

EIGHTEENTH DIVISION

[CA-G.R. CEB CR. HC. NO. 01701, February 26, 2015]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROEL MAJADAS, ACCUSED-APPELLANT.

D E C I S I O N

INGLES, G. T., J.:

The Case

This is an appeal filed by accused-appellant of the Judgment^[1] dated June 28, 2013, of the Regional Trial Court, Eighth Judicial Region, Branch 35, Ormoc City, in Crim Case No. 7308-0 which found accused-appellant guilty beyond reasonable doubt of the crime of rape.

The Facts

Version of the Prosecution

Sometime in November, 2004, Mary Jane Fajardo went to the house of her godmother Crispina Estera who requested her to feed her dog. Her godmother's house is located about one hundred and fifty meters away from Mary Jane's house at Barangay Guintigui-an, Ormoc City. On the other hand, accused-appellant's house is located across the house of Mary Jane's godmother.

While Mary Jane was feeding the dog inside the rice granary of her godmother, accused-appellant suddenly poked a knife at her. Accused-appellant immediately removed his clothes including his shorts and proceeded to undress Mary Jane, exposing her private parts. He then molested Mary Jane and touched her private parts. Accused-appellant, while holding a knife, inserted his penis into Mary Jane's vagina and made a push and pull movement. Mary Jane felt pain while accused-appellant ravished her. Since accused-appellant held Mary Jane, she could not do anything to defend herself.

On January 5, 2005, Concepcion Fajardo, Mary Jane's mother, brought her daughter to the local healer since Mary Jane missed her monthly period. Upon examination by Dr. Marilyn Pascual, a government physician, Mary Jane was found to be five months pregnant. Dr. Pascual executed a Medical Certificate² dated May 24, 2005, with the following findings:

1. wondering (sic) around attended Grade 1 but did not complete it
2. psychosis blank stare, no presence of mind, murmuring to self, talking to herself
3. cervicitis

4. laceration, 11 o' clock, 3 o' clock, 4 o' clock, 8 o' clock and 9 o' clock, pregnancy uterine, 5 months.

Previously, on separate occasions, Mary Jane revealed the incident of rape to her father and her Aunt Virgie, her mother's sister in Sto. Nino, Kananga.

The Charge

In the Information^[3] dated August 30, 2005, accused-appellant was charged with rape, as follows:

"That sometime in November 2004, inside a rice granary at Brgy. Guintigui-an, Ormoc City and within the jurisdiction of this Honorable Court, the above-named accused, by means of force and intimidation and with the use of a knife, did then and there willfully, unlawfully and feloniously had carnal knowledge of the victim, MARY JANE y RIOS, 22 years old and mentally retardate without her consent and against her will, which resulted to said victim's untimely pregnancy.

In violation of Article 335, RPC, as amended by RA 8353, Ormoc City, August 30, 2005."

Subsequently, accused-appellant was arraigned and pleaded "not guilty" to the crime charged.

Trial ensued. The prosecution presented the following witnesses: Mary Jane Fajardo, Dr. Marilyn Pascual, and Concepcion Fajardo. On the other hand, the defense presented accused-appellant and Leopoldo Sasing.

Version of the Defense

Accused-appellant testified that in November, 2004, he was working in Manila for a construction canteen. He started working for said employer sometime in 2004 and went home to Guintigui-an, Ormoc City in 2005. According to accused-appellant, his sexual preference is male and not female so that he could not have touched Mary Jane Fajardo. Also, he vehemently denied having raped the victim since at the time in question he was in Manila.

Leopoldo Sasing, a widower, faith healer and resident of Brgy. Leondani, Ormoc City, testified that he is not related to accused-appellant and that he knows him for forty years. Leopoldo Sasing likewise attested that he knew accused-appellant to be gay and that he was working in Manila in 2004. Leopoldo narrated that he would often go to Guintigui-an during one of his faith healing activities and on one occasion when he was going to Pagsanga-an, he saw Mary Jane and her father embracing each other lewdly. When they saw him, they were frightened and stunned. Leopoldo also heard that Mary Jane gave birth to another child.

The RTC Ruling

On June 28, 2013, the Regional Trial Court, Eighth Judicial Region, Branch 35, Ormoc City, rendered Judgment^[4] against accused-appellant, the pertinent portion of which is as follows:

"WHEREFORE, premises considered, judgment is hereby rendered finding the accused ROEL MAJADAS guilty beyond reasonable doubt of the crime of Rape as charged. He is sentenced to suffer the penalty of Reclusion Perpetua. The accused is likewise ordered to pay the victim the following: civil indemnity in the amount of P50,000.00 without need of pleading or proof, moral damages of P50,000.00 which are automatically granted in rape cases without need of proof other than the commission of the crime and P30,000.00 as exemplary damages.

If the accused is a prisoner, the period of his detention shall be credited if he abides with the rules and regulations covering detained prisoners if not for only four-fifths (4/5) thereof.

SO ORDERED."

Aggrieved, accused-appellant now comes to this Court seeking a reversal of his conviction and assigning as errors, thus:

I.

"THE LOWER COURT GRAVELY ERRED IN GIVING FULL FAITH AND CREDENCE TO THE TESTIMONIES OF PROSECUTION WITNESSES DESPITE ITS MATERIAL INCONSISTENCIES AND CONTRADICTIONS; and

II.

