

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. YOON CHANG WOOK, ACCUSED-APPELLANT.

G.R. No. 178199. October 05, 2009

Ponente: VELASCO JR., J.

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VELASCO JR., J.:

This is an appeal from the Decision[1] dated October 31, 2006 of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 01942, affirming the April 24, 2000 Decision of the Regional Trial Court (RTC), Branch 259 in Parañaque City. The RTC adjudged Yoon Chang Wook guilty beyond reasonable doubt of rape.

In two (2) separate informations filed before the Parañaque City RTC, docketed as Criminal Case Nos. 98-824 and 98-825, Yoon Chang Wook (Yoon) and four (4) John Does were charged with the crime of rape and robbery, allegedly committed as follows:

CRIMINAL CASE No. 98-824

That on or about June 6, 1998, in Parañaque City and within the jurisdiction of this Honorable Court, Yoon Chang Wook with four (4) John Does whose true identities have not been ascertained as of this writing, did then and there, willfully, unlawfully and feloniously, while confederating, conspiring, conniving and mutually helping one another, with malicious intent and lewd design, employing force and physical violence upon the person of [AAA],[2] have carnal relationship with the latter, against her will and consent to the damage and prejudice of the latter.

CONTRARY TO LAW.

CRIMINAL CASE No. 98-825

That on or about June 6, 1998, in Parañaque City and within the jurisdiction of this Honorable Court, accused Yoon Chang Wook and four (4) John Does whose true identities have not been ascertained as of this writing, did then and there, willfully, unlawfully and feloniously, while confederating, conspiring, conniving and mutually helping one another; with intent to gain, employing force and violence upon the person of [AAA] causing serious physical injuries to her, steal, take and carry away the money of [AAA] amounting to Y50,000,000 and \$350 to the damage and prejudice of the latter.

CONTRARY TO LAW.[3]

When arraigned for both charges, Yoon entered a "not guilty" plea. Accused John Does remained at large.

To buttress its case, the prosecution presented the testimonies of private complainant AAA, Dr. Armie-Soreta Umil of the National Bureau of Investigation (NBI), and one Janet Collado, a security guard of the Ocean's Best Restaurant.

The totality of the prosecution's evidence tends to establish the following course of events:

Yoon and AAA, both Korean nationals, met in Seoul, South Korea in 1995 through a third party to whom AAA intimated her wish to send her daughter to the Philippines to study. Yoon, claiming to be familiar with the country, asked 20 million Won (approximately PhP 600,000) from AAA to defray processing expenses. Yoon then traveled to the Philippines. Upon Yoon's behest, AAA followed bringing with her some documents for her daughter's studies.

In January 1996, Yoon enrolled AAA's daughter at Brent Southville International School in Metro Manila. AAA later gave PhP 24,000 to Yoon to secure a visa for her daughter.[4]

Soon enough, both Korean nationals entered into a relationship. The affair, however, was short-lived owing to guilt feelings on the part of AAA and her realization that Yoon was just after her money.

Sometime in April 1998, AAA, now back in Seoul, received a call from Yoon. After informing AAA that he has changed for the better and now owning a restaurant, Yoon asked AAA to come to Manila, promising to pay 80 million Won he owed her. AAA arrived in Manila on June 3, 1998. Two days later, she and her daughter repaired to Yoon's restaurant, Ocean's Best Restaurant, in Parañaque City. While there, Yoon told AAA he was still preparing the money and asked that she return the following day, alone. AAA did return alone on June 6, 1998 at around 2:00 p.m. Yoon approached her at the car and escorted her to the restaurant, placing his left hand on her back. Upon passing the door of the restaurant, Yoon suddenly got hold of her neck, pushed her head down, and dragged her towards the door of the restaurant.[5]

Once inside, Yoon and four unidentified Korean nationals brought her to the second floor of the restaurant. Yoon then stripped her of clothes while his companions punched and kicked her, gagged her mouth, bound her legs and arms, and blindfolded her. They then dragged her to the bathroom where they poured gasoline all over her body. The men scratched a lighter as if to set her on fire. Thereafter, the men forcibly pulled her back into a room and asked that she call her husband. AAA refused and pleaded to spare her husband and daughter from harm. Subsequently, the men untied her arms, removed the tape on her mouth and the blindfold, and she was made to lie down on the sofa. She then saw some men wearing caps and sunglasses, while Yoon, who was stark naked, approached her. AAA's struggles and pleadings for mercy proved in vain as Yoon succeeded in having sexual intercourse with her. The others gave her a beating for every effort she made to free herself. AAA fainted even before Yoon could completely be done with her. When AAA regained her consciousness, she found herself tied up again beside Yoon. There and then, Yoon asked her to copy a promissory note showing indebtedness to Yoon, which she did against her will. After she had put on her clothes, AAA was allowed to leave. When she looked into her bag, ¥50,000,000 and USD 350 were missing. As AAA would later testify, the barbaric acts of Yoon gave her sleepless nights. Her husband, who took pictures (Exhibits "G" and "G-1" to "G-27") of her injuries as a result of the beatings, also suffered from mental stress.[6]

