

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. FELIX WASIT, ACCUSED-APPELLANT.

G.R. No. 182454. July 23, 2009

Ponente: VELASCO JR., J.

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VELASCO JR., J.:

This is an appeal from the Decision dated September 27, 2007 of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 01451, which affirmed the May 22, 2000 Decision in Criminal Case No. 1098 of the Regional Trial Court (RTC), Branch 37 in Bambang, Nueva Vizcaya. The RTC found accused-appellant Felix Wasit guilty beyond reasonable of the crime of rape.

The Facts

In an Information dated August 18, 1998, Wasit was charged with rape committed as follows:

That in the early morning of November 5, 1997, at Barangay [XXX], Municipality of Kayapa, Province of Nueva Vizcaya, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, taking advantage of superior strength and with lewd designs, did then and there willfully, unlawfully and feloniously have carnal knowledge of [13 year old AAA[1]] against her will and consent, to her damage and prejudice.

CONTRARY TO LAW.

Wasit entered a plea of "not guilty plea" upon arraignment.

During trial, the prosecution presented the following witnesses: AAA, the private complainant, her boardmates Alma Bato and Bensa Tipang, Dr. Christopher Magallanes, and rebuttal witness Felicidad E. Lasaten.

The prosecution's evidence established the following facts:

On November 5, 1997, AAA, then 13 years old, was asleep in her room on the second floor of a boarding house in Besong, Nueva Vizcaya, owned by the Wasit parents. Between 1 to 2 o'clock in the morning of that day, she was awakened by the pain she felt between her legs. Someone on top of her was undressing and molesting her. She tried to shout and struggle but her efforts went in vain as the intruder covered her mouth with his hand. After succeeding in having a penile penetration, the yet-unknown offender proceeded to insert his fingers inside AAA's sexual organ and told her, in local dialect, not to shout. She recognized the voice as belonging to Wasit, whom she had been acquainted with for four months. AAA eventually managed to free herself. She stood up, yelled, cried, and then pulled up her panty and knee-length shorts to cover herself. Wasit then asked her to stay quiet, pleaded for forgiveness, and implored her to keep the incident a secret. AAA, however, rushed outside and later told Nieves Wasit, Wasit's sister, of what had just happened. She then started to pack her things so she could go home to Kasibu, Nueva Vizcaya, and report the incident. Nieves, however, prevented her from leaving.[2]

Meanwhile, Bato, who was occupying a room downstairs, was awakened by the commotion upstairs. She testified

hearing AAA shout "Satanas ka Felix (You are Satan Felix.)." Afterwards, AAA confided to Bato that she had been raped by Wasit.

Tipang, another boarder occupying a room at the ground floor, heard AAA's footsteps while heading toward Nieves' room. Tipang heard Wasit uttered the following line: "Stop, that's enough it's my fault." She was certain that the voice she heard was that of Wasit since he was the lone male boarder on the second floor.[3]

The next day, AAA told her teacher, Marcela Barrino, about the incident. After spending the night at Barrino's place, AAA retrieved her belongings from the Wasit boarding house accompanied by her friend Agnes Langpawan. A few days later, AAA's newly-arrived uncle brought her to the Kayapa Hospital for a medical examination.[4]

The medical examination conducted by Dr. Magallanes on November 10, 1997 showed that there were no evident signs of extra-genital physical injuries on AAA. The medico-legal report dated November 13, 1997, however, stated that there was a notable disruption of the continuity of the hymenal folds at the 4 o'clock position.[5]

Apart from Wasit, the defense presented Nieves, Dionisio Wasit, and Felicidad Wasit as witnesses.

Wasit testified being single and a gardener. From November 1 to November 10, 1997, he had been gathering cogon grass during daytime for the roofing of the boarding house's kitchen. On November 2, 1997, AAA informed him she would be transferring to another lodging house. He then advised her to first inform her parents of her plans. On November 4, 1997, he had dinner with his sister Nieves, brother Dionisio, nephew Marvin, and AAA at the boarding house. Thereafter, Nieves and AAA left ahead to go to bed while he and Dionisio continued with their conversation until about midnight. He woke up early the next day, November 5, 1997, without noticing anything out of the ordinary. In fact, he had breakfast that morning with Nieves, Dionisio, his nephew, and AAA. After completing his usual chores, he went home and noticed that AAA was no longer around. He was told that she would be staying with Barrino. On November 6, 1997, AAA's friend Agnes told him that AAA would be staying with her.

The police came on November 10, 1997 to arrest Wasit while he was gathering cogon grass.[6]

Wasit's siblings, Nieves and Dionisio, corroborated his testimony.[7]

After trial, the RTC rendered judgment finding Wasit guilty of the crime of rape, the fallo of which reads:

WHEREFORE, the Court hereby finds the accused Felix Wasit GUILTY of the crime of Rape defined and penalized under Art. 266-A and Art. 266-B of the Revised Penal Code, as amended by Republic Act No. 8353, and accordingly sentences him to suffer the penalty of reclusion perpetua, and to pay the costs. He is also ordered to pay the offended party the sums of fifty thousand pesos (P50,000.00) as civil indemnity, fifty thousand pesos (P50,000.00) as moral damages, and twenty thousand pesos (P20,000.00) as exemplary damages.

SO ORDERED.[8]

Wasit appealed the RTC Decision to this Court. On September 15, 2004, the Court, in line with the ruling in *People v. Mateo*,^[9] transferred the case to the CA for intermediate review.

On September 27, 2007, the CA rendered the assailed Decision^[10] affirming in toto that of the RTC, inclusive of the award and the amount of damages, disposing as follows:

WHEREFORE, premises considered, the Appeal is hereby DENIED and the questioned Decision dated May 22, 2000 of the Regional Trial Court (RTC), Branch 37, Bambang, Nueva Viscaya, in Criminal Case No. 1098 is AFFIRMED in toto.

SO ORDERED.

On October 17, 2007, Wasit filed a Notice of Appeal of the CA decision.

On July 7, 2008, this Court required the parties to submit supplemental briefs if they so desired. The parties manifested their willingness to submit the case on the basis of the records already submitted.

The issues before us are as follows:

I

THE TRIAL COURT [AND THE CA] GRAVELY ERRED IN GIVING FULL WEIGHT AND CREDENCE TO THE INCREDIBLE TESTIMONIES OF THE PROSECUTION WITNESSES

II

THE TRIAL COURT [AND THE CA] GRAVELY ERRED IN CONVICTING ACCUSED-APPELLANT OF RAPE DESPITE FAILURE OF THE PROSECUTION TO PROVE HIS GUILT BEYOND REASONABLE DOUBT

Wasit in fine questions in this recourse the credibility of the prosecution's witnesses and the adequacy of its evidence. First off, he argues that it is not believable and contrary to common experience for him to insert his finger in AAA's vagina after he had already succeeded in inserting his penis. He found it illogical for AAA not to have awakened while somebody was undressing her.

He likewise dismisses, as incredible, the testimony of prosecution witness Tipang, who recounted that she heard AAA's footsteps while AAA was on her way to Nieves' room. He asserts that it was unbelievable for Tipang, who was occupying a room at the ground floor, to have heard footsteps sounds coming from another floor.

The Court's Ruling

We affirm Wasit's conviction.

