Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

- *versus* -

NONIETO GERSAMIO,
Accused-Appellant.

G.R. No. 207098

Present:

SERENO, *C.J.*,
LEONARDO-DE CASTRO,
BERSAMIN,
PEREZ, and
PERLAS-BERNABE, *JJ.*

Promulgated:

JUL 08 2015

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DECISION

PEREZ, *J.*:

The subject of this present appeal is the Decision[1] dated 25 April 2012 of the Court of Appeals in CA-G.R. HC-CR No. 00906 affirming the Decision[2] dated 14 January 2008 of the Regional Trial Court (RTC), Branch 29 of Toledo City, Cebu, in Criminal Case No. TCS-4609, finding Nonieto Gersamio (herein appellant) guilty beyond reasonable doubt of the crime of rape committed against AAA,[3] but, deleting the portion ordering the appellant to acknowledge paternity and to support the child of AAA.

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[1] Penned by Associate Justice Gabriel T. Ingles with Associate Justices Eduardo B. Peralta, Jr. and Pamela Ann Abella Maxino, concurring. *Rollo*, pp. 3-25.

[2] Penned by Executive Judge Cesar O. Estrera. CA *rollo*, pp. 14-25.

[3] This is pursuant to the ruling of this Court in *People of the Philippines v. Cabalquinto*, 533 Phil. 703 (2006), wherein this Court resolved to withhold the real name of the victim-survivor and to use fictitious initials instead to represent her in its decisions. Likewise, the personal circumstances of the victims-survivors or any 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 names of such victims, and of their immediate family members other than the accused, shall appear as "AAA," "BBB," "CCC," and so on. Addresses shall appear as "XXX" as in "No. XXX Street, XXX District, City of XXX."

Two (2) separate informations were filed against the appellant charging him with rape committed in 1999 and on 28 August 2002 docketed as Criminal Case Nos. TCS-4608 and TCS-4609, respectively. The appellant was later acquitted in Criminal Case No. TCS-4608 per the above-mentioned RTC Decision dated 14 January 2008 for prosecution's failure to specify with certainty the exact month in 1999 when the offense was committed.[4] Thus, only Criminal Case No. TCS-4609 is the subject of this instant appeal.

The Information docketed as Criminal Case No. TCS-4609 subject of this appeal reads:

> That on the 28th day of August 2002, at around 5:00 o'clock in the afternoon, more or less, at Barangay XXX, Municipality of XXX, Province of XXX, Philippines and within the jurisdiction of this Honorable Court, the above-named [herein appellant], with lewd design, did then and there willfully, unlawfully and feloniously **by means of force, violence and intimidation and having carnal knowledge with the complainant [AAA], 15 years old, a minor, at the time of the incident against her will**.[5] (Emphasis supplied.)

On arraignment, the appellant pleaded NOT GUILTY to the crime charged.[6] After the pre-trial conference, trial on the merits ensued.

The prosecution presented the testimonies of AAA, the victim herself; BBB, the grandmother of AAA; and Dr. Shiela Faciol (Dr. Faciol), Medical Health Officer of Pinamungajan, Cebu, who conducted the medical examination on AAA.

The prosecution's evidence was engaged in the establishment of the following facts:

AAA's first sexual ordeal at the hands of the appellant happened sometime in 1999, when she was only 13 years old, having been born on 11

The Supreme Court took note of the legal mandate on the utmost confidentiality of proceedings involving violence against women and children set forth in Sec. 29 of Republic Act No. 7610, otherwise known as *Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act*; Sec. 44 of Republic Act No. 9262, otherwise known as *Anti-Violence Against Women and Their Children Act of 2004*; and Sec. 40 of A.M. No. 04-10-11-SC, known as Rule on Violence Against Women and Their Children effective 15 November 2004.

