

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JOEL ABAT Y COMETA, ACCUSED-APPELLANT.

G.R. No. 202704. April 02, 2014

Ponente: LEONARDO-DE CASTRO, J.

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LEONARDO-DE CASTRO, J.:

Accused-appellant Joel Abat y Cometa (Abat) is now before Us on review after the Court of Appeals, in its February 27, 2012 Decision[1] in CA-G.R. CR.-H.C. No. 04340, affirmed with modification as to damages the September 8, 2009 Decision[2] of the Regional Trial Court (RTC) of the City of Calapan, Oriental Mindoro, Branch 40, in Criminal Case No. C-6587. The RTC found Abat guilty beyond reasonable doubt of the crime of rape under Article 266-A of the Revised Penal Code,[3] and sentenced him to suffer the penalty of *reclusión perpetua* with all the accessory penalties provided for by law.[4]

On November 15, 2001, an Information[5] was filed before the RTC, charging Abat with the crime of Rape allegedly committed as follows:

That on or about the 22nd day of September 2001, in Barangay San Narciso, Municipality of Victoria, Province of Oriental Mindoro, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, motivated by lust and lewd desire, and by means of force and intimidation, willfully, unlawfully and feloniously did lie, and succeeded in having carnal knowledge of one [AAA[6]], a fifteen (15)[-] year-old girl, his niece, against her will and without her consent, to the damage and prejudice of the latter.

Contrary to Article 335 in relation to R.A. 7659 & 8353.

Abat pleaded not guilty to the charge upon his arraignment on January 30, 2002.[7] The pre-trial conference was held and terminated on February 12, 2002,[8] after which, trial on the merits ensued.

The facts of the case, as adopted by the Court of Appeals, are as follows:

Version of the Prosecution

On [September] 22, 2001, around [eight] o'clock in the evening, AAA was home with her parents and siblings. [Abat,] (an uncle of AAA, being the half[-]brother of AAA's father), with the permission of AAA's parents, brought AAA with him to the poblacion to buy medicine.

The two proceeded to the poblacion on board a tricycle driven by [Abat]. There, [Abat] left AAA in the tricycle and proceeded to talk with his fellow tricycle drivers. Soon, AAA told [Abat] that she wanted to go home. Instead of taking her home, [Abat] drove the vehicle to Malayas Bridge.

Upon reaching Malayas Bridge, [Abat] forced AAA to jump from the bridge. Frightened, AAA ran towards the direction of the poblacion and shouted for help. [Abat] chased AAA and forced her to board the tricycle. Then, he drove the tricycle to Barangay Malabo.

Upon reaching Barangay Malabo, [Abat] brought AAA to her grandfather's nipa hut. [Abat] undressed himself

then laid AAA down on a bamboo bed. He went on top of her and started to remove her shorts and underwear. AAA tried to fight [Abat] and slapped him. Because of this, [Abat] boxed AAA on her thighs and continued to undress her. AAA tried to push [Abat] away by hitting him with fist blows but her efforts were in vain. [Abat] inserted his penis into AAA's vagina. AAA again struggled and tried to push [Abat] away but he threatened to kill her and her family if she would tell anybody about the "act." [Abat] then made a push and pull movement which caused AAA to feel pain. After which, [Abat] ejaculated.

AAA was not able to go home that fateful night. [Abat] guarded her as she cried the whole night.

The following morning, around [ten] o'clock in the morning, [Abat] brought AAA home. When AAA's parents asked her where she slept, [Abat] replied that AAA slept in the house of her grandfather in Barangay San Narciso. Afterwards, [Abat] left.

AAA kept silent on the matter because she was afraid that [Abat] will make good his threat. However, [Abat] frequented the school where AAA was studying. On November 12, 2001, [Abat] tried to force her to go to his house. Thus, in the evening, AAA informed her parents about the rape incident and they went to Victoria Police Station to lodge a complaint against [Abat].

On November 14, 2001, Dr. Virginia R. Valdez, Municipal Health Officer of Victoria Oriental Mindoro examined AAA. Dr. Valdez issued a Medical Certificate which stated that AAA has healed hymenal lacerations at 2 o'clock and 7 o'clock positions which could be possibly caused by the insertion of a hard object like an erect penis, medical instrumentation, exercise, horseback riding, masturbation or by falling down. According to Dr. Valdez, the hymenal lacerations could have been sustained by the victim for several days or months prior to her examination.

Because of rape, AAA, on April 24, 2002, gave birth to a baby girl.[9]

Version of the Defense

On the other hand, [Abat] denied that he had sexual intercourse with AAA on September 22, 2001. He declared that on July 20, 2001, he had sexual intercourse with AAA; that sometime on May 25, 2001, AAA slept in his house after attending a dance party in their barangay and AAA told him that they had sex the previous night; that he was surprised when he saw the blanket stained with blood; that out of confusion, he threw it in the river. They secretly kept the matter but eventually AAA started asking [for] money and other things from him.

He and AAA considered themselves as lovers. She frequently visited him during Saturdays and Sundays. AAA's parents filed a case against him when they discovered she was pregnant[.][10]

[And] because of a misunderstanding between AAA's parents and his mother regarding [a piece of] property.[11]

Ruling of the RTC

Having found Abat guilty beyond reasonable doubt of the crime of Rape, the RTC on September 8, 2009, promulgated its Decision, the dispositive portion of which reads:

ACCORDINGLY, this Court finds herein accused Joel Abat y Cometa guilty beyond reasonable doubt as principal of the crime of Rape punishable under Article 266-A of the Revised Penal Code and said accused is hereby sentenced to suffer the penalty of Reclusion Perpetua with all the accessory penalties as provided for by law. The accused is hereby ordered to pay the private complainant the amount of P75,000.00 as civil indemnity and the amount of P50,000.00 as moral and exemplary damages.[12]

According AAA's testimony full faith and credit, the RTC was not convinced with Abat's defense of denial and

ill motive. It said that it was highly unlikely that AAA, his own niece would falsely charge him of such a serious crime and go public with her ordeal just because of a misunderstanding between him and her mother over a property. Moreover, the RTC found it striking that nobody testified in his behalf, including his own family.[13]

Challenging his conviction, Abat appealed to the Court of Appeals,[14] pleading for the reversal of his conviction on the ground of reasonable doubt.

Ruling of the Court of Appeals

The Court of Appeals, however, found no error committed by the RTC, and affirmed Abat's conviction, modifying only the award of damages, to wit:

WHEREFORE, premises considered, the assailed Decision is hereby AFFIRMED with MODIFICATION. As thus modified, accused-appellant is ordered to pay Php75,000.00 as moral damages and Php30,000.00 as exemplary damages.[15]

The Court of Appeals declared that the prosecution was able to establish all the elements of rape, thus resulting in Abat's conviction. It agreed with the RTC that AAA's credible testimony was enough to prove Abat's guilt beyond reasonable doubt.[16]

Issue

Aggrieved, Abat elevated[17] his case to this Court, with the same assignment of error he presented before the Court of Appeals,[18] viz:

THE COURT A QUO GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT DESPITE THE PROSECUTION'S FAILURE TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.[19]

Abat is alleging that he and AAA had a romantic relationship, which eventually turned sour when AAA started asking for money from him all the time. In support of this claim, he cites the birth date of the baby, who was supposedly the product of his crime. Abat says that if the baby was born in April 2002, then his version of the story, that they had consensual sex in July 2001, is more credible than her story of rape in September 2001; otherwise, the baby would have been premature.[20]

Ruling of this Court

We find no reason to reverse Abat's conviction.

In essence, Abat is questioning the lower courts' reliance on AAA's credibility, which led to his conviction.

Credibility of AAA

When this Court is faced with the issue of credibility of witnesses, it follows a set of guidelines as established in jurisprudence, viz:

First, the Court gives the highest respect to the RTC's evaluation of the testimony of the witnesses, considering its unique position in directly observing the demeanor of a witness on the stand. From its vantage point, the trial court is in the best position to determine the truthfulness of witnesses.

