

## THIRD DIVISION

[ G.R. No. 218277, November 09, 2020 ]

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

### **D E C I S I O N**

**HERNANDO, J.:**

This appeal assails the June 26, 2014 Decision<sup>[2]</sup> of the Court of Appeals (CA) in CA-GR. CR-HC No. 05315, which affirmed the November 11, 2011 Decision<sup>[3]</sup> of the Regional Trial Court (RTC), Quezon City, Branch 106, in Crim. Case No. Q-08-151411, finding accused-appellant XXX (accused-appellant) guilty of Statutory Rape.

#### **The Antecedents**

In an Information<sup>4</sup> dated March 26, 2008, accused-appellant was charged with Statutory Rape, the accusatory portion of which reads:

That on or about the 22nd day of March 2008, in Quezon City, Philippines, the said accused, with force and intimidation, did then and there, [willfully], unlawfully commit acts of sexual assault upon the person of [AAA],<sup>5</sup> his own daughter, a minor, 9 years old, by then and there undressing her and inserting his [penis into] her vagina against her will and without her consent, to the damage and prejudice of the said offended party.

Contrary to law.<sup>[6]</sup>

During his arraignment, accused-appellant entered a plea of "not guilty."<sup>[7]</sup>

#### **Version of the Prosecution:**

At around 6:00 p.m. on March 22, 2008, the victim, AAA, was at home with her two brothers, her grandmother and her father, herein accused-appellant. BBB,<sup>[8]</sup> her mother, was out selling barbecue. Thereafter, while AAA's brothers were at the basketball court, her father instructed AAA to go up to the bedroom. Subsequently, he ordered her to remove her shorts. After AAA complied, accused-appellant inserted his penis into her vagina which caused her pain. AAA shouted and pleaded, "*wag na, tama na po*". Accused-appellant stopped but threatened her not to tell her mother about what happened. When BBB returned home that night, AAA did not report anything as she feared that her father might do something to her mother.

The day after, accused-appellant banished BBB from their house during their quarrel. Traumatized by her husband's constant verbal and physical abuse against

her, BBB tearfully bade goodbye to her children. Afraid that her mother would leave her, AAA whispered to her mother that she needed to tell her something. Alone in the bedroom, AAA disclosed to her mother what her father had done to her. AAA likewise revealed that it was not the first time it happened since her father has been sexually assaulting her since she was five years old. Unfortunately, AAA could no longer remember how many times her father molested her. Consequently, BBB and AAA reported the matter to the authorities which eventually led to accused-appellant's arrest. Afterwards, AAA gave her statement to the police and then underwent medical examination.<sup>[9]</sup>

In her *Salaysay*,<sup>[10]</sup> AAA stated that her father has been sexually molesting her since she was around six years old and that she did not tell her mother about it since he threatened to kill BBB if she did. AAA asserted that she finally told her mother the truth out of fear that her mother would leave her since her father was sending BBB away, already.

Similarly, BBB averred in her *Salaysay*<sup>[11]</sup> that after a huge fight with her husband, she was driven out of their house but AAA tearfully asked her not to leave. BBB eventually revealed that her husband has been sexually assaulting her during those times when BBB would leave the house to make a living. After this revelation, BBB and AAA reported the matter to the authorities.

The prosecution presented AAA's birth certificate<sup>[12]</sup> which confirmed that she was born on July 8, 1998 and that she was only nine years old when her father allegedly raped her on March 22, 2008.

The prosecution also established that AAA submitted herself to a medical examination wherein the attending medico-legal officer, Police Chief Inspector (PCI) Jesille C. Baluyot (PCI Baluyot), found that there was a recent and previous blunt force to the labia minora and the hymen. This was affirmed by the Initial Medico-Legal Report<sup>[13]</sup> dated March 23, 2008 and the subsequent Medico-Legal Report No. R08-669<sup>[14]</sup> dated April 14, 2008.

During her testimony, AAA recalled her ordeal at the hands of her father. She likewise confirmed that she was born on July 8, 1998.<sup>[15]</sup> She described in detail the rape incident on March 22, 2008 as follows:

Q During that time and date could you tell this court if there was [an] unusual incident that happened?

A Yes, sir.

Q Could you tell us what is that incident that happened to you?

A My father told me to go inside the room.

Q What did you do when your father told you to go inside the room?

A [H]e told me to remove my dress.

Q Did you undress as told to you by your father?

A I removed my shorts.

Q After you removed your shorts what other things transpired?

A He inserted his penis inside my vagina.

Q What did you do when your father [did] that to you?

A I was shouting then.

Q What other things did you do aside from shouting, did you do anything?

A Yes, sir.

Q What was that?

A I said 'Wag na, tama napo.'

Q What did your father tell you if any?

A He told me not to tell the matter to my mother.

Q While your father was doing that what did you feel?

A It [was] painful.<sup>[16]</sup>

AAA testified that it was not the first time that her father took advantage of her, as he has been molesting her since she was five years old. However, she could no longer recall how many times it occurred.<sup>[17]</sup> She even averred that her classmates in school teased her about the incident which made her feel ashamed.<sup>[18]</sup>

On cross-examination, AAA asserted that sometimes, her father would spank her and her siblings and would hurt her mother whenever they fought.<sup>[19]</sup> She likewise admitted that their grandmother lived with them and that she (grandmother) took care of her (AAA's) siblings. Supposedly, her grandmother was downstairs while the incident occurred upstairs in the room.<sup>[20]</sup> AAA related that she informed BBB of the ordeal for fear that her mother would leave her or that her father might do something to her mother.<sup>[21]</sup> Although she answered during the cross-examination that it was her father who removed her shorts,<sup>[22]</sup> she averred that she did not fight back because she was terrified of her father.<sup>[23]</sup>

PCI Baluyot testified that based on her examination of AAA's genital area, there was redness on both sides of the labia minora and the hymen was swollen which could have been caused by an erect penis, a finger or a blunt object.<sup>[24]</sup> On cross-examination, however, PCI Baluyot averred that it was more probable that a finger was inserted due to the difference in force between a hand and a penis.<sup>[25]</sup> She added that during the genital examination, the hymen was intact and had no laceration which could be caused by an erect penis.<sup>[26]</sup> Nevertheless, she clarified that it is still possible that the injury could have been caused by a penis which did not actually penetrate the vagina but only reached the opening.<sup>[27]</sup>

Version of the Defense:

Conversely, the defense averred that on March 22, 2008, accused-appellant was at home with his two sons while AAA and BBB were at their neighbor's house.

Allegedly, he and BBB had an ongoing fight which started the day before (March 21, 2008) when they arrived from the grotto in Bulacan. At that time, their verbal argument turned physical when he pushed BBB, who stumbled and almost fell against the wall of the house. Shortly after, BBB threw something at him but he was able to evade it. BBB then took a knife and tried to hurt him but he evaded again. Eventually, BBB packed her things and left. Their three children trailed behind BBB up to the house of their neighbor. He followed and ordered his children to come home but only the two boys obeyed him. The next day or on March 22, 2008, AAA and BBB did not return so he took care of the two boys on his own. That night, he went to a friend's house with the two boys and stayed thereat until 2:00 a.m. of March 23, 2008 before finally calling it a night. Upon reaching the house, he found that AAA and BBB were already there. He then went to sleep.<sup>[28]</sup>

When he woke up the following morning, he prepared breakfast and invited AAA and BBB to join him but they declined. At around lunchtime, he knocked on the bedroom door and again invited AAA and BBB to eat with him. Afterwards, he told BBB not to involve AAA in their squabble but BBB hit him in the face instead. Incensed, he slammed the door which caused the hinges to break and fall on AAA, hurting her. After fifteen minutes, AAA left with BBB. Barangay and police officers arrived shortly to question and arrest him. He insisted that BBB concocted the rape allegations in order to exact revenge against him.<sup>[29]</sup>

