

FIRST DIVISION

[G.R. No. 172962, July 08, 2010]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROMEO
REPUBLO, ACCUSED-APPELLANT.**

D E C I S I O N

LEONARDO-DE CASTRO, J.:

This is an appeal from the Decision^[1] dated January 31, 2006 of the Court of Appeals in CA-G.R. CR.-H.C. No. 00348, which affirmed *in toto* the Decision^[2] dated April 15, 2002 of the Caloocan City Regional Trial Court (RTC), Branch 128 in Criminal Cases No. C-54755 to 54757 convicting accused-appellant Romeo Republo of two counts of rape and one count of attempted rape.

Three Informations were filed against the accused-appellant:

Criminal Case No. C-54755

That sometime in the morning of September 1997 in Caloocan City, Metro Manila and within the jurisdiction of this Honorable Court, the above-named accused with lewd design and by means of force and intimidation did then and there willfully, unlawfully and feloniously lie and have sexual intercourse with one AAA, a minor of 12 years old, against the latter's will and without her consent.^[3]

Criminal Case No. C-54756

That sometime in the afternoon of September 1997 in Caloocan City, Metro Manila and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design and by means of threats and intimidation, did then and there willfully, unlawfully and feloniously attempt to have sexual intercourse with one AAA, a minor of 12 years old, thus commencing directly by overt act, the commission of the crime of "RAPE" as a consequence, but the herein accused was not able to perform all the acts of execution which should constitute the said felony, by reason or causes other than his own spontaneous desistance, that is, the victim was able to [run] outside the room.^[4]

Criminal Case No. C-54757

That sometime in the evening of September 1997 in Caloocan City, Metro Manila and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design and by means of force and intimidation, did then and there willfully, unlawfully and feloniously lie

and have sexual intercourse with one AAA, a minor of 12 years old, against the latter's will and without her consent.^[5]

On December 7, 1998, accused-appellant pleaded NOT GUILTY to the three criminal informations, which were tried jointly.^[6]

The prosecution's version of the facts, culled from the testimonies of witnesses AAA, her mother BBB, Police Officer (PO) 3 Constantino Guerrero, and Dr. Tomas Suguitan, is as follows:

In 1997, BBB went to New Guinea Republic, West Africa, to work, leaving her daughter, AAA, with the family of her older sister, RRR, in a house they were renting in Bagong Silang, Caloocan City. The accused-appellant is RRR's husband.

All three incidents happened sometime in September 1997, on three different dates. The first incident occurred at around 9:00 a.m. on a Saturday, when then 11-year old AAA was awakened from her sleep by accused-appellant. Only AAA and accused-appellant were in the house at that time. Accused-appellant, who was wearing only his shorts, pulled her blanket, forced her to lie down and undressed her. Upon removing her shorts, accused-appellant inserted his penis inside her vagina. He then left.^[7]

The second incident happened at around 3:00 p.m., two days later. While AAA was doing her schoolwork inside her room, accused-appellant entered the room and immediately went on top of her. However, as the daughter of accused-appellant was inside the house, AAA was able to run outside. AAA went to her aunt LLL's house.^[8] Aunt LLL is the wife of BBB's brother. The latter was not in his and LLL's house at the time AAA went there.

Around two days later, AAA was preparing to sleep with accused-appellant's children at around 10:00 p.m. AAA laid down beside the three children. When the accused-appellant's three children were already sleeping, accused-appellant laid down beside AAA, and threatened her not to tell anybody about what was happening, or else he would kill her family. AAA was afraid and believed that accused-appellant would execute his threat as she knows that "he is a bad man." Accused-appellant then removed her shorts and inserted his private part into hers.^[9]

BBB learned of these incidents on July 24, 1998, when she had already returned to the Philippines. On that night, AAA asked her what "rape" was. As AAA was still so young, BBB was reluctant to tell her what was meant by the word rape. AAA, however, insisted and, when BBB finally told her, BBB inquired why she was asking about the same. AAA told her that it already happened to her when accused-appellant went on top of her ("*pinatungan*"). BBB immediately went to the house of accused-appellant, but he was out on a drinking spree. She confronted her sister, RRR, who claimed that she did not know anything of the matter.^[10]

BBB then had AAA medically examined.^[11] The third prosecution witness, Dr. Tomas D. Suguitan, whose competence and expertise had been admitted by the defense, observed that AAA had two healed shallow lacerations at 2 o'clock and 6 o'clock positions of her hymen. Dr. Suguitan concluded that AAA was in a non-virgin

state when she was medically examined. AAA told Dr. Suguitan that she was sexually abused by accused-appellant.^[12]

On August 10, 1988, BBB and AAA went to the police station to give their statement. Fourth prosecution witness PO2 Guerrero took the statements of AAA and BBB regarding the incidents.^[13]

