

FIRST DIVISION

[G.R. No. 182794, September 08, 2014]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. BOBBY BELGAR, ACCUSED-APPELLANT.

D E C I S I O N

BERSAMIN, J.:

Circumstantial evidence, if sufficient and competent, may warrant the conviction of the accused of rape.

The Case

Accused Bobby Belgar appeals the decision promulgated on August 31, 2007 by the Court of Appeals (CA)^[1] affirming his conviction for rape by the Regional Trial Court (RTC), Branch 30, in San Jose, Camarines Sur, and imposing on him the penalty of *reclusion perpetua*.

Antecedents

On March 6, 2000, the Office of the Provincial Prosecutor of Camarines Sur filed an information charging Belgar with rape, thus:

That on or about the midnight of January 20, 2000 at x x x, Municipality of Tigaon, Province of Camarines Sur, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with lewd designs, with force and intimidation and after entering and pulling the victim from her house, did then and there, willfully, unlawfully and feloniously lie and have carnal knowledge with AAA,^[2] a 15 year old lass, against her will and without her consent, to her damage and prejudice in such amount as shall be proven in court.^[3]

Belgar pleaded *not guilty* to the charge.^[4] Testifying for the Prosecution were AAA, BBB (AAA's mother), and Dr. Penafrancia N. Villanueva, while Belgar was the lone witness for the Defense.

Version of the Prosecution

On January 20, 2000, at about 8:00 p.m., AAA and her two sisters were sleeping in their house in Tigaon, Camarines Sur, when she was awakened because someone was touching her feet. She saw that it was Belgar, who was poking her neck with a knife. She resisted but he warned her not to shout or he would stab her and her sisters. He dragged her outside the house and brought her to a nearby tree, where

he injected an unknown substance into her stomach. She fell unconscious afterwards. Upon regaining consciousness, she found herself naked, and her vagina was aching and soaked with white and red substance. She put on her clothes and returned to the house. She attended school the next morning. During her class, she broke a mirror and slashed her left wrist. Her teacher came to her aid and had her treated. While being treated she confided the rape to her teacher.^[5] She was thus brought to the Municipal Health Office of Tigaon, Camarines Sur, and was examined there by Dr. Villanueva, who issued her medico-legal report containing the following findings:

Extragenital Findings:

- Brownish discoloration of the skin at the anterior area of the distal portion of the left lower arm.

Genital Examination:

- Multiple hymenal lacerations old, healed complete at 9' oclock and 6' oclock positions and old healed partial lacerations at 3' oclock and 12' oclock positions.
- Admits small finger with ease.^[6]

Version of the Defense

Belgar denied raping AAA and interposed alibi, insisting that he was sleeping in his house in San Miguel, Tigaon, Camarines Sur at midnight of January 20, 2000, having gone to bed there at 8:00 p.m. on the same date and waking up at 5:00 a.m. of the next day; that he did not leave the house in that period of time; and that it was his first time to see AAA when she identified him inside the Municipal Jail of Tigaon as the one who had raped her at midnight of January 20, 2000.^[7]

Judgment of the RTC

In its decision promulgated on June 17, 2003, the RTC found that all the elements of rape under Article 266-A (1) (a) of Republic Act No. 8353 had been duly established; that the State had shown that Belgar had committed carnal knowledge of AAA by force, threat, and intimidation; that AAA was candid and truthful as a witness; and that Belgar's alibi could not prevail because it was uncorroborated, and he did not show the physical impossibility for him to be at the crime scene at the time of the commission of the crime.^[8] It decreed thusly:

WHEREFORE, the accused BOBBY BELGAR is hereby sentenced to suffer the penalty of imprisonment of reclusion perpetua, with the inherent accessories provided by law, to indemnify the offended party AAA the sum of Fifty Thousand Pesos (P50,000.00) as actual or compensatory damages and another Fifty Thousand Pesos (P50,000.00) as moral damages, both of Philippine Currency, and for him to pay the costs.

The accused Bobby Belgar shall be entitled to full credit of his preventive imprisonment if he agreed to abide with the rules imposed upon convicted person (sic) otherwise he shall be entitled to four-fifth (4/5) credit thereof.^[9]

Decision of the CA

On appeal, Belgar contended that the rape had not been proven because no direct evidence of the sexual intercourse was presented due to AAA having been unconscious during the rape; and that the non-submission for laboratory examination of the red and white substance in AAA's vagina casts doubt on the charge of rape.^[10]

On August 31, 2007, the CA affirmed the conviction,^[11] holding that the conviction for rape could be based on the circumstantial evidence adduced through the testimony of AAA; that the absence of spermatozoa from the vagina of the victim did not disprove rape because ejaculation was not an element of the crime; and that the RTC properly rejected Belgar's alibi upon finding AAA's testimony credible.^[12]

Issues

Belgar's sole contention for reversal is that:

THE COURT A QUO ERRED IN FINDING THE ACCUSED GUILTY OF THE CRIME OF RAPE WHEN SAID VICTIM WAS UNCONSCIOUS WHEN THE INCIDENT HAPPENED.^[13]

Belgar argues that the perpetrator was already gone when AAA regained consciousness; that she did not experience or feel the actual sexual intercourse; that she only jumped to the conclusion that she had been raped, and that it was the accused who had raped her; that there was no evidence showing that he had been the perpetrator;^[14] that the non-examination of the white and red substance found in AAA's vagina removed the proof of the possibility of the substance having come from a male organ; and that AAA did not properly identify the culprit.^[15]

Ruling of the Court

The appeal lacks merit.

