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Republic of the Philippines  
Supreme Court  
Manila

THIRD DIVISION

NOTICE

SUPREME COURT OF THE PHILIPPINES  
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BY: LCH  
TIME: 8:55

Sirs/Mesdames:

*Please take notice that the Court, Third Division, issued a Resolution dated November 27, 2019, which reads as follows:*

**“G.R. No. 234022 (*People of the Philippines, Plaintiff-Appellee v. XXX, Accused-Appellant*)\*** – This appeal seeks to reverse and set aside the Decision<sup>1</sup> dated 31 May 2017 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 08582, which affirmed with modification the Joint Judgment<sup>2</sup> dated 30 June 2016 of Branch 14, Regional Trial Court (RTC) of ██████ City, Albay, in Criminal Case Nos. 6920-6924, finding accused-appellant XXX (XXX) guilty beyond reasonable doubt of five (5) counts of qualified rape.

**Antecedents**

In five (5) separate Informations,<sup>3</sup> XXX was indicted for qualified rape, defined and penalized under Article 266-A, paragraph 1(a), in relation to paragraph 6(a) of Article 266-B of the Revised Penal Code (RPC), as amended by Republic Act No. (RA) 8353.<sup>4</sup>

On the day of his arraignment, XXX pleaded not guilty to all the charges.<sup>5</sup> After pre-trial,<sup>6</sup> trial on the merits ensued.

\* The identity of the victim or any information which could establish or compromise her identity, including the names of her immediate family or household members, and the *barangay* and town of the incident, are withheld pursuant to SC Amended Administrative Circular No. 83-2015. The real name of the accused-appellant is also replaced with fictitious initials by reason of his relationship to the minor victim.

<sup>1</sup> CA *rollo*, pp. 87-109; penned by Associate Justice Ramon R. Garcia, and concurred in by Associate Justices Leoncia R. Dimagiba and Henri Jean Paul B. Inting (now a member of this Court).

<sup>2</sup> *Id.* at 40-52; Records, pp. 240-252, penned by Presiding Judge Edwin C. Ma-alat.

<sup>3</sup> Records, pp. 1-2, 44-45, 73-74, 102-103, and 131-132.

<sup>4</sup> 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.

<sup>5</sup> Records, pp. 28-29, 67, 125, and 154.

<sup>6</sup> *Id.* at 39.

### Version of the Prosecution

On the morning of 25 December 2010, or Christmas Day, AAA,<sup>7</sup> a girl, thirteen (13) years of age, was at their home with XXX, her biological father.<sup>8</sup> Suddenly, XXX forced her to lie down on the ground, undressed her, and deflowered her. She could not do anything out of fear as XXX was poking her abdomen with a knife. After the incident, she noticed blood coming out of her private part.<sup>9</sup>

In the afternoon of the same day, AAA was sweeping the floor of their house when XXX forcibly undressed her and laid on top of her. She tried hard to evade XXX's advances. She pushed and pleaded him to stop, but her efforts were in vain as he succeeded in having unwanted sexual congress with her. AAA noticed something white came out of her private part. She was mad at XXX but could not fight back out of fear because he always threatened her with a bladed weapon.<sup>10</sup>

XXX continued to have carnal knowledge of AAA in the evening of the same date. While she was cooking in the kitchen, he embraced her from behind, then touched and mashed her breasts. He then carried her into the room. She tried to resist by holding onto a post but he prevailed. Inside the room, he touched her body parts, undressed her, and successfully had carnal knowledge of her against her will for the third time. She felt tremendous pain, but did not do anything fearing he might slap her. She just cried after.<sup>11</sup>

The fourth incident of rape occurred on 19 August 2012, during a *barangay fiesta*. AAA was already fifteen (15) years old that time.<sup>12</sup> She and XXX were inside their house when the latter dragged her into the bedroom. Once inside, he undressed her, and then he removed the towel wrapped around his waist. Thereafter, he lay on top of her and successfully forced himself on her while he poked her abdomen with a knife. Just like in the past, she felt pain and was frightened.<sup>13</sup>

After this, AAA finally mustered the courage to reveal her harrowing situation to her brothers, BBB<sup>14</sup> and CCC.<sup>15</sup> BBB accompanied AAA to the house of their older brother, DDD,<sup>16</sup> to ask for help.<sup>17</sup> However, DDD

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<sup>7</sup> Records, p.1

<sup>8</sup> TSN dated 24 March 2014, p. 12.

