PEOPLE OF THE PHILIPPINES, APPELLEE, VS. JESSIE BUSTILLO Y AMBAL, APPELLANT.

G.R. No. 187540. September 01, 2010

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

Jessie Bustillo y Ambal (appellant) was convicted of Rape by the Regional Trial Court (RTC) of Quezon City following his indictment thereof in an Information the accusatory portion of which reads:

> That on or about the 19[th] day of February, 2004 in Quezon City, Philippines, the above-named accused, by means of force, violence and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge upon the person of AAA, 16 years old, against her will and without her consent, in violation of said law.
>
> CONTRARY TO LAW.[1]

Gathered from the evidence for the prosecution is the following version:

At around 10:00 o'clock in the evening of February 19, 2004, as then 16 year old AAA[2] was at the bridge at 67 West Riverside Street, San Franciso Del Monte, Quezon City "following" her mother who was "selling/vending,"[3] appellant, who had a companion, approached her, introduced himself and later grabbed her by the arms and brought her under the bridge.[4] As appellant forcibly embraced, kissed and undressed her, she cried and pleaded for mercy but to no avail. He in fact warned her that if she made any noise, he would throw her to the river.

Appellant thereupon took off his shortpants and underwear and forcibly inserted his penis into her vagina, rendering her weak and in pain.[5] She thereafter left for home, and together with her sister, immediately sought the help of barangay officials and the police[6] who, just as immediately, apprehended appellant at 2:30 a.m. the following day, February 20, 2004. At 3:00 a.m. of the same day, AAA gave a sworn statement reflecting essentially the above account before PO2 Eric Espino Rano at the Baler Police Station, Central Police District Office, Quezon City.[7]

The reporting of the incident and the apprehension of appellant were corroborated by Gener Mendoza, a barangay tanod. He added that appellant was apprehended "inside the barracks" after someone pointed to his whereabouts, and that AAA, on seeing appellant, slapped him.

Examination of AAA at 4:00 a.m. also on February 20, 2004 revealed the following pertinent findings and conclusion:

> x x x x
>
> PHYSICAL INJURIES: Area of multiple abrasions, neck, measuring 23 cm x 8 cm, bisected by posterior midline.

> x x x x
>
> HYMEN: deep fresh laceration at 5 o'clock and deep laceration at 8 o'clock.
>
> x x x x
>
> PERIURETHRAL AND VAGINAL SMEARS: are positive for spermatozoa.
>
> CONCLUSION: Findings consistent with recent sexual intercourse. Barring unforeseen complications, it is estimated that the above injuries will heal in 7 - 8 days.[8] (underscoring supplied)

Denying the charge and proffering the "sweetheart" defense, appellant, a construction worker, claimed that he courted AAA during two occasions that they met on the bridge; that AAA had told him that she was 18 years old; and that she voluntarily acceded to the sexual intercourse.[9]

Appellant's friend Jessie Templor, who was with him at the bridge, corroborated appellant's claim that AAA was appellant's girlfriend.[10] He added that AAA had twice visited appellant at the construction site where appellant used to work;[11] that on the night of the incident, appellant and AAA talked for about an hour after which the two went under the bridge;[12] and that as he wanted to borrow the cellphone of appellant,[13] he went under the bridge and saw appellant on top of AAA.[14]

In finding for the prosecution, Branch 86 of the Quezon City RTC which convicted appellant, made the following observation:

> The childish and innocent demeanor of the complainant convinces the Court that although 16 years of age at the time of the incident, she has the mental status of a twelve year old child. She was looking for her mother on the late night of February 19, 2004. When she encountered the accused on the bridge at West Riverside, San Francisco del Monte, Quezon City, she could not understand why he would drag her to a place beneath the bridge. She was asked not to make noise or she would be pushed into the river below. The threat forced her into submission. She was raped on the path-walk causing abrasions to her back (Exh. "E"). If they were sweethearts as alleged by the accused, they would have gone to a place which would be comfortable for their lovemaking. The fact that complainant suffered from abrasions at her back clearly indicate that she was forced to lie down on the pavement.[15] (underscoring supplied)

Thus, the trial court disposed:

> WHEREFORE, premises considered, judgment is hereby rendered finding the accused Jessie Bustillo y Ambal, guilty beyond reasonable doubt of the crime of rape and hereby sentences him to suffer the penalty of reclusion perpetua and to indemnify the private complainant Lourdes Sabarre of P50,000.00 as civil indemnity and P50,000.00 as moral damages.
>
> SO ORDERED.[16] (emphasis supplied)

The Court of Appeals, by Decision[17] of September 16, 2008, affirmed the trial court's decision.

Hence, the present petition for review on certiorari.

Appellant having admitted engaging in carnal knowledge with AAA, the only issue for consideration is whether the sexual act was done through force, violence or intimidation.

As did the trial and appellate courts, the Court is not persuaded by appellant's claim of consensuality. The findings and conclusion of the doctor who examined AAA, along with AAA's immediate reporting of the incident to the barangay and police authorities before which she at once narrated the details thereof, negate consensuality, and confirm AAA's claim that the intercourse was committed with intimidation and force.

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WHEREFORE, the assailed Decision of the Court of Appeals is AFFIRMED.

SO ORDERED.

Bersamin, Del Castillo,[*] Villarama, Jr., and Sereno, JJ., concur.

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[*] Additional member per Special Order No. 879 dated August 13, 2010 in lieu of Associate Justice Arturo D. Brion.

[1] Records, p. 1.

[2] People v. Cabalquinto, G.R. No. 167693, September 19, 2006, 502 SCRA 419-420 ". . . in view of recent enactments which unequivocally express the intention to maintain the confidentiality of information in cases involving violence against women and their children, in this case and henceforth, the Court shall withhold the real name of the victim-survivor and shall use fictitious initials instead to represent her. Likewise, the personal circumstances of the victim-survivors or any other information tending to establish or compromise their identities, as well those of their immediate family or household members, shall not be disclosed."

[3] Transcript of Stenographic Notes (TSN), Oct. 13, 2005, p. 8.

[4] TSN, May 17, 2004 at 3.

[5] Id. at 5.

[6] Id. at 6-7.

[7] Exhibit `A," records, p. 7.

[8] Exh. "E," records, p. 57.

[9] TSN, September 25, 2006, pp. 7 & 10.

[10] TSN, August 8, 2006, p.2.

[11] Id. pp. 7-8.

[12] TSN, Aug. 8, 2006, p. 15.

[13] Id. at 8.

[14] Id. at 9.

[15] CA rollo, pp. 19-20.

[16] Id. at 21.

[17] Penned Associate Justice Pampio A. Abarintos and concurred in by Associate Justices Edgardo F.

Sundiam and Ricardo R. Rosario, rollo, pp. 2-19.

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