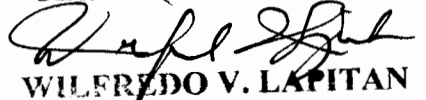




Republic of the Philippines
 Supreme Court
 Manila

CERTIFIED TRUE COPY

 WILFREDO V. LAPITAN
 Division Clerk of Court
 Third Division
 FEB 22 2016

THIRD DIVISION

PEOPLE OF THE PHILIPPINES,
 Plaintiff-Appellee,

G.R. No. 207535

Present:

- versus -

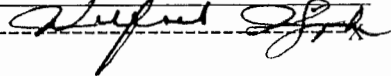
VELASCO, JR., *J.*, Chairperson,
 PERALTA,
 DEL CASTILLO,*
 PEREZ, and
 REYES, *JJ.*

**RICARDO LAGBO a.k.a RICARDO
 LABONG y MENDOZA,**
 Accused-Appellant.

Promulgated:

February 10, 2016

x-----



DECISION

PERALTA, J.:

Before the Court is an ordinary appeal filed by accused-appellant Ricardo Lagbo (*Lagbo*) assailing the Decision¹ of the Court of Appeals (*CA*), dated June 15, 2012, in CA-G.R. CR-HC No. 04060, which affirmed with modification the Decision² of the Regional Trial Court (*RTC*) of Malabon City, Branch 169, in Criminal Case Nos. 28711-MN, 28712-MN and 28713-MN, finding Lagbo guilty of three counts of qualified rape.

The antecedents are as follows:

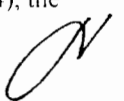
The eldest of six (6) children, AAA,³ was born on February 17, 1988, as evidenced by her certificate of live birth.⁴ She was 12 years old when her father, accused-appellant, first raped her.

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

¹ Penned by Associate Justice Edwin D. Sorongon, with Associate Justices Noel G. Tijam and Romeo F. Barza, concurring.

² Penned by Judge Emmanuel D. Laurea.

³ The initials AAA represent the private offended party, whose name is withheld to protect her privacy. Under Republic Act No. 9262 (Anti-Violence Against Women and Their Children Act of 2004), the



One afternoon in October 2000, AAA was washing dishes inside their house. She was alone with her father, as her mother was at the marketplace selling vegetables while her siblings were playing outside the house. All of a sudden, accused-appellant grabbed her and forcibly removed her short pants and her panty. After removing his short pants, accused appellant pushed AAA and made her lie down on their "papag". Thereafter, he boxed AAA's face twice and threatened to kill her mother and siblings. He then placed himself on top of AAA and made pumping motions while covering her mouth and pulling her hair. AAA felt pain and cried as accused-appellant's sex organ penetrated hers. After gratifying himself, accused-appellant put on his clothes, sat beside AAA and told her to stop crying. AAA did not relate this incident to her mother for fear that accused-appellant would make good his threat to harm her mother and siblings.

In March 2001, accused-appellant, again, violated AAA's womanhood. Reminiscent of the first rape, while she and accused-appellant were alone inside their house, the latter again boxed AAA's face, forced her to lie down on the "papag", undressed her, threatened her, placed himself on top of her, covered her mouth and pulled her hair while repeatedly making pumping motions. This time, however, AAA mustered the courage to relate the incident to her mother when the latter arrived. To AAA's disappointment, though, her mother refused to believe her.

Accused-appellant committed the third rape on February 14, 2002. He and AAA were again left alone inside their house. She was made to lie down on the kitchen floor where accused-appellant succeeded in sexually defiling her.

AAA was finally able to report her rape to the police when her mother filed a complaint against accused-appellant, on April 3, 2003, for allegedly mauling her. Taking advantage of this opportunity, AAA related her misfortune to the authorities.

Thus, in three (3) separate Informations,⁵ all dated April 4, 2003, accused-appellant was indicted for rape qualified by his relationship with, and the minority of, AAA. Pertinent portions of the Information in Criminal Case No. 28712-MN read as follows:

That sometime in the month of October, 2000 in the Municipality of Navotas, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, being the father of [AAA] exercising moral ascendancy and overwhelming influence over the latter,

name, address, and other identifying information of the victim are made confidential to protect and respect the right to privacy of the victim.

⁴ Exhibit "D," folder of exhibits.

⁵ Records, pp. 2, 9 and 18.



with lewd design and by means of force and intimidation, did, then and there, willfully, unlawfully and feloniously have sexual intercourse with the said [AAA], a minor of 12 years old, by then and there inserting his organ at the victim's vagina against her will and without her consent, which act debases, degrade[s] or demeans the intrinsic worth and dignity of a child as a human being thereby endangering her youth, normal growth and development.⁶

The two other Informations, which were docketed as Crim. Case Nos. 28711-MN and 28713-MN, are similarly worded as to place, the elements of the crime charged, and the persons involved, except for date of the commission of the crime and the age of the victim. In Crim. Case No. 28711-MN, the crime was alleged to have been committed in March, 2001 when AAA was already fifteen (15) years old, while in Crim. Case No. 28713-MN, AAA was also fifteen (15) years old but the crime was allegedly committed on February 14, 2002.

On July 9, 2003, accused-appellant was arraigned and pleaded not guilty to the charges.⁷ The cases were jointly tried after accused-appellant waived his right to pre-trial.⁸

On March 2, 2009, the RTC rendered its Decision finding accused-appellant guilty as charged, the dispositive portion of which reads as follows:

WHEREFORE, premises considered, accused **RICARDO LAGBO A.K.A. RICARDO LABONG**, is hereby found **GUILTY** beyond reasonable doubt of three (3) counts of Qualified Rape. For each count, he is sentenced to suffer the penalty of *RECLUSION PERPETUA* without eligibility for parole, and he is further ordered to pay the victim in the amount of SEVENTY-FIVE THOUSAND PESOS (₱75,000.00) as civil indemnity; SEVENTY-FIVE THOUSAND PESOS (₱75,000.00) as moral damages; and TWENTY-FIVE THOUSAND PESOS (₱25,000.00) as exemplary damages, plus costs.

SO ORDERED.⁹

The RTC gave full faith and credence to the testimony of AAA and held that accused-appellant's mere denial without any corroborative evidence leaves the court without any option but to convict him.

Accused-appellant appealed the RTC Decision with the CA.

⁶ *Id.* at 17-18.

⁷ See records, p. 34.

⁸ *Id.*

⁹ *Id.* at 98.



On June 15, 2012, the CA promulgated its assailed Decision affirming, with modification, the judgment of the RTC. The dispositive portion of the CA Decision reads, thus:

WHEREFORE, the foregoing premises considered, the instant appeal is DENIED and the assailed Judgment dated March 2, 2009 of the Regional Trial Court, Branch 169, Malabon City in Criminal Cases No. 28711-MN, 28712-MN and 28713-MN are hereby AFFIRMED with MODIFICATION as to the award of exemplary damages which is hereby increased to Thirty Thousand Pesos (Php30,000.00).

SO ORDERED.¹⁰

On July 5, 2012, accused-appellant, through counsel, filed a Notice of Appeal¹¹ manifesting his intention to appeal the CA Decision to this Court.

In its Resolution¹² dated August 16, 2012, the CA gave due course to accused-appellant's Notice of Appeal and directed its Judicial Records Division to elevate the records of the case to this Court.

Hence, this appeal was instituted.

In a Resolution¹³ dated July 29, 2013, this Court, among others, notified the parties that they may file their respective supplemental briefs, if they so desire.

In its Manifestation and Motion,¹⁴ the Office of the Solicitor General (*OSG*) informed this Court that it will no longer file a supplemental brief because it had already fully discussed and refuted all the arguments of the accused-appellant in its brief filed before the CA.

In the same manner, accused-appellant filed a Manifestation In Lieu of Supplemental Brief¹⁵ indicating that he no longer intends to file a supplemental brief and is adopting his brief which was filed with the CA.

The primary issue to be resolved by this Court, in the instant case, is whether or not the accused-appellant's guilt has been proven beyond reasonable doubt.

¹⁰ *Rollo*, p. 10.

¹¹ *CA rollo*, pp. 129-130.

¹² *Id.* at 134.

¹³ *Rollo*, p. 17.

¹⁴ *Id.* at 19-20.

¹⁵ *Id.* at 26-27.

The Court rules in the affirmative.

Rape under paragraph 1, Article 266-A of the Revised Penal Code (*RPC*) is committed as follows:

ART. 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 is otherwise unconscious;
- c. By means of fraudulent machination or grave abuse of authority;
- 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.

If committed by a parent against his child under eighteen (18) years of age, the rape is qualified under paragraph 1, Article 266-B of the same Code, *viz.:*

ART. 266-B. *Penalties.* - Rape under paragraph 1 of the next preceding article shall be punished by *reclusion perpetua*.

x x x x

The death penalty shall also be imposed if the crime of rape is committed with any of the following aggravating/qualifying circumstances:

1. 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.

x x x x

Thus, the elements of qualified rape are: (1) sexual congress; (2) with a woman; (3) done by force and without consent; (4) the victim is under eighteen years of age at the time of the rape; (5) 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.¹⁶

¹⁶ *People v. Nilo Colentava*, G.R. No. 190348, February 9, 2015; *People v. Candellada*, G.R. No. 189293, July 10, 2013, 701 SCRA 19, 30.



In this case, both the RTC and the CA found that the prosecution has alleged and proved beyond reasonable doubt all the elements of qualified rape. This court sees no reason to depart from the findings of the lower courts. As correctly held by the CA, AAA's recollection of the heinous acts of her father was vivid and straightforward. She was able to positively identify the accused-appellant as her sexual assailant. While there are minor inconsistencies, her testimony was given in a categorical, straightforward, spontaneous and candid manner.

The rule is that the findings of the trial court, its calibration of the testimonies of the witnesses and its assessment of the probative weight thereof, as well as its conclusions anchored on said findings are accorded respect if not conclusive effect.¹⁷ This is more true if such findings were affirmed by the appellate court.¹⁸ When the trial court's findings have been affirmed by the appellate court, said findings are generally binding upon this Court.¹⁹

Indeed, upon review, the Court finds that accused-appellant's appeal is bereft of merit and there is, thus, no cogent reason to reverse his conviction.

First, the Court does not agree with accused-appellant's contention that AAA's inconsistent testimony with respect to the places where she was raped in 2000 and 2002 bears heavily against her credibility. With respect to the first rape, accused-appellant argues that AAA's testimony that the crime was committed in 2000 in their house in Bacog, Navotas could not be true because, during that time, they were still residing somewhere in Kadiwa, Navotas, a place which is far from Bacog. In a similar manner, accused-appellant contends that AAA's claim that she was raped on February 14, 2002 inside their house in Kadiwa, Navotas is also not true because at that time, they were already residing in Bacog, Navotas.

This Court has ruled that since human memory is fickle and prone to the stresses of emotions, accuracy in a testimonial account has never been used as a standard in testing the credibility of a witness.²⁰ Moreover, the Court considers AAA's alleged inconsistency in testifying, with respect to the place where the first and third rapes were committed, as a minor inconsistency which should generally be given liberal appreciation considering that the place of the commission of the crime in rape cases is after all not an essential element thereof. What is decisive is that accused-appellant's commission of the crime charged has been sufficiently proved.²¹

¹⁷ *People v. Dela Cruz*, 570 Phil. 287, 305 (2008).

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *People v. Zafra*, G.R. No. 197363, June 26, 2013, 700 SCRA 106, 115.

²¹ *People v. Vergara*, G.R. No. 199226, January 15, 2014, 714 SCRA 64, 74; *People v. Linsie*, G.R. No. 199494, November 27, 2013, 711 SCRA 125, 137.



The alleged disparity in the victim's testimony may also be attributed to the fact that, during her direct examination, AAA was first questioned regarding her third rape in 2002, while questions with respect to her first rape in 2000 were the last to be asked. In any case, Courts expect minor inconsistencies when a child-victim narrates the details of a harrowing experience like rape.²² Such inconsistencies on minor details are in fact badges of truth, candidness and the fact that the witness is unrehearsed.²³ These discrepancies as to minor matters, irrelevant to the elements of the crime, cannot, thus, be considered a ground for acquittal.²⁴ In this case, the alleged inconsistency in AAA's testimony regarding the exact place of the commission of rape does not make her otherwise straightforward and coherent testimony, on material points, less worthy of belief.

Second, accused-appellant attributes ill motive against AAA and claims that she may have concocted a story against him as she never had a harmonious relationship with accused-appellant by reason of his constant mauling of her mother and siblings.

However, this Court has held that it takes much more for a young lass to fabricate a story of rape, have her private parts examined, subject herself to the indignity of a public trial and endure a lifetime of ridicule.²⁵ Even when consumed with revenge, it takes a certain amount of psychological depravity for a young woman, like AAA, to concoct a story which would put her own father for the most of his remaining life to jail and drag herself and the rest of her family to a lifetime of shame.²⁶

Third, the Court is neither persuaded by accused-appellant's argument that the physical evidence on record does not support AAA's allegation of rape considering that the examination made by the physician showed that there was no laceration in the hymen and there was no evident injury found at the time of the examination.

Contrary to accused-appellant's assertions, there was no definitive statement in the medico-legal report of Dr. Punongbayan, the physician who examined AAA, that the victim could not have been subjected to sexual abuse. On the contrary, the said report stated that the “[g]enital findings **do not exclude sexual abuse** and may still be compatible with the patient's disclosure [of physical and sexual abuse].”²⁷ In her direct examination, Dr. Punongbayan explained that AAA's hymen was estrogenized, making it elastic, such that a fully erect male sex organ can penetrate AAA's vagina

²² *Id.*

²³ *Id.*

²⁴ *Id.*

²⁵ *People v. Zafra*, *supra* note 20.

²⁶ *Id.*

²⁷ See Exhibit “B-1,” folder of exhibits. (Emphasis supplied.)



without causing hymenal injury.²⁸ This Court, in a number of cases, has affirmed the conviction of the accused for rape despite the absence of laceration on the victim's hymen, since medical findings suggest that it is possible for the victim's hymen to remain intact despite repeated sexual intercourse.²⁹ It has been elucidated that the strength and dilatability of the hymen varies from one woman to another, such that it may be so elastic as to stretch without laceration during intercourse. In any case, this Court has previously stated that a medical examination and a medical certificate, albeit corroborative of the commission of rape, are not indispensable to a successful prosecution for rape.³⁰ Moreover, it is settled that the absence of physical injuries or fresh lacerations does not negate rape, and although medical results may not indicate physical abuse or hymenal lacerations, rape can still be established since medical findings or proof of injuries are not among the essential elements in the prosecution for rape.³¹ In the present case, the credible disclosure of AAA that accused-appellant raped her is the most important proof of the commission of the crime. Indeed, the testimony of a single witness may be sufficient to produce a conviction, if the same appears to be trustworthy and reliable.³² If credible and convincing, that alone would be sufficient to convict the accused.³³ Moreover, testimonies of child-victims are normally given full weight and credit, since when a girl, particularly if she is a minor, says that she has been raped, she says in effect all that is necessary to show that rape has, in fact, been committed.³⁴ When the offended party is of tender age and immature, courts are inclined to give credit to her account of what transpired, considering not only her relative vulnerability but also the shame to which she would be exposed if the matter to which she testified is not true.³⁵ Youth and immaturity are generally badges of truth and sincerity.³⁶ In the instant case, the Court finds no cogent reason to depart from the findings of both the RTC and the CA as to the credibility of the victim and her testimony.

Lastly, accused-appellant contends that his defense of denial and alibi should not have been outrightly discounted in light of the failure of the prosecution to prove his guilt beyond reasonable doubt.

The settled rule is that both denial and alibi are inherently weak defenses which cannot prevail over the positive and credible testimony of the prosecution witness that the accused committed the crime.³⁷ Thus, as between a categorical testimony which has a ring of truth on one hand, and a

²⁸ See TSN, April 29, 2004, p. 6.

²⁹ *People v. Pamintuan*, G.R. No. 192239, June 5, 2013; *People v. Opong*, 577 Phil. 571 (2008).

³⁰ *People v. Lucena*, G.R. No. 190632, February 6, 2014, 717 SCRA 389, 404.

³¹ *People v. Ronald Nical y Alminario*, G.R. No. 210430, February 18, 2015.

³² *People v. Pareja*, G.R. No. 202122, January 15, 2014, 714 SCRA 131, 151.

³³ *Id.*

³⁴ *People v. Piosang*, G.R. No. 200329, June 5, 2013, 697 SCRA 587, 593.

³⁵ *Id.*

³⁶ *Id.*

³⁷ *People v. Linsie*, *supra* note 21, at 138.

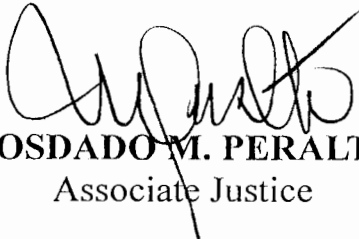
mere denial and alibi on the other, the former is generally held to prevail.³⁸ In the case at bar, the Court finds no compelling reason to depart from the findings of the trial court that, in light of the positive and categorical testimony of AAA that accused-appellant raped her, the mere denial of accused-appellant, without any corroborative evidence leaves the court with no option but to pronounce a judgment of conviction.

As to the penalty, Article 266-B of the RPC, as amended, provides that the death penalty shall be imposed if the victim is under eighteen (18) years of age and the offender, among others, is the victim's parent. However, following Republic Act No. 9346,³⁹ the RTC, as affirmed by the CA, correctly imposed upon accused-appellant the penalty of *reclusion perpetua* in lieu of death, without eligibility for parole. Likewise, the RTC correctly awarded in AAA's favor the amounts of ₱75,000.00 as civil indemnity and ₱75,000.00 as moral damages. An award of civil indemnity *ex delicto* is mandatory upon a finding of the fact of rape, and moral damages may be automatically awarded in rape cases without need of proof of mental and physical suffering.⁴⁰ The CA, in turn, correctly modified the RTC ruling by increasing the award of exemplary damages from ₱25,000.00 to ₱30,000.00. Exemplary damages are also called for, by way of public example, and to protect the young from sexual abuse.⁴¹

However, the assailed CA Decision should be modified by ordering accused-appellant to pay interest at the rate of six percent (6%) *per annum* from the finality of this judgment until all the monetary awards for damages are fully paid, in accordance with prevailing jurisprudence.⁴²

WHEREFORE, the instant appeal is **DISMISSED**. The Decision dated June 15, 2012 of the Court of Appeals in CA-G.R. CR-HC No. 04060 is hereby **AFFIRMED** with the **MODIFICATION** that accused-appellant RICARDO LAGBO is further **ORDERED** to pay the victim interest, at the rate of six percent (6%) *per annum*, on all damages awarded, from the date of finality of this Decision until fully paid.

SO ORDERED.


DIOSDADO M. PERALTA
Associate Justice

³⁸ *Id.*

³⁹ *An Act Prohibiting the Imposition of Death Penalty in the Philippines.*

⁴⁰ *People v. Piosang*, *supra* note 34, at 599.


⁴¹ *Id.*

⁴² *Id.*; *People v. Obaldo Bandril y Tabling*, G.R. No. 212205, July 6, 2015.

WE CONCUR:

PERESBITERO J. VELASCO, JR.

Associate Justice
Chairperson


MARIANO C. DEL CASTILLO
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.

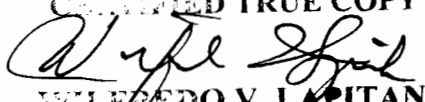
Associate Justice
Chairperson, Third Division

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

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WILFREDO V. LAPITAN
Division Clerk of Court
Third Division

FEB 22 2016