PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JUANCHO FILOSOPO[] Y AMPOON, DEFENDANT-APPELLANT.

Ponente: PAREDES, J.

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PAREDES, J.:

THE CASE

BEFORE US is the appeal of Juancho Filosopo y Ampoon (accused-appellant, for brevity) from the Decision[1] dated November 11, 2011 of the Regional Trial Court (RTC), Branch 106, Quezon City, in Criminal Case No. Q-08-151411, finding him guilty beyond reasonable doubt of statutory rape.

THE ANTECEDENTS

Accused-appellant was charged with the crime of Rape under an Information[2] which reads:

> That on or about the 22[nd] day of March 2008, in Quezon City, Philippines, the said accused, with force and intimidation, did then and there, wilfully, (sic) unlawfully commit acts of sexual assault upon the person of "AAA",[3] his own daughter, a minor, 9 years old, by then and there undressing her and inserting his pennis (sic) in her vagina against her will and without her consent, to the damage and prejudice of the said offended party.
>
> Contrary to law.

On May 16, 2008, upon arraignment, accused-appellant entered a plea of not guilty.[4] Thereafter, trial on the merits ensued.

AAA is the third child of BBB and accused-appellant, who, on the date of the incident on March 22, 2008, was a minor, born[5] on July 8, 1998.

Version of the Prosecution

At about 6 o'clock in the evening of March 22, 2008, AAA was at home with her two brothers and her father, the accused-appellant. AAA's mother, BBB, was not home because she was vending barbeque for a living. While her brothers were outside at the basketball court, accused-appellant told AAA to go inside the room. Once inside, he told her to remove her dress. AAA removed her shorts and thereafter accused-appellant inserted his penis inside her vagina. AAA shouted and pleaded to accused-appellant "wag na, tama na po", at which point, accused-appellant threatened her not to tell this to her mother. She felt pain during the ordeal but, according to AAA, it was not the first time that such incident happened as accused-appellant already molested her when they were still residing in Davao. However, she can no longer recall how many times it happened.

The day after the incident, her parents were fighting and, as he was wont to do, accused-appellant was about to drive BBB out of the house. AAA, afraid that her mother would leave, told BBB what accused-appellant did to her. They called up the police station and when the police arrived, they arrested accused-appellant. AAA gave her

statement to the police, which statement was reduced in writing. She was also referred to the PNP Crime Laboratory for medical examination[6].

Police Senior Inspector Jesselle Baluyot (P/SI Baluyot), medico-legal officer of the Camp Crame Crime Laboratory, conducted a genital examination on AAA. She noted that there was redness in the labia minora while the hymen was edemmatus or swollen. According to P/SI Baluyot, the redness and swelling may have been caused by a blunt trauma due to an object which is not sharp. If a penis is forcibly inserted, it could penetrate the hymen and it would cause a laceration which she did not find in AAA's hymen. However, the injuries found on AAA could still have been caused by a penis which has failed to actually penetrate the vagina[7]. P/SI Baluyot's findings were reduced in the Medico-Legal Report[8] which reads:

> FINDINGS:
>
> GENERAL AND EXTRAGENITAL:
>
> PHYSICIAL BUILT: light
>
> MENTAL STATUS: female child suspect
>
> BREAST: undeveloped with light brown areola & nipples
>
> ABDOMEN: soft/flat
>
> PHYSICAL INJURIES: no injury noted
>
> GENITAL:
>
> PUBIC HAIR: absent
>
> LABIA MAJORA: coaptated
>
> LABIA MINORA: pinkish brown; erythema on both sides
>
> HYMEN: edematous hymenal rim
>
> POSTERIOR FOURCHETTE: no injury
>
> EXTERNAL VAGINAL ORIFICE: not assessed
>
> VAGINAL CANAL: not assessed
>
> CERVIX: not assessed
>
> PERIURETHRAL AND VAGINAL SMEARS: not assessed
>
> ANUS: unremarkable
>
> CONCLUSION: Ano-genital findings are diagnostic of recent and previous blunt force to the labia minora and hymen.[9]

