

## FIRST DIVISION

[ G.R. No. 194259, March 06, 2011 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JIMMY ALVERIO, ACCUSED-APPELLANT.**

### D E C I S I O N

**VELASCO JR., J.:**

#### **The Case**

This is an appeal from the March 25, 2010 Decision<sup>[1]</sup> of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 00020, which affirmed the August 26, 2004 Decision in Criminal Case No. CB-02-195 of the Regional Trial Court (RTC), Branch 37 in Caibiran, Naval, Biliran.<sup>[2]</sup> The RTC convicted accused Jimmy Alverio (Alverio) of rape.

#### **The Facts**

The charge against Alverio stemmed from the following Information:

That on or about the 3<sup>rd</sup> day of June, 2002, at about 2:00 o'clock early dawn, more or less, at [PPP],<sup>[3]</sup> Philippines, and within the jurisdiction of this Honorable Court, while [AAA] was on her way to her grandmother's house from the benefit dance, herein accused, a cousin of herein complainant, with lewd designs, and by means of force and intimidation, get hold of her arm and did then and there drag her to the back of the barangay hall, by holding her hair and forcibly laid her to the ground, willfully, unlawfully and feloniously poked her a short bladed weapon known as 'pisao' forcibly took off her pants and panty and succeeded in having carnal knowledge with her against her will to her damage and prejudice.

Contrary to law.<sup>[4]</sup>

On July 3, 2003, Alverio, with the assistance of his counsel *de officio*, was arraigned, and he pleaded "not guilty" to the charge against him. After the pre-trial, trial on the merits ensued.

During the trial, the prosecution offered the sole testimony of the private complainant. On the other hand, the defense presented accused Alverio, Henry Toledo (Toledo), and Lily Toledo as its witnesses.

#### **The Prosecution's Version of Facts**

In the afternoon of June 2, 2002, AAA, along with her friends Belen Sabanag (Sabanag) and Aileen Sinangote (Sinangote), went to the house of her grandmother to attend a dance event.<sup>[5]</sup> At around 8:30 in the evening, they proceeded to the dance hall because the dance would start at around 9 o'clock.<sup>[6]</sup> During the dance, Sabanag and Sinangote danced with Alverio but AAA did not.<sup>[7]</sup> At 2 o'clock in the morning of June 3, 2002, AAA noticed that her friends were no longer at the dance so she decided to go home to her grandmother's house.<sup>[8]</sup>

As she was nearing the *barangay* hall, Alverio suddenly appeared and took hold of AAA. She tried to resist him but he was too strong and he managed to pull her away. AAA started to cry while she was being dragged towards the back of the *barangay* hall.<sup>[9]</sup> There, Alverio held her hair, undressed her, and started to kiss her.<sup>[10]</sup> AAA kept on resisting and even punched Alverio after he kissed her, at which point, Alverio told her that it was painful and that he might retaliate if she continued.<sup>[11]</sup> This caused AAA to stop resisting and Alverio then proceeded to insert his penis in her vagina repeatedly.<sup>[12]</sup>

After having carnal knowledge with her, Alverio stood up and put on his clothes. He warned AAA that if she told anyone about what happened, he will kill her.<sup>[13]</sup> After threatening her, he left.

During this entire incident, Alverio was armed with a knife which he used to poke AAA's side.

Dazed, AAA could not muster enough strength to go home. She just sat on the road beside the *barangay* hall until 5 o'clock in the morning when her Uncle Intoy passed by. He brought her home to her parents but she did not tell him anything. Upon reaching home, AAA told her parents about what happened.<sup>[14]</sup>

### **Version of the Defense**

Alverio's defense, on the other hand, was confined to his denial of the accusation and an alibi, to wit:

Sometime around 7:30 in the evening of June 2, 2002, Alverio recalled that he was in the *barangay* chapel with his friend, Toledo, waiting for the dance to begin.<sup>[15]</sup> The dance hall was just adjacent to the *barangay* chapel. At 8:30 in the evening, the dance started. He danced with some persons whose names he could no longer recall.<sup>[16]</sup> But he categorically remembered that he did not see AAA in the dance area.<sup>[17]</sup>

At 12:00 midnight, Alverio and Toledo walked home to Toledo's house, where Alverio was staying.<sup>[18]</sup> On their way home, they passed by the *barangay* hall.<sup>[19]</sup> Upon reaching home, they slept and woke up at 5:30 in the morning of June 3, 2002.<sup>[20]</sup>

In his testimony, Alverio admitted that he and AAA are cousins, their mothers being sisters.<sup>[21]</sup>

His testimony was corroborated by Toledo<sup>[22]</sup> and Toledo's mother, Lily Toledo.<sup>[23]</sup>

### **Ruling of the Trial Court**

After trial, the RTC convicted Alverio. The dispositive portion of its August 26, 2004 Decision reads:

WHEREFORE, premises considered, judgment is hereby rendered finding the accused JIMMY ALVERIO guilty beyond reasonable doubt of the crime of rape. With no aggravating or mitigating circumstance, he is sentenced to the lesser penalty of reclusion perpetua; to indemnify [AAA] Fifty Thousand (P50,000.00) Pesos; and to pay the costs.

SO ORDERED.<sup>[24]</sup>

On appeal to the CA, Alverio disputed the trial court's finding of his guilt beyond reasonable doubt of the crime charged. He argued that the presumption of innocence should prevail especially considering that the prosecution only had a single testimony to support the charge of rape.

