

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ANTONIO LAUGA Y PINA ALIAS TERIO, ACCUSED-APPELLANT.

G.R. No. 186228. March 15, 2010

Ponente: PEREZ, J.

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PEREZ, J.:

Before Us for final review is the trial court's conviction of the appellant for the rape of his thirteen-year old daughter.

Consistent with the ruling of this Court in *People v. Cabalquinto*,^[1] the real name and the personal circumstances of the victim, and any other information tending to establish or compromise her identity, including those of her immediate family or household members, are not disclosed in this decision.

The Facts

In an Information dated 21 September 2000,^[2] the appellant was accused of the crime of QUALIFIED RAPE allegedly committed as follows:

That on or about the 15th day of March 2000, in the evening, at Barangay xxx, municipality of xxx, province of Bukidnon, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, being the father of AAA with lewd design, with the use of force and intimidation, did then and there, willfully, unlawfully and criminally have carnal knowledge with his own daughter AAA, a 13 year[s]old minor against her will.^[3]

On 12 October 2000, appellant entered a plea of not guilty.^[4] During the pre-trial conference, the prosecution and the defense stipulated and admitted: (a) the correctness of the findings indicated in the medical certificate of the physician who examined AAA; (b) that AAA was only thirteen (13) years old when the alleged offense was committed; and (c) that AAA is the daughter of the appellant.^[5] On trial, three (3) witnesses testified for the prosecution, namely: victim AAA;^[6] her brother BBB;^[7] and one Moises Boy Banting,^[8] a "bantay bayan" in the barangay. Their testimonies revealed the following:

In the afternoon of 15 March 2000, AAA was left alone at home.^[9] AAA's father, the appellant, was having a drinking spree at the neighbor's place.^[10] Her mother decided to leave because when appellant gets drunk, he has the habit of mauling AAA's mother.^[11] Her only brother BBB also went out in the company of some neighbors.^[12]

At around 10:00 o'clock in the evening, appellant woke AAA up;^[13] removed his pants, slid inside the blanket covering AAA and removed her pants and underwear;^[14] warned her not to shout for help while threatening her with his fist;^[15] and told her that he had a knife placed above her head.^[16] He proceeded to mash her breast, kiss her repeatedly, and "inserted his penis inside her vagina."^[17]

Soon after, BBB arrived and found AAA crying.^[18] Appellant claimed he scolded her for staying out late.^[19] BBB decided to take AAA with him.^[20] While on their way to their maternal grandmother's house, AAA

recounted her harrowing experience with their father.[21] Upon reaching their grandmother's house, they told their grandmother and uncle of the incident,[22] after which, they sought the assistance of Moises Boy Banting.[23]

Moises Boy Banting found appellant in his house wearing only his underwear.[24] He invited appellant to the police station,[25] to which appellant obliged. At the police outpost, he admitted to him that he raped AAA because he was unable to control himself.[26]

The following day, AAA submitted herself to physical examination.[27] Dra. Josefa Arlita L. Alsula, Municipal Health Officer of x x x, Bukidnon, issued the Medical Certificate, which reads:

hyperemic vulvae with 4 o'clock & 6 o'clock freshly lacerated hymen; (+) minimal to moderate bloody discharges 2° to an alleged raping incident[28]

On the other hand, only appellant testified for the defense. He believed that the charge against him was ill-motivated because he sometimes physically abuses his wife in front of their children after engaging in a heated argument,[29] and beats the children as a disciplinary measure.[30] He went further to narrate how his day was on the date of the alleged rape.

He alleged that on 15 March 2000, there was no food prepared for him at lunchtime.[31] Shortly after, AAA arrived.[32] She answered back when confronted.[33] This infuriated him that he kicked her hard on her buttocks.[34]

Appellant went back to work and went home again around 3 o'clock in the afternoon.[35] Finding nobody at home,[36] he prepared his dinner and went to sleep.[37]

Later in the evening, he was awakened by the members of the "Bantay Bayan" headed by Moises Boy Banting.[38] They asked him to go with them to discuss some matters.[39] He later learned that he was under detention because AAA charged him of rape.[40]

On 8 July 2006, the Regional Trial Court, Branch 9, Malaybalay City, Bukidnon, rendered its decision[41] in Criminal Case No. 10372-0, finding appellant guilty of rape qualified by relationship and minority, and sentenced him to suffer the penalty of reclusion perpetua.[42] It also ordered him to indemnify AAA P50,000.00 as moral damages, and P50,000.00 as civil indemnity with exemplary damages of P25,000.00.[43]

On 30 September 2008, the decision of the trial court was AFFIRMED with MODIFICATIONS[44] by the Court of Appeals in CA-G.R. CR HC No. 00456-MIN.[45] The appellate court found that appellant is not eligible for parole and it increased both the civil indemnity and moral damages from P50,000.00 to P75,000.00.[46]

On 24 November 2008, the Court of Appeals gave due course to the appellant's notice of appeal.[47] This Court required the parties to simultaneously file their respective supplemental briefs,[48] but both manifested that they will no longer file supplemental pleadings.[49]

The lone assignment of error in the appellant's brief is that, the trial court gravely erred in finding him guilty as charged despite the failure of the prosecution to establish his guilt beyond reasonable doubt,[50] because: (1) there were inconsistencies in the testimonies of AAA and her brother BBB;[51] (2) his extrajudicial confession before Moises Boy Banting was without the assistance of a counsel, in violation of his constitutional right;[52] and (3) AAA's accusation was ill-motivated.[53]

Our Ruling

Appellant contests the admissibility in evidence of his alleged confession with a "bantay bayan" and the credibility of the witnesses for the prosecution.

Admissibility in Evidence of an
Extrajudicial Confession before
a "Bantay Bayan"

Appellant argues that even if he, indeed, confessed to Moises Boy Banting, a "bantay bayan," the confession was inadmissible in evidence because he was not assisted by a lawyer and there was no valid waiver of such requirement.[54]

The case of *People v. Malngan*[55] is the authority on the scope of the Miranda doctrine provided for under Article III, Section 12(1)[56] and (3)[57] of the Constitution. In *Malngan*, appellant questioned the admissibility of her extrajudicial confessions given to the barangay chairman and a neighbor of the private complainant. This Court distinguished. Thus:

Arguably, the barangay tanods, including the Barangay Chairman, in this particular instance, may be deemed as law enforcement officer for purposes of applying Article III, Section 12(1) and (3), of the Constitution. When accused-appellant was brought to the barangay hall in the morning of 2 January 2001, she was already a suspect, actually the only one, in the fire that destroyed several houses x x x. She was, therefore, already under custodial investigation and the rights guaranteed by x x x [the] Constitution should have already been observed or applied to her. Accused-appellant's confession to Barangay Chairman x x x was made in response to the 'interrogation' made by the latter - admittedly conducted without first informing accused-appellant of her rights under the Constitution or done in the presence of counsel. For this reason, the confession of accused-appellant, given to Barangay Chairman x x x, as well as the lighter found x x x in her bag are inadmissible in evidence against her x x x.

[But such does] not automatically lead to her acquittal. x x x [T]he constitutional safeguards during custodial investigations do not apply to those not elicited through questioning by the police or their agents but given in an ordinary manner whereby the accused verbally admits x x x as x x x in the case at bar when accused-appellant admitted to Mercedita Mendoza, one of the neighbors x x x [of the private complainant].[58] (Emphasis supplied)

Following the rationale behind the ruling in *Malngan*, this Court needs to ascertain whether or not a "bantay bayan" may be deemed a law enforcement officer within the contemplation of Article III, Section 12 of the Constitution.

In *People of the Philippines v. Buendia*,[59] this Court had the occasion to mention the nature of a "bantay bayan," that is, "a group of male residents living in [the] area organized for the purpose of keeping peace in their community[, which is] an accredited auxiliary of the x x x PNP." [60]

Also, it may be worthy to consider that pursuant to Section 1(g) of Executive Order No. 309 issued on 11 November 1987, as amended, a Peace and Order Committee in each barangay shall be organized "to serve as implementing arm of the City/Municipal Peace and Order Council at the Barangay level." [61] The composition of the Committee includes, among others: (1) the Punong Barangay as Chairman; (2) the Chairman of the Sangguniang Kabataan; (3) a Member of the Lupon Tagapamayapa; (4) a Barangay Tanod; and (5) at least three (3) Members of existing Barangay-Based Anti-Crime or neighborhood Watch Groups or a Non Government Organization Representative well-known in his community.[62]

This Court is, therefore, convinced that barangay-based volunteer organizations in the nature of watch groups, as in the case of the "bantay bayan," are recognized by the local government unit to perform functions relating to the preservation of peace and order at the barangay level. Thus, without ruling on the legality of the actions taken by Moises Boy Banting, and the specific scope of duties and responsibilities delegated to a "bantay bayan," particularly on the authority to conduct a custodial investigation, any inquiry he makes has the color of a

state-related function and objective insofar as the entitlement of a suspect to his constitutional rights provided for under Article III, Section 12 of the Constitution, otherwise known as the Miranda Rights, is concerned.

We, therefore, find the extrajudicial confession of appellant, which was taken without a counsel, inadmissible in evidence.

Be that as it may, We agree with the Court of Appeals that the conviction of the appellant was not deduced solely from the assailed extrajudicial confession but "from the confluence of evidence showing his guilt beyond reasonable doubt." [63]

Credibility of the Witnesses for the Prosecution

Appellant assails the inconsistencies in the testimonies of AAA and her brother BBB. AAA testified that BBB accompanied her to the house of their grandmother. Thereafter, they, together with her relatives, proceeded to look for a "bantay bayan." On the other hand, BBB testified that he brought her sister to the house of their "bantay bayan" after he learned of the incident.

Citing *Bartocillo v. Court of Appeals*, [64] appellant argues that "where the testimonies of two key witnesses cannot stand together, the inevitable conclusion is that one or both must be telling a lie, and their story a mere concoction." [65]

The principle, however, is not applicable in the case at bar. In *Bartocillo*, the two testimonies could not simply stand together because:

On one hand, if we are to believe Susan, Orlando could not have possibly seen the hacking incident since he had accompanied Vicente home. On the other hand, if we are to accept the testimony of Orlando, then Susan could not have possibly witnessed the hacking incident since she was with Vicente at that time.

Here, the testimony of AAA does not run contrary to that of BBB. Both testified that they sought the help of a "bantay bayan." Their respective testimonies differ only as to when the help was sought for, which this Court could well attribute to the nature of the testimony of BBB, a shortcut version of AAA's testimony that dispensed with a detailed account of the incident.

At any rate, the Court of Appeals is correct in holding that the assailed inconsistency is too trivial to affect the veracity of the testimonies. [66] In fact, inconsistencies which refer to minor, trivial or inconsequential circumstances even strengthen the credibility of the witnesses, as they erase doubts that such testimonies have been coached or rehearsed. [67]

Appellant's contention that AAA charged him of rape only because she bore grudges against him is likewise unmeritorious. This Court is not dissuaded from giving full credence to the testimony of a minor complainant by motives of feuds, resentment or revenge. [68] As correctly pointed out by the Court of Appeals:

Indeed, mere disciplinary chastisement is not strong enough to make daughters in a Filipino family invent a charge that would not only bring shame and humiliation upon them and their families but also bring their fathers into the gallows of death. [69] The Supreme Court has repeatedly held that it is unbelievable for a daughter to charge her own father with rape, exposing herself to the ordeal and embarrassment of a public trial and subjecting her private parts to examination if such heinous crime was not in fact committed. [70] No person, much less a woman, could attain such height of cruelty to one who has sired her, and from whom she owes her very existence, and for which she naturally feels loving and lasting gratefulness. [71] Even when consumed with revenge, it takes a certain amount of psychological depravity for a young woman to concoct a story which would put her own father to jail for the most of his remaining life and drag the rest of the family including herself to a lifetime of shame. [72] It is highly improbable for [AAA] against whom no proof of

sexual perversity or loose morality has been shown to fake charges much more against her own father. In fact her testimony is entitled to greater weight since her accusing words were directed against a close relative.[73]

Elements of Rape

Having established the credibility of the witnesses for the prosecution, We now examine the applicability of the Anti-Rape Law of 1997[74] to the case at bar.

