



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **June 15, 2020** which reads as follows:*

“G.R. No. 245485 - PEOPLE OF THE PHILIPPINES vs. XXX

The Case

This appeal assails the Decision¹ dated May 23, 2018 of the Court of Appeals in CA-G.R. CR HC No. 08660 affirming the verdict of conviction against appellant XXX* for six (6) counts of rape of his minor daughter AAA.

The Proceedings before the Trial Court

The Charges

- over – sixteen (16) pages ...

71

¹ Penned by Associate Justice Eduardo B. Peralta, Jr. and concurred in by Associate Justices Ricardo R. Rosario and Ronaldo Roberto B. Martin; *rollo*, pp. 3-13.

* Pursuant to Supreme Court Administrative Circular No. 83-2015 which mandates that the complete names of the women and children victims be replaced by fictitious initials. Also, *People v. Manjares*, 677 Phil. 242 (2011), decreed: “In line with Section 29 of Republic Act No. 7610, Section 44 of Republic Act No. 9262, and Section 40 of A.M. No. 04-10-11-SC, the identity of the victim or any information which could establish or compromise her identity, as well as those of her immediate family or household members, shall be withheld.” For purposes of discussion, the private offended party and her immediate family members shall be referred to using initials. See *People v. Cabalquinto*, 533 Phil. 703 (2006) and *People v. Guillermo*, 550 Phil. 176 (2007).

A handwritten signature in blue ink, located in the bottom right corner of the page.

XXX was charged with violation of Article 266-A of the Revised Penal Code (RPC), as amended by Republic Act No. 8353² (RA 8353) in relation to Republic Act No. 8369³ (RA 8369) under six (6) separate Informations docketed as Criminal Case Nos. 2014-16040-MK to 2014-16045-MK. Except for the material dates and age of AAA,⁴ the Informations uniformly alleged, thus:

That (date of commission)⁵ in the City of Marikina, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design and with the use of intimidation, did then and there willfully, unlawfully, and feloniously have carnal knowledge with one (AAA)⁶ MINOR VICTIM INV-14F-00889, (age) at the time the incident happened, by then and there inserting his penis in her vagina, attended by the following qualifying circumstances of relationship, the above-named accused being the biological father of (AAA) minor victim, and minority, (AAA) minor victim being below eighteen (18) years old at the time the carnal knowledge was committed, against her will and without her consent.

CONTRARY TO LAW.⁷

All six (6) cases were consolidated before the Regional Trial Court (RTC) - Branch 168, Marikina City.

On arraignment, appellant pleaded not guilty. During the pre-trial, the parties stipulated that: 1) AAA was a minor when the rape incidents happened; 2) XXX is the biological father of AAA; 3) XXX was the same person charged in the Informations; and 4) the incidents happened in Marikina City.⁸ The cases were, thereafter, jointly tried.

- over -

71

² The Anti-Rape Law of 1997, Republic Act No. 8353, September 30, 1997.

³ Family Courts Act of 1997, Republic Act No. 8369, October 28, 1997.

⁴ *Supra* note 2.

⁵ The Informations were similarly worded with varying material dates and age of AAA, *viz.*:

(a) Criminal Case No. 2014-16040-MK - on or about the 3rd day of June 2014/seventeen (17) years old;

(b) Criminal Case No. 2014-16041-MK - sometime in the month of May 2014/seventeen (17) years old;

(c) Criminal Case No. 2014-16042-MK - sometime in the month of May 2013/sixteen (16) years old;

(d) Criminal Case No. 2014-16043-MK- sometime in the month of May 2012/fifteen (15) years old;

(e) Criminal Case No. 2014-16044-MK- sometime in the month of May 2011/fourteen (14) years old; and

(f) Criminal Case No. 2014-16045-MK- sometime in the month of May 2010/thirteen (13) years old. (See *Record* pp. 2, 9, 16, 23, 30, 37.)

⁶ "BSA" in the Informations and Record.

⁷ *Record*, p. 2.

⁸ *CA rollo*, p. 43; *See also* Pre-trial Order dated November 17, 2014, record, pp. 56-57.

