



Republic of the Philippines  
**Supreme Court**  
 Manila

**FIRST DIVISION**

**PEOPLE OF THE PHILIPPINES,**      **G.R. No. 229937**  
 Plaintiff-appellee,

Present:

- versus -

PERALTA, C.J., *Chairperson,*  
 CAGUIOA,  
 CARANDANG,  
 ZALAMEDA, and  
 GAERLAN, JJ.

**BBB,**<sup>1</sup>  
 Accused-appellant.

Promulgated:

**DEC 02 2020**

X-----X

**RESOLUTION**

**CAGUIOA, J.:**

This is an Appeal,<sup>2</sup> filed pursuant to Section 2, Rule 125 in relation to Section 3, Rule 56 of the Revised Rules of Court, from the Decision<sup>3</sup> dated

<sup>1</sup> The identity of the victims or any information which could establish or compromise their identities, as well as those of their immediate family or household members, shall be withheld pursuant to Republic Act No. (R.A.) 7610, titled "AN ACT PROVIDING FOR STRONGER DETERRENCE AND SPECIAL PROTECTION AGAINST CHILD ABUSE, EXPLOITATION AND DISCRIMINATION, AND FOR OTHER PURPOSES," approved on June 17, 1992; R.A. 9262, titled "AN ACT DEFINING VIOLENCE AGAINST WOMEN AND THEIR CHILDREN, PROVIDING FOR PROTECTIVE MEASURES FOR VICTIMS, PRESCRIBING PENALTIES THEREFOR, AND FOR OTHER PURPOSES," approved on March 8, 2004; and Section 40 of Administrative Matter (A.M.) No. 04-10-11-SC, otherwise known as the "RULE ON VIOLENCE AGAINST WOMEN AND THEIR CHILDREN" (November 15, 2004). (See footnote 4 in *People v. Cadano, Jr.*, 729 Phil. 576, 578 (2014), citing *People v. Lomaque*, 710 Phil. 338, 342 [2013]. See also Amended Administrative Circular No. 83-2015, titled "PROTOCOLS AND PROCEDURES IN THE PROMULGATION, PUBLICATION, AND POSTING ON THE WEBSITES OF DECISIONS, FINAL RESOLUTIONS, AND FINAL ORDERS USING FICTITIOUS NAMES/PERSONAL CIRCUMSTANCES," dated September 5, 2017; and *People v. XXX and YYY*, G.R. No. 235652, July 9, 2018, 871 SCRA 424.)

<sup>2</sup> *Rollo*, pp. 24-25. Notice of Appeal dated October 3, 2016.

<sup>3</sup> Id. at 3-23. Penned by Associate Justice Maria Filomena D. Singh and concurred in by Associate Justices Edgardo A. Camello and Perpetua T. Atal-Paño.

September 22, 2016 (assailed Decision) of the Court of Appeals, Twenty-Second Division (CA), in CA-G.R. CR-HC No. 01333-MIN. The assailed Decision affirmed, with modification, the Joint Decision<sup>4</sup> dated August 28, 2014 rendered by the Regional Trial Court of SSS, Zamboanga del Norte, Branch 11 (RTC), in Criminal Cases Nos. 624, 625, 626, 627, and 628, which found accused-appellant BBB (BBB) guilty beyond reasonable doubt of four counts<sup>5</sup> of rape with the qualifying aggravating circumstance of relationship and minority of the victim.<sup>6</sup>

The accusatory portions of the Informations against BBB read:

Criminal Case No. 624

“That in the morning, on or about the 2<sup>nd</sup> day of February, 1995, in the Municipality of [ZZZ], Zamboanga del Norte, within the jurisdiction of this Honorable Court, the said accused, by means of force and intimidation, did then and there willfully, unlawfully and feloniously succeed in having sexual intercourse with his own daughter [AAA], a 14-year old minor, against her will and without her consent.

CONTRARY TO LAW, (Viol. of Art. 335 of the Revised Penal Code, in relation to R.A. 7610), with the following aggravating/qualifying circumstances: that the victim is under eighteen (18) years of age and the defendant is a parent of the victim.”

Criminal Case No. 625

“That in the evening, on or about the 4<sup>th</sup> day of February, 1995, in the Municipality of [ZZZ], Zamboanga del Norte, within the jurisdiction of this Honorable Court, the said accused, by forcing the victim to take sleeping pill (sic), did then and there willfully, unlawfully and feloniously succeed in having sexual intercourse with his own daughter AAA, a 14-year old minor, against her will and without her consent.

CONTRARY TO LAW, (Viol. of Art. 335 of the Revised Penal Code, in relation to R.A. 7610), with the following aggravating/qualifying circumstances: that the victim is under eighteen (18) years of age and the defendant is a parent of the victim.”

Criminal Case No. 626

“That in the evening, on or about the 15<sup>th</sup> day of December, 1995, in the Municipality of [ZZZ], Zamboanga del Norte, within the jurisdiction of this Honorable Court, the said accused, by means of force and intimidation, did then and there willfully, unlawfully and feloniously succeed in having sexual intercourse with his own daughter [AAA], a 15-year old minor, against her will and without her consent.

