594 Phil. 665

FIRST DIVISION

[G.R. No. 172874, December 17, 2008]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. MARIO CASTRO, ACCUSED-APPELLANT.

DECISION

LEONARDO-DE CASTRO, J.:

On appeal is the decision[1] dated February 15, 2006 of the Court of Appeals (CA) in *CA-G.R. CR-H.C. No. 00126* which affirmed *in toto* an earlier decision[2] of the Regional Trial Court of Pasig City, Branch 162 in Criminal Case No. 117506-H, finding accused-appellant guilty beyond reasonable doubt of the crime of Rape and imposing upon him the penalty of *reclusion perpetua*.

Consistent with our decision in *People v. Cabalquinto*,[3] the real name of the rape victim in this case is withheld and instead, fictitious initials are used to represent her. Also, the personal circumstances of the victim or any other information tending to establish or compromise her identity, as well as those of her immediate family or household members, are not disclosed in this decision.

In the court of origin, accused-appellant was charged with the crime of rape in an Information[4] dated February 2, 2000. The crime was alleged to have been committed as follows:

> On or about November 11, 1999, in Taguig, Metro Manila and within the jurisdiction of this Honorable Court, the accused, by means of force and intimidation, did then and there willfully, unlawfully and feloniously have sexual intercourse with his sister-in-law, [AAA]**,** a minor, fourteen (14) years of age, against her will and consent. (Word in bracket ours)
>
> CONTRARY TO LAW.

When arraigned on July 12, 2000, accused-appellant, assisted by counsel *de oficio*, pleaded not guilty to the crime charged. Thereafter, trial on the merits ensued, in the course of which the prosecution presented the testimony of the victim herself. The testimony of Jurita Olvido was dispensed with after both parties agreed to stipulate on the following: (1) that she is a social welfare officer of the Department of Social Welfare and Development; (2) that she assisted the victim in filing a complaint due to her minority; and (3) that the due execution of her statement is admitted.[5]

For its part, the defense presented Margarita Salangsang as its lone witness. Accused-appellant opted not to testify.

The prosecution's version of the incident is succinctly summarized by the Office of the Solicitor General in its Appellee's Brief,[6] to wit:

> Private complainant [AAA]**,** is a fourteen (14) year old lass having been born on July 8, 1985. Appellant Mario Castro is the husband of [BBB], elder sister of [AAA].
>
> On November 11, 1999 at about 11:00 in the evening, appellant fetched [AAA] from her Aunt's house at PNR Compound, Taguig Metro Manila. He said that her elder sister, [BBB], collapsed and was in the clinic. Believing the story, [AAA] went with appellant.
>
> As events turned out, appellant brought [AAA] - - not in the clinic - - but near TEMIC Factory, which is an old abandoned building located at Western Bicutan, Taguig, Metro Manila. As they reached a dark narrow alley, appellant suddenly stopped and held [AAA]'s left arm. Startled and frightened, [AAA] screamed for help but nobody seemed to have heard the outcry. Wasting no time, appellant strangled her, with a threat to keep quiet lest he would kill her. [AAA] was cowed into silence. She felt helpless as she knew that appellant had killed someone before.
>
> Appellant hurriedly pulled [AAA] to the side of a building and told her to undress. When she refused, appellant undressed her, after which, he undressed himself. [AAA] could not run away as appellant pressed her against the wall of the building and blocked her way. When both of them were already naked, appellant kissed her on the different parts of her body and, in an instant, forced his penis into her vagina until he satisfied his lust.
>
> Once satiated, appellant told [AAA] to dress up and warned her not to tell anybody. Appellant initially brought her to the bus and jeepney terminal but he later changed his mind. He told [AAA] that they have to go to Kuya Manny's work place. Still overwhelmed with shock and fear, [AAA] could not resist. When appellant learned that Kuya Manny was not at work, he brought [AAA] again to the dark narrow alley beside Temic Factory. This time, however, they passed by a different route which is near "Pepsi."
>
> As before, appellant asked [AAA] to undress. When she refused, he himself removed her clothes - including her intimate garments. He likewise undressed himself. He then kissed her on the different parts of her body and forced her down. All the while, she was so frightened and helpless. All she could do was to plead: "Wag na po Kuya Mar." Engulfed by his bestiality, appellant ignored her please; he took liberties on her body as he rammed his penis into her vagina. Again, he satisfied his lust.
>
> Appellant eventually told [AAA] to dress up. He brought her to the terminal of the jeep and allowed her to go home.
>
> When [AAA] reached her residence, she immediately took a bath. As she could not contain her grief and misery, she told her aunt [CCC] and her grandmother [DDD] that she was raped. After her relatives learned of the

> incident, they brought her to the Barangay Tanod and, later to Camp Crame for medical examination. They also proceeded to the Police Station located at the Municipal Hall of Taguig to give her statement. (Words in bracket ours)

On the other hand, the defense relied on the testimony of Margarita Salangsang, a lessee of accused-appellant's mother at Signal Village in Taguig. She testified that at around 9:30 in the evening on November 11, 1999, accused-appellant was in her house for her birthday celebration. Accused-appellant did not leave the house at any time from the moment he arrived at 9:30 in the evening until he finally left around midnight. She knew that accused-appellant went home straight after the party because she even saw him at his house when she returned the pans she borrowed from accused-appellant's mother. Margarita declared that her house was located just at the back of accused-appellant's house.[7]

In a decision[8] dated September 29, 2004, the trial court rendered its decision convicting accused-appellant of the crime of rape, the dispositive portion of which reads:

> WHEREFORE, the Court finds the accused Mario Castro, guilty beyond reasonable doubt of the crime of Rape committed under paragraph 1(a) of Article 266-A of the Revised Penal Code (as amended by R.A. 8353), and hereby sentences him to suffer the penalty of ***reclusion perpetua***.
>
> Accused Mario Castro is likewise ordered to indemnify private complainant, [AAA], the amount of fifty thousand pesos (P50,000.00) as civil indemnity and the amount of fifty thousand pesos (P50,000.00) by way of moral damages with cost *de oficio*.
>
> SO ORDERED.