4 CA *rollo*, p. 25.

5 Records, p. 1.

6 Per RTC Order and Certificate of Arraignment both dated 4 December 2003; id. at 63-64.

April 1986.[7] It was repeated for several times thereafter. The last incident of rape occurred on 28 August 2002. On the said date, at around 5:00 o'clock in the afternoon, while AAA was about to enter their house, the appellant, who was then hiding behind a coconut tree, suddenly grabbed and dragged her towards the back of their house - a banana plantation. AAA could not do anything but cry as the appellant pointed a knife at her neck. The appellant also put a handkerchief over her mouth and told her not to say a word. At the banana plantation, the appellant commanded AAA to lie down but she resisted, prompting the former to kick the latter in her thigh. When AAA was already lying on the ground, the appellant removed her t-shirt, short pants and underwear. The appellant also threatened to kill AAA. Defenseless, AAA simply cried. The appellant then lay on top of AAA and began kissing her on her cheeks and later on her lips. After a short while, the appellant, who was no longer wearing any shirt, pulled down his shorts and brief with his right hand while his left hand was still holding the knife. Thereafter, the appellant held his penis, inserted it inside AAA's vagina and made push and pull movements. AAA felt pain and cried. After satiating his lust, the appellant immediately stood up, kicked AAA on her thigh and instructed her to wear her panty and short pants. The appellant likewise wore his brief and short pants. Before leaving, the appellant warned AAA that he would kill her should she tell anyone what happened between them.[8]

Out of fear for her life, AAA suffered in silence. She never told anyone about the dreadful acts done to her by the appellant. However, on 2 September 2002, AAA's grandmother, BBB, discovered her pregnancy because of the changes in her physical appearance. When asked about the father of her child, it was then that AAA disclosed to BBB her harrowing experiences at the hands of the appellant, which began in 1999 when she was only 13 years old, the last of which was on 28 August 2002. Such sexual advances by the appellant resulted in her pregnancy.[9] At once, BBB went to the house of the appellant and confronted him regarding what he did to AAA. Nonetheless, in order to save AAA and their whole family from shame as the appellant is AAA's uncle, being the first cousin of AAA's mother, BBB would just like to keep the matter among themselves and merely asked the appellant to acknowledge and support the child of AAA. The appellant, however, denied the accusation and he even got mad at BBB. Leaving with no other choice, AAA, accompanied by BBB, sought the assistance of their Barangay Captain and they told the former the whole

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7 Per Certification from the Office of the Civil Registrar of Pinamungajan, Cebu; id. at 21.

8 Testimony of AAA, TSN, 6 May 2004, pp. 5-11, 13.

9 Testimony of AAA, id. at 13-14; Testimony of BBB, TSN, 20 April 2006, pp. 3-4.

incident. The Barangay Captain then advised them to have a medical examination, which they did.[10]

Dr. Faciol, who conducted the physical examination on AAA, found that (1) AAA was already five and a half months pregnant; (2) no contusion or laceration on AAA's sex organ;[11] and (3) AAA's hymen is not intact anymore. Dr. Faciol likewise stated that AAA told her that she was last rape by her perpetrator about a year ago, *i.e.*, 28 August 2002, and she was so scared at that time because the perpetrator had a knife. Dr. Faciol also clarified that after 8 to 10 days from the time the victim was raped, there would no longer be any indication or manifestation of rape on the victim's vagina. Thus, she could no longer determine if the penetration was forceful. Even so, Dr. Faciol declared that her aforesaid findings did not exclude the possibility of rape.[12]

AAA and BBB subsequently proceeded to the police station, submitted the result of the medical examination and narrated the whole incident of rape committed by the appellant against AAA.[13]

For its part, the defense presented the appellant and his mother, Dominga Gersamio, whose testimonies consist of sheer denials and *alibi*. Their version of the case is as follows:

The appellant vehemently denied that he raped AAA. He maintained that from 1999 until 2002 he was in Cebu City working as a driver of a public utility jeepney (PUJ) and that he only went home to Pinamungajan, Cebu, every Saturday afternoon. While working as a jeepney driver, he stayed at the shop of his brother in Quiot, Pardo, Cebu City. From 1999 up to 2000, he had a girlfriend, who is a teacher previously assigned in Consolatrix Academy. He admitted having known AAA, being the granddaughter of her mother's older sister. He claimed that on 22 September 2002, her mother informed him that he was being accused of raping AAA. He got angry as it was not true and he never had any sexual relationship with AAA. On the same day, to their surprise, AAA and BBB went to their house asking him to support AAA's child. But, he refused. He stated that prior to the filing of this case, his family and that of AAA were still in good terms even though they had a previous misunderstanding regarding a video cd allegedly stolen by AAA. He is also willing to submit

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10 Testimony of BBB, TSN, 20 April 2006, pp. 4-5; Testimony of AAA, TSN, 6 May 2004, pp. 15-16.

