

THIRD DIVISION

[G.R. No. 179712, June 27, 2008]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. EFREN
MAGLENTE Y CERVANTES ACCUSED-APPELLANT.**

D E C I S I O N

CHICO-NAZARIO, J.:

Appellant Efren Maglente y Cervantes assails the Decision^[1] of the Court of Appeals dated 27 June 2007 in CA-G.R. CR-HC No. 02181, affirming the Decision^[2] dated 5 September 2005 of Branch 76 of the Regional Trial Court (RTC) of San Mateo, Rizal, in Criminal Case No. 6295. The RTC found appellant guilty beyond reasonable doubt for the rape of his fourteen-year old daughter.

On 29 July 2002, an Information^[3] was filed before the RTC charging appellant with Rape under paragraph 1 of Article 266-A, in relation to number 1 of paragraph 6 of Article 266-B of the Revised Penal Code, as amended by Republic Act No. 8369.^[4] The information against him reads:

That on or about the 13th day of July 2002, in the Municipality of Rodriguez, Province of Rizal, Philippines and within the jurisdiction of the Honorable Court, the above-named accused, being the parent/biological father of AAA^[5] (victim) exercising and taking advantage of his moral authority, ascendancy and influence over the said victim and by means of violence and intimidation, with lewd intent to cause or gratify his sexual desire, abuse and maltreat complainant AAA, a minor, 14 years of age, with attendant, aggravating circumstances of Treachery, Abuse of Superior Strength, Nighttime, Craft and Abuse of Confidence, did then and there willfully, unlawfully and feloniously have carnal knowledge of the said complainant against her will and without her consent which debases, degrades or demeans the intrinsic worth and dignity of said child as a human being.

On 5 September 2002, appellant, with the assistance of counsel *de officio*, was arraigned and pleaded "Not guilty." Thereafter, pre-trial conference was held, and trial ensued accordingly.^[6]

Evidence for the prosecution consisted of the testimonies of private complainant, her aunt CCC and a medico-legal officer, Police Senior Inspector Ruby Grace Sabino.^[7]

Private complainant testified that the appellant, her biological father, had subjected her to sexual abuse as early as 1997, when she was still nine years old, until 13 July 2002, when she reached 14 years of age. She attested that she kept silent about her father's abuse as he was constantly threatening her not to tell anyone. She

narrated that the last rape occurred on 13 July 2002. While she was sleeping in their house in XXX St., XXX, XXX City, the accused lay by her side and removed all her clothing. Thereafter, he placed himself on top of her body and inserted his penis into her vagina. For twenty minutes, her father raped her and, all the while, touched her private parts. As a result of her father's molestation, she became pregnant and delivered a baby boy on 1 October 2002, which she gave up for adoption. On cross-examination, private complainant testified that she was willing to have her baby undergo DNA testing but its whereabouts was unknown to her.^[8]

CCC testified that private complainant is her niece and the daughter of appellant and BBB, the witness' sister. She confronted her niece about the gossip she had heard about the latter's pregnancy, after her suspicions were confirmed by private complainant's weight gain and other physical changes indicating pregnancy. Private complainant burst into tears and confided in her that she was impregnated by appellant. The witness then assisted private complainant in filing a complaint against her brother-in-law.^[9]

Medico-Legal Officer Police Senior Inspector Ruby Grace Sabino, who conducted a forensic chemical interview with private complainant on 19 July 2002, testified that private complainant divulged to her that she was sexually abused by her father when she was in Grade IV and had since done so, the last of which occurred in the evening sometime in July 2002. After the witness examined private complainant, the results showed that she was pregnant. Senior Police Inspector Sabino also observed a total absence of hymenal tissue and injuries at 4:00, 5:00 and 6:00. She presented a document entitled Clock Face as Reference (Exhibit J), which states that: "In general, any irregularities such as lacerations, tears, abrasions that are found on the posterior hymen—between 3 and 9 o'clock, the bottom half of the clock—are more suspicious. Because of the biomechanics of fingering and vaginal penetration, injuries between 3 and 9 are more specific for abuse than other injuries."^[10] According to her, the absence of hymenal tissue and the lacerations may have been caused by the entry of a penis into the private complainant's genitals. Both the disclosures of the victim and the physical findings indicate that sexual abuse took place sometime in July 2002. After the examination, witness issued a provisional Medico-Legal Report (Exhibit K) followed by an official report, designated as Medico-Legal Report No. 0267-07-19-02 (Exhibit D.)^[11]

Prosecution filed its Formal Offer of Evidence.^[12] The Sworn Statements of the private complainant and her aunt CCC were marked as Exhibits "A" and "B." The private complainant's Certificate of Live Birth was also marked as Exhibit "E" to prove her minority and the father-daughter relationship between the appellant and private complainant.

On the part of the defense, only the appellant testified. The appellant admitted that private complainant is his daughter, but denied that he molested her. He claimed that before he was detained, he did not even know that private complainant was pregnant, much less who impregnated her. He maintained that he seldom stayed in their house, where he and his children resided with other members of his wife's family, since he often went out to look for a job. He also averred that his relationship with his in-laws was strained because of their opinion that he is lazy. On cross-examination, he admitted that while he did not have a close relationship with the private complainant, they had no previous quarrel.^[13]

