

THIRD DIVISION

[G.R. No. 223561, October 19, 2016]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JIMMY PITALLA, JR. Y DIOSA A.K.A. "BEBE," ACCUSED-APPELLANT.

DECISION

VELASCO JR., J.:

Nature of the Case

For review is the Decision^[1] dated October 16, 2015 of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 01852 affirming the Decision^[2] dated March 13, 2014 of the Regional Trial Court (RTC) of Bacolod City, Branch 43 in Criminal Case No. 07-30303, finding accused-appellant Jimmy Pitalla, Jr. y Dios a.k.a. "Bebe" guilty of the crime of rape under Article 266-A in relation to Article 266-B of the Revised Penal Code (RPC), as amended by Republic Act No. 8353.^[3]

In line with our ruling in *People v. Cabalquinto*,^[4] the real name of the victim, as well as any information which tends to establish or compromise her identity, shall be withheld. The initials AAA shall be used instead to represent her.

Factual Antecedents

On May 17, 2007, the Office of the City Prosecutor of Bacolod city charged accused-appellant in an Information,^[5] the accusatory portion of which reads:

That on or about the 9th day of May 2007 in the City of Bacolod, Philippines, and within the jurisdiction of this Honorable Court, the herein accused, did, then and there wilfully, unlawfully and feloniously commit the act of sexual assault by inserting his penis into the genitalia of the herein of Tended party, AAA, an 8-year old minor, against her will and consent.

An act contrary to law.

The facts, as narrated by the CA, are as follows:

Version of the Prosecution

At around 5:00 p.m. on May 9, 2007, eight-year old AAA, together with her two brothers, were washing themselves beside a deep well just five meters from the back of their house. As her brothers were done, she told them to go home ahead of her. She then saw Pitalla gathering some scrap materials nearby. Pitalla then

approached her and offered to get water for her from the well. Just about two meters away from the deep well is a dilapidated nipa hut, which was used as a stockroom for scrap materials. Pitalla told AAA to go to the nearby nipa hut and instructed her to take off her clothes and panty. At first, she did not follow him, but Pitalla covered her mouth and carried her towards the nipa hut. Inside the nipa hut, Pitalla again told her to take off her clothes and panty, under threats that he will shoot her and her entire family if she would not follow his instructions. AAA reluctantly undressed for fear of losing her family. Pitalla also took off his clothes while AAA stood in front of him. Pitalla then inserted his penis into her vagina, and told her to spread her legs wider; otherwise, he would shoot her in the head. Pitalla penetrated her three (3) times and made push and pull motions. AAA then told Pitalla to stop for a while for she wanted to urinate. She took this opportunity to escape and run towards her father, who was with a friend, her uncle, and her grandmother in their house. When she told them that she was raped, they ran towards the nipa hut but Pitalla was no longer there. AAA merely described the clothes of the person who raped her, but she could not state his name as she did not know the person. They then went to the police station at about 6:00 p.m. of the same day to report the incident.^[6]

At the police station, SPO1 Mimir Guanco (Guanco), who was on duty at that time, together with PO1 Villacastin, went to the area where the incident took place to conduct an investigation. A person by the name of Joel Sevillano (Sevillano) told them that at the time of the incident, he was with AAA's father in their house. He informed the police officers that at that time, he saw a person sitting near AAA while she was washing herself near the deep well. The said person was a man known to him as "Bebe Pitalla," a resident of Villa Felicidad, Barangay Estefina, Bacolod City. SPO1 Guanco then asked Sevillano to accompany them, together with the victim and victim's parents to the house of Bebe Pitalla to enable the victim to identify if he was the one who raped her. When they reached the house of Bebe Pitalla, PO1 Villacastin informed Bebe Pitalla's mother of what happened. Upon seeing Bebe Pitalla, AAA became upset and cried. SPO1 Guanco comforted her and asked her if the person named Bebe Pitalla was the one who molested her. AAA replied in the affirmative. Bebe Pitalla remained silent and at that point, SPO1 Guanco arrested him and told him of his rights. Bebe Pitalla's mother told the police officers that his real name was Jimmy Pitalla. The police officers then brought him to the Women and Children's Desk at the Bacolod City Police Station.^[7]

Version of the Defense

For his part, Pitalla testified that on May 9, 2007, he was at home the whole time resting, when, at 7:00 p.m., two policemen arrived in their house and informed him that somebody accused him of committing a crime that he did not do. These policemen thereafter forced him to ride in their vehicle and brought him to the police station where he, for the first time, saw AAA. According to Pitalla, prior to May 9, 2007, he did not know AAA or her family and that he had no prior conflict or disagreement with the said child or any member of her family.^[8]

