

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ANTONIO LUJECO Y MACANOQUIT ALIAS “TONYO”, ACCUSED-APPELLANT.

G.R. No. 198059. April 07, 2014

Ponente: DEL CASTILLO, J.

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DEL CASTILLO, J.:

Appellant Antonio Lujeco y Macanoquit was charged with the crime of rape[1] committed on June 29, 2002 against “AAA,”[2] a seven-year old minor.[3] Appellant pleaded not guilty when arraigned on February 27, 2003.[4] After trial, the Regional Trial Court of Malaybalay, Branch 8, rendered a Decision[5] finding appellant guilty of statutory rape.[6]

As found by the trial court, the prosecution has satisfactorily established that in the morning of June 29, 2002, “AAA” was playing with her friends near the old market at Don Carlos, Bukidnon, which was about 20 meters away from her house. After her playmates left, appellant suddenly grabbed “AAA” and dragged her to the house of his granddaughter which was located nearby. Inside the house, appellant forcibly undressed “AAA,” poked a knife at her, and then had carnal knowledge of her. After satiating his lust, appellant told “AAA” to go home.

Aggrieved, appellant appealed to the Court of Appeals which rendered its Decision[7] dated April 29, 2011 affirming in full the Decision of the trial court, viz:

WHEREFORE, the assailed Decision of the Regional Trial Court, Branch 8, Malaybalay City, finding accused-appellant Antonio Lujeco alias Tonyo guilty beyond reasonable doubt of the crime of rape is AFFIRMED in toto with costs against accused-appellant.

SO ORDERED.[8]

Hence, this appeal.[9]

In his Supplemental Brief,[10] appellant claims that the trial court and the appellate court erred in giving credence to the testimony of “AAA”.[11] He argues that “AAA” was “under pressure by her mother”[12] or was coached as the latter was embracing “AAA” while “AAA” was on the witness stand.

This contention deserves no consideration.

It is worth emphasizing that “AAA” was only seven years of age when raped; and eight years old when placed on the witness stand. At the start of her testimony, the trial judge asked if “AAA” needed a “support person.”[13] The prosecution replied that her mother would act as her support. Notably, the defense offered no objection. Thus, it is now too late in the proceedings for appellant to assail the same.

Besides, we have perused the records[14] and found that “AAA’s” mother never uttered any word while “AAA” was testifying. If at all, the records only showed that her mother was embracing “AAA” while the latter was testifying. There was no coaching whatsoever. That she admitted during cross-examination that her mother told her “to always remember”[15] when testifying, does not diminish her credibility. On the contrary, we interpret

this as a mere reminder from her mother for “AAA” to remember every detail so that appellant would stay in jail. For reference, the pertinent testimony of “AAA” reads as follows:

Q.

What did your mother tell you before you testified today?

A.

She told me to always remember.

Q.

What in particular was that she wanted you to always remember?

A.

She said, “AAA, you have to remember always so that they will [be] put to shame.”

Q.

Do you know who was that your mother was referring to be put to shame when she told you to remember always something?

A.

Yes.

Q.

Who?

A.

Them, Tonyo.

Q.

Tonyo Lujeco, the one whom you pointed to earlier, am I correct?

A.

Yes.

Q.

What else did your mother tell you?

A.

My mother told me that if I will not remember always, if I am not going to remember always, that will cause Tonyo to be released.[16]

More importantly, the records show that “AAA” testified in a categorical and straightforward manner despite her youth. She was unequivocal in her narration and in pointing to the appellant as the rapist. As correctly observed by the trial court:

Her tender age notwithstanding, “AAA” nonetheless appeared to possess the necessary intelligence and perceptiveness sufficient to invest her with the competence to testify about her experience. She might have been an impressionable child – as all others of her age are – but her narration of the facts relating to the

incident is clear. x x x Her demeanor as a witness – manifested during trial by her unhesitant spontaneous and plain responses to questions further enhanced her claim to credit and trustworthiness.[17]

x x x x

x x x This court observed the clear, candid, and straightforward manner that the victim narrated how the accused sexually violated her. This court finds no cogent reason to deviate from that observation. Moreover the court finds simply inconceivable for “AAA”, eight (8) years of age, with all her naivete and innocence, to fabricate a story of defloration, allow an examination of her private parts, and thereafter submit herself to a public trial or ridicule, if she had not, in fact, been a victim of rape and deeply motivated by a sincere desire to have the culprit apprehended and punished. x x x[18]

