

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ALBERTO L. MAHINAY, ACCUSED-APPELLANT.

G.R. No. 179190. January 20, 2009

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

This is an appeal from the Decision[1] of the Court of Appeals dated 26 October 2006 in CA-G.R. CR H.C. 00172, affirming with modification the Decision of the Regional Trial Court (RTC) of Cebu in Criminal Case No. CBU-48322 dated 14 January 2000, finding accused-appellant Alberto L. Mahinay (Mahinay) guilty beyond reasonable doubt of the crime of rape.

Mahinay was charged with rape in an Amended Information which reads:

That on the 5[th] day of April, 1998, at around 8:00 o'clock in the evening, at Barangay Lawaan II, Municipality of Talisay, Province of Cebu, Philippines, and within the jurisdiction of the Honorable Court, the above-named accused, with lewd design and by means of force and intimidation, did then and there willfully, unlawfully and feloniously lie and succeed in having carnal knowledge of [AAA], a mentally retarded minor, fifteen (15) years of age, against her will and consent.[2]

Mahinay entered a plea of not guilty. Trial ensued.

The prosecution presented the testimonies of Dr. Susan Casinio of the Don Vicente Sotto Memorial Medical Center, the private complainant AAA,[3] and her mother BBB. The evidence of the prosecution tends to establish the following course of events:

On 5 April 1998, at around 8:00 p.m., AAA went to the cornfield near her residence in order to defecate. A neighbor, Sidra, approached her and told her that Mahinay wanted to talk to her. Sidra dragged AAA towards Sidra's house. Mahinay met them just outside the house, and forced AAA inside the kitchen of Sidra's house. While in the kitchen, Mahinay told AAA that his cousin, Joseph, wanted to court her. While saying this, Mahinay started touching AAA's breast. Mahinay then forced AAA to lie down. He removed her shorts and underwear. AAA tried to break the hold of Mahinay, who responded by tightening his grip. Mahinay threatened to kill her, and this prevented her from shouting. Mahinay then raped her. AAA felt helpless, and all she was able to do was cry.

Thereafter, AAA went home. At 11:00 p.m., BBB arrived home. AAA did not tell BBB what happened, afraid that Mahinay would kill her. It was only five days later, or on 10 April 1998, that BBB learned about what happened to her daughter, when she was informed by a barangay tanod named Belbin.

On the same day, BBB brought AAA to the San Vicente Sotto Memorial Medical Center where the latter underwent physical examination. Dr. Nueva Tagalogin examined AAA and noted that there was an incomplete healed laceration at the 8 and 5 o'clock positions.

The defense, on the other hand, presented the testimonies of Mahinay; Sidra's neighbor, Rose Rabadon; and

Sidra's daughter, Rosalina Aboyme. The evidence of the defense was intended to establish the following:

On 5 April 1998, at around 8:00 p.m., Mahinay was in the house of his aunt Remedios Lauron. He was not able to talk to AAA that night. On 10 April 1998, Mahinay's mother told him that he was being accused of impregnating AAA. He went to BBB to ask why he was being accused as such, but BBB attempted to strike him with a piece of wood. He went back to the house of Lauron, who advised him to stay in the house of his father in Tabunok, because BBB asked the intercession of her relatives. He found out about the rape charge when he was arrested on 11 March 1999 near the bridge of Tabunok.

In his defense, Mahinay alleged that BBB fabricated stories against him since the family of AAA and his family were not in good terms due to an incident in which the latter family had called the former family patay gutom. BBB and Mahinay's mother also had a conflict with regard to the possession of a place for vending. AAA once told witness Rabadon that it was AAA's stepfather who raped her.

Mahinay further alleged that there was also a time when the family of AAA was not in good terms with the family of Sidra because of a certain stoning incident. The two families had since then reconciled.

On 14 January 2000, the RTC rendered its judgment convicting Mahinay of the crime of rape. The dispositive portion of the Decision is as follows:

WHEREFORE, judgment is hereby rendered finding accused Alberto Mahinay guilty beyond reasonable doubt of the crime of rape and sentences him to reclusion perpetua. He is likewise directed to indemnify [AAA] the sum of P50,000.00 and another sum of P30,000.00 as and for moral damages.

With cost against the accused.[4]

The records of the case were transmitted to this Court for automatic review. However, conformably with the ruling of this Court in *People v. Mateo*,^[5] the case was referred to the Court of Appeals.

On 26 October 2006, the Court of Appeals rendered its Decision affirming the conviction of Mahinay, with modification as to the amount of damages. The dispositive portion of the Decision states:

WHEREFORE, the appealed judgment of the court a quo is AFFIRMED, with the MODIFICATION that accused-appellant Alberto Mahinay is hereby ordered to pay the amount of P50,000.00 as moral damages.

