THE PEOPLE OF THE PHILIPPINES, APPELLEE, VS. DOMINGO HAPIN Y JAZO, APPELLANT.

G.R. No. 175782. August 24, 2007

Ponente: TINGA, J.

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TINGA, J.:

On automatic review is the Decision[1] promulgated by the Court of Appeals, affirming the Regional Trial Court's (RTC) judgment[2] in Criminal Case No. 2002-5649 finding Domingo Hapin y Jazo (appellant) guilty of rape.

Appellant was charged with the crime of rape in an Information which reads:

> That on the 13[th] day of April 2002, at more or less 8:00 o'clock in the evening at [XXX],[3] Philippines and within the jurisdiction of this Honorable Court, the above-named accused motivated with lust by means of force and intimidation while armed with a bladed weapon did then and there willfully, unlawfully, and feloniously had carnal knowledge of one [AAA],[4] 28 years of age, against her will and without her consent, to her damage and prejudice.
>
> That the victim was a passenger of the tricycle then driven by the accused at the time the crime was committed in an isolated area of the Maharlika Highway.
>
> CONTRARY TO LAW.[5]

On arraignment, appellant entered a plea of not guilty. During trial, the prosecution presented four (4) witnesses, namely: the victim, AAA, her mother, BBB,[6] PO2 Edward Hebres (PO2 Hebres) and the medico-legal expert, Dr. Andrew de Castro (Dr. de Castro), who testified on the following antecedent facts.

On 13 April 2002, AAA, who worked as a Sales Supervisor at a Robertson Department Store, was walking towards the "himpilan" to catch a ride home when appellant offered to bring her home on his tricycle. Being neighbors and distant relatives, she rode on appellant's tricycle. On their way home, they were engaged in a conversation wherein appellant warned AAA not to ride on a tricycle whose driver was not known to her. He recalled a rape incident that transpired in another town.[7]

Upon reaching their town, there was a heavy downpour. Suddenly, appellant stopped the tricycle on the right shoulder of the road, switched off the headlights and told AAA that there was an engine defect. Thereafter, appellant alighted from his seat and went inside the sidecar where AAA was seated. He sat on AAA's knees, immediately hugged her and demanded the she submit to his carnal desire. AAA struggled but she saw appellant holding a bladed instrument. Appellant then started kissing her and forcibly removed her clothes, including her underwear. Appellant removed the backseat of the tricycle and made AAA lie down on her back and succeeded in having sexual intercourse with her. During her ordeal, AAA struggled but she was overpowered by appellant. After consummating the sexual act, appellant assisted in putting her clothes back and brought her up to the gate of her house.[8]

Upon reaching the house, AAA was met by her parents. BBB narrated that when AAA arrived, she was crying,

her hair was in disarray and she was holding her skirt closed. She told her parents that she was raped by appellant.[9] Enraged, AAA's father contacted the police while BBB, accompanied by some barangay tanod, proceeded to the police station in the town to report the incident.[10] AAA, meanwhile, was brought to the Provincial Hospital by her brother-in-law. Dr. de Castro conducted the medical examination on AAA and made the following findings:

> -Erythema (L) Breast
>
> -Erythema labia majore with multiple old laceration
>
> -(+) for smear for spermatozoa[11]

During the direct examination, Dr. de Castro explained that AAA sustained redness on her left breast and her genitals which could have been caused by trauma, meaning there was force employed. These findings, according to Dr. de Castro, could be consistent with the claim of AAA that she was raped.[12]

AAA then met with her parents at the police station where the details of the alleged rape were entered in the police blotter.[13] The police blotter book containing Entry No. 82[14] was brought to the court by PO2 Hebres.

For his part, appellant denied having raped AAA. He contended that he and AAA were having a relationship;[15] that in the afternoon of 13 April 2002, AAA boarded his tricycle;[16] that on their way home between the boundary of Tughan and Casiguran, AAA asked him to stop the tricycle[17] and they had sex inside the tricycle;[18] that thereafter, appellant brought AAA home;[19] that around 10:00 p.m., he was apprehended by policemen and brought to the police station;[20] and that AAA filed a criminal complaint against him to preserve her reputation because she was worried that somebody might recognize her when the tricycle was parked in the boundary of Casiguran.[21]

Appellant's brother and sister, Estela and Niño Hapin, corroborated his defense that he and AAA were lovers. Both testified that AAA often visited appellant at home and that the two usually rode in the tricycle together. They also claimed that the two would frequently take a bath together.[22]

