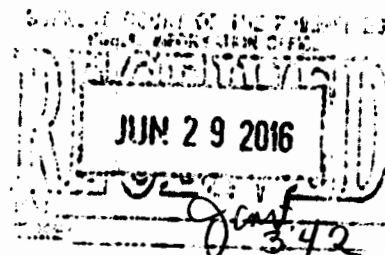




Republic of the Philippines
Supreme Court
Manila



FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 208475

Present:

SERENO, * *CJ.*,
LEONARDO-DE CASTRO, ** *J.*,
Acting Chairperson,
BERSAMIN,
PERLAS-BERNABE, and
CAGUIOA, *JJ.*

- versus -

MANUEL REBANUEL y
NADERA,
Accused-Appellant.

Promulgated:

JUN 08 2016

x-----x

DECISION

LEONARDO-DE CASTRO, *J.*:

Before this Court is an automatic review of the August 30, 2012 Decision¹ of the Court of Appeals in CA-G.R. CEB-CR.-H.C. No. 00815, which affirmed with modification the July 9, 2007 Judgment² of the Regional Trial Court (RTC), Branch 63, Bayawan City, Negros Oriental, in Criminal Case No. 212, finding appellant Manuel Rebanuel guilty beyond reasonable doubt of the crime of rape under Article 266-A of the Revised Penal Code and imposing the penalty of *reclusion perpetua* under Article 266-B of the Revised Penal Code, as amended by Republic Act No. 8353.

The Information³ dated January 19, 2004 charging appellant Rebanuel reads as follows:

The undersigned accuses MANUEL REBANUEL y NADERA of the crime of RAPE, committed as follows:

That on the 3rd day of January 2003, around 7:00 x x x in the evening, at x x x Negros Oriental, Philippines, within the jurisdiction of

* On leave.
** Per Special Order No. 2354 dated June 2, 2016.
¹ *Rollo*, pp. 3-16; penned by Associate Justice Zenaida T. Galapate Laguilles with Associate Justices Edgardo L. Delos Santos and Pamela Ann Abella Maxino concurring.
² *CA rollo*, pp. 31-36; penned by Judge Orlando C. Velasco.
³ Records, p. 1.

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this Honorable Court, the said accused, did then and there willfully, unlawfully and feloniously have carnal knowledge with [AAA⁴], a minor, 9 years of age.

Contrary to Article 266-A, paragraph 1(d) of the Revised Penal Code of the Philippines, as amended by Republic Act No. 8353.

On arraignment, appellant pleaded not guilty.⁵

The case proceeded to trial. The evidence respectively presented by the prosecution and the defense are summarized below.

Evidence for the Prosecution

AAA testified⁶ that on January 3, 2003 at around seven o'clock in the evening, in Sta. Catalina, Negros Oriental, she and her sister BBB went to the "Beta House" to watch a movie.⁷ The "Beta House" is located about 30 to 40 meters from the house where AAA and her family live. Along the way, AAA saw a neighbor, appellant, following her and her sister. She easily recognized him because of the illumination coming from the "Beta House." When she entered, appellant collected the entrance fee from her. Afterwards, AAA went outside towards the back portion of the "Beta House" to urinate. As she was pulling up her panties, she saw appellant approaching her, and she was able to recognize him because of the light coming from the "Beta House." Appellant then pulled her to a hilly area about three meters away from the "Beta House" and told her not to shout because her father might hear. AAA pleaded with appellant not to harm her for fear that she will be scolded by her father. Despite this, appellant covered AAA's mouth with his right hand, removed her panties and his underwear, while standing behind her. Appellant, then in his fifties, pushed his penis into AAA's vagina. Due to the repeated pushing of appellant's penis against her vagina, AAA instantly felt pain. Appellant, however, failed to fully penetrate AAA. Around the time for the generator to be turned off and for the children to leave the "Beta House," appellant went home, which was a few meters away. AAA cried after being left in that situation, put on her panties, then immediately returned home. She did not reveal the incident to her father as appellant told her that her father might kill appellant and she did not want that to happen. During her testimony, AAA positively identified appellant as the man who raped her.⁸

⁴ The real names of the private complainant and those of her immediate family members are withheld in consonance with *People v. Cabalquinto*, 533 Phil. 703 (2006), Republic Act No. 7610 (Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act), Republic Act No. 9262 (Anti-Violence Against Women and Their Children Act of 2004), and A.M. No. 04-10-11-SC (Rule on Violence Against Women and Their Children).

⁵ Records, p. 52.

⁶ TSN, August 25, 2004, pp. 1-23.

⁷ Owned by Endrico Rebanuel, this is a house where movies are regularly shown for a fee and where singing or "videoke" sessions are held. (See TSN, March 10, 2005, pp. 1-6.)

⁸ TSN, August 25, 2004, pp. 4-17.

CCC, private complainant's mother, testified that while they were at home on June 5, 2003 at around nine o'clock in the morning, AAA suddenly embraced her and said, "Ma, don't kill me, Manuel Rebanuel raped me." AAA also told her that the incident happened on January 3, 2003 at around seven o'clock in the evening. Thereafter, CCC consulted the officials of their *barangay*, brought AAA to the Department of Social Welfare and Development (DSWD), and sought their help. She also reported the incident to the police.⁹

Dr. Victor Nuico, Municipal Health Officer of Sta. Catalina, Negros Oriental, examined AAA on June 9, 2003 and wrote the following findings in the Medical Certificate:

Introitus admits 1 finger with difficulty.
Hymen - a suspect old healed laceration at 2 o'clock position.¹⁰

Dr. Nuico testified that the old laceration could have been inflicted more than two weeks before the medical examination because of the absence of a contusion.¹¹

Julie Panot, who works at the Local Civil Registrar of Sta. Catalina, testified that based on their records, AAA was born on October 16, 1993.¹²

Senior Police Officer 4 Nenette May Vivares of the Women and Children's Concerns Desk-PNCO, Sta. Catalina Police Station, testified that on June 5, 2003, AAA and her parents came to the police station and reported that appellant raped AAA on January 3, 2003 at around seven o'clock in the evening.¹³

Evidence for the Defense

Appellant Rebanuel, in his defense, interposed denial and alibi. He testified that he knew AAA, daughter of his neighbors, DDD and CCC, who lived about 10 arms' length away from his house. He held a grudge against AAA's parents because they refused to allow a certain Lariosa to build a house between appellant's residence and theirs. On January 3, 2003, he went to his farm located about one kilometer away. At around six o'clock in the evening, he returned home and ate supper. An hour later, at around seven o'clock, he went to watch a movie at the "Beta House" opened by his nephew Endrico Rebanuel, located about one arm's length away from his house. He was accompanied by his son-in-law, Rodulfo Dagupan. When they arrived, they met AAA and her sister who were going out from the "Beta House." Inside the "Beta House," he was seated at the last row beside

⁹ TSN, October 14, 2004, pp. 4-12.

¹⁰ Records, p. 9.

¹¹ TSN, December 9, 2004, pp. 6-8.

¹² Id. at 11-14.

¹³ TSN, January 26, 2005, pp. 8-11.

Rodulfo and Endrico who was seated on the other side. He did not leave his seat until the movie ended at around nine o'clock in the evening. Thereafter, he went home with Rodulfo and slept.¹⁴

Endrico Rebanuel, appellant's nephew and owner of the "Beta House," stated that sometime in the evening of January 3, 2003, he saw appellant arrive from the farm and eat supper at his house located about 15 meters away from where Endrico lived. At around six o'clock in the evening, the "Beta House" opened for a videoke, and Endrico saw AAA and her sister inside. When the videoke ended at around seven o'clock, he saw AAA and her sister leave the "Beta House" and meet appellant who was then on his way in. Endrico did not see appellant leave the "Beta House" from the time that the movie started at seven o'clock until it ended at nine o'clock in the evening. Appellant was seated beside Endrico near the door.¹⁵ Endrico's testimony was corroborated by Rodulfo Dagupan.¹⁶

