

SECOND DIVISION

[G.R. No. 170360, March 12, 2009]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. HENRY GUERRERO Y AGRIPA, ACCUSED-APPELLANT.

DECISION

BRION, J.:

We review in this appeal the April 27, 2005 decision of the Court of Appeals (CA) in CA-G.R. CR-HC No. 00120,^[1] affirming with modification the January 28, 2003 decision of the Regional Trial Court (RTC), Branch 94, Quezon City.^[2] The RTC decision found the accused-appellant Henry Guerrero y Agripa (*appellant*) guilty beyond reasonable doubt of the crime of rape, and sentenced him to suffer the penalty of *reclusion perpetua*.

ANTECEDENT FACTS

The prosecution charged the appellant before the RTC with the crime of rape under an Information that states:

That on or about the 30th day of May, 1998, in Quezon City, Philippines, the said accused by means of force and intimidation, did then and there willfully, unlawfully and feloniously touch [AAA's]^[3] private part, a minor 13 years of age, removed her panty and inserted his index finger on her vagina and thereafter have carnal knowledge with the undersigned complainant against her will and without her consent.

CONTRARY TO LAW.^[4]

The appellant pleaded not guilty to the charge. The prosecution presented the following witnesses in the trial on the merits that followed: AAA; BBB; SPO4 Susano San Diego (*SPO4 San Diego*); SPO4 Milla Billones (*SPO4 Billones*); and Dr. Ma. Cristina Freyra (*Dr. Freyra*). The appellant took the witness stand for the defense.

AAA testified that the appellant was the "*kumpadre*" of her mother, and was a frequent visitor at her parents' house. She recalled that on May 30, 1998, the appellant - who was standing beside the window of his house - called her. She approached the appellant who then grabbed her arms and dragged her inside his house. The appellant removed her dress and panty, then took off his own clothes. Thereafter, the appellant touched her private parts. She felt pain when the appellant tried to insert his penis into her vagina. She cried when she saw blood on her private part.

She went to school after two (2) days, but slept in the classroom because she had a headache and felt pain all over her body. She only informed her mother of the

sexual abuse after her (AAA's) brother informed their mother that she had been sleeping during school hours. Their mother filed a complaint before the police when she learned of the rape.

On cross examination, AAA admitted that the appellant had "touched" her prior to May 30, 1998. She again narrated that she was playing with her cousin at around 5:00 p.m. of May 30, 1998, when the appellant, who was then holding a fighting cock, called her and asked her to place a bet for him in an "*ending*" game. She approached the appellant who then dragged her inside his house. She did not shout because the appellant was armed with a knife and was threatening her. The appellant took off his shorts and briefs after he undressed her. She did not run because she was scared that the appellant might kill her. She added that she never again went near the appellant's house after the rape.^[5]

BBB, the mother of AAA, declared on the witness stand that she discovered the rape incident only in June 1998. According to her, she noticed that her daughter was always "*tulala*" and would not respond when talked to. When she forced AAA to disclose what her problem was, she (AAA) replied that "*Kuya Henry raped me.*" AAA's brothers and sisters were present when she made this revelation. She responded to the disclosure by accompanying AAA to the Batasan Police Station 6 where the desk officer, SPO4 Billones, took AAA's statement. They went to the PNP Crime Laboratory for AAA's medical examination upon police instructions.^[6]

SPO4 San Diego narrated that on July 13, 1998, AAA and her mother went to the police station to report the rape incident. At the police desk officer's instructions, he and SPO4 Antonio Osorio (*SPO4 Osorio*) went to the appellant's residence (in Pigeon Street, Batasan Hills) and invited the appellant to the police station for investigation. He and SPO4 Osorio executed an affidavit upon their arrival at the police station.^[7]

SPO4 Billones testified that AAA and her mother went to the police station sometime in July 1998 to report that the appellant had "sexually abused" AAA. She took AAA's statement and prepared a referral letter for the victim's medico-legal examination. She recalled that AAA, at that time, looked tired and uneasy.^[8]

Dr. Freyra, the medico-legal officer of the PNP Central Crime Laboratory, testified that she conducted a medical examination of AAA on July 14, 1998, and made the following findings:

F I N D I N G S:

GENERAL AND EXTRAGENITAL:

Fairly developed, fairly nourished and coherent female subject. Breasts are undeveloped. Abdomen is flat and soft.

GENITAL:

There is absence of pubic hair. Labia majora are full, convex and coaptated with pinkish brown labia minora presenting in between. On separating the same disclosed an elastic, fleshy-type hymen with deep, healed lacerations at 4 and 9 o'clock positions. External vaginal orifice

offers strong resistance to the introduction of the examining index finger. Vaginal canal is narrow with prominent rugosities.

C O N C L U S I O N:

Subject is in non-virgin state physically.

There are no external signs of recent application of any form of trauma at the time of examination.

REMARKS:

Vaginal and peri-urethral smears are negative for gram-negative diplococcic and for spermatozoa. x x x.^[9]

On cross examination, she stated that the hymenal lacerations on AAA's private part could have been caused by the insertion of a blunt object into her vagina.^[10]

The appellant was the sole defense witness, and gave a different version of the events. He declared on the witness stand that he had known AAA and her parents for about six (6) years; they both live on the same street. He recalled that before 7:00 a.m. on May 30, 1998, he went to the house of the spouses Felipe where he worked as a carpenter. He did not leave the Felipes' house until he finished his work at 9:00 p.m.