Version of the Prosecution

The testimonies of AAA, her mother BBB, and Dr. Marianne S. Ebdane may be summarized, in this wise:

Sometime in May 2010, thirteen (13)-year old AAA, together with her five (5) younger siblings, was sleeping on a mat at the ground floor of their house. Suddenly, she heard the loud voice of her father XXX commanding her to get inside the bathroom where he was at that time. She did as instructed because she was scared of him. Inside the bathroom, XXX hit her, kissed her body, undressed her, and forcibly inserted his penis into her vagina. She begged him to stop but he just continued to ravish her. He threatened her not to tell anyone or he would kill her and her mother.⁹

About a year later, 2011, in the same month of May, she, now fourteen (14)-years old was again sleeping with her siblings when XXX, like he did before, lay beside her. She felt him removing her shorts. She resisted but he stopped her. Her shout for help awakened her brother "Bentong."¹⁰ Her brother got stunned by what he saw but did nothing and simply went back to sleep.¹¹ XXX then continued to undress her and inserted his penis into her vagina. Once again, he threatened to kill her, her mother, and her siblings should she tell anyone of the incident.¹²

The incidents thereafter happened to her in 2012, 2013, and 2014, when she was fifteen (15), sixteen (16), and seventeen (17) years old, respectively.¹³

In the evening of May 2012, she was sleeping with her siblings when XXX woke her up. When he asked her for sexual favor, she refused and said "*hindi puwede*."¹⁴ But he forcefully removed her clothes. She struggled to stop him but he held her two (2) arms up. He pinned her down and pushed her penis into her vagina. When he pulled his penis out, he ejaculated. She felt so disgusted.¹⁵

In May 2013, he slept beside her. She was on the left side of the mat while her five (5) siblings were on the right side. She did not stop him from lying beside her because she was so afraid of his constant

- over -

71

⁹ TSN, February 3, 2015, pp. 7-9.

¹⁰ TSN, May 8, 2015, p. 3.

¹¹ *Id.*

¹² TSN, February 3, 2015, pp. 14-15.

¹³ *Id.* at 15.

¹⁴ CA *rollo*, p. 46.

¹⁵ TSN, February 3, 2015, pp. 16-20.

threats. After a while, he started kissing her. She begged him to stop but he refused. He again undressed her, mounted her and kept pushing his penis inside her vagina until she felt pain in her abdomen.¹⁶

In May 2014, while she was asleep, XXX once again laid beside her. He forced her to have sexual intercourse with him. Despite her refusal, he removed her clothes, coercively opened her legs, and pushed his penis inside her vagina.¹⁷

On June 3, 2014, around 12'oclock midnight, she was sleeping when he approached her. He did the same acts on her to satisfy his bestial desires. He tightly gripped her hands, removed her shorts and panty, and inserted his penis into her vagina. He continued to thrust his penis despite her incessant pleas to stop because she was already in agonizing pain.¹⁸ After an hour, he dismounted her and a "white liquid" came out of his penis.¹⁹

In the morning of June 3, 2014, she ran away from home. Being the eldest, she did not want to leave her siblings but she had no choice. She went to the house of her mother BBB and told her that XXX raped her several times.²⁰

BBB, who was already separated from XXX, got shocked. She recalled that XXX used to punch and force her to have sex with him whenever he got drunk. Thus, without hesitation, BBB and her daughter filed the cases against XXX.²¹

On June 24, 2014, Dr. Marianne S. Ebdane of the PNP Eastern Police District Crime Laboratory examined AAA and found that she sustained deephealed laceration at 3 o'clock position, shallow-healed lacerations at 6 and 9 o'clock positions of the hymen, and blunt force or penetrating trauma in her genitals.²²

Version of the Defense

XXX admitted that AAA was, indeed, his eldest daughter with his former common-law wife BBB.

- over -

71

¹⁶ TSN, March 3, 2015, pp. 2-16.

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.* at 9.

²⁰ *Id.* at 2-16.

²¹ TSN, January 27, 2016, pp. 7-9.

²² See Medico-Legal Report dated June 24, 2014; offered as Exhibit "C" in the trial court; *record*, p. 87.

He claimed AAA charged him with rape because he prevented her from seeing her male classmates. When she was in third-year high school, he scolded her because she hung out with different men. Since then, she left the house and stayed with her mother. He would often tell her, “pinag-aaral kita kaya mag-aral kang mabuti at hindi yong sumasama ka kung kahit kanino.” She would, however, remain silent every time he reminded her not to go out with her classmates.²³

The Trial Court’s Ruling

By Joint Decision²⁴ dated August 8, 2016, the RTC-Branch 168, Marikina City found XXX guilty as charged, *viz.*:

WHEREFORE, finding accused (XXX) **GUILTY** beyond reasonable doubt of six (6) counts of Rape under Art. 266-A (par. 1) of the Revised Penal Code as amended by RA 8353 in relation to RA 8369 in **(Criminal Case) Nos. 2014-16040 to 2014-16045**, he is sentenced to suffer the penalty of *reclusion perpetua* without eligibility of parole for each count of rape. He is likewise ordered to pay the minor (AAA) the amount of P75,000.00 by way of civil indemnity, P75,000.00 as moral damages, and P50,000.00 as exemplary damages for each count of rape.

