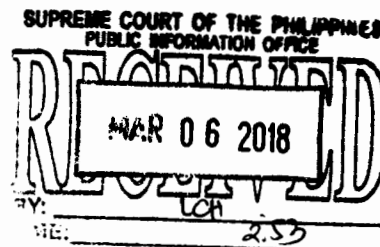




Republic of the Philippines
 Supreme Court
 Manila



FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 218701

Present:

- versus -

SERENO, *C.J.*, Chairperson,
 LEONARDO-DE CASTRO,
 DEL CASTILLO,
 PERLAS-BERNABE,* and
 CAGUIOA,** *JJ.*

GIL RAMIREZ y SUYU,
Accused-Appellant.

Promulgated:
FEB 14 2018

X-----X

DECISION

DEL CASTILLO, J.:

On appeal is the June 2, 2014 Decision¹ of the Court of Appeals (CA) in CA-G.R. CR-HC No. 05573 modifying the Judgment² of the Regional Trial Court (RTC), Branch 4 of Tuguegarao City, Cagayan, convicting Gil Ramirez y Suyu (appellant) of rape under Article 335 of the Revised Penal Code (RPC), violation of Section 5(b), Republic Act (RA) No. 7610, and attempted rape under par. 1 of Article 335 of the RPC.

The Informations charging appellant read:

Criminal Case No. 11767 (Rape)

That sometime in the year 1989, x x x Province of Cagayan and within the jurisdiction of this Honorable Court, the accused GIL

* Designated as additional member per October 4, 2017 raffle vice J. Jardeleza who recused due to prior action as Solicitor General.

** Designated as additional member per October 4, 2017 raffle vice J. Tijam who recused due to prior participation in the case before the Court of Appeals.

¹ CA *rollo*, pp. 131-144; penned by Associate Justice Agnes Reyes-Carpio and concurred in by Associate Justices Noel G. Tijam (now a member of this Court) and Priscilla J. Baltazar-Padilla.

² Id. at 67-76; penned by Judge Lylaha L. Abella-Aquino.

RAMIREZ, father of the private complainant "AAA,"³ held and let the private complainant inhale a substance causing her to lose her consciousness and that thereafter, the accused, with lewd design, did then and there willfully, unlawfully and feloniously lie, and succeeded in having sexual intercourse with the private complainant "AAA," who was then a minor being only a seven-year old girl.

Contrary to law.⁴

Criminal Case No. 11768 (Violation of RA 7610)

That sometime in the year 1996, x x x Province of Cagayan and within the jurisdiction of this Honorable Court, the accused GIL RAMIREZ, who is [the] father of the private complainant "AAA," with lewd design and by means of force and intimidation, did then and there willfully, unlawfully and feloniously pull towards a bed inside their house the private complainant who [was] then a minor, being only a 14-year old girl; that the accused threatened the private complainant to kill her if she will not succumb to his bestial desires but the private complainant was able to free herself from the clutches of the accused, and then ran away; that the act of the accused debased, degraded and demeaned the intrinsic worth and dignity of the private complainant as a human being which is prejudicial to her development as a minor.

Contrary to law.⁵

Criminal Case No. 11787 (Attempted Rape)

That sometime in the year 1996, x x x Province of Cagayan and within the jurisdiction of this Honorable Court, the accused GIL RAMIREZ, father of the private complainant "AAA," with lewd design, and by the use of force and intimidation, did then and there willfully, unlawfully and feloniously pull towards a bed inside their house the private complainant who was then a minor, being only a fourteen-year old girl; that the accused threatened the private complainant to kill her if she will not succumb to his bestial desires but the private complainant was able to free herself from the clutches of the accused, and then ran away.

³ "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, 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).

⁴ Records (Criminal Case No. 11767), p. 1.

⁵ Records (Criminal Case No. 11768), p. 1.

The accused commenced the commission of the crime of RAPE directly by overt acts but did not perform all the acts of execution which would have produced it by reason of some causes other than his own spontaneous desistance.

Contrary to law.⁶

Appellant pleaded not guilty to the charges. Joint trial thereafter ensued.

Version of the Prosecution

The prosecution summarized its version of the incidents in the following manner:

“AAA” was born to “BBB,” her mother, and herein appellant, on November 19, 1982.

Sometime in 1989, when “AAA” was only seven years old, and while “BBB” was out of their house, appellant purposely made “AAA” inhale a certain substance which caused “AAA” to lose her consciousness. Upon regaining awareness, “AAA” noticed blood in her shorts and her underwear was no longer worn properly. She also felt pain in her sexual organ.

On another occasion, “AAA” was at home when appellant started touching her breast and tried to insert his penis into her vagina. “AAA” fought back but appellant was stronger. Eventually, appellant was able to insert his penis into “AAA’s” anus and vagina. Thereafter, appellant threatened “AAA” not to report to anyone what happened; otherwise, he would kill her and her mother.

Sometime in 1991, while “AAA” was inside their house, appellant suddenly dragged and laid “AAA” on the bed. Armed with a knife, appellant threatened to kill “AAA” and all the members of their family if she would report anything to the authorities. The intended rape was not consummated because “BBB” suddenly arrived.

Sometime in 1996, “AAA” was sleeping in their house when appellant suddenly pulled her out of bed. Appellant’s obvious lewd intent was not accomplished because “AAA” was able to extricate herself from

⁶ Records (Criminal Case No. 11787), p. 1.

appellant's grip and run towards "BBB" who was outside their house at that time.

For several years, "AAA" just suffered in silence because of fear for her own life as well as that of her family.

On May 23, 2005, Dr. Annabelle Soliman y Lopez (Dr. Soliman) conducted the medical examination of "AAA." Dr. Soliman described the hymen of "AAA" as anular, thick, wide and estrogenized. Dr. Soliman added that there was a possibility that "AAA" could had no injury even after sexual intercourse.

Version of the Defense

The defense, on the other hand, countered that:

Appellant is the father of "AAA." He denied having raped her in 1989. He claimed that during that year, he sometimes did not go home for 10 to 15 days because he had to stay at his work in Cagayan Valley Medical Center where he was in charge of freezing cadavers. Because of this and his low salary, he and his wife always had an argument every time he went home.

Ruling of the Regional Trial Court

Finding the testimony of "AAA" as straightforward and considering her consistent positive identification of the appellant, the RTC gave credence to the version of the prosecution and rejected appellant's defense of denial as well as the imputation of ill-motive on the private complainant. Thus, on April 30, 2012, the RTC rendered its Decision, the decretal portion of which reads:

WHEREFORE, in view of the foregoing circumstances, this Court finds accused GIL RAMIREZ y Suyu,

- 1) GUILTY beyond reasonable doubt in Criminal Case No. 11767, for RAPE x x x and imposes upon him the penalty of RECLUSION PERPETUA. He is likewise ordered to pay the private complainant the amount of SEVENTY-FIVE THOUSAND (₱75,000.00) [PESOS] as civil indemnity, SEVENTY[-]FIVE THOUSAND (₱75,000.00) PESOS as moral damages and TWENTY[-]FIVE THOUSAND (₱25,000.00) PESOS as exemplary damages due to the



presence of the qualifying circumstances of minority and relationship;

- 2) GUILTY beyond reasonable doubt in Criminal Case No. 11768, for VIOLATION OF RA 7610, under Article III Section 5 (b), x x x and hereby sentences him to suffer the indeterminate penalty of RECLUSION TEMPORAL or imprisonment of FOURTEEN (14) YEARS and EIGHT (8) MONTHS to TWENTY (20) YEARS. He is ordered to pay the private complainant the amount of TWENTY THOUSAND (₱20,000.00) PESOS as civil indemnity, FIFTEEN THOUSAND (₱15,000.00) PESOS as moral damages; and
- 3) GUILTY beyond reasonable doubt in Criminal Case No. 11787, for Attempted Rape, x x x and he is hereby sentenced to suffer an imprisonment of SIX (6) YEARS and ONE (1) DAY to TWELVE (12) YEARS of *prision mayor*.

x x x x

SO ORDERED.⁷

Unable to accept the RTC's verdict of conviction and insisting on his innocence, appellant appealed to the CA.

Ruling of the Court of Appeals

The CA noted that in Criminal Case No. 11767, there was no direct evidence of penile penetration. However, it found several pieces of circumstantial evidence which constituted evidence of guilt of appellant beyond reasonable doubt for rape, to wit: "(1) "AAA" was sleeping in their house; (2) "AAA" was awakened when [appellant] forced [her] to smell a substance that caused her to lose consciousness; (3) "AAA" positively identified [appellant] as the only person she saw before she lost consciousness; (4) upon regaining consciousness, there was blood on "AAA's" shorts; (5) "AAA's" panty was also reversed; and, (6) "AAA" felt pain in her vagina."⁸

Based on the foregoing circumstances, the CA concluded that appellant raped "AAA." It found no reason for her nor her mother to fabricate the charge of rape against appellant. Neither did it consider the delay in reporting the incident as an indication of a fabricated charge. The CA added that appellant's bare denial was insufficient to exculpate him.⁹

⁷ CA rollo, p. 76.

⁸ Id. at 138.

⁹ Id.



Regarding appellant's alleged violation of RA 7610, the CA ruled that the presence of lascivious conduct by appellant was not firmly established by the prosecution. There was no evidence that appellant touched "AAA's" genitalia, anus, groin, breast, inner thigh or buttocks with the intent to abuse, humiliate, harass or degrade "AAA" to gratify his sexual desires.¹⁰

On the charge of attempted rape, the CA found the same unsupported by evidence since the prosecution failed to prove that appellant started to rape "AAA" and had commenced the performance of acts of carnal knowledge.¹¹

Thus, on June 2, 2014, the CA affirmed with modification the assailed RTC Decision in Criminal Case No. 11767 for rape but acquitted appellant for violation of RA 7610 and attempted rape on ground of reasonable doubt, viz.:

WHEREFORE, premises considered, We find accused-appellant GIL RAMIREZ y SUYU GUILTY of Rape in Criminal Case No. 11767. The assailed Judgment of the court *a quo* in Criminal Case No. 11767 is MODIFIED to the effect that accused-appellant is hereby sentenced to suffer the penalty of *reclusion perpetua* without eligibility of parole; and ordered to pay AAA P75,000 as civil indemnity, P75,000 as moral damages, and P30,000 as exemplary damages.

In Criminal Case No. 11768, We find accused-appellant GIL RAMIREZ y SUYU NOT GUILTY of Violation of RA 7610, particularly Sexual Abuse, on the ground of reasonable doubt and accordingly ACQUITS him of the said charge; and

In Criminal Case No. 11787, We likewise find accused-appellant GIL RAMIREZ y SUYU NOT GUILTY of Attempted Rape on the ground of reasonable doubt and accordingly ACQUITS him of said offense.

SO ORDERED.¹²

Hence the present appeal.

Our Ruling

"In rape cases, the credibility of the complainant's testimony is almost always the single most important issue. When the complainant's testimony

¹⁰ Id., unpaginated; page 12 of CA Decision.

¹¹ Id. at 141.

¹² Id. at 143.



is credible, it may be the sole basis for the accused's conviction."¹³ "[T]he findings of the trial court regarding the credibility of witnesses are generally accorded great respect and even finality on appeal. 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 trial court."¹⁴

We find the exception obtaining in this case.

Indeed "direct evidence of the commission of a crime is not the only basis from which a court may draw its finding of guilt."¹⁵ "[R]esort to circumstantial evidence is sanctioned by Rule 133, Section [4]¹⁶ of the [Rules of Court].¹⁷ "Circumstantial evidence is defined as that which indirectly proves a fact in issue through an inference which the fact-finder draws from the evidence established."¹⁸ The requisites for circumstantial evidence to sustain a conviction are:

- (a) There is more than one circumstance;
- (b) The facts from which the inferences are derived are proven;
and,
- (c) The combination of all the circumstances is such as to produce a conviction beyond reasonable doubt.¹⁹

As extensively discussed in *People v. Modesto*²⁰ —

the circumstances proved should constitute an unbroken chain which leads to one fair and reasonable conclusion which points to the accused, *to the exclusion of all others*, as the guilty person. From all the circumstances, there should be a combination of evidence which in the ordinary and natural course of things, leaves no room for reasonable doubt as to his guilt. Stated in another way, where the inculpatory facts and

¹³ *People v. Dela Torre*, 588 Phil. 937, 945 (2008).

¹⁴ *People v. Bermejo*, 692 Phil. 373, 381 (2012).

¹⁵ *People v. Manchu*, 593 Phil. 398, 406 (2008).

¹⁶ RULES OF COURT, Rule 133, Section 4.

SEC 4. *Circumstantial evidence, when sufficient.* – Circumstantial evidence is sufficient for conviction if:

- (a) There is more than one circumstance;
- (b) The facts from which the inferences are derived are proven; and
- (c) The combination of all the circumstances is such as to produce a conviction beyond reasonable doubt.

¹⁷ *Bastian v. Hon. Court of Appeals*, 575 Phil. 42, 56 (2008).

¹⁸ *People v. Osianas*, 588 Phil. 615, 627 (2008).

¹⁹ *Lonzanida v. People*, 610 Phil. 687, 707-708 (2009).

²⁰ 134 Phil. 38, 44 (1968), cited in *Lonzanida v. People*, supra.

circumstances are capable of two or more explanations, one of which is consistent with innocence and the other with guilt, the evidence does not fulfill the test of moral certainty and is not sufficient to convict the accused.

As reflected in the assailed CA Decision, the conclusion finding appellant's guilt for rape was anchored on the following circumstantial evidence: "(1) "AAA" was sleeping in their house; (2) "AAA" was awakened when [appellant] forced [her] to smell a substance that caused her to lose consciousness; (3) "AAA" positively identified [appellant] as the only person she saw before she lost consciousness; (4) upon regaining consciousness, there was blood on "AAA's" shorts; (5) "AAA's" panty was also reversed; and, (6) "AAA" felt pain in her vagina."²¹

To the mind of the Court, these circumstances did not establish with certainty the guilt of appellant as to convince beyond reasonable doubt that the crime of rape was in fact committed or that he was the perpetrator of the offense charged. Significantly, the testimonial account of "AAA" even created a glaring doubt as to whether rape was indeed committed and as regards the real identity of the culprit. We have carefully scrutinized the testimony of "AAA" and found the essential facts insufficient to sustain appellant's conviction. Quoted hereunder is "AAA's" testimony:

Q You said a while ago that your father raped you in 1989, do you still remember the date when it took place?

A I can no longer recall the date but I am sure it was in 1989.

Q Where did it take place?

A At home, sir.

Court:

Q How old were you at that time?

A I was 7 or 8 years old, sir.

Q Now, in what part of your house did it take place?

A Inside the house, sir

Q What were you doing before you were raped?

A I was sleeping at that time, sir.

Q [W]hile you were sleeping, what happened?

A [W]hat I remember was that he let me smell something and I did not know what happened next. *Mada*

²¹ CA rollo, p. 138.

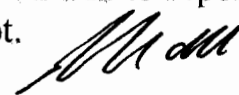
- Q Not knowing what transpired to you, why do you say then that your father raped you at that time?
- A [W]hen I regained consciousness there was already blood on my shorts and my panty was already reversed and I felt pain in my vagina.
- Q [W]hen you woke [up], where was your father at that time?
- A He was out of the house already, sir.
- Q Because of the presence of blood in your shortpants and your panty was not properly worn coupled with the fact that you felt pain in your sexual organ, you presumed that your father raped you at that time?
- A Yes, sir.²²

The foregoing assertion indubitably casts doubt on the credibility of “AAA” and the veracity of her narration of the incident considering that she was already 27 years old when she testified. There was no allegation that appellant was actually seen inside the house before the alleged incident and the only occupant before she went to sleep. The circumstances relied upon by the CA in its assailed Decision failed to sufficiently link appellant to the crime. What is extant on record is that the allegation of sexual molestation on “AAA” by appellant was anchored principally on presumption. But in criminal cases, “speculation and probabilities cannot take the place of proof required to establish the guilt of the accused beyond reasonable doubt. Suspicion, no matter how strong, must not sway judgment.”²³

In fine, the prosecution failed to discharge the onus of *prima facie* proving appellant’s guilt of the crime of rape beyond reasonable doubt. Thus, to still consider appellant’s defense would be an exercise in futility.

WHEREFORE, the appeal is **GRANTED**. The assailed Decision of the Court of Appeals in CA-G.R. CR-HC No. 05573 finding appellant GIL RAMIREZ y Suyu **GUILTY** of rape is **REVERSED and SET ASIDE**. Appellant is hereby **ACQUITTED** of rape for failure of the prosecution to prove his guilt beyond reasonable doubt.

Appellant is hereby immediately ordered **RELEASED** from detention unless held for other lawful cause. The Director of the Bureau of Corrections is **DIRECTED** to implement this Decision and to report to this Court the action thereon within five days from receipt.




²² TSN, October 21, 2009, unpaginated.

²³ *People v. Bon*, 444 Phil. 571, 582-583 (2003).

SO ORDERED.


MARIANO C. DEL CASTILLO
Associate Justice

WE CONCUR:


MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson



TERESITA J. LEONARDO-DE CASTRO
Associate Justice


ESTELA M. PERLAS-BERNABE
Associate Justice

(On official leave)
ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, 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.


MARIA LOURDES P. A. SERENO
Chief Justice