710 Phil. 414

FIRST DIVISION

[G.R. No. 192239, June 05, 2013]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RICARDO PAMINTUAN Y SAHAGUN, ACCUSED-APPELLANT.

D E C I S I O N

LEONARDO-DE CASTRO, J.:

The Court decides the appeal filed by accused-appellant Ricardo Pamintuan y Sahagun from the Decision[1] dated November 24, 2009 of the Court of Appeals in CA-G.R. CR.-H.C. No. 03449.

On September 6, 2004, accused-appellant was charged before the Regional Trial Court (RTC) of Manila with the crime of rape under Article 266-A, paragraph 1 of the Revised Penal Code, as amended by Republic Act No. 8353. The accusatory portion of the Information stated:

> That sometime in September 2003, in the XXX, Philippines, the accused, did then and there wilfully, unlawfully, feloniously and knowingly commit abusive acts and [lascivious] conduct upon the person of AAA,[2] a minor, 11 years old, by then and there dragging her inside the room, kissing her on the lips and breast, undressing her and inserting his penis in her vagina and succeeded in having carnal knowledge of her against her will and consent thereby gravely endangering her survival, normal development and growth.[3]

Accused-appellant pleaded not guilty to the charge.[4] During the trial of the case, the prosecution put forward the following witnesses: (1) AAA, the victim; (2) Maria Cristina E. Viray, the Bantay Bata 163 social worker; (3) Police Officer (PO)1 Aireen Talattad;[5] and (4) Dr. Merle Tan.

AAA testified that accused-appellant was her uncle since the latter was the cousin of her father, BBB. He was also the common-law husband of her mother, CCC, as her parents had already separated. She could not recall when accused-appellant and CCC started to live together. He would stay in AAA's house in XXX then he would return to his house in Bulacan. AAA related that in September 2003, accused-appellant started to sexually abuse her inside their house. He pulled her to her mother's room when nobody else was around. He touched her breasts and her vagina. Afterwards, accused-appellant was able to insert his penis into her organ. He was only able to insert his penis halfway but the same hurt AAA. She cried and fought back by boxing him but he continued to assault her. He also kissed her lips and licked her vagina. She said that she did not bleed after she was raped.[6] Accused-appellant succeeded in abusing her seven times.[7]

AAA said that she revealed the incident to her sister, DDD, who informed their aunt, EEE, who was the sister of their father. AAA was then vacationing at EEE's house when the latter learned about the incident. EEE forbade AAA from going back home in XXX. She did not tell CCC about her ordeal because she was afraid of accused-appellant. According to AAA, her cousin told her that whenever the accused gets drunk, he would pour gasoline in their house and threaten to burn it.[8] AAA presented in court her birth certificate, which showed that she was born on November 6, 1992.[9]

On cross-examination, AAA stated that she filed the case against accused-appellant because he did rape her. Prior to that, she recalled an incident when he was even caring towards her. Back then, she was not yet angry with him.[10]

Maria Cristina E. Viray testified that AAA and EEE went to the Bantay Bata 163 office on May 28, 2005. They asked for assistance regarding the rape case filed against accused-appellant. She made them fill up a form to provide an account of the incident. In her account, AAA narrated that at around September to October 2003, accused-appellant dragged her into a room, pulled up her clothing, and kissed her breasts. AAA boxed accused-appellant in the chest. He then took off AAA's shorts and panty and undressed himself. Afterwards, there was a penetration of AAA's vagina.[11] Viray stated that she did not conduct a detailed interview of AAA anymore so as not to further traumatize her. She asked AAA if she was willing to go forward with the case and the latter answered in the affirmative. Viray added that she was convinced that AAA was indeed raped by the accused-appellant.[12]

The testimony of PO1 Aireen Talattad was dispensed with after the parties stipulated that she was the investigator on the case, that she caused the preparation of the *Sinumpaang Salaysa*y of AAA, and that she could identify AAA and accused-appellant.[13]

Dr. Merle Tan testified that she was a consultant at the Child Protection Unit of the University of the Philippines-Philippine General Hospital (UP-PGH) in Manila.[14] She presented in court a medical certificate dated December 29, 2003 issued by the PGH, which was the Final Medico Legal Report Number 2003-12-0061.[15] As AAA was already interviewed by the police, she only asked additional clarifying questions. She inquired from AAA if the latter already had a boyfriend or if there were other perpetrators of the sexual assault. AAA answered both questions in the negative. As to the medico-legal report, the impression that Dr. Tan noted down was that there was "[n]o evident injury at the time of examination but medical evaluation cannot exclude sexual abuse. Further investigation, such as witnessed account or careful questioning of the child is required."[16]

On cross-examination, Dr. Tan stated that when she examined AAA in December 2003, she did not see any injury at all, not even healing injuries. According to her, however, the same may be explained by the rate with which an injured hymen can heal. Dr. Tan further informed the trial court that in rape cases, different injuries could be inflicted upon the victim, depending on a number of factors. Said factors include the degree of force used in inflicting the injury, the size of the blunt object, and the method with which the injury was caused. Dr. Tan also stated that some studies in the United States suggest that if the perpetrator of the rape is not a

stranger to the child victim, the injuries inflicted on the latter are a little bit less serious. If there was an insertion in the vagina of a minor child, the resultant injury, if any, would depend on how the insertion was done. Moreover, an insertion would not necessarily lead to a laceration in the hymen in view of the changes occurring in the body of a female child. As the estrogen production in the child's body increases, the hymen becomes more stretchable and elastic. Thus, even with seven insertions, the presence of a laceration would depend on how the insertion was done and the length of the healing time, if there were injuries inflicted.[17]

For his defense, accused-appellant testified that AAA was his niece as he was the cousin of AAA's father. He was also the common-law husband of AAA's mother, CCC. Accused-appellant denied AAA's accusation of rape against him. He stated that CCC's children had a grudge against him, as they did not want him to live with their mother. He also said that a cousin of his, named Marie, likewise held a grudge against him and CCC.[18]

The Ruling of the RTC

On June 17, 2008, the RTC of Manila, Branch 38, adjudged[19] accused-appellant guilty of statutory rape and sentenced him thus:

> **WHEREFORE**, in the light of the foregoing premises, this Court finds that the prosecution was able to prove the guilt of the accused beyond reasonable doubt in committing the crime of Rape under Article [266-A], par. 1 [of] the Revised Penal Code in relation to Republic Act 8353, and hereby sentences Ricardo Pamintuan Y Sahagun to suffer the penalty of reclusion perpetua; further, to indemnify [AAA], the amount of Fifty Thousand (Php50,000.00) Pesos, as civil indemnity; the amount of Fifty Thousand (Php50,000.00) as moral damages, and to pay the costs.[20]

The RTC found that AAA was only about 11 years old when she was raped by accused-appellant. The trial court gave more weight to her testimony, which was found to be categorical, straightforward, spontaneous and delivered in a frank manner. The trial court also downplayed the absence of injuries on the part of AAA as a result of the sexual abuse, citing rulings of the Court that such may be attributed to numerous factors and that the hymen of the victim need not be penetrated or ruptured for rape to be consummated. On the other hand, accused-appellant's unsubstantiated defense of denial was disregarded by the trial court. Accused-appellant was only convicted of statutory rape punishable by *reclusion perpetua* as the qualifying circumstance of relationship, i.e., that he was the common-law husband of AAA's mother, was not alleged in the information.

Accused-appellant appealed his conviction to the Court of Appeals.[21]

The Decision of the Court of Appeals

On November 24, 2009, the appellate court affirmed the judgment of the RTC in this

wise:

> **WHEREFORE**, for lack of merit, the instant appeal is **DISMISSED**. The June 17, 2008 Decision of the Regional Trial Court of Manila, Branch 38 is AFFIRMED *in toto*.[22]

The Court of Appeals was convinced that the elements of the crime of rape had been proven in this case. The appellate court gave more weight to AAA's testimony as compared to the bare denial of accused-appellant. The Court of Appeals also rejected the argument of accused-appellant that the absence of external signs, indicating that AAA was sexually abused, negated her claim of rape. The appellate court ruled that carnal knowledge, unlike its ordinary connotation of sexual intercourse, does not necessarily require that the vagina be penetrated or that the hymen be ruptured. As the relationship of AAA to accused-appellant was not specifically alleged in the information, the Court of Appeals held that no qualifying circumstance was attendant in the case.

The Ruling of the Court

On appeal[23] before this Court, accused-appellant again pleads for his acquittal, arguing that "the trial court gravely erred in rendering a verdict of conviction despite the fact that [his] guilt was not proven beyond reasonable doubt."[24] Accused-appellant insists that the medical findings and the testimony of Dr. Merle Tan belied AAA's claim that she was raped seven times. Accused-appellant points out that if he indeed sexually assaulted AAA seven times, she must have sustained genital injuries or trauma. However, none was found by Dr. Tan. As the gravamen of the offense of rape is sexual intercourse with a woman without her consent, accused-appellant posits that the absence of gynecological injuries negated AAA's accusation of rape.

The Court sustains the conviction of accused-appellant.

The crime of rape is defined under Article 266-A of the Revised Penal Code, to wit:

> ART. 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;
>
> b. When the offended party is deprived of reason or is otherwise unconscious;
>
> c. By means of fraudulent machination or grave abuse of authority;
>
> d. When the offended party is under twelve (12) years of age or is demented, even though none of the circumstances mentioned above be present.

Article 266-A(1)(d) provides the definition of the crime of statutory rape, the elements of which are: (1) that the offender had carnal knowledge of a woman; and (2) that such a woman is under twelve years of age or is demented.

The element of carnal knowledge was established by the testimony of AAA. Her identification of accused-appellant as the perpetrator of the sexual attack was positive, consistent and steadfast; her narration of the incident, detailed and straightforward. When she was recounting her ordeal before the trial court, she was overcome with emotion and shed tears on more than one occasion. She did not waver in her stance even as she underwent cross-examination by the counsel for the defense. These factors impress upon us that AAA's claim against accused-appellant was not at all fabricated.

Jurisprudence teaches that testimonies of child victims are given full weight and credit, for when a woman or a girl-child says that she has been raped, she says in effect all that is necessary to show that rape was indeed committed. Youth and immaturity are generally badges of truth and sincerity.[25] Moreover, we held in *People v. Oden*[26] that "the spontaneity with which the victim has detailed the incidents of rape, the tears she ha[d] shed at the stand while recounting her experience, and her consistency almost throughout her account dispel any insinuation of a rehearsed testimony."

Contrary to accused-appellant's protestations, the testimony of AAA that she was raped seven times was not actually contradicted by the medical findings of Dr. Tan. This much is distinctly clear from the conclusion reached by Dr. Tan in the medico-legal report, which we quote:

IMPRESSIONS

> **No evident injury at the time of examination but medical evaluation cannot exclude sexual abuse**. Further investigation, such as witnessed account or careful questioning of the child[,] is required.[27] (Emphasis ours.)

Nowhere in the medico-legal report was there a definitive statement from Dr. Tan that AAA could not have been subjected to sexual abuse. If the above quoted statement was not clear enough, Dr. Tan took the time to explain her findings in her testimony before the trial court. In essence, Dr. Tan explained that in rape cases, an insertion in the vagina of a minor child victim would not necessarily result in an injury, such as a laceration of the hymen. The presence or absence of injuries would depend on different factors, such as the forcefulness of the insertion, the size of the object inserted, the method by which the injury was caused, the changes occurring in a female child's body, and the length of healing time, if indeed injuries were caused. Thus, the fact that AAA did not sustain any injury in her sex organ does not *ipso facto* mean that she was not raped.

The Court has often held that "full penetration of the vaginal orifice is not an essential ingredient, nor is the rupture of the hymen necessary, to conclude that carnal knowledge took place; the *mere touching* of the external genitalia by a penis that is capable of consummating the sexual act is sufficient to constitute carnal