

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. ROY BACUS, APPELLANT,

G.R. No. 181744. October 02, 2009

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

His guilt beyond reasonable doubt of Rape having been affirmed by the Court of Appeals, Roy Bacus (appellant) comes to this Court.

The accusatory portion of the Information filed against appellant before the Regional Trial Court (RTC) of Cebu reads:

That on or about the 3[rd] day of February 1999 at around 11:30 o'clock in the evening, more or less, at sitio Kimba, Barangay San Roque, Municipality of Talisay, Province of Cebu, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, a distant neighbor of the victim AAA, asked permission to accompany her in going home which she consented as the accused was also heading on the same path and direction and while walking together and upon reaching the makeshift shanty where factory workers used to stay he told her to wait for a while as he has to get something from the makeshift shanty which she consented to and while she was looking at the other direction, suddenly and unexpectedly, he grabbed her on her waist and the victim, stunned by his actuation, shouted for help and tried to wriggle out from his hold but he covered her mouth with his left hand while his right hand held a knife which he poked on her neck and warned her not to resist and shout otherwise he would kill her and with lewd design, with deliberate intent to have sexual intercourse with her, ordered her to lie down under a parked truck, removed her short and underwear and managed to lie on top of her and through force, threats and intimidation with the use of a knife, did then and there willfully, unlawfully and feloniously have sexual intercourse with her against her will, to the damage and prejudice of the said victim.[1] (Underscoring supplied)

From the evidence for the prosecution, the following version is culled:

At around 11:30 p.m. of February 3, 1999, while AAA, then of 17 summers, was on her way home on board a trisikad after discharging her chores as "governess" to a family, she passed by a waiting shed where appellant, a childhood friend, was. On appellant's suggestion, albeit she was initially hesitant, she allowed him to accompany her home.

As they passed by a makeshift hut used by construction workers, appellant went inside the hut and called out "Bay," but nobody answered.

As appellant repaired back to AAA who had remained outside, he suddenly pulled AAA by the waist and covered her mouth, and at knifepoint he told her to lie under a nearby cargo truck which is used to carry hollow blocks.

Still at knifepoint, appellant removed AAA's clothes. He then laid himself on top of her and had sexual intercourse with her.

The following day or on February 4, 1999, on the advice of her employer's mother, AAA divulged what befell her

to her father BBB who accompanied her to report to the police station. On even date, at 1:15 p.m., AAA was examined by a medico-legal officer, Dr. Nueva Tagaloguin, who came out with the following findings:

Hymen: (+) complete healing laceration at 5 and 8 0' clock position, (+) incomplete healing laceration at 3 0'clock position.

Orifice: admits 1 finger with ease

Vagina:

Walls: no laceration[2] (Underscoring supplied)

Appellant was thereupon arrested. Hence, the filing of the Information against him.

Admitting having had sexual intercourse with AAA, not, however, on February 3, 1999 but the day before or on February 2, 1999, appellant denied having used force on her. His version goes: He and AAA had been sweethearts since November 8, 1998 and had had sexual intercourse on three occasions, the last being on February 2, 1999. On the night of February 3, 1999, AAA, then intoxicated and high on drugs, went to his hut. As her boyfriend, he was privy to AAA's habitual drug use and he in fact repeatedly tried to dissuade her therefrom. As she was showing him a packet of shabu, she asked for P200.00 to pay off a debt, but he refused. He was set to bring her home but she refused, so he accompanied her to the waiting shed and gave her P50 for fare.

Raising the improbability of committing rape under the facts and circumstances described by AAA, given, among other things, the limited space under the cargo truck on the stone-lined ground, appellant offered in evidence a photograph of the cargo truck, Exhibit "1." [3]

Significantly, AAA admitted that the truck depicted in the photograph was the same truck underneath which she claimed to have been raped. She, however, denied that stones were littered under the truck at the time of the incident.

Finding appellant guilty as charged, Branch 18 of the RTC Cebu disposed:

WHEREFORE, premises considered, JUDGMENT is hereby rendered convicting accused Roy Bacus of the crime of RAPE and he is hereby imposed to suffer the penalty of RECLUSION PERPETUA with the inherent accessory penalties provided by law; to indemnify the victim in the sum of P50,000.00 as moral damages and to pay the costs.

