



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,
Appellee,

G.R. No. 225624

Present:

CARPIO, J., Chairperson,
PERLAS-BERNABE,
CAGUIOA,*
A. REYES, JR., and
J. REYES, JR.,** JJ.

- versus -

MARIANITO ARCES, JR.,
Appellant.

Promulgated:

03 OCT 2018

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DECISION

CARPIO, J.:

The Case

On appeal is the 26 November 2015 Decision¹ of the Court of Appeals (CA) in CA-G.R. CEB-CR HC No. 01908, which affirmed the 3 June 2013 Decision² of Branch 41 of the Regional Trial Court (RTC), Bacolod City in Criminal Case No. 08-31346 finding appellant Marianito Arces, Jr. (Arces) guilty of the crime of rape.

The Facts

On 19 April 2006, at around 5:30 a.m., AAA's father, mother, elder brother, and younger brother left the house leaving AAA,³ who was nine (9) years old, alone in the house. While sleeping, AAA was awakened by her

* On leave.

** Designated additional member per Special Order No. 2587 dated 28 August 2018.

¹ *Rollo*, pp. 5-13. Penned by Associate Justice Germano Francisco D. Legaspi, with Associate Justices Pamela Ann Abella Maxino and Jhosep Y. Lopez concurring.

² *CA rollo*, pp. 45-65. Penned by Judge Ray Alan T. Drilon.

³ In accordance with Amended Administrative Circular No. 83-2015, the identities of the parties, records and court proceedings are kept confidential by replacing their names and other personal circumstances with fictitious initials, and by blotting out the specific geographical location that may disclose the identities of the victims.

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uncle, Arces who appeared beside her and started to undress her. Arces took off his clothes, positioned himself on top of AAA and inserted his penis into her vagina. AAA complained that what he was doing was painful. Arces stopped, dressed AAA, put on his clothes, and warned AAA not to tell anyone what had happened. The following day, Arces returned to AAA's house where she was again left alone. Arces took off his clothes, laid on top of AAA, and made pumping motions while AAA was fully clothed. AAA never revealed these incidents with Arces with anyone.

On 4 January 2008, AAA's mother had an argument with her cousin Marites Moraña (Marites), who is Arces' sister. Marites and AAA's mother were neighbors and the smoke coming from the trash being burned by Marites caused the argument between the two. They had an exchange of words where Marites' sister Maricel Lacuba (Maricel) commented that AAA's mother was good at minding other people's business but was unaware of her daughter's sexual activities. Angered by this accusation, AAA's mother confronted AAA about the accusation. AAA did not say anything but upon the prodding of her mother, she told what had happened. AAA stated that she did not tell her sooner because Arces had threatened her. Together, AAA and AAA's mother reported the incident to the police station. On 7 January 2008, AAA was examined by Dr. Jesus Medardo Buyco (Dr. Buyco) of the City Health Office. Dr. Buyco observed that AAA's hymen was intact, there were no signs of hematoma or any vaginal deformities, and there were no signs of lacerations of AAA's vaginal wall. Dr. Buyco concluded that the findings were not consistent with penile penetration.

Arces vehemently denied the allegations against him, arguing that on the day that he allegedly raped AAA, he was already at sea catching crabs with his brother-in-law, Jonathan Lacuba (Lacuba). Lacuba testified that on the day and time of the alleged incident, he was working together with Arces at sea. Arces also asserted that he usually leaves at around 4:30 to 5:30 a.m. and would return only at 8:00 a.m.

Further, Arces argued that on the date of the alleged incident, 19 April 2006, AAA and her family were not home as they attended a barangay fiesta in the town of Dueñas in Iloilo. In fact, AAA's parents had invited him to go but he refused as he had no money for transportation to Iloilo.

Finally, Arces alleged that on 20 August 2006, he had moved to Jaro, Iloilo and worked there for two years.⁴ After the complaint for rape was filed against him, he was forced to return from Iloilo to answer the accusation against him.

Arces' sisters Marites and Maricel testified that the charge against Arces was instigated by the existing conflict and ill-feelings between them and AAA's mother.

