

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROGER UGOS, ACCUSED-APPELLANT.

G.R. No. 181633. September 12, 2008

Ponente: VELASCO JR., J.

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VELASCO JR., J.:

Before us is an appeal from the October 25, 2007 Decision of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 00310-MIN entitled *People of the Philippines v. Roger Ugos y Lanzo alias "Dodong."* The CA affirmed the February 8, 2000 Decision of the Regional Trial Court (RTC), Branch 15 in Davao City in Criminal Case No. 39413-97, finding accused-appellant Roger Ugos guilty of raping his stepdaughter and sentencing him to reclusion perpetua.

The Facts

On August 11, 1997, accused-appellant was charged with rape under an Information which reads:

That on or about August 7, 1997, in the City of Davao, Philippines, and within the jurisdiction of this Honorable Court, the above-mentioned accused, by means of force and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge with x x x [AAA], who is only seven (7) years of age.[1]

On arraignment, accused-appellant entered a not guilty plea.

The prosecution presented the following facts:

On the evening of August 7, 1997, accused-appellant, while drunk and looking for a bolo,[2] asked his stepdaughter, AAA, then seven years old, to look for her mother at her grandmother's place. But as her mother was not at her grandmother's residence, AAA went to look for her at a neighbor's house accompanied by accused-appellant. Her mother was not there, either. Accused-appellant thereupon held AAA and brought her to a nearby creek. Once there, he undressed her and then proceeded to insert his finger into her vagina four times.[3] Thereafter, accused-appellant bit AAA's face and inserted his penis into her vagina. Not content, he held her by the neck and boxed her in the face and stomach.[4] He then threatened to kill her if she told her mother about the incident.[5]

When asked upon reaching home about the lumps on her face, AAA told her mother that she fell at the waiting shed.[6] The next morning, however, AAA revealed the truth about her injuries, relating how accused-appellant, while holding her neck, bit and punched her on the cheek "causing a swelling and black right eye and bruises on the neck." [7] Mother and daughter then reported the incident to, only to be ignored by, the barangay captain. They then repaired to the police station in Toril to file a rape complaint before Police Station Child and Youth Officer Leonilo Jickain,[8] after which they proceeded to Barrio Catigan, the scene of the crime. Mother and daughter pointed to accused-appellant as the rapist.[9] After a short chase, he was apprehended and charged.[10]

Dr. Danilo Ledesma testified having examined AAA on August 11, 1997.[11] His findings: AAA had sustained

contusions on her left eye and on her cheek. She also had a hemorrhage on both eyeballs. He also found that there was a complete hymenal laceration at the 5 and 9 o'clock positions, showing recent genital trauma.[12]

Accused-appellant, the lone witness for the defense, on the other hand, presented the following story, as summarized in the RTC decision:

x x x [O]n August 7, 1997 from 7 A.M. to 7 P.M. he was in his employer's house because it was their barrio's fiesta, that on reaching home at about 7 P.M. only [his] step[children] AAA, 7 years old, Reggie 3 years old and [his] 10 year [old] niece were around. x x x his wife was not there so he went to their grandmother's house alone to get her, that his wife was not there, that he returned home at about 8 P.M. but she was not there in their house so he went to his ninang [godmother] and his neighbors looking for his wife, that he told the victim to go with him to the barrio which was about one kilometer from their house to look for his wife, that he told the victim to look for her mother while he waited in a shed, that the victim fell because the road was dark and slippery, that his wife was already home when they returned, that his wife smelled of liquor that night, that he and his wife quarreled and he hit his wife, that he did not rape and hit the victim, that he does not know why he is charged with rape.[13]

The RTC found accused-appellant guilty as charged. The dispositive portion of the RTC decision reads:

WHEREFORE, the prosecution having proven the guilt of the accused beyond reasonable doubt, ROGER UGOS is hereby sentenced to Reclusion perpetua and to indemnify [AAA] the sum of Fifty Thousand Pesos (P50,000.00).

The preventive imprisonment shall be credited to the sentence of the accused if he voluntarily abides in writing to follow the rules under Article 29 of the Revised Penal Code.

SO ORDERED.[14]

Accused-appellant thus appealed the RTC Decision with this Court.

On December 13, 2004, this Court, in accordance with *People v. Mateo*,^[15] ordered the transfer of the case to the CA for intermediate review.

