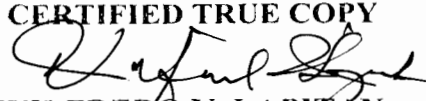




Republic of the Philippines  
 Supreme Court  
 Manila

CERTIFIED TRUE COPY  
  
 WILFREDO V. LAPITAN  
 Division Clerk of Court  
 Third Division

SEP 07 2016

**THIRD DIVISION**

**PEOPLE OF THE PHILIPPINES,**  
 Plaintiff-Appellee,

**G.R. No. 217024**

**Present:**

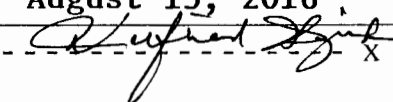
VELASCO, JR., J., *Chairperson,*  
 PERALTA,  
 PEREZ,  
 REYES, and  
 PERLAS-BERNABE,\* JJ.

- versus -

**RODEL BOLO y MALDO,**  
 Accused-Appellant.

**Promulgated:**

**August 15, 2016**



X ----- X

**DECISION**

**PERALTA, J.:**

Before the Court is an appeal from the Decision<sup>1</sup> dated March 12, 2014 of the Court Appeals (CA) in CA-G.R. CR-HC No. 05676 which affirmed the Decision<sup>2</sup> dated December 7, 2011 of the Regional Trial Court (RTC), National Capital Judicial Region, Branch 86, Quezon City, in Criminal Case No. Q-07-146758 for rape.

The antecedent facts are as follows:

\* Designated Additional Member in lieu of Associate Justice Francis H. Jardeleza, per Raffle dated May 13, 2015.

<sup>1</sup> Penned by Associate Justice Amy C. Lazaro-Javier, with Associate Justices Mariflor P. Punzalan Castillo and Pedro B. Corales concurring; *rollo*, pp. 3-20.

<sup>2</sup> Penned by Judge Roberto P. Buenaventura.; CA *rollo*, pp. 17-21.



In an Information<sup>3</sup> dated April 13, 2007, accused-appellant Rodel Bolo y Maldo was charged with the crime of rape by sexual assault under Article 266-A, paragraph 2, in relation to Article 266-B of the Revised Penal Code (*RPC*), committed by inserting his finger into the vagina of his 4-year-old daughter, AAA,<sup>4</sup> against her will and without her consent. The accusatory portion of said Information reads:

That on or about the 9<sup>th</sup> day of April, 2007, in Quezon City, Philippines, the said accused, by means of force and intimidation, did then and there, wilfully, unlawfully and feloniously insert his finger into the vagina of AAA, a minor, 4 years of age, his daughter, against her will and without her consent, to the damage and prejudice of the said offended party.

Contrary to law.<sup>5</sup>

Upon arraignment, appellant pleaded not guilty to the offense charged.<sup>6</sup> Thereafter, during trial, the prosecution presented the testimonies of the victim, AAA, the Medico-Legal Officer, Police S/Insp. Dr. Marianne S. Ebdane (*S/Insp. Ebdane*), and PO1 Simeon Masangaya.<sup>7</sup>

According to AAA, while she was standing by the gate of her maternal aunt's house in the evening of April 9, 2007, appellant kissed her on the neck and inserted his finger in her vagina. Consequently, she felt pain and, thereafter, she told the incident to her grandmother, who brought her to the police station.<sup>8</sup> Two (2) days after, acting on a request from Police Supt. Constante Agpaoa, Police S/Insp. Dr. Ebdane conducted a genital examination on AAA. In her Initial Medico-Legal Report, she stated that there was no evidence of injury or laceration on AAA's hymen. She explained that, generally, an insertion of a finger can cause irritation or redness of a victim's genitalia. But from the time of the occurrence of the incident up to the genital examination, however, fourteen (14) hours had already lapsed indicating that any redness or irritation may have been already cured. She further explained that her finding that "there is no evident injury at the time of the examination and medical evaluation cannot exclude sexual abuse," meant that it was still possible for penetration to occur without injury on the hymen because AAA was only four (4) years old and the hymen of a child was elastic.<sup>9</sup>

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<sup>3</sup> *Rollo*, p. 7.

