

SECOND DIVISION

[G.R. No. 230981, July 15, 2020]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. XXX*
ACCUSED-APPELLANT.**

D E C I S I O N

INTING, J.:

The case tells the story of a child snatched from the cradle of innocence by the bestiality of his own step-father whom she fondly called as Papa XXX. The controversy lies in the forthright and positive testimony of the victim regarding the sexual abuse she suffered in the hands of her step-father as against the latter's defense that it is incredible that he would rape the victim, while his own children are in the house.

For the Court's consideration is the appeal^[1] of the Decision^[2] dated October 27, 2016 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 01331-MIN which affirmed *in toto* the Joint Decision^[3] dated July 4, 2014 of Branch 22, Regional Trial Court (RTC), [REDACTED] finding XXX (accused-appellant) guilty beyond reasonable doubt of the crime of Rape under Article 266-A, in relation to Article 266-B of the Revised Penal Code (RPC), as amended; and for violating Section 5(b) of Republic Act No. (RA) 7610, otherwise known as the "Special Protection of Children against Abuse, Exploitation and Discrimination Act."

The Antecedents

Accused-appellant was indicted in an Information in Criminal Case No. 2011-440^[4] for the rape of his step-daughter, AAA committed as follows:

That sometime in the year 2010, and on dates subsequent and prior thereto, at, [REDACTED], Misamis Oriental, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, having moral ascendancy over the herein victim, being the common-law husband of her mother, did then and there, willfully, unlawfully and feloniously commit a series of acts of sexual abuse upon one [AAA], a 12-years old minor, by sodomizing her by inserting his penis into said victim's anus, and on several occasions by inserting his penis into her vagina, which acts of said accused debase, degrade and demean the intrinsic worth and dignity of said child, [AAA], as a human being, to the damage and prejudice of said victim.

CONTRARY TO and in violation of Section 5(b) of Republic Act No. 7610 (CHILD ABUSE).^[5]

Additionally, in Criminal Case No. 2011-441,^[6] accused-appellant was indicted for child abuse, viz.:

That sometime in the month of February, 2011 or prior thereto, at [REDACTED], Misamis Oriental, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, through force and intimidation and having moral ascendancy over the herein victim,, being the common-law husband of her mother, did then and there, willfully, unlawfully and feloniously have carnal knowledge with one [AAA], a 12-year-old minor, against her will and consent, to the damage and prejudice of said victim.

CONTRARY TO and in violation of Article 266-A, in relation to Article 266-B of the Revised Penal Code, as amended by R.A. 8353.^[7]

On January 20, 2012, accused-appellant, upon his arraignment, entered his pleas of not guilty to both charges.^[8]

The prosecution presented the following as its witnesses: (1) AAA, the victim; (2) Dra. Julieta Sittie Salma A. Masorong (Dr. Masorong); (3) Police Officer I Marie Regie A. Pinonia (PO1 Pinonia); and (4) Psychologist Myrna D. Villanueva (Villanueva).

The prosecution established the following:

AAA was born on May 19, 1998. After the separation of her parents, her mother lived with accused-appellant in [REDACTED], Misamis Oriental. One day, when she was about 12 years old, her mother went out to sell rice cakes, and left her and her half-siblings with the accused-appellant in their house. The accused-appellant then took AAA inside a room, removed her short pants, and went on top of her. Accused-appellant inserted his penis into her vagina and made a push and pull motion. The following day, accused-appellant molested AAA once more by forcing her to suck his penis. AAA did not tell her mother about her ordeal as the accused-appellant threatened to kill her.^[9]

Accused-appellant sexually molested AAA anew when she was 13 years old. One time, AAA went to the accused-appellant's room to ask his help regarding her exam when he suddenly forced her to lie on her stomach and lifted her skirt. Accused-appellant removed his own pants and brief, inserted his penis to her anus, and performed a push and pull motion. In yet another incident at the pigpen near their house, accused-appellant called AAA and directed her to sit on his lap. Accused-appellant removed his pants and "picked" her vagina.^[10]

One day, when AAA arrived home late after buying salt, the accused-appellant scolded her, punched her, and hit her with a coconut grater. The next morning, AAA jumped out from the window and ran away from home. She came across the *barangay* captain who brought her to the police station where she executed an affidavit depicting her ordeal in the hands of the accused-appellant. The medical examination conducted by Dr. Masorong showed that the AAA's hymen had old and healed lacerations at five and nine o'clock positions. Meanwhile, Villanueva, a psychologist, found that AAA was suffering from an anxiety disorder and had

symptoms of a sexually abused person.^[11]

For his part, the accused-appellant denied AAA's allegations. He alleged that prior to the filing of the charges against him, he beat AAA because she stole a wall clock, a battery operated radio, and a sum of money from their neighbors. The neighbors did not file a complaint against her because she was still a minor, but they advised him to discipline her. AAA's mother, BBB, corroborated his testimony. According to BBB, her daughter hated the accused-appellant because he would scold and hit her whenever she steal things. BBB, likewise, clarified that there was no time that AAA was left alone in the house because the accused-appellant's mother, CCC, would always be there to watch her children.^[12]

Lastly, CCC testified that in 2010 and 2011, she was living with her son and his family to take care of her grandchildren, including AAA. She did not witness the accused-appellant commit the charges imputed to him.^[13]

