

## THIRD DIVISION

[ G.R. No. 208646, June 15, 2016 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
LORETO SONIDO Y CORONEL, ACCUSED-APPELLANT.**

### D E C I S I O N

**PEREZ, J.:**

For review is the Decision<sup>[1]</sup> of the Court of Appeals in C.A. G.R. CR-H.C. No. 00781-MIN dated 30 May 2013, which dismissed the appeal of appellant Loreto Sonido y Coronel and affirmed with modification the Judgment<sup>[2]</sup> of the Regional Trial Court (RTC) of Davao City, Branch 12, in Criminal Case No. 55,993-05, finding appellant guilty beyond reasonable doubt of the crime of rape.

Consistent with the ruling of this Court in *People v. Cabalquinto*,<sup>[3]</sup> the real name and identity of the rape victim, as well as the members of her immediate family, are not disclosed. The rape victim shall herein be referred to as AAA. AAA's personal circumstances as well as other information tending to establish her identity, and that of her immediate family or household members, are not disclosed in this decision.

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

That on or about December 29, 2004, in the City of Davao, Philippines, and within the jurisdiction of this Honorable Court, the above-mentioned accused, willfully, unlawfully and feloniously, had carnal knowledge [of AAA], 8 years old and a niece of the accused, which fact is herein alleged as an aggravating/qualifying circumstance.<sup>[4]</sup>

Upon arraignment, appellant pleaded not guilty to the crime charged. Trial on the merits ensued. The prosecution presented AAA, Dr. Paterna Banglot (Dr. Banglot), Delfin Amas Sr. (Amas), *Barangay* Captain Danilo Cristal and Prudencio Lagare, Jr., a police officer, as witnesses. Appellant was the lone witness for the defense.

The prosecution established that on 29 December 2004, eight (8) year-old AAA was sleeping in the sola of appellant's house and she awoke to find herself undressed with appellant, whom she calls *Tatay* Loreto (the husband of her mother's sister), on top of her. Appellant removed her underpants and inserted his penis into her vagina. AAA complained of pain to no avail. The incident was repeated shortly thereafter. Appellant then shouted threats against her and her family's life.<sup>[5]</sup> AAA subsequently reported the incident on even date to appellant's neighbor, Amas, who then brought her to *Barangay* Captain Danilo Cristal.<sup>[6]</sup>

AAA was subjected to a physical examination by Dr. Banglot of the Davao Medical

Center, Women and Children Protection Unit. Dr. Banglot's Medical Certificate states as follows:

### **ANOGENITAL EXAM**

Genitalia	Annular hymen. Non-estrogenized. No hymenal laceration noted.
Anus	Good sphincteric tone.

### **IMPRESSION**

1. Disclosure of Sexual Abuse
2. Medical Evaluation Revealed: Normal Genital Findings.

Note: Normal genital finding do not exclude sexual abuse.<sup>[7]</sup>

During direct examination, Dr. Banglot explained that sexual abuse may have happened but did not leave any mark on AAA's body. She further stated that considering the lapse of time (about twelve hours) between the incident and the examination, any abrasion would no longer be seen and will have healed because female genitalia are very vascular and have ample blood supply.<sup>[8]</sup>

Appellant denied the allegations against him. He asserted that he never touched nor committed any act of sexual abuse against AAA. He made insinuations that the charges are fabrications devised by Amas with whom appellant had a previous tiff.<sup>[9]</sup>

After trial, on 06 November 2009, appellant was found guilty beyond reasonable doubt of rape. The RTC disposed:

Wherefore, Premises Considered, Judgment is hereby rendered finding the Accused guilty beyond reasonable doubt of the crime of rape, defined and penalized under Article 266-A in relation to Article 266-B of the Revised Penal Code and hereby sentences the said Accused to suffer the penalty of RECLUSION PERPETUA and to pay Private Complainant [AAA] the sum of Seventy-Five Thousand (P75,000.00) Pesos as civil indemnity and Seventy-Five Thousand (P75,000.00) Pesos as moral damages.

Under Article 29 of the Revised Penal Code, the Accused who is detained is hereby entitled to the full credit of his preventive imprisonment if he agreed voluntarily in writing to abide by the rules and regulations imposed upon convicted prisoners. If he did not agree, he shall be entitled to 4/5 of his preventive imprisonment.<sup>[10]</sup>

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

WHEREFORE, the appeal is **DENIED**. The assailed Judgment dated November 06, 2009 of the Regional Trial Court, 11th Judicial Region, Branch 12 of Davao City, in Criminal Case No. 55,993-05 is **AFFIRMED** with **MODIFICATIONS** that civil indemnity and moral damages be reduced to FIFTY THOUSAND (P50,000.00) PESOS and exemplary

damages be awarded in the amount of THIRTY THOUSAND (P30,000.00) PESOS. An interest at the rate of six percent (6%) period shall be applied to the award of civil indemnity, moral and exemplary damages from the finality of the judgment until fully paid.<sup>[11]</sup>

Appellant filed the instant appeal. In a Resolution<sup>[12]</sup> dated 09 October 2013, appellant and the Office of the Solicitor General (OSG) were asked to file their respective supplemental briefs if they so desired. Both parties dispensed with the filing of supplemental briefs.<sup>[13]</sup>

The Court finds no reason to reverse appellant's conviction.

Articles 266-A and 266-B of the Revised Penal Code, as amended by Republic Act (R.A.) No. 8353,<sup>[14]</sup> 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.

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

x x x x

The crime charged was rape under paragraph 1 (d) of Article 266-A of the Revised Penal Code, as amended by R.A. No. 8353. 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. These are not elements of statutory rape as the absence of free consent is conclusively presumed when the victim is below the age of twelve. At that age, the law presumes that the victim does not possess discernment and is incapable of giving intelligent consent to the sexual act. To convict an accused of the crime of statutory rape, the prosecution carries the burden of proving; (1) the age of the complainant; (2) the identity of the accused; and (3) the sexual intercourse between the accused and the complainant.<sup>[15]</sup> Full penile penetration of the female genitalia is likewise not required because carnal knowledge is simply the act of a man having sexual bodily connections with a woman.<sup>[16]</sup>

In rape cases, primordial is the credibility of the victim's testimony because the accused may be convicted solely on said testimony provided it is credible, natural, convincing and consistent with human nature and the normal course of things.<sup>[17]</sup>