PEOPLE OF THE PHILIPPINES, APPELLEE, VS. PATERNO LASANAS, APPELLANT.

G.R. No. 183829. September 06, 2010

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

By Information filed on February 23, 1995 before the Regional Trial Court (RTC) of Cotabato City, Paterno Lasanas (appellant) was charged with rape allegedly committed as follows:

> That on or about 4:00 o'clock in the afternoon of August 28, 1994, at Barangay Mirab, Municipality of Upi, Province of Maguindanao, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with the use of force and intimidation, did then and there willfully, unlawfully and feloniously, have carnal knowledge with [AAA] against her will.[1]

The prosecution gave the following version of the incident:

On August 28, 1994, at 4:00 o'clock in the afternoon,[2] while the then 14 year old[3] AAA[4] was fixing clothes inside the room at the second floor of their house at Barangay Mirab, Upi, Maguindanao, her then 39 year old uncle (first cousin of her mother-herein appellant)[5] arrived and entered the room, grabbed her by the shoulders and pulled her down.[6] As AAA lay sprawled on the floor, appellant removed her underwear,[7] undressed himself, went on top of her and forced his penis into her vagina amidst her loud cries for help.[8]

AAA's pleas were heard by her then 17 year old brother BBB[9] who went to the room, grabbed and held appellant who, however, told him "Ipus ka lang hindi ka magsuguid sang guinikanan mo."[10]

AAA's mother, to whom AAA reported the incident later in the afternoon upon her arrival, immediately reported to the police authorities who promptly responded and apprehended appellant in his house still in the same afternoon.

Eight days after the incident or on September 5, 1994,[11] AAA was physically examined by one Dr. Loribel Ann Sevilla (Dr. Sevilla) at the Cotabato Regional Hospital. The examination yielded findings of fresh complete hymenal laceration at 3 o'clock and 9 o'clock positions.[12]

Denying the accusation, appellant proffered alibi, claiming that at the time of the incident, he was at his house, which is about 100 meters away from AAA's,[13] preparing dinner which he and his family partook at 5:00 p.m. His wife Editha Lasanas corroborated his claim as did his first cousin Heidi Libresa.

Appellant ventured that the accusation was propelled by a petty quarrel that he had with AAA's mother early that month arising from his refusal to haul corn for her,[14] during which quarrel AAA's mother "st[umbled] down and collapsed."[15]

By Decision of September 18, 2003, Branch 13 of the Cotabato RTC found appellant guilty beyond reasonable doubt of Rape, disposing as follows:

> WHEREFORE, in view of all the foregoing, the Court finds Paterno Lasanas guilty beyond reasonable doubt of the crime of Rape and hereby imposes upon him the penalty of Reclusion Perpetua.
>
> Further, he is hereby ordered to indemnify the victim [AAA] the amount of P50,000.00 as civil indemnity plus an additional amount of P25,000.00 as and for moral damages and P25,000.00 as and for exemplary damages.
>
> SO ORDERED.

Before the Court of Appeals to which appellant appealed, he faulted the trial court:

> I
>
> ... IN GIVING FULL WIEGHT AND CREDENCE TO THE TESTIMONY OF THE PRIVATE COMPLAINANT.
>
> II
>
> ... IN FINDING THE ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT OF THE CRIME CHARGED DESPITE THE PATENT WEAKNESS OF THE PROSECUTION'S EVIDENCE. (underscoring supplied)

By Decision[16] of November 22, 2007, the appellate court affirmed the trial court's decision but increased the award of moral damages to P50,000, consistent with prevailing jurisprudence.[17] Thus the appellate court disposed:

> WHEREFORE, the judgment finding appellant guilty of the crime of Rape, imposing upon him the penalty of Reclusion Perpetua and directing him to pay the amount of P50,000.00 as civil indemnity and P25,000.00 as exemplary damages, is hereby AFFIRMED, with the MODIFICATION that the amount of moral damages the appellant is adjudged to pay is increased from P25,000.00 to P50,000.00.
>
> SO ORDERED.[18] (emphasis in the original)

Hence, the present appeal.

