

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. FLORANTE ELA, ACCUSED-APPELLANT.

G.R. No. 172368. December 27, 2007

Ponente: VELASCO JR., J.

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VELASCO JR., J.:

On July 8, 2003, the Cavite Regional Trial Court, Branch 18, Tagaytay City rendered its Decision[1] in Criminal Case No. TG-2774-97, finding accused-appellant Florante Ela guilty of Rape and imposing the penalty of Death with no accessory penalties.

On automatic review, this case was docketed in this Court as G.R. No. 160086. However, through this Court's April 12, 2005 Resolution, this case was transferred to the Court of Appeals (CA), and docketed as CA-G.R. C.R.-H.C. No. 01023, in accordance with the Court's ruling in *People v. Mateo*. [2]

This case originated in the April 21, 1997 complaint-affidavit executed by private complainant AAA[3] before the Office of the City Prosecutor of Tagaytay City, wherein she alleged that her father raped her in the early morning hours of April 14, 1997 at their own home at Tagaytay City. At the time of the commission of the felony, AAA was only 13 years old.

As established by the prosecution, on April 14, 1997, at around two o'clock in the morning, AAA was asleep at her residence, specifically on the lower portion of a double-decker bed, while her three younger sisters, aged 7, 5, and 3 years old, slept on the upper portion. Accused-appellant, the victim's biological father, entered the room, turned off the light, pressed a sharp object against her neck, and told her not to shout. Accused-appellant then proceeded to undress her and, after placing himself on top of her, inserted his penis into her vagina. She tried to resist but could not do so effectively because accused-appellant was choking her. She was able to scream and shout "Ate!" referring to her married step-sister BBB[4] who slept in the same house.

BBB was awakened by the scream, turned on the light and peeped into AAA's room through a hole in the wall to investigate. Accused-appellant and the victim were already dressed by the time BBB peeped into the room. She saw accused-appellant lying in bed with his arms around AAA. AAA had her back turned towards accused-appellant. Thinking that nothing was going on, BBB went back to sleep.

In the morning after the rape occurred, while AAA was fetching water, BBB approached her and asked why she screamed during the night. At first AAA didn't answer, but later in the afternoon, she told BBB that accused-appellant raped her.

After hearing AAA's story, BBB accompanied AAA to the police on April 15, 1997 and they both executed sworn testimonies.

The city prosecutor found probable cause and filed the proper information, as follows:

The undersigned City Prosecutor of Tagaytay City upon sworn compliant filed by private complainant [AAA], a minor 13 years of age, accuses Florante Ela, father of complainant, of the crime of RAPE as defined and

penalized under Art. 335 of the Revised Penal Code, committed as follows:

That on or about April 14, 1997 at Tagaytay City and within the jurisdiction of this Honorable Court, the above-named accused, by means of force and intimidation, did, then and there, willfully, unlawfully and feloniously have carnal knowledge with his daughter, [AAA], a minor 13 years of age, against the latter's will and consent.

Contrary to law.

Upon arraignment, the accused-appellant pleaded not guilty. Trial then proceeded.

During her testimony, the trial court noted that the victim began to weep when she testified that accused-appellant raped her. AAA stated that this was not the first time she was raped by accused-appellant. She alleged that she was raped at least 10 times previously and that the rapes occurred when her mother was not around. AAA further alleged that she never told her mother about the previous rape incidents for fear of being ridiculed.

Dr. Manuel Reyes, a medico-legal officer of the PNP, who conducted the physical examination of AAA testified that on April 18, 1997, he submitted Medico-Legal Report No. M-1430-97 embodying his findings, the pertinent portions of which state as follows:

Deep recently healed lacerations at 3, 6, 9 and 12 o'clock;

Shallow recently healed lacerations at 2, 5, 7 and 11 o'clock;

Subject is in non-virgin state physically.[5]

For his part, accused-appellant admitted that AAA is his eldest daughter but denied having raped her, claiming that he was in Laguna at the time of the alleged incident. He alleged that he went to Laguna to work as a carpenter on April 6, 1997 and went home only during the latter part of the month, implying that he was not home on April 14, 1997. He further alleged that he did not know why AAA would accuse him of raping her; and the fact that AAA failed to immediately tell her mother of the rape right after it occurred cast serious doubt on the credibility of the victim.

Testifying on behalf of accused-appellant, CCC, accused-appellant's wife and AAA's mother, stated that she went to Camarines Sur to attend her mother's wake on April 12, 1997, and stayed there for about two days. Upon her return, BBB told her that accused-appellant raped AAA, prompting her to go to Dasmariñas, Cavite where accused-appellant was working to ascertain the truth from him. CCC claimed that accused-appellant displayed no reaction when questioned about the rape, as though the matter did not affect him at all. After denying the accusation against him, accused-appellant went home to confront AAA and BBB. CCC claimed that AAA and BBB did not say anything at all.

In essence, accused-appellant's defense consists of denial and alibi, and of casting doubt on AAA's credibility.

