

FIRST DIVISION

[G.R. No. 188315, August 25, 2010]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ISIDRO FLORES Y LAGUA, ACCUSED-APPELLANT.

D E C I S I O N

PEREZ, J.:

On appeal is the 29 January 2009 Decision^[1] of the Court of Appeals in CA-G.R. CR-H.C. No. 00726 finding appellant Isidro Flores y Lagua guilty beyond reasonable doubt of two (2) counts of rape.

In 181 Informations, which are similarly worded except for the dates of the commission of the crime and the age of the complainant, filed before the Regional Trial Court (RTC) of Makati City, Branch 140, docketed as Criminal Cases Nos. 03-081 to 03-261, appellant was accused of raping AAA,^[2] allegedly committed as follows:

That in or about and sometime during the month of _____, in the City of Makati, Metro Manila, Philippines, a place within the jurisdiction of this Honorable Court, the above-named accused, being the adopting father of complainant who was then _____ years of age, did then and there willfully, unlawfully and feloniously had carnal knowledge with [AAA] by means of force and intimidation and against the will of the complainant.^[3]

Upon arraignment, appellant pleaded not guilty. During the pre-trial conference, the parties stipulated on the following facts:

1. AAA is below fifteen (15) years of age;
2. Appellant is the guardian of AAA; and
3. AAA has been under the care and custody of appellant and his wife since AAA was one and a half years old.^[4]

Thereafter, trial on the merits ensued.

The following facts are undisputed:

AAA lived with her adoptive mother, BBB,^[5] since she was just a few months old.^[6] BBB is married to appellant, who was working abroad for six (6) years. Appellant came home in 1997 and lived with AAA and BBB. BBB was working as a restaurant supervisor from 4:00 p.m. to 2:00 a.m. for six (6) days a week.

Five (5) witnesses testified for the prosecution. They are the victim herself, Marvin Suello (Marvin), PO1 Evangeline Babor (PO1 Babor), P/Sr Insp. Paul Ed Ortiz (P/Sr Insp. Ortiz), and Maximo Duran (Duran).

The prosecution's version of the facts follows--

In February 1999 at around 9:30 p.m., AAA, then 11 years old, was sleeping inside the house when she felt and saw appellant touch her thighs. AAA could see appellant's face as there was a light coming from the altar. AAA was naturally surprised and she asked appellant why the latter did such a thing. Appellant did not answer but told her not to mention the incident to anybody. AAA then saw appellant went back to his bed and touch his private part. AAA immediately went back to sleep.

The following day, at around the same time, and while BBB was at work, appellant again touched AAA from her legs up to her breast. AAA tried to resist but appellant threatened that he will kill her and BBB.

Two (2) weeks after the incident, AAA was already asleep when she suddenly woke up and saw appellant holding a knife. While pointing the knife at AAA's neck, appellant removed his shorts, as well as AAA's pajamas. He slowly parted AAA's legs and inserted his penis into AAA's vagina. Meanwhile, AAA struggled and hit appellant's shoulders. Appellant was able to penetrate her twice before he got out of the house. Two (2) days after, appellant again raped her by inserting his organ into AAA's vagina. AAA recounted that appellant raped her at least three (3) times a week at around the same time until 15 October 2002, when she was 14 years old. After the last rape incident, AAA did not go home after school and instead went to the house of her friend, Marvin.^[7]

On 16 October 2002, Marvin watched television with AAA from 5:00 p.m. to 8:00 p.m. Afterwards, AAA refused to go home. She told Marvin that appellant would spank her for going home late. Marvin asked AAA if there were other things that appellant might have done to her, aside from spanking. At that point, AAA finally cried and divulged that she has been raped by appellant. Marvin told AAA to file a complaint.^[8]

AAA stayed at her mother's friend's house and came back on 18 October 2002. She, together with Marvin, went to *Kagawad* Ramon Espena to seek assistance. Marvin went with the *Barangay Tanod* in apprehending appellant, who at that time, was trying to escape.^[9]

PO1 Babor was the duty investigator at the Women's and Children Desk of Makati Police Station on 18 October 2002. She took down the statements of AAA and her friend, Marvin. She then referred AAA to the PNP Crime Laboratory to undergo medico-legal examination.^[10]

P/Sr. Insp. Ortiz confirmed that she conducted the medico-legal examination on AAA. Results of the examination, as indicated in the medico-legal report, show that the "hymen is with presence of deep healed laceration at 1 o'clock and shallow healed laceration at 2 o'clock positions at the time of examination." Said report concluded that AAA is in a "non-virgin state physically."^[11] P/Sr. Insp. Ortiz opined

that the lacerations could have been caused by any solid object, like the penis inserted at the *genitalia*.^[12]

Duran and another *Bantay Bayan* member were at the *barangay* outpost at 2:10 p.m. on 18 October 2002 when they were summoned by *Barangay Kagawad* Ramon Espena. Acting on the complaint of AAA, they were directed to proceed to the house of appellant to invite him for questioning. Duran saw appellant about to board a jeep. They stopped the jeep and asked appellant to alight therefrom and invited him to the *Bantay Bayan* outpost. Appellant voluntarily went with them. Appellant was then brought to the police station.^[13]

Only appellant testified in his defense. While appellant admitted that he was a strict father to AAA in that he would scold and spank her whenever the latter would run away, he denied raping AAA.^[14] He alleged that AAA has the propensity to make up stories and was even once caught stealing money from her grandmother. Appellant recalled that on 16 October 2002, AAA asked permission to go out to buy a "project." She never came home.^[15]

On 27 August 2004, the RTC rendered judgment finding appellant guilty beyond reasonable doubt of 181 counts of rape. The dispositive portion of the Decision reads:

WHEREFORE, premises considered, judgment is hereby rendered in Criminal Cases Nos. 03-081 to 03-261, finding accused ISIDRO FLORES y LAGUA, **GUILTY BEYOND REASONABLE DOUBT** of ONE HUNDRED AND EIGHTY-ONE (181) counts of RAPE penalized by RA 8353, Chapter 3, Article 266-A, par. 1(a) in relation to Article 266-B par. 1. Taking into account the minority of [AAA], adopted daughter of the accused, at the time of rape, and the fact the offender is the adoptive father of the minor complainant, accused, is hereby sentenced to suffer the penalty of **DEATH for each count of rape**, and to pay [AAA] the amount of ONE HUNDRED FIFTY THOUSAND PESOS (PHP 150,000.00) for moral damages and FIFTY THOUSAND PESOS (PHP 50,000.00) for exemplary damages for each count of rape.^[16]

The trial court found that force and intimidation attended the commission of the crime of rape through the testimony of the victim, which the trial court deemed "straightforward, consistent and credible." The trial court also established that appellant is the adoptive father of AAA since 1989 and that AAA was then a minor, as proven by the birth certificate, testimonies of witnesses, and admission made by AAA.^[17] Finally, the trial court dismissed appellant's defense of denial as self-serving and which cannot prevail over AAA's positive testimony.^[18]

Upon denial of appellant's motion for reconsideration, the case was initially elevated to the Court of Appeals for its review pursuant to *People v. Mateo*.^[19] However, the Court of Appeals dismissed the case in 23 August 2005 for failure of appellant to file his appellant's brief.^[20] When the case was brought before us on automatic review, we set aside the Resolution of the Court of Appeals and remanded it back for appropriate action and disposition on the ground that review by the Court of Appeals

of the trial court's judgment imposing the death penalty is automatic and mandatory.^[21]

On 29 January 2009, the Court of Appeals affirmed the finding that AAA was raped by appellant, but it did so only on two (2) counts.

The *fallo* of the Decision reads:

IN LIGHT OF ALL THE FOREGOING, the decision is hereby rendered as follows:

1. Accused-appellant Isidro Flores y Lagua in Criminal Cases Nos. 03-082 to 03-260, inclusive, is found not guilty on the ground of reasonable doubt and is hereby acquitted;
2. Accused-appellant Isidro Flores y Lagua in Criminal Cases Nos. 03-081 and 03-261 is hereby found guilty beyond reasonable doubt of two (2) counts of rape and is sentenced to suffer the penalty of reclusion perpetua for each count without eligibility for parole and to pay the victim AAA (to be identified through the Information in this case), the amount of P75,000.00 as civil indemnity, P75,000.00 as moral damages and P25,000.00 as exemplary damages for each count.^[22]

