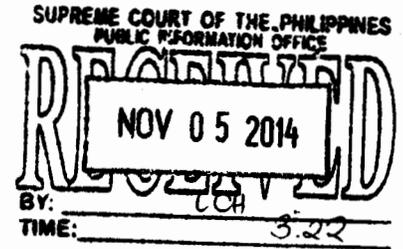


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Republic of the Philippines
Supreme Court
Manila
FIRST DIVISION



NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated **September 3, 2014**, which reads as follows:

“G.R. No. 194838 - People of the Philippines, Plaintiff-Appellee, v. Lito Laceste, Accused-Appellant.

Appellant seeks a review of the Decision dated August 9, 2010 of the Court of Appeals in CA-G.R. CR.-H.C. No. 02280, entitled “*People of the Philippines v. Lito Laceste*.” The appellate court ruling affirmed the Decision promulgated on April 28, 2006 by the Regional Trial Court (RTC) of Agoo, La Union, Branch 31, in FC Case No. A-394. In the said criminal case, appellant was found guilty beyond reasonable doubt of qualified statutory rape under Article 266-A in relation to Article 266-B(5) of the Revised Penal Code.

In an Information¹ dated October 15, 2004, appellant was charged with having raped a female minor who was below seven years old. The accusatory portion of the said criminal information reads:

That [o]n or about the 16th day of August 2004, in x x x, Province of La Union, Philippines and within the jurisdiction of this Honorable Court, the above-named accused by means of force, threat and intimidation, did then and there wilfully [and] unlawfully have sexual intercourse with [AAA²], a 4[-]year[-]old minor, against her will.

¹ Records, p.1.

² The Court withholds the real name of the victim-survivor and uses fictitious initials instead to represent her. Likewise, the personal circumstances of the victims-survivors or any other information tending to establish or compromise their identities, as well as those of their immediate families or household members, are not to be disclosed. (See *People v. Cabalquinto*, 533 Phil. 703 [2006].)



Appellant was arraigned on March 13, 2006 wherein he pleaded "NOT GUILTY" to the charge levelled against him.

The facts of this case according to the prosecution are as follows:

On August 16, 2004, around 3 o'clock in the afternoon, Rodolfo Munar, a Barangay Tanod of x x x, La Union, heard the cries of a child from a nearby forest. Rodolfo got curious and immediately proceeded to verify what he heard. To his surprise, a man came out from behind the trees carrying a young girl. The man turned out to be appellant and the young girl, four (4)[-]year[-]old [AAA].

Appellant, with [AAA] in his arms, walked toward another area. Not long after, Rodolfo, again, heard the child crying. This prompted Rodolfo to summon his [companion] and together, they walked to the area where he last saw appellant and the child. For the third time, Rodolfo heard another scream from the child followed by a man's voice commanding the child to stop. A few seconds later, Rodolfo saw appellant leave the area and head toward the direction of the village.

When Rodolfo reached the village, he realized that the young girl was the daughter of [BBB]. Rodolfo then informed [BBB] that he heard [AAA] cry earlier when he saw the child with appellant.

Rodolfo, together with [BBB], reported the matter to their Punong Barangay, Rogelio Munar, who immediately investigated the incident. Rogelio asked [AAA] what happened to her and the latter replied that appellant held her private part and forced his penis in it. Rodolfo and [AAA]'s parents wasted no time and rushed to report the incident to the DSWD and the police.

The People, thereafter, charged appellant with statutory rape, albeit the latter had initially evaded arrest. It took two (2) years for the authorities to finally track him down in Barangay Bani, Rosario, La Union.³ (Citations omitted.)

On the other hand, the defense puts forward the following alternate version of events:

[Appellant] testified that on the date the alleged crime was committed, he was assisting in the construction of the house of [CCC]. With them were [CCC]'s wife, [BBB] who was busy washing the clothes, and their daughter, [AAA], whom [appellant] saw playing on the dusty ground.

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³ CA rollo, pp. 97-98.

Subsequently, [CCC] left for a moment to buy rice.

When [BBB]'s husband had been gone for too long, [appellant] asked for [BBB]'s permission to allow him to follow her husband with their daughter [AAA].

In the course of the travel, [appellant] noticed [AAA] scratching her vagina. He ordered her to stop doing so, but [AAA] refused to obey and began to cry.

Since he could not pacify [AAA], [appellant] brought her back to [BBB] and decided, instead, to continue with his work.⁴ (Citation omitted.)

After trial on the merits, the trial court convicted appellant of qualified rape and sentenced him to suffer the penalty of death. The dispositive portion of the assailed April 28, 2006 RTC Decision is reproduced here:

WHEREFORE, this Court finds accused Lito Laceste guilty beyond reasonable doubt of the crime of Rape. He is hereby sentenced to death, his victim being of 4 years at [the] time of the commission of [the] rape. He is to die by lethal injection.

