

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JAYSON TUAZON Y OLIA, ACCUSED-APPELLANT.

G.R. No. 168102. August 22, 2008

Ponente: AUSTRIA-MARTINEZ, J.

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AUSTRIA-MARTINEZ, J.:

Before the Court on automatic review is the Decision[1] of the Court of Appeals (CA) dated April 14, 2005 in CA-G.R. CR-H.C. No. 00047 which affirmed, with modification, an earlier decision of the Regional Trial Court (RTC) of Pasig City, Branch 163, in Criminal Case No. 120458-H, finding appellant Jayson Tuazon y Olia guilty beyond reasonable doubt of the crime of rape and sentencing him to suffer the penalty of Reclusion Perpetua.

Consistent with the Court's decision in *People v. Cabalquinto*,[2] the real name of the rape victim in this case is withheld and, instead, fictitious initials are used to represent her. Also, the personal circumstances of the victim or any other information tending to establish or compromise her identity, as well as those of her immediate family or household members, are not disclosed in this decision.

The facts of the case, as found by the trial court, are as follows:

Evidence on record show that on March 3, 2001 around 3:30 in the morning, AAA was sleeping in her room on the second floor of their house when she was awakened by [appellant] Jayson's kissing her on her cheeks and lips. As he mounted her, appellant, who was her mother's common-law-husband, started to touch her breast and bite her nipples and breasts. Thereafter, appellant poked a fan-knife at her and told her not to tell anybody what he had done to her. Shocked, AAA cried and tried to shout but appellant covered her mouth.

Around four o'clock in the morning, appellant instructed her to go downstairs in order to cook porridge which she was supposed to sell later. While she was cooking, he guarded her and talked to her. He offered to give her money to buy a cell phone but she did not accept it. Around 4:45 a.m. and after she had finished cooking, appellant told her to sit on her bed. Appellant then started to touch her breasts and private part while he poked a fan-knife at the right portion of her neck. He told her to lie down and as she did, he rolled up her shirt, took off her bra and touched her breasts. After appellant had removed her shorts and panty, he licked her body up to her private part. Appellant then removed his pants and brief, placed himself on top of AAA and rubbed his penis on her private part. AAA felt his penis coming in and out of her vagina and then something dripping. Then, appellant wiped her private part with his handkerchief. He then ordered her to dress up and to take a bath but she did not obey him. Instead, she started to bring out her merchandise while she kept on crying. During the time [that] she was being molested, AAA wanted to run but their gate was locked and appellant had the key.

AAA's mother and her sister, BBB, who left the house at 3 o'clock in the morning, arrived back from the Pasig market around 7 o'clock in [the] morning. BBB noticed that AAA's eyes were swollen and that she was crying. AAA told them what Jason did to her. Immediately, they went to the Taguig Police Station and had the incident recorded on the police blotter (Exh. D). AAA was also medically examined by Dr. Lilli Melrose Camara of the Southern Police District Crime Laboratory. The next day AAA executed her sworn statement (Exh. A).[3]

In an Information[4] dated March 4, 2001, appellant was charged before the RTC of Pasig City with the crime of rape, the accusatory portion of which reads:

On or about March 3, 2001 in Taguig, Metro Manila, and within the jurisdiction of this Honorable Court, the accused, by means of force, violence and intimidation, did then and there willfully, unlawfully and feloniously have sexual intercourse with AAA, [over] whom accused has moral ascendancy being the daughter of his common-law-wife with whom he is living with, which sexual act done against the will and consent of said AAA as she was then threatened with a knife.[5]

On arraignment, appellant pleaded not guilty.[6] Pre-trial conference followed. Thereafter, trial ensued.

On June 11, 2002, the RTC rendered its Decision,[7] the dispositive portion of which reads as follows:

WHEREFORE, accused, JAYSON TUAZON y OLIA is hereby found GUILTY beyond reasonable doubt of the crime of rape and sentenced to suffer the penalty of reclusion perpetua and the accessory penalties provided by law and to pay the cost.

On the civil aspect of this case, accused is ordered to pay the victim, AAA, P50,000.00 as civil indemnity plus moral, exemplary and nominal damages in the respective sums of P50,000.00, P50,000.00 and P25,000.00.

