PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. MELVIN LOLOS, ACCUSED-APPELLANT.

G.R. No. 189092. August 19, 2010

Ponente: MENDOZA, J.

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MENDOZA, J.:

This appeal seeks to set aside the July 15, 2009 Decision[1] of the Court of Appeals, in CA-G.R. CR-HC No. 03280, which affirmed the November 19, 2007 Decision[2] of the Regional Trial Court, Branch 51, Sorsogon City (RTC), finding accused Melvin Lolos guilty beyond reasonable doubt of the crime of rape which he committed against 8-year-old AAA.[3]

In an information dated December 3, 2000, accused Melvin Lolos was charged with the crime of rape which he allegedly committed as follows:

> That on October 25, 2000 at more or less 7:00 o'clock in the evening, Barangay San Isidro, Municipality of Castilla, Province of Sorsogon, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd designs, thru force and intimidation, and taking advantage of the tender age of the victim, did then and there, willfully, unlawfully and feloniously had sexual intercourse with [AAA], a nine year- old girl, who is incapable of giving intelligent consent, against her will to her damage and prejudice.[4]

During the trial, the prosecution presented, as its witnesses, AAA, the victim herself; BBB, the grandmother of the rape victim; and Dr. Salve B. Sapinoso, the attending physician who examined AAA.

As culled from the testimonies of the prosecution witnesses, it appears that AAA was just eight (8) years old on October 25, 2000 when she was raped by accused Melvin Lolos. She had been in the care of her paternal grandmother, BBB, ever since her parents separated. During weekdays, however, she would stay with her great grandmother, CCC, mother of BBB, whose house was just near her school. Accused Melvin Lolos, whom BBB identified as the son of her half-sister on her maternal side, lived with CCC.

On Fridays or Saturdays, BBB would fetch AAA and accompany her back to their house. One day, AAA informed BBB that she was being maltreated and beaten up with a belt by Melvin. BBB confronted him about it but he reasoned out that he was just trying to discipline her. BBB also came to know that DDD, a cousin of AAA's father, heard a rumor from a barbershop that Melvin had raped AAA. When BBB asked AAA about it, the latter confirmed it.

AAA narrated that on October 25, 2000 at around 7:00 o'clock in the evening, her great grandmother, CCC, went out of the house to fetch water. As she went out, Melvin told her to go inside the room of their house where he undressed her and made her lie down. He then licked her vagina, brought out his penis, applied baby oil on it, inserted it inside her vagina, and performed coital movement until a whitish fluid came out of it. His repeated thrusts caused her pain but her vagina did not bleed because it was not the first time that he did it to her, though she could no longer count the number of times he did it. She stressed, however, that they were frequent as the

intervals were only a few days. After satisfying himself, Melvin wiped her vagina and told her not to tell CCC what happened. He then gave her P2.00 and she went out to a store nearby.

After hearing her story, BBB and DDD brought her to the police station to report the incident and later to a physician for examination. Dr. Salve B. Sapinoso's examination showed her hymen with incomplete superficial healed lacerations meaning these did not go beyond one-half of the width of the hymen and could have been sustained more than two or three weeks prior to the examination. She added that the lacerations could have been caused most probably by the penetration of a male organ.

The defense, on the other hand, presented three (3) witnesses: Melvin Lolos, the accused himself; Alvin Legaspi, his cousin; and Ligaya A. Legaspi, his aunt and the mother of Alvin.

Melvin Lolos introduced himself as 23 years old and living in CCC's house at the time the alleged incident took place on October 25, 2000. He vehemently denied that he raped AAA in their house on said date and time. He claimed that it was impossible for the rape incident to have taken place because their house had only one room where he slept and there were other occupants sleeping in the sala. He admitted hitting her with a belt that night because he got angry when she failed to come home on time from school. Except for that incident, he saw no reason for AAA to file a rape case against him.

The testimony of his cousin, Alvin Legaspi, was to the effect that Melvin could not have raped AAA on the night of October 25, 2000 without anyone noticing it as there were several persons in the house. He distinctly remembered that he was in CCC's house on said date and time, together with seven (7) other relatives including AAA and Melvin. That night, he slept beside AAA and another niece. He also narrated that he and Melvin went to fetch AAA from San Isidro Elementary school at around 7:00 o'clock that night because she failed to return home early. Melvin hit her with his belt three times.

