

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. HILARIO ESCOTON, APPELLANT.

G.R. No. 183577. February 01, 2010

Ponente: DEL CASTILLO, J.

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DEL CASTILLO, J.:

In rape cases, the credibility of the victim is always the single most important issue.[1] In passing upon this matter, the highest degree of respect must be accorded to the findings of the trial court.[2]

The Charge

Impugned in this appeal is the February 5, 2008 Decision[3] of the Court of Appeals (CA) in CA-G.R. CR HC No. 00520 affirming with modification the Decision[4] of the Regional Trial Court (RTC) of Carigara, Leyte, Branch 13, in Criminal Case No. 4071, convicting appellant Hilario Escoton of the crime of multiple rape against AAA.[5] The Information[6] contained the following accusatory allegations:

That on or about the 12th day of May, 2001, in x x x, Province of Leyte, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with deliberate intent and with lewd designs, taking advantage of the minority, as well as relationship of the accused with the victim, and by use of force and intimidation being armed with a sickle (garab) did then and there willfully, unlawfully and feloniously have carnal knowledge for five (5) times in the same evening of May 12, 2001, with one "AAA", a 10-year-old, a niece of the accused, against her will to her damage and prejudice.

Contrary to law with the qualifying circumstance that the victim is under 18 years and the offender is a relative by consanguinity within the third civil degree of the victim.

The appellant pleaded not guilty to the crime charged during his arraignment. After the termination of the pre-trial conference, trial ensued.

The Version of the Prosecution

The evidence presented by the prosecution established that "AAA" was born on October 29, 1990, as shown by her Certificate of Live Birth[7] and Baptismal Certificate.[8] The appellant is the uncle of "AAA", being the brother of her mother. On May 12, 2001, at around 7 o'clock in the evening, "AAA" and her brother were asleep in the house of their maternal grandmother with whom they were residing. The appellant woke up "AAA" and told her to follow him to his house which was about 500 meters away. "AAA's" brother also woke up and accompanied her. Their grandmother did not give them permission to leave, but they still proceeded towards their destination.

Upon arrival, the appellant undressed himself and removed the lower garments of "AAA". He made her lie down on the bamboo floor then inserted his penis into her vagina despite her pleas to discontinue his hideous act. "AAA" felt pain as the appellant had sex with her. The appellant raped "AAA" for five times during the night while her brother lay silently beside her.

When daylight came, the appellant ordered "AAA" and her brother to fetch drinking water. However, instead of heeding appellant's order, they went home to their grandmother to whom "AAA" tearfully narrated her ordeal. Upon advice of a relative, they reported the incident to the police and "AAA" submitted herself to a physical examination in a hospital. Although the doctors who performed the medical examination on "AAA" the day after she was raped could no longer be located during the trial, the Records Officer affirmed the authenticity of the document containing the results of said examination and the signatures of doctors appearing thereon. The record of the medical examination on "AAA" indicated that her genitalia was normal with incomplete healed lacerations of the hymen at 3, 8, and 9 o'clock positions. The vaginal smear was negative for spermatozoa.[9]

The Version of the Defense

The appellant presented a totally different version of the incident. He testified that on May 12, 2001, at around 7 o'clock in the evening, he was on his way home after consuming tuba. He passed by the house of his mother and noticed her in the balcony having a conversation with his aunt Clarita and her husband. He was then requested to fetch "AAA", who was watching television in the house of another relative. The appellant obeyed and after finding "AAA" told her to go home. However, "AAA" got angry, cursed him and insisted on watching the television. Irrked by "AAA's" behavior, appellant pushed her, which made her fall from the stairs until she landed on the ground. It was only after this incident that "AAA" went home.

When the appellant returned to his mother's house, his mother and his aunt Clarita were enraged and hurled invectives at him. He cursed them in return. His mother warned that he would be sent to prison for repeatedly beating up "AAA". He replied that the meager amount paid to him by his aunt Clarita and her husband whenever they hired him to work in their farm was demeaning to his person. Thereafter, he proceeded to the house of his uncle and slept on the balcony where he awoke at 6 o'clock the next morning.

