

## SECOND DIVISION

[ G.R. No. 191362, October 09, 2013 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
MARCIANO CIAL Y LORENA, ACCUSED-APPELLANT.**

### DECISION

**DEL CASTILLO, J.:**

Assailed before this Court is the November 24, 2009 Decision<sup>[1]</sup> of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 03162 which affirmed with modifications the November 26, 2007 Decision<sup>[2]</sup> of the Regional Trial Court (RTC) of Gumaca, Quezon, Branch 62 finding appellant Marciano Cial y Lorena guilty beyond reasonable doubt of the crime of qualified rape.

On February 5, 2004, appellant was charged with the crime of rape. The Information<sup>[3]</sup> reads as follows:

That on or about the month of December, 2002, at Barangay Balubad, Municipality of Atimonan, Province of Quezon, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design, by means of force and intimidation, did then and there wilfully, unlawfully and feloniously have carnal knowledge of "AAA",<sup>[4]</sup> a minor, 13 years old, against her will.

That the commission of the rape was attended by the qualifying circumstances of minority, the victim being less than 18 years old, and relationship, the accused being the common-law husband of complainant's mother.

Contrary to law.

During his arraignment on June 29, 2004, appellant pleaded not guilty.<sup>[5]</sup> After pre-trial, trial on the merits ensued.

#### ***Version of the Prosecution***

The version of the prosecution as summarized in the Appellee's Brief<sup>[6]</sup> is as follows:

"AAA" is one of the six (6) children born to "BBB" and "CCC." After "CCC" died, "BBB" cohabited with appellant Marciano Cial (also known as "Onot"). Appellant and "BBB" have two (2) children.

In 2002, "AAA", then thirteen (13) years old, was a Grade I pupil and was residing with her family and appellant in x x x Quezon Province. "AAA" calls appellant "Papa."

Sometime in December 2002, appellant called "AAA" and told her to go to the bedroom inside their house. Once inside, appellant took off "AAA's" shorts and panty and spread her legs. Appellant pulled his pants down to his thighs and inserted his penis into the little girl's vagina. "AAA" felt intense pain but she did not try to struggle because appellant had a bolo on his waist. After satiating his lust, appellant threatened to kill "AAA" and her family if she reported the incident to anyone. At that time, "AAA's" maternal grandmother was in the house but was unaware that "AAA" was being ravished.

x x x x

Unable to endure the torment, "AAA" confided her ordeal to her mother. But "AAA's" mother did not believe her. "AAA" ran away from home and went to her maternal uncle's house. There, she disclosed her harrowing experience to her mother's siblings. Her uncle appeared to be angered by appellant's wrong doing. But nonetheless, her uncle allowed appellant to bring her home when appellant fetched her.

For fear that she might be raped again, "AAA" ran away and went to the house of her aunt. Her aunt helped her file the complaint against her stepfather.

On March 19, 2003, "AAA" was brought to Doña Marta Memorial District Hospital in Atimonan, Quezon where she was physically examined by Dr. Arnulfo Imperial. Dr. Imperial issued a Medico-Legal Report which essentially states that:

- 1) she was negative to pubic hair; there was a negative physical injury at the pubic area, with normal external genitalia;
- 2) the hymen has an old laceration on the 12 o'clock and 5 o'clock positions, introitus admits one examining finger with ease; and
- 3) spermatozoa determination result was negative for examination of spermatozoa.

According to Dr. Imperial, the negative result for pubic hair as indicated in his report means that the victim has not yet fully developed her secondary characteristics which usually manifests during puberty. Dr. Imperial explained that the easy insertion of one finger into her vagina means that the child was no longer a virgin and that it would be difficult to insert even the tip of the little finger into the private part of a virgin as she would have suffered pain. On the absence of spermatozoa on the victim's genitals, Dr. Imperial explained that a sperm has a life span of three (3) days. The lapse of almost four months from the time of the rape would naturally yield negative results for spermatozoa.

On April 7, 2003, "AAA" and her aunt sought the assistance of the Crisis

Center for Women at Gumaca, Quezon. "AAA" was admitted to the said center and still continued to reside therein at the time of her testimony.

