

ARNEL SISON Y ESCUADRO, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

G.R. No. 187229. February 22, 2012

Ponente: PERALTA, J.

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PERALTA, J.:

Before us is a petition for review on certiorari seeking the reversal of the Court of Appeals (CA) Decision[1] dated March 17, 2009, which affirmed with modification the Joint Decision[2] dated December 14, 2007 of the Regional Trial Court (RTC), Quezon City, Branch 81, finding petitioner Arnel Sison guilty of the crimes of rape and violation of Presidential Decree (P.D.) No. 1866, as amended by Republic Act (R.A.) No. 8294.

On April 21, 2003, two (2) separate Informations were filed with the RTC against petitioner for Kidnapping with Rape and violation of P.D. 1866, as amended by R.A. 8294 (Illegal Possession of Firearms and Ammunitions). The accusatory portions of the two (2) Informations respectively state:

Criminal Case No. Q-03-116710

That on or about the 16th day of April 2003, in Quezon City, Philippines, the above-named accused, by means of force, violence and intimidation, did then and there willfully, unlawfully and feloniously, armed with firearm, kidnap and rape one [AAA] in the following manner, to wit: said [AAA] boarded the Mitsubishi Adventure with plate no. CSV-606, driven by the accused who was then plying his route at Bocaue Toll Gate going to Cubao, Quezon City, and upon reaching EDSA corner New York Street, Cubao, this City, accused suddenly poked his gun at her, kidnap and detain her and forcibly brought her at the Town and Country, Sta. Mesa, Manila, where accused had carnal knowledge of her by force and intimidation against her will and without her consent.[3]

Criminal Case No. Q-03-116711

That on or about the 17th day of April 2003, in Quezon City, Philippines, the said accused, without any authority of law, did then and there willfully, unlawfully and knowingly have in his possession and under his custody and control one (1) Peter Stahl .45 caliber pistol with Serial Number A414 with five (5) ammunitions, without first having secured the necessary license/permit issued by the proper authorities.[4]

Petitioner pleaded not guilty[5] to both charges.

Trial thereafter ensued. During the trial, two different versions were presented.

The evidence for the prosecution, as aptly summarized by the RTC and adopted by the CA, are as follows:

Private complainant [AAA] was, at the time of subject incident, a resident of x x x and was working on a 10:00 p.m.–7:00 a.m. shift as a Product Support Representative with x x x. Since her residence is quite far from her place of work and considering her working hours, her aunt would usually bring her to the Bocaue toll gate and from there, she would ride either a Tamaraw FX or bus going to Cubao bound to her office.

At around 8:00 p.m. of April 16, 2003, [AAA] boarded accused's passenger van, a black Mitsubishi

Adventure with plate number CSV-606, at the Bocaue toll gate. She sat at the front passenger seat as it was the only vacant seat at that time since there were already nine passengers on board. When they reached Quezon City, the passengers alighted one by one, the last of whom alighted in New York Street, Cubao, Quezon City. [AAA] was supposed to alight in Aurora Blvd. When they were already in front of Nepa Q-Mart and [AAA] was the only passenger left in the van, accused told her that he would change first the P100.00 bill that she paid. Her fare was only P30.00, so she still had a change of P70.00. Accused made a few turns until they reached an alley, with nobody passing through. [AAA] felt uneasy so she told the accused that she would alight, but then she heard cocking of a gun. Accused suddenly put his right arm over her right shoulder, drew her nearer to him, pointed a gun at her chest with his right hand, while [he] continued driving with his left hand. Accused kept driving for about ten to twenty minutes until such time that they entered a drive-thru. [AAA] saw the logo of the Town and Country Motel. She also noticed the signage of the AMA Computer College so she presumed that they were in Sta. Mesa, Quezon City. A boy approached the van and the accused slightly opened the window beside him. The boy pointed to a garage room to which the accused entered. When they were already inside the garage, the accused pushed [AAA] out of the van. With the gun pointed at her, accused dragged her upstairs and again pushed her inside a room. [AAA] sat on the lone chair inside the room. Accused approached her, pulled her from the chair and pushed her into the bed. [AAA] got up and ran to the door but the accused grabbed her before she could reach it and pushed her again to the bed. [AAA] pleaded to the accused, telling him: “Pakawalan mo na ako. Ayoko na dito. Meron pa akong pamilya. Sana maintindihan mo na hindi ako ganun klaseng babae, meron pa naman iba pang babae dyan.” However, the accused did not heed her plea but instead, pinned her to the bed, grabbed her pants destroying the zipper in the process, stripped her of her panty and pants. Accused then removed his t-shirt, shorts and underwear and rubbed his penis against her vagina, inserted it into her vagina and made pumping motions a couple of times. [AAA] felt pain. She kept on pleading to the accused to stop abusing her, but the accused told her. “Ang sarap-sarap mo. Pasensya ka na [AAA] nakagamit ako ng drugs.” After a while, [AAA] felt that something sticky was released from the accused. He then wore his t-shirt, underwear and shorts. [AAA] could no longer move as she was still in the state of shock and at the time, feeling sorry for herself for what had happened to her.