<sup>4</sup> In line with the Court's ruling in *People v. Cabalquinto*, 533 Phil. 703, 709 (2006), citing Rule on Violence Against Women and their Children, Sec. 40, Rules and Regulations Implementing Republic Act No. 9262, Rule XI, Sec. 63, otherwise known as the "Anti-Violence Against Women and their Children Act," the real name of the rape victim will not be disclosed.

<sup>5</sup> *CA rollo*, p. 7.

<sup>6</sup> *Rollo*, p. 4.

<sup>7</sup> *Id.*

<sup>8</sup> *Id.* at 5.

<sup>9</sup> *Id.*



In contrast, the defense presented the lone testimony of appellant himself, who simply denied the charges against him.<sup>10</sup> He claimed that while he was indeed with AAA, he could not have possibly raped his own daughter for at the time of the alleged incident he was engaged in a drinking session with a *kumpadre*. He added that the charge was merely fabricated by his mother-in-law who was mad at him for using *sumpak* and disturbing their place.<sup>11</sup>

On December 7, 2011, the RTC found appellant guilty beyond reasonable doubt of the crime of rape under Article 266-A, paragraph 2, in relation to Article 266-B of the RPC, and sentenced him to suffer the penalty of *reclusion perpetua* and to pay AAA the amount of ₱75,000.00 as civil indemnity, ₱50,000.00 as moral damages, and ₱25,000.00 as exemplary damages, plus costs of the suit. The dispositive portion of its Decision reads:

WHEREFORE, the accused Rodel Bolo y Maldo is hereby found guilty beyond reasonable doubt and convicted of Rape under Article 266-A, par. 2, in relation to Article 266-B, and he is hereby sentenced to suffer the penalty of *reclusion perpetua*.

The accused is adjudged liable to pay the victim: (1) Seventy-Five Thousand Pesos (₱75,000.00) by way of civil indemnity *ex delicto*; (2) moral damages in the amount of Fifty Thousand Pesos (₱50,000.00); (3) Twenty-Five Thousand Pesos (₱25,000.00) as exemplary damages; (4) as well as cost of suit.

SO ORDERED.<sup>12</sup>

According to the RTC, the prosecution was able to successfully prove the presence of all the elements of the crime charged herein in view of the fact that AAA testified on the event that transpired in a straightforward, consistent and coherent manner. She clearly narrated on the fact that while she was standing by the gate of her maternal aunt's house one evening, appellant kissed her on the neck and inserted his finger in her vagina.<sup>13</sup> The trial court added that while there is no finding of any injury upon physical examination of AAA, the Medico-Legal Examiner explained that the absence of a laceration was due to the elasticity of the minor's hymen, making it possible for there to be penetration without breakage or injury.<sup>14</sup> Nevertheless, it was ruled that full penetration, which would ordinarily result in hymenal rupture or laceration of the vagina, is not a consummating ingredient of the crime of rape. Furthermore, the court took note of the fact that all that appellant could offer was mere denial. He even admitted that he was with his daughter on the date of the alleged incident. While he claimed

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<sup>10</sup> *Id.* at 6.

<sup>11</sup> *Id.*

<sup>12</sup> CA *rollo*, p. 21.

<sup>13</sup> *Id.* at 18.

<sup>14</sup> *Id.* at 19.

to have been engaged in a drinking session with a *kumpadre*, it was only from morning until the afternoon whereas the assault allegedly took place in the evening. Besides, the RTC added that said claim was, at best, self-serving for said *kumpadre* was never presented in court.<sup>15</sup>

On appeal, the CA affirmed the RTC Decision with modification, *viz.*:

**ACCORDINGLY**, the appeal is **DENIED**. The Decision dated December 7, 2011 is **MODIFIED**, imposing upon the appellant an indeterminate penalty of **12 years of prision mayor, as minimum, to 20 years of reclusion temporal, as maximum**, and directing him to pay ₱30,000.00 as civil indemnity, ₱30,000.00 as moral damages, and ₱30,000.00 as exemplary damages. The Decision is **AFFIRMED** in all other respects.

