

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. JESSIE DACALLOS Y MODINA, APPELLANT.

G.R. No. 189807. July 05, 2010

Ponente: MENDOZA, J.

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MENDOZA, J.:

For review is the Decision[1] of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 03485, which affirmed the decision[2] of the Regional Trial Court (RTC), Branch 48, Manila City, finding appellant Jessie M. Dacallos guilty of rape under Article 266-A of the Revised Penal Code.

The accused was charged in an Information which reads:

That on or about July 15, 2002, in the City of x x x, the said accused [Dacallos], being then the common-law husband of complainant's mother, by means of force, violence and intimidation, to wit: by then and there threatening to kill said AAA should she refuse, removing her panty and lying on top of her, did then and there willfully, unlawfully and feloniously succeed in having carnal knowledge of her, against her will and consent, thereby endangering the normal growth and development of the said complainant.

Contrary to law.[3]

During arraignment, Dacallos pled not guilty to the charge. Trial on the merits followed. The CA summarized the respective evidence presented by the parties, as follows:

AAA testified that she was born on February 4, 1989. She is now staying at Marilac Hills in Alabang which is an institution for women. In 2002, she was residing at Vitas, Tondo, Manila with her family in a house that has an area of approximately four (4) by three (3) meters. The names of her siblings are Jerry (12 years old), Jimmy (11 years old) and Janet (5 years old). She is the child of her mother with her first husband. She narrated that on July 15, 2002, while at home, her stepfather, Jessie Dacallos, closed the door and grabbed her from the bed. He then undressed her and forcibly inserted his penis into her vagina. In the courtroom, she was able to identify Dacallos. She said that she does not use the surname of his stepfather because she is mad at him. Moreover, she does not know the whereabouts of her mother but only learned that she was brought to the mental hospital. She also intimated that her mother became insane because she was physically battered and mauled by her stepfather. She reported the matter to the police and they took her sworn statement. She claimed that in 2002, when the rape incident occurred, she was only thirteen (13) years old. She prayed for justice for the rape that was done to her.

The prosecution likewise presented as witness Dr. Ma. Salome Fernandez, a medico-legal officer in the National Bureau of Investigation (NBI). She testified that she conducted a medical examination on the victim after she received a referral letter from SPO1 Aladina Vicente. In a report dated July 17, 2002, she wrote a brief history of the case, thus:

"Subject was allegedly raped by her stepfather, Jessie, on several occasions when she is alone in the house. When the accompanying person, barangay kagawad was interviewed, according to the kagawad, the subject's mother had been severely battered by suspect, (and this happened most of the time) hence she couldn't come.

The subject is usually raped by suspect in front of her mother."

She also made a remark in the said report that the subject was "not referred to NPS since her answers are appropriate, only slow in comprehension and with short attention span (low IQ) (low academic attainment)." She also took a photograph of the victim.

x x x x

On the other hand, accused-appellant vehemently denied the accusation hurled against him. He claimed that it was impossible for him to have committed the crime charged because in the early morning of July 15, 2002, around 4:00 a.m., he was at home sleeping. He came home from his work from the vulcanizing shop and he was so tired. He works as a vulcanizer at a shop owned by Diding Pidalan at Road 10, Don Bosco, Tondo, Manila, which is about one (1) kilometer away from their house. He has been working there for seventeen (17) years and reports to work from 7:00 p.m. to 10:00 a.m. the following morning. In the early morning of July 15, 2002, he was at home sleeping because there are times that he has no work, like during Sundays. Accused-appellant explained that he was at home on July 15, 2002 because he was sick with flu. His companions at home are his wife, their three (3) children and his wife's child with another man, referring to AAA. On July 15, 2002, the kids were playing in the house and his wife was lying down. He insists that nothing happened in their house in the early morning of July 15, 2002. He maintains that the victim accused him of raping her because he slapped her. Moreover, his relationship with her is not good. She is hardheaded and even quarrels with her mother. He further narrates that whenever he asks AAA to do something, she stamps her feet. He also disclosed that he is not legally married to the victim's mother. He said that his wife was brought to the mental hospital while his children were in the custody of DSWD.[4]

In convicting Dacallos, the RTC accorded complete credence to the testimony of AAA, and sentenced Dacallos, thus:

WHEREFORE, the Court finds the accused JESSIE DACALLOS Y MODINA guilty beyond reasonable doubt of the felony of RAPE and pursuant to law, he is sentenced to suffer prison term of reclusion perpetua and to pay the victim the following:

- P50,000.00 as indemnity fee;
- P30,000.00 as moral damages;
- P20,000.00 as exemplary damages;
- and cost.

In view of the accused's conviction, the BJMP of Manila City Jail is ordered to commit the accused to the National Bilibid Prison in Muntinlupa, Manila.

SO ORDERED.[5]

On appeal, the CA affirmed the conviction of Dacallos, to wit:

WHEREFORE, premises considered, the Decision of the Regional Trial Court of Manila, Branch 48, in Criminal Case No. 02-205108, promulgated on June 10, 2008 convicting accused [Dacallos] of the crime of rape is hereby AFFIRMED with MODIFICATION in that accused [Dacallos] is hereby sentenced to suffer the penalty of reclusion perpetua without eligibility for parole.

With costs against the accused [Dacallos].

SO ORDERED.[6]

Hence, this appeal by Dacallos via a Notice of Appeal,[7] assigning the following errors:[8]

I

THE TRIAL COURT GRAVELY ERRED IN GIVING FULL FAITH AND CREDENCE TO THE HIGHLY INCREDIBLE TESTIMONY OF [AAA].

II

THE TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT [DACALLOS] GUILTY BEYOND REASONABLE DOUBT.

We abide by the uniform rulings of the lower courts that Dacallos raped AAA, a minor and the daughter of his common-law wife.

The CA correctly used the guidelines set by this Court in its review of rape cases, and the long-settled rule on the assessment of credibility of witnesses:

In the review of rape cases, [w]e are almost invariably guided by the following principles: (1) 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 it; (2) 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; 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.

Equally settled is the rule that assessment of credibility of witnesses is a function that is best discharged by the trial judge whose conclusions thereon are accorded much weight and respect, and will not be disturbed on appeal unless a material or substantial fact has been overlooked or misappreciated which if properly taken into account could alter the outcome of the case.[9]

Both the RTC and the CA found the testimony of AAA credible, truthful and straightforward as against a mere denial proffered by Dacallos. Moreover, the lower courts did not accept Dacallos' theory that AAA harbored serious anger and resentment toward him because he allegedly mauled her mother, causing the latter to become insane. On the foregoing points, the CA correctly declared:

It has been held that when the offended party is a young and immature girl between the ages of 12 and 16, as in this case, courts are inclined to give credence to her version of the incident, considering not only her relative vulnerability but also the public humiliation to which she would be exposed in the course of trial if her accusations were untrue. Testimonies of youthful rape victims are, as a general rule, given full faith and credit, considering that when a girl says she has been raped, she says in effect all that is necessary to show that the rape was indeed committed.

What lends further credence to the victim's testimony is the fact that it was amply supported by the physical evidence on record. The medico-legal officer testified that there is conclusive evidence that the victim suffered injury in the genital area due to a blunt force. And when the consistent and forthright testimony of a rape victim is consistent with medical findings, there is sufficient basis to warrant a conclusion that the essential requisites of carnal knowledge have been established.

x x x x

x x x. The alleged ill-feelings and resentment are too flimsy to justify the filing of charges of rape. We also note that accused-appellant [Dacallos] failed to present any evidence to support his claim that AAA fabricated a story that [she] had been raped simply because the latter harbored ill-feelings and resentment towards him. Other than his bare allegations, there is no evidence to show that she was motivated by any improper motive.

Not a few persons accused of rape have attributed the charges brought against them to resentment, revenge or other ulterior motives but such alleged motives have never swayed the Court to credit them.[10]

From the foregoing, it is beyond cavil that Dacallos raped AAA.

However, we disagree with the amount of moral and exemplary damages, P30,000.00 and P20,000.00, respectively, awarded by the CA to the victim, AAA. Thus, consistent with prevailing jurisprudence, we increase the grant of moral damages to P50,000.00 and the award of exemplary damages to P30,000.00.[11]

WHEREFORE, the decision of the Regional Trial Court in Criminal Case No. 02-205108 and the Decision of the Court of Appeals in CA-G.R. CR-H.C. No. 03485 are AFFIRMED with MODIFICATION. Appellant Jessie Dacallos y Modina is SENTENCED to suffer the penalty of reclusion perpetua with no possibility of parole and to pay the victim, AAA, the amounts of P50,000.00 as civil indemnity, P50,000.00 as moral damages, and P30,000.00 as exemplary damages. Costs against appellant.

SO ORDERED.

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

[1] Penned by Associate Justice Martin S. Villarama, Jr. (now a member of this Court), with Associate Justices Jose C. Reyes, Jr. and Normandie B. Pizarro, concurring; rollo, pp. 2-16.

[2] Penned by Judge Silverio Q. Castillo, CA rollo, pp. 13-20.

[3] Id. at 13.

[4] Rollo, pp. 3-6.

[5] CA rollo, p. 20.

[6] Rollo, p. 15.

[7] Dated August 17, 2009; rollo, pp. 17-18.

[8] In his Manifestation and Motion dated May 16, 2010, appellant Dacallos waived his right to file a Supplemental Brief. Consequently, Dacallos, in his appeal before this Court, simply adopts the errors raised and discussions contained in his Appellant's Brief before the CA.

[9] Rollo, pp. 8-9.

[10] Id. at 11-12.

[11] *People v. Abellera*, G.R. No. 166617, July 3, 2007, 526 SCRA 329.

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