

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VERSUS JESUS MAYOLA Y PICAR, ACCUSED-APPELLANTS.

Ponente: SALAZAR-FERNANDO, J.

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SALAZAR-FERNANDO, J.:

Before this Court is an appeal from the Decision[1] dated September 11, 2009 of the Regional Trial Court, First Judicial Region, Branch 55, Alaminos City, Pangasinan in Criminal Case No. 4758-A entitled "People of the Philippines, Plaintiff, versus Jesus Mayola y Picar, Accused.", the decretal portion of which reads:

"WHEREFORE, in view of the foregoing consideration, this Court finds accused JESUS MAYOLA y PICAR, GUILTY beyond reasonable doubt of the crime of rape as charged in the Information, and hereby sentences him to suffer the penalty of reclusion perpetua, to indemnify the offended party the amount of P75,000.00; to pay moral damages to the victim in the amount of P75,000.00 and P25,000.00 as exemplary damages.

SO ORDERED."

The facts are:

An Information[2] was filed charging accused-appellant Jesus Mayola y Picar ("Mayola" for brevity) of Rape, the accusatory portion of which reads:

"That on or about December 30, 2004 in the evening in XXX,[*] Philippines and within the jurisdiction of this Honorable Court, the above-named accused by means of force, threat and intimidation did then and there willfully, unlawfully and feloniously did (sic) lie and succeeded (sic) in having carnal knowledge of AAA,**] his fifteen (15) years old daughter, despite her resistance and pleas for mercy, to her damage and prejudice."

Contrary to Article 266-A of the Revised Penal Code, as Amended."

Upon arraignment[3], accused-appellant Mayola, with the assistance of his counsel, Atty. Idelwyn V. Madrid, pleaded not guilty to the offense charged.

During the pre-trial conference[4], the parties stipulated on the identity of accused-appellant Mayola and the fact that the victim is the daughter of accused-appellant Mayola.

Thereafter, trial ensued.

The prosecution presented private complainant AAA, Dr. Ma. Teresa G. Sanchez ("Dr. Sanchez" for brevity), the sisters of AAA, BBB and DDD, as witnesses. Private complainant AAA, assisted by her sister BBB, testified[5] that: her Certificate of Live Birth shows that she was sixteen (16) years of age at the time her direct examination was being conducted and nineteen (19) years of age during her cross examination; she was then a fourth year high school student; she worked as a baby sitter to support herself; accused-appellant Mayola is her father; CCC, DDD and EEE are her siblings; she, accused-appellant Mayola, CCC, DDD and EEE lived in an eighteen (18)-square meter single room house in XXX; her mother was working as a house helper in Manila; accused-appellant Mayola had sexual intercourse with her every other day since 2001 when she was just thirteen (13) years old and a high

school freshman; her mother already knew what accused-appellant Mayola did to her, but the former could not help her and she was afraid to report the incident to the authorities; her mother would simply ignore and just move her body every time accused-appellant Mayola made sexual advances to her; in the evening of December 30, 2004, she and her brother CCC slept on a bamboo bed beside accused-appellant Mayola while her sisters DDD and EEE slept on the floor; accused-appellant Mayola went on top of her (sinakyan niya po ako) and inserted his penis into her vagina (iniyot nak) when CCC, DDD and EEE were already asleep; accused-appellant Mayola only stopped molesting her when CCC woke up; accused-appellant Mayola went at the back of their house, gathered the chairs, arranged them to form a makeshift bed, and called for her; mindful of accused-appellant Mayola's cruelty towards them, she cried as she heeded accused-appellant Mayola's call and went at the back of the house where accused-appellant Mayola was; fed up with accused-appellant Mayola's repeated violation of her chastity, she pleaded to him not to do it again; her sister BBB, FFF and her uncle GGG accompanied her in reporting the incident to the Alaminos City Police Station where she was first investigated by the Chief of Police and later on by a policewoman; on January 3, 2005, she went to the Western Pangasinan District Hospital for medical examination; she loved accused-appellant Mayola but she began to hate him, wish to see him dead or vanish in jail (mapukaw), and would not want to forgive him for molesting her for quite a long time; and, the recollection of what had happened to her makes her cry.

Dr. Sanchez testified[6] that: she has been connected with Western Pangasinan District Hospital since 1993; she was trained in Obstetrics and Gynecology at the Regional Medical Center in Dagupan City; on January 3, 2005, private complainant AAA was accompanied by her maternal uncle GGG when the former came to her for physical examination; private complainant AAA narrated to her that her father had been violating her since 2001, and the last time was on December 30, 2004; she found nonparous introitus (vaginal opening of a woman who have not given birth), old hymenal laceration at five (5) o'clock and seven (7) o'clock position; the vagina admitted two (2) fingers with slight difficulty, and there was no bleeding when she subjected private complainant AAA to internal examination; the laceration could have taken place more than a month before private complainant AAA was examined and it could be due to the penetration of an erected penis; the admission of two (2) fingers with slight difficulty into the vagina could be due to repeated sexual intercourse and the diminution of the folder lining of the vagina mucosa causes slight resistance; private complainant AAA's first menstruation was when she was thirteen (13) years of age; her last menstrual period was on December 25 to 29, 2004 and her pre-menstrual period was on November 27, 2004; and, the gram stain of vaginal discharge tested negative for the presence of spermatozoa.

