

FIRST DIVISION

[G.R. No. 190633, July 05, 2010]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
BASILIO CADAP, ACCUSED-APPELLANT.**

D E C I S I O N

VELASCO JR., J.:

This is an appeal from the Decision^[1] dated September 30, 2009 of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 03388 affirming with modification the Decision^[2] of the Regional Trial Court (RTC) of Lagawe, Ifugao, which adjudged appellant Basilio Cadap guilty beyond reasonable doubt of statutory rape.

In an information filed before the RTC of Lagawe, Ifugao, thereat docketed as Crim. Case No. 1658 and eventually raffled to Branch 14 of the court, Cadap was charged with statutory rape, allegedly committed as follows:

That on or about the afternoon of December 2, 2006 at Tungod, Lagawe, Ifugao, and within the jurisdiction of this Honorable Court, the above-named accused by means of force and intimidation, did then and there willfully, unlawfully and feloniously have sexual intercourse with one [AAA],^[3] a minor, eleven (11) years of age against her will and consent.

CONTRARY TO LAW.

Upon arraignment, appellant, duly assisted by counsel, pleaded not guilty to the charge.

During the pre-trial conference, the private complainant spurned the proffered plea bargaining to a lesser offense. The parties then stipulated on the following, among others: The defense admitted the birth certificate of AAA (Exhibit "A") and the medical certificate (Exhibit "B") prepared by Dr. Bernardo Bulintao, but denied the veracity of the entries in both documents.

During trial, the prosecution presented testimonial and documentary evidence essentially to establish the following facts and incidents:

In the afternoon of December 2, 2006, AAA, then eleven (11) years old, was with her aunt, BBB, at the house of one Robert Dinamling, in Tungod, Lagawe, Ifugao, attending a "Binogwa," an Ifugao ritual for a dead relative. After lunch, AAA decided to go to a friend's house to play. Before AAA could reach her friend's house, Cadap suddenly appeared, grabbed, and then led her to an adjacent forested area. While alarmed over this turn of events, AAA did not resist appellant's advances, having

been sexually abused once before and threatened with physical harm by appellant. Appellant, while holding a piece of wood, then removed both his pants and AAA's clothes. He then laid AAA on the ground and inserted his penis into her vagina while fondling her breast. Moments later, something came out of appellant's penis, implying that he ejaculated.

Meanwhile, BBB started looking for her niece. She met one Jenifer Gumiling who pointed her in the direction where AAA was last seen traversing. Since she was carrying a baby, BBB requested one Benedict to do the searching. Eventually, Benedict found where AAA was. Thus informed of AAA's whereabouts, BBB, together with Bulahao Kimayong and several others, proceeded to the forested area. From a short distance, BBB saw the naked appellant on top of AAA. Furious, BBB jumped at appellant, kicking and shouting at him. BBB would later call the police to arrest appellant. AAA would in turn be brought to the Ifugao Provincial Hospital where Dr. Bernardo Bulintao examined her.

On the other hand, the defense expressly waived its right to present evidence.

The trial court found that AAA positively identified appellant as the one who sexually abused her. The court also found AAA's testimony on the fact of molestation adequately corroborated by competent testimonial evidence. On May 16, 2008, the RTC rendered judgment^[4] finding appellant guilty of rape, as defined under Paragraphs 1(a) and (d) of Article 266-A of the Revised Penal Code, as amended, and sentencing him to suffer the penalty of *reclusion perpetua* and to pay AAA PhP 50,000 as civil indemnity *ex delicto* and PhP 50,000 as moral damages.

On appellate review, the CA affirmed the findings and ruling of the RTC with the modification as to the amount and the kind of damages imposable. The dispositive portion of the CA's decision dated September 30, 2009 reads:

IN LIGHT OF ALL THE FOREGOING, the appeal is hereby **DENIED**. The Decision of the Regional Trial Court (RTC) is hereby **AFFIRMED WITH MODIFICATION**. Accused-appellant Basilio Cadap is sentenced to suffer the penalty of *reclusion perpetua* and to pay the victim AAA (to be identified through the Information in this case) P75,000.00 as civil indemnity, P75,000.00 as moral damages, and P30,000.00 as exemplary damages.

SO ORDERED.^[5]

On October 19, 2009, appellant filed his Notice of Appeal of the CA Decision, therein manifesting that he is appealing said decision on the ground that it is contrary to facts, law and jurisprudence. As before the appellate court, appellant would claim that the CA and, the RTC before it, erred in finding him guilty beyond reasonable doubt.

After a review of the records of this case, the Court affirms appellant's conviction.

Evidently, appellant anchors his defense on denial. He denies having committed the criminal act imputed against him and assails the credibility of AAA and other

prosecution witnesses, particularly Bulahao Kimayong, who testified merely seeing, during the period material, AAA and appellant, both without their clothes on, lying side by side. To appellant, AAA's account of penile penetration and purported ejaculation is belied by physical evidence. He maintains, in this regard, that the medical examination conducted on the very same date of the incident revealed the absence of abrasion, contusions, or scratches in AAA's external genitalia. He also invites attention to the fact that no spermatozoa was found in her vagina.

We are not persuaded.

For conviction in the crime of rape,^[6] the following elements must be proved:

1. that the accused had carnal knowledge of a woman;
2. that said act was accomplished under any of the following circumstances--
 - a. through force, threat or intimidation;
 - b. when the offended party is deprived of reason or is otherwise unconscious;
 - c. by means of fraudulent machination or grave abuse of authority; or
 - d. when the offended party is under twelve (12) years of age or is demented, even though none of the circumstances mentioned above be present.^[7]

By the distinctive nature of rape cases, conviction thereon usually rests solely on the basis of the testimony of the victim, provided that such testimony is credible, natural, convincing and consistent with human nature and the normal course of things.^[8] Accordingly, the Court has consistently adhered to the following guiding principles in the review of similar cases, to wit: (1) an accusation for rape can be made with facility; 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 must be scrutinized with extreme 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.^[9]

Complementing the foregoing principles is the rule that the credibility of the victim is always the single most important issue in prosecution for rape;^[10] that in passing upon the credibility of witnesses, the highest degree of respect must be afforded to the findings of the trial court.^[11]

AAA had pointed to the appellant as the person who forced himself on her in the afternoon of December 2, 2006. And the unyielding principle is that denial cannot prevail over the victim's categorical and positive identification of the accused in the absence of proof of ill motive.^[12] Here, 11-year-old AAA identified appellant as the malefactor. Considering her tender years, she could not have invented a horrid tale, but must have recounted a harrowing experience. Indeed, it is unbelievable for an 11-year-old country lass to publicly disclose that she had been sexually abused,