

FIRST DIVISION

[G.R. No. 183709, December 06, 2010]

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. MANUEL "AWIL" POJO, APPELLANT.

D E C I S I O N

DEL CASTILLO, J.:

On appeal is the January 28, 2008 Decision^[1] of the Court of Appeals (CA) in CA-G.R. CR No. 02502 which affirmed the September 4, 2006 Decision^[2] of the Regional Trial Court of Calabanga, Camarines Sur, Branch 63, finding appellant Manuel "Awil" Pojo guilty beyond reasonable doubt of the crime of statutory rape.

Factual Antecedents

On March 16, 2004, an Information^[3] was filed charging appellant with the crime of statutory rape committed as follows:

That on or about the 20th day of October, 2003, at around three o'clock in the afternoon in x x x, Camarines Sur, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused willfully, unlawfully, and feloniously through force or intimidation [had] carnal knowledge [of] "AAA,"^[4] ten years old, against her will, to her damage and prejudice.

ACTS CONTRARY TO LAW.

On arraignment, appellant pleaded not guilty to the charge. Trial thereafter ensued.

Version of the Prosecution

"AAA" testified that appellant is the common-law husband of her mother. On October 20, 2003, at about three o'clock in the afternoon, her mother sent her to bring food to the appellant who was working at the *camote* plantation of a certain Tuason. While thereat, appellant made her lie on the ground which he covered with banana leaves. After ordering "AAA" to remove her shorts and panty, he also removed his undergarments and inserted his penis into the vagina of "AAA." However, appellant's penis failed to completely penetrate "AAA's" vagina but merely touched the same. However, "AAA" still felt pain in her private organ. After a while, appellant stood up and ordered "AAA" to go home. "AAA" however noticed a whitish substance coming out of appellant's private part.

Upon reaching their house, "AAA" immediately relayed the incident to her sibling

and mother. Thereupon, they reported the incident to the police authorities and subjected "AAA" to medical examination.

Version of the Defense

Appellant admitted that "AAA" is the daughter of his common-law spouse. However, he denied raping her on October 20, 2003. He claimed that he left Camarines Sur on October 20, 2002. On October 20, 2003, he was in Batangas working in a sugarcane plantation of his cousin, Mariano Ate. He also claimed that "AAA's" motive in filing the rape charge against him was to force him to marry her mother.

Ruling of the Regional Trial Court

The trial court lent credence to the version of the prosecution. It noted that rape was consummated although there was no complete penetration considering the categorical statement of "AAA" that she felt the penis of the appellant touch her private part. "AAA" was only 10 years old when the rape incident transpired; and only 12 years old when placed on the witness stand. According to the trial court, "AAA" could not have concocted the rape incident if it did not actually transpire. Being a minor, she lacked the sophistication to fabricate the crime of rape against the appellant.

The trial court brushed aside the defense of denial of the appellant. It held that "AAA's" positive testimony that it was appellant who sexually assaulted her prevails over the bare denial of the appellant. It found that appellant's claim that he was in Batangas at the time the crime of rape was committed was self-serving and uncorroborated. The defense did not present anyone who could testify that appellant was indeed in Batangas on October 20, 2003 and that he was working in a sugarcane plantation.

Finally, the trial court held that although the minority of the victim was proven by the presentation of her birth certificate, appellant could only be found liable of statutory rape. It noted that although it was proven during trial that appellant was the common-law husband of "AAA's" mother, such fact was not alleged in the Information.

The dispositive portion of the Decision of the trial court reads:

WHEREFORE, in view of the foregoing, the prosecution having proven the guilt of the accused beyond reasonable doubt of the crime of statutory rape, accused is found guilty of the crime as charged. He is therefore, sentenced to suffer the penalty of Reclusion Perpetua and to pay the private complainant "AAA" the amount of P50,000.00 as civil liability, P50,000.00 as moral damages, and to pay the cost.

SO ORDERED. ^[5]

Ruling of the Court of Appeals

The appellate court affirmed *in toto* the Decision of the trial court. It noted that the

trial court correctly appreciated and evaluated the facts of the case. It also found unbelievable the appellant's claim that "AAA's" motive in filing the case was to force him to marry her mother. According to the CA, "AAA" was too young to be able to think of that elaborate scheme. Likewise, the appellate court held that appellant's alibi does not inspire belief as he failed to present any independent evidence to establish his whereabouts on October 20, 2003.

Hence, this appeal.

On September 3, 2008, we notified both parties that they may file their respective supplemental briefs. However, both parties manifested that they are no longer filing their briefs.

Our Ruling

The appeal lacks merit.

In its attempt to exonerate herein appellant, the defense tries to impute ill motive on the part of "AAA" in filing the instant case. The defense claims that "AAA" harbors ill feelings against the appellant because when the latter started living-in with "AAA's" mother, the latter no longer had time to take care of "AAA" as she devoted most of her time to appellant.

We are not persuaded. This line of reasoning totally contradicts the earlier theory adopted by the defense. It will be recalled that when the appellant testified before the trial court, he claimed that "AAA's" motive in filing the charge of rape was to force him to marry her mother. However, in its Appellant's Brief, the defense now argues that "AAA" harbored ill feelings towards the appellant because her mother devoted most of her time to the appellant thereby depriving "AAA" and her siblings the care and attention that they deserve from their mother. If indeed this is true, then instead of wanting the appellant to marry her mother, "AAA" would instead have wished for appellant to leave so that their mother could pay more attention to them.

We also find no merit in the contention of the defense that "AAA's" delay in reporting the incident should have cautioned the trial court from lending credibility to her testimony. According to the defense, it was only on November 17, 2003, or 27 days after the alleged commission of the rape, that "AAA" signed her affidavit. We consider a lapse of 27 days reasonable for "AAA" to prepare and sign her affidavit. In several cases where the delay consisted of years and months, we still considered the same reasonable and did not in any way diminish the credibility of the complaining witness. In the instant case, "AAA's" "delay" of 27 days did not diminish in any manner her credibility. Said "delay" was inconsequential and did not touch on the elements of the crime. It remains un-rebutted that on October 20, 2003, appellant had carnal knowledge of "AAA" through force and intimidation and without her consent. Also, "AAA" immediately reported the incident to her mother and sibling. On October 21, 2003, or merely a day after the rape was committed, the same was reported to the police authorities. Moreover, "AAA" satisfactorily explained the said "delay." She testified that she and her mother went to the police authorities several times but it was only on November 17, 2003 that she signed her affidavit.