Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

- versus -

RICARDO TANGLAO y EGANA,
Accused-Appellant.

G.R. No. 219963

Present:

VELASCO, JR., *J.*,
Chairperson,
BERSAMIN,
LEONEN,
MARTIRES, and
GESMUNDO, *JJ.*

Promulgated:

June 13, 2018

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DECISION

MARTIRES, *J.*:

Accused-appellant Ricardo Tanglao y Egana appeals from the 15 September 2014 Decision[1] of the Court of Appeals (*CA*), Special Tenth Division, in CA-G.R. CR.-HC. No. 05567 affirming, with modification as to the award of damages, the 6 January 2012 Decision[2] of the Regional Trial Court (*RTC*), XXX City, finding him guilty of Rape defined and penalized under Article (*Art.*) 266-A, paragraph (*par.*) 1(d) of Republic Act (*R.A.*) No. 8353.

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1 CA *rollo*, pp. 211-224. Penned by Associate Justice Vicente S.E. Veloso and concurred in by Associate Justices Nina Antonio-Valenzuela and Maria Elisa Sempio Diy.

2 Records, Vol. II, pp. 296-304. Penned by Judge Raymundo G. Vallega.

THE FACTS

The accused-appellant was charged with violation of R.A. No. 8353,[3] in relation to R.A. No. 7610,[4] in an Information docketed as Crim. Case No. C-63671, the accusatory portion of which reads:

> That on or about the 14th day of September, 2001 in XXX, Metro Manila, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design and taking advantage of his superior strength as a father, by means of force, threats, and intimidation employed on the person of AAA,[5] a minor of seven (7) years old, did then and there wilfully, unlawfully, and feloniously lie with and have sexual intercourse with said minor victim, against the latter's will and without her consent.
>
> Contrary to law.[6]

When arraigned, the accused-appellant, with the assistance of counsel, pleaded not guilty;[7] hence, trial proceeded.

To prove its case against the accused-appellant, the prosecution called to the witness stand the following: BBB, AAA's mother; DDD, AAA's older brother; AAA; Dr. Irene Baluyot (*Dr. Baluyot*), a pediatrician at the Philippine General Hospital Child Protection Unit (*PGH-CPU*); and Dr. Cynthia Leynes (*Dr. Leynes*), chairperson of the PGH psychology department and a consultant of the PGH-CPU.

The defense on the one hand presented the accused-appellant and Edsel Pelete (*Pelete*), a special investigator of the National Bureau of Investigation (*NBI*). The testimony of Rosie Ponce, the NBI records and evidence custodian, was dispensed with by the parties after it was stipulated that the records she brought were in the custody of her office.

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3 Entitled "An Act Expanding the Definition of the Crime of Rape, Reclassifying the same as a Crime Against Persons, Amending for the Purpose Act No. 3815, as amended, otherwise known as the Revised Penal Code, and for Other Purposes" dated 30 September 1997.

4 Entitled "An Act Providing for Stronger Deterrence and Special Protection Against Child Abuse, Exploitation and Discrimination, and for Other Purposes" dated June 17, 1992.

5 The true name of the victim had been replaced with fictitious initials in conformity with Administrative Circular No. 83-2015 (Subject: *Protocols And Procedures In the Promulgation, Publication, And Posting On The Websites Of Decisions, Final Resolutions, And Final Orders Using Fictitious Names).* The confidentiality of the identity of the victim is mandated by R.A. No. 7610 *("Special Protection of Children Against Abuse, Exploitation and Discrimination Act");* R.A. No. 8505 *("Rape Victim Assistance And Protection Act of 1998");* R.A. No. 9208 *("Anti-Trafficking In Persons Act Of 2003");* R.A. No. 9262 *("Anti-Violence Against Women And Their Children Act Of 2004");* and R.A. No. 9344 *("Juvenile Justice And Welfare Act Of 2006").*

6 Records, Vol. I, p. 1.

7 Id. at 40.

Version of the Prosecution

Born to the marriage of the accused-appellant and BBB were CCC, DDD, and AAA. In 1999, the accused-appellant and BBB separated causing AAA to stay with her mother, while CCC and DDD stayed with their father.[8]

