

SECOND DIVISION

[G.R. No. 190622, October 07, 2013]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
RODOLFO DE JESUS Y MENDOZA, ACCUSED-APPELLANT.**

DECISION

DEL CASTILLO, J.:

Assailed before this Court is the September 18, 2009 Decision^[1] of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 01923 which affirmed the December 29, 2005 Decision^[2] of the Regional Trial Court (RTC) of Pasig City, Branch 159 finding appellant Rodolfo de Jesus y Mendoza guilty beyond reasonable doubt of the crime of rape.

Records show that on July 29, 2004, appellant was charged with the crime of rape in an Information^[3] that reads as follows:

On or about July 24, 2004, in Pasig City and within the jurisdiction of this Honorable Court, the accused, by means of force, threats or intimidation, did then and there wilfully, unlawfully and feloniously have carnal knowledge [of] "AAA",^[4] 11 years old, a minor, against her will and consent, which is aggravated by the circumstances of treachery and abuse of superior strength, to the damage and prejudice of the said victim.

Contrary to law.^[5]

During his arraignment on September 14, 2004, appellant pleaded not guilty.^[6] After pre-trial, trial on the merits ensued.

Version of the Prosecution

The prosecution presented the victim, "AAA;" her mother, "BBB;" Michael Boca (Boca), a security guard at Mega Parking Plaza; Dr. Paul Ed dela Cruz Ortiz (Dr. Ortiz), the Medico-Legal Officer who conducted the physical examination of the victim; and SPO2 Nilda Balagot, the police investigator on duty at the Women's and Children Concerned Unit, Pasig City Police Station, as witnesses. Based on their testimonies, the following facts emerged:

"AAA" was born on November 26, 1992.^[7] On July 24, 2004, at around 3:00 o'clock in the afternoon, then 11-year old "AAA" went to the Pasig public market to buy a pair of slippers. However, "AAA" was not able to buy her pair of slippers because appellant suddenly grabbed her left arm and pulled her towards the nearby Mega Parking Plaza. "AAA" was surprised and confused. She cried and tried to free herself

from the grasp of the appellant, to no avail. Upon reaching the fourth floor of Mega Parking Plaza, appellant pulled "AAA's" shorts and panty down to her knees. Appellant likewise pulled down his pants. Appellant then sat on the stairs, placed "AAA" on his lap, inserted his penis into her vagina and performed push and pull movements. "AAA" was overcome with fear and she felt pain in her vagina.

Meanwhile, Boca, the security guard assigned at the Mega Parking Plaza, was conducting a roving patrol when he heard the cry of "AAA." He went to the fourth floor of the building which was at that time unoccupied by any vehicle. He was however surprised to see "AAA" seated on the lap of the appellant. Boca also saw appellant insert his penis into the vagina of "AAA" and then perform sexual movements. Immediately upon seeing the sexual molestations, Boca grabbed appellant's arm, handcuffed him and brought him to the *barangay* hall.

Dr. Ortiz examined the person of "AAA" and found shallow healed lacerations. Although there were no external signs of application of trauma, Dr. Ortiz opined that the lacerations could have been caused by a blunt penetrating force such as a penis and that "AAA" might have been sexually abused.

Version of the Defense

The only witness for the defense is the appellant himself. At the time of the incident, he was 63 years of age and worked as a porter at the Pasig public market. He claimed that even before the July 24, 2004 incident, he already knew "AAA" as the latter used to ask money from him. He denied having raped "AAA." He narrated that on July 24, 2004, he saw "AAA" urinating near the stairs of the second floor of the Mega Parking Plaza while he was just standing nearby. Suddenly, Boca, the security guard, arrived and handcuffed him. He was thereafter brought to the authorities. He could not think of any reason or motive why "AAA" would file a rape charge against him.

Ruling of the Regional Trial Court

On December 29, 2005, the RTC rendered its Decision finding appellant guilty of rape. The dispositive portion of the Decision reads:

WHEREFORE, finding the accused GUILTY beyond reasonable doubt of the crime of rape, RODOLFO DE JESUS is hereby sentenced to suffer the penalty of reclusion perpetua with all the accessory penalties prescribed by law, and to indemnify the offended party in the amount of P50,000.00 as civil indemnity ex delicto and P50,000.00 as moral damages.

SO ORDERED.^[8]

Ruling of the Court of Appeals

Appellant appealed to the CA. However, in its September 18, 2009 Decision, the appellate court dismissed the appeal and affirmed the Decision of the RTC, *viz*:

WHEREFORE, the instant appeal is DISMISSED. The Decision of the court a quo is SUSTAINED.

SO ORDERED.^[9]

Hence, this appeal raising the lone assignment of error, viz:

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT OF THE CRIME OF RAPE DESPITE FAILURE ON THE PART OF THE PROSECUTION TO PROVE THAT THERE WAS INDEED A SEXUAL INTERCOURSE BETWEEN THE ACCUSED-APPELLANT AND THE PRIVATE COMPLAINANT.^[10]

Appellant argues that there is no evidence showing that he inserted his penis into the vagina of "AAA." He claims that if he indeed raped "AAA," then the latter's physical examination should have shown fresh lacerations instead of old healed lacerations considering that "AAA" was examined immediately after the alleged incident.

Our Ruling

The appeal lacks merit.

