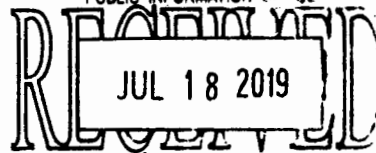




SUPREME COURT OF THE PHILIPPINES
PUBLIC INFORMATION OFFICE



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TIME: 2:00 PM

Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 218571

Present:

- versus -

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

ALLAN SISCAR y ANDRADE,
Accused-Appellant.

Promulgated:

03 JUN 2019

X-----*H. Cabalag*-----X

DECISION

LAZARO-JAVIER, J.

The Case

This appeal assails the Decision¹ dated July 31, 2014 of the Court of Appeals affirming the trial court's verdict² of conviction against appellant for rape.

* On official leave

¹ Penned by Associate Justice Hakim S. Abdulwahid and concurred in by Associate Justices Romeo F. Barza and Ramon A. Cruz, *rollo*, pp. 2-13.

² Under Decision dated November 26, 2012, penned by Judge Tomas C. Leynes, RTC, Br. 40, Calapan City, Oriental Mindoro, *CA rollo*, pp. 37-46.

A

The Information

By Information dated March 18, 2008,³ appellant Allan Siscar y Andrade was charged with rape, as follows:

That on or about the 15th day of March, 2008, at 4:00 o'clock in the afternoon, more or less, at Sitio XXX, Barangay YYY, Municipality of ZZZ, Province of Oriental Mindoro, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused with lust, lewd and unchaste desire and by means of force, violence and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of one AAA, a seventeen (17) year-old minor, against her will and without her consent, to the damage and prejudice of said AAA.⁴

The case was raffled to the Regional Trial Court, Branch 40, Calapan City, Oriental Mindoro.

The Proceedings before the Trial Court

On arraignment, appellant pleaded not guilty.⁵ During the trial, seventeen year old AAA,* her father BBB, and Dr. Edelina F. Muñoz-Bae testified for the prosecution. On the other hand, appellant Allan Siscar y Andrade alone testified for the defense.

The Prosecution's Version

AAA testified that in the afternoon of March 15, 2008, she and her father BBB arrived at Barangay YYY, Municipality of ZZZ, Province of Oriental Mindoro. They went there to join her group do a house to house solicitation for their attendance and participation in the then forthcoming

³ Record, p. 1.

⁴ *Id.*

⁵ *Id.* at 23.

* The identity of the victim or any information to establish or compromise her identity, as well as those of her immediate family or household members, shall be withheld 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 Therefor, and for Other Purposes": Section 40 of A.M. No. 04-10-II-SC. known as the "Rule on Violence Against Women and Their Children," effective November 5, 2004; *People vs. Cabalquinto*, 533 Phil. 703, 709 (2006); and Amended Administrative Circular No. 83-2015 dated September 5, 2017, Subject: Protocols and Procedures in the Promulgation, Publication, and Posting on the Websites of Decisions, Final Resolutions, and Final Orders Using Fictitious Names/Personal Circumstances.

International Youth Congress.⁶ Appellant's house was among those she visited.⁷ After completing her task, she took the road along the cemetery and walked toward the group's designated meeting place. As she was walking, however, something hit her head from behind, thrusting her to the ground. Then she felt someone punch her twice in the stomach.⁸ It was appellant.⁹

He dragged her to a grassy area, forced her to lie down, and undressed her.¹⁰ She tried to shout but he covered her mouth and punched her again in the stomach.¹¹ He removed his *maong* short pants and white t-shirt, inserted his penis in her vagina and made pumping motions while kissing her lips and mashing her breast.¹² He also forced his penis into her mouth, kissed her breast, licked her private part, and spat in her mouth.¹³

After appellant left, she put on her clothes and proceeded to the group's meeting place. Her father was there waiting.¹⁴ After telling her father about the incident, they immediately went to the police.¹⁵ A police officer readily responded and accompanied them to appellant's house but he was nowhere in sight. Outside, she noticed a pair of *maong* short pants hanging on the clothesline. She at once recognized it was the same *maong* short pants appellant wore when he raped her.¹⁶ From appellant's house, they rushed to the hospital for her physical examination.¹⁷

BBB testified that on the day of the incident, he was waiting for his daughter AAA to complete her solicitation task.¹⁸ She later came to him crying, her hair was disheveled, her arms and elbows scratched, her clothes dirty and bloodstained on the back.¹⁹ She told him she got raped. He immediately brought her to the police station.²⁰ They searched for appellant but did not find him.²¹ AAA underwent medical examination.²²

Dr. Edelina F. Muñoz-Bae testified that her physical examination of AAA yielded findings of contusions and abrasions on AAA's lower back, hematoma on her left shoulder, evident signs of injuries in her genitals, and a

⁶ TSN, February 12, 2009, p. 7.

