Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 191362

Present:

CARPIO, *Chairperson,*
BRION,
DEL CASTILLO,
PEREZ, *and*
PERLAS-BERNABE, *JJ.*

- versus -

MARCIANO CIAL *y* LORENA,
Accused-Appellant.

Promulgated:
OCT 09 2013

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DECISION

DEL CASTILLO, *J.*:

Assailed before this Court is the November 24, 2009 Decision[1] of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 03162 which affirmed with modifications the November 26, 2007 Decision[2] of the Regional Trial Court (RTC) of Gumaca, Quezon, Branch 62 finding appellant Marciano Cial *y* Lorena guilty beyond reasonable doubt of the crime of qualified rape.

On February 5, 2004, appellant was charged with the crime of rape. The Information[3] reads as follows:

> That on or about the month of December, 2002, at Barangay Balubad, Municipality of Atimonan, Province of Quezon, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design, by means of force and intimidation, did then and there wilfully,

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[1] CA *rollo*, pp. 104-111; penned by Associate Justice Mario V. Lopez and concurred in by Associate Justices Rebecca De Guia-Salvador and Apolinario D. Bruselas, Jr.

[2] Records, pp. 193-199; penned by Judge Hector B. Almeyda.

[3] Id. at 2.

> unlawfully and feloniously have carnal knowledge of "AAA",[4] a minor, 13 years old, against her will.
>
> That the commission of the rape was attended by the qualifying circumstances of minority, the victim being less than 18 years old, and relationship, the accused being the common-law husband of complainant's mother.
>
> Contrary to law.

During his arraignment on June 29, 2004, appellant pleaded not guilty.[5] After pre-trial, trial on the merits ensued.

Version of the Prosecution

The version of the prosecution as summarized in the Appellee's Brief[6] is as follows:

> "AAA" is one of the six (6) children born to "BBB" and "CCC." After "CCC" died, "BBB" cohabited with appellant Marciano Cial (also known as "Onot"). Appellant and "BBB" have two (2) children.
>
> In 2002, "AAA", then thirteen (13) years old, was a Grade I pupil and was residing with her family and appellant in x x x Quezon Province. "AAA" calls appellant "Papa."
>
> Sometime in December 2002, appellant called "AAA" and told her to go to the bedroom inside their house. Once inside, appellant took off "AAA's" shorts and panty and spread her legs. Appellant pulled his pants down to his thighs and inserted his penis into the little girl's vagina. "AAA" felt intense pain but she did not try to struggle because appellant had a bolo on his waist. After satiating his lust, appellant threatened to kill "AAA" and her family if she reported the incident to anyone. At that time, "AAA's" maternal grandmother was in the house but was unaware that "AAA" was being ravished.
>
> x x x x
>
> Unable to endure the torment, "AAA" confided her ordeal to her mother. But "AAA's" mother did not believe her. "AAA" ran away from home and went to her maternal uncle's house. There, she disclosed her harrowing experience to her mother's siblings. Her uncle appeared to be angered by appellant's wrong doing. But nonetheless, her uncle allowed appellant to bring her home when appellant fetched her.

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4 "The real names of the victim and of the members of her immediate family are withheld pursuant to Republic Act No. 7610 (Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act) and Republic Act No. 9262 (Anti-Violence Against Women and Their Children Act of 2004)." *People v. Teodoro*, G.R. No. 175876, February 20, 2013.

5 Records, p. 11.

6 CA *rollo*, pp. 68-96.

> For fear that she might be raped again, "AAA" ran away and went to the house of her aunt. Her aunt helped her file the complaint against her stepfather.
>
> On March 19, 2003, "AAA" was brought to Doña Marta Memorial District Hospital in Atimonan, Quezon where she was physically examined by Dr. Arnulfo Imperial. Dr. Imperial issued a Medico-Legal Report which essentially states that:
>
> > 1) she was negative to pubic hair; there was a negative physical injury at the pubic area, with normal external genitalia;
> >
> > 2) the hymen has an old laceration on the 12 o'clock and 5 o'clock positions, introitus admits one examining finger with ease; and
> >
> > 3) spermatozoa determination result was negative for examination of spermatozoa.
>
> According to Dr. Imperial, the negative result for pubic hair as indicated in his report means that the victim has not yet fully developed her secondary characteristics which usually manifests during puberty. Dr. Imperial explained that the easy insertion of one finger into her vagina means that the child was no longer a virgin and that it would be difficult to insert even the tip of the little finger into the private part of a virgin as she would have suffered pain. On the absence of spermatozoa on the victim's genitals, Dr. Imperial explained that a sperm has a life span of three (3) days. The lapse of almost four months from the time of the rape would naturally yield negative results for spermatozoa.
>
> On April 7, 2003, "AAA" and her aunt sought the assistance of the Crisis Center for Women at Gumaca, Quezon. "AAA" was admitted to the said center and still continued to reside therein at the time of her testimony.[7]

