

# THIRD DIVISION

[ G.R. No. 244255, August 26, 2020 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. XYZ,<sup>[1]</sup>  
ACCUSED-APPELLANT.**

## DECISION

**GESMUNDO, J.:**

The Information must allege not only all the elements of the crime but also all the proper qualifying and aggravating circumstances that would change the nature of the offense or increase the penalty. In case of doubt in the allegations in the Information, such doubt shall be construed in favor of the accused and against the State if only to give life to the constitutional right of the accused to be informed of the nature and cause of the accusation against him and the presumption of innocence of the accused.

### The Case

Under consideration is this appeal directed against the Decision<sup>[2]</sup> promulgated on May 31, 2018 of the Honorable Court of Appeals (CA) in CA-G.R. CR-HC No. 09716 whereby the appellate court affirmed with modification the Decision<sup>[3]</sup> dated April 28, 2017 of the Regional Trial Court, [CCC],<sup>[4]</sup> Branch 51 (RTC), in Criminal Case Nos. 2012-8309 and 2012-8310, finding XYZ (*accused-appellant*), guilty of two (2) counts of qualified rape rather than penile rape.

### Antecedents

The public prosecutor filed two (2) Informations against accused-appellant for allegedly raping his daughter, the indictment reads:

#### **Criminal Case No. 2012-8309:**

That on or about noon of November 20, 2009, at [CCC], Province of Sorsogon, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design, did then and there, willfully, unlawfully and feloniously by means of force, intimidation and taking advantage of his moral ascendancy, have sexual intercourse with one [BBB],<sup>[5]</sup> an eleven (11) years old (*sic*) girl, against her will and without her consent, which act likewise constitute[s] child abuse as it debases, degrades and demeans the dignity of the victim as a child causing her emotional and psychological trauma, to her damage and prejudice.

The aggravating circumstance of relationship is attendant in this case, as the respondent is the natural father of the victim, [BBB].

## **Criminal Case No. 2012-8310:**

That on or about 8:00 o'clock in the evening of December 22, 2011 at [CCC], Province of Sorsogon, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd designs, did then and there, willfully, unlawfully and feloniously by means of force, intimidation and taking advantage of his moral ascendancy, have sexual intercourse with one [BBB], a thirteen (13) year old girl, against her will and without her consent, which act likewise constitute[s] child abuse as it debases, degrades and demeans the dignity of the victim as a child causing her emotional and psychological trauma, to her damage and prejudice.

The aggravating circumstance of relationship is attendant in this case, as the respondent is the natural father of the victim, [BBB].<sup>[6]</sup>

Upon arraignment on May 18, 2012, accused-appellant pleaded "not guilty" to said charges.<sup>[7]</sup> Thereafter, trial on the merits ensued.

To establish the prosecution's case, it presented the testimonies of private complainant and the doctor who examined her, Dr. Salve B. Sapinoso (*Dr. Sapinoso*). The CA summarized their testimonies in this wise:

The private complainant testified that she was born on [DDD],<sup>[8]</sup> 1998 and that accused-appellant is her step-father. Her birth certificate, however, indicated accused-appellant as her father. She claimed that accused-appellant sexually abused her several times. Specifically, on November 20, 2009, when she was eleven (11) years old, she was sleeping in their bedroom when accused-appellant entered and removed her shirt and short. While accused-appellant was removing his clothes, he threatened her that he will kill her mother and brother. Accused-appellant then made her lie down, went on top of her, and inserted his penis in her vagina. Accused-appellant also kissed her and forced his tongue into her mouth. She cried while accused-appellant covered her mouth with his hand. After accused-appellant had carnal knowledge of her, he again warned her that he will kill her mother and brother if she talks about the sexual abuse. The incident happened again on December 22, 2011 when she was thirteen (13) years old.

Private complainant's testimony was corroborated by Dr. Salve Sapinoso, who conducted a physical examination of the private complainant and issued a Medical Certificate finding five healed lacerations in her hymen.<sup>[9]</sup> (citation omitted)

In response, the defense presented the testimony of accused-appellant. The CA summarized his testimony in this manner:

Accused-appellant testified in his own behalf, denying that he raped private complainant and offering as *alibi* that he was working in another barangay three kilometers away from their residence at the time of the alleged incidents. He denied being the biological father of private

complainant and claimed that it was his older brother, [EEE]<sup>[10]</sup> who fathered her.<sup>[11]</sup>

### **Judgment of the RTC**

After trial, the RTC rendered a Decision of conviction. The trial court ruled that all the elements of the crime have been duly proven by the public prosecutor. More, there is nothing in the testimony of private complainant that would cast doubt on its truthfulness and veracity especially when her testimony jibes with the physical evidence and medical testimony of the medico-legal officer. The *fallo* reads:

**WHEREFORE**, in light of the above foregoing, judgment is hereby rendered finding the accused [XYZ] guilty beyond reasonable doubt of the offense of rape, and he is hereby sentenced to suffer the penalty of *Reclusion Perpetua* in both cases.

Accused is further ordered to pay the private complainant [BBB] the amount of P75,000.00 as civil damages and another P75,000.00 as moral damages.

**SO ORDERED.**<sup>[12]</sup>

### **Decision of the CA**

As stated above, the CA found accused-appellant guilty of qualified rape rather than penile rape because of the presence of the relationship between him and private complainant. Further, the appellate court ruled that accused-appellant's *alibi* and denial cannot be credited considering the positive identification of private complainant that accused-appellant abused her. The CA ruled thus:

**WHEREFORE**, the appeal is **DENIED**. The *Decision* of the RTC is **AFFIRMED** with the **MODIFICATION** that accused appellant [XYZ] is found **GUILTY** of two (2) counts of Qualified Rape and is sentenced to suffer the penalty of *reclusion perpetua* for each count, without eligibility for parole. The award of civil indemnity is increased to P100,000 and moral damages to P100,000, for each of the two counts of rape. In addition, accused-appellant is further directed to pay private complainant P100,000 as exemplary damages, for each of the two counts. The award of damages shall earn straight interest at the rate of 6% *per annum* from the date of finality of the judgment until fully paid.

