PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. BENJIE RESURRECCION, ACCUSED-APPELLANT.

G.R. No. 185389. July 07, 2009

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

Before Us is an appeal from the Decision[1] of the Court of Appeals filed by Benjie Resurreccion (Benjie), dated 24 March 2008, which affirmed with modifications the Decision[2] of the Regional Trial Court (RTC) of Malaybalay, Bukidnon, Branch 8, finding him guilty of Simple Rape.

On 20 June 2001, Benjie was charged before the RTC with Rape under Article 266-A of the Revised Penal Code, as amended by Republic Act No. 8353. The accusatory portion of the Information reads:

> That on or about the 5[th] day of December, 2000 in the afternoon, at Purok XXX, Barangay XXX, Municipality of XXX, Province of XXX, Philippines and within the jurisdiction of this Honorable Court the above-named accused being the domestic helper of the parents of AAA,[3] prompted by lewd designs, grabbed the hands of AAA an 11 year old girl and forcibly brought the latter inside the room of AAA, cover her mouth did then and there willfully, unlawfully and criminally undress AAA and have sexual intercourse with AAA against her will, to the damage and prejudice of AAA in such amount as may be allowed by law.[4]

When arraigned on 2 October 2001, Benjie, with the assistance of his counsel de oficio, pleaded not guilty to the charge.[5] In the Pre-Trial Order dated 20 November 2001, which was signed by AAA's counsel, Benjie, and Benjie's lawyer, the prosecution offered for admission, among other matters, the following:

> 2) That the private complainant, AAA, was only 12 years old at the time of the alleged incident of 5 December 2000, as evidenced by her Certificate of Live Birth x x x.[6]

Thereafter, trial on the merits ensued.

The evidence of the prosecution -- as culled from the testimonies of the victim (AAA), the victim's aunt (BBB), and Dr. Marlyn Valdez-Agbayani (City Health Officer who examined the victim), as well as the documentary evidence -- are as follows:

AAA was born on 26 December 1988[7] and was only 11 years old when the subject incident took place. Benjie lived in the house of the victim as a helper. In the late afternoon of 5 December 2000, when AAA was going downstairs after she had just closed the windows in the second floor of their house, Benjie suddenly grabbed her arm and immediately covered her mouth using his right hand. Benjie then forcibly dragged her to her room and pinned her down to her bed with her hands at her back. Benjie removed AAA's short pants, panty and T-shirt. AAA struggled to free herself from Benjie by kicking the latter. Her attempt to escape from Benjie proved futile, as the latter succeeded in inserting his penis into her vagina (gi-iyot).[8] AAA felt pain when Benjie's organ was still inside her.

Right after the coitus, Benjie warned AAA not to tell the incident to anyone; otherwise, something would happen

to her.

On 6 December 2000, scared that Benjie would ravish her again, and considering that her mother was not around at that time, AAA decided to report her sexual molestation to her aunt BBB. BBB, in turn, related the incident to AAA's mother who arrived a little later. The incident was reported to the police station. Thereafter, AAA was taken to the Health Center for medical examination. Since the physician was not around on that day, the medical examination was conducted only on 7 December 2000, or two days after the alleged incident.

Dr. Marlyn Valdez-Agbayani examined AAA and found that the victim had no laceration in her external organ or her hymen. The former also testified that there were no spermatozoa in the victim's vagina. Despite these findings, Dr. Valdez-Agbayani clarified that if the hymen of a woman is elastic and so thin, as in AAA's case, laceration may not be present.[9] As to the absence of spermatozoa in the victim's vagina, Dr. Valdez-Agbayani said that it was possible that the victim washed her genitalia, especially since she was examined only after two days following the alleged rape incident.[10]

The defense, on the other hand, raised the defense of denial and presented the oral testimony of its lone witness, Benjie.

Benjie denied raping AAA. He claimed AAA and her parents falsely accused him since he often quarreled with her and was often scolded for this. Benjie claimed that the false accusation against him was a retribution of AAA's parents since they suspected him of stealing P8,000.00 from them.

