

SECOND DIVISION

[G.R. No. 177151, August 22, 2008]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ARIEL JACOB Y ZUÑEGA, ACCUSED-APPELLANT.

DECISION

BRION, J.:

This is an appeal from the September 21, 2006 Decision^[1] of the Court of Appeals (CA) in CA-G.R. CR-HC No. 01372 affirming the January 13, 2003 Decision^[2] of the Regional Trial Court (RTC), Branch 38, Daet, Camarines Norte. The RTC decision found the appellant Ariel Jacob y Zuñega (*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 1:00 in the afternoon of August 7, 2000 at Barangay Gaboc, municipality of Mercedes, province of Camarines Norte, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design and by means of force and intimidation, did, then and there willfully, unlawfully and feloniously had carnal knowledge of his cousin [AAA],^[3] a minor, against her will and prejudicial to her development as a child, to her damage and prejudice.

CONTRARY TO LAW.^[4]

On arraignment, the appellant pleaded not guilty to the charge. The prosecution presented the following witnesses in the trial on the merits that followed: BBB; AAA; and Dr. Virginia Barrameda-Mazo. The appellant took the witness stand for the defense and did not present any other witness.

BBB, mother of AAA, narrated that at around 11:00 o'clock in the morning of August 7, 2000, she and her daughter CCC went to Daet to buy school uniforms for her children. They left AAA alone in their house.^[5] They returned to their house at around 4:30 in the afternoon and found it closed. Thinking that AAA was not inside, she opened the kitchen door by reaching for the barrel bolt.^[6] She and CCC entered the house at the same time.^[7] Soon after entry, CCC came running to her to report that AAA was lying in bed and was shaking. She rushed to AAA's side and asked her thrice why she was shaking. AAA, who appeared in shock, did not immediately answer. It was only after she spanked AAA on the hips that she appeared to regain her composure. AAA told her that her (AAA's) hips, legs and vagina were aching and

that the appellant, also known as "Kitot," raped her.^[8]

BBB testified further that she knows the appellant because he is the nephew of her present husband, DDD.^[9] She also disclosed that her first husband, EEE, is the natural father of AAA.^[10]

On September 18, 2001, AAA herself testified in court. The RTC succinctly summarized the material points of her testimony as follows:

She is the private complainant in this case and testified that on August 7, 2000, she was nine (9) years old.^[11] While in their house at 1:00 o'clock in the afternoon, the accused arrived and showed to her his penis.^[12] He removed her panty and thereafter inserted his penis inside her vagina. She felt pain.^[13] She fought back, but the accused was strong.^[14] After the raping [sic] incident, accused gave her two (2) pesos but the accused retrieved the money^[15] and went home.

That [sic] her mother brought her to Dr. Virginia Mazo for genital examination and also to the Police Station of Mercedes. She filed a complaint for rape against the accused.^[16] On cross examination, she testified that she did not report for school on August 7, 2000 because she was not permitted by her mother;^[17] that her cousin FFF told her to file rape case against the accused;^[18] that there was misunderstanding between the parents of Ariel Jacob and her parents.^[19] *[Footnotes referring to the pertinent parts of the record supplied]*

Dr. Virginia Barrameda-Mazo (*Dr. Mazo*), the Municipal Health Officer of Paracale, Camarines Norte, narrated that she conducted a physical examination of AAA on August 10, 2000 at the Camarines Norte Provincial Hospital at the request of the Chief of Police.^[20] The genital examination yielded the following findings:

GENITAL EXAMINATION

Pubic hair, no growth. Labia majora, coaptated, with elongated, semi-oblong reddish contusions on both sides, extending downwards up to the fourchette area, beginning at the clitoris area. Labia minora, gaping. Fourchette, tense. Vestibular mucosa, pinkish. Hymen, short, thin intact. Hymenal orifice measures 1.0 cm. in diameter. Vaginal walls and rugosities cannot be reached by examining finger.^[21]

The appellant was the sole defense witness and gave a different version of events. He testified that he was in Lucena City on August 7, 2000 on a fishing expedition. He left Barangay Gaboc, Mercedes, Camarines Norte on August 4, 2000 on board a fishing vessel (*basnigan*),^[22] and reached Lucena City on August 6, 2000.^[23] He returned to Mercedes only on August 12, 2000.^[24]

The appellant denied knowing AAA^[25] when so asked on cross-examination. He also claimed that he had asked for permission from the pilot of the fishing vessel to go on board in order to earn a living. He did not ask his companions in the vessel to execute affidavits to confirm that he was indeed on board the vessel on August 4,

2000.

