

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, PRESENT: VS.
EDWARD (AKA EDUARDO) CORNELIO Y LUCENA,
ACCUSED-APPELLANT.**

G.R. No. 170475. June 07, 2007

Ponente: GARCIA, J.

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GARCIA, J.:

Under consideration is this appeal by EDWARD (aka Eduardo) CORNELIO y LUCENA from the October 6, 2005 decision[1] of the Court of Appeals (CA) in CA-G.R. CR-HC No. 00720, affirming with modification an earlier decision[2] of the Regional Trial Court (RTC) of Iriga City, Branch 35, which found him guilty beyond reasonable doubt of the crime of Rape as defined in Article 266-A of the Revised Penal Code, in relation to Republic Act No. 7610.

In line with our decision in *People v. Cabalquinto*,[3] the real name of the rape victim in this case is withheld. Instead, she is herein referred to as XXX. Also, her personal circumstances or any other information tending to establish or compromise her identity, as well as those of her immediate family or household members is not disclosed in this decision.

The case

On December 6, 1999, in the RTC of Iriga City, an Information[4] for rape committed against the person of XXX was filed against herein appellant Edward (aka Eduardo) Cornelio y Lucena. Docketed in the same court as Criminal Case No. IR-5077 and raffled to Branch 35 thereof, the Information alleges:

That on July 22, 1999 at about 7:00 o'clock in the evening at San Miguel, Iriga City, within the jurisdiction of the Honorable Court, said accused, did, then and there, willfully, unlawfully and feloniously, with lewd design, through force and/or fraudulent machination, had carnal knowledge of [XXX], a girl 13 years and 11 months old and his own niece which resulted to her present pregnancy to the damage and prejudice of the said [XXX] in such amount as may be proved in court.

ACTS CONTRARY TO LAW.

Arraigned on January 20, 2000, appellant, assisted by counsel, entered a plea of "Not Guilty." [5] In time, trial on the merits ensued. To establish its case, the prosecution presented in evidence the oral testimonies of the victim herself, XXX, who was barely 14 years old at the time of the incident; that of her grandmother; and Dr. Pablo Filio, Jr., Assistant Health Officer of the Iriga City Hospital who performed the medical examination of the victim.

For its part, the defense adduced in evidence the oral testimonies of appellant himself; that of Noel Rombano, a trimobile driver and a friend of appellant who claimed being with appellant on the date and time of the incident; and that of appellant's married sister Francia Coronel who corroborated her brother's denial of involvement in the crime.

The evidence

Judging from the evidence on record, there appears to be no dispute on the following: the alleged rape took place inside a vacant room of a boarding house on Sanggumay St., San Miguel, Iriga City; the said boarding house is a 2-storey building with few occupants; only the ground floor thereof is being rented out because the second floor is occupied by the owner; appellant, his parents, brothers and sisters were renting one of the rooms at the ground floor; and one Lina Boquiron, a teacher at the University of St. Anthony, was also renting a room at the ground floor.

The prosecution's evidence tend to establish that on July 22, 1999, at around 7:00 p.m., XXX, then a little over 13 years old, went to the aforesaid boarding house to return a book she borrowed from Lina Boquiron. After returning the book, she left the room of Boquiron and went out of the main door of the boarding house. As it was already dark, she had to look for her pair of slippers and while so doing, she felt someone tap her right shoulder. That someone turned out to be appellant whose mother is the sister of XXX's grandmother.

Appellant told XXX that he would show something to her at the back of the boarding house but the girl refused to go with him, and instead suggested to postpone it the next day because it was already nighttime. Then, all of a sudden, appellant, who was behind XXX, grabbed the latter on her right elbow with his right hand and twisted it to her back. XXX was able to shout "ma'am" twice before appellant covered her mouth with his left palm. Thereafter, appellant dragged XXX towards the back of the boarding house into a vacant room thereat. She tried to remove the hand covering her mouth but failed.

Inside the vacant room, appellant forcibly laid XXX on a bed and then sat on her belly. Again, the girl shouted "ma'am" but appellant placed both of her hands behind her back and covered her mouth anew with his left hand. Appellant then removed her shorts and panty with his right hand after which he himself undressed. XXX resisted when appellant tried to separate her legs but appellant placed his right foot between her legs. She resisted by using her left foot to kick appellant and push him away from her but hit the bed instead. Appellant then inserted his penis into her vagina, and she then felt pain.

While on top of the girl, appellant made a push and pull motion which lasted for about five minutes after which he stood up and warned XXX not to reveal the incident to anyone, else he would kill her. Appellant then put on his brief and shorts and left. With appellant gone, XXX put on her own clothes and similarly left the place.