The Ruling of the RTC

After trial, the RTC found that the prosecution successfully discharged the burden of proof in the two charges. It observed that AAA was clear and steadfast in relating the material points of the incidents. Moreover, the Living Case Report^[14] of Dr. Masorong showed that she suffered hymenal lacerations at five and nine o'clock positions.^[15] It thus relied on the credible and positive declaration of AAA as against the denial of the accused-appellant. The dispositive portion of the Joint Decision reads:

WHEREFORE, the foregoing premises considered judgment is hereby rendered finding the accused [XXX];

1). *GUILTY* beyond reasonable doubt of the crime of CHILD ABUSE as defined and penalized under Section 5(b), Article III, Republic Act No. 7610 in F.C. Criminal Case No. 2011-440 and he is hereby sentenced to suffer the indeterminate sentence of *Fourteen (14) years, Eight (8) months and One (1) day of reclusion temporal, as minimum, to Seventeen (17) years, Four (4) months and One (1) day of reclusion temporal, as maximum*. He is also ordered to pay "AAA" the amount of Fifty Thousand Pesos (P50,000.00) as civil indemnity and Fifty Thousand Pesos (P50,000.00) as moral damages. Pursuant to prevailing jurisprudence, the accused is also ordered to pay the amount of Thirty Thousand Pesos (P30,000.00) as exemplary damages.

2). *GUILTY* beyond reasonable doubt of the crime of rape as defined and penalized under Article 266-A, Par. 1 of the Revised Penal Code in F.C. Criminal Case No. 2011-441 and he is hereby sentenced to suffer the imprisonment of *reclusion perpetua*, without eligibility for parole. He is also ordered to pay "AAA" P75,000.00 as civil indemnity, P75,000.00 as moral damages and P30,000.00 as exemplary damages.

The accused is likewise ordered to pay "AAA" interest at the legal rate of six percent (6%) per annum in all the amounts of damages awarded, reckoned from the date of finality of this decision until fully paid.

SO ORDERED.^[16]

The Ruling of the CA

In the Decision^[17] dated October 27, 2016, the CA affirmed the RTC's ruling. It held:

From the foregoing, the elements of rape have been established without iota of doubt. In the case at bar, the appellant had carnal knowledge of the private complainant with the use of force, threat, intimidation and by means of abuse of authority. This was supported by private complainant's testimony, the foregoing affidavit and corroborated by the medical and psychological reports. Her minority was substantiated by her birth certificate showing that she was born on 19 May 1998 and admitted by the defense during the pre-trial conference.

WHEREFORE, the appeal is DENIED. The 4 July 2014 Joint Decision of the Regional Trial Court of Branch 22, [REDACTED] in Criminal Cases No. 2011-440 for violation of R.A. No. 7610 and No. 2011-441 for Rape is hereby AFFIRMED.

SO ORDERED.^[18]

Before the Court, accused-appellant manifested that he would no longer file a Supplemental Brief as he had exhaustively discussed the arguments for his acquittal in his Appellant's Brief.^[19] The Office of the Solicitor General manifested in like manner that the Appellee's Brief filed before the CA already discussed its arguments; hence, there is no necessity to file a Supplemental Brief.^[20]

By and large, accused-appellant invoked the same arguments he raised before the CA in assailing his conviction. He alleged, among others, that AAA's version of the facts was highly doubtful insisting that a rapist would do his dastardly act surreptitiously to avoid being caught. Even if lust is no respecter of time and place, he maintained that no father would openly have carnal knowledge with someone in the presence of his children.^[21] Accused-appellant averred too that the victim had all the chance to report the alleged sexual abuse to her mother or to the authorities. She was already 12 years old when the purported incident happened and, therefore, she could already report the incident.^[22]

The appeal has no merit.

The Ruling of the Court

Rape can be committed in two ways.

Paragraph 1 of Article 266-A of the RPC refers to rape through sexual intercourse, otherwise known as organ rape or penile rape. The central element of this kind of rape is carnal knowledge, which must be proven beyond reasonable doubt.^[23] The law states:

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.

Paragraph 2 of Section 266-A refers to rape by sexual assault. It is known as instrument or object rape or gender-free rape and must be attended by any of the circumstances enumerated above.^[24] Thus:

ART. 266-A. *Rape, When and How Committed.* — x x x

x x x x

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 oral orifice of another person.

*Accused-
appellant is
guilty of
Qualified Rape
in Criminal
Case No.
2011-441.*

In Criminal Case No. 2011-441, accused-appellant must be convicted of Qualified Rape under Article 266-B of the RPC since the Information alleged, and was admitted,^[25] that AAA was a 12-year-old minor and that accused-appellant was the live-in partner or the common-law spouse of her mother.^[26] The elements of Qualified Rape are as follows: (1) sexual congress; (2) with a woman; (3) done by force, threat, or intimidation and without consent; (4) the victim is under 18 years of age at the time of rape; and (5) the offender is a parent, ascendant, step-parent, guardian, relative by consanguinity or affinity within the third civil degree of the victim, or the common-law spouse of the parent of the victim. The actual force, threat, or intimidation that is an element of rape under Article 266-A, paragraph (1) (a) is no longer required to be present because the moral and physical dominion of the father is sufficient to cow the victim into submission to his beastly desires.^[27]

In Criminal Case No. 2011-441, the prosecution established that accused-appellant had carnal knowledge of AAA employing force and intimidation, and by means of