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EN BANC

[G.R. No. 138364, October 15, 2003]

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. ROGELIO VILLANUEVA, APPELLANT.

D E C I S I O N

BELLOSILLO, J.:

On automatic review by law is the Decision of the court *a quo* in its Crim. Case No. 150 (97) finding appellant ROGELIO VILLANUEVA guilty of raping his fifteen (15)-year old daughter and accordingly sentencing him to death.[1]

AAA is the eldest of the daughters in a brood of nine (9) children. Her parents, the spouses Rogelio Villanueva, appellant herein, and [redacted], could hardly afford to send their children to school due to extreme poverty. As a fisherman, appellant's meager income was insufficient to even provide for the basic necessities of life. To help support the family, [redacted] left the family home in [redacted], to work as a laundrywoman-househelper in Camp Catitipan, Davao City.

On 12 December 1996, after taking lunch, appellant Rogelio Villanueva sent his daughters to do laundry in a nearby water pump. AAA, then fifteen (15) years old, although prepared to help her younger sisters in their assigned task, was told to stay behind by appellant saying that her sisters could already take care of themselves.[2]

As soon as her sisters left, AAA was dragged by her father from the kitchen to the living room. Gripped in fear, she asked him what he was going to do to her. Without answering, appellant told her simply to remove her panty. When she refused, he poked a knife at her and forced her to lie down.[3] AAA resisted and tried to free herself from her father's hold, but he grabbed an iron bar and struck her at the back twice, then punched her in the abdomen. As a result of the blows, she fainted.[4]

When AAA regained her consciousness, she felt pains on her bleeding genitalia.[5] Fearing that it would not be the last of her father's sexual assault, he having molested her several times in the past,[6] she fled to her maternal uncle's house in Jade Valley, Buhangin, Davao City.

Meanwhile, appellant vented his satiric desires on another daughter [redacted], younger sister of AAA. After he attempted to sexually abuse her twice,[7] [redacted] ran away from home and went to her Aunt [redacted] where she sought refuge. [redacted] recounted her ordeal to Aunt [redacted] who immediately accompanied her to her mother [redacted] in Davao City.

[redacted] narrated to [redacted] how appellant almost ravished her. She told her mother about her father's remarks that "you're not like your sister, if I tell her to bend over she would bend over, or lie down if I told her to lie down."[8] This made [redacted] suspicious that something must have happened to AAA too. So [redacted] lost no time in going to Jade Valley bringing [redacted] along with her. [redacted]'s suspicions were confirmed when AAA told her that her father raped her.

On 17 February 1997, accompanied by her mother [redacted] and sister [redacted], AAA went to the Sta. Cruz Municipal Police Station in Davao del Sur and reported the sexual assault on her by her father. AAA and [redacted] likewise executed sworn statements at the police station.[9] They then proceeded to the Municipal Trial Court of Sta. Cruz, Davao del Sur, where AAA formally lodged her complaint for rape against appellant.[10] Complainant was physically examined on the same day by Dr. Johannelda J. Diaz, Medical Health Officer IV, Municipal Health Office of Sta. Cruz. Dr. Diaz's findings were -

> *Extra-genital injuries present: (+) healed scar, (L) anterior iliac region*
> *(+) burn scar, healed, (R) thigh antero-lateral aspect, upper third*
> *Genital exam: Pubic hair coarse, centrally distributed*
> *Labia majora: coaptated*
> *Hymen: thick, with old, healed laceration at 5 & 6 o'clock positions.*[11]

Appellant denied the accusations against him. He claimed that on the alleged date of the rape he was in a farm from 6:00 o'clock in the morning until sundown and that when he arrived home his daughters told him that AAA, as usual, went out with her friends. He further alleged that he could not have raped AAA considering that many children in the neighborhood used to play in their house. Appellant likewise accused his wife [redacted] of instigating the rape charge to thwart his plan of filing criminal charges of abandonment against her.

