533 Phil. 837

EN BANC

[G.R. NO. 171270, September 20, 2006]

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. ALEXANDER MANGITNGIT, APPELLANT.

D E C I S I O N

TINGA, J.:

On automatic review is the Joint Decision[1] dated 4 January 2002 of the Regional Trial Court of Palawan and Puerto Princesa City, Branch 49,[2] convicting appellant Alexander G. Mangitngit (appellant) of raping his daughters BBB and CCC,[3] ages 15 and 12 respectively. The dispositive portion of the decision states:

> **WHEREFORE**, premises considered, the Court finds accused Alexander Mangitngit guilty beyond reasonable doubt of the crimes of *rape in Criminal Case No. 14972* and in *Criminal Case No. 14973* and imposes upon him, pursuant to *R.A. 7659* and *R.A. 8353*, the penalty of ***death*** in each case. Accused Alexander Mangitngit is directed to pay [BBB and CCC] the amounts of P75,000.00 and P75,000.00, respectively, as moral damages.
>
> The Provincial Jail Warden of Palawan is hereby directed to immediately bring and turn over accused Alexander Mangitngit to the National Penitentiary at Muntinlupa, Rizal.
>
> Likewise, the Clerk of Court of this Court is directed to transmit and forward to the Supreme Court the records of the case, including the transcript of stenographic notes within 5 days after the 15th day following the promulgation of the judgment in these two cases.
>
> SO ORDERED.[4]

Initiated by sworn statements of the victims, appellant was charged with three (3) counts of rape in the following Informations, to wit:

> Criminal Case No. 14971
>
> That sometime during the month of May, [sic] 1993, at around midnight, at xxx, and within the jurisdiction of this Honorable Court, the said accused with lewd design and by means of force, threat and intimidation, did then and there wilfully, unlawfully and feloniously have carnal knowledge with his own daughter [AAA],[5] 15 years of age, against her will and consent to her damage and prejudice.
>
> CONTRARY TO LAW.[6]

Criminal Case No. 14972

That on or about the 21st day of January, [sic] 1999, at around 4:00 o'clock in the morning, at xxx, and within the jurisdiction of this Honorable Court, the said accused with lewd design and by means of force, threat and intimidation, did then and there wilfully, unlawfully and feloniously have carnal knowledge with his own daughter [BBB], 15 years of age, against her will and consent to her damage and prejudice.

CONTRARY TO LAW.[7]

Criminal Case No. 14973

That on or about the 29th day of January, [sic] 1999, at around 2:00 o'clock in the morning, at xxx, and within the jurisdiction of this Honorable Court, the said accused with lewd design and by means of force, threat and intimidation, did then and there wilfully, unlawfully and feloniously have carnal knowledge with his own daughter [CCC], 12 years of age, against her will and consent to her damage and prejudice.

CONTRARY TO LAW.[8]

At his arraignment on 17 May 1999, appellant, duly assisted by his counsel *de oficio*, entered a plea of not guilty to all three counts of rape. In Criminal Case No. 14971, however, private complainant AAA repeatedly failed to appear despite due notice. Appellant thus moved for the dismissal of said case invoking the right of appellant to speedy trial which the trial court granted in its Order dated 15 May 2000.[9]

Joint trial on the merits of Criminal Cases Nos. 14972 and 14973 ensued. In Criminal Case No. 14972, the prosecution presented as witnesses, the victim BBB and Dr. Renee A. Argubano (Dr. Argubano), Medical Officer IV of the Puerto Princesa Hospital. In Criminal Case No. 14973, CCC and Dr. Renee Argubano were the witnesses for the prosecution.