Appellant brands AAA's version as not only implausible but contrary to human experience. He cites AAA's claim that her brother heard her cries for help and went to her rescue while she was being raped, yet the prosecution never called him to testify.

Appellant goes on to argue that the medical certificate showing hymenal lacerations in AAA cannot strengthen her claim as Dr. Sevilla who examined her was not presented in court.[19]

Appellant's appeal fails.

The prosecution has the exclusive prerogative to determine whom to present as witnesses. It need not present each and every witness as long as it meets the quantum of proof necessary to establish the guilt of the accused beyond reasonable doubt.

That AAA's brother was not presented does not thus infirm the case for the prosecution for, among other things, his testimony would have been merely corroborative.

It need not be underlined that the weight and sufficiency of evidence are determined by the credibility, nature, and quality of the testimony.[20] That explains why an accused in rape cases may be convicted solely on the basis of the uncorroborated testimony of the victim where such testimony is clear, positive, convincing and consistent with human nature and the normal course of things,[21] as in AAA's testimony.

Respecting appellant's argument that the medical certificate can not be used to corroborate AAA's testimony in

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light of Dr. Sevilla's failure to take the witness stand, suffice it to state that she was no longer available at the time of the trial. The hospital's head of its Obstetrics and Gynecology Department, Dr. Helen Peralta Yambao, however, identified the signature of Dr. Sevilla on the certificate.

At all events, a medical examination is not indispensable to successful prosecution of rape.[22] AAA's testimony on direct examination, standing alone, proves appellant's guilt beyond reasonable doubt. Notably, appellant did not cross examine her,[23] sufficient time and opportunity afforded him notwithstanding, which thus prompted the trial court to declare him to have waived his right to cross-examine.[24]

As for appellant's alibi, it crumbles. On direct examination, he claimed to have been, at about 4:00 p.m. of August 28, 1994, the time AAA claimed to have been raped, in his house preparing dinner which he and his family partook at 5:00 p.m. following which he slept at 6:00 p.m. On cross examination, however, he declared that he did not sleep at 6:00 p.m. because the policemen arrived and went with them. His following feeble explanation on his flip flop, quoted verbatim, does not persuade:

> (Pros. Dimaraw to Paterno Lasanas on Cross-Examination)
>
> Q
>
> But your testimony is very clear during the direct examination, you said you slept at 6:00 and during the cross examination, you also said that you slept at 6:00 of August 28, 1994.
>
> A
>
> As I said, normally we used to sleep at 6:00 but on that particular day, I was not able to sleep at 6:00 because I was brought by the police in their house.
>
> COURT: (To the witness on clarificatory questioning)
>
> Q
>
> Why did you say in the direct examination that on August 28, 1994 after you through eating between 5:30 to 5:40 you sent to sleep at 6:00.
>
> A
>
> That's it, sir, because at 6:00 we normally go to sleep but only that particular date that we were not able to sleep because the police suddenly arrived in our house and brought me to their house. [25] (italics and underscoring supplied)

That appellant's alibi fails to persuade especially gains light from the fact that it was not physically impossible for him to have been at the house of AAA.[26] Recall that his house is only about 100 meters away from AAA's.

> The settled rule is that for alibi to prosper, it is not enough to prove that the appellant was somewhere else when the crime was committed, but he must likewise demonstrate that he could not have been physically present at the place of the crime, or in its immediate vicinity, at the time of its commission.[27] (underscoring supplied)

As for appellant's insinuation that the charge against him was trumped-up as it could have been the result of a grudge that AAA's mother harbored against him, it too does not persuade. It is unnatural for a mother to use her daughter as an instrument of malice or revenge, especially if, as it did here, subjects a daughter to embarrassment and even stigma.

