

THIRD DIVISION

[G.R. No. 209344, June 27, 2016]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JAIME BRIOSO ALIAS TALAP-TALAP, ACCUSED-APPELLANT.

D E C I S I O N

PERALTA, J.:

Before the Court is an ordinary appeal filed by accused-appellant Jaime Brioso (*Brioso*) assailing the Decision^[1] of the Court of Appeals (CA), dated March 22, 2013, in CA-G.R. CR-H.C. No. 05234, which affirmed with modification the Decision^[2] of the Regional Trial Court (*RTC*) of Baler, Aurora, Branch 96, in Criminal Case No. 2795, finding Brioso guilty of the crime of statutory rape, in relation to Republic Act No. 7610 (*RA 7610*), and imposing upon him the penalty of *reclusion perpetua*.

The antecedents are as follows:

Around 5 o'clock in the afternoon of May 31, 2001, the victim, AAA,^[3] who was then four (4) years old,^[4] was playing at the basketball court near their house located at Barangay Dimanayat, San Luis, Aurora. Accused-appellant then approached and asked her to go with him to a nearby mango tree where he promised to give her candies. When AAA agreed, accused-appellant took her hand and led her to the mango tree which was near his house. Upon reaching the mango tree, accused-appellant immediately removed AAA's short pants and panty then proceeded to mash her private organ and inserted his finger into her vagina. Thereafter, accused-appellant made her lie down on the ground and inserted his penis into her vagina. Accused-appellant warned AAA not to tell anybody about what he did to her, otherwise he will kill her. Stricken by fear, AAA went home without telling anybody about her ordeal. However, the next morning, AAA's mother, BBB, observed that her daughter had difficulty urinating. She examined AAA's vagina and found that it was swollen. BBB then cleaned AAA's sex organ and asked her the reason why it was swollen. AAA then told BBB that accused-appellant molested her. Upon learning about what happened to her daughter, BBB brought her child to one of their Barangay Kagawads to report the incident. The following morning, the Barangay Kagawad accompanied AAA and BB,B to the Office of the Department of Social Welfare and Development in San Luis where AAA related her ordeal and again pointed to accused-appellant as the culprit. They were then brought to the local police station where a criminal complaint was filed against accused-appellant. There, the authorities gathered information regarding AAA's molestation where AAA reiterated her statements. Thereafter, AAA was examined by a medical doctor who prepared a medico-legal report.

Subsequently, the Office of the Provincial Prosecutor of Aurora filed an

Information^[5] with the RTC of Baler, charging accused-appellant with the crime of statutory rape, the pertinent portions of which read as follows:

x x x x

That in, about or sometime on the last week of May, 2001, in Barangay Dimanayat, San Luis, Province of Aurora, and within the jurisdiction of this Honorable Court, said accused Jaime Brioso alyas (sic) "Talap-talap", did then and there wilfully (sic), unlawfully and feloniously with lewdness mashed and inserted a finger into the vagina of a four (4)-year-old child [AAA] and have carnal knowledge of the said minor child against her will.

x x x^[6]

The Information was initially sent to the archives because the authorities were not able to arrest accused-appellant. Eventually, on October 5, 2007, accused-appellant was arrested. He was arraigned on October 25, 2007 wherein he pleaded not guilty.^[7]

In his defense, accused-appellant denied the allegations of the prosecution and raised the defense of alibi.

Pre-trial was conducted on April 16, 2008.^[8] Thereafter, trial ensued.

On August 24, 2011, the RTC rendered its Decision finding accused-appellant guilty as charged, the dispositive portion of which reads as follows:

WHEREFORE, under the above premises, this Court hereby finds JAIME BRIOSO GUILTY beyond reasonable doubt of the crime of Statutory Rape under Article 266-A (1) (d) of the Revised Penal Code, in relation to R.A. 7610, and hereby sentences him to suffer the penalty of *reclusion perpetua* and to pay to [AAA] the amount of Seventy-Five Thousand Pesos (P75,000.00) as civil indemnity, Seventy-Five Thousand Pesos (P75,000.00) as moral damages, and Thirty Thousand Pesos (P30,000.00) as exemplary damages.

SO ORDERED.^[9]

The RTC gave full credence to the testimony of AAA holding that she testified on the rape that happened to her in a straightforward and credible manner. The RTC also cited the findings of the medico-legal which corroborated the testimony of AAA. The trial court did not give weight to accused-appellant's defense of alibi because the place where he claims to be at the time of the rape is just a few minutes walk from the scene of the crime, hence, it is not physically impossible for him to be at the said scene at the time of the commission of the rape. The RTC further held that AAA positively identified accused-appellant as the one who raped her.

Accused-appellant appealed the RTC Decision with the CA.^[10]

On March 22, 2013, the CA promulgated its assailed Decision affirming the judgment of the RTC *in toto*.

The CA held, others, that: it found no reason to depart from the findings of the RTC regarding the credibility of AAA; AAA's delay in reporting her rape may not be construed as indication of a false accusation; under the Rules of Court, a child of tender years may be asked leading questions; accused-appellant failed to allege and prove any improper motive on AAA's part to falsely accuse him of rape.

On April 11, 2013, accused-appellant, through counsel, filed a Notice of Appeal manifesting his intention to appeal the CA Decision to this Court.^[11]

In its Resolution dated May 3, 2013, the CA gave due course to accused-appellant's Notice of Appeal and directed its Judicial Records Division to elevate the records of the case to this Court.^[12]

Hence, this appeal was instituted.

In a Resolution^[13] dated December 4, 2013, this Court, among others, notified the parties that they may file, their respective supplemental briefs, if they so desire.

in its Manifestation^[14] dated February 17, 2014, the Office of the Solicitor General (OSG) informed this Court that it will no longer file a supplemental brief because it had already adequately addressed in its brief filed before the CA all the issues and arguments raised by accused-appellant in his brief.

In the same manner, accused-appellant filed a Manifestation in Lieu of Supplemental Brief^[15] dated March 4, 2014, indicating that he no longer intends to file a supplemental brief and is adopting his brief, which was filed with the CA, as his supplemental brief as it had adequately discussed all the matters pertinent to his defense.

Accused-appellant's basic contention is that he was wrongly convicted because the prosecution failed to prove his guilt beyond reasonable doubt. In support of his claim, he posits the following arguments: (1) AAA's unexplained delay of five (5) days in reporting her alleged rape to her mother, as well as her failure to immediately identify accused-appellant as the supposed perpetrator of the crime, greatly affects her credibility; (2) AAA's credibility is also subject to question considering her failure to clearly narrate her alleged rape during her testimony in court and that what she did was merely to confirm the leading questions propounded to her by the prosecutor; (3) AAA's actuations immediately after her supposed rape, wherein she showed no outrage or fear towards accused-appellant, are not the natural reaction of the victim of a crime.

The appeal lacks merit.

The pertinent provisions of Articles 266-A of the Revised Penal Code, as amended, provide:

Art. 266-A Rape; When And How Rape is Committed. -

1) By a man who shall have carnal knowledge of a woman under any of the following circumstances:

- a) Through force, threat, or intimidation;
- b) When the offended party is deprived of reason or otherwise unconscious;
- c) By means of fraudulent machination or grave abuse of authority; and
- d) When the offended party is under twelve (12) years of age or is demented, even though none of the circumstances mentioned above be present.

x x x

Statutory rape is committed when: (1) the offended party is under twelve (12) years of age; and (2) the accused has carnal knowledge of her, regardless of whether there was force, threat or intimidation, whether the victim was deprived of reason or consciousness, or whether it was done through fraud or grave abuse of authority.^[16] It is enough that the age of the victim is proven and that there was sexual intercourse.^[17]

