

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. PASTOR LLANAS, JR. Y BELCHES, ACCUSED-APPELLANT.

G.R. No. 190616. June 29, 2010

Ponente: VELASCO JR., J.

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VELASCO JR., J.:

On September 26, 2005, in the Regional Trial Court (RTC) of Calabanga, Camarines Sur, three (3) separate informations for rape under Article 266-A in relation to Art. 266-B of the Revised Penal Code were filed against herein appellant Pastor Llanas, Jr. The informations, docketed as Criminal Case Nos. RTC 05-1035, 05-1043, and 05-1044, were eventually raffled to Branch 63 of the court.

The first information, Criminal Case No. RTC 05-1035, reads as follows:

That on or about August 4, 2005 at 1:00 P.M., in Bgy. Cabanbanan, Municipality of Calabanga, Province of Camarines Sur, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, willfully, unlawfully and feloniously by force or intimidation has carnal knowledge with his daughter [AAA], 15 years old against her will to her damage and prejudice.

The crime is committed with the following attendant aggravating/qualifying circumstances: The victim is under 18 and the offender is her father.

ACTS CONTRARY TO LAW.[1]

The other informations for the same crime were worded similarly, as above, but reflected the years 1998 and 1999 as the date of the commission of the crime and the corresponding age of AAA,[2] the private offended party, as 9 and 10 years old, respectively.

When arraigned, appellant, assisted by counsel, pleaded not guilty to all the charges contained in the three (3) informations.

During pre-trial, the parties stipulated on the following: Appellant is legally married to BBB, AAA's mother, and that he is the father of AAA, his and BBB's only child. Marked at that time as Exh. "B" for the prosecution was a xerox copy of AAA's Birth Certificate and Exh. "C," a xerox copy of the BBB's and appellant's Certificate of Marriage.

In the ensuing joint trial, the prosecution presented in evidence the testimony of AAA, her examination covering the three cases, BBB, the municipal civil registrar of Calabanga and the examining physician.

As summarized in the decision[3] of the Court of Appeals (CA) subject of review, the relevant antecedents facts are as follows:

The first incident happened sometime in 1998 when AAA was only a 9-year old grade III schoolgirl.[4] On the fateful day of that year, appellant tricked AAA into going with him to a "camalig" to play. Once inside, appellant laid her on the bamboo floor and removed her garments. In all her innocence, AAA asked why she is being

undressed only to be told by the appellant not to report anything, else he would kill her and BBB. After taking off his clothes, appellant parted AAA's legs, went on top of her, inserted his sex organ to hers and made the usual push-and-pull routine. After he was done, appellant left AAA crying in pain. At home later, AAA, remembering the threat her father made, kept her peace.

One day the following year, appellant again sexually abused AAA, now 10 years old. In the witness box, AAA could not recall whether the incident happened in the morning or in the afternoon, but she distinctly remembered that it occurred in 1999, being in Grade IV at that time and it was the year the family moved to another house in the same barrio.

Then on August 4, 2005, at around 1:00 o'clock in the afternoon, while BBB was out of the house, appellant approached AAA, now 15 years old, to ask her to play. This remark frightened AAA, as this was the same line used when she was abused in the past. AAA spurned the invitation to play, but the insistent appellant told her that: "para lang yan. It's just that. You are not going to be pregnant because I'm withdrawing my semen." [5] There and then, appellant brought her to a room, stripped her of her shorts and panty and likewise removed his garments. What happened next was a virtual repeat of what appellant did in 1998 and 1999 after he asked AAA to play.

On August 12, 2005, while BBB was out selling camote, appellant made an attempt, but failed, to again ravish AAA. Responding later to BBB's questioning why she was crying, AAA disclosed everything to her mother. Thereafter, BBB, with AAA in tow, proceeded to the local police station to report about the incidents, after which BBB repaired to the local National Bureau of Investigation office to have AAA physically examined.

