

SECOND DIVISION

[G.R. No. 177219, July 09, 2010]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ROGELIO ALARCON, ACCUSED-APPELLANT.**

DECISION

MENDOZA, J.:

This is an appeal from the November 27, 2006 Decision^[1] of the Court of Appeals in CA-G.R. CR-HC No. 00971 modifying the April 18, 2005 Decision^[2] of the Regional Trial Court, Branch 36, Calamba, Laguna (*RTC*), which initially found accused Rogelio Alarcon guilty of 24 counts of rape and imposed upon him the penalty of *reclusion perpetua* with civil indemnity of P50,000.00 and moral damages of P50,000.00 for each charge of rape.

THE FACTS

Accused Rogelio Alarcon was indicted for 24 counts^[3] of rape defined and penalized under Article 266-A in relation to Article 266-B of the Revised Penal Code,^[4] in separate Informations, all dated November 7, 2001. Except for the case numbers, date and time of the commission, the informations (for Criminal Case Nos. 9089-2001-C to 9113-2001-C) uniformly alleged that accused had sexual intercourse with AAA,^[5] his minor daughter, against her will. Thus:

INFORMATION

(Criminal Case No. 9089-2001-C)

The undersigned Asst. Provincial Prosecutor hereby accused ROGER ALARCON, with the crime of "RAPE," committed as follows:

That at around 10:00 o' clock in the evening of the 12th day of November 2000 at Brgy. Putho-Tuntungin, Municipality of Los Baños, Province of Laguna, and within the jurisdiction of the Honorable Court, the above-named accused, with lewd design, and by means of force, violence and intimidation, did then and there, willfully, unlawfully and feloniously had carnal knowledge with one AAA, a minor and his daughter, against her will and to her damage and prejudice.

CONTRARY TO LAW.^[6]

It also appears that another daughter of the accused, CCC, and his son, DDD, filed a separate case against their father, docketed as Criminal Case No. 9088-01-C, for the

alleged rape of CCC.

Upon arraignment, the accused pleaded not guilty to the charges. On December 12, 2001, at the joint pre-trial, the prosecution and the defense stipulated on the following:

1. that complainant AAA is the biological daughter of accused Roger Alarcon; and
2. that accused, prior to his arrest, was also residing at Sitio Boot, Brgy. Putho-Tuntungin, Los Baños, Laguna.^[7]

During the joint trial, the prosecution presented, as witnesses, the three children of the accused, AAA, CCC, and DDD, to prove that their father physically and sexually abused them.

As culled from their testimonies, it appears that at around 10:00 o'clock in the evening of November 12, 2000, 14-year-old AAA and her siblings, BBB, CCC and DDD, were sleeping inside their one bedroom house in Barangay Putho-Tuntungin, Los Baños, Laguna; that she felt someone on top of her and was surprised to see that it was her father raising her t-shirt and removing her undergarments; that she pleaded, "*Tay, wag,*" but her father ignored her pleas and angrily ordered her not to move;^[8] that her father then proceeded and succeeded in sexually abusing her; that she could not put up a fight for fear that he would hit her as he usually maltreated his children; that at that time, her siblings were also in the same room but were fast asleep; that after the first incident on the 12th, she was again raped two days later on November 14;^[9] that it happened again on December 26, with her remembering the date because it was right after Christmas;^[10] that she remembered also the incident which happened on January 1, 2001, as she could still hear the fireworks outside,^[11] and on January 7, 2001, on her brother's birthday;^[12] that when he ravished her again on January 18, 2001, she marked the date on their calendar;^[13] that, thereafter, he raped her almost daily in the month of February, 2001, particularly on the 3rd, 5th, 7th, 8th, 10th, 12th, 14th, 16th, 18th, 20th, 22nd, 24th, 26th and 28th, which dates she all marked on their calendar;^[14] that notwithstanding the repeated incidents of sexual abuse committed against her, AAA did not immediately reveal her ordeal to anybody because of her fear for her life and her siblings; that the last time she was abused was on March 24, 2001^[15] and on that day, she, together with her siblings, ran away from their house and proceeded to the *Tahanan ng Ama Retreat House* in Calamba, Laguna.

Her eight-year-old sister, CCC,^[16] and her six-year-old brother, DDD,^[17] testified that the accused also touched their private parts.

To debunk the charges, the defense presented the accused and his brother, Asencion Alarcon, on the witness stand. The accused categorically denied the charges. He asserted that he was not in their house on those dates because he worked overtime at a motor shop in Cabuyao, Laguna. He explained that he frequently rendered overtime work because he was a good father who provided for his children.^[18]

His alibi was corroborated by his brother, Asencion, who confirmed that they were co-workers at the motor shop where they usually worked overtime including the dates when the accused supposedly raped AAA. The defense unfortunately could not present the time record of the shop to support their claim.^[19]

On April 18, 2005, the trial court rendered its decision and convicted the accused of 24 counts of rape.^[20] It did not give weight to his defense of denial and alibi.^[21] It did not, however, consider her minority and relationship as special qualifying circumstances for failure of the prosecution to produce proof thereof.^[22] Nevertheless, for each count of rape, the trial court sentenced him to suffer the penalty of *reclusion perpetua* and to pay the victim P50,000.00, as civil indemnity, and another P50,000.00, as moral damages. Specifically, the dispositive portion of said decision reads:

"WHEREFORE, the Court finds Accused Rogelio T. Alarcon GUILTY beyond reasonable doubt of the simple crime of rape in Criminal Case Numbers 9089-010C to 9113-2001-01-C or for a total of twenty four (24) counts of rape. The accused is sentenced to suffer the penalty of *reclusion perpetua* in each of the twenty four (24) cases to pay victim [AAA] P50,000.00 as civil liability and another P50,000.00 as moral damages for each case in Criminal Cases No. 9089-2001-C to 9113-2001-C.

