PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE VS. RICARDO CONSUL Y BAUSTISTA, ACCUSED-APPELLANT.

Ponente: VILLON, J.

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VILLON, J.:

Before us is an appeal[1] interposed by accused-appellant Ricardo Consul y Bautista (or "appellant") from the Judgment dated August 25, 2010[2] of the Regional Trial Court (RTC) of Quezon City, Branch 102[3], in Criminal Case No. Q-07-147159 for Rape, the dispositive portion of which reads as follows:

> "WHEREFORE, in view of the foregoing, judgment is hereby rendered finding the accused Ricardo Consul y Bautista, GUILTY beyond reasonable doubt of the crime of Rape penalized under Article 266-A of the Revised Penal Code.
>
> "Accordingly, said accused is hereby sentenced to suffer the penalty of Reclusion Perpetua and to indemnify private complainant AAA[4] the amounts of P75,000.00 as civil indemnity, P50,000.00 as moral damages and P25,000.00 as exemplary damages.
>
> "The period of detention is credited in the service of sentence.
>
> "SO ORDERED."[5]

The factual and procedural antecedents of the case are as follows:

Appellant stands charged for Rape defined and penalized under Article 266-A and Article 266-B of the Revised Penal Code (RPC), in Relation to Republic Act (R.A.) No. 7610, in an Information which reads as follows:

> "The undersigned upon prior sworn complaint of AAA assisted by her mother BBB accuses RICARDO CONSUL Y BAUTISTA of the crime of RAPE, committed as follows:
>
> "That on or about the 12[th] day of May 2007, in XXX, Philippines, the above-named accused, by means of force and intimidation, did, then and there willfully, unlawfully and feloniously commit an act of sexual assault upon said AAA, a minor, 10 years old, by then and there kissing her and thereafter have carnal knowledge with her, all against her will and without her consent, to the damage and prejudice of the said offended party.
>
> "CONTRARY TO LAW."[6]

Upon arraignment, appellant entered a plea of "not guilty"[7] to the accusation against him. On November 26, 2007, the pre-trial of this case was ordered closed and terminated,[8] thus, trial on the merits ensued.

The testimonies of three (3) witnesses for the prosecution, namely: AAA, BBB and Dr. Jesille Cui Baluyot, established the following relevant facts:

At around 2:00 o'clock in the afternoon of May 12, 2007, AAA, who was then ten (10) years old[9] was on her way to buy bread at the bakery, upon the instruction of BBB, her mother, when she heard appellant calling her. AAA approached appellant, who was then under the guava tree near the former's house. Appellant told AAA that he would give her P100.00 and teach her how to use illegal drugs. AAA declined appellant's invitation and

informed BBB about the incident when she got home.

BBB then told AAA to go and meet appellant in his house to tell him that she wanted to use drugs in order to entrap him. AAA then went to appellant's house located at YYY.[10] When AAA was inside appellant's house, the latter got a lighter and showed her an aluminum foil. Instead of teaching her how to use drugs, appellant undressed AAA, kissed her in the neck and inserted his penis into her private organ despite her resistance. Suddenly, somebody knocked at the door and appellant immediately put his short pants on and kept the aluminum foil. When appellant opened the door, he saw BBB together with the police officers who immediately apprehended and brought him to Police Station 8 where he was detained. AAA was brought to Camp Crame, Quezon City for medical examination.

AAA further revealed that it was not the first time that appellant molested her. Prior to the May 12, 2007 incident, appellant molested her for several times by inserting his finger into her private organ and ordering her to sit on his lap. She did not tell anybody, especially her parents, for fear that her father might get mad at her and for fear of appellant's retaliation.[11]

At the Philippine National Police (PNP) Crime Laboratory,[12] of Camp Crame, Quezon City, Dr. Baluyot, the Medico Legal Officer examined AAA. At the trial of this case, she testified that as stated in her Medico Legal Report No. R07-960,[13] there was no laceration noted in the hymen of AAA but there were fresh abrasions on both sides of the labia minora. With such results, she concluded that there was a blunt trauma in the area, possibly caused by a finger or an incidence of sexual abuse.[14]

