

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

G.R. No. 239906. August 26, 2020

Ponente: INTING, J.

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INTING, J.:

This is an appeal[1] from the Decision[2] dated November 24, 2017 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 06589 which affirmed the Judgment[3] dated September 2, 2013 and the Order[4] dated October 22, 2013 of Branch 102, Regional Trial Court (RTC), xxxxxxxxxxxx convicting XXX (accused-appellant) of the crime of Rape, defined and penalized under Article 266-A in relation to Article 266-B of the Revised Penal Code (RPC), as amended, and denying accused-appellant's Motion for New Trial.[5]

The Facts

The Information[6] charging accused-appellant with the crime of Rape reads as follows:

That on or about the 12th day of June, 2009, in Quezon City, Philippines, the said accused, with force, threat and/or grave abuse of authority, did then and there willfully, unlawfully and feloniously have carnal knowledge of [AAA], a 14 year-old minor, and his daughter, with lewd design and against her will, to the damage and prejudice of said offended party.

CONTRARY TO LAW.[7]

Upon arraignment, accused-appellant pleaded not guilty to the crime charged.[8] Trial ensued.

Version of the Prosecution

AAA is accused-appellant's daughter.[9] AAA's mother and accused-appellant are already separated. At the time the rape incident took place, AAA was living with accused-appellant together with her stepsister, CCC, and brother, DDD, while AAA's stepmother was working abroad.[10]

AAA testified that accused-appellant had been molesting her since she was eight years old.[11] On June 12, 2009, accused-appellant was on day off from work. AAA and CCC, who was then nine years old, had lunch with accused-appellant, while DDD went out. Accused-appellant instructed AAA and CCC to go to sleep after lunch, both did. Shortly thereafter, accused-appellant entered the room. When CCC was already asleep, accused-appellant ordered AAA to watch pornographic videos. He told AAA to undress and lie down. He then inserted his penis into AAA's vagina. Fearful, AAA only managed to cry because accused-appellant threatened to hurt and send her out of their house.[12]

Later on the same day, AAA told her friend, EEE, what accused-appellant did to her. EEE narrated the incident to her mother. EEE's mother reported the rape incident to the barangay. Thereafter, the barangay officials went to AAA's house and accosted accused-appellant; they likewise summoned AAA to the barangay where she gave her statements.[13]

The Philippine National Police (PNP) and the Department of Social Welfare and Development caused AAA to be

subjected to Genital Examination at the PNP Crime Laboratory.[14] Police Chief Inspector Dean C. Cabrera, MD (PCI Cabrera) conducted the examination on AAA and found that her hymen had "shallow healed lacerations" at 6 and 7 o'clock positions which means that the injury could have been sustained at least three to seven days prior to the examination. Moreover, the injury was caused by a penetration of a blunt and hard object, such as an erect penis, and AAA was possibly a victim of sexual abuse.[15]

Version of the Defense

Accused-appellant denied the charge against him. He described AAA as a hard-headed child.[16] He often scolded AAA for frequently hanging out with her friends late at night and for having boyfriends, one after the other.[17] Prior to the alleged incident, accused-appellant scolded and hit AAA for stealing his ATM card. On June 11, 2009, he talked to the mother of AAA's friend, EEE, and the mother of AAA's boyfriend; he told them to avoid AAA.[18]

On June 12, 2009, accused-appellant brought his children to the mall, but AAA did not want to go with them. On June 13, 2009, he told his children that they would buy school supplies, but AAA again refused to go with them. On June 17, 2009, accused-appellant was resting when the barangay officials came to his house and invited him to go to the barangay. When he refused, the barangay tanods dragged him to the barangay hall and informed him that he would be jailed for raping AAA.[19]

Ruling of the RTC

On September 2, 2013, the RTC ruled that AAA's testimony was straightforward and in a manner typical of young victims of rape. It also held that when the victim's testimony is candid and corroborated by the physician's findings, there is sufficient evidence of the existence of carnal knowledge.[20] The dispositive part of the Judgment of the RTC reads:

WHEREFORE, in view of the foregoing, judgment is hereby rendered finding the accused [XXX], GUILTY beyond reasonable doubt of the crime of Rape penalized under Article 266-A in relation to Article 266-B of the Revised Penal Code.

