

SECOND DIVISION

[G.R. No. 226045, October 10, 2018]

ALBERTO GRANTON, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

DECISION

CAGUIOA, J:

This is an appeal by *certiorari*^[1] (Petition) filed under Rule 45 of the Rules of Court, assailing the Decision^[2] dated September 30, 2015 and Resolution^[3] dated June 24, 2016 in CA-G.R. CR No. 02316 of the Court of Appeals (CA), Eighteenth (18th) Division and Special Former Eighteenth (18th) Division, respectively, which found herein petitioner Alberto Granton (Alberto) liable for two (2) counts of Rape through Sexual Assault under paragraph 2, Article 266-A of the Revised Penal Code (RPC).

Factual Antecedents

On December 23, 2009, two (2) separate Informations for Rape through Sexual Assault were filed against Alberto, which read as follows:

Criminal Case No. 5158

That on or about [the] 18th day of September 2009 in the [xxx]^[4] Province of Leyte, Philippines and within the jurisdiction of the Honorable Court, the said accused, by force, threat and intimidation did then and there, willfully, unlawfully and feloniously inserted his finger inside the genital of two (2) year old CCC without the latter's consent and against her will.

CONTRARY TO LAW.^[5]

Criminal Case No. 5159

That on or about [the] 22nd day of September 2009 in the [xxx] Province of Leyte, Philippines and within the jurisdiction of the Honorable Court, the said accused, by force, threat and intimidation did then and there, willfully, unlawfully and feloniously inserted his finger inside the genital of two (2) year old CCC without the latter's consent and against her will.

CONTRARY TO LAW.^[6]

The CA summarized the evidence of the prosecution as follows:

On 18 September 2009, at around 5:00 o'clock in the afternoon, NNN was cleaning the house when she noticed blood in the undergarments of

CCC, the two (2)-year old daughter of MMM and FFF. The undergarments had two blood stains - one was already brown but the other is still fresh and red. At first, she thought CCC was suffering from a Urinary Tract Infection (UTI).

The following day, 19 September 2009, when NNN was about to do the laundry, once again, she saw one of CCC's undergarments stained with blood.

The day after, or on 20 September 2009, NNN noticed another of CCC's undergarments with blood stains on it. It was then that she started having misgivings whether it was really UTI that had been causing all these blood stains. Thus, she suspected CCC to have been playing with her vagina.

On 22 September 2009, NNN asked CCC if she was "touched" by her "Tito Ambet" (referring to appellant). She suspected appellant to have something to do with the blood stains found on the undergarments because of his close familiarity with the child - appellant being a distant relative of FFF and hired by the latter to feed his flock of fighting cocks on several occasions. Appellant likewise resides in the house of spouses FFF-MMM and at times he was free to hug and touch the child. CCC answered "yes", and demonstrated a push-and-pull movement of her index finger. NNN likewise asked SSS, the elder sister of CCC, if she had seen appellant touching the genitalia of her younger sister. SSS answered in the affirmative.

On the evening of that day, NNN told the spouses FFF-MMM about what appellant had done to their child. She likewise showed them the two undergarments with blood stains. The spouses then asked CCC whether NNN's accusations were true and the child confirmed the same. MMM broke down in tears while FFF was unable to say a word.

CCC was then brought to the municipal hospital for physical examination. Thereafter, spouses FFF-MMM brought her to the Women and Children Protection Desk of the Philippine National Police (PNP) in Leyte, where a police blotter of the incident was made.^[7]

Meanwhile, the evidence for the defense was presented by the CA to wit:

To exculpate himself from liability, appellant advanced denial and alibi as his defense.

Appellant's evidence disclosed that he works as the personal driver of the Lim Family in Leyte. His job involved ferrying the Lim children to school using his employer's motorcycle. He works casually, upon FFF's request, by feeding FFF's fighting cocks or washing the latter's vehicle, usually on Saturdays.

