PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. NORBERTO ASTROLOGO Y DE DIOS, ACCUSED-APPELLANT.

G.R. NO. 169873. June 08, 2007

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

For review is the Decision[1] dated 29 April 2005 of the Court of Appeals in CA-G.R. CR No. 0013, which affirmed the Decision[2] dated 10 March 2003 of the Regional Trial Court (RTC) of Quezon City, Branch 102, in Criminal Case No. Q-00-89343 finding herein appellant Norberto Astrologo y De Dios guilty beyond reasonable doubt of the crime of rape as defined and penalized under Article 266 of the Revised Penal Code committed against his own daughter and sentencing him to suffer the penalty of reclusion perpetua, with the modification which reduced the amount of civil indemnity to P50,000.00; moral damages to P50,000.00; and ordering the appellant to pay the victim exemplary damages in the amount of P25,000.00.

An Information[3] dated 3 January 2000 was filed against appellant Astrologo charging him with the crime of rape committed against his own daughter, AAA.[4] The Information reads as follows:

> The undersigned upon prior sworn complaint filed by AAA, assisted by Aida Zipagan[5] accuses [NORBERTO] ASTROLOGO Y DE DIOS of the crime of Rape, committed as follows:
>
> That on or about the 28[th] day of December, 1999, in xxx City, Philippines, the said accused, by means of force and intimidation, did then and there wilfully (sic), unlawfully and feloniously and at knife point have sexual intercourse with said AAA, his own daughter inside their residence located at Phase xxx, Purok xxx, xxx, Bgy. xxx,[6] this City, against her will and without her consent.[7]

On 1 March 1999, the appellant was arraigned, in which he entered a plea of NOT GUILTY to the crime charged against him. Thereafter, trial ensued.

The prosecution presented the following witnesses: AAA, the victim, Aida Zepadan (Aida), Mauricio Cabrera (Mauricio), and Dr. Francisco Supe, Jr. (Dr. Supe, Jr.).

AAA testified that she is the daughter of the appellant. She stated that before the incident, she used to live with her grandmother in Montalban. But, on 23 December 1999, she was fetched by the appellant at her grandmother's house to live with him and his family. On 28 December 1999, at around 10:00 p.m., she went home after watching television from their neighbor's house. Shortly thereafter, she slept beside her two siblings, namely: BBB, nine years old; and CCC, seven years old. At around 11:00 p.m., while she was sleeping inside a room in their house located in Phase XXX, Purok XXX, XXX, Barangay XXX, XXX City, she woke up when she felt someone kissing her lips. She opened her eyes and recognized that it was her father, herein appellant. She struggled in refusal. She noticed then that her polo shirt was already open. The appellant started mashing her breasts, and when she resisted, he pointed a knife at her. Then, the appellant touched her vagina, lifted her skirt and succeeded in inserting his penis into her vagina despite her continuing refusal, thereby causing her so much pain. After satisfying his lust, the appellant fell asleep. AAA immediately dressed up and proceeded to their neighbor's (Aida)

house. Aida brought AAA to her stepmother, who was at another neighbor's house that time. AAA narrated to her stepmother how the appellant sexually abused her. Subsequently, Aida brought AAA to the Barangay authorities, particularly to Mauricio who is a Barangay Security and Development Officer (BSDO) of Barangay XXX, to report the incident.

Mauricio affirmed that between 11:00 p.m. and 12:00 midnight of 28 December 1999 or almost 29 December 1999, while he was at a Christmas Party, AAA, together with a neighbor, approached him to seek his assistance as she was raped by her father earlier that night. Thereafter, he and the rest of the BSDO went to appellant's house but the latter had already left the premises. The group spread out to search for the appellant and when they saw him, they chased him for some distance until he was overran and caught by SPO3 David Laciste. They brought the appellant to the police station at around 1:00 a.m. on 29 December 1999. Also on 29 December 1999, AAA, assisted by some barangay officials, reported the incident to the police authorities where she executed an Affidavit[8] on what had happened. AAA was also subjected to a physical examination at Camp Crame conducted by Dr. Supe, Jr. on the basis of the complaint filed by her against her own father.

