

FIRST DIVISION

[G.R. No. 242216, September 22, 2020]

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

DECISION

PERALTA, C.J.:

This is an appeal from the June 20, 2018 Decision^[1] of the Court of Appeals (CA) in CA-G.R. CR-HC No. 02408, which affirmed with modification the July 29, 2016 Judgment^[2] of the Regional Trial Court, Branch 56, Mandaue City (RTC), finding accused-appellant XXX guilty beyond reasonable doubt of the crime of Rape committed against AAA.^[3]

The Facts

XXX was indicted for the crime of Rape by sexual intercourse in an Information, the accusatory portion of which states:

That sometimes (sic) on the 20th day of November 2017, ██████████, in Philippines, and within the jurisdiction of this Honorable Court, the said accused by means of force, violence and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge with her 12-year-old minor niece [AAA] against her will.

The crime was attended by a qualifying circumstance since the accused is the uncle of the complainant, a relative within the 3rd civil degree.

CONTRARY TO LAW.^[4]

Upon arraignment, XXX pleaded not guilty to the charge. After pretrial was terminated, trial on the merits followed.

Version of the Prosecution

To substantiate its charge against accused XXX, the prosecution presented the minor-victim AAA, her mother BBB, her sister CCC, and Dr. Naomi N. Poca (*Dr. Poca*) as its witnesses.

The combined testimonies of AAA, BBB and CCC showed that XXX, together with his parents and younger siblings, resided in a house located at Aimers compound in ██████████, Mandaue City. Adjoined to said house is the small dwelling place of AAA, BBB and CCC. XXX is AAA's uncle, being the younger brother of her mother BBB.

On November 20, 2007, at around 1 o'clock in the afternoon, AAA was at home because she only had a half-day class session for that day. Suddenly, XXX entered AAA's house, grabbed her by the arm and dragged her inside the bedroom. There, XXX inquired from AAA the whereabouts of her mother, sister and brother. In reply, AAA said that her mother and sister were both at work, while her brother was at school. Upon learning that AAA was alone in the house, XXX took off AAA's shorts and underwear. Then, XXX also took off his shorts and underwear. Thereupon, XXX went on top of AAA and inserted his penis inside AAA's vagina. AAA claimed that she was not able to resist or fight XXX's sexual advances because he threatened her not to make noise.

In the meantime, CCC arrived home from work at around 1 o'clock in the afternoon as she only went on a half-day duty. CCC saw a pair of slippers outside their door that she was not familiar with. Upon entering, CCC was shocked by what she had witnessed. She saw XXX and AAA both naked waist down, with XXX on top of AAA, who was then continuously crying. CCC caught XXX having carnal knowledge of AAA. Startled, XXX immediately stood up. Failing to contain her fury, CCC berated and attacked XXX. CCC and XXX briefly wrestled with each other until XXX's mother (AAA and CCC's grandmother) intervened, and asked CCC not to tell the incident to anyone. Meanwhile, XXX took his shorts and underwear and ran away. CCC recalled that AAA could not utter a word and was in obvious state of shock. CCC told AAA to put on her underwear and shorts.

CCC and AAA went to the place of work of their mother, BBB, and CCC apprised the latter of what happened. BBB and CCC accompanied AAA to the police station to report the incident as well as to lodge a complaint against XXX. The following day, they proceeded to the ██████████ Memorial Medical Center where AAA was medically examined.

XXX was about 26 to 27 years old while, AAA was only 12 years, 3 months and 27 days old at the time of the rape incident. The birth certificate of AAA submitted by the prosecution disclosed that she born on July 23, 1995.

Dr. Poca testified that she conducted a medical examination on AAA. She did not notice any traces of injury on the private part of AAA at the time of the examination. Dr. Poca, however, observed redness around the hymen of the victim which can be caused by infection or irritation. She declared that the medical evaluation cannot exclude sexual abuse.^[5]

Version of the Defense

XXX interpose the defense of denial. He claimed that he never had sexual intercourse with AAA. He recalled that he woke at about 10 o'clock in the morning on November 20, 2007. He went to the house of his sister BBB to look for food. When he started eating, AAA arrived from school and removed her uniform. He scolded her for not attending her class. AAA replied that she was not feeling well and has a fever. He did not believe her so he asked AAA to put back her uniform. He then touched AAA to confirm his hunch that she was not really feverish. At that instant, CCC arrived and accused him of molesting AAA. He surmised that CCC came to this conclusion because AAA was then naked from waist down and he was just an

arm's length away from her.^[6]

RTC Ruling

On July 29, 2016, the RTC rendered a verdict of conviction, the dispositive portion of which reads:

Wherefore, predicated on the foregoing facts and circumstances, the Court hereby Convicts the herein accused [XXX] for the crime of Rape, in [r]elation to RA 7610 in Crim. Case No. DU-15896[,], as the prosecution has proved his guilt beyond reasonable doubt. For which reason, the Court hereby sentences the accused to suffer the penalty of reclusion perpetua (20 years and 1 day to 40 years), without eligibility for parole, and to pay [AAA], the sum of P50,000.00 as civil indemnity and the amount of P50,000.00 as moral damages.

