

SECOND DIVISION

[G.R. No. 190632, February 26, 2014]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
MANOLITO LUCENA Y VELASQUEZ, ALIAS "MACHETE," ACCUSED-
APPELLANT.**

D E C I S I O N

PEREZ, J.:

The subject of this appeal is the Decision^[1] dated 24 August 2009 of the Court of Appeals in CA-G.R. CR-H.C. No. 03371 affirming the Decision^[2] dated 30 April 2008 of the Regional Trial Court (RTC) of Parañaque City, Branch 260, in Criminal Cases Nos. 03-0763 to 03-0765, finding herein appellant Manolito Lucena y Velasquez *alias* "Machete" guilty beyond reasonable doubt of three counts of rape, thereby sentencing him to suffer the penalty of *reclusion perpetua* for each count and ordering him to pay AAA^[3] the amount of P50,000.00 as moral damages and P50,000.00 as civil indemnity also for each count.

Three (3) similarly worded Informations,^[4] all dated 24 June 2003 allege:

That on or about the 28th day of April 2003, in the City of Parañaque, Philippines, and within the jurisdiction of this Honorable Court, the above-named [appellant], a *Barangay Tanod* Volunteer, who took advantage of his position to facilitate the commission of the crime, **by means of force, threat or intimidation and with the use of a gun** did then and there willfully, unlawfully and feloniously **have carnal knowledge of the complainant AAA, a minor, 17 years of age, against her will and consent.** (Emphasis and italics supplied).

The appellant, assisted by counsel *de officio*, pleaded NOT GUILTY to all the charges against him.^[5] Thereafter, the cases were jointly tried.

The prosecution presented AAA, the victim herself; and Dr. Merle Tan (Dr. Tan) of the Child Protection Unit, University of the Philippines – Philippine General Hospital (UP-PGH), who examined the victim.

The testimonies of the above-named prosecution witnesses established that on 28 April 2003, at around 11:30 p.m., while AAA, who was then 17 years old, having been born on 10 July 1986, was walking and chatting with her friends along one of the streets of San Dionisio, Parañaque City, two (2) *barangay tanods*, one of whom is the appellant, approached and informed them that they were being arrested for violating a city ordinance imposing curfew against minors. AAA's companions, however, managed to escape, thus, she alone was apprehended.^[6] AAA was then ordered by the *barangay tanods* to board the tricycle. Afraid that she might spend the night in jail, AAA pleaded with them and protested that she did not commit any

offense as she was just chatting with her friends. AAA's plea, however, remained unheeded.^[7]

AAA was then brought by the two (2) *barangay tanods* within the vicinity of the San Dionisio *Barangay* Hall. Afterwards, one of them alighted from the tricycle and went inside the *barangay* hall. The appellant, on the other hand, stayed in the tricycle to guard AAA. After a while, the *barangay tanod*, the one who went inside the *barangay* hall, returned. But, the appellant told the former that he will just be the one to bring AAA back to her house.^[8]

But, instead of escorting AAA back to her house, the appellant brought her to *Kabuboy* Bridge in San Dionisio, Parañaque City. While on their way, the appellant threatened AAA that he would kill her once she resists or jumps off the tricycle. Upon arrival, the appellant ordered AAA to alight from the tricycle. AAA asked the appellant what he would do with her but the former did not respond. The appellant then took out the backseat of the tricycle and positioned it in a grassy area. He subsequently pointed a gun at AAA and commanded her to lie down and to take off her clothes. The appellant later put the gun down on the ground and inserted his penis into AAA's vagina despite the latter's plea not to rape her. Satisfied, the appellant stopped. But, after a short while, or after about five (5) minutes, the appellant, once again, inserted his penis into AAA's vagina. Thereafter, he stopped. On the third time, the appellant inserted again his penis into AAA's vagina. Fulfilling his bestial desire, the appellant stopped and finally ordered AAA to dress up. The appellant even threatened AAA that he would kill her should she tell anyone about what happened between them.^[9]

The appellant, thereafter, directed AAA to board the tricycle. He then brought AAA in front of a school in Parañaque City. But, before allowing AAA to get off, the appellant repeated his threat to kill her should she tell anyone about the incident.^[10]

The following day, AAA took the courage to seek the assistance of their *barangay kagawad*, who simply advised her to just proceed to the *barangay* hall to lodge her complaint against the appellant. AAA and her mother subsequently went to PGH, where she was subjected to physical examination by Dr. Tan,^[11] which resulted in the following findings:

HYMEN	Tanner Stage 3, healing laceration[s] 3 and 5 o'clock area with petechiae, fresh laceration at 9 o'clock area with eccymosi at 8-10 o'clock area, Type of Hymen: Crescentic
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x x x x

ANAL EXAMINATION	Perianal Skin: fresh laceration[s] at 12 and 1 o'clock area. No evident injury at the time of examination.
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x x x x

IMPRESSIONS

Disclosure of sexual abuse.

Genital findings show clear Evidence Of Blunt Force Or Penetrating Trauma.^[12] (Emphasis supplied).

AAA also went to the Coastal Road Police Headquarters, where she executed her sworn statement accusing the appellant of rape. AAA was able to identify the appellant as her assailant because the former was wearing a jacket emblazoned with "Barangay Police," as well as a *Barangay* Identification Card, at the time of the incident.^[13]

The appellant and Rodel Corpuz (Corpuz) took the witness stand for the defense.

In the course of Corpuz's direct examination, however, the parties made the following stipulations: (1) that the [herein appellant] was the assigned *barangay* radio operator on that date, [28 April 2003], and he stayed at the *barangay* hall from 12:00 midnight to 5:00 a.m.; (2) that the witness was there up to 12:00 midnight, but at about past 12:00, he left and returned after two (2) hours, at 2:00 o'clock a.m.; and (3) that when he woke up at 5:00 o'clock in the morning, the [appellant] was still there. With these stipulations, Corpuz's testimony was dispensed with.^[14]

The appellant, for his part, could only muster the defenses of denial and *alibi*. He, thus, offered a different version of the story.

On 28 April 2003, the appellant claimed that he was on duty as a radio operator at the *barangay* hall. His task as such was to receive complaints from the residents of the *barangay*, as well as to receive calls from fellow *barangay* officials who are in need of assistance. On the same day, he received a call from his companion, who is also a *barangay tanod*. He cannot, however, recall any unusual incident that transpired on that day.^[15]

The appellant admitted that he knew AAA as the one who lodged a complaint against him but he denied that he knew her personally. He also vehemently denied the following: (1) that he raped AAA; (2) that he was one of those *barangay tanods* who apprehended AAA for violating the curfew ordinance of their *barangay*; and (3) that he was the one driving the tricycle in going to the *barangay* hall. Instead, the appellant claimed that after 12:00 midnight of 28 April 2003, he went home already. In fact, he was shocked when he was arrested on 25 September 2003 as he did not commit any crime.^[16]

In its Decision dated 30 April 2008, the trial court, giving credence to the categorical, straightforward and positive testimony of AAA, coupled with the medical findings of sexual abuse, convicted the appellant of three (3) counts of rape as defined and penalized under paragraph 1(a) of Article 266-A, in relation to Article 266-B, of the Revised Penal Code of the Philippines, as amended. The trial court, thus, decreed:

WHEREFORE, the Court finds the [herein appellant] **MANOLITO LUCENA y VELASQUEZ alias MACHETE, GUILTY** beyond reasonable doubt of three (3) counts of **Rape (under Art. 266-a par. 1(a) in relation to Art. 266-B of the RPC as amended by RA 8353)** and is hereby sentenced to suffer the penalty of **reclusion perpetua for each count of Rape**. In addition, the [appellant] is ordered to pay [AAA] the

amount of **P50,000.00 as moral damages and P50,000.00 as civil indemnity for each count.**^[17] (Emphasis and italics theirs).

The appellant appealed^[18] the trial court's Decision to the Court of Appeals with the following assignment of errors:

I.

