



SUPREME COURT OF THE PHILIPPINES
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Republic of the Philippines
Supreme Court
 Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES
 Plaintiff-Appellee,

G.R. No. 225339

Present:

- versus -

CARPIO, *Chairperson*,
 PERLAS-BERNABE,
 CAGUIOA,
 REYES, J., JR., and
 LAZARO-JAVIER, *JJ.*



Accused-Appellant.

Promulgated:

10 JUL 2019

X-----*[Signature]*-----X

DECISION

LAZARO-JAVIER, J:

The Case

This appeal assails the Decision¹ dated June 4, 2015 of the Court of Appeals (CA) in CA-G.R. CR HC No. 06066, affirming the verdict of conviction against appellant for rape, with modification of the monetary awards and inclusion of the proviso on appellant's ineligibility for parole.

¹ Penned by Associate Justice Victoria Isabel A. Paredes and concurred in by Associate Justices Isaias P. Dicdican and Ramon Paul Hernando (now a member of this Court); *Rollo*, pp. 2-15.

The Proceedings Before the Trial Court

The Charge

Appellant XXX was charged with rape under Article 266-A of Republic Act No. (RA) 8353,² in relation to RA 7610,³ viz.:

That on or about three o'clock in the morning of January 13, 2004 x x Camarines Sur, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, being the uncle of the private complainant, hence, a relative within the third civil degree of consanguinity, by means of force and intimidation, did then and there, willfully, unlawfully and feloniously have carnal knowledge with AAA, a sixteen-year old minor, against her will, to her damage and prejudice.

ACTS CONTRARY TO LAW.⁴

The case was raffled to the Regional Trial Court - Br. 35, Iriga City. On arraignment, appellant pleaded "not guilty."

During the trial, AAA, her mother BBB, Dr. Marie Anne Ng-Hua, PO2 Andrew Alcomendas, and social worker Guadalupe Bisenio testified for the prosecution. On the other hand, appellant and his sister CCC testified for the defense.

The Prosecution's Version

AAA testified that appellant was her uncle, brother of her mother BBB. He used to live with them in their residence. On January 13, 2004, around 3 o'clock in the morning, AAA was sleeping beside her three younger brothers when she felt a person on top of her. She realized she had already been undressed and the person on top of her, a man, was making a push and pull movement, his penis inside her vagina. She struggled but the man pinned her down. He continued to ravish her for about two (2) more minutes until she eventually managed to kick him off. He stood up and threatened to kill her parents if she reported the incident. She recognized it was appellant's voice. She was sixteen (16) years old at that time.

BBB testified that in the morning of January 13, 2004, she turned on the fluorescent light and saw appellant moving her youngest child then sleeping with AAA on the same bed. She asked what he was doing. He said he was just moving the children so they would not fall off the bed. She became suspicious because he was perspiring despite the cold weather.⁵

She later instructed AAA to come home from school by noontime. When AAA arrived, she asked her what happened earlier. AAA started to cry

² Otherwise known as the "Anti-Rape Law of 1997"

³ Otherwise known as the "Special Protection of Children Against Abuse, Exploitation and Discrimination Act."

⁴ Record, p. c.

⁵ TSN, September 1, 2009, pp. 5-7

and admitted she had been raped. They reported the incident to the barangay captain⁶ who contacted the police to have the incident blotted. The barangay captain then advised BBB to bring AAA to the hospital for examination.⁷

On January 19, 2004, BBB and AAA went to the Department of Social Welfare and Development (DSWD). There, Bisenio prepared a letter-request for AAA's medical examination. They brought the letter to the Bicol Medical Hospital where Dr. Ng-Hua examined AAA and issued a medical certificate with findings of hymenal lacerations at the 3, 6 and 9 o'clock positions. They returned to Bisenio for assistance in filing a complaint against appellant.⁸

The prosecution offered the following documentary exhibits: AAA's birth certificate, Dr. Ng-Hua's medical certificate, letter-request for medical check-up, and AAA's DSWD data record.⁹

The Defense's Evidence

Appellant denied the charge. He testified that in the early morning of January 13, 2004, he woke up to the cries of one of his nephews who was sleeping in the same room shared by other members of the family including himself. He stood up and realized AAA's leg was draped over her younger brother's stomach. It was the reason why his nephew was crying. He then tapped AAA's leg to prompt her to move.¹⁰