The information charged Belgar with rape committed through force, threat or intimidation as defined under Article 266-A (1) (a), Revised Penal Code, as amended by Republic Act No. 8353, to wit:

Article 266-A. *Rape; Rape; When and How Committed.* – Rape is committed.

1) By a man who have carnal knowledge of a woman under any of the following circumstances:

a) Through force, threat or intimidation;

x x x x

The elements of the crime charged are that the offender had carnal knowledge of a female, and that the same was committed by using force, threat or intimidation.^[16] The elements were proved beyond reasonable doubt. According to AAA, Belgar poked a knife at her neck, forced her to get up from her sleep, and dragged her outside of the house. She resisted and would have shouted but he warned her against shouting, and threatened to stab her and her sleeping sisters. Once they were outside, he injected a substance into her belly, thereby causing her to lose consciousness. Upon regaining her consciousness, she was already naked and had blood in her vagina.

Belgar employed force, threat and intimidation in order to commit carnal knowledge of AAA. Her relevant testimony ran as follows:

- Q. Why? On January 20, 2000 what time did you sleep?
A. 8:00 o'clock, sir.
Q. And what time were you awoken?
A. I do not know what the time [was] because we have no watch inside our house, sir.
Q. Now, while you were sleeping and you were awake tell us the cause why you were awoken?
A. We were all asleep inside the house and I was suddenly awoken because there was somebody holding my feet, sir.
x x x x
Q. When you were awoken when (sic) somebody holding your feet, tell us what happened next?
A. When I was awoken I suddenly rose up and I saw a man, he, he suddenly poked me with [a] balisong/knife.
Q. When you said he, whom are you referring?
A. Bobby Belgar, sir.
x x x x
Q. Tell us the illumination of your room at that time when you recognized the accused Bobby Belgar who was inside your room on January 20, 2000?
A. It was not dark because we have kerosene lamp which served as a light, sir.
x x x x
Q. When you identifie(d) Bobby Belgar who was already inside your room on January 20, 2000 at barangay Casuna tell us what happened next if any?
A. When he poked the knife on me he forced me to stand and forced me to let me go out of the house, sir.
x x x x
Q. While you were being poked upon by (sic) that batangas knife, what did you do?
A. I was resisting and I was able to shout but he told me that if I shout he will stab me and also my two (2) sisters, sir.
x x x x

- Q. After you answered to the query of the accused, what happened next?
- A. When we reached the tree he suddenly injected something to my stomach. I just don't know what is it, sir.
- Q. The one being used by the doctor?
- A. I just don't know because I have not seen it, sir.
- Q. Describe how did you feel when that gadget was injected as you said?
- A. I just felt weak and I don't know what happened because my eyes got blurred.
- Q. What part of your stomach was injected?
- A. (Witness pointing to the left side of her stomach parallel to her navel).
- Q. When that gadget injected to the left side of your stomach and you felt dizzy, what happened next?
- A. When I was awoken he was no longer there and I was naked, sir.
- x x x x
- Q. When you were brought by the accused outside of your house, the accused was pointing a knife at your neck, how did the accused bring you to that tree that you are referring to?
- A. He was pushing me towards the outside, sir.
- Q. At that time what happened to your hands?
- A. I was pushing him because I was resisting on his bringing me.
- x x x x
- Q. And what happened to your vagina if any you woke up and completely naked?
- A. I saw as (sic) if liquid, sir.
- Q. Describe to us that liquid you observe[d]?
- A. Reddish and whitish, sir.
- Q. What did feel in your vagina when you woke up if any beside[s] that red and white substance that you saw?
- A. It was painful, sir.
- Q. Because it was painful, what happened? What did you do if any?
- A. I was still lying I felt pain and when I sitted as if I could not get up, sir.
- Q. Because of that what happened next?
- A. I stood up and proceeded inside our house, sir.
- x x x x
- Q. You did not report this matter to your parents and to your sisters?
- A. No, sir.
- Q. Tell us why?
- A. Because of his threat to my family, sir.
- Q. What is the threat all about?
- A. That if I report he will kill all of us, sir.^[17]
- x x x x
- Q. How were you able to know that the accused is responsible to the crime being charged?
- x x x x
- A. I am sure that he was the one who rape[d] me because