

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. LILIO U. ACHAS, ACCUSED-APPELLANT.

G.R. No. 185712. August 04, 2009

Ponente: VELASCO JR., J.

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VELASCO JR., J.:

This is an appeal from the Decision dated May 19, 2008 of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 00480, affirming the Decision dated March 11, 2004 of the Regional Trial Court (RTC), Branch 37 in Cagayan de Oro City. The RTC adjudged accused-appellant Lilio U. Achas guilty of two (2) counts of the crime of rape.

In two (2) separate informations filed before the RTC, docketed as Crim. Case Nos. 2000-045 and 2001-143, Achas was charged with two counts of rape, allegedly committed as follows:

Crim. Case No. 2000-045

Sometime in the month of June, 1998, on a Sunday noon, or thereabout at x x x, Philippines and within the jurisdiction of this Honorable Court, the above-named accused being the common-law husband of the mother, [BBB], of the victim, [AAA],[1] with lewd design, and by means of force and intimidation poked a knife on said eight (8) year old minor victim, [AAA], did then and there willfully, unlawfully and feloniously have carnal knowledge with the said victim against her will.

CONTRARY TO and in violation of Article 266-A in relation to Article 266-B of the Revised Penal Code as amended by RA 8353.

Crim. Case No. 2001-143

Sometime in the month of July, 1999, on [a] Sunday morning, in the mountain of x x x, Philippines and within the jurisdiction of this Honorable Court, the above-named accused being the common-law husband of the mother of the eight (8) year old minor-victim, [AAA], with lewd design, and by means of force, intimidation and grave abuse of authority, did then and there, willfully, unlawfully and feloniously have carnal knowledge with the said victim [AAA] against her will.

The commission by the accused is further aggravated by his knowledge that he is afflicted by [a] sexually transmissible disease and the disease [was] transmitted to the aforesaid victim.

CONTRARY TO and in violation of Article 266-A in relation to Article 266-B of the Revised Penal Code, as amended by RA 8353.[2]

The antecedent facts, as summarized in the decision under review, are as follows:

In 1998, AAA, then barely eight years old, was staying with her mother, BBB, and her common-law spouse, Achas, in Misamis Oriental. One Sunday in June of that year, AAA, while watching over her two half-brothers, CCC and DDD, in their home, was grabbed by Achas and led to their adjoining store. Once inside the store, Achas removed AAA's short pants and underwear. He then mounted her and succeeded in inserting his penis into

her vagina, causing her excruciating pain.

Sometime in March 1999, EEE, BBB's sister, saw a very pale AAA and asked what the matter was. For a reply, AAA only placed her arms around her aunt, shivering. Sensing that something was amiss, EEE lost no time in having AAA examined at the Northern Mindanao Medical Center where AAA was found to be afflicted with gonorrhea.[3]

The beastly act that occurred in June 1998 was to be repeated in the same place sometime in July 1999, while BBB was out gathering firewood. This time around, Achas covered AAA's mouth with a towel to prevent her from making any noise. And pointing a knife at the left side of AAA's neck before and after the sexual abuse, Achas warned her that he would kill her mother should she tell on him.[4]

Achas denied the accusations hurled against him by one who he allegedly loved like a daughter, claiming, in the same breath, to be in another province in June 1998 and July 1999. He tagged EEE, who disliked him and wanted her sister to leave him, as having masterminded the filing of the fabricated charges.[5]

CCC, AAA's half-brother and Achas' son, testified that it was not his father but two young boys who sexually molested his sister. According to CCC, AAA no less told him about Achas' virtual innocence. Pushing his point, CCC testified to being told by EEE to keep quiet about AAA not having been raped by Achas. EEE's instructions, per CCC, allegedly came when Achas was already in jail.[6]

On March 11, 2004, the RTC rendered judgment finding Achas guilty beyond reasonable doubt of rape on two counts and sentencing him to death for each crime. The dispositive portion of the RTC Decision reads:

WHEREFORE, premises considered, this Court finds accused Lilio U. Achas guilty beyond reasonable doubt of two (2) counts or crimes of rape committed against the minor offended party, and said accused is hereby sentenced to die for each of the two counts or crimes of rape said penalty of death to be carried out in accordance with the procedure and method enforced by the appropriate authorities of the Executive Department. Moreover, the accused is sentenced to pay the minor offended party in each of the two counts or crimes of rape the sum of P75,000.00 by way of civil indemnity x x x and the sum of P50,000.000 by way of moral damages.

x x x x

SO ORDERED.[7]

The RTC forthwith elevated the records of the case to this Court for automatic review in light of the penalty imposed. In accordance, however, with the *People v. Mateo*[8] ruling, the Court, per Resolution of June 6, 2006, ordered the transfer of the case records to the CA for intermediate review.

On May 19, 2008, the CA rendered a Decision affirming that of the trial court. The appellate court, however, reduced the penalty of death for each count of rape to reclusion perpetua without eligibility for parole in light of Republic Act No. (RA) 9346[9] prohibiting the imposition of the death penalty. The dispositive portion of the CA's decision reads:

WHEREFORE, premises considered, the assailed Decision of the Regional Trial Court (RTC), 10[th] Judicial Region, Branch 37, Cagayan de Oro City, in Criminal Cases Nos. 2000-045 and 2001-143, convicting appellant, Lilio U. Achas of two (2) counts of rape is hereby AFFIRMED, with the modification in that appellant is only meted the penalty of reclusion perpetua instead of death for each count of rape and that AAA is awarded P75,000.00 as moral damages, P75,000.00 as civil indemnity and P25,000.00 as exemplary damages for each count of rape.

SO ORDERED.[10]

On June 24, 2008, Achas filed his Notice of Appeal of the CA Decision.

In response to the Resolution of the Court for them to submit supplemental briefs, if they so desired, the parties manifested their willingness to have the case resolved on the basis of the records and pleadings already on file.

The issue before us is:

WHETHER THE COURT A QUO GRAVELY ERRED IN CONVICTING THE ACCUSED DESPITE THE FAILURE OF THE PROSECUTION TO PROVE HIS GUILT BEYOND REASONABLE DOUBT

Achas' defense is predicated on alibi and denial. He denies having committed the crimes imputed against him, being, in the first place, in Bukidnon on the dates the supposed rape incidents occurred. How could he, he protests, do something dastardly on one who he loved and treated like his own child? His son, CCC, when called on the witness stand, belied AAA's inculpatory allegations against his father.

Achas brands AAA's account as to his guilt as incredulous and inconsistent with human experience and the natural course of things. He likewise maintains that the physical evidence ran counter to AAA's testimonial evidence. In particular, he asserts that AAA was not alone in the house when the alleged June 1998 rape happened; yet, contrary to human nature, AAA did not cry out for help. He also belies committing the second rape charged, for, in July 1999, EEE already had custody of AAA.

Setting his focus on another angle, Achas maintains that if AAA's allegations of rape were true, then hymenal lacerations and external physical injuries would have been observed by the examining physician and so indicated, but was not, in the medical records.

The People, through the Office of the Solicitor General (OSG), would have the Court discredit the proffered defenses of denial and alibi, describing them as the favorite sanctuary of felons. And for reasons detailed in its Brief,[11] the OSG, citing jurisprudence, urges that Achas' assault on AAA's credibility be rejected.

The Court resolves to affirm the CA decision.