### **Ruling of the Appellate Court**

On March 25, 2010, the CA affirmed the judgment of the RTC. The dispositive portion of the CA Decision reads:

IN LIGHT OF ALL THE FOREGOING, the Decision of the Regional Trial Court, Branch 37, Caibiran, Naval, Biliran in Criminal Case No. CB-02-195 convicting the accused-appellant is AFFIRMED with MODIFICATION in that he is also hereby adjudged liable to pay the victim the amount of Php50,000.00 as moral damages.

His penalty of reclusion perpetua and the award of civil indemnity of Php50,000.00 stands.

Costs against the accused-appellant.

SO ORDERED.<sup>[25]</sup>

### **The Issue**

Alverio now comes before this Court with the lone assignment of error contending that "[t]he trial court gravely erred in finding the accused-appellant guilty beyond reasonable doubt of rape."<sup>[26]</sup>

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

We sustain Alverio's conviction.

In his *Brief*, Alverio argues that the trial court should have taken the lone testimony of the complainant with caution and that the testimony should have been weighed carefully, taking into consideration the constitutional precept that in all criminal prosecutions, the accused must be presumed innocent unless the contrary is proved.

Alverio raises three (3) grounds in support of his argument. First, he assails the trial court for giving credence to the sole testimony of the victim. He claims that the prosecution should have presented other witnesses to corroborate the testimony of the victim. Second, he contends that the medical certificate presented as evidence was not testified to by the signatory himself and should therefore not be considered as corroborative evidence. Lastly, he claims that the trial court gravely erred in convicting him of the crime of rape for failure of the prosecution to prove his guilt beyond reasonable doubt.

After a careful perusal of the records of this case, however, the Court is satisfied that the prosecution's evidence sufficiently established Alverio's guilt with moral certainty.

In *People v. Malate*,<sup>[27]</sup> We reiterated the principles with which courts are guided in determining the guilt or innocence of the accused in rape cases, viz:

x x x (1) an accusation of rape can be made with facility and while the accusation is difficult to prove, it is even more difficult for the person accused, though innocent, to disprove the charge; (2) considering that, in the nature of things, only two persons are usually involved in the crime of rape, the testimony of the complainant should be scrutinized with great caution; and (3) the evidence of the prosecution must stand or fall on its own merit, and cannot be allowed to draw strength from the weakness of the evidence for the defense.

Moreover, in that same case, this Court held that "in cases involving the prosecution for forcible rape x x x corroboration of the victim's testimony is not a necessary condition to a conviction for rape where the victim's testimony is credible, or clear and convincing or sufficient to prove the elements of the offense beyond a reasonable doubt."<sup>[28]</sup> As such, appellate courts generally do not disturb the findings of the trial court with regard to the assessment of the credibility of witnesses,<sup>[29]</sup> the reason being that the trial court has the "unique opportunity to observe the witnesses first hand and note their demeanor, conduct and attitude under grilling examination."<sup>[30]</sup> More importantly, courts generally give full credence to the testimony of a complainant for rape, especially one who is only a minor.<sup>[31]</sup>

The exceptions to this rule are when the trial court's findings of facts and conclusions are not supported by the evidence on record, or when certain facts of substance and value likely to change the outcome of the case have been overlooked by the lower court, or when the assailed decision is based on a misapprehension of facts.<sup>[32]</sup> However, this Court finds none of these exceptions present in the instant case.

The victim testified in a steadfast and straightforward manner, to wit:

PROS. JOCOBO:

Q Now can you tell now [since] there are no more persons around except you and the accused can tell to the Court, or were you able to reach in the house of your lola?

A When I was walking I was suddenly held by Jimmy Alverio.

Q Where were you already walking did Jimmy Alverio suddenly held you?

A Near Brgy. Hall of Brgy. Maurang.

Q What happened next after you were held by Jimmy Alverio near the brgy. hall of Maurang?

A He tried to pull me but then I resisted, and Jimmy insisted by pulling me until I cried.

Q Then even if you were already crying what next happened?

A He drag me towards the back of the Brgy hall.

Q Did you in fact drag to the brgy. hall?

A Yes sir.

Q While you were at the back of the brgy. hall can you tell this Honorable Court what happened?

A [He] held my hair and he tried to undressed me but I resisted.

Q Since he tried to undressed [sic] you and you were resisted [sic] was he able or was he successful in undressing you?

A Yes sir.

Q Despite of your resistance?

A Yes sir.

Q When you were already undressed what happened, can you tell this to the Honorable Court?

A He tried kissed [sic] me several times and I resisted and I boxed him.

Q After you have boxed him after kissing you what next happened?

A He said that is painful I might retaliate with you.

Q After hearing on that what did Jimmy had done to you?

A I just cried I did not mind him anymore.

Q How about Jimmy what was he doing?

A He continued kissing me.

Q After kissing you what next follow?

ATTY. SABANDAL:

I would like to request Your Honor that the prosecution would discontinue and encouraging very much because its up to the witness to answer Your Honor the question. Since previously it would [seem] that the witness could be able to answer only after so much question...

PROS. JOBOCO:

Your Honor please according to the circular on examining minors we will to give full support and we to understand the minors especially if victims of minor cases.

ATTY. SABANDAL:

It was not established that she is a minor, Your Honor.

COURT:

She is 14 years old.

FROM THE COURT: