



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 9, 2020** which reads as follows:*

“G.R. No. 241089– (PEOPLE OF THE PHILIPPINES, plaintiff-appellee v. XXX,¹ accused-appellant). – This is an ordinary appeal from the Decision² of the Court of Appeals (CA) dated February 9, 2018 in CA-G.R. CR-HC No. 02238 which affirmed with modifications the Joint Decision³ dated August 6, 2015 of the Regional Trial Court (RTC) of Borongan City, Eastern Samar in Criminal Case Nos. 12030 and 12089 which found XXX (accused-appellant) guilty beyond reasonable doubt of the crime of rape.

The Antecedents

The accused-appellant was indicted in two separate Informations for the crimes charged against him. The respective accusatory portions of the Informations state:

- over – eleven (11) pages ...

172

¹ The identity of the victim or any information to establish or compromise her identity, as well as those of her immediate family or household members, shall be withheld pursuant to Republic Act No. 7610, “An Act Providing for Stronger Deterrence and Special Protection Against Child Abuse, Exploitation and Discrimination, and for Other Purposes”; Republic Act No. 9262, “An Act Defining Violence Against Women and Their Children, Providing for Protective Measures for Victims, Prescribing Penalties Therefor, and for Other Purposes”; Section 40 of A.M. No. 04-10-11-SC, known as the “Rule on Violence Against Women and Their Children,” effective November 15, 2004; *People v. Cabalquinto*, 533 Phil. 703 (2006); and Amended Administrative Circular No. 83-2015 dated September 5, 2017, Subject: Protocols and Procedures in the Promulgation, Publication, and Posting on the Websites of Decisions, Final Resolutions, and Final Orders Using Fictitious Names/Personal Circumstances.

² *Rollo*, pp. 4-14. Penned by Associate Justice Edward B. Contreras with Associate Justices Edgardo L. Delos Santos (now a Member of this Court) and Louis P. Acosta, concurring.

³ CA *rollo*, pp. 53-86. Penned by Judge Elvie P. Lim.

A handwritten signature or mark in the bottom right corner of the page.

Criminal Case No. 12030

That on June 12, 2008, at about 10 o'clock in the [evening], at x x x, Eastern Samar, Philippines and within the jurisdiction of this Honorable Court, the above-named accused with lewd design and by means of force and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of AAA, his fourteen (14) years [sic] old daughter, against her will and consent, and to the damage and prejudice of the herein victim.

CONTRARY TO LAW.⁴

Criminal Case No. 12089

That about 7:00 o'clock in the evening of July 21, 2008, at x x x, Eastern Samar, Philippines and within the jurisdiction of this Honorable Court, the above-named accused[,] taking advantage of superior strength, armed with long bolo, with lewd design did then and there willfully, unlawfully and feloniously positioned at atop himself on the body of his daughter AAA, a minor being 14 years old only, with the intention of having carnal knowledge with her but was able to free herself because of her brother, to the damage and prejudice of the herein victim.

CONTRARY TO LAW.⁵

During the arraignment, the Informations were read to him in a dialect he understood and spoke in the presence of his counsel. He pleaded not guilty to both charges.⁶

After the conduct of the preliminary conference, a joint pre-trial conference followed and trial on the merits began.⁷

The Facts

On June 12, 2008, at 10 o'clock in the evening, while AAA was sleeping in their house, she was instantaneously awakened when accused-appellant was undressing her.⁸ Accused-appellant, with genitals exposed through the zipper of his pants, successfully removed AAA's blouse, pajama, and panty.⁹ Accused-appellant positioned himself on top of AAA and held her hands.¹⁰ Soon thereafter, he held his penis,

- over -

172

⁴ Id. at 54

⁵ Id. at 54-55.

⁶ *Rollo*, p. 5.

⁷ Id.

⁸ Id.

⁹ Id.

¹⁰ Id.

spread AAA's knees and inserted his penis into her vagina. AAA protested but her pleas were unheeded. Later, while being raped, she noticed *bolos* inside the room.¹¹ After his bestial acts, accused-appellant went out the room and left AAA crying.¹²

The following morning, BBB, AAA's brother, confronted her about the incident but she initially did not confirm anything.¹³ She chose not to tell anyone about what transpired that night because of fear of accused-appellant.¹⁴ However, when her brother asked the second time, she admitted being forced to having sexual intercourse with the accused.¹⁵

BBB testified that on June 12, 2008, at around 10 o'clock in the evening, he saw accused-appellant and AAA naked.¹⁶

CCC, the mother of AAA, testified that AAA was a minor when the rape was committed.¹⁷ To prove her age, the Baptismal Certificate of AAA was presented in court which showed that she was born on x x x.¹⁸ She clarified that since accused-appellant was incarcerated, they were already separated when AAA was born. Being so, AAA carried the family name of CCC's current husband.¹⁹

Dr. Teresa Tabungar, the physician who examined AAA, testified that she found lacerations on the latter's hymen, at 5 and 7 o'clock positions.²⁰

The defense, on the other hand, presented its lone witness, Antonio Beros, friend to accused-appellant.²¹ He testified that on June 12, 2008, he and accused-appellant had a drinking session in his house in Brgy. Lapgap, Maydolong, Eastern Samar.²² Since their drinking lasted until midnight, accused-appellant stayed at Antono's house and slept therein.²³

Accused-appellant merely remained silent.²⁴

- over -

172

11 Id.
12 Id.
13 Id.
14 Id.
15 Id.
16 Id. at 6.
17 Id.
18 Id.
19 Id.
20 Id.
21 Id.
22 Id.
23 Id.
24 Id.

The RTC Ruling

The RTC considered the testimony of AAA and held that the same established the elements of carnal knowledge, through force, threat or intimidation and convicted of the crime of rape.²⁵ In Criminal Case No. 12089, accused-appellant was convicted of acts of lasciviousness instead of attempted rape as the intent to commit rape was not apparent from the act described.²⁶ The dispositive portion of the Joint Decision states:

WHEREFORE, all the foregoing premises considered, this Court finds accused, XXX GUILTY of the crime of RAPE beyond reasonable doubt. Accordingly, accused XXX is hereby sentenced to serve the penalty of imprisonment of *Reclusion Perpetua* without eligibility of parole.

XXX is hereby directed to PAY [AAA] the sum of ONE HUNDRED THOUSAND (Php100,000.00) PESOS as civil indemnity for the rape; the sum of ONE HUNDRED THOUSAND (Php100,000.00) PESOS as moral damages; the sum of ONE HUNDRED THOUSAND (Php100,000.00) PESOS as exemplary damages, PLUS Six Percent (6%) interest from the finality of judgment until fully paid.

Further, this Court, likewise, finds accused XXX in Crim. Case No. 12089, GUILTY of the crime of Acts of Lasciviousness beyond reasonable doubt. Accordingly, accused XXX is hereby sentenced, after applying the Indeterminate Sentence Law, to serve the penalty of imprisonment of One (1) Year, One (1) Month and Eleven (11) Days of the medium period of *Prision Correccional in its Minimum Period*, as minimum to Three (3) Years, Six (6) Months and Twenty (20) Days of the medium period of *Prision Correccional in its Medium Period*, as maximum.

No damages for Crim. Case No. 12089.

It appearing on record that accused has been detained for this crime on April 27, 2009, his period of detention shall be credited in full in the service of his sentence consisting of deprivation of liberty or imprisonment pursuant to Article 29 of the Revised Penal Code.

SO ORDERED.²⁷

- over -

172

²⁵ CA rollo, p. 64-67.

²⁶ Id. at 77.

²⁷ Id. at 85-86.

The CA Ruling

The accused-appellant elevated only Criminal Case No. 12030 to the CA.²⁸ He challenged the credibility of the prosecution witnesses and opined that the prosecution failed to prove his guilt beyond reasonable doubt.²⁹

The CA upheld the credibility of the prosecution witnesses. However, the appellate court ruled that the relationship between the accused-appellant and AAA was not adequately proved by the evidence adduced. Hence, the ruling of the trial court as to the monetary awards was modified. The dispositive portion of the decision reads:

WHEREFORE, premises considered, the Judgment dated August 6, 2015 of the Regional Trial Court, Branch 1, Borongan City, Eastern Samar, in Criminal Case No. 12030, finding accused-appellant XXX guilty beyond reasonable doubt of the crime of Rape is hereby AFFIRMED with the following MODIFICATIONS:

- (1) The award of civil indemnity is reduced to Seventy-Five Thousand Pesos (₱75,000.00).
- (2) The award of exemplary damages is reduced to Seventy-Five Thousand Pesos (₱75,000.00).
- (3) The award of moral damages is reduced to Seventy-Five Thousand Pesos (₱75,000.00).
- (4) Interest at the legal rate of 6% per annum is imposed on the total damages awarded from the date of finality of this Decision until full paid.

SO ORDERED.³⁰

Aggrieved, the accused-appellant interposed this ordinary appeal³¹ reiterating the same issues, to wit:

I.

THE COURT *A QUO* GRAVELY ERRED IN GIVING MUCH WEIGHT AND CREDENCE TO THE INCONSISTENT AND HIGHLY INCREDIBLE TESTIMONY OF THE PROSECUTION WITNESSES.

- over -

172

²⁸ Id. at 36.

²⁹ Id. at 33.

³⁰ *Rollo*, pp. 13-14.

³¹ Id. at 15-16.

II.

THE COURT *A QUO* GRAVELY ERRED IN CONVICTING ACCUSED-APPELLANT DESPITE THE FAILURE OF THE PROSECUTION TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.

Both the prosecution and the defense manifested that they are adopting their respective briefs before the appellate court.³²

The Ruling of this Court

The appeal has no merit.

In his brief, accused-appellant averred that by the very nature of rape, conviction or acquittal of the accused depends entirely on the credibility of the complainant's testimony,³³ thus, the evaluation of the evidence ultimately revolved around the credibility of the complaining witness.³⁴ In assailing his conviction, accused-appellant put in issue the credibility of the private complainant. He impugned AAA's testimony and alleged that it was tainted with inconsistencies and improbabilities.³⁵

A reading of his allegations in his brief readily showed that the inconsistencies he pointed out were merely trivial in nature and were not pertaining to or affecting the elements of the crime of rape. He cited as inconsistencies in the testimonies of AAA and BBB their respective statements as to the time when AAA disclosed to BBB that she was sexually abused by accused-appellant. He likewise gave emphasis on the alleged contradicting statements of AAA and BBB as to whether he was naked or wearing a pair pants at the time of the commission of the crime.³⁶

It is well-settled that in matters pertaining to the victim's credibility, the appellate courts give great weight to the trial court's findings, considering that it had the full opportunity to observe directly private complainant's demeanor, conduct and manner of testifying.³⁷ As the final appellate reviewer in this case, then, we bow to the age-old norm to accord the utmost respect to the findings and conclusions on the credibility of witnesses reached by the trial judge on account of his unmatched opportunity to observe the witnesses and on account of his

- over -

172

³² Id. at 27-29, 37-39.

³³ CA rollo, p. 41.

³⁴ Id.

³⁵ Id. at 41-42.

³⁶ Id. at 42-43.

³⁷ *People v. Ramos*, G.R. No. 210435, August 15, 2018, 877 SCRA 424, 442; *People v. Bosi*, 689 Phil. 66, 73 (2012).

personal access to the various indicia available but not reflected in the record.³⁸

Here, nothing significant has been shown to convince us that the trial court acted with bias or ignored something of substance that could have, in any degree, warranted an acquittal of the accused-appellant. The supposed inconsistencies dwelled on minor details or collateral matters that the lower courts precisely held to be badges of veracity and manifestations of truthfulness due to their tendency of demonstrating that the testimony had not been rehearsed or concocted.³⁹ It is also basic that inconsistencies bearing on minor details or collateral matters should not adversely affect the substance of the witness' declaration, veracity, or weight of testimony.⁴⁰ The only inconsistencies that might have discredited the victim's credible testimony were those that affected or related to the elements of the crime.⁴¹

As correctly ruled by the CA, even dispensing with the testimony of BBB, all the elements were sufficiently established by AAA's testimony.⁴² Whether BBB saw what transpired that fateful night is immaterial. After all, this Court has repeatedly held that the lone yet credible testimony of the offended party is sufficient to establish the guilt of the accused.⁴³

More importantly, the prosecution established beyond reasonable doubt that accused-appellant is guilty of rape.

Article 266-A of the Revised Penal Code, as amended by Republic Act No. 8353,⁴⁴ defines the crime of rape as follows:

Art. 266-A. Rape, When and How Committed. – Rape is committed –

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

- a) **Through force, threat or intimidation;**
- b) When the offended party is deprived of reason or is otherwise unconscious;

- over -

172

³⁸ *People v. Sabadlab*, 684 Phil. 269, 279 (2012).

³⁹ *Id.* at 278.

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² *Rollo*, p. 11.

⁴³ *People v. Francia*, 817 Phil. 972, 990 (2017).

⁴⁴ The Anti-Rape Law of 1997.

- c) By means of fraudulent machination or grave abuse of authority;
- 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[.] (Emphasis Ours.)

To sustain a conviction for rape through sexual intercourse, the prosecution must prove the following elements beyond reasonable doubt, namely, (i) that the accused had carnal knowledge of the victim; and (ii) 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) by means of fraudulent machination or grave abuse of authority, or (d) when the victim is under 12 years of age or is demented.⁴⁵

In the present case, AAA positively identified accused-appellant as the man who undressed her, laid on top of her, held her hands, spread her knees, disregarded her protestations, and inserted his penis into her vagina. Her claims were supported by the medical findings of the physician who examined her and found hymenal lacerations at 5 and 7 o'clock positions. This Court has repeatedly held that when the unwavering and forthright testimony of a rape victim is consistent with medical findings, there is sufficient basis to warrant a conclusion that the essential requisites of carnal knowledge have been established.⁴⁶

The defense of denial and alibi interposed by the accused-appellant deserve scant consideration. Denial and alibi are intrinsically weak defense which must be buttressed with strong evidence of non-culpability to merit credibility. Emphatically, for the defense of alibi to prosper, accused-appellant must prove not only that he was at some other place when the crime was committed but that it was physically impossible for him to be at the *locus criminis* at the time of its commission.⁴⁷ Here, while defense witness Beros claimed that he and accused-appellant had a drinking session on June 12, 2008 in his house and that accused-appellant stayed and slept therein thereafter, there was no showing that it was physically impossible for accused-appellant to be at the *locus criminis* at the time of the commission of the crime.⁴⁸

Moving on, the appellate court in modifying the amounts of civil indemnity, moral and exemplary damages awarded to the private complainant, explained that apart from the assertions of the prosecution

- over -

172

⁴⁵ *People v. Ramos*, supra note 39 at 438; *People v. Esteban*, 735 Phil. 663, 670 (2014).

⁴⁶ *People v. Ronquillo*, 818 Phil. 641, 651 (2017).

⁴⁷ *People v. Villanueva, et al.*, 822 Phil. 735, 745 (2017).

⁴⁸ *Rollo*, p. 11.

witnesses that accused-appellant is the father of AAA, the prosecution failed to show independent proof of its allegation of relationship.⁴⁹ In fact, the Baptismal Certificate adduced by the prosecution to prove the age of the victim showed that her father is a man with the same family name as hers.⁵⁰ This was admitted by CCC, the mother of AAA. She explained, however, that AAA only carried the family name of her current legal husband because she and accused-appellant were already separated at the time AAA was born.⁵¹

Despite the testimony of CCC, AAA's status and filiation cannot be compromised.⁵² Article 164 of the Family Code is clear.⁵³ A child who is conceived or born during the marriage of his parents is legitimate.⁵⁴ Moreover, Article 167 of the Family Code states that:

Art. 167. **The child shall be considered legitimate although the mother may have declared against its legitimacy** or may have been sentenced as an adulteress. (Emphasis ours)

A minor cannot be deprived of his/her legitimate status on the bare declaration of the mother and/or even much less, the supposed father. In fine, the law and only the law determines who are the legitimate or illegitimate children for one's legitimacy or illegitimacy cannot ever be compromised. It should be what the law says and not what a parent says it is.⁵⁵

Moreover, proof of the relationship between the accused-appellant and the private complainant is critical considering the penalty of death imposed for qualified rape. Article 266-B states that:

Article 266-B. Penalty. – Rape under paragraph 1 of the next preceding article shall be punished by *reclusion perpetua*.

x x x x

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

- over -

172

⁴⁹ Id. at 12.

⁵⁰ Id.

⁵¹ Id.

⁵² *Concepcion v. Court of Appeals, et al.*, 505 Phil. 529, 537 (2005).

⁵³ Id.

⁵⁴ Id.

⁵⁵ Id.

Jurisprudence dictates that when the law specifies certain circumstances that will qualify an offense and thus attach to it a greater degree of penalty, such circumstances must be both alleged and proven in order to justify the imposition of the graver penalty. Recent rulings of the Court relative to the rape of minors invariably state that in order to justify the imposition of death, there must be independent evidence proving the age of the victim, other than the testimonies of prosecution witnesses and the absence of denial by the accused. Qualifying circumstances or special qualifying circumstances must be proved with equal certainty and clearness as the crime itself; otherwise, there can be no conviction of the crime in its qualified form. As a qualifying circumstance of the crime of rape, the concurrence of the victim's minority and her relationship to the accused-appellant must be both alleged and proven beyond reasonable doubt.⁵⁶

In *People v. Pateño*,⁵⁷ apart from the testimony of the private complainant on her relationship with the appellant, the prosecution failed to adduce independent proof to establish the same. Private complainant's testimony that she was born on September 25, 1983 and that appellant is her father, even if not refuted by appellant, will not suffice. Proof thereof is critical considering the penalty of death imposed for qualified rape.⁵⁸

There being no independent proof of the relationship of the private complainant to the accused-appellant adduced by the prosecution, there can be no conviction of the crime of rape in its qualified form. Corollarily, the CA correctly imposed the penalty of *reclusion perpetua*.

In accordance with prevailing jurisprudence,⁵⁹ private complainant is entitled to civil indemnity in the sum of ₱75,000.00, moral damages in the sum of ₱75,000, and exemplary damages in the sum of ₱75,000.00.

WHEREFORE, the Decision of the Court of Appeals dated February 9, 2018 in CA-G.R. CR-HC No. 02238 is hereby **AFFIRMED**.

- over -

172

⁵⁶ *People v. Lopit*, 594 Phil. 806, 821 (2008) citing *People v. Tabanggay*, 390 Phil. 67, 91 (2000).

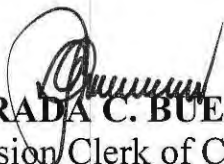
⁵⁷ 455 Phil. 100 (2003).

⁵⁸ Id. at 116.

⁵⁹ *People v. Jugueta*, 783 Phil. 806 (2016).

SO ORDERED.”

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court
172

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

Court of Appeals (x)
Manila
(CA-G.R. CR HC No. 02238)

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

The Hon. Presiding Judge
Regional Trial Court, Branch 1
Borongan City, 6800 Eastern Samar
(Crim. Case No. 12030)

Judgment Division (x)
Supreme Court

PUBLIC ATTORNEY’S OFFICE
Regional Special and Appealed Cases Unit
Counsel for Accused-Appellant
3rd Floor, Taft Commercial Center
Metro Colon Carpark
Osmeña Boulevard, 6000 Cebu City

XXX
Accused-Appellant
c/o The Superintendent
Leyte Regional Prison
Abuyog, 6510 Southern Leyte

The Superintendent
Leyte Regional Prison
Abuyog, 6510 Southern Leyte

UR