Dr. Baluyot further testified on cross-examination that she did not know exactly what kind of blunt object which caused the abrasions. It may be produced by a continuous rubbing of the finger in the area or even scratching. It may likewise be intentionally caused by AAA herself.[15]

For the defense, only appellant testified. Professing innocence, appellant denied the charges and accusations against him. He testified as follows:

He and AAA's family were neighbors for almost three (3) months. He was then renting a house owned by AAA's relative. He had a good relationship with members of AAA's family and he would always lend them money when they needed to buy foods. He only left the place he was renting and transferred his residence to a place about one (1) kilometer away upon learning that AAA's family was involved in selling illegal drugs, for fear that he might be involved if they were caught by the police officers. Nevertheless, AAA would always visit him at his new residence to ask for money as instructed by her mother.

Appellant denied molesting AAA on May 12, 2007, claiming that he was inside his residence when AAA arrived to borrow money from him. He did not lend money anymore due to a prior misunderstanding with BBB regarding her previous debt that remained unpaid. He then told AAA to go home but the latter just stayed at his house while he was counting his money which he earned from selling balut. Thereafter, somebody knocked at the door and when he opened it, he saw BBB together with five (5) police officers. He was instantly arrested without any reason and was brought to Police Station 8 where he was detained. The police officers took his money amounting to P1,500.00. At around 5:00 o'clock in the afternoon, he was brought out of the police station by the policemen and accompanied him while collecting his receivables from selling balut. He was able to collect P3,000.00 which the policemen took, after which he was detained again. The police officers told him to raise P30,000.00 as a settlement for the crime of rape charged against him, which he refused.

Appellant further testified on cross-examination that days before the alleged rape incident, he had a misunderstanding with BBB regarding the latter's failure to pay her indebtedness to him. He did not mingle with

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AAA's family anymore. Appellant believed that it was BBB who fabricated the rape incident because she was mad at him[16]

After trial on the merits, the court a quo rendered the assailed judgment in the terms earlier set forth.

Hence, this appeal, appellant contending that:

I

THE COURT A QUO GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT DESPITE THE PROSECUTION'S FAILURE TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.

II

THE COURT A QUO GRAVELY ERRED IN GIVING WEIGHT AND CREDENCE TO THE PROSECUTION'S VERSION.

III

THE COURT A QUO GRAVELY ERRED IN DISREGARDING THE ACCUSED-APPELLANT'S DEFENSE.

The appeal is bereft of merit.

In reviewing rape cases, the Court had always been guided by three well-entrenched principles: (1) an accusation of rape can be made with facility and while the accusation is difficult to prove, it is even more difficult to disprove; (2) considering that in the nature of things, only two persons are usually involved in the crime of rape, the testimony of the complainant should be scrutinized with great caution; and (3) the evidence for the prosecution must stand or fall on its own merits and cannot be allowed to draw strength from the weakness of the evidence for the defense.[17]

Appellant raises doubt on the credibility of AAA's testimony, contending that her version of the incident is highly incredible to be worthy of belief.18 He claims that the alleged rape incident on May 12, 2007 was concocted, while the other four (4) alleged molestations committed by him prior to the said date were identical and incredibly uniform such that it is very likely that AAA's testimony was rehearsed and should not have been accorded full faith and credit by the court a quo.

We are not persuaded.

A careful review of the records show that AAA testified in a candid, straightforward and categorical manner. The following testimony supports this conclusion:

“Q:

At around 2:00 o'clock in the afternoon of May 12, 2007, do you remember where were you AAA?

A:

Yes sir.

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Q:

Where were you then?

A:

I was at home sir.

Q:

What were you doing?

A:

My mother instructed me to buy something.

Q:

To buy what?

A:

To buy bread sir.

Q:

Did you go to the bakery to buy bread?

A:

Yes sir.

Q:

Were you able to buy bread?

A:

Yes sir.

Q:

After you bought the bread, what did you do next?

A:

I heard that somebody was calling me sir.

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Q:

What did you do when you heard somebody was calling you?

A:

I approached the person sir.

Q:

And, would you know who was the person who called your name?

A:

Yes sir.

Q:

And who was this person?

A:

Kuya Carding sir.

Q:

And, who is this Kuya Carding?

A:

(witness is pointing to the accused)

Q:

Is Kuya Carding the same as Ricardo Consul?

A:

Yes sir.

Q:

When you approached Kuya Carding, where was Kuya Carding then?

A:

He was under the guava tree.

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Q:

And how far was this guava tree from your house?

A:

Just near our house sir.

Q:

Where is your house again?

A:

XXX.

Q:

And, what did Kuya Carding tell you when you approached him when he was under the guava tree?

A:

He told me that if I would go with him, he would give me P100.00.

Q:

What did you do when you heard him said that?

A:

I told him I do not like.

Q:

So, what did you do next, if any?

A:

I was about to go home when he called me again.

Q:

Okay, and what did Kuya Carding tell you, if any?

A:

He told me that he would teach me to use drugs.

Q:

So, what did you do when you heard that?

A:

I told him I do not like.

Q:

Then, what did you do next if any?

A:

I told him that I would be going home.

Q:

So, were you able to go home?

A:

Yes sir.

Q:

What happened after you went home?

A:

I told the incident to my mother sir.

Q:

And, what exactly did you tell your mother?

A:

That he would give me P100.00 when I would go with him.

Q:

What else did you tell your mother?

A:

And, he told me to go with him for a while and he would teach me to use drugs.

Q:

What else did you tell your mother?

A:

That I did not want to go with him sir.

Q:

What was the reaction of your mother?

A:

She told me to go with him.

Q:

And, what else did your mother tell you?

A:

That she would call a police.

Q:

So, after the advice of your mother to go with the accused, Ricardo Consul, what happened next?

A:

I went with him sir.

Q:

Where was he then?

A:

He was outside and calling me sir.

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Q:

Then, what did Ricardo Consul do, if any?

A:

None sir, we just walk together.

Q:

Where did you go?

A:

At his house sir.

Q:

And, where was his house located?

A:

At YYY sir.

Q:

Where is this YYY?

A:

In ZZZ.

Q:

ZZZ?

A:

Yes sir.

Q:

Did you reach the house of the accused?

A:

Yes sir.

Q:

What happened when you reached the house of the accused?

A:

He got a lighter sir.

Q:

What else did you do?

A:

He undressed me sir.

Q:

Then?

A:

He kissed me sir.

Q:

Where?

A:

In my neck sir.

Q:

After he kissed your neck, what happened next?

A:

He inserted his private part to mine.

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Q:

What do you mean by private part?

A:

His penis sir.

Q:

Inserted where?

A:

To mine sir.

Q:

After that, what happened next?

A:

'Pinipigilan ko siya' (I was preventing him)

Q:

While you were doing that, what happened next?

A:

Suddenly, somebody knocked the door.

Q:

What did Ricardo Consul or Kuya Carding do after there was somebody who knocked at the door?

A:

He put his shorts and kept the foil.

Q:

Then what happened next?

A:

My mother answered.

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Q:

Then?

A:

He opened the door.

Q:

Then, what happened next after that?

A:

He was apprehended.

Q:

What about you, where did you go, if any?

A:

I went with my mother.

Q:

Where did you go?

A:

At Police Station 8 sir.

Q:

After going at Police Station 8, what did you do next, if any?

A:

We went after him but he was not there, and according to them, he went somewhere else.

Q:

You said that Kuya Carding, on May 12, 2007, undressed you, inserted his penis to your vagina, was that the first incident?

A:

Yes, may isinalang po siya.

Q:

What do you mean by isinalang?

A:

The show of the foil sir.

Q:

AAA, what I was asking you was that the incident wherein Kuya Carding undressed you, was that the first incident or was there any other incident before that?

A:

There was a previous incident sir.

Q:

Do you recall when was that?

A:

Yes sir.

Q:

When was that?

A:

That was in April 2006.

Q:

More or less, how many times prior to May 12, 2007 that Ricardo did that to you?

A:

Four (4) times sir.

Q:

Can you describe to the court what did Ricardo Consul did to you during those four (4) incidents?

