

SECOND DIVISION

[G.R. No. 225146, November 20, 2017]

**ROGELIO B. ANTONE, PETITIONER, VS. PEOPLE OF THE
PHILIPPINES, RESPONDENT.**

D E C I S I O N

PERLAS-BERNABE, J.:

Assailed in this petition for review on *certiorari*^[1] are the Decision^[2] dated July 31, 2015 and the Resolution^[3] dated April 22, 2016 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 01327, which affirmed the conviction of petitioner Rogelio B. Antone (Antone) for two (2) counts of the crime of Statutory Rape.

The Facts

The instant case stemmed from two (2) separate Informations^[4] filed before the Regional Trial Court of [REDACTED], Negros Oriental, Branch 64 (RTC) each charging Antone of raping his then eleven (11)-year old niece-in-law, AAA,^[5] the accusatory portions of which reads:

Criminal Case FC No. 99-028-G

That on August 1997, in the [REDACTED], Negros Oriental, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused did then and there willfully, unlawfully and feloniously, by means of force and intimidation did lie and succeed in having carnal knowledge with AAA, an eleven (11) year old minor child, the accused being the husband of her Aunt [REDACTED], the elder sister of the father of AAA.

Criminal Case FC No. 99-029-G

That on November 1997, in the Municipality of [REDACTED], Negros Oriental, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused did then and there willfully, unlawfully and feloniously, by means of force and intimidation did lie and succeed in having carnal knowledge with AAA, an eleven (11) year old minor child, the accused being the husband of her Aunt [REDACTED], the elder sister of the father of AAA.^[6]

The prosecution alleged that starting 1995, AAA started living in the house of her Aunt Aniceta and her husband, Antone. AAA's mother and brother, BBB and DDD,^[7] lived in another house about 200 meters away, while her father, CCC,^[8] lived in Mandaue City where he worked as a security guard and only came home about twice a month. At around three o'clock in the afternoon of a Saturday in August 1997, AAA was preparing dinner when she saw Antone staring strangely at her. Initially, AAA ignored what Antone was doing, but after a while, Antone approached her, grabbed her hand, and carried her into the master's bedroom. Thereat, Antone locked the door, approached AAA, and removed her shorts and underwear. He then removed his own lower garments, separated AAA's legs and mounted her. However, since his penis remained flaccid, he made AAA hold his penis, and thereafter, repositioned himself on top of her and made pumping motions. At this point, AAA surmised that Antone's penis was already erect at that time as she felt it penetrate her vagina, causing her to feel pain. After Antone ejaculated, he got a rag then used the same to wipe his penis as well as AAA's vagina before instructing the latter to put her shorts and underwear back on. Before leaving the room, Antone threatened AAA to kill her should she tell what just happened.^[9]

A similar incident happened in November 1997 when Antone commanded AAA to give him a massage, to which the latter obliged. After a while, Antone again brought AAA to the master's bedroom, locked the door, removed AAA's shorts and panty, had carnal knowledge of her until he ejaculated, and threatened to kill her if she revealed to anyone about what happened.^[10]

According to AAA, the incident happened several times more and she eventually started to like what Antone was doing to her. When AAA returned to her parents' house, she started missing her sexual activities, which caused her to seduce her own brother, DDD. Eventually, word came out of their incestuous relationship, prompting BBB to confront her about it. It was only then that AAA admitted to her mother about her sexual encounters with Antone. Accordingly, AAA's parents had her medically examined and filed the instant criminal cases against Antone.^[11]

In his defense, Antone denied the charges against him, averring that it was impossible for him to rape AAA as there were a lot of people residing in their house. He then claimed that AAA and DDD were caught red handed by their grandmother engaging in incestuous relations and BBB and CCC only made it appear that he was the one who abused AAA in order to cover up the family embarrassment.^[12]

The RTC Ruling

In a Judgment^[13] dated January 6, 2011, the RTC found Antone guilty beyond reasonable doubt of two (2) counts of Simple Statutory Rape, and accordingly, sentenced him to suffer the penalty of *reclusion perpetua* for each count of rape, and ordered him to indemnify AAA the amounts of P50,000.00 as civil indemnity and P30,000.00 as exemplary damages for each count of rape, without subsidiary imprisonment in case of insolvency.^[14]

Aggrieved, Antone appealed^[15] to the CA.