

## SECOND DIVISION

[ G.R. No. 240441, December 04, 2019 ]

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

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

**REYES, A., JR., J.:**

*In a criminal case where the life and liberty of the accused are at stake, every qualifying circumstance alleged in the Information must be proved as much as the crime itself. Thus, in the crime of rape and lascivious conduct under Republic Act (R.A.) No. 7610,<sup>[1]</sup> an allegation that the accused is the common-law spouse of the victim's mother must be sufficiently established. Equally noteworthy, the terms "common-law spouse" and "step-parent" are distinct terms bearing different legal meanings, which may not be used interchangeably.*

This treats of the Notice of Appeal<sup>[2]</sup> under Section 13(c), Rule 124 of the Rules on Criminal Procedure, as amended by A.M. No 00-5-03-SC filed by accused-appellant XXX, seeking the reversal of the Decision<sup>[3]</sup> dated January 25, 2018, rendered by the Court of Appeals (CA) in CA-G.R. CR-HC No. 08224, which affirmed the trial court's ruling convicting him of the crimes of Violation of Section 5(b), Article III of R.A. No. 7610; Rape under Article 266-A, paragraph 1(d) of the Revised Penal Code (RPC); and Rape under Article 266-A, paragraph 1(a) of the RPC.

### **The Antecedents**

XXX was charged in three separate Informations with Violation of Section 5(b), Article III of R.A. No. 7610, Statutory Rape, and Rape under Article 266-A, paragraph 1(d) of the RPC, committed as follows:

### **Criminal Case No. IR-7893**

That in the afternoon of December 2, 2006, inside their house at [REDACTED] Iriga City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, in total disregard of the minority and naivety of the complainant, did, then and there willfully, unlawfully and feloniously commit an act of lascivious conduct upon one BBB,<sup>[4]</sup> a 14-year old girl, by then and there pulling and removing the latter's blanket, placing his hand under the said minor's shirt, and caressing her breast and legs while whispering to the latter words in the dialect "sige na ", thereby causing psychological injury, fear, trauma and shock to the minor-complainant, to the latter's damage and prejudice in such amount as may be proven in court.

ACTS CONTRARY TO LAW.<sup>[5]</sup>

**Criminal Case No. IR-7957**

That sometime in August 1998 at around noontime and at the banana plantation in [REDACTED] Iriga City, Philippines and within the jurisdiction of this Honorable Court, the said accused, the step father of the complainant, taking advantage of the latter's minority, and armed with a bolo, by means of force and intimidation, did, then and there, willfully, unlawfully and feloniously have carnal knowledge of his stepdaughter AAA who was then 8 years old and a minor at the time of the incident, by inserting his penis into her vagina against the latter's will, to the damage and prejudice of the said AAA in such amount as may be proven in court.

ACTS CONTRARY TO LAW.<sup>[5]</sup>

**Criminal Case No. IR-7958**

That sometime in April 2002 in the evening and at the coprahan in [REDACTED] Iriga City, Philippines and within the jurisdiction of this Honorable Court, the said accused, the step father of the complainant, taking advantage of the latter's minority and armed with a bolo, by means of force, threat and intimidation, did, then and there, willfully, unlawfully and feloniously have carnal knowledge of his stepdaughter AAA who was then 13 years old and a minor at the time of the incident, by inserting his penis into her vagina against the latter's will, to the damage and prejudice of said AAA in such amount as may be proven in court.

