

THIRD DIVISION

[G.R. No. 176631, February 02, 2011]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
AVELINO FELAN, ACCUSED-APPELLANT.**

DECISION

BERSAMIN, J.:

His own daughter commenced the prosecution of Avelino Felan for qualified rape through her complaint dated May 30, 1996.^[1] The information subsequently filed in the Regional Trial Court (RTC) in Ormoc City alleged:

That on or about the 12th day of February 1995, at around 10:00 o'clock in the evening, at Brgy. Tambulilid, Ormoc City, and within the jurisdiction of this Honorable Court, the above-named accused AVELINO FELAN, by means of violence and intimidation, did then and there willfully, unlawfully and feloniously have sexual intercourse with his very own daughter, AAA,^[2] a fourteen (14) years old lass, against her will.^[3]

The Prosecution showed that at about 10:00 p.m. on February 12, 1995, the accused roused his daughter AAA, the complainant, then 14 years old, from sleep inside their house; that he told her not to be afraid; that he removed her panty, spread her legs, and went on top of her; that she resisted but he overpowered her; that he inserted his penis into her vagina and made pumping movements until he satisfied himself; that she cried due to vaginal pain; that she left the house and stayed with her friends, who advised her to report the rape to Mrs. Charito Aris, a social worker of the Department of Social Welfare and Development (DSWD) in Ormoc City; that Mrs. Aris later brought her first to the police station for reporting of the rape, and then to Dr. Gloria Esmero Pastor, City Health Officer of Ormoc City, for medical examination; that Dr. Pastor found that AAA's hymen was torn; and that Dr. Pastor concluded that the hymenal laceration could be caused by sexual intercourse.

The accused denied the accusation, branding it as the fabrication of AAA out of anger at him for not giving her basic needs and for admonishing her to stop using illegal drugs.

After trial, on November 26, 1997, the RTC convicted the accused of qualified rape and imposed the death penalty. He was also ordered to pay AAA P50,000.00 as civil indemnity.^[4]

On July 14, 2006, the Court of Appeals (CA) modified the criminal and civil liabilities of the accused after finding him guilty of simple rape on account of AAA's minority not being established beyond reasonable doubt. The CA lowered the penalty to

reclusion perpetua and sentenced him to pay an amount of P50,000.00 as moral damages and P25,000.00 as exemplary damages in addition to the civil indemnity of P50,000.00.^[5]

In his appeal to this Court, the accused contends that the RTC and the CA erred in relying mainly on AAA's testimony, despite her not being a credible witness and although her testimony was doubtful by reason of her having used illegal drugs and having engaged in prostitution, aside from possessing a poor memory. He insists that he could control his sexual urge.^[6]

The appeal lacks merit and persuasion. We affirm the conviction.

The law applicable is Article 335 of the *Revised Penal Code*, as amended by Section 11 of Republic Act No. 7659,^[7] which provides:

Article 335. *When and how rape is committed.* - Rape is committed by having carnal knowledge of a woman under any of the following circumstances:

1. By using force or intimidation;
2. When the woman is deprived of reason or otherwise unconscious;
and
3. When the woman is under twelve years of age or is demented.

The State competently and sufficiently established these elements beyond reasonable doubt. AAA rendered a complete and credible narration of her ordeal at the hands of the accused, whom she positively identified. In a prosecution for rape, the accused may be convicted solely on the basis of the testimony of the victim that is credible, convincing, and consistent with human nature and the normal course of things, as in this case.^[8] Here, the victim's testimony was even corroborated on material points by the testimonies of Mrs. Aris and Dr. Pastor as well as by the documentary evidences adduced.

It is notable that the RTC and the CA both found and considered AAA as a credible witness whose testimony should be believed. We accord great weight to the trial judge's assessment of the credibility of AAA and of her testimony because the trial judge, having personally observed AAA's conduct and demeanor as a witness, was thereby enabled to discern if she was telling or inventing the truth.^[9] The trial judge's evaluation, when affirmed by the CA, is binding on the Court, and it becomes the burden of the accused to project to us facts or circumstances of weight that were overlooked, misapprehended, or misinterpreted which, when duly considered, would materially affect the disposition of the case differently.^[10] We do not vary from this rule now, however, considering that the accused did not make any showing that the RTC, in the first instance, and the CA, on review, ignored, misapprehended, or misinterpreted facts or circumstances supportive of or crucial to his defense.

The denial of the accused, being worthless, was properly disregarded. It was both self-serving and uncorroborated. It could not, therefore, overcome the positive