



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 190349

Present:

- versus -

CARPIO, *Chairperson,*
DEL CASTILLO,
VILLARAMA, JR.,
MENDOZA, *and*
LEONEN, *JJ.*

FRANCASIO DELFIN,
Accused-Appellant.

Promulgated:

DEC 10 2014

HW Cabalag Projecto
-X

X -----

RESOLUTION

DEL CASTILLO, *J.:*

On appeal is the January 27, 2009 Decision¹ of the Court of Appeals (CA) in CA-GR. CR-H.C. No. 00077, which affirmed with modification the Decision² of the Regional Trial Court (RTC) of Naval, Biliran, Branch 16 by (1) finding appellant Francasio Delfin (appellant) guilty beyond reasonable doubt of the crime of simple rape instead of statutory rape in Criminal Case No. N-2130 and sentencing him to suffer the penalty of *reclusion perpetua* and pay the victim "AAA"³ civil indemnity and moral damages at ₱75,000.00 each; and, (2) acquitting him of statutory rape in Criminal Case No. N-2131. *Madu*

* Per Special Order No. 1888 dated November 28, 2014.

¹ CA *rollo*, pp. 116-137; penned by Associate Justice Francisco P. Acosta and concurred in by Associate Justices Amy C. Lazaro-Javier and Rodil V. Zalameda.

² Records, Vol. I, pp. 92-107; penned by Executive Judge Enrique C. Asis.

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, 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 5, 2004." *People v. Dumadag*, G.R. No.176740, June 22, 2011, 652 SCRA 535, 538-539.

Factual Antecedents

Appellant was charged in two separate Informations of statutory rape, the accusatory portions of which read:

Crim. Case No. N-2130

That on or about the 27th day of May, 2001, between 10:00 and 11:00 o'clock in the evening, more or less, in the Municipality of Naval, Biliran Province, Philippines and within the jurisdiction of this Honorable Court, said accused, with lewd designs, [summoned] "AAA," an 11-year old lass on her way to a bakery after [watching] a video show, through hand signal but as she was about to run, accused picked up a stone so she approached him[. He then] held her right hand and pulled her towards the second floor of the new commercial building of Naval, and while thereat, did then and there willfully, unlawfully and feloniously slap her, [take] off her panty as well as his pants and [order] her to lie down on top of cartons, [cover] her mouth and [succeed] in having carnal knowledge of said "AAA," to her damage and prejudice.

CONTRARY TO LAW.⁴

Crim. Case No. N-2131

That on or about the 30th day of June, 2001, in the evening, in the Municipality of Naval, Biliran Province, Philippines, and within the jurisdiction of this Honorable Court, one "AAA," an 11-year old lass, after watching a billiard game in front of the new municipal building of said municipality went to a jeep parked near the back of said building, closed its windows and slept thereat but was awakened when herein accused, who was then carrying a nightstick beamed his flashlight towards her, did then and there willfully, unlawfully and feloniously by means of force and intimidation [go] inside the vehicle and there, [take] off her panty and his short pants and [succeed] in having carnal knowledge [of] the said "AAA," to her damage and prejudice.

CONTRARY TO LAW.⁵

Upon arraignment on December 6, 2001, appellant, assisted by counsel *de parte*, entered a plea of not guilty to both charges. After pre-trial was terminated, trial on the merits followed.

Version of the Prosecution

The first rape incident happened on May 27, 2001. At around 10:00 to 11:00 p.m., "AAA," then an 11-year old girl, was watching television in a store at the public market in Naval, Biliran. When she went outside the public market, appellant summoned her. "AAA" tried to run away, but appellant threatened to

⁴ Records, Vol. I, p. 1.

⁵ Id., Vol. II, p. 1.

shoot her with a slingshot. She thus approached appellant hesitantly. When already near him, appellant suddenly grabbed “AAA’s” hand and dragged her to the second floor of a newly-constructed commercial building facing the public market.

When they were already in a secluded portion, appellant undressed “AAA,” spread her thighs, and inserted his penis into her vagina, causing her pain and horror. Once satiated, appellant gave “AAA” ₱100.00 and told her not to tell anyone about the incident or her family will be harmed.

