

FIRST DIVISION

[G.R. No. 187732, November 28, 2012]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. FELIX MORANTE, ACCUSED-APPELLANT.

D E C I S I O N

LEONARDO-DE CASTRO, J.:

Before this Court is an appeal of the November 6, 2008 **Decision**^[1] of the Court of Appeals in CA-G.R. CR.-H.C. No. 02815^[2] affirming with modification the April 20, 2007 **Decision**^[3] of the Regional Trial Court (RTC), Branch 13, Malolos, Bulacan in Crim. Case Nos. 2277-M-00 to 2283-M-00, entitled *People of the Philippines v, Felix Morante*, finding appellant Felix Morante guilty beyond reasonable doubt of the crimes of violation of Section 5(b)^[4] of Republic Act No. 7610^[5] and six counts of rape as defined in Article 266-A of the Revised Penal Code.

The facts as found by the RTC follow.

On August 8, 2000, seven informations were filed against appellant for the following crimes:

A) Violation of Section 5, Republic Act No. 7610:

In Criminal Case No. 2283-M-00:

That [o]n or about the month of December, 1999, in x x x and within the jurisdiction of this Honorable Court, the above-named [appellant], taking advantage of the minority of the complainant AAA who was then twelve (12) years of age and of his moral ascendancy and influence over her as common-law husband of her mother, did then and there wil[l]fully, unlawfully and feloniously, by means of force and intimidation and with lewd designs, fondle the breasts of said AAA, kiss her and take other unwarranted liberties of her body which degraded and demeaned her intrinsic worth and dignity as a human being.^[6]

B) Six separate counts of rape as defined under Article 266-B of the Revised Penal Code uniformly stating:

In Criminal Case Nos. 2277-M-00 / 2278-M-00 / 2279-M-00 / 2280-M-00 / 2281-M-00/2282-M-00:

That on or about the 10th day of January, 2000,^[7] in x x x and within the jurisdiction of this Honorable Court, the above-named [appellant] did

then and there wil[l]fully, unlawfully and feloniously, with lewd designs and by means of force, violence and intimidation have carnal knowledge of AAA, a girl of twelve years of age and daughter of his common-law wife, BBB, against her will and consent.^[8]

On arraignment, appellant pleaded not guilty for all crimes charged.^[9] After pre-trial was conducted, the cases were consolidated and trial ensued.

The prosecution presented AAA as its witness. It also presented AAA's birth certificate⁰ and medical certificate^[11] by Dr. Ivan Richard Viray (Dr. Viray).

AAA testified that appellant is her stepfather. AAA and her siblings lived with their mother, BBB, and appellant in a one-storey house/apartment. Sometime in December 1999, at midnight, while she was sleeping and her mother and siblings were not one foot away from her, she was suddenly awakened as somebody heavy settled on top of her. She awoke to find appellant on top of her, kissing her cheeks, and feeling her up. Appellant thereafter removed his clothing and had carnal knowledge of her. She was not able to alert her mother for fear that appellant might kill them. After the deed, appellant got off her and went back to sleep.^[12]

AAA also testified that every night from January 10 to 15, 2000, appellant, despite living with the family in close quarters, repeatedly violated her, all the while threatening to kill her if she made any noise or reported the incident to anyone else.^[13]

On cross-examination, however, AAA testified that on January 10 to 15, 2000 she lived with her aunt in Masuso, Calumpit, Bulacan and while staying there, she slept beside her aunt and woke up early morning the following day.^[14]

On redirect examination, AAA clarified that she and her mother lived in the same house as her aunt and her children, together with appellant. She maintained that appellant had carnal knowledge of her despite living in close quarters and with several people around.^[15]

AAA's testimony was corroborated by the findings of Dr. Viray. He testified that upon his examination of AAA, he found that she sustained healed lacerations at two (2), seven (7), nine (9) and ten (10) o'clock positions and deep lacerations at three (3) and eleven (11) o'clock positions. The examination revealed that AAA was in a non-virgin state physically; that she had no external signs of application of any form of trauma; and that the probable date of laceration could be "more than one week, month, or year" and might be considered permanent. He said that the probable cause of the lacerations could be the insertion of a hard object or erected penis.^[16]

Appellant, in his defense, presented his testimony as well as that of his daughter, Nora, as evidence.

Appellant denied all the charges against him. He stated that AAA was the daughter of his common-law wife. He, however, disclaimed any knowledge of sexual abuse committed in December 1999 and from January 10, 2000 to January 15, 2000. He said that AAA, BBB, and CCC, AAA's aunt, harbored ill feelings against him for

intervening in an alleged fight among the three ladies involving the salary earned by AAA from her babysitting job. They thus orchestrated his downfall. He said that he treated AAA as he would his own daughter. He added that it was impossible for him to have done anything to AAA since she worked as a helper in Bocaue, Bulacan for four months, from January 13, 2000 to April 6, 2000.^[17]

Appellant's natural daughter, Nora Morante, testified that AAA was her father's stepdaughter and she treated AAA as a sister. She stated that on January 10 and 11, 2000, AAA was at her employer's house in Bocaue, Bulacan.

