

THIRD DIVISION

[G.R. No. 207231, June 29, 2016]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. ROGER GALAGATI
Y GARDOCE, APPELLANT.**

DECISION

PERALTA, J.:

This is an appeal from the July 31, 2012 Decision^[1] of the Court of Appeals (CA) in CA-G.R. CEB-CR-H.C. No. 00383, the dispositive portion of which states:

IN LIGHT OF ALL THE FOREGOING, the Court hereby AFFIRMS with MODIFICATION the assailed Decision dared March 8, 2005 of the Regional Trial Court, Branch [61], Kabankalan City, Negros Occidental in Criminal Case No. 2003-3215. The accused-appellant Roger Gardoce Galagati is found GUILTY of the crime of Rape committed on September 13, 2002 and is hereby sentenced to suffer the penalty of *reclusion perpetua*. He is likewise ordered to indemnify AAA the amounts of Php50,000 as civil indemnity, Php50,000 as moral damages, and Php30,000 as exemplary damages, plus legal interest on all damages awarded at the rate of six percent (6%) [*per annum*] from the date of the finality of this decision.

As to accused-appellant Galagati's appeal in Criminal Case Nos. 2003-3216, 2003-3218, 2003-3219, 2003-3220 and 2003-3221, the same is GRANTED. The decision of the trial court is REVERSED and SET ASIDE. Accused-appellant Galagati is, for failure of the prosecution to prove his guilt beyond reasonable doubt, ACQUITTED for five counts of rape through sexual assault.

SO ORDERED.^[2]

On May 13, 2003, seven (7) Informations were filed against accused-appellant Roger Gardoce Galagati (*Galagati*) for rape. The accusatory portion of Criminal Case No. 2003-3215 reads:

That on or about September 13, 2002, in the City of Kabankalan, Province of Negros Occidental, Philippines, and within the jurisdiction of this Honorable Court, said accused, by means of or employing force and intimidation and exerting his moral influence and ascendancy as an adult, did then and there wilfully, unlawfully and feloniously have sexual intercourse with [AAA], a minor about fifteen (15) years old, without the consent and against the will of the latter.

CONTRARY TO LAW.^[3]

The Information for the six other cases stated the same allegations, except for the dates of commission, particularly on October 8,^[4] 10,^[5] 11,^[6] 15,^[7] 22,^[8] and 25,^[9] 2002.

In his arraignment on June 4, 2003, Galagati pleaded not guilty.^[10] Joint trial ensued while he was under detention. Only private complainant AAA testified for the prosecution. Her version of facts, which was not subject to cross-examination, are as follows:

AAA was born on September 11, 1987 from parents Susie Valensona and Luciano Monasque, who are not legally married.^[11] Galagati is the common-law spouse ("live-in" partner) of Susie.^[12] At the time of the incidents, AAA was a 15-year-old second year student at Binicuil National High School and residing at her grandfather's house, together with Galagati, and her mother, uncle, and three siblings.^[13]

On September 13, 2002, at around 2:00 p.m., while AAA was alone in the changing room of their house, Galagati forced her to have sexual intercourse with him. Acting on a threat that he would kill her mother and siblings, he laid her down, took off her panty, and inserted his penis into her vagina. She continuously cried and noticed a lot of blood coming from her vagina. He then told her to stop crying and take a bath, which she did. Her mother did not know what happened due to the threat. As to the other rape incidents that occurred, AAA testified:

Q: After September 13, 2002, were there other occasions that the accused raped you?

A: Yes, sir.

Q: Can you tell us the dates?

A: Yes, sir.

Q: What were those dates?

A: October 8, 10, 11, 15, 22 and 25, 2002.

Q: How could you recall those dates you mentioned [when] you were raped by the accused?

A: Because at that time I have no class and at the time no one [was] in the house.

Q: On October 8, 2002, what time did the accused raped you?

