



Republic of the Philippines
 Supreme Court
 Manila

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 WILFREDO V. LADITAN
 Division Clerk of Court
 Third Division

OCT 10 2018

THIRD DIVISION

PEOPLE OF THE PHILIPPINES,
 Plaintiff-Appellee,

G.R. No. 227311

Present:

- versus -

PERALTA, J., *Chairperson,*
 LEONEN,*
 REYES, A., JR.,**
 GESMUNDO, and
 REYES, J., JR., *JJ.*

JELMER MATUTINA y MAYLAS
and ROBERT ROMERO y
BUENSALIDA,

Promulgated:

Accused-Appellants.

September 26, 2018

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DECISION

PERALTA, J.:

On appeal is the November 3, 2015 Decision¹ of the Court of Appeals (CA) in CA-G.R. CR-HC No. 06124, which affirmed with modification the April 17, 2013 Decision² of Regional Trial Court (RTC), Branch 172, Valenzuela City, in Criminal Case No. 689-V-09, convicting accused-appellants Jelmer Matutina y Maylas (*Matutina*) and Robert Romero y Buensalida (*Romero*) of rape committed against AAA, a minor.³

* On wellness leave.

** Designated additional member per Special Order No. 2588 dated August 28, 2018; on leave.

¹ Penned by Associate Justice Eduardo B. Peralta, Jr., with Associate Justices Noel G. Tijam (now a member of this Court) and Francisco P. Acosta, concurring; *rollo*, pp. 2-18; *CA rollo*, pp. 75-91.

² *CA rollo*, pp. 33-38; records, pp. 120-125.

³ Pursuant to R.A. No. 7610, "An Act Providing for Stronger Deterrence and Special Protection against Child Abuse, Exploitation and Discrimination, and for Other Purposes;" R.A. No. 9262, "An Act Defining Violence against Women and Their Children, Providing for Protective Measures for Victims, Prescribing Penalties Therefore, and for Other Purposes;" Section 40 of A.M. No. 04-10-11-SC, known as the "Rule on Violence against Women and Their Children," effective November 15, 2004; and *People v. Cabalquinto*, 533 Phil. 703 (2006), the real name of the rape victim is withheld and, instead, fictitious initials are used to represent her. Also, the personal circumstances of the victim or any other information tending to establish or compromise her identity, as well as those of her immediate family or household members, is not disclosed (*People v. CCC*, G.R. No. 220492, July 11, 2018).

On October 19, 2009, an Information was filed against accused-appellants Matutina and Romero for the crime of rape under Article 266-A, paragraph 1(a) of the Revised Penal Code (*RPC*), in relation to Republic Act (*R.A.*) No. 7610, committed as follows:

That on or about October 17, 2009 in Valenzuela City, Metro Manila and within the jurisdiction of this Honorable Court, the above-named accused, together with other person whose name, identity and present whereabouts still unknown, conspiring, confederating and mutually helping one another, with lewd design, by means of force and intimidation employed upon the person of one [AAA], 15 years old (DOB: October 16, 1994), did then and there willfully, unlawfully and feloniously have sexual intercourse with the said complainant/minor, against her will and without her consent, thereby subjecting said minor to sexual abuse which debased, degraded and demeaned her intrinsic worth and dignity as a human being.

CONTRARY TO LAW.⁴

In their arraignment, Matutina and Romero pleaded “not guilty.”⁵ Trial ensued while they were detained in the city jail.⁶

Presented as witnesses for the prosecution were AAA, Police Chief Inspector (*PCI*) Dean Cabrera, Marcos Ragasa, and Police Officer 2 (*PO2*) Aileen DC Roxas. Only Matutina and Romero testified for the defense.

Version of the Prosecution

According to AAA, in the morning of October 17, 2009, she and three of her classmates agreed not to go to school (“cut class”) and just converse in a billiard hall at the [REDACTED] in [REDACTED]. Her companions left at 10:00 a.m. She was supposed to follow them but could not go home because Matutina and his other companions – accused-appellant Romero, Jackson Lim, and a certain Oliver – got her school stuff. From 12 noon until 5:00 p.m., they drank Matador brandy at Oliver’s house. As a result, she felt dizzy and did not know what she was doing. As she could recall, she woke up at around 8:00 p.m. and noticed that her face and arms were being cleaned up with a wet towel (*pinupunasan*) by Oliver’s mother at the upper floor of their house. Together with two unknown women, they brought her downstairs and made her sit on a plastic chair as she tried to regain her consciousness. She heard that somebody wanted to escort her on the way home. They helped her board a tricycle but none of them went along. Instead, she was taken by Matutina, Romero, and Lim at the back of a house near a dark and grassy portion of the Manolo Compound. They made her lie down in a stony area and told her to keep

⁴ Records, p. 1.

