



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 226494

Present:

- versus -

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

JOMAR SISRACON y RUPISAN,
MARK VALDERAMA y RUPISAN,
ROBERTO CORTEZ y BADILLA,
LUIS PADUA y MITRA and
ADONIS MOTIL y GOLONDRINA,
Accused-Appellants.

Promulgated:

14 FEB 2018

[Handwritten Signature]

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DECISION

PERALTA, J.:

This is to resolve the appeal of appellants Jomar Sisracon y Rupisan, Mark Valderama y Rupisan, Roberto Cortez y Badilla, Luis Padua y Mitra and Adonis Motil y Golondrina that seeks to reverse and set aside the Decision¹ dated August 12, 2015 of the Court of Appeals (CA) in CA-G.R. CR HC No. 05986 affirming the Decision dated September 13, 2010 of the Regional Trial Court (RTC) of x x x, Rizal, Branch 76 finding the same appellants guilty beyond reasonable doubt of nine (9) counts of Qualified Rape as defined and penalized under Article 266-A and Article 266-B, par. 1, in relation to Article 266-B, 2nd par. of the Revised Penal Code (RPC), as

* On official business.

¹ Penned by Associate Justice Sesinando E. Villon, with the concurrence of Associate Justices Pedro B. Corales and Ma. Luisa C. Quijano-Padilla; *rollo*, pp. 2-44.

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amended by Republic Act (R.A.) No. 8353 and in further relation to Section 5 of R.A. 8369.


The facts follow.

According to the victim, AAA, she was fifteen (15) years old and the President of a youth group when the incident happened on February 29, 2004. Around 11 o'clock in the evening of that same day, AAA was about to go home when she passed by the basketball court. She saw a group composed of the following:

1. John Andrew Valderama alias "John John;"
2. Luis Padua alias "Buboy;"
3. Ranil Camaymayan alias "Sedeng;"
4. Rex Dandan alias "Itoy;"
5. Mark Valderama alias "Macmac;"
6. Jomar Sisracon alias "Jomar;"
7. Roberto Cortez alias "Unad;"
8. Randy Mulog alias "Randy;" and
9. Adonis Motil alias "Ulo" or "Dondon."

Appellant Roberto called AAA and asked her to approach them because they wanted to ask her about the organization that they recently joined. AAA agreed and discussed with them the mission and vision of the organization. Thereafter, AAA told the group that she wanted to go home, but the latter asked her to stay longer as they were about to have a drinking spree. AAA told them that she could not stay longer because her mother would get angry at her and that she had to go to school the following day. The group insisted that she stay long and finally, AAA told them that she could stay but only until 11:30 in the evening. The group then told AAA to go with them at the apartment of Ranil's aunt which is just a street away from where they were. When they were on the way to the apartment, the group suddenly ran. AAA inquired why they ran and they replied that a certain Pita was there and that they didn't want the latter to go with them because he was unruly and noisy. Pita was known in their place as "*sinto sinto*" or "*kulang-kulang sa pag-iisip*" (mentally deranged). AAA had known Pita for a long time including Ranil, who was a friend of her bother, BBB and who regularly went to their house attending social affairs. Pita eventually joined the group.

The group arrived at the apartment and upon entering, Ranil lit a candle and Adonis closed the door. Ranil then opened a bottle of Emperador Brandy and took a glass from which each of them had their "*tagay*" (shots). AAA sat beside Jomar and since she was not used to drinking liquor, she forced herself to swallow, the same slowly and by covering her nose. At 11:30 p.m., AAA told the group that she must go home. Pita also told AAA that it's time for



them to go home. Since Pita insisted that he and AAA should both go home, he was forced to go home alone because the group started to hurt him by striking him in the nape ("*binabatuk-batukan*"). AAA also tried to leave the apartment but appellants Jomar and Adonis blocked her way. Adonis even proceeded to guard the door of the apartment. AAA was then threatened by the group that they would hurt her older brother ("*Kuya*"), BBB, if she insisted on leaving, thus, she decided to return to her seat. While this was happening, the others were conversing with each other. Shortly, the group opened a second bottle of Emperador Brandy and resumed drinking. AAA had a shot of the liquor that was poured by Ranil and was given to her by Jomar. After five to ten minutes from drinking the liquor, AAA felt her legs and body turning numb, her vision turning blurry and she started feeling dizzy. As she was closing her eyes, AAA felt that she was being carried by Jomar. AAA was familiar with the voice of Jomar and it was the latter who said, "*Dito na, dito na.*" AAA was then placed in a "*papag*" where Jomar proceeded to lower her shorts. AAA tried to resist by bringing up her shorts but to no avail due to her weakness. After successfully lowering AAA's shorts, Jomar went on top of her and inserted his penis into her vagina causing her pain. After performing the deed, Jomar invited the others to take their turns by saying, "*Sino ang susunod?*" A person of heavier weight went on top of AAA and it was then that the latter lost her consciousness. When AAA regained her consciousness, she felt that somebody was putting on her dress and heard shouts that he was coming ("*Si BBB, si BBB andyan na?*"). She then heard footsteps and a commotion ensuing. When she awakened, AAA was already inside a mobile unit with her brother and her mother on their way to a clinic in Camp Crame. From Camp Crame, they proceeded to the Municipal Hall of x x x, Rizal and were brought to the Office of the Prosecutor at around 1 o'clock of March 1, 2004. Thereafter, BBB was told to identify the suspects and pointed at five (5) persons, namely, appellants Adonis, Jomar, Luis, Mark and Roberto. During her identification of the suspects, the parents of the accused, AAA's mother and brother, and the fiscal were present.

Thus, the following nine (9) Informations were filed against the appellants and their other companions:

Criminal Case No. 7693

That on or about the 29th day of February 2004, in the Municipality of x x x, Province of Rizal, Philippines and within the jurisdiction of this Honorable Court, the above-named accused Rex Dandan, Randy Mulog, and Roberto Cortez y Badilla in conspiracy with Adonis Motil y Golondrina, 15 years old, John Andrew Valderama y Rupisan, 16 years old, Jomar Sisracon y Rupisan, 17 years old, Mark Valderama y Rupisan, 17 years old, Luis Padua y Mitra, 16 years old and Ranil Camaymayan alias Sedeng, 17 years old, minors, and with one another by means of force, and intimidation, while the offended party is unconscious, did then and there willfully, unlawfully, and feloniously have carnal knowledge of AAA, the offended party, a minor, fifteen (15) years of age, against her will and without her consent, the said crime having been attended by the qualifying



circumstance of commission of the offense of more than two (2) persons, which is aggravated by the circumstances of Treachery, Evident Premeditation, Abuse of Superior Strength and Nighttime.

CONTRARY TO LAW.

Criminal Case No. 7694

That on or about the 29th day of February 2004, in the Municipality of xxxx, Province of Rizal, Philippines and within the jurisdiction of this Honorable Court, the above-named accused Rex Dandan, Randy Mulog, and Roberto Cortez y Badilla in conspiracy with Adonis Motil y Golondrina, 15 years old, John Andrew Valderama y Rupisan, 16 years old, Jomar Sisracon y Rupisan, 17 years old, Mark Valderama y Rupisan, 17 years old, Luis Padua y Mitra, 16 years old and Ranil Camaymayan alias Sedeng, 17 years old, minors, and with one another by means of force, and intimidation, while the offended party is unconscious, did then and there willfully, unlawfully, and feloniously have carnal knowledge of AAA, the offended party, a minor, fifteen (15) years of age, against her will and without her consent, the said crime having been attended by the qualifying circumstance of commission of the offense of more than two (2) persons, which is aggravated by the circumstances of Treachery, Evident Premeditation, Abuse of Superior Strength and Nighttime.

CONTRARY TO LAW.

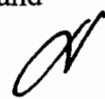
Criminal Case No. 7695

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CONTRARY TO LAW.

Criminal Case No. 7696

That on or about the 29th day of February 2004, in the Municipality of xxxx, Province of Rizal, Philippines and within the jurisdiction of this Honorable Court, the above-named accused Rex Dandan, Randy Mulog, and Roberto Cortez y Badilla in conspiracy with Adonis Motil y Golondrina, 15 years old, John Andrew Valderama y Rupisan, 16 years old, Jomar Sisracon y Rupisan, 17 years old, Mark Valderama y Rupisan, 17 years old, Luis Padua y Mitra, 16 years old and Ranil Camaymayan alias Sedeng, 17 years old, minors, and with one another by means of force, and



intimidation, while the offended party is unconscious, did then and there willfully, unlawfully, and feloniously have carnal knowledge of AAA, the offended party, a minor, fifteen (15) years of age, against her will and without her consent, the said crime having been attended by the qualifying circumstance of commission of the offense of more than two (2) persons, which is aggravated by the circumstances of Treachery, Evident Premeditation, Abuse of Superior Strength and Nighttime.

CONTRARY TO LAW.

Criminal Case No. 7697

That on or about the 29th day of February 2004, in the Municipality of xxxx, Province of Rizal, Philippines and within the jurisdiction of this Honorable Court, the above-named accused Rex Dandan, Randy Mulog, and Roberto Cortez y Badilla in conspiracy with Adonis Motil y Golondrina, 15 years old, John Andrew Valderama y Rupisan, 16 years old, Jomar Siracon y Rupisan, 17 years old, Mark Valderama y Rupisan, 17 years old, Luis Padua y Mitra, 16 years old and Ranil Camaymayan alias Sedeng, 17 years old, minors, and with one another by means of force, and intimidation, while the offended party is unconscious, did then and there willfully, unlawfully, and feloniously have carnal knowledge of AAA, the offended party, a minor, fifteen (15) years of age, against her will and without her consent, the said crime having been attended by the qualifying circumstance of commission of the offense of more than two (2) persons, which is aggravated by the circumstances of Treachery, Evident Premeditation, Abuse of Superior Strength and Nighttime.

