

THIRD DIVISION

[G.R. No. 185723, August 04, 2009]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. EDWIN MEJIA, ACCUSED-APPELLANT.

DECISION

CHICO-NAZARIO, J.:

For Review under Rule 45 of the Revised Rules of Court is the Decision^[1] dated 14 July 2008 of the Court of Appeals in CA-G.R. CR-HC No. 02533, entitled *People of the Philippines v. Edwin Mejia*, affirming, with modification, the Decision^[2] rendered by the Regional Trial Court (RTC) of San Carlos City, Pangasinan, Branch 57 in Criminal Cases No. SCC-4080-4081, finding accused-appellant Edwin Mejia guilty beyond reasonable doubt of the crimes of Rape and Acts of Lasciviousness.

On 2 March 2003, private complainant's (AAA's)^[3] womanhood was allegedly violated by a man cohabiting with her mother (BBB) as common-law-spouse. BBB was already living separately from AAA's father at the time the crime were committed at BBB's and accused-appellant's residence. This dastardly act led to AAA's pregnancy.

Out of fear and shame, it took some time before AAA had the courage to report the incident to her relatives.

On 9 October 2003, after appropriate proceedings, the Office of the Provincial Prosecutor of Pangasinan filed, with the RTC of San Carlos City in Pangasinan, two separate informations for Rape under Article 266-A of the Revised Penal Code, docketed as Criminal Cases No. SCC-4080 and No. SCC-4081. The informations charging accused-appellant Edwin Mejia read:

CRIMINAL CASE NO. SCC-4080

That on or about 3:00 o'clock in the afternoon of March 2, 2003, in Barangay XXX, XXX City, Pangasinan, and within the jurisdiction of this Honorable Court, the above-named accused, by means of force, intimidation or violence, and with lewd designs, did then and there, willfully, unlawfully and feloniously, has (sic) carnal knowledge with his step-daughter AAA, against her will and consent.

Contrary to Article 266-A of the Revised Penal Code.^[4]

CRIMINAL CASE NO. SCC-4081

That on or about 8:00 o'clock in the morning of March 2, 2003, in

Barangay XXX, XXX City, Pangasinan, and within the jurisdiction of this Honorable Court, the above-named accused, by means of force, intimidation or violence, and with lewd design, did then and there, willfully, unlawfully and feloniously, has (sic) carnal knowledge with his step-daughter AAA, against her will and consent.

Contrary to Article 266-A of the Revised Penal Code.^[5]

Both criminal cases were raffled to Branch 57, presided by Judge Anthony Sison, and thereafter consolidated and jointly tried. On arraignment, the Informations were read to accused-appellant in a dialect known to, and understood by, him; and with the assistance of his counsel, accused-appellant pleaded NOT GUILTY to both charges.^[6]

Pre-trial was conducted on 23 April 2004 but only the identities of the parties to the case were admitted therein.^[7] Thereafter, trial on the merits commenced.

Two witnesses testified. Private complainant AAA testified for the prosecution. Accused-appellant Edwin Mejia testified for the defense.

AAA, 18 years old, single and a resident of Barangay XXX, XXX City in Pangasinan, testified that on 2 March 2003, she, who was less than 18 years old at that time, was fetched by her mother BBB from her grandmother's house where she lives. She was to take care of her two-month-old brother at BBB's house in Barangay XXX, XXX City, Pangasinan. Accused-appellant was BBB's live-in partner, who resided in the same house as BBB. BBB left for Dagupan City, where she sold vegetables at the market.

While AAA was babysitting her brother, accused-appellant, who was armed with a bolo, forcibly held her, laid her on the living room floor (sala) and with the use of threats, undressed her and removed her panty. He then removed his short pants and brief and placed himself on top of AAA. Appellant inserted his penis into AAA's vagina, and as he did, she felt pain. Satisfying his sexual desire after about three minutes of inserting his penis inside AAA's vagina, accused-appellant removed it from AAA's vagina and dressed up. Accused-appellant threatened to kill AAA and her mother should she leave the house and/or report the incident. Because she was afraid of the threat, AAA stayed inside the bedroom for several hours.