⁵ *Id.* at 18-19.

⁶ *Id.* at 15.

quiet. Thinking to escape, she told them that she wanted to urinate. Romero and Lim, however, held her hands as Matutina took off her shorts and panty. Romero and Lim kissed and touched her breasts, while Matutina forced his penis into her vagina but was not able to place it inside due to her resistance. The three were not able to continue after they noticed the approaching *barangay captain* and *tanod* with flashlights. They ran away towards the grassy area. Only Matutina and Romero were eventually caught. She was boarded in the *barangay* patrol vehicle, examined by a medico-legal officer at Camp Crame, and taken to the police station for her sworn statement.

Ragasa, a *tanod* of *Barangay* [REDACTED] on duty around 8:00 p.m. on October 17, 2009, corroborated the testimony of AAA. He was patrolling with Antonio Angeles and Jovito Salonga when Angeles, the team leader, received a radio call from the *barangay* informing them that a female person was in the “*gulod*” together with male persons. As they reached the place, he saw a lady bag, then Matutina, Romero, and Lim who were running away from the scene, and, finally, AAA who was crying while in her school uniform. When Matutina was directed to come back, he voluntarily returned. Both Matutina and AAA were brought to Block 6 and then to the Women and Children Protection Desk of the Station Investigation Division (*SID*). PO2 Roxas was the one who took the *Sinumpaang Salaysay* of AAA. PO2 Roxas confirmed that even if she was accompanied by her grandmother, all her statements were her own personal answers.

PCI Cabrera, the Medico-Legal Officer of the Philippine National Police (*PNP*) Camp Crame, Quezon City, affirmed under oath the truth of his findings in Medico-Legal Report No. R09-1984 which “*shows clear evidence of blunt penetrating trauma to the posterior fourchette*” of AAA. He stated that the physical injuries and genitalia injuries could have been sustained within 24 hours from the time he examined AAA on October 18, 2009;⁷ that the whole posterior fourchette was swollen;⁸ and, that the presence of abrasion in the posterior fourchette would point to the blunt penetrating trauma of the female genitalia caused by contact with a blunt and hard object such as an erect penis or finger.⁹

Version of the Defense

Matutina testified that he knows AAA because she used to stand by in their place and that he also knows Romero as his long time neighbor in Manolo Compound. In the morning of October 17, 2009, he saw AAA standing by in the billiard house. At night, he went to the “*gulod*” upon the invitation of Lim. He hanged out with Romero, Lim, and AAA but was not

⁷ TSN, February 22, 2010, p.13.

⁸ *Id.* at 14.

⁹ *Id.* at 11-12.

engaged in a drinking spree with them. He does not know of any reason why AAA would accuse him of committing rape against her.

On his part, Romero claimed that he was standing alone in front of their house around 8:00 a.m. on October 17, 2009. He saw AAA conversing with three companions at the nearby billiard hall until they eventually left. Around 3:00 p.m., he was asked by her sister-in-law to buy something from the store, which was approximately 30 meters away from their house. On the way thereto, he passed by AAA as she was having a drinking session at the house of Lim. He was invited to have a shot of Matador, but he refused and went home. Around 8:00 p.m., he went to Lim's house. Seeing no one drinking, he returned home. Back in the house, Lim approached him and asked to go with him to accompany AAA home. He agreed. Subsequently, Lim called AAA in his (Lim's) house and got a tricycle. AAA sat inside the tricycle and he (Romero) sat at the back of the driver. Lim did not ride the tricycle and told him that he would go ahead in the "*labasan*" or "*gulod*." When the tricycle reached the "*gulod*," he heard AAA say that she does not want to go home yet. He alighted from the tricycle and so did AAA as she told him that she would urinate. Then Matutina and Lim arrived. They were all surprised when suddenly there were persons shouting, "*ano bakit ginaganyan nyo yan?*" He was afraid so he ran back home. He denied having raped AAA as he did not even touch her. He is not aware if AAA had any personal grudge against him before the incident happened. He thinks though that AAA's grandmother threatened her.

The RTC convicted Matutina and Romero of the crime charged. The *fallo* of its Decision states:

WHEREFORE, the court finds the accused JELMER MATUTINA y MAYLAS a.k.a. BOYET and ROBERT ROMERO y BUENSALIDA a.k.a. OBET guilty beyond reasonable doubt as principals of the crime of rape under Art. 266-A, paragraph (1)(a) of the Revised Penal Code and in the absence of any modifying circumstance and applying the Indeterminate Sentence Law they are hereby sentenced to suffer the penalty of Reclusion Perpetua and to indemnify AAA in the amounts of P50,000.00 as civil indemnity, P50,000.00 as moral damages and P30,000.00 as exemplary damages[.]

The City Jail Warden of Valenzuela City is hereby directed to transfer/commit the accused to the New Bilibid Prison, Bureau of Corrections, Muntinlupa City immediately upon receipt of this decision and submit report within five (5) days from compliance.

SO ORDERED.¹⁰

On appeal, the CA affirmed the judgment of conviction, but modified the interest imposed on the civil liabilities, thus:

¹⁰ CA rollo, p. 38; records, p. 125.



WHEREFORE, in light of the foregoing premises, the instant **APPEAL** is hereby **DENIED**. Hence, the Decision dated April 17, 2013 in Criminal Case No. 689-V-09 of RTC, Branch 172, Valenzuela City which adjudged the guilt of JELMER MATUTINA y MAYLAS and ROBERT ROMERO y BUENSALIDA for rape under Art. 266-A, paragraph (1)(a) of the Revised Penal Code is hereby **AFFIRMED**, inclusive of the civil liabilities, with **MODIFICATION** through imposition as to interest at the legal rate of six percent (6%) per annum on all monetary awards from the date of finality of this Decision until fully paid.

SO ORDERED.¹¹

Now before Us, Matutina and Romero manifested that they would no longer file a Supplemental Brief as they had exhaustively discussed the assigned errors in their Appellant's Brief.¹² In contrast, the Office of the Solicitor General (*OSG*) filed a Supplemental Brief.¹³

After a careful review of the records and the parties' submissions, this Court finds no cogent reason to reverse the judgment of conviction. There is no showing that the RTC or the CA committed any error in the findings of fact and the conclusions of law.

The settled rule is that the trial court's evaluation and conclusion on the credibility of witnesses in rape cases are generally accorded great weight and respect, and at times even finality, and that its findings are binding and conclusive on the appellate court, unless there is a clear showing that it was reached arbitrarily or it appears from the records that certain facts or circumstances of weight, substance or value were overlooked, misapprehended or misappreciated by the lower court and which, if properly considered, would alter the result of the case. Having seen and heard the witnesses themselves and observed their behavior and manner of testifying, the trial court stood in a much better position to decide the question of credibility. Indeed, trial judges are in the best position to assess whether the witness is telling a truth or lie as they have the direct and singular opportunity to observe the facial expression, gesture and tone of voice of the witness while testifying.¹⁴

Here, the RTC correctly ruled that the elements of rape under Article 266-A, paragraph 1(a) of the RPC had been sufficiently established by the prosecution.¹⁵ AAA gave a detailed narration of what

¹¹ *Rollo*, pp. 17-18; *CA rollo*, pp. 90-91.

¹² *Rollo*, pp. 32-36.

¹³ *Id.* at 43-61.

¹⁴ *People v. Tuboro*, 792 Phil. 580, 588 (2016); *People v. Galagati*, 788 Phil. 670, 684 (2016); and *People v. Balmes*, 786 Phil. 425, 432-433 (2016).

¹⁵ Article 266-A of the RPC provides that a 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;

transpired in the evening of October 17, 2009. With her unwavering assertions, it was proven beyond reasonable doubt that Matutina, in conspiracy with Romero and Lim (who is at-large), had carnal knowledge of her against her will with the use of force. A perusal of the records would reveal that Matutina, Romero, and Lim brought AAA at the back of a house near a dark and grassy portion of the [REDACTED]. They made her lie down in a stony area and told her to keep quiet. Romero and Lim held AAA's hands as Matutina took off her shorts and panty. Romero and Lim then kissed and touched her breasts while Matutina forced his penis into her vagina. Matutina's penis was able to touch her private part, but was unable to penetrate inside due to her resistance and the unexpected arrival of the *barangay tanods*.¹⁶

Unlike the belief of Matutina and Romero, consummated rape was committed in this case. Consistent with *People v. Campuhan*,¹⁷ the penis of Matutina indubitably touched the *labias* or slid into the genital organ of AAA and not merely stroked its external surface. Based on the physical examination of medico-legal officer PCI Cabrera, the posterior fourchette¹⁸ of AAA showed clear evidence of blunt penetrating trauma. In open court, PCI Cabrera attested that the whole posterior fourchette of AAA was swollen and that the presence of abrasion therein would point to the blunt penetrating trauma caused by contact with a blunt and hard object such as an erect penis or finger.¹⁹ On this score, We agree with the CA that when AAA professed that Matutina was unable to place his penis inside her private part as he was forcing it, it could only mean that he was not able to place the full length of his penis inside AAA's vagina.

