PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. MANUEL AGUILAR, ACCUSED-APPELLANT.

G.R. No. 185206. August 25, 2010

Ponente: PEREZ, J.

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PEREZ, J.:

We review in this appeal the 12 December 2007 decision[1] of the Court of Appeals (CA) in CA-G.R. CR- H.C. No. 00154, partially affirming the 22 April 2002 decision of the Regional Trial Court (RTC), Branch 31, Dumaguete City, Negros Oriental. The CA decision found appellant Manuel Aguilar (appellant) guilty beyond reasonable doubt of the crime of Simple Rape and sentenced him to suffer the penalty of reclusion perpetua.

In line with the ruling of this Court in People v. Cabalquinto,[2] the real name and identity of the rape victim, as well as the members of her immediate family, are not disclosed. Instead, the rape victim shall herein be referred to as XYZ; her mother, AAA; and her aunt, CCC.

THE FACTS

Appellant was charged before the RTC with the crime of rape in an Information,[3] the accusatory portion of which reads:

> That on February 4, 1998 at about 12:00 o'clock midnight at Sitio Sawa-an, Sto. Rosario, Sta. Catalina, Negros Oriental, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused by means of force and intimidation, with abuse of confidence, willfully, unlawfully and feloniously, did lie and succeeded in having carnal knowledge with a 13 year old minor [XYZ], accused's Step-daughter.
>
> Contrary to Article 335 of the Revised Penal Code.
> Dumaguete City, Philippines, April 17, 1998.

Upon arraignment, appellant pleaded not guilty to the crime charged. The prosecution presented XYZ, AAA and Dr. Rosita Muñoz as its witnesses. The appellant took the witness stand as the sole witness for the defense.

The victim in this case was, at the time of the incident, a 13-year-old lass, who, together with her siblings, lived with her mother and the latter's live-in partner, appellant Manuel Aguilar. XYZ is AAA's daughter with her deceased husband. The four other siblings of XYZ are AAA's children with accused-appellant.

XYZ testified that she was born on 26 January 1985. She declared that on that fateful evening of 4 February 1998, while she was asleep, accused took off her shorts and panty, laid on top of her and had sexual intercourse with her against her will. She wanted to shout but accused-appellant gagged her mouth with his hand and threatened to kill her if she will utter a word. She averred that she felt intense pain in her vagina. Accused-appellant, who was at that time naked, was caught in the act by AAA.

In the morning of 5 February 1998, AAA brought XYZ to the police station. Thereafter, XYZ was required to undergo medical examination before the municipal health doctor of Sta. Catalina, Negros Oriental.

Dr. Rosita Muñoz testified for the prosecution and declared that XYZ came to her clinic at the Rural Health Unit of Sta. Catalina, Negros Oriental. She physically examined the victim and found that she had vaginal discharges. Considering that the clinic lacked laboratory equipments, she forwarded the vaginal discharges of the victim to the District Hospital of Bayawan, Negros Oriental for examination. The examination yielded the presence of spermatozoa, positively establishing that XYZ had undergone a very recent sexual activity. Dr. Muñoz issued a medical certificate certifying the presence of spermatozoa based on the laboratory results.

AAA testified that at about 12 midnight of 4 February 1998, she woke up to urinate and proceeded to the urinal located across the room. While groping in the dark on her way to the urinal, she accidentally touched the buttocks and the back of the body of the accused. The accused was naked and acting to lie on top of XYZ. When she lighted a lamp, AAA saw the naked accused at the right side of XYZ facing the latter. XYZ was then wearing only a T-shirt without shorts and underwear. When AAA asked accused-appellant what he did to XYZ, the accused-appellant did not reply. AAA then asked XYZ what the accused-appellant did to her and the latter revealed that she was raped by the accused-appellant. Immediately thereafter, XYZ ran towards the place of her aunt CCC.

The accused, for his part, denied having raped XYZ. He declared during the direct-examination that in the evening of 4 February 1998, he slept wearing only his underwear with the upper part of his body left bare and naked. He claimed that he was used to wearing only a brief without any clothing to cover his upper body everytime he sleeps at night. At 12 midnight that evening, he urinated in the urinal located near the place where his two children and XYZ were sleeping. He was not able to finish urinating because there was someone who grabbed him from behind. It was at this time that his wife, AAA, asked him why he molested XYZ.