Contrary to appellant's contention, there is ample proof that his penis penetrated the vagina of the victim. "AAA" categorically testified thus:

Q. So when you were pulled to the fourth floor by that person, what happened there?

A. He undressed me, sir.

Q. You said that he undressed you, what [were] your clothes then at the time when he undressed you?

A. I was wearing a garterized short, sir.

Q. Aside from the short, what else?

A. None, sir.

Q. [Were] you not wearing any underwear at that time?

A. No more, sir, except my panty.

Q. Your panty is also garterized?

A. Yes, sir.

Q. You said that he undressed [you], up to what part of your body did he pull down your short and your panty?

Interpreter:

Witness pointing to the portion between her knee and ankle.

Prosec. Obuñgen:

Q. When he was undressing you, what did he tell you, if any?

A. None, sir.

Q. While he was undressing you, what were you doing then?

A. I was crying, sir.

Q. Aside from crying, what else did you do?

A. I shouted, sir.

x x x x

Q. When you shouted, what did he do, if any?

A. He was inserting his organ [into] my organ, sir.

x x x x

Q. You said that the person tried to insert his private organ [into] your private part. [What] did you feel at that time that he [was] trying to put his private part [into] your private part?

- A. I felt nervous, sir.
- Q. Aside from feeling nervous, [what] did you feel? Were you hurt?
- A. I was afraid, sir.
- Q. Aside from feeling afraid, what else?
- A. It was painful, sir.
- x x x x
- Q. How painful [was] your vagina when he was inserting his private part x x x?
- A. It was painful, sir.
- Q. When he was inserting his private part [into] your vagina, how long a time did he [try] to insert his private part [into] your private part?
- A. Maybe about fifteen minutes, sir.
- Q. [When] he was inserting his private part [into] your private part, how did you act?
- A. I was struggling, sir.
- x x x x
- Q. If that person who violated your honor is in the courtroom, can you point to him?
- A. Yes, sir.
- Interpreter:
- Witness [is] pointing to a person seated near the door of the room wearing yellow t-shirt, blue denim pants and red slippers who identified himself as Rodolfo de Jesus.
- Q. When he had inserted his private part [into] your private part, what else happened?
- A. That was the time when the security guard arrived.^[11]

The RTC found the testimony of "AAA" to be credible. She positively identified appellant as the malefactor and never wavered in her assertion that it was appellant who raped her. This finding was affirmed by the CA.^[12] "Prevailing jurisprudence uniformly holds that findings of fact of the trial court, particularly when affirmed by the [CA], are binding upon this Court. As a general rule, on the question whether to believe the version of the prosecution or that of the defense, the trial court's choice is generally viewed as correct and entitled to the highest respect because it is more competent to conclude so, having had the opportunity to observe the witnesses' demeanor and deportment on the witness stand as they gave their testimonies. The trial court is, thus, in the best position to weigh conflicting testimonies and to discern if the witnesses [are] telling the truth. There is no cogent reason for us to depart from the general rule in this case."^[13]

Also, it is worth to note that the victim, "AAA," was a minor. She was only 11 years old when she was raped. When placed on the witness stand to narrate her harrowing experience at the hands of the appellant, "AAA" was only 12 years of age.

Testimonies of child-victims are normally given full weight and credit, since when a girl, particularly if she is a minor, says that she has been raped, she says in effect all that is necessary to show that rape has in fact been committed. When the offended party is of tender age and immature, courts are inclined to give credit to her account of what transpired, considering not only her relative vulnerability but also the shame to which she would be exposed if the matter to which she testified

is not true. Youth and immaturity are generally badges of truth and sincerity. Considering her tender age, AAA could not have invented a horrible story. x x x^[14]

In addition, the foregoing testimony of "AAA" was corroborated by the testimony of Boca. He testified that while he was conducting his roving patrol, he heard a cry emanating from the fourth floor of the parking building. When Boca reached the fourth floor, he saw "AAA" seated on the lap of the appellant. Boca also testified that he saw appellant insert his penis into the vagina of "AAA" and perform sexual movements, viz:

Q. Mr. Boca, on July 24, 2004, what was your occupation?

A. I was a security guard, sir.

Q. Where were you assigned as security guard on x x x July 24, 2004?

A. Pasig Mega Parking, Pasig City, Pasig Public Market.

Q. On that day, what was your tour of duty?

A. From 7:00 o'clock in the morning up to 7:00 o'clock in the evening, sir.

Q. At 3:00 o'clock in the afternoon, where were you?

A. I was conducting a roving patrol, sir.

Q. So you were assigned at Mega Parking, how many stories [does] Mega Parking have?

A. It consists of four stories.

Q. So [at] 3:00 o'clock of that day you were a roving guard?

A. Yes, sir.

Q. On that particular hour, do you remember x x x any unusual incident that happened?

A. None except that I heard a child crying.

x x x x

Q. At [the] time you heard the child crying, where were you then?

A. I was on the third floor going up to the 4th floor.

Q. Did you reach the 4th floor?

A. Yes, sir.

Q. What happened at the 4th floor?

A. I heard a child shouting "hwag po."

x x x x

A. When I [heard] the child, I went where they were located, and I saw Rodolfo de Jesus *na naka angkla po si de Jesus kay "AAA"*.

Q. You said '*naka angkla*', could you demonstrate the particular position of "AAA" and de Jesus at that time?

Court Interpreter:

Witness [is] motioning that the accused was holding the child, and the accused sat down with motion of bringing up and down the child towards him.

Pros. Obuñgen:

Q. Besides seeing and observing de Jesus and "AAA" is '*naka angkla*' on de Jesus, what else did you observe of De Jesus, what was his attire at that time.

A. He was wearing pants, but (nakahubad) he was undressed.

x x x x

Q. So the pants of de Jesus was lowered below the knees?