The absence of proof of hymenal laceration is inconsequential. It has been invariably held that an intact hymen does not negate a finding that the victim was raped.²⁰ Penetration of the penis by entry into the lips of the vagina, even the briefest of contacts and without rupture or laceration of the hymen, is enough to justify a conviction for rape.²¹

Conspiracy was, likewise, proven since the prosecution sufficiently showed that Matutina and Romero acted in a concerted manner. Each performed specific acts with such close coordination as to indicate beyond reasonable doubt a common criminal design or purpose. As the OSG

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.

¹⁶ TSN, April 7, 2010, pp. 21-22.

¹⁷ 385 Phil. 912 (2000).

¹⁸ The posterior fourchette is less than one centimeter in length and is part of the female genitalia wherein the *labia mejora* would meet if going towards the back/dorsal portion thereof (See TSN, February 22, 2010, pp.11-12, 14).

¹⁹ TSN, February 22, 2010, pp.11-12, 14.

²⁰ *People v. Tuboro*, *supra* note 14, at 592.

²¹ *Id.*



countered, common experience dictates that the act of Romero (together with Lim) of holding the hands of AAA had no other purpose but to restrain her from escaping and resisting as well as to allow Matutina to succeed in having sexual intercourse with AAA. Indeed, there was a community of purpose and concurrence of sentiment to do a bestial act.

“The direct, positive and categorical testimony of the prosecution witnesses, absent any showing of ill-motive, prevails over the defense of denial. Like *alibi*, denial is an inherently weak and easily fabricated defense. It is a self-serving negative evidence that cannot be given greater weight than the stronger and more trustworthy affirmative testimony of a credible witness.”²² In the present case, there is no showing of any improper motive on the part of AAA. In fact, both Matutina and Romero practically admitted that there is no bad blood between them and AAA for the latter to unjustly accuse them of raping her.²³ Moreover, aside from not presenting a single unbiased witness to stand in their favor, they were not able to establish their presence in another place at the time of the commission of the offense and the physical impossibility for them to be at the crime scene.²⁴

Pursuant to *People v. Jugueta*,²⁵ the awards for damages should be increased. Private complainant is entitled to ₱75,0000.00 as civil indemnity, ₱75,0000.00 as moral damages, and ₱75,0000.00 as exemplary damages. Interest at the rate of six percent (6%) *per annum* is imposed on all the amounts awarded from the date of finality of this judgment until fully paid.²⁶

WHEREFORE, the instant appeal is **DENIED**. The November 3, 2015 Decision of the Court of Appeals in CA-G.R. CR-HC No. 06124, which affirmed with modification the April 17, 2013 Decision of Regional Trial Court, Branch 172, Valenzuela City, in Criminal Case No. 689-V-09, convicting accused-appellants Jelmer Matutina y Maylas and Robert Romero y Buensalida for rape committed against AAA, is **AFFIRMED WITH MODIFICATION**. Accused-Appellants are **ORDERED** to **PAY** AAA the amounts of ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages, and ₱75,000.00 as exemplary damages. In addition, six percent (6%) interest *per annum* is imposed on all the amounts awarded reckoned from the date of finality of this Decision until the damages are fully paid.

²² *People v. Balmes*, *supra* note 14, at 436. See also *People v. Tuboro*, *supra* note 14, at 592-593 and *People v. Galagati*, *supra* note 14, at 688.

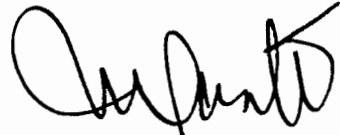
²³ TSN, May 4, 2012, p. 6; TSN, June 20, 2012, p. 4; TSN, August 29, 2012, p. 14.

²⁴ See *People v. Tuboro*, *supra* note 14, at 593 and *People v. Balmes*, *supra* note 14, at 437.

²⁵ 783 Phil. 806 (2016).

²⁶ See *Bangko Sentral ng Pilipinas* Monetary Board Circular No. 799, Series of 2013, effective July 1, 2013, in *Nacar v. Gallery Frames, et al.*, 716 Phil. 267 (2013).

SO ORDERED.




DIOSDADO M. PERALTA
Associate Justice

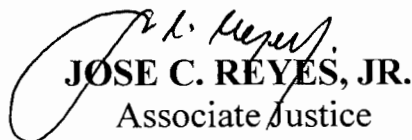
WE CONCUR:

On wellness leave
MARVIC M.V.F. LEONEN
Associate Justice

On leave
ANDRES B. REYES, JR.
Associate Justice



ALEXANDER G. GESMUNDO
Associate Justice



JOSE C. REYES, JR.
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.



DIOSDADO M. PERALTA
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.


TERESITA J. LEONARDO-DE CASTRO
Chief Justice