Pursuant to *People v. Mateo*,[9] accused-appellant appealed his conviction to the CA *via* a notice of appeal on September 30, 2004,[10] whereat it was docketed as *CA-G.R. CR-HC No. 00126.*

On February 15, 2006, the CA upheld the conviction of accused-appellant and affirmed *in toto* the RTC decision.[11]

From the CA, the case was then elevated to this Court upon filing by accused-appellant of a notice of appeal on March 10, 2006.[12] In its Resolution[13] of August 9, 2006, the Court resolved to require the parties to submit their respective supplemental briefs, if they so desire. Both parties, however, manifested that they were dispensing with the filing of a supplemental brief as their arguments have already been substantially discussed in their respective briefs filed before the appellate court.[14]

In this appeal, accused-appellant assigns the following errors:

I

> THE TRIAL COURT GRAVELY ERRED IN GIVING FULL WEIGHT AND CREDENCE TO THE HIGHLY INCREDIBLE TESTIMONY OF THE PRIVATE

COMPLAINANT.

II

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT OF RAPE INSTEAD OF THE CRIME OF ACTS OF LASCIVIOUSNESS.[15]

Insisting that the prosecution failed to prove his guilt beyond reasonable doubt for the crime of rape, accused-appellant assails the credibility of the complainant branding her testimony as highly improbable and contrary to common human experience. He contends that complainant did not particularly describe the details of the alleged rape as to whether she was forced to lie down or whether they were standing when he inserted a part of his organ into her vagina. Accused-appellant also asserts that complainant failed to categorically state that accused-appellant succeeded in inserting his penis into her vagina, thus undermining her allegation of consummated rape.

Accused-appellant's contentions relate to the credibility of the testimony of complainant. We have time and again said that the findings of the trial court pertaining to the credibility of witnesses are entitled to great respect since it has the opportunity to examine their demeanor on the witness stand.[16] Unless shown that the trial court overlooked or misunderstood some facts or circumstances of weight and substance that could affect the result of the case, its findings on questions of facts will not be disturbed on appeal.[17] We have reviewed the record of the instant case and found nothing which would warrant a reversal of the trial court's findings.

Accused-appellant maintains that complainant failed to mention any pumping motion and whether she was standing or lying down when she was allegedly raped. These matters, however, have no bearing on the principal question of whether accused-appellant had carnal knowledge of the victim. Besides, contrary to appellant's contention, complainant testified in no uncertain terms during cross-examination that she did not willingly lie down but was forced to do so by accused-appellant:

ATTY. JANDUSAY:

Q. So are you saying Miss Witness, that you willingly laid down with the accused?
A. No, Ma'am.

Q. What did he do, did he force you down?
A Yes, Ma'am.[18]

Further, the complainant's narration of how accused-appellant perpetrated the sexual assault upon her was consistent, spontaneous and straightforward, thus:

PROS. CRISOLOGO:

Q While you were at the side of the building, what else happened, if any?
A He asked me to undress, Sir.

Q Did you undress, Madam witness?
A No, Sir.

Q. What else happened when you refused to undress?
A. He undressed me, Sir.

Q. Did you resist his act of undressing you, Madam Witness?
A. Yes, Sir.

Q. Did he succeed in undressing you?
A. Yes, Sir.

Q. When you said he undressed you, do you mean that he was able to undress everything including your underwear?
A. Yes, Sir.

Q. Would this mean that you were totally naked after he was able to undress you?
A. My panty was pulled down to the knee, Sir.

Q. And after he succeeded in undressing you, what else happened, if any?
A. He kissed me at different parts of my body, Sir.

Q. After kissing the different parts of your body, what else happened, if any?
A. He was forcing his organ to insert into my organ, Sir.

Q. Did he succeed, Madam Witness?
A. Not all, Sir.

Q. When you said not all somehow a part of his organ was inserted, would that be correct, Madam Witness?
A. Yes, Sir.[19]

Courts usually give greater weight to the testimony of a girl who is a victim of sexual assault, especially a minor, as in this case, because no woman would be willing to undergo a public trial and put up with the shame, humiliation and dishonor of exposing her own degradation were it not to condemn an injustice and have the offender apprehended and punished.[20]

Nor is there any question that accused-appellant in this case committed rape by means of threat and intimidation. Being 30 years old and the brother-in-law of complainant, accused-appellant exercised not only physical superiority, but also moral ascendancy over his 14-year old victim such that his threat to inflict physical harm on her effectively cowed her into submitting to his lustful designs. In fact, complainant was aware that accused-appellant had killed someone before[21] which all the more engendered fear in her - fear that if she did not yield to accused-appellant's demands, he would carry out his threat to kill her.

Accused-appellant argues that he cannot be held liable for consummated rape following the ruling in *People v. Campuhan*.[22] For this purpose, he cites the testimony of complainant that "not all" of accused-appellant's organ was inserted