

Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated **December 5, 2019** which reads as follows:

“G.R. No. 243621 - People of the Philippines v. XXX”

On appeal is the Decision¹ dated March 3, 2017 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 07728, affirming with modification the Decision² dated August 4, 2015 of the Regional Trial Court (RTC), Branch 4, Manila in Criminal Case No. 13-296779. The CA found accused-appellant XXX guilty beyond reasonable doubt of rape under Article 266-A, paragraph 1(d) of the Revised Penal Code (RPC), as amended by Republic Act (R.A.) No. 8353, otherwise known as the Anti-Rape Law of 1997.

In the Information dated April 26, 2013, XXX was charged with the crime of rape, the accusatory portion thereof reads:

That on or about April 22, 2013, in the City of Manila, Philippines, the said accused, with lewd design, did then and there willfully, unlawfully, feloniously and knowingly commit sexual abuse and lascivious conduct upon one AAA,³ a minor, 10 years old, by then and there removing her shorts and panty,

- over – nine (9) pages ...

144-B

* At the victim’s instance or, if the victim is a minor, that of his or her guardian, the complete name of the accused may be replaced by fictitious initials and his or her personal circumstances blotted out from the decision if the name and personal circumstances of the accused may tend to establish or compromise the victims’ identities, in accordance with and the Amended Administrative Circular No. 83-2015 dated September 5, 2017.

¹ Penned by Associate Justice Rosmari D. Carandang (now a Member of the Court), with Associate Justices Mario V. Lopez and Myra V. Garcia-Fernandez, concurring; *rollo*, pp. 2-10.

² Penned by Presiding Judge Jose Lorenzo R. Dela Rosa; *CA rollo*, pp. 29-38.

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 initial shall, instead, be used, in accordance with *People v. Cabalquinto* (533 Phil. 703 (2006)) and the Amended Administrative Circular No. 83-2015 dated September 5, 2017.

inserting his penis into her vagina and succeeded in having carnal knowledge of said AAA against her will and without her consent.⁴

When arraigned on June 17, 2013, XXX entered a plea of not guilty to the crime charged.⁵ Trial on the merits then ensued.

The facts, as summarized by the CA, are as follows:

Version of the Prosecution

On April 22, 2013, AAA, 10 years of age, was dragged by her friend, a certain Itmay, towards the *bodega* owned by [XXX] who was allegedly calling for her. Upon arrival at the two-storey *bodega*, AAA saw [that XXX] was already there. Itmay then left AAA alone with [XXX] who then pulled her to the second level of the *bodega*. [XXX] removed AAA's shorts and panty while telling her not to make any noise or else he will not give her money. AAA tried to pull up her shorts and underwear but [XXX] prevailed over her. [XXX] placed AAA on top of a table and attempted to insert his penis into her vagina. [XXX] pulled AAA down the floor and mounted her before inserting his penis into AAA's vagina, making push and pull motions. AAA testified that she felt pain while [XXX's] penis was inside her organ. After [XXX] finished consummating his bestial desires, AAA put on her shorts and underwear. It was then when the father-in-law of [XXX] arrived. AAA went home and told her cousin, [BBB], what [XXX] did to her. [BBB] related the incident to AAA's aunt who immediately reported the incident to the barangay and the police. AAA was brought to Philippine General Hospital, Child Protection Unit (PGH CPU) for examination. Final Medical Report Number 2013-11706 disclosed the following findings, thus:

GENERAL PHYSICAL EXAMINATION

Height 120cm, > 0% and <=3%	Weight 21.9 kg, > 0% and <=3%
General Survey	- Ambulant
	Not in Respiratory Distress
Mental Status	- Oriented at (sic) to time, place and person[.]
	Conscious and coherent
Pertinent Physical Findings	- Breasts Tanner Stage: 1
Physical Injuries	No evident injury at the time of examination[.]

- over -

144-B

⁴ CA rollo, p. 29.

⁵ Id. at 10.

ANO-GENITAL EXAMINATION

External Genitalia	- Tanner Stage: 1 No evident injury at the time of examination.
Hymen	- Tanner Stage: 2
Type of Hymen:	- Cresentic No evident injury at the time of examination.
Perineum	- No evident injury at the time of examination.
Discharge	- [M]inimal whitish, non-foul smelling discharge[.]
Speculum Exam	- Not indicated.
Anal Examination	- No evident injury at the time of examination.

REMARKS

Forensic Evidence Collected - None.
Laboratory Examination - None.

IMPRESSIONS

There is no evident injury at the time of examination but medical evaluation cannot exclude sexual abuse.

