

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROGELIO PERALTA Y FRANCISCO, ACCUSED-APPELLANT,

Ponente: ABDULWAHID, J.

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ABDULWAHID, J.:

This is an appeal from the Decision[1] dated January 23, 2014, of the Regional Trial Court (RTC), Branch 94, Quezon City, in Criminal Case No. Q-10-163501, finding herein accused-appellant Rogelio Peralta y Francisco guilty beyond reasonable doubt of the crime of rape under Article 266-A, paragraph 1(a), and Article 266-B of the Revised Penal Code, as amended by Republic Act No. 8353, and sentencing him to suffer the penalty of reclusion perpetua and to pay the victim the amounts of P75,000.00 as civil indemnity, P75,000.00 as moral damages and P30,000.00 as exemplary damages.

The instant appeal arose from an Information dated January 20, 2010, and filed by the State Prosecutor of Quezon City, charging accused-appellant, as follows:[2]

That on or about the 20[th] day of January 2009, in Quezon City, Philippines, the above-named accused, did then and there willfully, unlawfully and feloniously by means of threats, violence and intimidation have carnal knowledge of AAA[3], a minor, 17 years old, against the latter's will and consent, to her damage and prejudice.

Contrary to law.

During arraignment held on August 2, 2010, accused-appellant pleaded not guilty to the charge against him.[4] During pre-trial conference on September 27, 2010, the prosecution and the defense stipulated on the following facts: (1) the jurisdiction of the court over the person of the accused; (2) the identity of the accused as the one charged in the Information.[5]

In the meantime, accused-appellant filed a Petition for Bail[6] on July 21, 2010. The RTC, finding that the evidence of guilt against accused-appellant was strong, later denied the said petition in an Order[7] dated January 4, 2011, and the subsequent Motion for Reconsideration[8] dated January 22, 2011, in an Order[9] dated April 1, 2011.

During the hearings on the Petition for Bail, and then, the main case, the prosecution presented three witnesses, namely: (1) private complainant, AAA, herself; (2) BBB, the mother of AAA; and (3) Dr. Jericho Cordero. On the other hand, the defense presented two witnesses, namely: (1) accused-appellant himself; and (2) his sister, Luisa San Juan.

AAA testified that accused-appellant, whom she called "Kuya Ogie", had been their neighbor since she was still in sixth grade, with AAA's family living across the street from accused-appellant's house.[10] Accused-appellant was engaged in the business of buying and selling of vehicles, and AAA, who thought of him as her father, often accompanied and assisted him in towing vehicles whenever she had no classes, and was accordingly paid for her help. In addition, accused-appellant admitted that she had no problem doing a man's job because she was a lesbian. Thus, on January 20, 2009, AAA, then seventeen, readily agreed when accused-appellant invited her to

accompany him in towing a vehicle in Commonwealth, Quezon City.[11] After completing the said task, accused-appellant invited AAA to join him and his friends and relatives on a drinking spree at the house of one of said relatives. From 5:00 in the afternoon up to 9:00 in the evening, the group composed of about six people consumed three long-neck bottles of Matador brandy while chatting, although AAA claimed that, except for a few shots, she herself did not drink much.[12] At about 10:00 in the evening, when the drinking spree had ended, accused-appellant invited AAA to go upstairs with him, saying that he wanted to show her something.[13] When they were already upstairs, AAA suddenly felt accused-appellant slowly embracing her and removing her short pants. She tried to push him and, although he told her not to shout, AAA still shouted “Huwag po.” Thereupon, accused-appellant punched her in the stomach, making her feel weak and fall down, and succeeded in removing her short pants and underwear. He then lay on top of AAA and inserted his penis inside her vagina, causing her pain. During trial, AAA demonstrated a pumping motion by moving forward and backward in her seat to describe accused-appellant’s movements on top of her. Accused-appellant stayed on top of AAA for about ten minutes, during which the latter tried to push him away while crying.[14] Afterwards, accused-appellant warned her not to tell anyone about what happened, otherwise, he would kill the members of her family, particularly her mother, BBB.[15] Thus, AAA did not report the incident to her family until her mother finally realized that she was pregnant. AAA just silently cried at first when BBB woke her up and confronted her about it, but BBB raised her t-shirt and saw that her stomach was already big. At that time, AAA was already eight months pregnant and had concealed her condition by wearing big t-shirts. AAA then told BBB about the rape incident and that it was accused-appellant who had raped her.[16] Thereafter, AAA went to Dr. Jericho Cordero for medical examination[17] and executed a Sinumpaang Salaysay ng Pagrereklamo[18] (Complaint-Affidavit) and filed the same with the Prosecutor’s Office. Meanwhile, AAA gave birth to her baby daughter on November 29, 2009, whereupon, BBB contacted accused-appellant and informed him about the child.[19] Later on, AAA and BBB contacted accused-appellant and pretended to ask him for money for the child to trick him into being arrested by the police.[20]

During cross-examination, AAA confirmed that she had been very close to accused-appellant prior to the rape incident[21] and reiterated that she often went with him to Doña Carmen Subdivision in Commonwealth, Quezon City.[22] In the course of her frequent visits to Doña Carmen, she got acquainted and became friend with some of the people residing there, who were usually her drinking partners.[23] AAA likewise testified that, on January 20, 2009, the drinking spree was held at the side of the street outside the house of accused-appellant’s relatives. However, at that time, the house itself was vacant since accused-appellant’s relatives no longer actually resided there.[24] With respect to the rape incident, AAA testified that she did not leave the house immediately after the incident and that she just spent the night alone there because it was already late. She only left the house the next day, at around 6:00 in the morning.[25] When she arrived home, she did not tell anyone what happened to her, until her mother confronted her upon hearing the rumors going around in the neighborhood that AAA was pregnant.[26] When she finally saw a doctor in October 2009 and underwent an ultrasound, she was informed that she was nearly nine months into her pregnancy already, although she was not able to present an ultrasound report during trial.[27] Nevertheless, AAA maintained that said pregnancy was caused by the rape incident that occurred on January 20, 2009 and that, after said incident, she no longer had any sexual experience with accused-appellant.[28] AAA also testified that they did not immediately file the criminal complaint, and claimed that she was not aware that her relatives, particularly her aunt, had asked for P1.5 million as compensation from accused-appellant, which the latter had refused.[29]

Meanwhile, BBB, the mother of AAA, testified that she first learned about the alleged rape incident on October 22, 2009, upon hearing from some neighbors and friends that AAA was pregnant. When she confronted AAA about it, the latter first denied it, but when BBB lifted her shirt, she saw that AAA’s abdomen had become bigger.

BBB then asked AAA who did that to her, thus, AAA confessed that, on January 20, 2009, “pinakialaman daw po sya ni Kuya Ogie.”[30] AAA did not tell BBB about the incident immediately because she was afraid that accused-appellant would kill her. She also told BBB that accused-appellant had instructed her to put the blame on her stepfather, and not on accused-appellant, as the one who had impregnated her.[31] Thereafter, they went to Police Station 6 and filed the criminal complaint, before proceeding to Camp Crame, where AAA was examined.[32] BBB also manifested during trial that she did not expect AAA to get pregnant since she had known AAA to be a lesbian since the latter’s childhood.[33]

During cross-examination, BBB also testified that she first came to know of AAA’s pregnancy from a friend, named Candy. She reiterated that she had no idea about said pregnancy since she really believed that AAA was a lesbian. Thus, she only found out about it when AAA was already eight months pregnant.[34] AAA told her that she did not report the rape incident immediately because accused-appellant had threatened her.

When BBB was again called to the stand to testify on the main case, BBB further alleged that, after accused-appellant’s arrest, the latter’s siblings, “Onyok” and “Aling Baby”, kept coming to their house and offering P80,000.00 by way of financial assistance, also telling BBB that they will support the child. However, BBB claimed that she refused the monetary offer and that the only time they ever received money from accused-appellant was when they tricked him into being arrested.[35] BBB further denied having texted accused-appellant’s family that, if she would be paid, the case would be forgotten.[36]