CONTRARY TO LAW.

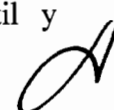
Criminal Case No. 7698

That on or about the 29th day of February 2004, in the Municipality of xxxx, Province of Rizal, Philippines and within the jurisdiction of this Honorable Court, the above-named accused Rex Dandan, Randy Mulog, and Roberto Cortez y Badilla in conspiracy with Adonis Motil y Golondrina, 15 years old, John Andrew Valderama y Rupisan, 16 years old, Jomar Siracon y Rupisan, 17 years old, Mark Valderama y Rupisan, 17 years old, Luis Padua y Mitra, 16 years old and Ranil Camaymayan alias Sedeng, 17 years old, minors, and with one another by means of force, and intimidation, while the offended party is unconscious, did then and there willfully, unlawfully, and feloniously have carnal knowledge of AAA, the offended party, a minor, fifteen (15) years of age, against her will and without her consent, the said crime having been attended by the qualifying circumstance of commission of the offense of more than two (2) persons, which is aggravated by the circumstances of Treachery, Evident Premeditation, Abuse of Superior Strength and Nighttime.

CONTRARY TO LAW.

Criminal Case No. 7699

That on or about the 29th day of February 2004, in the Municipality of xxxx, Province of Rizal, Philippines and within the jurisdiction of this Honorable Court, the above-named accused Rex Dandan, Randy Mulog, and Roberto Cortez y Badilla in conspiracy with Adonis Motil y



Golondrina, 15 years old, John Andrew Valderama y Rupisan, 16 years old, Jomar Sisracon y Rupisan, 17 years old, Mark Valderama y Rupisan, 17 years old, Luis Padua y Mitra, 16 years old and Ranil Camaymayan alias Sedeng, 17 years old, minors, and with one another by means of force, and intimidation, while the offended party is unconscious, did then and there willfully, unlawfully, and feloniously have carnal knowledge of AAA, the offended party, a minor, fifteen (15) years of age, against her will and without her consent, the said crime having been attended by the qualifying circumstance of commission of the offense of more than two (2) persons, which is aggravated by the circumstances of Treachery, Evident Premeditation, Abuse of Superior Strength and Nighttime.

CONTRARY TO LAW.

Criminal Case No. 7700

That on or about the 29th day of February 2004, in the Municipality of xxxx, Province of Rizal, Philippines and within the jurisdiction of this Honorable Court, the above-named accused Rex Dandan, Randy Mulog, and Roberto Cortez y Badilla in conspiracy with Adonis Motil y Golondrina, 15 years old, John Andrew Valderama y Rupisan, 16 years old, Jomar Sisracon y Rupisan, 17 years old, Mark Valderama y Rupisan, 17 years old, Luis Padua y Mitra, 16 years old and Ranil Camaymayan alias Sedeng, 17 years old, minors, and with one another by means of force, and intimidation, while the offended party is unconscious, did then and there willfully, unlawfully, and feloniously have carnal knowledge of AAA, the offended party, a minor, fifteen (15) years of age, against her will and without her consent, the said crime having been attended by the qualifying circumstance of commission of the offense of more than two (2) persons, which is aggravated by the circumstances of Treachery, Evident Premeditation, Abuse of Superior Strength and Nighttime.

CONTRARY TO LAW.

Criminal Case No. 7701

That on or about the 29th day of February 2004, in the Municipality of xxxx, Province of Rizal, Philippines and within the jurisdiction of this Honorable Court, the above-named accused Rex Dandan, Randy Mulog, and Roberto Cortez y Badilla in conspiracy with Adonis Motil y Golondrina, 15 years old, John Andrew Valderama y Rupisan, 16 years old, Jomar Sisracon y Rupisan, 17 years old, Mark Valderama y Rupisan, 17 years old, Luis Padua y Mitra, 16 years old and Ranil Camaymayan alias Sedeng, 17 years old, minors, and with one another by means of force, and intimidation, while the offended party is unconscious, did then and there willfully, unlawfully, and feloniously have carnal knowledge of AAA, the offended party, a minor, fifteen (15) years of age, against her will and without her consent, the said crime having been attended by the qualifying circumstance of commission of the offense of more than two (2) persons, which is aggravated by the circumstances of Treachery, Evident Premeditation, Abuse of Superior Strength and Nighttime.

CONTRARY TO LAW.



Upon arraignment on October 14, 2004, with the assistance of counsel *de parte*, appellants Jomar Sisracon, Mark Valderama y Rupisan, Roberto Cortez y Badilla, Luis Padua y Mitra and Adonis Motil y Golondrina, all pleaded "Not Guilty." Accused John Andrew Valderama y Rupisan, Ranil Camaymayan alias "Sedeng," Rex Dandan and Randy Mulog are still at-large.

After pre-trial, the trial on the merits ensued.

Aside from the testimony of AAA, the prosecution presented the testimonies of Dr. Mamerto Bernabe, a medico-legal officer assigned at the PNP Crime Laboratory, Camp Crame, Quezon City, BBB, AAA's brother, and CCC, a barangay tanod of Brgy. xxx, Municipality of xxx, Rizal.

Dr. Bernabe testified that on March 1, 2004, he conducted a physical and genital examination over the person of AAA and that the physical examination showed an injury on the left breast of AAA akin to a suction injury also known as "kiss mark." As to the genital examination, Dr. Bernabe found that on the hymen, there was a shallow healing laceration at 7 to 8 o'clock positions which means that there was forcible entry, perhaps a blunt object that passed through the hymen orifice and in the process of stretching the said hymenal orifice, the point of resistance gave way and produced the laceration. Dr. Bernabe, therefore, concluded that AAA is in non-virgin state physically and that the findings are compatible with recent loss of virginity.

BBB, AAA's brother, testified that he was at the meat shop from 1 a.m. to 1:30 a.m. on the day of the incident when a certain Rommel arrived and the latter talked to BBB's lady companions, Angie and Weng. Rommel told Angie and Weng that BBB's sister was at the apartment of appellant Ranil's aunt. After learning what Rommel told to his companions, BBB asked a certain Delfin and a certain Johnrey to accompany him to the said apartment. When they reached the place, BBB noticed that there was no light in the house and saw Randy Mulog at the back of the door and as soon as the latter saw BBB, he went inside the house and closed the door. BBB then entered the house and noticed that there were men inside who were in the act of dressing up. BBB also saw Ramil Camaymayan and Rex Dandan hurriedly coming out from a room while fixing their clothes. BBB proceeded to the room and noticed that it reeked of alcohol and saw Luis Padua fixing his shorts. BBB then saw his sister, AAA, lying sideways on the bed with her underwear lowered down and her blouse raised up. BBB asked them why they did that to his sister but the men ran away. Johnrey, BBB's companion, chased and caught up with John Andrew Valderama. Thereafter, they went to the *barangay* hall where BBB reported the incident. After thirty minutes, a *barangay tanod* arrived accosting appellants Mark, Luis, Adonis, Jomar and John Andrew Valderama. They all then proceeded to the municipal hall and while thereat, BBB, his mother, AAA, and his aunt were told to go to Camp



Crame to have AAA examined by a medico-legal officer. After going to Camp Crame, they returned to the municipal hall and gave their statements.

CCC, a *barangay tanod*, corroborated some parts of the testimony of BBB.

On the other hand, in their testimonies, appellants Roberto, Adonis, Luis, Jomar and Mark, all denied the allegations.

According to appellant Roberto, in the evening of February 29, 2004, he was at the apartment of Ranil's aunt for a drinking session. He started drinking with the others around 9 o'clock in the evening. He was seated on a chair at the back of the door. Around 12:00 midnight, AAA arrived at the apartment and told them that she had a problem at home and that her stepfather, who might still have been awake, might rape her ("*Mapagsamantalahan*"). As they were all surprised, appellant Roberto and the others talked to AAA for about five (5) minutes until the latter went inside the apartment and sat down. As soon as AAA entered the apartment, appellant Roberto and the others put away the things they used during their drinking spree. Thereafter, they were about to sleep but AAA was still inside the room. AAA was left inside the room, while appellant Roberto slept outside the room. Around 1 o'clock in the morning, AAA's brother, BBB, arrived at the apartment shouting and looking for his sister. Appellant Roberto accompanied BBB inside the room where AAA slept. AAA, however, refused to go home. Thereafter, BBB went out of the room holding a knife and chased the other appellants. The others ran away, while appellants Jomar, Mark, Adonis and Luis remained with appellant Roberto inside the apartment. Appellant Roberto and the other appellants did not leave the apartment because they thought that their other companions would return. When BBB returned, he was already with *barangay tanods* who arrested the appellants. After they were arrested, the appellants were brought first to the *barangay* hall and then to the police station. According to appellant Roberto, AAA was not at the police station when he and the other appellants were told that they were being charged with rape.

