

## SECOND DIVISION

[ G.R. No. 131842, June 10, 2003 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
DIONISIO JACKSON, ACCUSED-APPELLANT.**

### D E C I S I O N

**AUSTRIA-MARTINEZ, J.:**

Before us is an appeal from the decision,<sup>[1]</sup> dated March 17, 1997, of the Regional Trial Court (RTC) of Quezon City (Branch 102) convicting accused Dionisio Jackson of rape in Criminal Case No. Q-96-66112, sentencing him to suffer *reclusion perpetua* and ordering him to indemnify the offended party in the amount of P50,000.00.

In a Complaint dated May 15, 1996, twelve-year old AAA, assisted by her father ██████████, accused Dionisio Jackson of rape, committed as follows:

That on or about the 5<sup>th</sup> day of May 1996, in Quezon City, Philippines, the above-named accused, by means of force and intimidation, did then and there, willfully, unlawfully and feloniously drag the complainant, one AAA, a minor 12 years of age, inside a bathroom, and then and there, undressing her and thereafter put himself on top of her, and had carnal knowledge of her, without her consent and against her will, to the damage and prejudice of the said offended party.

Contrary to law.<sup>[2]</sup>

When arraigned on July 8, 1996, the accused pleaded not guilty.<sup>[3]</sup>

At the ensuing trial, the prosecution presented the complainant AAA and six other witnesses, namely: ██████████, ██████████, Dr. Jesusa Nieves-Vergara, Carmen Sunico-Quesada, PO1 Ernesto Alberro and Dr. Pablo Reyes.

The prosecution evidence established the following facts:

At around 8:00 p.m. of May 4, 1996, accused Jackson and six other male companions were having a drinking session at the back of the house of ██████████ at 338 Marian Subdivision, Novaliches, Quezon City. Waiting on them was ██████████ granddaughter, twelve-year old AAA who collected the empty liquor bottles. At around 1:00 a.m. of May 5, 1996, the accused invited AAA to the comfort room, which is located a few meters outside of the house of ██████████. When AAA and the accused were near the comfort room, the accused dragged AAA inside the comfort room. The accused punched her, then pushed her down to the cemented floor where she hit her head. A rope was tied on her neck and her hands. When accused saw that AAA could not breathe, he removed the rope around

her neck. While she lay on the floor, the accused lowered her short pants, straddled ("sinakyan") her and then inserted his penis inside her vagina. AAA felt pain but she did not shout because the accused warned her not to shout or else she would be beheaded. After the rape, AAA pulled the rope from her hands, pulled up her short pants and placed the rope on the side of the comfort room. She then returned to where the drinking session was going on and waited for the empty liquor bottles.<sup>[4]</sup>

Six days later, on May 11, 1996, AAA went to ██████████, her grand-aunt, who lived a few meters from her grandmother's house. AAA told ██████████ that the accused inserted his penis inside her vagina. Upon hearing this, ██████████ called AAA's father, ██████████. ██████████ brought AAA to the Barangay but they were referred to the Quezon City General Hospital. The hospital, in turn, referred them to Camp Crame for medical examination.<sup>[5]</sup>

On May 11, 1996, Dr. Jesusa Nieves-Vergara, a medico-legal officer of the PNP Crime Laboratory in Camp Crame, conducted a medico-legal examination on AAA. She found the "hymen with shallow healed lacerations at 2, 5, and 10 o'clock positions." Dr. Vergara concluded that AAA is in a "non-virgin state physically."<sup>[6]</sup> On May 13, 1996, AAA and her father went to the Novaliches Police Station where PO1 Ernesto Alberro took their sworn statements, on the basis of which a criminal complaint for rape was filed.<sup>[7]</sup>

AAA was brought to the Psychiatric Department of the Quezon City General Hospital. The Psychiatric Department referred AAA to Carmen Sunico-Quesada, a child psychologist at the Child Development Unit-Pediatrics Department of the Quezon City General Hospital, for psychiatric examination. The psychiatric examination revealed that AAA has an I.Q. of 52 which is "comparatively fit for an average 6 year old girl".<sup>[8]</sup> The psychiatric findings of Carmen Sunico-Quesada were affirmed by Dr. Pablo Reyes, a Physician-Psychiatrist of the Quezon City General Hospital, who also examined AAA. Dr. Reyes added that AAA is suffering from "mild mental retardation".<sup>[9]</sup>

The evidence for the defense consisted of denial and alibi. The witnesses for the defense were ██████████, accused Dionisio Jackson, Francisco Leysis and Agustina Calvero.