This Court has consistently held that "rape under Article 266-A(1)(d) of the Revised Penal Code, as amended, is termed statutory rape as it departs from the usual modes of committing rape."^[18] What the law punishes in statutory rape is carnal knowledge of a woman below twelve (12) years old.^[19] Thus, force, intimidation and physical evidence of injury are not relevant considerations; the only subject of inquiry is the age of the woman and whether carnal knowledge took place.^[20] The law presumes that the victim does not and cannot have a will of her own on account of her tender years; the child's consent is immaterial because of her presumed incapacity to discern good from evil.^[21]

Moreover, under Article 266-B, the penalty for statutory rape is death if, among others, the victim is below seven (7) years old, thus:

ART. 266-B. Penalties. - Rape under paragraph 1 of the next preceding article shall be punished by *reclusion perpetua*.

x x x x

The death penalty shall also be imposed if the crime of rape is committed with any of the following aggravating/qualifying circumstances:

x x x x

5. When the victim is a child below seven (7) years old.

x x x x

In the present case, both the RTC and the CA found that the prosecution was able to prove beyond reasonable doubt all the elements of statutory rape and this Court finds no cogent reason to depart from these findings, as will be discussed below.

Accused-appellant's arguments in the instant appeal basically harp on the alleged loopholes, inconsistencies and improbabilities in the testimonies of the victim and her mother which supposedly cast doubt on their credibility as witnesses.

Settled is the rule that testimonies of child-victims are normally given full weight and credit, since when a girl, particularly if she is a minor, says that she has been raped, she says in effect all that is necessary to show that rape has, in fact, been committed.^[22] When the offended party is of tender age and immature, courts are inclined to give credit to her account of what transpired, considering not only her relative vulnerability but also the shame to which she would be exposed if the matter to which she testified is not true.^[23] Youth and immaturity are generally badges of truth and sincerity.^[24] Considering that AAA was only four (4) years old when she was raped and was only eleven (11) years old when she took the witness stand, she could not have invented a horrible story.

Besides, the testimony of AAA is corroborated by the findings of the physician who examined her indicating "swelling and tenderness of the *labia majora*" "swelling, redness and tenderness of the *labia minora*," "whitish discharge from the vaginal os," "multiple erosions at the perineum and *labia minora*," "broken hymen at the 4 & 5 o'clock positions."^[25] When asked about her findings, the physician concluded "that there was a penetration of the area causing all these erosions, all these wounds [and] lacerations and there was a penetration of something that was hard breaking into the hymen."^[26] Thus, the RTC and the CA are correct in concluding that both the victim's positive testimony and the findings of the medico-legal officer complemented each other in the conclusion that accused-appellant had sexual intercourse with the victim.

The Court is neither persuaded by accused-appellant's argument that AAA's unexplained delay of five (5) days in reporting the rape to her mother greatly affects her credibility. This Court has repeatedly held that delay in reporting rape incidents, in the face of threats of physical violence, cannot be taken against the victim.^[27] AAA's delay in reporting the incidents to her mother or the proper authorities is insignificant and does not affect the veracity of her charges. It should be remembered that accused-appellant threatened to kill her if she told anyone of the incident. This Court has explained why a rape victim's deferral in reporting the crime does not equate to falsification of the accusation, to wit:

The failure of complainant to disclose her defilement without loss of time to persons close to her or to report the matter to the authorities does not perforce warrant the conclusion that she was not sexually molested and that her charges against the accused are all baseless, untrue and fabricated. Delay in prosecuting the offense is not an indication of a fabricated charge. Many victims of rape never complain or file criminal charges against the rapists. They prefer to bear the ignominy and pain rather than reveal their shame to the world or risk the offenders' making good their threats to kill or hurt their victims.^[28]

Further, it has been written that a rape victim's actions are oftentimes overwhelmed by fear rather than by reason.^[29] It is this fear, springing from the initial rape, that the perpetrator hopes to build a climate of extreme psychological terror, which would, he hopes, numb his victim into silence and submissiveness.^[30] Moreover,