



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated December 3, 2014, which reads as follows:

“G.R. No. 210712 (*People of the Philippines vs. Jay-R Dela Peña Catague*). – This is an appeal from the Decision¹ dated April 30, 2013 of the Court of Appeals (CA) in CA-G.R. CEB-CR HC No. 01386 which affirmed the conviction of Jay-R Dela Peña Catague (accused-appellant) for the crime of Rape.

Facts of the Case

An Information² was filed against the accused-appellant charging him with the crime of rape penalized under Article 266-A of the Revised Penal Code, as follows:

That on or about the 3rd day of February, 2008, at about 5:00 o'clock P.M., in the City of Cebu, Philippines and within the jurisdiction of this Honorable Court, the said accused, with the use of force, or intimidation, with deliberate intent, did then and there willfully, and unlawfully have carnal knowledge upon the person of one [AAA],³ a minor, 17 years of age, without the consent and against the latter's will.

CONTRARY TO LAW.⁴

Upon arraignment, the accused-appellant pleaded “not guilty.” No stipulation of facts was asserted by the parties during the preliminary conference. Trial on the merits followed.

¹ Penned by Associate Justice Pamela Ann Abella Maxino, with Associate Justices Edgardo L. Delos Santos and Maria Elisa Sempio Diy, concurring; CA rollo, pp. 90-107.

² Id. at 10-11.

³ The real name of the victim, her personal circumstances and other information which tend to establish or compromise her identity, as well as those of her immediate family or household members, shall not be disclosed to protect her privacy and fictitious initials shall, instead, be used, in accordance with *People v. Cabalquinto* (533 Phil. 703 [2006]), and A.M. No. 04-11-09-SC dated September 19, 2006.

⁴ CA rollo, p. 10.

The prosecution presented AAA, her mother, BBB, and Dra. Naomi Poca as its witnesses. The defense, on the contrary, presented the testimony of the accused-appellant.

Version of the Prosecution

AAA, a 17-year-old minor, was born on February 11, 1990. Sometime in March 2007, AAA and the accused-appellant met each other through text messaging when AAA's cousin, EEE, introduced her to a certain "Justine." Since then, AAA and Justine exchanged text messages wherein he introduced himself as single, working as a security guard, with no obligation in life, yet never disclosed his surname to her.⁵

In March 2007, AAA and Justine had their first date when they spent lunch break together outside Gothong National High School. From then on, their romantic relationship and constant text messaging persisted without fail. They agreed to have a date at the plaza on February 3, 2008.⁶

On February 3, 2008, AAA and Justine met at the *Jai Alai* at around 4:00 p.m. To AAA's dismay, Justine grabbed her hand and immediately hailed a 08G route jeepney. Thinking that Justine was merely in a hurry, AAA followed him towards the waiting vehicle and seated silently therein beside him.⁷

Along the way, Justine assured AAA that he only wanted to talk to her. When they reached Mabini and Colon Streets, AAA and Justine got off the jeepney. AAA noticed that they stopped in front of The Queen's Joe Lodge. Justine grabbed her hand and pushed her towards the building.⁸

Justine transacted for a room at the building's lobby. When they got in their room, Justine pushed AAA on top of the bed and forcefully removed her pants and panty. He hurriedly got himself naked and positioned himself on top of her. Frightened, AAA attempted to get her clothes back but Justine pinned her down on the bed.⁹

After overpowering AAA, Justine forcefully inserted his penis in her vagina after he mounted her despite her stern protestations and pleas for him to stop. AAA felt extreme pain as he penetrated his sexual organ into her genital orifice. AAA tried to put up a struggle against his advances but she failed. AAA wept as Justine unmindingly carried on in satisfying his brute desire.¹⁰

⁵ Id. at 63.

⁶ Id.

⁷ Id.

⁸ Id.

⁹ Id.

¹⁰ Id. at 63-64.