Accordingly, said accused is hereby sentenced to suffer the penalty of Reclusion Perpetua and to indemnify private complainant [AAA] the amounts of P75,000.00 as civil indemnity, P50,000.00 as moral damages and P25,000.00 as exemplary damages.

SO ORDERED.[21]

On September 17, 2013, accused-appellant through counsel, filed a Motion for New Trial[22] anchored on the Sinumpaang Salaysay[23] purportedly executed by AAA recanting her previous statements made against accused-appellant.

On October 22, 2013, the RTC issued an Order[24] denying the Motion for New Trial.

Aggrieved, accused-appellant elevated the case to the CA arguing that the RTC erred in relying on AAA's testimony which is incredible and far from common human experience; that AAA had a motive to concoct a lie against him because she bore grudges against him; that there was no evidence of sexual abuse; and that the RTC erred in not considering the affidavit of recantation executed by AAA.[25]

Ruling of the CA

On November 24, 2017, the CA affirmed accused-appellant's conviction. It found that all the elements of the crime charged are present as established by the clear and straight forward testimony of AAA and corroborated by the physician's testimony. The CA also held that a recantation of a vital witness is viewed with disfavor because it is exceedingly unreliable. There is also the possibility that intimidation or monetary considerations may have

caused the recantation.[26] The CA affirmed the penalty imposed, but modified the damages awarded. The CA disposed of the case as follows:

WHEREFORE, the appeal is DISMISSED. The decision of the Regional Trial Court of xxxxxxxxxxxx dated September 2, 2013 in Criminal Case No. Q-09-159438 finding accused-appellant [XXX] guilty beyond reasonable doubt of rape under Art. 266-A in relation to Art. 266-B of the Revised Penal Code, as amended, and imposing upon him the penalty of Reclusion Perpetua without eligibility for parole in Criminal Case No. Q-09-159438 is AFFIRMED with MODIFICATION as to the award of damages. Accused-appellant shall pay the victim AAA P100,000.00 as civil indemnity, P100,000.00 as moral damages, and P100,000.00 as exemplary damages, with legal interest on all the damages awarded at the rate of 6% per annum from the date of finality of this decision until fully paid.

SO ORDERED.[27]

Insisting on his innocence, accused-appellant interposed the present appeal.

The People of the Philippines, through the Office of the Solicitor General (OSG), filed a manifestation stating that they are adopting the Appellee's Brief filed before the CA in lieu of a Supplemental Brief.[28] On the other hand, accused-appellant filed his Supplemental Brief[29] in support of the appeal.

The Issues

I

WHETHER ACCUSED-APPELLANT IS GUILTY BEYOND REASONABLE OF THE CRIME OF RAPE.

II

"WHETHER THE COURT OF APPEALS CORRECTLY AFFIRMED THE RTC IN DENYING THE MOTION FOR NEW TRIAL.

Accused-appellant mainly ascribes fault to the CA for upholding the RTC Order that denied his Motion for New Trial. He argues that the CA overlooked that the RTC did not set for hearing his Motion for New Trial. He further avers that the case was decided on the basis of AAA's testimony; thus, AAA's affidavit of recantation confirms his innocence of the crime charged.[30]

The Court's Ruling

The appeal has no merit.

At the onset, every appeal of a criminal conviction opens the entire record to the reviewing court which should itself determine whether or not the findings adverse to the accused should be upheld against him or struck, down in his favor.[31] The burden of the reviewing court is really to see to it that no man is punished unless the proof of his guilt be beyond reasonable doubt.[32]

Accused-appellant is charged with the crime of Rape under Article 266-A in relation to Article 266-B of the RPC, as amended. Article 266-A defines the crime of Rape by sexual intercourse as follows:

ART. 266-A. Rape, When and How Commuted. - 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; 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.

In this jurisdiction, the Court is guided by the well-established principles laid down in the disposition and review of rape cases, to wit: (1) the prosecution has to show the guilt of the accused by proof beyond reasonable doubt or that degree of proof that, to an unprejudiced mind, produces conviction; (2) the evidence for the prosecution must stand or fall on its own merit: and cannot draw strength from the weakness of the evidence of the defense; (3) unless there are special reasons, the findings of trial courts, especially regarding the credibility of witnesses, are entitled to great respect and will not be disturbed on appeal; (4) an accusation for rape can be made with facility; it is difficult to prove but more difficult for the person accused, though innocent, to disprove; and (5) in view of the intrinsic nature of the crime of rape where only two persons are usually involved, the testimony of the complainant must be scrutinized with extreme caution.[33]