SO ORDERED.²⁵

The trial court gave full credence to AAA’s detailed narration on how XXX repeatedly ravished her through force and intimidation. XXX threatened to kill her, her siblings, and her mother should she report the rape incidents. AAA was only a minor when she was raped by her biological father XXX. Her testimony was also corroborated by medical findings showing that she sustained healed lacerations, blunt force or penetrating trauma in her vagina.²⁶

Proceedings before the Court of Appeals

On appeal, XXX faulted the trial court for finding him guilty of rape despite AAA’s alleged incredulous testimony, *viz.*: 1) AAA did not seek help from her siblings who were merely beside her every time he would allegedly rape her; and 2) AAA remained silent for five (5) years as if nothing horrifying happened to her.²⁷

The People, through the Office of the Solicitor General (OSG) countered in the main: (1) AAA’s silence did not necessarily mean

- over -

71

²³ TSN, October 6, 2015, pp. 2-9.

²⁴ Penned by Judge Lorna F. Cairis-Chua Cheng; *CA rollo*, pp. 40-53.

²⁵ *Id.* at 53.

²⁶ *Id.* at 40-53.

²⁷ See *Brief for the Accused-Appellant* dated March 01, 2017; *id.* at 28-38.

she was not raped. People react differently to a given situation especially when confronted with a frightful experience; (2) AAA's testimony alone, which the trial court found to be credible was sufficient to convict XXX; and (3) the trial court correctly disregarded XXX's defense of denial.²⁸

The Court of Appeals' Ruling

In its assailed Decision²⁹ dated May 23, 2018, the Court of Appeals affirmed with modification, thus:

WHEREFORE, the Joint Decision of the Regional Trial Court dated August 8, 2016 in Criminal [Case Nos.] 2014-16040-MK to 2014-16045-MK is hereby **AFFIRMED with MODIFICATION** that civil indemnity, moral damages, and exemplary damages are increased to P100,000.00 for each item in each case, and all damages awarded shall earn interest at the rate of 6% *per annum* from the date of finality of this Decision until fully paid.

SO ORDERED.³⁰

The Court of Appeals agreed that AAA's testimony was candid enough to warrant XXX's conviction *vis-à-vis* his defense of denial. Nothing on record showed that AAA appeared to be unnatural and illogical when she was testifying.³¹

More, XXX's contention that rape could not have been committed because of the close proximity of his five (5) sleeping children during the sexual abuse had no controlling significance. The fact that AAA did not seek help from her siblings did not foreclose her consistent assertion that he repeatedly defiled her.³²

Lastly, AAA was only thirteen (13) years old when the first rape incident took place. Considering her age and innocence, AAA's perceived silence was to be expected. More so, because appellant is her biological father.³³

- over -

71

²⁸ See *Brief for the Plaintiff-Appellee* dated July 05, 2017; *id.* at 70-79.

²⁹ Penned by Associate Justice Eduardo B. Peralta, Jr. and concurred in by Associate Justices Ricardo R. Rosario and Ronaldo Roberto B. Martin; *rollo*, pp. 3-13.

³⁰ Bold in the original; *id.* at p. 12.

³¹ *Id.* at 3-13.

³² *Id.*

³³ *Id.*

The Present Petition

XXX now seeks affirmative relief from the Court and prays anew for his acquittal. In compliance with Resolution³⁴ dated June 10, 2019, XXX and the People both manifested³⁵ that, in lieu of supplemental briefs, they were adopting their respective briefs filed before the Court of Appeals.

Issue

Did the Court of Appeals err in convicting XXX of six (6) counts of rape?

Ruling

Rape is defined and penalized under article 266-A, paragraph 1 of the RPC, 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. (Emphasis supplied)

The six (6) Informations charged XXX 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.³⁶

Here, the prosecution had established beyond moral certainty the element of carnal knowledge. AAA positively identified XXX, her own father, as the man who had carnal knowledge of her against her will. She vividly described how her father repeatedly raped her from May 2010 to June 3, 2014, *viz.*:

- over -

71

³⁴ *Id.* at 20.

³⁵ *Id.* at 22-24, 27-29.

³⁶ *People v. XXX*, G.R. No. 225339, July 10, 2019; citing *People v. Amoc*, G.R. No. 216937, June 5, 2017, 825 SCRA 608, 615 (2017).

Q: You said in the year 2011 and 2012, my question to you a while ago is, what do you mean when you answered “Simula po May 2010” when you were asked “Gaano kakadulas i-rape ng Papa mo(?”

A: It started on May 2010 up to June 3, 2014 that was the last incident.³⁷

xxx xxx

Pros. Tagapan: Your Honor, she is testifying with regard to the information under Criminal Case No. 2014-16045-MK where the date of the incident stated sometime in May 2010, your Honor.

Court: Proceed.

Pros. Tagapan: What happened next if any Ms. Witness?

A: He remove my panty and inserted his penis in my vagina.³⁸

xxx xxx

Q: When you said it happens in the ground floor, is there any room in the ground floor, or in what particular part of the ground floor did it happen?

A: At the CR Ma’am.

Q: Who went inside the CR first (,) Ms. Witness?

A: “Siya po” (referring to her father)

Q: And then what happened next?

A: He would get angry at me when I disobey his order for me to get inside the CR.

Q: And what did you do?

A: I just went to the CR because he would hit me?

Q: When you said he hit you, what did he do to you?

A: **“Hinahampas po niya ako.”**³⁹

xxx xxx

Q: When you said that he inserted his penis inside your vagina, what did you do then if any?

A: **I resisted (,) Ma’am.**

Q: And what did you tell him if any?

A: I told him I don’t want it anymore.

Q: And what did he do or his reaction as you tell him that?

A: He is mad (,) Ma’am.⁴⁰

xxx xxx

A: I did not tell anyone (,) Ma’am.

Q: Why Ms. Witness?

A: (Because) I was afraid Ma’am.

Q: Why were you afraid?

A: **(Because) he threatened me and my mother.**

- over -

³⁷ TSN, February 3, 2015, p. 5.

³⁸ *Id.* at 7.

³⁹ *Id.* at 8-9.

⁴⁰ *Id.* at 9.

Q: What was the threat Ms. Witness?

A: He would shoot us.

Q: Why did you believe that threat Ms. Witness?

A: (Because) he has a gun Ma'am.⁴¹

xxx xxx

Q: Sometime in May 2011 Ms. Witness, what did your father do to you, if any?

A: He raped me (,) Ma'am.

Q: When you said he raped you, what did he do to you?

A: He removed my panty and my clothes Ma'am.⁴²

xxx xxx

Q: What did you do next if any when he was removing your clothes?

A: I resisted Ma'am. (Pumapalag po.)

Q: Did you shout Ms. Witness?

A: Yes Ma'am.⁴³

xxx xxx

Q: Why did (you) not wake them up?

A: I was afraid. (Natatakot po ako).⁴⁴

xxx xxx

Q: And you said you were raped also sometime in May 2012, what did he do to you Ms. Witness?

A: He removed my clothes Ma'am. (Hinubaran po.)

Q: And what did (he) do next if any?

A: He inserted his penis to my vagina.

Q: What did you feel if any?

A: **Nandidiri po ako.**

Q: What did you do to him as he was inserting his penis inside you vagina?

A: I was resisting then Ma'am.

Q: When you said you were resisting, what were you doing then Ms. Witness?

A: **While the accused was holding my two arms, I was resisting his hold.**⁴⁵

xxx xxx

Q: So you mentioned also about the incident that happened sometime in May 2013, where did that (happen)?

A: At the same place Ma'am at the ground floor of our house.⁴⁶

xxx xxx

Q: What did he do next if any?

A: He kissed me and he inserted his penis. (Hinalikan po ako tapos ipinasok niya yong ari niya).⁴⁷

- over -

⁴¹ *Id.* at 10.

⁴² *Id.* at 11.

⁴³ *Id.* at 13.

⁴⁴ *Id.*

⁴⁵ *Id.* at 16.

⁴⁶ *Id.* at 18.

⁴⁷ *Id.* at 19.

xxx xxx

Q: Where did that the (May) 2014 rape incident (happen)?

A: In our house Ma'am.⁴⁸

xxx xxx

Q: What were you doing then before the incident happened?

A: I was sleeping Ma'am.⁴⁹

xxx xxx

Q: How was he able to (rape you) Ms. Witness when you said that at that time you were sleeping?

A: He approached me Ma'am.⁵⁰

xxx xxx

Q: As you said a while ago "Lumapit po siya sa akin", what did he do to you at that time?

A: He removed my clothes as well as my shorts.⁵¹

xxx xxx

Q: What happened next?

A: After he removed my panty he inserted his penis inside my vagina?

Q: What did you feel then if any?

A: I felt pain Ma'am.⁵²

xxx xxx

Q: When you said you resisted, what act did you do?

A: I removed my arms (Inaalis ko po yong kamay ko.)⁵³

xxx xxx

Q: xxx Ms. Witness according to you on the date of June 3, 2014, you were again allegedly raped by your father, am right?

A: Yes.⁵⁴

xxx xxx

Q: Now Ms. Witness at around 11:00 in the evening to 12:00 in the morning, where were you then?

A: I was in our house Ma'am.⁵⁵

xxx xxx

Q: You said you were sleeping and he suddenly raped you, who is that "He" that you are referring to?

A: **My father Ma'am.**⁵⁶

xxx xxx

Q: What was your particular act when you said you resisted?

A: **"Inaalis ko po yong kamay niya sa kamay ko kasi hinahawakan niya po."**

Q: And what happened next when you said he removed your clothes and underwear?

A: He inserted his penis Ma'am.

- over -

71

⁴⁸ TSN, March 3, 2015, p. 3.⁴⁹ *Id.* at 4.⁵⁰ *Id.*⁵¹ *Id.*⁵² *Id.*⁵³ *Id.* at 5.⁵⁴ TSN, May 8, 2015, p. 9.⁵⁵ TSN, March 3, 2015, p. 5.⁵⁶ *Id.* at 6-7.

Q: Where did he insert his penis?

A: Inside my vagina Ma'am.

Q: What did you feel then?

A: I felt pain Ma'am.⁵⁷

AAA described in detail the bestial acts XXX did to her. She positively testified that from May 2010 to June 3, 2014, while she was sleeping beside her siblings, XXX would lay beside her; undress her; pin her on the floor; position himself on top of her; hold her hands over her head; and thrust his penis into her vagina until he ejaculated.⁵⁸ In all these horrible nights, she struggled to break free from his clutches but never succeeded.

AAA's testimony was positive, candid, categorical, and replete with material details, thus, meriting full weight and credence. Indeed, a minor victim's revelation that she had been raped several times, 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.⁵⁹ It is highly improbable that a minor victim would fabricate a story that would expose herself and her family to a lifetime of dishonor,⁶⁰ especially when her charge would mean the long-term imprisonment, if not death, of her own father.

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.⁶¹ Here, AAA's credible testimony withstands scrutiny sufficient to produce a verdict of conviction. More so, when it is solidly corroborated with physical evidence. Dr. Ebdane's ano-genital examination of AAA revealed that she sustained deep-healed laceration at 3 o'clock position, shallow-healed lacerations at 6 and 9 o'clock positions of the hymen, and blunt force or penetrating trauma in her vagina.⁶² 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.⁶³

- over -

71

⁵⁷ *Id.*

⁵⁸ *Id.* at 9.

⁵⁹ *People v. Cadano, Jr.*, 729 Phil. 576, 585 (2014).

⁶⁰ See *People v. Barcelá*, 652 Phil. 134, 145 (2010).

⁶¹ *People v. Padit*, 780 Phil. 69, 80 (2016).

⁶² See *Medico-Legal Report* dated June 24, 2014; offered as Exhibit "C" in the trial court; *record*, p. 87.

⁶³ See *People v. Sabal*, 734 Phil. 742, 746 (2014); citing *People v. Perez*, 595 Phil. 1232, 1258 (2008).

