

FIRST DIVISION

[G.R. No. 200793, June 04, 2014]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. MILAN ROXAS Y AGUILUZ, ACCUSED-APPELLANT.

D E C I S I O N

LEONARDO-DE CASTRO, J.:

This is an appeal from the Decision^[1] of the Court of Appeals in CA-G.R. CR.-H.C. No. 03473 dated August 16, 2011, which affirmed with modification the Judgment^[2] of Branch 94, Regional Trial Court (RTC) of Quezon City dated December 11, 2007 in Criminal Case Nos. Q-00-91967 to Q-00-91971 finding accused-appellant Milan Roxas y Aguiluz guilty of five counts of rape against AAA,^[3] a minor who was 9 years old at the time of the first rape and 10 years old at the time of the succeeding four rapes.

Five Informations were filed against accused-appellant Roxas, charging him as follows:

1. Crim. Case No. Q-00-91967:

That on or about the 9th day of August 1998 in Quezon City, Philippines, the above-named accused with force and intimidation did then and there willfully, unlawfully and feloniously commit acts of sexual assault at knifepoint upon the person of [AAA] his own niece a minor 10 years of age by then and there blindfolding her, then removed her shorts and underwear then accused inserted his penis inside her vagina and thereafter had carnal knowledge of her against her will and without her consent.^[4]

2. Crim. Case No. Q-00-91968:

That on or about the 28th day of July 1998 in Quezon City, Philippines, the above-named accused with force and intimidation did then and there willfully, unlawfully and feloniously commit acts of sexual assault at knifepoint upon the person of [AAA] his own niece a minor 10 years of age by then and there blindfolding her and removing her shorts and underwear and inserting his penis inside her vagina and thereafter had carnal knowledge of her against her will and without her consent.^[5]

3. Crim. Case No. Q-00-91969:

That on or about the 16th day of September 1997 in Quezon City, Philippines, the above-named accused with force and intimidation did then and there willfully, unlawfully and feloniously commit acts of sexual assault at knifepoint upon the person of [AAA] his own niece a minor 9 years of age by then and there laying her on the chairs inside the bathroom, then blindfolded her and then removed her shorts and underwear then accused inserted his penis inside her vagina and thereafter had carnal knowledge of her against her will and without her consent.^[6]

4. Crim. Case No. Q-00-91970:

That on or about the 20th day of March 1998 in Quezon City, Philippines, the above-named accused with force and intimidation did then and there willfully, unlawfully and feloniously commit acts of sexual assault at knifepoint upon the person of [AAA] his own niece a minor 10 years of age by then and there laying her down on a bed inside his grandparents' room then blindfolded her, then removed her shorts and underwear, then accused inserted his penis inside her vagina and thereafter had carnal knowledge of her against her will and without her consent.^[7]

5. Crim. Case No. Q-00-91971:

That on or about the 11th day of May 1998 in Quezon City, Philippines, the above-named accused with force and intimidation did then and there willfully, unlawfully and feloniously commit acts of sexual assault at knifepoint upon the person of [AAA] his own niece a minor 10 years of age by then and there removing her shorts and underwear and inserting his penis inside her vagina and thereafter had carnal knowledge of her against her will and without her consent.^[8]

Accused-appellant Roxas entered a plea of Not Guilty to all the crimes charged.^[9]

The prosecution's factual account based on the testimony of AAA was concisely stated by the Office of the Solicitor General in its Appellee's Brief, as follows:

On **16 September 1997**, [AAA], who was then 9 years of age, was at her grandmother [CCC]'s house located on [XXX], Quezon City. In the morning of said date, she was at the dirty kitchen with her aunt [ZZZ] who was then washing clothes. Her aunt asked her if she had already taken a bath, she replied in the negative.

Her uncle, accused-appellant, overheard their conversation so he volunteered to give [AAA] a bath. Subsequently, he brought her upstairs to the bathroom.

While inside the bathroom, accused-appellant told [AAA] to turn around. After she complied with his directive, he blindfolded her. [AAA] started to wonder what the accused-appellant was doing so she told him that he was supposed to give her a bath. Accused-appellant told her that they

would play first for a while.

He turned her around three (3) times and then, removed her shorts and underwear. After that, he sat on a chair, which was inside the bathroom, and raised both of her legs.

Thereafter, she felt him on top of her. She also felt accused-appellant's penis enter her vagina which she found painful.

She cried and shouted the name of her aunt, but accused-appellant got angry and poked a sharp instrument on her neck. [AAA] did not report the incident because accused-appellant threatened to cut her tongue and to kill her and her mother.

[AAA] was raped again on **20 March 1998** while she was at the same house of her paternal grandparents. She was on the terrace on the second floor of the house when accused-appellant, who was in her grandparents' bedroom at that time, called her. She hesitated to go near him because she was afraid that he might rape her again.

Accused-appellant then went to the terrace and dragged her to the bedroom of her grandparents. She could not run anymore nor shout for help because aside from the fact that there was nobody else in the room, accused-appellant was holding a pointed weapon.

While [AAA] and accused-appellant were inside the room, he blindfolded her, removed her shorts and underwear, and then laid her down the bed. Thereafter, he moved on top of her and inserted his penis in her vagina. Again, she did not report the incident because of accused-appellant's threats should she report the incident to anybody.

Another incident of rape took place on **11 May 1998** while [AAA] was again at her paternal grandparents' house. On the said date, she was alone in the living room on the second floor of the house when accused-appellant called her. She did not accede to his bidding because she was scared of him. Thereafter, he shouted at her and demanded that she come near him, so she went to him.

He brought her inside her grandmother's bedroom and upon reaching the room, he immediately blindfolded her and poked a bladed weapon on her neck. He turned her around three (3) times, removed her shorts and underwear, laid her down the bed, moved on top of her, and inserted his penis in her vagina. Again, the accused-appellant threatened her so she did not report what had happened.

[AAA]'s ordeal did not stop there. She was raped for the fourth time on **28 July 1998** at her paternal grandparents' house. She and the accused were incidentally alone in the living room on the second floor of the house. He asked her to go with him inside the bedroom of her grandparents, but she did not get up from her seat. So accused-appellant pulled her toward the bedroom. She tried to free herself, but he poked a pointed instrument at her.

Accused-appellant committed the same acts he had perpetrated on [AAA] during her three [previous] rape incidents: he removed her shorts and underwear, laid her on the bed, moved on top of her and thereafter, inserted his penis in her vagina. She was again threatened by the accused-appellant not to tell anybody about the incident or else he would cut her tongue and kill her and her mother.

The fifth and last incident of rape happened on **09 August 1998**. At that time, [AAA] was at the terrace on the second floor of her paternal grandparents' house; and accused-appellant also happened to be there. He pulled her and brought her inside the room, blindfolded her, and turned her around three (3) times. He employed the same method in raping her: he removed her shorts and underwear, laid her on the bed and moved on top of her. She tried to push him and raise her shorts and panty, but she did not succeed because he poked a pointed instrument on her neck. Thereafter, he inserted his penis in her vagina. Again, she did not report the incident to anyone because she was scared of his threats.^[10] (Emphases supplied, citations omitted.)

In contrast, the defense presented four witnesses: AAA's mother (BBB), AAA's two brothers (DDD and EEE), and Dr. Agnes Aglipay, Regional Psychiatrist of the Bureau of Jail Management and Penology. The defense's statement of the antecedent facts as contained in the Appellant's Brief is reproduced here:

Accused Milan Roxas denied having raped [AAA] on all the five (5) counts of rape.

[DDD], brother of herein private complainant, testified that his aunt in the maternal side, [Tita YYY], induced him by giving toys if he would tell his father that the accused was raping his sister, [AAA]. Upon prodding of his maternal aunt, [DDD], who was only eight (8) years old then, told his father that he saw the accused rape his sister. His father ran amuck which led to the filing of the instant case.

On subsequent days, while [DDD] and [AAA] were in a grocery store buying something, their [Tito XXX], [Tito WWW] and [Tita YYY] arrived on board an FX vehicle. [Tita YYY] told [DDD] that they will be going to buy toys. [DDD] said that he will first ask permission from his grandfather, but [Tita YYY] said that it would only take a few minutes and they will bring them home afterwards. [AAA] was brought to SSDD, a place under the administration of the DSWD, while [DDD] was brought to Caloocan. On the following day, he was brought to Muñoz, in a rented house of his [Tita YYY] and her husband. [DDD] stayed there for almost a year. He was forbidden to go outside as the door was always locked. When [his Tita VVV] arrived from Japan they went to Tarlac where his paternal grandmother fetched him.

[EEE], brother of herein private complainant, likewise testified that when [his Tita VVV] arrived, they went to North Olympus, Quezon City where

[his] maternal relatives reside. On one occasion, he saw his sister, [AAA] and his maternal uncle [Tito XXX] entered one of the bedrooms. He tried to open the door to see what the duo were doing, but it was locked. [EEE] looked for a wire and was able to open the door. He saw private complainant on top of his [Tito XXX], both naked. When the duo saw him, private complainant and his [Tito XXX] stood up. The latter threatened him not to tell anybody or he will cut off his tongue.

On November 26, 1999, [BBB], mother of the private complainant testified that her two (2) children, [AAA] and [DDD], were missing. She looked for them, but to no avail. So she went to the police station to have it blotted. Later did she know when she called her sister who resides in Project 6, Quezon City that [DDD] was brought to Ilocos and [AAA] at the SSDD in Kamuning by her 3 brothers and sister. She filed a case of kidnapping against his brother [Tito WWW]. [Tito WWW], however, promised to return her children if she will have the said case dismissed which she did.

She denied the allegations that [her] brother-in-law, herein accused, raped her daughter, [AAA]. In fact, before the filing of the present rape cases there was one rape case filed on September 22, 1999 which was dismissed because [AAA] retracted her statements. As told to [BBB] by her daughter [AAA], she was not raped by herein accused. She told a lie and made the false accusation against the accused, because she does not want to put the blame on any of her maternal relatives. [AAA] was greatly indebted to her maternal grandmother and her maternal uncles and aunts because they had taken care of her since she was three (3) years old.

Dr. Agnes Aglipay, Regional Psychiatrist of the Bureau of Jail Management and Penology testified that based on her examination of the accused, she concluded that he is suffering from a mild mental retardation with a mental age of nine (9) to ten (10) years old. She observed that the subject was aware that he was being accused of rape, but he had consistently denied the allegations against him.^[11] (Citations omitted.)

The RTC of Quezon City rendered its Judgment on December 11, 2007, finding accused-appellant Roxas guilty as charged in each of the five Informations filed against him. The dispositive portion reads:

WHEREFORE, premises considered, judgment is hereby rendered finding the accused **GUILTY** beyond reasonable doubt in all five (5) counts of rape as recited in the information[s] and sentences accused MILAN ROXAS:

1) In Crim. Case No. Q-00-91967 – to suffer the penalty of *reclusion perpetua*, to indemnify the offended party [AAA] the sum of Php75,000.00, to pay moral damages in the sum of Php50,000.00, and to pay the costs;