Second, absent any substantial reason which would justify the reversal of the RTC's assessments and conclusions, the reviewing court is generally bound by the lower court's findings, particularly when no significant facts and circumstances, affecting the outcome of the case, are shown to have been overlooked or disregarded.

And third, the rule is even more stringently applied if the CA concurred with the RTC.[21]

This Court has time and again explained why the determination of a witness' credibility appropriately pertains to the trial court, to wit:

It is well settled that the evaluation of the credibility of witnesses and their testimonies is a matter best undertaken by the trial court because of its unique opportunity to observe the witnesses firsthand and to note their demeanor, conduct, and attitude under grilling examination. These are important in determining the truthfulness of witnesses and in unearthing the truth, especially in the face of conflicting testimonies. For, indeed, the emphasis, gesture, and inflection of the voice are potent aids in ascertaining the witness' credibility, and the trial court has the opportunity and can take advantage of these aids. These cannot be incorporated in the record so that all that the appellate court can see are the cold words of the witness contained in transcript of testimonies with the risk that some of what the witness actually said may have been lost in the process of transcribing. As correctly stated by an American court, "[t]here is an inherent impossibility of determining with any degree of accuracy what credit is justly due to a witness from merely reading the words spoken by him, even if there were no doubt as to the identity of the words. However artful a corrupt witness may be, there is generally, under the pressure of a skillful cross-examination, something in his manner or bearing on the stand that betrays him, and thereby destroys the force of his testimony. Many of the real tests of truth by which the artful witness is exposed in the very nature of things cannot be transcribed upon the record, and hence they can never be considered by the appellate court." [22]

In the case at bar, both the RTC and the Court of Appeals found AAA's testimony to be straightforward and credible.[23] This Court, thus, finds no reason to disturb the lower courts' assessment of AAA's testimony.

Rape and Pregnancy

Abat argues that if it were true that he raped AAA in September 2001, then the baby girl AAA gave birth to in April 2002, would have been born prematurely. Since the baby appeared to be healthy and did not need any medical attention when she was born, she could not have possibly been the result of the alleged rape in September 2001.

There is no merit in Abat's contention. Reiterating the pronouncements in *People v. Adora*, [24] this Court, in *People v. Sta. Ana*, [25] said:

"[A]uthorities in forensic medicine agree that the determination of the exact date of fertilization is problematic. The exact date thereof is unknown; thus, the difficulty in determining the actual normal duration of pregnancy." Citing a Filipino authority, the Court further elucidated: "The average duration of pregnancy is 270 to 280 days from the onset of the last menstruation. There is, however, no means of determining it with certainty. Evidence derived from pregnancy following a single coitus is trustworthy, but inasmuch as some authorities consider more than two weeks as the life span of the spermatozoa in the vaginal canal, it is hard to ascertain the exact date of fertilization. There is no synchrony between coitus and fertilization." (Citations omitted).

In *People v. Malapo*, [26] this Court was faced with a similar issue when the accused therein, Malapo, questioned his conviction for rape based on the fact that the baby boy, who was supposedly the fruit of the rape he allegedly perpetrated on September 15, 1991, was only eight months and three days old when he was born on May 18, 1992, contrary to the Medical Certificate submitted in evidence, which states that the baby was full term when it was delivered.

This Court upheld Malapo's conviction and explained its position as follows:

A textbook on pediatrics states that "Infants delivered before the thirty-seventh week of gestation with a birth weight of less than 2,500 grams (American) or 2,275 grams (Filipino) are considered premature." An infant can therefore be considered a full-term baby if it weighs more than 2,275 grams even if it is born before the

thirty-seventh week which is less than 9.3 months. Since according to the medical certificate (Exh. 1) Amalia's baby weighed 2.4 kilograms or 2,400 grams, it was a full-term baby even if it was born before the normal gestation period.

