

## SECOND DIVISION

[ G.R. No. 179277, June 18, 2008 ]

**THE PEOPLE OF THE PHILIPPINES, APPELLEE, VS. REMON COJA  
Y SIMEON, APPELLANT.**

### D E C I S I O N

**TINGA, J,:**

On automatic review is the Decision<sup>[1]</sup> of the Court of Appeals dated 30 April 2007 in CA-G.R. CR-H.C. No. 00849 affirming *in toto* the Decision<sup>[2]</sup> of the Regional Trial Court (RTC) of Cavite City, Branch 17, in Criminal Case No. 222-01 finding appellant Ramon Coja y Simeon guilty beyond reasonable doubt of the crime of rape, and sentencing him to suffer the penalty of *reclusion perpetua* and to pay P50,000.00 as civil indemnity and P50,000.00 as moral damages.

On 2 May 2001, appellant was charged in an Information for rape allegedly committed as follows:

That on or about the 1<sup>st</sup> day of May 2001 in the Municipality of Noveleta, Province of Cavite, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating with four (4) other persons whose real names, personal identities and whereabouts are still unknown, by means of force and taking advantage of superior strength, and while the herein private complainant, [AAA],<sup>[3]</sup> a minor of 16 years old, was deprived of reason or otherwise unconscious, with lewd designs and actuated by lust, did then and there, willfully, unlawfully, and feloniously have carnal knowledge of the said [AAA], against her will and consent, to her damage and prejudice.

CONTRARY TO LAW.<sup>[4]</sup>

Upon arraignment, appellant pleaded not guilty. Trial then proceeded.

The prosecution presented the testimonies of the victim, AAA, her godfather, Rolando Valido (Valido), the police officer who conducted the investigation and effected the arrest of appellant, SPO1 Clipseo Mediran (Mediran), and medico-legal officer Dr. Annabelle Soliman (Soliman).

AAA narrated that on 1 May 2001, at around 6:00 p.m., she and her sister were in a vacant lot owned by AKI-RIN Restaurant located in Magdiwang, Noveleta, Cavite. She asked permission from her sister to visit her friend Cindy at Teacher's Village and on her way there, she met the brother of Cindy. After their talk, AAA decided not to proceed to Cindy's place anymore and instead returned to her sister. When she arrived at the vacant lot, she heard a whistle ("*sitsit*") coming from appellant.

Suddenly, two (2) unidentified persons approached and held her by the arms. Appellant went behind her back and covered her nose and mouth with a black handkerchief. She lost consciousness. Upon regaining consciousness, AAA found herself lying on the ground in another vacant lot some 200 meters away from AKI-RIN Restaurant, with her legs spread apart, her pants down and her shoes gone. She felt pain in her legs and in her lower abdominal area. She managed to crawl away from the vacant lot to the house of her godfather, Valido. There, she cried and repeatedly uttered the name of appellant. Valido summoned AAA's aunts who in turn called for AAA's uncle. The latter called for the *barangay* patrol. All together, they went to the house of AAA in Putol and from there they proceeded to police station on their way to which they met AAA's mother.

At the police station, AAA gave a written statement. Appellant was immediately arrested and brought to the police station where AAA was able to identify him. The following day, AAA went to the National Bureau of Investigation (NBI) where she was examined by a doctor. When asked for the reason why appellant committed the alleged dastardly act, AAA answered that when she quit as a member of the fraternity headed by appellant, the latter threatened her that something would happen to her.<sup>[5]</sup>

Valido testified that he was inside his house in San Jose, Noveleta, Cavite watching television when he heard somebody outside the house calling out, "*Ninong, Ninong, tulungan mo ako.*" He went out and saw AAA all dirtied and crying. He let her inside the house and there AAA told him, "*Ninong, ginalaw ako, ginalaw ako.*" Valido asked AAA for the culprit and she replied, "*Coja, Coja.*"<sup>[6]</sup>

Mediran was the police investigator assigned at the police station in Noveleta, Cavite on 1 May 2001. At 10:00 p.m., he received a complaint from AAA who reported that she was raped by five (5) men. Mediran, accompanied by Olan Monzon, PO1 Nolasco and Barangay Captain Lamit, then went to the house of appellant in Gahak, Kawit, Cavite but did not find him there. They continued searching for appellant until they found him in Kaingin attending a meeting *de avance*. They invited appellant to the police station where AAA positively identified him as one of those who raped her.<sup>[7]</sup>

Soliman, a NBI medico-legal officer conducted an examination on AAA. She issued Living Case No. MG-01-374 stating her findings as follows:

#### GENERAL PHYSICAL EXAMINATION:

x x x

No evident sign of extragenital physical injury noted.

#### GENITAL EXAMINATION

Pubic hair, fully grown, abundant. Labia majora, gaping, Labia minora, coaptated. Fourchette, tense, reddish, superficial abrasion. Vestibule, mucosa, pinkish. Hymen, tall, thick, intact.

#### CONCLUSIONS:

No evident signs of extragenital physical injury was[sic] noted on the body of the subject at the time of the examination.

Recent genital injury noted.<sup>[8]</sup>

The defense interposed alibi. Appellant recalled that he met AAA sometime in the second week of March 2001 when AAA joined the brotherhood Vampire Trasher, a group of skateboarders headed by him.<sup>[9]</sup> Appellant claimed that AAA stayed at his house for two days in March when she ran away from home. That was the last time appellant saw her. On 1 May 2001 at 4:00 p.m. appellant, together with his ten companions, was in Kaingin in Kawit, Cavite making tents for a wake. After the work, he then proceeded to a "*tapsihan*," also in Kaingin, to attend a meeting *de avance*. It was there that he was arrested at around 10:00 p.m. that day and brought to the Noveleta Police Station.<sup>[10]</sup> The following day, he was brought to the Prosecutor's Office in Imus, Cavite.<sup>[11]</sup>

His alibi was corroborated by Alfred Solis who testified that he and several other persons were with appellant on that fateful day in Barangay Kaingin, Kawit, Cavite. They started their work on a tent at 4:00 p.m. and finished the same at 7:00 p.m. After completing the job, they then attended the meeting *de avance* of Mayor Poblete. At the said meeting, five police officers arrived and arrested appellant. He and his companions followed appellant to the police station but they were not able to give their statement to the police.<sup>[12]</sup>

Shirley Coja, appellant's mother, also testified that appellant asked her permission to leave the house at 4:00 p.m. on 1 May 2001 to attend a dance practice. She was surprised to learn that appellant was arrested by the police. She went to see appellant at the Noveleta Police Station after the arrest but she was likewise not allowed by the police investigator to explain her side.<sup>[13]</sup>

On 25 August 2003, the RTC rendered judgment finding appellant guilty beyond reasonable doubt of the crime of rape. The dispositive portion of the decision reads:

WHEREFORE, premises considered, judgment is hereby rendered finding accused Remon Coja guilty beyond reasonable doubt of the crime of rape defined and penalized under paragraph (1) (b) of Article 266-A of the Revised Penal Code, as amended by R.A. [No.] 8353, and hereby sentences him to suffer the penalty of *reclusion perpetua*. Further, he is hereby ordered to pay to private complainant the amount of P50,000.00 as civil indemnity and P50,000.00 as moral damages.<sup>[14]</sup>

The issues boil down to two, namely: whether rape was consummated, and whether criminal culpability may be imputed to appellant.

In concluding that AAA was raped, the RTC relied on the findings of the medico-legal officer, thus:

In the case at bar, the report of the medico-legal officer shows that [AAA] did not sustain extra-genital physical injury and her hymen was intact. Recent injury was, however, noted on her genitalia. Thus, the *labia majora* was gaping, the *labia minora* 'coaptated,' and the fourchette was tense with "reddish superficial abrasion." To the mind of this Court, these medical findings indicate more than mere scraping of the *mons pubis* or pudendum. At the very least, they show that there was touching of the

labia majora and labia minora and therefore it may be legally said that private complainant's private organ was indeed penetrated or entered. Indeed, a gaping labia minora shows consummation of rape x x x

The nature of the genital injuries are [*sic*] also reasonably consistent with penetration by the male organ. Anent the abrasion on the fourchette, Dr. Soliman testified the same could have been caused by pressure by a male organ on the outer part of the genitalia. [AAA] also stated that she felt pain on her abdominal area and her legs. Such pain could have been caused by pressure exerted on that area, such as by a person lying on top of her. (Citations omitted)<sup>[15]</sup>

On the basis of circumstantial evidence presented, the RTC had no doubt that appellant was the perpetrator of the crime. It found that:

In the case at bar, the evidence shows that accused was known to [AAA] at the time of the incident and she could have easily identified him as the person who covered her mouth while two men held her arms. It is also reasonable to deduce that only the accused and his companions could have had control over the person of [AAA] after she was rendered unconscious and it was only they who could have sexually molested her.