██████████ testified: She is AAA's grandmother. AAA lives with her. She knew the accused who formerly rented a room in her house. On May 4, 1996, she did not see the accused because he went to work. On May 5, 1996, he arrived in the afternoon and had a drinking spree. When she woke up on May 5, 1996, she did not notice any contusions on the face of AAA. AAA did not narrate to her the alleged rape but she learned about it from his son, ██████████. The comfort room does not have a light and it is dark inside, that at nighttime, she cannot see who is inside or outside.<sup>[10]</sup>

For his part, the accused testified: On May 4, 1996, he went to work at Isuzu Sales Phils., Inc. located at Caloocan City and left the office at about 5:30 p.m. and proceeded to his residence at San Francisco Compound, Tandang Sora Extension, Quezon City. He arrived home at about 8:00 p.m. and after he took his supper at

around 9:00 p.m., he rested for a while listening to music till he fell asleep. He woke up at about 5:00 o'clock the following morning of May 5, 1996 and washed his clothes before he took his breakfast. Then, he rested for a while before he took his lunch together with his companions in the house. He learned of the criminal accusation of rape against him only when his sister, Editha Jackson, called him up on May 11, 1996 at around 12:30 noon at his office at Isuzu Sales Phils., Inc. and told him that their father, Emiliano Jackson, wanted to talk to him about the matter.<sup>[11]</sup>

Francisco Leysis testified: He was the companion of the accused in the house at 259 Tandang Sora Extension, Sangandaan, Quezon City. On May 4, 1996, accused arrived at the house at 8:00 p.m. and he saw the accused asleep at around 1:00 a.m. of May 5, 1996 when the alleged rape took place.<sup>[12]</sup>

Agustina Calvero testified: She has been a co-worker of the accused for thirteen years in Isuzu Sales Phils., Inc. She is the timekeeper of the company. Based on her notebook, the accused reported to work on May 4, 1996 from 8:25 a.m. until 5:30 p.m. Accused is a good family man and has no derogatory record at work.<sup>[13]</sup>

The prosecution presented Mario Bojo as rebuttal witness. He testified that he saw the accused on the evening of May 4, 1996 at Marian Subdivision, Novaliches, Quezon City.<sup>[14]</sup>

After evaluating the evidence adduced by the opposing parties, the trial court rendered judgment convicting the accused of the crime of rape. The dispositive portion of the decision reads:

WHEREFORE, the Court Finds the accused Dionisio Jackson guilty beyond reasonable doubt of the crime of rape and hereby sentences him to suffer the penalty of reclusion perpetua, and to indemnify the complainant in the amount of P50,000.00

SO ORDERED.

Accused did not file a motion for reconsideration.<sup>[15]</sup> Instead, he interposed the present appeal to this Court.

In his Brief, appellant bewails the decision of the trial court and submits the following Assignment of Errors:

#### I

THE TRIAL COURT GRAVELY ERRED IN NOT FINDING THAT THE TESTIMONY OF PRIVATE COMPLAINANT, AAA WAS PUNCTURED WITH MATERIAL IMPROBABILITY, CONTRADICTION AND UNRELIABILITY THEREBY CASTING DOUBT ON THE CRIMINAL CULPABILITY OF THE ACCUSED-APPELLANT.

