

THIRD DIVISION

[G.R. No. 206419, June 01, 2016]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RUBEN DELA ROSA, ACCUSED-APPELLANT.

RESOLUTION

PEREZ, J.:

Before us for review is the Decision^[1] of the Court of Appeals in C.A. G.R. CR-H.C. No. 03818 dated 28 September 2012, which dismissed the appeal of appellant Ruben dela Rosa and affirmed with modifications the Decision^[2] of the Regional Trial Court (RTC) of Binangonan, Rizal, Branch 67, in Criminal Case No. 05-373, finding appellant guilty beyond reasonable doubt of the crime of Qualified Rape.

In line with the ruling of this Court in *People v. Cabalquinto*,^[3] the real name and identity of the rape victim, as well as the members of her immediate family, are not disclosed. The rape victim shall herein be referred to as A A A, and her mother as BBB.

Appellant was charged with the crime of rape in an Information, the accusatory portion of which reads as follows:

That, sometime in June, 2004, in the Municipality of Binangonan, Province of Rizal, Philippines and within the jurisdiction of this Honorable Court, the above named accused, taking advantage of his moral authority and influence to the offended party, did then and there willfully, unlawfully and feloniously have carnal knowledge with [AAA], a thirty-one (31) year old woman with a mental age of a nine (9) year old minor, against the latter's will and consent, the said crime having been attended by the qualifying circumstance that the accused knew of the mental disability, emotional disorder and/or physical handicap of his victim at the time of the commission of the offense, the offended party being a retardate is deprived of reason, aggravated by the circumstances of abuse of superior strength, dwelling and the act having been committed with insult or in disregard of the respect due the offended party on account of her mental disability, to the damage and prejudice of said victim [AAA].^[4]

Appellant pleaded not guilty to the crime charged. Trial on the merits ensued.

The prosecution presented AAA, her mother, BBB, and Nimia Hermilia C. De Guzman (De Guzman), a clinical psychologist of the National Center for Mental Health, as witnesses.

The prosecution established that appellant and his family had been living with AAA

and BBB at the latter's house when sometime in June 2004, around nine o'clock in the evening, BBB saw appellant, whom AAA called "daddy," came out of her daughter's room. BBB confronted appellant about this the next day to no avail. Appellant's wife was likewise unresponsive. In time, a neighbor disclosed to BBB that AAA had told her in her stunted language, "*Daddy, pasok titi, sakit-sakit, dito pasok titi, hipo-hipo dede, halik-halik dito, iyak-iyak ako, hubad-hubad damit ko*" BBB promptly asked AAA about the truth of this and the latter replied, "*Opo, gamin po ako, hubad damit Daddy, dito taas, kiss-kiss, lamas-lamas.*"^[5]

AAA confirmed that indeed appellant had gone to her room, removed her clothes, kissed her breasts and inserted his penis into her vagina.^[6]

BBB immediately brought AAA to the police station, then to Camp Crame where BBB was told that AAA exhibited physical signs of having experienced sexual intercourse several times.^[7] At the mental hospital, AAA was examined by De Guzman who concluded in her report that AAA had the mental age of a nine (9) year old child.^[8]

As sole witness for the defense, appellant interposed the defense of denial and asserted that he and his family no longer lived with AAA and her mother at the time of the alleged commission of the crime. He also averred that his wife had previously filed a complaint before the *barangay* against BBB and her sister for having maltreated appellant's child.^[9]

On 28 November 2008, appellant was found guilty beyond reasonable doubt of statutory rape. The dispositive portion of the RTC Decision reads:

The foregoing considered, we find the accused Ruben Dela Rosa **GUILTY** beyond reasonable doubt of qualified rape under Article 266-A, Paragraph 1 (d) in relation to Article 266-B, Revised Penal Code and sentence him to serve a penalty of *Reclusion Perpetua*. We further order him to pay P50,000.00 as moral damages and P50,000.00 as exemplary damages plus costs.^[10]

On intermediate review, the Court of Appeals rendered the assailed decision affirming with modifications the trial court's judgment, to wit:

IN VIEW OF ALL THESE, the appealed Decision convicting accused-appellant Ruben Dela Rosa in Criminal Case No. 05-373 is **AFFIRMED**, with the following **MODIFICATIONS**:

- a) The award of Moral Damages to be paid by accused-appellant to AAA is increased from Php 50,000.00 to Php 75,000.00;
- b) The award of Exemplary Damages to be paid by accused-appellant to AAA is decreased from Php 50,000.00 to Php 30,000.00; and,
- c) Accused-appellant is ordered to pay AAA the amount of Php 75,000.00 as Civil Indemnity.^[11]

Appellant filed the instant appeal. In a Resolution^[12] dated 19 June 2013, appellant and the Office of the Solicitor General (OSG) were asked to file their respective supplemental briefs if they so desired. Both parties opted to dispense with the filing of supplemental briefs.^[13]

The Court affirms appellant's conviction.

