

## THIRD DIVISION

[ G.R. No. 228828, July 24, 2019 ]

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

### DECISION

**LEONEN, J.:**

In the absence of direct evidence, a resort to circumstantial evidence is usually necessary in proving the commission of rape. This is because the crime "is generally unwitnessed and very often only the victim is left to testify for [him or] herself. It becomes even more difficult when the complex crime of rape with homicide is committed because the victim could no longer testify."<sup>[1]</sup>

This Court resolves the appeal from the Court of Appeals' February 29, 2016 Decision<sup>[2]</sup> in CA-G.R. CR-HC No. 06486. The Court of Appeals affirmed the Regional Trial Court's March 4, 2013 Decision<sup>[3]</sup> finding ZZZ guilty beyond reasonable doubt of the crime of rape with homicide.

In an October 14, 1996 Information, ZZZ was charged with the crime of rape with homicide.<sup>[4]</sup> It read:

That on or about the 16th day of May 1996 in the evening, in

Philippines and within the jurisdiction of this Honorable Court, the above-named accused, by means of force and intimidation, did then and there, willfully, unlawfully and feloniously have sexual intercourse with AAA against her will and consent and on the same occasion the said accused did then and there willfully, unlawfully and feloniously strike, assault and club the said victim inflicting upon her the following:

- Cracked temporal skull with brains coming out
- Lacerated wound (1/2) inch long below (L) labia

which directly caused her death, to the damage and prejudice of her heirs.<sup>[5]</sup> (Citation omitted)

ZZZ went at large, but he was later arrested on February 6, 2003. Upon arraignment, ZZZ pleaded not guilty to the crime charged.<sup>[6]</sup>

The prosecution presented five (5) witnesses: (1) the victim's uncle BBB; (2) Senior Police Officer 3 Jaime Lavarias (SPO3 Lavarias); (3) Dr. Paz Q. Mejia (Dr. Mejia); (4) Dr. Ronald Bandonill (Dr. Bandonill); and (5) the victim's father CCC.<sup>[7]</sup>

BBB testified that he was the uncle of both AAA and ZZZ. The victim's father, CCC,

was his brother, and ZZZ's mother is his second cousin. ZZZ's mother and AAA's father are relatives, making them related.<sup>[8]</sup>

BBB testified that at around 7:00p.m. on May 16, 1996, he was on his way to the store to buy cigarettes when he saw ZZZ dragging AAA by the wrist toward the school. Though it was dark and he was about 10 meters away, he was able to see them using a flashlight he was carrying. Still, he said he presumed nothing was off, thinking they were relatives. He had merely reprimanded them before he went on to buy his cigarette and returned home, where he had a drinking spree with his nephews.<sup>[9]</sup>

The following day, news spread that AAA was missing. With his cousin Josefino Camilet, BBB went on a search for his niece and informed barangay officials who then helped to look for her.<sup>[10]</sup>

A couple of days later, the barangay officials found a lifeless AAA in a bamboo grove near the school. BBB said that her niece's naked body had already blackened due to decomposition. On the same day, he said he found ZZZ in his house-the last time he had ever seen him.<sup>[11]</sup>

SPO3 Lavarias testified that he way AAA was found. When he and his companions went to [REDACTED], they saw AAA's corpse under the bamboo grove. They came to know the body's identity through BBB, who also claimed that ZZZ was the person behind the crime. Accompanied by BBB, the police went to ZZZ's house, but he was nowhere to be found. They proceeded to prepare an investigation report and requested an autopsy on AAA.<sup>[12]</sup>

In the police officers' Joint Affidavit, SPO3 Lavarias recalled that they went back to the barangay on May 20, 1996 and found YYY, ZZZ's brother. YYY told them that on the night of the incident, he was walking home with ZZZ and AAA when his brother told him to go home alone.<sup>[13]</sup>

Dr. Mejia, a municipal health officer in [REDACTED], testified that she was the physician who conducted the initial autopsy as requested by the police officers. According to her report, there was a crack on AAA's temporal skull and a half-inch long laceration below her left labia, while brain matter leaked above her left ear. The doctor also noted that the body had already been decomposing when it was found.<sup>[14]</sup>

