

SUPREME COURT OF THE PHILIPPINES  
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**Republic of the Philippines**  
**Supreme Court**  
**Manila**

**THIRD DIVISION**

**PEOPLE OF THE PHILIPPINES,**      **G.R. No. 248245**  
Plaintiff-Appellee,

Present:

LEONEN, J.,  
*Chairperson,*  
GESMUNDO,  
CARANDANG,  
ZALAMEDA, and  
GAERLAN, JJ.

- versus -

Promulgated:

**HHH,**  
Accused-Appellant.      August 26, 2020  
*MisproB-H*

X-----X

**DECISION**

**CARANDANG, J.:**

This is an appeal<sup>1</sup> from the Decision<sup>2</sup> dated March 27, 2019 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 10435 finding accused-appellant HHH<sup>3</sup> guilty beyond reasonable doubt of three counts of Rape by Sexual Assault and three counts of Statutory Rape.<sup>4</sup>

<sup>1</sup> Rollo, p. 22.

<sup>2</sup> Penned by Associate Justice Ma. Luisa C. Quijano-Padilla, with the concurrence of Associate Justices Elihu A. Ybanez and Gabriel T. Robeniol; id. at 3-21.

<sup>3</sup> As decreed in *People v. Cabalquinto*, 533 Phil. 709 (2006), the real name of the complainant and the complainant's relatives are withheld to effectuate the provisions of Republic Act No. 7610 and its implementing rules, Republic Act No. 9262 (Anti Violence Against Women and Their Children Act of 2004) and its implementing rules, and A.M. No. 04-10-11-SC (Rule on Violence Against Women and their Children).

<sup>4</sup> Id.

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### The Antecedents

The six separate Informations against HHH state:

Criminal Case No. 14-11713

For Rape by Sexual Assault

That on or about the 13<sup>th</sup> day of May, 2014, 7 o'clock in the evening, at Angeles City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused by taking advantage of the innocence and tender age and gullibility of Private Complainant [AAA]<sup>5</sup> (11 year old minor), did then and there willfully, unlawfully and feloniously commit acts of sexual assault through threat and intimidation on the said complainant AAA (11 year old minor) by inserting his middle finger in her vagina without her consent, with intent to abuse and/ or gratify his sexual desire, thereby degrading and debasing the girl's intrinsic worth and dignity as a human being and endangering her normal development, to her damage and prejudice.

CONTRARY TO LAW.<sup>6</sup>

Criminal Case No. 14-11714

For Rape by Sexual Assault

That on or about the 13<sup>th</sup> day of May, 2014, 7 o'clock in the morning, at Angeles City, and within the jurisdiction of this Honorable Court, the above-named accused, by taking advantage of the innocence and tender age and gullibility of Private Complainant AAA (11 year old minor), did then and there willfully, unlawfully and feloniously commit acts of sexual assault through threat and intimidation on the said Complainant AAA (11 year old minor) by forcing her to grasp her penis after which he insert his penis in her anal orifice thereafter lick her vagina without her consent, thereby degrading and debasing the girl's intrinsic worth and dignity as a human being and endangering her normal development, to her damage and prejudice.

CONTRARY TO LAW.<sup>7</sup>

Criminal Case No. 14-11715

For Statutory Rape

That on or about the 13<sup>th</sup> day of May, 2014, around 12 o'clock in the afternoon, in the City of Angeles, Philippines and within the jurisdiction of this Honorable

<sup>5</sup> Supra note 3.

<sup>6</sup> Records (Criminal Case Nos. 14-11713 to 14-11715), p. 1.

<sup>7</sup> Id. at 21-A.

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Court, the above-named accused, with lewd design and taking advantage of the innocence and tender age of private complainant AAA (11 year old minor), by directing her to lightly grasp his penis (to masturbate) when semen discharge came out he inserted his penis to her vagina to have sexual intercourse with said AAA (11 year old minor), did then and there willfully, unlawfully and feloniously have carnal knowledge with said AAA (11 year old minor), by means of force, threat, and intimidation and against her will and consent.

CONTRARY TO LAW.<sup>8</sup>

Criminal Case No. 14-12400  
For Statutory Rape

That on or about the year 2012 in City of Angeles, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design and taking advantage of the innocence and tender age of private complainant [BBB]<sup>9</sup> (10 year old minor at the time of the incident), by directing her to lay down in bed and touch her cheek, touching and kissing her breast and inserted his penis to her vagina to have sexual intercourse with said BBB (10 year old minor at the time of the incident), did then and there willfully, unlawfully and feloniously have carnal knowledge with said BBB (10 year old minor at the time of the incident) by means of force, threat, and intimidation and against her will and consent.

CONTRARY TO LAW.<sup>10</sup>

Criminal Case No. 14-12401  
For Statutory Rape

That on or about the year of 2012 in City of Angeles, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design and taking advantage of the innocence and tender age of private complainant BBB (10 year old minor at the time of the incident), by touching, inserting his fingers in her vagina and remove her underwear and go on top of her and insert her penis to her vagina to have sexual intercourse with said BBB (10 year old minor at the time of the incident), did then and there willfully, unlawfully and feloniously have carnal knowledge with said BBB (10 year old minor at the time of the incident) by means of force and intimidation and against her will and consent.

CONTRARY TO LAW.<sup>11</sup>

<sup>8</sup> Id. at 41.

<sup>9</sup> Supra note 3.

<sup>10</sup> Records (Criminal Case No. 14-12400), p. 1

<sup>11</sup> Records (Criminal Case No. 14-12401), p. 1.

Criminal Case No. 14-12402  
For Rape by Sexual Assault

That on or about the month of March 2014, at Angeles City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, by taking advantage of the innocence and tender age and gullibility of Private Complainant [CCC]<sup>12</sup> (who was then 11 year old minor) did then and there willfully, unlawfully and feloniously commit acts of sexual assault through threat and intimidation on the said CCC (who was then 11 year old minor) by removing her underwear while she is asleep after which directing her, to wit: "Hawakan mo nga ito at ganun nanunin mo nga! (to grasp accused's penis to masturbate him) thereafter insert his finger to her vagina telling her biological father (accused) to stop however, with intent to abuse and/ or gratify his sexual desire, thereby degrading and debasing the girl's intrinsic worth and dignity as a human being and endangering her normal development, to her damage and prejudice.

CONTRARY TO LAW.<sup>13</sup>

The three complainants are the daughters of HHH with his common-law spouse, DDD.<sup>14</sup> Together, they have six children, two boys and four girls. The eldest daughter, CCC, was born on January 24, 2001;<sup>15</sup> BBB was born on August 26, 2002;<sup>16</sup> and AAA was born on September 15, 2003.<sup>17</sup>

CCC narrated that sometime in March 2012, then 11-year old CCC woke up naked. She looked around and saw HHH in his underwear sitting at the corner of the room, looking fiercely at her. She claimed that she knew she was molested because she felt pain in her vagina. In another incident, she saw her shorts were removed and her underwear was lowered to her knees. HHH then instructed her: "*Hawakan mo ito at ganun ganunin mo.*" Afraid of what HHH could do to her, CCC did as instructed. She held his penis and made up and down motions. Meanwhile, HHH inserted his finger in her vagina and played with it. She told him to stop but the latter demanded: "*Bilisan mo nga!*"<sup>18</sup>

BBB conveyed to the court that sometime in 2012, when she was 10 years old, HHH instructed her to clean the room. While her back was turned against HHH, he approached her and started kissing her. He made BBB lie on the floor and inserted his penis inside her vagina. He even asked her, "*Ito*

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<sup>12</sup> Supra note 3.

<sup>13</sup> Records (Criminal Case Nos. 14-12402), p. 1.

<sup>14</sup> Supra note 3.

<sup>15</sup> Records (Criminal Case Nos. 14-11713 to 11715), p. 37.

<sup>16</sup> Id. at 36.

<sup>17</sup> Id. at 35.

<sup>18</sup> CA rollo, p. 78-A.

*masarap?*” She shouted, “*Hindi po! Hindi!*” and asked him to stop but he did not listen. He continued with his bestial act.<sup>19</sup> During another incident in 2012, BBB recounted that HHH woke her up and put his finger inside her vagina. He removed BBB’s shorts and underwear and had sexual intercourse with her.<sup>20</sup>

AAA recalled that at around 7:00 a.m. of May 13, 2014, HHH held her waist while he was behind her. He embraced AAA and made her lie on the mat. HHH instructed her to hold his penis and threatened to burn her face with a cigarette if he did not follow. She resisted, prompting HHH to use a cigarette to burn her left cheek. When AAA refused to hold HHH’s penis, he spanked her with a thick wood. HHH made her lie on her stomach. Thereafter, he inserted his penis in the anal orifice of AAA and told her: “*Manahimik ka minisan lang ito. Katagal tagal mo na itong ginagawa tapos sasabihin mo ito ngayon.*” He licked her vagina and left the room.<sup>21</sup>

At around 12:00 p.m. of May 13, 2014, HHH again instructed AAA to hold his penis. AAA did as instructed, in fear that she would get spanked again. She held his penis tightly as instructed by HHH. He then held AAA’s hands while holding his penis to masturbate. After semen came out of his penis, he inserted his penis into AAA’s vagina.<sup>22</sup> Before HHH left the house at around 7:00 p.m., he again instructed AAA to clean the room. While inside the room, HHH told AAA to lie down, and he inserted his fingers inside her vagina.<sup>23</sup>

Initially, AAA thought of letting the incidents of abuse pass so that HHH would not do the same to her siblings. However, BBB and CCC informed her that they, too, had been abused by HHH. Thus, they reported the incident.<sup>24</sup>

HHH was invited to the barangay hall on May 14, 2014 and was then taken to Police Station 3 in Pulung Maragul, Angeles City.<sup>25</sup>

HHH vehemently denied the charges against him. He averred that on May 13, 2014, at 7:00 p.m., he was in Xevera, Mabalacat, Pampanga, plying his jeepney route. He explained that he would usually start working at 6:00 p.m. and would go home around 5:00 or 5:30 a.m. DDD stayed at her place of employment so when HHH is working, it is the children’s aunt, EEE,<sup>26</sup> who stays with them. HHH maintained that he does not know of any reason why his daughters would accuse him of sexually abusing them.<sup>27</sup>

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<sup>19</sup> Id. at 7-A.  
<sup>20</sup> Id.  
<sup>21</sup> Id.  
<sup>22</sup> Id.  
<sup>23</sup> Id.  
<sup>24</sup> Id. at 79.  
<sup>25</sup> Id.  
<sup>26</sup> Supra note 3.  
<sup>27</sup> CA rollo, pp. 77-77A.

### **Ruling of the Regional Trial Court**

On December 29, 2017, the Regional Trial Court (RTC) rendered its Decision,<sup>28</sup> the dispositive portion of which reads:

WHEREFORE, premises considered, the court renders judgment as follows:

1. In **Criminal Case No. 14-11713**, the court finds accused HHH **GUILTY BEYOND REASONABLE DOUBT** of the crime Rape by Sexual Assault defined in paragraph 2, Article 266-A of the Revised Penal Code, as amended by Republic Act No. 8353 embodied in the Information dated May 15, 2014.

Accordingly, accused HHH is hereby **SENTENCED** to suffer an indeterminate penalty of six (6) years of *prision correccional* as the minimum term to ten (10) years of *prision mayor* as the maximum term, with credit of his preventive imprisonment.

The charge for Violation of Section 10(a) of Republic Act No. 7610 in Criminal Case No. 14-11713 is hereby **DISMISSED**.

