

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JESSIE ESQUILON, ACCUSED-APPELLANT.

Ponente: DIMAAMPAO, J.

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DIMAAMPAO, J.:

Two Amended Informations indicting accused-appellant Jessie Esquilon (ESQUILON) for the crime of Rape were filed before the Regional Trial Court (RTC), Fifth Judicial Region, Irosin, Sorsogon, Branch 55, the inculpatory averments of which read as follows:

Criminal Case 1515:

“AMENDED INFORMATION

The undersigned Assistant Provincial Prosecutor accuses JESSIE ESQUILON of Barangay Hidhid, Matnog, Sorsogon, of the crime of RAPE, as defined and penalized under Article 266-A of the Revised Penal Code, as amended by RA 8353 in relation to Art. III, Sec. 5(b) of RA 7610, committed as follows:

That on or about the 15[th] day of April, 2001, at about 9:00 o'clock in the morning, at barangay Hidhid, muni-cipality of Matnog, province of Sorsogon, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd designs and by means of threat and/or fraudulent machination, did then and there, willfully, unlawfully and feloniously have sexual intercourse with AAA,[1] a thirteen (13) year old retardate against her will, knowing her to be such at the time of the commission of rape, to her damage and prejudice.

CONTRARY TO LAW.”[2]

Criminal Case 1516:

“AMENDED INFORMATION

The undersigned Assistant Provincial Prosecutor accuses JESSIE ESQUILON of Barangay Hidhid, Matnog, Sorsogon, of the crime of RAPE, as defined and penalized under Article 266-A of the Revised Penal Code, as amended by RA 8353 in relation to Art. III, Sec. 5(b) of RA 7610, committed as follows:

That on or about the 15[th] day of April, 2001, at about 10:00 o'clock in the morning, at barangay Hidhid, muni-cipality of Matnog, province of Sorsogon, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd designs and by means of threat and/or fraudulent machination, did then and there, willfully, unlawfully and feloniously have sexual intercourse with AAA, a thirteen (13) year old retardate against her will, knowing her to be such at the time of the commission of rape, to her damage and prejudice.

CONTRARY TO LAW.”[3]

Upon arraignment, ESQUILON pled not guilty[4] to the charges against him. During the pre-trial conference, the defense made the following admissions:

“xxx the identity of the accused and victim in both cases; the time and date of the incident in both cases; and the fact that they are neighbors. xxx”[5]

Thereafter, trial on the merits ensued.

The facts, as established by the prosecution,[6] are as follows:

AAA, is the niece of Ramon, the husband of Rosa. In March 2001, Rosa gave birth to her first child. She asked AAA's parents if the latter could stay with them in their house in Palale, Barangay Hidhid, Matnog, Sorsogon. AAA, who was then a thirteen-year old girl, eventually stayed with Rosa's family.

At around 8:00 o'clock in the morning of 15 April 2001, Rosa asked AAA to wash her baby's diapers at the well. Rosa likewise told her to take her bath there. After two hours, AAA returned to the house; Rosa asked why she came back late. At first, AAA did not reply. Rosa persisted in questioning her and so AAA narrated that when she was about to go home, ESQUILON invited her to go with him at the side of the well. Rosa then inquired about what AAA and ESQUILON were doing at the side of the well. Again, AAA did not reply but Rosa persevered with her inquisition.

Subsequently, Rosa noticed AAA clasping P9.00 in her hands. When Rosa asked where she got the money, AAA said that ESQUILON gave it to her. When Rosa asked why he gave her the money, AAA replied that he invited her to the side of the well where she was told to undress and lie down. AAA further recounted that ESQUILON raped her.

Ramon, who was in the kitchen, heard about what AAA divulged to Rosa regarding ESQUILON and what he did to her. Posthaste, Ramon went to the Barangay Captain of Hidhid who advised him to proceed to the Department of Social Welfare and Development (DSWD) of Matnog. Thereat, Ramon was advised to have AAA examined by a doctor.

Dr. Rossana Galeria (Dr. Galeria), the Municipal Health Officer of Matnog, examined AAA. The examination yielded the following results, viz:

“GENITALIA:

scanty pubic hair, no vaginal discharge noted, with vaginal bleeding (minimal in amount) and hymenal lacerations at 1, 6 and 11 o'clock positions corresponding to the face of the clock. Hymen is very thin and lacerations are healing.”[7]

Dr. Galeria further observed that despite AAA's age, she was acting like a child. Whence, Dr. Galeria recommended that AAA undergo a Psychological Analysis to determine her mental age.