The mother of Alvin, Ligaya A. Legaspi, testified that her son was in the house of CCC on the night of October 25, 2000. Other than that, she did not have any other information on the incident in question. She only narrated the events that transpired on the following day, October 26, 2000, when she learned about what AAA claimed to have happened and the subsequent arrest of her nephew. According to her, she went to see AAA and the latter told her that the accused did not rape her but spanked her. AAA likewise told her that it was the son of a certain Mering who had raped her. She later accompanied AAA and BBB to the police station to withdraw the case against Melvin, but she (AAA) refused as she wanted to pursue the case against him.

On November 19, 2007, the RTC rendered a decision finding the accused guilty beyond reasonable doubt of the crime of rape and sentenced him to suffer the penalty of reclusion perpetua. The dispositive portion of said decision[5] reads:

> WHEREFORE, finding accused MELVIN LOLOS GUILTY beyond reasonable doubt of the offense of Rape, he is hereby sentenced to suffer the penalty of reclusion perpetua and to pay the offended party, [AAA], the amount of P50,000.00 as civil indemnity and moral damages in the amount of P50,000.00.
>
> No pronouncement as to cost.
>
> SO ORDERED.[6]

In ruling against the accused, the trial court held that the categorical statements of the victim must prevail over the bare denials of the accused. It found the testimony of AAA, that she was raped by the accused not just on October 25, 2000 but also on several occasions, to be candid, straightforward, consistent, and far more trustworthy than the self-serving negative averments of the accused. It was convinced that the accused committed the act of rape against his niece.

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Apparently not in conformity, the accused appealed the decision of the trial court. On July 15, 2009, the Court of Appeals (CA) rendered a decision affirming the decision of the trial court. Thus:

> WHEREFORE, in the light of the foregoing, the Decision of the Regional Trial Court, Branch 51 of Sorsogon City dated November 19, 2007 is hereby AFFIRMED. Accused-appellant Melvin Lolos is found guilty beyond reasonable doubt of the crime of simple rape.
>
> SO ORDERED.[7]

Aggrieved, the accused now comes to this Court via this appeal presenting the following:

> ASSIGNMENT OF ERRORS
>
> THE COURT OF APPEALS GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT DESPITE THE PROSECUTION'S FAILURE TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.
>
> THE COURT OF APPEALS GRAVELY ERRED IN GIVING CREDENCE TO THE PROSECUTION'S EVIDENCE DESPITE BEING CONTRARY TO HUMAN EXPERIENCE.

Accused Melvin Lolos argues that the testimonies of the prosecution witnesses were not only inconsistent but also highly incredulous. He claims that the inconsistencies did not only refer to minor details. First, AAA testified that there were only three (3) people staying in the house where the alleged rape incident took place but BBB said that there were four (4) occupants in the house. Second, AAA claimed that she was afraid of the accused but he never threatened or forced her in any way. AAA also related that after the rape incident, she was still able to go out of the house and buy something from a store which makes her story hard to believe.

Her story is all the more doubtful considering that she could not recall the exact date of the incident. She admitted that BBB only told her that the date was October 25, 2000. The medical certificate and her testimony did not complement each other because said certificate found healed lacerations although AAA had testified that the rape was committed on October 25, 2000, only a day before the medical examination was conducted.

THE COURT'S RULING

In the determination of the innocence or guilt of the accused in rape cases, courts consider the following principles: (1) an accusation of rape can be made with facility and while the accusation is difficult to prove, it is even more difficult for the accused, though innocent, to disprove; (2) considering that in the nature of things, only two persons are usually involved in the crime of rape, the testimony of the complainant should be scrutinized with great caution; and (3) the evidence for the prosecution must stand or fall on its own merits and cannot be allowed to draw strength from the weakness of the evidence for the defense.[8]

The gravamen of the offense of rape is sexual congress with a woman by force and without consent. As provided in the Revised Penal Code, sexual intercourse with a girl below 12 years old is statutory rape. 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. Sexual congress with a girl under 12 years old is always rape.[9]

From the foregoing, it is clear that what only needs to be established is that the accused had carnal knowledge of the victim who was under twelve (12) years old.

Prevailing jurisprudence uniformly holds that findings of fact of the trial court, particularly when affirmed by the Court of Appeals, are binding upon this Court. As a general rule, on the question whether to believe the version of the prosecution or that of the defense, the trial court's choice is generally viewed as correct and entitled to the highest respect because it is more competent to conclude so, having had the opportunity to observe the witnesses'

demeanor and deportment on the witness stand as they gave their testimonies. The trial court is, thus, in the best position to weigh conflicting testimonies and to discern if the witnesses were telling the truth.

Both courts below were thoroughly and morally convinced of the guilt of the accused. We see no cogent reason to disturb such finding. After an assiduous assessment of the evidentiary records, we found no cause to overturn the findings of fact and conclusions of both the trial court and the Court of Appeals. In this case, the accused was charged with statutory rape. The first element was proven by the positive, straightforward and credible testimony of the victim herself which was supported by the findings of the medico-legal report. The second element was established by the presentation of AAA's Certificate of Live Birth showing that she was born on April 19, 1992. When the crime was committed on October 25, 2000, AAA was only eight (8) years old.

With respect to the inconsistency on the number of occupants inside the house, the matter is inconsequential as it does not bear upon the elements of the crime of rape.The decisive factor in the prosecution for rape is whether the commission of the crime has been sufficiently proven. For a discrepancy or inconsistency in the testimony of a witness to serve as a basis for acquittal, it must refer to the significant facts indispensable to the guilt or innocence of the accused for the crime charged.[10] Thus, the cited inconsistency does not vitiate the integrity of the prosecution evidence.

The fact that the accused never threatened or forced AAA on that particular night and that she was still able to go out of the house and buy something from a store cannot exculpate him. Even if she did not resist him or even gave her consent, his having carnal knowledge of her is still considered rape considering that she was only eight (8) years old at that time. It must be remembered that the accused is an uncle of the victim and has moral ascendancy over her. Her behavior can be explained by the fear she had of the accused, who had repeatedly beaten her for various reasons. His moral ascendancy over her, combined with memories of previous beatings, was more than enough to intimidate her and render her helpless and submissive while she was being brutalized.

> x x x. The behavior and reaction of every person cannot be predicted with accuracy. It is an accepted maxim that different people react differently to a given situation or type of situation, and there is no standard form of behavioral response when one is confronted with a strange or startling experience. Not every rape victim can be expected to act conformably to the usual expectations of everyone. Some may shout; some may faint; and some be shocked into insensibility, while others may openly welcome the intrusion. Behavioral psychology teaches us that people react to similar situations dissimilarly. There is no standard form of behavior when one is confronted by a shocking incident. The workings of the human mind when placed under emotional stress are unpredictable. This is true specially in this case where the victim is a child of tender age under the moral ascendancy of the perpetrator of the crime.[11]

On her failure to recall the exact date when she was raped, it is quite understandable because he did it to her on several occasions. At any rate, the entrenched doctrine is that the "date or time of the commission of rape is not a material ingredient of the said crime because the gravamen of rape is carnal knowledge of a woman through force and intimidation. The precise time when the rape took place has no substantial bearing on its commission."[12]

We agree with the appellate court when it ruled that there was no merit in the contention of the accused that the presence of "superficial healed laceration" disproves the commission of rape on October 25, 2000. There is no discrepancy as the medical certificate is congruent to her story that it was not the first time that the accused defiled her. He had been doing it to her several times which resulted in her lacerations being healed.

Finally, in addition to the award of civil indemnity and moral damages, the Court also awards exemplary damages in the amount of P30,000.00 in favor of the victim. The reason behind the award is to set a public example and to protect the young from sexual abuse.[13]

WHEREFORE, the July 15, 2009 Decision of the Court of Appeals in CA-G.R. CR-HC No. 03280 is AFFIRMED with MODIFICATION in that the accused is further ordered to pay the amount of P30,000.00 as exemplary damages to AAA.

SO ORDERED.

Carpio, (Chairperson), Nachura, Peralta, and Abad, JJ., concur.

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[1] Rollo, pp. 2-17. Penned by Associate Justice Marlene Gonzales-Sison and concurred in by Associate Justice Bienvenido L. Reyes and Associate Justice Isaias Dicdican.

[2] CA rollo, pp. 7-13. Penned by Judge Jose L. Madrid.

[3] Pursuant to the ruling of this Court in People v. Cabalquinto, G. R. No. 167693, September 19, 2006, 502 SCRA 419, fictitious initials shall be used to respect the dignity and protect the privacy of the rape victim and that of her family.

[4] Cited in RTC Decision, CA rollo, p. 7.

[5] Id.

[6] Id. at 13.

[7] Rollo, p. 16.

[8] People v. Rante, G.R. No. 184809, March 29, 2010.

[9] People v. Perez, G.R. No. 182924, December 24, 2008, 575 SCRA 653.

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

[11] People v. Mariano, G.R. No. 168693, June 19, 2009, 590 SCRA 74, 90.

[12] People v. William Ching, G.R. No. 177150, November 22, 2007; 538 SCRA 117.

[13] People v. Lorenzo Layco, G.R. No. 182191, May 8, 2009, 587 SCRA 803.

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