

SECOND DIVISION

[G.R. No. 188129, July 05, 2010]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
RICARDO BODOSO Y BOLOR, ACCUSED-APPELLANT.**

D E C I S I O N

MENDOZA, J.:

For final review by this Court are the December 18, 2008 Decision^[1] and February 17, 2009 Resolution^[2] of the Court of Appeals, in CA-G.R. CR-HC No. 01526, which *affirmed with modification* the July 28, 2005 Decision^[3] of the Regional Trial Court, Branch 16, Tabaco City (RTC), in Criminal Case No. T-3285 and Criminal Case No. T-3286, thus, sentencing the accused to suffer the penalty of *reclusion perpetua* for each count of rape and reduced the amount of civil indemnity from P75,000.00 to P50,000.00.

The RTC Decision^[4] convicted the accused for two counts of rape which he committed against his own daughter and sentenced him to suffer the penalty of death and to pay "the sum of P75,000.00, for each case, as civil indemnity, the sum of P50,000.00 for each case, as moral damages, and the sum of P25,000.00 for each case, as exemplary damages, or the aggregate sum of P300,000.00 plus the costs of the suit."

It appears that on February 17, 2000, two (2) Informations were filed charging the accused with two (2) counts of rape. The accusatory portions of the two Informations read as follows:

Criminal Case No. T-3285

That on July 14, 1999, at around 8:00 o'clock in the morning, more or less, at Barangay San Isidro, Municipality of Malilipot, Province of Albay, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd and unchaste design, by means of force, threat and intimidation, did then and there wilfully, unlawfully and feloniously have carnal

knowledge with his own daughter, AAA,^[5] a minor being only 14 years of age, against her will and consent, to her damage and prejudice.

ACTS CONTRARY TO LAW.^[6]

Criminal Case No. T-3286

That sometime in the month of September, 1999, at around 8:00 o'clock in the morning, more or less, at Barangay San Isidro, Municipality of Malilipot, Province of Albay, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd and unchaste design, by means of force, threat and intimidation, did then and there wilfully, unlawfully and feloniously have carnal knowledge with his own daughter, AAA, a minor being only 14 years of age, against her will and consent, to her damage and prejudice.

ACTS CONTRARY TO LAW.^[7]

Upon arraignment, the accused entered a plea of 'Not Guilty' to both charges.^[8] During the pre-trial conference, the parties stipulated that there should be no dispute with respect to the following matters:

1. Identity of the accused;
2. The private complainant in this case is a minor, being 14 years old on the date of the incidents, July 14, 1999 and September, 1999; The private complainant is the daughter of the accused; and
3. The private complainant and the accused were living in the same house at Brgy. San Ilawod, Malilipot, Albay.^[9]

During the trial, the prosecution presented, as its witnesses, private complainant AAA and Dr. Arsenia Mañosca-Moran, the Municipal Health Officer who examined her. On the other hand, the accused, through counsel, manifested in open court that he had no intention of presenting any evidence.

Consequently, on April 2, 2001, the cases against the accused were considered submitted for decision.^[10]

On July 2, 2001, a decision was rendered by the trial court finding the accused guilty as charged and imposing upon him the penalty of death. The cases were then brought to this Court for automatic review^[11] and were docketed as G.R. No. 149382 and G.R. No. 149383. On March 5, 2003, this Court resolved^[12] to remand the cases to the trial court for proper disposition, particularly to ascertain the voluntariness of the accused on his waiver of his right to present evidence, as expressed in the April 2, 2001 Order^[13] of the trial court; his understanding of its consequences; and the conduct of further proceedings, including receiving evidence, if the contrary would be found.

In compliance with the aforementioned order of this Court, the trial court allowed the accused to present his evidence on February, 17, 2004. After resting its case, the defense moved and was granted leave to submit a memorandum.^[14] Upon submission of a Memorandum,^[15] the case was deemed submitted for decision.^[16]

The trial court wove together the evidence presented by the prosecution and

summarized its version of the incidents in this wise:

Complainant AAA is a 14-year-old minor daughter of accused Ricardo Bodoso. She was living with her father (accused herein), mother and other siblings at their house located at Brgy. San Isidro Iraya, Malilipot, Albay.

Sometime in the evening of 14 July 1999, complainant's mother and other siblings went to the Poblacion of Malilipot, Albay, to watch the coronation night of the Search for Miss Malilipot 1999. Complainant, on the other hand, was watching television at the house of her grandmother, about 8 to 10 meters away from their house, when she was summoned by her father (herein accused) to go home. She obeyed her father and immediately went home at about 8:00 o'clock in the evening.

Upon reaching their house, complainant entered the bedroom to look for a dress. Her father also entered the bedroom and told her to come near him. When complainant failed to respond, her father pulled her and forcibly laid her on the bed. After undressing himself, complainant's father removed her shirt and shorts. He then inserted his sexual organ into the vagina of the complainant and made push and pull movement for about 5 minutes. Complainant tried to extricate herself from her father's hold but to no avail, and so she just cried out her misfortune.

After the sexual act, accused helped complainant in putting back her shirts and shorts and they both went out of the room. Later, they rode together in a bicycle and proceeded to the Poblacion of Malilipot, Albay, to watch the beauty contest. When the contest ended at about 12:00 o'clock midnight, complainant, together with her mother and other siblings, all walked home to Brgy. San Isidro, Ilawod, Malilipot, Albay. Complainant did not inform her mother about the incident because she was afraid her father might kill them.

The said incident of sexual abuse was followed by another incident at about 8:00 o'clock in the morning during the month of September, 1999, while complainant was reading a pocketbook inside their bedroom. Her mother then was in Tabaco, Albay, selling spices while her sister Vivian was burning dry leaves in their yard. After her father entered the bedroom, he pulled her in order to have sexual intercourse with her. She tried to get away from her father's hold but she could not, so she just kept on crying while she was sexually molested. After satisfying his lust, complainant's father just helped her put on her shorts and panty, dressed himself and left the room. When her mother arrived at about 12:00 noon, she did not again reveal what her father had done to her because she was afraid her mother might be killed.

Apprehensive that she or mother would be killed by her father if she would divulge the aforementioned rapes committed on 14 July 1999 and September, 1999, and fearful that she would again be sexually abused by her own father, complainant decided to leave their house on 07 January 2000, together with a friend named Cheryll Binaday who was also being

maltreated by her own mother. Together, they walked along the seashore towards the direction of Brgy. Salvacion, Tabaco, Albay, when a motorized tricycle being driven by a certain Melchor passed by. When Melchor recognized the complainant, he brought them to his house, located at Brgy. San Isidro Iraya, Malilipot, Albay. Then and there, complainant revealed to Melchor that she was raped twice by her own father. Thereafter, Melchor's family called for a Brgy. Kagawad, who in turn, advised the complainant to seek the help of the police authorities.

At the Municipal Police Station of Malilipot, Albay, complainant was investigated by the police and she gave her sworn statement. Complainant was also examined by Dr. Arsenia Mañosora-Moran, Municipal Health Officer, Malilipot, Albay. The examination of the complainant yielded the following results as contained in a Medical Certificate dated 10 January 2000, viz:

"Genitalia: Hymen: with heat sealed incomplete laceration at 1:00, 3:00, 5:00, & 11:00 and complete laceration at 9:00 o'clock with sharp coaptable borders without congestion."

Explaining her findings, Dr. Moran stated that the lacerations found in the hymen of the complainant were caused by sexual intercourse and that because there was no congestion, the incident could have happened a long time ago before the examination of the patient. Hence, the present criminal complaints against the accused.^[17] (Citations omitted.)

The defense version of the events was summed up by the trial court in this manner:

Setting up denial and alibi, accused Ricardo Bodoso averred that on the night of 14 July 1999, he was out of their house proceeding to Tabaco, Albay, to see a friend named Quirino who was to help him find a job. He recalled that he left their house of about 5:00 o'clock in the afternoon and returned home at almost 12:00 o'clock midnight. He also insisted that he was in Manila during the month of September, 1999, when the alleged incident happened. According to him, it was only on 30 October 1999 that he came home because he was requested by his mother to attend to the grave of his father. Finally, the accused claimed that, maybe, complainant filed the cases against him because she was afraid of him when she went away from home on 06 January 2000 and did not return home the whole night staying at the police headquarters.^[18] (Citations omitted.)

The trial court, in its July 28, 2005 Decision,^[19] finally convicted the accused of two (2) counts of rape defined under Article 266-A, and penalized under Article 266-B, of the Revised Penal Code. It did not give due consideration to the defense of denial and alibi put up by the accused and, instead, gave credence to the evidence of the prosecution. It noted that in contrast to the "evasive" narration of the accused,^[20]

AAA testified in a straightforward and categorical manner.^[21] Thus, the trial court disposed:

WHEREFORE, the Court finds accused RICARDO BODOSO guilty beyond reasonable doubt of two (2) counts of Rape, defined and penalized under Articles 266-A and 266-B, of the Revised Penal Code, as amended by Republic Act No. 8353. Accordingly, said accused is hereby sentenced to suffer the supreme penalty of DEATH in each of the two (2) counts of rape. He is also ordered to pay complainant AAA the sum of Php75,000.00 for each case, as civil indemnity; the sum of Php50,000.00 for each case, as moral damages; and the sum of Php25,000.00 for each case, as exemplary damages, or the aggregate sum of Php300,000.00, plus costs of the suit.

Let the entire records of these two (2) cases, together with the evidence, be forwarded to the Hon. Court of Appeals for automatic review, pursuant to Administrative Circular No. 20-2005 dated April 19, 2005.

SO ORDERED.

Aggrieved, the accused appealed to the Court of Appeals presenting in his Brief^[22] the following

ASSIGNMENT OF ERRORS:

I.

THE TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY OF THE CRIMES CHARGED DESPITE THE FAILURE OF THE PROSECUTION TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.

II.

THE TRIAL COURT GRAVELY ERRED IN IMPOSING THE SUPREME PENALTY OF DEATH DESPITE THE FAILURE OF THE PROSECUTION TO PROVE THE MINORITY OF THE PRIVATE COMPLAINANT AND HER RELATIONSHIP TO THE ACCUSED-APPELLANT.^[23]

On December 18, 2008, the Court of Appeals rendered the subject decision echoing the findings of the trial court that the accused was guilty of the crimes leveled against him. The appellate court, however, was of the view that the award of civil indemnity should be reduced to P50,000.00^[24] considering that R.A. 9346^[25] prohibits the imposition of the death penalty. The dispositive portion of the decision of the Court of Appeals, thus, reads: