

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. ROLANDO REYES Y NACE, APPELLANT.

G.R. NO. 167180. January 25, 2007

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

Appellant Rolando Reyes y Nace was charged on May 12, 1998 before the Regional Trial Court (RTC) of Bayombong, Nueva Vizcaya of four counts of rape of his 15-year old daughter AAA,[1] alleged to have been committed as follows:

Criminal Case No. 3346

That on or about 11:00 o'clock (sic) in the evening of June 4, 1997, in . . . Municipality of Villaverde, Province of Nueva Vizcaya, Philippines and within the jurisdiction of this Honorable Court, the above-named accused who [is] the father of the offended party [AAA], and by means of force and intimidation, willfully, unlawfully and feloniously did lie, and succeed [in] having carnal knowledge of his daughter [AAA], a minor who was then under eighteen years against her will and to her damage and prejudice.[2] (Underscoring supplied)

Criminal Case No. 3347

That on or about 9:00 o'clock (sic) in the evening of September 10, 1997, in . . . Municipality of Villaverde, Province of Nueva Vizcaya, Philippines and within the jurisdiction of this Honorable Court, the above-named accused who [is] the father of the offended party [AAA], and by means of force and intimidation, willfully, unlawfully and feloniously did lie, and succeed [in] having carnal knowledge of his daughter [AAA], a minor who was then under eighteen years against her will and to her damage and prejudice.[3] (Underscoring supplied)

Criminal Case No. 3348

That on or about 1:00 o'clock (sic) in the early dawn of November 30, 1997, in . . . Municipality of Villaverde, Province of Nueva Vizcaya, Philippines and within the jurisdiction of this Honorable Court, the above-named accused who [is] the father of the offended party [AAA], and by means of force and intimidation, willfully, unlawfully and feloniously did lie, and succeed [in] having carnal knowledge of his daughter [AAA], a minor who was then under eighteen years against her will and to her damage and prejudice.[4] (Underscoring supplied)

Criminal Case No. 3349

That on or about 9:00 o'clock (sic) in the evening of December 6, 1997, in . . . Municipality of Villaverde, Province of Nueva Vizcaya, Philippines and within the jurisdiction of this Honorable Court, the above-named accused who [is] the father of the offended party [AAA], and by means of force and intimidation, willfully, unlawfully and feloniously did lie, and succeed [in] having carnal knowledge of his daughter [AAA], a minor who was then under eighteen years against her will and to her damage and prejudice.[5] (Underscoring

supplied)

The cases were jointly tried before Branch 27 of the Bayombong RTC.

Appellant and ABC were married on June 7, 1980 out of which four children were born including AAA, the complainant in the cases. Complainant was born on September 12, 1982.[6]

On June 17, 1993, ABC left for Hongkong to work as a domestic helper, leaving her children under the care of her husband?herein appellant.[7]

From the evidence for the prosecution, the following version is gathered:

Around 11 o'clock in the evening of June 4, 1997, appellant repaired to the room where AAA was sleeping. Once inside, appellant removed AAA's upper clothing and brassiere and held her breasts. He then pulled down her short pants and underwear. While AAA tried to resist, appellant was simply too strong for her. Appellant soon also removed his short pants and underwear and inserted his penis into her vagina and made pumping motions. AAA felt extreme pain and thereafter lost consciousness which she regained at 9 o'clock the following morning.

Appellant warned AAA not to report the matter to her maternal grandmother who was living four meters away from their house; otherwise, if necessary, he might as well kill someone (Haan ka nga agipulpulong kada Nanay mo, mabalbalin pumatayak langngen ti tao.)(8]

On September 10, 1997, around 9 o'clock in the evening, while AAA was lying on her bed with her younger sister who was then sleeping, appellant entered the room and, with a closed fist, ordered her not to talk.

