

THIRD DIVISION

[G.R. No. 186496, August 27, 2009]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. DANTE GRAGASIN Y PAR, ACCUSED-APPELLANT.

D E C I S I O N

CHICO-NAZARIO, J.:

Before this Court is a Petition for Review under Rule 45 of the Revised Rules of Court of the Decision^[1] dated 07 August 2008 of the Court of Appeals in CA-G.R. CR-HC No. 02652, entitled *People of the Philippines v. Dante Gragasin y Par*, affirming the Decision^[2] rendered by the Regional Trial Court (RTC), Branch 29, Bayombong, Nueva Vizcaya, in Criminal Case No. 4083, finding accused-appellant Dante Gragasin guilty beyond reasonable doubt of the crime of Rape as defined and penalized under Article 266-A and Article 266-B of the Revised Penal Code, as amended by Republic Act No. 8353, imposing the penalty of *reclusion perpetua* and ordering accused-appellant to pay the offended party P50,000.00 as civil indemnity and P50,000.00 as moral damages and costs of the suit.

On 23 September 2001, a dastardly act allegedly perpetrated by accused-appellant was committed against private complainant (AAA).^[3]

On 10 December 2001, upon AAA's sworn statement dated 26 September 2001, accused-appellant was charged before the RTC of Bayombong, Nueva Vizcaya, with the crime of Rape defined and penalized under Article 266-A, Section I, paragraph (a) of Republic Act No. 8353 in relation to Republic Act No. 7659 in an Information which reads:

CRIMINAL CASE NO. 4083

That on September 23, 2001 in the evening, at Barangay XXX, Municipality of XXX, Province of XXX, Philippines and within the jurisdiction of the Honorable Court, the above-named accused, with lewd designs, by means of force, threat and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of AAA, 9 years old, against the latter's will and consent, to her own damage and prejudice.^[4]

When arraigned on 4 April 2002 before Branch 29 of said court, the Information was read to accused-appellant in a dialect known to, and understood by, him. With the assistance of his counsel, accused-appellant pleaded NOT GUILTY.^[5] Thereafter, trial commenced on 17 September 2002.

The prosecution offered three witnesses, namely: private complainant AAA, who was a nine-year-old girl at the time of the commission of the crime; BBB,^[6] the victim's mother; and Dr. Napoleon Logan, Municipal Health Officer of Bagabag, Nueva Vizcaya, who personally examined AAA. The following documentary exhibits were also proffered in evidence: (a) AAA's birth certificate; (b) joint affidavit of AAA's parents; and (c) Certification of Medico-Genital Examination issued by Dr. Logan.

The prosecution first presented BBB, the mother of the victim AAA.

Under oath, she swore that AAA was born on 11 October 1992 and presented the birth certificate of AAA to evidence such fact. She narrated that at around 9:00 o'clock in the evening of 23 September 2001, AAA sought permission from her so she could go to her grandmother's house to see the dress AAA was going to wear during the fiesta. BBB's house was about 50 meters away from her grandmother's house. After some time and AAA had not returned home, BBB followed her daughter to the house of her mother-in-law and saw her daughter in the kitchen "jumping and putting on her short pants." BBB then saw accused-appellant, a helper in said house, lying on his bed totally naked and pretending to be asleep. By that time, AAA had already run out of the house. Thereafter, BBB went out to ask the help of a councilwoman in XXX and Omar Saturno, a policeman from XXX, and asked them to go check on the appearance of accused-appellant who was totally naked, and the appearance of AAA. Saturno tried but failed to contact the police station. Afterwards, they proceeded to BBB's house where BBB asked her daughter AAA what happened to her. In the presence of the councilwoman and the policeman, AAA narrated that she was raped by accused-appellant. Because they could not reach the police station as it was nighttime already, the policeman advised them to wait until the next morning to have accused-appellant summoned by the *barangay* officials. BBB and her husband CCC controlled their urge to confront and kill the accused, and decided to leave him alone so he would not escape.

