

FIRST DIVISION

[G.R. No. 177740, April 05, 2010]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ROMULO GARCIA Y MACEDA, ACCUSED-APPELLANT.**

D E C I S I O N

VILLARAMA, JR., J.:

On appeal is the Decision ^[1] dated July 26, 2006 of the Court of Appeals in CA-G.R. CR-H.C. No. 02170, which affirmed with modification the Decision ^[2] of the Regional Trial Court (RTC) of Mandaluyong City, Branch 213, in Criminal Case No. MC-00-107-H, convicting and sentencing appellant Romulo Garcia y Maceda to *reclusion perpetua* for the crime of rape.

On March 27, 2000, an Information ^[3] for rape was filed against appellant which reads as follows:

That on or about the 6th day of January 2000, in the City of Mandaluyong, Philippines, a place within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and feloniously lie and have carnal knowledge of one [AAA], ^[4] five (5) years of age and his grandniece by affinity thus sexual abuse prejudicial to the child's development.

CONTRARY TO LAW.

Upon arraignment on April 13, 2000, appellant, assisted by counsel *de officio*, pleaded **not guilty** to the charge. ^[5] On June 20, 2000, both parties stipulated during pre-trial that the victim AAA was a minor, being born on June 22, 1994. ^[6] Thereafter, trial ensued on the merits.

The facts as established by the prosecution are as follows:

In the afternoon of January 6, 2000, AAA, then five (5) years old, was playing with her friends on the street outside their house in Sto. Rosario Street, Mandaluyong City. Appellant called AAA and brought her to his house, which was right next to AAA's house. At the time, the house was unoccupied. They went up to the second floor where appellant's room is located. Inside his room, appellant began removing AAA's dress, shorts and panty. Appellant then removed his own clothes. He told AAA to lie on the bed, and wasting no time, inserted his penis into her vagina. AAA felt pain, but she was unable to cry for help because appellant warned her not to tell anyone. Thereafter, appellant told AAA to dress up and go home. ^[7]

Around 6:00 p.m. of the same day, BBB, the grandmother of AAA, was preparing to take a bath when the latter arrived. AAA asked her grandmother to give her a bath, but when BBB was about to wash AAA's genital area, she refused. BBB noticed that her granddaughter was trembling and covering her private part with her hands. BBB became suspicious and asked her to explain what happened. AAA replied that it was painful because it was pierced by a stick. They went upstairs and BBB told her granddaughter to lie down. BBB looked at AAA's vagina and saw that it was swollen and reddish. Hence, she suspected that AAA had been abused. [8]

The following day, January 7, 2000, BBB brought AAA to the house of her sister-in-law, CCC, in Makati City, to inform her of AAA's condition. AAA requested BBB to go out of the room because she was embarrassed. It was on this occasion that AAA revealed to CCC that it was appellant, whom she calls "Lolo Boyet," who abused her in the afternoon of January 6, 2000. BBB explained that AAA is appellant's grandniece because his wife, DDD, is her sister. [9]

Consequently, BBB reported the incident to the PNP Mandaluyong City Police Station. The case was referred to PO1 Josefina L. Abenojar of the Women and Children's Desk for investigation. PO1 Abenojar prepared the sworn statements executed by BBB and AAA relative to the incident. [10]

SPO4 Julieta SI Espiritu, Chief of the Women and Children's Desk, corroborated the testimony of PO1 Abenojar. SPO4 Espiritu testified that she tried to familiarize AAA with the surroundings in the police station because she was hesitant to talk at first. She also noticed that AAA looked serious about what she was saying and observed AAA to be a bit afraid and ashamed. She attested that she issued a referral letter to the City Prosecutor's Office. [11]

It likewise appears that BBB was accompanied by DSWD representative Brenda Galope when they brought AAA to St. Claire's Hospital. However, for unknown reasons, they were refused admission. Thus, they proceeded to the National Bureau of Investigation, where AAA was examined by medico-legal officer Dr. Ida De Perio Daniel. [12] Dr. Daniel testified that she conducted physical and medico-genital examination on AAA. [13] She prepared a report, entitled *Living Case No. MG-00-29*, [14] which showed the following findings:

CONCLUSIONS:

1. No evident signs of extragenital physical injury was noted on the body of the subject at the time of examination.
2. Hymen, intact and its orifice small (0.3 cm. in diameter) as to preclude complete penetration by an average-sized adult Filipino male organ in full erection without producing genital injury.

According to Dr. Daniel, the phrase "to preclude complete penetration by an average-sized adult Filipino male organ" means that the hymen was not penetrated by an erect penis, but explained that in rape cases, a normal finding will not disprove that there was no sexual intercourse or abuse. [15]

The defense, on the other hand, interposed the defense of alibi.