The appellate court found that the guilt of appellant on the first and last incidents of rape in Criminal Cases Nos. 03-081 and 03-261, respectively, was proven by the prosecution beyond reasonable doubt.^[23] With respect to the other incidents, according to the appellate court, the testimony of AAA was merely based on general allegations that she was raped on the average of three (3) times a week from February 1999 to 15 October 2002. Therefore, the appellate court concluded that her statement is inadequate and insufficient to prove the other charges of rape.^[24]

On 17 February 2009, appellant filed a Notice of Appeal of the Court of Appeals' Decision. In a Resolution dated 26 October 2009, this Court required the parties to simultaneously submit their respective Supplemental Briefs. Appellant and the Office of the Solicitor General (OSG) both filed their Manifestations stating that they will no longer file any Supplemental Briefs, but instead, they will merely adopt their Appellant's and Appellee's Briefs, respectively.^[25]

Appellant harps on the failure of AAA to actively defend herself or resist the alleged assaults. Moreover, considering that the relatives of AAA live only meters away from her and the frequency of the alleged molestation, appellant proffers that it was impossible for them not to notice the abuses. Appellant also questions the appreciation of the circumstances of minority and relationship as basis for the imposition of the death penalty. He contends that an adopting parent is not included within the purview of qualifying relationships under Article 266-B of the Revised Penal Code. Assuming *arguendo* that an adopting parent may be construed as similar to a parent, appellant argues that the term "adopting parent" must be given a definite and technical meaning in that the process of adoption must first be

undertaken and a judicial decree to that matter must have been issued.^[26]

The OSG, on the other hand, avers that the positive and categorical testimony of AAA that appellant sexually abused her, in tandem with the medico-legal report, are more than sufficient to establish appellant's guilt beyond reasonable doubt. Moreover, appellant failed to impute any ill motive on the part of AAA to falsely accuse him of rape.^[27]

The OSG insists that AAA's failure to report promptly the previous incidents of rape does not dent her credibility. Appellant's exercise of moral ascendancy over AAA and that fact that she was under physical threat during those times, could have instilled fear on AAA from reporting said incidents.^[28]

The OSG moved for modification of the penalty from death to *reclusion perpetua* without eligibility for parole in light of Republic Act No. 9346.^[29]

After an extensive review of the records, we find no cogent reason to overturn the decision of the Court of Appeals.

Appellant was charged with 181 counts of rape, all of which were committed within the span of three (3) years or from February 1999 until 15 October 2002. We are in full accord with the acquittal of appellant in the 179 counts of rape. Stated otherwise, we agree with appellant's conviction for two (2) counts of rape.

In rape cases, "the victim's credibility becomes the single most important issue. For when a woman says she was raped, she says in effect all that is necessary to show that rape was committed; thus, if her testimony meets the test of credibility, the accused may be convicted on the basis thereof."^[30]

Both the trial court and the appellate court found AAA's testimony credible. The RTC considered it "straightforward and consistent on material points," while the Court of Appeals described it as "spontaneous, forthright, clear and free-from-serious contradictions." Well-entrenched is the legal precept that when the "culpability or innocence of an accused hinges on the issue of the credibility of witnesses, the findings of fact of the Court of Appeals affirming those of the trial court, when duly supported by sufficient and convincing evidence, must be accorded the highest respect, even finality, by this Court and are not to be disturbed on appeal."^[31] We see no reason in this case to depart from the principle. Moreover, we give due deference to the trial court's assessment of AAA's credibility, having had the opportunity to witness firsthand and note her demeanor, conduct, and attitude under grilling examination.^[32]

Worthy of reiteration is the doctrine that "when the offended party is of tender age and immature, courts are inclined to give credit to her account of what transpired, considering not only her relative vulnerability but also the shame to which she would be exposed if the matter to which she testified is not true. When a girl, especially a minor, says that she has been defiled, she says in effect all that is necessary to show that rape was inflicted on her."^[33]

Out of the 181 counts of rape charged against appellant, the prosecution was only