

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. EDGARDO ESTRADA, APPELLANT.

G.R. No. 178318. January 15, 2010

Ponente: DEL CASTILLO, J.

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DEL CASTILLO, J.:

A bud plucked from the stalk

would never have its chance to blossom.

A young plant prematurely clipped of its branches

would never develop and grow to its full and natural potential.

Both would need care and attention to be able to recover and mend.

In the ultimate end, however, what has been lost could never be regained or restored.

This is exactly what happened to "AAA",[1] a barrio lass from Atimonan, Quezon, who was robbed of her innocence not once but twice in July 1997. Worse, it was her paternal uncle who perpetrated the lecherous acts and precipitately initiated her to the ways of the world. "AAA" was only 12-years old when defiled.

Factual Antecedents

On November 19, 1997, two similarly-worded Informations were filed against appellant Edgardo Estrada charging him with two counts of Rape committed as follows:

That on or about the month of July 1997, at Barangay x x x, in the Municipality of Atimonan, Province of Quezon, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, who is the uncle of the offended party, with lewd design, by means of force, threats and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of one "AAA", a minor, 12 years of age, against her will.

Contrary to law.[2]

The cases were docketed as Criminal Case Nos. 5746-G & 5747-G and raffled to Branch 61 of the Regional Trial Court of Gumaca, Quezon. Appellant was arraigned on January 20, 1998, and pleaded "not guilty". Trial on the merits thereafter ensued.

The prosecution presented "AAA" as its first witness. She testified that since she was about seven years old, she lived in the house of her grandmother in Atimonan, Quezon. Her mother was staying in Manila while her father died when she was only an infant. Sometime in July 1997, she was sleeping side by side with her uncle, herein appellant, when the latter suddenly placed his knees between her thighs and proceeded to remove her clothes. Appellant who was already naked went on top of her and inserted his penis in her vagina. "AAA" tried to resist but appellant pinned her hands above her head. After having carnal knowledge of "AAA", appellant told her not to report to anyone what had transpired or she would be killed.

After the rape incident, "AAA" stayed at her grandfather's house which was likewise located in the same barangay

where her grandmother's house was situated. She thought that she would be safe there. However, she was grievously mistaken. One evening, also in the month of July 1997, appellant arrived thereat and again raped "AAA". While the latter was sleeping, appellant poked a knife at her and ordered her to remove her clothes. "AAA" was cowed into submission and appellant succeeded in sexually assaulting her for the second time. "AAA's" grandfather who was sleeping nearby did not even notice what was happening as the latter was hard of hearing.

As proof that "AAA" was only 12 years old when the rape incidents transpired, she presented her Birth Certificate showing that she was born on May 1, 1985.

On the other hand, appellant was 51 years old and married. He admitted that "AAA" is his niece, the latter being the daughter of his brother. However, he denied raping "AAA" on two occasions. He claimed that he lived in Poblacion, Atimonan, Quezon, which is approximately seven kilometers away from where the victim lived. He alleged that he never went to his parents' houses; instead, it was his mother who made occasional visits to his house. He insisted that the charges were filed against him because "AAA" resented his advice not to socialize with boys because she was still young.

The other defense witness was Irene. She testified that "AAA" is her granddaughter and that appellant is her son. She narrated that although "AAA" used to live in her house, she was not aware of any rape incident having been committed thereat. She admitted though that she loved her son more than she loved her granddaughter.

Ruling of the Regional Trial Court

On August 16, 2002, the trial court rendered its Decision[3] finding appellant guilty of qualified rape on two counts and sentenced him to suffer the supreme penalty of death. The trial court found that the qualifying circumstances of minority and relationship were both satisfactorily established by the prosecution. The dispositive portion of the Decision reads:

WHEREFORE, the Court finds the accused Edgardo Estrada GUILTY beyond reasonable doubt of the crime of RAPE on two (2) counts defined and punishable under Article 335 of the Revised Penal Code as amended by Republic Act 7659 and hereby sentences him to suffer the penalty of DEATH for each rape and to indemnify the complainant in the amount of P75,000.00 or a total of P150,000.00; and to pay P50,000.00 or a total of P100,000.00 as moral damages and the amount of P30,000.00 or a total of P60,000.00 as exemplary damages to deter others from committing the same crime.