From 18 September to 24 September 2009, appellant was at the house of Arturo Cadano (Arturo), the father of his common-law wife, Mary Jane Enriquez (Mary Jane), to ask the latter's hand in marriage. He said that

Arturo wanted him to stay thereat for several days so that they could have enough time to know each other. He denied having sexually molested CCC.^[8]

When arraigned, Alberto entered a plea of "not guilty."^[9] Trial on the merits thereafter ensued.

During trial, the prosecution presented the testimonies of the victim, CCC, who was already four (4) years old when she testified^[10]; NNN, the housekeeper of the victim's family; MMM, the victim's mother; Dr. Maribeth R. Aguilar, the medico-legal officer who physically examined the victim; and SP02 Evelyn Bernal. The defense presented the testimonies of Arturo Cadano (Arturo), father of Alberto's common-law wife; Mary Jane Enriquez (Mary Jane), Alberto's common-law wife; and Alberto himself.^[11]

Ruling of the RTC

In a Decision^[12] dated October 22, 2013, the Regional Trial Court of Carigara, Leyte, Branch 13 (RTC), convicted Alberto of two (2) counts of Rape through Sexual Assault under paragraph 2, Article 266-A of the RPC, as amended:

WHEREFORE, premises considered, this court, finding accused **ALBERTO GRANTON, GUILTY** beyond reasonable doubt of the crime of Sexual Assault under par. 2 of Art. 266-A of the Revised Penal Code as amended by Rep. Act [N]o. 8353 otherwise known as the Anti-Rape Law of 1997, committed as charged in the Information respectively under Criminal Case [N]os. 5158 and 5159, hereby sentenced to suffer an indeterminate sentence of **TWELVE (12) YEARS maximum of prison mayor as minimum to SEVENTEEN (17) YEARS and FOUR (4) MONTH[S] medium period of RECLUSION TEMPORAL as the maximum in Criminal Case [N]o. 5158, and likewise to suffer the same sentence of imprisonment of TWELVE (12) YEARS maximum of prison mayor as minimum to SEVENTEEN (17) YEARS and FOUR (4) MONTHS of medium period of Reclusion Temporal as maximum** in Criminal Case [N]o. 5159.

Further, ordering accused Alberto Granton to pay to minor victim in each count of [R]ape by [S]exual Assault, the amount of **Fifty Thousand Pesos (Php 50,000.00)** as civil indemnity; the amount of **Fifty Thousand Pesos (Php 50,000.00)** as moral damages, and exemplary damages in the amount of **Thirty Thousand (Php 30,000.00) Pesos**, and to pay the costs.^[13]

On whether Alberto committed sexual assault against CCC on the dates specified in the Informations, the RTC relied on the testimony of CCC that Alberto inserted his finger in her vagina while they were watching TV but noted that she could not remember how many times he did it but that she was certain that it happened more than once. CCC testified that she felt pain and that blood flowed out from her vagina, but she could not determine for certain when it happened.^[14] The RTC also considered that the testimony of CCC was corroborated by the medical findings of a physician who testified that there was a superficial abrasion in the *labia majora*,

redness of the left *labia minora*, and healed laceration of the hymen at 9:00 o'clock position. The doctor conducted her medical examination on September 23, 2009.^[15] At the time of the examination, the vaginal laceration had already healed, so the injury could have happened three (3) to seven (7) days before,^[16] which is consistent with the dates alleged in the Informations. For the RTC, although CCC failed to exactly state when the two acts of sexual assault happened, her direct testimony and that of the medical officer were sufficient because the exact time of the commission of the crime of rape is not a material ingredient of the crime.^[17]

The RTC likewise believed the testimonies of NNN and MMM on the discovery of the bloody underwear by NNN and the subsequent reporting of MMM and FFF to the police of what happened to their daughter.^[18]

Anent Alberto's defense, the RTC ruled that his defense of alibi was not believable. The petitioner admitted that the house of Arturo was near the house of CCC. The evidence also showed that Alberto and Mary Jane only stayed in the house of Arturo on September 22, 2009, which is contrary to Alberto's representations that he had stayed there from September 18 to 24, 2009.^[19] Thus, for the RTC, it was not physically impossible for Alberto to be physically present at the house of CCC.^[20] The RTC also ruled that the defense did not adduce any evidence that would show that any of the prosecution witnesses was prompted by ill motive when they testified against him. The absence of such proof shows that no such motive exists and that such testimonies were worthy of full faith and credit.^[21]

Unsatisfied, Alberto appealed to the CA. Alberto argued that the findings in the medical certificate were not conclusive to establish that they were caused by him through sexual assault.^[22] He also questioned the credibility of the testimony of CCC allegedly because she did not even cry in pain or shout for help during the incidents. According to Alberto, this reaction made the sexual assault improbable because CCC herself testified that NNN was around the house and that her parents were in the adjacent room.^[23]

Ruling of the CA

In a Decision^[24] dated September 30, 2015, the CA affirmed the RTC's conviction of Alberto and found him guilty beyond reasonable doubt for the acts charged.

The CA, however, modified the penalty imposed in accordance with Article III, Section 5(b) of Republic Act (R.A.) No. 7610,^[25] which imposes a penalty of *reclusion temporal* in its medium period when the lascivious conduct is committed against a victim who is under twelve (12) years old.^[26] The indeterminate sentence was therefore modified to twelve (12) years, ten (10) months and twenty-one (21) days of *reclusion temporal* as minimum, to fifteen (15) years, six (6) months, and twenty (20) days of *reclusion temporal* as maximum. Thus:

WHEREFORE, the foregoing premises considered, the *Decision dated 22 October 2013* of Branch 13, Regional Trial Court (RTC) of Leyte in Criminal Case Nos. 5158 and 5159 is hereby **AFFIRMED** with the following **MODIFICATIONS**:

(a) Accused-Appellant Alberto Granton is sentenced to suffer the indeterminate penalty of twelve (12) years, ten (10) months and twenty-one (21) days of *reclusion temporal*, as minimum, to fifteen (15) years, six (6) months and twenty (20) days of *reclusion temporal*, as maximum for each count of rape;

(b) Accused-Appellant is hereby ORDERED to pay the victim the following amounts for each count of rape: Php 30,000.00 as civil indemnity; Php 30,000.00 as moral damages; and Php 30,000.00 as exemplary damages.

(c) All monetary awards shall earn interest at the legal rate of 6% per *annum* from the date of finality of this judgment until fully paid.

SO ORDERED.^[27]

A motion for reconsideration was filed by Alberto, which was denied by the CA in a Resolution^[28] dated June 24, 2016 for lack of merit.

Hence, this Petition.

Public respondent, through the Office of the Solicitor General, filed its Comment^[29] dated June 29, 2017. In lieu of a reply, Alberto filed a Manifestation^[30] dated December 6, 2017, reiterating the arguments in his Petition.

Issue

Whether the CA committed reversible error in finding Alberto guilty beyond reasonable doubt for two (2) counts of Rape through Sexual Assault.

The Court's Ruling

The Petition is denied.

In his Petition, Alberto raises the following arguments in contesting his conviction: (i) that the findings in the medical certificate do not strengthen the alleged commission of rape,^[31] and (ii) the improbable testimony of CCC casts doubt on her credibility as a witness.^[32]

The Court notes at the outset that Alberto's Petition relies on issues that are factual in nature, as he questions in particular the RTC and CA's appreciation of the evidence as well as the credibility of the testimony of the victim, CCC.^[33]

As a rule, issues dealing with the sufficiency of the evidence and the relative weight accorded to it by the RTC cannot be raised in an appeal by certiorari, which is confined to questions of law. Questions that are purely factual and evidentiary and which require a re-evaluation and recalibration of the evidence are outside the scope of the Court's discretionary appellate jurisdiction under Rule 45. Moreover, it is settled that in assessing the credibility of witnesses, the Court will not disturb the findings of the trial court unless there is a showing that it had overlooked, misunderstood, or misapplied some fact or circumstance of weight and substance