Time and again, the Court has held that when the decision hinges on the credibility of witnesses and their respective testimonies, the trial court's observations and conclusions deserve great respect and are often accorded finality.[34] The reason therefor is that the trial judge enjoys the peculiar advantage of observing first-hand the deportment of the witnesses while testifying and is, therefore, in a better position to form accurate impressions and conclusions on the basis thereof.[35] The trial judge can better determine if witnesses are telling the truth, being in the ideal position to weigh conflicting testimonies.[36]

In rape cases particularly, the conviction or acquittal of the accused most often depends almost entirely on the credibility of the complainant's testimony.[37] By the very nature of this crime, it is generally unwitnessed and usually the victim is left to testify for herself.[38] Her testimony is most vital and must be received with the utmost caution. Once found credible, her lone testimony is sufficient to sustain a conviction.[39]

After a careful scrutiny of the respective testimonies of AAA and accused-appellant, the Court finds AAA's testimony to be credible, truthful, and logical as opposed to the testimony of accused-appellant. AAA recounted the circumstances surrounding the rape incident that occurred on June 12, 2009; it is not flawed with inconsistencies or contradictions in its material points and unshaken by the tedious and grating cross-examination. Her declaration revealed the logical circumstances and gave no impression whatsoever that her testimony was a mere fabrication. She was able to candidly testify at the witness stand, viz.:

On direct examination:[40]

Q:

You said that your father started abusing you since you were in Grade I. How old were you then when you were in Grade I?

A: I was eight (8) years old, sir.

Q: And, you said that he continuously done this until June 12, 2009. How often was the abuse committed on you?

A: Very often, sir, almost everyday. For example, he did it today, tomorrow, he would do it again.

Q: He did it today. What did he do to you?

A: "Ginagalaw niya po ako".

Q: When you said "ginagalaw", what do you mean by that?

A: He was inserting his penis to my vagina.

x x x x

Q: So, you said that on June 12, 2009, your father showed to you bold videos in his cellphone, and then, he asked you to undress, after you undressed yourself, what happened?

A: He inserted his penis to my vagina.

Q: Did you tell any body what has been done to you by your father?

A: None sir.

Q: Why?

A: He was threatening me that he would maul me and would send me out of the house if I told the incidents to anybody?

On cross-examination:[41]

Q: Okay, Now. After your father raped you, what happened?

A: He asked me to put my clothes on and told me not to tell anybody.

x x x x

Q: So, when your father started to molest you, your sister was sleeping beside you?

A: Yes, sir.

Q: You said you were crying?

A: I went out of the room, went downstairs and cried inside the comfort room, sir.

Q: While your father was raping you, you were not crying?

A: I was also crying sir.

Q: Okay. Was your sister awakened by what your father was doing to you?

A: No sir.

The foregoing testimony of AAA contains badges of truth and sincerity. It is spontaneous and does not show any sign of fabrication. Even after questions propounded towards her were asked repeatedly during cross-examination, AAA proved to be very consistent in narrating her ordeal. 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.[42] 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]

Furthermore, the testimony of AAA was corroborated by the findings of PCI Cabrera that AAA's hymen had lacerations which could have been sustained at least three to seven days prior to the examination on June 18, 2009. The findings support AAA's testimony that the carnal knowledge happened on June 12, 2009. It is well settled that when a rape victim's testimony on the manner she was defiled is straightforward and candid, and is corroborated by the medical findings of the examining physician as in this case, it is sufficient to support a conviction for rape.[44]

The foregoing discussion shows that the elements of Rape under Article 266-A of the RPC have been duly established. The prosecution, through AAA's testimony, corroborated by the doctor's medical findings, has ably proved that accused-appellant had carnal knowledge of AAA with the use of threat and intimidation and grave abuse of authority considering that accused-appellant is the father of AAA.

Accused-appellant's defenses of denial and alibi cannot overcome the candid and straightforward testimony of AAA. Judicial experience has taught the Court that denial and alibi are the common defenses in rape cases.[45] Denial and alibi are viewed with disfavor considering these are inherently weak defenses, especially in light of AAA's positive and straightforward declarations identifying accused-appellant as the one who committed the bastardly act against her as well as her convincing testimony detailing the circumstances and events leading to the rape incident.[46] Further, the important dictum laid by the Court in *People v. Adriano*[47] and *People v. Las Piñas*,[48] An denial and alibi will not prevail if corroborated not by credible witnesses, but by the accused's relatives and friends. In the present case, the only witness who corroborated accused-appellant's alibi was his daughter CCC.

