

EN BANC

[G.R. NO. 167180, January 25, 2007]

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. ROLANDO REYES Y NACE, APPELLANT.

D E C I S I O N

CARPIO MORALES, J.:

Appellant Rolando Reyes y Nace was charged on May 12, 1998 before the Regional Trial Court (RTC) of Bayombong, Nueva Vizcaya of four counts of rape of his 15-year old daughter AAA,^[1] alleged to have been committed as follows:

Criminal Case No. 3346

That on or about 11:00 o'clock (sic) in the evening of June 4, 1997, in . . . Municipality of Villaverde, Province of Nueva Vizcaya, Philippines and within the jurisdiction of this Honorable Court, the above-named accused who [is] the father of the offended party [AAA], and by means of force and intimidation, willfully, unlawfully and feloniously did lie, and succeed [in] having carnal knowledge of his daughter [AAA], a minor who was then under eighteen years against her will and to her damage and prejudice.^[2] (Underscoring supplied)

Criminal Case No. 3347

That on or about 9:00 o'clock (sic) in the evening of September 10, 1997, in . . . Municipality of Villaverde, Province of Nueva Vizcaya, Philippines and within the jurisdiction of this Honorable Court, the above-named accused who [is] the father of the offended party [AAA], and by means of force and intimidation, willfully, unlawfully and feloniously did lie, and succeed [in] having carnal knowledge of his daughter [AAA], a minor who was then under eighteen years against her will and to her damage and prejudice.^[3] (Underscoring supplied)

Criminal Case No. 3348

That on or about 1:00 o'clock (sic) in the early dawn of November 30, 1997, in . . . Municipality of Villaverde, Province of Nueva Vizcaya, Philippines and within the jurisdiction of this Honorable Court, the above-named accused who [is] the father of the offended party [AAA], and by means of force and intimidation, willfully, unlawfully and feloniously did lie, and succeed [in] having carnal knowledge of his daughter [AAA], a minor who was then under eighteen years against her will and to her damage and prejudice.^[4] (Underscoring supplied)

That on or about 9:00 o'clock (sic) in the evening of December 6, 1997, in . . . Municipality of Villaverde, Province of Nueva Vizcaya, Philippines and within the jurisdiction of this Honorable Court, the above-named accused who [is] the father of the offended party [AAA], and by means of force and intimidation, willfully, unlawfully and feloniously did lie, and succeed [in] having carnal knowledge of his daughter [AAA], a minor who was then under eighteen years against her will and to her damage and prejudice.^[5] (Underscoring supplied)

The cases were jointly tried before Branch 27 of the Bayombong RTC.

Appellant and ABC were married on June 7, 1980 out of which four children were born including AAA, the complainant in the cases. Complainant was born on September 12, 1982.^[6]

On June 17, 1993, ABC left for Hongkong to work as a domestic helper, leaving her children under the care of her husband?herein appellant.^[7]

From the evidence for the prosecution, the following version is gathered:

Around 11 o'clock in the evening of June 4, 1997, appellant repaired to the room where AAA was sleeping. Once inside, appellant removed AAA's upper clothing and brassiere and held her breasts. He then pulled down her short pants and underwear. While AAA tried to resist, appellant was simply too strong for her. Appellant soon also removed his short pants and underwear and inserted his penis into her vagina and made pumping motions. AAA felt extreme pain and thereafter lost consciousness which she regained at 9 o'clock the following morning.

Appellant warned AAA not to report the matter to her maternal grandmother who was living four meters away from their house; otherwise, if necessary, he might as well kill someone (*Haan ka nga agipulpulong kada Nanay mo, mabalbalin pumatayak langngen ti tao.*)^[8]

On September 10, 1997, around 9 o'clock in the evening, while AAA was lying on her bed with her younger sister who was then sleeping, appellant entered the room and, with a closed fist, ordered her not to talk.

As in the past, appellant raised AAA's shirt and brassiere. And he kissed and held her breasts. He then pulled down her short pants and underwear afterwhich he also removed his short pants and underwear. While in a slanting position on top of AAA, he inserted his penis into her vagina and made pumping motions as he was kissing her neck. Again AAA lost consciousness which she regained the following morning.^[9]

Around 1 o'clock in the morning of November 30, 1997, while AAA was sleeping, she was suddenly awakened when appellant held her arms. She slapped him, but he warned that if she did that again, he would punch her. He soon had sexual intercourse with her and as she cried, appellant covered her mouth. Again she lost consciousness and woke up at 10 o'clock that same morning.^[10]

On December 6, 1997, around 9:00 in the evening, while AAA was sleeping, appellant went inside her room, woke her up and ordered her to stand up. AAA told him, "Papa, I do not want anymore," but appellant angrily told her to shut up. Appellant thereafter dragged her to the kitchen where he molested her. She later told him, "I don't want anymore," to which he replied that he was not yet through. After appellant was through having sexual intercourse with her, AAA repaired to her room and cried herself to sleep.^[11]

A week later or on December 13, 1997, AAA left their house and left a letter to her maternal grandmother, telling her that she had to go away for a while as she could no longer stand the way appellant had been treating her. She went to the house of her aunt, DEF. ^[12]

In the meantime, two other aunts of AAA, GHI and JKL, on reading the letter addressed to the grandmother, looked for AAA and found her at the house of DEF. They then asked her "Did your father touch you?" to which she answered in the affirmative.^[13]

On December 16, 1997, GHI informed ABC by telephone that appellant molested AAA. Albeit shocked, ABC's employment contract did not allow her to go back to the Philippines until March 24, 1998.^[14]

Four days after ABC's arrival in the Philippines or on March 28, 1998, she and her sister GHI brought AAA to the Veterans' Regional Hospital in Bayombong where she was examined by Dr. Lorelie U. Bagasao. The examination revealed the following:

Extra-genital injuries	- no extra-genital injuries like hematoma, abrasion
Orifice	- admits 2.5 cm tube with ease
Vaginal walls	- tense
Rugosities	- prominent
Uterus	- small
Cervix	- soft closed , (-) adnexag
L areola	- 2.5 cm
L nipple	- 1 cm
R areola	- 2.6 cm
R nip[p]le	- 1 cm
Breast	- hemispherical
Pubic hair	- occupies the anterior 3 rd labia (-)
Labia M	- gaping
Labia Minora	- gaping
Fouchette	- tensed
Vestibule	- pinkish
Hymen	- tall, thin

#1 lacerations old healed superficial 4 o'clock position

#2 laceration old healed laceration complete 8 o'clock position

- no bleeding on manipulation

Pregnancy test – negative^[15]

Hence, the filing of the four informations for rape against appellant.

Appellant denied the charges, interposing denial and alibi. The details of his version follow:

On May 14, 1997 he was stricken with hypertension and had to be confined at the Aliasas Medical Clinic until May 21, 1997. Thereafter, he just stayed home and could hardly get up from bed. Even at the time of the alleged date of the commission of rape on June 4, 1997, he was still weak and needed the assistance of AAA to stand up from the bed.^[16]

On September 10, 1997, he reported for work at the Provincial Engineer's Office where he was a service driver. He stayed in the office until 10 o'clock in the morning when he, together with the Inspection Team of his office, proceeded to Malasin, Dupax del Norte. They later left for Nantawakan Road, Kasibu, Nueva Vizcaya and were back at Bayombong at 9 o'clock in the evening. In Bayombong, he stayed in the premises of the motorpool where he rested for a while, after which he and his companions played a card game until 4 o'clock of September 11, 1997.^[17] Appellant's tale was corroborated by Rolando Ongat.^[18]

On November 30, 1997, with appellant's permission, AAA attended a party at Bintawan, Villaverde, Nueva Vizcaya. Although he told AAA to go home early, she only arrived at past 5 o'clock the following morning.^[19]

In the morning of December 6, 1997, as AAA arrived home from a party she attended the night before, he scolded her, telling her that she should be home taking care of her sisters. AAA cried and started writing something at the sala.^[20]

Capping his version, appellant claimed that his wife had an affair with Felixberto Viernes, the former chief of police of Villaverde, and insinuated that she instigated their daughter to fabricate charges against him so that he would be sent to jail to leave her free to continue her extra-marital affair.

Finding for the prosecution and accordingly convicting appellant, the trial court disposed:

WHEREFORE, finding the accused Rolando Reyes y Nace GUILTY beyond reasonable doubt in each case of the four counts of Rape, he is hereby sentenced to death by lethal injection in each of the cases filed against him; to pay the victim [AAA] the sums of P75,000.00 as civil indemnity and P50,000.00 as moral damages in each count of rape, and to pay the costs of suit.^[21]

In finding for the prosecution, the trial court noted the victim's narration to be "credible, consistent, straight-forward and in accord with human experience, . . . often interrupted by her heart-rending sobs and hysterics on the witness stand."

[AAA's] rendition of her testimony was that of a victim of an unacceptable and horrendous fate because it was administered by her own father, the supposed protector of her persona and her honor at moments when she