

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JERWIN QUINTAL Y BEO, VICENTE BONGAT Y TARIMAN, FELIPE QUINTAL Y ABARQUEZ AND LARRY PANTI Y JIMENEZ, ACCUSED.

G.R. No. 184170. February 02, 2011

Ponente: PEREZ, J.

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PEREZ, J.:

On appeal is the Decision[1] of the Court of Appeals dated 31 January 2008 in CA-G.R. CR-H.C. No. 02610 affirming the Decision[2] of the Regional Trial Court (RTC), Fifth Judicial Region, Branch 42, Virac, Catanduanes in Criminal Case Nos. 3097, 3098, 3099 and 3100 finding appellant Vicente Bongat y Tariman (Vicente) guilty beyond reasonable doubt of the crime of rape.

On 2 May 2001, appellant Vicente, together with 15-year old Jerwin Quintal y Beo (Jerwin), 16-year old Felipe Quintal y Abarquez (Felipe) and Larry Panti y Jimenez (Larry) were charged in an Information for Rape allegedly committed as follows:

That on or about August 29, 2002, at around 9:30 o'clock in the evening, in barangay [XXX],[3] municipality of Virac, province of Catanduanes, Philippines, jurisdiction of the Honorable Court, the above-named accused, conspiring, confederating and mutually helping one another for a common purpose, with force and intimidation, did then and there willfully, unlawfully, and feloniously lie and succeeded in having carnal knowledge of [AAA],[4] a minor 16 years of age, against her will and without her consent.

That the crime of rape was committed with an aggravating circumstance of minority, the fact that [AAA] is a minor 16 years of age when she was raped by the herein-named four (4) accused.[5]

Appellant Vicente, Jerwin and Felipe were arrested while Larry remained at large. Upon arraignment, the accused pleaded not guilty. Trial then proceeded.

The alleged rape victim, AAA, her mother, BBB,[6] the medico-legal officer, Dr. Elmer Tatad (Dr. Tatad), Barangay Kagawad Fernando Tajan (Fernando) and Barangay Tanod Eddie Tajan (Eddie) testified for the prosecution.

AAA narrated that on 29 August 2002 at around 9:45 p.m., she attended a wake in Barangay YYY,[7] Virac, Catanduanes. Upon leaving the wake to go to her grandmother's house in Barangay XXX, she noticed that Jerwin was following her. AAA recognized Jerwin because they go to the same school. When she was about to enter the house of her grandmother, Jerwin and Felipe, who were with a certain Maria, approached AAA and invited her to attend a birthday party. AAA acceded and went with the trio towards Barangay ZZZ.[8] They went inside a dark nipa hut near a rice field and AAA saw Vicente and Larry thereat. AAA was then made to sit on a bench by Felipe and the four accused went to converse with each other outside the nipa hut. When the accused came back, they covered her mouth with a handkerchief, and tied her hands and feet to the posts with a nylon string. The accused watched in delight while each of them took turns in raping her. Jerwin ravished her twice while the rest of the accused raped her once. After they finished with AAA, Jerwin untied her hands and feet. Vicente and Larry went

home while Jerwin and Felipe accompanied AAA to her grandmother's house.[9]

Two days later, AAA told BBB about the incident only after the latter noticed and asked her why she could not walk properly. They went to Fernando, who is a Barangay Kagawad and later to Eddie, a Barangay Tanod to report the incident. Fernando summoned the accused and they were made to sign a document containing their statement regarding the incident.[10]

Eddie testified that on 1 September 2002, Jerwin's parents came to him and expressed their intention for their son, Jerwin to marry AAA. Appellant Vicente, Jerwin, Larry, Fernando, and BBB were also present at the meeting. Eddie saw Fernando prepare a one and a half sheet of yellow paper containing the admissions made by the accused that they raped AAA.[11]

