

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. MARCELO PEREZ, DEFENDANT-APPELLANT.

G.R. No. 191265. September 14, 2011

Ponente: PEREZ, J.

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PEREZ, J.:

The subject of this appeal is the Decision[1] of the Court of Appeals dated 8 July 2009 in CA-G.R. CR-HC No. 02978 affirming the Decision[2] of the Regional Trial Court (RTC), Fifth Judicial Region, Branch 8, Legazpi City in Criminal Case No. 8182 finding appellant Marcelo Perez guilty beyond reasonable doubt of the crime of rape.

Appellant was charged in an Information for Rape allegedly committed as follows:

That on or about the 30[th] day of June, 1998, at more or less 4:00 o'clock in the morning, at [XXX],[3] Municipality of [XXX], Province of Albay, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design and by means of force, threat and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge with [AAA],[4] 16 years of age, against her will and consent, to her damage and prejudice.[5]

On arraignment, appellant pleaded not guilty. During the preliminary conference, appellant admitted that AAA is the sister of his wife.[6] Trial ensued.

AAA, her mother, BBB[7] and the medico-legal officer, Dr. Tirzo de los Reyes, Jr. (Dr. de los Reyes) testified for the prosecution.

AAA recounted that on 30 June 1998 at around 4:00 a.m. she was awakened by appellant, her brother-in-law, who then dragged her to the bathroom. Inside the bathroom, appellant covered AAA's mouth with a piece of cloth. Appellant then removed his clothes and then began undressing AAA. He put his brief into AAA's mouth. He forced AAA down and then inserted his penis into AAA's vagina. Appellant managed to slash the wrist of AAA who then lost consciousness.[8] On cross-examination, AAA narrated that she did not offer any resistance because appellant threatened her with a knife. When AAA regained consciousness, she found herself beside her mother BBB.[9]

BBB testified that she was in Manila when her daughter CCC[10] called up to inform her that AAA was raped. BBB, together with AAA, proceeded to the police station to report the incident. She saw the wound on AAA's wrist, as well as the brief placed by appellant inside AAA's mouth.[11]

Dr. de los Reyes conducted a physical examination on AAA two (2) days after the alleged rape incident, and issued a medico-legal certification containing the following findings:

Vaginal Examination: A lubricated right glove was used and the vaginal canal admits 2 fingers. No abnormalities were noted in the labia majora and minora. No hymen was seen.

A lubricated medium sized vaginal speculum was inserted which revealed: normal looking vaginal canal and external os of the cervix. No lacerations noted.

A specimen of the vaginal discharge was obtained and was sent for laboratory identification of micro-organisms.[12]

The appellant never testified inspite of numerous resettings of the trial. The defense rested their case without presenting any documentary or any other testimonial evidence.

On 24 August 2007, the RTC rendered judgment finding appellant guilty beyond reasonable doubt of the crime of rape. The dispositive portion of the Decision reads:

WHEREFORE, PREMISES CONSIDERED, the prosecution having proven the guilt of the accused beyond a shadow of doubt, MARCELO O. PEREZ is hereby found guilty of rape committed against his sister-in-law, [AAA], and is hereby sentenced to suffer the penalty of reclusion perpetua.

Conformably with existing jurisprudence, accused is hereby ordered to pay the private offended party the amounts of [P]50,000.00 as civil indemnity and [P]50,000.00 as moral damages.[13]

The RTC held that the testimony of the rape victim had clearly established the elements of rape. The RTC dismissed as minor the inconsistency regarding BBB's presence at the house during the commission of the crime, which as such, does not affect the credibility of AAA. The trial court categorically stated that the absence of laceration and abnormalities on the victim's body did not negate the commission of rape. The trial court considered appellant's flight from the crime scene as an indication of guilt.

Appellant filed a notice of appeal. On 8 July 2009, the Court of Appeals affirmed the trial court's Decision in toto, viz:

IN LIGHT OF ALL THE FOREGOING, the appeal is hereby DENIED. The decision dated 24 August 2007 of the Regional Trial Court, Branch 8, Legazpi City, finding accused-appellant Marcelo Perez guilty beyond reasonable doubt of the crime of rape is hereby AFFIRMED IN TOTO.[14]

Hence, the instant appeal.

On 7 April 2010, this Court required the appellant and the appellee to simultaneously submit their respective supplemental briefs.[15] Both parties manifested that they would merely adopt their briefs before the Court of Appeals.[16]

Appellant attacks the credibility of the victim by pointing out alleged incredulities and inconsistencies in her testimony. First, AAA testified that her parents, as well as her sister CCC, were all sleeping inside the small house. Appellant notes as incredible that nobody noticed that AAA was being dragged from the small house into the bathroom situated outside the house. Second, AAA did not try to get any of her housemate's attention nor did she try to shout for help. Third, appellant could not have easily undressed himself, and then the victim, while holding a knife. Fourth, the claim of AAA that her mother was inside the house when the rape was allegedly committed ran counter to her statement that her mother was in fact in Manila at that time. Finally, appellant also invites our attention to the findings contained in the medico-legal report. The absence of fresh laceration or any sign of trauma does not jive with AAA's claim that she was raped through the use of force and intimidation.

On the other hand, the Office of the Solicitor General (OSG) insists that the failure of the victim to shout for help does not negate rape. The OSG explains that AAA was cowed into silence and submission when appellant threatened to kill her should she resist. The OSG also dismissed the inconsistencies in AAA's testimony as inconsequential. Finally, the OSG belittles the medical findings on the absence of laceration or trauma on the victim's body as the same is not indispensable to prove the crime of rape. All told, the OSG is satisfied that the prosecution was able to prove appellant's guilt beyond reasonable doubt.

The elements necessary to sustain a conviction for rape are: (1) that the accused had carnal knowledge of the victim; and (2) that said act was accomplished (a) through the use of force or intimidation, or (b) when the victim is deprived of reason or otherwise unconscious, or (c) when the victim is under 12 years of age or is demented.[17]

The prosecution sought to establish the presence of these elements through the testimony of the victim herself. The testimony, here found credible, paves way for the affirmance of the conviction of the accused. In a prosecution for rape, the victim's credibility becomes the single most important issue. For when a woman says she was raped, she says in effect all that is necessary to show that rape was committed.[18]

We affirm the finding of guilt as we once more say that the trial court is in a better position to decide the question as it heard the witnesses themselves and observed their deportment and manner of testifying during trial.[19]

After a thorough examination of the records, we agree with the factual findings of the RTC, as affirmed by the Court of Appeals, on the credibility of AAA's testimony. AAA did not waver in pointing to appellant as her assailant. She was straightforward and unequivocal in narrating how she was raped by appellant, thus:

Q:

You have stated a while [a]go that you were in your house on June 30, 1998 in the early morning. What were you doing then?

A:

I was sleeping then.

Q:

What time did you wake up?

A:

At 4:00 in the morning.

Q:

Why is it that you were able to wake up in the early morning at 4:00 o'clock?

A:

At 4:00 o'clock that early morning, I was awakened when he dragged me to the bathroom.

ATTY. ALMAYDA

x x x

A:

I was awakened that early morning at 4:00 o'clock because he dragged me to the bathroom and he did something bad to me. (The witness is crying while testifying.)

Q:

You have stated that a certain person dragged you at the bathroom, who is that person you are referring to?

A:

Marcelo Perez.

Q:

If that Marcelo Perez is inside the courtroom, can you point to him?

A:

(Witness pointed to a person, who upon being asked of his name answered that he is Marcelo Perez.)

Q:

You have stated that Marcelo Perez did something bad to you, what is that something bad you are referring to?

A:

He raped me.

Q:

How did he rape you?

A:

He undressed himself, including his brief, and while we were inside the comfort room Marcelo Perez took off his brief, placed it inside my mouth and covered my mouth with a piece of cloth.

Q:

After that, what did he do next?

A:

He took off my short pants.

Q:

How about your panty?

A:

Including my panty.

Q:

After he removed your shorts and panty, what did he do?

A:

He laid me on the ground and he inserted his penis into my vagina.

Q:

What did you feel when he inserted his penis into your vagina?

A:

I did not feel anything because he slashed my wrist with a knife.[20]

All elements of rape under Article 266-A of the Revised Penal Code[21] were sufficiently proved through the statement of AAA alone. The offender is a man who had carnal knowledge of AAA when he forced himself upon the latter. Appellant accomplished his purpose through the use of threat, i.e. threatening to kill AAA. In fact, it is

under these same threats that AAA was not able to resist nor summon for help, thus:

Q:

While you were being dragged by the accused, did you observe your other companions madam witness? Were you able to observe them?

A:

I did not have time to look at them anymore.

Q:

But during the time that you were dragged you were so afraid?

A:

Yes, sir.

Q:

You were so afraid because there might be something bad that might happen to you, is that right madam witness?

Q:

Yes, sir, because he was already threatening me.

A:

Before being dragged by the accused, did I get it right that he threatened you not to shout or else the accused might kill you?

A:

He also threatened me with death.

Q:

He also threatened you with death in order for you not to shout?

A:

Yes, sir.

Q:

In fact you were so threatened that you did not shout?

A:

Yes, sir.

Q:

And when the accused dragged you outside the bedroom, you did not shout madam witness?