Accused HHH is hereby ordered to **INDEMNIFY** private complainant AAA with: (a) civil indemnity in the amount of Thirty thousand pesos (P30,000.00); (b) moral damages in the amount of Thirty thousand pesos (P30,000.00); and (c) exemplary damages in the amount of Twenty five thousand pesos (P25,000.00).<sup>29</sup>

2. In **Criminal Case No. 14-11714**, the court finds accused HHH **GUILTY BEYOND REASONABLE DOUBT** of the crime Rape by Sexual Assault defined in paragraph 2, Article 266-A of the Revised Penal Code, as amended by Republic Act No. 8353 embodied in the Information dated May 15, 2014.

Accordingly, accused HHH is hereby **SENTENCED** to suffer an indeterminate penalty of six (6) years of *prision correccional* as the minimum term to ten (10) years of *prision mayor* as the maximum term, with credit of his preventive imprisonment.

The charge for Violation of Section 10(a) of Republic Act No. 7610 in Criminal Case No. 14-11714 is hereby **DISMISSED**.

Accused HHH is hereby ordered to **INDEMNIFY** private complainant AAA with: (a) civil indemnity in the amount

<sup>28</sup> Penned by Presiding Judge Maria Angelica T. Paras-Quiambao; CA *rollo*, pp. 76-87.

<sup>29</sup> Id. at 86-86-A.

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of Thirty thousand pesos (P30,000.00); (b) moral damages in the amount of Thirty thousand pesos (P30,000.00); (c) exemplary damages in the amount of Twenty five thousand pesos (P25,000.00).<sup>30</sup>

3. In **Criminal Case No. 14-11715**, the court finds accused HHH **GUILTY BEYOND REASONABLE DOUBT** of the crime Rape defined in paragraph 1, Article 266-A of the Revised Penal Code, as amended by Republic Act No. 8353 embodied in the Information dated May 15, 2014.

Accordingly, accused HHH is hereby **SENTENCED** to suffer the penalty of *reclusion perpetua*, with credit of his preventive imprisonment.

Accused HHH is hereby ordered to **INDEMNIFY** private complainant AAA with: (a) civil indemnity in the amount of Seventy five thousand pesos (P75,000.00); (b) moral damages in the amount of Seventy five thousand pesos (P75,000.00); and (c) exemplary damages in the amount of Fifty thousand pesos (P50,000.00).<sup>31</sup>

4. In **Criminal Case No. 14-12400**, the court finds accused HHH **GUILTY BEYOND REASONABLE DOUBT** of the crime Rape defined in paragraph 1, Article 266-A of the Revised Penal Code, as amended by Republic Act No. 8353 embodied in the Information dated June 16, 2014.

Accordingly, accused HHH is hereby **SENTENCED** to suffer the penalty of *reclusion perpetua*, with credit of his preventive imprisonment.

Accused HHH is hereby ordered to **INDEMNIFY** private complainant BBB with: (a) civil indemnity in the amount of Seventy five thousand pesos (P75,000.00); (b) moral damages in the amount of Seventy five thousand pesos (P75,000.00); and (c) exemplary damages in the amount of Fifty thousand pesos (P50,000.00).<sup>32</sup>

5. In **Criminal Case No. 14-12401**, the court finds accused HHH **GUILTY BEYOND REASONABLE DOUBT** of the crime Rape defined in paragraph 1, Article 266-A of the Revised Penal Code, as amended by Republic Act No. 8353 embodied in the Information dated June 16, 2014.

Accordingly, accused HHH is hereby **SENTENCED** to suffer the penalty of *reclusion perpetua*, with credit of his preventive imprisonment.

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<sup>30</sup> Id. at 86-A

<sup>31</sup> Id.

<sup>32</sup> Id.

Accused HHH is hereby ordered to **INDEMNIFY** private complainant BBB with: (a) civil indemnity in the amount of Seventy five thousand (P75,000.00); (b) moral damages in the amount of Seventy five thousand pesos (P75,000.00); and (c) exemplary damages in the amount of Fifty thousand pesos (P50,000.00).<sup>33</sup>

6. In **Criminal Case No. 14-12402**, the court finds accused HHH **GUILTY BEYOND REASONABLE DOUBT** of the crime Rape by Sexual Assault defined in paragraph 2, Article 266-A of the Revised Penal Code, as amended by Republic Act No. 8353, committed with the aggravating/ qualifying circumstances of the accused being the father of the victim, embodied in the Information dated June 16, 2014.

Accordingly, accused HHH is hereby **SENTENCED** to suffer an indeterminate penalty of twelve (12) years of *prision mayor* as the minimum term to twenty years of *reclusion temporal* as the maximum term, with credit of his preventive imprisonment.

The charge for Violation of Section 10(a) of Republic Act No. 7610 in Criminal Case No. 14-12402 is hereby **DISMISSED**.

Accused HHH is hereby ordered to **INDEMNIFY** private complainant CCC with: (a) civil indemnity in the amount of Fifty thousand pesos (P50,000.00); (b) moral damages in the amount of Fifty thousand pesos (P50,000.000); and (c) exemplary damages in the amount of Thirty thousand pesos (P30,000.00).

No costs.<sup>34</sup> (Emphasis, italics, and underscoring in the original)

The RTC found HHH civilly and criminally liable for two counts of Rape by Sexual Assault and one count of Rape by Carnal Knowledge in Criminal Case Nos. 14-11713 to 14-11715.<sup>35</sup> The RTC declined to appreciate the qualifying circumstance of father-daughter relationship in Criminal Case Nos. 14-11713 to 14-11715 as the same was not alleged in the Informations.<sup>36</sup>

In Criminal Case Nos. 14-12400 to 14-12401, HHH was found guilty of two counts of Rape by Carnal Knowledge. Though not alleged in the Information, the RTC considered the father-daughter relationship admitted by HHH to take the place of violence required in Rape by Carnal Knowledge.<sup>37</sup> However, their relationship was not considered as a qualifying circumstance to impose the maximum sentence on HHH.<sup>38</sup>

<sup>33</sup> Id. at 86-A-87

<sup>34</sup> Id. at 87.

<sup>35</sup> Id. at 80-A-82-A.

<sup>36</sup> Id. at 82-A.

<sup>37</sup> Id. at 82-A-84.

