

FIRST DIVISION

[G.R. No. 215730, September 11, 2017]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
MELCHOR PANES Y MAGSANOP, ACCUSED-APPELLANT.**

D E C I S I O N

DEL CASTILLO, J.:

Melchor Panes y Magsanop (appellant) appeals from the Decision^[1] of the Court of Appeals (CA) in CA-G.R CR-H.C. No. 05909 dated March 19, 2014, finding him guilty of three (3) counts of qualified rape, the dispositive portion of which reads:

WHEREFORE, premises considered, the instant appeal is DENIED. The assailed Decision dated October 25, 2012 of the RTC, Branch 70, Iba, Zambales in Criminal Cases Nos. RTC-4420-I, RTC-4421-I, and RTC-4422-1 is hereby AFFIRMED with MODIFICATION that the award of exemplary damages is increased to P30,000.00 for each count of Qualified Rape.

No costs.

SO ORDERED.^[2]

Factual Antecedents

On May 18, 2005, the Office of the Provincial Prosecutor of Zambales indicted the appellant for qualified rape under three separate Informations. Docketed as Criminal Case No. RTC-4420-I, Criminal Case No. RTC-4421-I and Criminal Case No. RTC-4422-I, the accusatory portion of each Information states -

Criminal Case No. RTC-4420-I^[3]

That on or about the 22nd day of September 2003, in Sitio Tumangan, Brgy. San Juan, Municipality of Botolan, Province of Zambales, Philippines, and within the jurisdiction of this Honorable Court, the said accused, with lewd design, through threat, force, influence and violence, did then and there willfully, unlawfully and feloniously have sexual intercourse with and carnal knowledge of his own daughter, 13-year old minor ["AAA"], to the damage and prejudice of said minor ["AAA"].

CONTRARY TO LAW.

Criminal Case No. RTC-4421-I^[4]

That on or about the 15th day of October 2004, at about 12:00 midnight

in Sitio Tumangan, Brgy. San Juan, Municipality of Botolan, Province of Zambales, Philippines, and within the jurisdiction of this Honorable Court, the said accused, with lewd design, through threat, force, influence and violence, did then and there willfully, unlawfully and feloniously have sexual intercourse with and carnal knowledge of his own daughter, 13-year old minor ["AAA"], to the damage and prejudice of said minor ["AAA"].

CONTRARY TO LAW.

Criminal Case No. RTC-4422-I^[5]

That in or about the month of September 2003, in Sitio Tumangan, Brgy. San Juan, Municipality of Botolan, Province of Zambales, Philippines, and within the jurisdiction of this Honorable Court, the said accused, with lewd design, through threat, force, influence and violence, did then and there willfully, unlawfully and feloniously have sexual intercourse with and carnal knowledge of his own daughter, 13-year old minor ["AAA"], to the damage and prejudice of said minor ["AAA"].

CONTRARY TO LAW.

All three cases were consolidated and heard by Branch 70 of the RTC of Iba, Zambales. During arraignment, appellant pleaded "not guilty" to all three charges.
^[6]

During the preliminary conference, the parties stipulated on the identity of the appellant; the identity of the private complainant "AAA;" that "AAA" is the daughter of the appellant; that "AAA" was born on January 16, 1991, as shown in her birth certificate; and that before the institution of these criminal cases, appellant and "AAA" and her siblings were living together under one roof at Sitio

Tumangan, San Juan, Botolan, Zambales.^[7]

Trial on the merits ensued.

"AAA" testified on the three occasions when she was ravished by her father. She narrated that on September 22, 2003, after her father assisted her mother in giving birth, the former went upstairs where she was sleeping together with her siblings. Sensing that somebody was holding her thigh, "AAA" woke up and saw her father. Appellant held her thigh, removed her panty, and then embraced her. "AAA," although afraid, tried to remove appellant's hold on her thigh but was unsuccessful. Appellant then undressed and proceeded to have carnal knowledge of her. "AAA" felt pain.

Three days later, appellant again raped "AAA." According to "AAA," she and her father were on their way home and while passing by a creek, appellant pushed her towards a big rock, removed her clothes, inserted his penis into her vagina, then made push and pull movements. "AAA" was shocked as she was not expecting her father to rape her in such a place.

The third ravishment was committed inside their house. Appellant first embraced

"AAA" then pushed her to the floor. "AAA" tried to resist but her effort proved futile. Appellant succeeded in removing her panty and inserted his penis into her vagina.

The trial court found "AAA's" testimony to be candid and straightforward, even during cross-examination. It also held that it was unlikely for "AAA" to fabricate such a serious charge against her own father. On the other hand, the RTC did not lend credence to appellant's denial and alibi because aside from being a weak defense, appellant did not offer any other evidence to substantiate the same.

Against this backdrop, the RTC ruled for the prosecution, finding no merit at all in the appellant's plea of denial, thus -

In [r]ape cases, the relationship of the victim to the accused and the minority of the victim are special qualifying circumstances which must be alleged and proved by the prosecution. These were clearly established by the prosecution by the presentation of the birth certificate of the minor victim showing that she was born on 16 January 1991 and her father is Melchor Panes and this was not rebutted by the defense.

When the victim of rape is under 18 years of age and the offender is a parent, such as in these cases, the death penalty shall be imposed. However, in view of the enactment of R.A. No. 9345, an [A]ct prohibiting the imposition of death penalty, accused Panes can only be sentenced to *reclusion perpetua* for each count of qualified rape under Art. 266-B of the Revised Penal Code.

Consistent with prevailing jurisprudence, accused should likewise be held liable for each count of qualified rape, to pay the complaining witness the amount of [P]75,000.00 as civil indemnity and the amount of [P]75,000.00 as moral damages.

Exemplary damages in the amount of [P]25,000.00 for each count of qualified rape must also be awarded in view of the special qualifying circumstance[s] of minority and relationship as a measure to help deter fathers with perverse tendencies and aberrant sexual behavior for preying upon and sexually abusing their daughters (People vs. Luisito Baun, G.R. No. 167503, 10 August 2008).^[8]

Inevitably, the RTC disposed as follows -

IN VIEW THEREOF, accused MELCHOR PANES y MAGSANOP is found GUILTY beyond reasonable doubt of three (3) counts of qualified rape and is sentenced to suffer the penalty of *Reclusion Perpetua* for each count and without possibility of parole.

Further, accused is ordered to pay private complainant civil indemnity of Php75,000.00 for each case, Php75,000.00 as moral damages for each case and exemplary damages in the amount of Php25,000.00 for each case.^[9]

Dissatisfied with the RTC's verdict, the appellant went up to the CA on this sole assignment of error -

THE COURT A QUO GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY OF THREE (3) COUNTS OF QUALIFIED RAPE DESPITE THE PROSECUTION'S FAILURE TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.^[10]

The CA denied the appeal, refuting point-by-point the arguments advanced in support thereof by the appellant, viz.:

The appeal lacks merit.

x x x x

In seeking his acquittal, accused-appellant Panes contends in the instant appeal that: private complainant AAA's testimony is unconvincing, speculative, and incredible; there were times when private complainant AAA failed to answer the questions of the prosecutor; the examining physician found no external laceration, swelling, or hematoma on private complainant AAA's external genitalia; and, there is doubt as to whether she fully understood the meaning of what she testified on.

After a careful and thorough review of the facts of the case, as well as the law and jurisprudence pertinent thereto, this Court affirms accused-appellant Panes' conviction for three (3) counts of Qualified Rape which he committed against his own daughter, private complainant AAA.

x x x x

The three (3) counts of Qualified Rape for which accused-appellant Panes was convicted transpired on: (1) September 22, 2003, when her mother BBB had recently given birth; (2) a few days after September 22, 2003, near the creek, and, (3) in the evening of October 15, 2004, after a quarrel between private complainant AAA's parents.

x x x x

The testimony of private complainant AAA that she was raped x x x coincides with the findings of Dr. Fernando Igrobay in his Medicolegal Report dated November 14, 2003, wherein he found old lacerations around the inner vaginal wall at all positions. x x x

x x x x

The rule is well-settled that youth and immaturity are badges of truth and sincerity. It is highly improbable for an innocent girl such as private complainant AAA, who is very naive [in] the ways of this world, to fabricate a charge so humiliating not only to herself but to her family. With that in mind, this Court finds no cogent reason to discredit the above-quoted testimony of private complainant AAA. The fact remains that there was a categorical declaration from the victim that she was ravished by her father several times. It should be emphasized that this alone is already enough to sustain the charges against accused-appellant Panes.