On 12 January 1999 the trial court convicted appellant Rogelio Villanueva of rape qualified by the *minority* of the victim and her *relationship* with appellant as father and daughter, and sentenced him to death under Sec. 11, RA 7659, amending Art. 335, of *The Revised Penal Code.*

In this automatic review mandated by law, appellant imputes grave error to the trial court (a) in finding him guilty beyond reasonable doubt of rape defined and penalized under Art. 335 of *The Revised Penal Code*, as amended by RA 7659; and, (b) in imposing upon him the extreme penalty of death.

We affirm the conviction of appellant Rogelio Villanueva of raping his own daughter AAA, a minor of fifteen (15) years when the crime was committed. Well settled is the rule that assessment of credibility of witnesses is a function that is best discharged by trial judge whose conclusion thereon are accorded much weight and respect, and will not be disturbed on appeal unless a material or substantial fact has been overlooked or misappreciated which if properly taken into account could alter the outcome of the case.[12] We are convinced that the trial judge prudently fulfilled his obligation as a trier and factual assessor of facts.

Appellant capitalizes much on AAA's testimony that she was unconscious during the rape -

Q: And after you were boxed in the abdomen, you felt (sic) unconscious?
A: Yes, then he removed my clothings.

Q: He removed your clothings after you felt (sic) unconscious?
A: Yes, I was already unconscious.

Q: You were already unconscious when you clothings and panty were already taken off?
A: Yes.

Q: When you regained consciousness, you said, your panty were (sic) bloodied, is that correct?
A: Yes.

Q: And it was still intact in your private parts, is that correct?
A: (no answer).

Q: It was you who removed your panty?
A: No, sir.

Q: Who removed your panty?
A: My father, sir.

Q: Your father removed it when you were unconscious is that what you mean?
A: Yes, sir.[13]

Appellant contends that if AAA was unconscious she would be incapable of knowing or remembering what transpired. Hence, her assertion that he removed her clothes and thereafter had sexual intercourse with her is highly suspect.

We disagree. Primarily, it bears nothing that AAA was only a little over sixteen (16)-year old barrio lass at the time she testified on 10 September 1997, uneducated and unaccustomed to court proceedings. As aptly observed by the trial court -

> In assessing the probative value of the testimonies of the victim AAA and her sister, 10-year old [redacted], we took note of their cultural and educational and social background and experiences. The two girls come from a family of simple folks in a remote barangay of a remote municipality. By their testimony and that of their father, the accused, they were not able to go to school because of adverse situations that beset the family. As a matter of fact, AAA, at 18 years of age, does not even know how to write her name.[14]

Naive and unsophisticated as she was, AAA could not be expected to give flawless answers to all the questions propounded to her. More importantly, it must be stressed that the above-quoted testimony must be taken as the *logical conclusion* of AAA that it was appellant who removed her clothes. **Before she lost consciousness following her father's brutal assault on her with an iron bar after she refused to remove her panty, she was still wearing her clothes and panty and appellant was the only one who was with her at that time.**

At any rate, direct evidence of the commission of the crime is not the only matrix by

which courts may draw their conclusions and findings of guilt. Where, as in this case, the victim could not testify on the actual commission of the rape because she was rendered unconscious at the time the crime was perpetrated, the court is allowed to rule on the bases of circumstantial evidence provided that (a) there is more than one (1) circumstance; (b) the facts from which the inferences are derived are proved; and, (c) the combination of all the circumstances is such as to produce a conviction beyond reasonable doubt.[15] The corollary rule is that the totality or the unbroken chain of the circumstances proved leads to no other logical conclusion than appellant's guilt.[16]

We find that the evidence for the prosecution sufficiently establish the following: *first*, appellant and AAA were the only persons in the house at the time of the rape on 12 December 1996; *second*, he forcibly dragged AAA from the kitchen to the living room; *third*, he commanded her to remove her panty although she refused; *fourth*, he poked a knife at her and forced her to lie down; *fifth*, he clubbed AAA with an iron bar when she resisted and struggled to extricate herself from him; *sixth*, he punched AAA in the stomach which rendered her unconscious; *seventh*, when she regained consciousness, she felt pain in her vagina which was already bleeding; and *eighth*, the medical examination conducted on AAA two (2) months after the incident revealed lacerations in her vagina at 5 and 6 o'clock positions.