In 2008, a series of psychological tests were administered on AAA. Dr. Imelda Escudra (Dr. Escudra) of the Children Protection Unit of the Bicol Medical Center conducted a Psychiatric Evaluation of AAA,[8] which strikingly revealed the following:

“Psychological Testing:

IQ = 36

Classification = Moderate Mental Retardation

Mental Age = 6 years old”[9]

Professing his innocence, ESQUILON denied the accusation against him. He avowed that he did not know AAA.

ESQUILON averred that he was a resident of Magallanes, Sorsogon and that he only went to Matnog to visit his

parents who were caretakers of parcels of land therein. On 15 April 2001, at the time of the alleged incident, he was not in Barangay Hidhid; rather, he just came from fishing in Magallanes and was on his way to Bulan.[10]

On 8 June 2010, the court a quo rendered a Decision,[11] the decretal portion of which reads:

“WHEREFORE, premises considered, accused' JESSIE ESQUILON'S GUILT having been established beyond reason-able doubt for one (1) count of RAPE, he is hereby sentenced as follows—

(a) In Criminal Case No. 1515, accused is sen-tenced to suffer the single indivisible penalty of RECLUSION PERPETUA for Simple Rape, defined and penalized in Article 266-A, par. 1 (d), in relation to Article III, Sec. 5 (b) of R.A. 7610; to indemnify the victim AAA in the amounts of Php50,000.00 as civil indemnity and another Php50,000.00 as moral damages, and to pay the costs.

(b) In Criminal Case No. 1516, accused is ACQUIT-TED of the crime as charged for insufficiency of evidence. Without pronouncement as to costs.

The period of detention already served by the accused during his preventive imprisonment shall be credited in the service of his sentence, pursuant to the provision of Article 29 of the Revised Penal Code, as amended.

SO ORDERED.”[12]

Expostulating with the foregoing Decision, ESQUILON (now, appellant) interposed the present Appeal asserting that—

THE COURT A QUO GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT OF RAPE IN CRIMINAL CASE NO. 1515 UNDER ART. 266-A, PAR. 1(D) IN RELATION TO ARTICLE III, SEC. 5(B) OF RA 7610, DESPITE THE PROSECUTION'S FAILURE TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.

We affirm the judgment of conviction albeit with modification.

First off, it bears emphasis that when it comes to the issue of credibility of the victim or the prosecution witnesses, the findings of the trial courts carry great weight and respect and, generally, the appellate courts will not overturn the said findings unless the trial court overlooked, misunderstood or misapplied some facts or circumstances of weight and substance which will alter the assailed decision or affect the result of the case. This is so because trial courts are in the best position to ascertain and measure the sincerity and spontaneity of witnesses through their actual observation of the witnesses' manner of testifying, their demeanor and behavior in court. Trial judges enjoy the advantage of observing the witness' deportment and manner of testifying, her “furtive glance, blush of conscious shame, hesitation, flippant or sneering tone, calmness, sigh, or the scant or full realization of an oath” — all of which are useful aids for an accurate determination of a witness' honesty and sincerity. Trial judges, therefore, can better determine if such witnesses are telling the truth, being in the ideal position to weigh conflicting testimonies. Again, unless certain facts of substance and value were overlooked which, if considered, might affect the result of the case, its assessment must be respected, for it had the opportunity to observe the conduct and demeanor of the witnesses while testifying and detect if they were lying.[13]

In the case at bench, We rule and so hold that the court a quo neither overlooked nor misinterpreted any fact or circumstance of significance. The court a quo's incisive obser-vation about AAA's deportment deserves Our imprimatur:

“The court observed, that notwithstanding the poor comprehension of the victim whose IQ was only 36 when she testified in court, which is equivalent to the mental age of a six-year old child although she was already 18 yrs. old at the time of her examination, the material substance of her testimony about the rape that happened to

her has remained constant. Despite her tendency to wander away from the main questions being propounded to her, she was able to narrate with clarity how the first rape was committed to her by the accused. Which version to the mind of the court is very credible when viewed from the point of view of an innocent child-like the herein victim. xxx”[14]

The foregoing reflection finds an evidentiary mooring in the opinion of an expert witness, Dr. Escuadra, who declared that AAA, a mental retardate, did not have the capacity of fabricating a story of defloration.[15] Indeed, despite her mental condition, AAA was able to narrate with clarity and consistency how she was ravished by appellant. Let us harken to her guileless and straightforward avowals—

“Q

AAA, do you know the accused in this case?