⁷ *Id.* at 12.

⁸ *Id.* at 11.

⁹ *Id.*

¹⁰ *Id.* at 13 and 15.

¹¹ *Id.* at 17.

¹² *Id.* at 17-21.

¹³ *Id.* at 23-25.

¹⁴ *Id.* at 29.

¹⁵ *Id.* at 30-32.

¹⁶ TSN, March 19, 2009, p. 4.

¹⁷ TSN, February 12, 2009, p. 33.

¹⁸ TSN, June 25, 2009, p. 4.

¹⁹ *Id.* at 5.

²⁰ *Id.* at 5.

²¹ *Id.* at 5.

²² *Id.* at 6-7.

stellate-shaped hymenal laceration.²³ Her medical report bore the following findings, viz.:

General Physical Examination:

xxx

(+) contusion-abrasion, lower back, (+) hematoma, left shoulder

Genital Examination:

Pubic hair, fully grown, scanty. Labia majora, gaping, Labia minora, coaptated. Fourchette lax; Vestibular mucosa, pinkish from 3:00 to 9:00 o'clock positions. Hymen, measures @ 2cm in length, thick, with stellate shaped laceration, edges are pinkish and edematous. Hymenal orifice, measures @ 2.0 cm in diameter. Vaginal walls, tight. Rugosities, prominent.

Conclusions:

1. Evident signs of extragenital injuries were noted on the body of the subject at the time of examination.
2. Stellate-shaped hymenal laceration, present.

xxxx²⁴

The Defense's Version

Appellant claimed that on the date and time AAA got raped, he was in Sabang, Puerto Galera, working.²⁵ He received his pay around 4 o'clock in the afternoon and got home two hours later.²⁶

On March 17, 2008, while he was in Puerto Galera, his wife texted him that he was a suspect in a rape case.²⁷ He immediately went to the police station to inquire about the case. There, he was taken in custody and no longer allowed to leave.²⁸ He saw AAA for the first time when she came to the police station.²⁹ She initially identified another detainee as her assailant but later pointed him out after the guard disclosed he was Allan Siscar.³⁰ The *maong* short pants hanging on the clothesline belonged to him but the same went missing the day after the incident.³¹

²³ TSN, March 11, 2010, pp. 10-13.

²⁴ Record, p. 57.

²⁵ TSN, July 23, 2012, pp. 3-5.

²⁶ *Id.* at 16.

²⁷ *Id.* at 9 and 13.

²⁸ *Id.* at 9 and 12.

²⁹ *Id.* at 5.

³⁰ *Id.* at 6.

³¹ *Id.* at 18-19.

The Trial Court's Ruling

By Decision³² dated November 26, 2012, the trial court rendered a verdict of conviction, thus:

Accordingly, finding herein accused Allan Siscar y Andrade **GUILTY** beyond reasonable doubt of the crime of Rape punishable under Article 266-A of the Revised Penal Code, said accused is hereby sentenced to suffer the penalty of **Reclusion Perpetua** with all the accessory penalties as provided for by law.

Said accused is hereby directed to indemnify the private complainant the amount of One Hundred Thousand Pesos (P100,000.00) as civil indemnity, Seventy Five Thousand Pesos (P75,000.00) as moral damages and Fifty Thousand Pesos (P50,000.00) as exemplary damages.

SO ORDERED.

The trial court gave full credence to AAA's straightforward and categorical testimony and rejected appellant's denial and alibi. According to the trial court, it was not physically impossible for appellant to have been at the *locus criminis* on the date and time in question. It sentenced him to *reclusion perpetua* with all the accessory penalties. It further directed him to pay complainant P100,000.00 as civil indemnity, P75,000.00 as moral damages, and P50,000.00 as exemplary damages.

The Proceedings before the Court of Appeals

On appeal, appellant faulted the trial court for finding him guilty of rape despite AAA's alleged failure to clearly, directly, and spontaneously identify him as the assailant. He stressed that since the supposed *locus criminis* was adjacent to the road and numerous residential houses, it was highly improbable for people not to have come to help complainant, if truly she got raped there.