Costs de oficio.[6]

Mahinay appealed to this Court, claiming that it is highly improbable for him to have committed the crime of rape because other persons were in the house where the alleged rape took place. Furthermore, Mahinay claims that AAA failed to put up sufficient resistance against the alleged acts of Mahinay. Finally, Mahinay also contends that AAA's delay in reporting the incident to her mother was tantamount to giving consent to the sexual act.

We are not persuaded.

Prevailing jurisprudence uniformly holds that findings of fact of the trial court, particularly when affirmed by the Court of Appeals, are binding upon this Court.^[7] As a general rule, when the question is raised as to whether to believe the version of the prosecution or that of the defense, the trial court's choice is generally viewed as correct and entitled to the highest respect because it is more competent to conclude so, having had the opportunity to observe the witnesses' demeanor and deportment on the witness stand and the manner in which they gave their testimonies, and therefore could better discern if such witnesses were telling the truth; the trial court is thus in the best position to weigh conflicting testimonies.^[8] In the instant case, the trial court even categorically stated that Mahinay "was hesitant, uneasy and evasive in his answers to the questions propounded by the prosecutor."

There is no merit in Mahinay's contention that it is highly improbable for him to have committed the crime of rape because other persons were in the house where the alleged rape took place. According to Mahinay, AAA herself testified that there were other people present when the alleged rape took place. This is misleading. AAA clearly stated that the people referred to were outside the house during the incident:

ATTY. PORIO (cross examination)

Q:

And there were no people around inside the house of Sidra at that time?

A:

The children were outside the house while both of us were inside the house.

Q:

Inside the house at the kitchen, is that right?

A:

Yes, Ma'am.[9]

Either way, this Court has observed in numerous cases that lust does not respect either time or place.[10] The evil in man has no conscience -- the beast in him bears no respect for time and place, driving him to commit rape anywhere, even in places where people congregate such as in parks, along the roadside, within school premises, and inside a house where there are other occupants.[11]

Neither do we find merit in Mahinay's insistence that AAA's failure to report the incident immediately was tantamount to giving consent to the alleged act of Mahinay. Delay in revealing the commission of rape is not an indication of a fabricated charge. Many victims of rape never complain or file criminal charges against the rapist, for they prefer to silently bear the ignominy and pain, rather than reveal their shame to the world or risk the offender's making good his threats.[12]

Mahinay counters that the offended party in rape cases must have put up resistance not only in the initial stage of the commission of rape, but during the entire time that the act was perpetuated upon her. Citing *People v. Tapao*,[13] Mahinay claims that AAA should have resisted to the last ounce of her strength. Mahinay avers that AAA could have kicked Mahinay, or kept on pushing or struggling to prevent him from forcing her to enter the house. Also, Mahinay points out that, based on AAA's testimony, her mouth was not covered when he was allegedly on top of her, allowing her to shout for help if she had wanted to, and she would have been heard by persons who were nearby.

As correctly argued by the appellee, the fact that AAA did not shout or make an outcry when there were nearby persons does not mean that she was not raped by Mahinay. The workings of the human mind under emotional stress are unpredictable; people react differently in such situations: some may shout; some may faint; some may be shocked into insensibility; others may openly welcome their intrusion.[14]

Furthermore, the testimony of AAA was bereft of any manifestation of consent on her part. On the contrary, AAA's repulsion for Mahinay's lewd advances was clearly demonstrated:

Q:

Then after that, what did Berto Mahinay do, if any?

A:

He kept on touching my breast.

Q:

Then what was your reaction when Berto touched your breast?

A:

He kept on touching inspite of telling him no.

Q:

Then what happened next if any?

A:

He forced me to lie down, I don't want to but he still forced me.

Q:

Then when you are already lying down, what did Berto Mahinay do, if any?

A:

He removed my short and panty.

x x x x

Q:

Then after Berto Mahinay removed your shortpants and panty, did you not shout?

A:

I wanted to shout but he stopped me.

Q:

How did he stop you from shouting?

A:

He told me that if I will shout he will kill me.

Q:

Then what happened next if any after that?

A:

He inserted his private part unto my private part. I resisted but he forced me.

Q:

Did you not make any resistance?

A:

I resisted but he hold (sic) me tight.

Q:

Then once the penis of Berto Mahinay was already in your vagina, what did you do?

A:

When he was finished, I wanted to get out ahead of him but he stopped me, he did not want me to get out.

COURT:

By the way, what did you feel when his private organ was inside your private organ?

A:

I felt pain.

COURT:

Did you bleed?

A:

A little.[15] (Emphasis supplied.)

All that Mahinay was able to offer against the positive identification and imputation by the prosecution was his alibi of being in his aunt's house at the time of the incident. In itself, the defense of alibi is already considered inherently weak since it is very easy to concoct.[16] Mahinay's alibi is, however, rendered even weaker by the fact that the only witness to his allegedly being in his aunt's house at the time of the rape, was himself. None of the occupants of the house, not even Mahinay's aunt, Remedios Lauron, was presented to testify that Mahinay was, indeed, there at the time of the alleged rape. Alibi must be supported by credible corroboration from disinterested witnesses; and where the defense of alibi is not corroborated, it is fatal to the accused.[17]

As furthermore testified to by Mahinay himself, he left his residence after he had been accused of raping AAA, and stayed in the house of his father in Tabunok. It is settled that the flight of an accused is an indication of his guilt or of a guilty mind.[18]

Finally, AAA's testimony is corroborated by the findings of the examining physician. It is settled that when the victim's testimony of her violation is corroborated by the physician's findings of penetration, there is sufficient foundation to conclude the existence of the essential requisite of carnal knowledge.[19]

As regards the damages awarded by the Court of Appeals, we find the same to be proper. The award of civil indemnity is mandatory in rape convictions.[20] A civil indemnity of P50,000.00 is automatically given to the offended party without need of further evidence other than the commission of rape. In accordance with prevailing jurisprudence, the amount of P50,000.00 for moral damages is likewise appropriate.[21]

WHEREFORE, the Decision of the Court of Appeals dated 26 October 2006 in CA-G.R. CR H.C. 00172 affirming with modification the Decision of the Regional Trial Court of Cebu in Criminal Case No. CBU-48322 dated 14 January 2000 finding accused-appellant Alberto L. Mahinay guilty beyond reasonable doubt of the crime of rape, is hereby **AFFIRMED** in toto. No costs.

SO ORDERED.

Ynares-Santiago, (Chairperson), Austria-Martinez, Nachura, and Leonardo-De Castro,[*] JJ., concur.

[*] Per Special Order No. 546, Associate Justice Teresita J. Leonardo-De Castro was designated to sit as additional member in view of the retirement of Associate Justice Ruben T. Reyes dated 5 January 2009.

[1] Penned by Associate Justice Marlene Gonzales-Sison with Associate Justices Arsenio J. Magpale and Antonio L. Villamor, concurring; rollo, pp. 5-20.

[2] Records, p. 59.

[3] The real name of the victim is withheld per Republic Act No. 7610 and Republic Act No. 9262, as held in *People v. Cabalquinto*, G.R. No. 167693, 19 September 2006, 502 SCRA 419.

[4] CA rollo, p. 27

[5] G.R. No. 147678-87, 7 July 2004, 433 SCRA 640.

[6] CA rollo, p. 131.

[7] *Castillo v. Court of Appeals*, 329 Phil. 150, 159 (1996).

[8] *People v. Alimon*, 327 Phil. 447, 461-462 (1996).

[9] TSN, 4 November 1999, p. 4.

[10] *People v. Ulili*, G.R. No. 103403, 24 August 1993, 225 SCRA 594, 604; *People v. Ramos*, G.R. No. 68209, 21 December 1993, 228 SCRA 648, 655; *People v. Segundo*, G.R. No. 88751, 27 December 1993, 228 SCRA 691, 695-696.

[11] *People v. Agbayani*, G.R. No. 122770, 16 January 1998, 284 SCRA 315, 340.

[12] *People v. Geromo*, 378 Phil. 972, 981 (1999).

[13] 195 Phil. 203 (1981).

[14] *People v. Matrimonio*, G.R. No. 82223-24, 13 November 1992, 215 SCRA 613, 632-633; *People v. Cabradilla*, 218 Phil. 382, 388 (1984).

[15] TSN, 14 October 1999, pp. 4-5.

[16] *People v. Bracamonte*, 327 Phil. 160, 166 (1996).

[17] *People v. Calope*, G.R. No. 97284, 21 January 1994, 229 SCRA 413, 420-421.

[18] *People v. Martinado*, G.R. No. 92020, 19 October 1992, 214 SCRA 712, 732.

[19] *People v. Castillo*, G.R. No. 84310, 29 May 1991, 197 SCRA 657, 662.

[20] *People v. Glodo*, G.R. No. 136085, 7 July 2004, 433 SCRA 535, 549.

[21] *People v. Madia*, 411 Phil. 666, 675 (2001).

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