Due to fear, XXX kept mum about the incident. Although she saw appellant almost everyday, she tried to evade him even as appellant would stare at her with a frowning look as if to remind her of his threat.

Days passed and soon XXX's grandmother, who resided nearby, noticed her bulging stomach sometime in September. Suspicious, the grandmother invited a "hilot" to check on her. True enough, the "hilot" found out that XXX was already pregnant. It was then that XXX divulged to her grandmother that she was raped by appellant. That same night, the family gathered at the house of the girl's aunt. When confronted about the incident, appellant who was then around just remained silent, stared blankly and looked pale.

The following Monday, XXX, together with her father and grandparents, went to the Philippine National Police station in Iriga City to have the incident blotted. There, the girl executed a sworn statement. Thereafter, they went to the Iriga City Hospital where XXX submitted herself to a medical examination by Dr. Pablo Filio, Jr., whose medical findings reveal that at the time he examined XXX, the latter was already pregnant and the fetus inside her womb was already nine (9) weeks old. Dr. Filio surmised that the probable date of XXX's impregnation may have been in the last week of July or first week of August.

On account of her pregnancy, XXX dropped out of school. After giving birth, she transferred to another school in

the neighboring town because her former classmates continuously teased her about getting pregnant. She laments that appellant had ruined her studies and future.

The grandmother affirmed what was told to her by XXX. According to her, when the girl confessed to her that she was no longer menstruating, she called for a "hilot." When pressed to tell the truth, XXX admitted being pregnant because she was raped by appellant. The grandmother added that she hired the services of a private prosecutor in connection with the case and paid the latter P10,000.00 as acceptance fee and P750.00 per court appearance.

Denial is appellant's main plea in defense. Twenty-five (25) years old and single at the time he testified, appellant vehemently denied the accusation against him, insisting that he could not have ravaged XXX who is no less his own niece. He claimed that on the date and time of the incident, he was with his "barkada" Noel Rombano, owner of a trimobile. The two of them went joyriding around the city on board Noel's trimobile. It was already 9:00 p.m. when Noel dropped him off at the boarding house. Appellant's married sister Francia Coronel would affirm that her brother was fetched by Noel at the boarding house in the early evening of July 22, 1999 and returned at about 9:00 p.m. that same evening, took a bath, watched TV and then went to sleep.

The trial court's decision

In its decision[6] of February 22, 2002, the trial court adjudged appellant guilty beyond reasonable doubt of the crime of rape as charged in the Information and accordingly sentenced him, thus:

WHEREFORE, finding accused guilty of rape beyond reasonable doubt under Article 266-A of the Revised Penal Code in relation to R.A. 7610, he is sentenced to reclusion perpetua, pay an indemnity of P50,000.00, actual damages of P16,750.00 for attorney's fee and court appearances and to pay the cost.

SO ORDERED.

In view of the Notice of Appeal[7] interposed by appellant, the entire record of the case was forwarded to this Court. In its Resolution[8] of July 16, 2003, the Court accepted the appeal and acted on the parties' motions to file their respective briefs. Appellant filed his Appellant's Brief [9] on February 27, 2004, while the People, thru the Office of the Solicitor General, filed its Appellee's Brief[10] on September 30, 2004.

Conformably with this Court's decision in *People v. Mateo*,[11] modifying the pertinent provisions of the Rules of Court insofar as they provide for direct appeals from the RTC to this Court in cases where 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, whereat it was docketed as CA-G.R. CR-HC No. 00720.

The CA decision

As stated at the threshold hereof, the CA, in its decision of October 6, 2005, affirmed the judgment of conviction pronounced by the trial court but modified it by ordering appellant to pay the heirs of XXX an additional amount of P50,000.00 as moral damages. We quote the fallo of the CA decision:

WHEREFORE, premises considered, the appeal is DENIED. The assailed Decision dated February 22, 2002 is AFFIRMED with MODIFICATION. Appellant is ordered to pay [XXX] the additional amount of P50,000.00 as moral damages.

SO ORDERED.

The case is again with this Court, this time pursuant to the Notice of Appeal filed by appellant with the appellate court. In its Resolution of March 1, 2006, the Court accepted the appeal and required the parties to submit, if they so desire, their supplemental briefs.

In their separate manifestations, the parties waived the filing of supplemental briefs and instead stand by their respective briefs before the CA.

In his Brief before the CA, appellant raised the lone assigned error that the trial court gravely erred in finding him guilty beyond reasonable doubt of the crime of rape, arguing that the behavior of XXX during and after the alleged rape incident leaves much to be desired.