Sometime in September 2001, AAA, who was then seven years old, went to the accused-appellant's house which doubles as a junk shop. When the accused-appellant arrived home on the night of 14 September 2001, he told AAA and DDD to go to sleep, put out the light, and then placed himself between AAA and DDD at the upper portion of a double-deck bed. Suddenly, the accused-appellant covered AAA's mouth, kissed her lips and neck, and forcefully inserted his penis into her vagina causing her so much pain. She wanted to shout but was unable to do so.[9]

DDD, who was then positioned beside the wall, heard AAA whimpering as if her mouth was covered; so, he asked her what was the matter. AAA did not give any answer and the accused-appellant admonished DDD to go back to sleep. Because he was afraid of the accused-appellant, DDD tried to get some sleep and avoided looking at AAA's direction as the accused-appellant might be doing something to his sister. DDD had a hard time going to sleep because the bed was shaking. With the light coming from the lamppost outside, DDD saw that AAA's legs were quivering and that the accused-appellant seemed to be "malikot" (restless) moving his body back and forth. After a few minutes, AAA left the room to urinate after asking permission from the accused-appellant. The accused-appellant turned on the light and followed AAA[10] downstairs.

When AAA came back to the room, she and DDD occupied the lower deck while the accused-appellant who came thereafter occupied the upper deck. AAA whispered to DDD "ni rape ako ni papa" (I was raped by papa); thus, DDD suggested they trade places. Later, the accused-appellant got down to the lower deck, carried DDD up to the upper deck, kissed him, touched his penis, and then pushed him away.[11]

The following morning, as AAA was taking a bath, the accused-appellant saw her bloodied underwear and threw it away. He gave AAA ₱15.00 to buy spaghetti and soda. On her way to the eatery, AAA saw the helper of Susan, her mother's regular customer as a manicurist. AAA and the helper went to Susan's house where they saw BBB. AAA and BBB proceeded to the barangay hall with the intention of proving that BBB did not kidnap AAA.[12]

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8 TSN, 29 March 2005, p. 16; TSN, 7 December 2005, p. 7.
9 TSN, 7 December 2005, pp. 5-13.
10 TSN, 17 August 2005, pp. 6-15.
11 Id. at 15-18.
12 TSN, 7 December 2005, pp. 14-17.

At the barangay hall, AAA told BBB that the accused-appellant had carnal knowledge of her; thus, they proceeded to an aunt's place so that BBB could check on AAA's vagina. BBB saw that AAA's vagina was swollen so they went immediately to the police station to report the incident.[13] AAA expressed her anger at the accused-appellant and said she wanted him killed.[14]

On 16 September 2001, the NBI referred[15] AAA to Dr. Baluyot who, after securing BBB's consent[16] to conduct a medical examination on AAA, interviewed her. AAA told Dr. Baluyot that she was raped by the accused-appellant. Dr. Baluyot wrote down her interview with AAA and, thereafter, she examined AAA from head to toe.[17]

At the PGH, pictures were taken of AAA's anus and genitalia.[18] Dr. Baluyot wrote her final medico-legal report[19] containing the following pertinent findings and impressions:

> HYMEN: Tanner stage 1, attenuated posterior rim of hymen from 3 to 9 o'clock area, Type of Hymen: annular.
>
> **IMPRESSIONS**
>
> Genital examination findings suggestive of blunt force or penetrating trauma.

On 14 January 2002, Dr. Leynes met AAA at her PGH-CPU office. In assessing AAA's mental condition, Dr. Leynes conducted a psychological evaluation by interviewing AAA and BBB. Her psychiatric evaluation[20] of AAA revealed the following:

> Psychiatric Diagnosis
>
> x x x
>
> Axis 4:
> Sexual abuse
> Problems with primary support group
>
> Axis 5:
> 71-80 – Symptoms are transient and expectable reactions to psychosocial stresses.

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13 Records, Vol. I, p. 5; Exh. "B."
14 TSN, 7 December 2005, pp. 17-19.
15 Records, Vol. I, p. 203; Exh. "C."
16 Id. at 204; Exh. "D."
17 TSN, 27 November 2007, pp. 7-10.
18 Records, Vol. I, p. 205; Exhs. "E," "E-1-A," "E-2," "E-3-A," and "E-4."
19 Id. at 206; Exhs. "F," "F-1," "F-2," "F-3," "F-4," and "F-5."
20 Id. at 207-208; Exh. "G."

