

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. CRIZALDO PACHECO Y VILLANUEVA, ACCUSED-APPELLANT.

G.R. No. 187742. April 20, 2010

Ponente: VELASCO JR., J.

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VELASCO JR., J.:

This is an appeal from the November 18, 2008 Decision of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 02796, which affirmed the Decision in Criminal Case No. 26020-MN of the Regional Trial Court (RTC), Branch 169 in Malabon City. The RTC convicted accused-appellant Crizaldo Pacheco of rape.

The Facts

An Information charged accused-appellant as follows:

That on or about the 7[th] day of January, 2002, in the City of Malabon, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, being the step-father of [AAA],[1] with lewd design and by means of force and intimidation, did then and there, willfully, unlawfully and feloniously have sexual intercourse with the said [AAA], a minor of nine (9) years old against her will and without her consent, which act debases, degrades or demeans the intrinsic worth and dignity of [AAA].[2]

During his arraignment, accused-appellant pleaded "not guilty."

The Prosecution's Version of Facts

At the trial, the prosecution presented the victim, AAA, and Police Senior Inspector (P/SInsp.) Ruby Grace Sabino as witnesses. Likewise presented were: a machine copy of AAA's Sworn Statement (Exhibits "A" to "A-3"), original copies of Official Medico-Legal Report No. 0011-01-08-02 (Exhibit "B"), Social Case Study Report (Exhibit "C"), Joint Affidavit of Arrest (Exhibit "D"), Photo Documents (Exhibits "F" to "F-5"), and AAA's Certificate of Live Birth (Exhibit "G").

AAA lived with her mother, BBB, and accused-appellant, BBB's live-in partner, in Malabon City. She recalled that accused-appellant had raped her many times, the last of which happened on January 7, 2002 at around 2 o'clock in the morning. At that time, she was awakened from her sleep when accused-appellant was removing her clothes. He then removed his clothes also and proceeded to mount her, inserting his penis into her vagina and repeating a pumping movement. AAA felt pain in her vagina but could not cry out as accused-appellant threatened to maul and box her as he had previously done. After having carnal knowledge of AAA, accused-appellant then went to sleep.[3]

AAA eventually revealed accused-appellant's lechery to one of her teachers, who accompanied her to Bantay Bata ABS-CBN to ask for help. AAA then gave the police a statement of what had happened to her.[4]

P/SInsp. Sabino testified in her capacity as Medico-Legal Officer of the Philippine National Police (PNP) Women's Crime and Child Protection Center. Her ano-genital examination on AAA revealed that the child had

deep healed laceration at 6 o'clock position.[5]

The Version of the Defense

The defense offered the sole testimony of accused-appellant. He testified that there were nine of them living in the same house measuring around three by eight meters. On the day of the rape incident, he said AAA had a grudge against him because he spanked her for failing to return home at lunchtime. He also alleged that he once caught his brother-in-law Bernabe Peralta molesting AAA inside the bathroom.

During cross-examination, accused-appellant said that on January 6, 2002, he slept uninterrupted the whole night. He remarked that they were packed like sardines in their small dwelling, with him asleep next to his wife while AAA slept on the extreme opposite side.[6]

The Ruling of the Trial Court

The RTC found accused-appellant guilty beyond reasonable doubt of raping AAA. It viewed AAA's testimony as positive and straightforward and supported by clear corroborative evidence. It gave no credence to the argument that accused-appellant could not have raped AAA in the presence of other family members.

The dispositive portion of the RTC Decision reads:

WHEREFORE, premises considered, accused CRIZALDO PACHECO y VILLANUEVA is hereby found GUILTY beyond reasonable doubt of the crime of RAPE and he is sentenced to suffer the penalty of reclusion perpetua. He is further ordered to pay the offended party in the sum of Fifty Thousand Pesos (Php 50,000.00) as civil indemnity and Fifty Thousand Pesos (Php 50,000.00) as moral damages.

SO ORDERED.[7]

Accused-appellant challenged his conviction before the CA. His appeal centered on certain circumstances that allegedly affected AAA's credibility. Her actions during and after the rape, the defense argued, were inconsistent with that of a rape victim. Moreover, it was claimed that the alleged molestation of AAA at the hands of her uncle created serious doubt as to who the real rapist was.

The Ruling of the Appellate Court

On appeal, accused-appellant faulted the trial court for erroneously ruling against him even if (1) the rape could not have been committed inside a room where AAA's mother and other siblings were also sleeping; (2) AAA belatedly reported the rape; (3) the prosecution failed to establish with certainty that the hymenal laceration was the direct result of his raping AAA; (4) AAA could have shouted or resisted if she was really raped; and (5) AAA was motivated by ill feelings in accusing accused-appellant of rape.

The CA affirmed in toto the RTC Decision. It found the testimony of AAA credible and given in a clear and straightforward manner. The appellate court found that her testimony was bolstered by the medical findings on AAA. On the other hand, the CA found accused-appellant's defenses weak and unavailing.

Hence, we have this appeal.