⁴ CA rollo, p. 49.

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Marites testified that she and AAA's mother had an argument where AAA's mother accused her and her sister Maricel as being whores, to which she replied that AAA's mother should watch her daughter instead. AAA's mother replied that they better stand by what they charge because there will come a time that they will cry tears of blood for what she will do.⁵ Marites also stated that she knew AAA and her mother went to Iloilo on 15 April 2006 to attend a fiesta as AAA's mother borrowed money from her.

Likewise, Maricel testified that they used to have good relations with AAA's mother but that their relationship turned sour. Maricel also stated that she saw AAA and her playmate playing house while the playmate was only in his briefs.⁶

Due to the altercation between AAA's mother and the sisters of Arces, AAA's mother filed a case against Marites and Maricel before the Punong Barangay. During their confrontation at the barangay conciliation hearing, it was intimated that it was AAA's playmate who had sexual activities with AAA. This was denied by AAA's playmate.

Arces was charged with the crime of Rape under Article 266-A, par. 1(d), in relation to Article 266-B, of the Revised Penal Code. He entered a plea of not guilty.

The Ruling of the RTC

In a Decision dated 3 June 2013, the RTC found Arces guilty of the crime of rape, to wit:

WHEREFORE, in view of all the foregoing, judgment is hereby rendered, finding the defendant MARIANITO ARCES, JR., GUILTY of the offense charged and is hereby sentenced to a penalty of RECLUSION PERPETUA.

The defendant is ordered to pay the complainant [AAA], the sum of Seventy Five Thousand Pesos (Php75,000.00) as moral damages and the sum of Twenty Five Thousand Pesos (Php25,000.00) as exemplary damages.

SO ORDERED.⁷

The RTC found that the allegation of Arces that he was falsely charged because of the ill-will and quarreling between AAA's mother and his sisters is far-fetched as to be persuasive. It held that the defense of denial put up by Arces – being a negative and self-serving defense – cannot prevail over the affirmative allegations of the victim. The RTC found AAA's testimony to be credible in its entirety, albeit not perfect in all details. It held

⁵ Id. at 51.

⁶ Id. at 52.

⁷ Id. at 64-65.

that the defense was too weak given the direct, positive, and straightforward testimony of the child complainant.

The Ruling of the CA

In a Decision dated 26 November 2015, the CA affirmed, with modification as to the penalty, the Decision of the RTC. The dispositive portion of the Decision of the CA reads:

WHEREFORE, in view of the foregoing, the appeal is DENIED. The Decision dated 3 June 2013 of the Regional Trial Court of Bacolod City, Branch 41, finding Marianito Arces, Jr. guilty beyond reasonable doubt of rape in Criminal Case No. 08-31346 is AFFIRMED with MODIFICATION. Marianito Arces, Jr. is sentenced to suffer the penalty of reclusion perpetua without eligibility for parole. Further, he is ORDERED to pay AAA the amount of Php100,000.00 as civil indemnity, ₱100,000.00 as moral damages and ₱100,000.00 as exemplary damages, plus legal interest on all damages awarded at the legal rate of 6% from the date of finality of this Decision.

SO ORDERED.⁸

The CA held that the feud between the Arces' sisters and AAA's mother was too trivial for the latter to allow her daughter to admit having been defiled. The CA also found that the RTC properly upheld the testimony of AAA, which served as the basis for Arces' conviction. As to the finding of Dr. Buyco that there was no penile penetration, the CA held that this does not negate the commission of rape as rape can be established even in the absence of external signs or physical injuries or a medical finding relating to such fact.

The Issue

The issue to be resolved in this appeal is whether or not the CA gravely erred in finding Arces guilty of the crime of rape.

The Ruling of the Court

We find the appeal to be meritorious.

There are three (3) guiding principles in reviewing rape cases: (1) an accusation of rape can be made with facility, and while the accusation is difficult to prove, it is even more difficult for the person accused, although innocent, to disprove; (2) considering the intrinsic nature of the crime, only two persons being usually involved, the testimony of the complainant should be scrutinized with great caution; and (3) the evidence for the prosecution

⁸ *Rollo*, p. 13.