A:

He inserted his finger to my vagina sir.

Q:

What else did he do?

A:

And then, he asked me to sit on his lap.

Q:

Did you tell your mother or your father about the incident?

A:

No sir.

Q:

Why?

A:

Because i was afraid of my father sir.

Q:

You said on May 12 you went at the police station, after the Police Station, where did you go?

A: At Camp Crame sir.

Q: What did you do at Camp Crame?

A: I was examined sir.

xxx

xxx

xxx.

Q: How did you feel after what the accused had done to you?

A: I was sad sir."[19] (emphasis ours)

Even on cross-examination,[20] AAA was unequivocal and remained consistent on material points. Settled is the rule that when a rape victim's testimony is straightforward and candid, unshaken by rigid cross-examination and unflawed by inconsistencies or contradictions in its material points, the same must be given full faith and credence.[21] AAA's testimony cannot be doubted because the same was consistent with the medical findings[22] that the victim indeed showed signs of having been sexually molested. Dr. Baluyot explained her findings in the Medico Legal Report in this wise:

"Q:

Can you explain to the court again your findings as stated in the Final Medico Legal Report?

A:

The pertinent findings sir with my physical and genital examination: I did not see any physical injury; in the hymen, no laceration noted; in the labia minora, there were fresh abrasions on both sides so I concluded the blunt trauma to that area.

Q:

What could have caused the abrasion in the labia minora of the victim?

A:

These abrasions were caused by blunt object like finger, or I am more inclined with finger sir.

Q:

In other words madam witness, if a finger is inserted into the vagina of the victim, it does not necessary(sic) follow that the hymen of the victim is injured?

A:

It depends sir when the finger reached the area.

Q:

In this case, up to what portion the blunt object reached?

A:

In the labia minora sir.

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Q:

Only in the labia minora?

A:

Since the hymen is internally located covered by the labia majora sir.

xxx

xxx

xxx.

Q:

In your findings, does your findings follow that there was sexual abuse on the part of the private complainant in this case?

A:

It is possible sir."[23] (emphasis ours)

The absence of fresh lacerations does not negate sexual intercourse. In fact, rupture of the hymen is not essential as the mere introduction of the male organ in the labia majora of the victim's genitalia consummates the crime. In other words, what is required for a consummated crime of rape is the mere touching of the labia by the penis.[24]

And, in People vs. Manalili,[25] the Supreme Court held that:

> "With regard to the results of the medical examination, this Court holds that the absence of laceration and semen does not preclude the fact that rape has been committed. In the crime of rape, complete or full penetration of the complainant's private part is not at all necessary. Neither is the rupture of the hymen essential. What is fundamental is that the entry or at the very least the introduction of the male organ into the labia of the pudendum is proved. The mere introduction of the male organ into the labia majora of the complainant's vagina consummates the crime (People v. Balunsat, 626 SCRA 77). Likewise, the absence of semen in AAA's vaginal area would not preclude a finding of rape. The presence or absence of spermatozoa is immaterial because the presence of spermatozoa is not an element of rape. Moreover, it has been held that the absence of spermatozoa in the vagina could be due to a number of factors, such as the vertical drainage of the semen from the vagina, the acidity of the vagina or the washing of the vagina immediately after sexual intercourse."

It has been ruled that when the consistent and forthright testimony of a rape victim is consistent with medical findings, there is sufficient basis to warrant a conclusion that the essential requisites of carnal knowledge have been established.[26]

In People vs. Guiabao,[27] it was held that testimonies of rape victims who are young and of tender age are credible. The revelation of an innocent child whose chastity was abused deserves full credence. AAA, a minor child, gave a detailed account of the incident, hence, there is no reason to doubt her testimony.