After trial, the RTC rendered judgment convicting appellant, and the dispositive portion reads as follows:

WHEREFORE, the prosecution having proved the guilt of the accused beyond reasonable doubt of the crime of Rape defined in Article 266-A, paragraph 1(d) and penalized in Article 266-B of the Revised Penal Code, accused MANUEL REBANUEL y NADERA is CONVICTED. He is sentenced to the penalty of imprisonment of *Reclusion Perpetua*. He is hereby ordered to pay complainant [AAA] the sum of Seventy-Five Thousand Pesos (Php75,000.00), as civil indemnity; Seventy-Five Thousand Pesos (Php75,000.00), as moral damages; and Twenty-Five Thousand Pesos (Php25,000.00), as exemplary damages.

Accused being meted with capital punishment, let the entire records of this case be forwarded to the Court of Appeals Visayas, Cebu City for review.¹⁷

Appellant went to the Court of Appeals, asserting that the trial court erred in convicting him of the crime charged.

DECISION OF THE COURT OF APPEALS

The Court of Appeals affirmed the judgment of conviction but modified the RTC decision as to the award of damages. The Court of Appeals discussed as follows:

As to whether or not appellant had carnal knowledge with [AAA], to determine the innocence or guilt of the accused in rape cases, the courts are guided by three well-entrenched principles: (1) an accusation of rape can be made with facility and while the accusation is difficult to prove, it is even more difficult for the accused, though innocent, to

¹⁴ TSN, October 26, 2006.

¹⁵ TSN, March 10, 2005, pp. 5-19.

¹⁶ TSN, July 14, 2005, pp. 3-19.

¹⁷ CA rollo, p. 36.

disprove; (2) considering that in the nature of things, only two persons are usually involved in the crime of rape, the testimony of the complainant should be scrutinized with great caution; and (3) the evidence for the prosecution must stand or fall on its own merits and cannot be allowed to draw strength from the weakness of the evidence for the defense.

In the case at bar, **the prosecution established appellant's guilt beyond reasonable doubt.** A careful perusal of [AAA's] testimony shows that indeed, on January 3, 2003, appellant followed her when she was on her way to the Beta House, and later when she went out to urinate outside, brought her to a hilly portion about three (3) meters away, covered her mouth, removed her underwear and sexually molested her against her will. She positively recognized appellant, a neighbor who resided about ten (10) [arms'] length away from their house, whose face she easily recognized by the illumination coming out from the Beta House. **Her testimony was clear and straightforward and replete with material details which could not possibly be a product of the imagination of a young child of tender years who was innocent to the ways of the world. When she appeared before the trial court, she cried when she testified about the defloration that appellant did to her. Further, the trial court found [AAA's] testimony to be categorical and straightforward in positively identifying appellant as the person who raped her.** It is a well-entrenched rule that in rape cases, the evaluation of the credibility of witnesses is best addressed to the sound discretion of the trial judge whose conclusion thereon deserves much weight and respect because the judge had the direct opportunity to observe them on the stand and ascertain if they were telling the truth or not. The appellate courts will not interfere with the trial court's assessment, absent any indication that material facts of substance or value was overlooked or that the trial court gravely abused its discretion. Here, We find no reason to reverse the trial court's finding which was primarily based upon a vantage point.¹⁸ (Emphases added, citations omitted.)

The Court of Appeals found no merit in appellant's assertion that since the place where the alleged rape was committed was surrounded with houses and was populated, it was improbable for the crime of rape to be committed, stating that it is a "settled rule that lust is no respecter of time and place and rape may even be committed in the same room where other family members also sleep."¹⁹

As to appellant's allegation that AAA was coached since she looked at her mother when she testified in court, the Court of Appeals checked the records and found that AAA looked at her mother when she was asked about her signature in the affidavit she had executed.²⁰ Appellant also insisted that CCC was laughing during her testimony. The Court of Appeals stressed that these pertained to trivial matters which did not in any way disprove that appellant raped AAA and that these matters were not essential to the crime of rape which was duly proven by AAA in the testimony she gave candidly

¹⁸ *Rollo*, pp. 10-11.

¹⁹ *Id.* at 12.

²⁰ TSN, August 25, 2004, p. 17.

and truthfully, narrating her harrowing experience in the hands of appellant without any coaching from her mother or anyone else.²¹

The Court of Appeals likewise found unmeritorious appellant's contention that AAA's behavior in not asking for help is contrary to human experience; thus, he should be acquitted. The Court of Appeals cited *People v. Tejero*²² where this Court held:

It is not accurate to say that there is a typical reaction or norm of behavior among rape victims, as not every victim can be expected to act conformably with the usual expectation of mankind and there is no standard behavioral response when one is confronted with a strange or startling experience, each situation being different and dependent on the various circumstances prevailing in each case.

Besides, in rape cases, physical resistance need not be established when intimidation is exercised upon the victim and the latter submits herself out of fear. Intimidation is addressed to the mind of the victim and is therefore subjective. Barely out of childhood, there was nothing AAA could do but resign to appellant's evil desires to protect her life. Minor victims like AAA are easily intimidated and browbeaten into silence even by the mildest threat on their lives. (Citations omitted.)

The Court of Appeals further held:

On the other hand, [AAA's] failure to immediately report the defloration did to her will not negate the finding of rape. **Delay in reporting rape cases does not by itself undermine the charge, where the delay is grounded in threats from the accused. Delay in revealing the commission of a crime such as rape does not necessarily render such charge unworthy of belief because the victim may choose to keep quiet rather than expose her defilement to the harsh glare of public scrutiny. Only when the delay is unreasonable or unexplained may it work to discredit the complainant. Here, [AAA] reasonably explained that she did not reveal to her parents the harrowing experience she went through in the hands of appellant for fear that her father might commit a crime and kill appellant for the beastly act the latter did to her. x x x.**

We uphold the trial court's ruling that appellant's defense of alibi deserves scant consideration. Alibi is an inherently weak defense because it is easy to fabricate and highly unreliable. To merit approbation, the accused must adduce clear and convincing evidence that he was in a place other than the *situs criminis* at the time the crime was committed, such that it was physically impossible for him to have been at the scene of the crime when it was committed. **Since alibi is a weak defense for being easily fabricated, it cannot prevail over and is worthless in the face of the positive identification by a credible witness that an accused perpetrated the crime. Indisputably, [AAA] positively identified appellant as her molester whom she knew for being her neighbor who**

²¹ *Rollo*, p. 12.

²² 688 Phil. 543, 556-557 (2012).

resided about ten (10) [arms'] length away from their house.²³
(Emphases added, citations omitted.)

The Court of Appeals thus affirmed with modification the RTC judgment, and we quote the *fallo* of the Decision:

WHEREFORE, the *Judgment* dated July 9, 2007 of the Regional Trial Court ("RTC"), 7th Judicial Region, Branch 63, Bayawan City, Negros Oriental, in Criminal Case No. 212, finding appellant **MANUEL REBANUEL y NADERA GUILTY** beyond reasonable doubt of the crime of Rape under Article 266-B of the Revised Penal Code, is **AFFIRMED with the following modifications**:

- a) The award of civil x x x indemnity of Php75,000.00 is reduced to Php50,000.00;
- b) The award of moral damages of Php75,000.00 is reduced to Php50,000.00;
- c) The award of exemplary damages of Php25,000.00 is increased to Php30,000.00;
- d) Appellant is ORDERED to pay the victim [AAA] 6% interest *per annum* on all the civil damages from the date of the finality of this decision.

Costs against appellant.²⁴

On September 27, 2012, appellant filed his Notice of Appeal²⁵ of the Court of Appeals decision to this Court, under Section 13(c), Rule 124 of the 2000 Rules of Criminal Procedure.