What we are being called to review in this appeal are issues that are inconsequential and with little bearing on the finding of guilt beyond reasonable doubt. In a prosecution for rape, the credibility of the complaining victim is the single most important issue.[11] An accused's conviction or acquittal depends on the credibility of prosecution's witnesses, most especially that of the private complainant, and her candor, sincerity, and like virtues play a very significant role in the disposition of the case. If, in the eyes, heart, and mind of the trial court, a complainant's testimony meets the test of credibility, then the accused may be convicted solely on that basis.[12]

As found in the affirmed decision of the trial court, AAA's testimony as to being at the receiving end of Wasit's beastly act of molestation was positive and credible. To quote the trial court:

The court used not only its ears but also its eyes to receive the evidence to determine whether there were telltale signs that the complaining witness was lying. When she left the witness stand, the court was convinced that she had told the truth. She had spoken softly with some natural sincerity that was convincing. The court had not perceived anything in her manner of testimony, gesture, hesitation and the like by which it could be said that the witness testified falsely. She spoke in a firm, straight-forward and candid manner. Her testimony rang true: it was simple without being hysterical or histrionic. She was able to control her emotions during her testimony but it was clear to the Court that she was distraught, bravely trying to hold back her tears. But, later, her efforts failed and she quietly sobbed.[13]

Just like the appellate court, the Court loathes to disturb the trial court's assessment of AAA's credibility having had the opportunity to observe her behavior on the witness box. When the victim is of tender age and immature, courts are inclined to give credit to her account of what transpired, considering not only her relative vulnerability

but also the shame to which she would be exposed if the matter to which she testified is not true.[14]

The manner or order by which AAA narrated the rape incident is not material as long as the elements[15] of the offense are shown to exist. What is more, as the People countered in its Brief, some people sleep more deeply than others. Other factors explaining her deep slumber may also have been at play for AAA not to awaken at the initial stage of the sexual assault, such as over-fatigue and Wasit's cautiousness in undressing her. AAA's claim that she was not roused from her slumber when Wasit removed her undergarment does not dent her credibility.

Contrary to Wasit's contention, it was likewise not improbable that the people at the ground floor of the boarding house could hear footsteps on the second floor. It is logical that one familiar with all the boarders would be likewise familiar with how each one moves about in the house. It is also not impossible to hear someone's footsteps especially at midnight, when the rape occurred.

It cannot be over-emphasized that the credibility of a rape victim is not diminished, let alone impaired, by minor inconsistencies in her testimony. Such inconsistencies are inconsequential when they refer to minor details that have nothing to do with the essential fact of the commission of the crime--carnal knowledge through force and intimidation. The alleged inconsistencies refer to minor details and are evidently beyond the essential fact of the commission of rape because they do not pertain to the actual sexual assault itself--that very moment when Wasit was forcing himself on AAA.[16] A weeping AAA had pointed to Wasit as the very person who defiled her.

In contrast, Wasit simply denied the accusation against him, claiming to have gone to bed at midnight when the incident occurred. The RTC, however, did not accord this denial any probative value in the face of the positive testimony of AAA. The trial court even observed that Wasit, from the way he deported himself, on the witness stand, was far from convincing, his testimony sounding contrived and unnatural.[17] To make matters worse for the defense, Wasit's other witnesses gave the trial court the impression that the Wasit family was closing ranks to cover up a serious felony committed by a family member.

We, thus, affirm the trial court's assessment of the testimonial evidence. First, the evaluation of the witnesses' credibility is, to repeat, a matter best left to the trial court because it has the opportunity to observe the witnesses and their demeanor during the trial. Thus, the Court accords great respect to the trial court's findings, unless it overlooked or misconstrued some facts of substance which could have affected the outcome of the case.[18] This rule finds an even more stringent application where the appellate court sustains the trial court's factual determination,[19] as here.

