PEOPLE OF THE PHILIPPINES, APPELLEE, VS. EFREN ALFONSO, APPELLANT.

G.R. No. 182094. August 18, 2010

Ponente: DEL CASTILLO, J.

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DEL CASTILLO, J.:

A father, accused of raping his two minor daughters, is before us praying for his acquittal.

On appeal is the July 31, 2007 Decision[1] of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 02312 which affirmed with modifications the Joint Decision[2] of the Regional Trial Court (RTC) of Calabanga, Camarines Sur, Branch 63, finding appellant Efren Alfonso guilty of Rape by Sexual Assault under Article 266-A(2) of the Revised Penal Code (RPC) in Criminal Case No. RTC-'02-735 and Statutory Rape under Article 266-A(1)(d) in Criminal Case No. RTC-'02-736.

Factual Antecedents

On October 1, 2002, two Informations were filed charging appellant with violations of Article 266-A(2) and 266-A(1)(d) of the RPC. The Informations read:

> Crim. Case No. RTC'02-735
>
> The undersigned Assistant Provincial Prosecutor x x x accuses EFREN ALFONSO [of] the crime of RAPE defined and penalized under Art. 266-A, (2) of the Revised Penal Code as amended by Republic Act 8353 and committed as follows:
>
> That on or about the 7thday of April 2002, in x x x Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, willfully, unlawfully and feloniously committed an act of sexual assault upon his three (3)[-]year old daughter, "AAA"[3] by inserting his finger into the vagina of the said victim to her damage and prejudice.
>
> The crime is committed with the following attendant aggravating/ qualifying circumstances: The victim is a child below seven years old and the offender is the father of the victim.
>
> ACTS CONTRARY TO LAW.[4]
>
> Crim. Case No. RTC'02-736
>
> The undersigned Assistant Provincial Prosecutor x x x accuses EFREN ALFONSO [of] the crime of RAPE, defined and penalized under Art. 266-A, (1)(d) of the Revised Penal Code as amended by Republic Act 8353 and committed as follows:
>
> That on or about the 7thday of April 2002, in x x x Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, willfully, unlawfully and feloniously succeed[ed] in having carnal knowledge [of] "BBB," his [Five (5)-year] old daughter to her damage and prejudice.
>
> The crime is committed with the following attendant aggravating/ qualifying circumstances: The victim is a

child below seven years old and the offender is the father of the victim.

ACTS CONTRARY TO LAW.[5]

On arraignment, appellant pleaded not guilty to both charges.[6] During pre-trial, appellant admitted that "AAA" and "BBB" are his legitimate children and who were then only 3 and 5 years old, respectively, on April 7, 2002.[7]

Thereafter, the cases were jointly tried.[8]

Version of the Prosecution

The prosecution's first witness was "CCC," the mother of "AAA" and "BBB." "CCC" testified that on April 6, 2002, she and her sons "DDD" and "EEE" went to Magarao, Camarines Sur, to have "DDD" treated by a quack doctor. They left "AAA" and "BBB" at their residence in the care of herein appellant. When "CCC" returned home on April 8, 2002, she found "AAA" and "BBB" crying and in a state of shock. She initially brought her daughters to the quack doctor but was prevailed upon to bring them to a hospital for medical examination. Upon her prodding, "AAA" and "BBB" informed her that they were sexually abused by their father, herein appellant.[9]

The prosecution next presented Dr. Augusto M. Quilon, Jr. (Dr. Quilon), a resident physician at the Bicol Medical Center who testified on the results of the medical examinations conducted on "AAA" and "BBB."Dr. Quilon explained that "AAA's" hymen was intact but her labia majora bore reddish marks which could possibly be caused by the insertion of a finger. "BBB," on the other hand, had superficial lacerations in her hymen which could possibly be caused by sexual contact or insertion of a foreign object.[10]

The prosecution next presented "BBB" as its witness. "BBB" was only 7 years old when she testified in court, thus:

x x x x

PROS. OLIVEROS:

Q

Do you know what x x x your father has done to you?

