

PEOPLE OF THE PHILIPPINES, APPELEE, VS. BERNIE TEODORO Y CAPARAS, APPELLANT,

G.R. No. 170473 (Formerly G.R. No. 146283). October 12, 2006

Ponente: TINGA, J.

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TINGA, J.:

Before this Court for automatic review is the Decision[1] of the Court of Appeals in C.A.-G.R. CR-HC No. 00515, which affirmed the judgment[2] of the Regional Trial Court (RTC)[3] of Macabebe, Pampanga, Branch 25, sentencing Bernie Teodoro y Caparas (appellant) to the penalty of death for the crime of rape.

On 28 October 1999, appellant was charged in Criminal Case No. CBU-99-2459-M for rape in an Information[4] filed by Asst. Provincial Prosecutor Vivian T. Dabu, which reads:

That on or about the 1[st] day of October 1999 at about 10:30 o'clock in the evening, in the barangay of xxx, [M]unicipality of xxx, province of Pampanga, Philippines and within the jurisdiction of this Honorable Court, the above-named accused BERNIE TEODORO Y CAPARAS, with lewd design, did then and there willfully, unlawfully and feloniously succeeded in having carnal knowledge with [AAA[5]], 5 years of age, while the latter was sleeping at her house.

Contrary to law.

The evidence of the prosecution, consisting of the sworn statements and testimonies of the victim and eyewitnesses, established the following facts:

The victim, AAA, was five (5) years old at the time of the incident. On 1 October 1999, AAA and her aunt, BBB,[6] were sleeping in one room of their house at Barangay xxx, xxx, Pampanga, along with AAA's brother and sister. As the windows of the room had no screens, the four (4) slept under two (2) mosquito nets, with AAA occupying one of them with her brother, and the others in the second. The room was illuminated by a 25-watt electric bulb and two (2) small bulbs installed at the altar.[7]

At about 10:30 in the evening, AAA was fast asleep when she was awakened after a man, later identified as the appellant, managed to gain entry into the bedroom, approach the sleeping AAA, mount her and insert his penis into her vagina.[8] AAA screamed, causing BBB to awaken. BBB quickly switched on the main light and saw the man she recognized as the appellant inside the mosquito net, atop AAA.[9] They were both half-naked. Appellant got out of bed immediately and covered his private parts. BBB asked appellant how he was able to enter their room but the latter did not answer. BBB called and shouted for her mother, CCC,[10] who was watching television downstairs.[11] When CCC reached the room of AAA, she saw appellant suddenly jump out of the window.[12]

Thereafter, AAA complained that her private parts were aching. Upon inspection, BBB and CCC noticed that it was swollen and reddish. When asked what appellant did to her, AAA relayed the incident to her aunt and grandmother. AAA was brought to the hospital the next day. Appellant was arrested the following night.

The medical examination conducted on AAA revealed that AAA's external genitalia and perineum on the labia majora bore a "bilateral 0.5 cm, LCM abrasion," while on the labia minora, the anterior portion towards the clitoris had a fresh abrasion about 0.5 cm with minimal bleeding.[13]

Dr. Ma. Socorro Ibuena-Posadas (Dr. Posadas) who examined AAA eventually testified on the medical findings. She stated that the injuries found on the private organ of AAA could have been caused by a man's private organ forced to penetrate her vagina. The fresh bleeding indicated that the injuries sustained were recent, or at least not more than three (3) days from the time of the examination.[14]

Appellant denied the accusation and raised the defense of alibi. He averred that he spent the night at his uncle's house in xxx, xxx, Pampanga at the time of the incident, a claim separately corroborated by his uncle. He further asserted that when he was about to go to xxx Church the following day, he met the father of AAA, who confronted him about the said incident. Despite denying the accusations hurled against him, AAA's father still beat him and brought him to the police station.

At the trial, appellant also questioned the credibility of Dr. Posadas as an expert witness as she had not completed the necessary training in the field of her expertise and she was under the supervision of a senior officer who was not a signatory to the medico-legal report.