As in the past, appellant raised AAA's shirt and brassiere. And he kissed and held her breasts. He then pulled down her short pants and underwear afterwhich he also removed his short pants and underwear. While in a slanting position on top of AAA, he inserted his penis into her vagina and made pumping motions as he was kissing her neck. Again AAA lost consciousness which she regained the following morning.[9]

Around 1 o'clock in the morning of November 30, 1997, while AAA was sleeping, she was suddenly awakened when appellant held her arms. She slapped him, but he warned that if she did that again, he would punch her. He soon had sexual intercourse with her and as she cried, appellant covered her mouth. Again she lost consciousness and woke up at 10 o'clock that same morning.[10]

On December 6, 1997, around 9:00 in the evening, while AAA was sleeping, appellant went inside her room, woke her up and ordered her to stand up. AAA told him, "Papa, I do not want anymore," but appellant angrily told her to shut up. Appellant thereafter dragged her to the kitchen where he molested her. She later told him, "I don't want anymore," to which he replied that he was not yet through. After appellant was through having sexual intercourse with her, AAA repaired to her room and cried herself to sleep.[11]

A week later or on December 13, 1997, AAA left their house and left a letter to her maternal grandmother, telling her that she had to go away for a while as she could no longer stand the way appellant had been treating her. She went to the house of her aunt, DEF. [12]

In the meantime, two other aunts of AAA, GHI and JKL, on reading the letter addressed to the grandmother, looked for AAA and found her at the house of DEF. They then asked her "Did your father touch you?" to which she answered in the affirmative.[13]

On December 16, 1997, GHI informed ABC by telephone that appellant molested AAA. Albeit shocked, ABC's employment contract did not allow her to go back to the Philippines until March 24, 1998.[14]

Four days after ABC's arrival in the Philippines or on March 28, 1998, she and her sister GHI brought AAA to

the Veterans' Regional Hospital in Bayombong where she was examined by Dr. Lorelie U. Bagasao. The examination revealed the following:

Extra-genital injuries

Orifice

Vaginal walls

Rugosities

Uterus

Cervix

L areola

L nipple

R areola

R nip[p]le

Breast

Pubic hair

Labia M

Labia Minora

Fouchette

Vestibule

Hymen - no extra-genital injuries like hematoma, abrasion

- admits 2.5 cm tube with ease

- tense

- prominent

- small

- soft closed , (-) adnexag

- 2.5 cm

- 1 cm

- 2.6 cm

- 1 cm

- hemispherical

- occupies the anterior 3 [rd] labia (-)

- gaping

- gaping

- tensed

- pinkish

- tall, thin

#1 lacerations old healed superficial 4 o'clock position

#2 laceration old healed laceration complete 8 o'clock position

- no bleeding on manipulation

Pregnancy test – negative[15]

Hence, the filing of the four informations for rape against appellant.

Appellant denied the charges, interposing denial and alibi. The details of his version follow:

On May 14, 1997 he was stricken with hypertension and had to be confined at the Aliasas Medical Clinic until

May 21, 1997. Thereafter, he just stayed home and could hardly get up from bed. Even at the time of the alleged date of the commission of rape on June 4, 1997, he was still weak and needed the assistance of AAA to stand up from the bed.[16]

On September 10, 1997, he reported for work at the Provincial Engineer's Office where he was a service driver. He stayed in the office until 10 o'clock in the morning when he, together with the Inspection Team of his office, proceeded to Malasin, Dupax del Norte. They later left for Nantawakan Road, Kasibu, Nueva Vizcaya and were back at Bayombong at 9 o'clock in the evening. In Bayombong, he stayed in the premises of the motorpool where he rested for a while, after which he and his companions played a card game until 4 o'clock of September 11, 1997.[17] Appellant's tale was corroborated by Rolando Ongat.[18]

On November 30, 1997, with appellant's permission, AAA attended a party at Bintawan, Villaverde, Nueva Vizcaya. Although he told AAA to go home early, she only arrived at past 5 o'clock the following morning.[19]

In the morning of December 6, 1997, as AAA arrived home from a party she attended the night before, he scolded her, telling her that she should be home taking care of her sisters. AAA cried and started writing something at the sala.[20]

Capping his version, appellant claimed that his wife had an affair with Felixberto Viernes, the former chief of police of Villaverde, and insinuated that she instigated their daughter to fabricate charges against him so that he would be sent to jail to leave her free to continue her extra-marital affair.

Finding for the prosecution and accordingly convicting appellant, the trial court disposed:

WHEREFORE, finding the accused Rolando Reyes y Nace GUILTY beyond reasonable doubt in each case of the four counts of Rape, he is hereby sentenced to death by lethal injection in each of the cases filed against him; to pay the victim [AAA] the sums of P75,000.00 as civil indemnity and P50,000.00 as moral damages in each count of rape, and to pay the costs of suit.[21]

In finding for the prosecution, the trial court noted the victim's narration to be "credible, consistent, straight-forward and in accord with human experience, . . . often interrupted by her heart-rending sobs and hysterics on the witness stand."

[AAA's] rendition of her testimony was that of a victim of an unacceptable and horrendous fate because it was administered by her own father, the supposed protector of her persona and her honor at moments when she was supposed to be safe from harm and when she was hankering for the love of her mother because she was working in a distant land. Nowhere in her testimony was there any hint that the narration of her harrowing ordeal was tainted by any influence other than the whole truth. Looking at her and closely observing her deportment while she was relating the beastly conduct of her parent removed any lingering doubt as to the veracity of her account. The trial had to be suspended due to [AAA's] hysterics and swooning (sic). Whenever [AAA] narrated the details of her ravishments, invariably, she would cry. Thus could not be the conduct of a coached actress, as the Defense unfeelingly claimed.[22] (Underscoring supplied)

On appellant's theory that ABC merely instigated AAA to file the charges against him, the trial court held:

. . . No mother in her right senses will use her [teen-age] daughter and expose her and herself to a lifetime of ridicule and obloquy just to remove an unwanted husband. Moreover, no woman, like [AAA], would go through the ordeal of allowing her womanhood to be examined and to be questioned in detail about a very shameful experience unless her intent is to obtain justice for her oppression and to punish the dastardly acts of her own father. No daughter would willingly and cold-bloodedly send her own father to death or to a lifetime of imprisonment unless she was telling the truth. And no daughter would willingly lend her hands to denounce her own father for a heinous offense or have him sentenced to a very heavy penalty in support of the infidelity

of her mother.[23]

The records of the cases were forwarded to this Court for automatic review. By Resolution[24] of August 24, 2004, however, this Court referred the cases to the Court of Appeals pursuant to *People v. Mateo*. [25]

By Decision[26] of January 19, 2005, the appellate court affirmed with modification that of the trial court by increasing the award of moral damages to P75,000.00 and awarding P25,000.00 as exemplary damages in each case. Thus it disposed:

WHEREFORE, premises considered, the appealed decision dated January 11, 2002 of the Regional Trial Court of Bayombong, Nueva Vizcaya, Branch 27 in Criminal Case Nos. 3346, 3347, 3348, and 3349, finding ROLANDO REYES y NACE guilty of four (4) counts of Qualified Rape and sentencing him to suffer the penalty of DEATH in each case, is hereby AFFIRMED with the MODIFICATION that he is ordered to pay the amount of P75,000.00 as moral damages and P25,000.00 as exemplary damages in each case in addition to the P75,000.00 civil indemnity already awarded by the trial court.

In accordance with A.M. NO. 00-5-03-SC which took effect on October 15, 2004, amending Section 13, Rule 124 of the Revised Rules of Criminal Procedure, let the entire records of this case be elevated to the Supreme Court for review. (Underscoring supplied)

After a considered review of the records of the cases, this Court finds no reason to disturb the decision of the trial court, as affirmed with modification by the Court of Appeals.

AAA's credibility as a witness has not been questioned. And her testimony is indeed credible and consistent, and bears the earmarks of sincerity.

Upon the other hand, while appellant's denial and alibi are legitimate defenses, they are mere assertions, however; hence, they cannot overcome the testimony of AAA.

The insinuation of appellant that his wife instigated the filing of the charges against him, which is not uncommon in rape cases, appears to be just a futile attempt to exonerate himself.[27]

. . . Not a few persons convicted of rape have attributed the charges against them to family feuds, resentment, or revenge. However, such alleged motives have never swayed us from lending full credence to the testimony of a complainant who remained steadfast through her direct and cross-examination. It is unnatural for a parent to use her offspring as an instrument of malice, especially if it will subject them to embarrassment and even stigma. No mother in her right mind would expose her daughter to the disgrace and trauma resulting from a prosecution for rape if she was not genuinely motivated by a desire to incarcerate the person responsible for her daughter's defilement.[28] (Emphasis and underscoring supplied)

Carnal knowledge of a woman under 18 years of age by a parent is qualified rape. It is punishable by death under Article 335 of the Revised Penal Code (RPC), as amended by Republic Act (RA) 7659 or the Death Penalty Law which governs the June 4, 1997 and September 10, 1997 rape incidents; and Articles 266-A and 266-B, as amended by RA 8353 or the Anti-Rape Law which governs the November 30, 1997 and December 6, 1997 rape incidents.

