

THIRD DIVISION

[G.R. No. 219615, June 07, 2017]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RAFAEL AGUDO Y DEL VALLE, ACCUSED-APPELLANT.

DECISION

TIJAM, J.:

This is an appeal from the Decision^[1] dated October 24, 2014 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 06229, which affirmed the conviction of accused-appellant Rafael Agudo y Del Valle for the crime of Qualified Rape by the Regional Trial Court (RTC), Branch 71, of Iba, Zambales, in its Decision^[2] dated May 2, 2013 in Criminal Case No. RTC-5339-1.

The Factual and Procedural Antecedents

Accused-appellant was charged with the crime of rape committed against his daughter (AAA)^[3] in the following manner:

That in or about the period from the year 2005 to 11th day of September 2008, in Barangay Simminublan, Municipality of San Narciso, Province of Zambales, Philippines, and within the jurisdiction of this Honorable Court, the said accused, with lewd design, through threat, force, and intimidation, did then and there willfully, unlawfully and feloniously have (*sic*) sexual intercourse and carnal knowledge with his own daughter 16-year old (*sic*), (AAA), which degraded and demeaned the latter of her intrinsic worth and dignity, to the damage and prejudice of said minor (AAA).

CONTRARY TO LAW.^[4]

Upon arraignment, accused-appellant pleaded not guilty to the charge.^[5] Pre-trial was held and, after which, trial on the merits ensued.

As found by the RTC, victim AAA, born on May 18, 1992, is accused-appellant's youngest daughter. She and her family lived in a small hut with merely a curtain as a makeshift door. Their small hut could not accommodate all of them so AAA slept inside the hut while her parents stayed on a bamboo bed outside.^[6]

It was sometime in 2005 when accused-appellant first sexually abused AAA, who was 13 years old then. Early morning, AAA was awakened by accused-appellant when he entered their hut and climbed under the mosquito net where AAA slept.

Surprised, she shouted and called her mother, BBB, telling her that her father was inside their hut. BBB was awakened and asked why accused-appellant was inside their hut at that time of the day. Accused-appellant responded that he was just looking for something and then went back to bed. Several moments later, accused-appellant went back inside their hut and this time, succeeded in placing his hands inside AAA's underwear to touch her vagina. Accused-appellant was also able to lift AAA's shirt, hold her breasts, and also insert his penis inside AAA's vagina, which caused her pain. AAA pleaded to her father saying "*Papa, huwag po, papa, huwag po*" but this did not stop accused-appellant from continuing with his bestial act. AAA did not tell her mother about the incident as the accused-appellant threatened to kill her and her mother if she did so.^[7]

This incident happened several more times when they moved to a new house adjacent to their hut. AAA testified that she was repeatedly raped by her father inside her room on different occasions. Despite the door being closed, accused-appellant managed to enter her room through the opening above the door or by climbing through the window.^[8]

AAA narrated the rape incident on September 11, 2008. She was still asleep early morning when she felt someone pulling down her shorts. She saw accused-appellant started crying. Accused-appellant started licking her vagina.^[9]

Another rape incident happened on September 15, 2008. Again, AAA was asleep in her room when accused-appellant entered therein to sexually abuse his daughter. She cried for help but accused-appellant was still able to consummate the bestiality. The next morning, AAA's aunt, who lived nearby, went to AAA and asked her what happened last night as she heard cries for help. Her mother likewise asked AAA about what happened that night. AAA then revealed to them that her father had been sexually abusing her. They immediately accompanied AAA to Barangay Captain Luis Famanilay to report the same.^[10] BBB and AAA's aunt testified to corroborate this narration.

Police Superintendent Medico-Legal Officer Jude Doble, MD (PSI Doble) physically examined AAA. The result of the examination revealed that AAA was no longer a virgin and that her hymen had shallow healed lacerations. No external signs of trauma or injury was, however, noted.

Accused-appellant, the defense's sole witness, denied the accusations against him. He alleged that on September 11, 2008, at about six o'clock in the morning, he drove his wife to the market and spent the entire morning working as a tricycle driver until lunch time. After lunch, he took a nap and then went around collecting scrap materials to be sold to the junk yard until nine o'clock in the evening. Thereafter, he went home and slept.^[11]

On September 15, 2008, accused-appellant averred that he accidentally dropped his cellphone in the fields. Badly wanting to talk to his son in Manila, he went to AAA to borrow her phone but the latter refused. He then went back out to look for someone who could lend him a phone. He passed by the house of a certain Fermin Valdez and had a drinking spree. Thereafter, he went home and immediately slept.^[12]

On September 18, 2008, accused-appellant averred that when he was on his way

home, police officers stopped and accosted him. When he asked what his offense was, they merely told him to explain at the police station. Upon getting at the station, he was immediately placed in jail. The following day, he was transferred to the Zambales Provincial Jail, where he later learned that he was being charged with raping AAA.^[13]

The Ruling of the Regional Trial Court

The RTC ruled that AAA's testimony clearly established all the elements of carnal knowledge perpetrated by the accused-appellant against his minor daughter for the first time in 2005.^[14] The RTC, however, found that there was no testimony on the details of the subsequent rape incidents alleged except that on September 11, 2008, AAA testified that her father licked her vagina.^[15] The September 15, 2008 rape incident, likewise, cannot be considered as this incident was not alleged in the Information.^[16]

