

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. MAURICIO HALLARTE Y MENDOZA, ACCUSED-APPELLANT.

G.R. No. 205382. April 02, 2014

Ponente: PERLAS-BERNABE, J.

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PERLAS-BERNABE, J.:

On appeal is the Decision[1] dated April 20, 2012 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 04061 which affirmed with modification the Judgment[2] dated April 7, 2009 of the Regional Trial Court of Quezon City, Branch 94 (RTC) in Criminal Case Nos. Q-00-93225-26, finding accused-appellant Mauricio Hallartey Mendoza (appellant) guilty beyond reasonable doubt of the crimes of Simple Rape and Rape by Sexual Assault, respectively.

The two (2) separate Informations[3] under which appellant was charged are as follows:

Criminal Case No. Q-00-93225[4]

That on or about the 4[th] day of June, 2000, in Quezon City, Philippines, the said accused, by means of force and intimidation, did, then and there, willfully, unlawfully and feloniously drag [AAA],[5] a minor, 7 years old, his own niece, into his house located at No. 24 Brgy. Road, Brgy[.] Pasong Tamo, this City, and once inside have carnal knowledge with the said [AAA], against her will and without her consent which act debase, degrade and demeans the intrinsic worth of dignity of said [AAA] as a human being, to the damage and prejudice of the said offended party.

Criminal Case No. Q-00-93226[6]

That on or about the 17[th] day of June, 2000, in Quezon City, Philippines, the said accused, by means of force and intimidation and with lewd design, did, then and there [willfully], unlawfully and feloniously commit an act of sexual assault against one [BBB],[7] 8 years of age, a minor, his own niece, by then and there inserting his penis into her mouth against her will and without her consent, which act debase, degrade and demean the intrinsic worth of dignity of said [BBB] as a human being, to her damage and prejudice.

CONTRARY TO LAW.

During his arraignment,[8] appellant, assisted by counsel de oficio, pleaded not guilty to the offenses charged. At pre-trial, the parties stipulated[9] on the minority of both AAA and BBB (private complainants).

The Facts

In the afternoon of June 4, 2000, AAA was playing with Charissa Hallarte (Charissa), her cousin and the daughter of her uncle,[10]herein appellant, at the second floor of the latter's house in Barangay Pasong Tamo, Quezon City where she had also been staying.[11]At the time, appellant happened to also be at the second floor of the house. When Charissa went to the ground floor to urinate, appellant approached AAA and began to remove his shorts. Thereafter, he laid AAA, raised her skirt and pulled down her underwear. Then, appellant inserted his penis into her vagina, causing AAA to feel pain and to shout for help from Charissa ("[H]elp me, Nina").[12] When

appellant realized that his daughter Charissa might be returning anytime, he let AAA go.[13] AAA did not recount her ordeal to anyone until she complained to her mother, CCC,[14] of the pain in her vagina. AAA then confessed that her uncle, appellant herein, inserted his penis into her vagina.[15]

On the other hand, at around 8 o'clock in the evening of June 17, 2000, while appellant's other niece,[16] BBB, was with him in his house, he inserted his penis into her mouth and threatened her not to tell anyone what he had done. BBB did not report the incident immediately because she feared appellant.[17]

Subsequently, private complainants were brought to the Talipapa Police Station (PS-3) of the Philippine National Police (PNP) Central Police District Office (CPDO) where they gave their respective sworn statements[18] against appellant.

On June 22, 2000, AAA was examined by Dr. Jaime Rodrigo Leal, M.D. (Dr. Leal), a medico-legal officer of the PNP in Camp Crame, Quezon City, whose findings contained in Medico-Legal Report No. M-1945-00[19] dated June 22, 2000 reveal that AAA's hymen had "[n]o laceration nor discharge," which led to the conclusion of "[n]ormal genital findings." However, Dr. Leal clarified[20] that the foregoing findings "[do] not exclude sexual abuse."

In defense, appellant denied[21] the charges against him and claimed that on June 4, 2000, on the date when the rape incident involving AAA allegedly transpired, he was in Novaliches, Quezon City working as a carpenter, where he reported for duty at 8 o'clock in the morning and finished his tasks at 5 o'clock in the afternoon.[22] He asserted that from his house in Barangay Pasong Tamo to Novaliches, it would take him around one and a half hours of travel time.[23] Similarly, on June 17, 2000, the date of the incident against BBB, he was at the office of Vanguard Agency (Vanguard)[24] in Kalayaan, Quezon City where he also used to work,[25] which would take an hour's travel from his house.[26] Appellant denied[27] knowledge of why he was being criminally charged by the parents of the private complainants.

