

EN BANC

[G.R. No. 139181, October 27, 2003]

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. JIMMY AQUINO Y VIOLA, APPELLANT.

DECISION

DAVIDE JR., C.J.:

Before us on automatic review is the 7 June 1999 Decision of the Regional Trial Court of Malolos, Bulacan, Branch 21, in Criminal Case No. 1310-M-98 convicting appellant Jimmy Aquino of the crime of statutory rape and sentencing him to the penalty of death.^[1]

The Information under which Jimmy was charged reads:

That on or about the 24th day of May 1996, in the municipality of [REDACTED], province of [REDACTED], Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, armed with a bladed instrument, did then and there willfully, unlawfully and feloniously, with lewd designs, by means of force and intimidation have carnal knowledge of the said AAA, 11 years of age, against her will.^[2]

Upon his arraignment, Jimmy pleaded not guilty to the offense charged.^[3] Pre-trial ensued, followed by the trial on the merits of the case.

The evidence for the prosecution, culled from the testimonies of the victim AAA and her mother [REDACTED], is as follows:

AAA was 10 years and 11 months old on the day of the alleged rape, having been born on 23 June 1985. She filed the complaint with the assistance of her mother, [REDACTED], who is Jimmy's first cousin. Prior to the filing of this case and the assumption of custody by the Department of Social Welfare and Development, AAA lived with her grandmother in [REDACTED]; while her mother lived with her second husband in another house within the same barangay.^[4]

At around 9:00 a.m. of 24 May 1996, while AAA was playing with her friend near the house of Jimmy's sister Nini in [REDACTED], Jimmy, who was staying in Nini's house during the day, called out AAA to buy cooking oil for him from the store nearby. He gave her P5.00 and a glass for the cooking oil. When she returned to Nini's house, Jimmy asked her to get the feeding bottle of his niece near the bed, which was in a slightly elevated portion of the house. She then went to get the bottle. Jimmy followed her and, producing a knife, ordered AAA to remove her shorts and underwear. Fearing for her safety, AAA acceded. Jimmy then proceeded to remove his clothes and force himself on top of her. With a knife in his right hand pressed against her left palm, he began to have sexual intercourse with her. Once

during the ordeal, he applied to her genitals the cooking oil she bought. Jimmy stopped his assault only after two hours, or at around 11:00 a.m., when he heard the voice of his brother-in-law outside the house. He forthwith ordered AAA to get dressed and get out of the house. AAA went home and reported the rape to her grandmother.^[5]

Later in the afternoon, AAA went to the poultry farm where her mother worked and told her that "Tio Imi" had raped her.^[6] [REDACTED] went to the Barangay Council of [REDACTED] and reported the rape. Councilman Ismael Julian asked Barangay Tanod Rolando Viola to fetch Jimmy. Under interrogation by Ismael, Jimmy admitted to having asked AAA to undress. The councilman prepared a statement,^[7] which was signed by him, Jimmy and [REDACTED], wherein it was stated that the nature of the complaint was that Jimmy had asked AAA to remove her clothes because he wanted to see what her vagina looked like. Even if the statement did not mention rape, [REDACTED] signed it thinking it would merely be used as evidence that she had made a complaint.^[8]

AAA was also sent for, and though she testified to having signed a document upon the request of the barangay tanods, she did not know what document she signed.^[9] AAA's signature does not appear in the statement signed by her mother and Jimmy.

According to [REDACTED], she was frustrated by the lack of action by the Barangay officials. She attributed it to the fact that Jimmy was a relative of many of them, and that they wanted her to settle the case with him. Thinking that Jimmy had fled, she did not pursue the complaint. It was only on 20 August 1997, Jimmy's birthday, that she spotted Jimmy in the house of his grandmother. Her rage renewed, she tried to go to the police in [REDACTED], but the policemen refused to help her because Jimmy was the nephew of the incumbent barangay captain at that time.^[10]

With the help of her friend Celia Manese, she, together with AAA, filed on 10 November 1997 a complaint with the Municipal Trial Court (MTC) of [REDACTED]. The next day, AAA was examined at the Philippine National Police Crime Laboratory in Malolos, Bulacan.^[11] The examining physician, Dr. Manuel Aves, found old healed hymenal lacerations, which the parties admitted.^[12]