<sup>38</sup> Id. at 84.

RTC also convicted HHH of Rape by Sexual Assault in Criminal Case No. 14-12402. The RTC found the medico-legal report reflecting results of the medical examination and testimony of CCC convincing.<sup>39</sup>

On appeal, HHH impugned the findings of the RTC and raised the following errors:

I

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT OF TWO (2) COUNTS OF RAPE BY CARNAL KNOWLEDGE IN CRIMINAL CASE NUMBERS 14-12400 TO 14-12401 AND ONE (1) COUNT OF RAPE BY SEXUAL ASSAULT IN CRIMINAL CASE NUMBER 14-12402, DESPITE THE FACT THAT HIS CONSTITUTIONAL RIGHT TO BE FULLY APPRAISED OF THE CHARGES AGAINST HIM HAS BEEN VIOLATED.

II

THE TRIAL COURT GRAVELY ERRED IN GIVING FULL WEIGHT AND CREDENCE TO THE INCREDULOUS TESTIMONIES OF THE PRIVATE COMPLAINANTS.

III

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT OF THREE (3) COUNTS OF RAPE BY SEXUAL ASSAULT AND THREE (3) COUNTS OF RAPE BY CARNAL KNOWLEDGE DESPITE THE PROSECUTION'S FAILURE TO PROVE THE ELEMENTS THEREOF BEYOND REASONABLE DOUBT.<sup>40</sup>

In the Appellant's Brief,<sup>41</sup> the defense claimed that the Information for Criminal Case Nos. 14-12400, 14-12401, and 14-12402 were defective because these merely alleged that the incidents happened "on or about the year 2012," and "on or about the month of March 2014," depriving HHH of his constitutional right to be informed of the nature and cause of accusation against him.<sup>42</sup> HHH argued that while the date of commission of the crime is not an element of rape, he was deprived of the opportunity to intelligently prepare his defense as he was left to guess on which particular date he had to account for his whereabouts and prove his physical inability to commit the alleged offense.<sup>43</sup> HHH suggested that AAA's testimony is doubtful because

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<sup>39</sup> Id. at 84-85-A.

<sup>40</sup> Id.

<sup>41</sup> Id. at 48-69.

<sup>42</sup> Id. at 59-60.

<sup>43</sup> Id. at 60.

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if it were really true that she was raped on May 13, 2014, AAA should have reported him instead of continuing to live in the same house.<sup>44</sup> HHH further maintained that BBB lacked the necessary discernment to know the seriousness of her accusation and implied that she was coached on what to say.<sup>45</sup> HHH also pointed out that the allegations of rape and molestation are highly unbelievable because these allegedly happened inside their house occupied by five families. HHH insisted that, with the presence of too many people living in the same house, it is incredible and highly unbelievable that the alleged rape of any of the three complainants could have gone on since 2012 unnoticed.<sup>46</sup> HHH also questioned the medico-legal reports presented, arguing that these cannot be used as conclusive proof of his guilt.<sup>47</sup>

On the other hand, in the Appellee's Brief,<sup>48</sup> the Office of the Solicitor General (OSG) maintained that the evidence on record established beyond reasonable doubt that HHH committed three counts of Statutory Rape and three counts of Rape by Sexual Assault.<sup>49</sup> The OSG opined that the alleged improbabilities of the victims' testimonies as to the exact time and date when the rape took place do not detract from the credibility of their testimonies as these merely refer to collateral matters which do not touch upon the commission of the crimes. The OSG explained that, considering the minority of the victims, they were not sophisticated enough to remember every detail of the incidents of abuse as well as the exact dates of their commission.<sup>50</sup> The OSG recommended that the indeterminate penalty should be imposed in its maximum considering the qualifying circumstance of minority and relationship.<sup>51</sup> The OSG also suggested a modification of the award of pecuniary liability pursuant to the Court's ruling in *People v. Jugueta*.<sup>52</sup>

### Ruling of the Court of Appeals

On March 27, 2019, the CA rendered its Decision,<sup>53</sup> the dispositive portion of which reads:

**WHEREFORE**, the appeal of accused-appellant is hereby **DISMISSED** for lack of merit. The Decision dated December 29, 2017 of the Regional Trial Court of Angeles City, Branch 59, convicting him of three (3) counts of Statutory Rape and three (3) counts of Rape through Sexual Assault is **AFFIRMED with MODICIATION** as to the award of damages in Criminal Case Nos. 14-11715, 14-12400 and 14-12401 which shall now be, as follows: civil indemnity in the amount of Php 100,000; moral damages in

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<sup>44</sup> Id. at 63.  
<sup>45</sup> Id. at 63-64.  
<sup>46</sup> Id. at 65.  
<sup>47</sup> Id. at 66.  
<sup>48</sup> Id. at 95-114.  
<sup>49</sup> Id. at 104-110.  
<sup>50</sup> Id. at 111-112.  
<sup>51</sup> Id. at 113.  
<sup>52</sup> Id.  
<sup>53</sup> Supra note 2.

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the amount of Php 100,000.00 and Php 100,000.00 as exemplary damages. As for Criminal Case Nos. 14-11713, 14-11714 and 14-12402, the award shall be increased to Php 75,000.00 as civil indemnity; Php 75,000.00 as moral damages and Php 75,000.00 as exemplary damages. He shall pay an interest of six percent (6%) per *annum* on all damages awarded from the date of finality of this decision until fully paid.

**SO ORDERED.**<sup>54</sup> [Emphasis and italics in the original]

In affirming the conviction of HHH, the CA ruled that the failure to specify the exact date when the rape occurred does not *ipso facto* make the information defective on its face. The CA recognized that rape victims cannot be expected to give an accurate account of the traumatic and horrifying experience they had undergone. For the CA, what is important is that all the complainants were unfaltering in their declaration that they were raped and molested by their own father.<sup>55</sup> The CA also explained that the lack of immediate response from the daughters of HHH or the fact that they continued to live in the same house where he lived did not diminish the veracity or reliability of their testimony. They cannot be expected to immediately flee after the first incident of rape because they were too young, had no money, and had no means to live elsewhere. They submitted to their father's lewdness out of fear.<sup>56</sup>

The CA also held that the claim of BBB was corroborated by the medical findings of Dr. Caranto. The physician established through his physical examination of BBB that he found healed laceration on the 9 o'clock and 8 o'clock areas of BBB's vagina. These could have been caused by a blunt object inserted therein more than seven days ago. He also found that BBB's hymen was no longer present which is unusual for a 13 year old.<sup>57</sup>

The CA also ruled that CCC's testimony is entitled to full faith and credit as there is no showing of any dubious reason or improper motive for her to testify falsely against her own father.<sup>58</sup>

The CA declared that the presence of other occupants of the house is not necessarily a deterrent to the commission of the crime. For the CA, considering the tender age of the victims, their innocence and naivete, they cannot be expected to oppose to what was being done to their other siblings. It is neither impossible nor incredible that HHH raped his daughters unnoticed.<sup>59</sup>

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<sup>54</sup> *Rollo*, pp. 20-21.

<sup>55</sup> *Id.* at 14-15.

<sup>56</sup> *Id.* at 17.

<sup>57</sup> *Id.* at 17-18

<sup>58</sup> *Id.* at 18-19.

<sup>59</sup> *Id.* at 19-20.

On April 8, 2019, HHH filed a Notice of Appeal.<sup>60</sup> The Court notified the parties to file their supplemental briefs.<sup>61</sup> However, HHH opted to adopt his Appellant's Brief as his supplemental brief.<sup>62</sup> For its part, the OSG manifested that it would not file a supplemental brief considering that the issues were already exhaustively discussed in the Decision of the CA and Appellee's Brief.<sup>63</sup>

### Issues

The issues to be resolved are:

1. Whether the Information for Criminal Case Nos. 14-12400, 14-12401, and 14-12402 are defective because these merely alleged that the incidents happened "on or about the year 2012," and "on or about the month of March 2014," depriving HHH of his constitutional right to be informed of the nature and cause of accusation against him;
2. Whether the prosecution established HHH's guilt beyond reasonable doubt in Criminal Case Nos. 14-11713 and 14-11714 for two counts of Rape by Sexual Assault; and for one count of Statutory Rape in Criminal Case No. 14-11715.
3. Whether the prosecution established HHH's guilt beyond reasonable doubt in Criminal Case Nos. 12400, and 14-12401 for two counts of Statutory Rape; and
4. Whether the CA imposed the correct penalties and monetary awards.

### Ruling of the Court

**The Information for Criminal Case Nos. 14-12400 and 14-12401 are not defective. However, HHH should be acquitted in Criminal Case No. 14-12402 for failure to prove that the incident of Rape by Sexual Assault occurred "on or about the month of March 2014."**

HHH asserts that he was deprived of his constitutional right to be informed of the nature and cause of accusation against him because the Information for Criminal Case Nos. 14-12400, 14-12401, and 14-12402

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<sup>60</sup> Id. at 22.  
<sup>61</sup> Id. at 31.  
<sup>62</sup> Id. at 39.  
<sup>63</sup> Id. at 34.

merely alleged that the incidents of abuse happened “on or about the year 2012,” and “on or about the month of March 2014.”<sup>64</sup>

Section 11, Rule 110 of the Rules of Court states:

Section. 11. *Date of Commission of the Offense.* – It is not necessary to state in the complaint or information the precise date the offense was committed except when it is a material ingredient of the offense. The offense may be alleged to have been committed on a date as near as possible to the actual date of its commission.<sup>65</sup>

It is not essential that the date of commission of the offense be alleged in the Information with ultimate precision.<sup>66</sup> In Criminal Case Nos. 14-12400 and 14-12401, while it is true that the Information only alleged “on or about the year 2012” and BBB could not specifically indicate the exact date when the incidents of rape occurred, it is understandable why she was unable to state the specific dates because rape, by itself, is a traumatic experience; more so when it is committed by her very own father. Thus, the fact that the two separate Informations alleged “on or about the year 2012” should not be taken against BBB.

On the other hand, the lower courts committed error in convicting HHH of Rape by Sexual Assault under Article 266-A(2) of the Revised Penal Code (RPC). Noticeably, CCC testified on an alleged incident of abuse that occurred in March 2012. In CCC’s Complaint Judicial Affidavit,<sup>67</sup> she alleged that the incident of abuse occurred in March 2012, as revealed in the following exchange:

T-3. KAILAN AT SAAN NANGYARI AND INSIDENTENG IYON NABANGGIT?

S-3. Noong 11 taong gulang pa lamang ako. Naalala ko nga iyon buwan **Marso taong 2012** ng may gawing masama si papa ko sa akin. Sa mismong bahay namin sa Dist. 6, Blk. 105, Lot 12 Brgy. Pulung-Cacutad Lungsod ng Angeles.

T-4: PAANO NANGYARI ANG INSIDENTENG IYONG NABANGGIT?

S-4: Natutulog ako noon ng gabi ng **Marso** sa hindi ko po matandaang petsa ng taong **2012** ay nagising ako x x x<sup>68</sup>  
(Emphasis supplied)

This fact became even more apparent when CCC testified during trial as revealed in the following exchange:

<sup>64</sup> CA rollo, p. 60.

<sup>65</sup> RULES OF COURT, Rule 110, Sec. 11.

<sup>66</sup> *People v. Jampas*, 610 Phil. 652, 662 (2009).

<sup>67</sup> Records (Criminal Case No. 14-12402), p. 10.

<sup>68</sup> Id.

ATTY. TOKIAS: (to witness)

Q When you executed your Complaint Judicial Affidavit in May 2014, that time, HHH was already in Jail?

A Yes, sir.

Q What you can recall as to the alleged incident was the March 2012 incident?

A Yes, sir.

Q Ang other than that you could not recall what are the other dates of the alleged incident that happened to you?

