

EIGHTEENTH DIVISION

[CA-G.R. CR. HC. NO. 01496, August 28, 2014]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
SULPICIO CASTILLO, ACCUSED-APPELLANT.**

D E C I S I O N

INGLES, G. T., J.:

THE CASE

This is an appeal^[1] from the Decision^[2] of the Regional Trial Court (RTC), Seventh Judicial Region, Branch 24, Cebu City, dated March 2, 2012 in Criminal Case No. CBU-37432, finding accused-appellant Sulpicio Castillo guilty beyond reasonable doubt of the crime of rape as defined by Article 266-A and penalized by Article 266-B of the Revised Penal Code in relation to Republic Act No. 8353.

On August 29, 1994, an Information^[3] was filed charging accused-appellant with the crime of rape in Criminal Case No. CBU-37432. The Information reads:

That on the 3rd week of December, 1993 at 1:00 o'clock in the afternoon, more or less, at Barangay San Roque, Municipality of Talisay, Province of Cebu, Philippines (now Talisay City, Cebu), and within the jurisdiction of this Honorable Court, the above-named accused, by means of violence and intimidation with lustful designs, threatened the private complainant with a knife, did then and there wilfully (*sic*), unlawfully and feloniously remove the panty or underwear of AAA^[4], a thirteen (13) year old lass, and thereafter have sexual intercourse with the latter against her will and consent.

CONTRARY TO LAW.

THE ANTECEDENTS

The victim AAA at the time of the filing of the complaint,^[5] swore that she is thirteen (13) years of age, single and a resident of Talisay, Cebu. She is a first year high school student, and the daughter of BBB and CCC, both residents of Talisay, Cebu.

At the time of her testimony, AAA was already twenty-five (25) years old, married and living in Sibonga, Cebu.^[6]

Sometime on the third week of December 1993, at about 1:00 o'clock in the afternoon, more or less, AAA was on the way to the store of their neighbor when she passed by the house of her friend DDD. DDD called her and convinced her to play brick game at the house of Sulpicio Castillo. Agreeing, the two proceeded to the house of Sulpicio and played.

After awhile, DDD decided to go home and left. AAA transferred outside just beside the house. Sulpicio went out and called AAA to go inside the house.^[7] Sulpicio was then standing at the back of the door wearing a towel.^[8] Upon entering, Sulpicio closed the door and held AAA's hand tightly while poking a knife on her neck.^[9] AAA asked what he was going to do with her. In reply, Sulpicio ordered her to keep quiet and go upstairs. Sulpicio's order came with a threat that if she didn't, he will kill her. Out of fear, AAA obliged.^[10]

AAA entered the room elevated by two steps.^[11] The room had a bed and a window. Also found inside was a small table. Placed on top of it was oil, a gallon and a magazine.^[12]

Sulpicio then told her to remove her skirt and underwear and again threatened to kill her if she didn't do as told. Because of fear, AAA just removed her underwear. Sulpicio then ordered her to lie on the bed. AAA obeyed. While on the bed, Sulpicio stripped his towel and underwear. He then took the oil and lathered it on his penis. He did the same on AAA's vagina. Sulpicio then placed himself on top of AAA, spread her legs and inserted his penis unto her vagina. AAA felt pain^[13] and cried. Sulpicio made pumping motions while moaning, "ah ah ah...".^[14] When done, he dismounted from AAA. She felt pain and noticed she was bleeding. Thereafter, she dressed herself. Sulpicio did the same. He then threatened AAA that if she will tell what happened, he will kill her and her parents.^[15]

AAA went down and Sulpicio followed.^[16] He opened the door and checked to see if there were people outside. He let her out of the door and again reminded AAA that if she tells anything, he will kill her and her parents. AAA went to the house of another neighbor and stayed outside. Later, she went home.^[17]