After the accused had sexual intercourse with [AAA], accused directed her to dress up to which she complied. Before they went out of the room, accused told her not to make any scene, otherwise, he would not hesitate to shoot her. When he dropped her off somewhere in Cubao, Quezon City, he again threatened her not to report the incident to the police as he would kill her. He even got her cell phone number. When the accused was gone, [AAA] boarded a taxi and proceeded to the office where she narrated to her supervisor and officemates what happened to her. Her officemates accompanied her to Police Station 7, Camp Panopio, P. Tuazon corner EDSA, Quezon City where she reported the incident and executed a sworn statement (Exhibit A).

At around 12:20 a.m. of April 17, 2003, while PO2 Mario Palic was on duty at Police Station 7, victim [AAA] arrived and reported her ordeal in the hands of the accused. Officer Palic, together with fellow police officers, namely, Police Inspector Gatos, PO3 Nacional, PO1 Sapulaan and PO2 Lanaso immediately conducted follow-up operations which led to the arrest of the accused in front of the Baliwag Bus Terminal, Cubao, Quezon City. Recovered from him was a .45 caliber Peter Stahl pistol with serial number A414 and five (5) ammunitions (Exhibits E and E-1 to E-5). The police officers likewise brought the black Mitsubishi Adventure with plate number CSV 606 (Exhibit F) to the police station for proper disposition.

The investigation conducted by PO2 Regundina Sosa disclosed that accused's Permit to Carry Firearm No. 1-B149052 has already expired on January 11, 2003 (Exhibit H).

Medico-Legal Report No. M-1231-03, dated April 24, 2003, submitted by Dr. Pierre Paul Carpio states that “Subject is in non-virgin state physically. There are no external signs of application of any form of trauma.” (Exhibit K)[6]

Petitioner denied the accusation and claimed that what happened between him and AAA was a consensual sex. The RTC summarized the evidence for the defense as follows:

At around 8:00 p.m. of April 16, 2006 (sic), which was a Holy Tuesday, [AAA] boarded his van in Bocaue, taking the front passenger seat. Aside from her, he has other four (4) passengers, two were seated at the middle passenger seat and the other two (2) were at the back passenger seat. While he was driving, he had a conversation with [AAA], such as she was a graduate of AMA Computer School, that she works in a computer company, that she sends her siblings to school, that her father is in a rehabilitation center and her parents are separated, that she has many rich suitors, that she has a hard time sending her siblings to school and she needs money at that time. In return, accused told [AAA] that he owns the van and that his wife works abroad. He made “bola” to her and offered to give her P4,000.00 and some signature clothes. [AAA] did not respond, so he just continue[d] driving. When they reached Aurora Blvd., Cubao, Quezon City, the other four (4) passengers alighted. From there, he made a U-turn, proceeded to their terminal and told the dispatcher to include him in his list so he could ply back to Cabanatuan. Considering that [AAA] did not make any attempt to alight from the van, he made a right turn to New York Street, Cubao, Quezon City, right turn again at the back of the terminal and proceeded to Aurora Blvd. He then asked [AAA] “ano?” When [AAA] did not respond again, he drove going to Sta. Mesa, Manila and proceeded to Gardenia Hotel. They waited for about two (2) minutes inside the premises of the hotel, as there were no vacant rooms at that time. Thereafter, a bellboy carrying a pail, approached them and pointed to a room. However, accused wanted a garage room so he opened the door of his van about a foot wide as his window had been damaged and told the bellboy what he wanted. The bellboy acceded to his request and directed them to a garage room. Accused maneuvered the van inside the garage. They went out of the van and proceeded upstairs where the room was located. When they entered, the bellboy, who was cleaning the room, left. [AAA] entered the comfort room, while accused watched T.V. After coming out of the comfort room, [AAA] sat on the bed. Accused started kissing her on the neck and removed her tube blouse and transparent strapless bra and kissed her breasts, while [AAA] held his private part. When he reached out for the zipper of her pants and began unzipping it, [AAA] stood up and willingly removed her pants. Accused also removed his pants. He touched her private part and inserted his fingers on it. [AAA] embraced him, held his penis and she herself inserted it on her vagina. They made pumping motions. The sexual congress lasted for quite sometime because [AAA] even went on top of him, during which time, he held her breast. After [AAA] reached her climax, he went on top of her and afterwards, he ejaculated so he withdrew his penis from her vagina. Thereafter, they dressed up. Accused was about to pay [AAA] P800.00, but he changed his mind and instead, gave her P600.00 only and pocketed the remaining P200.00. [AAA] did not anymore [count] the money. He summoned the bellboy, paid their bill, went out of the room and boarded the van. While they were waiting for the bellboy to open the garage door, he checked his gun which he placed under the driver’s seat. He even showed it to [AAA]. When the garage door was opened, they left the hotel premises and proceeded to Cubao. They passed by the SM Department Store but since it was already 11:00 p.m., it was already closed so he was not able to buy her the blouse and wallet that he promised her. He also told her that he had no more money. That irritated [AAA] who suddenly grabbed his wallet lying on the [dashboard]. Accused stopped the van, got back the wallet from [AAA] and even pulled her hair (“Sinabunutan ko po siya”). [AAA] got angry and called him “hayop.” He then dropped her off somewhere in Cubao, while he went back to their terminal. At about 11:00 p.m., he plied the van to San Carlos, Pangasinan, reaching the place at about 4:00 a.m. the following day, April 17, 2003. From there, he went back to Cabanatuan terminal, arriving there at 5:30 a.m. After talking to the dispatcher, he went home to Bangad and slept. He woke up about lunchtime, took a bath, and plied again his van, leaving Cabanatuan at 1:00 p.m. and reaching Cubao at 4:00 p.m. It was then that he was arrested. While they were on board the police vehicle, one of the policemen showed him a picture which he recognized as [AAA]. The policemen brought him to Police Station 7 where he was told that a grave offense was filed against him. They demanded the amount of P150,000.00 for his release. The next day, his mother and sister arrived and talked to the policemen. His mother and sister agreed to pay the amount of P150,000.00 but when they came back, they were already accompanied by his lawyer, Atty. Hernani Barrios, who advised them not to yield to the demand which they did. He was presented to the inquest fiscal and transferred to the Quezon City Jail where he is detained up to now.

Accused further testified that he, being a civilian agent of the MICO, Philippine Army, Fort Magsaysay, Palayan City, was carrying a caliber .45 Peter Stahl pistol (Exhibit E) with five (5) ammunitions (Exhibits A1 to A-5). However, the policemen took his Permit to Carry Firearm, Memorandum Receipt (MR) and Mission Order (MO) when they arrested him.

Nova Tabbu, accused's sister, merely corroborated his testimony that the policemen demanded the amount of P150,000.00 for his release.

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Erwin Ocampo, a technical sergeant of the 46th Military Intelligence Company, Fort Magsaysay, Palayan City, testified that the accused is a presidential agent for which reason he has on file an Agent Recruitment Report, Agent Agreement, Application for I.D. card, Oath of Loyalty, Pseudonym Agreement, Profile Penetration Agent and Human Resource Report.

Geronimo Ebrogar testified that he noticed the accused leaving the bus terminal at around 8:00 p.m. on April 16, 2003 with a female companion; that when the accused returned at 10:30 p.m. of the same night, he was alone.[7]

On December 14, 2007, the RTC issued a Joint Decision, the dispositive portion of which reads:

WHEREFORE, judgment is hereby rendered as follows:

In Criminal Case No. Q-03-116710, the Court finds accused ARNEL SISON y ESCUADRO guilty beyond reasonable doubt of the crime of Kidnapping with Rape and is hereby sentenced to suffer the penalty of RECLUSION PERPETUA with all the accessory penalties provided by law, and to pay private complainant (AAA) the amounts of P75,000.00 as civil indemnity and P100,000.00 as moral damages.

