

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JESUS PARAGAS CRUZ, ACCUSED-APPELLANT.

G.R. No. 186129. August 04, 2009

Ponente: VELASCO JR., J.

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VELASCO JR., J.:

This is an appeal from the Decision of the Court of Appeals (CA) dated May 30, 2008 in CA-G.R. CR-H.C. No. 01760, which affirmed the August 12, 2002 Decision in Criminal Case No. 99-329 of the Regional Trial Court (RTC), Branch 259 in Parañaque City.

Accused-appellant Jesus Paragas Cruz was convicted of one (1) count of rape or violation of paragraph 1(a), Article 266-A of the Revised Penal Code, as amended. He was sentenced to suffer the penalty of reclusion perpetua.

The Facts

The Information dated February 23, 1999 against Cruz alleged the following:

That on or about the 6[th] day of June 1998 in the City of Parañaque, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, by means of force and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge with one [AAA],[1] a minor, 9 years old, against her will.

CONTRARY TO LAW.[2]

Upon arraignment on July 8, 1999, Cruz pleaded not guilty.

The prosecution offered the testimony of the following witnesses: PO3 Maria Bautista; Dr. Winston Tan; the victim's mother, BBB; and Emiliano Mariano, the barangay tanod of San Dionisio, Parañaque City. Apart from Cruz, the defense presented as witnesses his wife, Melinda Cruz; Antonio Gonzales; Benjamin Gudal; Jesus Cruz; Dr. Darius Mariano; and Dr. Winston Tan.

Version of the Prosecution

On June 6, 1998, AAA, then a nine-year old, was at her house watching television with her cousin Jady. It was past three in the afternoon when Jady left to go to her grandmother's house. Upon her departure, Cruz abruptly entered the house and turned off the television. He closed the windows and told AAA to remove her shorts. She did as instructed. Cruz later kissed AAA and touched her vagina. She felt pain as he inserted his penis into her vagina. She did not do anything, however, as she was fearful of Cruz. To intimidate her further, Cruz threatened to kill her should she report what had just happened. He then left in a hurry and closed the door of the house.[3]

AAA tried her best to keep the rape a secret as she was terrified that Cruz would come back and kill her. Nevertheless, she told her mother BBB what happened to her a few months later. BBB subsequently told Cruz's wife of what she had just discovered. Thereafter, BBB took her daughter to the barangay hall and then to the

police station to report the matter to the authorities.[4]

A medical examination was conducted on AAA by Dr. Winston Tan. His report showed that AAA had two (2) hymenal lacerations. One was a deep-healed laceration at the 3 o'clock position and another one a shallow healed laceration at the 5 o'clock position.[5]

Version of the Defense

Maintaining his innocence, Cruz claimed that at the time of the rape he was with Antonio Gonzales in Multinational Village, Parañaque City. Gonzales later testified that they met from 11 o'clock in the morning to about 5:30 in the afternoon. Cruz conducted a survey of Gonzales' land to prepare it for a prospective buyer. A couple of months later or on September 28, 1998, his wife told him of AAA's allegation of rape. Policemen subsequently arrested him and brought him to the police station where he was informed that he was being charged of rape. To further establish his defense, Cruz maintained that it was impossible for him to commit rape as he had been sexually impotent since 1995. He pointed to a land dispute he had with the victim's family as a possible reason for the fabricated charge.[6]

Cruz's wife Melinda corroborated his story by saying that they seldom had sexual intercourse after 1995 as he had become impotent. Dr. Darius Mariano, meanwhile, diagnosed Cruz in 2001 as suffering from erectile dysfunction.[7]

The Ruling of the Trial Court

The RTC found Cruz guilty for the crime charged. It found Cruz's defense too shallow in light of his positive identification as the perpetrator of the rape. The dispositive portion of the RTC Decision reads:

WHEREFORE, PREMISES CONSIDERED, finding accused Jesus Paragas Cruz GUILTY beyond reasonable doubt for the crime of Rape as defined and penalized under par. 1(c) Art. 266-A RA 8353 in relation to Sec. 5(b) RA 7610; this Court hereby sentences him to reclusion perpetua and to suffer the accessory penalties provided by law, particularly Art. 41 of the Revised Penal Code. For the civil liability, he is further condemned to pay the amount of P100,000.00 as actual and moral damages.

x x x x

SO ORDERED.[8]

On June 25, 2008, Cruz filed his Notice of Appeal of the RTC Decision.

The Ruling of the CA

Cruz, in arguing that the trial court erred in convicting him, alleged that AAA's hymenal lacerations could have been caused by means other than sexual intercourse. He furthermore submitted that his erectile dysfunction raised doubts as to his culpability. Additionally, he claimed that the corroboration of his alibi by two other witnesses should not have been disregarded.

The CA found Cruz's assertions without merit. It ruled that his impotency was not proved with certainty. The appellate court pointed out that the medical finding of erectile dysfunction was based on an examination more than three years after the rape occurred; thus, no categorical conclusion could be made that Cruz was impotent when the rape was committed.

Following jurisprudence on the subject matter, the appellate court held that it was hard to believe AAA's mother would file rape charges against Cruz because of a land dispute, seeing as it would cause AAA embarrassment and subject her to a lifelong stigma. As to Cruz's alibi, the CA opined that he was not able to prove the physical

impossibility of his having committed the crime.

The fallo of the CA Decision reads:

WHEREFORE, the Decision appealed from is hereby AFFIRMED with the MODIFICATIONS that accused-appellant JESUS PARAGAS CRUZ is ordered to pay private complainant P50,000.00 as civil indemnity and P50,000.00 as moral damages, and exemplary damages in the amount of P25,000.00. The awarded amount of P100,000.00 is DELETED. The Decision stands in all other respects.

SO ORDERED.[9]

On March 11, 2009, this Court required the parties to submit supplemental briefs if they so desired. The parties manifested their willingness to submit the case on the basis of the records already submitted.

The Issue

THE COURT A QUO GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT OF THE CRIME OF RAPE

Cruz reiterates his previous assertions, i.e., that (1) the victim's hymenal lacerations could have been caused by a non-sexual act; (2) Cruz's erectile dysfunction made it impossible for him to commit rape; and (3) his alibi that he was elsewhere at the time of the rape deserves more weight as it was corroborated by two other witnesses.

Non-Sexual Cause of Hymenal Lacerations

Courts use the following principles in deciding rape cases: (1) an accusation of rape can be made with facility; it is difficult to prove but more difficult for the person accused, though innocent, to disprove; (2) due to the 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. Due to the nature of this crime, conviction for rape may be solely based on the complainant's testimony provided it is credible, natural, convincing, and consistent with human nature and the normal course of things.[10]

Bearing the aforementioned principles in mind, we find the prosecution's evidence sufficient for a conviction. The claim that AAA's hymenal lacerations could have been caused by something other than sexual congress is distinctly speculative and does not throw any doubt as to the fact of rape. What is more, proof of hymenal laceration is not even an element of rape so long as there is enough proof of entry of the male organ into the labia of the pudendum of the female organ.[11]

We have gleaned from the records a credible and straightforward account of the rape from the victim herself. She was unflinching both during her direct and cross-examinations and was categorical in identifying Cruz as the rapist. We, thus, concur with both the trial and appellate courts in holding that AAA's testimony is enough to hold Cruz liable. Most important in a prosecution for statutory rape is to prove the following elements: (1) that the accused had carnal knowledge of a woman; and (2) that the woman was below 12 years of age. Sexual congress with a girl under 12 years old is always rape.[12] These elements were sufficiently established during trial and were not rebutted by the defense with any solid evidence to the contrary. As the trial court was in a better position to observe the candor and demeanor of the witnesses, we respect its findings of fact especially as these were sustained by the CA.[13]

Impotence as a Defense

As a defense, impotence is both a physical and medical question that should be satisfactorily established with the

aid of an expert and competent testimony.[14] Impotency as a defense in rape cases must likewise be proved with certainty to overcome the presumption in favor of potency.[15] While Cruz was indeed diagnosed as suffering from erectile dysfunction, this does not preclude the possibility of his having sexual intercourse with AAA. As the CA observed accurately, AAA was raped in 1998 while the medical examination of Cruz was conducted in 2001. A good three years had already lapsed since AAA had been sexually abused. The diagnosis on Cruz in 2001 is, therefore, useless to disprove his sexual potency at the time of the rape incident. It merely corroborates his assertion that he is currently sexually impotent, and not that he has been so since 1995. Cruz was not able to adduce hard evidence to demonstrate his impotency prior to or on June 6, 1998 when the crime of rape was committed. Moreover, assuming arguendo that he was indeed impotent since 1995, it does not discount the possibility that his erection was cured by drugs like Viagra or Ciales. There was simply no proof of his alleged impotency on June 6, 1998 when the beastly act of rape was committed against AAA.

Furthermore, we find the testimony of Cruz's wife Melinda more harmful than helpful to the theory of the defense. It can be recalled that she testified as to having infrequent sexual intercourse with her husband after 1995 because he had become impotent. This contradicts Cruz's claim that it was impossible for him to have raped AAA because of his medical condition. Apparently his alleged impotence, which started in 1995, did not completely stop him from engaging in sexual intercourse over the years.

Erectile dysfunction or ED can be a total inability to achieve erection, an inconsistent ability to do so, or a tendency to sustain only brief erections. These variations make defining ED and estimating its incidence difficult.[16] The testimony of the doctor who examined Cruz in 2001 did not specify what kind of ED Cruz was suffering from. Cruz's impotency cannot, therefore, be considered as completely eliminating the possibility of sexual intercourse.

Defense of Alibi

Cruz's final argument likewise fails to convince this Court. He relies on as alibi his presence in Multinational Village in Parañaque City conducting a land survey at the time of the rape incident. To sustain such an alibi, the defense must establish the physical impossibility for the accused to be present at the scene of the crime at the time of its commission.[17] True it is that his story was corroborated by additional witnesses. These testimonies, however, did not show the physical impossibility of Cruz to be present at AAA's home when she was raped. Even if Cruz conducted the land survey on the same day, he could have very easily committed the rape as he was in the same city as AAA.

Penalty Imposed

The award of civil indemnity of PhP 50,000 in simple rape cases without need of pleading or proof is correct.[18] In addition, moral damages of PhP 50,000 were also correctly awarded.[19] These are automatically granted in rape cases without need of proof other than the commission of the crime.[20] Exemplary damages were appropriately awarded by way of public example and to protect the young from sexual predators. We, however, increase the award to PhP 30,000 in accordance with prevailing jurisprudence.[21]

WHEREFORE, the appeal is DENIED. The CA Decision in CA-G.R. CR-H.C. No. 01760 finding accused-appellant Jesus Paragas Cruz guilty of statutory rape is AFFIRMED with the MODIFICATION that the award of exemplary damages is increased to PhP 30,000.

SO ORDERED.

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

[*] Additional member as per August 3, 2009 raffle.

[1] The real name and the personal circumstances of the victim and her immediate relatives are withheld per R.A. No. 7610 (Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act) and R.A. No. 9262 (Anti-Violence Against Women and Their Children Act). See *People v. Cabalquinto*, G.R. No. 167693, September 19, 2006, 502 SCRA 419, 425-426.

[2] Rollo, p. 3.

[3] *Id.* at 4-5.

[4] *Id.* at 5.

[5] *Id.*

[6] *Id.* at 6.

[7] *Id.*

[8] CA rollo, p. 103. Penned by Judge Zosimo V. Escano.

[9] Rollo, p. 18. Penned by Associate Justice Edgardo F. Sundiam.

[10] *People v. Lagarde*, G.R. No. 182549, January 20, 2009; citing *People v. Nazareno*, G.R. No. 167756, April 9, 2008, 551 SCRA 16, 31.

[11] *People v. Jumawid*, G.R. No. 184756, June 5, 2009; citing *People v. Borromeo*, G.R. No. 150501, June 3, 2004, 430 SCRA 533.

[12] *People v. Marcos*, G.R. No. 185380, June 18, 2009.

[13] See *People v. Mahinay*, G.R. No. 179190, January 20, 2009.

[14] *People v. Alcartado*, G.R. Nos. 132379-82, June 29, 2000, 334 SCRA 701, 715.

[15] *People v. De Villa*, G.R. No. 124639, February 1, 2001, 351 SCRA 25, 30.

[16] Erectile Dysfunction .

[17] *People v. Malate*, G.R. No. 185724, June 5, 2009.

[18] *People v. Corpuz*, G.R. No. 175836, January 30, 2009.

[19] See *Mahinay*, *supra* note 13.

[20] *People v. Abay*, G.R. No. 177752, February 24, 2009.

[21] See *People v. Anguac*, G.R. No. 176744, June 5, 2009, *People v. Layco, Sr.*, G.R. No. 182191, May 8, 2009.

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