

THIRD DIVISION

[CA-G.R. CR-HC No. 06508, March 23, 2015]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. FELIPE ANTONIO Y PACINOS, ACCUSED-APPELLANT.

DECISION

REYES-CARPIO, A., J.:

Accused-appellant, Felipe Antonio y Pacinos, appeals the Decision^[1] dated October 3, 2013 rendered by the Regional Trial Court (RTC) Branch 16 of Tabaco City in Criminal Case No. T-5160, finding him guilty beyond reasonable doubt of the crime of Statutory Rape, under paragraph 1, sub-paragraph (d) of Art. 266-A in relation to Art. 266-B of R.A. 8353 (Anti-Rape Law of 1997).

THE ANTECEDENTS

The facts of the case as culled from the records are as follows:

In the Amended Information^[2] dated October 17, 2011, accused-appellant Felipe Antonio y Pacinos^[3] was charged with the crime of Statutory Rape, defined and penalized under paragraph 1, sub-paragraph (d), Art. 266-A in relation to Art. 266-B of R.A. 8353, the accusatory portion of which reads:

“That on or about the 25th of July, 2010 in the afternoon in Barangay Ogob, Municipality of Malinao, Province of Albay, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with lewd and unchaste designs, did then and there, willfully, unlawfully and feloniously have carnal knowledge with **AAA aka BBB**,^[4] a nine (9) year old minor girl against her will and consent to her damage and prejudice

Contrary to law.”

Upon arraignment, Antonio pleaded “Not Guilty”^[5] to the charge. Trial on the merits then ensued.

AAA was eight (8) years old^[6] when the subject incident transpired. At a young age, AAA was entrusted by her biological mother to CCC, since she and her husband Antonio have no child of their own. AAA then grew up recognizing CCC and Antonio as her parents, even calling the latter “papa”.^[7] Antonio also informally changed AAA's given name as appearing in the Office of the Municipal Registrar and have her carry his surname.^[8]

On the witness stand, AAA testified that on the day of July 25, 2010, somebody in their neighborhood at Barangay Ogob, Malinao Albay, butchered a pig. Antonio then

instructed her to bring him some meat in the nipa hut where he was staying at the time. The nipa hut was located in the mountainous area of Sitio Amaranto of Barangay Ogob which AAA frequented before the incident on July 25, 2010. To get there, AAA would walk which usually takes her about an hour to reach Antonio's nipa hut.

When AAA arrived at the nipa hut in the afternoon of July 25, 2010, she recalled that Antonio was alone and making copra. Thereafter, they went to look for a missing carabao and after locating it, Antonio returned to the nipa hut to cook some food while AAA fetched water.

Upon returning to the nipa hut, AAA saw Antonio sleeping inside but not too long thereafter, the latter was on his way to the mountainous area. Thinking that Antonio was going up to gather woods, AAA followed him towards the area where there were cluster of trees.^[9]

Subsequently, AAA saw Antonio gathering some banana leaves, and placing them on the ground as if making mats. Thereafter, he told her "*marina bebe*" (come here bebe).^[10] Antonio then held AAA's left hand, pressed her chest as she lay down on the banana leaves,^[11] and then pulled down her shorts and panty.^[12]

While AAA was already laying down on the ground, Antonio likewise pulled down his shorts and brief and removed the bolo on his waist and placed it beside AAA. He then laid on top of AAA, tried to open her legs, held both her hands above her head and inserted his penis inside her vagina.^[13] AAA recalled that the incident did not last long because she asked Antonio if she could go home already. After dressing her up and himself, Antonio returned to the nipa hut. Later on, a person arrived and started talking with Antonio. AAA again asked permission if she could leave but Antonio insisted that they go home together.

AAA left the place first, but not long thereafter, she heard an approaching motorcycle driven by Antonio who ordered AAA to ride with him on the motorcycle in going home. Thereafter, he asked her the whereabouts of his wife, CCC, with whom he was then not in good terms. To avoid seeing CCC, Antonio dropped off AAA in the lower part of Barangay Ogob.

