

FIRST DIVISION

[G.R. No. 190616, June 29, 2010]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
PASTOR LLANAS, JR. Y BELCHES, ACCUSED-APPELLANT.**

D E C I S I O N

VELASCO JR., J.:

On September 26, 2005, in the Regional Trial Court (RTC) of Calabanga, Camarines Sur, three (3) separate informations for rape under Article 266-A in relation to Art. 266-B of the Revised Penal Code were filed against herein appellant Pastor Llanas, Jr. The informations, docketed as Criminal Case Nos. RTC 05-1035, 05-1043, and 05-1044, were eventually raffled to Branch 63 of the court.

The first information, Criminal Case No. RTC 05-1035, reads as follows:

That on or about August 4, 2005 at 1:00 P.M., in Bgy. Cabanbanan, Municipality of Calabanga, Province of Camarines Sur, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, willfully, unlawfully and feloniously by force or intimidation has carnal knowledge with his daughter [AAA], 15 years old against her will to her damage and prejudice.

The crime is committed with the following attendant aggravating/qualifying circumstances: The victim is under 18 and the offender is her father.

ACTS CONTRARY TO LAW.^[1]

The other informations for the same crime were worded similarly, as above, but reflected the years 1998 and 1999 as the date of the commission of the crime and the corresponding age of AAA,^[2] the private offended party, as 9 and 10 years old, respectively.

When arraigned, appellant, assisted by counsel, pleaded not guilty to all the charges contained in the three (3) informations.

During pre-trial, the parties stipulated on the following: Appellant is legally married to BBB, AAA's mother, and that he is the father of AAA, his and BBB's only child. Marked at that time as Exh. "B" for the prosecution was a xerox copy of AAA's Birth Certificate and Exh. "C," a xerox copy of the BBB's and appellant's Certificate of Marriage.

In the ensuing joint trial, the prosecution presented in evidence the testimony of AAA, her examination covering the three cases, BBB, the municipal civil registrar of Calabanga and the examining physician.

As summarized in the decision^[3] of the Court of Appeals (CA) subject of review, the relevant antecedents facts are as follows:

The first incident happened sometime in 1998 when AAA was only a 9-year old grade III schoolgirl.^[4] On the fateful day of that year, appellant tricked AAA into going with him to a "camalig" to play. Once inside, appellant laid her on the bamboo floor and removed her garments. In all her innocence, AAA asked why she is being undressed only to be told by the appellant not to report anything, else he would kill her and BBB. After taking off his clothes, appellant parted AAA's legs, went on top of her, inserted his sex organ to hers and made the usual push-and-pull routine. After he was done, appellant left AAA crying in pain. At home later, AAA, remembering the threat her father made, kept her peace.

One day the following year, appellant again sexually abused AAA, now 10 years old. In the witness box, AAA could not recall whether the incident happened in the morning or in the afternoon, but she distinctly remembered that it occurred in 1999, being in Grade IV at that time and it was the year the family moved to another house in the same barrio.

Then on August 4, 2005, at around 1:00 o'clock in the afternoon, while BBB was out of the house, appellant approached AAA, now 15 years old, to ask her to play. This remark frightened AAA, as this was the same line used when she was abused in the past. AAA spurned the invitation to play, but the insistent appellant told her that: "*para lang yan*. It's just that. You are not going to be pregnant because I'm withdrawing my semen."^[5] There and then, appellant brought her to a room, stripped her of her shorts and panty and likewise removed his garments. What happened next was a virtual repeat of what appellant did in 1998 and 1999 after he asked AAA to play.

On August 12, 2005, while BBB was out selling camote, appellant made an attempt, but failed, to again ravish AAA. Responding later to BBB's questioning why she was crying, AAA disclosed everything to her mother. Thereafter, BBB, with AAA in tow, proceeded to the local police station to report about the incidents, after which BBB repaired to the local National Bureau of Investigation office to have AAA physically examined.

The records of the physical examination conducted by Dr. Jane P. Fajardo yielded the following entries: "*no extragenital physical injury x x x on the body of [AAA] at the time of examination; old healed hymenal lacerations present; and hymenal orifice wide x x x as to allow complete penetration by an average sized adult male organ in full erection without producing hymenal injury.*" Per Dr. Fajardo's account, the old hymenal laceration could, in all probability, have been caused by sexual intercourse, occurring a month or even years before the examination.

Appellant testified for the defense. He denied allegations about raping AAA in 1998 and 1999. He also professed innocence of the August 4, 2005 rape incident, being, according to him, then in Brgy. Quinale, Calabanga working with one Roger

Evangelista from August 3 to August 10, 2005.

