

FIRST DIVISION

[G.R. No. 196228, June 04, 2014]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
RENATO BESMONTE, ACCUSED-APPELLANT.**

D E C I S I O N

LEONARDO-DE CASTRO, J.:

Before the Court is the final appeal of Renato Besmonte from his conviction for two counts of the crime of statutory rape in Criminal Case Nos. RTC'01-596 and RTC'01-597, both entitled "*People of the Philippines v. Renato Besmonte*" by the Regional Trial Court (RTC), Branch 63, Calabanga, Camarines Sur on April 18, 2008,^[1] which the Court of Appeals affirmed with slight modification through its Decision^[2] promulgated on October 22, 2010 in CA-G.R. CR.-H.C. No. 03318.

Two separate Informations both dated August 21, 2001 charged accused-appellant with statutory rape committed as follows:

Criminal Case No. RTC-01-596

That sometime in the month of March, 2000, at x x x, Province of Camarines Sur, the said accused, with lewd design, by means of force and intimidation, willfully, unlawfully, and feloniously did lie, and succeeded in having carnal knowledge with [his] biological niece [AAA^[3]], an Eight (8)[-]year old minor, against her will and consent, to her damage and prejudice[.]

That one qualifying circumstance necessary for the imposition of Death Penalty is present in this case, as follows: the victim [AAA] was below eighteen years old at the time of the commission of the Rape incident being a mere eight[-]year old child at that time, and that the offender is a relative by consanguinity within the third [c]ivil degree.^[4]

Criminal Case No. RTC-01-597

That on May 4, 2001, at about 9:00 x x x in the morning, in x x x, Province of Camarines Sur, the said accused, with lewd design, by means of force and intimidation, willfully, unlawfully, and feloniously did lie, and succeeded in having carnal knowledge with [his] biological niece [AAA], an Eight (8)[-]year old minor, against her will and consent, to her damage and prejudice[.]

That one qualifying circumstance necessary for the imposition of Death Penalty is present in this case, as follows: the victim [AAA] was below

eighteen years old at the time of the commission of the Rape incident being a mere eight[-]year old child at that time, and that the offender is a relative by consanguinity within the third [c]ivil degree.^[5]

The cases were raffled to Branch 63 of the RTC of Calabanga, Camarines Sur.

Upon his arraignment on August 16, 2006, with the assistance of counsel *de officio*, accused-appellant pleaded "*not guilty*" to the charges.^[6]

A joint pre-trial conference was held on September 20, 2006; and thereat, the prosecution and the defense merely stipulated on the identities of the parties.

During the ensuing joint trial of the cases, the prosecution and the defense tried to establish their respective versions of the facts of the present case.

The prosecution presented the following witnesses, namely (i) AAA,^[7] the private offended party, 14 years old, born on August 6, 1992; (ii) BBB,^[8] the mother of AAA, 48 years old; and (iii) Dr. Janice C. Juan,^[9] 30 years old, a third year medical resident of the Obstetrics and Gynecology Department, Bicol Medical Center; and several pieces of documentary evidence, specifically: (i) the Birth Certificate^[10] of AAA; (ii) the Police Blotter;^[11] (iii) the Medical Certificate^[12] of AAA dated June 25, 2001, issued by Dr. Mayvelyn A. Tayag, Medical Officer III, Bicol Medical Center, Naga City; and (iv) the Clinical Data Sheet^[13] relative to the medical procedure done on AAA.

As summarized by the Court of Appeals, the prosecution tried to establish from its testimonial and documentary pieces of evidence that –

[AAA] alleged and testified that the first rape incident happened sometime in March 2000 when she was merely seven (7) years old. She was at their residence in x x x, together with her two (2) younger brothers, when the accused-appellant, her uncle[,], Renato Besmonte[,], whom she calls Pay Nato[,], arrived. Accused-appellant, while inside the house got a religious book called "Pasugo" and read the same. Thereafter, he told [AAA's] younger brothers to leave the house. Soon as the brothers left, Renato told [AAA] to lie down on the mat and removed her skirt and shirt. After which, he undressed himself and laid on top of [AAA]. Accused-appellant tried to insert his penis into her vagina but was unable to penetrate since [AAA] was crying because of pain. This prompted accused-appellant to leave.