The appeal lacks merit.

In the review of rape cases, three principles guide the Court, to wit: (1) to accuse a man of rape is easy, but to disprove it is difficult though the accused may be innocent; (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 weight and not be allowed to draw strength from the weakness of the evidence for the defense. Corollary to these is the dictum that when a victim of rape says that she has been defiled, she says in effect all that is necessary to show that rape has been inflicted on her and, so long as her testimony meets the test of credibility, the accused may be convicted on the basis thereof.[12]

As the Court sees it, the case for the prosecution and the defense will either stand or fall on the credibility of XXX as a witness and her very own account of the rape.

The record is bereft of any showing that XXX harbor any ill feeling against appellant before she testified in court. Quite the contrary, in the course of her testimony, she alternately calls appellant as "kuya" and "uncle." [13] In short, XXX could not have been motivated by any evil design to falsely impute such a serious offense as rape against her own "kuya" or "uncle." If on this score alone, the trial court's assessment of XXX's credibility, as shared by the CA, must have to be sustained. In the matter of XXX's tale of her harrowing experience, the Court notes that in spite of her youth at the time she testified, XXX gave a plain, direct, candid, and straightforward account of her ordeal with appellant in a manner reflective of an honest and unrehearsed testimony. For sure, the Court finds no reason to doubt the truth of what she mouthed in court. We quote her tale of how she was defiled by appellant inside a vacant room of that boarding house:

Q What was your reaction when Eduardo Cornelio twisted your right hand and then placed it behind your back?

A I shouted Ma'am.

Q What did you shout?

A I shouted "Ma'am".

Q Who is this ma'am whom you are shouting for?

A Miss Lina Boquiron, ma'am.

Q How many times did you shout for Lina Boquiron at that time?

A Two (2) times, ma'am.

Q Why, what happened after you were about to shout for Miss Boquiron twice?

A After the second shout Eduardo Cornelio placed his left palm to cover my mouth.

Q Then, after that, after he placed his left palm to cover your mouth, what happened then?

A He dragged me towards the back of the boarding house, ma'am.

Q How far was this back of the boarding house to the place where you were looking for your slippers?

A Far, ma'am.

Q And what were you doing if any during the time that you were being dragged towards the back of the boarding house?

A I tried to remove his left hand which covered my mouth ma'am.

Q Were you able to remove the hand covering your mouth?

Q No, ma'am.

Q Then, what happened after that?

A He took me inside the vacant room.

Q Where is this vacant room located?

A At the back of the boarding house.

Q Then, what happened after you were dragged inside the vacant room at the back of the boarding house?

A He made me lay (sic) down on the bed.

Q How were you made to lay (sic) on the bed in particular?

A He dragged me, ma'am.

Q Then, after you were made to lay (sic) on the bed, what happened next?

A He sat on my belly, ma'am.

xxx xxx xxx

Q After he sat on your stomach, what happened next?

A I was able to shout, ma'am.

Court:

Q Shout what?

A I again shouted "ma'am".

ATTY BERMEJO:

Q Then, what happened?

A He placed both of my hands behind my back so much so that my full weight was on my (sic) both arms.

xxx xxx xxx

Q After he covered your mouth with his left hand, what other action did he do, if any?

A While his left hand was covering my mouth he used his right hand in removing my shorts.

Q And did he succeed in removing your shorts?

A Yes, ma'am.

Q What else was removed if any after removing your shorts?

A My panty, ma'am.

Q After the accused succeeded in removing your shorts and panty, what happened next?

A He open (sic) my legs, ma'am.

Q What were you doing if any, or what was your reaction if any while he was trying to open your legs?

A I resisted, ma'am.

Q In what manner did you resist?

A I did not open my legs.

Q Then what happened?

A But he succeeded in opening my both (sis) legs.

Q With which part of the body did he use in opening your legs?

A His foot, ma'am.

Q How did he use his foot in opening both your legs?

A With the use of his right foot he inserted in between my legs, ma'am.

Q Then, after he succeeded in opening both your legs, what happened?

A He inserted his penis inside my vagina

xxx xxx xxx

Q Now after you said he inserted his penis in your vagina, what did he do if any after?

A He made a push and pull motion or up and down movement.

xxx xxx xxx

Q After his happened already, what did he do next? I am referring to the accused?

A He stood up, ma'am.

Q And after he stood up, what did he do if any?

A He said something to me.

Q And what is that something that he said to you?

A Not to tell to (sis) anybody about what happened to me.

Q Or else, what?

A He will kill me, Ma'am.

Q And did you believe him?

