PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RODOLFO MADERA A.K.A. “RODING”, ACCUSED-APPELLANT.

Ponente: GARCIA-FERNANDEZ, J.

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GARCIA-FERNANDEZ, J.:

This is an appeal from the decision[1] of the Regional Trial Court of Cabarroguis, Quirino, Branch 31 dated August 17, 2010 in Criminal Case No. 1707-2002 finding accused-appellant Rodolfo Madera a.k.a. "Roding", guilty beyond reasonable doubt of qualified rape as charged and penalized under Article 266-A in relation to Article 266-B of the Revised Penal Code.

Accused-appellant was charged in an information[2] which reads:

> "That on or about 10:00 o'clock in the evening of June 19, 2002, in Tres Reyes, Saguday, Quirino, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, armed with a dagger and motivated by his lust did then and there willfully, unlawfully and feloniously by means of force and intimidation have sexual intercourse with AAA[3] against the will and consent of the latter."

On October 16, 2002, accused-appellant entered a plea of not guilty to the crime charged.[4]

On January 20, 2003, pre-trial conference was held where the parties stipulated that the charge against the accused is simple rape and that the prosecution will present AAA's medical certificate.

During trial, the prosecution presented as its witnesses AAA, and Dr. Alex Cristobal, the Municipal Health Officer of Saguday, Quirino. It offered the following documentary evidence: Exhibit-A- short pants of the victim; Exhibit-B- panty of the victim; Exhibit-C- sworn statement of the victim[5]; Exhibit-D- medico-legal report of Dr. Cristobal[6] and Exhibit-E- affidavit of arrest of Police Officers Garingan and Dacanay[7]. On the other hand, the defense presented as witnesses accused-appellant Rodolfo Madera, Juliana Dela Cruz, and Len Len Daileg but did not offer any documentary evidence.

The prosecution's version of facts is as follows:

On June 19, 2002 at seven o'clock in the evening, AAA, together with her husband, was at the house of their Aunt Maring watching television. Their own house is 700 meters away from their aunt's house. At ten o'clock in the evening, AAA decided to go home alone. On her way home, accused-appellant suddenly appeared and pulled AAA's hair. Accused-appellant poked a knife at her neck and then pulled her towards a mango tree. He laid her down and removed her short pants and panty, which he tore with a knife. She tried to struggle, but accused-appellant was stronger. When AAA said that there is a person nearby, accused-appellant immediately stood up. AAA raised her undergarment and short pants and tried to run away but accused-appellant held her right hand and pulled her to the trunk of the mango tree and poked the knife at her neck. They were on a standing position when accused-appellant lowered her short pants and panty. Then, he inserted his penis into her vagina with pumping motions and kissed her face and neck while a knife was pointed at her neck. After accused-appellant satisfied his lust and while he was still kissing her, AAA kicked his penis and ran away. Upon reaching home, she cried but her husband was not there. The following day, she narrated the incident to her

husband. They reported the incident to the barangay captain of Tres Reyes, who accompanied them to the Saguday Police Station. AAA subjected herself to a physical examination which was conducted by Dr. Alex Cristobal.[8]

Accused-appellant presented his own version of the case.

On June 19, 2002 at around six o'clock in the evening, 68-year old widow Juliana Dela Cruz was at accused-appellant's house watching television. Since she was alone in her own house, she stayed most of the time at accused-appellant's house. She watched television until 11 o'clock in the evening together with accused-appellant and with the latter's mother and the latter's grandchildren. He never went out of the house. At around 11 o'clock in the evening, Juliana cooked noodles. At that time, accused-appellant was already in his room which was only two (2) meters away from the kitchen.[9]

Len Len Daileg substantially corroborated the testimony of Juliana Dela Cruz in its material points. She testified that in the evening of June 19, 2002, she was beside her uncle, accused-appellant, watching television together with Juliana Dela Cruz, her brother Lemuel Daileg and her grandmother Josefina Madera. Thereafter, she went to her room while his uncle also proceeded to his own room.[10]

Accused-appellant testified that at about nine o'clock in the evening of June 19, 2002, he was inside his house watching television with Len Len Daileg and Juliana Dela Cruz. Later that night, Juliana cooked noodles while he already went to sleep.[11] It was already the following day when he woke up.[12] He knows AAA because she is the cousin of Bilo Songcuan, who is also a resident of Tres Reyes. During that night, he recalled that Bilo's house was well-illuminated and there were street lights along the road.[13]

On August 17, 2010, the trial court rendered a decision, the dispositive portion of which reads:

> "WHEREFORE, premises considered, judgment is hereby rendered finding RODOLFO MADERA GUILTY beyond reasonable doubt of rape committed with the use of a deadly weapon and sentences him to suffer the penalty of reclusion perpetua. However, his preventive imprisonment shall be fully credited to him in the service of his sentence pursuant to Article 29 of the Revised Penal Code, as amended.
>
> He is directed to pay AAA the amount of 1) P50,000.00 as civil indemnity; and another 2) P50,000.00 as moral damages.
>
> With the category of the accused as a national prisoner, the Clerk of Court is directed to prepare the corresponding mittimus or commitment order for his transfer to the Bureau of Corrections, Muntinlupa City.
>
> SO ORDERED."

Hence, this appeal by the accused-appellant, assigning to the trial court this lone error:

> THE TRIAL COURT GRAVELY ERRED IN CONVICTING ACCUSED-APPELLANT DESPITE THE PROSECUTION'S FAILURE TO PROVE BEYOND REASONABLE DOUBT THE ELEMENTS OF THE CRIME CHARGED.[14]

Accused-appellant contends that the prosecution utterly failed to discharge its onus of proving that his penis penetrated AAA's vagina. He asserted that AAA's statement that there was penetration was due to the continued prodding of the prosecution. AAA simply affirmed, denied or supplied the missing details in response to the questions propounded to her. Further, he asserts that evidence on record creates a cloud of doubt on whether he had carnal knowledge with AAA. The constitutional presumption that the accused shall be presumed innocent unless proven otherwise shall not be overridden by the oft-cited doctrine that it is highly improbable for an innocent girl to fabricate a charge so humiliating not only to herself but to her family.[15]

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The appeal is bereft of merit.

AAA was consistent, candid, and straightforward in her narration that she was raped by accused-appellant. She stood firm on her story even during the cross-examination, to wit:

> Atty. Ubando: Going back to the incident. Did the one who pulled your hair and poked a knife at you succeeded in having carnal knowledge with you?
> A: Yes sir.
>
> Q: How many times, madam witness, did he try to rape you according to you?
> A: Once only sir.
>
> Q: And you are very sure of that?
> A: Yes sir.
>
> Q: Is it not madam witness that you mentioned in your sworn statement that when the accused tried first to rape you he was not able to do so because you were then wearing your panty?
>
> Pros. Orias: The witness should be confronted with her sworn statement.
>
> Atty. Ubando: Madam witness, in your sworn statement particularly question no. 20, you were asked by the Investigator. Q- At that situation what happened next, if any? At that situation sir, he pulled ups and down his hips penetrating his penis to my vagina but he did not succeed because he forgot to remove my panty sir."
>
> Q: My question is do you remember having asked this question and gave this answer?
> A: Yes sir.
>
> Q: So that was the only time that he tried to rape you but he did not succeed?
> A: Yes sir.
>
> Q: Because he tried to rape you only once?
> A: Yes sir.[16]
>
> xxx
>
> Q: Madam witness, did you mention in your sworn statement that the accused was able to rape you while the two of you were in standing position?
> A: I did sir.
>
> Q: But that was the time when you were still wearing your panty?
> A: No more sir.
>
> Q: Because you yourself removed your panty?
> A: No sir.
>
> Q: You removed your panty?
> A: He torn(sic) with a knife sir.
>
> Q: When he torn (sic) with a knife you did not even try to shout for help?
> A: No sir, because he threatened me.
>
> Q: How did he threaten you?
> A: He told me that he will kill me if I will shout.[17]

Significantly, Dr. Cristobal corroborated AAA's testimony that there was penetration consummating the rape. The doctor found gapping vulva on private complainant's vagina and according to him, this could have been probably

due to repeated sexual intercourse or insertion therein of a foreign body like an erected penis.[18] Further, the prosecution presented as corroborative pieces of evidence AAA's torn short pants and panty. When a rape victim's account is straightforward and candid, and is corroborated by the medical findings of the examining physician, the same is sufficient to support a conviction for rape.[19]

Accused-appellant denied the accusation and asserted that at the time of the incident he was at home together with his mother, Len Len Daileg, Lemuel Daileg and Juliana Dela Cruz watching television. The testimonies of Juliana dela Cruz and Len Len Daileg corroborating accused-appellant's defense of denial cannot prevail over the testimony of AAA. The testimonies of close relatives and friends are necessarily suspect and cannot prevail over the unequivocal declaration of the complaining witness.[20]

Clearly, accused-appellant was not able to prove that it was physically impossible for him to be at the crime scene at the time the offense was committed[21]. Denial like alibi is the weakest of all defenses, because it is easy to concoct and difficult to disprove. Further, it cannot prevail over the positive and unequivocal identification of appellant by the offended party and other witnesses. Categorical and consistent positive identification, absent any showing of ill motive on the part of the eyewitness testifying on the matter, prevails over the appellants' defense of denial and alibi.[22]

Accused-appellant succeeded in raping AAA with the use of a deadly weapon. This qualifying circumstance was both alleged in the information and proven during the trial, to wit:

> xxx
> Q: What did he do next when he pulled your hair?
> A: He poked a knife at my neck, sir. (witness pointing to her left portion of her neck).
>
> Q: How were you able to identify that it was Rodolfo Madera who pulled your hair and poked a knife at your neck?
> A: When I was able to take a look at him, sir, when he loosen (sic) his hold at my hair sir.
>
> Q: What did he do next when he poked a knife at your neck?
> A: He pulled me underneath the mango tree, sir.[23]
> xxx
>
> Q: When the accused succeeded in removing your short and panty, did you not try to struggle?
> A: I did, sir, but he was strong.
>
> Q: How about his knife where was it at the time when you said you fought?
> A: At my right side, sir.
>
> Q: Right side of what?
> A: Right side of my neck sir.[24]
> xxx
>
> Q: What about his knife, where was it when he was able to bring you at the trunk of the mango tree?
> A: It was still poked at my neck, sir.
>
> Q: What did he do next when he told you there was no person?
> A: He pursued with his intention, sir.
>
> Q: When you said he pursued with his intention, what did he do next?
> A: He pulled down my short pants and panty and he again made that pumping motion, sir.[25]
> xxx
> Q: All the while, where was the knife of the accused?

A: Still at my right side, sir. (witness pointed to her neck)

Q: Around how many minutes or seconds did his penis stay inside your vagina?
A: I do not know, sir.[26]

Under Article 266-B of the Revised Penal Code (RPC), the penalty for rape qualified with the use of a deadly weapon is reclusion perpetua to death. The two penalties being both indivisible and there being no mitigating nor aggravating circumstance to consider, the lesser of the two penalties which is reclusion perpetua should be imposed pursuant to the second paragraph of Article 63 of the RPC[27].

The principal consideration for the award of damages is the penalty provided by law or imposable for the offense because of its heinousness, not the public penalty actually imposed on the offender.[28]

With regard to the civil indemnity and moral damages, the Supreme Court explained the basis for increasing the amount of said civil damages as follows:

> "As to damages, we have held that if the rape is perpetrated with any of the attending qualifying circumstances that require the imposition of the death penalty, the civil indemnity for the victim shall P75,000.00. Also, in rape cases, moral damages are awarded without the need of proof other than the fact of rape because it is assumed that the victim has suffered moral injuries entitling her to such an award. However, the trial court's award of P50,000.00 as moral damages should also be increased to P75,000 pursuant to current jurisprudence on qualified rape."
>
> It should be noted that while the new law prohibits the imposition of the death penalty, the penalty provided for by law for a heinous offense is still death and the offense is still heinous. Consequently, the civil indemnity for the victim is still P75,000.00.[29]

The Supreme Court ratiocinated in People vs. Quiachon[30]:

> With respect to the award of damages, the appellate court, following prevailing jurisprudence, correctly awarded the following amounts; P75,000.00 as civil indemnity which is awarded if the crime is qualified by circumstances warranting the imposition of the death penalty; P75,000.00.00 as moral damages because the victim is assumed to have suffered moral injuries, hence, entitling her to an award of moral damages even without proof thereof, x x x
>
> Even if the penalty of death is not to be imposed on the appellant because of the prohibition in R.A. No. 9346, the civil indemnity of P75,000.00 is still proper because, following the ratiocination in People vs. Victor[31], the said award is not dependent on the actual imposition of the death penalty but on the fact that qualifying circumstances warranting the imposition of the death penalty attended the commission of the offense. The Court declared that the award of P75,000.00 shows "not only a reaction to the apathetic societal perception of the penal law and the financial fluctuations over time but also the expression of the displeasure of the court of the incidence of heinous crimes against chastity."