Article 166 of the Family Code provides:

Legitimacy of a child may be impugned only on the following grounds:

(1) That it was physically impossible for the husband to have sexual intercourse with his wife within the first 120 days of the 300 days which immediately preceded the birth of the child because of:

- (a) the physical incapacity of the husband to have sexual intercourse with his wife;
- (b) the fact that the husband and wife were living separately in such a way that sexual intercourse was not possible; or
- (c) serious illness of the husband, which absolutely prevented sexual intercourse;

(2) That it is proved that for biological or other scientific reasons, the child could not have been that of the husband, except in the instance provided in the second paragraph of Article 164; . . .

In the case at bar, it can be inferred that conception occurred at or about the time that accused-appellant is alleged to have committed the crime, i.e., within 120 days from the commission of the offense in September 1991. Pursuant to Art. 166 of the Family Code, accused-appellant can overcome the presumption that Amalia's child was begotten as a result of her having been raped in September 1991 only if he can show either that it was physically impossible for him to have sexual intercourse because of impotence or serious illness which absolutely prevents him from having sexual intercourse or that Amalia had sexual intercourse with another man. However, accused-appellant has not shown either of these.

x x x x

In any event, the impregnation of a woman is not an element of rape. Proof that the child was fathered by another man does not show that accused-appellant is not guilty, considering the positive testimony of Amalia that accused-appellant had abused her. As held in *People v. Alib*:

Under Article 335 of the Revised Penal Code, rape is committed by having carnal knowledge of a woman under any of the following circumstances:

- (1) By using force or intimidation;
- (2) When the woman is deprived of reason or otherwise unconscious; and
- (3) When the woman is under twelve years of age, even though neither of the circumstances mentioned in the two next preceding paragraphs shall be present.

It is therefore quite clear that the pregnancy of the victim is not required. For the conviction of an accused, it is sufficient that the prosecution establish beyond reasonable doubt that he had carnal knowledge of the offended party and that he had committed such act under any of the circumstances enumerated above. Carnal knowledge is defined as the act of a man having sexual bodily connections with a woman[.] (Citations omitted, emphases supplied).

Having stressed that pregnancy is not an element of the crime of rape, AAA's pregnancy therefore is totally immaterial to the resolution of this case.[27]

Defenses of Denial and Ill Motive

Abat's attempt to escape liability by denying the charge against him and coupling it with the imputation of ill motive against AAA's parents must be ignored. "Motives such as resentment, hatred or revenge have never

swayed this Court from giving full credence to the testimony of a minor rape victim.”[28] More so in this case, where the attribution of the improper motive is against AAA’s parents and not her personally. We agree with the RTC when it said:

[T]he allegations of the accused that the private complainant might have filed the instant case against him only because of a misunderstanding that ensued between the parents of the private complainant and his mother regarding their property is too flimsy and insignificant for [AAA] to falsely charge him of so serious a crime and to publicly disclose that she had been raped and then undergo the concomitant humiliation, anxiety and exposure to a public trial. It is highly inconceivable that a 15[-]year[-]old girl like [AAA] and who is the niece of the accused would falsely charge him with a serious crime of Rape if what she testified in Court were not the plain truth. Without vacillation, the private complainant submitted herself for medical and genital examination and was confirmed by the doctor who examined her that the private complainant sustained healed hymenal lacerations at 2 and 7 o’clock positions which may be caused by the insertion of a hard object like an erect penis.

It is striking to note that nobody corroborated the testimonies of the accused denying the indictment against him which this Court concluded that even his family and loved ones had abandoned him during the times of his needs because they probably believed that the accusation of the private complainant against him is true.[29]

Furthermore, this Court has never favorably looked upon the defense of denial, which constitutes self-serving negative evidence that cannot be accorded greater evidentiary weight than the positive declaration of a credible witness.[30] To elucidate on the point, this Court, in *People v. Espinosa*,[31] held that:

It is well-settled that denial, if unsubstantiated by clear and convincing evidence, is a self-serving assertion that deserves no weight in law. Denial cannot prevail over the positive, candid and categorical testimony of the complainant, and as between the positive declaration of the complainant and the negative statement of the appellant, the former deserves more credence. (Citations omitted.)

Penalty and Damages

Since Abat admittedly was AAA’s uncle, being the half-brother of her father, Article 266-B of the Revised Penal Code proves to be of relevance, to wit:

ART. 266-B. Penalties. - Rape under paragraph 1 of the next preceding article shall be punished by reclusion perpetua.

x x x x

The death penalty 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, stepparent, guardian, relative by consanguinity or affinity within the third civil degree, or the common-law spouse of the parent of the victim.

As both the minority of AAA and her relationship to Abat were sufficiently alleged in the Information and proved by the prosecution, Abat should be convicted of qualified rape under Article 266-B of the Revised Penal Code. However, in view of the provisions of Republic Act No. 9346, which prohibits the imposition of the death penalty, the penalty of reclusion perpetua[32] without eligibility for parole,[33] is the proper penalty to be imposed.

This Court affirms the awards of P75,000.00 as civil indemnity, P75,000.00 as moral damages, and P30,000.00 as exemplary damages, as increased by the Court of Appeals.[34] Pursuant to prevailing jurisprudence,[35] the

indemnity and damages awarded are further subject to interest at the rate of six percent (6%) per annum from the date of finality of this judgment until fully paid.

WHEREFORE, premises considered, the decision of the Court of Appeals in CA-G.R. CR.-H.C. No. 04340, is hereby AFFIRMED with MODIFICATION. Accused-appellant JOEL ABAT y COMETA is found GUILTY beyond reasonable doubt of the crime of Qualified Rape, and sentenced to reclusion perpetua, in lieu of death, without eligibility for parole. He is ordered to pay the victim AAA, Seventy-Five Thousand Pesos (P75,000.00) as civil indemnity, Seventy-Five Thousand Pesos (P75,000.00) as moral damages, and Thirty Thousand Pesos (P30,000.00) as exemplary damages, ALL with interest at the rate of 6% per annum from the date of finality of this judgment. No costs.

SO ORDERED.

Sereno, C.J., (Chairperson), Bersamin, Villarama, Jr., and Reyes, JJ., concur.

[1] Rollo, pp. 2-23; penned by Associate Justice Leoncia R. Dimagiba with Associate Justices Hakim S. Abdulwahid and Marlene Gonzales-Sison, concurring.

[2] CA rollo, pp. 16-23.

[3] As amended by Republic Act No. 8353.

[4] CA rollo, p. 23.

[5] Records, pp. 1-2.

[6] Under Republic Act No. 9262 also known as “Anti-Violence Against Women and Their Children Act of 2004” and its implementing rules, the real name of the victim and those of her immediate family members are withheld and fictitious initials are instead used to protect the victim’s privacy.

[7] Records, p. 28.

[8] Id. at 30.

[9] Rollo, pp. 4-6.

[10] Id. at 6-7.

[11] CA rollo, p. 20.

[12] Id. at 23.

[13] Id. at 22.

[14] Id. at 24.

[15] Rollo, p. 23.

[16] Id. at 8-14.

[17] CA rollo, pp. 122-124.

[18] Rollo, pp. 38-41.

[19] CA rollo, p. 35.

- [20] Id. at 41-43.
- [21] People v. Banzuela, G.R. No. 202060, December 11, 2013.
- [22] Id., citing People v. Sapigao, Jr., 614 Phil. 589, 599 (2009).
- [23] Rollo, p. 13.
- [24] 341 Phil. 441, 458 (1997).
- [25] 353 Phil. 388, 413-414 (1998).
- [26] 356 Phil. 75, 81-82 (1998).
- [27] People v. Sta. Ana, supra note 25 at 414.
- [28] People v. Mangitngit, 533 Phil. 837, 852 (2006).
- [29] CA rollo, p. 22.
- [30] People v. Vergara, G.R. No. 199226, January 15, 2014.
- [31] 476 Phil. 42, 62 (2004).
- [32] Republic Act No. 9346, Section 2.
- [33] Id., Section 3.
- [34] People v. Laurino, G.R. No. 199264, October 24, 2012, 684 SCRA 612, 621.
- [35] Sison v. People, G.R. No. 187229, February 22, 2012, 666 SCRA 645, 667.

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