**IT IS SO ORDERED.**<sup>[13]</sup>

Hence, this appeal.

Accused-appellant and the Office of the Solicitor General (*OSG*) both manifested that they are submitting the appeal for resolution on the strength of their briefs submitted before the appellate court.

### **The Issue**

Accused-appellant raises the following assignment of errors:

**I.**

**THE TRIAL COURT GRAVELY ERRED IN GIVING WEIGHT AND CREDENCE TO [PRIVATE COMPLAINANT'S] INCREDIBLE AND DUBIOUS TESTIMONY.**

**II.**

**THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT OF RAPE DESPITE THE PROSECUTION'S FAILURE TO PROVE ALL THE ELEMENTS THEREOF.**

**III.**

**THE TRIAL COURT GRAVELY ERRED IN DISREGARDING THE ACCUSED-APPELLANT'S DEFENSE OF DENIAL.<sup>[14]</sup>**

Simply, accused-appellant raises doubt as regards the credibility of private complainant. He argues that because he disciplined private complainant often, she had the incentive to fabricate stories against him. Also, accused-appellant argues that there was nothing in the testimony of private complainant that shows she was ever forced or that force was employed in order to satisfy his bestial desires. Lastly, he blames the lower courts in nonchalantly disregarding his defense. To him, when properly considered, his defense would lead to his acquittal.

On the other hand, the OSG argues that all the elements of qualified rape were duly established by the prosecution. More, it argues that there was nothing in the testimony of private complainant that would cast doubt on her credibility.

Thus, the central issue in this appeal is whether or not accused-appellant is entitled to an acquittal.

**The Court's Ruling**

The appeal lacks merit.

First, accused-appellant's attempt to question the credibility of private complainant should be disregarded. It must be remembered that testimonies of victims which are given in a categorical, straightforward, spontaneous, and frank manner are considered worthy of belief, for no woman would concoct a story of defloration, allow an examination of her private parts and thereafter allow herself to be perverted in a public trial if she was not motivated solely by the desire to have the culprit apprehended and punished.<sup>[15]</sup> Also, it is highly improbable for an innocent girl of tender years like the victim, who is very naive to the things of this world, to fabricate a charge so humiliating not only to herself but also to her family.<sup>[16]</sup>

Further, the trial court's evaluation of the credibility of witnesses is entitled to the highest respect and will not be disturbed on appeal considering that the trial court is in a better position to decide such question, having heard the witnesses themselves and observed their deportment and manner of testifying during the trial. Its findings on the issue of credibility of witnesses and the consequent findings of fact must be

given great weight and respect on appeal, unless certain facts of substance and value have been overlooked which, if considered, might affect the result of the case.

[17] Here, the fact that accused-appellant was a disciplinarian which made private complainant despise him is not a sufficient reason for private complainant to concoct a story of sexual abuse. More so, her testimony was corroborated by medical evidence that there was indeed carnal knowledge.

Hence, without sufficient justification, this Court will respect the assessment of the trial court as regards the credibility of the prosecution witnesses.

Second, despite accused-appellant's pleas, the Court affirms the lower court's treatment of his defense. Jurisprudentially, while his *alibi* can be considered as a valid defense, the following elements must be alleged and proven for it to be entitled merit: (a) that he was present at another place at the time of the perpetration of the crime, and (b) that it was physically impossible for him to be at the scene of the crime during its commission. "Physical impossibility refers to distance and the facility of access between the crime scene and the location of the accused when the crime was committed. He must demonstrate that he was so far away and could not have been physically present at the crime scene and its immediate vicinity when the crime was committed."<sup>[18]</sup>

Here, accused-appellant alleged that he was at the other barangay approximately three (3) kilometers away from their residence. Unfortunately, the distance between his alleged whereabouts and their residence hardly meets the requirement of physical impossibility. At such distance, he could walk from that barangay to their residence in a matter of hours, if not minutes. More, such statement is self-serving, as he failed to present independent proof that would corroborate his *alibi*. Lastly, but most damaging of them, private complainant had positively, unequivocally and categorically identified accused-appellant as her abuser. Jurisprudence has dictated that positive identification prevails over *alibi* since the latter can easily be fabricated and is inherently unreliable.<sup>[19]</sup> Thus, the lower courts did not err in disregarding accused-appellant's defense.

Lastly, it must be remembered that statutory rape, as punished under Article 266-A of the Revised Penal Code and amended by Republic Act No. 8353, paragraph 1(d),<sup>[20]</sup> is different compared to other forms of rape. What the law punishes in statutory rape is carnal knowledge of a woman below twelve (12) years old. Thus, force, intimidation and physical evidence of injury are not relevant considerations; the only subject of inquiry is the age of the woman and whether carnal knowledge took place. The law presumes that the victim does not and cannot have a will of her own on account of her tender years; the child's consent is immaterial because of her presumed incapacity to discern good from evil.<sup>[21]</sup>

From the foregoing, the prosecution needs only to establish the following facts in order to secure conviction of the accused for statutory rape: (1) that the accused had carnal knowledge of a woman; and (2) that the woman was below 12 years of age.<sup>[22]</sup>

Thus, in Criminal Case No. 2012-8309, the prosecution has sufficiently established all the elements stated above. The unlawful carnal knowledge was established by the testimony of private complainant who described how accused-appellant