A Yes, ma'am.[14]

Significantly, and as borne by the transcript of stenographic notes, XXX even burst into tears as she declared that in raping her, appellant had ruined her future.[15]

The victim's foregoing account assumes greater factual strength in the light of the medical findings of Dr. Filio that XXX was already pregnant at the time he examined her and that her impregnation could have taken place in the last week of July or first week of August 1999.

In an attempt to discredit XXX and her testimony, appellant contends that the girl's behavior during and after the alleged rape incident leaves much to be desired. For one, appellant finds it queer that XXX did not shout while being dragged or while allegedly struggling with him. Had she shouted, the boarders or the members themselves of appellant's family could have rushed to her rescue. For another, appellant is perplexed why XXX did not immediately report the incident to the police and instead merely kept quiet until her pregnancy became evident.

The evidence shows that XXX did shout "ma'am" twice but appellant covered her mouth with his left hand. As against a 25-year old man, a 13-year old girl is definitely no match. And with the reality, as found by the trial court, that the girl was dragged to the "endmost of the boarding house to the vacant room, ... at the back portion of the boarding house,"[16] a shout for help would have been unavailing. In fact, the very circumstance that her mouth was gagged by appellant's left hand must have been the reason why, despite her cries for "ma'am," referring to Lina Boquiron, the latter did not come to her succor.

Nor is there anything unusual for XXX to keep mum about the incident until her pregnancy became evident to her grandmother. With appellant's threat against her life, it is understandable for XXX to conceal for sometime

appellant's assault on her honor. Fear that appellant may make his threat true, more so because her rapist invariably casts a threatening look at her every time their path crosses, must have cowed the girl for sometime. This brings to mind what we have invariably ruled:

Complainant's failure to immediately report the rape does not diminish her credibility. The silence of a victim of rape or her failure to disclose her misfortune to the authorities without loss of material time does not prove that her charge is baseless and fabricated. It is not uncommon for young girls to conceal for some time the assault on their virtues because of the rapist's threat on their lives, more so when the offender is someone whom she knew and who was living with her. The delay in this case was sufficiently explained and, hence, did not destroy complainant's credibility.[17]

With what XXX had unfolded in public before the trial court, and bearing in mind the lack of any evil motive on her part to concoct a tale of defloration against her very own "kuya" or "uncle," appellant's defense of denial and alibi must simply collapse. His claim that he was having a joyride with his friend Noel Rombano on board the latter's trimobile in the evening of July 22, 1999 is unavailing. The hard reality is that he returned to the same boarding house after the alleged joyride and in fact slept there that very night. The Court cannot bring its mind to a rest that XXX, with no ax to grind against appellant, could have fabricated a harrowing account of sexual assault upon her by her very own "kuya" or "uncle" were she not truly violated by appellant inside a vacant room of that boarding house on that evening of July 22, 1999.

In its decision, the CA, aside from the trial court's award of a civil indemnity of P50,000.00 and attorney's fees of P16,500.00, imposed on appellant an additional award of P50,000.00 by way of moral damages. We sustain the additional award given by the CA.

WHEREFORE, the appeal is DISMISSED and the assailed decision dated October 6, 2005 of the CA in CA-G.R. CR-HC No. 00720 is AFFIRMED in toto.

Costs de oficio.

SO ORDERED.

Puno, C.J., (Chairperson), on official leave.

Sandoval-Gutierrez, (Chairperson), Corona, and Azcuna, JJ., concur.

[1] Penned by Associate Justice Juan Q. Enriquez, Jr., and concurred in by Associate Justices Conrado M. Vasquez, Jr., and Vicente Q. Roxas; rollo, pp. 128-138.

[2] Id. at 17-26.

[3] G.R. No. 167693, September 19, 2006, 502 SCRA 419, cited in *People v. Guillermo*, G.R. No. 173787, April 23, 2007.

[4] RTC Record, p. 1.

[5] Id. at 20.

[6] Id. at 136-145.

[7] Id. at 147.

[8] Rollo, p. 29.

[9] Id. at 53-60.

[10] Id. at 92-112.

[11] G.R. Nos. 147678-87, July 7, 2004, 422 SCRA 64.

[12] *People v. Bawang*, 396 Phil. 311 (2000).

[13] TSN, August 3, 2000, p. 6.

[14] TSN, July 6, 2000, pp. 8-13.

[15] Id. at 20.

[16] RTC Decision, p. 4.

[17] *People v. Blancaflor*, G.R. No. 130586, January 29, 2004, 421 SCRA 354, citing *People v. Gutierrez*, G.R. Nos. 147656-58, May 9, 2003, 403 SCRA 178.

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