Version of the Defense

As to be expected, appellant denied the charge. He alleged that he treated "AAA" as his own daughter. He also claimed that "AAA's" aunt fabricated the charge because appellant called her a thief.

Ruling of the Regional Trial Court

The trial court lent credence to the testimony of "AAA" especially considering that the same is corroborated by the medical findings. On the other hand, the RTC found appellant's defense not only "laughable" and "sickening" but also completely untrue.[8]

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7 Id. at 75-78.

8 Records, p. 195.

The court *a quo* also found the qualifying circumstances of minority and relationship to be present. Thus, on November 26, 2007, the RTC rendered its Decision finding appellant guilty of qualified rape. Considering, however, the proscription on the imposition of the death penalty, the trial court instead sentenced appellant to *reclusion perpetua.*

The dispositive portion of the RTC Decision reads:

> WHEREFORE, accused Marciano Cial is found guilty beyond reasonable doubt of the crime of rape and he is sentenced to suffer the penalty of reclusion perpetua, and the complainant "AAA" is awarded moral and exemplary damages in the amount of Fifty Thousand (₱50,000.00) Pesos.
>
> Costs against the accused.
>
> SO ORDERED.[9]

Ruling of the Court of Appeals

Appellant appealed to the CA but the appellate court found the appeal to be without merit and dismissed the same. The appellate court thus affirmed the RTC finding appellant guilty of qualified rape but with modifications as to the damages, *viz*:

> FOR THESE REASONS, the decision dated November 26, 2007 of the RTC is AFFIRMED with the following MODIFICATIONS:
>
> 1. MARCIANO CIAL y LORENA is sentenced to reclusion perpetua conformably with R.A. No. 9346, without eligibility for parole; and
>
> 2. He is ordered to indemnify AAA (a) ₱75,000.00 as civil indemnity; (b) ₱75,000.00 as moral damages; and (c) ₱30,000.00 as exemplary damages.
>
> SO ORDERED.[10]

The CA found that the elements of rape have been duly established. "AAA's" testimony proved that appellant had carnal knowledge of her against her will and without her consent. The examining doctor corroborated "AAA's" narration by testifying that the hymenal lacerations could have been possibly caused by an erect penis. The CA disregarded appellant's contention that he could not have raped "AAA" in the presence of "AAA's" grandmother as "lust is no respecter of time and place."[11] Moreover, the appellate court found that the prosecution satisfactorily established "AAA's" minority as well as the qualifying

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9 Id. at 199.
10 CA *rollo*, p. 110.
11 Id. at 109.

circumstance of relationship, appellant being the common-law husband of "AAA's" mother.

Hence, this appeal raising the following arguments, *viz*:

> I
> THE TRIAL COURT GRAVELY ERRED IN NOT CONSIDERING THE CIRCUMSTANCES CLEARLY POINTING TO THE INNOCENCE OF THE ACCUSED-APPELLANT.
>
> II
> THE TRIAL COURT ERRED IN FINDING ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT OF RAPE.[12]

Appellant argues that if he indeed raped "AAA" in the manner that she narrated, it would be improbable for "AAA's" maternal grandmother not to have noticed the same. Appellant also claims that it was illogical for "AAA's" uncle to allow "AAA" to return home after learning about the alleged rape incident. Appellant also insists that the examining physician was unsure as to what actually caused "AAA's" hymenal lacerations.

Our Ruling

The appeal lacks merit.

In this appeal, appellant assails the factual findings of the trial court and the credibility it lent to the testimony of the victim. As a general rule, however, this Court accords great respect to the factual findings of the RTC, especially when affirmed by the CA. We find no cogent reason to depart from this rule.

