



REPUBLIC OF THE PHILIPPINES  
SUPREME COURT  
Manila

SECOND DIVISION

**NOTICE**

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **02 December 2020** which reads as follows:*

**“G.R. No. 248326 (*People of the Philippines v. Johnwin Lucahi a.k.a “Luccah”*)**. – Appellant was indicted for statutory rape under Article 266-A paragraph 1(d) of the Revised Penal Code, as amended by Republic Act No. 8353, in relation to Republic Act No. 7610. Statutory rape is committed by sexual intercourse with a woman **below twelve (12) years of age regardless of her consent, or the lack of it, to the sexual act.**<sup>1</sup> Thus, to sustain a conviction therefor, the prosecution must prove: (a) the age of the complainant; (b) the identity of the accused; and (c) the sexual intercourse between the accused and the complainant.<sup>2</sup>

Here, both the trial court and Court of Appeals (CA) aptly found that the prosecution was able to sufficiently establish appellant’s guilt beyond reasonable doubt.

During the pre-trial conference, it was stipulated that AAA<sup>3</sup> was only seven (7) years old at the time of the rape incidents as shown by her birth certificate,<sup>4</sup> thus, satisfying the first element.

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<sup>1</sup> *People v. XXX*, G.R. No. 226467, October 17, 2018.

<sup>2</sup> See *People v. Manaligod*, 831 Phil. 204, 211 (2018).

<sup>3</sup> The real name of the victim, her personal circumstances and other information which tend to establish or compromise her identity, as well as those of her immediate family, or household members, shall not be disclosed to protect her privacy, and fictitious initial shall, instead, be used, in accordance with *People v. Cabelquinto* [533 Phil. 703 (2006)] and Amended Administrative Circular No. 83-2015 dated September 5, 2017.

<sup>4</sup> CA rollo, p. 65.

Appellant's identity and the act of sexual intercourse were also established through the positive and vivid narration of AAA, viz.:

Q: [AAA], you have been mentioning the name Johnwin Lucahi, if you will see this Johnwin Lucahi, will you be able to identify him?

A: Yes, sir.

Q: If he is in court, please point at him, [AAA].

A: **(Witness pointed to a man wearing red jacket seated on the bench for the accused, who, when asked of his named answered, Johnwin Lucahi.)**<sup>5</sup>

XXX XXX

Q: Do you remember something in August 2014 if you have visited your Lola at [REDACTED]?

A: Yes, sir.<sup>6</sup>

XXX XXX

Q: What happened after the accused pulled you to the cemetery, [AAA]?

A: **When he pulled me and brought me to the cemetery, he told me to pull down my pants which I did not do, so he pulled down my pants [.] [He] brought out his penis and inserted it into my vagina. I felt pain and so I cried.**<sup>7</sup>

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Q: Did you inform your mother after that?

A: **No, I did not inform because he told me not to tell it to anybody sir.**

Q: How about on September 4, 2014, [AAA], do you recall where were you during that time?

A: Yes, I recall, sir.<sup>8</sup>

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Q: And what happened while you were at home, [AAA]?

A: He came and told my [stepfather] that they will go and carve.<sup>9</sup>

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Q: And after Johnwin came and told your [stepfather] that they will carve a pig, what happened next if any?

A: My [stepfather] told me to go with Johnwin to fetch the sample of the pig so that if my [stepfather] likes it [,] then they will go carve.<sup>10</sup>

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Q: And what happened after you got the sample of the pig, [AAA]?

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<sup>5</sup> *Id.* at 67.

<sup>6</sup> *Id.* at 65.

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> *Id.* at 65-66.

A: While we were at the bridge, he held me because I was about to fall and he was trying to bring me to the comfort room but we did not continue because [appellant's father] was there using the comfort room, sir.

Q: And what happened after he was not able to bring you to the comfort room, [AAA]?

A: **We then proceeded to the backyard of Lito Liwongan where he again told me to put down my pants [,] which I did not do [;] and he pulled down his pants and pulled down my pants and he inserted his penis into my vagina and to which I again cried, sir.**

Q: What was your position when Johnwin inserted his penis into your vagina?

A: I was lying down, sir.

Q: Who let you lie down, [AAA]?

A: Him, sir.

Q: When you say him, who was that [AAA]?

A: **Johnwin Lucahi, sir.**<sup>11</sup>

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Q: When he told you not to tell your mother or to anybody else, were you afraid?

A: **Yes, I was afraid, sir.**<sup>12</sup>

AAA positively testified how appellant sexually ravished her twice – *first*, when appellant dragged her to the cemetery sometime in August 2014 and *second*, on September 4, 2014 when her stepfather asked her to accompany appellant in getting a sample wooden sculpture for carving. In both instances, appellant took advantage of AAA's innocence and successfully satisfied his lustful desires by having sexual intercourse with AAA against her will. AAA candidly narrated how appellant forcefully pulled down her dress, laid her down, and inserted his penis into her vagina. She felt pain and cried.

AAA could not have narrated in detail what appellant did to her had she not actually experienced it. In fact, she even recalled such horrifying experience when she saw appellant's inappropriate actions toward her mother on September 27, 2014. Settled is the rule that testimonies of child-victims are normally given full weight and credit. Youth and immaturity are generally badges of truth and sincerity.<sup>13</sup>

At any rate, We accord the highest respect to the trial court's factual findings on the credibility of AAA. For indeed, the trial court is in a better position to decide the question since it heard the witnesses themselves and observed their deportment and manner of testifying during the trial.<sup>14</sup> This

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<sup>11</sup> *Id.* at 66.

<sup>12</sup> *Id.*

<sup>13</sup> *People v. Padit*, 780 Phil. 69, 80 (2016).

<sup>14</sup> See *People v. Mabalo*, G.R. No. 238839, February 27, 2019; also see *People v. Bay-Od*, G.R. No. 238176, January 14, 2019.

rule becomes even more compelling when the trial court's factual findings carry the full concurrence of the CA, as in this case.<sup>15</sup>

AAA's failure to promptly inform her mother that she was raped cannot be taken against her. It is settled that delay in reporting or prosecuting the offense is not an indication of a fabricated charge and does not necessarily cast doubt on the credibility of the complainant.<sup>16</sup> Here, the silence of AAA, who was then only seven (7) years old, caused by her fear of an adult male's threats is not so unbelievable, much less, contrary to human experience.

In *People v. Dayuha*,<sup>17</sup> the Court ruled that it is common for a minor victim to be intimidated into silence by the mildest threat to her life. Too, in *People v. Brioso*,<sup>18</sup> the Court held that the delay of the child rape victim in reporting the incidents to her mother or the proper authorities is insignificant and does not affect the veracity of her charges, especially when the accused threatened to kill her if she told anyone of the incidents.

In light of AAA's positive identification of appellant as the person who sexually ravished her, appellant's denial and alibi must fail. Denial and alibi, being negative self-serving evidence, cannot prevail over affirmative allegations of the victim. For they easily crumble in the face of her positive and categorical identification of the appellant as her molester.<sup>19</sup> More, denial and alibi are the weakest of all defenses. It is not enough for the accused to prove that he was in another place when the crime was committed. He must likewise prove that it was physically impossible for him to be present at the crime scene or its immediate vicinity at the time of its commission. Here, appellant failed to convincingly substantiate his alibi. Other than his bare allegations, he did not present any evidence to prove he was working in a furniture shop in Nueva Viscaya when the rape incidents were committed.

In another vein, the fact that the medico-legal findings stated there was *no injury* on AAA's vagina when she got examined does not negate the commission of rape. We have pronounced time and again that even the slightest penetration or entry of the penis into the lips of the vagina consummates the crime of rape. Perfect penetration or rupture of the hymen is not essential. Partial penile penetration is as serious as full penetration; rape is deemed consummated in either case.<sup>20</sup>

All told, the CA did not err in finding appellant guilty of two (2) counts of statutory rape.

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<sup>15</sup> See *People v. Regaspi*, 768 Phil. 593, 598 (2015).

<sup>16</sup> *People v. Brioso*, 788 Phil. 292, 308-309 (2016).

<sup>17</sup> 396 Phil. 721, 726-727 (2000).

<sup>18</sup> *Supra* note 16.

<sup>19</sup> See *People v. Tolentino*, 467 Phil. 937, 958-959 (2004).

<sup>20</sup> See *People v. Salinas*, 302 Phil. 305, 310 (1994).

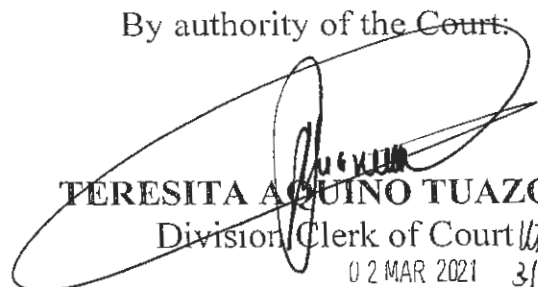
As for the penalty, the CA correctly sentenced appellant to *reclusion perpetua*. Too, it correctly modified the monetary awards of civil indemnity, moral damages, and exemplary damages to ₱75,000.00 each, as decreed by the Court in *People v. Jugueta*.<sup>21</sup> These monetary awards shall earn six percent (6%) interest *per annum* from finality of this Resolution until fully paid.

**ACCORDINGLY**, the appeal is **DISMISSED**, and the Decision dated April 29, 2019 of the Court of Appeals in CA-G.R. CR-HC No. 11197, **AFFIRMED**.

Appellant **JOHNWIN LUCAHI a.k.a. "Luccah"** is found **GUILTY** of two (2) counts of **STATUTORY RAPE** and sentenced to *reclusion perpetua* for each count. He is further ordered to **PAY AAA ₱75,000.00** as civil indemnity, ₱75,000.00 as moral damages, and ₱75,000.00 as exemplary damages for each count of statutory rape. These amounts shall earn six percent (6%) interest *per annum* from finality of this Resolution until fully paid.

**SO ORDERED.** (Perlas-Bernabe, S.A.J., on official leave; Gesmundo, J., Acting Chairperson; and Rosario, J., designated additional member per Special Order No. 2797 dated November 5, 2020)"

By authority of the Court:

  
**TERESITA AQUINO TUAZON**  
Division Clerk of Court  
02 MAR 2021 3/1

<sup>21</sup> *People v. Jugueta*, 783 Phil. 806, 849 (2016).

II. For Simple Rape/Qualified Rape:

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2.1 Where the penalty imposed is *reclusion perpetua*, other than the above-mentioned:

- a. Civil indemnity — P75,000.00
- b. Moral damages — P75,000.00
- c. Exemplary damages — P75,000.00.

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THE DIRECTOR (reg)  
Bureau of Corrections  
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HON. PRESIDING JUDGE (reg)  
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(Civil Cases Nos. 381 & 382)

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