On August 3, 2009, this Court required the parties to submit supplemental briefs if they so desired. The parties manifested that they were foregoing the submission of supplemental briefs. The issue raised before the appellate court is, therefore, deemed adopted in this appeal.

The Issue

WHETHER THE COURT OF APPEALS GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT

GUILTY OF THE CRIME CHARGED DESPITE THE FAILURE OF THE PROSECUTION TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.

The Ruling of the Court

The defense maintains that the demeanor of AAA was inconsistent with that of a girl who had been ravaged. She did not do anything to stop accused-appellant from committing the rape. She also did not shout for help or try to get the attention of her mother and other siblings who were sleeping beside her. She likewise did not report the rape to her family or the authorities at once and went back to sleep instead. While the defense acknowledges that people react differently in such a situation, they argue that it is unnatural for AAA to not even make a feeble attempt to free herself or make some kind of noise when she had the opportunity to do so.

Since the brother-in-law of accused-appellant also allegedly raped AAA, the defense points out that there was serious doubt as to who the real offender was.

The prosecution, on the other hand, argues that the healing of AAA's hymenal laceration does not negate the fact that she had been raped.

The Office of the Solicitor General (OSG) relies on the doctrine that positive identification prevails over denials and alibis. It maintains that it is especially difficult to believe that a child of tender years would accuse someone of sexual maltreatment, permit a medical examination of her private parts, and withstand a public trial if she were not honestly seeking justice. Citing jurisprudence, it counters accused-appellant's argument by saying that the presence of lacerations in the victim's vagina is not necessary in proving rape.

We affirm accused-appellant's conviction.

The arguments raised by the defense are overused and insubstantial. These have been rejected by this Court in the past.

Elements of the Crime of Rape

The Revised Penal Code defines statutory rape as sexual intercourse with a girl below 12 years old. The two elements of statutory rape are: (1) that the accused had carnal knowledge of a woman; and (2) that the woman was below 12 years of age.[8]

People v. Teodoro[9] explains that statutory rape departs from the usual modes of committing rape:

What the law punishes in statutory rape is carnal knowledge of a woman below twelve (12) years old. Thus, force, intimidation and physical evidence of injury are not relevant considerations; the only subject of inquiry is the age of the woman and whether carnal knowledge took place.

In prosecuting rape cases, we reiterate from previous rulings that the eloquent testimony of the victim, coupled with the medical findings attesting to her non-virgin state, should be enough to confirm the truth of her charges.[10] We find this applicable to the instant case.

Demeanor of Rape Victim

There are those charged with the serious crime of rape who try to escape liability by questioning why the alleged rape victim did not struggle against the rapist or at least shout for help. They attempt to shift blame on the victim for failing to manifest resistance to sexual abuse. This Court, however, has repeatedly held that there is no clear-cut behavior that can be expected of one who is being raped or has been raped.

In People v. Ofemiano,[11] we thus ruled:

Jurisprudence holds that the failure of the victim to shout for help does not negate rape. Even the victim's lack of resistance, especially when intimidated by the offender into submission, does not signify voluntariness or consent. In *People v. Corpuz*, we acknowledged that even absent any actual force or intimidation, rape may be committed if the malefactor has moral ascendancy over the victim. We emphasized that in rape committed by a close kin, such as the victim's father, stepfather, uncle, or the common-law spouse of her mother, moral influence or ascendancy substitutes for violence or intimidation.

Ofemiano applies to this case. While AAA may not have exerted effort to free herself from her rapist, her actions can be explained by the fear she already had of accused-appellant, who had beat her up on more than one occasion. Accused-appellant's moral ascendancy over AAA, combined with memories of previous beatings, was more than enough to intimidate AAA and rendered her helpless while she was being victimized. Moreover, in *People v. Bagos*,^[12] we held that the lack of a struggle or an outcry from the victim is immaterial to the rape of a child below 12 years of age. The law presumes that such a victim, on account of her tender age, does not and cannot have a will of her own. On this score, accused-appellant's defense is wanting.

Accused-appellant cannot as well count on the much-abused line that rape is not committed when others are present. Sadly, the presence of family members in the same room has not discouraged rapists from preying on children, giving this Court to observe before that "lust is no respecter of time and place."^[13] Rape has been shown to have been committed even in places where people congregate, in parks, along the roadside, within school premises, inside a house where there are other occupants, and even in the same room where other members of the family are also sleeping.^[14]

Grudge against Accused-Appellant

Accused-appellant claims that AAA bears a grudge against him. He theorizes that he was wrongfully charged of rape after he spanked AAA and earned her resentment. This Court, however, finds AAA's version more believable. As the trial court noted, she bore a grudge against accused-appellant for raping her repeatedly. Yet this grudge was not the basis of the rape complaint. As the lower court observed, it was natural for AAA to harbor ill feelings against accused-appellant but that factor alone would not affect her credibility. It is quite incredible for a young girl to publicly and falsely accuse her stepfather of rape in retaliation for a minor disciplinary measure. The burden of going through a rape prosecution is grossly out of proportion to whatever revenge the young girl would be able to exact. The Court has justifiably thus ruled, as the OSG noted, that a girl of tender age would not allow herself to go through the humiliation of a public trial if not to pursue justice for what has happened.^[15]