At the trial, the parties stipulated on the following: a) the fact of arrest of the accused; b) authenticity of the affidavit of arrest but not the contents thereof; c) that one of the intended witnesses (BPSO Diosdado Garbin) has no personal knowledge of the facts stated in the Information; and d) that there was no warrant of arrest issued for him as he was only invited for questioning by the arresting officers.<sup>[30]</sup>

### **The Ruling of the Regional Trial Court:**

In a Decision<sup>[31]</sup> dated November 11, 2011, the RTC ruled that the victim's testimony established the existence of all the elements of Rape under Article 266-A, paragraph (1) of the Revised Penal Code (RPC), as amended. It found that AAA's testimony directly and positively demonstrated that accused-appellant succeeded in having carnal knowledge of her.<sup>[32]</sup>

The RTC appreciated the qualifying circumstances of minority and relationship, ruling that the felony should be denominated as Incestuous Rape which is punishable by death. Even if the caption of the Information charged Statutory Rape, the trial court noted that the victim's age and her relationship with the accused were alleged in the body thereof. Thus, it held that the allegation of facts in the Information should be controlling.<sup>[33]</sup> Nonetheless, the RTC ruled that in view of the prohibition on the imposition of the death penalty, accused-appellant should instead suffer the penalty of reclusion perpetua without eligibility for parole.<sup>[34]</sup> Hence, the dispositive portion of the RTC's Decision reads:

**IN VIEW WHEREOF,** accused [XXX] is found **guilty** of the crime of **rape qualified by minority and relationship** and is hereby sentenced to suffer the **penalty of reclusion perpetua, without eligibility for parole.**

The accused is further ordered to pay private complainant the amount of P75,000.00 as civil indemnity, P75,000.00 as moral damages and P30,000.00 as exemplary damages.

**SO ORDERED.**<sup>[35]</sup> (Emphasis in the original)

Aggrieved, accused-appellant appealed<sup>[36]</sup> before the CA and assigned this sole error:

THE TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY OF THE CRIME CHARGED NOTWITHSTANDING THE PROSECUTION'S FAILURE TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.<sup>[37]</sup>

### **The Ruling of the Court of Appeals:**

The CA, in its assailed June 26, 2014 Decision,<sup>[38]</sup> held that accused-appellant is guilty beyond reasonable doubt of Statutory Rape given that the prosecution established the victim's minority as well as the identity of her father as the perpetrator.<sup>[39]</sup> It ruled that AAA, a child victim whose testimony should be given weight and credit, categorically and positively stated that her father inserted his penis inside her vagina.<sup>[40]</sup> Furthermore, it held that any penetration of the female organ by the male organ, however slight, is sufficient to support the claim of rape. This is in addition to the statement of PCI Baluyot that there is a possibility that the redness in the labia minora was caused by a male organ.<sup>[41]</sup>

The appellate court also rejected accused-appellant's defenses of denial and alibi, as he failed to show that it was physically impossible that both he and the victim were at the locus criminis at the time of the commission of the crime.<sup>[42]</sup> Similarly, it found untenable his imputation of ill motive since it is unimaginable that the young and innocent victim would concoct a story and file a rape case against her father knowing that it may bring shame to her and her family.<sup>[43]</sup> Hence, the appellate court explained that:

[H]aving sufficiently established the elements of statutory rape and the qualifying circumstance of relationship between accused-appellant and AAA, We find no reason to depart from the ruling of the RTC finding accused-appellant guilty beyond reasonable doubt of the crime of statutory rape. The imposition of the penalty of reclusion perpetua, instead of death, on accused-appellant, who shall not be eligible for parole under the Indeterminate Sentence Law, is in order, in light of RA 9346 or the Anti-Death Penalty Law, which prohibits the imposition of the death penalty.<sup>[44]</sup>

The dispositive portion of the assailed CA Decision provides:

**WHEREFORE**, premises considered, the instant Appeal is DENIED. The Decision dated November 11, 2011 of the Regional Trial Court, Branch 106, Quezon City, in Criminal Case No. Q-08-151411, finding accused-appellant [XXX] guilty beyond reasonable doubt of statutory rape is