A: After eating my lunch and [I] was about to undress myself preparing to go to school.

Q: What time was that if you can recall?

A: 1:00 o'clock in the afternoon.

Q: On October 8, 2002, can you tell where did the accused rape you?

A: At the room where we changed our clothes.

Q: Was there penetration also of the penis on October 8, 2002?

A: No, sir.

Q: What happened when you were raped on October 8, 2002?

A: He fingered me.

Q: How about his penis?

A: In my vagina.

Q: What did he do to his penis?

A: He just [rubbed] it in my vagina.

Q: What finger did he use when he raped you on October 8,

2002, Madam Witness?

A: Index finger.

Q: Did the index finger penetrate your vagina?

A: Yes, sir.

Q: How about on October 10, 2002, where did the rape incident happen?

A: At the same place.

Q: What time?

A: About that time.

Q: Was there penetration of the penis or index finger?

A: Index finger.

Q: His penis was also rubbed against your vagina?

A: Yes.

Q: How about on October 11, 2002, where was the rape incident happened?

A: The same place.

Q: And what time?

A: The same time.

Q: On this date, October 11, 2002, was there penetration of the penis or index finger?

A: Still finger.

Q: How about the date you mentioned, October 15, 2002, where was the rape incident happened?

A: The same place.

Q: The same time also?

A: Yes.

Q: At your house?

A: Yes.

Q: Was there penetration in your vagina?

A: Yes.

Q: Penis or index finger?

A: Finger.

Q: How about on October 22, 2002, where the rape incident happened?

A: The same place.

Q: The same time?

A: Yes.

Q: Was there penetration in your vagina?

A: Yes, sir.

Q: Penis or finger?

A: Finger.

Q: How about on October 25, 2002, where [did] the rape incident happened?

A: The same place.

Q: Was there penetration?

A: Yes, sir.

Q: Penis or index finger.

A: Index finger.

Q: After all those penetration of index finger on October 8, 10, 11, 15, 22 and 25, 2002, were you still able to go to school on those dates?

A: Yes, sir.

Q: Did you ever inform your mother about those incidents?

A: No, sir.

Q: How about the police?

A: No.

Q: Why did you not inform your mother about those repeated rape incidents?

A: Because he threatened me (*sic*) to kill my siblings and my mother.^[14]

On November 4, 2002, AAA was brought to the Kabankalan Police Station to shed some light regarding the fight that transpired between Galagati and Susie's brother. In the course of the interview, she was able to disclose the rape incidents to SPO1 Marilou Amantoy and Chona Paglumotan of the Department of Social Welfare and Development (DSWD).

Galagati, on the other hand, denied having sexual congress with AAA. He asserted that on September 13, 2002, AAA went back to school at 1 p.m. after eating lunch at the house;^[15] on October 8, 2002, there was no class but AAA told him that she would go to school;^[16] on October 15, 2002, AAA did not go home;^[17] and on October 25, 2002, he was not in the house but in Bacolod.^[18] He stressed that he did not touch AAA as he loves her like his own child.^[19] Galagati claimed that all the charges filed against him were mere concoction because AAA was being threatened by her family. He revealed that there was a fight between him and AAA's uncle, who is the brother of her mother, because Susie's siblings would usually eat at their house without washing the dishes.^[20]

After trial, the RTC found that AAA's testimony was natural, candid, straightforward and credible, while Galagati's defense of denial was unsupported by competent evidence. It convicted Galagati of the crime charged in Criminal Case Nos. 2003-3215 to 2003-3216 and 2003-3218 to 2003-3221. The *fallo* of the March 8, 2005 Decision^[21] states:

WHEREFORE, the Court finds accused Roger Galagati y Gardoce GUILTY beyond reasonable doubt of one (1) count of rape under Paragraph 1 of Article 266-A of the Revised Penal Code, as amended by R.A. No. 8353, as charged in Criminal Case No. 2003-3215 for having carnal knowledge with the victim on September 13, 2002 and five (5) counts of rape under Paragraph 2 of said Article 266-A as charged in Criminal [Case] Nos. 2003-3216, 2003-3218, 2003-3219, 2003-3220 and 2003-3221 for inserting his finger in the genital orifice of the victim and hereby sentences' him to suffer the penalty of RECLUSION PERPETUA in Criminal Case No. 2003-3215[,] to pay the victim [AAA] P50,000.00 as civil indemnity, P50,000.00 as moral damages, P25,000.00 as exemplary damages[,] and applying the Indeterminate Sentence Law, sentences him to suffer the penalty of imprisonment of six (6) years, as minimum, to ten (10) years, as maximum, for each of the five (5) counts of rape under Paragraph 2 of Article 266-A of the Revised Penal Code as charged in Criminal [Case] Nos. 2003-3216, 2003-3218, 2003-3219, 2003-3220 and 2003-3221, [and] to pay the victim P50,000.00 as civil indemnity in each of the said five (5) counts of rape and the costs.

For lack of evidence due to the failure of the prosecution to present evidence, Criminal Case No. 2003-3217 is DISMISSED.

It is ordered that the said accused be immediately remitted to the National Penitentiary.

SO ORDERED.^[22]

On appeal, however, the CA acquitted Galagati in Criminal Case Nos. 2003-3216 and 2003-3218 to 2003-3221 as it considered AAA's testimony "shallow, trifling, and half-hearted" with regard to the alleged five incidents of sexual assaults. For the appellate court, AAA's testimony with regard to the acts committed on October 8, 11, 15, 22 and 25, 2002 were mere vague generalizations and conclusions of law because she merely answered "yes" when asked by her counsel if Galagati had "raped" her on said dates. There was a complete failure of the prosecution to extract a vivid and detailed testimony from AAA, whose narration only contained inadequate recital of evidentiary facts consisting of statements of "same time," "same place," and confirmation that there was penetration of the index finger, in answer to the public prosecutor's leading question. There was no testimony as to how Galagati approached her, what, if any, he said to her, what she was doing before she was fingered, what happened after, and other details which would validate her charge that he fingered her on those occasions. Also, the CA noted that there was a complete silence in AAA's testimony that force, threat or intimidation was applied to successfully consummate the sexual assaults. What AAA merely declared was that she did not report all the incidents of rape as Galagati allegedly threatened to kill her mother and siblings. However, this explanation failed to properly show whether the threat was given before, during, or after the commission of the sexual assaults. Finally, the appellate court opined that although moral influence or ascendancy substitutes actual force and intimidation if the malefactor is a common-law spouse of the victim's mother, it does not remove the exacting requirement that the occurrence of sexual assault must be established beyond reasonable doubt.

Now before Us, Galagati seeks to appeal the decision of the CA with respect to Criminal Case No. 2003-3215.

We dismiss.

The settled rule is that the trial court's evaluation and conclusion on the credibility of witnesses in rape cases are generally accorded great weight and respect, and at times even finality, and that its findings are binding and conclusive on the appellate court, unless there is a clear showing that it was reached arbitrarily or it appears from the records that certain facts or circumstances of weight, substance or value were overlooked, misapprehended or misappreciated by the lower court and which, if properly considered, would alter the result of the case.^[23] Having seen and heard the witnesses themselves and observed their behavior and manner of testifying, the trial court stood in a much better position to decide the question of credibility.^[24] Indeed, trial judges are in the best position to assess whether the witness is telling a truth or lie as they have the direct and singular opportunity to observe the facial expression, gesture and tone of voice of the witness while testifying.^[25]

To determine the innocence or guilt of the accused in rape cases, the courts are guided by three well-entrenched principles: (1) an accusation of rape can be made with facility and while the accusation is difficult to prove, it is even more difficult for the accused, though innocent, to disprove; (2) considering that in the nature of