Appellant Adonis testified that on February 29, 2004, he was with the group of appellant Jomar in the house of the aunt of Ranil drinking liquor. He arrived at the place around 9 o'clock in the evening and around 10 o'clock, they started to drink. While they were drinking, around 11 o'clock, AAA suddenly arrived alone at the apartment. Around 12 o'clock midnight, appellant Adonis decided to go home. The others were left behind. The others were preparing to sleep when appellant Adonis left. It was also at that time that AAA went inside the room alone. When appellant Adonis was already sleeping at home, he heard noises outside around 2 o'clock. Then he was told by a neighbor that his friends were arrested. Appellant Adonis thought of going to the apartment of the aunt of Ranil but he was prevented by his

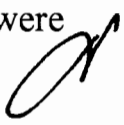


parents. In the morning, appellant Adonis was awakened by his parents and was told that policemen were looking for him. Appellant Adonis talked with the policemen and the latter invited him to the municipal hall. Appellant Adonis went with the policemen while being accompanied by his father. At the precinct, appellant Adonis discovered that he was being implicated in a case but the complainant was not around.

As testified by appellant Luis, on the evening of February 29, 2004, he was drinking Emperador Brandy in the apartment of Ranil's aunt. They started drinking around 9 o'clock and were able to consume two bottles by 12 o'clock midnight. While they were drinking, AAA arrived around 10 o'clock and the latter was met by appellant Roberto. Then AAA joined them in their drinking spree. Appellant Luis was surprised because despite going there alone, AAA still joined in their drinking. The drinking spree ended around 12 midnight which was also the time when appellant Adonis left the apartment. AAA went inside the room to sleep, while the rest of them stayed at the sala. They were awakened around 1 o'clock when they heard the voice of BBB, AAA's brother, who was looking for his sister. BBB and his companions forcibly opened the door prompting appellant Luis and the others to hide at the restroom because BBB and his companions were all carrying weapons. When BBB learned through his companions that AAA was there, he briefly left and then returned in the company of *barangay* officials. Appellant and his companions did not leave the place because they knew that they did not do anything wrong. They were then arrested by the *barangay tanods*. Appellant Luis and the other appellants were the ones arrested, while the rest were able to run away. They were then brought to the *barangay* hall and were investigated although their parents were not present. They were then taken to the police station wherein AAA was not present but only the latter's mother.

Appellant Jomar also testified that on March 1, 2004, he was arrested at the apartment of his friend Ranil after they had just finished a drinking session. He was arrested while he was asleep at the sofa. Thereafter, he and the other appellants were brought by the arresting officers to the *barangay* hall. They were told that they were arrested due to a rape incident which surprised appellant Jomar but decided to keep mum. At the police precinct, they were not assisted by any lawyer and that appellant Adonis was arrested the following day and was also detained.

Finally, according to appellant Mark, on February 29, 2004 before midnight, he was at the house of appellant Roberto when he met with his friends and proceeded to the apartment of the aunt of Ranil. They arrived at the apartment around 9 o'clock in the evening and then proceeded to drink liquor. While they were drinking, AAA arrived. Although AAA was not offered a drink she still joined appellant Mark's group. They finished drinking around 12 o'clock midnight. AAA then went inside the room to sleep, while the others prepared a place to sleep outside the room. After an hour, they were



awakened by the arrival of BBB who was very angry and started to create trouble. Appellant Roberto approached BBB and accompanied him inside the room. When BBB and appellant Roberto went out of the room, BBB started to thrust a knife that he was holding to the persons outside the room. Then BBB ran after the others that ran away. Thereafter, BBB returned to the apartment together with *barangay* officials around 1 o'clock a.m. of March 1, 2004 and appellant Luis and the other appellants were subsequently arrested. They were then brought to the *barangay* hall before they were taken to the police station where they were investigated and their names were taken. According to appellant Mark, AAA was not around the police station when he and the other appellants were being investigated.

In its Decision dated September 13, 2010, the RTC found the appellants guilty as charged and sentenced them with the following:

WHEREFORE, premises considered, judgment is hereby rendered, as follows:

1. In Criminal Case No. 7693, accused(s) Jomar Sisracon y Rupisan, Mark Valderama y Rupisan, Roberto Cortez y Badilla, Luis Padua y Mitra and Adonis Motil y Golondrina are hereby found GUILTY beyond reasonable doubt of the crime of Qualified Rape as defined and penalized under Art. 266-A, par. 1 in relation to Art. 266-B, 2nd par. of the Revised Penal Code as amended by R.A. 8353 and in further relation of Sec. 5 of R.A. 8369, and sentencing each of them to suffer the penalty of *Reclusion Perpetua* and to indemnify [the] victim [AAA] the amount of Fifty Thousand Pesos (P50,000.00) as civil indemnity; Seventy-Five Thousand Pesos (P75,000.00) as moral damages; and Fifty Thousand Pesos (P50,000.00) as exemplary damages.

2. In Criminal Case No. 7694, accused(s) Mark Valderama y Rupisan, Roberto Cortez y Badilla, Luis Padua y Mitra, Adonis Motil y Golondrina and Jomar Sisracon y Rupisan, are hereby found GUILTY beyond reasonable doubt of the crime of Qualified Rape as defined and penalized under Art. 266-A, par. 1 in relation to Art. 266-B, 2nd par. of the Revised Penal Code as amended by R.A. 8353 and in further relation of Sec. 5 of R.A. 8369, and sentencing each of them to suffer the penalty of *Reclusion Perpetua* and to indemnify [the] victim [AAA] the amount of Fifty Thousand Pesos (P50,000.00) as civil indemnity; Seventy-Five Thousand Pesos (P75,000.00) as moral damages; and Fifty Thousand Pesos (P50,000.00) as exemplary damages.

3. In Criminal Case No. 7695, accused(s) Roberto Cortez y Badilla, Luis Padua y Mitra, Adonis Motil y Golondrina, Jomar Sisracon y Rupisan and Mark Valderama y Rupisan are hereby found GUILTY beyond reasonable doubt of the crime of Qualified Rape as defined and penalized under Art. 266-A, par. 1 in relation to Art. 266-B, 2nd par. of the Revised Penal Code as amended by R.A. 8353 and in further relation of Sec. 5 of R.A. 8369, and sentencing each of them to suffer the penalty of *Reclusion Perpetua* and to indemnify [the] victim [AAA] the amount of Fifty Thousand Pesos (P50,000.00) as civil indemnity; Seventy-Five Thousand



Pesos (P75,000.00) as moral damages; and Fifty Thousand Pesos (P50,000.00) as exemplary damages.

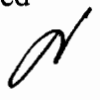
4. In Criminal Case No. 7696, accused(s) Luis Padua y Mitra, Adonis Motil y Golondrina, Jomar Sisracon y Rupisan, Mark Valderama y Rupisan and Roberto Cortez y Badilla, are hereby found GUILTY beyond reasonable doubt of the crime of Qualified Rape as defined and penalized under Art. 266-A, par. 1 in relation to Art. 266-B, 2nd par. of the Revised Penal Code as amended by R.A. 8353 and in further relation of Sec. 5 of R.A. 8369, and sentencing each of them to suffer the penalty of *Reclusion Perpetua* and to indemnify [the] victim [AAA] the amount of Fifty Thousand Pesos (P50,000.00) as civil indemnity; Seventy-Five Thousand Pesos (P75,000.00) as moral damages; and Fifty Thousand Pesos (P50,000.00) as exemplary damages.

5. In Criminal Case No. 7697, accused(s) Adonis Motil y Golondrina, Jomar Sisracon y Rupisan, Mark Valderama y Rupisan, Roberto Cortez y Badilla and Luis Padua y Mitra, are hereby found GUILTY beyond reasonable doubt of the crime of Qualified Rape as defined and penalized under Art. 266-A, par. 1 in relation to Art. 266-B, 2nd par. of the Revised Penal Code as amended by R.A. 8353 and in further relation of Sec. 5 of R.A. 8369, and sentencing each of them to suffer the penalty of *Reclusion Perpetua* and to indemnify [the] victim [AAA] the amount of Fifty Thousand Pesos (P50,000.00) as civil indemnity; Seventy-Five Thousand Pesos (P75,000.00) as moral damages; and Fifty Thousand Pesos (P50,000.00) as exemplary damages.

6. In Criminal Case No. 7698, accused(s) Jomar Sisracon y Rupisan, Mark Valderama y Rupisan, Roberto Cortez y Badilla, Luis Padua y Mitra and Adonis Motil y Golondrina, are hereby found GUILTY beyond reasonable doubt of the crime of Qualified Rape as defined and penalized under Art. 266-A, par. 1 in relation to Art. 266-B, 2nd par. of the Revised Penal Code as amended by R.A. 8353 and in further relation of Sec. 5 of R.A. 8369, and sentencing each of them to suffer the penalty of *Reclusion Perpetua* and to indemnify [the] victim [AAA] the amount of Fifty Thousand Pesos (P50,000.00) as civil indemnity; Seventy-Five Thousand Pesos (P75,000.00) as moral damages; and Fifty Thousand Pesos (P50,000.00) as exemplary damages.

7. In Criminal Case No. 7699, accused(s) Jomar Sisracon y Rupisan, Mark Valderama y Rupisan, Roberto Cortez y Badilla, Luis Padua y Mitra and Adonis Motil y Golondrina, are hereby found GUILTY beyond reasonable doubt of the crime of Qualified Rape as defined and penalized under Art. 266-A, par. 1 in relation to Art. 266-B, 2nd par. of the Revised Penal Code as amended by R.A. 8353 and in further relation of Sec. 5 of R.A. 8369, and sentencing each of them to suffer the penalty of *Reclusion Perpetua* and to indemnify [the] victim [AAA] the amount of Fifty Thousand Pesos (P50,000.00) as civil indemnity; Seventy-Five Thousand Pesos (P75,000.00) as moral damages; and Fifty Thousand Pesos (P50,000.00) as exemplary damages.

