

SECOND DIVISION

[G.R. No. 183577, February 01, 2010]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. HILARIO
ESCOTON, APPELLANT.**

D E C I S I O N

DEL CASTILLO, J.:

In rape cases, the credibility of the victim is always the single most important issue.^[1] In passing upon this matter, the highest degree of respect must be accorded to the findings of the trial court.^[2]

The Charge

Impugned in this appeal is the February 5, 2008 Decision^[3] of the Court of Appeals (CA) in CA-G.R. CR HC No. 00520 affirming with modification the Decision^[4] of the Regional Trial Court (RTC) of Carigara, Leyte, Branch 13, in Criminal Case No. 4071, convicting appellant Hilario Escoton of the crime of multiple rape against AAA.^[5] The Information^[6] contained the following accusatory allegations:

That on or about the 12th day of May, 2001, in x x x, Province of Leyte, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with deliberate intent and with lewd designs, taking advantage of the minority, as well as relationship of the accused with the victim, and by use of force and intimidation being armed with a sickle (garab) did then and there willfully, unlawfully and feloniously have carnal knowledge for five (5) times in the same evening of May 12, 2001, with one "AAA", a 10-year-old, a niece of the accused, against her will to her damage and prejudice.

Contrary to law with the qualifying circumstance that the victim is under 18 years and the offender is a relative by consanguinity within the third civil degree of the victim.

The appellant pleaded not guilty to the crime charged during his arraignment. After the termination of the pre-trial conference, trial ensued.

The Version of the Prosecution

The evidence presented by the prosecution established that "AAA" was born on October 29, 1990, as shown by her Certificate of Live Birth^[7] and Baptismal Certificate.^[8] The appellant is the uncle of "AAA", being the brother of her mother.

On May 12, 2001, at around 7 o'clock in the evening, "AAA" and her brother were asleep in the house of their maternal grandmother with whom they were residing. The appellant woke up "AAA" and told her to follow him to his house which was about 500 meters away. "AAA's" brother also woke up and accompanied her. Their grandmother did not give them permission to leave, but they still proceeded towards their destination.

Upon arrival, the appellant undressed himself and removed the lower garments of "AAA". He made her lie down on the bamboo floor then inserted his penis into her vagina despite her pleas to discontinue his hideous act. "AAA" felt pain as the appellant had sex with her. The appellant raped "AAA" for five times during the night while her brother lay silently beside her.

When daylight came, the appellant ordered "AAA" and her brother to fetch drinking water. However, instead of heeding appellant's order, they went home to their grandmother to whom "AAA" tearfully narrated her ordeal. Upon advice of a relative, they reported the incident to the police and "AAA" submitted herself to a physical examination in a hospital. Although the doctors who performed the medical examination on "AAA" the day after she was raped could no longer be located during the trial, the Records Officer affirmed the authenticity of the document containing the results of said examination and the signatures of doctors appearing thereon. The record of the medical examination on "AAA" indicated that her genitalia was normal with incomplete healed lacerations of the hymen at 3, 8, and 9 o'clock positions. The vaginal smear was negative for spermatozoa.^[9]

The Version of the Defense

The appellant presented a totally different version of the incident. He testified that on May 12, 2001, at around 7 o'clock in the evening, he was on his way home after consuming *tuba*. He passed by the house of his mother and noticed her in the balcony having a conversation with his aunt Clarita and her husband. He was then requested to fetch "AAA", who was watching television in the house of another relative. The appellant obeyed and after finding "AAA" told her to go home. However, "AAA" got angry, cursed him and insisted on watching the television. Irrked by "AAA's" behavior, appellant pushed her, which made her fall from the stairs until she landed on the ground. It was only after this incident that "AAA" went home.

When the appellant returned to his mother's house, his mother and his aunt Clarita were enraged and hurled invectives at him. He cursed them in return. His mother warned that he would be sent to prison for repeatedly beating up "AAA". He replied that the meager amount paid to him by his aunt Clarita and her husband whenever they hired him to work in their farm was demeaning to his person. Thereafter, he proceeded to the house of his uncle and slept on the balcony where he awoke at 6 o'clock the next morning.