On 14 October 2003, the trial court rendered a Decision finding appellant guilty of the crime charged, thus:

> WHEREFORE, premises considered, the Court finds the accused Domingo Hapin y Jazo guilty beyond reasonable doubt of the crime of Rape, defined and penalized under Article 335 of the Revised Penal Code and hereby sentences him to suffer the penalty of Reclusion Perpetua and to pay the private offended party, the sum of Fifty Thousand (P50,000,00) Pesos, as indemnity ex delicto and the further sum of Fifty Thousand (P50,000.00) Pesos, as moral damages, without subsidiary imprisonment in case of insolvency and to pay the costs.
>
> SO ORDERED.[23]

In finding appellant guilty, the trial court relied heavily on the testimony of the complainant while discarding the defense raised by appellant. Moreover, the trial court emphasized the fact that AAA and her parents had immediately reported the incident to the police authorities.

This case was originally elevated before this Court on automatic review in view of the penalty imposed on appellant. However, in line with our ruling in People v. Mateo,[24] the case was referred to the Court of Appeals.

On 24 August 2006, the appellate court rendered the assailed decision affirming appellant's conviction with modification in that exemplary damages in the amount of P25,000.00 was additionally awarded.[25] Hence, the present appeal.

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In a Resolution dated 28 February 2007, the Court required the parties to simultaneously file their respective supplemental briefs.[26] Both parties however manifested that they are adopting their respective briefs filed before the Court of Appeals.[27]

In his Brief,[28] appellant maintains that the prosecution failed to prove his guilt beyond reasonable doubt. He underscores the supposed confusing and conflicting statements of AAA.[29] On the other hand, the Office of the Solicitor General argues that AAA's testimony being positive, consistent, and categorical deserves full faith and credence.[30] The arguments and counter-arguments essentially pertain to AAA's credibility.

It is doctrinal that factual findings of the trial court which are supported by evidence, especially on the credibility of the rape victim, are accorded great weight and respect and will not be disturbed on appeal.[31]

The trial court convicted appellant on the basis of AAA's testimony which it found to be "categorical, spontaneous, candid and straightforward."[32] Furthermore, the Court of Appeals observed that AAA's deportment after the alleged rape, as well as during trial, bolstered her credibility, to wit:

> Certainly, a victim of rape would not come out in the open if her motive were anything other than to obtain justice. Her testimony as to who abused her is credible where she has absolutely no motive to incriminate or testify against the accused. We are thus convinced that when [AAA] cried rape, allowed her private parts to be examined, and exposed herself to the ordeal of narrating in court all the sordid details of her traumatic experience, she had nothing in mind but to seek justice for the sexual transgression perpetrated upon her. Noteworthy also is the fact that Gina broke down as soon as she saw her mother when she was brought home by appellant. She forthwith related to her parents her ordeal and lost no time in submitting herself to a medical examination and pursuing the criminal complaint against him. It has been held that the conduct of a woman immediately following the alleged assault is of utmost importance as it tends to establish the truth or falsity of her claim.[33]

After a careful scrutiny of the evidence on record, we find no cogent reason to depart from the findings of the lower courts.

For conviction to be had in the crime of rape, the following elements must be proven beyond reasonable doubt: (1) that the accused had carnal knowledge of the victim; and (2) that said act was accomplished (a) through the use of force or intimidation; or (b) when the victim is deprived of reason or otherwise unconscious; or (c) when the victim is twelve years of age, or is demented.[34]

When a victim says that she has been raped, she says in effect all that is necessary to show that rape has been committed, and if her testimony meets the test of credibility, the accused may be convicted on the basis thereof.[35]

AAA recounted her harrowing experience as she testified that appellant had carnal knowledge of her through the employment of force, as follows:

> Q: What did he do when he was already inside the side car?
> A: He hugged me he said that I should give it to him.
>
> Q: Where were you seated then, [M]adam witness?
> A: I was inside the side car of the tricycle.
>
> Q: How did you react to that action of the accused Domingo Hapin? When he went inside the side car of the tricycle?
> A: When he hugged me, I tried to struggle so that I could came [sic] out from the side car of the tricycle but I was about to hold his hand, I felt that he was holding a bladed instrument.

Q: Were you wounded?
A: No, [M]adam[,] because I concentrated all my strength by holding his hand holding [sic] the bladed instrument.

Q: What was it that he said that you should give him?
A: According to him, I should give him that thing because he has not yet tasted it.

Q: How did the accused hug you, [M]adam witness?
A: He seated himself on my knees so that I could not come out of the side car of the tricycle considering that it was just a small space there and kissed me all over my face while he was hugging me and holding my hair. ([W]itness demon[s]trated by pulling her hair backward)

Q: What else happened after he kissed you on your face?
A: There was a jeepney that passed by[.] I was about to ask help from the people of the jeepney that passed by but he told me if I shout anything he will kill me.

Q: Was it already heavily raining when the accused was already inside the car?
A: The rain was already getting heavier.

Q: And, did you shout for help?
A: I was not able to shout because he told me that if I shouted, he will kill me.

Q: While the accused was seated on your knees and he was pulling your hair, what did you do?
A: What I did was to hold his hand holding the bladed instrument and using my left hand to remove his hand from my hair and I was pushing him.

Q: Then what else did he do?
A: He forcibly remove[d] my skirt and shirt and my underwear too.

Q: What were you wearing then?
A: I was wearing [a] skirt, then.

Q: And what was your upper garment?
A: Blouse.

Q: Is that the uniform of the Robertson Dept. Store?
A: Yes, [M]adam.

Q: When you were seated[,] up to what part of your thigh did your skirt reach?
A: The skirt is knee length but when I am seated, it reached my thigh 4 inches above my knees and whenever I ride on any vehicle, I usually put my hand bag on my lap. ([W]itness demonstrated by placing her handbag on her lap)

Q: Now, during that time when you were already struggling with the accused and he was seated on your lap, what happened to your skirt?
A: At first, he raised my skirt but he could not do so, so what he did was to place his hand at the back of my waist line to remove the zipper of my skirt and he was able to pull it down.

Q: You said that he also removed your undergarment, how did he remove it?
A: He removed my other undergarments by doing like this ([W]itness demonstrated by as if clawing her waist downwards)[,] because at that time he could not use his other hand holding the knife because I was also holding it.

Q: And, what did you do while the accused was taking off your skirt and undergarments?
A: I did not release his hand because my purpose was to go out of the side car of the tricycle but I could not do

so because he is very strong during that night.

Q: Madam witness, the side car of the tricycle is rather a small space, could you describe to us how the two (2) of you struggled inside the tricycle?
A: He removed the back seat of the tricycle and threw it at the child seat and there I was made to lie down on my back.

Q: After he removed your skirt and your undergarment, what did he do next?
A: When I was made to lie down in that place which I had describe[d][,]he pressed me down there up to the time that he used me.

Q: How did he use you?
A: I was in this position ([W]itness went down from the witness stand and sat on the 1[st] step of the witness stand in [an] incline[d] manner and raised [her] body a little bit upward with her feet supporting her place on the floor and her arms on her sides and bag on the left side and the testimony of the witness is this: [sic] during that time, I was holding his right hand with the knife holding my left hand and I was pushing him with my right hand.

Q: Are you telling us, [M]adam witness, that your legs were then dangling outside the side car of the tricycle?
A: Yes, madam.

COURT: (TO THE WITNESS)

Q: At that time, your skirt and undergarment was already removed?
A: Yes, Your Honor.

PROS. GABIT: (TO THE WITNESS)

Q: And, you continued to struggle?
A: Yes, [M]adam.

Q: What did the accused do to you when you said he used you?
A: He was pressing me down and I was pushing him to release myself but I could not do so. He did not stop in doing that until his semen came out.

Q: Why? [M]adam witness, what did he do?
A: What he did was to unzip his pants so that he could let his penis came [sic] out.

Q: What did he do with his penis?
A: He inserted it into my vagina.

Q: And, while his penis was inserted into your vagina, what does [sic] he doing?
A: He was pumping me and I told him to stop because it was very painful.

Q: And, you said, that he did not stop until he ejected his semen?
A: Yes, madam.

Q: In all the while, what were you doing?
A: I was moving my buttocks in order to release myself from him ([W]itness demonstrated by moving her buttocks from side to side) but I could not disengage.

Q: After that, [M]adam witness, what else happened?
A: He released me.

Q: And, then?
A: He replaced [sic] my panty up to my knee and I was the one who pulled it up and also put on my skirt but I

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was not able to zip it.

Q: Then, what happened after that?
A: He delivered me up to the gate of our house.

Q: In that same tricycle.
A: Yes, madam.

Q: So the tricycle did not suffer any engine failure?
A: During that time when the jeepney passed by, I sensed that part of the tricycle was hit by the bladed instrument.

Q: What I mean, [M]adam witness is, you said, the accused was able to deliver you to Tughan, Juban, Sorsogon, so there was no engine failure as previously told you?
A: None, [M]adam.

Q: When you arrived in your house[,] up to what part of your house did the accused accompany you?
A: Up to our gate and I was made to alight from the tricycle then he left.

Q: Who did you come upon in your house?
A: When I went down towards our house, I was crying and I was met by my parents and I told them that I was raped by Domingo Hapin.[36]

It must be noted that even during the cross-examination, AAA did not waver and remained consistent all throughout, viz:

Q: You said that he sat on your knees?
A: Yes, sir.

Q: So, he sat on your knees in such a way that he was facing you?
A: Yes, sir.

Q: And you sat firm inside the tricycle, you just keep sitting inside the tricycle?
A: While he was seated on my knees, I tried to remove his hand from my hair and pushed him away from me with my left hand. When I tried to hold [h]is other hand with my right, that was the time I noticed that he was holding a bladed instrument.

Q: It was your right hand that holds the right hand of the accused which was holding the knife, you felt that he was holding the knife with his right hand?
A: It was my right hand which touched his hand holding the bladed instrument.

Q: The right hand of the weapon was the one holding the bladed instrument?. . . And because of your struggle, you persisted in raising the left hand of the accused which was holding the knife.
A: I did not release his left hand.

Q: Did you persist in holding his left hand?
A: He was holding the knife with the bladed instrument facing downward so he was [sic] I was holding his right hand which was also holding the handle of the knife and tried to push it but it did not f[a]ll. ([W]itness demonstrated by using her hands to show the relative positions).

Q: For [sic] how long was the knife, the bladed instrument?
A: Considering that he was holding the knife, the length of the bladed instrument was this ([W]itness demonstrated the length of about four inches) The type of knife he used was a folding knife.

Q: Did you really see the knife?
A: I was able to see that knife when the policeman was able to retrieve it from his pocket.[37]

Appellant asserts that AAA's testimony made no mention of the use of a bladed instrument which would justify the presence of force or intimidation as an element of the crime charged. Moreover, he argues that AAA's claim that he was armed with a bladed weapon appears to be dubious since AAA only testified to having "felt" that appellant was holding a bladed instrument and it was only when the policemen retrieved the knife from appellant's pocket at the time of his arrest that AAA was able to see the weapon.[38]

Contrary to appellant's contention, AAA clearly described in her recital on the stand how appellant used the knife on her. She testified that she held on to the right hand of appellant, who was then in possession of the knife, all throughout her ordeal. Given her position inside the tricycle relative to that of appellant's and the fact that the tricycle was merely parked on the road side which was not lighted, it was entirely possible for AAA not to have seen the bladed weapon quite clearly. In fact, AAA testified that she actually saw the weapon in its entirety when the policeman retrieved it from appellant. This testimony, however, does not negate her testimony that appellant had used the weapon in the commission of rape as she in fact stressed that he was poking the knife while she was holding on to his hand.[39]

Now, the "sweetheart defense" espoused by appellant. The appellate court rejected it in this wise:

> Appellant imputes ill-motive against the private complainant recounting that at the time that they were allegedly having sex inside his tricycle that fateful evening, a passenger jeepney passed by. Appellant claims that she became apprehensive that a passenger might have recognized her and make public of [sic] their relationship. Meanwhile, appellant's own witness seem to disagree. Appellant's sister, Estela Hapin, testified that AAA's parents are behind the charge because they are against the relationship of AAA and appellant. It has been held, however, that while motive, bias or interest of the witness in testifying affects a witness's credibility, the supposed presence of improper personal motives on the part of a witness to testify against his testimony may be considered biased. In the present case, other than bare and unsupported allegations and suspicions, the defense failed to present compelling evidence to support the imputation of ill-motive. Given, therefore, the absence of evidence that the prosecution's sole witness was actuated by ill-motive, the logical conclusion is that no such improper motive exists and the testimony is worthy of full faith and credit.[40]

The "sweetheart theory" is effectively an admission of carnal knowledge of the victim and consequently places on the accused the burden of proving the supposed relationship by substantial evidence. To be worthy of judicial acceptance, such a defense should be supported by documentary, testimonial, or other evidence.[41] Appellant presented her siblings, Estela and Niño Hapin, to testify on the alleged existence of an amorous relationship between him and AAA. The declarations of the siblings are understandably biased in favor of appellant who is their brother and their family's breadwinner. Absent any corroborative proof like love notes, mementos, pictures or tokens, that such romantic relationship had really existed,[42] this defense must be rejected.