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must stand or fall on its own merits, and cannot be allowed to draw strength from the weakness of the evidence for the defense.⁹ Based on the foregoing principles, we find that Arces should be acquitted of the crime of rape.

Doubtful Testimony of AAA

We are not unmindful of the fact that as a general rule, the findings of the trial court, when affirmed by the appellate court, are binding on this Court.¹⁰ However, this principle does not preclude a reevaluation of the evidence to determine whether material facts or circumstances have been overlooked or misinterpreted by the lower courts.¹¹ The Court has not hesitated to reverse judgments of conviction when there were strong indications pointing to a possibility that the rape charge was false.¹² In this case, we find that the evidence for the prosecution failed to establish, beyond reasonable doubt, that Arces is guilty of the crime charged.

The RTC and CA relied heavily on the testimony of AAA to find Arces guilty of the crime of rape. And while an accused may be convicted of rape solely on the basis of the testimony of the complainant, such testimony should meet the test of credibility – it should be straightforward, clear, positive, and convincing.¹³ In this case, we find that the testimony of AAA did not meet these requirements. A review of AAA's testimony would show that she is very indifferent and nonchalant about the events that had allegedly transpired. Her answers to the questions addressed to her are almost devoid of any emotion:

Atty. Umahag:

Q: For how long did this Marianito pump, Madam Witness?

A: A few seconds.

Q: Does his penis penetrate your vagina?

A: Yes, ma'am.

Q: And you said you complained that it's painful, that's why he stopped, Madam Witness?

A: Yes, ma'am.

Q: And actually, he dressed up your shorts again, Madam Witness?

A: Yes, ma'am.

Q: And he also put on his shorts, Madam Witness?

A: Yes, ma'am.

⁹ *People v. Rubillar, Jr.*, G.R. No. 224631, 23 August 2017.

¹⁰ *People v. Agalot*, G.R. No. 220884, 21 February 2018.

¹¹ *People v. Cruz*, 736 Phil. 564 (2014).

¹² *Id.*, citing *People v. Divina*, 440 Phil. 72, 79 (2002).

¹³ *People v. Bermejo*, 692 Phil. 373 (2012).

Q: And for all those time, you did not say anything to him, Madam Witness?

A: No, only the accused said something.

Q: And you did not even cry, Madam Witness?

A: No, ma'am.

Q: And Marianito Arces told you not to tell your mother, Madam Witness?

A: Yes ma'am.

Q: Only to your mother, Madam Witness?

A: Not to tell my mother and not to tell anyone.

Q: And you said after that, you just went to sleep, Madam Witness?

A: Yes, ma'am.

Q: As if nothing happened, Madam Witness?

A: Yes, ma'am.¹⁴

In addition to the manner of her testimony, her attitude after the alleged incidents is also very odd and not in accordance with ordinary human experience. AAA stated that she did not speak or even cry and merely went to sleep after the alleged incidents as if nothing happened. While it is true that victims of rape are not expected to act in a certain way, her actions after the alleged incidents, together with the indifferent manner of her testimony, raise doubts on her narration of the events.

Moreover, it is also curious that she remained entirely silent during the second alleged incident, where Arces allegedly laid on top of her at around noontime while fully clothed. She testified that her entire family was just outside of the house, although she did not know exactly where. AAA testified:

Q: Let me clarify. You said the second incident also happened on April 20 or was it April 19, Madam Witness?

A: April 20.

Q: You mean to say the next day, Madam Witness?

A: Yes, ma'am.

Q: And you said that was around 12:00 o'clock noon, Madam Witness?

A: Yes, ma'am.

Q: After your lunch, Madam Witness, you said?

A: Yes, ma'am.

Q: At that time, Madam Witness, where were your mother, brother and father, Madam Witness?

A: They were just outside of the house, I do not know where.¹⁵

¹⁴ CA rollo, pp. 59-60.

¹⁵ Id. at 60-61.

