

THIRD DIVISION

[G.R. No. 239336, June 03, 2019]

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

DECISION

PERALTA, J.:

For consideration of this Court is the appeal of the Decision^[1] dated March 27, 2018 of the Court of Appeals (CA) in CA-G.R. CR HC No. 01705-MIN dismissing appellant CCC's appeal and affirming with modification the Decision^[2] dated April 24, 2017 of the Regional Trial Court (RTC), Branch 22, ██████, Cotabato City in Criminal Case No. 11-127, convicting the same appellant of the crime of Qualified Rape.

The facts follow.

AAA,^[3] the victim, is the biological daughter of appellant, who is married to AAA's mother (BBB) on December 26, 1998 as shown in AAA's Certificate of Live Birth. AAA was born on September 21, 1999.

Sometime in September 2009, when AAA was 10 years old, she was sleeping inside their house with her sibling and their parents when at past midnight, she was awakened because she felt appellant inserting his erect penis into her vagina and succeeded in doing so, against her will. AAA was not able to shout for help because she was shocked and did not know what to do. She then felt pain in her vagina until appellant pulled his penis out. Thereafter, appellant put AAA's pajama back on. The same deed happened between AAA and the appellant less than ten (10) times on different occasions until AAA's mother, BBB and some church members noticed that AAA's belly was getting bigger. BBB brought AAA to a "hilot" who told them that AAA was pregnant prompting BBB to bring her daughter to a clinic for an ultrasound procedure to determine if she was really pregnant. The result of the ultrasound procedure showed that AAA was, indeed, pregnant. When BBB confronted AAA about her pregnancy, AAA told her mother that appellant was the one who had been having sexual intercourse with her. Thus, appellant left their house and stayed in another house. AAA eventually gave birth to a child at a hospital. The custody of AAA's child was then transferred to the Department of Social Welfare and Development.

Subsequently, AAA filed this case against appellant with an Information that reads as follows:

That sometime in September, 2009, in the Municipality of ██████, Province of Cotabato, and within the jurisdiction of this Court, the said accused, with lewd design, through force and intimidation, did then and

there willfully, unlawfully and feloniously have sexual intercourse with AAA, a minor, who is only 10 years old, and who is his own daughter, against her will.

This crime is attended by an aggravating circumstance of relationship.

CONTRARY TO LAW.^[4]

On his arraignment on September 28, 2011, appellant entered a plea of "not guilty." Trial on the merits ensued.

The prosecution presented the testimonies of AAA and her mother, BBB.

Appellant denied the charge against him. During his direct examination, when he was asked about her daughter's motive in naming him as the one who violated her, appellant answered, "*Nagkasala po ako, your Honor*" (I have sinned, your Honor), but was not able to explain what had happened.^[5] And when asked whether he is admitting that he had carnal knowledge with his daughter, appellant replied, "Because according to Proverbs 28:13, *ang nagkukubli ng kanyang sala ay hindi mapapabuti ngunit kinakahabagan ng Diyos ay ang nagpaparito at nagsisi.*" (Because according to Proverbs 28:13, whoever conceals his sins will not succeed but God is merciful to whoever confesses and repents for them.)^[6]

The RTC found appellant guilty beyond reasonable doubt of the crime of Qualified Rape and sentenced him to suffer the penalty of *reclusion perpetua*. The dispositive portion of the Decision reads follows:

WHEREFORE, finding accused, CCC, GUILTY beyond reasonable doubt of the crime of qualified rape committed against AAA, he is hereby sentenced to suffer the penalty of *reclusion perpetua* with no possibility of parole and further, ordered him to indemnify AAA the amounts of Php75,000.00 as civil indemnity, Php50,000.00 as moral damages and Php25,000.00 as exemplary damages.

SO ORDERED.^[7]

The CA affirmed the decision of the RTC with modification that appellant is guilty beyond reasonable doubt of Qualified Rape under Article 266-A, in relation to Article 266-B of the Revised Penal Code (*RPC*), and ordered appellant to pay AAA the amount of P100,000.00 as civil indemnity, P100,000.00 as moral damages, and P100,000.00 as exemplary damages, thus:

WHEREFORE, premises considered, the appeal is DENIED. The Decision dated 24 April 2017 of the RTC, 12th Judicial Region, Branch 22, Cotabato, [REDACTED], in Crim. Case No. 11-127, finding appellant guilty beyond reasonable doubt for the crime of Qualified Rape under

Article 266-A in relation to article 266-B of the Revised Penal Code is hereby AFFIRMED with MODIFICATIONS in that the award of civil indemnity, moral damages and exemplary damages are increased to One Hundred Thousand Pesos (P100,000), respectively each. The civil indemnity and damages shall earn interest at the legal rate of six percent (6%) per annum from date of finality of this Decision until fully paid.

