

EN BANC

[G.R. No. 172069, January 30, 2008]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. MARIO S. MARTIN,
APPELLANT.**

DECISION

CORONA, J.:

Before us for review is the January 27, 2006 decision^[1] of the Court of Appeals (CA) in C.A.-G.R. CR-H.C. No. 00105 which affirmed in turn the August 13, 2003 decision^[2] of the Regional Trial Court (RTC) of Pasig City, Branch 156 in Criminal Case No. 115477-H. The RTC found appellant Mario Sanggoyo Martin guilty of rape under Article 335 in relation to Article 266-A and B of the Revised Penal Code (RPC), as amended by Republic Act (RA) 8353,^[3] committed against his then ten-year- old mentally retarded daughter AAA.^[4] It imposed on him the penalty of death.

The information against appellant read:

On or about or prior to January 5, 1999, in San Juan, Metro Manila, and within the jurisdiction of this Honorable Court, the accused, with lewd designs and by means of force and intimidation, did then and there willfully, unlawfully and feloniously have [sexual intercourse] five (5) times with his daughter, [AAA], a minor (10 years old), who is suffering from a mental disability, against her will and consent.

Contrary to law.^[5]

On arraignment, appellant, with the assistance of counsel, pleaded not guilty to the charge.

The prosecution presented the victim AAA and Dr. James M. Belgira, the medico-legal officer who examined AAA,^[6] as witnesses.

As established during the trial, AAA was born on March 19, 1988. She is the legitimate daughter of appellant and ABC. The couple separated in 1997 and AAA remained in the custody of her mother. In the morning of January 5, 1999, AAA (then ten years old)^[7] was brought to appellant's house. When ABC found out in the afternoon that AAA was with her father, she had her fetched. Three times that night, she noticed AAA scratching her private parts. She took a look at it and immediately became suspicious. She asked AAA if appellant had something to do with the redness of her vagina. AAA narrated to her that he had indeed inserted his penis in her vagina and that he was touching her vagina as he inserted his penis in her mouth. She also told her that he taped her mouth so she would not make any sound and instructed her not to tell anyone what happened otherwise he would beat her.

He also washed her vagina.^[8]

At the trial, AAA testified thus:

Q: [AAA], would you tell the Judge what your Papa [did] to you?

A: Hawak dede.

Q: What else aside from holding your breast?

COURT:

[AAA], where is your "dede"?

INTERPRETER:

Witness pointing to her breast.

A: Tanggal panty.

Q: After removing your panty, what else did your Papa do?

COURT:

[AAA], after your Papa removed your panty, what else did he do?

A: Hinulog ang damit.

ATTY. AMBROSIO:

Whose dress was dropped?

A: [AAA].

Q: After that, what did he do to you?

A: Hinawak dede ni Papa.

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Q: Did he touch your vagina?

A: Opo.

Q: Aside from touching your vagina, did he also insert something in your vagina?

A: Yes, [ma'am].

Q: What did he put inside your vagina?

A: Tete.

Q: Could you tell the Court, how many times he did this to you?

A: Five times.

Q: Can you show to the Honorable Court the no. 5?

Interpreter:

Witness raised her left hand and showed her five fingers.

Q: Where were you when your father did this to you?

A: In my father's house.

Q: Do you know what time of the day when this happened to you?

A: Gabi po.

Q: [AAA], you know that it is good to tell the truth?

A: Opo.

Q: Can you tell the Honorable Judge what you felt when your father did this to you?

COURT:

You specify whether touching of the breast or inserting of the penis. Where you hurt when your father inserted his penis [in] you?

A: Opo.

On cross examination:

Q: Do you love your Papa?

A: Hindi [na po].

Q: Why?

A: Galit na Papa.

Q: Why were you angry with your Papa?

A: Hawak dede ko.

Q: Can you tell the first time when your Papa touched your breast?

A: Five.

INTERPRETER:

Witness raising her left hand and showing her five fingers.

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COURT:

[AAA], can you show the Court what part of your body when your Papa inserted his penis [in] you?

INTERPRETER:

Witness pointing to her vagina.

xxx xxx xxx

Q: Can you please point to the Court who inserted his penis in your vagina?

INTERPRETER:

Witness pointing to the accused.

xxx xxx xxx

Q: Did you see any blood in your panty?

A: Opo.

COURT:

Where did you see the blood?

INTERPRETER:

Witness pointing at her vagina.

COURT:

What did you feel at that time?

A: Masakit dibdib ko.

xxx xxx xxx

Q: Your Papa did not touch your private parts?

A: Hawak po.

Q: How many hands?

A: Five hands.^[9]

Dr. James Belgira assessed the mental condition of AAA and concluded that she was mentally deficient. Thereafter, he conducted a physical examination and found a deep, healed laceration at the 6 o'clock position of her hymen. This, he explained, could have been caused by a hard blunt object. His report stated that she was in a non-virgin state physically.^[10]

On the direction of the RTC,^[11] a psychological examination of AAA was conducted by Felicitas M. Aguilar, the in-house psychiatrist of the Department of Social Welfare and Development (DSWD).^[12] AAA was diagnosed as being afflicted with Down Syndrome.^[13] She had moderate mental retardation, with an intelligence quotient (IQ) of 41.8, mental age of 4.6 years and social age of 7 years.

For the defense, the appellant and his son Martin, Jr. took the witness stand.

Appellant denied the allegations against him and asserted that he could not have committed the rape because he slept in the downstairs "sala" in full view of everyone passing by. He said that 18 people lived in their house. He admitted that AAA is his legitimate daughter. He stated that the complaint was instigated by his wife because of anger and extreme jealousy. In response to the question why his daughter would concoct a rape charge against him, he said that that AAA was mentally deficient and incapable of telling a (coherent) story.^[14]

Martin, Jr. corroborated his father's testimony and stated that the latter could not have raped AAA because they did not have their own room, just a bed where they both slept.^[15]

In a decision dated August 13, 2003, the RTC found respondent guilty of qualified

rape under Article 335 in relation to Article 266-A and B of the RPC as amended by RA 8353:

WHEREFORE, premises considered, judgment is hereby rendered finding the accused MARIO MARTIN y SANGGOYO "GUILTY" beyond reasonable doubt of the crime of Rape as defined and penalized under Article 335 of the [RPC] in relation to Article 266-A and Article 266-B under [RA] 8353 and hereby imposes upon him the penalty of DEATH.

Accused Martin is further ordered to pay the offended party [AAA], the sum of P75,000 as civil indemnity and P50,000.00 as moral damages.

SO ORDERED.^[16]

Although the information charged him with five counts of rape, the RTC found him guilty of only one count since the prosecution failed to prove the other four counts.
^[17]

The case was forwarded to this Court on automatic review but we referred it to the CA in accordance with *People v. Mateo*.^[18] The CA affirmed the RTC decision:

WHEREFORE, the appeal is hereby DISMISSED for lack of sufficient merit. The decision rendered by the [RTC], Branch 156, Pasig in Criminal Case No. 115477-H on 13 August 2003 is AFFIRMED.

SO ORDERED.^[19]

In this appeal, appellant argues that his guilt was not proven beyond reasonable doubt.

We disagree.

RELEVANT DOCUMENTS WERE CORRECTLY ADMITTED AS EVIDENCE

In resolving rape cases, we have been guided by the following principles:

xxx (a) an accusation for rape can be made with facility; it is difficult to prove but even more difficult for the accused, though innocent, to disprove; (b) in view of the intrinsic nature of the crime where only two persons are usually involved, the testimony of the complainant must be scrutinized with extreme caution; (c) the evidence for the prosecution must stand or fall on its own merit, and cannot be allowed to draw strength from the weakness of the evidence for the defense; and (d) the evaluation of the trial court judges regarding the credibility of witnesses deserves utmost respect on the ground that they are in the best position to observe the demeanor, act, conduct, and attitude of the witnesses in court while testifying.^[20]

Appellant asserts that the sworn statements of AAA and ABC, AAA's birth certificate, marriage contract submitted by ABC and the psychological evaluation report of the DSWD psychiatrist should not have been considered by the RTC. He claimed these