

## THIRD DIVISION

[ G.R. No. 187229, February 22, 2012 ]

**ARNEL SISON Y ESCUADRO, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.**

### D E C I S I O N

**PERALTA, J.:**

Before us is a petition for review on *certiorari* seeking the reversal of the Court of Appeals (CA) Decision<sup>[1]</sup> dated March 17, 2009, which affirmed with modification the Joint Decision<sup>[2]</sup> dated December 14, 2007 of the Regional Trial Court (RTC), Quezon City, Branch 81, finding petitioner Arnel Sison guilty of the crimes of rape and violation of Presidential Decree (P.D.) No. 1866, as amended by Republic Act (R.A.) No. 8294.

On April 21, 2003, two (2) separate Informations were filed with the RTC against petitioner for Kidnapping with Rape and violation of P.D. 1866, as amended by R.A. 8294 (Illegal Possession of Firearms and Ammunitions). The accusatory portions of the two (2) Informations respectively state:

Criminal Case No. Q-03-116710

That on or about the 16th day of April 2003, in Quezon City, Philippines, the above-named accused, by means of force, violence and intimidation, did then and there willfully, unlawfully and feloniously, armed with firearm, kidnap and rape one [AAA] in the following manner, to wit: said [AAA] boarded the Mitsubishi Adventure with plate no. CSV-606, driven by the accused who was then plying his route at Bocaue Toll Gate going to Cubao, Quezon City, and upon reaching EDSA corner New York Street, Cubao, this City, accused suddenly poked his gun at her, kidnap and detain her and forcibly brought her at the Town and Country, Sta. Mesa, Manila, where accused had carnal knowledge of her by force and intimidation against her will and without her consent.<sup>[3]</sup>

Criminal Case No. Q-03-116711

That on or about the 17th day of April 2003, in Quezon City, Philippines, the said accused, without any authority of law, did then and there willfully, unlawfully and knowingly have in his possession and under his custody and control one (1) Peter Stahl .45 caliber pistol with Serial Number A414 with five (5) ammunitions, without first having secured the necessary license/permit issued by the proper authorities.<sup>[4]</sup>

Petitioner pleaded not guilty<sup>[5]</sup> to both charges.

Trial thereafter ensued. During the trial, two different versions were presented.

The evidence for the prosecution, as aptly summarized by the RTC and adopted by the CA, are as follows:

Private complainant [AAA] was, at the time of subject incident, a resident of x x x and was working on a 10:00 p.m.–7:00 a.m. shift as a Product Support Representative with x x x. Since her residence is quite far from her place of work and considering her working hours, her aunt would usually bring her to the Bocaue toll gate and from there, she would ride either a Tamaraw FX or bus going to Cubao bound to her office.

At around 8:00 p.m. of April 16, 2003, [AAA] boarded accused's passenger van, a black Mitsubishi Adventure with plate number CSV-606, at the Bocaue toll gate. She sat at the front passenger seat as it was the only vacant seat at that time since there were already nine passengers on board. When they reached Quezon City, the passengers alighted one by one, the last of whom alighted in New York Street, Cubao, Quezon City. [AAA] was supposed to alight in Aurora Blvd. When they were already in front of Nepa Q-Mart and [AAA] was the only passenger left in the van, accused told her that he would change first the P100.00 bill that she paid. Her fare was only P30.00, so she still had a change of P70.00. Accused made a few turns until they reached an alley, with nobody passing through. [AAA] felt uneasy so she told the accused that she would alight, but then she heard cocking of a gun. Accused suddenly put his right arm over her right shoulder, drew her nearer to him, pointed a gun at her chest with his right hand, while [he] continued driving with his left hand. Accused kept driving for about ten to twenty minutes until such time that they entered a drive-thru. [AAA] saw the logo of the Town and Country Motel. She also noticed the signage of the AMA Computer College so she presumed that they were in Sta. Mesa, Quezon City. A boy approached the van and the accused slightly opened the window beside him. The boy pointed to a garage room to which the accused entered. When they were already inside the garage, the accused pushed [AAA] out of the van. With the gun pointed at her, accused dragged her upstairs and again pushed her inside a room. [AAA] sat on the lone chair inside the room. Accused approached her, pulled her from the chair and pushed her into the bed. [AAA] got up and ran to the door but the accused grabbed her before she could reach it and pushed her again to the bed. [AAA] pleaded to the accused, telling him: "Pakawalan mo na ako. Ayoko na dito. Meron pa akong pamilya. Sana maintindihan mo na hindi ako ganun klaseng babae, meron pa naman iba pang babae dyan." However, the accused did not heed her plea but instead, pinned her to the bed, grabbed her pants destroying the zipper in the process, stripped her of her panty and pants. Accused then removed his t-shirt, shorts and underwear and rubbed his penis against her vagina, inserted it into her vagina and made pumping motions a couple of times. [AAA] felt pain. She kept on pleading to the accused to stop abusing her, but the accused

told her. "Ang sarap-sarap mo. Pasensya ka na [AAA] nakagamit ako ng drugs." After a while, [AAA] felt that something sticky was released from the accused. He then wore his t-shirt, underwear and shorts. [AAA] could no longer move as she was still in the state of shock and at the time, feeling sorry for herself for what had happened to her.

After the accused had sexual intercourse with [AAA], accused directed her to dress up to which she complied. Before they went out of the room, accused told her not to make any scene, otherwise, he would not hesitate to shoot her. When he dropped her off somewhere in Cubao, Quezon City, he again threatened her not to report the incident to the police as he would kill her. He even got her cell phone number. When the accused was gone, [AAA] boarded a taxi and proceeded to the office where she narrated to her supervisor and officemates what happened to her. Her officemates accompanied her to Police Station 7, Camp Panopio, P. Tuazon corner EDSA, Quezon City where she reported the incident and executed a sworn statement (Exhibit A).

At around 12:20 a.m. of April 17, 2003, while PO2 Mario Palic was on duty at Police Station 7, victim [AAA] arrived and reported her ordeal in the hands of the accused. Officer Palic, together with fellow police officers, namely, Police Inspector Gatos, PO3 Nacional, PO1 Sapulaan and PO2 Lanaso immediately conducted follow-up operations which led to the arrest of the accused in front of the Baliwag Bus Terminal, Cubao, Quezon City. Recovered from him was a .45 caliber Peter Stahl pistol with serial number A414 and five (5) ammunitions (Exhibits E and E-1 to E-5). The police officers likewise brought the black Mitsubishi Adventure with plate number CSV 606 (Exhibit F) to the police station for proper disposition.

The investigation conducted by PO2 Regundina Sosa disclosed that accused's Permit to Carry Firearm No. 1-B149052 has already expired on January 11, 2003 (Exhibit H).

Medico-Legal Report No. M-1231-03, dated April 24, 2003, submitted by Dr. Pierre Paul Carpio states that "Subject is in non-virgin state physically. There are no external signs of application of any form of trauma." (Exhibit K)<sup>[6]</sup>

Petitioner denied the accusation and claimed that what happened between him and AAA was a consensual sex. The RTC summarized the evidence for the defense as follows:

At around 8:00 p.m. of April 16, 2006 (sic), which was a Holy Tuesday, [AAA] boarded his van in Bocaue, taking the front passenger seat. Aside from her, he has other four (4) passengers, two were seated at the middle passenger seat and the other two (2) were at the back passenger seat. While he was driving, he had a conversation with [AAA], such as she was a graduate of AMA Computer School, that she works in a computer company, that she sends her siblings to school, that her father

