

## FIRST DIVISION

[ G.R. No. 182917, June 08, 2011 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
BENJAMIN PADILLA Y UNTALAN, ACCUSED-APPELLANT.**

### D E C I S I O N

**LEONARDO-DE CASTRO, J.:**

The case before Us is an appeal from the Decision <sup>[1]</sup> dated November 15, 2007 of the Court of Appeals in CA-G.R. CR.-H.C. No. 00387. Said decision affirmed with modification the Joint Decision <sup>[2]</sup> dated September 3, 2004 of the Regional Trial Court (RTC) of Urdaneta City, Branch 49, in Criminal Case Nos. 11273-75, which convicted accused-appellant Benjamin Padilla y Untalan of three (3) counts of rape against the private complainant AAA. <sup>[3]</sup>

On March 12, 2001, accused-appellant was charged with three (3) counts of rape under three separate informations, the pertinent portions of which state:

#### **CRIMINAL CASE NO. U-11273**

That on or about **January 13, 2001** at [XXX] and within the jurisdiction of this Honorable Court, the above-named accused, being the father of [AAA], a minor, **11 years old**, by means of force and intimidation, did then and there willfully, unlawfully and feloniously have sexual intercourse with said [AAA], against her will and without her consent, to her damage and prejudice.

CONTRARY to Article 335, Revised Penal Code, as amended by R.A. 8353 and R.A. 7659. <sup>[4]</sup> (Emphases ours.)

#### **CRIMINAL CASE NO. U-11274**

That at about **dawn of January 14, 2001** at [XXX] and within the jurisdiction of this Honorable Court, the above-named accused being the father of [AAA], a minor, **11 years old**, by means of force and intimidation, did then and there willfully, unlawfully and feloniously have sexual intercourse with said [AAA], against her will and without her consent, to her damage and prejudice.

CONTRARY to Article 335, Revised Penal Code, as amended by R.A. 8353 and R.A. 7659. <sup>[5]</sup> (Emphases ours.)

#### **CRIMINAL CASE NO. U-11275**

That sometime in **November 1999** at [XXX] and within the jurisdiction of this Honorable Court, the above-named accused being the father of [AAA], a minor, **10 years old**, by means of force and intimidation, did then and there willfully, unlawfully and feloniously have sexual intercourse with said [AAA], against her will and without her consent to her damage and prejudice.

CONTRARY to Article 335, Revised Penal Code, as amended by R.A. 8353 and R.A. 7659. [6] (Emphases ours.)

On April 16 2001, accused-appellant separately entered a plea of not guilty in each of the three cases. [7] Thereafter, the cases were set for a joint pre-trial conference. In the said conference, the prosecution and the defense stipulated on the following matters, namely:

1. The identity of the accused in [the] three cases;
2. The identity of the private complainant [AAA] in [the] three cases;
3. That the accused is the father of the private complainant; and
4. That the private complainant is a minor having been born on February 28, 1989.[8]

The joint trial of the criminal cases, then, ensued.

The prosecution presented the testimony of AAA in order to prove that accused-appellant committed the three counts of rape as charged in the above informations. AAA testified that the date of her birth was February 28, 1989. In September of the year 1999, her mother, BBB, went to work abroad. Since then, AAA had been living in their house in XXX with the accused-appellant; CCC, her older brother; DDD, her younger brother; and EEE, her younger sister. AAA related that the incidents of rape charged against the accused-appellant occurred in November 1999, on January 13, 2001 and on January 14, 2001. In November 1999, AAA recounted that at around seven o'clock in the morning, she was at the second floor of their house changing her clothes as she was about to go to school. At that time, CCC was already working at the Asingan market as a helper, while DDD and EEE were outside the house. While AAA was changing clothes, the accused-appellant came in. The accused-appellant held her arm with his left hand and his right hand held a bolo. He pushed AAA and the latter fell down on the floor in a lying position. He told her not to shout or he would kill her. He proceeded to remove AAA's short pants and panty. He was able to spread apart the legs of AAA despite her efforts to prevent him. He then went on top of AAA and inserted his penis into her vagina. He then did the push and pull movement. Afterwards, he removed his penis, put on his brief and shorts and went to the market. [9]

As to the alleged second incident of rape on January 13, 2001, AAA related that the same likewise occurred at the upper floor of their house in the evening of the said date. AAA was then changing her clothes before going to bed, while her siblings

CCC, DDD and EEE were already sleeping downstairs. The accused-appellant again came in. He held AAA with his left hand and his right hand held the same bolo used on the first incident of rape. AAA stated that the accused-appellant pushed her again on the floor, removing her shorts and panty. He spread her legs and went on top of her while she cried. He thrust his penis into her vagina then did the push and pull movement. Afterwards, he left AAA. The third incident of rape allegedly took place on January 14, 2001, at dawn as AAA slept at the ground floor of their house. CCC was already in the market, while DDD and EEE were sleeping at a distance of around two meters from AAA. The accused-appellant woke up AAA and whispered to her not to shout or he would kill her. He then removed her shorts and panty and spread her legs. He went on top of her, inserted his penis in her vagina and did the push and pull movement. Thereafter, the accused-appellant left. AAA said that at noontime on January 14, 2001, she and her younger siblings went to the house of her aunt, FFF. There, she reported the incidents of rape to FFF. They then waited for AAA's grandmother, GGG, and the latter accompanied AAA to the police station. [10]

The testimony of Senior Police Officer (SPO) 2 Patricio Badua, Jr. was also submitted in order to prove that he indeed received a report in connection with the above-stated cases for rape. SPO2 Badua testified that on January 14, 2001, GGG reported that AAA was raped by the accused-appellant. SPO2 Badua recorded the report in the police blotter and advised GGG that AAA should undergo medical examination. [11] When GGG and AAA returned, SPO2 Badua took the sworn statement of AAA and he thereafter filed three criminal complaints in court against the accused-appellant. [12]

FFF next took the witness stand for the prosecution to corroborate the testimony of AAA. FFF testified, among other details, that AAA is the daughter of her sister, BBB. On January 14, 2001, at around eleven o'clock in the morning, FFF said that she was watering the plants in their yard when she saw AAA, together with DDD and EEE, proceeding towards her and they were crying. When FFF asked AAA why she was crying, the latter eventually revealed that the accused-appellant raped her. They then waited for GGG to arrive so they could have the accused-appellant picked up by the police. [13]

GGG also gave her testimony for the prosecution. GGG testified that her daughter, BBB, is married to accused-appellant. This fact was evidenced by a marriage certificate [14] that GGG presented in court. The Certificate of Live Birth [15] in the name of AAA was likewise presented in order to prove that AAA is the daughter of the accused-appellant and that her date of birth is February 28, 1989. According to GGG, she was at her store in XXX at around 11:00 a.m. on January 14, 2001. She then went home and saw her grandchildren - AAA, DDD and EEE - crying. [16] AAA reported to her that she (AAA) was raped by the accused-appellant. Afterwards, they went to the police station where AAA gave her statement. They then went to the hospital where AAA underwent a medical examination. [17]

Lastly, the prosecution presented the testimony of Dr. Noemie Taganas, the physician who examined AAA. Dr. Taganas testified that on January 14, 2001, she conducted an external and internal examination of AAA. [18] Dr. Taganas said that there was a swelling of the nipples, the *labia majora*, *labia minora* and the clitoris of

AAA. Moreover, Dr. Taganas stated that the hymen of AAA showed incomplete and old healed lacerations at 12 o'clock, 3 o'clock, 6 o'clock and 9 o'clock positions. The hymen was lacerated only halfway. Dr. Taganas concluded that the physical virginity of AAA was already lost. [19]

The defense portrayed a different version of the events.

CCC testified for the defense in order to prove that he had no knowledge of the allegations of rape of his younger sister, AAA. He stated that, in 2001, the accused-appellant worked as a *kargador* (porter) in the market, usually around 5:00 a.m. to 11:00 a.m. CCC related that his family slept side by side on the lower floor of their house at about 8:00 p.m. or 9:00 p.m. Sometimes, he would sleep in another bed, which is separated from the other bed by a bamboo divider. CCC further testified that he did not remember any unusual incident that happened in the evening on the month of January 2001. Particularly, CCC said that he was asleep in their house and did not notice anything on that evening when AAA was allegedly raped by the accused-appellant. [20]