All told, appellant is guilty beyond reasonable doubt of the crime of rape through force or intimidation. Therefore, the decisions of the RTC and the Court of Appeals are both correct. The sentence on appellant to reclusion perpetua, pursuant to Articles 266-A and 266-B of the Revised Penal Code and the imposition of civil indemnity, moral, and exemplary damages, are proper. Moral damages is automatically granted in rape cases without need of further proof other than the commission of the crime, because it is assumed that a rape victim has actually suffered moral injuries entitling her to such award.[43] The presence of the aggravating circumstance of use of a deadly weapon justifies the award of exemplary damages.

WHEREFORE, premises considered, the Decision dated 24 August 2006 of the Court of Appeals sentencing appellant Domingo Hapin y Jazo to suffer the penalty of reclusion perpetua and to pay the victim, AAA, the amounts of P50,000.00 as civil indemnity, P50,000.00 as moral damages, and P25,000.00 as exemplary damages, is AFFIRMED.

SO ORDERED.

Quisumbing, (Chairperson), Carpio, Carpio-Morales, and Velasco, Jr., JJ., concur.

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[1] Rollo, pp. 3-22. Penned by Associate Justice Rosalinda Asuncion-Vicente and concurred in by Associate Justices Jose L. Sabio, Jr. and Ramon M. Bato, Jr.

[2] CA rollo, pp. 18-24. Presided by Judge Honesto A. Villamor.

[3] The address of the victim is withheld per R.A. No. 7610 and R.A. No. 9262. See People v. Cabalquinto, G.R. No. 167693, 19 September 2006, 502 SCRA 419.

[4] The real name of the victim is withheld to protect her privacy also pursuant to R.A. No. 7610 and R.A. No. 9262. Supra note 3.

[5] Records, p. 1.

[6] The real name of the victim's mother is likewise withheld to protect her and the victim's privacy. Supra note 3.

[7] TSN, 16 October 2002, pp. 3-5.

[8] Id. at 5-8.

[9] Id. at 9.

[10] TSN, 7 November 2002, p. 14.

[11]Records, p. 8.

[12] TSN, 27 November 2002, p. 5.

[13] TSN, 16 October 2002, p. 10.

[14] Records, p. 60. The Entry reads:

That on this time and date [BBB], 48 years old and resident of Brgy[.] Tughan, Juban, Sorsogon, appeared to [sic] this station and complained that on or about 8:30 pm, 13 April 2002[,] her daughter [AAA] was sexually abused by a certain Domingo Hapin y Jazo, 21 years, single and resident of same barangay at Sitio Cagpacol, boundary of Juban-Casiguran, Sorsogon. That said Domingo Hapin y Ja[z]o, a tricycle driver unload [sic] the passenger [AAA] and the reportee saw her daughter crying and saying that she was raped by Domingo Hapin y Ja[z]o." (Sgd.) [BBB].

[15] TSN, 25 June 2003, p. 4.

[16]Id.

[17] Id. at 5.

[18]Id. at 7.

[19] Id. at 8.

[20] Id.

[21] TSN, 8 July 2003, p. 4.

[22] TSN, 4 February 2003, pp. 3-5; TSN, 19 February 2003, p. 3.

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[23] CA rollo, p. 24.

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

[25]Rollo, p. 22.

[26]Id. at 23.

[27] Id. at 24-27.

[28] CA rollo, pp. 38-51.

[29]Id. at 50.

[30]Id. at 75.

[31] People v. Gabelinio, G.R. Nos. 132127-29, 31 March 2004, 426 SCRA 608, 620.

[32]CA rollo, p. 22.

[33] Rollo, p. 16.

[34] People v. Valdez, 466 Phil. 116, 129 (2004).

[35] People v. Galido, G.R. Nos. 148689-92, 30 March 2004, 426 SCRA 502, 516; People v. Santos, G.R. Nos. 137828-33, 23 March 2004, 426 SCRA 133, 156.

[36] TSN, 16 October 2002, pp. 5-9.

[37] TSN, 28 October 2002, pp. 11-12.

[38] CA rollo, p. 49.

[39] TSN, 28 October 2002, p. 13.

[40] Rollo, p. 15.

[41] People v. Antonio, G.R. No. 157269, 3 June 2004, 430 SCRA 619, 626.

[42]People v. Rapisora, G.R. No. 147855, 28 May 2004, 430 SCRA 237, 259.

[43] People v. Dimaano, G.R. No. 168168, 14 September 2005, 469 SCRA 647, 670.

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