is in a rehabilitation center and her parents are separated, that she has many rich suitors, that she has a hard time sending her siblings to school and she needs money at that time. In return, accused told [AAA] that he owns the van and that his wife works abroad. He made "bola" to her and offered to give her P4,000.00 and some signature clothes. [AAA] did not respond, so he just continue[d] driving. When they reached Aurora Blvd., Cubao, Quezon City, the other four (4) passengers alighted. From there, he made a U-turn, proceeded to their terminal and told the dispatcher to include him in his list so he could ply back to Cabanatuan. Considering that [AAA] did not make any attempt to alight from the van, he made a right turn to New York Street, Cubao, Quezon City, right turn again at the back of the terminal and proceeded to Aurora Blvd. He then asked [AAA] "ano?" When [AAA] did not respond again, he drove going to Sta. Mesa, Manila and proceeded to Gardenia Hotel. They waited for about two (2) minutes inside the premises of the hotel, as there were no vacant rooms at that time. Thereafter, a bellboy carrying a pail, approached them and pointed to a room. However, accused wanted a garage room so he opened the door of his van about a foot wide as his window had been damaged and told the bellboy what he wanted. The bellboy acceded to his request and directed them to a garage room. Accused maneuvered the van inside the garage. They went out of the van and proceeded upstairs where the room was located. When they entered, the bellboy, who was cleaning the room, left. [AAA] entered the comfort room, while accused watched T.V. After coming out of the comfort room, [AAA] sat on the bed. Accused started kissing her on the neck and removed her tube blouse and transparent strapless bra and kissed her breasts, while [AAA] held his private part. When he reached out for the zipper of her pants and began unzipping it, [AAA] stood up and willingly removed her pants. Accused also removed his pants. He touched her private part and inserted his fingers on it. [AAA] embraced him, held his penis and she herself inserted it on her vagina. They made pumping motions. The sexual congress lasted for quite sometime because [AAA] even went on top of him, during which time, he held her breast. After [AAA] reached her climax, he went on top of her and afterwards, he ejaculated so he withdrew his penis from her vagina. Thereafter, they dressed up. Accused was about to pay [AAA] P800.00, but he changed his mind and instead, gave her P600.00 only and pocketed the remaining P200.00. [AAA] did not anymore [count] the money. He summoned the bellboy, paid their bill, went out of the room and boarded the van. While they were waiting for the bellboy to open the garage door, he checked his gun which he placed under the driver's seat. He even showed it to [AAA]. When the garage door was opened, they left the hotel premises and proceeded to Cubao. They passed by the SM Department Store but since it was already 11:00 p.m., it was already closed so he was not able to buy her the blouse and wallet that he promised her. He also told her that he had no more money. That irritated [AAA] who suddenly grabbed his wallet lying on the [dashboard]. Accused stopped the van, got back the wallet from [AAA] and even pulled her hair ("Sinabunutan ko po siya"). [AAA] got angry and called him "hayop." He then dropped her off somewhere in Cubao, while he went back to their terminal. At about 11:00 p.m., he plied the van to San Carlos, Pangasinan, reaching the place at about 4:00 a.m. the following day, April 17, 2003. From there,

he went back to Cabanatuan terminal, arriving there at 5:30 a.m. After talking to the dispatcher, he went home to Bangad and slept. He woke up about lunchtime, took a bath, and plied again his van, leaving Cabanatuan at 1:00 p.m. and reaching Cubao at 4:00 p.m. It was then that he was arrested. While they were on board the police vehicle, one of the policemen showed him a picture which he recognized as [AAA]. The policemen brought him to Police Station 7 where he was told that a grave offense was filed against him. They demanded the amount of P150,000.00 for his release. The next day, his mother and sister arrived and talked to the policemen. His mother and sister agreed to pay the amount of P150,000.00 but when they came back, they were already accompanied by his lawyer, Atty. Hernani Barrios, who advised them not to yield to the demand which they did. He was presented to the inquest fiscal and transferred to the Quezon City Jail where he is detained up to now.

Accused further testified that he, being a civilian agent of the MICO, Philippine Army, Fort Magsaysay, Palayan City, was carrying a caliber .45 Peter Stahl pistol (Exhibit E) with five (5) ammunitions (Exhibits A1 to A-5). However, the policemen took his Permit to Carry Firearm, Memorandum Receipt (MR) and Mission Order (MO) when they arrested him.

Nova Tabbu, accused's sister, merely corroborated his testimony that the policemen demanded the amount of P150,000.00 for his release.

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Erwin Ocampo, a technical sergeant of the 46th Military Intelligence Company, Fort Magsaysay, Palayan City, testified that the accused is a presidential agent for which reason he has on file an Agent Recruitment Report, Agent Agreement, Application for I.D. card, Oath of Loyalty, Pseudonym Agreement, Profile Penetration Agent and Human Resource Report.

Geronimo Ebrogar testified that he noticed the accused leaving the bus terminal at around 8:00 p.m. on April 16, 2003 with a female companion; that when the accused returned at 10:30 p.m. of the same night, he was alone.<sup>[7]</sup>

On December 14, 2007, the RTC issued a Joint Decision, the dispositive portion of which reads:

WHEREFORE, judgment is hereby rendered as follows:

In Criminal Case No. Q-03-116710, the Court finds accused ARNEL SISON y ESCUADRO guilty beyond reasonable doubt of the crime of Kidnapping with Rape and is hereby sentenced to suffer the penalty of RECLUSION PERPETUA with all the accessory penalties provided by law, and to pay private complainant (AAA) the amounts of P75,000.00 as civil