The records of the physical examination conducted by Dr. Jane P. Fajardo yielded the following entries: "no extragenital physical injury x x x on the body of [AAA] at the time of examination; old healed hymenal lacerations present; and hymenal orifice wide x x x as to allow complete penetration by an average sized adult male organ in full erection without producing hymenal injury." Per Dr. Fajardo's account, the old hymenal laceration could, in all probability, have been caused by sexual intercourse, occurring a month or even years before the examination.

Appellant testified for the defense. He denied allegations about raping AAA in 1998 and 1999. He also professed innocence of the August 4, 2005 rape incident, being, according to him, then in Brgy. Quinale, Calabanga working with one Roger Evangelista from August 3 to August 10, 2005.

Evangelista, in the witness box, lent his voice to buttress what essentially was appellant's defenses of alibi and denial proffered in relation to the August 2005 rape charge.

On June 7, 2007, the RTC rendered a joint decision finding appellant guilty of raping AAA, her minor legitimate child, a crime which, as thus specially qualified, is punishable under Art. 266-B of the Penal Code by death, as a single penalty. In view, however, of the passage of Republic Act No. (RA) 9346, [6] the RTC sentenced appellant to suffer the penalty of reclusion perpetua for each count of qualified rape. In full, the dispositive portion of the trial court's decision reads:

WHEREFORE, in view of the foregoing, the prosecution having proven the guilt of Pastor Llanas, Jr. Y Belches beyond reasonable doubt of the offense of rape, said accused is convicted of the offense charged and to suffer the following penalties:

1. In Crim. Case No. RTC 05-1035, accused is hereby sentenced to suffer the penalty of reclusion perpetua. He is likewise ordered to pay [AAA] civil liability in the amount of P75,000.00; P75,000.00 for moral damages, exemplary damages in the amount of P25,000. 00, and to pay the cost.

2. In Crim. Case No. RTC 05-1043, accused is hereby sentenced to suffer the penalty of reclusion perpetua. He

is likewise ordered to pay [AAA] civil liability in the amount of P75,000.00; P75,000.00 for moral damages, exemplary damages in the amount of P25,000. 00, and to pay the cost.

3. In Crim. Case No. RTC 05-1044 accused is hereby sentenced to suffer the penalty of reclusion perpetua. He is likewise ordered to pay [AAA] civil liability in the amount of P75,000.00; P75,000.00 for moral damages, exemplary damages in the amount of P25,000. 00, and to pay the cost.

Considering that accused has undergone preventive imprisonment, he shall be credited in the services of his sentence with the time he has undergone preventive imprisonment subject to the conditions provided for by law.

SO ORDERED. [7]

In time, appellant went to the Court of Appeals (CA) on appeal on the lone submission that -

THE TRIAL COURT GRAVELY ERRED IN FINDING [HIM] GUILTY BEYOND REASONABLE DOUBT OF THREE (3) COUNTS OF RAPE.

Equally convinced of AAA's credibility and finding appellant's arguments in support of his defense untenable, if not downright preposterous, the CA by Decision[8] of October 26, 2009 affirmed appellant's conviction for three counts of qualified rape and the imposition of the main penalty for each crime, with the qualification, however, that appellant should be ineligible for parole. The fallo of the appellate court's decision reads:

IN LIGHT OF ALL THE FOREGOING, the appeal is hereby DENIED. The Joint Decision of the Regional Trial Court, Branch 63, Calabanga, Camarines Sur, convicting the accused-appellant of the crime of rape under Article 266-A and Article 266-B of the Revised Penal Code in Criminal Cases Nos. RTC 05-1035, RTC 05-1043 and RTC 05-1044 is hereby AFFIRMED with MODIFICATION.

For each count, accused-appellant Pastor Llanas, Jr. is sentenced to suffer the penalty of reclusion perpetua without eligibility for parole.

SO ORDERED.[9]

Therefrom, appellant filed a notice of appeal, to which the CA, per its resolution of December 2, 2009, gave due course.

The case having been elevated to the Court, we now review the RTC's and CA parallel findings.

Appellant seeks acquittal, predicated his plea principally on the issue of: (1) the credibility of the prosecution's key witness; and (2) the sufficiency of the People's evidence.

Among other things, appellant maintains that the courts a quo erred in giving full credence and reliance on AAA's statements, it being his contention that her account of what purportedly happened reeks with inconsistencies and does not jibe with the normal flow of things. As argued, it is unnatural for a person placed in a certain situation, as what AAA found herself in, not to struggle or at least offer some resistance to ward off the advances of an unarmed person. And as further asserted, it is contrary to human experience that AAA did not cry for help when she was allegedly molested in the family home.

Training his sights on another angle, appellant contends that the physical evidence ran counter to AAA's allegations of rape. If, as AAA alleged, she was sexually abused in August 4, 2005, then the results of her medical examination undertaken a week after the rape incident would have had demonstrated signs of extra genital physical injury, contusion or abrasion. What the medico legal noted, however, were old healed hymenal lacerations, which, appellant theorized, could have been "sustained through promiscuity"[10] of her daughter.

The Court resolves to affirm the CA decision.

Penile or organ rape is, in context, committed when the accused has carnal knowledge of the victim by force, threat or intimidation, or when the victim is deprived of reason or is unconscious, or when the victim is under 12 years of age.[11]

Rape is essentially an offense of secrecy involving only two persons and not generally attempted save in secluded places far from prying eyes. By the intrinsic nature of rape cases, the crime usually commences solely upon the word of the offended girl herself and conviction invariably turns upon her credibility, as the People's single witness of the actual occurrence. [12] Accordingly, certain guiding principles have been formulated in resolving rape cases. Foremost of these: an offended woman's testimony hurdling the exacting test of credibility would suffice to convict.[13] In fine, the credibility of the victim is always the single most important issue in prosecution for rape.[14] Withal, in passing upon the credibility of the victim-witness, the highest degree of respect must be afforded to the evaluation and findings of the trial court.[15]

Without hesitation, AAA had pointed an accusing finger at the appellant, her father no less, as the person who forced himself on her on at least three occasions and who caused her pain when he inserted his sex organ into her vagina. As determined by the trial court, AAA's testimony on the fact of molestation was given "in a straightforward and candid manner, unshaken by rigid cross-examination that indeed she has been raped by her father in 3 occasions which are the subject of these cases." [16] There is, thus, no cause or reason to withhold credence on her testimony, absent, as here, ill motive on her part that would becloud the veracity of her account.

As the Court has often repeated, the issue of credibility is a matter best addressed by the trial court which had the chance to observe the demeanor of the witnesses while testifying. For this reason, the Court accords great weight and even finality to factual findings of the trial court, especially its assessments of the witnesses and their credibility, barring arbitrariness or oversight of some fact or circumstance of weight and substance.[17] Testimonies of rape-victims normally carry and are given full weight and credit, since when a girl, particularly if she is a minor, says that she has been raped, she says in effect all that is necessary to show that rape has in fact been committed. When the offended party is of tender age and immature, courts are inclined to give credit to her account of what transpired, considering not only her relative vulnerability but also the shame to which she would be exposed if the matter to which she testified is not true.[18] Youth and immaturity are generally badges of truth and sincerity.[19]

It cannot be over-emphasized enough that the third rape incident occurred when AAA was barely out of her teens. Be that as it may and considering that her attacker held moral and physical dominion over, and had in fact threatened, her, it is understandable if AAA was, during that time, cowed into submitting to his father's beastly bent. In light of this perspective, the absence of a struggle or an outcry from AAA, if this really were the case vis-à-vis the 2005 rape incident, does not, standing alone, preclude the commission of the crime. As we have repeatedly held, there is no standard norm of behavior for victims of rape immediately before and during the forcible coitus and its ugly aftermath. This is especially true with minor rape victims.[20]

Appellant has made much of the report on the medical examination conducted on AAA showing that it did not complement AAA's allegations of rape.[21]

Appellant's obvious thesis that a minor rape victim always results in vaginal injury rests on a lot of oversimplification and, hence, must be eschewed. To start with, full penile penetration, which would ordinarily result in hymenal rupture or laceration of the vagina of a girl of tender years, is not a consummating ingredient in the crime of rape. The mere knocking at the door of the pudenda by the accused's penis suffices to constitute the crime of rape.[22] And given AAA's unwavering testimony as to her harrowing ordeal in the hands of appellant,

the Court cannot accord merit to the latter's argument that the lack of patent physical manifestation of rape weakens the case against him. The medical report on AAA is only corroborative of the finding of rape. The absence of fresh external signs or physical injuries on the complainant's body does not necessarily negate the commission of rape,[23] hymenal laceration and like vaginal injuries not being, to repeat, an element of the crime of rape.[24] What is more, the foremost consideration in the prosecution of rape is the victim's testimony and not the findings of the medico-legal officer. In fact, a medical examination of the victim is not indispensable in a prosecution for rape; the victim's testimony alone, if credible, is, to repeat, sufficient to convict. [25]

Appellant's defenses of denial and alibi, centering on the argument that it was impossible for him to commit the crime of rape against his daughter on August 4, 2005 as he was in Brgy. Quinale from August 3, to August 10, 2005, deserve scant consideration. As correctly ruled by the RTC, appellant failed to present convincing proof that it was physically impossible for him to be at the locus criminis on August 4, 2005. The trial court wrote:

x x x Likewise the accused should not only prove that he was not at the place of the crime but should likewise prove that it is impossible for him to be at the place of the crime. Barangay Quinale is about 7 kilometers away from Cabanbanan and the accused did not prove that is impossible for him to be at Cabanbanan from Quinale.[26]

Appellant's attempt, in his bid for exculpation, to ride on AAA's inability to recall precisely what time of the day the 2005 rape transpired is puerile. Victims of rape hardly retain in their memories the dates and manner they were violated and it is for this reason that the exact date of the commission of the rape is not an element of the crime.[27] The gravamen of the offense is carnal knowledge of a woman without her consent.

In all then, we find no reason to disturb the findings and the case disposition of the CA, confirmatory of that of the trial court. The imposition of the penalty of reclusion perpetua, instead of death, for each count of qualified rape, on appellant who shall not be eligible for parole under the Indeterminate Sentence Law is in order in light of R.A. 9346 or the the Anti-Death Penalty Law, which prohibits the imposition of the death penalty.[28]

The award of PhP 75,000 as civil indemnity ex delicto and the same amount as moral damages for each count of qualified rape is in line with existing case law.[29] In rape cases, the concurrence, as here, of the victim's minority (under 18) and her relationship with the offender is a special qualifying circumstance for which the law prescribes the penalty of death under Art. 266-B[30] of the Revised Penal Code. While the new law prohibits the imposition of death, the penalty provided for a heinous crime is still death and qualified rape is still a heinous offense.[31]

The award of exemplary damages is also proper not only to deter outrageous conduct,[32] but also in view of the aggravating circumstances of minority and relationship surrounding the commission of the offense, [33] both of which were alleged in the information and proved during the trial. To conform to current jurisprudence,[34] PhP 30,000 for each count of rape ought to be awarded, upped from the PhP 25,000 given by the courts a quo.

WHEREFORE, the appealed decision of the Court of Appeals dated October 26, 2009 in CA-G.R. CR-H.C. No. 02878 is **AFFIRMED** with the **MODIFICATION** that the award of exemplary damages for each count of rape is increased to PhP 30,000. Costs against accused-appellant.

SO ORDERED.

Corona, C.J., (Chairperson), Leonardo-De Castro, Del Castillo, and Perez, JJ., concur.

[1] Rollo, p. 2.

[2] The identity of the victims or any information tending to establish or compromise their identities, as well as

those of their immediate family or household members, shall be withheld pursuant to RA No. 7610, An Act Providing for Stronger Deterrence and Special Protection Against Child Abuse, Exploitation and Discrimination, and for Other Purposes, RA No. 9262, An Act Defining Violence Against Women and Their Children, Providing for Protective Measures for Victims, and Sec. 40 of A.M. No. 04-10-11-SC, known as "Rule on Violence Against Women and Their Children" effective November 15, 2004; *People v. Cabalquinto*, G.R. No. 167693, September 19, 2006, 502 SCRA 419.

