

SECOND DIVISION

[G.R. No. 188352, September 01, 2010]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROLLY DE GUZMAN, ACCUSED-APPELLANT.

D E C I S I O N

MENDOZA, J.:

This is a petition for review of the February 26, 2009 Decision^[1] of the Court of Appeals, (CA) in CA-G.R. CR. H.C. No. 03068, affirming *in toto* the October 24, 2007 Decision^[2] of the Regional Trial Court, Branch 89, Quezon City (RTC) in Criminal Case No. Q-06-143828. The RTC convicted accused Rolly De Guzman for the crime of rape and sentenced him to suffer the penalty of *reclusion perpetua* and to pay the victim, AAA,^[3] the amount of P50,000.00 as indemnity and P50,000.00 as moral damages, with costs.

The Information against the accused reads:

That on or about the 29th day of October 2006, in Quezon City, Philippines, the said accused, with lewd design, by means of force, violence and intimidation, made upon the person of AAA, a minor, 13 years of age, did then and there willfully, unlawfully and feloniously commit the crime of rape against the person of said AAA, by then and there forcibly bringing her inside a bedroom of a construction site and had carnal knowledge against her will, which acts debases, degrades, demeans the intrinsic worth and dignity of said AAA, as a human being, to the damage and prejudice of the said offended party, in violation of said law.

CONTRARY TO LAW.^[4]

During the trial of the case, the prosecution relied mainly on the testimony of AAA and the documentary evidence consisting of her *Sinumpaang Salaysay*,^[5] Certificate of Live Birth and the Initial Medico-Legal Report showing the results of the examination conducted on her by the Philippine National Police Crime Laboratory. For the defense, only the accused took the witness stand.

It appears from the records that at the time of the incident, AAA was a minor having been born on October 23, 1994. She and the accused knew each other as neighbors in Pingkian, Quezon City, where he worked in a construction site near her residence. The accused used to buy ice from her house and so they usually saw each other thrice a week.

The thrust of the prosecution evidence was succinctly recited in the Appellee's Brief^[6] submitted to the CA, as follows:

On October 29, 2006 at 7:00 O'clock in the evening, while AAA was outside their house at 28-B Himlayan Road, Pasong Tamo, Quezon City, appellant neighbor Rolly de Guzman and Joel Sabado invited AAA to the construction site where appellant was working. AAA refused to go with them but she was suddenly pushed by Joel Sabado inside the gate of the construction site.

Because of fear, AAA did not shout. Joel instructed AAA to go upstairs and threatened her harm if she would not comply. Thus, she did as told. Appellant went upstairs ahead of her.

Upon reaching the second floor, Joel pushed her inside the room while appellant switched off the light. Appellant then grabbed her hand and forcibly took off her pedal pusher and panty. He undressed and put himself on top of her.

AAA struggled and told appellant not to continue his sexual advances. She pushed him, causing him to fall on the floor. She closed her legs to prevent appellant's sexual abuses but the latter managed to insert his penis in her private part.

After consummating the act, appellant instructed AAA to go to her classmate. She obeyed and did not go home that night. The following morning, AAA called her parents over the phone and reported the sexual abuse committed by appellant. Her parents fetched her and reported the incident to the barangay office.

On the same day, AAA was investigated at the Police Station 3 and the Medico-Legal Officer who examined AAA prepared a Medico-Legal Report, which disclosed the following:

GENERAL AND EXTRA-GENITAL:

AAA physical built is medium. Her mental status is coherent. Breast is conical in shape with pinkish brown areola and nipples. Her abdomen is soft/flat. Physical injuries: 1. Abrasion, (R) costal region, measures 1 x 1 cm. 11 cm from AML. 2. Abrasion, (L) costal region, measures 2 x 2 cm, 10 cm from AML.

GENITAL:

AAA pubic hair is moderate. Labia Majora is coaptated. Labia Minora is dark brown. Hymen is with deep healed laceration at 3:00 o'clock position and shallow healed laceration at 9:00 o'clock position. Her external vagina orifice has strong resistance to the examining index finger. Vaginal canal is

narrow. Cervix is not applicable as well as peri-urethral and vaginal smears.

CONCLUSION:

Medical evaluation shows clear evidence of blunt penetrating trauma to the hymen.

The accused denied the charges. He claimed that on the evening of the alleged incident, he was in the barracks at the construction site with some of his co-workers. At around 8:00 o'clock, the parents of AAA, accompanied by a *barangay tanod*, arrived. They were looking for her as she was then missing. When asked, the accused replied that he did not know her whereabouts.^[7] He conceded that even before she identified him as her assailant, no ill-feelings existed between him and AAA or her parents.

Confronted with two conflicting versions, the trial court narrowed down the issues into one of credibility of the parties. In deciding the case, it was guided by a string of decisions enunciating the principle that a testimony of a child-victim is given full weight and credence, considering that when a woman, especially a minor, says that she has been raped, she says in effect all that is necessary to show that rape was committed.^[8] The positive identification of the accused as corroborated by the result of the medical examination sufficiently established that indeed, sexual congress between the accused and AAA took place against her will. The trial court refused to accord significance to the defense of denial and found it to be devoid of credence and unworthy of belief.