**SO ORDERED.**<sup>16</sup>

*First*, the CA rejected appellant's contention that the Information was defective as it failed to specify the exact nature of the charge against him. While the Information failed to specify the particular provision of law which appellant allegedly violated, the character of the crime is not determined by the specification of law but by the recital of the ultimate facts and circumstances of the case.<sup>17</sup> Since the body of the Information herein clearly alleged that appellant, through force and intimidation, inserted his finger into his daughter's vagina, a minor, thereby enumerating all the essential elements of the crime, appellant is considered sufficiently apprised of the charge against him.<sup>18</sup> *Second*, the CA reiterated the trial court's finding that hymenal rupture, vaginal laceration, or genital injury is not indispensable because the same is not an element of the crime of rape. AAA's testimony that she felt pain in her vagina during the sexual assault sufficiently corroborated her testimony that she was raped by appellant. Moreover, appellant's allegation that the crime charged was merely fabricated by his mother-in-law deserves scant consideration for it is highly unbelievable that a grandmother would expose her granddaughter to humiliation and the stigma of rape trial just to punish appellant for his alleged misdeeds.<sup>19</sup> *Third*, the appellate court likewise rejected appellant's claim for acquittal due to the prosecution's failure to prove the exact date and place of the commission of the crime. According to the CA, the same are not elements of the crime for what is decisive herein is the act of sexual assault.<sup>20</sup>

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<sup>15</sup> *Id.* at 21.

<sup>16</sup> *Rollo*, pp. 19-20. (Emphasis in the original)

<sup>17</sup> *Id.* at 10.

<sup>18</sup> *Id.* at 11.

<sup>19</sup> *Id.* at 15.

<sup>20</sup> *Id.* at 16.



As for the impossible penalty, the appellate court held that under Article 266-B of the RPC, the penalty impossible for rape by sexual assault is *prision mayor* but is increased to *reclusion temporal* if the rape is committed by any of the 10 aggravating/qualifying circumstances mentioned in the article. Here, the CA found that the prosecution successfully proved the qualifying circumstances of relationship and minority. With respect to the circumstance of relationship, there was no dispute that appellant is AAA's father, for appellant even admitted to such fact during trial. As for minority, the CA initially acknowledged the prosecution's failure to present the original or certified true copy of AAA's certificate of birth, or in their absence, similar authentic documents such as her baptismal certificate and school records. It nevertheless appreciated said qualifying circumstance ratiocinating that while it is settled that minority must be proved by independent evidence, other than the testimonies of prosecution witnesses and the absence of denial by the accused, the same is subject to the exception that the court can take judicial notice of the victim's minority when the fact of her being below the age of 10 is quite manifest. The trial court in this case would not have any difficulty ascertaining AAA's age from her appearance who was only 5 years old when she testified that she was raped by appellant. Thus, applying the Indeterminate Sentence Law, the CA held that the maximum penalty shall be taken from the maximum period of the impossible penalty which is *reclusion temporal*, ranging from 17 years, 4 months, and 1 day to 20 years, while the minimum shall be taken from the penalty next lower in degree which is *prision mayor* ranging from 10 years and 1 day to 12 years.

Consequently, appellant filed a Notice of Appeal<sup>21</sup> on August 29, 2014. Thereafter, in a Resolution<sup>22</sup> dated June 22, 2015, the Court notified the parties that they may file their respective supplemental briefs, if they so desire, within thirty (30) days from notice. Both parties, however, manifested that they are adopting their respective briefs filed before the CA as their supplemental briefs, their issues and arguments having been thoroughly discussed therein. Thus, the case was deemed submitted for decision.

In his Brief, appellant assigned the following error:

I.

THE [COURT OF APPEALS] ERRED IN CONVICTING THE ACCUSED-APPELLANT DESPITE THE FAILURE OF THE PROSECUTION TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.<sup>23</sup>

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<sup>21</sup> *Id.* at 21.

<sup>22</sup> *Id.* at 27-28.

<sup>23</sup> CA rollo, p. 38.



Appellant reiterated the following arguments he raised before the appellate court: (1) the Information filed against him was defective as it failed to specify the exact nature of the charge against him; (2) the prosecution failed to prove by convincing proof the elements of the crime charged; (3) the prosecution failed to establish the exact time and place of the commission of the crime; (4) the prosecution failed to offer the original or certified true copy of the Certificate of Live Birth of AAA, and consequently, (5) the qualifying circumstance of minority and relationship were not proven beyond reasonable doubt.

We affirm appellant's conviction, but not of rape by sexual assault in its qualified form.

The enactment of Republic Act (RA) No. 8353 or the *Anti-Rape Law of 1997*, revolutionized the concept of rape with the reclassification of rape as a crime against persons and the introduction of rape by "sexual assault" as differentiated from the traditional "rape through carnal knowledge" or "rape through sexual intercourse."<sup>24</sup> By virtue of said Act, the provision on rape in the RPC was incorporated with Article 266-A providing for the elements of the crime of rape:

Article 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 otherwise unconscious;
- c) By means of fraudulent machination or grave abuse of authority; and
- 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;

**2. By any person who, under any of the circumstances mentioned in paragraph 1 hereof, shall commit an act of sexual assault by inserting his penis into another person's mouth or anal orifice, or any instrument or object, into the genital or anal orifice of another person.**<sup>25</sup>

Under the new provision, therefore, rape can now be committed in two ways: (1) through sexual intercourse under Article 266-A, paragraph 1, also known as "organ rape" or "penile rape," the central element of which is carnal knowledge, which must be proven beyond reasonable doubt; and (2)

<sup>24</sup> *People v. Pareja*, 724 Phil. 759, 781 (2014).

<sup>25</sup> Article 266-A of the Revised Penal Code (1930), as amended by Republic Act No. 8353 (1997). (Emphasis ours)



by sexual assault under Article 266-A, paragraph 2, also called "instrument or object rape," or "gender-free rape," which must be attended by any of the circumstances enumerated in subparagraphs (a) to (d) of paragraph 1.<sup>26</sup>

Thus, the elements of the crime of rape by sexual assault are:

- (1) That the offender commits an act of sexual assault;
- (2) That the act of sexual assault is committed by any of the following means:
  - (a) By inserting his penis into another person's mouth or anal orifice; or
  - (b) By inserting any instrument or object into the genital or anal orifice of another person;
- (3) That the act of sexual assault is accomplished under any of the following circumstances:
  - (a) By using force and intimidation;
  - (b) When the woman is deprived of reason or otherwise unconscious; or
  - (c) By means of fraudulent machination or grave abuse of authority; or
  - (d) When the woman is under 12 years of age or demented.<sup>27</sup>

In the instant case, both the trial and appellate courts conclusively found appellant guilty beyond reasonable doubt of the crime of rape by sexual assault for inserting his finger inside his daughter's vagina. Accordingly, the Court does not find any reason to depart from the findings of the courts below. In resolving rape cases, the Court has always given primordial consideration to the credibility of the victim's testimony. Since rape is a crime that is almost always committed in isolation, usually leaving only the victims to testify on the commission of the crime, for as long as the victim's testimony is logical, credible, consistent and convincing, the accused may be convicted solely on the basis thereof.<sup>28</sup>

Here, the courts below expressly found that AAA testified on the event that transpired in a straightforward, consistent and coherent manner. As aptly observed by the RTC, she clearly narrated on the fact that while she was standing by the gate of her maternal aunt's house one evening, appellant kissed her on the neck and inserted his finger in her vagina. We quote AAA's testimony on the matter:

Q: AAA, what did Rodel Bolo do to you?  
A: He kissed me.

Q: And Rodel is your father?  
A: Yes, sir.

<sup>26</sup> *People v. Pareja*, *supra* note 24, at 782.

<sup>27</sup> *People v. Soria*, 698 Phil. 676, 693-694 (2012). (Citation omitted)

<sup>28</sup> *People v. Gallano*, G.R. No. 184762, February 25, 2015, 752 SCRA 1, 9.

Q: What else did he do to you?

A: "Dinukot and pepe ko."

Q: By a finger?

A: (Witness showing her forefinger)

Q: What did you feel when your father inserted his finger into your vagina?

A: It was painful.

Q: Where did he do that?

A: Outside the gate of CCC.

Q: Who is this CCC?

A: The sister of my mother.

Q: Who was your companion at that time aside from your father?

A: No one. We were only two (2), my father and I.

Q: Did he tell you something while he was doing that insertion of the finger?

A: None, sir.

x x x x            x x x x

Q: Does (appellant) normally do that to you?

A: No, sir.

Q: So that was the first time?

A: Yes, sir.

Q: Is your father present in this court?