Finally, witness Dr. Jericho Q. Cordero testified that he was the doctor who examined AAA on November 3, 2009.[37] In the course of the genital examination, he found deep-healed lacerations at 3:00 o’clock and 7:00 o’clock positions, indicating that a hard and blunt instrument or object, such as an erect penis, was inserted into AAA’s genitalia, thus causing such injuries.[38] Based on the foregoing, Dr. Cordero concluded that sexual contact had occurred, but that, at the time of the examination, he had not seen any physical signs of sexual abuse.[39] On the other hand, the extra-genital examination revealed a globularly enlarged abdomen and a fetal heart sound separate from the heartbeat of AAA at the right upper quadrant of her abdomen, indicating that she was pregnant at that time. Thus, Dr. Cordero recommended that AAA consult further with an OB-Gyne for specific and confirmatory examination and for an ultrasound.[40] Dr. Cordero further testified that when he interviewed AAA prior to the medical examination, he found her to be cooperative and coherent.[41] Dr. Cordero reduced his findings into writing via the Initial Medico-Legal Report[42] dated November 3, 2009.

On the other hand, accused-appellant vehemently denied the charge against him. He maintained that, on January 20, 2009, at around 8:00 in the morning, he was at the Prime Funeral Homes along Commonwealth Avenue in Fairview, Quezon City, attending to the wake of his brother, Ricardo Peralta. He was accompanied by his friends, Mylene Valdez and a certain Antonio, and he stayed at the wake until the afternoon, whereupon he proceeded to his dead brother’s house in Doña Carmen Subdivision, Fairview, Quezon City, and had a conversation with his sister and his aunt regarding Ricardo. He stayed at his brother’s house for the duration of the wake, going back and forth between said house and the funeral homes until his brother’s burial.[43] Accused-appellant further testified that, from 2008 to 2010, he worked as a helper and a driver for WELLBAR Printing Company, and that he had stopped engaging in the business of buying and selling of vehicles in 2008, since he was hired by said company.[44] He likewise maintained that, aside from being neighbors, he had no other relationship or connection with AAA, although the latter used to serve as his helper in his old business back in 2007.[45] Moreover, he denied that he was with AAA and that he had participated in a drinking spree with the latter on January 20, 2009, claiming that he was already at the wake by that time. He also denied that he raped AAA and fathered her child.[46] Accused-appellant posited that AAA filed the instant case against him because of a quarrel between accused-appellant and AAA’s stepfather, CCC, about a year prior to the birth of AAA’s daughter.

Accused-appellant alleged the quarrel stemmed from a conversation between BBB and the mother of CCC which he had overheard, wherein it was indicated that CCC was abusing AAA and her siblings. Thus, accused-appellant confronted CCC about what he had heard, asking why he would do such a thing.[47] Meanwhile, after the case was filed with the Prosecutor's Office, accused-appellant had an opportunity to talk to AAA, who wanted to settle the case. While accused-appellant initially considered agreeing to a settlement because he had four daughters whom he could no longer send to school due to his incarceration, he could not agree to AAA's demands of half a million.[48]

During cross-examination, accused-appellant reiterated that, on January 20, 2009, he was at the Prime Funeral Homes from 8:00 in the morning up to 6:00 in the evening, attending to his brother, who had died the day before, and that, on said date, AAA was not in Doña Carmen Subdivision.[49] He also clarified that it was BBB who tried to extort money from him after filing the criminal case and admitted that the quarrel was only between him and CCC.[50] The alleged extortion attempt allegedly took place around 2011, when accused-appellant was already incarcerated, when BBB talked to accused-appellant's siblings.[51] Accused-appellant also admitted that he did not appear before the Prosecutor's Office, despite receipt of the subpoena and despite the gravity of the charge against him, because he was busy at that time.[52] He further acknowledged that the funeral parlor was only a walking distance to the house of his dead brother, approximately ten minutes away by foot and three minutes by motorcycle.[53] On January 20, 2009, at around 6:00 in the evening, only his sister, Cristina Peralta, Mylene Valdez and a certain mama Sang, who was often their drinking buddy, was at the house of his brother.[54]

