

## SECOND DIVISION

[ G.R. No. 177747, February 16, 2010 ]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
IGNACIO PORAS, ACCUSED-APPELLANT.**

### DECISION

**BRION, J.:**

We resolve in this Decision the appeal from the November 8, 2006 decision of the Court of Appeals (CA) in CA-G.R. CR-HC No. 00905.<sup>[1]</sup> The CA affirmed the January 12, 2004 decision of the Regional Trial Court (RTC), Branch 222, Quezon City,<sup>[2]</sup> finding appellant Ignacio Poras (*appellant*) guilty beyond reasonable doubt of the crime of rape and sentencing him to *reclusion perpetua*.

### THE CASE

The prosecution charged the appellant before the RTC with the crime of rape under an amended Information<sup>[3]</sup> that reads:

That on or about the 27<sup>th</sup> day of November 1994 in Quezon City, Philippines, the said accused did then and there, willfully, unlawfully and feloniously have sexual intercourse with the undersigned complainant [AAA],<sup>[4]</sup> a minor 13 years of age, while the latter was deprived of reason or otherwise unconscious, in the following manner, to wit: having been made to drink milk with sleeping substance, as a result of which the undersigned was reduced into a state of unconsciousness and deprived of her willpower, accused Ignacio Poras y Benedicto had sexual intercourse with the undersigned, against her will and without her consent.

CONTRARY TO LAW. [*underscoring in the original*]

The appellant was arraigned and pleaded not guilty to the amended charge.<sup>[5]</sup> The prosecution presented the following witnesses in the trial on the merits that followed: AAA; Dr. Rosaline Cosidon (*Dr. Cosidon*); and BBB. The appellant solely testified in his own defense.

AAA first took the witness stand for the prosecution on September 20, 1995. The RTC subsequently ordered the re-taking of her testimony because the stenographer who took the transcript of stenographic notes of the proceedings on September 20, 1995 and December 4, 1995 went on absence without leave (AWOL), and the transcript of stenographic notes could no longer be located.

AAA testified that she lives in *Barangay* Pingkian, Pasong Tamo, Quezon City with

the appellant and CCC, her godmother's daughter. She was 13 years old at the time of the incident complained of.<sup>[6]</sup> AAA recalled that on the night of November 27, 1994, the appellant offered her coffee with milk. She refused the proffered drink, but the appellant got angry and insisted that she drink it.<sup>[7]</sup> She did as ordered, and forthwith fell asleep. She saw the appellant beside her when she woke up in the early morning of the next day. The appellant was moving on top of her and touching her private parts. She also noticed that the strap of her bra had been removed, and her panty already lowered to her knees. When she pushed the appellant, the latter raised his brief and went to his room, threatening to kill her if she would disclose the incident to anyone. She did not call for help because she felt weak.<sup>[8]</sup>

AAA further testified that she slept at the sala of the house with CCC, while the appellant slept alone in his room. She recalled that CCC was no longer beside her when she woke up, but was lying outside of the mat where they slept. According to her, it was not the appellant's usual practice to prepare coffee for her.<sup>[9]</sup> She did not reveal the incident to her brother DDD when the latter came home because she was afraid that he (DDD) would side with the appellant. She instead disclosed the incident to her school friend, "*Jennifer*." Jennifer accompanied AAA to her (AAA's) aunt, BBB, who, in turn, reported the matter to the Sangandaan Police Station.<sup>[10]</sup> The police took her testimony and referred her to Camp Crame for medical examination.<sup>[11]</sup>

AAA further narrated that she had known the appellant since she was six (6) years old and resented him because he was a "*manyakis*."<sup>[12]</sup> According to AAA, the appellant often pressed his penis against her buttocks when she was younger.<sup>[13]</sup>