For conviction in the crime of rape,[12] the following elements must be proved:

- that the accused had carnal knowledge of a woman;
- that said act was accomplished under any of the following circumstances-
 - through force, threat or intimidation;
 - when the offended party is deprived of reason or is otherwise unconscious;
 - by means of fraudulent machination or grave abuse of authority; or
 - when the offended party is under twelve (12) years of age or is demented, even though none of the circumstances mentioned above be present.[13]

By the distinctive nature of rape cases, conviction usually rests solely on the basis of the testimony of the victim, provided that such testimony is credible, natural, convincing, and consistent with human nature and the normal course of things.[14] Accordingly, the Court has consistently adhered to the following guiding principles in the review of similar cases, to wit: (1) an accusation for rape can be made with facility; while the accusation is difficult to prove, it is even more difficult for the accused, though innocent, to disprove; (2) considering that, in the nature of things, only two persons are usually involved in the crime of rape, 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.[15]

Complementing the foregoing principles is the rule that the credibility of the victim is always the single most important issue in prosecution for rape;[16] that in passing upon the credibility of witnesses, the highest degree of respect must be afforded to the findings of the trial court.[17]

AAA had pointed to Achas as the person who forced himself on her on at least two occasions and who caused her pain when he entered her. As determined by the trial court, AAA's testimony on the fact of molestation was positive and credible. The trial court wrote:

Based on the demeanor of the private complainant when she testified, and after an assessment of the testimonies of the prosecution witnesses, this Court believes and concludes that the prosecution witnesses and their testimonies are credible. These witnesses testified positively, directly, and in a candid manner. There is neither cause nor reason for this Court to withhold credence on the testimonies of the prosecution witnesses.[18]

And citing this Court's ruling on an analogous case involving a girl-child, the trial court added:

x x x [I]t is unbelievable for a ten-year old virgin to publicly disclose that she had been sexually abused, then undergo the trouble and humiliation of a public trial if her motive were other than to protect her honor and bring to justice the person who unleashed his lust on her.[19]

Just like the CA, the Court loathes to disturb the trial court's assessment of AAA's credibility, having had the opportunity to observe her demeanor in the witness box. When the offended party is of tender age and immature, courts are inclined to give credit to her account of what transpired, considering not only her relative vulnerability but also the shame to which she would be exposed if the matter to which she testified is not true.[20]

AAA may perhaps have not cried for help while being taken forcibly by Achas to the store adjoining their house or during the actual penile insertion itself. This imputed omission, however, does not necessarily diminish the plausibility of AAA's story, let alone destroy her credibility. AAA was a young country girl of eight during the period material. It was easy to intimidate her then into silence. She was with her stepfather who enjoyed moral authority over her and the only people around were her two younger--and doubtless undiscerning--half-brothers whom she was looking after. Could the two toddlers be expected to understand what their father was about to do or was doing then to AAA and come to their half-sister's succor?

Physical resistance need not be established when intimidation is brought to bear on the victim and the latter submits herself out of fear. As has been held, the failure to shout or offer tenuous resistance does not make voluntary the victim's submission to the criminal acts of the accused.[21] Intimidation is addressed to the mind of the victim and is, therefore, subjective.[22] AAA's credibility should, thus, not be undercut just because she did not cry out, if this really be the case, for help. Rape is subjective and not everyone responds in the same way to an attack by a sexual fiend. There is no stereotypical form of reaction for a woman when facing a traumatic experience, such as a sexual assault.[23] When a girl, especially a minor, says that she has been raped, she says in effect all that is necessary to show that rape was committed.[24]

Achas has made much of the absence of medical traces of hymenal laceration on AAA. Given the unwavering testimony of AAA as to her ordeal in the hands of Achas, however, the Court cannot accord merit to the argument that the lack of physical manifestation of rape weakens the case against Achas. The medical report on AAA is only corroborative of the finding of rape. The absence of external signs or physical injuries on the complainant's body does not necessarily negate the commission of rape.[25] This is because hymenal laceration is not an element of the crime of rape,[26] albeit a healed or fresh laceration is a compelling proof of defloration.[27] What is more, the foremost consideration in the prosecution for rape is the victim's testimony and not the findings of the medico-legal officer. In fact, a medical examination of the victim is not indispensable in a prosecution for rape;

the victim's testimony alone, if credible, is sufficient to convict.[28]

