

THIRD DIVISION

[G.R. No. 214473, June 22, 2016]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
EMETERIO MEDINA Y DAMO, ACCUSED-APPELLANT.**

R E S O L U T I O N

PEREZ, J.:

For review is the Decision^[1] of the Court of Appeals in CA-G.R. CR-HC No. 05906 dated 28 March 2014, which dismissed the appeal of appellant Emeterio Medina y Damo and affirmed with modification the Decision^[2] dated 22 September 2011 of the Regional Trial Court (RTC) of Laoag City, Branch 11, in Criminal Case No. 9540, finding appellant guilty beyond reasonable doubt of the crime of Qualified Rape.

Following the Court's ruling in *People v. Cabalquinto*,^[3] the real name and identity of the rape victim, as well as the members of her immediate family, including other identifying information, are not disclosed. The rape victim shall herein be referred to as AAA, and her mother as BBB.

Appellant was charged with the crime of rape in an Information, the accusatory portion of which reads as follows:

That on or about the 9th day of May, 2000, in the [C]ity of Laoag, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused called to his house [AAA], a 4-year old girl and a neighbor of the accused in x x x, Laoag City and inside his house he took [AAA] into a room and did then and there willfully, unlawfully and feloniously remove her pants and then let her lie down on a bed (papag) and thereafter have a carnal knowledge of her without her consent.^[4]

A warrant of arrest was issued against appellant on 24 August 2000 but appellant evaded arrest for six (6) years. The rape case was archived until appellant's eventual arrest in November 2007.^[5] Upon arraignment, appellant pleaded not guilty to the crime charged. During pre-trial, the parties stipulated, among others, that: (1) AAA was only four (4) years old, four (4) months and nine (9) days old on 9 May 2000, the date of the alleged crime; (2) Appellant was in Laoag City on 9 May 2000; (3) AAA and appellant are neighbours; and (4) AAA's father is appellant's first-degree cousin.^[6]

Trial ensued. The prosecution presented, as witnesses, AAA, BBB, Jewell C. Diaz, Administrative Aide III of the Medical Records Section of Mariano Marcos Memorial Hospital and Medical Center, Dr. Mona Liza Pastrana (Dr. Pastrana) and Dr. Maria Geraldine Andaya La Madrid (Dr. La Madrid).

The prosecution established that in the morning of 9 May 2000, AAA, who was only four (4) years old at the time of the commission of the crime, and twelve (12) years old when she took the witness stand, was on her way to the store to buy vinegar for her mother, BBB, when appellant, whom she called Uncle Teriong, pulled her into his house. Appellant led AAA into his room, made her lie on the bed, removed her undergarments, laid on top of her and had carnal knowledge of AAA. AAA felt pain and cried but could not shout for fear that appellant would make real his threat to hurt her. After the act, appellant put back on AAA's clothes. AAA returned home and narrated the incident to her mother. BBB did not believe AAA at first until AAA described the appellant's bodily fluid as milk-looking.^[7] BBB thus had AAA physically examined.^[8]

AAA was physically examined by Drs. Claribel Agatep (Agatep) and La Madrid. Dr. Pastrana, a physician and obstetrician of the Mariano Marcos Memorial Hospital and Medical center, testified to interpret the findings of Dr. Agatep who had left the country at the time of trial. Per the Medico-Legal Certificate^[9] dated 15 May 2000 issued by Dr. Agatep:

VAGINAL EXAMINATION:

x x x x

-Hymen- fresh vertical laceration on the right lateral aspect of the hymen about 0.4 cm

DIAGNOSIS: Alleged Sexual Abuse

Fresh Laceration on the right lateral aspect of hymen 0.4 cm

During direct examination, Dr. Pastrana stated that "the hymeneal finding is a very rare finding for a child; a finding in a hymeneal area, it would be very impossible for a child to have an accident just for an accident to have that injury. x x x."^[10]

Dr. La Madrid, on the other hand, testified that she had received a request for examination of AAA's specimen. Dr. La Madrid found that there was a predominance of infectious organisms surrounding the cells in said specimen and there was presence of inflammation. This could have been caused by manipulation of the vagina of the patient or trauma through insertion of a blunt object or a male reproductive organ.^[11] She together with Dr. Leonisa Flojo-Abon issued a Gynecologic Cytology Report embodying said findings.^[12]

Appellant, as sole witness for the defense, interposed the defenses of denial and alibi. He admitted knowing AAA as she is the daughter of his cousin but denied the rape charge against him. He maintained that on the date and time of the incident, he was at his cousin's wedding. He claimed that the instant case arose from AAA's envy of the care packages he receives from his niece abroad.^[13]

After trial, the RTC on 22 September 2011 found appellant guilty beyond reasonable doubt of qualified rape. The dispositive portion of the RTC Decision reads:

WHEREFORE, judgment is hereby rendered finding accused **EMETERIO MEDINA y DAMO, GUILTY BEYOND REASONABLE DOUBT** of

qualified rape. He is hereby sentenced to a penalty of **RECLUSION PERPETUA**. Further, he is hereby directed to pay the private complainant the amounts of P75,000.00 as civil indemnity, P75,000.00 as moral damages and P25,000.00 as exemplary damages.^[14]

On intermediate review, the Court of Appeals rendered the assailed decision affirming with modification the trial court's judgment, to wit:

WHEREFORE, the trial court's Decision dated September 22, 2011 finding accused-appellant Emeterio Medina y Damo guilty beyond reasonable doubt of rape is affirmed, subject to the modification that the penalty of *reclusion perpetua* should be without eligibility for *parole*, and the award of exemplary damages is increased to P30,000.00.^[15]

Now before us for final review, the Court affirms the appellant's conviction.

Articles 266-A and 266-B of the Revised Penal Code, as amended by Republic Act No. 8353^[16] define and punish rape as follows:

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 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 woman is under twelve (12) years of age or is demented, even though none of the circumstances mentioned above be present.

x x x x

Article 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 attendant circumstances:

x x x x

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

x x x x

Statutory rape is committed by sexual intercourse with a woman below twelve (12) years of age regardless of her consent, or the lack of it to the sexual act. Proof of force, intimidation, or consent is unnecessary. The absence of free consent is conclusively presumed when the victim is below the age of twelve (12). Sexual