The second rape incident happened during the evening of June 30, 2001. At about 11:00 p.m., “AAA” was sleeping inside a jeepney parked outside a billiard hall when appellant focused a flashlight on her face. He then went inside the jeepney and removed “AAA’s” panty and again raped her by inserting his penis into her vagina which caused “AAA” pain.

After having difficulty in urinating and experiencing pain and swelling in her abdomen, “AAA” told her aunt, “BBB,” about the rape incidents and pointed to appellant as her rapist. Suspecting that “AAA” was suffering from vaginal infection due to the rape, “BBB” brought “AAA” to the hospital. Accordingly, “AAA” was examined and the results thereof as stated in the medical certificate⁶ issued by Dr. Gabriel P. Edano (Dr. Edano) on July 5, 2001 are as follows:

MEDICAL CERTIFICATE

NAME: “AAA”

AGE: 11 years old

ADDRESS: x x x, Naval, Biliran

Nature of incident: Allegedly raped by unknown person.

Time of incident: Around 10:00-11:00 p.m.

Date of incident: May 27, 2001

Place of incident: Commercial building, near Land Bank Naval Branch.

Findings: (+) lacerated hymen at 6:00 o’clock position.

(+) Corrugated hymen.

Introitus: Nulliparous

= Admits one finger with slight pain.

Vaginal smear result: Negative for the presence of spermatozoa.

Thereafter, “AAA’s” family reported the incident to the Department of Social Welfare and Development. Consequently, complaints were filed against appellant.

⁶ Id. at 6.

Version of the Defense

Five witnesses, including the appellant, testified for the defense.

Maximo Ombing (Ombing), a neighbor and friend of appellant, testified that on May 27, 2001, he was at appellant's house from 7:00 in the evening until 12:00 midnight watching television. He further stated that appellant was with him the whole time and did not leave the house.

Ending Matugas, the owner of the store where "AAA" allegedly watched television the night she was raped, claimed that it was not true that "AAA" stayed at her store to watch movies that night. Aside from the fact that she does not allow children to watch television in her store late at night, said store was closed at that time as she was then on her way to Cebu.

Eduardo Borrinaga, the Chief Tanod of *Barangay P. Inocentes Garcia*, stated that on June 30, 2001, he was at the billiard hall having a drinking spree from 2:00 p.m. until 3:00 a.m. of the following day. However, he neither saw appellant nor any parked vehicle outside the billiard hall.

Appellant, for his part, denied the rape charges against him. With regard to the first rape incident, he claimed that he was at home watching television with Ombing up to 12 midnight. Thereafter, he went to sleep. And as he did not leave the house that night, it was impossible for him to have raped "AAA." As to the second rape incident, appellant averred that he was again at home on the night of June 30, 2001.

Appellant contended that "AAA's" allegations against him were fabricated. He surmised that "AAA's" aunt, "CCC," instigated the filing of the charges since he once reported to a police officer that "CCC" was involved in illegal drug activities after he saw her and her live-in partner Violeto Oral (Violeto) alias "Akid" packing *shabu*. To bolster his claim, appellant presented the testimony of Police Superintendent Victoriano R. Naces (P/Supt. Naces), who declared in open court that appellant indeed reported to him such incident during the first week of May, 2001. Because of appellant's report, a surveillance on "CCC," Violeto and two other persons was conducted where it was confirmed that they were indeed involved in illegal drug activities. However, P/Supt. Naces did not know what happened afterwards since he was relieved from his post in June 2001.

Ruling of the Regional Trial Court

In a Decision⁷ dated November 19, 2003, the RTC gave weight and credence to “AAA’s” testimony. Hence, it declared appellant guilty of two counts of statutory rape, viz:

WHEREFORE, premises considered, this Court finds the accused Francasio Delfin y Suan alias ‘Aying’ GUILTY in both Criminal Case No. N-2130 and Criminal Case No. N-2131; hereby imposing upon him the penalty of Reclusion Perpetua for each case.

The accused shall pay “AAA” the amount of ₱50,000.00 in civil indemnity for each rape committed.

