

THIRD DIVISION

[G.R. No. 217804, September 02, 2015]

**ROLDAN CARRERA, PETITIONER, VS. THE PEOPLE OF
PHILIPPINES, RESPONDENT.**

D E C I S I O N

VELASCO JR., J.:

This petition for review on certiorari under Rule 45 of the Rules of Court assails and seeks to set aside the Decision^[1] and Resolution^[2] dated July 17, 2014 and March 4, 2015, respectively, of the Court of Appeals (CA) in CA-G.R. CR No. 01839 which affirmed with modification the August 5, 2011 Decision^[3] of the Regional Trial Court (RTC) of Barotac Viejo, Iloilo, Branch 66, adjudging Roldan Carrera (Carrera) guilty beyond reasonable doubt of the crime of rape by sexual assault under Article 266-A (2) of the Revised Penal Code (RPC) and penalized under Article 266-B thereof.

Pursuant to Republic Act (R.A.) No. 7610 and in line with our ruling in *People v. Cabalquinto*,^[4] the real name of the victim, as well as any information which tends to establish or compromise her identity shall be withheld. The initials AAA shall be used instead to identify her.

The Facts

In an Information dated August 26, 2004 filed with the RTC of Barotac Viejo, Iloilo, Carrera was charged with rape allegedly committed as follows:

That on or about June 13, 2004 in the Municipality of Barotac Viejo, Province of Iloilo, Philippines and within the jurisdiction of this Honorable Court, the above-named [accused], by means of force, threat or intimidation, with lewd design, did then and there wilfully, unlawfully and feloniously commit an act of sexual assault on the victim [AAA] by inserting his finger on her vagina against her will and consent.

CONTRARY TO LAW.^[5]

Docketed in the RTC as Crim. Case No. 2004-2699, the Information was eventually raffled to Branch 66 thereof.

When arraigned, Carrera entered a plea of not guilty.

In the ensuing trial, the prosecution, to buttress its case against Carrera, as accused, presented as evidence the testimonies of AAA, her mother, Dr. Aimee Icamina (Dr. Icamina) and PO2 Rubie Hubo.

The People's version of the incident, as narrated in the decision now on appeal, may be summarized as follows:

It happened at around 7:00 o'clock on a rainy evening of June 13, 2004. At about that time, AAA was walking on her way home from a tailor shop in *poblacion* Barotac Viejo. Some ten (10) meters away from her house, a man who AAA recognized to be Carrera suddenly emerged from a dark portion of the street and waylaid AAA. Obviously taken aback by Carrera's sudden appearance, AAA then asked the latter if there was any problem, followed by an invitation to have supper at her house. AAA knew Carrera in person as he had done carpentry work when their house was being constructed.^[6]

Carrera reacted by uttering the following ominous lines: "*hipos karon, patyon ta*" (Quiet! Or else I will kill you), after which he grabbed AAA's arm and dragged her toward a nearby church. Upon reaching the left side of the church structure, Carrera pushed AAA to the ground, then immediately pinned her down by placing his knees on top of her back and holding her left arm. Carrera then pulled down AAA's garterized shorts and panty with his free hand while she was pinned down^[7] and then inserted a finger into her vagina against her will. While doing this, Carrera also kissed AAA along her ears and her face. AAA struggled, only to be overpowered by the stronger Carrera. She tried kicking and boxing him, but her position on the ground proved to be an obstacle. She shouted for help, but the heavy downpour drowned her voice.^[8]

AAA would continue struggling and crawling until her attacker loosened his hold on her arm, enabling AAA to move both her hands and to break free. Upon this chance, AAA ran toward their house half naked. The sight of AAA when she reached home without any underwear, with blood on her legs and mud all over her body impelled the shocked mother to immediately repair to the nearby police station to report the incident.^[9]

AAA submitted herself for medical examination the following day. E)r. Icamina, the examining physician, found fresh and complete hymenal laceration in AAA's external genitalia and so indicated her findings in the Medico-Legal Certificate, as follows:

"Physical Findings:

External Genitalia

- (+) fresh complete hymenal lacerations at 3 & 7 o'clock position;
- (+) fresh laceration fourchette.

Impression: Disclosure of sexual abuse. Medical evaluation shows definite evidence of abuse or sexual contact."^[10]

For its part, the defense offered the testimonies of Carrera himself and the corroborating testimonies of a sister-in-law, a friend and one other.

The CA decision likewise summarizes the version of the defense, mainly centered on

alibi and denial.^[11]

Carrera declared on the stand where he was on the date and hour in question. According to him, he was at Brgy. Sto. Tomas, Barotac Viejo, Iloilo, his place of residence, at the time the supposed crime was committed. He narrated that on June 13, 2004, he went to Dumarao, Capiz to attend the burial of a relative, after which event he boarded a bus at around 3:00 p.m. for his return trip. He arrived at Barotac Viejo Terminal at around 5:00 p.m. and from there, he boarded a tricycle driven by Jovan Cartagena, who drove Carrera to his home *barangay*. At Brgy. Sto. Tomas, Carrera stopped by a store to join a group of drinking friends. After the drinking spree, Carrera, together with a friend, Ananias Balleras, went home by foot. Nancy Vistal, a sister-in-law, saw him reaching home. He took his dinner and thereafter went to sleep at about 7:30 p.m. While in deep slumber, he was suddenly awakened by the police. Upon being informed by the police about a complaint against him, Carrera was brought to and detained at the police station of Barotac Viejo, where, to his surprise, his brother, Rodeo Carrera, was also being detained, also as a suspect. His brother would later be released when AAA pointed at Carrera as the perpetrator.^[12]

After trial, the RTC rendered on August 5, 2011 a Decision finding Carrera guilty as charged, disposing as follows:

"WHEREFORE, the court hereby finds the accused Roldan Carrera guilty beyond reasonable doubt of the crime of Rape by Sexual Assault defined and penalized under Art. 266-A(2) of the Revised Penal Code and sentences the said accused to an indeterminate prison term ranging from four (4) years, two (2) months, and one (1) day of [*prision correctional*] as minimum to six (6) years and one (1) day of [*prision*] mayor as maximum, together with the accessory penalty provided by law and to pay the costs.