> Time and again, we have held that when it comes to the issue of credibility of the victim or the prosecution witnesses, the findings of the trial courts carry great weight and respect and, generally, the appellate courts will not overturn the said findings unless the trial court overlooked, misunderstood or misapplied some facts or circumstances of weight and substance which will alter the assailed decision or affect the result of the case. This is so because trial courts are in the best position to ascertain and measure the sincerity and spontaneity of witnesses through their actual observation of the witnesses' manner of testifying, her 'furtive glance, blush of unconscious shame, hesitation, flippant or sneering tone, calmness, sigh, or the scant or full realization of an oath' – all of which are useful aids for an accurate determination of a witness' honesty and sincerity. Trial judges, therefore, can better determine if such witnesses are telling the truth, being in the ideal position to weigh conflicting testimonies. Again, unless certain facts of substance and value were overlooked which, if considered, might affect

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[12] Id. at 47.

> the result of the case, its assessment must be respected, for it had the opportunity to observe the conduct and demeanor of the witnesses while testifying and detect if they were lying. The rule finds an even more stringent application where the said findings are sustained by the Court of Appeals. (Citations omitted.)[13]

Besides, it would not be amiss to point out that "AAA" was only 13 years of age when she testified in court.[14]

> Testimonies of child-victims are normally given full weight and credit, since when a girl, particularly if she is a minor, says that she has been raped, she says in effect all that is necessary to show that rape has in fact been committed. 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. Considering her tender age, AAA could not have invented a horrible story. x x x[15]

We are not persuaded by appellant's argument that if he indeed raped "AAA" inside their house, then "AAA's" maternal grandmother would have noticed the same. It is settled jurisprudence that rape can be committed even in places where people congregate. As held by the CA, "lust is no respecter of time and place."[16] Thus, the presence of "AAA's" grandmother would not negate the commission of the rape; neither would it prove appellant's innocence.

There is also no merit to appellant's contention that it was irrational for "AAA's" uncle to allow her to return home even after learning about the rape incident. The considerations or reasons which impelled "AAA's" uncle to allow her to return home are immaterial to the rape charge. Such have no bearing on appellant's guilt.

Likewise undeserving of our consideration is appellant's imputation that the examining physician was unsure as to what caused "AAA's" hymenal lacerations. It must be stressed that the examining physician was presented to testify only on the fact that he examined the victim and on the results of such examination. He is thus expected to testify on the nature, extent and location of the wounds. Dr. Arnulfo Imperial (Dr. Imperial) found, among others, that "AAA" suffered hymenal lacerations. This refers to the location and nature of the wounds suffered by the victim. Dr. Imperial could not be expected to establish the cause of such lacerations with particularity because he has no personal knowledge of how these hymenal lacerations were inflicted on "AAA." He could only surmise that the lacerations could have been caused "by activities like cycling, horseback

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13 *People v. Amistoso*, G.R. No. 201447, January 9, 2013, 688 SCRA 376, 387-388.
14 TSN, March 28, 2006, p. 2.
15 *People v. Piosang*, G.R. No. 200329, June 5, 2013.
16 CA *rollo*, p. 109.

riding x x x or the insertion of [a] hard object [into] the vagina of the victim x x x [such as] the penis."[17] In any case, a medical examination is not even indispensable in prosecuting a rape charge. In fact, an accused's conviction for rape may be anchored solely on the testimony of the victim. At best, the medical examination would only serve as corroborative evidence.

We find however that both the trial court and the CA erred in convicting appellant of the crime of qualified rape. According to both courts, the twin qualifying circumstances of minority and relationship attended the commission of the crime. We rule otherwise.

In its Formal Offer of Evidence,[18] the prosecution mentioned "AAA's" Certificate of Live Birth. Also attached to the Folder of Exhibits marked as Exhibit "B" is "AAA's" Certificate of Live Birth showing that "AAA" was born on October 31, 1991. However, upon closer scrutiny, we note that the said Certificate of Live Birth was never presented or offered during the trial of the case. During the March 28, 2006 hearing, the prosecution manifested before the RTC that it will be presenting "AAA's" Certificate of Live Birth at the next setting. In its Order[19] dated June 27, 2006, the trial court reset the hearing of the case to allow the prosecution to present evidence with respect to "AAA's" Certificate of Live Birth. However, up until the prosecution rested its case, nobody was presented to testify on "AAA's" Certificate of Live Birth. Records show that the prosecution presented only "AAA" and Dr. Imperial as its witnesses. Dr. Imperial never testified on "AAA's" age. On the other hand, "AAA" even testified on the witness stand that she does not know her age, *viz*:

> Q. Do you remember how old were you during that time?
> A. I do not know, ma'am.
>
> Q. Do you know your birthday?
> A. I do not know, ma'am.[20]

Clearly, the prosecution failed to prove the minority of "AAA".

The same is true with respect to the other qualifying circumstance of relationship. The prosecution likewise miserably failed to establish "AAA's" relationship with the appellant. Although the Information alleged that appellant is the *common-law* husband of "AAA's" mother, "AAA'" referred to appellant as her *step-father*.

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17 TSN, November 9, 2004, p. 6.
18 Records, p. 128.
19 Id. at 122.
20 TSN, March 28, 2006, p. 12.

Q. And who is Onot?
A. He is my step father, ma'am.

Q. What do you mean step father, what is his relation to your mother?
A. He is the husband of my mother, ma'am.

x x x x

Q. When did this Onot become the husband of your mother?
A. I could no longer remember, ma'am.

Q. Were you still small or big when he [became] the husband of your mother?
A. I was still small when he [became] the husband of my mother, ma'am.

Q. And how do you call this Onot?
A. Papa, ma'am.

Q. Is this Onot whom you called Papa inside this room now?
A. Yes, ma'am. (Witness pointed [to] the bald man who when asked his name responded that he is Mar[c]iano Cial).

Q. Do you know that person?
A. Yes, ma'am.

Q. Why do you know him?
A. Because he is the husband of my mother, ma'am.[21]

Meanwhile, appellant claimed that he is married to "AAA's" mother:

Q. You [identified] yourself Mr. Witness as married. You are married to the mother of "AAA"?
A. Yes, Your Honor.

x x x x

Q. So, you mean to say that you are the step father of "AAA"?
A. Yes, sir.[22]

Even the RTC interchangeably referred to appellant as the common-law husband of "AAA's" mother[23] as well as the step-father of "AAA".[24] Moreover, the RTC failed to cite any basis for its reference to appellant as such. In fact, the RTC Decision is bereft of any discussion as to how it reached its conclusion that appellant is the common-law husband of "AAA's" mother or that "AAA" is his step-daughter.

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21 Id. at 3-4.
22 TSN, February 27, 2007, p. 5.
23 Records, p. 193.
24 Id. at 199.

The CA committed the same error. Notwithstanding appellant's claim that he is married to "AAA's" mother, it went on to declare, without any explanation or justification, that appellant is the common-law husband of "AAA's" mother, *viz*:

> x x x Also, given that Marciano and AAA's mother were not legally married, the qualifying circumstance that the accused is the common-law husband of the victim's mother may be properly appreciated.[25]

The terms "common-law husband" and "step-father" have different legal connotations. For appellant to be a step-father to "AAA," he must be legally married to "AAA's" mother.[26]

Suffice it to state that qualifying circumstances must be proved beyond reasonable doubt just like the crime itself. In this case, the prosecution utterly failed to prove beyond reasonable doubt the qualifying circumstances of minority and relationship. As such, appellant should only be convicted of the crime of simple rape, the penalty for which is *reclusion perpetua*.[27]

As regards damages, "AAA" is entitled to civil indemnity in the amount of ₱50,000.00, moral damages in the amount of ₱50,000.00 and exemplary damages in the amount of ₱30,000.00. In addition, interest at the rate of 6% *per annum* is imposed on all damages awarded from date of finality of this judgment until fully paid.

WHEREFORE, the appeal is **DISMISSED**. The November 24, 2009 Decision of the Court of Appeals in CA-G.R. CR-H.C. No. 03162 is **MODIFIED**. Appellant Marciano Cial *y* Lorena is hereby found guilty of rape and is sentenced to suffer the penalty of *reclusion perpetua*. Appellant is ordered to pay "AAA" the amounts of ₱50,000.00 as civil indemnity, ₱50,000.00 as moral damages, and ₱30,000.00 as exemplary damages. All damages awarded shall earn interest at the rate of 6% *per annum* from date of finality of this judgment until fully paid.

SO ORDERED.

MARIANO C. DEL CASTILLO
Associate Justice

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[25] CA *rollo*, p. 107.
[26] *People v. Salazar*, G.R. No. 181900, October 20, 2010, 634 SCRA, 307, 324.
[27] REVISED PENAL CODE, Art. 266-B.

WE CONCUR:

ANTONIO T. CARPIO
Associate Justice
Chairperson

ARTURO D. BRION
Associate Justice

JOSE PORTUGAL PEREZ
Associate Justice

ESTELA M. PERLAS-BERNABE
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision 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 Decision 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