

SECOND DIVISION

[G.R. No. 189092, August 19, 2010]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
MELVIN LOLOS, ACCUSED-APPELLANT.**

D E C I S I O N

MENDOZA, J.:

This appeal seeks to set aside the July 15, 2009 Decision^[1] of the Court of Appeals, in CA-G.R. CR-HC No. 03280, which affirmed the November 19, 2007 Decision^[2] of the Regional Trial Court, Branch 51, Sorsogon City (*RTC*), finding accused Melvin Lolos guilty beyond reasonable doubt of the crime of rape which he committed against 8-year-old AAA.^[3]

In an information dated December 3, 2000, accused Melvin Lolos was charged with the crime of rape which he allegedly committed as follows:

That on October 25, 2000 at more or less 7:00 o'clock in the evening, Barangay San Isidro, Municipality of Castilla, Province of Sorsogon, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd designs, thru force and intimidation, and taking advantage of the tender age of the victim, did then and there, willfully, unlawfully and feloniously had sexual intercourse with [AAA], a nine year- old girl, who is incapable of giving intelligent consent, against her will to her damage and prejudice.^[4]

During the trial, the prosecution presented, as its witnesses, AAA, the victim herself; BBB, the grandmother of the rape victim; and Dr. Salve B. Sapinoso, the attending physician who examined AAA.

As culled from the testimonies of the prosecution witnesses, it appears that AAA was just eight (8) years old on October 25, 2000 when she was raped by accused Melvin Lolos. She had been in the care of her paternal grandmother, BBB, ever since her parents separated. During weekdays, however, she would stay with her great grandmother, CCC, mother of BBB, whose house was just near her school. Accused Melvin Lolos, whom BBB identified as the son of her half-sister on her maternal side, lived with CCC.

On Fridays or Saturdays, BBB would fetch AAA and accompany her back to their house. One day, AAA informed BBB that she was being maltreated and beaten up with a belt by Melvin. BBB confronted him about it but he reasoned out that he was just trying to discipline her. BBB also came to know that DDD, a cousin of AAA's father, heard a rumor from a barbershop that Melvin had raped AAA. When BBB

asked AAA about it, the latter confirmed it.

AAA narrated that on October 25, 2000 at around 7:00 o'clock in the evening, her great grandmother, CCC, went out of the house to fetch water. As she went out, Melvin told her to go inside the room of their house where he undressed her and made her lie down. He then licked her vagina, brought out his penis, applied baby oil on it, inserted it inside her vagina, and performed coital movement until a whitish fluid came out of it. His repeated thrusts caused her pain but her vagina did not bleed because it was not the first time that he did it to her, though she could no longer count the number of times he did it. She stressed, however, that they were frequent as the intervals were only a few days. After satisfying himself, Melvin wiped her vagina and told her not to tell CCC what happened. He then gave her P2.00 and she went out to a store nearby.

After hearing her story, BBB and DDD brought her to the police station to report the incident and later to a physician for examination. Dr. Salve B. Sapinoso's examination showed her hymen with incomplete superficial healed lacerations meaning these did not go beyond one-half of the width of the hymen and could have been sustained more than two or three weeks prior to the examination. She added that the lacerations could have been caused most probably by the penetration of a male organ.

The defense, on the other hand, presented three (3) witnesses: Melvin Lolos, the accused himself; Alvin Legaspi, his cousin; and Ligaya A. Legaspi, his aunt and the mother of Alvin.

Melvin Lolos introduced himself as 23 years old and living in CCC's house at the time the alleged incident took place on October 25, 2000. He vehemently denied that he raped AAA in their house on said date and time. He claimed that it was impossible for the rape incident to have taken place because their house had only one room where he slept and there were other occupants sleeping in the sala. He admitted hitting her with a belt that night because he got angry when she failed to come home on time from school. Except for that incident, he saw no reason for AAA to file a rape case against him.

The testimony of his cousin, Alvin Legaspi, was to the effect that Melvin could not have raped AAA on the night of October 25, 2000 without anyone noticing it as there were several persons in the house. He distinctly remembered that he was in CCC's house on said date and time, together with seven (7) other relatives including AAA and Melvin. That night, he slept beside AAA and another niece. He also narrated that he and Melvin went to fetch AAA from San Isidro Elementary school at around 7:00 o'clock that night because she failed to return home early. Melvin hit her with his belt three times.

The mother of Alvin, Ligaya A. Legaspi, testified that her son was in the house of CCC on the night of October 25, 2000. Other than that, she did not have any other information on the incident in question. She only narrated the events that transpired on the following day, October 26, 2000, when she learned about what AAA claimed to have happened and the subsequent arrest of her nephew. According to her, she went to see AAA and the latter told her that the accused did not rape her but spanked her. AAA likewise told her that it was the son of a certain Mering who had raped her. She later accompanied AAA and BBB to the police station to withdraw the

case against Melvin, but she (AAA) refused as she wanted to pursue the case against him.

On November 19, 2007, the RTC rendered a decision finding the accused guilty beyond reasonable doubt of the crime of rape and sentenced him to suffer the penalty of *reclusion perpetua*. The dispositive portion of said decision^[5] reads:

WHEREFORE, finding accused MELVIN LOLOS GUILTY beyond reasonable doubt of the offense of Rape, he is hereby sentenced to suffer the penalty of *reclusion perpetua* and to pay the offended party, [AAA], the amount of P50,000.00 as civil indemnity and moral damages in the amount of P50,000.00.

No pronouncement as to cost.

SO ORDERED.^[6]

In ruling against the accused, the trial court held that the categorical statements of the victim must prevail over the bare denials of the accused. It found the testimony of AAA, that she was raped by the accused not just on October 25, 2000 but also on several occasions, to be candid, straightforward, consistent, and far more trustworthy than the self-serving negative averments of the accused. It was convinced that the accused committed the act of rape against his niece.

Apparently not in conformity, the accused appealed the decision of the trial court. On July 15, 2009, the Court of Appeals (CA) rendered a decision affirming the decision of the trial court. Thus:

WHEREFORE, in the light of the foregoing, the Decision of the Regional Trial Court, Branch 51 of Sorsogon City dated November 19, 2007 is hereby AFFIRMED. Accused-appellant Melvin Lolos is found guilty beyond reasonable doubt of the crime of simple rape.

SO ORDERED.^[7]

Aggrieved, the accused now comes to this Court via this appeal presenting the following:

ASSIGNMENT OF ERRORS

THE COURT OF APPEALS GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT DESPITE THE PROSECUTION'S FAILURE TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.

THE COURT OF APPEALS GRAVELY ERRED IN GIVING CREDENCE TO THE PROSECUTION'S EVIDENCE DESPITE BEING CONTRARY TO HUMAN EXPERIENCE.