PEOPLE OF THE PHILIPPINES, APPELLEE, VS. MANUEL “BOY” HERMOCILLA, APPELLANT.

G.R. NO. 175830. July 10, 2007

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

For review is the Court of Appeals' Decision[1] in CA-G.R. CR No. 01294, which affirmed with modifications the judgment[2] rendered by the Regional Trial Court of Agoo, La Union, Branch 31, in Family Case Nos. A-435 and A-436, convicting appellant Manuel "Boy" Hermocilla of two counts of rape committed against M.[3]

On January 14, 2005, appellant was charged with two counts of rape. The first Information reads as follows:

> That on or about the year 1999, in the Municipality of x x x, Province of La Union, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, by means of force, threat and intimidation, did then and there willfully, unlawfully and feloniously, have sexual intercourse with his stepdaughter M, an eight (8) year old minor, against her will, to her damage and prejudice.
>
> CONTRARY TO LAW.[4]

The second Information reads:

> That on or about the year 2002, in the Municipality of x x x, Province of La Union, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, by means of force, threat and intimidation, did then and there willfully, unlawfully and feloniously, have sexual intercourse with his stepdaughter M, a[n] eleven (11) year old minor, against her will, to her damage and prejudice.
>
> CONTRARY TO LAW.[5]

Appellant pleaded not guilty to the crimes charged. The two cases were consolidated and tried jointly.

The records show that M was born out of wedlock on May 30, 1989 to S[6] and L.[7] After they separated, M stayed with her mother L who subsequently cohabited with appellant. Sometime in 1999, while M was preparing dinner, appellant suddenly grabbed and pulled her to the bed. He ripped off her shorts and underwear and made her lie on the bed. After undressing himself, appellant inserted his finger into M's vagina then penetrated her with his penis. M cried and begged appellant to stop.[8]

Thereafter, appellant would insert his finger into M's vagina whenever her mother is out of the house. Such abuse temporarily ceased when M lived with her father S in Baguio City. But when he left to work abroad, M went back to live with her mother and appellant. The abuse resumed and culminated in a second rape incident which took place sometime in 2002. On said day, while M was cleaning their house, appellant suddenly grabbed and pulled her towards the bed. He took off her clothes, undressed himself and inserted his finger into her vagina.[9]

Sometime in December 2004, appellant furiously hit M on the head and chased her out of the house with a bolo because she resisted his advances. M fled but appellant caught up with her and forced her to come back to the

house. When M went to school the next day, her cousin saw her crying. M eventually broke down and revealed her ordeal.[10]

M was subsequently examined by Dr. Donna C. Villanueva, a Medical Officer at the Ilocos Training and Medical Center. The examination showed the following:

> PHYSICAL EXAMINATION:
>
> x x x x
>
> Genitoperineal Area: triangular pubic hair distribution; hymen circular with healed laceration at 3, 6 & 9 o'clock position.
>
> Speculum Examination: cervix-smooth, (-) erosions, (-) lesions, (-) bleeding.
>
> Internal Examination: Introitus admits 2 fingers with ease; Cervix-firm, closed. Uterus-small, no palpable adnexal mass/tenderness.
>
> LABORATORY RESULTS:
>
> x x x x
>
> Gram stain: No spermatozoa seen. x x x.[11]

Appellant denied the charges against him and testified that sometime in 2004 he was summoned by their barangay captain to answer questions regarding a complaint lodged against him by M. When he denied M's accusations, appellant claimed that he was mauled by several persons and was forcibly taken to the Police Station at Rosario, La Union where he was incarcerated.[12] Appellant claimed that he treated M like his own daughter. He bought her clothes and shoes and attended to her other needs.[13]

On June 30, 2005, the trial court rendered judgment finding appellant guilty beyond reasonable doubt of two counts of rape and sentenced him to suffer the penalty of death for each count.

After his motion for reconsideration was denied, appellant appealed to the Court of Appeals which affirmed with modifications the decision of the trial court by reducing the penalty of death to reclusion perpetua and ordering appellant to pay P50,000.00 as moral damages and P50,000.00 as civil indemnity, for each count of rape.

In this appeal, appellant assails M's credibility claiming that her failure to confide the alleged rape to her mother, father and grandmother despite several opportunities to do so renders such accusations doubtful. We find this contention untenable.