#### II

THE TRIAL COURT GRAVELY ERRED IN NOT ACQUITTING ACCUSED-

APPELLANT OF THE CRIME OF RAPE NOTWITHSTANDING THE PRESENCE  
OF EXCULPATORY PHYSICAL EVIDENCE SUPPORTING THE SAME.<sup>[16]</sup>

Anent the first assigned error, appellant argues that the trial court "reluctantly" gave weight and credence to the testimony of AAA notwithstanding that the trial court itself acknowledged in its Decision that AAA "gave a somewhat confused testimony". He points to contradictory statements which escaped the proper appreciation of the trial court, namely: (a) to whom and when did she report the crime; (b) when did the crime happen, on a Saturday or a day that televised basketball is shown; (c) was she sleeping when the crime happened; and, (d) how was force exerted on her.

As to the second assigned error, he claims that the alleged rape could not have occurred on May 5, 1996 since the medico-legal officer, Dr. Vergara, on cross-examination, revealed that the lacerations in the hymen of AAA could have been inflicted or could have occurred more than seven days prior to the date of examination on May 11, 1996.

We have held time after time that factual findings of the trial court, especially on the credibility of witnesses, are accorded great weight and respect and will not be disturbed on appeal.<sup>[17]</sup> This is so because the trial court has the advantage of observing the witnesses through the different indicators of truthfulness or falsehood, such as the angry flush of an insisted assertion, the sudden pallor of a discovered lie, the tremulous mutter of a reluctant answer, or the forthright tone of a ready reply; the furtive glance, the blush of conscious shame, the hesitation, the yawn, the sigh, the candor or lack of it, the scant or full realization of the solemnity of an oath, the carriage and mien.<sup>[18]</sup> Only when there appears in the record some facts or circumstances of weight and influence which the trial court overlooked, misunderstood or misappreciated and which, if properly considered, would have altered the results of the case, will we depart from this rule.<sup>[19]</sup>

The appeal is without merit. A close and detailed examination of the entire record of the instant case impels us to affirm the assailed decision of the RTC.

The trial court indeed had observed that AAA gave a "somewhat confused testimony". However, it attributed her manner of testifying to the fact that she was suffering from mental deficiency — "mild mental retardation". Significantly, when the matter of AAA's mental retardation cropped up at the trial, the appellant did not challenge her competence as a witness and ability to testify in court. Indeed, we find no reason to doubt her competency. Even a mental retardate could qualify as a competent witness,<sup>[20]</sup> for as long as, she could perceive and is capable of making known her perception to others.<sup>[21]</sup> It has long been settled that a person should not be disqualified on the basis of mental handicap alone.<sup>[22]</sup> He or she can be a witness, depending on his or her ability to relate what he or she knows. If the testimony of a mental retardate is coherent, the same is admissible in court.<sup>[23]</sup> Despite her mental retardation, we agree with the trial court that AAA adequately showed she could convey her ideas by words and could give sufficiently intelligent answers to the questions propounded by her counsel, the counsel for the defense and the court. Enlightening are the following excerpts from her candid and unequivocal testimony which we quote verbatim:

Q: Who is that person whom you said who raped you?

A: Diony, `yan'. (witness pointing to accused)

PROSECUTOR CONCHA:

Witness is pointing to the person of the accused.

Q: You said that this person by the name of Diony raped you, what did he do to you?

A: Yong titi niya inilagay sa akin.' He put his penis to my organ. He put his penis to my organ.

Q: :You point to the part of your body where he put his penis?

A: Here, inside (witness pointing to her sex organ).  
Dito po, sa may loob.'<sup>[24]</sup>

. . .

Q: When you said `here', what do you mean?

A: Inside the vagina, sir.

Q: What do you feel?

. . .

A: It was painful, sir.

PROSECUTOR CONCHA:

Q: Where did that happen?

A: **He dragged me** to the comfort room, sir.

Q: How did it happen that you were in the comfort room?

COURT:

She answered `Hinila niya ako sa comfort room.' There was already an answer. `He dragged me'

. . .

PROSECUTOR CONCHA:

Q: Madam Witness, you said that you were made to lie down in the comfort room . .

COURT:

She said `Hinila ako sa comfort room,' so she was dragged to the comfort room.

WITNESS: