

## SECOND DIVISION

[ G.R. No. 199096, June 02, 2014 ]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. FRED TRAIGO,  
APPELLANT.**

### RESOLUTION

**BRION, J.:**

We resolve the appeal, filed by appellant Fred Traigo, from the March 14, 2011 decision<sup>[1]</sup> of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 04158. The challenged CA decision<sup>[2]</sup> affirmed the July 16, 2009 decision of the Regional Trial Court (RTC), Branch 163, Taguig City, finding the appellant guilty beyond reasonable doubt of rape and qualified rape in Criminal Case Nos. 133721 and 133722, respectively.

In its July 16, 2009 decision, the RTC convicted the appellant of the crimes of rape and qualified rape for the sexual abuses committed against AAA on March 2006 and September 2004, respectively. It found credible AAA's testimony that the appellant inserted his penis into her vagina on two occasions; her testimony was corroborated by the Initial Medico-Legal Report showing that she suffered deep-healed hymenal lacerations. The CA also ruled that the exact date of the rape is immaterial, and that AAA's delay in reporting this first rape was understandable since the appellant threatened to kill her mother, BBB, if she would reveal the incident to anyone.

For the simple rape committed in March 2006, the RTC sentenced the appellant to suffer the penalty of *reclusion perpetua*, and ordered him to pay AAA the amounts of P75,000.00 as civil indemnity, P50,000.00 as moral damages, and P30,000.00 as exemplary damages, all with legal interest. For the qualified rape committed in September 2004, the RTC sentenced the appellant to suffer the penalty of *reclusion perpetua*, and ordered him to pay the victim the following amounts: P75,000.00 as civil indemnity, P50,000.00 as moral damages, and P30,000.00 as exemplary damages, also with legal interest until fully paid.

On appeal, the CA affirmed the RTC decision. It found AAA to be a "credible, honest, and straightforward witness;"<sup>[3]</sup> AAA never wavered in her identification of the appellant as her abuser despite the defense's grueling cross-examination. According to the CA, the testimony of a sole witness is sufficient for conviction if it is free from any sign of impropriety or falsehood. The CA also found unmeritorious the appellant's denial, and reasoned out that the presence of other persons inside the room did not negate the commission of rape.

#### **Our Ruling**

We **deny** the appeal, but modify the crime committed,<sup>[4]</sup> the penalty imposed, and the awarded indemnities.

As a general rule, the findings of facts and assessment of credibility of witnesses are matters best left to the trial court because of its unique position of having observed that elusive and incommunicable evidence of the witnesses' deportment on the stand while testifying.<sup>[5]</sup>

In the present case, the CA affirmed the RTC's finding on the truthfulness of AAA's testimony. We see no reason to deviate from the trial and appellate courts' factual findings that the appellant had carnal knowledge of AAA on two (2) occasions. In the absence of any evidence showing that the trial judge overlooked or misapplied some facts or circumstances of weight which would affect the result of the case, or that the judge acted arbitrarily, we are bound by the lower courts' factual findings.

Notably, the appellant did not impute any improper motive on AAA's part to falsely testify against him. AAA's testimony was also corroborated by the medical findings of Dr. Joseph Palmero showing that the victim suffered "deep-healed lacerations at 3 & 8 o'clock position" on her hymen. It is settled that when a rape victim's account is straightforward and candid, and is corroborated by the medical findings of the examining physician, the testimony is sufficient to support a conviction.<sup>[6]</sup>

We find unmeritorious the appellant's defense that it was impossible for him to rape AAA because the latter's two sisters also slept in the same place when the rapes allegedly happened. It is recognized that lust is no respecter of time and place; rape can thus be committed even in places where people congregate, in parks, along the roadside, within school premises, inside a house where there are other occupants, and even in the same room where other members of the family are also sleeping. To our mind, it is not impossible or incredible for the members of the victim's sisters to be in deep slumber and not to be awakened while a sexual assault is being committed.<sup>[7]</sup>

We modify the crime committed by the appellant in **Criminal Case No. 133721** from simple rape to **qualified rape**. The evidence showed that the appellant was 12 years old when she was raped on March 2006, as evidenced by her Certificate of Live Birth<sup>[8]</sup> showing that she was born on November, 18, 1993. The evidence also established that the appellant was the common-law spouse of BBB. Under Article 266-B of the Revised Penal Code, the death penalty shall be imposed when the victim is below 18 years of age and the offender is a parent, ascendant, step-parent, guardian, relative by consanguinity or affinity within the third civil degree, or the **common-law spouse of the parent of the victim**. We cannot, however, impose the death penalty in view of Republic Act No. 9346, entitled "*An Act Prohibiting the imposition of the Death Penalty in the Philippines.*" In lieu of the death penalty, we impose on the appellant the penalty of *reclusion perpetua* without eligibility for parole. Accordingly, we increase the awarded moral damages from P50,000.00 to P75,000.00.

We point out in **Criminal Case No. 133722** that AAA was only ten (10) years old when the appellant raped her in September 2004. The minority of the victim and her relationship to the appellant, however, raised the crime from statutory rape to **qualified rape**. Simply put, qualified rape is statutory rape in its qualified form.<sup>[9]</sup> Accordingly, we sentence the appellant to suffer the penalty of *reclusion perpetua* **without eligibility for parole**; and increase the awarded moral damages from