In Criminal Case No. Q-03-116711, the Court finds ARNEL SISON y ESCUADRO guilty beyond reasonable doubt of the offense of Violation of P.D. 1866, as amended by R.A. 8294, and is hereby sentenced to suffer an indeterminate sentence of six (6) months and one (1) day to two (2) years and four (4) months, and to pay a fine of thirty thousand pesos (P30,000.00).[8]

The RTC found AAA's testimony, narrating how petitioner raped her, to be candid and straightforward, thus reflective of her honesty and credibility. It found nothing on record that would show that AAA was actuated by ill motive in filing the charges against petitioner. The RTC also noted that AAA even cried when she testified in court. It did not believe petitioner's claim that AAA was a small time prostitute, considering that she was a college graduate who was already working at the time of the incident and the fact that she immediately reported the rape incident to the police despite threat to her life.

As to the charge of illegal possession of firearm and ammunitions, the RTC found the elements of the crime to be duly proven. AAA testified that petitioner pointed a gun at her and because of such threat submitted herself to his bestial desire; the gun, as well as the ammunitions, was offered in evidence and even the accused admitted that he had a gun at the time of the incident. It was established through the testimony of police investigator Regundina Sosa that based on petitioner's permit to carry firearm outside residence, the same had already expired on January 11, 2003, few months before his apprehension.

Petitioner filed his appeal with the CA. The Office of the Solicitor General filed its Comment and petitioner his Reply thereto.

On March 17, 2009, the CA issued its assailed Decision affirming petitioner's conviction. The dispositive portion of the Decision reads:

WHEREFORE, the instant appeal is DISMISSED. The assailed Decision dated December 14, 2007 is hereby

AFFIRMED with MODIFICATION as follows:

1. Regarding Criminal Case No. Q-03-116710, the Court finds accused ARNEL SISON y ESCUADRO guilty beyond reasonable doubt of the crime of RAPE qualified by the use of a deadly weapon, and is hereby sentenced to suffer the penalty of RECLUSION PERPETUA with all the accessory penalties provided by law, and to pay private complainant the amounts of P75,000.00 as civil indemnity and P100,000.00 as moral damages.
2. Anent Criminal Case No. Q-03-116711, the Court finds accused ARNEL SISON y ESCUADRO guilty beyond reasonable doubt of the offense of Violation of P.D. 1866, as amended by R.A. 8294, and is hereby sentenced to suffer an indeterminate sentence of thirty (30) days to four (4) months.

SO ORDERED.[9]

In so ruling, the CA pointed out that the crime committed was not kidnapping with rape, but only rape qualified with the use of a deadly weapon. Applying jurisprudence, it said that if the offender is only to rape the victim and in the process, the latter had to be illegally detained, only the crime of rape is committed since illegal detention is deemed absorbed in rape. The CA upheld the RTC's assessment of AAA's credibility, because of its unique position to observe the deportment of the witness while testifying. It also found that while the prosecution was able to prove that petitioner's license to carry said firearm outside residence already expired at the time he was apprehended with it, however, there was no showing that the firearm he carried on April 17, 2003 was not licensed or its license had expired, thus petitioner could only be liable for carrying a licensed firearm outside his residence under the last paragraph of Section 1, P.D. 1866, as amended.

Hence, this petition for review on the following assignment of errors:

- A. THE COURT OF APPEALS ERRED IN AFFIRMING THE DECISION OF THE TRIAL COURT, GIVING FULL CREDENCE TO THE TESTIMONIES OF THE PRIVATE COMPLAINANT, WHICH IS PUNCTURED WITH MATERIAL INCONSISTENCY, UNCERTAINTY, UNRELIABILITY AND WHOSE TESTIMONIES WERE INHERENTLY WEAK, FLAWED AND CONTRARY TO NORMAL HUMAN BEHAVIOR THEREBY CASTING GRAVE DOUBT ON THE CRIMINAL CULPABILITY OF THE ACCUSED- APPELLANT. IT LIKEWISE TOOK THE TESTIMONY OF THE COMPLAINANT AS GOSPEL TRUTH SANS ANY CRITICAL SCRUTINY AND ACCEPTED THE SAME WITH PRECIPITATE CREDULITY.
- B. THE COURT OF APPEALS ERRED IN AFFIRMING THE DECISION OF THE TRIAL COURT BY FAILING TO APPRECIATE NUMEROUS VITAL EVIDENCE, WHICH IF CONSIDERED, WOULD OTHERWISE RESULT IN THE ACQUITTAL OF THE ACCUSED-APPELLANT.
- C. THE COURT OF APPEALS ERRED IN AFFIRMING THE DECISION OF THE TRIAL COURT IN FINDING THAT ACCUSED-APPELLANT USED A DEADLY WEAPON AGAINST COMPLAINANT IN THE PERPETUATION OF THE ALLEGED INCIDENT IN QUESTION.
- D. THE COURT OF APPEALS ERRED IN AFFIRMING THE DECISION OF THE TRIAL COURT IN CONVICTING THE ACCUSED-APPELLANT WHEN THE EVIDENCE ADDUCED BY THE PROSECUTION FAILED TO MEET THE STANDARD OF MORAL CERTAINTY.[10]

Petitioner faults the CA for affirming his conviction on the basis of AAA's inconsistent and incredible testimony. He argues that he and AAA had given two conflicting testimonies and the RTC erred in giving more weight to the unsubstantiated testimony of AAA.