As for the element of force, threat, or intimidation, AAA consistently testified that XXX threatened to kill her, her siblings, and her mother if she told anyone about the rape incidents. In fact, when she was again sexually molested on May 2013, she did not stop her father from sleeping beside her because she was so scared he might kill her.⁶⁴ Too, the trial court noted that AAA was intensely crying while she narrated the details of her sexual devastation in the hands of her own father.⁶⁵ She described how XXX shamelessly satisfied his lust by sexually ravishing her even in the presence of her five (5) siblings. Thus, even without the threats, XXX clearly abused his moral ascendancy over AAA to submit to his beastly desires. At any rate, it is not necessary for actual force, threat, or intimidation be employed when rape is committed by a close kin, such as the victim's father. Moral influence or ascendancy takes the place of violence or intimidation.⁶⁶

XXX, nonetheless, attempts to discredit AAA's credibility. He argues that: (1) rape could not have happened because there were five (5) children beside them when it took place; and (2) AAA remained silent for five (5) years without telling anyone about the rape.

We are not persuaded.

First. The presence of AAA's five (5) siblings beside her and XXX at the time the latter was sexually molesting her did not negate the commission of rape.

In *People v. XXX*,⁶⁷ the Court ruled that the presence of the victim's three (3) younger siblings in the same room which they shared with her uncle did not deter from the fact that her uncle sexually ravished her inside that room.⁶⁸ Rape may be committed not only in seclusion but also in public places, inside an occupied house, or even where there are other people around.⁶⁹

Here, XXX and AAA may have shared the same mat with AAA's five (5) siblings when the incidents of rape took place. But it did not deter XXX from sexually molesting his own daughter. XXX's depraved behavior only proved that lust is not a respecter of people, time, or place.⁷⁰ The Court has encountered far too many instances where rape was committed in plain view. We even took judicial notice

- over -

71 ✓

⁶⁴ TSN, March 3, 2015, pp. 2-16.

⁶⁵ CA rollo, p. 52.

⁶⁶ *People v. XXX*, G.R. No. 235662, July 24, 2019; citing *People v. Padua*, 661 Phil. 366, 370 (2011).

⁶⁷ G.R. No. 225339, July 10, 2019.

⁶⁸ *People v. Ofemiano*, 625 Phil. 92-102 (2010).

⁶⁹ *People v. XXX*, G.R. No. 225339, July 10, 2019.

⁷⁰ *Id.*

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. Rape could be committed under circumstances as indiscreet as a room full of family members sleeping side by side.⁷¹

Second. AAA's silence for five (5) years should not be taken against her. XXX already built a climate of extreme psychological terror to put AAA into silence when he constantly threatened to kill her, her siblings, and her mother should she tell anyone she was raped.

*People v. Tadeo*⁷² decreed that silence of the child-victim for months or years before revealing her dilemma does not imply falsity. For moral ascendancy of the accused is enough to easily intimidate her to submit to his evil desires. *People v. Dayuha*⁷³ further ordained, it is common for a minor victim to be intimidated into silence by the mildest threat to her life. As such, delay in reporting rape does not affect her credibility.

In this case, it is understandable for AAA to have silently endured the sexual attacks of her father. As correctly observed by the Court of Appeals, XXX evidently used his moral ascendancy over his daughter to carry out his bestial desire by continuously threatening her. AAA's perceived inaction, nay, procrastination was to be expected especially that XXX is her biological father and they lived under the same roof. His presence alone was sufficient to cow AAA into silence and apathy.⁷⁴ Thus, it is inappropriate to equate AAA's omission, who had gone through traumatic experiences, with norms expected of adults under similar circumstances. Given the acknowledged disparity in behavioral profiles of mature individuals and minors, their reactions to harrowing incidents may not be uniform.⁷⁵

In fine, both 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 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. This rule becomes more compelling when such factual findings carry the full concurrence of the Court of Appeals, as in this case.⁷⁶

- over -

71

⁷¹ *Id.*

⁷² 422 Phil. 640, 645-646 (2001).

⁷³ 396 Phil. 721, 727 (2000).

⁷⁴ *Rollo*, pp. 10-11.

⁷⁵ *People v. Mariano*, 607 Phil. 731, 750 (2009).

⁷⁶ See *People v. Regaspi*, 768 Phil. 593, 598 (2015).

In this light, appellant's defense of denial cannot prevail over AAA's straightforward testimony that her own father repeatedly raped her. The Court constantly decrees that between a categorical testimony which has a ring of truth on one hand, and a mere denial on the other, the former is generally held to prevail.⁷⁷

Appellant's conviction however should be modified from simple rape to qualified rape in view of the presence of these twin elements: (1) the victim is under eighteen [18] years of age; and (2) 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.⁷⁸

The Informations here sufficiently alleged both elements of minority and relationship.⁷⁹ The prosecution and defense also stipulated on AAA's minority and appellant's relationship to her during the pre-trial.⁸⁰ The prosecution offered in evidence AAA's authenticated Certificate of Live Birth showing that she was born on November 30, 1996.⁸¹ From May 2010 to June 3, 2014, therefore, AAA was undeniably below eighteen (18) years of age. Too, XXX was named as AAA's father in her birth certificate.

In view of the concurrence of the elements of relationship and age (below eighteen [18] years old), XXX indubitably committed **qualified rape** which warrants the imposition of death penalty.⁸² By virtue of RA 9346,⁸³ however, death penalty has been reduced to *reclusion perpetua*. Although A.M. No. 15-08-02-SC⁸⁴ clarifies that the phrase "*without eligibility for parole*" should be included to qualify *reclusion perpetua* and emphasize that the appellant should have been sentenced to death penalty had it not for RA 9346. Thus, the trial court therefore was correct in imposing *reclusion perpetua* "*without eligibity of parole.*"

- over -

71

⁷⁷ *People v. Batalla*, G.R. No. 234323, January 07, 2019.

⁷⁸ *The Anti-Rape Law of 1997*, Republic Act No. 8353, September 30, 1997.

⁷⁹ See Informations; *record*, pp. 2, 9, 16, 23, 30, 37.

⁸⁰ See Pre-trial Order dated November 17, 2014, *id.* at 56-57.

⁸¹ See AAA's Certificate of Live Birth - offered as Exhibit "B" to the trial court; *id.* at 86.

⁸² Article 266-B. *Penalties*. — xxx

"The **death penalty** shall also be imposed if the crime of rape is committed with any of the following aggravating/qualifying circumstances:" 1) When 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. (*Anti-Rape Law of 1997, Republic Act No. 8353, [September 30, 1997]*)

⁸³ *Anti-Death Penalty Law*, Republic Act No. 9346, June 24, 2006.

⁸⁴ *Guidelines for the Proper Use of the Phrase "Without Eligibility for Parole" in Indivisible Penalties*, A.M. No. 15-08-02-SC, August 4, 2015.

As for civil liability, the Court of Appeals correctly decreed the award of ₱100,000.00 as civil indemnity, ₱100,000.00 as moral damages, and ₱100,000.00 as exemplary damages for each count of rape, in conformity with prevailing jurisprudence.⁸⁵

ACCORDINGLY, the appeal is **DENIED**. The Decision of the Court of Appeals dated May 23, 2018 in CA-G.R. CR HC No. 08660 is **AFFIRMED with MODIFICATION**.

XXX is found **GUILTY** of six (6) counts of **QUALIFIED RAPE** and sentenced to *reclusion perpetua without eligibility of parole* for each count of qualified rape. He is further required to **PAY AAA ₱100,000.00 as civil indemnity, ₱100,000.00 as moral damages, and ₱100,000.00 as exemplary damages** for each count of qualified rape. These amounts shall earn six percent (6%) interest *per annum* from finality of this resolution until fully paid.

SO ORDERED.”

Very truly yours,



LIBRADA C. BUENA
Division Clerk of Court

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court

71

- over -

⁸⁵ *People v. XXX*, G.R. No. 229836, July 17, 2019 citing *People v. Jugueta*, 783 Phil. 806, 848 (2016):xxx xxx xxx

II. For Simple Rape/**Qualified Rape**:

1.1 Where the penalty imposed is Death but reduced to *reclusion perpetua* because of RA 9346:

Civil indemnity — P100,000.00
Moral damages — P100,000.00
Exemplary damages — P100,000



The Solicitor General
134 Amorsolo Street, Legaspi Village
1229 Makati City

Court of Appeals (x)
Manila
(CA-G.R. CR HC No. 08660)

The Hon. Presiding Judge
Regional Trial Court, Branch 168
1800 Marikina City
(Crim. Case Nos. 2014-16040
to 45-MK)

PUBLIC ATTORNEY'S OFFICE
Special and Appealed Cases Service
Counsel for Accused-Appellant
DOJ Agencies Building
Diliman, 1101 Quezon City

XXX
Accused-Appellant
c/o The Director General
Bureau of Corrections
1770 Muntinlupa City

The Director General
Bureau of Corrections
1770 Muntinlupa City

Public Information Office (x)
Library Services (x)
Supreme Court
(For uploading pursuant to A.M.
No. 12-7-1-SC)

Judgment Division (x)
Supreme Court



71

UR

NBF