In an attempt to exculpate himself from criminal liability, accused-appellant filed a Motion for New Trial before the RTC anchored on the affidavit executed by AAA that she is recanting all the allegations she made against her father. Accused-appellant vehemently argues that both the RTC and the CA gravely erred in not considering AAA's affidavit of recantation. According to him, AAA's recantation casts reasonable doubt on his guilt.

The Court disagrees.

It must be emphasized that the affidavit of recantation was submitted with the RTC after the judgment of conviction was promulgated.

It is well settled that the Court frowns upon affidavits of desistance or recantation made after conviction.of the

accused.[49] These affidavits deserve scant consideration.[50] In the case of Santos v. People,[51] the Court held that:

x x x It is settled that an affidavit of desistance made by a witness after conviction of the accused is not reliable, and deserves only scant attention. The affidavits of desistance filed by the private, complainant and her witness were executed twelve (12) days after the promulgation of judgment of conviction, and are clearly mere afterthoughts. Hence, they cannot have the effect of negating a previous credible declaration.[52]

In the instant case, AAA's affidavit of recantation was executed fifteen days after the judgment of conviction. Thus, it can be viewed as a mere afterthought and unreliable. More importantly, a careful perusal thereof reveals that AAA's purported signature is different from that of her signature in her Sinumpaang Salaysay and consent for the medical examination.[53] The signatures on the Sinumpaang Salaysay and consent for the medical examination are similar, but the signature on the purported affidavit of desistance is different. In *People v. Antonio*,[54] the Court found doubtful the authenticity of the affidavit of desistance because the signatures appearing thereon were different from that on the complaint affidavit.

The circumstances obtaining here show that the affidavit of desistance purportedly executed by AAA is doubtful for the reasons cited above. Hence, the RTC and the CA are correct in not considering it.

In sum, accused-appellant's guilt for the crime of Rape has been proven beyond reasonable doubt. In view of the clear and convincing testimony of AAA, the denial and alibi interposed by accused-appellant which are both inherently weak, failed to convince the Court that he did not commit the defilement of AAA. Thus, the Court finds no reversible error on the part of the CA in affirming accused-appellant's conviction.

However, the penalty to be imposed should be reclusion perpetua without eligibility for parole. AAA's age and the accused-appellant's relation with AAA qualified the crime of Rape which warrants the imposition of the death penalty under Article 266-B (I)[55] of the RPC. But considering RA 9346 that prohibits the imposition of the death penalty, the correct penalty to be imposed is reclusion perpetua without eligibility for parole.[56]

Finally, as for accused-appellant's civil liability, the award of P100,000.00 as civil indemnity, P100,000.00 as moral damages, and P100,000.00 as exemplary damages should be awarded to the victim in conformity with prevailing jurisprudence.[57]

WHEREFORE, the appeal is DISMISSED. The Decision dated November 24, 2017 of the Court of Appeals in CA-G.R. CR-HC No. 06589 convicting accused-appellant XXX of the crime of Rape is AFFIRMED With MODIFICATION in that the accused-appellant XXX is hereby sentenced to suffer the penalty of reclusion perpetua without eligibility for parole and is ORDERED to pay AAA P100,000.00 as civil indemnity, P100,000.00 as moral damages, and P100,000.00 as exemplary damages. All monetary awards are subject to 6% per annum interest from finality of this decision until fully paid.

SO ORDERED.

Perlas-Bernabe (Chairperson), Hernando, Delos Santos and Baltazar-Padilla,[**] JJ., concur.

[*]The identity of the victim or any information to establish or compromise her identity, as well as those of her immediate family or household members, shall be withheld pursuant to Republic Act No. (RA) 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;" RA 9262, "An Act Defining Violence Against Women and Their Children, Providing for Protective Measures for Victims, Prescribing Penalties Therefor, and

For Other Purposes," Section 40 of Administrative Matter No. 04-10-11-SC, known as, the "Rule on Violence against Women and Their Children," effective November 15, 2004; *People v. Cabalquinto*, 533 Phil. 703 (2006); and Amended Administrative Circular No. 83-2015 dated September 5, 2017, 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.