The litmus test therefore, in the determination of the civil indemnity is the heinous character of the crime committed, which would have warranted the imposition of the death penalty, regardless of whether the penalty actually imposed is reduced to reclusion perpetua.[32]

As to the award of exemplary damages, Article 2229 of the Civil Code provides that exemplary or corrective damages are imposed in addition to the moral, temperate, liquidated or compensatory damages. Exemplary damages are not recoverable as a matter of right. The requirements of an award of exemplary damages are: (1) they may be imposed by way of example in addition to compensatory damages, and only after the claimant's right to them has been established; (2) they cannot be recovered as a matter of right, their determination depending upon the amount of compensatory damages that may be awarded to the claimant; (3) the act must be

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accompanied by bad faith or done in a wanton, fraudulent, oppressive or malevolent manner.[33] Since the compensatory damages, such as the civil indemnity and moral damages, are increased when qualified rape is committed, the exemplary damages should likewise be increased in accordance with prevailing jurisprudence.[34]

In addition, and in conformity with current policy, all the monetary awards for damages shall have interest at the legal rate of 6% from date of finality of this decision until fully paid.[35]

WHEREFORE, premises considered, the appeal is DENIED. The decision of the Regional Trial Court of Cabarroguis, Quirino, Branch 31 dated August 17, 2010 finding accused-appellant Rodolfo Madera a.k.a. "Roding", guilty beyond reasonable doubt of qualified rape and sentencing him to suffer the penalty of reclusion perpetua is AFFIRMED with MODIFICATION that: (1) the award of moral damages to AAA is increased to P75,000.00; (2) the civil indemnity to AAA is increased to P75,000.00; and (3) accused-appellant is ordered to pay AAA exemplary damages in the amount of P30,000.00. Interest at the rate of six percent (6%) per annum is imposed on all the damages awarded in this case from date of finality of this judgment until fully paid.

SO ORDERED.

Lampas Peralta, F., (Chairperson) and Acosta, F. P., JJ., concur.

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[1] Rollo, pp. 20-27.

[2] Records, p. 8.

[3] The real name of the victim, her personal circumstances and other information which tend to establish or compromise her identity, as well as those of their immediate family or household members shall not be disclosed to protect her privacy and fictitious initials shall, instead, be use, in accordance with People vs. Cabalquinto; People vs. Edgar Jumawan, G.R. No. 187495, April 21, 2014.

[4] Records, pp. 1-2.

[5] Records, pp. 2-4.

[6] Records, p. 6.

[7] Records, p. 5.

[8] TSN dated February 26, 2003, pp. 8-33.

[9] TSN dated October 10, 2005, pp. 2-6.

[10] TSN dated February 19, 2009, pp. 2-7.

[11] TSN dated November 14, 2006, pp. 3-5.

[12] TSN dated November 14, 2006, p. 8.

[13] TSN dated November 14, 2006, pp. 6-8.

[14] Rollo, p. 45.

[15] Rollo, pp. 45-49.

[16] TSN dated February 26, 2003, pp. 19-21.

[17] TSN dated February 26, 2003, p. 29.

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[18] TSN dated June 26, 2003, pp. 37-43.

[19] People of the Philippines vs. Florante Relanes alias "Dante," G.R. No. 175831 , April 12, 2011.

[20] People of the Philippines vs. Lito Macapanas y Ecija, G.R. No. 187049, May 4, 2010.

[21] People vs. Robles, G.R. No. 177770, March 28, 2008.

[22] People vs. Sansaet, G.R. No. 139330, February 6, 2002.

[23] TSN dated February 26, 2003, p. 6.

[24] TSN dated February 26, 2003, p. 9.

[25] TSN dated February 26, 2003, p. 10.

[26] TSN dated February 26, 2003, p. 12.

[27] ART. 63 — Rules for the application of indivisible penalties. — x x x

> In all cases in which the law prescribes a penalty composed of two indivisible penalties the following rules shall be observed in the application thereof.
> x x x x
> 2. When there are neither mitigating nor aggravating circumstances in the commission of the deed, the lesser penalty shall be applied.

[28] People of the Philippines vs. Richard O. Sarcia, G.R. No. 169641, September 10, 2009.

[29] People vs. Salome, G.R. No. 169077, August 31, 2006.

[30] G.R. No. 170236, August 31, 2006.

[31] G.R. No. 127903, July 9, 1998.

[32] People of the Philippines vs. Richard O. Sarcia, G.R. No. 169641, September 10, 2009.

[33] Gatmaitan vs. Gonzales, G.R. No. 149226, June 26, 2006.

[34] People vs. Veluz, G.R. No. 167755, November 28, 2008.

[35] People of the Philippines vs. Bingky Campos and Danny "Boy" Acabo, G.R. No. 176061, July 4, 2011.

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