

FIRST DIVISION

[G.R. No. 208354, August 26, 2015]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
RICARDO BACUS, ACCUSED-APPELLANT.**

D E C I S I O N

PEREZ, J.:

This is an appeal from the Decision^[1] dated April 19, 2013 of the Court of Appeals in C.A.-G.R. CEB-C.R.-H.C. No. 01290, affirming the Decision^[2] dated November 18, 2010 rendered by the Regional Trial Court (RTC), Branch 24, Cebu City, in Criminal Cases No. CBU-72272 and No. CBU-72273, finding accused-appellant, Ricardo Bacus (Bacus), guilty beyond reasonable doubt of the crimes of *Rape* and *Acts of Lasciviousness* against his own daughter, AAA,^[3] in violation of Article 266-A of the Revised Penal Code, as amended by Republic Act (R.A.) No. 8353,^[4] in relation to R.A. No. 7610.^[5]

The Facts

On January 19, 2005, accused-appellant Bacus was indicted in two separate sets of Information for violation of Article 266-A, No. 1(A) of the Revised Penal Code, as amended by R.A. No. 8353 or the Anti-Rape Law of 1997, in relation to R.A. No. 7610 or the Special Protection of Children Against Abuse, Exploitation and Discrimination Act. The two sets of Information read:

Criminal Case No. CBU-72272

That [sometime] in the month of March 2004 at 8:30 o'clock (sic) in the evening, more or less, in the Municipality of Naga, Province of Cebu, Philippines and within the jurisdiction of this Honorable Court, the above-named accused with deliberate intent, by means of force and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge with AAA, his own daughter, 16 years old[,] minor, against her will and consent.

CONTRARY TO LAW.^[6]

Criminal Case No. CBU-72273

That on the 30th day of December 2004 at 9:00 o'clock in the evening, more or less, in the Municipality of Naga, Province of Cebu, Philippines and within the jurisdiction of this Honorable Court, the above-named accused with deliberate intent, by means of force and intimidation, did

then and there willfully, unlawfully and feloniously have carnal knowledge with AAA, his own daughter, 16 years old, minor[,] against her will and consent.

CONTRARY TO LAW.^[7]

Accused-appellant was detained on the same date pursuant to the Order for Detention During the Pendency of the Case dated January 19, 2005.

When arraigned on April 11, 2005, accused-appellant Bacus pleaded not guilty to both charges.

Trial on the merits ensued.

During the trial, the prosecution presented the following witnesses, namely: 1) the victim, AAA; 2) Brenda Gabato (Gabato); and 3) Dr. Liwayway Reyes (Dr. Reyes). On the other hand, the defense presented the accused-appellant as its lone witness.

The prosecution likewise formally offered and marked the following in exhibit as its evidence: a) Exhibit "A" with submarkings - AAA's Birth Certificate; b) Exhibit "B" - Medical Certificate Report issued by Vicente Sotto Memorial Medical Center; c) Exhibit "C" - Social Case Study Report; and d) Exhibit "D" - In-take Form of the Vicente Sotto Memorial Medical Center.

The prosecution presented AAA as its first witness.

AAA, single, a resident of Kabungahan, Naga, Cebu, and born on March 28, 1988, is the daughter of herein accused-appellant Bacus. AAA testified that sometime in March 2004, when she was 16 years old, she was at her grandmother's house in Inuguran, Naga, Cebu. Her drunken father came by to fetch her while she and her companions were eating, drinking and having some fun. When he arrived, accused-appellant was angry and claimed that AAA had no reason to stay in her grandmother's house since there were several things for her to do at home. AAA was told by her father that he would take her home.^[8]

On their way home, they had to walk since there was no more means of transportation during that time. After an hour of walking, accused-appellant told his daughter AAA that he wanted to rest for a while. She did not want to rest but she was forced by her father to do so. She was afraid of him since he was drunk and was carrying a *bolo* with him.^[9]

