

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JAYSON PAJE Y MANUEL, ACCUSED-APPELLANT.

CA-G.R. CR NO. 31750, August 27, 2010

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Court of Appeals

On appeal is the April 21, 2008 Decision (Records, pp. 123-129) of the Regional Trial Court of Muntinlupa City, Branch 207 convicting herein appellant Jayson Paje y Manuel, for the crime of Rape under Article 266-A, par. 1(d) of the Revised Penal Code, as amended by R.A. 8353 in relation to R.A. 7610.

The facts:

On September 29, 2003, the accused Jayson Paje, a child in conflict of the law (CICL), was charged with the said crime in an Information, the accusatory portion of which reads:

Acting Junior Member per Office Order No. 233-10-RSF dated August 20, 2010.

"That on or about the 27[th] day of September, 2004, City of Muntinlupa, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and feloniously have carnal knowledge of [AAA][2] a 5-year old minor, against the will and consent of said [AAA]

CONTRARY TO LAW with the qualifying aggravating circumstance that the offended party, [AAA] is a child below seven (7) years old." (Records p.1)

When arraigned on October 20, 2004, appellant pleaded not guilty to the charge.

During the trial, the prosecution presented the following witnesses: 1) the minor victim, AAA; 2) the mother of the victim, BBB. Their testimonies, woven together, bear the following:

Herein private complainant, AAA, was born on October 17, 1998. (Record p. 7) In the morning of September 27, 2004, BBB, a resident of Sucat, Muntinlupa City, left for her work as a manager of a canteen. (TSN, February 9, 2005, p. 5) She left AAA in the custody of her helper at home, Mario Cubero.

Sometime during the day, as her house help was cleaning the comfort room, AAA was able to leave the house unattended. (TSN, February 9, 2005, p. 14-16) The accused, who was their neighbor, invited AAA at the back of his house where he kissed her cheek and inserted his penis inside her vagina. (TSN, January 26, 2005, pp. 4-5)

When AAA's parents arrived home in the evening, they saw AAA looking at her vagina and told them that it was painful. Having seen the reddening of the same, BBB inquired as to what had happened. Then the private complainant disclosed that the accused abused and molested her. (TSN, February 9, 2005, pp. 6-7)

At around 11:30 o'clock in the evening of the same day, AAA parent's reported the incident to the Muntinlupa City police. They were investigated by the police officers. Thereafter, the police officers arrested the accused-appellant. (Records p.3)

On the other hand, accused-appellant denied having raped AAA. He claimed that it was impossible for him to have committed the crime charged. He was with his uncle from 10:00 o'clock in the morning until 6:00 o'clock in

the evening driving his tricycle.

On April 21, 2008, the RTC rendered the assailed Decision convicting accused-appellant of the crimes charged, the dispositive portion of which states:

"Wherefore, CICL Jayson Paje y Manuel is found guilty beyond reasonable doubt of the crime of rape defined under Article 266-A, paragraph 1 (d), and is sentenced to an indeterminate imprisonment of six (6) years and one (1) day of prison mayor in its minimum as the minimum period, to twelve years and one (1) day of reclusion temporal in its minimum period as the maximum period, and is adjudged to pay the private complainant the amount of fifty thousand pesos (P50,000.00) as and for civil indemnity, and fifty thousand (P50,000) as and for moral damages, without subsidiary imprisonment in case of insolvency. However, his parents are subsidiarily liable.

The period of his preventive imprisonment shall be credited in his favor in accordance with Section 41 of Republic Act No. 9344. The benefits provided to the CICL by said Act and related laws, rules and regulations shall be applicable in his favor." (Rollo p. 38)

Hence, this appeal with the following assignment of errors.

I

THE COURT A QUO GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT OF THE CRIME CHARGED.

II

ASSUMING THAT THE ACCUSED-APPELLANT COMMITTED THE ACT COMPLAINED OF, THE COURT A QUO GRAVELY ERRED IN CONVICTING HIM OF THE CRIME OF CONSUMMATED RAPE.

Accused-appellant claimed that there are material inconsistencies between the testimonies of AAA and BBB with regard to the time of the rape. AAA claimed that it was nighttime while BBB averred that the incident, as relayed by her daughter, occurred in the morning. There is also material inconsistency in the testimony of the private complainant and the physical evidence. Appellant claimed that according to AAA there was insertion of the penis in her vagina while the medical examination conducted revealed that there was no evident injury in AAA's hymen. (Rollo pp. 55-56)

The appeal is without merit.

There are three guiding principles in the review of rape cases, to wit: (1) an accusation of rape can be made with facility and while the accusation is difficult to prove, it is even more difficult for the person accused, though innocent, to disprove; (2) considering the intrinsic nature of the crime, only two persons being usually involved, 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 merit, and cannot be allowed to draw strength from the weakness of the evidence for the defense. (People v. Serrano, 353 SCRA 161, 169 [2001]) Accordingly, in resolving rape cases, primordial consideration is given to the credibility of the victim's testimony. (People v. Turco, Jr., 392 Phil. 498, 507 [2000]) If the testimony of the victim is credible, natural, convincing and consistent with human nature, and the normal course of things, the accused may be convicted solely on the victim's testimony. (People v. Sanchez, 426 Phil. 19, 29 [2002])

It is likewise a settled principle that the trial court's evaluation of the credibility of witnesses is viewed as correct and entitled to the highest respect because it is more competent to so conclude, having had the opportunity to observe the witnesses' demeanor and deportment on the stand, and the manner in which they gave their testimony. Unless the trial judge plainly overlooked certain facts of substance and value which, if considered, might affect

the result of the case, his assessment on credibility must be respected. (*People v. Serrano*, 353 SCRA 169-171 [2001])

In challenging the credibility of AAA's accusations against him, accused-appellant points out the confusion in her testimony as to the exact time of the alleged rape to show that AAA was concocting the charges.