To corroborate appellant's defense of alibi, Romeo Hibek, the Senior Officer of Vanguard, testified that appellant was a contractual carpenter in their company and that from April 16, 2000 to June 19, 2000, appellant was involved in the renovation of their building,[28] as evidenced by the Certification[29] that he issued dated January 20, 2005. He also testified that Vanguard had no time card or logbook to monitor the attendance of its workers.[30] Rolando Montecalvo, one of appellant's co-workers therein, likewise testified[31] to corroborate the latter's whereabouts on said dates.

The RTC Ruling

On April 7, 2009,[32] after trial on the merits, the RTC convicted appellant as charged. Hence, in Criminal Case No. Q-00-93225 for Simple Rape, the RTC sentenced appellant to suffer the penalty of reclusion perpetua and ordered him to pay AAA the amounts of P50,000.00 as civil indemnity, P50,000.00 as moral damages, and P25,000.00 as exemplary damages. On the other hand, in Criminal Case No. Q-00-93226 for Rape by Sexual Assault, the RTC sentenced appellant to an indeterminate penalty of 10 years, 2 months and 21 days of prison mayor in its medium period, as minimum, to 12 years, 5 months and 10 days of reclusion temporal in its minimum period, as maximum, and ordered him to pay BBB the amounts of P50,000.00 as civil indemnity, P50,000.00 as moral damages, and P25,000.00 as exemplary damages.[33]

In convicting appellant, the RTC gave full weight and credence to the testimonies of the private complainants, which it found to be straightforward, candid, and bearing the earmarks of truth and sincerity. It considered as inconsequential the finding of Dr. Leal that there was "[n]o laceration nor discharge" on AAA's hymen, explaining that the slightest penetration of the woman's private organ is considered as rape.[34]

Conversely, the RTC rejected appellant's defense of alibi, having failed to establish by clear and convincing evidence (a) his presence at another place at the time of the perpetration of the offenses, and (b) the physical impossibility of his presence at the scene of the crime on both instances. Instead, by his own testimony, appellant confirmed that his workplace in Novaliches (in relation to the June 4, 2000 Simple Rape incident) as well as his workplace in Kalayaan (in relation to the June 17, 2000 Rape by sexual Assault incident) were, at the most, only an hour and a half away from his house where both incidents took place.[35]

However, while it has been established that both private complainants were the nieces of appellant, the RTC did not appreciate the special qualifying circumstance of relationship, not having been specifically pleaded or alleged in the informations under which appellant was separately charged.[36] Aggrieved, appellant appealed[37] his conviction to the CA.

The CA Ruling

In a Decision[38] dated April 20, 2012, the CA affirmed appellant's conviction for both crimes but modified the penalty imposed in Criminal Case No. Q-00-93226 for Rape by Sexual Assault, meting instead the penalty of reclusion temporal in its medium period as prescribed under Section 5(b)[39] of Republic Act No. (RA) 7610.[40] Applying the Indeterminate Sentence Law (ISLAW), appellant was sentenced to an indeterminate penalty of 12 years, 10 months and 21 days of reclusion temporal, as minimum, and 15 years, 6 months and 20 days of reclusion temporal, as maximum. The CA likewise increased the damages awarded to each of the private complainants as follows: P75,000.00 as civil indemnity, P75,000.00 as moral damages, and P30,000.00 as exemplary damages.

The Issue Before the Court

The sole issue before the Court is whether the CA erred in affirming appellant's conviction for both crimes charged.

The Court's Ruling

The appeal is bereft of merit.

Time and again, the Court has held that factual findings of the trial court, especially on the credibility of witnesses, are accorded great weight and respect and will not be disturbed on appeal. This rule, however, admits of exceptions such as where there exists a fact or circumstance of weight and influence which has been ignored or misconstrued, or where the trial court has acted arbitrarily in its appreciation of the facts.[41]

In this case, the Court gives full weight to the RTC's finding, as affirmed by the CA, that appellant indeed committed the crimes charged and is therefore guilty beyond reasonable doubt therefor. As observed by the RTC, which had the opportunity to personally scrutinize both AAA's and BBB's conduct and demeanor during trial, they were credible witnesses whose testimonies must be accorded great probative weight. The trial judge's evaluation, which the CA sustained, now binds the Court, leaving to the appellant the burden to bring to the fore facts or circumstances of weight that were otherwise overlooked, misapprehended or misinterpreted but would materially affect the disposition of the case differently if duly considered.[42] Unfortunately for appellant, he failed to discharge this burden.

Moreover, "[t]estimonies of child-victims are normally 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. Youth and immaturity are generally badges of truth and

sincerity. A young girl's revelation that she had been raped, coupled with her voluntary submission to medical examination and willingness to undergo public trial where she could be compelled to give out the details of an assault on her dignity, cannot be so easily dismissed as mere concoction.”[43]

However, while the Court upholds the penalty of reclusion perpetua imposed upon appellant in Criminal Case No. Q-00-93225 for Simple Rape, there is a need to modify the penalty imposed in Criminal Case No. Q-00-93226 for Rape by Sexual Assault in view of the failure of the prosecution to satisfactorily prove the age of BBB. While the information[44] alleged that BBB was “8 years of age, a minor,” and the parties stipulated[45] on her minority during the pre-trial conference, the same are insufficient evidence of her age which must be proved conclusively and indubitably as the crime itself.[46] As the Court succinctly explained in *People v. Soria*:[47]

“[T]here must be independent evidence proving the age of the victim, other than the testimonies of prosecution witnesses and the absence of denial by the accused.” Documents such as her original or duly certified birth certificate, baptismal certificate or school records would suffice as competent evidence of her age. Here, there was nothing on record to prove the minority of “AAA” other than her testimony, appellant's absence of denial, and their pre-trial stipulation. The prosecution also failed to establish that the documents referred to above were lost, destroyed, unavailable or otherwise totally absent.[48] (Emphases and underscoring supplied)

Apart from BBB's testimony and the aforesaid stipulation, records are bereft of sufficient evidence to prove BBB's age. Thus, the penalty prescribed in Article 266-B of the Revised Penal Code, as amended,[49] for Rape by Sexual Assault must be imposed in this case, i.e., prision mayor, which ranges from 6 years and 1 day to 12 years. Applying the ISLAW, the penalty next lower in degree is prision correccional, which ranges from 6 months and 1 day to 6 years. Hence, a penalty of 4 years and 2 months of prision correccional, as minimum, to 10 years of prision mayor, as maximum, is imposed upon appellant for the crime of Rape by Sexual Assault.

Finally, in order to conform with prevailing jurisprudence,[50] the Court deems it proper to modify the amount of damages awarded in both convictions. Thus, in Criminal Case No. Q-00-93225 for Simple Rape, the reduced amounts of P50,000.00 as civil indemnity and P50,000.00 as moral damages are proper. The amount of P30,000.00 awarded by way of exemplary damages is affirmed. On the other hand, in Criminal Case No. Q-00-93226 for Rape by Sexual Assault, the Court awards the reduced amounts of P30,000.00 as civil indemnity, P30,000.00 as moral damages, and P30,000.00 as exemplary damages, in line with prevailing jurisprudence.[51] All damages awarded shall earn interest at the legal rate of 6% per annum from date of finality of judgment until fully paid.

WHEREFORE, the appeal is DENIED. The Decision dated April 20, 2012 of the Court of Appeals in CA-G.R. CR-HC No. 04061 is AFFIRMED with the following MODIFICATIONS:

(a) In Criminal Case No. Q-00-93225 for Simple Rape, accused-appellant Mauricio Hallartey Mendoza is sentenced to suffer the penalty of reclusion perpetua, and is ordered to pay AAA the amounts of P50,000.00 as civil indemnity, P50,000.00 as moral damages, and P30,000.00 as exemplary damages.

(b) In Criminal Case No. Q-00-93226 for Rape by Sexual Assault, accused-appellant Mauricio Hallartey Mendoza is sentenced to suffer the indeterminate penalty of imprisonment for 4 years and 2 months of prision correccional, as minimum, to 10 years of prision mayor, as maximum, and is ordered to pay BBB the amounts of P30,000.00 as civil indemnity, P30,000.00 as moral damages, and P30,000.00 as exemplary damages.

The amounts of damages awarded are subject to interest at the legal rate of 6% per annum, to be reckoned from the date of finality of this judgment until fully paid.

SO ORDERED.

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

[1] Rollo, pp. 2-20. Penned by Associate Justice Edwin D. Sorongon, with Associate Justices Noel G. Tijam and Romeo P. Barza, concurring.

[2] Records, pp. 200-206. Penned by Presiding Judge Roslyn M. Rabara-Tria.

[3] Docketed as Crim. Case No.Q-00-93225, id.at 2-3; and Crim. Case No. Q-00-93226, id.at 4-5.

[4] Id. at 2.

[5] The real name of the victim and her immediate family are withheld in order to protect their privacy, in accordance with Republic Act No. (RA) 7610, otherwise known as the “Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act,” and RA 9262, otherwise known as the “Anti-Violence Against Women and Their Children Act of 2004.”(See *People v. Cabalquinto*, 533 Phil. 703, 705-706 [2006].)

[6] Records, p. 4.

[7] See note 4.

[8] Records, p. 20.

[9] Id. at 30.

[10] See TSN, October 24, 2001, p. 3 and TSN, June 21, 2004, p. 3.

[11] See Order dated November 8, 2000; records, p. 30.

[12] TSN, October 24, 2001, p. 8.

[13] Id. at 5-9.

[14] See note 4.

[15] TSN, October 24, 2001, pp. 9-10.

[16] See TSN, August 8, 2001, p. 3 and TSN, June 21, 2004, p. 3.

[17] See TSN, August 8, 2001, pp. 3-8.

[18] Exh.“A,” records, pp. 8-9;and Exh.“B,” records, pp. 10-11.

[19] Exh.“E,” id.at 67.

[20] TSN, April 23, 2002, p. 14.

[21] TSN, June 21, 2004, p. 7.

[22] Id. at 4-5.

[23] Id. at 5-6.

[24] Also referred to in the records as “Vanguard Watchman Agency, Inc.”

[25] TSN, June 21, 2004, p. 5.

- [26] Id. at 6.
- [27] Id. at 8-9.
- [28] TSN, August 10, 2005, pp. 2-4.
- [29] Exh. "1," records, p. 119.
- [30] TSN, August 10, 2005, p. 8.
- [31] TSN, June 25, 2008, pp. 3-6.
- [32] See Judgment of the RTC; records, pp. 200-206
- [33] Id. at 206.
- [34] Id. at 204.
- [35] Id. at 204-205.
- [36] See id. at 205.
- [37] Id. at 211.
- [38] Rollo, pp. 2-20.
- [39] Section 5. Child prostitution and other sexual abuse.— x x x.

x x x x

(b) Those who commit the act of sexual intercourse or lascivious conduct with a child exploited in prostitution or subject to other sexual abuse; Provided, That when the victim is under twelve (12) years of age, the perpetrators shall be prosecuted under Article 335, paragraph 3, for rape and Article 336 of Act No. 3815, as amended, the Revised Penal Code, for rape or lascivious conduct, as the case may be: Provided, That the penalty for lascivious conduct when the victim is under twelve (12) years of age shall be reclusion temporal in its medium period; x xx.

x x x x

- [40] Entitled "AN ACT PROVIDING FOR STRONGER DETERRENCE AND SPECIAL PROTECTION AGAINST CHILD ABUSE, EXPLOITATION AND DISCRIMINATION, AND FOR OTHER PURPOSES."
- [41] *People v. Esperanza*, 453 Phil. 54, 67 (2003).
- [42] *People v. Lupac*, G.R. No. 182230, September 19, 2012, 681 SCRA 390, 396.
- [43] *People v. Garcia*, G.R. No. 200529, September 19, 2012, 681 SCRA 465, 477-478; citations omitted.
- [44] Records, pp. 4-5.
- [45] See Pre-Trial Order dated November 8, 2000; id. at 30.
- [46] See *People v. Albalate, Jr.*, G.R. No. 174480, December 18, 2009, 608 SCRA 535, 546.
- [47] G.R. No. 179031, November 14, 2012, 685 SCRA 483.
- [48] Id. at 507; citations omitted.
- [49] As amended by RA 8353 entitled "AN ACT EXPANDING THE DEFINITION OF THE CRIME OF RAPE,

RECLASSIFYING THE SAME AS A CRIME AGAINST PERSONS, AMENDING FOR THE PURPOSE ACT NO. 3815, AS AMENDED, OTHERWISE KNOWN AS THE REVISED PENAL CODE, AND FOR OTHER PURPOSES,” otherwise known as the “Anti-Rape Law of 1997.”

[50] See *People v. Lupac*, supra note 42; see also *People v. Estrada*, G.R. No. 178318, January 15, 2010, 610 SCRA 222, 230-235.

[51] See *People v. Soria*, supra note 47, at 508; see also *People v. Lumaque*, G.R. No. 189297, June 5, 2013; *Pielago v. People*, G.R. No. 202020, March 13, 2013, 693 SCRA 476, 489; and *People v. Chingh*, G.R. No. 178323, March 16, 2011, 645 SCRA 573.

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