



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
 Plaintiff - Appellee,

G.R. No. 199210

Present:

SERENO, *CJ.*,
 Chairperson,
 LEONARDO-DE CASTRO,
 BERSAMIN,
 VILLARAMA, JR., and
 REYES, *JJ.*

- versus -

Promulgated:

RICARDO M. VIDAÑA,
 Accused-Appellant.

OCT 23 2013

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DECISION

LEONARDO-DE CASTRO, J.:

This is an appeal from a Decision¹ dated March 18, 2011 of the Court of Appeals in CA-G.R. CR.-H.C. No. 04019, entitled *People of the Philippines v. Ricardo M. Vidaña*, which affirmed the Decision² dated June 26, 2009 of the Regional Trial Court (RTC) of Guimba, Nueva Ecija, Branch 33 in Criminal Case No. 2163-G. The trial court convicted appellant Ricardo M. Vidaña of one (1) count of rape in relation to Republic Act No. 7610, otherwise known as the “Special Protection of Children Against Abuse, Exploitation and Discrimination Act.”

The accusatory portion of the Information³ dated February 6, 2004 for rape in relation to Republic Act No. 7610 reads as follows:

That on or about the 16th day of September 2003, at x x x, Province of Nueva Ecija, Republic of the Philippines and within the jurisdiction of this Honorable Court, the above-named accused with lewd designs and

¹ *Rollo*, pp. 2-9; penned by Associate Justice Samuel H. Gaerlan with Associate Justices Hakim S. Abdulwahid and Ricardo R. Rosario, concurring.

² *CA rollo*, pp. 49-53.

³ Records, p. 1.

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intent to have carnal knowledge of [AAA⁴], his own daughter, a minor, 15 years old, and while using his influence as a father, over said minor, did then and there wilfully, unlawfully and feloniously have carnal knowledge of and sexual intercourse with said minor against her will and consent, to her damage and prejudice.

After more than a year of being at large since the issuance on September 1, 2004 of the warrant for his arrest,⁵ appellant was finally arrested and subsequently arraigned on January 30, 2006 wherein he pleaded “NOT GUILTY” to the charge of rape.⁶

The prosecution’s version of the events that transpired in this case was narrated in the Plaintiff-Appellee’s Brief in this manner:

[Appellant] and wife [BBB] were separated in 1998. They have four (4) children namely: [AAA], [CCC], [DDD] and [EEE]. In 1999, [appellant] began living in with a certain Irene Valoria, his common-law wife, who became the aforementioned children’s stepmother. They were staying in a one-bedroom house owned by a certain Edgar Magsakay at Sta. Maria, Licab, Nueva Ecija. At night, [appellant] and his common-law wife sleep in the *sala* while the children occupy the bedroom. [AAA] is the eldest of the brood and was 15 years old in the year 2003, having been born on 13 June 1988.

Around midnight of 16 September 2003, [appellant] was alone at the *sala* and the children were asleep inside the bedroom. [AAA] suddenly was jolted from her sleep when somebody pulled her out of the bed and brought her to the *sala*. She later recognized the person as her father, herein [appellant], who covered her mouth and told her not to make any noise. At the *sala*, [appellant] forcibly removed [AAA]’s short pants, t-shirt, bra and panty. As she lay naked, [appellant] inserted his penis into [AAA]’s vagina. [AAA]’s ordeal lasted for about five (5) minutes and all the while she felt an immense pain. [Appellant] tried to touch [AAA]’s other private parts but she resisted. During the consummation of [appellant]’s lust upon his daughter, he warned her not to tell anybody or else he will kill her and her siblings.

The next day, [AAA] went to the house of Francisco and Zenny Joaquin. Spouses Joaquin are friends of [appellant], whose house is about 500 meters away. Zenny Joaquin noticed something was bothering [AAA] so she confronted the latter. [AAA] broke down and revealed to Zenny what happened to her at the hands of [appellant]. Taken aback by the trauma suffered by the young lass, Zenny promptly accompanied [AAA] to the police to report the incident.

⁴ The Court withholds the real name of the victim-survivor and uses fictitious initials instead to represent her. Likewise, the personal circumstances of the victims-survivors or any other information tending to establish or compromise their identities, as well as those of their immediate families or household members, are not to be disclosed. (*See People v. Cabalquinto*, 533 Phil. 703 [2006].)

⁵ Records, p. 19.

⁶ Id. at 31.

The examination of the medico-legal officer on [AAA] revealed “*positive healed laceration at 7 o’clock position positive hymenal tag.*”⁷ (Citations omitted.)

On the other hand, the defense presented a contrasting narrative which was condensed in the Accused-Appellant’s Brief, to wit:

[Appellant] together with his family were living in the house of Edgar Magsakay in Sta. Maria, Licab, Nueva Ecija. He has four children but only three, namely: [EEE], [CCC] and [DDD] were staying with him. His daughter [AAA] was staying with his *kumpare* Francisco Joaquin at Purok 2, Sta. Maria, Licab, Nueva Ecija, since August 15, 2003. He did not have the opportunity to visit her nor was there an occasion that the latter visited them. On September 16, 2003 at 4:00 to 5:00 in the morning, he was at the fields harvesting together with Irene Valoria (his wife and stepmother of his children). They finished at around 5:00 to 6:00 in the evening, then they proceeded home (TSN November 14, 2008, pp. 2-4).

[EEE] corroborated in material points the testimony of his father [appellant]. (TSN, February 13, 2009, pp. 2-5)⁸

Trial on the merits ensued and at the conclusion of which the trial court rendered judgment against appellant by finding him guilty beyond reasonable doubt of violation of Section 5 in relation to Section 31 of Republic Act No. 7610. The dispositive portion of the assailed June 26, 2009 RTC Decision is reproduced here:

WHEREFORE, finding the accused guilty beyond reasonable doubt of the crime charged, this court sentences him to *reclusion perpetua* and to pay [AAA] ₱50,000 in moral damages.⁹

Insisting on his innocence, appellant appealed the guilty verdict to the Court of Appeals but was foiled when the appellate court affirmed the lower court ruling in the now assailed March 18, 2011 Decision, the dispositive portion of which states:

WHEREFORE, premises considered, the Decision dated 26 June 2009 of the Regional Trial Court, Guimba, Nueva Ecija, Branch 33, in Criminal Case No. 2163-G, finding the accused-appellant **RICARDO M. VIDAÑA GUILTY beyond reasonable doubt** is hereby **AFFIRMED in toto.**¹⁰

Hence, appellant takes the present appeal and puts forward a single assignment of error:

⁷ CA *rollo*, pp. 114-116.

⁸ Id. at 75.

⁹ Id. at 53.

¹⁰ *Rollo*, pp. 8-9.

THE COURT A QUO GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT OF VIOLATION OF SECTION 5 IN RELATION TO SECTION 31 OF REPUBLIC ACT NO. 7610.¹¹

Appellant vehemently denies his eldest child's (AAA's) allegation of rape by asseverating that he could not have raped AAA because, on the date when the alleged rape took place, she was living in Francisco and Zenny Joaquin's house and not in his residence where the alleged rape was consummated. This assertion was corroborated on material points by appellant's son, EEE. Furthermore, appellant insists that the credibility of AAA is suspect since her narration of the alleged rape incident does not indicate that she resisted appellant's carnal desires.

We find no merit in appellant's contention.

Not unlike most rape cases, appellant hinges his hopes for freedom on undermining the credibility of AAA's testimony. Since AAA is the only witness that can connect appellant to the crime, appellant beseeches this Court to take a closer look at AAA's testimony and, at the end of which, render a judgment of acquittal.

It is jurisprudentially settled that in a prosecution for rape, the accused may be convicted solely on the basis of the testimony of the victim that is credible, convincing and consistent with human nature and the normal course of things.¹² Furthermore, it is likewise settled that the factual findings of the trial court, especially when affirmed by the Court of Appeals, are entitled to great weight and respect, if not conclusiveness, since the trial court was in the best position as the original trier of the facts in whose direct presence and under whose keen observation the witnesses rendered their respective versions of the events that made up the occurrences constituting the ingredients of the offense charged.¹³

A careful review of the evidence and testimony brought to light in this case does not lead to a conclusion that the trial court and the Court of Appeals were mistaken in their assessment of the credibility of AAA's testimony. Absent any demonstration by appellant that both tribunals overlooked a material fact that otherwise would change the outcome of the case or misunderstood a circumstance of consequence in their evaluation of the credibility of the witnesses, we are thus inclined to affirm the facts as established by the trial court and affirmed by the Court of Appeals.

We are of the opinion that the testimony of AAA regarding her ordeal was delivered in a straightforward and convincing manner that is worthy of belief. The pertinent portions of her testimony are reproduced below:

¹¹ CA rollo, p. 73.

¹² *People v. Bustamante*, G.R. No. 189836, June 5, 2013.

¹³ *People v. Deligero*, G.R. No. 189280, April 17, 2013.

[PROS.] FLORENDO

Q We are referring to this particular case. During the last setting, you stated that you were raped on September 16, 2003. Is that right Miss Witness?

A Yes Sir.

Q And where were you at that time on September 16, 2003 when your father raped you?

A In our house at x x x, Nueva Ecija, Sir.

Q And what were you doing before your father raped you on September 16, 2003?

A We were sleeping with my siblings, Sir.

Q And where was your father at that time?

A He was also there in our house, Sir.

Q He was sleeping with you?

A No Sir. They were sleeping in the sala.

Q You said "they". You mean your father has companions?

A When my stepmother is present, she was sleeping with my father, Sir, but when she was not there, my father sleeps alone in the sala, Sir.

Q So, about what time of the day on September 16, 2003 that you said you were raped by your father?

A I cannot remember exactly the time, Sir. As far as I can recall, it was almost midnight, Sir.

Q And you said you were sleeping?

A Yes Sir.

Q How were you awakened?

A He pulled me out of the place where we were sleeping, Sir.

Q You were sleeping on a bed?

A Yes Sir.

Q You said you were pulled. Who pulled you from your bed?

A My father, Sir.

[PROS.] FLORENDO

At this point, Your Honor, may we just have it on record that the witness is crying again.

[PROS.] FLORENDO

Q He pulled you to what place?

A He pulled me to the sala where he was sleeping, Sir.

Q I thought your father had a companion in the sala at that time?

A When my stepmother was not there, he was alone in the sala, Sir.

Q When you[r] father pulled you, you did not shout, you did not scream?

A I was not able to shout or scream because he covered my mouth and told me not to make noise, Sir.

Q Was that your first time that your father raped you on September 16, 2003?

A No Sir.

Q So, he pulled you out of the bed, out of the bedroom and took you to the sala?

A Yes Sir.

Q What did he do to you while you were already in the sala?

A He forcibly removed the shorts I was wearing then, Sir.

Q You were only wearing shorts at that time?

A Yes Sir. Shorts and also a dress.

Q What dress was that?

A T-shirt, Sir.

Q Aside from the shorts and t-shirt, you were not wearing anything?

A I was wearing shorts, t-shirt, panty and bra, Sir.

Q Did your father succeed in removing your shorts?

A Yes Sir.

Q What else did he do after removing your shorts?

A He also removed my panty and inserted his penis into my vagina with a warning that I should not tell it to anybody because he will kill us all, Sir.

Q What do you mean by "penis"?

A "Titi", Sir. (Male sexual organ)

Q His sexual organ was erected or not at that time?

A Erected, Sir.