SO ORDERED.[8]

Appellant filed a Notice of Appeal.[9] Thereafter, the trial court ordered the transmittal of the entire records of the case to this Court.[10]

Pursuant to the Court's pronouncement in *People v. Mateo*,[11] which modified the provisions of the Rules of Court insofar as they provide for direct appeals from the RTC to this Court in cases in which the penalty imposed by the trial court is death, reclusion perpetua or life imprisonment, the case was referred to the CA for appropriate action and disposition.[12]

After a review of the case, the CA affirmed the RTC's decision convicting the appellant. However, the appellate court modified the trial court's award of damages by reducing the grant of exemplary damages and deleting the award of nominal damages.

Appellant filed a Notice of Appeal pursuant to Section 13(c), Rule 124 of the Rules of Court, as amended by A.M. No. 00-5-03-SC.

The case was then elevated to this Court for review.

In a Resolution[13] dated August 22, 2005, the parties were required to simultaneously submit their respective supplemental briefs if they so desired. However, both parties manifested that they were adopting the arguments they raised in their respective appeal briefs which were forwarded to the CA. Thereafter, the case was deemed submitted for decision.

Appellant assigned a lone error in his Brief, to wit:

THE COURT A QUO ERRED IN FINDING THE ACCUSED APPELLANT GUILTY BEYOND REASONABLE DOUBT OF THE CRIME OF RAPE.[14]

The Court finds appellant's contentions untenable.

To determine the innocence or guilt of the accused in rape cases, the courts are 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 for the accused, though innocent, 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.[15]

Accordingly, in resolving rape cases, primordial consideration is given to the credibility of the victim's testimony.[16] The settled rule is that the trial court's conclusions on the credibility of witnesses in rape cases are generally accorded great weight and respect, and at times even finality, unless there appear in the record certain facts or circumstances of weight and value which the lower court overlooked or misappreciated and which, if properly considered, would alter the result of the case.[17]

Having seen and heard the witnesses themselves and observed their behavior and manner of testifying, the trial court stood in a much better position to decide the question of credibility.[18] Findings of the trial court on such matters are binding and conclusive on the appellate court, unless some facts or circumstances of weight and substance have been overlooked, misapprehended or misinterpreted.[19] No such facts or circumstances exist in the present case.

In this case, both the RTC and the CA are in agreement that AAA was candid, natural, forthright and unwavering in her testimony that appellant raped her.

During trial, the RTC observed that AAA wept while recounting her heart-rending experience. The trial court held thus:

AAA's testimony was straight-forward, logical, probable and credible. She was occasionally in tears when she narrated in court the sexual ordeal she had gone through. Her embarrassment, emotional pain and indignation, as well as her intense desire for justice and the punishment of her defiler, were clearly discernible from the expression of her face and demeanor.[20]

The Court has consistently held that the crying of the victim during her testimony was evidence of the credibility of the rape charge with the verity borne out of human nature and experience.[21]

AAA's credibility is strengthened by the absence of convincing evidence showing that she had any ill motive in testifying against appellant.

Appellant contends that private complainant's reason in charging him with the crime of rape is that she got angry with him because appellant allegedly embarrassed her in front of her visitors.[22] Appellant's claim deserves scant consideration. The Court finds it incredible for private complainant to trump up a charge of rape against appellant because she wanted to exact revenge on the latter for the simple reason that he caused her embarrassment. No woman would cry rape, allow an examination of her private parts, subject herself to humiliation, go through the rigors of public trial and taint her good name if her claim were not true.[23]

Appellant does not deny the sexual intercourse between him and AAA but claims that it was a consensual sex because he and the private complainant were sweethearts.

The Court is not persuaded and agrees with the CA that the "sweetheart defense" is a much-abused defense that rashly derides the intelligence of the Court and sorely tests its patience.[24] To be worthy of judicial acceptance, such a defense should be supported by documentary, testimonial or other evidence.[25] Being an affirmative defense, it must be established with convincing evidence - by some documentary and/or other evidence like mementos, love letters, notes, pictures and the like.[26] The "sweetheart theory" which appellant proffers is effectively an admission of carnal knowledge of the victim and consequently places on him the burden of proving the supposed relationship by substantial evidence.[27] In the present case, the appellant failed to discharge this burden. There was no substantial support to his claim that he and AAA were having an affair. The document

denominated as Kasunduan Naming Dalawa[28] which was signed by the private complainant hardly constitutes proof that appellant and private complainant were lovers. If any, it merely shows that on December 10, 1999, AAA received from appellant the sum of P1,500.00 and expects to receive the same amount from appellant on a monthly basis thereafter. No reason was specified why appellant agreed to give her such amounts of money. Besides, the private complainant had explained that she was deceived into signing the said document the day before she was raped and that when she asked appellant why it was dated December 10, 1999, appellant told her that it was simply a sample form of a loan document.[29]