Petitioner's assignment of errors hinges on AAA's credibility and the sufficiency of the prosecution evidence to

convict him of the crimes charged.

In *People v. Espino, Jr.*,^[11] we said:

Time and again, we have held that when the decision hinges on the credibility of witnesses and their respective testimonies, the trial court's observations and conclusions deserve great respect and are often accorded finality, unless there appears in the record some fact or circumstance of weight which the lower court may have overlooked, misunderstood or misappreciated and which, if properly considered, would alter the result of the case. The trial judge enjoys the advantage of observing the witness' deportment and manner of testifying, her "furtive glance, blush of conscious shame, hesitation, flippant or sneering tone, calmness, sigh, or the scant or full realization of an oath" - all of which are useful aids for an accurate determination of a witness' honesty and sincerity. The trial judge, therefore, can better determine if such witnesses were telling the truth, being in the ideal position to weigh conflicting testimonies. Unless certain facts of substance and value were overlooked which, if considered, might affect the result of the case, its assessment must be respected for it had the opportunity to observe the conduct and demeanor of the witnesses while testifying and detect if they were lying. The rule finds an even more stringent application where said findings are sustained by the Court of Appeals.^[12]

We find no reason to disregard the findings of the RTC, as affirmed by the CA, that AAA was raped by petitioner on April 16, 2003, since their findings were supported by the evidence on record. AAA testified in a straightforward manner, declaring that petitioner, with the use of a gun poked at her chest, drove her to a motel and brought her to the motel parking garage, dragged her to the second floor, then pushed her to the room and then to the bed. She tried to run and reach for the door, but petitioner grabbed her and pushed her back to the bed. She was stripped of her pants and panty and, thereafter, petitioner took off his shorts and underwear and despite her plea, forced himself to her and had sex with her. Afterwards, with the gun in his hand, petitioner threatened to kill her if she would report the matter to the police.^[13]

In rape cases, the essential element that the prosecution must prove is the absence of the victim's consent to the sexual congress.^[14] The gravamen of the crime of rape is sexual congress with a woman by force or intimidation and without consent.^[15] Force in rape is relative, depending on the age, size and strength of the parties. In the same manner, intimidation must be viewed in the light of the victim's perception and judgment at the time of the commission of the crime and not by any hard and fast rule.^[16]

Petitioner's act of holding a gun and threatening AAA with the same showed force or at least intimidation which was sufficient for her to submit to petitioner's bestial desire for fear of her life.

Petitioner denies having raped AAA and claims that what transpired between him and AAA was a consensual sex. In his desire to be acquitted of the crime of rape, petitioner insists that AAA's testimony was replete with incredibilities and inconsistencies, thus not worthy of credence.

First, petitioner claims that while AAA testified during her direct examination that his right arm was on her shoulder with a gun pointed at her chest, she also testified during her cross-examination that she was texting her officemates, thus under such a circumstance, it would be insane for him to allow her to text her officemates if he has plans of raping her.

We do not agree.

A reading of AAA's testimony during her cross-examination shows that she never said that she was texting her officemates at the time that a gun was already pointed at her. She testified that she was the last passenger in the vehicle driven by petitioner and the latter told her that he had no change for the 100-peso bill fare she paid him;^[17] that petitioner continued driving, but when he did not stop in a store they passed by to have the 100-peso

bill changed, it was then that she texted her officemates.[18] She decided to go down the vehicle, but it was moving fast[19] and, thereafter, petitioner pulled her nearer to him by putting his right hand on her shoulder and pointed a gun at her chest.[20] Hence, the texting of officemates happened before the gun was poked at her.

The fact that not one of AAA's textmates was presented as witness would not detract from her credibility. Jurisprudence has steadfastly been already repetitious that the accused may be convicted on the sole testimony of the victim in a rape case, provided that such testimony is credible, natural, convincing, and consistent with human nature and the normal course of things.[21] AAA repeatedly stated that petitioner sexually abused her against her will. The straightforward narration by AAA of what transpired, accompanied by her categorical identification of petitioner as the malefactor, sealed the case for the prosecution.[22]

Second, petitioner assails AAA's vivid remembrance of the places they passed by, which shows her relaxed condition in petitioner's company.