During Dr. Supe, Jr.'s testimony in court, he declared that AAA suffered a deep fresh hymenal laceration at six and seven o'clock positions. Such declaration affirmed his findings as stated in Medico-Legal Report No. M-3479-A-99[9] that AAA suffered a "compatible loss of virginity," which loss could have occurred within 24 hours before the examination.

On the other hand, the defense merely presented the lone testimony of the appellant. The appellant denied having committed the crime of rape against his own daughter, AAA. This Court will quote the defense's own version of the facts of the case according to the testimony of the appellant as summarized by the RTC and the appellate court. Thus-

> On [23 December 1999], [herein appellant's] mother instructed him to fetch [AAA] because his daughter was frequently meeting her boyfriend late in the evening at the back of her grandmother's house and that this would happen about twice or thrice in one evening. [The appellant] then fetched his daughter and brought her to his house in [Barangay] XXX, XXX City.
>
> On [26 December 1999], herein [appellant] celebrated his birthday. The next day, a friend came to his house to continue the birthday celebration. The [appellant] and his friends started the party at about 10:30 [a.m.], about four (4) blocks from his house. At around 10:30 [p.m.], the [appellant] went home from the party. On his way home, he passed by his daughter who was still out in the street. He ordered her to go home as it was getting late. At around 12:30 o' clock past midnight, or early morning of [28 December 1999], he went out of his house for some fresh air. Shortly thereafter, he was arrested [for allegedly raping his daughter (AAA) and brought to Police Station 6 where he was detained.[10]

After trial, the RTC rendered a Decision on 10 March 2003, finding the appellant guilty beyond reasonable doubt of the crime of simple rape.[11]The RTC did not give credence to the defense offered by the appellant which consisted merely of his bare denial. The decretal portion of the aforesaid Decision reads, thus:

> WHEREFORE, in view of the foregoing, the Court finds the [appellant] Norberto Astrologo y De Dios GUILTY beyond reasonable doubt of the crime of Rape, as defined and penalized under Article 266 of the Revised Penal Code, and is hereby sentenced to suffer the penalty of imprisonment of reclusion perpetua.
>
> The [appellant] is likewise ordered to pay [AAA] the following amounts:
>
> (1) P75,000.00 as civil indemnity; and
>
> (2) P75,000.00 as moral damages.[12]

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The records of this case were originally transmitted to this Court on appeal.

In his brief, the appellant's lone assignment of error was, the trial court gravely erred in convicting the appellant for the crime of rape.[13]

Pursuant to People v. Mateo,[14] the records of the present case were transferred to the Court of Appeals for appropriate action and disposition.

Accordingly, the Court of Appeals, taking into consideration the assignment of error stated by the appellant in his Appellant's Brief and after a thorough study of the records of the case, rendered a Decision on 29 April 2005 affirming the conviction of the appellant with the modification which reduced the amount of civil indemnity and moral damages awarded and ordering the payment of exemplary damages to the victim, AAA. The dispositive portion of the said Decision reads as follows:

> IN LIGHT OF ALL THE FOREGOING, the Decision of the Regional Trial Court of Quezon City, Branch 102 in Criminal Case No. Q-00-89343 is hereby AFFIRMED WITH MODIFICATIONS, to wit:
>
> - Reducing the civil indemnity from P75,000.00 to P50,000.00;
>
> - Reducing the award of moral damages from P75,000.00 to P50,000.00; and
>
> - Appellant Norberto Astrologo y De Dios is ordered to pay [the victim, AAA] P25,000.00 as exemplary damages.
>
> Let the records of this case be forwarded to the Supreme Court for automatic review.[15]

Aggrieved by the aforesaid Decision of the appellate court, the appellant filed a Notice of Appeal.[16] In view of the said Notice of Appeal, the Court of Appeals forwarded to this Court the records of this case.

On 4 September 2006, this Court resolved to accept the present case and to require the parties to simultaneously submit their respective supplemental briefs. The Office of the Solicitor General filed a Manifestation in lieu of Supplemental Brief wherein it re-pleads and re-submits all the arguments in the Appellee's Brief dated 20 May 2004. The appellant also filed a Manifestation in lieu of Supplemental Brief which merely adopts the defenses and arguments raised in the Appellant's Brief.

