PEOPLE OF THE PHILIPPINES, APPELLEE, VS. CLARO JAMPAS Y LUAÑA, APPELLANT.

G.R. No. 177766. July 17, 2009

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

From the August 10, 2006 Decision of the Court of Appeals which affirmed the April 13, 2004 Decision of the Regional Trial Court of Naval, Biliran (Branch 16) finding him guilty of rape and sentencing him to reclusion perpetua, Claro Jampas y Luaña (appellant) lodged the present appeal.

In a complaint[1] dated September 27, 2001 which was filed with the Municipal Trial Court of Naval, Biliran, AAA[2] charged appellant with rape alleged to have committed as follows:

> That sometime in the mid month of 1999 at around 11:00 o'clock in the morning[,] the above named accused did, then and there willfully, unlawfully and feloniously have carnal knowledge with me against my will and continued to have carnal knowledge with me several times in 1999 and the year 2000. (Underscoring supplied)

After preliminary investigation,[3] appellant was charged in an Information dated May 13, 2002 as follows:

> That sometime during the mid-year of 1999, at around 11:00 o'clock in the morning, more or less, [AAA], a 10-year old grade III pupil and a resident of Bgy. Villa-consuelo, Naval, Biliran Province, was called by herein accused, her uncle being the husband of her aunt, and when she went near him, he carried her to the upper part of his house called in dialect `lawting', and once thereat, with lewd designs, did then and there wilfully, unlawfully and feloniously, accused removed [AAA]'s short pants and panty and afterwhich, accused removed his long maong pants and brief, placed on top of her and kissed her, pointed a knife to her and warned her not to tell anyone for he would kill her should she do and succeeded in having carnal knowledge of her against her will, to her damage and prejudice.
>
> CONTRARY TO LAW with the aggravating circumstances that accused is her uncle and that offended party is under twelve years of age.[4] (Emphasis and underscoring supplied)

The prosecution, via the testimony of two witnesses, that of AAA who was only eight years old when the alleged rape occurred,[5] she having been born on November 29, 1991,[6] and that of Dr. Josephine Dayoha (Dr. Dayoha) who examined her, proffered the following version:

During the middle part of 1999, at 11:00 o'clock in the morning, as AAA was playing "sayasaya" with two girl friends near the adjacent house of appellant and DDD, appellant's common-law spouse and AAA's aunt, appellant summoned AAA. Obliging, AAA approached appellant who was then in his house and who then closed the door and carried her to the "lawting" (mezzanine) of the house.[7] There, once inside, appellant took off AAA's short pants and panties, undressed himself, and placed himself on top of AAA[8] and inserted his penis into the vagina of AAA who felt pain as a result thereof.[9] Appellant threatened AAA that he would kill her if she would tell what transpired between them.[10]

AAA, then a Grade 1 pupil, went to school in the afternoon without her telling anyone about the incident. The following day, she mustered the courage to tell her mother BBB about it. BBB relayed it to her Ate CCC, who in turn relayed it to AAA's grandmother EEE. EEE disbelieved the tale, however. It took a relative, Tita FFF, to report the incident to the barangay captain who in turn informed the police of the crime.[11] When the report was made to the police, the records do not show. As reflected above, AAA's complaint is dated September 24, 2001 or more than two years after the mid-1999 rape was alleged to have occurred.

Dr. Dayoha of the Biliran Provincial Hospital who examined the victim on September 21, 2001 issued on even date a medical certificate[12] stating that there were "healed incomplete hymenal laceration[s]" at 6 and 11 o'clock positions. The doctor opined that the lacerations could have been caused by a sharp object or a male sex organ,[13] and that sexual contact was the strongest possible cause of AAA's injuries.[14]

Appellant, denying the accusation and proffering alibi, claimed that he went to Manila with his nephew to look for work in June 1999 and returned to Biliran only in February 2000;[15] and that he was still in Manila when his common-law wife gave birth to their youngest child in August 7, 1999,[16] which claim his common-law wife corroborated.