11 Testimony of Dr. Shiela Faciol, TSN, 2 March 2006, pp. 4-5; Medico-Legal Report, records, p. 19-20.

12 Testimony of Dr. Shiela Faciol, TSN, 2 March 2006, pp. 6-9.

13 Testimony of AAA, TSN, 6 May 2004, p. 17; Testimony of BBB, TSN, 20 April 2006, pp. 5-6.

himself to DNA testing to determine the paternity of AAA's child but he has no money to spend for it.[14]

Dominga Gersamio corroborated the appellant's testimony that AAA and BBB went to their house asking the appellant to acknowledge paternity and to support the child AAA was carrying in her womb. But, the appellant refused and got angry, as he is not the father of AAA's child. AAA and BBB then went home and, thereafter, charged the appellant with rape.[15]

After both parties presented their evidence, the trial court rendered its Decision dated 14 January 2008 finding the appellant guilty beyond reasonable doubt of the crime charged, thereby, sentencing him to suffer the penalty of *reclusion perpetua*. The trial court similarly ordered the appellant to (1) pay AAA ₱50,000.00 as moral damages; (2) acknowledge or recognize AAA's offspring resulting from the rape; and (3) support AAA's child in the event his means improves after serving his sentence.[16]

The appellant's Motion for Reconsideration of the trial court's 14 January 2008 Decision was denied for lack of merit in the Order[17] dated 5 May 2008.

On appeal,[18] the Court of Appeals, in its now assailed Decision dated 25 April 2012, affirmed the guilty verdict and the sentence imposed by the trial court. It deleted, however, the portion ordering the appellant to acknowledge paternity and to support AAA's child, as the issue of whether the child is of the appellant is yet to be resolved in a full-blown trial.[19]

Hence, the instant recourse[20] alleging that the Court of Appeals fatally erred in affirming the appellant's conviction in Criminal Case No. TCS-4609 despite the inherent weakness of the prosecution's evidence to support the verdict.[21]

The appellant argues that AAA is not a credible witness and her testimony is also not credible being replete with several material inconsistencies, contradictions and improbabilities. *Firstly*, AAA claims that

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14 Testimony of the appellant, TSN, 12 October 2006, pp. 3-12
15 Testimony of Dominga Gersamio, TSN, 15 December 2006, pp. 4-7.
16 CA *rollo*, p. 25.
17 Id. at 54.
18 Per Notice of Appeal dated 12 May 2008; id. at 12.
19 *Rollo*, p. 25.
20 This is *via* a Notice of Appeal dated 23 May 2012; id. at 26-28.
21 Appellant's Brief dated 6 January 2008; CA *rollo*, p. 30.

the 28 August 2002 rape incident was the proximate cause of her pregnancy but it was belied by the result of her own medical examination conducted in September 2002 confirming that she was already five and a half months pregnant at that time. To explain this inconsistency, AAA asserts that the appellant started raping her when she was still 13 years old until she became pregnant but nothing on record substantiates this claim of repeated prior rape incidents. *Secondly*, AAA's behavior negates her claim of rape. Assuming the appellant with the use of force or threat had repeatedly raped her, there seemed to be no signs that she suffered trauma as a consequence thereof, or at least a change in behavior. Moreover, even if the rape was perpetrated by means of threat, such threat was not imminent as the appellant was not always around her. Yet, AAA never reported to her grandmother or uncle or teacher that the appellant had repeatedly raped her until her grandmother noticed the physical changes in her body. *Thirdly*, while AAA cries repeated rape, this was not the reason why she charged the appellant with that crime but the latter's refusal to acknowledge paternity and to support the child she was carrying in her womb. Ill motive can therefore be attributed to AAA in filing the case against the appellant, which ill motive was corroborated by the very own testimony of BBB.[22]

The appellant further contends that Dr. Faciol is not an expert witness in the field of rape cases and physical examination of child abuse. Thus, her opinion on the matter has no probative value at all. Even the medico-legal report she made is incompetent to prove the 28 August 2002 rape incident. Based on the record, AAA's physical examination was conducted eight days after the 28 August 2002 rape incident, however, the medico-legal report of Dr. Faciol did not indicate any trauma on AAA's genitalia nor any healed lacerations on the labia *majora*, labia *minora*, vaginal canal and/or fourchette. In other words, both Dr. Faciol's testimony and her medical findings could not prove the charge of rape against him.[23]

With all the foregoing, the appellant claims that since his guilt was not proven beyond reasonable doubt, he must, therefore, be acquitted of the crime charged.