He has to pay a civil liability in the form of moral damages in the amount of ₱100,000.00 to be paid to the parents of [AAA] or to [AAA] herself when it is paid at the time that she attains the age of majority.⁵

Appellant elevated his case to the Court of Appeals in the hope of a reversal of his conviction. However, the appellate court affirmed with modifications the assailed trial court ruling. The Court of Appeals changed the penalty of death to *reclusion perpetua* in light of the enactment of Republic Act No. 9346 which prohibited the imposition of the death penalty. It also reduced the amount of moral damages awarded and awarded additional pecuniary damages that were not specified by the trial court. The assailed August 9, 2010 Decision of the Court of Appeals disposed of the appeal in this wise:

IN VIEW OF THE FOREGOING, the appealed decision is modified in that *reclusion perpetua* shall be imposed instead of death. The damages shall consist of ₱75,000.00 civil indemnity, ₱75,000.00 moral damages and ₱25,000.00 exemplary damages. All other aspects of the decision are affirmed.⁶

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⁴ Id. at 51-52.

⁵ Id. at 36.

⁶ *Rollo*, p. 8.

Hence, appellant resorts to the filing of this petition where he reiterates the following assignment of error in his brief:

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED NOTWITHSTANDING THE FAILURE OF THE PROSECUTION TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.⁷

The petition is without merit.

Appellant argues that he is not guilty of rape because there was no actual penetration of his penis into the sexual organ of AAA. Assuming *arguendo* that he merely attempted to insert his penis into the vagina of the victim, appellant maintains that such an act does not constitute sufficient ground for conviction based on the law and jurisprudence on rape.

Article 266-A(1)(d) of the Revised Penal Code referring to the felony of statutory rape pertinently reads:

Rape is committed -

(1) By a man who shall have carnal knowledge of a woman under any of the following circumstances:

x x x x

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

On the other hand, Article 266-B(5) states:

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

x x x x

5. When the victim is a child below seven (7) years old.

Simply stated, the elements of statutory rape are that: (a) the victim is a female under 12 years or is demented; and (b) the offender has carnal knowledge of the victim.⁸

⁷ CA rollo, p. 48.

⁸ *People v. Teodoro*, G.R. No. 175876, February 20, 2013, 691 SCRA 324, 332.

It is well-entrenched in jurisprudence that, in rape cases, the accused may be convicted based solely on the testimony of the victim, provided that such testimony is credible, natural, convincing and consistent with human nature and the normal course of things.⁹ Relative to that principle, we have also held that findings of fact of the trial court are not to be disturbed on appeal since conclusions as to the credibility of witnesses in rape cases depends heavily on the sound judgment of the trial court which is in a better position to decide the question, having heard the witnesses and observed their deportment and manner of testifying.¹⁰ Furthermore, it is likewise settled that the testimonies of child-victims are given full weight and credit, since when a woman or a girl-child says that she has been raped, she says in effect all that is necessary to show that rape was indeed committed.¹¹

Admittedly, in the case at bar, the prosecution's case consisted mainly of the testimony of the victim, AAA, who was six years old at the time of the trial, since the results of the medical examination conducted on AAA and the subsequent testimony of the examining physician could be considered as merely corroborating evidence of rape. Moreover, the testimonies of the other prosecution witnesses failed to provide direct personal knowledge of the commission of the crime. Nevertheless, the conviction for qualified statutory rape must be upheld because, after a thorough review of the pleadings and records of this case, we find no compelling reason to overturn the trial court's reliance on the narrative expressed by AAA on the witness stand and the totality of the prosecution evidence to support it.

An examination of the transcript of AAA's testimony reveals that the victim made a positive and unequivocal indictment of appellant as the culprit behind the sexual crime committed against her. The pertinent portion of her testimony reads:

[PROSECUTOR TADE]

Q [AAA], do you know any person by the name Lito?

A Yes, sir.

Q Will you please look around [and] point to this person if he is inside the courtroom right now?

A (Witness pointing to the accused inside the courtroom, when asked his name by the Interpreter, he answered Lito Laceste).

⁹ *People v. Penilla*, G.R. No. 189324, March 20, 2013, 694 SCRA 141, 149.

¹⁰ *People v. Tolentino*, G.R. No. 187740, April 10, 2013, 695 SCRA 545, 553.

¹¹ *Pielago v. People*, G.R. No. 202020, March 13, 2013, 693 SCRA 476, 488.

Q Do you still recall what Lito did to you?