The court noted that for the most part of her testimony, AAA was emotional and in tears while narrating the horrifying ordeal she went through with the accused-appellant.^[17] It also noted that accused-appellant himself testified that his wife and daughter had no quarrel with him; hence, there was no reason for them to make up such imputations against him.^[18] The RTC also found the Medico-Legal Report, stating that AAA had shallow healed hymenal lacerations and is no longer a virgin, to be consistent with AAA's testimony.^[19]

Convinced, thus, that the accused-appellant committed the crime as charged, the RTC. ruled:

WHEREFORE, judgment is hereby rendered finding accused guilty beyond reasonable doubt of qualified rape and he is hereby sentenced to suffer the penalty of *reclusion perpetua*. Accused is also ordered to pay the offended party the amount of Php75,000 as civil indemnity, the amount of Php75,000 as moral damages, and the amount of Php30,000.00 as exemplary damages.

SO ORDERED.^[20]

The Ruling of the CA

In its assailed Decision, the CA upheld the credibility of AAA's testimony and, thus, affirmed the accused-appellant's conviction^[21]. The CA, however, modified the award of damages by imposing an interest of six percent per annum on the civil indemnity and all the damages awarded from the date of finality of the judgment until full payment.^[22] The CA disposed, thus:

WHEREFORE, the *Decision* dated 2 May 2013 of the Regional Trial Court, Third Judicial Region, Branch 71 of Iba, Zambales, in Crim. Case No. RTC-5339-1, is hereby **AFFIRMED with MODIFICATION** in that the awards of civil indemnity and damages are subject to interest at the rate of six percent (6%) per annum from the date of finality of this judgment until full payment.

SO ORDERED.^[23]

Hence, this Appeal.

The Office of the Solicitor General (OSG), for the People, and the accused-appellant both manifested before this Court that they find it unnecessary to file a supplemental brief considering that the same will merely be a reiteration of the arguments in their respective Briefs filed with the CA.^[24]

The Issue

Whether or not the accused-appellant IS guilty of qualified rape beyond reasonable doubt.

This Court's Ruling

The Court sustains the conviction.

For the prosecution of the crime of rape under Article 266-A (1)(a) of the Revised Penal Code, the following elements must be proved, to wit: (1) the offender had carnal knowledge of a woman; and (2) he accomplished this act through force, threat, or intimidation.^[25]

We find no cogent reason to deviate from the ruling of the RTC and the CA that the prosecution positively established the aforecited elements.

First, that the accused-appellant had carnal knowledge of AAA was established by the latter's clear and categorical testimony, found credible by the RTC, that accused-appellant inserted his penis in her vagina.

AAA's testimony was corroborated by the testimonies of her mother and aunt on material facts, as well as by the Medico-Legal Report stating that AAA had shallow healed hymenal lacerations and is in a no-virgin state.

The second element of the crime that the bestial act was accomplished through force, threat, and intimidation was also clearly established through AAA's testimony that the accused-appellant threatened to kill her and her mother if she would reveal that accused-appellant raped her. Besides, jurisprudence is to the effect that when the offender is the victim's father, there need not be actual force, threat, or intimidation.^[26] Accused-appellant is AAA's father and his moral ascendancy over

his minor daughter is sufficient to take the place of actual force, threat or intimidation.^[27] Former Chief Justice Renato S. Puno succinctly explained the reason for this rule in *People v. Chua*^[28] and We quote:

In Philippine society, the father is considered the head of the family, and the children are taught not to defy the father's authority even when this is abused. They are taught to respect the sanctity of marriage and to value the family above everything else. Hence, when the abuse begins, the victim sees no reason or need to question the righteousness of the father whom she had trusted right from the very start. The value of respect and obedience to parents instilled among Filipino children is transferred into the very same value that exposes them to risks of exploitation by their own parents. The sexual relationship could begin so subtly that the child does not realize that it is abnormal. Physical force then becomes unnecessary. The perpetrator takes full advantage of this blood relationship. Most daughters cooperate and this is one reason why they suffer tremendous guilt later on. It is almost impossible for a daughter to reject her father's advances, for children seldom question what grown-ups tell them to do.

In an attempt to escape conviction, accused-appellant questions the RTC's reliance on AAA's story that she was raped inside their small hut while her mother BBB was sleeping just outside their hut. Accused-appellant essentially argues that such story is incredible considering that BBB could have been easily awakened in such situation.

Moreover, accused-appellant questions the fact that the doctor who conducted the physical examination on AAA and issued the report, PSI Doble, was not presented in court and that in his stead, P/Insp. Maria Angela Guise testified on the medical report.^[29] Thus, according to the accused-appellant, such evidence has no probative value as it was not properly identified.^[30]

It is also the accused-appellant's theory that the healed hymenal lacerations found on AAA's vagina, assessed to be more than seven days old, belied AAA's allegation of being raped on September 11 and 15, 2008, as the said days are merely seven and three days from the date of examination on September 18, 2008.^[31]

We are not swayed.

There is nothing more settled in case law than this:

Jurisprudence is replete with cases where the Court ruled that questions on the credibility of witnesses should best be addressed to the trial court because of its unique position to observe that elusive and incommunicable evidence of witnesses' deportment on the stand while testifying, which is denied the appellate courts. The trial judge has the advantage of actually examining both real and testimonial evidence including the demeanor of the witnesses. Hence, the judge's assessment