

THIRD DIVISION

[G.R. No. 238405, December 07, 2020]

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
XXX,^[1] ACCUSED-APPELLANT.

D E C I S I O N

HERNANDO, J.:

Challenged in this appeal is the April 25, 2017 Decision^[2] of the Court of Appeals (CA) in CA-G.R. CR-HC No. 08168, which affirmed with modifications the December 4,^[3] 2015 Judgment^[4] of the Regional Trial Court (RTC), Branch 61 of Gumaca, Quezon, in Criminal Case Nos. 9994-G, 9995- G, and 10479-G.

The Antecedents:

Accused-appellant XXX was charged in three Informations which alleged:

Criminal Case No. 9994-G- Object Rape

That on or about September 5, 2007, at ██████████^[5] Province of Quezon, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused [Nicanor [XXX]], with lewd design, did then and there committed an act of sexual assault on one [AAA],^[6] an eight-year old female child, by forcing the said child to perform *fellatio* on him, that is, by inserting his penis into the said child's mouth, to gratify his sexual desire.

That the accused is the common-law spouse of [AAA's] mother, [BBB].^[7]

That in committing the offense, the said accused abused his moral ascendancy and influence over the said child and showed moral depravity by telling her, "huwag kang masamok kay Mama at kapag may asawa ka na ay hindi na kita[g]agalawin."

Contrary to law.^[8]

Criminal Case No. 9995-G- Statutory Rape

That on or about September 5, 2007, at ██████████ Province of Quezon, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused [Nicanor [XXX]], with lewd design, did then and there have carnal knowledge of one [AAA], an eight-year old female child, by inserting his penis inside her vagina, against her will.

That the accused is the common-law spouse of [AAA's] mother, [BBB].

That in committing the offense, the said accused abused his moral ascendancy and influence over the said child and showed moral depravity by telling her, "*huwag kang masamok kay Mama at kapag may asawa ka na ay hindi na kita agalawin.*"

Contrary to law.^[9]

In Criminal Case No. 10479-G- Statutory Rape

That on or about the month of September 2007, [REDACTED] Province of Quezon, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused [Nicanor [XXX]], with lewd design, did then and there have carnal knowledge of one [AAA], an eight-year old female child, by inserting his penis inside her vagina, against her will.

That the accused is the common-law spouse of [AAA's] mother, [BBB].
Contrary to law.^[10]

XXX pleaded "not guilty" to all charges.^[11] The three criminal cases were tried jointly^[12] by the RTC.

Version of the Prosecution:

The prosecution established that XXX is the common-law husband of AAA's mother, BBB.^[13]

In Criminal Case No. 10479-G, the prosecution claimed that sometime in September 2007, AAA was lying naked on the floor inside the room of their house when XXX laid on top of her and twice inserted his penis into her vagina, then threatened her not to tell her mother.^[14]

With regard to Criminal Case Nos. 9994-G and 9995-G, the prosecution alleged that on September 5, 2007, XXX summoned AAA, who was eight years old at the time, inside their house. Thereafter, XXX brought her inside a room. He then removed her shorts and placed his penis inside her mouth. Thereafter, he inserted his penis into AAA's vagina. Eventually, AAA confided to BBB about the rape incidents, prompting the latter to report the matter to the authorities which led to the arrest of XXX.^[15]

AAA's birth certificate^[16] showed that she was born on February 6, 1999. Thus, she was only eight years old when XXX sexually molested her in September 2007.

Dr. Genevive Bayongan Laguerta (Dr. Laguerta) examined AAA. In her Medical Legal Certificate,^[17] Dr. Laguerta stated that she found redness on the opening of AAA's vulva and hymenal lacerations at 7, 11 and 1 o'clock positions. Dr. Laguerta opined that an object, such as a penis, was inserted inside the opening of the hymen by force.^[18]

In her *Salaysay*,^[19] AAA narrated that she could not recall the number of times XXX had sexually molested her. She did not report the rape incidents to anyone because

of the threats made by XXX. AAA recalled what transpired on September 5, 2007, to wit:

07. TANONG: Maari mo bang isalaysay ang buong pangyayari kung paano kang iniyot ni [XXX]?

SAGOT: Opo, kapag po umaalis si Mama ay tinatawag po ko ni [XXX] sa loob [ng aming] bahay at sinasabi po ni [XXX] na huwag akong maingay at iyong pong aking mga kapatid ay hindi pinapapasok sa loob at hinubad [na po] ni [XXX] ang aking suot na short at pinasok [na po] ni [XXX] ang kanyang ari sa aking puki at pagkatapos po ay pinapadede ni [XXX] ang kanyang ari sa akin at hinihimas niya ang aking dede at pagkatapos po ay sinasabi po ni [XXX] sa akin na 'HUWAG KANG MASAMOK KAY MAMA AT KAPAG MAY ASAWA KANA AY HINDI NAKITA GAGALAWIN.'^[20]

