

## SECOND DIVISION

[ G.R. No. 227185, September 27, 2017 ]

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

### D E C I S I O N

**PERALTA,\* J.:**

This is an appeal from the June 3, 2016 Decision<sup>[1]</sup> of the Court of Appeals (CA) in CA-G.R. CEB-CR-HC. No. 01972, which affirmed with modification the November 24, 2014 Decision<sup>[2]</sup> of the Regional Trial Court (RTC) Branch 45, Bais, Negros Oriental, finding accused-appellant EEE guilty beyond reasonable doubt of qualified rape committed against his minor stepdaughter, AAA.

The Information for rape,<sup>[3]</sup> dated August 31, 2006, alleged:

That on or about the month of June 28, 2006, at Bais City, 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 [had] carnal knowledge with his own stepdaughter, a thirteen (13) year old minor child, one [AAA], against her will, to the damage and prejudice of the offended party.

That the commission of the crime was attended with the qualifying and aggravating circumstance of relationship and minority as the victim [AAA] was still thirteen (13) years old. when the accused sexually molested her.<sup>[4]</sup>

EEE pleaded "Not Guilty" in his arraignment.<sup>[5]</sup> At the pre-trial, both parties mutually stipulated on the following facts:

1. That accused admits his identity, that whenever his name is mentioned in the proceedings, he is the same accused in this case.
2. That accused admits that the victim is [his] stepdaughter, the latter being the offspring of [BBB] with her first husband.<sup>[6]</sup>

Trial ensued while EEE was under detention.<sup>[7]</sup> The witnesses for the prosecution were AAA, her mother BBB, and medical examiner Dr. Ma. Corazon Cablao. The defense presented EEE, his brother-in-law (husband of his sister) FFF, and his father GGG.

AAA testified that around 7:00 a.m. on June 28, 2006, she was about to take a bath and already preparing her things when her stepfather, accused appellant EEE, pulled her and brought her to the bedroom. He took off her clothes and undressed himself.

He then inserted his penis into her vagina. He threatened her not to tell BBB about the incident, saying that BBB would scold and send them to prison.

When the rape incident transpired, BBB left the house, while AAA's brother was instructed by EEE to go outside. However, BBB almost caught them in the act. She confronted EEE and inquired on what they were doing inside the bedroom. Afraid, AAA said that nothing happened. Days after, AAA and her mother lived separately from EEE. BBB was mad at him as she already had doubts on what actually happened.

BBB, the legal wife of EEE since 1999, narrated that about 7:00 a.m. on June 28, 2006, she was on her way to work in Sitio Camuyugan, Sto. Nino, Tanjay City, when she noticed that she forgot to bring her gloves. Upon arriving at their house in Sitio Biso, Cambagahan, Bais City (*Biso*), she saw that the basin was full of AAA's dirty uniforms. She called her twice, but there was no reply. After, she saw EEE and AAA coming out of the bedroom. He was putting on the zipper of his short pants while AAA was dressed but hugging a blanket. When she asked EEE what AAA was doing there, he told her that she was arranging her uniforms. Puzzled, she retorted that AAA usually prepares her uniform in the evening. EEE reasoned out that she was keeping the bedding they used the night before. As to which, BBB asserted that it was already taken care of before she left the house. When she asked AAA what happened, the latter did not answer. EEE then went to the farm. AAA was not able to go to school and was brought by BBB to her workplace instead.

At work, BBB confronted AAA on what occurred, but the latter did not give an answer and just cried. Thereafter, BBB noticed that AAA would not respond whenever she would call her and that every time she would ask her about the incident, she would reply that nothing happened. In the evening of August 6, 2006, BBB once more asked AAA whether she was molested by EEE. The latter finally admitted that she was raped but did not immediately apprise her because she was threatened. She was crying and shaking. The following day, BBB brought AAA in Bais City for medical examination and reported the incident to the police. They left the house and lived separately with EEE.

The testimony of Dr. Cablao was dispensed with in view of the admission by the defense counsel on the existence of her medical findings, which indicated the presence of old hymenal lacerations at 6 o'clock and 9 o'clock positions.<sup>[8]</sup>

For the defense, EEE contended that it was highly impossible for him to have raped AAA because on June 28, 2006 she and BBB were no longer residing in their house in Biso and that the reason BBB filed the case against him was that they were regularly fighting. He admitted that AAA is his stepdaughter and that BBB is his legal wife. He was previously engaged in a bakery business, which went bankrupt when it was sold due to the hospitalization of AAA and BBB. By reason thereof, he engaged himself in farming in Biso. He and BBB were always quarreling as she consistently nagged him, complaining of their poor economic condition. In April 2006, BBB left him and brought with her AAA and their son. Later, he found them staying in the house of Calixto Casipong (*Casipong*) in Dawis, Bayawan City. Casipong is a rich man and owner of a big store in that place. Meanwhile, AAA was a stay-in working student in the videoke house of a certain Nimfa in Dawis. EEE tried to convince BBB to live with him again, but she just insulted him. Thus, he continued to reside in their house in Biso and usually ate with his parents in Sitio Gintuangan,

Cambagahan, Bais City (*Gintuangan*).