Achas' claim of being in Bukidnon, a province adjoining Misamis Oriental, during the commission of the sexual assaults stands uncorroborated and cannot be given much consideration to support his alibi. He was not able to show the physical impossibility of his being with AAA at the time the incidents occurred. For alibi to prosper, the accused must show being somewhere else during the actual commission of the crime and that it was physically impossible for him to have been at the crime scene. Alibi must fail where, owing to the short distance as well as the facility of access between the two places involved, there is least chance for the accused to be present at the crime scene.[29] But just to put things in the proper perspective, what Achas testified to, as noted by the trial court, was that he went to Don Carlos, Bukidnon in May 1999 and left that municipality in October 1999,[30] a plausible alibi for the July 1999 rape incident only.

Denial, just like alibi, if not substantiated by clear and convincing evidence, is inherently weak, being self-serving negative evidence undeserving of weight in law.[31] To be sure, either gratuitous defense cannot be accorded greater evidentiary weight than the positive declaration of credible witnesses.[32] Put a bit differently, the defense of denial or alibi becomes even weaker in the face of an unqualified and positive identification of Achas as complainant's rapist.[33]

CCC's uncorroborated testimony in the defense of Achas also deserves scant consideration, it being but natural for a son to testify for his father. CCC's version of events, moreover, requires a considerable stretch of the imagination to be believed. His story has his aunt, EEE, cooking up an elaborate frame-up of Achas only because she did not like him. CCC's aunt allegedly coached him to say it was their two neighbors who committed the crime against his half-sister. CCC's account taxes credulity, for it is highly unusual for AAA to accuse her own stepfather of rape, while letting the real culprits go unpunished.

At any event, her having been sexually assaulted by someone else does not foreclose the possibility of Achas having raped her also. As it were, CCC was not present when Achas--to satisfy his lust, at least the second time around--dragged AAA into the adjoining store. In other words, CCC did not, as he could not, testify on the physical impossibility of the crime having being committed by his father. We go back to the oft-cited jurisprudential gem that a young girl will not have the courage and strength to concoct a tale of defloration against a stepfather and relate in public all its horrifying were she not in fact sexually violated. The Court cannot bring its mind to a rest that a girl of tender age--like AAA, who has not been shown to have ill motive to falsely testify against her stepfather--would allow herself to go through the humiliation of a public trial if not to pursue justice for what has happened.[34] As to the testimony of CCC, we have previously held that when the denial of the accused is tended to be established only by himself, his relatives, or friends, his denial of culpability should be accorded the strictest scrutiny; their testimonies are necessarily suspect and cannot prevail over the testimonies of the more credible witnesses for the prosecution.[35] So it must be here.

On pecuniary liability, we affirm the amount of damages awarded by the appellate court. Civil indemnity for statutory rape is currently pegged at PhP 75,000, while moral damages, which are awarded without need of proof of mental suffering or anguish other than the fact of statutory rape, was properly awarded in the amount of PhP 75,000.[36] The award of exemplary damages in the amount of PhP 25,000 is increased to PhP 30,000 pursuant to prevailing jurisprudence.[37]

While RA 9346 prohibited the imposition of the death penalty and the penalty is reduced to reclusion perpetua, the accused is, however, no longer eligible for parole.

WHEREFORE, the CA Decision dated May 19, 2008 in CA-G.R. CR-H.C. No. 00480 finding accused-appellant Lilio U. Achas guilty of two (2) counts of rape is hereby **AFFIRMED** with the **MODIFICATION** that he is

ordered to pay PhP 30,000 as exemplary damages and that he is ineligible for parole.

SO ORDERED.

Ynares-Santiago, (Chairperson), Chico-Nazario, Nachura, and Peralta, JJ., concur.

[1] The name and personal circumstances of the victim and her immediate family are withheld per Republic Act No. (RA) 7610 or The Special Protection of Children Against Child Abuse, Exploitation, and Discrimination Act (1992) and RA 9262 or the Anti-Violence Against Women and Their Children Act (2004).