A Yes, sir.

Q What did this Lito do to you?

A He wanted to insert his penis to my vagina and then he [shook] his penis. Then after that there was a saliva that came out, sir.

Q Where did that saliva come out?

A It went to my . . . (pointing to her vagina).

Q What did you feel when this Lito inserted his penis to your vagina? Was it painful or not?

A Yes, sir.¹²

For his defense, appellant denied ever committing any dastardly act against AAA. He insisted that he merely accompanied AAA to look for her father and that the laceration found in AAA's vagina was the result of AAA's scratching of her sexual organ. We are not inclined to believe appellant's version of events in light of the positive identification made by AAA and her categorical testimony of sexual abuse at the hands of appellant which testimony was corroborated in part by prosecution witness Rodolfo Munar who heard her cries and screams and saw her being carried by appellant from a densely forested area.

On this point, we reiterate the well-settled principle that denial, if unsubstantiated by clear and convincing evidence, is a self-serving assertion that deserves no weight in law because denial cannot prevail over the positive, candid and categorical testimony of the complainant, and as between the positive assertion of the complainant and the negative statement of the appellant, the former deserves more credence.¹³

Furthermore, it is worth noting that appellant inexplicably evaded the authorities for two years despite a warrant of arrest issued against him. Appellant's unexplained flight only militates against his claim of non-culpability. It is axiomatic that the flight of an accused, in the absence of a credible explanation, would be a circumstance from which an inference of guilt might be established, for a truly innocent person would normally grasp the first available opportunity to defend himself and assert his innocence.¹⁴

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¹² TSN, April 17, 2006, p. 3.

¹³ *People v. Bustamante*, G.R. No. 189836, June 5, 2013, 697 SCRA 411, 422-423.

¹⁴ *People v. Beriber*, G.R. No. 195243, August 29, 2012, 679 SCRA 528, 542.



With respect to appellant's theoretical contention that he could not be considered to have raped AAA since no full penile penetration of AAA's vagina occurred according to the victim's own testimony, we can only regard this view as contrary to the jurisprudential principle that the mere introduction of the male organ into the *labia majora* or *pudendum* is sufficient to consummate rape.¹⁵ According to AAA's testimony, appellant attempted to penetrate her sexual organ with his penis which caused her to cry in pain. The act described by the victim is sufficient to warrant a finding of rape. Moreso, since this testimony is buttressed by the medical certificate on record that AAA sustained a lacerated wound below her clitoris which the examining physician testified was consistent with partial penetration because the victim's vaginal orifice was too small to accommodate the organ of an adult male.

Based on the foregoing, we find no cogent reason to set aside the conviction of appellant for qualified statutory rape. We likewise see no reason to modify the penalty of imprisonment and the awards of civil indemnity and moral damages imposed on appellant by the Court of Appeals. However, there is a need to increase the award of exemplary damages to Thirty Thousand Pesos (₱30,000.00) and to impose interest on all monetary awards in order to conform with current jurisprudence.¹⁶

WHEREFORE, premises considered, the present appeal is **DENIED** for lack of merit. The assailed August 9, 2010 Decision of the Court of Appeals is **AFFIRMED WITH MODIFICATIONS** that (1) the award of exemplary damages is increased from Twenty-Five Thousand Pesos (₱25,000.00) to Thirty Thousand Pesos (₱30,000.00); and (2) appellant is ordered to pay interest on all damages awarded at the rate of six percent (6%) per annum from the date of finality of judgment.

SO ORDERED." **SERENO, C.J.**, on leave, **VELASCO, JR., J.**, acting member per S.O. No. 1772 dated August 28, 2014.

Very truly yours,


EDGAR O. ARICHETA
Division Clerk of Court

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¹⁵ *People v. Cabungan*, G.R. No. 189355, January 23, 2013, 689 SCRA 236, 247.

¹⁶ *People v. Gani*, G.R. No. 195523, June 5, 2013, 697 SCRA 530, 540.

RESOLUTION

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G.R. No. 194838
September 3, 2014

The Solicitor General (x)
Makati City

Court of Appeals (x)
Manila
(CA-G.R. CR H.C. No. 02280)

The Director
Bureau of Corrections
1770 Muntinlupa City

The Hon. Presiding Judge
Regional Trial Court, Br. 31
2504 Agoo, La Union
(Crim. Case No. A-394)

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PUBLIC ATTORNEY'S OFFICE
Counsel for Accused-Appellant
DOJ Agencies Building
1128 Diliman, Quezon City

Judgment Division (x)
Supreme Court

Mr. Lito J. Laceste
Accused-Appellant
c/o The Director
Bureau of Corrections
1770 Muntinlupa City

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