ACTS CONTRARY TO LAW.<sup>[7]</sup>

XXX pleaded not guilty to the charges. Trial on the merits ensued thereafter.<sup>[8]</sup>

The antecedent facts reveal that AAA and BBB are daughters of CCC, a widow. In January 1997, CCC and XXX started living together in Iriga City.<sup>[9]</sup>

Sometime in August 1998, XXX ordered AAA to bring his bolo to the banana plantation in Iriga City. AAA was then 10 years old. When AAA handed over the bolo, XXX took hold of her, directed her to remove her clothes, and ordered her to lie down on the ground. XXX threatened to kill her, should she refuse to obey his command. Out of fear, AAA obliged. Then, XXX removed his own clothes and positioned himself on top of AAA. He forcibly had carnal knowledge of her. The rape lasted for about an hour. AAA cried the whole time. Then, XXX told AAA to get dressed and warned her not to tell the incident to anyone, or else he will harm her family.<sup>[10]</sup>

Sometime in April 2002, at around 11:00 p.m., AAA was sleeping inside their house when XXX woke her up. He told her to quietly go outside the house. Fearful of what he might do to her family, AAA obliged.<sup>[11]</sup>

XXX took AAA to the coconut kiln. There, he ordered AAA to lie down on the floor. He removed her underwear, then took off his own clothes and laid on top of her. After which, he inserted his penis inside her vagina and made several push and pull movements. When he finished, he directed AAA to dress up and go back home.<sup>[12]</sup>

Sometime in December 2006, while BBB was sleeping in her room, she suddenly felt someone tugging her blanket. Upon waking, she saw XXX beside her. XXX inserted his hands under her shirt, mashed her breasts, and caressed her legs. She refused XXX's advances, which angered him. He warned her against talking back to him.<sup>[13]</sup>

Fearful that XXX might rape her, BBB reported the matter to their neighbor DDD.<sup>[14]</sup>

On December 8, 2006, AAA likewise reported the rape incident to the police authorities. Thereafter, AAA was referred to the City Health Office for medico-legal examination. The findings revealed that AAA had deep, healed lacerations in several positions on her hymen.<sup>[15]</sup>

XXX vehemently denied the charges leveled against him. He related that he started living with CCC when AAA was already 10 years old. As such, AAA's claim that she was raped when she was only 8 years old was untrue. Neither could he have raped her in April 2002, because at that time, CCC was already living in their house and would have thus immediately found out about the incident.<sup>[16]</sup>

Likewise, XXX averred that BBB's claim was untrue, considering that he no longer lived with them at the time of the alleged incident because he left after Typhoon Reming destroyed their house.<sup>[17]</sup>

### **Ruling of the RTC**

On January 26, 2016, the RTC rendered a Joint Judgment<sup>[18]</sup> convicting XXX of the crimes of violation of Section 5(b), Article III of R.A. No. 7610, Statutory Rape under Article 266-A, paragraph 1(d) of the RPC, and Rape under Article 266-A, paragraph 1(a) of the RPC.

The dispositive portion of the RTC ruling reads:

WHEREFORE, premises considered, judgment is hereby rendered finding [XXX] GUILTY beyond reasonable doubt,

in Criminal Case No. IR-7893 -for the crime of SEXUAL ABUSE under Section 5(b), Article III of [R.A. No.] 7610 and imposing upon him the penalty of *reclusion perpetua* and ordered to pay Private Complainant BBB the following: Php20,000.00 as civil indemnity, Php15,000.00 as moral damages, and Php15,000.00 as exemplary damages, with 6% annual interest from the time of finality of this judgment until full payment.

in Criminal [Case] Nos. IR-7957 and 7958 - for the crimes of STATUTORY RAPE and RAPE under ART. 266-A respectively and

imposing upon him the penalty of *reclusion perpetua* without the possibility of parole for each [crime]. He is further ordered to pay Private Complainant AAA the amount of Php75,000.00 as civil indemnity, Php75,000.00 as moral damages, and Php30,000.00 as exemplary damages, with 6% annual interest from the time of finality of this judgment until full payment.

SO ORDERED.<sup>[19]</sup>

Aggrieved, XXX filed an appeal with the CA.

### **Ruling of the CA**

On January 25, 2018, the CA rendered the assailed Decision<sup>[20]</sup> affirming with modification the conviction meted by the RTC.

