



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 17, 2020** which reads as follows:*

“G.R. No. 247500 (*People of the Philippines v. XXX*)

This appeal assails the Decision¹ of the Court of Appeals in CA-G.R. CR-HC No. 02416 dated August 14, 2018 affirming with modification appellant XXX’s² conviction for violation of Article 266-A of the Revised Penal Code (RPC).

The Facts

In an Information³ dated October 7, 2002, appellant XXX was charged with rape in relation to Republic Act No. 7610, thus:

That on the 5th day of October 2002, at 7:00 o’clock in the morning, more or less, at Matab-ang, Day-as, Municipality of Cordova, Province of Cebu, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused with lewd design, did then and there willfully, unlawfully, and feloniously, by means of force, violence and intimidation and having carnal

- over – eleven (11) pages ...

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¹ Penned by Associate Justice Edgardo L. Delos Santos (now a member of this Court) and concurred in by Associate Justices Edward B. Contreras and Dorothy P. Montejo-Gonzaga; *Rollo*, pp. 5-20.

² 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. Cabalquinto* [533 Phil. 703 (2006)] and Amended Administrative Circular No. 83-2015 dated September 5, 2017.

³ *Rollo*, p. 274.

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knowledge with the complainant, AAA,⁴ 13 years old, a minor and against her will.

CONTRARY TO LAW.⁵

On arraignment, appellant pleaded not guilty.

During the trial, the prosecution presented complainant AAA, her distant relative and neighbor Bebeth, and Dr. Jean Aster Zeta.⁶ The defense, on the other hand, was deemed to have waived its right to present evidence for failure to present any witness, despite having been granted several opportunities to do so.⁷

Prosecution's Version

AAA testified that on October 5, 2002, around 7 o'clock in the morning, she was in their house in Matab-ang Day-as, Cordova, Cebu, with her father (appellant) and siblings. Her mother was not home because she was working as a house-help in the residence of a certain Mr. Tago. While her siblings were all asleep, appellant suddenly grabbed her, held her forcefully and took her clothes off. Although she was afraid, she still struggled against him. She failed to free herself from his hold because he was way much stronger. She wanted to shout for help but he warned her not to. He removed his clothes and laid her down. He then placed himself on top of her and inserted his penis into her vagina. She could no longer move because of the pain she felt in her vagina.⁸

After about an hour, around 8 o'clock in the morning, she met Bebeth and confided in her about her sordid experience earlier that day. She also revealed it was not the first time her father had raped her. The first time was in July of 2001.⁹ She never mentioned her ordeal to anyone because she was afraid of him. Neither did she have a chance to talk to her mother alone because he was always around. Bebeth immediately accompanied her to the Cordova, Cebu police station to report the incident.¹⁰

On the same day, AAA underwent medical examination at the Women and Children Friendly Center of Vicente Sotto Memorial Medical Center. Dr. Jean Aster Zeta conducted the interview and

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⁴ Supra note 2.

⁵ *Rollo*, p. 6.

⁶ *Id.* at 275.

⁷ *Id.*

⁸ *Id.* at 12.

⁹ *Id.* at 31.

¹⁰ *Id.* at 7.

physical examination on her. Dr. Zeta found deep notches on AAA's hymen at the 3 o'clock and 9 o'clock positions and a shallow notch at the 7 o'clock position. She explained that notches are indentations on the hymenal edge and deep notches are indicative of previous trauma to the indentation. These notches are indicative of suspicious sexual abuse.¹¹

The Trial Court's Ruling

Under Decision¹² dated August 2, 2016, the trial court found appellant guilty as charged, thus:

WHEREFORE, in the light of the foregoing considerations, the Court finds XXX **GUILTY** beyond reasonable doubt for Rape under Article 266-A of the Revised Penal Code of the Philippines. The Court sentences him to suffer the penalty of *reclusion perpetua* and holds him liable to pay AAA the amounts of ₱30,000.00 as civil indemnity, ₱30,000.00 as moral damages, and ₱30,000.00 as exemplary damages.

SO ORDERED.¹³

The trial court found AAA's testimony forthright. Her narration of the incident was clear and detailed. She convincingly testified that her father held her with much strength, warned her not to shout for help, undressed her, held her in a supine position, placed himself on top of her, and forcibly pushed his penis into her vagina. It, thus, found that all the elements of the crime of rape had been sufficiently established by the prosecution. Too, the medical certificate issued by Dr. Zeta disclosed evidence of sexual abuse, corroborating AAA's claim of rape.