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If she knew that her family was just outside of the house, she could have easily called out for help if Arces was truly doing the malicious deeds to her. However, similar to the first alleged incident, she did not say or do anything. Again, while we recognize that victims of rape are not expected to act in a certain way, her actions during this second alleged incident are against ordinary human experience. To the mind of this Court, it creates doubts and uncertainties as to her allegations against Arces.

Although the trend in procedural law is to give wide latitude to the questioning of a child witness, the Court must not lose track of the basic tenet that the truth must be ascertained.¹⁶ In this case, we find that the testimony of AAA raises too many questions and doubts, and is insufficient to prove beyond reasonable doubt the allegations made against Arces.

Delay in reporting the incident

We also take note of the fact that it took AAA almost two (2) years to tell her mother about the alleged incidents. Generally, a delay in reporting an incident of rape is not an indication of fabrication and does not necessarily cast doubt on the credibility of the victim.¹⁷ However, if the delay in reporting such incident is unreasonable or unexplained, this may discredit the victim.¹⁸

Time and again, this Court has held that a rape charge becomes doubtful only when the delay in revealing its commission is unreasonable and unexplained.¹⁹ This is because the long delay in reporting the incident creates doubt in the Court's mind as to the allegation of rape.²⁰ In *People v. Relorcasa*,²¹ the alleged victim therein reported the incident ten (10) months after the said incident. The Court found this delay of ten (10) months to be unreasonable and unexplained, despite the allegation that the accused threatened to kill her, because there was no evidence that the alleged victim was under the watchful eye of the accused. The accused and the alleged victim therein lived several kilometers apart and she only saw the accused three or four times after the incident. Thus, the Court found that there was no surveillance by the accused, and the alleged victim had all the opportunities to report the incident. The delay created doubt in the mind of the Court that the alleged victim was indeed raped by the accused.

However, this is not to say a delay of two (2) years or more in reporting a rape incident automatically renders the credibility of a complainant doubtful. The delay must be unreasonable and unexplained, and it must be determined whether such delay in the reporting was justified.

¹⁶ *People v. Fernandez*, 434 Phil. 435 (2002).

¹⁷ *People v. Velasco*, 722 Phil. 243, 255 (2013).

¹⁸ *People v. Madsali*, 625 Phil. 431 (2010).

¹⁹ *People v. Domingo*, 579 Phil. 254, 264 (2008).

²⁰ *People v. Relorcasa*, 296-A Phil. 24 (1993).

²¹ *Id.*



There have indeed been cases where the delay lasted for more than two years but the Court still upheld the conviction of rape because the victims were found to be credible.²²

Unfortunately, in this case, the delay in reporting is unexplained and unjustified. Arces moved to Jaro, Iloilo a few months after the alleged incidents. AAA had every opportunity to report the matter to her family, but she chose not to. AAA opened up about the incidents only after the prodding of her mother, which sprang from the argument between the sisters of Arces and AAA's mother. There was no explanation as to why AAA chose not to tell others of the alleged incidents and why it took her so long to report them. Again, even if Arces allegedly told AAA not to tell anyone, he had already moved away, and thus AAA was no longer under any threat. Failure of the alleged victim to report that she was raped despite several opportunities to do so renders doubtful her rape charge.²³

The doubt created by the unexplained delay in reporting the incidents, along with the cloud on the credibility of AAA, compels this Court to acquit the accused. A conviction in a criminal case must be supported by proof beyond reasonable doubt. The evidence for the prosecution must stand or fall on its own merits. It is fundamental that the prosecution's case cannot be allowed to draw strength from the weakness of the evidence for the defense.²⁴

Defense of Alibi and Medical Report

The lower courts found the defense of alibi to be weak and self-serving because the testimonies were given by Arces and his relatives. While it is true that alibi is weak and viewed with skepticism, it is not always undeserving of credit – there are times when the accused has no other possible defense for what could really be the truth as to his whereabouts.²⁵ Moreover, the fact that the witness to the alibi is a relative of the accused does not automatically affect the probative value of the testimony.²⁶ Family relationship does not by itself render a witness' testimony inadmissible or devoid of evidentiary weight.²⁷

In this case, Arces testified that he was at sea during the time AAA was allegedly raped by him. This was corroborated by his brother-in-law, Lacuba, who also testified that on the day and time of the alleged incident,

²² *People v. Pangilinan*, 547 Phil. 260 (2007).