Finally, the defense presented witness Luisa San Juan, the eldest sister of accused-appellant. She testified that, on January 20, 2009, at around 8:00 in the morning, she was at the Prime Funeral Homes with accused-appellant, taking care of the wake of their brother. When she left the funeral homes at around 5:00 in the afternoon, accused-appellant was left behind, accompanied by his friends, Gary Valdez, and other people.[55] As far as she knew, accused-appellant went home between 5:00 and 6:00 in the evening, where he changed his clothes and ate dinner, before going back to the funeral homes. She alleged that accused-appellant returned to the funeral homes at around 9:00 that evening and returned home the next day, at around breakfast time.[56] With respect to AAA, San Juan testified that she knew private complainant because she had seen the latter twice at their house, sometimes engaging in a drinking spree with friends who resided in the neighborhood. San Juan also testified that she knew AAA because she had seen her twice at their house, sometimes engaging in a drinking spree with friends who lived in their neighborhood.[57]

During cross-examination, San Juan admitted that, while she testified that, as far as she knew, accused-appellant returned to the funeral homes on the night of January 20, 2009, she did not personally witness accused-appellant's presence in the said funeral parlor since she herself did not return to the wake that evening.[58] She likewise did not know of her brother's relationship with AAA.[59]

On January 23, 2014, the RTC rendered the assailed Decision, finding accused-appellant guilty beyond reasonable doubt of the crime charged, viz:[60]

WHEREFORE, premises considered, judgment is hereby rendered finding accused Rogelio Peralta y Francisco guilty beyond reasonable doubt of the crime of rape defined and penalized under Article 266-A paragraph (a) and Article 266-B of the Revised Penal Code, as amended, and he is hereby sentenced to suffer the penalty of reclusion perpetua.

Accused is further ordered to pay private complainant AAA P75,000.00 as civil indemnity, P75,000.00 as moral damages and P30,000.00 as exemplary damages.

SO ORDERED

Aggrieved, accused-appellant filed the instant appeal on the basis of the following assignments of error:[61]

I

THE TRIAL COURT GRAVELY ERRED IN GIVING CREDENCE TO THE PRIVATE COMPLAINANT'S TESTIMONY; and

II

THE TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT OF THE CRIME CHARGED DESPITE THE PROSECUTION'S FAILURE TO OVERTHROW THE CONSTITUTIONAL PRESUMPTION OF INNOCENCE IN HIS FAVOR.

The crime of rape is defined under Article 266-A of the Revised Penal Code, as amended by RA No. 8353, which reads:

ART. 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:

- Through force, threat or intimidation;
- When the offended party is deprived of reason or is otherwise unconscious;
- By means of fraudulent machination or grave abuse of authority;
- When the offended party is under twelve years (12) years of age or is demented, even though none of the circumstances mentioned above be present.

2. By any person who, under any of the circumstances mentioned in paragraph 1 hereof, shall commit an act of sexual assault by inserting his penis into another person's mouth or anal orifice, or any instrument or object, into the genital or anal orifice of another person.

However, due to the nature of the crime of rape, where there are normally no witnesses to be found, the Supreme Court has provided for the following additional guiding principles in determining the innocence or guilt of the accused: (1) an accusation of rape can be made with facility; it is difficult to prove but more difficult for the accused, though innocent, to disprove; (2) in view of the intrinsic nature of the crime of rape in which only two persons are usually involved, the testimony of the complainant must be scrutinized with extreme 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.[62]

Corollary thereto, the Supreme Court has, in a number of cases, acknowledged that when a woman says that she has been raped, she says in effect all that is necessary to show that the crime of rape was committed. To reiterate, most rape cases involve only two persons, thus, the prosecution of the case often relies heavily on the credibility of the rape victim's testimony. If said testimony is accurate and credible, a conviction for rape may issue upon the sole basis of the victim's testimony.[63]

In the present case, it bears to stress that the RTC found AAA's testimony to be direct, positive and categorical, thus more credible than accused-appellant's mere defense of denial and alibi. Parenthetically, it is an oft-repeated principle in jurisprudence that the factual findings of the trial court are entitled to great weight and respect since it is in the best position to ascertain and measure the sincerity and spontaneity of witnesses through its actual observation of the witnesses' manner of testifying, their demeanor and behavior.[64]

In an attempt to discredit AAA, accused-appellant harped on the fact that AAA failed to report the alleged rape

incident to her mother, the police, or anyone else, until she was already eight months pregnant. However, it must be taken into consideration that AAA testified that she did not immediately report what had been done to her due to her fear that accused-appellant would make good his threat to kill her family, particularly her mother. In any event, it has been held that failure to immediately report a rape incident does not automatically diminish the credibility of the testimony of the rape victim, to wit:[65]

We also disagree with accused-appellant's argument that private complainant AAA's delay in reporting the alleged rape incidents, together with the prodding of AAA's grandmother, signals the falsity of the rape allegations. In *People v. Delos Reyes*, this court ruled that:

The failure to immediately report the dastardly acts to her family or to the authorities at the soonest possible time or her failure to immediately change her clothes is not enough reason to cast reasonable doubt on the guilt of [accused]. This Court has repeatedly held that delay in reporting rape incidents, in the face of threats or physical violence, cannot be taken against the victim. Further, it has been written that a rape victim's actions are oftentimes overwhelmed by fear rather than by reason. It is this fear, springing from the initial rape, that the perpetrator hopes to build a climate of extreme psychological terror, which would, he hopes, numb his victim into silence and submissiveness.

In addition, accused-appellant pointed out that AAA gave birth to her daughter only after more than ten months, or nearly eleven months, after the alleged rape incident on January 20, 2009, contrary to the normal gestation period for pregnant women. However, while it is true that a gestation period of approximately 46 weeks is quite unusual, it is by no means outside the realm of possibility and has been known to happen before.

In accused-appellant's defense, he maintained that, on the date of the alleged rape, he was attending to his brother's wake at the Prime Funeral Homes and posited that a person grieving over the death of his brother is unlikely to go out and commit the crime of rape. Time and again, however, the Supreme Court has found that "lust is no respecter of time and place".[66] Certainly, it is not beyond belief that a person, especially when intoxicated, would commit a dastardly act such as rape during a period of mourning for a close relative.

Moreover, it has been held that, in order for the defense of alibi to prosper, the accused must be able to prove the following: (1) that he was present at another place at the time of the perpetration of the crime; and (2) that it was physically impossible for him to be at the scene of the crime during its commission.[67] In the present case, accused-appellant himself admitted that the Prime Funeral Homes was only ten minutes by foot and three minutes by motorcycle from his brother's house in Doña Carmen Subdivision, as in fact he himself stated that he went back and forth between said house in Doña Carmen and the funeral homes during said brother's wake. It should also be noted that there were several inconsistencies in accused-appellant's testimony as to where he was on the exact time that the alleged drinking spree and rape occurred. At first, he said that he went to his brother's house at around 6:00 PM and that he stayed and conversed with his aunt and sister. Then, during cross-examination, he alleged that he could not have been in Doña Carmen at 6:00 PM since he was already at the funeral homes at that time. The testimony of his sister, witness San Juan, does not help either since San Juan herself admitted that her knowledge of accused-appellant's presence in the wake on the night in question was the product of mere assumption and not of her own personal knowledge. Clearly, accused-appellant failed to show that it was physically impossible for him to be at the scene of the crime at the time the alleged rape occurred.

Accused-appellant was likewise noticeably inconsistent as to whether he was able to talk to AAA after the charge was filed against him. During his direct examination, accused-appellant alleged that he talked to AAA personally and that the latter wanted to settle the case, but accused-appellant refused because AAA was demanding half a million pesos. However, during his cross-examination, accused-appellant alleged that it was BBB who tried to extort money from him and that she made said demands upon accused-appellant's siblings since

accused-appellant himself was incarcerated.

Finally, accused-appellant's opinion that AAA filed the instant case because of the fact that the former had an earlier quarrel with the latter's stepfather, lacks merit, in the absence of any evidence to support the same. In addition, accused-appellant himself acknowledged that the quarrel was just between him and AAA's stepfather, and that he had no quarrel with AAA or BBB, who were the ones who filed the criminal complaint against accused-appellant.

Considering the foregoing disquisition, we find no reversible error on the part of the RTC in finding accused-appellant guilty beyond reasonable doubt of the crime of rape under Article 266-A, paragraph (a) of the Revised Penal Code.

However, since it was not shown that accused-appellant was a parent, ascendant, step-parent, guardian, relative by consanguinity or affinity within the third civil degree, or the common law spouse of the parent of the victim, in accordance with Article 266-B (1) of the Revised Penal Code, the crime is only simple rape under Article 266-A. Thus, based on prevailing jurisprudence, the civil indemnity and moral damages should each be reduced from P75,000.00 to P50,000.00. On the other hand, the award of exemplary damages in the amount of P30,000.00 is in order, considering that it was proven during trial that AAA was a minor at the time of the rape incident.[68]

WHEREFORE, the instant appeal is DENIED. The Decision dated January 23, 2014, of the Regional Trial Court, Branch 94, in Criminal Case No. Q-10-163501 is AFFIRMED with MODIFICATION to the extent that the civil indemnity and moral damages are each reduced from P75,000.00 to P50,000.00.

SO ORDERED.

[x]Inting, S.B, and [**]Sadang, M.Q. C., JJ., concur.

[x] Acting Senior Member, per Office Order No. 135-15-ABR dated April 17, 2015.

[**] Acting Junior Member, per Office Order No. 135-15-ABR dated April 20, 2015.

[1] Penned by Judge Roslyn M. Rabara-Tria; Rollo, pp. 34-40.

[2] Records, p. 1.

[3] Initials are being used to substitute the name of the child-victim in order to protect her privacy, pursuant to the ruling in *People vs. Cabalquinto*, 502 SCRA 419 (2006).

[4] Id. at 36.

[5] Id. at 43-45.

[6] Id. at 30-31.

[7] Id. at 58-64.

[8] Id. at 66-69.

[9] Id. at 82-85.

[10] Transcript of Stenographic Notes (TSN) dated October 18, 2010, p. 6.

[11] Id. at 8-12.

- [12] Id. at 14-16.
- [13] Id. at 16-17.
- [14] Id. at 18-27.
- [15] Id. at 29.
- [16] Id. at 30-32.
- [17] Id. at 35-36.
- [18] Records, p. 6.
- [19] TSN dated October 18, 2010, pp. 31, 34.
- [20] Id. at 38-39.
- [21] TSN dated November 8, 2010, p. 9.
- [22] Id. at 14-15.
- [23] Id. at 15-16.
- [24] Id. at 16-19.
- [25] Id. at 30-31.
- [26] Id. at 32-34.
- [27] Id. at 39-42.
- [28] Id. at 28-30.
- [29] Id. at 42-44.
- [30] TSN dated December 6, 2010, pp. 6-9.
- [31] Id. at 9-10.
- [32] Id. at 12-13.
- [33] Id. at 15.
- [34] Id. at 18-20.
- [35] TSN dated May 9, 2011, pp. 7-11.
- [36] Id. at 13.
- [37] Id. at 5-6.
- [38] TSN dated August 1, 2011, pp. 12-13.
- [39] Id. at 15.
- [40] Id. at 13-14.
- [41] Id. at 15-16.
- [42] Records, p. 11.

- [43] TSN dated February 19, 2013, pp. 4-6.
- [44] Id. at 7-8.
- [45] Id. at 8.
- [46] Id. at 12-14.
- [47] Id. at 14-15.
- [48] Id. at 16-17.
- [49] TSN dated June 4, 2013, p. 8.
- [50] Id. at 11.
- [51] Id. at 13-14.
- [52] Id. at 11-12.
- [53] Id. at 14-15.
- [54] Id. at 17.
- [55] TSN dated October 1, 2013, pp. 4-6.
- [56] Id. at 6-8.
- [57] Id. at 7.
- [58] Id. at 9, 11-12.
- [59] Id. at 13.
- [60] See Note 1 at 39.
- [61] Rollo, p. 24.
- [62] People vs. Jastiva, G.R. No. 199268, February 12, 2014.
- [63] Id.
- [64] People vs. Gahi, G.R. No. 202976, February 19, 2014.
- [65] People vs. Buclao, G.R. No. 208173, June 11, 2014.
- [66] People vs. Ramos, G.R. No. 200077, September 17, 2014.
- [67] People vs. Besmonte, G.R. No. 196228, June 4, 2014.
- [68] See Note 66.

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