Version of the Defense

On 4 September 2001, the accused-appellant saw AAA crying while embracing DDD at his welding shop. When the accused-appellant asked AAA why she came to the shop, she replied that she wanted to complain to him that BBB and her live-in partner, Ronnie Reyes (*Reyes*), whom she called "demonyo" (*devil*), were hurting her. Consequently, the accused-appellant went to BBB's cousins and confronted them with AAA's complaint. The accused-appellant also went to Roger Santos of Media In Action to complain but he was referred instead to the Department of Social Welfare and Development (*DSWD*). [21]

On 5 September 2001, the accused-appellant and AAA went to the DSWD. After an interview with AAA in a separate room, the DSWD employee asked the accused-appellant who EEE was because AAA had claimed that EEE had mounted her. The accused-appellant informed the DSWD employee that EEE was BBB's brother. With the information gathered from the DSWD employee, the accused-appellant and AAA proceeded to the NBI to file a complaint[22] against BBB, EEE, and Reyes. AAA was medically examined[23] for her burn marks and hematoma. The accused-appellant was also advised to ascertain the exact address of BBB, EEE, and Reyes and to coordinate with the barangay. When the accused-appellant went to the barangay, he learned that Reyes was a *kagawad* (councilman).[24]

On 15 September 2001, the accused-appellant reported to the barangay that AAA was missing. AAA's grandmother reported to him that AAA was taken by someone who rode a black vehicle.[25]

On 17 September 2001, the accused-appellant was arrested by two police officers on the basis of a complaint filed by BBB for the rape of AAA.[26]

The RTC Ruling

The RTC held that the prosecution was able to competently and sufficiently establish the elements of violation of Art. 266-A of R.A. No. 8353. It pointed out that jurisprudence dictates that in an incestuous rape of a minor, neither actual force nor intimidation need be employed; nor proof of force and violence exerted by the aggressor is essential. It ruled that in a rape by a father of his own daughter, the former's moral ascendancy and influence substitute for violence and intimidation.[27]

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21 TSN, 24 November 2009, pp. 10-14.
22 Records, Vol. II, p. 259; Exh. "1."
23 Id. at 255; Exh. "4."
24 TSN, 24 November 2009, pp. 18-30, 36-39.
25 Id. at 34-36.
26 Id. at 40-42.
27 Records, Vol. II, pp. 301-302.

The RTC held that AAA's testimony and positive identification of the accused-appellant as her rapist were further bolstered by DDD's categorical declaration during the trial of what he had heard and observed when his sister was raped by the accused-appellant. The RTC found that, like AAA, DDD would gain nothing from falsely testifying against the accused-appellant. The RTC noted that the inconsistencies as to the dates or events that transpired prior to the rape on 14 September 2001 were inconsequential to the crime charged. On the one hand, the defense of the accused-appellant failed to override the strong, clear, precise, and convincing evidence identifying him as the perpetrator.[28]

The RTC resolved the case against the accused-appellant as follows:

> **WHEREFORE**, the foregoing considered, this Court hereby finds accused RICARDO TANGLAO y EGANA *GUILTY* beyond reasonable doubt of the crime of rape defined and penalized under Article 266-A, paragraph 1(d) of Republic Act No. 8353 and sentences him to suffer an imprisonment of **Reclusion Perpetua** and to pay the complainant AAA the amount of **Fifty Thousand Pesos** *(₱50,000.00)* as civil indemnity; **Fifty Thousand Pesos** *(₱50,000.00)* as moral damages and **Twenty Five Thousand Pesos** (*₱25,000.00*) as exemplary damages.
>
> **SO ORDERED.**[29]

Not satisfied with the disposition of his case, the accused-appellant appealed to the CA.

The CA Ruling

The CA found no merit in the appeal. It held that the accused-appellant's contention that AAA could not have been raped because there was "no evident injury" in her genitalia deserves no consideration. According to the CA, the absence of external injuries does not negate rape and that an intact hymen does not disprove a finding that the victim was actually sexually violated. It further ruled that it will not disturb the findings of the RTC that AAA's testimony deserves full faith and credence especially that there were no facts or circumstances of weight or substance that the trial court had overlooked, misapprehended, or misinterpreted.[30]

While the CA affirmed the RTC ruling that the penalty of reclusion perpetua should be imposed upon the accused-appellant, it found the need to modify the award of damages. Thus, the CA resolved the appeal as follows:

> **WHEREFORE,** the instant appeal is **DENIED** for lack of merit. The assailed January 6, 2012 Decision is however **MODIFIED** by **ORDERING** the accused-appellant to pay AAA:

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28 Id. at 302.
29 Id. at 304.
30 CA *rollo*, pp. 12-13.

(1) ₱75,000.00 as civil indemnity;
(2) ₱75,000.00 as moral damages; and
(3) ₱30,000.00 as exemplary damages.

SO ORDERED.[31]

ISSUES

I.

THE TRIAL COURT GRAVELY ERRED IN GIVING CREDENCE TO THE PRIVATE COMPLAINANT'S TESTIMONY.

II.

THE TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT OF THE CRIME CHARGED.[32]

OUR RULING

The appeal is without merit.

The elements of violation of Art. 266-A of R.A. No. 8353 vis-à-vis the evidence presented by the prosecution

The accused-appellant was charged with violation of Art. 266-A of R.A. No. 8353, which pertinently reads:

> 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
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> 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.

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31 CA *rollo*, p. 224.
32 CA *rollo*, p. 35.

For a successful prosecution of rape, the following elements must be proved beyond reasonable doubt, to wit: (1) that the accused had carnal knowledge of the victim; and (2) that said act was accomplished: (a) through the use of force and intimidation, or (b) when the victim is deprived of reason or otherwise unconscious, or (c) when the victim is under 12 years of age or is demented.[33]

In this case, there was no issue that the accused-appellant was the father of AAA and that she was only 7 years old during the time material to this case, thus, qualifying the rape committed against AAA as one under Art. 266-A(1)(d) of R.A. No. 8353 or statutory rape where the child victim's consent is immaterial because the law presumes that her young age makes her incapable of discerning good from evil. Its elements are as follows: (1) the offended party is under 12 years of age and (2) the accused has carnal knowledge of her, regardless of whether there was force, threat or intimidation; whether the victim was deprived of reason or consciousness; or whether it was done through fraud or grave abuse of authority. It is enough that the age of the victim is proven and that there was sexual intercourse.[34]

Relatedly, three (3) principles guide the Court in the review of rape cases: (*a*) an accusation of rape can be made with facility, and while the accusation is difficult to prove, it is even more difficult for the person accused, although innocent, to disprove; (*b*) considering the intrinsic nature of the crime, only two persons being usually involved, the testimony of the complainant should be scrutinized with great caution; and (*c*) the evidence for the prosecution must stand or fall on its own merit, and cannot be allowed to draw strength from the weakness of the evidence for the defense.[35] In this case, it was not only AAA's testimony which endured the test of credibility, but so was DDD's whose testimony corroborated her declarations on the witness stand.

AAA positively identified the accused-appellant as the one who raped her on 14 September 2001; this was incisively re-echoed by DDD when he testified. On the element of carnal knowledge, AAA's testimony on the rape incident was straightforward and convincing, consistent as it was with DDD's testimony on material and important details, *viz*:

The direct examination of AAA by LI Mitra reads:

Q. Who were with you on the night of September 14, 2001?
A. My kuya DDD.

x x x

Q. While you and your kuya DDD were lying down, did anyone arrive?
A. Yes, my father.

x x x

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[33] *People v. Primavera*, G.R. No. 223138, 5 July 2017.
[34] *People v. Francia*, G.R. No. 208625, 6 September 2017.
[35] *People v. Rubillar*, G.R. No. 224631, 23 August 2017.

Q. x x x Then when your father arrived, what did he do or say?
A. He told us to go to sleep.

Q. After telling you to go to sleep, what did you do next?
A. He turned off the light.

Q. What happened next?
A. He went at the portion of the double deck and lied down in the middle.

x x x

Q. When your father lied down on the bed, what did you do next?
A. My father was silent. I was not able to go to sleep immediately and he covered my mouth.

Q. What did he do after covering your mouth?
A. He kissed me.

Q. Where did he kiss you? On what part of your body?
A. On my lips and neck.

Q. After kissing you on the lips and neck, what did he do next?
A. I felt he was inserting his penis to my vagina.

Q. When you felt his penis is being inserted to your vagina what did you do?
A. I was about to shout, but because I was very young then, I was not able to do so, "hindi ko po siya kinaya."

x x x

Q. After doing the act, what happened next?
A. I asked his permission to urinate. I went out of the house. He turned on the light and followed me.

