

FIRST DIVISION

[G.R. No. 223681, August 20, 2018]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
BENJAMIN SALAVER Y LUZON, ACCUSED-APPELLANT.**

DECISION

DEL CASTILLO, J.:

On appeal is the May 19, 2014 Decision^[1] of the Court of Appeals (CA) in CA-G.R. CR-HC No. 05478 affirming the August 24, 2011 Joint Decision^[2] of the Regional Trial Court (RTC), Branch 40, Calapan City, Oriental Mindoro, finding Benjamin Salaver y Luzon (appellant) guilty of three counts of qualified rape.

Factual Antecedents

Appellant was charged with the crime of rape in three separate Informations which read:

In Criminal Case No. CR-06-8596:

That on or about the 19th day of July 2006, at around 5:00 o'clock in the afternoon, x x x City of Calapan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, motivated by lust and lewd desire, by means of force, threat and intimidation, did then and there willfully, unlawfully and feloniously [have] carnal knowledge of one [AAA],^[3] his fifteen (15)^[4] year old daughter and therefore a relative within [the] 3rd civil degree by consanguinity, and living with him in the same house, against her will and without her consent, acts which debase, degrade and demean the intrinsic worth and dignity of the said [AAA], to her damage and prejudice.

CONTRARY TO LAW.^[5]

In Criminal Case No. CR-06-8597:

That on or about the 23rd day of August 2006, at around 5:00 o'clock in the afternoon, x x x City of Calapan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, motivated by lust and lewd desire, by means of force, threat and intimidation, did then and there willfully, unlawfully and feloniously [have] carnal knowledge of one [AAA], his fifteen (15) year old daughter and therefore a relative within [the] 3rd civil degree by consanguinity, and living with him in the same house, against her will and without her consent, acts which debase, degrade and demean the intrinsic worth and dignity of the

said [AAA], to her damage and prejudice.

CONTRARY TO LAW.^[6]

In Criminal Case No. CR-06-8598:

That on or about the 8th day of September 2006, at around 7:00 o'clock in the morning, x x x City of Calapan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, motivated by lust and lewd desire, by means of force, threat and intimidation, did then and there willfully, unlawfully and feloniously [have] carnal knowledge of one [AAA], his fifteen (15) year old daughter and therefore a relative within [the] 3rd civil degree by consanguinity, and living with him in the same house, against her will and without her consent, acts which debase, degrade and demean the intrinsic worth and dignity of the said [AAA], to her damage and prejudice.

CONTRARY TO LAW.^[7]

The three cases were tried and heard jointly. During arraignment, appellant entered a plea of not guilty. Trial on the merits ensued.

The prosecution's evidence consisted of the testimonies of "AAA", Dr. Angelita C. Legaspi (Dr. Legaspi), and "AAA's" younger brother, "BBB".

The trial court summarized the narration of "AAA", as follows:

[AAA], x x x born on 07 May 1990 (Exh. F) to the spouses [appellant] Benjamin Salaver and [DDD,^[8]] testified x x x that: at around 5:00 o'clock in the afternoon of 19 July 2006, she and [appellant] were then inside their house x x x [in] Calapan City when the latter x x x pulled her towards his bedroom; x x x then, [appellant] told her to remove her shorts but she refused; [appellant] got angry and removed her shorts and panty after which, he laid her on the bed; then, [appellant] removed his shorts enabling her to see his erect sex organ; after instructing her to spread her legs, [appellant] inserted his sex organ into her private organ causing her to feel pain; while [appellant] was holding her hands and making an up and down motion, she struggled and pleaded to him but her pleas fell on deaf ears; she was not able to shout anymore because [appellant] warned her that he would do something bad if she did; when the incident happened, her younger brother x x x [and] eldest brother [were] not in their house; on the other hand, her mother, who was a house help, was staying in the house of [her] employer; after the incident, she left their house and spent the night with her mother x x x she informed her older brother about the incident but the latter ignored her; when she informed her mother about the incident, the latter told her not to sleep in their house anymore; that at around 5:00 o'clock in the afternoon of 23 August 2006, she and [appellant] were inside their house while her younger brother was playing outside their house; [appellant] told her to go inside his room x x x once inside [appellant's] bedroom, he told her to lie down on the bed and she complied; then, [appellant] told

