

FIRST DIVISION

[G.R. No. 222964, July 11, 2018]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
CAJETO CABILIDA, JR. Y CANDAWAN, ACCUSED-APPELLANT.**

D E C I S I O N

DEL CASTILLO, J.:

"A woman will not expose herself to the humiliation of a trial, with its attendant publicity and the morbid curiosity it would arouse, unless she has been truly wronged and seeks atonement for her abuse."^[1]

This is an appeal filed by appellant Cajeto Cabilida, Jr. y Candawan from the December 10, 2014 Decision^[2] and the November 19, 2015 Resolution^[3] of the Court of Appeals (CA) in CA-G.R. CR HC No. 01087-MIN, affirming the September 17, 2012 Decision^[4] of the Regional Trial Court (RTC) of Oroquieta City, Branch 14, in Criminal Case Nos. 986-14-433 and 988-14-435, finding the appellant guilty beyond reasonable doubt of two counts of rape.

The Factual Antecedents

Appellant and his co-accused Toto Cabilida (Toto) were charged under the following Amended Informations:

Criminal Case No. 986-14-433

That on or about the 24th day of December 2005 at about 12:00 o'clock midnight, more or less, x x x Province of Misamis Occidental, and within the jurisdiction of the Honorable Court, the above-named accused, conspiring, confederating and helping one another, armed with a hunting knife by means of violence and intimidation, accused Jojo Cabilida did then and there willfully, unlawfully and feloniously have carnal knowledge of the complainant AAA,^[5] against her will, in her own house and in the presence and in full view of her minor children BBB and CCC, both 10 years old and 8 years old, respectively and while co-accused Toto Cabilida was threatening to box the victim and pointing and threatening the children with the knife and then pointing the flashlight during the rape.

CONTRARY TO LAW, with the presence of qualifying aggravating circumstance of committing the crime of rape in the full view of the victim's minor children and generic aggravating circumstance of dwelling.^[6]

Criminal Case No. 988-14-435

That on or about the 24th day of December 2005 at about 12:00 o'clock midnight, more or less, x x x Province of Misamis Occidental, and within the jurisdiction of the Honorable Court, the above-named accused, by means of force and intimidation, and just after accused Toto Cabilida had committed acts of lasciviousness against AAA, co-accused Jojo Cabilida did then and there willfully, unlawfully and feloniously have carnal knowledge of the complainant AAA for the second time against her will, in her own house and in the presence and in full view of her minor children BBB and CCC, both 10 years old and 8 years old, respectively.

CONTRARY TO LAW, with the presence of qualifying aggravating circumstance of committing the crime of rape in the full view of the victim's minor children and generic aggravating circumstance of dwelling.^[7]

When arraigned, appellant pleaded not guilty to both charges.^[8] His co-accused Toto, however, remains at large.

Version of the Prosecution

During the trial, the prosecution presented the testimonies of the complainant AAA and her daughter BBB.

The evidence of the prosecution, as summarized by the CA, is as follows:

Based on the testimony of AAA, it was a rainy evening x x x when the rape occurred. At or around midnight of 24 December 2005, AAA and with her four minor children were all awake and awaiting the arrival of their father who was then visiting his nephew and who promised to bring home food for the family, when there was a knock on their door. Thinking it was their father, one of the children called out "Pang" but no one replied. AAA called out again, and then heard somebody replied "O" (yes). A[s] it was raining very hard, AAA mistook the voice she heard as that of her husband. When she opened the door, appellant was standing outside completely naked with x x x Toto beside him. Before she could react, appellant immediately hugged AAA and kissed her as they both fell on the floor. Despite her resistance, appellant successfully removed AAA's panty, and inserted his penis inside her vagina. All this time, AAA tried to resist, was crying while being assaulted and repeatedly entreated for accused to stop. AAA cried as did her children who witnessed the alleged rape right before their eyes. While appellant was raping AAA, Toto remained standing by the door, holding a knife and

a flashlight, directing its beam towards AAA and appellant.

After satisfying himself, appellant turned to Toto and said, "Bord ikaw pod" (You also). Toto then approached AAA and began to mount her, bit AAA's lips, but could not consummate as Toto held back when AAA parried him with her arms and legs, and he was not able to remove his short pants.

Unsatiated with the first rape, appellant dragged AAA down by her arms, and while AAA was in a sitting position, appellant grabbed her head and put his penis inside her mouth while AAA attempted to shake her head sideways. Afterwards, appellant again inserted his penis inside AAA's vagina and started a pumping motion.

AAA also testified that as appellant and Toto were about to leave, appellant warned AAA and her children that if they told her husband or anyone else about the incident, they would harm or kill them, including AAA's husband.