The prosecution offered its third witness in the person of BPSO Diosdado Garbin but his testimony was no longer presented, instead, the prosecution and the defense entered into stipulations as to what he would testify on. The defense admitted: (1) the fact of arrest of accused-appellant; and (2) the authenticity of the affidavit of arrest but not the contents thereof. On the other hand, the prosecution admitted that: (1) BPSO Garbin has no personal knowledge of the facts stated in the Information; and (2) there was no warrant of arrest issued for the accused-appellant as he was merely invited for questioning by the arresting officers.[10]

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Version of the Defense

According to accused-appellant, on March 22, 2008, he was at home with his two sons, CCC and DDD, while AAA was at their neighbor's house with her mother, BBB. Accused-appellant and “BBB” had an on-going argument which began the previous day when they arrived from San Jose del Monte, Bulacan. Their fight escalated to physical violence and he pushed BBB and she stumbled and almost fell against the wall of the house. BBB threw something at him but he was able to evade it. BBB then took a knife and lunged at him, but he was able to evade her too. BBB packed her things and left. Their three children followed BBB up to the house of their neighbor, Reynan. Accused-appellant followed and ordered his children to go back home, but only CCC and DDD went with him. He next saw BBB the following day, on March 23, 2008. He came home at 2 o'clock in the morning from a friend's house, went to sleep and when he woke up, he made breakfast and invited AAA and BBB to eat with him, but they declined. He told BBB not to involve their daughter in their fight, but BBB hit his face with the door. Accused-appellant was no longer able to control himself so he banged the door causing the hinges to break and fall on AAA. After about fifteen minutes, AAA left and BBB followed her. Around noon, barangay officers and policemen arrived. Accused-appellant insisted that the allegations of rape were merely made up by BBB who wanted to take revenge after almost falling from their house[11].

On November 11, 2011, the RTC rendered a Decision[12], the dispositive portion of which reads:

> IN VIEW WHEREOF, accused Juancho Filosofo y Ampoon is found guilty of the crime of rape qualified by minority and relationship and is hereby sentenced to suffer the penalty of reclusion perpetua, without eligibility for parole.
>
> The accused is further ordered to pay private complainant the amount of P75,000.00 as civil indemnity, P75,000.00 as moral damages and P30,000.00 as exemplary damages.
>
> SO ORDERED.[13]

Hence, this appeal.

THE ISSUE

> WHETHER OR NOT 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 COURT'S RULING

We affirm the judgment of conviction.

To convict an accused of the crime of statutory rape, the prosecution carries the burden of proving: (1) the age of the complainant; (2) the identity of the accused; and (3) the sexual intercourse between the accused and the complainant[14].

In this case, the prosecution had established the minority of the victim, AAA, with the presentation of her birth certificate[15]; that accused-appellant is her father; and that, at the time of the crime, AAA was a minor, four months shy of 10 years, she being born on July 8, 1998.

Second, AAA positively identified and pointed to her father as the person who sexually molested her[16]. As found by the RTC, even if she was barely ten (10) years old at the time she testified, AAA's testimony was direct, clear, straightforward and remained unshaken even on cross-examination[17].

Accused-appellant claims that the prosecution failed to positively establish the elements of rape required under Article 266-A since AAA's testimony on how accused-appellant had carnal knowledge with her was flawed for being inconsistent and contrived[18]. We do not agree.

In determining whether accused-appellant is indeed guilty of rape under Article 266-A[19] of the Revised Penal Code, as amended, it is essential to establish beyond reasonable doubt that he had carnal knowledge of AAA. There must be proof that his penis touched the labia of AAA or slid into her female organ, and not merely stroked the external surface thereof[20]. On direct examination, AAA narrated how accused-appellant sexually assaulted her:

Q

Could you tell us what is that incident that happened to you?

A

My father told me to go inside the room.

Q

What did you do when your father told you to go inside the room?

A

He told me to remove my dress.

Q

Did you undress as told to you by your father?

A

I removed my shorts.

Q

After you removed your shorts what other things transpired?

A

He inserted his penis inside my vagina

Q

What did you do when your father do (sic) that to you?

A

I was shouting then.

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Q

What other things did you do aside from shouting, did you do anything?

A

Yes, sir.

Q

What was that?

A

I said “Wag na, tama na po.”

Q

What did your father tell you if any?

A

He told me not to tell the matter to my mother.

Q

While your father was doing that what did you feel?

A

A It is painful.[21] (Emphasis supplied)

AAA directly, categorically and positively stated that accused-appellant inserted his penis inside her vagina removing any doubt on whether there was indeed carnal knowledge. It is the direct evidence required of the prosecution in proving the commission of statutory rape against AAA.

Testimonies of child-victims are normally given full weight and credit, 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[22].

Accused-appellant also questions the physical evidence on record, which, according to him, does not corroborate AAA's testimony because of the finding that the swelling in the opening of the vagina may have been caused by a blunt trauma, ruling out the possibility that a penis might have caused the same[23].

In the instant case, the redness in the labia minora and the swelling in the hymenal rim, found during the medical examination of AAA, and the pain she said she felt in her vagina during the sexual assault, sufficiently

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corroborates AAA's charge that she was raped[24]. It is well-settled that full penetration of the vagina is not essential; any penetration of the female organ by the male organ, however slight, is sufficient[25]. In People vs. Degay[26], the Supreme Court, citing People vs. Boromeo[27] held, that:

> Proof of hymenal laceration is not an element of rape. An intact hymen does not negate a finding that the victim was raped. To sustain a conviction for rape, full penetration of the female genital organ is not necessary. It is enough that there is proof of entry of the male organ into the labia of the pudendum of the female organ. Penetration of the penis by entry into the lips of the vagina, even without laceration of the hymen, is enough to constitute rape, and even the briefest of contact is deemed rape. As long as the attempt to insert the penis results in contact with the lips of the vagina, even without rupture or laceration of the hymen, the rape is consummated. x x x.

More importantly, P/SI Baluyot did not negate the possibility that the redness in the labia minora was caused by a male organ. She testified that:

> Q
>
> Could it be possible that a penis is forcibly inserted but that penis is too big to enter the small vagina of a child?
>
> A
>
> It is possible if there is a try (sic) to enter that penis.
>
> Q
>
> So, the injuries you found here on the victim could still be caused by a penis which could not have actually penetrated the vagina but only stayed at the opening?
>
> A
>
> Yes, ma'am.
>
> Q
>
> So, that the injuries could not be caused by a finger but it is caused by a penis only at the opening of the vagina?
>
> A
>
> Yes, ma'am, that could be caused by a penis[28]

Therefore, accused-appellant cannot rely on the physical evidence presented by the prosecution because, contrary to his claim, the evidence supports the testimony of AAA.

Neither can accused-appellant rely on the defense of denial and alibi. In the instant case, he admitted being in their house at the time of the rape incident. However, he claims that AAA was at the house of their neighbor with BBB at the time of the subject incident. However, it was not shown that there is a physical impossibility for both accused-appellant and AAA to be at the locus criminis at the time of the commission of the crime, which is crucial in the defense of denial and alibi[29].

Accused-appellant also claims that AAA's testimony does not deserve full faith and credence since she had

ill-motive in charging him. AAA clearly feared accused-appellant, the prosecution had painted him to be a violent husband to BBB, and a cruel father beating up AAA, his youngest child and only daughter, at the time of the alleged incident[30]. Such claim deserves scant consideration.

The defense of ill-motive is tenuous, shallow, specious and downright incredulous[31]. Motives such as resentment, hatred or revenge have never swayed Us from giving full credence to the testimony of a rape victim[32]. Not a few offenders in rape cases attribute the charge brought against them to family feuds, resentment or revenge, but such alleged motives cannot prevail over the positive and credible testimonies of complainants who remained steadfast throughout the trial[33]. The revelation of an innocent child, whose chastity has been abused, deserves full credit, as her willingness to undergo the trouble and the humiliation of a public trial, is an eloquent testament to the truth of her complaint. In so testifying, she could only have been impelled to tell the truth, especially in the absence of proof of ill-motive[34]. In fact, it takes “a certain amount of psychological depravity for a young woman to concoct a story which would put her own father in jail for the rest of his remaining life and drag the rest of the family including herself to a lifetime of shame”[35], unless the imputation is true.

It is unimaginable that AAA, an innocent young girl barely ten years of age, would concoct a story and file a case for rape against her father knowing that it may bring shame to her and her family for the mere reason that she feared accused-appellant and wanted to take revenge against him, unless such accusation was true. “Indeed, it takes extraordinary courage in a child to break her silence and expose herself and her family to the stigma that incestuous rape brings. The fact that AAA braved the grueling trial to prosecute her father speaks volumes of the truth of her assertions”[36]. It is also highly improbable that the mother, BBB, would force her only daughter, AAA, to falsely implicate her father of such a deplorable act, even if AAA would be subjected to trauma and shame in the process.