Time and again, we have held that when a woman, more so if a minor, states that she has been raped, she says in effect all that is necessary to show that rape was committed. For no woman, least of all a child, would weave a tale of sexual assaults to her person, open herself to examination of her private parts and later be subjected to public trial or ridicule if she was not, in truth, a victim of rape and impelled to seek justice for the wrong done to her.[14]

Conclusions as to the credibility of witnesses in rape cases lie heavily on the sound judgment of the trial court because the trial judge enjoys the peculiar advantage of observing directly and at first hand the witnesses' deportment and manner of testifying. He is, therefore, in a better position to form accurate impressions and conclusions on the basis thereof.[15]

The trial court found M's testimony to be credible:

> The accused's defense was denial. He said that the charges were made up because M's relatives did not like

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> him. He was once suspected of selling the fertilizers which he did not own. He could not have done those charges against him because he loved his stepdaughter, M.
>
> Who should be believed?
>
> The Court believes the private complainant. She could not have made these stories up. x x x
>
> When she was testifying she cried several times. The Judge of this Court observed that her cries were expressions of outrage, reminding her, when being questioned by the lawyer, of those incidents that her stepfather did to her. While she could not pinpoint the exact dates, she could vividly remember the things done to her.
>
> It is the finding of the Court that accused Manuel "Boy" Hermocilla raped his stepdaughter. x x x[16]

The Court of Appeals affirmed the findings of the trial court, to wit:

> The aforequoted testimony of the complainant reveals that the same was marked by spontaneity, honesty and sincerity. It is a cardinal rule that when the testimony of the victim is simple and straightforward, the same must be given full faith and credit. We reiterate the rule that the accused could be convicted solely on the basis of the victim's testimony if credible. Here, We see no reason to deviate from the trial court's determination as to the credibility of complainant's testimony.[17]

Findings of the trial court on such matters are binding and conclusive on the appellate court, unless some facts or circumstances of weight and substance have been overlooked, misapprehended or misinterpreted.[18] No such facts or circumstances exist in the instant case.

The trial court and the Court of Appeals correctly found appellant guilty of two counts of rape. In the rape incident committed in 1999, the prosecution proved that appellant had carnal knowledge of M by inserting his penis into her vagina through force and intimidation. Under Art. 266-B, in relation to Art. 266-A of the Revised Penal Code, carnal knowledge of a woman through force or intimidation shall be punished by reclusion perpetua. Thus, the Court of Appeals correctly imposed the penalty of reclusion perpetua in Family Case No. A-435.

The second incident committed in 2002 whereby appellant inserted his fingers into M's vagina likewise constituted rape through sexual assault. In People v. Palma,[19] we held that the insertion of the appellant's finger into the victim's vagina constituted the crime of rape through sexual assault under Republic Act No. 8353 or "The Anti-Rape Law of 1997" which in part provides:

> Art. 266-A. Rape; when and how committed. - Rape is committed -
>
> 1) By a man who shall have carnal knowledge of a woman under any of the following circumstances:
>
> a) Through force, threat or intimidation;
> b) When the offended party is deprived of reason or otherwise unconscious;
> c) By means of fraudulent machination or grave abuse of authority; and
> d) When the offended party is under twelve (12) years of age or is demented, even though none of the circumstances mentioned above be present.
>
> 2) By any person who, under any of the circumstances mentioned in paragraph 1 hereof, shall commit an act of sexual assault by inserting his penis into another person's mouth or anal orifice, or any instrument or object, into the genital or anal orifice of another person. (Emphasis supplied)

Rape by sexual assault is punishable by reclusion temporal if committed with any aggravating or qualifying circumstances.[20] The Information in Family Case No. A-436 mentioned the victim as appellant's stepdaughter and an 11-year old minor. A stepdaughter is a daughter of one's spouse by previous marriage, while a stepfather is

the husband of one's mother by virtue of a marriage subsequent to that of which the person spoken of is the offspring. In the instant case, appellant and M's mother were never married. Hence, appellant is not M's stepfather; vice-versa, M is not appellant's stepdaughter. Appellant is the common law spouse of M's mother. However, since this relationship was not specifically pleaded in the information, it cannot be considered in the imposition of the proper penalty.