BBB fetched Fernando and brought him to the house of Eddie to talk about a marriage proposal by Jerwin. BBB asked Fernando to put into writing all the conversations that transpired inside the house. He did so while BBB was dictating to him what to write. He stated that the accused admitted the crime.[12]

AAA and BBB then proceeded to the police station to report the incident. On 2 September 2002, they went to the medico-legal and AAA was examined by Dr. Tatad, who later issued a medico-legal certificate stating his findings as follow:

Abrasion Labia Minora

Round the Clock.[13]

For its part, the defense presented the testimonies of Jerwin, Felipe, appellant Vicente, Maria Talan (Maria), Ricardo Rin (Ricardo), and Federico Rey (Federico) to prove that there was no crime committed.

Jerwin, Felipe and Maria attended the wake of Federico's nephew in Barangay YYY on 29 August 2002 at around 7:00 p.m. While they were playing cards, AAA approached their table and sat beside Jerwin.[14] Federico saw AAA play with Jerwin's group on the table.[15] They stayed at the wake until 11:00 p.m. As Maria's group was about to leave, AAA asked Jerwin if she could go with him. Jerwin then introduced AAA to Maria as his girlfriend. While on their way home, Jerwin and AAA were trailing behind Maria and Felipe. At that juncture, both Maria and Felipe saw Jerwin place his arm around the shoulders of AAA, while AAA's arm was wrapped around the waist of Jerwin. Thereafter, AAA invited Maria to go to the dance with her and Jerwin in another barangay. Maria turned down the invitation and went home. While Felipe was about to enter his house, Jerwin called him and asked if he likes to go to the dance, but Felipe declined because he needed to drive his pedicab on the following morning.[16]

Jerwin claimed that AAA was his girlfriend; that they had been together since 31 December 2001; and that they had sexual intercourse for three (3) or four (4) times to date. He admitted that coming from the dance, it was around 1 a.m. when they proceeded to a nipa hut in Barangay ZZZ where they had sexual intercourse. Thereafter, they went to sleep. When Jerwin woke up the following morning, AAA had already left.[17]

On 30 August 2002, Jerwin saw AAA crying at the house of Maria. AAA told her that she was scolded by her mother and grandmother when she arrived home in the morning. Jerwin suggested that he would talk to BBB and let her know that he wants to marry AAA.[18]

Ricardo, who lives just a few meters away from the nipa hut where the alleged rape was committed, stated that he did not notice any untoward incident that transpired in the nipa hut. He however admitted that he went to sleep at around 10:30 p.m.[19]

Jerwin and Felipe went to the house of Eddie on 1 September 2002 when they were summoned by the latter.

Felipe saw the mother of Jerwin and AAA talking about marriage, but BBB did not consent to the wedding. His co-accused were also present at Eddie's house. Felipe denied raping AAA when he was asked. Jerwin also denied raping AAA and replied that AAA was his girlfriend.[20] After a while, they all went home. In 2004, Jerwin and Felipe were arrested for the crime of rape.[21] While Jerwin was detained, AAA visited her several times.

Appellant Vicente came to know AAA when she was introduced to him by Jerwin as his girlfriend sometime in January 2002. On 29 August 2002, appellant was harvesting rice at the back of Catanduanes National High School from 7:00 a.m. until 4:45 p.m. He got home at 4:50 p.m. and slept at 8:00 p.m. He woke up the following day at 6:30 a.m. On 30 August 2002, he was summoned to go to the house of Eddie. Upon reaching the house, he saw the parents of Jerwin and AAA conversing about the wedding of Jerwin and AAA. He was asked by Fernando if she raped AAA, but Vicente answered in the negative. He was made to sign his name on a blank sheet of yellow paper by Fernando.[22] While in detention, Vicente saw AAA visiting the jail house once.[23]

The defense also presented the entries in the Bureau of Jail Management and Penology (BJMP) logbook, certified by Jail Officer Bernardo Azansa to show that AAA visited Jerwin six (6) times in jail.[24]