Such contention is devoid of merit.

AAA was a 21-year-old working woman and was not blindfolded when they were traversing the roads on the way to the motel. Thus, she was able to read the landmarks and logos in the places that they passed by which included the name of the motel.

Third, petitioner contends that AAA had several opportunities to ask for help or escape while they were in the motel, i.e., when petitioner was negotiating with the motel roomboy for a room with a parking garage, and after the roomboy had left the garage and petitioner pushed her outside of the vehicle.

We are not persuaded.

AAA testified that when petitioner slightly opened the window of the driver's side to talk to the roomboy, only a part of petitioner's head could be seen and since the vehicle was heavily tinted, the roomboy could not see her.[23] Also, she could not also say a thing because the gun was poked at her.[24] And after she was pushed out of the vehicle, she tried to escape but petitioner who was still holding the gun went out of the vehicle and got hold of her.[25] These circumstances present no opportunity for her to escape. Moreover, people react differently under emotional stress.[26] There is no standard form of behavior when one is confronted by a shocking incident, especially if the assailant is physically near. The workings of the human mind when placed under emotional stress are unpredictable.[27] In a given situation, some may shout, others may faint, and still others may be frozen into silence. Consequently, the failure of complainant to run away or shout for help at the very first opportunity cannot be construed consent to the sexual intercourse.[28]

Fourth, petitioner avers that to strip an unwilling person of her clothes will result in a serious struggle. However, the medical report did not show any indication of contusion or hematoma on AAA's legs or abdomen.

Even assuming that AAA failed to put up a strong resistance to repel petitioner's physical aggression, such failure does not mean that she was not raped. Petitioner had a gun which was sufficient to intimidate her and to submit to his lustful desire. It is well settled that physical resistance need not be established in rape when intimidation is exercised upon a victim and the latter submits herself, against her will, to the rapist's advances because of fear for her life and personal safety.[29]

Fifth, petitioner points out the impossibility of AAA's account that his right arm was around her right shoulder poking a gun at her chest while his left hand was at the wheels, because such position would not allow him to change gear while making turns.

Such contention remained unsubstantiated and, therefore, self-serving. As the Solicitor General correctly argued,

petitioner neglected to prove such impossibility by actual demonstration which is fatal to his cause.

Sixth, petitioner insists that he and AAA had a getting-to-know conversation during the trip, which explained why AAA even testified that he uttered her name during the sexual act; that she even got his cell phone number and it was through her text message that she arranged a tip for his arrest.

Such contention fails to persuade.

Granting that they had a conversation during the trip since AAA was seated in the front seat, such circumstance did not establish that she agreed to the sexual act. In fact, there is no evidence to prove petitioner's claim that after the incident, AAA texted him and arranged for them to meet and was then apprehended by the police. The prosecution established that it was through the efforts of the police that petitioner was apprehended. Police Officer Mario Palic testified that based on the complaint for rape lodged by AAA in their station, he and the other police officers made a follow-up.[30] After which, they received an information that the vehicle used in the rape incident was parked along Edsa, New York, Quezon City, in front of the Baliwag Terminal.[31] Together with AAA, they proceeded to the place where the vehicle was parked and when AAA saw petitioner standing near the parked vehicle, she identified him as her rapist.[32]

Seventh, petitioner claims that his failure to give AAA the amount of P4,000.00 and the things he had promised to buy for her was the reason why AAA charged him with the crime of rape.

Such argument deserves scant consideration.

We find apropos what the RTC said in the issue, thus:

x x x Even in these very hard times, the court could not believe that AAA, a college graduate of x x x Computer College and working as a Product Support Representative with x x x would stoop so low to subject herself to the shame and scandal of having undergone such a debasing defilement of her chastity if the charge filed were not true. [33]

In fact, while petitioner, in his direct testimony, was portraying AAA as a prostitute, the latter cried.[34] AAA's crying shows how she might have felt after being raped by the petitioner and yet be accused of a woman of loose morals. The victim's moral character in rape is immaterial where it is shown that intimidation was used for the victim to have sex with the accused.[35]

The truthfulness of AAA's charge for rape was further bolstered by her conduct immediately after the rape incident. After petitioner dropped her off in Cubao, AAA immediately went to her office and narrated her ordeal to her officemates. Accompanied by them, she went to the police station to report the incident and submitted herself to medical examination.