On October 24, 2007, the trial court rendered its decision finding accused guilty of the crime of rape, defined and penalized under Articles 266-A and 266-B of the Revised Penal Code (RPC).^[9] The *fallo* of the decision reads:

WHEREFORE, premises considered, judgment is rendered finding accused Rolly de Guzman y Apostol guilty beyond reasonable doubt of the crime of rape defined and penalized under Art. 266-A, RPC, RA 8353, 1997. Accordingly, he is sentenced to suffer the penalty of reclusion perpetua. Being a detention prisoner, he is credited in full of the period of his preventive imprisonment.

Further, accused Rolly de Guzman y Apostol is ordered to pay complainant AAA the following:

- 1) The sum of Fifty Thousand (P50,000.00) Pesos, Philippine Currency as indemnity; and
- 2) The sum of Fifty Thousand (P50,000.00) as and by way of moral damages.

With costs de officio.

SO ORDERED.^[10]

Not in conformity, the accused protested his conviction and elevated the case before the CA anchoring his prayer on the following assigned errors:

I

THE COURT A QUO GRAVELY ERRED IN GIVING UNDUE CREDENCE TO THE TESTIMONY OF THE PRIVATE COMPLAINANT

II

THE COURT OF A QUO GRAVELY ERRED IN CONVICTING THE APPELLANT DESPITE THE PROSECUTION'S FAILURE TO PROVE HIS GUILT BEYOND REASONABLE DOUBT

III

ASSUMING ARGUENDO THAT THE APPELLANT RAPED THE PRIVATE COMPLAINANT, THE COURT A QUO GRAVELY ERRED IN IMPOSING THE PENALTY OF *RECLUSION PERPETUA*.^[11]

Essentially, the accused faulted the trial court for giving weight to the victim's testimony which he claimed to have contained numerous inconsistencies and improbabilities enough to create doubt in his favor. He cited the following contradictions which allegedly tainted AAA's credibility: 1] that she initially stated that when he inserted his penis into her vagina, she pushed him, but later she testified that she shoved him first before the penetration; and 2] that she initially wiggled her buttocks before intercourse but later she said that he succeeded in inserting his penis into her vagina even if her legs were closed together.

The accused urged the CA not to believe AAA because of the implausibility of her story. He pointed out that she claimed that she was forced by the accused to go to the construction site by mere dagger looks which could not have seriously intimidated and precluded her from fleeing. If she indeed suffered from sexual abuse, she could have reported her experience to her parents the moment she had the chance but, instead, she went over to her classmate's house and spent the night there. Finally, she could have shouted to catch the attention of neighbors within the vicinity or she could have escaped considering that there was no showing that the premises were enclosed.

Anent the corroborating evidence presented by the prosecution, the accused pointed out that the medico-legal report which indicated healed lacerations in her private part was clearly in conflict with the information stating that the rape incident occurred on October 29, 2006. When she was examined on October 30, 2006, or the day after the supposed rape incident took place, the hymenal lacerations could not have healed yet.

In its February 26, 2009 Decision, the CA rejected these arguments and found no reversible error in the trial court's verdict. Thus, it affirmed the RTC decision *in toto*.

According to the appellate court, respect is due the findings of the trial court because it is in the best position to determine the truth or falsity of testimonies given in trial. Based on the trial judge's unique opportunity to observe the conduct and demeanor of witnesses, the question of credibility is, therefore, best settled by the trial court. Further, in its own review of the records and transcripts of the case, the CA agreed that all the elements of the crime were established by the prosecution:

In this case, although the trial court failed to discuss the element of lack of informed consent of the child whether due to the presence of the required circumstances, the records show that it was present and that all the elements of the crime of rape were attendant in this case. x x x It was clear that she was physically forced, albeit not to the fullest extent, to go to where appellant was. Although minimal force was exerted by the appellant to prevail over AAA, there was still force that would make the act fall under the crime of rape.^[12]

Apparently aggrieved by the CA decision, the accused comes before this Court. On July 29, 2009, the parties were notified that they may file their respective supplemental briefs. Both the Public Attorney's Office (PAO) and the Office of the Solicitor General (OSG) manifested^[13] their intention not to do so, since all issues had already been addressed in their previous briefs.

In essence, the accused decries his conviction and urges a reversal of the decision. He contends that on the basis of glaring inconsistencies and "factual points which were apparently contrary to human experience"^[14] found in AAA's testimony, it was impossible for him to have committed the offense charged. The OSG, on the other hand, maintains that positive identification of the accused prevails over empty refutation and a weak alibi. Mere denial without any strong evidence to support it, can scarcely overcome the positive declaration by the child-victim of the identity of the appellant and his involvement in the crime attributed to him.^[15]

After going over the evidentiary records, the Court finds the appeal devoid of merit. Contrary to the contentions raised, the RTC and the CA rendered the assailed decisions in accordance with law and jurisprudence.

The crime of rape is usually committed under a cloak of privacy that only parties directly involved therein can attest to what actually transpired. Expectedly, their testimonies present a complete divergence of factual assertions. During trial, the prosecution and defense clash tooth-and-nail, with the aim to destroy the other's version. The credibility of witnesses with their respective testimonies then becomes the core issue to be resolved by the trial court. In doing so, it is behooved to exercise strict scrutiny and keen observation of witnesses, utilizing its position "to detect a guilty blush, a slight hesitation, a fearful glance, and an anguished cry."^[16] The recent case of *People v. Felipe Ayade*,^[17] thus elucidates: