



Republic of the Philippines
Supreme Court
 Manila

FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
 Plaintiff-Appellee,

G.R. No. 191197

Present:

- versus -

SERENO, C. J.,
 Chairperson,
 LEONARDO-DE CASTRO,
 BERSAMIN,
 PEREZ, and
 PERLAS-BERNABE, JJ.

RODRIGO LAPORE,
 Accused-Appellant.

Promulgated:

JUN 22 2015

X ----- X

RESOLUTION

PEREZ, J.:

For review is the conviction of accused-appellant **RODRIGO LAPORE** (Lapore) of rape as defined in Article 266-A and penalized under Article 266-B of the Revised Penal Code, as amended, committed against AAA.¹ The Decision² dated 20 March 2007, rendered by the Regional Trial Court (RTC), Branch 50, Puerto Princesa City, in Criminal Case No. 15286 was affirmed by the

¹ Pursuant to Republic Act No. 7610 or the Special Protection of Children Against Abuse, Exploitation and Discrimination Act and its Implementing Rules, Republic Act No. 9262 or the Anti-Violence Against Women and their Children Act of 2004 and its Implementing Rules, and Supreme Court Resolution dated 19 October 2004 in A.M. No. 04-10-11-SC or the Rule on Violence Against Women and their Children.

² Penned by Acting Presiding Judge Jocelyn Sudiang Dilig; CA rollo, pp. 89-98.

Decision³ dated 12 October 2009 of the Court of Appeals in CA-G.R. CR H.C. No. 02771.

The Information

That sometime in the month of October, (sic) 1998, at Barangay Berong (sic) Municipality of Quezon, Province of Palawan, Philippines and within the jurisdiction of this Honorable Court, the said accused with force, threat, violence and intimidation and with lewd designed, (sic) did and (sic) then and there willfully, unlawfully and feloniously have (sic) carnal knowledge with one AAA, a girl of 13 years of age, against her will and consent, to her damage and prejudice.

Contrary to law.⁴

While a warrant of arrest was issued on 26 January 1999, Lapore remained at large until his arrest on 11 February 2000. During his arraignment, Lapore pleaded not guilty to the crime. Trial on the merits then ensued.

The Prosecution Evidence

The victim, AAA, is thirteen (13) years old and illiterate. She lives with her parents in Barangay Berong, Municipality of Quezon, Palawan. On 1 October 1998, when AAA's parents went to Puerto Princesa City, Palawan, AAA was left at their house with her older brother, two (2) younger siblings, and accused-appellant Lapore who was staying at their house as a guest. Lapore was a pastor in their church.⁵

One evening, AAA's older brother left the house to go fishing while AAA was asleep. Lapore went inside AAA's room and removed AAA's panty. Lapore then removed his underwear and inserted his penis into her vagina. AAA cried. When she tried to shout, Lapore pointed a knife at her neck and threatened to kill her.

³ Penned by Associate Justice Mario V. Lopez with Associate Justices Rebecca De Guia-Salvador and Apoloniario D. Bruselas, Jr., concurring; id. at 124-138.

⁴ Id. at 124-125.

⁵ Id. at 125.

With his penis still inside her vagina, Lapore made push and pull movements and then left.⁶

On 20 October 1998, when AAA's parents returned home, AAA reported her ordeal to her parents. When AAA's parents confronted Lapore, Lapore admitted to the rape and promised to marry AAA. After the confrontation, Lapore left. Three (3) months passed. Lapore failed to return. Thus, AAA and her mother reported the incident to the Barangay Chairman and to the police. AAA was brought to Dr. Josieveline M. Abiog-Damalerio, the Municipal Health Officer of Quezon, Palawan, for medical examination. On 23 December 1998, AAA filed the instant criminal complaint for the crime of rape against Lapore.⁷

AAA's mother, BBB, testified and presented AAA's Birth Certificate to prove that AAA was born on 16 December 1984. The authenticity of the certificate was admitted by the defense.⁸

Dr. Alma Feliciano-Rivera testified and interpreted the Medical Certificate issued by Dr. Josieveline M. Abiog-Damalerio. The Medical Certificate revealed that AAA was diagnosed with healed lacerations, which may have been sustained a week prior to the examination and that AAA's physical virginity was lost.⁹

The Evidence of the Defense

Lapore first knew AAA in April 1999 when he began helping AAA's family by doing apostolic work for them for six (6) months. In the evening of one Sunday, while the mother, BBB, was having a drink with the locals, AAA approached Lapore. They talked for several hours. After the conversation, AAA offered herself to Lapore in marriage but he advised AAA to instead pray. Since then, AAA offered herself to Lapore for marriage for two (2) more occasions.

On the first two attempts, Lapore pitied AAA. However, on her third attempt, Lapore finally accepted AAA's proposal but told her

⁶ Id. at 125-126.

⁷ Id. at 126.

⁸ Id.

⁹ Id. at 127.

that they had to wait until AAA gives birth as she was four (4) months pregnant then.¹⁰

Lapore spoke to AAA's parents regarding their plan to marry, but the marriage did not pursue because AAA filed a criminal case accusing Lapore of rape. According to Lapore, the criminal complaint was a personal vendetta because he reprimanded AAA's mother, BBB, for having vices, such as drinking and selling alcohol. Because of their anger, they told Lapore to leave and never to return. Also, Lapore insinuated that it was AAA's boyfriend, in the person of a certain Julio Flores, who impregnated AAA. Lapore averred that AAA was already pregnant when he saw her, and because he pitied her, he agreed to marry her only after she has given birth.¹¹

Ruling of the RTC

After trial, the RTC found Lapore guilty beyond reasonable doubt of the crime of rape. The pertinent portion of the dispositive of the RTC Decision reads:

WHEREFORE, premises considered, judgment is hereby rendered finding accused RODRIGO LAPORE @ "DIGING" GUILTY beyond reasonable doubt of the crime of Rape, as defined and penalized under Article 266-A and 266-B of the Revised Penal Code as amended by R.A. 8353. In view of the presence of the special aggravating circumstance of the use of a deadly weapon and the generic aggravating circumstance of the abuse of confidence or obvious ungratefulness, the accused is hereby sentenced to suffer the penalty of *RECLUSION PERPETUA* and to pay the costs. He is likewise ordered to pay the victim AAA the amount of FIFTY THOUSAND (P50,000.00) PESOS as civil indemnity and FIFTY THOUSAND (P50,000.00) PESOS as moral damages.¹²

As defense, Lapore alleged that the prosecution failed to establish his identity as the perpetrator of the crime. According to Lapore, AAA was inconsistent in identifying the accused:

Q: You did not see his face?

A: No, Sir.

¹⁰ Id. 127-128

¹¹ Id. at 128.

¹² Id. at 128-129.

Q: When he started to rape you, how did you notice that it was Lapore?

A: Because I lighted a lamp.

Q: While you were being raped?

A: There is a light coming from his room.

Q: But the room of Lapore is separated by a wall from your room, is it not?

A: Our rooms are beside each other.

Q: So it means that you did not light a lamp?

A: I did not, Sir.¹³(Emphases supplied)

Ruling of the Court of Appeals

Contrary to the defense's allegation, the Court of Appeals resolved that AAA positively identified Lapore as the man who perpetrated the crime because AAA's account of the incident was clearly expressed in a straightforward manner. The inconsistency in AAA's testimony is minor and inconsequential in nature. As resolved by the Court of Appeals, "[w]hat is controlling is that AAA remained intractable and consistent in identifying the accused as the person who raped her."

Furthermore, AAA's testimony is corroborated by a medical examination which revealed that AAA had healed lacerations and that her physical virginity was lost. The Court of Appeals ratiocinated that "hymenal laceration is a telling, irrefutable and best physical evidence of forcible defloration."¹⁴ Further, the medical certificate belied Lapore's allegation that AAA was five (5) months pregnant with AAA's boyfriend.¹⁵

With regard to the imposable penalty, the Court of Appeals modified the penalty imposed by the RTC. The Court of Appeals ruled that the aggravating/qualifying circumstances of abuse of confidence and obvious ungratefulness, minority, and use of a deadly weapon cannot be appreciated to qualify the crime from simple rape to qualified rape. According to the Court of Appeals, "to justify the

¹³ Id. at 129-130.

¹⁴ Id. at 132-133.

¹⁵ Id. at 132.

imposition of death penalty, the two qualifying circumstances of minority and relationship must concur as provided in Article 266-B of the Revised Penal Code and must be alleged in the information and duly proven during the trial by the quantum of proof required for conviction”.¹⁶ Thus, there being no modifying circumstances to be appreciated, the Court of Appeals ruled that the crime committed is only simple rape, punishable by *reclusion perpetua*. The dispositive portion of the Decision of the Court of Appeals, to wit:

WHEREFORE, the RTC Decision is AFFIRMED with the MODIFICATION that accused is further ordered to pay P25,000.00 as exemplary damages.

SO ORDERED.¹⁷

Our Ruling

We affirm the ruling of the Court of Appeals.

The inconsistencies in AAA’s testimony are minor. These inconsistencies add to the veracity of her already truthful account of her ordeal in the hands of Lapore. Besides, Lapore’s conviction is not based solely on AAA’s positive identification of Lapore as the perpetrator of the crime. Her testimony was corroborated by the medical examination and testimony of witnesses, Dr. Feliciano Rivera, the medico-legal expert, who interpreted the medical certificate, and BBB, AAA’s mother, who testified that AAA was mentally retarded and narrated the incident that occurred when they went home from Puerto Princesa City to Quezon, Palawan. The prosecution has gone beyond the principle, where, the sole testimony of a witness, if found credible, would suffice to sustain a conviction.¹⁸

With regard to the presence of abuse of confidence and obvious ungratefulness, minority, and use of a deadly weapon, we affirm the ruling of the Court of Appeals. Although the prosecution has duly proved the presence of abuse of confidence and obvious ungratefulness, minority, and use of a deadly weapon, they may not be appreciated to qualify the crime from simple rape to qualified rape.

¹⁶ Id. at 135-136.

¹⁷ Id. at 137.

¹⁸ *People v. Pascual*, 428 Phil. 1038, 1046 (2002).

Sections 8 and 9 of Rule 110 of the Rules on Criminal Procedure provide that for qualifying and aggravating circumstances to be appreciated, it must be alleged in the complaint or information.¹⁹ This is in line with the constitutional right of an accused to be informed of the nature and cause of the accusation against him.²⁰ Even if the prosecution has duly proven the presence of the circumstances, the Court cannot appreciate the same if they were not alleged in the Information. Hence, although the prosecution has duly established the presence of the aforesaid circumstances, which, however, were not alleged in the Information, this Court cannot appreciate the same. Notably, these circumstances are not among those which qualify a crime from simple rape to qualified rape as defined under Article 266-B of the Revised Penal Code, as amended. Thus even if duly alleged and proven, the crime would still be simple rape.

Therefore, as all the elements necessary to sustain a conviction for simple rape are present: (1) that Lapore had carnal knowledge of AAA; and (2) that said act was accomplished through the use of force or intimidation,²¹ we find Lapore guilty beyond reasonable doubt of the crime of simple rape.

WHEREFORE, the Decision of the Court of Appeals dated 12 October 2009 in CA-G.R. CR H.C. No. 02771, entitled “*People of the Philippines v. Rodrigo Lapore alias ‘Diging’*” finding accused-appellant *Rodrigo Lapore* **GUILTY** beyond reasonable doubt of the crime of Rape as defined and penalized under Article 266-A of the Revised Penal Code, as amended by Republic Act No. 7659, is hereby **AFFIRMED with MODIFICATIONS** as to the civil damages:

¹⁹ **Section 8. Designation of the offense.** — The complaint or information shall state the designation of the offense given by the statute, aver the acts or omissions constituting the offense, and specify its qualifying and aggravating circumstances. If there is no designation of the offense, reference shall be made to the section or subsection of the statute punishing it. (8a)

Section 9. Cause of the accusation. — The acts or omissions complained of as constituting the offense and the qualifying and aggravating circumstances must be stated in ordinary and concise language and not necessarily in the language used in the statute but in terms sufficient to enable a person of common understanding to know what offense is being charged as well as its qualifying and aggravating circumstances and for the court to pronounce judgment. (9a)

²⁰ *People v. Legaspi*, 409 Phil. 254, 273 (2001).

²¹ *People v. Quintal et al.*, 656 Phil. 513, 522 (2011).

1. Fifty Thousand Pesos (₱50,000.00) as civil indemnity;
2. Fifty Thousand Pesos (₱50,000.00) as moral damages; and
3. Thirty Thousand Pesos (₱30,000.00) as exemplary damages.

Interest at the rate of six percent (6%) *per annum* is likewise imposed on all the damages awarded in this case from date of finality of this judgment until fully paid.

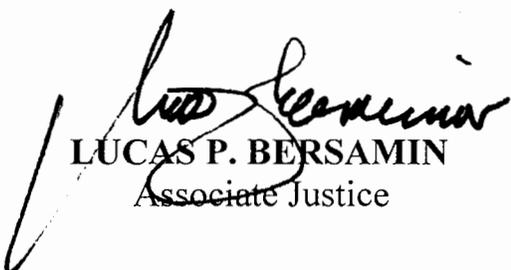
SO ORDERED.


JOSE PORTUGAL PEREZ
Associate Justice

WE CONCUR:


MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson

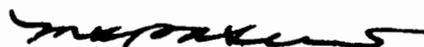

TERESITA J. LEONARDO-DE CASTRO
Associate Justice


LUCAS P. BERSAMIN
Associate Justice


ESTELA M. PERLAS-BERNABE
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, it is hereby certified that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARIA LOURDES P. A. SERENO
Chief Justice