A **Not anymore.**

Q You mean **after March 2012 nothing happened to you at that time?**

A **None anymore**<sup>69</sup> (Emphasis supplied)

It is clear from the foregoing that after March 2012, nothing happened to CCC. This belies her claim of molestation in March 2014 and is inconsistent with the allegations stated in the Information.

March 2012 is a period outside the date alleged in the Information for Criminal Case No. 14-12402 which describes an incident that occurred "on or about March 2014." This is two years after the incident referred to by CCC in her testimony. It is settled that the Information must indicate a date which is not so remote as to surprise and prejudice the accused.<sup>70</sup> Convicting HHH of an offense committed outside the period alleged in the Information is a violation of his constitutional right to be informed of the nature and cause of accusation against him.

**The prosecution established HHH's guilt beyond reasonable doubt in Criminal Case Nos. 14-11713 and 14-11714 for two counts of Rape by Sexual Assault, and one count of Statutory Rape in Criminal Case No. 14-11715.**

After a careful review of the records of this case, the Court finds no cogent reason to reverse the rulings of the RTC and the CA finding HHH guilty of the acts charged against him in Criminal Case Nos. 14-11713, 14-11714 and 14-11715. However, a modification of the nomenclature of the offenses committed in Criminal Case Nos. 14-11713 and 14-11714 is in order.

<sup>69</sup> TSN dated September 9, 2015, p. 9.

<sup>70</sup> *People v. Jampas*, supra note 61.

There is a need to clarify the proper nomenclature of the offenses HHH is charged with in Criminal Case No. 14-11713 and 14-11714 for purposes of uniformity. In Criminal Case Nos. 14-11713 and 14-11714, instead of Rape by Sexual Assault, HHH should be held liable for Sexual Assault under Article 266-A (2) of RPC in relation to Section 5(b) of Republic Act No. (R.A.) 7610.<sup>71</sup> In *People v. Tulagan*,<sup>72</sup> the Court explained that:

Considering the development of the crime of sexual assault from a mere "crime against chastity" in the form of acts of lasciviousness to a "crime against persons" akin to rape, as well as the rulings in *Dimakuta* and *Caoli*, We hold that **if the acts constituting sexual assault are committed against a victim under 12 years of age or is demented, the nomenclature of the offense should now be "Sexual Assault under paragraph 2, Article 266-A of the RPC in relation to Section 5 (b) of R.A. No. 7610"** and no longer "Acts of Lasciviousness under Article 336 of the RPC in relation to Section 5 (b) of R.A. No. 7610," because sexual assault as a form of acts of lasciviousness is no longer covered by Article 336 but by Article 266-A (2) of the RPC, as amended by R.A. No. 8353. Nevertheless, the imposable penalty is still *reclusion temporal* in its medium period, and not *prision mayor*.<sup>73</sup> (Emphasis supplied)

The reliance of the RTC and the CA in the testimony of AAA was proper as it was clear and categorical. Her claim was also supported by the Medico-Legal Report<sup>74</sup> prepared by Dr. Nae Ann V. Mandal (Dr. Mandal) who conducted a physical examination on AAA, the pertinent portion of which states:

Circular abrasion, 1 x 1cm cheek left.  
 Tanner stage 1 breast.  
 Tanner stage 1 external genitalia hair distribution.  
 GENITALIA: Labia minora erythematous.  
                   Cervical laceration, incomplete healed 12  
                                   o'clock,  
                                   6 o'clock, 3 o'clock, and 9 o'clock position.  
 DRE: Full rectal vault  
                   Non erythematous.<sup>75</sup>

Noticeably, the medical findings of Dr. Mandal supports the claim of AAA that HHH burned her left cheek with a cigarette when she initially refused to submit to HHH's carnal desire.<sup>76</sup> This is consistent with AAA's

<sup>71</sup> Id.

<sup>72</sup> G.R. No. 227363, March 12, 2019.

<sup>73</sup> Id.

<sup>74</sup> Records (Criminal Case Nos. 14-11713 to 14-11715), p. 18.

<sup>75</sup> Id.

<sup>76</sup> CA rollo, p. 79.

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claim on how she sustained her facial injury. Dr. Mandal also confirmed that the cervical laceration she noted could have been caused by a foreign object such as a finger, a penis or any hard object.<sup>77</sup>

From the testimonies of the prosecution witnesses, the elements of the crime of statutory rape under Article 266-A of the RPC. Statutory rape is committed when: (1) the offended party is under 12 years of age; and (2) the accused had carnal knowledge of her, regardless of whether there was force, threat or intimidation, whether the victim was deprived of reason or consciousness, or whether it was done through fraud or grave abuse of authority. It is termed Statutory Rape as it departs from the usual modes of committing rape. The law presumes that the victim does not and cannot have a will of her own on account of her tender years. What the law punishes in Statutory Rape is carnal knowledge of a woman below 12 years old. Thus, force, intimidation, and physical evidence of injury are not relevant considerations; the only pertinent concern is the age of the woman and whether carnal knowledge indeed took place.<sup>78</sup>

Meanwhile, the following are the elements of Rape by Sexual Assault under Article 266-A(2) of the RPC:

- (1) That the offender commits an act of sexual assault;
- (2) That the act of sexual assault is committed by any of the following means:
  - (a) By inserting his penis into another person's mouth or anal orifice; or
  - (b) By inserting any instrument or object into the genital or anal orifice of another person;**
- (3) That the act of sexual assault is accomplished under any of the following circumstances:
  - (a) By using force and intimidation;
  - (b) When the woman is deprived of reason or otherwise unconscious; or
  - (c) By means of fraudulent machination or grave abuse of authority; or
  - (d) When the woman is under 12 years of age or demented.**<sup>79</sup> (Emphasis supplied)

All the foregoing elements for the offenses charged against HHH were proven beyond reasonable doubt. Notwithstanding her youth and innocence, AAA was able to narrate in detail her traumatic experience in the hands of HHH who ravished and sexually molested her. She convincingly recounted her harrowing experience on May 13, 2014. At 7:00 a.m., HHH he made her lie on a mat, instructed her to hold his penis and threatened to burn her face with a cigarette if she did not follow. When she refused to obey him, HHH used a cigarette to burn her left cheek. When AAA refused again to hold HHH's penis, he spanked her with a thick wood. HHH made her lie on her stomach. Thereafter, he inserted his penis in the anal orifice of AAA and

<sup>77</sup> Id. at 75-A.

<sup>78</sup> *People v. Manson*, 801 Phil. 130-141 (2016).

<sup>79</sup> REVISED PENAL CODE, Article 266-A, paragraph 2.

licked her vagina. At around 12:00 p.m. on May 13, 2014, HHH again instructed AAA to hold his penis. AAA did as instructed for fear that HHH would hurt her again. She held his penis tightly as instructed. He then held AAA's hands while holding his penis to masturbate. After semen came out of his penis, he inserted his penis into AAA's vagina. Before HHH left the house at around 7:00 p.m., he again instructed AAA to clean the room. While inside the room, HHH told AAA to lie down and inserted his fingers inside her vagina.

**The prosecution established HHH's guilt beyond reasonable doubt in Criminal Case Nos. 14-12400, and 14-12401 for two counts of Statutory Rape. [BBB complaint]**

In Criminal Case No. 14-12400 and 14-12401, the prosecution was able to establish beyond reasonable doubt that HHH had carnal knowledge of BBB on two incidents in 2009, when BBB was just 10 years old. BBB convincingly relayed how HHH molested her. BBB's testimony is further bolstered by the findings of Dr. Caranto, which confirmed the injuries she sustained. Dr. Caranto's report stated:

|                        |                                                            |
|------------------------|------------------------------------------------------------|
| SKIN:                  | (-) Bite marks.                                            |
| HEENT:                 | A traumatic.                                               |
| CHEST/LUNHGS:          | SCE, CBS                                                   |
| HEART:                 | (-) murmur                                                 |
| ABDOMEN:               | Flat non-tender                                            |
| GENITALIA:             | Internal: (+) Abrasion all over vaginal canal<br>(-) Hymen |
| EXTERNAL:              | Tanner tage 1                                              |
| EXTREMITIES:           | No bipedal edema                                           |
| BREADT ( <i>sic</i> ): | Tanner stage 1. <sup>80</sup>                              |

**The testimonies of the private complainants are not doubtful despite the fact that they continued to live with HHH after the first incident of abuse.**

The fact that HHH's daughters continued to live with him after the alleged incidents of abuse should not be taken against them. It must be remembered that no child has equal power to say 'no' to a parental figure and understand the consequences of sexual involvement with an adult. The threat of loss of family security may be more frightening to a child than the threat of violence.

More importantly, it is settled that testimonies of child victims are given full weight and credit, because when a woman, more so if she is a minor, says that she has been raped, she says in effect all that is necessary to

<sup>80</sup> Records (Criminal Case Nos. 14-11713 to 14-11715), p. 59.

show that rape was committed. Youth and immaturity are generally badges of truth and sincerity.<sup>81</sup> It is incredible to believe that HHH's daughters would concoct a story that would send their father to jail, allow an examination of their private parts, and permit themselves to be subjected to a public trial, unless they are motivated solely by the desire to have their own father punished for his transgressions.

To Our mind, the positive and categorical testimonies of AAA and BBB are consistent with the other pieces of evidence presented by the prosecution to prove the abuse they suffered in the hands of their father. When a rape victim's testimony is straightforward and candid, unshaken by rigid cross-examination and unflawed by inconsistencies or contradictions in its material points, the same must be given full faith and credit.

Although it is admitted that HHH and his family shared a house with other families, this fact did not make it impossible for the crimes to be committed. The Court has recognized that many incidents of rape were not always committed in secluded places. As aptly stated by the Court, "lust is no respecter of time or place, and rape defies constraints of time and space."<sup>82</sup>

### Imposable Penalties & Damages

It must be clarified that, while HHH admitted and it was proven during trial that he is the father of AAA, BBB, and CCC, the qualifying circumstance of relationship cannot be appreciated by the Court. Section 8, Rule 110 of the Rules expressly require that:

Section 8. *Designation of the offense.* – The complaint or information shall state the designation of the offense given by the statute, aver the acts or omissions constituting the offense, and specify its qualifying and aggravating circumstances. If there is no designation of the offense, reference shall be made to the section or subsection of the statute punishing it. (Emphasis and italics in the original; underscoring supplied)

Accordingly, even if established during trial, the qualifying circumstance of relationship cannot affect the penalty to be imposed on HHH. He cannot be convicted of the graver offense of qualified rape, although proven, because relationship was neither alleged nor necessarily included in the six Informations filed against him.<sup>83</sup>

The lower courts committed error in applying *prision mayor*, as stated in Article 266-B of the RPC, in ascertaining the indeterminate penalty to be imposed on HHH for the two counts of Sexual Assault under Article 266-A(2) of the RPC in relation to Section 5(b) of R.A. 7610 in Criminal Case

<sup>81</sup> *People v. Vergara*, 724 Phil. 702, 709 (2014).

<sup>82</sup> *People v. Pareja*, 724 Phil. 759, 777 (2014).

<sup>83</sup> *People v. Dadulla*, 657 Phil. 442, 457 (2011).

Nos. 14-11713, 14-11714 and 14-12402. In *Franco y Eslaban v. People*<sup>84</sup>, the Court explained:

In the case of *People of the Philippines v. Rolando Bagsic y Valenzuela*, the Court, citing the case of *People v. Ching*, stressed that an accused who is found guilty of sexual assault committed against a child below 12 years of age shall suffer the higher penalty of *reclusion temporal* in its medium period, as provided for in Section 5 (b), Article III of R.A. No. 7610, rather than *prision mayor* under Article 266-B of the RPC[.]<sup>85</sup> [Italics in the original, citations omitted]

Similarly, in *People v. Tulagan*,<sup>86</sup> the Court adopted the impossible penalty of *reclusion temporal* in its medium period instead of applying the penalty under Article 266-B of the RPC. Thus, it is settled that the impossible penalty for Sexual Assault under Article 266-A(2) of the Revised Penal Code in relation to Section 5(b) of R.A. 7610 is *reclusion temporal* in its medium period. HHH, who is found guilty of sexual assault committed against a child below 12 years of age in Criminal Case Nos. 14-11713, 14-11714 and 14-12402, shall suffer the higher penalty of *reclusion temporal* in its medium period, as provided for in Section 5(b), Article III of R.A. 7610.

Applying the Indeterminate Sentence Law, the maximum term shall be taken from the medium period of *reclusion temporal* in its medium period, which is 15 years, 6 months and 20 days to 16 years, 5 months and 9 days; while the minimum term is within the range of the penalty next lower than that prescribed by law, which is 12 years and 1 day to 14 years and 8 months of *reclusion temporal* in its minimum period. Accordingly, in Criminal Case Nos. 14-11713 and 14-11714, HHH is sentenced to suffer the indeterminate penalty ranging from 14 years and 8 months of *reclusion temporal* in its minimum period, as minimum, to 16 years, 5 months and 9 days of *reclusion temporal* in its medium period, as maximum.

In Criminal Case Nos. 14-11715, 14-12400, and 14-12401 for Rape under Article 266-A(1) in relation to Article 266-B of the RPC, We affirm that HHH should suffer the penalty of *reclusion perpetua* in accordance with paragraph 1 (d), Article 266-A in relation to Article 266-B of the RPC, as amended by R.A. 8353.

In accordance with the Court's ruling in *People v. Tulagan*,<sup>87</sup> HHH is directed to pay the amounts of ₱50,000.00 as civil indemnity, ₱50,000.00 as moral damages, and ₱50,000.00 as exemplary damages for each count of Sexual Assault under Article 266-A(2) of the Revised Penal Code in relation to Section 5(b) of R.A. 7610 in Criminal Case Nos. 14-11713 and 14-11714. The monetary award granted in Criminal Case Nos. 14-14715, 14-12400, and 14-12401 are consistent with prevailing jurisprudence.

<sup>84</sup> G.R. No. 240480 (Notice), March 13, 2019.

<sup>85</sup> Id.

<sup>86</sup> Supra note 72.

<sup>87</sup> Id.

**WHEREFORE**, premises considered, the assailed Decision dated March 27, 2019 of the Court of Appeals in CA-G.R. CR-HC No. 10435 is hereby **SET ASIDE**. We find accused-appellant HHH:

1. **GUILTY** beyond reasonable doubt of two (2) counts of Sexual Assault under Article 266-A(2) of the Revised Penal Code in relation to Section 5(b) of Republic Act No. 7610 in Criminal Case Nos. 14-11713 and 14-11714. For each count, accused-appellant HHH is sentenced to suffer the indeterminate penalty ranging from fourteen (14) years and eight (8) months of *reclusion temporal* in its minimum period, as minimum, to sixteen (16) years, five (5) months and nine (9) days of *reclusion temporal* in its medium period, as maximum. Accused-appellant HHH is **ORDERED** to pay AAA the amounts of ₱50,000.00 as civil indemnity, ₱50,000.00 as moral damages, and ₱50,000.00 as exemplary damages for each count.

2. **GUILTY** beyond reasonable doubt of three counts of Statutory Rape under Article 266-A(1) in relation to Article 266-B of the Revised Penal Code in Criminal Case Nos. 14-11715, 14-12400, and 12401. For each count, accused-appellant HHH is sentenced to suffer the penalty of *reclusion perpetua*. In Criminal Case No. 14-11715, Accused-appellant HHH is **ORDERED** to pay AAA the amounts of ₱100,000.00 as civil indemnity, ₱100,000.00 as moral damages, and P100,000.00 as exemplary damages. In Criminal Case Nos. 14-12400 and 14, 12401, accused-appellant HHH is **ORDERED** to pay BBB the amounts of ₱100,000.00 as civil indemnity, ₱100,000.00 as moral damages, and ₱100,000.00 as exemplary damages, for each count.

In Criminal Case No. 14-12402, accused-appellant HHH is **ACQUITTED** for failure to prove his guilt beyond reasonable doubt.

Legal interest of six percent (6%) *per annum* is imposed on all damages awarded from the date of finality of this Decision until fully paid.

**SO ORDERED.**

  
ROSMARI D. CARANDANG  
Associate Justice

**WE CONCUR:**

  
**MARVIC MARIO VICTOR F. LEONEN**  
*Associate Justice*

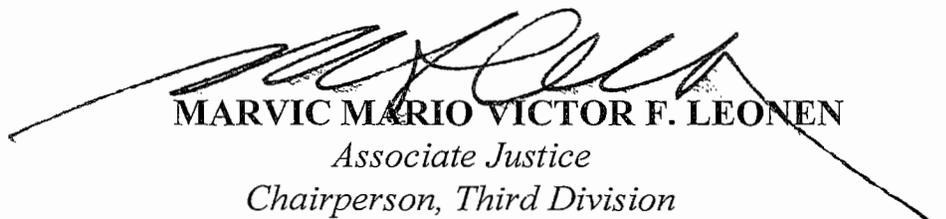
  
**ALEXANDER G. GESMUNDO**  
*Associate Justice*

  
**RODIL V. ZALAMEDA**  
*Associate Justice*

  
**SAMUEL H. GAERLAN**  
*Associate Justice*

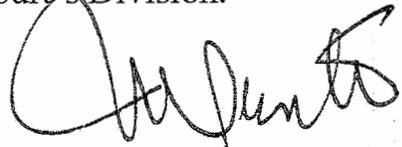
**ATTESTATION**

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.

  
**MARVIC MARIO VICTOR F. LEONEN**  
*Associate Justice*  
*Chairperson, Third 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.

**DIOSDADO M. PERALTA***Chief Justice*