

THIRD DIVISION

[G.R. No. 208410, October 19, 2016]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. MARY JOY CILOT Y MARIANO AND ORLANDO BRIGOLE Y APON, ACCUSED-APPELLANTS.

D E C I S I O N

PEREZ, J.:

For review is the Decision^[1] dated 26 September 2012 of the Court of Appeals in CA-G.R. CR-HC No. 04249 affirming the judgment of conviction of appellants Mary Joy Cilot y Mariano (Mary Joy) and Orlando Brigole y Apon (Orlando) by the Regional Trial Court (RTC) of Pasig City, Branch 69 for the special complex crime of kidnapping with rape.

Appellants were charged under four separate Informations which read:

Criminal Case No. 134484-H

That on or about the 8th day of January 2007, in the City of [PPP], Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, in conspiracy with one another, with the use of a gun, a deadly weapon and with lewd design, by means of force, threat and intimidation, Orlando Brigole, did, then and there wilfully, unlawfully and feloniously have sexual intercourse with one [AAA],^[2] seventeen years old (17), a minor, against her with and without her consent.^[3]

Criminal Case No. 134485-H

That on or about the 8th day of January 2007, in the City of [PPP], Philippines, and within the jurisdiction of this Honorable Court, the above named accused, in conspiracy with one another, with the use of a gun, a deadly weapon and with lewd design, by means of force, threat and intimidation, May Joy M. Cilot, did, then and there wilfully, unlawfully and feloniously insert her finger into the genital or [vagina] of one [AAA], seventeen years old (17), a minor, against her will and without her consent.^[4]

Criminal Case No. 134486-H

That on or about the 28th day of December 2006, in the City of (PPP), Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, in conspiracy with one another, being then a private individual and without authority of law or justifiable reason, did,

then and there wilfully, unlawfully and feloniously kidnap one [AAA], seventeen years old (17), a minor, attended by the qualifying circumstance of extorting ransom from BBB, minor, against their will and prejudice.^[5]

Criminal Case No. 134487-H

That on or about the 9th day of January, 2007, in the City of [PPP], Philippines, and within the jurisdiction of this Honorable Court, the above named accused, did, then and there wilfully, unlawfully and feloniously have in his possession, direct custody and control one (1) grenade ("Granada") which is an explosive, without first securing the necessary license or permit from the proper authorities.^[6]

The facts are as follows:

AAA, then seventeen (17) years old, was employed as a sales lady at a drug store in PPP City. She first met Mary Joy when the latter went to the drug store on 7 December 2006 and introduced herself as a relative of AAA. Mary Joy promised AAA an overseas work for a fee. Thus, AAA gave Mary Joy a total of P1,500.00. On 28 December 2006 at around 6:00a.m., AAA went for a jog. When she passed by the house of Mary Joy, the latter suddenly grabbed her and forced her to enter the house. Thereat, Mary Joy took AAA's cellular phone and sent a message to AAA's female employer that she left the store because the former's husband had been abusing her. Mary Joy threatened AAA with a gun and a grenade if AAA would try to escape. AAA was detained from 26 December 2006 until 9 January 2007. On 8 January 2007 at around 11:00 p.m., AAA was awakened by Mary Joy's live-in partner, Orlando. Orlando kicked AAA and dragged her into the bed that he and Mary Joy shared. Orlando forced AAA to lie down. Mary Joy held AAA's breast, removed her bra, and inserted her finger into AAA's vagina. Thereafter, Orlando inserted his penis twice into AAA's vagina. AAA was crying and at the same time trying to resist the couple's advances but to no avail on the following day, Mary Joy brought AAA to a mall in Bicutan to meet with AAA's relatives regarding AAA's alleged debt to Mary Joy. When they were met by AAA's aunt, uncle and sister, they took AAA from Mary Joy and brought her to a police station to report the incident. Appellants were arrested at their house.^[7]

CCC, AAA's sister, testified that while AAA was missing, Mary Joy was collecting payments from her for AAA's alleged debt. It was Mary Joy who informed CCC that she could meet her sister at a mall in Bicutan.^[8]

AAA was subjected to a medical examination. According to Medico Legal Report No. R07-0079 dated 15 January 2007, AAA was found to have suffered a deep healed laceration at 4 and 9 o'clock positions and shallow healed laceration at 7 o'clock position in her hymen; and one (1) contusion on the proximal 3rd of her right thigh, measuring 2x1 cm., 11 cm. to its midlines.^[9]

For the part of the defense, Mary Joy testified that Orlando is her live-in partner. She first met AAA when she went to the drug store to buy a pregnancy test kit. They eventually became friends and AAA even confided to Mary Joy that she was

being molested by her male employer. On 29 December 2006, AAA went to Mary Joy's house and stayed there until 9 January 2007. On 3 January 2007, Mary Joy scolded AAA for coming home drunk. On 9 January 2007, Mary Joy sent AAA off to her aunt. At around 3:00 p.m., several policemen went to her house to conduct a search. The policemen took several of their things and placed them under arrest. Mary Joy denied that she and Orlando sexually abused AAA.^[10]

Orlando related that he was informed by Mary Joy that AAA will be coming to their house because she was abused by her male employer. He advised AAA to report the incident to the police but the latter refused to do so. He recalled telling Mary Joy about AAA's coming home drunk. He denied raping AAA and claimed that he even treated her like a sister. He surmised that AAA filed charges against them in retaliation for scolding her.^[11]

On 3 September 2009, the trial court rendered a Decision finding appellant guilty of the crime charged, thus:

WHEREFORE, finding accused Mary Joy Cilot and Orlando Brigole guilty beyond reasonable doubt in Criminal Case No. 134486-H for a special complex crime of Kidnapping with Rape under Art. 267 of the Revised Penal Code, as amended by RA No. 7659, this Court hereby sentences each accused to suffer the penalty of Reclusion Perpetua without eligibility of parole; and to pay in solidum AAA the amount of Php 100,000.00 for moral damages; Php 100,000.00 for civil indemnity and Php 50,000.00 for exemplary damages.