In a Decision dated 30 August 2005, the RTC found Benjie guilty of the crime of simple rape and imposed upon him the penalty of reclusion perpetua. Benjie was also ordered to pay the victim P50,000.00 as damages. The decretal portion of the RTC decision reads:

> WHEREFORE, the Court finds the accused GUILTY of the crime of simple rape only beyond reasonable doubt and accordingly sentences him to the penalty of RECLUSION PERPETUA with all its accessories penalties and to pay the offended party the sum of P50,000.00 as damages and the costs of this suit.[11]

Unfazed, Benjie appealed the RTC decision to the Court of Appeals. In a Decision dated 24 March 2008, the Court of Appeals affirmed the conviction of Benjie and the penalty imposed. It, however, modified the award of damages by ordering him to pay P50,000.00 as civil indemnity and P50,000.00 as moral damages. The dispositive part of the Decision of the Court of Appeals states:

> WHEREFORE, the appealed Decision of the Regional Trial Court, Branch 8 in Malaybalay City finding appellant Benjie Resurreccion guilty beyond reasonable doubt of Rape, is AFFIRMED WITH MODIFICATION, in that appellant is further ORDERED to pay AAA the amount of P50,000.00 as civil indemnity, in addition to the amount of P50,000.00 as moral damages.[12]

Hence, the instant recourse.

Benjie contends that the RTC erred in convicting him of rape, considering that the prosecution failed to present evidence to warrant a finding of conviction. Benjie strongly objects to the RTC's giving credence to the victim's testimony as to how the rape was committed, which, according to him, was improbable. Benjie insists that it is too difficult to imagine how he could have effectively had sexual intercourse with AAA considering that, as the latter testified, his left hand was covering her mouth and his right hand was pinning her down; thereby, he was left with no hand to neutralize the legs of the victim, which were violently kicking at him.

Benjie insists that there is a great possibility that he did not commit the charge against him, since the medical findings reveal no traces of sperm cells in AAA's vagina. Likewise, Benjie stresses that AAA's parents had ill

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motive in accusing him, since the imputation came right after he was being suspected of stealing their money.

To ascertain the guilt or innocence of the accused in cases of rape, the courts have been traditionally guided by three settled principles, namely: (a) an accusation for rape is easy to make, difficult to prove and even more difficult to disprove; (b) in view of the intrinsic nature of the crime, the testimony of the complainant must be scrutinized with utmost caution; and (c) the evidence of the prosecution must stand on its own merits and cannot draw strength from the weakness of the evidence for the defense.[13]

Since the crime of rape is essentially one committed in relative isolation or even secrecy, it is usually only the victim who can testify with regard to the fact of the forced coitus.[14] In its prosecution, therefore, the credibility of the victim is almost always the single and most important issue to deal with.[15] If her testimony meets the test of credibility, the accused can justifiably be convicted on the basis thereof; otherwise, he should be acquitted of the crime.[16]

Under the law and prevailing jurisprudence, the "gravamen of the offense of statutory rape as provided under Article 335, paragraph 3 of the Revised Penal Code is the carnal knowledge of a woman below twelve years old."[17] "The only elements of statutory rape are: (1) that the offender had carnal knowledge of a woman; and (2) that such woman is under 12 years of age. It is not necessary to prove that the victim was intimidated or that force was used against her because in statutory rape the law presumes that the victim, on account of her tender age, does not and cannot have a will of her own."[18] Although the prosecution inadvertently proposed during the pre-trial conference the admission of the age of the victim as being 12 years old, the pre-trial order was silent on whether the defense concurred in such proposal. Such being the case, there was no categorical admission as to the age of the victim. During trial, the prosecution insisted on its stance that the victim was only 11 years old at the time of the commission of the crime. Without the objection of the defense, the prosecution presented the oral testimony of the victim and her birth certificate tending to prove her age. Since the prosecution alleged in the information and successfully proved during trial that the victim was below 12 years old, the alleged crime can be categorized as statutory rape. Having established the age of the victim, the only remaining question is whether Benjie had carnal knowledge of her.

Here, after an assiduous evaluation of the victim's testimony, the RTC found that AAA was indeed abused by Benjie. The RTC was convinced of the trustworthiness of AAA's declarations, thus:

> The Court has scrutinized carefully and in detail the testimony of the private-complainant x x x and it is convinced that she is telling the truth, which the accused failed to controvert by overwhelming contrary evidence to establish his innocence.[19]

This Court itself, in its desire to unveil the truth as borne out by the records, has painstakingly pored over the transcripts of stenographic notes of this case, and like the RTC, finds the victim's testimony of the incident candid and straightforward, indicative of an untainted and realistic narration of what transpired on that fateful day. She related the sexual assault in this manner:

> Q:
>
> On December 5, year 2000, in the early afternoon, can you recall where were you?
>
> A:
>
> I was in our house.
>
> x x x x
>
> Q:

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You said that you were in your house in that afternoon on December 5, year 2000, who were your companions, if any, in your house?

A:

Inside our house aside from me was Benjie Resurreccion, because my other younger brothers were outside the house playing.

Q:

Now, what kind of a house do you have, is it a two (2) storey house or one floor only?

A:

Our house is a two storey house.

Q:

You said that you and Benjie Resurreccion, you mean Benjie Resurreccion, the accused in this case?