In refutation, the Office of the Solicitor General (OSG), through Assistant Solicitor General Reynaldo L. Saldares and Associate Solicitor Ron Winston A. Reyes averred that AAA positively identified appellant as the one who sexually ravished her near the cemetery around 4 o'clock in the afternoon of March 15, 2008. The trial court found her testimony credible in contrast with appellant's unsubstantiated, nay, inherently weak denial and alibi.

³² CA rollo, pp. 37-46.



In its assailed Decision dated July 31, 2014, the Court of Appeals affirmed. It found that AAA did not identify appellant solely on the basis of the *maong* short pants she saw on the clothesline outside his house. It concurred with the trial court's finding that she positively identified appellant as the predator who sexually violated her. She clearly recognized him because earlier that day, she went to his house and personally saw appellant there. She even handed a solicitation letter to his wife.

The Present Appeal

Appellant now seeks affirmative relief from the Court and prays anew for his acquittal. In compliance with Resolution³³ dated August 5, 2015, both the OSG and appellant manifested that, in lieu of supplemental briefs, they were adopting their respective briefs filed before the Court of Appeals.³⁴

Issue

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

Ruling

The appeal must fail.

AAA recounted in detail how appellant sexually violated her around 4 o'clock in the afternoon of March 15, 2008 in a grassy area near the cemetery, *viz*:

COURT:

Q: By the way, will you please tell this Court how the accused Allan Siscar raped you?

A: **I was then about to go to our group meeting place when somebody hit my head near the cemetery, Your Honor.**

XXXX

Q: And you lost consciousness?

A: **I initially felt dizzy then I fell down and the accused then delivered two punches on (sic) my abdomen.**

³³ Rollo, pp. 18-19.

³⁴ *Id.* at 20-22 and 30-32.

Q: **And did you recognize who was that person who did that to you?**

A: **Yes, Your Honor.**

Q: **And who was he?**

A: **Allan Siscar.**

Q: **The accused in this case?**

A: **Yes, Your Honor.**

Q: **And how come that you knew the accused?**

A: **Because I vividly saw his face.**

Q: **Do you know him personally?**

A: **I did not know him personally although I gave him a solicitation paper previously.**

XXXX

Q: **Now, according to you, you were boxed two (2) times at (sic) your abdomen by the accused. What happened next after that?**

A: **He thereafter dragged me to a grassy area.**

XXXX

Q: **xxx. What else happened after that?**

A: **He made me lie down and undressed me.**

XXXX

Q: **Did you shout?**

A: **Yes, but the accused was covering my mouth, Your Honor.**

XXXX

Q: **So after you were undressed, then the accused undressed himself, is that what you mean?**

A: **Yes, Your Honor.**

XXXX

Q: **What were you doing while he was removing his T-shirt, shorts and brief?**

A: **I was still on a lying position because of too much weakness since the accused again boxed me on my stomach.**

PROS. DOLOR:

Q: **What happened next, Madam Witness, after you felt weak after the accused boxed you again on your stomach?**

A: **He inserted his sex organ, sir.**

COURT:

Q: **Where?**

A: **To my sex organ, Your Honor.**

Q: **What did the accused do after he inserted his sex organ in your sex organ?**

A: **He kissed my lips, Your Honor.**

Q: What else?
A: **He mashed my breast, Your Honor.**

XXXX

Q: What did you do when he kissed your lips?
A: I was crying, Your Honor.

Q: **And what was he doing while his penis was inserted in your vagina?**

A: **He was doing pumping motions, Your Honor.**

XXXX

PROS. DOLOR:

May we respectfully manifest that the witness is crying while testifying.

XXXX

Q: Now, after 30 minutes of push and pull or pumping motions of the accused while on top of you, what happened?

A: **The accused forced me to insert his penis into my mouth, Your Honor.**

Q: And were you able to follow his instruction?

A: I was trying not to follow his instruction but he was holding my mouth in a way that it would widely open.

Q: And was he successful in putting his penis inside your mouth?

A: Yes, Your Honor.

XXXX

Q: After that, what happened?

A: **The accused then removed his penis from my mouth and kissed my breast, Your Honor.**

Q: Then, what happened next?

A: **He licked my private part, Your Honor.**

XXXX

Q: And after licking your private part, what happened next?

