

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, V. ARTURO BASISTER, JR. Y ASTILLERO, ACCUSED-APPELLANT.

Ponente: REYES-CARPIO, A., J.

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REYES-CARPIO, A., J.:

Before Us is an appeal filed by accused-appellant Arturo Basister Jr., which seeks to reverse and set aside the Joint Decision dated April 1, 2011[1] of the Regional Trial Court, Branch 55, Irosin, Sorsogon in Criminal Cases Nos. 1507 and 1508. The dispositive portion of the Joint Decision reads:

"WHEREFORE, premises considered, the court finds the accused ARTURO BASISTER JR. GUILTY beyond reasonable doubt in both Informations for Rape defined and penalized in Art. 266-A of the RPC as amended by RA 8353 in relation to Art. III, Section 5(b) of RA 7610 and sentence him to RECLUSION PERPETUA for each count of rape. The period of the detention is credited in his favor in accordance with Art. 29 RPC, to INDEMNIFY the victim of the sum P50,000.00 for each count or for a total of P100,000.00 as civil indemnity; to pay the sum of P50,000.00 for each count or for a total of P100,000.00 as moral damages plus P25,000.00 for each count or a total of P50,000.00 as exemplary damages.

SO ORDERED.[2]

THE FACTS

Accused-appellant was charged with two counts of rape under the following Informations:

"CRIMINAL CASE NO. 1507

That on or about the 6[th] day of February 2001, at about 10:00 o'clock in the morning, at Barangay Bolos, Municipality of Irosin, Province of Sorsogon, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd designs, by means of fraudulent machination, did then and there, willfully, unlawfully and feloniously, had sexual intercourse with [AAA],[3] a 14-year old girl, against her will and without her consent, to her damage and prejudice.

CONTRARY TO LAW."[4]

"CRIMINAL CASE NO. 1508

That sometime in the month of December 2000, at Barangay Bolos, Municipality of Irosin, Province of Sorsogon, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd designs, by means of fraudulent machination, did then and there, willfully, unlawfully and feloniously, had sexual intercourse with [BBB], a 13-year old girl, against her will and without her consent, to her damage and prejudice.

CONTRARY TO LAW."[5]

The respective evidence presented by the parties were summarized by the Public Attorney's Office (hereinafter

referred to as PAO) as follows:

"In the afternoon of December 3, 2000, private complainant [BBB], then thirteen (13) years old, was gathering firewood alone at the hills of Bolos, Irosin, Sorsogon, when the accused blocked her path and told her to proceed to a place where firewood are supposedly found. Unaware of the culprit's inten[t]ion, she proceeded towards the direction pointed by the accused. Upon reaching the place, the accused suddenly appeared in front of her, grabbed her shoulder and kissed her. She tried to resist and fought back but the accused punched her and succeeded in removing her short pants.

She was lying on the ground when the accused embraced her, kissed her and inserted his penis into her vagina. After raping her, the accused instructed the private complainant to put back her short pants. But before the accused left her, the latter handed to her Thirty Pesos (P30.00). Subsequently, she went home and kept her ordeal secret to herself. But when her friend, [AAA], was also raped by the same accused, she eventually revealed her ordeal. She narrated that one day, she asked [AAA] to accompany her to pick ferns at the hill of Bolos, Irosin, Sorsogon to be sold in the market. The accused appeared with a bolo and kept following them. [BBB] told [AAA] to go home, but the latter continued to harvest ferns. [AAA] also obliged accused's request to follow the latter to the hill tenanted by Talio. She followed Basister and [AAA], but she was spotted by the former. She was ordered to sit down to watch them engaging in sexual intercourse. She was afraid because the accused was holding a bolo while engaging in sexual intercourse with [AAA]. After satisfying his lustful desire, the accused left them with Thirty (P30.00) given [to] [AAA]. Later, she revealed the incident to her Tito and to her friends. x x x

In the morning of February 6, 2001, [AAA], together with her friend [BBB], went out to gather ferns at the hills of Boloso (sic), Irosin, Sorsogon, when the accused pursued them. The two (2) were caught and brought by the accused to the banana plantation. The accused undressed her and ordered her to lie on the ground while her friend [BBB] was sitting down watching the accused raping her. After consummating his lustful desire, the accused stood up and gave her Forty Pesos (P40.00) and left the place. She and her friend also left the place and went on separate ways. [BBB] revealed the rape incident to the barangay officials of Bolos, Irosin. x x x

Dr. RUNNEL JOHN REBUSTILLO is the Officer-In-Charge of Irosin District Hospital. He interviewed and examined [AAA]. In his external examination, the said patient showed no sign of hematoma and abrasion, but in her vagina there is a pinkish vaginal mucosa with whitish vaginal discharge. The hymen of the said patient is no longer intact and admits one finger. There is also a healed laceration at twelve (12) and six (6) o'clock positions found in the private parts of [AAA]. The result of the microscopic examination reveals that there are sperms inside the vaginal wall of the complaining minor. x x x

Barangay Chairman EMMY CATER heard the rape incident from her kagawads. She summoned the parents of the victims to the barangay office. In the course of the investigation, two (2) names cropped up allegedly involved in molesting the two (2) complaining minors. She also accompanied the private complainants to the police and assisted them in filing the appropriate criminal complaints against the accused. x x x

Social Welfare Officer, [CONSOLACION] PURTON, handled the reported rape incidents. She testified that the two (2) private complainants went to her office accompanied by the barangay chairman seeking assistance. She brought the victims to the police of Irosin for proper action. x x x"[6]

On the other hand, the PAO summarized accused-appellant's defense in this wise:

"ARTURO BASISTER insists that he did not rape [BBB] on December 3, 2000. He was attending to his store at that time. He submits that [BBB] charged him with the crime of rape because the latter was caught stealing money from his store. In fact, in the month of December 2000, he had no occasion to leave his house. x x x"[7]

On April 1, 2011, the trial court convicted accused-appellant of two counts of rape. Hence, this appeal, premised on the following errors:

I

THE TRIAL COURT GRAVELY ERRED WHEN IT FAILED TO TAKE NOTICE OF THE SERIOUS CONTRADICTIONS IN THE PROSECUTION WITNESSES TESTIMONIES.

II

THE TRIAL COURT ERRED WHEN IT FAILED TO TAKE INTO ACCOUNT EVERY CIRCUMSTANCE OR DOUBT FAVORING THE INNOCENCE OF THE ACCUSED-APPELLANT.

III

THE TRIAL COURT ERRED IN RULING THAT THE PROSECUTION WAS ABLE TO PROVE THE GUILT OF THE ACCUSED-APPELLANT BEYOND REASONABLE DOUBT.[8]

The PAO manifested that it would no longer file a Reply Brief. Thus, in Our Resolution dated April 23, 2014,[9] We deemed the case submitted for decision.

We now resolve.

It is settled that in rape cases, the credibility of the victim is always the single most important issue.[10] Otherwise stated, if the testimony of the victim passes the test of credibility, which means it is credible, natural, convincing, and consistent with human nature and the normal course of things, the accused may be convicted solely on that basis.[11]

On the other hand, when offended parties are young and immature girls from 12 to 16 years of age, courts are inclined to lend credence to their version of what transpired, considering not only their relative vulnerability, but also the public humiliation to which they would be exposed by a court trial, if their accusation were not true. Youth and immaturity are generally badges of truth and sincerity.[12]

Accused-appellant harps on the alleged inconsistencies in the statements of AAA as to her whereabouts on February 6, 2001. During her direct examination, AAA testified that at around 10:00 o'clock in the morning of February 6, 2001, she was "in the hill/mountain (bulod)" together with BBB.[13]

On the other hand, during her cross-examination, she stated that:

"Q: What time did your classes start in the morning?

A: 8:00 o'clock in the morning.

Q: And ends at what time?

A: 11:00 o'clock in the morning.

Q: On that particular school day you attended school, is it not?

A: Yes, sir.

Q: And you were in school during the period from 8:00 to 11:00 in the morning?

