

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. TEDDY MAGAYON, ACCUSED-APPELLANT.

G.R. No. 175595. July 28, 2010

Ponente: LEONARDO-DE CASTRO, J.

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LEONARDO-DE CASTRO, J.:

For review is the Decision[1] of the Court of Appeals dated August 1, 2006, which affirmed with modification the Decision[2] rendered by the Regional Trial Court (RTC), Branch 41, Pinamalayan, Oriental Mindoro, in Criminal Case No. P-5558, finding accused-appellant Teddy Magayon (Magayon) guilty beyond reasonable doubt of the crime of Rape as defined and penalized under Article 335, paragraph 3, of the Revised Penal Code, imposing the penalty of reclusion perpetua, and ordering Magayon to pay the offended party Fifty Thousand Pesos (P50,000.00) as moral damages.

On November 6, 1996, Magayon was charged before the RTC of Rape. The accusatory portion of the Information reads:

That on or about the 9[th] day of August, 1996, at 9:00 o'clock in the morning, more or less, in Barangay Rosacarra, Municipality of Bansud, province of Oriental Mindoro, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with lewd and unchaste design, did then and there willfully, unlawfully and feloniously lay with and have carnal knowledge of one AAA,[3] a nine-year old girl, against her will and without her consent.[4]

When arraigned on December 12, 1996, Magayon, with the assistance of counsel de officio, pleaded not guilty to the charge.[5] Following the termination of the pre-trial conference, trial on the merits ensued.

The prosecution offered five witnesses, namely: (1) BBB, the victim's maternal grandmother, who initiated the filing of this case since the mother was uninterested to pursue it; (2) Dr. Preciosa Soller, Municipal Health Officer of XXX, Oriental Mindoro, who personally examined AAA; (3) Francisco Asi (Asi), who claimed to have witnessed the rape incident; (4) private complainant AAA, the nine-year old victim; and (5) Violeta Nazareno, a social worker of the Department of Social Welfare and Development (DSWD), XXX, Oriental Mindoro, who had custody of the minor-victim during the trial.

The following documentary pieces of evidence were also presented by the prosecution: (a) Exhibit "A" - Affidavit[6] of BBB; (b) Exhibit "B" - Medico-Legal Report[7] issued by Dr. Preciosa Soller; (c) Exhibit "C" - Affidavit[8] of witness Francisco Asi; (d) Exhibit "D" - Sinumpaang Salaysay[9] of the victim; and (e) Exhibit "E" - Birth Certificate[10] of AAA, indicating that she was born on September 18, 1986.

The prosecution first presented BBB, the grandmother of the victim AAA.

At the onset, she testified that her daughter's inaction against Magayon pushed her to file the complaint on behalf of her granddaughter, since Magayon's uncle was the second husband of AAA's mother.[11] She narrated that sometime in August, 1996, having heard of the rumor about AAA's rape being spread around by Francisco Asi,

she confronted the latter and inquired on the veracity of the gossip.[12] Francisco Asi confirmed to her that indeed Magayon sexually abused AAA. After obtaining this information, BBB approached and sought the advice of the Barangay Captain of XXX, Oriental Mindoro, who told her that, as AAA's grandmother, she had the right to vindicate AAA's honor and suggested to her to have AAA undergo a medical examination.[13] BBB then brought AAA to Dr. Solter, who, after having examined AAA, instructed BBB to lodge a complaint with the Police Station of Bansud. There, BBB executed an affidavit in connection with her complaint.[14]

Dr. Preciosa Solter, second witness for the prosecution, testified that she was the one who conducted the physical examination on AAA on September 4, 1996, and reduced the result in a medico-legal report with the following findings:

Findings:

- 1) Perineum - Abrasion left side along the labia minora and majora
- 2) Hymen - destroyed completely with remnants at the right side
- 3) Vaginal laceration, complete, posterior portion with inflammation of the edges
- 4) No semen recovered, vaginal rugae present.

x x x x

Remarks:

Physical virginity lost.[15]

Dr. Solter further testified that the lacerated hymen could have been caused by an insertion of a hard object into the vagina such as a hardened penis.[16]