SO ORDERED.⁸

Ruling of the Court of Appeals

On appeal, the CA held that the prosecution was not able to satisfactorily prove that “AAA” was under 12 years of age at the time of the alleged rape since no independent evidence of her age such as her birth certificate was presented. It thus concluded that appellant could not be held liable for statutory rape. However, it noted that in Criminal Case No. N-2130, force, threat and intimidation were properly alleged in the Information as having attended the commission of the crime⁹ and was also duly established by evidence. In view thereof, the CA held appellant liable for simple rape under par. 1(a), Article 266-A of the Revised Penal Code (RPC). However, the existence of force, threat or intimidation was found wanting with respect to Criminal Case No. N-2131, thus, appellant’s acquittal in the said case.

The dispositive portion of the January 27, 2009 Decision¹⁰ of the CA reads:

WHEREFORE, the appealed Decision dated November 19, 2003 of the RTC of Naval, Biliran, is hereby AFFIRMED with MODIFICATION.

In Criminal Case No. N-2130, appellant Francasio Delfin alias ‘Aying’, is found GUILTY beyond reasonable doubt of the crime of RAPE under Article 266-A, 1(a) of the Revised Penal Code, and is hereby sentenced to suffer the

⁷ Records, Vol. I, pp. 92-107.

⁸ Id. at 106-107.

⁹ The CA held that the portion in the Information which states that appellant “called AAA, pulled her towards the upper floor of a new commercial building, slapped her, took off her panty and made her lie down on top of cartons, covered her mouth and proceeded to have sexual intercourse with her” sufficiently established the presence of force, threat or intimidation.

¹⁰ CA rollo, pp. 116-137.

penalty of *reclusion perpetua*. He is also ordered to pay ₱75,000.00 as civil indemnity and ₱75,000.00 as moral damages.

Appellant is ACQUITTED of the charge in Criminal Case No. N-2131 for failure of the prosecution to prove his guilt beyond reasonable doubt.

SO ORDERED.¹¹

Hence, this appeal. As earlier mentioned, appellant was acquitted in Crim. Case No. N-2131. Thus, the only subject of this appeal is his conviction for simple rape in Criminal Case No. N-2130.

When required to file their respective supplemental briefs,¹² both parties manifested that they would just adopt the briefs they filed with the CA.¹³ And since the CA had already conceded to appellant's argument in the Brief for Accused-Appellant¹⁴ that the prosecution failed to prove that "AAA" was 11 years old at the time of the alleged rape, the matters left for this Court to consider, as argued by appellant in the said brief, are (1) the failure of the prosecution to prove that appellant used force, threat or intimidation in the commission of the crime of rape; and, (2) the alleged material inconsistencies in "AAA's" testimony and her ill-motive in filing the charges.

Our Ruling

The appeal has no merit.

The elements of rape under par. 1(a), Article 266-A of the RPC are present in this case.

Under par. 1(a) Article 266-A of the RPC, rape is committed 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;

x x x x

¹¹ Id. at 136-137.

¹² See Court's Resolution dated February 3, 2010, *rollo*, pp. 31-32.

¹³ See Manifestation (In Lieu of Supplemental Brief) filed by the Office of the Solicitor General, *id.* at 39-43, and Explanation and Compliance filed by counsel for appellant, *id.* at 48-50.

¹⁴ CA *rollo*, pp. 60-68.

“Pertinently, the elements of rape under [the above-mentioned provision] are the following: (1) that the offender is a man; (2) that the offender had carnal knowledge of a woman; and, (3) that such act is accomplished by using force or intimidation”¹⁵ These elements are present in this case.

“AAA’s” testimony established that appellant, a man, had carnal knowledge of her, a young lass. She positively identified appellant as the one who raped her. Aside from being clear and straightforward, her recollection of the material details of her harrowing experience at the hands of the appellant is consistent. Moreover, the medical findings of Dr. Edano corroborated “AAA’s” testimony as the same showed that her hymen was lacerated at 6 o’clock position. There is sufficient basis, therefore, to conclude that carnal knowledge in fact took place.

Further, appellant, in committing the crime used force, threat, and intimidation. Per “AAA’s” testimony, she was forced to approach appellant because he threatened to shoot her with his slingshot. When “AAA” was already near the appellant, he suddenly grabbed her and dragged her to the second floor of a commercial building near the market. He then took off her panty, forcefully laid her down on top of folded cartons, spread her thighs apart and inserted his penis into her vagina. After ravishing “AAA,” appellant threatened to kill her and her family should she tell anyone about the incident. Verily, these satisfy the third element, that is, that the carnal knowledge was accomplished by using force, threat or intimidation.

In view of the foregoing, the Court sustains appellant’s conviction for simple rape under par. 1(a), Article 266-A of the RPC.

Minor inconsistencies in the testimony of “AAA” do not detract from the actual fact of rape; Factual findings of the trial court on the credibility of witness are accorded great weight and respect especially if affirmed by the CA, as in this case.

In an attempt to discredit his accuser, appellant points to several supposed inconsistencies in “AAA’s” statements, to wit: (1) “AAA” stated on separate occasions three different amounts of money, *i.e.*, ₱40.00, ₱20.00, or ₱100.00, that the appellant allegedly gave her after the first rape incident; and, (2) she first stated that appellant threatened to hit her with a stone if she would not come near him, yet at another time, she mentioned that the threat was that he would hit her with a

¹⁵ *People v. Alfredo*, G.R. No. 188560, December 15, 2010, 638 SCRA 749, 764.

slingshot. Appellant avers that these inconsistencies render the prosecution's evidence unreliable and insufficient to support a conviction.

The Court is not persuaded.

The CA correctly ruled on this matter when it held:

The alleged inconsistencies on matters relating to the amount that was given to AAA after she was raped and as to whether it was a stone or a slingshot that was used by appellant to force AAA to go near him concern only minor and collateral matters. It has been held that where the inconsistency is not an essential element of the crime, such inconsistency is insignificant and cannot have any bearing on the essential fact testified to.¹⁶

Indeed, the inconsistencies in "AAA's" statements are trivial matters that do not involve the essential elements of the crime. It has been held "that inconsistencies on matters of minor details do not detract from the actual fact of rape."¹⁷

Besides, said inconsistencies cannot affect "AAA's" credibility especially so when the RTC and the CA have already held that her testimony was straightforward, credible, and spontaneous. The rule is well-settled that factual findings of the trial court regarding the credibility of witnesses are accorded great weight and respect especially if affirmed by the CA.¹⁸ The reason behind this is that trial courts have firsthand account of the witnesses' demeanor and deportment in court during trial.¹⁹ "The Court shall not supplant its own interpretation of the testimonies for that of the trial judge since he is in the best position to determine the issue of credibility"²⁰ of witnesses being the one who had face-to-face interaction with the same. "[I]n the absence of misapprehension of facts or grave abuse of discretion of the court *a quo*, and especially when the findings of the judge have been adopted and affirmed by the CA, [as in this case,] the factual findings of the trial court shall not be disturbed."²¹

There is nothing sufficient to show that "AAA" was impelled by improper motive in filing the case.

Appellant imputes improper motive on the part of "AAA" as he surmises that her aunt "CCC" instigated her to falsely testify against him. Appellant claims

¹⁶ CA rollo, p. 135.

¹⁷ *People v. Sagarino, Jr.*, 416 Phil. 845, 856 (2001).

¹⁸ *People v. Dela Cruz*, G.R. No. 183091, June 19, 2013, 699 SCRA 145, 154.

¹⁹ *Id.*

²⁰ *People v. San Gaspar*, G.R. No. 180496, April 2, 2014.

²¹ *Id.*

that the accusations of rape were prompted by “CCC” who had every reason to instigate the filing of the criminal case since he reported to the police that she was engaged in illegal drugs.

Contrary to appellant’s claim, however, “CCC” appears to have no knowledge of the rape incidents. “AAA” testified that prior to the filing of the case, “AAA” and “CCC” did not speak with each other. In her cross-examination, “AAA” was questioned about her aunt “CCC,” to wit:

ATTY. VILLORDON:

Q: Do you have an auntie by the name of [CCC]?

A: Yes, Sir.

Q: Does she know about this rape done to you by Aying?

A: No, Sir.

Q: You did not tell her even [if] she is your [a]untie?

A: I did not tell her.

Q: Have you talk[ed] to [CCC] before you filed these cases?

A: No, Sir.²²

Moreover, appellant’s claim of instigation on the part of “CCC” is not supported by evidence. While P/Supt. Naces was presented as witness and testified that appellant indeed made a report about “CCC’s” alleged involvement in illegal drug activities, there was no showing that prior to the filing of the complaints, “CCC” came to know about such fact for her to harbor a grudge against appellant. Also, it was not even known if “CCC” was incarcerated due to appellant’s report. The claim, therefore, that “CCC” merely instigated “AAA” to claim rape against appellant is not worthy of credence. As things stand, no ill-motive can be imputed upon “AAA”. “It is a settled rule that where there is no evidence, and nothing to indicate that the principal witness for the prosecution was actuated by improper motive, the presumption is that [she] was not so actuated and [her] testimony is entitled to full faith and credit.”²³

Penalties

Article 266-B in relation to Article 266-A (1)(a) of the RPC provides that the penalty for simple rape is *reclusion perpetua*. There being no qualifying circumstances, the CA is correct in imposing the said penalty. “It must be emphasized, however, that [appellant] shall not be eligible for parole pursuant to Section 3 of Republic Act No. 9346 which states that ‘[p]ersons convicted of offenses punished with *reclusion perpetua*, or whose sentences will be reduced to

²² TSN, May 15, 2002, pp 15-16.

²³ *People v. Malunes*, 317 Phil. 378, 389-390 (1995).

reclusion perpetua, by reason of this Act, shall not be eligible for parole under Act No. 4180, otherwise known as the Indeterminate Sentence Law, as amended.”²⁴

With regard to the award of civil indemnity in the amount of ₱75,000.00, the same is proper and in consonance with the prevailing policy of the Court. The award of moral damages in the amount of ₱75,000.00 must however be reduced to ₱50,000.00 in line with prevailing jurisprudence. In addition, exemplary damages in the amount of ₱30,000.00 is awarded to the victim “AAA.”²⁵ Prevailing jurisprudence on simple rape likewise awards exemplary damages in order to set a public example and to protect hapless individuals from sexual molestation.²⁶

Finally, all damages awarded shall earn interest at the rate of 6% *per annum* from date of finality of this judgment until fully paid.²⁷

WHEREFORE, the January 27, 2009 Decision of the Court of Appeals in CA-GR. CR-H.C. No. 00077 finding appellant Francasio Delfin guilty beyond reasonable doubt of the crime of simple rape and sentencing him to suffer the penalty of *reclusion perpetua* is **AFFIRMED with the following modifications**:

- (1) appellant Francasio Delfin shall not be eligible for parole;
- (2) the award of moral damages is decreased from ₱75,000.00 to ₱50,000.00;
- (3) appellant Francasio Delfin is **ORDERED** to pay “AAA” the amount of ₱30,000.00 as exemplary damages; and,
- (4) appellant Francasio Delfin is **ORDERED** to pay “AAA” interest at the legal rate of six percent (6%) *per annum* on all the amounts of damages awarded, commencing from the date of finality of this Resolution until fully paid.

Costs against appellant.

SO ORDERED.


MARIANO C. DEL CASTILLO
Associate Justice

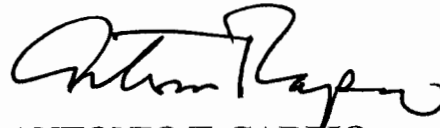
²⁴ *People v. Bacatan*, G.R. No. 203315, September 18, 2013, 706 SCRA 170, 186.

²⁵ *People v. Bayrante*, G.R. No. 188978, June 13, 2012, 672 SCRA 446, 466.

²⁶ *Id.*

²⁷ *People v. Linsie*, G.R. No. 199494, November 27, 2013.

WE CONCUR:



ANTONIO T. CARPIO

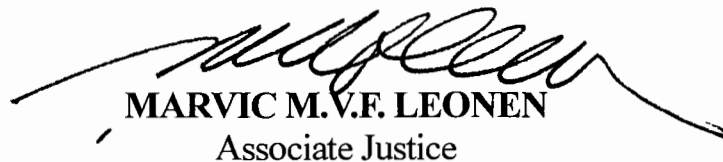
Associate Justice
Chairperson



MARTIN S. VILLARAMA, JR.
Associate Justice



JOSE CATRAL MENDOZA
Associate Justice



MARVIC M.V.F. LEONEN
Associate Justice

ATTESTATION

I attest that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



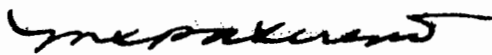
ANTONIO T. CARPIO

Associate Justice
Chairperson



CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson’s Attestation, I certify that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court’s Division.



MARIA LOURDES P. A. SERENO
Chief Justice