[2] Rollo, pp. 8-9.

[3] Id. at 10.

[4] Id. at 11.

[5] Id. at 12.

[6] TSN, February 14, 2002, pp. 8-13.

[7] CA rollo, pp. 28-29. Penned by Judge Jose L. Escobido.

[8] G.R. Nos. 147678-87, July 2004, 433 SCRA 640.

[9] RA 9346, Sec. 3 provides that "persons convicted of offenses punished with reclusion perpetua, by reason of this Act, shall not be eligible for parole under Act. No. 4103, otherwise known as the Indeterminate Sentence Law, as amended."

[10] CA rollo, p. 20. Penned by Associate Justice Jane Aurora C. Lantion and concurred in by Associate Justices Edgardo A. Camello and Edgardo T. Lloren.

[11] Id. at 83-97.

[12] Penile or organ rape.

[13] Revised Penal Code, Art. 266-A; *People v. Barangan*, G.R. No. 175480, October 2, 2007, 534 SCRA 570, 591-592.

[14] *People v. Corpuz*, G.R. No. 168101, February 13, 2006, 482 SCRA 435, 444.

[15] Id.; *People v. Bidoc*, G.R. No. 169430, October 21, 2006, 506 SCRA 481, 495; *People v. Arsayo*, G.R. No. 166546, September 26, 2006, 503 SCRA 275, 284; *People v. Quiachon*, G.R. No. 170236, August 31, 2006, 500 SCRA 704, 714.

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

[17] *People v. Balonzo*, G.R. No. 176153, September 14, 2007, 533 SCRA 760, 768.

[18] CA rollo, p. 25.

[19] Id.; citing *People v. Buyok*, G.R. No. 109771, August 25, 1994, 235 SCRA 622.

[20] *People v. Candaza*, G.R. No. 170474, June 16, 2006, 491 SCRA 280, 295-296.

[21] *People v. San Antonio, Jr.*, G.R. No. 176633, September 5, 2007, 532 SCRA 411, 428.

- [22] *People v. Castro*, G.R. No. 172691, August 10, 2007, 529 SCRA 800, 809-810; citing *People v. Ilao*, G.R. Nos. 152683-84, December 11, 2003, 418 SCRA 391.
- [23] *San Antonio, Jr.*, supra note 21.
- [24] *Bidoc*, supra note 15; *Corpuz*, supra note 14, at 448.
- [25] *People v. Espino, Jr.*, G.R. No. 176742, June 17, 2008, 554 SCRA 682, 700.
- [26] *Id.*; citing *People v. Esteves*, 438 Phil. 687, 699 (2002).
- [27] *People v. Sambrano*, G.R. No. 143708, February 24, 2003, 398 SCRA 106, 113.
- [28] *Espino, Jr.*, supra note 25, at 700-701; citing *People v. Logmao*, 414 Phil. 378, 387 (2001).
- [29] *People v. dela Cruz*, G.R. No. 168173, December 24, 2008.
- [30] CA rollo, pp. 23-24.
- [31] *People v. Lizano*, G.R. No. 174470, April 27, 2007, 522 SCRA 803, 811.
- [32] *People v. Robles*, G.R. No. 177770, March 28, 2008, 550 SCRA 463, 475.
- [33] *People v. Resuma*, G.R. No. 179189, February 26, 2008, 546 SCRA 728, 741; citing *People v. Gonzales*, G.R. No. 141599, June 29, 2004, 433 SCRA 102, 116.
- [34] *People v. Nazareno*, G.R. No. 167756, April 9, 2008, 551 SCRA 46, 41.
- [35] *People v. De Guzman*, G.R. No. 173197, April 24, 2007, 522 SCRA 207, 217.
- [36] *People v. Ramos*, G.R. No. 179030, June 12, 2008; citing *Bidoc*, supra note 15.
- [37] *People v. Sia*, G.R. No. 174059, February 27, 2009.

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