AAA's husband arrived at about seven in the morning of the next day, and AAA reported to him what happened. That same day, they went to the barangay captain to seek assistance, but the latter was somewhere else. The day after, they reported the sexual assault to the police. x x x

x x x x

The second daughter BBB, who was then 8 years old at the time of the alleged rape and already 10 years old when she testified, was also presented to corroborate the account given by her mother AAA. x x x^[9]

Version of the Appellant

In his defense, appellant testified that he was accompanied by his cousin, Toto, to AAA's house and that he had sexual intercourse with AAA twice on the said date.^[10] However, he claimed that the sexual intercourse were consensual and pre-arranged as they had an ongoing relationship for more than one year.^[11] He further testified that prior to that incident, he had sexual intercourse with AAA on at least ten (10) occasions.^[12] He also denied encouraging Toto to have sexual intercourse with AAA.^[13]

To support the "sweetheart theory," the defense presented witness Dennis U. Taan (Dennis), a friend of appellant, who testified that appellant and AAA had gone to his house twice; that they requested to stay in one of his rooms to rest; that he did not see what happened inside the room as it was covered by a curtain; and that he was surprised to hear about the charges against appellant because according to appellant, he and AAA had an ongoing relationship.^[14]

Ruling of the Regional Trial Court

On September 17, 2012, the RTC rendered a Decision finding the appellant guilty of the charges against him. The RTC found the "sweetheart theory" unworthy of belief as it was contrary to common experience for a mother of four young children to invite her lover to her house and have sexual intercourse with him while her children were sleeping in the same room.^[15] Thus

WHEREFORE, finding accused Cajeto "Jojo" Cabilida, Jr., guilty beyond reasonable doubt of two counts of rape, aggravated by its commission in full view of private complainant's children and in her dwelling, the court sentences him to two penalties of *reclusion perpetua* without eligibility for parole. He is ordered to pay private complainant P75,000.00 as rape indemnity, P75,000.00 as moral damages, P30,000.00 as exemplary damages. With costs. He is credited with full time spent in preventive detention since July 31, 2006.

SO ORDERED.^[16]

Ruling of the Court of Appeals

Appellant appealed the case to the CA.

On December 10, 2014, the CA rendered the assailed Decision denying the appeal and affirming the RTC Decision. The CA likewise rejected the "sweetheart theory" propounded by the defense as it found no evidence to prove that such relationship actually existed except for the self-serving testimony of the appellant and the ambivalent and inconclusive testimony of witness Dennis.^[17]

Appellant moved for reconsideration but the CA denied the same in its November 19, 2015 Resolution.

Hence, appellant filed the instant appeal.

The Court required both parties to file their respective supplementary briefs; however, they opted not to file the same.^[18]

The Court's Ruling

The appeal lacks merit.

Appellant insists that he should be acquitted as the prosecution failed to prove his guilt beyond reasonable doubt. Appellant maintains that he and AAA were having an illicit affair and that she filed the instant case against him only because one of

her children saw them in the act of making love. He claims that AAA was lying when she testified in court as evidenced by the fact that her testimony was inconsistent with the testimony of her daughter BBB. According to AAA, appellant was never in her house, except on the night of the incident. Her daughter BBB, on the other hand, testified that appellant went to their house once to ask for a chicken. Finally, appellant puts in issue the failure of the prosecution to present any medical certificate to prove that appellant applied force or violence against AAA.

The Court does not agree.

Minor inconsistencies do not impair the credibility of the witnesses.

To begin with, the inconsistencies in the testimonies of AAA and her daughter as to whether or not that night was the first time appellant went to their house were not sufficient to discredit their testimonies. Jurisprudence holds that "a few discrepancies and inconsistencies in the testimonies of witnesses referring to minor details and not in actuality touching upon the central fact of the crime do not impair the credibility of the witnesses."^[19] In fact, such inconsistencies strengthen the credibility of the witness as these discount the possibility of being rehearsed.^[20] What is important was that the testimony of AAA on the events that transpired that night was corroborated by the testimony of her daughter BBB.

Sweetheart theory does not negate the commission of rape.

Appellant's defense that he and AAA were having an illicit affair and that it was AAA who asked him to come to her house that night so that they could have sex also fails to inspire belief from the Court. As aptly pointed out by the RTC:

How can a mother of four young children invite a lover to her house so that she could have sex with him in the presence of her children, sleeping or awake, with the likelihood of their seeing her in a tryst with her lover and her husband suddenly arriving and catching them out? Indeed, if they were really and truly lovers who had had sexual trysts for no less than ten times, they could have continued to meet at the same places. Definitely, not in private complainant's home, on Christmas Eve, while the children were with her, awaiting their father's return.^[21]

Besides, even if true, the existence of such relationship did not negate the commission of rape. Having a relationship with the victim is not a license to have sexual intercourse against her will, and will not exonerate the accused from the criminal charge of rape as "[b]eing sweethearts does not prove consent to the sexual act."^[22]

A medical certificate is not indispensable in the prosecution for rape.

As a last ditch effort to exonerate himself, appellant puts in issue the failure of the prosecution to present any medical certificate to prove that appellant applied force or violence against AAA. Such failure, however, is not fatal in the prosecution for rape. The Court has consistently ruled that "[a] medical certificate is not necessary to prove the commission of rape and a medical examination of the victim is not indispensable in a prosecution for rape x x x [because] the expert testimony is merely corroborative in character and not essential to conviction."^[23] In fact, an accused may be convicted based on the sole testimony of the victim as long as her testimony is clear, positive, and convincing.^[24] In this case, the testimony of AAA was not only clear, positive, and convincing but was also corroborated by the testimony of her daughter BBB.

Finally, both the trial court and the CA properly meted out the penalty of *reclusion perpetua* without eligibility for parole on appellant on both counts of rape.

However, in order to conform to prevailing jurisprudence,^[25] the Court finds it necessary to increase the awards of civil indemnity, moral damages, and exemplary damages to P100,000.00 each for each count of rape.

In addition, all damages awarded shall earn legal interest at the rate of 6% *per annum* from the date of finality of this Decision until fully paid.

WHEREFORE, premises considered, the appeal is **DISMISSED**. The Court hereby **ADOPTS** the findings of facts of the Regional Trial Court as affirmed by the Court of Appeals. The December 10, 2014 Decision and the November 19, 2015 Resolution of the Court of Appeals in CA-G.R CR HC No. 01087-MIN, finding appellant Cajeto Cabilida, Jr. y Candawan guilty beyond reasonable doubt of the charges against him are **AFFIRMED with MODIFICATION** that the awards of civil indemnity, moral damages, and exemplary damages should be increased to P100,000.00 each for each count of rape.

In addition, the awards of damages shall earn interest at the rate of 6% *per annum* from the date of finality of this Decision until fully paid.

SO ORDERED.

Leonardo-De Castro,* *Caguioa*,** *Tijam*, and *Gesmundo*,*** *JJ.*, concur.

* Per Special Order No. 2559 dated May 11, 2018.

** Per Special Order No. 2560-C dated July 6, 2018 vice J. Jardeleza who recused due to prior action as Solicitor General.

*** Per Special Order No. 2560 dated May 11, 2018.

[1] *People v. Domingo*, 432 Phil. 590, 607 (2002).

[2] *Rollo*, pp. 3-15; penned by Associate Justice Pablito A. Perez and concurred in by Associate Justices Edgardo A. Camello and Henri Jean Paul B. Inting.

[3] *CA rollo*, pp. 93-94.

[4] *Id.* at 32-37; penned by Acting Presiding Judge Ma. Nimfa Penaco-Sitaca.

[5] "The identity of the victim or any information which could establish or compromise her identity, as well as those of her immediate family or household members, shall be withheld pursuant to Republic Act No. 7610, An Act Providing for Stronger Deterrence And Special Protection Against Child Abuse, Exploitation And Discrimination, Providing Penalties for its Violation, And for Other Purposes; Republic Act No. 9262, An Act Defining Violence Against Women And Their Children, Providing For Protective Measures For Victims, Prescribing Penalties Therefor, And for Other Purposes; and Section 40 of A.M. No. 04-10-11-SC, known as the Rule on Violence against Women and Their Children, effective November 15, 2004." *People v. Dumadag*, 667 Phil. 664, 669 (2011).

[6] *Rollo*, p. 4.

[7] *Id.* at 5.

[8] *Id.*

[9] *Id.* at 5-7.

[10] *Id.* at 7.

[11] *Id.*

[12] *Id.*

[13] *Id.*

[14] *Id.* at 8.

[15] *CA rollo*, pp. 36-37.

[16] *Id.* at 37.

[17] *Rollo*, p. 12.

[18] *Id.* at 21-22 and 36.

[19] *People v. Hilet*, 450 Phil. 481, 490 (2003).

[20] *Id.*

[21] *CA rollo*, p. 36.

[22] *People v. Magbanua*, 576 Phil. 642, 648 (2008).

[23] *People v. Balonzo*, 560 Phil. 244, 259-260 (2007).

[24] *Id.* at 260.

[25] *People v. Juguetta*, 783 Phil. 806, 848 (2016).



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