

FIRST DIVISION

[G.R. No. 187049, May 04, 2010]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. LITO
MACAPANAS Y ECIJA, ACCUSED-APPELLANT.**

D E C I S I O N

VILLARAMA, JR., J.:

For review is the Decision^[1] dated November 24, 2006 of the Court of Appeals in CA-G.R. CR-H.C. No. 00222 which affirmed with modification the Decision^[2] of the Regional Trial Court (RTC) of Guiuan, Eastern Samar, Branch 3, finding appellant Lito E. Macapanas guilty of rape and sentencing him to suffer the penalty of *reclusion perpetua*.

On February 1, 2000, an Information was filed charging appellant of the crime of rape. The Information reads,

That on or about the 7th day of December, 1999, at about 7:30 o'clock in the morning, in between Brgy. XXX and Brgy. YYY, Salcedo, Eastern Samar, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused while the victim was on her way to school, she was waylaid by the accused wearing a bonnet armed with a sharp-pointed bolo locally known as "sundang" and brought her to an isolated hut where she was alone and ordered her to undress and forced her to lie down and by means of force and intimidation did then and there willfully, unlawfully and feloniously succeed in having carnal knowledge with AAA,^[3] a 19-year-old girl without her consent and against her will.

Contrary to law.^[4]

When arraigned on March 27, 2000, appellant, with the assistance of counsel, pleaded not guilty to the offense charged.^[5] Trial thereafter ensued.

The prosecution presented the following witnesses: (1) Dr. Elizabeth Co-Loyola, Medical Officer IV of Southern Samar General Hospital;^[6] (2) Senior Police Officer 4 Isidro E. Bajar, Officer-in-Charge (OIC) of the Philippine National Police at Guiuan, Eastern Samar;^[7] and (3) AAA, the private complainant.^[8]

From their testimonies, we gather the version of the prosecution:

At around 7:30 a.m. on December 7, 1999, AAA, a student of Eastern Samar State Agricultural College, was walking on the feeder road of Barangay XXX, Salcedo,

Eastern Samar going to the waiting shed where she was to take a ride to school. She was 50 to 60 meters away from the waiting shed when the appellant, wearing a makeshift ski mask and armed with a bladed weapon locally known as *sundang*, grabbed her hair. Appellant poked the *sundang* on her side and pulled her towards a grassy area. She tried to free herself and pleaded for mercy, but to no avail. Appellant simply continued to drag her.

When they reached a nearby stream, appellant shoved AAA towards an uninhabited house with the knife. Inside, appellant told her to undress, but AAA did not obey. She asked appellant to remove his mask so she could identify him. Appellant acceded and removed his mask. Then, he ordered her anew to remove her dress. When she refused, appellant grabbed her skirt and forcibly removed the buttons to open her skirt. Appellant then pushed her to the floor where he removed her panty. He mounted her and succeeded in having intercourse with her. After satisfying his lust, appellant allowed AAA to put on her dress with a warning that he would kill her if she tells anyone about what happened. With appellant behind her, AAA walked back towards the waiting shed.

When AAA saw plenty of people on the road, she shouted for help. Appellant then stabbed her at the back and fled. AAA was brought to the Southern Samar General Hospital where she was confined for nine (9) days.

At the hospital, Dr. Elizabeth Co-Loyola examined AAA and found an incised wound on her back.^[9] On the third day of AAA's confinement, they suspected that something more had happened to AAA, but she merely cried and did not answer their questions. On her sixth day of confinement, AAA, accompanied by her mother, admitted she was also raped. Dr. Co-Loyola thus conducted additional examination on AAA and found that she had a partially healed "Hymenal Laceration at [the] 5:00 o'clock position."^[10] Dr. Co-Loyola said she believed a hard object like a penis could have caused the laceration.

Police officers, among them SPO4 Bajar, also interviewed AAA on the afternoon of December 7, 1999. AAA told SPO4 Bajar that the person who assaulted her had tattoos on his right shoulder and in between his thumb and index finger. She said she was merely touched in her private parts and was stabbed by the suspect, but did not tell SPO4 Bajar that she was raped.

On the evening of December 11, 1999, SPO4 Bajar brought appellant to the hospital where AAA identified appellant as the one (1) who stabbed her. SPO4 Bajar revealed that when he brought appellant to the hospital, his purpose was to present him as a suspect for stabbing AAA and not for raping AAA.

AAA also testified that before the incident, she once saw the appellant pass by the waiting shed where she used to wait for a ride to school. She explained that one (1) time, she was with her classmates in the waiting shed when appellant passed by looking at them. A classmate informed her that the person looking at them was appellant Lito Macapanas. She added that she was familiar with appellant's father and sister because she often saw them pass by the waiting shed. She also said appellant's two (2) brothers, Sitoy and Pepe, were her classmates in grade school and that she even knows their address. These matters, however, were not revealed by her to the police.

The defense, for its part, presented the following witnesses: (1) Vangie Macapanas, appellant's sister-in-law;^[11] (2) Rose B. Macapanas, appellant's wife;^[12] and (3) appellant Lito E. Macapanas.^[13]

Appellant vehemently denied raping AAA. He alleged that he was at his house in Barangay XXX, Salcedo, Eastern Samar the entire day of December 7, 1999, gathering coconuts. Around 5:00 a.m. on the said date, he cooked breakfast then rested. At around 6:00 a.m., he started gathering coconut in his yard and finished in the afternoon. The next day, he husked the coconuts he had gathered, cut them in halves and placed them in the kiln. On December 9, 1999, he smoked the coconuts, separated the cooked coconut meat from their shells and placed them in a sack. Then, on the morning of December 10, 1999, appellant, his father and Domingo Basijan, the owner of the coconuts, sold the copra in Salcedo, Eastern Samar.

On the afternoon of December 10, 1999, while playing basketball at the public plaza, his cousin Obet Macapanas invited him to the former's house in Barangay Talandawan, Salcedo, Eastern Samar to help Obet's family prepare food for a celebration of a death anniversary. It was while he was in Obet's house that he was arrested by a certain police officer Cabrera, who arrived together with another policeman and a barangay *tanod*. Cabrera allegedly tied his hands. When he asked them what his fault was, Cabrera replied that there was a complaint against him and that he was bringing him to AAA. Aboard a garbage truck, appellant, together with Obet and his nephew, Anthony Amor, was brought to the Southern Samar General Hospital and presented before AAA.

AAA allegedly failed to pinpoint him as the culprit, but he and his two (2) relatives were nonetheless incarcerated at the Salcedo Municipal Jail. Appellant added that his two (2) relatives were released from jail the following morning. While he was in jail, Cabrera brought in two (2) women victims to identify him (appellant) if he was the one (1) who waylaid them. The women, however, declared he was not the one (1) who assaulted them. Cabrera has ill feelings towards him because he defied Cabrera's order to stop cutting trees. He explained that cutting trees is his only source of livelihood.

Vangie Macapanas, on the other hand, testified that on the morning of December 7, 1999, she was at her house which was about only 10 meters away from appellant's house. From 6:00 a.m. to 7:00 a.m. of the said day, she saw appellant and the latter's wife, Rose, fixing the roof of their house. After eating breakfast, appellant went out of his house and started gathering coconuts near her yard because the coconuts which appellant was gathering were located behind her house. She said appellant finished gathering coconuts from Domingo Basijan's land at around 11:00 a.m. She alleged that appellant never left his house or the land where he gathered coconuts from 6:00 a.m. to 11:00 a.m. She, however, said that she cannot see the entire coconut plantation from her house and did not see appellant at all times while he was gathering coconuts at the plantation.

Vangie added that she knows Barangay YYY, where the crime happened, and declared that said barangay is about three and a half (3½) kilometers away from her house in Barangay XXX. Motor vehicles also regularly ply the route from Barangay XXX to Barangay YYY.

Appellant's wife, Rose B. Macapanas, for her part, testified that appellant left their house in Brgy. XXX at 6:00 a.m. on December 7, 1999 to gather coconuts at the plantation of Domingo Basijan where he was a tenant. At 8:00 a.m., her husband returned to their house and they fixed the roof of their house. At around 9:00 a.m., they finished fixing the roof and his husband returned to the coconut plantation to gather coconuts anew until 11:00 a.m. Thereafter, she said appellant went home and rested. According to her, from 6:00 a.m. to 11:00 a.m., her husband did not go to any other place except the coconut plantation. During all that time, she knew that appellant was in the plantation because she heard the sound of coconuts dropping to the ground.

