

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, V. URCESIO RIVAS Y HUERTA, ACCUSED-APPELLANT.

Ponente: GAERLAN, S.H., J.

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GAERLAN, S.H., J.:

Before this Court is an appeal from the 9 September 2011 Decision[1] of Branch 254 of the Regional Trial Court of Las Piñas City for Criminal Cases Nos. 09-0775 and 09-0776, wherein the accusedappellant was found guilty beyond reasonable doubt for Violations of Section 5 (b), Article III of Republic Act No. 7610, also known as the Special Protection of Children Against Abuse, Exploitation and Discrimination Act.

The Informations charging Urcesio Rivas y Huerta read:

Criminal Case No. 09-0775[2]

“That on or about the 30th day of June 2009, in the City of Las Piñas, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design and by taking advantage of the youth and vulnerability of AAA, a fifteen-year old minor, did then and there willfully, unlawfully and feloniously commit acts of child abuse on the person of the said victim by having sexual intercourse with her without her consent, thereby degrading her dignity as a child, to her damage and prejudice.

Contrary to law.”

Criminal Case No. 09-0776[3]

“That on or about the 1st day of July 2009, in the City of Las Piñas, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design and by taking advantage of the youth and vulnerability of AAA, a fifteen-year old minor, did then and there willfully, unlawfully and feloniously commit acts of child abuse against the person of the said victim by having sexual intercourse with her and without her consent, thereby degrading her dignity as a child, to her damage and prejudice.

Contrary to law.”

During the arraignment on 29 July 2009[4] for Criminal Case No. 09-0776 and on 6 August 2009[5] for Criminal Case No. 09-0775, accusedappellant, assisted by counsel de parte, entered a plea of not guilty to both charges.

On 20 October 2009, a Motion for Consolidation[6] was filed by the prosecutor which was later granted by the trial court in its Order[7] dated 27 October 2009.

On 12 November 2009[8], a pre-trial of the consolidated cases was conducted and likewise terminated. The parties reached no stipulation of facts.

Thereafter, trial on the merits begun on 20 May 2010.[9]

The trial court in ruling the caseS considered the alleged circumstances in the Sexual Crime (Protocol) written by CCC[10] and signed by AAA[11] which stated-

“BABALIK NA AKO SA BAHAY NAMIN NASALOBONG KO SIYA TAPOS SINUNDAN AKO SA BAHAY NAMIN POMASOK SIYA TAPOS HINOBARAN AKO TAPOS PINASOK NIYA ANG TITI SA KIKI KO NOON GABI JUNE 31 ALAS 7:00 NG GABE KINABUKASAN NAMAN JULY 1 SINILIP NIYA AKO PONA NIYA AKO TAPOS PINAGHALIKAN NIYA AKO TAPOS HINOBARAN PINASOK NIYA ULI ANG TITI NIYA SA KIKI KO MGA ALAS 8:00 NG GABI JULY 1 TAPOS NAKITA SIYA NG KAPATID KO TUMAKBO SIYA HINOLI NG BARANGAY .”

The trial court also considered in reaching its conclusion the testimonies of the following prosecution witnesses:

Barangay Tanod Eduardo Maglente Diaz[12], whose testimony was dispensed with and the parties agreed to stipulate on the following facts: (a) he is a Barangay Tanod at Barangay Pamplona II, Las Piñas City; (b) sometimes on July 1, 2009 at around 8:15 in the evening, while he, together with Barangay Tanod Daniel A. San Juan were performing their duties as barangay tanods, they met a certain BBB[13], who reported that her sister AAA[14] was raped by herein accused-appellant Urcesio Rivas. Consequently, they chased and arrested the accused-appellant whom the private complainant identified as the one who raped or sexually molested her; (c) he identified his signature affixed on the Sinumpaang Salaysay he executed; and (d) he has no personal knowledge on the alleged facts and circumstances surrounding the commission of the offense.

Barangay Tanod Daniel A. San Juan[15], whose testimony was likewise dispensed with. The following stipulation of facts were agreed to by the parties: (a) he, together with Barangay Tanod Eduardo Maglente prepared a Sinumpaang Salaysay and affixed their signatures thereon; and (b) he has no personal knowledge of the alleged facts and circumstances surrounding the commission of the offense.

Police Chief Inspector Jesille Cui Baluyot[16], is the medico-legal officer assigned at the PNP Crime Laboratory, Camp Crame, Quezon City who conducted a vaginal and anal examination on the private complainant pursuant to the request of PNP Las Piñas City. She also prepared a medical report on the said examinations conducted.

PO2 Jill Capistrano, whose testimony was dispensed with and the parties instead agreed to stipulate on the following: (a) she is a police officer presently assigned at the Las Piñas Children and Women's Desk; (b) on 1 July 2009, she conducted an investigation relative to this case and reduced the same into writing; (c) she prepared an Investigation Report dated 1 July 2009; and (d) she has no personal knowledge of the alleged incident.

Lastly, AAA was presented to testify. Her initial direct testimony, however, was stricken off the records for her failure to appear for the continuation of her direct examination. The prosecution formally offered[17] as evidence the following documents: (1) Sinumpaang Salaysay[18] of AAA[19] and BBB[20]; (2) Sinumpaang Salaysay[21] of Daniel San Juan and Eduardo Maglente; (3) Initial Medico-Legal Report[22]; (4) Investigation Report[23] of PO2 Jill Capistrano; and (5) Request for Anal and Genital Medico Legal Examination[24].

In an Order[25] dated 8 March 2011 issued by the trial court, it held that with the exception of the Sinumpaang Salaysay of AAA and BBB for not being properly identified, all other pieces of documentary evidence of the prosecution are admitted.[26]

On 23 March 2011, the defense filed a Motion for Leave of Court to File Demurrer to Evidence[27] attached thereto was the Demurrer to Evidence[28] which was later denied by the trial court in its Order[29] dated 9 May 2011 and ruled that -

X X X X X X X X

It should be noted that a criminal case, once it is filed in court, the real offended party therein is the State. For that reason, criminal cases are captioned as “People of the Philippines vs. X”. The interest of the private complainant or the private offended party is limited to the civil liability. Private offended party is entitled to

intervene in its prosecution in cases where the civil action is impliedly instituted therein. Thus, in the prosecution of criminal cases, the complainant's role is limited to that of a witness for the prosecution.

The corroboration of the testimonies of the arresting officers, medico-legal officer and the investigating officer here, are clearly sufficient to convict the accused. Their testimonies disclosed that the accused committed the crimes charged. They constituted the chain that could lead to a fair and reasonable conclusion that the accused had sexual intercourse with the private complainant. More so, they have no improper motive in testifying against the accused and they have no beneficial interest therein.

Considering that the prosecution was able to substantiate the allegations in the information, it is up to the defense to disprove them. The burden of proof is now shifted to them.

Thereafter, the defense filed a Motion to Submit Case for Resolution[30] which was granted by the trial court in its 14 July 2014 Order[31]. Thus, the case was submitted for decision.

On 9 September 2011, the trial court promulgated the questioned Decision. The dispositive portion of the same decision states:

“WHEREFORE, accused URCESIO RIVAS y HUERTA @ “Robert” is hereby declared GUILTY BEYOND REASONABLE DOUBT for two (2) counts of violation of Sec. 5 (b) Art. III of R.A. 7610 docketed as Criminal Cases Nos. 09-0775 and 09-0776 and is hereby SENTENCED to suffer the penalty of imprisonment of SIX (6) YEARS and ONE (1) DAY of prision mayor, as minimum, to FIFTEEN (15) YEARS, SIX (6) MONTHS and TWENTY (20) DAYS of reclusion temporal as maximum for each count and to pay AAA, in the amount of FIFTY THOUSAND PESOS (P50,000.00) as civil indemnity; FIFTY THOUSAND PESOS (P50,000.00) as moral damages; and THIRTY THOUSAND PESOS (P30,000.00), as exemplary damages, for each count.

SO ORDERED.”

Aggrieved by the decision of the trial court, the accusedappellant is now before this Court interposing this appeal and assigning the following errors[32]:

I.

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSEDAPPELLANT DESPITE THE PROSECUTION'S FAILURE TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.

II.

THE TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY UNDER SECTION (5), ARTICLE III OF R.A. NO. 7610.

THIS COURT’S RULING

The appeal is meritorious.