Costs against the accused.[4]

The trial court found that the prosecution satisfactorily proved all the elements of rape. During the first rape, the appellant employed violence against the person of the victim by pinning her hands above her head. She was likewise threatened with bodily harm in case she reports what happened. During the second rape, he poked a knife at her and succeeded in having carnal knowledge of her.[5]

The qualifying circumstances of minority and relationship were likewise appreciated by the trial court. Based on the Birth Certificate presented by the prosecution, it was established that the victim was a 12-year old minor when she was ravished on two occasions in July 1997. On the other hand, the trial court held that the parties' relationship with each other was established by their testimonies. Appellant testified that "AAA" is his niece while the latter admitted that appellant is her uncle.

The trial court was not persuaded by the defenses of alibi and denial proffered by the appellant. It found the same barren and undeserving of any credence vis-à-vis "AAA's" categorical testimony. Thus:

Accused's denial is also an intrinsically weak defense. To merit credibility, it must be buttressed by strong

evidence of non-culpability x x x. The rule is that affirmative testimony is stronger than a negative one, especially when it comes from the mouth of a credible witness x x x. It was keenly observed by the Court that "AAA" was emotionally affected as she recalled the harrowing experiences she suffered from her uncle as she had to wipe the tears from time to time as she testified. As between a categorical testimony which has a ring of truth on one hand, and a bare denial on the other, the former is generally held to prevail. x x x A mere denial constitutes self-serving evidence which cannot be accorded greater evidentiary weight than the declaration of a credible witness who testifies on affirmative matters. x x x As against positive identification by the private complainant, mere denials of the accused cannot overcome conviction by the trial court. x x x[6]

Appellant's contention that "AAA" filed the charges against him because she did not take kindly to his advice not to associate with boys was briskly set aside by the court a quo. It found the same too lame a reason to charge one with a capital crime. Likewise, the court brushed aside Irene's corroborative account for being incredible and partial. The trial court found it inconceivable and not in accord with the traditional Filipino values and norms that a son would not visit his parents for years notwithstanding the fact that they lived only seven kilometers apart and the distance could easily be traversed by automobiles.

On appeal, appellant insisted that the trial court erred in convicting him because his guilt was not proven beyond reasonable doubt. He insisted that his conviction could not be based solely on the testimony of "AAA".

Ruling of the Court of Appeals

On January 31, 2007, the Court of Appeals rendered its Decision[7] affirming with modifications the Decision of the trial court. Just like the trial court, the appellate court found the victim's tale of defloration "simple, candid, straightforward and unflawed by any material or significant inconsistency thus deserving of full faith and credit".[8] The Court of Appeals noted that "AAA's" account contained "details of the sexual assaults only a real victim could remember and reveal, and narrated them in a manner only one who had undergone them could do".[9] Moreover, the victim's testimony was corroborated by the medical findings that she suffered hymenal lacerations.[10]

The Court of Appeals completely brushed aside appellant's imputation of ill-motives on the part of the victim. It found as too flimsy a reason that "AAA" resented her uncle's advice not to have any romantic interests motivating her to fabricate the rape charges against him.[11] It also gave short shrift to appellant's denial and alibi. Appellant's denial was disregarded in view of the victim's positive identification of him as the perpetrator of the crimes. His alibi was likewise rejected because of his failure to prove that it was impossible for him to be at the scene of the crimes at the time they were committed.

The Court of Appeals however deviated from the ruling of the trial court when it held that appellant should be held liable only for simple rape and not for qualified rape, notwithstanding the minority of the victim and the fact that her attacker was her uncle. The Court of Appeals opined that mere allegation in the Information that the appellant was the victim's uncle would not suffice to satisfy the special qualifying circumstance of relationship. It must be categorically stated that appellant is a relative within the 3rd civil degree by consanguinity or affinity.[12] Consequently, the award of civil indemnity was reduced to P50,000.00 for each count of rape.

The dispositive portion of the Decision of the Court of Appeals reads:

WHEREFORE, the assailed decision is AFFIRMED with MODIFICATIONS as follows:

1. finding appellant guilty of two counts of SIMPLE RAPE in Criminal Case Nos. 5746-G and 5747-G and sentencing him to suffer the penalty of reclusion perpetua for each count; and
2. reducing the civil indemnity awarded to the victim to P50,000.00 for each count of rape.

No costs.

SO ORDERED.[13]

Hence this appeal.

On October 8, 2007, we notified the parties that they may file their supplemental briefs if they so desire.[14] However, both manifested that they are adopting the allegations in their appellee's/appellant's briefs and would thus no longer file their supplemental briefs.[15]

Our Ruling

The appeal lacks merit.

Applying the guiding principles that "a) an accusation for rape is easy to make, difficult to prove and even more difficult to disprove; b) in view of the intrinsic nature of the crime, the testimony of the complainant must be scrutinized with utmost caution; and c) the evidence of the prosecution must stand on its own merits and cannot draw strength from the weakness of the evidence for the defense",[16] we affirm the Decision of the Court of Appeals finding herein appellant guilty of two counts of simple rape.