Q. After urinating, did you go back to the shop?
A. Yes, mam.

Q. What did you do after entering the room?
A. I told kuya DDD about what happened to me because I saw him he went down.

x x x

(continuation) From the upper portion of the double deck, my kuya DDD told me to be certain. We have to change position. When my father arrived, he was able to bring my brother to the upper portion of the double deck. And I saw my father removed the clothes of my kuya DDD.[36]

The direct examination of DDD by LI Menez was as follows:

Q: Now on the night of September 14, 2001, you are then residing with your father?
A: Yes, mam.

[36] TSN, 7 December 2005, pp. 8-13.

x x x

Q. So, AAA was there, your father was there, and he was lying between the two of you?
A. Yes, mam.

Q. So can you recall, if any unusual incident happened on that night when you were about to sleep or you are sleeping?
A. Yes, mam.

Q. Did you hear anything unusual?
A. There was, mam.

Q. And what was that?
A. My sister is umuungol, mam.

Q. And what did you do upon hearing the ungol?
A. I look at my father, mam.

Q. Did you ask AAA why AAA was making ungol?
A. Yes, mam.

Q. And did AAA answer?
A. No, mam.

x x x

LI MENEZ: x x x Who was that?
A. My father, mam.

Q. What did he say?
A. Matulog ka na.

COURT: Then what happened next after that?
A. I did not look at their direction because I was frightened, mam.

Q. Why were you frightened?
A. He might be doing something to my sister, mam.

Q. After your father told you matulog ka na, were you able to note the tone of his voice when he said this?
A. Yes, mam.

Q. And what was his tone?
A. It was loud, mam.

Q. So your father told you to go to sleep, were you able to go to sleep?
A. No, mam.

Q. Were you able to note anything else?
A. Ang paa ng kapatid ko nanginginig, mam.

Q. And were you able to observe anything unusual?
A. Yes, mam.

Q. And what was that?
A. My father was moving, mam.

Q. How was your father moving?
A. Malikot, mam.

Q. x x x Can you demonstrate to us now the movement of your father when you said he was malikot?
A. His body was moving back and forth, mam.

Q. Given that this was night time, how were you able to say that your father is moving back and forth?
A. There was a window that was bright at the foot of our bed, mam.

Q. Why did you say that the window was bright?
A. Because it was near the post, mam.

Q. Aside from saying that your father was making a certain movement what else did you see as to the movement of your father.

x x x

A. The bed is also moving, malikot, mam.

Q. After AAA told your father that she wants to urinate, what did your father do?
A. He turned on the light and he went downstairs, mam.

x x x

Q. After AAA urinated, did she go back to the room?
A. Yes, mam.

x x x

Q. You are on the lower portion of the bed?
A. AAA and I, mam.

Q. And where did your father go?
A. In the upper portion of the bed, mam.

Q. So after that what happened next?
A. My sister whispered something to me "ni rape ako ni papa," mam. I told my sister AAA palit tayo ng pwesto para sigurado, my father carried me and brought me at the upper portion of the double deck, mam.

x x x

Q. After your father carried you and transferred you on top of the bed, was there anything unusual that happened?
A. Yes, mam.

Q. And what was that?
A. My father kissed me and he removed my shorts and after touching my penis he pushed me away mam.[37]

Clearly applicable in this case is the well-settled rule that the testimony of a rape victim who is of tender age is credible. The revelation of an innocent child

[37] TSN, 17 August 2005, pp. 7-17.

whose chastity was abused deserves full credence.[38] Youth and immaturity are generally badges of truth and sincerity.[39] The child's willingness to undergo the trouble and humiliation of a public trial is an eloquent testament to the truth of her complaint.[40] The same can be said of her brother DDD who, despite being a minor during the time he took the witness stand, courageously and credibly testified against the accused-appellant. Most importantly, a review of AAA's and DDD's respective testimonies proves that neither wavered in their statements despite the gruelling cross-examination by the defense.

The record is bereft of any showing that there was reason for AAA and DDD to falsely testify against the accused-appellant, their father. A reading of the testimony of the accused-appellant would readily establish that AAA had nowhere to go but to him when she left BBB's care as she was allegedly being abused by BBB, EEE, and Reyes. The accused-appellant was expectedly AAA's only refuge; hence, it was beyond cognition that she would want him placed behind bars. In the same vein, DDD, who lived with the accused-appellant, was aware that it would be to his great disadvantage if his father would be incarcerated; yet, this truth did not deter him from revealing before the RTC what he witnessed on the night of 14 September 2001. To stress, DDD was not only a witness to the dastardly act committed by the accused-appellant upon AAA, but was himself a victim of his father's moral depravity. Considering, therefore, that there was no showing that the witnesses for the prosecution had ill motives to testify against accused-appellant, their testimonies should be accorded full faith and credence.[41]

Significantly, the day after the accused-appellant had carnal knowledge of her, AAA informed BBB of what had happened to her. AAA and BBB immediately proceeded to the police station to report the incident and to execute their respective statements. These facts persuasively confirm that AAA did not have the luxury of time to fabricate a rape story.[42]

What makes the case against the accused-appellant stronger were the medical findings on AAA. According to Dr. Baluyot, the photographs[43] of AAA's genitalia validated that she was sexually abused.[44] Likewise, Dr. Baluyot's report[45] indicated that her impression with regard to her examination of AAA's genitalia was "suggestive of blunt force or penetrating trauma." On the other hand, Dr. Leynes reported in her psychiatric evaluation[46] that the chief complaint on AAA was that "kinakagat niya ang sarili niya" (she bites herself) which is a symptom of a child sexually abused. Dr. Leynes' psychiatric diagnosis of AAA showed she was a victim of sexual abuse who had problems with her primary support group,

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38 *People v. Udtohan*, G.R. No. 228887, 2 July 2017.
39 *People v. Tuballas*, G.R. 218572, 19 June 2017.
40 *Quimvel v. People*, G.R. No. 214497, 18 April 2017.
41 *People v. Pusing*, 789 Phil. 541,558-559 (2016).
42 *People v. Empuesto*, G.R. No. 218245, 17 January 2018.
43 Records, Vol. I, p. 205; Exhs. "E," "E-1-A," "E-2," "E-3-A," and "E-4."
44 TSN, 27 November 2007, p.12.
45 Records, Vol. I, p. 206; Exhs. "F," "F-1," "F-2," "F-3," "F-4," and "F-5."
46 Id. at 207-208; Exh. "G."

i.e., her parents.[47] These medico-legal findings bolster the prosecution's testimonial evidence. Together, these pieces of evidence produce a moral certainty that the accused-appellant indeed raped the victim.[48]

Jurisprudence has trenchantly maintained that when the issue of credibility of witnesses is presented before the Court, certain guidelines should be followed, *viz:*

> **First,** the Court gives the highest respect to the RTC's evaluation of the testimony of the witnesses, considering its unique position in directly observing the demeanor of a witness on the stand. From its vantage point, the trial court is in the best position to determine the truthfulness of witnesses.
>
> **Second,** absent any substantial reason which would justify the reversal of the RTC's assessments and conclusions, the reviewing court is generally bound by the lower court's findings, particularly when no significant facts and circumstances, affecting the outcome of the case, are shown to have been overlooked or disregarded.
>
> **And third,** the rule is even more stringently applied if the CA concurred with the RTC.[49]

The Court has stringently reviewed the records of this case but found nothing that would support a conclusion that the findings of the RTC and the CA were arrived at arbitrarily, or that significant facts or circumstances were overlooked, misapprehended or misappreciated that, if properly considered, would have affected the outcome of this case.

The defense presented by the accused-appellant was inherently weak.

It must be stressed that both the RTC and the CA found AAA's testimony to be credible, which further placed the onus upon the accused-appellant to present clear and persuasive reasons to convince the Court to reverse their unanimous determination of her credibility as a witness in order to resolve the appeal his way.[50] The accused-appellant miserably failed to discharge his burden.

The accused-appellant primarily anchored his defense on the assertion that AAA could not have been truthful in her narration of what took place on 14 September 2001, because she failed to state that prior to that incident she and the accused-appellant had gone to the NBI to complain about BBB, EEE, and Reyes. He insisted that he could not have concocted this story as this was supported by

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47 TSN, 19 August 2008, pp. 16-18.
48 *People v. Deniega*, G.R. No. 212201, 28 June 2017.
49 Id.
50 *People v. Domingo*, G.R. No. 225743, 7 June 2017.

documentary evidence; that it would be preposterous for him to file a complaint before the NBI to cover up a crime he intends to commit afterwards.[51]

The accused-appellant's defense has no merit.

Noteworthily, the incident in this case took place on 14 September 2001. On the other hand, it can be gathered from the accused-appellant's documentary evidence that the incident subject of his complaint before the NBI allegedly took place on 20 August 2001; thus, his complaint was inconsequential to AAA's charge against him for rape.

