

MODIFIED RESOLUTION



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated July 28, 2020 which reads as follows:

“G.R. No. 248780 – PEOPLE OF THE PHILIPPINES, plaintiff-appellee, versus BBB,* accused-appellant.

RESOLUTION

After a careful review of the records of the case and the issues submitted by the parties, the Court finds no error committed in the Decision¹ dated May 24, 2019 (Decision) of the Court of Appeals (CA), in CA-G.R. CR HC No. 01869-MIN. The facts, as borne out by the records, sufficiently support the conclusion that accused-appellant BBB is indeed guilty of the crime of Qualified Rape. The issues and matters raised before the Court, the same ones as those raised in the CA, there being no supplemental briefs filed, were sufficiently addressed and correctly ruled upon by the CA.

* The identity of the victim or any information which could establish or compromise her identity, as well as those of her immediate family or household members, shall be withheld pursuant to Republic Act (RA) No. 7610, entitled “AN ACT PROVIDING FOR STRONGER DETERRENCE AND SPECIAL PROTECTION AGAINST CHILD ABUSE, EXPLOITATION AND DISCRIMINATION, AND FOR OTHER PURPOSES,” approved on June 17, 1992; RA No. 9262, entitled “AN ACT DEFINING VIOLENCE AGAINST WOMEN AND THEIR CHILDREN, PROVIDING FOR PROTECTIVE MEASURES FOR VICTIMS, PRESCRIBING PENALTIES THEREFORE, AND FOR OTHER PURPOSES,” approved on March 8, 2004; and Section 40 of A.M. No. 04-10-11-SC, otherwise known as the “Rule on Violence against Women and Their Children” (November 15, 2004). (See footnote 4 in *People v. Cadano, Jr.*, 729 Phil. 576, 578 [2014], citing *People v. Lomaque*, 710 Phil. 338, 342 [2013]. See also Amended Administrative Circular No. 83-2015, entitled “PROTOCOLS AND PROCEDURES IN THE PROMULGATION, PUBLICATION, AND POSTING ON THE WEBSITES OF DECISIONS, FINAL RESOLUTIONS, AND FINAL ORDERS USING FICTITIOUS NAMES/PERSONAL CIRCUMSTANCES,” dated September 5, 2017); *People v. XXX*, G.R. No. 235652, July 9, 2018, 871 SCRA 424.

¹ *Rollo*, pp. 5-26. Penned by Associate Justice Walter S. Ong, with Associate Justices Edgardo A. Camello and Florencio M. Mamauag, Jr., concurring.

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

It is well-settled that in the absence of facts or circumstances of weight and substance that would affect the result of the case, appellate courts will not overturn the factual findings of the trial court.² Here, after examining the records of this case, the Court finds no cogent reason to vacate the Regional Trial Court's³ appreciation of the evidence, which was affirmed with modification by the CA.

First, it is undisputed that all the elements of Qualified Rape were satisfactorily established by the prosecution. The elements of Qualified Rape are as follows: (1) sexual congress; (2) with a woman; (3) done by force and without consent; (4) the victim is under eighteen (18) years of age at the time of the rape; and (5) the offender is a parent (whether legitimate, illegitimate or adopted) of the victim.⁴

In this case, AAA, a 16-year old minor,⁵ was straightforward and candid in testifying that BBB, her father, had sexual congress with her. BBB contends that the prosecution failed to show that there was employment of force and intimidation, however, as correctly ruled by the CA, it must be stressed that the moral ascendancy of BBB over AAA, his minor daughter, renders it unnecessary to show physical force and intimidation.⁶ In incestuous rape, the father's moral ascendancy and influence over his daughter sufficiently substitute for rape and intimidation. He "takes advantage of his blood relationship, [proximity,] ascendancy, and [moral] influence over his victim both to commit the [rape] and to intimidate the victim into silence."⁷

In addition, the testimony of AAA that she was raped by BBB was corroborated by the medical findings report and testimony of Dr. Ma. Gracia Palomero (Dr. Palomero), who conducted a physical examination on AAA on the same day as she was raped. Dr. Palomero reported that "the lacerations looked very fresh or it happened almost 4 or 5 hours before the examination,"⁸ which is consistent with the fact that AAA was examined by Dr. Palomero just a few hours after the rape incident occurred.⁹

² *People v. Gerola*, G.R. No. 217973, July 19, 2017, 831 SCRA 469, 478.

