

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. QUIRINO CABRAL Y VALENCIA, ACCUSED-APPELLANT.

G.R. No. 179946. December 23, 2009

Ponente: BRION, J.

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BRION, J.:

This is an appeal from the decision[1] of the Court of Appeals (CA) affirming with modification the decision of the Regional Trial Court[2] (RTC) finding Quirino Cabral y Valencia (accused-appellant) guilty beyond reasonable doubt of three (3) counts of qualified rape committed against his minor daughter (complainant).

The Antecedents

The accused-appellant was charged with five (5) counts of rape committed within the period December 1995 to November 21, 1998 against the complainant who was only 10 to 13 years old at the time. The rape incidents all happened under the following circumstances: (a) the rapes were committed in the family dwelling between 12:00 a.m. and 2:00 a.m. when the complainant was sleeping with her siblings; (b) the size of the family dwelling was three meters by four meters; (c) the complainant's mother was not around; (d) the accused-appellant poked a balisong at the complainant's neck in three instances to compel her to submit to the sexual assaults; and (e) the accused-appellant also threatened to kill the complainant and the rest of the family members in case of disclosure.

The complainant related that in these incidents, she would be awakened in the middle of her sleep with the accused-appellant touching and stroking her thighs. The accused-appellant would undress her, and, after also undressing himself, would insert his organ into her organ. The complainant also related that she would cry and kick the accused-appellant during the sexual act.

The accused-appellant denied the charges against him and claimed that it was impossible for him to commit the rapes, considering that his work schedules as a tricycle driver and as a fisherman compelled him to work at nighttime. The accused-appellant imputed ill-motive on his wife and the complainant. He claimed that the complainant begrudged him for disciplining her; his wife wanted to replace him with another man.

The RTC Ruling

The RTC acquitted the accused-appellant of one (1) count of rape, but convicted him of the four (4) counts charged, and imposed the penalty of death - the penalty qualified rape carries. The trial court relied on the complainant's testimony which it described as "innocent," "straightforward," and an "unflinching narration on how she was molested." The RTC also ruled that the age of the complainant rendered it highly improbable for her to fabricate stories of her defloration.

The RTC rejected the accused-appellant's alibi for his failure to show that it was physically impossible for him to have committed the rapes. The RTC also rejected the claim that the small size of their dwelling rendered the commission of the rapes impossible; it recognized that lust is no respecter of time and place. Finally, the RTC noted that the accused-appellant's plea for forgiveness from his wife indicated his guilt.

The CA Ruling

The CA on appeal affirmed the RTC's findings. The CA, however, acquitted the accused-appellant of one (1) count of rape for lack of evidence showing penile penetration. The dispositive portion of the CA decision decreed:

WHEREFORE, the foregoing considered, the assailed Decision in Criminal Cases Nos. 15-99, 16-99 and 17-99 are hereby AFFIRMED with the MODIFICATION that the accused-appellant's sentence is REDUCED to reclusion perpetua. Accused-appellant is further ordered to pay private complainant in Criminal Case Nos. 15-99, 16-99 and 17-99 P50,000.00 for moral damages, P75,000.00 for civil indemnity and P20,000.00 for exemplary damages in each criminal case.

For insufficiency of evidence and for failure of the prosecution to prove his guilt beyond reasonable doubt, accused-appellant is hereby ACQUITTED in Criminal Case No. 18-99.

Costs against the accused-appellant.

SO ORDERED.[3]

The Issue

The lone issue raised on appeal is the failure of the courts to appreciate the doubtful testimony of the complainant, considering her failure to shout for help and the improbability that the rapes could have been committed in a 3 x 4-meter house in the presence of other people.

The Court's Ruling

We affirm the accused-appellant's conviction after due consideration of the records and the evidence.

The rule is well-settled that when the decision hinges on the credibility of witnesses and their respective testimonies, the trial court's observations and conclusions deserve great respect and are accorded finality, unless the records show facts or circumstances of material weight and substance that the lower court overlooked, misunderstood or misappreciated, and which, if properly considered, would alter the result of the case.[4] We find no reason to deviate from the general rule under the circumstances of this case.

First, the testimony of the complainant on the elements constituting the crime of rape as committed on three separate occasions through force and intimidation was clear, categorical, and positive. In the absence of corroboration, the ill-motive imputed by the accused-appellant against his wife and against the victim deserves scant consideration.