The next witness presented by the prosecution was the victim AAA, who testified that she was an elementary student who knew accused-appellant because he had been a helper for quite some time already in her grandmother's house where he also slept. At around 9:00 o'clock in the evening of 23 September 2001, she went to her grandmother's house to see if the dress her grandmother was sewing for her was already done. When she reached her grandmother's house, the latter was not there and it was only accused-appellant in the house. As she was turning on the lights in the sala of her grandmother's house, accused-appellant grabbed her hand, and took her to the kitchen which doubled as his bedroom. There, accused-appellant took off his clothes, and laid her down on his bed. He removed her shorts and underwear, began kissing her, lay on top of her and inserted his penis into her vagina. She resisted by pushing him off the bed. When accused-appellant fell off the bed, she tried to run away, but he caught up with her and pulled her again to his room. At that moment, her grandmother arrived and turned on the lights, allowing her to hurriedly put on her clothes and dash out of the house. At home that same night, she revealed to her mother what accused-appellant had done to her.

The final witness presented by the prosecution was Dr. Napoleon Logan, Municipal Health Officer of XXX, XXX, as expert witness. Dr. Logan testified that he examined AAA on 24 September 2001, with the following findings:

Genital Examination:

Pubic hair, no growth, labia majora and labia minora coaptible, fourchette, lax; vestibular mucosa, intact; Contusion noted at both labia majora, hymenal orifice 1.2 cm in diameter, no lacerations noted. Vaginal wall and rugosities cannot be reached by examining finger.

Laboratory Examination:

Microscopic Examination of Vaginal discharge. Negative for Spermatozoa.

[7]

The medical examination revealed that while AAA did not suffer any hymenal lacerations, she sustained contusions at the left and right labia majora. Dr. Napoleon Logan further testified that the contusion at the left and right majora could have been caused by a blunt object such as a human penis.

After the prosecution rested its case, accused-appellant filed a motion to file and admit demurrer to evidence, averring that the prosecution failed to prove his guilt beyond reasonable doubt and attacking the testimonies of AAA and her mother as being seriously flawed and inconsistent. Opposing the demurrer to evidence, the prosecution claimed that it had proven accused-appellant's guilt beyond reasonable doubt, and that minor inconsistencies of a minor witness testifying in court must be liberally construed in the child's favor, as a child was prone to be misled and intimidated by the loud and menacing questions of the adverse party's counsel.

On 22 July 2005, the RTC ruled against the demurrer to evidence and proceeded to hear the defense.

The defense presented accused-appellant Dante Gragasin as its sole witness, who denied the accusations against him and interposed the defense of alibi.

He testified that on 23 September 2001, at around 7:00 o'clock in the evening, he was in the house of his employer drinking with several others. They broke up after 8:00 o'clock in the evening of the same date, and accused-appellant went to sleep in his quarters in the kitchen of the house. He woke up at about 7:00 o'clock of the following day and did some laundry. He later worked in the farm until 1:00 o'clock in the afternoon. Soon after, policemen arrived and invited him to the police station, where he was informed of a complaint filed by AAA.

On cross examination, accused-appellant admitted he saw AAA that evening but only saw her outside the house of her grandmother along the path to the house. They exchanged a few words and learned that she was looking for her grandmother.

Evaluating the testimonial and documentary evidence adduced by the parties during trial, the court *a quo* gave more weight to the prosecution's version and convicted accused-appellant of the crime of Rape, disposing as follows:

WHEREFORE, finding the accused Dante Gragasin y Par guilty beyond reasonable doubt as principal of the crime of Rape as defined and

penalized under Article 266-A and Article 266-B of the Revised Penal Code as amended by RA 8353, the court hereby sentences the said accused to suffer the penalty of *reclusion perpetua* and to pay the offended party P50,000.00 as indemnity and P50,000.00 as moral damages, and the costs of this suit.^[8]

In giving full weight and credit to AAA's testimony, the trial court applied the doctrine that testimonies of rape victims who are young and immature deserve full credence, considering that no young woman, especially of tender age, would concoct a story of defloration, allow an examination of her private parts, and thereafter pervert herself by being subjected to a public trial, if she was not motivated solely by the desire to obtain justice for the wrong committed against her. Neither was there any showing of a sinister motive on the part of AAA or her family to testify as they did. Although there was no testimony that AAA cried at any time after the alleged incident, it does not mean that nothing happened to her. It bears stressing that, on direct testimony, AAA testified that she, in fact, fell ill for a day after the incident. The workings of the human mind when placed under emotional stress are unpredictable, and people react differently.

On intermediate appellate review, the Court of Appeals affirmed the findings of the RTC, but modified the penalty and award of damages in this wise:

IN LIGHT OF ALL THE FOREGOING, the appeal is hereby DENIED. The decision of the Regional Trial Court is hereby AFFIRMED WITH MODIFICATION. Accused-appellant Dante Gragasin y Par is sentenced to suffer the penalty of *reclusion perpetua* and to pay the victim AAA (to be identified through the Information in this case), the amount of P75,000.00 as civil indemnity, P75,000.00 as moral damages and P25,000.00 as exemplary damages.^[9]

Hence, this appeal where accused-appellant prays for his acquittal.

On 13 April 2009, the Court required the parties to submit their respective supplemental briefs, if they so desired.^[10] For expediency, the defense and prosecution opted to adopt their briefs submitted to the Court of Appeals.^[11] The case was thereafter deemed submitted for decision.

I.

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT FOR THE CRIME OF RAPE DESPITE THE FACT THAT HIS GUILT WAS NOT PROVEN BEYOND REASONABLE DOUBT.

II.

ASSUMING ARGUENDO THAT THE ACCUSED COMMITTED A CRIME, THE

TRIAL COURT SERIOUSLY ERRED IN CONVICTING HIM OF CONSUMMATED RAPE DESPITE THE FACT THAT THE ELEMENT OF SEXUAL INTERCOURSE WAS NOT PROVEN BEYOND REASONABLE DOUBT.

III.

THE TRIAL COURT GRAVELY ERRED IN GIVING SCANT CONSIDERATION TO THE EVIDENCE PRESENTED BY THE DEFENSE WHICH IS MORE CREDIBLE THAN THAT OF THE PROSECUTION'S.

The assignment of errors may be narrowed down to the sole issue of whether or not accused-appellant's guilt was proven beyond reasonable doubt.

The appeal fails.

Appealing his conviction, accused-appellant anchors his innocence on denial and alibi. He argues that the testimonies of the prosecution witnesses were inconsistent with human experience, thus, not credible to sustain conviction. If accused-appellant inserted his penis into AAA's vagina, there would have been even the slightest tear on her hymen. Assuming *arguendo* that a crime was committed, accused-appellant should only be convicted of attempted rape for the failure of the prosecution to prove beyond any shadow of doubt the fact of penetration or even a mere touching by the penis of the labia.

The defense also attempted to cast doubt on AAA's and BBB's credibility as witnesses. First, the defense claims that AAA failed to shout for help or make any sound to alert other persons nearby while she was allegedly being raped. Second, what militates against the prosecution's cause is the inaction of AAA's parents immediately after they saw accused-appellant naked on the bed, an odd behavior for the parents of a child whom they believed to have been sexually violated.

Finally, the defense argues that the fact that accused-appellant proceeded to do his chores the day after the alleged incident is evidence of his innocence, since the natural reaction of a person who has committed a wrong is to flee from the person he has wronged.

On the other hand, the Office of the Solicitor General (OSG) supports accused-appellant's conviction, on the basis of the documentary and testimonial evidence presented by the prosecution.

Rape is a serious offense with grave consequences, both for the accused-appellant and private complainant; hence, the review of a judgment of conviction for rape must be done with utmost care.

In reviewing rape cases, this Court is guided by three 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 person accused, although innocent, to disprove; (2) considering the intrinsic nature of the crime, only two persons being usually involved, the testimony of the complainant should be scrutinized with great caution;