Evangelista, in the witness box, lent his voice to buttress what essentially was appellant's defenses of alibi and denial proffered in relation to the August 2005 rape charge.

On June 7, 2007, the RTC rendered a joint decision finding appellant guilty of raping AAA, her minor legitimate child, a crime which, as thus specially qualified, is punishable under Art. 266-B of the Penal Code by death, as a single penalty. In view, however, of the passage of Republic Act No. (RA) 9346,^[6] the RTC sentenced appellant to suffer the penalty of *reclusion perpetua* for each count of qualified rape. In full, the dispositive portion of the trial court's decision reads:

WHEREFORE, in view of the foregoing, the prosecution having proven the guilt of Pastor Llanas, Jr. Y Belches beyond reasonable doubt of the offense of rape, said accused is convicted of the offense charged and to suffer the following penalties:

1. In Crim. Case No. RTC 05-1035, accused is hereby sentenced to suffer the penalty of *reclusion perpetua*. He is likewise ordered to pay [AAA] civil liability in the amount of P75,000.00; P75,000.00 for moral damages, exemplary damages in the amount of P25,000. 00, and to pay the cost.

2. In Crim. Case No. RTC 05-1043, accused is hereby sentenced to suffer the penalty of *reclusion perpetua*. He is likewise ordered to pay [AAA] civil liability in the amount of P75,000.00; P75,000.00 for moral damages, exemplary damages in the amount of P25,000. 00, and to pay the cost.

3. In Crim. Case No. RTC 05-1044 accused is hereby sentenced to suffer the penalty of *reclusion perpetua*. He is likewise ordered to pay [AAA] civil liability in the amount of P75,000.00; P75,000.00 for moral damages, exemplary damages in the amount of P25,000. 00, and to pay the cost.

Considering that accused has undergone preventive imprisonment, he shall be credited in the services of his sentence with the time he has undergone preventive imprisonment subject to the conditions provided for by law.

SO ORDERED. ^[7]

In time, appellant went to the Court of Appeals (CA) on appeal on the lone submission that -

THE TRIAL COURT GRAVELY ERRED IN FINDING [HIM] GUILTY BEYOND REASONABLE DOUBT OF THREE (3) COUNTS OF RAPE.

Equally convinced of AAA's credibility and finding appellant's arguments in support of his defense untenable, if not downright preposterous, the CA by Decision^[8] of October 26, 2009 affirmed appellant's conviction for three counts of qualified rape and the imposition of the main penalty for each crime, with the qualification, however, that appellant should be ineligible for parole. The *fallo* of the appellate court's decision reads:

IN LIGHT OF ALL THE FOREGOING, the appeal is hereby **DENIED**.

The Joint Decision of the Regional Trial Court, Branch 63, Calabanga, Camarines Sur, convicting the accused-appellant of the crime of rape under Article 266-A and Article 266-B of the Revised Penal Code in Criminal Cases Nos. RTC 05-1035, RTC 05-1043 and RTC 05-1044 is hereby **AFFIRMED with MODIFICATION**.

For each count, accused-appellant Pastor Llanas, Jr. is sentenced to suffer the penalty of reclusion perpetua without eligibility for parole.

SO ORDERED.^[9]

Therefrom, appellant filed a notice of appeal, to which the CA, per its resolution of December 2, 2009, gave due course.

The case having been elevated to the Court, we now review the RTC's and CA parallel findings.

Appellant seeks acquittal, predicated his plea principally on the issue of: (1) the credibility of the prosecution's key witness; and (2) the sufficiency of the People's evidence.

Among other things, appellant maintains that the courts *a quo* erred in giving full credence and reliance on AAA's statements, it being his contention that her account of what purportedly happened reeks with inconsistencies and does not jibe with the normal flow of things. As argued, it is unnatural for a person placed in a certain situation, as what AAA found herself in, not to struggle or at least offer some resistance to ward off the advances of an unarmed person. And as further asserted, it is contrary to human experience that AAA did not cry for help when she was allegedly molested in the family home.

Turning his sights on another angle, appellant contends that the physical evidence ran counter to AAA's allegations of rape. If, as AAA alleged, she was sexually abused in August 4, 2005, then the results of her medical examination undertaken a week after the rape incident would have had demonstrated signs of extra genital physical injury, contusion or abrasion. What the medico legal noted, however, were old healed hymenal lacerations, which, appellant theorized, could have been "sustained through promiscuity"^[10] of her daughter.

The Court resolves to affirm the CA decision.

Penile or organ rape is, in context, committed when the accused has carnal