

## THIRD DIVISION

[ G.R. No. 218572, June 19, 2017 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, V. BILLIE  
GHER TUBALLAS Y FAUSTINO, ACCUSED-APPELLANT,**

### D E C I S I O N

**TIJAM, J.:**

Accused-appellant Billie Gher Tuballas y Faustino appeals the June 16, 2014 Decision<sup>[1]</sup> of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 05589 which affirmed with modification the May 4, 2012 Decision<sup>[2]</sup> of the Regional Trial Court (RTC), Branch 172 of Valenzuela City in Crim. Case Nos. 810-V-09 and 810A-V-09 finding accused-appellant Billie Gher Tuballas y Faustino guilty beyond reasonable doubt for two counts of rape under paragraph 1 of Article 266-A of the Revised Penal Code (RPC).

Accused-appellant was charged with two counts of rape under separate Informations, the accusatory portions of which read:

Crim. Case No. 810-V-09

On or about November 12, 2009, in Valenzuela City, Metro Manila and within the jurisdiction of this Honorable Court, the accused BRYAN T. FLORENCIO, conspiring together with the accused BILLIE GHER F. TUBALLAS and ZZZ<sup>[3]</sup>, seventeen (17) years old, acting with discernment, by means of force and intimidation, did then and there willfully, unlawfully and feloniously have sexual intercourse with one AAA<sup>[4]</sup>, fifteen (15) years old, against her will and without her consent as she was deprived of reason, thereby subjecting said minor to sexual abuse which debased, degraded and demeaned her intrinsic worth and dignity as a human being.

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

CRIM. CASE No. 810A-V-09

On or about November 12, 2009, in Valenzuela City, Metro Manila and within the jurisdiction of this Honorable Court, the accused ZZZ, seventeen (17) years old, acting with discernment, conspiring together with the accused BILLIE GHER F. TUBALLAS and BRYAN T. FLORENCIO, by means of force and intimidation, did then and there willfully, unlawfully and feloniously have sexual intercourse with one AAA, fifteen (15) years old, against her will and without her consent as she was deprived of reason, thereby subjecting said minor to sexual abuse which debased, degraded and demeaned her intrinsic worth and dignity as a human being.

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

The case against Bryan T. Florencio (Florencio) was dismissed on October 27, 2010 due to his death on October 15, 2010<sup>[7]</sup>, while ZZZ had not yet submitted himself to the jurisdiction of the court. Records show that before the filing of the case, ZZZ's custody was turned over by the City Social Welfare and Development Office of Valenzuela to ZZZ's mother. Notices were sent to ZZZ's mother to appear and bring her son to court but the return showed that they were no longer residing at their given address. Warrants of arrest were issued against ZZZ and his mother, but they still remain at large.<sup>[8]</sup>

On arraignment, accused-appellant pleaded not guilty to the two charges.<sup>[9]</sup>

The pertinent facts of the case, as summarized by the CA, are as follows:

AAA testified that in the morning of 12 November 2009, she and Arjay were invited by accused ZZZ and accused-appellant to have a drink in the house of the latter. Joining them were accused Bryan, Salvador Sanidad, a certain Renerio, as well as her friend Mary. AAA got drunk and when she became dizzy she was taken by Arjay and ZZZ to a room where she was told to sleep it off. She awakened when she felt somebody touching her breast and saw that it was ZZZ. ZZZ was inside her in a pumping movement. She tried to move but somebody was pinning her hand down. She saw Bryan standing beside the sofa bed and accused-appellant taking a video of her and ZZZ with his mobile phone. When they noticed that she was awake, ZZZ stopped what he was doing and stood up. He was replaced by another man whom AAA did not know. He too had carnal knowledge with her. Sometime around 1:00 o'clock p.m. Mary awakened her and helped her fix herself with Arjay following to take her home. The next day, she told her teacher what happened and her parents were called to a meeting in the school and were apprised thereof. Afterwards, AAA and her parents proceeded to the police station and to the Crime Laboratory.

AAA's testimony was substantially corroborated by her friend Mary and Arjay.

P/Insp. Cordero testified that he conducted a physical examination that included examining the genital and extragenital areas on (sic) AAA on 13 November 2009. He noticed, among others, lacerations in her genitalia which could have been caused by a blunt object or force or trauma that was inserted in the area like an erect penis.

After the prosecution rested its case, the defense presented accused-appellant. .

The accused-appellant denied raping AAA and taking a video of her while she was being raped. He admitted, however, the occurrence of a drinking session in his house wherein ZZZ, AAA, Arjay, Mary, Salvador, Reneiro, Bryan and himself were all present. He narrated that when AAA became drunk she kissed ZZZ, Bryan, and Arjay. Accused-appellant told ZZZ not to give AAA another drink because she was already drunk and flirting. Arjay also tried to stop AAA from drinking but did not (sic). After awhile

AAA lay down on the sofa. Arjay and ZZZ brought AAA to a room and left her there alone. Arjay and ZZZ went outside while accused-appellant stayed in the living room and continued to drink. While accused-appellant was cleaning up, he heard a commotion. He saw Arjay and Salvador exchanging blow. Accused-appellant pacified the two and told them to sit in the living room. At 2:00 o'clock p.m., AAA left the room where she was taken and thirty (30) minutes later everybody left his house.<sup>[10]</sup>

On May 4, 2012, the RTC rendered a Decision<sup>[11]</sup> finding accused-appellant guilty beyond reasonable doubt for two counts of rape, to wit:

WHEREFORE, in view of the foregoing, the court finds accused Billie Gher Tuballas y Faustino guilty beyond reasonable doubt as principal of the two (2) counts of rape charged against him and he is hereby sentenced to suffer the following penalties:

1. In Crim. Case No. 810-V-09, the accused is hereby sentenced to suffer the penalty of reclusion perpetua. He is likewise ordered to pay AAA civil liability in the amount of P75,000.00; P75,000.00 for moral damages and P30,000.00 exemplary damages and to pay the cost.