Accused-appellant denied the allegations against him. He maintained that his wife testified against him because he urinated in the urinal near the place where XYZ was sleeping. Moreover, AAA allegedly felt bad and jealous about his having conversations with their female neighbors. The filing of the complaint was AAA's way of getting back at him. With regard to XYZ, accused-appellant claimed that she harbored a grudge against him since he forbade her from going out with her male friends.

Accused-appellant also claimed that it was improbable for him to commit the offense considering that there were seven of them then sleeping in the house that evening. He argued that even assuming that he had carnal knowledge of XYZ, there was some sort of consent on the part of the victim since she failed to struggle and shout for help. He alleged that the absence of any showing of resistance casts reasonable doubt upon his guilt.

After trial on the merits, the RTC rendered a decision finding accused-appellant guilty beyond reasonable doubt of the crime of rape and sentenced him to suffer the capital penalty of death. The RTC further ordered accused-appellant to indemnify XYZ in the amount of P75,000.00. The dispositive portion of its judgment reads:

> Wherefore, xxx the Court finds accused Manuel Aguilar guilty beyond reasonable doubt of the crime of rape defined and [p]enalized under Article 335, as amended by Section 11 of Republic Act No. 7659, and sentence said accused the capital penalty of death. And, xxx, accused is hereby ordered to indemnify [XYZ] the amount of P75,000.00.[4]

On intermediate review, the appellate court partially affirmed the ruling of the RTC. The Court of Appeals convicted the accused not of qualified rape but of simple rape in the following tenor:

> WHEREFORE, the assailed Decision of the Regional Trial Court dated April 22, 2002 is PARTIALLY AFFIRMED. Manuel Aguilar is hereby found and declared guilty beyond reasonable doubt of the crime of Simple Rape and is sentenced to suffer the penalty of reclusion perpetua. Accordingly, he is ordered to pay XYZ only P50,000.00 as civil indemnity. However, to conform with existing jurisprudence, he is likewise

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> directed to pay P50,000.00 as moral damages.
>
> SO ORDERED.[5]

The case is now on final review before us.

OUR RULING

We affirm the ruling of the appellate court that appellant Aguilar is guilty only of simple rape and not of qualified rape.

Article 335 of the Revised Penal Code, as amended by Republic Act No. 8353, otherwise known as the "Anti-Rape Law of 1997," provides in part that:

> 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, step-parent, guardian, relative by consanguinity or affinity within the third civil degree, or the common-law spouse of the parent of the victim.

The concurrence of the minority of the victim and her relationship to the offender being special qualifying circumstances, which increases the penalty as opposed to a generic aggravating circumstance which only affects the period of the penalty, should be alleged in the information, because of the accused's right to be informed of the nature and cause of accusation against him.[6] Existing jurisprudence instructs that the death penalty may be imposed only if the complaint or information has alleged and the evidence has proven both the minority of the victim and her relationship to the offender by the quantum of proof required for conviction.[7]

The information in this case alleged that accused-appellant, who is the step-father of XYZ, succeeded in having carnal knowledge of the latter, who was then thirteen (13) years of age. The birth certificate of XYZ presented during the trial clearly established that she was below 18 years old when the rape was committed on 4 February 1998. The records, however, revealed that accused-appellant and AAA were not legally married but were merely engaged in a common-law relationship. Legally speaking, the term "stepparent" refers to "an accused who is legally married to one of the parents of the victim."[8] Although a common-law husband is subject to the punishment of death, if he commits rape against his wife's daughter, nevertheless, the death penalty cannot be imposed on accused-appellant because the relationship alleged in the information in Criminal Case No. 13546 is different with that which was actually proven. As such, accused-appellant should be sentenced with the lesser penalty of reclusion perpetua. This is in all fours with our rulings in People v. Begino,[9] People v. Santos,[10] People v. Victor,[11] and People v. Ramirez.[12] As we stated in Ramirez,

> All told, the guilt of the accused has been clearly established beyond reasonable doubt. However, the death penalty was erroneously imposed for, as correctly argued by the accused and sustained by the Solicitor General, the qualifying circumstance of relationship has not been properly alleged in the Information. It appears that while the accused was the common-law spouse of Michelle's mother, Michelle was referred to in the Information as his "step-daughter." A step-daughter is defined as the daughter of one of the spouses by a former marriage. We have consistently ruled that any of the circumstances under Sec. 11 of RA 7659 the attendance of which mandates the penalty of death, is in the nature of qualifying circumstances which cannot be proved as such unless alleged in the Information. Evidently, the technical flaw committed by the prosecution spared the accused from the gallows of death and it constrains us to reduce the penalty of death to reclusion perpetua.[13] (Emphasis supplied.)

Three principles guide the courts in resolving rape cases: (1) an accusation for rape can be made with facility; it is

difficult to prove but more difficult for the accused, though innocent, to disprove; (2) in view of the intrinsic nature of the crime of rape in which only two persons are usually involved, the testimony of the complainant must be scrutinized with extreme caution; and (3) 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 for the defense.[14]

In the determination of guilt for the crime of rape, primordial is the credibility of the complainant's testimony because, in rape cases, the accused may be convicted solely on the testimony of the victim, provided it is credible, natural, convincing and consistent with human nature and the normal course of things.[15] Here, the victim, in the painstaking and well-nigh degrading public trial, related her painful ordeal that she was raped by accused-appellant. Her testimony was found by the trial court, which had the undisputed vantage in the evaluation and appreciation of testimonial evidence, to be more credible than that of the defense.[16]

The accused-appellant was convicted beyond reasonable doubt of the crime of rape on the basis of the following: (1) XYZ's credible testimony concerning the rape incident; (2) XYZ's positive identification of the accused-appellant as the person who raped her; (3) AAA's testimony regarding the alleged incident; (4) medical examination report showing the presence of spermatozoa in XYZ's vagina evidencing recent sexual intercourse; and (5) absence of ill motive on XYZ's and AAA's part in filing the complaint.

Testimonies of child victims are given full weight and credit, for when a woman or a girl-child says that she has been raped, she says in effect all that is necessary to show that rape was indeed committed. Youth and maturity are generally badges of truth and sincerity.[17]

The Court rebuffed accused-appellant's defense of denial. Aside from being weak, it is merely negative and self-serving evidence which pales in comparison to XYZ's and AAA's clear narration of facts and positive identification of the appellant. The testimony of XYZ, coupled with the medical findings of Dr. Muñoz, is enough to confirm the truthfulness of the charge. Deeply entrenched in jurisprudence is the rule that findings of the trial court on the credibility of witnesses are entitled to the highest respect and are not to be disturbed on appeal in the absence of any clear showing that the trial court overlooked, misunderstood or misapplied facts or circumstances of weight and substance which would have affected the result of the case.[18]

Accused-appellant's contention that the criminal complaint filed against him was caused by ill motive on the part of AAA and XYZ deserves scant consideration. We cannot accept the claim that it was an offshoot of AAA's jealousy and of XYZ's grudge against him for living in with her mother and for forbidding her to go out with her male friends. It is a negative self-serving evidence which cannot be given greater weight than the testimony of credible witnesses who testified on affirmative matters. Between the positive declarations of a prosecution witness and the negative statements of the accused, the former deserves more credence.[19]

Accused-appellant's contention that it was improbable for the crime of rape to be committed considering that the whole household was sleeping almost side by side at that time the rape was allegedly committed is likewise devoid of merit. For the crime of rape to be committed, it is not necessary for the place to be ideal or the weather to be fine, for rapists bear no respect for locale and time when they carry out their evil deed.[20] In numerous cases, the Court held that rape can be committed even in places where people congregate, in parks, along the roadsides, in school premises, in a house where there are other occupants, in the same room where other members of the family are also sleeping, and even in places which to many, would appear unlikely and high risk venues for its commission. Besides, there is no rule that rape can be committed only in seclusion.[21]

We, likewise, find no merit in appellant's contention that there was some sort of consent on the part of the victim since she failed to struggle and shout for help. Accused-appellant argues that the prosecution failed to establish force or intimidation; absence of which creates reasonable doubt upon his guilt. The presence of intimidation,