This Court believes otherwise.

Noticeably, the appellant's arguments primarily hinge on the issue of AAA's credibility. Settled is the rule that when the issue of credibility of witnesses is concerned, this Court adheres to these jurisprudentially

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22 Id. at 31-33. Appellant's Supplemental Brief dated 21 October 2013; *rollo*, pp. 44-50.

23 CA *rollo*, pp. 34-36.

established guidelines: (1) it gives the highest respect to the trial court's evaluation of the testimony of the witnesses because of its unique position in directly observing the demeanor of a witness on the stand, and from its vantage point, is also in the best position to determine the truthfulness of witnesses; (2) in the absence of any substantial reason that would justify the reversal of the trial court's assessments and conclusions, the reviewing court is generally bound by the lower court's findings, particularly when no significant facts and circumstances, affecting the outcome of the case, are shown to have been overlooked or disregarded; and (3) the rule is even more stringently applied if the Court of Appeals concurred with the trial court.[24]

A meticulous perusal of the records shows no compelling reason to overturn the findings of both lower courts on the matter of AAA's credibility and that, indeed, the appellant raped her and his guilt was sufficiently proven by the prosecution beyond reasonable doubt.

It is evident in the transcript of stenographic notes that AAA's testimony, in contrast to the claim of the appellant, was clear, credible, convincing and worthy of belief. Her narration of how she was sexually abused by the appellant on that fateful afternoon of 28 August 2002 was given in a categorical and straightforward manner. She unwaveringly described to the trial court how the appellant raped her. She recounted in detail that while she was about to enter their house, the appellant, who was hiding behind a coconut tree, suddenly grabbed and dragged her to the back of their house - a banana plantation. With a knife pointed at her neck, she could not do anything but cry. The appellant also put a handkerchief over her mouth and told her not to say a word. At the banana plantation, the appellant commanded her to lie down. Though she resisted, the appellant overpowered her. While lying on the ground, the appellant removed her t-shirt, short pants and underwear. The appellant also threatened to kill her. Defenseless, she simply cried. The appellant then lay on top of her and began kissing her on her cheeks and then on her lips. After a short while, the appellant, who was no longer wearing any shirt, pulled down his shorts and brief with his right hand while his left hand was still holding the knife. Thereafter, the appellant held his penis, inserted it inside her vagina and made push and pull movements. She felt pain and cried. After satiating his lust, the appellant immediately stood up, kicked her on her thigh and instructed her to wear her panty and short pants. The appellant likewise wore his brief and short pants. Before leaving, the appellant warned her that he would kill her should she tell anyone what happened between them.[25]

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[24] *People v. Pareja*, G.R. No. 202122, 15 January 2014, 714 SCRA 131, 147, citing *People v. Sanchez*, G.R. No. 197815, 8 February 2012, 665 SCRA 639, 643.

[25] Testimony of AAA, TSN, 6 May 2004, pp. 5-11, 13.

AAA's trustworthy account proved all the elements of rape as defined under Article 266-A of the Revised Penal Code, to wit: (1) the offender had **carnal knowledge** of the victim; and (2) such act was **accomplished through force or intimidation**; or when the victim is deprived of reason or otherwise unconscious; or when the victim is under 12 years of age.[26] The appellant in this case had sexual intercourse with AAA, which he accomplished through force, that is, with the use of a knife he threatened to kill AAA to make her succumb to his bestiality. Indubitably, the appellant committed the crime of rape against AAA.