Due to such fright, AAA obeyed her father and was forced to rest in a secluded place where there were no houses nearby. Thereafter, her father pulled and touched her. At that time, she was wearing short pants and a t-shirt. He tried to undress her by pulling her upper garments but they were soiled. However, he was able to remove her short pants and her panty.^[10]

In the course of removing her undergarments, she kept on resisting so as to protect herself, to no avail. He threatened to kill her if she would not submit herself to him. Consequently, she was forced to remove her undergarments and lie down. He then

touched ("*gihilabtan*") her. Accused-appellant was wearing long pants and a t-shirt at that time. He removed his pants and was only naked from the waist down.^[11]

Thereafter, accused-appellant fondled AAA's body, specifically her breasts and her genitals. He mounted her and pressed his penis ("*gidat-ogan*") upon her.^[12] He then inserted his penis into her vagina. AAA felt pain and bled. She kept on struggling and pleaded with him to stop because it was painful but her plea was not heeded and she was instead ordered to be quiet because somebody might hear them. After the incident, AAA dressed up and went home crying.^[13]

They arrived home at 12 midnight. AAA's mother, BBB, and AAA's younger siblings were home at that time but AAA kept silent and did not tell her mother about the incident because of her fright that her father would kill her once she relayed the incident to anybody.^[14]

On December 30, 2004, at around 9:00 p.m., AAA, who was then already 17^[15] years old, was at home with her siblings and her mother, BBB, when her father came home drunk. Accused-appellant asked AAA to accompany him to their neighbor's house because their neighbor was having a *videoke* session. BBB prevented accused-appellant from bringing AAA with him but the infuriated accused-appellant exclaimed that they would only be out for a while. AAA was then forced to go outside the house with her father. However, they were not able to reach the intended place because they stopped at a mango tree.^[16]

AAA's father wanted to undress her but she struggled to keep her dress on. He was, however, able to remove her short pants, but AAA was able to put it back on. Eventually, AAA's father was able to successfully remove her short pants and underwear. Accused-appellant removed his pants and his briefs, and was half naked. After stripping, he kept on touching AAA's vagina.^[17]

On the following day, BBB confronted AAA about the incident that happened the night before. She told AAA that the latter's uncle and her cousins saw them at the mango tree. AAA then disclosed to her mother, BBB, what had happened the night before, as well as the incident in March 2004.^[18]

Initially, BBB could not believe that her husband could do such a thing to their own daughter. Eventually, however, BBB believed AAA and they reported the incident to the police and thereafter went to the DSWD. AAA had herself examined by a doctor on January 4, 2005 at the Vicente Sotto Memorial Medical Center.^[19] AAA was assisted in the preparation of her affidavit by a policeman of Naga.^[20]

As second witness, the prosecution presented Gabato, a resident and a Social Welfare Officer of Naga, Cebu, since 1996. To her recollection, she knew of AAA sometime in 2005 when she was tasked to conduct a social case study and to accompany her to a scheduled hearing pursuant to an Order from the court. AAA was referred to her by the latter's supervisor. She conducted home visits and collateral investigations from people who were aware of the incidents regarding AAA. She likewise solicited information from BBB and AAA's grandfather, and reduced the case study into a report.

She interviewed AAA and perceived her story as a series of events which transpired on December 31. However, she corrected the aforesaid date from December 31 to December 30 in open court, and admitted that it was an erroneous entry. She likewise admitted on the witness stand that AAA mentioned accused-appellant's threat to her life by using a knife, as pertaining to the December incident, but she made no mention of the details as to the March 2004 incident. In addition, Gabato claimed that she did not let AAA read her report since it was considered confidential. [21]

The last witness presented was Dr. Reyes. She was the medico-legal officer who examined AAA when she was brought to the Women and Children's Protection Unit. She testified that she conducted a personal examination on AAA due to the incestuous rape carried out by the latter's own father - herein accused-appellant. She claimed that the findings of the examination showed that sexual abuse was perpetrated upon AAA, as manifested by physical/anogenital and psychological/behavioral changes after the incident. [22]