For his defense, Jimmy interposed a basic denial. His version of the events is that on 24 May 1996, he was in the house of his sister Nini where he usually stayed during the day, sometimes to take care of his niece. Around two meters away was Antonio Clemente, a first cousin of Jimmy and [REDACTED] and a carpenter by profession, who was hired by Nini to put up a fence in the back of the house.^[13]

At approximately 9:00 a.m., AAA arrived and watched television with Jimmy. Sometime between 10:00 and 11:00 a.m., Antonio got hungry and asked Jimmy for merienda. Because none was available, Antonio gave Jimmy P5.00 to buy ice and some cooking oil to fry *camote* (sweet potatoes). Jimmy, in turn, gave AAA the money and bid her to buy the items in a store nearby. She returned with the cooking oil worth P3.00 but without the ice, and gave the P2.00 to Jimmy.^[14]

At one point while the *camote* was being fried, Jimmy became curious about the

rumors he had heard about the beautiful appearance of AAA's private organ. To see it for himself, he asked AAA to pull down her shorts. The latter agreed. When AAA's shorts were down, a group of children entered the house and laughed when they saw AAA. Among this group were AAA's younger brother [REDACTED], and Antonio's son Jervy Clemente. Antonio also looked in to see what was happening. He saw AAA with her shorts around her knees and her underwear exposed. The children then asked whether they could have some of the *camote* being fried. Antonio playfully asked them to also pull down their shorts as a condition to giving them any.^[15]

Late that same afternoon, Rolando Viola, a barangay tanod, came and informed him that [REDACTED] was making a complaint against him (Jimmy) with the barangay councilor. He (Jimmy) went to where Ismael Julian and [REDACTED] were and, when confronted, admitted to having asked AAA to pull down her shorts because he was curious about her. He signed a statement made by Ismael that was in question-and-answer form, and both he and [REDACTED] were made to sign the same document. The issue of rape was not discussed during that confrontation, and he had no idea of the charge until he was arrested in his house on 12 November 1997 and brought to the provincial jail.^[16]

Antonio Clemente, a first cousin of both Jimmy and [REDACTED], corroborated Jimmy's story. He testified that on the day of the alleged rape, he was fixing the fence in the back of Nini's house. He could see into the house of Nini because the back wall was almost non-existent. At around 10:00 a.m. he asked Jimmy for food and gave him money to buy cooking oil and ice. Afterwards, he heard children laughing and he saw AAA with her shorts around her knees. He even jokingly asked the children to do the same so that they could eat some of the *camote*.^[17]

Rolando Viola, a barangay tanod and an uncle of both the appellant and the victim's mother, testified to having seen Antonio fix the house. Sometime before 10:00 a.m., he went looking for Antonio because he wanted to have his roof fixed. While he was conferring with Antonio, he saw AAA and Jimmy watching television inside Nini's house. He also testified that the state of Nini's house at that time was such that although he was at the back, he could see into the house and out into the street and at passers-by because the front and back walls were dilapidated and almost non-existent.^[18]

He also testified that he was present when [REDACTED] reported to Barangay Councilman Ismael Julian that AAA was ordered by the appellant to take off her lower apparel. He was even the one who fetched the appellant from his house to be investigated. He was likewise present during the investigation.^[19] This testimony was corroborated by Ismael Julian.^[20]

Alberto Viola, uncle of Jimmy and granduncle of AAA, declared that he had been taking care of Jimmy ever since the latter was 10 years old, after Jimmy's father died. He testified that at around 10:30 a.m. of 24 May 1996, while he was cooking lunch in his house, he heard children laughing. From his kitchen in the back of the house, he had a view of the front of Nini's house, where he saw children. Noticing nothing extraordinary, he continued cooking. At around noon, Jimmy came over and ate with him.^[21]

Teresita Bacuan, another cousin of AAA and a close friend, testified that at 11:00 a.m. of 24 May 1996, AAA came by her house to tell her that "Tio Imi" had almost succeeded in raping her (AAA). Teresita was worried that a rape had in fact been committed and asked AAA whether the latter was just ashamed to admit it. AAA assured her that nothing happened because of the timely arrival of one Jervy and other small children. Teresita confronted Jervy Clemente, who then denied having witnessed any attempt at rape. Teresita's testimony also included revelations from AAA that sometime in April of 1997, AAA was having sexual intercourse with her boyfriend named Ryan Ramos.^[22]

