

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ARIEL S. MENDOZA, ACCUSED-APPELLANT.

Ponente: GARCIA-FERNANDEZ, J.

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GARCIA-FERNANDEZ, J.:

This is an appeal from the decision dated December 9, 2010[1] issued by the Regional Trial Court of Iba, Zambales Branch 69 (RTC), finding accused-appellant Ariel S. Mendoza guilty of qualified rape under Articles 266-A and 266-B of the Revised Penal Code in further relation of Art. III, Section 5(B) of Republic Act 7610, otherwise known as “Special Protection of Children Against Abuse, Exploitation and Discrimination Act” (RA 7610), sentencing him to suffer the penalty of reclusion perpetua without eligibility of parole and payment of P75,000.00 as civil indemnity, P75,000.00 as moral damages and P25,000.00 as exemplary damages.

The factual antecedents are as follows:

Accused-appellant was charged in an Information dated February 10, 2010[2] which reads:

That sometime in between 2008 and 2009, in Brgy. Luna, Municipality of San Antonio, Province of Zambales, Philippines and within the jurisdiction of this Honorable Court, the said accused, with lewd design, through intimidation, did then and there willfully, unlawfully and feloniously insert his penis into the vagina and buttocks of his own daughter, five (5) year old AAA[3] against her will and consent, and which degraded and demeaned the latter of her intrinsic worth and dignity, to the damage and prejudice of said minor AAA.

Assisted by a counsel de officio, accused-appellant was arraigned on April 13, 2010 and he entered a plea of not guilty to the offense charged[4]. During preliminary conference on May 5, 2010, accused-appellant admitted that AAA is his daughter, as well as the existence and due execution of AAA's certificate of live birth.[5]

Evidence for the Prosecution

During her testimony, AAA identified and affirmed the Sinumpaang Salaysay that she executed on April 16, 2009[6]. In the salaysay, AAA narrated that the crime happened at her grandfather's house on the day her house was being demolished[7]. AAA said that while her grandfather was away, accused-appellant stripped her of all her clothes, told her to lie down, and inserted his penis inside her vagina and anus. When her grandfather returned, AAA dressed up, went out of the house and played with her dog. She later narrated the incident to her godmother, her auntie, and another person. To quote the salaysay:

3 TANONG

- AAA, marunong ka bang magsalita at bumasa ng salita o wikang Tagalog?

SAGOT

- Marunong lang pong magsalita ng Tagalog.

4 T

- AAA, bakit nandito kayo ni mama mo sa opisina ng pulis?

S

- Isusumbong ko po si Ninong Rolex at Papa ko.

5 T

- Bakit mo isusumbong is Papa mo?

S

- Kasi pinasok po niya yung 'TOTOY' niya sa 'PEPE' ko at saka sa 'PWET' ko.

6 T

- Paano ipinasok ng PAPA mo ang 'TOTOY' niya sa pepe mo?

S

- Diba ito yung 'TOTOY' niya, ito yung 'PEPE' ko, yun ipinasok niya?
(Victim demonstrate thru her hands how his [sic] father sexually abused her)

7 T

- Maalala mo ba kong anu ang itsura ng 'TOTOY' ni PAPA mo?

S

- May balbas at medyo mahaba.

8 T

- Anung kulay ng balbas ng 'TOTOY' ni PAPA mo?

S

- Kulay itim, katulad ng buhok. (Victim hold her hair)

9 T

- Anung naramdaman mo noong pinasok ni PAPA mo ang 'TOTOY' niya sa pepe mo?

S

- Masakit po at saka mahapdi.

10 T

- Pagkatapos ipinasok ng PAPA mo ang 'TOTOY' niya sa 'PEPE' mo, anung ginawa mo?

S

- Nagsumbong po ako kay BBB, ninang at tita[8] .

11 T

- Maalala mo ba kung kailan ipinasok ni PAPA mo ang kanyang 'TOTOY' sa 'PEPE' mo'?

S

- Noong giniba yong bahay namin, umaga po sa loob ng bahay ni LOLO GORYO

12 T

- Alam mo ba kung anung pangalan ni PAPA?

S

- Opo, ARIEL MENDOZA, pero ang palayaw po niya ay “DAGA”

13 T

- Maari mo bang ikuwento sa amin kong anu ang ginawa ni PAPA mo sa iyo?

S

- Hinubad po ni PAPA ko ang short ko at panty ko at saka damit ko, tapos pinadapa niya ako, tapos ipinasok niya ang 'TOTOY' niya sa 'PEPE' at saka sa PUWET ko tapos po dumating si LOLO ko, nagbihis na po ako tapos lumabas na po ako, at si PAPA ay naiwan sa loob ng bahay ni LOLO, tapos naglaro po ako kasama ko ang aso ko po.

AAA's mother, CCC[9], testified that when she learned about what happened to AAA, she sought the assistance of the barangay chairman of Bancal, Meycauyan, Bulacan to proceed to Zambales. Later, the Department of Social Welfare and Development (DSWD) had AAA go for a medical examination. On cross-examination, CCC stated that she was in Bulacan because she had a fight with accused-appellant but did not leave her children under the latter's custody. CCC likewise denied having forced AAA to file the instant case out of anger towards accused-appellant.

The prosecution offered the following documents as exhibits: 1) Sinumpaang Salaysay of AAA (Exh. “A” with submarkings); 2) Sinumpaang Salaysay of CCC (Exh. “B” with submarkings); 3) Joint Affidavit of Arrest of PO1 Walter Primero and PO3 John C. Lazaro (Exh. “C”); 4) Certificate of Live Birth of AAA (Exh. “D” with submarkings) and 5) Initial Medico-Legal Report (Exh. “E”).[10] All were admitted by the RTC[11].

Evidence for the Defense

Accused-appellant denied the charge against him and claims that he was charged with rape because CCC is living with another man in Bulacan and CCC coached AAA to prosecute him. He alleges that AAA told the barangay officials that it was his compadre, Rolex Labre, who raped his daughter while Rolex was living with them. Accused-appellant claims that he came to know about the incident when the barangay summoned him after AAA reported the incident and he was the one who told the barangay officials where Rolex Labre resides.

The defense was supposed to present Gregorio Mendoza as its second witness but was dispensed with then the defense stated that Mendoza's testimony would only corroborate with the testimony of the accused-appellant.

Only accused-appellant's affidavit (Exh. “1” with submarkings) was offered by the defense as its documentary evidence[12]. The RTC resolved to admit the affidavit in evidence[13].

On December 9, 2010, the RTC promulgated the decision[14] finding accused-appellant guilty of qualified rape under Articles 266-A and 266-B of the Revised Penal Code in further relation of Art. III, Section 5(B) of Republic Act 7610, stating that the evidence adduced by the prosecution proved that AAA was sexually molested by the accused-appellant, to quote:

“From the foregoing, the court is convinced that minor victim was raped by her own father-accused. The victim testified in a straightforward and clear manner. She positively identified her own father as the author of the despicable act committed against her.

Rape victims who are of tender age and immature, such that of herein minor-victim, especially of tender age, would not concoct a story of defloration, allow an examination of her private part and thereafter subject themselves to a public trial, if they were not motivated by the desire to obtain justice for the wrong committed against them. Youth and immaturity are generally badges of truth.

For his defense, accused Mendoza claimed innocence. He denied the charges against him and alleged that her [sic] daughter-complainant pointed to a certain Felix Labre, his “compadre”, as the person who molested his daughter and that his wife wanted him to be jailed because she is living-in with another man in Bulacan.

Accused failed to substantiate his denial by clear and convincing proof. Having been positively and unmistakably identified by her [sic] own daughter (victim), accused's defense of denial cannot prosper. It is an established rule that a mere denial without any strong evidence to support it, cannot overcome the positive declaration by the victim of the identity and involvement of the accused in the crime attributed to him (People vs. Jaime Jimenez, 24 April 2009).

Further, the court is not also convinced that the victim would charge accused of such serious offense only because her mother wanted her father to be jailed. It is unthinkable that the victim would brazenly impute so serious a charge as rape against her own father if the said charge was not true.

xxx xxx xxx”

In this appeal, accused-appellant contends that the RTC gravely erred in finding him guilty beyond reasonable doubt of the crime charged; that AAA's narration of how she was raped did not sufficiently establish that she was raped by accused-appellant and that AAA could be easily influenced by CCC, who was already living with another man. Accused-appellant claims that CCC's testimony should be given any weight for being hearsay. Finally, accused-appellant alleges that the medico-legal report should be given scant consideration because the doctor who conducted the exam did not testify in court.

The appeal fails.

After careful review of the records, this Court finds no reason to doubt AAA's credibility, and accord great weight and respect to the findings of the trial that her testimony is consistent, candid, and straightforward. The legal doctrine that the assessment of the credibility of witnesses is left to the judgment of the trial court is well-established.[15] As held in the recent case of People vs. Bosi:

“Time and again, we have held that when at issue is the credibility of the victim, we give great weight to the trial court’s assessment. In fact, the trial court's finding of facts is even conclusive and binding, if not tainted with arbitrariness or oversight of some fact or circumstance of weight and influence. Our reason is that the trial court had the full opportunity to observe directly the witnesses’ deportment and manner of testifying. It is in a better position than the appellate court to properly evaluate testimonial evidence.”[16]

Accused-appellant's claim that AAA is influenced by her CCC cannot be sustained by this Court. It has been held that ill motive is not an element of the crime of rape and the attribution of ill motive in rape cases cannot overturn the well-established essential elements of the crime charged.[17]

Considering that AAA's testimony is credible and straightforward, this Court finds that the lack of someone testifying on the medical report is likewise of no consequence. As stated by the Supreme Court in People vs. Ferrer:

“This Court has repeatedly held that a medical examination of the victim is not indispensable in the prosecution for rape, and no law requires a medical examination for the successful prosecution thereof. The medical examination of the victim or the presentation of the medical certificate is not essential to prove the commission of rape as the testimony of the victim alone, if credible, is sufficient to convict the accused of the

crime. The medical examination of the victim as well as the medical certificate is merely corroborative in character.”[18] [Citations omitted.]

Having been born on May 17, 2003, according to her certificate of live birth, AAA was clearly under the age of eighteen when she was raped by accused-appellant, who admitted being her father during the preliminary conference and in his testimony.

In view of the foregoing, this Court affirms that accused-appellant is guilty beyond reasonable doubt of rape under Articles 266-A and 266-B of the Revised Penal Code in further relation of Art. III, Section 5(B) of Republic Act 7610.

According to the sixth paragraph of Article 266-B, the death penalty shall be imposed if the crime of rape is committed "when the victim is under eighteen (18) years of age and the offender is a parent, ascendant, stepparent, guardian, relative by consanguinity or affinity within the third civil degree, or the common-law spouse of the parent of the victim." However, since the imposition of the death penalty has been prohibited by Republic Act No. 9346, the death penalty imposed on accused-appellant is correctly reduced to reclusion perpetua, without eligibility for parole.[19]

This Court sustains the RTC’s award of civil indemnity to “AAA” in the amount of P75,000.00 in view of prevailing jurisprudence.²⁰ Moral damages is also correctly awarded to AAA in the amount P75,000.00 in view of recent jurisprudence.[21] While the RTC correctly imposed exemplary damages, which are given by way of public example and to protect the young from sexual abuse, this Court finds that the award must be increased from P25,000.00 to P30,000, consistent with relevant jurisprudence.[22]

WHEREFORE, the appeal is DENIED. The decision dated December 9, 2010 issued by the Regional Trial Court of Iba, Zambales Branch 69 , finding accused-appellant Ariel S. Mendoza guilty of qualified rape under Articles 266-A and 266-B of the Revised Penal Code in further relation of Art. III, Section 5(B) of Republic Act 7610 with AFFIRMED with MODIFICATION. The award of civil indemnity of P75,000 and moral damages of P75,000 is AFFIRMED. The award for exemplary damages is increased to P30,000.00. All damages awarded by this Court shall earn legal interest at the rate of 6% per annum from the date of finality of this decision until fully paid.[23]

SO ORDERED.

Tijam and Lopez., JJ., cocnur.

[1] Rollo, pp. 10-15.

[2] Records, pp. 2-3.

[3] Names and personal circumstances withheld, pursuant to Section 29, RA 7610, in relation to Section 40 & 44 of RA 9262 (The Anti-Violence Against Women and Their Children Act of 2004); *People vs. Melchor Cabalquinto*, G.R. No. 167693, September 19, 2006.

[4] Records, p. 22.

[5] Records, pp. 29-30.

[6] Records, pp. 62-63.

[7] Names and personal circumstances withheld, pursuant to Section 29, RA 7610, in relation to Section 40 & 44 of RA 9262 (The Anti-Violence Against Women and Their Children Act of 2004); *People vs. Melchor*

Cabalquinto, G.R. No. 167693, September 19, 2006.

[8] Names and personal circumstances of these persons are withheld, pursuant to Section 29, RA 7610, in relation to Section 40 & 44 of RA 9262 (The Anti-Violence Against Women and Their Children Act of 2004); People vs. Melchor Cabalquinto, G.R. No. 167693, September 19, 2006.

[9] Names and personal circumstances withheld, pursuant to Section 29, RA 7610, in relation to Section 40 & 44 of RA 9262 (The Anti-Violence Against Women and Their Children Act of 2004); People vs. Melchor Cabalquinto, G.R. No. 167693, September 19, 2006.

[10] Records, p. 60.

[11] Records, p. 71.

[12] Records, p. 109.

[13] Records, p. 110.

[14] Supra note 1.

[15] People v. Barde, G.R. No. 183094, 22 September 2010, citing People v. Lalongisip, G.R. No. 188331, 16 June 2010.

[16] People v. Bosi, G.R. No.193665, June 25, 2012.

[17] G.R. No. 181083, January 21, 2010.

[18] G.R. No. 142662, August 14, 2001.

[19] People v. Baun, G.R. No. 167503, August 20, 2008, 562 SCRA 584, 602.

[20] People v. Tormis, G.R. No. 183456, December 18, 2008, 574 SCRA 903, 919.

[21] People v. Rocabo, G.R. No. 193482, March 2, 2011.

[22] People v. Ortega, G.R. No. 186235, January 25, 2012.

[23] People of the Philippines vs. Renato dela Cruz, G.R. No. 192820, June 4, 2014.

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