

THIRD DIVISION

[G.R. No. 171348, November 26, 2008]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. LARRY ERGUIZA, ACCUSED-APPELLANT.

D E C I S I O N

AUSTRIA-MARTINEZ, J.:

The Court is confronted with another case of rape. The victim, a 13-year-old girl. And although the Court may be moved by compassion and sympathy, the Court, as a court of law, is duty-bound to apply the law. Basic is the rule that for conviction of a crime, the evidence required is proof beyond reasonable doubt -- conviction with moral certainty.

For review before this Court is the November 18, 2005 Decision^[1] of the Court of Appeals (CA) in CA-G.R. CR H. C. No. 00763 which affirmed with modification the Decision^[2] of the Regional Trial Court (RTC) of San Carlos City, Pangasinan, Branch 57, finding Larry Erguiza (appellant) guilty of one count of rape and sentencing him to suffer the penalty of *reclusion perpetua*.

The Information, dated April 10, 2000, in Criminal Case No. SCC 3282 reads as follows:

That on or about 5:00 o'clock in the afternoon of January 5, 2000, at the back of the Bical Norte Elementary School, municipality of Bayambang, province of Pangasinan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, armed with a kitchen knife, by means of force and intimidation, did then and there, willfully, unlawfully, and feloniously have sexual intercourse with AAA^[3], a minor of 13 years old, against her will and consent and to her damage and prejudice.^[4]

When arraigned, appellant pleaded "not guilty".^[5] Thereafter trial ensued.

The prosecution presented four witnesses, namely: private complainant (AAA), her mother BBB and father CCC, and Dr. James Sison. The defense presented five witnesses, namely: Joy Agbuya, Juanito Macaraeg, Juanita Angeles, Albina Erguiza, and appellant.

On November 27, 2000, the RTC found appellant guilty of the crime of rape, the dispositive portion of which reads as follows:

In view whereof, the Court finds the accused LARRY C. ERGUIZA guilty of RAPE under Article 266-a paragraph 1(a) in relation to Article 266-b of R.A. 8353 and R.A. 7659 and sentences (sic) to suffer the penalty of

reclusion perpetua and to pay the offended party, AAA P50,000 as civil indemnity, P50,000 as moral damages, P50,000 as exemplary damages, to give support to AAA's offspring and to pay the costs.

SO ORDERED.^[6]

On appeal, the CA aptly summarized the respective versions of the parties, based on the evidence presented before the trial court, thus:

PROSECUTION'S VERSION:

On **January 5, 2000**, at around 4:00 o'clock in the afternoon, **AAA, a thirteen-year old first year high school student, together with her friends, siblings Joy and Ricky Agbuya**, went to the mango orchard located at the back of ZZZ Elementary School to gather fallen mangoes.^[7] **When they were bound for home at around 5:00 o'clock in the afternoon, AAA's short pants got hooked on the fence. AAA asked Joy and Ricky to wait for her but they ran away and left her.**^[8]

While AAA was trying to unhook her short pants, Larry suddenly grabbed and pulled her. Poking a knife at her neck, Larry threatened to hurt her if she would make a noise.^[9]

Accused-appellant dragged AAA towards a place where a tamarind tree and other thorny plants grow. Then Larry removed his maong pants and forced AAA to lie down on the grassy ground. Thereafter, he removed her short pants and panty, mounted himself on top of her and inserted his penis into her private parts and made push and pull movements. He likewise raised AAA's "sando" and mashed her breast. AAA felt pain when accused-appellant entered her and she felt something sticky in her private part after Larry made the push and pull movements.^[10]

Larry told AAA not to tell anybody about the incident otherwise he would kill her and all the members of her family and then he ran away.^[11]

AAA lingered for a while at the place and kept crying. Having spent her tears, she wore her panty and short pants and proceeded to the adjacent store of her Aunt Beth who was asleep. After staying for some time at the store, AAA decided to come (sic) home. Upon reaching home, she directly went to bed. Fearing Larry's threat, AAA kept mum on the incident.^[12]

On April 7, 2000, BBB brought her daughter AAA to her grandmother (BBB's mother), a *hilot* residing in XXX, Tarlac, to consult her on the unusual palpitation on the mid-portion of AAA's throat and the absence of her monthly period.^[13] After examining AAA, her grandmother told BBB that her daughter was pregnant.