<sup>4</sup> CA rollo, pp. 38-63. Penned by Presiding Judge Reyamar L. Lacaya.

<sup>5</sup> In Criminal Case No. 625, BBB was acquitted; id. at 63.

<sup>6</sup> CA rollo, p. 63.

CONTRARY TO LAW, (Viol. of Art. 335 of the Revised Penal Code, in relation to R.A. 7610), with the following aggravating/qualifying circumstances: that the victim is under eighteen (18) years of age and the defendant is a parent of the victim."

Criminal Case No. 627

"That in the evening, on or about the 15<sup>th</sup> day of January, 1996, in the Municipality of [ZZZ], Zamboanga del Norte, within the jurisdiction of this Honorable Court, the said accused, by means of force and intimidation, did then and there willfully, unlawfully and feloniously succeed in having sexual intercourse with his own daughter [AAA], a 15-year old minor, against her will and without her consent.

CONTRARY TO LAW, (Viol. of Art. 335 of the Revised Penal Code, in relation to R.A. 7610), with the following aggravating/qualifying circumstances: that the victim is under eighteen (18) years of age and the defendant is a parent of the victim."

Criminal Case No. 628

"That on or about the 30<sup>th</sup> day of August, 1997, in the Municipality of [ZZZ], Zamboanga del Norte, within the jurisdiction of this Honorable Court, the said accused, by means of force and intimidation, did then and there willfully, unlawfully and feloniously succeed in having sexual intercourse with his own daughter [AAA], a 16-year old minor, against her will and without her consent.

CONTRARY TO LAW, (Viol. of Art. 335 of the Revised Penal Code, in relation to R.A. 7610), with the following aggravating/qualifying circumstances: that the victim is under eighteen (18) years of age and the defendant is a parent of the victim."<sup>7</sup>

Upon arraignment, BBB pleaded "not guilty."<sup>8</sup> Trial on the merits ensued thereafter.

### The Facts

The CA summarized the facts as follows:

The prosecution presented the victim AAA and her mother CCC, who testified on the following facts:

On 2 February 1995, AAA, who was then 14 years old, was left by her mother in their house at YYY, ZZZ, Zamboanga del Norte, with her siblings and her father. On that day, poking a knife at her, she was told by her father to sit on a sewing machine located at the second floor of their house. She was thereafter told to remove her short pants and her panty. AAA tried to resist but her father pointed the knife on her side prompting her to

<sup>7</sup> Rollo, pp. 4-5.

<sup>8</sup> Id. at 6.

accede to her father's command. BBB then proceeded to insert his penis into her vagina while covering her mouth and while holding a knife to prevent her from shouting. She was told by her father after that she should not tell her mother and siblings about what happened, otherwise, he would kill them.

On 15 December 1995, AAA, who was then 15 years old, was left in their house with her father as she was not allowed by him to go to the celebration of the Araw ng Barangay UUU which was taking place two kilometers away from their house. At around 6:00 o'clock in the evening, she was threatened by a scythe by her father and was told to undress, or else she will be hurt. While lying on the floor, she was once again raped by her father until he reached his orgasm. Thereafter, she was told by her father that if her mother learns of what happened, he will kill all of them.

On 15 January 1996, AAA, together with her mother and her siblings, went to Brgy. TTT to watch the activities in connection with the celebration of the Araw ng TTT. However, 30 minutes after their arrival, she was fetched by her father and was told to go home with him. At first, she resisted as she wanted to watch the celebrations but her father pulled her towards his motorcycle, and she was thereafter brought home. After their arrival in their house, AAA was told by her father to proceed upstairs. Once inside the room in the second floor of their house, she was once again told by her father to undress. After refusing to follow her father's command, his father got a scythe and poked it at her. Because of this, she once again acceded to her father's command to undress and to lie down on the floor where her father once again sexually molested her.

On the morning of 30 August 1997, AAA and her father were left alone in their house. Her father once again told her to go upstairs. After refusing to obey his command, his father got a scythe and poked it at her, which forced her to follow her father's command. Once inside the room, [her] father asked her to undress. Again, she refused, but her father proceeded to poke the scythe that he was holding at her, and threatened her that he will kill her if she does not obey him. When she was already lying on the floor, she told her father not to rape her because she is his daughter, to which her father replied that it would be better that it is him who will use her and not other people. Thereafter, her father once again raped her.

BBB denied that he raped his daughter AAA. He claimed that all the charges against him are lies, and what motivated his daughter to file the charges was because she got mad at him for not giving her money when she asked for it, and also she got mad at him because he punished her before by hitting her with a pipe. BBB further claimed that it was AAA's mother, CCC, who instigated her to file the charges because she was suspicious that BBB had another woman.

In his defense, BBB testified that on 2 February 1995, when the alleged rape subject of Criminal Case No. 624 took place, he was at Brgy. XXX, ZZZ, Zamboanga del Norte working as a maker of hollow blocks. The site of his workplace is about 20 kilometers away from their house in YYY. He claimed that he left YYY to go to XXX on 10 January 1995 and only returned home on 14 February 1995.