BBB and CCC were born on 11 May 1984 and 6 March 1986, respectively, to appellant and his wife ABC.[10]

BBB testified that at around 4 o'clock in the morning of 21 January 1999, she and three other siblings were sleeping on the floor in one of the rooms in their house in xxx, when she felt someone touching her. Their mother had left the previous day for the family farm, an hour's walk away. BBB was awakened by the touch and was surprised to see her father, appellant, touching her. BBB tried to shout in fright but was not able to because appellant held her neck with both of his hands. He then removed BBB's short pants and panty with one of his hands. After removing his own short pants and brief, appellant inserted his penis into BBB's vagina and warned her not to report the incident otherwise he would kill her. While his penis was inside BBB's vagina, appellant made "push and pull" movements. BBB cried due to the excruciating pain. After satisfying himself, appellant left her. BBB continued to cry even as her vagina hurt and oozed a little blood.[11]

When appellant left for the farm a little later that day, BBB went to her sister AAA's house to report her ordeal. AAA advised BBB to proceed to their aunt DDD's house in xxx.[12] BBB was still in xxx when she learned of her father's arrest on 30 January 1999 for the rape of her younger sister, CCC. This encouraged BBB to disclose her own nightmare to her mother, uncle and siblings. Then, BBB reported the matter to [the] police. On 4 February 1999, BBB, CCC, AAA and their mother proceeded to the National Bureau of Investigation where their respective sworn statements[13] were taken.[14] BBB was fourteen (14) years and eight (8) months old at the time of the incident.[15]

For her part, CCC testified that at around 2 o'clock in the morning of 29 January 1999, with their mother at the family farm, she was sleeping alongside her brother on the floor in one of the rooms in their family house when appellant arrived. Appellant positioned the brother away from CCC, cleared his throat and stayed near her. CCC moved away from him in fear and tried to cover herself with a blanket. Appellant asked her why she was afraid of him. Without awaiting CCC's response, appellant embraced her and started to pull down her panty. CCC resisted and tried to pull up her panty to no avail. Appellant, now naked and holding CCC's hands, inserted his penis into her vagina. When CCC complained of pain, appellant pulled out his penis but inserted it again. While ravishing her, appellant warned CCC not to report the incident otherwise he will kill her. CCC felt something come out of appellant's penis and into her vagina. She felt pain in her vagina and felt something ooze out of it. After appellant removed his penis from her vagina, CCC cried, stood up and tried to identify what caused the wetness in her panty which in the morning she discovered was blood. [16]

CCC firmly declared that she was certain it was her father who raped her. Although the room was dark and the house had no electricity,[17] moonlight streamed through the holes of the sawali wall and she could see the person near her. She also stated that she recognized his voice when he cleared his throat and when he spoke to her. [18]

The next day, while appellant was still asleep, CCC went to the family farm to fetch her mother and report the incident. Her mother cried upon hearing of CCC's suffering at the hands of appellant. With a relative, CCC's mother reported the matter to the barangay captain and later, both went to the Marine soldiers to have appellant arrested.[19] CC C was only twelve (12) years and ten (10) months old at the time of the rape.[20]

Dr. Argubano, who conducted the physical examinations of BBB and CCC on 3 February 1999, testified that he found a laceration on the hymenal ring of BBB's vagina at the position of 3 o'clock and on CCC's vagina, a laceration also on the hymen at 3 o'clock and 9 o'clock positions. He stated that the clean-cut lacerations of the sisters, which were old and already healed, could have been caused by the insertion into the vagina of an object, most possibly a penis. Dr. Argubano explained that the lacerations of such nature normally heal in three to five days, without complication and depending on one's immune system.[21] Dr. Argubano issued medico-legal certificates containing his findings.[22]

The trial court admitted the following documentary evidence formally offered by the

prosecution: (1) medico-legal certificates of BBB and CCC; (2) photocopies of the birth certificates of BBB and CCC; and (3) sworn statement of BBB.[23]

Testifying as lone witness in his defense, appellant denied that he raped BBB on 21 January 1999 and CCC on 29 January 1999.[24] On such dates, appellant claimed that he was in his farm in xxx, which was 30 minutes away from the family house. Appellant stated that he usually stayed and slept at the farm because he could not leave his farm animals and crops. He slept at the family house only once in two months or not at all, as he slept there only when his wife told him so. In January 1999, he had been to the family house only once, on the 17th of the month. When he arrived at the family house on said date, he noticed several cigarette butts littered around and asked his children who had slept there. Upon being apprised by the children that they allowed their friends to sleep over whenever they watched television, he told them to refrain from continuing such practice otherwise he would hit them. Appellant also discovered from CCC that BBB had left the house to go to a fiesta. Infuriated, appellant told CCC to tell BBB that she would get it from him upon her return. Appellant then left for the farm. He had not visited the family house since. He had not seen BBB and CCC since either. He only returned to the family house on 1 February 1999 only to be immediately arrested by the Marines.[25]