A: Yes. (Witness pointing to the accused who gave his name as Rodel Bolo).<sup>29</sup>

It is evident from AAA's positive and consistent testimony that appellant inserted his finger inside her vagina. Thus, unless there appears certain facts or circumstances of weight and value which the lower court overlooked or misappreciated and which, if properly considered, would alter the result of the case, the trial court's conclusions on the credibility of witnesses in rape cases are generally accorded great weight and respect, and at times even finality.<sup>30</sup>

The fact that the Information did not specifically state therein that appellant was being charged with "rape in violation of Article 266-A, paragraph 2 of the Revised Penal Code" does not automatically result in the violation of his constitutional right to be informed of the nature and cause of the accusation against him. As the CA properly ratiocinated, while the

<sup>29</sup> Rollo, pp. 11-12.

<sup>30</sup> *People v. Padilla*, 617 Phil. 170, 183 (2009).



Information failed to specify the particular provision of law which appellant allegedly violated, the character of the crime is not determined by the specification of law but by the recital of the ultimate fact and circumstances of the case. Hence, since the body of the Information clearly alleged that appellant, through force and intimidation, inserted his finger into AAA's vagina, a minor, thereby enumerating all the essential elements of the crime, appellant is considered sufficiently apprised of the charge against him. Similarly, the prosecution's failure to specify the exact time and place of the commission of the crime does not call for appellant's acquittal for they are not elements of the crime of rape.

Article 266-B of the RPC provides that rape by sexual assault is punishable by *prision mayor*. When, however, the rape is committed with any of the ten (10) aggravating/qualifying circumstances mentioned in said article, the penalty shall then be *reclusion temporal*. The first circumstance<sup>31</sup> qualifies the offense when the victim 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. Hence, for a conviction of qualified rape, the prosecution must prove that (1) the victim is under eighteen years of age at the time of the rape, and (2) the offender is a parent (whether legitimate, illegitimate or adopted) of the victim.<sup>32</sup> Verily, jurisprudence dictates that the minority of the victim and the relationship of the offender to the victim must both be alleged in the Information and duly proved clearly and indubitably as the crime itself. They must be lumped together and their concurrence constitutes only one special qualifying circumstance.<sup>33</sup> In other words, it is the concurrence of both the minority of the victim and her relationship with the offender that will be considered as a special qualifying circumstance.<sup>34</sup>

In the instant case, the relationship of the appellant as father of AAA was admitted in open court by appellant, which is conclusive to prove his relationship with the victim.<sup>35</sup> However, although there is no showing that appellant similarly admitted AAA's minority, the RTC and the CA were correct in taking judicial notice of the age of the victim, she being alleged to be merely four (4) years old at the time of the commission of the offense on April 9, 2007 and five (5) years of age when she testified in court on June 24, 2008.

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<sup>31</sup> Section 1 of Article 266-B of the Revised Penal Code provides:

1. When the victim is under eighteen (18) years of age and the offender is a parent, ascendant, stepparent, guardian, relative by consanguinity or affinity within the third civil degree, or the common law spouse of the parent of the victim.

<sup>32</sup> *People v. Reman Sariago*, G.R. No. 203322, February 24, 2016.

<sup>33</sup> *People v. Lomaque*, 710 Phil. 338, 354 (2013).

<sup>34</sup> *People v. Reman Sariago*, *supra* note 32.

<sup>35</sup> *People v. Soria*, 698 Phil. 676, 696 (2012).



True, the Court laid down the controlling guidelines in appreciating age, either as an element of the crime or as a qualifying circumstance in *People v. Pruna*,<sup>36</sup> to wit:

In order to remove any confusion that may be engendered by the foregoing cases, we hereby set the following guidelines in appreciating age, either as an element of the crime or as a qualifying circumstance.

1. The best evidence to prove the age of the offended party is an original or certified true copy of the certificate of live birth of such party.

2. In the absence of a certificate of live birth, similar authentic documents such as baptismal certificate and school records which show the date of birth of the victim would suffice to prove age.

3. If the certificate of live birth or authentic document is shown to have been lost or destroyed or otherwise unavailable, the testimony, if clear and credible, of the victim's mother or a member of the family either by affinity or consanguinity who is qualified to testify on matters respecting pedigree such as the exact age or date of birth of the offended party pursuant to Section 40, Rule 130 of the Rules on Evidence shall be sufficient under the following circumstances:

a. If the victim is alleged to be below 3 years of age and what is sought to be proved is that she is less than 7 years old;

b. If the victim is alleged to be below 7 years of age and what is sought to be proved is that she is less than 12 years old;

c. If the victim is alleged to be below 12 years of age and what is sought to be proved is that she is less than 18 years old.

