

FIRST DIVISION

[G.R. No. 208091, April 23, 2018]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, V. BENITO MOLEJON, ACCUSED-APPELLANT.

DECISION

TIJAM, J.:

Challenged in this appeal^[1] is the Decision^[2] dated April 24, 2013 of the Court of Appeals (CA) in CA-G.R. CR. HC No. 00919-MIN, which affirmed with modification the Joint Decision^[3] dated August 5, 2010 of the Regional Trial Court (RTC), Branch 1 of Isabela, Basilan, convicting accused-appellant Benito Molejon of five counts of Qualified Rape under Art. 266-A of the Revised Penal Code (RPC), as amended by Republic Act No. 8353 (R.A.) No. 8353,^[4] in Criminal Case Nos. 3895-604, 3896-605, 3897-606, 3901-608, 3902-609; and 11 counts of acts of lasciviousness under Art. 336 of the RPC, in Criminal Case Nos. 4156-798, 4157-799, 4158-800, 4159-801, 4160-802, 4161-803, 4162-804, 4163-805, 4164-806, 4165-807, and 4166-808.

The antecedent facts are as follows:

Accused-appellant Benito Molejon was charged in five separate informations, with five counts of rape; three of which was committed against his own 13-year old stepdaughter AAA^[5] and, two against his 11-year old stepdaughter BBB. Except for the dates of the commission of the crime and the age of the victims, the first information^[6] set forth allegations similar to the other four informations, viz:

That in or about the 1st week of January, 2003, and within the jurisdiction of this Honorable Court, viz., at Barangay Busay, Isabela City, Zamboanga Peninsula, Philippines, the above[-] named accused, by means of force, threat and intimidation, did then and there willfully, unlawfully and feloniously succeeded in having carnal knowledge of said AAA, against her will.

That the commission of the crime of rape was attended by the following aggravating/qualifying circumstances, to wit:

1. That the victim was only thirteen (13) years old during the commission of said crime;
2. That the offender is the step-father of the offended party; and
3. That there was force, threat and intimidation.

Contrary to law.^[7]

Accused-appellant was likewise charged in 11 separate informations with the crime of acts of lasciviousness under Art. 335 of the RPC, eight of which were committed against AAA and three against BBB. Except for the dates of the commission of the crime and the ages of the victims, the first information^[8] set forth allegations similar to the other ten informations, viz:

That on or about the 28th day of June, 2003, and within the jurisdiction of this Honorable Court, viz., at Barangay Busay, Isabela City, Zamboanga Peninsula, Philippines, the above[-]named accused, actuated by lust, did then and there willfully, unlawfully and feloniously, commit an act of lasciviousness on the undersigned complainant, who was only 11 years old, by then and there touching and fingering her vagina, against her will and by means of force.

Contrary to law.^[9]

During his arraignment, accused-appellant pleaded not guilty to all the charges against him. Thereafter, the charges were consolidated and jointly heard. The prosecution presented five witnesses, namely: Complainants AAA; BBB; the victims' mother CCC; Dr. Nilo R. Barandino; and PO2 Jane Jacinto Martin.

AAA, who was born on July 9, 1989,^[10] averred that on different occasions, *i.e.*, from July and August 2001, to September-December 2001, and January-November 2002, up to January 2003, she was either raped or sexually abused and molested by her own step-father. She testified that on separate dates, the accused-appellant would kiss her lips and neck, while caressing her breasts and fingering her vagina repeatedly. She recalled the time when accused-appellant suddenly entered her room and once inside, he kissed her lips, licked her vagina, mounted her, inserted his penis into her vagina and made a push-and-pull movement, causing her to cry in pain. These beastly acts would be committed several times, until January 2003. ^[11]

For her part, BBB, who was born on February 5, 1992,^[12] gave an identical testimony of her step-father's licentious acts, which she experienced from October 2002 to May 2003, up to June 22, 2003 and June 28, 2003. She narrated that accused-appellant would insert his finger in her vagina, remove her panties and eventually thrust his penis. She even felt that accused-appellant excreted a sticky substance while his penis was inside her vagina.^[13]

AAA and BBB both testified that accused-appellant threatened to kill them, including their mother and siblings, if they ever divulge to anyone their awful experience.^[14]

The siblings' appalling ordeal would finally come to an end in the afternoon of June 28, 2003, when their mother CCC, witnessed accused-appellant standing behind BBB, with his left hand inserted inside BBB's shorts. Angered, CCC kicked and punched accused-appellant. Thereafter, AAA and BBB started crying. They revealed to CCC every act that accused appellant committed against them.^[15]

The rape incident and sexual abuse were subsequently reported to the police, resulting to the accused-appellant's arrest.

On June 29, 2003, CCC brought AAA and BBB to the Provincial General Hospital, where they were attended to by Dr. Barandino. According to the doctor, the healed lacerations on the victims' hymens was consistent with AAA's and BBB's testimonies

that they were raped by the accused appellant long before the date of their medical examinations.^[16]

For his part, the accused-appellant denied the charges. He claimed that no rape was committed because the victims never testified that he uttered threatening words, or that he was armed with a weapon when the crimes were committed. Accused-appellant likewise questioned the credibility of the AAA's and BBB's testimonies. He argued that it is contrary to human experience for AAA to continue acting normally despite having been sexually abused. As to BBB, accused-appellant maintained that he could not have raped her since the room where the incident happened was then occupied by her sister and her mother.^[17]

On August 5, 2010, the RTC rendered its Decision,^[18] convicting the accused-appellant of five counts of Qualified Rape under Art. 266-A of the RPC, as amended by R.A. No. 8353; and 11 counts of acts of lasciviousness under Art. 336 of the RPC.

On appeal, the CA rendered its April 24, 2013 Decision,^[19] affirming with modification the RTC's Decision, only insofar as the award of damages is concerned.

On June 6, 2013, accused-appellant appealed the CA's Decision before this Court.

In his appeal, aside from invoking the defense of denial and alibi, accused-appellant insists that the testimonies of AAA and BBB failed to establish that he committed rape and acts of lasciviousness against them. He claims that since neither of the victims saw what he supposedly inserted in their genitalia and since they only narrated that the insertion caused them pain, the prosecution failed to prove his guilt beyond reasonable doubt. In short, accused-appellant challenges the credibility of AAA and BBB, including that of their testimonies.

The OSG, on the other hand, maintains that the prosecution proved all the elements of the crime of rape and acts of lasciviousness beyond reasonable doubt, on the basis of the victims' positive and candid narration of what transpired during the harrowing incidents.

The appeal is bereft of merit.

The factual findings of the trial court, especially when affirmed by the CA, are entitled to great weight and respect. The trial court, as the original trier of the facts, was in the best position to keenly observe the witnesses rendering their respective versions of the events that made up the occurrences constituting the ingredients of the offense charged.^[20]

After a careful review of the evidence and testimony proffered by the prosecution, the Court opines that the trial court and the CA were not mistaken in their assessment of the testimonies of AAA and BBB. The accused-appellant failed to show that both tribunals overlooked a material fact that otherwise would change the outcome of the case or misunderstood a circumstance of consequence in their evaluation of the credibility of the witnesses.^[21] Thus, this Court will not disturb the RTC's findings of fact as affirmed by the CA, but must fully accept the same.

Contrary to the accused-appellant's claim, the alleged inconsistencies are understandable considering that AAA and BBB were only minors at the time they testified before the trial court. We held in *People v. Lagbo*,^[22] that:

x x x Courts expect minor inconsistencies when a child-victim narrates the details of a harrowing experience like rape. Such inconsistencies on minor details are in fact badges of truth, candidness and the fact that the witness is unrehearsed. These discrepancies as to minor matters, irrelevant to the elements of the crime, cannot, thus, be considered a ground for acquittal. x x x (Citations omitted)^[23]

As correctly observed by the trial court:

The testimony of AAA and BBB are consistent on material points. Slightly conflicting statements will not undermine the witness's credibility or the veracity of their testimony. They in fact tend to buttress rather than impair their credibility as they erase any suspicion of rehearsed testimony. The defense was not able to elicit significant contradictions in the testimonies of the child victims to render them as purely imagined motivated only by their desire to get even with the accused. The claim of the accused that AAA and BBB never disrespected him as they even kiss his hand and call him *tito* is not indication enough [sic] that he never committed the acts imputed on him and even when taken together with the testimony of his brother that there appeared to be no ill feelings pervading in the family.

