

## FIRST DIVISION

[ G.R. No. 219111, March 12, 2018 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, V. NELSON  
NUYTE Y ASMA, ACCUSED-APPELLANT.**

### D E C I S I O N

**DEL CASTILLO, J.:**

Challenged in this appeal is the September 25, 2014 Decision<sup>[1]</sup> of the Court of Appeals (CA) in CA-G.R. CR-HC No. 05409 which affirmed the December 9, 2011 Decision<sup>[2]</sup> of the Regional Trial Court (RTC) of Legazpi City, Branch 8, finding appellant Nelson Nuyte y Asma (Nuyte) guilty beyond reasonable doubt of one count of rape and five counts of violation of Section 5(b) of Republic Act (RA) No. 7610, as amended.<sup>[3]</sup>

#### ***The Antecedent Facts***

Appellant was charged in six separate Informations with one count of rape under Article 266-A of the Revised Penal Code (RPC) docketed as Criminal Case No. FC-00-780, and five counts of violation of Section 5(b) of RA 7610 docketed as Criminal Case Nos. FC-00-781 to FC-00-785 inclusive, before the RTC of Legazpi City, Branch 8.

The Informations read as follows:

#### Criminal Case No. FC-00-780 -Rape

That on April 10, 2004 at more or less 12:00 o'clock noon, x x x Province of Albay, Philippines, and within the jurisdiction of this Honorable Court, the above named accused, with lewd and unchaste design, thru force, threat and intimidation, armed with a knife, did then and there willfully, unlawfully and feloniously have sexual intercourse with "AAA",<sup>[4]</sup> 14 years old against her will and consent, to her damage and prejudice.

ACTS CONTRARY TO LAW.<sup>[5]</sup>

#### Criminal Case No. FC-00-781 -Violation of RA 7610

That on April 12, 2004 at more or less 4:00 o'clock in the afternoon, x x x Province of Albay, Philippines, and within the jurisdiction of this Honorable Court, the above named accused, with lewd and unchaste design, by means of intimidation, coercion, influence and other consideration, did then and there willfully, unlawfully and feloniously have sexual intercourse with "AAA", x x x 14 years old, x x x against her will and consent, act which debased and degraded her intrinsic worth and dignity as a human being, to her damage and prejudice.

ACTS CONTRARY TO LAW.<sup>[6]</sup>

Criminal Case No. FC-00-782 - Violation of RA 7610

That on May 6, 2004 at more or less 7:00 o'clock in the morning, x x x Province of Albay, Philippines, and within the jurisdiction of this Honorable Court, the above named accused, with lewd and unchaste design, by means of intimidation, coercion, influence and other consideration, did then and there willfully, unlawfully and feloniously have sexual intercourse with "AAA" x x x 14 years old, x x x against her will and consent, act which debased and degraded her intrinsic worth and dignity as a human being, to her damage and prejudice.

ACTS CONTRARY TO LAW.<sup>[7]</sup>

Criminal Case No. FC-00-783 - Violation of RA 7610

That on May 3, 2004 at more or less 5:00 o'clock in the afternoon, x x x Province of Albay, Philippines, and within the jurisdiction, of this Honorable Court, the above named accused, with lewd and unchaste design, by means of intimidation, coercion, influence and other consideration, did then and there willfully, unlawfully and feloniously have sexual intercourse with "AAA", x x x 14 years old, x x x against her will and consent, act which, debased and degraded her intrinsic worth and dignity as a human being, to her damage and prejudice.

ACTS CONTRARY TO LAW.<sup>[8]</sup>

Criminal Case No. FC-00-784 - Violation of RA 7610

That on April 19, 2004 at more or less 7:00 o'clock in the morning, x x x Province of Albay, Philippines, and within the jurisdiction of this Honorable Court, the above named accused, with lewd and unchaste design, by means of intimidation, coercion, influence and other consideration, did then and there willfully, unlawfully and feloniously have sexual intercourse with "AAA", x x x 14 years old, x x x against her will and consent, act which debased and degraded her intrinsic worth and dignity as a human being, to her damage and prejudice.

