

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. FREDERICK ALMEDA Y DE GUIA, ACCUSED-APPELLANT.

Ponente: SADANG, J.

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SADANG, J.:

This is an appeal from the Decision[1] dated June 17, 2009 of the Regional Trial Court (RTC) of Siniloan, Laguna, Branch 33, in Criminal Case No. S-5844 finding accused-appellant Frederick Almeda y de Guia (hereafter, accused) guilty beyond reasonable doubt of rape.

The Information indicting accused of rape reads:

That on or about July 13, 2001, in the municipality of Pangil, province of Laguna and within the jurisdiction of this Honorable Court, the above-named accused with lewd design and with the use of force and intimidation (sic), did then and there willfully, unlawfully and feloniously have carnal knowledge with one AAA[2] against her will and consent, to her damage and prejudice.

CONTRARY TO LAW.[3]

On February 6, 2002, accused, assisted by Atty. Benedicto Palacol, entered a not guilty plea; hence, pre-trial and trial ensued.

By the testimonies of AAA and Virginia Carabido the prosecution presented its case thus: At about 10 PM on July 13, 2001, AAA was sleeping in their house at Sitio Niyugan, Palacio St., Barangay Balian, Pangil, Laguna with her two children, aged 2 and 3. She woke up when her 2-year old child stirred from her sleep. A few minutes later, accused broke into the house wearing only his basketball shorts. He poked a knife at AAA and warned her not to move as he undressed her. AAA tried to struggle but to no avail. Having undressed AAA, accused went on top of her and had carnal knowledge of her while pointing his knife at her. Thereafter, AAA was able to break free from accused by pushing him and she ran to the house of her neighbor, Virginia Carabido, which was about fifteen meters away. She knocked hard on the door, rousing Virginia from her sleep. As Virginia opened the door she saw AAA standing before her stark naked. She let in AAA and gave her clothes. AAA revealed to Virginia that she had been debased ("sinalbahe") by accused. Virginia sought the help of her uncle in getting the children who were still in AAA's house, which they did.

The prosecution offered in evidence the medical certificate issued by Dr. Efren M. Ponsaran of the General Cailles Memorial Hospital as well as the Sinumpaang Salaysays of AAA and Virginia Carabido.

Accused and his brother, Abraham Almeda presented his version thus: On July 13, 2001, at around 10 PM, he was sleeping in his house as he was afflicted with the flu. He was with his older brother, Reynaldo Almeda. His house was 150 meters away from AAA's house. He did not leave his house and woke up at 5:30 AM. The following day, he went to the mountains and came home only when his mother told him that he was a suspect in a rape that had been committed. He was arrested on July 23, 2001 and detained at the Pangil Municipal Jail. Cristeta Baldavia, AAA's godmother, came to visit and told him that the real culprits were a certain "Ading" and Elmer, alias "Patik," Cristeta's son. Cristeta's daughter also handed to accused's brother, Abraham, a letter (Exhibit 2) whereby

AAA stated that she was willing to withdraw her complaint against accused. Accused tried to look for AAA but she was already in the mountains. He no longer confronted AAA about the letter because he thought that her parents and relatives might not think kindly of him.

On June 17, 2011, the trial court rendered a Decision[4] finding accused guilty as charged. The fallo reads:

WHEREFORE, the Court FINDS that the prosecution convincingly discharged its burden of proving the guilt of the accused beyond reasonable doubt of the crime of rape charged in the information.

This Court, thus, hereby sentences the accused FREDERICK ALMEDA to suffer the penalty of RECLUSION PERPETUA and to pay the private complainant the amount of P75,000.00, as civil indemnity, P75,000.00 as moral damages and P25,000.00, as exemplary damages, and the costs of suit.

SO ORDERED.

Accused filed a Notice of Appeal[5] which was given due course in the Order[6] dated July 3, 2009.

In this appeal, it is contended that the trial court erred:

- In convicting the accused despite the inconsistent and contradictory statements and testimonies of the private complainant and her witness;
- In directing the accused-appellant to pay the private complainant the amount of php 75,000.00 as civil indemnity and php 25,000.00, as exemplary damages and cost of suit.

The Solicitor General filed a Brief for the plaintiff-appellee,[7] the People of the Philippines.

RULING

We affirm the guilty verdict.

The Information charged accused of the crime of rape, defined and penalized under Article 266-A and Article 266-B of the Revised Penal Code thus:

Art. 266-A. When and how rape is 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;

x x x x x x x x

Art. 266-B. Penalties. - Rape under paragraph 1 of the next preceding article shall be punished by reclusion perpetua.

When the rape is committed with the use of a deadly weapon or by two or more persons, the penalty shall be reclusion perpetua to death.

x x x x x x x x

The elements of simple rape under paragraph 1 (a) of Article 266-A are: 1) a male offender had carnal knowledge of a woman; and, 2) such carnal knowledge was committed through force, threat, or intimidation.

We agree with the Solicitor General that the guilt of the accused was established beyond reasonable doubt. AAA positively identified the accused as her assailant and, as found by the trial court, she narrated the details of the sexual assault in a forthright and direct manner. There is nothing in her rape account that is contrary to human experience. Considering that there is no showing that she had ill motives in imputing a serious crime to the accused, AAA is a credible witness. Thus, when she says that she was raped, she says in effect all that is

necessary to show that rape was committed.[8] Indeed, no woman would want to go through the process, the trouble and the humiliation of trial for such a debasing offense unless she actually has been a victim of abuse and her motive is but a response to the compelling need to seek and obtain justice.[9]

Accused contends, however, that the lower court erred in giving credence to the testimonies of AAA and Virginia. He points out alleged inconsistencies in their testimonies, viz.: 1) in her sworn statement, Virginia stated that she was still able to relieve herself after she saw accused, however, she testified in court that she was not able to do so; 2) during the ocular inspection, Virginia testified that she did not notice the face of the accused because he was facing the opposite direction; 3) AAA testified in court that she did not feel accused's ejaculation because she pushed him and that she had her clothes on when she ran to the house of Virginia, however, in her sworn statement she stated that it was only after accused ejaculated that she was able to run away naked; 4) AAA testified that accused merely went on top of her.

We are not convinced.

At this point, it bears to stress that as to the issue of credibility the well-settled rule is that the highest respect is accorded to the trial judge's evaluation of the testimony of the witnesses because of his unique position in directly observing the demeanor of a witness on the stand. From his vantage point, the trial judge is in the best position to determine the truthfulness of witnesses.[10] Absent any substantial reason which would justify the reversal of the trial court's assessments and conclusions, the reviewing court is generally bound by the trial court's findings, particularly, when no significant facts and circumstances affecting the outcome of the case are shown to have been overlooked or disregarded.[11]

It was ruled in *People v. Conde*[12] that arguments regarding inconsistencies between testimonies in open court and sworn statements are based on the erroneous theory that whenever a witness discloses in his testimony in court facts which he failed to state in his affidavit taken ante litem motam, then an inconsistency exists between the testimony and the affidavit. There is an inconsistency if what the witness has disclosed in his affidavit is contrary to what he disclosed in his testimony in court, but not when what he has stated in open court are but details or additional facts not mentioned in the affidavit. Being taken ex-parte, affidavits are almost always incomplete and often inaccurate, sometimes from partial suggestion or for want of suggestions and inquiries, without the aid of which the witness may be unable to recall the connected collateral circumstances necessary for the correction of the first suggestion of his memory and for his accurate recollection of all that belongs to the subject. Their infirmity as a species of evidence is a matter of judicial experience. They are generally considered to be inferior to the testimony given in open court.[13] Discrepancies between statements in an affidavit and those made on the witness stand would seldom discredit the declarant, the reason being that testimonies given during trials are much more exact and elaborate than those stated in sworn statements. Witnesses cannot be expected every time, except when told, to distinguish between what may be consequential and what may be mere insignificant details. Additionally, an extra-judicial statement or affidavit is generally not prepared by the affiant himself but by another who uses his own language in writing the affiant's statement, hence, omissions and misunderstandings by the writer are not infrequent.[14]

In any case, whether Virginia was able to urinate refers to a trivial or minor matter that should not impair or detract from her credibility.[15] And even assuming that she could not have recognized the face of the accused when she went to the toilet on the night in question such lacuna in the evidence does not weaken the prosecution's case. Accused's presence at the scene of the crime was still proved beyond reasonable doubt by AAA's positive identification of the accused as the perpetrator of the rape.

While it be true that AAA testified on cross-examination that accused went on top of her and nothing more

happened, her testimony must be understood in its entirety. She reiterated on re-direct examination that when accused went on top of her "he inserted his private part into mine"[16] Thus, when AAA stated that nothing more happened after accused went on top of her, what she ostensibly meant is that accused did nothing more after raping her. Finally, whether AAA was totally naked when she fled from her attacker and whether she felt the accused ejaculate should not detract from her credibility. Given the very stressful and harrowing experience that she went through, AAA cannot and should not be expected to have taken note of every detail of the event, least of all the ejaculation of her attacker. Her mind would only be focused on how to extricate herself from the clutches of the rapist, which she did. Moreover, it has been ruled that a rape victim tends to block out of her mind her traumatic experience and would prefer to forget its painful details.[17]

We are not persuaded by accused's contention that it is inconsistent with human experience for a rapist who is known to the victim to commit the crime without concealing his face. Obviously, accused alludes to the fact that he and AAA are neighbors and would recognize each other. However, such circumstance would not prevent accused from committing the crime. Human experience has shown that a man who is overcome by an inordinate sexual urge would not be deterred by time, place, or circumstance.[18] All that matters to him would be the satisfaction of his lustful desire and such would trump his good sense and reason. As aptly argued by the Solicitor General, citing *People v. Toledo*,[19] a person with criminal intent cannot be expected to act with logic simply because his act is itself irrational. The Solicitor General also rightly argues that accused's non-flight does not per se prove innocence.[20] There is simply no jurisprudential warrant for accused's contention on this point.

Neither is there merit in the contention of accused that the trial court erred in not considering the letter allegedly written by AAA whereby AAA sought the assistance of Cristeta Baldavia to inform the family of accused that he had nothing to do with the rape. A review of the evidence on record shows that accused did not even attempt to prove the authenticity of the letter. It was not shown that the letter was indeed written by AAA. It cannot be given evidentiary weight especially in light of the positive and credible testimony of AAA that it was the accused who raped her.

Accused's defense consists of mere denial and alibi. These defenses are inherently weak because they can easily be concocted. They cannot prevail over the positive and credible testimony of AAA.[21] For the defense of alibi to prosper, it is not enough that accused proves that he was somewhere else when the crime was committed, he must also show that it was physically impossible for him to be at the locus criminis or its immediate vicinity when the crime was perpetrated.[22] Accused failed to demonstrate that it was physically impossible for him to be at the scene of the crime at the approximate time of its commission. Accused testified that on the night in question he was in his house which was only one hundred fifty (150) meters away from the house of AAA where the rape was committed.[23] Moreover, the defense of alibi may not prosper if it is established mainly by the accused himself and his relatives and not by credible persons.[24]

Finally, accused did not offer arguments to support his contention that the trial court erred in awarding P75,000.00 as civil indemnity and P25,000.00 as exemplary damages and costs of suit.

Nonetheless, we reduce the award of civil indemnity from P 75,000.00 to P 50,000.00 considering that accused was charged with simple rape.[25] The Information did not allege the circumstance of use of deadly weapon. Considering, however, that said circumstance was proven during the trial, it may be appreciated to justify the award of exemplary damages.[26] Finally, in line with present jurisprudence, the total damages awarded shall be subject to 6% interest per annum to be computed from the date of finality of the judgment until fully paid.[27]

WHEREFORE, the appeal is DENIED. The Decision dated June 17, 2009 of the Regional Trial Court of Siniloan, Laguna, Branch 33 in Crim. Case No. S-5844 is AFFIRMED with MODIFICATIONS in that the civil indemnity

is reduced from Seventy Five Thousand (P75,000.00) to Fifty Thousand Pesos (P50,000.00). Further, the amounts of damages awarded are subject to interest of six percent (6%) interest per annum from the date of finality of this judgment until fully paid.

SO ORDERED.

Librea-Leagogo, (Chairperson), and Diamante, JJ., concur.

[1] Rollo, pp. 13-21.

[2] The identity of the victim or any information which could establish or compromise her identity, as well as those of her immediate family or household members, shall be withheld pursuant to Republic Act No. (RA) 7610, entitled "AN ACT PROVIDING FOR STRONGER DETERRENCE AND SPECIAL PROTECTION AGAINST CHILD ABUSE, EXPLOITATION AND DISCRIMINATION, AND FOR OTHER PURPOSES"; RA 9262, entitled "AN ACT DEFINING VIOLENCE AGAINST WOMEN AND THEIR CHILDREN, PROVIDING FOR PROTECTIVE MEASURES FOR VICTIMS, PRESCRIBING PENALTIES THEREFOR, AND FOR OTHER PURPOSES"; and Section 40 of A.M. No. 04-10-11-SC, known as the "Rule on Violence against Women and Their Children," effective November 5, 2004.

[3] Record, p. 3.

[4] Penned by Acting Presiding Judge Agripino G. Morga.

[5] Records., p. 145.

[6] Id., p. 149.

[7] Rollo, pp. 83-97.

[8] People v. Paculba, G.R. No. 183453, 9 March 2010, 614 SCRA 755, 763-764, citing People v. Mingming, G.R. No. 174195, 10 December 2008, 573 SCRA 509, 532.

[9] People v. Saludo, G.R. No. 178406, April 6, 2011 citing People v. Alcazar, G.R. No. 186494, September 15, 2010, 630 SCRA 622,

[10] People of the Philippines v. Conrado Laog y Ramin, G.R. No. 178321, October 5, 2011.

[11] Id.

[12] G.R. No. 112034, January 31, 1996 citing People v. Patilan, 197 SCRA 354 (1991).

[13] Id.

[14] People v. Traverro, 276 SCRA 301 (1997).

[15] People v. Pamor, 237 SCRA 462 (1994).

[16] TSN, July 3, 2002, pp. 4-6

[17] See People v. Atuel, 261 SCRA 339, citing People v. Mandap, 244 SCRA 457.

[18] See People v. Queigan, 352 SCRA 150.

[19] G.R. No. 139961, May 9, 2001.

- [20] People v. Legaspi, G.R. No. 117807, April 27, 2000.
- [21] People v. Cachapero, 428 SCRA 744 [2004].
- [22] People v. Arevalo, 421 SCRA 604 [2004].
- [23] TSN, July 14, 2003, p. 3.
- [24] People v. Leonardo, G.R. No. 181036, July 6, 2010. (Citations omitted.)
- [25] People v. Esteban, GR. No. 176062, July 4, 2008.
- [26] Id.
- [27] People v. Dumadag, G.R. No. 176740, June 22, 2011.

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