PEOPLE OF THE PHILIPINES, PLAINTIFF-APPELLEE, VS. ANTONIO CASTRO Y PAYAWAN, ACCUSED-APPELLANT.

G.R. NO. 172691. August 10, 2007

Ponente: GARCIA, J.

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GARCIA, J.:

Before us is this appeal by Antonio Castro y Payawan from the decision[1] dated March 2, 2006 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 00377, affirming in toto an earlier decision[2] of the Regional Trial Court (RTC) of San Fernando City, Pampanga, Branch 47, which adjudged him guilty beyond reasonable doubt of the crime of Rape and sentenced him to reclusion perpetua with civil damages.

Consistent with our decision in People v. Cabalquinto[3] and subsequent cases, the real name of the rape victim is withheld in this Decision. Instead, fictitious initials (AAA) are used to represent her. Also, the personal circumstances of the victim or any other information tending to establish or compromise her identity, as well as those of her immediate family or household members, are not disclosed herein.

The case

In an Information[4] filed with the RTC of San Fernando City, Pampanga and docketed thereat as Criminal Case No. 9518, which was raffled to Branch 47 thereof, herein appellant Antonio Castro y Payawan was charged with the crime of rape committed against the person of his stepdaughter AAA, allegedly in the following manner:

> "That on or about the 6th day of June 1997, in the Municipality of Mexico, Pampanga, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, ANTONIO CASTRO Y PAYAWAN, with lewd design, by means of force, threat and intimidation, did then and there willfully, unlawfully, and feloniously have carnal knowledge with his stepdaughter, AAA, 14 years old, against her will and without her consent.
>
> CONTRARY TO LAW."

The evidence

To the foregoing charge, appellant, when arraigned with assistance of counsel, entered a plea of "Not Guilty." With the pre-trial having been waived by appellant, trial on the merits ensued, in the course of which the prosecution presented in evidence the oral testimonies of AAA herself; that of Ponciano David, AAA's maternal grandfather; and Dra. Jeanette Kabigting, the physician who examined AAA.

For its part, the defense adduced in evidence the testimonies of appellant and that of BBB, mother of the victim and common-law wife of appellant.

> The appealed decision of the CA recites the facts as follows:
>
> AAA was born to CCC and BBB on November 7, 1983. Her parents, however, separated ten (10) years ago, and she went with her mother in Buenavista, Mexico, Pampanga, but stayed with her grandfather who lives

about 7 to 10 meters away from her mother's house. When she was two(2) years old, her mother started living with accused Antonio Castro, with whom she begot five (5) children. Nonetheless, her biological father who stays in Manila visits her once in a while in Pampanga.

In the evening of June 6, 1997, AAA slept over in her mother's house together with her mother, half-siblings, and her mother's common-law husband (accused herein). Between 11:00 p.m. and 12:00 midnight, she was awakened from sleep when she felt someone pulling her pajamas. She saw the accused and was about to shout when the latter covered her mouth with his hand, and warned her not to make any noise, otherwise, he would kill her. Fearful, she just kept lying and did not fight back. The accused removed her pajama and panty, all the while covering her mouth with his right hand. After her panty was removed, the accused placed himself on top of her and inserted his penis twice her vagina. When he was through, the accused again threatened to kill her and her mother. Fearful for her life and that of her mother, she could not sleep thereafter. Nonetheless, AAA decided to tell her grandfather, Ponciano David, about the incident, who immediately reported the incident to the barangay. His grandfather also called his natural father in Manila, who lost no time in seeing her in Pampanga.

According to BBB, the victim's mother, she has five (5) children with CCC, and AAA was the 4[th] in the order of birth. When they separated ten (10) years ago, she started living with the accused at Buenavista, Mexico, Pampanga, and she brought with her, AAA, who at that time was only two (2) years old. Her relationship with the accused bore her five (5) children the eldest being ten (10) years old. AAA would sometime stay and sleep in their nipa hut at times transfer to her grandfather's place located just a few meters away.

BBB further averred that AAA spent her night at their house on June 6, 1997. Although BBB has been breastfeeding her newly born child then, she never woke up until 3 o'clock in the morning the following day just in time for her common-law husband, accused herein, to go to the field. At around 5:00 o'clock in the morning, AAA woke up and went to the Angeles City market. She came home at 11 o'clock in the morning and then left for her grandfather's house. AAA went back to their house at around 7 o'clock in the evening of June 7, 1997. The following day, June 8, 1997, she went to grandfather's house and since then has not returned home.

BBB learned of the incident when AAA's grandmother, Isabel Layug, told her about it. She confronted the accused, but the latter denied the charges. Together with her parents, they reported the incident to the barangay captain.