³ Regional Trial Court of Midsayap, Cotabato, Branch 24, in Criminal Case No. 06-133.

⁴ *People v. Salaver*, G.R. No. 223681, August 20, 2018, 878 SCRA 104, 118.

⁵ The elements of minority of AAA and the relationship of BBB with AAA, both qualifying circumstances, were specifically alleged in the Information and stipulated on and admitted during the pre-trial conference.

⁶ *Rollo*, p. 15.

⁷ *People v. Nachor*, G.R. No. 177779, December 14, 2010, 638 SCRA 317, 333.

⁸ *Rollo*, p. 16.

⁹ *Id.* at 18.

Second, BBB argues that his identity was not clearly established by the prosecution. BBB contends that AAA could not have identified him since the room where the alleged rape incident was dark. However, as correctly pointed out by the CA, AAA was able to recognize the identity of her father through the illumination coming from the moonlight.¹⁰ Moreover, AAA recognized the voice of her father, who warned her not to make any noise.¹¹ Considering AAA's familiarity with the voice of her father, coupled with the illumination coming from the moonlight, as well as BBB's utterance of the words "*it is normal for a father and his child to have sexual intercourse*,"¹² it is undisputed that BBB's identity as the perpetrator of the crime was proven.

Lastly, BBB's defenses of denial and alibi are clearly without merit. For the defense of alibi to prosper, the accused must prove that he was somewhere else when the offense was committed and that he was so far away that it was not possible for him to have been physically present at the place of the crime or at its immediate vicinity at the time of its commission.¹³ The work place of BBB is located in the same barangay where AAA and his family reside.¹⁴ BBB was thus not able to prove that he was so far away that it was physically impossible for him to be at the place of the crime at the time of its commission.¹⁵ Moreover, his alibi that he was at the house of his employer rendering overtime work is uncorroborated.

Thus, the CA correctly ruled that the prosecution had completely proved the guilt of BBB beyond reasonable doubt for the crime of Qualified Rape.

WHEREFORE, premises considered, the appeal¹⁶ is **DISMISSED** for lack of merit. The Court hereby **ADOPTS** the findings of fact and conclusions of law in the Decision dated May 24, 2019 of the Court of Appeals, in CA-G.R. CR HC No. 01869-MIN. The Decision finding accused-appellant BBB guilty beyond reasonable doubt for the crime of Qualified Rape under Article 266-A, paragraph 1, in relation to Article 266-B, 6th paragraph of the of the Revised Penal Code, is **AFFIRMED**. He is ordered to pay the private complainant **ONE HUNDRED THOUSAND PESOS (P100,000.00)**

¹⁰ Id. at 19.

¹¹ Id.

¹² Id. at 21; italics supplied.

¹³ *People v. Rupal*, G.R. No. 222497, June 27, 2018, 869 SCRA 66, 90.

¹⁴ *Rollo*, p. 24.


¹⁵ Id.

¹⁶ Id. at 27-29.

as civil indemnity, ONE HUNDRED THOUSAND PESOS (P100,000.00) as moral damages, and ONE HUNDRED THOUSAND PESOS (P100,000.00) as exemplary damages. All monetary awards shall earn interest at the legal rate of six percent (6%) per annum from the date of finality of this Resolution until fully paid.

SO ORDERED.”

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court
4/24

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court
159-A

The Solicitor General
Amorsolo St., Legaspi Village
1229 Makati City

Court of Appeals
9000 Cagayan de Oro
(CA-G.R. CR-HC No. 01869-MIN)

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

PUBLIC ATTORNEY’S OFFICE
Regional Special and Appealed Cases Unit
Counsel for Accused-Appellant
BJS Bldg., Tiano Bros. cor. San Agustin Sts.
9000 Cagayan de Oro City

Judgment Division (x)
Supreme Court

The Presiding Judge
Regional Trial Court, Branch 24
Midsayap, 9410 Cotabato
(Crim. Case No. 06-133)

BBB
Accused-Appellant
c/o The Superintendent
San Ramon Prison and Penal Farm
7000 Zamboanga City

The Superintendent
San Ramon Prison and Penal Farm
7000 Zamboanga City

UR

JLP