The appellant asserted that his aunt Clarita initiated this case after he challenged her and her husband to a fight. He also claimed that "AAA" concocted false accusation against him because he used to beat her with a whip and push her head to the ground as punishment for her stubbornness.

The Decision of the Regional Trial Court

On June 28, 2004, the trial court rendered its Decision, the dispositive portion of which reads as follows:

WHEREFORE, premises considered, pursuant to Art. 266-B of the Revised Penal Code as amended, and further amended by R.A. 8353 (The Anti-Rape Law of 1997) and the amendatory provision of R.A. No. 7659 (The Death Penalty Law), without any mitigating circumstance, the Court found accused HILARION ESCOTON, GUILTY, beyond reasonable doubt of the crime of MULTIPLE RAPE charged under the information and sentenced to suffer the maximum penalty of DEATH and ordered to pay civil indemnity to "AAA" in the amount of Seventy Five Thousand (P75,000.00) Pesos; for moral damages in the amount of Seventy Five Thousand (P75,000.00) Pesos; and for exemplary damages in the amount of Twenty Five Thousand (P25,000.00) Pesos; and

Pay the Cost.

SO ORDERED.[10]

The Verdict of the Court of Appeals

In its Decision

Q.

You said that when you reached thereat you were undressed, by the way, what were you wearing that time

when undressed?

A.

I was wearing then a short and a sando.

Q.

Now, what was taken off from you first, was it the sando or shorts?

A.

My shorts.

Q.

Now, do you have a panty that time?

A.

Yes, sir.

Q.

Now, after the shorts were taken was it one after the other with your panty or simultaneous?

A.

It was taken off simultaneously, the shorts and the panty.

Q.

After your shorts and your panty was [sic] taken off from your body, what did the accused do relative to your upper apparel?

x x x x

A.

He did not take off my sando.

PROS. MERIN:

Q.

After your shorts and panty was [sic] successfully taken off from your body, what next did the accused do upon your person?

A.

He inserted his penis [into] my vagina.

Q.

Was the accused wearing something when he inserted his penis [into] your vagina?

A.

He was not wearing anything.

Q.

When did he [undress] himself after you were undressed or before you were undressed?

x x x x

A.

He took off first his apparel before taking off my shorts and panty.

PROS. MERIN:

Q.

You mean, he undressed himself after your arrival at the house?

A.

Yes, sir.

Q.

What was your relative position when your uncle Hilario Escoton inserted his penis [into] your vagina?

A.

I was then lying.

Q.

Lying where?

A.

I was then lying on the center of the room.

Q.

Now is there any floor to that?

A.

Yes, sir.

Q.

And what is it made of?

A.

Made of bamboo sheets.

Q.

Now, after you [were] made to lie on that bamboo splits and his penis was inserted [into] your vagina, what did you feel?

A.

I felt the warmth.

Q.

What did [sic] Hilario doing with his penis [into] your vagina?

A.

He kept on inserting.

Q.

You mean he made a push and pull movement?

x x x x

A.

Yes, sir.

PROS. MERIN

Q.

Was he successful in inserting his penis [into] your vagina?

A.

Yes, sir.

Q.

For how long was the accused doing the push and pull movement of his penis [into] your vagina?

A.

I cannot exactly remember because he kept on repeating it.

Q.

Now, how [sic] did you feel while the accused was doing the push and pull movement of his penis [into] your vagina?

A.

Pain, sir.

Q.

Pain coming from where?

A.

In my vagina, sir.

Q.

Now, was the accused able to reach his ejaculation?

A.

The warm.

Q.

Warm what?

A.

Warm liquid.

Q.

And where was that liquid coming out?

A.

From his penis.

Q.

Now, after he was able to ejaculate, what did the accused do?

A.

He lie [sic] for a while.

Q.

How about you what did you do after he was able to ejaculate while lying?

A.

I wore my panty.

Q.

What did you tell your uncle while he was raping you.

A.

I said, don't do that kuya.

Q.

What do you mean kuya, to whom are you addressing the word kuya?

A.

To Hilario.

Q.

Is that what you address him, your uncle?

A.

Yes, sir.

Q.

How many times by the way after he rested for a while and you already put your panty, what next happened tell this Court?

x x x x

A.

He repeated again.

PROS. MERIN:

Q.

What do you mean he repeated again?

A.

He raped me again.

Q.

You mean he inserted again his penis [into] your vagina?

A.

Yes, sir.

Q.

Now, you said a while ago that you wore already a panty did I hear you correctly?

A.

Yes, sir.

Q.

And what did he do with your panty?

A.

He slept for a while.

Q.

And when did he wake up?

A.

I do not know because he kept on repeating.

Q.

You mean, he had repeatedly raped you on that evening?

x x x x

A.

Yes, sir.

PROS. MERIN

Q.

How many times were you raped that evening?

x x x x

A.

Five times, sir.[14]

We stress that in rape cases the accused may be convicted based solely on the testimony of the victim, provided that such testimony is credible, natural, convincing and consistent with human nature and the normal course of things.[15] In this regard, the trial court is in the best position to assess the credibility of the victim, having personally heard her and observed her deportment and manner of testifying during the trial. In the absence of any showing that the trial court overlooked, misunderstood, or misapplied some factor or circumstances of weight that would affect the result of the case, or that the judge acted arbitrarily, the trial court's assessment of credibility deserves the appellate court's highest respect.[16] Here, the appellant fails to persuade us to depart from this principle and to apply the exception.

The testimony of rape victims are given full weight and credence, considering that no young woman, especially of tender age, would concoct a story of defloration, allow an examination of her private parts, and thereafter pervert herself by being subjected to a public trial, if she was not motivated solely by the desire to seek justice for the wrong done to her.[17] It is highly improbable that a girl of tender years who is not yet exposed to the ways of the world, would impute to any man a crime so serious as rape if what she claims is false.[18] Considering that the victim in this case underwent a harrowing experience and exposed herself to the rigors of public trial, it is unlikely that she would concoct false accusations against the appellant, who is her uncle.

It should be noted that "AAA" immediately informed her grandmother of the incident. Upon the advise of a relative they proceeded to the police station to file a complaint against the appellant. Thereafter, they proceeded to the hospital for a medical examination. "AAA's" act of immediately reporting the commission of the rape strengthens her credibility.[19] Her spontaneous revelation of the assault on her and her unrelenting determination to have the appellant arrested and prosecuted of rape lend credence to her claim that she was indeed raped.[20]

Appellant likewise contends that the court a quo grievously erred in relying on the medico-legal report considering that the examining physician who issued the same was not presented for its identification. However, medical examination or medical report is not indispensable to prove the commission of rape, for it is merely corroborative evidence.[21] An accused can still be convicted of rape on the sole basis of the testimony of the victim.[22] Here, even if we disregard the medico-legal report, the result would still be the same - the prosecution, through the testimony of "AAA", has successfully proved the case of rape against the appellant.

Appellant vehemently denies raping "AAA" and claims that he was already drunk and had fallen asleep in the house of his uncle during the alleged commission of the crime. However, he failed to present any witness to corroborate his testimony. Denial and alibi are inherently weak defenses and constitute self-serving negative evidence which cannot be accorded greater evidentiary weight than the positive declaration of a credible witness. Between the positive assertions of the victim and the negative averments of the appellant, the former indisputably deserve more credence and are entitled to greater evidentiary weight.[23]

Much less convincing is the proposition of the appellant that "AAA" filed the complaint against him because she and her other relatives were harboring ill feelings and evil motives against him. Ill motives become inconsequential where there are affirmative or categorical declarations establishing the accountability of the appellant for the felony, as in this case.[24] Moreover, we have observed that persons convicted of rape sometimes attribute the charges against them to family feuds, resentment or revenge.[25] However, as borne out by numerous cases, family resentment, revenge or feuds have never swayed us from giving full credence to the testimony of a complainant for rape, especially a minor who remained steadfast and unyielding throughout the trial that she was sexually violated.[26]

Appellant also argues that the testimony of "AAA" is unworthy of credence since it is replete with inconsistencies. He contends that if "AAA's" grandmother was with her at the time he fetched her, then "AAA"

could have easily refused since her grandmother did not allow her to go with him. He further contends that if he really intended to rape "AAA", he would not have allowed her younger brother to tag along as an eyewitness.