EEE denied having any sexual relationship with AAA while they were still in one roof. He claimed that he loves his stepdaughter like his very own. There were occasions, however, that he punished her with a whip whenever he would send her to an errand but would come back late. As to his relationship with BBB, he affirmed that they constantly argue when they lived together and that there were times that, by reason thereof, they did not sleep in the same place. Despite this, there was no instance that he slept in the room of AAA.

To support EEE, FFF testified that he was with EEE for three days, with the first one on June 23, 2006. They worked in a ricefield together with his father-in-law, GGG. They arrived there around 6:00 a.m. to 6:30 a.m. and started to work by 7:00 a.m. until afternoon. They ate lunch at Jessie's house, which is 30-50 meters away from the ricefield. FFF knew that prior to the date of the alleged rape incident, EEE was staying in Jessie's house due to his (EEE) frequent altercations with BBB. EEE told him this as they would see each other on market day, every Thursday in Dawis. Fie also knew that AAA was with BBB in the house of Casipong, who is his neighbor in Dawis. BBB was as an employee of Casipong, while AAA was a student of Dawis High School working and staying at Nimfa's place.

Finally, on his part, Jessie denied the charges of AAA because his son EEE was living with him from April to June 2006. In particular, EEE was working with him and FFF in a ricefield on June 28, 2006 at about 7:00 a.m. He added that EEE and BBB separated sometime in April 2006; before that, the spouses resided in Biso while his place is situated in Gintuangan, which is about three kilometers away; it takes almost an hour of walking to travel between both *sitios*; EEE was into bakery business, which was closed after he had to spend for the hospitalization of AAA and BBB; when the couple broke up, EEE worked for free in his ricefield in Gintuangan from April to June 2006, while BBB and the children lived in Dawis; and he personally delivered his son to the police station on October 5, 2006 because a case was filed against him.

On November 24, 2014, EEE was convicted by the RTC of the crime charged. The *fallo* of the Decision reads:

WHEREFORE, all premises considered, the prosecution having established the guilt of the accused beyond reasonable doubt, accused EEE is hereby sentenced to RECLUSION PERPETUA and to pay the victim the amount of P100,000.00 moral damages and P50,000.00 indemnity.

SO ORDERED.<sup>[9]</sup>

The trial court opined that it was not impossible for EEE to be at the *locus criminis* because to cover the distance of three kilometers would surely not consume one hour of normal walking and even much less when done in a hurry. It ruled that where an accused person's alibi is established only by himself, his relatives, and friends, the denial of culpability should be accorded the strictest scrutiny as they are necessarily suspect and cannot prevail over the testimonies of the more credible witnesses for the prosecution. To the court's mind, the threat of EEE to AAA - that she would be scolded by BBB and that both of them would go to jail - is serious enough to silence her and surrender her womanhood. Furthermore, it was held that

courts are seldom, if at all, convinced that a mother would stoop so low as to subject her daughter to physical hardship and shame concomitant to a rape prosecution just to assuage her own hurt feelings against the accused. Finally, the court noted that AAA was crying when EEE was testifying in the witness stand; her tears added poignancy to verity born out of human nature and experience.

EEE elevated the case to the CA, arguing that: the crime of rape could not be committed considering that he and BBB, together with AAA, no longer lived together since April 2006; the aggravating circumstance of force, threat or intimidation was not proven because the consent to perform sexual congress was given before the alleged threat was made towards AAA; even assuming that such remark was made, it could qualify only as a mere precaution or advice to her after the consensual sex was already consummated; and, if at all, he is only guilty of qualified seduction under Article 337 of the RPC.

Convinced that sufficient proof was presented by the prosecution to support the conviction of EEE, the CA dismissed the appeal. It ruled that: AAA did not deny that they were living separately from him but such separation happened after the commission of the crime; EEE failed to disprove that his father's ricefield was near their house and that it was possible for him to traverse these places within a span of an hour; his threat was enough to instill fear on AAA, silencing her on the rape committed; and there is no credence in his assertion that AAA filed the case just because he scolded and whipped her when she returned late after he sent her for an errand. The assailed decision was affirmed with modification as to the penalty imposed. Thus:

**WHEREFORE**, this appeal is **DENIED**. The 24 November 2014 Decision of Branch 45 of the Regional Trial Court of Bais City in Criminal Case No. F-06-00132-B is **AFFIRMED with MODIFICATION**. Appellant is sentenced to *reclusion perpetua* without eligibility for parole. He is further directed to pay AAA the following: P100,000.00 as civil indemnity, P100,000.00 as moral damages, and P100,000.00 as exemplary damages. The total amount of damages shall earn six percent (6%) interest from finality of judgment until fully paid.

**SO ORDERED.**<sup>[10]</sup>

Before Us, both the People, as represented by the Office of the Solicitor General, and EEE, through the Public Attorney's Office, manifested that they would dispense with the filing of a Supplemental Brief, considering that the issues raised by accused-appellant had already been extensively discussed and refuted in the Appellee's Brief, and that it would only result to a reiteration of all the arguments already exhaustively discussed in the Appellant's Brief, filed before the CA.<sup>[11]</sup>

The appeal must fail.

The statutory provisions relevant to the case are Article 266-A and Article 266-B of the Revised Penal Code,<sup>[12]</sup> which provide:

Article 266-A. *Rape, When and How Committed*. - Rape is committed -

1. By a man who shall have carnal knowledge of a woman under any of