About the same time, BBB focused light on appellant's designated sleeping area and found it vacant. BBB proceeded to where AAA was sleeping and woke her up. BBB then told AAA to transfer to another room.¹¹

The following day, village officials came to fetch him at the *coprasan* of his sibling CCC. They took him to the barangay hall. There, he was informed of the rape charge against him. He denied it, claiming he was falsely charged because of a family dispute concerning a corn plantation.¹²

CCC corroborated appellant's testimony regarding his arrest. She said she was present during the confrontation at the barangay hall.¹³

The Trial Court's Ruling

The trial court rendered a verdict of conviction as borne by its Judgment dated January 21, 2013, *viz.*:

⁶ *Id* at 7-10.

⁷ TSN, July 4, 2006, pp. 4-5.

⁸ TSN, September 1, 2009, pp. 11-14.

⁹ Original Record, p. 245.

¹⁰ TSN, May 3, 2011, pp. 4-7.

¹¹ *Id* at 7-8.

¹² TSN, May 3, 2011, pp. 8-11.

¹³ TSN, October 18, 2011.

WHEREFORE, finding accused XXX guilty beyond reasonable doubt of rape, defined under Article 266-A and penalized under Article 266-B, all of the [Revised Penal Code], said accused is hereby sentenced to suffer a prison term of reclusion perpetua and to pay unto private complainant [xxx] P75,000 as civil indemnity; P75,000 as moral damages and; P30,000 as exemplary damages.

SO ORDERED. (words in brackets added)¹⁴

The trial court gave credence to AAA's factual narration and her positive identification of appellant as the man who sexually ravaged her. It rejected appellant's defense of denial.

The Proceedings Before the Court of Appeals

On appeal, appellant faulted the trial court for rendering a verdict of conviction against him despite the alleged leading questions asked of AAA, her inconsistent answers, and the improbable scenario that her three (3) younger brothers were not roused from sleep while rape was being committed in their presence.¹⁵

The Office of the Solicitor General (OSG), through Assistant Solicitor General Marissa Macaraig-Guillen and State Solicitor Jayrous L. Villanueva defended the verdict of conviction. The OSG maintained that AAA's testimony was firmly corroborated by BBB and Dr. Ng-Hua. The alleged inconsistencies in AAA's testimony did not dwell on the elements of the crime, hence, did not diminish her credibility.¹⁶

The Court of Appeals' Ruling

The Court of Appeals affirmed with modification, *viz.*:

WHEREFORE, premises considered, the instant appeal is DENIED. The assailed January 21, 2013 Judgment is MODIFIED in that:

- (1) Appellant XXX shall not be eligible for parole; and
- (2) Appellant XXX is ORDERED to pay interest at the legal rate of six percent (6%) per annum on all monetary awards from the date of finality of this judgment until fully paid.

SO ORDERED.

¹⁴ CA rollo, p. 67.

¹⁵ *Id* at 38.

¹⁶ *Id* at 79.

The Present Appeal

Appellant now seeks affirmative relief from the Court and prays anew for his acquittal. In compliance with Resolution dated August 17, 2019,¹⁷ both appellant and the OSG manifested that, in lieu of supplemental briefs, they were adopting their respective briefs before the Court of Appeals.¹⁸

Issue

Did the Court of Appeals err in affirming appellant's conviction for rape?

Ruling

We affirm.

Rape is defined and penalized under Article 266-A of the Revised Penal Code, as amended by RA 8353, *viz.*:

Article 266-A. Rape: When And How Committed. - Rape is committed:

- 1) By a man who shall have carnal knowledge of a woman under any of the following circumstances:
 - a) Through force, threat, or intimidation;
 - b) When the offended party is deprived of reason or otherwise unconscious;
 - c) By means of fraudulent machination or grave abuse of authority; and
 - d) When the offended party is under twelve (12) years of age or is demented, even though none of the circumstances mentioned above be present.

x x x x

The Information charged appellant with rape under Article 266-A(1)(a), as amended. It requires the following elements: (1) accused had carnal knowledge of a woman; and, (2) he accompanied such act by force, threat, or intimidation.¹⁹

AAA narrated in detail her harrowing experience of forced, nay, unwanted sexual congress with appellant, her uncle:

x x x x

¹⁷ *Rollo*, p. 22.

¹⁸ *Id* at 24 and 29.

¹⁹ See *People v. Amoc*, 825 SCRA 608, 615 (2017).

Q Now, do you recall where were you on January 13, 2004 at around 3:00 o'clock early in the morning?

A Yes, sir.

Q Where were you?

A I was at our house sir.

X X X X

Q While there on said date time and place what happened if any?

A I was sleeping sir.

Q That's why while sleeping what unusual incident happened if any?

A I felt that someone on topped (sic) of me.

Q And when you noticed that someone is (sic) on top of you, what was this person doing to you if any?

A He was making sexual intercourse with me.

X X X X

THE COURT:

Before that.

What were you wearing at that very moment?

THE WITNESS:

I was wearing short pants and a blouse Your Honor.

THE COURT:

What happened to your short pants and blouse while that person was having sexual (sic) intercourse with you?

THE WITNESS:

It was already removed Your Honor. I was already undressed Your Honor.

THE COURT:

Okey.

You mean the short pants and blouse were already removed from your body?

THE WITNESS:

Yes, Your Honor.

THE COURT:

Okey.

PROS. RAMOS:

- Q How about your panty?
A It was also removed sir.
- Q **So, sensing or noticing that someone is having sexual intercourse with you, what did you do?**
A **I was awoken (sic) and he was on topped (sic) of me and I pushed him, sir.**
- Q **What happened to your vagina and to the penis of the accused when you push (sic) him?**
A **I felt pain, sir.**
- Q **You said that that person was having sexual intercourse with you? Where was his penis at that time?**
A **It was inside my vagina sir.**
- Q When you push (sic) that person having sexual intercourse with you what happened to him when you push (sic) him?
A He was able to rise sir.
- Q And after that what did he say if any?
A If ever other people will know about the incident he will kill her (sic) parents.
- Q **Were you able to identify that person who had sexual intercourse with you?**
A **Yes, sir.**
- Q **Who is that person please tell the court?**
A **It was XXX sir.**
- Q • What did you feel when the accused XXX threaten (sic) you that if someone knew about this of what happened to you that he will kill your parents, what did you feel?
A I was afraid sir.²⁰ (emphases added)

X X X X

On cross, AAA stuck to her testimony, thus:

X X X X

ATTY CABAUTAN:

- Q You said that you did not feel that you were being undressed by the accused, correct?
A Yes, ma'am.
- Q And you just woke up fully undressed?
A Yes, sir.
- Q And the accused was already on top of you, is that correct?
A Yes, sir.

²⁰ TSN July 22, 2008, pp. 4-7.

Q Now, when you woke up with the accused on top of you, was he already making sex with you?

A Yes, sir.

COURT:

Q Where was the penis of the accused when you woke up?

A Inside my vagina, sir.

X X X X

ATTY. CABAUTAN:

Q So, you mean to tell us that it was already at that point when the penis of the accused was already inside your vagina that you were awoken (sic), is that correct?

A Yes, ma'am.

Q And what was he doing at that time with you while his penis was inside your vagina?

A He was doing the push and pull movement.

Q For how long did that push and pull movement of the accused lasted?

A Probably two minutes, ma'am.

Q You said you pushed the accused, is that correct?

A Yes, ma'am.

X X X X

Q Did the accused stop already his sexual acts meaning, the push and pull movement after you pushed him?

A Yes, ma'am.

Q Was there no noise created when you pushed him?

A He told me that if my parents will know he will massacre us, ma'am.

Q What do you mean by the word "massacre"?

A He will kill my father and mother, ma'am.

X X X X

Q And nobody among your three (3) brothers were awoken (sic)?

A None, ma'am.

Q When you said the accused was having sex with you, what were his hands doing then?

A He was holding my hands, ma'am.²¹ (emphases added)

X X X X

AAA was forced to retell the sordid details of the bestial act and relive the rape all over again when she took the witness stand. On January 13, 2004,

²¹ TSN, September 29, 2008, pp. 6-9.

K

around 3 o'clock in the morning, she was roused from sleep by the weight of a man on top of her. She realized she was no longer dressed and the man was making a push and pull movement inside her vagina. She struggled to break free from his clutches but he pinned her down. She eventually managed to kick him off around two (2) minutes later when the push and pull movement had finally stopped. The man threatened to kill her family if she reported the incident. She recognized the man's voice as that of appellant, her uncle. From this testimony, the prosecution positively established that appellant, through force and intimidation, succeeded in having carnal knowledge of AAA against her will.

The trial court and the Court of Appeals found AAA persuasive and unwavering in giving her testimony, thus, meriting full weight and credence. Indeed, a young girl's revelation that she had been raped, coupled with her voluntary submission to medical examination and willingness to undergo public trial where she could be compelled to give out the details of the assault on her dignity cannot be so easily dismissed as mere concoction.²² It is highly improbable that a girl would fabricate a story that would expose herself and her family to a lifetime of dishonor,²³ especially when her charge would mean the long-term imprisonment, if not death, of a blood relative.

By itself, AAA's testimony withstands scrutiny sufficient to produce a verdict of conviction. But when corroborated by physical evidence, AAA's testimony assumes even more probative weight. Here, Dr. Ng-Hua's medical examination of AAA revealed that the latter sustained hymenal lacerations at the 3, 6 and 9 o'clock positions. Hymenal lacerations, whether healed or fresh, are the best evidence of forcible defloration. And when the consistent and forthright testimony of a rape victim is consistent with medical findings, as in this case, the essential requisites of carnal knowledge are deemed to have been sufficiently established.²⁴

Appellant, nevertheless, attempts to discredit AAA because (1) the questions propounded on her were allegedly leading and, consequently, inadmissible along with her answers thereto; (2) her purported inconsistent statements render the same incredible; and (3) the presence of her siblings in the same room appellant supposedly raped her would have made the commission of the rape impossible.

We are not persuaded.

First, the alleged leading questions asked of AAA²⁵ do not form part of her direct testimony. Rather, these were asked during the preliminary investigation.²⁶ At any rate, records show that during the trial proceedings, the

²² CA rollo, p. 114, citing *People v. Cadano, Jr.*, 729 Phil. 576, 585 (2014).

²³ See *People v. Barcelá*, 652 Phil. 134, 145 (2010).

²⁴ See *People v. Sabal*, 734 Phil. 742, 746 (2014), citing *People v. Perez* 595 Phil. 1232, 1258 (2008).

²⁵ CA rollo, pp.45-52.

²⁶ Record, p. 14.

defense objected only once to the supposed leading questions of the prosecution. The trial court sustained the objection.

Second, the alleged inconsistency in AAA's testimony pertaining to whether she saw appellant sitting on the side of the bed with his clothes on or lying on top of her naked --- is at best misleading. This purported inconsistency does not appear anywhere in the case records.

In any event, the supposed inconsistency raised refers to a trivial matter and does not affect AAA's credibility.

Third, the presence of AAA's three (3) younger siblings in the same room which they shared with other members of the family including AAA and appellant himself obviously did not deter appellant from sexually ravishing his own niece right in the same room. Appellant's depraved behavior proved that lust is not a respecter of people, time, or place.²⁷ The Court has encountered far too many instances where rape was committed in plain view. We even took judicial notice of the fact that among poor couples with big families cramped in small quarters, copulation does not seem to be a problem despite the presence of other persons there.²⁸ Rape could be committed under circumstances as indiscreet as a room full of family members sleeping side by side.²⁹

In fine, the trial court and the Court of Appeals correctly gave credence to AAA's testimony. Indeed, the trial court's factual findings on the credibility of witnesses are accorded high respect, if not conclusive effect. This is because the trial court has the unique opportunity to observe the witnesses' demeanor, and is in the best position to discern whether they are telling the truth or not.³⁰ This rule becomes more compelling when such factual findings carry the full concurrence of the Court of Appeals, as in this case.³¹

In this light, appellant's defense of denial cannot prevail over AAA's categorical identification of appellant as the one who raped her.³² Notably, appellant did not even deny his presence in AAA's room and the fact that BBB saw him there moving the other children. His presence in the *locus criminis* vis-à-vis AAA's testimony that he raped her strongly refutes his theory of denial. All told, the Court of Appeals did not err in affirming appellant's conviction for the rape of his sixteen-year (16-year) old niece AAA.

²⁷ See *People v. Ofemiano*, 625 Phil. 92, 100 (2010).

²⁸ *Id.*

²⁹ See *People v. Panes*, 839 SCRA 260, 268 (2017).

³⁰ See *People v. Nelmidia*, 694 Phil. 529, 556 (2012).

³¹ See *People v. Regaspi*, 768 Phil. 593, 598 (2015).

³² See *People v. Gabriel*, 807 Phil. 516, 522 (2017).

Penalty

Article 266-B of the Revised Penal Code, as amended by RA 8353, prescribes the penalty of *reclusion perpetua* for simple rape. Where 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, the proper penalty is death.³³

Here, AAA was sixteen (16) years of age when she got raped. The prosecution offered in evidence her birth certificate³⁴ to prove her minority at the time of the incident. Meanwhile, her blood relation with appellant is undisputed. Appellant took the witness stand and admitted to being AAA's uncle, and brother to BBB.³⁵ Consequently, the death penalty should have been imposed were it not for the enactment of RA 9346.³⁶ The Court of Appeals therefore correctly sentenced appellant to *reclusion perpetua* without eligibility for parole.³⁷

In conformity with prevailing jurisprudence,³⁸ the award of Php75,000.00 civil indemnity, Php75,000.00 moral damages, and Php30,000.00 exemplary damages should be increased to Php100,000.00 each.

ACCORDINGLY, the appeal is **DENIED**. The Decision of the Court of Appeals dated June 4, 2015 in CA-G.R. HC No. 06066 is **AFFIRMED with MODIFICATION**.

XXX is found **GUILTY** of **Rape**, qualified by minority and relationship. He is sentenced to **Reclusion Perpetua** without eligibility for parole. The awards of civil indemnity, moral damages, and exemplary damages are increased to Php100,000.00 each. These amounts shall earn six percent (6%) interest *per annum* from finality of this decision until fully paid.

SO ORDERED.


AMY C. LAZARO-JAVIER
Associate Justice

³³ Article 266-B(1).

³⁴ Record, p. 248.

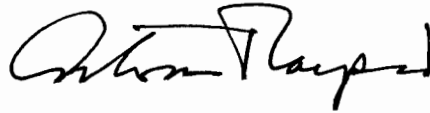
³⁵ TSN, May 3, 2011, p. 3.

³⁶ An Act Prohibiting the Imposition of Death Penalty in the Philippines.

³⁷ Section 3, RA 9346.

³⁸ See *People v. Jugueta*, 783 Phil. 806, 846 (2016).

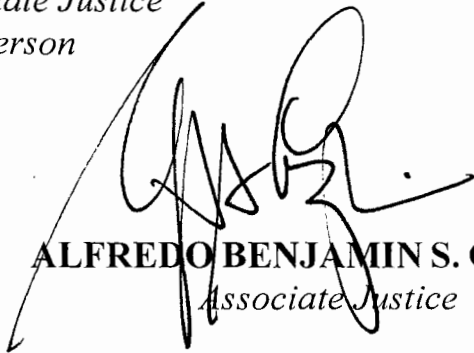
WE CONCUR:



ANTONIO T. CARPIO
Senior Associate Justice
Chairperson



ESTELA M. PERLAS-BERNABE
Associate Justice



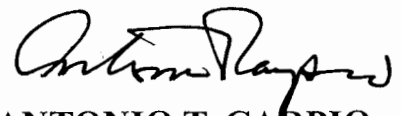
ALFREDO BENJAMIN S. CAGUIOA
Associate Justice



JOSE C. REYES, JR.
Associate Justice

ATTESTATION

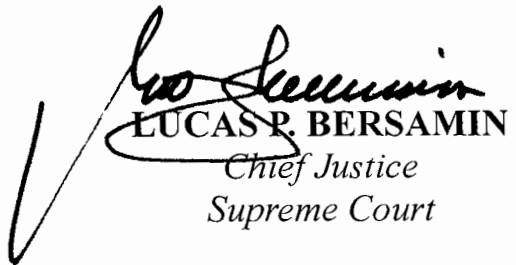
I attest that the conclusion in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ANTONIO T. CARPIO
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Section 13, Article VII 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.



LUCAS P. BERSAMIN
Chief Justice
Supreme Court

