

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. AURELIO MATUNHAY, ACCUSED-APPELLANT.

G.R. No. 178274. March 05, 2010

Ponente: BRION, J.

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BRION, J.:

This is an appeal from the June 7, 2006 decision of the Court of Appeals (CA) in CA-G.R. CR-HC No. 00166[1] affirming with modification the October 16, 2002 decision of the Regional Trial Court (RTC), Branch 51, Carmen, Bohol.[2] The RTC decision found appellant Aurelio Matunhay (appellant) guilty beyond reasonable doubt of six (6) counts of rape, and sentenced him to suffer the penalty of reclusion perpetua for each count.

The prosecution charged the appellant with seven (7) counts of rape, to which the appellant pleaded not guilty. Joint trial on the merits took place with the parties' consent.

Evidence for the Prosecution

AAA[3] declared on the witness stand that she had been raped seven (7) times by her uncle, herein appellant Aurelio Matunhay (appellant), when she was 14 years old. She became pregnant as a result of one of those rapes, and gave birth in November 1998.[4]

AAA recalled that in the last week of March 1998, the appellant threatened her with a bolo, and then struck her feet with a piece of wood. Thereafter, the appellant embraced and kissed her, and then undressed her. AAA struggled, but the appellant went on top of her and inserted his penis into her vagina.[5] She became pregnant as a result of this incident.[6]

AAA further testified that the appellant had also raped her in May 1998. She recalled that she was in their house when the appellant threatened to kill her, and then removed her clothes and panty. Immediately after, the appellant removed his shorts, went on top of her, and inserted his penis into her vagina.[7]

AAA likewise stated that she was also raped on other occasions in January, March and June 1998, but could not remember the exact dates.[8] She discovered that she was pregnant when her mother, BBB, and her teacher brought her to a doctor for a medical examination. She disclosed to BBB that she had been raped by the appellant when the results of the medical examination showed that she was pregnant. Thereafter, BBB accompanied her to the police station to file a complaint against the appellant.[9]

On cross examination, AAA reiterated that the appellant had sexual intercourse with her in the months of January, March and May 1998. In all these incidents, the appellant had threatened her with a bolo. She confirmed that the appellant was the common-law husband of her mother. She denied having any romantic relationship with anyone before the appellant raped her.[10]

BBB, the mother of AAA, narrated that she learned about her daughter's pregnancy after her (AAA's) teacher brought her to a doctor for examination. AAA told her that the appellant was the father of the child after the

pregnancy test yielded a positive finding. Thereafter, they went to a social worker, who, in turn, accompanied them to the chief of police.[11]

BBB explained that her husband, CCC, was the appellant's brother and AAA's father. She became the appellant's common-law wife after accepting his (appellant's) offer to take care of her and her children after she separated from CCC. She wanted to kill the appellant when she discovered the rape.[12] CCC fetched her and AAA and brought them to Bukidnon after they filed a complaint against the appellant.[13]

Dr. Amalia Añana (Dr. Añana), the Municipal Health Officer of Carmen, Bohol, stated that she examined AAA on July 2, 1998, and found her to be pregnant. According to Dr. Añana, AAA was brought by her teacher after noticing that AAA's abdomen was getting bigger and that she was always sleeping in class.[14]

Evidence for the Defense

The appellant confirmed that AAA is his niece and is the daughter of his younger brother, CCC. He has a wife but they separated because of BBB. According to him, BBB offered to live with him because CCC beat her up.[15]

The appellant claimed that he supported AAA's schooling until high school. He often saw AAA's male visitors in their house. He denied raping AAA, and maintained that he was at home sleeping on May 22, 1997. He could not have raped AAA in December 1997; in January 1998; during the first and last weeks of March 1998; and in June 1998 because he was always at work and came home only at night. He got angry when he discovered AAA's pregnancy.[16]

The appellant further testified that AAA's boyfriend visited him in jail and told him that he (the boyfriend) was responsible for AAA's pregnancy. He claimed that BBB wanted to withdraw the case against him, although he (appellant) was not sure if BBB had executed any document evidencing the intended withdrawal.[17]