A

Yes, Sir.

Q

Can you tell us what your father has done to you?

A

He had [sexual] intercourse with me.

Q

When you said you were molested by your father, what happened to your vagina?

A

It was painful.

Q

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Do you know also [where] the penis of your father x x x [was] situated?

INTERPRETER:

A

And the witness pointed to her vagina.

PROS. OLIVEROS:

Q

Did x x x your father x x x [insert his penis into] your vagina?

A

Yes, Sir.

x x x x

Q

You said a while ago that you felt pain, aside from that, what did you [observe] in your vagina?

A

It was painful.

Q

Was there blood that oozed [from] your vagina?

A

Yes, Sir.

Q

Do you have clothes x x x when this incident happened?

A

Yes, Sir.

Q

[Were] your clothes x x x removed?

A

Yes, Sir.

Q

Who removed [your clothes]?

A

My father.

Q

Kindly tell us again what is the name of your father who removed your apparel?

A

Efren.

Q

If your father Efren is in court, [can you] pinpoint him to us?

INTERPRETER:

A

And the witness pointed to a man, [who] when asked what is his name, answered Efren Alfonso.

PROS. OLIVEROS:

Q

Can you tell us, ["BBB"], after you were sexually abused by your father, do you still remember what happened to your sister ["AAA"]?

A

Yes, Sir.

Q

Tell us what did your father do to your sister ["AAA"]?

A

He used his hand.

Q

What did your father do [with] his hand?

A

He used his hand.

Q

Where did your father [use his hand]?

A

On the vagina.

INTERPRETER:

And the witness pointed to her vagina.

PROS. OLIVEROS:

Q

Vagina of your sister ["AAA"]?

A

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Yes, Sir.

x x x x

Q

By the way, ["BBB"], when [did] this incident [happen] x x x was [it] [nighttime] or x x x [daytime]?

A

It was x x x [nighttime].

x x x x[11]

After "BBB," the prosecution presented "AAA" who was only 5 years old when she testified, thus:

x x x x

PROS. OLIVEROS:

Q

Do you know also the name of your father?

A

Yes, Sir.

Q

Kindly tell us[.]

A

Efren.

PROS. OLIVEROS:

Q

If your father[,] Efren[,] is in court, please look around and pinpoint him to us[.]

INTERPRETER:

The witness has pointed to a man [who] when asked what is his name, answered Efren Alfonso.

PROS. OLIVEROS:

Q

A while ago you pinpointed to your father[,] Efren Alfonso[.] Do you know what [your father did to you?]

A

Yes, Sir.

Q

What did your father do to you?

A

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He removed his clothes and he removed also my clothes and he had sexual intercourse with me.

Q

What did your father use in sexually abusing you?

A

His forefinger.

INTERPRETER:

As demonstrated by the witness.

PROS. OLIVEROS:

Q

When you were sexually abused by your father by using his finger, who was your companion then?

A

Owen and x x x my sister.

Q

You said that you were sexually molested by your father by using his finger[. Did] x x x your father [insert his finger into] your vagina?

A

Yes, Sir.

Q

What did you feel when your father inserted his finger into your vagina?

A

It was painful.

Q

A while ago you said you have a companion, a sister of yours, if that sister is in court can you pinpoint her to us?

INTERPRETER:

The witness x x x pointed to a girl and when asked what is her name, [she] answered ["BBB"].

PROS. OLIVEROS:

x x x x

Q

You pinpointed your older sister ["BBB"], do you know what x x x your father also [did] to your sister ["BBB"]?

A

Yes, Sir.

Q

Kindly tell us what x x x your father [did] to your older sister ["BBB"].

A

My sister removed her clothes and my father also removed his clothes.

Q

After removing those clothes, what did your father do?

A

He had sexual intercourse with ["BBB"].[12]

In order to assess whether "AAA" understood what she was testifying on, the trial judge likewise propounded questions to her. Thus:

COURT:

Few questions from the court.