On the other hand, the aggravating circumstance of minority was specifically pleaded in the information and proved during trial. Conformably with the ruling in People v. Esperanza,[21] when either one of the qualifying circumstances of relationship and minority is omitted or lacking, that which is pleaded in the information and proved by the evidence may be considered as an aggravating circumstance. As such, M's minority may be considered as an aggravating circumstance. However, it may not serve to raise the penalty in Family Case No. A-435 because in simple rape by sexual intercourse, the imposable penalty is reclusion perpetua which is single and indivisible. In Family Case No. A-436, however, the penalty for rape by sexual assault with any aggravating circumstance is reclusion temporal. Applying the Indeterminate Sentence Law, the penalty should be within the range of prision mayor or 10 years and 1 day to 12 years as minimum, and 17 years, 4 months and 1 day to 20 years of reclusion temporal, as maximum.

As to the amount of damages, complainant is entitled in Family Case No. A-435 to P50,000.00 as civil indemnity and P50,000.00 as moral damages for rape through sexual intercourse. In Family Case No. A-436, M is entitled to P30,000.00 as civil indemnity and P30,000.00 as moral damages for rape through sexual assault.[22] Civil indemnity is separate and distinct from the award of moral damages which is automatically granted in rape cases. Moral damages are additionally awarded without need of pleading or proof of the basis thereof. This is because it is recognized that the victim's injury is concomitant with and necessarily resulting from the odiousness of the crime to warrant per se the amount of moral damages.[23] In addition, we held in People v. Catubig,[24] that the presence of an aggravating circumstance, such as M's minority, entitles her to an award of exemplary damages. The amount of P25,000.00 as exemplary damages for each count of rape is appropriate under the circumstances.[25]

WHEREFORE, the assailed Decision of the Court of Appeals is AFFIRMED with MODIFICATIONS that in Family Case No. A-435, appellant Manuel Hermocilla is found guilty of rape through sexual intercourse and is sentenced to suffer the penalty of reclusion perpetua, and to pay M the amounts of P50,000.00 as civil indemnity, P50,000.00 as moral damages, and P25,000.00 as exemplary damages. In Family Case No. A-436, appellant is found guilty of rape through sexual assault and is sentenced to suffer the indeterminate penalty of 12 years of prision mayor, as minimum, up to 20 years of reclusion temporal, as maximum, and to pay M the amounts of P30,000.00 as civil indemnity, P30,000.00 as moral damages, and P25,000.00 as exemplary damages.

SO ORDERED.

Austria-Martinez, and Chico-Nazario, JJ., concur.
Nachura, J., no part. Filed brief as Sol Gen.

[1] Rollo, pp. 2-13. Penned by Associate Justice Sesinando E. Villon and concurred in by Associate Justices Jose L. Sabio, Jr., and Rosalinda Asuncion-Vicente.

[2] CA rollo, pp. 52-65. Penned by Judge Clifton U. Ganay.

[3] Pursuant to Section 44 of Republic Act (R.A.) 9262, otherwise known as the Anti-Violence Against Women and Their Children Act of 2004, and Section 63, Rule XI of the Rules and Regulations Implementing R.A. No. 9262, the real name of the child-victim is withheld to protect his/her privacy. Fictitious initials are used instead to

represent him/her. Likewise, the personal circumstances or any other information tending to establish or compromise her identity, as well as those of his/her immediate family or household members shall not be disclosed.

[4] Records, Vol. 2, page unnumbered.

[5] Records, Vol. 1, page unnumbered.

[6] Father's name is withheld to protect him and the victim's privacy.

[7] Mother's name is withheld to protect her and the victim's privacy.

[8] TSN, June 8, 2005, pp. 3-5.

[9] Id. at 8-9.

[10] Id. at 14-15.

[11] Records, p. 5.

[12] TSN, June 28, 2005, pp. 8-11.

[13] Id. at 12-13.

[14] People v. Balleno, G.R. No. 149075, August 7, 2003, 408 SCRA 513, 520.

[15] People v. Maguikay, G.R. Nos. 103226-28, October 14, 1994, 237 SCRA 587, 602.

[16] CA rollo, pp. 16-17.

[17] Rollo, p. 10.

[18] People v. Candaza, G.R. No. 170474, June 16, 2006, 491 SCRA 280, 297.

[19] G.R. Nos. 148869-74, December 11, 2003, 418 SCRA 365.

[20] See Art. 266-B (12).

[21] 453 Phil. 54, 75-76 (2003).

[22] See People v. Palma, supra note 19 at 378.

[23] Supra at 28; p. 522.

[24] 416 Phil. 102,120 (2001).

[25] See People v. Nebria, 440 Phil. 572, 588 (2002).

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