

THIRD DIVISION

[G.R. No. 205200, September 21, 2016]

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. LEONARDO CRUZ Y ROCO, APPELLANT.

DECISION

PEREZ, J.:

At bench is an appeal^[1] from the Decision^[2] dated 24 January 2012 of the Court of Appeals in CA-G.R. CR-H.C. No. 04473, which affirmed the conviction of herein (appellant) Leonardo Cruz y Roco for rape under Article 266-A (I)(a) of the Revised Penal Code (RPC).

The antecedents:

On 11 January 2006, a criminal information^[3] for rape under Article 266-A (I)(a) of the RPC was filed against the appellant before the Regional Trial Court (RTC) of Pasig City. The information accused the appellant of having carnal knowledge of his thirteen (13) year-old goddaughter and piano tutee, AAA,^[4] through the use of force, threat and intimidation. The information was raffled to Branch 159 of the Pasig RTC and was docketed as Criminal Case No. 132364-H.

After being apprised of the accusation against him, the appellant entered a plea of not guilty. Trial thereafter followed.

The prosecution presented the testimony of AAA herself^[5] to prove the charge against appellant. AAA's testimony centered on the events that took place on 2 January 2006--the day when the appellant purportedly raped her. The substance of AAA's narration is as follows:

1. On 2 January 2006, AAA was at her school-the XYZ school^[6] in Pateros for a dance practice. At around 1:00 in the afternoon, she received a text message from the appellant inviting her to come with him to a pictorial. AAA, who had known the appellant for more than two (2) years then as her godfather^[7] and piano tutor, accepted the invitation.
2. Shortly thereafter, the appellant arrived in his motorcycle at the XYZ school to fetch AAA. AAA boarded the motorcycle and the appellant drove off.
3. The appellant drove the motorcycle all the way to Pasig City and proceeded to the area of the city where motels were prevalent. The appellant stopped at one of the motels, later identified to be the Queen's Court motel in Pasig,^[8] and parked his motorcycle.

4. After parking, the appellant alighted from his motorcycle, held both hands of AAA and told the latter: "*Huwag ka nang magulo at huwag kang sisigaw at hindi ka na makakauwi.*"^[9] The appellant then dragged AAA, who was then still wearing a helmet, to one of the rooms of the Queen's Court.
5. Once inside the room, the appellant removed AAA's blouse and brassiere as well as the helmet worn by the latter. AAA tried to resist by pushing the appellant away from her, but the appellant only pushed her back towards the bed. On the bed, AAA threw kicks at the appellant, but the latter stood firm and was able to remove the remaining articles of AAA's clothing. The appellant then held both hands of AAA and started to remove his own clothes.
6. After undressing, the appellant laid on top of AAA where the former had his "*organ*" directly pointed at the latter's.^[10] At that position, AAA felt something penetrate her "*organ*."^[11] The appellant then threatened AAA not to shout or else he was going to kill her. AAA could no longer recall how many times her "*organ*" was penetrated at that moment, but she knew that the entire incident lasted for about fifteen (15) to twenty (20) minutes.^[12]
7. After the appellant had finished, AAA was left crying at the edge of the bed. AAA was then told by the appellant to put her clothes back on. Once AAA was dressed, the appellant dragged her towards his parked motorcycle and made her board the same. The appellant then drove back to XYZ school.
8. The appellant dropped AAA off at the XYZ school at around 4:00 in the afternoon. Before leaving, the appellant told AAA not to report to anyone what happened between them. AAA then went home.
9. AAA was, at that time, only thirteen (13) years of age.^[13]

AAA further related that, due to her fear of the appellant, she was not able to immediately tell her parents what had happened to her.^[14] According to AAA, she was only able to confide to her parents what she had gone through on 4 January 2006 or two (2) days after the incident.^[15]

In addition to the testimony of AAA, the prosecution also presented the testimony of one Dr. Joseph C. Palmero (Dr. Palmero) of the Philippine National Police (PNP) Crime Laboratory. Dr. Palmero was the medico-legal officer who conducted a clinical examination of AAA on 4 January 2006 and the author of *Initial Medico Legal Report Case No. R06-31*^[16] and *Final Medico-Legal Report No. R06-31*^[17] that detail the results of such examination. Dr. Palmero testified to affirm and explain the results of his examination as contained in the medico-legal reports:

1. Dr. Palmero testified that his examination of AAA revealed that the latter's hymen had "*a deep healed laceration at 3 o'clock position and a shallow healed laceration at 9 o'clock position*" that are consistent with "*blunt force or penetrating trauma.*"^[18] He, however, acknowledged the possibilities that said lacerations could have been more than two (2) days old at the time of AAA's examination^[19] and that they could have been produced by causes other than

sexual intercourse.^[20]

2. Dr. Palmero also stated that his examination of AAA registered a "*negative*" result in the "*periurethral and vaginal smears*," which meant that AAA's vagina had no traces of sperm in it at the time it was examined.^[21]

The defense, on the other hand, countered the prosecution's story with its own version of events anchored chiefly on the testimony of the appellant.^[22]

The appellant denied having raped AAA. The truth, according to the appellant, was that he and AAA were lovers and had been so since December of 2005.^[23] On that end, the appellant conceded that he had been with AAA on 2 January 2006; though he clarified that such meeting was of a completely different nature and under an entirely different set of circumstances than those narrated and described by the prosecution. His recollection of what transpired on 2 January 2006 is as follows:^[24]

1. At around 2:00 in the afternoon of 2 January 2006, the appellant was in his house fixing a pugon with his wife Lea Cruz (Lea).
2. At around 4:00 in the afternoon of 2 January 2006, the appellant left the house to meet AAA at an apartment that the two had been renting in Tipas, Taguig City. The meeting was AAA's idea; AAA, who had just returned from a long vacation with her family, supposedly had missed the appellant and had wanted to see the latter.
3. The appellant stayed with AAA at the apartment for about less than an hour. Afterwards, the appellant left. By 5:00 in the afternoon, the appellant was already at his house.
4. At around 6:00 in the evening, the appellant left his house to have a drinking spree with his friend, Tristan Santos (Tristan). The appellant stayed out all night and only returned home at about 1:00 in the morning of the next day. After sending a text message to AAA bidding her good night, the appellant went to sleep.

The appellant further related that, upon waking up at around 6:00 in the morning of 3 January 2006, he was confronted by Lea about his relationship with AAA.^[25] Lea, as it turned out, had tinkered with the appellant's mobile phone after the latter went to sleep and was able to discover therein an incriminating photograph showing the appellant halfnaked with a blanket-covered AAA sitting on his lap.^[26] The appellant said that he confessed to Lea his relationship with AAA later that day.^[27] The appellant also testified that it was Lea who informed the parents of AAA about the AAA's trysts with the appellant.^[28]

The testimony of the appellant was corroborated by the testimonies of Lea^[29] and Tristan.^[30]

Lea confirmed that she in fact confronted the appellant on 3 January 2006 after seeing an incriminating photograph of the appellant and AAA in the former's mobile phone,^[31] and that she was the one who informed the parents of AAA about the

AAA's trysts with the appellant.^[32] Lea claimed that, fuming over the information she divulged, the parents of AAA had now caused the filing of the present rape charge against the appellant.^[33]

Tristan, on the other hand, seconded the portion of the appellant's testimony pertaining to their drinking spree.^[34] Tristan likewise attested having seen the incriminating photograph of the appellant and AAA in the former's mobile phone.^[35]

Aside from the testimonies of the appellant, Lea and Tristan, the defense also presented the testimonies of a certain Preciosa Gillado Landrito (Preciosa)^[36] and one Edwin Cenita (Edwin)^[37] to disprove certain factual allegations made by AAA in her testimony. The gist of Preciosa's and Edwin's testimonies:

1. Preciosa was the Principal of XYZ school. She testified that the XYZ school held no classes and sanctioned no activities on 2 January 2006 and had sanctioned no activities on that date.^[38]
2. Edwin, on the other hand, is the Officer-in-Charge (OIC) of the Queen's Court motel. Edwin testified that from 2003 to 2008, he did not come to know of any untoward incident within the motel that required any police investigation.^[39]

Ruling of the RTC

On 30 March 2010, the RTC rendered judgment^[40] finding the appellant *guilty* beyond reasonable doubt of rape under Article 266-A (I)(a) of the RPC. In so finding, the RTC accorded full weight and credence upon the testimony of AAA.

