645 Phil. 468

FIRST DIVISION

[G.R. No. 185008, September 22, 2010]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. MAXIMO OLIMBA ALIAS "JONNY," ACCUSED-APPELLANT.

D E C I S I O N

PEREZ, J.:

Widower Maximo Olimba alias "Jonny," herein appellant, was accused of several counts of rape by two (2) of his three (3) minor daughters aged thirteen[1] and twelve.[2] He seeks before this Court the reversal of his conviction by the trial court and the appellate court.

Consistent with the ruling of this Court in *People v. Cabalquinto,*[3] we shall withhold the real names of victims AAA and BBB, as well as those of their family members, and any other relevant information that would tend to establish or compromise their identities.

On 11 June 2003, the prosecution filed before the regional trial court twelve (12) separate Informations for rape against appellant. Ten (10) charges, docketed as Criminal Case Nos. N-2234 and N-2237 to N-2245,[4] were allegedly committed against his daughter AAA. The remaining two (2), docketed as Criminal Case Nos. N-2235 and N-2236, were allegedly committed against his daughter BBB.[5]

On 17 July 2003, appellant entered pleas of not guilty to all the charges. On 9 September 2003, pre-trial was terminated without any stipulation of facts. Thereafter, trial ensued with the prosecution presenting the testimonies of: (1) AAA;[6] (2) BBB;[7] and (3) Dr. Fernando B. Montejo,[8] Municipal Health Officer, Municipality of xxx, Province of xxx, who identified the Medical Certificate issued to BBB. On the other hand, only appellant[9] testified for the defense.

Criminal Case Nos. N-2234 and N-2237 to N-2245

The evidence for the prosecution may be summarized in the following manner:

AAA was born on 18 November 1989.[10] She was first raped by appellant at the early age of eight (8) years old.[11] She never told the incident to her grandmother, who was then staying with them, because the appellant threatened to kill her siblings.[12] Besides, her grandmother was sick at the time of the incident.[13] Since then, AAA has been repeatedly raped.

AAA testified that sometime during the first week of January 2003, she, herein appellant, and the rest of the children took their supper and retired for the night.

[14] AAA, however, could not sleep as she was apprehensive that appellant would rape her again.[15] True enough, around midnight, appellant took off AAA's shorts and underwear, and inserted his male organ into her vagina.[16] She pleaded and begged for pity but to no avail.[17] She could not shout because he threatened to harm her.[18] She pinched her sister BBB lying next to her but the latter did nothing.[19] Helpless and without recourse, she just kept on crying.[20]

Appellant also raped AAA on or about the second week of January 2003.[21] At around midnight, when the rest of the children were already fast asleep, appellant removed her shorts and underwear and inserted his male organ into her vagina.[22] She asked him to stop and reminded him that she is his daughter. As before, she did not shout because she was afraid he would hurt her.[23]

The rape was repeated on or about the third week of January 2003. Appellant took AAA's shorts and underwear and inserted his male organ into her vagina.[24] She asked for mercy but to no avail.[25] She did not attempt to shout or thereafter report the incident because she was afraid that appellant would kill her siblings.[26]

Despite the sexual abuses, AAA could not leave the house for good because of the repeated threats to the lives of her siblings.[27] Appellant also maltreated her whenever she refused to submit to his lustful desires.[28] On an unspecified date, he kicked her stomach and she collapsed on the floor.[29]

Appellant continued to rape AAA on or about the 30th and 31st of January 2003; the first, second, third, and fourth week of March 2003; and the 19th of April 2003.[30]

Thereafter, AAA agreed to be the housemaid of CCC. She went with CCC to Manila.[31] While in Manila, she told CCC of the sexual abuses she suffered from his father.[32] CCC sent her back to file charges against the appellant.[33] She, accompanied by CCC's daughter DDD, returned and proceeded to the police station to report the incidents.[34] AAA also submitted herself to physical examination,[35] which revealed the following findings:

Genitalia: no gross deformities
: non-hyperemia
: (+) old hymenal scar 9 o'clock position[36]

In refuting the allegations,[37] appellant claimed AAA was not in their hometown in January 2003[38] on the alleged rape incidents subject of Criminal Case Nos. 2234, 2237, 2239, 2240, and 2241. She was in Manila from April 2002 to January 2003.[39] He learned from his cousin EEE that AAA returned only on 1 February 2003. She stayed with EEE because she did not send the money she earned from working in Manila to appellant.[40]

On 14 April 2003, AAA finally went back to appellant's house.[41] He hit her with a bamboo stick because she refused to go home with him when he tried to fetch her

on an unspecified date.[42] Afterwards, he learned from a certain FFF that AAA went back to Manila.[43] Appellant thereafter saw her at the police station on 26 May 2003.[44]

Criminal Case Nos. N-2235 and N-2236

BBB, who was born on 6 January 1991,[45] could not remember the date when she was first raped by appellant.[46] She was subsequently defiled on two (2) more occasions.[47]

Thus, sometime during the last week of April 2003, appellant, BBB, and her two (2) brothers retired for the night[48] in their living room.[49] Two (2) of her siblings were not around. One of them was AAA. She was already in Manila.[50]

Later that evening, BBB felt appellant undress her.[51] Appellant took off her underwear and inserted his male organ into her vagina.[52] She did not exert any effort to resist him because she was afraid of the six-inch long knife he held.[53] Her attempt to wake a brother up, who lay next to her, proved to be futile.[54]

This was repeated in the evening of 24 May 2003 while BBB's siblings were fast asleep.[55] He kissed BBB on her lips and inserted his male organ into her vagina.[56]

During trial, Dr. Fernando B. Montejo, MD, MPH, Municipal Health Officer, Municipality of xxx, Province of xxx, identified the Medical Certificate submitted to the court to be the same he issued when he examined BBB. The Certificate indicated the following: (1) "abrasion with mucosal swelling (R) vaginal vault;"[57] and (2) "semen-like substance seen and felt at cervical os."[58]

On examination, the doctor testified that the abrasion and swelling in the right side of BBB's vagina could have been caused by a male organ. Further, the semen-like substance at the cervical canal could have come from a male organ. However, he clarified that the substance was not conclusively identified as semen allegedly because the medical technologist was not "competent" to further examine it in the microscope.[59]

Appellant solely testified for the defense and denied the allegations of rape.[60] He countered that BBB left his house on 14 April 2003, the very day that he maltreated AAA.[61] He looked for and found BBB only on 25 May 2003.[62] Hence, she was not staying in his house during the last week of April 2003 and on 24 May 2003 when the rapes were allegedly committed.[63] He added that BBB started leaving his house without permission in 2002 and has been given scoldings.[64] He also claimed that he was in his house working and could not recall any unusual incident on 24 May 2003 when BBB was allegedly raped for the third time.[65]

When asked what could be the possible motive for the filing of the case against appellant, he answered that AAA and BBB did not want anybody to look after them.

[66] He also believed that AAA filed a complaint against him because "she made mistake (sic) since she did not give [him] money xxx."[67] On the other hand, BBB filed the complaints because he scolded her.[68]

On 5 July 2004, the regional trial court found appellant guilty of twelve (12) counts of rape[69] in Criminal Case Nos. N-2234, 2235, 2236, 2237, 2238, 2239, 2240, 2241, 2242, 2243, 2244 and 2245. The dispositive portion reads:

> **WHEREFORE**, premises considered, this Court finds the accused **Maximo Olimba Y Montero GUILTY** beyond reasonable doubt of the crime of Rape in two (2) counts for **Crim. Case No. 2235** and **Crim. Case No. 2236**. He is meted the penalty of two (2) **Death penalties** by lethal injections.
>
> The victim (BBB) is awarded P150,000.00 in civil indemnity and P175,000.00 in moral damages, for each count.
>
> In Criminal Cases Nos. **2234, 2237, 2238, 2239, 2240, 2241, 2242, 2243, 2244 and 2245**, where the victim is (**AAA**), the accused **Maximo Olimba Y Montero** is found **GUILTY** beyond reasonable doubt of the crime of Rape on Ten (10) Counts. He is meted the penalty of **Death** for each count, through lethal injection.
>
> The accused Maximo Olimba Y Montero shall pay the victim (AAA) the amount of **P75,000.00** in civil indemnity for each rape committed. The accused shall further pay **P100,000.00** to (AAA) in moral damages for each Rape.

Appealed to this Court, the case was transferred to the Court of Appeals for its disposition[70] in accordance with the ruling in *People v. Mateo*[71] allowing an intermediate review by the Court of Appeals of cases where the penalty imposed is *reclusion perpetua,* life imprisonment, or death.

On 30 August 2007, the decision[72] of the trial court was AFFIRMED by the Court of Appeals in CA-G.R. CEB-CR-H.C. No. 00530 with the MODIFICATION that the penalty of death in each of the cases should be reduced to *reclusion perpetua* in accordance with the law prohibiting the imposition of death penalty.[73]

On 14 July 2008, the Court of Appeals gave due course to the appellant's notice of appeal.[74] This Court required the parties to simultaneously file their respective supplemental briefs.[75] Only the appellant opted to submit his supplemental brief.[76]

Our Ruling

We uphold the conviction of the appellant.

The well-entrenched principles in the determination of the innocence or guilt of the accused in rape cases are, once again, seriously considered in the evaluation of this

case. The three principles are:

> (1) an accusation for rape can be made with facility; it is difficult to prove but more difficult for the accused, though innocent, to disprove; (2) in view of the intrinsic nature of the crime of rape in which only two persons are usually involved, 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.[77]

Due to the nature of the commission of the crime of rape, the testimony of the victim may be sufficient to convict the accused, provided that such testimony is "credible, natural, convincing and consistent with human nature and the normal course of things."[78] Thus, in *People v. Leonardo*,[79] we stated the evidentiary value of the testimony of the rape victim:

> Credible witness and credible testimony are the two essential elements for the determination of the weight of a particular testimony. This principle could not ring any truer where the prosecution relies mainly on the testimony of the complainant, corroborated by the medico-legal findings of a physician. Be that as it may, the accused may be convicted on the basis of the lone, uncorroborated testimony of the rape victim, provided that her testimony is clear, convincing and otherwise consistent with human nature.[80]

Upon these considerations, we have ascertained that the prosecution has sufficiently established the appellant's guilt beyond reasonable doubt.

Credibility of the Witnesses for the Prosecution

The trial court categorically stated that AAA and BBB "were straightforward and coherent, further made believable by their display of candor and naivete."[81] The appellate court, in turn, applied the settled policy that "the finding of trial courts on the credibility of witnesses deserve[s] a high degree of respect and will not be disturbed on appeal."[82]

Before us, appellant now posits that the instant case falls within the established exceptions[83] finding refuge in our ruling in *People v. Guittap*.[84] Thus:

> While it is our policy to accord proper deference to the factual findings of the trial court, owing to their unique opportunity to observe the witnesses firsthand and note their demeanor, conduct, and attitude under grueling examination, where there exist facts or circumstances of weight and influence which have been ignored or misconstrued, or where the trial court acted arbitrarily in its appreciation of facts, we may disregard its findings.[85]