²³ *People v. Relorcasa*, supra note 20, citing *People v. Torio*, 211 Phil. 442 (1983), *People v. Lao*, 222 Phil. 60 (1985).

²⁴ *People v. Amarela and Racho*, G.R. Nos. 225642-43, 17 January 2018, citing *People v. Cruz*, 736 Phil. 564, 571 (2014), further citing *People v. Painitan*, 402 Phil. 297, 312 (2001); *People v. Bormeo*, 292-A Phil. 691, 702-703 (1993), citing *People v. Quintal*, 211 Phil. 79, 94 (1983); *People v. Garcia*, 289 Phil. 819, 830 (1992).

²⁵ *People v. Manambit*, 338 Phil. 57 (1997), citing *People v. Maongco*, 300 Phil. 603 (1994).

²⁶ *Id.*

²⁷ *Id.*, citing *People v. Adofina*, 309 Phil. 62 (1994).

he was working together with Arces at sea. If AAA's testimony was clear, straightforward, and trustworthy, this defense of alibi would be considered weak and undeserving. However, as already discussed, there are clouds of doubt on AAA's testimony. Thus, the defense of Arces must be considered thoroughly by this Court. Nonetheless, whether or not the defense of alibi of Arces is meritorious is entirely irrelevant if the prosecution itself failed to discharge the burden of proof against Arces. And in this case, we find that the evidence for the prosecution is insufficient to sustain the conviction of Arces.

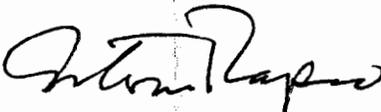
Lastly, we also note that the medical report strengthens the challenge against the credibility of AAA. While a medical report is not indispensable to the prosecution of a rape case, and is not at all controlling because its value is merely corroborative, the medico-legal's findings can still raise serious doubt as to the credibility of the alleged rape victim.²⁸ In this case, the medical report found AAA's hymen intact with no signs of hematoma or any vaginal deformities and no signs of lacerations of the vaginal wall. The conclusion that the medical findings were inconsistent with penile penetration casts further cloud on AAA's already doubtful narration of events.

Based on the foregoing, this Court reverses the rulings of the lower courts due to the failure of the prosecution to prove, beyond reasonable doubt, that Arces is guilty of the crime charged.

WHEREFORE, the appeal is **GRANTED**. The 26 November 2015 Decision of the Court of Appeals in CA-G.R. CEB-CR HC No. 01908, affirming with modification the 3 June 2013 Decision of the Regional Trial Court, Bacolod City, Branch 41 in Criminal Case No. 08-31346, is **REVERSED** and **SET ASIDE**.

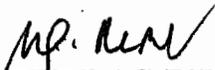
Appellant Marianito Arces, Jr. is **ACQUITTED** of the crime of rape on the ground of reasonable doubt. His **IMMEDIATE RELEASE** from custody is hereby ordered unless he is being held for other lawful cause.

SO ORDERED.


ANTONIO T. CARPIO
Associate Justice

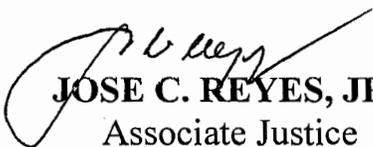
²⁸ *People v. Amarela and Racho*, G.R. Nos. 225642-43, 17 January 2018.

WE CONCUR:


ESTELA M. PERLAS-BERNABE
Associate Justice

(on leave)
ALFREDO BENJAMIN S. CAGUIOA
Associate Justice


ANDRES B. REYES, JR.
Associate Justice


JOSE C. REYES, JR.
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


ANTONIO T. CARPIO
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

Teresita Leonardo de Castro
TERESITA J. LEONARDO-DE CASTRO
Chief Justice

CERTIFIED TRUE COPY

Maria Lourdes Q. Perfecto
MARIA LOURDES Q. PERFECTO
Division Clerk of Court
Second Division