which is purely subjective, cannot be tested by any hard and fast rule, but should be viewed in the light of the victim's perception and judgment at the time of the commission of the rape.[22] Not all victims react in the same way - some people may cry out, some may faint, some may be shocked into insensibility, while others may appear to yield to the intrusion.[23] Records of the case revealed that XYZ was coerced into submission because of her fear that she will be killed.[24] She categorically declared that she tried to shout for help but accused-appellant gagged her and threatened to kill her if she will say anything. Physical resistance need not be established in rape cases when intimidation is exercised upon the victim who submits against her will because of fear for her life and personal safety. The force, violence, or intimidation in rape is a relative term, depending not only on the age, size, and strength of the parties but also on their relationship with each other. A child like XYZ can only cower in fear and yield into submission. Rape is nothing more than a conscious process of intimidation by which a man keeps a woman in a state of fear and humiliation. Thus, it is not even impossible for a victim of rape not to make an outcry against an unarmed assailant.[25] In fact, the moral ascendancy and influence of accused-appellant, who during trial was established to be the live-in partner of the victim's mother and was exercising parental authority over the victim, can take the place of threat and intimidation.

Although we affirm the decision of the Court of Appeals, we find it necessary to modify the civil liability of the appellant to include exemplary damages. The appellate court correctly ordered accused-appellant to pay the victim the amount of P50,000.00 as civil indemnity and another P50,000.00 as moral damages consistent with current jurisprudence on simple rape. However, the exemplary damages in the amount of P30,000.00 should also be included in line with recent case laws.

In People vs. Anthony R. Rante,[26] citing People vs. Antonio D. Dalisay[27] and People vs. Cristino Cañada,[28] the Court awarded exemplary damages to set a public example, to serve as deterrent to elders who abuse and corrupt the youth, and to protect the latter from sexual abuse.

WHEREFORE, premises considered, we hereby affirm with modification the decision dated 12 December 2007 of the Court of Appeals in CA-G.R. CR.-H.C. No. 00154 finding Manuel Aguilar GUILTY beyond reasonable doubt of the crime of Simple Rape. In addition to the awards of civil indemnity and moral damages in the amount of P50,000.00 each, he is further ordered to pay P30,000.00 as exemplary damages.

SO ORDERED.

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

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[1] Penned by Associate Justice Priscilla Baltazar-Padilla with Associate Justices Isaias P. Dicdican and Francisco N. Diamante, concurring; CA rollo, pp 126-141.

[2] G.R. No. 167693, 19 September 2006, 502 SCRA 419.

[3] Records, p. 1.

[4] Id. at 107.

[5] Rollo, p. 19.

[6] People v. Ramos, G.R. No. 129439, 25 September 1998, 296 SCRA 559, 575.

[7] People v. Mauro, 447 Phil. 207, 228-229 (2003).

[8] People v. Escaño, 427 Phil. 162, 180 (2002).

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[9] G.R. No. 181246, 20 March 2009, 582 SCRA 189, 197-198.

[10] G.R. No. 145305, 26 June 2003, 452 SCRA 1046, 1067.

[11] G.R. No. 127904, 5 December 2002, 393 SCRA 472, 481.

[12] G.R. No. 136848, 29 November 2001, 371 SCRA 143, 150.

[13] Citing People v. Dimapilis, G.R. Nos. 128619-21, 17 December 1998, 300 SCRA 279; People v. Medina, G.R. No. 126575, 11 December 1998, 300 SCRA 98.

[14] People v. Glivano, G.R. No. 177565, 28 January 2008, 542 SCRA 656, 662 citing People v. Malones, 469 Phil. 301, 318 (2004).

[15] People v. Pascua, 462 Phil. 245, 252 (2003).

[16] Records, p. 106.

[17] People v. Corpuz, G.R. No. 168101, 13 February 2006, 482 SCRA 435, 448.

[18] People v. Sta. Ana, G.R. Nos. 115657-59, 26 June 1998, 291 SCRA 188, 202.

[19] People v. Amante, 440 Phil. 561, 669-670 (2002).

[20] People v. Barcena, G.R. No. 168737, 16 February 2006, 482 SCRA 543, 555.

[21] People v. Tan, Jr., G.R. Nos. 103134-40, 20 November 1996, 264 SCRA 425, 439.

[22] People v. Santos, 452 Phil. 1046, 1061 (2003).

[23] People v. Baldo, G.R. No. 175238, 24 February 2009, 580 SCRA 225, 233.

[24] TSN, 1 October 2001, pp. 7-8.

[25] People v. Barcena, supra note 14 at 554.

[26] G. R. No. 184809, 29 March 2010.

[27] G. R. No. 188106, 25 November 2009, 605 SCRA 807.

[28] G. R. No. 175317, 02 October 2009, 602 SCRA 378.

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