

FIRST DIVISION

[G.R. No. 182094, August 18, 2010]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. EFREN ALFONSO,
APPELLANT.**

D E C I S I O N

DEL CASTILLO, J.:

A father, accused of raping his two minor daughters, is before us praying for his acquittal.

On appeal is the July 31, 2007 Decision^[1] of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 02312 which affirmed with modifications the Joint Decision^[2] of the Regional Trial Court (RTC) of Calabanga, Camarines Sur, Branch 63, finding appellant Efren Alfonso guilty of Rape by Sexual Assault under Article 266-A(2) of the Revised Penal Code (RPC) in Criminal Case No. RTC-'02-735 and Statutory Rape under Article 266-A(1)(d) in Criminal Case No. RTC-'02-736.

Factual Antecedents

On October 1, 2002, two Informations were filed charging appellant with violations of Article 266-A(2) and 266-A(1)(d) of the RPC. The Informations read:

Crim. Case No. RTC'02-735

The undersigned Assistant Provincial Prosecutor x x x accuses EFREN ALFONSO [of] the crime of RAPE defined and penalized under Art. 266-A, (2) of the Revised Penal Code as amended by Republic Act 8353 and committed as follows:

That on or about the 7th day of April 2002, in x x x Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, willfully, unlawfully and feloniously committed an act of sexual assault upon his three (3)[-]year old daughter, "AAA"^[3] by inserting his finger into the vagina of the said victim to her damage and prejudice.

The crime is committed with the following attendant aggravating/qualifying circumstances: The victim is a child below seven years old and the offender is the father of the victim.

ACTS CONTRARY TO LAW.^[4]

Crim. Case No. RTC'02-736

The undersigned Assistant Provincial Prosecutor x x x accuses EFREN ALFONSO [of] the crime of RAPE, defined and penalized under Art. 266-A, (1)(d) of the Revised Penal Code as amended by Republic Act 8353 and committed as follows:

That on or about the 7th day of April 2002, in x x x Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, willfully, unlawfully and feloniously succeed[ed] in having carnal knowledge [of] "BBB," his [Five (5)-year] old daughter to her damage and prejudice.

The crime is committed with the following attendant aggravating/qualifying circumstances: The victim is a child below seven years old and the offender is the father of the victim.

ACTS CONTRARY TO LAW.^[5]

On arraignment, appellant pleaded not guilty to both charges.^[6] During pre-trial, appellant admitted that "AAA" and "BBB" are his legitimate children and who were then only 3 and 5 years old, respectively, on April 7, 2002.^[7]

Thereafter, the cases were jointly tried.^[8]

Version of the Prosecution

The prosecution's first witness was "CCC," the mother of "AAA" and "BBB." "CCC" testified that on April 6, 2002, she and her sons "DDD" and "EEE" went to Magarao, Camarines Sur, to have "DDD" treated by a quack doctor. They left "AAA" and "BBB" at their residence in the care of herein appellant. When "CCC" returned home on April 8, 2002, she found "AAA" and "BBB" crying and in a state of shock. She initially brought her daughters to the quack doctor but was prevailed upon to bring them to a hospital for medical examination. Upon her prodding, "AAA" and "BBB" informed her that they were sexually abused by their father, herein appellant.^[9]

The prosecution next presented Dr. Augusto M. Quilon, Jr. (Dr. Quilon), a resident physician at the Bicol Medical Center who testified on the results of the medical examinations conducted on "AAA" and "BBB." Dr. Quilon explained that "AAA's" hymen was intact but her labia majora bore reddish marks which could possibly be caused by the insertion of a finger. "BBB," on the other hand, had superficial lacerations in her hymen which could possibly be caused by sexual contact or insertion of a foreign object.^[10]

The prosecution next presented "BBB" as its witness. "BBB" was only 7 years old when she testified in court, thus:

x x x x

PROS. OLIVEROS:

Q Do you know what x x x your father has done to you?

A Yes, Sir.

Q Can you tell us what your father has done to you?

A He had [sexual] intercourse with me.

Q When you said you were molested by your father, what happened to your vagina?

A It was painful.

Q Do you know also [where] the penis of your father x x x [was] situated?

INTERPRETER:

A And the witness pointed to her vagina.

PROS. OLIVEROS:

Q Did x x x your father x x x [insert his penis into] your vagina?

A Yes, Sir.

x x x x

Q You said a while ago that you felt pain, aside from that, what did you [observe] in your vagina?

A It was painful.

Q Was there blood that oozed [from] your vagina?

A Yes, Sir.

Q Do you have clothes x x x when this incident happened?

A Yes, Sir.

Q [Were] your clothes x x x removed?

A Yes, Sir.

Q Who removed [your clothes]?

A My father.

Q Kindly tell us again what is the name of your father who removed your apparel?

A Efren.

Q If your father Efren is in court, [can you] pinpoint him to us?

INTERPRETER:

A And the witness pointed to a man, [who] when asked what is his name, answered Efren Alfonso.

PROS. OLIVEROS:

Q Can you tell us, ["BBB"], after you were sexually abused by your father, do you still remember what happened to your sister ["AAA"]?

A Yes, Sir.

Q Tell us what did your father do to your sister ["AAA"]?

A He used his hand.

Q What did your father do [with] his hand?

A He used his hand.

Q Where did your father [use his hand]?

A On the vagina.

INTERPRETER:

And the witness pointed to her vagina.

PROS. OLIVEROS:

Q Vagina of your sister ["AAA"]?

A Yes, Sir.

x x x x

Q By the way, ["BBB"], when [did] this incident [happen] x x
x was [it] [nighttime] or x x x [daytime]?

A It was x x x [nighttime].

x x x x^[11]

After "BBB," the prosecution presented "AAA" who was only 5 years old when she testified, thus:

x x x x

PROS. OLIVEROS:

Q Do you know also the name of your father?

A Yes, Sir.

Q Kindly tell us[.]

A Efren.

PROS. OLIVEROS:

Q If your father[,] Efren[,] is in court, please look around and pinpoint him to us[.]

INTERPRETER:

The witness has pointed to a man [who] when asked what is his name, answered Efren Alfonso.

PROS. OLIVEROS:

Q A while ago you pinpointed to your father[,] Efren Alfonso[.] Do you know what [your father did to you?]

A Yes, Sir.

Q What did your father do to you?

A He removed his clothes and he removed also my clothes and he had sexual intercourse with me.

Q What did your father use in sexually abusing you?

A His forefinger.

INTERPRETER:

As demonstrated by the witness.

PROS. OLIVEROS:

Q When you were sexually abused by your father by using his finger, who was your companion then?

A Owen and x x x my sister.

Q You said that you were sexually molested by your father by using his finger[. Did] x x x your father [insert his finger into] your vagina?

A Yes, Sir.

Q What did you feel when your father inserted his finger into your vagina?

A It was painful.

Q A while ago you said you have a companion, a sister of yours, if that sister is in court can you pinpoint her to us?

INTERPRETER:

The witness x x x pointed to a girl and when asked what is her name, [she] answered ["BBB"].

PROS. OLIVEROS:

x x x x

Q You pinpointed your older sister ["BBB"], do you know what x x x your father also [did] to your sister ["BBB"]?

A Yes, Sir.

Q Kindly tell us what x x x your father [did] to your older sister ["BBB"].

A My sister removed her clothes and my father also removed his clothes.

Q After removing those clothes, what did your father do?

A He had sexual intercourse with ["BBB"].^[12]