The RTC, in a Decision dated 29 September 2000, found appellant guilty of rape and imposed the penalty of death pursuant to Republic Act (R.A.) No. 8353,[15] otherwise known as the Anti-Rape Law of 1997. The RTC also awarded P75,000.00 "by way of damages."

The legal conclusions reached by the RTC are concise enough to allow reproduction in full, herein:

The Court finds the explanation of the accused too shallow to be given credit and weight. It is unthinkable that a five[-] year old girl, of tender age, as well as her aunt and also her grandmother, would concoct the story of so heinous an offense without any serious and valid reason.

The defense of alibi by the accused cannot prosper as he was not able to prove that it was physically impossible for him to have been at the crime scene or its immediate vicinity. In this case[,] his defense that he was in xxx during the commission of the crime could not be appreciated considering that the place of [the] incident can be negotiated for about 10 to 15 minutes. In the absence of strong and convincing evidence, alibi cannot prevail over the positive identification of the accused by the victim as well as her witnesses. The record does not show that the victim as well as her kins [sic] have ill-motive against the accused.

As to the Medico[-]Legal OB-Gyne Report, which has been objected [to] by the accused thru counsel that the doctor who issued the same is not qualified[,] could not be sustained as the examination and findings are merely corroborative in character. The doctor is found to be qualified to testify on her findings.

The defense of the accused that the victim is an incompetent witness is of no moment. It must be borne in mind that the victim is an innocent, wholesome and naive five-year old girl, that this Court, or anyone for that matter, cannot expect to articulate and verbalize all answers thrown at her. Being a child and a victim of rape, her testimony can be expected to be quite inconsistent and ambiguous although factual.[16]

Pursuant to this Court's decision in *People vs. Mateo*,[17] the case was transferred to the Court of Appeals on 7 September 2004. On 30 August 2005, the appellate court affirmed with modification the RTC decision. Sustaining the finding of guilt, the appellate court further ordered appellant to pay P50,000.00 in moral damages,[18] in addition to the earlier award of P75,000.00 as civil indemnity.[19]

In denying the appeal, the appellate court expounded on the findings of the RTC. It accorded full credence to the candid, forthright and consistent testimony of AAA in identifying the appellant who raped her and concluded that

the testimonies of rape victims who are young and immature are credible. The appellate court noted that AAA's testimony was corroborated not only by witnesses but by medical findings, as well. Debunking the twin defenses of denial and alibi of appellant, it stressed that denial cannot prevail over the positive, candid and categorical testimony of AAA and it was not physically impossible, as the trial court found, for appellant to be present at the crime scene.[20]

Appellant alleges in his brief that the trial court erred (1) in finding him guilty beyond reasonable of the crime of rape, and (2) in imposing the death penalty.[21]

Appellant impugns the credibility of AAA, pointing out that when asked how she knew she was raped, she answered "because my vagina hurts." He claims that the trial court erred in accepting this testimony as sufficient to establish the rape. Moreover, appellant capitalizes on the medical finding that there was no laceration on the vagina to exculpate himself from criminal liability.[22]

In the review of rape cases where the credibility of the complainant is in question, this Court consistently relies on the assessment of the trial court. As aptly noted by the Solicitor General, the findings of fact of the trial court pertaining to the credibility of witnesses command great weight and respect.[23] Indeed, the trial court judge is in the best position to assess the credibility of the complainant, having personally heard her and observed her deportment and manner of testifying during the trial. [24]

It has been consistently held in a long line of cases that when a woman, more so if she is a minor, says that she has been raped, she says in effect all that is necessary to show that rape was committed.[25] In fact, the testimony of the victim alone, if credible, is sufficient to convict the accused of the crime. AAA's straightforward account of the incident categorically established the commission of the crime of rape:

Q

Do you remember what happened to you one evening while you were asleep in your house?

A

Yes, sir.

ATTY. PANGILINAN

Questioning

What happened to you?

WITNESS

Answering

My vagina was aching, sir.