The third witness presented was Francisco Asi. Asi declared that he knew AAA and Magayon since the two are residents of Barangay XXX, where he also lived.[17] At about 9:00 o'clock in the morning of August 9, 1996, he was outside his house preparing his kangga (a carabao-drawn, sled-type cart made from bamboo and wood) and was about to leave, when Magayon, with AAA riding on a kangga, passed by. Soon, he also embarked on his trip headed in the direction where Magayon and AAA went. At a distance of two arms' length, he saw Magayon, who was leaning on the sled, holding AAA on top of him and making a push and pull movement.[18] AAA, who was wearing a skirt, tried to extricate herself from Magayon's clutch.[19] He inquired by blurting out to Magayon what he was doing with the little girl. The road they were traveling led to two separate paths which would eventually converge somewhere into a single road. Asi took the left road while the two hit the right. It was only after the lapse of fifteen minutes that Magayon and AAA emerged at the junction.[20] Asi also identified the affidavit he executed in relation to the rape incident.

The fourth witness who took the witness stand was the victim herself, AAA. She testified that at around 9:00 o'clock in the morning on August 9, 1996, she and her 11-year old brother were in her grandmother's house with Magayon. Magayon took her out of the house and brought her somewhere and raped her for about two minutes.[21] As Magayon was doing it, she felt pain in her vagina. After the episode, the two of them went back to the house.[22] On the witness stand, she identified the affidavit she made when she went to the police station.

The final witness presented by the prosecution was Violeta Nazareno, social worker of the DSWD, whose duty was to assist victims of rape. Violeta came to know of AAA because the latter was referred to her for assistance.[23] She said she knew that AAA was born on September 18, 1986 because she came into possession of the victim's birth certificate.[24]

After the presentation of the prosecution's evidence, Magayon, with the assistance of counsel de parte, filed a

Demurrer to Evidence. In his demurrer, Magayon argued that for serious insufficiency of evidence to warrant the holding of further trial, the charge against him must be dismissed. He pointed out that the testimony of the prosecution witness Dr. Soller stating that the vaginal injuries of the victim were inflicted on August 31, 1996 was inconsistent with the charge which stated that the rape incident took place on August 9, 1996.[25] He said that also exculpatory evidence were the contradictory testimonies of the victim who claimed she was raped when she was alone in her house, and Asi who said that the rape took place while she was aboard Magayon's sled.[26]

The RTC denied the demurrer of evidence and a hearing was set for the presentation of the evidence for the defense.[27] The accused, with the assistance of counsel, however, waived his right to present his evidence on the ground that the prosecution fell short of overcoming the presumption of his innocence.[28] He prayed that he be given 30 days to file his memorandum. The RTC then ordered the prosecution and the defense to submit their respective memoranda within 30 days and after the lapse of said period, the case was deemed submitted for decision.[29]

On January 28, 1999, the RTC handed down a guilty verdict against Magayon and sentenced him to suffer the penalty of reclusion perpetua and to indemnify the offended party the sum of Fifty Thousand Pesos (P50,000.00) as moral damages. The dispositive portion of the decision reads:

WHEREFORE, in x x x light of the foregoing, this Court finds accused Teddy Magayon guilty beyond reasonable [doubt of] the crime of RAPE under Article 335, paragraph 3 of the Revised Penal Code and he is hereby sentenced to suffer the penalty of Reclusion Perpetua and to indemnify the offended party, AAA, the sum of Fifty Thousand (P50,000.00) Pesos as moral damages x x x and to pay the cost.[30]

In its decision, the RTC debunked Magayon's arguments in his demurrer to evidence. It said that Dr. Soller's testimony and her medical report indicating August 31, 1996 as the date of infliction of the vaginal laceration did not disprove the commission of rape on August 9, 1996, since the victim herself categorically declared that she was raped on the latter date. Besides, the RTC opined that the medical report and the testimony of Dr. Soller were presented not to prove that the victim was raped, but that she had lost virginity and were mere corroborative evidence of the sexual abuse. Furthermore, the trial court reconciled the discrepancy between the testimony of AAA and Dr. Soller by explaining that when Dr. Soller examined AAA on September 4, 1996, she asked AAA about the rape incident, the latter must have remembered the latest incident of rape that happened on August 31, 1996, which could be the date of the last of the three rape incidents she went through in August 1996, as contained in her Affidavit dated August 9, 1996.[31]