The accused-appellant also took the witness stand to prove his defense of denial and alibi. He testified that in November 1999, he earned a living by selling fruits at the Asingan market. During the market days of Monday, Wednesday and Friday back then, he would usually go out at 5:00 a.m. and stop selling fruits at 6:00 p.m. He denied the allegation of AAA that he raped her sometime in November 1999 and that he afterwards went to the Asingan market. He also testified that in the morning of January 14, 2001, he went to the Asingan market as he was already working there as a *kargador*. He came back to their house at 9:30 a.m. and found therein his children AAA, DDD and EEE. CCC was working at the market at that time. He asked AAA to cook food while he cleaned the house. As he was cleaning, he allegedly saw that his squash plant has withered. He asked who among his children destroyed the plant, but none of them admitted to the act. When he went to get his whipping stick, his children ran away to the bamboo groves. He then went to find CCC in the market and told him to follow his siblings. Afterwards, while he was still cleaning their house, two police officers came, looking for the house of Benjamin Padilla. When he told them that he was Benjamin Padilla, they handcuffed him and brought him to the police station where he was incarcerated. The accused-appellant again denied raping AAA. [21]

On September 27, 2002, the defense also presented the testimony of Dr. Noemie Taganas, who testified to the fact that the lacerations found on the hymen of AAA on January 14, 2001 could still be detected as of that trial date. The defense, thus, moved for another physical examination of AAA, to which the prosecution did not object. On October 3, 2002, Dr. Taganas again testified, stating that she conducted another physical examination of AAA on September 27, 2002 and the internal findings arrived at were the same as those obtained from the previous examination. [22]

On September 3, 2004, the RTC rendered its Decision, finding accused-appellant guilty beyond reasonable doubt of three (3) counts of rape, ratiocinating thus:

Seeking exculpation from the crime, [accused-appellant] claimed that he could not have possibly raped his daughter in November of 1999 and 14 January 2001 because he was working as a baggage carrier in the market of Asingan, Pangasinan. As such, he would leave so early in the morning and would return home in the evening or at times, close to midday. He also said that it was impossible to rape her on the night of 13 January 2001 because all of them sleep side by side; their sleeping arrangement was not even the same all the time.

[Accused-appellant's] alibi and denial deserves scant consideration. On the contrary, [AAA's] straightforward and unwavering testimony deserves the badge of credence. She could not have spoken in such simple and forthright manner if the accusations were not true. It is improbable for guileless girls such as [AAA] to impute a crime so serious as rape to any man, let alone her father, if it were not true. The Court finds no motive for [AAA] to testify falsely against her father or implicate him in the commission of the same. The charges for rape could not have likewise been filed because [AAA] regarded [accused-appellant] as a cruel father as the defense would want the Court to believe. [AAA] has clearly identified her father as the perpetrator of the sexual molestation she suffered. She could not have done so if she had only been prompted to free herself from a strict and overweening parent meaning to enforce discipline. Moreover, ill motive is never an essential element of a crime. It becomes inconsequential more so when there are affirmative and categorical declarations towards the accused's accountability for the crime.

Amidst the firm bedrock of evidence, [accused-appellant]'s general denial pales in comparison. Like alibi, denial is inherently weak and must fail in the light of the positive declaration of the victim that the accused authored the abuses. [Accused-appellant's] bare assertions denying his culpability cannot overcome [AAA's] categorical testimony narrating her father's libidinous proclivities.

Her testimony is readily corroborated by the medical findings of her non-virgin state and the hymenal lacerations she suffered. Juxtaposed against such telling evidence of the prosecution, the bare denial and alibi of [accused-appellant] cannot prevail. Absent strong evidence to buttress such denial, [AAA's] positive testimony deserves far greater weight.

Furthermore, [accused-appellant] was persevering in his denial, so much so that he even questioned the medical findings of Dr. Taganas. He requested that [AAA] would undergo another medical examination, which request was granted by the Court. After examination, Dr. Taganas testified that her findings were all the same.

Little did [accused-appellant] know that by questioning the findings of the doctor, he just dug a hole for his grave and drove the final nail to his coffin. By questioning the medical findings, to the mind of the Court, [accused-appellant] admitted his crime. He admitted that there was indeed penetration but only that the same was not complete; thus, explaining that the laceration in [AAA's] hymen was only half way. It is