[3] Rollo, pp. 2-14.

[4] The OSG places the age of AAA in 1998 at 8 years old.

[5] Rollo, p. 5.

[6] An Act Abolishing the Death Penalty in the Philippines.

[7] CA rollo, pp. 71-83. Penned by Judge Freddie D. Balonzo.

[8] Penned by Associate Justice Pampio A. Abarintos and concurred in by Associate Justices Juan Q. Enriquez and Francisco Acosta.

[9] Rollo, pp. 2-14.

[10] *Id.* at 68.

[11] REVISED PENAL CODE, Art. 266-A; *People v. Barangan*, G.R. No. 175480, October 2, 2007, 534 SCRA 570.

[12] *People v. Corpuz*, G.R. No. 168101, February 13, 2006, 482 SCRA 435, 444.

[13] *People v. Luceriano*, G.R. No. 145223, February 11, 2004; 422 SCRA 486.

[14] *People v. Ceballos Jr.*, G.R. No. 169642, September 14, 2007, 533 SCRA 493.

[15] *People v. Balonzo*, G.R. No. 176153, September 21, 2007, 533 SCRA 760.

[16] CA rollo, p. 78.

[17] *People v. Virrey*, G.R. No. 133910, November 14, 2001, 368 SCRA 623.

[18] *Llave v. People*, G.R. No. 166040, April 26, 2006, 488 SCRA 376.

[19] *People v. Bon*, G.R. No. 166401, October 30, 2006, 506 SCRA 168; citing *People v. Guambor*, G.R. No. 152183, January 22, 2004, 420 SCRA 677, 682.

[20] *People v. Gayomma*, G.R.No. 128129, September 30, 1999, 315 SCRA 639, 645.

[21] CA rollo, pp. 46-63.

[22] *People v. Plurad*, G.R. Nos. 138361-63, December 2, 2002, 393 SCRA 306.

[23] *People v. Espino, Jr.*, G.R. No. 176742, June 17, 2008, 554 SCRA 682; citing *People v. Boromeo*, G.R. No. 150501, 3 June 2004, 430 SCRA 533, 546.

[24] *Id.*; citing *People v. Esteves*, 438 Phil. 687, 699 (2002).

[25] *People v. Boromeo*, G.R. No. 150501, June 3, 2004, 430 SCRA 533.

[26] CA rollo, p. 80.

[27] *People v. Tupaz*, G.R. No. 136141, October 9, 2002.

[28] Section 1. The imposition of the penalty is hereby prohibited. Accordingly, [RA] 8177 x x x and all other laws x x x insofar as they impose the death penalty are hereby repealed or amended accordingly.

Section. 2. In lieu of the death penalty, the following shall be imposed: (a) the penalty of reclusion perpetua, when the law violated makes use of the nomenclature of the penalties of the Revised Penal Code. x x x

Section 3. Persons convicted of offenses punished with reclusion perpetua or whose sentences will be reduced to reclusion perpetua shall not be eligible for parole under Act. No. 4103, otherwise known as the Indeterminate Sentence Law, as amended.

[29] *People v. Daco*, G.R. No. 168166, October 10, 2008, 568 SCRA 348.

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

The death shall also be imposed if the crime of rape is committed with any of the following aggravating/qualifying circumstances:

1. When the victim is under eighteen (18) years of age and the offender is a parent, ascendant, step-parent x x x or the common law spouse of the parent of the victim.

[31] *People v. Bidoc*, G.R. No. 169430, October 31, 2006, 506 SCRA 481; citing *People v. Sambrano*, G.R. No. 143708, February 24, 2003, 398 SCRA 106.

[32] CIVIL CODE, Art. 2229 states: Exemplary or corrective damages are imposed by way of example or correction for the public good.

[33] CIVIL CODE, Art. 2230 states: Exemplary damages may be imposed when the crime was committed with one or more aggravating circumstances.

[34] *People v. Dalisay*, G.R. No. 188106, November 25, 2009, 605 SCRA 807; *People v. Perez*, G.R. No. 189303, October 13, 2009.

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