Q

You x x x mentioned ["AAA"] that your father had inserted his finger [into] your vagina, was it done [at nighttime?]

A

Yes, Your Honor.

Q

And your mother was not around?

A

Yes, Your Honor.

Q

And it was only the following day that your mother arrived?

A

Yes, Sir.

Q

And that was also the time that you have informed your mother of what happened?

A

Yes, Your Honor.

Q

And x x x who were with you on that night?

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A

Erwin and Ate.

Q

What about your father?

A

He was with us that night.

Q

And it was you, your father, your sister[,] and [a] certain Erwin, who slept together on that night?

A

Yes, Sir.

Q

You also x x x mentioned that whenever you take a bath your father [would insert] his finger [into] your vagina, is that correct?

A

Yes, Sir.

Q

What did you feel?

A

Painful.

Q

And you did not inform your mother [that] whenever your father bathed you, [he would insert] his finger [into] your vagina?

A

No, Your Honor.

Q

So it was only the following day after your father had inserted his finger [into] your vagina that you x x x told your mother about it?

A

Yes, Your Honor.[13]

Finally, the prosecution presented the Local Civil Registrar who testified on the Certificates of Live Birth of "AAA" and "BBB." It was established that "AAA" was born on January 18, 1999 and was only 3 years old when the incident happened. As regards "BBB," she was born on September 25, 1996 and was only 5 years old when the incident occurred.

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Version of the Defense

The defense presented appellant as its lone witness. He claimed that on April 7, 2002, he was working at the sugarcane plantation located about two kilometers away from their house[14] but he took his lunch at their house.[15] Contrary to the testimony of "CCC," appellant claimed that his wife did not leave their house on April 7, 2002.[16]

According to appellant, it was already nighttime when he went home on April 7, 2002.[17] Upon arrival, he noticed that "AAA" was already asleep but "BBB" was still awake. He was informed by his wife that "BBB" was sick.[18] Appellant further testified, thus:

Q

What did you do after you learned that "BBB" was not feeling well?

A

I told my wife to ask "BBB" what she feels.

Q

Did your wife ask "BBB"?

A

Yes, sir.

Q

Did you hear ["BBB's" answer] to the query asked by your wife?

A

Yes, sir, headache.

Q

What happened next after you heard "BBB" complaining about her head?

A

Then my wife asked "BBB" again what else is she feeling[.]

Q

Did "BBB" answer back?

A

Yes, sir.

Q

What did you hear?

A

She was also complaining about her knees.

Q

x x x [W]hat happened next, if any?

A

My wife asked her again.

Q

What was the question?

A

What else was wrong with her.

Q

What did "BBB" answer when she was asked again.

A

Her vagina is also painful.

Q

So, what happened next after "BBB" told your wife that her vagina was painful?

A

"BBB" told us that she was sexually abused by her Manoy, by her elder brother.

Q

What did you do after "BBB" told you that she was sexually abused by her Manoy?

A

Nothing, sir.

Q

How about your wife, what did she do?

A

None also, sir.

Q

So, what happened to "BBB" after she told you that she was abused by her Manoy, after telling that what did she do?

A

Nothing, sir.

Q

You said that you [did] nothing together with your wife including "BBB." What [happened] after you heard "BBB" [tell] you x x x that she was sexually abused by her Manoy?

A

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I asked my wife if she will file a case in court but she did not respond.

Q

So, what did you do after that?

A

When I asked my wife if she will file a case in court, my wife did not reply.

Q

That's why after that what happened next?

A

No more, sir.

Q

So, what did you do?

A

Then we went to sleep.[19]

x x x x

Q

Who is this ["EEE"] you referred to?

A

When I married my wife, she already [has] a son.

Q

["EEE"] is your step-son, is that correct?

A

Yes, sir.

Q

How were you able to say that it was ["EEE"] who sexually abused your two daughters?