Factual findings of the trial court, especially when affirmed by the Court of Appeals, deserve great weight and respect.

Both the trial court and the Court of Appeals found the testimony of the victim credible. According to the trial court, she "candidly, positively and categorically testified as to her harrowing experiences".[17] Thus, it was convinced that appellant "indeed raped `AAA'".[18] It also "keenly observed" that "`AAA' was emotionally affected as she recalled the harrowing experiences she suffered from her uncle as she had to wipe the tears from time to time as she testified".[19]

We scoured the records of the case and we find no reason to deviate from the above findings. There is no showing at all that the trial court overlooked, misunderstood or misapplied facts or circumstances of weight which would have affected the outcome of the case.[20] We therefore defer and give highest respect to the findings of the trial court because it is in the best position to assess and determine the credibility of the witnesses. Because of its vantage position, it can detect a guilty blush, a slight hesitation, a fearful glance, and an anguished cry.

In addition, the Court of Appeals adopted the findings of the trial court on the credibility of the victim. Hence, the more reason for us not to disturb the said findings. The Court of Appeals held that:

Utilizing the same settled legal precepts, we have ourselves meticulously scrutinized the victim's testimony and, like the trial court, found her tale of defloration simple, candid, straightforward and unflawed by any material or significant inconsistency thus deserving of full faith and credit. Her account contains details of the sexual assaults only a real victim could remember and reveal, and narrated them in a manner only one who had undergone them could do.

Indeed, a witness who testified in a categorical, straightforward, spontaneous and frank manner and remained consistent on cross-examination is a credible witness. Moreover, the testimony of a rape victim, especially one who is young and immature, deserves full credit considering that "no woman would concoct a story of defloration, allow an examination of her private parts and thereafter allow herself to be perverted in a public trial if she was not motivated solely by the desire to have the culprit apprehended and punished". More so when, as in this case, the rape victim accuses a close relative of having ravished her. Indeed, if the victim, who was only twelve years old when she was raped, had the guile to accuse her own uncle of rape and send him to jail it was only because she was motivated by an honest desire to have the crime against her punished.

The victim's credibility is further buttressed by the findings of Dr. Geronimo Ayala, who conducted a physical examination on her on September 3, 1997 after she had reported the rape incident to the authorities. His medical findings revealed that the victim had "(old) lacerated wound, 7 o'clock position on her genitalia and her hymen was not intact."x x x[21]

Appellant's denial crumbles under the weight of complainant's positive identification of him as the perpetrator of the crimes.

The trial court and the Court of Appeals correctly rebuffed appellant's denial. The same is self-serving and undeserving of any credence at all in view of the victim's categorical, positive and forthright identification of him as the perpetrator of the crimes. Irene's testimony likewise deserved to be rejected. She was a biased witness having admitted that she loved her son more than she loved her granddaughter. At any rate, appellant's denial is an inherently weak and negative defense. It could not prevail over "AAA's" positive identification. We also do not deign to dignify appellant's imputation of ill-motives to the victim. We still believe that no woman would allow herself to be subjected to the indignities of a rape trial if she is not in search of truth and justice.

Appellant's alibi deserves no consideration at all.

In order for the defense of alibi to prosper, two requisites must concur: first, the appellant was at a different place at the time the crime was committed, and second, it was physically impossible for him to be at the crime scene at the time of its commission. In this case, appellant miserably failed to establish the fact that it was physically impossible for him to be at the locus criminis. By his own admission, the distance between his place and that of his parents where the rape incidents were committed is about seven kilometers only and could easily be traversed by public transport.

Appellant is guilty only of two counts of simple rape.

The rape incidents were committed in July 1997 hence the law applicable is Article 335 of the Revised Penal Code as amended by Republic Act No. 7659[22] which provides:

ART. 335. When and how rape is committed. - Rape is committed by having carnal knowledge of a woman under any of the following circumstances.

1. By using force or intimidation;
2. When the woman is deprived of reason or otherwise unconscious; and
3. When the woman is under twelve years of age or is demented.

The crime shall be punished by reclusion perpetua.

x x x x

The death penalty shall also be imposed if the crime of rape is committed with any of the following attendant circumstances:

1. when the victim is under eighteen (18) years of age and the offender is a parent, ascendant, step-parent, guardian, relative by consanguinity or affinity within the third civil degree, or the common-law spouse of the parent of the victim.

x x x x

In the instant case, it was clearly established by the prosecution that on two occasions in July 1997, the victim was sexually abused by appellant through force and intimidation, against her will and without her consent. The qualifying circumstance of minority of the victim was likewise proven by the presentation of the latter's Birth Certificate.