SO ORDERED."

The accused appealed the case to the Court of Appeals^[23] assigning this lone error:

THE COURT A QUO GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT OF TWENTY FOUR COUNTS OF RAPE.

In his brief, the accused denied having defiled his daughter AAA. He surmised that the charges were filed against him because he physically hurt his children.^[24] He further argued that the charges were unbelievable because they were not immediately reported by his daughter.

He also questioned his conviction on 24 counts of rape when his daughter narrated only 21 incidents. If he were to be criminally liable, it should only be for those incidents duly proven at the trial.^[25]

In its November 27, 2006 Decision, the Court of Appeals *modified* the decision of the RTC. Explaining the modification, the CA wrote:

"Nonetheless, although accused-appellant was charged with twenty five (25) counts of rape in twenty five (25) separate informations, records show that the alleged four incidents committed in March 2001 (except the incident on March 24, 2001) were not proved beyond reasonable

doubt.

With respect to the alleged rapes committed on March 2, 3, 5 and 7, 2001, as alleged in the information in Criminal Cases Nos. 9109-2001-C, 9110-2001-C, 9111-2001-C and 9112-2001-C, there is reasonable doubt on accused-appellant's guilt, because private complainant herself testified that she was raped only once during March 2001.

x x x

Accordingly, accused-appellant should be convicted for twenty one (21) counts of rape which occurred on the following dates: November 12 and 14, 2000, December 26, 2000, January 1, 7 and 18, 2001, February 3, 5, 7, 8, 10, 12, 14, 16, 18, 20, 22, 24, 26, and 28, 2001 and March 24, 2001."

In addition, the CA also awarded exemplary damages of P25,000.00 to deter fathers from sexually abusing their daughters and "considering that the commission of the offense was attended by an aggravating circumstance of relationship."^[26] Thus, the decretal portion of the CA decision reads:

WHEREFORE, the appealed Decision dated April 18, 2005 is affirmed, subject to the modification that accused-appellant is hereby convicted of twenty one (21) counts of rape in Criminal Cases Nos. 9089-2001-C to 9108-2001-C and 9113-2001-C, and accused-appellant is furthered ordered to pay private complainant exemplary damages of P25,000.00 in each case.

With respect to Criminal Cases Nos. 9109-2001-C, 9110-2001-C, 9111-2001-C and 9112-2001-C, accused-appellant is acquitted on the ground of reasonable doubt.

SO ORDERED.

Hence, this appeal.

In its Resolution dated June 20, 2007, the Court accepted the appeal and notified the parties that they could file their respective supplemental briefs, if they so desire. ^[27] Both accused and the Office of the Solicitor General (OSG), representing the People of the Philippines, filed their respective Manifestations^[28] that they were adopting their respective briefs filed before the CA.

Accordingly, the principal issue in this appeal is the question of whether or not the accused is guilty of 21 counts of rape beyond reasonable doubt.

The Court rules in the affirmative.

Three principles guide the courts in resolving rape cases: (1) an accusation for rape can be made with facility; it is difficult to prove but more difficult for the accused,

though innocent, to disprove; (2) in view of the intrinsic nature of the crime of rape in which only two persons are usually involved, the testimony of the complainant must be scrutinized with extreme caution; and (3) the evidence for the prosecution must stand or fall on its own merits, and cannot be allowed to draw strength from the weakness of the evidence for the defense.^[29]

Thus, in a determination of guilt for the crime of rape, primordial is the credibility of the complainant's testimony. In rape cases, the accused may be convicted solely on the testimony of the victim, provided it is credible, natural, convincing, and consistent with human nature and the normal course of things.^[30]

In the case at bench, the trial court, which had the opportunity to observe AAA's demeanor in court, found her account of the incidents to be credible. It wrote: "the victim testified in a straightforward, natural and spontaneous manner. She gave clear and concise recitals of facts. She was a credible witness. The victim's testimony was believable, positive, clear and convincing. The victim's testimony bore the hallmarks of truth. The victim's testimony was simple and spontaneous, unflawed by any inconsistency or contradiction. As a minor, her language was of innocence and truth. She showed no prejudice or sinister motive against the accused-her father. In fact, she exhibited fear and anxiety towards the accused."^[31]

As the Court of Appeals decided not to disturb the findings of the trial court with respect to her credibility, the Court finds no reason to do otherwise. It has consistently held that the findings of the trial court on the credibility of witnesses are entitled to the highest respect and are not to be disturbed on appeal in the absence of any clear showing that the trial court overlooked, misunderstood or misapplied facts or circumstances of weight and substance that would have affected the result of the case.^[32]

The Court is neither persuaded that the delay in the reporting of the rape incidents seriously affected the veracity of her complaints.

Failure of a victim to immediately report the rape does not necessarily weaken the case against the accused. The charge of rape is rendered doubtful only if the delay was unreasonable and unexplained.^[33] In this case, AAA did not report what her father did to her because she was terribly afraid that he would harm her. This is a normal reaction by minors - to hide the truth because they are easily intimidated by threats on their person and other members of the family. Besides, the Court cannot underestimate the trauma to a young girl's mind of the realization that her own father, who is supposed to be her natural protector, has sexually violated her. When she was cross-examined, she replied that she could not even tell her own siblings of her plight because they were all afraid of their father.^[34] The only time she felt safe was after they had moved out of their father's house. As written in *People vs. Macapanas*,^[35]

x x x. How the victim comforted herself after the incident was not significant as it had nothing to do with the elements of the crime of rape. Not all rape victims can be expected to act conformably to the usual expectations of everyone. Different and varying degrees of