

FIRST DIVISION

[G.R. No. 203068, September 18, 2013]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RYAN FRIAS Y GALANG A.K.A. "TAGADOG", ACCUSED-APPELLANT.

RESOLUTION

REYES, J.:

The Court resolves in this Resolution the appeal from the Decision^[1] dated January 30, 2012 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 04540. The CA affirmed with modification the Decision^[2] dated September 30, 2008 of the Regional Trial Court (RTC) of Manila, Branch 48, in Crim. Case No. 05-236370, finding Ryan Frias y Galang (accused-appellant) guilty beyond reasonable doubt of the crime of rape, as defined in Article 266-A of the Revised Penal Code.

The Facts

The accused-appellant was charged in an Information for the crime of rape, docketed as Criminal Case No. 05-236370 before the RTC, allegedly committed as follows:

That on or about July 9, 2004, in the City of Manila, Philippines, the said accused, by means of force and intimidation, did then and there, willfully, unlawfully and knowingly have carnal knowledge upon the person of [AAA]^[3], by poking a fan knife at her, ordering her to undress and inserting his penis into her vagina, against her will and consent, to her damage and prejudice.

Contrary to law.^[4]

Upon arraignment, the accused-appellant pleaded "not guilty" to the offense charged.^[5] During the pre-trial conference, the parties stipulated on the following: *first*, the identity of AAA; and *second*, that the accused-appellant is the one charged in the Information cited above.^[6] Trial on the merits ensued thereafter.

The prosecution's version of the facts, which was adopted by the RTC, relied heavily on the testimony of AAA. AAA alleged that, on July 9, 2004, at around 3:00 p.m., while she was on her way to take a bath in the comfort room at the back of their house, she was suddenly pulled by the accused-appellant to BBB's room. The accused-appellant was then staying with BBB, whose house was just adjacent to AAA's house. AAA was only thirteen (13) years old at the time of the incident.^[7]

Once inside the room, AAA claimed that the accused-appellant locked the door with a chain and pushed her into a bamboo bed. He then instructed AAA to keep quiet

and remove her clothes. AAA complied out of fear since he poked a fan knife at her neck. She then claimed that he removed his clothes, went on top of her, spread her legs, and inserted his penis into her vagina.^[8]

The accused-appellant stayed on top of AAA for about fifteen minutes. Thereafter, AAA alleged that the accused-appellant threatened to kill her and her siblings should she tell anyone about what he did. AAA hurriedly dressed up and went home. She did not dare tell anyone about the incident, fearing that the accused-appellant would make good his threat.^[9]

After several months, AAA's grandmother noticed that her abdomen was getting bigger. AAA was then constrained to tell her grandmother and mother about what the accused-appellant did to her. Whereupon, AAA, accompanied by her grandmother and mother, reported the incident to their *barangay* chairman and the police station. At the police station, AAA was referred to be examined at the Philippine General Hospital (PGH).^[10]

At the PGH, AAA was examined by Dr. Irene D. Baluyot, a physician at the Child Protection Unit of the PGH, who found that there was clear evidence that AAA was sexually abused considering the lacerations found in her hymen. At the time that AAA was examined at the PGH, she was already about thirty (30) weeks pregnant.^[11]

On the other hand, the accused-appellant vehemently denied that he raped AAA, claiming that he and AAA have been in a relationship for about three (3) months prior to the incident. He averred that, at the time of the incident, it was AAA who went to his room where they talked for a while and thereafter had sexual intercourse. After the incident, the accused-appellant did not see AAA anymore. He further alleged that he only learned of AAA's complaint against him through his friend.^[12]

The Ruling of the RTC

On September 30, 2008, the RTC rendered a Decision^[13] finding the accused-appellant guilty beyond reasonable doubt of the crime of rape, sentencing him to suffer the penalty of *reclusion perpetua* and directing him to pay P50,000.00 as moral damages, P25,000.00 as exemplary damages, and the costs of suit.^[14]

The RTC did not give credence to the accused-appellant's claim that the sexual intercourse between him and AAA was consensual. The RTC pointed out that the accused-appellant's defense that he and AAA were lovers is but a self-serving statement conveniently concocted by him in an effort to exculpate himself from criminal liability. That if indeed they were in a relationship, he should have immediately stated such fact when he was arrested by the authorities.