The appellant asserted that his aunt Clarita initiated this case after he challenged her and her husband to a fight. He also claimed that "AAA" concocted false accusation against him because he used to beat her with a whip and push her head to the ground as punishment for her stubbornness.

The Decision of the Regional Trial Court

On June 28, 2004, the trial court rendered its Decision, the dispositive portion of which reads as follows:

WHEREFORE, premises considered, pursuant to Art. 266-B of the Revised Penal Code as amended, and further amended by R.A. 8353 (The Anti-Rape Law of 1997) and the amendatory provision of R.A. No. 7659 (The Death Penalty Law), without any mitigating circumstance, the Court found accused HILARION ESCOTON, GUILTY, beyond reasonable doubt of the crime of MULTIPLE RAPE charged under the information and sentenced to suffer the maximum penalty of DEATH and ordered to pay civil indemnity to "AAA" in the amount of Seventy Five Thousand (P75,000.00) Pesos; for moral damages in the amount of Seventy Five Thousand (P75,000.00) Pesos; and for exemplary damages in the amount of Twenty Five Thousand (P25,000.00) Pesos; and

Pay the Cost.

SO ORDERED.^[10]

The Verdict of the Court of Appeals

In its Decision

Q. You said that when you reached thereat you were undressed, by the way, what were you wearing that time when undressed?

A. I was wearing then a short and a sando.

Q. Now, what was taken off from you first, was it the sando or shorts?

A. My shorts.

Q. Now, do you have a panty that time?

A. Yes, sir.

Q. Now, after the shorts were taken was it one after the other with your panty or simultaneous?

A. It was taken off simultaneously, the shorts and the panty.

Q. After your shorts and your panty was [sic] taken off from your body, what did the accused do relative to your upper apparel?

x x x x

A. He did not take off my sando.

PROS. MERIN:

Q. After your shorts and panty was [sic] successfully taken off from your body, what next did the accused do upon your

person?

A. He inserted his penis [into] my vagina.

Q. Was the accused wearing something when he inserted his penis [into] your vagina?

A. He was not wearing anything.

Q. When did he [undress] himself after you were undressed or before you were undressed?

x x x x

A. He took off first his apparel before taking off my shorts and panty.

PROS. MERIN:

Q. You mean, he undressed himself after your arrival at the house?

A. Yes, sir.

Q. What was your relative position when your uncle Hilario Escoton inserted his penis [into] your vagina?

A. I was then lying.

Q. Lying where?

A. I was then lying on the center of the room.

Q. Now is there any floor to that?

A. Yes, sir.

Q. And what is it made of?

A. Made of bamboo sheets.

Q. Now, after you [were] made to lie on that bamboo splits and his penis was inserted [into] your vagina, what did you feel?

A. I felt the warmth.

Q. What did [sic] Hilario doing with his penis [into] your vagina?

A. He kept on inserting.

Q. You mean he made a push and pull movement?

x x x x

A. Yes, sir.

PROS. MERIN

Q. Was he successful in inserting his penis [into] your vagina?

A. Yes, sir.

Q. For how long was the accused doing the push and pull

movement of his penis [into] your vagina?
A. I cannot exactly remember because he kept on repeating it.

Q. Now, how [sic] did you feel while the accused was doing the push and pull movement of his penis [into] your vagina?

A. Pain, sir.

Q. Pain coming from where?

A. In my vagina, sir.

Q. Now, was the accused able to reach his ejaculation?

A. The warm.

Q. Warm what?

A. Warm liquid.

Q. And where was that liquid coming out?

A. From his penis.

Q. Now, after he was able to ejaculate, what did the accused do?

A. He lie [sic] for a while.

Q. How about you what did you do after he was able to ejaculate while lying?

A. I wore my panty.

Q. What did you tell your uncle while he was raping you.

A. I said, don't do that kuya.

Q. What do you mean kuya, to whom are you addressing the word kuya?

A. To Hilario.

Q. Is that what you address him, your uncle?

A. Yes, sir.

Q. How many times by the way after he rested for a while and you already put your panty, what next happened tell this Court?

x x x x

A. He repeated again.

PROS. MERIN:

Q. What do you mean he repeated again?

A. He raped me again.

Q. You mean he inserted again his penis [into] your vagina?

A. Yes, sir.