

THIRD DIVISION

[G.R. No. 206095, November 25, 2013]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ROBERTO GARCIA Y PADIERNOS, ACCUSED-APPELLANT.**

D E C I S I O N

MENDOZA, J.:

This is an appeal from the August 1, 2012 Decision^[1] of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 04814, which affirmed with modification the March 22, 2010 Decision^[2] of the Regional Trial Court, Branch 68, Binangonan, Rizal (*RTC*), in Criminal Case No. 05-012, finding accused Roberto Garcia y Padiernos (*Garcia*) guilty beyond reasonable doubt of the crime of Qualified Rape committed against AAA.^[3]

Garcia was charged with Qualified Rape in the Information,^[4] dated November 18, 2004, the accusatory portion of which reads:

That in or about and during the month of May, 2004, in the Municipality of Binangonan, Province of Rizal, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, taking advantage of his moral authority and ascendancy and by means of force and intimidation, did then and there willfully, unlawfully and feloniously commit sexual assault upon the person of one AAA, a three (3)(-year) old minor, by then and there inserting his finger into the genital organ of the said AAA, against her will and consent; the crime having been attended by the qualifying circumstance of minority, the victim AAA, three (3) years of age at the time of the commission of the crime; thereby raising the crime of QUALIFIED RAPE which is aggravated by the circumstances of treachery, evident premeditation, and abuse of superior strength, to the damage and prejudice of the victim.

CONTRARY TO LAW.

When arraigned, Garcia entered a plea of "Not Guilty" to the offense charged. During the pre-trial, the parties stipulated as to: 1] the identity of the accused being one Roberto Garcia y Padiernos; and 2] the jurisdiction of the lower court to try the case.^[5] Thereafter, trial on the merits ensued. As synthesized by the CA, the facts of the case are as follows:

AAA xxx testified, viz: she was 3 years old when appellant inserted his index finger into her vagina sometime in 2004; it hurt and she bled;

appellant's finger went inside and it was painful; the two of them were the only people outside; she was wearing panties and a pair of shorts, both of which he took off; he lived in the house beside hers and the incident happened outside her house; he and his wife often called and gave her bread; after the incident, she just stood where she was and later went home; it was only after appellant and his wife left their house that she told her mother about the incident; when she urinated, blood oozed out of her vagina which prompted her mother to bring her to the doctor; and the incident happened only once.

Dr. Joseph Palmero, Medico-Legal Officer of Camp Crame Crime Laboratory Office, testified that he examined AAA on October 7, 2004. He summarized his findings in his Medico Legal Report No. M-4356-04, viz:

FINDINGS:

GENERAL AND EXTRAGENITAL:

PHYSICAL BUILT:	light
MENTAL STATUS:	coherent
BREAST:	undeveloped/light brown
ABDOMEN:	soft and flat
PHYSICAL INJURIES:	NONE

GENITAL:

PUBIC HAIR:	ABSENT
LABIA MAJORA:	coaptated
LABIA MENORA:	light brown/non-hypertrophied
HYMEN:	deep healed laceration at 9 o'clock position
POSTERIOIR FOURCHETTE:	sharp
EXTERNAL VAGINAL ORIFICE:	n/a
VAGINAL CANAL:	n/a
CERVIX:	n/a

PERIURETHRAL AND VAGINAL SMEARS: negative

CONCLUSION: **Definite evidence of abuse.** ^[6] [Emphasis supplied]

The prosecution also adduced the following documentary evidence: 1] Sworn Statement of AAA; 2] Initial Medico Legal Report executed by Dr. Joseph Palmero (*Dr. Palmero*); 3] Medico Legal Report No. M-4356-04; and 4] AAA's Sexual Crime Protocol.

When it was the turn of the defense to present evidence, Garcia failed to appear despite the directive of the trial court. Thus, by Order, dated March 9, 2010, the RTC granted the motion of the prosecution to forfeit his cash bond and submit the case for decision. ^[7]

Ruling of the RTC

On March 22, 2010, the RTC rendered its judgment convicting Garcia of simple rape. It held that the accused committed object rape when he inserted his finger into the vagina of AAA by force and intimidation. The dispositive portion of the said decision reads:

WHEREFORE, judgment is rendered finding the accused guilty of Simple Rape under par. (2) Article 266-A of the Revised Penal Code, and he is hereby sentenced to *Reclusion Perpetua*.

SO ORDERED. ^[8]

Garcia appealed the RTC judgment of conviction before the CA.