On May 14, 2003, the trial court promulgated its decision dated April 15, 2003, the dispositive portion of which reads as follows:

WHEREFORE, the Court finds accused LITO E. MACAPANAS guilty beyond reasonable doubt of the crime of consummated rape under Article 266-A (a) of Republic Act No. 8353 (An Act Expanding the Definition of the Crime of Rape) and hereby sentences him to suffer the penalty of RECLUSION PERPETUA. The accused is further ordered to indemnify the offended party in the amount of Fifty Thousand Pesos (P50,000.00) without subsidiary imprisonment in case of insolvency, and to pay the costs.

SO ORDERED.^[14]

In convicting appellant, the trial court was convinced that it was appellant who sexually assaulted AAA because of the identification she made of appellant. It found that AAA had no reason or motive to fabricate the serious charge against appellant. It did not accord credence to appellant's denial and alibi. It found the testimonies of the defense witnesses doubtful and unconvincing. Explained the trial court:

... They tried to establish that the accused was in Brgy. XXX during the time of the commission of the crime in Brgy. YYY. But their testimonies are not convincing. Vangie Macapanas, who is a sister-in-law of the accused, testified that she saw the accused the whole morning of December 7, 1999. But clearly[,] that is not true because she herself declared that when the accused went around the coconut land which is [quite] large he was out of her sight and could only [hear] the coconuts dropping to the ground. While the declaration of Rose Macapanas, the wife of the accused, that her husband left their house at about 6:00 o'clock in the morning to harvest coconuts and return two hours later does not preclude the possibility that her husband could have sneaked to Brgy. YYY that morning. Ditto with the testimony of the accused. Considering the proximity of Brgy. YYY from Brgy. XXX, he could have easily reach[ed] Brgy. YYY in no time and committed the crime and then return to the coconut land and resume harvesting coconuts.^[15]

The trial court further ruled that despite the prosecution evidence showing that

appellant stabbed AAA after raping her, appellant cannot be convicted for such stabbing no matter how conclusive and convincing the evidence is because such offense was not charged or included in the Information.

Appellant filed a Motion for Reconsideration,^[16] but the trial court denied it in a Resolution^[17] dated June 11, 2003.

On November 24, 2006, the Court of Appeals affirmed appellant's conviction but modified the penalty, ordering appellant to pay the additional amount of P50,000.00 as moral damages. The decretal portion of the appellate court's decision reads:

WHEREFORE, the Decision of the Regional Trial Court, Branch 3, Guiuan, Eastern Samar, in Criminal Case No. 1837 finding accused-appellant Lito Macapanas y Ecija guilty beyond reasonable doubt of the crime of rape and sentencing him to suffer the penalty of *reclusion perpetua* is AFFIRMED with MODIFICATION. Accused-appellant must pay to the private offended party, [AAA], P50,000.00 as civil indemnity and another P50,000.00 as moral damages, together with the costs.^[18]

Appellant filed his Notice of Appeal on December 18, 2006.^[19] On June 1, 2009,^[20] the Court required the parties to file their respective supplemental briefs, if they so desire. The parties, however, opted not to file any on the ground that they have already fully argued their positions in their respective briefs.

Appellant cites a lone error:

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT [OF] THE CRIME CHARGED DESPITE THE FAILURE OF THE PROSECUTION TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.^[21]

Essentially, for our resolution is the issue of whether appellant's guilt for the crime of rape has been proven beyond reasonable doubt.

Appellant maintains that the trial court erred in giving greater weight to the testimony of the private complainant than the testimonies of the defense witnesses despite finding that some portions in her testimony appeared to be peculiar and tended to render its credibility suspect. He contends that the accusation of rape was concocted on hindsight because AAA only disclosed that she was raped after several days of confinement and after identifying appellant to SPO4 Bajar as the person who stabbed her.

We are not convinced.

The fact that AAA did not immediately reveal that she was raped by appellant does not necessarily impair AAA's credibility. How the victim comported herself after the incident was not significant as it had nothing to do with the elements of the crime of rape.^[22] Not all rape victims can be expected to act conformably to the usual expectations of everyone. Different and varying degrees of behavioral responses are