SO ORDERED.[4]

The Court of Appeals, to which this Court referred the case pursuant to *People v. Mateo*, [5] affirmed appellant's conviction in this wise:

[T]he victim never faltered in her assertions that she was ravished by accused-appellant on February 3, 1999. Her testimony, as observed by the lower court, is clear and positive. She remained steadfast in her claim that accused-appellant sexually abused her. Rape victims, especially those who are of tender age, would not normally concoct a story of defloration allow an examination of their private parts and undergo a public trial if they were not motivated solely by the desire to have their ravishers apprehended and punished. Likewise, the crying of AAA during her testimony is eloquent evidence of the credibility of the rape charge with verity born out of human nature and experience.[6] (Citations omitted; underscoring supplied)

The appellate court modified, however, the trial court's decision by additionally awarding civil indemnity. Thus it disposed:

WHEREFORE, in view of all the foregoing, the assailed Decision of the Regional Trial Court dated September

28, 2000 finding accused-appellant Roy Bacus guilty beyond reasonable doubt of Rape and imposing the penalty of Reclusion Perpetua is hereby AFFIRMED with MODIFICATION. Accordingly, accused-appellant is ordered to indemnify AAA the amount of P50,000.00 as civil indemnity in addition to the P50,000.00 as moral damages imposed upon by the lower court.

SO ORDERED.[7] (Emphasis in the original; underscoring supplied)

In the main, appellant assails the credibility of the testimony of AAA.

In view of the intrinsic nature of rape where only two persons are usually involved, extreme vigilance must be exercised in examining the testimony of the complainant,[8] for a conviction for rape may lie based solely on her testimony if it is credible, natural, convincing and consistent with human nature and the normal course of things.[9]

AAA claims that the rape occurred under a cargo truck. The height of the truck from the ground up to the truck's mechanical protrusions at its bottom, as depicted in the photograph, leaves the Court in the dark how the forcible sexual intercourse as described by AAA could have been consummated. This is especially true in light of AAA's claim that she was positioned near the front tires of the truck,[10] near the truck's engine. For within such cramped, confined space, sexual intercourse, unless the actors mutually consent to it, would be impeded, if not hardly consummated.

Also significantly noting is the doctor's lack of finding of external physical injury on AAA.[11] Even if AAA's disclaimer that the ground under the truck was stone-lined at the time of the intercourse were credited, with AAA's naked state, it is difficult to comprehend why not even the slightest bruise or injury was found on her body if she indeed was forcibly abused.

Further significantly noting is the opinion of the medico-legal officer, who examined AAA about 16 hours after the alleged commission of rape, that within 24 hours fresh bleeding should have taken place, but she found none; and that the healed lacerations on AAA could have been the result of sexual intercourse that took place more than 24 hours before the examination.[12] This latter opinion aligns with appellant's claim that he had sexual intercourse with AAA on February 2, 1999 or a day before the alleged rape on February 3, 1999.

IN FINE, the Court finds that the prosecution failed to discharge its onus of proving with moral certainty the guilt of appellant. His acquittal is thus in order.

WHEREFORE, the Decision of August 14, 2007 of the Court of Appeals is REVERSED and SET ASIDE. Appellant, Roy Bacus, is ACQUITTED of the crime charged on the ground of reasonable doubt.

The Director of the Bureau of Corrections is DIRECTED to cause the immediate release of appellant, unless he is being lawfully detained for another cause; and to inform the Court of the date of his release, or the reasons for his continued confinement, within ten (10) days from notice.

SO ORDERED.

Ynares-Santiago[*], Peralta[***], Del Castillo, and Abad, concur.

[*] Additional member per Special Order No. 691.

[**] Per Special Order No. 690 in lieu of the sabbatical leave of Senior Associate Justice Leonardo A. Quisumbing.

[***] Additional member per Special Order No. 711.

[1] Records, pp. 1-2.

[2] Id. at 9.

[3] Id. at 96.

[4] Id. at 124.

[5] G.R. Nos. 147678-87, July 7, 2004, 433 SCRA 640. The case modified the pertinent provisions of the Revised Rules on Criminal Procedure, more particularly Section 3 and Section 10 of Rule 122, Section 13 of Rule 124, Section 3 of Rule 125 insofar as they provide for direct appeals from the Regional Trial Courts to the Supreme Court in cases where the penalty imposed is death, reclusion perpetua or life imprisonment and allowed intermediate review by the Court of Appeals before such cases are elevated to the Supreme Court.

[6] Rollo, pp. 4-30, 20.

[7] Id.at 30.

[8] People v. Espino, Jr., G.R. No. 176742, June 17, 2008, 554 SCRA 682, 696.

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

[10] TSN, September 2, 1999, p. 9.

[11] TSN, May 28, 1999, p. 4.

[12] Id. at 3-4.

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