

THIRD DIVISION

[G.R. No. 224583, February 01, 2017]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
MICHAEL PALANAY Y MINISTER, ACCUSED-APPELLANT.**

D E C I S I O N

VELASCO JR., J.:

Nature of the Case

For review is the Decision^[1] dated October 20, 2015 of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 01140-MIN affirming the Decision^[2] dated February 22, 2013 of the Regional Trial Court (RTC) of Cagayan de Oro City, Branch 19, in Criminal Case No. 2010-343, finding accused-appellant Michael Palanay y Minister guilty of qualified rape under Article 266-A in relation to Article 266-B of the Revised Penal Code (RPC), as amended by Republic Act No. 8353.^[3]

In line with our ruling in *People v. Cabalquinto*,^[4] the real name of the victim, as well as any information which tends to establish or compromise her identity, shall be withheld. The initials "AAA" shall be used instead to represent her.

Factual Antecedents

On September 3, 2010, accused-appellant was charged with the crime of rape in an Information,^[5] the accusatory portion of which reads:

That on August 31, 2010 at around 1:00 o'clock in the morning, at _____ Cagayan de Oro City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design, did then and there willfully, unlawfully, and feloniously have carnal knowledge with his niece, who is a minor offended party, AAA, 16 years old (Date of birth: _____) against her will and consent, to her damage and prejudice.

Contrary to and in violation of Art. 266-A, in relation to Art. 266-B of the Revised Penal Code, as amended by Republic Act 8353, and with the aggravating circumstance that AAA is a relative by consanguinity within the third civil degree and is below 18 years of age.

The facts, culled from the records, are as follows:

Version of the Prosecution

On the evening of August 30, 2010, AAA was sleeping in her room when she was suddenly awakened by someone removing her short pants and panty. She awoke to

find accused Palanay, her uncle and brother of her mother, lying beside her and removing his own short pants. Thereafter, he kissed AAA's lips, touched her breasts, and inserted his penis into her vagina. After satisfying his bestial desires, Palanay slept by AAA's side. AAA put her clothes on, went to the comfort room, and cried in silence. By early morning, AAA went to the house of her elder sister, BBB, and narrated her tragic experience. Upon learning of the incident, BBB went to her elder sister, CCC, to relay what happened to AAA.^[6]

BBB corroborated the testimony of AAA. She narrated that, on August 31, 2010 at around 7:00 a.m., she found AAA outside her door sobbing. When asked what caused her troubles, AAA recounted that she was raped by Palanay. Aghast, BBB went to the house of CCC to inform her about what happened to AAA and to plan their next step. CCC blottered the incident and filed a complaint against Palanay for the rape of AAA.^[7]

Version of the Defense

Palanay testified that, in the evening of August 31, 2010, he was at his friend's house drinking until 3:00 a.m. the following morning. At around 7:00 a.m., he went to the house of his brother to ask the latter to help him cultivate a land.^[8] Palanay testified that the house of AAA is adjacent to the house of his brother, but he did not notice her.

Palanay contended that the charge against him was motivated by the quarrel he had with the mother of AAA.

Ruling of the RTC

After trial, the RTC rendered a Decision finding Palanay guilty beyond reasonable doubt as charged. The dispositive portion of the Decision reads:

ALL THE FOREGOING CONSIDERED, the Court finds accused [Palanay] GUILTY beyond reasonable doubt of the crime of rape, as charged and for which the court hereby imposes upon him the penalty of *reclusion perpetua*. He is further adjudged to pay "AAA" civil indemnity in the sum of Seventy Five (P75,000.00) Pesos without need of proof and moral damages in the sum of Thirty Thousand (P30,000.00) Pesos only. With costs.

SO ORDERED.

In convicting Palanay of the crime charged, the RTC gave more weight and credence to the prosecution's evidence. The trial court observed that AAA was able to positively identify Palanay as the perpetrator of the crime. The commission of the rape was further bolstered by the medical findings of AAA after the rape was committed.^[9]

On appeal to the CA, Palanay asserted that AAA's failure to offer serious resistance against his sexual advances cast doubt on his guilt for the crime charged.

Ruling of the Court of Appeals

The CA affirmed the RTC's Decision *in toto*. The *fallo* of the CA's Decision reads:

WHEREFORE, premises considered, the instant appeal is DENIED. The February 22, 2013 Decision of the Regional Trial Court, Branch 19, Cagayan de Oro City, in Criminal Case No. 2010-343, finding [Palanay] guilty beyond reasonable doubt for the crime of Rape under Article 266-A in relation to Article 266-B of the Revised Penal Code is hereby AFFIRMED.

SO ORDERED.

Aggrieved, Palanay filed the instant appeal.

The sole issue for the resolution of this Court is whether the prosecution has proven the guilt of Palanay for the rape of AAA beyond reasonable doubt.

Our Ruling

We affirm the conviction of Palanay for rape under Article 266-A qualified by relationship in relation to Article 266-B of the RPC, which respectively provide:

Art. 266-A. Rape; When And How Committed. - Rape is Committed -

1. By a man who shall have carnal knowledge of a woman under any of the following circumstances:

a) Through force, threat or intimidation;

b) When the offended party is deprived of reason or is otherwise unconscious;

c) By means of fraudulent machination or grave abuse of authority;

d) When the offended party is under twelve (12) years of age or is demented, even though none of the circumstances mentioned above be present. xxx (Emphasis supplied)

xxxx

ART. 266-B. Penalties. - Rape under paragraph 1 of the next preceding article shall be punished by *reclusion perpetua*.

xxxx

The death penalty shall also be imposed if the crime of rape is committed with any of the following aggravating/qualifying circumstances:

1) When the victim is under eighteen (18) years of age and the offender is a parent, ascendant, stepparent, guardian, relative by consanguinity or affinity within the third civil degree, or the common-law spouse of the parent of the victim.

Hence, in a conviction for qualified rape, the prosecution must prove all the elements thereof, which are: (1) sexual congress (2) with a woman; (3) done by force, threat, or intimidation without consent; (4) the victim is under eighteen years of age at the time of the rape; and (5) the offender is a parent, ascendant, stepparent, guardian, relative by consanguinity or affinity within the third civil degree of the victim, or the common-law spouse of the parent of the victim.

In the present case, all the foregoing elements of qualified rape are present.

AAA categorically asserted that Palanay, her uncle, had carnal knowledge of her. She was steadfast in her testimony that, in the early morning of August 31, 2010, Palanay undressed her and touched her breast against her will. He then forced himself on her and inserted his penis into her vagina. At the time of the incident, AAA was just sixteen (16) years old.

The findings in the medical examination of AAA taken after the rape support this allegation.^[10] While a medical examination of the victim is not indispensable in the prosecution of a rape case, and no law requires a medical examination for the successful prosecution of the case, the medical examination conducted and the medical certificate issued are veritable corroborative pieces of evidence, which strongly bolster the victim's testimony.^[11] In addition, as found by the trial court, AAA's recollection of what happened after her harrowing experience was sufficiently corroborated by BBB.

To discredit AAA, Palanay makes much of her failure to offer resistance to his advances to discount the occurrence of rape.

Suffice to state this assertion is utterly trivial in nature and does not affect the merits of the case. It bears to stress that in rape cases, the law does not impose a burden on the rape victim to prove resistance because it is not an element of rape.^[12] Thus, the failure to shout or offer tenacious resistance does not make voluntary the victim's submission to the criminal act of the offender.^[13]

In any event, the failure of AAA to resist Palanay's sexual advances due to the amount of intimidation exerted on her was sufficiently explained. In her testimony before the trial court, she recalled:

PROS. VALCONCHA:

Q You said earlier you did not shout at that time, why is that?

A Because I was afraid.

Q Why were you afraid of the accused?

A Because he is tough.

Q When you said he is tough what do you mean by that?

A He even kicked me.^[14] (Emphasis supplied)