Dr. Jeanette Kabigting Samonte of the Department of Obstetrician and Gynecology of Jose B. Liñgad Memorial Hospital, San Fernando Pampanga, examined the victim on June 16, 1997. Her findings disclosed as follows: both lavia majora and lavia menorah were well coaptated: there were multiple superficial healed lacerations; the hymen was also found positive for abrasion at the right side of perihymenal area; and that her internal examination shows that it "admits 1 finger, cervix softish, closed uterus small (-)Adnexae (-)tenderness." Thus, the victim was no longer a virgin at the time of her medical examination.

Denial is appellant's main plea in defense.

Again, to quote from the same decision of the CA, hereunder is what appellant belabored to establish:

The accused, on the other hand, denied the accusation. He alleged that since he started cohabiting with BBB in 1984, AAA together with her other siblings, live with her grandparents. But AAA every now and then visited their family dwelling and sometimes slept over. In the evening of June 6, 1997, he together with her common-law wife and their children, as well as AAA, were in their house. He went to bed early that night and positioned himself near the door. Beside him was his second to the youngest child. He woke up at around 4 o'clock in the morning of the following day, and she saw AAA still sleeping beside her mother. He prepared a cup of coffee and then dressed up for the farm. When he went back home at around 10 o'clock in the morning,

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> AAA was no longer in the house. But then he saw AAA almost everyday thereafter. On June 13, 1997, he again saw AAA at the store near their house.
>
> It was in the evening of June 7, 1997 that he learned from his father-in-law of the complaint by AAA charging him of molesting her. He got angry, and called for AAA, but the latter did not come to see him. He talked to his common-in law wife, who never said anything but cry. To absolve himself from the charges, he went to the barangay on the same night, but he was arrested. After a confrontation with the complainant before the barangay captain, he was detained at Pandacaqui, Mexico, Pampanga.

The trial court's decision

In a decision[5] of October 3, 2002, the court of origin found appellant guilty beyond reasonable doubt of the crime of Rape as charged in the Information and sentenced him to reclusion perpetua, to wit:

> WHEREFORE, premises considered, judgment is hereby rendered finding accused ANTONIO CASTRO y PAYAWAN guilty beyond reasonable doubt of the crime of "rape" committed against AAA, and hereby sentences him to Reclusion Perpetua. He is entitled to the full benefit of his preventive imprisonment, conformably with Article 29 of the Revised Penal Code, as amended. Accused is ordered to pay complainant the amount of Php 50,000.00 as civil indemnity and the sum of Php 50,000.000 representing moral damages.
>
> SO ORDERED.

Therefrom, appellant went on appeal to the CA whereat his appellate recourse was docketed as CA-G.R. CR-HC No. 00377, on the lone assigned error, viz:

> THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT DESPITE THE FACT THAT HIS GUILT WAS NOT PROVEN BEYOND REASONABLE DOUBT.[6]

The CA decision

In turn, in a decision dated March 2, 2006, the CA, as stated at the threshold hereof, affirmed in toto that of the trial court, thus:

> WHEREFORE, the judgment appealed from is hereby AFFIRMED IN TOTO.
>
> SO ORDERED.

As it was in the CA, appellant presently insists that the prosecution failed to establish his guilt beyond reasonable doubt and thus plead for the reversal of the CA decision.

After the records of this case were forwarded to this Court pursuant to the Notice of Appeal filed by the appellant with the CA, the Court accepted the appeal and required the parties to file their respective supplemental briefs if they so desire. In their respective separate manifestations,[7] the parties informed the Court that they are no longer filing any supplemental brief since all their respective arguments have been thoroughly discussed in their respective appellant's and appellee's briefs before the CA.

The Court's ruling

The appeal must fail.

It is appellant's main submission that it is impossible for him to rape AAA in a small room where there are eight (8) persons sleeping.

The contention deserves scant consideration. The Court has repeatedly held that lust is no respecter of time and place, and rape can be and has been committed in even the unlikeliest of places.[8]

To us, what is at bottom in this case is AAA's credibility as against appellant's bare denial. On this score, the Court finds no reason to doubt the truth of AAA's tale. We note from the transcript of stenographic notes how this young girl of fourteen tearfully narrated in court the sordid details of her bestial experience from appellant.

Unflawed by any material or significant inconsistency and given in a manner straightforward and categorical, hereunder is AAA's account of her harrowing experience:

Q: Tell the Court the reason why you woke up at 11:30 o'clock of June 6, 1997?
A: I felt something pulling my pajama, sir.

Q: When he was pulling your pajama and removing your panty, what did you do, if any?
A: I was then shouting sir but he covered my mouth sir.

Q: With his hands?
A: Yes, sir.

Q: So, in other words, you were not able to shout?
A: Yes, sir.

Q: At the time he was removing your pajama, was he, already covering your mouth?
A: Yes, sir.

Q: Aside from covering your mouth, please tell the Court if the accused tell (sic) something to you?
A: There was, sir.