After considering the evidence presented by both parties, the RTC rendered the April 20, 2007 Decision finding appellant guilty of the crimes charged, to wit:

After a careful consideration of the evidences presented herein both by the prosecution as well as the defense, the Court is of the opinion and so holds that the prosecution has successfully established beyond reasonable doubt the commission of the offenses charged therein. The testimony of [AAA] herein is consistent in all material respects and there is no showing that said witness, in testifying against [appellant] herein could have been motivated by any ill or grudge against the [appellant]. Her testimony is supported by the medical findings herein which showed that [AAA] was no longer a virgin weeks after the incident.

The Court therefore finds as established facts that in the months of December 1999 and January 2000, [appellant] and his stepdaughter, [AAA] (aged 12 years old) having been born on December 30, 1987 were living together under one roof with the latter's mother; that one evening in the month of December 1999, while [AAA] was asleep in their house at Bunsuran, Pandi, Bulacan, she was awakened by the heavy weight of the accused who was then fondling her breasts, touching and kissing her, that on the same evening, the accused managed to undress her and insert his penis into her vagina even as they were lying beside the mother of [AAA]; that [AAA] could [neither] complain nor resist as she was afraid that the [appellant] might kill her and her mother; that the incident was repeated on six (6) other occasions, particularly in the evenings of January 10, 11, 12, 13, 14 and 15, all in the year 2000, this time in the residence of [AAA's] auntie in Masuso, Pandi, Bulacan.

The Court is not unaware of the apparent contradiction in the testimony of [AAA] when put on cross where she apparently stated that in the evening of January 10, 2000 to January 15, 2000, she slept with her Tita and the latter's siblings continuously thru the night such that nothing untoward happened to her. On redirect however, she managed to explain and confirm that indeed she was raped by the [appellant] herein in those evenings.

The Court [is] likewise x x x not unmindful of the defense raised by the accused that on some of the material dates given, particularly January 11, 2000 onwards to January 15, 2000, he could not have raped [AAA] because the latter was already actually employed and living as a babysitter in Bocaue, Bulacan. Other than his own self-serving testimony

and that of [his] natural child, no other witness came forward to support the defense raised by the [appellant], x x x.

The defense of denial raised therefore cannot be considered strong enough to debunk the positive identification made by [AAA] against him.

WHEREFORE, premises considered, the Court finds the [appellant] guilty beyond reasonable doubt, as follows:

- (a) In Crim. Case No. 2283-M-00, Violation of Sec. 5 RA 7610, and hereby sentences him to suffer the indeterminate penalty often (10) years of *prision mayor* as minimum to fifteen (15) years of *reclusion temporal* as maximum.
- (b) In Crim. Case Nos. 2277-M-00 to 2282-M-00, on six (6) counts of Rape punished under the Revised Penal Code, and hereby sentences him to suffer the penalty of *reclusion perpetua* on each count.

The accused is likewise directed to indemnify [AAA] in the amount of P50,000.00 for each count of the offenses (total amount of P350,000.00).^[19] (Italicization added.)

Appellant filed his notice of appeal on May 22, 2007.^[20]

The Court of Appeals in its November 6, 2008 Decision found no merit in the appellant's appeal. It noted that while there seemed to be inconsistencies between AAA's testimony in the direct and cross-examinations, she was able to explain these during the redirect examination.^[21] It, thus, affirmed the findings of the trial court but modified the penalty imposed and award of damages, to wit:

WHEREFORE, the appealed decision is AFFIRMED with MODIFICATION, in that, the maximum penalty in Crim. Case No. 2283-M-2000 is increased to seventeen (17) years, four (4) months and one (1) day, the civil indemnity for each count of rape in Crim. Cases Nos. 2277-M-2000 up to 2282-M-2000 is increased to Seventy-Five Thousand Pesos (Php75,000.00), and the moral and exemplary damages in the amounts of Fifty Thousand (Php50,000.00) and Twenty-Five Thousand Pesos (Php25,000.00), respectively, for each count of rape are awarded.^[22]

Appellant filed his notice of appeal on November 19, 2008.^[23]

Appellant's confinement was confirmed on August 28, 2009,^[24] Both the Office of the Solicitor General (OSG) and appellant manifested that they would adopt the pleadings filed in the Court of Appeals in lieu of supplemental briefs.^[25]

Appellant basically argues that his guilt for the crimes charged was not proven beyond reasonable doubt because of alleged inconsistencies in AAA's testimony and