On 15 December 1995, when the rape subject matter of Criminal Case No. 626 allegedly occurred, BBB claimed that he was in his brother's house in WWW helping to assemble his motor. He claimed that he left their house on 10 December 1995, and only returned on 20 December 1995.

On 15 January 1996, when the rape subject of Criminal Case No. 627 was supposed to have been committed, BBB claimed that he stayed for five days in Brgy. VVV to harvest the coconuts in his father's one-hectare land.

On 30 August 1997, when the last rape incident under Criminal Case No. 628 allegedly happened, BBB claimed that he was in Malaysia. According to him, he stayed in Malaysia for five years from the time that he left on 20 May 1997.<sup>9</sup>

### *The Ruling of the RTC*

In its Joint Decision<sup>10</sup> dated August 28, 2014, the RTC found BBB guilty beyond reasonable doubt of four counts of rape but acquitted him in Criminal Case No. 625. The dispositive portion of which reads:

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

1. In Criminal Case No. 625, accused [BBB] is *acquitted* of the offense charge based on reasonable doubt, with cost *de officio*; and

2. In Criminal Case Nos. 624, 626, 627 and 628, the Court finds accused [BBB] *guilty beyond reasonable doubt* and as principal of four (4) counts of rape with the existence of the aggravating circumstances of relationship and minority of the victim and hereby sentences him to suffer the penalty of *reclusion perpetua* in each case without eligibility [for] parole.

Further, the accused is sentenced to pay private complainant AAA the amount of [P]75,000.00 as civil indemnity, and the amount of [P]50,000.00 as moral damages in each case. Finally[,] accused is sentenced to pay the costs of suit.

The accused being a detention prisoner, he shall be credited the preventive imprisonment he has undergone in the service of his sentence.

**SO ORDERED.**<sup>11</sup>

BBB appealed to the CA *via* a Notice of Appeal dated September 15, 2014.<sup>12</sup> He filed his Brief on March 25, 2015,<sup>13</sup> while the People, through the

<sup>9</sup> Id. at 6-8.

<sup>10</sup> CA *rollo*, pp. 38-63.

<sup>11</sup> Id. at 63. Emphasis in the original.

<sup>12</sup> Id. at 10-11.

<sup>13</sup> Id. at 19-36.

Office of the Solicitor General (OSG), filed an Appellee's Brief on August 12, 2015.<sup>14</sup>

### *The Ruling of the CA*

In the assailed Decision,<sup>15</sup> the CA affirmed, with modification, the RTC's Decision as follows:

**WHEREFORE**, the appeal is hereby **DENIED**. The Decision of Branch 11 of the Regional Trial Court of SSS, Zamboanga del Norte dated 28 August 2014 is hereby **AFFIRMED WITH MODIFICATION**. BBB is found **GUILTY** beyond reasonable doubt of four counts of **RAPE** in Criminal Case Nos. 624, 626, 627, and 628 and is hereby sentenced to *reclusion perpetua*, in lieu of death, without eligibility [for] parole, for each of these four counts of rape. He is also ordered to pay the victim One Hundred Thousand Pesos ([P]100,000.00) as civil indemnity *ex delicto* for each count of rape, One Hundred Thousand Pesos ([P]100,000.00) as moral damages for each count of rape, and One Hundred Thousand Pesos ([P]100,000.00) as exemplary damages for each count of rape.

**SO ORDERED.**<sup>16</sup>

The CA found that the prosecution was able to establish by proof beyond reasonable doubt all the elements of rape. It likewise found no cogent reason to depart from the findings of the RTC as to the credibility of AAA and upheld her testimony as against the denial and alibi of BBB. However, following prevailing jurisprudence, the CA modified the award of damages ordered by the RTC.<sup>17</sup>

Hence, this recourse.

BBB filed a Manifestation in Lieu of Supplemental Brief<sup>18</sup> dated August 14, 2017 while the People filed a Manifestation and Motion<sup>19</sup> dated August 8, 2017, both foregoing their respective rights to file supplemental briefs, their respective briefs filed with the CA having already exhausted all of their arguments in the present case.

### **Issue**

The main issue for resolution of the Court is whether the RTC and the CA erred in convicting BBB of four counts of rape.

### **The Court's Ruling**

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<sup>14</sup> Id. at 73-98.

<sup>15</sup> *Rollo*, pp. 3-23.

<sup>16</sup> Id. at 22-23.

<sup>17</sup> Id. at 10-22.

<sup>18</sup> Id. at 41-42.

<sup>19</sup> Id. at 36-37.



The appeal lacks merit.

*BBB may only be prosecuted for the crime of Rape under the Revised Penal Code (RPC), not sexual abuse under Section 5 of Republic Act No. (R.A.) 7610.*

At the outset, the Court observes that the four Informations subject of the present appeal, all alleging sexual intercourse “by means of force and intimidation,” charged BBB of violation “of Art. 335 of the [RPC] in relation to R.A. 7610.” A perusal, however, of the said Informations reveal that the crime charged is, and that BBB may only be prosecuted for, rape under the RPC and not likewise violation of R.A. 7610, specifically Section 5<sup>20</sup> thereof.

