

G.R. No. 215790. March 12, 2018

Ponente: MARTIRES, J.

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MARTIRES, J.:

This is an appeal from the 14 March 2014 Decision[1] of the Court of Appeals (CA) in CA-G.R. CR-HC No. 05989, which affirmed the 12 December 2012 Judgment[2] of the Regional Trial Court, xxxxxxxxxxx Camarines Norte (RTC), in Criminal Case No. 12249, finding accused-appellant Mauricio Cabajar Vibar (Vibar) guilty beyond reasonable doubt of the crime of Rape defined and penalized under Article 266-B(l) of the Revised Penal Code (RPC).

THE FACTS

In an Information dated 23 December 2004, Vibar was charged with the Crime of Rape committed against xxxxxxxxxxxx AAA[3]. The accusatory portion reads:

That on or about 11:00 in the morning of August 4, 2002 at xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx Province of Camarines Norte, Philippines, and within the jurisdiction of this Honorable Court, the above named accused, with lewd design, motivated by bestial lust and by means of force and intimidation, did then and there wilfully, unlawfully and feloniously had carnal knowledge xxxxxxxxxxxxxxxxxxxx with AAA, 15 years old, against her will and to her damage.

CONTRARY TO LAW.[4]

During his arraignment on 7 March 2005, Vibar, with the assistance of his counsel, pleaded "Not Guilty." [5]

Evidence for the Prosecution

The prosecution presented AAA and Dr. Raul Alcantara (Dr. Alcantara) as witnesses. Their combined testimonies tended to establish the following:

On 4 August 2002, at around 11:00 A.M., while AAA was cooking lunch outside their nipa hut in Camarines Norte, Vibar came and asked her to get his gloves from inside the house. When AAA refused to do so, he carried her inside and laid her on the floor,[6] removed her shorts and panty, zipped open his pants, placed himself on top of her, and made push and pull movements.[7] During this time, AAA felt Vibar's penis enter her vagina causing her pain.[8]

That same day, AAA reported the incident to the police. After executing an affidavit at the police station, she appeared before the judge of the Municipal Circuit Trial Court (MCTC) of San Lorenzo Ruiz for preliminary investigation.[9] AAA's first complaint for rape, however, was dismissed because she refused to speak during that time. She did not cooperate with the preliminary investigation because she was afraid of xxxxxxxxxx who had threatened to kill her.[10] Further, AAA was hesitant because she did not have the support of her mother, who

initially chose to side with Vibar.[11]

After the incident, AAA left Camarines Norte and went to Antipolo to work. On 7 July 2004, she returned to Camarines Norte to study. Unfortunately, AAA was constantly harassed by Vibar; he would touch her breast and kiss her. This prompted her to file anew the complaint for rape xxxxxxxxxxxxxxxxxxxx.[12] On 20 August 2004, AAA was subjected to a medical examination where it was discovered that she had an elastic hymen that could be penetrated by a penis without causing any lacerations.[13]

Evidence for the Defense

The defense presented Vibar as its lone witness, whose testimony sought to prove the following:

On 4 August 2002, at around 11:00 A.M., Vibar went home after attending Sunday worship. Once home, he asked AAA why she did not prepare lunch, and the latter retorted in a disrespectful manner. Because he was hungry and had an earlier misunderstanding with his wife BBB, Vibar scolded her and uttered other unsavory remarks. After the verbal confrontation, AAA went to the police station and accused him of attempted rape.[14]

In 2004, however, AAA re-filed the case against Vibar with the prodding of BBB, Arlene Rosinto (Arlene), and a certain Shirley: Arlene and Shirley belonged to the same religious sect as Vibar. They conspired against him and used AAA to exact vengeance upon him: BBB had a paramour and wanted to elope with him but could not do so because she was still living with Vibar; Arlene had an axe to grind against him after he did not vote for her husband, a candidate chosen by their sect, during the elections; Shirley got mad at Vibar when he distanced himself from the sect after refusing to vote for Arlene's husband.[15]

While in detention, Vibar received a letter[16] from AAA in 2006 wherein she alleged that she was merely coerced to re-file the complaint for rape and that she regretted her decision to do so. Relevant portions of the letter read:

xxxxxx patawarin mo po ako. Hindi ko po kagustuhan ang pangyayaring ito. Natakot lang po ako at ang sabi po nila Ate Arlene na laga DSWD na humahawak sa kaso mo, kapag hindi ko raw pinanindigan ang kasong isinampa nila sa yo at ikaw ay nadismiss at nakalaya, ako raw po ang ipapalit nila sa kulungan.

x x x x

xxxxxx gulong-gulo na po ang isip ko, hindi ko na po alam kung ano ang gagawin ko para makalaya ka, naisip ko na lang xxxxxx ang magpakalayo-layo na lang ako, wag po kayong malungkot sa paglayo ko, ito na lang po ang naisip kong paraan, at ito na rin po ang hiding sulat ko sa yo.

