

## SECOND DIVISION

[ G.R. No. 190341, March 16, 2011 ]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. ROMY FALLONES Y LABANA, APPELLANT.**

### DECISION

**ABAD, J.:**

This case involves the admissibility of the deceased rape victim's spontaneous utterances during the time she was being sexually abused and immediately afterwards.

#### The Facts and the Case

The public prosecutor charged the accused Romy Fallones y Labana with rape<sup>[1]</sup> in an amended information dated September 14, 2004 before a Regional Trial Court (RTC).<sup>[2]</sup>

The complainant in this case, Alice,<sup>[3]</sup> was a retardate. She died while trial was ongoing, hence, was unable to testify.<sup>[4]</sup> To prove its case, the prosecution presented Allan (Alice's father), Amalia<sup>[5]</sup> (her sister), PO3 Lilibeth S. Aguilar (a police investigator), BSDO Eduardo P. Marcelo and BSDO Arturo M. Reyes (the apprehending officers), Dr. Paul Ed D. Ortiz (a medico-legal officer), and Eden H. Terol (a psychologist). The accused testified in his defense.<sup>[6]</sup>

Amalia testified that at about 9:45 a.m. on June 29, 2004, her mother told her older sister, Alice, to look for their brother Andoy.<sup>[7]</sup> Since Andoy arrived without Alice, her mother asked Amalia to look for her. Amalia looked in places where Andoy often played and this led her near accused Fallones' house. As she approached the house, Amalia heard someone crying out from within, "*Tama na, tama na!*" Recognizing Alice's voice, Amalia repeatedly knocked on the door until Fallones opened it. Amalia saw her sister standing behind him. As Amalia went in to take her sister out, Alice held out a sanitary napkin and, crying, said that Fallones had given her the napkin. Alice's shorts were wet and blood-stained. Frightened and troubled, the two girls went home.<sup>[8]</sup>

On their way home, Alice recounted to her sister that Fallones brought her to his bathroom, pulled down her shorts, and ravished her. She said that Fallones wet her shorts to make it appear that she tripped and had her monthly period.<sup>[9]</sup> Along the way, they met an uncle and told him what happened. On their arrival, their father brought Alice to the *barangay* while Amalia returned to Fallones' house where she saw her uncle, some relatives, and neighbors accosting and beating Fallones. Shortly after, some *barangay* officials arrived and intervened.<sup>[10]</sup>

Accused Fallones testified that, at about the time and date of the alleged rape, he was at home with his wife, cleaning their house. After his wife left and while he was having his lunch, two men arrived, arrested him at gunpoint, and brought him to the *barangay* hall. They accused him of raping Alice but he denied the charge. The *barangay* officials brought him to the police station where he was detained and further interrogated.<sup>[11]</sup> Again, he denied the accusations.

On July 10, 2007 the RTC rendered a Decision, finding the accused guilty beyond reasonable doubt of simple rape. The RTC sentenced him to suffer the penalty of *reclusion perpetua*, and ordered him to pay P50,000.00 as civil indemnity and P50,000.00 as damages. The accused appealed to the Court of Appeals (CA) but the latter court rendered judgment on June 30, 2009, affirming the RTC Decision. Accused Fallones moved for reconsideration but the CA denied his motion, hence, the present appeal to this Court.

### **The Issue Presented**

The core issue in this case is whether or not the CA erred in affirming the RTC's finding that accused Fallones raped Alice, a mental retardate.

### **The Court's Ruling**

Although Alice died before she could testify, the evidence shows that she positively identified Fallones as her abuser before the *barangay* officials and the police. Amalia, her sister, testified of her own personal knowledge that she had been out looking for Alice that midmorning; that she heard the latter's voice from within Fallones' house imploring her attacker to stop what he was doing to her; that upon repeatedly knocking at Fallones' door, he opened it, revealing the presence of her sister, her shorts bloodied.

The prosecution presented the psychologist who gave Alice a series of psychological tests. She confirmed that Alice had been sexually abused and suffered post-traumatic stress disorder. She found Alice to have moderate mental retardation with a mental age of a five-year-old person, although she was 18 at the time of the incident. On cross-examination, the psychologist testified that while Alice may be vulnerable to suggestions, she had no ability to recall or act out things that may have been taught to her. Neither can anyone manipulate her emotions if indeed she was influenced by others.<sup>[12]</sup>

Accused Fallones tried to discredit Amalia's testimony as hearsay, doubtful, and unreliable. But, although what Alice told Amalia may have been hearsay, the rest of the latter's testimony, which established both concomitant (Alice's voice from within Fallones' house, pleading that she was hurting) and subsequent circumstance (Alice coming from behind Fallones as the latter opened the door, her shorts bloodied), are admissible in evidence having been given from personal knowledge.

Further, the Court considers a *res gestae* Amalia's recital of what she heard Alice utter when she came and rescued her. *Res gestae* refers to statements made by the participants or the victims of, or the spectators to, a crime immediately before, during, or after its commission. These statements are a spontaneous reaction or