The Proceedings Before the Court of Appeals

On appeal, appellant faulted the prosecution for its alleged failure to prove the elements of force, violence, and intimidation. AAA's testimony was incredible as she could have fought back as there appeared to have been no immediate threat to her life. He questioned why she did not even shout for help since her siblings were all inside the house during the time of the alleged rape and thus could have come to her aid. She did not even tell her mother about the alleged rape even when she had ample opportunity to do so, contrary

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¹¹ *Id.* at 278-279.

¹² Penned by Judge Anna Marie P. Militante; *rollo*, pp. 274-280.

¹³ *Rollo*, p. 280.

to human logic and experience. This case was filed merely to get back at him for scolding and whipping her.¹⁴

For its part, the Office of the Solicitor General (OSG) averred that appellant did not even deny that he raped his own daughter. He merely relied on the supposed lack of force, threat, and intimidation. But lack of resistance does not imply consent to the sexual act. Force is deemed to have been employed on rape child-victims of rape because they are incapable of giving consent.¹⁵

The Court of Appeals' Ruling

By Decision¹⁶ dated August 14, 2018, the Court of Appeals affirmed, with modification, thus:

WHEREFORE, the appeal is **AFFIRMED with MODIFICATIONS**. The Decision dated 2 August 2016 rendered by the Regional Trial Court, Branch 53, Lapu-Lapu City in Criminal Case No. 015597-L is **AFFIRMED with MODIFICATION**, in that:

- 1) **XXX** is sentenced to suffer the penalty of *reclusion perpetua* without eligibility for parole;
- 2) **XXX** is ordered to pay AAA the amount of Seventy-Five Thousand Pesos (₱75,000.00) as civil indemnity, Seventy-Five Thousand Pesos (₱75,000.00) as moral damages, and Seventy-Five Thousand Pesos (₱75,000.00) as exemplary damages; and
- 3) All damages awarded shall earn an interest rate of six percent (6%) *per annum* to be computed from the finality of this Decision until fully paid.

SO ORDERED.¹⁷

The Court of Appeals ruled that while the Information alleged that AAA was only thirteen (13) years old at the time of the incident, the same did not allege that appellant was her father. Thus, appellant's conviction for simple rape was correct.¹⁸ The penalty of *reclusion perpetua*, however, was modified by adding the phrase "without eligibility for parole". The award of civil indemnity, moral damages,

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¹⁴ Appellant's Brief. *rollo*, pp. 26-39.

¹⁵ Appellee's Brief. *rollo*, pp. 58-70.

¹⁶ Penned by Associate Justice Edgardo L. Delos Santos (now a member of this Court) and concurred in by Associate Justices Edward B. Contreras and Dorothy P. Montejo-Gonzaga; *rollo*, pp. 5-20.

¹⁷ *Rollo*, p. 19.

¹⁸ *Id.* at 18.

and exemplary damages were increased to ₱75,000 each, with interest at the rate of six percent (6%) *per annum* from finality of judgment until fully paid.¹⁹

The Court of Appeals found that the prosecution was able to prove appellant's guilt through AAA's credible testimony. She plainly identified him as the perpetrator of the crime and categorically narrated the manner by which he sexually ravished her. More, Dr. Zeta's medical examination revealed she had both deep and shallow notches on her hymen, consistent with her allegations. Sexual intercourse with the young is rape, for the simple reason that their mental status renders them incapable of rational consent. Thus, no evidence of force, intimidation, or resistance is necessary.²⁰ In any case, AAA's testimony revealed that the element of force was present at the time of the crime as appellant held her so strongly that she was unable to free herself from him.²¹ The fact that she did not shout for help cannot be taken against her as the law does not impose upon the private complainant the burden of proving resistance.²²

The Present Appeal

Appellant now seeks anew a verdict of acquittal.²³ Appellant and the OSG manifested²⁴ that, in lieu of supplemental briefs, they were adopting their respective briefs before the Court of Appeals.

Issue

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

Ruling

The appeal is devoid of merit.

Rape is defined and penalized under Article 266-A of the RPC, as amended by Republic Act No. 8353 (RA 8353), *viz*:

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

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¹⁹ *Id.* at 19.

²⁰ *Id.* at 15.