[7]

### **Version of the Defense**

As to be expected, appellant denied the charge. He alleged that he treated "AAA" as his own daughter. He also claimed that "AAA's" aunt fabricated the charge because appellant called her a thief.

### **Ruling of the Regional Trial Court**

The trial court lent credence to the testimony of "AAA" especially considering that the same is corroborated by the medical findings. On the other hand, the RTC found appellant's defense not only "laughable" and "sickening" but also completely untrue.

[8]

The court *a quo* also found the qualifying circumstances of minority and relationship to be present. Thus, on November 26, 2007, the RTC rendered its Decision finding appellant guilty of qualified rape. Considering, however, the proscription on the imposition of the death penalty, the trial court instead sentenced appellant to *reclusion perpetua*.

The dispositive portion of the RTC Decision reads:

WHEREFORE, accused Marciano Cial is found guilty beyond reasonable doubt of the crime of rape and he is sentenced to suffer the penalty of reclusion perpetua, and the complainant "AAA" is awarded moral and exemplary damages in the amount of Fifty Thousand (P50,000.00) Pesos.

Costs against the accused.

SO ORDERED.[9]

### **Ruling of the Court of Appeals**

Appellant appealed to the CA but the appellate court found the appeal to be without merit and dismissed the same. The appellate court thus affirmed the RTC finding appellant guilty of qualified rape but with modifications as to the damages, *viz*:

FOR THESE REASONS, the decision dated November 26, 2007 of the RTC is AFFIRMED with the following MODIFICATIONS:

1. MARCIANO CIAL y LORENA is sentenced to reclusion perpetua conformably with R.A. No. 9346, without eligibility for parole; and
2. He is ordered to indemnify AAA (a) P75,000.00 as civil indemnity; (b) P75,000.00 as moral damages; and (c) P30,000.00 as exemplary damages.

SO ORDERED.[10]

The CA found that the elements of rape have been duly established. "AAA's" testimony proved that appellant had carnal knowledge of her against her will and without her consent. The examining doctor corroborated "AAA's" narration by testifying that the hymenal lacerations could have been possibly caused by an erect penis. The CA disregarded appellant's contention that he could not have raped "AAA" in the presence of "AAA's" grandmother as "lust is no respecter of time and place." [11] Moreover, the appellate court found that the prosecution satisfactorily established "AAA's" minority as well as the qualifying circumstance of relationship, appellant being the common-law husband of "AAA's" mother.

Hence, this appeal raising the following arguments, viz:

## I

THE TRIAL COURT GRAVELY ERRED IN NOT CONSIDERING THE CIRCUMSTANCES CLEARLY POINTING TO THE INNOCENCE OF THE ACCUSED-APPELLANT.

## II

THE TRIAL COURT ERRED IN FINDING ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT OF RAPE. [12]

Appellant argues that if he indeed raped "AAA" in the manner that she narrated, it would be improbable for "AAA's" maternal grandmother not to have noticed the same. Appellant also claims that it was illogical for "AAA's" uncle to allow "AAA" to return home after learning about the alleged rape incident. Appellant also insists that the examining physician was unsure as to what actually caused "AAA's" hymenal lacerations.

## **Our Ruling**

The appeal lacks merit.

In this appeal, appellant assails the factual findings of the trial court and the credibility it lent to the testimony of the victim. As a general rule, however, this Court accords great respect to the factual findings of the RTC, especially when affirmed by the CA. We find no cogent reason to depart from this rule.

Time and again, we have held that when it comes to the issue of credibility of the victim or the prosecution witnesses, the findings of the trial courts carry great weight and respect and, generally, the appellate courts will not overturn the said findings unless the trial court overlooked, misunderstood or misapplied some facts or circumstances of weight and substance which will alter the assailed decision or affect the result of the case. This is so because trial courts are in the best position to ascertain and measure the sincerity and spontaneity of witnesses through their actual observation of the witnesses' manner of testifying, her 'furtive glance, blush of unconscious shame, hesitation, flippant or sneering tone, calmness, sigh, or the scant or full realization of an oath' – all of which are useful aids for an accurate determination of a witness' honesty and sincerity. Trial judges, therefore, can better determine if