On cross examination, the appellant confirmed that BBB is the legal wife of his brother, CCC. He maintained that it was BBB who initiated their common-law relationship. He lived with BBB and AAA in Alegria after CCC had left them. He treated AAA like his own child; he paid for her food and clothing. He likewise insisted that AAA had a boyfriend.[18]

The appellant reiterated that he worked as a road maintenance worker in Nueva Fuerza, Carmen, Bohol on May 22, 1997. He only went home once a week although Nueva Fuerza was only about two (2) kilometers from Villaflor; he slept at a bunker in Sagbayan. He also maintained that he did not rape AAA in January 1998 and March 1998, because he was at work and did not go home on those dates.[19]

Alberto Josol (Alberto), the appellant's co-worker at YS Construction in Sagbayan, testified that he and the appellant stayed at the "bunkhouse" after work. The appellant went home on Sunday to get clothes, but returned in the afternoon.[20]

On cross-examination, Alberto admitted that although he worked with the appellant from January to May, they were not always together; at times they were assigned to different areas.[21]

The RTC Ruling

In its decision dated October 16, 2002, the RTC found the appellant guilty beyond reasonable doubt of six (6) counts of rape, and sentenced him to suffer the penalty of reclusion perpetua for each count. The RTC likewise ordered the appellant to pay the victim the amounts of P50,000.00 and P30,000.00 as civil indemnity and moral damages, respectively, for each count of rape.

The RTC held that the exact date and time of the commission of the rape is not an essential element of the crime.

That AAA could not remember the exact date of some of the rape incidents was due to the significant lapse of time between the dates of the rape and the victim's court testimony.

The RTC added that an examination of AAA's affidavit and her court testimony showed that she had been raped six (6) times by the appellant by using violence and intimidation on the following dates: December 1997; [22] first week of January 1998; first week of March 1998; last week of March 1998; first week of May 1998; and first week of June 1998. AAA was consistent in her narration, and did not waver during the cross examination.

Moreover, the RTC did not believe the appellant's alibi as he failed to show that it was physically impossible for him to be at the crime scene at the times and dates of the rapes. The RTC further disbelieved the appellant's claim that AAA's boyfriend caused her pregnancy, as the defense failed to adduce proof that a boyfriend ever existed. In addition, the defense failed to show that the victim was motivated by ill-will in testifying against the appellant.

The RTC did not impose the death penalty because the prosecution failed to prove AAA's minority. Article 335 of the Revised Penal Code requires the concurrence of minority and relationship to warrant the imposition of the death penalty.

The CA Decision

The CA affirmed the RTC decision but increased the moral damages awarded for each count of rape from P30,000.00 to P50,000.00.

The CA held that AAA positively identified the appellant as the person who had raped her. The CA accorded respect to the RTC's findings that the victim's testimony was credible since the trial court had the unique opportunity to observe her attitude, conduct, and demeanor.

The CA explained that the inconsistencies in AAA's testimony regarding the dates she was raped did not destroy her credibility; an honest witness is not always expected to give an error-free testimony considering the lapse of time and the frailty of human memory. The CA likewise disregarded the appellant's alibi and denial, as these defenses cannot prevail over the victim's positive identification.

The CA further explained that AAA's and BBB's initial attempt to abandon the case was due to lack of financial support. Nonetheless, AAA and BBB still vigorously pursued the case despite the distance between Bukidnon (where they resided) and Bohol (the site of the court hearings).

THE COURT'S RULING

We resolve to affirm with modification the June 7, 2006 decision of the Court of Appeals in CA-G.R. CR-HC No. 00166, as follows: (1) the appellant is found guilty of only two counts of rape; and (2) the appellant is further ordered to pay the victim P30,000.00 as exemplary damages for each count of rape.

