

THIRD DIVISION

[CA-G.R. CR-HC No. 06145, March 11, 2015]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. EDGAR JACQUIAS Y ANTOLIN, ACCUSED-APPELLANT.

DECISION

CARANDANG, J.:

Assailed in this appeal is the Decision^[1] dated April 17, 2013 of the Regional Trial Court of Tuguegarao City, Cagayan, Branch 4, finding herein accused-appellant guilty beyond reasonable doubt of the crime of rape as defined under Article 266-A, paragraph 2 of the Revised Penal Code (RPC) (rape by sexual assault) and imposing upon him the penalty of reclusion perpetua, the dispositive portion of which reads:

"WHEREFORE, PREMISES CONSIDERED, finding accused **EDGAR JACQUIAS y ANTOLIN GUILTY** beyond reasonable doubt for the crime of RAPE defined and penalized under Article 266-A No. 2 in relation to Article 266-B, No. 5 of the Revised Penal Code as amended by Republic Act 8353, in relation to R.A. No. 7610, this Court hereby sentences him to reclusion perpetua and to suffer the accessory penalties provided by law, particularly Article 41 of the Revised Penal Code. For the civil liability, he is condemned to pay the amount of P75,000.00 as actual, P30,000.00 as exemplary damages and P75,000.00 as moral damages.

The accused who is a detained prisoner is hereby credited in full of the period of his preventive imprisonment in accordance with Article 29 of the Revised Penal Code, as amended.

SO DECIDED."

The facts of the case:

Accused-appellant was charged with the crime of rape by sexual assault under the following Information^[2]:

"That on or about August 2, 2007 in the Municipality of Baggao, Province of Cagayan and within the jurisdiction of this Honorable Court, the said accused EDGAR JACQUIAS, with lewd design, did then and there wilfully, unlawfully and feloniously insert his fingers inside the vagina of the offended party, XXX,^[3] a minor child of four (4) years eight (8) months and five (5) days old at the time of the commission, thereafter kiss her lips against her will thereby degrading and demeaning the intrinsic worth and dignity of the herein complainant, as a human being prejudicial to her physical, psychological, intellectual, educational growth and development.

Contra to law. "

Accused-appellant entered a plea of "not guilty" during arraignment. Trial on the merits ensued thereafter.

The prosecution established that on August 2, 2007, at about 9:00 a.m., XXX asked her mother, AAA, if she could go to the house of Shekainah Jacquias, accused-appellant's daughter, and play with the latter.^[4] AAA knew accused-appellant as they are relatives and family friends, belonging to the same church, and neighbors in Sta. Margarita, Baggao, Cagayan, their houses being only one hundred meters apart.^[5] XXX is a very close friend of Shekainah. Sometimes Shekainah goes to XXX's house, but most of the times it was XXX who goes to Shekainah's house as accused-appellant did not want her daughter to go out of their house.^[6] AAA allowed her daughter to go to Shekainah's house and told XXX that she would just call for her when lunch is ready.^[7]

When XXX arrived at Shekainah's house, only accused-appellant was present. They went to accused-appellant room on the second floor and once there, accused-appellant removed XXX's short pants and panty. Accused-appellant kissed her face, both cheeks and neck, and then inserted his middle finger into XXX's vagina. XXX felt pain. She wanted to leave but accused-appellant prevented her from leaving. Accused-appellant told her he would give her chocolate and warned XXX that she should not tell her parents of what happened.^[8] Accused-appellant did not take the chocolate and went home instead.

XXX came back home at about 11:00 a.m. She sat down with her head bowed. AAA approached her daughter and placed her palm on her forehead, noting that she seemed to have a fever. AAA told XXX that lunch was ready. However, XXX said she needed to go to the comfort room. After urinating, AAA washed XXX's private part. XXX then shouted "Araay." AAA asked her daughter what happened and XXX said "Tito Edgar kasi held my private part." After hearing her daughter's confession, AAA immediately brought XXX to the doctor for a medical check-up.^[9] Dr. Christopher Ian Cabalza examined XXX and found that there was a swelling of the outer vagina. The examination of the outer portion of the organ was already painful for XXX, so Dr. Cabalza no longer probed deeper.^[10] He placed his findings in a Medico Legal Certificate (Exh. "D")^[11] and stated:

Description of Injury: Vulvar swelling secondary to manual manipulation, child abuse.

The next day, XXX and AAA went to the police station to report the incident.^[12] PO3 Rommel Serrano received their report and recorded it in the police blotter.^[13]

Accused-appellant denied committing rape against XXX. He claimed that on August 2, 2007, he was in his house repairing his van. He was with his daughter, Shekainah, who was then watching tv. He did not see XXX on that day. Shekainah also denied seeing XXX on that day. XXX did not approach their house in the morning, in the afternoon or at night.^[14]

On April 17, 2013, the trial court rendered a Decision convicting accused-appellant of the crime of rape by sexual assault and sentenced him the penalty of reclusion perpetua and to pay XXX the amount of P75,000.00 as actual damages, P30,000.00 as exemplary damages, and P75,000.00 as moral damages. The trial court found the testimony of AAA to be credible, straightforward, categorical and free from serious flaw. XXX's recollection on the rape was corroborated by the results of the medico-legal examination conducted by Dr. Cabalza which is sufficient proof of the consummation of rape.

Hence, this appeal. Accused-appellant imputes to the trial court this lone assignment of error, *viz*:

THE TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY OF THE CRIME CHARGED NOTWITHSTANDING THE PROSECUTION'S FAILURE TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.

The appeal is not meritorious.

Accused-appellant assails the credibility of XXX considering the latter's admission before the trial court that her mother told her what she was going to testify or tell before the court. Accused-appellant claims that the medical findings which corroborated XXX's testimony were also tainted by the report of the mother who was only repeating a story allegedly told by her daughter. Further, accused-appellant contends that the trial court erred in disregarding her defense that he was at home when the alleged incident happened and that he did not see XXX that day.

After a judicious examination of the records of the case, We do not find any error committed by the trial court in convicting accused-appellant of the crime of rape by sexual assault. The evidence presented by the prosecution has sufficiently established the guilt of accused-appellant beyond reasonable doubt. The credibility given by the trial court to AAA is an important aspect of evidence which appellate courts can rely on because of its unique opportunity to observe the witnesses, particularly their demeanor, conduct and attitude during direct and cross examination by counsel. Absent any showing that the trial court judge overlooked, misunderstood, or misapplied some facts or circumstances of weight which would affect the result of the case, his assessment of credibility deserves the appellate court's highest respect.^[15]

We have carefully reviewed the transcript of stenographic notes and We find that AAA's testimony of how she was sexually assaulted was given in a spontaneous, direct and candid manner which bears the earmarks of credibility. Her testimony on how accused-appellant removed her short pants and panty, kissed her face, both cheeks and neck and then inserted his middle finger into her vagina is truthful and sincere. She positively identified accused-appellant as the man who ravished her. Her actuation of immediately telling her mother "*Tito Edgar kasi held my private part*" further strengthens her credibility.

Testimonies of child-victims are normally given full weight and credit, since when a girl, particularly if she is a minor, says that she has been raped, she says in effect all that is necessary to show that rape has in fact been committed. When the offended party is of tender age and