

## SECOND DIVISION

[ G.R. No. 179189, February 26, 2008 ]

**THE PEOPLE OF THE PHILIPPINES, Appellee, vs. REYNALDO RESUMA y AGRAVANTE alias "GEROM," Appellant.**

### D E C I S I O N

**TINGA, J,:**

For review is the Decision<sup>[1]</sup> of the Court of Appeals affirming with modification the Decision<sup>[2]</sup> dated 18 February 2002 of the Regional Trial Court (RTC),<sup>[3]</sup> Branch 61, of Kabankalan City, Negros Occidental, finding appellant Reynaldo Resuma y Agravante alias "Gerom" guilty beyond reasonable doubt of two (2) counts of rape and sentencing him to suffer the penalty of *reclusion perpetua*.

In separate Informations<sup>[4]</sup> dated 5 December 1995 and 23 January 1996 filed by Provincial Prosecutor Reinaldo M. Nolido, appellant was charged with two (2) counts of rape, thus:

*Criminal Case No. 96-1619*

That on or about the 8<sup>th</sup> day of December, [sic] 1994, in the Municipality of Ilog, Province of Negros Occidental, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, by means of force, violence and intimidation, did then and there, wilfully [sic], unlawfully and feloniously have carnal knowledge with [sic] the above-named offended party against her will.

CONTRARY TO LAW.

*Criminal Case No. 96-1644*

That sometime in August, [sic] 1995, in the Municipality of Ilog, Province of Negros Occidental, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, by means of force, violence and intimidation, did then and there, wilfully [sic], unlawfully and feloniously have carnal knowledge with [sic] the above-named offended party against her will.

CONTRARY TO LAW.

When arraigned, appellant pleaded not guilty. Joint trial on the merits ensued with the prosecution establishing the following facts:

AAA<sup>[5]</sup> is the younger of two (2) children<sup>[6]</sup> born to parents BBB<sup>[7]</sup> and CCC.<sup>[8]</sup> In 1990, BBB and CCC separated<sup>[9]</sup> and sometime later, CCC met appellant and began

cohabiting with him. CCC and appellant had three (3) children together, although one (1) child died in infancy. CCC and appellant, with all four (4) children, resided in one house in Barangay Dancalan, Ilog, Negros Occidental. On different dates,<sup>[10]</sup> including 8 December 1994 and sometime in August 1995, appellant raped AAA.

The rape subject of the first charge occurred at around nine o'clock in the morning of 8 December 1994. AAA was home washing the dishes and babysitting her two-year old half-brother. Appellant was likewise home, repairing an umbrella. CCC had left the house earlier with AAA's half-sister to attend a baptism and other fiesta activities. AAA's older sister, DDD,<sup>[11]</sup> had gone to a distant deep well to do laundry.

Per AAA's testimony, when she finished doing the dishes, she went inside the bedroom and shortly thereafter, appellant followed her. Appellant removed AAA's underwear and made her lie on her stomach on the floor. He then undressed himself, squatted on the floor, pulled AAA's legs and laid them on his thighs. Appellant repeatedly inserted his penis into her vagina, and AAA felt pain in her private parts. AAA also felt wetness inside her vagina after appellant had finished his dastardly act. AAA was crying when DDD later returned to the house. When asked, she told her older sister that appellant had again raped her. DDD allegedly reported the incident to their mother CCC, but the latter purportedly simply told them not to disclose the matter to anyone.<sup>[12]</sup>

The second rape complained of occurred sometime in August 1995 when AAA was again left in their home alone with appellant and her toddler half-brother. In the bedroom, appellant undressed AAA and ordered her to lie on her stomach on the floor. He then had carnal knowledge of her in the same manner as he did on 8 December 1994. AAA told DDD of what happened the following day.<sup>[13]</sup>

To corroborate AAA's narration, the prosecution presented DDD who testified that in the morning of 8 December 1994, she was washing clothes at a water pump located at a distance from her house. When she returned home at around nine o'clock or ten o'clock that morning, DDD saw AAA weak and crying. When she asked her sister what happened to her, AAA allegedly said that appellant raped her. Later, DDD confided the matter to their mother CCC, who advised her not to tell anyone of the incident to avoid trouble.<sup>[14]</sup>

Witness Dr. Ricardo Garrido, a medical practitioner, testified that he conducted the physical examination of AAA on 9 October 1995. He affirmed the findings and conclusions on his medico-legal examination report and opined that the lacerations found in AAA's vagina were caused by the penetration of a human penis.<sup>[15]</sup>

