

THIRD DIVISION

[G.R. No. 200508, September 04, 2013]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
CHRISTOPHER RIVERA Y ROYO, ACCUSED-APPELLANT.**

D E C I S I O N

MENDOZA, J.:

This is an appeal from the June 23, 2011 Decision^[1] of the Court of Appeals (CA), affirming the Judgment^[2] handed down by the Regional Trial Court Branch 17, Manila (RTC), in Criminal Case No. 04-230720, finding the accused, Christopher Rivera y Royo (*Rivera*), guilty beyond reasonable doubt of the crime of rape defined under Article 266-A of the Revised Penal Code (RPC) and penalized under Article 266-B thereof.

The Facts

On October 4, 2004, an Information for Rape under Article 266-A of the Revised Penal Code was filed against Rivera stating:

That on or about September 29, 2004, in the City of Manila, Philippines, the said accused, with lewd designs and by means of force and intimidation, to wit: by then and there forcibly undressing one AAA and inserting his penis in her vagina, did then and there, wilfully, unlawfully and feloniously succeeded in having carnal knowledge of her against her will and without her consent.

CONTRARY TO LAW.^[3]

As succinctly stated in the decision of the CA, AAA narrated the following:

She was 20-years old and worked as a housemaid in a house located at Quezon City. She came to know Rivera on September 28, 2004 because he was also working thereat as a security guard. She told Rivera about a misunderstanding with a co-worker. Rivera then offered to help her look for another job.

At around 10:00 o'clock in the morning of September 29, 2004, AAA went with Rivera believing that the latter will bring her to his parent's house in Quiapo. Rivera brought her to Ilang Ilang Motel^[4] located along Quezon Boulevard. AAA asked Rivera if that was his parent's house, to which he replied "Yes."

Rivera shoved her inside, pushed her towards the bed, forced her to remove her clothes. He went on top of her, shoved her penis into her

underwear and inserted the same into her vagina. She struggled to push Rivera but the latter held her hands tightly. She shouted for help, but nobody heard her.

Rivera stayed on top of AAA for about ten (10) minutes. Thereafter, they went to her cousin's house in Antipolo City. She reported the incident to the police authorities and Rivera was apprehended.

AAA went to Camp Crame for medico-legal examination, which later revealed that her hymen had sustained shallow fresh laceration at 9:00 o'clock position.

AAA did not complain to the nearest police station because she was ashamed and thought of bringing Rivera to her cousin's house.^[5]

For the defense, Rivera and a certain Grace Dueño (*Dueño*), were presented as witnesses.

Rivera claimed that AAA was his girlfriend, whom he promised to help look for another job; that on September 29, 2004, AAA went with him and looked for a lodging house in Quiapo; and that they checked in at the Ilang Ilang Lodge,^[6] with AAA contributing P25.00 for the P125.00 rental rate of their room for three (3) hours. He added that:

Once inside the room, AAA professed her love for him and is ready to face the consequences of their acts. They started kissing each other after a brief conversation. He started undressing AAA and the latter assisted him in removing her pants. AAA took a bath while Rivera went downstairs to buy "banana que" and buko juice. AAA got annoyed when he told her that they would eat as soon as they are downstairs. AAA got dressed and went out of the room ahead of him.

Together, they left the motel, rode a jeepney towards Cubao and disembarked thereat. They took another ride going to Cogeo where they arrived at the place where AAA's relative resides. AAA discussed something with her relative in Visayan dialect and mentioned something about the police. When they entered the house, Rivera watched TV. AAA went out and when she returned, a policeman accosted him due to a complaint. He went with the policeman to the police precinct. He was forced to admit the charge.^[7]

Rivera insisted that AAA voluntarily went with him to the Ilang Ilang lodging house in Quiapo.

The other defense witness, Dueño, the cashier at the lodging house, supported the version of Rivera. She observed that both were happy when they checked in at the lodge and added that it was even AAA who paid for the room.^[8]

Thereafter, the RTC rendered its Judgment^[9] finding Rivera guilty beyond reasonable doubt of the crime of rape, the dispositive portion of which reads:

WHEREFORE, by reason of the foregoing premises, judgment of conviction beyond an iota of doubt for the felony of consummated rape defined in Article 266-A of the Revised Penal Code is hereby rendered against accused Christopher Rivera y Royo in Criminal Case No. 04-230720 for which he must suffer the penalty of *reclusion perpetua*. Apart from the principal penalty of incarceration, which is subject to Article 29 of the Revised Penal Code, the accused must indemnify the complainant with the sum of P50,000.00 as civil liability *ex delicto*, P50,000.00 moral damages, and P30,000.00 as exemplary damages.

IT IS SO ORDERED.^[10]

In finding Rivera guilty, the RTC explained that “even then, it was precisely defendant’s machination that the room was where his parents stayed, or they only will spend time to simply rest therein, which constitutes the very essence of cajolery as prelude to what was in the offing.”^[11] It further wrote that even assuming *ex gratia argumenti* that AAA and the accused were indeed lovers, as claimed by Rivera, “there is judicial aversion to the sweetheart theory and a love affair is not a license to expel lust.”^[12] Specifically, the pertinent portions of its evaluation read:

At first blush, a flashback of the complainant’s story of defloration evoked some somber reflection if there was semblance of accuracy to her statements. Evidence on record from Miss X disclosed that she was a high school graduate 20 years old, and had been in Manila for about a year prior to the incident on September 29, 2004. These acknowledged details might have raised quizzical eyebrows to her public outcry of *deflorare* for she could not have been duped into believing that the area where she went with the accused was far from a place for romance or a quick sexual tryst. Even then, **it was precisely defendant’s machination that the room was where his parents stayed, or they only will spend time to simply rest therein, which constitutes the very essence of cajolery as prelude to what was in the offing.**

