

## FIRST DIVISION

[ G.R. No. 200920, June 09, 2014 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
JERUSALEM ESTEBAN Y BALLESTEROS, ACCUSED-APPELLANT.**

### R E S O L U T I O N

**REYES, J.:**

On appeal is the Decision<sup>[1]</sup> dated July 29, 2011 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 03909, which affirmed with modification the Decision<sup>[2]</sup> dated April 14, 2009 of the Regional Trial Court (RTC) of Camiling, Tarlac, Branch 68, in Criminal Case No. 03-55, finding Jerusalem Esteban y Ballesteros (Esteban) guilty beyond reasonable doubt of the felony of Rape, as defined in Article 266-A of the Revised Penal Code (RPC), as amended.

#### **Antecedent Facts**

Esteban was charged for the felony of rape, in an information, which reads:

"That on December 17, 2002, in the evening, at Pob. Sur, Mayantoc, Tarlac and within the jurisdiction of this Honorable Court, the accused, by means of force, threat and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of the private complainant [AAA]<sup>[3]</sup> against her will and in their own house, with the aggravating circumstances, to wit: the victim [AAA] is under eighteen (18) years of age born on November 4, 1988[;] accused is the father (parent) of the victim; and the rape was committed in the dwelling house where both accused and victim reside."<sup>[4]</sup>

Upon arraignment, Esteban entered a plea of not guilty. After pre-trial conference, trial on the merits ensued.

The prosecution alleged the following:

On December 17, 2002, at around midnight, Esteban entered the room where AAA, his daughter who was only 13 years old then, was sleeping. Their house is situated in Poblacion Sur, Mayantoc, Tarlac. After entering the room, Esteban removed his clothes and went beside AAA. Esteban then touched AAA's back and started to undress her. AAA shouted and struggled to prevent her father's advances, but the latter threatened and intimidated her. After removing AAA's clothes, Esteban went on top of AAA; despite AAA's pleas, he inserted his penis in AAA's vagina. After satisfying his lust, Esteban left AAA in the room.

AAA reported the incident to her brother BBB and her aunt CCC, who both did not believe her. AAA then told her other aunt DDD what her father did to her; the latter then brought AAA to the *barangay* office to report the matter. Afterwards, they proceeded to the police station in Mayantoc where AAA executed her sworn statement.

On December 19, 2002, AAA submitted herself to medical examination by Dr. Carolyn R. Abrigo of the Camiling District Hospital, who found old lacerations above AAA's clitoris and over her hymen.

For his part, Esteban denied the allegations against him, and claimed that:

At the time of the alleged rape incident, he was staying at the house of his employer, Engineer Luisito Villalon, which is about 1,000 meters away from his own house. Before 2002, only four of his six children were living with him. When AAA was only seven years old, EEE, his eldest daughter, brought AAA to live with her in their house at Maliwalo, Tarlac City. There, EEE's husband raped AAA, but the case filed against him was settled and eventually dismissed. Thereafter, EEE took AAA to Manila. In 2002, AAA and her other siblings again lived with Esteban in Mayantoc, Tarlac.

Esteban likewise claimed that AAA visited him in jail after she had given her testimony in open court and gave him a letter wherein she supposedly stated that her allegations against her father were not true and that she was just angry at him for his failure to protect her from the sexual abuse she suffered from her brother-in-law.

### **The RTC Ruling**

On April 14, 2009, the RTC rendered a Decision,<sup>[5]</sup> the decretal portion of which reads:

WHEREFORE, accused Jerusalem Esteban y Ballesteros is hereby found guilty of the crime of Rape punishable under Article 266-A of the Revised Penal Code, as amended in relation to Article 266-B (1) of the same Code and hereby sentences him to the penalty of Reclusion Perpetua without eligibility of parole.

Likewise, the accused Esteban is ordered to pay the victim the amount of [P]75,000.00 as civil indemnity, another amount of [P]50,000.00 as moral damages and [P]30,000.00 as exemplary damages.

SO ORDERED.<sup>[6]</sup>

As regards Esteban's claim that he could not have raped AAA on December 17, 2002 since he was sleeping in the house of his employer, the RTC opined that it was not impossible for him to be in his house when the incident occurred since the house of his employer is only about 1,000 meters away from his house. Moreover, the RTC pointed out that Esteban's claim is uncorroborated by any evidence. As regards the letter supposedly written by AAA, the RTC found the same to be merely an

afterthought on the part of AAA and, thus, does not dispel the fact Esteban indeed raped AAA.

Unperturbed, Esteban appealed the RTC Decision dated April 14, 2009 to the CA. In his appeal, Esteban claimed that the RTC erred in disregarding the letter supposedly written by AAA wherein the latter stated that her allegations against her father are all made up. Further, Esteban claimed that the absence of fresh lacerations on AAA's hymen seriously casts doubt on his guilt of the felony charged.

### **The CA Ruling**

On July 29, 2011, the CA rendered the herein assailed Decision<sup>[7]</sup> which affirmed with modification the RTC Decision dated April 14, 2009. As regards the letter supposedly written by AAA, the CA held that, other than Esteban's claim, there is no other evidence to support the finding that AAA indeed retracted her allegations against her father in the said letter. Further, the CA opined that the said letter is hearsay and has no probative value as AAA was never called to testify thereon. Further, the absence of fresh laceration on AAA's hymen, the CA pointed out, does not negate the conclusion that Esteban raped AAA; that the conviction of Esteban would still stand on AAA's clear, convincing and credible testimony.

Nevertheless, the CA modified the accessory penalties imposed upon Esteban as follows: (1) the amount of moral damages was increased to P75,000.00 from P50,000.00; and (2) the amount of exemplary damages was decreased to P25,000.00 from P30,000.00.

Hence, this appeal.

Both Esteban and the Office of the Solicitor General manifested that they would no longer file with the Court supplemental briefs, and adopted instead their respective briefs with the CA.<sup>[8]</sup>

### **Issue**

Essentially, the issue for the Court's resolution is whether the CA erred in affirming the RTC Decision dated April 14, 2009, which found Esteban guilty beyond reasonable doubt of the felony of rape under Article 266-A of the RPC.

### **The Court Ruling**

The appeal is dismissed for lack of merit.

The crime of rape is defined under Article 266-A of the RPC, which states that:

Article 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;**