Ruling of the RTC

After hearing, the RTC rendered a Decision dated March 13, 2014 finding Pitalla

guilty as charged. The dispositive portion of the Decision reads:

WHEREFORE, in view of all the foregoing, this Court finds the accused **JIMMY PITALLA, JR. y DIOSA "Guilty"** beyond reasonable doubt for the commission of the crime of Rape punished under Article 266-A(1)(d) in relation to Article 266-B of the Revised Penal Code of the Philippines, as amended, and there being no mitigating nor aggravating circumstance, he is accordingly sentenced to suffer the penalty of **Reclusion Perpetua** and all its accessory penalties provided for by the law.

Accused is likewise ordered to indemnify the private offended party, [AAA], the following amounts:

- 1) Fifty Thousand Pesos (P50,000.00) representing the civil indemnity;
- 2) Thirty Thousand Pesos (P30,000.00) representing the moral damages; and
- 3) Twenty Thousand Pesos (P20,000.00) representing the exemplary damages.

SO ORDERED.

In convicting Pitalla of the crime charged, the RTC gave more weight and credence on the prosecution's evidence. The trial court observed that AAA was able to positively identify Pitalla as the perpetrator of the crime. AAA cried and became upset when SPOI Guanco presented Pitalla to her for identification. She also identified the accused in open court as the one who sexually abused her.^[9] The commission of the rape was supported by the medical findings of Dr. Eli Cong (Dr. Cong), the medico-legal officer who examined AAA after the rape was committed. According to Dr. Cong, several lacerations and wounds were found in the vagina of AAA, which could have been caused by a blunt instrument, including a finger or a penis.^[10] Moreover, the RTC found AAA's testimony credible, for being consistent, equivocal, and straightforward, in the narration of the incident.^[11]

In contrast, the RTC found Pitalla's defenses of alibi and denial weak, as he failed to prove that he was elsewhere during the commission of the crime, and that it was physically impossible for him to be physically present at the place of the crime.^[12] Thus, the trial court concluded that Pitalla's bare denial cannot outweigh AAA's affirmative testimony.

On appeal to the CA, Pitalla argued that' inconsistencies in the testimony of AAA tarnished her credibility as a witness, and that the prosecution failed to prove his identity as the person who raped AAA. Thus, the prosecution failed to establish his guilt beyond reasonable doubt.

Ruling of the Court of Appeals

On October 16, 2015, the CA affirmed the RTC's Decision, with modifications as to

the amount of damages awarded. The appellate court increased the civil indemnity awarded from Fifty Thousand Pesos (P50,000) to Seventy-Five Thousand Pesos (P75,000), moral damages from Thirty Thousand Pesos (P30,000) to Seventy-Five Thousand Pesos (P75,000), and exemplary damages from Twenty Thousand Pesos (P20,000) to Thirty Thousand Pesos (P30,000), plus legal interest at the rate of six percent (6%) per annum on all damages awarded from the finality of judgment until fully paid. The *fallo* of the CA's Decision reads:

WHEREFORE, premises considered, the present Appeal is **DISMISSED**. The Decision dated 13 March 2014 of the Regional Trial Court Branch 43, Bacolod City finding the Accused-Appellant Jimmy Pitalla, Jr. guilty beyond reasonable doubt for the commission of the crime of Rape punished under Article 266-A-1(d) in relation to Article 266-B of the Revised Penal Code and sentencing him to suffer the penalty of **Reclusion Perpetua** and all its accessory penalties 'provided for by law is hereby **AFFIRMED** but with the following modifications.

This Court orders him to pay:

- (i) Seventy Five Thousand Pesos (P75,000.00) as civil indemnity;
- (ii) Seventy Five Thousand Pesos (P75,000.00) as Moral Damages; and
- (iii) Thirty Thousand Pesos (P30,000.00) as Exemplary Damages.
- (iv) In addition, interest is imposed on all damages awarded at the rate of 6% per annum from date of finality of judgment until fully paid.

SO ORDERED.

Aggrieved, Pitalla filed the instant appeal.

The sole issue for resolution of this Court is whether the prosecution has proved the guilt of Pitalla for the rape of AAA beyond reasonable doubt.

Our Ruling

We affirm the conviction of Pitalla for rape under Article 266-A in relation to Article 266-B of the RPC, which respectively provide:

Art. 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 is otherwise unconscious;

c) By means of fraudulent machination or grave abuse of authority;