8. In Criminal Case No. 7700, accused(s) Jomar Sisracon y Rupisan, Mark Valderama y Rupisan, Roberto Cortez y Badilla, Luis Padua y Mitra and Adonis Motil y Golondrina, are hereby found GUILTY beyond reasonable doubt of the crime of Qualified Rape as defined and penalized under Art. 266-A, par. 1 in relation to Art. 266-B, 2nd par. of the Revised



Penal Code as amended by R.A. 8353 and in further relation of Sec. 5 of R.A. 8369, and sentencing each of them to suffer the penalty of *Reclusion Perpetua* and to indemnify [the] victim [AAA] the amount of Fifty Thousand Pesos (P50,000.00) as civil indemnity; Seventy-Five Thousand Pesos (P75,000.00) as moral damages; and Fifty Thousand Pesos (P50,000.00) as exemplary damages.

9. In Criminal Case No. 7701, accused(s) Jomar Sisracon y Rupisan, Mark Valderama y Rupisan, Roberto Cortez y Badilla, Luis Padua y Mitra and Adonis Motil y Golondrina, are hereby found GUILTY beyond reasonable doubt of the crime of Qualified Rape as defined and penalized under Art. 266-A, par. 1 in relation to Art. 266-B, 2nd par. of the Revised Penal Code as amended by R.A. 8353 and in further relation of Sec. 5 of R.A. 8369, and sentencing each of them to suffer the penalty of *Reclusion Perpetua* and to indemnify [the] victim [AAA] the amount of Fifty Thousand Pesos (P50,000.00) as civil indemnity; Seventy-Five Thousand Pesos (P75,000.00) as moral damages; and Fifty Thousand Pesos (P50,000.00) as exemplary damages.

Accused(s) Jomar Sisracon y Rupisan, Mark Valderama y Rupisan, Roberto Cortez y Badilla, Luis Padua y Mitra and Adonis Motil y Golondrina are hereby ordered to be committed to the National Bilibid Prisons in Muntinlupa City for service of sentence.

Accused(s) Jomar Sisracon y Rupisan, Mark Valderama y Rupisan, Roberto Cortez y Badilla, Luis Padua y Mitra and Adonis Motil y Golondrina are to be credited for the time spent for their preventive detention in accordance with Art. 29 of the Revised Penal Code as amended by R.A. 6127 and E.O. 214.

In the meantime, let the cases against accused John Andrew Valderama y Rupisan, Rex Dandan, Ranil Camaymayan and Randy Mulog be sent to the archives pending their apprehension. The alias Warrants of Arrest dated January 22, 2007 issued against them remain in effect.

SO ORDERED.²

The CA, in its Decision dated August 12, 2015, affirmed with modification the decision of the RTC, the dispositive portion of which reads:

WHEREFORE, in view of the foregoing, the Decision dated September 13, 2010 of the Regional Trial Court of xxx, Rizal, Branch 76, is hereby AFFIRMED with MODIFICATION. In Criminal Cases No. 7693, 7694, 7695, 7696, 7697, 7698, 7699, 7700 and 7701 appellants Jomar Sisracon y Rupisan, Mark Valderama y Rupisan, Roberto Cortez y Badilla, Luis Padua y Mitra and Adonis Motil y Golondrina are hereby found GUILTY beyond reasonable doubt of the crime of Qualified Rape as defined and penalized under Art. 266-A, par. 1 in relation to Art. 266-B, 2nd par. of the Revised Penal Code as amended by R.A. 8353 and in further relation to Sec. 5 of R.A. 8369.

ACCORDINGLY, appellants Roberto Cortez y Badilla is hereby sentence[d] to suffer the penalty of *Reclusion Perpetua* for each criminal

² CA rollo, pp. 65-68.

case he was found guilty of. Appellants Jomar Sisracon y Rupisan, Mark Valderama y Rupisan, Luis Padua y Mitra and Adonis Motil y Golondrina are hereby sentence[d] to suffer the indeterminate penalty of six (6) years and one (1) day of *prision mayor*, as the minimum period, to fourteen (14) years, eight (8) months, and one (1) day of *reclusion temporal*, as the maximum period for each criminal case they are hereby found guilty.

Appellants are also hereby ordered to indemnify [AAA] the amount of Fifty Thousand Pesos (P50,000.00) as civil indemnity; Seventy-Five Thousand Pesos (P75,000.00) as moral damages; and Fifty Thousand Pesos (P50,000.00) as exemplary damages for each criminal case.

Appellants are further ordered to pay [AAA] interest on all damages awarded at the legal rate of Six Percent (6%) *per annum* until the same are fully paid.

SO ORDERED.³

Hence, the present appeal.

Appellants, in their Brief, assigns the following errors:

I

THE TRIAL COURT GRAVELY ERRED IN GIVING FULL WEIGHT AND CREDENCE TO THE PRIVATE COMPLAINANT'S TESTIMONY.

II

THE TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANTS GUILTY BEYOND REASONABLE DOUBT OF THE CRIMES CHARGED DESPITE THE PROSECUTION'S FAILURE TO OVERTHROW THE CONSTITUTIONAL PRESUMPTION OF INNOCENCE IN THEIR FAVOR.

III

ON THE ASSUMPTION THAT THE ACCUSED-APPELLANTS COMMITTED THE ACTS COMPLAINED OF, THE TRIAL COURT GRAVELY ERRED IN FINDING THAT THE SEXUAL MOLESTATIONS ARE QUALIFIED BY TWO OR MORE PERSONS AND NIGHTTIME.

IV

THE TRIAL COURT GRAVELY ERRED IN FINDING CONSPIRACY BETWEEN ACCUSED-APPELLANTS AND THEIR OTHER CO-ACCUSED.⁴

It is the contention of the appellants that there are no concrete evidence to show that AAA has been sexually abused by them, hence, it is wrong for the trial court to rely merely on the testimony of AAA in convicting them with the crime charged in the Informations. They also claim that based on the

³ Rollo, pp. 42-43.

⁴ CA rollo, pp. 26-27.

testimony of AAA, there was no proof of the identity of the appellants as the perpetrators of the crime. Appellants also pointed out other matters and statements on AAA's testimony that they claim to be inconsistent with one another. They, likewise, assert that they cannot be convicted of rape with the aggravating circumstance of nighttime and committed by two or more persons because the records show that the prosecution failed to establish that they took advantage of the same situations in the commission of the crime. They also claim that the trial court should have appreciated the privileged mitigating circumstance of minority under par. 2, Art. 68 of the Revised Penal Code in their favor. They further argue that the prosecution failed to prove beyond reasonable doubt that they acted with discernment.

The present appeal is unmeritorious.

Article 266-A, 1st paragraph of the RPC, as amended by R.A. 8353 and R.A. 8369, to which the appellants stand charged provides the following:

ARTICLE 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;
- and
- d. When the offended party is under twelve (12) years of age or is demented, even though none of the circumstances above be present.

In relation to the above provision of the RPC, the same law provides:


ARTICLE 266-B. *Penalties.* – Rape under paragraph 1 of the next preceding article shall be punished by *reclusion perpetua*.

Whenever the rape is committed with the use of a deadly weapon or by two or more persons, the penalty shall be *reclusion perpetua* to death.

The elements of rape committed under Article 266-A(1)(a) of the Revised Penal Code, as amended, are: (a) that the offender, who must be a man, had carnal knowledge of a woman, and (b) that such act is accomplished by using force or intimidation.⁵

In this case, all the elements of the crime of rape have been properly established by the prosecution and aptly appreciated by the RTC and the CA.

⁵ *People v. Aaron*, 438 Phil. 296, 309 (2002).



Through the testimony of AAA, it was clearly proven that the appellants committed the crime and, as such, an attack on her credibility is futile. In *People v. Malana*,⁶ this Court ruled that when the issue is one of credibility of witnesses, appellate courts will generally not disturb the findings of the trial court, thus:

In reviewing rape cases, we are guided by the following well-entrenched principles: (1) an accusation for rape can be made with facility: it is difficult to prove but more difficult for the person accused, though innocent, to disprove it; (2) in view of the intrinsic nature of the crime of rape where only two persons are usually involved, the testimony of the complainant must be scrutinized with extreme caution; and (3) the evidence for the prosecution must stand or fall on its own merits, and cannot be allowed to draw strength from the weakness of the evidence for the defense.

The determination of the credibility of the offended party's testimony is a most basic consideration in every prosecution for rape, for the lone testimony of the victim, if credible, is sufficient to sustain the verdict of conviction. As in most rape cases, the ultimate issue in this case is credibility. In this regard, when the issue is one of credibility of witnesses, appellate courts will generally not disturb the findings of the trial court, considering that the latter is in a better position to decide the question as it heard the witnesses themselves and observed their deportment and manner of testifying during trial. The exceptions to the rule are when such evaluation was reached arbitrarily, or when the trial court overlooked, misunderstood or misapplied some facts or circumstance of weight and substance which could affect the result of the case. None of these circumstances are present in the case at bar to warrant its exception from the coverage of this rule.

It is well-established that when a woman says that she has been raped, she says, in effect, all that is necessary to show that she has indeed been raped. A victim of rape would not come out in the open if her motive were anything other than to obtain justice. Her testimony as to who abused her is credible where she has absolutely no motive to incriminate and testify against the accused, as in this case where the accusations were raised by private complainant against her own father.⁷

Therefore, the CA did not err in finding merit to the findings of the RTC, thus:

In the instant case, the prosecution was able to establish all the elements of the crime of rape. First, [AAA] testified that Jomar went on top of her and, against her will, inserted his penis in her vagina. After having

⁶ 646 Phil. 290, 302 (2010). (Citations omitted)

⁷ *Id.* at 301-303. (Citations omitted)

carnal knowledge with [AAA], Jomar told the others “*sino ang susunod?*” Thus, another man of heavier weight went on top of [AAA] and inserted his penis in her vagina. [AAA] identified that it was Jomar who carried him to another room and placed her in a “*papag*” because she heard him say, “*dito na, dito na.*” It should be emphasized that [AAA] testified that she was familiar with Jomar’s voice because she knew him and the other appellants since childhood. [AAA] used to invite these appellants in their house whenever there were occasions and sometimes in going to videoke. Hence, this Court agrees with the findings of the court *a quo* as regards [AAA]’s positive identification of Jomar, through his voice, as one of the persons who raped her. The court *a quo* said in this wise:

[AAA] testified, in a manner that is clear, candid and with unmistakable certainty, that at the time, date and place of the incident, by means of force and intimidation and while she is unconscious and deprived of reason, the accused took part in sexually molesting her. During the Court hearing on January 22, 2007, the victim pointed to each of the accused being tried in the persons of Motil, Sisracon, Padua, Cortez and Valderama (Mark) as the ravishers. Yet all of these accused on trial could not ascribe any ill motive on the part of [AAA] that might have implied her to institute the present action.

[AAA] was detailed in her narration and remained consistent even on rigid cross-examination. She testified on all incidents that transpired from the beginning until the end of her ordeal. That was, from the time when she was made to go with the group of the accused to the apartment up to the time when she was eventually rescued by her brother [BBB] and the barangay tanods. A candid and honest narration by the victim of how she was abused must be given full faith and credit for they contain earmarks of credibility. When the testimony of the victim is simple and straightforward, the same must be given full faith and credit. The determination of the outcome of every rape case, hinges upon the credibility of the complainant’s testimony.⁸

Jurisprudence is replete with cases where the Court ruled that questions on the credibility of witnesses should best be addressed to the trial court because of its unique position to observe that elusive and incommunicable evidence of the witnesses’ deportment on the stand while testifying which is denied to the appellate courts.⁹ The trial judge has the advantage of actually examining both real and testimonial evidence including the demeanor of the witnesses. Hence, the judge’s assessment of the witnesses’ testimonies and findings of fact are accorded great respect on appeal. In the absence of any substantial reason to justify the reversal of the trial court’s assessment and conclusion, as when no significant facts and circumstances are shown to have been overlooked or disregarded, the reviewing court is generally bound by the

⁸ *Rollo*, pp. 24-25. (Citations omitted)

⁹ *People v. Nieto*, 571 Phil. 220, 233 (2008).



former's findings.¹⁰ The rule is even more stringently applied if the appellate court has concurred with the trial court.¹¹

As to the finding that appellants conspired in the commission of the crime, AAA's testimony on the incidents before, during and after the felonious act, is unambiguous, thus:

Q: After [you] drunk it, what did you do or say, if any?

A: I saw the clock and I noticed that it was almost 11:30 in the evening so I told them that I have to go home because my mother will get angry, ma'am.

Q: And what did they say?

A: They told me "no" and to stay for a little while because they would still buy another bottle of liquor, ma'am.

Q: Who said that you cannot go home?

A: Jomar, ma'am.

Q: After that, what happened?

A: Then I told them that I have to leave then Pita approached me and told me "let us go home," ma'am.

Q: And what happened after that?

A: After that, they did not allow us to go home but Pita insisted to go outside, ma'am.

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Q: Why was he able to leave?

A: *Kasi po binatang-batukan lang po sya doon sa loob ng apartment ng mga kabarkada niya at kinakawawa lang po siya doon, ma'am.*

Q: Who allowed Pita to leave?

A: None, ma'am, he insisted to go out.

Q: And what about you, what happened to you?

A: I could not leave the apartment because they [were] blocking my way, ma'am.

Q: And who was blocking your way?

A: Jomar, ma'am.

Q: Aside from Jomar who else was blocking your way?

A: The one who was at the door, ma'am.

Q: And who was at the door?

A: Dondon, ma'am.

Q: While this was happening, what about the others, what were they doing?

A: They were talking to each other, ma'am.

¹⁰ *People v. Dominguez, Jr.*, 650 Phil. 492, 520 (2010).

¹¹ *People v. Barcelá*, 734 Phil. 332, 343 (2014).

Q: So what happened after they blocked your way out of the door?

A: I returned to the place where I was seated.¹²

Q: Ms. Witness, you mentioned last January 22, 2007 hearing that when you were about to leave the apartment, your way was blocked by Jomar Sisracon and a certain Ronron (sic), what is the real name of this Ronron (sic)?

A: Adonis Motil, ma'am.

Q: After your way was blocked by these persons, what did you do?

A: I returned to the place where I was seated.

PROS. GONZALES

May we request that the answer of the witness be quoted on record?

A: Natatakot po kasi ako, kasi po bago pa po kami mag-inuman nung first time po, nagbanta na po sila na babanatan nila ang kuya ko, ma'am.

Q: After you returned to your seat, what happened, Miss Witness?

A: I just sat down and then they conversed with each other.

Q: While conversing, what happened?

A: They started making the "tagay" of the second bottle, ma'am.

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Q: After your dizziness and your vision was quite blurred, could you recall what happened next?

A: When my eyes were closed, I felt that somebody was carrying me, ma'am.

Q: Do you know who was that somebody who was carrying you?

A: Yes, ma'am.

Q: Who?

A: Jomar Sisracon, ma'am.

Q: How did you know that the person carrying you is Jomar Sisracon?

A: Because he was uttering "dito na, dito na," ma'am.

Q: You mentioned that from your seat Jomar Sisracon carried you, in what place did Jomar Sisracon carry you?

A: I felt that he placed me on a papag because the bed is hard, ma'am.

Q: After Jomar Sisracon placed you [on] the said papag, what happened next?

A: Jomar was lowering my shorts, ma'am.

ATTY. GUANZON:

May we make it of record that the witness is in tears.

ATTY. VICTORIA:

Q: When Jomar [was] lowering your shorts, what were you doing at that time?

¹² TSN, January 22, 2007, pp. 24-26.

A: I tried to raise my shorts up, ma'am.

Q: Did you succeed in pulling up your shorts?

A: No, ma'am, because I was very weak during that time that is why I was not able to raise up my shorts.

Q: After Jomar lowered your shorts, Miss Witness, what happened next?

A: He went on top of me then he tried to insert his penis, ma'am.

Q: Where?

A: Inside my vagina, ma'am.

Q: Did he succeed in inserting his penis?

A: Yes, ma'am, because I felt pain.

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Q: You mentioned that you felt pain?

A: Yes, ma'am.

Q: After that, what happened next?

A: He left and shouted "sino ang susunod?", ma'am.

Q: Who uttered those words "sino and susunod?"

A: Jomar Sisracon, ma'am.

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Q: After Jomar Sisracon shouted "sino ang susunod?"

A: Somebody followed him, ma'am.

Q: This somebody, do you know who is this person next to Jomar?

A: No, ma'am.

Q: What did this person do to you?

A: He also went on top of me, ma'am.

Q: And when he went on top of you, what happened next?

A: He was heavy and he was also inserting his penis inside my vagina, ma'am.

Q: Did he succeed in inserting his penis into your vagina?

A: I do not know because I already lost consciousness, ma'am.

Q: Were you able to identify the second person?

A: What I know is that he is heavier than Jomar, ma'am.

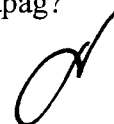
Q: You mentioned a while ago that you lost your consciousness, where did you regain your consciousness?

A: When somebody was dressing me up I remember that somebody was shouting "si BBB, si BBB andyan na," ma'am.

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Q: Do you recall what happened next when you were lying on the papag?

A: As if there was a commotion because I heard footsteps, ma'am.



Q: After hearing those footsteps and the commotion, do you still recall what happened?

A: When I was lying on the papag, I felt that somebody was dressing me up, ma'am.

Q: Do you know that somebody who was dressing you up?

A: No, ma'am.¹³

Under Article 8 of the Revised Penal Code, there is conspiracy when two or more persons come to an agreement concerning a felony and decide to commit it. It may be inferred from the acts of the accused before, during or after the commission of the crime which, when taken together, would be enough to reveal a community of criminal design, as the proof of conspiracy is frequently made by evidence of a chain of circumstances.¹⁴ It is apparent, therefore, that conspiracy attended the commission of the crime and the CA did not err finding such, thus:

Third, the commission of the crime of rape was accomplished by appellants, in conspiracy with each other. The testimony of [AAA] reveals that appellants conspired with one another in raping her. All of the appellants acted in concert to achieve a common goal which was to have carnal knowledge with [AAA]. In the instant case, Roberto invited [AAA] to a drinking spree with the other appellants with the common plan of intoxicating her with liquor until she was helpless to resist their desires and satisfy their lust. While they were at the apartment, appellants prevented [AAA] from leaving when appellants Jomar and Adonis blocked her way out of the apartment while John guarded the door. Also, the appellants threatened her brother with harm if she refused to stay. Thus, [AAA] was forced to stay and take another shot of liquor given by Jomar which made her dizzy and her vision blurry. It was at this point that appellants took advantage of her intoxication and helplessness by taking her to a room with the purpose of raping her. Despite her weakness due to intoxication, [AAA] tried to resist by pulling her shorts back up to no avail.