Yoon denied raping AAA, but admitted to having a two-year relationship with her which ended in 1997 when AAA suggested that he eliminate her husband. Testifying on what transpired on June 6, 1998, Yoon stated being, on that day, at his restaurant to check the electrical system and karaoke machines. The restaurant was closed albeit he received visitors. AAA came at around 2:00 p.m. Soon thereafter, some Korean brokers arrived with prospective buyers of his restaurant, Lee Hyeon Sook (Lee) and her husband. Yoon guided AAA upstairs where she waited until 7:00 p.m. when the other visitors left. AAA was in a hurry to go home since her husband was already awake. Yoon insisted that he and the other men did not commit acts of violence on the person of AAA and there was no intimate relationship between them on the day in question.[7]

Lee corroborated for the most part Yoon's testimony, stating that AAA, whom she met twice before, was in the second floor of Ocean's Best Restaurant in the afternoon of June 6, 1998. Lee belied allegations about incidents of

beating and pouring of gasoline on that day. On one occasion, so Lee claimed, she saw AAA inside Yoon's office where the two were arguing about money.[8]

Rogelio Loquinario, AAA's driver from October 1995 to July 1999, testified driving AAA to Ocean's Best Restaurant on June 6, 1998 at around 1:30 p.m. At around 7:30 p.m., Loquinario saw AAA and Yoon come out of the restaurant without talking to each other. According to Loquinario, he failed to notice, while driving AAA home, any bruise on her face or the smell of gasoline.[9]

Abelyn de Vera testified that on June 4, 1998, AAA arrived at Yoon's house at 8:30 p.m. AAA slept at the room of Yoon with only her underwear on. De Vera said that she saw hematomas all over the body of AAA while the latter was asleep. AAA left the house around 11:00 a.m. the following day.

On April 24, 2000, the RTC rendered judgment acquitting Yoon of robbery, but convicting him of the crime of rape, disposing as follows:

WHEREFORE, PREMISES CONSIDERED, for insufficiency of evidence and for failure of the prosecution to present that quantum of proof necessary to sustain a judgment of conviction for the crime of Robbery as defined and penalized under Arts. 293-294 of the Revised Penal Code as amended by Section 9 of RA 7659, this Court hereby pronounces Yoon Chang Wook NOT GUILTY in Crim. Case No. 98-825. In Crim. Case No. 98-824 for Rape as defined and penalized under Art. 266-A par. 1 and Art. 266-B par. 1 of RA 8353, this Court finds Yoon Chang Wook GUILTY beyond reasonable doubt and hereby sentences him to imprisonment of reclusion perpetua and to suffer the accessory penalties provided by law, specifically Art. 41 of the Revised Penal Code as amended and to indemnify [AAA], the private complainant, the amount of P50,000.00 in line with existing jurisprudence, P50,000.00 in moral damages, P50,000.00 as exemplary damages and P9,000 and 500,000.00 Won Korean currency for her medical expenses.

SO ORDERED.[10]

Yoon filed a Notice of Appeal on May 6, 2000 and thereafter submitted his brief before the Court which docketed his recourse as G.R. Nos. 143815-16. On September 15, 2004, the Court forwarded the case to the CA for immediate review in accordance with *People v. Mateo*. [11]

On October 31, 2006, the CA rendered the herein appealed decision, the fallo of which reads:

WHEREFORE, premises considered, the assailed April 24, 2000 Decision of the Regional Trial Court of Parañaque City, Branch 259, is AFFIRMED in toto.

SO ORDERED.[12]

Yoon is again before us in view of the Notice of Appeal he interposed from the CA's affirmatory decision. Despite their receipt of the Court's resolution for the submission, if they so desired, of supplemental brief, the parties, by their respective manifestations,[13] chose to submit the case for resolution on the basis of available records and the pleadings they have respectively filed, thus effectively reiterating the same arguments raised before the CA.

