

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. EDGAR JACQUIAS Y ANTOLIN, ACCUSED-APPELLANT.

Ponente: CARANDANG, J.

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CARANDANG, J.:

Assailed in this appeal is the Decision[1] dated April 17, 2013 of the Regional Trial Court of Tuguegarao City, Cagayan, Branch 4, finding herein accused-appellant guilty beyond reasonable doubt of the crime of rape as defined under Article 266-A, paragraph 2 of the Revised Penal Code (RPC) (rape by sexual assault) and imposing upon him the penalty of reclusion perpetua, the dispositive portion of which reads:

“WHEREFORE, PREMISES CONSIDERED, finding accused EDGAR JACQUIAS y ANTOLIN GUILTY beyond reasonable doubt for the crime of RAPE defined and penalized under Article 266-A No. 2 in relation to Article 266-B, No. 5 of the Revised Penal Code as amended by Republic Act 8353, in relation to R.A. No. 7610, this Court hereby sentences him to reclusion perpetua and to suffer the accessory penalties provided by law, particularly Article 41 of the Revised Penal Code. For the civil liability, he is condemned to pay the amount of P75,000.00 as actual, P30,000.00 as exemplary damages and P75,000.00 as moral damages.

The accused who is a detained prisoner is hereby credited in full of the period of his preventive imprisonment in accordance with Article 29 of the Revised Penal Code, as amended.

SO DECIDED.”

The facts of the case:

Accused-appellant was charged with the crime of rape by sexual assault under the following Information[2]:

“That on or about August 2, 2007 in the Municipality of Baggao, Province of Cagayan and within the jurisdiction of this Honorable Court, the said accused EDGAR JACQUIAS, with lewd design, did then and there wilfully, unlawfully and feloniously insert his fingers inside the vagina of the offended party, XXX,[3] a minor child of four (4) years eight (8) months and five (5) days old at the time of the commission, thereafter kiss her lips against her will thereby degrading and demeaning the intrinsic worth and dignity of the herein complainant, as a human being prejudicial to her physical, psychological, intellectual, educational growth and development.

Contrary to law. “

Accused-appellant entered a plea of “not guilty” during arraignment. Trial on the merits ensued thereafter.

The prosecution established that on August 2, 2007, at about 9:00 a.m., XXX asked her mother, AAA, if she could go to the house of Shekainah Jacquias, accused-appellant's daughter, and play with the latter.[4] AAA knew accused-appellant as they are relatives and family friends, belonging to the same church, and neighbors in Sta. Margarita, Baggao, Cagayan, their houses being only one hundred meters apart.[5] XXX is a very close friend of Shekainah. Sometimes Shekainah goes to XXX's house, but most of the times it was XXX who goes to Shekainah's house as accused-appellant did not want her daughter to go out of their house.[6] AAA allowed her

daughter to go to Shekainah's house and told XXX that she would just call for her when lunch is ready.[7]

When XXX arrived at Shekainah's house, only accused-appellant was present. They went to accused-appellant room on the second floor and once there, accused-appellant removed XXX's short pants and panty. Accused-appellant kissed her face, both cheeks and neck, and then inserted his middle finger into XXX's vagina. XXX felt pain. She wanted to leave but accused-appellant prevented her from leaving. Accused-appellant told her he would give her chocolate and warned XXX that she should not tell her parents of what happened.[8] Accused-appellant did not take the chocolate and went home instead.

XXX came back home at about 11:00 a.m. She sat down with her head bowed. AAA approached her daughter and placed her palm on her forehead, noting that she seemed to have a fever. AAA told XXX that lunch was ready. However, XXX said she needed to go to the comfort room. After urinating, AAA washed XXX's private part. XXX then shouted "Aaaaay." AAA asked her daughter what happened and XXX said "Tito Edgar kasi held my private part." After hearing her daughter's confession, AAA immediately brought XXX to the doctor for a medical check-up.[9] Dr. Christopher Ian Cabalza examined XXX and found that there was a swelling of the outer vagina. The examination of the outer portion of the organ was already painful for XXX, so Dr. Cabalza no longer probed deeper.[10] He placed his findings in a Medico Legal Certificate (Exh. "D")[11] and stated:

Description of Injury: Vulvar swelling secondary to manual manipulation, child abuse.

The next day, XXX and AAA went to the police station to report the incident.[12] PO3 Rommel Serrano received their report and recorded it in the police blotter.[13]

Accused-appellant denied committing rape against XXX. He claimed that on August 2, 2007, he was in his house repairing his van. He was with his daughter, Shekainah, who was then watching tv. He did not see XXX on that day. Shekainah also denied seeing XXX on that day. XXX did not approach their house in the morning, in the afternoon or at night.[14]

On April 17, 2013, the trial court rendered a Decision convicting accused-appellant of the crime of rape by sexual assault and sentenced him the penalty of reclusion perpetua and to pay XXX the amount of P75,000.00 as actual damages, P30,000.00 as exemplary damages, and P75,000.00 as moral damages. The trial court found the testimony of AAA to be credible, straightforward, categorical and free from serious flaw. XXX's recollection on the rape was corroborated by the results of the medico-legal examination conducted by Dr. Cabalza which is sufficient proof of the consummation of rape.

