

## SECOND DIVISION

[ G.R. No. 185724, June 05, 2009 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JESSIE MALATE Y CAÑETE, ACCUSED-APPELLANT.**

### D E C I S I O N

**VELASCO JR., J.:**

#### **The Case**

This is an appeal from the July 8, 2008 Decision<sup>[1]</sup> of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 02588 which affirmed the October 27, 2006 Decision<sup>[2]</sup> in Criminal Case No. 1869-M-2004 of the Regional Trial Court (RTC), Branch 12 in Malolos City, Bulacan.

Accused-appellant Jessie Malate y Cañete stands convicted of one (1) count of rape or violation of paragraph 1(a), Article 266-A of the Revised Penal Code, as amended. He was sentenced to suffer the penalty of *reclusion perpetua*.

#### **The Facts**

The charge against Malate stemmed from the following Information:

That on or about the 18<sup>th</sup> day of June, 2004, at around 7:45 in the evening, more or less, in the municipality of Meycauayan, province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and feloniously, by means of force and intimidation, with the use of a kitchen knife and with lewd designs, have carnal knowledge with one BBB<sup>[3]</sup> against her will and without her consent.

Contrary to law.<sup>[4]</sup>

On July 22, 2004, Malate, with the assistance of his counsel *de oficio*, was arraigned and entered a plea of "not guilty" to the charge against him. After the pre-trial, trial on the merits ensued.

During the trial, the prosecution offered the testimonies of BBB, the private complainant, and Milo Vanguardia. On the other hand, the defense presented Malate and Michael Luna as its witnesses.

#### **Version of the Prosecution**

On June 18, 2004, at around 7:00 o'clock in the evening in Meycauayan, Bulacan, BBB was on her way home when she heard someone say, "Pssst! Pssst!" Ignoring the sounds, BBB continued to walk. Suddenly, a man, who was later identified as Malate, appeared holding a knife and blocked BBB's way. Malate grabbed her shirt from behind and poked his knife on her neck. She tried to struggle free and this caused Malate to cut his finger. She then tried to run away, but Malate ran after her and again grabbed her by her shirt. She also tried to shout for help but no help came.

Malate then dragged BBB to a ricefield, all the while pointing the knife at her. There, he made her remove her clothes and his pants. Afterwards, he made her lie on the ground and kissed her all over her body. Malate then placed himself on top of her and made her hold his penis and guide it into her vagina. BBB, frightened, followed every word he said. After penetration of BBB's sex organ, Malate succeeded in having sexual intercourse with her.

When it was all over, BBB sat up and noticed blood on her hair. She thought it came from a cut in her head but Malate told her that the blood came from the cut of his left hand's middle finger. She then asked him to let her go home to her daughter, but he refused saying that he wanted her to go with him to his province in Samar because he loved her. She replied she could not love him back because she did not know him. He said that he had been watching her for a long time and had come to love her, without her knowing it.

Pretending to accede to his request, BBB asked Malate to let her look for her bag and shoes first at the place where she was blocked. He agreed and they proceeded to the place. While she was getting her bag and shoes, Malate was also looking for his slippers. Two *barangay tanods* then arrived with their flashlights beaming on both of them. BBB told them that Malate raped her and this caused him to run away. The three of them ran after him in pursuit until they lost him in the dark.

They all looked for him around *Barangay CCC* where they stumbled upon a group of men playing native chess (*dama*), one of whom was Milo Vanguardia, a friend of BBB's estranged husband. BBB told Milo that they were looking for a man with curly hair and a wound on his hand, who raped her. When they still could not find Malate, BBB went to the *barangay* hall of DDD with her mother to report the incident. Later, her husband's friend, Milo, and some *barangay tanods* brought Malate to the *barangay* hall and later proceeded to the police station where she pointed to Malate as her rapist.

### **Version of the Defense**

Malate's defense, on the other hand, was confined to his denial of the accusation and an alibi, to wit:

Sometime around 9:00 o'clock in the evening of June 18, 2004 in CCC, Meycauayan, Bulacan, Malate arrived in a jeepney coming from Marikina and had some refreshments at a store nearby. Next, he rode a pedicab to the residence of Edmond Glab, his former Officer-in-Charge (OIC), to inquire about a job vacancy in the security agency where he was previously employed.

While on his way to his former boss' place, Malate chanced upon a certain person named Nilo playing *tong-its* with several other people. Thinking that Edmond was with them, he asked the pedicab to stop but he did not see Edmond there. Instead, Nilo saw him and started cursing because of a previous quarrel they had. To avoid a confrontation, he ordered the pedicab to proceed to their destination.

Upon reaching a narrow alley leading toward the house of his former OIC, Malate ordered the pedicab to stop and he got off from the vehicle. Upon alighting, he immediately noticed three armed men behind him. Suddenly, one of the men hit him with the butt of his firearm. He tried to turn around to face them but the three ganged up on him and repeatedly hit him with their rifles. As a result of the incessant beatings, he lost consciousness.

When Malate regained consciousness, he noticed that he was inside a bodega-like building with his attackers. There and then, he was again beaten and forced to admit that he was Jim Boy despite his protestation about not knowing who Jim Boy was. At around 12:00 o'clock midnight, they brought him to the Meycauayan police station.

It was only the following day, in the early morning of June 19, 2004, that Malate came to know about the rape accusation. He denied having any knowledge of the imputed charge. He also maintained that it was his first time to meet BBB at the police station.

### **The Ruling of the RTC**

After trial, the RTC convicted Malate. The dispositive portion of the Decision reads:

WHEREFORE, finding herein accused Jessie Malate y Cañete guilty as principal beyond reasonable doubt of the crime of rape as charged, he committed with the use of a knife, a deadly weapon, in forcing, threatening and intimidating his victim into having sexual intercourse with him against her will, there being, however, no circumstance, aggravating or mitigating, found attendant in its commission, he is hereby sentenced to suffer the penalty of reclusion perpetua, to indemnify the victim, BBB, in the amount of P75,000.00, to pay her the further amount of P50,000.00 as moral damages subject to the corresponding filing fees as a first lien, and to pay the costs of the proceedings.

In the service of his sentence, the said accused, being a detention prisoner, shall be credited with the full time during which he had undergone preventive imprisonment, pursuant to Art. 29 of the Revised Penal Code.

SO ORDERED. <sup>[5]</sup>

### **The Ruling of the CA**

On July 8, 2008, the CA affirmed the judgment of the RTC. The dispositive portion of

the CA Decision reads:

WHEREFORE, in view of the foregoing premises, judgment is hereby rendered by us DISMISSING the appeal filed in this case and AFFIRMING *in toto* the assailed Decision dated October 27, 2006 of the court *a quo* in Criminal Case No. 1869-M-2004.

SO ORDERED.<sup>[6]</sup>

### **The Issues**

Malate contends in his Brief that:

1. The trial court gravely erred in giving full weight and credence to the prosecution witness' materially inconsistent and unreliable testimony;
2. The trial court gravely erred in convicting the accused-appellant of the crime of rape despite the prosecution's failure to prove his guilt beyond reasonable doubt.<sup>[7]</sup>

### **The Court's Ruling**

We sustain appellant's conviction.

After a careful examination of the records of this case, we are satisfied that the prosecution's evidence, including BBB's testimony, established Malate's guilt with moral certainty.

### **Testimony of Victim is Credible**

In his Brief, Malate argues that the trial court erred in giving full credence and reliance on the narration of the private complainant who gave implausible statements and whose testimony was full of inconsistencies, thus rendering the entire charge incredible. He asserts that BBB's varied versions of the incident demonstrate her lack of credibility.

In support of his position, Malate draws attention to the fact that during direct examination, BBB testified that her path was allegedly blocked by him and, then and there, she was forcibly assaulted. But during her cross-examination, she stated that Malate passed by her and then suddenly grabbed her from behind. Likewise, he points out that BBB was positive of the rapist's identity because of a light emanating from the houses nearby; but again, during her cross-examination, she stated that the light came from the brightness of the moon and a lamp post. To him, the foregoing inconsistencies and discrepancies in the testimony should suffice to support a judgment of acquittal.

Contrary to Malate's contentions, this Court finds no cogent reason to doubt the veracity of BBB's testimony.