Said accused, however, is credited with his preventive imprisonment.

SO ORDERED.^[7]

The RTC held that the prosecution was able to establish with certitude that XXX had carnal knowledge of AAA through force and intimidation, and such fact was established through the clear and convincing testimony of the said victim who has no motive to testify falsely against XXX. The trial court ruled that AAA's claim of rape was amply corroborated by the testimony of CCC, who actually witnessed XXX having carnal knowledge of AAA against the latter's will.

The RTC rejected the defense of denial proffered by XXX declaring the same to be unconvincing and self-serving negative evidence which could not prevail over the positive identification of him by AAA and CCC as the culprit to the dastardly deed. Finally, the RTC ruled that the presence of the qualifying circumstances of minority and relationship justified the imposition of death penalty, but because of the passage of Republic Act No. 9346, the penalty of *reclusion perpetua* without eligibility for parole was imposed against XXX instead.

Not in conformity, XXX appealed the July 29, 2016 RTC Decision before the CA.

The CA Ruling

On June 20, 2018, the CA rendered its assailed Decision affirming the conviction of XXX for Rape by sexual intercourse. The appellate court declared that the credible testimony of AAA was sufficient to sustain XXX's conviction for the crime charged. It, likewise, debunked appellant's denial declaring that the same was not satisfactorily established and not at all persuasive when pitted against the positive and convincing identification by the victim. The CA considered the testimony of CCC to be in the nature of a circumstantial evidence of the sexual intercourse between XXX and AAA. It increased the amounts awarded for civil indemnity and moral damages to P100,000.00 each in consonance with the prevailing jurisprudence. The CA, likewise, determined that AAA is entitled to the award of P100,000.00 by way of exemplary damages. The *fallo* of the Decision reads:

WHEREFORE, the appeal is DENIED. The Judgment dated 29 July 2016 rendered by the Regional Trial Court, Branch 56, Mandaue City in Criminal Case No. DU-15896, is AFFIRMED with MODIFICATION, in that:

- 1) [XXX] is ordered to pay AAA the amount of One Hundred Thousand Pesos (P100,000.00) as civil indemnity, One Hundred Thousand Pesos (P100,000.00) as moral damages, and One Hundred Thousand Pesos (P100,000.00) as exemplary damages; and
- 2) All damages awarded shall earn an interest of six percent (6%) per annum to be computed from the finality of this Decision until fully paid.

SO ORDERED.^[8]

The Issues

Unfazed, XXX filed the present appeal and posited the same issues he previously raised before the CA, to wit:

I

THE TRIAL COURT ERRED IN GIVING FULL FAITH AND CREDENCE TO THE TESTIMONY OF THE PRIVATE COMPLAINANT, AAA

II

THE TRIAL COURT ERRED IN CONVICTING THE ACCUSED-APPELLANT DESPITE THE FAILURE OF THE PROSECUTION TO PROVE AND ESTABLISH HIS GUILT BEYOND REASONABLE DOUBT.^[9]

In the Resolution^[10] dated November 12, 2018, the Court directed both parties to submit their supplemental briefs, if they so desired. On January 31, 2019, the Office of the Solicitor General filed a Manifestation and Motion^[11] stating that it will no longer file a supplemental brief as its Appellee's Brief had sufficiently ventilated the issues raised. On February 28, 2019, the accused-appellant filed a Manifestation^[12] averring that he would adopt all his arguments in his Appellant's Brief filed before the CA.

The Court's Ruling

Essentially, XXX faults the RTC for giving undue faith and credence on the testimony of AAA. He theorizes that the prosecution evidence failed to overcome his constitutional presumption of innocence because it was not established that he employed force, threat or intimidation against AAA in the alleged commission of the crime.

Further, XXX submits that it is highly improbable that the alleged rape took place in broad daylight and inside a place adjacent to the house where his mother was then present, arguing that rape is essentially committed in secret, away from the prying