

## THIRD DIVISION

[ G.R. No. 216010, April 20, 2016 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JIMMY ULANDAY @ "SAROY", ACCUSED-APPELLANT.**

### DECISION

**PEREZ, J.:**

For review is the May 23, 2014 Decision<sup>[1]</sup> of the Court of Appeals (CA) in CA-G.R. CR-HC No. 05692 which affirmed with modifications the June 28, 2012 Judgment<sup>[2]</sup> of the Regional Trial Court (RTC), Branch 69, in Lingayen, Pangasinan, finding appellant Jimmy Ulanday guilty beyond reasonable doubt of the crime of rape.

#### *The Antecedents*

The appellant was charged in an Information<sup>[3]</sup> dated June 13, 2011, whose accusatory portion reads as follows:

"That sometime in the evening of March 11, 2011 in Brgy. Tampac, Aguilar, Pangasinan[,] and within the jurisdiction of this Honorable Court, the above-named accused, with lewd designs, armed with a knife, with force and intimidation, did, then and there willfully, unlawfully and feloniously drag [XYZ]<sup>[4]</sup> to a dark portion at the back portion of their house and thereafter removed her short pants and panty and have sexual intercourse with her, against her will and consent, to her damage and prejudice.

Contrary to Article 266-A, par. [1] (a) of the Revised Penal Code."

A warrant was issued by the Executive Judge and the appellant was arrested on August 17, 2011.<sup>[5]</sup> When arraigned, the appellant pleaded not guilty to the crime charged. During the pre-trial conference, the prosecution and the defense stipulated on the identity of the parties; the existence of the medico-legal certificate of XYZ dated May 16, 2011 issued by Dr. Maria Gwendolyn Luna (Dr. Luna); and the existence of the certification of the entry in the police blotter of Philippine National Police (PNP), Aguilar Police Station, Pangasinan regarding the rape incident.<sup>[6]</sup>

Thereafter, trial ensued with the prosecution presenting the following witnesses: XYZ, the victim herself; BBB, half-sister of XYZ; and Dr. Luna, the attending physician at Region I Medical Center, Dagupan City who examined XYZ. On the other hand, only the appellant testified for the defense.

The facts of the case, as summarized by the Office of the Solicitor General (OSG) and adopted by the appellate court, are as follows:

"On the night of 11 March 2011, [XYZ], twenty-four (24) years old, sat beside the living room window near the main door of her family's house. She looked out the window and watched the dance party which was going on outside their house.

Out of nowhere, [appellant], armed with a knife, entered [XYZ's] house, pulled her out and dragged her towards the house of [her] neighbor, [AAA].

Although she does not know [appellant], [XYZ] was able to identify him because she has seen him before playing *tong-its* in the gambling area near [her] house.

[Appellant] brought [XYZ] at the back of [AAA's] house. No one was inside [AAA's] house and it was dark.

Once inside [AAA's] house, [appellant] immediately overpowered [XYZ]. He leaned [XYZ] against the wall and removed her pants and underwear. Thereafter, [appellant] pulled down his zipper. [Appellant] then covered [XYZ's] mouth using his left hand and pointed a knife against her face using his right hand. After, despite their standing position, [appellant] spread [XYZ's] legs, inserted his penis into her vagina and proceeded to rape [her]. During the entire assault, [appellant] poked his knife against [XYZ's] face.

After committing his dastardly act, [appellant] returned [XYZ's] pants and underwear. [XYZ] then went back home and slept.

A few months later, in May, [XYZ] got the courage to tell her mother what happened. After, [XYZ], accompanied by her mother, reported the crime committed against her to the police."<sup>[7]</sup>

BBB testified that on May 10, 2011, she and XYZ were summoned by CCC, their uncle, to his house. There, and in the presence of several persons namely: XYZ, BBB, CCC and appellant's nephew, Marvin Ulanday (Marvin), the appellant openly admitted that he had sexual intercourse with XYZ.<sup>[8]</sup> After his confession, the appellant was mauled by the males then present.<sup>[9]</sup> Thereafter, the appellant went into hiding.<sup>[10]</sup>

According to BBB, XYZ did not disclose the rape incident to anyone because of fear, having been threatened by the appellant that he will kill her if she did. During BBB's direct examination, the parties agreed to stipulate that XYZ was suffering from a physical disability particularly a limp due to polio.

When called to the witness stand, Dr. Luna attested that she conducted an anogenital examination of XYZ on May 16, 2011. She found XYZ to have had old, healed, deep lacerations in her hymen at 4, 6 and 7 o' clock positions.<sup>[11]</sup> Dr. Luna explained that the lacerations could have been caused by the insertion of an object into the vagina, possibly a finger or an erect penis.<sup>[12]</sup> Dr. Luna then reiterated the impression stated in her medico-legal report that her findings cannot totally rule out the possibility of sexual abuse.<sup>[13]</sup>

The defense offered a different version of the incident, as summarized by the Public Attorney's Office (PAO) in its Brief, to wit:

On March 11, 2011, [appellant] was in Brgy. Kuako, Pangasinan, watching a wedding dance party when he first met [XYZ] who was [then] seated inside their house also watching the dance party through their window. [XYZ] then called [appellant's] attention and when he approached her, they had a conversation over the window. During their conversation, [appellant] noticed that [XYZ] was not alone in the house as there are about five (5) other persons living with her. Their conversation lasted for about an hour until he was called by his cousin Eddie Ulanday to go home. He immediately slept upon arriving thereat.