²¹ *Id.* at 16.

²² *Id.*

²³ *Id.* at 2-4.

²⁴ *Id.* at 22-27.

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.

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Appellant was charged with rape under Article 266-A(1)(a), as amended. It requires the following elements:

- 1) Accused had carnal knowledge of a woman;
- 2) Accompanied by force, threat or intimidation.²⁵

These elements are both present here.

AAA was able to clearly and unwaveringly narrate her harrowing experience in the hands of her own father, herein appellant. She testified how he succeeded in having sexual congress with her against her will and through force and intimidation. Thus:

Q : By the way, could you still recall last October 5, 2002, at about 7:00 o'clock in the morning where were you at the time?

A : I was at home.

Q : And this was at Matab-ang, Day-as, Cordova, Cebu?

A : Yes, sir.²⁶

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Q : In other words, your mother was not in your house at that time?

A : No, sir.²⁷

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²⁵ *People v. Amoc*, 810 Phil. 253, 259 (2017).

²⁶ *Rollo*, p. 12.

²⁷ *Id.*

Q : So what happened then at 7:00 o'clock in the morning of October 5, 2002?

A : That was on this date that I was raped by my father.

Q : You mean your father, the accused in this case?

A : Yes, sir.

Q : How did he rape you?

A : He held me, and after that, he undressed me.

Q : After he undressed you, what else did he do?

A : He inserted his penis into my vagina.²⁸

Q : At the time when he inserted his penis into your vagina, was he naked or half naked?

A : He was naked.²⁹

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Q : But your father, what was the position of your father when he inserted his penis into your vagina?

A : He was on top of me.³⁰

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Q : So you mentioned that your father successfully entered his penis into your vagina. What did you feel?

A : I felt pain.

Q : What was your relative position at the time when your father inserted his sexual organ to your vagina?

A : I was lying down in supi[n]e position.

Q : But your father, what was the position of your father when he inserted his penis into your vagina?

A : He was on top of me.³¹

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AAA positively identified her father as the perpetrator of the crime. She vividly recalled how he held her so strongly she could not free herself from his firm grasp. He warned her not to shout for help. He undressed her, laid her down, placed himself on top of her, and

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²⁸ *Id.*

²⁹ *Id.*

³⁰ *Id.* at 277.

³¹ *Id.* at 13.

forcibly inserted his penis into her vagina. She could no longer struggle to free herself because she felt pain in her vagina.³²

Appellant though discredits AAA's testimony for being allegedly incredible. He faults her for not even shouting for help or confiding in her mother despite ample opportunity to do so. She claims she was merely held by the hands, thus, no force was used on her. Since she did not resist the alleged violation, there was no rape to speak of. Finally, no sufficient evidence was shown that he even utilized force, threat, or intimidation.

We disagree.

AAA was only fourteen (14) years old at the time of the rape, as evidenced by the birth certificate she presented during the trial.³³ It is settled that when the offended party is of tender age, courts are inclined to give credit to her account of what transpired, considering not only her relative vulnerability, but also the shame to which she would be exposed if the matter to which she testified is not true. Youth and immaturity are generally badges of truth and sincerity. 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 an assault on her dignity, cannot be so easily dismissed as a mere concoction.³⁴

In any case, AAA's testimony revealed that her father employed force upon her as a means to consummate carnal knowledge of her, thus:

Q : Now what did you do when your father held both of your hands?

A : I tried to extricate from the hold of my father.

Q : And were you not able to extricate from his hold?

A : No, sir.

Q : Why were you not able to extricate from his hold?

A : Because he held me strongly and he is stronger than me.

Q : Did you not shout at that time?

A : No, sir.

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³² *Id.*

³³ *Id.* at 18.

³⁴ *People v. Cadano, Jr.*, 729 Phil. 253, 259 (2014).

- Q : Why?
A : He does not want me to shout.
- Q : Why do you know that he does not want you to shout?
A : Because he told me not to shout.
- Q : What did you feel if any, at the time when your father held your hands and you resisted? How did you feel?
A : I felt very afraid.³⁵

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The trial court found AAA's testimony to be credible, clear, detailed, and forthright. By itself, AAA's credible, clear, detailed, and forthright testimony was sufficient to produce a verdict of conviction. But this is not all. The trial court also considered the medical findings of Dr. Zeta who testified that AAA's vaginal lacerations are consistent with her allegations of sexual abuse.³⁶ *People v. Mabalo*³⁷ instructs that medical findings showing the offended party sustained hymenal lacerations are corroborative of the testimony of the rape victim.

To be sure, while the presence of hymenal laceration is not an element of rape, it is the best physical evidence of forcible defloration. When the consistent and forthright account 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.³⁸

In fine, the trial court and the Court of Appeals correctly gave credence to AAA's testimony. It is settled that the trial court's factual findings on the credibility of witnesses are accorded high respect, if not conclusive effect, due to its unique opportunity to observe the witnesses' demeanor on the stand. This rule becomes even more compelling when such factual findings are concurred in by the Court of Appeals, as in this case.³⁹

The trial court and the Court of Appeals correctly convicted appellant of simple rape only, not qualified rape. For of the twin circumstances of minority and relationship, only minority was alleged in the Information, the relationship between appellant (parent) and

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³⁵ *Rollo*, pp. 12-13.

³⁶ *Id.* at 14.

³⁷ G.R. 238839, February 27, 2019.

³⁸ *People v. Sabal*, 734 Phil. 742, 746 (2014).

³⁹ *People v. Mabalo*, G.R. No. 238839, February 27, 2019.

AAA was not. Appellant, therefore, cannot be convicted of qualified rape. To rule otherwise would deprive him of his constitutional right to be informed of the nature and cause of accusation against him.⁴⁰ *People v. Armodia*⁴¹ is *apropos*:

The crime of qualified rape under Article 266-B(1) of the Revised Penal Code consists of the twin circumstances of minority and her relationship to the perpetrator, both of which must concur and must be alleged in the Information. It is immaterial whether the relationship was proven during trial if that was not specifically pleaded for the in the information.

The Court of Appeals and the Regional Trial Court found that accused-appellant's relationship with AAA was not duly alleged in the informations. Thus, his relationship with the victim cannot qualify the crimes of rape. Ruling otherwise would deprive him of his constitutional right to be informed of the nature and cause of accusation against him.

Under Article 266-B of the RPC, simple rape is punishable by *reclusion perpetua*.⁴² Although AAA's minority alone does not suffice to qualify the crime of rape, the same may be appreciated as an aggravating circumstance. On the other hand, the circumstance of relationship, even if not alleged in the information but proven during trial, may also be appreciated as an aggravating circumstance. *People v. Jugueta*⁴³ ordains that an aggravating circumstance proven during trial but not alleged in the information would justify an award of exemplary damages.

In any event, *reclusion perpetua* is an indivisible penalty and it shall be applied regardless of the presence of any attending aggravating or mitigating circumstance.⁴⁴ Pursuant to A.M. 15-08-02-SC,⁴⁵ the phrase "without eligibility for parole" need not be borne in the decision to qualify the penalty imposed.

Applying our pronouncement in *People v. Armodia*,⁴⁶ we modify the awards of civil indemnity, moral damages, and exemplary damages from ₱75,000.00 to ₱100,000.00 each, in view of the depravity of the acts committed by appellant against his own

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⁴⁰ 810 Phil. 822, 832-833 (2017).

⁴¹ *Id.*

⁴² Article 266-B. *Penalty*. – Rape under paragraph 1 of the next preceding article shall be punished by *reclusion perpetua*. xxx.

⁴³ *People v. Jugueta*, 783 Phil. 806, 846 (2016).

⁴⁴ *Supra* note 40.

⁴⁵ Guidelines For the Proper Use of The Phrase "Without Eligibility for Parole" in Indivisible Penalties, August 4, 2015.

⁴⁶ *Supra* note 40.

daughter. These amounts shall be subject to six percent (6%) interest *per annum* from the date of finality of this resolution until fully paid.

WHEREFORE, the appeal is **DENIED**. The Decision of the Court of Appeals in CA-G.R. CR-HC No. 02416 dated August 14, 2018 is **AFFIRMED with MODIFICATION**.

Appellant **XXX** is found **GUILTY** of **RAPE**. He is sentenced to ***reclusion perpetua*** and ordered to **PAY AAA**:

- 1) ₱100,000.00 as civil indemnity;
- 2) ₱100,000.00 as moral damages; and
- 3) ₱100,000.00 as exemplary damages.

These amounts shall be subject to 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 *malit*

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court
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(CA-G.R. CR HC No. 02416)

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