

FIRST DIVISION

[G.R. No. 200792, November 14, 2012]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. NEIL B. COLORADO, ACCUSED-APPELLANT.

DECISION

REYES, J.:

For the Court's review is the Decision^[1] dated August 19, 2011 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 03767, which affirmed with modification the Decision^[2] dated June 19, 2008 in Criminal Case No. B-390 of the Regional Trial Court (RTC), Burgos, Pangasinan, Branch 70 finding herein accused-appellant Neil B. Colorado (Colorado) guilty beyond reasonable doubt of the crime of rape.

The Facts

Accused-appellant Colorado was charged with the crime of rape in an Information that reads:

That sometime in December, 2002 in the evening in Sitio x x x, Brgy. Iliw-Iliw, Burgos, Pangasinan, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, being the brother of [AAA],^[3] inside their house, by means of force, threats and intimidation did then and there willfully, unlawfully and feloniously have carnal knowledge with [AAA], a twelve (12) years (sic) old girl, against her will and consent, to her damage and prejudice.^[4]

Colorado pleaded "not guilty" upon arraignment. During the pre-trial, the parties stipulated on the following: (1) the existence of the Medico Legal Certificate and the Birth Certificate of AAA; (2) that Colorado is a full-blood brother of AAA; and (3) that Colorado and AAA lived under the same roof.^[5] After pre-trial, trial on the merits ensued.

Records indicate that AAA was born on October 10, 1990. She was the second to the youngest in a family of twelve siblings. Colorado was an older brother who lived with her, their parents and two other brothers, BBB and CCC, in Burgos, Pangasinan.

AAA testified that sometime in December 2002, her parents attended a wedding celebration somewhere in Hermosa, Dasol, Pangasinan, leaving behind AAA, Colorado and their two other brothers in the house. When their parents had not yet arrived in the evening, Colorado committed the dastardly act against AAA. She was twelve (12) years old at that time, while Colorado was already twenty-four (24) years old. He approached AAA, held her two hands, even threatened her with a

knife and covered her mouth with a handkerchief. He then removed AAA's shorts and panty, inserted his penis into the young girl's vagina, then made a push and pull movement. AAA tried to resist her brother's sexual aggression, but miserably failed despite her efforts because of her brother's greater strength. Colorado later left AAA, who put back her shorts and underwear, but remained awake because of fear and trauma with what she had gone through.

On that same night, Colorado raped AAA twice more, unmindful of the presence of their two other brothers who were then sleeping inside the room where Colorado ravished AAA. In both instances, Colorado still threatened AAA with a knife, removed her shorts and panty, inserted his penis into his sister's vagina, then performed the push and pull movement. Colorado warned AAA that he would stab her should she report to anyone what he had done. AAA then did not dare reveal these incidents to anybody, until she had the courage to report them to their mother.

Also in her testimony before the trial court, AAA disclosed that she had been raped by Colorado when she was just nine (9) years old. She also revealed having been ravished on different dates by another brother, DDD, and a brother-in-law.

A Medico-Legal Certificate^[6] prepared by Dr. Ma. Teresa Sanchez (Dr. Sanchez), Medical Officer III of the Western Pangasinan District Hospital who examined AAA on January 10, 2003, contained the following findings:

=INTERNAL EXAM FINDINGS:

-Nonparous Introitus-

-Hymenal laceration at 6 o'clock position with bleeding-

-Vagina admits 2 fingers with slight resistance-

-Uterus small-

-(+) bleeding-

x x x x^[7]

Colorado testified for his defense. He denied having raped AAA, arguing that he was not living with AAA in their parents' house in December 2002. Allegedly, he was at that time staying with an older sister in Osmeña, Dasol. Colorado claimed that on the night of the alleged incident, he was fishing with his brother-in-law, and that they returned to Osmeña, Dasol in the morning of the following day.

The Ruling of the RTC

On June 19, 2008, the RTC rendered its decision finding Colorado guilty beyond reasonable doubt of the crime of qualified rape, and sentencing him to suffer the penalty of *reclusion perpetua*. He was also ordered to pay AAA the amount of P50,000.00 as moral damages and P75,000.00 as civil indemnity. The dispositive portion of its decision reads:

WHEREFORE, in view of the foregoing, this Court finds accused NEIL B. COLORADO, GUILTY beyond reasonable doubt of the crime of rape. In view of the enactment of Republic Act [No.] 9346 prohibiting the

imposition of death penalty – this Court sentences the accused to suffer the penalty of RECLUSION PERPETUA.

Further, accused shall indemnify [AAA] the amount of Php 50,000.00 as moral damages and Php 75,000.00 as civil indemnity. (People vs. Ambray, 303 SCRA 709).

SO ORDERED.^[8]

Feeling aggrieved, Colorado appealed from the RTC's decision to the CA, reiterating in his appeal the defenses of denial and *alibi*. He further sought his acquittal by arguing that the hymenal lacerations discovered by AAA's examining doctor, and considered by the trial court in determining his culpability, could have been caused not by him, but by the sexual aggressions committed by their brother DDD or their brother-in-law unto AAA.

The Ruling of the CA

The CA affirmed Colorado's conviction, but modified his civil liability. The decretal portion of its Decision dated August 19, 2011 reads:

WHEREFORE, the appealed Decision of the Regional Trial Court of Burgos, Pangasinan (Branch 70), dated 19 June 2008, is **AFFIRMED** with the **MODIFICATION** that, in addition to the civil indemnity of Seventy-Five Thousand Pesos ([P]75,000.00), appellant is ordered to pay the victim moral damages of Seventy-Five Thousand Pesos ([P]75,000.00) instead of Fifty Thousand Pesos ([P]50,000.00), and to pay exemplary damages of Thirty Thousand Pesos ([P]30,000.00).

SO ORDERED.^[9]

Hence, this appeal. Both Colorado and the Office of the Solicitor General, as counsel for plaintiff-appellee People of the Philippines, dispensed with the filing with the Court of supplemental briefs, and adopted instead their respective briefs with the CA.

This Court's Ruling

The appeal lacks merit.

Colorado was charged with the crime of rape, qualified by the victim's minority and her relationship to her ravisher, as defined and penalized under Article 266-A, in relation to Article 266-B, of the Revised Penal Code (RPC), as follows:

Art. 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 otherwise unconscious;
- c. By means of fraudulent machination or grave abuse of authority; and
- 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.

x x x x

Art. 266-B. Penalties. – x x x.

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;

x x x x

Both the RTC and the CA correctly ruled on the concurrence of the following elements of qualified rape, as defined in the aforequoted provisions of the RPC: (1) that the victim is a female over 12 years but under 18 years of age; (2) that the **offender** is a parent, ascendant, stepparent, guardian or **relative by consanguinity or affinity within the third civil degree**, or the common-law spouse of the parent of the victim; and (3) that the offender has carnal knowledge of the victim either through force, threat or intimidation; or when she is deprived of reason or is otherwise unconscious; or by means of fraudulent machinations or grave abuse of authority.^[10]

The age of the victim at the time of the crime's commission is undisputed. During the pre-trial, the parties agreed on the existence of AAA's Certificate of Live Birth, ^[11] a "certified true/xerox copy" of which forms part of the records and provides that AAA was born on October 10, 1990. AAA was then only 12 years old in December 2002, a significant fact that was sufficiently alleged in the Information. In *People v. Pruna*,^[12] we held that the best evidence to prove the age of the offended party is an original or certified true copy of the certificate of live birth of such party.

As to the second element, there is no dispute that Colorado is a full-blood brother of AAA, as this was also among the parties' stipulated facts during the case's pre-trial.