PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROY ALCAZAR Y MIRANDA, ACCUSED-APPELLANT.

G.R. No. 186494. September 15, 2010

Ponente: PEREZ, J.

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PEREZ, J.:

For review is the Decision[1] dated 14 March 2008 of the Court of Appeals in CA-G.R. CR-H.C. No. 02236, which modified the Decision[2] dated 8 November 2005 of the Regional Trial Court (RTC) of Legazpi City, 5[th] Judicial Region, Branch 9, in Criminal Case No. FC-00-319, finding herein appellant Roy Alcazar y Miranda guilty beyond reasonable doubt of qualified statutory rape under Article 266-A of the Revised Penal Code, as amended, in relation to Article 266-B of the same Code, committed against AAA[3] and imposing upon him the supreme penalty of death. The appellate court instead found appellant guilty of simple statutory rape under Article 266-A, paragraph 1(d) of the Revised Penal Code, as amended, and sentenced him to suffer the penalty of reclusion perpetua. The appellate court further deleted the award of exemplary damages awarded by the trial court to AAA. The appellate court, however, affirmed the trial court's award of P50,000.00 as civil indemnity and P50,000.00 as moral damages to AAA.

Appellant Roy Alcazar y Miranda was charged with raping AAA in an Information[4] dated 27 June 2001, which reads:

> That on about the 25[th] day of June, 2001, in the City of x x x, Philippines, and within the jurisdiction of this Honorable Court, the above-named [appellant], did then and there wilfully (sic), unlawfully and feloniously have carnal knowledge of his 10-year old sister-in-law, AAA against her will, which act debase, degrade and demean the intrinsic worth and dignity of the said minor as a human being, to her damage and prejudice.[5]

Upon arraignment, appellant, assisted by counsel de oficio, pleaded NOT GUILTY to the crime charged. Trial ensued thereafter.

The prosecution presented the following witnesses, namely: AAA, the private offended party; BBB, the mother of AAA; CCC, the cousin of AAA; and Dr. Sarah Bongao Vasquez (Dr. Vasquez), the examining physician who conducted a medical examination on AAA. AAA, BBB and CCC were likewise presented as rebuttal witnesses.

As culled from the records and testimonies of aforesaid prosecution witnesses, the factual antecedents of this case are as follows:

Sometime in the afternoon of 25 June 2001, while AAA, who was then 10 years old,[6] was sweeping the floor of their house located in XXX, XXX City, when appellant arrived. AAA immediately climbed to the attic of their house to escape from appellant for fear that the latter would again do something wrong to her. Unfortunately, appellant was able to get closer to her in the attic. Appellant then removed AAA's clothes and subsequently took off his own clothes. At once, appellant licked AAA's vagina. He thereafter inserted his penis into AAA's vagina and made a push and pull movement. AAA did not shout as the appellant threatened to punch her if she does.[7]

At this juncture, CCC suddenly came into the house of AAA. CCC called out for AAA believing that the latter was just in the attic. Upon hearing CCC, appellant, instantly responded that AAA was not there as he had sent her for some errands. CCC noticed from the voice of appellant that he was gasping and seemed tired. While appellant was busy answering CCC's queries, AAA began putting on her clothes. CCC then observed from the opening in the attic that somebody was struggling. She subsequently saw a portion of the dress AAA was wearing on that particular day. With that, CCC hesitantly left the house.[8]

Right away, appellant, once again, removed AAA's clothes. He then inserted his penis into AAA's vagina and made a push and pull movement. Afterwards, appellant ejaculated. Satisfied, appellant put on his clothes. AAA likewise put on her clothes. AAA did not tell anyone about her ordeal.[9]

The following day, BBB was awakened by her sister, DDD, who is CCC's mother and to whom CCC revealed what she had observed in the house of AAA. DDD went to BBB to tell the latter that AAA was raped by appellant. AAA was also awakened by DDD and the former then narrated to her mother, BBB, and to her aunt, DDD, what the appellant did to her. They subsequently went to the police station to file a complaint against appellant.[10]

AAA was also subjected to medical examination[11] by Dr. Vasquez, one of the Officers of the city health office of Legazpi City. Her examination on AAA revealed healed hymenal lacerations at 6 o'clock and 12 o'clock positions.[12] These findings were reduced into writing as evidenced by a Medico-Legal Report[13] dated 27 June 2001.

Appellant was the lone witness for the defense. He denied having raped AAA and offered a different version of the case.

According to appellant, in the afternoon of 25 June 2001, he was at the old market place in Legazpi City, when his wife, the sister of AAA, arrived and requested him to fetch their daughter, who was then at AAA's residence in XXX, XXX City. At first, appellant refused as he still had things to sell and pay but he later on acceded because of his wife's incessant request. Appellant then proceeded to AAA's residence and fetched his daughter. Thereafter, he left the house, together with his daughter, and they went to Albay Park.[14]

Appellant claimed that the possible reason why he was charged with rape was the misunderstanding between him and AAA's uncle, EEE. Appellant averred that on 25 June 2000, he caught his wife inside a theater with another man. He then went to the house of his in-laws to tell them about what he saw and it so happened that EEE was there. He told EEE about it but the latter told him not to lay hands on his wife, otherwise, something wrong will happen to him. After the incident, he did not frequent his in-laws' place anymore.[15]

After trial, the RTC rendered a Decision dated 8 November 2005 giving credence to the testimonies of the prosecution witnesses and rejecting the defense of denial adduced by appellant. The trial court thus decreed:

> WHEREFORE, judgment is hereby rendered in this case finding [appellant] ROY ALCAZAR guilty beyond reasonable doubt of the crime of Statutory Rape aggravated by the presence of qualifying circumstances of minority and relationship by affinity within the third civil degree, without any mitigating circumstance, pursuant to Article 266-A in relation to Article 266-B of the Revised Penal Code. Accordingly, said [appellant] is hereby sentenced to suffer the supreme penalty of DEATH including all the accessory penalties provided by law and to pay the cost.
>
> [Appellant] Alcazar is further sentenced to pay the victim the sum of P50,000.00 as civil indemnity, moral damages in the amount of P50,000.00 and exemplary damages in the amount of P25,000.00 to deter commission of similar offense and for public good and welfare.[16] [Emphasis supplied].

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The records of this case were originally transmitted to this Court on appeal. In view, however, of this Court's ruling in People v. Mateo,[17] the records were transferred to the Court of Appeals for intermediate review.

In his brief, appellant's lone assignment of error was: the trial court gravely erred in convicting the [appellant] of the crime charged notwithstanding the fact that his guilt was not proven beyond reasonable doubt.[18]

On 14 March 2008, the Court of Appeals rendered the assailed Decision modifying the Decision of the trial court and finding appellant guilty beyond reasonable doubt of simple statutory rape. The Court of Appeals disposed of the case as follows:

> WHEREFORE, with the MODIFICATION finding appellant guilty of simple statutory rape under Article 266-A, paragraph 1(d) of the Revised Penal Code, as amended, and sentencing him to suffer the penalty of reclusion perpetua, and further DELETING the award of exemplary damages, the appealed Decision in Criminal Case No. FC-00-319 is AFFIRMED in all other respects. Costs against appellant.[19] [Emphasis supplied].

Aggrieved, appellant appealed to this Court the aforesaid appellate court's Decision.

In a Resolution[20] dated 15 April 2009, this Court required the parties to simultaneously submit their respective supplemental briefs if they so desire. Instead of filing their supplemental briefs, the Office of the Solicitor General and the appellant manifested that they were adopting their respective briefs filed with the Court of Appeals as their supplemental briefs.

After a careful perusal of the records, this Court affirms appellant's conviction for simple statutory rape.

It is well-entrenched that a rape charge is a serious matter with pernicious consequences both for appellant and complainant; hence, utmost care must be taken in the review of a decision involving conviction of rape.[21] In the disposition and review of rape cases, therefore, this Court is guided by these well-established principles laid down in a catena of cases: (1) the prosecution has to show the guilt of the accused by proof beyond reasonable doubt or that degree of proof that, to an unprejudiced mind, produces conviction; (2) the evidence for the prosecution must stand or fall on its own merits and cannot draw strength from the weakness of the evidence of the defense; (3) unless there are special reasons, the findings of trial courts, especially regarding the credibility of witnesses, are entitled to great respect and will not be disturbed on appeal; (4) an accusation for rape can be made with facility; it is difficult to prove but more difficult for the person accused, though innocent, to disprove; and (5) in view of the intrinsic nature of the crime of rape where only two persons are usually involved, the testimony of the complainant must be scrutinized with extreme caution.[22]

In this case, appellant vehemently contends that reasonable doubt exists as to his guilt because CCC, one of prosecution witnesses, never actually saw him with AAA at the attic at the time the alleged rape incident happened. Moreover, AAA's testimony was neither credible nor consistent with human nature as she could easily shout and ask for help had she wanted to, but she failed to do so.

Time and again, this Court has consistently held that in rape cases, the evaluation of the credibility of witnesses is best addressed to the sound discretion of the trial judge whose conclusion thereon deserves much weight and respect because the judge had the direct opportunity to observe them on the stand and ascertain if they were telling the truth or not.[23] Generally, appellate courts will not interfere with the trial court's assessment in this regard, absent any indication or showing that the trial court has overlooked some material facts of substance or value, or gravely abused its discretion,[24] which certainly is not the case here.

The transcribed notes reveal that AAA's testimony was given in a candid, categorical and straightforward manner and despite the grueling cross-examination, she never faltered in her testimony. With tears in her eyes,[25] AAA

recounted the details of her harrowing experience in the hands of appellant. She categorically described before the court a quo how the appellant got closer to her in the attic followed by appellant's act of removing her clothes and his own clothes and the successful penetration of appellant's penis into her vagina. AAA went further by stating that while appellant was making a push and pull movement, her cousin, CCC, suddenly arrived and called out for her, but appellant denied that she was there in the attic. Once her cousin left, appellant again removed her clothes, inserted his penis into her vagina and made a push and pull movement until something sticky came out from his penis.

Worthy to note were the tears shed by AAA while giving an account of her awful experience in the hands of her ravisher before the court a quo. To the mind of this Court, such tears were a clear indication that she was telling the truth. AAA, young as she is, would not endure the pain and the difficulty of a public trial wherein she had to narrate over and over again how her person was violated if she has not in truth been raped and impelled to seek justice for what the appellant had done to her. As it has been repeatedly held, no woman would want to go through the process, the trouble and the humiliation of trial for such a debasing offense unless she actually has been a victim of abuse and her motive is but a response to the compelling need to seek and obtain justice.[26]

In the same breath, AAA's failure to shout for help or make an outcry at the time appellant is raping her does not in anyway cast doubt on her credibility and on the truthfulness of her testimony. Also, such failure of AAA does not negate rape. The workings of the human mind under emotional stress are unpredictable, such that people react differently to startling situations.[27] It is also borne by the records that AAA failed to shout or make an outcry because of appellant's threat that she would be punched if she would so shout. Notably, AAA was just 10 years old at the time appellant raped her while appellant was already a full-grown 30-year old adult male. As described by the trial court, AAA has a "fragile-looking physical built (sic)" while appellant has a "robust physique."[28] Such physical disparity alone between appellant and AAA was enough reason for the latter to easily succumb to the former's vile desires. And, much more, there was threat of harm upon her. Besides, the absence of struggle or an outcry from the victim is immaterial to the rape of a child below 12 years of age because the law presumes that such a victim, on account of her tender age, does not and cannot have a will of her own.[29]

The result of AAA's medical examination corroborated her testimony of defilement. The medical findings of Dr. Vasquez revealed two healed hymenal lacerations on AAA's private part, which findings are consistent with AAA's testimony that appellant twice inserted his penis into her vagina. Where a victim's testimony is corroborated by the physical findings of penetration, there is sufficient basis for concluding that sexual intercourse did take place.[30]

With the foregoing, this Court is well convinced and is in full conformity with the findings of both lower courts that AAA's testimony, standing alone, passed the test of credibility. Even more, when such testimony is corroborated by medical findings of penile invasion. Thus, as explained by the Court of Appeals, even if CCC's testimony failed to clearly establish the presence of AAA at the attic at the time she saw appellant there, the latter's conviction still stands on account of AAA's credible testimony corroborated by the physical findings of penetration.