BBB asked AAA who was the father of her unborn child but AAA refused to talk. After much prodding, and in the presence of her Uncle, Rudy Domingo, AAA finally revealed that she was raped by accused-appellant.

[14]

On April 8, 2000, AAA, accompanied by her mother and uncle, went to the police headquarters in YYY, Pangasinan to report the incident.^[15] Then the police brought her to YYY District Hospital^[16] where Dr. James Sison, Medical Officer III of said hospital conducted the examination on Michelle. Dr. Sison made the following findings:

"Q. x x x No extragenital injuries noted. Complete healed hymenal laceration 11:00 o'clock. x x x. In layman's term, Dr. Sison found no physical injury from the breast, the body except the genital area wherein he found a significant laceration complete (sic) healed over 11:00 o'clock."^[17] Dr. Sison also testified that a single sexual intercourse could make a woman pregnant.

BBB testified that her daughter AAA stopped going to school after she was raped and that no amount of money could bring back the lost reputation of her daughter.

CCC (AAA's father), testified that on May 2, 2000, the family of accused-appellant went to their house and initially offered P50,000 and later P150,000; that in January 5, 2000, while they were repairing his house for the wedding reception^[18], Larry left at around 4:00 o'clock p.m.

DEFENSE'S VERSION

On January 5, 2000, Larry Erguiza helped in the repair of CCC's^[19] house from 8:00 o'clock in the morning up to 5:00 o'clock in the afternoon. When he reached home at around 5:00 pm, his mother Albina Erguiza instructed him to fetch a "*hilot*" as his wife Josie was already experiencing labor pains. He proceeded to fetch the "*hilot*" Juanita Angeles and stayed in their house until his wife delivered a baby at around 3:00 o'clock in the morning of January 6, 2000.^[20]

Juanita Angeles corroborated Larry's testimony that he indeed fetched her at around 5:10 pm on January 5, 2000 to attend to his wife who was experiencing labor pains and who delivered a baby at about 3:00 a.m. of January 6, 2000; and that Larry never left his wife's side until the latter gave birth.

Albina, mother of the accused-appellant, testified that AAA is the daughter of her "*balae*" Spouses CCC and BBB; that her son Larry, her husband and two others left CCC and BBB's residence at about 5:00 o'clock in the afternoon on January 5, 2000; that she went to Spouses CCC and BBB to talk about the charge of rape against her son; that Spouses CCC and BBB were asking for P1,000,000.00 which was later reduced to P250,000.00 and that she made a counter-offer of P5,000.00.^[21]

Joy Agbuya testified that she and AAA were at the mango orchard of Juanito Macaraeg on January 5, 2000; that she never left AAA

when her short pants got hooked; that they went together to the store of Auntie Beth where they parted.^[22]

Juanito Macaraeg, the mango orchard caretaker, testified that the house of Larry was a walking distance of about three minutes from the mango orchard; that if one runs fast, it would only take a minute to reach his house; and that he could not recall having seen Larry in the orchard.^[23] (Emphasis supplied)

In its Decision dated November 18, 2005, the CA affirmed the decision of the RTC, but modified the amount of the award of exemplary damages and costs as follows:

WHEREFORE, in view of all the foregoing circumstances, the Decision of the Regional Trial Court of San Carlos (Pangasinan), Branch 57 dated November 27, 2000 in Criminal Case No. SCC-3282 is **AFFIRMED** with **MODIFICATION**. Accused-appellant Larry Erguiza is held **GUILTY** of Rape and is sentenced to suffer the penalty of reclusion perpetua. He is ordered to pay the victim AAA P50,000.00 as civil indemnity; P50,000.00 as moral damages, and P25,000.00 as exemplary damages and to give support to AAA's offspring.