her to remove her clothes but she refused[,] so [appellant] removed her shorts and panty; just like what he did during the first rape incident, [appellant] inserted his sex organ into her private organ and made an up and down movement of his body; she tried to resist but she was unsuccessful; when she informed her older brother about the second rape incident, her brother [was] shocked; she also informed her mother about the incident and her mother asked her why she still went back to their house; although her mother already told her not to sleep in their house anymore after the first rape incident, she still went back to their house after school because she intended to get something in their house; she did not expect that [appellant] would rape her for the second time; that at around 7:00 o'clock in the morning of 08 September 2006, she went to their house and while she was washing the dishes, [appellant] suddenly held her hand and pulled her inside his room; at the time, her younger brother was sent by [appellant] on an errand; then, [appellant] told her to remove her shorts but she refused; as [appellant] was trying to remove her panty, she tried to push him away but she was unsuccessful; then, [appellant] made her lie down on the bed and held her hands while inserting his sex organ into her private organ causing her to feel pain; once again, [appellant] made an up and down movement with his body; she struggled against [appellant] and pleaded, "*Huwag po*" but her efforts were in vain; she was not also able to shout because [appellant] threatened to kill all of them if she did; accompanied by her mother and a barangay tanod, she submitted herself to medical examination on 08 September 2006; she was investigated at the PNP Provincial Headquarters in [B]arangay Suqui, Calapan City. She affirmed the truthfulness and correctness of the contents of her affidavit (Exh. A).

On cross-examination, she testified that she did not inform her mother about the first rape incident but on 12 September 2006, she informed her mother about the second rape incident that happened on 23 August 2006; her mother left their house in August 2006 because [appellant] was inflicting physical harm on her mother. She maintained that [appellant] was able to insert his sex organ into her private organ during the three rapes committed by [appellant] on her.^[9]

Dr. Legaspi was the Rural Health Physician of the Calapan City Health and Sanitation Department. She testified that she examined "AAA" on September 8, 2006 and that she found no external injuries on the body of AAA; however, she confirmed that "AAA" sustained "old healed complete hymenal lacerations at 1, 4, 6, 9 and 11 o'clock positions, [with] no hymenal nor vaginal bleeding at the time of examination."^[10] Dr. Legaspi testified that these lacerations could have been caused by the insertion of a male sex organ into "AAA's" private organ and that it was possible that "AAA" had been sexually molested about three or more times.^[11]

"BBB", "AAA's" younger brother, also testified. He confirmed the truthfulness of the contents of the affidavit he voluntarily executed in relation to the incident that happened on September 8, 2006.^[12] In this affidavit,^[13] "BBB" narrated that at around 7:00 a.m. of September 8, 2006, appellant asked him to buy a can of sardines at a nearby store; that when he returned to their house, he saw appellant half naked while lying on top of "AAA". Frightened, he went to the house of "EEE",

their uncle on the maternal side, and reported the incident. "BBB" likewise testified that he was not compelled by the prosecution to testify against his father; he disclosed, however, that he went to court because he wanted to request the dismissal of the case against his father as per his agreement with "AAA".^[14] On cross-examination, "BBB" admitted that he was compelled to attend the case hearings by his mother's live-in partner as he was afraid of him.^[15]

On the other hand, the defense presented appellant as its lone witness. Appellant denied the accusations against him and claimed that they were fabricated by his brother-in-law, "EEE", who harbored a grudge against him.^[16] According to appellant, he was being suspected by "EEE" of having a relationship with the latter's wife.^[17] When asked about the sworn statement of "BBB", appellant countered that what "BBB" actually saw was him putting on his work clothes.^[18]

Ruling of the Regional Trial Court

On August 24, 2011, the RTC rendered a Joint Decision^[19] finding appellant guilty beyond reasonable doubt of three (3) counts of qualified rape. It held that appellant's bare denial and imputation of ill motives on "BEE" were insufficient to rebut the evidence of the prosecution. It further held that "AAA's" categorical and positive identification of appellant as her rapist prevailed over his denial.

The trial court, thus, ruled:

In sum, after a judicious evaluation of the totality of evidence adduced by both the prosecution and the defense, this Court finds nothing which would destroy the moral certainty of the accused's guilt

In the case at bar, the accused [was] being charged of the crime of qualified rape considering that at the time the rape incidents took place, the private complainant was only fifteen (15) years of age and x x x the daughter of the accused. Records x x x clearly [showed] that both the private complainant's minority and her relationship with the accused as her father [were] both alleged in the informations and were proven beyond reasonable doubt by the prosecution during the trial. The prosecution was able to prove that the private complainant [AAA] was only fifteen (15) years old at the time the incidents of rape took place by presenting the private complainant's Certificate of Live Birth (Exhibits F, F-1 to F-4), issued by the Local Civil Registrar x x x wherein x x x it [was stated] that her father [was] the accused Benjamin Salaver y Luzon (Exhibit F-3).

The RTC disposed of the case, as follows:

ACCORDINGLY, finding herein accused Benjamin Salaver y Luzon x x x guilty beyond reasonable doubt of three (3) counts of rape, said accused is hereby sentenced to suffer the THREE (3) penalties of RECLUSION PERPETUA without eligibility for parole and with all the accessory penalties as provided for by law. The accused is hereby directed to indemnify the private complainant civil indemnity ex delicto in the amount of Seventy-Five Thousand Pesos (Php75,000.00) for each case x

x x; moral damages in the amount of Seventy-Five Thousand Pesos (Php75,000.00) for each case x x x and exemplary damages of Twenty-Five Thousand Pesos (Php25,000.00) for each case x x x.

SO ORDERED.^[20]

Ruling of the Court of Appeals

In his Brief,^[21] appellant argued that the trial court failed to correctly appreciate "AAA's" as well as her witnesses' testimony. First, despite her claim of having been thrice raped, "AAA" appeared to have no apparent fear or disgust against appellant as she continued to stay at the same house with him, always obliged when invited to go inside his room, and even agreed with "BBB" to have the case dismissed. These acts, according to appellant, were contrary to human nature and experience. Second, "AAA's" testimony suffered from inconsistency in that on direct examination, she said that she told her mother about the first rape incident, but on cross-examination, she testified that she did not immediately report the incident to anyone. Third, the medical examination showed no signs of employment of force nor any physical injuries. Fourth, "AAA's" conduct after the alleged sexual assaults raised suspicion as to the truthfulness of the rape charges since she continued with her usual routine and did not report the matter to the authorities. Fifth, the testimonies of "AAA" and "BBB" indicated that the rape charges were filed through "EEE's" manipulation coupled with the dislike of the mother of "AAA" towards appellant. Lastly, there was an apparent lack of resistance or struggle to the assaults.

After review, the CA denied the appeal and found "AAA's" testimony clear, straightforward, and worthy of belief, and the alleged inconsistencies trivial. As to the other arguments raised by appellant, the CA noted that:

Appellant's assertion that AAA - (a) continued to live with him in their house after the alleged first rape incident; (b) did not immediately report the rape to authorities; and [c] did not have any fresh hymenal lacerations and bruises on her body, give rise to doubt as to the veracity of the rape, deserves scant consideration. First, where did appellant expect AAA to go[?] She was a minor, only fifteen (15) years of age, when appellant raped her. Second, [it was] not uncommon for a rape victim to initially conceal the assault against her person for several reasons, including that of fear of threats posed by her assailant, specially when the assailant [was] her father. Third, well-settled is the rule that in rape cases, the absence of fresh lacerations in complainant's hymen does not prove that she was not raped. A freshly broken hymen is not an essential element of rape. Healed lacerations do not negate rape. Lastly, settled is the rule that in incestuous rape, the father's moral ascendancy and influence over his daughter substitutes for violence and intimidation.

x x x^[22]

The CA disposed of appellant's appeal, as follows:

All told, appellant's denial and alibi cannot prevail over the positive testimony of AAA.