

EN BANC

[G.R. No. 174473, August 17, 2007]

THE PEOPLE OF THE PHILIPPINES, VS. ALVIN ABULON Y SALVANIA, APPELLANT.

D E C I S I O N

TINGA, J.:

For automatic review is the decision^[1] of the Court of Appeals (CA) dated 28 April 2006, affirming with modification the decision^[2] of the Regional Trial Court (RTC) of Santa Cruz, Laguna, Branch 28,^[3] dated 27 December 2000, finding him guilty beyond reasonable doubt of two (2) counts of qualified rape and one (1) count of acts of lasciviousness.

In three (3) separate Informations^[4] for Criminal Cases No. SC-7422, SC-7423 and SC-7424 all dated 16 June 1999, appellant was indicted before the RTC for three (3) counts of qualified rape against his minor daughter AAA.^[5] The accusatory portions in all the Informations are identical, except as regards the date of commission of the crime. The Information in Criminal Case No. SC-7422 reads:

At the instance of the private complainant [AAA] with the conformity of her mother [BBB]^[6] in a sworn complaint filed with the Municipal Circuit Trial Court of Lumban-Kalayaan (Laguna), the undersigned Assistant Provincial Prosecutor of Laguna hereby accuses ALVIN ABULON Y SALVANIA, of the crime of "RAPE," committed as follows:

"That on or about March 14, 1999, in the Municipality of Kalayaan, Province of Laguna, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd designs, with grave abuse of confidence or obvious ungratefulness, and with force and intimidation, did then and there wilfully [sic], unlawfully and feloniously have carnal knowledge of his legitimate minor daughter, [AAA], who at the [sic] time was thirteen (13) years of age, against her will and consent and to her damage and prejudice."

CONTRARY TO LAW.

After appellant pleaded not guilty, trial ensued with AAA herself, as the first prosecution witness, testifying to the following facts:

AAA is the oldest of five (5) legitimate children born to appellant and BBB. On 14, 15, and 16 March 1999, appellant raped AAA. The first rape incident occurred at around 1:30 in the morning of 14 March 1999. AAA was home, fast asleep next to her brother and sister when she suddenly woke up to the noise created by her

father who arrived drunk, but who likewise soon thereafter returned to the wedding festivities he was attending. Abiding by their father's instructions, AAA and her siblings went back to sleep.^[7]

AAA was next awakened by the weight of her father lying naked on top of her. Appellant had removed her underwear while she slept. He poked a knife on AAA's waist and threatened to kill her and her siblings if she reported the incident to anyone. She begged him to stop but he proceeded to kiss her mouth, vagina, and breast, and to have carnal knowledge of her.^[8] Although they witnessed the ongoing ordeal, AAA's siblings could do nothing but cry as appellant likewise poked the knife on them.^[9] The following morning, AAA found a whitish substance and blood stains on her panty.^[10]

On 15 March 1999, at around 10:30 in the evening, AAA and her siblings were awakened as appellant came home drunk. He told them to eat first as they had not taken their supper yet. After dining together, appellant left and AAA, her brother, and her sister went back to sleep.^[11] As in the previous evening, appellant roused AAA in mid-sleep. This time, she woke up with her father holding her hand, covering her mouth and lying on top of her. He undressed AAA, then mounted her. Repeatedly, he inserted his penis into her vagina, and AAA felt pain in her private parts. Appellant also kissed and fondled AAA on different parts of her body.^[12]

Again, AAA's siblings could only cry as they saw appellant rape their sister. AAA's sister, however, took a pen and wrote her a note which read: "*Ate, let us tell what father was doing to the police officer.*" After appellant had raped AAA, the latter's sister asked their father why he had done such to AAA. In response, appellant spanked AAA's sister and threatened to kill all of them should they report the incidents to the police.^[13] The sisters nonetheless related to their relatives AAA's misfortune, but the relatives did not take heed as they regarded appellant to be a kind man.^[14]

The third rape episode happened at around 3:30 in the morning of 16 March 1999. Although appellant did not insert his penis into AAA's vagina on this occasion, he took off her lower undergarments and kissed her vagina.^[15] On cross-examination, AAA asserted that her father inserted his tongue into the hole of her vagina and she felt pain because of this.^[16]