A

It was my wife who asked our daughters and they told my wife that it was ["EEE"] who abused them.

x x x x

Q

Were there other persons aside from ["EEE"] whom they called Manoy?

A

None, sir.[20]

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x x x x

COURT:

Only one question from the court.

Q

What is the age of ["EEE" in] April, 2002?

A

[In] April 2002, he was already in Grade III.

Q

His age may be 10 or 11 years old?

A

Yes, your Honor.[21]

Ruling of the Regional Trial Court

On May 25, 2006, the RTC rendered its Joint Decision,[22] the dispositive portion of which reads:

> PREMISES CONSIDERED, the prosecution having proven the guilt of the accused beyond reasonable doubt in both Criminal Case No. RTC'02-735 and Criminal Case No. RTC'02-736, judgment is hereby rendered as follows:
>
> 1. In Criminal Case No. RTC'02-735, this Court finds the accused, EFREN ALFONSO, guilty beyond reasonable doubt of the offense of Rape by Sexual Assault as defined and penalized under paragraph 2 of Article 266-A of Republic Act 8353 with the qualifying circumstances under number 1 of Article 266-B of Republic Act 8353 that the victim is under 18 years of age and the offender is a parent and under number 5 thereof that the victim is a child below seven years old as charged in the Information and hereby sentences him to suffer the indeterminate penalty of SIX (6) years and ONE (1) day of PRISION MAYOR, as minimum, to SEVENTEEN (17) years, FOUR (4) months and ONE (1) day of RECLUSION TEMPORAL, as maximum; and to indemnify the offended party, "AAA," civil indemnity of P30,000.00, moral damages of P30,000.00 and exemplary damages of P15,000.00. The accused being a detention prisoner is entitled to be credited with 4/5 of his preventive imprisonment in the service of his sentence in accordance with Article 29 of the Revised Penal Code.
>
> 2. In Criminal Case No. RTC'02-736, this Court finds the accused, EFREN ALFONSO, guilty beyond reasonable doubt of the offense of Statutory Rape by having carnal knowledge of his daughter who is below 12 years of age as defined and penalized under letter (d) paragraph 1 of Article 266-A of R.A. 8353 with the qualifying circumstance under number 1 of Art. 266-B of Republic Act 8353 that the victim is under 18 years of age and the offender is a parent and under number 5 thereof that the victim is a child below seven years old as charged in the Information and hereby sentences him to suffer the extreme penalty of DEATH; and to indemnify the victim, "BBB," the amount of P75,000.00 as civil indemnity, P75,000.00 as moral damages, and P30,000.00 as exemplary damages.
>
> SO ORDERED.[23]

The trial court lent credence to the testimony of "CCC" that she was in Magarao on April 6, 2002 and that when she went home on April 8, 2002, she learned that her daughters "AAA" and "BBB" had been sexually molested by the appellant.[24] Lending credibility to "CCC's" testimony were the results of the physical examination

conducted on her daughters which indicated that "AAA" had "hyperemic labia majora" while "BBB" had "superficial lacerations in her hymen."[25]

The court a quo found it unusual that the appellant did nothing at all upon learning of the sexual molestations suffered by his daughters which were allegedly committed by "EEE."[26] Worse, after learning over the radio that he was accused of raping his daughters, he did not come forward; instead, he made himself scarce until his apprehension two years later.[27]

On the other hand, the trial court found "AAA" and "BBB" competent witnesses despite their young age. Carefully observing their manner of testifying, the court below was satisfied that they can "perceive, remember, communicate, distinguish truth from falsehood, or appreciate the duty to tell the truth in court."[28]

The trial court disregarded the insinuation by the appellant that it was "EEE" who sexually abused "AAA" and "BBB." It noted that despite rigid cross-examination, "AAA" and "BBB" stuck to their testimonies that it was appellant who committed the molestations.[29] It also found it highly improbable for "CCC" to coach "AAA" and "BBB" to testify falsely against their father, or for "CCC" to allow "AAA" and "BBB" "to go through the rigors of a public trial"[30] just to have her husband convicted for a crime which he did not commit.[31] Since the complaints were filed on April 19, 2002 or barely 12 days after the commission of the crimes, the RTC opined that it was inconceivable for "CCC" "to have decided to fabricate a rape charge against the [appellant] much less convince or coach her children to testify falsely against their father."[32] Besides, the trial court noted that appellant did not offer any explanation as to why he sold their personal effects and destroyed their house when his wife decided to bring "AAA" and "BBB" to the hospital for medical examination.[33]

Ruling of the Court of Appeals

On appeal, appellant argued that the trial court erred in giving credence to the testimonies of "AAA" and "BBB." He claimed that their testimonies were all lies and fabrications as coached to them by "CCC."[34] He also alleged that the trial court erred in appreciating the qualifying circumstance of relationship as it was not proven that appellant is the father of "BBB."[35]

In its assailed July 31, 2007 Decision,[36] the CA found "no reason to reverse the findings of the trial court"[37] and thus upheld appellant's conviction on both charges. The dispositive portion of the CA Decision reads:

> WHEREFORE, premises considered, the present appeal is hereby DISMISSED for lack of merit. The appealed Joint Decision dated May 25, 2006 of the Regional Trial Court of Calabanga, Camarines Sur, Branch 63 is hereby AFFIRMED with MODIFICATIONS in that accused-appellant is sentenced to reclusion perpetua with no possibility of parole and reduction of exemplary damages from P30,000.00 to P25,000.00 in Criminal Case No. RTC'02-736 and in Criminal Case No. RTC'02-735, the increase from P15,000.00 to P25,000.00 in exemplary damages.
>
> In all other respects, the decision under review STANDS.
>
> With costs against the accused-appellant.
>
> SO ORDERED.[38]

Our Ruling

On July 25, 2008, appellee filed a Manifestation[39] stating that it would no longer file a Supplemental Brief having already extensively discussed the issues in its brief filed before the CA.

Appellant filed his Supplemental Brief[40] on August 8, 2008. He insists that the CA overlooked the fact that the reddening of "AAA's" sexual organ might have been caused by a disease or by the scratching done by "AAA"

herself. He claims that he could not be held liable for rape by sexual assault considering that the act imputed against him is nothing different from the accidental or casual touching of "AAA's" vagina which he does every time he gives "AAA" a bath.[41] As regards "BBB's" testimony, appellant argues that the same deserves scant consideration because "BBB" was coached by her mother, "CCC." Thus, the possibility that some other person committed the rape is present.[42] In particular, he points to "EEE" as the culprit.[43]

The appeal is bereft of merit.

Both the trial court and the CA correctly found appellant guilty of rape by sexual assault.

Under Article 266-A(2) of the RPC, rape by sexual assault is committed "[b]y any person who, under any of the circumstances mentioned in paragraph 1 hereof, shall commit an act of sexual assault by inserting his penis into another person's mouth or anal orifice, or any instrument or object, into the genital or anal orifice of another person."

In the present case, there is no doubt that appellant inserted his finger into the genital of "AAA." The claim of the appellant that disease or scratching caused the reddening of "AAA's" genital lacks factual basis. In fact, appellant did not mention this before the court below to bolster his defense of denial albeit Dr. Quilon's mentioning that the reddening of "AAA's" genital could have also been caused by scratching or disease. Likewise, the defense never presented any proof that "AAA" was suffering from a disease at the time. Neither did the defense elicit any admission from "AAA" that she scratched her genital thus causing the reddening. On the contrary, records show that "AAA" was forthright in her testimony that her father inserted his finger into her vagina.

Moreover, appellant's admission that he touches "AAA's" vagina each time he gives her a bath strengthens our belief that he is capable of committing sexual abuse to his own daughter. Also, such admission does not negate the possibility of committing rape by sexual assault on "AAA" on April 7, 2002.