[DDD], uncle[s] of [XYZ], while he was on his way to Poblacion riding his motorcycle. He was being accused by them of raping [XYZ], and when he denied having done the same, they mauled him.

Appellant vehemently denied having made an admission of raping [XYZ] in the house of the latter's uncle, [CCC].<sup>[14]</sup>

After trial, the RTC convicted the appellant of rape in its judgment of June 28, 2012. The dispositive portion of its judgment reads:

WHEREFORE, in view of the foregoing, the Court finds the accused **Jimmy Ulanday GUILTY** beyond reasonable doubt of the crime of Rape and is hereby sentenced to suffer the penalty of **reclusion perpetua** and to pay [XYZ] the amount of P50,000.00 as civil indemnity and another P50,000.00 as moral damages.

SO ORDERED.<sup>[15]</sup>

The appellant appealed to the CA on a sole assigned error that the trial court erred in finding that his guilt for the crime charged has been proven beyond reasonable doubt.

The CA affirmed the judgment of the RTC with the following modifications: (a) declared the appellant ineligible for parole; (b) ordered the appellant to pay XYZ exemplary damages in the amount of P30,000.00; and (c) imposed six percent (6%) interest *per annum* on all awarded damages reckoned from the date of finality of this decision until fully paid.<sup>[16]</sup>

Undeterred, the appellant filed a Notice of Appeal<sup>[17]</sup> and the records of the case were elevated to the Court. In the resolution of February 23, 2015, the Court required the parties to submit their respective supplemental briefs, if they so desire, within thirty (30) days from notice. Both parties opted not to file one as they had already exhaustively and extensively discussed all the matters and issues of this case in the briefs earlier submitted with the CA. Hence, in this appeal, the Court will rule on the lone assignment of error made by the appellant in his brief before the CA, to wit:

THE COURT A *QUO* GRAVELY ERRED IN FINDING THAT THE GUILT OF THE ACCUSED-APPELLANT HAS BEEN PROVEN BEYOND REASONABLE DOUBT.

[18]

### ***The Court's Ruling***

After a circumspect review of the records, the Court affirms the conviction of the appellant.

To be convicted of rape under Article 266-A paragraph 1 of the Revised Penal Code, the requisite elements are: (1) that the offender had carnal knowledge of a woman; and (2) that he accomplished this act through force, threat, or intimidation; when she was deprived of reason or otherwise unconscious; by means of fraudulent machination or grave abuse of authority; or when she was under twelve (12) years of age or was demented.

The Court finds that the prosecution sufficiently established the presence of these elements in the instant case.

With certainty, XYZ positively identified the appellant as the person who forced himself on her in the evening of March 11, 2011. She never wavered in her identification and was straightforward in recounting of how the appellant used force, threat and intimidation to satisfy his lust. This much can be gathered from her testimony in court, to wit:

x x

x x

Q: When [appellant] entered the house, was that your first time to see him?

A: No, your Honor.

Q: So where have you met him before?

A: In the gambling, your Honor.

Q: So you mean, in your place near your house there's a gambling then?

A: Yes, your Honor.

Q: And it is usually at night time?

A: Yes, your Honor.

Q: What kind of game?

A: Tong-its, your Honor.

Q: You said you saw the [appellant] before, was he one of the participants in that tong-its game?

A: Yes, your Honor.

Q: How many times have you seen him before the date of the incident, many times or whatever, many times?

A: Yes, your Honor.

x x

x x

Q: What made you say that it was the accused who enter[ed] your house and eventually rape[d] you?

A: It was really he, your Honor.

Q: What made you say that [it] was him when it was dark at that time?

A: Because he first entered our house, your Honor.

Q: When he entered your house, was there a light in your house?

A: Yes, your Honor.

Q: Did you see his face?

A: Yes, your Honor.

x x

x x

PROS. CATUNGAL:

Your Honor, I just like to manifest that during the course of trial every time that the name of the accused is being mentioned the witness points to a person seated at the accused bench.

COURT:

And when asked his name.

INTERPRETER:

And when asked his name he responded Jimmy Ulanday.

COURT:

Alright.

x x

x x

Q: What did [appellant do] when he entered your house on March 11 [2011] in the evening while you were watching this dance party?

A: [Appellant] entered [our house] armed with a knife and pulled me, sir.

Q: [Where] did [appellant] pull you?

A: In [an unlighted area at the back of]<sup>[19]</sup> the house of our neighbor, sir.

x x

x x

Q: What did [appellant] do when he was able to pull you out?

A: [Appellant] removed my pants, he removed my parity and then he covered my mouth and he poked a knife, sir.

Q: When [appellant] was pulling and removing your parity and your pants, did you not shout for help?

A: No, because he covered my mouth and I can hardly breathe, sir.

Q: By the way Madam witness, you said [appellant] was holding a knife, what did he do with the knife?

A: [Appellant] poked [the knife] towards my face, sir.

x x

x x

Q: Were he able to remove your panty and your pants?

A: Yes, sir.

Q: Did you not make any struggle against his act?

A: I tried, sir.

Q: But he was able to over power you?

A: Yes, sir.

x x

x x

Q: And after [removing] your panty and your pants, what did he do?

x x

x x

A: [Appellant] inserted his penis, sir.

Q: How did [appellant] inserted] his penis Madam witness?