

SECOND DIVISION

[G.R. No. 182193, November 07, 2008]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. FIDEL CANETE, ACCUSED-APPELLANT.

DECISION

VELASCO JR., J.:

This is an appeal from the November 20, 2007 Decision of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 01230 which affirmed the May 26, 2005 Decision of the Regional Trial Court (RTC), Branch 85 in Malolos, Bulacan in Criminal Case Nos. 2557-M-2001 to 2562-M-2001. The RTC found accused-appellant Fidel Canete guilty beyond reasonable doubt of six (6) counts of simple rape.

The Facts

Except for the dates and times of the admission of the offense, the six Informations filed against accused-appellant contain the same accusatory portion as the first Information (Criminal Case No. 2557-M-2001), as follows:

That in or about the year 1994, in the municipality of BBB,^[1] province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, being the uncle of the offended party, AAA, did then and there willfully, unlawfully and feloniously, by means of force and intimidation and with lewd designs, have carnal knowledge of the said AAA, then 9 years old, against her will and without her consent.

Contrary to law.^[2]

At his arraignment, accused-appellant pleaded not guilty to all the charges.

During trial, the prosecution presented AAA as its sole witness. The defense likewise presented only one witness, accused-appellant.

The following are the events that transpired according to the prosecution:

Sometime in June 1994, at around one o'clock in the afternoon, AAA, then nine (9) years old, was gathering wood with accused-appellant, her uncle, at a farm some 500 meters away from their house. While they were gathering wood, accused-appellant suddenly grabbed AAA, quickly undressed her, went on top of her, and, despite her protests, succeeded in inserting his penis inside her vagina, making her cry in pain. Accused-appellant then ordered AAA to get dressed as they would be going home. He left AAA at the farm, however.

AAA subsequently went to her neighbor Rose's house. She cried upon seeing Rose.

When probed about her tears, she merely said she was scolded by her grandmother as she was warned by accused-appellant not to tell anyone of the rape incident. She left Rose's house after two hours. When she arrived home, she saw accused-appellant and her grandmother, who ordered her to cook. She did not recount her ordeal to her grandmother for fear she might receive a spanking.^[3]

Three days later, accused-appellant again raped AAA, this time at their house while her grandmother and sister were asleep. That evening, AAA felt accused-appellant lay down beside her. She became frightened and unsuccessfully tried to rouse her grandmother from sleep. Accused-appellant pinned her down when she tried to stand up. He embraced her and held her legs and stomach. When AAA tried to resist, he punched her arm. He then undressed her, took off his shorts, and inserted his penis inside her vagina. She did not shout as accused-appellant threatened to kill her if she revealed what he was doing to her. Accused-appellant then slept next to AAA. AAA again tried to wake her grandmother up but she was sound asleep. AAA then cried herself to sleep in her frustration.^[4]

On September 2, 1995, accused-appellant arrived home after a few months of working elsewhere. AAA celebrated her birthday three days later, and accused-appellant brought her some food.^[5] A few days after AAA's birthday, her father and another uncle went back to their places of work while accused-appellant stayed behind.^[6] Outside the house, her grandmother was washing clothes and her sister was playing. AAA was listening to the radio on her *papag* when accused-appellant started touching her and offering her money. He forced her to lie next to him and started to embrace and touch her. He removed her shorts and covered her mouth when she started to cry. She tried to remove his hand and get up but he held her hand.^[7] He succeeded in inserting his penis into her sexual organ a couple of times. He then told her that if she reported the incident to anyone she would no longer see the light of day (*Huwag daw po akong magkakamaling magsabi sa iba kasi daw po malalaman din niya iyon, hindi na daw po ako sisikatan ng araw*). He then gave her money for *merienda*.^[8] After buying food, she placed it on the table and went to the farm to cry. She did not tell her grandmother about what happened as she was afraid she would side with accused-appellant, who is her grandmother's son.

AAA did not see accused-appellant again until January 1996, the period of which AAA remembered clearly as it is the month when the town *fiesta* is celebrated. During this period, accused-appellant was on a one-month vacation from work. One night, her grandmother visited her daughter-in-law who had just given birth. AAA, her sister, and accused-appellant were the only ones home. At around one o'clock in the morning, AAA laid down next to her sister. She then felt accused-appellant lie down beside her. He started to embrace her, making her feel nervous and afraid. He started to kiss her cheeks and pulled her away from her sleeping sister. AAA protested but, still, accused-appellant told her to remove her clothes. When she refused, he removed her clothes and went on top of her. She tried to resist again but eventually he was able to insert his penis into her vagina.^[9] When she started to cry, he told her not to worry as he would not neglect her. He then went outside to smoke. AAA put her clothes on and woke up her sister, who noticed she was crying. AAA merely explained that she missed their father. She did not dare divulge the rape as accused-appellant warned her that he would not stop molesting her if she did.^[10]

Another rape incident occurred in August 1997. AAA and her sister were in bed by nine o'clock in the evening. While they were asleep, some of their neighbors had a drinking spree with accused-appellant and his brother, Erning. At around 10 o'clock, accused-appellant woke up AAA and asked her to make him some coffee. He then embraced and kissed her and offered her PhP 50 but she refused the money. He made her lie down and amid her protests, covered her mouth and removed her shorts as well as his own clothes. He told AAA he loved her very much. He then forced himself on her and molested her. Accused-appellant slapped AAA when she tried to shout. When someone suddenly knocked on the door, he quickly removed his penis from AAA's vagina and ordered her to get dressed. Accused-appellant then went back outside. AAA's uncle Erning returned home that same evening and asked her why she was crying. She told him that she had a stomachache. After the rape incident, AAA ran away from home.^[11]

Sometime in November 1998, accused-appellant sexually abused AAA once again. At around 10 o'clock in the evening, he woke her up while she was sleeping next to her sister. He made her lay on a bench and started to embrace her. He then went outside to smoke and returned at around one o'clock in the morning. He again roused AAA from her sleep, caressed her, and told her to be quiet. He removed her pajamas and inserted his penis inside her vagina. He then threatened her again that he would kill her if she reported the rape to anyone. He then left the house after her grandmother died and was laid to rest.^[12]

Two more rapes were committed by accused-appellant sometime in 1999. Accused-appellant followed AAA to her home following a house blessing at their neighbor's place. He pulled her and warned her that something would happen to her if she resisted his advances. He then satisfied his urge while AAA was crying.

By June 1999, AAA had moved to a house of a councilor in *Barangay* CCC, BBB, Bulacan. While she was visiting her sister at their old house, accused-appellant went inside the room where she and her sister were sleeping. He laid down next to her and undressed her. He inserted his penis into her sexual organ. He told her not to make any noise when she started crying.^[13]

The next morning, AAA divulged to her friend, Daisy Manlapit, the sexual abuse to which she had been subjected. Daisy advised her to ask *barangay* officials for help. She told the councilor about her ordeal. Accompanied by her friend, Rose, AAA executed an affidavit at the *barangay* narrating the rape incidents.^[14]

As the lone defense witness, accused-appellant denied all the charges hurled at him. His testimony was summarized by the trial court as follows:

x x x He testified that in 1994, he was living with his employer Councilor Lucas in Sto. Niño, Meycauayan, Bulacan; that he stayed with his employer from 1994 to 1995; that his brother Rollie lives in Meycauayan and was then residing in the house of Captain Javier; that before 1994, he lived in Marilao for six (6) years; that he knew AAA because she was staying in [B]arangay CCC, BBB, Bulacan where he saw her; that the reason why he was detained was because he was implicated by his brother x x x in this case; he does not know why he was implicated by