

FIRST DIVISION

[G.R. No. 243625, December 02, 2020]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
JEFFREY Dereco Y Hayag, ACCUSED-APPELLANT.**

D E C I S I O N

PERALTA, C.J.:

Before this Court is an appeal under Rule 45 of the Rules of Court seeking the reversal of the Decision^[1] dated April 11, 2017 of the Court of Appeals in CA-G.R. No. CR-HC No. 08172, which affirmed with modification the Decision^[2] dated November 16, 2015 of the Regional Trial Court (RTC) of Quezon City, Branch 76, finding accused-appellant Jeffrey Dereco y Hayag guilty beyond reasonable doubt of rape under Article 266-A of the Revised Penal Code, as amended.

The antecedent facts are as follows:

In an Information^[3] dated September 1, 2009, accused-appellant was charged with the special complex crime of Robbery with Rape, to wit:

That on or about the 26th of August 2009, in Quezon City, Philippines, the said accused JEFFREY Dereco Y HAYAG, conspiring and confederating with another person who is at-large, and mutually helping each other, with intent to gain and by means of force, violence and intimidation against person, did then and there willfully, unlawfully and feloniously rob one [AAA]^[4] in (sic) following manner, to wit: on the date and place aforementioned, while complainant was walking along [REDACTED] this City, accused, pursuant to their conspiracy, appeared from behind and thereafter took and carried away from her one (1) Nokia cellphone worth Php5,000.00, one (1) gold ring 18k worth Php3,000.00, and cash money worth Php1,000.00, all valued in the total amount of Php9,000.00, Philippine Currency, belonging to said [AAA], and on the occasion of the Robbery, by means of force and intimidation, with lewd designs, accused one after another and mutually helping each other, had carnal knowledge with the said complainant, all against her will and without consent, to her damage and prejudice.

CONTRARY TO LAW.^[5]

During arraignment, accused-appellant pleaded not guilty to the crime charged. On pre-trial, the parties stipulated on the identity of the accused-appellant as the same person named in the Information. Thereafter, trial on the merits ensued.

The prosecution established that on August 26, 2009, at around 4 o'clock in the morning, while victim AAA was texting on her cellphone and walking along Quirino

Highway on her way to work, she was suddenly approached by two (2) men. One of them, later identified as accused-appellant, grabbed her and immediately poked a knife on her left side, while the other, identified as alias "Biboy," grabbed her bag and rummaged through her belongings. They dragged her towards a vacant lot where the accused-appellant, still poking a knife at her, lifted her blouse and mashed her breasts, with Biboy serving as lookout. AAA struggled, but to no avail. Accused-appellant pulled her pants and underwear down to her knees and inserted his finger in her genitalia. Despite AAA's resistance, accused-appellant did not stop and instead spread her legs, while Biboy shouted "*Bilisan mo!*" When AAA lifted her pants to cover herself, Biboy warned her, "*Auntie, huwag kang sisigaw kung ay aw mong patayin ka namin dahil may dala kaming baril.*"^[6]

AAA further testified that Biboy, at some point, made her turn around and face the wall. He went behind her, forcibly pushed her head down to her knees to make her bend and after removing her pants and underwear, he inserted his penis into her genitalia. As Biboy was ravishing her, the accused-appellant, who was in front of her and poking a knife at her side, was mashing her breasts and forcibly kissing her mouth. When Biboy was done, the accused-appellant went behind her forcibly pushed her head down to her knees and inserted his penis into her genitalia for about a minute. After accused-appellant was done, AAA sat down and cried while dressing herself up. Out of fear, she did not leave immediately as accused-appellant and Biboy told her not to leave.^[7]

After accused-appellant and Biboy left, AAA walked towards the highway and decided to go to work. Upon arriving at her workplace, she told her boss about what happened to her.^[8] She was then brought to the police station where she reported the incident, and subsequently underwent medico-legal examination, as evidenced by Medico-Legal Report No. SC-35-2009. On August 29, 2009, the police operatives arrested the accused-appellant at his residence. AAA then positively identified accused-appellant as one of the perpetrators of the crime.^[9]

In the Medico-Legal Report No. SC-35-2009^[10] dated August 29, 2009, Dr. Shane Lore Dettabali (*Dr. Dettabali*), who personally examined AAA, reported that upon examination, AAA's hymen had a deep healed laceration at 5 o'clock position, absence of hymenal tissue on the 6 -7 o'clock positions and acute sign of trauma or erythematous. Dr. Dettabali concluded that the laceration signified previous blunt force or penetrating genital trauma, specifically a male erect organ. It was also reported that there was a positive presence of spermatozoa which shows definite evidence of sexual contact.

For the defense, it solely relied on the testimony of the accused-appellant to refute the prosecution's allegations. Accused-appellant denied the charges against him. He narrated that on the date of the incident, August 26, 2009, he was plying his pedicab within the area of Villaflor Street, Barangay Gulod from 6 o'clock in the morning until 8 o'clock in the evening.^[11] At around 5 o'clock in the afternoon of August 29, 2009, while he was resting at his house in Araceli Street, Bgry. Gulod, Novaliches, police officers came and arrested him.^[12] He was brought to the police station and was presented later on before a woman for identification, who was later identified as AAA. He claimed that AAA repeatedly hit him with a glass she was then holding but he did not know why. Later, accused-appellant claimed that the police

officers pinned him as the one who raped the woman, and instructed the victim to identify him.

