

## SPECIAL THIRD DIVISION

[ CA-G.R. CR-H.C. NO. 05692, May 23, 2014 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JIMMY ULANDAY @ "SAROY", ACCUSED-APPELLANT.**

### DECISION

**DE GUIA-SALVADOR, R., J.:**

This is an appeal from the Judgment<sup>[1]</sup> dated 28 June 2012 of the Regional Trial Court of Lingayen, Pangasinan, Branch 69 (RTC), in Criminal Case No. L-9199, the decretal portion of which states:

"WHEREFORE, in view of the foregoing, the Court finds the accused Jimmy Ulanday **GUILTY** beyond reasonable doubt of the crime of Rape and is hereby sentenced to suffer the penalty of *reclusion perpetua* and to pay [XYZ] the amount of P50,000.00 as civil indemnity and another P50,000.00 as moral damages.

SO ORDERED."<sup>[2]</sup>

### THE INDICTMENT

Accused-appellant Jimmy Ulanday, a.k.a. Saroy, (**appellant**) was charged with the crime of rape in an Information filed with the RTC on 23 June 2011, the accusatory portion of which reads:

"That sometime in the evening of March 11, 2011 in Brgy. [YYY], Aguilar, Pangasinan, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd designs, armed with a knife, with force and intimidation, did, then and there willfully, unlawfully and feloniously drag [XYZ] to a dark portion at the back portion of their house and thereafter remove her shorts pants and panty and have sexual intercourse with her, against her will and consent, to her damage and prejudice.

Contrary to Article 266-A, par. (a) of the Revised Penal Code."<sup>[3]</sup>

Upon arraignment on 06 September 2011, the charge was read to appellant in the Pangasinan dialect which he well speaks and understands and, with the assistance of counsel *de officio*, he entered a plea of "Not Guilty."<sup>[4]</sup>

During trial, the prosecution presented the following witnesses: (1) private complainant <sup>[5]</sup>; (2) Dr. Maria Gwendolyn Luna, who conducted the genital examination of XYZ; and (3) BBB, half-sister of XYZ, who was present when appellant allegedly admitted having raped the latter.

For the defense, only appellant testified.

## ***The Facts***

### **Version of the Prosecution**

The Office of the Solicitor General ("OSG") summarized the testimony of XYZ in the Appellee's Brief as follows:

"On the night of 11 March 2011, [XYZ], twenty-four (24) years old, sat beside the living room window near the main door of her family's house. She looked out the window and watched the dance party which was going on outside their house.

Out of nowhere, [appellant], armed with a knife, entered [XYZ's] house, pulled her out and dragged her towards the house of [her] neighbor, [AAA].

Although she does not know [appellant], [XYZ] was able to identify him because she has seen him before playing tong-its in the gambling area near [her] house.

[Appellant] brought [XYZ] at the back of [AAA's] house. No one was inside [AAA's] house and it was dark.

Once inside [AAA's] house, [appellant] immediately overpowered [XYZ]. He leaned [XYZ] against the wall and removed her pants and underwear. Thereafter, [appellant] pulled down his zipper. [Appellant] then covered [XYZ's] mouth using his left hand and pointed a knife against her face using his right hand. After, despite their standing position, [appellant] spread [XYZ's] legs, inserted his penis into her vagina and proceeded to rape [her]. During the entire assault, [appellant] poked his knife against [XYZ's] face.

After committing his dastardly act, [appellant] returned [XYZ's] pants and underwear. [XYZ] then went back home and slept.

A few months later, in May, [XYZ] accompanied by her mother, reported the crime committed against her to the police."<sup>[6]</sup>

### **Version of the Defense**

Appellant denied raping XYZ. The Public Attorney's Office (PAO) summed up the evidence for the defense as follows:

"On March 11, 2011, [appellant] was ... watching a wedding dance party when he first met [XYZ] who was [then] seated inside their house also watching the dance party through their window. [XYZ] then called [appellant's] attention and when he approached her, they had a conversation over the window. During their conversation, [appellant] noticed that [XYZ] was not alone in the house as there were about five (5) other persons living with her. Their conversation lasted for about an hour until he was called by his cousin Eddie Ulanday to go home. He immediately slept upon arriving thereat.

A week after the dance party, Jimmy was accosted by Botog Caguioa and Danny Caguioa, uncle of [XYZ], while he was on his way to Poblacion

riding his motorcycle. He was being accused by them of raping [XYZ], and when he denied having done the same, they mauled him.

X X X

X X X

X X X<sup>[7]</sup>

### ***RULING OF THE RTC***

After trial, the RTC, relying on the unwavering and consistent testimony of XYZ, rendered Judgment finding and declaring appellant guilty of rape. Brushing aside the inconsistencies in XYZ's testimony, it ruled that they were "trivial issues that cannot foreclose the fact that the accused had carnal knowledge of [XYZ] against her will."

<sup>[8]</sup> It also stressed that an "ample margin of error and understanding should be accorded to [XYZ] who was observed to be suffering from physical disability (*polio*) and difficulty in comprehension as she does not know how to read and write."<sup>[9]</sup> Further, it rejected the defenses of denial and *alibi* proffered by the appellant upon finding them to be self-serving and uncorroborated,

Aggrieved, appellant perfected his appeal with the timely filing of his Notice of Appeal on 12 July 2012.<sup>[10]</sup>

### ***The Issue***

Appellant seeks the reversal of the judgment of conviction on a lone assignment of error, *to wit*:

**"THE COURT A QUO GRAVELY ERRED IN FINDING THAT THE GUILT OF THE ACCUSED-APPELLANT HAS BEEN PROVEN BEYOND REASONABLE DOUBT."**<sup>[11]</sup>

### ***The Court's Ruling***

We find no merit in the appeal. However, a modification of the penalties and civil liabilities imposed by the trial court is in order.

In reviewing rape cases, three settled principles have traditionally guided the courts in determining the guilt or innocence of the accused, viz.: (1) an accusation of rape can be made with facility, it is difficult to prove but more difficult for the person accused, though innocent, to disprove it; (2) in view of the intrinsic nature of the crime of rape where only two persons are usually 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 of the defense.<sup>[12]</sup> As a result of these guiding principles, in a prosecution for rape, the credibility of the complaining victim, concededly, becomes the single most important issue.<sup>[13]</sup>

Appellant contends that the inconsistency in the testimony of XYZ as to the location of the door (living room or kitchen) through which appellant dragged her out of the house is not trivial and minor in character, but a significant detail negating her tale of rape.<sup>[14]</sup> He also calls attention to other circumstances that cast serious doubt on XYZ's sincerity and truthfulness, viz: (1) her admission that she did not see the knife at the time appellant raped her;<sup>[15]</sup> (2) the fact that the crime was reported to the police only on May 17, 2011, or more than two months after the rape incident;<sup>[16]</sup> (3) the fact that she just went home and slept right after such incident without

even crying or feeling lonely, which is contrary to the natural reaction of a victim of a recent sexual assault;<sup>[17]</sup> (4) Dra. Maria Gwendolyn Luna's finding and testimony that the hymenal laceration in XYZ's vagina was only about five days old when she was examined on 16 May 2011 more than two months after such incident.<sup>[18]</sup>

Essentially, appellant's contentions boil down to XYZ's credibility. In this regard, the rule is long and well-settled that the findings of the trial court pertaining to the credibility of witnesses are entitled to great weight and respect since it has the unique opportunity to observe their demeanor on the witness stand.<sup>[19]</sup> Such findings are, in fact, binding and accorded finality,<sup>[20]</sup> unless there appears in the record some fact or circumstance of weight which the lower court may have overlooked, misunderstood, or misappreciated and which, if properly considered, would alter the results of the case.<sup>[21]</sup>

Far from yielding reasons of such strength or cogency as would warrant a departure from the foregoing principles, however, Our circumspect perusal of the record confirmed the trial court's observation that XYZ testified in a positive, straightforward and consistent manner in recounting the details of the incident, hence, her testimony deserves full faith and credit. We also uphold the trial court in giving credence to XYZ's categorical open court narration of how in the evening of 11 March 2011, appellant, then armed with a knife, dragged her out of her house towards a dark<sup>[22]</sup> area at the back of her neighbor's house<sup>[23]</sup> and raped her, thus:

Q: What did [appellant do] when he entered your house on March 11, [2011] in the evening while you were watching this dance party?

A: [Appellant] entered [our house] armed with a knife and pulled me, sir.

Q: [Where] did [appellant] pull you?

A: In [an unlighted<sup>[24]</sup> area at the back of] the house of our neighbor, sir.

x x x

x x x

x x x

Q: What did [appellant] do when he was able to pull you out?

A: [Appellant] removed my pants, he removed my panty and then he covered my mouth and he poked a knife, sir.

Q: When [appellant] was pulling and removing your panty and your pants, did you not shout for help?

A: No, because he covered my mouth and I can hardly breath, sir.

Q: By the way Madam Witness, you said he was holding a knife, what did he do with the knife?

A: [Appellant] poked [the knife] towards my face, sir.

x x x

x x x

x x x

Q: Were he able to remove your panty and your pants?

A: Yes, sir.

Q: Did you not make any struggle against his act?

A: I tried, sir.

x x x

x x x

x x x

Q: And after [removing] your panty and your pants, what did he do?

x x x

x x x

x x x

A: [Appellant] inserted his penis, sir.

Q: How did [appellant] insert[ed] his penis Madam Witness?

A: By spreading my legs part ways, sir.

COURT:

Q: Then? What was your position at the time the [appellant] inserted his penis in your vagina?

A: Still on the standing position leaning on something, your Honor.

Q: How about the [appellant] what was his position?

A: [Appellant] was in front of me, your Honor.

Q: And what did he do with his clothing?

A: [Appellant] was wearing short pants, your Honor.

Q: How did he insert then his penis when he was wearing a short pant?

A: With a zipper, you Honor, he pulled down the zipper, your Honor.

x x x

x x x

x x x

Q: So you mean he just opened the zipper and put out the penis?

A: Yes, your Honor.

Q: Were you able to see the penis?

A: No your Honor because it was very dark then.

Q: Did you feel it?

A: Yes, your Honor.

Q: How did you feel when the penis was inserted to your vagina?

A: Painful, I felt pain, sir.