A

(witness is looking to somebody inside the courtroom.)

Q

If you know the person Jessie Esquillon, what did Jessie Esquillon do to you on April 15, 2001?

A

He undress (sic) me.

Q

Where did he undress you?

A

There at the spring (oroc).

Q

That spring is it situated in Hidhid, Matnog, Sorsogon?

A

There when I took a bath(,) sir.

Q

Is it near the residence of your Uncle Ramon Binalla and Rosa Binalla?

A

Yes.

Q

And what happened when accused Jessie Esquillon undress (sic) you at the spring near the house of your Uncle Ramon and Aunt Rosa Binalla?

A

We were both lying down.

Q

So you mean to say you are both lying down on the ground?

A

Yes.

Q And you were already undressed by the accused Jessie Esquillon?

A Yes.

Q How about Jessie Esquillon, was he also naked?

A He was the one who undress (sic) me.

Q

Then what happened when you were already lying down on the ground and you were already undress (sic), what happened next?

A

I just kept on taking a bath.

Q

Let me refresh your memory, you said that you and Jessie Esquillon were already lying down, correct?

A

Yes.

Q

And when you were already lying down, what did Jessie Esquillon do to you when you were already lying down?

A

That I must not report.

Q

You said that Jessie Esquillon told you not to report, why, what was Jessie Esquillon doing to you that you were not allowed to report?

A

That I must not report because I was just hit by my Uncle Ramon and my Aunty but I was not asking for money.

Q

Madam witness(,) when you and Jessie Esquillon were already lying down. May I use some medium(,) your honor. You said that you are already lying down the two of you, now for example this eyeglass case is you and these glasses is (sic) Jessie Esquillon, both of you are lying down.

Atty. Loilo

There was no testimony that the accused is on top.

Pros. Diaz

Q What was the position of you and Jessie Esquillon?

A I was invited..”[16]

x x x

x x x

“Q Ms. Witness, do you know Jessie Esquillon?

A

I do not know him.

Q

You said that you were raped, who raped you?

A

That man.

INTERPRETER

Witness pointing to a person in the gallery.

PROS. VILLAROYA

Q

That person you had just pointed, do you know his name?

A

I do not know his name.

Q

But you knew the face of the person who raped you?

A

Yes, sir.

Q

And if you knew the person who raped you(,) would you please point to him again if he is in Court?

A

Yes, sir.

COURT

You can allow her to go down and point to that person.

PROS. VILLAROYA

You want to go down and point to said person?

A Yes, sir.

INTERPRETER

Witness pointed to a person in the gallery wearing pink shirt . . .

ATTY. LOILO

Witness says pink, it is not pink, it's orange, Your Honor.

COURT

In prison uniform?

PROS. VILLAROYA

It is on record the mental capacity of the child.

COURT

Ask her again if he is the one.

PROS. VILLAROYA**Q**

Is that person you just pointed to a while ago the person who raped you?

A

Yes, sir.

Q

Madam witness, what did that person exactly do to you?

A

He was the one who pulled down my pantywear, and inserted his penis on the front portion of my body.

Q

Could you please tell us what is that front portion of your body where that person inserted his penis?

A

He was the one who removed my panty.

COURT

What is inside that panty?

A

My shorts, he was the one who undressed me.

COURT

In order not to confuse her, you ask her question and interpret it and the doctor will demonstrate so that she would be able to understand what you mean, otherwise we will not be able to get the concept.

PROS. VILLAROYA**Q**

Madam witness, you said that the accused removed your panty, my question now is after the accused removed your panty, did he insert his penis inside your vagina?

A

Yes, sir.

Q

And he made a pumping motion while his penis was inside your vagina?

A

Yes, sir, and I just kept on saying 'aday' (ouch) because it was painful.

Q

After that what did the accused do next?

A

After that he warned me not to report the incident to anyone.

Q

After that what happened next?

A

I did not ask for money, but he just gave me nine pesos.

Q

What did he tell you(,) if any(,) when he gave you P9.00?

A

He told me that I must not report.

Q

How many times did this person raped you(,) madam witness?

