

THIRD DIVISION

[G.R. No. 199397, September 14, 2016]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
DARWIN GITO Y CORLIN, ACCUSED-APPELLANT.**

R E S O L U T I O N

PEREZ, J.:

Before us for review is the Court of Appeals' Decision^[1] promulgated on 26 May 2011 in CA-G.R. CR-HC No. 03464. The Decision affirmed the Regional Trial Court (RTC), Branch 63, Camarines Sur's conviction of appellant Darwin Gito y Corlin for rape.

Appellant, together with one Jonery Arabaca y Salufraña (Jonery) are charged with rape in the following Information:

Criminal Case No. 03-884

That on or about 11th day of May, 2003, at around 1:00 o'clock in the morning in [XXX] and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping one another, willfully, unlawfully and feloniously through force and intimidation had carnal knowledge with [AAA],^[2] fourteen years old, against her will, and to he damage and prejudice.^[3]

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The crime is committed with the following attendant aggravating/qualifying circumstances:

The crime is committed with the use of a deadly weapon.^[4] (Emphasis omitted)

Appellant was arrested in 28 August 2006 while the other accused, Jonery remained at large.

Upon arraignment, appellant pleaded not guilty. The prosecution's version of the rape incident goes:

AAA, then fourteen years old, lived with her partner, Alexander Arabaca (Alexander), at the house of her grandmother. They slept in a portion of the house separated only by a plastic sack as partition while AAA's grandmother and two minor cousins slept on the other part of the house. On 11 May 2003 at around 1:00am, AAA was sleeping beside Alexander when she was awakened to see the latter's brother, Jonery and appellant standing beside her. After waking her up, Jonery told AAA that he wanted to talk, then forcibly pulled her out from the bed. AAA tried to resist and even called for Alexander, but the latter was too intoxicated to wake up. Jonery and appellant dragged AAA out and into the back of the house. Appellant pushed AAA to the ground. Thereat, AAA was raped first by Jonery and followed by appellant. While doing their bestial act, Jonery threatened AAA with a knife while appellant pricked her skin with his long fingernail. After satisfying their lust, Jonery and appellant fled the scene. AAA then went back to bed and woke Alexander up. She told Alexander what had happened but the latter did not believe her. AAA just kept crying and eventually fell asleep. When she woke up the following day, Alexander was no longer around. She immediately saw Tia Lita Bugate and told her that she was raped. She reported the incident to the barangay^[5] and underwent a medical examination on 15 May 2003 where she was found to have healed lacerations in her genital area.^[6] AAA was certified by the Municipal Civil Registrar's Office to be fourteen years old at the time of the alleged rape.

Bugate is AAA's neighbor. Her house is located at about two (2) meters away from AAA's house. Bugate testified that on even date and time, she heard AAA calling for "Alex" numerous times. On the following morning, AAA told her that Jonery and appellant raped her.^[7]

Alexander testified that he slept in the house of AAA's grandmother from 10 to 11 May 2003. He woke up at around 1:00 a.m. and went back to sleep after thirty (30) minutes. AAA was sleeping beside him. He finally woke up at 4:00 a.m. and went to his parent's house. Upon reaching his parents' house, Jonery, who just woke up, showed Alexander a letter from AAA manifesting her love for Jonery. Alexander confirmed that the handwriting on the letter was that of AAA.^[8]

Appellant testified on his behalf. He claimed that on the alleged date of the crime, he was in the public market of Naga City with his mother. They waited for the arrival of fruits until 12:00 o'clock midnight of 10 May 2003. When the fruits arrived, they inspected them before buying. They then hired a tricycle and arrived at the jeepney terminal at 2:00 a.m. of 11 May 2003. They slept at the terminal until 9:00 a.m.^[9] On 12 May 2003, AAA confronted appellant and accused him of spreading stories about her relationship with Jonery. Appellant surmised that he was falsely accused of rape because AAA held a grudge against him.^[10]

In a Decision^[11] dated 24 June 2008, the trial court found appellant guilty beyond reasonable doubt of two counts of rape. The dispositive portion of the decision reads:

WHEREFORE, in view of the foregoing, the prosecution having proven the guilt of the accused Darwin Gito y Corlin beyond reasonable doubt of the offense of rape as charged, defined and penalized under Article 266-A I

relation to Article 266-B, as amended by Republic Act 8353, accused Darwin Gito y Corlin is hereby sentenced to suffer the following penalties:

1. In Crim. Case No. RTC'03-884, accused Darwin Gito y Corlin is hereby sentenced to suffer the penalty of reclusion perpetua. He is likewise ordered to pay the victim [AAA] civil indemnity in the amount of P50,000.00 and moral damages in the amount of P50,000.00 and to pay the costs.
2. In Crim. Case No. RTC'03-885, accused Darwin Gito y Corlin is hereby sentenced to suffer the penalty of reclusion perpetua. He is likewise ordered to pay the victim [AAA] civil indemnity in the amount of P50,000.00 and moral damages in the amount of P50,000.00 and to pay the costs.

Considering that accused Darwin Gito y Corlin has undergone preventive imprisonment, he shall be credited in the service of his sentence with the time he has undergone preventive imprisonment subject to the conditions provided for by law. Accused is likewise meted the accessory penalty of perpetual absolute disqualification as provided for under Article 41 of the Revised Penal Code.