We also take into account the seriousness of the present charges of incestuous rapes committed by a father against his daughter. No woman in her right mind, especially a young girl, would fabricate charges of this nature and severity.

Second, the physical evidence showing old lacerations on the complainant's hymen corroborates her testimony that she had been sexually assaulted.

Third, the failure of the complainant to shout for help during the rapes is explained by the balisong the accused-appellant poked at the complainant's neck. The evidence also shows that the accused-appellant instilled fear on his daughter through the threat to kill her and the rest of the family members if she did not submit to his demands.

Fourth, the close physical proximity of other relatives at the scene of the rape does not negate the commission of the crime. In *People v. Cura*, [5] we emphasized that rape can be committed even in places where people congregate, in parks, along the roadside, within school premises, inside a house where there are other occupants,

and even in the same room where other members of the family are also sleeping.[6] It is not impossible or incredible for the members of the victim's family to be in deep slumber and not to be awakened while a sexual assault is being committed.[7] Lust is no respecter of time and place;[8] neither is it deterred by age nor relationship.[9]

Fifth, the accused-appellant's defenses of denial and alibi lack merit. His denial lacked corroboration. His alibi, on the other hand, did not foreclose the commission of the rapes. His alibi was in fact directly contradicted by the complainant who unequivocally and positively identified him as the one who sexually molested her on the three occasions charged.

The qualifying circumstances of relationship and minority between the complainant and the accused-appellant had adequately been proven by the complainant's presented Birth Certificate showing May 16, 1985 as her birth date and the name of the accused-appellant as the father.[10] Also, the letters written by the accused-appellant showed his admission as the father of the complainant.[11] The accused-appellant failed to deny during the trial the fact of their father-daughter relationship.[12]

The CA correctly reduced the death penalty to reclusion perpetua for each count of rape pursuant to Section 3[13] of Republic Act No. 9346.[14] The same section, however, imposes the condition that the accused cannot be eligible for parole. A modification of the civil liability awarded is in order, pursuant to the ruling in *People v. Mariano*.^[15] For the commission of qualified rape, the accused-appellant is liable to pay the complainant P75,000.00 as civil indemnity; P75,000.00 as moral damages; and P30,000.00 as exemplary damages in each case.

WHEREFORE, premises considered, the decision dated June 13, 2007 of the Court of Appeals in CA-G.R. CR-H.C. No. 02052 finding accused-appellant Quirino Cabral y Valencia guilty beyond reasonable doubt of three (3) counts of qualified rape is **AFFIRMED** with the **MODIFICATION** in that he is sentenced to reclusion perpetua per count of rape without eligibility for parole. Accused-appellant Quirino Cabral y Valencia is also ordered to pay the complainant (1) P75,000.00 as civil indemnity; (2) P75,000.00 as moral damages; and (3) P30,000.00 as exemplary damages in each count of the rapes.

SO ORDERED.

Carpio, (Chairperson), Leonardo-De Castro, Del Castillo, and Abad, JJ., concur,

[1] Dated June 13, 2007 in CA-G.R. CR-H.C. No. 02052; penned by CA Associate Justice Josefina Guevara-Salonga, and concurred in by Associate Justice Vicente Q. Roxas (dismissed) and Associate Justice Ramon R. Garcia; CA rollo, pp. 107-121.

[2] Dated March 7, 2005 in Crim. Case Nos. 15-99 to 19-99; penned by Judge Etiquio L. Quitain; id. at 33-46.

[3] Id. at 120-121.

[4] *People v. Espino, Jr.*, G.R. No. 176742, June 17, 2008, 554 SCRA 682, 696-697.

[5] 310 Phil 237 (1995).

[6] Id. at 247.

[7] Id.

[8] Id.

[9] *People v. De Guzman*, 423 Phil 313, 317 (2001).

[10] Records, p. 141; *People v. Canoy*, 459 Phil 933, 946 (2003).

[11] *Id.* at 145-155.

[12] *People v. Malibiran*, G.R. No. 173471, March 17, 2009.

[13] Section 3. Persons convicted of offenses punished with reclusion perpetua, or whose sentences will be reduced to reclusion perpetua, by reason of this Act, shall not be eligible for parole under Act No. 4180, otherwise known as the Indeterminate Sentence Law, as amended.

[14] An Act Prohibiting the Imposition of Death Penalty in the Philippines.

[15] G.R. No. 168693, June 19, 2009.

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