Second, we have long adhered to the rule that the testimony of a minor rape victim is given full weight and credence as no young woman would plausibly concoct a story of defloration, allow an examination of her private parts, and thereafter pervert herself by being subject to a public trial, if she was not motivated solely by the desire to obtain justice for the wrong committed against her. Youth and immaturity are badges of truth.[20]

Third, jurisprudence teaches that between categorical testimonies that ring of truth, on one hand, and a bare denial, on the other, the Court has strongly ruled that the former must prevail. Indeed, positive identification of the accused, when categorical and consistent and without any ill motive on the part of the eyewitnesses testifying on the matter, prevails over alibi and denial.[21] In the instant case, considering that alibis are easy to fabricate with the aid of immediate family members or relatives, they assume no importance in the face of positive identification by the victim herself.[22]

In sum, the purported flaws in the prosecution's testimonial evidence do not have any negative effect on the credibility of its witnesses. There are no material inconsistencies that merit a reversal of Wasit's conviction.

As to Wasit's pecuniary liability, we increase the award of exemplary damages to PhP 30,000 in line without our

holding in *People v. Sia*.^[23] We affirm the award of the other damages in the amount set forth in the appealed decision.

WHEREFORE, the appeal is DENIED. The CA Decision in CA-G.R. CR- H.C. No. 01451 finding accused-appellant Felix Wasit guilty of the crime of rape is AFFIRMED with the MODIFICATION that the exemplary damages he is ordered to pay is increased to Php 30,000.

SO ORDERED.

Ynares-Santiago, (Chairperson), Chico-Nazario, Nachura, and Peralta, JJ., concur.

[1] The name and personal circumstances of the victim and her immediate family are withheld per RAs 7610 and 9262; and *People v. Cabalquinto*, G.R. No. 167693, September 19, 2006, 502 SCRA 419.

[2] *Rollo*, pp. 4-5.

[3] *Id.*

[4] *Id.* at 6.

[5] *Id.* at 6-7.

[6] *Id.* at 7-8.

[7] *Id.* at 8.

[8] *Id.* at 25-26. Penned by Judge Jose Godofredo M. Naui.

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

[10] *Rollo*, pp. 2-18. Penned by Associate Justice Ramon R. Garcia and concurred in by Associate Justices Josefina Guevara-Salonga and Vicente Q. Roxas.

[11] *People v. Opong*, G.R. No. 177822, June 17, 2008, 554 SCRA 706, 716.

[12] *People v. Magbanua*, G.R. No. 176265, April 30, 2008, 553 SCRA 698, 705; citing *People v. De Guzman y Pascual*, G.R. No. 124368, June 8, 2000, 333 SCRA 269, 280.

[13] CA *rollo* p. 22.

[14] *Llave v. People*, G.R. No. 166040, April 26, 2006, 488 SCRA 376, 400.

[15] REVISED PENAL CODE, Art. 266-A. Rape, When and How Committed.--Rape is committed--

- By a man who shall have carnal knowledge of a woman under any of the following circumstances:
- Through force, threat or intimidation;
- When the offended party is deprived of reason or is otherwise unconscious;
- By means of fraudulent machination or grave abuse of authority;
- When the offended party is under twelve (12) years of age or is demented, even though none of the circumstances mentioned above be present; x x x

[16] *People v. Dela Cruz*, G.R. No. 177572, February 26, 2008, 546 SCRA 703, 720; citations omitted.

[17] CA rollo, p. 23.

[18] *People v. Montinola*, G.R. No. 178061, January 31, 2008, 543 SCRA 412, 427; citing *People v. Fernandez*, G.R. No. 176060, October 5, 2007, 535 SCRA 159.

[19] *People v. Nieto*, G.R. No. 177756, March 3, 2008, 547 SCRA 511, 524; citing *People v. Cabugatan*, G.R. No. 172019, February 12, 2007, 515 SCRA 537, 547.

[20] *Opong*, supra note 11, at 722.

[21] *People v. Dela Paz*, G.R. No. 177294, February 19, 2008, 546 SCRA 363, 378; citing *People v. Tagana*, 468 Phil. 784, 807 (2004).

[22] *People v. Mangompit, Jr.*, G.R. Nos. 139962-66, March 7, 2001, 353 SCRA 833, 847.

[23] G.R. No. 174059, February 27, 2009.

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