

SECOND DIVISION

[G.R. No. 191365, February 22, 2012]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
EDUARDO NAVARETTE, JR. Y NATO, ACCUSED-APPELLANT.**

D E C I S I O N

PEREZ, J.:

On appeal is the Decision^[1] of the Court of Appeals dated 29 January 2010 in CA-G.R. CR H.C. No. 03344 affirming with modification the Decision^[2] of the Regional Trial Court (RTC) of Imus, Cavite, Branch 21, in Criminal Cases No. 10680-03 and No. 10681-03 finding appellant Eduardo Navarette, Jr. y Nato guilty beyond reasonable doubt of the crime of rape and sentencing him to suffer the penalty of *reclusion perpetua*.

On 11 June 2002, appellant was charged in two (2) Informations for rape allegedly committed as follows:

Criminal Case No. 10680-03

That sometime in 1994 in Imus, Cavite, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused being the first cousin of the offended party [AAA]^[3], then eight (8) years old, with lewd designs and by means of threat, force and intimidation did, then and there, willfully, unlawfully and feloniously lie and had sexual intercourse with private complainant [AAA], against her will and consent, to the damage and prejudice of said minor.^[4]

Criminal Case No. 10681-03

That sometime in 1996 in Imus, Cavite, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused being the first cousin of the offended party [AAA], then ten (10) years old, with lewd designs and by means of threat, force and intimidation did, then and there, willfully, unlawfully and feloniously lie and had sexual intercourse with private complainant [AAA], against her will and consent, to the damage and prejudice of said minor.^[5]

Appellant pleaded not guilty on arraignment. Trial then proceeded.

As a backgrounder, AAA is the first cousin of appellant. AAA's father, Dominador Navarette (Dominador) is the brother of appellant's father Eduardo Navarette, Sr. (Eduardo, Sr.)

The prosecution presented the testimonies of the victim, AAA, her mother, BBB,^[6] and the medico-legal officer, Dr. Ida C. De Perio-Daniel (Dr. Perio-Daniel).

AAA related that she was raped by appellant twice – the first time, when she was 8 years old in 1994, and the second time, when she was 10 years old in 1996. On both occasions, AAA claimed that she went to the house of appellant to play with appellant's brother Emerson. Appellant apparently suggested that AAA look for Emerson upstairs. AAA heeded and proceeded to the second floor. Appellant followed AAA and pulled her towards a room. Thereat, appellant forced her to the floor and undressed her. In 1994, appellant tried inserting his penis in AAA, but it merely touched her vagina. In 1996, however, appellant was able to insert his penis on AAA's vagina and there was complete penetration. It took AAA three (3) years before she reported the incident to BBB because appellant allegedly threatened that he would kill AAA's parents and sister. AAA was however forced to tell her parents about the rape incident because her sister was being harassed sexually by appellant.^[7]

During the cross-examination, it was revealed that on 2 January 2002, Eleazar Navarrette (Eleazar), appellant's brother was killed by Dominador. AAA admitted that her father killed Eleazar because the latter allegedly raped her too. Several days after the murder case was filed against AAA's father, appellant was charged with rape by AAA.^[8]

BBB recalled that in 1999, AAA told her that she was raped by appellant in the years 1994 and 1996. BBB did not immediately tell her husband out of fear and shame. When appellant allegedly attempted to sexually abuse AAA in 2002, BBB was impelled to inform her husband.^[9]

Dr. Perio-Daniel, a medico-legal officer of the National Bureau of Investigation (NBI), conducted an examination on AAA, which findings were contained in Living Case No. MG-02-17, as follow:

GENERAL PHYSICAL EXAMINATION:

x x x x

GENITAL EXAMINATION

Pubic hairs, fully grown, moderate. Labia majora and minora, coaptated. Fourchette, lax. Vestibular mucosa, pinkish. Hymen, fimbriated, tall, thick with healed laceration, complete at 2:00 o'clock position, edges rounded, non-coaptable. Vaginal walls, tight. Rugosities, prominent.

CONCLUSION:

1. No evident sign of extragenital physical injuries were noted on the body of the subject at the time of the examination.
2. Healed hymenal laceration, present.^[10]

Dr. Perio-Daniel could not exactly tell whether AAA was raped because of the lapse of time between the date of the alleged commission of the crime and the date of the physical examination.^[11]

For the defense, appellant claimed that AAA falsely charged him of rape because AAA's father killed his brother Eleazar. Dominador wanted to have the case for murder filed against him dismissed in exchange for the dismissal of the rape case.^[12] Appellant's testimony was corroborated by his aunt, Lualhati Navarette (Lualhati), who happens to be the sister of Dominador and Eduardo, Sr.. Lualhati testified that Dominador planned to file a case against appellant as leverage to the case filed against the former for killing Eleazar.^[13]

Dominador passed away sometime in 2002.^[14]

On 6 March 2008, the RTC rendered judgment finding appellant guilty beyond reasonable doubt of the crime of rape. The dispositive portion of the Decision reads:

WHEREFORE, finding the accused guilty beyond reasonable doubt of two counts of the crime of RAPE as charged in the two informations, said accused is hereby sentenced to suffer the penalty of *reclusion perpetua* in each of the two cases.

Said accused is ordered to pay private complainant the amount of P75,000.00 for civil indemnity, another P75,000.00 for moral damages and P25,000.00 as exemplary damages for each conviction of rape.

The period of detention while the cases were pending before the Court shall be deducted from the sentence to be served by the accused.^[15]

The trial court lent credence to the testimony of AAA that she was raped. The trial court found her testimony categorical, straightforward and candid. Moreover, in upholding the credibility of AAA, the trial court relied heavily on established doctrines in rape cases.

On appeal, the Court of Appeals affirmed the conviction of appellant but modified the award of exemplary damages by increasing it from P25,000.00 to P30,000.00.

In his Brief, appellant casts doubt on the testimony of AAA. He insists that AAA should have at least remembered the month when she was raped considering the traumatic experience she had undergone. Appellant also questions why AAA still went to the house of appellant despite the fact that she was raped the first time. The belated reporting of the incident by AAA to BBB may have been justified but the fact that it took BBB another 3 years before she filed a case only confirmed the defense that the charges were fabricated and filed so that Dominador would have a leverage against the murder case lodged against him for allegedly killing appellant's brother.

On the other hand, the Office of the Solicitor General (OSG) maintains that the

victim's ability to remember the exact months when the rapes were committed are not necessary to prove appellant's guilt beyond reasonable doubt. The OSG vouches for the credibility of AAA's testimony and adds that AAA's failure to recall has no bearing on her credibility. Moreover, the OSG avers that AAA's act of returning to appellant's house, by itself, cannot be taken against her nor cast doubt on her credibility because the victim had undergone a traumatic experience which affected her mental disposition. The OSG maintains that the threats made by appellant on the victim are sufficient to dissuade her from reporting the abuses she suffered. The OSG refutes the "leverage theory" of the defense by stating that these allegations are unsubstantiated and were categorically denied by AAA.

The primary issue in this case pertains to whether appellant's guilt has been proven beyond reasonable doubt. Appellant's main defense is that the rape charges were concocted to serve as leverage for the murder case filed by appellant's family against AAA's father.

For the charge of statutory rape to prosper, the prosecution must prove that: (1) the accused had carnal knowledge of the woman; and, (2) that such woman is under twelve (12) years of age.^[16]

In cases of rape, only two (2) persons are normally privy to its occurrence, the complainant and the accused. Generally, the nature of the offense is such that the only evidence that can prove the guilt of the accused is the testimony of the complainant herself. Thus, the prosecution of rape cases is anchored mainly on the credibility of the complaining witness.^[17]

The general rule is that findings of trial court relative to the credibility of the rape victim are normally respected and not disturbed on appeal, more so, if affirmed by the appellate court. This rule may be brushed aside in exceptional circumstances, such as when the court's evaluation was reached arbitrarily, or when the trial court overlooked, misunderstood or misapplied certain facts or circumstances of weight and substance which could affect the result of the case.^[18] After an exhaustive review of the records, we find that there is no sufficient justification to apply the exception.

In recounting her ordeal, AAA narrated that she was raped twice, first in 1994, to wit:

- Q: As far as you can recollect AAA, how did the first rape happened [sic]? What time was it?
A: I cannot recall anymore sir.
Q: Was it in the afternoon or in the morning?
A: In the afternoon.
Q: Where did it happen?
A: In their house.
Q: Why were you there?
A: Because I was playing there among his siblings because he is my childhood [friend].
Q: You went [to] there [sic] house looking for his youngest sibling?
A: Yes sir.

Q: What was the name of his sibling?
A: Emerson.
Q: He is a boy?
A: Yes sir.
Q: And how old is Emerson?
A: 7 years old.
Q: And you were 8 years old?
A: Yes sir.
Q: You went to the place of Eduardo Navarette looking for Emerson. Did you find Emerson?
A: No sir.
Q: Who was there in the house of Eduardo Navarette?
A: Only Eduardo.
Q: What did Eduardo Navarette, Jr. tell you?
A: According to him Emerson is upstairs.
Q: Did you find [him] there?
A: No sir.
Q: What happened?
A: Eduardo also went upstairs.
Q: And then?
A: He pulled me towards the room.
Q: [Who else was there] at that time?
A: Nobody else.
Q: What happened once you were [sic] inside the room?
A: He laid me on the floor.
Q: And then?
A: And then he undress[ed] me.
Q: What particular clothes did he undress you [sic]?
A: Short[s].
Q: What about the upper clothes?
A: No sir.
Q: What about your panty?
A: Yes sir.
Q: Did he remove his brief?
A: Yes sir.
Q: What did he do?
A: He was trying to insert his penis.
Q: Did his penis touch your genitalia?
A: Yes sir.
Q: Where in particular or what part of your genitalia?
A: In the middle.
Q: Did he completely able to penetrate?
A: No sir.
Q: Why?
A: Because it did not fit.
Q: While he was doing that to you, what did you react?
A: I was just crying sir.
Q: And after that what happen[ed] next?
A: He told me not to tell anybody.
Q: And then?
A: He threatened me.
Q: How did he threaten you?
A: He told me that he would kill my parents.
Q: How did you feel when he threatened you?
A: I was scared and I cried I could not do anything.