The evidence also shows that after she regained consciousness, [AAA] realized that she was abandoned at the wooded and grassy area and she felt weak. Her shoes were missing, her legs were spread apart, her pants have been lowered, and her bra was inverted. As earlier stated, she also felt pain in her abdominal area and her legs. These circumstances are telltale signs of sexual assault and this Court gives full faith and credence to [AAA's] testimony thereon. She testified in a direct and forthright manner on the witness stand and there is nothing in the evidence to show that she might have been actuated by ill-motives in imputing to accused a crime as serious as rape. The evidence also shows that [AAA] reported the matter to the police at 10 [p.m.] of the same day, May 1, 2001, or barely 4 hours after accused covered her mouth. She submitted herself to physical examination at the NBI Clinic, Manila the following morning 9:25 a.m. of May 2, 2001. The police investigator also observed that at the time [AAA] came to report the incident she appeared as though she was bewildered. These circumstances show that there was no time for [AAA] to concoct a rape story and that even in her weakened condition, she was determined to swiftly redeem her honor and bring her defiler to justice. Indeed, [AAA] would not have immediately come out in the open and expose herself to the shame and stigma of a public disclosure of the assault on her womanhood if the same were not true. (Citations omitted)<sup>[16]</sup>

On appeal, the Court of Appeals affirmed *in toto* the RTC ruling.

Appellant insists that his guilt has not been proven beyond reasonable doubt. He assails the credibility of AAA's testimony with respect to the commission of the crime and the identity of the alleged perpetrator. He raises doubts as to whether AAA was raped because there was no evident sign of extragenital injury nor traces of semen in her organ and because her hymen was still intact. These medical findings further

lend dubiety to AAA's claim that at least five men raped her. Assuming further that AAA was indeed raped, appellant adds, there is no direct evidence that would directly implicate him as the perpetrator. Appellant asserts that there were no witnesses to corroborate AAA's statement before or after she passed out. He contends that AAA only implicated him mainly because he was the last one she had seen before she lost consciousness.<sup>[17]</sup>

For its part, the Office of the Solicitor General (OSG) maintains that appellant's guilt has been proven beyond reasonable doubt. It upholds the credibility of AAA's testimony pointing to appellant as the one who raped her. The OSG contends that while AAA was rendered unconscious and there were no witnesses to such rape, there was sufficient circumstantial evidence to establish with moral certainty that it was appellant who raped AAA.<sup>[18]</sup>

Essentially, the issue to be resolved is whether appellant's guilt has been proven beyond reasonable doubt.

The gravamen of the offense of rape is sexual intercourse with a woman against her will or without her consent.<sup>[19]</sup> Consequently, for the charge of rape to prosper, the prosecution must prove that (1) the accused had carnal knowledge of the complainant; and, (2) that the same was accomplished through force or intimidation.<sup>[20]</sup>

In cases of rape, only two (2) persons are normally privy to its occurrence, the complainant and the accused.<sup>[21]</sup> Generally, the nature of the offense is such that the only evidence that can prove the guilt of the accused is the testimony of the complainant herself.<sup>[22]</sup> Thus, the prosecution of rape cases is anchored mainly on the credibility of the complaining witness.

As a general rule, the findings of the trial court relative to the credibility of the rape victim are normally respected and not disturbed on appeal. More so, if they are affirmed by the appellate court. <sup>[23]</sup> It is only in exceptional circumstances that this rule is brushed aside, such as when the court's evaluation was reached arbitrarily, or when the trial court overlooked, misunderstood or misapplied certain facts or circumstances of weight and substance which could affect the result of the case.<sup>[24]</sup> The Court does not find any of these exceptions in the case at bar.

AAA's narration of the events surrounding the alleged sexual assault was adjudged by the trial court as credible. The narration reads, thus:

Q: Now, on May 1, 2001 at around six o'clock in the evening, can you recall where you were, Miss Witness?

A: We were at the vacant lot of AKI-RIN, ma'am.

Q: Where is this AKI-RIN located?

A: At Magdiwang, ma'am.

Q: In what municipality is this located?