

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ALFREDO OPEÑA Y BACLAGON, ACCUSED-APPELLANT.

G.R. No. 220490. March 21, 2018

Ponente: DEL CASTILLO, J.

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DEL CASTILLO, J.:

This resolves the appeal of Alfredo Opeña y Baclagon (appellant) assailing the February 12, 2015 Decision[1] of the Court of Appeals (CA) in CA-G.R. CR No. 06527 which affirmed with modification the September 30, 2013 Decision[2] of the Regional Trial Court (RTC), Branch 95, Quezon City, finding appellant guilty of the crime of rape.

The Antecedent Facts

Before noon, on May 3, 2007, "AAA"[3] was inside a room at the second floor of their house in Quezon City, when her father (appellant) suddenly entered, approached her and forcibly removed her shorts and underwear. After removing his shorts, appellant parted "AAA's" legs and inserted his penis into "AAA's" vagina. While appellant was doing this act, "AAA" kept resisting and crying. Appellant told "AAA" to keep quiet and not to shout or else he will inflict harm upon her.

The following day, May 4, 2007, "AAA" sent a text message to her aunt, "CCC," asking the latter's help in getting her and her mother, "BBB," out of their house as appellant was preventing them from leaving. "AAA" also told "CCC" that she was being raped by appellant since she was 11 years old and that she wanted appellant arrested. Eventually, appellant was arrested and brought to the police station along with "AAA," "BBB" and "CCC". Thereat, "AAA" gave her sworn statement. Thereafter, "AAA" was subjected to a medical examination at Camp Crame, Quezon City and further interviewed by a Clinical Psychologist. The conclusion of the medical examination done by P/Chief Insp. Maria Annalisa dela Cruz, contained in Medico-Legal Report No. R07-902,[4] showed "[d]eep healed laceration at 3, 6 and 9 o'clock position[s]" and was the result of a "blunt force or penetrating trauma to the hymen."

On May 7, 2007, an Information for rape was filed with the RTC against appellant which contained the following accusations:

The undersigned accuses ALFREDO OPEÑA y BACLAGON of the crime of rape, committed as follows:

That on or about the 3[rd] day of May 2007, in Quezon City, Philippines, the above-named accused, by means of force and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge [of] his daughter ["AAA"] all against her will and without her consent; to the damage and prejudice of the said offended party,

CONTRARY TO LAW.[5]

To exculpate himself from liability, appellant offered nothing but denial. To justify the same, appellant averred that his relationship with his daughter "AAA" was good (maayos). He contended that he was hurt by "AAA's"

accusation because there was no proof or truth behind it.

Ruling of the Regional Trial Court

After trial, the RTC declared appellant guilty beyond reasonable doubt of the charge lodged against him. The RTC found "AAA's" narration of the incident straightforward, conclusive and logical. It rejected appellant's proffered denial. It also found no improper motive for "AAA" to accuse her father of rape. Consequently, appellant was condemned to suffer the penalty of reclusion perpetua and payment of damages, viz.:

WHEREFORE, the Court finds accused Alfredo Opeña y Baclagon GUILTY beyond reasonable doubt of the crime of Rape under paragraph 1 of Article 266-A of the Revised Penal Code against her daughter, complainant ["AAA,"] and he is hereby sentenced to suffer the penalty of Reclusion Perpetua and to pay the complainant the sum of Php75,000.00 as civil indemnity and Php50,000.00 as moral damages, plus Php30,000.00 as exemplary damages.

IT IS SO ORDERED.[6]

Not satisfied with the findings of the RTC, appellant appealed to the CA.

Ruling of the Court of Appeals

Like the RTC, the CA was convinced of the veracity of "AAA's" testimony. Thus:

Here, AAA was unwavering in her account that she was raped by her own father. She positively identified him as her rapist. She even broke down in tears during her recollection of her father's bestial act. The crying of the victim during her testimony is evidence of the credibility of the rape charge which is a matter of judicial cognizance.[7]

On February 12, 2015, the CA affirmed with modification the appealed RTC Decision, to wit

WHEREFORE, in view of the foregoing, the herein impugned September 30, 2013 Decision of the Regional Trial Court, Branch 95, Quezon City, finding accused-appellant GUILTY beyond reasonable doubt of the crime of RAPE is hereby AFFIRMED with MODIFICATION in that accused-appellant is ordered to indemnify his daughter 'AAA,' the amount of P50,000.00 as civil indemnity, another P50,000.00 as moral damages and P25,000.00 as exemplary damages.

The rest of the Decision stands.

SO ORDERED.[8]

Appellant is now before us for final relief.

In our Resolution[9] dated November 25, 2015, we required the parties to submit their respective supplemental briefs if they so desired. From their respective Manifestations, the parties informed the Court that they were no longer filing supplemental briefs; and instead, adopted their briefs submitted before the CA.

Appellant reiterates the lone assigned error:

THE TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY OF THE CRIME CHARGED DESPITE THE FAILURE OF THE PROSECUTION TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.[10]

Our Ruling

The appeal is bereft of merit.

In his quest for acquittal, appellant assails "AAA's" credibility pointing out that her failure to report the alleged incident for nine years rendered her accusation doubtful. He avers that there was no evidence to establish that force or intimidation was employed by him. He contends that "AAA's" failure to shout for help made her actuation unnatural.

The Court finds appellant's submissions untenable.

It has been repeatedly ruled that "delay in reporting an incident of rape is not necessarily an indication that the charge is fabricated, particularly when the delay can be attributed to fear instilled by threats from one who exercises ascendancy over the victim." [11] In *People v. Coloma* [12] cited in *People v. Cañada*, [13] the Court considered an eight-year delay in reporting the long history of rape by the victim's father as understandable and insufficient to render the complaint of a 13-year old daughter incredible. In the present case, the inaction of "AAA" is understandable and may even be expected as she was scared due to the threat on her and her mother if she would divulge the incident done to her.

The question of whether the circumstances of force or intimidation are absent in accomplishing the offense charged gains no valuable significance considering that appellant, being the biological father of "AAA," [14] undoubtedly exerted a strong moral influence over her which may substitute for actual physical violence and intimidation. [15]

Neither appellant's submission of "AAA's" alleged failure to shout for help during the sexual congress will exonerate him. The Court has declared repeatedly that "failure to shout or offer tenacious resistance does not make voluntary the victim's submission to the perpetrator's lust. Besides, physical resistance is not an element of rape." [16] Moreover, "AAA" was threatened and prevented by appellant from making an outcry during the incident.

The fact that "AAA" kept on texting on her cellphone a day after the rape will not undermine her credibility. As held in *People v. Ducay*, [17] "[t]he range of emotions shown by rape victims is yet to be captured even by the calculus. It is thus unrealistic to expect uniform reactions from rape victims." "We have no standard form of behavior for all rape victims in the aftermath of their defilement, for people react differently to emotional stress." [18]

Essentially, the thrust of appellant's arguments boils down to the issue of "AAA's" credibility. Time and again, "when the credibility of the witness is in issue, the trial court's assessment is accorded great weight" [19] and "when his findings have been affirmed by the [CA], these are generally binding and conclusive upon this Court." [20] While there are recognized exemptions to the rule, nothing has been shown to exist in this case to warrant a reversal of the uniform ruling of the trial and appellate courts respecting "AAA's" credibility.

Appellant's defense of denial cannot prevail over "AAA's" positive and categorical testimony and her identification of him as the perpetrator of the crime. "A young girl would not concoct a sordid tale of a crime as serious as rape at the hands of her very own father, allow the examination of her private part, and subject herself to the stigma and embarrassment of a public trial, if her motive was other than a fervent desire to seek justice." [21]

With the overwhelming evidence of the prosecution, appellant's guilt of raping his own daughter, "AAA," under the circumstances provided in paragraph 1(a) of Article 266-A of the Revised Penal Code (RPC), as amended, was sufficiently established beyond reasonable doubt.

The penalty and civil liability.