Conspiracy is also apparent, when Jomar was finished having carnal knowledge with [AAA] and he told the others "*Sino ang susunod?*" Moreover, when Randy saw [AAA] outside the apartment he went inside and closed the door. He acted as a lookout for any outside intrusion. [AAA], in fact testified that she heard someone saying "*Si [BBB], si [BBB] andyan na*" referring to the complainant's brother and warning the others that [BBB] is coming. x x x

x x x x

More, when [BBB] went inside the apartment he saw accused Ranil and Rex fixing their clothes and hurriedly coming out of a room. When [BBB] entered the room, he smelled liquor and he saw Luis fixing his shorts which signify that they participated in raping [AAA]. Moreover, appellants appear to have consented in all the acts of their co-accused taking turns in

¹³ TSN, March 8, 2007, pp. 3-10.

¹⁴ *People v. Evangelio*, 672 Phil. 229, 246 (2011), citing *Co v. The Fifth Division, Sandiganbayan*, 549 Phil. 783, 805 (2007).

raping [AAA] considering none of them prevented the commission of the crime, but rather participated in aiding one another in their dastardly acts.¹⁵

Appellants' contention that conspiracy was not proven because AAA failed to identify the exact persons who raped her because she was rendered unconscious is untenable. While it is true that there was no direct evidence to establish that some of the appellants had carnal knowledge of AAA as the latter was unconscious, however, proof of the commission of the crime need not always be by direct evidence, for circumstantial evidence could also sufficiently and competently establish the crime beyond reasonable doubt.¹⁶ Indeed, the Court had affirmed convictions for rape based on circumstantial evidence.¹⁷

Circumstantial evidence is sufficient for conviction if (1) there is more than one circumstance; (2) the facts from which the inferences are derived are proven; and (3) the combination of all the circumstances is such as to produce a conviction beyond reasonable doubt.¹⁸ A judgment of conviction based on circumstantial evidence can be sustained when the circumstances proved form an unbroken chain that results in a fair and reasonable conclusion pointing to the accused, to the exclusion of all others, as the perpetrator.¹⁹ Again, based on AAA's testimony, the summation of the circumstances that led to the commission of the crime prove beyond reasonable doubt that some of the appellants raped her and that all of them conspired in the commission of the said crime. Furthermore, positive identification need not only mean the identification by the use of the visual sense. It also includes other human senses with which one could perceive.²⁰ In this case, AAA, was able to positively identify appellant Jomar as the first person who raped her by recognizing the latter's voice.

However, based on the testimony of AAA, that she recognized appellant Jomar as the first person who raped her followed by another person of heavier built before she passed out, it is more appropriate to convict the appellants with just two (2) instead of nine (9) counts of rape as earlier ruled by the RTC and affirmed by the CA. Those two instances of rape have been proven beyond reasonable doubt as gleaned from AAA's clear testimony in court, as well as in her sworn testimony before the PNP, thus:

Pasubali: Matapos mo malaman at mabatid ang iyong mga karapatan ayon sa ating saligang batas, ikaw ba ay nakahanda pa ring magbigay ng iyong sinumpaang salaysay?

¹⁵ Rollo, pp. 26-27.

¹⁶ *People v. Belgar*, 742 Phil. 404, 415 (2014).

¹⁷ *Id.*, citing *People v. Tabarangao*, 363 Phil. 248, 261 (1999); *People v. Abiera*, G.R. No. 93947, May 21, 1993, 222 SCRA 378, 384; *People v. Ulili*, G.R. No. 103403, August 24, 1993, 225 SCRA 594, 606; *People v. Santiago*, 274 Phil. 847, 859 (1991).

¹⁸ Rules of Court, Rule 133, Sec. 4.

¹⁹ *People v. Evangelio, et al.*, *supra* note 14, at 243, citing *Diega v. Court of Appeals*, 629 Phil. 385, 396 (2010).

²⁰ *People v. Bueza*, 266 Phil. 752, 757 (1990).

Sagot: Opo, nakahanda po.

01 Tanong: Anong iyong pangalan, edad, hanapbuhay, tirahan at iba pang bagay tungkol sa iyong pagkatao?

Sagot: AAA, 15 taong gulang, 3rd year high school student ng xxx at kasalukuyang nakatira sa xxx.

02. T: Ano ang dahilan at naririto ka sa loob ng silid siyasatan ng pulisya ng xxx, Rizal at nagbigay ng iyong slaysay?

S: Dahil gusto ko po ireklamo itong aking mga kaibigan dahil sa kanilang ginawang pagsasamantala saakin.

03. T: Saan at kalian nangyari itong sinasabi mong pagsasamantala sa iyo?

S: Doon po sa isang bakanteng bahay doon sa xxx, Rizal nitong petsa 29 ng Pebrero 2004 bago mag-alas 12:00 ng gabi.

04. T: Maari mo bang isalaysay sa akin kung paano ka pinagsamantalahan ng sinasabi mong mga kaibigan mo?

S: Opo, noong mga bandang mag-aalas 11:00 ng gabi ako pauwi na sa amin ng madaanan ko itong aking mga kaibigan na sina JOMAR SISRACON y Rupisan, MARK ANTHONY VALDERAMA y Rupisan, ROBERTO CORTEZ y Badilla, LUIS BADUA y Mitra, ROMMEL MARIANO y Angeles, JOHN ANDREW VALDERA y Rupisan, ADONIS MOTIL y Guladrina, REX DANDAN at RAMIL CAMAYMAYAN at isa pang nangganggalang alias ITOY. At ako nga ay kanilang tinawag at kinausap tungkol sa aming samahan. At ako ay kanilang niyayang uminom subalit ako ay tumanggi. At ako nga ay kanilang hinarang at ayaw nila akong pauwiin. At ako nga ay napilitan sa kanila na sumama at sinabi ko sa kanila na hanggang 11:30 lang ako ng gabi dahil ako ay pagagalitan sa amin. At pagdating namin doon sa sinasabing apartment kung saan walang nakatira, ako ay niyaya nilang uminom at ako nga ay tumanggi subalit sinabi nila sa akin na kung hindi daw ako iinom ay kanilang babanatan ang kuya. Kaya ako ay natakot at napilitan ding uminom at sinabi ko sa kanila na hanggang sa isang bote lang ako. At ng maubos na namin iyong isang bote ay nagpaalam na akong uuwi subalit ayaw nila akong pauwiin at sila ay nag-ambag ambagan pa ng pera at muling bumili ng isa pang bote ng alak. At ayaw ko ng uminom at nagpapaalam na ako subalit ayaw nga nila at sinasabi nga nila sa akin na hindi daw sila kaya ng aking kuya at kanilang paulit ulit na sinasabi na babanatan daw ang aking kuya. At ako ay pilit nilang pinainom pa at nang ako ay maka-dalawang tagay pa ay nakaramdam na ako ng pagkahilo at nagdilim na ang aking paningin. At naramdaman ko na lang na ako ay binubuhat na papasok doon sa isang kuwarto at ako ay inihiga sa isang papag. **At naramdaman ko din na habang ako ay nakahiga na ay may naghuhubad sa aking suot na short at nabobosesan ko ito na si Jomar Sisracon at pilit ko ngang itinataas ang aking short subalit binaba ito ni Jomar. At wala na nga akong magawa dahil nahihilo na nga ako. At naramdaman ko na lang na pinatungan na ako nitong si Jomar at pilit na ipinapasok ang kaniyang ari sa aking ari at ako nga ay nanlaban subalit wala na akong magawa dahil na rin sa ako ay nahihilo na. At naramdaman ko na lang na naipasok din niya ang kanyang pagkalalaki sa aking ari. At nang siya ay makatayo na ay narinig ko na nagsalita na siya ng kung sino daw ang susunod. At pagkatapos niyang sabihin niya iyon ay may naramdaman na lang akong may pumasok na namang isang lalaki na mas malaki dito kay**

Jomar at ako ay kanyang pinatungan at nagawa ngang maipasok ang kanyang ari sa aking pagkababae. At wala na nga akong magawa pa at habang siya ay nakapatong sa akin ay nawalan na ako ng malay.

05. T: Mayroon ka bang narinig sa kanila habang ikaw ay pinagsasamantalahan nitong taong iyong tinutukoy?

S: Naririnig ko na lang po sa kanila habang ako nga ay nakahiga ang mga salitang sino ang susunod sabay tawanan sila ng tawanan.

06. T: Ilang ulit mo bang narinig iyang salitang iyong sinasabi na kung sino ang susunod?

S: Bali isang beses lang po.

07. T: Matapos ka ngang patungan nitong pangalawang lalaking iyong sinasabi ano pa ang nangyari?

S: Nawalan na po ako ng malay noong nakapatong po sa akin tong sinasabi kong pangalawang lalaki na pumatong sa akin.

08. T: Nakilala mo ba itong sinasabi mong pangalawang lalaki na pumatong at gumamit sa iyo?

S: Hindi ko na po siya nakilala pero napansin ko na mas matangkad siya doon kay Jomar na aking nakilala na unang gumamit sa akin.

09. T: Paano ka nagkamalay?

S: Naramdaman ko na lang na may nagsasalita na ito daw aking kuya ay nandiyan na at naramdaman ko na lang na parang nagtakbuhan na sila.

10. T: Noong matapos ninyong maubos iyong isang boteng alak na inyong nainom napag-alaman mo ba kung anong oras na iyon?

S: Ang alam ko po bago mag alas 12:00 ng gabi ay naubos na namin iyong isang bote ng alak at doon nga ako nagpaalam subalit ako ay kanilang pinigilan.