Given the recognized isolated state in rape as a crime, if walls could only speak as a mute witness to either a dastardly deed or the product of sheer love within Room 22, judicial quandary could have been diminished. The Court’s predicament becomes even more piercing when there is heavy reliance on the sheer revelation of the complainant’s cry for vindication, when equated with defendant’s protestation of innocence. In resolving such impasse, jurisprudence dictates supremacy of affirmative evidence when compared with the adverse party’s disavowal, especially so when the complainant’s candid version herein was not properly impeached by the defense through acceptable evidence of a sinister plot supposedly concocted by the complainant and her relative. Indeed, it is hornbook precept that the lone testimony of the victim in the crime of rape, if credible, is enough to sustain a conviction for, by the very nature of offense, the only evidence that oftentimes can be relied upon is the victim’s own lips.

Shifting one’s attention now to the demeanor of Miss X prior to, during, and after the incident on September 29, 2004, evidence at hand revealed that she resisted the sexual advances of the

accused. She also shouted but her voice fell on deaf ears and she had no other option but to immediately report the matter to the police after she and the accused arrived in the place of Cogeo. Amendatory of the law on rape is Republic Act No. 8353, which reclassified it as a crime against persons, and it clearly spelled a presumption in Article 266-D of the Revised Penal Code that any physical overt act of opposition, irrespective of degree from the complainant, can be rightly appreciated as evidence in a prosecution for rape in Article 266-A.

Even assuming *ex gratia argumenti* that Miss X and the accused were lovers as put forward by the accused, there is judicial aversion to the sweetheart theory and a love affair is not a license to expel lust. Surely, defendant's response in the vernacular, as quoted in the text of this discourse, to the effect that **he did not expect that the complainant would seek assistance of the police amidst defendant's trust reposed on her, was also a formidable piece of vital information, nay, a negative pregnant, that the accused had accomplished a misdeed.** Notwithstanding some disparities in Miss X's declarations as to the exact floor where the task was accomplished and how the defendant inserted his penis beneath the underwear of Miss X, such divergence in perceptions cannot create significant doubt for the accused as these matters referred to minor details of the sexual breach. Besides, the witness for the defendant can hardly corroborate defendant's revelation, since the witness who testified for the accused referred to an incident on September 22, 2004, unlike the crucial date mentioned by both Miss X and the accused. [Emphases supplied]

Ruling of the Court of Appeals

On appeal, the CA affirmed the RTC judgment of conviction. It stated that Rivera, other than his bare assertions, failed to adduce convincing proof showing the existence of a romantic relationship. It likewise agreed with the RTC in stating that even assuming they were lovers, the relationship did not give him the license to sexually assault AAA.^[13] The CA further pointed out that the gravamen of the offense of rape was sexual congress with a woman by force and without consent.^[14]

As to AAA's behavior after the sexual assault, the CA was of the view that her failure to escape despite an opportunity to do so and to immediately seek help thereafter should not be interpreted as consent; that these circumstances, by themselves, did not necessarily negate rape or taint her credibility; and that there was no code of conduct prescribing the correct reaction of a rape victim to the sexual assault.^[15]

Thus, in affirming the RTC, the CA ruled that Rivera, having the burden of proof, failed to clearly and convincingly prove that AAA consented to the sexual act.

Hence, this appeal.

Ruling of the Court

Inasmuch as the crime of rape is essentially committed in relative isolation or even secrecy, it is usually the victim alone who can testify with regard to the fact of the

forced sexual intercourse.^[16] Therefore, in a prosecution for rape, the credibility of the victim is almost always the single and most important point to consider. Thus, if the victim's testimony meets the test of credibility, the accused can justifiably be convicted on the basis of this testimony; otherwise, the accused should be acquitted of the crime.^[17]

After a thorough review of the evidentiary record, the Court affirms the conviction.

Paragraph (1), Article 266-A of the Revised Penal Code (RPC), in relation to paragraph (2), Article 266-B thereof, as amended by Republic Act (R.A.) No. 8353, provides that:

Article 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 otherwise unconscious;
 - c. By means of fraudulent machination or grave abuse of authority; and
 - 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.

x x x

Article 266-B. *Penalty.* - Rape under paragraph 1 of the next preceding article shall be punished by reclusion perpetua.

x x x

By invoking the "sweetheart defense," Rivera essentially admitted having carnal knowledge with AAA. The next query is whether or not she consented to the sexual act for the gravamen of the offense of rape, as the CA correctly stated, is sexual congress with a woman by force and without consent.^[18]

In determining whether or not the act was consensual and that no force of any kind and degree was employed, circumstances as to the age, size and strength of both parties must also be looked into because force in rape is relative.^[19] Here, records reveal that as per the Medico-Legal Report^[20] of the Crime Laboratory in Camp Crame, Quezon City, AAA was 18 years old at the time of the alleged rape. She stood four (4) feet and nine (9) inches (4'9") and weighed 93.3 lbs. On the other hand, as per the Booking Sheet and Arrest Report^[21] of the Western Police District, Central Market Sta. Cruz Police Station, Rivera was 24 years old, stood five (5) feet and six (6) inches and weighed 143.3 lbs.

AAA consistently claimed that the bigger Rivera pushed her to the bed, forcefully undressed her and succeeded in ravishing her. In her affidavit,^[22] dated September 30, 2004, she stated:

T – Maaari mo bang ikuwento sa akin ang nangyari?