After a careful review of the records of this case, this Court affirms appellant's conviction.

A rape charge is a serious matter with pernicious consequences both for the appellant and the complainant; hence, utmost care must be taken in the review of a decision involving conviction of rape.[17] Thus, in reviewing rape cases, the Court is guided by these principles: First, the prosecution has to show the guilt of the accused by proof beyond reasonable doubt or that degree of proof that, to an unprejudiced mind, produces conviction. Second, unless there are special reasons, the findings of trial courts, especially regarding the credibility of witnesses, are entitled to great respect and will not be disturbed on appeal. Third, the disposition of rape cases is governed by the following guidelines: (1) an accusation of rape can be made with facility; it is difficult to prove but more difficult for the person accused, though innocent, to disprove; (2) in view of the intrinsic nature of the crime of rape where 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 draw strength from the weakness of the evidence of the defense.[18]

In the present case, appellant contends that the court a quo erred in disregarding the appellant's defense of denial. According to appellant, he could not have raped the victim as he was arrested during the early hours of 28 December 1999, while the rape incident allegedly committed by him happened in the evening of the same day at

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around 10:00 p.m. Therefore, he was arrested even before the commission of the crime. This Court finds this contention indefensible.

This Court has consistently held that when the victim says that she has been raped, she says in effect all that is necessary to show that rape has been committed, and if her testimony meets the test of credibility, the accused may be convicted on the basis thereof. This is all the more true where the complainant is the daughter of the accused[19] because a daughter would not concoct a story of defloration against her father, accused him of so grave a crime as rape, allow an examination of her private parts, submit herself to public humiliation and scrutiny via an open trial, if she were not truly aggrieved or her sordid tale was not true and her sole motivation was not to have the culprit apprehended and punished.[20] It is likewise against human nature for a girl to fabricate a story that would expose herself as well as her family to a lifetime of dishonor, especially when her charge could mean the death or a lifetime in prison of her own father.[21]

In this case, when AAA testified before the trial court, she described in detail the horrible experience she suffered at the hands of her own father on that fateful night of 28 December 1999. Her testimony can be characterized as categorical and unqualified. She gave a vivid and clear account on how the appellant raped her. She also made a positive identification of the person who raped her and she declared in an unequivocal manner that it was her father, herein appellant, who raped her. It is worthy to note that after she was raped, she took effort to report that incident to their neighbor, but since she could not utter a word, her neighbor brought her to her stepmother to whom she narrated how the appellant raped her and subsequently, sought the help of the barangay officials to report what had happened as affirmed by Mauricio, one of the prosecution's witnesses. Mauricio averred that indeed, between 11:00 p.m. and 12:00 midnight of 28 December 1999, or almost 29 December 1999, AAA, together with a neighbor, approached him asking for assistance as she was raped by her father. He then informed the Barangay Chairman of XXX, Barangay XXX, and the latter ordered the barangay tanods to apprehend the appellant. Mauricio testified that it was already 1:00 a.m. of 29 December 1999 and not 28 December 1999, as alleged by the appellant, when the latter was arrested and brought to Police Station 6.

The testimony of AAA as to the fact of rape was corroborated by the medical findings conducted on 29 December 1999 by Dr. Supe, Jr. of the Philippine National Police (PNP) Crime Laboratory at Camp Crame. In his testimony, he declared to have found a deep fresh hymenal laceration at six and seven o'clock positions, which means AAA suffered a "compatible loss of virginity." He avowed that such loss of virginity could have occurred within 24 hours before the examination, which coincides with the date the rape incident happened, which was 28 December 1999. It has been said that when the testimony of a rape victim is consistent with the medical findings, sufficient basis exists to warrant a conclusion that the essential requisite of carnal knowledge has thereby been established.[22] Thus, such testimony of Dr. Supe, Jr. strengthens the charge of rape against appellant.

As compared to the aforesaid evidence of the prosecution, the defense of bare denial offered by the appellant cannot hold water.

The defense of denial is an intrinsically weak defense, which must be buttressed by strong evidence of non-culpability to merit credibility.[23] It is merely a negative and self-serving allegation that cannot be given any weight on the scale of justice.[24] And although denial is a legitimate defense in rape cases, mere bare assertions to this effect cannot overcome the positive, straightforward, unequivocal and categorical testimony of the victim. It is an established rule that an affirmative testimony is far stronger than a negative testimony, especially so when it comes from a credible witness.[25] Likewise, it is hornbook doctrine that such positive and categorical testimony of a rape victim-daughter, identifying her own father as the one who sexually attacked her, prevails over his bare denial because no daughter will charge a father, especially a good father, with rape. The charge is not only embarrassing to the victim and the family. It means death to the head of the family. A father so charged

cannot exculpate himself by a bare-bone denial.[26]

In the case at bar, the appellant repeatedly denied having committed the crime of rape as charged against him because he was arrested even before its commission. Such defense of denial offered by the appellant must be rejected. It is a well-settled doctrine that denial being a weak defense must be substantiated by a clear and convincing evidence to merit credibility.[27] In this case, the defense merely relied on the lone testimony of the appellant. The appellant did not bother to present other evidence to prove his contention that on the early hours of 28 December 1999, he was already arrested and brought to Police Station 6 where he was detained thereby making it impossible for him to have committed the offense charged. The appellant could have presented the records or the logbook of the Police Station where he was detained to establish the truthfulness of his assertion that he was already confined in prison when the alleged rape incident happened. In stark contrast, Mauricio, the BSDO of the Barangay, categorically stated that it was 1:00 a.m. of 29 December 1999 when appellant was arrested.

> Q: Where were you on [28 December 1999] at around 11:00 p.m., Mr. Witness?
>
> A: I was attending a Christmas party, sir.
>
> Q: Where was it held, Mr. Witness?
>
> A: At the compound of our Barangay Captain.
>
> Q: Where is that compound?
>
> A: XXX.
>
> x x x x
>
> Q: What time when you arrived at the residence of the [appellant] in this case?
>
> A: It was nighttime but we could not determine the time when arrested the [appellant] (sic) because when [the complainant] arrived to complain our Christmas party (sic) was already between 11:00 and 12:00.
>
> Q: What time was the [appellant] apprehended?
>
> A: When we brought him to the police station, more or less it was 1:00 o'clock in the morning.[28]

Therefore, the appellant's bare denial, which was unsubstantiated by convincing evidence, was not sufficient to create a reasonable doubt as to his commission of the crime.

The contention of the appellant that the trial court failed to consider that his arrest was legally objectionable because the barangay tanods and the arresting officer who arrested him had no personal knowledge of the facts indicating that he had committed the crime is grossly weak. We quote here the findings of the appellate court, viz:

> Appellant cannot possibly claim that the arresting officers did not have personal knowledge of the facts indicating that he committed the alleged rape. The victim herself reported to the barangay authorities that it was appellant who raped her. The arresting officers therefore, had probable cause to believe that appellant raped the victim.
>
> Nevertheless, it is a well-entrenched rule that any objection, defect or irregularity attending an arrest must be made before the accused enters his plea on arraignment. And, having failed to move for the quashing of the Information against him before the arraignment, appellant is estopped from questioning the legality of his arrest.[29]

Finally, this Court agrees in the amount of civil indemnity, moral damages and exemplary damages which the

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appellate court awarded to the victim. Civil indemnity, which is actually in the nature of actual or compensatory damages, is mandatory upon the finding of the fact of rape.[30] The case law also requires automatic award of moral damages to a rape victim without need of proof because from the nature of the crime, it can be assumed that she has suffered moral injuries entitling her to such award. Such award is separate and distinct from civil indemnity.[31] The reduction of civil indemnity to P50,000.00 and moral damages to P50,000.00 is proper because the crime committed by the appellant is only simple rape. The award of P25,000.00 as exemplary damages to AAA is likewise proper in order to deter other fathers with perverse tendencies or aberrant sexual behaviors from sexually abusing their own daughters.[32]

WHEREFORE, premises considered, the Decision of the Court of Appeals in CA-G.R. CR No. 0013 dated 29 April 2005 finding appellant Norberto Astrologo y De Dios guilty beyond reasonable doubt of the crime of rape, as defined and penalized under Article 266 of the Revised Penal Code, committed against his own daughter, AAA, and sentencing him to suffer the penalty of reclusion perpetua, is hereby AFFIRMED. Costs against appellant.

