PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. BIENVENIDO REMEDIOS y SARAMOSING, ACCUSED-APPELLANT.

G.R. No. 211056. November 10, 2015

Ponente: LEONARDO-DE CASTRO, J.

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LEONARDO-DE CASTRO, J.:

In the present appeal, the accused-appellant Bienvenido Remedios y Saramosing seeks the reversal of the Decision[1] dated October 9, 2013 of the Court of Appeals in CA-G.R. CR.-HC No. 00954-MIN, which affirmed with modification the Decision[2] dated March 22, 2011 of the Regional Trial Court (RTC) of Davao City, Branch 8 in Criminal Case No. 51,366-03. The trial court adjudged the accused-appellant guilty of one count of rape.

In an Information[3] filed on March 6, 2003, the prosecution charged the accused-appellant with one count of rape that was allegedly committed against AAA[4] in the following manner:

> That on or about March 2, 2003, in the City of Davao, Philippines, and within the jurisdiction of this Honorable Court, the above-mentioned accused, did then and there wilfully, unlawfully and feloniously by means of force, threat and intimidation had carnal knowledge of his own biological daughter, AAA, a minor [fourteen] (14) years of age, against her will.

The accused-appellant pleaded not guilty to the above charge.[5] In the trial of the case, the prosecution presented the testimonies of: (1) AAA,[6] the private complainant, and (2) Dr. Regina Ingente.[7] The defense, thereafter, presented the testimony of the accused-appellant.[8]

AAA testified that the accused-appellant is her father. On March 2, 2003, at about 8:00 p.m., the accused-appellant sexually abused her inside their house at XXX, Davao City. At that time, AAA's mother, BBB, was not around and only AAA's five younger sisters were sleeping in the house. She was already asleep when he took off her shorts and panty. When she awakened, the accused-appellant was already on top of her. Then he inserted his penis into her vagina. AAA was not able to fight back because the accused-appellant held her shoulders and pointed a knife at her. The accused-appellant also threatened AAA not to shout or he would kill her and her sisters. After the incident, AAA told BBB what happened when the latter arrived home at around 9:00 p.m. They then went to the house of CCC, the brother of the accused-appellant, and the three of them went to the police station. Afterwards, AAA submitted herself to a medical examination.[9]

Dr. Regina Ingente identified in court the medical certificate issued and signed by Dr. Jocelyn Pagaran, the attending physician at the Davao Medical Center who examined AAA. Dr. Ingente explained that Dr. Pagaran was initially under her direct supervision, but at the time of the trial, the latter was no longer connected with the said hospital.[10] In the medical certificate, Dr. Pagaran concluded that "[m]edical [e]valuation revealed definitive for sexual contact."[11]

Aside from the above medical certificate, the prosecution likewise presented in evidence the birth certificate[12] of AAA and the excerpt from the police blotter,[13] which documented the initial complaint filed by AAA on

March 2, 2003.

On the other hand, the defense's version of facts was stated as follows:

> Defense presented the appellant himself, Bienvenido Remedios.
>
> In sum, his testimony would prove that [i]n the year 2003, his relationship with his wife was very rocky as the latter was having an affair with another man. On March 1, 2003, he went home from work at 9:00 o'clock in the evening. There were six children who were living with him as the other three were already married. After he urinated, he discovered that AAA was getting money from his pants. Appellant then grabbed his pants from AAA. That was the time when his wife arrived. His wife immediately pointed at him and accused him of raping their daughter. [His] wife and AAA then left. After a while, police officers arrived and they brought him to the police station.
>
> The allegation of rape by AAA against him could not be true as he was already at the detention cell of the police station on March 2, 2003 at 8:00 o'clock in the evening. This case was borne out of the instigation of his wife who wanted appellant to be out of their lives so that she could freely live with another man.[14]

The defense offered as documentary evidence the complaint-affidavit[15] of AAA and adopted as an exhibit the prosecution's Exhibit B, the medical certificate.

In a Decision dated March 22, 2011, the RTC convicted the accused-appellant of the crime charged. The trial court ascribed greater weight to the testimony of AAA, which was found to have been given "in a straightforward and spontaneous manner and [AAA] remained steadfast on cross-examination."[16] As to the claim of the accused-appellant that BBB merely instigated the charges against him, the RTC held that the accused-appellant failed to adduce any evidence to prove such ill motive. The trial court handed down the following sentence:

> FOR THE FOREGOING, finding the accused GUILTY beyond reasonable doubt of the crime of Rape, and considering the aggravating circumstance, (sic) of being the father of the offended party who is under eighteen (18) years of age, he is hereby sentenced to suffer the penalty of RECLUSION PERPETUA. He is directed to indemnify the offended party the sum of Php50,000.00 as civil indemnity and Php50,000.00 as moral damages.[17]

On appeal,[18] the Court of Appeals affirmed the trial court's verdict of guilt. The appellate court likewise found the testimony of AAA worthy of credence. That the prosecution did not present the testimony of the physician who examined AAA was held to be inconsequential as the medical examination of a victim is not indispensable in a prosecution for rape. The Court of Appeals ruled that what was important is that the testimony of AAA was "clear, unequivocal and credible."[19] The appellate court thus decreed:

> WHEREFORE, the appeal is DENIED. The assailed Decision of the Regional Trial Court (RTC) Branch 8, Davao City, dated March 22, 2011 in Criminal Case No. 51,366-03 is AFFIRMED but Modified as follows:
>
> - The penalty of reclusion perpetua imposed upon the accused-appellant shall be without eligibility [for] parole;
>
> - The award of civil indemnity is increased to P75,000.00; and
>
> - The award of moral damages is increased to P75,000.00.[20]

The accused-appellant again appealed[21] his conviction before this Court, insisting on the argument he raised before the Court of Appeals that the court a quo gravely erred in convicting him despite the failure of the prosecution to prove his guilt beyond reasonable doubt.[22]

The accused-appellant avers that the prosecution neither proved the allegation of carnal knowledge nor

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established the required force or intimidation. He argues that AAA lied when she testified that he pointed a knife at her when he allegedly abused her, considering that she failed to allege the said fact in her complaint-affidavit. The accused-appellant also notes that in AAA's cross-examination, she said that she was medically examined at around 10:00 p.m. on March 2, 2003 after she went to the police station. However, the medical certificate submitted in evidence by the prosecution stated that she was examined on March 3, 2003. Likewise, the accused-appellant found it contrary to normal human experience that AAA was not awakened when the accused-appellant supposedly removed her pants and panty. Lastly, the accused-appellant points out that the medical certificate of AAA should not be given weight considering that the doctor who testified on the same was not the one who conducted the examination.

The Ruling of the Court

The Court denies the appeal, but modifies the indemnities awarded.

Under Article 266-A of the Revised Penal Code, the crime of rape by sexual intercourse is defined as follows:

> 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.

For the charge of rape to prosper, the prosecution has the burden to prove that (1) the offender had carnal knowledge of a woman, and (2) he accomplished the act through force, threat or intimidation, or when she was deprived of reason or otherwise unconscious, or when she was under 12 years of age or was demented.[23]

In the case at bar, the Court of Appeals affirmed the trial court's ruling on the veracity of AAA's testimony. The Court finds no reason to overturn the factual findings of the lower courts. AAA consistently identified the accused-appellant as the perpetrator of the sexual abuse against her and she unequivocally testified on the manner with which the accused-appellant had carnal knowledge of her.

Verily, the findings of facts and assessment of credibility of witnesses are matters best left to the trial court because of its unique position of having observed that elusive and incommunicable evidence of the witnesses' deportment on the stand while testifying, which opportunity is denied to the appellate courts, subject to certain exceptions. Absent any showing that the trial judge overlooked or misapplied some facts or circumstances of weight which would affect the result of the case, or that the judge acted arbitrarily, the trial judge's assessment of credibility deserves the appellate court's highest respect.[24]

Anent the argument that force or intimidation was not proven in this case, the same lacks merit. As the Court ruled in People v. Oriliosa,[25] in incestuous rape of a minor, actual force or intimidation need not be employed where the overpowering moral influence of the father would suffice. The moral and physical dominion of the father is sufficient to cow the victim into submission to his beastly desires.

As regards to the alleged discrepancies in AAA's testimony, the statements in her complaint-affidavit, and her medical certificate, the same are not sufficient grounds for acquittal. It is doctrinally established that discrepancies between the statements of the affiant in her affidavit and those made by her on the witness stand do not

necessarily discredit her, since ex parte affidavits tend to be incomplete and inaccurate. Hence, affidavits are generally subordinated in importance to declarations made in open court.[26] Moreover, the medical examination of the victim and the medical certificate are merely corroborative in character and are not indispensable elements in rape. What is important is that the testimony of the private complainant about the incident is clear, unequivocal and credible.[27]

We furthermore affirm the finding of the trial court that the accused-appellant failed to prove his assertion that the charge of rape against him was merely instigated by his estranged wife, BBB, so that she would be free to live with another man. Moreover, the Court had since rejected this defense as incredible, contrary to reason and too unnatural to merit faith and credit.[28] We stressed in People v. Lasola[29] that:

> [T]he imputation by appellant of wrongful motive to his wife who allegedly used their daughter as an instrument in concocting the rape just to sever their marital ties is too shallow. It is unnatural for a parent to use her offspring as an engine of malice especially if it will subject her child to the humiliation, disgrace and even stigma. No mother in her right mind would subject her child to the humiliation, disgrace and trauma attendant to a prosecution for rape, if she were not motivated solely by the desire to incarcerate the person responsible for her child's defilement or if the same is not true. In the same vein, a mother would not expose her daughter to such an ignominy merely to end her relationship with her husband or to retaliate against him for his transgressions as a family man. And it is unbelievable for a daughter to charge her own father with rape at the expense of being ridiculed, x x x.

The Proper Penalties

The age of AAA and her relationship to the accused-appellant qualify the rape committed against her. Article 266-B of the Revised Penal Code provides:

> Art. 266-B. Penalties. - 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;

In this case, the qualifying circumstances of minority and relationship were specifically alleged in the information against the accused-appellant. Thereafter, the prosecution offered in evidence the birth certificate of AAA, which proved that she was born on September 25, 1988. Thus, AAA was only 14 years old when the rape incident took place on March 2, 2003. The birth certificate likewise stated that the accused-appellant Bienvenido Saramosing Remedios is the biological father of AAA, which fact he likewise admitted during the trial of the case.[30]

Despite the penalty of death provided under Article 266-B of the Revised Penal Code, the Court of Appeals correctly ruled that the appropriate penalty that should be imposed upon the accused-appellant is reclusion perpetua. This is in accordance with Section 2 of Republic Act No. 9346,[31] which imposes the penalty of reclusion perpetua in lieu of death, when the law violated makes use of the nomenclature of the penalties of the Revised Penal Code.[32]

In line with current jurisprudence, the Court of Appeals' awards of civil indemnity and moral damages are each increased to P100,000.00. AAA is further entitled to the award of PI00,000.00 as exemplary damages.[33]

WHEREFORE, the Court AFFIRMS with MODIFICATIONS the Decision dated October 9, 2013 of the Court of Appeals in CA-G.R. CR.-HC No. 00954-MIN. The accused-appellant Bienvenido Remedios y Saramosing is

found GUILTY beyond reasonable doubt of one count of qualified rape and is sentenced to suffer the penalty of reclusion perpetua without eligibility for parole. The accused-appellant is ORDERED to pay AAA One Hundred Thousand Pesos (P100,000.00) as civil indemnity, One Hundred Thousand Pesos (P100,000.00) as moral damages, and One Hundred Thousand Pesos (P100,000.00) as exemplary damages, plus legal interest on all damages awarded at the rate of 6% from the date of finality of this Decision.

Costs against the accused-appellant.

SO ORDERED.

Sereno, C.J., (Chairperson), Bersamin, Perez, and Perlas-Bernabe, JJ., concur.

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[1] Rollo, pp. 3-11; penned by Associate Justice Henri Jean-Paul B. Inting with Associate Justices Edgardo A. Camello and Jhosep Y. Lopez concurring.

[2] Records, pp. 162-166; penned by Presiding Judge Salvador M. Ibarreta, Jr.

[3] Id. at 1.

[4] The real name and other personal circumstances of the private complainant and those of her immediate family members are withheld per Republic Act No. 7610 (Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act); Republic Act No. 9262 (Anti-Violence Against Women and Their Children Act of 2004); and A.M. No. 04-10-11-SC effective November 15, 2004 (Rule on Violence Against Women and Their Children). See People v. Cabalquinto, 533 Phil. 703 (2006).

Thus, the private complainant shall be referred to as AAA. The initials BBB shall refer to the mother of the private complainant, whereas CCC shall stand for the uncle of the private complainant. The initials XXX shall refer to the place where the crime was allegedly committed.

[5] Records, p. 17.

[6] TSN, September 30, 2003.

[7] TSN, February 8, 2006.

[8] TSN, June 16, 2009.

[9] TSN, September 30, 2003, pp. 3-16

[10] TSN, February 8, 2006, p. 4.

[11] Records, Folder of Exhibits for the Prosecution and Defense, p. 2.

[12] Id. at 1.

[13] Id. at 3.

[14] CA rollo, p. 28.

[15] Records, Folder of Exhibits for the Prosecution and Defense, p. 4.

[16] Records, p. 165.

[17] Id.

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[18] Id. at 175.

[19] Rollo, p. 9.

[20] Id. at 9-10.

[21] CA rollo, pp. 99-101.

[22] Id. at 29.

[23] People v. Trayco, 612 Phil. 1140, 1152 (2009).

[24] People v. Lasola, 376 Phil. 349, 358 (1999).

[25] 477 Phil. 814, 827(2004).

[26] People v. Daco, 589 Phil. 335, 347-348 (2008).

[27] People v. Baltazar, 385 Phil. 1023, 1036 (2000).

[28] People v. Lasola, supra note 24 at 359.

[29] Id.

[30] TSN, June 16, 2009, pp. 3-4; TSN, September 30, 2003, pp. 3-4.

[31] An Act Prohibiting the Imposition of Death Penalty in the Philippines. The law took effect on June 30, 2006.

[32] People v. Dimanawa, 628 Phil. 678, 692 (2010).

[33] People v. Gerandoy, G.R. No. 202838, September 17, 2014, 735 SCRA 520, 545, citing People v. Gambao, G.R. No. 172707, October 1, 2013, 706 SCRA 508, 533.

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