Testifying for appellant, DDD, appellant's common-law-wife, testified that on January 6, 2000, she woke up at 7:00 a.m. and cooked breakfast for her children and husband. Appellant was allegedly already downstairs, outside their house, fixing the motor pump when she cooked breakfast. She testified that appellant fixed the water pump the whole day, but admitted that she did not actually see her husband the whole time because every now and then her husband would go outside to test the pump. She was not able to monitor the movements of appellant as he was sometimes out of her sight. DDD admitted that the victim is her niece while the latter's guardian, BBB, is her sister. She further said that she had disagreements with BBB regarding the house where she resides, and that the house was given to her by BBB and their other sister. [16]

Appellant, for his part, testified that on January 6, 2000, he was at the house of Marvin Tara in St. Ignacio Street, Mandaluyong City, installing a water pump. He started at 8:00 a.m. and came back around 12:00 noon. From 1:00 p.m. to 6:00 p.m., he was at the said house with Mario Odtuhan, his helper; Cora Reyes; a nephew of Marvin, whose name he does not know; and a certain Carding. He further testified that DDD is his live-in partner, and admitted that he did not have a harmonious relationship with DDD's father and sister, BBB. [17]

On July 1, 2004, the trial court promulgated its decision convicting appellant as charged, the *fallo* of which reads:

WHEREFORE, this Court is morally convinced that the accused, ROMULO GARCIA Y MACEDA, is GUILTY, beyond reasonable doubt of the crime of RAPE, as defined and penalized under the Revised Penal Code, as amended by R.A. 7659, in relation to R.A. 7160. Finding the victim, [AAA], to have been under eighteen (18) years of age at the time of rape on January 6, 2000 and finding the offender to be a relative by affinity within the third civil degree, in addition to the fact that said victim is below seven (7) years old, this Court imposes the supreme penalty of Death through Lethal Injection, as provided for in Republic Act, 8177, amending section 24 of R.A. 7659, in the manner and procedure therein provided.

The accused is hereby directed to indemnify the offended party the amount of Seventy Five Thousand (Php 75,000.00) Pesos, the crime of Rape being effectively qualified by the circumstances under which the Death Penalty is authorized by the applicable amendatory laws.

He is further ordered to indemnify the victim in the amount of Fifty Thousand (Php 50,000.00) Pesos, by way of moral damages.

SO ORDERED. [18]

In view of the Death Penalty imposed by the trial court, the entire records of the case were forwarded to this Court for automatic review. In a Resolution [19] dated

January 24, 2006, the Court referred the case to the Court of Appeals for appropriate action and disposition pursuant to the Court's pronouncement in *People v. Mateo*. [20]

After a review of the case, the Court of Appeals reduced the penalty of death imposed by the trial court to *reclusion perpetua* in view of the abolition of the Death Penalty by Republic Act No. 9346. [21] The dispositive portion of the Court of Appeals decision reads:

WHEREFORE, premises considered, herein appeal is hereby **DISMISSED** for evident lack of merit and the assailed Judgment is hereby **AFFIRMED** with **MODIFICATION** imposing the penalty of RECLUSION PERPETUA upon the Appellant.

SO ORDERED. [22]

The case was then elevated to this Court for review. Appellant alleges that

THE TRIAL COURT GRAVE[LY] ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY OF RAPE DESPITE THE FAILURE OF THE PROSECUTION TO PROVE HIS GUILT BEYOND REASONABLE DOUBT. [23]

The core issue to be resolved in the instant case is whether the crime of rape has been sufficiently proven.

Appellant insists that the prosecution failed to prove his guilt beyond reasonable doubt for the crime of rape. He contends that the trial court hastily disregarded his defense of denial, which was sufficient to absolve him in light of the evidence on record. He emphasizes that the medico-legal officer testified that there were no signs of swelling on the victim's vagina when she was examined. Appellant further claims that the victim was coached to make false accusations against him, considering that he was not in good terms with the victim's grandmother. [24]

The Court finds appellant's contentions untenable.

To determine the innocence or guilt of the accused in rape cases, the courts are guided by three well-entrenched principles: (1) an accusation of rape can be made with facility and while the accusation is difficult to prove, it is even more difficult for the accused, though innocent, to disprove; (2) considering that in the nature of things, only two persons are usually involved in the crime of rape, the testimony of the complainant should be scrutinized with great caution; and (3) the evidence for the prosecution must stand or fall on its own merits and cannot be allowed to draw strength from the weakness of the evidence for the defense. [25]

In the present case, AAA categorically testified that appellant directly inserted his penis into her vagina, causing her to feel pain. AAA's testimony specified the acts committed by appellant when he violated her on January 6, 2000, to wit:

PROS. SILAO:

Q- Matagal mo nang kakilala si Papa Boyet?

A- Opo.

Q- Bakit, kaano-ano mo ba siya?

A- Lolo po.

Q- Matatandaan mo ba [AAA] kung ano ang nangyari sa iyo nung ika-6 ng Enero 2000 mga bandang hapon?

A- Nung lumalabas po ako, kami po ay naglalaro.

Q- Saan ka naglalaro?

A- Sa labas po.

Q- Sa labas ng ano?

A- Sa kalsada.

Q- Nung naglalaro ka sa may kalsada, may matatandaan ka bang ginawa sa'yo si Papa Boyet?

A- Opo.

Q- Ano ang ginawa sa'yo ni Papa Boyet?

A- Sabi niya huwag ka magsusumbong sa Nanay mo.

Q- Bakit, ano ang ginawa niya sa'yo?

A- Sabi niya wag ka daw magsusumbong sa Daddy mo.

Q- Saan ka dinala ni Papa Boyet?

A- Sa bahay niya po.

Q- Malayo ba yung bahay ni Papa Boyet?

A- Hindi po, malapit lang po.

Q- May tao ba sa bahay ni Papa Boyet?

A- Opo.

Q- Sino ang tao sa bahay ni Papa Boyet nung dinala ka niya doon?

A- Siya lang po.

Q- Malaki ba yung bahay ni Papa Boyet?