SO ORDERED.^[24]

Hence, herein appeal.

In his appeal Brief,^[25] appellant raises the following errors:

1. THE COURT A QUO GRAVLEY ERRED IN GIVING CREDENCE TO THE INCREDIBLE, THUS UNBELIEVABLE TESTIMONY OF PRIVATE COMPLAINANT AAA.
2. THE COURT A QUO GRAVELY ERRED IN CONVICTING ACCUSED APPELLANT OF THE CRIME OF RAPE DESPITE THE FACT THAT THE PROSECTUION EVIDENCE FAILED TO ESTABLISH HIS GUILT BEYOND REASONABLE DOUBT.
3. THE COURT A QUO GRAVELY ERRED IN NOT APPRECIATING ACCUSED-APPELLANT'S DEFENSE OF ALIBI CORROBORATED BY THE WITNESSES PRESENTED BY THE DEFENSE.^[26]

The appeal is meritorious. The prosecution's evidence does not pass the test of moral certainty.

This Court has ruled that in the review of rape cases, the Court is guided by the following precepts: (a) an accusation of rape can be made with facility, but it is more difficult for the accused, though innocent, to disprove it; (b) the complainant's testimony must be scrutinized with extreme caution since, by the very nature of the crime, only two persons are normally involved; and (c) if the complainant's testimony is convincingly credible, the accused may be convicted of the crime.^[27]

In the case at bar, the CA upheld the conclusion of the RTC in finding the complainant credible, to wit:

The testimonies of victims who are young and of tender age, like AAA, deserve full credence and should not be dismissed as mere fabrication especially where they have absolutely no motive to testify against the accused-appellant as in this case. Larry even admitted that AAA had no ill motive for charging him with rape. The Supreme Court in several cases, ruled that full credence is accorded the testimony of a rape victim who has shown no ill motive to testify against the accused. This being so, the trial court did not err in giving full credence to AAA's testimony.^[28]

This Court does not agree with the CA.

The Court is not unmindful of the general rule that findings of the trial court regarding credibility of witnesses are accorded great respect and even finality on appeal.^[29] However, this principle does not preclude a reevaluation of the evidence to determine whether material facts or circumstances have been overlooked or misinterpreted by the trial court.^[30] In the past, this Court has not hesitated to reverse a judgment of conviction, where there were strong indications pointing to the possibility that the rape charge was false.^[31]

Generally, when a woman, more so if she is a minor, says that she has been raped, she says in effect all that is necessary to show that rape was committed. And so long as her testimony meets the test of credibility and unless the same is controverted by competent physical and testimonial evidence, the accused may be convicted on the basis thereof.^[32]

After a judicious examination of the records of the case, the Court finds that there is testimonial evidence that contradicts the findings of the RTC and CA on the basis of which no conviction beyond reasonable doubt could arise. It is the *unrebutted testimony of a credible defense witness. The testimony of Joy Agbuya (Joy) casts doubt as to the possibility of rape having taken place as narrated by complainant. In addition, the testimony of a disinterested defense witness, Juanita Angeles (Juanita) corroborated the alibi of appellant.*

Before dwelling on the testimonies of Juanita and Joy, the Court shall first scrutinize the testimonial evidence presented by the prosecution and the defense.

Aside from the testimony of complainant, the prosecution presented the following witnesses: Dr. James Sison, BBB, and CCC. The pertinent portions of their testimonies may be summarized as follows:

Dr. James Sison testified that he conducted the medical examination of complainant. His diagnosis was that there was a significant laceration completely healed at the 11:00 o'clock position.^[33] However, Dr. Sison testified that his findings were not conclusive, but were rather suggestive that complainant was raped. Furthermore, as to the question of paternity of the child of complainant, Dr. Sison suggested doing a DNA match.^[34]

BBB testified she brought AAA to her grandmother, a *hilot* residing in XXX, Tarlac, to consult her on the unusual palpitation on the mid-portion of complainant's throat and the absence of her monthly period.^[35] After examining complainant, the