

THIRD DIVISION

[G.R. No. 177150, November 22, 2007]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
WILLIAM CHING, ACCUSED-APPELLANT.**

DECISION

CHICO-NAZARIO, J.:

For review is the Decision of the Court of Appeals in CA-G.R. CR-HC No. 01798 dated 3 August 2006,^[1] affirming with modifications the Decision of the Quezon City Regional Trial Court (RTC), Branch 107, in Criminal Cases No. Q-99-87053, Q-99-87054, and Q-99-87055 dated 4 August 2004,^[2] convicting accused-appellant William Ching of three counts of rape committed against his minor daughter, AAA.^[3]

The factual antecedents are as follows:

On 1 October 1999, three separate informations^[4] were filed with the RTC against appellant for qualified rape allegedly committed as follows:

CRIMINAL CASE NO. Q-99-87053

That in or about the month of May, 1998, in XXX, Philippines, the said accused by means of force and intimidation, to wit: by then and there, willfully, unlawfully and feloniously drag said AAA, his own daughter, 12 years of age, minor, inside a bedroom and undressed her and put himself on top of her and thereafter have carnal knowledge with said AAA against her will and without her consent.

CRIMINAL CASE NO. Q-99-87054

That in or about the month of May, 1998, in XXX, Philippines, the said accused by means of force and intimidation, to wit: by then and there, willfully, unlawfully and feloniously drag said AAA, his own daughter, 12 years of age, minor, inside a bedroom and undressed her and put himself on top of her and thereafter have carnal knowledge with said AAA against her will and without her consent.

CRIMINAL CASE NO. Q-99-87055

That in or about the year of 1996, in XXX, Philippines, the said accused by means of force and intimidation, to wit: by then and there, willfully, unlawfully and feloniously drag said AAA, his own daughter, 12 years of age, minor, inside a bedroom and undressed her and put himself on top of her and thereafter have carnal knowledge with said AAA against her will and without her consent.

Subsequently, these informations were consolidated for joint trial. When arraigned on 6 March 2000, appellant, with the assistance of counsel *de officio*, pleaded "Not Guilty" to each of the charges in the informations.^[5] Thereafter, trial on the merits ensued.

The prosecution presented as witnesses AAA, AAA's mother, BBB, PO3 Jesus Deduque (PO3 Deduque), PO3 Melba Baldeswis (PO3 Baldeswis), and Dr. Angel Cordero (Dr. Cordero). Their testimonies, taken together, present the following narrative:

AAA is the third child in a brood of eight children born to appellant and BBB. She was 12 years of age in the year 1996 when the alleged incidents of rape took place.

Sometime in the **year 1996**, at around 5:00 in the afternoon, she and her younger siblings, namely, CCC, DDD, EEE and FFF, were left at their house with appellant, while BBB was at the market buying food. Appellant told CCC, DDD and EEE to play outside the house. AAA was then cooking rice when appellant instructed her to go inside the bedroom.

When AAA was already inside the room, appellant ordered her to lie down on the cemented floor. When she did, appellant placed himself on top of her and removed her shorts and panty. She screamed "*Tulongan po ninyo ako!*" and resisted, but to no avail because appellant pressed his feet against hers. Appellant then removed his shorts and brief and thereafter inserted his penis into her vagina. AAA felt pain but she could not move because appellant held both her hands above her head. Appellant told her, "*Wag kang maingay, papatayin kita.*"

After satisfying his lust, appellant stood up and left the bedroom. AAA proceeded to the house of BBB's *kumare*, Aling Leony, to forget and recover from the incident. She did not inform BBB of the incident because of her fear that appellant would make good his threats to kill her.

For the second time, one evening of **May 1998**, AAA and her younger siblings were sleeping on the cemented floor inside the bedroom when appellant entered and lay down beside her. Appellant pulled her left arm and made her lie in a straight body position. He removed his shorts and placed himself on top of her. He then pulled down her shorts and panty, and again inserted his penis into her vagina. Despite the pain, AAA did not shout because appellant threatened to kill her. Subsequently, appellant stood up and reiterated his threat to kill her if she would tell anyone what happened.

For the third time, in the evening of **May 1998**, while AAA and her younger siblings were sleeping inside the bedroom, appellant lay down beside her. Appellant pulled her left arm and made her face him. Appellant placed himself on top of her and removed her shorts and panty. Thereafter, he had carnal knowledge of her. She did not shout out of fear. Afterwards, appellant stood up and warned her not to tell anyone of the incident or he would kill her.

From **June 1998** to **February 1999**, appellant was arrested and detained for drug pushing. In the meantime, AAA was employed as a house helper. After his release from jail, appellant would go to see AAA at her employer's house demanding money and creating a scene when AAA refused to give him any. Fed up, AAA sneaked out of

her employer's house and proceeded to the nearby *barangay* hall to report, not just the commotion caused by appellant in front of her employer's house when she did not give him money, but also that appellant previously raped her several times. Hence, appellant was arrested by **PO3 Deduque** and **PO3 Baldeswis**, and charged with rape.^[6]

BBB was not able to accompany AAA in filing the instant case against appellant because she was also detained for drug pushing and was released only on 5 December 1999. Upon her release from jail, she immediately sought AAA and, when informed of the incident, she fully supported AAA in the instant case against appellant.^[7]

Dr. James Belgira (Dr. Belgira), a physician of the Philippine National Police (PNP) Crime Laboratory, personally examined AAA. His findings, as stated in the medico-legal report, are as follows:

FINDINGS:

GENERAL AND EXTRAGENITAL:

Fairly developed, fairly nourished and coherent female subject. Breasts are conical with dark brown areola and nipple from which no secretions could be pressed out. Abdomen is flat and soft.

GENITAL:

There is scanty growth of pubic hair. Labia majora are full, convex and slightly gaping with an area of erythematous at the middle of the left labium and the dark brown labia minora presenting in between. On separating the same disclosed an elastic, fleshy-type hymen with **shallow healed lacerations at 5 and 9 o'clock position**. External vaginal orifice offers moderate resistance to the introduction of the examining index finger. Vaginal canal is narrow with prominent rugosities. Cervix is firm and closed.

CONCLUSION: Subject is in non-virgin state physically.

There are no external signs of application of any form of physical trauma.
^[8]

However, in view of the unavailability of Dr. Belgira to personally appear before the trial court, it was **Dr. Cordero**, another physician at the PNP crime laboratory, who appeared in court for the purpose of producing and interpreting the medical records of AAA and confirming that the same was conducted in accordance with the protocol of the PNP.^[9]

The prosecution also presented documentary evidence to bolster its version of the events, to wit: (1) *Sinumpaang Salaysay* of AAA^[10]; (2) marriage contract of BBB and appellant^[11]; (3) the baptismal certificate of AAA with her date of birth entered as **12 August 1983**^[12]; (4) letter referral of Police Station 4, Novaliches, Quezon City, of the instant case to the Office of the City Prosecutor^[13]; (5) joint sworn

affidavit of the arresting officers^[14]; (6) the medico-legal report with regard to AAA issued and signed by Dr. Belgira as the medico-legal officer of the PNP Crime Laboratory^[15]; (7) the routing slip from the PNP Crime Laboratory^[16]; (8) request for laboratory examination forwarded by Police Station 4 to the PNP Crime Laboratory^[17]; (9) the initial laboratory report issued by the PNP Crime Laboratory^[18]; (10) the sexual crime narrative report based on the narration of AAA^[19]; and (11) manifestation of consent executed by AAA as accompanied by PO3 Baldeswis.^[20]

Appellant singly testified in his own behalf and denied the foregoing accusations. He admitted that AAA is his daughter and third child with his wife, BBB. From 1992 to 1996, he worked as a driver, but he was detained for selling drugs in 1997. He was released on 29 March 1998, but he was again imprisoned for robbery and drug cases. While he was in jail, he learned that BBB asked AAA to find a job and that BBB was subsequently detained for drugs. Upon his release from jail in February 1999, appellant immediately went home and found his eldest son taking care of his other children. On several occasions, he would see AAA at her employers' house to ask for money. This purportedly irked AAA and the latter's employer. It was AAA's employer and BBB who coached AAA to file rape charges against appellant.^[21]

On 27 July 2004, the RTC rendered a Decision convicting appellant of three counts of rape. In Criminal Case No. Q-99-87055, the Court imposed on appellant the penalty of *reclusion perpetua*. In Criminal Cases No. Q-99-87053 and Q-99-87054, appellant was sentenced to death. The dispositive portion of the decision reads:

WHEREFORE, IN VIEW OF THE FOREGOING, this Court finds that the prosecution established the guilt of the accused beyond reasonable doubt and is therefore found guilty of the offenses charged. The accused is hereby sentenced:

1. In Crim. Case No. Q-99-87055:

- a. To suffer the penalty of *reclusion perpetua*;
- b. To indemnify the private complainant AAA the amount of P50,000.00 by way of civil indemnity;
- c. To pay the private complainant AAA the amount of P50,000.00 for exemplary damages;
- d. To pay the private complainant AAA the amount of P50,000.00 for moral damages;
- e. To pay the costs of the suit;

2. In Crim. Case No. Q-99-87053:

- a. To suffer the penalty of DEATH;
- b. To indemnify the private complainant AAA the amount of P75,000.00;

- c. To pay the private complainant AAA the amount of P75,000.00 for exemplary damages;
- d. To pay the private complainant AAA the amount of P75,000.00 for moral damages;
- e. To pay the costs of the suit; and

3. In Crim. Case No. Q-99-87054:

- a. To suffer the penalty of DEATH;
- b. To indemnify the private complainant AAA the amount of P75,000.00;
- c. To pay the private complainant AAA the amount of P75,000.00 for exemplary damages;
- d. To pay the private complainant AAA the amount of P75,000.00 for moral damages; and
- e. To pay the costs of the suit.

In the event, however, that the accused shall be pardoned by the President, he is, however, forever barred from showing himself to the private complainant. He must not approach the private complainant; he shall never contact the private complainant directly or indirectly either by letters, telephone, cellphone or send text messages or with the use of any electrical devices.^[22]

In view of the penalty imposed upon appellant, the RTC elevated the records of the case directly to the Court of Appeals for review pursuant to our ruling in *People v. Mateo*.^[23]

On 3 August 2006, the Court of Appeals promulgated its Decision, affirming with modifications the Decision of the RTC, thus:

WHEREFORE, premises considered, the Decision dated 27 July 2004, promulgated on 04 August 2004, of the Regional Trial Court of Quezon City, Branch 107 convicting accused-appellant William Ching of three (3) counts of qualified rape in Crim. Cases Nos. Q-99-87053, Q-99-87054, Q-99-87055 is AFFIRMED with the MODIFICATION that the sentence imposed on appellant is reduced to *reclusion perpetua* for each count of qualified rape, in lieu of death penalty, by reason of Republic Act No. 9346, and that pursuant to said law, accused-appellant shall not be eligible for parole under Act No. 4103, otherwise known as the Indeterminate Sentence Law, as amended. Further, accused-appellant is ordered to pay the victim AAA the amounts of P75,000.00 for civil indemnity, another P75,000.00 for moral damages and P25,000.00 for exemplary damages for each count of qualified rape.^[24]