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE [HEREIN APPELLANT] OF RAPE DESPITE THE PROSECUTION'S FAILURE TO PROVE THE ELEMENT OF FORCE AND INTIMIDATION.

II.

GRANTING, *ARGUENDO*, THAT THE [APPELLANT] COMMITTED THE CRIME CHARGED, THE TRIAL COURT GRAVELY ERRED IN CONVICTING HIM OF THREE (3) COUNTS OF RAPE.^[19]

After a thorough study of the records, the Court of Appeals rendered its now assailed Decision dated 24 August 2009 sustaining appellant's conviction for three (3) counts of rape, as well as the damages awarded to AAA. In doing so, the Court of Appeals explained that the facts revealed that the appellant succeeded thrice in inserting his penis into AAA's vagina. The said three (3) penetrations happened one after another at an interval of five (5) minutes, wherein the appellant would take a rest after satiating his lust and after regaining his strength would again rape AAA. Undoubtedly, the appellant decided to commit those separate and distinct acts of sexual assault on AAA. Thus, his conviction for three (3) counts of rape is irrefutable.^[20]

Hence, this appeal.^[21]

Both parties in their manifestations^[22] before this Court adopted their respective appeal briefs^[23] filed with the Court of Appeals *in lieu* of Supplemental Briefs.

In his Brief, the appellant contends that the prosecution failed to prove that force or intimidation attended the commission of rape. Records revealed that AAA did not even attempt to resist his alleged sexual advances over her person. Instead, AAA opted to remain passive throughout her ordeal despite the fact that during the three (3) episodes of their sexual intercourse he was unarmed and she, thus, had all the opportunity to escape, which she never did. These reactions of AAA were contrary to human experience, thus, cast serious doubts on the veracity of her testimony and on her credibility as a witness.

The appellant similarly argues that the result of AAA's medical examination is quite disturbing as it appears that her anal orifice was also penetrated by a hard object though nothing was said to this effect in her testimony.

The appellant likewise avers that he cannot be convicted of three counts of rape. The intervening period of five (5) minutes between each penetration does not necessarily prove that he decided to commit three separate acts of rape. He maintains that what is of prime importance is that he was motivated by a single criminal intent.

With the foregoing, the appellant believes that his guilt was not proven beyond reasonable doubt; hence, his acquittal is inevitable.

This Court holds otherwise. The conviction of the appellant, thus, stands but the damages awarded in favor AAA must be modified.

Primarily, in reviewing rape cases, this Court is guided with three settled principles: (1) an accusation of rape can be made with facility and while the accusation is difficult to prove, it is even more difficult for the person accused, although innocent, to disprove; (2) considering the intrinsic nature of the crime, only two persons being usually involved, the testimony of the complainant should be scrutinized with great caution; and (3) the evidence for the prosecution must stand or fall on its own merit, and cannot be allowed to draw strength from the weakness of the evidence for the defense.^[24]

Rape is a serious transgression with grave consequences both for the accused and the complainant. Following the above principles, this Court is duty-bound to conduct a thorough and exhaustive evaluation of a judgment of conviction for rape.^[25]

After a careful scrutiny of the entire records, however, this Court finds no justifiable reason to reverse the rulings of the lower courts.

All the Informations in this case charged the appellant with rape under paragraph 1(a), Article 266-A, in relation to paragraph 2, Article 266-B, of the Revised Penal Code, as amended. These provisions specifically state:

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 otherwise unconscious;

c) By means of fraudulent machination or grave abuse of authority; and d) When the offended party is under twelve (12) years of age or is demented, even though none of the circumstances mentioned above be present.

x x x x

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

Whenever the rape is committed **with the use of a deadly weapon** or by two or more persons, the penalty shall be *reclusion perpetua* to death. (Emphasis supplied).

Certainly, carnal knowledge of a woman under any of the following instances constitutes rape: (1) when **force or intimidation is used**; (2) when the woman is deprived of reason or is otherwise unconscious; and (3) when she is under twelve (12) years of age.^[26]