On the alleged second rape, [AAA] testified that on 4 May 2001, she was inside their house when Renato came and invited her to accompany him to get some "kaunayan" or "bongkogan" (a rootcrop which is given to the pigs as food) and so they went to the upland. While there, accused-appellant cleaned the surroundings, got a banana leaf, placed it on the ground, and told [AAA] to [sit] down to which she complied. Soon as [AAA] was seated, accused-appellant tried to look for lice in her hair. To [AAA's] surprise, accused-appellant suddenly threatened her by poking a

fan knife at her chest and told her to lie down and remove her clothes. Thenceforth, he undressed himself, laid on top of her, and succeeded in inserting his penis into [AAA's] vagina. The latter felt pain and observed that her vagina was torn.

After the incident, accused-appellant brought her to their house and ordered her to take a bath to remove the blood from her private parts. After [AAA] took a bath, she changed her clothes and accused-appellant brought her to an empty house which is about 15 to 20 minutes away from her house. There, accused-appellant told [AAA] to lie down on the hammock because she was very weak. He told her that he will return and then he left.

[AAA] waited for accused-appellant to return, but he did not. She walked herself home in such weak state until she reached their house where she saw her mother and siblings. [AAA] looked pale and hungry when she arrived home. When she was having dinner with her family, blood came out of her vagina after she stood up and coughed.

The next day, [AAA's] mother brought her to a health center in x x x but since there was no available doctor, they proceeded to the x x x Police Station to complain about the rape incident. From the police station they were advised to go to the National Bureau of Investigation (NBI) since a doctor was there. She was examined and was told to go to the Bicol Medical Center to stop the bleeding.^[14]

According to the Medical Certificate, AAA sustained an injury described in the following manner:

Final Diagnosis:

Perineal laceration probably secondary to sexual abuse

Surgical procedure done: Vaginal exploration and repair of 4th degree perineal laceration

Period confined: May 5-8, 2001^[15]

Dr. Janice Juan explained that a perineal laceration is a tear "that is through and through which means, there is a space in between the vagina and the rectum, the [tear] is from the vagina down to the rectum;"^[16] that in repairing the perineal laceration, under anesthesia, the surgeon had to stitch together the torn tissues of AAA's vagina extending to her rectum; and, in answer to the trial court's query, that AAA's injury could have been the result of a forceful insertion of a blunt object like a penis.

For his defense, accused-appellant denied raping AAA on both occasions. He testified that AAA is the daughter of his brother; that his house was just 20 meters away from the house of AAA; that their farm was merely 50 meters away from his own home; and that in the morning of May 4, 2001, he was at the farm with his

mother, Soledad, cutting grass; that at 11:00 a.m. of the same day, he went home to eat lunch and take a nap; that he returned to the farm at about 1:00 p.m. in the afternoon; that he would often babysit AAA; that from the time that AAA could only crawl, until she turned eight, accused-appellant would often hit her with a belt because he blamed AAA's mother, BBB, for his brother's insanity; and that he believes that BBB filed the trumped up charges of rape to get back at him for maltreating AAA.

Soledad, for her part, testified that for the entire month of March 2000, accused-appellant accompanied her to the farm; that he never left her sight; that they stayed at the farm from 7:00 a.m. up to 11:00 a.m., and from 1:00 or 2:00 p.m. up to 5:00 p.m.; and that in between, they went home to eat lunch.

After trial and upon evaluation of the evidence on record, the RTC found the accused-appellant guilty of two counts of statutory rape. The dispositive part of the Decision dated April 18, 2008 reads:

WHEREFORE, in view of the foregoing, the prosecution in both cases, having proven the guilt of accused RENATO BESMONTE beyond reasonable doubt, he is hereby convicted of the offense of statutory rape defined and penalized under Article 266-A in relation to Article 266-B of the Revised Penal Code, as amended by RA 8353 and sentenced to suffer the following penalties:

1. In Crim. Case No. RTC'01-596, accused RENATO BESMONTE is hereby sentenced to suffer the penalty of Reclusion Perpetua. He is likewise ordered to pay the victim, [AAA] civil indemnity in the amount of P50,000.00 and moral damages in the amount of P50,000.00 and to pay the costs;
2. In Crim. Case No. RTC'01-597, accused RENATO BESMONTE is hereby sentenced to suffer the penalty of Reclusion Perpetua. He is likewise ordered to pay the victim [AAA] civil indemnity in the amount of P50,000.00 and moral damages in the amount of P50,000.00 and to pay the costs.

Considering that accused RENATO BESMONTE has undergone preventive imprisonment, he shall be credited in the service of his sentence with the time he has undergone preventive imprisonment subject to the condition provided for by law. Accused is likewise meted the accessory penalty of perpetual absolute disqualification as provided for under Article 41 of the Revised Penal Code.^[17]

Aggrieved, accused-appellant appealed the aforequoted decision to the Court of Appeals based on the following assignment of errors that: (I) THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT IN CRIMINAL CASE NO. RTC'01-596 DESPITE [AAA'S] OWN TESTIMONY TO THE CONTRARY;" (II) THE TRIAL COURT GRAVELY ERRED IN GIVING UNDUE WEIGHT AND CREDENCE TO HIGHLY IMPROBABLE AND QUESTIONABLE ACCOUNT OF [AAA]; and (III) THE TRIAL COURT SERIOUSLY ERRED IN CONVICTING THE ACCUSED-APPELLANT DESPITE THE PROSECUTION'S FAILURE TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.^[18]

In a Decision promulgated on October 22, 2010, the Court of Appeals affirmed the ruling of the RTC with modification. The dispositive part provides:

WHEREFORE, premises considered, the assailed Joint Decision dated 18 April 2008, of the Regional Trial Court, Calabanga, Camarines Sur, Branch 63, finding the accused-appellant Renato Besmonte guilty beyond reasonable doubt of two (2) counts of Rape defined under Article 266-A and penalized by Article 266-B of the Revised Penal Code, as amended by RA 8353, is hereby **AFFIRMED with modification**. Accused-appellant is ordered, in each case, to pay private complainant, [AAA], the increased civil indemnity in the amount of Seventy-Five Thousand Pesos (P75,000.00); moral damages in the amount of Seventy-Five Thousand Pesos (P75,000.00); and exemplary damages in the amount of Twenty-Five Thousand Pesos (P25,000.00).^[19]

Undaunted, the accused-appellant filed a Notice of Appeal dated November 4, 2010.^[20]

In his Brief,^[21] accused-appellant argued that the prosecution failed to prove his guilt beyond reasonable doubt. Specifically, he insisted that the alleged raped in March 2000 did not happen as the same was merely fabricated by BBB. In support thereof, he averred that (i) it was AAA herself who admitted that it was BBB who told her to make mention of the supposed rape committed in March 2000; (ii) AAA admitted in open court that the supposed rape committed in March 2000 did not happen; and (iii) the "resolution in the preliminary investigation conducted for the alleged rape cases instituted by BBB was to file only one case of rape."^[22] Further, he maintained that AAA's account of the alleged second incident of rape was highly incredible considering that she did not even bother to escape from accused-appellant; or why she even went with the accused-appellant in the first place in view of the supposed earlier incident of rape. Lastly, accused-appellant questions the motive of BBB in filing the twin criminal complaints against him – that BBB had an axe to grind against him for physically maltreating AAA through the years.

The Office of the Solicitor General (OSG), for appellee People of the Philippines, rebutted the foregoing points with the following counter-arguments: (i) that based on the testimonies of AAA, BBB, and Dr. Janice Juan, including the presentation of the Birth Certificate of AAA, the prosecution was able to establish all the elements of the crime of statutory rape, the qualifying circumstance of relationship, as well as the identity of the individual who raped her on the two occasions subject of the present case; (ii) that it is of no moment if BBB reminded AAA of the date of the first incident of rape because for a child of tender years, AAA cannot be expected to have kept track of dates; (iii) that AAA's failure to remember the exact date of the first rape incident is inconsequential, what is more significant is that she was able to clearly and convincingly recount and narrate the ordeal she went through in the hands of accused-appellant; (iv) that it is "neither difficult to understand nor hard to believe that [AAA's] passive submission was due to the fact that [accused-appellant] not only exercised moral ascendancy over her but also seriously instilled fear in her as a result of his past maltreatment;" and (v) as to the ill motive imputed against BBB, that the same is unworthy of belief as no mother in her right mind would use