

SECOND DIVISION

[CA-G.R. CR No. 36176, December 12, 2014]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
WILSON CELESTIAL, JR. Y VACNOT @ ";JAY-AR", ACCUSED-
APPELLANT.**

DECISION

GARCIA, R.R., J.:

Before Us is an appeal from the Decision^[1] dated July 11, 2013 of the Regional Trial Court (RTC), Branch 254, Las Piñas City finding herein accused-appellant Wilson Celestial, Jr. y Vacnot @ "Jay-Ar" guilty beyond reasonable doubt of Rape in relation to Republic Act No. 7610, otherwise known as "*The Special Protection of Children Against Abuse, Exploitation, and Discrimination Act*", the dispositive portion of which reads:

WHEREFORE, in view of the foregoing, the Court hereby finds accused WILSON CELESTIAL, JR. @ "Jay-Ar" GUILTY beyond reasonable doubt of the offense as charged and is sentenced to suffer the indeterminate penalty of twelve (12) years, ten (10) months, and twenty-on (21) days of reclusion temporal, as minimum, to fifteen (15) years, six (6) months and twenty (20) days of reclusion temporal, as maximum AND to pay AAA the amount of P30,000.00 as civil indemnity, P30,000.00 as moral damages, and P30,000.00 as exemplary damages.

SO ORDERED.^[2]

THE FACTS

Pursuant to the case of *People of the Philippines vs. Cabalquinto*^[3], fictitious initials shall be used instead of the real name of the victim. Likewise, the personal circumstances of the victim and those of the victim's immediate family or household members, which tend to establish or compromise their identities shall not be disclosed.

In an Information^[4] filed before the RTC of Las Piñas City, appellant Wilson Celestial, Jr. y Vacnot @ "Jay-Ar" was charged with the crime Rape in relation to Republic Act No. 7610, committed as follows:

That on about the 16th day of November, 2007, in the City of Las Piñas, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, by means of force, violence and intimidation, did then and there willfully, unlawfully and feloniously commit an act of sexual assault against AAA, an eight (8) year old minor, by then and there inserting his finger into the victim's vagina against her will and without her consent, and the act complained of is prejudicial to the physical and psychological development of the complainant-minor.

CONTRARY TO LAW.

On February 19, 2008, appellant, with the assistance of his counsel, pleaded *not guilty*^[5] to the charge.

Trial on the merits ensued thereafter.

The prosecution presented five (5) witnesses, namely: minor-victim AAA; the latter's mother BBB; Medico-Legal Officer PCI Marianne Ebdane; and barangay police members Charl Bofill and Marlon Llanera.

The version of the prosecution may be summarized as follows:

On November 16, 2007, at around 11:00 a.m., minor AAA, then eight (8) years old^[6], was alone at home taking a bath. She thereafter went inside her room to get dressed while wrapped only with a towel^[7]. At that time, appellant who was twenty-five (25) years old and a long-time neighbor of her family, went inside the house and followed AAA to her room. She immediately asked appellant, "*Kuya Jay-Ar, bakit ka pumasok nang di ka man lang kumakatok?*" and then he went out.^[8] Appellant went back to her room and made her sit down. He then inserted his right index finger inside her vagina where she felt pain. She hit him and stood up. Appellant again laid her down on the bed and repeatedly kissed her on her cheeks^[9]. As AAA was crying^[10], appellant removed his shorts and underwear and again inserted his finger in her genitalia.^[11] She got up and hit him in his shoulders telling him that she will report the incident to her father. Afterwhich, appellant left in an instant. When AAA's older brother soon arrived, she related the incident to him. His brother then went looking for appellant. At around 11:15 a.m., AAA's mother, BBB, arrived home and saw her crying so she asked what was wrong. AAA narrated to her mother how appellant sexually abused her. They immediately reported the incident to the barangay authorities. Appellant was apprehended on the same day and brought to the barangay hall where he was positively identified by AAA as the perpetrator. He was then turned over to the Women and Children Protection Desk of the Las Piñas Police Station and was eventually charged with the crime of rape.

AAA was brought to the PNP Crime Laboratory in Camp Crame, Quezon City for medico-legal examination. PSI Marianne Ebdane interviewed her and prepared the Sexual Crime Protocol^[12] stating her general data and brief history of the incident. In the Initial Medico-Legal Report^[13] dated November 16, 2007, it revealed that AAA's hymen has no laceration, but the same was congested or swollen. The

perihymenal region and posterior fourchette were abraded and congested. Her labia minora was likewise congested. The findings were suggestive of sexual abuse. During her testimony before the court *a quo*, PSI Ebdane related that her findings mean that there was a blunt object, such as an erected penis or a finger was inserted into the genitalia of the victim.^[14]

In an Order^[15] dated December 9, 2008, the court *a quo* directed its social worker to conduct a case study on AAA. In compliance therewith, Court Social Welfare Officer II Michelle Baloloy-Pernez submitted a Social Case Study Report^[16] wherein she observed AAA to be trembling during her interview with her. She was still in pain and uncomfortable when recalling the rape incident. After what happened, AAA is afraid to stay alone in the house and easily gets nervous. Social Worker Baloloy-Pernez suggested that AAA and her family be referred to the local Department of Social Welfare and Development (DSWD) for possible financial assistance. She likewise recommended that AAA be referred to the Out-Patient Section of the Department of Psychiatry and Behavioral Medicine of the Philippine General Hospital for further evaluation and treatment.

The defense presented the lone testimony of appellant.

Appellant denied the charges against him. He admitted to have known AAA and her family for a long time because they are neighbors for almost five years^[17]. Their house is just behind the house where appellant was residing.^[18] He often saw AAA every time his niece invited her to play.^[19] At the time appellant was arrested by the barangay officers, he was at home watching television. He chose to remain silent and went quietly with the barangay authorities to avoid any further suspicion. They brought him to the Barangay Hall and later turned him over to the police. Since then, he has been detained at the local city jail.

In the assailed Decision^[20] dated July 11, 2013, the court *a quo* found appellant guilty beyond reasonable doubt of rape through sexual assault in relation to Republic Act No. 7610. It was convinced of the veracity of AAA's testimony that appellant twice inserted his finger inside her vagina which caused her pain. Lending credence to the minor victim's testimony was the result of the medical examination conducted by Medico-Legal Officer Marianne Ebdane and the latter's categorical admission that her findings were consistent with AAA's claim of having been sexually assaulted by appellant. The pertinent portions of the assailed Decision are quoted:

x x x

In the instant case, the totality of the prosecution's evidence proved each and every element of the crime of Rape through sexual assault beyond reasonable doubt.

The perverted act of the accused in inserting his finger inside the vagina of his eight year-old victim, AAA, constitutes the crime of Rape through sexual assault defined under Art. 266-A, par. 2 of the Revised Penal Code. The culpability of the accused was made evident in AAA's candid, direct, straight-forward, and consistent recollection of events, when she

testified:

x x x

Lending credence to the minor v[i]ctim's testimony were the results of the medical examination conducted by Medico-Legal Officer Marianne Ebdane and her (Ebdane) categorical admission that her findings were consistent with AAA's claim of having been sexually assaulted by the accused.

Needless to mention, AAA's demeanor in immediately reporting the incident, dispels any indication that these charges against the accused were mere afterthoughts or fabrications. Right after she was assaulted by the accused, AAA disclosed her traumatic experience to her mother. When they reported the incident to the proper authorities, AAA's recollection of the events that transpired remained unchanged even as she detailed the same to the barangay authorities; the police; and to this Court during the trial. AAA stood firm in her allegations, recounting her ordeal with accuracy. Moreover, she never wavered in identifying accused as her assailant.

It is highly unimaginable that AAA, being only eight (8) years old at the time of the incident would create such an incredible story if it were not really true that accused had raped her. x x x

On the other hand, the accused, Wilson Celestial, Jr., in maintaining his innocence, denied the allegations against him. When he was arrested, he claimed that he went quietly with the barangay authorities to avoid any further suspicion they might have towards him. However, when brought before the proper authorities, he never exerted any efforts to refute the allegations made by AAA. In Court, the accused even admitted that he could not think of any reason why AAA or her family would fabricate these charges of rape and sexual abuse against him. Hence, there being no showing of ill motive on the part of the accusers, their testimonies, taken as a whole, should be accorded full faith and credit.

x x x

That accused committed rape by an act of sexual assault against AAA has been clearly established. However, AAA, being only eight (8) years old during the commission of the offense, the penalty to be imposed upon the accused should not be that provided under Art. 266-B of the Revised Penal Code, punishing rape through sexual assault with a prison term of *prision mayor*. Rather, it should be the penalty as provided under Republic Act No. 7610, otherwise known as "The Special Protection of Children Against Abuse, Exploitation, and Discrimination Act", which provides the stiffer penalty of imprisonment by *reclusion temporal* in its medium period.^[21]

Hence, this appeal in which appellant raised the lone assignment of error^[22], to wit:

THE COURT A *QUO* GRAVELY ERRED IN FINDING THAT APPELLANT'S GUILT HAS BEEN PROVEN BEYOND REASONABLE DOUBT.

THE ISSUE

The sole issue in the instant case is whether or not the court *a quo* correctly found appellant guilty beyond reasonable doubt of rape through sexual assault in relation to Republic Act No. 7610.

THE COURT'S RULING

The appeal is bereft of merit.

Appellant contends that AAA's testimony had inconsistencies which cast doubt on the culpability of appellant, particularly when she testified that appellant peeped through a wall in the bedroom. However, upon further inquiry, it turned out that it was AAA who actually peeped through it. Moreover, although AAA got scared, she did not lock the door to prevent appellant from entering the house. She likewise had the chance to escape but failed to do so. The fact that appellant was unarmed during the commission of the alleged incident assumes greater importance in light of the allegation of force, violence and intimidation in the Information under which he was charged.

These do not persuade Us.

The enactment of Republic Act (RA) No. 8353, otherwise known as the "*Anti-Rape Law of 1997*", reclassified the crime of rape as a crime against persons. It also amended Article 335 of the RPC and incorporated therein Article 266-A which reads:

Art. 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:
 - a. Through force, threat or intimidation;
 - b. When the offended party is deprived of reason or is otherwise unconscious;
 - c. By means of fraudulent machination or grave abuse of authority;
 - d. When the offended party is **under twelve (12) years of age** or is demented, even though none of the circumstances mentioned above be present;