Q: What did he say to you?
A: He told me that if I will make a noise he will kill me.

Q: What did you feel when he said that?
A: I was surprised and I was scared (natakot po ako).

Q: Which did the accused remove first, your pajama or your panty?
A: Pajama, sir.

Q: At the time he was removing your pajama, was he already covering your mouth?
A: Yes, sir.

Q: How about when he was removing your panty, was he covering your mouth?
A: My mouth was already covered with his hands, sir.

Q: What did you do, if any, when he was removing your panty?
A: I was then lying sir,

Q: Did you try to fight back?
A: I did not, sir, because I was afraid, sir.

Q: Afraid of what?
A: Because he said that he will kill me.

Q: After he removed your pajama and panty, what happened next?
A: He raped me, sir.

Q: Was he able to insert his penis to your vagina?
A: Yes, sir.

Q: How many times?

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A: Two(2) times sir.[9]

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Q: At the time that Antonio Castro, the live-in partner of your mother for the last ten(10) years, doing that, where is your mother, if you know?
A; She was sleeping, sir.

Q: How about your half-brothers and sisters?
A: They were then beside me sleeping, sir, but I am a little bit farther from them, sir.

FISCAL:
May I place on record, sir that the witness is crying while testifying.

Q: From your testimonial chair, how far was your mother from you at that time?
A: From my testimonial chair to the wall of the court, sir.

FISCAL:

About 3 to 4 meters, Your Honor.

ATTY. CRUZ:

Three(3) to four (4) meters, Your Honor.

FISCAL:

Will you tell the Court, the ages of your half-brothers, sisters on June 6, 1997?

A: Jennifer is(sic) 9 years old, Jayson - 5, J.R., 3 Junior 2 and I forgot the name of the youngest but he is (sic) more than one (1) year old, sir.
Q: Now, did (sic) your house have a room?
A: None, sir.

Q: So, you were all sleeping in a sala?
A: Yes, sir.

Q: After your father-in-law raped you twice, what did he do afterwards?
A: None, sir.
Q: What did he do after he raped you twice?
A: He threatened me that he will kill me including my mother, sir.
Q: What did you feel when Antonio Castro said that?
A: I was afraid.[10]

Appellant argues, however, that the foregoing account of AAA is highly doubtful, expressing surprise on why AAA did not shout for help during or after the commission of the alleged rape even as, according to him, it would have been easy for her other relatives to come to her aid since they live in the same compound.[11]

The argument cannot persuade.

As pointed out by this Court in People v. Ilao:[12]

> The fact that the private complainant did not resist or attempt to flee or shout for help does not negate force or intimidation. Different people react differently when confronted by a shocking or a harrowing and unexpected incident, for the workings of the human mind when placed under emotional stress are unpredictable. Some people may cry out, some may faint, some may be shocked into insensibility, while others may appear to yield into intrusion.

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Besides, in rape cases, physical resistance need not be established when intimidation is exercised upon the victim and the latter submits herself out of fear. Intimidation is addressed to the mind of the victim and is therefore subjective.[13] Here, AAA categorically described the force and intimidation exerted upon her person by appellant who covered her mouth while ravishing her and even threatened to kill her and her mother after satisfying his bestial lust.

Barely out of childhood, there was nothing AAA could do but resign to appellant's evil desires to protect her life.[14] Minor victims like AAA are easily intimidated and browbeaten into silence even by the mildest threat on their lives.[15]

In fine, the Court entertains no doubt at all that appellant's guilt for the offense charged has been established by proof beyond moral certainty of doubt. We, therefore, find no reversible error in the assailed decisions of the two courts below.

IN VIEW WHEREOF, the instant appeal is DISMISSED and the appealed decision dated March 2, 2006 of the CA, affirmatory of the that of the trial court, is AFFIRMED.

SO ORDERED.

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

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[1] Penned by Associate Justice Jose L. Sabio with Associate Justices Fernanda Lampas-Peralta and Arturo G. Tayag, concurring; rollo, pp. 2-15.

[2] CA Rollo, pp. 43-54.

[3] G.R. No. 167693, September 19, 2006, 502 SCRA 419.

[4] Supra note 2 at 43.

[5] Id. at 11-20.

[6] Id. at 85.

[7] Rollo, pp. 27-30.

[8] People v. Cortes, G.R. No. 129693, January 24, 2000, 323 SCRA 131.

[9] TSN, September 10, 1998, p. 9.

[10] Id. at 10-13.

[11] Supra note 2 at 85-86.

[12] G.R. Nos. 152683-84, December 11, 2003, 418 SCRA 391.

[13] Id.

[14] Supra note 1 at 95.

[15] People v. Pulanco, G.R. No. 141186, November 27, 2003, 416 SCRA 532.

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