

THIRTEENTH DIVISION

[CA-G.R. CR NO. 35395, March 17, 2014]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ARNEL TENIZO, ACCUSED-APPELLANT.

DECISION

DIMAAMPAO, J.:

This is the case of AAA,^[1] a young boy who was raped and assaulted at the tender age of six. Scarred for life, AAA was exposed to the shame and scandal of a rape trial as he was made to recall every sordid detail of how accused-appellant abused him.

Accused-appellant ARNEL TENIZO (ARNEL) was indicted^[2] for rape by sexual assault, in Criminal Case No. 124853-H, quoted herein as follows:

“That, in or about and sometime in the month of February 2002, in the Municipality of Taguig, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, 15 years of age, a minor, did then and there willfully, unlawfully and feloniously commit acts of sexual assault upon the person of one AAA by then and there inserting his penis into the mouth and anal orifice of the victim, against his will and consent, the said crime having been attended by the qualifying circumstance of minority, the victim AAA, being a child below seven (7) years of age at the time of the commission of the crime, thereby raising the crime to Qualified Rape (2nd kind), which is aggravated by the circumstances of treachery, evident premeditation, abuse of superior strength and dwelling, to the damage and prejudice of the said victim.

CONTRARY TO LAW.”^[3]

ARNEL was 15 years of age at the time of the commission of the crime. He was a minor in conflict with the law and this impelled the court *a quo* to conduct a case study on him. The *Social Case Study Report*^[4] recommended that he be released under the care and custody of his biological parents.^[5] Meanwhile, ARNEL entered a plea of not guilty^[6] and trial on the merits ensued.

The prosecution endeavored to prove that AAA was barely six years of age at the time of the rape incident.^[7] On that fateful day in March 2001, ARNEL called AAA and told him to suck his penis. AAA could not fight as ARNEL was older and stronger. AAA made an upward and downward movement on his mouth while holding and sucking ARNEL's organ. AAA only stopped when he tasted how salty the penis was. ARNEL then asked AAA to eat the “milk”, a whitish substance, that came out of the

former's penis. Later, ARNEL removed AAA's shorts and inserted his penis into the child's anus.

ARNEL threatened to hurt AAA if he divulged what had transpired. ARNEL repeatedly assaulted AAA on various occasions; often gave the child P3.00 after satisfying his beastly lust on him. Thereafter, AAA finally found courage to reveal to his mother the ordeal he suffered in ARNEL's hands.

The *Official Medico-Legal Report*^[8] revealed that AAA had perianal scar at 11, 12 and 1 o'clock positions.

The defense moved for the dismissal of the case on the ground of lack of jurisdiction. ARNEL argued that the place where the alleged rape transpired was in Makati City, not in Taguig.

Inevitably, the court *a quo* conducted an ocular inspection so as to resolve the issue of jurisdiction. The *Report*^[9] submitted by the Clerk of Court disclosed that the supposed acts of rape occurred in different areas of the Air Transportation Office Compound, *i.e.*, at the house and chicken coop of ARNEL's family, both situated in Makati City; inside the restroom of a neighbor, and the uninhabited house of another neighbor, both within the boundary of Taguig.

With this Report, the court *a quo* declared that it had jurisdiction over the case as one of the places of the alleged rape was within the periphery of Taguig. Thenceforth, trial continued.

For his part, ARNEL denied the grave charges hurled against him. He could not think of any reason why AAA would accuse him of rape.

Arnold, the father of ARNEL, insisted that AAA's mother had made it her business to file suits so that she could ask for money in settling the cases. Arnold averred that AAA's mother filed an unjust vexation case against him and asked for P30,000.00 as settlement. He then refused to fork out the money until he was acquitted.

John-John Gonzaga, a neighbor of ARNEL, claimed that the latter did not rape AAA as it was the latter's own uncle who assaulted him.

The defense likewise avowed that the *Birth Certificate*^[10] of AAA was spurious and fabricated. ARNEL adduced in evidence the *Letter*^[11] dated 21 July 2011 of the National Statistics Office affirming that it did not issue the *Birth Certificate* of AAA and that such document had been tampered with.

Ploughing through the respective evidence of the parties, the Regional Trial Court of Taguig City, Branch 69, rendered the impugned *Decision*^[12] of conviction dated 3 September 2012, thusly?

“WHEREFORE, finding CICL (Child in Conflict with the Law) Arnel Tenizo alias Bruno guilty beyond reasonable doubt of the Qualified Rape (2nd kind), this court hereby sentences him to suffer an indeterminate penalty of 2 years and 10 months of Prision Correccional, as minimum to 8 years and 1 day of Prision Mayor, as maximum; and to indemnify the offended party “AAA”, civil indemnity of PhP30,000.00, moral damages of PhP30,000.00 and exemplary damages of PhP15,000.00.

SO ORDERED.”^[13]

ARNEL (now, appellant) is before Us via this instant *Appeal* anchored on the following assignment of errors:

I

WITH ALL DUE RESPECT, THE TRIAL COURT SERIOUS-LY ERRED IN FAILING TO CONSIDER THE EXCUL-PATORY FACTS IN FAVOR OF THE ACCUSED WHICH IF DULY CONSIDERED WOULD HAVE COMPLETELY EXONERATED ACCUSED FROM THE CRIME OF RAPE.

II

WITH ALL DUE RESPECT, THE LOWER COURT GROSSLY ERRED IN CONVICTING THE ACCUSED APPELLANT SINCE THE AGE OF THE VICTIM IS NOT PROVEN BEYOND REASONABLE DOUBT BY THE PROSECUTION.

III

WITH ALL DUE RESPECT, THE LOWER COURT ERRED IN RULING THAT IT HAS JURISDICTION TO TRY THE INSTANT CASE.

IV

WITH ALL DUE RESPECT, THE DECISION OF THE TRIAL COURT IS NOT IN ACCORDANCE WITH THE CONSTI-TUTIONAL PRESUMPTION OF INNOCENCE OF THE ACCUSED.

The judgment of conviction must be sustained.

Article 266-A (2) of the Revised Penal Code explicitly provides that the gravamen of the crime of rape by sexual assault is the insertion of the penis into another person's mouth or anal orifice, or any instrument or object, into another person's genital or anal orifice.^[14]

A rape charge is a serious matter with pernicious consequences both for the appellant and the complainant; hence, utmost care must be taken in the review of a decision involving conviction of rape.^[15]

Ultimately and frequently, the resolution of the charge of rape hinges on the credibility of the victim's testimony. The Court has consistently relied on the assessment of such credibility by the trial court, because the factual findings of the trial court, particularly those bearing on such assessment, are the product of the trial judge's peculiar opportunity to observe the deportment and demeanor of the witnesses while they personally appear and testify during the trial, as contrasted with the dependence by the appellate courts on the mute pages of the records of the trial.^[16] The trial judge enjoys the advantage of observing the witness' deportment and manner of testifying, her "*furtive glance, blush of conscious shame, hesitation, flippant or sneering tone, calmness, sigh, or the scant or full realization of an oath*" — all of which are useful aids for an accurate determination of a witness' honesty and sincerity. The trial judge, therefore, can better determine if such

witnesses were telling the truth, being in the ideal position to weigh conflicting testimonies.^[17]

A painstaking review of the records convince Us that the court *a quo* committed no reversible error in according weight and credence to the candid testimony of AAA. His narration bears the earmarks of truth—

“Q Why do you want to report this Arnel Teniza, has he done something wrong to you?

A Yes, ma'am.

Q What did he do?

A He placed his penis inside my mouth.

Q Was that the only thing he did to you?

A No, ma'am.

Q What else?

A He also made sundot to my puwit.

Q What did he use in making sundot your puwit?

A His penis.^[18]

x x x

x x x

Q Mr. Witness, which happened first, the sundot or the placing of the penis into your mouth?

A When he asked me to eat his penis.

Q When you say eat his penis, what did he ask you to do?

A He asked me to eat his penis.

Q When he told you to eat his penis, what was he wearing?

A Pants, ma'am.

Q And where was his penis then?

A Outside.

Q Do you mean to say that the zipper is opened?

A (Witness is nodding his head)

Q How did you eat his penis?

COURT INTERPRETER:

Witness is demonstrating with his two (2) hands and making downward and upward movement in front of his mouth.

Q What happened after you made this upward and downward movement?

COURT INTERPRETER:

Witness has no answer.

Q And what made you stop(ped), when did you stop making that gesture?

A Because it is salty.

Q Did you observe anything that came out from his penis?

A Yes, ma'am. (Witness is also nodding his head)

Q What did you see?

A Penis.

Q You said there was (a) substance that came out from the penis which you said "maalat" or salty, what is this?

A Milk.

Q And after that, what happened?

A He asked me to eat the milk.

Q Mr. Witness, you said he "sundot" your "puwit", your anus, can you describe to us how he did it? Did he remove your underwear? What were you wearing at that time?

A Shorts.

Q And under your shorts, you have your brief?

A None, ma'am.

COURT INTERPRETER:

The witness is also shaking his head.

Q When he made "sundot" your "puwit", do you mean he removed your shorts?

COURT INTERPRETER:

The witness is nodding his head.

Q What did you feel, did you feel anything in any parts of your body?

A It is painful.

Q In what portion of your body was it painful?

A At my "puwit", anus.

Q How about when he was asking you to eat his penis, what did you feel?

A Salty.

Q And was there anything or was there any change in you after the incident?

A Yes, ma'am.