

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. FRANCISCO REYES Y ABREMATEA @ “UTOY,” APPELLANT.

G.R. NO. 168174 (FORMERLY G.R. NOS. 156174-76). April 13, 2007

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

For our review is the Decision[1] dated April 5, 2005 of the Court of Appeals in CA-G.R. CR No. 00337 entitled People of the Philippines v. Francisco Reyes y Abrematea. The decision dismissed the appeal of Francisco Reyes and affirmed the Decision[2] dated November 11, 2002 of the Regional Trial Court (RTC) of Caloocan City, Branch 128. The RTC found Reyes guilty beyond reasonable doubt of the crime of rape. He was sentenced to death by lethal injection.

The Informations that led to Reyes's conviction are as follows:

Criminal Case No. C-57023

x x x x

That on or about and sometime in November, 1995 in Caloocan City, [Metro Manila], Philippines and within the jurisdiction of this Honorable Court, the above-named accused, being then the father of [AAA], a minor of eleven (11) years old, with lewd designs, and by means of force, threats and intimidation, did then and there wilfully, unlawfully and feloniously lie and have sexual intercourse with said [AAA], against her will and without her consent.

CONTRARY TO LAW.[3]

Criminal Case No. C-57024

x x x x

That on or about and sometime in the year 1988, in Caloocan City, [Metro Manila], Philippines and within the jurisdiction of this Honorable Court, the above-named accused being then the father of [AAA], a minor of four (4) years old, with lewd designs and by means of force, threats and intimidation, did then and there wilfully, unlawfully and feloniously lie and have sexual intercourse with said [AAA], against her will and without her consent.

CONTRARY TO LAW.[4]

Criminal Case No. C-57025

x x x x

That on or about the 8th day of July 1999 in Caloocan City, [Metro Manila], Philippines and within the jurisdiction of this Honorable Court, the above-named accused, being then the father of [AAA], a minor of 14 years old, with lewd designs and by means of force, threats and intimidation, did then and there wilfully, unlawfully and feloniously lie and have sexual intercourse with said [AAA], against her will and without her

consent.

CONTRARY TO LAW.[5]

During trial, the prosecution presented five witnesses: (a) private complainant AAA; (b) Medico-Legal Officer Dr. Jose Arnel M. Marquez; (c) Barangay Captain Eduardo Bade; (d) the victim's mother ABC; and (e) SPO1 Antonio Peñaranda.

The defense, on the other hand, presented Reyes as its sole witness.

The facts culled from the RTC and the Court of Appeals findings reveal that on July 8, 1999 at about 10:00 p.m., 14-year-old AAA, 10-year-old BBB and 9-year-old CCC were sleeping upstairs in their house. Their father, Reyes, was downstairs. Their mother, ABC, with their 16-year-old brother DDD, was out of the house. AAA was awakened from her sleep by her father's call from downstairs. He wanted her to go on an errand. AAA did not immediately answer and stalled. When she finally did go, Reyes, apparently angry by AAA's delay, suddenly pulled her, slapped her and banged her head on the wall. He dragged AAA to the sala and pushed her on the floor. He forcibly fully undressed her, licked her private part, mounted her, and raped her. He also used his finger on her. During this ordeal, AAA's shouts for help were muffled by Reyes who was choking her. Reyes stopped only when his wife and son arrived. He got up, put on his briefs and ordered AAA to head to the bathroom.

When ABC and DDD arrived, the door of the house was closed, music was playing loudly and the sala was dark. As ABC entered, she heard someone crying in the bathroom. She saw AAA inside and asked what she was doing. Her daughter did not reply but left the bathroom in a huff. When ABC confronted Reyes, the couple started arguing. ABC went upstairs and repeatedly asked AAA why she was crying, but the latter kept quiet as she saw Reyes behind ABC holding an icepick. It was only later that AAA confided to her brother DDD. After DDD informed ABC what Reyes had done, they immediately went to the barangay office to report the rape. The following day, AAA was examined at the National Bureau of Investigation. Thereafter, they lodged a complaint against Reyes.

For his part, Reyes alleged that AAA fabricated the rape story because his wife and daughter wanted to get even with him for his beating them whenever he got drunk.

On November 11, 2002, giving full weight and credence to AAA's testimony and finding that the evidence presented by the prosecution sufficiently proved Reyes's guilt beyond reasonable doubt, the RTC rendered a decision of conviction in Criminal Case No. C-57025. In Criminal Case No. C-57023 and Criminal Case No. 57024, Reyes was acquitted for insufficiency of evidence.

The dispositive portion of the RTC decision reads:

WHEREFORE, for insufficiency of evidence, the information in Crim. Case No. C-57023 and Crim. Case No. C-57024 are hereby DISMISSED and the accused is hereby ACQUITTED.

In Crim. Case No. C-57025, finding the accused guilty beyond reasonable doubt of the crime of Rape and he is hereby sentenced to suffer death by lethal injection. He is likewise ordered to pay the private complainant the amount of P50,000.00 as moral damages and P75,000.00 as exemplary damages.

The City Warden of Caloocan City, is hereby ordered to commit the person of the accused Francisco Reyes to the National Bilibid Prison, Muntinlupa City to serve his sentence.

Let the entire records of this case be forwarded to the Supreme Court for automatic review as mandated by law.

SO ORDERED.[6]

Reyes appealed. In line with our ruling in *People v. Mateo*,^[7] we referred the present case to the Court of Appeals.^[8]

Upon review, the Court of Appeals concluded that contrary to appellant's claim, the finding in the medical examination of the victim's genitalia showing shallow healed laceration about five days old or more was not incompatible with AAA's testimony that Reyes had intercourse and used his finger on her. It reasoned that fresh lacerations in the vagina are not necessary in establishing rape nor does it preclude rape especially when the victim is of tender age. Rape is consummated by the slightest penile penetration of the labia majora or pudendum of the female organ.^[9]

Thus, the decretal portion of the Court of Appeals' decision reads:

WHEREFORE, premises considered, the appeal is hereby DISMISSED and the assailed November 11, 2002 Decision of the Regional Trial Court of Caloocan City, Branch 128, finding accused-appellant Francisco Reyes guilty beyond reasonable doubt of qualified rape and sentencing him to suffer the DEATH PENALTY is hereby AFFIRMED with MODIFICATION in the sense that he is ordered to pay the victim, [AAA], P75,000.00 as civil indemnity, P75,000.00 as moral damages, and P75,000.00 as exemplary damages.

Pursuant to Section 13 (a), Rule 124 of the Amended Rules to Govern Review of Death Penalties, the case, together with the entire records, is hereby forthwith CERTIFIED and ordered ELEVATED to the Supreme Court for review.

SO ORDERED.^[10]

In his appeal, appellant assigned a single error:

THE TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED GUILTY BEYOND REASONABLE DOUBT FOR THE CRIME OF RAPE.^[11]

Appellant contends that the victim's testimony that the appellant had intercourse with her and used his finger on her is inconsistent with the medico-legal findings that she had no fresh lacerations, and thus there exists reasonable doubt sufficient to acquit him.

On this lone issue, we are in agreement with the appellate court, which found no reasonable doubt that rape was committed by appellant.

We note likewise that in an attempt to discredit his daughter AAA, appellant points out that it is perplexing for the former to report to Dr. Marquez during the medical examination that he only inserted his finger in her vagina but failed to mention that he penetrated her with his penis.

We find nothing perplexing in her testimony. It is not unnatural for a rape victim, especially one who is of tender age, to make discrepant statements. But, so long as the testimony is consistent on material points, slightly conflicting statements will not undermine the witness's credibility or the veracity of her testimony. They in fact tend to buttress, rather than impair, her credibility as they erase any suspicion of a rehearsed testimony. Inconsistencies and discrepancies as to minor matters which are irrelevant to the elements of the crime cannot be considered grounds for acquittal.^[12]

Further, a victim's testimony is the most important evidence of the sexual assault.^[13] The lone testimony of the rape victim — if credible, straightforward, convincing and otherwise consistent with human nature and the ordinary course of things — may stand as the robust pillar of conviction.^[14] In incestuous rape, we have held that a rape victim's testimony against her father is entitled to greater weight because it is deeply ingrained in our culture to revere and respect our elders,^[15] thus, unless true, a child would not thoughtlessly accuse a parent of

rape.

In addition, when the credibility of the witness is at issue, we have laid down the following parameters: First, the appellate court will not disturb the factual findings of the lower court unless there is a showing that it had overlooked, misunderstood, or misapplied some fact or circumstance of weight and substance that would have affected the result of the case. Second, the findings of the trial court pertaining to the credibility of witnesses are entitled to great weight and respect since it had the opportunity to examine their demeanor as they testified on the witness stand. Third, a witness who testified in a categorical, straightforward, spontaneous and frank manner and remained consistent on cross-examination is a credible witness.[16]

The RTC had ruled that the testimony of AAA about the unfortunate incident is clear, unequivocal and credible. We find nothing in our review to depart from the RTC and Court of Appeals findings.

Lastly, denial by an accused is self-serving, and cannot prevail over the declaration of a credible witness who testifies on affirmative matters.[17]

WHEREFORE, the Decision of the Court of Appeals dated April 5, 2005 finding appellant Francisco Reyes y Abrematea guilty beyond reasonable doubt of qualified rape, is hereby **AFFIRMED** with the following **MODIFICATIONS**:

(1) the penalty imposed is reduced to RECLUSION PERPETUA without eligibility for parole as provided for by Republic Act No. 9346;[18] and

(2) the award of exemplary damages is reduced, from P75,000 to P25,000, consistent with prevailing jurisprudence,[19] but moral damages should also be awarded in the amount of P75,000.[20]

No pronouncement as to costs.

SO ORDERED.

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

[1] Rollo, pp. 3-18.

[2] CA rollo, pp. 16-23.

[3] Id. at 5.

[4] Id. at 6.

[5] Id. at 7.

[6] Id. at 23.

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

[8] Rollo, p. 2.

[9] Id. at 9-10.

[10] Id. at 17-18.

[11] Id. at 9.

[12] *People v. Bares*, G.R. Nos. 137762-65, March 27, 2001, 355 SCRA 435, 451-452.

[13] *People v. Gonzales*, G.R. No. 140676, July 31, 2002, 385 SCRA 573, 579.

[14] *People v. Dawisan*, G.R. No. 122095, September 13, 2001, 365 SCRA 138, 146.

[15] *Supra* note 12, at 453.

[16] *People v. Baltazar*, G.R. No. 115990, March 31, 2000, 329 SCRA 378, 386.

[17] *People v. Operario*, G.R. No. 146590, July 17, 2003, 406 SCRA 564, 571.

[18] *An Act Prohibiting the Imposition of Death Penalty in the Philippines* (enacted on June 24, 2006).

[19] *People v. Bidoc*, G.R. No. 169430, October 31, 2006, p. 19, citing *People v. Sambrano*, G.R. No. 143708, February 24, 2003, 398 SCRA 106, 117.

[20] *People v. Salome*, G.R. No. 169077, August 31, 2006, 500 SCRA 659, 676; *People v. Quiachon*, G.R. No. 170236, August 31, 2006, 500 SCRA 704, 719.

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