Unperturbed, the accused-appellant appealed the RTC's Decision dated September 30, 2008 to the CA.^[15]

The Ruling of the CA

On January 30, 2012, the CA rendered the herein assailed decision which affirmed the RTC's Decision dated September 30, 2008, albeit with the modification that the accused-appellant was ordered to pay civil indemnity in the amount of P50,000.00.

The CA gave more credence to the testimony of AAA as against the accused-appellant, asserting that AAA would not make such accusation against him and subject herself to public trial if indeed she had not been raped. The CA opined that, other than his own self-serving testimony, the accused-appellant failed to show any other evidence that would prove that he and AAA were in a relationship.

The CA further pointed out that AAA's alleged lack of resistance during the sexual act does not mean that AAA consented thereto. The CA stressed that the act of poking a knife at the neck of a thirteen-year old victim, by itself, strongly suggests force that is sufficient to bring the young girl to submission.

As to AAA's delay in relaying what the accused-appellant did to her, the CA opined that it is expected that a young girl, such as AAA, would be hesitant or disinclined to cry out in public and relate a painful and horrible experience of sexual violation, especially in the face of threats of physical violence.

Hence, this appeal.

Both the accused-appellant and the Office of the Solicitor General manifested that they would no longer file with the Court supplemental briefs, and adopted instead their respective briefs with the CA.^[16]

Issue

Essentially, the issue set forth by the accused-appellant for this Court's resolution is whether the CA erred in affirming the RTC's Decision dated September 30, 2008 which found him guilty beyond reasonable doubt of the crime of rape.^[17]

In an effort to avoid criminal liability, the accused-appellant maintains that he and AAA were lovers and that the sexual tryst that was had between them was but a consummation of their relationship. He likewise alleged that AAA did not offer any resistance during their sexual tryst and that it took AAA several months before she accused him of raping her. The foregoing, the accused-appellant claimed, negates AAA's accusation against him.

The Court's Ruling

The appeal is dismissed for lack of merit.

The crime of rape is defined under Article 266-A of the Revised Penal Code, which states that:

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 otherwise unconscious;
- c. By means of fraudulent machination or grave abuse of authority; and
- 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.

2. By any person who, under any of the circumstances mentioned in paragraph 1 hereof, shall commit an act of sexual assault by inserting his penis into another person's mouth or anal orifice, or any instrument or object, into the genital or anal orifice of another person. (Emphasis ours)

The elements necessary to sustain a conviction for rape are: (1) that the accused had carnal knowledge of the victim; and (2) that said act was accomplished (a) through the use of force or intimidation, or (b) when the victim is deprived of reason or otherwise unconscious, or (c) when the victim is under 12 years of age or is demented.^[18]

That the accused-appellant had carnal knowledge of AAA is not disputed; he does not deny having sexual intercourse with AAA on July 9, 2004. The only question that has to be resolved then is whether the sexual intercourse between the accused-appellant and AAA is indeed consensual or was consummated through force or intimidation.

It is well-settled that, in a criminal case, factual findings of the trial court are generally accorded great weight and respect on appeal, especially when such findings are supported by substantial evidence on record. It is only in exceptional circumstances, such as when the trial court overlooked material and relevant matters, that this Court will re-calibrate and evaluate the factual findings of the court below.^[19]

The Court sees no reason to depart from the foregoing rule.

The accused-appellant's claim that he and AAA were lovers, being an affirmative defense, must be established by convincing evidence — some documentary and/or other evidence like mementos, love letters, notes, photographs and the like.^[20] However, other than his self-serving testimony, no convincing evidence was presented to substantiate his claim. Thus, the lower courts aptly discredited the defense interposed by the accused-appellant.

Further, the lack of resistance on the part of AAA as claimed by the accused-appellant, even assuming it to be true, does not mean that AAA willingly surrendered to his sexual desires. It bears stressing that physical resistance need not be established in rape cases when threats and intimidation are employed and the victim submits herself to the embrace of her rapist because of fear.^[21]