

THIRD DIVISION

[G.R. NO. 170849, March 07, 2007]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
EDUARDO MORAN JR. Y GORDULA, ACCUSED-APPELLANT.**

CHICO-NAZARIO, J.:

For review is the Decision^[1] of the Court of Appeals in CA-G.R. CR-H.C. No. 01352 which affirmed the Decision of the Regional Trial Court (RTC) of Pasig City, Branch 70, finding accused-appellant Eduardo Moran, Jr. y Gordula guilty of the crime of rape and sentencing him to suffer the penalty of *reclusion perpetua* and ordering him to pay the costs of the suit. The Court of Appeals, however, modified the RTC decision ordering the accused-appellant to pay the victim, AAA,^[2] the amount of P100,000.00 as moral and exemplary damages by deleting the award of exemplary damages. It fixed the award of moral damages to P50,000.00 and added the amount of P50,000.00 as civil indemnity.

On 10 November 1994, appellant was charged before the RTC with the crime of rape under Article 355 of the Revised Penal Code, as amended by Republic Act No. 7659, the accusatory portion of which reads:

That on or about the 4th day of November 1994, in the Municipality of Pasig, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with lewd designs and by means of force, threats and intimidation, did then and there willfully, unlawfully and feloniously have sexual intercourse with AAA who was under 14 years of age, without her consent and against her will.^[3]

During his arraignment on 22 November 1994, appellant, with the assistance of counsel, entered a plea of not guilty.

Trial on the merits ensued after appellant waived the pre-trial conference.

The evidence of the prosecution, as culled from the collective testimonies of the victim (AAA), the victim's aunt (BBB), the victim's cousin (CCC), PO3 Digna Cas, and Dr. Rosalie Cosidon, are as follows:

The victim was a 14-year old high school student living under the custody of her aunt, BBB, at the time of the alleged incident. In the evening of 3 November 1994, AAA attended the wake of MMM at the chapel of Arkong Barko, Kapitolyo, Pasig City. The latter is the husband of the former's aunt NNN.

At about two o'clock the following morning, AAA decided to sleep in the house of DDD, another aunt of hers whose house is just a few meters away from where the wake was held. AAA slept on a bench near the door. Also sleeping in the same house

were her cousins, nine-year old CCC and four-year old EEE. AAA purposely left the door unlocked because she expected her aunt DDD to come home anytime after attending the wake.

AAA, however, was roused from her sleep when she felt that somebody, whom she could not recognize then because it was dark, hit her in the abdomen. The aggressor's second blow made her unconscious. When she regained consciousness, she found herself lying on the bench feeling drained and weak with her body aching. She was no longer wearing her shorts and underwear. Glancing at her side, she vaguely saw the face of one whom she later identified as the appellant who was standing beside her. She had earlier seen the appellant, together with her Uncle XXX and Kuya YYY, drinking during the wake. AAA shouted for help but appellant immediately covered her mouth with his hand while poking a pointed object on the right side of her body. Appellant covered her with a blanket, punched her again twice on the stomach and threatened to kill her if she will report the incident. As appellant went out of the house, AAA peeped through the door and with the illumination from a nearby lightpost, she was able to see vividly appellant's face.

Appellant's acts of covering AAA with a blanket and punching her were witnessed by CCC as the latter was awakened when appellant grabbed his blanket and used the same to cover AAA.

When appellant left, AAA turned on the light right away, went to the toilet and washed off the sticky substance from her private part. She went out of the toilet and found her cousins CCC and EEE awake and crying. Grippled in fear, she locked the door. Later, someone knocked at the door. AAA refused to open it for she was afraid. Neither did her cousins move. When the person asked: "AAA, *buksan mo ang pintuan. Bakit ka umiiyak?*" CCC recognized that it was their Uncle XXX. CCC opened the door. Uncle XXX asked AAA why she was sobbing and she replied: "*May pumasok na lalake, natatakot po ako.*"

Thereafter, the victim's cousins, CCC and EEE, hurriedly left the house to look for their aunt BBB. When they found their aunt they told her: "*Pinasok si Ate ng lalake.*" BBB immediately rushed to DDD's house and found AAA seated on the sofa with her legs folded, crying and shouting hysterically: "*Papano na ang kinabukasan ko? Natatakot ako.*" When she asked AAA what had happened, the latter said that appellant violated her womanhood. Not being able to contain herself, BBB went back to the wake where she confronted appellant.

At around 9:00 o'clock that morning, AAA, together with her aunts and grandmother, went to Camp Crame, Quezon City, for a medico-legal examination. After the examination, Dr. Rosalie Cosidon, a PNP Medico-Legal Officer, found that the subject was no longer a virgin and her hymen has healed lacerations. Congestion or reddening of her labia minora was noted, which according to the examining doctor, could have been caused by friction with a fully erected penis or a hard object. It was also found that the victim's vagina is negative for spermatozoa and that there were no external signs of violence applied against her. The medical report provides:

FINDINGS:

GENERAL AND EXTRAGENITAL:

Fairly developed, fairly nourished and coherent female subject. Breasts are hemispherical with pinkish brown areola and nipples from which no secretions could be pressed out. Abdomen is flat and soft.

GENITAL:

There is moderate growth of pubic hair. Labia majora are full, convex and gaping with the congested labia minora presenting in between. On separating the same disclosed an elastic, fleshy-type hymen with deep healed lacerations at 3 and 9 o'clock and shallow healed laceration at 7 o'clock position. External vaginal orifice offers moderate resistance to the introduction of the examining index finger and the virgin-sized vaginal speculum. Vaginal canal is narrow with prominent rugosities. Cervix is normal in size, color and consistency.

