

SECOND DIVISION

[G.R. NO. 168444, December 13, 2006]

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. ROMEO CANARE Y MENDOZA, APPELLANT

DECISION

GARCIA, J.:

Under consideration is this appeal by Romeo Canare y Mendoza from the Decision^[1] dated February 28, 2005 of the Court of Appeals (CA) in *CA-G.R. CR-H.C. No. 00572*, dismissing his earlier appeal from and affirming the July 6, 2001 decision^[2] of the Regional Trial Court (RTC) of Pasay City, Branch 110, which found him guilty beyond reasonable doubt of the crime of Rape.

Conformably with the Court's decision in *People v. Melchor Cabalquinto*,^[3] the Court shall withhold the real name of the rape victim in this case and shall use fictitious initials instead to represent her. Likewise, the personal circumstances of the victim or any other information tending to establish or compromise her identity shall not be disclosed in this decision.

On October 28, 1998, in the RTC of Pasay City, an Information^[4] for Rape against the person of XXX was filed against the herein appellant, allegedly committed as follows:

That on or about the 4th of August 1998, in Pasay City, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above named accused, Romeo Canare y Mendoza, by means of force and intimidation, employed upon the person of complainant XXX, did then and there willfully, unlawfully and feloniously have carnal knowledge with the said private complainant, against her will and consent.

Contrary to law.

Docketed as Criminal Case No. 98-1395, the Information was raffled to Branch 110 of the court.

When arraigned, appellant, as accused, duly assisted by a counsel *de officio*, entered a plea of "Not Guilty."

The testimony of victim XXX unravels the events that led to the filing of the charge of Rape against appellant. Hereunder is the victim's tale of her harrowing experience:

At about 4:30 a.m. of August 4, 1998, she left her house in Lucena City to borrow money from her aunt who resides in Naic, Cavite for the hospitalization and medical

expenses of her mother.

After receiving P5,000.00 from her aunt, she headed back home. She rode a bus from Cavite to Baclaran where she would then take another bus ride to Lucena City. When she alighted in Baclaran, she noticed that her wallet containing the borrowed money was missing. Disoriented, she proceeded to the Redemptorist Church in Baclaran to pray that someone she knew from Lucena City would lend her fare money for home.

While inside the church, a woman approached her and asked her why she was crying. She told the woman of her predicament. The woman took pity and gave her P30.00 which was, however, short of P75.00 for her fare to Lucena City. Hence, she stayed inside the church.

At about 11:30 a.m., while she was still crying, appellant approached her and asked her why she was crying. Again, she recounted her story. Appellant befriended her, promised help and invited her to lunch. With nowhere else to go and trusting appellant, she agreed.

The two of them boarded a jeepney and, on the way to a restaurant, appellant introduced himself as Domeng. While eating, appellant assured to give her the money for her fare. After eating, she felt dizzy. Thereafter, appellant took her to a hotel.

Shortly after they entered the hotel room, appellant slightly shoved her to a chair, went inside the comfort room, came out stark naked, and suddenly grabbed her by the wrist. He then forced her to lie down on the bed and straddled her. She became hysterical and shouted but appellant overpowered her. He covered her mouth with his right hand. She tried to scratch him on the face but could not reach it. Her efforts were no match to appellant's height and physique.

With his left hand, appellant forcibly undressed her. He then forced coitus upon her hapless self amidst her pleas for him to stop.

After gratifying his lust, appellant dressed up and forced her to do the same. Before leaving the hotel room, appellant took her watch and the P30.00 earlier given by the woman in church. Appellant then led her out of the building. As they were leaving, she looked back at the building and saw the sign *Wise Hotel*. Appellant then left her at a mall in an LRT station.

Overwhelmed by the series of unfortunate events that befell her, she went to the mall's comfort room and cried. She kept her ordeal to herself but vowed to look for appellant and make him pay for his crime. Fortunately, a kind-hearted woman gave her P250.00. She then hurriedly left for home.

At home, she told her family that the money she borrowed from her aunt got lost but she kept mum about the rape fearing that such news might kill her mother who was then indisposed with asthma and rheumatic heart disease.

As months passed, she regularly returned to Baclaran Church hoping to catch her ravager.