This Court finds unmeritorious appellant's argument that if he really raped AAA, the latter and her mother would not have executed and signed an Affidavit of Desistance.[31]

It has been repeatedly held by this Court that it looks with disfavor on affidavits of desistance. The rationale for this was extensively discussed in People v. Junio,[32] cited in People v. Alicante.[33]

> x x x We have said in so many cases that retractions are generally unreliable and are looked upon with disfavor by the courts. The unreliable character of this document is shown by the fact that it is quite incredible that after

> going through the process of having the [appellant] arrested by the police, positively identifying him as the person who raped her, enduring the humiliation of a physical examination of her private parts, and then repeating her accusations in open court by recounting her anguish, [the rape victim] would suddenly turn around and declare that [a]fter a careful deliberation over the case, (she) find(s) that the same does not merit or warrant criminal prosecution.
>
> Thus, we have declared that at most the retraction is an afterthought which should not be given probative value. It would be a dangerous rule to reject the testimony taken before the court of justice simply because the witness who gave it later on changed his mind for one reason or another. Such a rule would make a solemn trial a mockery and place the investigation at the mercy of unscrupulous witnesses. Because affidavits of retraction can easily be secured from poor and ignorant witnesses, usually for monetary consideration, the Court has invariably regarded such affidavits as exceedingly unreliable.[34] [Emphasis supplied].

In the instant case, records disclose that AAA, who was then 10 years old, and her mother, who has only reached Grade VI, signed the Affidavit of Desistance without understanding its contents as nobody explained it to them. Such lack of knowledge as regards the contents of the affidavit was clearly manifested in the statement of AAA's mother that she signed the said affidavit because appellant raped her daughter.[35] Even AAA repeatedly declared that she filed the case against appellant because he raped her and that she really wanted to pursue her case against him. AAA also divulged that she signed the affidavit because somebody asked her to sign it despite the fact that she did not understand its contents. She likewise signed it in the presence of appellant's mother who even asked her to stop the case against her son.[36] Given these circumstances, the affidavit of desistance is clearly worthless.

As a last effort, appellant maintains that the charge of rape against him was the result of a misunderstanding between him and AAA's uncle.

This is far removed from reality.

It must be emphasized that no member of a rape victim's family would dare encourage the victim to publicly expose the dishonor to the family unless the crime was in fact committed, especially in this case where the victim and the offender are relatives.[37] It is unnatural for a mother to use her daughter as an engine of malice, especially if it will subject her child to embarrassment and lifelong stigma.[38]

In comparison to the overwhelming evidence of the prosecution, appellant could only muster the defense of denial and alibi. As this Court has oft pronounced, both denial and alibi are inherently weak defenses which cannot prevail over the positive and credible testimony of the prosecution witness that the appellant was the author of the crime charged.[39]

With all the foregoing, this Court is convinced that the appellate court properly convicted appellant for the crime of simple statutory rape[40] and correctly imposed upon him the penalty of reclusion perpetua.[41]

The appellate court is correct in not appreciating the special qualifying circumstance of relationship that would make the crime qualified statutory rape. The allegation that AAA is appellant's sister-in-law is not specific enough to satisfy the special qualifying circumstance of relationship. It bears stressing that if the offender is merely a relation - not a parent, ascendant, step-parent, or guardian or common law spouse of the mother of the victim - it must be alleged in the information that he is a relative by consanguinity or affinity, as the case may be, within the third civil degree. In the Information in this case that relationship by consanguinity or affinity within the third civil degree was not alleged.[42] As a consequence thereof, appellant can only be held liable for simple statutory rape, which is punishable by reclusion perpetua.

The awards of the appellate court to AAA of civil indemnity in the amount of P50,000.00 and of moral damages in the same amount were also proper. Civil indemnity, which is actually in the nature of actual or compensatory

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damages, is mandatory upon the finding of the fact of rape.[43] In the same way, moral damages in rape cases should be awarded without need of showing that the victim suffered trauma of mental, physical, and psychological sufferings constituting the basis thereof. These are too obvious to still require their recital at the trial by the victim, since we even assume and acknowledge such agony as a gauge of her credibility.[44]

The appellate court properly deleted the award of exemplary damages to AAA. Under Article 2230 of the Civil Code, exemplary damages may also be imposed when the crime was committed with one or more aggravating circumstances.[45] In this case, no aggravating circumstance can be appreciated to warrant the award of exemplary damages.

WHEREFORE, premises considered, the Decision of the Court of Appeals in CA-G.R. CR-H.C. No. 02236 dated 14 March 2008, finding herein appellant guilty beyond reasonable doubt of the crime of simple statutory rape is hereby AFFIRMED in toto.

SO ORDERED.

Corona, C.J., (Chairperson), Carpio Morales,[*] Velasco, Jr., and Del Castillo, JJ., concur.

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[*] Per Special Order No. 884, Associate Justice Conchita Carpio Morales is designated as an additional member of the First Division in place of Associate Justice Teresita J. Leonardo-De Castro, who is on Official Leave.

[1] Penned by Associate Justice Rebecca De Guia-Salvador with Associate Justices Lucenito N. Tagle and Ricardo R. Rosario, concurring. Rollo, pp. 3-20.

[2] Penned by Presiding Judge Ruben B. Carretas. CA rollo, pp. 26-36.

[3] This is pursuant to the ruling of this Court in People v. Cabalquinto [G.R. No. 167693, 19 September 2006, 502 SCRA 419], wherein this Court resolved to withhold the real name of the victim-survivor and to use fictitious initials instead to represent her in its decisions. Likewise, the personal circumstances of the victims-survivors or any other information tending to establish or compromise their identities, as well as those of their immediate family or household members, shall not be disclosed. The names of such victims, and of their immediate family members other than the accused, shall appear as "AAA," "BBB," "CCC," and so on. Addresses shall appear as "XXX" as in "No. XXX Street, XXX District, City of XXX."

The Supreme Court took note of thelegal mandate onthe utmost confidentiality ofproceedings involving violence against women and children set forth in Sec. 29 ofRepublic Act No. 7610, otherwise known as Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act; Sec. 44 of Republic Act No. 9262, otherwise known as Anti-Violence Against Women and Their Children Act of 2004;and Sec. 40 of A.M. No. 04-10-11-SC, known as Rule on Violence Against Women and Their Children effective 15 November 2004.

[4] CA rollo, pp. 13-14.

[5] Id.

[6] As evidenced by her Certificate of Live Birth. Records, p. 129.

[7] TSN, 4 January 2002, pp. 6-10.

[8] TSN, 11 September 2001, pp. 7-10; TSN, 4 January, pp. 9-10.

[9] TSN, 4 January 2002, pp. 11-12.

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[10] TSN, 11 September 2001, p. 10; TSN, 2 October 2001, pp. 10-13; TSN, 4 January 2002, pp. 12-13.

[11] TSN, 2 October 2001, p. 16; TSN, 4 January 2002, p. 16.

[12] TSN, 9 July 2002, pp. 3-6.

[13] Records, p. 131.

[14] TSN, 9 July 2004, pp. 4-6.

[15] Id. at 6-7.

[16] Id. at 36.

[17] G.R. Nos. 147678-87, 7 July 2004, 433 SCRA 640.

[18] CA rollo, p. 45.

[19] Rollo, p. 19.

[20] Id. at 26-27.

[21] People v. Somodio, 427 Phil. 363, 373 (2002).

[22] People v. San Antonio, Jr., G.R No. 176633, 5 September 2007, 532 SCRA 411, 424-425.

[23] People v. Pascual, 433 Phil. 49, 61 (2002).

[24] People v. Sabiyon, 437 Phil. 594, 615 (2002).

[25] TSN, 4 January 2002, p. 7.

[26] People v. Laboa, G.R. No. 185711, 24 August 2009, 596 SCRA 733, 742.

[27] People v. Madronio, 455 Phil. 39, 59 (2003).

[28] CA rollo, p. 32.

[29] People v. Malones, 469 Phil. 301, 325-326 (2004).

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

[31] Records, p. 179.

[32] G.R. No. 110990, 23 October 1994, 237 SCRA 826, 834.

[33] 388 Phil. 233 (2000).

[34] Id. at 255.

[35] TSN, 15 February 2005, pp. 13-16.

[36] Id. at 20-29.

[37] People v. Flores, 448 Phil. 840, 855-856 (2003).

[38] People v. Ibarrientos, 476 Phil. 493, 512 (2004).

[39] People v. Veloso, 386 Phil. 815, 825 (2000).

[40] ART. 266-A. Rape: When and How Committed. - Rape is committed:

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1) By a man who have carnal knowledge of a woman under any of the following circumstances:

x x x x

d) When the offended party is under twelve (12) years of age x x x (Revised Penal Code).

[41] ART. 266-B. Penalties. - Rape under paragraph 1 of the next preceding article shall be punished by reclusion perpetua. (Revised Penal Code).

[42] People v. Ferolino, 386 Phil. 161, 179 (2000).

[43] People v. Callos, 424 Phil. 506, 516 (2002).

[44] People v. Laboa, supra note 26 at 744-745 citing People v. Docena, 379 Phil. 903, 918 (2000).

[45] Nueva España v. People, 499 Phil. 547, 559 (2005).

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