In a Decision dated 5 September 2005, the RTC decreed that the accused was guilty without reasonable doubt. The RTC gave full credence to the testimony of the private complainant. It recognized that at her early age, private complainant could easily mistake the date that her father had last raped her to be the date she conceived, resulting in the unwanted pregnancy and the birth of her child. Moreover, such miscalculation is not seriously incongruent to her narration that her father had been raping her since she was nine years old. The trial court further noted that private complainant's testimony was corroborated by the findings of the examining physician. On the other hand, the RTC remained unconvinced by the appellant's barefaced denial and his failure to ascribe any ill motive on the part of the private complainant in filing the rape case against him. The qualifying circumstances, *i.e.*, the minority of the private complainant and the parent-daughter relationship between the appellant and private complainant, were adequately proved. Hence, the RTC imposed the single indivisible penalty of death and ordered the appellant to indemnify the private complainant for moral damages in the amount of P50,000.00, indemnity *ex delicto* in the amount of P50,000.00, and the costs of suit.^[14] According to the dispositive part of the Decision dated 5 September 2005:

WHEREFORE, premises considered, judgment is hereby rendered finding accused EFREN MAGLENTE Y CERVANTES **GUILTY BEYOND REASONABLE DOUBT** of the crime of **RAPE** as defined and penalized under Art. 266-A par. 1 in relation to Art. 266-B 6th par. No.1 of the Revised Penal Code, as amended in further relation to R.A. 8367 and sentencing him to suffer the penalty of DEATH and to indemnify the private complainant AAA in the amount of P50,000.00 as indemnity *ex-delicto* in addition to the amount of P50,000.00 as moral damages and to pay the costs.

Let the records of this case be forwarded to the Court of Appeals for automatic review.

Accused Efren Maglente y Cervantes is hereby ordered to be committed to the Bureau of Corrections, Muntinlupa City for service of sentence.^[15]

The appellant filed an appeal before the Court of Appeals docketed as CA-G.R. CR-HC No. 02181.^[16]

The Court of Appeals affirmed the findings of the trial court that the appellant was guilty beyond reasonable doubt. It pronounced that the private complainant's testimony and her demeanor during her testimony demonstrated the truth of her statements. Private complainant's delay in reporting the alleged abuse was attributed by the appellate court to the sense of helplessness and fear engendered by the perpetrator's close relationship to the victim. Furthermore, it ruled that the DNA test of the private complainant's child is not indispensable to the prosecution for rape, especially since the private complainant no longer knew the whereabouts of her child. However, in view of the effectivity of Republic Act No. 9346 entitled "An Act Prohibiting the Imposition of Death Penalty in the Philippines,"^[17] it amended the penalty imposed by the RTC to *reclusion perpetua*. It also modified the damages awarded by the trial court by increasing the award for civil indemnity to P75,000.00, and moral damages to P75,000.00; and adding an award of exemplary damages in

the amount of P25,000.00 due to the qualifying circumstance of minority and relationship.^[18] In the Decision dated 27 June 2007, the *fallo* reads:

WHEREFORE, the decision of the trial court in Crim. Case No. 6295 is hereby **AFFIRMED with MODIFICATION**. Efren Maglente y Cervantes is sentenced to ***reclusion perpetua*** with no possibility of parole. Appellant is further **ORDERED** to indemnify AAA in the amount of P75,000 as civil indemnity, P75,000 as moral damages and P25,000 as exemplary damages.^[19]

Hence, the present petition where the appellant reiterates the sole assignment of error, to wit:

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

After carefully examining the records of this case, this Court finds that this appeal must be denied.

In the crime of rape, the credibility of the private complainant's testimony is determinative of the outcome of rape cases for the reason that when an alleged victim of rape says that she was violated, she says in effect all that is necessary to show that rape has been inflicted on her, and so long as her testimony meets the test of credibility, the accused may be convicted on the basis thereof.^[20]

In the present case, private complainant categorically testified that she was raped by her own father. She recounted her horrible and traumatic ordeal in the following manner:

Q: Miss Witness, could you please tell us where you were sometime July 13, 2002, at past 12:00 midnight?

A: I was in our house, sir.

Q: What is the address of your house?

A: XXX St., XXX, XXX, sir.

Q: Tell us, what was your present condition then on July 13, 2002?

A: None, sir.

Q: What do you mean by none?

A: I was just sleeping then, sir.

Q: While you were sleeping did you continue to sleep up to the following morning of that date?

A: No, sir.

Q: What made you awakened?

A: He lay beside me, sir.

Q: You were referring to whom?

A: To my father, sir.

Q: When he lay beside you what caused you to wake up?

A: He was undressing me, sir.

Q: What were you wearing then?

A: I cannot remember anymore but it was a T-shirt and shorts, sir.

Q: And what did he remove?

A: All, sir.

Q: After removing all your clothes what did he do next, if any?

A: He went on top of me, sir.

Q: Was he clothed when he went on top of you?

A: No, sir.

Q: When he went on top of you what else did he do, if any?

A: He inserted his penis into my vagina, sir.

Q: And what did you do?

A: I got mad, sir.

Q: Thereafter what did he do after inserting his penis into your private part?

A: He returned beside my sister, sir.

Q: How long did that take place, the insertion of his penis into your vagina?

A: It took long, sir.

Q: In terms of minutes, how many minutes?

A: About twenty (20) minutes, sir.

Q: In that span of twenty (20) minutes what was he doing?

A: He inserted his penis into my vagina, sir.

Q: After inserting his penis what else did he do, if he did anything?

A: He touched my private parts, sir.

Q: How many rooms does your house have?

A: Two (2), sir.

Q: At that time how old were you, July 13, 2002?

A: Fourteen (14), sir.

Q: You said that it took twenty (20) minutes and after that where did he go to?

A: He returned beside my sister and slept again, sir.

PROS. GONZALES:

May we make it of record that the witness is crying.

Q: Is July 13, 2002 the first time that your father did this to you?

A: No, sir.