Ruling of the CA

On August 1, 2012, the CA found Garcia guilty of qualified rape based on the testimony of AAA which the appellate court found credible and sufficient to sustain his conviction. According to the CA, the RTC erred in not appreciating the qualifying circumstance that "the victim is a child below seven (7) years old." It was of the view that since the minority of AAA was alleged in the Information and proven during trial, through her testimony and Medico Legal Report No. M-4356-04, the imposition of the death penalty was warranted. In view of the passage, however, of Republic Act (R.A.) No. 9346 on June 24, 2006, proscribing the imposition of the capital punishment, the CA held that Garcia should suffer the penalty of *reclusion perpetua* only. It further ordered him to pay AAA civil indemnity of P75,000.00; moral damages of P75,000.00; and exemplary damages of P30,000.00. The dispositive portion of the CA decision reads:

ACCORDINGLY, the Decision dated July 30, 2010^[9] is AFFIRMED with MODIFICATION, pronouncing appellant ROBERTO GARCIA y PADIERNOS GUILTY of QUALIFIED RAPE and ORDERING him to PAY AAA P75,000.00 as moral damages, P75,000.00, civil indemnity; and P30,000.00, exemplary damages.

SO ORDERED. ^[10]

Garcia appealed the August 1, 2012 decision of the CA to the Court. In its Resolution,^[11] dated June 5, 2013, the Court notified the parties regarding the submission of their respective supplemental briefs. On July 29, 2013, Garcia manifested that he would no longer file a supplemental brief and would just adopt the defenses and arguments in the Appellant's Brief he filed before the CA.^[12] Later, the Office of the Solicitor General manifested that it was submitting the case on the basis of the record on hand.^[13]

The Issues

Professing innocence, Garcia assails the CA decision and presents for the Court's review the following

ASSIGNMENT OF ERRORS:

I

THE TRIAL COURT GRAVELY ERRED IN DISREGARDING THE AFFIDAVIT OF DESISTANCE EXECUTED IN FAVOR OF THE ACCUSED-APPELLANT.

II

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT DESPITE THE PROSECUTION'S FAILURE TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.^[14]

The Court's Ruling

The conviction of Garcia must be affirmed.

Rape by sexual assault, otherwise known as "instrument or object rape or gender free rape,"^[15] is punishable under Article 266-A, paragraph 2 of the Revised Penal Code (*RPC*), as amended by R.A. No. 8353. The said law provides:

Art. 266-A. Rape; *when and how committed*. - Rape is committed –

By any person who, under any of the circumstances mentioned in paragraph 1 hereof, shall commit an act of sexual assault by inserting his penis into another person's mouth or anal orifice, or any instrument or object, into the genital or anal orifice of another person.

In *People v. Soria*^[16], the Court enumerated the elements of this crime, to wit:

- (1) That the offender commits an act of sexual assault;
- (2) That the act of sexual assault is committed by any of the following means:

- (a) By inserting his penis into another person's mouth or anal orifice; or
 - (b) By inserting any instrument or object into the genital or anal orifice of another person;
- (3) That the act of sexual assault is accomplished under any of the following circumstances:
- (a) By using force or intimidation;
 - (b) When the woman is deprived of reason or otherwise unconscious; or
 - (c) By means of fraudulent machination or grave abuse of authority; or
 - (d) When the woman is under 12 years of age or demented.

All these elements are present in the case at bench. Upon review, the Court finds AAA's testimony as credible, clear, categorical and convincing. AAA's ordeal was narrated in a manner the Court deems sufficient to establish the following facts: a) that Garcia took off her clothes and panty; b) that he inserted his index finger into her vagina; c) that she suffered excruciating pain; and d) that blood oozed from her vagina when she urinated after the sexual molestation. Without hesitation, she pointed to Garcia as her molestor.

Jurisprudence has been consistent that the issue of credibility of witnesses is a question best addressed to the province of the trial court because of its unique position to observe that elusive and incommunicable evidence of the witnesses' deportment on the stand while testifying. Absent any substantial reason to justify the reversal of the trial court's assessment and conclusion, the reviewing court is generally bound by the former's findings, particularly when no significant fact or circumstance is shown to have been overlooked or disregarded, which if considered would have affected the outcome of the case.^[17] The rule finds an even more stringent application where said findings are sustained by the CA.^[18]

In the case at bench, the Court finds no cogent reason to merit a departure from the findings of the RTC and its calibration of AAA's credibility. Her account of the ordeal she suffered in the hands of Garcia was straightforward and forthright, without any artificiality or pretension that would tarnish the veracity of her testimony. Despite her answers not being as complete and coherent as would be desired, considering her age, AAA was able to convincingly narrate her harrowing experience. Her natural innocence and naivete belied any attempt to characterize her testimony as a lie. Hence, there is neither cause nor reason to deny credence to what she had recounted on the witness stand.

Moreover, Garcia failed to show any ill motive on the part of AAA which could have impelled her to falsely accuse him of committing such a reprehensible crime. Where there is no evidence to show any dubious reason or improper motive on why a prosecution witness would testify falsely against an accused or falsely implicate him in a heinous crime, the testimony is worthy of full faith and credit.^[19] This failure on the part of Garcia all the more strengthens the credibility of AAA and the validity of her charge. Time and again, this Court has held that no young woman, especially