This Court has ruled that in the review of rape cases, we are guided by the following precepts: (a) an accusation of rape can be made with facility, but more difficult for the accused, though innocent, to disprove it; (b) the complainant's testimony must be scrutinized with extreme caution since, by the very nature of the crime, only two (2) persons are normally involved; and (c) if the complainant's testimony is convincingly credible, the accused may be convicted of the crime.[6]

In prosecuting for rape, the single most important issue is the complainant's credibility.[7] A medical examination and a medical certificate are merely corroborative and are not indispensable to a prosecution for rape. The court may convict the accused based solely on the victim's credible, natural, and convincing testimony.[8] In rape cases,

the lone testimony of the victim, if credible and free from fatal and material inconsistencies and contradictions, can be the basis for the prosecution and conviction of the accused. The rule can no less be true than when a rape victim testifies against her own father; unquestionably, there would be reason to give it greater weight than usual.[9]

In any event, matters affecting credibility are best left to the trial court with its peculiar opportunity to observe the deportment of a witness on the stand as against the reliance by an appellate court on the mute pages of the records of the case.[10] The spontaneity with which the victim has detailed the incidence of rape, the tears she has shed at the stand while recounting her experience, and her consistency almost throughout her account dispel any insinuation of a rehearsed testimony. The eloquent testimony of the victim, coupled with the medical findings attesting to her non-virgin state, should be enough to confirm the truth of the charges.[11]

The trial court did not doubt AAA's credibility throughout the course of the trial, especially when she was called to the witness stand to narrate her ordeal. This crucial fact has been seconded by the detailed examination of the case made by the CA in its September 16, 2005 Decision.[12] We see no cogent reason why the findings of the trial court should be altered. We have repeatedly ruled that, on the issue of credibility, the testimonies of victims who are of tender age are credible.[13]

One of the most convincing pieces of evidence that leaves no doubt as to the guilt of the accused-appellant is the testimony of his wife, CCC, who incidentally testified in his favor. Accused-appellant claimed, as an alibi, that he was in Laguna at the time the rape occurred. It is clear that accused-appellant would like to make it appear that he was too far away from their residence in Tagaytay City to rape his daughter. However, CCC clearly stated in her testimony that when she found out about the rape incident, she went to Dasmariñas, Cavite where the accused-appellant worked in order to confront him. Dasmariñas, Cavite is merely a half-an-hour away from Tagaytay City via public transportation. In other words, it was not physically impossible for accused-appellant to be in Tagaytay City at the time of the rape.

Establishing accused-appellant's guilt beyond reasonable doubt, we now examine the propriety of imposing the death penalty.

With the effectivity of Republic Act No. 9346, otherwise known as "An Act Prohibiting the Imposition of the Death Penalty in the Philippines," the penalty of *reclusión perpetua* should be imposed, without eligibility for parole.

Regarding the civil penalties that should be imposed, in line with our Decision in *People v. Audine*, the civil indemnity should be PhP 75,000, and in addition, an award of PhP 75,000 as moral damages, and an award of PhP 25,000 as exemplary damages.[14]

WHEREFORE, the September 16, 2005 Decision in CA-G.R. C.R.-H.C. No. 01023 is AFFIRMED with MODIFICATIONS as follows: (1) the penalty of RECLUSIÓN PERPETUA without the eligibility of parole is hereby imposed in lieu of the death penalty; and (2) accused-appellant is hereby ordered to indemnify the victim in the amount of PhP 75,000 as civil indemnity, PhP 75,000 as moral damages, and PhP 25,000 as exemplary damages.

Costs against petitioner.

SO ORDERED.

Puno, C.J., Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, Corona, Carpio Morales, Azcuna, Tinga, Chico-Nazario, Nachura, and Reyes, JJ., concur.

Quisumbing, J., On leave.

[1] Rollo (G.R. No. 160086), pp. 15-25. Penned by Presiding Judge Alfonso S. Garcia.

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

[3] The real name of the victim and any information that may compromise her privacy are withheld in accordance with our ruling in *People v. Cabalquinto*, G.R. No. 167693, September 19, 2006, 502 SCRA 419.

[4] AAA is the eldest child of her mother and accused-appellant. BBB is a child of AAA's mother and another father.

[5] *Supra* note 1, at 20.

[6] *People v. Gonzales*, G.R. No. 141599, June 29, 2004, 433 SCRA 102, 108.

[7] *Id.* at 109.

[8] *People v. Boromeo*, G.R. No. 150501, June 3, 2004, 430 SCRA 533, 541.

[9] *People v. Oden*, G.R. Nos. 155511-22, April 14, 2004, 427 SCRA 634, 655.

[10] *Id.*

[11] *Id.*

[12] Rollo, pp. 3-16. Penned by Associate Justice Vicente Q. Roxas and concurred in by Associate Justices Portia Aliño-Hormachuelos and Juan Q. Enriquez, Jr.

[13] *People v. Luceriano*, G. R. No. 145223, February 11, 2004, 422 SCRA 486, 495.

[14] G.R. No. 168649, December 6, 2006, 510 SCRA 531, 533.

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