By a Decision dated October 25, 2007, the CA affirmed that of the RTC with a modification on the award of damages, disposing as follows:

WHEREFORE, the lower court's Decision dated 8 February 2000 finding appellant guilty beyond reasonable doubt of the crime of Rape and sentencing him to suffer the penalty of reclusion perpetua is AFFIRMED, WITH THE MODIFICATION that appellant is ordered to pay P50,000.00, representing moral damages, in addition to the civil indemnity of P50,000.00 he had been adjudged to pay by the trial court.

SO ORDERED.[16]

On November 22, 2007, accused-appellant filed his Notice of Appeal of the CA Decision.

Accused-appellant presents a lone issue before the Court:

WHETHER THE TRIAL COURT ERRED IN FINDING HIM GUILTY OF THE CRIME OF RAPE INSTEAD OF ACTS OF LASCIVIOUSNESS

Accused-appellant claims that the testimonies of AAA and her mother reveal only the commission of acts of lasciviousness. There was no sexual intercourse, according to him, as he only inserted his finger into her sex organ, adding that this was what AAA originally told her mother. He surmises that AAA, being underage, might have been confused with what the word "rape" meant. Accused-appellant further states that AAA only testified that he inserted his penis into her vagina when probed by the prosecutor through leading questions.

Our Ruling

We affirm the appellate court's decision.

AAA, as found by both the trial and appellate courts, was unequivocal in her testimony that she was raped by accused-appellant. While her mother may have contradicted AAA's testimony by stating that AAA reportedly told her she was merely "fingered" by accused-appellant, it is AAA's clear and credible testimony that should determine accused-appellant's guilt. She detailed both in direct and cross-examinations how accused-appellant violated her; she minced no words about what accused-appellant did to her on August 7, 1997.

Accused-appellant does not dispute AAA's testimony, arguing that she might have been coached in her answers. He likewise states that what AAA and her mother reported to the police was an attempt to rape AAA. It was only when the prosecutor asked her leading questions that she testified that accused-appellant inserted his penis into her vagina.

The Court is not persuaded by his contentions for the following reasons: First, the testimony of Police Officer Jickain, who related that AAA's mother approached him on August 7, 1997 while he was on duty as Police Station Child and Youth Officer, has documentary support. He stated that AAA's mother reported that accused-appellant raped her daughter.[17] Second, accused-appellant's contention is at odds with what are contained in the records, which show that during cross-examination the trial court asked AAA what accused-appellant did to her, as follows:

COURT:

Q

You said it is painful, is it because the finger was inserted or the penis?

A

Because he inserted his finger into my vagina.

Q

He did not insert his penis?

A

He inserted.[18]

The prosecutor, on the other hand, examined AAA in this wise:

Q

Who mounted you?

A

Ondongan.

Q

This Ondongan is in court could you point him?

A

(Witness pointing to a person seated on a chair with white t-shirt printed navy when asked he said he is Roger

Ugos).

Q

What did Ondongan or your stepfather do?

A

He placed his hand on my vagina.

Q

Were you still dressed?

A

Yes, Sir.

Q

What did he do to your dress?

A

He inserted his finger [in] my vagina 4 times.

Q

When he did that to you were you still dressed or were you already naked?[19]

x x x x

Q

What else?

A

After that the accused stood up on a coco trunk [and] inserted his finger in my vagina four times.

Q

What else did he do, did you see his penis?

A

He inserted inside my vagina.

Q

What did you feel when he inserted his penis in your vagina?

A

I was angry, because he mounted me and it was very painful.[20]

The line of leading questions objected to by accused-appellant was warranted given the circumstances. A child of tender years may be asked leading questions under Section 10(c), Rule 132 of the Rules of Court. Sec. 20 of the 2000 Rule on Examination of a Child Witness also provides, "The court may allow leading questions in all stages of examination of a child if the same will further the interests of justice."

The afore-cited rule was formulated to allow children to give reliable and complete evidence, minimize trauma to children, encourage them to testify in legal proceedings, and facilitate the ascertainment of truth.[21]

We find that the alleged coaching used in the course of examining AAA merely aided her in testifying with more detail and did not suggest to her the answers integral to the actual commission of rape.

What is more, AAA's charge of rape finds support in the medical report on her physical injuries. The medico-legal witness, Dr. Ledesma, testified that he examined AAA four days after the rape incident and found fresh bruises on her face and lacerations in her vagina.[22]

Accused-appellant's denial of the crime cannot prevail over the positive testimony of the victim. As held in *People v. Suarez*, a rape victim's straightforward and candid account, corroborated by the medical findings of the examining physician, is sufficient to convict the accused.[23] This conclusion becomes all the more firm where, as in this case, the child-victim takes the witness stand. Previous decisions involving rape cases have shown us the high improbability that a girl of tender years would impute to any man a crime so serious as rape if what she claims is not true.[24] Also, as correctly pointed out by the CA, corroboration of a child's testimony is not even required under Sec. 22 of the Rule on Examination of a Child Witness, thus:

Corroboration shall not be required of a testimony of a child. [The child's] testimony, if credible by itself, shall be sufficient to support a finding of fact, conclusion, or judgment subject to the standard of proof required in criminal and non-criminal cases.