The sister of BBB, EEE,<sup>[16]</sup> took the stand as a prosecution witness. According to her, in June 1995, she visited her nieces upon the request of BBB for her to check on the condition of his daughters as he was then based in Manila for work, and in that visit she learned from CCC that appellant had raped AAA.<sup>[17]</sup>

BBB himself testified that he received a letter from EEE on 20 August 1995, telling him that his children were being maltreated. Thus, on 9 October 1995, he went to see his children. BBB recounted that his daughter AAA told him that appellant had raped her. This prompted him to immediately take her to the police station to file

charges against appellant and then to the doctor for physical examination.<sup>[18]</sup>

The defense presented appellant himself, CCC and appellant's aunt, Maria Elisa Agravante Iligan (Iligan). With denial and alibi as his defenses, appellant testified that he could not have raped nor maltreated AAA as he loved her and DDD as his own. Claiming frame-up, appellant testified that BBB caused the filing of the complaints against him to enable BBB to get custody over AAA and DDD.<sup>[19]</sup>

According to appellant on the stand, on the day in question, 8 December 1994, their barangay celebrated its fiesta. He spent the day at the house of his friend Angelo Cuachon, while AAA and DDD were in school. CCC, together with her children AAA and DDD, purportedly left their home at 7:30 that morning while he left shortly thereafter or at about 8:00 a.m.<sup>[20]</sup>

He likewise claimed that in the month of August 1995, he stayed at his grandfather's farm for one (1) week harvesting corn. Apart from this, he spent his days roaming from house to house in Guilungan, Cauayan, Bocana, Ilog, Sonedco and other towns offering his services as an umbrella repairman. On occasions, he had lunch at Iligan's house where he did some umbrella repairs.<sup>[21]</sup> This was corroborated by Iligan on the witness stand. Routinely, appellant visited Iligan's house around six (6) times monthly.<sup>[22]</sup>

In her testimony, CCC sided with appellant. She denied AAA's claim that she reported to her the rape incident of 8 December 1994. She asserted that appellant did not sexually abuse AAA. Claiming that she did not have knowledge of the purported rape until EEE told her about it, she could not believe the charges against appellant to be true as she was home with the children all the time and did not see appellant committing any maltreatment or sexual abuse against her children.<sup>[23]</sup>

The trial court found appellant guilty of qualified rape on both charges. Thus, appellant was sentenced to suffer the death penalty for each count and to indemnify the victim in the amount of P75,000.00 by way of civil indemnity and P50,000.00 as moral damages in each case.<sup>[24]</sup>

Conformably with this Court's decision in *People v. Mateo*,<sup>[25]</sup> appellant's appeal by way of automatic review was transferred to the Court of Appeals. Finding no sufficient basis to disturb the findings and conclusions of the trial court, the appellate court, on 30 November 2006, rendered its decision affirming appellant's conviction but modifying the penalty and damages imposed. The dispositive portion of the decision reads:

**WHEREFORE**, the appealed judgment of the court a quo is **AFFIRMED**, with the **MODIFICATION** that accused-appellant Reynaldo Resuma is hereby sentenced to suffer the penalty of **reclusion perpetua** and to pay the amounts of P50,000.00 as civil liability, P50,000.00 as moral damages and P25,000.00 as exemplary damages for each count of rape.

<sup>[26]</sup>

Costs *de officio*.

SO ORDERED.

Finding that the Informations did not allege the two qualifying circumstances of minority and relationship, the appellate court ruled that appellant was charged only with simple rape. Observing appellant's right to be informed of the charges against him and right to due process, the appellate court reduced the penalty imposed upon appellant to *reclusion perpetua*.

Now, the case is with the Court again.

Before the Court, appellant has not filed a supplemental brief, relying instead on the same brief originally filed with this Court and later presented to the Court of Appeals after the remand of the case. The assignment of errors in appellant's brief reads<sup>[27]</sup>

—

## I

THE TRIAL COURT GRAVELY ERRED IN NOT ACQUITTING [*sic*] THE ACCUSED-APPELLANT ON THE GROUND THAT HIS GUILT WAS NOT PROVED BEYOND REASONABLE DOUBT.

## II

ASSUMING ARGUENDO THAT THE ACCUSED-APPELLANT IS GUILTY, THE TRIAL COURT GRAVELY ERRED IN IMPOSING UPON HIM THE CAPITAL PUNISHMENT OF DEATH DESPITE THE FACT THAT THE QUALIFYING CIRCUMSTANCES OF RELATIONSHIP AND MINORITY WERE NOT ALLEGED IN THE INFORMATION.

Any review of a rape case begins with the settled reality that accusing a person of this crime can be done with facility. Thus, the testimony of the complainant must always be scrutinized with great caution. It may not be easy for her to prove the commission of rape; yet it is even more difficult for the accused, though innocent, to disprove his guilt. This principle must be viewed in relation to that which holds that the evidence for the prosecution must stand or fall on its own merits; it cannot draw strength from the weakness of the evidence for the defense.<sup>[28]</sup> When a rape victim's testimony, however, is straightforward, unflawed by any material or significant inconsistency, then it deserves full faith and credit and cannot be discarded. Once found credible, her lone testimony is sufficient to sustain a conviction.<sup>[29]</sup>

After judicious and painstaking study of the arguments of the parties and of the records *a quo*, we reach the inescapable conclusion that the prosecution has effectively established its case and appellant's contentions thus deserve scant consideration.

Settled is the rule that the determination of the competence and credibility of a witness rests primarily with the trial court,<sup>[30]</sup> because it has the unique position of observing the witness' deportment on the stand while testifying. Absent any substantial reason to justify the reversal of the assessments and conclusions of the trial court, the reviewing court is generally bound by the former's findings.<sup>[31]</sup>

In scrutinizing such credibility, jurisprudence has established the following doctrinal guidelines: (1) the reviewing court will not disturb the findings of the lower court unless there is a showing that it had overlooked, misunderstood, or misapplied some fact or circumstance of weight and substance that could affect the result of the case; (2) the findings of the trial court pertaining to the credibility of witnesses are entitled to great respect and even finality as it had the opportunity to examine their demeanor when they testified on the witness stand; and (3) a witness who testified in clear, positive and convincing manner and remained consistent on cross-examination is a credible witness.<sup>[32]</sup>

Applying the principles to the instant case, we find AAA's narration of her harrowing experience trustworthy and convincing. AAA was seven (7) years old when her sufferings began. It is ludicrous to believe that a child of such tender years would concoct such grave accusations against her stepfather if the same were not true. Even more, it is preposterous to imagine that a child of her age would already have such intimate knowledge of the sexual acts as she described in her testimony with such clarity and coherence, unless the same were borne of personal experience.<sup>[33]</sup>

We have no reason to believe that AAA was motivated by any other reason than to seek justice and vindication for the wrong done her. To be sure, a young girl's revelation that she has been raped, coupled with her voluntary submission to medical examination and her willingness to undergo public trial where she could be compelled to give out the details of an assault to her dignity, cannot be so easily dismissed as mere concoction.<sup>[34]</sup>

Likewise, appellant's imputation that BBB's desire to gain custody over his children was the impelling motive behind the filing of these cases is too trite and feeble to merit consideration. As the Court of Appeals aptly pointed out, "[N]o mother, or father in this case, would stoop so low as to subject his daughter to [the] hardships and shame concomitant to a rape prosecution just to assuage his own feelings."<sup>[35]</sup> Indeed, no parent in his right mind would subject his child to the humiliation, disgrace and trauma attendant to a prosecution for rape, if the motivation were not solely the desire to incarcerate the person responsible for his child's defilement.<sup>[36]</sup>

The purported delay in the filing of the charges against appellant does not infirm the credibility of AAA nor can it be taken against her.<sup>[37]</sup> We have ruled that delay in making a criminal accusation does not impair the credibility of a witness if such delay is satisfactorily explained.<sup>[38]</sup> In this case, the following realities justified the delay in filing the cases against appellant: (a) Appellant was AAA's foster father and at that time, the common-law husband of her mother. He thus exercised moral ascendancy over her;<sup>[39]</sup> (b) AAA was merely seven (7) years old when her ordeal began. A child of such tender years cannot be expected to know how to go about filing a complaint against her abuser; and (c) As AAA's complaints were ignored, if not disbelieved, by CCC, the child was left without recourse until her father discovered her plight. No malice can be convincingly ascribed against BBB in the delay incurred in the filing of the complaints. The allegations of frame-up are too weak to merit consideration.

What is more, the medical certificate and testimony of Dr. Garrido corroborate the