

EN BANC

[**G.R. No. 168299 (Formerly G.R. Nos. 156927-29), October 06, 2008**]

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. LUIS AYCARDO, APPELLANT.

DECISION

AZCUNA, J.:

This is a petition for review of the Decision of the Court of Appeals in CA-G.R. CR H.C. No. 00107, promulgated on May 5, 2005, which affirmed with modification the Decision of the Regional Trial Court (RTC) of Bulan, Sorsogon City, Branch 65, promulgated on October 11, 2002, finding appellant Luis Aycardo guilty of three counts of Statutory Rape and imposing on him the death penalty.

The facts are as follows:

Appellant was charged with three counts of rape under three separate Informations^[1] which read:

Criminal Case No. 00-387

The undersigned Asst. Provincial Prosecutor accuses LUIS AYCARDO, of San Francisco, Bulan, Sorsogon, of the crime of RAPE, defined and penalized under Art. 335 of the Revised Penal Code, in relation to Section 5, Art. III of RA 7610, committed as follows:

That sometime in the month of March, 1994 at more or less 9:00 o'clock in the morning at Barangay San Francisco, Municipality of Bulan, Province of Sorsogon, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, by means of force, violence and/or intimidation, accused also gave the amount of P20.00, did then and there willfully, unlawfully and feloniously, taking advantage of the tender age of the victim, have carnal knowledge of one [AAA], a 9-year-old girl, a virgin of good reputation, his niece, against her will and consent, which act debased, demeaned and degraded her integrity as a human being, to her damage and prejudice.

The alternative aggravating circumstance of relationship is present, the accused being the uncle of the victim.

Criminal Case No. 00-388

The undersigned Asst. Provincial Prosecutor accuses LUIS AYCARDO, of San Francisco, Bulan, Sorsogon, of the crime of RAPE, defined and

penalized under Art. 335 of the Revised Penal Code, in relation to Section 5, Art. III of RA 7610, committed as follows:

That sometime in the month of April, 1995 at more or less 2:00 o'clock in the afternoon at Barangay San Francisco, Municipality of Bulan, Province of Sorsogon, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, by means of force, violence and/or intimidation, accused also gave the amount of P50.00, did then and there willfully, unlawfully and feloniously, taking advantage of the tender age of the victim, have carnal knowledge of one [AAA], a 10-year-old girl, a virgin of good reputation, his niece, against her will and consent, which act debased, demeaned and degraded her integrity as a human being, to her damage and prejudice.

The alternative aggravating circumstance of relationship is present, the accused being the uncle of the victim.

Criminal Case No. 00-389

The undersigned Asst. Provincial Prosecutor accuses LUIS AYCARDO, of San Francisco, Bulan, Sorsogon, of the crime of RAPE, defined and penalized under Art. 335 of the Revised Penal Code, in relation to Section 5, Art. III of RA 7610, committed as follows:

That sometime in the month of April, 1995 at more or less 4:00 o'clock in the afternoon at Barangay San Francisco, Municipality of Bulan, Province of Sorsogon, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, by means of force, violence and/or intimidation, accused also gave the amount of P50.00, did then and there willfully, unlawfully and feloniously, taking advantage of the tender age of the victim, have carnal knowledge of one [AAA], a 10-year-old girl, a virgin of good reputation, his niece, against her will and consent, which act debased, demeaned and degraded her integrity as a human being, to her damage and prejudice.

The alternative aggravating circumstance of relationship is present, the accused being the uncle of the victim.

Contrary to law.

On arraignment, appellant entered pleas of not guilty to all three charges. During the pre-trial conference, the defense admitted that private complainant AAA^[2] is the niece of appellant. Thereafter, trial ensued.