Accused-appellant's suggestion that the charge against him could have been fabricated, an offshoot of the argument he had with AAA's mother, has nothing to support itself. There is likewise nothing in the records indicating that the prosecution witnesses testified against accused-appellant out of malice.

A rape victim's testimony as to who abused her is credible where she has absolutely no motive to incriminate and testify against the accused.[25] Categorical and positive identification of an accused, without any showing of ill motive on the part of the eyewitnesses testifying on the matter, prevails over denial and alibi, which are negative and self-serving.[26] We thus affirm the trial court's appreciation of the testimonial evidence adduced. It is basic that the trial court's evaluation of the testimonies of witnesses should be accorded the highest respect as it has the best opportunity to observe directly the demeanor of witnesses on the stand and to establish whether they are telling the truth.[27]

As to the award of damages, the RTC was correct in awarding civil indemnity in the amount of PhP 50,000. Civil indemnity needs no proof other than the fact of the commission of the offense.[28] The award is proper even if the minority of AAA was alleged. There was no allegation in the Information that accused-appellant was the victim's stepfather, precluding a charge for qualified rape which would have increased the award to PhP 75,000.

The CA was also correct in additionally awarding moral damages of PhP 50,000. This is separate and distinct from civil indemnity. It does not require proof of mental and physical suffering.[29]

As a final note, we reject accused-appellant's argument that had he been found to have merely fingered AAA's sexual organ, he would only be convicted of acts of lasciviousness. As held in *De Castro v. Fernandez, Jr.*, the new law on rape now includes sexual assault.[30] Although the amendment to the law on rape was made after accused-appellant was charged, it is well to point out that with its expanded definition, rape can now be committed through sexual assault by inserting "any instrument or object, into the genital or anal orifice of another person." [31]

WHEREFORE, the appeal of accused-appellant is DISMISSED. The Decision dated October 25, 2007 of the CA in CA-G.R. CR-H.C. No. 00310-MIN finding him guilty of the crime of rape is AFFIRMED IN TOTO.

No costs.

SO ORDERED.

Quisumbing, (Chairperson), Carpio Morales, Tinga, and Brion, JJ., concur.

[1] CA rollo, p. 6.

[2] TSN, July 14, 1998, p. 24.

[3] Id.

[4] Id. at 26-27.

[5] Id. at 27.

[6] TSN, May 4, 1998, p. 15.

[7] Id. at 17.

[8] TSN, March 5, 1998, pp. 9-10.

[9] Id. at 10.

[10] Id. at 11.

[11] TSN, November 17, 1997, p. 2.

[12] Id.

[13] CA rollo, pp. 16-A-17.

[14] Id. at 22. Penned by Judge Jesus V. Quitain.

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

[16] Rollo, pp. 12-13. Penned by Associate Justice Michael P. Elbinias and concurred in by Associate Justices Teresita Dy-Liacco Flores and Rodrigo F. Lim, Jr.

[17] TSN, March 5, 1998, p. 10.

[18] TSN, July 14, 1998, p. 43.

[19] Id. at 24-25.

[20] Id. at 27.

[21] 2000 Rule on Examination of a Child Witness, Sec. 2.

[22] TSN, November 17, 1997, p. 2.

[23] G.R. Nos. 153573-76, April 15, 2005, 456 SCRA 333, 350.

[24] *People v. Arsayo*, G.R. No. 166546, September 26, 2006, 503 SCRA 275, 287.

[25] *People v. Dela Cruz*, G.R. No. 135022, July 11, 2002, 384 SCRA 375, 389.

[26] *Suarez*, *supra* at 349.

[27] Dela Cruz, *supra* at 390.

[28] *People v. Madia*, G.R. No. 130524, June 20, 2001, 359 SCRA 157, 165.

[29] *People v. Cultura*, G.R. No. 133831, February 14, 2003, 397 SCRA 368, 380.

[30] G.R. No. 155041, February 14, 2007, 515 SCRA 682, 689; citing *People v. Soriano*, 436 Phil. 719 (2002).

[31] Republic Act No. 8353 or The Anti-Rape Law of 1997, Sec. 2.

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