

THE PEOPLE OF THE PHILIPPINES, APPELLEE, VS. CHARLIE GLORIA, APPELLANT.

G.R. NO. 168476 [FORMERLY G.R. NO. 154728-30]. September 27, 2006

Ponente: AUSTRIA-MARTINEZ, J.

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AUSTRIA-MARTINEZ, J.:

For review is the Decision[1] dated March 17, 2005 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 00089 which affirmed the Decision of the Regional Trial Court (RTC) of Bulacan, Branch 21, finding appellant guilty of the crime of Qualified Rape in Criminal Case Nos. 3115-M-99 to 3117-M-99 and sentencing him to suffer the death penalty. The dispositive portion of the CA Decision reads:

IN LIGHT OF ALL THE FOREGOING, the Decision of the Regional Trial Court of Bulacan, Branch 21, in Criminal Case Nos. 3115-M-99 to 3117-M-99, finding the appellant guilty beyond reasonable doubt of QUALIFIED RAPE and sentencing him to suffer the DEATH penalty, is hereby AFFIRMED.

Let the records of this case be forwarded to the Supreme Court for automatic review.

SO ORDERED.[2]

Pursuant to Sec. 29 of Republic Act No. 7610, Sec. 44 of Republic Act No. 9262 and Sec. 40, Rule on Violence Against Women and their Children, to wit:

Sec. 29. Confidentiality. - At the instance of the offended party, his name may be withheld from the public until the court acquires jurisdiction over the case.

It shall be unlawful for any editor, publisher, and reporter or columnist in case of printed materials, announcer or producer in the case of television and radio broadcasting, producer and director in the case of the movie industry, to cause undue and sensationalized publicity of any case of a violation of this Act which results in the moral degradation and suffering of the offended party. (R.A. No. 7610)

Sec. 44. Confidentiality. - All records pertaining to cases of violence against women and their children including those in the barangay shall be confidential and all public officers and employees and public or private clinics or hospitals shall respect the right to privacy of the victim. Whoever publishes or causes to be published, in any format, the name, address, telephone number, school, business address, employer, or other identifying information of a victim or an immediate family member, without the latter's consent, shall be liable to the contempt power of the court.

Any person who violates this provision shall suffer the penalty of one (1) year imprisonment and a fine of not more than Five Hundred Thousand Pesos (P500,000.00). (R.A. No. 9262)

Sec. 40. Privacy and confidentiality of proceedings. - All hearings of cases of violence against women and their children shall be conducted in a manner consistent with the dignity of women and their children and respect for their privacy.

Records of the cases shall be treated with utmost confidentiality. Whoever publishes or causes to be published,

in any format, the name, address, telephone number, school, business address, employer or other identifying information of the parties or an immediate family or household member, without their consent or without authority of the court, shall be liable for contempt of court and shall suffer the penalty of one year imprisonment and a fine of not more than Five Hundred Thousand (P500,000.00) Pesos. (Rule on Violence Against Women and their Children)

as well as the recent case of *People v. Cabalquinto*,^[3] and per Resolution dated September 19, 2006 in A.M. No. 04-11-09-SC, the Court shall use fictitious initials in lieu of the real names of the victim/s and immediate family members other than the accused, and delete the exact addresses of the victim.

The accused Charlie Gloria (appellant) was charged under three Criminal Informations for Statutory Rape, committed as follows:

(1) Crim. Case No. 3115-M-99

That on or about the 13th day of May, 1999, in the xxx, Province of Bulacan, Philippines and within the jurisdiction of this Honorable Court, the above-named accused did then and there willfully, unlawfully and feloniously, with lewd designs, by means of force and intimidation have carnal knowledge of AAA, his daughter, 11 years of age, against her will and consent.

Contrary to law.^[4]

(2) Crim. Case No. 3116-M-99

That on or about the 16th day of May, 1999, in the xxx, Province of Bulacan, Philippines and within the jurisdiction of this Honorable Court, the above-named accused did then and there willfully, unlawfully and feloniously, with lewd designs, by means of force and intimidation have carnal knowledge of AAA, his daughter, 11 years of age, against her will and consent.

Contrary to law.^[5]

(3) Crim. Case No. 3117-M-99

That on or about the 10th day of April, 1999, in the xxx, Province of Bulacan, Philippines and within the jurisdiction of this Honorable Court, the above-named accused did then and there willfully, unlawfully and feloniously, with lewd designs, by means of force and intimidation have carnal knowledge of AAA, his daughter, 11 years of age, against her will and consent.