11. T: Anong klaseng alak ba itong sinasabi mong pinainom sa iyo?

S: Long neck na Emperador Brandy.

12. T: Ano ba ang naramdaman mo nang dadatnan ka ng iyong kuya?

S: Wala na po, talagang hindi na kaya ng katawan ko, hinang-hina na ako.

13. T: Pansamantala ay wala akong itatanong sa iyo mayroon ka pa bang gustong idagdag o ibawas sa salaysay mong ito?

S: Wala na po.²¹

Needless to say, the other seven counts of rape have not been proven beyond reasonable doubt. The findings of the medico-legal officer also cast doubt as to the possibility that the victim was raped nine times. His testimony reads as follows:



²¹ Records, pp. 17-18.

Q: What kind of examination have you conducted on this person, Mr. Witness?

A: We have conducted a physical and genital examination, ma'am.

xxx

xxx

xxx

Q: Mr. Witness, you mentioned that you conducted the physical examination, what was the result of the said physical examination?

A: The physical examination alone shows injury on the left breast, and let me read from the report, "ecchymosis, left breast measuring 0.5 cm. x 0.05 cm. From the anterior midline, ma'am.

Q: What do you mean by the word "ecchymosis?"

A: It means type of injury akin to the sanctioned injury as identified by other agency, ma'am.

Q: In layman's term?

A: Kissmark, ma'am.

Q: How about the genital examination you conducted, what is the result of the said examination?

A: For the genital, we have pubic hair, moderate, labia majora are full, convex, coaptated and erythematous. Labia minora, pinkish, brown, congested. Hymen shallow healing lacerations at 7 and 8 o'clock positions. The posterior fourchette, abraded. The external vaginal orifice offers strong resistance of the examining index finger. The rest of the organs were not examined because it would no longer permit further examination, ma'am.

Q: Mr. Witness, you mentioned on the portion of the hymen, shallow healing laceration at 7 and 8 o'clock positions, could you please explain this finding in layman's term?

A: That shallow healing laceration at 7 and 8 o'clock positions would mean injury at the hymen and the position, that would refer to the face of the clock when we view in front, which means the injury would be at the posterior part and right side of the hymen, sir.

Q: This 7 to 8 injury?

A: In the clock, 7 and 8 o'clock would refer to the position of the clock, the hymenal is the face.

Q: This laceration at 7 and 8 o'clock positions, what is the significance of these positions?

A: It would mean that there was a forcible entry, perhaps a blunt object, passed thru this hymenal orifice. In the process of stretching this hymenal orifice, the point of resistance gave way and produced this laceration, sir.

Q: In short, there is a forcible entry on the hymen of the victim?

A: Yes, sir.

Q: On the posterior fourchette, what do you mean by that?

A: It is the back part of the vestibule, it is intersection of the labia minora. This would be equivalent with the floor of the vestibule or front part of the vagina, sir.

Q: What is this abraded?

A: It is also sustained injury due to the passage of a blunt object, ma'am.

Q: Meaning, the passage is with force also?

A: Yes, ma'am.

Q: Mr. Witness, you mentioned here in your conclusion the subject is in non-virgin state physically, and the rest, can you please explain the conclusion indicated in this medico-legal report?

A: The conclusion reads, subject is in non-virgin state physically. Findings are compatible with recent loss of virginity. Barring unforeseen complication, it is estimated that the above injuries will resolve within 1 (sic) (1) to two (2) days. Although at the present time we no longer use the word virgin or non-virgin. The report was made on March 8, 2004 and the protocol still use this term non-virgin which would only mean that the hymen has already been lacerated. So it is no longer intact. That is the meaning of non-virgin, wherein this injury in the hymen based on the second statement is compatible with recent loss of virginity and the third statement would refer to the injury sustained by the left breast that will resolve within 1 (sic) (1) to two (2) days, ma'am.

Q: Based on your findings, both on the genital and extragenital, could you make a conclusion or opinion that the victim was a victim of rape?

A: Because rape is a question which I believe could have been resolved by the Court and rape has two (2) general elements of which is, as alleged by the disclosure of the victim, which is loss of consent and the other would be the presence of sexual intercourse, I can confirm to this Court that there was penetration of the vagina, ma'am.

Q: How about the item here on the physical injuries, and you mentioned here, strong resistance?

A: That was the strong resistance of the vaginal musculature of the victim during my examination, this also did not permit me to go further in the vaginal wall, ma'am.²²

The above findings of the medico-legal officer is merely an affirmation that there was penetration on AAA's vagina but is inconclusive as to the number of times or number of persons that caused such penetration. On the basis of the medico-legal officer's findings, one can even surmise that the victim should have incurred far greater injuries if she had been raped nine times in a span of a little more than one hour. As such, there is the existence of doubt on the other seven counts of rape charged against the appellants.

Nevertheless, due to the aforementioned, appellants' defense of denial is inconsequential. Denial and alibi are inherently weak defenses and must be brushed aside when the prosecution has sufficiently and positively ascertained the identity of the accused.²³ And as often stressed, a categorical and positive identification of an accused, without any showing of ill-motive on the part of

²² TSN, March 17, 2005, pp. 4-7.

²³ *People v. Barberan*, G.R. No. 208759, June 22, 2016, 794 SCRA 348, 360.

the witness testifying on the matter, prevails over denial, which is a negative and self-serving evidence undeserving of real weight in law unless substantiated by clear and convincing evidence.²⁴

It is indisputable and proven in court that the appellants, except appellant Roberto, are all minors when the crime was committed. Jomar was then 17 years and 4 months old, Mark was 17 years and 10 months old, Adonis was 15 years and 11 months old, and Luis was 16 years and 11 months old. Section 6 of R.A. No. 9344 provides:

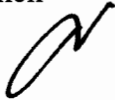
SEC. 6. *Minimum Age of Criminal Responsibility.* - A child fifteen (15) years of age or under at the time of the commission of the offense shall be exempt from criminal liability. However, the child shall be subjected to an intervention program pursuant to Section 20 of this Act.

A child above fifteen (15) years but below eighteen (18) years of age shall likewise be exempt from criminal liability and be subjected to an intervention program, unless he/she has acted with discernment, in which case, such child shall be subjected to the appropriate proceedings in accordance with this Act.

The exemption from criminal liability herein established does not include exemption from civil liability, which shall be enforced in accordance with existing laws.

According to the above provision, the minor appellants herein, all above 15 but below 18 years of age, shall only be exempt from criminal liability if they did not act with discernment. In *Madali, et al. v. People*,²⁵ this Court held that discernment is that mental capacity of a minor to fully appreciate the consequences of his unlawful act. Such capacity may be known and should be determined by taking into consideration all the facts and circumstances afforded by the records in each case. In this particular case, the prosecution was able to prove the presence of discernment. As ruled by the RTC:

Discernment is the mental capacity to understand between right and wrong. It would be recalled from the testimony of victim [AAA] that the accused being tried in Court took steps in guarding the premises to ensure that she is prevented from leaving the apartment. Victim [AAA] was unable to leave the apartment because they blocked her way. The group even threatened to harm the brother of the victim if she persists on leaving the place. Furthermore, when the brother of the victim discovered the beastly act committed upon his sister and in a shouting manner questioned them as to why they raped his sister, they ran away. Which acts are clearly indicative that they were aware that what they've done is wrong. Therefore, the close participation of the accused that led to the consummation of their



²⁴ *People v. Alberto Fortuna Alberca*, G.R. No. 217459, June 7, 2017.

²⁵ 612 Phil. 582, 606 (2009).

evil designs undoubtedly supports the belief that they acted with discernment.²⁶

The CA, as well, aptly ruled that the minors in this case acted with discernment, thus:

Moreover, in the instant case, We rule that the appellants committed the crime of rape with discernment taking into consideration the following circumstances, namely: 1. appellants took advantage of [AAA]'s helplessness when she was intoxicated resulting to her unconsciousness; 2. appellants prevented her from going home when appellants Jomar and Adonis blocked her way out of the apartment while John guarded the door; 3. Randy acted as lookout to warn his co-accused of any intrusion as would prevent the commission of the crime; and 4. appellants are fully aware that the crime they were about to commit is rape, which is a heinous crime. All these circumstances point to a conclusion that the appellants were all aware that they were committing a wrongful act.

In determining if such a minor acted with discernment, the High Court's pronouncement in *Valentin v. Duqueña* is instructive:

The discernment that constitutes an exception to the exemption from criminal liability of a minor under fifteen years of age but over nine, who commits an act prohibited by law, is his mental capacity to understand the difference between right and wrong, and such capacity may be known and should be determined by taking into consideration all the facts and circumstances afforded by the records in each case, the very appearance, the very attitude, the very comportment and behavior of said minor, not only before and during the commission of the act, but also after and even during the trial.²⁷

The CA, therefore, did not err modifying the penalties imposable on the same minor appellants. As ruled by the CA:

Pursuant to Article 68 (2) of the RPC, when the offender is over 15 and under 18 years of age, the penalty next lower than that prescribed by law is imposed. Based on Article 61 (2) of the RPC, *reclusion temporal* is the penalty next lower than *reclusion perpetua* to death. Applying the Indeterminate Sentence Law and Article 64 of the RPC, therefore, the range of the penalty of imprisonment imposable on appellants Jomar, Mark, Adonis, and Luis should be *prision mayor* in any of its periods, as the minimum period, to *reclusion temporal* in its medium period, as the maximum period. Accordingly, the proper indeterminate penalty that should be imposed upon the herein minor appellants should range from six (6) years and one (1) day of *prision mayor*, as the minimum period, to fourteen (14) years, eight (8) months, and one (1) day of *reclusion temporal*, as the maximum period.