The defense presented accused-appellant Republo as its lone witness. Republo denied having raped AAA. Instead, he believed that the rape charges were filed against him in order to teach him a lesson, as there were several incidents that allegedly infuriated BBB, to wit:

On November 15, 1997, accused-appellant purportedly caught AAA sitting on the lap of her boyfriend, and they were embracing each other. The following morning, he talked to AAA and told her that she was too young to be in a romantic relationship. Resenting this advice, AAA replied to him in a disrespectful manner. Accused-appellant got so annoyed with AAA that he kicked her twice at her thighs. AAA ran to her aunt LLL's house and told her about the incident. LLL confronted accused-appellant. Accused-appellant told LLL that he caught AAA with her boyfriend the previous night. There was also another time when accused-appellant was drunk that he quarreled with BBB. During this quarrel, accused-appellant destroyed some of BBB's furniture and appliances. He uttered the following words against BBB and AAA: "YUNG ANAK MO, GUSTONG MAG-ARAL SA IYO, MAKATI KA, MAY ASAWA KANG TUNAY, NAGLALANDI KA LANG, IKAW, MAKATI KA, NAGMANA KA SA INA MO." BBB later on told accused-appellant that the rape cases were filed in order to teach him a lesson.^[14]

Accused-appellant claims that AAA began living with them only in November 1997. AAA's grandfather had just died at that time, and the parents of AAA asked accused-appellant and RRR to take care of AAA and her sister, MMM.

On April 15, 2002, the RTC of Caloocan City rendered its Decision convicting accused-appellant, the dispositive portion of which read:

WHEREFORE, finding the accused Romeo Republo guilty beyond reasonable doubt for two (2) counts of Rape [in] Criminal Cases Nos. CO 54755 [and] 54757, he is hereby sentenced to suffer imprisonment of *reclusion perpetua* in each cases and indeterminate penalty of six (6) years and one day maximum of *prision correccional* as minimum to eight (8) years minimum of *prision mayor* as maximum under Criminal Case No. C-54756. Accused is likewise ordered to indemnify the private complainant the amount of P50,000.00 as moral damages and P50,000.00 for civil damages for each count of consummated rape. The accused is entitled to the benefits of his preventive imprisonment.

The City Warden of Caloocan City is hereby ordered to commit the person of the accused to the National Bilibid Prison, Muntinlupa City, to serve his sentence.^[15]

The RTC held that the straightforward testimony of AAA and the impartial findings of

the medico-legal officer led it to believe that accused-appellant committed the crimes charged. The RTC likewise found the credibility of accused-appellant doubtful, finding it unbelievable his claim that AAA filed complaints for two counts of rape and one count of attempted rape merely because accused-appellant maltreated her when she rudely answered him after he warned her to be careful about her relationship with her alleged boyfriend.

Accused-appellant appealed the three convictions to this Court, where the cases were originally docketed as G.R. No. 154292-94. However, pursuant to the Decision of this Court in *People v. Mateo*,^[16] which modified the provisions of the Revised Rules on Criminal Procedure insofar as they provide for direct appeals to this Court in cases where the penalty imposed is death, *reclusion perpetua* or life imprisonment, the cases were transferred to the Court of Appeals for appropriate action and disposition.^[17] Upon transfer, the cases were docketed as a single case as CA-G.R. CR.-H.C. No. 00348. On January 31, 2006, the Court of Appeals affirmed the RTC Decision *in toto*.^[18]

Accused-appellant appealed to this Court anew,^[19] with both parties manifesting that they will no longer file supplemental briefs, as the issues had already been thoroughly discussed in the Appellee's and Accused-Appellant's Briefs filed in the original appeal that was transferred to the Court of Appeals.^[20]

In said Accused-Appellant's Brief, Republo specified the following assignment of errors:

I

THE TRIAL COURT ERRED IN GIVING CREDENCE TO THE PROSECUTION'S WITNESSES['] INCREDIBLE TESTIMONIES.

II

THE TRIAL COURT ERRED IN CONVICTING THE ACCUSED-APPELLANT OF TWO (2) COUNTS OF RAPE AND ONE (1) COUNT OF ATTEMPTED RAPE WHEN HIS GUILT WAS NOT PROVEN BEYOND REASONABLE DOUBT.^[21]

In insisting that AAA's testimony was incredible, the accused-appellant, in his brief, focuses on two arguments:

1. Accused-appellant points out that BBB entrusted the custody of AAA to BBB's mother and niece. This allegedly being the case, accused-appellant contends that it is highly inconceivable for AAA's grandmother to let the children of BBB stay in accused-appellant's house considering that BBB specially provided for an apartment for her mother and her children. There was therefore no need for AAA to live with the accused-appellant considering that she had a place of her own.^[22]