

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. HENRY CALADCADAN, ACCUSED-APPELLANT.

G.R. No. 205379. September 23, 2015

Ponente: PEREZ, J.

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PEREZ, J.:

Before us is the Decision[1] of the Court of Appeals in CA-G.R. CR-HC No. 04533 dated 25 May 2012 which affirmed the Decision[2] of the Regional Trial Court (RTC) of Lagawe, Ifugao, Branch 14, in Criminal Cases No. 1146-A and No. 1146-B, finding accused-appellant Henry Caladcadan guilty beyond reasonable doubt of the crime of qualified rape.

Accused-appellant was charged with two counts of rape in two Informations which read:

Criminal Case No. 1146-A

That on or about the evening of June 21, 1999, at Tinoc, Ifugao Province[,] and within the jurisdiction of this Honorable Court, the above-named accused, the father of herein victim, did then and there, willfully, unlawfully and feloniously by means of force and intimidation, have carnal knowledge of his own daughter [AAA],[3] a minor[,] 16 years of age, against her will and consent.[4]

Criminal Case No. 1146-B

That on or about the evening of June 23, 1999, at Tinoc, Ifugao Province[,] and within the jurisdiction of this Honorable Court, the above-named accused, the father of herein victim, did then and there, willfully, unlawfully and feloniously by means of force and intimidation, have carnal knowledge of his own daughter [AAA], a minor[,] 16 years of age, against her will and consent.[5]

Upon filing his counter-affidavit in December 1999, accused-appellant disappeared. The case was archived until he was arrested on 20 March 2009. On arraignment, accused-appellant entered a "not guilty" plea to the offense charged. During the pre-trial, accused-appellant admitted that AAA is his daughter. The case went through a full trial.

The prosecution presented AAA, her mother BBB, and psychologist Claire Baliaga (Baliaga) as an expert witness who testified on the following facts:

AAA, then 16 years old, lived in a two-storey house with her parents and two siblings. On the night of 21 June 1999, she was sleeping in one of the two rooms on the second floor when accused-appellant suddenly entered her room and forcibly removed her pants and her underwear. AAA tried to resist but accused-appellant was too strong. Accused-appellant managed to insert his penis into AAA's vagina while covering her mouth to prevent her from shouting. Two days later, AAA was sleeping in her parents' bedroom when accused-appellant again crept into bed with her and mounted her. On both occasions, AAA's siblings were sleeping in the other room, while BBB was in Baguio City. AAA did not tell her mother what had happened because accused-appellant had threatened to burn the house.[6]

Sometime in October 1999, BBB observed something unusual in AAA's body. She asked AAA to lie down in bed while she examined the latter's stomach. BBB realized that AAA was pregnant. She immediately asked AAA who got her impregnated and the latter answered that it was accused-appellant, her father. BBB then went to the Department of Social Welfare and Development (DSWD) office-to ask for help. The DSWD referred her to the National Bureau of Investigation (NBI). The NBI took AAA's statement. She was also examined by a medico-legal officer from the NBI. AAA gave birth on 27 March 2000.[7]

Baliaga testified that she conducted a mental evaluation on AAA, and tests revealed that AAA was suffering from mild retardation and could not give intelligent consent to the act complained about.[8]

Accused-appellant denied that he raped AAA. In his defense, accused-appellant testified that on the date when the first rape took place, he was in their house sleeping; and on the date of the second rape incident, he was in the boarding house of a certain Ricardo Mayomes.[9] During the cross-examination, accused-appellant stated that AAA had a boyfriend, Accused-appellant explained that he disappeared for nine years because he was trying to save money so he could hire his own counsel.[10]

On 5 May 2010, accused-appellant was found guilty beyond reasonable doubt of qualified rape. The dispositive portion of the decision reads:

WHEREFORE, premises considered, the [c]ourt finds accused guilty beyond reasonable doubt of the crime of qualified rape and hereby imposes the penalty of reclusion perpetua without the benefit of xxx parole. The [c]ourt further orders accused to pay the sum of Seventy Five Thousand (Php75,000.00) Pesos as indemnity, another Seventy Five Thousand (Php75,000.00) Pesos as moral damages and exemplary damages in the amount of Thirty Thousand (Php30,000.00) Pesos. He is further ordered to recognize the child begotten as a result of the crime of rape named CCC as his illegitimate child and to give support to the child.[11]

Accused-appellant filed a Notice of Appeal on 25 June 2010.[12]

On 25 May 2012, the Court of Appeals rendered the assailed decision affirming with modification the trial court's decision, the dispositive portion of which reads:

WHEREFORE, the Appeal is hereby DENIED. The Decision of conviction dated 5 May 2010 of the Regional Trial Court, Second Judicial Region, Lagawe, Ifugao, Branch 14, in Criminal Case Nos. 1146-A and 1146-B, is AFFIRMED with MODIFICATION in that accused-appellant Hehry Caladcadan is sentenced to suffer the penalty of reclusion perpetua without eligibility for parole, and to pay P75,000 as civil indemnity, P75,000 as moral damages, and P30,000 as exemplary damages, for two counts of rape.[13]

Accused-appellant filed the instant appeal. In a Resolution[14] dated 1 April 2013, accused-appellant and the Office of the Solicitor General (OSG) were required to; file their respective supplemental briefs if they so desired. Both parties manifested that they were adopting their respective briefs filed before the appellate court.[15]

In his Brief, accused-appellant maintains that AAA's testimony is incredible. First accused-appellant reveals that AAA had a boyfriend who could have impregnated her. Second, accused-appellant claims that at the time of the supposed rape, two of his children were sleeping with him so it was impossible for him to have raped his daughter in the presence of his two other children who could have witnessed it. Third, accused-appellant argues that he was not in his house when the second rape incident allegedly took place. Fourth, accused-appellant avers that he spent the night of 23 June 1999 at a friend's boarding house.

On the other hand, the OSG vouches for the credibility of AAA, relying on the adage that a daughter would not concoct a story of rape against her father, taking to mind the reverence and respect for elders that is too deeply ingrained in Filipino children. Furthermore, the OSG believes that AAA's positive and categorical assertions

prevail over accused-appellant's bare denials.

The basic issue is whether or not accused-appellant is guilty for two counts-of rape beyond reasonable doubt.

The applicable provisions related to the crime of rape are Articles 266-A and 266-B of the Revised Penal Code (RPC), which provide:

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 circumstances:

- 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.

x x x x

Article 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, step-parent, guardian, relative by consanguinity or affinity within the third civil degree, or the common-law-spouse of the parent of the victim[.]

Rape is qualified when the following elements of the offense charged are present:

- (a) the victim is a female over 12 years but under 18 years of age;
- (b) the offender is a parent, [an] ascendant, [a] step-parent, [a] guardian, [a] relative by consanguinity or affinity within the third civil degree, or the common-law spouse of the parent of the victim; and
- (c) the offender has carnal knowledge of the victim either through force, threat or intimidation; or when [the victim] is deprived of reason or is otherwise unconscious; or by means of fraudulent machinations or grave abuse of authority.[16]

The RTC and the Court of Appeals agree on the finding that the prosecution had proven beyond reasonable doubt all the elements of qualified rape. We agree.

We see no reason to depart from the findings of the lower courts. In upholding AAA's credibility, the Court of Appeals observed:

Despite the passage of years, the horrendous images of the nights of abuse were immortalized in AAA's mind. She was emphatic, frank and straightforward as she excruciatingly recalled her ghastly experience.

x x x x

The lurid incidents of rape left an ineradicable mark in AAA's mind. Her guileless account bears the hallmarks of truth. The fact that AAA's testimony was able to withstand scrutiny during cross-examination bolsters her credibility and makes her statements more credible. Invariably, the court a quo did not falter in according weight to AAA's narration as she remained steadfast and unyielding amidst grilling examination[.][17]

Indeed, AAA was straightforward and unequivocal in the recollection of her horrendous experience:

PROS. TUMAPANG ON DIRECT-EXAMINATION:

Q:

Madam Witness, could you recall where were you on June 21, 199[9]?

A:

I am in our house.

Q:

Where is your house located, Madam Witness?

A:

At the time, it was in Tinoc, Poblacion.

Q:

What were you doing at that time, Madam Witness?

A:

I was sleeping in our room.

Q:

And when you were sleeping, what happened, if any, Madam Witness?

A:

My father entered the room and he removed my pant[s] and panty.

Q:

You mentioned your father. Who is your father, Madam Witness?

A:

Henry Caladcadan.

Q:

If he is in court, would you please point at him if he is around?

A:

(Witness pointed to a man seated on a pew for the accused and when asked his name, he responded Henry Caladcadan.)

Q:

You said he entered your room and removed your pants. What else did he remove?

A:

My panty.

Q:

What did you do while your father was removing your pants and panty?

A:

I was fighting him but he [was] stronger than me.

x x x x

Q:

What else did he do, if any? [sic]

A:

He did the pumping act.

Q:

While he was doing the pumping motion, Madam Witness, what else was he doing, if any? [sic]

A:

He covered my mouth with his hands.

Q:

During that time while he was doing that — or you said your father raped you, were there other people at your house during that time?

A:

My siblings who are 9 and 11 years old were in the house at the time.

Q:

What particular part of the house where they? (sic)

A:

In the other room.

Q:

How about your mother, was she not present at the time?

A:

She was in Baguio.

Q:

You said your father was doing the pumping. After doing that, what else did he do, if any?

A:

He went out of the room and he left.

Q:

Was that the only time that your father did that to you?

A:

There was still one incident that happened on June 23, 1999.

Q:

June 23. What year was that?

A:

1999.

Q:

So, that is at least 2 days after June 21, am I correct?

A:

June 21 and June 23, 1999.

Q:

So, on June 23, 1999, what were you doing at the time?

A:

I was sleeping in the room.

Q:

Was that the same room where he did the first rape? (sic)

A:

It is in the other room.

Q:

And what happened when you were in the room, if any? (sic)

A:

He came into the room nude, (sic)

Q:

After coming in, what did he do, if any, Madam Witness?

A:

He covered my mouth and removed my pants.

Q:

What did you do while he was removing your pants?

A:

I was trying to fight him back but he was stronger than me.

Q:

What did he do after removing your pants?

A:

[H]e laid on top of me and inserted his penis into my vagina.

Q:

After inserting his penis into your vagina, what did he do next, if any, (sic) Madam Witness?

A:

He did the pumping act.

Q:

After doing that, what did he do next?

A:

He went out the room and left.

Q:

Were there other people during that time, Madam Witness?

A:

My two (2) siblings?

Q:

How about your mother?

A:

She was still in [B]aguio at the time.

Q:

How old were you at the time when your father raped you?

A:

16.

Q:

What result, if any, happened to you after that unfaithful (sic) incident?

A:

My body aching, (sic)

Q:

And after some months, was there any result because of the rape?

A:

Yes. There was.

Q:

What was that?

A:

I got pregnant and the baby is now in our house.

Q:

Is he a boy or a girl?

A:

A girl.

Q:

How old is she now, [Madam Witness?

A:

9.[18]

AAA's testimony categorically establishes the fact of rape. She positively identified accused-appellant as the perpetrator. Accused-appellant could not even come up with a plausible explanation why AAA would fabricate a story of rape. If indeed AAA had a boyfriend at that time, it would have been relatively easier to identify her boyfriend as the perpetrator rather than go through the ordeal and shame of accusing her own flesh of rape.

Accused-appellant's argument that rape was impossible due to the presence of AAA's siblings is also bereft of merit. Rape is not a respecter of place or time. "It is not necessary that the place where the rape .is committed be isolated." [19] "There have been too many instances when rape was committed under circumstances as indiscreet and audacious as a room full of family members sleeping side by side." [20]

Since AAA's testimony withstood the rigors of a cross-examination, this, in itself, is sufficient to sustain a conviction. The medico-legal report prepared by the medico-legal officer bolsters the occurrence of rape. Moreover, BBB corroborates AAA's testimony in open court with the following declaration:

[PROSECUTOR] TUMAPANG ON DIRECT-EXAMINATION:

Q:

Madam Witness, how are you related to the private complainant [AAA]?

A:

My daughter, sir.

Q:

And how are you also related to the accused Henry Caladcan?

A:

He is my husband, sir.

Q:

Were you legally married to the accused Henry Caladcan?

A:

Yes.

Q:

Do you recall sometime in 1999 any information you received from your daughter regarding any incident of sexual abuse committed on her?

A:

That was on the month of October 1999 and it was very cold in Tinoc, she usually wears jacket. She was washing plates and I was seating [sic] down on the table [sic] drinking my coffee and I observed something and I told her, "Emy, why is it that there is unusual in your body figure?" She said, "None. I do not know." And I said, "Better come. Put down what you are doing and go up. You lay down." And then she laid down, I felt her stomach that is very hard and then I said, "Emy, masakug ka." "You are pregnant. Who impregnated you?" and she answered, "My father, mama."

COURT

You stop there. The prosecution will ask another question.

[PROSECUTOR] TO THE WITNESS:

Q:

And after you were informed by your daughter that she was impregnated by her father, what else did you ask?

A:

I said, "When did he do that?" and she answered, "When you were out of the house."

Q:

Did she tell any possible man who allegedly did this sexual abuse?

We traced it, sir[,] because that was the time when I got out from our house. That was June 21 and June 23, 1999 when I went out from our house and I went to Baguio City to visit my other daughter studying there at UB.

Q:

So, what else did you do after learning that your daughter was pregnant as a result of the sexual assault committed by her own father?

A:

Because she was there in the house at Impugong, it is there where we stayed and it was there where they made the act. Henry is staying at another house there at Poblacion. Out of anger, I went down to call for him and we went up. Henry sat down on another chair. Emy sat down on another. I told Henry, "Emy is pregnant and she told that you are the one who impregnated her." But Henry denied and he said, "I do not know."

Q:

And what else transpired after that confrontation?

A:

I just kept quiet and we slept and another day has come and I waited if he will tell the truth. I always dig [sic] out to him but then he denied. If ever I asked Emy who did that to her and she would always point out to Henry

Caladcadan and no one else.

Q:

After being convinced that it was her father and your husband who sexually rubbished (sic) his own daughter, what step did you undertake?

A:

I went to the DSWD to ask for help.

Q:

And what did you do after seeking the help of the DSWD?

A:

I told the story and they were the ones who suggested me (sic) to go to the NBI.

Q:

What did you do with their advice that you go to the NBI for the filing of the case?

A:

They got the statement of [AAA] and they advised us to go to Lamut, sir[,] with the NBI.

Q:

And was your daughter examined by-a medical specialist from the NBI?

A:

Yes, sir.

Q:

Where?

A:

Camp Dangwa, Regional Office.

Q:

And was a medical report issued in connection with the NBI's examination of your daughter?

A:

Yes.[21]

BBB's act of immediately reporting the crime once she became convinced that it was accused-appellant who raped their daughter certainly adds credibility to the account.

Under Article 266-B of the RPC, rape is punishable by death when the victim is under eighteen (18) years of age and the offender is a parent of the victim. As a special qualifying circumstance for raising the penalty for rape to death, the minority of the victim and her relationship to the offender must be alleged in the criminal complaint or information, and proved conclusively and indubitably as the crime itself.

The two Informations jointly alleged minority and relationship. As a matter of fact, accused-appellant admitted

during pre-trial that AAA is his daughter. Her birth certificate showing that AAA was only 16 years old at the time of the rape incident was likewise offered in evidence by the prosecution.

The death penalty cannot, however, be imposed in view of the enactment of Republic Act No. 9346. Accordingly, the penalty of reclusion perpetua without possibility of parole is hereby meted on accused-appellant.

The award of damages should be modified pursuant to the ruling in *People v. Gambao*.^[22] We hold that AAA is entitled to P100,000.00 as civil indemnity, P100,000.00 as moral damages, and P100,000.00 as exemplary damages for each count of rape. All damages awarded shall earn interest at the rate of 6% per annum from the date of finality of this Decision until fully paid.^[23]

WHEREFORE, the Decision dated 25 May 2012 of the Court of Appeals, finding Henry Caladcan guilty beyond reasonable doubt of two counts of qualified rape, is **AFFIRMED** with **MODIFICATION**.

Accused-appellant shall suffer the penalty of reclusion perpetua without possibility of parole. Accused-appellant is further ordered to indemnify AAA the amounts of P100,000.00 as civil indemnity, P100,000.00 as moral damages and P100,000.00 as exemplary damages for each count of rape. Moreover, the damages awarded shall earn an interest at the rate of six percent (6%) per annum from the date of the finality of this Decision until fully paid.

SO ORDERED.

Sereno, C. J., (Chairperson), Velasco, Jr.,^[*] Leonardo-De Castro, and Bersamin, JJ., concur.

[*] Additional member per Special Order No. 2188-A dated 16 September 2015.

[1] Rollo, pp. 2-14; Penned by Associate Justice Japar B. Dimaampao with Associate Justices Stephen C. Cruz and Socorro B. Inting concurring.

[2] Records (Criminal Case No. 1146-A), pp. 78-89; Presided by Judge Joseph P. Baguilat.

[3] 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).

[4] Records (Criminal Case No. 1146-A), p. 1.

[5] Records (Criminal Case No. 1146-B), p. 1.

[6] TSN, 20 August 2009, pp. 2-5.

[7] TSN, 17 September 2009, pp. 2-5.

[8] TSN, 18 November 2009, p. 5.

[9] TSN, 9 February 2010, pp. 3-5.

[10] *Id.* at 7-9.

[11] Records (Criminal Case No. U46-A), pp. 88-89.

[12] *Id.* at 92.

[13] Rollo, p. 13.

- [14] Id. at 20.
- [15] Id. at 22-24 and 25-27.
- [16] *People v. Arcillas*, 692 Phil. 40, 50 (2012).
- [17] Rollo, pp. 8 and 11.
- [18] TSN, 20 August 2009, pp. 2-5.
- [19] *People v. Fucio*, 467 Phil. 327, 339 (2004).
- [20] Id.; and *People v. Manahan*, 455 Phil. 658, 672-673 (2003).
- [21] TSN, 17 September 2009, pp. 2-4.
- [22] G.R. No. 172707, 1 October 2013, 706 SCRA 508, 535.
- [23] *People v. Colentava*, G.R. No. 190348, 9 February 2015.

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