The records insofar as accused Jonery Arabaca y Salufraña is concerned, who is still at large, is hereby ordered sent to the archives without prejudice of reviving the same in the event that said accused is arrested. Meanwhile, let an alias warrant of arrest be issued for the arrest of accused Jonery Arabaca y Salufraña.^[12]

The trial court gave full credence to the testimony of AAA that she was raped by Jonery and appellant. The trial court dismissed appellant's sweetheart defense considering that a mere love letter is not sufficient to prove that AAA had a relationship with Jonery. The trial court did not give weight to the alleged motive of revenge proffered by appellant. The trial court considered appellant's flight as an indication of guilt.

On 26 May 2011, the Court of Appeals affirmed the decision of the trial court. It ruled that AAA was able to positively identify the perpetrators.

In his Brief,^[13] appellant reiterates that he was at the Naga City public market buying fruits with his mother at around 1:00 a.m. making it impossible for him to have committed the crime charged. Appellant claims that AAA's testimony is fraught with incredulity as evidenced by her behavior before and during the rape incident. First, appellant argues that if AAA was certain that he and Jonery raped her, then she could have easily told Alexander to run after them. Second, AAA could have easily shouted for help from her grandmother and cousins, who were also sleeping inside the same house. Third, it was impossible for Alexander not to wake up when AAA tried to wake him up by calling for him and touching his feet.

The Office of the Solicitor-General maintains AAA had described in unmistakable clarity that she was raped and said fact was corroborated by the medical findings. The OSG points out that appellant's denial and alibi cannot prevail over the positive declaration of the victim.

Simply put, the credibility of AAA is being assailed in this case.

It is axiomatic that where the issue is one of credibility of witnesses, and in this case their testimonies as well, the findings of the trial court are not to be disturbed unless the consideration of certain facts of substance and value, which have been plainly overlooked, might affect the result of the case.^[14] *People v. Abat*^[15] expounded on the rationale behind this principle, thus:

It is well settled that the evaluation of the credibility of witnesses and their testimonies is a matter best undertaken by the trial court because of its unique opportunity to observe the witnesses firsthand and to note their demeanor, conduct, and attitude under grilling examination. These are important in determining the truthfulness of witnesses and in unearthing the truth, especially in the face of conflicting testimonies. For, indeed, the emphasis, gesture, and inflection of the voice are potent aids in ascertaining the witness' credibility, and the trial court has the opportunity and can take advantage of these aids. These cannot be incorporated in the record so that all that the appellate court can see are the cold words of the witness contained in transcript of testimonies with the risk that some of what the witness actually said may have been lost in the process of transcribing. As correctly stated by an American court, "[t]here is an inherent impossibility of determining with any degree of accuracy what credit is justly due to a witness from merely reading the words spoken by him, even if there were no doubt as to the identity of the words. However artful a corrupt witness may be, there is generally, under the pressure of a skillful cross-examination, something in his manner or bearing on the stand that betrays him, and thereby destroys the force of his testimony. Many of the real tests of truth by which the artful witness is exposed in the very nature of things cannot be transcribed upon the record, and hence they can never be considered by the appellate court."^[16]

We find no valid reason to depart from the abovementioned doctrine especially when both the lower courts found AAA's testimony categorical and positive.

AAA categorically narrated in court her harrowing experience in the hands of appellant and Jonery, to wit:

Q: While you were there at around 1:00 o'clock in the morning, what incident if any, has occurred?

A: While we were already asleep, Darwin and Jonery arrived and this Jonery tried to wake me up.

Q: You said Darwin and Jonery, will you please tell us what is the surname of this Darwin?

A: Gito.

Q: What about Jonery?

A: Arabaca.

Q: You said you were asleep. Where were you sleeping?

A: I was sleeping together with my husband.

Q: Will you please describe to us that place where you were sleeping?

A: The walls of the room are only made of sacks and it is only

open. One of the portion of the room is open.

PROS. CARINO:

May I make of record that the witness is already crying.

Q: What about your grandmother, in what part of the house is she sleeping with two of your cousins?

A: Just beside that place where we were sleeping.

Q: Is that another room?

A: Yes, ma'am.

Q: You said that Jonery woke you up and you said that his surname is Arabaca. How is he related to Alexander Arabaca whom you said your common-law husband?

A: They are brothers.

Q: After Jonery woke you up, what happened next, if any?

A: He called me and told me that he wanted to talk to me.

Q: What did he do after he called you and told you that he wanted to talk to you?

A: He suddenly pulled me forcibly.

Q: Where was he when he called you, how far was he from the place where you were sleeping with Alex?

A: He was standing on our right side, here.

x x x x

Q: When Jonery pulled you, what did you do, if any?

A: I fought him and I was calling Alex.

Q: Why were you calling Alex?

A: Because they were forcing me and Alex then was dr[u]nk that's why he did not wake up.

x x x x

Q: After Jonery pulled you and you said you were trying to fight him and calling the name [of] Alex, what happened next?

A: I was parrying him with my hands, as demonstrated by the witness, and I was touching the feet of Alex with my other hand and this Darwin was pushing me.

Q: After Darwin has pushed you, what happened next after that?

A: I was brought at the back of our house.

Q: Will you please point to us the distance from the bed to the place where you [were] brought?

INTERPRETER:

The witness pointed to the door of the courtroom.

PROS. CARINO:

Which is about 8 meters more or less.

COURT:

More or less 8 meters as agreed upon by both counsels.

Q: How were you brought on that area?

A: They were pulling me.

Q: Who pulled you?

A: It was Darwin who was holding me until he made me lie down on the ground.

Q: After Darwin laid you down on the ground, what happened next?

A: He told Jonery to be the first one.

Q: When Darwin laid you down on the ground, what did you do, if any?

A: I tried to stand up.

Q: After Darwin said, you be the first to Jonery, what happened next?