Contrary to law.^[6]

When arraigned, the accused pleaded "not guilty" to all three charges.^[7]

The prosecution's evidence established the following:

The accused was married to ABC with whom he begot five children, including 11-year old AAA, who is the victim in this case. They separated in 1997. The eldest daughter DEF went with her mother to Manila, while the other siblings, including AAA, stayed with their father in a one-room residence in xxx.

On several dates in 1999, particularly, April 10, May 13, and May 16, the accused sexually abused AAA. According to AAA, on April 10, 1999, she slept at around 7 o'clock in the evening. She was awakened at around 10 o'clock by her father who was taking off her shorts and underwear. He then placed himself on top of her and told her not to make any noise, warning her not to report anything to anyone. When she asked her father what he was doing, he said that it was her mother's fault. Her father then placed his penis in her mouth, after which he forcibly inserted it in her vagina. Her father also tied her hands with a plastic straw cord.^[8]

She was subjected to the same ordeal two more times - on May 13, 1999 at around midnight, and May 16, 1999 at around 10 o'clock in the evening - with his father placing his penis in her mouth first before forcibly inserting it in her vagina.[9] AAA could not do anything to repel her father's acts because she was afraid and because her father told her not to say anything to anyone, although she did try to avoid his attempts by moving her body and forcing her legs closed, to no avail. She knew that her father was able to insert his penis into her vagina because she felt pain and her urine was reddish.[10]

On June 14, 1999, ABC went to Bulacan with her lawyer, as she wanted to talk to her husband regarding the children's custody. When he refused to talk to her, she went to their old house and met her children. When ABC talked to AAA and told her to "bear everything" since it won't be long before she will take them into her care, AAA told her about her father's misdeeds. They immediately went to the police station to report the matter.

On June 30, 1999, AAA underwent medical examination at the PNP Bulacan Provincial Crime Laboratory Office in Malolos, Bulacan, and it was the Medico-Legal Officer's findings that AAA has "ligature marks at both wrist joint area," "multiple healed lacerations at 1, 3, 5, 6, 7, 9 and 10 o'clock, gaping of the hymen," and she is "in non-virgin state on time of examination." [11]

Upon request of the trial court, another medical examination was done on August 9, 2000 at the PNP Regional Crime Laboratory Office in San Fernando, Pampanga, with the following findings, among others: "Hymen: With presence of a deep-healed laceration at 6 o'clock position and shallow healed lacerations at 3, 8 and 9 o'clock positions."

For his defense, the accused lamely denied the accusations against him. He claimed that it was his estranged wife, ABC, who concocted the stories in order to gain custody of the children. A certain Corazon Santiago corroborated his claim, stating that when she and ABC once talked, the latter admitted that the rape charges were not true. ABC, however, vehemently denied this.

On May 31, 2002, the RTC rendered its Decision finding the accused guilty and sentencing him to suffer the supreme penalty of death. The dispositive portion of the RTC Decision provides:

WHEREFORE, all premises considered, this Court finds and so holds Charlie Gloria y Magnaye to be GUILTY beyond reasonable doubt of the crimes of Statutory Rapes as defined and penalized under Articles 266-A and 266-B of the Revised Penal Code, as amended, in Criminal Cases Nos. 3115-M-99, 3116-M-99, 3117-M-99. Considering the presence of the aggravating/qualifying circumstance that "the victim is under eighteen (18) years of age and the offender is a parent x x x of the victim", he is hereby sentenced to suffer the supreme penalty of DEATH by lethal injection in each of these three (3) cases.

Likewise, the accused is also directed to indemnify the offended party AAA[12] in the amount of P75,000.00 for each count of rape since these offenses are qualified by circumstances under which the penalty of death is authorized to be imposed by law. In addition, the award of moral damages in the amount of P50,000.00 in each case is also in order considering that in all rape cases, moral damages shall be awarded even in the absence of proof for it is presumed that the complainant has suffered the trauma of physical, mental and psychological sufferings.

Exemplary damages in the amount of P25,000.00 is also awarded in the hope of deterring fathers with perverse tendencies and aberrant sexual behaviors from sexually abusing their daughters (People vs. Francisco Navida, G.R. No. 132239-40, December 4, 2000).