4. In the absence of a certificate of live birth, authentic document, or the testimony of the victim's mother or relatives concerning the victim's age, the complainant's testimony will suffice provided that it is expressly and clearly admitted by the accused.

5. It is the prosecution that has the burden of proving the age of the offended party. The failure of the accused to object to the testimonial evidence regarding age shall not be taken against him.

6. The trial court should always make a categorical finding as to the age of the victim.<sup>37</sup>

Nevertheless, despite the foregoing and in the interest of justice and fairness, the pieces of evidence and the circumstances of the instant case should be appreciated in determining whether the age of the victim was actually established by the prosecution.

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<sup>36</sup> 439 Phil. 440 (2002).

<sup>37</sup> *People v. Pruna, supra*, at 470-471. (Citation omitted)



In the case at bar, several documents were presented in court indicating the very young age of the victim; *first*, while assisted by her grandmother, AAA stated in her *Sinumpaang Salaysay*<sup>38</sup> that she was five (5) years of age; *second*, the Request for Genital Exam<sup>39</sup> indicated that AAA was five (5) years old; *third*, the Sexual Crime (Protocol) Form<sup>40</sup> stated that the age of AAA was five (5) years old; *fourth*, the Initial Medico-Legal Report<sup>41</sup> showed that AAA was five (5) years of age; *fifth*, Medico-Legal Report No. R07-757 reflected that AAA was five (5) years old; *sixth*, the personal circumstances of the victim when she testified on June 24, 2008 stated that AAA was five (5) years old and she likewise answered that she was five (5) years old when asked about her age;<sup>42</sup> and *seventh*, the accused failed to controvert that AAA was four (4) years old at the time the crime was committed when the court inquired about it while he was testifying.<sup>43</sup>

In this particular case, these pieces of evidence, together with the physical appearance of the victim when she testified, would have been sufficient basis for the lower court to ascertain the tender age of the victim when the crime was committed. Furthermore, the Medico-Legal Report prepared by Police S/Insp. Dr. Ebdane, a government physician who took an oath as a civil service official, means that she is competent to examine persons and issue medical certificates which will be used by the government. As such, the Medico-Legal Report carries the presumption of regularity in the performance of her functions and duties.<sup>44</sup> As regards the other documents, under Section 44,<sup>45</sup> Rule 130, Revised Rules of Court, entries in official records made in the performance of official duty are *prima facie* evidence of the facts therein stated. To be sure, in the absence of proof to the contrary, law enforcement agencies of the government similarly enjoy the presumption of regularity in the performance of their official functions.<sup>46</sup> Verily, if baptismal certificates or school records are allowed to be presented in court to establish the age of the victim in the absence of a birth certificate, with more reason should Medico-Legal Reports and comparable documents be allowed to ascertain such circumstance in similar cases.

Consequently, notwithstanding the fact that AAA's original or duly certified birth certificate, baptismal certificate or school records, were never presented by the prosecution, the Court agrees with the lower court and the appellate court that AAA's minority was duly established by the evidence on

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<sup>38</sup> Records, p. 4.

<sup>39</sup> *Id.* at 17.

<sup>40</sup> *Id.* at 19.

<sup>41</sup> *Id.* at 20.

<sup>42</sup> TSN, June 24, 2008, p. 8.

<sup>43</sup> TSN, April 27, 2011, p. 6.

<sup>44</sup> See *People v. Dela Cruz y Dacillo*, 452 Phil. 1080, 1094 (2003).

<sup>45</sup> Rule 130, Section 44. *Entries in official records.* — Entries in official records made in the performance of his duty by a public officer of the Philippines, or by a person in the performance of a duty specially enjoined by law, are *prima facie* evidence of the facts therein stated.

