

THIRD DIVISION

[G.R. No. 179190, January 20, 2009]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ALBERTO L. MAHINAY, ACCUSED-APPELLANT.**

D E C I S I O N

CHICO-NAZARIO, J.:

This is an appeal from the Decision^[1] of the Court of Appeals dated 26 October 2006 in CA-G.R. CR H.C. 00172, affirming with modification the Decision of the Regional Trial Court (RTC) of Cebu in Criminal Case No. CBU-48322 dated 14 January 2000, finding accused-appellant Alberto L. Mahinay (Mahinay) guilty beyond reasonable doubt of the crime of rape.

Mahinay was charged with rape in an Amended Information which reads:

That on the 5th day of April, 1998, at around 8:00 o'clock in the evening, at Barangay Lawaan II, Municipality of Talisay, Province of Cebu, Philippines, and within the jurisdiction of the Honorable Court, the above-named accused, with lewd design and by means of force and intimidation, did then and there willfully, unlawfully and feloniously lie and succeed in having carnal knowledge of [AAA], a mentally retarded minor, fifteen (15) years of age, against her will and consent.^[2]

Mahinay entered a plea of not guilty. Trial ensued.

The prosecution presented the testimonies of Dr. Susan Casinio of the Don Vicente Sotto Memorial Medical Center, the private complainant AAA,^[3] and her mother BBB. The evidence of the prosecution tends to establish the following course of events:

On 5 April 1998, at around 8:00 p.m., AAA went to the cornfield near her residence in order to defecate. A neighbor, Sidra, approached her and told her that Mahinay wanted to talk to her. Sidra dragged AAA towards Sidra's house. Mahinay met them just outside the house, and forced AAA inside the kitchen of Sidra's house. While in the kitchen, Mahinay told AAA that his cousin, Joseph, wanted to court her. While saying this, Mahinay started touching AAA's breast. Mahinay then forced AAA to lie down. He removed her shorts and underwear. AAA tried to break the hold of Mahinay, who responded by tightening his grip. Mahinay threatened to kill her, and this prevented her from shouting. Mahinay then raped her. AAA felt helpless, and all she was able to do was cry.

Thereafter, AAA went home. At 11:00 p.m., BBB arrived home. AAA did not tell BBB what happened, afraid that Mahinay would kill her. It was only five days later, or on 10 April 1998, that BBB learned about what happened to her daughter, when she

was informed by a *barangay tanod* named Belbin.

On the same day, BBB brought AAA to the San Vicente Sotto Memorial Medical Center where the latter underwent physical examination. Dr. Nueva Tagalogin examined AAA and noted that there was an incomplete healed laceration at the 8 and 5 o'clock positions.

The defense, on the other hand, presented the testimonies of Mahinay; Sidra's neighbor, Rose Rabadon; and Sidra's daughter, Rosalina Aboyme. The evidence of the defense was intended to establish the following:

On 5 April 1998, at around 8:00 p.m., Mahinay was in the house of his aunt Remedios Lauron. He was not able to talk to AAA that night. On 10 April 1998, Mahinay's mother told him that he was being accused of impregnating AAA. He went to BBB to ask why he was being accused as such, but BBB attempted to strike him with a piece of wood. He went back to the house of Lauron, who advised him to stay in the house of his father in Tabunok, because BBB asked the intercession of her relatives. He found out about the rape charge when he was arrested on 11 March 1999 near the bridge of Tabunok.

In his defense, Mahinay alleged that BBB fabricated stories against him since the family of AAA and his family were not in good terms due to an incident in which the latter family had called the former family *patay gutom*. BBB and Mahinay's mother also had a conflict with regard to the possession of a place for vending. AAA once told witness Rabadon that it was AAA's stepfather who raped her.

Mahinay further alleged that there was also a time when the family of AAA was not in good terms with the family of Sidra because of a certain stoning incident. The two families had since then reconciled.

On 14 January 2000, the RTC rendered its judgment convicting Mahinay of the crime of rape. The dispositive portion of the Decision is as follows:

WHEREFORE, judgment is hereby rendered finding accused Alberto Mahinay guilty beyond reasonable doubt of the crime of rape and sentences him to reclusion perpetua. He is likewise directed to indemnify [AAA] the sum of P50,000.00 and another sum of P30,000.00 as and for moral damages.

With cost against the accused.^[4]

The records of the case were transmitted to this Court for automatic review. However, conformably with the ruling of this Court in *People v. Mateo*,^[5] the case was referred to the Court of Appeals.

On 26 October 2006, the Court of Appeals rendered its Decision affirming the conviction of Mahinay, with modification as to the amount of damages. The dispositive portion of the Decision states:

WHEREFORE, the appealed judgment of the court a quo is AFFIRMED, with the MODIFICATION that accused-appellant Alberto Mahinay is hereby ordered to pay the amount of P50,000.00 as moral damages.

Costs *de oficio*.^[6]

Mahinay appealed to this Court, claiming that it is highly improbable for him to have committed the crime of rape because other persons were in the house where the alleged rape took place. Furthermore, Mahinay claims that AAA failed to put up sufficient resistance against the alleged acts of Mahinay. Finally, Mahinay also contends that AAA's delay in reporting the incident to her mother was tantamount to giving consent to the sexual act.

We are not persuaded.

Prevailing jurisprudence uniformly holds that findings of fact of the trial court, particularly when affirmed by the Court of Appeals, are binding upon this Court.^[7] As a general rule, when the question is raised as to whether to believe the version of the prosecution or that of the defense, the trial court's choice is generally viewed as correct and entitled to the highest respect because it is more competent to conclude so, having had the opportunity to observe the witnesses' demeanor and deportment on the witness stand and the manner in which they gave their testimonies, and therefore could better discern if such witnesses were telling the truth; the trial court is thus in the best position to weigh conflicting testimonies.^[8] In the instant case, the trial court even categorically stated that Mahinay "was hesitant, uneasy and evasive in his answers to the questions propounded by the prosecutor."

There is no merit in Mahinay's contention that it is highly improbable for him to have committed the crime of rape because other persons were in the house where the alleged rape took place. According to Mahinay, AAA herself testified that there were other people present when the alleged rape took place. This is misleading. AAA clearly stated that the people referred to were outside the house during the incident:

ATTY. PORIO (cross examination)

Q: And there were no people around inside the house of Sidra at that time?

A: The children were outside the house while both of us were inside the house.

Q: Inside the house at the kitchen, is that right?

A: Yes, Ma'am.^[9]

Either way, this Court has observed in numerous cases that lust does not respect either time or place.^[10] The evil in man has no conscience -- the beast in him bears no respect for time and place, driving him to commit rape anywhere, even in places where people congregate such as in parks, along the roadside, within school premises, and inside a house where there are other occupants.^[11]

Neither do we find merit in Mahinay's insistence that AAA's failure to report the incident immediately was tantamount to giving consent to the alleged act of Mahinay. Delay in revealing the commission of rape is not an indication of a