

## THIRD DIVISION

[ G.R. No. 168102, August 22, 2008 ]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
JAYSON TUAZON Y OLIA, ACCUSED-APPELLANT.**

### D E C I S I O N

**AUSTRIA-MARTINEZ, J.:**

Before the Court on automatic review is the Decision<sup>[1]</sup> of the Court of Appeals (CA) dated April 14, 2005 in *CA-G.R. CR-H.C. No. 00047* which affirmed, with modification, an earlier decision of the Regional Trial Court (RTC) of Pasig City, Branch 163, in Criminal Case No. 120458-H, finding appellant Jayson Tuazon y Olia guilty beyond reasonable doubt of the crime of rape and sentencing him to suffer the penalty of *Reclusion Perpetua*.

Consistent with the Court's decision in *People v. Cabalquinto*,<sup>[2]</sup> the real name of the rape victim in this case is withheld and, instead, fictitious initials are used to represent her. Also, the personal circumstances of the victim or any other information tending to establish or compromise her identity, as well as those of her immediate family or household members, are not disclosed in this decision.

The facts of the case, as found by the trial court, are as follows:

Evidence on record show that on March 3, 2001 around 3:30 in the morning, AAA was sleeping in her room on the second floor of their house when she was awakened by [appellant] Jayson's kissing her on her cheeks and lips. As he mounted her, appellant, who was her mother's common-law-husband, started to touch her breast and bite her nipples and breasts. Thereafter, appellant poked a fan-knife at her and told her not to tell anybody what he had done to her. Shocked, AAA cried and tried to shout but appellant covered her mouth.

Around four o'clock in the morning, appellant instructed her to go downstairs in order to cook porridge which she was supposed to sell later. While she was cooking, he guarded her and talked to her. He offered to give her money to buy a cell phone but she did not accept it. Around 4:45 a.m. and after she had finished cooking, appellant told her to sit on her bed. Appellant then started to touch her breasts and private part while he poked a fan-knife at the right portion of her neck. He told her to lie down and as she did, he rolled up her shirt, took off her bra and touched her breasts. After appellant had removed her shorts and panty, he licked her body up to her private part. Appellant then removed his pants and brief, placed himself on top of AAA and rubbed his penis on her private part. AAA felt his penis coming in and out of her vagina and then something dripping. Then, appellant wiped her private part with his

handkerchief. He then ordered her to dress up and to take a bath but she did not obey him. Instead, she started to bring out her merchandise while she kept on crying. During the time [that] she was being molested, AAA wanted to run but their gate was locked and appellant had the key.

AAA's mother and her sister, BBB, who left the house at 3 o'clock in the morning, arrived back from the Pasig market around 7 o'clock in [the] morning. BBB noticed that AAA's eyes were swollen and that she was crying. AAA told them what Jason did to her. Immediately, they went to the Taguig Police Station and had the incident recorded on the police blotter (Exh. D). AAA was also medically examined by Dr. Lilli Melrose Camara of the Southern Police District Crime Laboratory. The next day AAA executed her sworn statement (Exh. A).<sup>[3]</sup>

In an Information<sup>[4]</sup> dated March 4, 2001, appellant was charged before the RTC of Pasig City with the crime of rape, the accusatory portion of which reads:

On or about March 3, 2001 in Taguig, Metro Manila, and within the jurisdiction of this Honorable Court, the accused, by means of force, violence and intimidation, did then and there willfully, unlawfully and feloniously have sexual intercourse with AAA, [over] whom accused has moral ascendancy being the daughter of his common-law-wife with whom he is living with, which sexual act done against the will and consent of said AAA as she was then threatened with a knife.<sup>[5]</sup>

On arraignment, appellant pleaded not guilty.<sup>[6]</sup> Pre-trial conference followed. Thereafter, trial ensued.

On June 11, 2002, the RTC rendered its Decision,<sup>[7]</sup> the dispositive portion of which reads as follows:

WHEREFORE, accused, JAYSON TUAZON y OLIA is hereby found GUILTY beyond reasonable doubt of the crime of rape and sentenced to suffer the penalty of reclusion perpetua and the accessory penalties provided by law and to pay the cost.

On the civil aspect of this case, accused is ordered to pay the victim, AAA, P50,000.00 as civil indemnity plus moral, exemplary and nominal damages in the respective sums of P50,000.00, P50,000.00 and P25,000.00.

SO ORDERED.<sup>[8]</sup>

Appellant filed a Notice of Appeal.<sup>[9]</sup> Thereafter, the trial court ordered the transmittal of the entire records of the case to this Court.<sup>[10]</sup>

Pursuant to the Court's pronouncement in *People v. Mateo*,<sup>[11]</sup> which modified the provisions of the Rules of Court insofar as they provide for direct appeals from the RTC to this Court in cases in which the penalty imposed by the trial court is death, *reclusion perpetua* or life imprisonment, the case was referred to the CA for appropriate action and disposition.<sup>[12]</sup>

After a review of the case, the CA affirmed the RTC's decision convicting the appellant. However, the appellate court modified the trial court's award of damages by reducing the grant of exemplary damages and deleting the award of nominal damages.

Appellant filed a Notice of Appeal pursuant to Section 13(c), Rule 124 of the Rules of Court, as amended by A.M. No. 00-5-03-SC.

The case was then elevated to this Court for review.

In a Resolution<sup>[13]</sup> dated August 22, 2005, the parties were required to simultaneously submit their respective supplemental briefs if they so desired. However, both parties manifested that they were adopting the arguments they raised in their respective appeal briefs which were forwarded to the CA. Thereafter, the case was deemed submitted for decision.

Appellant assigned a lone error in his Brief, to wit:

THE COURT A QUO ERRED IN FINDING THE ACCUSED APPELLANT GUILTY  
BEYOND REASONABLE DOUBT OF THE CRIME OF RAPE.<sup>[14]</sup>

The Court finds appellant's contentions untenable.

To determine the innocence or guilt of the accused in rape cases, the courts are guided by three well-entrenched principles: (1) an accusation of rape can be made with facility and while the accusation is difficult to prove, it is even more difficult for the accused, though innocent, to disprove; (2) considering that in the nature of things, only two persons are usually involved in the crime of rape, the testimony of the complainant should be scrutinized with great caution; and (3) the evidence for the prosecution must stand or fall on its own merits and cannot be allowed to draw strength from the weakness of the evidence for the defense.<sup>[15]</sup>

Accordingly, in resolving rape cases, primordial consideration is given to the credibility of the victim's testimony.<sup>[16]</sup> The settled rule is that the trial court's conclusions on the credibility of witnesses in rape cases are generally accorded great weight and respect, and at times even finality, unless there appear in the record certain facts or circumstances of weight and value which the lower court overlooked or misappreciated and which, if properly considered, would alter the result of the case.<sup>[17]</sup>

Having seen and heard the witnesses themselves and observed their behavior and manner of testifying, the trial court stood in a much better position to decide the question of credibility.<sup>[18]</sup> Findings of the trial court on such matters are binding and conclusive on the appellate court, unless some facts or circumstances of weight and substance have been overlooked, misapprehended or misinterpreted.<sup>[19]</sup> No such facts or circumstances exist in the present case.

In this case, both the RTC and the CA are in agreement that AAA was candid, natural, forthright and unwavering in her testimony that appellant raped her.

During trial, the RTC observed that AAA wept while recounting her heart-rending experience. The trial court held thus:

AAA's testimony was straight-forward, logical, probable and credible. She was occasionally in tears when she narrated in court the sexual ordeal she had gone through. Her embarrassment, emotional pain and indignation, as well as her intense desire for justice and the punishment of her defiler, were clearly discernible from the expression of her face and demeanor.<sup>[20]</sup>

The Court has consistently held that the crying of the victim during her testimony was evidence of the credibility of the rape charge with the verity borne out of human nature and experience.<sup>[21]</sup>

AAA's credibility is strengthened by the absence of convincing evidence showing that she had any ill motive in testifying against appellant.

Appellant contends that private complainant's reason in charging him with the crime of rape is that she got angry with him because appellant allegedly embarrassed her in front of her visitors.<sup>[22]</sup> Appellant's claim deserves scant consideration. The Court finds it incredible for private complainant to trump up a charge of rape against appellant because she wanted to exact revenge on the latter for the simple reason that he caused her embarrassment. No woman would cry rape, allow an examination of her private parts, subject herself to humiliation, go through the rigors of public trial and taint her good name if her claim were not true.<sup>[23]</sup>

Appellant does not deny the sexual intercourse between him and AAA but claims that it was a consensual sex because he and the private complainant were sweethearts.

The Court is not persuaded and agrees with the CA that the "sweetheart defense" is a much-abused defense that rashly derides the intelligence of the Court and sorely tests its patience.<sup>[24]</sup> To be worthy of judicial acceptance, such a defense should be supported by documentary, testimonial or other evidence.<sup>[25]</sup> Being an affirmative defense, it must be established with convincing evidence - by some documentary and/or other evidence like mementos, love letters, notes, pictures and the like.<sup>[26]</sup> The "sweetheart theory" which appellant proffers is effectively an admission of carnal knowledge of the victim and consequently places on him the burden of proving the supposed relationship by substantial evidence.<sup>[27]</sup> In the present case, the appellant failed to discharge this burden. There was no substantial support to his claim that he and AAA were having an affair. The document denominated as *Kasunduan Naming Dalawa*<sup>[28]</sup> which was signed by the private complainant hardly constitutes proof that appellant and private complainant were lovers. If any, it merely shows that on December 10, 1999, AAA received from appellant the sum of P1,500.00 and expects to receive the same amount from appellant on a monthly basis thereafter. No reason was specified why appellant agreed to give her such amounts of money. Besides, the private complainant had explained that she was deceived into signing the said document the day before she was raped and that when she asked appellant why it was dated December 10, 1999, appellant told her that it was simply a sample form of a loan document.<sup>[29]</sup>