Moreover, appellant's claim that he treated private complainant as his own daughter is inconsistent with his allegation that they were lovers.[30]

Granting that appellant's claim is true that he and the private complainant were indeed lovers and that they agreed to keep their affair a secret, the latter would not have fabricated a charge of rape against the former at the risk of exposing their illicit relationship and, thereby, subjecting themselves to public shame and ridicule, not to mention the ire of private complainant's mother who is appellant's common-law wife.[31]

More importantly, the victim's subsequent acts of promptly disclosing and complaining about her molestation to her relatives and the authorities and taking immediate steps to subject herself to medical examination represent conduct consistent with her straightforward, logical and probable testimony that she was in fact raped by appellant. They represent strong and compelling factors that enhance complainant's credibility as a witness.

AAA's credibility is further bolstered by the fact that her testimony is consistent with the findings of the physician who examined her. When the consistent and forthright testimony of a rape victim corresponds with medical findings, there is sufficient basis to warrant a conclusion that the essential requisites of carnal knowledge have been established.[32]

AAA testified that appellant repeatedly rubbed his private organ on her private part and that she felt his organ come in and out of hers.[33] On the other hand, it is clear from the Medico-Legal Report of the physician who examined AAA that at the time of private complainant's examination, which was conducted on the same day that she informed police authorities that she was raped, her genitalia exhibited signs of "some form of physical trauma." [34] The physician confirmed her findings when she testified in open court that she found redness and inflammation on AAA's labia minora and hymen which are indications that the said parts of her organ were subjected to some kind of friction with a foreign object.[35] In addition, the medico-legal officer found that AAA's posterior fourchette, found at the end of her labia minora and at the outer portion of her vagina, had an abrasion which indicated that it repeatedly came in contact with a blunt object.[36]

As to appellant's argument that it was uncharacteristic for the private complainant to be able to go about her daily chores after she was allegedly raped, the settled rule is that not all rape victims can be expected to act conformably to the usual expectations of everyone and that different and varying degrees of behavioral responses are expected in the proximity of, or in confronting, an aberrant episode.[37] It is well-settled that different people react differently to a given situation or type of situation.[38] There is no standard form of reaction for a woman when facing a shocking and horrifying experience such as a sexual assault.[39] The workings of the human mind placed under emotional stress are unpredictable, and people react differently - some may shout, some may faint, and some may be shocked into insensibility while others may openly welcome the intrusion.[40] However, any of these reactions does not impair the credibility of a rape victim.

There is likewise no merit in appellant's submission that the prosecution was not able to sufficiently prove the element of force and intimidation; that the application of force and intimidation was solely based on the mere allegation of the private complainant; that there was no physical manifestation of the force allegedly employed

upon her.

AAA testified that before she was sexually abused, appellant poked a knife at her.[41] The act of holding a knife is by itself strongly suggestive of force or at least intimidation, and threatening the victim with a knife is sufficient to bring her into submission.[42]

In any case, it is settled that force or intimidation is not limited to physical force.[43] As long as it is present and brings the desired result, all consideration of whether it was more or less irresistible is beside the point.[44] The force or violence that is required in rape cases is relative; when applied, it need not be overpowering or irresistible.[45] That it enables the offender to consummate his purpose is enough.[46] The force, violence, or intimidation in rape is a relative term, depending not only on the age, size, and strength of the parties but also on their relationship with each other.[47] Appellant is the common-law husband of private complainant's mother. Private complainant testified that she treated appellant with respect, being the second husband of her mother.[48] Appellant himself admitted that he acted like a father to AAA and her sister by showing them love and concern and by disciplining them.[49] As such, appellant is deemed in legal contemplation to have moral ascendancy over the victim.[50] It is a settled rule that in rape committed by a close kin, moral ascendancy takes the place of violence and intimidation.[51]

Against the overwhelming evidence of the prosecution, appellant merely interposed the defense of denial. Categorical and consistent positive identification, absent any showing of ill motive on the part of the eyewitness testifying on the matter, prevails over the defense of denial.[52] In the present case, there is no showing of any improper motive on the part of the victim to testify falsely against the accused or to implicate him falsely in the commission of the crime; hence, the logical conclusion is that no such improper motive exists and that the testimony is worthy of full faith and credence. Accordingly, appellant's weak defense of denial cannot prosper.

WHEREFORE, the Decision of the Court of Appeals in C.A. G.R. CR-H.C. No. 00047, finding herein appellant Jayson Tuazon y Olia guilty beyond reasonable doubt of the crime of Rape committed against AAA and sentencing him to suffer the penalty of reclusion perpetua and to pay the victim the sum of Fifty Thousand Pesos (P50,000.00) as civil indemnity ex delicto, Fifty Thousand Pesos (P50,000.00) as moral damages and Twenty-Five Thousand Pesos (P25,000.00) as exemplary damages, is AFFIRMED.

SO ORDERED.

Ynares-Santiago, (Chairperson), Chico-Nazario, Velasco, Jr., and Reyes, JJ., concur.

* In Lieu of Justice Antonio Eduardo B. Nachura, per raffle dated August 11, 2008.

[1] Penned by Justice Japar B. Dimaampao with the concurrence of Justices Renato C. Dacudao and Edgardo F. Sundiam, rollo, p. 3.

[2] G.R. No. 167693, September 19, 2006, 502 SCRA 419.

[3] Original Records, pp. 137-138.

[4] OR, p. 1.

[5] Id.

[6] Id. at 37.

[7] Id. at 137-141.

[8]Id. at 141.

[9] Id. at 143.

[10]Id. at 144.

[11]G.R. Nos. 147678-87, July 7, 2004, 433 SCRA 640.

[12] CA rollo, p. 96.

[13]Rollo, p. 28.

[14]CA rollo, p. 36.

[15] People v. Pangilinan, G.R. No. 171020, March 14, 2007, 518 SCRA 358, 373.

[16]People v. Noveras, G.R. No. 171349, April 27, 2007, 522 SCRA 777, 787.

[17]Id.

[18] People v. Balonzo, G.R. No. 176153, September 21, 2007, 533 SCRA 760, 768.

[19]People v. Hermocilla, G.R. No. 175830, July 10, 2007, 527 SCRA 296, 303.

[20] RTC Decision, OR, p. 139.

[21] People v. Aguilar, G.R. No. 17749, December 17, 2007, 540 SCRA 509, 523; People v. Canare, G.R. No. 168444, December 13, 2006, 511 SCRA 31, 39; People v. Galang, G.R. Nos. 150523-25, July 2, 2003, 405 SCRA 301, 308; People v. Supnad, G.R. Nos. 133791-94, August 8, 2001, 362 SCRA346, 355-356.

[22]TSN, February 26, 2002, p. 33.

[23] People v. Marcelo, G.R. Nos. 126538-39, November 20, 2001, SCRA

[24] People v. Rapisora, G.R. No. 147855, May 28, 2004, 430 SCRA 237, 259.

[25] Id.

[26]People v. San Antonio, Jr., G.R. No. 176633, September 5, 2007, 532 SCRA 411, 425.

[27] Id.

[28] OR, p. 115.

[29] See TSN, October 23, 2001, pp. 13-16.

[30] See TSN, February 26, 2002, pp. 20-22 and p. 38.

[31]People v. Rapisora, supra note 24.

[32] People v. Senieres, G.R. No. 172226, March 23, 2007, 519 SCRA 13, 25.

[33] TSN, October 16, 2001, pp. 10-11.

[34]Exhibit "C-2", OR, p. 84.

[35] TSN, August 21, 2001, pp. 14-15.

[36]Id. at 16-17.

[37] People v. San Antonio, Jr., G.R. No. 176633, September 5, 2007, 532 SCRA 411, 428.

[38] Id.

[39] Id.

[40] People v. San Antonio, Jr., supra note 37.

[41] TSN, October 16, 2001, pp. 7-9.

[42] People v. Noveras, G.R. No. 171349, April 27, 2007, 522 SCRA 777, 793.

[43] People v. San Antonio, Jr., supra note 37, at 428.

[44] Id.

[45] Id.

[46] Id.

[47] People v. Ubiña, G.R. No. 176349, July 10, 2007, 527 SCRA 307, 318.

[48] TSN, October 16, 2001, p. 6.

[49] TSN, February 26, 2002, pp. 38-40.

[50] People v. Blancaflor, G.R. No. 130586, January 29, 2004, 421 SCRA 354, 361; People v. Galang, G.R. Nos. 150523-25, July 2, 2003, 405 SCRA 301, 308.

[51] People v. Noveras, G.R. No. 171349, April 27, 2007, 522 SCRA 777, 793.

[52] People v. Quezada, G.R. Nos. 135557-58, January 30, 2002, 375 SCRA 248, 259.

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