Hence, this appeal. Accused-appellant imputes to the trial court this lone assignment of error, viz:

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

The appeal is not meritorious.

Accused-appellant assails the credibility of XXX considering the latter's admission before the trial court that her mother told her what she was going to testify or tell before the court. Accused-appellant claims that the medical findings which corroborated XXX's testimony were also tainted by the report of the mother who was only repeating a story allegedly told by her daughter. Further, accused-appellant contends that the trial court erred in disregarding her defense that he was at home when the alleged incident happened and that he did not see XXX that day.

After a judicious examination of the records of the case, We do not find any error committed by the trial court in

convicting accused-appellant of the crime of rape by sexual assault. The evidence presented by the prosecution has sufficiently established the guilt of accused-appellant beyond reasonable doubt. The credibility given by the trial court to AAA is an important aspect of evidence which appellate courts can rely on because of its unique opportunity to observe the witnesses, particularly their demeanor, conduct and attitude during direct and cross examination by counsel. Absent any showing that the trial court judge overlooked, misunderstood, or misapplied some facts or circumstances of weight which would affect the result of the case, his assessment of credibility deserves the appellate court's highest respect.[15]

We have carefully reviewed the transcript of stenographic notes and We find that AAA's testimony of how she was sexually assaulted was given in a spontaneous, direct and candid manner which bears the earmarks of credibility. Her testimony on how accused-appellant removed her short pants and panty, kissed her face, both cheeks and neck and then inserted his middle finger into her vagina is truthful and sincere. She positively identified accused-appellant as the man who ravished her. Her actuation of immediately telling her mother "Tito Edgar kasi held my private part" further strengthens her credibility.

Testimonies of child-victims are normally given full weight and credit, since when a girl, particularly if she is a minor, says that she has been raped, she says in effect all that is necessary to show that rape has in fact been committed. When the offended party is of tender age and immature, courts are inclined to give credit to her account of what transpired, considering not only her relative vulnerability but also the shame to which she would be exposed if the matter to which she testified is not true. Youth and immaturity are generally badges of truth and sincerity. A young girl's revelation that she had been raped, coupled with her voluntary submission to medical examination and willingness to undergo public trial where she could be compelled to give out the details of an assault on her dignity, cannot be so easily dismissed as mere concoction.[16]

Accused-appellant likewise failed to show any ill motive on the part of XXX's family which could have impelled XXX to falsely accuse him of committing such a reprehensible crime. Where there is no evidence to show any dubious reason or improper motive on why a prosecution witness would testify falsely against an accused or falsely implicate him in a heinous crime, the testimony is worthy of full faith and credit.[17]

The findings of the medico-legal doctor further corroborate XXX's testimony that she was sexually assaulted by accused-appellant. It should be noted that XXX was immediately taken to the doctor for a medical check-up after XXX told her mother of what accused-appellant did to her. Dr. Cabalza testified that when he examined the genital area of XXX, there was swelling of her outer vagina. He did not probe deeper considering that XXX was in already pain. The doctor testified that it is not normal for children of tender years to have swollen genital organ. While the swelling could have also been caused by riding on a bicycle, XXX categorically stated that she and Shekainah do not play nor ride in a bicycle but only plays with Shekainah's toys.[18]

The fact that XXX was coached by her mother on what to testify in court does not mean that XXX's testimony is false. Her mother might have told her on what to say but it does not follow that XXX was not telling the truth when she testified. In fact, the trial court cleared the matter when the presiding judge asked XXX that -

COURT:

Q:

When you came to testify today in Court, your mama told you that you are only going to say the whole truth, is that correct?

XXX: Yes, sir.[19]

We uphold the doctrine that it is unnatural for a parent, more so for a mother, to use her offspring as an engine of malice especially if it will subject her child to humiliation, disgrace and even stigma attendant to a prosecution for rape, if she were not motivated solely by the desire to incarcerate the person responsible for her child's defilement.[20]

Accused-appellant's denial is an intrinsically weak defense which must be buttressed by strong evidence of non-culpability to merit credibility because mere denial, without any strong evidence to support it, can scarcely overcome the positive declaration by the child-victim of the identity of accused-appellant and his involvement in the crime attributed to him.[21]

Given the foregoing, We are convinced that the trial court did not err in convicting accused-appellant of the crime of rape by sexual assault. We find, however, that it erred in imposing the penalty of reclusion perpetua. The trial court took into consideration the penalty of rape through carnal knowledge when the victim is under 12 years old under Article 335 of the RPC in relation to RA 7610. However, it should be noted that Article 335 has been repealed by RA 8353 (Anti-Rape Law of 1997) and the new provisions on rape are now found in Articles 266-A to 266-D of the RPC. Under the new rape law, aside from rape through carnal knowledge[22], the crime of rape through sexual assault[23] was introduced. Rape through sexual assault, as in the present case, has now a specific penalty as provided for in Article 266-B in the last five (5) paragraphs thereof, which should be the proper penalty to be imposed upon accused-appellant.

Art. 266-B of the RPC reads:

xxx xxx xxx

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

xxx xxx xxx

The death penalty shall also be imposed if the crime of rape is committed with any of the following aggravating/qualifying circumstances:

xxx xxx xxx

5. When the victim is a child below seven (7) years old.

xxx xxx xxx

Rape under paragraph 2 of the next preceding article shall be punished by prision mayor.

xxx xxx xxx

Reclusion temporal shall also be imposed if the rape is committed by any of the ten aggravating/qualifying circumstances mentioned in this article. (Bold Ours).

Considering that the prosecution has duly established the qualifying circumstance that “XXX was below seven (7) years old” at the time of the commission of the crime, as alleged in the information and proven by the Certificate of Live Birth (Exh. “C”)[24], the penalty to be imposed is reclusion temporal. There being neither aggravating nor mitigating circumstances, the penalty should be imposed in its medium period pursuant to Article 64 (1) 27 of the RPC. The penalty therefore is reclusion temporal medium which ranges from fourteen (14) years, eight (8) months and one (1) day to seventeen (17) years and four (4) months. Applying the Indeterminate Sentence Law, the penalty next lower in degree is prision mayor which ranges from six (6) years and one (1) day to twelve (12) years.

Accordingly, this Court imposes upon accused-appellant the indeterminate penalty ranging from twelve (12) years

of prision mayor, as minimum, to seventeen (17) years and four (4) months of reclusion temporal, as maximum.

In line with prevailing jurisprudence, We deem it proper to modify the amount of civil indemnity and moral damages awarded. The award of damages would be P30,000.00 as civil indemnity, P30,000.00 as moral damages and P30,000.00 as exemplary damages.[25] In addition, and in conformity with the current policy, we also impose on all the monetary awards for damages, interest at the legal rate of six percent (6%) per annum from the date of finality of this decision until fully paid.[26]

WHEREFORE, premises considered, the instant appeal is DENIED. The assailed Decision dated April 17, 2013 of the Regional Trial Court of Tuguegarao City, Cagayan, Branch 4, is hereby AFFIRMED with MODIFICATION, that: (1) accused-appellant is sentenced to suffer the indeterminate penalty of imprisonment ranging from twelve (12) years of prision mayor, as minimum, to seventeen (17) years and four (4) months of reclusion temporal, as maximum; (2) to pay the amount of P30,000.00 as civil indemnity, P30,000.00 as exemplary damages and P30,000.00 as moral damages; and (3) to pay interest on all damages awarded at the legal rate of 6% per annum from the date of finality of this decision.

SO ORDERED.

Barza, and Reyes-Carpio, JJ., concur.

[1] Rollo, pp. 36-48.

[2] Records, p. 1.

[3] The real name of the victim is withheld to protect her identity and privacy. See *People of the Philippines vs. Melchor Cabalquinto*, G.R. No. 167693, September 19, 2006.

[4] TSN, September 3, 2009, p. 5.

[5] *Ibid.*, p. 3.

[6] *Ibid.*, p. 4.

[7] *Ibid.*

[8] TSN, February 4, 2010, pp. 3-4.

[9] TSN, September 3, 2009, pp. 5-6.

[10] TSN, September 28, 2010, pp. 3-4.

[11] Records, p. 6.

[12] TSN, September 3, 2009, p. 5.

[13] TSN, February 11, 2011, p. 2

[14] TSN, November 17, 2011, pp. 2-4; TSN, September 5, 2011, pp. 2-4.

[15] *People vs. Dimaano*, G.R. No. 168168, September 14, 2005.

[16] *People vs. Cuaycong*, G.R. No. 196051, October 2, 2013, citing *People vs. Garcia*, G.R. No. 200529, September 19, 2012.

[17] *Peopl vs. Garcia*, G.R. No. 206095. November 25, 2013.

[18] TSN, February 4, 2010, p. 5

[19] Ibid.

[20] People vs. Cuaycong, (supra).

[21] People v. Colorado, G.R. No. 200792, November 14, 2012.

[22] Article 266-A (1), RPC.

[23] Article 266-A (2), RPC.

[24] Records, p. 5.

[25] People vs. Gaduyon, G.R. No. 181473. November 11, 2013; People vs. Garcia, G.R. No. 206095. November 25, 2013.

[26] Pielago vs. People, G.R. No. 202020. March 13, 2013.

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