Accused-appellant, in his defense, vehemently denied the accusations against him. He stated that he could not possibly be seen at the scene of the crime at that time of the day in March 2004 since he was working at the Carbon Market from 5:00 p.m. until the following day, but he, however, admitted that he remembered going to the place of his in-laws once in March 2004 to fetch his daughter, AAA. [23]

Accused-appellant likewise stated in his testimony that he always brought with him a bolo or a knife due to cases involving ghost appearances of so-called "*ungo-ungo*" or "*hamok*" in his barangay. He argued that AAA's testimony lacked credibility due to inconsistencies as to what weapon was used during the incident. He added that AAA fabricated things and perhaps AAA's motive to press charges against him was due to her anger because he brought her home from the place of his in-laws, and, yet, he finds nothing wrong with such act. [24]

As to the incident that happened on the evening of December 30, 2004, he claimed that he went to the house of the mother of a certain Juanita Paunil where there was a *videoke* for rent, and brought AAA with him only to find out that the *videoke* was no longer there so they went home after that. [25]

The Ruling of the RTC

After weighing the evidence and testimonies adduced, the RTC found accused-appellant Bacus guilty beyond reasonable doubt of the crime of rape in Criminal Case No. CBU-72272, and the crime of acts of lasciviousness in Criminal Case No. CBU-72273.

The RTC gave credence to the testimony of AAA, saying that it was difficult "to understand why a provincial girl would be exposing herself to depravity in coming out in a public trial narrating about uncompromising circumstances, if it were not true, and propelled by the honest intention to seek justice of the wrong committed by her own father." [26]

The dispositive portion of the RTC is stated as follows:

WHEREFORE, in view of the foregoing premises, this court finds accused guilty beyond reasonable doubt of the crime of Rape in Crim. Case No. 72272, and hereby sentences him to suffer imprisonment of **reclusion perpetua**. In Crim. Case No. 72273, this court hereby sentences him to suffer imprisonment ranging from four (4) months and one (1) day to six (6) years of **prision correctional**. He shall suffer the accessory penalty attached to and inherent in the law. He is adjudged to pay the following measures of damages: Php50,000 by reason of the crime; Php50,000 by way of moral damages; Php25,000 in terms of exemplary damages to deter others from following the act constituting the crime and to pay the costs.

SO ORDERED.^[27]

On appeal, accused-appellant Bacus questioned the RTC's decision and averred that it erred in convicting him on the ground that the prosecution failed to prove his guilt beyond reasonable doubt purportedly due to inconsistencies in the testimony of AAA.

The Ruling of the Court of Appeals

The appellate court affirmed the ruling of the RTC. It held that the RTC's perceptive assessment of accused-appellant's guilt is fully supported by the evidence on record. The testimony of AAA regarding the sexual assault is so graphic, straightforward, and duly supported by medical findings.

As to the issue of inconsistencies in the testimony of AAA, the appellate court affirmed the finding of the RTC that such are insignificant matters. It likewise observed that accused-appellant ironically corroborated some portions of the testimony of the victim like his admission that sometime in March 2004, he fetched his daughter once from the house of his in-laws, thereby contradicting his statement that he was working at Carbon Market, and affirming his presence and acts as regards the December 30, 2004 incident.

The appellate court held that the prosecution indisputably established the commission of the alleged offenses, and that they are attributable to herein accused-appellant as the latter merely denied the allegations and provided an alibi, insisting on his innocence.^[28]

The decretal portion of the appellate court's decision reads:

IN VIEW THEREOF, the assailed consolidated *Decision* dated November 18, 2010 of the Regional Trial Court, Branch 24, Cebu City in Criminal Cases No. CBU-72272 and [No.] CBU 72273 is **AFFIRMED**. Costs against accused-appellant.

SO ORDERED.^[29]