

PEOPLE OF THE PHILIPPINES, APPELLEE VS. SALOMON DIONEDA Y DELA CRUZ A.K.A. SIMON DIONEDA DELA CRUZ, APPELLANT.

G.R. NO. 180923. April 30, 2009

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

On appeal is the January 31, 2007 Decision[1] of the Court of Appeals in CA-G.R. CR-H.C. No. 02096 which affirmed with modification the February 4, 2004 Decision of Branch 107 of the Regional Trial Court in Quezon City finding Salomon Dioneda y Dela Cruz[2] a.k.a. Simon Dioneda Dela Cruz (appellant) guilty of raping six year old AAA[3] in Criminal Case No. Q-00-94913.

Appellant, by Information filed on August 29, 2000, was charged for rape as follows:

That on or about the 27[th] day of August, 2000 in Quezon City, Philippines, the above-named accused, a minor 17 years of age, by means of force and intimidation, with lewd designs, did, then and there, willfully, unlawfully and feloniously put himself on top of one AAA, a minor 6 years of age, and thereafter have carnal knowledge with said complainant against her will and without her consent, to her damage and prejudice.

CONTRARY TO LAW.[4]

Through the testimonies of AAA, her parents BBB[5] and CCC,[6] Dr. Jaime Rodrigo Leal, Eddie Roque and SPO3 Violeta Balanse, the prosecution proffered the following version:

At about 6:00 o'clock in the evening of August 27, 2000, AAA, then six (6) years old, she having born on May 14, 1994 to BBB and CCC,[7] went to her neighbor Ruth Dajao's three-storey house at Belen Street, Gulod, Novaliches, Quezon City with the intention of playing with the latter's son, Iking (Iking).[8] On reaching the first floor, AAA met appellant, a helper of the Dajao family who usually goes to her residence, who told her that Iking was already asleep at the third floor. AAA just the same went up the third floor of the house and saw that Iking was indeed sleeping.[9] She thus went down and decided to go home.

When AAA reached the first floor, appellant prevented her from leaving, saying "Sandali lang," he telling her that the two of them were going to play. She refused but appellant held her arm, forcing her to return to the second floor. Appellant caught up with her, however, made her lie down on the floor and placed himself on top of her. He then carried her to a double-deck bed where he laid her down, removed her panties, undressed himself, went on top of her, and inserted his penis into her vagina. She experienced pain. He then wiped her vagina and warned her not to tell the incident to anybody. She stood up, put on her panties and ran straight to her house crying.[10]

Her parents asked her why she was crying to which she replied that her vagina was aching because "Kuya Jong," whom she identified as appellant, did something bad to her. She thereupon showed them her "kikay," referring to her vagina, and her panties with bloodstains.[11] She related that appellant went on top of her and placed his penis in her vagina. Furious, her parents stepped out of the house and looked for appellant.[12]

On seeing appellant in Dajao's house, BBB tried to attack him but was restrained by CCC and several neighbors

who had in the meantime gotten wind of the incident. AAA, together with her parents, reported the incident to the authorities who thereafter arrested appellant.[13]

Dr. Jaime Rodrigo Leal, the Medico-Legal Officer of the Philippine National Police (PNP), Camp Crame, examined AAA and found her hymen bruised and an abrasion in the area surrounding the hymen and a 0.3 cm. fresh laceration with blood clots at the posterior fourchette, indicating that it occurred within 24 hours prior to the examination. The doctor opined that his findings on AAA's genitalia were indicative of penetration and consistent with her disclosure of sexual abuse.[14]

AAA's mother noticed that after the rape incident, AAA had difficulty urinating and "kinikilig." [15]

Denying the accusation, appellant gave the following version: At around 6:00 to 7:00 o'clock that evening of August 27, 2000, he was watching television at the first floor of the house of the Dajaos. He later gathered the clothes from the clothesline and saw AAA outside the house holding her toys and playing with someone he did not know. AAA's father BBB soon appeared and shouted at him, accusing him of having raped her daughter, and was later brought to the police station where he was detained.

By Decision dated February 4, 2004, the trial court found appellant guilty of rape as charged under Article 266-A, paragraph 1(d) of the Revised Penal Code, as amended by Republic Act (R.A.) No. 8353.

Considering, however, that appellant was only 17 years old when he committed the crime on August 27, 2000, having been born on September 24, 1982 as shown by his birth certificate, he was credited with the privilege mitigating circumstance of minority to lower the penalty by one degree â€œreclusion perpetua.[16] Thus the trial court disposed:

WHEREFORE, IN VIEW OF THE FOREGOING, the prosecution having established the guilt of the accused beyond reasonable doubt, this Court finds the accused SALOMON DIONEDA Y DELA CRUZ a.k.a. SIMON DIONEDA Y DELA CRUZ, guilty of the offense charged. He is hereby sentenced:

- To suffer the penalty of reclusion perpetua;
- To pay the private complainant, (AAA) x x x civil indemnity in the amount of P50,000.00;
- To pay the x x x private complainant the amount of P50,000.00 for exemplary damages;
- To pay further the x x x private complainant the amount of P50,000.00 as moral damages; and
- The accused is hereby ordered, upon his release from detention, not to approach the private complainant in school, in the church, in the malls or anywhere else; he shall never contact the private complainant either by telephone, cellphone or send text messages or with the use of any electrical device or even letters, otherwise, the private complainant can seek the assistance of this Court.

SO ORDERED.[17]

The records of the case were forwarded to this Court on appeal of appellant.[18] Per *People v. Mateo*, [19] however, the Court referred the case to the Court of Appeals by Resolution of September 28, 2005.[20]

The appellate court, by Decision of January 31, 2007, affirmed the factual findings of the trial court but modified the award of exemplary damages from P50,000.00 to P25,000.00, consistent with prevailing jurisprudence. It thus disposed:

WHEREFORE, premises considered, the February 4, 2004 Decision of the Regional Trial Court of Quezon City, Branch 107, in Criminal Case No. Q-00-94913, is hereby AFFIRMED with MODIFICATION in that exemplary damages are hereby reduced to P25,000.00.

Pursuant to Section 13 (c), Rule 124 of the 2000 Rules of Criminal Procedure as amended by A.M. No. 00-5-03-SC dated September 28, 2004, which became effective on October 15, 2004, this judgment of the Court of Appeals may be appealed to the Supreme Court by notice of appeal filed with the Clerk of Court of the Court of Appeals.

SO ORDERED. (Emphasis in the original)

In his Brief, appellant faulted the trial court

... IN GIVING FULL WEIGHT AND CREDENCE TO THE TESTIMONIES OF THE PROSECUTION WITNESSES.[21]

Appellant assails AAA's credibility, citing her inconsistent answers regarding the circumstances before the commission of the alleged rape, particularly her testimony on direct examination that she stopped at the second floor of the Dajaos' house where he allegedly told her to wait ("sandali lang") but that on cross-examination she stated that she met appellant at the ground floor.

Appellant's appeal is doomed.

The place where AAA met appellant when she was about to leave the Dajao residence, whether on the ground or second floor is a trivial matter. AAA, a child of tender age, could not be expected to give a perfect recollection of the exact floor of the house where she met appellant.

Forthright witnesses are not immune from committing minor inaccuracies in their narration of events. Trivial inconsistencies and inconsequential discrepancies on minor details in the testimonies of witness do not impair their credibility. They could, in fact, be badges of truth for they manifest spontaneity and erase any suspicion of a rehearsed testimony.[22] As long as the inconsistencies are immaterial or irrelevant to the elements of the crime and do not touch on material facts crucial to the guilt or innocence of the accused as in the present case, these are not valid grounds to reverse a conviction.[23]

Appellant's challenge to the assailed decision having failed, and no circumstance which creates reasonable doubt on his guilt being extant, his conviction must be upheld.

WHEREFORE, the appeal is DISMISSED. The assailed Decision of the Court of Appeals in CA-G.R. CR-H.C. No. 02096 is AFFIRMED.

No costs.

Tinga, Velasco, Jr., Leonardo-De Castro*, and Brion, JJ., concur.

* Additional member in lieu of Justice Leonardo A. Quisumbing who is on official leave.

[1] Penned by Associate Justice Vicente Q. Roxas and concurred in by Associate Justices Josefina Guevarra-Salonga and Ramon R. Garcia; CA rollo, pp. 130-145.

[2] The assailed Court of Appeals Decision noted that appellant "uses the name Salomon Dioneda y Dela Cruz and the Information identifies him as bearing that name. However, his birth certificate bears the name Simon Dioneda y Dela Cruz" (id. at 131, note 2).

[3] Pursuant to Section 44 of Republic Act (R.A.) No. 9262, otherwise known as the ANTI-VIOLENCE AGAINST WOMEN AND THEIR CHILDREN ACT OF 2004, and Section 63, Rule XI of the Rules and Regulations Implementing R.A. 9262, the real name of the victim is withheld to protect her privacy. Fictitious

initials are used instead to represent her. Likewise, the personal circumstances or any other information tending to establish or compromise her identity, as well as those of her family members shall not be disclosed.

[4] Records, pp. 1-4.

[5] His real name is withheld for the same reason as stated in note 3.

[6] Her real name is likewise withheld for similar reason stated in note 3.

[7] Vide. Exhibit "A" (AAA's Birth Certificate), Transcript of Stenographic Notes (TSN), January 16, 2000, pp. 4-5; January 20, 2002, pp. 4-5.

[8] TSN, October 9, 2003, p. 4.

[9] TSN, May 25, 2001, p. 12.

[10] Id. at 15-16.

[11] TSN, January 10, 2001, pp. 6-7.

[12] Id. at 7; TSN, February 20, 2002, pp. 8-12.

[13] TSN, March 6, 2003, pp. 2-7.

[14] TSN, July 17, 2002, pp. 7, 12; Exhibit "G" dated August 27, 2000 and Exhibit "H"; records, p. 166.

[15] RTC Decision dated February 4, 2004, CA rollo, p. 34.

[16] Id. at 42-43.

[17] Id. at 44.

[18] Id. at 48.

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

[20] CA rollo, pp. 127-128.

[21] Accused-Appellant's Brief, id. at 57.

[22] *People v. Ortiz*, G.R. No. 133814, July 17, 2001, 361 SCRA 274; *People v. Jamiro*, G.R. No. 117576, September 18, 1997, 279 SCRA 290.

[23] *People v. Delmo*, G.R. Nos. 130078-82, October 4, 2002, 390 SCRA 395; *People v. Garcia*, G.R. No. 117406, January 16, 2001, 349 SCRA 67.

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