A

Twice.

Q

Your previous testimony was about the first rape?

A

Yes, sir.

Q

How about the second rape, how did it happen if you can still recall?

A

I was made to lie down[?].

Q

Where?

A

I was then taking a bath so I was nude. I was the only one taking a bath there.

Q

When you were made to lie down by the accused, what did you do next?

A

He gave me nine pesos.

Q

And after giving you P9.00(,) what happened next?

A

He left me and I continue(d) taking a bath.

Q

You are trying to say that the second time, he did not insert his penis in your vagina, correct?

A

Yes, sir.

PROS. VILLAROYA

That would be all, Your Honor.

CROSS EXAM BY ATTY. LOILO

Q

Madam witness, a while ago you pointed to a person in the gallery, and you said that he is the one who committed the alleged rape, why are you very sure that he is the person that abused you?

A

Because he is the one who removed my panty.

Q

Are you very sure of that(,) madam witness?

A

Yes, ma'am.

Q

How long have you known that person?

A

For a long time.

Q

When did you first meet him?

A

He was always there, he used my clothes as a cover and he was the one who inserted his penis on the front portion of my body.

Q

Before the alleged incident happened you already met the accused?

A

Yes, ma'am.

Q

You met him where?

A

There at the spring.

Q

Is he also a resident of that place?

A

Yes, ma'am.

Q

You have known him for a long time, madam witness, but you do not know his name?

A

I do not know him.

Q

What do you mean you do not know him?

A

Because I was just then taking a bath, I was in the nude.

Q

Do you know the residence of the accused before the alleged incident happened, madam witness?

A

Yes, ma'am, he was staying at the upper portion of our house.

Q

Is he your neighbor?

A

I do not know him.

Q

But you know where he is residing at that time?

A

In palate.

Q

Is he residing in the same house you were staying?

A

I was just requested by my aunt to wash the clothes of the infant.

Q

You said that the accused inserted his penis inside your vagina, do you know what a penis is?

A

He inserted it to the front portion of my abody. (sic)

Q

Could you please point to us(,) madam witness, where is that penis located?

COURT

Maybe we should request the Court Interpreter to stand infront (sic) and let the witness point out where is that penis located.

INTERPRETER

Witness pointing to the lower middle portion of the front body of the Court Interpreter.

COURT

Pointing to the direction of the penis.

ATTY. LOILO

Q

How about the vagina, madam witness, where is the vagina?

INTERPRETER

Witness pointing to the middle part of her body.

Q

Are you very sure(,) madam witness, that the accused inserted his penis inside your vagina?

A

Yes, and I was then shouting 'Aday' (Ouch) because it was painful.

Q

You said a while ago(,) madam witness, that on the second time the accused did not insert his penis inside your vagina?

A

Yes, sir.

Q

So the accused inserted his penis inside your vagina only once?

A

Yes, sir.

Q

You did not shout for help(,) madam witness(,) while the accused was inserting his penis inside your vagina?

A

Yes because he already got up and left.

Q

Is there anyone(,) madam witness(,) who instructed you to point to the accused as the one who raped you?

A

He was pulling my hand.

Q

Is there anyone who instructed you to pinpoint the accused as the one who allegedly raped you?

A

Yes, ma'am.

Q

Who is that person who instructed you(,) madam witness?

A

Jessie Esquillon.

Q

Do you know Ramon Binalla?

A

Yes, ma'am, he is my uncle, Papay Amon and Mamay Rosa hit me.

Q

Why did Pay Amon and May Rosa hit you?

A

They asked me who gave me that 9 pesos.

Q

What was your reply to them?

A

I told him, 'hayop ka', 'demonyo ka', instead of confronting him I was the one being punished.

Q

Did you tell your Papay Ramon who gave you the money?

A

Yes, ma'am.

Q

What did you say to your papay Amon?

A

I told him that I did not ask for money.

Q

Who gave you that money, madam witness?

A

Jessie Esquillon.

Q

Is he in Court?

A

Yes, ma'am.

Q

Please point to him again.

A

That one, who is sitting down.

COURT (To witness)

The one you pointed to a while ago?

A

Yes, sir, that one seated in that bench.