We reviewed succintly the testimony of "AAA" and we find the same credible and straightforward. At the time of the incident, "AAA" was only 3 years old. She was 5 years old when she testified before the court. However, despite her age she consistently and without hesitation pointed to her father as the person who inserted his finger into her vagina on April 7, 2002.

Her tender age notwithstanding the trial court ably found "AAA" competent to testify on her harrowing experience. As aptly observed by the trial court:

> Certain nagging questions need to be answered such as for instance did the children fully understand the meaning of what they were telling the court? Were they able to distinguish truth from falsehood? Were they able to appreciate the duty to tell the truth in court?
>
> x x x x
>
> The competence of "BBB" to testify as to the fact of her having been sexually abused was amply demonstrated before this Court. Both "BBB" and "AAA" were asked questions by the prosecution and defense in order to probe their competency to testify in terms of their ability to perceive, remember, communicate and distinguish truth from falsehood. After observing the manner of testifying and hearing the answers of the child witnesses, this court was satisfied that no substantial doubt existed regarding the ability of the children to perceive, remember, communicate, distinguish truth from falsehood, or appreciate the duty to tell the truth in court.[44]

Both the trial court and the CA correctly found appellant guilty of statutory rape.

Under Art. 266-A(1)(d) of the RPC, statutory rape is committed "[b]y a man who shall have carnal knowledge of a woman" who is "under twelve (12) years of age." In the instant case, the prosecution proved beyond reasonable

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doubt that appellant had carnal knowledge of "BBB" who was only 5 years of age at the time.

Both the trial court and the appellate court correctly disregarded appellant's contention that "BBB's" testimony was rehearsed. The records clearly show that "BBB" testified in a straightforward and credible manner despite the rigid cross-examination by the appellant's counsel. She remained steadfast throughout her narration that it was appellant who sexually abused her. This prompted the trial court to state thus:

> It is unthinkable that a child of tender years placed under rigid cross-examination would not loosen up or break down and reveal the details of such a traumatic experience including pinpointing the actual perpetrator of the crime. It is believed that such traumatic experiences are deeply engraved in the memory of the victim and will certainly come to the surface once the victim is confronted and cross-examined especially when the victim is an innocent and naïve child. Their natural innocence and naivete will prevent them from sustaining a lie.[45]

There is likewise no basis to appellant's claim that "CCC" coached "BBB" to testify falsely against him. We agree with the trial court's observation that:

> To say that "CCC" deliberately concocted the rape charge against accused who was her husband and that she taught her children, who were only 5 and 7 years of age, to falsely testify against their very own father would attribute such a high degree of malevolence if not sophistication to said witness. This court finds it highly improbable. To go out of her way to file a complaint and go through the rigors of a public trial for the purpose of having her husband convicted for an offense he did not commit is to this court something the witness does not appear capable of. Moreover, wanting to spare a son from being prosecuted and punished is not a sufficient motivation for a wife and mother to want to have her husband put in prison or punished with the supreme penalty of death. The ordinary functioning of the human mind and human emotion does not seem to work that way. It could probably happen in moments of desperation as when there is no other way to save her son. The sequence of events as shown by the evidence does not bear this out. x x x
>
> x x x x
>
> The record likewise shows that the complaint was filed on April 19, 2002 or only 9 days after the children were examined and were found to have signs of having been sexually abused. During this span of time, it is inconceivable for "CCC" to have decided to fabricate a rape charge against the accused much less convince or coach her children to testify falsely against their father. Moreover, all these could have been uncovered during cross examination. As it is, despite the rigid cross examination by counsel for the accused, "BBB" and "AAA" did not falter in pointing to their father as the one who did something wrong to their vaginas.[46]