At 3:00 o'clock in the afternoon of the same day, accused-appellant went inside the bedroom where AAA was babysitting her brother. He pulled her hair and placed himself on top of her, but failed to insert his penis into her private part. Accused-appellant warned her not to tell anyone about the incident. AAA went back to her grandparents' house in XXX.

AAA did not inform her grandparents about the abominable act accused-appellant committed upon her person out of fear due to his threats. However, she told her aunt with whom she lived in XXX about her pregnancy, for she could no longer hide the change in her physical appearance. After telling her aunt, private complainant reported the incident to the police station, where she executed her sworn statement. AAA also underwent medical examination.

On cross-examination, AAA stated that BBB and accused-appellant started living as husband and wife in XXX, XXX City, Pangasinan when she was 16 years old. Her father (FFF) and her mother BBB had been living separately. Private complainant disclosed that she was under the care of her maternal grandparents and did not live with her mother BBB and accused-appellant.

Upon AAA's arrival at the house of BBB and accused-appellant, accused-appellant was out of town harvesting mangoes. Accused-appellant arrived after the harvest was done. She was taking some time to rest after doing household chores, and after the children of BBB with accused-appellant had already left for school. AAA said that when she arrived at the house of her mother, accused-appellant was still talking to Noel Soriano who just lived nearby.

The defense presented accused-appellant Edwin Mejia. Accused-appellant declared that at around 8:00 o'clock in the morning of 2 March 2003, he was not in their home in XXX. Accused-appellant insisted he was harvesting mango fruits in Barangay Casantiagoan in Manaoag, Pangasinan, from 1 March 2003 to 3 March 2003. He claimed it was impossible for him to have raped AAA, because he was in Manaoag, Pangasinan from 1 March 2003 at around 5:00 o'clock in the morning, with a certain Bong Estrada, and returned home only on 3 March 2003 at around 6:00 o'clock in the evening. He said he did not live with AAA, as the latter stayed in the house of his brother-in-law in XXX town.

Accused-appellant explained that AAA was the daughter of his live-in partner/common-law-wife BBB by her husband. When AAA was only 10 years old, accused-appellant and BBB started to cohabit. He had five children with BBB, and they resided in XXX, XXX City, Pangasinan. Accused-appellant described his relationship with AAA as cold and aloof, primarily due to the fact that AAA hated him for hurting her mother because of his vicious lifestyle. He said that he had a good relationship with BBB despite the fact that her family and AAA disliked him.

Accused-appellant claimed the rape charges AAA filed against him were fabricated because he was in Manaoag, Pangasinan, harvesting mangoes at the time of the alleged incident. He, however, said that the distance from Manaoag, Pangasinan to XXX City, Pangasinan could be traveled for more or less one hour, using the same elf truck they used going to Manaoag and back to XXX City.

On 18 September 2006, the trial court^[8] found accused-appellant guilty beyond reasonable doubt of the crimes of (a) Rape in Criminal Case No. SCC-4081; and (b) Acts of Lasciviousness in Criminal Case No. SCC-4080, ruling in this wise:

WHEREFORE, the Court finds accused Edwin Mejia, GUILTY beyond reasonable doubt for the crime of Rape as charged under Article 266-A of the Revised Penal Code in Criminal Case No. SCC-4081, and is hereby sentenced to suffer the penalty of *Reclusion Perpetua*. Accused is directed to pay the victim P50,000.00 as indemnity.

However, as to Criminal Case No. SCC-4080, it is settled that each charge of rape is a separate and distinct crime and each must be proven beyond reasonable doubt. Mere laying on top of the alleged victim even if naked

does not constitute rape. The prosecution therefore failed to prove the essential elements of rape, but the Court finds accused GUILTY beyond reasonable doubt of the lesser offense of Acts of Lasciviousness under Article 336 of the Revised Penal Code and is hereby sentenced to suffer the indeterminate penalty of 6 months of *arresto mayor*, as minimum to 3 years of *prision correctional*, as maximum.

The court *a quo* gave more credence to the testimony of private complainant AAA, who charged accused-appellant with committing the bestial act resulting in her pregnancy. The trial court applied the principle that an affirmative testimony carries more weight than a mere denial. Accused-appellant's denial was found to be unsubstantiated and merely self-serving, *vis-à-vis* the positive declaration of AAA and the frank manner in which she recounted her ordeal. In fact, the defense of alibi put up by accused-appellant was uncorroborated. Finally, the element of hate was not given much weight by the trial court. It stated that, assuming this element was present, it did not detract from AAA's credibility.

