

SECOND DIVISION

[G.R. No. 174480, December 18, 2009]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
REYNALDO ALBALATE, JR., ACCUSED-APPELLANT.**

D E C I S I O N

DEL CASTILLO, J.:

Factual Antecedents

Appellant Reynaldo Albalate, Jr. was charged with two counts of rape committed against his niece "Maria".^[1] The accusatory portions of the two Informations read as follows:

Crim. Case No. 3169-C:

That on or about the evening of the 21st day of November 1998, at Barangay _____, Municipality of Lopez, Province of Quezon, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, an uncle and a relative by consanguinity within the third civil degree of one "Maria", with lewd design, by means of force, threats and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of said "Maria" , a minor, 12 years of age against her will.

Contrary to law.^[2]

Crim. Case No. 3170-C:

That on or about the 21st day of November, 1998 at around 8:00 o'clock in the morning, at Barangay _____, Municipality of Lopez, Province of Quezon, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, an uncle and a relative by consanguinity within the third civil degree of one "Maria", armed with an ice-pick, with lewd design, by means of force, threats and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of one "Maria", a minor, 12 years of age against her will.

Contrary to law.^[3]

Appellant pleaded "not guilty" when arraigned. Trial on the merits thereafter ensued.

Ruling of the Regional Trial Court

On July 24, 2002, the Regional Trial Court of Calauag, Quezon, Branch 63, rendered its Decision^[4] finding the appellant guilty. The trial court based its judgment of conviction on the following factual findings:

This Court painstakingly scrutinized with great caution the testimony of private complainant x x x and found the same to be clear, straightforward, credible and convincing. At the time when the rape incidents happened [on] November 21, 1998, the victim x x x was, as alleged by the prosecution, just a twelve (12) years old barrio lass living in the house of her paternal grandparents in Barangay x x x, Quezon. It was in the said house where she was forcibly deflowered by her uncle Reynaldo Albalate, Jr. on two separate incidents that transpired on that fateful day of November 21, 1998. "Maria" candidly testified that in the morning of the said day while she was alone in the house of her grandparents, the accused Reynaldo Albalate, Jr. armed with an ice pick forcibly removed her dress and placed himself on top of her. Afterwards, Reynaldo Albalate, Jr. inserted his penis in her private part and at the same time kissed and warned her that if she will tell x x x anybody what he had done to her, he will kill her x x x. She added that on the evening of the same day (November 21, 1998) the accused Reynaldo Albalate, Jr. first boxed her, then undressed her and once again put himself on top of her and proceeded to rape her. "Maria" reported the rape incidents to her grandmother x x x who is also the mother of the accused x x x but her grandmother told her that she x x x was lying x x x. When asked by the Court x x x whether she offered resistance when she was raped by the accused x x x, the victim x x x averred that "nagpapalag po ako" x x x. In the course of the cross-examination conducted by the defense counsel, the victim x x x even disclosed that when she was raped by the accused x x x in the morning of November 21, 1998, she was alone in her grandmother's house because she told her cousin Ruel x x x to tend [to] the carabao. She added that when her cousin Ruel came back, the latter saw that she was being raped by the accused x x x. She also categorically testified that when the accused proceeded to rape her, there was bleeding in her vagina and she was hurt. When she urinated, it was very painful. She pointed out that the subject rape incident was her first sexual experience x x x.

On the other hand, the accused in order to exculpate himself from the crime charged in the two Informations interposed the defense of denial and alibi. Accused x x x denied that he twice raped the victim x x x at about 8:00 o'clock in the morning and about 9:00 o'clock in the evening of November 21, 1998 x x x. He also claimed that the parents of the victim x x x were mad at him that is why they filed the instant cases against him. Reynaldo explained that when they were young, the victim's father was angry with him because of the sharing of copras in their farm. One day, they had a fight and "Maria's" father chased and boxed him so he boxed the former. [The other defense witness, Florentina Escleto, tried to bolster the alleged innocence of the accused of the crimes.] The said witness tried to establish the defense of alibi in favor of the accused x x x. She testified that when the subject incidents of rape happened on

November 21, 1998 at Barangay x x x, Quezon, the accused x x x was with her and her son making copra at Barangay Ilayang Ilog-B, Lopez, Quezon. She added that accused x x x arrived at Brgy. Ilayang Ilog-B on November 18, 1998 and only left said Barangay at the end of the month of November 1998 x x x. This Court carefully scrutinized and weighed the defense of denial and alibi proffered by the accused and was not persuaded by the same. The denial and alibi of the accused deserve scant consideration. x x x

In the case at bar, accused x x x was positively identified in a straightforward and categorical manner by the victim x x x as the defiler of her womanhood on two occasions on x x x November 21, 1998. Thus, the denial and alibi interposed by the accused wilted and crumbled in the face of such positive identification. It is also quite interesting x x x that when the accused x x x testified in open court x x x, he only advanced the defense of flat denial. He never mentioned x x x that when the alleged rape incidents happened on November 21, 1998 x x x he was at Brgy. Ilayang Ilog-B, Lopez, Quezon helping Florentina Escleto and her son in making copra. It was only when Florentina Escleto testified x x x that the evidence of alibi cropped up. No other witnesses were presented by the defense to bolster the alibi. Even the son of Florentina Escleto who she claimed was with her and accused x x x in making copra at Brgy. Ilayang Ilog-B, Lopez, Quezon on November 21, 1998 was not presented to shore up the defense of alibi. Thus, it is not hard for this Court to discern that the accused's defenses of denial and alibi were mere concoction, undeserving of any evidentiary weight and value.

It is also [worth noting] that the accused x x x tried to impute ill-motive on the part of the victim x x x and her parents for filing the instant cases against him. He claimed that the parents of the victim particularly the victim's father was mad at him because when they were still young, they had a fight wherein he hacked the former. However, the said allegation of the accused was not fully substantiated by any other evidence that would clearly show the alleged ill-motive on the part of the complainant and her parents. Further, to the mind of this Court, it is inconceivable that the victim x x x and her parents would concoct a story of rape over such alleged quarrel between the victim's father and the accused and thus subject "Maria" to public humiliation and shame. x x x.^[5]

x x x x

Again, it is worth repeating that this Court found the testimony of private complainant x x x to be clear, straightforward and convincing thus, worthy of credence. She categorically testified that accused x x x through force and intimidation ha[d] carnal knowledge of her against her will on two separate occasions that occurred in the morning and in the evening of November 21, 1998 x x x.^[6]

The trial court noted that although the prosecution satisfactorily established that appellant was a relative of the victim by consanguinity within the 3rd civil degree, it

however failed to prove the victim's minority. It held that while the victim testified that she was only 12 years old when the rape incidents transpired, the same could not be deemed conclusive and binding upon the court because no other evidence such as a birth certificate was presented to corroborate or substantiate the victim's minority.^[7]

The dispositive portion of the Decision of the trial court reads:

WHEREFORE, in view of all the foregoing considerations, this Court hereby finds accused Reynaldo Albalate, Jr. GUILTY beyond reasonable doubt of the crime of RAPE both in Criminal Case No. 3169-C and Criminal Case No. 3170-C and hereby sentences said accused to suffer the penalty of RECLUSION PERPETUA in both cases and to pay the private offended party "Maria" the amount of FIFTY THOUSAND PESOS (P50,000.00) as civil indemnity plus the amount of FIFTY THOUSAND PESOS (P50,000.00) as moral damages in each case.

The accused is to be credited [for] his preventive imprisonment if proper and any pursuant to the provision of Article 29 of the Revised Penal Code as amended by R.A. 6127 and E.O. 214.

SO ORDERED.^[8]

Ruling of the Court of Appeals

On appeal, appellant mainly argued that the prosecution failed to prove his guilt beyond reasonable doubt and thus the trial court erred in finding him guilty of two counts of rape. Appellant claimed that he could not have raped the victim because the examining physician testified that "Maria" did not suffer any hymenal lacerations. Appellant also alleged that the trial court failed to consider the fact that the victim had ill-motives to testify against him considering that the victim's father had a previous quarrel with the appellant. The defense also argued that the veracity of the victim's testimony was weakened by the prosecution's failure to present the testimony of Ruel, the victim's cousin, to corroborate the testimony of the victim.

The Court of Appeals, however, did not find merit in appellant's contentions. Thus, in its Decision^[9] dated May 3, 2006, the Court of Appeals affirmed *in toto*^[10] the Decision of the trial court.

The appellate court did not dignify appellant's defenses of denial and alibi in view of the fact that he was positively identified by the victim as the perpetrator of the crime. Appellant's imputation of ill-motives was also disregarded. The Court of Appeals opined that "no member of the victim's family would subject the victim to the stigma and embarrassment concomitant with a rape trial, if he or she is not motivated by an honest desire to have the malefactor punished". Anent the findings of the examining physician that the victim suffered no hymenal lacerations, the Court of Appeals opined that the same did not mean that the victim was not raped. It held that a medical examination is not indispensable in rape cases. The perpetrator of the crime may be found guilty based solely on the testimony of the victim if the same is found to be credible. Finally, the Court of Appeals held that the

veracity of the prosecution's evidence was not diminished by its failure to present the testimony of Ruel which would only be corroborative.

As regards the penalties imposed by the trial court, the Court of Appeals held that:

With respect to the propriety of the penalty imposed, the Court agrees with the finding of the RTC that there is no concurrence of the aggravating circumstances of the victim's minority and her relationship to the accused-appellant which would warrant the imposition of the death penalty. Hence, accused-appellant was properly meted the penalty of reclusion perpetua in Criminal Case No. 3169-C. On the other hand, the Court noted that the rape under Criminal Case No. 3170-C was committed with the use of an ice pick, which is a deadly weapon. Article 335 of the Revised Penal Code provides that "whenever the rape is committed with the use of a deadly weapon x x x, the penalty shall be reclusion perpetua to death". In relation thereto, Article 63 of the same Code prescribes that when a penalty is composed of two (2) indivisible penalties, and there are neither mitigating nor aggravating circumstances in the commission of the deed, as in this case, the lesser penalty shall be applied. Accordingly, no reversible error was likewise committed by the RTC in imposing the penalty of reclusion perpetua against accused-appellant in the latter case.^[11]

On November 20, 2006, we required the parties to submit their respective supplemental briefs^[12] but both manifested that they are adopting the allegations and arguments in their respective appellant's/appellee's briefs and would thus no longer submit their supplemental briefs.^[13]

Our Ruling

We **AFFIRM** with **MODIFICATION** the Decision of the Court of Appeals.

Guided by the principles that: "a) an accusation for rape is easy to make, difficult to prove and even more difficult to disprove; b) in view of the intrinsic nature of the crime, the testimony of the complainant must be scrutinized with utmost caution and c) the evidence of the prosecution must stand on its own merits and cannot draw strength from the weakness of the evidence for the defense",^[14] we hold that both the trial court and the Court of Appeals correctly found appellant guilty of two counts of rape committed on November 21, 1998.

Findings of the trial court on the credibility of witnesses and their testimonies are accorded great weight and respect.

The trial court found the testimony of "Maria" to be clear, straightforward and credible. Thus: