

SECOND DIVISION

[G.R. No. 178323, March 16, 2011]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ARMANDO CHINGH Y PARCIA, ACCUSED-APPELLANT.**

DECISION

PERALTA, J.:

Armando Chingh y Parcia (Armando) seeks the reversal of the Decision^[1] of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 01119 convicting him of Statutory Rape and Rape Through Sexual Assault.

The factual and procedural antecedents are as follows:

On March 19, 2005, an Information for Rape was filed against Armando for inserting his fingers and afterwards his penis into the private part of his minor victim, VVV,^[2] the accusatory portion of which reads:

That on or about March 11, 2004 in the City of Manila, Philippines, [Armando], with lewd design and by means of force, violence and intimidation did then and there willfully, unlawfully and knowingly commit sexual abuse and lascivious conduct upon a ten (10) year old minor child, [VVV], by then and there pulling her in a dark place then mashing her breast and inserting his fingers in her vagina and afterwards his penis, against her will and consent, thereby causing serious danger to the normal growth and development of the child [VVV], to her damage and prejudice.

Contrary to law.^[3]

Upon his arraignment, Armando pleaded not guilty to the charge. Consequently, trial on the merits ensued.

At the trial, the prosecution presented the testimonies of the victim, VVV; the victim's father; PO3 Ma. Teresa Solidarios; and Dr. Irene Baluyot. The defense, on the other hand, presented the lone testimony Armando as evidence.

Evidence for the Prosecution

Born on 16 September 1993, VVV was only 10 years old at the time of the incident. On 11 March 2004 at around 8:00 p.m., along with five other playmates, VVV proceeded to a store to buy food. While she was beckoning the storekeeper, who was not then at her station, Armando

approached and pulled her hand and threatened not to shout for help or talk. Armando brought her to a vacant lot at Tindalo Street, about 400 meters from the store. While in a standing position beside an unoccupied passenger jeepney, Armando mashed her breast and inserted his right hand index finger into her private part. Despite VVV's pleas for him to stop, Armando unzipped his pants, lifted VVV and rammed his phallus inside her vagina, causing her to feel excruciating pain.

Threatened with death if she would tell anyone what had happened, VVV kept mum about her traumatic experience when she arrived home. Noticing her odd and uneasy demeanor as well as her blood-stained underwear, however, her father pressed her for an explanation. VVV confessed to her father about her unfortunate experience. Immediately, they reported the matter to the police authorities. After his arrest, Armando was positively identified by VVV in a police line-up.

The genital examination of VVV conducted by Dr. Irene Baluyot (Dr. Baluyot) of the Philippine General Hospital's Child Protection Unit, in the morning of 12 March 2004, showed a "fresh laceration with bleeding at 6 o'clock position" in the child's hymen and "minimal bleeding from [said] hymen laceration." Her impression was that there was a "clear evidence" of "penetrating trauma" which happened within 24 hours prior to the examination. The photograph of the lacerated genitalia of VVV strongly illustrated and buttressed Dr. Baluyot's medical report.^[4]

Evidence for the Defense

Armando denied that he raped VVV. Under his version, in (sic) the night of 11 March 2004, he and his granddaughter were on their way to his cousin's house at Payumo St., Tondo, Manila. As it was already late, he told his granddaughter to just go home ahead of him while he decided to go to Blumentritt market to buy food. While passing by a small alley on his way thereto, he saw VVV along with some companions, peeling "dalanghita." VVV approached him and asked if she could go with him to the market because she will buy "dalanghita" or sunkist. He refused her request and told VVV instead to go home. He then proceeded towards Blumentritt, but before he could reach the market, he experienced rheumatic pains that prompted him to return home. Upon arriving home, at about 8:30 o'clock in the evening, he watched television with his wife and children. Shortly thereafter, three (3) barangay officials arrived, arrested him, and brought him to a police precinct where he was informed of VVV's accusation against him.^[5]

On April 29, 2005, the Regional Trial Court of Manila (RTC), Branch 43, after finding the evidence of the prosecution overwhelming against the accused's defense of denial and alibi, rendered a Decision^[6] convicting Armando of Statutory Rape. The dispositive portion of which reads:

WHEREFORE, premises considered, the Court finds accused ARMANDO CHINGH GUILTY beyond reasonable doubt as principal of the crime of Statutory Rape defined and penalized under Article 266-A, paragraph 1 (d) of the Revised Penal Code as amended by RA 8353 and is hereby sentenced to suffer the penalty of **Reclusion Perpetua** and to indemnify private complainant [VVV] the amount of fifty thousand pesos (P50,000.00) as compensatory damages, fifty thousand pesos (P50,000.00) as moral damages and to pay the costs.

It appearing that accused is detained, the period of his detention shall be credited in the service of his sentence.

SO ORDERED.

Aggrieved, Armando appealed the Decision before the CA, which was docketed as CA-G.R. CR-H.C. No. 01119.

On December 29, 2006, the CA rendered a Decision^[7] finding Armando not only guilty of Statutory Rape, but also of Rape Through Sexual Assault. The decretal portion of said Decision reads:

WHEREFORE, the assailed decision of the trial court is **AFFIRMED** with the following **MODIFICATIONS**: accused-appellant is hereby found **GUILTY** of two counts of rape and is, accordingly, sentenced to suffer, for the crime of statutory rape, the penalty of *reclusion perpetua* and, for the offense of rape through sexual assault, the indeterminate penalty of 3 years, 3 months and 1 day of *prision correctional*, as minimum, to 8 years and 11 months and 1 day of *prision mayor*, as maximum. He is likewise ordered to pay the victim, a total of P80,000.00 as civil indemnity, P80,000.00 as moral damages; and P40,000.00 as exemplary damages, or a grand total of P200,000.00 for the two counts of rape.

Costs against accused-appellant.

SO ORDERED.^[8]

In fine, the CA affirmed the decision of the RTC, and considering that the appeal opened the entire case for judicial review, the CA also found Armando guilty of the crime of Rape Through Sexual Assault. The CA opined that since the Information charged Armando with two counts of rape: (1) by inserting his finger in the victim's vagina, which is classified as Rape Through Sexual Assault under paragraph 2, Article 266-A of the Revised Penal Code, as amended; and (2) for inserting his penis in the private part of his victim, which is Statutory Rape, and considering that Armando failed to object thereto through a motion to quash before entering his plea, Armando could be convicted of as many offenses as are charged and proved.

The CA ratiocinated that coupled with the credible, direct, and candid testimony of the victim, the elements of Statutory Rape and Rape Through Sexual Assault were indubitably established by the prosecution.

Armando now comes before this Court for relief.

In a Resolution^[9] dated September 26, 2007, the Court required the parties to file their respective supplemental briefs. In their respective Manifestations,^[10] the parties waived the filing of their supplemental briefs, and instead adopted their respective briefs filed before the CA.

Hence, Armando raises the following errors:

I

THE TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED GUILTY OF THE CRIME OF RAPE UNDER ARTICLE 266-A, PARAGRAPH 1 (D) OF THE REVISED PENAL CODE IN SPITE THE UNNATURAL AND UNREALISTIC TESTIMONY OF THE PRIVATE COMPLAINANT.

II

THE TRIAL COURT ERRED IN FINDING THE ACCUSED GUILTY OF THE OFFENSE CHARGED BEYOND REASONABLE DOUBT.

Simply stated, Armando is assailing the factual basis of his conviction, which in effect, mainly questions the credibility of the testimony of the witnesses for the prosecution, particularly his victim, VVV.

Armando maintains that the prosecution failed to present sufficient evidence that will overcome the presumption of innocence. Likewise,

Armando insists that the RTC gravely erred in convicting him based on the unrealistic and unnatural testimony of the victim. Armando claims that VVV's testimony was so inconsistent with common experience that it deserves careful and critical evaluation. First, it was so unnatural for VVV to remain quiet and not ask for help when the accused allegedly pulled her in the presence of several companions and bystanders; second, VVV did not resist or cry for help while they were on their way to the place where she was allegedly abused, which was 300 to 400 meters away from where he allegedly pulled her; third, VVV could have run away while Armando was allegedly molesting her, but she did not; fourth, Armando could not have inserted his penis in the victim's organ while both of them were standing, unless the victim did not offer any resistance.

Generally, the Court will not disturb the findings of the trial court on the credibility of witnesses, as it was in the better position to observe their candor and behavior on the witness stand. Evaluation of the credibility of witnesses and their testimonies is a matter best undertaken by the trial court; it had the unique opportunity to observe the witnesses and their demeanor, conduct, and attitude, especially under cross-examination. Its assessment is entitled to respect unless certain facts of substance and value were overlooked which, if considered, might affect the result of the case.^[11]

From the testimony of the victim, VVV, she positively identified Armando as the one who ravaged her on that fateful night of March 11, 2004. VVV clearly narrated her harrowing experience in the hands of the accused. Notwithstanding her innocence and despite the thorough cross-examination by Armando's counsel, VVV never faltered and gave a very candid and truthful testimony of traumatic events. VVV's testimony was corroborated and bolstered by the findings of Dr. Irene Baluyot that the victim's genital area showed a fresh laceration with bleeding at 6 o'clock position in her hymen.^[12] Dr. Baluyot concluded that an acute injury occurred within 24 hours prior to the examination and that the occurrence of rape within that period was very possible.^[13] Also, the age of VVV at the time the incident occurred, which was 10 years old, was duly established by her birth certificate,^[14] her testimony,^[15] and that of her father's.^[16]

Time and again, this Court has held that when the offended parties are young and immature girls, as in this case, courts are inclined to lend credence to their version of what transpired, considering not only their relative vulnerability, but also the shame and embarrassment to which they would be exposed if the matter about which they testified were not true.^[17] A young girl would not usually concoct a tale of defloration; publicly admit having been ravished and her honor tainted; allow the examination of her private parts; and undergo all the trouble and inconvenience, not to mention the trauma and scandal of a public trial, had she not in fact been raped and been truly moved to protect and preserve her honor, and motivated by the desire to obtain justice for the wicked acts committed against her.^[18] Moreover, the Court has repeatedly held that the lone testimony of the victim in a rape case, if credible, is enough to sustain a conviction.^[19]

On the other hand, Armando admitted that he saw VVV on the date of the incident, but denied the accusations against him and merely relied on his defense that he was watching TV with his family when barangay officials arrested him.

Armando's defenses were also unavailing. His contention that it was unnatural and unrealistic for VVV to remain quiet when he pulled her from her companions and why she did not cry for help or run away when he was allegedly ravaging her deserves scant consideration. Clearly, the reason why VVV did not shout for help was because Armando told her not to shout or talk.^[20] Likewise, the reason why VVV did not run when Armando was molesting her was because his finger was still inside her private part.^[21] Moreover, Armando's argument that he could not have inserted his penis in the victim's organ while both of them were standing is preposterous. It is settled that sexual intercourse in a standing position, while perhaps uncomfortable, is not improbable.^[22]

Armando tendered nothing but his bare denial and contention that he was elsewhere when the crime was committed. Aside from this, he presented no more evidence to substantiate his claims. Jurisprudence dictates that denial and alibi are the common defenses in rape cases. Sexual abuse is denied on the allegation that the accused was somewhere else and could not have physically committed the crime. This Court has always held that these two defenses are inherently weak and must be supported by clear and convincing evidence in order to be believed. As negative defenses, they cannot prevail over the positive testimony of the complainant.^[23] Consequently, Armando's bare denial and alibi must fail against the testimony of VVV and her