Finally, the courts below correctly disposed of appellant's contention that "EEE" was the real culprit. Both "AAA" and "BBB" were consistent in pointing out that it was appellant who committed the sexual acts against them. Despite the suggestion from appellant's counsel, both remained steadfast that their father was the one who raped them. Lending credence to the fact that appellant was indeed guilty of the crimes attributed against him were his own actuations at the time material to this case. By appellant's own admission, he did nothing upon learning that his own daughters "AAA" and "BBB" were sexually molested allegedly by "EEE." Instead, he just went to sleep upon learning of the abuses committed against his own daughters. When his wife, "CCC," insisted on bringing "AAA" and "BBB" to the hospital to undergo medical examination, appellant got angry. He sold their personal effects and even destroyed their house. He also made himself scarce. Even after hearing over the radio that he was the one accused of raping his two daughters, he did not come forward to clear his name. Instead, he went on hiding until his capture two years later. "[T]he flight of an accused is an indication of his guilt or of a guilty mind."[47]

We thus agree with the observation of the court a quo that:

> The facts as testified to by the accused on the other hand do not seem to jibe with the normal habits of man.

> For instance, according to the accused, despite having heard that his child "BBB" was sexually abused by his stepson, he did nothing about it. It does not take much education to feel the protective instincts of a father whose child has been violated. He did not confront his stepson nor did he report the matter to the barangay. Not even when he learned over the radio that he was being accused of raping his own daughters did he come forward with what he believed was the truth. Instead, the accused made himself scarce until he was finally apprehended in the year 2004. Such actuations do not appear consistent with the actuations of an innocent man.[48]
>
> x x x x
>
> It might have been a bit more believable if say the accused reported the matter to the barangay captain or warned ["CCC"] that he would report the matter to the authorities. He did neither. In fact, he did nothing. There is nothing to corroborate his claim that "BBB" told her mother that she was sexually abused by her Manoy.[49]

All told, we entertain no doubt that appellant committed the imputed acts upon his daughters "AAA" and "BBB" on April 7, 2002.

The Penalty

Under Article 266-B of the RPC, the penalty for rape by sexual assault is reclusion temporal "if the rape is committed by any of the 10 aggravating/ qualifying circumstances mentioned in this article." In Criminal Case No. RTC-`02-735, the rape was committed by a parent against his then 3-year old child. Reclusion temporal ranges from twelve (12) years and one (1) day to twenty (20) years. Applying the Indeterminate Sentence Law, the penalty next lower in degree is prision mayor which ranges from six (6) years and one (1) day to twelve (12) years. Thus, the trial court, as affirmed by the CA, correctly imposed upon appellant the penalty of six (6) years and one (1) day of prision mayor, as minimum, to seventeen (17) years, four (4) months and one (1) day of reclusion temporal, as maximum.

In Criminal Case No. RTC-'02-736, appellant had carnal knowledge of his daughter, "BBB," who was only 5 years old. Hence, the crime committed was statutory rape, the penalty for which is death.[50] However, with the passage of Republic Act No. 9346[51] prohibiting the imposition of the death penalty, the CA correctly modified the penalty to reclusion perpetua without eligibility for parole.

Damages

In Criminal Case No. RTC-'02-735, the awards of P30,000.00 as civil indemnity and another P30,000.00 as moral damages are proper. However, the award of exemplary damages in the amount of P25,000.00 must be increased to P30,000.00 in line with prevailing jurisprudence.[52]

In Criminal Case No. RTC-'02-736, we find that both the trial court and the CA correctly awarded the amounts of P75,000.00 as civil indemnity and another P75,000.00 as moral damages. However, the award of exemplary damages in the amount of P25,000.00 must be increased to P30,000.00 in line with prevailing jurisprudence.[53]

WHEREFORE, we AFFIRM with MODIFICATIONS the July 31, 2007 Decision of the Court of Appeals in CA-G.R. CR-H.C. No. 02312. Appellant Efren Alfonso is found guilty of Rape by Sexual Assault in Criminal Case No. RTC-'02-735 and is sentenced to suffer the penalty of six (6) years and one (1) day of prision mayor, as minimum, to seventeen (17) years, four (4) months and one (1) day of reclusion temporal, as maximum. He is also ordered to pay "AAA" the amounts of P30,000.00 as civil indemnity, P30,000.00 as moral damages, and P30,000.00 as exemplary damages. Appellant is also found guilty of Statutory Rape in Criminal Case No. RTC-'02-736 and is hereby sentenced to suffer the penalty of reclusion perpetua without eligibility for parole. He

is also ordered to pay "BBB" the amounts of P75,000.00 as civil indemnity, P75,000.00 as moral damages, and P30,000.00 as exemplary damages.

SO ORDERED.

Corona, C.J., (Chairperson), Velasco, Jr., Leonardo-De Castro, and Perez, JJ., concur.

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[1] Rollo, pp. 2-24; penned by Associate Justice Martin S. Villarama, Jr. (now a Member of this Court) and concurred in by Associate Justices Noel G. Tijam and Sesinando E. Villon.

[2] Records, Vol. 1, pp. 65-90; penned by Judge Freddie D. Balonzo.

[3] The identity of the victim or any information which could establish or compromise her identity, as well as those of her immediate family or household members, shall be withheld pursuant to Republic Act No. 7610, An Act Providing for Stronger Deterrence and Special Protection Against Child Abuse, Exploitation and Discrimination, and for Other Purposes; Republic Act No. 9262, An Act Defining Violence Against Women and Their Children, Providing for Protective Measures for Victims, Prescribing Penalties Therefor, and for Other Purposes; and Section 40 of A.M. No. 04-10-11-SC, known as the Rule on Violence Against Women and Their Children, effective November 5, 2004.

[4] Records, Vol. 2, p. 1.

[5] Records, Vol. 1, p. 1.

[6] Id. at 33; Records, Vol. 2, p. 55.

[7] Records, Vol. 1, pp. 35-36.

[8] Id.

[9] TSN, November 23, 2004, pp. 1-11.

[10] TSN, December 15, 2004, pp. 1-12.

[11] TSN, January 12, 2005, pp. 6-8.

[12] TSN, January 19, 2005, pp. 5-7.

[13] Id. at 16-17.

[14] TSN, April 13, 2005, p. 4.

[15] Id. at 5.

[16] Id. at 2.

[17] Id. at 6.

[18] Id. at 7.

[19] Id. at 8-10.

[20] Id. at 10-11.

[21] Id. at 14.

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[22] Records, Vol. 1, pp. 65-90.

[23] Id. at 89.

[24] Id. at 77.

[25] Id. at 77-82.

[26] Id. at 77.

[27] Id.

[28] Id. at 78.

[29] Id. at 81-82, 85.

[30] Id. at 84.

[31] Id.

[32] Id. at 85.

[33] Id. at 84.

[34] CA rollo, p. 75.

[35] Id. at 76.

[36] Rollo, pp. 2-24.

[37] Id. at 17.

[38] Id. at 23.

[39] Id. at 36-37.

[40] Id. at 39-43.

[41] Id. at 39.

[42] Id. at 39-40.

[43] Id. at 40.

[44] Records, Vol. 1, pp. 77-78.

[45] Id. at 81.

[46] Id. at 84-85.

[47] People v. Vallador, 327 Phil. 303, 315 (1996).

[48] Records, Vol. I, p. 77.

[49] Id. at 84.

[50] REVISED PENAL CODE, Art. 266-B provides in part:

> x x x x
>
> The death penalty shall also be imposed if the crime of rape is committed with any of the following

aggravating/qualifying circumstances:

1. When the victim is under eighteen (18) years of age and the offender is a parent x x x of the victim.

x x x x

5. When the victim is a child below seven (7) years old.

[51] AN ACT PROHIBITING THE IMPOSITION OF THE DEATH PENALTY IN THE PHILIPPINES [2006].

[52] See People v. Lindo, G.R. No. 189818, August 9, 2010.

[53] See People v. Garbida, G.R. No. 188569, July 13, 2010.

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