The date or time of the commission of rape is not a material ingredient of the said crime because the gravamen of rape is carnal knowledge of a woman through force and intimidation. The precise time when the rape took place has no substantial bearing on its commission. Failure to recall the exact date or time of the crime, however, is not an indication of false testimony, for even discrepancies regarding exact dates of rapes are inconsequential and immaterial and cannot discredit the credibility of the victim as a witness. (*People v. Lilo*, 396 SCRA 674, 680 [2003]) In *People v. Purazo*, (402 SCRA 541, 550 [2003]) the High Court ruled:

"We have ruled, time and again that the date is not an essential element of the crime of rape, for the gravamen of the offense is carnal knowledge of a woman. As such, the time or place of commission in rape cases need not be accurately stated. As early as 1908, we already held that where the time or place or any other fact alleged is not an essential element of the crime charged, conviction may be had on proof of the commission of the crime, even if it appears that the crime was not committed at the precise time or place alleged, or if the proof fails to sustain the existence of some immaterial fact set out in the complaint, provided it appears that the specific crime charged was in fact committed prior to the date of the filing of the complaint or information within the period of the statute of limitations and at a place within the jurisdiction of the court."

The physical examination which Dr. Mariella S. Castillo conducted on AAA one (1) day after the incident happened also amply explains and corroborates her testimony on the fact of rape. The medical findings of Dr. Castillo embodied in her Medical Report (Record p. 11) are consistent with the testimony of the victim, since the findings of the medical examination did not exclude sexual abuse and are still compatible with the victim's disclosure.

Appellant has made much of Dr. Mariella S. Castillo's report on no evident injury on AAA's hymen. However, with the unwavering sworn account of AAA as to what she went through in appellant's hands, the Court cannot accord merit to the argument that the lack of physical manifestation of rape weakens the case against the latter. The medical report on AAA is only corroborative of the finding of rape. The absence of external signs or physical injuries on the complainant's body does not necessarily negate the commission of rape. (*People v. Boromeo*, 430 SCRA 533, 546 [2004]) This is because hymenal laceration is not an element of the crime of rape, (*People v. Esteves*, 438 Phil. 687, 699 [2002]) albeit a healed or fresh laceration is a compelling proof of defloration. (*People v. Sambrano*, 398 SCRA 106 [2003]) What is more, the foremost consideration in the prosecution of rape is the victim's testimony and not the findings of the medico-legal officer. In fact, a medical examination of the victim is not indispensable in a prosecution for rape; the victim's testimony alone, if credible, is sufficient to convict. (*People v. Logmao*, 414 Phil. 378, 387 [2001])

In a long line of cases, the Court has consistently held that full penile penetration of the penis into the vagina is not required for the commission of rape, as mere penile entry into the labia of the pudendum of the vagina, even without rupture or laceration of the hymen, is enough to justify a conviction for rape. In *People v. Diunsay-Jalandoni* (515 SCRA 227 [2007]), the Supreme Court held, thus:

"Further, the absence of external signs of violence does not negate the commission of rape. Nor is the absence of spermatozoa material in the prosecution of a rape case. A freshly broken hymen is, likewise, not an essential element of rape, and healed lacerations do not negate rape because full penetration is not necessary to consummate rape. Penetration of the penis by entry into the labia of the pudendum of the vagina, even without rupture or laceration of the hymen, is enough to justify a conviction of rape."

Courts give full weight and credence to testimonies of child-victims of rape. Youth and immaturity are generally badges of truth. It is highly improbable that a five year old girl would impute a crime as serious as rape and undergo the humiliation of a public trial and put up with the shame, humiliation and dishonor of exposing their own degradation were it not to condemn an injustice and to have the offender apprehended and punished. (People v. Boromeo, 430 SCRA 533, 545-546 [2004])

In addition, the contemporaneous and subsequent conduct of mother and child are revealing of the veracity of the rape charge. It should be emphasized that upon report of the outrage done to her daughter, BBB immediately went to appellant's house. Shortly afterwards, they went to the police to report the incident and to execute their sworn statements. BBB also took her daughter to the Child Protection Unit of PGH for the latter's medical examination on September 28, 2004. These significant circumstances cannot be ignored. We are compelled to believe, especially in the face of accused-appellant's plain denial, that AAA was indeed sexually abused and raped by the former.

Alibi, like denial, is also inherently weak and easily fabricated. For this defense to justify an acquittal, the following must be established: the presence of the accused in another place at the time of the commission of the offense and the physical impossibility for him to be at the scene of the crime. (People v. Gonzales, 433 SCRA 102 [2004]) These requisites have not been met. Appellant claimed to be driving the tricycle of his uncle during the commission of the crime. However, no testimony or evidence was presented to prove his alibi.

WHEREFORE, the appeal is DENIED. The Decision of the Regional Trial Court of Muntinlupa City, Branch 207 dated April 21, 2008 convicting herein appellant Jayson Paje y Manuel, for the crime of Rape under Article 266-A, par. 1 (d) of the Revised Penal code, as amended by R.A. 8353 in relation to R.A. 7610 is AFFIRMED in toto.

SO ORDERED.

Villamor and [1]Lazaro-Javier, JJ., concur.

[1] Acting Junior Member per Office Order No. 233-10-RSF dated August 20, 2010.

[2] Pursuant to Republic Act No. 9262, otherwise known as the "Anti-Violence Against Women and Their Children Act of 2004" and its implementing rules, the real name of the victim, together with the real names of her immediate family members, is withheld and fictitious initials instead are used to represent her, both to protect her privacy. (People v. Cabalquinto, 502 SCRA 419, 421-426 [2006])

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