To corroborate AAA's testimony, the prosecution presented BBB and AAA's 6- year old brother CCC.^[17] BBB testified that she was a stay-in housemaid working in Las Piñas on the dates that her daughter was raped by appellant. On 26 March 1999, she went home and stayed with her family. However, it was only on 4 May 1999 that BBB learned of the rape, when CCC told her that appellant had raped AAA three (3) times and that he had seen his father on top of his sister during those occasions. BBB then verified the matter with AAA herself, and the latter affirmed the incidents. BBB thus took AAA with her to the barangay and police authorities to report the incidents, and later to the provincial hospital for medical examination.^[18]

CCC testified that on three (3) separate occasions, he saw his father lying naked on top of AAA, who was likewise naked.^[19]

The prosecution also presented SPO1 Bayani G. Montesur (SPO1 Montesur) and Dr. Gloria Cabel (Dr. Cabel). SPO1 Montesur identified the Police Blotter of 4 May 1999 which recorded the complaints of rape against appellant and the report of the latter's arrest.^[20] Dr. Cabel, on the other hand, testified that she examined AAA on 4 May 1999 upon the request of Police Officer Gallarosa. She identified the Rape Case Report she prepared thereafter.^[21]

Appellant testified as the sole witness on his behalf, proffering denial and alibi as his defenses. According to appellant, he was hired by his aunt, Raquel Masangkay, to deliver hogs and that at 1:30 in the morning of 14 March 1999, he was in Calamba, Laguna pursuant to such employment. He averred that he went home at 7:00 in the morning of the following day and thus could not have raped his daughter as alleged.^[22] Likewise denying the second rape charge, appellant testified that on 15 March 1999, he attended a wedding ceremony in Sityo Kalayaan, San Antonio, Kalayaan, Laguna. He went home drunk at 6:00 that evening and promptly went to sleep.^[23] Similarly, at 3:00 in the morning of 16 March 1999, appellant claimed to have been asleep with his children and could not have thus committed the rape as charged.^[24]

Finding that the prosecution had proven beyond reasonable doubt the guilt of appellant of the crime of qualified rape in Criminal Case Nos. SC-7422 and SC-7423 and the crime of acts of lasciviousness in Criminal Case No. SC-7424, the RTC rendered a Consolidated Judgment against appellant and sentenced him accordingly, thus:

W H E R E F O R E :

Under Criminal Case No. SC-7422, this Court finds the accused ALVIN ABULON y SALVANIA GUILTY BEYOND REASONABLE DOUBT as PRINCIPAL of CONSUMMATED QUALIFIED RAPE as defined and penalized under Article 335 of the Revised Penal Code, as amended by Rep. Act No. 7639, otherwise known as the DEATH PENALTY LAW, and hereby sentences him to suffer the SUPREME PENALTY of DEATH and to indemnify the offended party [AAA] the following sums:

P 75,000.00 - as civil indemnity
50,000.00 - as moral damages; and
50,000.00 - as exemplary damages.

Under Criminal Case No. SC-7423, this Court finds the accused ALVIN ABULON y SALVANIA GUILTY BEYOND REASONABLE DOUBT as PRINCIPAL of CONSUMMATED QUALIFIED RAPE as defined and penalized under Article 335 of the Revised Penal Code, as amended by Rep. Act No. 7639, otherwise known as the DEATH PENALTY LAW, and hereby sentences him to suffer the SUPREME PENALTY of DEATH and to indemnify the offended party [AAA] the following sums:

P 75,000.00 - as civil indemnity
50,000.00 - as moral damages; and
50,000.00 - as exemplary damages.

Under Criminal Case No. SC-7424, this Court finds the accused ALVIN ABULON y SALVANIA GUILTY BEYOND REASONABLE DOUBT as PRINCIPAL of ACTS OF LASCIVIOUSNESS as defined and penalized under Article 336 of the Revised Penal Code and hereby sentences him to suffer the penalty of imprisonment for SIX (6) MONTHS of ARRESTO MAYOR as MINIMUM to SIX (6) YEARS of PRISION CORRECCIONAL as MAXIMUM.

The accused is further ordered to pay the costs of the instant three (3) cases.

SO ORDERED.^[25]

With the death penalty imposed on appellant, the case was elevated to this Court on automatic review. However, pursuant to this Court's ruling in *People v. Mateo*,^[26] the case was transferred to the Court of Appeals. On 28 April 2006, the appellate court rendered its decision affirming appellant's conviction, but with modification as to damages awarded to the victim. The dispositive portion of the decision states:

WHEREFORE, the decision of the Regional Trial Court of Santa Cruz, Laguna, Branch 28, in Criminal Case Nos. SC-7422 and SC-7423 finding appellant Alvin S. Abulon guilty beyond reasonable doubt of the crimes of qualified rape, and in Criminal Case No. SC-7424, finding appellant guilty beyond reasonable doubt of the crime of acts of lasciviousness, are hereby **AFFIRMED**.

The civil aspect of the case is **MODIFIED** to read: In Criminal Case Nos. SC-7422-7423, the award of exemplary damages in the amount of [P]50,000.00 is reduced to [P]25,000.00. In Criminal Case No. SC-7424, appellant is ordered to pay the victim the amount of [P] 30,000.00 as moral damages. We affirm in all other respects.

Pursuant to A.M. 00-5-03-SC (Amendments to the Revised Rule of Criminal Procedure to Govern Death Penalty Cases), which took effect on October 15, 2004, this case is elevated and certified to the Supreme Court for its automatic review.

SO ORDERED.^[27]

In his Brief,^[28] appellant assails his conviction and imputes grave error to the trial court for giving weight and credence to the testimony of AAA. In particular, he makes capital of AAA's delay in reporting the incidents to her mother. He likewise impugns the trial court's alleged bias in propounding inappropriate leading questions to private complainant AAA. Finally, he maintains that the Informations against him are defective as they failed to allege the key element of force and/or intimidation.

^[29]

We affirm the decision of the Court of Appeals with modifications.

The duty to ascertain the competence and credibility of a witness rests primarily with the trial court,^[30] because it has the unique position of observing the witness's deportment on the stand while testifying. Absent any compelling reason to justify

the reversal of the evaluations and conclusions of the trial court, the reviewing court is generally bound by the former's findings.^[31]

In rape cases particularly, the conviction or acquittal of the accused most often depends almost entirely on the credibility of the complainant's testimony. By the very nature of this crime, it is generally unwitnessed and usually the victim is left to testify for herself.^[32] Her testimony is most vital and must be received with the utmost caution.^[33] When a rape victim's testimony, however, is straightforward and marked with consistency despite grueling examination, it deserves full faith and confidence and cannot be discarded. Once found credible, her lone testimony is sufficient to sustain a conviction.^[34]

The court a quo found the testimony of AAA in its entirety to be credible, made in a candid, spontaneous, and straightforward manner and never shaken even under rigid cross-examination.^[35] We agree that AAA's narration of her harrowing experience is worthy of credence, thus:

Criminal Case No. SC-7422

Trial Prosecutor:

Q : Tell us what happened at around 1:30 in the morning of March 11, [sic] 1999 to you?

A : My brother and sister and I were already asleep when my father who was drank [sic] came home. We told him to just sleep. My father told us that he would still return to the wedding celebration (*kasalan*).

x x x x

Q : What happened next when you continued sleeping?

A : I was awakened when I felt my father already on top of me, sir.

Q : Tell us exactly what was [sic] your position then at that time you woke up?

A : I was still lying straight down, sir.

Q : How about your father in relation to you, where was he at the time you woke up?

A : He was on top (*nakadagan*) of me, sir.

Court:

Q : Was he naked?

A : Already naked, Your Honor.

Q : How about you, do [sic] you have your clothes on?

A : I have [sic] my lady sando on, Your Honor.

Trial Prosecutor:

Q : Are [sic] you still wearing your panty when you were awakened?

A : No more, sir.