

FIRST DIVISION

[G.R. No. 201728, July 17, 2013]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
MARVIN CRUZ, ACCUSED-APPELLANT.**

R E S O L U T I O N

REYES, J.:

This is an appeal filed by accused-appellant Marvin Cruz (Cruz) from the Decision^[1] dated November 28, 2011 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 04363 which affirmed the Joint Decision^[2] dated January 20, 2010 of the Regional Trial Court (RTC) of Lingayen, Pangasinan, Branch 68, finding him guilty beyond reasonable doubt of two (2) counts of Rape.

Cruz was charged in three (3) separate Informations for Violation of Section 5(b) of Republic Act (R.A.) No. 7610 and two (2) counts of Rape.

The Information for Violation of Section 5(b) of R.A. No. 7610 charged Cruz with the commission of the crime, as follows:

Criminal Case No. L-8397

That sometime on October 23, 2007, in Brgy. Dulig, Labrador, Pangasinan and within the jurisdiction of this Honorable Court, the above named accused, taking advantage of her minority, willfully, unlawfully and feloniously entice (sic) to have sexual intercourse with **AAA**,^[3] a minor 17 years old (DOB-March 25, 1990) which degrade, debase and demean (sic) the intrinsic worth and dignity of the said minor, to the damage and prejudice of the said complainant.

Contrary to Sec. 5 (b) of RA 7610.^[4]

The two (2) Informations for Rape,^[5] meanwhile, charged Cruz, as follows:

Criminal Case No. L-8398

That on or about 9:00 o'clock in the evening of November 6, 2007 in Brgy. Dulig, Labrador, Pangasinan and within the jurisdiction of this Honorable Court, the above-named accused, thru force and intimidation, did, then and there willfully, unlawfully and feloniously entice to have sexual intercourse with one **AAA**, a minor 17 years old (DOB-March 25, 1990) against her will and consent, to her damage and prejudice.

Contrary to RA 7659 as amended by RA 8353.

Criminal Case No. L-8399

That on or about 1:30 o'clock in the afternoon of November 6, 2007 in Brgy. Dulig, Labrador, Pangasinan and within the jurisdiction of this Honorable Court, the above-named accused, thru force and intimidation, did, then and there willfully, unlawfully and feloniously entice to have sexual intercourse with one **AAA**, a minor 17 years old (DOB-March 25, 1990) against her will and consent, to her damage and prejudice.

Contrary to RA 7659 as amended by RA 8353.

On April 17, 2008, Cruz was arraigned and pleaded "not guilty" to the charges against him. Preliminary conference was conducted on May 8, 2008 and after pre-trial, trial on the merits ensued.

The prosecution presented the testimonies of AAA and Dr. Rosalina Caoile, the psychiatric consultant at the Region I Medical Center, Dagupan City who examined AAA. The defense, on the other hand, presented the testimonies of Cruz and his relatives, namely: (1) his cousin Raffy dela Cruz (Raffy); (2) his sister Ma. Kristine Cruz (Kristine); and (3) his aunt Lolita Corrales.

Based on the foregoing, it was established during the trial that AAA is a 17-year old college student in St. Columban's College in Lingayen, Pangasinan. She met Cruz sometime in March 2007 via text messaging through her schoolmate and his cousin Raffy, who gave her mobile number to him. By June 2007, they became sweethearts despite the fact that they still have not personally met. According to AAA, she agreed to become his girlfriend after he sent her a text message that his days are already numbered because he has leukemia. They finally met on October 22, 2007 when Cruz and Raffy visited AAA's place.^[6]

It was the version of the incidents that occurred after the two had a relationship that the prosecution and the defense differed. According to the prosecution, Cruz forced himself upon AAA on the three (3) separate incidents complained of, while the defense set up the "sweetheart defense".

The first incident happened on October 23, 2007 when AAA, accompanied by Raffy, visited Cruz in his house in *Barangay* Dulig, Labrador, Pangasinan. After AAA ate the snacks that Cruz prepared for her, AAA suddenly felt dizzy and sleepy. Since Raffy and Cruz's family were no longer around, the latter took advantage of her state and forcibly took her to his parent's room where he forced her to lie down and got her naked. He then mounted her and had sexual intercourse with her despite her resistance. Thereafter, Cruz went out of the room. She followed suit and saw a male cousin of Cruz in the living room. Raffy then arrived and she asked him to take her home. On the bus, AAA narrated her experience to Raffy.^[7]

On November 1, 2007, AAA broke up with Cruz through a text message.^[8]

The second and third incidents both occurred on November 6, 2007. AAA received a text message from Cruz demanding that she visit him again in his house, claiming that he was sick. AAA was constrained to agree after he told her that his cousin took a video of their previous sexual encounter and threatened her that he will show the sex video to her family and schoolmates. Cruz also forced Raffy, who accompanied AAA, to leave. He then closed the door and windows and dragged AAA into a room where he undressed her and forced her to have sex with him. He also warned her, "*huwag kang pumalag, kasi kaya kong pumatay ng tao.*"^[9]

After Cruz forcibly had sex with AAA, his friends arrived, causing him to stand up and get dressed. AAA tried to put her clothes back on but he warned her to stay or he will ask his friends to rape her. Scared, AAA remained inside the room while he had a drinking session with his friends. Every now and then, he would go back into the room and have sex with her. Cruz, at one point, lit a cigarette, covered her eyes and threatened her that he will singe her breast if she continues to resist him.^[10]

It was only the following day that AAA managed to get out of the house after she asked Kristine for her clothes. Upon reaching home, she told her aunt of her ordeal.^[11]

Cruz denied AAA's accusations. He professed his love for AAA and claimed that she consented to the sexual acts.^[12]

Decision of the RTC

On January 20, 2010, the RTC rendered its Joint Decision acquitting Cruz of the crime of Violation of Section 5(b) of R.A. No. 7610 committed on October 23, 2007. He, however, was convicted of the two (2) separate counts of Rape committed on November 6, 2007. The dispositive portion of the Joint Decision reads:

WHEREFORE, in view of the foregoing, judgment is hereby rendered:

In Criminal Case No. L-8397,

This Court finds accused *MARVIN CRUZ* **ACQUITTED** of the crime of Violation of Section 5(b) of RA 7610 for failure of the prosecution to prove his guilt beyond reasonable doubt;

In Criminal Case No. L- 8398,

This Court finds accused *MARVIN CRUZ* **GUILTY** beyond reasonable doubt of the crime of Rape, defined and penalized under Article 266-A of the Revised Penal Code as amended by Republic Act No. 8353 or the Anti[-]Rape Law of 1997. Thus, he is sentenced to suffer the penalty of **RECLUSION PERPETUA**. In addition thereto, he is ordered to pay AAA the sum of **FIFTY THOUSAND PESOS** ([P]50,000.00) as civil indemnity and to pay **FIFTY THOUSAND PESOS** ([P]50,000.00) by way of moral damages.

In Criminal Case No. L- 8399,

This Court finds accused *MARVIN CRUZ* **GUILTY** beyond reasonable doubt of the crime of Rape, defined and penalized under Article 266-A of the Revised Penal Code as amended by Republic Act No. 8353 or the Anti[-]Rape Law of 1997. Thus, he is sentenced to suffer the penalty of **RECLUSION PERPETUA**. In addition thereto, he is ordered to pay AAA the sum of **FIFTY THOUSAND PESOS** ([P]50,000.00) as civil indemnity and to pay **FIFTY THOUSAND PESOS** ([P]50,000.00) by way of moral damages[.]

No costs.

SO ORDERED.^[13]

The RTC found that Cruz failed to prove his "sweetheart defense," that is, that he and AAA were lovers and that AAA consented to the sexual relations. According to the RTC, although they were lovers, Cruz failed to prove AAA's consent to the carnal knowledge. Despite the lapses in AAA's testimony, the RTC found that it did not detract from her statement that she did not consent to the sexual acts complained of.^[14]

Decision of the CA

In the CA Decision^[15] dated November 28, 2011, Cruz's appeal was denied, thus:

WHEREFORE, the *Appeal* is hereby **DENIED**. The *Joint Decision* of conviction dated 20 January 2009 of the Regional Trial Court, Second Judicial Region, Lingayen, Pangasinan, Branch 68, in Crim. Case Nos. L-8397, L-8398, and L-8399, is **AFFIRMED**.

SO ORDERED.^[16]

The CA found no cogent reason to depart from the findings of the RTC and gave full faith and credence to the candid and straightforward testimony of AAA on how she was sexually molested several times by Cruz on November 6, 2007.^[17]

The CA also disregarded Cruz's argument that his acquittal of the charge of sexual abuse is tantamount to an acquittal of the two (2) counts of rape. According to the CA, the fact that no sexual abuse was committed on October 23, 2007 does not mean that no rape transpired on November 6, 2007. The CA emphasized the distinction between the incidents that happened on October 23, 2007 and November 6, 2007. The CA, moreover, expounded that being sweethearts is not a license for Cruz to have sexual intercourse with AAA against her will.^[18]

Hence, this appeal.

The Court's Ruling