Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

PEOPLE OF THE PHILIPPINES,
Appellee,

- *versus* -

REMAN SARIEGO,
Appellant.

G.R. No. 203322

Present:

VELASCO, JR., *J.*, *Chairperson*,
PERALTA,
BERSAMIN,*
PEREZ, and
REYES, *JJ.*

Promulgated:

February 24, 2016

x----------x

DECISION

PERALTA, *J.*:

Before the Court is an appeal from the Decision[1] dated December 9, 2011 of the Court Appeals (*CA*) in CA-G.R. CEB-CR-H.C. No. 00721, which affirmed the Judgment[2] dated September 14, 2006 of the Regional Trial Court (*RTC*), 7th Judicial Region, Branch 14, Cebu City, in Criminal Case Nos. CBU-61972-73 for rape.

The antecedent facts are as follows:

In two (2) separate informations, appellant Reman Sariego was charged with two (2) counts of the crime of rape, committed by having

---

* Designated Additional Member in lieu of Associate Justice Francis H. Jardeleza, per Raffle dated October 1, 2014.

[1] Penned by Associate Justice Ramon Paul L. Hernando, with Associate Justices Edgardo L. Delos Santos and Victoria Isabela A. Paredes concurring; *rollo*, pp. 3-18.

[2] Penned by Judge Raphael B. Yrastorza, Sr.; CA *rollo*, pp. 17-20.

carnal knowledge of his own daughter, AAA,[3] a 17-year-old girl, against her will and to her damage and prejudice, the accusatory portions of which read:

> Criminal Case No. CBU-61972:
>
> x x x x
>
> That on December 15, 2000, at about 8:00 a.m., in Cebu City, Philippines, and within the jurisdiction of this Honorable Court, the said accused, being the father of AAA, a 17-year-old minor, by means of force and intimidation, did then and there wilfully, feloniously and unlawfully have carnal knowledge with said AAA against her will.
>
> Contrary to law.
>
> Criminal Case No. CBU-61973:
>
> x x x x
>
> That on February 20, 2001, at about 8:00 a.m., in Cebu City, Philippines, and within the jurisdiction of this Honorable Court, the said accused, being the father of AAA, a 17-year-old minor, by means of force and intimidation, did then and there wilfully, feloniously and unlawfully have carnal knowledge with said AAA against her will.
>
> Contrary to law.[4]

Upon arraignment, appellant pleaded not guilty to the offense charged.[5] Thereafter, during trial, the prosecution presented the testimonies of the victim AAA, and Dr. Jean Astercita.[6]

According to AAA, at about 8:00 a.m. on December 5, 2000, she was at home with her father and two (2) cousins washing clothes when her father asked her to buy cigarettes from a nearby store. When she returned, she went to the room in the second floor of her house to give her father the cigarettes she had bought. There, her father was already covered by a blanket in the dark. He held her hand and told her to turn her back and remove her short pants. When she refused, appellant removed her pants himself. He then proceeded to insert his penis into her vagina with her back towards him. He also told her to "stoop" on top of the table facedown. AAA kept asking her father the reason for his actions but he did not answer. After appellant

---

[3] In line with the Court's ruling in *People v. Cabalquinto*, G.R. No. 167693, September 19, 2006, 502 SCRA 419, 426, 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.

[4] *Rollo*, p. 5.

[5] *Id.* at 6.

[6] CA *rollo*, pp. 36-40.

satisfied his lust, AAA went to the comfort room downstairs to wash her private part.[7]

The same incident happened on February 20, 2001 while AAA's mother was selling goods at the Carbon Market.[8] AAA pleaded that appellant stop what he was doing to her because she might get pregnant, which would make her mother discover the horrific events, but to no avail. AAA revealed that on both occasions, she refrained from seeking help from her cousins who were in the same house because of fear that appellant might choke her mother, as what he would usually do in the past.[9] She also revealed that appellant would threaten that if she tells anyone of the incidents, he will kill all of them in their house.[10] She, however, could not keep the secret from her mother any longer because she became pregnant. When she gave birth, she left the baby in Norfeld, a place for unwed mothers subject to incest.[11]

After AAA's testimony, the prosecution presented Dr. Astercita to appear on behalf of Dr. Julius Caesar Santiago, her senior resident physician, the doctor who attended to AAA and prepared the medical certificate on his findings, but was no longer connected with the Vicente Sotto Memorial Medical Center (VCMMC). According to Dr. Astercita, the medical certificate states that the examination conducted on AAA's anus and genital area revealed that her hymen had deep notches at the seven and ten o'clock positions. This meant that there was a 50% previous laceration thereon. Dr. Astercita explained that it may have been caused by any blunt object inserted into AAA's vagina.[12] She further added that the examination on her abdomen also revealed that she was pregnant, which was later confirmed by an ultrasound report. Moreover, when asked the standard five questions in determining whether AAA was a victim of child abuse, AAA's answers showed a positive finding.[13]

In contrast, the defense presented the lone testimony of appellant himself, who simply denied the charges against him.[14] While admitting that AAA was, indeed, his daughter, appellant refuted any allegation of involvement in her pregnancy. Instead, he pointed out that it was AAA's boyfriend who impregnated her. He conceded, however, that he may have mauled his daughter in the past but such bodily harm was inflicted because she was fond of flirting with the opposite sex.[15]

---

7 *Id.* at 17.
8 *Id.* at 18.
9 *Rollo*, p. 7.
10 CA *rollo*, p. 18.
11 *Id.*
12 *Rollo*, p. 7.
13 *Id.*
14 CA *rollo*, p. 18.
15 *Rollo*, p. 8.

On September 14, 2006, the RTC found appellant guilty beyond reasonable doubt of the two (2) counts of rape and rendered its Decision, the dispositive portion of which reads:

> WHEREFORE, in view of the foregoing premises, judgment is rendered finding accused, REMAN SARIEGO, GUILTY beyond reasonable doubt of two (2) counts of rape under subparagraph (a), paragraph (1) of ART. 266-A of the Revised Penal Code ("The Anti-Rape Law of 1997"-R.A. 8353) and upon him the indivisible penalty of reclusion perpetua.
>
> Accused is, likewise, ordered to pay AAA the sum of
>
> 1.) SEVENTY-FIVE THOUSAND (₱75,000.00) PESOS, for and as civil liability; and
>
> 2.) FIFTY THOUSAND (₱50,000.00) PESOS, for and as moral damages.
>
> SO ORDERED.[16]

According to the RTC, the prosecution presented sufficient evidence proving, beyond reasonable doubt, that appellant had carnal knowledge of his daughter AAA. AAA testified in a categorical, straightforward, spontaneous and frank manner, evincing her credibility. The trial court cited several jurisprudential authorities in ruling that the fact that she failed to shout during the entire ordeal and that she waited until she became pregnant to report the matter to the authorities does not weaken her case. As to the presence of the element of force and intimidation, the RTC firmly ruled in the positive considering appellant's moral ascendancy over AAA, being the father thereof, as well as his threats to kill her and the whole family, not to mention his admitted acts of physical abuse.[17] In view of the prosecution's positive evidence, the trial court refused to give credence to appellant's bare denial and asseverations that it was AAA's boyfriend who impregnated her. When there is no evidence to show any improper motive on the part of the prosecution witness to testify falsely against an accused, the testimony is worthy of full faith and credit.[18]

On appeal, the CA affirmed the RTC judgment finding appellant guilty beyond reasonable doubt of having carnal knowledge of his own daughter. It found AAA's testimony to be credible and corroborated by the results of the medical examination. It took into consideration the findings of the trial court on her credibility in view of its unique position of having observed that elusive and incommunicable evidence of the witness'

---

16 CA *rollo*, p. 20.
17 *Id.* at 18-19.
18 *Id.* at 18.

deportment on the stand while testifying. The appellate court also noted the fact that AAA broke into tears while testifying, evinces the truth of the rape charges, for display of such emotion indicates pain when asked to recount her traumatic experience.[19]

The CA, however, deemed it necessary to point out that AAA's minority was not duly established by the evidence on record. It ruled that while the Informations specifically alleged minority and relationship as qualifying circumstances, the birth certificate, which was identified by AAA as Exhibit "B" in the course of her testimony, was not formally offered in evidence.[20] This is because when the prosecution formally offered its documentary evidence orally, the document offered as Exhibit "B" was not the birth certificate of AAA but was actually the ultrasound report.[21] Since AAA's birth certificate was not offered in evidence, the same cannot be considered pursuant to Section 34[22] of Rule 132 of the Revised Rules on Evidence. Thus, the CA held that the qualifying circumstance of minority cannot be appreciated. It, however, deemed the circumstance of relationship sufficient to qualify the offense. Hence, the appellate court sustained the RTC's judgment finding appellant guilty of qualified rape and sentencing him to suffer the penalty of *reclusion perpetua* for each count of rape, which would have been the death penalty without the passage of Republic Act No. 9346, prohibiting the imposition thereof.[23]

Consequently, appellant filed a Notice of Appeal[24] on January 26, 2012. Thereafter, in a Resolution[25] dated October 17, 2012, 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 FOR THE CRIME CHARGED DESPITE THE FAILURE OF THE PROSECUTION TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.[26]

---

19 *Rollo*, p. 14.
20 *Id.* at 16.
21 *Id.* at 17.
22 Sec. 34. *Offer of evidence.* – The court shall consider no evidence which has not been formally offered. The purpose for which the evidence is offered must be specified.
23 *Rollo*, p. 17.
24 *Id.* at 19.
25 *Id.* at 26.
26 CA *rollo*, p. 31.

Appellant raises his suspicions as to why AAA, who was not alone in the house at the times of the alleged rape incidents, her cousins being merely on the ground floor, failed to shout for help or call the attention of said cousins. He also found surprising how, despite the proximity of their house to the barangay hall and police station, she chose not to immediately report the alleged incidents. Similarly, appellant questions AAA's decision to wait only until her mother noticed her pregnancy before she actually told her what had happened.[27] According to appellant, it was not he who impregnated her, but her boyfriend. Thus, he insists that AAA's bare statements that she was "raped" should not be deemed sufficient to establish his guilt for the crime of rape.[28]

We affirm appellant's conviction, but not for rape in its qualified form.

At the outset, the Court does not find any reason to depart from the findings of the courts below as to appellant's guilt. Article 266-A, paragraph (1) of the Revised Penal Code (RPC) provides 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.[29]

In resolving rape cases, the Court has always given primordial consideration to the credibility of the victim's testimony. In fact, 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.[30] In this case, the

---

27 *Id.* at 36.
28 *Id.* at 37.
29 Article 266-A of the Revised Penal Code (1930), as amended by Republic Act No. 8353 (1997).
30 *People of the Philippines v. Domingo Gallano y Jaranilla*, G.R. No. 184762, February 25, 2015.

courts below expressly found that AAA testified in a categorical, straightforward, spontaneous and frank manner, evincing her credibility. As reproduced in the CA Decision, AAA's testimony during her direct examination clearly recounted, in detail, the series of events that transpired during the alleged incidents.[31] Indeed, 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.[32]

The Court notes, however, that appellant cannot be held guilty of the crime of rape in its qualified form. Article 266-B of the RPC provides that rape is qualified when certain circumstances are present in its commission, such as when the victim is under eighteen (18) years of age and the offender is a parent, ascendant, step-parent, guardian, relative by consanguinity or affinity within the third civil degree, or the common-law spouse of the parent of the victim.[33] Hence, in a conviction for 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.[34] 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, raising the penalty to the supreme penalty of death. Thus, it is imperative that the circumstance of minority and relationship be proved conclusively and indubitably as the crime itself; otherwise, the crime shall be considered simple rape warranting the imposition of the lower penalty of *reclusion perpetua.*[35] If, at trial, both the age of the victim and her relationship with the offender are not proven beyond reasonable doubt, the death penalty cannot be imposed.[36]

In this case, while it is undisputed that AAA is the daughter of appellant,[37] her minority was not conclusively established. In *People v. Pruna*,[38] the Court laid down the following controlling guidelines in appreciating age, either as an element of the crime or as a qualifying circumstance:

> 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.

---

31 *Rollo*, pp. 10-13.
32 *People v. Padilla*, 617 Phil. 170, 183 (2009).
33 Article 266-B of the Revised Penal Code (1930), as amended by Republic Act No. 8353 (1997).
34 *People v. Buclao*, G.R. No. 208173, June 11, 2014, 726 SCRA 365, 377.
35 *People v. Barcela*, G.R. No. 208760, April 23, 2014, 723 SCRA 647, 666, citing *People v. Alemania*, 440 Phil. 297, 306 (2002).
36 *People v. Arcillas*, 692 Phil. 40, 52 (2012).
37 CA *rollo*, p. 35.
38 439 Phil. 440 (2002).

> 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.[39]

Thus, the best evidence to prove the age of a person is the original birth certificate or certified true copy thereof, and in their absence, similar authentic documents may be presented such as baptismal certificates and school records. If the original or certified true copy of the birth certificate is not available, credible testimonies of the victim's mother or a member of the family may be sufficient under certain circumstances. In the event that both the birth certificate or other authentic documents and the testimonies of the victim's mother or other qualified relative are unavailable, the testimony of the victim may be admitted in evidence provided that it is expressly and clearly admitted by the accused.[40]

---

39 *Id.* at 470-471.

40 *People v. Paldo,* G.R. No. 200515, December 11, 2013, 712 SCRA 659, 676-677, citing *People v. Cayabyab*, 503 Phil. 606, 618 (2005).

In line with the foregoing guidelines, the Court holds that AAA's minority was not duly established by the evidence on record. As the appellate court ruled, while AAA's minority was specifically alleged in the Informations as qualifying circumstances, the birth certificate, which was identified by AAA as Exhibit "B" in the course of her testimony, was not formally offered in evidence because during the prosecution's formal offer of documentary evidence, the document offered as Exhibit "B" was not actually the birth certificate of AAA but was, in fact, the ultrasound report. Notably therefore, while the RTC stated in its judgment that "AAA testified that she was born on 18 April 1984 at the Cebu City Medical Center," citing her supposed Birth Certificate as "Exhibit B,"[41] a perusal of the minutes of the session held by the trial court on March 10, 2005 would show that the prosecution did not actually offer AAA's birth certificate but merely offered the following exhibits: (1) Exhibit A – Medical Certificate of victim AAA, (2) ***Exhibit B – Ultrasound Report***, (3) Exhibit C – Laboratory Report, and (4) Exhibit D – Five Direct Questions To Determine Victimization.[42] In fact, AAA's Birth Certificate is nowhere to be found in the Index of Original Record[43] issued by Atty. Aurora V. Peñaflor, the Branch Clerk of Court of the RTC, 7th Judicial Region, Branch 14, Cebu City. The only logical conclusion, therefore, is that the Birth Certificate was never really offered in evidence for it was never part of the records in the proceedings below. It must be noted, moreover, that when the appellate court rendered its judgment pointing to said failure to present AAA's birth certificate, the prosecution never raised any objection thereto before this Court, merely adopting its appellate brief filed before the CA. Hence, the Court finds that the prosecution, indeed, failed to adduce the best evidence to prove AAA's age. As Section 34, Rule 132 of the Rules of Court explicitly provides: "The court shall consider no evidence which has not been formally offered."

Furthermore, unfortunately for the prosecution, the records show that it likewise failed to present such other documentary and testimonial evidence which may suffice as substitutes for AAA's birth certificate, as enumerated in *Pruna*. For one, apart from AAA's purported birth certificate, which turned out to be her ultrasound report, the prosecution presented no other similar, authentic documentary evidence, such as baptismal certificates and school records. For another, while AAA's testimony may be admitted in evidence to prove her age, *Pruna* requires that the same must be expressly and clearly admitted by the accused. Regrettably, however, there is no such express admission herein. True, AAA had testified during trial that she was 17 years old at the time of the unfortunate incidents. Yet, nowhere in the records does it appear that appellant explicitly acknowledged AAA to be 17 years of age during the time when the alleged incidents occurred. Thus, AAA's testimony cannot be considered sufficient enough to prove her age.

---

41 CA *rollo*, p. 17.
42 *Id.* at 16.
43 *Id.* at 5-7.

In sum, the Court finds that not only did the prosecution fail to adduce competent documentary evidence to prove AAA's minority such as her original or duly certified birth certificate, baptismal certificate, school records, or any other authentic documents as required by *Pruna*, it likewise failed to establish that said documents were lost, destroyed, unavailable, or otherwise totally absent. There is also nothing in the records to show that AAA's mother or any member of her family, by affinity or consanguinity, testified on her age or date of birth. In like manner, while AAA may have testified as to her age during the trial, it was not clearly shown that the same was expressly admitted by appellant. Thus, AAA's minority cannot be appreciated as a qualifying circumstance against appellant herein.

Indeed, qualifying circumstances must be proved beyond reasonable doubt just like the crime itself.[44] In view of the prosecution's failure to establish AAA's minority with absolute certainty and clearness, the Court cannot sustain appellant's conviction for the crime of rape in its qualified form. Consequently, appellant should only be convicted of the crime of simple rape, the penalty for which is *reclusion perpetua*.[45] Additionally, the damages awarded by the courts below should also be modified in line with prevailing jurisprudence.[46] Thus, the award of civil indemnity must be reduced to ₱50,000.00, while the award of moral damages in the amount of ₱50,000.00 shall be maintained. In addition, there shall be an award of exemplary damages in the amount of ₱30,000.00. Said amounts shall earn interest at the rate of 6% *per annum* from date of finality of this judgment until fully paid.[47]

WHEREFORE, premises considered, the Court **AFFIRMS** the Decision dated December 9, 2011 of the Court of Appeals in CA-G.R. CEB-CR-H.C. No. 00721 with the **MODIFICATION** that appellant Reman Sariego is hereby found guilty beyond reasonable doubt of two (2) counts of simple rape and is sentenced to suffer the penalty of *reclusion perpetua* for each count of rape and to pay AAA the following amounts for each count of rape: (a) ₱50,000.00 as civil indemnity; (b) ₱50,000.00 as moral damages; and (c) ₱30,000.00 as exemplary damages, plus 6% interest *per annum* of all the damages awarded from finality of decision until fully paid.

SO ORDERED.

DIOSDADO M. PERALTA
Associate Justice

---

44 *People v. Cial*, G.R. No. 191362, October 9, 2013, 707 SCRA 285, 297.
45 REVISED PENAL CODE, Art. 266-B.
46 *People of the Philippines v. Domingo Gallano y Jaranilla*, G.R. No. 184762, February 25, 2015.
47 *Id.*

WE CONCUR:

PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson

LUCAS P. BERSAMIN
Associate Justice

JOSE PORTUGAL PEREZ
Associate Justice

BIENVENIDO L. REYES
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
MAR 17 2016