To justify the imposition of the death penalty in cases of incestuous rape, concurrence of the minority of the victim and her relationship to the offender must both be alleged and proved with moral certainty.[29]

In the present cases, the prosecution alleged and indubitably established the minority of AAA and her relationship to appellant through the Certification-Exhibit "A"[30] issued by the Office of the Municipal Civil Registrar of Villaverde, Nueva Vizcaya stating that AAA was born on September 12, 1982 and that her father is appellant. Appellant in fact admitted that AAA is his daughter.[31]

RA 9346 (An Act Prohibiting the Imposition of Death Penalty in the Philippines) now prohibits, however, the imposition of the death penalty. The penalty of reclusion perpetua without eligibility for parole should thus be imposed upon appellant.

As to appellant's civil liability, the appellate court correctly modified the trial court's decision by increasing the award of moral damages to P75,000.00 and by awarding P25,000.00 as exemplary damages for each case, consistent with prevailing jurisprudence.[32]

WHEREFORE, the decision of the Court of Appeals is AFFIRMED with the MODIFICATION that appellant, ROLANDO REYES y NACE, is sentenced to suffer in each case the penalty of reclusion perpetua without eligibility for parole.

Costs against appellant.

SO ORDERED.

Puno C.J., Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, Corona, Callejo, Sr., Azcuna, Tinga, Chico-Nazario, Garcia, and Velasco, Jr., JJ., concur.

[1] The Court shall withhold the real name of the victim and shall use fictitious initials instead to represent her. Likewise, the personal circumstances of the victim or any other information tending to establish or compromise her identities, as well those of their immediate family or household members, shall not be disclosed. (People v. Cabalquinto, G.R. No. 167693, September 19, 2006)

[2] Records, p. 2.

[3] Id. at 32.

[4] Id. at 62.

[5] Id. at 98.

[6] Id. at 9; Exhibit "A".

[7] Records, p. 137, Transcript of Stenographic Notes (TSN), June 18, 1998, p. 26.

[8] TSN, July 14, 1998, pp. 3-7; July 15, 1998, p. 3; July 21, 1998, p. 8.

[9] TSN, July 15, 1998, pp. 7-12.

[10] TSN, July 16, 1998, pp. 6-12.

[11] TSN, July 16, 1998, pp. 12-17; July 21, 1998, pp. 2-3; December 2, 1998, p. 2.

[12] TSN, July 21, 1998, pp. 4-9; July 22, 1998, p. 3.

[13] TSN, July 22, 1998, pp. 3-5.

[14] TSN, June 16, 1998, pp. 5-6.

[15] Records, p. 69.

[16] TSN, March 11, 1999, pp. 7-8; March 16, 1999, pp. 2-4; March 17, 1999, pp. 3-4.

[17] TSN, March 18, 1999, pp. 4-9; March 23, 1999, p. 3.

[18] TSN, December 1, 1999, pp. 11-12.

[19] TSN, April 13, 1999, pp. 5-7; April 14, 1999, p. 4.

[20] TSN, April 15, 1999, pp. 4-6.

[21] Records, p. 400.

[22] Id. at 395.

[23] Records, p. 396.

[24] CA rollo, p. 214.

[25] G.R. No. 147678-87, July 7, 2004, 433 SCRA 640.

[26] CA rollo, pp. 217-235. Penned by Justice Amelita G. Tolentino and concurred in by Justices Roberto A. Barrios and Vicente S.E. Velaso.

[27] *People v. Cariñaga*, 456 Phil. 944 (2003).

[28] Id. at 968.

[29] *People v. Ancheta*, G.R. No. 142431, Jan. 14, 2004, 419 SCRA 307, 315.

[30] Records, p. 9.

[31] Id. at 136.

[32] *People v. Cabalquinto*, supra note 1; *People v. Quiachon*, G.R. No.170236, Aug. 31, 2006.

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