THE LOWER COURT GRAVELY ERRED IN HOLDING THAT THE GUILT OF THE ACCUSED-APPELLANT HAS BEEN PROVEN BEYOND REASONABLE DOUBT."

THIS COURT'S RULING:

Accused-appellant asserts that there are critical facts of substance which the trial court disregarded, overlooked and misappreciated leading to his eventual conviction.

Accused-appellant concedes that while it is true that the credibility of a mental retardate may be difficult to determine, it can still be ascertained by deducing from the manner she testifies in court as to the surrounding facts of the crime committed. Accused-appellant points out that if a mentally retarded rape victim such as Mary Jane had to be coached by any person or a parent, considering her intellect, into accusing someone for the commission of a crime, then her testimony on the witness stand where she is alone, would crumble into pieces. Accused-appellant contends that during Mary Jane's cross-examination, she herself admitted that it was her father who told her that accused-appellant was the father of her child, to wit:

"Q: Who is the father of your child?

A: Roel, Sir.

Q: Roel who?

A: Majadas, Sir.

Q: Who told you that Roel Majadas is the father of your child?

A: My papa taught me. Gitudlu-an man ko sa papa nako.

Q: Did your father tell you that the father of your son is Roel Majada?

A: Yes."

TSN, August 3, 2011, p. 5

Accused-appellant concedes that for as long as the testimony is straightforward, candid and unflawed by inconsistencies or contradictions in material points and the demeanor is consistent with one who has been a victim of rape, her credibility is bolstered with the verity borne out of human experience and thus must be given full faith and credit. In the case at bar, accused-appellant argues that Mary Jane seriously contradicted herself on such material and critical matters when she admitted that she was just coached by her own father to tell the court that it was accused-appellant who was the father of her baby. Accused-appellant posits that Mary Jane's father's motive in coaching his daughter to pinpoint appellant as her rapist was established by defense witness Leopoldo Sasing's attestation, thus:

"Atty Sia continuing to the witness

Q: You said a while ago that you would go around to that area because you would do some healing, what has this to do or what is the relationship of your going around and your healing activities that could do with the case against the accused.

Court to the witness:

Q: Who was embracing whom?

A: Actually, I saw them embracing each other your Honor, that was at that particular time when I was going toward the Pagsanga-an. In fact, they were frightened and they were stunned when they saw me coming into. Im referring to the father, Your Honor.

To Atty. Sia: Proceed

Atty Sia to the witness:

Q: When you said Mr. witness they, are you referring to Mary Jane Fajardo and the father?

A: (the witness nodded) What I'm trying to mean is that was a lewd act."

TSN, October 12, 2012

Accused-appellant asseverates that Leopoldo's testimony was corroborated by Mary Jane when she admitted that she worked at the hill with her father, thus:

"Q: What is your work, what do you do, Madam witness?

A: To gather firewood.

Q: Where do you gathered (sic) firewood?

A: At the hill, sir.

Q: Who works with you in gathering firewood?

A: Papa, sir."

TSN, August 3, 2011, p. 4

Moreover, accused-appellant contends that there is a material discrepancy between Mary Jane's testimony and that of her mother, Concepcion pertaining to the date when the rape occurred. In her sworn affidavit, Mary Jane alleged that it was on November, 2004, when she was feeding her godmother's dog that she was raped by accused-appellant. Her mother, however, categorically testified that it was on January 25, 2005, that Mary Jane left their house to feed her godmother's dog. Concepcion testified that:

Q: And this Mary Jane is always in the house?

A: She just left at that particular noon as she was requested by her godmother to feed the dog.

Q: What particular noon are you talking about, Ms. Witness?

A: February.

The witness is changing her answer.

I mean January.

Q: What year Ms witness?

A: 2005.

Q: So, there's only one instance in the whole 23 years of Mary Jane that she left your watch just to feed the dog of Estrera?

A: Yes mam.

Q: So you mean to say, Ms. Witness you can really remember that in that particular instance of January 2005 because that's the only time that Mary Jane left your watch, correct?

A: That's right mam.

Q: And can you remember what particular date in January was this, Ms. Witness?

A: Yes ma'am.

Q; And what date was that?

A: 25."

TSN, April 21, 2006, pp. 13-15

Accused-appellant claims that all these inconsistencies in the testimonies refer not only to trivial and inconsequential matters but pertain to essential facts of the commission of rape itself warranting accused-appellant's acquittal.

In another vein, accused-appellant maintains that the court a quo erred in holding that his defense of homosexuality was unsubstantiated because defense witness Leopoldo Sasing unequivocally testified that he knew accused-appellant for forty years and that he was also gay, preferring males over females. Leopoldo claimed that he had no reason to lie in court and that he is in no way related to accused-appellant. Further, accused-appellant stresses that Leopoldo also corroborated accused-appellant's alibi that he was in Manila in the year 2005. Hence, accused-appellant avers that the court a quo should not have rejected his defense of denial and alibi. It is precisely when the prosecution's case is weak as in this case, that the defense of alibi assumes importance and becomes crucial in negating criminal liability.

The appeal is bereft of merit.

The prosecution has established that the victim of rape, Mary Jane Fajardo is a mental retardate.

Article 266 of the Revised Penal Code provides thus:

"Article 266-A. Rape When and How Committed. – Rape is committed: –

1) By a man who shall have carnal knowledge of a woman under any of the following circumstances: