



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **September 8, 2020** which reads as follows:*

“G.R. No. 246947– PEOPLE OF THE PHILIPPINES, plaintiff-appellee, versus XXX,¹ accused-appellant.

This Appeal assails the Court of Appeals’ (CA) Decision² dated March 16, 2018 in *CA-G.R. CR HC No. 08384*, affirming accused-appellant’s conviction for two counts of Rape defined under Article 266-A of the Revised Penal Code (RPC), in relation to Republic Act (RA) No. 7610³ and RA No. 7659,⁴ as amended by RA No. 8353.⁵

In two separate Informations, accused-appellant was charged with Rape of his own daughter, as follows:⁶

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¹ Modified pursuant to SC Administrative Circular No. 83-15 dated July 27, 2015 (Re: Protocols and Procedures in the promulgation, publication, and posting on the Websites of Decisions, Final Resolutions and Final Orders Using Fictitious Names), in relation to Republic Act (RA) No. 7610, RA No. 8508, RA No. 9208, RA No. 9262, and RA No. 9344. Fictitious initials are instead used to represent the victims. Likewise, the personal circumstances or other information tending to establish or compromise their identities, as well as those of their immediate family or household members shall not be disclosed. The name of the accused-appellant is also blotted out as it tends to establish or compromise the victim’s identities.

² *CA rollo*, pp. 138-163; penned by Court of Appeals Associate Justice Henri Jean Paul B. Inting (now a Member of this Court), with the concurrence of Associate Justices Mariflor P. Punzalan Castillo and Danton Q. Bueser.

³ Special Protection of Children Against Abuse, Exploitation and Discrimination Act.

⁴ AN ACT TO IMPOSE THE DEATH PENALTY ON CERTAIN HEINOUS CRIMES, AMENDING FOR THAT PURPOSE THE REVISED PENAL LAWS, AS AMENDED, OTHER SPECIAL PENAL LAWS, AND FOR OTHER PURPOSES.

⁵ The Anti-Rape Law of 1997.

⁶ *CA rollo*, pp. 139-140.

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[Criminal] Case No. II-12244

That sometime in March 2013, in the Municipality of ■■■, Province of Cagayan, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design, by the use of force or intimidation, did then and there willfully, unlawfully and feloniously laid beside the herein offended party, his daughter, [AAA], a minor, fourteen (14) years old, after which, accused forcibly removed her shorts and panty then went on top of her and inserted his penis into her vagina, all against her will and consent, the sexual assault thereby gravely threatening the survival and normal development of the child and demeaned her intrinsic worth as human being.

CONTRARY TO LAW.

[Criminal] Case No. II-12245

That sometime in May 2013, in the Municipality of ■■■, Province of Cagayan, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design, by the use of force or intimidation, did then and there willfully, unlawfully and feloniously have sexual intercourse with the herein offended party, his daughter, [AAA], a minor, 14 years old, while the latter was cleaning their room, the accused entered and held her hands, laid her down and removed her shorts and panty and inserted his penis into her vagina, all against her will and consent, the sexual assault thereby gravely threatening the survival and normal development of the child and demeaned her intrinsic worth as human being.

CONTRARY TO LAW.⁷

Upon a plea of not guilty during the arraignment and the termination of the pre-trial, the case proceeded to trial on the merits.

The minority of the victim AAA and her relationship to accused-appellant, who is her father, were undisputed as shown in the Certification from the Office of the Municipal Registrar of ■■■, Cagayan.⁸

AAA testified that sometime in March 2013, while she was sleeping with her sister and grandmother, she felt somebody lay down beside her. Upon being awakened, she saw her father beside her forcibly removing her shorts and underwear. Accused then went on

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⁷ *Id.* at 65-66.

⁸ *Id.* at 66, citing Exhibit I.

top of her and inserted his penis into her vagina, making a push and pull movement. Thereafter, accused-appellant immediately left. AAA did not tell anyone about the first rape incident.⁹

Come May 2013, AAA recalled that she was cleaning their bedroom upstairs and it was daytime. While her grandmother was doing chores downstairs, her father entered the bedroom, grabbed her and forced her to lie down the wooden floor. He was able to immediately remove AAA's shorts and underwear and then forcibly inserted his penis into her vagina. After satisfying himself, AAA's father left her crying inside their bedroom.¹⁰

Three months later, BBB, the victim's mother noticed that AAA's breasts were bigger and asked her if she was pregnant. AAA kept silent and did not tell anything to her mother. Come September 2013, CCC, the victim's aunt and the one sending her to school asked AAA if she was pregnant. AAA told her the truth that it was her father who impregnated her. They decided to report the incident to the Department and Social Welfare and Development (DSWD). After confirming that the victim was pregnant during the interview conducted in their house, the DSWD personnel brought her to the Municipal Health Office to undergo medical examination.¹¹

There, the Municipal Health Officer, Dr. Ma. Concepcion Abbang (Dr. Abbang) talked to AAA about her ordeal but the latter looked traumatized and only nodded when the doctor asked if her father raped her. As AAA also refused the internal examination of her private parts, Dr. Abbang simply checked her abdomen and requested for an ultrasound. The results of the ultrasound indicated that AAA was 34 weeks pregnant and that her last menstruation was in March 2013.¹²

On the other hand, accused-appellant denied the accusations against him. He maintained that it was only CCC who forced AAA to file the Rape charges against him after he refused to work for CCC.¹³

The defense also presented as witness BBB, AAA's mother, who insisted that her husband could not have possibly raped her daughter because she and her children always slept together. She

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⁹ *Id.* at 66-67.

¹⁰ *Id.*

¹¹ *CA rollo*, p. 67.

¹² *Id.*

¹³ *Id.*

likewise corroborated accused-appellant's statement that CCC only persuaded their daughter to file the charges.¹⁴ The defense cited as proof AAA's subsequent recantation in her Affidavit dated December 18, 2015.¹⁵

In its Consolidated Decision¹⁶ dated May 3, 2016, the Regional Trial Court (RTC) adjudged accused-appellant guilty of two counts of rape. It held that the evidence proves that accused-appellant had carnal knowledge of his minor daughter twice. It gave more weight to AAA's positive and categorical statement, noting that her testimony was corroborated by the findings of Dr. Abbang, who testified that the victim was already pregnant at the time of the medical examination. In contrast, the RTC found accused-appellant's account to be self-serving, corroborated only by the testimony of his wife. Accused-appellant's denial is an inherently weak defense that must be rejected, especially in this case where there is no showing that AAA was motivated to falsely impute the crimes of rape against her own father. Thus, the RTC ruled:

WHEREFORE, premises considered, the Court finds the accused **GUILTY** beyond reasonable doubt of two (2) counts of **RAPE** and hereby sentences him to suffer for each count the penalty of *reclusion perpetua* without eligibility for parole, and to pay [AAA], through her mother, as follows: P100,000.00 as civil indemnity; P100,000.00, as moral damages, and P100,000.00 as exemplary damages.

Costs of suit to be paid by the accused.

SO ORDERED.¹⁷ (Emphasis in the original.)

In its assailed Decision,¹⁸ the CA affirmed the RTC's finding of conviction with modification only as to the imposition of interest on the award of damages, thus:

WHEREFORE, the instant appeal is hereby **DENIED**.

The Consolidated Decision dated May 3, 2016 of the Regional Trial Court, Branch 6, Aparri, Cagayan, in Criminal Case Nos. II-12244 and II-12245, finding accused-appellant [REDACTED], the victim's own father, guilty beyond reasonable doubt of two (2) counts of the crime of Rape defined under Article

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¹⁴ CA rollo, p. 68.

¹⁵ *Id.* at 143.

¹⁶ *Id.* at 65-73; penned by Judge Neljoe A. Cortes.

¹⁷ *Id.* at 73.

¹⁸ *Supra* note 2.

266-A (1) of the Revised Penal Code, in relation to Republic Act No. 7610 and punishable under Republic Act No. 7659, as amended by Republic Act No. 8353, is AFFIRMED with MODIFICATION in that all damages awarded shall earn interest at the rate of six percent (6%) per *annum* from the date of finality of this judgment.

SO ORDERED.¹⁹

In this appeal, accused-appellant faults the CA in affirming his conviction despite the alleged bias on the part of the trial court judge, the inconsistencies in the testimony of AAA and the improbability of the commission the crime. He also claims that both the RTC and the CA erred in disregarding his defense.

We dismiss the appeal.

First, accused-appellant claims that the trial court judge exhibited bias when he asked questions to the point of helping the prosecutor establish its case. The judge also made remarks which reveal his inclination to convict the accused-appellant. We are not convinced.

A judge has in his favor the presumption of regularity in the performance of his official duty. Mere suspicion or bare allegation that the judge is biased or partial to a party is not enough; there should be adequate evidence to prove the charge.²⁰

Records show that prosecution witness Josephine Amurao, a Center Social Worker from the DSWS, testified that AAA has just given birth and will be discharged to her family once the Local Government Unit social worker found it fit for the child to be integrated back to her family. The judge then asked what the DSWD will do with the victim after the termination of the case seeing that the mother appears to be siding with the father. Amurao replied that the DSWD will have temporary custody of AAA, to which the judge remarked: *“It was x x x the concern of the Court is the welfare of the child. What will happen to the child after the termination of the case? Kung sabagay, if the decision will be adverse to the accused, wala ng kakatakutan x x x. Fiscal are you ready here.”*²¹

The judge’s questions and remarks, like the one quoted above, should not be taken as partiality to handing out a guilty verdict.

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¹⁹ CA rollo, pp. 161-162.

²⁰ *People v. Legaspi*, 445 Phil. 574 (2003).

²¹ CA rollo, p. 48.

Regardless of the conviction or acquittal of accused-appellant, the judge is aware that the minor victim will eventually be reintegrated to her family. The Court sees that the judge's seeming apprehension that AAA will be eventually sent home is predicated more on the victim's relationship with her mother, who initially supported her daughter during the preliminary investigation by executing an Affidavit dated October 25, 2013 – only to later on decide during the pre-trial to testify instead for her husband.²² As a judge handling Family Court cases and knowing that the victim is only 14 years old who has just given birth, it is his duty to inquire from the DSWD social worker about the well-being of the child.²³

For the same reason, this Court sees that it is often expedient or even necessary in the due and faithful administration of justice for the judge, in the exercise of sound discretion, to question a witness in order that his judgment may rest upon a full and clear understanding of the facts, even if the testimony drawn out tends to support or rebut the position taken by one or the other party.²⁴ It is essential for judges to take an active part in the trial especially when the sworn affidavits of the material witnesses were adopted as their direct testimonies. Since affidavits are generally taken *ex parte* and are often incomplete or even inaccurate for lack of searching inquiries by the investigating officer, the trial court had to ask relevant questions to clarify important matters.²⁵

To stress, judges are, after all, not mere referees in a boxing bout, whose only task is to watch and decide the results. They have as much interest as counsel in the orderly and expeditious presentation of

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²² *Id.* at 106.

²³ Family Courts Act of 1997, RA No. 8369, SECTION 2. State and National Policies. — The State shall protect the rights and promote the welfare of children in keeping with the mandate of the Constitution and the precepts of the United Nations Convention on the Rights of the Child. October 28, 1997.

Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act, RA No. 7610, SECTION 2. Declaration of State Policy and Principles. — It is hereby declared to be the policy of the State to provide special protection to children from all forms of abuse, neglect, cruelty exploitation and discrimination and other conditions, prejudicial their development; provide sanctions for their commission and carry out a program for prevention and deterrence of and crisis intervention in situations of child abuse, exploitation and discrimination. The State shall intervene on behalf of the child when the parent, guardian, teacher or person having care or custody of the child fails or is unable to protect the child against abuse, exploitation and discrimination or when such acts against the child are committed by the said parent, guardian, teacher or person having care and custody of the same. June 17, 1992.

x x x x

²⁴ *People v. Legaspi*, *supra* note 19 at 588; citing *People v. Vaynaco*, 364 Phil. 564 (1999).

²⁵ *People v. Herida*, 406 Phil. 205, 217(2001).

evidence and have the duty to ask questions that would elicit the facts on the issues involved, clarify ambiguous remarks by witnesses, and address the points that are overlooked by counsel.²⁶

Second, as to the inconsistencies in the testimony of AAA, accused-appellant alleged that the victim claimed that her aunt CCC did not say anything when she first divulged that she was raped and impregnated by her own father. This is contrary to AAA's claim in her Sworn Statement that CCC told her to inform her mother about the rape incident. This minor lapse is not sufficient to discredit AAA.

It is settled in jurisprudence that a few discrepancies and inconsistencies in the testimonies of witnesses referring to minor details and not in actuality touching upon the central fact of the crime of Rape, such as the reaction of the victim's aunt, do not impair the credibility of the witness.²⁷ The same holds true with regard to the alleged inconsistency in AAA's narration of the rape incident wherein she first testified that her father went on top of her²⁸ and then later stating on cross-examination that his father inserted his penis from behind.²⁹ We see no reason to reverse the finding of guilt on this ground as it possible that his father was unsuccessful when he mounted on top of AAA because she tried to push him away, but was able to accomplish penetration from behind.³⁰

Accused-appellant's claim that it was impossible for him to commit the crime because AAA sleeps beside her sibling and their grandmother deserves scant consideration. Lust is no respecter of time or place; Rape defies constraint of time and space. For most victims, particularly the young girls, rapists are not deterred from committing the odious act of sexual abuse by mere inconvenience or awkwardness of the situation or even by the presence of people or family members nearby.³¹

In this case, the evidence at hand supports the findings and conclusion of the RTC, as affirmed by the CA, regarding the credibility of AAA's testimony. Both the RTC and the CA, correctly ruled that the elements of Qualified Rape through Force, Threat and Intimidation were clearly established, to wit: (1) sexual congress; (2)

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²⁶ *Id.*

²⁷ *People v. Cabilida, Jr.*, G.R. No. 222964, July 11, 2018, 871 SCRA 602, 611.

²⁸ *CA rollo*, pp. 65-66.

²⁹ *Id.* at 58-59.

³⁰ *Id.*

³¹ *People v. XXX*, G.R. No. 225793, August 14, 2019.

with a woman; (3) done by force and without consent; (4) the victim is under 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.³²

Minor AAA's testimony was clear and categorical — that on two occasions, March 2013 and May 2013, accused-appellant, her father, removed her shorts and panty and thereafter inserted his penis inside her private part, to wit:

17 Q: Will you narrate in detail the facts and circumstances surrounding the incident, if [you] can still remember?

A: (victim shyly narrates) Sometime in the month of March 2013, I was fast asleep together with my sister and my grandmother inside our bedroom at the 2nd floor of our house when I noticed someone lay down beside me. I was shocked when I saw that it was my father [REDACTED] [REDACTED] and [he] forcibly removed my shorts and undergarment (panty) then immediately went on top of my body. I tried to push him but he subsequently inserted his penis into my vagina and move (*sic*) up and down my top.

x x x x

19 Q: What happened next if there is?

A: After he succeeded in raping me, he immediately went out of our room.

20 Q: Did you reveal the incident to any one?

A: No, ma'am, I never revealed to anyone.

21 Q: Why did you not reveal to any one?

A: Because I am afraid with (*sic*) my father.

22 Q: How about on May 2013, can you narrate in detail the facts and circumstances surrounding the incident, if you can still remember?

A: Sometime in the month of May 2013 at about 9:00 in the morning, I was alone cleaning our bedroom upstairs while my grandmother was busy in her household chores downstairs when suddenly my father [REDACTED] [REDACTED] entered the room and immediately grabbed my hands and ordered me to lay in the wooden floor. He quickly removed my shorts and panty then he

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³² *Id.*

subsequently inserted his penis into my vagina. After [he] succeeded in his lustful desire, he left me alone weeping in our room.

x x x x³³

The victim's narration was corroborated by the testimony of Dr. Abbang as an expert witness, thus, is a convincing and sufficient proof of the commission of rape.

Finally, we sustain the RTC's and CA's ruling that an uncorroborated denial and alibi are inherently weak defenses and constitute self-serving negative evidence which cannot be accorded greater evidentiary weight than the declaration of credible witnesses who testified on affirmative matters.

Nevertheless, the Court deems it proper to give the correct nomenclature to be used in designating the crime which is "qualified rape" considering that the minority of the victim and her relationship with the accused-appellant were sufficiently alleged in the Informations and proved during trial.³⁴

Under Article 266-B of the RPC, when the victim of rape is under 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, the penalty is death.³⁵ However, with the advent RA No. 9346,³⁶ suspending the death penalty, the courts *a quo* correctly imposed the penalty of *reclusion perpetua*, without eligibility for parole in accordance with A.M. No. 15-08-02-SC.³⁷

Consistent with the Court's ruling in *People v. Jugueta*,³⁸ we also sustain the awards of civil indemnity, moral damages and exemplary damages of ₱100,000.00 each, as well as the imposition of legal interest on all the damages awarded from the date of the finality of this Resolution until fully paid.

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³³ CA rollo, pp. 151-152.

³⁴ *People v. XXX*, *supra* note 31.

³⁵ As amended by RA No. 8353 (The Anti-Rape Law of 1997), September 30, 1997.

³⁶ An Act Prohibiting the Imposition of the Death Penalty in the Philippines, June 24, 2006.

³⁷ Guidelines for the Proper Use of the Phrase "Without Eligibility for Parole" in Indivisible Penalties, August 4, 2015 - When circumstances are present warranting the imposition of the death penalty, but this penalty is not imposed because of RA 9346, the qualification of "without eligibility for parole" shall be used to qualify *reclusion perpetua* in order to emphasize that the accused should have been sentenced to suffer the death penalty had it not been for RA No. 9346.

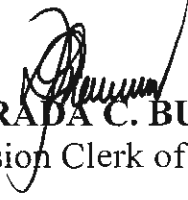
³⁸ 783 Phil. 806 (2016).

FOR THESE REASONS, the appeal is **DISMISSED**. The Court of Appeals' Decision dated March 16, 2018 in *CA-G.R. CR HC No. 08384*, affirming the trial court's finding that accused-appellant is guilty beyond reasonable doubt of two (2) counts of Qualified Rape is **AFFIRMED**.

The penalty of *reclusion perpetua without eligibility for parole*, for each count, imposed upon accused-appellant, and the awards of civil indemnity, moral damages and exemplary damages of ₱100,000.00 each, as well as the imposition of legal interest on all the damages awarded from the date of the finality of this Resolution until fully paid, are likewise **AFFIRMED**.

SO ORDERED."

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court *10/21*

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court
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