

## THIRTEENTH DIVISION

[ CA-G.R. CR-HC NO. 05860, May 29, 2014 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JESSIE ESQUILON, ACCUSED-APPELLANT.**

### D E C I S I O N

**DIMAAMPAO, J.:**

Two *Amended Informations* indicting accused-appellant Jessie Esquilon (ESQUILON) for the crime of Rape were filed before the Regional Trial Court (RTC), Fifth Judicial Region, Irosin, Sorsogon, Branch 55, the inculpatory averments of which read as follows:

Criminal Case 1515:

#### "AMENDED INFORMATION

The undersigned Assistant Provincial Prosecutor accuses **JESSIE ESQUILON** of Barangay Hidhid, Matnog, Sorsogon, of the crime of RAPE, as defined and penalized under Article 266-A of the Revised Penal Code, as amended by RA 8353 **in relation to Art. III, Sec. 5(b) of RA 7610**, committed as follows:

That on or about the 15<sup>th</sup> day of April, 2001, at about 9:00 o'clock in the morning, at barangay Hidhid, muni-cipality of Matnog, province of Sorsogon, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd designs and by means of threat and/or fraudulent machination, did then and there, willfully, unlawfully and feloniously have sexual intercourse with AAA,<sup>[1]</sup> a thirteen (13) year old retardate against her will, knowing her to be such at the time of the commission of rape, to her damage and prejudice.

**CONTRARY TO LAW."**<sup>[2]</sup>

Criminal Case 1516:

#### "AMENDED INFORMATION

The undersigned Assistant Provincial Prosecutor accuses **JESSIE ESQUILON** of Barangay Hidhid, Matnog, Sorsogon, of the crime of RAPE, as defined and penalized under Article 266-A of the Revised Penal Code, as amended by RA 8353 **in relation to Art. III, Sec. 5(b) of RA 7610**, committed as follows:

That on or about the 15<sup>th</sup> day of April, 2001, at about 10:00 o'clock in the morning, at barangay Hidhid, muni-cipality of Matnog, province of Sorsogon, Philippines, and within the jurisdiction of this Honorable Court,

the above-named accused, with lewd designs and by means of threat and/or fraudulent machination, did then and there, willfully, unlawfully and feloniously have sexual intercourse with AAA, a thirteen (13) year old retardate against her will, knowing her to be such at the time of the commission of rape, to her damage and prejudice.

**CONTRARY TO LAW.”[3]**

Upon arraignment, ESQUILON pled not guilty<sup>[4]</sup> to the charges against him. During the pre-trial conference, the defense made the following admissions:

“xxx the identity of the accused and victim in both cases; the time and date of the incident in both cases; and the fact that they are neighbors. xxx”<sup>[5]</sup>

Thereafter, trial on the merits ensued.

The facts, as established by the prosecution,<sup>[6]</sup> are as follows:

AAA, is the niece of Ramon, the husband of Rosa. In March 2001, Rosa gave birth to her first child. She asked AAA's parents if the latter could stay with them in their house in Palale, *Barangay* Hidhid, Matnog, Sorsogon. AAA, who was then a thirteen-year old girl, eventually stayed with Rosa's family.

At around 8:00 o'clock in the morning of 15 April 2001, Rosa asked AAA to wash her baby's diapers at the well. Rosa likewise told her to take her bath there. After two hours, AAA returned to the house; Rosa asked why she came back late. At first, AAA did not reply. Rosa persisted in questioning her and so AAA narrated that when she was about to go home, ESQUILON invited her to go with him at the side of the well. Rosa then inquired about what AAA and ESQUILON were doing at the side of the well. Again, AAA did not reply but Rosa persevered with her inquisition.

Subsequently, Rosa noticed AAA clasping P9.00 in her hands. When Rosa asked where she got the money, AAA said that ESQUILON gave it to her. When Rosa asked why he gave her the money, AAA replied that he invited her to the side of the well where she was told to undress and lie down. AAA further recounted that ESQUILON raped her.

Ramon, who was in the kitchen, heard about what AAA divulged to Rosa regarding ESQUILON and what he did to her. Posthaste, Ramon went to the *Barangay* Captain of Hidhid who advised him to proceed to the Department of Social Welfare and Development (DSWD) of Matnog. Thereat, Ramon was advised to have AAA examined by a doctor.

Dr. Rossana Galeria (Dr. Galeria), the Municipal Health Officer of Matnog, examined AAA. The examination yielded the following results, *viz*:

“GENITALIA: scanty pubic hair, no vaginal discharge noted, with vaginal bleeding (minimal in amount) and hymenal lacerations at 1, 6 and 11 o'clock positions corresponding to the face of the clock. Hymen is very thin and lacerations are healing.”

[7]

Dr. Galeria further observed that despite AAA's age, she was acting like a child. Whence, Dr. Galeria recommended that AAA undergo a Psychological Analysis to determine her mental age.

In 2008, a series of psychological tests were administered on AAA. Dr. Imelda Escuadra (Dr. Escuadra) of the Children Protection Unit of the Bicol Medical Center conducted a *Psychiatric Evaluation of AAA*,<sup>[8]</sup> which strikingly revealed the following:

**"Psychological Testing:**

IQ = 36

Classification = Moderate Mental Retardation

Mental Age = 6 years old"<sup>[9]</sup>

Professing his innocence, ESQUILON denied the accusation against him. He avowed that he did not know AAA.

ESQUILON averred that he was a resident of Magallanes, Sorsogon and that he only went to Matnog to visit his parents who were caretakers of parcels of land therein. On 15 April 2001, at the time of the alleged incident, he was not in Barangay Hidhid; rather, he just came from fishing in Magallanes and was on his way to Bulan.<sup>[10]</sup>

On 8 June 2010, the court *a quo* rendered a Decision,<sup>[11]</sup> the decretal portion of which reads:

"WHEREFORE, premises considered, accused' **JESSIE ESQUILON'S GUILT** having been established beyond reason-able doubt for one (1) count of RAPE, he is hereby sentenced as follows—

(a) **In Criminal Case No. 1515**, accused is sen-tenced to suffer the single indivisible penalty of **RECLUSION PERPETUA** for **Simple Rape**, defined and penalized in Article 266-A, par. 1 (d), in relation to Article III, Sec. 5 (b) of R.A. 7610; to indemnify the victim AAA in the amounts of Php50,000.00 as civil indemnity and another Php50,000.00 as moral damages, and to pay the costs.

(b) **In Criminal Case No. 1516**, accused is ACQUIT-TED of the crime as charged for insufficiency of evidence. Without pronouncement as to costs.

The period of detention already served by the accused during his preventive imprisonment shall be credited in the service of his sentence, pursuant to the provision of Article 29 of the Revised Penal Code, as amended.

SO ORDERED."<sup>[12]</sup>

Expostulating with the foregoing *Decision*, ESQUILON (now, appellant) interposed the present *Appeal* asserting that—

**THE COURT A QUO GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT OF RAPE IN CRIMINAL CASE NO. 1515**

**UNDER ART. 266-A, PAR. 1(D) IN RELATION TO ARTICLE III, SEC. 5(B) OF RA 7610, DESPITE THE PROSECUTION'S FAILURE TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.**

***We affirm the judgment of conviction albeit with modification.***

First off, it bears emphasis that when it comes to the issue of credibility of the victim or the prosecution witnesses, the findings of the trial courts carry great weight and respect and, generally, the appellate courts will not overturn the said findings unless the trial court overlooked, misunderstood or misapplied some facts or circumstances of weight and substance which will alter the assailed decision or affect the result of the case. This is so because trial courts are in the best position to ascertain and measure the sincerity and spontaneity of witnesses through their actual observation of the witnesses' manner of testifying, their demeanor and behavior in court. Trial judges enjoy 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. Trial judges, therefore, can better determine if such witnesses are telling the truth, being in the ideal position to weigh conflicting testimonies. Again, unless certain facts of substance and value were overlooked which, if considered, might affect the result of the case, its assessment must be respected, for it had the opportunity to observe the conduct and demeanor of the witnesses while testifying and detect if they were lying.<sup>[13]</sup>

In the case at bench, We rule and so hold that the court *a quo* neither overlooked nor misinterpreted any fact or circumstance of significance. The court *a quo*'s incisive obser-vation about AAA's deportment deserves Our imprimatur:

"The court observed, that notwithstanding the poor comprehension of the victim whose IQ was only 36 when she testified in court, which is equivalent to the mental age of a six-year old child although she was already 18 yrs. old at the time of her examination, **the material substance of her testimony about the rape that happened to her has remained constant.** Despite her tendency to wander away from the main questions being propounded to her, **she was able to narrate with clarity how the first rape was committed to her by the accused.** Which version to the mind of the court is **very credible** when viewed from the point of view of an **innocent child-like the herein victim.** xxx"<sup>[14]</sup>

The foregoing reflection finds an evidentiary mooring in the opinion of an expert witness, Dr. Escuadra, who declared that AAA, a mental retardate, did not have the capacity of fabricating a story of defloration.<sup>[15]</sup> Indeed, despite her mental condition, AAA was able to narrate with clarity and consistency how she was ravished by appellant. Let us harken to her guileless and straightforward avowals—

- "Q AAA, do you know the accused in this case?  
A (witness is looking to somebody inside the courtroom.)
- Q If you know the person Jessie Esquillon, what did

Jessie Esquillon do to you on April 15, 2001?

A He undress (sic) me.

Q Where did he undress you?

A There at the spring (oroc).

Q That spring is it situated in Hidhid, Matnog, Sorsogon?

A There when I took a bath(,) sir.

Q Is it near the residence of your Uncle Ramon Binalla and Rosa Binalla?

A Yes.

Q And what happened when accused Jessie Esquillon undress (sic) you at the spring near the house of your Uncle Ramon and Aunt Rosa Binalla?

A We were both lying down.

Q So you mean to say you are both lying down on the ground?

A Yes.

Q And you were already undressed by the accused Jessie Esquillon?

A Yes.

Q How about Jessie Esquillon, was he also naked?

A He was the one who undress (sic) me.

Q Then what happened when you were already lying down on the ground and you were already undress (sic), what happened next?

A I just kept on taking a bath.

Q Let me refresh your memory, you said that you and Jessie Esquillon were already lying down, correct?

A Yes.

Q And when you were already lying down, what did Jessie Esquillon do to you when you were already lying down?

A That I must not report.

Q You said that Jessie Esquillon told you not to report, why, what was Jessie Esquillon doing to you that you were not allowed to report?

A That I must not report because I was just hit by my Uncle Ramon and my Aunty but I was not asking for money.

Q Madam witness(,) when you and Jessie Esquillon were already lying down. May I use some medium(,) your honor. You said that you are already lying down the two of you, now for example this eyeglass case is you