

FIRST DIVISION

[G.R. No. 209584, March 03, 2021]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JUDITO CORITANA AND JOHN DOE, ACCUSED, JUDITO CORITANA, ACCUSED-APPELLANT.

D E C I S I O N

GAERLAN, J.:

Before this Court is an Appeal^[1] filed by accused-appellant Judito Coritana (accused-appellant) from the Decision^[2] of the Court of Appeals (CA) in CA-G.R. CEB CR HC No. 01206 dated July 24, 2013. The assailed Decision dismissed the appeal and affirmed the Decision dated January 17, 2008 of the Regional Trial Court (RTC) of Tacloban City, Branch 6, finding the accused-appellant guilty beyond reasonable doubt of the crime of robbery with rape.

The accused-appellant and one John Doe were charged with the crime of robbery with rape allegedly committed as follows:

That at 5:00 A.M. in the morning of March 2, 2001, at Tacloban City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating and mutually helping each other did then and there, willfully, unlawfully and feloniously by means of violence and intimidation against persons and with intent to gain and without the consent of the rob and carry away cash money belonging to [AAA]^[3] and [REDACTED], to the damage and prejudice of the offended party; that by reason and [on the] occasion of the robbery both accused by means of force and intimidation, willfully, unlawfully and feloniously, tie and succeeded in having carnal knowledge of said [AAA].

CONTRARY TO LAW.^[4]

The accused-appellant was arraigned on September 4, 2001, and assisted by counsel, entered a plea of not guilty.^[5] Thereafter, trial proceeded only against the accused-appellant as his co-accused remained to be at large and unidentified.^[6]

The evidence for the prosecution tend to establish the following facts:

The victim, AAA, is 24 years old, single. She works as a cashier at [REDACTED] (eatery), located at [REDACTED], Tacloban City since March 2001. Her regular work schedule is from 7:00 p.m. to 9:00 a.m. the following day.^[7]

At around 5:00 a.m. of March 3, 2001, the victim ordered her co-worker, Teresita Madrigal (Teresita) to go to the market, leaving the former alone to tend to the eatery. Subsequently, two men arrived and ordered two special *La Paz Batchoy*. The

victim identified one of the men as the accused-appellant, whom she knew as a resident of the sitio adjacent to the eatery, Sitio Barcelona. The victim is however unfamiliar with the accused-appellant's companion, whom she merely described as an (old man) armed with a short bolo.^[8]

While the victim was preparing the *batchoy* near the cashier's booth, the old man approached her, poked a knife at the right side of her waist, and threatened her not to shout if she does not want to get hurt. The accused-appellant closed the main door of the eatery, then proceeded to the drawer and took the P1,100.00 therein. The old man directed the victim to go to the bathroom. Cramped inside the bathroom which measures only ½ by 2 meters, the old man took a piece of cloth and tore it into three pieces– using a part to tie the victim's hands behind her back, another to tie the lower part of her ankles, and the last to blindfold her. The old man then ordered the victim to bend over forming an angle of about 80 degrees, with her head almost touching the toilet bowl and her back towards the old man. Then, the old man pulled down her pants and panty, inserted his penis into her vagina, and made pumping motions for about five minutes.^[9]

Thereafter, the old man called on the accused-appellant, who then lavished the victim in the same way the old man did. All throughout the ordeal, the victim remained silent as she was threatened by the accused-appellant with the use of a knife.^[10]

The accused-appellant and the old man then left the victim in the comfort room, still tied and blindfolded. On their way out, they took the plastic pail, along with the victim's bag with P200.00 inside, and Teresita's bag which contains money in the amount of P1,800.00.^[11]

Teresita arrived from the market at around 6:00 a.m. After learning of the incident, the owner of the eatery, accompanied the victim to the Tacloban Police Station where the latter executed her sworn statement. The victim was then brought to the Eastern Visayas Regional and Medical Center (EVRMC) for her to be examined and medically treated.^[12]

The victim was examined by Dr. Karen Palencia, Obstetrician Gynecologist of the EVRMC at around 10:00 a.m. of March 3, 2001. Her findings showed the following injuries sustained by the victim's genitalia:

(+) complete fresh laceration of the hymen at 6'o clock position extending to the posterior fourchette.

(+) complete laceration of the hymen, fresh at 3 o'clock and 6 o'clock position

S/E – cervix pinkish, small, smooth,

(+) scanty blood discharge

I/E – cervix firm, closed, nontender on wriggling

U=small

A= no mass tender

D= scanty bloody

A= alleged rape

LABORATORY RESULT:

For UCG Result: Negative for UCG

Vaginal smear for presence of spermatozoa=Positive for spermatozoa.^[13]

The police, headed by SPO4 Benigno Santa Romana Liemes, responded to the incident at the morning of the same day. When the police arrived at the scene, they met the victim and her cousin BBB. When questioned, the victim identified the accused-appellant, residing in Brgy. 54, Magallanes District, Tacloban City as the perpetrator of the crime. Proceeding to the place stated, the police was informed that the accused-appellant was at Sitio Barcelona, Brgy. Aslum, Sta. Rita, Samar.^[14]

Eventually, on March 10, 2001 at 5:00 a.m., the accused-appellant was arrested and brought to the Tacloban Police Station.^[15]

To refute the allegations, the defense presented the accused-appellant as witness.

The accused-appellant declared that he works as a pedicab driver plying the route from the Shed area, Pericohon Pampango District and vice versa from 6:00 a.m. to 7:00 p.m. Mondays thru Saturday and half day during Sunday. On March 2, 2001, he was at the house of his brother at Brgy. 54, Magallanes District, Tacloban City. As his usual routine, after taking a bath, he went to the house of one Antonio Cornillos (Cornillos), the owner of the pedicab he was driving. At the end of the day, he goes back to return the pedicab to Cornillos before going home to the house of his brother. Accused-appellant averred that after dinner, he watched T.V., and then went to sleep at around 10:00 p.m. According to the accused-appellant, he followed the same routine on March 3, 2001. The following day, which falls on a Sunday, the accused-appellant went to the house of his parents at Sitio Barcelona, Brgy. Aslum, Sta. Rita, Samar. While therein, he was awakened with the arrival of the police and an unidentified woman. The police told him that the pedicab he was driving was missing. When the accused-appellant declined to go with the police, he was forced to go down the house, was dragged down the road, and then brought to the Tacloban City Police Station.^[16]

Rose Coritana, the accused-appellant's sister-in-law, corroborated the latter's testimony. She affirmed that the accused-appellant was driving the pedicab from 6:00 a.m. to 7:00 p.m., and was staying at their house from March 1-3, 2001. On March 4, 2001, the accused-appellant went home to Brgy. Aslum at noontime.^[17]

On January 17, 2008, the RTC of Tacloban City, Branch 6, rendered its Decision,^[18] the dispositive portion of which reads:

IN VIEW, of the foregoing, WHEREFORE, the Court finds accused Judito Coritana guilty beyond reasonable doubt with the Special Complex Crime of Robbery with Rape, sentencing him to suffer imprisonment of **reclusion perpetua and to pay the victim civil indemnity of Fifty Thousand (P50,000.00) pesos and moral damages of Fifty Thousand (P50,000.00) pesos.**

SO ORDERED.^[19] (Emphasis in the original)

Notably, the RTC did not awarded actual damages for the amount taken by the accused-appellant and his companion, the old man. It offered no explanation as to

the cash which belongs to the eatery; with respect to that taken from the bags of the victim and Teresita, the RTC opined:

Leaving then the victim at the toilet tied and blindfolded, accused and his companion while on their way out, took the plastic pail, the bag of the victim containing money worth P200.00 and also the bag of Teresita Madrigal containing money worth P1,800.00. This time the accused took the plastic pail, bags and the money of Teresita Madrigal without the employ anymore of violence and intimidation. But absence of force notwithstanding, there was still an offense committed. The offense committed is simple theft. However, the crime of theft, not having been alleged in the information so even if prove [sic], pursuant to the rule, accused cannot be sentenced by the court guilty. For the Court to pronounce judgment, the complaint must contain a specific allegation of every fact and circumstance necessary to constitute the crime charged.

There is none alleged in the information of this kind.^[20]

On appeal, the CA affirmed with modification the Decision of the RTC, in its herein assailed Decision,^[21] viz.:

WHEREFORE, in light of the foregoing, the appeal is DENIED. The Decision dated January 17, 2008 of the Regional Trial Court, Branch 6, 8th Judicial Region, Tacloban City, in Criminal Case No. 2001-06-415, is hereby AFFIRMED with the following MODIFICATIONS: As to the civil liability, the accused-appellant is ORDERED to pay complainant [AAA] P75,000.00 as civil indemnity, P75,000.00 as moral damages and P30,000 as exemplary damages, plus interest on all damages awarded at the legal rate of 6% per annum from the date of finality of this Decision.

SO ORDERED.^[22]

Thus, this appeal.

Both parties manifested that they are no longer filing supplemental briefs considering that they have already exhausted the discussion of the issues in their respective briefs before the CA, which they manifest to adopt and reiterate in this appeal.^[23]

Accused-appellant argues that the prosecution failed to positively identify him and to prove concretely his involvement in the commission of the crime of rape. The accused-appellant argues that on the basis of the victim's testimony, as she remained to be tied with her back away from the person who ravished her, it is unlikely that she could have identified the accused-appellant through the latter's voice.^[24] This is particularly true where in this case, "the prosecution failed to present concrete proof with regard to AAA's familiarity with the voice of accused-appellant, enough to distinguish his voice from the other culprit, and to guarantee that the voice indeed came from the accused appellant."^[25] As the evidence for the prosecution is weak, the accused-appellant suggests that the inference which yields to the presumption of innocence prevails.^[26]

The appeal is **not meritorious**.