On cross examination, AAA declared that she had been living with the appellant and her siblings ever since her mother died on January 31, 1994. She declared that the appellant first raped her when she was in Grade II.<sup>[14]</sup> She recalled that CCC was sleeping beside her when the appellant asked her to drink coffee in the evening of November 26, 1994. She fell asleep after drinking the coffee. She saw the appellant lying beside her when she woke up.<sup>[15]</sup> She also saw blood on the rear end of her panty.<sup>[16]</sup> She was certain that the appellant had raped her because the latter was putting on his briefs and shorts when she woke up.<sup>[17]</sup>

AAA reiterated that CCC was no longer on the mattress where they slept when she (AAA) woke up. She further stated that their residence - a rented house - measures 4 ½ x 6 meters. The house has a sala that is approximately 3 ½ square meters wide,<sup>[18]</sup> and a room that measures 2 ½ x 1 square meters. This room has no door, but has a wooden bed inside. The sala and the room are separated by a wooden partition.<sup>[19]</sup>

Dr. Cosidon, Medico-Legal Officer of the PNP Crime Laboratory in Quezon City, testified that she conducted a medical examination of AAA on December 4, 1994 at the request of the Deputy Chief of Police of the Sangandaan Police Station.<sup>[20]</sup> The examination yielded the following findings:

x x x x

GENITAL:

There is a moderate growth of pubic hair. Labia majora are full, convex and coaptated with the light brown labia minora presenting in between. On separating the same is disclosed an elastic, fleshy-type hymen with deep-healed lacerations at 3 and 9 o'clock positions. External vaginal orifice offers moderate resistance to the introduction of the examining index finger and the virgin sized vaginal speculum. Vaginal canal is narrow with prominent rugosities. Cervix is normal in size, color and consistency.

CONCLUSION:

Subject is in non-virgin state physically. There are no external signs of application of any form of violence.

REMARKS:

Vaginal and peri-urethral smears are negative for gram-negative diplococcic and for spermatozoa.<sup>[21]</sup>

Dr. Cosidon stated that the lacerations could have been caused by a hard object such as a finger or a fully erect penis.<sup>[22]</sup>

BBB, testified that the appellant was the live-in partner of her sister. BBB recalled that on December 2, 1994, AAA told her that the appellant had raped her.<sup>[23]</sup> She reported the incident to the police on December 4, 1994. After taking the statement of AAA, the police told BBB to bring her to Camp Crame for medical examination.<sup>[24]</sup>

The defense presented a different version of events.

The appellant testified that he knew AAA because the latter's mother, FFF, was his common-law wife. Prior to FFF's death in February 1994, the appellant lived with FFF and her five (5) children in a rented house in a squatter's area in *Barangay* Pingkian. This house has a small room made of plywood, with a wooden bed inside.<sup>[25]</sup>

The appellant further stated that he looked for a job after the death of FFF and stayed at a friend's house on Santiago Street, San Francisco, Del Monte, Quezon City, but he still visited his wife's children in *Barangay* Pingkian.<sup>[26]</sup> The appellant maintained that he was at the La Loma Cockpit Arena on November 27, 1994, and slept at the place of his friend Larry.<sup>[27]</sup>

The appellant recalled that he was in Negros when BBB informed him of his wife's death. He went to Manila to attend the wake which lasted for three (3) days. Thereafter, he looked for a job and stayed at Larry's house in Quezon City to take

care of the latter's fighting cocks.<sup>[28]</sup> FFF's children occasionally visited him there to ask for support. The children got angry when he told them not to ask for money. The appellant transferred residence to Tandang Sora in December 1994 to take care of his brother's fighting cocks. He was arrested by the police in Pingkian on December 4, 1994.<sup>[29]</sup>

On cross examination, the appellant stated that Larry's house was about an hour away from his (appellant's) former house in Pingkian. FFF's children visited him at work in May 1994, but he did not give them any money as they were already of age. According to him, he did not marry FFF because the latter's former marriage was still subsisting.<sup>[30]</sup>

The RTC also ordered the re-taking of the appellant's testimony because the court stenographer who attended the proceedings went AWOL and failed to submit the transcript of stenographic notes of the proceedings. The appellant essentially reiterated his previous court testimonies.