[**]On official leave.

[1]See Notice of Appeal dated January 23, 2018, rollo, pp. 14-15.

[2]Id. at 2-13; penned by Associate Justice Myra V. Garcia-Fernandez with Associate Justices Ramon A. Cruz and Maria Elisa Sempio Diy, concurring.

[3]CA rollo, pp. 22-31; penned by Presiding Judge Ma. Lourdes A. Giron.

[4]Records, pp. 209-211.

[5]Id. at 182-186.

[6]Id. at 1-2.

[7]Id. at 1.

[8]Id. at 21.

[9]TSN, August 4, 2010, p. 6.

[10]Id. at 10-12.

[11]Id. at 8.

[12]Id. at 11-15.

[13]Id. at 16-19.

[14]Records, pp. 83-84.

[15]TSN, February 2, 2011, pp. 10-11, 17. See also the Medico-Legal Report No. R09-1173, id.

[16]TSN, September 21, 2011, p. 3.

[17]Id. at 5-8.

[18]Id. at 10-12.

[19]Id. at 13-15.

[20]CA rollo, p. 30

[21]Id. at 30-31.

[22]Records, pp. 182-186.

[23]Id. at 189-190.

[24]Id. at 209-211.

[25]CA rollo, pp. 65-70.

- [26]Rollo, pp. 9-12.
- [27]Id. at 12-13.
- [28]See Manifestation and Motion dated November 26, 2018, id. at 21 -22.
- [29]Id. at 33-50.
- [30]Id. at 44-45.
- [31]People v. Yagao, G.R. No. 216725, February 18, 2019.
- [32]Id.
- [33]People v. Alcazar, 645 Phil. 181, 191-192 (2010), citing People v. San Antonio, Jr. 559 Phil. 188, 201 (2007).
- [34]People v. Condes, 659 Phil. 375, 386 (2011).
- [35]People v. Hermocilla, 554 Phil. 189, 194 (2007), citing People v. Maguikay, 307 Phil. 605, 620 (1994).
- [36]People v. Ampo, G.R. No 229938, February 27, 2019.
- [37]People v. Espenilla, 713 Phil. 153, 166 (2013), citing People v. Bulagao, 674 Phil. 535, 544 (2011).
- [38]People v. Sumingwa, 611 Phil. 650, 663(2009).
- [39]People v. Caratay, 374 Phil. 590, 601 (1999), citing People v. Reñola, 367 Phil. 415, 423-424 (1994).
- [40]TSN, August 4, 2010, pp. 8, 14-15.
- [41]TSN, September 22, 2010. pp. 20, 23-24.
- [42]People v. Amaro, 739 Phil. 170, 178 (2014), citing People v. Piosang, 710 Phil. 519, 526 (2013).
- [43]See People v. Tulagan, G R. No. 227363. March i2, 2019, citing People v. Garcia, 605 Phil. 579, 588-589(2012).
- [44]People v. Bagsic, 822 Phil. 784, 797 (2017), citing People v. Soria, 698 Phil. 676, 689 (2012).
- [45]People v. Condes, 659 Phil. 375. 395 (2011).
- [46]People v. Malana, 646 Phil. 290, 308. Citations omitted.
- [47]764 Phil. 144(2015).
- [48]739 Phil. 502 (2014).
- [49]Firaza v. People, 47 Phil. 572, 584 (2007).
- [50]Id.
- [51]443 Phil. 618 (2003).
- [52]Id. at 625-626. Citation omitted.
- [53]Records, pp. 12, 84, 199.
- [54]596 Phil. 808 (2009).
- [55]ART. 266-B. Penalties. - Rape under paragraph i of the next preceding article shall be punished by reclusion

perpetua.

The death penalty shall also be imposed if the crime of rap;- 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 commonlaw spouse of the parent of the victim; (Emphasis supplied.)

[56]The phrase "without eligibility for parole" is not deleted in view of the guidelines provided for in A.M. No. 15-08-02 SC dated August 4, 2015 which states that, (2) When circumstances are present warranting the imposition of the death penalty, but this penalty is not imposed because of RA 9346, the qualification of "without eligibility for parole" shall be used to qualify reclusion perpetua in order to emphasize that the accused should have been sentenced to suffer death penalty had it not been for RA. 9346.

[57]People vs. Jugueta, 783 Phil. 806, 843 (2016).

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