

THIRD DIVISION

[G.R. No. 186129, August 04, 2009]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JESUS PARAGAS CRUZ, ACCUSED-APPELLANT.

D E C I S I O N

VELASCO JR., J.:

This is an appeal from the Decision of the Court of Appeals (CA) dated May 30, 2008 in CA-G.R. CR-H.C. No. 01760, which affirmed the August 12, 2002 Decision in Criminal Case No. 99-329 of the Regional Trial Court (RTC), Branch 259 in Parañaque City.

Accused-appellant Jesus Paragas Cruz was 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 Information dated February 23, 1999 against Cruz alleged the following:

That on or about the 6th day of June 1998 in the City of Parañaque, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, by means of force and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge with one [AAA],^[1] a minor, 9 years old, against her will.

CONTRARY TO LAW.^[2]

Upon arraignment on July 8, 1999, Cruz pleaded not guilty.

The prosecution offered the testimony of the following witnesses: PO3 Maria Bautista; Dr. Winston Tan; the victim's mother, BBB; and Emiliano Mariano, the *barangay tanod* of San Dionisio, Parañaque City. Apart from Cruz, the defense presented as witnesses his wife, Melinda Cruz; Antonio Gonzales; Benjamin Gudal; Jesus Cruz; Dr. Darius Mariano; and Dr. Winston Tan.

Version of the Prosecution

On June 6, 1998, AAA, then a nine-year old, was at her house watching television with her cousin Jady. It was past three in the afternoon when Jady left to go to her grandmother's house. Upon her departure, Cruz abruptly entered the house and turned off the television. He closed the windows and told AAA to remove her shorts.

She did as instructed. Cruz later kissed AAA and touched her vagina. She felt pain as he inserted his penis into her vagina. She did not do anything, however, as she was fearful of Cruz. To intimidate her further, Cruz threatened to kill her should she report what had just happened. He then left in a hurry and closed the door of the house.^[3]

AAA tried her best to keep the rape a secret as she was terrified that Cruz would come back and kill her. Nevertheless, she told her mother BBB what happened to her a few months later. BBB subsequently told Cruz's wife of what she had just discovered. Thereafter, BBB took her daughter to the *barangay* hall and then to the police station to report the matter to the authorities.^[4]

A medical examination was conducted on AAA by Dr. Winston Tan. His report showed that AAA had two (2) hymenal lacerations. One was a deep-healed laceration at the 3 o'clock position and another one a shallow healed laceration at the 5 o'clock position.^[5]

Version of the Defense

Maintaining his innocence, Cruz claimed that at the time of the rape he was with Antonio Gonzales in Multinational Village, Parañaque City. Gonzales later testified that they met from 11 o'clock in the morning to about 5:30 in the afternoon. Cruz conducted a survey of Gonzales' land to prepare it for a prospective buyer. A couple of months later or on September 28, 1998, his wife told him of AAA's allegation of rape. Policemen subsequently arrested him and brought him to the police station where he was informed that he was being charged of rape. To further establish his defense, Cruz maintained that it was impossible for him to commit rape as he had been sexually impotent since 1995. He pointed to a land dispute he had with the victim's family as a possible reason for the fabricated charge.^[6]

Cruz's wife Melinda corroborated his story by saying that they seldom had sexual intercourse after 1995 as he had become impotent. Dr. Darius Mariano, meanwhile, diagnosed Cruz in 2001 as suffering from erectile dysfunction.^[7]

The Ruling of the Trial Court

The RTC found Cruz guilty for the crime charged. It found Cruz's defense too shallow in light of his positive identification as the perpetrator of the rape. The dispositive portion of the RTC Decision reads:

WHEREFORE, PREMISES CONSIDERED, finding accused Jesus Paragas Cruz GUILTY beyond reasonable doubt for the crime of Rape as defined and penalized under par. 1(c) Art. 266-A RA 8353 in relation to Sec. 5(b) RA 7610; this Court hereby sentences him to reclusion perpetua and to suffer the accessory penalties provided by law, particularly Art. 41 of the Revised Penal Code. For the civil liability, he is further condemned to pay the amount of P100,000.00 as actual and moral damages.

x x x x

SO ORDERED.^[8]

On June 25, 2008, Cruz filed his Notice of Appeal of the RTC Decision.

The Ruling of the CA

Cruz, in arguing that the trial court erred in convicting him, alleged that AAA's hymenal lacerations could have been caused by means other than sexual intercourse. He furthermore submitted that his erectile dysfunction raised doubts as to his culpability. Additionally, he claimed that the corroboration of his alibi by two other witnesses should not have been disregarded.

The CA found Cruz's assertions without merit. It ruled that his impotency was not proved with certainty. The appellate court pointed out that the medical finding of erectile dysfunction was based on an examination more than three years after the rape occurred; thus, no categorical conclusion could be made that Cruz was impotent when the rape was committed.

Following jurisprudence on the subject matter, the appellate court held that it was hard to believe AAA's mother would file rape charges against Cruz because of a land dispute, seeing as it would cause AAA embarrassment and subject her to a lifelong stigma. As to Cruz's alibi, the CA opined that he was not able to prove the physical impossibility of his having committed the crime.

The *fallo* of the CA Decision reads:

WHEREFORE, the Decision appealed from is hereby AFFIRMED with the MODIFICATIONS that accused-appellant JESUS PARAGAS CRUZ is ordered to pay private complainant P50,000.00 as civil indemnity and P50,000.00 as moral damages, and exemplary damages in the amount of P25,000.00. The awarded amount of P100,000.00 is DELETED. The Decision stands in all other respects.

SO ORDERED.^[9]

On March 11, 2009, this Court required the parties to submit supplemental briefs if they so desired. The parties manifested their willingness to submit the case on the basis of the records already submitted.

The Issue

THE COURT A QUO GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT OF THE CRIME OF RAPE

Cruz reiterates his previous assertions, i.e., that (1) the victim's hymenal lacerations could have been caused by a non-sexual act; (2) Cruz's erectile dysfunction made it