After several weeks, the incident was succeeded by other instances. Sulpicio would always pass by AAA's house and sharply look at her. When AAA passed by Sulpicio's house, she was again pulled by him inside the house. There, he had sexual intercourse with her repeatedly.^[18] Sulpicio would fetch her from school. When she would refuse to ride with him in his trisikad, he would threaten to kill her.^[19] Sometimes, he will go to their house. On some occasions, AAA was able to evade him. On other times, she could not escape him.^[20] AAA recounts that the sexual intercourse with Sulpicio happened more or less four or five (4-5) times.^[21] After sometime, AAA's cousins informed CCC, AAA's mother, of her daughter's pregnancy.^[22] CCC noticed AAA's stomach got bigger and suspected her to be pregnant.^[23] They then sought help with the DSWD and was referred to the Norfil Foundation, Incorporated.^[24] They also sought the assistance of the police.^[25] AAA also had herself medically examined by Medico-Legal Officer Meriam Ruth Dela Calzada, M.D.

The examination showed signs of pregnancy of AAA indicated by engorged breasts, enlarged uterus and a positive result in a pregnancy test.^[26]

On April 18, 1994, A Warrant of Arrest^[27] was issued against accused-appellant.

On August 19, 1994, AAA delivered a baby boy at Lapu-Lapu District Hospital, Lapu-Lapu City. Considering her young age, her family's economic condition and lack of parenting skills to care for her child, AAA decided to put her child for adoption. With BBB's consent (AAA's father), on September 19, 1994, AAA relinquished her rights and responsibilities over her child.^[28]

On June 6, 1995, the Regional Trial Court, Branch 24 of Cebu City issued an Order^[29] placing CRIM CASE NO. CBU-37432 in archive considering that the accused therein remained at large.

It was long after that accused-appellant was found.^[30] On October 14, 2005, an Order for detention during the pendency of the case was issued by the RTC.^[31] The case was then set for arraignment on November 21, 2005.^[32] Upon arraignment, accused-appellant pleaded not guilty.^[33]

Pre-Trial^[34] and Trial ensued. For the prosecution, aside from AAA, CCC and expert witness Dr. Madeline Amadora were also presented.

CCC at the time of her testimony narrated that she is forty-nine (49) years old, a homemaker, a resident of Talisay City^[35] and the mother of AAA.^[36] A birth certificate^[37] of AAA was presented to prove their relationship.

Accused-Appellant Sulpicio Castillo is their neighbor.^[38] During AAA's Christmas Break in 1993, AAA had a thin physique.^[39] Sometime after December 1993, a certain neighbor informed her that AAA was pregnant.^[40] Thereafter, CCC confronted AAA about it. AAA admitted she was with child and that accused-appellant was the father. Sulpicio had forced her to have sexual contact with him by poking a knife at her.^[41] CCC took AAA to be medically examined. The results yielded positive for pregnancy.^[42]

Upon reporting the matter to the authorities, a case was filed against accused-appellant. However, Castillo fled. He could no longer be found in his home. While conceiving, AAA was held at the Talisay Police Station for her security.^[43] Thereafter, she was placed under the custody of the DSWD. After giving birth, AAA gave the child up for adoption.^[44]

Dr. Madeline Amadora was also presented as an expert witness. She was presented to prove that she knows a certain Dr. Meriam Ruth de la Calzada, who underwent a residency training at the Vicente Sotto Medical Center sometime in 1994. Dr. de la Calzada is no longer connected with the said hospital. Her testimony was for the purpose of proving that AAA was examined by Dr. de la Calzada on March 25, 1994.^[45]

Dr. Amadora knew Dr. de la Calzada as the latter was her resident physician during her training for her post graduate internship.^[46] She is familiar of her signature because during her internship, Dr. de la Calzada signed her Certificate and other forms related to her training.

When asked to go over the pertinent findings of the Medical Certificate prepared by Dr. de la Calzada, Dr. Amadora read that the patient had a pregnancy test which resulted positive. On page 3, she wrote that the hymen had old healed lacerations a 5, 7 and 9 o'clock positions. When asked of the implications of the healed lacerations, Dr. Amadora explained that Dr. de la Calzada "might be telling that there are not yet or impressions in that hymenal area at the 5 to 7 which is the posterior portion and in the 9 o'clock lacerations which is on the left side of the patient."^[47]

When asked what could have caused these old healed lacerations on the hymen of AAA, the witness replied that it is usually caused by flaunt penetration. Flaunt Penetration may be caused by penile penetration or other objects that has penetrated the vagina.^[48]

The record also indicates that the date of the last menstruation was December 15, 1993. From the data, the age of the fetus on March 25, 1994 is fourteen (14) weeks and three (3) days or three (3) months, one (1) week and two (2) days.^[49] When asked when possibly the patient could have had sexual contact, the doctor replied that it was possible that the patient ovulated on day 14 of her first day of menstruation or on December 28, 1993. Thus, if there was sexual contact, she got pregnant that day.^[50]

On the part of the defense, accused-appellant was presented to testify for himself. Accused-Appellant stated that he is fifty-nine (59) years old, married and an inmate of the Cebu Provincial Detention and Rehabilitation Center.

At the time of the incident, accused-appellant claimed he was thirty-nine (39) or forty (40) years old. During that time, his youngest child was eighteen (18) years old.^[51]

Castillo testified that he knows AAA because she used to be his neighbor and was close with AAA's father.^[52] When asked whether he recalled anything that happened on the third or last week of December 1993, he answered in the negative.

As follow-up, he was asked if anything unusual happened between AAA and him on January 1994.^[53] This time, accused-appellant responded in the affirmative. Castillo added that what happened between them was consensual. On that particular month, accused-appellant claims that he was sick at that time. AAA went to his house. She went up, took off her clothes and closed the windows.

Prior to the incident, accused-appellant claims that he and AAA had a close relationship. In their closeness, AAA tempted him to "do that act". Being a man, he admitted he was tempted. Accused-Appellant alleged:

Q: Was there any courtship between you, Mr. Witness, and Amor?

A: She would usually go to our house and ask favor from me (*"Mamaray'g"*)

Q: And what do you mean by *"mamaray'g"*. Could you describe it more?

A: She would flirt with me.^[54]

COURT

Q: Was there monetary favor that was asked by her on this *pamaray'g*?

A: Not all the time, Your Honor, but there was a Christmas time when she asked money from me.^[55]

Accused-Appellant alleged that they again had sexual intercourse on March 1994. He added that he and AAA had consensual sex. AAA would usually go to his house especially during those times when his wife was not around.^[56] Accused-Appellant further claims that AAA had a boyfriend during those times when they had sexual intercourse. When they agreed to have sexual intercourse, AAA was no longer a virgin.^[57]

When asked if his wife knew about what happened between him and AAA, Sulpicio confirmed that his wife had suspicions. However, it was only after AAA filed her complaint that he confessed to his wife. That was also the time (March 1994)^[58] when he decided to go to Tawi-Tawi to work in a seaweed plantation.^[59]

On cross-examination, accused-appellant stated that he will not deny having sexual intercourse with AAA. He however stressed that the act was consensual.^[60] He felt sorry for her considering she was still young. Yet he would be tempted especially when AAA goes to his house and undresses.^[61] He decided not to tell CCC about what happened between them for he was afraid that the former would physically hurt her.^[62]

On March 2, 2012, the Regional Trial Court issued the assailed decision finding accused-appellant guilty. The dispositive portion of which reads:

WHEREFORE, finding accused GUILTY beyond reasonable doubt of the crime charged, this Court hereby sentences him to suffer the penalty of imprisonment of Reclusion Perpetua. Accordingly, he should suffer the accessory (*sic*) penalty inherent in the law and he is adjudged liable to pay the following measures of damages:

1. FIFTY THOUSAND PESOS (P50,000.00) as damages arising from the crime;