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# FIRST DIVISION

# [ G.R. No. 192820, June 04, 2014 ]

## PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RENATO DELA CRUZ, ACCUSED-APPELLANT.

## D E C I S I O N

**LEONARDO-DE CASTRO, J.:**

The accused-appellant Renato dela Cruz appeals the Decision[1] dated November 20, 2009 of the Court of Appeals in CA-G.R. CR.-H.C. No. 03005, which affirmed with modification the Decision[2] dated September 24, 2007 of the Regional Trial Court (RTC) of Malolos, Bulacan, Branch 13 in Criminal Case Nos. 3253-M-2004 and 3254-M-2004. The trial court found the accused-appellant guilty beyond reasonable doubt of one count of rape and one count of acts of lasciviousness.

In two separate Informations,[3] the prosecution charged the accused-appellant with two (2) counts of rape that were allegedly committed against AAA[4] in the following manner:

[CRIMINAL CASE NO. 3253-M-2004]

> That on or about the 9th day of September 2003, in [XXX], and within the jurisdiction of this Honorable Court, the above-named accused, father of the offended party, [AAA], did then and there willfully, unlawfully and feloniously, by means of force, violence and intimidation and with lewd designs, have carnal knowledge of the said [AAA], then fifteen (15) years old, against her will and without her consent.

[CRIMINAL CASE NO. 3254-M-2004]

> That sometime in the month of October 1999, in [XXX], and within the jurisdiction of this Honorable Court, the above-named accused, father of the offended party, [AAA], did then and there willfully, unlawfully and feloniously, by means of force, violence and intimidation and with lewd designs, have carnal knowledge of the said [AAA], then eleven (11) years old, against her will and without her consent.

The accused-appellant pleaded not guilty to both charges.[5] During trial, the prosecution presented the testimonies of: (1) AAA,[6] the private complainant; and (2) BBB,[7] the elder sister of AAA. For the defense, only the accused-appellant[8] took the witness stand.

The prosecution summed up their version of events as follows:

> [AAA] is the third of four (4) girls in the family of [CCC] and Renato dela Cruz, the herein accused-appellant. The family is living in a one-storey house with one bedroom in [XXX]. [CCC] the mother works as a "labandera" and "plantsadora" while the father is a "mananari" or the person installing the bladed instrument during cockfights. The mother usually leaves the house early in the morning to sell at the Bocaue market.
>
> One early morning in October of 1999, [AAA] was roused from sleep after she felt a touch from somebody. It turned out to be her father who immediately covered her mouth and told her to keep quiet. Out of shock and fear, she was not able to do anything and just laid down while her father kissed and touched her private parts. [AAA] was only eleven (11) years old at that time.
>
> On 09 September 2003, [AAA] and her three (3) sisters were in the bedroom while their parents were sleeping in the sala. At about 3:00 o'clock in the morning of that date, [AAA] was awakened by the touch (*kalabit*) on her foot by her father; her mother was then out to the market. When she sat on the bed, accused-appellant forcibly held her hand to stand up and led her out of the room. Overcome by fear, she offered no resistance as her father laid her on the bed at the sala. In an instant, accused-appellant inserted his penis in her vagina -- totally impervious of her well-being as a daughter and a budding young woman.
>
> Moments later, [AAA's] eldest sister [BBB] woke up to urinate; as she switched on the lights at the sala, she was horrified to see accused-appellant on top of her sister with a blanket covering the lower part of their bodies. Caught by surprise, accused-appellant hurriedly stood up, put on his pants while holding his brief and proceeded to the kitchen in pursuit of [BBB]. On the other hand, [AAA] quickly went out of the house without a word. [BBB] looked for her and eventually proceeded to their aunt's house to tell what she witnessed. Later in the day, [BBB] also told her mother about the incident.
>
> The examination of the medico-legal officer on [AAA] concluded that "subject is in a non-virgin state physically."[9] (Citations omitted.)

On the other hand, the RTC condensed the testimony of the accused-appellant in this wise:

> In his defense, accused Renato dela Cruz testified that [AAA], private complainant herein, is [his] daughter; that he has four (4) children; that [i]n September 2003 and in the year 1999, he was residing in [XXX] together with his family; that his eldest daughter [BBB] testified before this Court against him; that prior to September 2003, he and his daughter [BBB] were having frequent arguments regarding his child with

> another woman as he wanted his child to go to school; that on the said date, his child with another woman was living in the house of his parents in Nueva Ecija; that before they filed the instant cases against him, [BBB] told him "Putang-ina mo, Tatay. Wala kang kwentang magulang"; that prior to September 2003, his relationship with the victim was good; that nothing happened on September 9, 2003 and in [the] year 1999, and the reason why her daughter filed a case against him was that she got mad about his wrongdoings to his wife; that on September 9, 2003 at 3:00 o'clock in the morning, he was in their house sleeping, and he was awakened when his wife woke him up to inform him that she was going to the tiangge in Bocaue, Bulacan; that on that particular date, he slept in the sala while [AAA] slept in the room together with her siblings; that he did not rape the victim on September 9, 2003, nor did he touched (sic) her "maseselang bahagi ng katawan" in the year 1999.
>
> On cross-examination, this witness testified that on September 9, 2003, he was living together with the victim and his wife under one roof.[10]

In its Decision dated September 24, 2007, the RTC ruled that the prosecution evidence established that the accused-appellant did have carnal knowledge of AAA without the latter's consent on September 9, 2003. However, the trial court found that the accused-appellant did nothing more than kiss and touch AAA in October 1999. The RTC, thus, decreed:

In view of the foregoing, the Court finds the accused:

> (a) In Crim. Case No. 3254-M-04 Guilty of the lesser crime of Acts of Lasciviousness, and hereby sentences him to suffer the indeterminate penalty of six (6) months of *arresto mayor* as minimum to six (6) years of *prision correccional* as maximum.
>
> The accused is likewise directed to indemnify the private complainant in the amount of P50,000.00.
>
> (b) In Crim. Case No. 3253-M-04, Guilty beyond reasonable doubt of the crime as charged, and hereby sentences him to suffer the penalty of RECLUSION PERPETUA.
>
> The accused is likewise directed to indemnify the private complainant in the amount of P100,000.00.[11]

On appeal, the Court of Appeals affirmed the trial court's decision. The appellate court disposed of the case as follows:

> WHEREFORE, the Decision of the Regional Trial Court, Branch 13 of Malolos, Bulacan in Criminal Cases Nos. 3253-M-04 and 3254-M-04 is hereby AFFIRMED with MODIFICATIONS:

(1) In Criminal Case No. 3253-M-04, appellant Renato dela Cruz is found guilty beyond reasonable doubt of the crime of Rape and hereby sentences him to suffer the penalty of Reclusion Perpetua with no possibility of parole and is further ordered to pay the following:

a) P75,000.00 as civil indemnity;

b) P75,000.00 as moral damages; and

c) P30,000.00 as exemplary damages.

[2] In Criminal Case No. 3254-M-04, appellant is guilty beyond reasonable doubt of the crime of Acts of Lasciviousness and sentences him to suffer the indeterminate penalty of six (6) months of *arresto mayor* as minimum to six (6) years of *prision correccional* as maximum and to indemnify the private complainant the amount of P50,000.00 as civil indemnity.

*Costs de oficio.*[12]

***The Ruling of the Court***

Before this Court, the accused-appellant contends that the prosecution witnesses' ill motive to falsely incriminate him and the inconsistencies in AAA's testimony should not have been disregarded by the courts *a quo*. The accused-appellant argues that the admissions of AAA and BBB that they harbored ill feelings against him for having another family affected their credibility as witnesses. The accused-appellant also avers that AAA stated in her direct testimony that he merely kissed and touched her in October 1999. However, in her cross-examination, the accused-appellant points out that AAA testified that he was able to rape her at the said time.

We resolve to deny the appeal.

Article 266-A of the Revised Penal Code defines the crime of rape by sexual intercourse as follows:

ART. 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 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 or is

> demented, even though none of the circumstances mentioned above be present.

For the charge of rape to prosper, the prosecution must be able to prove that (1) the offender had carnal knowledge of a woman, and (2) he accomplished the act through force, threat or intimidation, or when she was deprived of reason or otherwise unconscious, or when she was under 12 years of age or was demented. [13]

On the other hand, the crime of acts of lasciviousness, as punished under Article 336 of the Revised Penal Code, is defined as follows:

> ART. 336. *Acts of lasciviousness*.- Any person who shall commit any act of lasciviousness upon other persons of either sex, under any of the circumstances mentioned in the preceding article, shall be punished by *prision correccional.*

The elements of this crime are: (1) the offender commits any act of lasciviousness or lewdness; (2) it is done under any of the following circumstances: (a) by using force or intimidation, or (b) when the offended party is deprived of reason or otherwise unconscious, or (c) when the offended party is under 12 years of age; and (3) the offended party is another person of either sex.[14]

In Criminal Case No. 3253-M-2004, the RTC and the Court of Appeals found the accused-appellant guilty of qualified rape for the incident that occurred on September 9, 2003. On the other hand, in Criminal Case No. 3254-M-2004, the accused-appellant was convicted of the lesser offense of acts of lasciviousness for the incident that occurred in October 1999.

The lower courts gave credence to the testimony of AAA, who narrated the harrowing details of the sexual abuses she experienced at the hands of the accused-appellant. AAA positively identified the accused-appellant as the person who sexually abused her. AAA's testimony established the fact that sometime in October 1999, she was awakened from her sleep when the accused-appellant kissed her and touched her body. Thereafter, AAA testified that on September 9, 2003, the accused-appellant succeeded in having carnal knowledge of her when he was able to partly insert his penis into her vagina before BBB caught them and the accused-appellant abruptly got up to plead with BBB to not reveal what she saw. The lower courts also found the testimony of AAA to be fully supported by the testimony of BBB, the sister of AAA, as well as the medico-legal report, which concluded that AAA was in a "non-virgin state physically."[15] After a thorough review of the records of this case, the Court finds no cogent reason to overturn the above findings of fact of the RTC and the Court of Appeals. As held in *Dizon v. People*[16]:

> Jurisprudence instructs that when the credibility of a witness is of primordial consideration, as in this case, the findings of the trial court, its calibration of the testimonies of the witnesses and its assessment of the probative weight thereof, as well as its conclusions anchored on said