Dr. Mejia, however, said that she could not give a precise medical opinion on the laceration on AAA's labia as she was not an obstetrician gynecologist. She also could not precisely tell how many days lapsed since AAA had died, though she testified that the cracked temporal skull may have caused AAA's death.<sup>[15]</sup>

Dr. Bandonill, the medico-legal officer of the National Bureau of Investigation, testified that he conducted an autopsy on AAA on May 29, 1996. Upon examination, he found that the cadaver was at an advanced state of decomposition, the face was contorted, the tongue was protruding / from the mouth, and all the extremities were flexed. He noted that the contorted face could have been either due to decomposition or due to a grimace caused by pain before she died.<sup>[16]</sup>

Dr. Bandonill also observed contusions on AAA's face, right arm's anterior surface, and the front and side parts of her thigh. He noted contusions on the genital area, which could have been caused by a hard or blunt instrument. Clumps of dried blood from the vaginal opening could have also been caused by a tear inside the genital area.<sup>[17]</sup>

From these findings, Dr. Bandonill remarked that AAA might have been sexually assaulted. He added that AAA's death could have been caused by the traumatic cerebral contusion.<sup>[18]</sup>

CCC, the victim's father, testified that AAA was 11 years old when she was raped and killed. He showed that he spent P20,000.00 for the internment of AAA and P30,000.00 for miscellaneous expenses such as transportation costs. In anguish from AAA's death, he also asked for damages.<sup>[19]</sup>

For the defense, ZZZ testified that he was 15 years old when the incident happened, as evidenced by his birth certificate. He confirmed that he knew AAA as his cousin, and that both resided in the same barangay. On the night of May 16, 1996, he said that he went to his grandmother's house, where he watched television with his brother and around 20 other people including AAA. After watching, he and his brother, YYY, returned to their sister's house to sleep. He said that he did not notice if AAA left their grandmother's house.<sup>[20]</sup>

Cansino added that when AAA was found dead, none of the barangay officials and police officers went to his sister's house to investigate him. On May 22, 1996, his stepfather brought him to Tarlac to work as a helper in a grocery store, where he used the alias Peter Viray to be employed. He later found out that he was charged with rape with homicide of AAA.<sup>[21]</sup>

Also testifying for the defense was YYY, ZZZ's brother, who retracted what he had said earlier when the police interviewed him. Affirming ZZZ's testimony, he testified that on the night of the incident, they watched television at their grandmother's house before they went home and slept at their sister's house.<sup>[22]</sup>

In a March 4, 2013 Decision,<sup>[23]</sup> the Regional Trial Court found ZZZ guilty of the crime charged. The dispositive portion read:

WHEREFORE, premises considered, judgment is hereby rendered finding the accused GUILTY beyond reasonable doubt of the crime charged, punishable by *reclusion perpetua*. However, the service of sentence is hereby suspended, and in lieu of imprisonment, he is disposed with in an agricultural camp or any other training facility that may be supervised and controlled by the BUCOR, in coordination with the DSWD, in accordance with Section 51 of RA 9344.

The accused is ordered to pay the heirs of the victim: Php20,000.00 as actual damages; Php100,000.00 as civil indemnity *ex delicto*; Php75,000.00 as moral damages; and Php50,000.00 as exemplary damages.

SO ORDERED.<sup>[24]</sup>

The trial court found that the circumstantial evidence presented by the prosecution proved ZZZ's guilt beyond reasonable doubt. It ruled that there was moral certainty that ZZZ perpetrated the crime since he had been the last person seen with AAA before she disappeared, and he fled and hid his identity when he learned that he was a suspect.<sup>[25]</sup> The trial court ruled that the positive identification of ZZZ prevailed over the defense of denial. It found his alibi that he went home after watching television did not preclude the possibility that he was at the crime scene.<sup>[26]</sup>

Adopting the report of the social worker who was assigned to ZZZ, the trial court found that he acted with discernment in committing the crime against AAA.<sup>[27]</sup>

Upon appeal, the Court of Appeals, in its February 29, 2016 Decision,<sup>[28]</sup> affirmed ZZZ's conviction:

IN VIEW OF THE FOREGOING, the instant Appeal is hereby DENIED for lack of merit. The Decision dated March 2013 of the Regional Trial Court, Branch 56, [REDACTED], in Criminal Case No. SCC-2594 is hereby AFFIRMED.