When AAA was finally home, CCC noticed that she looked pale and asked her "*naano ka?*". AAA then revealed that Antonio did something bad to her.^[14] CCC then relayed the information to a neighbor called "Tiya Malou"^[15] who, in turn, related the incident to a teacher.^[16] The teacher then conveyed such information to a nun which led AAA to be eventually brought to a police station in Malinao.^[17]

In the PNP Malinao Station, AAA was interviewed by PO3 Delia Cargullo who also recorded the incident as Blotter Entry No. 579 and Blotter Entry No. 5278.^[18] Thereafter, AAA was turned-over to the Municipal Social Welfare and Development Officer of Malinao for her to be accompanied to the hospital for medical examination. On their way, thereto, they chanced upon Antonio who was sitting on a motorcycle along the road. As Antonio was about to start the engine, AAA pinpointed to his direction and told the policemen that he was the man who raped her, by reason of which, Antonio was apprehended immediately.^[19]

The following day, PO3 Delia Cargullo and her team, together with AAA, went to the place of the incident to conduct an ocular inspection. AAA showed them the place which was about 80 meters away from Antonio's nipa hut,^[20] where piles of banana leaves lay on the ground.

As for the medical examination conducted on AAA by Dr. Cesar D. Cometa on the night of July 25, 2010, the same yielded the following results:

- 1) Positive irritation vaginal wall (Vault) left (3ocklock) (sic), right (9:0000 ocklock) (sic),
- 2) Positive bloody discharged (sic) scanty at vaginal smear (swab specimen xxx^[21]

On the witness stand, Dr. Cesar Cometa stated that the irritation he found on AAA's vaginal wall at 3:00 o'clock left and 9:00 o'clock right positions,^[22] may be caused by repeated pressure applied on the area, regardless of the hardness or softness of the object or the pressure applied. Dr. Cesar Cometa categorically declared that an erect penis could have caused such irritation.^[23] The bloody discharge, on the other hand, was the result of a possible tear or injury on the blood vessels affected by the pressure applied on AAA's genitals.^[24]

For his part, Antonio denied the accusations hurled against him. He claimed that on the day of July 25, 2010, he was cleaning his abaca and coconut plantation situated in Barangay Bulang, Bahuan, Malinao, which was about 4-5 kilometers away from their house in Barangay Ogob and that he came home around nighttime already.^[25] While Antonio admitted that he owned several parcels of land, he, however, denied owning any farm in the mountainous area of Barangay Ogob.^[26] He also stated that he cannot think of any reason why AAA, whom he has raised as his own child, would file the instant case against him.^[27]

Helen Cana, Antonio's aunt, who resides in a nipa hut within the coconut plantation owned by Antonio, corroborated his statement that he was in Barangay Bulang when AAA's alleged rape took place. She testified that Antonio arrived at around 7:00 to 8:00 o'clock in the morning of July 25, 2010 in Barangay Bulang, spent the day clearing the grassy portion of his coconut plantation,^[28] and left past 4:00 o'clock in the afternoon of the same date.^[29] She also mentioned that aside from the coconut plantation in Barangay Bulang, Antonio does not own any other property, however, he tills a land which was mortgaged to him located in Barangay Ogob.^[30]

As rebuttal evidence for the prosecution, AAA was recalled to the witness stand who reiterated that Antonio was in his plantation in the mountainous part of Barangay Ogob on July 25, 2010. She averred that Antonio instructed her to go to his place of work, bring some meat, and that sometime in the afternoon of July 25, 2010, she was raped by Antonio.^[31]

The trial court gave credence to the prosecution's evidence and thus, rendered the assailed Decision^[32] the *fallo* of which reads:

"WHEREFORE, foregoing premises duly considered, the Court hereby renders judgment finding accused Felipe Antonio y Pacinos guilty beyond reasonable doubt of the crime of Rape defined and penalized under paragraph 1 (d), Article 266-A, in relation to Article 266-B, of the Revised Penal Code, as amended by Republic Act No. 8353, otherwise known as "the Anti-Rape Act of 1997" and is accordingly sentenced to suffer the penalty of reclusion perpetua.

He is also ordered to pay private complainant AAA the sum of P50,000.00 as civil indemnity and another sum of P50,000.00 for moral damages. Costs against the accused.

Meanwhile, the period of the preventive imprisonment of the accused starting May 4, 2011 shall be credited in his favor.

GIVEN UNDER MY HAND AND THE SEAL OF THIS COURT, this 3rd day of October, 2013 at Tabaco City, Albay, Philippines."

Antonio filed a Notice of Appeal,^[33] hence, this appeal with the following assignment of errors:

I

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT OF THE CRIME CHARGED DESPITE THE PROSECUTION'S FAILURE TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.

II

THE TRIAL COURT ERRED IN NOT GIVING WEIGHT AND CREDENCE TO THE ACCUSED-APPELLANT'S DEFENSE OF DENIAL.^[34]

The appeal lacks merit.

Antonio argues that the trial court erred in convicting him for the crime of Statutory Rape, based on the following reasons

1. AAA is not a credible witness because of the glaring inconsistencies in her statements as to the order of events when the alleged rape transpired, i.e., the time when she arrived at the mountainous area; where Antonio was when she reached the coconut plantation; and whether Antonio cooked first or they looked for the missing carabao. Considering such inconsistencies and guided by the maxim "*falsus in uno, falsus in omnibus*", therefore, the probability that AAA merely concocted such story should be not discounted.

2. AAA did not sustain any injury on her body despite her claims that he pressed her chest as he laid her down and that while on top of her, he allegedly tried to open her legs as she was closing the same. More importantly, contrary to AAA's claim that Antonio inserted his penis inside her vagina, the medico-legal findings glaringly stated that there were no lacerations in her hymen. He then submits that the case of People vs.

Campuhan^[35] should be applied as it was held therein that "[I]n cases of rape where there is a positive testimony and a medical certificate, both should in all respects complement each other; otherwise, to rely on the testimonial evidence alone, in utter disregard of the manifest variance in the medical certificate, would be productive of unwarranted or even mischievous results".

After a careful perusal of the records and the arguments raised by the accused-appellant, We find no reason to reverse his conviction for the crime of Statutory Rape.

Antonio was charged and convicted for Statutory Rape defined in Article 266-A paragraph (1), sub-paragraph (d) of the Revised Penal Code, which provides:

Art. 266-A. Rape: When and How Committed. — Rape is committed:

1. By a man who shall have carnal knowledge of a woman under any of the following circumstances:

- a. Through force, threat, or intimidation;
- b. When the offended party is deprived of reason or otherwise unconscious;
- c. By means of fraudulent machination or grave abuse of authority; and
- d. When the offended party is under twelve (12) years of age or is demented, even though none of the circumstances mentioned above be present.

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In the case of **People vs. Vergara**,^[36] reiterating the dictum in **People vs. Teodoro**,^[37] the Supreme Court further explained the elements of Statutory Rape, to wit:

Rape under paragraph 3 of this article is termed statutory rape as it departs from the usual modes of committing rape. **What the law punishes in statutory rape is carnal knowledge of a woman below twelve (12) years old.** Thus, **force, intimidation and physical evidence of injury are not relevant considerations; the only subject of inquiry is the age of the woman and whether carnal knowledge took place.** The law presumes that the victim does not and cannot have a will of her own on account of her tender years; the child's consent is immaterial because of her presumed incapacity to discern good from evil. (Emphasis Supplied)

In the instant case, the defense never disputed that AAA was only eight (8) years old when the incident took place. Although AAA has no record/certification of her birth or baptism, her age at the time of the commission of the crime was established through the certification issued by the Office of the Municipal Registrar of Malinao.

^[38]

What is left for consideration, therefore, is the issue of whether the prosecution successfully proved that Antonio had carnal knowledge of AAA.