

## THIRD DIVISION

[ G.R. Nos. 134573-75, October 23, 2003 ]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. VICENTE BINARAO, RUDY CANATA AND JOSE COMBIS, JR., APPELLANTS.**

### DECISION

**CORONA, J.:**

On appeal is the decision<sup>[1]</sup> dated August 20, 1997 of the Regional Trial Court, Branch 18 of Tabaco, Albay in Criminal Case Nos. T-2361, T-2362, T-2363, which convicted herein appellants Vicente Binarao, Rudy Canata and Jose Combis, Jr. of rape against then 14-year-old AAA and sentenced them to suffer the penalty of *reclusion perpetua*.

Appellants were charged in three separate Informations for allegedly committing three counts of rape, the accusatory portions of which similarly read:

"That on or about the 16<sup>th</sup> day of November, 1991 at about 6:30 o'clock in the evening, more or less, at [REDACTED], Philippines and within the jurisdiction of this Honorable Court, the above-named accused with deliberate intent to violate the law by means of force and intimidation by using a fan knife, without the consent and against the will of AAA, did then and there wilfully, unlawfully and feloniously conspire, confederate and mutually helping one another, while Vicente Binarao was sexually assaulting AAA the other co-accused helped in holding the offended party's body to subdue resistance and succeeded in having carnal knowledge with the latter, to her damage and prejudice."<sup>[2]</sup>

Appellants pleaded not guilty to the charges. The prosecution presented its version of the facts through the testimonies of complainant AAA, [REDACTED], Dr. Leonides Cruel and P/SI Benjamin B. Berdin.

According to AAA, at around 6:30 p.m. on November 16, 1991, she was sent by her parents to buy *ibangot* (seasoning). After buying the *ibangot* from the store of one Rosemiña Base, AAA headed home. Along the way, she saw appellants Vicente Binarao, Jose Combis, Jr. and Rudy Canata with Rodwin Langasa and Anthony Cope. Appellants suddenly held her while Langasa and Cope left and went home.<sup>[3]</sup>

Appellants dragged AAA to an uninhabited house owned by one Aurora Colar. Upon reaching the house, appellants forcibly undressed AAA and took turns raping her. Binarao was the first who had carnal knowledge of AAA. While Binarao was having sexual intercourse with her, Canata was covering her mouth with his hands and Combis, Jr. was holding her legs. After Binarao satisfied his lecherous desires, Combis, Jr. and Canata followed. Appellants also took turns in holding down AAA to

frustrate any resistance from the latter. Binarao raped the victim for a second time after Combis, Jr. and Canata were done raping her.<sup>[4]</sup>

Afterwards, the appellants allowed AAA to leave but only after threatening her not to reveal the incident to anybody, otherwise, they would kill her. They repeatedly threatened her each time their paths crossed. AAA sealed her lips for some time because of fear.<sup>[5]</sup>

In April 1992 or five months after the incident, however, AAA complained of pain in the stomach.<sup>[6]</sup> ██████████, AAA's mother, brought her to Dr. Bernardo Corral who discovered that she was pregnant. For the first time, she told her mother what appellants did to her. Consequently, they went to the barangay captain and reported the incident. The barangay captain referred AAA's case to the PNP of Tiwi, Albay.<sup>[7]</sup> The incident was recorded in the police blotter and was later read by P/SI Benjamin B. Berdin in open court.<sup>[8]</sup>

Dr. Leonides Cruel, Municipal Health Officer of Tiwi, Albay thereafter conducted a physical examination on AAA on April 15, 1992. Dr. Cruel subsequently issued a "LIVING CASE REPORT" which, in part, stated:

"FINDINGS:

- I - External...
  1. No signs of physical injuries noted.
  2. Further physical examinations revealed that the victim is on her fifth month of pregnancy.
  
- II - Internal...
  1. Hymen revealed healed shallow tear at 4:00 o'clock, deep healed lacerations at 6:00 o'clock and 9:00 o'clock respectively before the face of a watch.
  2. Vaginal orifice admits one finger with ease.
  
- III - Conclusion...Physical virginity on the person of AAA has been lost."<sup>[9]</sup>

AAA gave birth on June 16, 1992 or seven months after the incident.

The defense offered its version of the incident through the testimonies of appellants, Rudy Rangasa, Rustico Base, Dr. Bernardo Corral, Elena L. Celo, Lourdes Dacoba and Amado Colina.

According to appellant Canata, on November 16, 1991 at about 6:30 p.m., he was at Coro-Coro, Tiwi, Albay performing his duties as caretaker of the summer house of one Pedro Rañeses. He was required to stay at the summer house during the period of his employment as caretaker. He only went home twice, in December 1991 and in January 1992.<sup>[10]</sup>

Rudy Rangasa supported Canata's alibi. He narrated that, on November 16, 1991, he saw Canata at Rañeses' house. Before he left past 5:00 p.m., he saw Canata preparing his supper.<sup>[11]</sup>

According to appellant Binarao, on November 16, 1991, he was on duty at the Tiwi Agro-Industrial School feeding the chickens. He said that it was impossible for him to be friends with Canata as the latter was still very young then.<sup>[12]</sup>

Appellant Combis, Jr. testified that he was at the Tiwi Agro-Industrial School on November 16, 1991, attending his classes. He narrated to the trial court that he could not have had the courage to rape AAA as the latter was his cousin. He suggested that she was impelled by an improper motive in filing the complaint against him. According to him, his and AAA's parents were not in good terms.<sup>[13]</sup>

Rustico Base, a former barangay captain of ██████████, testified that AAA and her mother ██████████ asked for his help to find out who fathered her (AAA's) child. When Rustico questioned AAA about the identity of the father, the latter retorted that there were several men who had sexual intercourse with her in different places and on different dates. Appellants were among those who had sexual intercourse with her.

Base also described to the trial court the everyday life of the locals in their area. According to him, at 6:30 p.m., there were still a lot of people who frequented the place where AAA was allegedly abducted. However, nobody ever mentioned, until after the cases were filed against the appellants,<sup>[14]</sup> that AAA or anybody for that matter was abducted and raped on November 16, 1991

Dr. Bernardo Corral, a physician in Tiwi, Albay, testified that on April 13, 1992, AAA consulted him about the pain in her stomach. When he examined her, he discovered that she was six to seven months pregnant.<sup>[15]</sup>

Elena L. Celo, the government midwife assigned at the Rural Health Unit at Misibis, Tiwi, Albay, testified that she assisted in the delivery of AAA's child on June 16, 1992. According to her, she delivered a full-term baby boy.<sup>[16]</sup>

The defense also offered in evidence a document signed by 130 allegedly disinterested inhabitants, which stated that no rape incident happened on November 16, 1991 in their barangay. Lourdes Dacoba and Amado Colina, two of the 130 signatories, testified in open court to substantiate their statement.<sup>[17]</sup>

The trial court convicted the appellants on August 20, 1997:

"ACCORDINGLY, we find from the totality of the evidence, oral and documentary, unfolded before us that the GUILT of the accused, Vidente Binarao in Criminal Case No. T-2361, of accused, Rudy Canata in Criminal Case NO. T-2362 and that of accused, Jose Combis, Jr. in Criminal Case No. T-2363, for the crime of Rape alleged and recited in the three (3) Informations have been proved beyond reasonable doubt; consequently, accused, Vicente Binarao, Rudy Canata and Jose Combis, Jr. are hereby sentenced to suffer the penalty of RECLUSION PERPETUA and to jointly and solidarily indemnify AAA the amount of P50,000.

Costs against accused."<sup>[18]</sup>

Appellants came to this Court and appealed the trial court decision. However, they subsequently filed a "Motion to Withdraw Appeal" on the ground that they wanted "to apply for executive clemency, considering that they had already satisfied the required minimum service in prison which would qualify them for a commutation of their sentence."<sup>[19]</sup> We denied appellants' motion in a resolution dated July 25, 2001.

Thus, the present appeal with appellants alleging that:

"THE TRIAL COURT ERRED IN FINDING THE THREE (3) ACCUSED GUILTY BEYOND REASONABLE DOUBT OF THE CRIME OF RAPE."<sup>[20]</sup>

According to appellants, complainant's long delay in reporting the incident cast serious doubt on her credibility.

Likewise, the prosecution failed to present Langasa and Cope who were allegedly with appellants before the latter raped the victim. They could have bolstered the theory of the prosecution. Despite their availability, however, the prosecution did not call them to testify to corroborate AAA's claim.

Appellants further argue that, if AAA really became pregnant because of that rape incident, she could not have delivered a full-term baby in June 1992, given that only seven months had lapsed after the alleged rape on November 16, 1991.

Appellants aver that the behavior of AAA, particularly her conduct after the incident, negated her claim of rape. She did not exhibit any sign of trauma, quite unnatural of a troubled woman who just went through the nerve-wracking experience of being forcibly stripped of her honor.

On the other hand, appellants claim that their defense of alibi was perfectly credible. It was not possible for appellants to be friends and thus act as a group because of their age gap. Besides, they were in different places at the time of the incident. And 130 disinterested inhabitants in their area attested that no rape took place therein on the said date.

Appellants thus claim that the test of moral certainty or standard of proof beyond reasonable doubt required for conviction in criminal cases was not satisfactorily hurdled.

Appellants' arguments fail to persuade this Court.

Considering the intrinsic nature of the crime of rape, usually no one can give a first-hand account of what transpired, if truth be told, except the actual participants in the sexual act.<sup>[21]</sup> The testimony of the offended party is therefore crucial in determining the guilt of the accused. Indeed, it must be received with great caution,<sup>[22]</sup> since the conviction or acquittal of the accused in rape indubitably depends on complainant's testimony.<sup>[23]</sup> However, if the lone testimony of the offended party is found credible, it has been held sufficient to sustain a conviction.<sup>[24]</sup>

After a careful review of the records, we find no reason to deviate from the settled rule that the Court will not alter the findings of the trial court on the credibility of

witnesses,<sup>[25]</sup> unless there are circumstances which it overlooked that would change its findings or modify its conclusions. As a rule, appellate courts generally rely on the findings and observations of the trial judge who directly evaluated the demeanor of the witnesses on the stand and who was in a better position to decide the question.<sup>[26]</sup>

The records bear out that the testimony of the offended party pertaining to the sexual assaults on her was clear, positive and convincing. The fact of rape and the identity of appellants as the malefactors were sufficiently established by the prosecution through the straightforward narration of the offended party. Without doubt, AAA's testimony revealed that she was forced and intimidated by appellants to have sexual intercourse with them:

"Q After buying that "ibangot" from the store of Base, was there any unusual incident that happened to you?

A On my way home, I saw five men in a group.

Q Do you know these five men?

A Yes, sir.

Q Will you please tell us the names of those five men whom you saw that evening?

A Vicente Binarao, Jose Combis, Jr., Rudy Canata, Rodwin Langasa and Anthony Cope.

Q After that, what happened next?

A I did not expect these men to hold me.

COURT:

Do not narrate.

ATTY. LELIS:

Q What happened after being held by these men?

A After holding me, they brought me at the back of an uninhabited house.

Q Who are these men who held you?

A Vicente Binarao, Rudy Canata and Jose Combis, Jr.

Q How about the two, what were they doing?

A Rodwin told Anthony that they might as well go home because they were suspecting some trouble.

Q After these three accused held you, what did they do, if any?

A They undressed me.

Q If these three people are here in Court, will you please point to them?

A Yes, sir.

Q Will you please point to Vicente Binarao?

A (Witness pointing to a man dressed in striped pink T-shirt