

SECOND DIVISION

[G.R. No. 207819, March 12, 2014]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
GUILLERMO B. CADANO, JR., ACCUSED-APPELLANT.**

DECISION

PERLAS-BERNABE, J.:

Before the Court is an ordinary appeal filed by accused-appellant Guillermo B. Cadano, Jr., (Cadano) assailing the Decision^[1] dated November 27, 2012 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 04739 which affirmed the Decision^[2] dated July 14, 2010 of the Regional Trial Court of Pasig City, Branch 261 (RTC) in Criminal Case Nos. 120494-H to 120496-H, finding Cadano guilty of three (3) counts of statutory rape.

The Facts

On February 26, 2001, three (3) Informations^[3] were filed before the RTC charging Cadano of raping his common-law-spouse's daughter, AAA,^[4] viz.:

Crim. Case No. 120494-H

On or about December 26, 1996 in Pasig City, and within the jurisdiction of this Honorable Court, the said accused, by means of force, violence and intimidation, did then and there willfully, unlawfully and feloniously have sexual intercourse with his common-law-wife's daughter, [AAA], a minor who was then about 8 years and 5 months old, being born on 25 July 1988 and with whom accused has moral ascendancy as she considered him as her father and carries his surname although she is not his daughter but a daughter of another man having previous relationship with his common-law-wife, which sexual act was against the will and consent of said [AAA].

Contrary to Law.^[5]

Crim. Case No. 120495-H

On or about December 27, 1996 in Pasig City, and within the jurisdiction of this Honorable Court, the said accused, by means of force, violence and intimidation, did then and there willfully, unlawfully and feloniously have sexual intercourse with his common-law-wife's daughter, [AAA], a minor who was then about 8 years and 5 months old, being born on 25 July 1988 and with whom accused has moral ascendancy as she considered him as her father and carries his surname although she is not

his daughter but a daughter of another man having previous relationship with his common-law-wife, which sexual act was against the will and consent of said [AAA].

Contrary to Law.^[6]

Crim. Case No. 120496-H

Sometime in June 2000, in Pasig City, and within the jurisdiction of this Honorable Court, the said accused, by means of force, violence and intimidation, did then and there willfully, unlawfully and feloniously have sexual intercourse with his common-law-wife's daughter, [AAA], a minor who was then about 11 years and 11 months old, being born on 25 July 1988 and with whom accused has moral ascendancy as she considered him as her father and carries his surname although she is not his daughter but a daughter of another man having previous relationship with his common-law-wife, which sexual act was against the will and consent of said [AAA].

Contrary to Law.^[7]

The first two (2) rape incidents occurred on December 26 and 27, 1996, or prior to the passage of Republic Act No. (RA) 8353,^[8] otherwise known as the "Anti-Rape Law of 1997," hence, Cadano was charged under the old rape provision, *i.e.*, Article 335 of the Revised Penal Code (RPC). On the other hand, the third rape incident occurred in June 2000, or after the passage of RA 8353, hence, the accused was charged under the amended rape provision, *i.e.*, Article 266-A of the RPC, as amended.

The prosecution's allegations for each incident are briefly stated below:

A. First Rape Incident (Criminal Case No. 120494-H)

On December 26, 1996, AAA – who was eight (8) years and five (5) months old at the time^[9] – was at the Philippine General Hospital with her mother, BBB,^[10] who was recuperating after giving birth to AAA's fourth sibling. Cadano, BBB's common-law spouse, asked AAA to go home with him to Pasig City to clean their house as it was flooded. AAA followed him and left BBB in the hospital, while the rest of her siblings stayed in the house of Cadano's parents in Sta. Mesa, Manila.