On cross examination, he admitted that the parents of AAA were his "*kumpare*" and "*kumadre*," respectively, and stated that his place of work was a 30-minute walk, more or less, from his residence.^[11]

The RTC convicted the appellant of the crime of rape in its decision of January 28, 2003 under the following terms:

WHEREFORE, premises considered, judgment is hereby rendered finding the herein accused Henry Guerrero Agripa **GUILTY BEYOND REASONABLE DOUBT of Rape** and hereby sentences him to suffer the penalty of **Reclusion Perpetua** and to indemnify the offended party the sum of P50,000.00 and to pay the costs.

SO ORDERED.^[12] [*Emphasis in the original*]

The records of this case were originally transmitted to this Court on appeal. Pursuant to our ruling in *People v. Mateo*,^[13] we endorsed the case and the records to the CA for appropriate action and disposition.^[14]

The CA, in its decision^[15] dated April 27, 2005, affirmed the RTC decision, with the modification that the appellant be ordered to pay the victim P50,000.00 as moral damages.

The CA gave credence to AAA's testimony which it found to be corroborated on material points by the testimony and findings of Dr. Freyra. The appellant, on the other hand, merely presented the weak defenses of denial and alibi.

In his brief,^[16] the appellant argued that the RTC erred in convicting him of the crime charged despite the prosecution's failure to prove his guilt beyond reasonable doubt.

THE COURT'S RULING

We resolve to *deny* the appeal for lack of merit.

Sufficiency of Prosecution Evidence

An established rule in appellate review is that the trial court's factual findings, including its assessment of the credibility of the witnesses and the probative weight of their testimonies, as well as the conclusions drawn from the factual findings, are accorded respect, if not conclusive effect. These actual findings and conclusions assume greater weight if they are affirmed by the CA. Despite the enhanced persuasive effect of the initial RTC factual ruling and the results of the CA's appellate factual review, we nevertheless fully scrutinized the records of this case as the penalty of *reclusion perpetua* imposed on the accused demands no less than this kind of scrutiny.^[17]

The Revised Penal Code, as amended by Republic Act No. 8353,^[18] defines and penalizes Rape under Article 266-A, paragraph 1, as follows:

ART. 266-A. *Rape; When and How Committed.* - Rape is committed -

- 1) By a man who shall have carnal knowledge of a woman under any of the following circumstances:
 - a) Through **force, threat or intimidation**;
 - b) When the offended party is deprived of reason or otherwise unconscious;
 - c) By means of fraudulent machination or grave abuse of authority; and
 - 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.

x x x x

Thus, for the charge of rape to prosper, the prosecution must prove that (1) **the offender had carnal knowledge of a woman**, and (2) **he accomplished the act through force, threat or intimidation, or when she was deprived of reason or was otherwise unconscious**, was under 12 years of age, or was demented.^[19]

In her testimony, AAA positively identified the appellant as her rapist; she never wavered in this identification. To directly quote from the records:

ASSISTANT PROSECUTOR BEN DELA CRUZ

Q: On May 30, 1998, do you recall of any unusual incident that happened to you?

[AAA]

A: Yes, sir.

Q: What was that unusual incident?

A: He called me. He was just standing by the window, and then he dragged me inside the house.

Q: What happened after you were dragged inside the house?

A: He removed my dress.

Q: What followed after he undressed you?

A: He also undressed himself.

ASSISTANT PROSECUTOR DELA CRUZ

At this juncture the witness is crying, Your Honor, may we ask that the continuation of the testimony of witness be reset tomorrow x x x.

CONTINUATION OF DIRECT EXAMINATION BY ASSISTANT PROSECUTOR DELA CRUZ

Q: Ms. Witness, for clarity, will you please step down from the witness stand and tap the shoulder of the accused in this case, Henry Guerrero Agripa?

[AAA]

A: Yes, sir. This man, sir.

COURT INTERPRETER

Witness tapping the right shoulder of the man who is wearing a yellow T-shirt and who when asked identified himself as Henry Guerrero Agripa.

ASSISTANT PROSECUTOR DELA CRUZ

Q: Yesterday, during the direct examination, you were telling us about your ordeal, what you experienced on May 30, 1998 in the hands of this accused, Henry Guerrero Agripa? Do you remember that, Mr. [sic] Witness?

A: Yes, sir.

Q: Now, Ms. Witness, again, I will ask you, what happened on May 30, 1998? What happened to you?

x x x

A: I was then near their window and he grabbed me inside their house.

Q: When you said "nila," to whom are you referring to?

A: The house of the suspect.

Q: You mean Henry Guerrero Agripa, the accused in this case?

A: Yes, sir.

Q: What happened after you were dragged inside the house of the accused?

A: He undressed me.

Q: What was removed by the accused when you said he undressed you?

A: My shorts and panty.

Q: And then what did he do next, if he did anything, after he undressed you?

A: He also undressed himself.

Q: Thereafter, what happened next, if any.

ASSISTANT PROSECUTOR DELA CRUZ

At this juncture, your honor, may we put on record that the