BBB testified[7] that: she is already married to FFF and she was no longer living with her parents and siblings in 2004; in January 2005, she learned about her sisters AAA and DDD's harrowing experience in accused-appellant Mayola's hands when she and FFF went to XXX for a vacation; it took her, private complainant AAA and DDD three (3) days before they reported the matter to the police authorities because she sought their uncle GGG's help in accompanying them to the police station to report the incident for fear that accused-appellant Mayola would make good his threat to kill them should they report the rape incident to anyone; GGG and two (2) police officers accompanied them to the hospital for the medical examinations of private complainant AAA and DDD; and, she and her siblings already held grudges toward accused-appellant Mayola even before the occurrence of the rape incident because he threatened them with a bolo and inflicted physical violence upon them.

DDD testified that: she saw accused-appellant Mayola rape her sister, AAA, four (4) times in 2004; and, accused-appellant Mayola inserted his finger and played with her vagina for fifteen (15) minutes in April 2004 and on December 31, 2004 while she was asleep at home.

In his defense, accused-appellant Mayola testified[8] that: he drove a tricycle for a living; on December 30, 2004,

he was left alone at his twelve (12)-square meter bamboo house in XXX when his son-in-law FFF took his children CCC, DDD and EEE to Boton to baby sit therein while private complainant AAA went to Sandoy to visit and spend the holidays with her mother who worked there as a house helper; AAA, CCC, DDD, and EEE only returned home after the police arrested him; he was arrested because his tricycle allegedly hit a child while it was being driven by FFF; he was already detained when he learned from the police that his children lodged criminal complaints against him; he did not sexually molest AAA and DDD; his children's hard feelings towards him for severely punishing them when they were at fault motivated them, particularly AAA, to charge him criminally; and, his wife visited him in jail to secure his signature on the deed of sale of his tricycle, but he refused.

On September 11, 2009, the lower court rendered the assailed decision convicting accused-appellant Mayola of the crime charged.

Hence, this appeal with this lone assignment of error:

"THE TRIAL COURT GRAVELY ERRED IN FINDING THAT THE GUILT OF THE ACCUSED-APPELLANT HAS BEEN PROVEN BEYOND REASONABLE DOUBT."

Accused-appellant Mayola contends that the behavior exhibited by private complainant AAA is not in accordance with the behavior of a victim of sexual abuse. She would not have slept beside him had it been true that he violated her womanhood since she was thirteen (13) years of age. She could have either slept with her siblings or refused to stay with him at all. She did not immediately report any of the incidents of rape to her sister.

Accused-appellant Mayola further contends that private complainant AAA and her siblings BBB, CCC, DDD, and EEE were motivated by the ill-feelings that they harbored towards him in charging him with rape which casts doubt on the veracity of the allegations against him.

On the other hand, the prosecution contends that the lower court correctly gave credence to the testimonies of prosecution witnesses. As a trier of fact, the lower court has the best opportunity to assess the credibility of witnesses and their testimonies because it has the unique opportunity to observe the witness firsthand, and to note their demeanor, conduct and attitude under examination.

Private complainant AAA positively identified accused-appellant Mayola as her abuser. She did not waver on the material points of her testimony and maintained the same even on cross-examination.

Moreover, private complainant AAA's testimony is corroborated by the result of her medical examination which showed the presence of "old hymenal laceration at five (5) o'clock and seven (7) o'clock position" in her private part. This finding is consistent with her declaration that accused-appellant Mayola had been raping her since she was thirteen (13) years old.

It is also worthy to note that when private complainant AAA relived her ordeal at the witness stand, she broke down in tears several times. This only bolsters her credibility. Her emotional anguish is consistent with the ruling of the Supreme Court that the crying of a victim during her testimony is evidence of the truth of the rape charges, for the display of such emotion indicates the trauma she suffered while under the evil control of her tormentor.

In the face of the serious accusation leveled against him, accused-appellant Mayola interposed the ineffectively supported defense of denial. He claimed that he was alone in his house at the time the rape incident was allegedly committed in the evening of December 30, 2004 while private complainant AAA was in Sandoy.

Denial, just like alibi, cannot prevail over the complainant's positive and categorical testimony and identification of an accused. Mere denial, without any strong and convincing evidence to support it, can scarcely overcome the victim's positive declaration on the involvement of the appellant in the crime attributed to him.

