

## SECOND DIVISION

[ G.R. No. 191253, August 28, 2013 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
APOLINARIO MANALILI Y JOSE, ACCUSED-APPELLANT.**

### DECISION

**PEREZ, J.:**

Before this Court for automatic review is the Decision<sup>[1]</sup> dated 19 October 2009 of the Court of Appeals (CA) in CA-G.R. CR.-H.C. No. 03356, which affirmed with modifications the Decision<sup>[2]</sup> of the Regional Trial Court (RTC) of Manila, Branch 38 dated 29 April 2008, finding Apolinario Manalili y Jose guilty beyond reasonable doubt of the crime of statutory rape.

In a Resolution<sup>[3]</sup> dated 07 April 2010, we required the parties to file their respective supplemental briefs. The parties, however, manifested that they have exhausted their arguments before the CA and thus, will no longer file any supplemental brief.<sup>[4]</sup>

#### *The Facts*

Apolinario Manalili y Jose (Manalili) was charged before the RTC of Manila with statutory rape as defined and penalized under Article 266-A, par. 1 of the Revised Penal Code in relation to Section 5(b) of R.A. No. 7610, otherwise known as "Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act."

The amended information reads:

That on or about the 16<sup>th</sup> day of March, 1998, in the city of x x x,<sup>[5]</sup> Philippines, the said accused, conspiring and confederating together and helping each other, did then and there willfully, unlawfully and knowingly commit abusive acts and lascivious conduct upon the person of AAA, a minor, 10 years of age, by then and there pulling down her panty, caressing her private part, mashing her [breasts], kissing her face and neck and trying to insert his penis on the vagina of said minor, and in the process, the penis of said accused touched the labia of the vagina of said minor, against her will and without her consent, thereby gravely endangering the normal growth and development of the said child.<sup>[6]</sup>  
(Underlining omitted)

The antecedent facts were culled from the records of the case.

Upon arraignment, Manalili entered a plea of "not guilty"<sup>[7]</sup> to the offense charged against him. On 30 August 2004, the pre-trial of the case was ordered closed and

terminated,<sup>[8]</sup> thus, trial on the merits ensued.

According to the prosecution's evidence, the offense transpired on 16 March 1998 at around 7 o'clock in the evening in the house of Manalili located on YYY Street.

AAA, the victim who was then barely eleven (11) years old<sup>[9]</sup> narrated that on said day and time she was playing with her friends in front of their house, which is near the store owned by BBB. Manalili was drinking with three (3) of his friends in front of his house on ZZZ Street, which is located across the store and is one house away from AAA's house. While AAA was chatting with the son of the store owner, Manalili whom she addresses as "*Ninong* Nario" called her and asked her to go to his other house on YYY street, to get a dustpan because one of his drinking mates vomited. AAA readily complied and went to Manalili's house. No one was around at that time and it was dark inside the house. The drunken Manalili followed AAA in said house on YYY Street and ordered AAA to remove her panty. She refused but Manalili undressed her, laid her down on the floor and went on top of her naked body. Likewise, Manalili was naked and had no briefs on. Manalili forcibly tried to insert his penis into her vagina. AAA felt pain and cried as Manalili tried to push in his organ. Unsuccessful, Manalili then inserted his finger into AAA's vagina. Feeling severe pain, AAA resisted by holding Manalili's hand. Afterwards, Manalili directed AAA to hold his penis and AAA did as she was told. Manalili ordered her to use her hands to make downward and upward movements on his phallic organ. She felt sticky substance coming out and afterwards wiped off her hands of the said substance. Manalili also kissed her neck and breasts. After Manalili satisfied his lust, AAA was directed to go home and was instructed not to let anyone see her leave the house of Manalili.

The next day, CCC, AAA's mother, saw the marks on AAA's neck and breast and asked AAA what happened. AAA replied, "*nakayod sa yero*."<sup>[10]</sup> Unconvinced and suspicious, AAA's mother continued questioning her. AAA kept quiet, refused to answer and left for school. Eventually, AAA confided to her aunt, DDD, what actually happened on the night of 16 March 1998. Upon learning of the molestation, DDD immediately told CCC, her sister-in-law and mother of AAA. AAA eventually admitted "*Ninong* Nario" placed the kiss marks.<sup>[11]</sup> CCC and DDD confronted the accused but the latter denied the accusation. This prompted CCC and DDD to file a complaint before investigator, PO1 Maribel F. Fiedacan. On 18 March 1998, AAA was subjected to a medico genitalia examination conducted by a Medico Legal Officer of the Medico Legal Division of the National Bureau of Investigation (NBI), Manila. AAA also executed a *Sinumpaang Salaysay* dated 18 March 1998<sup>[12]</sup> assisted by her mother, CCC.<sup>[13]</sup> According to the victim, she was molested more than three (3) times by Manalili before the incident at hand. AAA claimed that she never told anybody because she was scared.

On cross-examination, AAA clarified that accused is not her godfather but that of her brother and that the house number of the accused is 1672, while theirs is 1670. AAA described the place of the incident in detail. Although it was dark, AAA narrated that she was certain it was Manalili who followed her inside the house. Familiar with Manalili's voice, AAA positively identified Manalili when he instructed her to remove her underwear. Likewise, she was able to touch the back of Manalili when she was laid down. She recalled that while drinking, Manalili was only wearing pants without a t-shirt on. She claims that the man who mounted her only had pants on, without a t-shirt. She explained that she initially did not admit who placed kiss marks on her

because of the threats and warnings of Manalili but when her mother and aunt scolded her, she eventually admitted.

Dr. Alvin A. David, the medico-legal officer of the NBI, testified that during the medical examination, he found two (2) contusions, one on the neck and one on the right breast of the victim, as shown in the anatomical diagram he prepared.<sup>[14]</sup> He explained that in sexual abuse cases, contusions could be caused by suction on the skin, resulting in discoloration. These kinds of contusions, in layman's terms, are considered love bites or kiss marks. He also observed that the hymen was not violated and still intact. The tests conducted for vaginal smear yielded negative<sup>[15]</sup> for the presence of spermatozoa.<sup>[16]</sup>

For his defense, Manalili testified and he vehemently denied the accusations. In open court, he admitted knowing the victim, AAA, as he is one of the godfathers of AAA's sibling and they live on the same street. In denying the alleged rape, he pointed out that he lives with his wife and that on the night of the incident, he was drinking with his friends in front of his house on ZZZ Street. On cross-examination, the accused reasons out that the complaint was filed against him only because CCC, the victim's mother, has always resented her husband's drinking sprees with him.<sup>[17]</sup>

### ***The RTC Decision***

On 29 April 2008, the RTC rendered a decision convicting Manalili of statutory rape. The dispositive portion of the decision states:

WHEREFORE, in the light of the foregoing premises, the Court finds that the prosecution was able to prove the guilt of the accused beyond reasonable doubt for the crime of Rape under Art. 266-A par. 1 of the Revised Penal Code, as amended, in relation to Sec. 5 (b) of R.A. 7610, accused Apolinario Manalili y Jose is hereby sentenced: (1) to suffer the penalty of Reclusion Perpetua; (2) to pay the minor [AAA] One Hundred Thousand (P100,000) Pesos as moral damages; and (3) to pay the costs.<sup>[18]</sup>

Aggrieved, Manalili appealed to the CA raising the following assignment of errors for consideration:

- 1. THE TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT OF THE CRIME OF RAPE DESPITE THE PROSECUTION'S FAILURE TO OVERTHROW THE CONSTITUTIONAL PRESUMPTION OF INNOCENCE IN HIS FAVOR.**
- 2. THE TRIAL COURT GRAVELY ERRED IN RENDERING A VERDICT OF CONVICTION DESPITE THE FACT THAT THE IDENTIFICATION OF THE ACCUSED-APPELLANT AS THE ALLEGED PERPETRATOR OF THE OFFENSE CHARGED WAS NOT CLEAR, POSITIVE AND CONVINCING.**<sup>[19]</sup>

### ***The CA Decision***

In the assailed decision, the CA affirmed with modification the judgement of conviction of the RTC. The CA ruled that the prosecution was able to prove the

existence of all the essential elements of statutory rape beyond reasonable doubt. The dispositive portion of the CA decision reads:

WHEREFORE, the appealed decision of the RTC of Manila, Branch 38 dated April 29, 2008 is hereby AFFIRMED WITH MODIFICATION. In addition to the imposed penalty of *reclusion perpetua*, appellant is hereby ordered to pay the minor victim AAA the amount of P50,000.00 as civil indemnity ex delicto, P50,000.00 as moral damages and P25,000.00 as exemplary damages.<sup>[20]</sup>

### ***Ruling of this Court***

This court finds no merit in the present appeal for reasons to be discussed hereunder. The Court finds no reason to disturb the decisions of the courts below.

We quote with approval the pertinent disquisitions<sup>[21]</sup> of the CA as follows:

Rape is essentially an offense of secrecy, not generally attempted except in dark or deserted and secluded places away from the prying eyes, and the crime usually commences solely upon the word of the offended woman herself and conviction invariably turns upon her credibility, as the prosecution's single witness of the actual occurrence.<sup>[22]</sup> As a corollary, a conviction for rape may be made even on the testimony of the victim herself, as long as such testimony is credible. In fact, the victim's testimony is the most important factor to prove that the felony has been committed. <sup>[23]</sup>

In reviewing rape cases, the Court had always been guided by the well-entrenched principles: (1) an accusation of rape can be made with facility and while accusation of rape is difficult to prove, it is even more difficult to disprove; (2) considering that in the nature of things, only two persons are usually involved in the crime of rape, the testimony of the complainant should be scrutinized with great caution; and (3) the evidence for the prosecution must stand or fall on its own merits and cannot be allowed to draw strength from the weakness of the evidence for the defense.

Manalili contends that AAA's testimony is not sufficient to convict him because the identity of the accused as the perpetrator of the crime was not positively established. We find such argument untenable. Jurisprudence is instructive that identification of an accused by his voice has been accepted particularly in cases where, such as in this case, the witness has known the malefactor personally for so long and so intimately.<sup>[24]</sup> This Court has opined that once a person has gained familiarity with another, identification becomes quite an easy task even from a considerable distance.<sup>[25]</sup> Furthermore, settled is the rule that the testimony of a single witness may be sufficient to produce a conviction, if the same appears to be trustworthy and reliable. If credible and convincing, that alone would be sufficient to convict the accused.<sup>[26]</sup> No law or rule requires the corroboration of the testimony of a single witness in a rape case. <sup>[27]</sup>

The trial court noted that during AAA's cross-examination, her testimony bore the