However, as to petitioner's conviction for illegal possession of firearms, such judgment must be set aside. We find that he can no longer be held liable for such offense since another crime was committed, i.e., rape.

P.D. 1866, as amended by RA 8294, the law governing Illegal Possession of Firearms provides:

SECTION 1. Unlawful Manufacture, Sale, Acquisition, Disposition or Possession of Firearms or Ammunition Instruments Used or intended to be Used in the Manufacture of Firearms or Ammunition. - The penalty of prision correccional in its maximum period and a fine of not less than Fifteen thousand pesos (P15,000) shall be imposed upon any person who shall unlawfully manufacture, deal in, acquire, dispose, or possess any low powered firearm, such as rimfire handgun, .380 or .32 and other firearm of similar firepower, part of firearm, ammunition, or machinery, tool or instrument used or intended to be used in the manufacture of any firearm or ammunition: Provided, That no other crime was committed.

The penalty of prision mayor in its minimum period and a fine of Thirty thousand pesos (P30,000) shall be imposed if the firearm is classified as high-powered firearm which includes those with bores bigger in diameter than .38 caliber and 9 millimeter, such as caliber .40, .41, .44, .45 and also lesser-calibered firearms but considered powerful, such as caliber .357 and caliber .22 center-fire magnum and other firearms with firing capability of full automatic and by burst of two or three: Provided, however, That no other crime was committed by the person arrested.

If homicide or murder is committed with the use of an unlicensed firearm, such use of an unlicensed firearm shall be considered as an aggravating circumstance.

If the violation of this Section is in furtherance of or incident to, or in connection with the crime of rebellion or insurrection, sedition, or attempted coup d'état, such violation shall be absorbed as an element of the crime of rebellion or insurrection, sedition, or attempted coup d'état.

The same penalty shall be imposed upon the owner, president, manager, director or other responsible officer of any public or private firm, company, corporation or entity, who shall willfully or knowingly allow any of the firearms owned by such firm, company, corporation or entity to be used by any person or persons found guilty of violating the provisions of the preceding paragraphs or willfully or knowingly allow any of them to use, unlicensed firearms or firearms without any legal authority to be carried outside of their residence in the course of their employment.

The penalty of arresto mayor shall be imposed upon any person who shall carry any licensed firearm outside his residence without legal authority therefor.

In *People v. Ladjaalam*,^[36] we laid down the correct interpretation of the law and ruled:

x x x A simple reading thereof shows that if an unlicensed firearm is used in the commission of any crime, there can be no separate offense of simple illegal possession of firearms. Hence, if the “other crime” is murder or homicide, illegal possession of firearms becomes merely an aggravating circumstance, not a separate offense. Since direct assault with multiple attempted homicide was committed in this case, appellant can no longer be held liable for illegal possession of firearms.

Moreover, penal laws are construed liberally in favor of the accused. In this case, the plain meaning of RA 8294's simple language is most favorable to herein appellant. Verily, no other interpretation is justified, for the language of the new law demonstrates the legislative intent to favor the accused. Accordingly, appellant cannot be convicted of two separate offenses of illegal possession of firearms and direct assault with attempted homicide. Moreover, since the crime committed was direct assault and not homicide or murder, illegal possession of firearms cannot be deemed an aggravating circumstance.

x x x x

x x x The law is clear: the accused can be convicted of simple illegal possession of firearms, provided that “no other crime was committed by the person arrested.” If the intention of the law in the second paragraph were to refer only to homicide and murder, it should have expressly said so, as it did in the third paragraph. Verily, where the law does not distinguish, neither should we.^[37]

All told, we affirm petitioner's conviction for the crime of rape. However, petitioner's conviction of illegal possession of firearms is set aside.

Under Article 266-B of the Revised Penal Code, whenever the crime of rape is committed with the use of a deadly weapon or by two or more persons, the penalty shall be reclusion perpetua to death. The prosecution was able to sufficiently allege in the Information, and establish during trial, that a gun was used in the commission of rape. Since no aggravating or mitigating circumstance was established in the commission of the crime, the lesser

penalty shall be imposed.[38] Thus, we affirm the penalty of reclusion perpetua meted by the courts below.