Considering the dates when the subject rape incidents occurred, Article 335<sup>21</sup> of the RPC, prior to its amendment by R.A. 8353,<sup>22</sup> applies. Under this provision, the relevant elements of rape are: (a) the offender had carnal knowledge of the victim; and (b) said carnal knowledge was accomplished through the use of force or intimidation.<sup>23</sup>

Upon the other hand, the elements of Section 5(b) of R.A. 7610 are:

- 1) Offender is a man;
- 2) who indulges in sexual intercourse with a female child exploited in prostitution or other sexual abuse, who is 12 years old or below 18, or above 18 years old, under special circumstances;<sup>24</sup> and

<sup>20</sup> Sec. 5 of R.A. 7610 provides:

*Sec. 5. Child Prostitution and Other Sexual Abuse.* – Children, whether male or female, who for money, profit, or any other consideration or **due to the coercion or influence of any adult, syndicate or group, indulge in sexual intercourse or lascivious conduct, are deemed to be children exploited in prostitution and other sexual abuse.**

The penalty of *reclusion temporal* in its medium period to *reclusion perpetua* shall be imposed upon the following:

(a) Those who engage in or promote, facilitate or induce child prostitution which include, but are not limited to, the following:

x x x x

(4) Threatening or using violence towards a child to engage him as a prostitute; or

x x x x

(b) **Those who commit the act of sexual intercourse of lascivious conduct with a child exploited in prostitution or subjected to other sexual abuse[.]** x x x (Emphasis supplied)

<sup>21</sup> Art. 335 of the RPC states:

*ARTICLE 335. When and how rape is committed.* — Rape is committed by having carnal knowledge of a woman under any of the following circumstances:

**1. By using force or intimidation[.]**

x x x x (Emphasis supplied)

<sup>22</sup> Otherwise known as the “ANTI-RAPE LAW OF 1997,” approved on September 30, 1997.

<sup>23</sup> *People v. Alejandro*, G.R. No. 225608, March 13, 2017, 820 SCRA 189, 199-200.

<sup>24</sup> Under Article 1, Section 3 of R.A. 7610, Children is referred as:

**SEC. 3. Definition of Terms.—**

(a) “**Children**” refers to person[s] below eighteen (18) years of age or those over but are unable to fully take care of themselves or protect themselves from

3) Coercion or influence of any adult, syndicate or group is employed against the child to become a prostitute.<sup>25</sup>

As regards the second element of Section 5(b), a “child exploited in prostitution or other sexual abuse” is one who, for money or profit or any other consideration, or due to the coercion or influence of any adult, syndicate or group, indulge in sexual intercourse or lascivious conduct.

Regarding the coercion or influence in the third element of Section 5(1), the same is exerted upon the child to indulge in sexual intercourse NOT by the offender (who engaged in sexual intercourse with the child) but by another “adult, syndicate or group” whose liability is found in Section 5(a) of the same law for engaging in, promoting, facilitating or inducing child prostitution.<sup>26</sup>

Hence, where the victim is below 18 years old and the charge is carnal knowledge through force, threat or intimidation, the accused must be prosecuted under the RPC.<sup>27</sup> In the instances that the information wrongfully designates the crime as rape under the RPC in relation to Section 5(b) of R.A. 7610, like in the present case, the accused must still be prosecuted pursuant to the RPC. This is not only because the elements of the crimes are different, as explained, but likewise that the graver penalty provided under the RPC furthers the avowed policy of the Congress in enacting R.A. 7610. The Court, in *People v. Tulagan*<sup>28</sup> (*Tulagan*), expounded on this thus:

x x x “[F]orce, threat, or intimidation” is the element of rape under the RPC, while “due to coercion or influence of any adult, syndicate or group” is the operative phrase for a child to be deemed “exploited in prostitution or other sexual abuse,” which is the element of sexual abuse under Section 5(b) of R.A. No. 7610. The “coercion or influence” is not the reason why the child submitted herself to sexual intercourse, but it was utilized in order for the child to become a prostitute. Considering that the child has become a prostitute, the sexual intercourse becomes voluntary and consensual because that is the logical consequence of prostitution as defined under Article 202 of the RPC, as amended by R.A. No. 10158 where the definition of “prostitute” was retained by the new law[.]

x x x x

**Therefore, there could be no instance that an Information may charge the same accused with the crime of rape where “force, threat or intimidation” is the element of the crime under the RPC, and, at the same time[,] violation of Section 5(b) of R.A. No. 7610 where the victim indulged in sexual intercourse because she is exploited in prostitution**

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abuse, neglect, cruelty, exploitation or discrimination because of a physical or mental disability or condition[.]

x x x x

<sup>25</sup> *People v. Tulagan*, G.R. No. 227363, March 12, 2019, 896 SCRA 307, 387.

<sup>26</sup> *Id.* at 386; *J. Caguioa*, Concurring and Dissenting Opinion, *id.* 535-536.

<sup>27</sup> *Id.* at 384.

<sup>28</sup> *Supra* note 25.

either “for money, profit or any other consideration or due to coercion or influence of any adult, syndicate or group” — the phrase which qualifies a child to be deemed “exploited in prostitution or other sexual abuse” as an element of violation of Section 5(b) of R.A. No. 7610.

X X X X

Assuming that the elements of both violations of Section 5(b) of R.A. No. 7610 and of Article 266-A, paragraph 1(a) of the RPC are mistakenly alleged in the same Information — *e.g.*, carnal knowledge or sexual intercourse was due to “force or intimidation” with the added phrase of “due to coercion or influence,” one of the elements of Section 5(b) of R.A. No. 7610; or in many instances wrongfully designate the crime in the Information as violation of “Article 266-A, paragraph 1(a) in relation to Section 5(b) of R.A. No. 7610,” although this may be a ground for quashal of the Information under Section 3(f) of Rule 117 of the Rules of Court — and proven during the trial in a case where the victim who is 12 years old or under 18 did not consent to the sexual intercourse, **the accused should still be prosecuted pursuant to the RPC, as amended by R.A. No. 8353, which is the more recent and special penal legislation that is not only consistent, but also strengthens the policies of R.A. No. 7610. Indeed, while R.A. No. 7610 is a special law specifically enacted to provide special protection to children from all forms of abuse, neglect, cruelty, exploitation and discrimination and other conditions prejudicial to their development, We hold that it is contrary to the legislative intent of the same law if the lesser penalty (*reclusion temporal* medium to *reclusion perpetua*) under Section 5(b) thereof would be imposed against the perpetrator of sexual intercourse with a child 12 years of age or below 18.**<sup>29</sup>

It is worthy of note that *Tulagan* discusses the rape law (Article 266-A of the RPC) as already amended by R.A. 8353. As mentioned, the present rape charges were committed prior to such amendment and under the regime of Article 335 of the RPC as amended by R.A. 7659.<sup>30</sup> However, the same reasoning in *Tulagan* applies in the present case — Article 335 of the RPC as amended by R.A. 7659 was a more recent law and provides for a graver penalty,<sup>31</sup> and, hence, better deterrence against child rape than R.A. 7610. It therefore strengthens the legislative intent in the enactment of R.A. 7610 to provide special protection to children against all forms of abuses.

Considering the foregoing, here, while all the elements of rape under the RPC are alleged, the second and third elements of Section 5(b) of R.A. 7610 are missing. Hence, BBB must be prosecuted under the RPC which likewise provides for a graver penalty — consistent with the policy of the State to provide special protection to children against abuses. Moreover, BBB cannot both be prosecuted under the RPC and R.A. 7610 despite the

<sup>29</sup> Id. at 387-390. Emphasis supplied.

<sup>30</sup> Entitled “AN ACT TO IMPOSE THE DEATH PENALTY ON CERTAIN HEINOUS CRIMES, AMENDING FOR THAT PURPOSE THE REVISED PENAL LAWS, AS AMENDED, OTHER SPECIAL PENAL LAWS AND FOR OTHER PURPOSES,” approved on December 13, 1993.

<sup>31</sup> Under this law, simple rape is punished by *reclusion perpetua*. If committed under certain enumerated qualifying circumstances, the penalty of rape is death. On the other hand, R.A. 7610, Sec. 5(b) provides for the penalty of *reclusion temporal* medium to *reclusion perpetua*.

designation made in the Informations. What controls is not the title of the information or the designation of the offense, but the actual facts recited in the Information.<sup>32</sup> As discussed by the Court in *Pielago v. People*,<sup>33</sup>

It is well-settled that in all criminal prosecutions, the accused is entitled to be informed of the nature and cause of the accusation against him. In this respect, the designation in the Information of the specific statute violated is imperative to avoid surprise on the accused and to afford him the opportunity to prepare his defense accordingly. In the instant case, the designation of the offense in the Information against Pielago was changed from the crime of acts of lasciviousness in relation to Section 5(b) of R.A. No. 7610 to the crime of rape by sexual assault penalized under Article 266-A(2) of the Revised Penal Code, as amended by R.A. No. 8353. It cannot be said, however, that his right to be properly informed of the nature and cause of the accusation against him was violated. This Court is not unaware that the Information was worded, as follows: “x x x commit an act of lasciviousness upon the person of [AAA], a minor being four (4) years old, by kissing the vagina and inserting one of his fingers to the vagina of AAA, x x x.” And, as correctly explained by the CA, **the factual allegations contained in the Information determine the crime charged against the accused and not the designation of the offense as given by the prosecutor which is merely an opinion not binding to the courts.** As held in *Malto v. People*:

**What controls is not the title of the information or the designation of the offense but the actual facts recited in the information. In other words, it is the recital of facts of the commission of the offense, not the nomenclature of the offense, that determines the crime being charged in the information. x x x**

Also, in the more recent case of *People v. Rayon, Sr.*, this Court reiterated **that the character of the crime is not determined by the caption or preamble of the information nor from the specification of the provision of law alleged to have been violated, but by the recital of the ultimate facts and circumstances in the complaint or information.**<sup>34</sup>

Here, the facts alleged in the Informations — that BBB, “by means of force and intimidation x x x succeed[ed] in having sexual intercourse with his own daughter [AAA], a [14,15 or 16]-year old<sup>35</sup> minor, against her will and without her consent” — control and not the designation of the offense made therein.