The RTC convicted the appellant of rape in its decision of January 12, 2004 under the following terms:

WHEREFORE, premises considered, finding the accused Ignacio Poras GUILTY beyond reasonable doubt of the crime of rape under Article 266-A of the Revised Penal Code, said accused is hereby sentenced to suffer the penalty of **Reclusion Perpetua** and ordered to pay private complainant AAA a civil indemnity of P50,000.00 and moral damages of P50,000.00.

Considering that the accused is a detention prisoner, let the period of his detention be credited in the service of his sentence.

With costs de oficio.

SO ORDERED.<sup>[31]</sup>

The records of this case were originally transmitted to this Court on appeal. Pursuant to our ruling in *People v. Mateo*,<sup>[32]</sup> we endorsed the case and its records to the CA for appropriate action and disposition.

The CA, in its decision dated November 8, 2006, affirmed the RTC decision with the modification that the appellant be held liable for rape under Article 335, as the rape was committed prior to the enactment of the Anti-Rape Law of 1997. It relied on the evaluation made by the RTC regarding AAA's credibility, as the trial court had the unique opportunity to observe the witnesses' attitude, conduct, and demeanor. According to the appellate court, the victim's testimony proved that the appellant had sex with her while she was unconscious. The CA added that the totality of established circumstances constituted an unbroken chain of events leading to a fair and reasonable conclusion that the appellant had raped the victim. In addition, Dr. Cosidon's findings that the victim suffered deep-healed lacerations on her private parts corroborated AAA's testimony.

The CA further observed that minor inconsistencies in the victim's testimony strengthened her credibility because they eliminated the chance of a rehearsed testimony. The appellate court also noted that the victim's delay in reporting the rape was not an indication of a fabricated charge; victims of harrowing experiences would rather bear their ignominy and pain in private rather than reveal their shame to the world.

Finally, the CA stated that the appellant's uncorroborated *alibi* and denial cannot prevail over the victim's positive testimony. It ruled that the appellant failed to show that it was physically impossible for him to be at the crime scene at the time of its commission.

In his brief,<sup>[33]</sup> the appellant argued that the RTC erred in convicting him of the crime charged despite the prosecution's failure to prove his guilt beyond reasonable doubt. According to the appellant, AAA gave different versions of the incident, but never testified that there was any penetration of her private parts. AAA only concluded that she had been raped when she learned of the result of the medical examination and because she felt weak when she woke up.

### **THE COURT'S RULING**

We find that the prosecution failed to prove the appellant's guilt beyond reasonable doubt of the crime of rape. We convict him instead of the lesser of **acts of lasciviousness**, included in rape, as the evidence on record shows the presence of all the elements of this crime.

#### **Circumstantial Evidence Insufficient To Establish Carnal Knowledge**

The review of a criminal case opens up the case in its entirety. The totality of the evidence presented by both the prosecution and the defense is weighed, thus, avoiding general conclusions based on isolated pieces of evidence.

In a charge of rape, the review begins with the reality that rape is a very serious accusation that is painful to make. At the same time, it is a charge that is not hard to lay against another by one with malice in her mind. Because of the private nature of the crime that justifies the acceptance of the lone testimony of a credible victim to convict, it is not easy for the accused, although innocent, to disprove his guilt. These realities compel us to approach the appeal with great caution, and to scrutinize the statements of the victim on whose sole testimony conviction or acquittal depends.<sup>[34]</sup>

By definition, rape is committed by having carnal knowledge of a woman with the use of force or intimidation, or when she is deprived of reason or otherwise unconscious, or when she is under twelve (12) years of age or is demented. Although full penetration is not required to sustain a conviction of rape, there must at least be proof beyond reasonable doubt of the entrance of the male organ within the *labia* of the pudendum of the female organ.

In this case, no direct evidence exists showing the required penetration; AAA could not have seen the appellant insert his penis into her vagina because she was