On 16 November 2006, the RTC rendered judgment finding appellant guilty beyond reasonable doubt of the crime of rape. The dispositive portion of the Decision reads:

WHEREFORE, the Court finds VICENTE T. BONGAT, JERWIN B. QUINTAL AND FELIPE A. QUINTAL guilty beyond reasonable doubt of the crime of RAPE in Criminal Case Nos. 3097, 3098, 3099, 3100 and hereby sentences them as follows:

- 1) Vicente T. Bongat is sentenced to suffer the penalty of reclusion perpetua for each crime.
- 2) Appreciating the mitigating circumstance of minority, Jerwin B. Quintal is sentenced to suffer the penalty of 12 years of prision mayor, as minimum, to 14 years, 4 months and 1 day of reclusion temporal, as maximum, for each crime.
- 3) Appreciating the mitigating circumstance of minority, Felipe A. Quintal is sentenced to suffer the penalty of 12 years of prision mayor, as minimum, to 14 years, 4 months and 1 day of reclusion temporal, as maximum, for each crime.

Vicente T. Bongat, Jerwin B. Quintal and Felipe A. Quintal are ordered to individually pay the private complainant [AAA] the amount of P50,000.00 as civil indemnity and P50,000.00 as moral damages for each crime.

Pursuant to R.A. No. 9344, the judgment of conviction against Jerwin Quintal and Felipe Quintal is suspended. The parents or guardians of Jerwin Quintal and Felipe Quintal; the Social Worker of this Court, Nonita Manlangit; the Municipal Social Welfare Officer of Virac, Catanduanes Josefina T. Ramirez, the Provincial Social Welfare Officer of Catanduanes Priscilla T. Navar, the Director of Region V of the Department of Social Welfare and Development (DSWD) or his duly authorized representative; and the Head of the Social Services and Counseling Division of DSWD or his duly authorized representative are enjoined to attend the disposition conference on November 28, 2006 at 1:30 o'clock in the afternoon.[25]

Jerwin and Felipe were both confined at the Home for Boys in Naga City for rehabilitation pursuant to the ruling of the RTC.

The RTC found AAA's testimony as credible and rejected the "sweetheart theory" and alibi of the defense. On appeal, the Court of Appeals affirmed the RTC decision.

Appellant filed a notice of appeal. On 29 September 2008, this Court required the parties to simultaneously submit their respective supplemental briefs. Appellant manifested that he would merely adopt their appellant's

brief before the Court of Appeals.[26] The Office of the Solicitor General (OSG) filed a Manifestation stating that it would no longer file any supplemental briefs and instead adopt its appellee's brief filed on 31 August 2007.[27]

On 27 November 2009, the RTC ordered the dismissal of the cases against Jerwin and Felipe. The dispositive portion reads:

WHEREFORE, in view of the foregoing and upon the recommendation of the DSWD, the cases against JICL Jerwin B. Quintal and JICL Felipe A. Quintal, whose sentence have been suspended, are hereby DISMISSED.

Finding that the objective of the disposition measures has been fulfilled, the Court orders the final discharge of the said JICL. Let a copy of this Order be furnished the Regional Office of the Department of Social Welfare and Development, Baraguis, Legaspi City and Office of the Regional Director of the Department of Social Welfare and Development, Home for Boys, Naga City, for them to cause the discharge of JICL Jerwin B. Quintal and JICL Felipe A. Quintal and their return to their respective families.