*The prosecution’s evidence was sufficient to establish the guilt of BBB*

<sup>32</sup> *Malto v. People*, G.R. No. 164733, 533 SCRA 643, 657.

<sup>33</sup> G.R. No. 202020, March 13, 2013, 693 SCRA 476.

<sup>34</sup> *Id.* at 486-488. Emphasis supplied; citations omitted.

<sup>35</sup> Age of AAA varies depending on the date of the occurrence narrated in the Information.

*beyond reasonable doubt for the four counts of rape charged.*

Having clarified that BBB may be prosecuted only for rape under the present Informations, the question now becomes: was his guilt therefor proven beyond reasonable doubt? The Court answers in the affirmative.

In assessing the guilt or innocence of an accused in a rape case, the Court takes guidance from three settled principles, *to wit*: (1) an accusation of rape can be made with facility and while the accusation is difficult to prove, it is even more difficult for the person accused, though innocent, to disprove the charge; (2) considering that, in the nature of things, only two persons are usually involved in the crime of rape, the testimony of the complainant should be scrutinized with great caution; and (3) the evidence of the prosecution must stand or fall on its own merit, and cannot be allowed to draw strength from the weakness of the evidence for the defense.<sup>36</sup>

Rape is almost always committed in isolation or in secret. Hence, conviction therein frequently rests on the basis of the testimony of the victim so long as such is credible, natural, convincing, and consistent with human nature and the normal course of things. Thus, in resolving such cases, the credibility of the victim is of utmost consideration.<sup>37</sup>

Anent the credibility of the victim, the trial court's assessment thereof deserves great weight, and is even conclusive and binding, unless the same is tainted with arbitrariness or oversight of some fact or circumstance of weight and influence. This is because the trial court had the full opportunity to observe directly the deportment and the manner of testifying of the witnesses before it, thus, putting it in the better position than the appellate court to properly evaluate testimonial evidence. This rule holds stronger in cases where the CA sustained the findings of the trial court.<sup>38</sup>

Applying the foregoing, the Court affirms the findings of the RTC as to the credibility and truthfulness of AAA's testimonies. As observed by the RTC, she remained steadfast and did not waver in her claim that BBB raped her repeatedly, thus:

***First incident:***

Q: Now, you still remember where were you in the morning of February 2, 1995?

A: I was in the house.

Q: Who were with you during that time in the house?

<sup>36</sup> *People v. Ramos*, G.R. No. 200077, September 17, 2014, 735 SCRA 466, 478; *People v. Malate*, G.R. No. 185724, June 5, 2009, 588 SCRA 817, 825.

<sup>37</sup> *People v. XXX*, G.R. No. 244288, March 4, 2020.

<sup>38</sup> *People v. Wile*, G.R. No. 208066, April 12, 2016, 789 SCRA 228, 263.

A: My father and my siblings.

x x x x

Q: While you were in the house[,], was there [an] unusual incident that happened to you?

A: Yes, sir.

Q: What happened during that time?

A: He raped me.

Q: Where?

A: In my room.

Q: Before he raped you[,], what did he do?

A: He poked [me] with a knife.

Q: And then after threatening you with a knife, what did he do next?

A: He told me to [sit] on the sewing machine and then he told me also to remove my short pants and panty.

Q: When he asked you to remove your short pants and panty, did you immediately remove them?

A: No, sir.

Q: So, when you resisted, what did your father do to you?

A: He pointed the knife on my side and told me to remove my short[s] and panty.

Q: What did you feel at that time when he pointed the hunting knife [at] you?

A: I was afraid.

Q: And so because of your fear, what did you do to your pants and panty?

A: I just removed my shorts and panty.

Q: And after removing your shorts and panty, what did he do?

A: He opened my legs.

Q: What was your position then?

A: I was leaning on the machine.

Q: How old [were] you at that time?

A: Fourteen.

Q: And when he told you to spread your legs, what did he do next?

A: He used me.

Q: What do you mean by [the] term used?

A: He molested me.

Q: You are already married, could you please be specific in your terms?

A: He inserted his penis into my vagina.

Q: What was your position when he inserted his penis to your vagina?

A: We were standing.

Q: Was that the first time you were sexually molested by your father?

A: Yes, sir.

Q: And when his penis was already inserted into your vagina[,] what did you feel?

A: I felt pain.

Q: Considering that you felt pain, were you able to shout?

A: I was not able to shout because he was covering my mouth and he was also holding a knife.

Q: Where [were] your brothers and sisters at that time?

A: They were downstairs.

Q: And so, for how long did he insert his penis to your vagina?

A: Until he was ejaculated.

Q: After he was ejaculated[,] what did [you] do?

A: I just cried.

Q: Where?

A: Inside the room because he did not allow me to go out.

Q: What instruction did he give to you?

A: He told me not to tell to my mother and siblings or else he will kill us.

Q: Did you believe him at that time?

A: Yes, sir.

Q: Now, what other instructions did your father give you aside from threatening you?

A: He just told me not to tell anyone or else he will kill us.

Q: Did you really believe that your father will do what he threatened you to do at that time?

A: Yes, sir.

***Second incident:***

Q: Was it the only time that your father raped you?

A: No, sir.

Q: When was the second time?