SO ORDERED.<sup>[29]</sup>

The Court of Appeals agreed with the trial court in relying on the testimony of BBB, who saw ZZZ dragging AAA toward the school on the night of the incident. Aside from finding his testimony spontaneous and convincing, it did not find any motive from BBB to wrongly implicate ZZZ to the crime.<sup>[30]</sup>

The Court of Appeals ruled that although BBB did not actually see ZZZ raping AAA, circumstantial evidence led to the reasonable conclusion that ZZZ perpetrated the crime: (1) BBB positively identified ZZZ as the person last seen with the victim immediately before the incident; and (2) ZZZ hid from authorities and adopted an alias. The Court of Appeals concluded that these pieces of circumstantial evidence operated against ZZZ.<sup>[31]</sup>

Furthermore, the Court of Appeals ruled that between the categorical statements and the bare denial of ZZZ, the former prevailed. While ZZZ's testimony was corroborated by his brother, the Court of Appeals ruled that the latter could not be considered a disinterested witness. Moreover, it found that it was not physically impossible for ZZZ to be in the crime scene since he and AAA resided in the same barangay.<sup>[32]</sup>

The Court of Appeals held that the trial court was correct in retroactively applying Republic Act No. 9344, or the Juvenile Justice and Welfare Act of 2006. Under Section 6 of the law, a child above 15 years old but below 18 years old is not exempt from criminal liability when the child acted with discernment. The Court of Appeals found that ZZZ acted with discernment when he perpetrated the crime in a dark and isolated place, and when he evaded arrest by fleeing to Tarlac under an alias. It noted that even the social worker assigned to him arrived at the same

conclusion.<sup>[33]</sup>

As ZZZ was already above 30 years old when he was convicted, the Court of Appeals held that the automatic suspension of the penalty as provided under Sections 38 and 40 of Republic Act No. 9344 was no longer applicable.<sup>[34]</sup>

ZZZ filed his Notice of Appeal. His appeal having been given due course, the Court of Appeals elevated the records of this case to this Court.<sup>[35]</sup>

In its February 20, 2017 Resolution,<sup>[36]</sup> this Court required the parties to submit their supplemental briefs. Both parties later manifested that they would adopt their Briefs before the Court of Appeals.<sup>[37]</sup>

Accused-appellant mainly argues that the prosecution failed to prove his guilt.<sup>[38]</sup>

First, accused-appellant questions the credibility of BBB's testimony. He claims that contrary to BBB's testimony, human experience dictates that BBB, as AAA's guardian, should have been alarmed when he allegedly saw him dragging her to a dark place. He also questions BBB's story in which AAA did not ask for help when BBB allegedly saw her being dragged.<sup>[39]</sup> Moreover, he finds it suspicious that BBB failed to find AAA's body when he purportedly searched the area near the school, as the corpse's stench would have caught his attention.<sup>[40]</sup> He surmises that BBB implicated him in the crime because BBB was himself investigated by the police.<sup>[41]</sup>

Even assuming that he was the last person seen with AAA, accused-appellant argues that this merely raises suspicion but is not sufficient to establish his guilt.<sup>[42]</sup>

Second, accused-appellant posits that even if he committed the crime, the Information failed to allege that he acted with discernment, which meant that he should not be held criminally liable. He posits that the trial court, in failing to conduct its own determination and merely relying on the social worker's report, erred in ruling that he had acted with discernment.<sup>[43]</sup>

Third, accused-appellant contends that he was not guilty of fleeing to evade the charge against him. He reasons that he went to Tarlac because he was brought there by his stepfather, and as a child, he had no choice but to follow this order. He also points out that he regularly returned to [REDACTED] every month while he was working in Tarlac.<sup>[44]</sup>

Lastly, accused-appellant avers that his denial must be considered since it was corroborated by his brother, who was with him when the crime was committed. He posits that while the defense of denial is deemed inherently weak, the prosecution cannot profit from this alone; instead, it should rely on the strength of its own evidence.<sup>[45]</sup>

On the other hand, plaintiff-appellee People of the Philippines, through the Office of the Solicitor General, argues that the circumstantial evidence submitted by the prosecution proves accused-appellant's guilt beyond reasonable doubt.<sup>[46]</sup> It avers that the circumstances in this case created an unbroken chain that led to the