<sup>9</sup> *Id.* at 13-14.

<sup>10</sup> *Id.* at 17-24.

<sup>11</sup> *Id.* at 24-28.

<sup>12</sup> TSN dated 12 May 2014, pp. 6-7.

<sup>13</sup> *Id.* at 7-9.

<sup>14</sup> *Id.* at 14.

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

<sup>17</sup> TSN dated 12 May 2014, pp. 9-10.



casually rejected AAA's story and advised his siblings to return home as their father may just be affectionately fond of her.<sup>18</sup> Hence, AAA and BBB went back to their family home.<sup>19</sup>

AAA's ordeal in the hands of XXX continued. On the evening of 07 April 2013, AAA, then already sixteen (16) years old, was again left alone with XXX inside their house. He dragged AAA into the bedroom, removed his clothes and undressed her. AAA resisted and pushed XXX away, but he was too strong for her. He forcibly spread her legs and raped her for the fifth time. Again, she felt pain and was scared because he poked her abdomen with a knife.<sup>20</sup> After this incident, AAA, accompanied by BBB and CCC, went to DDD once more to ask for help.<sup>21</sup> This time, DDD accompanied his sister to the police station to report the incidents of rape and have the same investigated.<sup>22</sup>

Based on the Initial Medical-Legal Report No. MLB-123-13 dated 23 April 2013,<sup>23</sup> AAA's genital had a deep healed laceration at 3 o'clock position, showing clear evidence of blunt penetrating trauma to her hymen.

### Version of the Defense

XXX admitted that AAA is his biological daughter, the eight (8<sup>th</sup>) in a brood of nine (9).<sup>24</sup> However, he claimed that he could not have raped AAA because the latter and her siblings had left the family home a long time ago.<sup>25</sup> In fact, December 2010 was the second Christmas day that he had not seen his children since the time he demanded all of them to leave the house for being hard-headed.<sup>26</sup> This might have angered them, especially since he subsequently allowed another family to stay with him in their family home for free<sup>27</sup> out of pity, and because he was interested in the said family's teenage daughter.<sup>28</sup>

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<sup>18</sup> *Id.* at 10; TSN dated 17 February 2014, p. 13.

<sup>19</sup> TSN dated 12 May 2014, p. 10.

<sup>20</sup> *Id.* at 10-13.

<sup>21</sup> TSN dated 17 February 2014, p. 14; TSN dated 12 May 2014, pp.14-15.

<sup>22</sup> *Id.* at 15.

<sup>23</sup> Records, pp. 55, 84, 113, 142, and 231.

<sup>24</sup> TSN dated 03 August 2015, pp. 6-7; TSN dated 28 September 2015, p. 12.

<sup>25</sup> *Id.* at 8-9, and 14.

<sup>26</sup> *Id.* at 9-10; TSN dated 28 September 2015, p. 5.

<sup>27</sup> *Id.* at 14; TSN dated 28 September 2015, p. 8.

<sup>28</sup> TSN dated 28 September 2015, pp. 11, 19, and 21.

XXX further claimed that AAA had a boyfriend, and is now already married. That man, according to him, could have caused the laceration in AAA's hymen.<sup>29</sup>

### Ruling of the RTC

In its Joint Judgment dated 30 June 2016, the RTC found XXX guilty beyond reasonable doubt of five (5) counts of qualified rape, and sentenced him to suffer the penalty of *reclusion perpetua*, with all the accessory penalties provided by law. In addition, the RTC ordered XXX to pay AAA ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages, and ₱30,000.00 as exemplary damages, for each count.<sup>30</sup>

The RTC found AAA's testimony clear, credible, and convincing, despite her being illiterate.<sup>31</sup> Furthermore, notwithstanding the thorough cross-examination by the defense counsel, who devoted twice more time than the public prosecutor in questioning AAA, the latter never wavered in pointing to XXX as the one who repeatedly raped her.<sup>32</sup> On the other hand, the RTC did not give weight to XXX's testimony as the latter merely came up with a general denial.<sup>33</sup>

Aggrieved, XXX appealed to the CA.

### Ruling of the CA

In its Decision dated 31 May 2017, the CA affirmed the RTC's conviction of XXX but modified the penalties and monetary awards, thus:

**WHEREFORE**, premises considered, the instant appeal is hereby **DENIED**. The assailed Joint Judgment dated June 30, 2016 of the Regional Trial Court, 5<sup>th</sup> Judicial Region, Branch 14, ██████ City, Albay finding accused-appellant XXX guilty beyond reasonable doubt of five (5) counts of qualified rape is **AFFIRMED with MODIFICATION**. Accused-appellant is sentenced to suffer the penalty of *reclusion perpetua* for each count of qualified rape without eligibility for parole. He is further ordered to pay private complainant AAA One Hundred Thousand Pesos

<sup>29</sup> *Id.* at 10.

<sup>30</sup> Records, p. 252.

<sup>31</sup> *CA rollo*, p. 49.

<sup>32</sup> *Id.*

<sup>33</sup> *Id.* at 50.



(P100,000.00) as civil indemnity, One Hundred Thousand Pesos (P100,000.00) as moral damages, and One Hundred Thousand Pesos (P100,000.00) as exemplary damages, for each count of qualified rape. All damages awarded shall earn interest at the legal rate of six percent (6%) per *annum* from the date of finality of this judgment until fully paid.

**SO ORDERED.**<sup>34</sup>

According to the CA, the RTC correctly gave full credence to AAA's straightforward and categorical testimony that XXX had carnal knowledge of her on five (5) occasions.<sup>35</sup> The CA also found nothing in the records to indicate that AAA was motivated by ill will in accusing her father and testifying against him.<sup>36</sup> It did not give due consideration to accused-appellant's defense of denial and *alibi*, holding that XXX failed to prove that it was physically impossible for him to be at the crime scene during the commission thereof.<sup>37</sup>

**Issue**

The sole issue in this case is whether or not the CA committed an error in affirming the RTC's conviction of XXX for five (5) counts of qualified rape.

**Ruling of the Court**

We dismiss the appeal.

To sustain a conviction for qualified rape, the following elements must concur: a) the victim is a female over 12 years but under 18 years of age; b) 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; and c) the offender had carnal knowledge of the victim either through force, threat or intimidation; or when she was deprived of reason or is otherwise unconscious; or by means of fraudulent machinations or grave abuse of authority.<sup>38</sup>

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<sup>34</sup> CA *rollo*, pp. 108-109.

<sup>35</sup> *Id.* at 106.

<sup>36</sup> *Id.* at 106-07.

<sup>37</sup> *Id.* at 107-108.

<sup>38</sup> *People v. Barcelá*, G.R. No. 208760, 23 April 2014, 723 SCRA 647, 665.

The prosecution was able to prove the existence of all the foregoing elements. AAA's testimony sufficiently established that XXX had carnal knowledge of her on five (5) occasions. Force or threat was likewise established in this case as AAA testified that she could not resist XXX because he always threatened her with a knife. XXX's moral ascendancy – being AAA's father – also intimidated her into submission. Anent the qualifying circumstances of minority and relationship of the accused with the victim, the same were properly alleged in the Information, sufficiently proven by the prosecution during trial by testimonial and documentary evidence<sup>39</sup> and stipulated by the parties during the pre-trial.<sup>40</sup>

In praying for this Court to reverse his conviction, XXX mainly challenges the credibility of AAA's testimony, claiming that the same is riddled with glaring inconsistencies. Allegedly, the prosecution was not able to sufficiently establish the occurrence of all the charges against him because of the discrepancies in the statements of AAA, including whether: a) the crime happened inside their house; b) AAA sought help; c) XXX put away the knife; d) XXX inserted his penis in one incident instead of merely caressing AAA, among others.

Additionally, XXX posits that the allegations against him were merely concocted by the policewoman who took the out-of-court testimony of AAA. He avers that since AAA admitted in court that she is illiterate and does not know how to tell the date and time, she was clearly not in a position to tell specifically when the alleged rape incidents were committed. Furthermore, the details of all the accusations against him were noticeably uniform, which entails that the testimony of AAA was contrived or had been coached and rehearsed.<sup>41</sup> Finally, XXX makes much ado about AAA's conduct after the alleged rape incidents, claiming that it was rather unusual for AAA to stay in their family home despite her sordid ordeal in the hands of XXX, and notwithstanding the fact that there was nothing to prevent her to escape.<sup>42</sup>

This Court is not persuaded a bit.

Time and again, this Court has held that the factual findings of the trial court, especially on the credibility of the rape victim, are accorded great weight and respect, and will not be disturbed on appeal.<sup>43</sup> Verily, questions on the credibility of witnesses should best be addressed to the trial court because of its unique position to observe the elusive and incommunicable evidence of witnesses' deportment on the stand while testifying which is

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<sup>39</sup> Records, p. 229.

<sup>40</sup> *Id.* at 38.

<sup>41</sup> CA rollo, pp.33-34.

<sup>42</sup> *Id.* at 35.

<sup>43</sup> See *People v. Udtohan*, G.R. No. 228887, 02 August 2017, 834 SCRA 330, 345.



denied to the appellate courts. Hence, the trial judge's assessment of the witnesses' testimonies and findings of fact are accorded great respect on appeal. In the absence of substantial reason to justify the reversal of the trial court's assessment and conclusion, as when no significant facts and circumstances are shown to have been overlooked or disregarded, the reviewing court is generally bound by the former's findings. The rule is even more strictly applied if the appellate court has concurred with the trial court, as in this case.<sup>44</sup>

None of XXX's numerous arguments and defenses is persuasive enough for the Court to disturb the factual findings and conclusions of the RTC, as affirmed by the CA. Courts expect minor inconsistencies when a child-victim, like AAA, narrates the details of a harrowing experience such as rape.<sup>45</sup> In any case, the discrepancies pointed out by XXX are minor and trivial matters, irrelevant to the elements of the crime of qualified rape and, therefore, cannot be considered sufficient grounds for his acquittal.

To be sure, no cogent reason exists to doubt the veracity of AAA's accusations against XXX. Like the RTC and the CA, this Court sees her testimony, albeit with some inconsistencies, credible and sufficient enough to establish the guilt of XXX beyond reasonable doubt. The records easily reveal how candid and steadfast she was during her testimony as she unequivocally and positively identified XXX as her transgressor. The discrepancies between AAA's statements in her counter-affidavit, and those given by her on the witness stand, are trivial and do not dent, let alone destroy her trustworthiness. Furthermore, it is oft-held in jurisprudence that since *ex-parte* affidavits are generally incomplete, the testimony given in open court prevails because affidavits taken *ex-parte* are generally considered to be inferior to the testimony given in court.<sup>46</sup>

It is also highly unthinkable for AAA to accuse her own father and submit herself for examination of her most intimate parts, put her life to public scrutiny and expose herself, along with her family, to shame, pity or even ridicule for a crime so serious that could mean the death sentence to the very person to whom she owes her life, had she really not been aggrieved.<sup>47</sup> It is well worth pointing out on this score that AAA even categorically stated in court that she was still bothered why her very own father repeatedly did such bestial acts to her.<sup>48</sup>

Further, AAA accused XXX of raping her not only once but five (5) times. If indeed, AAA was not telling the truth or that she was merely

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<sup>44</sup> *People v. Alberca*, G.R. No. 217459, 07 June 2017, 827 SCRA 1, 13.

<sup>45</sup> *See People v. Descartin, Jr.*, G.R. No. 215195, 07 June 2017, 826 SCRA 650, 663.

<sup>46</sup> *See Kummer vs. People*, G.R. No. 174461, 11 September 2013, 705 SCRA 490, 500.

<sup>47</sup> *Supra* at note 44.

<sup>48</sup> TSN dated 12 May 2014, pp. 16-17.



coached to accuse XXX of such a sordid crime, it would have been superfluous, nay pointless, for the prosecution to exaggerate the story against him by filing five (5) counts of rape when only one (1) would suffice to lock him up in prison. Corollarily, the Court notes the RTC's keen observation that AAA, despite being illiterate and only sixteen (16) years old at the time of her testimony, was still able to convincingly narrate each of her harrowing experiences in the hands of her father.<sup>49</sup> Verily, given AAA's age and level of intelligence, it would have also been extremely difficult for her to withstand the gruelling cross-examination of the defense had she been merely coached to tell a complex lie.

XXX palpably failed to establish ill motive on the part of AAA. There is nothing to show that her testimony was motivated by any reason other than to bring XXX to justice for the crimes he committed. XXX's assertion that the charges against him were the result of his children's retaliation against him after he drove them away from their family home and allowed another family of a couple to stay with him for free is flimsy and utterly undeserving of credence. To recall, XXX allowed the couple to stay in the family home because he had his eyes on their teenage daughter. If at all, the RTC was correct that this allegation even militates against XXX's cause, as it exposes his intense *libido* and sexual preference toward young girls.<sup>50</sup>

Finally, the failure of AAA to leave or escape cannot be taken against her. It is settled that the failure of the victims to shout for help or escape during the incidents does not undermine their credibility. It is not also fatal to the prosecution's case. This is because no standard form of behavior can be anticipated of a rape victim following her defilement, particularly a child who could not be expected to fully comprehend the ways of an adult. People react differently to emotional stress, and rape victims are no different from them.<sup>51</sup> Indeed, AAA was young and unlearned. She also hardly left their house. Also, the facts show that AAA once tried to ask help from her older sibling but the latter initially did not do anything to aid her in filing a case against their father, let alone protect her against him. These circumstances could have easily cowed her from escaping or leaving their family home.