Even granting that there was truth to the accused-appellant's complaint before the NBI that BBB, EEE, and Reyes abused AAA, this however, does not destroy the very glaring truth substantiated by the records of this case that the accused-appellant had carnal knowledge of AAA on 14 September 2001. The revelation of an innocent child whose chastity was abused deserves full credence.[52] Further, in cases of incestuous rape, the Court usually gives more weight to the testimony of a young rape victim.[53]

Records will reveal that the accused-appellant never claimed that it was improbable for him to have carnal knowledge of AAA because he was somewhere else when the offense was committed; and that he was so far away that it was not possible for him to have been physically present at the place of the crime or at its immediate vicinity at the time of its commission.[54] Instead, the accused-appellant insisted on the implausibility of him having carnal knowledge of AAA because he had earlier filed a complaint against BBB, EEE, and Reyes for their alleged abuse of AAA. Accused-appellant's defense, to stress, did not find any meaning to the resolution of the present charge against him. His defense easily crumbled when evaluated against the positive identification of AAA and her credible and forthright testimony.

In a last-ditch effort to exculpate himself from liability, the accused-appellant ineffectually tried to make an issue on the findings of Dr. Baluyot which he claimed did not suggest that sexual abuse had taken place. He contended that it would be hard to conceive that a seven-year-old child would not sustain any injury on her perineum if she was sexually abused. Furthermore, there was nothing in Dr. Baluyot's testimony that AAA was already in a non-virgin state.[55]

Jurisprudence is not wanting on this particular issue raised by the accused-appellant. Indeed, the legal teaching consistently upheld by the Court is that "[p]roof of hymenal laceration is not an element of rape. An intact hymen does not

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51 CA *rollo*, p. 46.
52 *People v. Agoncillo*, G.R. No. 229100, 20 November 2017.
53 *People v. Barrozo*, 433 Phil. 231, 247 (2002).
54 *People v. Palanay*, G.R. No. 224583, 1 February 2017
55 CA *rollo*, p. 49.

negate a finding that the victim was raped. Penetration of the penis by entry into the lips of the vagina, even without laceration of the hymen, is enough to constitute rape, and even the briefest of contact is deemed rape."[56] Dr. Baluyot's finding that there was "penetrating trauma" on AAA's genitalia supported AAA's credible testimony that she was raped by the accused-appellant.

Under Art. 266-B of R.A. No. 8353, the penalty of death shall be imposed if the victim of the rape is under eighteen (18) years of age and the offender is a parent. However, with the effectivity of R.A. No. 9346,[57] the penalty of reclusion perpetua without eligibility for parole, instead of death, shall be imposed.

Following the Court's decision in *People v. Jugueta*,[58] the Court modifies the award of damages to AAA and thus holds the accused-appellant liable for the following: civil indemnity of ₱100,000.00; moral damages of ₱100,000.00; and exemplary damages of ₱100,000.00. The accused-appellant shall further pay interest at six percent (6%) per annum on the civil indemnity and the moral and exemplary damages reckoned from the finality of this decision until full payment.[59]

WHEREFORE, the appeal is **DISMISSED**. The assailed Decision of the Court of Appeals finding the accused-appellant Ricardo Tanglao y Egana **GUILTY** beyond reasonable doubt of Rape under Art. 266-A of R.A. No. 8353 is hereby **AFFIRMED** with **MODIFICATION**. He is sentenced to suffer the penalty of *reclusion perpetua* without eligibility for parole and is **ORDERED** to pay AAA civil indemnity of ₱100,000.00; moral damages of ₱100,000.00; and exemplary damages of ₱100,000.00; with interest at the rate of six percent (6%) per annum reckoned from the finality of this Decision until full payment.

SO ORDERED.

SAMUEL R. MARTIRES
Associate Justice

WE CONCUR:

PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson

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56 *People v. Aycardo*, G.R. No. 218114, 5 June 2017.
57 Entitled "An Act Prohibiting the Imposition of Death Penalty in the Philippines" dated 24 June 2006.
58 783 Phil. 806 (2016).
59 Id. at 854.

LUCAS P. BERSAMIN
Associate Justice

MARVIC M.V.F. LEONEN
Associate Justice

ALEXANDER G. GESMUNDO
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.

ANTONIO T. CARPIO
Senior Associate Justice
(Per Section 12, R.A. 296,
The Judiciary Act of 1948, as amended)