Q

Why was your vagina aching?

A

Someone went on top of me, sir.

Q

Is he a man or a woman?

A

A man, sir.

Q

And what did that man do to you?

A

He inserted his penis, sir.

Q

To what?

A

To my vagina, to wit "petching," sir.

Q

So you were hurt when that man was inserting his penis to your vagina?

A

Yes, sir.[26]

Furthermore, AAA was able to positively identify appellant as the malefactor:

Q

When she turned on the light, did you see the man who sexually abused you?

A

Yes, sir.

Q

Did you see his face?

A

Yes, sir.

Q

Do you know his name?

A

No, sir.

Q

If that man who sexually abused you that evening by inserting his penis to your vagina is in the courtroom, will you point to him?

A

Yes, sir. That man.

(Witness pointed to a man inside the courtroom, who, when asked, gave his name as Bernie Teodoro)[27]

Moreover, AAA's testimony was sufficiently corroborated by the medical findings as testified to by the medico-legal expert, Dr. Posadas, and the testimonies of the prosecution witnesses.

The testimony of Dr. Posadas established the fact that there was contact with the labia which effectively consummated the crime of rape,[28] thus:

Q

One of your findings doctora, on the external genitalia and perineum [sic] of the patient, on the labia majora[,] it is stated here: Bilateral 0.5 cm, LCM abrasion. Another findings[sic] on the labia minora: Anterior portion towards the clitoris abrasion about 0.5-1 cm, minimal bleeding, fresh abrasion.

Could you [kindly] explain to this Court doctora in layman's term, what do you mean by your first findings?

WITNESS

Answering

There are injuries to the skin, it could be a cut, sir.

ATTY. PANGILINAN

Questioning

And where did you find this doctora?

A

Labia Majora, I even drew it, sir.

Q

And also another finding at the Labia Minora?

A

It is the same findings. It is anterior towards the clitoris. It is just the medical term going to the clitoris, sir.

Q

You also made a finding of minimal bleeding, where is this bleeding you found?

A

From the abrasion, sir.

Q

At the Labia Majora?

A

Yes, sir.

Q

How about this fresh abrasion?

A

It is the same thing, sir, the bilateral cut on the skin.

Q

In your medical opinion, Dra., what could have caused these injuries you found on the private organ of the victim?

A

It could be caused by a force, sir.

Q

Could you consider a private organ of a man forced the said penis to penetrate/enter the vagina of victim [AAA] who is a 5 year old girl, could it be the cause on [sic] the injuries you found?

A

Probably, sir.

Q

The alleged crime was committed on October 1, 1999 and you examined her on October 2, 1999, could you tell us if the injuries you found on the private organ of the victim is compatible to the date of infliction[,] madam?

A

There is a [sic] fresh bleeding, fresh injuries. It could only be recent, it could be less than 3 days, sir.[29]

On cross-examination, the medico-legal witness confirmed the medical findings that injuries were definitely sustained in the labia:

Q

In your medical certificate, your findings are stated here: Bilateral 0.5 cm., 1cm abrasion. {W}ill you tell us the exact location of this?

A

I just told you, it is in the anterior portion towards the clitoris, ma'am. Are you familiar with the genitalia?

ATTY CRUZ

Questioning

Of course, I am a woman.

WITNESS

Answering

I even drew it. Would you like to see my drawing?

ATTY. CRUZ

I would like to see your drawing.

WITNESS

(Witness showing the same) So, this is the clitoris, this is the hymenal ring, this is the labia majora[,] there is a

0.5-1cm abrasion.

Q

In the labia majora?

A

In the labia majora, ma'am.

Q

Not in the labia minora?

A

Yes, ma'am, because the labia minora of the child is not yet fully developed.

Q

How about the vaginal orifice, where is that?

A

It is inside the vagina, ma'am.

Q

Covered by the hymen, am I right?

A

Yes, ma'am. This is the hymenal ring, it is intact. (Witness referring to her drawing).

Q

The injuries are in the labia majora?