2. In Crim. Case No. 810A-V-09, the accused is hereby sentenced to suffer the penalty of reclusion perpetua. He is likewise ordered to pay AAA civil liability in the amount of P75,000.00; P75,000.00 for moral damages and P30,000.00 exemplary damages and to pay the cost

Considering that accused Billie Gher Tuballas y Faustino has undergone preventive imprisonment, he shall be credited in the services of his sentence with the full time spent in detention subject to the conditions provided for by law.

This decision is not applicable to child in conflict with the law (sic) ZZZ who up to this date has not yet submitted to the jurisdiction of this court.

Let an alias warrant of arrest be issued against accused ZZZ.

SO ORDERED.<sup>[12]</sup>

Hence, this appeal with accused-appellant raising this lone assignment of error:

**THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT DESPITE THE FACT THAT HIS GUILT HAS NOT BEEN PROVEN BEYOND REASONABLE DOUBT.**<sup>[13]</sup>

Accused-appellant claimed that the intoxicated state of AAA, the victim, Arjay and Mary, casts doubt on the veracity and accuracy of their statements. He further claimed that the RTC erred in finding that a conspiracy existed between accused-appellant, ZZZ and Florencio.

The appeal lacks merit.

Article 266-A of the RPC provides that 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.

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Under the said provision, the elements of rape are: (1) the offender had carnal knowledge of the victim; and (2) such act was accomplished through force or intimidation; or when the victim is deprived of reason or otherwise unconscious; or when the victim is under twelve years of age.

In reviewing rape cases, this Court is guided by three principles, to wit: (1) an accusation of rape can be made with facility; it is difficult to prove but more difficult for the person accused, though innocent, to disprove; (2) in view of the intrinsic nature of the crime of rape where only two persons are usually involved, the testimony of the complainant must be scrutinized with extreme caution; and (3) the evidence for the prosecution must stand or fall on its own merits and cannot draw strength from the weakness of the evidence for the defense.<sup>[14]</sup>

As a result of these guiding principles, credibility of the complainant becomes the single most important issue. If the testimony of the victim is credible, convincing and consistent with human nature, and the normal course of things, the accused may be convicted solely on the basis thereof.<sup>[15]</sup>

Time and again, We have held that when it comes to the issue of credibility of the victim or the prosecution witnesses, the findings of the trial courts carry great weight and respect and, generally, the appellate courts will not overturn the said findings unless the trial court overlooked, misunderstood or misapplied some facts or circumstances of weight and substance which will alter the assailed decision or affect the result of the case. This is so because trial courts are in the best position to ascertain and measure the sincerity and spontaneity of witnesses through their actual observation of the witnesses' manner of testifying, their demeanor and behavior in court. Trial judges enjoy the advantage of observing the witness' deportment and manner of testifying, her "furtive glance, blush of conscious shame, hesitation, flippant or sneering tone, calmness, sigh, or the scant or full realization of an oath" — all of which are useful aids for an accurate determination of a witness' honesty and sincerity. Trial judges, therefore, can better determine if such witnesses are telling the truth, being in the ideal position to weigh conflicting testimonies.

Again, unless certain facts of substance and value were overlooked which, if considered, might affect the result of the case, its assessment must be respected, for it had the opportunity to observe the conduct and demeanor of the witnesses while testifying and detect if they were lying.

The rule finds an even more stringent application where the said findings are sustained by the Court of Appeals.<sup>[16]</sup> Especially so, in this case, where accused-appellant failed to impute any ill-motive on the part of AAA to have impelled the latter to file a case of rape against him. When there is no evidence to show any

improper motive on the part of the complainant to testify against the accused or to falsely implicate him in the commission of the crime, the logical conclusion is that the testimony is worthy of full faith and credence.<sup>[17]</sup>

We have carefully examined the testimony of AAA and found the same to be credible, spontaneous, straightforward and trustworthy, to wit:

MS. CAPONES Q.

AAA, how old are you?

A. I am 16 years old, ma'am.

Q. When is your birthday?

A. January 10, 1994, ma'am.

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Q. Do you remember where you were in the morning of November 12, 2009?

A. Yes, ma'am.

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Q. At 5:30 in the morning what were you doing in school?

A. When I went to the school Billie and my other classmates were there, ma'am.

Q. And what did you do upon arriving in school and seeing them?

A. We stayed in the school and Billy (sic) and ZZZ were forcing us to have a drinking spree, ma'am.

Q. You mentioned Billy (sic) and ZZZ, who are they, how did you come to know them?

A. They are my classmates, ma'am.

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Q. You stated a while ago that Billie and ZZZ invited you for a drink. What was your reply to his invitation?

A. I refused because we have a class in Mape, ma'am.

Q. Was this the first time that they ever invited you for a drink?

A. No, ma'am.

Q. How many times have you been invited before?

A. Three (3) times including that incident, ma'am.

Q. Two (2) times before that. And have you ever joined them in any of these drinking sprees?

A. No, ma'am.

Q. After you have said no to the invitation of Billie and ZZZ, what did you do?

A. Arjay and me went to school and they were left, ma'am.

Q. Does this mean that Billy (sic) and ZZZ did not go to class?

A. Yes, ma'am.