A: February 4.

Q: What year?

A: 1995.

Q: Where?

A: Still in our house.



Q: What time was that on February 4, 1995?

A: I cannot remember what time was that because on that night he forced me to drink a tablet which I refused but he insisted. So, in the morning of February 5[,] I noticed that [I am] no longer wearing my shorts and panty, so I presumed that he raped me again.

Q: What time in the evening of February 4, 1995 [did] your father [ask] you to drink the pill or medicine?

A: About 7:00 o'clock.

x x x x

Q: And what did he ask you to do with the tablet?

A: He just told me to drink that medicine so that I will not get pregnant.

Q: And you believed him[,] that is why you took that pill?

A: Yes, because he still bringing (*sic*) the knife.

x x x x

Q: After taking the pill, what did you feel?

A: Sleepy.

Q: And what time did you wake in the morning?

A: Six a.m.

Q: What did you feel at that time?

A: I could hardly stand up.

Q: Why?

A: I felt pain.

Q: What parts of your body was painful at that time?

A: My vagina and my legs.

Q: And what came to your mind knowing that you have pain in your vagina and in your legs?

A: That he raped me again. (*TSN, December 7, 2005, pp. 11-18*)

***Third incident:***

Q: Mrs. Witness, do you still remember where were you on December 15, 1995?

A: Yes[,] I was in the house.

x x x x

Q: So, who were left in your house during that time?

A: Only the two of us.

Q: Two of us, you and who?

A: My father.

x x x x

Q: You said that it was around 6: o'clock (*sic*) in the evening, what unusual incident that happened at that time?

A: He again raped me.

Q: How did he rape you?

A: He again threatened me with a scythe.

Q: What did he do with that scythe?

A: He poked that scythe [at] me.

Q: While poking [at] you what did he say?

A: He told me to undress.

x x x x

Q: So, when he asked you to undress, did you also undress?

A: Not immediately.

Q: And since you did not immediately undress as demanded by your father, what was his reaction?

A: He got angry and he told me to undress.

Q: How did he say that to you?

A: He told me to remove my clothes or else [I will] be hurt.

Q: And then after saying that to you, what did you do?

A: I just undressed.

Q: What else did he do after undressing yourself?

A: At that time[,] he sexually abused me.

Q: With his clothes on?

A: He also undressed himself.

Q: After undressing yourself[,] he also undressed himself?

A: Yes, sir.

Q: What was his position when he sexually abused you?

A: We were lying down.

Q: On the floor?

A: On the floor.

Q: For how long did it take?

A: Until he reached his orgasm.

Q: In terms of minutes?

A: I cannot estimate.

Q: Why did you not shout considering that your mother was just at your neighborhood?

A: I cannot because he told me if my mother knew he will kill all of us.

Q: What did you feel when his penis was inside your vagina?

subconscious mind would opt to forget. Thus, a rape victim cannot be expected to mechanically keep and then give an accurate account of the traumatic and horrifying experience she had undergone.<sup>48</sup>

Finally, the failure of AAA to immediately report to her mother or the police authorities the incidents of rape does not likewise tarnish her credibility. As observed by the RTC, BBB's constant threats upon the life of AAA and her family in all the instances of rape were enough to cower her into silence and keep her from immediately reporting the incidents. The Court has held that delay in reporting a rape does not negate its occurrence nor affect the credibility of the victim. In the face of constant threats of violence and death, not just on the victim but extending to her kin, a victim may be excused for tarrying in reporting her ravishment.<sup>49</sup>

*The defenses of BBB consisting of denial and alibi are inherently weak.*

In stark contrast to AAA's compelling testimonies, BBB made a wholesale denial of the four instances of rape and interposed alibi. Denial is an intrinsically weak defense which must be supported by strong evidence of non-culpability to merit credibility. Alibi, on the other hand, is the weakest of all defenses, for it is easy to contrive and difficult to disprove; hence, generally rejected. For alibi to be appreciated, it must be proven by the accused that: 1) he was not at the *locus delicti* at the time the offense was committed; and 2) it was physically impossible for him to be at the scene at the time of its commission.<sup>50</sup>

Here, as likewise found by the RTC and affirmed by the CA, BBB failed to prove the requisites for his denial and alibi to be given weight by the Court, especially in the face of the overwhelming evidence of the prosecution.

*BBB committed four counts of qualified rape.*

The RTC, as affirmed by the CA, convicted BBB of four counts of rape with the qualifying/aggravating circumstances of relationship and minority of the victim, and thus meted him the sentence of *reclusion perpetua* in each case without eligibility for parole.<sup>51</sup>

As found by the RTC and borne by the records, the prosecution was able to prove the aggravating circumstances alleged in the Informations: 1) that AAA was under 18 years old at the time of the incidents and 2) that BBB is her father. As regards AAA's minority, the same was established by her

<sup>48</sup> Id. at 388.

<sup>49</sup> *People v. Ramos*, supra note 36, at 489.

<sup>50</sup> *People v. Ronquillo*, G.R. No. 214762, September 20, 2017, 840 SCRA 405, 417.

<sup>51</sup> *Rollo*, pp. 22-23.