Q And he inserted it to what part of your body?

A Inside my vagina, Sir.

Q And what did you feel when he inserted his penis inside your vagina?

A It was painful, Sir.

Q And how long was his penis inserted inside your vagina?

A About five (5) minutes, Sir.

Q Aside from that, he did nothing to you? He only inserted his penis?

A Yes Sir.

Q He did not kiss you?

A No Sir.

Q He did not touch your other private parts?

A He was trying to touch my other private parts but I resisted, Sir.

Q And after doing that, what did he do next if there was any?

A Nothing more, Sir.¹⁴

The quoted transcript would show that when AAA testified and, thus, was constrained to recount the torment she suffered at the hands of her own father, she broke down in tears in more than one instance. This can only serve to strengthen her testimony as we have indicated in past jurisprudence that the crying of a victim during her testimony is evidence of the truth of the rape charges, for the display of such emotion indicates the pain that the victim feels when asked to recount her traumatic experience.¹⁵ It is also worth noting that appellant's counsel did not even bother to cross-examine AAA after her direct examination by the prosecutor.

We have previously held that it is against human nature for a young girl to fabricate a story that would expose herself as well as her family to a lifetime of shame, especially when her charge could mean the death or lifetime imprisonment of her father.¹⁶ That legal dictum finds application in the case at bar since appellant did not allege nor prove any sufficient improper motive on the part of AAA to falsely accuse him of such a serious charge of raping his own flesh and blood. His allegation that AAA's admission in open court, that she is not close to him and that they do not agree on many things,¹⁷ cannot suffice as a compelling enough reason for her to fabricate such a sordid and scandalous tale of incest.

With regard to appellant's contention that AAA's lack of resistance to the rape committed against her, as borne out by her own testimony, negates any truth to her accusation, we rule that such an argument deserves scant consideration. It is settled in jurisprudence that the failure to shout or offer tenuous resistance does not make voluntary the victim's submission to the criminal acts of the accused since rape is subjective and not everyone responds in the same way to an attack by a sexual fiend.¹⁸

Furthermore, we have reiterated that, in incestuous rape cases, the father's abuse of the moral ascendancy and influence over his daughter can subjugate the latter's will thereby forcing her to do whatever he wants.¹⁹ In other words, in an incestuous rape of a minor, actual force or intimidation need not be employed where the overpowering moral influence of the father would suffice.²⁰

¹⁴ TSN, July 6, 2007, pp. 2-4.

¹⁵ *People v. Batula*, G.R. No. 181699, November 28, 2012, 686 SCRA 575, 585.

¹⁶ *People v. Bustamante*, supra note 12.

¹⁷ TSN, July 6, 2007, p. 5.

¹⁸ *People v. Lomaque*, G.R. No. 189297, June 5, 2013.

¹⁹ *People v. Vitero*, G.R. No. 175327, April 3, 2013.

²⁰ *People v. Amistoso*, G.R. No. 201447, January 9, 2013, 688 SCRA 376, 386.

We likewise rule as unmeritorious appellant's assertion that he could not have committed the felony attributed to him because, at the date of the alleged rape, AAA was not residing at the place where the alleged rape occurred. Jurisprudence tells us that both denial and alibi are inherently weak defenses which cannot prevail over the positive and credible testimony of the prosecution witness that the accused committed the crime, thus, as between a categorical testimony which has a ring of truth on one hand, and a mere denial and alibi on the other, the former is generally held to prevail.²¹

Moreover, we have held that for alibi to prosper, it is necessary that the corroboration is credible, the same having been offered preferably by disinterested witnesses.²² Based on this doctrine, the corroborating testimony of appellant's son, EEE, who, undoubtedly, is a person intimately related to him cannot serve to reinforce his alibi.

In view of the foregoing, we therefore affirm the conviction of appellant. However, the trial court erred in impliedly characterizing the offense charged as sexual abuse under Sections 5 and 31 of Republic Act No. 7610.