CONCLUSION:

Subject is in non-virgin state physically.
There are no external signs of application of any form of violence.

REMARKS:

Vaginal and peri-urethral smears are positive for gram-negative diplococci but negative for spermatozoa.^[4]

After receiving the medico-legal report, they proceeded to the Eastern Police Station where they reported the incident to PO3 Digna Cas and filed a complaint for rape against the appellant.

Appellant denied the charge. He offered a different story. He declared that from 7:00 p.m. of 3 November 1994 until the early morning of 4 November 1994, he was attending the wake of the deceased, MMM. At 7:00 a.m. of that day, he went home to his residence at Pineda, Pasig City. Later, while he was watching television, a policeman arrived at his house, poked a gun at him, placed him in handcuffs, and brought him to the police station for investigation.

Appellant also stated that the case was concocted by NNN, the wife of the deceased and the aunt of the victim, because she wanted to get back at him for being a bad influence to her husband.

Appellant further testified that it was only in the evening of 3 November 1994 that he saw AAA who was serving coffee at the wake and that he had no occasion to see AAA afterwards. While at the wake, he said he watched people gambling. Afterwards, he slept near the coffin and woke up the next morning.

The trial court, in convicting the appellant, gave credence to the version of the prosecution and sentenced him to suffer the penalty of *reclusion perpetua*. Appellant was also ordered to indemnify his victim in the amount of P100,000.00 by way of moral and exemplary damages.

In finding appellant guilty of the crime of rape, the trial court made the following findings:

The evidence of the prosecution consisting principally in the testimony of the complainant, AAA, substantially points to the fact that she was sexually abused while in a state of unconsciousness after being punched twice in the abdomen by somebody whom she later identified as herein accused. AAA who was only 14 years old at the time of the incident was then sleeping at the house of her Tita DDD in Barrio Kapitolyo, Pasig City, after attending the wake of an uncle. After regaining consciousness, she distinctly remembers feeling her whole body ache and noticing that she was no longer wearing anything from the waist down.

Anent the identity of the perpetrator, there is no question in the Court's mind that it is the accused, Jun Moran, who raped private complainant. As AAA vividly narrated in her direct testimony:

Q. When you felt ache in your body when you regain (sic) consciousness, who (sic) did you see?

A. *Naaninagan ko lang po yon mukha ni Jun Moran pero hindi po ako sigurado na siya nga po talaga iyon* (TSN, May 30, 1995, p. 14)

x x x x

Q. The first time that you saw the face of Jun Moran, you said that the face of Jun Moran was illuminated that's why you saw him, how far was this Jun Moran when you first saw him from you?

A. *Malapit lang po.* He was standing where I was lying (TSN, May 30, 1995, p. 17).

x x x x

Q. And what was your first reaction when you saw Jun Moran standing?

A. *Sumigaw po ako ng saklolo pero bigla po niyang tinakpan ang bibig ko* (TSN, May 30, 1995, p. 19).

x x x x

Q. After Jun Moran held your mouth with his hand, what else did he do if any?

A. He poked something on the right side of my body (TSN, May 30, 1995, p. 20).

x x x x

Q. After you felt this what else happened?

A. *Kinumutan niya po ako tapos sinuntok niya ako ulit ng dalawang*

beses.

x x x x

Q. What happened after you were hit by the punch?

A. *Sabi niya "huwag kang magsumbong kahit kanino. Pag nagsumbong ka, papatayin kita"* (TSN, May 30, 1995, p. 21).

Accused's identity as the defiler of the complainant was further and more firmly ascertained when the latter testified that when accused went out of the house, she peeped thru the door and saw accused clearly through the illumination given by a light post, thus:

Q. After Jun Moran went out of the door, what did you do?

A. *Sinilip ko siya sa may pintuan at nakita ko siya talaga.*

Q. What direction did Jun Moran go after he went out of the house?

A. *Papunta po sa likod ng bahay.*

COURT:

How were you able to recognize the face of Jun Moran and you were able to confirm that it was he indeed?

A. *Kasi po yong pintuan at may ilaw sa dulo, sa may poste* (TSN, May 30, 1995, pp. 23-24).

Prosecution witness, CCC corroborated private complainant's testimony when he testified that he saw herein accused covering AAA with a blanket and boxing her thrice in the stomach (TSN, Jan. 14, 1998, pp. 6-7).

Testimonies of rape victims who are young and immature are credible. No woman especially of tender age would concoct a story of defloration, allow an examination of her private part, and thereafter pervert herself by being subjected to a public trial, if she were not motivated solely by the desire to tell the truth and to have the culprit apprehended and punished (People v. Henson, 270 SCRA 634).

The defense of accused Eduardo Moran, Jr. that the instant case is a mere brainchild of AAA's aunt NNN as the latter had an ax to grind against him is difficult to believe. No person, much less an aunt of a 14-year old child, would use her niece and allow her to be subjected to the ordeal and embarrassment of a public trial and to expose her private part to examination just to settle a score with the accused (which is itself unclear) (People v. Perez, 270 SCRA 526).

Anent the findings of the PNP-medico legal officer, Dr. Rosalie Cosidon, that complainant is in a non-virgin state and the vaginal smears are negative for spermatozoa, these do not preclude a finding of rape.