The factual question raised by the appellant fails to impress. It is an inconsequential matter that does not bear upon the elements of the crime of rape. The decisive factor in the prosecution for rape is whether the commission of the crime has been sufficiently proven. For a discrepancy or inconsistency in the testimony of a witness to serve as a basis for acquittal, it must refer to the significant facts indispensable to the guilt or innocence of the appellant for the crime charged.[27] As the inconsistencies alleged by the appellant had nothing to do with the elements of the crime of rape, they cannot be used as ground for his acquittal.[28]

Further, victims do not cherish keeping in their memory an accurate account of the manner in which they were sexually violated. Thus, an errorless recollection of a harrowing experience cannot be expected of a witness, especially when she is recounting details from an experience as humiliating and painful as rape. Furthermore, rape victims, especially child victims, should not be expected to act the way mature individuals would when placed in such a situation.[29]

In this case, minor inconsistencies are expected because (1) "AAA" was a child witness, (2) she was made to testify on a painful and humiliating incident, (3) she was sexually assaulted several times, and (4) she was made to recount details and events that happened two years before she testified.[30]

The Penalty

Thus, given the foregoing circumstances, we find no cogent reason to reverse the findings of the trial court, as affirmed by the Court of Appeals. The prosecution sufficiently proved the guilt beyond reasonable doubt of the appellant. The trial court correctly meted the penalty of death since the rape committed against a child under 12 years of age by an offender who is a relative by consanguinity within the third civil degree merits no less than the imposition of capital punishment under Article 266-B of the Revised Penal Code.[31] It is clear from the birth certificate of "AAA" that she was only ten years old when she was ravished by the appellant, her uncle, being the brother of her mother.

However, with the passage of Republic Act No. 9346 entitled "An Act Prohibiting The Imposition Of The Death Penalty In The Philippines," the penalty, as correctly imposed by the Court of Appeals, should be reclusion perpetua.[32] Pursuant to the same law, the accused-appellant shall not be eligible for parole under Act No. 4103, otherwise known as the Indeterminate Sentence Law.[33]

While the appellant was meted the proper penalty for committing one count of rape, we must not overlook the fact that the prosecution established beyond reasonable doubt that the appellant is guilty of five counts of rape. "AAA" related in detail to the trial court in a simple and straightforward manner how she was repeatedly ravished by the appellant, thereby leaving no doubt about its credibility and truthfulness. She testified that the appellant inserted his penis inside her vagina and after consummating this act, she was raped again for four times under the same circumstances throughout the night. Thus, appellant must be held guilty of five counts of rape and suffer the penalty of reclusion perpetua without eligibility of parole for each count.

The Damages

The five counts of rape committed by the appellant also require a modification of the award of damages by the trial court, as sustained by the Court of Appeals. For each of the five counts of rape, "AAA" is entitled to an award of P75,000.00 as civil indemnity, another P75,000.00 as moral damages and P30,000.00 as exemplary damages, in line with prevailing jurisprudence.[34]

WHEREFORE, the Decision of the Court of Appeals in CA-G.R. CR-H.C. No. 00520, which affirmed with modification the Decision of the Regional Trial Court of Carigara, Leyte, Branch 13, finding appellant Hilario Escoton guilty beyond reasonable doubt of committing multiple rape is AFFIRMED with the following modifications:

- (1) For each of the five counts of rape committed, he is sentenced to suffer the penalty of reclusion perpetua without eligibility of parole; and
- (2) For each of the five counts of rape committed, he is ordered to pay complainant civil indemnity in the amount of P75,000.00 and moral damages in the sum of P75,000.00, and P30,000.00 as exemplary damages.