When Justine felt finally satiated, he rolled off from the bed, picked up AAA's clothes and threw them at her. AAA wanted to leave the place right away so she put on her clothes immediately. Justine handed her his handkerchief to wipe off her tears as he saw her cry unceasingly.¹¹

They checked out from the lodge at around 8:00 p.m. Justine escorted AAA to the cab stand and waited there with her until she hailed a ride. They then parted ways.¹²

AAA asked the cab driver to bring her to the house of her elder sister, CCC. Upon her arrival, AAA immediately informed CCC that she was raped by her textmate named Justine. CCC advised AAA to go home and change her clothes because of her bloodstained pants.¹³

As soon as she got home, AAA's other sister, DDD, met her and noticed her pants. When asked by DDD about what happened, AAA narrated that she was raped by her textmate, Justine.¹⁴

On February 4, 2008, DDD told BBB, their mother, about the incident. Overtaken by anger, BBB immediately took AAA to the Mambaling Police Station so the latter could file a report.¹⁵

While at the police station, AAA received a text message from Justine asking her to return his handkerchief which, he explained, belongs to his wife (later on discovered as his live-in partner). Despite her surprise from the message he sent her, AAA agreed to meet Justine at Ybañez Compound at around 1:00 p.m.¹⁶

Upon seeing Justine at their meeting place, AAA immediately pointed him to the police officers. Justine was arrested and taken to the police station. AAA learned then that Justine's real name is Jay-R Dela Peña Catague, the accused-appellant.¹⁷

Version of the Defense

A friend of the accused-appellant gave him AAA's mobile number. From then on, the accused-appellant courted AAA by sending her text messages for a month although he has not personally met her yet.¹⁸

11 Id. at 64.
12 Id.
13 Id.
14 Id.
15 Id.
16 Id.
17 Id.
18 Id. at 31.

In March 2007, AAA and the accused-appellant agreed to meet in person. Their romantic relationship flourished for months through text messaging until the accused-appellant decided to stop dating her since he realized that AAA was still young and studying.¹⁹

In November 2007, the accused-appellant received a text message from an unknown phone number inviting him to become a textmate. AAA later told him that she is the user of the unknown number. Their romantic relationship resumed. They would roam around the city or watch movies together. After their date in December 2007, they agreed to meet again on February 3, 2008.²⁰

On February 3, 2008, the accused-appellant and AAA checked in at The Queen's Lodge where they had sexual intercourse, which the accused-appellant considers as a free expression of their love. According to the accused-appellant, the sexual intercourse they had was AAA's fulfillment of her promise that she would give herself and her virginity to him before her 18th birthday which was just a few days away.²¹

When they left the lodge, the accused-appellant accompanied AAA near her house but AAA forbade him. The accused-appellant explained that AAA feared her father might maul him if he goes to their house with her.²²

On February 4, 2008, the accused-appellant received a text message from AAA telling him that she missed him and that she wanted to see him again. When he met her the same day, AAA was with her mother and some policemen who arrested him.²³

Ruling of the Trial Court

In a Judgment²⁴ dated September 1, 2011, the Regional Trial Court (RTC) of Cebu City, Branch 14, convicted the accused-appellant of the crime of rape. The trial court accorded full weight and credence on the "lucid, candid and straightforward"²⁵ testimony of AAA that positively identified him as the perpetrator of the crime. The decretal portion of the decision reads:

WHEREFORE, in view of the foregoing premises, judgment is rendered finding accused, JAY-R DE LA PEÑA CATAGUE, GUILTY beyond reasonable doubt as principal of RAPE under paragraph 1) a) of Art. 266-A of the Revised Penal Code and is sentenced to the indivisible penalty of reclusion perpetua.

¹⁹

Id.

²⁰

Id.

²¹

Id.

²²

Id.

²³

Id.

²⁴

Issued by Presiding Judge Raphael B. Yrastorza, Sr.; id. at 13-20.

²⁵

Id. at 18.

Accused is also ordered to pay [AAA] the following amounts:

- 1.) FIFTY THOUSAND (Php.50,000.00) PESOS, for and as civil indemnity; and,
- 2.) FIFTY THOUSAND (Php.50,000.00) PESOS, for and as moral damages;

SO ORDERED[.]²⁶

The trial court brushed aside the oft-abused “sweetheart defense” posited by the accused-appellant. He claimed that there was a “mutually consented sexual intercourse”²⁷ and not rape. The trial court, however, disagreed and explained that being lovers does not prove AAA’s consent to the carnal knowledge. Also, the lapses in AAA’s testimony did not negate the fact that she gave no consent to the sexual act complained of. For the trial court, the accused-appellant is an experienced lothario who easily charmed AAA and, thus, slaughtered AAA’s young womanhood.²⁸

Ruling of the CA

On appeal, the CA affirmed the conviction. The CA ratiocinated that the trial court is in a better position to evaluate testimonial evidence properly as it has the full opportunity to observe directly the witnesses’ deportment and manner of testifying.²⁹

In affirming the trial court’s findings, the CA found merit in AAA’s categorical and straightforward testimony on how she struggled from the sexual advances of the accused-appellant and how the latter forcefully pinned her down on the bed and had carnal knowledge of her.

According to the CA, it was probable for AAA not to react adversely when the accused-appellant grabbed her hand tightly because taking a jeepney and clasping one’s hands do not put any rational being on alert that he or she will be sexually assaulted especially when the man is the one who professed love to her dearly.

The CA further affirmed the penalty of *reclusion perpetua* as imprisonment and the amounts of ₱50,000.00 as civil indemnity and ₱50,000.00 as moral damages imposed by the trial court. However, the CA imposed an additional six percent (6%) interest *per annum* on all such damages awarded to be computed from the date of finality of the judgment until it is fully paid.³⁰

²⁶ Id. at 20.

²⁷ Id. at 17.

²⁸ Id. at 18-19.

²⁹ Id. at 104.

³⁰ Id. at 106

Hence, this appeal.

Ruling of the Court

This Court finds no cogent reason to reverse the findings of the RTC, as affirmed by the CA.

Factual findings of the RTC, as affirmed by the CA, are given great weight and merit.

It is a basic tenet that “findings of the trial court which are factual in nature and which involve the credibility of witnesses are accorded with respect, when no glaring errors, gross misapprehension of facts, and speculative, arbitrary, and unsupported conclusions can be gathered from such findings. The reason for this is that the trial court is in a better position to decide the credibility of witnesses having heard their testimonies and observed their deportment and manner of testifying during the trial.”³¹ The rule finds an even more stringent application where the trial court’s findings are sustained by the CA.³²

The crime of rape is essentially an offense of secrecy involving only two persons and not generally attempted save in secluded places far from prying eyes. By the intrinsic nature of rape cases, the crime usually commences solely upon the word of the offended girl herself and conviction invariably turns upon her credibility, as the single witness of the actual occurrence. Accordingly, certain guiding principles have been formulated in resolving rape cases. Foremost of these is an offended woman’s testimony hurdling the exacting test of credibility. In fine, the credibility of the victim is always the single most important issue in prosecution for rape. Withal, in passing upon the credibility of the victim-witness, the highest degree of respect must be afforded to the evaluation and findings of the trial court.³³

The elements of the crime were duly established by the prosecution.

For conviction in the crime of rape, the following elements must be proved beyond reasonable doubt: (1) that the accused had carnal knowledge of the victim; and (2) that said act was accomplished (a) through the use of force or intimidation, or (b) when the victim is deprived of reason or otherwise unconscious, or (c) when the victim is under 12 years of age or is demented.³⁴

³¹ *People v. De Leon*, 624 Phil. 786, 796 (2010).

³² *People v. Veloso*, G.R. No. 188849, February 13, 2013, 690 SCRA 586, 595, citing *People v. Arpon*, G.R. No. 183563, December 14, 2011, 662 SCRA 506, 523.

³³ *People v. Llanas, Jr.*, G.R. No. 190616, June 29, 2010, 622 SCRA 602, 610-611.

³⁴ REVISED PENAL CODE, Article 266-A.

In the case at bench, the prosecution was able to establish the abovementioned elements beyond moral certainty. AAA's testimony positively identifying the accused-appellant as the one who sexually abused her is worthy of belief. Her clear, consistent and categorical statements unrelentingly established that the accused-appellant had carnal knowledge of her when he brought her to The Queen's Joe Lodge on February 3, 2008 despite her resistance. This sexual congress was never denied by the accused-appellant, who, on the contrary, interposed the "sweetheart defense" in an attempt to exculpate himself from any liability. Such defense is, however, flawed, immaterial and does not in any way detract from the fact that he raped her on said day. No scintilla of evidence was even adduced to prove that AAA's testimony was not credible at all.

