

FIRST DIVISION

[G.R. No. 200597, February 19, 2014]

**EMILIO RAGA Y CASIKAT, PETITIONER, VS. PEOPLE OF THE
PHILIPPINES, RESPONDENT.**

DECISION

VILLARAMA, JR., J.:

Before us is a petition for review on certiorari^[1] under Rule 45 of the 1997 Rules of Civil Procedure, as amended, assailing the October 3, 2011 Decision^[2] and February 9, 2012 Resolution^[3] of the Court of Appeals in CA-G.R. CR No. 33447 which affirmed the May 24, 2010 Decision^[4] of the Regional Trial Court of Quezon City, Branch 94 in Criminal Case Nos. 04-130269 and 04-130270 convicting petitioner Emilio Raga y Casikat of two counts of rape by sexual assault under Article 266-A, paragraph 2^[5] of the Revised Penal Code. He was sentenced to suffer an indeterminate penalty of twelve (12) years of *prision mayor* as minimum to twenty (20) years of *reclusion temporal* as maximum for each count in accordance with Section 5(b) of Republic Act No. 7610^[6] (RA 7610). He was likewise ordered to pay P50,000 as actual damages, P50,000 as moral damages and P25,000 as exemplary damages plus costs of suit.

On September 2, 2004, the following Informations were filed against petitioner:

Criminal Case No. 04-130269:

That on or about the month of May 2004, in Quezon City[,] Philippines, the above-named accused, being then the father of said [AAA],^[7] a minor nine (9) years of age, did then and there willfully, unlawfully and feloniously commit acts of sexual abuse upon the person of said [AAA], by then and there undressing her and forcibly trying to insert his penis inside her vagina, and when he failed, he instead inserted his finger inside her vagina, against her will and without her consent, to the damage and prejudice of the said offended party in violation of the said law.

CONTRARY TO LAW.^[8]

Criminal Case No. 04-130270:

That on or about the year 2000, in Quezon City[,] Philippines, the above-named accused, being then the father of said [AAA], a minor five (5) years of age, did then and there willfully, unlawfully and feloniously commit acts of sexual abuse upon the person of said [AAA], by then and there undressing her and forcibly trying to insert his penis inside her

vagina, and when he failed, he instead inserted his finger inside her vagina, against her will and without her consent, to the damage and prejudice of the said offended party in violation of the said law.

CONTRARY TO LAW.^[9]

Upon arraignment, petitioner pleaded not guilty to the crimes charged. Trial on the merits thereafter ensued. During the hearing, the prosecution and the defense stipulated that PCI Ruby Grace D. Sabino-Diangson was the one who physically examined AAA after the alleged sexual abuse and that the results of her examination are contained in Official Medico-Legal Report No. 0089-05-14-04. It was also stipulated that PCI Sabino-Diangson has no personal knowledge of the commission of the crime against AAA.

The other witnesses presented by the prosecution were AAA, PO2 Lucita B. Apurillo, and Marita Francisco, whose combined testimonies established the following facts:

Complainant AAA is the daughter of petitioner and BBB. They live in Payatas, Quezon City together with AAA's two younger siblings. Petitioner was a painter while BBB was a bit player in movies.

One night, sometime in the year 2000, while AAA's mother, BBB, was out of the house and while AAA and her other siblings were sleeping, AAA, who was then five years old, was suddenly awakened when petitioner removed her clothes and tried to insert his penis into her vagina. When petitioner was unsuccessful in inserting his penis into AAA's vagina, he inserted his finger instead. He did that several times while holding his penis. A white substance later came out of his penis.

AAA told BBB what petitioner did to her, but BBB did nothing.

One night in May 2004, AAA, who was then already nine years old, was sleeping in the room while her siblings were sleeping with their father in the living room. AAA was suddenly awakened when her father carried her from the room to the living room. Petitioner then let AAA watch bold movies but AAA turned away. Petitioner, who was half-naked waist down, thereafter removed AAA's clothes. He then laid on top of AAA and tried to insert his penis into her vagina. As he was unsuccessful in inserting his penis into her vagina, he inserted his finger instead. Because AAA was afraid of petitioner who used to whip her, she did not do anything.

According to AAA, petitioner raped her several times but she could only remember two dates: one during the year 2000 and the other in May 2004. She testified that she was born on December 16, 1994 which fact was duly substantiated by her birth certificate. She likewise identified petitioner during the March 7, 2006 hearing.

Petitioner, for his part, raised the defenses of denial and alibi. He testified that he was a stay-in worker in his place of work in the year 2000. He also testified that on May 13, 2004, he saw AAA watching an X-rated movie. He then reprimanded her and hit her buttocks with a slipper to discipline her. On the same day, upon waking up, he saw his wife and AAA talking to a group of women from Bantay Bata. He claimed that that was the last time that he saw AAA. He claimed that he was surprised upon learning of the complaints for rape filed against him by AAA but upon learning of the charges, he voluntarily surrendered.

On May 24, 2010, the RTC rendered a decision finding petitioner guilty beyond reasonable doubt of the crimes charged. The fallo of the RTC Decision reads:

WHEREFORE, premises considered, judgment is hereby rendered as follows:

1. In Criminal Case No. 04-130269:

Finding accused Emilio Raga a.k.a. "Bebot" **GUILTY** beyond reasonable doubt of the crime of rape by sexual assault under Article 266-A paragraph 2 of the Revised Penal Code and he is hereby sentenced to suffer an indeterminate penalty of TWELVE (12) YEARS OF PRISION MAYOR AS MINIMUM TO TWENTY (20) YEARS OF RECLUSION TEMPORAL AS MAXIMUM in accordance with Section 5(b) of Republic Act No. 7610, otherwise known as the Special Protection of Children Against Child Abuse, Exploitation and Discrimination; and

2. In Criminal Case No. 04-130270:

Finding accused Emilio Raga a.k.a. "Bebot" **GUILTY** beyond reasonable doubt of the crime of rape by sexual assault under Article 266-A paragraph 2 of the Revised Penal Code and he is hereby sentenced to suffer an indeterminate penalty of TWELVE (12) YEARS OF PRISION MAYOR AS MINIMUM TO TWENTY (20) YEARS OF RECLUSION TEMPORAL AS MAXIMUM in accordance with Section 5(b) of Republic Act No. 7610, otherwise known as the Special Protection of Children Against Child Abuse, Exploitation and Discrimination.

Accused Emilio Raga is likewise ordered to pay FIFTY THOUSAND PESOS (P50,000.00) as actual damages, FIFTY THOUSAND PESOS (P50,000.00) as moral damages, TWENTY FIVE THOUSAND PESOS (P25,000.00) as exemplary damages plus costs of suit.

SO ORDERED.^[10]

The RTC ruled that the elements of statutory rape were established beyond reasonable doubt by the evidence of the prosecution. The RTC gave credence to AAA's narration of the details of her ordeal in the hands of her own father. It found her testimony as categorical and straightforward and far more credible than the negative assertions interposed by petitioner.

Petitioner appealed his conviction to the appellate court. The Court of Appeals, however, sustained the conviction of petitioner and affirmed *in toto* the decision of the RTC.

Hence this petition raising a sole issue:

WHETHER THE HONORABLE COURT OF APPEALS ERRED IN AFFIRMING THE TRIAL COURT'S DECISION DESPITE THE PROSECUTION'S FAILURE TO PROVE BEYOND REASONABLE DOUBT THE PETITIONER'S GUILT FOR THE CRIMES CHARGED.^[11]