All the foregoing considered, the Court is duly convinced that AAA's positive and straightforward testimony that she was repeatedly raped by her father, XXX, when she was a minor, deserves greater evidentiary weight than the uncorroborated denial and flimsy defenses of XXX. Consequently, the Court affirms the conviction of XXX for five (5) counts of qualified rape.

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<sup>49</sup> Records, p. 249.

<sup>50</sup> *Id.* at p. 250.

<sup>51</sup> See *People v. Bejim*, G.R. No. 208835, 19 January 2018, 852 SCRA 130.



Anent the propriety of the penalties and damages awarded by the lower courts, the Court agrees with the CA that the sentence imposed on XXX by the RTC should be without the benefit of parole. Qualified rape under paragraph 6(1), Article 266-B of the RPC carries with it the penalty of death. However, in view of RA 9346<sup>52</sup> and Administrative Matter No. 15-08-02-SC,<sup>53</sup> the imposition of the death penalty is prohibited and the proper penalty would thus be *reclusion perpetua* without the benefit of parole<sup>54</sup> for each count of qualified rape.

The damages awarded by the CA are likewise in order. *People v. Jugueta*<sup>55</sup> provides the following awards of damages for qualified rape: ₱100,000.00 as civil indemnity; ₱100,000.00 as moral damages; and ₱100,000.00 as exemplary damages.<sup>56</sup> Pursuant to prevailing jurisprudence, the CA correctly held that all damages awarded shall incur legal interest at the rate of six percent (6%) *per annum* from finality of the judgment until fully paid.<sup>57</sup>

**WHEREFORE**, premises considered, the instant appeal is hereby **DISMISSED**. Accordingly, the Decision dated 31 May 2017 of the Court of Appeals in CA-G.R. CR-HC No. 08582 is **AFFIRMED** *in toto*, finding accused-appellant XXX guilty beyond reasonable doubt of five (5) counts of qualified rape, and sentencing him to suffer the penalty of *reclusion perpetua* for each count of qualified rape, without eligibility for parole, and further ordering him to pay private complainant AAA One Hundred Thousand Pesos (P100,000.00) as civil indemnity, One Hundred Thousand Pesos (P100,000.00) as moral damages, and One Hundred Thousand Pesos (P100,000.00) as exemplary damages, for each count of qualified rape. All damages awarded shall earn interest at the legal rate of six percent (6%) *per annum* from the date of finality of this judgment until fully paid.

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<sup>52</sup> An Act Prohibiting the Imposition of Death Penalty in the Philippines. Approved on 24 June 2006. Section 3 of R.A. No. 9346 states:

X x x

SEC. 3. Persons convicted of offenses punished with *reclusion perpetua*, or whose sentences will be reduced to *reclusion perpetua*, by reason of this Act, shall not be eligible for parole under Act No. 4103, otherwise known as the Indeterminate Sentence Law, as amended. X xx

<sup>53</sup> Guidelines For the Proper Use of the Phrase "*Without Eligibility For Parole*" in Indivisible Penalties dated 04 August 2015. X x x II (2) When the circumstances are present warranting the imposition of the death penalty, but this penalty is not imposed because of R.A. No. 9346, the qualification "*without eligibility for parole*" shall be used to qualify *reclusion perpetua* in order to emphasize that the accused should have been sentenced to suffer the death penalty had it not been for R.A. No. 9346. X x x

<sup>54</sup> *Supra* at note 7.

<sup>55</sup> G.R. No. 202124, 05 April 2016, 788 SCRA 331.

<sup>56</sup> *Supra* at note 7.

<sup>57</sup> See *People v. Macapagal*, G.R. No. 218574, 22 November 2017, 846 SCRA 409.

**SO ORDERED.**" (Gesmundo, *J.*, on wellness leave; Lazaro-Javier, *J.*, designated as additional Member per Special Order No. 2728 dated 25 October 2019.)

Very truly yours,

*Mis-DC Batt*  
**MISAELO DOMINGO C. BATTUNG III**  
*Division Clerk of Court*

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