The RTC Ruling

In its 12 December 2012 judgment, the RTC found Vibar guilty of rape. The trial court ruled that the prosecution was able to prove that AAA was indeed sexually abused xxxxxxxxxxxxxxxxxxxx noting that AAA's straightforward testimony trumped Vibar's defenses of denial and alibi. The RTC averred that no family member would fabricate a case of rape against another family member and undergo public prosecution if it were untrue. The dispositive portion reads:

WHEREFORE, the prosecution having proven the guilt of accused Mauricio Vibar y Cabajar beyond reasonable doubt for the crime of Rape, he is hereby sentenced to suffer the penalty of reclusion perpetua without eligibility of parole and to pay offended party the following:

- a. P75,000.00 by way of civil indemnity;
- b. P75,000.00 by way of moral damages;

c. P30,000.00 by way of exemplary damages

with interest of 6% per annum on all the aforesaid damages from the date of finality of this judgment until fully paid.

With costs.

SO ORDERED.[17]

Aggrieved, Vibar appealed before the CA.

The CA Ruling

In its assailed decision, the CA affirmed the RTC judgment. The appellate court upheld AAA's testimony, which was found credible by the trial court after having directly observed her demeanor and behavior on the witness stand. It highlighted that the physical evidence corroborated her testimony. The CA brushed aside Vibar's imputation of conspiracy for being self-serving. Finally, the appellate court disregarded AAA's purported letter for lack of authentication. It ruled:

WHEREFORE, in view of the foregoing, the instant appeal is hereby DENIED. The assailed Judgment dated December 12, 2012 of the Daet, Camarines Norte RTC, Branch 40, in Criminal Case No. 12249 for Rape is hereby AFFIRMED in toto.

SO ORDERED.[18]

Hence, this appeal raising the following:

ISSUE

WHETHER THE ACCUSED IS GUILTY BEYOND REASONABLE DOUBT OF RAPE.

THE COURT'S RULING

The appeal has no merit.

Rape is a peculiar crime in that it is shrouded in mystery. More often than not, the victim is left alone at the hand of the assailant with no one to corroborate her claims; sometimes physical evidence to suggest she was defiled is even lacking. It becomes a battle of credibility where the courts are left to decide whether to believe in the victim's narration of her harrowing experience or to accept the abuser's plea of innocence.

Thus, in deciding rape cases, the Court is guided by the following well-established principles: (1) an accusation of rape can be made with facility and while the accusation is difficult to prove, it is even more difficult for the accused, though innocent, to disprove; (2) considering that in the nature of things, only two persons are usually involved in the crime of rape, the testimony of the complainant should be scrutinized with great caution; and (3) the evidence of the prosecution must stand or fall on its own merits and cannot be allowed to draw strength from the weakness of the evidence for the defense.[19] The Court is duty bound to conduct a thorough and exhaustive evaluation of a judgment of conviction for rape considering the grave consequences for both the accused and the complainant.[20]

Credible and categorical testimony of the victim sufficient to convict accused for rape

The Court has consistently observed the rule that the assessment by the trial courts of a witness' credibility is accorded great weight and respect. This is so as trial court judges have the advantage of directly observing a witness on the stand and determining whether one is telling the truth or not.[21] Such findings of the trial courts are generally upheld absent any showing that they have overlooked substantial facts and circumstances which

would materially affect the result of the case.[22]

Vibar bewails that the courts a quo erred in lending credibility to AAA's testimony claiming that it was against human nature for a young girl to fabricate a story that would expose herself to ridicule and place a family member behind bars. Truly, the Court in past rulings has held that testimonies of female or child victims should be given full weight and credence because when they say they have been raped, they are saying in effect all that is necessary to show that rape has indeed been committed.[23]

In *People v. Amarela*,[24] however, the Court cautioned against the over-reliance on the presumption that no woman would spin a tale of sexual abuse if it were untrue because it would tarnish her honor:

More often than not, where the alleged victim survives to tell her story of sexual depredation, rape cases are solely decided based on the credibility of the testimony of the private complainant. In doing so, we have hinged on the impression that no young Filipina of decent repute would publicly admit that she has been sexually abused, unless that is the truth, for it is her natural instinct to protect her honor. However, this misconception, particularly in this day and age, not only puts the accused at an unfair disadvantage, but creates a travesty of justice.

x x x x

This opinion borders on the fallacy of non sequitor. And while the factual setting back then would have been appropriate to say it is natural for a woman to be reluctant in disclosing sexual assault; today, we simply cannot be stuck to the Maria Clara stereotype of a demure and reserved Filipino woman. We, should stay away from such mindset and accept the realities of a woman's dynamic role in society today; she who has over the years transformed into a strong and confidently intelligent and beautiful person, willing to fight for her rights.

In this way, we can evaluate the testimony of a private complainant of rape without gender bias or cultural misconception. It is important to weed out these unnecessary notions because an accused may be convicted solely on the testimony of the victim, provided of course, that the testimony is credible, natural, convincing and consistent with human nature and the normal course of things. (emphases and underscoring supplied)

Nevertheless, when AAA's testimony is taken in a vacuum and examined devoid of any preconceptions or presumption, it stands sufficient to convict Vibar of Rape, thus:

Direct Examination

FISCAL MANLAPAZ:

Q:

You will agree with me that it is normal xxxxxxxxxxxxxxxx to enter the nipa hut during that time?

A:

I was outside the nipa hut that time because our kitchen is outside.

Q:

So, what is this untoward incident that happened?

A:

He came and then he asked me to get his glo[v]es but I do not want to enter the house, so what he did is he forced me to enter and he almost carried me and put me on the floor.

Q:

When you say he forced you and almost carried you, can you describe it to me?

A:

He carried me up in going inside.

x x x x

Q:

So, after he managed to carry you and laid you to the floor, what happened next?

A:

He removed my shorts and panty and then he opened up his zipper and place[d] himself on top of me.

Q:

What happened next?

A:

I felt something touched my vagina.

Q:

You just felt it?

A:

Yes sir.

Q:

What is that?

A:

His penis.

x x x x

Q:

While the accused was doing all of these from the time that he grabbed you and brought you inside the house and then he opened his zipper and he mounted you and he touched your vagina, what did he say to you?

A:

None, sir.

Q:

Can you describe to us his appearance while he was on top of you?

A:

He was lying and he was on top of me and pressing my vagina.

Q:

While the accused was on top of you, what did the accused do if any?

A:

He was trying to insert his penis.

Q:

So, what movement did he make?

A:

(Witness is making a push and pull movement).[25]

Re-Direct

Q:

After he removed your shorts what happened next?

A:

He opened the zipper of his pants and laid on top of me, sir.

Q:

After that what else happened?

A:

I felt his penis touched my vagina, sir.

Q:

Touched only?

A:

It penetrated my vagina, sir.

Q:

For how long?

A:

It was for a short time only, sir.

Q:

And after he finished what did you notice, if any?

A:

I felt pain, sir.

Q:

You were hurt?

A:

Yes, sir.[26]

AAA was straightforward and categorical in narrating how Vibar had forcibly taken her inside the house and mounted her while she was lying on the floor and then inserted his penis into her vagina. It did not matter that the penetration lasted only for a short period of time because carnal knowledge means sexual bodily connection between persons; and the slightest penetration of the female genitalia consummates the crime of rape.[27]

Moreover, it is noteworthy that AAA immediately sought help from the authorities when she was defiled xxxxxxxxxxxx in August 2002. Unfortunately, the case was dismissed during the preliminary investigation stage due to her reluctance to speak before the investigating MCTC judge.

AAA's hesitation, nonetheless, was caused by the initial lack of support of her mother, who sided with Vibar, and the threats of the accused towards her. It should not diminish her urgency to report the gruesome incident to the police. If the delay in reporting incidents of rape may cast doubt upon the courts as to the veracity of the alleged crime,[28] then the swift desire to achieve justice should strengthen the victim's claims. In this case, AAA's minority coupled with her immediate action to seek redress for the wrong committed against her, tend to support her testimony that indeed she was raped xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx.

Medical reports corroborative evidence in rape.

Vibar also laments that there was no physical evidence of penetration to support AAA's claims of defilement, noting that there were no medical reports that indicated even the slightest of penetration. It must be remembered, however, that medical reports are merely corroborative in character and are not essential for a conviction because the credible testimony of a victim would suffice.[29]

Nevertheless, in the case at bench, the findings from AAA's medical examination actually support her testimony. Dr. Alacantara explained the findings as follows:

FISCAL BOADO:

Q:

Doctor, in the conclusions of Dr. Jane Perpetua F. Fajardo, she states, "hymenal orifice wide (measure 2.5cm wide) as to allow complete penetration by an average sized adult Filipino organ in full erection without producing hymenal injury." What does she mean by that, can you interpret?