In Criminal Cases Nos. 134484-H and 134485-H, accused Brigole and Cilot are Acquitted while in Criminal Case No. 134487, accused Brigole is also Acquitted.^[12]

In convicting appellants for the crime of kidnapping with rape, the trial court relied heavily on the testimony of AAA who was considered by the court as having testified candidly and truthfully that she was kidnapped and raped by appellants. The trial court also found that it was not sufficiently established that the purpose of kidnapping is to extort ransom from AAA or her relatives.

Strangely, despite a finding of rape, the trial court acquitted appellants in Criminal Case Nos. 134484-H and 134485-H.

On 26 September 2012,^[13] the Court of Appeals affirmed appellants' conviction for the special complex crime of kidnapping with rape.

In a Resolution^[14] dated 23 September 2013, the Court required the parties to simultaneously file their respective supplemental briefs. Both parties however manifested that they are adopting their briefs filed before the Court of Appeals.^[15]

In their Brief,^[16] appellants argue that AAA's testimony cannot support a judgment of conviction. First, appellants point out that while AAA testified that she was sexually abused on 8 January 2007, the medical examination conducted two (2)

days later revealed that AAA had healed lacerations which indicate that the incident would have occurred four (4) to ten (10) days prior to the examination. Second, appellants asserted that it is unbelievable for both appellants to conspire in sexually abusing AAA due to alleged illegal drug use which was not proven during the trial. Third, appellants stressed that Mary Joy was four (4) months pregnant at that time of the incident, hence, incapable of dragging AAA all by herself considering her physical condition. Fourth, appellants find it strange for AAA's sister to report her disappearance only on 2 January 2007. In sum, appellants fault the trial court for misapprehending and misinterpreting the facts and circumstances of the case thus warranting their acquittal.

The issue for resolution is whether appellants have been proven guilty beyond reasonable doubt of the special complex crime of kidnapping with rape.

At the outset, we note that there are errors pertaining not only to the *fallo* of the trial court's decision but on the designation of the offense committed well.

There are a total of four (4) Informations filed against appellants:

1. Criminal Case No. 134484-H for rape against Orland;
2. Criminal Case No. 134485-H for rape' through sexual assault against Mary Joy;
3. Criminal Case No. 134486-H for kidnapping against appellants; and
4. Criminal Case No. 134487-H for illegal possession of an explosive against Orlando.

Based on the evidence adduced during trial, appellants were indeed guilty of kidnapping and rape.

The evidence of the prosecution, particularly the testimony of AAA and the medical report overwhelmingly establish appellants' guilt beyond reasonable doubt.

AAA clearly pointed to appellants as the perpetrators, who conspired to commit the crime of kidnapping, to wit:

Q: Now do you remember where were you on December 28, 2006 at around 6:30 in the morning?

A: I was in front of the house where I was staying because I will go on jogging, Sir.

Q: Where is your 'tinutuluyan' located?

A: Upper Bicutan, Taguig City, sir.

x x x

x

Q: While you were having an exercise at that particular time do you remember any unusual incident that happened?

A: WhilI was jogging, I passed by their house then she grabbed me.

Q: Where is their house located?

A: Also at Upper Bicutan, sir.

x x x

x

Q: Now whom are you referring to when you said she grabbed you?

A: Ate Joy, sir.

Q: How did she grab you?

A: She forced me to go inside her house.

Q: Who were with you during that time?

A: None, sir.

Q: What happened next when she grabbed you and forced you inside her house?

A: She forced me to go inside her house then she locked the door.

'Inagaw po niya sa akin ang cellphone ko, tapos pinagtext po niya ang amo ko na kaya daw po ako umalis dun kasi binaboy daw po ako ng amo kong lalaki tapos ginamit po niya pangalan ko."

Q: Now after she locked the door what happened next if any.

A: Then she showed me a gun and a grenade and threatened me not to try to go outside or try to escape because they will shoot me, sir.

Q: 'Nila' you are referring to they, who is the companion of Mary Joy Cilot?

A: Kuya Lando, Sir.

Q: Are you referring to Orlando Brigole y Apor, one of the accused in this case.

A: Yes, sir.

Q: Now how long have you been in the house of Mary Joy and Orlando?

A: More or less two (2) weeks, sir. xxxx

ATTY. LACANILAO

Q: What is the house made of?

A: Concrete, it looks like an apartment, ma'am.

Q: Was there a time when you were left alone by the accused during the day?

A: The girl sometimes leave[s] in the morning or in the afternoon but they padlock the house, ma'am.

COURT (TO THE WITNESS)- Did you attempt to leave the place?

WITNESS - I did not because they were always threatening me with the gun, Your Honor.

x x x

x

Q: Have you attempted to ask for help when you were left alone?

A: No ma'am because I was afraid and even if I shot, it cannot be heard outside. They were always pointing the gun at me.

Q: When you have (sic) the opportunity to go to the CR alone, why did you not shout?

A: Kuya Lando was threatening me and he was always pointing the gun at me, ma'am. [17]