Alleged Commission of Rape by Victim's Uncle

The healed lacerations on the victim's hymen do not disprove that accused-appellant raped the victim and cannot serve to acquit him. Proof of hymenal laceration is not even an element of rape, so long as there is enough proof of entry of the male organ into the labia of the pudendum of the female organ.^[16] Moreover, as the appellate court noted, the finding of healed lacerations does not prove that it was AAA's uncle who raped her and not accused-appellant. No corroborating evidence was presented to back up the claim that AAA was raped by someone else. Unfortunately, the argument only suggests that if accused-appellant's defense is to be believed, AAA was raped by two different men.

As this Court has previously ruled, accused-appellant can still be convicted of rape on the sole basis of the testimony of the victim. Hence, even if the medical findings are disregarded, in the end, the prosecution has successfully proved the case of rape against accused-appellant on the basis of AAA's testimony.^[17]

The use by accused-appellant of the defenses of denial and alibi cannot exculpate him from liability as these were not substantiated by clear and convincing evidence. His testimony was negative, self-serving evidence, which

cannot be given greater evidentiary weight than the testimony of the complaining witness who testified on affirmative matters.[18]

We find no reason to reverse the factual findings of the lower court, especially since the CA affirmed such findings. It was in the best position to weigh the evidence presented during trial and ascertain the credibility of the witnesses who testified. There is no showing that the lower court overlooked, misunderstood, or misapplied facts or circumstances of weight which would have affected the outcome of the case.[19]

Penalty Imposed

The Revised Penal Code punishes statutory rape with reclusion perpetua.[20] The CA thus correctly affirmed the sentence imposed. The amount of PhP 50,000 as civil indemnity and PhP 50,000 as moral damages awarded are in accordance with current jurisprudence.[21] Additionally, we award exemplary damages of PhP 30,000 to serve as a public example to deter molesters of hapless individuals.[22]

WHEREFORE, the appeal is DENIED. The CA Decision in CA-G.R. CR-H.C. No. 02796 finding accused-appellant Crizaldo Pacheco y Villanueva guilty is AFFIRMED, with the modification that he is further ordered to pay PhP 30,000 in exemplary damages.

SO ORDERED.

Corona, Carpio Morales[*], Nachura, and Mendoza, JJ., concur.

[*] Additional member per July 20, 2009 raffle.

[1] Per *People v. Cabalquinto*, G.R. No. 167693, September 19, 2006, 502 SCRA 419-420, and Republic Act No. 9262 (Anti-Violence Against Women and Their Children Act of 2004), the real name of the victim and her personal circumstances and other information tending to establish her identity, as well as those of her immediate family or household members, are withheld.

[2] CA rollo, p. 51.

[3] Rollo, pp. 4-5.

[4] CA rollo, p. 59.

[5] Rollo, p. 5.

[6] CA rollo, p. 21.

[7] *Id.* at 24. Penned by Judge Emmanuel D. Laurea.

[8] *People v. Perez*, G.R. No. 182924, December 24, 2008.

[9] G.R. No. 172372, December 2, 2009.

[10] *People v. Peralta*, G.R. No. 187531, October 16, 2009.

[11] G.R. No. 187155, February 1, 2010.

[12] G.R. No. 177152, January 6, 2010.

[13] *People v. Bernabe*, G.R. No.141881, November 21, 2001, 370 SCRA 142, 147.

[14] *People v. Cabral*, G.R. No. 179946, December 23, 2009; citing *People v. Cura*, G.R. No. 112529, January 18,

1995, 240 SCRA 234, 242.

[15] *People v. Achas*, G.R. No. 185712, August 4, 2009; citing *People v. Nazareno*, G.R. No. 167756, April 9, 2008, 551 SCRA 16, 41.

[16] *People v. Cruz*, G.R. No. 186129, August 4, 2009; citing *People v. Jumawid*, G.R. No. 184756, June 5, 2009.

[17] *People v. Escoton*, G.R. No. 183577, February 1, 2010.

[18] *People v. Gragasin*, G.R. No. 186496, August 25, 2009.

[19] *People v. Estrada*, G.R. No. 178318, January 15, 2010; citing *People v. Dalisay*, G.R. No. 188106, November 25, 2009.

[20] Art. 266-A. Rape, When and How Committed.—Rape is committed -

1. By a man who shall 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 or is demented, even though none of the circumstances mentioned above be present.

Art. 266-B. Penalties.--Rape under paragraph 1 of the next preceding article shall be punished by reclusion perpetua. x x x

[21] *People v. Buban*, G.R. No. 172710, October 30, 2009.

[22] *People v. Ofemiano*, supra note 11; citing *People v. Pabol*, G.R. No. 187084, October 12, 2009.

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