SO ORDERED.

Carpio (Chairperson), Corona[*], Brion, and Perez, JJ., concur.

[*] In lieu of Associate Justice Roberto A. Abad who is on leave per Special Order No. 812 dated January 4, 2010.

[1] People v. Ceballos, Jr., G. R. No. 169642, September 14, 2007, 533 SCRA 493, 508. .

[2] People v. Balonzo, G.R. No. 176153, September 21, 2007, 533 SCRA 760, 768.

[3] CA rollo, 122-146.

[4] CA rollo, pp. 14-25; penned by Judge Crisostomo L. Garrido.

[5] Pursuant to Section 44 of Republic Act (RA) 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 RA 9262, the real name of the child-victim is withheld to protect his/her privacy. Fictitious initials are used instead to represent him/her. Likewise, the personal circumstances or any other information tending to establish or compromise his/her identity, as well as those of his/her immediate family or household members shall not be disclosed.

[6] Records, p. 1.

[7] Folder of Exhibits, Exh. "B".

[8] Id., Exh. "C".

[9] Id., Exh. "A".

[10] CA rollo, pp. 24-25.

[11] Rollo, pp. 5-24. Penned by Associate Justice Amy C. Lazaro-Javier and concurred in by Associate Justices Pampio A. Abarintos and Francisco P. Acosta.

[12] Id. at 24.

[13] ART. 266-A. Rape; When and How Committed. - Rape is committed -

1) By a man who shall have carnal knowledge of a woman under any of the following circumstances:

- a) Through force, threat or intimidation;
- b) When the offended party is deprived of reason or otherwise unconscious;

- c) By means of fraudulent machination or grave abuse of authority;
- d) 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 x

- [14] TSN, July 2, 2003, pp. 8-11.
- [15] *People v. Malones*, 469 Phil. 301, 318 (2004).
- [16] *Id.* at 319.
- [17] *People v. Villafuerte*, G.R. No. 154917, May 18, 2004, 428 SCRA 427, 433.
- [18] *People v. Andales*, 466 Phil. 873, 887 (2004).
- [19] *People v. Balbarona*, G.R. No. 146854, April 28, 2004, 428 SCRA 127, 137.
- [20] *People v. Torres*, 464 Phil. 971, 986 (2004).
- [21] *People v. Ugang*, 431 Phil. 552, 565 (2002).
- [22] *People v. Cabalse*, 480 Phil 317, 326 (2004).
- [23] *People v. Bang-ayan*, G.R. No. 172870, September 22, 2006, 502 SCRA 658, 670.
- [24] *People v. Guambor*, 465 Phil. 671, 679-680 (2004).
- [25] *People v. Cariñaga*, 456 Phil. 944, 968 (2003).
- [26] *People v. Glodo*, G.R. No. 136085, July 7, 2004, 433 SCRA 535, 546.
- [27] *People v. Masapol*, 463 Phil. 25, 33 (2003).
- [28] *Supra* note 25 at 669.
- [29] *People v. Bejic*, G.R. No. 174060, June 25, 2007, 525 SCRA 488, 508-509.
- [30] *People v. Montinola*, G.R. No. 178061, January 31, 2008, 543 SCRA 412, 424.
- [31] ART. 266-B. Penalties. - 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, ascendant, guardian, relative by consanguinity or affinity within the third civil degree, or the common-law spouse of the parent of the victim;

x x x x.

- [32] SEC 2. In lieu of the death penalty, the following shall be imposed:

- (a) The penalty of reclusion perpetua, when the law violated makes use of the nomenclature of the penalties of the Revised Penal Code.
- (b) The penalty of life imprisonment, when the law violated does not make use of the nomenclature of the penalties of the Revised Penal Code.

- [33] *People v. Santos*, G.R. No. 172322, September 8, 2006, 501 SCRA 325, 344.

[34] *Peope v. Araojo*, G.R. No. 185203, September 17, 2009.

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