

FIRST DIVISION

[G.R. No. 183563, December 14, 2011]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. HENRY ARPON Y JUNTILLA, ACCUSED-APPELLANT.

D E C I S I O N

LEONARDO-DE CASTRO, J.:

Assailed before Us is the Decision^[1] of the Court of Appeals dated February 8, 2008 in CA-G.R. CR.-H.C. No. 00560, which affirmed with modification the Decision^[2] dated September 9, 2002 of the Regional Trial Court (RTC) of Tacloban City, Branch 7, in Criminal Case Nos. 2001-01-46 to 2001-01-53, finding the accused-appellant Henry Arpon y Juntilla guilty beyond reasonable doubt of one (1) count of statutory rape and seven (7) counts of rape against the private complainant AAA.^[3]

On December 29, 1999, the accused-appellant was charged^[4] with eight (8) counts of rape in separate informations, the accusatory portions of which state:

Criminal Case No. 2000-01-46

That sometime in the year **1995** in the municipality of [XXX], Province of Leyte, Philippines, and within the jurisdiction of this Honorable Court, the said accused, who is the uncle of [AAA], the offended party, actuated by lust, did, then and there, willfully, unlawfully and feloniously, succeed in having carnal knowledge of the said [AAA], who was then only **eight (8) years old**, without her consent and against her will.

Contrary to law with the aggravating circumstance that the victim is under eighteen (18) years of age and the offender is a relative by consanguinity within the third civil degree.^[5]

Criminal Case No. 2000-01-47

That sometime in the month of **July, 1999** in the municipality of [XXX], Province of Leyte, Philippines, and within the jurisdiction of this Honorable Court, the said accused, who is the uncle of [AAA], the **twelve-year-old** offended party, actuated by lust, did, then and there, willfully, unlawfully and feloniously, and with the use of force and violence succeed in having carnal knowledge of the said [AAA], without her consent and against her will.

Contrary to law with the aggravating circumstance that the victim is under eighteen (18) years of age and the offender is a relative by

consanguinity within the third civil degree.^[6]

Criminal Case No. 2000-01-48

That sometime in the month **July 1999** in the municipality of [XXX], Province of Leyte, Philippines, and within the jurisdiction of this Honorable Court, the said accused, who is the uncle of [AAA], the **twelve-year-old** offended party, actuated by lust, did, then and there, willfully, unlawfully and feloniously, and with the use of force and violence succeed in having carnal knowledge of the said [AAA], without her consent and against her will.

Contrary to law with the aggravating circumstance that the victim is under eighteen (18) years of age and the offender is a relative by consanguinity within the third civil degree.^[7]

Criminal Case No. 2000-01-49

That sometime in the month of **July, 1999** in the municipality of [XXX], Province of Leyte, Philippines, and within the jurisdiction of this Honorable Court, the said accused, who is the uncle of [AAA], the **twelve-year-old** offended party, actuated by lust, did, then and there, willfully, unlawfully and feloniously, and with the use of force and violence succeed in having carnal knowledge of the said [AAA], without her consent and against her will.

Contrary to law with the aggravating circumstance that the victim is under eighteen (18) years of age and the offender is a relative by consanguinity within the third civil degree.^[8]

Criminal Case No. 2000-01-50

That sometime in the month of **July, 1999** in the municipality of [XXX], Province of Leyte, Philippines, and within the jurisdiction of this Honorable Court, the said accused, who is the uncle of [AAA], the **twelve-year-old** offended party, actuated by lust, did, then and there, willfully, unlawfully and feloniously, and with the use of force and violence succeed in having carnal knowledge of the said [AAA], without her consent and against her will.

Contrary to law with the aggravating circumstance that the victim is under eighteen (18) years of age and the offender is a relative by consanguinity within the third civil degree.^[9]

Criminal Case No. 2000-01-51

That sometime in the month of **July, 1999** in the municipality of [XXX], Province of Leyte, Philippines, and within the jurisdiction of this Honorable Court, the said accused, who is the uncle of [AAA], the **twelve-year-old** offended party, actuated by lust, did, then and there, willfully, unlawfully and feloniously, and with the use of force and violence

succeed in having carnal knowledge of the said [AAA], without her consent and against her will.

Contrary to law with the aggravating circumstance that the victim is under eighteen (18) years of age and the offender is a relative by consanguinity within the third civil degree.^[10]

Criminal Case No. 2000-01-52

That sometime in the month of **August, 1999** in the municipality of [XXX], Province of Leyte, Philippines, and within the jurisdiction of this Honorable Court, the said accused, who is the uncle of [AAA], the **twelve-year-old** offended party, actuated by lust, did, then and there, willfully, unlawfully and feloniously, and with the use of force and violence succeed in having carnal knowledge of the said [AAA], without her consent and against her will.

Contrary to law with the aggravating circumstance that the victim is under eighteen (18) years of age and the offender is a relative by consanguinity within the third civil degree.^[11]

Criminal Case No. 2000-01-47

That sometime in the month of **August, 1999** in the municipality of [XXX], Province of Leyte, Philippines, and within the jurisdiction of this Honorable Court, the said accused, who is the uncle of [AAA], the **twelve-year-old** offended party, actuated by lust, did, then and there, willfully, unlawfully and feloniously, and with the use of force and violence succeed in having carnal knowledge of the said [AAA], without her consent and against her will.

Contrary to law with the aggravating circumstance that the victim is under eighteen (18) years of age and the offender is a relative by consanguinity within the third civil degree.^[12] (Emphases ours.)

During the arraignment of the accused-appellant on November 28, 2000, he entered a plea of not guilty.^[13] On March 13, 2001, the pre-trial conference of the cases was conducted and the parties stipulated on the identity of the accused-appellant in all the cases, the minority of the victim and the fact that the accused appellant is the uncle of the victim.^[14]

The pre-trial order containing the foregoing stipulations was signed by the accused and his counsel. The cases were then heard on consolidated trial.

The prosecution presented the lone testimony of AAA to prove the charges against the accused-appellant. AAA testified that she was born on November 1, 1987.^[15] In one afternoon when she was only eight years old, she stated that the accused-appellant raped her inside their house. She could not remember, though, the exact month and date of the incident. The accused-appellant stripped off her shorts, panties and shirt and went on top of her. He had his clothes on and only pulled

down his zipper. He then pulled out his organ, put it in her vagina and did the pumping motion. AAA felt pain but she did not know if his organ penetrated her vagina. When he pulled out his organ, she did not see any blood. She did so only when she urinated.^[16]

AAA also testified that the accused-appellant raped her again in July 1999 for five times on different nights. The accused-appellant was then drinking alcohol with BBB, the stepfather of AAA, in the house of AAA's neighbor. He came to AAA's house, took off her panty and went on top of her. She could not see what he was wearing as it was nighttime. He made her hold his penis then he left. When asked again how the accused-appellant raped her for five nights in July of the said year, AAA narrated that he pulled down her panty, went on top of her and pumped. She felt pain as he put his penis into her vagina. Every time she urinated, thereafter, she felt pain. AAA said that she recognized the accused-appellant as her assailant since it was a moonlit night and their window was only covered by cloth. He entered through the kitchen as the door therein was detached.^[17]

AAA further related that the accused-appellant raped her again twice in August 1999 at nighttime. He kissed her and then he took off his shirt, went on top of her and pumped. She felt pain in her vagina and in her chest because he was heavy. She did not know if his penis penetrated her vagina. She related that the accused-appellant was her uncle as he was the brother of her mother. AAA said that she did not tell anybody about the rapes because the accused-appellant threatened to kill her mother if she did. She only filed a complaint when he proceeded to also rape her younger sister, DDD.^[18]

After the testimony of AAA, the prosecution formally offered its documentary evidence, consisting of: (1) Exhibit A - the Medico-Legal Report,^[19] which contained the results of the medical examination conducted on AAA by Dr. Rommel Capungcol and Dr. Melissa Adel Gagala on October 26, 1999; and (2) Exhibit B - the Social Case Study Report^[20] pertaining to AAA's case, which was issued by the Municipal Social Welfare and Development Office of the Province of Leyte.

