

THIRD DIVISION

[G.R. No. 184922, February 23, 2011]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. PORFERIO
MASAGCA, JR. Y PADILLA, APPELLANT.**

DECISION

BRION, J.:

On appeal is the Decision^[1] of the Court of Appeals (CA) affirming with modification the Judgment^[2] of the Regional Trial Court (RTC) of Virac, Catanduanes finding Porferio Masagca, Jr. (*appellant*) guilty beyond reasonable doubt of three (3) counts of rape committed against his own daughter, and sentencing him to suffer the penalty of *reclusion perpetua* for each count.

THE FACTS

The appellant (a widower) and four of his children (including the private complainant [AAA]^[3]) lived in *Barangay* Sto. Domingo, Virac, Catanduanes. At around seven o'clock on the evening of September 10, 2000, after his other children had left to watch a TV program, the appellant laid down beside his daughter AAA, removed her blanket, and held her right hand. He, thereafter, removed her short pants and underwear, laid on top of her, and inserted his penis into her vagina for about one minute. Throughout the incident, AAA did not say anything as the appellant threatened to hit her on the mouth if she would make any noise.^[4]

On October 6, 2001, the appellant and his children this time resided at his parents' home in *Barangay* J.M. Alberto (Poniton), Virac, Catanduanes. At around ten o'clock in the evening, AAA was awakened by her father's arrival. He removed her shorts and underwear as he lowered his own shorts and underwear to his knees, and managed to insert at least an inch of his penis into her vagina for one minute. AAA's struggle proved fruitless as he tightly held her right hand. Again, he threatened to hit her on the mouth if she reported the incident to anyone.^[5]

AAA's experience with her father was repeated on October 14, 2001, at around ten o'clock in the evening in the same house. AAA recalled that her father again inserted his penis into her vagina for one minute and moved his buttocks. She struggled, but her father was far stronger. This time, the appellant did not say anything to her. Seven days later, AAA revealed her ordeals to her aunt (the appellant's sister). This disclosure led to charges against the appellant for three (3) counts of rape.^[6]

THE RULING OF THE TRIAL COURT

At the trial, the prosecution presented AAA^[7] and the Virac Rural Health Physician

who testified that AAA had healed hymenal lacerations.^[8] The appellant interposed the defenses of denial and alibi. He claimed that he could not have raped AAA on September 10, 2000 as she was then living in Tabaco City (Albay) and he was living in *Barangay* Sto. Domingo (Catanduanes). He claimed that he could not have raped her on October 6 and 14, 2001 as AAA slept then with his parents in their room. The appellant claimed that AAA made up the rape charges after he spanked her for having gone to the river with a male stranger. He also claimed that this was the first time he hurt any of his children.^[9]

After the trial, the RTC found AAA's testimony to be "steadfast and unequivocal," and convicted appellant for three (3) counts of rape. It sentenced him to suffer the penalty of *reclusion perpetua* for each count and to pay the amounts of P75,000 and P50,000 as civil liability and moral damages, respectively, for each of the three (3) cases.^[10]

THE RULING OF THE APPELLATE COURT

The CA affirmed the RTC Judgment. It ruled that as AAA was a child victimized by her own father, her testimony should be given full weight and credit, more so since it was categorical, straightforward and corroborated by the findings of a medico-legal officer. It held that the lack of contusions on AAA's body did not negate rape; the fact that the appellant is AAA's father who exercised moral ascendancy over her substituted for actual violence. It observed that lust is no respecter of time and place; hence, rape could be committed even in the bedroom of the appellant's parents. Finally, the CA, citing *People v. Cresencia Tabugoca*,^[11] agreed with the RTC that it was unbelievable that AAA would make up rape charges against her own father just because he had spanked her. The CA agreed with the RTC that the appellant's claim (*i.e.*, that he had never hurt any of his children until the spanking incident) was belied by his own son BBB, a defense witness, who testified that appellant was cruel and would hurt his children arbitrarily, especially when he was drunk. The CA affirmed the RTC's Judgment and additionally required the appellant pay the private complainant P25,000 as exemplary damages for each count of rape.^[12]

THE COURT'S RULING

We affirm the appellant's guilt, but modify the awards of moral and exemplary damages.

We find no reason to disturb the findings of the RTC, as affirmed by the CA. As we have repeatedly ruled, the trial court's assessment of the credibility of witnesses must be given great respect in the absence of any attendant grave abuse of discretion; the trial court had the advantage of actually examining both real and testimonial evidence, including the demeanor of the witnesses, and is in the best position to rule on their weight and credibility. The rule finds greater application when the CA sustains the findings of the trial court.^[13]

We find that the prosecution successfully established the elements of rape. AAA positively identified the appellant as her rapist. In rape cases, the accused may be convicted solely on the testimony of the victim, provided it is credible, convincing, and consistent with human nature and the normal course of things.^[14] Our

examination of the records shows no indication that we should view AAA's testimony in a suspicious light. The doctrine in *People v. Efren Maglente y Cervantes*^[15] finds particular application in this case:

When the offended party is a young and immature girl testifying against a parent, courts are inclined to lend credence to her version of what transpired. Youth and immaturity are given full weight and credit. Incestuous rape is not an ordinary crime that can be easily invented because of its heavy psychological toll. It is unlikely that a young woman of tender years would be willing to concoct a story which would subject her to a lifetime of gossip and scandal among neighbors and friends and even condemn her father to death.

The appellant's defenses of **denial** (for the October 6 and 14, 2001 incidents) **and alibi** (for the September 10, 2000 incident) cannot prevail over AAA's testimony that she had been raped and her positive identification of the appellant as her rapist. Denial and alibi are the weakest of all defenses because they are easy to concoct and fabricate.^[16] To be believed, denial must be supported by a strong evidence of innocence; otherwise, it is regarded as purely self-serving. Alibi, on the other hand, is *rejected when the prosecution sufficiently establishes the identity of the accused*.^[17] The facts in this case do not present any exceptional circumstance warranting a deviation from these established rules.

The Proper Penalty

The applicable provisions of the Revised Penal Code, as amended by Republic Act No. 8353 (effective October 22, 1997), covering the crime of Rape are Articles 266-A and 266-B, which provide:

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;

x x x x

Article 266-B. Penalty. - 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, step-parent, guardian, relative by consanguinity