

FIRST DIVISION

[G.R. No. 200515, December 11, 2013]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. LINO PALDO, ACCUSED-APPELLANT.

DECISION

LEONARDO-DE CASTRO, J.:

For Our resolution is the appeal of accused-appellant Lino Paldo (Paldo) of the Decision^[1] dated June 23, 2011 of the Court of Appeals in CA-G.R. CR.-H.C. No. 04064, which affirmed with modification the Decision^[2] dated May 27, 2009 of the Regional Trial Court (RTC) of Banaue, Ifugao, Branch 34, in Criminal Case No. 117, finding accused-appellant Lino Paldo guilty of raping AAA.^[3]

Paldo was charged through an Information^[4] filed before the RTC by the Office of the Provincial Prosecution of Ifugao on January 14, 2002, which reads:

That on the night of March 10, 2001 at [XXX], Banaue, Ifugao, and within the jurisdiction of this Honorable Court, the above-named accused, who is the father of the victim, DID then and there wilfully, unlawfully and feloniously, have carnal knowledge of [his] daughter, [AAA], who is eight years old.

When arraigned on November 8, 2004, Paldo pleaded not guilty.^[5] The Pre-trial Order dated September 16, 2005 stated the following:

VI. STIPULATION OF FACTS

A. ADMITTED FACTS

1. That the accused Lino Paldo is the father of the victim;
2. That the victim is a minor but not aged eight (8);
3. That the accused goes home to their house with the qualification that the wife usually does not go home.

B. FACTS DISPUTED BY THE DEFENSE

1. That the incident complained of happened on the date, time and place alleged in the information;
2. That the victim is a minor aged eight (8) years old at the time the incident complained of happened[.]

C. FACTS DISPUTED BY THE PROSECUTION

1. That the wife is living with another man;
2. That the mother of the allege victim BBB is living together with one Mr. Vicente Lim as husband and wife at Barangay [ZZZ], Ifugao.

VII. EVIDENCES SUBMITTED AND MARKED BY THE PROSECUTION AND DEFENSE

A. FOR THE PROSECUTION

1. DOCUMENTARY EVIDENCE

1.a. The Sworn Statement of AAA as Exhibit "A" and her signature appearing therein as Exhibit "A-1";

1.b. The Supplemental Affidavit of AAA as Exhibit "B" and her signature appearing therein as Exhibit "B-1";

x x x x

1.e. The Certificate of Live Birth of AAA issued by [the] Local Civil Registrar of Banaue, Ifugao as Exhibit "E";

1.f. The Medical Certificate issued as Exhibit "F" and the signature of the attending physician as Exhibit "F-1."^[6]

During trial, the prosecution presented the victim AAA and her mother BBB. The version of events according to their testimonies is as follows:

In the evening of March 10, 2001, AAA, then eight years old, and her father, accused-appellant, were sleeping at their residence in XXX, Banaue, Ifugao. Suddenly, AAA was awakened by accused-appellant who removed AAA's pants and immediately thereafter, inserted his penis into AAA's vagina. After the incident, AAA felt pain in her stomach. Although there were no lights on, AAA knew it was accused-appellant who sexually assaulted her, being very familiar with her own father. Accused-appellant warned AAA not to tell her mother what had happened. AAA's mother, BBB, and sibling were not around that night as they were in ZZZ, Ifugao, to get their family's food supply. When BBB arrived home on March 12, 2001, AAA narrated to BBB what accused-appellant did to her. BBB was so angry and caused the filing of the complaint against her husband.

The testimony of another prosecution witness, Dr. Mae Diaz (Diaz), who conducted the physical examination of AAA, was dispensed with after the parties agreed to stipulate as to the existence and genuineness of Dr. Diaz's medical certificate, as well as on several other matters to be covered by Dr. Diaz's testimony, viz, (1) that AAA had healed hymenal lacerations; (2) that said hymenal lacerations could have been caused by objects other than a hard penis; and (3) that if said hymenal lacerations had been caused by a hard penis, it could have been the penis of a man other than the accused.

Despite finishing its presentation of evidence, the prosecution failed to make a formal offer of its documentary/object evidence.

For its part, the defense presented four witnesses: (1) accused-appellant himself, (2) Celestino Guinanoy (Guinanoy), (3) Maria Pin-ag (Pin-ag), and (4) Emilia Nitokyap (Nitokyap).

Accused-appellant denied AAA's accusations against him. He averred that from February to March 2001, he was working for Pin-ag in Kinakin, Chapeh, Banaue, Ifugao, a two-hour hike from XXX. On the night of the alleged rape, he did not go home to XXX but stayed in Chapeh. He was with his two friends, Guinanoy and Licyag, and the three of them slept in the hut owned by Pin-ag. Accused-appellant further asserted that he could not have raped AAA on March 10, 2001 since his daughter was not staying in XXX, but was living with her grandfather in ZZZ, where she was studying.

Pin-ag and Guinanoy corroborated accused-appellant's testimony. The other defense witness, Nitokyap, testified that on March 10, 2001, she travelled from her residence in Kinakin, Chapeh, to accused-appellant's house at XXX to offer the latter work. Accused-appellant was not around so Nitokyap waited for him. When it was already dark, Nitokyap decided to just sleep at accused-appellant's house and left the following day without seeing either accused-appellant or AAA.

On May 27, 2009, the RTC rendered its Decision finding accused-appellant guilty beyond reasonable doubt of raping AAA and sentencing him thus:

WHEREFORE, accused **LINO PALDO** is hereby found **guilty** beyond reasonable doubt of the offense charged and sentenced to **reclusion perpetua** and to pay **SEVENTY[-]FIVE THOUSAND PESOS (P75,000.00) as civil indemnity, moral damages of SEVENTY[-]FIVE THOUSAND PESOS (P75,000.00) and exemplary damages of TWENTY[-]FIVE THOUSAND PESOS (P25,000.00).**^[7]

Accused-appellant appealed to the Court of Appeals. The appellate court, in its Decision dated June 23, 2011, affirmed the conviction of accused-appellant, and also increased the amount of exemplary damages awarded to AAA, to wit:

WHEREFORE, the *Decision* dated 27 May 2009 of the Regional Trial Court, Second Judicial Region, Branch 34 of Banaue, Ifugao, Branch 34, in Criminal Case No. 117, is hereby **AFFIRMED** with the modification that the exemplary damages is increased to Thirty Thousand Pesos (P30,000.00).^[8]

Hence, this appeal with the same lone assignment of error raised before the Court of Appeals:

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT DESPITE THE PROSECUTION'S FAILURE TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.^[9]

Accused-appellant was charged with qualified rape under Article 266-A(1), in relation to Article 266-B(1), of the Revised Penal Code, as amended by Republic Act No. 8353. Said provisions read:

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 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.

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

x x x x

The death penalty shall also be imposed if the crime of rape is committed with any of the following aggravating/qualifying circumstances:

- 1) When the victim is under eighteen (18) years of age and the offender is a parent, ascendant, stepparent, guardian, relative by consanguinity or affinity within the third civil degree, or the common-law spouse of the parent of the victim.

Much of accused-appellant's arguments focus on the purported inconsistencies in AAA's testimony which cast doubt on her credibility, specifically: (1) There was no electric light inside their house on March 10, 2001, when the alleged rape took place, so AAA could not have seen the face of her rapist and she could have been mistaken in identifying accused-appellant; and (2) According to AAA, she was staying at XXX, where she was allegedly raped on March 10, 2001, but her school records reveal that she was studying in ZZZ for school year 2000-2001. Accused-appellant also claim that the rape case was filed against him at the instigation of his wife BBB since if he would be imprisoned, BBB could freely live with her paramour.

Accused-appellant's appeal is without merit.

The fact that the room was dark because there was no electricity in the house is insignificant. This cannot be considered a hindrance to AAA's identification of accused-appellant as her rapist, especially considering that accused-appellant is her father, with whom she is very familiar, even when it was dark. During rape incidents, the offender and the victim are as close to each other as is physically possible. In truth, a man and a woman cannot be physically closer to each other than during a sexual act.^[10] As AAA testified:

- Q So how did you know that it was the accused who raped you?
A There was no [other person] around us except I and my father.
Q But you did not actually see the accused when he raped you is it not?
A I could identify my father since he is my father.
Q But you have neighbors in said place at Bangaan?

A Yes sir but a little bit farther.^[11]

There is miniscule possibility that AAA was only mistaken in identifying accused-appellant as the man who raped her. It should also be noted that after the rape, accused-appellant talked to AAA to warn her not to tell what had just happened to her mother.

Accused-appellant's claim that AAA was not in XXX at the time the rape took place as she was studying in ZZZ deserves little credit. Two certifications dated February 4, 2007 and February 5, 2007 issued by AAA's teachers reveal that AAA had transferred to XXX Elementary School in January 2001, where she attended the third and fourth grading periods and took the periodical tests for the same school periods. While these two certifications were not formally offered in evidence, they can still be considered by the Court as long as they had been properly identified by a witness' duly recorded testimony and the documents themselves had been incorporated in the records of the case.^[12] The two certifications herein of AAA's teachers were duly identified by AAA when she testified before the RTC and subsequently incorporated as part of the records.^[13] Accused-appellant's counsel even cross-examined AAA regarding these certifications and, in fact, the defense marked the same as its own exhibits, although the defense did not include said certifications in its formal offer of evidence for the obvious reason that said documents were not favorable to its case.

We likewise find baseless accused-appellant's contention that the rape charge was filed against him at his wife BBB's instigation so that BBB could carry on her purported illicit relation with a paramour. We are not convinced that there existed such resentment and ill will on the part of AAA and her mother against accused-appellant prior to the rape. Granting that there was already bad blood between accused-appellant and BBB, it is unfathomable for BBB, as AAA's mother, to concoct a story too damaging to the welfare and well-being of her own daughter. Certainly, it is inconceivable that a mother would draw her young daughter into a rape scam with all its attendant scandal and humiliation just because of a supposed feud with the father. No mother in her right mind would use her offspring as an engine of malice. She would not subject her child to the humiliation, disgrace, and even the stigma attendant to the prosecution for rape unless she is motivated by the desire to bring to justice the person responsible for her child's defilement.^[14] There appears to be no other reason for AAA and her mother to have boldly initiated the present case but to seek justice for the bestial act committed by AAA's own father, accused-appellant.

Moreover, well-established is the rule that testimonies of rape victims, especially child victims, are given full weight and credit.^[15] In this case, the victim AAA was barely eight years old when raped by accused-appellant. In a litany of cases, we have ruled that when a woman, more so if she is a minor, says she has been raped, she says, in effect, all that is necessary to prove that rape was committed. Youth and immaturity are generally badges of truth. Courts usually give greater weight to the testimony of a girl who is a victim of sexual assault, especially a minor, particularly in cases of incestuous rape, because no woman would be willing to undergo a public trial and put up with the shame, humiliation and dishonor of exposing her own degradation were it not to condemn an injustice and to have the offender apprehended and punished.^[16]