The RTC primarily considered the testimonies and documentary evidence relevant to the elements of the crime of rape. It did not "find it necessary to inquire into the defense of alibi put up by the defense, it being an established doctrine that the accused [*sic*] conviction must rest on the strength of the evidence of the prosecution." Its decision of January 13, 2003 found the appellant guilty beyond reasonable doubt of the crime of rape and sentenced him to suffer the penalty of RECLUSION PERPETUA and to pay the offended party the amount of P50,000.00 as civil indemnity and P30,000.00 as moral damages.^[26]

The records of this case were originally transmitted to this Court on appeal. Pursuant to *People v. Mateo*,^[27] however, we transferred the records to the CA for intermediate review and disposition.^[28]

The CA, in a decision^[29] dated September 21, 2006 firstly noted that the Office of the Solicitor General, representing the State, recommended that the appealed decision be affirmed as "the totality of the evidence indubitably established the appellant's guilt beyond reasonable doubt."^[30] Significantly, it considered in its decision the claim of the accused about the absence of hymenal laceration; the alleged misunderstanding between the appellant's parents and those of the victim; the inconsistencies pointed out in the testimonies of the prosecution witnesses; and the appellant's defense of alibi. The appellate court considered all these contentions "untenable". Thus, the CA affirmed the RTC decision *in toto*.

In his Brief,^[31] the appellant argues that the appellate court erred -

- 1. in giving full faith and credence to the incredible testimonies of the prosecution witnesses; and**
- 2. in convicting him of the crime charged despite the failure of the prosecution to prove his guilt beyond reasonable doubt.**

THE COURT'S RULING

After due consideration, we resolve to deny the appeal but modify the amount of the awarded moral damages.

Sufficiency of the Prosecution Evidence

The Revised Penal Code, as amended by Republic Act No. 8353,^[32] 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 such act through force or intimidation**, or when she was deprived of reason or otherwise unconscious, or when she was under 12 years of age or was demented.
[33]

Central in the determination of guilt for the crime of rape is the credibility of the complainant's testimony. Rape is a crime largely committed in private where no witness other than the victim is available.^[34] For this reason, jurisprudence has recognized that the accused may be convicted solely on the testimony of the victim, provided the testimony is credible, natural, convincing and consistent with human nature and the normal course of things.^[35]

AAA, while recounting her unfortunate ordeal, positively identified the appellant as the one who raped her. Her testimony dated September 18, 2001 was clear and straightforward; she was consistent in her recollection of the details of her defloration, and never wavered in pinpointing to the appellant as the one who raped her. To directly quote from the records:

FISCAL FERRER:

Q: You know the accused Ariel Jacob alias Kitot?

[AAA]:

A: Yes, sir.

Q: Why do you know him?

A: Because he undressed me and he put out his penis and showed it to me.

Q: Your surname is Jacob and the surname of Ariel is also Jacob, is it not?

A: Yes, sir.

Q: Are you related to him?

A: Yes, sir.

Q: In what capacity?

A: He is my cousin.

Q: And you know him by his nickname Kitot?

A: Yes, sir.

Q: And the accused alias Kitot you know him for quite some time already?

A: Yes, sir.

Q: **And this accused alias Kitot is inside the courtroom, will you please point him out?**

A: **That one, Sir.
(Witness pointing to the accused who gave his name as Ariel Jacob)**

COURT:

How are you commonly called?

ACCUSED:

Kitot, your Honor.

x x x x

FISCAL FERRER:

Q: A while ago, you said that Kitot showed to you his penis?

[AAA]:

A: Yes, sir.

Q: How did he do it?

A: **He inserted his penis into my vagina.**

Q: You mean to say **he placed his penis inside your vagina** which according to you his penis was still wet?

A: **Yes, sir.**

Q: Did he remove your panty?

A: Yes, sir.

Q: **Was he able to insert his penis inside your vagina?**

A: **Yes, sir.**

Q: **And what did you feel when his penis was inside your**