The law provides, in part, that rape is committed, among others, "[b]y a man who shall have carnal knowledge of a woman" "through force, threat or intimidation." [75] The death penalty shall be imposed if it is committed with aggravating/qualifying circumstances, which include, "[w]hen the victim is under eighteen (18) years of age and the offender is a parent." [76]

The consistent and forthright testimony of AAA detailing how she was raped, culminating with the penetration of appellant's penis into her vagina, suffices to prove that appellant had carnal knowledge of her. When a woman states that she has been raped, she says in effect all that is necessary to show that rape was committed.[77] Further, when such testimony corresponds with medical findings, there is sufficient basis to conclude that the essential requisites of carnal knowledge have been established.[78]

The Court of Appeals pointed out that the element of force or intimidation is not essential when the accused is the father of the victim, inasmuch as his superior moral ascendancy or influence substitutes for violence and intimidation.[79] At any rate, AAA was actually threatened by appellant with his fist and a knife allegedly placed above AAA's head.[80]

It may be added that the self-serving defense of appellant cannot prevail over the positive and straightforward testimony of AAA. Settled is the rule that, "alibi is an inherently weak defense that is viewed with suspicion because it is easy to fabricate." [81] "Alibi and denial must be supported by strong corroborative evidence in order to merit credibility." [82] Moreover, for the defense of alibi to prosper, the accused must establish two elements - (1) he was not at the locus delicti at the time the offense was committed; and (2) it was physically impossible for him to be at the scene at the time of its commission.[83] Appellant failed in this wise.

Aggravating/Qualifying Circumstances

The presence of the qualifying circumstances of minority and relationship with the offender in the instant case has likewise been adequately established. Both qualifying circumstances were specifically alleged in the Information, stipulated on and admitted during the pre-trial conference, and testified to by both parties in their respective testimonies. Also, such stipulation and admission, as correctly pointed out by the Court of Appeals, are binding upon this Court because they are judicial admissions within the contemplation of Section 4, Rule 129 of the Revised Rules of Court. It provides:

Sec. 4. Judicial admissions. - An admission, verbal or written, made by a party in the course of the proceedings in the same case, does not require proof. The admission may be contradicted only by showing that it was made through palpable mistake or that no such admission was made.

Penalty

Finally, in increasing the amount of civil indemnity and damages each from P50,000.00 to P75,000.00, the Court of Appeals correctly considered controlling jurisprudence to the effect that where, as here, the rape is committed with any of the qualifying/aggravating circumstances warranting the imposition of the death penalty, the victim is entitled to P75,000.00 as civil indemnity ex delicto[84] and P75,000.00 as moral damages.[85] However, the award of exemplary damages should have been increased from P25,000.00 to P30,000.00.[86] Also, the penalty

of reclusion perpetua in lieu of death was correctly imposed considering that the imposition of the death penalty upon appellant would have been appropriate were it not for the enactment of Republic Act No. 9346, or An Act Prohibiting the Imposition of Death Penalty in the Philippines.[87] We further affirm the ruling of the Court of Appeals on appellant's non-eligibility for parole. Sec. 3 of Republic Act No. 9346 clearly provides that "persons convicted of offenses punished with reclusion perpetua, or whose sentences will be reduced to reclusion perpetua by reason of the law, shall not be eligible for parole."

WHEREFORE, the Decision of the Court of Appeals dated 30 September 2008 in CA-G.R. CR HC No. 00456-MIN is hereby AFFIRMED. Appellant Antonio Lauga is GUILTY beyond reasonable doubt of qualified rape, and is hereby sentenced to suffer the penalty of reclusion perpetua without eligibility for parole and to pay AAA P75,000.00 as civil indemnity, P75,000.00 as moral damages, and P30,000.00 as exemplary damages.

SO ORDERED.

Carpio, (Chairperson), Brion, Del Castillo, and Abad, JJ., concur.

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

[2] Records, p. 27.

[3] Id.

[4] Id. at 32.

[5] Id. at 36.

[6] TSN, 12 November 2001.

[7] TSN, 11 March 2002.

[8] TSN, 5 June 2003.

[9] TSN, 12 November 2001, p. 4.

[10] Id. at 5.

[11] Id. at 4.

[12] Id. at 4-5.

[13] Id. at 5; TSN, 11 March 2002, p. 4.

[14] Id. at 6.

[15] Id.

[16] Id.

[17] Id. at 7.

[18] Id. at 8; TSN, 11 March 2002, pp. 4-5.

[19] TSN, 12 November 2001, p. 10.

[20] Id. at 8-9.

[21] Id. at 9.

[22] Id. at 11-12.

[23] Id. at 12; TSN, 11 March 2002, p. 6.

[24] Id. at 13.

[25] Id. at 15.

[26] Id. at 13.

[27] Records, p. 5.

[28] Id.

[29] TSN, 12 November 2001, pp. 6-8.

[30] Id. at 10.

[31] Id. at 12-13.

[32] Id. at 13.

[33] Id. at 13-14.

[34] Id. at 15.

[35] Id. at 16.

[36] Id.

[37] Id. at 17.

[38] Id. at 18.

[39] Id. at 19.

[40] Id. at 21.

[41] Penned by Judge Pelagio B. Estopia. Records, pp. 95-104.

[42] Id. at 104.

[43] Id.

[44] Id. at 79.

[45] Penned by Associate Justice Elihu A. Ybañez with Associate Justices Romulo V. Borja and Mario V. Lopez concurring. CA rollo, pp. 56-79.

[46] Id.

[47] Id. at 92.

[48] Rollo, p. 31.

[49] Id. at 40-43 and 46-48.

[50] Id. at 17.

[51] Id. at 18.

[52] Id. at 18-19.

[53] Id. at 19-21.

[54] Id. at 18-19.

[55] G.R. No. 170470, 26 September 2006, 503 SCRA 294.

56 (1) Any person under investigation for the commission of an offense shall have the right to be informed of his right to remain silent and to have competent and independent counsel preferably of his own choice. If the person cannot afford the services of counsel, he must be provided with one. These rights cannot be waived except in writing and in the presence of counsel.

[57] (3) Any confession or admission obtained in violation of this Section or Section 17 hereof shall be inadmissible in evidence against him.

[58] *People v. Malngan*, supra note 55 at 324-325.

[59] 432 Phil. 471 (2002).

[60] Id. at 476.

[61] Executive Order No. 309, Sec. 1(g), as amended, quoted in Memorandum Circular No. 2008-114 dated 17 July 2008 of the Department of the Interior and Local Government.

[62] Id.

[63] Rollo, p. 19.

[64] 420 Phil. 50 (2001).

[65] Id. at 59-60.

[66] Rollo, p. 17.

[67] *People v. Villadares*, 406 Phil. 530, 540 (2001), citing *People v. Gargar*, 360 Phil. 729, 741 (1998).

[68] *People v. Aycardo*, G.R. No. 168299, 6 October 2008, 567 SCRA 523, 535-536.

[69] Rollo, p. 19, citing *People v. Mascariñas*, 432 Phil. 96, 102 (2002), further citing *People v. Tabugoca*, 349 Phil. 236, 253 (1998).

[70] Id., citing *People v. Sangil, Sr.*, 342 Phil. 499, 508-509 (1997), further citing *People v. Mabunga*, G.R. No. 96441, 13 November 1992, 215 SCRA 694, 704.

[71] Id. at 19-20, citing *People v. Sangil, Sr.*, id. at 509.

[72] Id. at 20, citing *People v. Melivo*, 323 Phil. 412, 428 (1996).

[73] Id., citing *People v. Sangil, Sr.*, supra note 70 at 509.

[74] Republic Act No. 8353.

[75] Id., Article 266-A, Paragraph 1(a).

[76] Id., Article 266-B.

[77] *People v. Jacob*, G.R. No. 177151, 22 August 2008, 563 SCRA 191, 207.

[78] *People v. Tuazon*, G.R. No. 168102, 22 August 2008, 563 SCRA 124, 135.

[79] Rollo, pp. 20-21.

[80] TSN, 11 March 2002, p. 6.

[81] *People v. Jacob*, supra note 77 at 203.

[82] *Id.*

[83] *People v. Aycardo*, supra note 68 at 534.

[84] *People v. Sia*, G.R. No. 174059, 27 February 2009, 580 SCRA 364, 367-368.

[85] *Id.*

[86] *Id.*

[87] *Id.*

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