The victim added that the last time she was sexually molested, BBB saw XXX forcing her (AAA) to perform fellatio on him.^[21]

BBB recounted what she saw on September 5, 2007 in her *Salaysay voz.*:^[22]

05. TANONG: Maari mo bang isalaysay kung paano ginahasa ni [XXX] ang iyong anak na si AAA?

SAGOT: Opo, [n]oon pong petsa 5 ng Setyembre 2007 oras humigit kumulang sa ika tatlo (3:00pm) ng hapon pag uwi ko pong aming bahay galing sa paglaba ay naabutan ko po ang aking anak na si [AAA] at ang aking kinakasamang si XXX na nasa loob ng aming bahay na nakita ko po na pinapasuso ni XXX ang aking anak na si [AAA] sa kanyang ari habang nakahiga si XXX sa gilid ng aming lamesa habang ang anak ko ay [magulong magulo] ang buhok at ng makita po niya ako ay pinahawakan ni XXX ang kanyang kamay sa aking anak na si [AAA] na pinapahilot ang kanyang kamay, at ng tinanong ko po ang aking anak ay sinabi po niya sa akin na huwag ko daw pong sasabihin kay XXX na nagsumbong siya sa akin na pinapadede siya ni XXX sa kanyang ari, nilalamas ang suso at iniyot ni XXX.^[23]

BBB confirmed that AAA is her child with her previous husband and not with :XXX.^[24]

The victim vividly described the sexual assault and rape incidents on September 5, 2007 as follows:

T Sabi mo mag-isa ka sa kuwarto noong mangyari yoon?
S Opo.

T Natutulog ka ba?
S Hindi po.

T Ano ang ginagawa mo?
S Tinawag po niya ako sa labas.

T Si XXX ba ang tumawag sa iyo sa labas?

S Opo.

T Lumabas ka ba?

S Pumasok po ako sa loob.

T Saan ka pumasok?

S Pumasok po ako sa loob ng bahay.

T Andoon basi XXX sa loob ng bahay?

S Opo, sinara po niya ang mga kurtina.

T Siya mismo ang nagsara ng mga kurtina?

S Opo.

x x x x

T Pagkasara ng kurtina, ano ang nangyari?

S Pumasok po siya sa loob ng kuwarto.

T Saan siya pumasok?

S Sa loob po ng kuwarto.

x x x x

T Pagkatapos niyang pumasok sa kuwarto ano ang nangyari?

S Sabi po niya ay maghubad ako.

T Ano ang nangyaring kasunod, naghubad ka ba?

S Opo.

x x x x

T Ano ang nangyari pagkatapos tanggalin ang short mo, [m]ay nangyari ba?

S Opo.

T Ano ang ginawa sa iyo, may ipinasok ba siya sa bibig mo?

S Opo.

T Ano ang ipinasok sa bibig mo, ano ang tawag doon, meron ka ba noon?

S Wala po.

x x x x

TY Yoong ipinasok sa iyong bibig, ano ang hitsura?

S Ari niya.

T Titi niya ba yon?

S Opo.

T Ilang beses niya ipinasok sa bibig mo yong titi niya?

S Isa (1) lamang po.

x x x x

T Alam mo ba kung nasaan ang pipi mo?

S [(Witness pointed to her vagina)].

T May ipinasok ba siya sa pipi mo?

S Opo, meron.

T Kailan, yon ding araw na yoon na ipinasok niya ang ari niya sa bibig mo?

S Opo.

x x x x

T Halimbawa ito ang pipi mo, ituro mo nga kung paano niya ipinasok. (Fiscal Begonia is demonstrating her hands to the witness)

S [(The witness [pushed] the forefinger of this representation inside the fist of her left hand indicating the penis is penetrating the vagina.)]

T Ano ang naramdaman mo ng pumasok ang ari niya sa pipi mo?

S Masakit po.

T Inilabas pasok ba niya?

S Opo.

T Paglabas pasok nasaktan ka ba?

S Opo.

T May sinabi ka [ba sa] kanya ng ipinasok at inilabas niya sa pipi mo ang ari niya?

S Wala po.

T Umiyak ka ba?

S Opo.

x x x x

T Nagsabi ka ba sa Mama mo tungkol doon sa ginawa sa iyo ni XXX?

S Opo.

T Kailan ka nagsabi kay Mama?

S Noong kinabukasan po.

x x x x

T Pag-naaalala mo ba yong nangyari sa iyo, naiiyak ka pa ba, ano ang nararamdaman mo?

S Natatakot po ako.

T Natatakot ka ba kay XXX?

S Opo.