To begin with, the Bill of Rights under Article III of the 1987 Constitution clearly guarantees the right of an accused to be presumed innocent until proven guilty. Section 14(2) thereof states – In all criminal prosecutions, the accused shall be presumed innocent until contrary is proved, x x x

Once again this Court finds occasion to reiterate this most echoed constitutional guarantee in criminal prosecutions.[33] To overcome the presumption of innocence and arrive at a finding of guilt, the prosecution is duty bound to establish with moral certainty the elemental acts constituting the offense.

Moreover, Section 2 of Rule 133 which states -

SEC. 2. Proof beyond reasonable doubt. - In a criminal case, the accused is entitled to an acquittal, unless his guilt is shown beyond reasonable doubt. Proof beyond reasonable doubt does not mean such a degree of proof as, excluding possibility of error, produces absolute certainty. Moral certainty only is required, or that degree of proof which produces conviction in an unprejudiced mind.

Along side this rule is Section 1 of Rule 131 of the Rules of Court expressly states -

SECTION 1. Burden of proof. - Burden of proof is the duty of a party to present evidence on the facts in issue necessary to establish his claim or defense by the amount of evidence required by law.

The overriding consideration in criminal cases is not whether accused-appellant is completely innocent, but rather whether the quantum of evidence necessary to prove his guilt was sufficiently met.[34] The constitutional right to be presumed innocent until proven guilty can be overcome only by proof beyond reasonable doubt. In fact, unless the prosecution discharges this burden, the accused need not even offer evidence in his behalf.[35]

A thorough examination of the records, stenographic notes of the testimonies of witnesses and trial court proceedings, Orders and the challenged Decision of the trial court reveals that no sufficient evidence was presented and formally offered by the prosecution for the conviction of herein accused-appellant. Thus, this Court greatly begs to disagree with the findings of fact and ruling of the trial court.

At the outset, accused-appellant was charged for violation of Section 5(b) of RA 7610 which provides -

Section 5. Child Prostitution and Other Sexual Abuse. - Children, whether male or female, who for money, profit, or any other consideration or due to the coercion or influence of any adult, syndicate or group, indulge in sexual intercourse or lascivious conduct, are deemed to be children exploited in prostitution and other sexual abuse.

The penalty of reclusion temporal in its medium period to reclusion perpetua shall be imposed upon the following:

x x x x x x x x

(b) Those who commit the act of sexual intercourse of lascivious conduct with a child exploited in prostitution or subject to other sexual abuse; Provided, That when the victim is under twelve (12) years of age, the perpetrators shall be prosecuted under Article 335, paragraph 3, for rape and Article 336 of Act No. 3815, as amended, the Revised Penal Code, for rape or lascivious conduct, as the case may be: Provided, That the penalty for lascivious conduct when the victim is under twelve (12) years of age shall be reclusion temporal in its medium period; x x x

The elements of sexual abuse under Section 5, Article III of Republic Act No. 7610 are as follows:

- The accused commits the act of sexual intercourse or lascivious conduct.
- The said act is performed with a child exploited in prostitution or subjected to sexual abuse.
- The child, whether male or female, is below 18 years of age.[36]

Notably, there is no evidence to prove that accused-appellant committed the act of sexual intercourse.

First. The prosecution formally offered the Initial Medico-Legal Report which glaringly stated -

“FINDINGS:

HYMEN: No laceration, no erythema, no congestion.

Anus: Unremarkable.

CONCLUSION: No evident injury/injuries noted at the time of examination.”

These findings were further confirmed by Police Inspector Jesille Cui Baluyot during her presentation on the stand.[37] Thus, this cannot be considered in concluding that there was a sexual intercourse between the accused-appellant and alleged victim.

Second. The alleged victim AAA failed to testify before the trial court. Consequently, she also failed to elucidate on the sexual violation allegedly committed by the accused-appellant against her.[38] Thus, the trial court had no opportunity to observe the demeanor of AAA and judge her credibility as a witness.

Third. The Sinumpaang Salaysay of AAA and BBB was not properly identified during the trial thus, the same was not admitted by the trial court as evidence as clearly held in its 8 March 2011 Order[39].

Fourth. The Sexual Crime (Protocol) written by CCC[40] and signed by AAA[41] was never identified in court. Neither was it formally offered by the prosecution. Section 34 of Rule 132 of the Rules of Court clearly states that “The court shall consider no evidence which has not been formally offered. The purpose for which the evidence is offered must be specified.” Accordingly, this should not have been considered by the trial court in resolving the case against herein accused-appellant.

Further, it bears emphasis that this piece of document was written by CCC[42], father of the alleged victim[43], and was merely signed by AAA. The trial court had no opportunity to clarify as to the truth of the statements written in the same document due to AAA's failure to testify. The defense was deprived the opportunity to cross-examine AAA as to the contents of the document.

Fifth. All witnesses had no personal knowledge on the alleged incident. This Court concurs with the defense that their testimonies were insufficient to prove the allegations of sexual violations against the accused-appellant, as they were all witnesses after the alleged incident.[44] To reiterate, PO2 Capistrano merely accomplished the investigation report; Police Chief Inspector Baluyot physically examined the alleged victim but found no conclusive proof of molestation; Barangay Tanods Maglente and San Juan who arrested accused-appellant also had no personal knowledge of the alleged sexual violation as they merely acted on the information provided by BBB.[45]

This Court is not convinced by the evidence presented by the prosecution that all the elements are present in the case under consideration. In fact, none of the elements was established by the prosecution, not even the age of AAA. It must be stressed that the gravamen of rape is sexual congress with a woman by force and without consent.[46] Thus, the failure to prove the same is fatal in the prosecution of the accused-appellant for the same crime.

On this score, it is no longer necessary to discuss at length the other matters raised by appellant. Since the prosecution failed to prove beyond reasonable doubt all the elements of the crime charged, this Court is constrained to absolve accused-appellant of the charges against him pursuant to his constitutional right to be presumed innocent.[47]

WHEREFORE, premises considered, the assailed Decision is hereby REVERSED and SET ASIDE. Herein accused-appellant is hereby ACQUITTED from both charges of Violation of Section 5(b), Republic Act No. 7610.

The Director of the National Bureau of Penitentiary is ordered to cause the immediate release of accused-appellant, unless he is being lawfully held for any other cause.

SO ORDERED.

Salazar-Fernando (Acting Chairperson) and Bruselas, Jr., JJ., concur.

[1] Records, pp. 173-179.

[2] Records, p. 1.

[3] Records, p. 49.

[4] Records, p. 68.

[5] Records, p. 18.

[6] Records, p. 75.

[7] Records, p. 76.

[8] Records, pp. 35-37.

[9] Records, pp. 93 and 100.

[10] Pursuant to Republic Act No. 9262, otherwise known as the Anti-Violence Against Women and Children Act of 2004, and its implementing rules, the real names of the victim, as well as those of their immediate family or household members, are withheld and fictitious initials instead are used to represent them to protect their privacy. Thus, the real name of the victim is hereby changed into AAA, her brother's with BBB, and her father's with CCC.

[11] Ibid.

[12] Records, p. 100.

[13] Supra, note 10.

[14] Ibid.

[15] Records, p. 101

[16] TSN, 17 June 2010.

[17] Records, p. 134.

[18] Records, p. 6.

[19] Supra, note 10.

[20] Ibid.

[21] Records, p. 8.

[22] Records, p. 11.

[23] Records, p. 7.

[24] Records, p. 10.

[25] Records, p. 138.

[26] Ibid.

[27] Records, pp. 139-140.

[28] Records, pp. 141-143.

[29] Records, pp. 149-152.

[30] Records, pp. 153-154.

[31] Records, p. 155.

[32] Rollo, p. 40.

[33] People vs. Suan, G.R. No. 184546, February 22, 2010.

[34] People vs. Nazareno, G.R. NO. 174771, September 11, 2007.

[35] People vs. Nazareno, G.R. NO. 174771, September 11, 2007.

[36] People vs. Fragante, G.R. No. 182521, February 09, 2011.

[37] TSN, 17 June 2010, p. 6.

[38] Rollo, p. 46.

[39] Records, p. 138.

[40] Pursuant to Republic Act No. 9262, otherwise known as the Anti-Violence Against Women and Children Act of 2004, and its implementing rules, the real names of the victim, as well as those of their immediate family or household members, are withheld and fictitious initials instead are used to represent them to protect their privacy.

Thus, the real name of the victim is hereby changed into AAA, her brother's with BBB, and her father's with CCC.

[41] Ibid.

[42] Records, p. 112.

[43] Ibid.

[44] Rollo, p. 47.

[45] Ibid.

[46] People vs. Broca, G.R. No. 201447, January 09, 2013.

[47] People vs. Nazareno, G.R. NO. 174771, September 11, 2007.

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