Plaintiff-Appellee adopted its Brief²⁶ dated January 31, 2011 filed before the Court of Appeals and waived its right to file a Supplemental Brief before this Court.

THIS COURT'S RULING

We affirm the decisions of the Court of Appeals and the RTC, with slight modification as to the damages to be awarded, based on latest jurisprudence.

The elements of statutory rape are found in the Revised Penal Code, as amended by Republic Act No. 8353, which reads:

Article 266-A. *Rape, When and How Committed.* — Rape is Committed —

²³ *Rollo*, pp. 13-14.

²⁴ *Id.* at 15-16.

²⁵ *Id.* at 17.

²⁶ *CA rollo*, pp. 47-90.

- 1) By a man who shall have carnal knowledge of a woman under any of the following circumstances:

x x x x

- 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.

As regards this provision, we have previously held that:

When the offended party is under 12 years of age, the crime committed is “termed statutory rape as it departs from the usual modes of committing rape. What the law punishes is carnal knowledge of a woman below 12 years of age. **Thus, the only subject of inquiry is the age of the woman and whether carnal knowledge took place.** The law presumes that the victim does not and cannot have a will of her own on account of her tender years.” x x x.²⁷ (Emphasis ours, citation omitted.)

We affirm the Court of Appeals in finding that the prosecution satisfactorily established all the elements of statutory rape in this case. The prosecution established the victim’s age by clear and convincing evidence, *i.e.*, a certified true copy of her birth certificate²⁸ and the testimony of an employee of the Local Civil Registrar’s Office, who confirmed that based on official records, AAA was born on October 16, 1993, and thus was only nine years old at the time the incident happened on January 3, 2003. The Court of Appeals also noted that appellant did not controvert AAA’s age, which made the matter an undisputed fact.²⁹

The defenses of alibi and denial are weak compared to the positive identification during trial of appellant by the minor victim as the man who raped her. It was not shown that it was **physically impossible** for him to be at the scene of the crime on the night of the incident. Furthermore, appellant’s already weak denial and alibi, even if corroborated by his nephew and his son-in-law, deserve scant consideration given the strength of the prosecution’s evidence. As we have previously held:

For alibi to succeed as a defense, the accused must establish by clear and convincing evidence (a) his presence at another place at the time of the perpetration of the offense and (b) the physical impossibility of his presence at the scene of the crime. x x x. Clearly, there was no physical impossibility for him to be present at the scene of the crime at the time of the commission thereof. This is, undeniably, evidence of his presence at the *locus criminis*.

²⁷ *People v. Crisostomo*, 725 Phil. 542, 551 (2014), citing *People v. Dollano, Jr.*, 675 Phil. 827, 843 (2011).

²⁸ Records, p. 88.

²⁹ *Rollo*, p. 9.



Accused-appellant's denial in this case, unsubstantiated by clear and convincing evidence, is negative, self-serving evidence, which cannot be given greater evidentiary weight than the testimony of the complaining witness who testified on affirmative matters. His denial and alibi cannot prevail over the affirmative testimony of AAA, a minor less than 12 years old, who narrated how accused-appellant inserted his penis into her vagina.³⁰ (Citation omitted.)

The healed laceration on the victim's hymen does not serve to acquit appellant either. Hymenal laceration is not an element of statutory rape, as long as there is enough proof of entry of the male organ into the *labia* of the *pudendum* of the female organ of the offended party who is below 12 years of age.³¹ As we held in *People v. Escoton*³²:

We stress that in rape cases the accused may be convicted based solely on the testimony of the victim, provided that such testimony is credible, natural, convincing and consistent with human nature and the normal course of things. In this regard, the trial court is in the best position to assess the credibility of the victim, having personally heard her and observed her deportment and manner of testifying during the trial. In the absence of any showing that the trial court overlooked, misunderstood, or misapplied some factor or circumstances of weight that would affect the result of the case, or that the judge acted arbitrarily, the trial court's assessment of credibility deserves the appellate court's highest respect. Here, the appellant fails to persuade us to depart from this principle and to apply the exception.

The testimony of rape victims are given full weight and credence, considering that no young woman, especially of tender age, would concoct a story of defloration, allow an examination of her private parts, and thereafter pervert herself by being subjected to a public trial, if she was not motivated solely by the desire to seek justice for the wrong done to her. It is highly improbable that a girl of tender years who is not yet exposed to the ways of the world, would impute to any man a crime so serious as rape if what she claims is false. Considering that the victim in this case underwent a harrowing experience and exposed herself to the rigors of public trial, it is unlikely that she would concoct false accusations against the appellant, who is her uncle. (Emphases added, citations omitted.)

Thus, We find no reason to reverse the findings of the lower court on the material facts, bolstered by the Court of Appeals' affirmation of such findings. We have held that factual findings of the trial court regarding the credibility of witnesses are accorded great weight and respect especially if affirmed by the Court of Appeals. The lower court was in the best position to weigh the evidence presented during trial and ascertain the credibility of the witnesses who testified. Trial courts have firsthand account of the witnesses' demeanor and deportment in court during trial and this Court shall not supplant its own interpretation of the testimonies for that of the trial judge since he/she is in the best position to determine the issue of credibility

³⁰ *People v. Gragasin*, 613 Phil. 574 (2009).

³¹ *See People v. Pacheco*, 632 Phil. 624, 634-635 (2010).

³² 625 Phil. 74, 86-87 (2010).

of witnesses, being the one who had face-to-face interaction with the same.³³ There is no showing that the lower court overlooked, misunderstood, or misapplied facts or circumstances of weight which would have affected the outcome of the case.³⁴ In the absence of misapprehension of facts or grave abuse of discretion of the court *a quo*, and especially when the findings of the judge have been adopted and affirmed by the Court of Appeals, the factual findings of the trial court shall not be disturbed.³⁵

We modify the award of moral damages and civil indemnity, however, in accordance with the current policy of the Court in cases of rape where the penalty imposed is *reclusion perpetua*.³⁶

WHEREFORE, the Decision of the Court of Appeals in CA-G.R. CEB-CR.-H.C. No. 00815 affirming the Judgment dated July 9, 2007 of the Regional Trial Court, 7th Judicial Region, Branch 63, Bayawan City, Negros Oriental, in Criminal Case No. 212, is **AFFIRMED WITH MODIFICATION**. Appellant Manuel Rebanuel y Nadera is **GUILTY** beyond reasonable doubt of the crime of rape as defined in Article 266-A(1)(d) and penalized in Article 266-B of the Revised Penal Code, as amended by Republic Act No. 8353. Appellant is sentenced to the penalty of *reclusion perpetua* and ordered to pay AAA the following: civil indemnity of Seventy-Five Thousand Pesos (₱75,000.00), moral damages of Seventy-Five Thousand Pesos (₱75,000.00), and exemplary damages of Seventy-Five Thousand Pesos (₱75,000.00). All monetary awards for damages shall earn interest at the legal rate of 6% per annum from date of finality of this Decision until fully paid.

Costs against appellant.

SO ORDERED.

Teresita Leonardo de Castro
TERESITA J. LEONARDO-DE CASTRO
Associate Justice
Acting Chairperson, First Division

³³ *People v. Delfin*, G.R. No. 190349, December 10, 2014, 744 SCRA 413, 425.

³⁴ *People v. Pacheco*, supra note 31 at 635.

³⁵ *People v. Delfin*, supra note 33 at 425.

³⁶ *People v. Jugueta*, G.R. No. 202124, April 5, 2016.

WE CONCUR:

On leave
MARIA LOURDES P. A. SERENO
Chief Justice



LUCAS P. BERSAMIN
Associate Justice


ESTELA M. PERLAS-BERNABE
Associate Justice


ALFREDO BENJAMIN S. CAGUIOA
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.


TERESITA J. LEONARDO-DE CASTRO
Associate Justice
Acting Chairperson, First Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Acting 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.


ANTONIO T. CARPIO
Acting Chief Justice