Positive identification of the appellant

AAA, while recounting her unfortunate ordeal, positively identified the appellant as the person who had raped her on two (2) occasions in March and May 1998. She never wavered in this identification despite the defense's attempt to confuse her during cross-examination.

AAA narrated in detail how the appellant had raped her in the last week of March 1998. She testified that the appellant threatened her with a bolo, and then struck her feet with a piece of wood. Thereafter, the appellant embraced and kissed her, and then undressed her. AAA struggled, but the appellant went on top of her and inserted his penis into her vagina. She felt pain afterwards.

AAA also vividly described how the appellant had raped her in the first week of May 1998. She recalled that the appellant threatened to kill her with a bolo, and then removed her clothes and panty. The appellant then removed his own shorts. Thereafter, the appellant went on top of her, and inserted his penis into her vagina. AAA described her ordeal as "painful."

Subject to the observed paucity of evidence discussed below on the four other counts of rape, the Court will not disturb the findings of the trial court on the credibility of witnesses, as it was in the better position to observe their candor and behavior on the witness stand. Evaluation of the credibility of witnesses and their testimonies is a matter best undertaken by the trial court; it had the unique opportunity to observe the witnesses and their demeanor, conduct, and attitude, especially under cross-examination. Its assessment is entitled to respect unless certain facts of substance and value were overlooked which, if considered, might affect the result of the case.[23]

AAA's candid and straightforward narration of the two sexual assaults perpetrated on her deserves credence. The records show that she testified in a spontaneous and straightforward manner. As earlier stated, she never wavered in identifying the appellant despite the defense's grueling cross-examination. A young girl would not usually concoct a tale of defloration; publicly admit having been ravished and her honor tainted; allow the examination of her private parts; and undergo all the trouble and inconvenience, not to mention the trauma and scandal of a public trial, had she not in fact been raped and been truly moved to protect and preserve her honor, and motivated by the desire to obtain justice for the wicked acts committed against her. We see no plausible reason - and no evidence on this point has been adduced - showing why AAA should testify against the appellant, imputing to him the grave crime of rape if this crime did not happen. This Court has consistently held that where no evidence exists to show any convincing reason or improper motive for a prosecution witness to testify falsely against the accused or implicate him in a serious offense, the testimony deserves faith and credit. So, also, the Court has repeatedly said that the lone testimony of the victim in a rape case, if credible, is enough to sustain a conviction.[24]

The Appellant's Defenses

For his defense, the appellant denied having raped AAA, and claims he was always at work in Nueva Fuerza, Carmen, Bohol. He also insists that AAA's boyfriend impregnated her.

Our judicial experience teaches us that denial and alibi are the common defenses in rape cases. Sexual abuse is denied on the allegation that the accused was somewhere else and could not have physically committed the crime. We have always held that these two defenses are inherently weak and must be supported by clear and convincing evidence in order to be believed. As negative defenses, they cannot prevail over the positive testimony of the complainant.

For alibi to prosper it is not enough for the appellant to prove that he was somewhere else when the crime was committed; he must likewise demonstrate that it was physically impossible for him to have been at the scene of the crime at the time of its commission.[25] In the present case, the appellant admitted that his place of work was "very near" the victim's house, and that it would just take a few minutes to get there. Considering the proximity of the appellant's place of work from the crime scene, we cannot accord the appellant's alibi - standing alone - any weight or value.

The testimony of defense witness Alberto does not also support the appellant's alibi, as he admitted that he and the appellant were not always together because, at times, they were assigned to different areas. Thus, he could not have accounted for the whereabouts of the appellant during the times they were apart.

We give no merit to the appellant's allegation that AAA's boyfriend impregnated her, as he failed to present any evidence to corroborate this claim. As aptly held by the lower court:

The court notes that in addition to alibi, the accused ventured to pass the blame on an imaginary boyfriend of AAA. The accused testified that the said boyfriend with a surname of Adlaon had visited AAA in her house when she was in high school and had caused her pregnancy, but defense failed to produce even the minutest of proof that such boyfriend really does exist. The court does not believe that AAA had a boyfriend who caused her pregnancy because AAA attributed her pregnancy to no other person except the accused. It is contrary to common experience that AAA would point to her uncle as the perpetrator of the rapes and of having caused her pregnancy if indeed it were true that she had a boyfriend who caused the same. More likely, the boyfriend merely existed in the imagination of the accused.[26]

The Other Rapes Not Proven With Moral Certainty

We cannot sustain the lower courts' convictions for the rapes committed in December 1997; first week of January 1998; first week of March 1998; and first week of June 1998. It is settled that each and every charge of rape is a separate and distinct crime that the law requires to be proven beyond reasonable doubt. The prosecution's evidence must pass the exacting test of moral certainty that the law demands to satisfy the burden of overcoming the appellant's presumption of innocence.[27]

For the December 1997 incident, we emphasize that AAA did not state during her court testimony that she had been raped on this date. The trial court convicted him merely on account of her answer in her affidavit before the police on July 2, 1998 that the appellant first raped her on December 22, 1997.

For the rape that allegedly happened in the first week of January 1998, AAA merely testified that the appellant had "raped" her after threatening her with a bolo. With regard to the rape in the first week of March 1998, AAA merely stated that the appellant had threatened to kill her with a bolo "if she refused" and provided no other details. AAA also stated that the appellant had "raped" her in May and June 1998 without saying more. She could not even remember if she reported these alleged rape incidents to the police.

These statements, to our mind, are clearly inadequate and grossly insufficient to engender a well-founded belief in an unprejudiced mind that the appellant had indeed raped the victim on the above-mentioned occasions. A witness is not permitted to make her own conclusions of law; her testimony must state evidentiary facts, specifically in rape cases, that the appellant's penis, at the very least, touched the labia of the victim's private part. In other words, AAA could not simply claim that she had been raped without elaborating on how the appellant had perpetrated his lustful act. To reiterate, whether AAA had been raped is a conclusion for this Court to make based on the evidence presented.

In *People v. Garcia*[28] where the appellant was charged with 183 counts of rape, we held that:

x x x Be that as it may, however, on the bases of the evidence adduced by the prosecution, appellant can be convicted only of the two rapes committed in November, 1990 and on July 21, 1994 as testified to by complainant, and for the eight counts of rape committed in May and June and on July 16, 1994 as admitted in appellants aforementioned letter of August 24, 1994. We cannot agree with the trial court that appellant is guilty of 183 counts of rape because, as correctly asserted by the defense, each and every charge of rape is a separate and distinct crime so that each of them should be proven beyond reasonable doubt. On that score alone, the indefinite testimonial evidence that complainant was raped every week is decidedly inadequate and grossly insufficient to establish the guilt of appellant therefor with the required quantum of evidence. So much of such indefinite imputations of rape, which are uncorroborated by any other evidence, fall within this category. [Emphasis ours]

The Proper Penalty

The applicable provisions of the Revised Penal Code, as amended by Republic Act No. 8353 (effective October

22, 1997), covering the crime of Rape, are Articles 266-A and 266-B which provide:

Article 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;

x x x x

Article 266-B. Penalties. - Rape under paragraph 1 of the next preceding article shall be punished by reclusion perpetua.

Whenever the rape is committed with the use of a deadly weapon or by two or more persons, the penalty shall be reclusion perpetua to death.

x x x x

The Information for the rape committed in the last week of March 1998 failed to specifically allege the use of a deadly weapon in the commission of the rape. In light of this omission, we cannot appreciate this circumstance to increase the penalty; thus, the lower courts were correct in imposing the penalty of reclusion perpetua.

With respect to the rape committed in the first week of May 1998, the Information specifically alleged the use of a deadly weapon - a bolo - in the commission of rape. Under Article 266-B quoted above, the use of a deadly weapon qualifies the rape, so that the imposable penalty is reclusion perpetua to death. Since reclusion perpetua and death are two indivisible penalties, Article 63 of the Revised Penal Code applies: when there are neither mitigating nor aggravating circumstances in the commission of the deed, as in this case, the lesser penalty shall be applied. The courts a quo were therefore also correct in imposing the penalty of reclusion perpetua on the appellant.

Civil Indemnity

We affirm the CA's awards of P50,000.00 as civil indemnity and P50,000.00 as moral damages.[29] The award of civil indemnity to the rape victim is mandatory upon the finding that rape took place. Moral damages, on the other hand, are awarded to rape victims without need of proof other than the fact of rape under the assumption that the victim suffered moral injuries from the experience she underwent.

Separately from the above awards, we order the appellant to additionally pay the victim P30,000.00 as exemplary damages in accordance with an established ruling on this point.[30]

WHEREFORE, in light of all the foregoing, we AFFIRM with MODIFICATION the June 7, 2006 decision of the Court of Appeals in CA-G.R. CR-HC No. 00166. We find appellant Aurelio Matunhay GUILTY beyond reasonable doubt of two (2) counts of rape, particularly the rapes in the last week of March 1998 and in the first week of May 1998, and sentence him to suffer the penalty of reclusion perpetua for each count. We also order him to pay the victim P50,000.00 as civil indemnity; P50,000.00 as moral damages; and P30,000.00 as exemplary damages, for each count. We ACQUIT him of the four (4) other rape charges.

SO ORDERED.

Carpio, (Chairperson), Del Castillo, Abad, and Perez, JJ., concur.

[1] Penned by Associate Justice Isaias P. Dicdican, and concurred in by Associate Justice Apolinario D. Bruselas, Jr., and Associate Justice Agustin S. Dizon; rollo, pp. 5-21.

- [2] Penned by Executive Presiding Judge Patsita Sarmiento-Gamutan; CA rollo, pp. 27-45.
- [3] The Court withholds the real name of the victim-survivor and uses fictitious initials instead to represent her. Likewise, the personal circumstances of the victims-survivors or any other information tending to establish or compromise their identities, as well as those of their immediate families or household members, are not to be disclosed; see *People v. Cabalquinto*, G.R. No. 167693, September 19, 2006, 502 SCRA 419.
- [4] TSN, May 10, 2000, pp. 4-6.
- [5] *Id.*, at 7-11.
- [6] *Id.*, at 18-19.
- [7] *Id.*, at 15-17.
- [8] *Id.*, at 5.
- [9] *Id.*, at 18-21.
- [10] *Id.*, at 28-34.
- [11] TSN, May 16, 2000, pp. 4-6.
- [12] *Id.*, at 8-10.
- [13] *Id.*, at 15.
- [14] TSN, November 16, 2000, pp. 3-7.
- [15] TSN, March 28, 2001, pp. 4-5.
- [16] *Id.*, at 6-9.
- [17] *Id.*, at 10-12.
- [18] TSN, April 23, 2001, pp. 2-8.
- [19] *Id.*, at 10-16.
- [20] TSN, September 12, 2001, pp. 4-10.
- [21] *Id.*, at 10-13.
- [22] Records, pp. 4-7.
- [23] *People v. Tormis*, G.R. No. 183456, December 18, 2008, 574 SCRA 903.
- [24] *People v. Quiñanola*, 366 Phil. 390 (1999).
- [25] *People v. Mingming*, G.R. No. 174195, December 10, 2008, 573 SCRA 509.
- [26] CA rollo, pp. 17-18.
- [27] *People v. Valenzuela*, G.R. No. 182057, February 6, 2009, 578 SCRA 157.
- [28] 346 Phil. 475 (1997).
- [29] *People v. Jimenez*, G.R. No. 170235, April 24, 2009; *People v. Baldo*, G.R. No. 175238, February 24, 2009.
- [30] See *People v. Cañada*, G.R. No. 175317, October 2, 2009; *People v. Jumawid*, G.R. No. 184756, June 5,

2009; People v. Anguac, G.R. No. 176744, June 5, 2009.

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