

## FIRST DIVISION

[ G.R. No. 201151, January 14, 2015 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
NESTOR SUAREZ Y MAGTAGNOB, ACCUSED-APPELLANT.**

### D E C I S I O N

**PEREZ, J.:**

For review is the Decision<sup>[1]</sup> of the Court of Appeals dated 23 September 2011, affirming with modification the Decision<sup>[2]</sup> of the Regional Trial Court (RTC), Branch 43 of Virac, Catanduanes, dated 25 February 2010, finding appellant Nestor Suarez y Magtagnob guilty beyond reasonable doubt of the crime of rape.

In an Information dated 28 July 2009, appellant was indicted before the RTC for the rape of his minor niece. The accusatory portion of the Information reads:

That on or about [21 December 2008] at *Barangay XXX, XXX, XXX*, Catanduanes, Philippines and within the jurisdiction of this Honorable Court, accused, who is a relative within the third civil degree by affinity being the uncle of fifteen (15) year old [AAA],<sup>[3]</sup> driven by malice and lewd design, did then and there, willfully, knowingly, unlawfully and feloniously through force, threat, intimidation and grave abuse of authority, lie and succeed in having carnal knowledge of said AAA against her will.

The special aggravating/qualifying circumstance that the offender is a relative within the third civil degree by affinity and the victim who is a minor under eighteen years of age is present.

Nighttime as aggravating circumstance is also present during the commission of the crime.<sup>[4]</sup>

During the pre-trial, the parties stipulated on the following facts:

x x x x

2. That the accused Nestor Suarez is the uncle of the victim, [AAA], his wife being the sister of the victim's mother;
3. That [AAA] was born on December 18, 1993; the defense admitted the genuineness and authenticity of the Certificate of Live Birth;

4. That the distance between the house of the accused and that of the family of the victim is about thirty (30) meters, with two (2) houses in between[.]<sup>[5]</sup>

After appellant pleaded not guilty, trial ensued with AAA as the first prosecution witness, testifying to the following facts:

On the night of 21 December 2008, AAA, who was then 15 years old, went to sleep next to her 12-year old sister. Her parents were not at home at that time. At around 10:00 p.m., AAA was awakened by someone mashing her breasts. She saw her uncle on top of her legs wearing only his briefs. AAA asked where her sister was but appellant replied: "*dai ka na magpalibok, tibaad anong mangyaring kalaen sa tugang mo*" (Don't make any noise because if you do something bad might happen to your sister). AAA tried to free herself but she was too weak. Appellant first kissed her on different parts of her body and sucked her breast before he lowered AAA's shorts and underwear and inserted his penis into her vagina. After completing his dastardly act, appellant, who had earlier carried AAA's sleeping sister out of the room, carried AAA's still sleeping sister back into the room. Appellant once again threatened AAA not to tell anyone or something bad will happen to her sister. Thereafter, appellant left. AAA could not sleep and just kept on crying. AAA's parents arrived only at around 11:00 in the evening, but she did not immediately tell them of her ordeal. After the rape incident, AAA's monthly menstruation period stopped in January 2009. She told appellant that her monthly period was delayed. Appellant gave her a white tablet and told her to take it in January and again, in February of the same year. In March, however, AAA refused to take another white tablet. On April 2009, she told her cousin, a certain Ate Helen about the rape incident. Helen related to her father what happened to AAA and the latter in turn told AAA's sister BBB.<sup>[6]</sup>

To corroborate AAA's testimony, BBB testified that she learned of the rape when AAA, together with their aunt, went to her house and told her that she was abused by appellant. They went to the Virac Police Station. AAA, who was assisted by BBB, executed a sworn statement before the Women and Children Protection Desk of Virac.<sup>[7]</sup>

The Medico Legal Certificate issued by Dr. Petronio Batulio shows that during the medical examination, AAA's had whitish vaginal discharge, healed vaginal laceration at 6 o'clock position, and was found to be positive for pregnancy.<sup>[8]</sup>

Appellant testified as the sole witness on his behalf, proffering denial and alibi as his defenses. According to appellant, he was at home resting on 21 December 2008. He slept at 8:00 in the evening and woke up at around 12:00 midnight to urinate. He then went back to sleep and woke up the next day.<sup>[9]</sup> He denied the rape charge and asserted that he was falsely accused of the crime because the mother of AAA held a grudge against him and his family over an inherited property.<sup>[10]</sup> Appellant also claimed that he saw the man courting AAA fetch the latter on 29 November 2008.<sup>[11]</sup> Appellant's wife and daughter corroborated his statement. Appellant's wife added that AAA even went with her to visit appellant in jail.

Finding that the prosecution had proven beyond reasonable doubt the guilt of

appellant of the crime of rape, the RTC rendered judgment against appellant and sentenced him accordingly, thus:

WHEREFORE, finding NESTOR SUAREZ y MAGTAGNOB guilty beyond reasonable doubt of rape, he is, hereby, sentenced to suffer the penalty of *reclusion perpetua* and to pay AAA Fifty Thousand (P50,000.00) Pesos as civil indemnity, Fifty Thousand (P50,000.00) Pesos as moral damages and Twenty-Five Thousand (P25,000.00) Pesos as exemplary damages.

[12]

Appellant filed a Notice of Appeal. On 23 September 2011, the Court of Appeals rendered its decision affirming appellant's conviction, but with modification as to damages awarded to the victim. The dispositive portion of the decision states:

WHEREFORE, premises considered, the assailed Judgment of the the Regional Trial Court (RTC), Branch 43, Virac, Catanduanes, finding accused-appellant guilty beyond reasonable doubt of the crime of Rape in Criminal Case No. 4089, is hereby AFFIRMED with the following MODIFICATIONS:

1. The award for civil indemnity is increased to P75,000.00;
2. The award for moral damages is increased to P75,000.00; and
3. The award for exemplary damages is increased to P30,000.00.[13]

We affirm the decision of the Court of Appeals with modifications.

The conviction or acquittal of one accused of rape most often depends almost entirely on the credibility of the complainant's testimony. By the very nature of this crime, it is generally unwitnessed and usually the victim is left to testify for herself. Her testimony is most vital and must be received with the utmost caution. When a rape victim's testimony, however, is straightforward and marked with consistency despite grueling examination, it deserves full faith and confidence and cannot be discarded. Once found credible, her lone testimony is sufficient to sustain a conviction.[14]

The trial court, as affirmed by the Court of Appeals found the testimony of AAA credible. We, too, affirm the finding of credibility considering that AAA's narration is clear, spontaneous, and straightforward, thus:

PROS. MOSATALLA

Q: [AAA], on December 21, 2008 at around 10:00 o'clock in the evening, do you remember where you were?

A: I was in our house, ma'am.

Q: What were you doing then?

A: I was sleeping, ma'am.

Q: Where were you sleeping?

A: In our house, in my room.

Q: Where is your house located?

A: At [XXX XXX, XXX], Catanduanes.

Q: Who were with you during that time?  
A: My youngest sister, [CCC].  
Q: How old is your sister?  
A: She is twelve (12) years old.  
Q: During that time that you were sleeping, do you remember where is your sister?  
A: She was beside me, ma'am.  
Q: At around 10:00 o'clock in the evening on that date, do you remember any untoward incident that happened?  
A: Yes, ma'am.  
Q: What is that incident, can you tell us?  
A: I just awakened when I felt somebody mashing my breast and I saw my uncle on top of my legs only wearing brief and then, I asked my uncle where is my sister and he answered "*dai ka na magpalibok, tibaad anong mangyaring kalaen sa tugang mo*" (At the same time the witness is demonstrating with the used of her hand pointing to the breast and then, to the legs).  
Q: What happened next?  
A: I struggled but I was weak.  
Q: After that what happened?  
A: And then, he kissed me at my different parts of my body and then, he sucked my breast.  
Q: After that what happened?  
A: And then, he lowered my shorts and my panty, then, he inserted his penis.  
Q: Inserted where?  
A: In my vagina.  
May I just put on record that the witness is crying. x x x x  
Q: After that?  
A: And then, he took my sister from outside and returned it where she was sleeping.  
Q: After that what happened?  
A: He brought back my sister beside me and then, he told me not to tell anybody because something bad will happen to my sister.  
Q: After that what did he do next?  
A: And then, he left.  
Q: How about you, what did you do?  
A: I was not able to sleep. I just kept on crying.  
Q: By the way, where were your parents during that time?  
A: They were at the house of Tiyo Henry because they were dividing their shares in the sociedad.  
Q: Do you remember what time did your parents go home?  
A: I think it was 11:00 o'clock in the evening because I was not able to sleep until my parents arrived.  
Q: During that night, did you tell your parents about what your uncle did to you?  
A: No, ma'am. I did not.  
Q: After that night did you see your uncle again?  
A: Yes, ma'am.  
Q: When did you see him again?  
A: When I passed by their place and when he went to our house, he is talking with my papa because he is our family.  
Q: And every time you would see him, what did he do?