

THIRD DIVISION

[G.R. No. 138959, January 16, 2001]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
DANILO OSING Y BIEN, ACCUSED-APPELLANT.**

D E C I S I O N

MELO, J.:

Before us is an appeal from the decision dated September 16, 1998 of Branch xxx of the Regional Trial Court of xxx, finding accused-appellant guilty beyond reasonable doubt of the crime of rape and sentencing him to suffer the penalty of *reclusion perpetua* and to indemnify the complainant AAA in the amount of P30,000.00 as moral damages.

Accused-appellant was charged with the crime of rape in an Information dated November 7, 1997 which reads:

That on or about the 24th day of October, 1997, in the City of xxx, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, by means of force, violence, and intimidation and with lewd design, did then and there wilfully, unlawfully and feloniously have carnal knowledge with one AAA, an eight year old minor, against her will and consent.

(p. 4, Rollo.)

On arraignment, accused-appellant pleaded not guilty. Thereupon, trial proceeded in due course.

The prosecution presented the victim, AAA, who testified that accused-appellant is her neighbor in xxx; that on October 24, 1997, at around 7 o'clock in the evening, she was dragged inside a vacant house by accused-appellant and brought upstairs to one of the rooms where accused-appellant immediately undressed and kissed her (tsn, January 29, 1998, pp. 2-3); and that accused-appellant then removed his clothes, spread a mat on the floor, forced her down, and inserted his penis into her vagina, but only the head of accused-appellant's penis penetrated her, nevertheless giving her pain. At this point, AAA heard her father calling her. She thus went down and left accused-appellant. However, she did not tell her father about the incident (tsn, February 26, 1998, pp. 3-8). It was her mother, BBB whom AAA informed about her ravishment by accused-appellant. Forthwith, they proceeded to their barangay authorities and reported the incident. Accused-appellant was subsequently apprehended and charged with rape (Pinag-isang Salaysay, Record, p. 4).

Dr. Emmanuel L. Aranas, medico-legal officer of Southern Police District, Fort Bonifacio, Makati City, testified that on October 28, 1997, he conducted a genital examination on the hymen of the victim, and found that AAA's hymen had a healed

laceration at 3 o'clock position which was shallow, meaning that said laceration did not go beyond 50% of the diameter. He opined that the laceration could have been caused by the insertion of a penis into the victim's hymen (tsn, January 23, 1998, pp. 2-4). He then prepared a report showing that the victim is in a non-virgin state and that there are no external signs of physical force (Exhibit B, Records, p. 36).

On the other hand, the defense presented as its lone witness accused-appellant himself. He denied the charge and insisted that the accusation was merely fabricated by the victim's father as a result of a previous altercation during a drinking spree (tsn, June 1, 1998, pp. 2-4).

On September 16, 1998, the trial court rendered its assailed decision, finding accused-appellant guilty as charged and sentencing him to reclusion perpetua and further ordering him to pay AAA P30,000.00 as moral damages (p. 18, Rollo).

Accused-appellant is now before us pleading for reversal, premised on his shotgun type of argument that his guilt has not been proven beyond reasonable doubt. He casts aspersions on complainant's testimony for being inconsistent and uncorroborated. He likewise maintains that the medico-legal findings negate sexual assault as there were no external signs of force found on the victim. Further, accused-appellant claims that there was no evidence that his penis directly hit the labia of AAA's private part.

After careful and circumspect study of the record of the case, we find no cogent justification for decreeing a reversal of the judgment rendered by the trial court.

Error-free testimony cannot be expected, most especially when a witness is recounting details of a harrowing experience, one which even an adult would like to bury in oblivion (People vs. Tumala, Jr., 284 SCRA 436 [1998]). To be sure, AAA's testimony may not be described as flawless, but the triviality of inconsistencies can hardly affect either the substance or the veracity and weight of her testimony which, on the contrary, can serve to reinforce than weaken credibility. It could be that these inconsistencies were the result of lapses in the memory of a then 8-year old child, confused and traumatized by the bestial act done on her by accused-appellant.

Moreover, in view of the intrinsic nature of the crime of rape, oftentimes the only evidence that can be offered to prove the guilt of the perpetrator is the testimony of the offended woman herself. Thus, her testimony, standing alone, can be made the basis of conviction if such testimony meets the test of credibility (People vs. Banela, 301 SCRA 84 [1999]). It is, therefore, immaterial and irrelevant whether AAA's testimony was corroborated or not. Corroborative testimony, frequently unavailable in rape cases, is not essential to warrant a conviction for the crime.

Times without number, to the point of being almost dull from overuse, the Court has upheld the principle that in an appeal, where the culpability or innocence of an accused would hinge on the issue of credibility of witnesses and the veracity of their testimony, findings of the trial court are given the highest degree of respect. The reason for this rule, as the Court has repeatedly explained, is that a trial judge has an excellent chance of being able to personally observe the expression of declarants on the witness stand and their demeanor under questioning, which opportunity is not equally available to an appellate court (People vs. Deleverio, 289 SCRA 547 [1998]).

As regards accused-appellant's contention that the charge of rape against him was merely instigated by the victim's parents because of a previous quarrel with AAA's father, we apply the rule that the revelation of an innocent child whose chastity was abused deserves full credence (People vs. Dacoba, 289 SCRA 265 [1998]). Likewise, it is unnatural for a parent to use his offspring as an engine of malice, especially if it will subject a daughter to embarrassment and even stigma (People vs. Galleno, 291 SCRA 761 [1998]). Moreover, in cases of rape of a child of very tender age, the Court will additionally consider the fact that no parents in their right mind would possibly stoop so low as to subject their daughter to the hardships and shame concomitant to a rape prosecution just to assuage their own hurt feelings (People vs. Perez, G.R. No. 129213, December 2, 1999). In fact, AAA's mother, BBB, when she came to know of the rape, immediately went to their own barangay authorities to lodge the complaint against accused-appellant, which manifests her earnest desire to have the person responsible for her daughter's defilement punished.

Accused-appellant strongly relies on the testimony of medico-legal officer, Dr. Emmanuel L. Arañas, that the hymenal laceration found on the victim could have been inflicted a week or more prior to the physical examination on October 28, 1997 (tsn, January 23, 1998, p. 3). Thus, according to accused-appellant, the laceration could not have been inflicted on October 24, 1997, the date of the alleged rape incident, which is barely four days before the physical examination on October 28, 1997, thus reinforcing his claim that complainant was merely coached by her mother. Accused-appellant ignores the circumstance that the date of the commission of the rape is not an essential element of the crime (People vs. Bugarin, 273 SCRA 384 [1997]). The exact date of the crime has no substantial bearing on its commission, especially when this has been demonstrated in vivid detail by complainant herself, as clearly shown in her testimony, to wit:

FISCAL MANGROBANG:

May I proceed, Your Honor.

Q Madam witness, last time, you testified that in the night of October 24, 1997 the accused in this case removed your dress and underwear and thereafter laid you on the mat. And after that, the accused, likewise, removed his cloth and underwear. After the accused removed his cloth and underwear, what did he do next, if any?

A He inserted his penis to my private part.

Q And what did you feel when this Osing inserted his penis to your organ?

A I felt pain.

Q After pushing and inserting his penis to your organ, what happened next?

A Then, after that, I was pulled by my father asking me to go down.