A word on damages. The Court deletes the award of exemplary damages, the crime not having been committed with one or more aggravating circumstances.[28]

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WHEREFORE, the assailed Decision of the Court of Appeals is AFFIRMED with MODIFICATION by deleting the award of exemplary damages. In all other respects, the decision is affirmed.

SO ORDERED.

Bersamin, Del Castillo,[*] Villarama, Jr., and Sereno, JJ., concur.

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[*] Additional member per Special Order No. 879 dated August 13, 2010.

[1] Records at 1.

[2] Transcript of Stenographic Notes (TSN), January 25, 1996, p. 6.

[3] Records, p. 6.

[4] People v. Cabalquinto.G.R. No. 167693, September 19, 2006, 502 SCRA 419, 425-426 ". . . in cases involving violence against women and their children . . . the Court shall withhold the real name of the victim survivor and shall use fictitious initials instead to represent her."

[5] TSN, June 24, 2002, pp. 8-9.

[6] TSN, January 25, 1996, pp. 7-8.

[7] Id. at 8.

[8] Id. at 8-9.

[9] Records, p. 9.

[10] Id. Translated to English, it reads: "Don't create noise. Don't tell your parents."

[11] TSN, October 15, 1998, pp. 6-7.

[12] Id. at 10.

[13] Vide September 1, 1994 Sworn Statement of Joan, records, p. 7.

[14] TSN, June 24, 2002, p. 14.

[15] Id. at 13.

[16]. Penned by Associate Justice Michael P. Elbinias and concurred in by Associate Justices Teresita Dy-Liacco Flores and Rodrigo F. Lim, Jr., CA rollo, pp. 103-110.

[17] People v. Guillermo, G.R. No. 177138, January 26, 2010, 611 SCRA 169; People v. Corpuz, G.R. No. 175836, January 20, 2009, 577 SCRA 465; People v. Quitoriano, G.R. No. 118852, January 20, 1997, 266 SCRA 373, 378); People v. Laray, G.R. No. 101809, February 20, 1996, 253 SCRA 654, 672; People v. Sanchez, G.R. No. 98402-04, November 16, 1995, 250 SCRA 14, 30; People v. Malunes, G.R. No. 114692, August 14, 1995, 247 SCRA 317, 327.

[18] CA rollo, p. 109-110.

[19] People v. Turco, Jr., G.R. No. 137757, August 14, 2000, 337 SCRA 714, 730 citing People v. Bernaldez, G.R. No. 109780, August 17, 1998, 294 SCRA 317, 334.

[20] People v. Malate, G.R. No. 185724, June 5, 2009 588 SCRA 817, 825 citing People v. Abo, G.R. No.

107235, March 2, 1994, 230 SCRA 612, 619.

[21] People v. Islabra, G.R. Nos. 152586-87, March 30, 2004, 426 SCRA 547, 551.

[22] People v. Escoton, G.R. No. 183577, February 1, 2010, 611 SCRA 233 citing People v. Ugang, 431 Phil. 552 (2002); People v. Achas, G.R. No. 185712, August 4, 2009 595 SCRA 341, 352-353; People v. Salazar, G.R. Nos. 98121-22, July 5, 1996, 258 SCRA 55, 63; People v. Saldivia, G.R. No. 55346, November 13, 1991, 203 SCRA 461, 467; People v. Lacaba, G.R. No. 13059, November 17, 1999 318 SCRA 301, 314.

[23] Cross-examination was set on the following dates: August 5, 1996, September 11, 1996 and September 16, 1996.

[24] Rollo, p. 22.

[25] TSN, June 24, 2002, p. 19.

[26] People v. Bato, G.R. No. 134939, February 16, 2000, 325 SCRA 671, 679; People v. Saban, G.R. No. 110559, November 24, 1999, 319 SCRA 36, 46; People v. Reduca, G.R. Nos. 126094-95, January 21, 1999, 301 SCRA 516, 534.

[27] People v. Dinglasan, G.R. No. 101312, January 28, 1997, 267 SCRA 26, 43.

[28] Article 2230, CIVIL CODE.

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