To buttress his alibi, appellant presented Virgie Comayas who testified that her live-in partner Mario Sañosa and her sister accompanied appellant when he left for Manila in June 1999 and that it was only in February 2000 when appellant returned to Biliran.[17]

Further, appellant claimed that AAA was impelled by vengeance in filing the criminal complaint because he was rumored to have impregnated her mother BBB.[18]

By Judgment of April 13, 2004, the trial court convicted appellant as reflected early on, disposing as follows:

> WHEREFORE, premises considered, this Court finds the accused Claro Jampas Y Luaña GUILTY in Criminal Case No. N-2164 hereby imposing upon him the penalty of Reclusion Perpetua.
>
> The accused shall pay [AAA] the amount of P75,000.00 in moral damages and to further pay P50,000.00 in civil indemnity for the rape committed.
>
> SO ORDERED.[19]

Appellant appealed before this Court which, pursuant to the ruling in People v. Mateo,[20] referred the case to the Court of Appeals for disposition.[21]

By Decision[22] of August 10, 2006, the appellate court affirmed the decision of the trial court.

Hence, the present petition for review on certiorari,[23] appellant insisting that there was grave error in

> I
>
> ...CONVICTING THE ACCUSED-APPELLANT OF THE CRIME CHARGED DESPITE FAILURE OF THE PROSECUTION TO PROVE THE GUILT OF THE ACCUSED-APPELLANT BEYOND REASONABLE DOUBT.
>
> II
>
> ...NOT CONSIDERING THE DEFENSE INTERPOSED BY THE ACCUSED-APPELLANT.
>
> III
>
> ... NOT CONSIDERING [THE] INFORMATION CHARGING THE ACCUSED-APPELLANT OF RAPE INSUFFICIENT TO SUPPORT A JUDGMENT OF CONVICTION FOR FAILURE OF THE

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PROSECUTION TO STATE THE PRECISE DATE OF THE COMMISSION OF THE ALLEGED RAPE.[24]

Appellant takes issue on the sufficiency of the Information as to the approximate date of the commission of the offense which, he posits, is fatally defective to thus jeopardize his right to be informed of the nature of the offense charged.[25]

Appellant questions the sufficiency of the Information only now when he had all the opportunity to raise it before his arraignment during which he could have conveniently filed a bill of particulars[26] to apprise himself of the exact date of the alleged rape, or he could have moved to quash the Information on the ground that it does not conform substantially to the prescribed form.[27] By such lapses, appellant is deemed to have waived any objection to the sufficiency of the Information.

At any rate, in a prosecution for rape, the material fact to be considered is the occurrence of carnal knowledge, not the time of its commission.[28] It is enough that the Information indicates a date which is not so remote as to surprise and prejudice the accused.[29] It is not essential that the date be alleged in the Information with ultimate precision.[30]

Appellant goes on to question the trial and appellate courts failure to take note of the "considerable delay" in filing the complaint, given that there is no showing that AAA was under a continuing threat to her life,[31] which delay "affects the credibility" of AAA, citing People v. Miñano.[32]

The Court finds that with respect to the unexplained delay in reporting the alleged incident to the police authorities, the present petition is impressed with merit. It bears noting that AAA claimed to have reported the rape to her mother the day after it happened, the threat to her life notwithstanding. Oddly, however, it took more than two years before such alleged rape was reported to the police and the victim examined by a physician. The prosecution offered no reasonable or justifiable explanation for the delay nor presented AAA's relative Tita FFF or the barangay captain who reported the matter to the police to shed light on this crucial matter. AAA's following testimony quoted verbatim, on this score, is most revealing:

A:

He threatened me not to tell somebody because if I will tell somebody he will kill me.

Q:

But despite what he said to you, did you tell somebody what happened to you?

A:

Yes sir.

Q:

Whom did you confine?

A:

At the following day, I tell my mother.

x x x x

Q:

What did your mother do?

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A:

My mother told this matter to Ate [CCC].

Q:

What did your Ate [CCC] do?

A:

Ate [CCC] revealed this to my grandmother and my grandmother did not mind.

x x x x

Q:

When your grandmother did not believe, what did you Ate [CCC] do?

A:

We just leave and forget it.

Q:

How did this incident reached . . . the Police?

A:

Tita [FFF] revealed it.

Q:

To whom?

A:

. . . the Brgy. Captain.

Q:

What did the Brgy. Captain do?

A:

The Brgy. Captain reported the incident to the Police.[33] (Emphasis and underscoring supplied)

From the above-quoted testimony of AAA, it is gathered that when AAA's grandmother refused to believe her claim of rape, there was a lull in the chain of events before it was finally reported to the police. Nothing in the records, however, sufficiently explains why there was indeed such "considerable delay." Appellant's contention then to the effect that absent any proof that AAA was under a continuing threat to her life, the delay affects AAA's credibility assumes importance.

