

THIRD DIVISION

[G.R. No. 187084, October 12, 2009]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
CARLITO PABOL, ACCUSED-APPELLANT.**

DECISION

VELASCO JR., J.:

For review before the Court is the Decision^[1] dated August 31, 2007 of the Court of Appeals (CA) in CA-G.R. CEB-CR-H.C. No. 00644, affirming the November 14, 2003 judgment^[2] in Crim. Case No. N-98-096-J of the Regional Trial Court (RTC), Branch 45 in Bais City, Negros Oriental. The RTC found accused-appellant Carlito Pabol guilty of rape.

The Facts

In an amended information dated August 21, 1998 filed with the RTC, appellant was charged with rape with less serious physical injuries, allegedly committed as follows:

That at around 6:00 o'clock in the morning of October 9, 1997 at Barangay Pacuan, Jimalalud, Negros Oriental, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused waylaid the victim [AAA]^[3] who was then and there alone, and by means of force and bodily attacks, willfully, unlawfully and feloniously did lie, and succeeded in having carnal knowledge of said victim against her will.

CONTRARY TO LAW.^[4]

When arraigned, appellant, assisted by a public attorney, pleaded not guilty. During trial, the prosecution presented AAA, the offended private party, her sister, BBB, Dr. Maritoni Ceniza, Dr. Alain Go, and PO2 Pepe Bomediano. Only appellant testified in his defense.

The following facts were found by the trial court:

On October 9, 1997 at around 6:00 in the morning, AAA, then a 14- year old Grade V student, was on her way to school, passing by the lower portion of the house of appellant, a neighbor. Along the way, AAA met appellant who inquired about the whereabouts of her father. After she had told appellant that her father was home, appellant suddenly struck her on the right side of her face^[5] causing her to fall. Appellant then hugged her from behind, sat her on his lap and struck her breast with a piece of stone. When she shouted for help, appellant covered her mouth. At that point, she fell unconscious. When she had woken up some two hours later, she

found herself alone on the shoulder of the road, covered by tall grasses, and with her school bag on her head. She sustained wounds on her face. Both of her ears were sliced. Her blouse was opened and there were traces of blood on her panty. She later told the court that she experienced pain between her legs when urinating.

[6]

AAA's elder sister, BBB, testified seeing AAA leave for school at around 6:00 a.m. on October 9, 1997. She said that AAA's usual route to school was past the house of appellant. At around 8:00 a.m. on the same day, while nursing her baby, BBB saw a bloodied AAA walking towards their house with a torn dress. BBB lost no time in rushing towards and hugging her little sister. AAA, when asked, related that it was appellant who inflicted the wounds on her face. Thereupon, BBB brought AAA to Gov. William Villegas District Hospital in Guihulngan, Negros Oriental for treatment.

Dr. Ceniza attended to AAA. Testifying on the medical certificate she prepared, Dr. Ceniza revealed that AAA sustained, among others, multiple lacerated wounds on the forehead. Specifically, the doctor's report contained the following findings:

I. Multiple lacerated wounds forehead

1. 2cm x 0.5cm Traversing eyebrow, right
2. 1cm x 0.5cm - Middle forehead
3. 2cm x 0.5cm - -do-
4. 3cm x 0.5cm - -do-
5. 1cm x 0.5cm - -do-
6. 3cm x 0.5cm above eyebrow, left

II. Lacerated wounds vertex

1. 3cm x 0.5cm
2. 3cm x 0.5

III. Lacerated wound occipital area

1. 2cm x 0.5cm

IV. Lacerated wound Pinna, right

1. 2m through and through

V. Lacerated wound Pinna, left 1cm

VI. Lacerated wounds Post auricular area, left

1. 4cm x 0.5cm
2. 2cm x 0.5cm
3. 2cm superficial
4. 1cm superficial

VII. Multiple Abrasion

1. Chin
2. Cheek, left
3. Anterior neck

4. Right hand
5. Left hand
6. Left forearm
7. Left thigh
8. Left knee

VIII. Contusion mandibular area, right^[7]

BBB further testified that, in the afternoon of October 9, 1997, she noticed bloodstains on AAA's panty when the latter changed clothing, making her suspect that AAA is no longer a virgin. The following day, BBB brought AAA again to the hospital for a vaginal examination. The examining doctor, Dr. Go,^[8] found AAA to have a completely healed laceration at 8 o'clock position. ^[9] The laceration, according to the doctor, could have been due to previous sexual intercourse, injection and trauma, among other causes. The healing period of hymenal laceration is from four to 10 days. Even as she noticed that the victim's vagina could admit two fingers, Dr. Go could not determine whether or not AAA is a virgin. When cross-examined, Dr. Go stated the observation that if a woman had sexual intercourse by force, she would sustain hematoma if the injury is recent. That type of hematoma would heal in seven to 10 days depending on its size. In the absence of resistance on the part of the woman, the hematoma may be slight and would heal from four to ten days. Dr. Go added that vaginal lacerations could be due to causes other than a penile insertion and that it is not unusual for virgins to have ruptured hymens. On re-direct examination, Dr. Go stated that it is possible that the hematoma of the victim would be much less severe if the woman were unconscious when it was caused.^[10]

AAA testified that, out of embarrassment of talking about the pain she felt in her vagina, she did not truthfully answer some of the questions during the preliminary investigation. On cross-examination, AAA admitted to not noticing appellant undressing himself, removing her panty, or inserting his sex organ into hers because she was unconscious at some point during the incident. ^[11]

The prosecution presented PO2 Bomediano who testified about appellant's flight after the October 9, 1997 occurrence. PO2 Bomediano also related that, when he and a colleague in the force arrested appellant five years later, the latter readily gave himself up.^[12]

Appellant's defense consisted mainly of partial denial. He testified knowing AAA's father, a neighbor who he claimed was indebted to him. He admitted hurting AAA on October 9, 1997, but denied allegations of rape. According to appellant, he slapped and boxed AAA when she got mad when asked where her father was. Appellant added that he then dragged the unconscious AAA to the shoulder of the road and ran away for fear of having killed her. He denied raping AAA.

By decision dated November 14, 2003, the trial court found the accused guilty of simple rape only, noting that when a rapist employs force the rape victim invariably sustains injury. The dispositive portion of the RTC's decision reads:

WHEREFORE, premises considered, the court finds accused CARLITO PABOL guilty beyond reasonable [doubt] of the crime of simple rape defined under *Article 266-A (1) of the Revised Penal Code*, as amended and he is hereby sentenced to suffer the penalty of *reclusion perpetua*, to indemnify the victim AAA the sum of Php50,000.00 and to pay her the sum of Php50,000.00 as moral damages, plus costs of the suit.

SO ORDERED.^[13]

The Ruling of the CA

Agreeing with and relying on the findings of the trial court as to what transpired between AAA and appellant in the fateful morning of October 9, 1997, the CA affirmed appellant's conviction. The appellate court held that rape was established by circumstantial evidence based on the victim's credible and straight account. The dispositive portion of the CA's decision reads:

WHEREFORE, in the light of the foregoing, the assailed decision is **AFFIRMED in toto**.

Costs against appellant.

SO ORDERED.^[14]

Hence, this appeal is before us.

Assignment of Errors

THE TRIAL COURT ERRED IN FINDING THAT CARNAL KNOWLEDGE WAS ESTABLISHED BY PROOF BEYOND REASONABLE DOUBT

THE TRIAL COURT ERRED IN GIVING FULL WEIGHT AND CREDENCE to the TESTIMONY OF THE PRIVATE COMPLAINANT

THE TRIAL COURT ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT OF THE CRIME OF RAPE

Appellant is obviously questioning the credibility and sufficiency of the inculpatory evidence against him. He insists that the prosecution failed to prove the fact of his having carnal knowledge of the victim. Since AAA, according to appellant, testified to having passed out during the October 9, 1997 encounter, she could not competently testify as to what transpired between the time she was hit by appellant and the moment she regained consciousness. The bloodstains on her underwear could have come from anywhere since she sustained various injuries. The pain in her vagina could also be attributed to the beating and blows she received from the hands of appellant. Appellant also points out that the vaginal examination of the victim was conducted four days after the incident. That the hymenal laceration was completely healed when AAA was examined suggests, according to him, that the laceration could have been caused by prior sexual intercourse, not necessarily by his