

THIRD DIVISION

[G.R. No. 185616, November 24, 2010]

THE PEOPLE OF THE PHILIPPINES, APPELLEE, VS. ARNEL
MACAFE Y NABONG, APPELLANT.

DECISION

BRION, J.:

This is an appeal from the decision,^[1] dated May 26, 2008, of the Court of Appeals (CA) in CA-G.R. CR-HC No. 00277, affirming with modification the March 10, 1999 decision of the Regional Trial Court (RTC), Branch 16, Zamboanga City. The RTC decision^[2] found appellant Arnel Macafe y Nabong guilty beyond reasonable doubt of three (3) counts of rape and meted him the death penalty for each count.

BACKGROUND FACTS

The records show that AAA^[3] is the daughter of BBB and CCC. After CCC died, BBB married the appellant in 1994; they lived together in Parang, Marikina together with BBB's children from her first marriage.^[4] In August 1995, the appellant and BBB, together with AAA and her sister, DDD, went to Zamboanga City and stayed at the house of BBB's older brother, EEE. BBB's three other children were already in Zamboanga City at that time.^[5] In May 1996, BBB went to Israel to work as a caregiver; she left her five children under the appellant's care.

1st rape

At around 10:00 a.m. of September 10, 1997, AAA was sitting alone on the sofa located at the sala of EEE's house, when the appellant approached her and told her to lie down. When AAA did as ordered, the appellant pulled down her shorts and panty. AAA resisted but the appellant succeeded in removing them. The appellant spread AAA's legs apart, and went on top of her. The appellant removed his shorts and briefs, and inserted his penis in AAA's private parts. AAA felt pain in her private parts. She tried to push the appellant but was unsuccessful. Afterwards, she felt a warm sticky substance coming from the appellant's penis. The appellant told her to wash her private parts in the bathroom. Thereafter, the appellant left. AAA saw blood in her private parts when she washed them.^[6]

2nd rape

On September 15, 1997, the appellant instructed AAA not to attend her classes so that he will have a companion in the house. At around 11:00 a.m., AAA was at the balcony of the house when the appellant ordered her to go to the *bodega*. When AAA arrived at the *bodega*, the appellant told her to lie down on the blanket on the floor. When AAA did as ordered, the appellant removed her shorts and panty. AAA

resisted, but the appellant tied her both hands with a shoelace. Afterwards, the appellant spread AAA's legs apart. The appellant then removed his shorts and briefs, went on top of AAA, and inserted his penis in her vagina. AAA felt pain in her private parts. Thereafter, she noticed blood and a sticky substance coming out of her vagina.^[7]

3rd rape

On September 18, 1997, the appellant told AAA not to go to school. AAA followed the appellant's order because she was afraid that he would whip her if she disobeyed. In the afternoon and while AAA was sitting at the balcony, the appellant ordered AAA to go to the *bodega*. AAA went there as instructed, and on her arrival, the appellant ordered her to lie down on the blanket on the floor. AAA refused, but the appellant slapped her. When AAA laid on the blanket, the appellant removed her shorts and panty, and then spread her legs apart. The appellant then removed his pants and briefs, went on top of AAA, and inserted his penis in her vagina. AAA felt pain in her private parts; she also felt "something warm" coming from the appellant's penis. She noticed blood coming from her vagina when she washed it afterwards.^[8]

On all three (3) occasions, the appellant threatened to kill AAA if she revealed the incident to anyone.^[9]

The records likewise reveal that on September 30, 1997, the appellant whipped AAA on the different parts of her body because she came home late.^[10] AAA reported the whipping incident to her teacher, Grace Alvarez. When Grace saw the contusions on AAA's body, she advised AAA to leave their house; she also referred the matter to Esteban "Steve" Pasol, Jr., the father of one of AAA's classmates.^[11] AAA told Esteban that she ran away from home because the appellant whipped her. Esteban reported the incident to a *barangay* official and to the ABS CBN radio station. On the next day, AAA was interviewed by an ABS CBN radio personnel. Esteban, thereafter, brought AAA to the Department of Social Welfare and Development and then to the Zamboanga Medical Center for a medical examination.^[12]

On November 13, 1997, AAA revealed to Grace that she had been raped, although she did not immediately name her rapist. AAA disclosed the rape because she "could not take it anymore"; and because she learned that the appellant also raped her younger sister.^[13] Grace called AAA's grandparents, and requested them to go to the school. On their arrival, AAA told them that she had been raped by the appellant.^[14] Immediately after, they brought AAA to the Zamboanga Medical Center.^[15]

Dr. Ma. Regina Bucoy Vasquez, the resident physician of the Zamboanga Medical Center, conducted a physical examination on AAA on November 14, 1997,^[16] and saw incomplete and healed multiple lacerations in her hymen. According to Dr. Vasquez, the multiple lacerations on AAA's private parts imply that she has had previous sexual contacts.^[17]

AAA was brought to the Tetuan Police Station, where she gave her statement to the

police.^[18] Thereafter, the prosecution filed three (3) complaints for rape, before the RTC, against the appellant, docketed as Criminal Case Nos. 15124-26.^[19]

The appellant denied the allegations against him, and claimed that AAA's aunt, FFF, merely instigated AAA to say that she had been raped by him. He explained that FFF was mad at him for his failure to give the money sent by BBB for her (FFF). The appellant further added that FFF wanted to put him in jail so that she (FFF) would manage the money BBB sent. The appellant admitted that he whipped AAA on September 30, 1997 because she came home late.^[20]

THE RTC RULING

The RTC convicted the appellant of three (3) counts of rape under Article 335 of the Revised Penal Code, and sentenced him to suffer the death penalty for each count. The RTC also ordered the appellant to pay the victim P50,000.00, as civil indemnity, and P25,000.00, as exemplary damages, for each count of rape.

The RTC found AAA's testimony to be clear, straightforward, credible, convincing, and free from any contradiction. It, likewise, found no ill motive on AAA's part to falsely testify against her own stepfather. Furthermore, AAA's testimony was supported by the medical findings of Dr. Vasquez, who found incomplete healed lacerations on the victim's hymen.

The RTC also held that AAA's one (1) month delay in reporting the rapes did not impair her credibility. The RTC explained that it is not uncommon for young girls to conceal the assaults on their virtue due to the threats on their lives, more so when the rapist is the victim's own stepfather living with her. The RTC finally ruled that the appellant's denial was not supported by any other evidence.

THE CA DECISION

The CA, in its decision dated May 26, 2008, affirmed the RTC decision with the modification that the death penalty be reduced to *reclusion perpetua* for each count of rape, as the complaints failed to allege the appellant's relationship to the victim. The CA also ordered the appellant to further pay the victim P50,000.00, as moral damages, for each count.

The CA found AAA's testimony credible and convincing, more so since it was supported by the medical findings of Dr. Vasquez. The CA also disregarded the appellant's denial and imputation of ill-motive on the part of FFF, for lack of evidence to support these defenses.

THE ISSUE

In his brief, the appellant maintains that the prosecution failed to prove his guilt beyond reasonable doubt. He claims that AAA was not a credible witness, and avers that she was merely influenced by FFF to make false accusations against him.

THE COURT'S RULING

After due consideration, we dismiss the appeal but increase the awarded