On intermediate appellate review before the Court of Appeals, Magayon insisted that the testimonies of the prosecution witnesses were inconsistent with each other, thus, not credible to sustain conviction. He emphasized the alleged inconsistency between the victim's testimony giving an account of the rape on August 9, 1996, which the victim claimed happened outside the house, and Asi's testimony wherein he said that he had witnessed the incident while the victim and Magayon were riding on the sled.[32] He also found it incredible for the supposed victim, who was at a very tender age of nine, to be so composed that she even managed to play with the other children immediately following the rape incident, as if nothing happened to her.[33]

On the other hand, the Office of the Solicitor General maintained that the victim's recital of the details of the rape bears an indicia of truth. Besides, it continued, there was no reason to reverse the holding of the RTC on the credibility of the witnesses since it had the opportunity to observe their demeanor. The Office of the Solicitor General also belittled the inconsistencies pointed out by the defense stating that the same were inconsequential as they referred to trivial details that had nothing to do with the fact of the commission of rape. As to the unlikely behavior of the victim, it stressed that rape victims had varying ways of responding to their plight, but such did not detract from their credibility.[34] Lastly, the same office recommended that an award of moral damages in the

amount of Fifty Thousand Pesos (P50,000.00), as well as exemplary damages, in addition to civil indemnity in the same amount, be given to the victim.

In a decision dated August 1, 2006, the Court of Appeals affirmed the guilty verdict of the RTC. It said it found no cogent reason to disturb the findings of the trial court on the fact of the commission of rape as narrated by the victim and corroborated by Francisco Asi, and further confirmed by the medico-legal report. The Court of Appeals, however, increased the award of civil indemnity and moral damages to Seventy-Five Thousand Pesos (P75,000.00) each, and pegged the exemplary damages at Twenty-Five Thousand Pesos (P25,000.00), citing recent jurisprudence to support such modifications. The dispositive portion of the Court of Appeals' decision reads:

WHEREFORE, in view of the foregoing, the Decision dated January 28, 1999 of the Regional Trial Court of Pinamalayan, Oriental Mindoro, Branch 41, in Criminal Case No. P-5558 is AFFIRMED with the modification that civil indemnity is awarded at P75,000.00 and exemplary damages at P25,000.00. The award of moral damages is increased to P75,000.00.[35]

Hence, this recourse where accused-appellant prays for his acquittal.

In his lone assignment of error, accused-appellant alleges that:

THE TRIAL COURT ERRED IN CONVICTING THE ACCUSED-APPELLANT FOR THE CRIME OF RAPE WHEN HIS GUILT WAS NOT PROVEN BEYOND REASONABLE DOUBT.

Rape is a serious transgression with grave consequences, both for the accused-appellant and the complainant; hence, a painstaking assessment of a judgment of conviction for rape must be done.[36]

In reviewing rape cases, this Court is guided by three principles: (1) an accusation of rape can be made with facility, and while the accusation is difficult to prove, it is even more difficult for the person accused, although innocent, to disprove; (2) considering the intrinsic nature of the crime, only two persons being usually involved, 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 merit, and cannot be allowed to draw strength from the weakness of the evidence for the defense.[37]

With these principles as guideposts and considering the gravity of the offense charged as well as the severity of the penalty that may be imposed, this Court has meticulously evaluated the entire case records and transcript of stenographic notes, and finds no reason to deviate from the appellate court's finding of accused-appellant's guilt.

Accused-appellant is charged in the information under Article 335[38] of the Revised Penal Code of raping a nine-year old girl. Noticeably, the applicable provision is paragraph 3 thereof which classified the offense as statutory rape. The elements of statutory rape, as provided for in Article 335, paragraph 3 of the Revised Penal Code, are the following:

- (1) that the offender had carnal knowledge of a woman; and
- (2) that such woman is under twelve (12) years of age.[39]

In rape cases, the gravamen of the offense is sexual intercourse with a woman against her will or without her consent.[40] If the woman is under 12 years of age, such as in the case of AAA, proof of force and consent becomes immaterial, not only because force is not an element of statutory rape, but because the absence of free consent is presumed. Conviction will therefore lie, provided sexual intercourse is proven.[41]

The prosecution adequately proved that AAA was nine years old on August 9, 1996 at the time accused-appellant allegedly had carnal knowledge of her. This was evidenced by AAA's birth certificate, which showed that she was

born on September 18, 1986.[42] Since she was merely 9 years old at that time, no proof of involuntariness on her part is necessary. AAA, being a minor at the time the act was committed against her, is considered by law to be incapable of consenting to the sexual act. To convict accused-appellant of rape, the only circumstance that needs to be proven is the fact of sexual intercourse.

It is commonly observed that prosecutions for rape almost always involve sharply contrasting and irreconcilable declarations of the victim and the accused.[43]

The focal point of almost all rape cases is the issue of credibility of the witnesses, to be addressed primarily by the trial court, which is in a better position to decide the question, having heard the witnesses and observed their deportment and manner of testifying.[44] The manner of assigning values to declarations of witnesses on the witness stand is best and most competently performed by the trial judge, who has the unique and unmatched opportunity to observe the witnesses and assess their credibility.[45] In essence, when the question arises as to which of the conflicting versions of the prosecution and the defense is worthy of belief, the assessment of the trial court is generally given the highest degree of respect, if not finality.[46] Accordingly, its findings are entitled to the highest degree of respect and will not be disturbed on appeal in the absence of any showing that the trial court overlooked, misunderstood or misapplied some facts or circumstances of weight or substance which would otherwise affect the result of the case. The assessment made by the trial court is even more enhanced when the Court of Appeals affirms the same, as in this case.[47]

Here, in giving greater weight to the version of the defense, the trial court observed that the victim was direct, unequivocal, convincing and consistent in answering the questions propounded to her. The records disclose that AAA was categorical and straightforward in narrating the distasteful details of her horrid experience as accused-appellant ravished her even at such tender age:

Q.

On said date at about 9:00 in the morning, do you remember any unusual incident that took place?

A.

Yes, sir, my t-shirt and short were removed.

Q.

Who removed your t-shirt and short?

A.

My uncle Teddy, sir.

Q.

The one you pointed a while ago?

A.

Yes, sir.

Q.

After your t-shirt and shorts were removed what happened next?

A.

He raped me, sir.

Q.

Why did you say you were raped by Teddy Magayon?

A.

I felt it, sir.

Q.

What did you feel?

A.

I felt pain, sir.

Q.

Where did you feel pain?

A.

Witness placing her palm over her private organ "dito po."

x x x x

Q.

For how long a time did the accused raped (sic) you on August 9, 1996?

A.

Around two minutes, sir.[48]

It must be stressed that AAA did not only identify Magayon as her rapist, she also gave the specifics of how the sexual intercourse happened.

A rape victim, who testifies in a categorical, straightforward, spontaneous and frank manner, and remains consistent, is a credible witness.[49] Moreover, when the offended parties are young and immature girls, as in this case, where the victim was only nine years old at the time the rape was committed, courts are inclined to lend credence to their version of what transpired, not only because of their relative vulnerability, but also because of the shame and embarrassment to which they would be exposed by court trial, if the matter about which they testified were not true.[50]

Magayon denies raping the victim. His denial in this case, unsubstantiated by clear and convincing evidence, is negative, self-serving evidence, which cannot be given greater evidentiary weight than the testimony of the complaining witness who testified on affirmative matters. His denial cannot prevail over the affirmative testimony of AAA, a minor less than 12 years old, who narrated the sexual episode.

With respect to the alleged conflicting testimonies of AAA and prosecution witness Asi, and the medical report indicating that the rape incident happened on August 31, 1996 and not on August 9, 1996, the same cannot be used to cast doubt on the victim's credibility. Witness Asi must be referring to the third rape incident, albeit not charged in the information, which was narrated by the victim AAA in her August 9, 1996 Sinumpaang Salaysay and which was formally offered by the prosecution as Exhibit "D." [51] According to AAA's affidavit, she was molested by Magayon on three different occasions, although he was only charged for one of them: the first happened in her house; the second occurred the following day as Magayon ordered AAA to accompany him to

harvest banana buds; and the third transpired on a Friday of the same month while AAA was riding on Magayon's sled.[52] In the same vein, the medical report indicating a recent vaginal laceration could have been caused by the latest molestation suffered by AAA in the hands of accused-appellant.

In any case, the testimony of Asi and the medical report do not affect the outcome of the case since they are mere corroborative evidence. This is so because in rape cases, the accused may be convicted solely on the testimony of the victim, provided that such testimony is credible, natural, convincing and consistent with human nature and the normal course of things.[53] Such is the case here. In fact, AAA's credibility is bolstered by her lack of ill motive to testify against Magayon and there is no iota of evidence where it can be inferred that she could have been impelled by such motive. In one case the defense argued that the testimony of the prosecution witness varied from that of the victim. This Court debunked said contention in this manner:

At any rate, that the testimony of private complainant's mother did not jibe with that of private complainant's testimony is not fatal to the prosecution's cause for the latter's testimony is only corroborative. In rape cases, the accused may be convicted solely on the testimony of the victim, provided that such testimony is credible, natural, convincing and consistent with human nature and the normal course of things. In the case at bar, the rape victim's testimony is credible, natural, convincing and consistent with human nature and the normal course of things. Her credibility is augmented by the fact that she has no motive to testify against the accused and there is no evidence which even remotely suggests that she could have been actuated by such motive.[54]

This Court in another case held that the testimony of a trustworthy victim prevails over the seemingly inconsistent medical report, thus:

Insofar as the evidentiary value of a medical examination is concerned, we have held that "a medical examination of the victim, as well as the medical certificate, is merely corroborative in character and is not an indispensable element in rape. What is important is that the testimony of private complainant about the incident is clear, unequivocal and credible." A medical examination is not indispensable to the prosecution of rape as long as the evidence on hand convinces the court that a conviction for rape is proper.[55]

The defense also makes much of AAA's composure right after the molestation. This Court finds the same to be without merit, considering that different people react differently to a given situation.[56] There is no standard form of human behavioral response when one is confronted with a strange, startling or frightful experience.[57]

In fine, the prosecution was able to discharge its burden of proving accused-appellant's guilt. Accused-appellant is guilty beyond reasonable doubt of statutory rape under Article 335, paragraph 3 of the Revised Penal Code.

Under the second paragraph of Article 335, carnal knowledge of a woman under 12 years of age is punishable by reclusion perpetua.

On the award of damages, civil indemnity ex delicto is mandatory upon a finding of the fact of rape.[58] Moral damages are automatically awarded upon such finding without need of further proof, because it is assumed that a rape victim has actually suffered moral injuries entitling the victim to such award.[59] The award of exemplary damages given by the Court of Appeals is in accord with recent jurisprudence.[60] This award is put in place to serve as a public example to deter molesters of hapless individuals.[61] However, the award of exemplary damages is increased to Thirty Thousand Pesos (P30,000.00) in accordance with the prevailing jurisprudence.[62]

Pursuant to prevailing jurisprudence, the amount of Seventy-Five Thousand Pesos (P75,000.00) as civil indemnity must be modified to Fifty Thousand Pesos (P50,000.00), and moral damages reduced from Seventy-Five Thousand Pesos (P75,000.00) to Fifty Thousand Pesos (P50,000.00).[63] In *People v. Sambrano*, [64] the Court decreed that the award of Seventy-Five Thousand Pesos (P75,000.00) as civil indemnity and Seventy-Five Thousand Pesos (P75,000.00) as moral damages are only warranted when the rape is perpetrated with any of the

attending qualifying aggravating circumstances that require the imposition of the death penalty. The instant case involves simple rape. Hence, the amounts of Fifty Thousand Pesos (P50,000.00) as civil indemnity and Fifty Thousand Pesos (P50,000.00) as moral damages are in order.

WHEREFORE, premises considered, the decision of the Court of Appeals, finding accused-appellant Teddy Magayon GUILTY beyond reasonable doubt of the crime of RAPE, is hereby AFFIRMED with MODIFICATION as to the award of damages: Fifty Thousand Pesos (P50,000.00) as civil indemnity, Fifty Thousand Pesos (P50,000.00) as moral damages and Thirty Thousand Pesos (P30,000.00) as exemplary damages. No costs.

SO ORDERED.

Corona, C.J., (Chairperson), Velasco, Jr., Del Castillo, and Perez, JJ., concur.

[1] Penned by Associate Justice Arcangelita M. Romilla-Lontok with Associate Justices Roberto A. Barrios and Mario L. Guariña III, concurring; rollo, pp. 3-14.

[2] Penned by Presiding Judge Normelito J. Ballocanag; CA rollo, pp. 17-27.

[3] Under Republic Act No. 9262 also known as "Anti-Violence Against Women and Their Children Act of 2004" and its implementing rules, the real name of the victim and those of her immediate family members are withheld and fictitious initials are instead used to protect the victim's privacy.

[4] Records, p. 1.

[5] Id. at 18.

[6] Id. at 5.

[7] Id. at 7.

[8] Id. at 6.

[9] Id. at 4.

[10] Id. at 43.

[11] TSN, February 20, 1997, p. 7.

[12] Id. at 3-4.

[13] Id. at 4-5.

[14] Id. at 6.

[15] Records, p. 7.

[16] TSN, March 21, 1997, p. 3.

[17] TSN, July 17, 1997, p. 4.

[18] Id. at 5.

[19] Id. at 6.

[20] Id. at 14.

- [21] TSN, August 7, 1998, p. 4.
- [22] Id.
- [23] TSN, September 12, 1998, p. 1.
- [24] Id. at 2-3.
- [25] Records, p. 61.
- [26] Id. at 63.
- [27] Id. at 67.
- [28] Id. at 77.
- [29] Id.
- [30] Id. at 91.
- [31] Id. at 88.
- [32] Rollo, p. 80.
- [33] Id.
- [34] Id. at 122.
- [35] Id. at 148-149.
- [36] *People v. Bagaua*, 442 Phil. 245, 250 (2002).
- [37] *People v. Gonzales*, G.R. No. 141599, June 29, 2004, 433 SCRA 102, 108.
- [38] Since the crime was committed before October 22, 1997, the date of the effectivity of Republic Act No. 8353 (The Anti-Rape Law of 1997), the applicable law is Article 335 of the the Revised Penal Code, as amended by Republic Act No. 7659. (See *People v. Tormis*, G.R. No. 183456, December 18, 2008, 574 SCRA 903, 917.)
- [39] *People v. Yabut*, 370 Phil. 612, 624 (1999).
- [40] *People v. Igat*, 353 Phil. 294, 302 (1998).
- [41] *People v. Dimaano*, G.R. No. 168168, September 14, 2005, 469 SCRA 647, 665.
- [42] Exhibit "A"; records, p. 43.
- [43] *People v. Gragasin*, G.R. No. 186496, August 25, 2009, 597 SCRA 214, 226.
- [44] *People v. Jimenez*, G.R. No. 170235, April 24, 2009, 586 SCRA 580, 590.
- [45] *People v. Fernandez*, G.R. No. 172118, April 24, 2007, 522 SCRA 189, 200.
- [46] Id.
- [47] Id.
- [48] TSN, August 7, 1997, pp. 3-4.
- [49] *People v. Lou*, 464 Phil. 413, 425 (2004).

[50] *People v. Malibiran*, G.R. No. 173471, March 17, 2009, 581 SCRA 655, 666-667.

[51] *Records*, p. 2.

[52] *Exhibit "D,"* p. 2.

[53] *People v. Callos*, 419 Phil. 422, 431 (2001).

[54] *Id.*

[55] *People v. Baltazar*, 385 Phil. 1023, 1036 (2000).

[56] *People v. Yabut*, *supra* note 39 at 622.

[57] *Id.*

[58] *People v. Calongui*, G.R. No. 170566, March 3, 2006, 484 SCRA 76, 88.

[59] *People v. Sabardan*, G.R. No. 132135, May 21, 2004, 429 SCRA 9, 28-29.

[60] *People v. Pacheco*, G.R. No. 187742, April 20, 2010.

[61] *Id.*

[62] *Id.*

[63] *People v. Corpuz*, G.R. No. 175836, January 30, 2009, 577 SCRA 465, 474-475.

[64] 446 Phil. 145, 162 (2003).

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