A:

I did not have the courage to shout because he was already holding a knife in the hand.[22]

The inconsistency of AAA's statement pertaining to the presence of BBB at the crime scene can be easily dismissed, as it was dismissed by the appellate court in this wise:

Clearly, the question of whether the victim's mother was in their house at the time of the rape or not is immaterial in proving the guilt or innocence of the accused-appellant. Hence, such minor inconsistency in the witness-victim's testimony cannot be a ground to destroy her credibility or more so, serve as basis for accused-appellant's acquittal.[23]

Indeed, the presence of BBB at the locus criminis is of no moment. It is not an essential element to establish the crime of rape. The inconsistent statements of AAA pertaining to BBB may be attributed to the fact that she was very confused at that time and she is not expected to remember each and every detail of the events that transpired that day, especially matters which are trivial and inconsequential.

The appellate court is likewise correct in downplaying the medico-legal findings which it ruled as "merely corroborative in character and is not an element of rape." [24] The prime consideration in the prosecution of rape is the victim's testimony, not necessarily the medical findings; a medical examination of the victim is not indispensable in a prosecution for rape. The victim's testimony alone, if credible, is sufficient to convict.[25]

Under Article 266-B of the Revised Penal Code, rape under paragraph 1 of Article 266-A is punishable by reclusion perpetua. The trial court therefore correctly imposed the penalty. We likewise affirm the award of civil indemnity of P50,000.00 and moral damages amounting to P50,000.00. Civil indemnity is mandatory when rape is found to have been committed while moral damages are awarded to rape victims without need of proof other than the fact of rape on the assumption that the victim suffered moral injuries from the experience she underwent.[26] An additional award of P30,000.00 as exemplary damages should likewise be given, as well as interest of six percent (6%) per annum on all damages awarded from the finality of judgment until fully paid.[27]

WHEREFORE, the Decision of the Court of Appeals dated 8 July 2009 affirming in toto the Decision of the RTC dated 24 August 2007 is AFFIRMED with the MODIFICATION that the award of exemplary damages in the amount of P30,000.00 is imposed in addition to the civil indemnity in the amount of P50,000.00 and moral damages also in the amount of P50,000.00. Interest at the rate of six percent (6%) per annum is likewise imposed on all the damages awarded in this case from date of finality of this judgment until fully paid.

SO ORDERED.

Carpio, (Chairperson), Brion, Del Castillo,[*] and Sereno, JJ., concur.

[*] Per Special Order No. 1077 dated 12 September 2011.

[1] Penned by Associate Justice Pampio A. Abarintos, with Associate Justices Amelita G. Tolentino and Sixto C. Marella, Jr., concurring. Rollo, pp. 2-13.

[2] Presided by Judge Cezar A. Bordeos. CA rollo, pp. 7-23.

[3] The place of commission is withheld to preserve confidentiality of the identity of the victim. See *People v. Cabalquinto*, G.R. No. 167693, 19 September 2006, 502 SCRA 419, 425-426.

[4] The victim's real name, as well as the members of her immediate family is withheld to protect her privacy pursuant to *People v. Cabalquinto*.

[5] Records, p. 1.

[6] Id. at 51.

[7] Supra note 4.

[8] TSN, 29 March 2006, pp. 4-6.

[9] Id. at 20-27.

[10] Supra note 4.

[11] TSN, 1 March 2006, pp. 4-5 and 11.

[12] Records, p. 2.

[13] CA rollo, p. 23.

[14] Rollo, p. 12.

[15] Id. at 19-20.

[16] Id. at 22-23 and 26.

[17] People v. Quintal, G.R. No. 184170, 2 February 2011.

[18] People v. Paculba, G.R. No. 183453, 9 March 2010, 614 SCRA 755, 763-764 citing People v. Mingming, G.R. No. 174195, 10 December 2008, 573 SCRA 509, 532; People v. Capareda, 473 Phil. 301, 330 (2004); People v. Galido, G.R. Nos. 148689-92, 30 March 2004, 426 SCRA 502, 516.

[19] People v. Malana, G.R. No. 185716, 29 September 2010, 631 SCRA 676, 686 citing Remiendo v. People, G.R. No. 184874, 9 October 2009, 603 SCRA 274, 287.

[20] TSN, 29 March 2006, pp. 4-6.

[21] Article 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:

a. Through force, threat, or intimidation;

b. When the offended party is deprived of reason or otherwise unconscious;

c. By means of fraudulent machination or grave abuse of authority; and

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.

[22] TSN, 29 March 2006, pp. 19-20.

[23] Rollo, p. 10.

[24] Id. at 9.

[25] People v. Otos, G.R. No. 189821, 23 March 2011 citing People v. Cadap, G.R. No. 190633, 5 July 2010, 623 SCRA 655, 663; People v. Llanas, Jr., G.R. No. 190616, 29 June 2010, 622 SCRA 602, 613; People v. Barberos, G.R. No. 187494, 23 December 2009, 609 SCRA 381, 399; People v. Araojo, G.R. No. 185203, 17 September 2009, 600 SCRA 295, 308-309.

[26] People v. Masagca, Jr., G.R. No. 184922, 23 February 2011.

[27] *Peope v. Lucero*, G.R. No. 188705, 2 March 2011.

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