PEOPLE OF THE PHILIPPINES, APPELLEE, VS. WILLY MARDO GANOY Y MAMAYABAY, APPELLANT.

G.R. No. 174370. July 23, 2009

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

On appeal is the June 30, 2006 Decision[1] of the Court of Appeals in CA-G.R. H.C.- CR No. 01196 which affirmed with modification the August 8, 2003 Decision[2] of the Regional Trial Court, Branch 172, Valenzuela City in Criminal Case No. 222-V-02 finding Willy Mardo Ganoy y Mamayabay (appellant) guilty beyond reasonable doubt of rape. The accusatory portion of the Information against appellant reads:

> That on or about March 28, [2002] in Valenzuela City and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design, by means of force and intimidation employed upon the person of one [AAA], 17 years old, did then and there wil[l]fully, unlawfully and feloniously have carnal knowledge of said [AAA], 17 years old, thereby subjecting the said minor to sexual abuse which debased, degraded and demeaned her intrinsic worth and dignity as a human being.[3]

Gathered from the evidence for the prosecution is the following version:

In the early morning of March 28, 2002, AAA, then 17 years old and working as a waitress at Manay's Videoke Bar in Ugong, Valenzuela City, served two bottles of beer to appellant who had a year earlier been introduced to her by her boyfriend.[4] Since the introduction, however, appellant had made attempts to win her affection. At around 1:30 a.m., AAA boarded a tricycle on her way to a brother's residence at Mapulang Lupa, Valenzuela. About 70 meters away from the videoke bar, appellant flagged down the tricycle and boarded it.

Asked by appellant where she was going, AAA replied that she was going to meet her brother at his house. [5] Upon reaching the house, however, her brother was not around. The two thereupon boarded another tricycle to look for him at the Home Centrum, also in Mapulang Lupa.[6]

As tricycles could not enter the Home Centrum, the two alighted from the tricycle and proceeded to the inner area going towards it. On approaching a dimly lighted area, appellant suddenly grabbed AAA and dragged her to a nearby vacant lot. When AAA tried to run, appellant twisted her hands and arms and as she struggled to free herself and shouted for help, the more appellant twisted her hands and pulled her down. Her head hit a stone on the ground which rendered her dizzy. Appellant then held her by the neck, pulled out a knife which he poked at the side of her body, and warned her that "lalagyan ng gripo ang tagiliran ko." Appellant then pulled down her underwear and lifted her skirt and had sexual intercourse with her against her will. He later brought her to a deserted bodega and held her there until daybreak.[7]

Upon her release, AAA went directly to the Paso de Blas Police Substation at the Malinta North Luzon Expressway Exit to report that she was raped. Police officers, accompanied by AAA, thus proceeded to the house of appellant where he was arrested.[8]

Dr. Winston S. Tan, Medico-Legal Officer of the Crime Laboratory in Camp Crame, Quezon City who examined AAA on the same day, March 28, 2002, concluded in his Medico-Legal Report[9]that the "findings are compatible with recent sexual intercourse" based on the following:

GENERAL AND EXTRAGENITAL:

PHYSICAL BUILT:

Medium built

MENTAL STATUS:

Coherent female subject

BREAST:

Hemispherical in shape with dark brown areola and nipples from which no secretions could be pressed out.

ABDOMEN:

Flat and soft

PHYSICAL INJURIES:

An abrasion is noted at the left costal region, measuring 9 x 2 cm, 14 cm from the posterior midline.

GENITAL:

PUBLIC [sic] HAIR:

Abundant growth

LABIA MAJORA:

Full, convex and gaping

LABIA MINORA:

Pinkish brown

HYMEN:

Carunculae myrtiformis

POSTERIOIR [sic] FOURCHETTE:

Abraded

EXTERNAL VAGINAL ORIFICE:

Offers slight resistance to the introduction of the examining index finger.

VAGINAL CANAL:

Wide with flattened rugosities.

CERVIX:

Normal in size, color and consistency.

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> SMEARS:
>
> POSITIVE for spermatozoa but NEGATIVE for gram-negative diplococci.
>
> x x x x (Emphasis in the original; underscoring supplied)

For the defense, appellant and his witnesses Raulito Bato and Amy Bilamera took the witness stand.

Raulito Bato testified that before 3:00 a.m. of March 28, 2002, while he was sleeping at the warehouse located at Candido Compound, Valenzuela City which also served as the sleeping quarters of his four co-stay-in workers, he was awakened by a noise. He later saw appellant jump over the gate of the warehouse. Fifteen minutes later, he saw a girl whom he recognized as AAA, who used to go to the warehouse once a month, enter the compound. He soon heard AAA asking money from appellant.[10]

Amy Bilamera, who was also working at the videoke bar, testified that on March 27, 2002, she saw AAA talking to appellant whom she knew to be AAA's boyfriend, AAA telling appellant that she would go to Bulacan.[11] She further testified that before the incident, AAA delivered a child on January 22, 2002 by another man but the child died.[12]

Appellant claimed that on March 28, 2002, he went to the videoke bar as instructed by AAA, his girlfriend since May 1998. He left the videoke bar at 2:00 a.m. and proceeded to the warehouse. AAA followed him as she wanted to apologize for their quarrel the night before.[13]

Appellant further claimed that he impregnated AAA but she had the child aborted, hence, she needed money to pay for hospital bills. He did not give her money, however, so she left. He then went home where he was arrested at around 6:00 a.m.[14]

Finding for AAA, the trial court ratiocinated:

> The claim of the accused that he and the complainant were sweethearts is simply fantastic under the obtaining circumstance of the case. Outside of his assertion that they were sweethearts, there was no evidence adduced by the accused to show such relationship from 1998 to the day he went to the Manay Videoke Bar in the evening of March 28, 2002. No lovenote and no momento [sic] were presented to prove that such romantic relationship existed.
>
> The conduct of the complainant of reporting the incident to the police right after [s]he was freed by the accused indicates the truthfulness of her claim that she was raped. The finding of the medico[-]legal officer as to the presence of physical injuries on the person or the complainant and the fact that she was tested positive for spermatozoa when she was examined a few hours after the incident corroborate the testimony of the complainant that the accused forcedfully [sic] imposed his sexual gratification on her.
>
> Testifying in support of his alibi, the accused was confused and evasive. The accused was less than categorical as to the alleged date when the complainant had an abortion of the child he had with her. This is so because the accused never had a child with the complainant. The accused and Bato who was presented to corroborate the alibi of the accused contradicted each other as to what happened when the accused allegedly arrived at the warehouse that early morning of March 28, 2002. According to the accused, he stayed inside the warehouse immediately upon arrival and had a long conversation with another stay-in worker inside the warehouse although it was already 2:00 o'clock in the morning. This was contradicted by Bato who testified that the accused upon arrival sat on the hood of a truck apparently waiting for the arrival of the complainant who arrived later.[15] (Emphasis supplied)

By Decision of August 8, 2003,[16] the trial court found him guilty as charged, disposing as follows:

> WHEREFORE, judgment is hereby rendered finding accused WILLY MARDO GANOY y MAMAYABAY

> guilty beyond reasonable doubt and as principal of the crime of rape as defined and penalized under Article 266-A in relation to Article 266-B of the Revised Penal Code and hereby sentences him to suffer the penalty of reclusion perpetua. Further, the accused is sentenced to pay complainant [AAA] the amount of P50,000.00 as moral damages without any subsidiary imprisonment in case of insolvency. Finally, the accused is sentenced to pay the costs of suit.[17] (Underscoring in the original)

This Court to which appellant appealed[18] referred the case to the Court of Appeals by Resolution of June 8, 2005[19] following People v. Mateo.[20]

By Decision of June 30, 2006,[21] the appellate court affirmed the trial court's decision with modification. Thus it disposed:

> WHEREFORE, premises considered, the court a quo's Decision dated 08 August 2003 is perforce AFFIRMED, with the MODIFICATION that aside from the moral damages awarded to the victim, civil indemnity in the amount of P50,000.00 be likewise awarded in line with the ruling in People v. Calisao, 372 SCRA 25.[22] (Emphasis and italics in the original)

In his Supplemental Brief[23] filed before this Court, appellant, describing the testimony of AAA as not "clear, convincing and free from material contradictions," argues that his guilt has not been established beyond reasonable doubt, and that his sweetheart defense should not have been brushed aside as it is credible and corroborated by two witnesses.

The evaluation of the credibility of witnesses in rape cases is addressed to the sound discretion of the trial judge whose conclusion deserves much weight and respect because he/she has the direct opportunity to observe them on the stand and ascertain if they are telling the truth or not.[24]

In brushing aside the defense of appellant, the appellate court held:

> It is an undisputed fact that on the fateful day of 28 March 2002, [AAA] was only 17 years old. Mathematically speaking, if we were made to believe accused-appellant Ganoy's claim that he and [AAA] were sweethearts in 1998, she was only barely thirteen at that time. As to when, where and under what circumstances they came to know each other, were not established by sufficient and competent evidence. In fact, in 2001 [AAA] was still studying at the Doña Remedios Trinidad High School in Angat, Bulacan. She was, therefore, far from Valenzuela and she had not yet met accused-appellant Ganoy until 2001 when she had already stopped schooling. (TSN, pp. 4-5, June 17, 2002). Settled is the rule that allegations are not synonymous to proofs. In the same breath, the accused-appellant Ganoy's claim that on the occasion of the alleged rape, [AAA] was asking money from him to defray the hospitalization bill she incurred a day before due to an abortion, is simply preposterous. It would be the height of absurdity, if the same was true, that [AAA] would be able to report for work and served as a waitress until early morning of that day, if she underwent abortion. Besides, based on the medico-legal findings, there was neither evidence nor report of any unusual abrasions on [AAA]'s internal sexual organs that would prove any recent abortion. On the contrary, the fact that she was raped is conclusively buttressed by the presence of spermatozoa in her vagina.[25] (Emphasis and italics in the original; underscoring supplied)

AAA's credibility gains light from the fact that she lost no time to immediately report the commission of the rape to police authorities.[26]

The presence of spermatozoa in complainant's vagina as reflected in the above-quoted Medico-Legal Report of her examination on the same day she claimed to have been raped all the more fortifies the case for AAA.

In fine, the Court finds that appellant failed to overcome the prosecution evidence showing his guilt beyond reasonable doubt.

WHEREFORE, the June 30, 2006 Decision of the Court of Appeals in CA-GR H.C. - CR No. 01196 is AFFIRMED.

SO ORDERED.

Quisumbing, (Chairperson), Chico-Nazario,[*] Leonardo-De Castro,[**] and Brion, JJ., concur.

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[*] Additional member per Special Order No. 658.

[**] Additional member per Special Order No. 635.

[1] CA rollo, pp. 92-106. Penned by Justice Bienvenido L. Reyes with the concurrence of Justices Regalado E. Maambong and Enrico A. Lanzanas.

[2] Records, pp. 57-62.

[3] Id. at 1.

[4] TSN, June 17, 2002, pp. 9-19.

[5] Id. at 18-19.

[6] TSN, April 11, 2003, p. 20; June 26, 2002, p. 6.

[7] Id. at 18-25.

[8] Id. at 25-27.

[9] Exhibit "B," Folder of Exhibits, p. 2.

[10] TSN, October 28, 2002, pp. 4-16.

[11] TSN, February 7, 2003, pp. 2-5.

[12] Id. at 5. The prosecution presented as Exhibit "D" the Certificate of Death dated January 22, 2002 of a girl who lived only for about 8 hours.

[13] TSN, November 13, 2002, pp. 2-11.

[14] TSN, December 20, 2002, pp. 3-11.

[15] Records, pp. 61-62.

[16] Id. at 57-62.

[17] Id. at 62.

[18] Id. at 64.

[19] CA rollo, p. 47.

[20] G.R. Nos. 147678-87, July 7, 2004, 433 SCRA 640. The case modified the pertinent provisions of the Revised Rules on Criminal Procedure, more particularly Section 3 and Section 10 of Rule 122, Section 13 of Rule 124, Section 3 of Rule 125 insofar as they provide for direct appeals from the Regional Trial Courts to the Supreme Court in cases where the penalty imposed is death, reclusion perpetua or life imprisonment and allowed intermediate review by the Court of Appeals before such cases are elevated to the Supreme Court.

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[21] CA rollo, pp. 92-106.

[22] Id. at 105.

[23] Rollo, pp. 25-29.

[24] People v. Ramos, G.R. No. 172470, April 8, 2008, 550 SCRA 656, 658.

[25] CA rollo, pp. 103-104.

[26] Vide People v. Durano, G.R. No. 175316, March 28, 2007, 519 SCRA 466, 481; People v. Molleda, 462 Phil. 461, 469 (2003); People v. Velasquez, 399 Phil. 506, 522 (2000); People v. Sapinoso, 385 Phil. 382, 387 (2000); People v. Dela Torre, 339 Phil. 1, 15 (1997); People v. Jaca, G.R. No. 104628, January 18, 1994, 229 SCRA 332, 337; People v. Grefiel, G.R. No. 77228, November 13, 1992, 215 SCRA 596, 609.

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