

THIRD DIVISION

[G.R. No. 210568, November 08, 2017]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, V.
BENJAMIN AUSTRIA, ACCUSED-APPELLANT.**

D E C I S I O N

LEONEN, J.:

A stepfather's moral ascendancy or influence over his stepdaughter, who grew up knowing him as the only father she has ever had, supplants the element of violence or intimidation in a charge of rape. In this case, such influence over the stepdaughter is the reason why she silently endured years of sexual abuse without fighting back or confiding in anyone.

This Court is asked to review the Court of Appeals February 6, 2013 Decision^[1] and August 13, 2013 Resolution^[2] in CA-GR. CR-H.C. No. 03855. The assailed Decision and Resolution affirmed the conviction of accused-appellant Benjamin Austria (Austria) for three (3) counts of rape under Article 266-A(1)(a) and (d) of the Revised Penal Code, as amended by Republic Act No. 8353, in relation to Republic Act No. 7610, and imposed the penalty of *reclusion perpetua* for each count of rape.^[3]

The facts, as found by the trial court and the Court of Appeals, are as follows:

On July 11, 2003, two (2) informations for rape were filed against Austria before the Regional Trial Court, Calauag, Quezon, The first information was docketed as Criminal Case No. 4380-C and read:

That on or about the year 1997, and sometime subsequent thereto, at Province of Quezon, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design, by means of force, threats and intimidation, did then and there willfully, unlawfully and feloniously lay with and have carnal knowledge of one [AAA], then a minor, 10 years of age, against her will.

That the accused is the stepfather of the victim.^[4]

The second information was docketed as Criminal Case No. 4381-C and read:

That on or about the month of January 2003, and sometime prior thereto, at Province of Quezon, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design, by means of force, threats and intimidation, did then and there willfully, unlawfully and feloniously lay with and have carnal knowledge of one [AAA], then a minor, 16 years of age, against her will.

That the accused is the stepfather of the victim.^[5]

On March 22, 2004, Austria pleaded not guilty^[6] to the charges of rape against him.

Trial on the merits ensued, The prosecution presented the victim, AAA, and Dr. Yolanda Olea-Tenorio (Dr. Tenorio) as its witnesses.

AAA testified that Austria was her stepfather as he was legally married to her mother.^[7]

She also stated that from 1997 to July 2005, she lived in Quezon with her mother and her siblings, while Austria lived with them from 1997 to 2003.^[8]

AAA testified that sometime in 1997, when she was 10 years old and in grade 4, she woke up at around 2:00 a.m. when Austria went inside her bedroom and removed her shorts and panty. Her other siblings were still sleeping but her mother had gone to the market to sell her wares.^[9]

AAA cried when Austria removed her underwear. She tried to fight him off and pleaded for him to stop, but he threatened her and her family and warned her not to tell anybody about what happened.^[10]

AAA testified that it was painful when Austria inserted his penis inside her vagina.^[11]

AAA further testified that Austria regularly raped her from 1997 to 2003 every time her mother was not at home.^[12]

One afternoon also in 1997, Austria told AAA to go with him to a grassy area in their kaingin. AAA already knew what would happen, but she went anyway because she feared for her and her mother's lives.^[13]

When they reached the kaingin, Austria removed AAA's shorts and panty and raped her.^[14]

AAA testified that Austria raped her for the last time sometime in January 2003, when she was 16 years old.^[15]

AAA said that when her mother left for the market early in the morning, Austria came inside her room, lay down beside her, and started touching her private parts. AAA stated that even if Austria did not threaten her, she no longer resisted or fought back because of her fear of him and the harm he would inflict on her and her mother.^[16]

Austria then inserted his penis inside AAA's vagina, causing her to feel pain with the penetration.^[17]

During her cross-examination, AAA admitted that Austria never held or showed her a weapon when he raped her, but she was still afraid of him because he threatened to kill her or her mother if she refused his advances.^[18]

On April 10, 2003, AAA told her aunt, Crisanta Reyes (Reyes), of Austria's repeated abuse from 1997 to 2003. AAA claimed that she finally found the courage to reveal her ordeal to her aunt because she was already grown up and wanted the abuse to stop.^[19] That same day, Reyes accompanied AAA to the police station.^[20]

Austria was arrested that evening and it was only then that AAA's mother learned of what her daughter had gone through.^[21]

The following day, AAA executed an affidavit against Austria.^[22]

Also on April 11, 2003, AAA's mother accompanied her to for a medical examination.^[23]

The attending physician, Dr. Tenorio, gave the following diagnosis after examining AAA:

DIAGNOSIS:

Breasts - well developed
External - no abnormal external findings,
no bru[is]es or hematoma
- Pubic Hair- plenty
IE - Hymen- intact
Vagina - admits 1 finger with ease
2 fingers with resistance
with moderate menstrual flow^[24]

Dr. Tenorio testified that upon examining AAA's vagina, she found that AAA's hymen was still intact.^[25] However, Dr. Tenorio qualified that it was possible for the hymen to remain intact even if a woman had been repeatedly raped. She also added that there was a documented case where a woman who gave birth still had an intact hymen after delivering a baby.^[26]

The defense's only witness was Austria himself who denied ever raping AAA.^[27]

Austria admitted that AAA was his stepdaughter, as AAA was his wife's daughter from another man, but he claimed that he raised her as his own child, provided for her needs, and paid for her schooling.^[28]

Austria testified that AAA falsely accused him of rape because she was instructed by Reyes to do so.^[29]

Austria claimed that AAA's relatives from her real father's side wanted to raise her, but he refused to give AAA to them; thus, these false rape charges by his stepdaughter were filed against him.^[30]

On February 5, 2009, Branch 63, Regional Trial Court, Quezon^[31] found Austria guilty of the multiple charges of rape against him.