Further investigation, such as witness' account or careful questioning of the child is required.

Version of the Defense

On June 15, 2015, [XXX] filed a Demurer to Evidence which was denied by the trial court for being filed out of time. Thereafter, the defense proceeded to present its evidence.

[XXX] vehemently denied the accusations against him. On the night of April 22, 2013, [XXX] claimed that he was inside his house. He only learned of the complaint against him when he was about to open his store the next day. He knew AAA as one of the children who would often help him in closing his store located at Banahaw Street, Tondo, Manila. In exchange for the help AAA rendered, [XXX] would give her Five Pesos (P5.00) or Ten Pesos (P10.00). According to [XXX], AAA was motivated by money in imputing such a grave crime against him.⁶

- over -

144-B

⁶ Rollo, pp. 4-5.

The RTC Ruling

On August 4, 2015, the RTC found XXX guilty beyond reasonable doubt of the crime of rape under Article 266-A, paragraph 1(d) of the RPC, as amended by R.A. No. 8353 and ordered him to suffer the penalty of *reclusion perpetua* and to pay AAA the amounts of ₱50,000.00 as civil indemnity, ₱50,000.00 as moral damages, and ₱30,000.00 as exemplary damages. The trial court held that the prosecution was able to establish that XXX had carnal knowledge of AAA on April 22, 2013. It disregarded the alleged inconsistency in AAA's testimony as regards the position of the accused and the victim during the rape incident and pointed out that it only relates to a matter so minor and trivial that it fails to affect AAA's credibility. Moreover, it stated that an intact hymen, as shown in the medico-legal report, does not belie AAA's claim that the sexual molestation happened simply because it is not an element of the crime of rape.

Aggrieved, XXX elevated his conviction to the CA.

The CA Ruling

In its Decision dated March 3, 2017, the CA affirmed the RTC's ruling, but modified the award of monetary damages by increasing the civil indemnity, moral damages, and exemplary damages to ₱75,000.00 each. It agreed with the RTC that there was no discrepancy in AAA's testimony as regards the circumstances of the rape incident. Moreover, the appellate court discarded XXX's contention that it is contrary to natural human behavior that AAA did not say anything to accused's father-in-law when he came into the *bodega* after the rape. Citing *People v. Tejero*,⁷ it emphasized that there is no standard behavioral response when one is confronted with a strange or startling experience, as in this case. It justified that it is but natural for AAA not to relate the crime committed against her to XXX's father-in-law who is a mere stranger to her.

The Court's Ruling

The appeal is without merit.

Under Article 266-A, paragraph 1 of the RPC, as amended by R.A. No. 8353, the crime of rape may be committed by a man having carnal knowledge of a woman under any of the following circumstances: (1) through force, threat or intimidation; (2) when the

- over -

144-B

⁷ 688 Phil. 543, 556 (2012).

offended party is deprived of reason or otherwise unconscious; (3) by means of fraudulent machination or grave abuse of authority; and (4) when the offended party is under 12 years of age or is demented, even though none of the circumstances in items (1), (2) and (3) is present.

When the sexual intercourse is committed with a woman below 12 years of age, the act is classified as statutory rape regardless of the existence of the victim's consent to the sexual congress. This is because the absence of free consent is conclusively presumed when the victim is below the age of 12.⁸ In addition, employment of force or intimidation by the offender to consummate the sexual intercourse is immaterial since they are not legal ingredients of statutory rape. The law presumes that the victim does not and cannot have a will of her own on account of her tender years.⁹ Thus, for the charge of statutory rape to prosper, the prosecution only needs to establish the following: (1) age of the complainant; (2) the identity of the accused; and (3) the sexual intercourse between the accused and the complainant.¹⁰

Age of the offended party. Born on September 28, 2002, AAA was only 10 years old at the time of the rape incident on April 22, 2013, as shown in the final medico-legal report¹¹ issued by the Philippine General Hospital Child Protection Unit and in the *Sinumpaang Salaysay* of AAA¹² and that of her aunt,¹³ all of which were formally offered in evidence by the prosecution. The fact that AAA was under 12 years of age when the rape happened was also stipulated by the parties during the pre-trial.¹⁴

Identity of the accused who had carnal knowledge of the offended party. AAA positively identified XXX as the person who took advantage of her innocence and physical inferiority and violated her. In a natural and straightforward manner, she provided a credible account of the sexual attack:

PROSECUTOR GONZALES

- q- *Ulitin natin. Sabi mo kanina hinubad ni [XXX] yong party at shorts mo, tapos dinala ka sa sulok tapos iniupo ka sa mesa, tapos anong sunod na ginawa nya sayo?*
a- *Binaba nya ako.*

- over -

144-B

⁸ *People v. Manaligod*, G.R. No. 218584, April 25, 2018, 862 SCRA 751, 756.