As to the damages awarded for the crime of qualified rape, however, modifications are in order. Considering that the penalty imposable is reclusion perpetua, the award of P75,000.00 as civil indemnity must be reduced to P50,000.00.[39] Also the award of P100,000.00 as moral damages should be reduced to P50,000.00 based on prevailing jurisprudence.[40] Exemplary damages in the amount of P30,000.00 should be awarded by reason of the established presence of the qualifying circumstance of use of a deadly weapon.[41]

In addition, interest at the rate of six percent (6%) per annum shall be imposed on all damages awarded from the date of finality of this judgment until fully paid, likewise pursuant to prevailing jurisprudence.[42]

WHEREFORE, the Decision dated March 17, 2009 of the Court of Appeals, sentencing petitioner Arnel Sison y Escudro to reclusion perpetua for the crime of qualified rape, is hereby **AFFIRMED** with **MODIFICATION** that he is **ORDERED** to pay AAA the reduced amounts of P50,000.00 as civil indemnity and P50,000.00 as moral damages. Petitioner is also **ORDERED** to pay P30,000.00 as exemplary damages and interest at the rate of six percent (6%) per annum is imposed on all the damages awarded from the date of finality of this judgment until fully paid.

Petitioner's conviction of Illegal Possession of Firearms is hereby **REVERSED** and **SET ASIDE**.

SO ORDERED.

Velasco, Jr., (Chairperson), Abad, Mendoza, and Perlas-Bernabe, JJ., concur.

[1] Penned by Associate Justice Vicente S. E. Veloso, with Associate Justices Edgardo P. Cruz and Ricardo R. Rosario, concurring; rollo, pp. 61-78.

[2] Per Judge Ma. Theresa L. dela Torre-Yadao; id. at 128-139.

[3] CA rollo, p. 10.

[4] Id. at 12.

[5] Records, p. 27.

[6] Rollo, pp. 64-65.

[7] Id. at 66-68.

[8] Id. at 139.

[9] Id. at 77-78.

[10] Id. at 23-24.

[11] G.R. No. 176742, June 17, 2008, 554 SCRA 682.

[12] Id. at 696-697.

[13] TSN, July 2, 2003, pp. 8-14.

[14] *People v. Baluya*, G.R. No. 133005, April 11, 2005, 380 SCRA 532, 542.

[15] Id., citing *People v. Dela Cruz*, G.R. Nos. 131167-68, August 23, 2000, 338 SCRA 582.

- [16] *Id.*, citing *People v. Yparraguire*, G.R. No. 124391, July 5, 2000, 335 SCRA 69.
- [17] TSN, August 14, 2003, p. 3.
- [18] *Id.* at 8.
- [19] *Id.* at 10.
- [20] *Id.*
- [21] *People v. Espino, Jr.*, *supra* note 11, at 701.
- [22] *Id.* at 702, citing *People v. Macapal, Jr.*, G.R. No. 155335, July 14, 2005, 463 SCRA 387, 400.
- [23] TSN, September 10, 2003, p. 5.
- [24] *Id.* at 6-7.
- [25] TSN, July 2, 2003, p. 10.
- [26] *People v. Sandig*, G.R. No. 143124, July 25, 2003, 407 SCRA 280, 287.
- [27] *Id.*
- [28] *Id.*, citing *People v. Gecomio*, G.R. Nos. 115035-36, February 23, 1996, 254 SCRA 82.
- [29] *People v. Magbanua*, G.R. No. 176265, April 30, 2008, 553 SCRA 698, 705.
- [30] TSN, October 15, 2003, pp. 4-5.
- [31] *Id.* at 6
- [32] *Id.* at 7.
- [33] Rollo, p. 137.
- [34] TSN, June 8, 2007, p. 8.
- [35] *People v. Baluya*, G.R. No. 133005, April 11, 2002, 380 SCRA 532, 545.
- [36] G.R. Nos. 136149-51, September 19, 2000, 340 SCRA 617.
- [37] *Id.* at 648-650.
- [38] Revised Penal Code, Art. 63.
- [39] *People of the Philippines v. Carlo Dumadag y Romio*, G.R. No. 176740, June 22, 2011, citing *People v. Macapanas*, G.R. No. 187049, May 4, 2010, 620 SCRA 54, 76; *People v. Jumawid*, G.R. No. 184756, June 5, 2009, 588 SCRA 808.
- [40] *Id.*
- [41] *Id.*, citing *People v. Toriaga*, G.R. No. 177145, February 9, 2011, 642 SCRA 515.
- [42] *Id.*, citing *People v. Jimmy Alverio*, G.R. No. 194259, March 16, 2011; *People v. Jose Galvez y Blanco*, G.R. No. 181827, February 2, 2011.

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