Appellant's allegation that AAA filed a complaint for rape only because of BBB's persuasion by reason of the latter's indebtedness to him, does not deserve credence at all. It should be noted that if not for BBB, AAA would

not have the courage to go to appellant's house in order for the latter to get entrapped and arrested. After AAA revealed what appellant told her regarding the use of prohibited drugs and the previous sexual molestations, BBB immediately reported the matter to the police officers who entrapped and arrested appellant while in the act of committing the crime charged against him. It is a settled rule that no mother in her right mind would subject her child to the humiliation, disgrace and trauma attendant to the prosecution of rape cases, unless she was motivated by her desire to incarcerate the person for her child's defilement.[28] It should likewise be emphasized that no woman, as AAA in this case, would want to go through the humiliation of a rape trial unless she has actually been a victim and her motive is to seek and obtain justice.[29]

Appellant denied the charges and accusations against him. It is settled, however, that affirmative testimony is far weightier than a mere denial, especially when it comes from the mouth of a credible witness.[30]

Finding no reversible error committed by the court a quo, the denial of the instant appeal is inevitable. The appealed decision, however, should be modified in that appellant is further liable for interest of 6% per annum on all the civil damages.[31]

WHEREFORE, premises considered, the instant appeal is hereby DENIED. The assailed Judgment dated August 25, 2010 of the RTC of Quezon City, Branch 102 is hereby AFFIRMED with MODIFICATIONS in that appellant is further ordered to pay interest of 6% per annum on each of the amounts of civil damages reckoned from the finality of this decision.

SO ORDERED.

C E R T I F I C A T I O N

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.

Macalino, F.S., and [*]Dimagiba, L.R., JJ., concur.

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[*] Acting Junior Member per Office Order No. 60-14-RDS dated February 24, 2014.

[1] Rollo, pp. 29-46

[2] Records, pp. 142-147

[3] Hon. Ma. Lourdes A. Giron, Presiding Judge.

[4] In relation to the case of People of the Philippines vs. Cabalquinto, G.R. No. 167693, September 19, 2006, 502 SCRA 419, wherein the Supreme Court resolved to withhold the real name of the victims-survivors and to use fictitious initials instead to represent her in its decisions. Likewise, the personal circumstances of the victims-survivors or any other information tending to establish or compromise their identities, as well as those of their immediate family or household members, shall not be disclosed. The names of such victims, and of their immediate family members other than the accused, shall appear as “AAA,” “BBB,” “CCC,” and so on. Addresses shall appear as XXX as in Brgy. XXX, YYY and so on. The Supreme Court took note of the legal mandate on the outmost confidentiality of proceedings involving violence against women and children set forth in Section 29 of R.A. No. 7610, otherwise known as “Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act; Section 44 of R.A. No. 9262, otherwise known as “Anti-Violence Against Women and Their Children Act of 2004; and Section 40 of A.M. No. 04-10-11 SC, known as “Rule on Violence

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Against Women and Their Children" effective November 15, 2004.

[5] Records, p. 147

[6] Records, p. 1

[7] Records, p. 21

[8] Records, pp. 28-29

[9] Records, p. 10

[10] TSN, March 3, 2008, pp. 6-7

[11] TSN, June 4, 2008, pp. 3-19

[12] TSN, March 3, 2008, pp. 8-9

[13] Records, p. 8

[14] TSN, November 24, 2008, pp. 9-11

[15] Ibid., pp. 15-17

[16] TSN, February 22, 2010, pp. 3-12

[17] People vs. Novio, 404 SCRA 462

[18] Appellant's Brief, Rollo, p. 16.

[19] TSN, June 4, 2008, pp. 7-21

[20] TSN, October 6, 2008, pp. 2-11

[21] People vs. Manallo, 400 SCRA 129

[22] People vs Barcela, G.R. No. 179948, Dec. 8, 2010; Records, p. 119

[23] TSN, November 24, 2008, pp. 11-14

[24] People vs. Tablang, 604 SCRA 757

[25] G.R. No. 191253, August 28, 2013.

[26] People vs. Lopez, 602 SCRA 517 (2009)

[27] 217 SCRA 64; People vs. Bruca, 179 SCRA 64

[28] People vs. Lomerio, G.R. No. 129074, February 28, 2000

[29] People vs. Pastorete, 393 SCRA 45 [2002]

[30] People vs. Ramirez, 334 Phil. 305

[31] People vs. Sabadlab, G.R. No. 175924 dated March 14, 2012

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