The trial court favored BBB and CCC's version of the events and convicted appellant of the crimes charged, ruling in this wise:

> Ranged against this defense of denial and alibi are the declarations of complaining witnesses [BBB] and [CCC] who positively declared that their father sexually abused them on January 21, 1999 and January 29, 1999, respectively. Their testimonies were direct and straightforward and were not stained with inconsistencies. No-ill (sic) motives were imputed to them to compel them to falsely charge and falsely testify against their father. In the light of such direct and straightforward testimonies, their credibility as witness is not to be doubted. They are credible witnesses.
>
> In contrast, Philippine jurisprudence says that the defense of denial and/or *alibi can't [sic] prevail over the positive declarations of the prosecution witnesses. As held by the Supreme Court, alibi is a defense easily fabricated. Distance of the place where the accused allegedly was at the time of the incident and the place where the incident happened does not preclude the possibility that the accused committed the crime (People v. Santillan, 157 SCRA 534)*. In the case at bar, the farm house where Alexander Mangitngit spent his days attending to his farm lot and farm animals is but a 30-minute hike to his house at [omitted] where his children lived and where the rapes were committed. It was not impossible for Alexander Mangitngit to be there at his house [omitted] at 4:00 o'clock in the morning of January 21, 1999 and 2:00 o'clock in the morning of January 29, 1999 as he had free access thereto[,] it being his house.
>
> x x x x
>
> In view of the foregoing considerations, this Court is led to believe that Alexander Mangitngit sexually abused his own daughters [BBB] aged 15

on January 21, 1999 and his own daughter [CCC] aged 12, on January 29, 1999.[26]

The judgment of conviction was elevated to the Court for automatic review. The pleadings on appeal were completed on 11 December 2003.[27] In a Resolution[28] dated 24 August 2004 of the Court in G.R. Nos. 153250-52,[29] the cases were transferred to the Court of Appeals pursuant to the Court's ruling in *People v. Mateo*.[30]

In a Decision[31] dated 14 November 2005, the Court of Appeals found no compelling reason to deviate from the findings of the trial court. It held that BBB and CCC's testimonies which were direct, straightforward, free from inconsistencies and unshaken by rigid cross-examination, duly corroborated by medical evidence on record, are sufficient to support a conviction for rape.[32]

In stark contrast to this, the appellate court noted that appellant only interposed the defenses of denial and alibi. Unconvinced by appellant's contention that the rape could not have possibly occurred in the presence of his other children, the appellate court emphasized the fact that lust is no respecter of time and place; the crime of rape can be consummated even when the malefactor and the victim are not alone. The appellate court likewise observed that appellant failed to demonstrate that it was physically impossible for him to have been physically present at the place of the crime at the time of its commission. The farm at which he claimed to be at the time is a mere 30 minutes' walk from the family house where the incidents of rape transpired.[33]

Anent the ill motive ascribed by appellant on BBB and CCC for filing the rape cases, the Court of Appeals held that it would take the most senseless kind of depravity for a young daughter to fabricate a story which would send her father to death, only because he disciplined her.[34]

The Court of Appeals sustained the trial court's imposition of the death penalty ruling that the qualifying circumstances of the minority of the victims and their relationship to appellant have been specifically alleged in the information and duly proven during the trial. As appellant failed to raise any objections at the time they were offered in evidence, the photocopies of the birth certificates of BBB and CCC became primary evidence, were deemed admitted and he is bound thereby.[35]

The Court of Appeals however imposed an additional award of P75,000.00 as civil indemnity *ex delicto* and P25,000.00 as exemplary damages.[36]

In the Court's Resolution[37] dated 7 March 2006, the parties were required to submit their respective supplemental briefs. The Office of the Solicitor General manifested that it was adopting the discussions in its appellee's brief[38] dated 15 September 2003 as its supplemental brief. Appellant, through the Public Attorney's Office, likewise manifested adoption of all the issues and discussion in his appellant's brief[39] dated 20 May 2003. The case is again before us for final disposition.

After a careful and meticulous review of the records of the case, the Court finds no reason to overturn the findings of facts and conclusions commonly reached by the