INTERPRETER

Witness pointing to a man in prison uniform whom the witness pointed to a while ago and answered to the name of Jessie Esquillon (sic).”[17] (Emphases Ours)

Moreover, AAA's testimony that appellant raped her was fortified by the results of the physical examination which Dr. Galeria conducted on her. This ineluctably bolstered her credibility. Well-ensconced is the rule that when the victim's testimony is corroborated by the physician's finding of penetration, there is sufficient foundation to conclude the existence of the essential requisites of carnal knowledge. Lacerations, whether healed or fresh, are the best physical evidence of forcible defloration.[18]

Taking a whack at his exculpation, appellant interposed the defenses of denial and alibi. Evidently, this cannot sustain his acquittal for rape. It is primal that both denial and alibi are inherently weak defenses which cannot prevail over the positive and credible testimony of the prosecution witness that the accused committed the crime. Thus, as between a categorical testimony which has a ring of truth on one hand, and a mere denial and alibi on the other, the former is generally held to prevail. For the defense of alibi to prosper, the appellant must prove that he was somewhere else when the offense was committed and that he was so far away that it was not possible for him to have been physically present at the place of the crime or at its immediate vicinity at the time of its commission.[19]

Here, AAA was able to forthrightly point to appellant when asked who defiled her. It makes no difference whether or not AAA knew the name of her assailant given that she was suffering from a mental condition.

Appellant asserted that at the time of the alleged ravishment, he was in Magallanes and on his way to Bulan. We find the assertion puny and implausible. The records reflect that the defense admitted that AAA and appellant were neighbors. Appellant's claim that he was in another place at the time of the alleged incident pales into insignificance when juxtaposed with the positive identification of AAA.

With the foregoing discourse, the court a quo unerringly convicted appellant of the crime of Rape pursuant to the provision of Paragraph 1(d), Article 266-A, which states:

“Article 266-A. Rape; When and How Committed. — Rape is committed —

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

xxx

xxx

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.”

Sans any aggravating or mitigating circumstance, the court a quo properly meted the penalty of reclusion perpetua. Likewise, it correctly directed the payment of civil indemnity as well as moral damages both in the amount of P50,000.00. However, in line with recent jurisprudence, We deem it proper to award exemplary damages in the amount of P30,000.00.[20] In addition, in conformity with current policy, all damages awarded shall earn interest at the rate of 6% per annum from date of finality of judgment until fully paid.[21]

WHEREFORE, the Decision dated 8 June 2010 of the Regional Trial Court, Fifth Judicial Region, Irosin, Sorsogon, Branch 55, in Criminal Case No. 1515, is hereby **AFFIRMED** with **MODIFICATION** in that accused-appellant JESSIE ESQUILON is **FURTHER ORDERED** to pay exemplary damages in the amount of P30,000.00 as well as interest on all damages awarded at the rate of 6% per annum from date of finality of judgment until fully paid.

SO ORDERED.

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

Ybañez and Manahan, JJ., concur.

[1] In accordance with the ruling of the Supreme Court in *People v. Cabalquinto*, 502 SCRA 419, 425-426 (19 September 2006).

[2] Original Record, Vol. 1, p. 24.

[3] *Id.*, Vol. II, p. 11.

[4] *Id.*, Vol. I, p. 28.

[5] *Id.*, p. 37.

[6] TSN, 25 October 2005, pp. 3-6; 24 October 2007, pp. 2-9; 23 January 2008, pp. 2-8; 25 June 2008, pp. 3-15; 22-26; 29 October 2008, pp. 2-9.

[7] Original Record, Vol. I, p. 10.

[8] *Id.*, pp. 215-216.

[9] *Id.*, p. 216.

[10] TSN, 27 May 2009, pp. 3-9.

[11] Original Record, Vol. I, pp. 286-304.

[12] Original Record, Vol. I, p 304.

[13] See *People v. Gahi*, G.R. No. 202976 (19 February 2014.) citing *People v. Amistoso*, 688 SCRA 376, 387-388 (9 January 2013).

[14] Original Record, Vol. I, p. 294.

[15] TSN, 25 June 2008, p. 20.

[16] TSN, 25 June 2008, pp. 23-26.

[17] TSN, 29 October 2008, pp. 2-9.

[18] *People v. Batula*, 686 SCRA 575, 586 (28 November 2012).

[19] See *People v. Piosang*, 697 SCRA 587, 596-597 (5 June 2013).

[20] See *People v. Manicat*, G.R. No. 295413 (2 December 2013).

[21] See *People v. Guillen*, G.R. No. 191756 (25 November 2013).

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