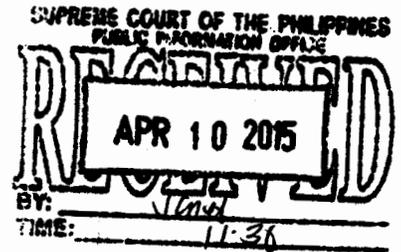




Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE



Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated **March 25, 2015**, which reads as follows:

“G.R. No. 210453 (*People of the Philippines vs. Lucito Marte y Monte Agudo*). – On appeal is the March 27, 2013 Decision¹ of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 05296 affirming appellant Lucito Marte’s conviction for robbery with rape.

The prosecution proved that on June 17, 2006, the victim AAA² went to her sister’s house in Sta. Quiteria, Caloocan City, to offer for sale a radio component. While AAA was on her way home at around 11:45 p.m., a tricycle driven by appellant Marte stopped in front of her. The passenger, Daniel Robles, alighted and asked AAA where she was going and she said that she was going to Sangandaan. Robles then asked AAA to board the tricycle and AAA agreed. However, instead of going to Sangandaan, the tricycle turned to Cading Street. Marte and Robles then announced a hold-up and ordered AAA to bring out her money, cellular phone and other personal belongings. Robles was then holding two guns. His left arm was around AAA’s neck while his other hand pointed a gun at her right side.³

AAA explained that she did not have any money and handed her cellphone to Robles who pushed her face and said “*Maganda pala ito sige, ihahatid ka na namin sa Novaliches*” via Ugong, Valenzuela. Robles warned AAA that he would shoot her if she shouts for help when they pass a police station. AAA cried as the tricycle took several turns on its way to Ugong. Upon reaching a dead end, Robles told AAA that they would rape her there. She pleaded for mercy but Robles brought her to a grassy area followed by Marte.⁴

¹ Rollo, pp. 2-11. Penned by Associate Justice Mariflor P. Punzalan Castillo with Associate Justices Amy C. Lazaro-Javier and Zenaida T. Galapate-Laguilles concurring.

² The victim’s real name and personal circumstances or any other information tending to establish or compromise her identity as well as those of her immediate family are withheld per *People v. Cabalquinto*, 533 Phil. 703, 709 (2006).

³ Rollo, pp. 3-4.

⁴ Id. at 4.

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Robles kissed and bit AAA's neck. He then kissed other parts of AAA's body while undressing her. When they were both naked, Robles ordered her to lie down⁵ and inserted his penis in her vagina. AAA tried to resist but Robles pointed a gun at her temple. He then told her to place her hand at his back so he could feel the pleasure.⁶

When Robles was finished, Marte told him to hurry up so that he could take his turn. Marte then approached AAA and told her to just follow their instructions. Marte proceeded to rape AAA. To stop Marte, she lied that she was already separated from her husband and that she was three months pregnant. Upon hearing this, Marte invited her to live with him in Leyte.⁷

After raping AAA and taking her cellphone, Marte and Robles brought AAA to Ugong Public Market and left her. AAA sought the help of a fruit vendor and they proceeded to the Valenzuela Police Headquarters.⁸ Police officers suggested that AAA constantly call or text her cellphone taken by Marte and Robles and tell them that she was willing to go with them for she had nowhere to go after her husband left her because of the incident.⁹

The physical and genital examination conducted on AAA on June 19, 2006 showed the following result:

Hymen: Carunculæ

Physical Examination: 1) Ecchymosis; neck region measuring 3.5 cm, 1.5 cm, 3 cm anterior midline; 2) Contusion left thigh, middle 3rd measuring 1.5 cm, 2.5 cm, 12 cm medial to its anterior midline and contusion right thigh, distal 3rd, measuring 2 cm, 2cm, 4 cm lateral to its anterior midline.¹⁰

On June 19, 2006, around 9:00 a.m., AAA was able to contact Robles who told her to go to Luneta at 2:00 p.m. But Robles did not show up. AAA urged Robles to meet her but he also did not show up in Novaliches Church and Royal Mall in Malinta.¹¹

AAA continued to call or text her cellphone. This time, Marte answered her call and agreed to meet her at Grand Central, Caloocan City, on June 23, 2006 at 1:00 p.m. AAA sent a text message to the police officers when she saw Marte at the entrance of Grand Central. Upon instruction, AAA approached Marte who was arrested by the police officers. SPO1 Manuel Griarte recovered from Marte the 8210 cellphone he used to contact AAA and the SIM card taken from AAA. Marte revealed where

⁵ CA rollo, p. 41.

⁶ Rollo, p. 4.

⁷ Id.

⁸ Id. at 4-5.

⁹ Id. at 5.

¹⁰ Id. at 6.

¹¹ Id. at 5.

