

FIRST DIVISION

[G.R. No. 183100, November 28, 2012]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ROGELIO ABRENCILLO, ACCUSED-APPELLANT.**

D E C I S I O N

BERSAMIN, J.:

This appeal seeks to undo the conviction of the accused for the rape he had committed against AAA,^[1] the 15-year-old daughter of BBB, his common-law wife. The Regional Trial Court, Branch 61, in Gumaca, Quezon (RTC) sentenced him to death on March 4, 2002 on the ground that the crime was qualified by his being the step-father of the victim and her minority under 18 years. By its January 29, 2008 decision rendered in CA-G.R.CR-HC No. 01123,^[2] however, the Court of Appeals (CA) affirmed the conviction but found the crime to be simple rape, reducing the penalty to *reclusion perpetua*.

The records show that the accused and BBB started their cohabitation when AAA and CCC, who were twin sisters, were only about three years of age; that the common-law partners lived with BBB's daughters in the same house for the next 12 years; that a father-daughter relationship developed between the accused and BBB's daughters, with AAA and CCC even considering him as their own father and addressing him as *itay* (father); that AAA frequently accompanied him when he gathered wood and made charcoal in a hut in the nearby forest; that on March 1, 1999, BBB left the house early to sell fish; that AAA was left alone in the house and had lunch by herself because he went out to chat with neighbors; that after her lunch, AAA took a nap in the house, but his return to the house awakened her; that taking advantage of AAA being alone in the house, he took off his pants and laid down beside her; that he embraced her, but she brushed away his arms; that he then got up and started taking her shorts off; that she resisted and held on to her shorts; that in frustration, he went to take his *bolo* and poked its sharp tip unto her throat while threatening to kill her; that she became petrified with fear and could not do anything more after that; that he then undress her, went on top of her, and inserted his penis into her vagina; that the penile insertion caused her pain; that he then made push and pull motions until he spent himself inside her; that she could only beg for him to stop but he paid no heed to her pleas; that she cried later on; and that he left her alone afterwards.

The records further show that once the accused left her alone, she ran to the house of her *Lolo Armin* and reported what the accused had just done to her; that *Lolo Armin* accompanied her to the police station to report the rape; that she narrated in her complaint affidavit that the accused had raped her even before that time, when she was still younger; and that she underwent physical examination by the municipal health officer, Dra. Constanca Mecija, about two hours after the commission of the rape.

Dra. Mecija rendered the following findings in the medico-legal report relevant to AAA's physical examination, viz:

x x x x

Genital Examination:

Pubic hair fully grown, moderate labia majora and minora coaptated, fourchette lax, Vestibular mucosa pinkish. Hymen, tall, thin with old healed complete laceration at 3:00 o'clock and 9:00 o'clock position; corresponding to the face of a watch. Edges rounded, Hymenal orifice – admits a tube of 2.5 cm. in diameter with moderate resistance, vaginal walls tight. Rugosities prominent.

CONCLUSIONS:

1. No evident sign of extragenital physical injuries noted in the body of the subject at the time of examination.
2. Old healed hymenal laceration, present.^[3]

x x x x

The Provincial Prosecutor of Quezon filed in the RTC the information dated March 26, 1999 charging the accused with qualified rape allegedly committed as follows:

That on or about the 1st day of March 1999, at Barangay No. 8 Poblacion, in the Municipality of Gen. Luna, Province of Quezon, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, armed with a bolo, with lewd design, by means of force, threats and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of one AAA, his step-daughter, and a minor, 15 years of age, against her will.

CONTRARY TO LAW.^[4]

The accused pleaded *not guilty* to the information on September 6, 2000.

During the trial, the accused denied having sexual intercourse with AAA, although he admitted being in the house at the alleged time of the rape. He insisted that nobody was in the house when he returned that afternoon from his chore of gathering wood in the nearby forest; that upon learning from a neighbor that AAA had left the house with her *kabarkada*, he himself did the cooking and waited for her to return home; and that he scolded her, causing her to run away from home.

After trial, the RTC rendered judgment, convicting the accused for qualified rape and prescribing the death penalty. It considered AAA's testimony as credible and reliable

because the medico-legal findings corroborated her accusation. It found that the rape was qualified by relationship, the accused being her stepfather, and by her minority, she being 15 years of age at the time of the commission of the crime. It ruled as follows:

WHEREFORE, based on the foregoing, the Court finds the accused **ROGELIO ABRENCILLO** guilty beyond reasonable doubt for rape under Article 266-A and 266-B of the Revised Penal Code as amended by RA 8353 and sentencing him the penalty of **DEATH**. He is further ordered to pay the amount of P75,000.00 to AAA as indemnity and moral damages in the amount of P50,000.00.

SO ORDERED.^[5]

On intermediate review, the accused claimed that the medico-legal evidence did not prove recent sexual intercourse in view of the finding of old healed laceration that indicated the non-virgin state of AAA.

Nonetheless, the CA, upholding the conviction but downgrading the offense to simple rape because the accused was not AAA's stepfather due to him and BBB not having been legally married, disposed thus:

IN VIEW OF THE FOREGOING, the decision appealed from is **AFFIRMED** with the modification that the accused shall suffer the penalty of *reclusion perpetua*, in addition to the indemnity and damages awarded therein.

SO ORDERED.^[6]

In his appeal, the accused reiterated his arguments in the CA,^[7] still assailing the credibility of AAA's accusation of a recent coerced sexual encounter with him.

We affirm the conviction.

Firstly, the findings of the RTC and the CA deserve respect mainly because the RTC as the trial court was in the best position to observe the demeanor and conduct of AAA when she incriminated the accused by her recollection of the incident in court. The personal observation of AAA's conduct and demeanor enabled the trial judge to discern whether she was telling the truth or inventing it.^[8] The trial judge's evaluation, which the CA affirmed, now binds the Court, leaving to the accused the burden to bring to the Court's attention facts or circumstances of weight that were overlooked, misapprehended, or misinterpreted by the lower courts but would materially affect the disposition of the case differently if duly considered.^[9] Alas, the accused made no showing that the RTC, in the first instance, and the CA, on review, ignored, misapprehended, or misinterpreted any facts or circumstances supportive of or crucial to his defense.^[10]

Secondly, carnal knowledge of AAA as an element of rape was proved although Dra.