On October 27, 1998, or two months after the incident, she chanced upon appellant inside the church. She intently stared at the man to make sure that he was her attacker and noticed that the man was wearing the watch taken from her. She immediately complained to a church security guard that appellant robbed her watch. Initially, she did not reveal to the guard that appellant also molested her because of shame as there were many people milling around but when she sensed that the guard was about to let her ravager go, she finally revealed the rape incident. The two were taken to the police station where she executed a sworn statement against appellant.

On October 27, 1998, XXX underwent medical examination at Camp Crame. The medico-genital examination yielded the following results:

GENERAL AND EXTRA GENITAL

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

GENITAL

There is abundant growth of pubic hair. Labia majora are full, convex and coaptated with pinkish brown labia minora presenting in between. Separating the same disclosed an elastic fleshy type hymen with deep healed lacerations at 5 and 8 o'clock positions. External vaginal orifice offers strong resistance to the introduction of the examining index finger. Vaginal canal is narrow with prominent rugosities. Cervix is firm and closed.

CONCLUSION

Subject is in a non-virgin state physically. There are no external signs of application of any physical trauma.^[5]

On July 6, 2001, after due proceedings, the trial court came out with its decision^[6] finding appellant guilty beyond reasonable doubt of the crime of RAPE against the person of XXX and sentenced him accordingly, thus:

WHEREFORE, the Court finds the accused ROMEO CANARE Y MENDOZA, GUILTY beyond reasonable doubt of the crime of Rape, defined and penalized under Article 335 of the Revised Penal Code as amended by Republic Act No. 7659 and there being no mitigating nor aggravating circumstance, is hereby sentenced to suffer the penalty of Reclusion Perpetua with all the accessory penalty prescribed by law.

Accused is hereby ordered to pay the victim, XXX, the amount of P50,000.00 by way of civil indemnity and an additional amount of P50,000.00 by way of moral damages which by case law is automatically awarded to rape victims without need of proof. He is likewise ordered to indemnify the said victim the amount of P50,000.00 by way of exemplary damages imposed to serve as an object lesson to the public – that no person may ever again deprive a lady of the right to live and discover the

wonders of womanhood in the normal way.

The period during which the accused was in detention during the pendency of this case shall be credited to him in full provided that he agreed to abide by and comply with the rules and regulations of the City Jail of Pasay.

SO ORDERED.

From the aforesaid decision, appellant went directly to this Court. Pursuant to our pronouncement in *People v. Mateo*,^[7] which modified pertinent provisions of the Rules of Court insofar as they provide for direct appeals from the RTC to the Supreme Court in cases where the penalty imposed is death, *reclusion perpetua* or life imprisonment, the Court transferred the appeal to the CA for appropriate action and disposition, whereat it was docketed as *CA-G.R. CR-H.C. No. 00572*.

On February 28, 2005, the CA promulgated the herein assailed Decision,^[8] dismissing the appeal and affirming with slight modification that of the trial court, to wit:

WHEREFORE, in the light of all the foregoing, the instant appeal is DISMISSED. The decision of the trial court dated July 6, 2001 is AFFIRMED with the MODIFICATION that the award of exemplary damages in favor of the private complainant is DELETED.

SO ORDERED.

The case is again with this Court following its elevation from the CA, together with the case records.

In his Brief, appellant contends that the trial court erred in convicting him because his guilt was not proven beyond reasonable doubt. He assails XXX's credibility alleging that her testimony is inconsistent, contradictory and highly unbelievable.

The Court disagrees.

To begin with, well-settled is the rule that findings of fact of the trial court should not be disturbed on appeal since conclusions as to the credibility of witnesses in rape cases lie heavily on the sound judgment of the trial court which is in a better position to decide the question, having heard the witnesses and observed their deportment and manner of testifying.^[9]

Here, the trial court described XXX's demeanor in the witness stand and explained its reasons for believing her testimony:

The crime of rape being intrinsic in nature, there being only two persons usually involved, the Court is duty bound to scrutinize, with extreme caution the testimony of the private complainant. The Court did this in the instant case and found the testimony of the complainant impressed with clarity, truth and purity of intentions. She testified with naturalness and spontaneity, interrupted only by bitter sobs and occasional trembling, consistent with a ravished woman as she recounts the sordid acts