SO ORDERED.

Ynares-Santiago, (Chairperson) and Austria-Martinez, JJ., concur.
Nachura, J., No part. filed pleadings as Sol Gen.

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[1] Penned by Associate Justice Jose L. Sabio, Jr. with Associate Justices Noel G. Tijam and Mariflor P. Punzalan-Castillo, concurring, rollo, pp. 3-13.

[2] Penned by Judge Jaime N. Salazar, Jr., CA rollo, pp. 16-19.

[3] CA rollo, pp. 8-9.

[4] This is pursuant to the ruling of this Court in the case of People of the Philippines v. Cabalquinto, G.R. No. 167693, 12 September 2006, wherein this Court has resolved to withhold the real name of the victim-survivor and to use fictitious initials instead to represent her in its decisions. Likewise, the personal circumstances of the victims-survivors or any other information tending to establish or compromise their identities, as well as those of their immediate family or household members, shall not be disclosed. The names of such victims, and of their immediate family members other than the accused, shall appear as "AAA," "BBB," "CCC," and so on. Addresses shall appear as "xxx" as in "No. xxx Street, xxx District, City of xxx."

The Supreme Court took note of the legal mandate on the utmost confidentiality of proceedings involving violence against women and children set forth in Sec. 29 of R.A. No. 7610, otherwise known as Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act; Sec. 44 of R.A. No. 9262, otherwise known as Anti-Violence Against Women and Their Children Act of 2004; and Sec. 40 of A.M. No. 04-10-11-SC, known as Rule on Violence Against Women and Their Children effective November 15, 2004.

[5] Aida's surname is Zepadan, not Zipagan, as stated in her testimony, TSN, 4 June 2001, p. 2.

[6] Supra note 4.

[7] CA rollo, p. 8.

[8] RTC Records, p. 4.

[9] Id. at 6.

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[10] Rollo, p. 5.

[11] Although the victim in this case was a minor (17 years old) at the time of the commission of the crime of rape, however, for failure of the prosecution to allege in the Information the qualifying circumstance of minority, thus, the crime proved is only simple rape. The said findings of the trial court were affirmed by the Court of Appeals and the Office of the Solicitor General did not contest the same.

[12] CA rollo, p. 19.

[13] Id. at 40.

[14] G.R. Nos. 147678-87, 7 July 2004, 433 SCRA 640, 656.

[15] Rollo, p. 11-12.

[16] CA rollo, p. 91.

[17] People v. Malones, G.R. Nos. 124388-90, 11 March 2004, 425 SCRA 318, 329.

[18] People v. Lou, G.R. No. 146803, 14 January 2004, 419 SCRA 345, 348.

[19] People v. Llamo, 380 Phil. 759, 776-777 (2000).

[20] People v. Watimar, 392 Phil. 711, 727 (2000).

[21] People v. Ebio, 439 Phil. 577, 587 (2002).

[22] People v. Muros, G.R. No. 142511, 16 February 2004, 423 SCRA 69, 81.

[23] People v. Aaron, 438 Phil. 296, 311 (2002).

[24] People v. Manambay, G.R. No. 130684, 5 February 2004, 422 SCRA 73, 86.

[25] People v. Abaño, 425 Phil. 264, 281 (2002).

[26] People v. Abellano, 440 Phil. 288, 294-295 (2002).

[27] People v. Muros, supra note 22.

[28] TSN, 3 September 2001, pp. 4-19.

[29] Rollo, pp. 10-11.

[30] People v. Callos, 424 Phil. 506, 516 (2002).

[31] People v. Orilla, G.R. Nos. 148939-40, 13 February 2004, 422 SCRA 620, 645.

[32] People v. Mosqueda, 372 Phil. 591, 612-613 (1999).

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