The Medico-Legal Report stated the following findings:

P. E. Findings:

Surg. Findings:

- (-) Physical injuries.

OB- NOTES:

- Patient came in with history of rape since 8 year old for so many times. last act was March 1999.

O: Pelvic Exam:

Ext. Genetalia - grossly normal.

Introitus: Old, healed incomplete laceration at 3 & 9 o'clock position

Speculum Exam: not done due to resistance.

Internal Exam:

Vaginal smear for presence of spermatozoa: = NEGATIVE^[21]

Upon the other hand, the defense called the accused-appellant to the witness stand to deny the informations filed against him and to refute the testimony of AAA. He testified that when the first incident of rape allegedly happened in 1995, he was only 13 years old as he was born on February 23, 1982. In 1995, he worked in Sagkahan, Tacloban City as a houseboy for a certain Gloria Salazar and he stayed there up to 1996. He stated that he was working in Tacloban City when the alleged rapes happened in the municipality of XXX. When he would go home from Tacloban, he would stay at the house of a certain Fred Antoni. He did not go to the house of AAA as the latter's parents were his enemies. He said that he had a quarrel with AAA's parents because he did not work with them in the ricefields. He further recounted that in July 1999, he was also living in Tacloban City and worked there as a dishwasher at a restaurant. He worked there from 1998 up to September 1999. The accused-appellant likewise stated that in August 1999, he was still working at the same restaurant in Tacloban City. While working there, he did not go home to XXX as he was busy with work. He denied that he would have drinking sprees with AAA's stepfather, BBB, because they were enemies.^[22]

On cross-examination, the accused-appellant admitted that the mother of AAA was his sister and they were close to each other. He said that his parents were still alive in 1995 up to October 1999 and the latter then resided at Calaasan, Alangalang, Leyte. He indicated that his parents' house was about two kilometers away from the house of AAA. While he was working at the restaurant in Tacloban City, he would visit his parents once every month, mainly on Sundays.^[23]

The Judgment of the RTC

On September 9, 2002, the RTC of Tacloban City, Branch 7, rendered a Decision convicting the accused-appellant as follows:

WHEREFORE, premises considered, pursuant to Art. 266-A and 266-B of the Revised Penal Code as amended, and further amended by R.A. 8353 (Rape Law of 1997) and R.A. 7659 (Death Penalty Law) the Court found accused **HENRY ARPON, GUILTY** beyond reasonable doubt of **ONE COUNT OF STATUTORY RAPE** and **SEVEN COUNTS OF RAPE** charged under the informations and sentenced to suffer the maximum penalty of **DEATH**, and to indemnify the victim, [AAA] the amount of **Fifty Thousand (P50,000.00) Pesos** for each count of Rape and pay moral damages in the amount of **Fifty Thousand (P50,000.00) Pesos** and **pay the cost.**^[24] (Emphases in the original.)

The court *a quo* found more credible the testimony of AAA. The fact that AAA was in tears when she testified convinced the trial court of the truthfulness of her rape charges against the accused-appellant. If there were inconsistencies in AAA's testimony, the trial court deemed the same understandable considering that AAA was pitted against a learned opposing counsel. The delay in the reporting of the rape incidents was not also an indication that the charges were fabricated. Moreover, the trial court ruled that the findings of the medico-legal officer confirmed that she was indeed raped. The accused-appellant's defense of alibi was likewise disregarded by the trial court, declaring that it was not physically impossible for him to be