SO ORDERED.[13]

Appellant was committed at the New Bilibid Prison on June 8, 2002.[14]

The case was then brought to the Court on automatic review in view of the death penalty imposed on the accused. However, with the ruling in *People vs. Mateo*,^[15] that death, reclusion perpetua or life imprisonment cases shall be reviewed first by the CA before it is elevated to this Court, the case was transferred to the CA per Resolution dated August 31, 2004.^[16]

In his Brief, appellant argued that:

I

THE TRIAL COURT ERRED IN GIVING FULL FAITH AND CREDENCE TO THE PROSECUTION'S EVIDENCE DESPITE THE PATENT MOTIVE BEHIND THE CHARGES.

II

THE TRIAL COURT ERRED IN FINDING ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT OF THE CRIMES CHARGED.^[17]

Appellant harped on the argument that the charges were made up by his estranged wife, ABC, for her to be able to get custody of the children. According to appellant, the fact that the last of the alleged rapes occurred in May 1999, barely a month before ABC went to Bulacan with her lawyer to discuss custody matters with him (appellant) on June 1999 cannot just be a mere coincidence; rather, it was ABC's "ruse" to gain quick custody of their children, specially since appellant refused to give them to her.^[18]

Appellant also believed that there is a contradiction in AAA's testimony, i.e., during her initial testimony, AAA denied having been tied up by her father; however, when she was recalled to the witness stand, she claimed that her father tied her up.^[19]

Appellant also claimed that AAA's testimony does not jibe with the medical evidence. According to him, AAA's medico-legal examination, which was done in June 1999, showed ligature marks on both her wrists. The medico-legal expert, however, testified that ligature marks heal within seven to ten days. If AAA was indeed tied the first time she was raped on April, then there should be no more ligature marks on her wrists when she was examined in June. Appellant also argued that AAA's claim is practically improbable given that she was lying beside her siblings in a cramped bed and none of them woke up while her father was raping her.^[20]

The CA refused to give credit to appellant's arguments, and affirmed his conviction in its Decision dated March 17, 2005, the decretal portion of which reads:

IN LIGHT OF ALL THE FOREGOING, the Decision of the Regional Trial Court of Bulacan, Branch 21, in Criminal Case Nos. 3115-M-99 to 3117-M-99, finding the appellant guilty beyond reasonable doubt of QUALIFIED RAPE and sentencing him to suffer the DEATH penalty, is hereby AFFIRMED.

Let the records of this case be forwarded to the Supreme Court for automatic review.

SO ORDERED.^[21]

In a Resolution dated July 19, 2005, the parties were given a period within which to file their supplemental briefs, if they so desire.^[22] Both appellant and the People of the Philippines manifested their intention not to file any supplemental brief since all the issues and arguments have already been raised in their respective Briefs. ^[23]

The Court finds no compelling reason to doubt AAA's testimony. Firstly, the trial court found AAA's testimony to be credible, thus:

The prosecution thru AAA's testimony vividly narrated the three (3) incidents which happened on April 10, May 13 and May 16 all in 1999. According to her, she was awakened from sleep when the attacker whom she

readily identified as her own father the accused in this case, was removing her shorts and panty. Considering that the accused was already naked from the waist down, he then placed himself on top of her, put his penis in her mouth and then inserted it in her sexual organ.

Certainly when AAA declared that the accused inserted his sex organ into her private part and she felt pain, there can be no question that there were penetrations in the three (3) incidents and therefore sexual intercourse took place.[24]

It is settled that when the issue is the evaluation of the testimony of a witness or his credibility, this Court accords the highest respect and even finality to the findings of the trial court, absent any showing that it committed palpable mistake, misappreciation of facts or grave abuse of discretion. It is the trial court which has the unique advantage of observing first-hand the facial expressions, gestures and the tone of voice of a witness while testifying.[25] There exist no exceptional circumstances in this case such that the Court should depart from the rule.