For alibi to prosper, it is insufficient that the accused was somewhere else when the crime was committed. It is imperative upon him to demonstrate that it was physically impossible for him to have been at the scene of the crime at that time. This, accused-appellant Mayola failed to do.

The threats which accused-appellant Mayola made on private complainant AAA; the control which accused-appellant Mayola has over the whole family especially his wife; the physical separation of private complainant AAA's sister, BBB, from her immediately family members on account of her (BBB) marriage - all of these plausibly explain her submissive behavior towards her father which also resulted in the delay in reporting this heinous crime to the proper authorities.

There has never been any uniformity or consistency of behavior to be expected from those who had the misfortune of being sexually molested. The Supreme Court has pointed out that some of them have found the courage early on to publicly denounce the abuses they experienced, but still there were others who have opted to initially keep their harrowing ordeals to themselves and to just move on with their lives as if nothing had happened, until the limits of their tolerance were reached. Also, the immature and inexperienced could not be expected to measure up to the same standard of conduct and reaction that would be expected from adults whose maturity in age and experience could have brought them to stand up more quickly to their interest. Lastly, long silence and delay in reporting the crime of rape to the proper authorities have not always been considered as an indication of a false accusation.[9]

Private complainant's failure to immediately report the rape does not in any way diminish her credibility. Her failure to immediately disclose such misfortune to the proper authorities does not render her charge against the accused-appellant baseless and fabricated. It is common for young girls to conceal for some time the assault on their virtues primarily because of the rapist's threat on their lives, more so when the offender is someone whom they know and who were living with them. The delay in this case was sufficiently explained and, hence, did not destroy private complainant's credibility.[10]

As regards private complainant AAA's alleged harboring of ill-feeling towards accused-appellant Mayola, suffice it to state that, that family resentment, revenge or feud have never swayed the Supreme Court from giving full credence to the testimony of a complainant for rape, especially a minor who remained steadfast in her testimony that she was sexually abused, throughout the direct and cross-examinations.

The Supreme Court does not believe that just to vex her father, a girl would willingly go through the traumatic experience of narrating the sordid details of a rape, to be grilled and discredited during cross-examination in court. It is truly inconceivable for a girl of such tender years to be able to concoct a story, provide details of a rape and ascribe such wickedness to her very own father just because she resents being disciplined by him, since by thus charging him, she would also expose herself to extreme humiliation, even stigma.[11]

As the rape was qualified by the circumstances of private complainant AAA's minority and accused-appellant Mayola's paternity, the proper penalty to be imposed upon accused-appellant Mayola is reclusion perpetua, without eligibility for parole.[12]

While this Court sustains the award of civil indemnity and moral damages, each in the amount of P75,000.00, the award of exemplary damages should be increased from P25,000.00 to P30,000.00, and the indemnity and damages awarded should be further subjected to interest at the rate of six percent per annum from the date of finality of this judgment until fully paid, in line with prevailing jurisprudence.[13]

WHEREFORE, premises considered, the Decision dated September 11, 2009 of the RTC, Branch 55, Alaminos City, Pangasinan in Criminal Case No. 4758-A is hereby **AFFIRMED** with **MODIFICATION**. Accused-appellant

JESUS MAYOLA y PICAR is found GUILTY beyond reasonable doubt of the crime of qualified rape, and sentenced to reclusion perpetua without eligibility for parole. He is ordered to pay the victim AAA Seventy-Five Thousand Pesos (P75,000.00) as civil indemnity, Seventy-Five Thousand Pesos (P75,000.00) as moral damages, and Thirty Thousand Pesos (P30,000.00) as exemplary damages, with interest at the rate of 6% per annum from the date of finality of this judgment until fully paid.

SO ORDERED.

Bruselas, Jr., and Gaerlan, JJ., concur.

[1] Records, pp. 136-141

[2] Records, p. 1

[*] The identity of the victim is withheld pursuant to People vs. Cabalquinto, G.R. No. 167693, September 19, 2006, 502 SCRA 419, 425-426, citing Sec. 40, Rule on Violence Against Women and their Children; Sec. 63 Rule XI, Rules and Regulations Implementing Republic Act No. 9262, otherwise known as the Anti-Violence Against Women and Their Children Act of 2002.

[**]Id.

[3] Records, pp. 35-38

[4] Records, pp. 48-49

[5] TSN dated June 2, 2005 and November 20, 2007

[6] TSN dated July 14, 2005

[7] TSN dated August 3, 2005

[8] TSN dated June 26, 2007, p. 5

[9] TSN dated April 21, 2009

[10] People vs. Laurian, G.R. No. 199868, December 11, 2013 citing People vs. Buado, Jr.

[11] People vs. Glodo, G.R. No. 136085, July 7, 2004 citing People vs. Gutierrez

[12] Ibid.

[13] People vs. Zafra, G.R. No. 197363, June 26, 2013

[14] Ibid.

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