A:

Yes.

Q:

Now, where was he particularly in your house at that time?

A:

In our kitchen.

Q:

How about you, where were you particularly in your house during that time?

A:

I was already going inside in order to close our windows in the second floor and first floor as it was already getting late.

x x x x

Q:

Now, after you closed the windows, what happened, if any?

A:

I was on my way to the first floor when Benjie grabbed me.

Q:

Earlier you said that you were closing the windows, windows of what portion of your house, upper part of your house or first floor?

A:

The second storey, Your Honor.

Q:

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So after as you said you were able to close the windows of the upper storey, what happened next?

A:

I was then going down and on my way, I was suddenly grabbed by Benjie Resurreccion.

x x x x

Q:

You said that you were suddenly grabbed by Benjie, in what particular place were you grabbed by Benjie?

A:

When I was on the first step of the stairs going down.

Q:

After you were grabbed by Benjie, what did he do next, if any?

A:

He then strongly covered my mouth and pulled me towards my own room.

x x x x

Q:

After you arrived inside your room, what happened next, if any?

A:

He then took me to the bed and he undressed me but at the same time he was still covering my mouth with his hand.

Q:

Now, after you were brought to the bed, what did he do next, if any?

A:

He then undressed me, he removed my shorts including my T-shirt.

x x x x

Q:

What happened next, after your shorts and T-shirt were removed?

A:

He laid me down and then he molested me. (gi-iyot ko niya) .

COURT:

Q:

Earlier you stated that in the room he undressed you, meaning, by way of taking off your shorts and T-shirt, does the Court understand that your panty was not removed?

A:

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My panty was also removed, Your Honor.

PROS. TORIBIO

Q:

Now, was his penis able to enter into your vagina, Miss AAA?

A:

Yes.

Q:

What did you feel when the penis of the accused was already inside your vagina?

A:

I felt pain.

Q:

After that, what did the accused do next, if any?

A:

After he was through, he told me that I should not divulge the matter because if I will do it, something is going to happen to me.[20]

The testimony of AAA adequately proved beyond reasonable doubt that she was subjected to a bestial act by her tormentor on 5 December 2000. It was an ordinary day for AAA. AAA was doing the usual chores in her house unsuspecting that at the heart of her home a predator was lurking, ready to devour her. As she was descending from the second floor of the house, Benjie was waiting downstairs and without warning clutched her and carried her towards her room. AAA could not shout since Benjie covered her mouth. She tried to escape, but she was not strong enough to do so. Benjie defiled her amidst her all-out resistance. Ignorant of the world of men, she felt excruciating pain when, for the first time in her life, her womanhood was violated. The overpowering trepidation that the same horrible act would be repeated empowered AAA to ask help from her aunt, despite the threat instilled in her by the perpetrator.

In stark contrast to the damning evidence adduced by the prosecution, what Benjie could rally was only a defense of denial. Between the self-serving testimony of Benjie, uncorroborated by any witnesses or documents, and the positive declaration of the victim who was of tender age, the latter deserves greater credence. As the Court of Appeals pointed out, Benjie's baseless allegations -- that the charge of rape was prompted by his constant bickering with AAA and aggravated by her family's anger at his alleged stealing of P8,000.00 from the family business -- were too flimsy and beg the Court's credulity. Oft repeated is the truism that being a woman of tender age, shy and ignorant of the sophistication of a man's world, by no stretch of imagination can we believe that considering her innate modesty, humility and purity as a young Filipina, AAA would have permitted herself to be the object of public ridicule, shame and obloquy as a victim of sexual assault or debauchery.[21] It takes an extreme sense of moral depravity for a very young girl to accuse someone of a heinous crime, such as rape, and expose him to the perils attendant to a criminal conviction for such feeble reasons. No parent would expose his or her own daughter to the shame and scandal of having undergone such debasing defilement of her chastity if the charges were not true.[22] It is unnatural for a parent to use his own offspring as an engine of malice, especially if it will subject a daughter to embarrassment and even stigma.[23]

Benjie tries to discredit the victim's testimony by questioning the odd position at which the rape was done. While Benjie's position, i.e., covering AAA's mouth with his left hand and pinning her down with the right hand, may be considered difficult, such does not exclude the possibility that rape can be consummated under said situation. Depraved individuals stop at nothing in order to accomplish their purpose. Perverts are not used to the easy way of satisfying their wicked cravings. It should be noted that the victim was a very young and fragile 11-year-old, who was easy to be subdued by an abuser who was used to manual labor and was already 18 or 19 years old.

In his last-ditch effort to be exculpated, Benjie calls this Court's attention to the medical findings that no sperm cells were present in the victim's vagina just two days following the rape. He intimates that no rape occurred because of the absence of the sperm cells.

This contention is not well-taken. The absence of spermatozoa in the victim's genitalia does not negate rape, the slightest penetration even without emission being sufficient to constitute and consummate the offense.[24] The mere touching of the labia of the woman's pudendum or lips of the female organ by the male sexual organ consummates the act.[25] Where the victim is a child, the fact that there was no deep penetration of her vagina and that her hymen was still intact does not negate the commission of rape.[26] Furthermore, the absence of fresh lacerations in the hymen cannot be a firm indication that she was not raped.[27] Hymenal lacerations are not an element of rape.[28] In this case, therefore, the medical finding of the absence of lacerations and sperm cells in the victim's organ cannot affect the fact that sexual molestation took place, taking into account the prosecution's sufficient establishment of the commission of sexual abuse. In fact, Dr. Valdez-Agbayani explained that if a woman's hymen is elastic and thin, penetration may not cause any lacerations to it. Dr. Valdez-Agbayani opined that the absence of hymenal lacerations in the victim was largely due to the fact that her hymen was elastic and thin. The absence of sperm cells can also be attributed to the fact that the medical examination of AAA happened two days after the molestation took place.

In sum, the Court finds that the RTC, as well as the Court of Appeals, committed no error in giving credence to the evidence of the prosecution and finding accused-appellant Benjie guilty of the charge. The Court has long adhered to the rule that findings of the trial court on the credibility of witnesses and their testimonies are accorded great respect unless it overlooked substantial facts and circumstances, which if considered, would materially affect the result of the case.[29] Such is not the case here.

Likewise affirmed is the penalty imposed by the RTC and the Court of Appeals. There being no aggravating or mitigating circumstance, the RTC and the Court of Appeals correctly imposed upon Benjie the penalty of reclusion perpetua.[30]

The award of damages imposed, which the Court of Appeals fixed at P50,000.00[31] for the civil indemnity and another P50,000.00[32] for the moral damages, are in order.

WHEREFORE, premises considered, the instant appeal is DENIED. The Decision of the Court of Appeals dated 24 March 2008, finding accused-appellant Benjie Resurreccion GUILTY beyond reasonable doubt of simple rape, sentencing him to suffer the penalty of RECLUSION PERPETUA and ordering him to pay the victim P50,000.00 as civil indemnity and another P50,000.00 as moral damages, is AFFIRMED.

SO ORDERED.

Ynares-Santiago, (Chairperson), Velasco, Jr., Nachura, and Peralta, JJ., concur.

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[1] Penned by Associate Justice Elihu A. Ybañez with Associate Justices Romulo V. Borja and Mario V. Lopez,

concurring; rollo, pp. 3-20.

[2] Penned by Judge Rolanda S. Venadas, Sr., CA rollo, pp. 19-33.

[3] Under Republic Act No. 9262 also known as "Anti-Violence Against Women and Their Children Act of 2004" and its implementing rules, the real name of the victim and those of her immediate family members are withheld and fictitious initials are instead used to protect the victim's privacy.

[4] Records, p. 19.

[5] Id. at 26.

[6] Id. at 32-A.

[7] Exhibit "A," the Birth Certificate of AAA; id. at 4.

[8] TSN, 30 September 2002, p. 11.

[9] TSN, 9 December 2002, pp 6-7, 13.

[10] Id at 12.

[11] Records, pp. 78-79.

[12] CA rollo, p. 147.

[13] People v. Orquina, 439 Phil. 359, 365-366 (2002).

[14] People v. Baylen, 431 Phil. 106, 118 (2002).

[15] People v. Quijada, 377 Phil. 202, 209 (1999).

[16] People v. Babera, 388 Phil. 44, 53 (2000).

[17] People v. Apostol, 378 Phil. 61, 76 (1999).

[18] Id.

[19] Records, p. 76.

[20] TSN, 30 September 2002, pp. 6-12.

[21] People v. Cana, 431 Phil. 152, 164 (2002).

[22] People v. Monteron, 428 Phil. 401, 410 (2002).

[23] Id.

[24] People v. Lozano, 423 Phil. 20, 27 (2001).

[25] Id.

[26] Id.

[27] Id.

[28] Id.

[29] People v. Dagpin, 400 Phil. 728, 739 (2000); People v. Velazquez, 399 Phil. 506, 515 (2000).

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[30] People v. Garcia, 395 Phil. 722, 741 (2000).

[31] People v. Biong, 450 Phil. 432, 449 (2003).

[32] People v. Pagsanjan, 442 Phil. 667, 688 (2002).

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