Birth Certificate presented by the prosecution, which shows that she was born on November 19, 1980; hence, during the rape incidents, she was under 18 years of age. Anent her paternal relationship with BBB, the same is not disputed and is, in fact, admitted by BBB.<sup>52</sup>

Article 335 of the RPC, as amended by R.A. 7659, qualifies rape when the same is committed with the concurrence of both the minority of the victim and that the offender is her parent, among others, and makes mandatory the imposition of the death penalty, thus:

ARTICLE 335. *When and how rape is committed.* — x x x

x x x x

The death penalty shall also be imposed if the crime of rape is committed with any of the following attendant circumstances:

1. **When the victim is under eighteen (18) years of age and the offender is a parent**, ascendant, step-parent, guardian, relative by consanguinity or affinity within the third civil degree, or the common-law spouse of the parent of the victim.

x x x x (Emphasis supplied)

Hence, the RTC and the CA properly imposed the penalty of *reclusion perpetua* without eligibility for parole for each of the four counts of rape, considering R.A. 9346<sup>53</sup> and A.M. No. 15-08-02-SC.<sup>54</sup>

Anent the award for damages made by the CA of One Hundred Thousand Pesos (₱100,000.00) each as civil indemnity, moral and exemplary damages for each of the four counts of rape, the Court likewise affirms the same, in light of prevailing jurisprudence.<sup>55</sup>

**WHEREFORE**, in view of the foregoing, the appeal is **DISMISSED** for lack of merit. The Decision dated September 22, 2016 of the Court of Appeals, Twenty-Second Division, in CA-G.R. CR-HC No. 01333-MIN is **AFFIRMED**. Accused-appellant BBB is hereby found **GUILTY** beyond reasonable doubt of four (4) counts of Qualified Rape and sentenced to suffer the penalty of *reclusion perpetua* without eligibility for parole for each count.

Accused-appellant BBB is likewise ordered to pay One Hundred Thousand Pesos (₱100,000.00) as civil indemnity; One Hundred Thousand Pesos (₱100,000.00) as moral damages; and One Hundred Thousand Pesos (₱100,000.00) as exemplary damages for each count of Qualified Rape. All

<sup>52</sup> CA rollo, p. 59.

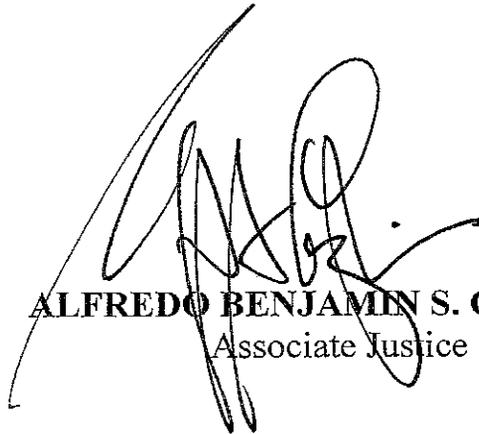
<sup>53</sup> Entitled, "AN ACT PROHIBITING THE IMPOSITION OF THE DEATH PENALTY," approved on June 24, 2006

<sup>54</sup> GUIDELINES FOR THE PROPER USE OF THE PHRASE "WITHOUT ELIGIBILITY FOR PAROLE" IN INDIVISIBLE PENALTIES dated August 4, 2015.

<sup>55</sup> *People v Jugueta*, 783 Phil. 806 (2016).

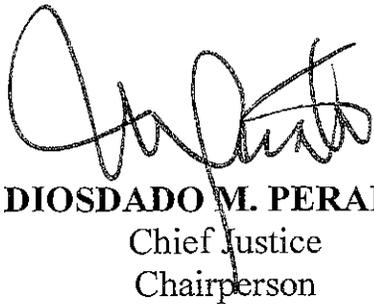
monetary awards shall earn interest at the legal rate of six percent (6%) *per annum* from the date of finality of this Resolution until fully paid.

**SO ORDERED.**



**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice

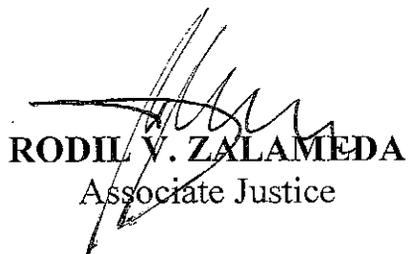
WE CONCUR:



**DIOSDADO M. PERALTA**  
Chief Justice  
Chairperson



**ROSMARID. CARANDANG**  
Associate Justice



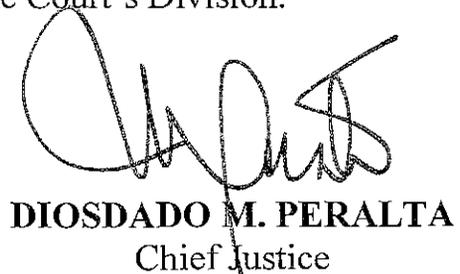
**RODIL V. ZALAMEDA**  
Associate Justice



**SAMUEL H. GAERLAN**  
Associate Justice

**CERTIFICATION**

Pursuant to Section 13, Article VIII, I certify that the conclusions in the above Resolution 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