A

Yes, ma'am.[30]

Thus, the contention of appellant that there were no lacerations in the vagina does not merit any consideration. In that regard, it has been held that the medical examination of the victim is merely corroborative in character and is not an element of rape.[31] Likewise, a freshly broken hymen is not an essential element of rape and healed lacerations do not negate rape.[32]

Appellant challenges the qualifications of Dr. Posadas to testify as an expert witness.[33] While the medical findings are merely corroborative in character and therefore not indispensable in the successful prosecution of the crime of rape, nevertheless we sustain the competency of Dr. Posadas. It is sufficient that the medico-legal witness was able to establish to the satisfaction of the court that she possessed special knowledge on the question that requires expert opinion, gained through years of study in medical school, passing the medical board examination and practicing as an O.B. Gyne resident.[34]

Apart from the testimony of the victim and of the doctor who examined her, the case for the prosecution was fortified by the eyewitness' testimonies of BBB and CCC. BBB, who was sleeping in the same room as AAA, testified in court:

Q

Will you kindly inform this Honorable Court what was that unusual incident that happened inside your room?

A

My niece [AAA] suddenly shouted and then cried, sir.

x x x x

Q

When you heard her shouting, what did you do?

A

I stood up from where I was lying down, sir.

ATTY. PANGILINAN

Questioning

Did you switch on the light?

WITNESS

Answering

Yes, sir.

Q

What did you see inside the mosquito net of your niece?

A

I saw Bernie on top of my niece, sir.

Q

Inside the mosquito net?

A

Yes, sir.

x x x x

Q

When you saw Bernie Teodoro on top of your niece [AAA], did you see if he was wearing an apparel?

WITNESS

Answering

He was not wearing clothes [from the] waist down, sir.

ATTY. PANGILINAN

Questioning

Do you mean he was naked [from the] waist down?

A

Yes, sir.

Q

What about your niece, [AAA], did you see her?

A

Yes, sir.

Q

What did you see on her body?

A

She was not wearing panty, sir.[35]

On the other hand, CCC was watching television in the same house when she heard AAA shouting. Said the witness:

Q

While you were watching t.v. at about 10:00 o'clock in the evening do you remember if there was anything unusual that happened in your house?

A

Yes[,] sir. [M]y granddaughter suddenly shouted[,] sir.

Q

What were the shout[s] of your granddaughter[,] if you remember?

A

She was calling me[,] sir[,] and after a short while [BBB] was awaken sir.

Q

Will you tell us the exact words of your granddaughter when she was calling you?

A

She shouted "Nanay", "Nanay" sir.

Q

When you heard your granddaughter calling you[,] what did you do?

A

I immediately stood up[,] sir[,] and ascended the stairs.

x x x x

Q

What did you see?

A

I saw Bernie Teodoro about to stand while he was looking at [BBB] and then afterwards he jumped out over [sic] the window sir.

Q

You said you saw Bernie Teodoro. [W]hat was his position when you saw him?

A

He was naked [from the] waistdown[,] sir.[36]

Clearly, both eyewitnesses for the prosecution corroborated each other in identifying appellant as the perpetrator.

Appellant reiterates before the Court his defense of alibi. He testified that at the time of the incident, he was sleeping in the house of his uncle at xxx, xxx, xxx, Pampanga. His testimony was corroborated by his uncle.

It is well-settled that alibi is one of the weakest defenses because it is easily fabricated.[37] For alibi to prosper, the appellant must not only prove that he was somewhere else when the crime was committed, he must also convincingly demonstrate the physical impossibility of his presence at the locus criminis at the time of the incident.[38] In the instant case, it was established that the house of the uncle of appellant, where he purportedly was at the time of the commission of the crime, was only 10 to 15 minutes away from the place of the incident.[39] Thus, it was not physically impossible for appellant to be at the scene of the crime when it happened, rendering his defense of alibi unworthy of credit. As correctly observed by the appellate court:

Appellant miserably failed to prove the requisite impossibility of committing the crime of rape.