⁹ *People v. Manson*, 801 Phil. 130, 137 (2016).

¹⁰ *People v. De Guzman*, G.R. No. 234190, October 1, 2018.

¹¹ CA rollo, p. 26.

¹² Id. at 21-22.

¹³ Id. at 23.

¹⁴ Id. at 29.

- q- *Saan?*
a- *Sa mesa.*
q- *Ibinaba ka sa sahig or sa floor?*
a- *[Nakaupo] ako tapos ibinaba na nya ako sa mesa.*
q- *Yong pagbaba sayo, anong posisyon mo, nakahiga ka ba?*
a- *Nakatayo.*
q- *Sabi mo inalis ni [XXX] yong shorts at panty mo, anong ginawa ni [XXX] sa damit nya?*
a- *Hinubad nya at yong shorts pati brief.*
q- *Nakita mo ba yong ari nya?*
a- *Opo.*
q- *Kailan? Sabi mo kanina pinatong ni [XXX] ang ari nya sa 'yo. Kailan pinatong, nong ibinaba ka na sa mesa?*
a- *Hinila nya ako.*
q- *Saan?*
a- *Sa sahig po.*

PROSECUTOR GONZALES

- q- *Anong posisyon ni [XXX] noong pinasok yong ari nya sa ari mo? Di ba sabi mo nakahiga ka sa floor or sa sahig, eh si [XXX], nasan si [XXX]?*

WITNESS

- a- *Nakahiga din po.*
q- *Pano mo nalaman na napasok ni [XXX] yong ari nya sayo? Pano mo nasabi na ipinasok ni [XXX] yong ari nya sa ari mo?*
a- *Ipinasok nya po. Ipinilit nya ipasok.*
q- *Ipinilit ipasok. Eh naipasok ba niya yong ari nya sa ari mo?*
a- *Pinipilit po.*
q- *Pero naipasok ba ni [XXX] yong ari nya sa ari mo?*
a- *Opo.*
q- *Anong naramdaman mo nang ipinasok ni [XXX] yong ari nya sa ari mo?*
a- *Masakit po.*
q- *Anong sinabi mo kay [XXX]?*
a- *Sabi ko po "masasakit."*
q- *Ano naman ang sabi nya sayo?*
a- *Sabi wag daw po akong maingay.*
q- *Maliban sa pagpasok ni [XXX] nong ari nya sa ari mo habang sya ay nakahiga, ano pang ginawa ni [XXX] sayo?*
a- *Hinalikan ako.*

PROSECUTOR GONZALES

- q- *Saan ka nya hinalikan?*

- over -

144-B



WITNESS

- a- *Sa labi. (Witness pointing to her lips)*
- q- *Yong paghalik sayo ni [XXX] sa labi, matagal ba yon o mabilis lang?*
- a- *Matagal po. Katulad nong pinasok yong ari nya sa ari ko.*
- q- *Matagal din ba yong pagpasok ni [XXX] ng ari nya sa ari mo?*
- a- *Opo.*
- q- *May ginagawa pa bang ibang galaw si [XXX] habang ipinapasok nya yong ari nya sa ari mo?*
- a- *Opo.*
- q- *Anong galaw? Paanong galaw ang ginagawa ni [XXX]?*
- a- *Gumagalaw-galaw sya.*
- q- *Ang galaw-galaw. Yon ba yong galaw na pataas at pababa o patagilid o galaw na pakaliwa at pakanan?*
- a- *Pataas at pababa po.*
- q- *Matagal ba yong pagpasok ng ari nya sa ari mo ng pataas at pababa?*
- a- *Opo.*
- q- *Anong nangyari pagkatapos?*
- a- *Pagkatapos nun, umalis na po ako. Itinaas ko po shorts ko, tapos may dumating po.¹⁵*

Time and again, we have held that the factual findings, as well as the assessment of credibility of witnesses are matters best left to the trial court because of its unique position of having observed that elusive and incommunicable evidence of the witnesses' deportment on the stand while testifying.¹⁶ Absent any slightest indication that the trial court's findings of fact were tainted with arbitrariness or that the trial judge overlooked or misapplied some relevant facts and circumstances, or inadequately calibrated the witnesses' credibility, the reviewing court is bound by its assessment.¹⁷

In an attempt to plant some seeds of doubt on AAA's credibility, XXX questioned the medico-legal report which reveals that AAA did not suffer any physical, internal or hymenal injury. He insists that the medical findings were inconsistent with AAA's claim that he had carnal knowledge of her. But the case of *People v. ZZZ*¹⁸ rejects XXX's theory, thus:

Likewise, the absence of hymenal laceration fails to exonerate accused-appellant. As explained in *People v. Osing*:

[M]ere touching, no matter how slight of the labia or lips of the female organ by the male genital,

- over -

144-B

¹⁵ Id. at 32-35.

¹⁶ *People v. Traigo*, 734 Phil. 726, 729 (2014).

¹⁷ *People v. Santuile*, 800 Phil. 284, 290 (2016).

¹⁸ G.R. No. 229862, June 19, 2019.

even without rupture or laceration of the hymen, is sufficient to consummate rape. The absence of fresh hymenal laceration does not disprove sexual abuse, especially when the victim is a young girl[.] x x x

This Court has consistently held that an intact hymen does not negate the commission of rape. The element of rape does not even include hymenal laceration:

The absence of external signs or physical injuries on the complainant's body does not necessarily negate the commission of rape, hymenal laceration not being, to repeat, an element of the crime of rape. A healed or fresh laceration would of course be a compelling proof of defloration. What is more, the foremost consideration in the prosecution of rape is the victim's testimony and not the findings of the medico-legal officer. In fact, a medical examination of the victim is not indispensable in a prosecution for rape; the victim's testimony alone, if credible, is sufficient to convict. (Citations omitted)

While AAA's imputation can be corroborated by physical evidence of sexual assault, *i.e.*, laceration of the victim's hymen, the lack thereof is not necessarily fatal to the prosecution's case that would eventually result in XXX's acquittal. As held in *People v. Tuboro*,¹⁹ "penetration of the penis by entry into the lips of the vagina, even the briefest of contacts and without rupture or laceration of the hymen, is enough to justify a conviction for rape." What is essential in the crime of statutory rape is that the accused had carnal knowledge of the victim below 12 years of age at the time of commission. Here, AAA's testimony, although uncorroborated, sufficiently established that XXX had carnal knowledge of her when she was 10 years old. The Court accords full faith and credence to AAA's detailed narration of her debasing experience at the hands of XXX considering not only her relative vulnerability, but also the shame to which she would be exposed if she makes untruthful statements on the witness stand.²⁰

Finally, XXX's twin defense of denial and alibi that he was inside his house when the rape happened on April 22, 2013 is flimsy and far from convincing. Jurisprudence tells us that the defense of alibi can be appreciated only when the accused shows that he was so far away that he could not have been physically present at the crime scene or, at the very least, its immediate vicinity when the rape took place and that his presence elsewhere renders it impossible for him to

- over -

144-B

¹⁹ 792 Phil. 580, 592 (2016).

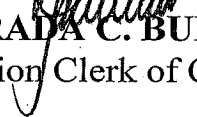
²⁰ *People v. Cadano, Jr.*, 729 Phil. 576, 585 (2014).

be the perpetrator of the crime.²¹ In this case, not only was XXX's testimony self-serving, it was also unsubstantiated such that XXX did not demonstrate that it was difficult or impossible for him to have been at his *bodega* on the day of the commission of the crime. Consequently, the defense of alibi must perforce fail and AAA's positive identification of XXX as her ravisher prevails.

WHEREFORE, the petition is **DENIED**. The Decision dated March 3, 2017 of the Court of Appeals in CA-G.R. CR-HC No. 07728 is **AFFIRMED**.

SO ORDERED. *Inting, J., additional member per Special Order 2726 dated October 25, 2019.*

Very truly yours,


LIBRADA C. BUENA
Division Clerk of Court *h/v*
144-B

The Solicitor General
134 Amorsolo Street, Legaspi Village
1229 Makati City

Court of Appeals (x)
Manila
(CA-G.R. CR HC No. 07728)

The Hon. Presiding Judge
Regional Trial Court, Branch 4
1000 Manila
(Crim. Case No. 13-296779)

PUBLIC ATTORNEY'S OFFICE
Special and Appealed Cases Service
Counsel for Accused-Appellant
DOJ Agencies Building
Diliman, 1101 Quezon City

Public Information Office (x)
Library Services (x)
Supreme Court
(For uploading pursuant to A.M.
No. 12-7-1-SC)

Judgment Division (x)
Supreme Court

UR



²¹ *People v. Harovilla*, 436 Phil. 287, 293 (2002).