The Municipal Social Welfare Officer of Virac, Catanduanes is ordered to submit a periodic report on both JICL within one (1) year after their discharge.[28]

In the main, appellant assails the credibility of AAA's testimony. He insists that it was impossible for AAA to have clearly and positively identified him as one of the perpetrators considering that AAA claimed that it was very dark inside the nipa hut where she was supposedly raped. Appellant assails the testimony of AAA that she went with Jerwin to a place unknown to her, despite not personally knowing him. Appellant claims this incredibility in her testimony created serious doubt as to the reliability of her allegations. Appellant argues that contrary to AAA's allegations, there was no clear intent on her part to resist the alleged sexual acts. AAA failed to shout for help. Neither did she present any proof of body injuries to clearly prove that she resisted the alleged rape. Moreover, AAA told her mother about the incident only because the latter noticed her to have been walking in an unusual manner. Appellant asserts that he should have been convicted only of simple seduction as conspiracy was not proven among the accused.[29]

The OSG maintains that AAA positively identified appellant as one of the four rapists. It counters that the visibility inside the nipa hut was not that poor as to render AAA incapable of seeing her rapists' faces. AAA had a good view of appellant's face because the moonlight illuminated the surroundings. It contends that there is nothing unusual when AAA voluntarily went with Jerwin and Felipe before she was raped. According to the OSG, AAA had a false sense of security because the two accused were minors like her and were even accompanied by another girl. The OSG avers that force and intimidation were employed against AAA because her hands and feet were tied to the nipa hut's posts during her ordeal. There is likewise no basis for the claim that AAA did not immediately report the incident. When AAA saw her mother, she informed her at the earliest possible opportunity. Finally, the OSG asserts that there is conspiracy among the accused in committing rape considering their actions before, during and after raping AAA.

The gravamen of the offense of rape is sexual intercourse with a woman against her will or without her consent.[30] Hence, the elements necessary to sustain a conviction in the crime of rape are: (1) that the accused had carnal knowledge of the victim; and (2) that said act was accomplished (a) through the use of force or intimidation, or (b) when the victim is deprived of reason or otherwise unconscious, or (c) when the victim is under 12 years of age or is demented.[31]

The prosecution, with whom the burden of proof rests, seeks to establish these elements through the testimonies of its witnesses, particularly that of the victim's.

There is a plethora of cases which tend to disfavor the accused in a rape case by holding that when a woman declares that she has been raped, she says in effect all that is necessary to show that rape has been committed and

where her testimony passes the test of credibility the accused can be convicted on the basis thereof.[32] A dangerous precedent as it may seem, there is however a guideline provided also by jurisprudence in scrutinizing the testimony of the victim, namely: (a) while an accusation for rape can be made with facility, it is difficult to prove but more difficult for the person accused, though innocent, to disprove; (b) in view of the intrinsic nature of the crime of rape where only two persons are usually involved, the testimony of the complainant must be scrutinized with extreme caution; and (c) the evidence for the prosecution must stand or fall on its own merits and cannot be allowed to draw strength from the weakness of the evidence of the defense.[33]

Guided by these principles and upon a careful scrutiny of the records of this case, this Court is not convinced beyond reasonable doubt that appellant, as well as the other accused, committed the crime of rape against AAA.

The credibility of the testimonies of the prosecution witnesses, as well as the inconclusive medical finding, tends to create doubt if AAA was indeed raped. The RTC and the Court of Appeals relied largely on the testimony of AAA that she was raped. This Court is well aware of the rule that findings of trial court relative to the credibility of the rape victim are normally respected and not disturbed on appeal, more so, if they are affirmed by the appellate court. It is only in exceptional circumstances that this rule is brushed aside, such as when the court's evaluation was reached arbitrarily, or when the trial court overlooked, misunderstood or misapplied certain facts or circumstances of weight and substance which could affect the result of the case.[34] And one of these exceptions obtains in this case.

This Court cannot disregard this nagging doubt with respect to the credibility of AAA's testimony, the inconsistencies in the testimonies of the barangay tanod and barangay kagawad, the purported confession put into writing and signed by all the accused; and the subsequent incidents relating to the case.

First, AAA testified that she does not personally know Jerwin and Felipe. However, when the two allegedly invited her to go with them to a party, she readily accepted the invitation and in fact, went with them. Moreover, AAA was seen playing cards with Jerwin and his group in the wake, as testified by Maria, Felipe, Jerwin and Federico.

