

THIRD DIVISION

[G.R. No. 170342, September 18, 2009]

**ALLAN DIZON Y AQUI, PETITIONER, VS. PEOPLE OF THE
PHILIPPINES, RESPONDENT.**

D E C I S I O N

CHICO-NAZARIO, J.:

In this Petition for Review on *Certiorari*^[1] under Rule 45 of the Rules of Court, petitioner Allan Dizon y Aqui prays for the reversal of the Decision,^[2] dated 1 September 2005, and Resolution,^[3] dated 7 November 2005, of the Court of Appeals in CA-G.R. CR-H.C. No. 00615, which affirmed with modification the Decision,^[4] dated 11 March 2002, of the Regional Trial Court (RTC), Branch 75, Olongapo City, in Criminal Cases No. 303-97 to No. 305-97, finding petitioner guilty of one count of simple rape.

The records of the case generate the following facts:

On 19 June 1997, three separate informations^[5] were filed with the RTC charging petitioner with three counts of rape, thus:

Criminal Case No. 303-97

The undersigned accuses Allan Dizon y Aqui of the crime of Rape, upon complaint under oath filed by AAA^[6] which is attached hereto and made an integral part hereof as Annex "A" committed as follows:

That in or about the month of **December, 1996**, in the City of Olongapo, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design and by means of force, and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of AAA, who was seventeen (17) years old, against her will.

Criminal Case No. 304-97

The undersigned accuses Allan Dizon y Aqui of the crime of Rape, upon complaint under oath filed by AAA which is attached hereto and made an integral part hereof as Annex "A" committed as follows:

That on or about the **twentieth (20th) day of February, 1997**, in the

City of Olongapo, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design and by means of force, and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of AAA, who was seventeen (17) years old, against her will.

Criminal Case No. 305-97

The undersigned accuses Allan Dizon y Aqui of the crime of Rape, upon complaint under oath filed by AAA which is attached hereto and made an integral part hereof as Annex "A" committed as follows:

That in or about the month of **October, 1996**, in the City of Olongapo, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd designs and by means of force, and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of AAA, who was seventeen (17) years old, against her will.

Subsequently, these cases were consolidated. When arraigned on 5 August 1998, petitioner, assisted by counsel *de parte*, pleaded "Not guilty" to each of the charges. Trial on the merits thereafter ensued.^[7]

The prosecution presented as witnesses AAA, BBB and Brigida Acuna Navarette. Their testimonies, woven together, bear the following narrative:

AAA, daughter of BBB (mother) and CCC (father), live with her parents in a two-storey house located at No. 26 Bonifacio Street, Barangay Pag-asa, Olongapo City. She and her parents occupied the first floor of the house, while DDD (paternal grandmother of AAA) lived on the second floor. She was born with a harelip/cleft palate, causing her difficulty in speaking. She was enrolled by her parents in school but upon reaching Grade One, she stopped going to school and merely stayed in the house to avoid ridicule from classmates and schoolmates. Although illiterate, she could distinguish right from wrong. She was always left to the care of DDD whenever her parents were at work at the Subic Bay Metropolitan Authority from 7:30 a.m. to 5:30 p.m.^[8]

Petitioner and his wife, EEE (niece of CCC), lived in a house also situated at No. 26 Bonifacio Street, Barangay Pag-asa, Olongapo City. Their house was detached from, and positioned at the back of, the two-storey house of AAA and her parents. The said houses were located within the same compound and had the same address.^[9]

On 20 February 1997, petitioner celebrated his birthday in his house. On that evening, AAA, then 17 years old, was in the backyard of their two-storey house. Petitioner called her and told her to proceed to his house. She innocently obeyed. While she was inside his house, petitioner pulled out a knife and told her to remove her shorts. Terrified, she submitted. He then applied cologne in her vagina, into which he then inserted his penis. She felt pain in her vagina. After satisfying his lust, petitioner warned her not to tell anyone of the incident, or he would fight with

CCC and create trouble.^[10]

Sometime in April 1997, BBB observed that AAA was physically weak and lonely. She also noticed that her daughter's stomach was becoming bigger. BBB asked her if she was pregnant, but the latter refused to answer. On 21 April 1997, AAA experienced severe abdominal pain. At this juncture, she confessed to her mother that petitioner had raped her. BBB then brought her to the hospital, where the latter was confined and examined by a certain Dr. Lynemir V. Zarbo. After physical examination, Dr. Zarbo confirmed that AAA was pregnant. BBB then reported the incident to the police which, in turn, later arrested petitioner.^[11]

Subsequently, the police requested the Department of Social and Welfare Development (DSWD) Lingap Center to assist AAA. Brigida Acuna Navarette (Navarette), social worker and officer of DSWD, proceeded to the hospital where AAA was confined and interviewed the latter about the incident. The victim confided to her that petitioner had raped and impregnated her. Later, a certain Senior Police Officer (SPO) 3 Dominga Olaybar arrived at the hospital and took the statement of AAA regarding the incident. The latter was assisted by Navarette during the taking of her statement. Thereafter, the victim, accompanied and assisted by BBB and Navarette, filed before the prosecutor's office a complaint for rape against petitioner.^[12]

According to AAA, this was already the second time that petitioner raped her. The first one happened inside her house while her parents were not around. The third rape incident took place in petitioner's house.^[13]

The prosecution also proffered documentary evidence to bolster the testimonies of its witnesses, to wit: (1) medical certificate of AAA certifying that she was pregnant (Exhibit A);^[14] (2) birth certificate of AAA showing that she was born on 7 June 1980 (Exhibit B);^[15] and (3) sworn statement of AAA regarding the incident (Exhibit C).^[16]

For its part, the defense presented the lone testimony of petitioner to refute the foregoing accusations. No documentary or object evidence was adduced.

Petitioner testified that he and his wife, EEE, lived in a house situated at No. 26 Bonifacio Street, Barangay Pag-asa, Olongapo City. Their house was detached from, and positioned at the back of, the two-storey house of AAA and her parents. The said houses were located within the same compound and had the same address. AAA and BBB were relatives of EEE. Petitioner denied raping the victim on the evening of 20 February 1997 or on other occasions as she alleged. He claimed that he was celebrating his birthday on 20 February 1997 in his house with relatives and friends when the alleged incident occurred. He averred that the family of AAA had an ill motive in accusing him of raping her. He explained that when CCC and his brother-in-law were drunk, the two would call him a "*sampid*." Also, when he had an argument or misunderstanding with CCC and his brother-in-law, the two would tell him to leave the house and to find another residence. He and EEE refused to leave their house at said address because he had constructed the said house.^[17]

After trial, the RTC rendered a Decision on 11 March 2002 convicting petitioner of

simple rape in Criminal Case No. 304-97. The RTC imposed on him the penalty of *reclusion perpetua*. The trial court also ordered him to pay AAA the amount of P50,000.00 as civil indemnity. However, it acquitted petitioner in Criminal Cases No. 303-97 and No. 305-97 because the prosecution had failed to prove the commission of rapes in said criminal cases.

Petitioner filed a Notice of Appeal, to which the RTC gave due course in its Order dated 4 April 2002. In the said Order, the trial court directed the transmittal of the records of the instant case to this Court.^[18] Subsequently, petitioner submitted his "Appellant's Brief."^[19] Pursuant, however, to this Court's ruling in *People v. Mateo*,^[20] we remanded the case to the Court of Appeals for disposition.

On 1 September 2005, the Court of Appeals promulgated its Decision affirming with modification the RTC Decision. In addition to the latter's grant of civil indemnity in the amount of P50,000.00, also awarded by the appellate court were moral damages amounting to P50,000.00 in favor of AAA. Petitioner filed a Motion for Reconsideration but this was denied by the Court of Appeals in its Resolution dated 7 November 2005.

Hence, petitioner lodged the instant Petition assigning the following errors:

I.

THE COURT OF APPEALS ERRED IN AFFIRMING WITH MODIFICATION THE DECISION OF THE REGIONAL TRIAL COURT DESPITE LACK OF EVIDENCE AGAINST PETITIONER;

II.

THE COURT OF APPEALS AND THE REGIONAL TRIAL COURT ERRED IN CONCLUDING THAT THE VERNACULAR "GINALAW PO NIYA AKO" IS SYNONYMOUS WITH RAPE; AND

III.

THE COURT OF APPEALS AND THE REGIONAL TRIAL COURT ERRED IN NOT USING THE STANDARDS USED FOR ADULTS IN ASSESSING THE TESTIMONY OF AAA.

In reviewing rape cases, this Court is guided by three principles, to wit: (1) an accusation of rape can be made with facility; it is difficult to prove but more difficult for the person accused, though innocent, to disprove; (2) in view of the intrinsic nature of the crime of rape where only two persons are usually involved, the testimony of the complainant must be scrutinized with extreme caution; and (3) the evidence for the prosecution must stand or fall on its own merits and cannot draw strength from the weakness of the evidence for the defense.^[21]

As a result of these guiding principles, the credibility of the complainant becomes the single most important issue. If the testimony of the victim is credible, convincing and consistent with human nature and the normal course of things, the accused may be convicted solely on the basis thereof.^[22]

We have carefully examined AAA's court testimony and found it to be credible and trustworthy. Her positive identification of petitioner as the one who ravished her on 20 February 1997 (Criminal Case No. 304-97), as well as her direct account of the bestial act, was clear and consistent, to wit:

FISCAL (to witness)

Q. How many times were you - which you said "*ginalaw*" by the accused Allan Dizon?

A. Several times.

x x x x

Q. Now, you said several times, when was the second time?

x x x x

WITNESS:

During the birthday of Allan.

COURT (to witness)

Q. How did you know that it was his birthday?

A. My cousin told me that it was the birthday of Allan.

FISCAL (to witness)

Q. And where did this incident happen?

A. Infront of their house.

Q. Is that a lot?

A. Inside our yard.

Q. Was it in the morning or in the evening?

A. Evening.

Q. And what did the accused do in this second incident?

A. Inside his house. He called me.

Q. And what happened after he called you?