Accordingly, the RTC sentenced the appellant to suffer *reclusion perpetua* and to pay the following amounts to AAA: (a) P50,000.00 by way of civil indemnity, (b) P50,000.00 by way of moral damages and (c) P25,000.00 by way of exemplary damages. The dispositive part of the judgment of the RTC reads:^[41]

WHEREFORE, in view of the foregoing, this Court finds [appellant] GUILTY beyond reasonable doubt of the crime of Rape under Article 266- A of the Revised Penal Code as amended by R.A. 8353 in relation to Section 5(a) of R.A. 8369, [APPELLANT] is hereby sentenced to suffer the penalty of *reclusion perpetua* and to indemnify [AAA] in the amount of Fifty Thousand Pesos (P50,000.00) as moral damages, Fifty Thousand Pesos (P50,000.00) as civil indemnity *ex delicto* and Twenty-Five Thousand Pesos (P25,000.00) as exemplary damages.

SO ORDERED.

Aggrieved, the appellant filed an appeal with the Court of Appeals.

Ruling of the Court of Appeals

On 24 January 2012, the Court of Appeals rendered a decision^[42] denying the appellant's appeal and sustaining the judgment of conviction by the RTC. Thus:

WHEREFORE, premises considered, the appeal is hereby DENIED. The Decision dated 30 March 2010 of the Regional Trial Court, Branch 159 of Pasig City finding the accused GUILTY beyond reasonable doubt of the crime of Rape under Art. 266-A (a) of RA 8369 [is affirmed].

SO ORDERED.^[43]

Undeterred, appellant filed the present appeal before this Court.

The Present Appeal

The appellant claims that the RTC and the Court of Appeals erred in according full weight and credence to the testimony of AAA at the expense of his testimony and the testimonies of other defense witnesses. He argues that a scrutiny of the testimony of AAA will reveal that it is both deficient and unreliable.^[44]

1. The testimony of AAA is *deficient* for it lacked the necessary details to be able to establish the crime of rape under Article 266-A (I)(a) of the RPC. AAA never categorically testified that it was the appellant's penis that penetrated her vagina. Hence, in effect, the testimony of AAA failed to prove that appellant had *carnal knowledge* of AAA.
2. AAA, moreover, was shown to be *inherently unreliable and untrustworthy*. Key parts of AAA's testimony have been soundly refuted by the statements of Preciosa and Edwin and even by the medico-legal findings of Dr. Palmero, thereby giving indication that AAA merely fabricated her whole narration.

In view of the apparent insufficiency and incredibility of AAA's testimony, the appellant thus urges this Court to consider his alternate version of events as the truth of what happened in this case and, ultimately, to acquit him of the crime charged.^[45]

OUR RULING

We dismiss the appeal.

Testimony of AM Sufficient to Establish Rape Under Article 266-A (I)(a) of the RPC

The first issue raised by the appellant pertains to the sufficiency of the testimony of AAA to prove the crime of rape under Article 266-A (I)(a) of the RPC. The appellant posits that the testimony was substantially *deficient* for it failed to establish that he had carnal knowledge of AAA, which is one of the basic elements of the rape charged against him. On this end, the appellant points out that AAA, in her testimony, never specifically stated that it was his penis that penetrated her vagina, AAA only being able to recount having felt *something* penetrate her organ while the appellant was purportedly on top of her. The appellant submits that, in view of such omission, the testimony of AAA cannot be validly used as the basis of his conviction for rape under Article 266-A (I)(a) of the RPC.

We do not agree.