The CA held that XXX may only be convicted of simple rape in Criminal Case Nos. IR-7957 and IR-7958, considering that the allegation in the Information that XXX was AAA's stepfather was never actually proven during the trial. What was established was simply that XXX was the common law spouse of the victim's mother.<sup>[21]</sup>

Also, the CA increased the awards of exemplary damages from P30,000.00 to P75,000.00; while maintaining the awards of civil indemnity of P75,000.00; and moral damages of P75,000.00.<sup>[22]</sup>

As for Criminal Case No. IR-7893, for violation of Section 5(b), Article III of R.A. No. 7610, the CA held that the aggravating circumstance of relationship may not be considered, as the said circumstance was not alleged in the Information. Accordingly, absent any mitigating or aggravating circumstances, the penalty shall be applied in its medium period, which is *reclusion temporal* in its maximum period.<sup>[23]</sup>

As for the damages awarded, the CA affirmed the awards of civil indemnity, moral damages and exemplary damages of P75,000.00 each. In addition, the CA ordered XXX to pay a fine of P15,000.00.<sup>[24]</sup>

The dispositive portion of the assailed CA decision reads:

WHEREFORE, premises considered, the instant appeal is DENIED. The assailed January 26, 2016 Joint Judgment of the [RTC], Branch 34, Iriga City, is MODIFIED, thus:

(1) In Criminal Case Nos. IR-7957 and 7958, the penalty of *reclusion perpetua* is sustained for each count but the phrase "without the possibility of parole" is REMOVED pursuant to A.M. No. 15-08-02-SC; while the award of exemplary damages is INCREASED to Php 75,000.00 EACH count; and

(2) In Criminal Case No. IR-7893. The appellant is SENTENCED to an indeterminate penalty of imprisonment of fourteen (14) years and

eight (8) months of *reclusion temporal* minimum, as minimum, to twenty (20) years of *reclusion temporal* maximum, as maximum; and he is further ORDERED to pay a FINE of Php 15,000.00.

The rest of the assailed Joint Judgment STANDS.

SO ORDERED.<sup>[25]</sup>

Aggrieved, XXX filed a Notice of Appeal<sup>[26]</sup> under Rule 124, Section 13(c) of the Rules of Criminal Procedure.

### **The Issue**

The main issue raised for the Court's resolution is whether or not the prosecution proved beyond reasonable doubt XXX's guilt for the crimes charged.

XXX assails the credibility of AAA and BBB, alleging that their testimonies are inconsistent and incredible.<sup>[27]</sup> , Particularly, he points out that in AAA's direct testimony, she claimed that she was first raped in August 1998, when she was just 8 years old. However, on cross-examination, AAA contradicted herself, and stated that she was 10 when she was first raped.<sup>[28]</sup>

He avers that it was impossible for him to have committed the crime, as he started cohabiting with CCC when AAA was already 10 years old.<sup>[29]</sup>

In the same vein, XXX alleges that AAA's behavior after the purported rape renders her tale questionable. It was strange that AAA did not even bother to wake up her siblings, or seek help, despite knowing XXX's plan to rape her. Instead, she willingly walked with him to the coconut kiln. Also, it was odd that after the purported rape incident, AAA simply returned to their house and went back to sleep as if nothing terrible happened. XXX urges that it is beyond comprehension that AAA still stayed with him, and still treated him as her stepfather, if he indeed defiled her.<sup>[30]</sup>

In addition, XXX contends that AAA's reason for reporting the rape incident was suspect, as she admitted that she filed the case out of fear that XXX will rape her sister BBB. According to XXX, this proves that she was merely coaxed by DDD to file charges against him. Added to all this, it took nine years from the first rape incident, and five years from the second incident, for AAA to report the rape.<sup>[31]</sup>

Similarly, XXX surmises that the lacerations in AAA's hymen could have been caused by other factors.<sup>[32]</sup>

Furthermore, XXX points out that the prosecution failed to prove the elements of force and intimidation. AAA admitted that he did not force or intimidate her into committing the sexual acts. Although she claimed that XXX threatened her, these threats were allegedly done after the commission of the rape, and thus, could not have been sufficient to subdue her.<sup>[33]</sup>

Anent BBB's accusation, XXX claims that he could not have sexually abused her on