Rape is committed as follows:

Article 266-A. *Rape; When and How committed.* - 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 otherwise unconscious;
- c. By means of fraudulent machination or grave abuse of authority; and
- d. When the woman is under twelve (12) years of age or is demented, even though none of the circumstances mentioned above be present.

x x x x

Article 266-B. Penalty- Rape under paragraph 1 of the next preceding article shall be punished by *reclusion perpetua*.

x x x x

The death penalty shall also be imposed if the crime of rape is committed with any of the following attendant circumstances:

x x x x

10. When the offender knew of the mental disability, emotional disorder and/or physical handicap of the offended party at the time of the commission of the crime.^[14]

Carnal knowledge of a woman who is a mental retardate is rape under the aforesaid provisions of law. Proof of force or intimidation is not necessary, as a mental retardate is not capable of giving consent to a sexual act. What needs to be proven are the facts of sexual congress between the accused and the victim, and the mental retardation of the latter.^[15]

In rape cases, primordial is the credibility of the victim's testimony because the accused may be convicted solely on said testimony provided it is credible, natural, convincing and consistent with human nature and the normal course of things.^[16]

In this case, AAA testified in a clear, spontaneous and candid manner about the sexual abuse and positively identified appellant as her abuser, to wit:

Q Kilala mo ba si Ruben Dela Rosa?

A Opo.

Q Nandito ba si Ruben ngayon? Ituro mo nga.

A (Witness pointing to a person wearing prisoner's uniform who when asked his name answered Ruben Dela Rosa)

Q Paano mo tinatawag si Ruben? Ben ba, papa ba o daddy?
 A Daddy.
 Q Noong buwan ng June, 2004, saan nakatira itong si Daddy? Sa inyo ba o sa kapit-bahay ba?
 A Sa bahay namin.
 Q Si Ruben ba mabait sa'yo o salbahe?
 A Ni-rape ako...
 COURT
 [AAA] anong ginawa sa'yo?
 WITNESS
 (Witness demonstrating with hands that she was raped)
 Q Saan ginawa sa'yo?
 A Sa kwarto.
 x x
 x x
 Q Tapos nakahiga ka at pumasok sya, anong kauna-unahan nyang ginawa?
 A Hinubad yung t-shirt ko tapos yung bra.
 COURT
 Anong ginawa nya sayo [AAA]? Hinawak-hawakan nya yung dede mo?
 WITNESS
 (Witness nodding)
 Q Tapos a no pang ginawa bukod sa hinawakan nya yung dede mo? Hinalikan o dinede?
 A Hinalikan.
 x x
 x x
 Q Pagkahubad nya nung palda mo at nung panty mo anong ginawa nyang sumunod?
 A Pinasok nya (Witness demonstrating with hands, her finger pointing to the palm that the penis of the accused was inserted to her vagina)^[17]

Appellant, on the other hand, denied having raped AAA and averred that he and his family had already been living somewhere else at the time of the alleged commission of the offense. He even testified of some *barangay* complaint his wife had purportedly filed against BBB and the latter's sister, perhaps to intimate ill motive on the part of AAA and family in the filing of the instant case. Notably, except for appellant's testimony, defense did not formally offer as evidence this supposed *barangay* complaint.

Denial and alibi are inherently weak. Being negative defenses, if not substantiated by clear and convincing evidence, they would merit no weight in law and cannot be given greater evidentiary value than the testimony of credible witnesses who testified on affirmative matters.^[18]

This Court has strongly ruled that between categorical testimonies that ring of truth on one hand and bare denial on the other, the former must prevail. Positive identification of the appellant, when categorical and consistent and without any ill motive on the part of the eyewitnesses testifying on the matter, prevails over alibi and denial.^[19]