The trial court appreciated the qualifying circumstance of minority and relationship, so that under Article 266-B of Republic Act No. 8353, the penalty would have been death. With the suspension of the death penalty due to the enactment of Republic Act No. 9346, the RTC imposed *reclusion perpetua*.

Insisting on his innocence and invoking the twin defenses of denial and alibi, accused-appellant elevated the case to the Court of Appeals *via* a notice of appeal.

Thus, on 14 July 2008, the Court of Appeals affirmed accused-appellant's guilt in the two cases, but modified the decision of the court *a quo* by disregarding the qualifying circumstance of minority and awarding moral damages, to wit:

WHEREFORE, the decision of the trial court in Crim Case No. 6295 is hereby AFFIRMED with MODIFICATION, to wit:

(1) In Criminal Case No. SCC-4081, appellant Edwin Mejia is hereby found guilty of simple rape and is sentenced to suffer the penalty of *reclusion perpetua*. Appellant is further ORDERED to indemnify AAA in the amount of P50,000 as civil indemnity and P50,000 as moral damages.

(2) In Criminal Case No. SCC-4080, appellant Edwin Mejia is guilty beyond reasonable doubt of the crime of Acts of Lasciviousness under Article 336 of the Revised Penal Code and is hereby sentenced to suffer the indeterminate penalty of Six (6) months of *arresto mayor*, as minimum to three (3) years of *prision correctional*, as maximum.^[9]

The Court of Appeals was not persuaded by accused-appellant's contention that hatred caused AAA to concoct rape charges against him. This attempt to discredit AAA failed. The Court of Appeals ruled that the hate element was too petty a cause for the victim's family to fabricate allegations of rape. Motive is not necessary when the identity of the wrongdoer is positively identified by the victim herself. In giving

full credit to AAA's testimony, the appellate court affirmed the *dictum* that the assessment of trial courts is generally viewed as correct and entitled to great weight.

The Court of Appeals opposed the trial court's appreciation of the qualifying circumstance of minority of the victim in view of the information's failure to allege such circumstance and the prosecution's failure to adduce proof as to the age of AAA at the time the alleged rape took place. The qualifying circumstance of minority was not sufficiently established by independent proof during trial. Thus, the qualifying circumstances of minority and relationship were not appreciated by the Court of Appeals.

Hence, this appeal before this Court.

On 4 February 2009, the Court required the parties to simultaneously submit their respective supplemental briefs, if they so desired.^[10] Both defense and prosecution manifested that they would adopt their briefs filed before the Court of Appeals in order to avoid repetition of the arguments and to expedite the resolution of the instant case.^[11] The case was thereafter deemed submitted for decision.

Asking for his acquittal, accused-appellant raises the following assignment of errors:

I.

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT DESPITE THE FACT THAT HIS GUILT WAS NOT PROVEN BEYOND REASONABLE DOUBT.

II.

THE TRIAL COURT GRAVELY ERRED IN CONSIDERING THE QUALIFYING CIRCUMSTANCE OF MINORITY OF THE VICTIM ALTHOUGH THE INFORMATION DOES NOT ALLEGE SUCH CIRCUMSTANCE AND THAT THE PROSECUTION INTRODUCED NO PROOF AS TO THE AGE OF THE VICTIM AT THE TIME THE ALLEGED RAPE INCIDENT HAPPENED.

The defense argues that it was impossible for accused-appellant to have raped AAA, for two reasons. First, he and AAA did not reside at the same place. Second, at the time the alleged rape incident took place, accused-appellant was harvesting mangoes in Casantiagoan, Pangasinan. Accused-appellant attempts to discredit AAA by showing that AAA was actuated by ill motives. Accused-appellant asserts that AAA had a very strong motive against him, elucidating that AAA and BBB's family hated him because he hurt BBB. The defense also questions the trial court's appreciation of the qualifying circumstance of minority when the information failed to allege such circumstance and the prosecution did not present proof pertaining to the age of the victim at the time the alleged rape took place.