<sup>46</sup> *People v. Dela Cruz y Dacillo*, *supra* note 44.



record. Additionally, the CA, citing *People v. Tipay*,<sup>47</sup> aptly concluded that the presentation of the certificate of birth is not at all times necessary to prove minority. The minority of a victim of tender age who may be below the age of ten is quite manifest and the court can take judicial notice thereof. The crucial years pertain to the ages of fifteen to seventeen where minority may seem to be dubitable due to one's physical appearance.<sup>48</sup>

As to the imposable penalty, the crime committed was qualified rape through sexual assault. Having been established that AAA was under 18 years of age at the time of the crime and that appellant is her father, a qualifying circumstance, the proper penalty to be imposed should be *reclusion temporal*. Applying the Indeterminate Sentence Law, there being no mitigating or other aggravating circumstance, the penalty should be within the range of fourteen (14) years, eight (8) months and one (1) day to seventeen (17) years and four (4) months of *reclusion temporal* medium, as maximum, and six (6) years and one (1) day to twelve (12) years of *prision mayor*, as minimum. In this respect, the penalty to be imposed is an indeterminate penalty of nine (9) years of *prision mayor*, as minimum, to fourteen (14) years, eight (8) months and one (1) day of *reclusion temporal*, as maximum.

With respect to the award of damages, in rape cases, the award of civil indemnity is mandatory upon proof of the commission of rape, whereas moral damages are automatically awarded without the need to prove mental and physical suffering and that exemplary damages are also imposed, as example for the public good and to protect minors from all forms of sexual abuse.<sup>49</sup> Consequently, the Court affirms the ruling of the CA awarding the sums of ₱30,000.00 as civil indemnity, ₱30,000.00 as moral damages, and ₱30,000.00 as exemplary damages, for being in line with prevailing jurisprudence.<sup>50</sup> Likewise, all damages awarded shall earn interest at the rate of 6% *per annum* from date of finality of the Decision until full payment.<sup>51</sup>

**WHEREFORE**, premises considered, the Court **AFFIRMS** the Decision dated March 12, 2014 of the Court of Appeals in CA-G.R. CR-HC No. 05676 finding appellant Rodel Bolo y Maldo guilty beyond reasonable doubt of the crime of qualified rape through sexual assault under Article 266-A, paragraph 2, in relation to Article 266-B of the Revised Penal Code, as amended by Republic Act No. 8353, directing him to pay AAA the amount of ₱30,000.00 as civil indemnity, ₱30,000.00 as moral damages, and ₱30,000.00 as exemplary damages, with **MODIFICATIONS** that the

<sup>47</sup> 385 Phil. 689 (2000).

<sup>48</sup> *People v. Tipay*, *supra*, at 718.


<sup>49</sup> *People v. Jose Salvador, a.k.a. "Felix,"* G.R. No. 207815, June 22, 2015.

<sup>50</sup> *Id.*

<sup>51</sup> *Nacar v. Gallery Frames*, 716 Phil. 267 (2013).

indeterminate penalty imposed shall be nine (9) years of *prision mayor*, as minimum, to fourteen (14) years, eight (8) months and one (1) day of *reclusion temporal*, as maximum, and that an interest be imposed on all damages awarded at the legal rate of six percent (6%) *per annum* from the date of finality of this Decision until fully paid.

**SO ORDERED.**

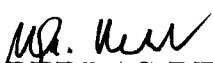
  
**DIOSDADO M. PERALTA**  
Associate Justice

**WE CONCUR:**

  
**PRESBITERO J. VELASCO, JR.**  
Associate Justice  
Chairperson

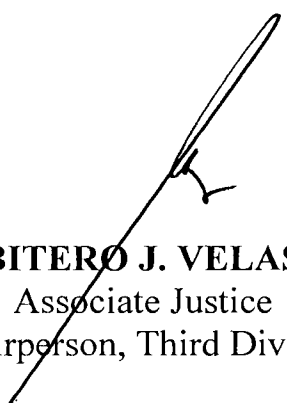
  
**JOSE PORTUGAL PEREZ**  
Associate Justice

  
**BIENVENIDO L. REYES**  
Associate Justice

  
**ESTELA M. PERLAS-BERNABE**  
Associate Justice

**ATTESTATION**

I attest 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.

  
**PRESBITERO J. VELASCO, JR.**  
Associate Justice  
Chairperson, Third Division

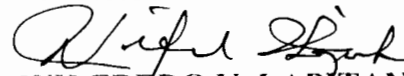
**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify 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

**CERTIFIED TRUE COPY**



**WILFREDO V. LAPITAN**  
Division Clerk of Court  
Third Division

SEP 07 2016