ACTS CONTRARY TO LAW.<sup>[9]</sup>

Criminal Case No. FC-00-785 - Violation of RA 7610

That on April 14, 2004 at more or less 12:00 x x x noon, x x x Province of Albay, Philippines, and within the jurisdiction of this Honorable Court, the above named accused, with lewd and unchaste design, by means of intimidation, coercion, influence and other consideration, did then and there willfully, unlawfully and feloniously have sexual intercourse with "AAA", x x x 14 years old, xxx against her will and consent, act which debased and degraded her intrinsic worth and dignity as a human being, to her damage and prejudice.

ACTS CONTRARY TO LAW.<sup>[10]</sup>

Appellant pleaded not guilty to the charges.

The trial court summarized the prosecution's version of the incidents in the following manner:

["AAA"] is the youngest in a brood of three. Her eldest brother works in a junkshop, while her elder brother usually stays home because of a lingering illness. Her parents work in a mountainous area in x x x Albay, When nobody else can, ["AAA"] usually assumes the obligation to tether the cows (4 heads of them) in the morning and untether them in the afternoon after [arriving] from school.

On April 10, 2004 at about 12:00 noon, after tethering the cows, ["AAA"] heard a clapping [sound]. On her way back home, appellant [Nuyte] suddenly appeared, grabbed her by the hair, held her up and at knife point, warned her against telling her mother, or else he will kill them both. Nuyte forced ["AAA"] to the ground and started kissing her chest. He removed her undergarment and his, mounted her and inserted his penis into her vagina. After ejaculating, he wiped his penis, wore back his underwear and left.

The same act was committed under the same instance and in the same place on April 12, 2004 at 4:00 o'clock in the afternoon, and on April 19, 2004 at 7:00 o'clock in the afternoon." ["AAA"] tried to make an outcry, but because of the distance of the *situs criminis* from the neighboring houses, nobody heard her.

On May 3, 2004 at 5:00 o'clock in the afternoon and on May 6, 2004 at 7:00 o'clock in the morning, Nuyte again succeeded in carrying out his dastardly acts against ["AAA"] also at knifepoint, [This time, "AAA" broke] her silence and finally decided to divulge everything to her mother, notwithstanding [appellant's] threat of physical harm against her and her mother.

On May 12, 2004, the parents of ["AAA", "BBB" and "CCC", who were] in a coconut plantation [attending] to the copra at the kiln[,] were fetched by ["DDD"], sister of Rowena Nuyte, wife of the [appellant], allegedly because ["AAA"] was raped by Nuyte. The spouses rushed home and saw ["AAA"] crying and [thereupon] revealed to them about the rape committed by Nuyte. They repaired to the house of Nuyte, but the latter was already nowhere to be found. They thus decided to make a report to the police and submitted ["AAA"] for physical examination, whereupon ["AAA"] was found to have multiple healed deep and superficial [hymenal] lacerations x x x.<sup>[12]</sup>

The evidence for the defense was also summarized by the trial court as follows:

xxx [N]uyte had been living in x x x Albay for thirty years already. [His mother-in-law] and the grandfather of ["AAA" were] siblings. x x x ["AAA"] and [appellant's wife], Rowena, would usually exchange conversations when the latter visits the Nuyte household. The family of ["AAA"] owns a sari-sari store which [Nuyte] also frequents to buy some stuff. It was only [in] December 2003 that Nuyte met ["AAA"] when the latter introduced herself to him. This meeting was followed by regular

exchange of tete-a-tete which eventually blossomed into a relationship which lasted for about a year. Even prior thereto, Rowena already observed the budding closeness between her husband and ["AAA"]. Her doubts were confirmed v/hen she discovered from the wallet of Nuyte the letter of ["AAA"] particularly telling him - "*Kahit wala ka rito mahal na mahal kita. Kahit na laglagan na ako di pa rin kita malilimutan.*"

Rowena showed the letter to ["EEE"], brother of the father of ["AAA"], but after reading the letter, ["EEE"] told them that he cannot do anything about it because ["AAA's"] parents were still in the mountain, so Rowena requested ["DDD"] to fetch them.

The parents of ["AAA"] proceeded directly to the residence of Nuyte. ["BBB"], the father of ["AAA"], was particularly very mad and started hacking the banana plants nearby. Because Nuyte did not go out of his house, ["BBB"] decided to leave.