On the same day, Cadano and AAA arrived at their house in Pasig City. At around noon, he asked her to lie down in the room. He removed her shorts and underwear, asked her to spread her legs, and thereafter inserted his penis into her vagina. She felt pain and exclaimed "Aray!" but he leaned into her and told her to be quiet. After he was finished, he brandished a knife and threatened her not to tell her mother.^[11]

B. Second Rape Incident (Criminal Case No. 120495-H)

On December 27, 1996,^[12] AAA's siblings arrived in their Pasig City residence, during such time BBB was still at the hospital. While AAA was sleeping beside her

siblings, she was awakened when Cadano, once more, spread her legs, inserted his penis into her vagina, and made pumping movements. After he was finished, he warned AAA to not speak of what had occurred.^[13]

C. Third Rape Incident (Criminal Case No. 120496-H)

Sometime in June 2000, in the city of Pasig, AAA – then at the age of 11 years and 11 months old^[14] – was playing with her siblings outside their house, while BBB was also outside working. Cadano then called AAA and asked her to buy food and get the money from his pants inside the house, to which AAA complied. Subsequently, Cadano followed AAA inside, and told her to lie down. AAA refused, but he pulled her down and asked her to remove her shorts and panty. Thereafter, he inserted his penis into her vagina.

On October 22, 2000, AAA told her mother what Cadano did to her. The following day BBB and AAA proceeded to Camp Crame for a medical examination that yielded positive results of penetration.^[15]

In his defense, Cadano denied the allegations made against him, maintaining that he never raped nor sexually abused AAA in any manner. He likewise alleged that BBB filed the charges against him on AAA's behalf as they were having family problems because BBB would always go out at night to work and thus, neglected their children.^[16]

Upon arraignment, Cadano pleaded not guilty to the three (3) counts of statutory rape charged against him.^[17]

The RTC Ruling

In a Decision^[18] dated July 14, 2010, the RTC convicted Cadano of three (3) counts of statutory rape and sentenced him to suffer the penalty of *reclusion perpetua*^[19] for every count and ordered him to pay the amount of P75,000.00 as civil indemnity, P50,000.00 as moral damages, P25,000.00 as exemplary damages, and the costs of suit, with legal interest from the date of the filing of the information until fully paid.^[20] It found that the prosecution, through AAA's testimony coupled with the medico-legal report, had proven beyond reasonable doubt that Cadano had carnal knowledge of the victim and that such was without her consent, considering that she was below 12 years old when the crimes were committed against her. Consequently, the RTC did not give credence to Cadano's defenses of denial and alibi in light of AAA's positive assertions.^[21]

Further, the RTC noted that the qualifying circumstance of relationship, *i.e.*, Cadano being a common-law spouse of BBB, the mother of AAA, cannot be considered in the first and second rape incidents that occurred on December 26 and 27, 1996 as they were committed prior to the passage of RA 8353 in 1997, but could be appreciated as regards the third rape incident that happened in June 2000.^[22]

Dissatisfied, Cadano elevated his conviction to the CA.

The CA Ruling

In a Decision^[23] dated November 27, 2012, the CA affirmed the RTC's ruling *in toto*. In denying Cadano's appeal, the CA gave great weight to the RTC's assessment that AAA's testimony is credible and reliable. It likewise noted that the alleged inconsistencies in AAA's testimony are "trivial and forgivable, since a victim of rape cannot possibly give an exacting detail for each of the previous incidents, since they may just be but mere fragments of a prolonged and continuing nightmare, a calvary she might even be struggling to forget" and thus, do not impair her credibility.^[24]

Aggrieved, Cadano filed the instant appeal.

The Issue Before the Court

The essential issue for the Court's resolution is whether or not Cadano's conviction should be upheld.

Ruling of the Court

The Court sustains Cadano's conviction.

At the outset, the Court notes that the first and second rape incidents were committed during the effectivity of the old rape provision, *i.e.*, Article 335 of the RPC, which reads as follows:

Article 335. *When and how rape is committed.* - Rape is committed by having carnal knowledge of a woman under any of the following circumstances:

x x x x

3. When the woman is under twelve years of age, even though neither of the circumstances mentioned in the two next preceding paragraphs shall be present.

The crime of rape shall be punished by *reclusion perpetua*.

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

When by reason or on the occasion of the rape, the victim has become insane, the penalty shall be death.

When rape is attempted or frustrated and a homicide is committed by reason or on the occasion thereof, the penalty shall be likewise death.

When by reason or on the occasion of the rape, a homicide is committed, the penalty shall be death.

On the other hand, the third rape incident occurred during the advent of RA 8353,