Having sufficiently established the elements of statutory rape and the qualifying circumstance of relationship between accused-appellant and AAA, We find no reason to depart from the ruling of the RTC finding accused-appellant guilty beyond reasonable doubt of the crime of statutory rape. The imposition of the penalty[37] of reclusion perpetua, instead of death, on accused-appellant, who shall not be eligible for parole under the Indeterminate Sentence Law, is in order, in light of RA 9346 or the Anti-Death Penalty Law, which prohibits the imposition of the death penalty[38].

Lastly, We find that the RTC correctly awarded civil indemnity ex delicto of P75,000.00, moral damages of P75,000.00, and exemplary damages of P30,000.00 pursuant to prevailing jurisprudence[39].

WHEREFORE, premises considered, the instant Appeal is DENIED. The Decision dated November 11, 2011 of the Regional Trial Court, Branch 106, Quezon City, in Criminal Case No. Q-08-151411, finding accused-appellant Juancho Filosopo y Ampoon, guilty beyond reasonable doubt of statutory rape is hereby AFFIRMED.

SO ORDERED.

Dicdican (Chairperson) and Elbinias, JJ., concur.

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[*] Also spelled as “Filosofo”.

[1] Record, pp. 164-176.

[2] Id., p. 1.

[3] This is pursuant to the ruling in People vs. Cabalquinto, G.R. No. 167693, September 19, 2006, where the Supreme Court, 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 2004, withheld the real name of the victim and used fictitious initials instead to represent her. Likewise, the personal circumstances of the victims-survivors or any other information tending to establish or compromise their identities, as well those of their immediate family or household members, shall not be disclosed.

[4] Records, p. 17.

[5] Birth Certificate, Exh. “A”, record, p. 58.

[6] TSN, September 5, 2008.

[7] TSN, October 7, 2008.

[8] Records, p. 67.

[9] Id.

[10] See Order dated November 11, 2008, Id., p. 42.

[11] TSN, May 14, 2009; TSN, October 13, 2009; TSN, November 20, 2009; TSN, February 19, 2010.

[12] Records, pp. 164-176.

[13] Id., p. 176.

[14] People vs. Garcia, GR No. 200529, September 19, 2012.

[15] Exhibit “A”, Formal Offer of Evidence, Records, p. 58.

[16] See TSN, September 5, 2008, p. 3.

[17] Records, p. 173.

[18] Rollo, p. 51.

[19] Article 266-A. Rape; When and How Committed.- Rape is committed-

By a man who shall have carnal knowledge of a woman under any of the following circumstances:

a) Through force, threat, or intimidation; b) When the offended party is deprived of reason or otherwise unconscious; c) By means of fraudulent machination or grave abuse of authority; and d) When the offended party is under twelve (12) years of age or is demented, even though none of the circumstances mentioned above be present.

[20] See People vs. Soria, GR No. 179031, November 14, 2012.

[21] TSN, September 5, 2008, pp. 6-7.

[22] People vs. Garcia, supra.

[23] Rollo, pp. 54-55.

[24] See People vs. Soria, supra.

[25] People vs. Aure, GR No. 180451, October 17, 2008.

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[26] GR No. 182526, August 25, 2010.

[27] GR No. 150501, 3 June 2004.

[28] TSN, October 7, 2008, p. 11.

[29] See Campos vs. People, GR No. 175275, February 19, 2008.

[30] Rollo, p. 49.

[31] See People vs. Garcia, supra.

[32] People vs. Aure, supra

[33] People vs. Garcia, supra.

[34] Id..

[35] People vs. Soria, supra.

[36] Campos vs. People, supra.

[37] Under paragraph 1 of Art. 266-B of the Revised Penal Code, death penalty shall be imposed if the crime of rape under Art. 266-A is committed when the victim is under eighteen (18) years of age and the offender is a parent, ascendant, step-parent, guardian, relative by consanguinity or affinity within the third civil degree, or the common-law spouse of the parent of the victim.

[38] People vs. Llanas, GR No. 190616, June 29, 2010.

[39] People vs. Alfonso, GR No. 182094, August 18, 2010.

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