Under Article 266-B, in relation to Article 266-A of the RPC, carnal knowledge of a woman through force or intimidation shall be punished by reclusion perpetua. Though the courts below appreciated the presence of relationship as an aggravating circumstance which was sufficiently alleged in the information and proved during trial, the same, however, will not alter the penalty provided by law. "[T]he presence of an aggravating circumstance[, relationship in this cast,] cannot serve to raise the penalty to be imposed because simple rape is punishable by the single indivisible penalty of reclusion perpetua [which,] pursuant to the first paragraph of Article 63 of the [RFC], shall be imposed regardless of any modifying circumstance that might have attended the commission of the crime." [22] Thus, the penalty of reclusion perpetua was correctly imposed upon appellant.

Recent jurisprudence [23] constrains us to modify the amount of damages awarded by the CA. The awards of civil indemnity, moral and exemplary damages have to be modified and increased to P75,000.00 each, which amounts shall bear interest at the rate of 6% per annum from the date of finality of this Decision until fully paid.

WHEREFORE, the assailed Decision of the Court of Appeals dated February 12, 2015 in CA-G.R. CR No. 06527, finding appellant Alfredo Opeña y Baclagon GUILTY beyond reasonable doubt of the crime of rape and sentencing him to suffer the penalty of reclusion perpetua is AFFIRMED with MODIFICATION, The awards of civil Indemnity, moral and exemplary are respectively increased to P75,000.00. The amounts of damages shall earn interest at the rate of 6% per annum from the date of finality of this Decision until fully paid.

SO ORDERED.

Sereno, C. J., on leave.

Leonardo-De Castro, [**] and Perlas-Bernabe, [***] JJ., concur.

Leonen, [****] J., on leave.

[**] Acting Chairperson per Special Order No. 2540 dated February 28, 2018.

[***] Designated as additional member per March 5, 2018 raffle vice J. Jardeleza who recused due to prior action as Solicitor General.

[****] Designated as additional member per November 29, 2017 raffle vice J. Tijam who recused due to prior participation in the Court of Appeals.

[1] CA rollo, pp. 123-145; penned by Associate Justice Priscilla J. Baltazar-Padilla and concurred in by Associate Justices Hakim S. Abdulwahid and Socorro B. Inting.

[2] Records, Vol. II, pp. 440-456; penned by Acting Presiding Judge Jose G. Paneda.

[3] "The identity of the victim or any information which could establish or compromise her identity, as well as those of her immediate family or household members, shall be withheld pursuant to Republic Act No. 7610, An Act Providing for Stronger Deterrence And Special Protection Against Child Abuse, Exploitation And Discrimination, Providing Penalties for its Violation, And for Other Purposes; Republic Act No. 9262, An Act Defining Violence Against Women And Their Children, Providing For Protective Measures For Victims, Prescribing Penalties Therefor, And for Other Purposes; and Section 40 of A.M. No. 04-10-11-SC, known as the Rule on Violence against Women and Their Children, effective November 15, 2004." *People v. Dumadag*, 667 Phil. 664, 669 (2011).

[4] Exhibit "H", Folder of Exhibits, p. 10.

[5] Records, Vol. 1, p. 1.

- [6] Records, Vol. II, pp. 455-456.
- [7] CA rollo, p. 135.
- [8] Id. at 144-145.
- [9] Rollo, pp. 30-31.
- [10] CA rollo, p. 27.
- [11] *People v. Cañada*, 617 Phil. 587, 604 (2009).
- [12] 294 Phil. 286 (1993).
- [13] *Supra*.
- [14] Exhibit "A," "AAA's" Certificate of Live Birth, Folder of Exhibits, p. 1.
- [15] See *People v. Galvez*, 765 Phil. 368, 380 (2015).
- [16] *People v. Rubio*, 683 Phil. 714, 726 (2012).
- [17] 747 Phil. 657, 670 (2014).
- [18] See *People v. Lomaque*, 710 Phil. 338, 352 (2013).
- [19] *People v. Mateo*, 588 Phil. 543, 553 (2008).
- [20] *People v. Pareja*, 724 Phil. 759, 773 (2014).
- [21] *People v. Rayon, Sr.*, 702 Phil. 672, 689 (2013).
- [22] *People v. Arceo*, 772 Phil. 613, 627 (2015).
- [23] *People v. Jugueta*, G.R. No. 202124, April 5, 2016, 788 SCRA 331.

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