SO ORDERED."^[13]

The trial court pronounced AAA's testimony on the rape incident adequate to establish Carrera's guilt of the felony charged beyond reasonable doubt, overruling in the process the latter's proffered defense of alibi and denial. Giving short shrift to Carrera's alibi defense, the RTC stated the observation that it was not physically impossible for Carrera to be at the scene of the crime considering that the distance between Brgy. Sto. Tomas and the poblacion was only a thirty-minute drive by a motorcycle. The court underscored the fact that AAA, who has known and seen Carrera prior to the incident, was able to positively point to Carrera as the perpetrator. To the trial court, Carrera's bare denial cannot outweigh AAA's affirmative testimony.

Aggrieved, Carrera appealed to the CA, the recourse docketed as CA-G.R. CR No. 01839. By Decision dated July 17, 2004, the appellate court affirmed that of the RTC, with modification in that it further ordered Carrera to pay AAA civil indemnity in the amount of Thirty Thousand Pesos (P30,000.00), moral damages in the amount, of Thirty Thousand Pesos (P30,000.00), and exemplary damages in the amount of Thirty Thousand Pesos (P30,000.00), plus legal interest at the rate of six

percent (6%) per annum on all damages awarded from the finality of judgment until fully paid. The dispositive portion of the CA Decision reads:

WHEREFORE, the instant appeal is DENIED, and the Decision dated August 5, 2011 of the Regional Trial Court, Branch 66, Barotac Viejo, Iloilo, in Criminal Case No. 2004-2699 is hereby AFFIRMED with MODIFICATIONS insofar as the payment of civil indemnity, moral damages, and exemplary damages in favor of the private complainant.

Thus, accused-appellant is hereby ORDERED to pay the private complainant Thirty Thousand Pesos (P30,000.00) as civil indemnity, Thirty Thousand Pesos (P30,000.00) as moral damages, and Thirty Thousand Pesos (P30,000.00) as exemplary damages. In addition, legal interest at the rate of six percent (6%) per annum is imposed on all amounts of damages awarded to the private complainant from the date of finality of this judgment until fully paid.

SO ORDERED.

Carrera moved for reconsideration of the said Decision, but the CA denied the same in a Resolution dated March 4, 2015.

Hence, Carrera filed this petition and prays for reversal of his conviction, arguing that the lower courts have erred:

1. x x x in convicting the accused of the crime charged and imposing upon him the civil liability;
2. x x x in convicting the accused of sexual assault by means of force despite that the prosecution has failed to establish that the element of voluntariness on the part of the victim was absolutely lacking; and
3. x x x in convicting the accused despite the total absence of physical evidence to corroborate complainant's claim of use of force against her.

[14]

The Issue

Verily, the principal issue at bench is whether or not the prosecution has proven the guilt of Carrera for the crime charged beyond reasonable doubt, which in turn resolves itself into the principal question of the credibility of the prosecution's key witness, AAA herself.

Petitioner Carrera would assert at every turn that the prosecution has failed to prove that he employed force upon AAA in committing the alleged assault, adding in this regard that there is total absence of physical evidence to corroborate AAA's claim of use of force against her. According to him, the absence of defensive wounds and lack of proof of resistance of AAA while the purported assault was taking place show that there was voluntariness on her part.

Pushing the point, petitioner calls attention to the medical certificate adduced as evidence which was negative of any finding of the presence of contusion, bruises, scratches, hematoma, or any injury on AAA's arms and the back portion of her upper body.^[15] Petitioner would also express disbelief how AAA's shorts and underwear could have remained intact and undamaged if he indeed forcibly stripped her of these dress items.^[16] Petitioner would also argue, citing the cases of *People v. Lamarroza*^[17] and *People v. Gavina*,^[18] that he should be acquitted, lacking as here of any showing of the element of total absence of voluntariness on the part of the party assaulted. In *Gavina*, the Court held: "In rape committed by force or intimidation, it is imperative that the prosecution should establish that voluntariness on the part of the offended party was absolutely lacking."^[19]

The Court's Ruling

The appeal must fail.

It must be pointed out right off that the petitioner would have this Court review the uniform factual findings of the courts below, an exercise which necessarily entails evaluating the credence accorded by them on AAA's account of her sordid experience in the hands of petitioner. It is a hornbook rule, however, that factual determinations of trial courts when substantiated by evidence on record carry great weight and respect on appeal. It is not the function of this Court in a petition for review to evaluate evidence all over again,^[20] save in exceptional circumstances, such as where the findings of the trial court and the CA are absurd, contrary to the evidence on record, impossible, capricious or arbitrary, or based on a misappreciation of facts.^[21] The extant case does not fall under the exceptions to this general rule. It is germane to state, however, that the Court has assumed an attitude of caution and circumspection in evaluating testimonies in rape cases, bearing in mind the familiar *dictum* that an accusation for rape can be made with facility, albeit difficult to prove, but more difficult for the accused to disprove, though innocent.

Article 266-A of the RPC, as amended by R. A. No. 8353,^[22] enumerates the manner by which rape by sexual assault 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 is otherwise unconscious;
- c) By means of fraudulent machination or grave abuse of authority;
- d) When the offended party is under twelve (12) years of age