In its Decision^[13] dated November 16, 2015, the RTC of Quezon City, Branch 76, ruled that accused-appellant cannot be convicted of the special crime of robbery with rape as the prosecution failed to establish the presence of all the elements of robbery with rape. Nonetheless, it found accused-appellant guilty beyond reasonable doubt of the crime of rape as all the elements of rape were duly proven and established. The dispositive portion of the Decision reads:

WHEREFORE, accused Jeffrey Dereco y Hayag is hereby found GUILTY beyond reasonable doubt of violation of paragraph (1) of Art. 266-A of the Revised Penal Code, otherwise known as Rape.

He is hereby sentenced to suffer the penalty of RECLUSION PERPETUA, with no eligibility for parole, and TO PAY the private complainant victim AAA that amount of Php 50,000 as civil indemnity, P50,000 as moral damages, and P30,000 as exemplary damages, with all such amounts to earn interest of 6% per annum from the finality of this decision until full payment.

SO ORDERED.^[14]

Unperturbed, accused-appellant appealed the court *a quo's* decision before the Court of Appeals. However, on April 11, 2017, in its disputed Decision,^[15] the Court of Appeals affirmed with modification the decision of the trial court. The dispositive portion of which reads:

WHEREFORE, in view of the foregoing, the appeal is DENIED. The Decision dated November 16, 2015 of the Quezon City Regional Trial Court, Branch 76, in Criminal Case No. Q-09-160418 is hereby AFFIRMED with MODIFICATIONS, in that the phrase "without eligibility for parole" is DELETED and the accused-appellant is ordered to indemnify the private complainant the following amounts: (1) Php75,000.00 as civil indemnity; (2) Php75,000.00 as moral damages; and (3) Php75,000.00 as exemplary damages, with interest on all damages awarded at the rate of 6% per annum from the date of finality of this judgment until fully paid.

All other aspects of the assailed Decision

STAND. SO ORDERED.^[16]

Thus, before this Court, accused-appellant reiterated the following arguments previously raised before the appellate court to argue his conviction, to wit:

I

THE COURT A QUO GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY OF RAPE DESPITE THE INCONSISTENCIES AND INCREDIBILITY IN THE TESTIMONY OF THE PRIVATE COMPLAINANT.

II

THE COURT A QUO GRAVELY ERRED IN GIVING PROBATIVE WEIGHT TO PRIVATE COMPLAINANT'S TESTIMONY DESPITE BEING CONTROVERTED BY THE PHYSICAL EVIDENCE ON RECORD.

III

THE COURT A QUO GRAVELY ERRED IN GIVING CREDENCE AND UNDUE CONSIDERATION TO THE PRIVATE COMPLAINANT'S INCREDIBLE AND INCONSISTENT TESTIMONY WHILE COMPLETELY DISREGARDING THE ACCUSED-APPELLANT'S DEFENSE OF ALIBI AND DENIAL.

In seeking the reversal of the assailed CA decision, accused-appellant asserts that the prosecution failed to prove his guilt beyond reasonable doubt. He claims that AAA's testimony was riddled with inconsistencies and improbabilities. Thus, accused-appellant asserts that the courts *a quo* erred in giving credence to AAA's testimony as her credibility was questionable.^[17]

The Court finds no reason to reverse conviction.

The Court upholds the findings of the RTC which were affirmed by the CA, that AAA's testimony was credible. It is settled that the RTC's findings on the credibility of witnesses and their testimonies are entitled great weight and respect and the same should not be overturned on appeal in the absence of any clear showing that the trial court overlooked, misunderstood, or misapplied some facts or circumstances which would have affected the case. Questions on the credibility of witnesses are best addressed to the trial court due to its unique position to observe the witnesses' deportment on the stand while testifying.^[18] In this case, both the RTC and the CA held that AAA was credible, and her testimony categorically identified accused-appellant and his companion as the malefactors who, with the use of a knife, intimidated her and raped her. The Court finds no reason to doubt the findings of both the RTC and the CA, especially since no evidence was adduced showing that AAA had ill motive to falsely charge appellant with the crime of rape.

Article 266-A of the Revised Penal Code defines when and how the felony of rape is committed, to wit:

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 otherwise unconscious;

c) By means of fraudulent machination or grave abuse of authority; and

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.

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 anal orifice of another person.

In the instant case, both the RTC and the CA correctly found that all the elements of rape were established by the prosecution. The prosecution sufficiently established beyond reasonable doubt that on August 26, 2009, accused-appellant had carnal knowledge with AAA, and inserted his finger inside AAA's genitalia, while Biboy acted as look-out. It was also proven that accused-appellant employed force, threat, and intimidation upon AAA when he continuously poked a knife at AAA's left side.

The trial court found AAA's testimony to be clear and equivocal. She positively identified accused-appellant as one of the two (2) men who raped her, *albeit* Biboy was not tried as he remained at-large. Her recollection of the material details of her harrowing experience at the hands of accused-appellant and Biboy was consistent, to wit:

Prosecutor Usita:

The witness is crying.

Q What happened after one of them grabbed you?

A The accused Jeffrey Dereco immediately poked a knife at my left side while Biboy was at my right side and suddenly grabbed my bag.

Q After that, what happened, Madam Witness?

A They dragged me to a vacant lot.

Q While they were dragging you towards the vacant lot, what did you do, if any?

A I was trying to free myself and told them to just get everything they want but not to harm me.

Q What was the reply of the accused and his companion?

A While I was trying to free myself, Jeffrey kept poking his knife at me.

Q Thereafter, what happened next?

A When we were already on the far end of the vacant lot, Jeffrey raised my clothes.

Q While Jeffrey was raising your clothes, what did you do?

A I tried to fight back but he kept on mashing my breasts.

Q Who was mashing your breasts?

A Jeffrey Dereco.

Q After Dereco kept on mashing your breasts, what happened next?

A Dereco unzipped my pants and lowered my underwear down to my knees.