First. Appellant failed to prove that he was nowhere in the vicinity of the crime at the appointed time. Against the prosecution witnesses' positive testimonies that appellant was seen in their room naked from waist down, come out of the mosquito net where the naked child victim was on the appointed time, and later on jumped out of the window, the latter had nothing to offer but denial. Time-tested is the rule that between the positive assertions of the prosecution witness and the negative averments of the accused, the former undisputedly deserves more credence and is entitled to greater evidentiary value.

Second. Appellant failed to prove the physical impossibility of his being present at the crime scene at the time of its occurrence considering that it would take only about 10-15 minutes to negotiate the distance from xxx, xxx to xxx, easily to bring within the space of time consumed the commission of the crime. Where there is even the least chance for the accused to be present at the crime scene, the defense of alibi will not hold water.[40]

Moreover, the alibi of appellant is unavailing against the positive identification made by the victim and other witnesses, especially so when the alibi is corroborated only by a relative of the appellant. Hence, the testimony of the uncle deserves scant consideration because of his perceived bias in favor of appellant.

Thus, the finding of guilt as pronounced by the RTC and the Court of Appeals should be sustained. However, in view of the passage of R.A. No. 9346, entitled "An Act Prohibiting the Imposition of Death Penalty in the Philippines," which was signed into law on 24 June 2006, the penalty of death cannot be imposed. Accordingly, the penalty imposed upon appellant is reduced from death to reclusion perpetua without eligibility for parole.[41]

With respect to the civil liability of appellant, we affirm the RTC decision in awarding civil indemnity in the amount of P75,000.00 which is mandatory upon a conviction for rape.[42] We however, modify the award of

moral damages to P75,000.00,[43] in light of the prevailing jurisprudence that the victim is assumed to have suffered such damages.[44] The presence of the qualifying circumstance of minority necessitates the award of P25,000.00 as exemplary damages.[45]

WHEREFORE, the Decisions of the RTC in Crim. Case No. 99-2459-M and Court of Appeals in CA-G.R. CR-H.C. No. 00515 are AFFIRMED WITH MODIFICATION. Appellant is hereby sentenced to suffer the penalty of reclusion perpetua without eligibility for parole and to pay the victim, AAA, identified in the amounts of P75,000.00 as civil indemnity, P75,000.00 as moral damages and P25,000.00 as exemplary damages plus costs.

SO ORDERED.

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

[1] Rollo, pp. 3-25. Penned by Associate Justice Japar B. Dimaampao and concurred in by Associate Justices Renato C. Dacudao and Edgardo F. Sundiam.

[2]Id. at 40-42.

[3]Presided by Judge Reynaldo V. Roura.

[4] CA rollo, p. 8.

[5] The real name of the victim is withheld per R.A. No. 7610 and R.A. No. 9262. See *People v. Cabalquinto*, G.R. No. 167693, 19 September 2006.

[6] The real name of the victim's aunt is withheld to protect her and the victim's privacy, also pursuant to R.A. No. 7610 and R.A. No. 9262.

[7]TSN, 7 March 2000, pp. 5-6.

[8] TSN, 4 April 2000, p. 13.

[9] TSN, 7 March 2000, p. 6

[10] The real name of the victim's grandmother is likewise withheld pursuant to R.A. No. 7610 and R.A. No. 9262.

[11]TSN, 7 March 2000, pp. 7-8.

[12] TSN, 23 May 2000, p. 8.

[13] Records, p. 7.

[14]TSN, 22 February 2000, p. 10.

[15] The pertinent portions of Art. 266-B of the Revised Penal Code, as amended by R.A. No. 8353, read:

x x x x

The death penalty shall be imposed if the crime of rape is committed with any of the following aggravating/qualifying circumstances:

x x x x

5) When the victim is a child below seven (7) years old;

x x x x

[16] CA rollo, p. 42.

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

[18] CA rollo, p. 105.

[19] Id. at 19.

[20] Rollo, pp. 20-21.

[21] CA rollo, pp. 25-26.

[22] Id. at 31-32.

[23] Id. at 67.

[24] *Perez v. People*, G.R. No. 150443, 20 January 2006, 479 SCRA 209, 220, citing *Sim, Jr. v. Court of Appeals*, G.R. No. 159280, 18 May 2004, 428 SCRA 459; *Magno v. People*, G.R. No. 133896, 27 January 2006, 480 SCRA 276, 286, citing *People v. Escote*, 431 SCRA 345, (2004).

[25] *People v. Corpuz*, G.R. No. 168101, 13 February 2006, 482 SCRA 435, 448; *People v. Antivola*, G.R. No. 139236, 3 February 2004, 421 SCRA 587, 596, citing *People v. Fernandez*, 351 SCRA 80 (2001); *People v. Montes*, G.R. Nos. 148743-45, 18 November 2003, 416 SCRA 103, 116; *People v. Aquino*, G.R. No. 139181, 27 October 2003, 414 SCRA 480, 489.

[26] TSN, 4 April 2000, pp. 12-13.

[27] Id. at 14.

[28] *People v. Boromeo*, G.R. No. 150501, 3 June 2004, 430 SCRA 533, 542.

[29] TSN, 22 February 2000, pp. 9-10

[30] TSN, 22 February 2000, pp. 11-12.

[31] *People v. Malones*, G.R. Nos. 124388-90, 11 March 2004, 425 SCRA 318, 336, citing *People v. Velasquez*, 377 SCRA 214 (2002).

[32] *Llave v. People*, G.R. No. 166040, 26 April 2006, citing *People v. Osing*, G.R. No. 138959, January 16, 2001, 349 SCRA 310, 318.; *People v. Orilla*, G.R. Nos. 148939-40, 13 February 2004, 422 SCRA 620, 634 citing *People v. Aguiluz*, G.R. No. 133480, 15 March 2001, 354 SCRA 465.

[33] Records, pp. 32-34.

[34] Id. at 36.

[35] TSN, 7 March 2000, pp. 6-7.

[36] TSN, 23 May 2000, pp. 6-8.

[37] *Velasco v. People*, G.R. No. 166479, 28 February 2006, 483 SCRA 649, 665, citing *People v. Dela Cruz*, G.R. No. 152176, 1 October 2003, 412 SCRA 503, 509; *People v. Peloperio*, G.R. No. 126119, 15 October 2003, 413 SCRA 397, 411, citing *People v. Delim*, 444 Phil. 430 (2003).

[38] Velasco v. People, supra note 37, citing People v. Alfaro, G.R. Nos. 136742-43, 30 September 2003, 412 SCRA 293, 305; People v. Limio, G.R. Nos. 148804-06, 27 May 2004, 429 SCRA 597, 612, citing People v. Besmonte, G.R. Nos. 137278-79, 17 February 2003, 397 SCRA 513, 527, citing People v. Lachica, G.R. No. 143677, 9 May 2002, 382 SCRA 162, 176.

[39]TSN, 1 August 2000, p. 9.

[40] Rollo, pp. 21-22.

[41] SEC. 3. Persons convicted of offenses punished with reclusion perpetua, or whose sentences will be reduced to reclusion perpetua, by reason of this Act, shall not be eligible for parole under Act No. 4103, otherwise known as the Indeterminate Sentence Law, as amended.

[42]People v. Glodo, G.R. No. 136085, 7 July 2004, 433 SCRA 535, 549.

[43] People v. Cabalquinto, supra note 4.

[44] People v. Orense, G.R. No. 152969, 7 July 2004, 433 SCRA 729, 747, citing People v. Magallanes, G.R. No. 136299, 29 August 2003; People v. Cariñaga, 456 Phil. 944 (2003); People v. Eclera, 410 SCRA 183 (2003); People v. Rosario, 455 Phil. 876 (2003); People v. Rabago, 448 Phil. 539 (2003); People v. Prades, 355 Phil. 150 (1998).

[45] People v. Quiachon, G.R. No. 170236, 31 August 2006.

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