x x x x

Carnal knowledge had also been proven. The respective testimonies of AAA and BBB vividly describe their harrowing experience in the hands of the accused. It bears emphasis that the accused resorted to force, threat and intimidation to consummate his lust. The Supreme Court has consistently held that rape is committed when intimidation is used on the victim, which includes moral intimidation or coercion. The accused also committed acts of lasciviousness using intimidation on AAA and BBB. The essence of acts of lasciviousness is lewd design, that is, deriving vicarious pleasure from acts performed on the person of the victim. The acts complained of have been sufficiently proved by the testimonies of the complainants.^[24]

The CA echoed this assertion, when it pointed out that:

The testimonies of AAA and BBB were direct, candid, and replete with details of the acts of rape and lasciviousness. They were consistent and straightforward in their answers during the direct and cross examination. They did not waiver in their personal accounts of how the accused kissed them, mashed their breasts and later 'fingering' their genitalia, and in other instances inserted his penis into their vaginas to consummate his lustful designs. The presence of their mother in the house during the incident did not discourage the appellant from committing beastly acts on AAA and BBB. While neither AAA nor BBB really put up a struggle more palpable than merely trying to resist, it should be noted nonetheless that appellant was unmistakably threatening to kill them and all their loved ones. Moreover, the fact that AAA and BBB had been living with appellant who is their stepfather who had considerable moral ascendancy over them sufficiently explains why they did not offer a more physical resistance.

x x x x

It would be foolish fallacy to say that the victims' mere failure to shout or physically express their tenacious resistance were equivalent to voluntary submission to the lecherous conduct of the offender. It was certainly enough that they had repeatedly tried, though unsuccessfully, to resist his advances and pleaded him to stop.^[25]

We give short shrift to accused-appellant's contention that he could not have sexually abused AAA and BBB since they lived in a cramped house with several occupants. Suffice it to say that lust is no respecter of time or place, and rape defies constraints of time and space.^[26] In *People v. Nuyok*,^[27] We ruled that the presence of other occupants in the same house where the accused and the victim lived does not necessarily restrain the accused from committing the crime of rape. Thus:

The presence of others as occupants in the same house where the accused and AAA lived did not necessarily deter him from committing the rapes. The crowded situation in any small house would sometimes be held to minimize the opportunity for committing rape, but it has been shown repeatedly by experience that many instances of rape were committed not in seclusion but in very public circumstances. Cramped spaces of habitation have not halted the criminal from imposing himself on the weaker victim, for privacy is not a hallmark of the crime of rape. x x^[28]

Then, too, accused-appellant's defenses, consisting of mere denial and alibi, fail to persuade Us.

Denial, if unsubstantiated by clear and convincing evidence, is a self-serving assertion that deserves no weight in law,^[29] as in this case. Likewise, alibi is one of the weakest defenses not only because it is inherently frail and unreliable, but also because it is easy to fabricate and difficult to check or rebut.^[30] Here, accused-appellant's alibi cannot prevail over the positive identification of his own step-daughters who had no improper motive to testify falsely.

However, the CA Decision is modified as to the penalty imposed and the damages awarded in Criminal Case Nos. 3895-604, 3896-605, 3897-606, 3901-608, and 3902-609. For qualified rape by sexual intercourse, accused-appellant is sentenced to suffer the penalty of five counts of *reclusion perpetua* without eligibility for parole,^[31] and is ordered to pay AAA the amounts of P100,000 as civil indemnity, P100,000 as moral damages and P100,000 as exemplary damages for each count, in line with current jurisprudence.^[32]

The crime of qualified rape under paragraph 1, Article 266-A of the RPC, is penalized under Article 266-B(1), which provides that the death penalty shall be imposed if the victim is under 18 years of age and the offender, among others, is the step-parent. Applying R.A. No. 9346,^[33] the CA correctly imposed the penalty of *reclusion perpetua*, and specified that it is without eligibility for parole. When circumstances are present warranting the imposition of the death penalty, but this penalty is not imposed because of R.A. No. 9346, the qualification "*without eligibility for parole*" shall be used to qualify *reclusion perpetua* in order to emphasize that the