Yoon claims that the trial court and necessarily the CA erred:

- [I]n ruling that the lone testimony of private complainant met the required test of credibility to warrant conviction of accused for an alleged crime of rape.
- [I]n concluding that "It is therefore the word of private complainant [AAA] against the word of accused Yoon Chang Wook" that led to the conviction of the accused.
- [I]n appreciating the prosecution's Exhibits "G", "G-1" up to "G-27" as evidences for alleged crime of rape.

- [I]n appreciating the Medical Center Parañaque medico-legal certificate and Roentgenological report (Exhibits "I" and "J", respectively) as evidences for alleged crime of rape.
- [I]n appreciating that the Department of Justice-[NBI] Medico-Legal Division-Manila "Preliminary Report" and "Living Case No. MG-98-700" (Exhibits "K" and "L", respectively) as evidences for alleged crime of rape.
- [I]n giving probative value on the testimony of Jennet Collado, a security guard on duty on June 6, 1998 at Ocean's Best Restaurant which was dispensed with upon stipulation of the parties relative to her presence at the said restaurant at 7:00 in the evening of June 6, 1998 x x x.
- [I]n appreciating that there was stipulation by the parties that Charlie Yoon and private complainant spent the night together until morning of June 7, 1998.
- [I]n giving probative value on the testimony of Dr. Armie Soreta-Umil which was dispensed with upon stipulation of the parties relative to her findings on private complainant appearing in MG-98-700 (Exhibits "K" and "L"--particularly on the reverse side of Exhibit "L" thereof) as proof of commission of an alleged crime of rape.
- [I]n not appreciating the circular markings of the sleeveless t-shirt of private complainant imprinted under her armpit as depicted on exhibits offered as proof that she was not naked when she was mauled allegedly.
- [I]n not appreciating the presence of hematomas on private complainant's body existing as of June 4, 1998 as testified and identified by a 14 year old witness Abelyn de Vera which proves that private complainant is a chronic liar.
- [I]n disregarding the probative value of the testimonies of the defense witnesses namely, Lee Hyeon Sook, Rogelio Loquinario, Abelyn de Vera, Eleonor Cambel and accused himself as sufficient to establish reasonable doubt on prosecution's evidence thus warranting the acquittal of the accused.[14]

The Court's Ruling

The appeal is without merit.

In essence, Yoon faults the trial court and the CA for according full faith and credit and giving undue weight to the People's evidence, particularly AAA's testimony, but disregarding his evidence. In net effect, he would have the Court set aside his conviction on the ground that the private complainant's tale of rape is one big lie and that the prosecution's other testimonial and documentary pieces of evidence do not deserve the weight and credibility extended them.

It is basic, almost elementary, that the trial court's factual determinations, especially its assessments of the witnesses' testimony and their credibility, are entitled to great respect, barring arbitrariness or oversight of some fact or circumstance of weight and substance.[15] For having seen and heard the witnesses themselves and observed their demeanor while in the witness box, the trial court is in a better position to address questions of credibility.[16]

The perceived misapplication or misunderstanding on the part of the trial court of some substantive fact or circumstance does not, to us, just as it did not to the CA, obtain. First, in adjudging Yoon, as accused below, guilty of rape, the trial court did not rely on what security guard Jennet Collado and Dr. Armie Soreta-Umil of the NBI were supposed to testify on upon stipulation as to AAA's presence at the restaurant in the evening of June 6, 1998 until the morning of the following day. Dr. Umil would have had testified on AAA's appearance as captured in Exhibit "L." The Court has examined the trial court's decision. The stipulations were not part of, let alone mentioned in, the RTC's inculpatory findings. Thus, Yoon's interrelated laments--expressed in the 6th, 7th, and

8th assignments of errors, collectively referring to the alleged trial court's undue reliance on and misappreciation of the stipulated facts immediately adverted to above--have no merit.

Yoon, under items 10 and 11 of the assigned errors, faults the RTC for not appreciating in his favor the testimonies of certain witnesses. Foremost of these is that of Abelyn de Vera, mentioned in item 10, who asserted noticing hematomas in AAA's body even before the June 6, 1998 incident. Reference is also made under item 11 to the respective accounts of Lee, et al., which, to Yoon, have sufficiently raised reasonable doubt as to his guilt.

We are not persuaded. The trial court appeared to have thoroughly evaluated and winnowed the testimonies on direct and cross examinations of all those who took the witness stand, including that of Yoon and others called by the defense, such as de Vera, Eleonor Cambel, who described Yoon, her neighbor, as a good man,[17] Loquinario, AAA's driver, and Lee. The defense witnesses, however, failed to disprove the testimony of the victim as to the fact of rape and those responsible for the crime. AAA clearly and consistently stated that Yoon raped her after he, along with his companions, forcefully stripped of her clothing, gagged, tied, and blindfolded her, and beat her up.