A: (No answer)."[14]

If at all, the inconsistencies are minor and do not put a dent on the credibility of AAA. To be sure, rape victims hardly retain in their memories the dates, number of times, and manner of their ravishment. For this reason, the exact time and date of the commission of the rape is not an essential element of the crime.[15]

In like manner, We do not see any reason to doubt the testimony of BBB. The alleged inconsistencies between the testimonies of AAA and BBB are more apparent than real. Victims are not expected to have an errorless account of what transpired. Inconsistencies in the testimony of prosecution witnesses with respect to minor details and collateral matters do not affect either the substance of their declaration, their veracity, or the weight of their testimony. Such minor flaws may even enhance the worth of a testimony, for they guard against memorized falsities.[16]

On the other hand, accused-appellant's claim that it was incredible for a victim to, after having been physically assaulted and raped, accept money and conceal her ordeal.

It is not an uncommon occurrence for young and innocent girls to conceal for a time the rape committed on them because of fear of public humiliation or simply because of lack of courage.

The Supreme Court, in fact, has taken judicial notice that most victims of sex crimes, especially Filipinos, are reluctant to reveal to the world their harrowing experience and prefer to bear the ignominy and the pain silently, rather than expose their shame.[17]

On the other hand, while We agree that it is "unnatural" for accused-appellant to invite BBB to watch the rape of AAA, it does not follow that the same could not be possibly done.

It is contrary to human nature and experience for those who undertake the commission of a crime to bring a spectator thereof since a criminal would certainly take steps to evade detection or discovery of his criminal act, to keep it from being witnessed or known by others who might later turn against him.[18]

However, We take note that BBB was earlier raped than AAA. The intention of accused-appellant is apparent. He wanted BBB to witness the rape to further intimidate BBB so she would not squeal her earlier ordeal. Or it could also be possible that he was merely playing as an exhibitionist or a pervert.

In any event, whatever may be the reason of the accused-appellant in having BBB witnessed the crime, what is important is the credibility of witnesses AAA and BBB, who testified in straightforward and candid manner and positively identified accused-appellant. The running case law is that positive identification of the accused will prevail over the defense of denial and alibi.[19]

IN FINE, We do not see any reversible error on the part of the trial court, which Joint Decision is supported by evidence and applicable jurisprudence.

WHEREFORE, the appeal is DENIED. The Joint Decision dated April 1, 2011 of the Regional Trial Court, Branch 55, Irosin, Sorsogon, in Criminal Case Nos. 1507 and 1508, is AFFIRMED.

SO ORDERED.

Tijam and Baltazar-Padilla, JJ., concur.

[1] Rollo, pp. 31-37

[2] Rollo, p. 37

[3] Pursuant to the landmark case of *People v. Cabalquinto*, G.R. No. 167693, September 19, 2006, the real name

and identity of the rape victim, is withheld and, instead, fictitious initials are used to represent her. Also, the personal circumstances of the victim or any other information tending to establish or compromise her identity, as well as those of her immediate family, are not disclosed in the Decision.

[4] Rollo, p. 12

[5] Rollo, p. 14

[6] Rollo, pp. 47-49

[7] Rollo, p. 49. Accused-appellant likewise claimed that he could not have committed the acts imputed to him as he, being a tricycle driver, plying the route Irosin-Bolos, he spends most of his time in the poblacion driving his tricycle.

[8] Rollo, p. 45

[9] Rollo, p. 114

[10] People v. Escoton, G.R. No. 183577, February 1, 2010

[11] People v. Ceballos, Jr., G.R. No. 169642, September 14, 2007

[12] People v. Condes, G.R. No. 187077, February 23, 2011

[13] TSN, May 12, 2003, pp. 3-5

[14] TSN, July 21, 2004, pp. 5-7

[15] People v. Carino, G.R. No. 131203, August 2, 2001

[16] People v. Nardo, G.R. No. 133888, March 1, 2001

[17] People v. Iluis, G.R. Nos. 135844-45, November 24, 2003

[18] People v. Sunga, G.R. No. 126029, March 27, 2003

[19] People v. Musa, G.R. No. 170472, July 3, 2009; People v. Abes, G.R. No. 138937, January 20, 2004; People v. Mendoza, G.R. No. 134004. December 15, 2000

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