Under Rule 110, Section 8 of the Rules of Court, it is required that "[t]he complaint or information shall state the designation of the offense given by the statute, aver the acts or omissions constituting the offense, and specify its qualifying and aggravating circumstances. If there is no designation of the offense, reference shall be made to the section or subsection of the statute punishing it." The information clearly charged appellant with rape, a crime punishable under Article 266-A of the Revised Penal Code, the relevant portions of which provide:

Article 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;
- b) When the offended party is deprived of reason or is otherwise unconscious;
- c) By means of fraudulent machination or grave abuse of authority;
- 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.

²¹ *People v. Piosang*, G.R. No. 200329, June 5, 2013.

²² *People v. Basallo*, G.R. No. 182457, January 30, 2013, 689 SCRA 616, 644.

The same statute likewise states:

Article 266-B. *Penalties.* – Rape under paragraph 1 of the next preceding article shall be punished by *reclusion perpetua*.

x x x x

The death penalty shall also be imposed if the crime of rape 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, stepparent, guardian, relative by consanguinity or affinity within the third civil degree, or the common-law spouse of the parent of the victim.

In the case at bar, appellant was accused in the information with feloniously having carnal knowledge of his own minor daughter against her will by using his influence as a father. Considering further that the minority of AAA and her relationship to appellant were both alleged in the information and proven in court, the proper designation of appellant's felony should have been qualified rape. As such, the penalty of *reclusion perpetua* without eligibility of parole, in lieu of the death penalty, pursuant to Republic Act No. 9346²³ must be imposed. Furthermore, in line with jurisprudence, the award of moral damages should be increased to ₱75,000.00 in addition to the award of civil indemnity and exemplary damages in the amounts of ₱75,000.00 and ₱30,000.00, respectively.²⁴ Likewise, interest at the rate of 6% per annum shall be imposed on all damages awarded from the date of the finality of this judgment until fully paid.²⁵

WHEREFORE, premises considered, the Decision dated March 18, 2011 of the Court of Appeals in CA-G.R. CR.-H.C. No. 04019, affirming the conviction of appellant Ricardo M. Vidaña in Criminal Case No. 2163-G, is hereby **AFFIRMED** with the **MODIFICATIONS** that:

(1) The penalty of *reclusion perpetua* without eligibility of parole is imposed upon appellant Ricardo M. Vidaña;

(2) The moral damages to be paid by appellant Ricardo M. Vidaña is increased from Fifty Thousand Pesos (₱50,000.00) to Seventy-Five Thousand Pesos (₱75,000.00);

(3) Appellant Ricardo M. Vidaña is ordered to pay civil indemnity in the amount of Seventy-Five Thousand Pesos (₱75,000.00);

²³ Entitled "An Act Prohibiting the Imposition of Death Penalty in the Philippines."

²⁴ *People v. Amistoso*, supra note 20 at 395.

²⁵ *People v. Cabungan*, G.R. No. 189355, January 23, 2013, 689 SCRA 236, 249.

(4) Appellant Ricardo M. Vidaña is ordered to pay exemplary damages in the amount of Thirty Thousand Pesos (₱30,000.00); and

(5) Appellant Ricardo M. Vidaña is ordered to pay the private offended party interest on all damages at the legal rate of six percent (6%) per annum from the date of finality of this judgment.

No pronouncement as to costs.

SO ORDERED.

Teresita Leonardo de Castro
TERESITA J. LEONARDO-DE CASTRO
Associate Justice

WE CONCUR:

Maria Lourdes P. A. Sereno
MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson

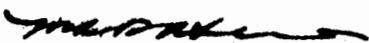
Lucas P. Bersamin
LUCAS P. BERSAMIN
Associate Justice

Martin S. Villarama, Jr.
MARTIN S. VILLARAMA, JR.
Associate Justice

Bienvenido L. Reyes
BIENVENIDO L. REYES
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, 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