And as if these inhuman treatments were not enough, they poured gasoline on her bruised body. Pictures of AAA's injuries, marked as Exhibits "G" to "G-27," lend compelling support to AAA's account of the beating and other acts of violence. The pictures show the hematomas all over her body which do not appear to be self-inflicted. The medical report, Exhibit "2," confirms the finding of hematomas and contusions on the victim's body. These exhibits, the contents of which have not successfully been rebutted by the defense, augur well for AAA's credibility. Anent the circular markings that allegedly prove that AAA was not naked when mauled, it should be remembered that AAA was dragged from the entrance of the restaurant to the second floor while she was fully clothed. In any case, said markings only confirm the fact of a struggle or beating. Hence, the assigned errors 3, 4, 5, and 9 deserve no merit. For reference, items 3, 4, and 5 of the assignment of errors relate to the appreciation by the RTC of Exhibits "G" and "G-1" to "G-27," representing pictures taken by AAA's husband showing hematomas in her body; the medical examination report issued by the Medical Center of Parañaque City and the NBI physical examination report, respectively. Under item 9, Yoon bemoans the fact that the RTC did not appreciate the circular markings of the sleeveless t-shirt of AAA imprinted under her armpit as proof that she was not naked when she was allegedly beaten.

Under items 1 and 2 of the assignment of errors, Yoon submits that the trial court erred in ruling that AAA's "lone testimony x x x met the required test of credibility to warrant conviction" and in concluding that the fate of Yoon boils down to the "word of [AAA] against the word of [Yoon]." In fine, the alleged errors 1 and 2 go directly to the trial court's appreciation of the private offended party's testimony and its sufficiency to sustain a finding of guilt. They need not detain us long. By the peculiar nature of rape cases, conviction most often rests solely on the basis of the victim's testimony, if credible, natural, convincing, and consistent with human nature and the normal course of things.[18] When a woman testifies to having been raped, she says in effect all that is necessary to show that rape has been committed, for as long as her testimony hurdles the test of credibility.[19]

In the case at bench, AAA had testified to the physical and sexual abuse she suffered in the hands of Yoon and his companions. Yoon has invited attention to inconsistencies in AAA's testimony, but which the trial court dismissed as insignificant and surely not of such character as to vitiate the credibility of the witness. We reproduce with approval what the trial court wrote on the matter:

The defense counsel in her Memorandum enumerated a litany of alleged inconsistencies or discrepancies in the testimony of private complainant [AAA] but as ruled by the High Court time and again, a few discrepancies or inconsistencies in the testimonies of witnesses referring to minor details, and not in actuality touching upon the basic aspects of the whys and wherefores of the crime, do not impair their credibility (People vs. Custodio, 197 SCRA 538). Said defense counsel speaks of discrepancies in the testimony of the private complainant such as

that she was married but the truth is she and [BBB] are just living together as common-law husband and wife; that she cannot communicate in English but the truth is she undertook six years of English lessons; that it was dark at 2:00 P.M. of June 6, 1998 but later she retracted. But then, these alleged discrepancies, among others do not in actuality touch upon the basic aspects of the why and wherefores of the crime and they do not therefore impair her credibility.[20]

Yoon's allegation that AAA fabricated the charges in a bid to free herself from unpaid obligations to him strikes the Court as an obvious but puerile afterthought. We join the trial court in saying that this claim is "absurd and too flimsy a reason for the complainant to expose herself to dishonor and public ridicule" attendant in a rape case.[21] The trial court found AAA to be a financially secured Korean who can afford to send her daughter to a foreign land to study in what may be viewed as an exclusive school. Moreover, AAA is a family woman who would not likely suffer social humiliation if not for the purpose of seeking justice and vindicating her honor.

It may be, as Yoon has pointed out, that AAA did not timely report the incident to the authorities. This failure, however, does not undermine her credibility. The CA correctly stated why not:

[AAA]'s failure to report to the authorities and to subject herself to genital examination right after the rape incident do not diminish her credibility. [AAA] is a foreigner and is not familiar with the Philippines. Hence, she could hardly be expected to know how to go about reporting the crime to the authorities without the aid of somebody who is very knowledgeable of the laws of the Philippines. Well-settled is the rule that the silence of a victim of rape or her failure to disclose her misfortune to the authorities without loss of material time does not prove that her charge is baseless and fabricated (People vs. Glodo, 433 SCRA 535).[22]

Yoon has denied AAA's allegations of rape. Denial is to be sure a legitimate defense in rape cases. But bare assertions of not having committed the acts complained of cannot overcome the positive, straightforward, unequivocal, and categorical testimony of the victim. An affirmative testimony, especially when it comes from the mouth of a credible witness, is far stronger than a negative one.[23] Mere denial, if unsubstantiated by clear and convincing evidence, is inherently weak, being self-serving negative evidence undeserving of weight in law;[24] it cannot be given greater evidentiary value than the positive testimony of a rape victim.[25] In the case at bar, Yoon failed to present convincing proof in support of his denial.

Rape, in context, is committed by a man who has carnal knowledge of a woman through force, threat, or intimidation.[26] The elements of carnal knowledge and the use of force, threat and/or intimidation have sufficiently been proved. The second element came in the form of being threatened, beaten up, bound on a chair, and blindfolded by Yoon and his bullies. But being threatened with death by fire before the molestation was perhaps the most frightful act of violence employed on AAA on the fateful day of June 6, 1998.

In the matter of damages, the Court hereby reduces the PhP 50,000 award as exemplary damages to PhP 30,000.[27] The reduction is in line with prevailing jurisprudence assessing exemplary damages at that level as proper deterrent to repugnant sexual behavior. Moreover, the award of PhP 9,000 and 500,000 Korean Won as medical expenses is unsubstantiated. There is nothing in the records to prove that private complainant incurred expenses in the amount aforesated for her medical examination or recovery. Unlike moral damages which may be imposed against the accused in rape cases even without allegation or proof of the emotional suffering or anguish of the victim, the award of actual damages is a different matter altogether. The trial court failed to justify the grant of medical expenses in its decision, this award appearing as it did only in the dispositive portion of its decision. Nowhere in the prosecution's offer of evidence or pleadings such amounts were claimed as medical expenses. Hence, said award should be deleted.

WHEREFORE, the CA Decision dated October 31, 2006 in CA-G.R. CR-H.C. No. 01942, affirming that of the RTC which found Yoon Chang Wook guilty beyond reasonable doubt of the crime of rape, is AFFIRMED with

MODIFICATION that the amount of exemplary damages is reduced to PhP 30,000. The award of PhP 9,000 and 500,000 Korean Won for medical expenses is DELETED.

SO ORDERED.

Carpio, (Chairperson), Carpio-Morales[*], Nachura, and Peralta, JJ., concur.

[*]Additional member as per Special Order No. 720 dated October 5, 2009.

[1] Rollo, pp. 4-15. Penned by Associate Justice Elvi John S. Asuncion and concurred in by Associate Justices Jose Catral Mendoza and Sesinando E. Villon.

[2] The real name and the personal circumstances of the victim and her immediate relatives are withheld per Republic Act No. (RA) 7610 (Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act) and RA 9262 (Anti-Violence Against Women and Their Children Act). See *People v. Cabalquinto*, G.R. No. 167693, September 19, 2006, 502 SCRA 419, 425-426.

[3] CA rollo, pp. 6-9.

[4] Rollo, p. 4.

[5] Id. at 5.

[6] Id. at 6.

[7] Id. at 7.

[8] Id.

[9] Id.

[10] CA rollo, p. 40. Penned by Judge Zosimo V. Escano

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

[12] CA rollo, p. 225.

[13] Plaintiff-appellee chose not to file a supplemental brief, while accused-appellant indicated his inability to file one in view of his counsel's death.

[14] CA rollo, pp. 222-223.

[15] *People v. Virrey*, 420 Phil. 713 (2001).

[16] *People v. Cea*, 464 Phil. 388 (2004).

[17] CA rollo, p. 30.

[18] *People v. Fernandez*, G.R. No. 172118, April 24, 2007, 522 SCRA 189, 200; *People v. Corpuz*, G.R. No. 168101, February 13, 2006, 482 SCRA 435, 444.

[19] *People v. Watiwat*, 457 Phil. 411 (2003).

[20] RTC Decision, p. 18, CA rollo, p. 37.

[21] Id. at 225.

[22] Rollo, p. 9.

[23] *People v. Astrologo*, G.R. No. 169873, June 8, 2007, 524 SCRA 477, 488.

[24] *People v. Lizano*, G.R. No. 174470, April 27, 2007, 522 SCRA 803.

[25] *Id.* at 811.

[26] Art. 266-A of RA 8353 or the "Anti-Rape Law of 1997."

[27] *People v. Sia*, G.R. No. 174059, February 27, 2009.

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