SO ORDERED.^[8]

Hence, the present appeal.

According to appellant, the prosecution was not able to prove his guilt beyond reasonable doubt.

The appeal lacks merit.

Under paragraph 1(a) of Article 266-A of the RPC, the elements of rape are: (1) that the offender had carnal knowledge of a woman; and (2) that such act was accomplished through force, threat, or intimidation. However, when the offender is the victim's father, as in this case, there need not be actual force, threat or intimidation because when a father commits the odious crime of rape against his own daughter who was also a minor at the time of the commission of the offenses, his moral ascendancy or influence over the latter substitutes for violence and intimidation.^[9] In this case, all the elements are present. In addition, the Certificate of Live Birth^[10] of AAA proves that she was 10 years old when she was raped by appellant and that the latter is her biological father, thus, qualifying the crime of rape.

In her testimony, AAA was categorical in her narration of the incident that happened, thus:

COURT: (To the witness).

Q – A while ago, you testified that you woke up, what prompted you to woke (sic) up?

A – I felt what was (sic) my father doing ot (sic) me, Your Honor.

x x x x

PROS. FAJARDO:

Q – Why? What was he doing at that time when you woke up?

A – He was inserting his pennies (sic) into my vagina, sir.

x x x x

Q – And when you woke up, as you said, because of what your father was already doing to you, what did you do?

A – "Nagalisu-liso ako." I was constantly moving, sir.

COURT: (To the witness)

We clarify the matters. Just refresh your memory.

Q – When you woke up passed (sic) 12:00 incident, was your father already attempting to insert his penis (sic) into your vagina or your father had already inserted his penises (sic) into your vagina?

A – He was still trying to insert his penis (sic) into my vagina, Your Honor.

Q – And your pajama and your panty were already lowered up to your thigh?

A – Yes, Your Honor.

Q – What was your position at the time when your father was trying to insert his penis (sic) into your vagina?

A – I was lying on my side, Your Honor.

Q – And your father was [at] your back?

A – Yes, Your Honor.

x x x x

PROS. FAJARDO:

Q – So, when you woke up, he was still trying to insert his penis (sic) into your vagina?

A – Yes, sir.

Q – Was he able to insert his penis (sic) to your vagina?

A – Yes, sir.

COURT: (To the witness).

Q – What did you feel, when his penis (sic) entered into your vagina?

A – I felt pain, Your Honor.

Q – When the penis (sic) of your father was inside your vagina, what did your father do?

A – He removed his penis (sic) and put on my pajama, Your Honor.

Q – Did you observe if your father did a push and pull movement, when his penis (sic) was inside your vagina?

A – Yes, Your Honor.

x x x x

PROS. FAJARDO:

Q – How long was he doing that?

A – I think within two (2) or three (3) minutes, sir.

Q – And after that, what happened?

A – "Nalabasan siya, sir."

Q – Inside your vagina?

A – Out side (sic) of my vagina, sir.

Q – Madam Witenss (sic), were you talking of that night, when you said, this was the first time? (sic)

A – Yes, sir.

Q –After that Madam Witness, was there any occasion that your father have done again to you? (sic)

A – Yes, sir.

Q – How many times?

A – I was not able to count, sir.

Q – You mean, when you say, you cannot count, another (sic) times, many times?

A – Yes, sir.

COURT: (To witness).

Q – From range one (1) to ten (10), what is the range?

A – Less than ten (10) times, Your Honor.

COURT: Clarificatory to the witness.

Q – How was your father able to insert his pennis (sic) of (sic) your vagina, and according to you, you were lying on your side, and your panty and your pajama were lowered up to your thigh only?

A – I was lying on my right side, while he was lying behind me. He inserted his pennis (sic) through my back, Your Honor.

x x x x

Q – Considering that you were lying beside your sister [DDD] and your mother, why did you not shout for help? While your father was doing the pushed (sic) and pull movement as his pennis (sic) was already inserted your vagina? (sic)

A – Because that time, Your Honor, I don't know what to do. I was shocked, as if I was out of my mind, Your Honor.

Q – [W]hen you said, as if you were out of your mind, were you still conscious on that particular moment, while your father was doing the push and pull movement when his pennis (sic) was inside your vagina?

A – What I mean, what I said, I was out of my mind, I don't know what to do, Your Honor.

Q – Why you did (sic) not push away your father, while his erected pennis (sic) inside your vagina?

A – I was still innocent that time, Your Honor, and I don't know what to do.^[11]

In questioning the credibility of the victim's testimony, appellant argues that it is