For more than two years or from mid-1999 to September 27, 2001 when she filed the complaint, the Court does not appreciate any continuing threat against her life as in fact, it does not appear that the threat was reiterated.

Even considering then the inherent weakness of the defense of alibi as to preclude the possibility of the occurrence of the incident prior to appellant's date of departure, appellant's testimony to the effect that he was in Manila from June 20, 1999 and returned only in February 2000[34] indicates that every opportunity was available for AAA and her family to bring the matter to the attention of the authorities. It is not thus farfetched to consider

the delay an indication that the complaint was made in a desire other than to bring the culprit to justice.

In reviewing rape cases, this Court observes the following guiding principles: (1) an accusation for rape can be made with facility; it is difficult to prove but more difficult for the person accused, though innocent, to disprove; (2) in view of the intrinsic nature of the crime where only two persons are usually involved, the testimony of the complainant must be scrutinized with extreme caution; (3) the evidence for the prosecution must stand or fall on its own merits, and cannot be allowed to draw strength from the weakness of the evidence for the defense.[35]

The lone uncorroborated testimony of a complainant in a rape case suffices to warrant a conviction, provided that it is credible, natural, convincing, and consistent with human nature and the normal course of things. Such testimony should not be received with precipitate credulity, however, but with the utmost caution.

The test for determining the credibility of a complainant's testimony is whether it is in conformity with common knowledge and consistent with the experience of mankind. Whatever is repugnant to these standards becomes incredible and lies outside of judicial cognizance.[36]

That this Court should refrain from disturbing the conclusions of the trial court on the credibility of witnesses and their testimony does not apply where the trial court might have overlooked certain facts of substance or value which, if considered, would affect the outcome of the case.[37]

After opening the entire criminal case for review[38] and subjecting AAA's testimony to judicial scrutiny, the Court finds her narrative tainted with ambiguity and deficiency on vital points. Consider her narration of the supposedly harrowing incident:

> Q:
>
> What did you do when he called you up?
>
> A:
>
> I approach him.
>
> Q:
>
> After that what did he do to you?
>
> A:
>
> He closed the door.
>
> Q:
>
> Whose door of the house?
>
> A:
>
> Claro Jampas.
>
> Q:
>
> When he closed the door, what did he do to you next?
>
> A:
>
> He carried me and he brought me to the mezzanine locally known as "lawting"
>
> Q:

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When you reached lawting, what did he do next to you, if any?

A:

He took off my black short pant and white panty.

Q:

How about him, what did he do?

A:

He undressed himself.

Q:

After that, what did he do to you?

A:

He raped me.

Q:

How did he rape you?

A:

He put himself on top of me.

Q:

And then what happened?

A:

And then he successfully raped me.

Q:

How did you feel when he successfully raped you?

A:

I felt pain.[39] (Italics and underscoring supplied)

The stark outline of AAA's testimony is so simplistic that it leaves much to be desired and leaves unmentioned those expectedly required. In view of the inevitability of a judicial scrutiny, it is a given that evidentiary matters of a descriptive or illustrative nature be supplied during trial to detail the recital of elemental facts in the Information.

How AAA was "successfully raped" by appellant, the prosecution did not bother to elicit from her. It took the trial court's clarificatory questioning to obtain the pithy statement that "he tried to insert his penis to my vagina and [a]fterwards he successfully inserted his penis"[40] without her describing any thrusting motion. And the Court observes that in the four corners of AAA's testimony, no kissing was disclosed to have happened and no knife was mentioned at all, contrary to what appears in the Information. Her testimony on these key aspects contains gaps that allow the crevices of reasonable doubt to creep in.