AAA further testified that she was born on December 27, 1985. She grew up with her late paternal grandmother, BBB, who took care of her since she was a baby. She lived with her grandmother and appellant in one house. Appellant is her uncle, being the brother of her father.^[3]

Private complainant testified that she was raped by appellant thrice in the house of her grandmother in Barangay San Francisco, Bulan, Sorsogon, when her grandmother was not around. She was first raped on March 19, 1994, when she

was nine years old. At about 9:00 a.m. of that day, while she was in the house of her grandmother, appellant forcefully pulled her inside the room and pushed her toward the bed. Appellant undressed himself by removing only his trousers and brief, then he got hold of her and undressed her too. Thereafter, appellant lay on top of her and inserted his penis into her genitalia, then he made pumping motions. She felt pain. After the ordeal, appellant put on his clothes and gave her P20 to keep her silent. He threatened her not to tell anybody about the incident. Her grandmother returned that same day coming from the place where her other child lived. After the incident, appellant continued to stay with her grandmother in the same house.^[4]

Private complainant testified that appellant raped her again when she was 10 years old. Sometime in the month of April, 1995, at about 4:00 p.m., while her grandmother went to the center of the barrio (Polot), appellant called her, but she did not want to approach him. He pulled her inside the room and pushed her toward the bed and slapped her. She fell down face up. Appellant held both of her hands and undressed her. Then appellant removed his trousers and brief and lay on top of her. She kept crying while appellant was on top of her and she felt pain. After she was sexually molested, appellant gave her P50 to keep her mum. Her grandmother returned home on the same day, but she did not tell her about the incident, fearing that appellant might kill her.^[5]

The third rape incident was committed almost a week after the second rape in April, 1995. AAA testified that it happened at about 2:00 p.m. when her grandmother was not around. Appellant approached her, took hold of her hands and pulled her inside the room. Although she resisted, appellant overpowered her. After undressing himself and her, appellant pushed her towards the bed and sexually molested her. She felt pain. After the ordeal, appellant dressed himself and threatened her not to tell anybody or they would be killed. He again gave her P50.^[6]

Private complainant testified that the ordeal she suffered in the hands of appellant only ended in June, 1996 when her grandmother died and her mother took her. Although her parents visited her in her grandmother's house, she was not able to inform them about the rape incidents because of fear. Her mother only learned of the rape incidents in January, 2000, because she could no longer withstand the emotional pain that she felt. Her mother brought her to a doctor for medical examination, after which they proceeded to the Department of Social Welfare and Development. They also went to the police station where she executed a sworn statement.^[7]

Dr. Estrella A. Payoyo, a rural health physician, testified that on January 7, 2000, she examined private complainant, then 14 years old, and she executed a Medico-legal Report.^[8] She found that complainant's hymen had old lacerations at 1, 5, 7, and 11 o'clock positions and that her vaginal orifice admitted one finger with ease. She stated that the lacerations could have been caused by sexual intercourse, specifically so if the penetration was made violently or done in a hurry. The old lacerations could have been inflicted sometime in 1995.^[9]

CCC, the mother of private complainant, testified that she gave birth to AAA on December 27, 1985 in Sucat, Muntinlupa, and she identified the Birth Certificate^[10]

of her daughter. AAA is the eldest among her three children. Appellant is the full-blood brother of her (CCC's) husband. AAA was reared by her mother-in-law since she was four months old, and she (CCC) took her back in custody after the death of her mother-in-law. She knew about the rape incidents only on January 6, 2000. Her daughter acted strangely, which bothered her. After her daughter told her that she was raped, she brought her to the doctor.^[11]

On cross-examination, CCC testified that her family does not have any dispute with appellant. She was a housewife and a permanent resident of Polot, San Francisco, Bulan, Sorsogon. Her husband is a farmer. She stated that she and her husband used to work in Manila. Her mother-in-law, BBB, was able to gain custody of her daughter, AAA, because her mother-in-law asked her husband to go home to the province to tend the ricefield. Her husband obeyed and brought with him AAA. From then on, her mother-in-law had custody of AAA. She (CCC) was refused custody of her daughter, AAA, because she was not the one who reared and took care of her. Appellant, her mother-in-law and AAA lived together in one house.^[12]

On the other hand, appellant denied that he raped private complainant and put up the defense of alibi. During his direct examination, appellant testified that he was in Jamorawon, Bulan, Sorsogon as of March 1994 and that he left for Manila on December 10, 1994 and returned to Bulan only in April, 1997. Hence, appellant denied that he was living in San Francisco, Bulan, Sorsogon with his mother and private complainant when the rape incidents allegedly happened sometime in March, 1994 and in April, 1995.^[13]