However, as regards the allegation in the Information that appellant is an uncle of the victim, we agree with the Court of Appeals that the same did not sufficiently satisfy the requirements of Art. 335 of the Revised Penal Code, i.e., it must be succinctly stated that appellant is a relative within the 3rd civil degree by consanguinity or affinity. It is immaterial that appellant admitted that the victim is his niece. In the same manner, it is irrelevant that "AAA" testified that appellant is her uncle. We held in *People v. Velasquez*:^[23]

However, the trial court erred in imposing the death penalty on accused-appellant, applying Section 11 of Republic Act No. 7659. We have consistently held that the circumstances under the amendatory provisions of Section 11 of R.A. No. 7659, the attendance of which could mandate the imposition of the single indivisible penalty of death, are in the nature of qualifying circumstances which cannot be proved as such unless alleged in the information. Even in cases where such circumstances are proved, the death penalty cannot be imposed where the information failed to allege them. To impose the death penalty on the basis of a qualifying circumstance which has not been alleged in the information would violate the accused's constitutional and statutory right to be informed of the nature and cause of the accusation against him.

While the informations in this case alleged that accused-appellant is the uncle of the two victims, they did not state that he is their relative within the third civil degree of consanguinity or affinity. The testimonial evidence that accused-appellant's wife and Luisa de Guzman are sisters is immaterial. The circumstance that accused-appellant is a relative of the victims by consanguinity or affinity within the third civil degree must be alleged in the information. In the case at bar, the allegation that accused-appellant is the uncle of private complainants was not sufficient to satisfy the special qualifying circumstance of relationship. It was necessary to specifically allege that such relationship was within the third civil degree. Hence, accused-appellant can only be convicted of simple rape on two counts, for which the penalty imposed is reclusion perpetua in each case.

In view of the foregoing, the Court of Appeals was correct in finding appellant guilty only of two counts of simple rape and in sentencing him to suffer the penalty of reclusion perpetua for each count, and in ordering him to pay P50,000.00 as civil indemnity, P50,000.00 as moral damages and P30,000.00 as exemplary damages for each count of rape.^[24]

WHEREFORE, the Decision of the Court of Appeals dated January 31, 2007 in CA-G.R. CR-H.C. No. 00254 is AFFIRMED.

SO ORDERED.

Carpio, (Chairperson), Brion, Abad, and Perez, JJ., concur.

[1] The identity of the victim or any information to establish or compromise her identity, as well as those of her immediate family or household members, shall be withheld pursuant to Republic Act No. 7610, An Act Providing for Stronger Deterrence and Special Protection Against Child Abuse, Exploitation and Discrimination, and for Other Purposes; Republic Act No. 9262, An Act Defining Violence Against Women and Their Children, Providing for Protective Measures for Victims, Prescribing Penalties Therefor, and for Other Purposes; and Section 40 of A.M. No. 04-10-11-SC, known as the rule on Violence Against Women and Their Children, effective November 5, 2004.

[2] CA rollo, pp. 8-9.

[3] Id. at 16-33; penned by Judge Aurora V. Maqueda-Roman.

[4] Id. at 33.

[5] Id. at 28.

[6] Id. at 31.

[7] Id. at 114-135; penned by Associate Justice Rebecca De Guia-Salvador and concurred in by Associate Justices Ricardo R. Rosario and Marlene Gonzales-Sison.

[8] Id. at 126.

[9] Id.

[10] Id. at 127.

[11] Id. at 129.

[12] Id. at 132.

[13] Id. at 134.

[14] Rollo, p. 28.

[15] Id. at 29-32; 33-36.

[16] *People v. Manalili*, G.R. No. 184598, June 23, 2009.

[17] CA rollo, p. 25.

[18] Id. at 28.

[19] Id. at 31.

[20] See *People v. Dalisay*, G.R. No. 188106, November 25, 2009.

[21] CA rollo, pp. 126-127.

[22] See *People v. Manalili*, *supra* note 16. Article 335 of the Revised Penal Code, as amended by Republic Act No. 7659 applies when the rape was committed before October 22, 1997. Articles 266-A and 266-B of the Revised Penal Code, as amended by Republic Act No. 8353 apply to rapes committed on or after October 22, 1997.

[23] 427 Phil. 454, 462-463 (2002).

[24] *People v. Dalisay*, *supra* note 20; *People v. Araojo*, G.R. No. 185203, September 17, 2009.

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