A:

Taking into consideration the shape of the hymen and as mentioned by Dr. Fajardo, as I said that the hymen is elastic and has a diameter of 2.5 cm., that means fully elastic male organ can easily visible to the examining physician.

Q:

So you are saying Doctor, that although the hymen is still intact it is still possible that there was sexual intercourse? I will rephrase, Your Honor. You said Doctor, that although the hymen is intact the allegations of AAA xxxxxxxxxxxx the accused in this case, had intercourse with her [is] inconsistent with her testimony?

A:

It is possible.

Q:

So, it means Doctor that even though the minor in this case was a victim of sexual abuse, healed hymen can still be considered intact?

A:

Yes, ma'am.

Q:

What is the layman's term of this hymen intact but distensible?

A:

Elastic.

x x x x

Q:

So, even if the incident transpired on August 4, 2002 if there is a penetration by a penis, adult penis, inside the vagina of AAA because the hymen is elastic it can no longer be determined whether there is a laceration?

A:

The characteristic of the hymen is elastic. If there is a penetration then the hymen will just distense and accommodate the male organ and it is possible that no laceration.[30]

Thus, it is clear that AAA's medical report did not discount the fact that intercourse occurred even if her hymen was intact. As characterized by Dr. Alcantara, AAA's elastic hymen made it possible for an erect adult penis to penetrate her vagina without causing lacerations or rupture of the hymen.

Lack of authentication of private documents renders them inadmissible.

As a last-ditch effort to convince the courts of his innocence, Vibar claimed that he received a letter from AAA sometime in 2006 wherein the latter explained that she was merely coerced to re-file the complaint for rape and she very much regretted doing so. He stated the while it was not AAA herself who gave the letter, he was sure that it was AAA who wrote it because no one else by AAA's name would call her xxxxxx and that he was familiar with her handwriting.[31]

Section 20, Rule 132 of the Rules of Court provides that in order for any private document offered as authentic to be admitted as evidence, its due execution and authenticity must be proved either: (1) by anyone who saw the document executed or written; or (2) by evidence of the genuineness of the signature or handwriting of the maker. The authentication of private document before it is received in evidence is vital because during such process, a witness positively identifies that the document is genuine and has been duly executed or that the document is neither spurious nor counterfeit nor executed by mistake or under duress.[32]

In order to bolster his claim of innocence, Vibar testified:

Cross-examination

FISCAL BOADO:

Q:

You also presented, Mr. witness, a letter allegedly written by AAA the private complainant in this case addressed to you, is that correct?

A:

Yes, ma'am.

Q:

But you do not have any proof to substantiate your claim that this letter was really prepared by xxxxxxxxxxxx AAA aside from your bare allegation?

A:

She is the one, ma'am, because no other AAA would call me xxxxx and all the contents of the letter speak [to] all the incidents involving our case, ma'am.

Q:

But you cannot present any documents written by AAA to prove that this penmanship belongs to AAA, is that correct?

A:

I do not have, ma'am.

x x x x

Court

Q:

Mr. witness, when did you receive the letter allegedly coming from AAA?

A:

On May 2006, Your Honor.

Q:

Can you not remember the date of May?

A:

More or less May 24, 2006, Your Honor.

Q:

And when you received the said alleged letter, AAA [had] already testified in court?

A:

Yes, Your Honor.

Q:

Who handed to you the letter?

A:

It was given to me by the one who visited me in jail, he said that it was given to him by AAA, Your Honor.[33]

A plain reading of Vibar's testimony immediately reveals that he miserably failed to comply with the authentication requirement set forth under the Rules. Neither was there any witness who could testify that the alleged letter was voluntarily and personally made by AAA nor was there any document from which her handwriting could have been compared. Curiously, the person who purportedly handed to Vibar AAA's letter was

not presented in court to testify as to the genuineness of the document.

Vibar merely relies on his self-serving testimony that he was sure that the letter was AAA's doing. Such hollow assurance, however, in no way proves that AAA had indeed voluntarily executed the said document. He could have easily fabricated the letter and feigned that it was made xxxxxxxxxxxxxxxx As such, AAA's professed letter is but a mere scrap of paper with no evidentiary value for lack of proper authentication.

