

SECOND DIVISION

[G.R. No. 186417, July 27, 2011]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. FELIPE MIRANDILLA, JR., DEFENDANT AND APPELLANT.

DECISION

PEREZ, J.:

For Review before this Court is the Decision of the Court of Appeals (CA) in CA-G.R. CR-HC No. 00271, ^[1] dated 29 February 2008, finding accused Felipe Mirandilla, Jr., (Mirandilla) guilty beyond reasonable doubt of special complex crime of kidnapping with rape; four counts of rape; and, one count of rape through sexual assault.

Mirandilla is now asking this Court to acquit him. He contends that he could not have kidnapped and raped the victim, AAA, ^[2] whom he claims to be his live-in partner. The records, however, reveal with moral certainty his guilt. Accordingly, We modify the CA Decision and find him guilty of the special complex crime of kidnapping and illegal detention with rape.

THE FACTS

AAA narrated her 39-day ordeal in the hands of Mirandilla.

It was 2 December 2000, eve of the *fiesta* in *Barangay* San Francisco, Legazpi City. At the plaza, AAA was dancing with her elder sister, BBB. ^[3]

AAA went out of the dancing hall to buy candies in a nearby store. While making her way back through the crowd, a man grabbed her hand, his arm wrapped her shoulders, with a knife's point thrust at her right side. She will come to know the man's name at the police station, after her escape, to be Felipe Mirandilla, Jr. ^[4] He told her not to move or ask for help. Another man joined and went beside her, while two others stayed at her back, one of whom had a gun. They slipped through the unsuspecting crowd, walked farther as the deafening music faded into soft sounds. After a four-hour walk through the grassy fields, they reached the Mayon International Hotel, where they boarded a waiting tricycle. Upon passing the Albay Cathedral, the others alighted, leaving AAA alone with Mirandilla who after receiving a gun from a companion, drove the tricycle farther away and into the darkness. Minutes later, they reached the *Gallera de Legazpi* in Rawis. ^[5]

Mirandilla dragged AAA out of the tricycle and pushed her inside a concrete house. At gunpoint he ordered her to remove her pants. ^[6] When she defied him, he slapped her and hit her arms with a gun, forced his hands inside her pants, into her panty, and reaching her vagina, slipped his three fingers and rotated them inside. The pain weakened her. He forcibly pulled her pants down and lifting her legs,

pushed and pulled his penis inside. [7] "*Sayang ka,*" she heard him whisper at her, [8] as she succumbed to pain and exhaustion.

When AAA woke up the following morning, she found herself alone. She cried for help, shouting until her throat dried. But no one heard her. No rescue came.

At around midnight, Mirandilla arrived together with his gang. Pointing a gun at AAA, he ordered her to open her mouth; she sheepishly obeyed. He forced his penis inside her mouth, pulling through her hair with his left hand and slapping her with his right. After satisfying his lust, he dragged her into the tricycle and drove to Bogtong, Legazpi. At the road's side, Mirandilla pushed her against a reclining tree, gagged her mouth with cloth, punched her arm, thigh, and lap, and pulled up her over-sized shirt. Her underwear was gone. Then she felt Mirandilla's penis inside her vagina. A little while, a companion warned Mirandilla to move out. And they drove away. [9]

They reached a nipa hut and AAA was thrown inside. Her mouth was again covered with cloth. Mirandilla, with a gun aimed at her point blank, grabbed her shirt, forced her legs open, and again inserted his penis into her vagina. [10]

The following evening, Mirandilla and his gang brought AAA to Guinobatan, where she suffered the same fate. They repeatedly detained her at daytime, moved her back and forth from one place to another on the following nights, first to Bonga, then back to Guinobatan, where she was locked up in a cell-type house and was raped repeatedly on the grassy field right outside her cell, then to Camalig, where they caged her in a small house in the middle of a rice field. She was allegedly raped 27 times. [11]

One afternoon, in Guinobatan, AAA succeeded in opening the door of her cell. Seeing that Mirandilla and his companions were busy playing cards, she rushed outside and ran, crossed a river, got drenched, and continued running. She rested for awhile, hiding behind a rock; she walked through the fields and stayed out of people's sight for two nights. Finally, she found a road and followed its path, leading her to the house of Evelyn Guevarra who brought her to the police station. It was 11 January 2001. AAA was in foul smell, starving and sleepless. Evelyn Guevarra gave her a bath and the police gave her food. When the police presented to her pictures of suspected criminals, she recognized the man's face - she was certain it was him. He was Felipe Mirandilla, Jr., the police told her. [12]

The following morning, accompanied by the police, AAA submitted herself to Dr. Sarah Vasquez, Legazpi City's Health Officer for medical examination. The doctor discovered hymenal lacerations in different positions of her hymen, indicative of sexual intercourse. [13] Foul smelling pus also oozed from her vagina - AAA had contracted gonorrhoea. [14]

Mirandilla denied the charges against him. This is his version.

Mirandilla first met AAA on 3 October 2000. By stroke of fate, they bumped into each other at the Albay Park where AAA, wearing a school uniform, approached him. They had a short chat. They were neighbors in *Barangay* San Francisco until

Mirandilla left his wife and daughter there for good. [15]

Two days later, Mirandilla and AAA met again at the park. He started courting her, [16] and, after five days, as AAA celebrated her 18th birthday, they became lovers. Mirandilla was then 33 years old.

Immediately, Mirandilla and AAA had sex nightly in their friends' houses and in cheap motels. On 24 October 2000, after Mirandilla went to his mother's house in Kilikao, they met again at the park, at their usual meeting place, in front of the park's comfort room, near Arlene Moret, a cigarette vendor who also served as the CR's guard. [17] They decided to elope and live as a couple. They found an abandoned house in Rawis, at the back of *Gallera de Legazpi*. Emilio Mendoza who owned the house, rented it to them for P1,500.00. [18] They lived there from 28 October until 11 December 2000. [19] From 12 December 2000 until 11 January 2001, [20] Mirandilla and AAA stayed in Rogelio Marcellana's house, at the resettlement Site in Banquerohan, Legazpi City.

Mirandilla and AAA's nightly sexual intimacy continued, with abstentions only during AAA's menstrual periods, the last of which she had on 7 December 2000. [21] In late December, however, Mirandilla, who just arrived home after visiting his mother in Kilikao, saw AAA soaked in blood, moaning in excruciating stomach pain. [22] AAA had abortion - an inference he drew upon seeing the cover of pills lying beside AAA. Mirandilla claimed that AAA bled for days until she left him in January 2001 after quarrelling for days. [23]

Mirandilla, however, had a second version of this crucial event. He claimed that AAA missed her menstruation in December 2000 [24] and that he would not have known she had an abortion had she not confessed it to him. [25]

THE RTC RULING

Mirandilla was charged before the Regional Trial Court (RTC) of Legazpi City, Branch 5, with kidnapping with rape (Crim. Case No. 9278), four counts of rape (Crim. Case Nos. 9274 to 9277), and rape through sexual assault (Crim. Case No. 9279).

The RTC, in its decision dated 1 July 2004, convicted Mirandilla of kidnapping, four counts of rape, and one count of rape through sexual assault with this finding:

This Court has arrived at the factual conclusion that Felipe Mirandilla, Jr., in the company of three others [conferrers], kidnapped AAA in *Barangay xxx*, City of xxx, on or on about midnight of December 2, 2000 or early morning of December 3, 2000, held her in detention for thirty-nine days in separate cells situated in the City of xxx; xxx; and xxx. Felipe Mirandilla, Jr., carnally abused her while holding a gun and/or a knife for twenty seven times, employing force and intimidation. The twenty seven sexual intercourses were eventually perpetrated between the City of xxx and the towns of xxx and xxx. At least once, Felipe Mirandilla, Jr., put his penis inside the mouth of AAA against her will while employing intimidation, threats, and force. [26]

THE COURT OF APPEALS RULING

On review, the CA affirmed with modification the RTC ruling, convicting Mirandilla. It found him guilty of the special complex crime of kidnapping with rape (instead of kidnapping as the RTC ruled), four counts of rape, and one count of rape by sexual assault. [27] It rejected Mirandilla's defense that he and AAA were live-in partners and that their sexual encounters were consensual. [28] It noted that Mirandilla failed to adduce any evidence or any credible witness to sustain his defense. [29]

Hence, this appeal.

Mirandilla repeats his allegations that the prosecution's lone witness, AAA, was not a credible witness and that he and AAA were live-in partners whose intimacy they expressed in consensual sex.

OUR RULING

We find Mirandilla guilty of the special complex crime of kidnapping and illegal detention with rape.

Mirandilla admitted in open court to have had sexual intercourse with AAA, which happened almost nightly during their cohabitation. He contended that they were live-in partners, entangled in a whirlwind romance, which intimacy they expressed in countless passionate sex, which headed ironically to separation mainly because of AAA's intentional abortion of their first child to be - a betrayal in its gravest form which he found hard to forgive.

In stark contrast to Mirandilla's tale of a love affair, is AAA's claim of her horrific ordeal and her flight to freedom after 39 days in captivity during which Mirandilla raped her 27 times.

First Issue:

Credibility of Prosecution Witness

Jurisprudence is consistent that for testimonial evidence to be believed, it must not only come from a credible witness but must be credible in itself - tested by human experience, observation, common knowledge and accepted conduct that has evolved through the years. [30]

Daggers v. Van Dyck, [31] illuminates:

Evidence to be believed, must not only proceed from the mouth of a credible witness, but it must be credible in itself - such as the common experience and observation of mankind can approve as probable under the circumstances. We have no test of the truth of human testimony, except its conformity to our knowledge, observation, and experience.

Whatever is repugnant to these belongs to the miraculous and is outside of judicial cognizance. [32]

First, the trial judge, who had the opportunity of observing AAA's manner and demeanour on the witness stand, was convinced of her credibility: "AAA appeared to be a simple and truthful woman, whose testimony was consistent, steady and firm, free from any material and serious contradictions." [33] The court continued:

The record nowhere yields any evidence of ill motive on the part of AAA to influence her in fabricating criminal charges against Felipe Mirandilla, Jr. The absence of ill motive enhances the standing of AAA as a witness.
x x x.

When AAA testified in court, she was sobbing. While she was facing Felipe Mirandilla, Jr., to positively identify him in open court, she was crying. Felipe Mirandilla Jr.'s response was to smile. AAA was a picture of a woman who was gravely harmed, craving for justice. x x x. [34]

Second, the trial court found AAA's testimony to be credible in itself. AAA's ordeal was entered into the police blotter immediately after her escape, [35] negating opportunity for concoction. [36] While in Mirandilla's company, none of her parents, brothers, sisters, relatives, classmates, or anyone who knew her, visited, saw, or talked to her. None of them knew her whereabouts. [37] AAA's testimony was corroborated by Dr. Sarah Vasquez, Legazpi City's Health Officer, who discovered the presence not only of hymenal lacerations but also gonorrhoea, a sexually transmitted disease.

More importantly, AAA remained consistent in the midst of gruelling cross examination. The defense lawyer tried to impeach her testimony, but failed to do so.

The Court of Appeals confirmed AAA's credibility in affirming the RTC decision.

We emphasize that a trial court's assessment of a witness' credibility, when affirmed by the CA, is even conclusive and binding, if not tainted with arbitrariness or oversight of some fact or circumstance of weight or influence. [38] This is so because of the judicial experience that trial courts are in a better position to decide the question of credibility, having heard the witnesses themselves and having observed firsthand their deportment and manner of testifying under gruelling examination. [39] Thus, in *Estioca v. People*, [40] we held:

In resolving issues pertaining to the credibility of the witnesses, this Court is guided by the following principles: (1) the reviewing court will not disturb the findings of the lower courts, unless there is a showing that it overlooked or misapplied some fact or circumstance of weight and substance that may affect the result of the case; (2) the findings of the trial court on the credibility of witnesses are entitled to great respect and even finality, as it had the opportunity to examine their demeanour when