



Republic of the Philippines
 Supreme Court
 Manila

FIRST DIVISION

PEOPLE OF THE PHILIPPINES, G.R. No. 200920
 Plaintiff-Appellee,

Present:

SERENO, C.J.,
Chairperson,
 LEONARDO-DE CASTRO,
 BERSAMIN,
 VILLARAMA, JR., and
 REYES, JJ.

- versus -

JERUSALEM ESTEBAN y
 BALLESTEROS,
 Accused-Appellant.

Promulgated:

JUN 09 2014

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RESOLUTION

REYES, J.:

On appeal is the Decision¹ dated July 29, 2011 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 03909, which affirmed with modification the Decision² dated April 14, 2009 of the Regional Trial Court (RTC) of Camiling, Tarlac, Branch 68, in Criminal Case No. 03-55, finding Jerusalem Esteban y Ballesteros (Esteban) guilty beyond reasonable doubt of the felony of Rape, as defined in Article 266-A of the Revised Penal Code (RPC), as amended.

¹ Penned by Associate Justice Rebecca De Guia-Salvador, with Associate Justices Sesonando E. Villon and Amy C. Lazaro-Javier, concurring; CA *rollo*, pp. 99-113.

² Issued by Presiding Judge Jose S. Vallo; id. at 13-19.

Antecedent Facts

Esteban was charged for the felony of rape, in an information, which reads:

“That on December 17, 2002, in the evening, at Pob. Sur, Mayantoc, Tarlac and within the jurisdiction of this Honorable Court, the accused, by means of force, threat and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of the private complainant [AAA]³ against her will and in their own house, with the aggravating circumstances, to wit: the victim [AAA] is under eighteen (18) years of age born on November 4, 1988[;] accused is the father (parent) of the victim; and the rape was committed in the dwelling house where both accused and victim reside.”⁴

Upon arraignment, Esteban entered a plea of not guilty. After pre-trial conference, trial on the merits ensued.

The prosecution alleged the following:

On December 17, 2002, at around midnight, Esteban entered the room where AAA, his daughter who was only 13 years old then, was sleeping. Their house is situated in Poblacion Sur, Mayantoc, Tarlac. After entering the room, Esteban removed his clothes and went beside AAA. Esteban then touched AAA's back and started to undress her. AAA shouted and struggled to prevent her father's advances, but the latter threatened and intimidated her. After removing AAA's clothes, Esteban went on top of AAA; despite AAA's pleas, he inserted his penis in AAA's vagina. After satisfying his lust, Esteban left AAA in the room.

AAA reported the incident to her brother BBB and her aunt CCC, who both did not believe her. AAA then told her other aunt DDD what her father did to her; the latter then brought AAA to the *barangay* office to report the matter. Afterwards, they proceeded to the police station in Mayantoc where AAA executed her sworn statement.

On December 19, 2002, AAA submitted herself to medical examination by Dr. Carolyn R. Abrigo of the Camiling District Hospital, who found old lacerations above AAA's clitoris and over her hymen.

³ The real name of the victim, her personal circumstances and other information which tend to establish or compromise her identity, as well as those of their immediate family or household members, shall not be disclosed to protect her privacy and fictitious initials shall, instead, be used, in accordance with *People v. Cabalquinto* (533 Phil. 703 [2006]), and A.M. No. 04-11-09-SC dated September 19, 2006.

⁴ CA rollo, p. 13.

For his part, Esteban denied the allegations against him, and claimed that:

At the time of the alleged rape incident, he was staying at the house of his employer, Engineer Luisito Villalon, which is about 1,000 meters away from his own house. Before 2002, only four of his six children were living with him. When AAA was only seven years old, EEE, his eldest daughter, brought AAA to live with her in their house at Maliwalo, Tarlac City. There, EEE's husband raped AAA, but the case filed against him was settled and eventually dismissed. Thereafter, EEE took AAA to Manila. In 2002, AAA and her other siblings again lived with Esteban in Mayantoc, Tarlac.

Esteban likewise claimed that AAA visited him in jail after she had given her testimony in open court and gave him a letter wherein she supposedly stated that her allegations against her father were not true and that she was just angry at him for his failure to protect her from the sexual abuse she suffered from her brother-in-law.

The RTC Ruling

On April 14, 2009, the RTC rendered a Decision,⁵ the decretal portion of which reads:

WHEREFORE, accused Jerusalem Esteban y Ballesteros is hereby found guilty of the crime of Rape punishable under Article 266-A of the Revised Penal Code, as amended in relation to Article 266-B (1) of the same Code and hereby sentences him to the penalty of Reclusion Perpetua without eligibility of parole.

Likewise, the accused Esteban is ordered to pay the victim the amount of [□]75,000.00 as civil indemnity, another amount of [□]50,000.00 as moral damages and [□]30,000.00 as exemplary damages.

SO ORDERED.⁶

As regards Esteban's claim that he could not have raped AAA on December 17, 2002 since he was sleeping in the house of his employer, the RTC opined that it was not impossible for him to be in his house when the incident occurred since the house of his employer is only about 1,000 meters away from his house. Moreover, the RTC pointed out that Esteban's claim is uncorroborated by any evidence. As regards the letter supposedly written by AAA, the RTC found the same to be merely an afterthought on the part of AAA and, thus, does not dispel the fact Esteban indeed raped AAA.

⁵ Id. at 13-19.

⁶ Id. at 18-19.

Unperturbed, Esteban appealed the RTC Decision dated April 14, 2009 to the CA. In his appeal, Esteban claimed that the RTC erred in disregarding the letter supposedly written by AAA wherein the latter stated that her allegations against her father are all made up. Further, Esteban claimed that the absence of fresh lacerations on AAA's hymen seriously casts doubt on his guilt of the felony charged.

The CA Ruling

On July 29, 2011, the CA rendered the herein assailed Decision⁷ which affirmed with modification the RTC Decision dated April 14, 2009. As regards the letter supposedly written by AAA, the CA held that, other than Esteban's claim, there is no other evidence to support the finding that AAA indeed retracted her allegations against her father in the said letter. Further, the CA opined that the said letter is hearsay and has no probative value as AAA was never called to testify thereon. Further, the absence of fresh laceration on AAA's hymen, the CA pointed out, does not negate the conclusion that Esteban raped AAA; that the conviction of Esteban would still stand on AAA's clear, convincing and credible testimony.

Nevertheless, the CA modified the accessory penalties imposed upon Esteban as follows: (1) the amount of moral damages was increased to ₱75,000.00 from ₱50,000.00; and (2) the amount of exemplary damages was decreased to ₱25,000.00 from ₱30,000.00.

Hence, this appeal.

Both Esteban and the Office of the Solicitor General manifested that they would no longer file with the Court supplemental briefs, and adopted instead their respective briefs with the CA.⁸

Issue

Essentially, the issue for the Court's resolution is whether the CA erred in affirming the RTC Decision dated April 14, 2009, which found Esteban guilty beyond reasonable doubt of the felony of rape under Article 266-A of the RPC.

⁷ Id. at 99-113.

⁸ *Rollo*, pp. 24-26, 31-34.

The Court Ruling

The appeal is dismissed for lack of merit.

The crime of rape is defined under Article 266-A of the RPC, which states that:

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 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.

2. By any person who, under any of the circumstances mentioned in paragraph 1 hereof, shall commit an act of sexual assault by inserting his penis into another person's mouth or anal orifice, or any instrument or object, into the genital or anal orifice of another person. (Emphasis ours)

“The elements necessary to sustain a conviction for rape are: (1) that the accused had carnal knowledge of the victim; and (2) that said act was accomplished (a) through the use of force or intimidation, or (b) when the victim is deprived of reason or otherwise unconscious, or (c) when the victim is under 12 years of age or is demented.”⁹

Under Article 266-B of the RPC, the felony of rape is qualified when the victim is under 18 years of age and the offender is, *inter alia*, a parent.

After a thorough perusal of the records of this case, the Court finds that the prosecution was able to establish beyond reasonable doubt all the elements of rape under Article 266-A of the RPC. AAA testified that Esteban succeeded in having carnal knowledge with her on December 17, 2002 and, thus, being AAA's father, is presumed to have employed force and/or intimidation.¹⁰ Both the lower courts found AAA's testimony in this matter clear, convincing and credible.

⁹ *People v. Perez*, G.R. No. 191265, September 14, 2011, 657 SCRA 734, 739, citing *People v. Bongat*, G.R. No. 184170, February 2, 2011, 641 SCRA 496, 505.

¹⁰ *See People v. Amistoso*, G.R. No. 201447, January 9, 2013, 688 SCRA 376, 386.

It is well-settled that, in a criminal case, factual findings of the trial court are generally accorded great weight and respect on appeal, especially when such findings are supported by substantial evidence on record. It is only in exceptional circumstances, such as when the trial court overlooked material and relevant matters, that this Court will re-calibrate and evaluate the factual findings of the court below.¹¹ The Court sees no reason to depart from the foregoing rule.

In an effort to avoid criminal liability, Esteban maintained that his guilt was not proven beyond reasonable doubt based on the following circumstances: *first*, the letter that was written by AAA clearly stated that she just made up the allegations against Esteban since he failed to protect her against the sexual abuse she supposedly suffered from her brother-in-law; and *second*, the absence of fresh laceration on AAA's hymen based on her medical examination.

The Court does not agree.

Other than Esteban's testimony that AAA indeed wrote the said letter, there is no other evidence which would support the said claim. It is but a mere unsubstantiated allegation and, hence, not worthy of credence. Further, as aptly pointed out by the CA, the said letter is hearsay since AAA was not called upon to testify on the contents thereof.

Furthermore, it is highly unlikely that AAA, then only 13 years old, would feign a traumatizing experience merely out of spite towards her father, who supposedly failed to protect her from the sexual abuse she suffered from her brother-in-law. No sane girl would concoct a story of defloration, allow an examination of her private parts and subject herself to public trial or ridicule if she has not in truth, been a victim of rape and impelled to seek justice for the wrong done to her. Youth and immaturity are generally badges of truth and sincerity. The weight of such testimony may be countered by physical evidence to the contrary or indubitable proof that the accused could not have committed the rape, but in the absence of such countervailing proof, the testimony shall be accorded utmost value.¹²

Against AAA's testimony, Esteban was only able to proffer the defense of denial and *alibi*. The Court has time and time again ruled that denial and *alibi* are inherently weak defenses as these are self-serving.

¹¹ See *Seguritan v. People*, G.R. No. 172896, April 19, 2010, 618 SCRA 406, 418.

¹² See *People v. Bon*, 536 Phil. 897, 915 (2006).

Anent the absence of fresh laceration on AAA's hymen, the Court likewise finds the same insufficient to dispel Esteban's guilt of the felony charged. The absence of fresh lacerations in the hymen cannot be a firm indication that the complainant was not raped. It is settled that hymenal lacerations are not an element of rape.¹³

As regards the penalty imposed upon Esteban, the Court finds the same to be consistent with Article 266-B of the RPC, which pertinently provides that the death penalty shall be imposed "[w]hen the victim is under eighteen (18) years of age and the offender is a parent x x x." In view of the foregoing, the lower courts correctly imposed upon Esteban the penalty of *reclusion perpetua* without the eligibility of parole, in lieu of the death penalty, pursuant to Republic Act No. 9346.¹⁴

In conformity with prevailing jurisprudence,¹⁵ the Court affirms the award of ₱75,000.00 as moral damages and ₱75,000.00 as civil indemnity. Further, the presence of the aggravating circumstance of relationship entitles the offended party to exemplary damages. Thus, the Court also affirms the award for exemplary damages, but, pursuant to established jurisprudence,¹⁶ in the amount of ₱30,000.00 up from the ₱25,000.00 fixed by the CA.

In addition, and in conformity with current policy, the Court imposes interest on all monetary awards for damages at the rate of six percent (6%) *per annum* from the date of finality of this Resolution until fully paid.¹⁷

WHEREFORE, in consideration of the foregoing disquisitions, the appeal is **DISMISSED**. The Decision dated July 29, 2011 of the Court of Appeals in CA-G.R. CR-HC No. 03909 is hereby **AFFIRMED WITH MODIFICATION** in that the award of exemplary damages in the amount of ₱25,000.00 is increased to ₱30,000.00. The accused is likewise ordered to pay interest on all monetary awards for damages at the rate of six percent (6%) *per annum* from the date of finality of this Resolution until fully satisfied.

¹³ See *People v. Dimanawa*, G.R. No. 184600, March 9, 2010, 614 SCRA 770, 781; *People v. Gonzaga*, 417 Phil. 176, 187 (2001); *People v. Ferrer*, 415 Phil. 188, 198 (2001).

¹⁴ AN ACT PROHIBITING THE IMPOSITION OF DEATH PENALTY IN THE PHILIPPINES

¹⁵ *People v. Amistoso*, supra note 10, at 395; *People v. Vitero*, G.R. No. 175327, April 3, 2013, 695 SCRA 54; *People v. Rubio*, G.R. No. 195239, March 7, 2012, 667 SCRA 753.

¹⁶ *People v. Vitero*, id.; *People v. Masagca, Jr.*, G.R. No. 184922, February 23, 2011, 644 SCRA 278.

¹⁷ *People v. Veloso*, G.R. No. 188849, February 13, 2013, 690 SCRA 586.

SO ORDERED.



BIENVENIDO L. REYES
Associate Justice

WE CONCUR:



MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson



TERESITA J. LEONARDO-DE CASTRO
Associate Justice



LUCAS P. BERSAMIN
Associate Justice



MARTIN S. VILLARAMA, JR.
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, 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