Regarding the alleged inconsistencies, improbabilities and contradictions in AAA's testimony pointed out by the appellant, this Court finds them all inconsequential as they refer to trivial matters that have nothing to do with the essential fact of the commission of rape, that is, carnal knowledge through force or intimidation. Further, discrepancies and inconsistencies in the testimony of a witness referring to minor details, and not in actuality touching upon the central fact of the crime, do not impair her credibility. If at all, they serve as proof that the witness is not coached or rehearsed.[27]

Here, even though the result of AAA's physical examination conducted in September 2002 showed that she was already five and a half months pregnant at that time, it does not necessarily follow that the appellant could not have authored the 28 August 2002 rape against her. Contrary to appellant's view, AAA's pregnancy is immaterial to the issue since **pregnancy is not an essential element of the crime of rape**. So, whether the child whom the rape victim bore was fathered by the accused, or by some unknown individual, is of no moment. What is important and decisive is that the accused had carnal knowledge of the victim against the latter's will or without her consent, and such fact was testified to by the victim in a truthful manner. As long as the elements of rape are present and proven by the prosecution, the accused could be adjudged guilty thereof notwithstanding the attendance of other matters that are completely irrelevant to the crime.[28]

The appellant's assertion that AAA's behavior belies her claim that she was raped, as there seemed to be no signs that she suffered trauma as a consequence thereof, or at least a change in behavior, is futile. Victims of a heinous crime, such as rape, cannot be expected to act within reason or in

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26 *People v. Padigos*, G.R. No. 181202, 5 December 2012, 687 SCRA 245, 255, citing *People v. Manjares*, 677 Phil. 242, 258 (2011).

27 *People v. Buban*, 541 Phil. 482, 497 (2007), citing *People v. Antonio*, 388 Phil. 869, 876 (2000).

28 *People v. Battad*, G.R. No. 206368, 6 August 2014, 732 SCRA 402, 412-413.

accordance with society's expectations. It is unreasonable to demand a standard rational reaction to an irrational experience, especially from a young victim. One cannot be expected to act as usual in an unfamiliar situation as it is impossible to predict the workings of a human mind placed under emotional stress. Moreover, it is wrong to say that there is a standard reaction or behavior among victims of the crime of rape since each of them had to cope with different circumstances.[29]

As to AAA's delay in reporting the rape incident until BBB noticed the changes in her physical appearance, the same can be attributed to her tender age and to the threat made upon her person by the appellant. Even if the appellant was not always around, the fact that he is her uncle and he lives nearby is more than enough to cause fear on AAA since he could make good of his threat at anytime. As aptly held by the Court of Appeals, AAA's failure to report the rape incident is not an indication of fabricated charges. If she did not become pregnant she would not have revealed the humiliating, painful experience she suffered in the hands of someone whom she may have regarded as a father.[30] Moreover, this Court in *People v. Pareja*[31] citing *People v. Ogarte*[32] explained why a rape victim's deferral in reporting the crime does not equate to falsification of the accusation, to wit:

> The failure of complainant to disclose her defilement without loss of time to persons close to her or to report the matter to the authorities does not perforce warrant the conclusion that she was not sexually molested and that her charges against the accused are all baseless, untrue and fabricated. Delay in prosecuting the offense is not an indication of a fabricated charge. **Many victims of rape never complain or file criminal charges against the rapists. They prefer to bear the ignominy and pain, rather than reveal their shame to the world or risk the offenders' making good their threats to kill or hurt their victims**.[33] (Emphasis supplied)

With respect to the appellant's allegation that AAA and BBB acted with ill motive in filing the rape case against him as he refused to acknowledge paternity and to support the child AAA was carrying in her womb, this Court considers it preposterous. As can be gleaned from the testimonies of AAA and BBB, they tried to settle the matter with the appellant not only because they belong to the same family, but, more so, to avoid exposing in public the disgraceful thing done to AAA by the appellant. But, the latter denied the commission of the crime and even got mad at them.

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29 *People v. Pareja*, supra note 24 at, 153-154.
30 Court of Appeals Decision dated 25 April 2012; *rollo*, p. 23.
31 Supra note 24.
32 664 Phil. 642 (2011).
33 Id. at 661, citing *People v. Gecomo*, 324 Phil. 297, 314-315 (1996).