The Regional Trial Court found that AAA was steadfast in her testimony that Austria repeatedly raped her.^[32]

The Regional Trial Court also took note that AAA referred to Austria as "Papa" during the trial, out of respect to her stepfather and benefactor. It opined that "it [was] improbable that [she] would [falsely] impute so grave a wrong to [Austria]."^[33]

In contrast, the Regional Trial Court found Austria's testimony to be uncorroborated and unbelievable because he was unable to support his claim that AAA's relatives pushed her to file the false rape complaint against him so that he would lose custody over AAA.^[34]

The Regional Trial Court also did not give due weight to the defense's claim that AAA's intact hymen belied her claims of repeated rape. The Regional Trial Court emphasized that jurisprudence has consistently held that an intact hymen does not mean that rape did not take place, since consummated rape does not require that the hymen be penetrated or ruptured. Furthermore, the Regional Trial Court asserted that a young girl would not subject herself to the rigors of a public trial unless she was seeking justice for the abuse inflicted on her.^[35]

The Regional Trial Court held that the prosecution was able to prove three (3) separate incidents of rape.^[36] It also held that the offenses charged against Austria were qualified because of AAA's minority and his relationship with her as her stepfather.^[37] The *fallo* of the Regional Trial Court Decision read:

PREMISES CONSIDERED, the Court is morally convinced that BENJAMIN AUSTRIA is **GUILTY** of three (3) counts of Rape beyond reasonable doubt and sentences him to **RECLUSION PERPETUA** in lieu of DEATH, for each count, applying the provisions of R.A. 9346 which prohibits, the imposition of death penalty. The Court hereby awards the victim:

1. **Civil indemnity** of **P75,000.00** since the crime is qualified by circumstances warranting the imposition of death penalty;
2. **Moral damages** amounting to another **P75,000.00** because it is assumed that the victim has suffered moral injuries without proof thereof; and
3. **Exemplary damages** in the amount of **P25,000.00** in the presence of qualifying circumstances of minority and relationship (People v. Quiatchon, G.R. No. 170236, August 31, 2006).

SO ORDERED.^[38] (Emphasis in the original)

On March 20, 2009,^[39] the Regional Trial Court directed the transmittal of the records of the case to the Court of Appeals upon Austria's timely filing of his Notice of Appeal.^[40]

On February 6, 2013, the Court of Appeals^[41] affirmed the Regional Trial Court Decision.

The Court of Appeals held that AAA's minority and her relationship with Austria were duly alleged and proven.^[42] The Court of Appeals also held that the prosecution was able to prove the multiple charges of rape against Austria beyond reasonable doubt.

^[43]

The Court of Appeals gave great weight to the Regional Trial Court's assessment of the credibility, or lack thereof, of the witnesses and confirmed the Regional Trial Court's finding that AAA testified in a straightforward and candid manner.^[44]

The Court of Appeals likewise brushed aside Austria's defense that the lack of physical signs or marks of penetration in AAA's vagina was proof that she was not repeatedly raped for years, as she claimed.^[45] The *fallo* of the Court of Appeals Decision read:

WHEREFORE, in view of the foregoing, the instant appeal is hereby **DENIED**. The February 5, 2009 Decision of the Regional Trial Court of Calauag, Quezon, Branch 63, in Criminal Case Nos. 4380-C and 4381-C is **AFFIRMED with MODIFICATION** in that the award of exemplary damages is increased from P25,000.00 to P30,000.00.

SO ORDERED.^[46] (Emphasis in the original)

On August 13, 2013, the Court of Appeals^[47] denied Austria's Motion for Reconsideration.^[48]

On September 6, 2013, Austria filed his Notice of Appeal.^[49]

On September 27, 2013, the Court of Appeals^[50] gave due course to Austria's Notice of Appeal and directed the elevation of the records of his case to this Court.

On March 5, 2014, this Court^[51] noted the records forwarded by the Court of Appeals and notified the parties that they may file their respective supplemental briefs.

On April 30, 2014, the prosecution filed its Manifestation,^[52] indicating its intention to adopt the Appellee's Brief it had filed before the Court of Appeals. Meanwhile, the accused filed his Supplemental Brief^[53] on May 13, 2014.

In its Appellee's Brief,^[54] the prosecution asserts that it has established accused's guilt beyond reasonable doubt for the crime of statutory rape.^[55]

The prosecution also points out that AAA's intact hymen does not negate her testimony that the accused repeatedly raped her, since this Court has repeatedly held that full penile penetration of the vagina is not needed for rape to be consummated. Furthermore, the elastic nature of the hymen makes it possible for it to remain intact despite repeated sexual intercourse or rape.^[56]

The prosecution contends that the trial court's evaluation of the credibility of the witness, or lack thereof, should be given due weight considering its opportunity to observe the witness' demeanor while testifying.^[57]

The prosecution emphasizes that it is highly improbable that a young girl like AAA will expose herself to the humiliation and rigors of a public trial had she not really been abused by her stepfather.^[58]

Finally, the prosecution stresses that the accused's defense of denial was inherently weak specially when weighed against AAA's positive and categorical testimony.^[59]