quezon City, finding appellant guilty of the crime of rape.

The Antecedent Facts

Before noon, on May 3, 2007, "AAA"^[3] was inside a room at the second floor of their house in Quezon City, when her father (appellant) suddenly entered, approached her and forcibly removed her shorts and underwear. After removing his shorts, appellant parted "AAA's" legs and inserted his penis into "AAA's" vagina. While appellant was doing this act, "AAA" kept resisting and crying. Appellant told "AAA" to keep quiet and not to shout or else he will inflict harm upon her.

The following day, May 4, 2007, "AAA" sent a text message to her aunt, "CCC," asking the latter's help in getting her and her mother, "BBB," out of their house as appellant was preventing them from leaving. "AAA" also told "CCC" that she was being raped by appellant since she was 11 years old and that she wanted appellant arrested. Eventually, appellant was arrested and brought to the police station along with "AAA," "BBB" and "CCC". Thereat, "AAA" gave her sworn statement. Thereafter, "AAA" was subjected to a medical examination at Camp Crame, Quezon City and further interviewed by a Clinical Psychologist. The conclusion of the medical examination done by P/Chief Insp. Maria Annalisa dela Cruz, contained in Medico-Legal Report No. R07-902,^[4] showed "[d]eep healed laceration at 3, 6 and 9 o'clock position[s]" and was the result of a "blunt force or penetrating trauma to the hymen."

On May 7, 2007, an Information for rape was filed with the RTC against appellant which contained the following accusations:

The undersigned accuses ALFREDO OPEÑA y BACLAGON of the crime of rape, committed as follows:

That on or about the 3rd day of May 2007, in Quezon City, Philippines, the above-named accused, by means of force and intimidation, did then and there willfully, unlawfully and

feloniously have carnal knowledge [of] his daughter ["AAA"] all against her will and without her consent; to the damage and prejudice of the said offended party,

CONTRARY TO LAW.^[5]

To exculpate himself from liability, appellant offered nothing but denial. To justify the same, appellant averred that his relationship with his daughter "AAA" was good (*maayos*). He contended that he was hurt by "AAA's" accusation because there was no proof or truth behind it.

Ruling of the Regional Trial Court

After trial, the RTC declared appellant guilty beyond reasonable doubt of the charge lodged against him. The RTC found "AAA's" narration of the incident straightforward, conclusive and logical. It rejected appellant's proffered denial. It also found no improper motive for "AAA" to accuse her father of rape. Consequently, appellant was condemned to suffer the penalty of *reclusion perpetua* and payment of damages, viz.:

WHEREFORE, the Court finds accused Alfredo Opeña y Baclagon GUILTY beyond reasonable doubt of the crime of Rape under paragraph 1 of Article 266-A of the Revised Penal Code against her daughter, complainant ["AAA,"] and he is hereby sentenced to suffer the penalty of *Reclusion Perpetua* and to pay the complainant the sum of Php75,000.00 as civil indemnity and Php50,000.00 as moral damages, plus Php30,000.00 as exemplary damages.

IT IS SO ORDERED.^[6]

Not satisfied with the findings of the RTC, appellant appealed to the CA.

Ruling of the Court of Appeals

Like the RTC, the CA was convinced of the veracity of "AAA's" testimony. Thus:

Here, AAA was unwavering in her account that she was raped by her own father. She positively identified him as her rapist. She even broke down in tears during her recollection of her father's bestial act. The crying of the victim during her testimony is evidence of the credibility of the rape charge which is a matter of judicial cognizance.^[7]

On February 12, 2015, the CA affirmed with modification the appealed RTC Decision, to wit

WHEREFORE, in view of the foregoing, the herein impugned September 30, 2013 Decision of the Regional Trial Court, Branch 95, Quezon City, finding accused-appellant GUILTY beyond reasonable doubt of the crime of RAPE is hereby AFFIRMED with MODIFICATION in that accused-appellant is ordered to indemnify his daughter 'AAA,' the amount of P50,000.00 as civil indemnity, another P50,000.00 as moral damages and P25,000.00 as exemplary damages.

The rest of the Decision stands.

SO ORDERED.^[8]

Appellant is now before us for final relief.

In our Resolution^[9] dated November 25, 2015, we required the parties to submit their respective supplemental briefs if they so desired. From their respective Manifestations, the parties informed the Court that they were no longer filing supplemental briefs; and instead, adopted their briefs submitted before the CA.

Appellant reiterates the lone assigned error:

THE TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY OF THE CRIME CHARGED DESPITE THE FAILURE OF THE PROSECUTION TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.

^[10]

Our Ruling

The appeal is bereft of merit.

In his quest for acquittal, appellant assails "AAA's" credibility pointing out that her failure to report the alleged incident for nine years rendered her accusation doubtful. He avers that there was no evidence to establish that force or intimidation was employed by him. He contends that "AAA's" failure to shout for help made her actuation unnatural.

The Court finds appellant's submissions untenable.

It has been repeatedly ruled that "delay in reporting an incident of rape is not necessarily an indication that the charge is fabricated, particularly when the delay can be attributed to fear instilled by threats from one who exercises ascendancy over the victim."^[11] In *People v. Coloma*^[12] cited in *People v. Cañada*,^[13] the Court considered an eight-year delay in reporting the long history of rape by the victim's father as understandable and insufficient to render the complaint of a 13-year old daughter incredible. In the present case, the inaction of "AAA" is understandable and may even be expected as she was scared due to the threat on her and her mother if she would divulge the incident done to her.

The question of whether the circumstances of force or intimidation are absent in accomplishing the offense charged gains no valuable significance considering that appellant, being the biological father of "AAA,"^[14] undoubtedly exerted a strong moral influence over her which may substitute for actual physical violence and intimidation.^[15]

Neither appellant's submission of "AAA's" alleged failure to shout for help during the sexual congress will exonerate him. The Court has declared repeatedly that "failure to shout or offer tenacious resistance does not make voluntary the victim's submission to the perpetrator's lust. Besides, physical resistance is not an element of rape."^[16] Moreover, "AAA" was threatened and prevented by appellant from