[illegible]

Modification of damages to conform to recent jurisprudence

In convicting Vibar, the RTC ordered that he pay AAA P75,000.00 as civil indemnity, P75,000.00 as moral damages and P30,000.00 as exemplary damages. Under Article 266-B of the RPC, the penalty of death shall be imposed xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx. In view of Republic Act (R.A.) No. 9346,[35] however, the penalty of reclusion perpetua shall be imposed in lieu of the death penalty when the law violated uses the nomenclature of the penalties under the RPC.

On the other hand, the Court in *People v. Jugueta*[36] set the award of damages for the crime of rape wherein it stated that when the penalty imposed is death but reduced because of R.A. No. 9346, the victim is entitled to P100,000.00 as civil indemnity, P100,000.00 as moral damages and P100,000.00 as exemplary damages.[37] In conformity with the said ruling, all damages awarded to AAA should be increased accordingly.

WHEREFORE, the 14 March 2014 Decision of the Court of Appeals in CA-G.R. CR-HC No. 05989 is AFFIRMED with MODIFICATION. Accused-appellant Mauricio Vibar y Cabajar is ordered to pay AAA P100,000.00 as civil indemnity, P100,000.00 as moral damages, and P100,000.00 as exemplary damages with interest at the rate of six percent (6%) per annum computed from the finality of this judgment until fully paid.

SO ORDERED.

Velasco, Jr. (Chairperson), Bersamin, Leonen, and Gesmundo, JJ., concur.

[1] Rollo, pp. 2-10; penned by Associate Justice Franchito N. Diamante, and concurred in by Associate Justices Celia C. Librea-Leagogo and Zenaida T. Galapate-Laguilles.

[2] Records, pp. 148-154; penned by Acting/Assisting Judge Arniel A. Dating.

[3] The true name of the victim has been replaced with fictitious initials in conformity with Administrative Circular No. 83-2015 (Subject: Protocols and Procedures in the Promulgation, Publication, and Posting on the Websites of Decisions, Final Resolutions, and Final Orders Using Fictitious Names/Personal Circumstances). The confidentiality of the identity of the victim is mandated by Republic Act (R.A.) No. 7610 ("Special Protection of Children Against Abuse, Exploitation and Discrimination Act"); R.A. No. 8508 ("Rape Victim Assistance and Protection Act of 1998"); R.A. No. 9205 ("Anti-Trafficking in Persons Act of 2003"); R.A. No. 9262 ("Anti-Violence Against Women and their Children Act of 2004"); and R.A. No. 9344 ("Juvenile Justice and

Welfare Act of 2006").

[4] Id. at 1.

[5] Id. at 24.

[6] TSN, 5 July 2005, pp. 6 and 8.

[7] Id. at 9-11.

[8] TSN, 24 January 2006, p. 13.

[9] Id. at 5-6.

[10] Id. at 14.

[11] TSN, 5 July 2005, pp. 12-13.

[12] TSN, 24 January 2006, pp. 8-10.

[13] TSN, 25 January 2011, pp. 10-11.

[14] Records, pp. 137-138.

[15] Id. at 136-137.

[16] Id. at 142.

[17] Id. at 153-154.

[18] Rollo, p. 10.

[19] *People v. Salidaga*, 542 Phil. 295, 301 (2007).

[20] *People v. Celocelo*, 653 Phil. 251, 261 (2010).

[21] *People v. Albalate, Jr.*, 623 Phil. 437, 447 (2009).

[22] Id.

[23] *People v. Ogarte*, 664 Phil. 642, 661 (2011), citing *People v. Tayaban*, 357 Phil. 494, 508 (1998).

[24] G.R. Nos. 225642-43, January 17, 2018.

[25] TSN, 5 July 2005, pp. 8-11.

[26] TSN, 24 January 2006, p. 13.

[27] *People v. Butiong*, 675 Phil. 621, 630 (2011).

[28] *People v. Relorcasa*, 296-A Phil. 24, 31 (1993).

[29] *People v. Ferrer*, 415 Phil. 188, 199 (2001).

[30] TSN, 25 January 2011, pp. 6-7 and 11.

[31] TSN, 22 November 2012, pp. 13-15.

[32] *Salas v. Sta. Mesa Market Corporation*, 554 Phil. 343, 349 (2007).

[33] TSN, 22 November 2012, pp. 13-15.

[34] *People v. Dominguez, Jr.*, 650 Phil. 492, 519 (2010).

[35] An Act Prohibiting the Imposition of Death Penalty in the Philippines.

[36] G.R. No. 202124, April 5, 2016, 788 SCRA 331.

[37] *Id.* at 382-383.

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