The Court of Appeals also correctly observed that:

Based on AAA’s testimony, it is clear that the appellant had carnal knowledge of the victim who was under twelve (12) years old. AAA categorically recounted the details of how appellant raped her by pushing hard to insert his penis into her labia majora. She was only seven (7) years old when she was raped. It is improbable that a victim of tender years, especially one unexposed to the ways of the world as AAA must have been, would impute a crime as serious as rape if it were not true. There is no doubt that AAA was impelled solely by a desire to let justice find its way. In this regard, it is worthy to note that jurisprudence is one in recognizing that when the offended parties are young and immature girls, courts are inclined to lend credence to their version of what transpired, considering not only their relative vulnerability but also the shame and embarrassment to which they would be exposed by court trial if the matter about which they testified is not true.[19]

Besides, “AAA’s” testimony was corroborated by the medical findings of Dr. Marichu Macias (Dr. Macias). Dr. Macias testified that “AAA” suffered fresh[20] hymenal lacerations;[21] that the victim was “positive for sexual molestation injury”[22] as there were “contusion-hematoma x x x triangular in shape found in both sides of the labia majora of the victim.”[23]

We find no merit in appellant’s argument that the contusion or hematoma in “AAA’s” private part could have been caused by riding a bike. Even at her tender age, “AAA” categorically testified that appellant inserted his penis into her vagina and pushed it hard.[24]

Finally, appellant claims that his alibi, although concededly a weak defense, should not be disregarded. We are not persuaded. We agree with the ruling of the appellate court, viz:

As regards appellant’s contention that the trial court gravely erred in convicting him despite the fact that during the time that the alleged rape was committed, he was at the public market of Don Carlos, the Court finds the same wanting in merit.

It has been held, time and again, that alibi, as a defense, is inherently weak and crumbles in light of positive identification by truthful witnesses. It should be noted that for alibi to prosper, it is not enough for the accused to prove that he was in another place when the crime was committed. He must likewise prove that it was physically impossible for him to be present at the crime scene or its immediate vicinity at the time of its commission. As testified by the appellant, he was at the public market of Don Carlos, Bukidnon x x x. Undoubtedly, x x x it [was not] impossible for him to be at the crime scene x x x.[25]

Both the trial court and the Court of Appeals properly convicted appellant of statutory rape defined under Article 266-A[26] of the Revised Penal Code. “The elements of [statutory rape] are: (1) that the accused had carnal knowledge of a woman; and (2) that the woman is below 12 years of age or is demented.”[27] In this case, the prosecution satisfactorily established that appellant had carnal knowledge of “AAA.” It was also established beyond reasonable doubt that “AAA” was below 12 years of age.[28] “The sentence of reclusion perpetua

imposed upon accused-appellant by the [trial court], affirmed by the Court of Appeals, for the crime of statutory rape x x x is in accordance with Article 266-B of the Revised Penal Code, as amended.”[29] However, appellant is not eligible for parole.[30]

As regards the damages awarded by the trial court and affirmed by the Court of Appeals, the same must be modified. The award of civil indemnity must be reduced from P75,000.00 to P50,000.00 in line with the prevailing jurisprudence.[31] Likewise, the award of moral damages must be decreased from P75,000.00 to P50,000.00.[32] The award of actual damages in the amount of P25,000.00 must be deleted for lack of basis. However, “AAA” is entitled to an award of exemplary damages in the amount of P30,000.00.[33] In addition, all the damages awarded shall earn legal interest at the rate of 6% per annum from date of finality of this Resolution until fully paid.[34]

WHEREFORE, the appeal is DISMISSED. The April 29, 2011 Decision of the Court of Appeals in CA-G.R. CR-H.C. No. 00772 finding appellant Antonio Lujeco y Macanoquit guilty beyond reasonable doubt of the crime of statutory rape and sentencing him to suffer the penalty of reclusion perpetua is AFFIRMED with MODIFICATIONS that appellant is not eligible for parole; the awards of civil indemnity and moral damages are each reduced to P50,000.00; the award of actual damages in the amount of P25,000.00 is deleted for lack of basis; instead, “AAA” is entitled to an award of exemplary damages in the amount of P30,000.00; and all damages awarded shall earn interest at the rate of 6% per annum from date of finality of judgment until fully paid.

SO ORDERED.

Carpio, (Chairperson), Brion, Del Castillo, Perez, and Perlas-Bernabe, JJ., concur.

[1] The accusatory portion of the Information reads as follows:

That on or about the 29[th] day of June 2002, at Purok 12, Poblacion Sur, municipality of Don Carlos, province of Bukidnon, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design, did then and there willfully, unlawfully and criminally approach and grab “AAA” and bring her to the house of “BBB” and forcibly have sexual intercourse with “AAA”, a 7[-]year old minor, against her will, to the damage and prejudice of “AAA” in such amount as may be allowed by law.

Contrary to and in violation of Article 266-A of the Revised Penal Code as amended by R.A. 8353. (Records, p. 16.)

[2] “The real names of the victim and of the members of her immediate family are withheld pursuant to Republic Act No. 7610 (Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act) and Republic Act No. 9262 (Anti-Violence Against Women and Their Children Act of 2004.)” People v. Teodoro, G.R. No. 175876, February 20, 2013, 691 SCRA 324, 326.

[3] “AAA” was born on July 26, 1995; records, p. 45.

[4] Id. at 22.

[5] Id. at 65-77; penned by Judge Pelagio B. Estopia.

[6] The dispositive portion of the Decision reads:

WHEREFORE, this court finds the accused Antonio Lujeco GUILTY beyond reasonable doubt of the crime of rape and imposes upon him pursuant to Article 266-B paragraph 4, no. 1 of the Revised Penal Code, as amended by Republic Act [N]o. 7659 the penalty of Reclusion Perpetua and to indemnify the offended party in

the amount of P75,000 as civil indemnity; P75,000 as moral damages and P25,000.00 actual damages. The accused shall serve his penalty in the national penitentiary of Davao penal colony.

SO ORDERED. (Id. at 77.)

[7] CA rollo, pp. 78-87; penned by Associate Justice Edgardo T. Lloren and concurred in by Associate Justices Romulo V. Borja and Rodrigo F. Lim, Jr.

[8] Id. at 86-87.

[9] Id. at 93-95.

[10] Rollo, pp. 45-55.

[11] Id. at 47.

[12] Id. at 48.

[13] TSN, November 19, 2003, p. 3.

[14] Id. at 1-30.

[15] Id. at 17.

[16] Id. at 17-18.

[17] Records, p. 70.

[18] Id. at 73-74.

[19] CA rollo, p. 85.

[20] TSN, August 31, 2004, p. 9.

[21] Id. at 5.

[22] Id. at 10.

[23] Id. at 11.

[24] TSN, November 19, 2003, p. 11.

[25] CA rollo, p. 86.

[26] 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:

- a. Through force, threat or intimidation;
- b. When the offended party is deprived of reason or is otherwise unconscious;
- c. By means of fraudulent machination or grave abuse of authority;

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. (Emphases supplied)

[27] People v. Amistoso, G.R. No. 201447, January 9, 2013, 688 SCRA 376, 383.

[28] The Information alleged that “AAA” was a seven-year old minor at the time of the rape incident having been born on July 26, 1995. In reality, however, “AAA” was only six years, eleven months and 3 days old when the rape transpired on June 29, 2002. Appellant could have been found guilty of qualified rape penalized under

Article 266-B(5) of the Revised Penal Code had it been specifically alleged in the Information that “AAA” was a child below seven (7) years old. However, since this circumstance was not specifically alleged in the Information, the same cannot be considered to have qualified the crime and merit the imposition of the death penalty.

[29] *People v. Vergara*, G.R. No. 199226, January 25, 2014.

[30] Pursuant to Section 3 of Republic Act No. 9346 (An Act Prohibiting The Imposition of Death Penalty In The Philippines) which provides:

Sec. 3. Person convicted of offenses punished with reclusion perpetua, or whose sentences will be reduced to reclusion perpetua, by reason of this Act, shall not be eligible for parole under Act No. 4180, otherwise known as the Indeterminate Sentence Law, as amended.

[31] *People v. Vergara*, supra note 29.

[32] *Id.*

[33] *Id.*

[34] *Id.*

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