Appellant testified that he came to know about the complaint for rape only in the year 2000 when he received a letter from the Chief of Police of Bulan. He claimed that AAA was used by her mother CCC because of their long-standing dispute over a ricefield owned by a certain Crisanto. The land dispute between him and CCC started in the year 1989, and since then they were no longer in speaking terms. When he returned to Bulan in 1997, the land he was tenanting was being cultivated by private complainant's mother and her husband. Thus, what really prompted the filing of these cases against him was the long-standing dispute over the property they cultivated.^[14]

On cross-examination, appellant admitted that his niece, AAA, grew up with his late mother and with him. Time and again, he stayed at the residence of his mother. However, a nephew also stayed in the house with them. He only stayed with his mother from 1994 to September 17, 1995. In 1993, when his mother suffered a stroke, AAA stayed with his sibling in Jamorawon, Bulan, Sorsogon. He actually treated AAA like his real child, showering her with love and care. He did not know any other reason why AAA would file criminal cases for rape against him because the only reason that he had in mind was the property dispute between AAA's parents and him.^[15]

When the trial court asked some clarificatory questions, appellant testified that he stayed in Manila for nine years. He returned to Jamorawon, Bulan, Sorsogon when his mother had a stroke in 1993 up to March 10, 1994 on which date he went back to Manila. He returned home to Bulan when his mother died on September 17, 1994 (*sic*) [1995?]. After his mother was buried, he left for Manila and he returned to Bulan with his family in 1997. He re-affirmed that he only came to know about this

case in the year 2000 when he was invited to the Police Station of Bulan. When he went home to Jamorawon together with his family, he chanced upon private complainant as well as her parents. However, the father of private complainant did not even bother to inform him about these cases during those times they met.^[16]

Appellant was the lone witness of the defense.

In a Decision dated October 11, 2002, the RTC found appellant guilty beyond reasonable doubt of three counts of Statutory Rape. The dispositive portion of the Decision reads:

WHEREFORE, premises considered, accused LUIS AYCARDO having been found guilty beyond reasonable doubt of the three (3) counts of RAPE as charged, defined and penalized under Article 335 of the Revised Penal Code, as amended, by R.A. 7610 and R.A. 7659, is hereby sentenced as follows:

- a) To suffer the penalties of DEATH each, for the three (3) counts of RAPE committed sometime in March of 1994 and in April of 1995;
- b) To indemnify the victim [AAA] for each count of RAPE in the amount of P50,000.00 as civil indemnity, in addition to the P50,000.00 moral damages and costs.^[17]

These consolidated cases were elevated to this Court for automatic review. The Court referred the cases to the Court of Appeals for intermediate review following *People v. Mateo*.^[18]

Appellant's Brief, submitted by the Public Attorney's Office, argued that the trial court erred in convicting appellant of rape when his guilt was not proved beyond reasonable doubt. Appellant claimed that it was impossible for him to commit the alleged offenses because his testimony showed that he was in Jamorawon, Bulan, Sorsogon when the first rape on March 19, 1994 allegedly happened; while he was in Manila when the two incidents of rape in April, 1995 were allegedly committed. Moreover, the alleged rape incidents transpired more than six years before the case was filed. It is apparent that private complainant filed the case in 2000 after the land dispute between her mother and him (appellant) had arisen. Thus, private complainant was motivated to falsely testify against him.

In the Decision promulgated on May 5, 2005, the Court of Appeals affirmed the Decision of the RTC with modification, disposing thus:

WHEREFORE, premises considered, the Decision of the Regional Trial Court of Bulan, Sorsogon City, Branch 65 dated 11 October 2002 is hereby **AFFIRMED**, with the **modification** that accused-appellant is ordered to indemnify [AAA] the amount of P75,000.00 as civil indemnity for each count of rape.^[19]

The cases were forwarded to this Court for review.

The issue is whether or not the Court of Appeals correctly affirmed the decision of the RTC finding appellant guilty beyond reasonable doubt of three counts of rape.