A: **He spit into my mouth, sir.**

Q: And after that, what happened next?

A: He wiped my entire body and left me still totally naked, sir.³⁵
(Emphases supplied)

³⁵ TSN, February 12, 2009, pp. 8-25.



AAA's testimony was so replete with sordid details she could not have known them had she not actually experienced them.³⁶ The trial court found AAA's testimony positive, straightforward, and categorical. Consequently, even standing alone, AAA's testimony is sufficient to support appellant's conviction for rape, given the intrinsic nature of the crime of rape where only two persons are usually involved.³⁷ The Court has ruled that it is instinctive for a young, unmarried woman to protect her honor and it is thus difficult to believe that she would fabricate a tale of rape, allow the examination of her private parts, and permit herself to be subject of a public trial had she not really been raped.³⁸ Moreover, We have consistently held that the testimony of minor victims is normally given full weight and credit.³⁹

As it was, appellant's conviction was not based alone on AAA's testimony. The trial court also considered Dr. Bae's corroborative medical findings and testimony pertaining to AAA's non virgin state, lacerated hymen at 3 o'clock and 9 o'clock positions, and contusions and abrasions she sustained on her lower back and shoulders. A hymenal laceration is the best evidence of forcible sexual penetration. It does not matter whether it is healed or fresh.⁴⁰ Indeed, when the rape victim's detailed, positive and categorical testimony about the sexual violation she experienced solidly conforms with the medical finding of hymenal laceration, the same is sufficient to support a verdict of conviction.⁴¹

Notably, appellant himself did not impute any ulterior motive which could have impelled AAA to falsely charge him with such heinous crime as rape.⁴² In fact, he even testified that he only saw AAA for the first time when she came to the police station where he got detained.

Appellant, nonetheless, attempts to destroy AAA's credibility citing some purported improbabilities in her testimony. On this score, he raises two points: *first*, AAA failed to identify him at the police station; and *second*, he could not have raped AAA near the road and surrounding residential houses without alerting people to come and give succor to her.

We are not persuaded.

AAA testified she knew appellant because she went to his house to solicit funds for her group's attendance and participation at the International Youth Congress. Appellant was there and so was his wife. Before she left, she handed a solicitation letter to appellant's wife. Then the rape incident

³⁶ See *People vs. Obogne*, 730 Phil. 354, 359 (2014).

³⁷ See *People vs. Ronquillo*, G.R. No. 214762, September 20, 2017, 840 SCRA 405, 414; See also *People vs. Garrido*, 763 Phil. 339, 347 (2015).

³⁸ See *People vs. Ortega*, 680 Phil. 285, 299-300 (2012).

³⁹ *People vs. Ramos*, 743 Phil. 344, 356 (2014).

⁴⁰ See *People vs. Sabal*, 734 Phil. 742, 746 (2014).

⁴¹ See *People vs. Ronquillo*, G.R. No. 214762, September 20, 2017, 840 SCRA 405, 411.

⁴² See *People vs. Senieres*, 547 Phil. 674, 687 (2007).

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happened. But right after, she and her father reported appellant's crime to the police station. Along with the police officer, they proceeded to appellant's house but he was not there. She recognized, though, a pair of *maong* short pants hanging on the clothesline outside the house to be the same pair appellant wore when he raped her. In fine, AAA consistently and positively identified appellant, and no other, as the sexual predator who violated her.

We, therefore, reject appellant's claim that AAA initially pointed to someone else when she visited the police station and turned to him only when prodded by the police. At any rate, it is settled that in rape cases, the identity of the offender is often indelibly printed in the mind of the victim.⁴³

As for appellant's theory that he could not have raped AAA in a place near the road and surrounding residential houses without alerting people to come and help her, the Court has consistently recognized that rape may be committed even in places where people congregate, in parks, along roadside, within school premises, inside an occupied house, and even where other members of the family are sleeping.⁴⁴ For lust is no respecter of time or place.⁴⁵

We now reckon with appellant's denial and alibi. He claims he was working in Sabang, Puerto Galera when the incident took place at Barangay YYY, Municipality of ZZZ, Province of Oriental Mindoro.

Alibi is the weakest of all defenses because it can easily be fabricated. More so, when as in this case, it is unsubstantiated, nay, devoid of any showing that it was impossible for the accused to be at the *locus criminis* on the day and time the crime was committed.⁴⁶ In any event, alibi cannot prevail over the victim's positive and unwavering identification of the accused as the one who succeeded in having carnal knowledge of her through force and violence.⁴⁷ So must it be.

