

EN BANC

[G.R. No. 177779, December 14, 2010]

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. FELIPE NACHOR Y OMayAN, APPELLANT.

DECISION

DEL CASTILLO, J.:

"[W]hen the offended parties are young and immature girls [aged 12 to16], courts are inclined to lend credence to their version of what transpired, considering not only their relative vulnerability but also the shame and embarrassment to which they would be exposed by the trial if the matter about which they testified is not true."^[1]

The Charge

For review is the Decision^[2] dated June 16, 2006 of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 02040 which affirmed with modifications the Decision^[3] of the Regional Trial Court (RTC) of Iriga City, Branch 35, in Criminal Case Nos. IR-6033 and IR-6034, convicting appellant Felipe Nachor y Omayan of the crime of rape against "AAA."^[4] The Information^[5] in Criminal Case No. IR-6033 contained the following accusatory allegations:

That on or about May 9, 2001, at x x x, Camarines Sur, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with lewd designs, with force and intimidation, did then and there willfully, unlawfully, and feloniously [lay with] and [succeeded] in having carnal knowledge [of] `AAA', 14-year old minor, daughter of the culprit, against her will and without her consent, to her damage and prejudice in such amount as shall be proven in Court. The act is with qualifying aggravating circumstance of the fact that the victim is below 18 years old and the offender is a parent. (Art. 266-B, Par. 6, subpar. 1, R.A. 8353)

ACTS CONTRARY TO LAW.

The Information^[6] in Criminal Case No. IR-6034 is identically worded except for the date of the commission of the crime. In this case, the appellant was accused of raping "AAA" on or about 11:30 in the morning of the first week of June 2001.

The appellant pleaded not guilty to both charges. After the termination of the pre-trial conference, joint trial ensued.

The Version of the Prosecution

"AAA" was born on September 11, 1986, and lived with her parents and four siblings. She was 14 years old when in the morning of May 9, 2001, she was left alone with her father, the appellant. While she was cooking at around 11:00 o'clock in the morning, the appellant suddenly poked a bolo at her neck, pulled her wrist and dragged her towards the room which she shared with her brother and sisters. Gripped with fear, she struggled and attempted to escape but the appellant's strength was too much for her. Her shouts for help were futile since the house of their nearest neighbor was about a hundred meters away and separated by trees and hilly terrain from their house.

While inside the room, the appellant, with a bolo still in his hand, forced "AAA" to lie down on the bed. When she obeyed, the appellant removed her shorts and panty. Thereafter, he took off his shorts and underwear and started kissing her neck and breasts. He proceeded to mount "AAA," inserted his penis inside her vagina and executed a pumping motion. During this ordeal, "AAA" continued to struggle, but her attempt to resist the appellant's lewd desires was unsuccessful. She instead experienced intense pain and cried.

After the appellant satisfied his lust, he again poked his bolo at "AAA" and threatened to kill her, her mother and siblings if she would report the incident to anyone. The appellant then stood up, put on his clothes and departed. "AAA" kept the incident to herself out of fear.

"AAA" was again raped by the appellant in the first week of June, 2001 when her mother and siblings were not around. At around 11:30 in the morning, "AAA" was studying in their house when the appellant came out of his room armed with his bolo. "AAA" rushed outside for fear of another sexual abuse, but was overtaken by the appellant who poked his bolo at her neck and dragged her towards her room. Once inside, the appellant removed the pants and panty of "AAA," and threatened to kill her, her mother and siblings if she would relate the incident to another person. As in the previous incident of rape, the appellant forced "AAA" to lie down, inserted his penis inside her vagina and made coital movements. Despite her struggle and resistance, she was unable to resist his bestial acts. After satiating himself, the appellant reiterated his warning to "AAA" not to tell anyone of her ordeal or else he would kill them all.

A few months later, the abdomen of "AAA" started to bulge. Having been threatened by the appellant, she refused to divulge any information. The mother of "AAA" therefore sought the assistance of one of her wedding sponsors to whom "AAA" finally revealed the sexual abuse she experienced in the hands of her father. After this revelation was relayed to her mother, "AAA" was immediately taken to the Regional Office of the Department of Social Welfare and Development where she declared in an interview that her father sired the child she was carrying. She was then taken to the National Bureau of Investigation for a medico-legal examination. The results confirmed that "AAA" was pregnant. On December 27, 2001, "AAA" gave birth to a baby boy she named "BBB."

The Version of the Appellant

The appellant denied raping "AAA." He averred that on May 9, 2001, he left his house at 7:00 o'clock in the morning to go to his sister in Antipolo, Buhi, Camarines

Sur. Moreover, "AAA" no longer stayed in their house from April 2001 to October 2001. During this period, she worked as a housemaid without his permission. It was only in October 2001 that he saw "AAA" and noticed that she was already pregnant. He asked his wife if she knew anything of the delicate condition of "AAA" but he did not receive a reply. He instructed his wife to go to her brothers and sisters to have a conference with "AAA." His wife complied but excluded him from the meetings without any explanation. His wife could not also explain why they kept the pregnancy of "AAA" a secret from him.

The appellant asserted that it was his son, Randy, who impregnated "AAA." He confronted Randy on the pregnancy of "AAA" but the latter refused to reply and cried instead. The appellant also claimed that his wife assisted "AAA" in filing the cases to get rid of him so that she could continue having an affair with the man often seen in her company.

The Ruling of the Regional Trial Court

On January 27, 2003, the trial court rendered its Decision, the dispositive portion of which reads as follows:

WHEREFORE, finding accused, Felipe Nachor y Omayan guilty beyond reasonable doubt [of] the crime of rape under Art. 335 of the Revised Penal Code as amended by RA 7659 and further amended by RA 8353 in relation to RA 7610, in [C]riminal [C]ases No[s]. IR-6033 and IR-6034, respectively, he is sentenced to death, [to] pay an indemnity of P50,000.00, and to pay the costs.

SO ORDERED.^[7]

The Verdict of the Court of Appeals

With the imposition of capital punishment on the appellant, the case was elevated to us for mandatory review and docketed as G.R. Nos. 157931-32. Pursuant to *People v. Mateo*,^[8] however, we referred the case to the CA, which affirmed with modification the trial court's decision. Thus:

UPON THE VIEW WE TAKE OF THIS CASE, THUS, the appealed Decision dated January 27, 2003 of the Regional Trial Court of Iriga City, Branch 35, in Criminal Cases Nos. IR-6033 and IR-6034 finding the accused-appellant FELIPE NACHOR Y OMAYAN guilty beyond reasonable doubt of two counts of qualified rape and sentencing him in each case to suffer the supreme penalty of death is AFFIRMED, with the MODIFICATION that for each count of rape, the accused-appellant is also CONDEMNED to pay private complainant "AAA," the amounts of P75,000.00 as civil indemnity, P50,000.00 as moral damages, and P25,000.00 as exemplary damages.

Should no motion for reconsideration be filed in this case by the accused-appellant within the allowable reglementary period, or after the lapse thereof, let the entire records of this case be forwarded to the Honorable

Supreme Court for appropriate action thereon.

SO ORDERED.^[9]

Assignment of Errors

Hence, this appeal where the appellant raises the following assignment of errors contained in his Brief before the CA:

I.

THE TRIAL COURT GRAVELY ERRED IN GIVING FULL WEIGHT AND CREDENCE TO THE INCREDIBLE TESTIMONY OF PRIVATE COMPLAINANT.

II.

THE COURT A QUO GRAVELY ERRED IN IMPOSING THE CAPITAL PUNISHMENT OF DEATH.^[10]

Our Ruling

The appeal is unmeritorious.

"[In determining] the innocence or guilt of the accused in rape cases, the courts are guided by three well-entrenched principles: (1) an accusation of rape can be made with facility and while the accusation is difficult to prove, it is even more difficult for the accused, though innocent, to disprove; (2) considering that in the nature of things, only two persons are usually involved in the crime of rape, the testimony of the complainant should 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."^[11]

Guided by these legal precepts, we find the testimony of "AAA," who was 14 years old when the two incidents of rape occurred, credible and untainted by any hint of falsehood or prevarication. She testified on her ordeal committed on May 9, 2001 as follows:

PROS. (BERNARD) BELTRAN:

Q: Do you know the accused in these cases?

A: Yes, sir.

Q: If he is in this courtroom, will you [point] to him?

INTERPRETER:

The witness points to a person who when asked x x x his name answered ['Felipe Nachor']the accused in these cases.

PROS. BELTRAN:

Q: Why do you know him?

A: He is my father.

Q: Sometime on May 9, 2001, where were you?

A: I was at home.

Q: Where is that house of yours situated?

A: At x x x, Camarines Sur.

Q: With whom were you in your house during that day?

A: My father.

Q: While you were in your house at x x x, Camarines Sur on May 9, 2001 with your father, what unusual incident happened if any?

A: My father poked a bolo [at] my neck.

Q: How long was that bolo?

A: The length of the bolo (witness demonstrating with her hand, 1 ½ feet).

Q: Now, what happened next?

A: He undressed me.

Q: What was undressed from you?

A: My shorts and panties.

Q: What about your upper clothing?

A: It was not.

Q: After the accused undressed you, what did the accused do next?

A: He also undressed, sir.

Q: What was undressed from him?

A: His shorts and briefs.

Q: After the accused undressed himself, what did he do next?

A: He lay on top of me.

Q: What did he do next?

COURT:

Before that, what was your position?

A: I was lying on my back.

Q: Who made you lie on your back?

A: My father.

Q: Now, when you were lying on your back and your father was on top, what did your father do next?

A: His penis was inserted in my vagina.