The combination of these circumstances establishes beyond moral certainty that AAA was raped while she was in a state of unconsciousness and that appellant was the one responsible for defiling her. These circumstances constitute an unbroken chain of events which inevitably points to appellant, to the exclusion of all others, as the guilty person, i.e., they are consistent with each other, consistent with the hypothesis that appellant is guilty and at the same time inconsistent with any other hypothesis except that appellant is guilty.[17]

Appellant insists however that he could not have raped AAA because children from their neighborhood usually converged at their residence to play.

We are not persuaded. It is not at all impossible, nay, not even improbable, that such brutish act of a depraved man as appellant was actually committed in his residence. Lust, we have repeatedly noted, has no regard for time nor place. The fact that children gather at appellant's residence to play is no guarantee that rape cannot be perpetrated there. Indeed, there is no law or rule that rape can be committed only in seclusion. Rapes have been committed in many and different kinds of places, including those which most people would consider as inappropriate or as presenting a high risk of discovery.[18]

Appellant's suggestion that AAA concocted the rape charge against him upon the instigation of her mother [redacted] deserves scant consideration. No mother would instigate her daughter to file a complaint for rape out of sheer malice knowing that it would expose her own daughter to shame, humiliation and stigma concomitant to a rape, and could send the father of her children to the gallows.[19] As we view it, [redacted] was simply motivated by a desire to have the person responsible for the defloration of her daughter apprehended and punished.

In the face of the positive testimony of AAA who had no improper motive to testify falsely against him, appellant's alibi crumbles like a fortress of sand. For the defense

of alibi to prosper, the accused must not only show that he was not present at the *locus criminis* at the time of the commission of the crime, but also that it was physically impossible for him to have been present at the scene of the crime at the time of its commission.[20] Appellant testified that on 12 December 1996 he was working in a farm from six o'clock in the morning until sunset. However, he miserably failed to prove that the nature of his work at the farm, and the distance between the farm and his house, effectively prevented him from going home at lunch time to feast on his daughter's purity and innocence.

Appellant posits that in the event he is found guilty he should be convicted only of simple rape, and not qualified rape. He argues that the Information against him failed to allege the *qualifying circumstance of relationship* between him and AAA.

We disagree. The qualifying circumstance of *relationship* of the accused to the victim being father and daughter is so alleged in the Information. The cases of *People v. Bali-balita*[21] and *People v. Rodriguez*,[22] are no longer controlling. The time has come for us to revisit and reexamine the wisdom of these rulings lest blind acquiescence, persistent application and the passage of time may validate what appears to us now as an unsound procedural doctrine that cannot be justified even under the hallowed ground of *stare decisis*.

For a better perspective, we reproduce the *Information* subject of the instant case -

> *The Undersigned Prosecutor, at the instance of the offended party, AAA, accuses Rogelio Villanueva,* ***her father****, of the crime of Rape under Article 335 of the Revised Penal Code, in relation to Republic Act No. 7659, committed as follows:*
>
> *That on or about the 12th day of December 1996 at* [redacted] *and within the jurisdiction of this Honorable Court, the above-named accused with lewd designs armed with an iron bar, struck for several times and boxed AAA, hitting her at the back portion of her body and abdomen causing her to lose her consciousness did then and there willfully, unlawfully and feloniously have carnal knowledge of the offended party,* ***a minor****, against her will, and to her damage and prejudice (underscoring supplied).*

There is no law or rule prescribing a specific location in the *Information* where the qualifying circumstances must "exclusively" be alleged before they could be appreciated against the accused. Section 6, Rule 110, of the *2000 Revised Rules of Criminal Procedure* requires, without more -

> *Sec. 6. Sufficiency of complaint of information. - A complaint or information is sufficient if it states the name of the accused; the designation of the offense given by the statute; the acts or omissions complained of as constituting the offense; the name of the offended party; the approximate date of the commission of the offense; and the place where the offense was committed.*
>
> *When the offense is committed by more than one person, all of them shall be included in the complaint or information.*