While rape victims are not required or expected to remember all the details of their harrowing experience, and

minor inconsistencies are considered badges of truth, the inconsistencies drawn from AAA's declarations on examination vis-à-vis the Information cannot be considered as mere minor not affecting her credibility of testimony.[41]

With respect to the rigor and indignities of an open trial that a private complainant chooses to endure by pursuing a rape case, the Court has viewed such sensitive predicament in this perspective:

> This is too simplistic a view to adopt regarding a crime that could cost the accused his liberty for the rest of his life. To warrant a conviction, it is necessary that the complainant's story, standing alone independently of the presumption, be believable. Otherwise, if such presumption alone is sufficient to convict the accused, every accusation of rape would result in the conviction of the accused, contrary to the fundamental right of the accused in every criminal prosecution to be presumed innocent until proven otherwise.
>
> The presumption that a woman would not make an accusation of rape had it not been the truth finds justification in the natural reticence of a woman to expose herself to a trial which would further degrade her and make her relive an experience that she would in fact want to forget. Against such a presumption, however, must be weighed the constitutional right of the accused to be presumed innocent. In People v. Godoy, it was held:
>
> The presumption of innocence. . . is founded upon the first principles of justice, and is not a mere form but a substantial part of the law. It is not overcome by mere suspicion or conjecture; a probability that the defendant committed the crime; nor by the fact that he had the opportunity to do so. Its purpose is to balance the scales in what would otherwise be an uneven contest between the lone individual pitted against the People and all the resources at their command. Its inexorable mandate is that, for all the authority and influence of the prosecution, the accused must be acquitted and set free if his guilt cannot be proved beyond the whisper of a doubt. This is in consonance with the rule that conflicts in evidence must be resolved upon the theory of innocence rather than upon a theory of guilt when it is possible to do so.[42]

More. AAA testified that after the agonizing experience past 11:00 o'clock in the morning, she still went to school in the afternoon.[43] To the Court, this episode of the story is remarkable. In a case where a 7-year old girl was ravished and yet was still thereafter able to continue selling junkfood, the Court stated:

> The conduct of the victim immediately following an alleged sexual assault should prove to be material. Whether her personal behavior would tend to establish the truth or the falsity of the accusation would depend in large measure on whether that conduct, in turn, is expected to be, or would instead be contrary to, the natural reaction of an outraged woman robbed of her honor. In this instance, the Court sees a situation where, after the alleged incident of rape, complainant has gone about her usual chore of peddling her goods. x x x[44] (Underscoring supplied)

In another vein, there is grain of doubt as to whether there was indeed an attic or mezzanine locally known as lawting that was described by AAA to be eight meters high,[45] where appellant's house was depicted to be a mere bungalow.[46]

With respect to the medical finding of healed incomplete hymenal laceration which, the physician opined, could have been caused by a sharp object or a male sex organ, the Court resolves such possibilities in favor of the innocence of appellant as his guilt has not been proven beyond reasonable doubt. Considering the medical results, AAA could either have been actually raped several months prior to the examination by appellant or by someone else, or she had not been raped at all.

Where the inculpatory facts and circumstances are capable of two or more explanations, one of which is consistent with the innocence of the accused and the other consistent with his guilt, the evidence does not fulfill the test of moral certainty and is not sufficient to support a conviction.[47]

Before an accused is convicted, there should be moral certainty - a certainty that convinces and satisfies the reason and conscience of those who are to act upon it. Absolute guarantee of guilt is not demanded by the law to convict a person of a criminal charge but there must, at least, be moral certainty on each element essential to constitute the offense and on the responsibility of the offender. Proof beyond reasonable doubt is meant to be that, all things given, the mind of the judge can rest at ease concerning its verdict.[48]

Undoubtedly, rape is a vicious crime, and it is rendered more loathsome in a case where the victim is a minor and the accused is a person whom she perceives as a figure of authority. However, sympathy for the victim and disgust at the bestial criminal act cannot prevail over the court's primordial role as interpreters of the law and dispensers of justice.

It is thus the primordial duty of the prosecution to present its case with clarity and persuasion, to the end that conviction becomes the only logical and inevitable conclusion. If the prosecution fails to discharge its burden, the court must sustain the presumption of innocence of the accused, whose exoneration must then be granted as a matter of right.[49]

It is better to liberate a guilty man than to unjustly keep in prison one whose guilt has not been proven by the required quantum of evidence.[50]

WHEREFORE, appellant CLARO JAMPAS y LUANA is ACQUITTED of the crime of rape for failure of the prosecution to prove his guilt beyond reasonable doubt. He is ordered immediately RELEASED unless he is being detained for some other lawful cause.

Let a copy of this Decision be furnished the Director of the Bureau of Corrections, Muntinlupa City, who is ORDERED to cause the immediate release of appellant, unless he is being lawfully held for another cause, and to inform this Court of action taken within 10 days from notice.

No pronouncement as to costs.

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] Records, p. 1.

[2] The real name of the victim is withheld per REPUBLIC ACT Nos. 7610 and 9262, and People v. Cabalquinto, G.R. No. 167693, September 19, 2006, 502 SCRA 419.

[3] The preliminary investigation was carried out under the old rules prior to amendment introduced by A.M. No. 05-8-26-SC of August 30, 2005. The resolution was signed by MTC Judge-Designate Dulcisimo Pitao and reviewed by Provincial Prosecutor Gary Cruz; records, pp. 10-11.

[4] Id. at 12.

[5] Transcript of Stenographic Notes (TSN), February 6, 2003, pp. 2-3.

[6] Records, p. 37, Exhibit "B-2."

[7] TSN, February 6, 2003, pp. 4-5.

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[8] Id. at 6.

[9] Id. at 17.

[10] Id, at 6.

[11] Id. at 7-8.

[12] Records, p. 2.

[13] TSN, February 6, 2003, p. 20.

[14] Id. at 23-24.

[15] TSN, January 14, 2004, pp. 4-5.

[16] Ibid.

[17] TSN, February 26, 2003, pp. 7-8, 11-12.

[18] TSN, January 14, 2004, p. 6.

[19] Records, p. 77.

[20] G.R. No. 147678-87, July 7, 2004, 433 SCRA 640; vide A.M. No. 00-5-03-SC (October 15, 2004) which modified Sections 3 and 10 of Rule 122, Sections 12 and 13 of Rule 134 of the Rules of Court and any other rule insofar as they provide direct appeals from the Regional Trial Court to this Court in cases where the penalty imposed is death, reclusion perpetua or life imprisonment and allowed an intermediate review by the Court of Appeals before such cases are elevated to this Court.

[21] Per Resolution dated December 5, 2005.

[22] Rollo, pp. 4-16; penned by Justice Apolinario D. Bruselas, Jr. and concurred by Justices Isaias P. Dicdican and Agustin S. Dizon.

[23] In this petition, both parties dispensed with the submission of supplemental briefs and instead adopted their respective Briefs filed with the appellate court.

[24] CA rollo, p. 54.

[25] Id. at 62-64.

[26] RULES OF COURT, Rule 116, Sec. 9 reads: The accused may, before arraignment, move for a bill of particulars to enable him properly to plead and prepare for trial. The motion shall specify the alleged defects of the complaint or information and the details desired.

[27] RULES OF COURT, Rule 117, Secs. 1 and 3(e); vide People v. Ibañez, G.R. No. 174656, May 11, 2007, 523 SCRA 136, 143.

[28] People v. Losano, 369 Phil. 966, 978 (1999).

[29] People v. Bugayong, 359 Phil. 870, 879 (1998).

[30] People v. Ibañez, supra note 27 at 142.

[31] CA rollo, p. 60.

[32] G.R. No. 97609, March 31, 1993, 220 SCRA 681.

[33] TSN, February 6, 2003, pp. 6-8.

[34] TSN, January 14, 2004, pp. 4-5; July 30, 2003, p. 10.

[35] People v. Lumibao, 465 Phil. 771, 780 (2004).

[36] People v. De la Cruz, 408 Phil. 838, 848 (2001).

[37] People v. Ladrillo, 377 Phil. 904, 917 (1999).

[38] People v. Flores, Jr., 442 Phil. 561, 569 (2002) enunciates that an appeal in a criminal proceeding throws the whole case wide open for review and the appellate court can correct errors, though unassigned, that may be found in the appealed judgment.

[39] TSN, February 6, 2003, pp. 5-6.

[40] Id. at 17.

[41] Vide People v. Perez, G.R. No. 172875, August 15, 2007, 530 SCRA 376.

[42] People v. De la Cruz, supra note 36 at 851.

[43] TSN, February 6, 2003, p. 15.

[44] People v. Dela Cruz, 388 Phil. 678, 687 (2000).

[45] TSN, February 6, 2003, p. 14.

[46] TSN, February 26, 2003, p. 5.

[47] People v. De la Cruz, supra note 36 at 853-854.

[48] People v. Lumibao, supra note 35 at 781.

[49] Vide People v. Ramirez, Jr., G.R. Nos. 150079-80, June 10, 2004, 431 SCRA 666, 679, 681.

[50] People v. Perez, supra note 41 at 393.

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