Leaving with no other choice, AAA, together with BBB, sought the assistance of their Barangay Captain and later filed the case against the appellant. To the mind of this Court, the action taken by AAA and BBB after the appellant's denial of the commission of the crime was not prompted by any ill motive but by the desire to seek the truth and get justice for the wrong done to AAA. As succinctly explained by the Court of Appeals, thus:

> x x x the filing of the rape charge was done by [AAA] not by mere desire to exact revenge or ill motive but was driven by the heinousness of the crime and the feeling of degradation and for the lone purpose of ferreting the truth.
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> "Undergoing all of the humiliating and invasive procedures for the case – the initial police interrogation, the medical examination, the formal charge, the public trial and the cross-examination – proves to be the litmus test for truth, especially when endured by a minor who gives her consistent and unwavering testimony on the details of her ordeal."[34]

Moreover, as this Court has pronounced in *Rondina v. People*,[35] ill motives become inconsequential if there is an affirmative and credible declaration from the rape victim, which clearly establishes the liability of the accused. In this case, AAA categorically identified the appellant as her ravisher. Her account of the incident was given credence by both lower courts to which this Court conforms. Thus, the appellant's flimsy allegation of ill motive is immaterial. Besides, no woman would concoct a story of defloration, allow an examination of her private parts and submit herself to public humiliation and scrutiny *via* an open trial, if her sordid tale was not true and her sole motivation was not to have the culprit apprehended and punished.[36]

This Court equally finds erroneous the appellant's contentions that Dr. Faciol is not an expert witness, thus, her testimony cannot be given any probative value and that both Dr. Faciol's testimony and her medical findings could not prove the charge of rape against him. In prosecutions for rape, the testimony of an expert witness is not indispensable for a conviction for rape. Such is not an element of rape. By declaring that the appellant inserted his penis into her vagina, the victim said all that was necessary to prove rape. Also, it is well settled that medical findings of injuries in the victim's genitalia are not essential to convict the appellant of rape. Hymenal lacerations are not an element of rape. What is essential is that there was

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34 *Rollo*, p. 22.

35 G.R. No. 179059, 13 June 2012, 672 SCRA 293, 312.

36 *People v. Nardo*, 405 Phil. 826, 844 (2001), citing *People v. Taño*, 387 Phil. 465, 480 (2000); *People v. Amigable*, 385 Phil. 1191, 1197-1198 (2000); *People. v. Sampior*, 383 Phil. 775, 783 (2000).

penetration, however slight, of the labia *minora*, which circumstance was proven beyond doubt in this case by the testimony of AAA.[37] Moreover, Dr. Faciol clarified that after 8 to 10 days from the time the victim was raped there would no longer be any indication or manifestation of rape on the victim's vagina.[38] This would precisely explain the lack of any injury on AAA's genitalia.

Now, in comparison to AAA's positive and categorical testimony and her positive identification of the appellant as her rapist, the appellant could only muster denial and *alibi* as his defenses. As this Court has oft pronounced, both denial and *alibi* are inherently weak defenses that cannot prevail over the positive and credible testimony of the prosecution witness that the accused committed the crime. Thus, as between a categorical testimony, which has a ring of truth on one hand, and a mere denial and *alibi* on the other, the former is generally held to prevail. Moreover, for the defense of *alibi* to prosper, the appellant 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.[39] In the case at bench, the appellant miserably failed to prove that he was not at the scene of the crime on 28 August 2002. As comprehensively discussed by the Court of Appeals:

> **For one**, no sufficient independent evidence was presented to support [the] appellant's claim that he was in Cebu City on [28 August 2002], driving a public utility jeepney (PUJ) and that he went home only on Saturday afternoons, and that after he stopped driving sometime in 2002, he lived in his brother's shop located in Quiot, Pardo, Cebu City.
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> As proof of his being a professional driver, he presented his professional driver's license.
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> **For another**, it has been established from the testimony of [AAA] that her house is not far from the house of the appellant and that she had to pass by [the] appellant's house before reaching her house. Based on the foregoing, this court can safely conclude that, due to the proximity of the two houses to each other, it was not physically impossible for [the] appellant to be at the scene of the crime or its immediate vicinity at the time of the incident.
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> **Still for another**, [AAA] could not have made a mistake in identifying the appellant as her rapist, as the latter not only lived in her

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37 *People v. Gragasin*, 613 Phil. 574, 591 (2009).

38 Testimony of Dr. Shiela Faciol, TSN, 2 March 2006, pp. 6-9.

39 *People v. Piosang*, G.R. No. 200329, 5 June 2013, 697 SCRA 587, 596-597, citing *People v. Delabajan and Lascano*, G.R. No. 192180, 21 March 2012, 668 SCRA 859, 866.

> neighborhood and is known to her for many years prior to the rape incidents being her mother's first cousin.
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> In the face, therefore, of the positive identification by [AAA], [the] appellant's self-serving denial and alibi cannot prevail.[40]

In light of the foregoing, this Court affirms appellant's conviction for simple rape.

Under Article 266-B of the Revised Penal Code, rape under paragraph 1 of Article 266-A is punishable by *reclusion perpetua*. The lower courts, therefore, correctly imposed the said penalty.

This Court likewise sustains the award of ₱50,000.00 moral damages by the lower courts. Moral damages are awarded to rape victims without need of proof other than the fact of rape on the assumption that the victim suffered moral injuries from the experience she underwent.[41] In addition thereto, this Court finds it proper to also award ₱50,000.00 civil indemnity and ₱30,000.00 exemplary damages to AAA. Civil indemnity is mandatory when rape is found to have been committed.[42] Exemplary damages are also called for, by way of public example, and to protect the young from sexual abuse.[43] Furthermore, all damages awarded shall earn interest at the rate of 6% *per annum* from date of finality of judgment until fully paid.[44]

Finally, this Court similarly affirms the deletion of the portion of the trial court's decision ordering the appellant to acknowledge paternity and to support AAA's child in the absence of evidence thereof. In this case, AAA was already five and a half months pregnant when she was medically examined in September 2002. Obviously, the rape that happened on 28 August 2002 was not the cause of that pregnancy. Though there were allegations of repeated rape from 1999 up to 28 August 2002, only two Informations for rape was filed, *i.e.*, the rape incidents in 1999 and on 28 August 2002. And, the appellant was acquitted for the rape committed in 1999 for prosecution's failure to specify with certainty the exact month in 1999 the offense was committed. With these, the appellant cannot be ordered to recognize and to support AAA's child.

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40 *Rollo*, p. 17.
41 *People v. Perez*, 673 Phil. 373, 383 (2011).
42 Id.
43 *People v. Piosang*, *supra* note 39, at 599, citing *People v. Garcia*, 631 Phil. 316, 334 (2010).
44 *People v. Crisostomo*, G.R. No. 196435, 29 January 2014, 715 SCRA 99, 114.

Needless to say, the foregoing does not affect the earlier findings of this Court on the guilt of the appellant for the crime of rape committed on 28 August 2002. To repeat, not only is the impregnation of the rape victim not an element of rape;[45] it must also be stressed that AAA stated that the appellant repeatedly rape her since 1999 until 28 August 2002.[46] Although the appellant cannot be held liable for such alleged rapes, as this case does not cover other incidents of rape prior to 28 August 2002, AAA's testimony on this point provides a possible explanation for her childbirth on 5 January 2003 as her child turned one on 5 January 2004.[47]

WHEREFORE, the Decision of the Court of Appeals dated 25 April 2012 finding the appellant guilty beyond reasonable doubt of the crime of simple rape is hereby **AFFIRMED** with **MODIFICATIONS** that the appellant is further ordered to pay AAA civil indemnity and exemplary damages in the amounts of ₱50,000.00 and ₱30,000.00, respectively, plus interest on all damages at the legal rate of 6% *per annum* from the date of finality of this judgment.

SO ORDERED.

JOSE PORTUGAL PEREZ
Associate Justice

WE CONCUR:

MARIA LOURDES P. A. SERENO
Chief Justice

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45 *People v. Dichoson*, 404 Phil. 661, 678 (2001).
46 Testimony of AAA, TSN, 22 July 2004, p. 3.
47 Testimony of AAA, TSN, 6 May 2004, p. 12.

TERESITA J. LEONARDO-DE CASTRO
Associate Justice

LUCAS P. BERSAMIN
Associate Justice

ESTELA M. PERLAS-BERNABE
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, it is hereby certified that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

MARIA LOURDES P. A. SERENO
Chief Justice