²⁶ CA rollo, p. 64. (Citations omitted)

²⁷ Rollo, p. 33.

Anent the aggravating circumstance attending the commission of the crime, We agree with the findings of the court *a quo* when it ruled that:

Anent the qualifying circumstance stated in each information of two or more persons that committed the offense – in the case of *People v. Lamberte*, G.R. No. L-65153, July 11, 1986, it was held that the “use of deadly weapon” or “by two or more persons” – qualifies the crime.

In this regard the aggravating circumstances mentioned in the Informations, the Court appreciates the presence of nighttime, as strong indications show that the accused specifically sought it to facilitate the commission of the crime. Abuse of superior strength is not to be considered as an aggravating circumstance in view of the existence of conspiracy, thus the same is deemed inherent.²⁸

It is error, however, for the RTC and the CA to not have applied Section 38 of R.A. 9344. Section 38 of RA No. 9344 provides that when the child below 18 years of age who committed a crime and was found guilty, the court shall place the child in conflict with the law under suspended sentence even if such child has reached 18 years or more at the time of judgment. Thus:

SEC. 38. *Automatic Suspension of Sentence.* - Once the child who is under eighteen (18) years of age at the time of the commission of the offense is found guilty of the offense charged, the court shall determine and ascertain any civil liability which may have resulted from the offense committed. However, instead of pronouncing the judgment of conviction, the court shall place the child in conflict with the law under suspended sentence, without need of application: Provided, however, That suspension of sentence shall still be applied even if the juvenile is already eighteen (18) years of age or more at the time of the pronouncement of his/her guilt.

Upon suspension of sentence and after considering the various circumstances of the child, the court shall impose the appropriate disposition measures as provided in the Supreme Court Rule on Juveniles in Conflict with the Law.

The applicability of the above provision has already been thoroughly discussed by this Court in *People v. Ancajas, et al.*,²⁹ thus:

In *People v. Sarcia*, we ruled on the applicability of Section 38, RA No. 8344 even if the minor therein was convicted of reclusion perpetua and we ratiocinated as follows:

The above-quoted (Section 38 of RA No. 9344) provision makes no distinction as to the nature of the offense committed by the child in conflict with the law, unlike P.D. No. 603 and A.M. No. 02-1-18-SC. The said P.D. and

²⁸ *Id.* at 41-42.

²⁹ 772 Phil. 166 (2015).

Supreme Court (SC) Rule provide that the benefit of suspended sentence would not apply to a child in conflict with the law if, among others, he/she has been convicted of an offense punishable by death, reclusion perpetua or life imprisonment. In construing Sec. 38 of R.A. No. 9344, the Court is guided by the basic principle of statutory construction that when the law does not distinguish, we should not distinguish. Since R.A. No. 9344 does not distinguish between a minor who has been convicted of a capital offense and another who has been convicted of a lesser offense, the Court should also not distinguish and should apply the automatic suspension of sentence to a child in conflict with the law who has been found guilty of a heinous crime.

Moreover, the legislative intent, to apply to heinous crimes the automatic suspension of sentence of a child in conflict with the law can be gleaned from the Senate deliberations on Senate Bill No. 1402 (Juvenile Justice and Delinquency Prevention Act of 2005), the pertinent portion of which is quoted below:

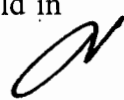
If a mature minor, maybe 16 years old to below 18 years old is charged, accused with, or may have committed a serious offense, and may have acted with discernment, then the child could be recommended by the Department of Social Welfare and Development (DSWD), by the Local Council for the Protection of Children (LCPC), or by my proposed Office of Juvenile Welfare and Restoration to go through a judicial proceeding; but the welfare, best interests, and restoration of the child should still be a primordial or primary consideration. Even in heinous crimes, the intention should still be the child's restoration, rehabilitation and reintegration. x x x

In fact, the Court En Banc promulgated on November 24, 2009, the Revised Rule on Children in Conflict with the Law, which echoed such legislative intent.

Although suspension of sentence still applies even if the child in conflict with the law is already 18 years of age or more at the time the judgment of conviction was rendered, however, such suspension is only until the minor reaches the maximum age of 21 as provided under Section 40 of RA No. 9344, to wit:

SEC. 40. Return of the Child in Conflict with the Law to Court. - If the court finds that the objective of the disposition measures imposed upon the child in conflict with the law have not been fulfilled, or if the child in conflict with the law has willfully failed to comply with the conditions of his/her disposition or rehabilitation program, the child in conflict with the law shall be brought before the court for execution, of judgment.

If said child in conflict with the law has reached eighteen (18) years of age while under suspended sentence, the court shall determine whether to discharge the child in



accordance with this Act, to order execution of sentence, or to extend the suspended sentence for a certain specified period or until the child reaches the maximum age of twenty-one (21) years.

The RTC did not suspend the sentence of appellant Allain pursuant to Section 38 of RA No. 9344. Appellant is now 34 years old, thus, Section 40 is also no longer applicable. Nonetheless, we have extended the application of RA No. 9344 beyond the age of 21 years old to give meaning to the legislative intent of the said law.

In *People v. Jacinto*, we ruled:

These developments notwithstanding, we find that the benefits of a suspended sentence can no longer apply to appellant. The suspension of sentence lasts only until the child in conflict with the law reaches the maximum age of twenty-one (21) years. Section 40 of the law and Section 48 of the Rule are clear on the matter. Unfortunately, appellant is now twenty-five (25) years old.

Be that as it may, to give meaning to the legislative intent of the Act, the promotion of the welfare of a child in conflict with the law should extend even to one who has exceeded the age limit of twenty-one (21) years, so long as he/she committed the crime when he/she was still a child. The offender shall be entitled to the right to restoration, rehabilitation and reintegration in accordance with the Act in order that he/she is given the chance to live a normal life and become a productive member of the community. The age of the child in conflict with the law at the time of the promulgation of the judgment of conviction is not material. What matters is that the offender committed the offense when he/she was still of tender age.

Thus, appellant may be confined in an agricultural camp or any other training facility in accordance with Sec. 51 of Republic Act No. 9344.

Sec. 51. *Confinement of Convicted Children in Agricultural Camps and Other Training Facilities.* - A child in conflict with the law may, after conviction and upon order of the court, be made to serve his/her sentence, in lieu of confinement in a regular penal institution, in an agricultural camp and other training facilities that may be established, maintained, supervised and controlled by the BUCOR, in coordination with the DSWD.

Following the pronouncement in *Sarcia*, the case shall be remanded to the court of origin to effect appellant's confinement in an agricultural camp or other training facility.³⁰


³⁰ *Id.* at 187-190. (Citations omitted).

Necessarily, herein minor appellants shall be entitled to appropriate disposition under Section 51, R.A. No. 9344, which extends even to one who has exceeded the age limit of twenty-one (21) years, so long as he committed the crime when he was still a child, and provides for the confinement of convicted children.³¹

As to the award of damages, the same must be modified in accordance with *People v. Jugueta*.³² Since the imposable penalty is death, due to the presence of an aggravating circumstance, but due to R.A. No. 9346, the actual penalty imposable is *reclusion perpetua*, the civil indemnity shall be ₱100,000.00, moral damages shall be ₱100,000.00 and exemplary damages shall be ₱100,000.00 for every information filed against appellants.

WHEREFORE, the appeal of Jomar Sisracon y Rupisan, Mark Valderama y Rupisan, Roberto Cortez y Badilla, Luis Padua y Mitra and Adonis Motil y Golondrina is **DISMISSED** for lack of merit. Consequently, the Decision dated August 12, 2015 of the Court of Appeals in CA-G.R. CR-HC No. 05986, affirming the Decision dated September 13, 2010 of the Regional Trial Court of x x x, Rizal, Branch 76, finding each appellant guilty beyond reasonable doubt of Qualified Rape as defined and penalized under Article 266-A and Article 266-B, par. 1, in relation to Article 266-B, 2nd par. of the Revised Penal Code, as amended by Republic Act No. 8353 and in further relation to Section 5 of Republic Act No. 8369, is **AFFIRMED** with the **MODIFICATION** that appellants are guilty beyond reasonable doubt of the same crime on two (2) counts only and that the same appellants shall indemnify AAA the amount of ₱100,000.00 as civil indemnity, ₱100,000.00 as moral damages and ₱100,000.00 as exemplary damages per *People v. Jugueta*³³ for each count. Furthermore, this case is **REMANDED** to the court of origin for its appropriate action in accordance with Section 51 of Republic Act No. 9344.

SO ORDERED.



DIOSDADO M. PERALTA
Associate Justice

³¹ *People, et al. v. CA, et al.*, 755 Phil. 80, 118-119 (2015).

³² G.R. No. 202124, April 5, 2016, 788 SCRA 331.

³³ *Id.*

WE CONCUR:



ANTONIO T. CARPIO
Associate Justice
Chairperson



ESTELA M. PERLAS-BERNABE
Associate Justice

On official business
ALFREDO BENJAMIN S. CAGUIOA
Associate Justice



ANDRES B. 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, Second Division

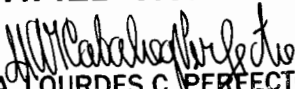
CERTIFICATION

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.



MARIA LOURDES P. A. SERENO
Chief Justice

CERTIFIED TRUE COPY:



MA. LOURDES C. PERFECTO
Division Clerk of Court
Second Division