The witnesses for the appellant denied Jimmy's flight. They testified that they had seen him working in the field or in a construction,^[23] watching television in Nini's house, or buying something in the store, and sometimes in the company of AAA.^[24]

The defense put forward several motives for ██████ to have constrained AAA to accuse him of rape. One was for the money that ██████ was claiming to settle the case. After the case was filed, she wanted P10,000 to settle the case, and later, according to her neighbor Lerma, she wanted P50,000.^[25] The second was because of a land dispute over the inheritance between ██████'s father Edilberto and Jimmy's uncle Alberto.^[26] The third was revenge in that Jimmy's sister Lala was instrumental in putting in jail the father of ██████'s friend Celia Manese for raping his stepdaughter.^[27]

After trial, the trial court rendered the decision now on review. Convinced of the overall veracity of AAA's claim, the trial court gave no weight to the testimonies of the witnesses for the defense because of their relation to Jimmy. Reasoning that lust is not a respecter of time and place, it found inconsequential the testimonies of the witnesses that the house where the rape was allegedly committed was located near a store or artesian well. It could find no reason why either AAA or her mother ██████ would fabricate a story of rape when to do so would subject AAA to an emotional ordeal and humiliation. On AAA's claim that Jimmy raped her for two hours, the court attributed this to Jimmy's youth and strong physical condition as a probable "sexual athlete," or else to a condition called satyriasis, which describes excessive sexual desire.

Finding, therefore, that rape was committed and that the accused used a deadly weapon in its commission, the trial court declared:

As to the penalty to be imposed, the law provides that for Statutory Rape, the penalty is *Reclusion Perpetua*; whereas if committed with the use of a deadly weapon, it should be *Reclusion Perpetua* to Death. Inasmuch as the circumstance of using of the fan knife which is a deadly weapon, was established, it is hereby deemed to be one that aggravated the commission of the offense. Accordingly, accused Jimmy V. Aquino is hereby sentenced to suffer the supreme penalty of DEATH by lethal injection.

Further, he is hereby ordered to indemnify AAA the sum of P75,000.00 (in line with the case of People v. Victor, G.R. No. 127903, July 9, 1998) and to pay moral damages of P100,000.00.

With costs against the accused.

SO ORDERED.^[28]

The records were elevated to us.

In his Appellant's Brief, Jimmy contends that the trial court erred in (1) holding that the testimonies of the prosecution witnesses are direct and credible, and (2) ignoring the truth and credibility of the witnesses for the defense. On the other hand, the Office of the Solicitor General, representing the People of the Philippines, agrees with the trial court in giving full faith and credence to AAA's narration of the facts that warranted the conviction of the accused.

In reviewing rape cases, three guiding principles must be borne in mind: (1) an accusation for rape may be made with facility, for it is difficult to prove but more difficult for the person accused, though innocent, to disprove; (2) in view of the intrinsic nature of the crime where two persons are involved, the testimony of the complainant must be scrutinized with extreme 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.^[29]

Taking into account the totality of the evidence presented, we cannot sustain the conviction of the appellant for the crime of rape.

The main issue in this case is whether on the day of 24 May 1996, Jimmy Aquino had carnal knowledge of AAA. Because AAA was under 12 years old, her age takes the place of force and intimidation in vitiating her consent, and only an evidence of carnal knowledge is necessary.^[30] The presence of a deadly weapon only qualifies the offense.^[31]

Excluding the peripheral motives and actuations of the secondary players in this drama, we are once again tasked with the duty of weighing the testimony of the victim as against the appellant. As a general rule the trial court's findings as to the credibility of witnesses are entitled to great weight and should largely remain undisturbed.^[32] On review, an appellate court may reverse these findings when there appears on record some fact or circumstance of weight and influence which has been overlooked or misinterpreted that could affect the result of a case.^[33] It is on this ground that we find that the trial court committed a reversible error in completely disregarding all other evidence contrary to what was deemed as the irrefutable testimony of the complainant.

The trial court found AAA's demeanor while she testified to the rape as frank, straightforward, sincere, and unshaken despite the rigid cross-examination. True, the positive testimony of a credible complainant is sufficient basis for the conviction of rape, for jurisprudence recognizes that a victim who cries rape, more so if she is a minor, almost always says all that are needed to signify that the crime has been committed.^[34] It is also true that a woman would not make a charge of rape for reasons other than to seek justice for what is the truth.^[35] We must consider, however, a principle equally fundamental: that evidence to be worthy of credit must