Another piece of evidence appellant attempts to destroy is the *maong* short pants hanging on the clothesline outside his house right after the incident. Appellant asserts that the *maong* short pants which belonged to him went missing the day after the incident. Appellant's theory is flimsy. For one, he was not convicted based alone on these *maong* short pants. He was convicted mainly on the bases of AAA's positive identification of him as the one who hit her head, punched her in the stomach, dragged her to a grassy area, forced her to lie on the ground, undressed her, punched her one more time, and inserted his penis in her vagina. Then there were the corroborative medical findings of Dr. Bae regarding AAA's non-virgin state and lacerated hymen.

⁴³ See *People vs. Dela Cruz*, 390 Phil. 961, 983 (2000).

⁴⁴ See *People vs. Lor*, 413 Phil. 725, 736 (2001).

⁴⁵ *People vs. Agudo*, G.R. No. 219615, June 07, 2017, 827 SCRA 28, 40.

⁴⁶ See *People vs. Villanueva*, G.R. No. 211082, December 13, 2017.

⁴⁷ See *People vs. Vitero*, 708 Phil. 49, 63 (2013).

Appellant's pair of *maong* short pants seen hanging on the clothesline was just another piece of corroborative evidence of AAA's positive identification of appellant as the one who raped her.

Be that as it may, appellant's assigned errors all dwell on the issue of credibility. Suffice it to state that the Court generally accords full respect to the trial court's factual findings on the credibility of witnesses especially when the same carry the concurrence of the Court of Appeals. In the absence of any showing that the trial court had misapprehended the facts or disregarded the evidence on record, there is no valid reason to depart from such factual findings.⁴⁸

All told, the Court of Appeals did not err in affirming appellant's conviction for rape and the penalty of *reclusion perpetua* imposed on him. This is in accordance with in Article 266-A, in relation to 266-B of the Revised Penal Code, 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;

xxxx

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

xxxx (Emphases supplied)

The Court, however, modifies the awards of civil indemnity and exemplary damages. In accordance with prevailing jurisprudence,⁴⁹ the award of civil indemnity should be reduced from P100,000.00 to P75,000.00 while the award of exemplary damages, increased from P50,000.00 to P75,000.00. On the other hand, the grant of P75,000.00 as moral damages is affirmed. Further, the Court imposes six percent interest *per annum* on these amounts from finality of this decision, until fully paid.⁵⁰

Accordingly, the appeal is **DENIED** and the assailed Decision dated July 31, 2014 of the Court of Appeals, **AFFIRMED WITH MODIFICATION**.

⁴⁸ See *People vs. Gersamio*, 763 Phil. 523, 533 (2015).

⁴⁹ See *People vs. Jugueta*, 783 Phil. 806, 849 (2016).

⁵⁰ See *People vs. Palanay*, 805 Phil. 116, 129 (2017).





Appellant Allan Siscar y Andrade is found guilty of “**Rape**” and sentenced to **Reclusion Perpetua**. He is further ordered to pay P75,000.00 as civil indemnity, P75,000.00 as moral damages, and P75,000.00 as exemplary damages. A six percent interest *per annum* is imposed on these amounts from finality of this Decision until fully paid.

SO ORDERED.


AMY C. LAZARO-JAVIER
Associate Justice

WE CONCUR:


ANTONIO T. CARPIO
Senior Associate Justice
Chairperson

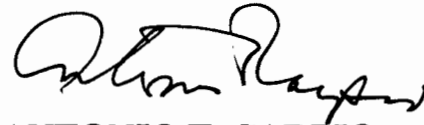

ESTELA M. PERLAS-BERNABE
Associate Justice

(On Official Leave)
ALFREDO BENJAMIN S. CAGUIOA
Associate Justice


JOSE C. REYES, JR.
Associate Justice

ATTESTATION

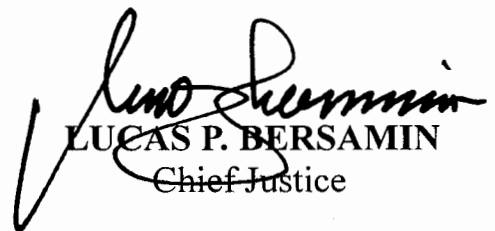
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ANTONIO T. CARPIO
Senior Associate Justice
Chairperson, Second Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the above 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

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