Indeed, a rape victim is not expected to make an errorless recollection of the incident, so humiliating and painful that she might in fact be trying to obliterate it from her memory. Thus, a few inconsistent remarks in rape cases will not necessarily impair the testimony of the offended party.³⁵

As aptly stated by the CA:

The gravamen of the offense of rape is sexual intercourse with a woman against her will or without her consent. It matters not whether she had agreed explicitly to enter into any hotel room with the accused appellant or even to lie on the bed of the latter. The moment she resists or rejects the advances of the accused to have intercourse with her and still he persists in his conduct and successfully has carnal knowledge over her despite her objections, verbally or physically, the crime of rape is committed.

In the case at bench, not only did AAA object to accused-appellant's advances, she even tried to physically wrench herself free from him and continuously pleaded that he desist from his conduct. Yet, to no avail, as he merely pinned her down on the bed and forcefully inserted his penis into her vagina fully accomplishing his bestial desires. Clearly, all the elements of the crime of rape has been fully established by the prosecution.

Finally, it is well-entrenched rule that when a woman says she was raped, she says in effect all that is necessary to show that rape was committed, and if her testimony meets the test of credibility, the accused can be convicted on the basis thereof. This is all the more true in the instant case, which involves a young provincial lass, naïve to the shortcomings of human nature and too trusting in her relationships.³⁶

As to the "sweetheart defense", it is said that love is not a license for lust. "A love affair does not justify rape for a man does not have the unbridled license to subject his beloved to his carnal desires against her

³⁵ *People v. Cruz*, G.R. No. 201728, July 17, 2013, 701 SCRA 548, 557.

³⁶ CA rollo, pp. 105-106.

will.”³⁷ In this case, the defense that the accused-appellant and AAA are lovers may be true; however, the sexual incident between them on February 3, 2008 has not been proven to be consensual.

The Penalty and Proper Indemnity

This Court agrees that the CA properly affirmed the penalty of *reclusion perpetua* against the accused-appellant in view of AAA’s minority which was sufficiently alleged in the information and proved during the trial.

As to the damages awarded, this Court sustains the award of ₱50,000.00 as moral damages and ₱50,000.00 as civil indemnity.

Moral damages in rape cases should be awarded without need of showing that the victim suffered trauma or mental, physical and psychological sufferings constituting the basis thereof. Meanwhile, the award of civil indemnity to the rape victim is mandatory upon the finding that rape took place. The award of civil indemnity is exclusive of the award of moral damages without need of further proof because “the victim’s injury is now recognized as inherently concomitant with and necessarily proceeds from the appalling crime of rape which *per se* warrants an award of moral damages.”³⁸

However, both the RTC and the CA failed to award exemplary damages. “Exemplary damages are imposed in a criminal case as part of the civil liability ‘when the crime was committed with one or more aggravating circumstances.’”³⁹ Considering that AAA’s minority in the instant case has been proven, exemplary damages in the amount of ₱30,000.00 should then be awarded to her. In addition, this Court affirms the CA’s imposition of the six percent (6%) interest rate *per annum* to be computed from the date of the finality of this judgment until fully paid.⁴⁰

WHEREFORE, in view of the foregoing premises, the Decision dated April 30, 2013 of the Court of Appeals in CA-GR. CEB-CR HC No. 01386 is **AFFIRMED with MODIFICATION** that exemplary damages in the amount of Thirty Thousand Pesos (₱30,000.00) be awarded. Moreover, the damages awarded in this case shall earn an interest at the rate of six percent (6%) *per annum* from the date of the finality of this Resolution until fully paid.” (Jardeleza, J., no part in view of participation in the Office of the Solicitor General; Bersamin, J., designated additional member per Raffle dated October 20, 2014.)

³⁷ *People v. Banig*, G.R. No. 177137, August 23, 2012, 679 SCRA 133, 149, citing *People v. Cias*, G.R. No. 194379, June 1, 2011, 650 SCRA 326, 341.

³⁸ *People v. Cruz*, supra note 35 at 559, citing *People v. Macapanas*, 634 Phil. 125, 149 (2010).

³⁹ *People v. Lupac*, G.R. No. 182230, September 19, 2012, 681 SCRA 390, 402.

⁴⁰ *People v. Cabungan*, G.R. No. 189355, January 23, 2013, 689 SCRA 236, 249.

Very truly yours,


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Division Clerk of Court

11/12/15

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