Robles can be found and Robles was also arrested. PO2 Hoover Ireneo recovered from Robles AAA's cellphone.¹²

Marte denied the charge against him and claimed that on June 17, 2006,¹³ around 10:00 p.m., a man and a woman boarded his tricycle at the corner of Ugong and La Mesa Streets in Valenzuela City. The man asked him to take them to Sta. Quiteria Church. His two passengers argued and the man took the woman's phone. The woman alighted when they reached the church and he agreed to take the man to Plastic City in Canumay. The next day, he found a SIM card on the floor of the tricycle and inserted it to his own cellphone. The next day, a woman called and told him that she will redeem her lost phone. They agreed to meet at the Grand Central in Caloocan City.¹⁴

The Regional Trial Court (RTC) dismissed the case as against Robles on account of his death.¹⁵

In its Decision¹⁶ dated September 14, 2011, the RTC convicted Marte for the crime of robbery with rape, sentenced him to suffer the penalty of *reclusion perpetua* without eligibility for parole, and ordered him to pay AAA the amount of ₱75,000 as civil indemnity, ₱75,000 as moral damages, ₱30,000 as exemplary damages, and ₱10,000 representing the value of her cellphone.¹⁷ The RTC found the testimony of AAA worthy of full faith and credit. The RTC ruled that the elements of the crime were established and noted AAA's testimony that Marte and Robles threatened her and took her cellphone, both of them held weapons and both of them raped her.¹⁸

In its March 27, 2013 Decision, the CA affirmed the RTC Decision with modification in that Marte was ordered to pay AAA the amount of ₱50,000 as civil indemnity, ₱50,000 as moral damages, ₱30,000 as exemplary damages and ₱10,000 representing the value of her cellphone.¹⁹ The CA noted that the elements of the crime of robbery with rape are: (1) the taking of personal property is committed with violence or intimidation against persons; (2) the property taken belongs to another; (3) the taking is characterized by intent to gain or *animus lucrandi*; and (4) the robbery is accompanied by rape.²⁰ The CA ruled that all the elements of the crime were proven as shown by the following facts: Robles was armed when he and Marte announced the hold-up; Robles ordered AAA to bring out her money, cellphone and other personal belongings; AAA handed her cellphone to Robles and said cellphone was recovered from Robles after he

¹² Id. at 5-6.

¹³ CA rollo, p. 37.

¹⁴ Id. at 6-7.

¹⁵ Id. at 3.

¹⁶ CA rollo, pp. 34-43. Penned by Judge Nancy Rivas-Palmones.

¹⁷ Id. at 43.

¹⁸ Id. at 42.

¹⁹ Rollo, pp. 10-11.

²⁰ Id. at 8, citing *People v. Suyu*, 530 Phil. 569, 596 (2006).

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was arrested days later; the SIM card was recovered from Marte;²¹ and AAA positively identified Robles and Marte as the ones who raped her.²² The CA also ruled that AAA's testimony is clear, convincing and credible. It was also corroborated by Dr. Joseph C. Palmero who stated that AAA sustained injuries consisting of ecchymosis on the neck and contusion on both legs and right thigh which are consistent with the time of rape, said the CA.²³

Hence, this appeal.

We dismiss the appeal for lack of merit. It has been consistently held that in criminal cases the evaluation of the credibility of witnesses is addressed to the sound discretion of the trial judge, whose conclusion thereon deserves much weight and respect because the judge had the direct opportunity to observe said witnesses on the stand and ascertain if they were telling the truth or not.²⁴ In this case, the RTC found the testimony of AAA worthy of full faith and credit. The CA agreed that AAA's testimony is clear, convincing and credible. Needless to stress, the determination by the trial court of the credibility of witnesses, when affirmed by the appellate court, as in this case, is accorded full weight and credit as well as great respect, if not conclusive effect.²⁵ Moreover, our own scrutiny of AAA's testimony²⁶ convinces us that she is indeed a credible witness. Her testimony is straightforward, consistent and detailed. We also note that she cried on the witness stand when she was asked to recount the time Robles raped her.²⁷ Also, she positively identified Robles and Marte as the perpetrators.²⁸

Conformably with *People v. Evangelio*,²⁹ the award of civil indemnity and moral damages are both increased to ₱75,000. Interest at the rate of six percent (6%) per annum shall also be imposed on all the damages awarded in this case from date of finality of this judgment until fully paid.

WHEREFORE, the instant appeal is **DISMISSED**. The March 27, 2013 Decision of the Court of Appeals in CA-G.R. CR-H.C. No. 05296 is **AFFIRMED with MODIFICATION** in that appellant Lucito Marte is ordered to pay AAA ₱75,000 as civil indemnity and ₱75,000 as moral damages. Interest at the rate of six percent (6%) per annum is imposed on all the damages awarded in this case from date of finality of this judgment until fully paid. (*Jardeleza, J.*, no part, due to his prior action as Solicitor General; *Perlas-Bernabe, J.*, designated Member per Raffle dated January 5, 2015.)

²¹ Id.

²² Id. at 9.

²³ Id. at 10.

²⁴ *People v. Obina*, 632 Phil. 288, 293 (2010).

²⁵ *People v. Sabadlab*, G.R. No. 186392, January 18, 2012, 663 SCRA 426, 440-441.

²⁶ CA rollo, pp. 38-42.

²⁷ Id. at 41.

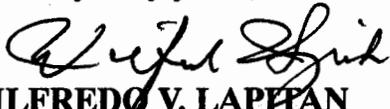
²⁸ Id. at 39.

²⁹ G.R. No. 181902, August 31, 2011, 656 Phil. 579, 601-602 & 604.

March 25, 2015

SO ORDERED.”

Very truly yours,


WILFREDO V. LAPAN
Division Clerk of Court
4.1.15

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The Presiding Judge
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(Crim. Case No. 613-V-06)

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