The CA likewise found AAA's testimony to be credible, to wit:

We find credible the victim's account, that on April 10, 1999, May 13, 1999 and May 16, 1999, when she was only eleven years old, appellant, her very own father, had carnal knowledge of her through force and intimidation. AAA[26] never faltered in her allegation that appellant molested her on three occasions. Her testimony was clear, spontaneous and straightforward. Hence, the fact of rape and identity of appellant as the offender were sufficiently proved. x x x[27]

The Court also went over AAA's testimony and indeed, there are no material flaws or discrepancies enough to cast any misgiving on the veracity of her account. Thus, it has been stated: "when a girl or a woman says that she has been raped she says in effect all that is necessary to show that rape was truly committed. She is not expected to remember all the ugly details of the outrage committed against her. And when her testimony passes the test of credibility, the accused can be convicted on the basis thereof, for in most cases it is the only evidence that can be offered to establish his guilt." [28] What is truly decisive in this case is that she was able to identify the accused as her rapist.[29]

The Court does not subscribe to appellant's claim that the filing of the rape charges was part of ABC's effort to gain custody of her children, especially since the accused failed to prove the same. This is mere conjecture and obviously, a vain attempt to escape liability from his dastardly acts. It will take a sick and sinister parent to conjure up such a ploy and use an offspring as an engine of malice. It is also unthinkable for a mother to allow an examination of her daughter's private parts and subject her through the rigors and humiliation of a public trial if the accusations were not true, or if she was not motivated solely by the desire to have the person responsible for the defloration of her daughter apprehended and punished.[30]

With regard to the alleged inconsistency in AAA's testimony and the physical evidence, indeed, AAA testified on cross-examination that her father did not tie her up at anytime in the year 1999,[31] despite the medico-legal's finding that there were ligature marks on both her wrists. On re-cross, however, she stated that she denied having been tied up by her father because she was afraid of her father. She then said that her father used a plastic straw when he tied her up the first time he raped her.[32] Moreover, even if she hemmed and hawed in revealing the fact of her being tied up by her father, this does not detract from the cold reality that she was raped. It should be pointed out that errorless recollection of a traumatic and agonizing incident cannot be expected of a witness when she is recounting details of an experience as humiliating and painful as rape. A rapist should not expect the hapless object of his lechery to have "the memory of an elephant and the cold precision of a mathematician." [33]

Neither does the testimony of Dr. Manuel Aves that ligature wounds usually heal approximately within seven to

ten days[34] pose any material threat to the integrity of AAA's testimony. At best, what the ligature marks reveal is that AAA was tied at some point in time before she was examined by Dr. Alves. Even Dr. Alves stated that he was not sure when the marks on AAA were inflicted.[35] It has been consistently held that the absence of physical injuries on the victim's body does not negate rape.[36] It is with more reason that the Court finds that the presence or absence of ligature marks on AAA's wrist is immaterial.

Appellant makes much of the fact that the rape incidents happened inside their house where there is only one room and where he and all his other children were cramped on a papag. The Court, however, has already debunked this line of argument in so many cases. Thus, it has been repeatedly held that rape can be committed in the same room where other members of the family are also sleeping, in a house where there are other occupants or even in places which to many might appear unlikely and high-risk venues for its commission.[37]

For his part, all appellant had in his defense is denial. Denial is an intrinsically weak defense, which the accused must buttress with strong evidence of non-culpability to merit credibility.[38] Appellant failed to corroborate any material allegation in his testimony. A mere denial constitutes negative evidence, which does not deserve greater evidentiary weight than the declaration of a credible witness who testifies on affirmative matters.[39]

Given the strength of the prosecution's evidence and appellant's failure to defend himself against the charges against him, the Court must therefore affirm the judgment of conviction.

The Informations filed against the appellant all charged him with the crime of STATUTORY RAPE penalized under Articles 266-A and 266-B of the Revised Penal Code, while the CA affirmance per Decision dated March 17, 2005 found appellant guilty of QUALIFIED RAPE.

Statutory Rape is defined under Article 266-A of the Revised Penal Code,[40] as follows:

Article 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:

- a) Through force, threat, or intimidation;
- b) When the offended party is deprived of reason or otherwise unconscious;
- c) By means of fraudulent machinations or grave abuse of authority; and
- d) When the offended party is under twelve (12) years of age or is demented, even though none of the circumstances mentioned above are 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. (Emphasis supplied)

The phrase "under twelve years of age" makes the offense Statutory Rape,[41] and is punishable by reclusion perpetua under Art. 266-B of the Revised Penal Code. Article 266-B of the Revised Penal Code, however, also states that the death penalty shall be imposed in the crime of rape if any of the aggravating/qualifying circumstances mentioned in Article 266-B is present. Aggravating/qualifying circumstances are circumstances that change the nature of the crime when these circumstances are present in the commission of the crime. Particularly, qualifying circumstances are aggravating circumstances, which, by express provision of law, change the nature of the crime to a higher category. In this case, such qualifying circumstance is that the victim is under eighteen (18) years of age and the offender is a parent of the victim.[42] The presence of the foregoing qualifying circumstance raised the crime of Statutory Rape to Qualified Rape. Simply stated, under the circumstances obtaining in this case, Qualified Rape is Statutory Rape in its qualified form.

As previously stated, under Article 266-B of the Revised Penal Code, an accused found guilty of Qualified Rape

is meted out the supreme penalty of death. Republic Act No. 9346 enacted on June 24, 2006, however, prohibited the imposition of the death penalty and repealed/amended all the laws insofar as they impose the death penalty.[43] In lieu thereof, the penalty of reclusion perpetua without eligibility for parole is imposed.[44]

The Court finds that the RTC correctly awarded P75,000.00 as civil indemnity, as it is awarded if the crime is qualified by circumstances which warrant the imposition of the death penalty.[45] Exemplary damages in the amount of P25,000.00 was also correctly awarded by the RTC given the presence of the qualifying circumstances of minority and relationship.[46] The award of P50,000.00 as moral damages, however, should be increased to P75,000.00 in line with prevailing jurisprudence.[47]

WHEREFORE, the Court of Appeals Decision dated March 17, 2005, which affirmed the Decision of the Regional Trial Court of Bulacan, Branch 21, finding the accused Charlie Gloria y Magnaye guilty of the crime of Qualified Rape in Criminal Case Nos. 3115-M-99 to 3117-M-99 is AFFIRMED, with the MODIFICATION that the death penalty imposed is reduced to reclusion perpetua without eligibility for parole, and the award of moral damages is increased to P75,000.00.

SO ORDERED.

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

[1] Penned by Associate Justice Jose L. Sabio, Jr., with Associate Justices Noel G. Tijam and Mariflor Punzalan-Castillo, concurring.

[2] CA rollo, p. 128.

[3] G.R. No. 167693, September 19, 2006.

[4] Records, p. 2.

[5] Id. at 9.

[6] Id. at 12.

[7] Id. at 20.

[8] TSN, May 29, 2000, pp. 3-4; May 31, 2000, pp. 2-3.

[9] TSN, May 31, 2000, pp. 4-5.

[10] Id.

[11] Folder of Exhibits, p. 1.

[12] In consonance with *People v. Cabalquinto*, supra note 3.

[13] Records, p. 135.

[14] CA rollo, p. 33.

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

[16] CA rollo, p. 2.

[17] Id. at 38.

- [18] Id. at 44-47.
- [19] Id. at 47.
- [20] Id. at 47-50.
- [21] Id. at 128.
- [22] Rollo, p. 18.
- [23] Id. at 19, 21-22.
- [24] Records, p. 133.
- [25] *People v. Alvarez*, G.R. Nos. 140388-91, November 11, 2003, 415 SCRA 523, 530.
- [26] Same as note 10.
- [27] CA rollo, p. 122.
- [28] *People v. Pruna*, 439 Phil. 440, 461 (2002).
- [29] *People v. Alvarez*, supra note 25.
- [30] *People v. Alimon*, 327 Phil. 447, 463 (1996).
- [31] TSN, August 2, 2000, p. 11.
- [32] TSN, September 11, 2000, p. 102.
- [33] *People v. Alvarez*, supra note 25.
- [34] TSN, April 3, 2000.
- [35] Id.
- [36] *People v. Malones*, G.R. Nos. 124388-90, March 11, 2004, 425 SCRA 318, 335.
- [37] *People v. Orande*, G.R. Nos. 141724-27, November 12, 2003, 415 SCRA 699, 707.
- [38] *People v. Escultor*, G.R. Nos. 149366-67, May 27, 2004, 429 SCRA 651, 666.
- [39] Id. at 666.
- [40] As expanded by Republic Act No. 8353 or "The Anti-Rape Law of 1997."
- [41] *People v. Tamos*, 455 Phil. 844, 861 (2003).
- [42] Article 266-B, Revised Penal Code.
- [43] Section 1.
- [44] Section 2.
- [45] *People v. Barcena*, G.R. No. 168737, February 16, 2006, 482 SCRA 543, 561; *People v. Cayabyab*, G.R. No. 167147, Augsut 3, 2005, 465 SCRA 681, 693.
- [46] Id. at 693.
- [47] Id.

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