Second, AAA recounted that the nipa hut where she was brought by the accused was very dark. And yet, AAA readily identified Vicente and Larry inside the hut, as two of those who raped her. Incidentally, it was unclear how AAA was able to identify Vicente and Larry because she was never asked, not by the prosecution nor the defense, on how she came to know the two accused.

Third, the medical certificate only contained one finding, that there was a "round-the-clock abrasion in the labia minora." This is not at all conclusive nor corroborative to support the charge of rape. At most, this indicates that AAA had sexual intercourse. We find the medical finding lacking in relation to the testimony of AAA on how she was ravished by four men. Although a medical examination is not an indispensable element in a prosecution of rape, it could have corroborated an otherwise vague and dubious testimony of the victim. In fact, Dr. Tatad admitted that he only examined AAA's private parts based on her statement that she was raped, thus:

Q:

Do you remember Doctor, the date when the examination was conducted?

A:

9/2/02, sir.

Q:

That was on September 2, 2002?

A:

Yes, sir.

Q:

Now, when the person of [AAA] came to you, what did you do?

A:

She consulted me and told me that she was raped, sir.

Q:

And after informing that she was raped, what did you do?

A:

I told her to lie down as if she was to deliver a child and I examined the vagina. There was abrasion in the labia minora round the clock, sir.

Q:

How about laceration?

A:

There was an abrasion, sir.

Q:

What might have caused that abrasion round the clock?

A:

It could be that something was inserted, sir.

Q:

What kind of object might have been inserted?

A:

According to the patient, penis was inserted in her vagina.

Q:

Did she tell you as to the number of penis which were inserted in her vagina?

A:

According to the patient the penis inserted to her was pushed and pulled, sir.[35]

Furthermore, in her sworn statement before the police, AAA related that her mouth was injured.[36] She also testified in court that her hands and feet were tied to a post by a nylon string.[37] Naturally, AAA would have sustained injuries in her hands and feet. But all these injuries were never examined by the medico-legal officer nor did AAA allege the existence of those injuries.

Fourth, AAA's belated reporting of the rape incident has relevance in this case, especially when it appears that she really had no intention at all to inform her mother, not until the latter actually asked her why she was walking in

an unusual manner. AAA stated:

Q:

You said a while ago that your mother discovered your unusual movement in the morning of the following day of August 29, 2002, is that correct?

A:

It was after two days when my mother noticed my unusual movement during the birthday of my brother, sir.

Q:

Did you not go out of the house of your grandmother on August 30, 2002?

A:

No, sir.

Q:

When your mother noticed your movement, what did she do?

A:

She asked me, sir.

Q:

After she asked you, what did she do?

A:

She asked me why I was walking that way and I told her that I was raped, sir.[38]

Fifth, BBB allegedly went to the Barangay Kagawad and the Tanod, who happens to be her cousin, to report the rape incidents. However, when Fernando and Eddie testified, they claimed that they were initially informed by BBB about a marriage proposal by Jerwin's parents. It was only during the meeting that they learned about the alleged rape.

Sixth, to fuel further suspicion as to whether a rape incident actually transpired, BBB never bothered to ask AAA about the whole incident.[39] She accepted AAA's testimony hook, line and sinker. In the same breadth, it can be recalled that Eddie, the Barangay Tanod, testified that BBB dictated to him what was written in the yellow paper which contained the supposed admissions of rape by the accused. Eddie did not appear to have asked or interrogated the accused about the incident. Likewise, Dr. Tatad merely examined AAA's private parts on the basis of her claim that she was raped.

Seventh, in an unusual twist, records show that AAA was seen visiting Jerwin in jail for at least six (6) times. These incidents are documented in a logbook presented in court by the defense and which was not refuted by the prosecution.

The combination of all these circumstances are more than sufficient to create a reasonable doubt as to whether first, rape was actually committed and second, whether the accused were the perpetrators.

It is thus unnecessary to belabor the issues raised by the defense for it must be reiterated that conviction always rests on the strength of the prosecution's evidence and not on the weakness of the defense.

For the reasons cited above, we are constrained to entertain reasonable doubt. Hence, we acquit.

WHEREFORE, appellant Vicente Bongat y TARIMAN is ACQUITTED based on reasonable doubt. He is ordered RELEASED unless he is being detained for some other lawful cause.

SO ORDERED.

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

[1] Penned by Associate Justice Myrna Dimaranan Vidal with Associate Justices Jose Catral Mendoza (now Supreme Court Associate Justice) and Associate Justice Jose C. Reyes, Jr. concurring. Rollo, pp. 2-21.

[2] Presided by Judge Genie G. Gapas-Agbada. CA rollo, pp. 19-33.

[3] The place of commission is withheld to preserve confidentiality of the identity of the victim. See *People v. Cabalquinto*, G.R. No. 167693, 19 September 2006, 502 SCRA 419, 425-426.

[4] Likewise, the victim's real name, as well as her members of her immediate family is withheld to protect her privacy, also pursuant to *People v. Cabalquinto*.

[5] Records, p. 7.

[6] *Supra* note 4.

[7] *Supra* note 3.

[8] *Id.*

[9] TSN, 11 November 2005, pp. 3-13.

[10] TSN, 22 February 2006, pp. 5-7.

[11] TSN, 26 April 2006, pp. 6-10.

[12] *Id.* at 20-32.

[13] Records, p. 4.

[14] TSN, 6 June 2006, pp. 4-5; TSN, 13 July 2006, pp. 4-5, TSN, 14 July 2006, p. 6.

[15] TSN, 9 June 2006, p. 7.

[16] TSN, 6 June 2006, pp. 7-10; TSN, 13 July 2006, pp. 6-8; TSN, 14 July 2006, p. 17.

[17] TSN, 14 July 2006, pp. 7-21.

[18] *Id.* at 21-22.

[19] TSN, 11 July 2006, pp. 3-7.

[20] TSN, 14 July 2006, p. 25.

[21] TSN, 13 July 2006, pp. 8-9.

[22] TSN, 6 September 2006, pp. 7-15.

[23] *Id.* at 16.

[24] Records, p. 135.

[25] CA rollo, pp. 76-77.

[26] Rollo, pp. 34-35.

[27] Id. at 38-39.

[28] Id. at 68-69.

[29] CA rollo, pp. 51-61.

[30] *People v. Coja*, G.R. No. 179277, 18 June 2008, 555 SCRA 176, 185.

[31] *People v. Baldo*, G.R. No. 175238, 24 February 2009, 580 SCRA 225 citing Revised Penal Code, Art. 266-A as amended by Republic Act No. 8353; *People v. Barangan*, G.R. No. 175480, 2 October 2007, 534 SCRA 570, 591-592.

[32] *People v. Paculba*, G.R. No. 183453, 9 March 2010; *People v. Arevalo, Jr.*, 466 Phil. 419, 441 (2004); *People v. Caliso*, 439 Phil. 492, 503-504 (2002).

[33] *People v. Bidoc*, G.R. No. 169430, 31 October 2006, 506 SCRA 481, 495; *People v. Orense*, G.R. No. 152969, 7 July 2004, 433 SCRA 729, 736.

[34] *People v. Layco, Sr.*, G.R. No. 182191, 8 May 2009, 587 SCRA 803, 808 citing *People v. Coja*, supra note 30 at 186.

[35] TSN, 9 November 2005, pp. 5-6

[36] Records, p. 2.

[37] TSN, 11 November 2005, p. 9.

[38] Id. at 33.

[39] TSN, 22 February 2006, pp. 5-6.

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