The discovery of ["AAA's"] letter fomented domestic strife between Nuyte and his wife. ["AAA"] tried to talk to him about the letter, but [Nuyte] advised her to better stay home to avoid adding fuel to the fire. That was the last [time] that they talked. To the mind of the accused, these cases were [filed because] the parents of ["AAA"] could not accept what had happened to their daughter.

Theirs was a consensual sex, Nuyte admitted. In fact their sexual congress happened [several times], usually at noontime in the same grassy place where ["AAA"] tethers the cows x x x, around 50 to 60 meters away from the residence of Nuyte. She was then only 14 years old and he was 29. Nuyte recalls that in the letter, ["AAA"] was begging him not to leave as she was about to receive the sacrament of confirmation. Their sexual relations bore a child, but it was aborted when ["AAA"] was undergoing Citizens Army Training.<sup>[13]</sup>

### ***Ruling of the Regional Trial Court***

On December 9, 2011, the RTC found appellant guilty as charged, ruling in this wise:

ALL THE FOREGOING CONSIDERED, this Court entertains no doubt that the prosecution had established that the accused raped the private complainant under the circumstances mentioned in Article 266-A paragraph 1 (a) of the Revised Penal Code and that he violated Sec. 5(b) of Republic Act 7610. Accordingly, accused NELSON NUYTE is hereby found GUILTY beyond reasonable doubt in Criminal Case No. FC-00-780 and sentenced to suffer the penalty of *reclusion perpetua*. He is likewise found GUILTY of five (5) counts of violation of Section 5(b) of Republic Act No. 7610 and likewise meted the penalty of imprisonment ranging from 8 years and 1 day of *prision mayor* in its medium period as minimum to 17 years, 4 months and 1 day of *reclusion temporal* in its maximum period as maximum, subject to the provision of Article 70 of the Revised Penal Code.

Consistent with relevant jurisprudence, Nelson Nuyte is likewise ordered to indemnify the private offended party, ["AAA"], the sum of

Php75,000.00 for each case as civil indemnity; Php75,000.00 as moral damages and Php30,000.00 as exemplary damages.

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

The trial court found conclusive evidence that on April 10, 2004, "AAA" was raped at knifepoint with the use of force and intimidation against her will. Thus, it convicted appellant of rape in Crim. Case No. FC-00-780. In addition, the court took into consideration appellant's admission of having sexual intercourse with "AAA" several times. Thus, it deemed "AAA" as a child exploited and subjected to sexual abuse under Section 5(b) of RA 7610 and convicted appellant of five counts of violation of Section 5(b) of RA 7610.

Insisting on his innocence by invoking love affair as his defense, appellant elevated the judgment of conviction to the CA via a Notice of Appeal.

### ***Ruling of the Court of Appeals***

On September 25, 2014, the CA affirmed appellant's conviction in the six cases, viz.:

WHEREFORE, premises considered, the assailed Decision is hereby AFFIRMED.

SO ORDERED.<sup>[15]</sup>

The CA was not persuaded by appellant's contentions that no force or intimidation was actually employed on the victim; that it was impossible for "AAA" to have been sexually abused considering that her classes began in the morning and ended in the afternoon and that she did not suffer any physical injury though the incident happened on grassy ground. The CA did not accord weight to his contention that the inaction of "AAA's" mother and the delay in the disclosure of the incidents affected "AAA's" credibility.

Hence, this appeal.

In our Resolution<sup>[16]</sup> dated September 2, 2015, we required the parties to submit their respective supplemental briefs if they so desired within 30 days from notice. The parties filed their separate manifestations that they were no longer filing supplemental briefs; instead, they were adopting their briefs filed before the CA.<sup>[17]</sup>

### **Our Ruling**

The appeal is partly granted.

In assailing his conviction, appellant harps on the credibility of "AAA" and her mother, contending that it was unnatural for the mother not to take prompt action upon learning the fate suffered by her daughter; that it was impossible for "AAA" to have been at the crime scene on April 10, 2004, April 19, 2004, and May 3, 2004 considering that these were school days; the absence of physical injury on "AAA's" body was enough proof that she was not forced to lie on a grassy ground; and, her delayed disclosure of the incidents was just an act to protect her relationship with him.

Appellant's arguments are untenable.