



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. 248023 (*People of the Philippines v. BBB*)**

This appeal assails the Decision<sup>1</sup> dated April 12, 2019 of the Court of Appeals in CA-G.R. CR HC No. 10200 affirming the trial court’s verdict of conviction against appellant BBB<sup>2</sup> for qualified rape.

**Antecedents**

***The Charge and Plea***

Appellant BBB was charged with qualified rape of his fifteen (15)-year old daughter XXX,<sup>3</sup> viz:

That on or about the 2<sup>nd</sup> day of February 2017, in the City of Malabon, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, being the biological father of XXX, exercising moral ascendancy and overwhelming influence over the latter, with lewd design and by means of force, violence and intimidation, did, then and there, willfully, unlawfully and feloniously have carnal knowledge with

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<sup>1</sup> Penned by Associate Justice Ruben Reynaldo G. Roxas with Associate Justices Marlene Gonzales-Sison and Victoria Isabela A. Paredes concurring; *rollo*, pp. 3-10.

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

<sup>3</sup> *Rollo*, pp. 3-10.

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one XXX, 15 years old (DOB November 01, 2001), by inserting his penis into her vagina against her will and without her consent.

CONTRARY TO LAW.<sup>4</sup>

On arraignment, appellant pleaded not guilty.<sup>5</sup> Trial on the merits ensued.

### *Prosecution's Version*

**Private complainant XXX** testified that on February 2, 2017, around 11:30 in the evening, she and her siblings were already sleeping. Suddenly, her father **BBB** woke her up and positioned himself on top of her. He started touching her breasts and vagina, removed her clothes and undergarment, and had sexual intercourse with her. Afterwards, appellant put her clothes back on. Although appellant was not armed, she was still scared that he might hurt her so she pretended to be asleep the entire time.<sup>6</sup>

Appellant had been molesting her since 2015. But she never got the courage to report the abuses to her mother who had left for work in Singapore in 2016.<sup>7</sup> Instead, she confided to one of her friends about the rape incident. It was her friend's parent who accompanied her to the police station and helped her file a complaint against appellant.<sup>8</sup>

**PCI Josephine Padilla Cruz** (PCI Cruz) corroborated XXX's testimony. She testified as the Medico-Legal Officer who conducted the medical examination on XXX. Based on her analysis, there was a shallow healed laceration on the 3'o clock position of XXX's genitals which could have been caused by a blunt object, specifically an erect penis. More, the injury seen on XXX's hymen could have been inflicted on February 2, 2017 or earlier.<sup>9</sup>

### *Defense's Version*

In his testimony, **appellant BBB** admitted that XXX was his daughter but nevertheless denied the charges against him. He insinuated that his daughter might just be retaliating because he would always scold her whenever she comes home late with her boyfriend.<sup>10</sup>

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<sup>4</sup> *Id.* at 3-4.

<sup>5</sup> *Id.* at 4.

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

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

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

<sup>9</sup> *Rollo*, pp. 4-5.

<sup>10</sup> *Id.* at 5.

On February 2, 2017, around 7 o'clock in the evening, he was having a drinking spree with his neighbors. After downing about two (2) to three (3) bottles of Emperador, he got so drunk and went home. He could not remember whether his daughter was inside the house that night because he was completely drunk. He woke up the next day around 5 o'clock in the morning.<sup>11</sup>

On February 7, 2017, two (2) policemen went to his house and invited him to the police station<sup>12</sup> where he learned of the rape charge against him.

### **Trial Court's Ruling**

By Decision dated November 17, 2017, the Regional Trial Court-Branch 289, Malabon City found appellant guilty of qualified rape, *viz*:

WHEREFORE, premises considered, the Court finds accused BBB GUILTY beyond reasonable doubt for the crime of Qualified Rape of his daughter, and is hereby sentenced to suffer the penalty of *reclusion perpetua*, without eligibility of parole.

The accused shall likewise pay the private complainant the amounts of:

- (a) ₱75,000.00 as civil indemnity;
- (b) ₱75,000.00 as moral damages; and
- (c) ₱30,000.00 as exemplary damages, plus six percent (6%) interest per annum of all the damages from finality of decision until fully paid.

With costs.

SO ORDERED.<sup>13</sup>

The trial court gave full credence to XXX's straightforward, candid, and convincing testimony which left no room for doubt that she was ravished by appellant. Too, PCI Cruz's medical findings corroborated her claim of rape.<sup>14</sup>

It also ruled that the rape was qualified considering XXX was under eighteen (18) years of age and appellant is her parent.<sup>15</sup>

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

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

<sup>13</sup> *Id.* at 5-6.

<sup>14</sup> *CA rollo*, pp. 45-55.

<sup>15</sup> *Id.* at 54.



### Court of Appeals' Proceedings

On appeal, appellant faulted the trial court for basing the verdict of conviction on XXX's supposedly incredible testimony. According to appellant, it was inconceivable how XXX's siblings were not awakened by his movements while he purportedly raped her. XXX also gave inconsistent statements: she initially claimed that she felt pain when he inserted his penis into her vagina but when further questioned, she stated she did not feel anything when he moved on top of her.<sup>16</sup> XXX was also uncertain on whether his penis was completely inserted into her vagina.

Meanwhile, the Office of the Solicitor General (OSG) defended the verdict of conviction. The OSG maintained that XXX's testimony was clear, straightforward, and consistent on every material point. She positively identified appellant, her father, to be her sexual assailant. She narrated in detail how appellant undressed her, fondled her breasts, and inserted his penis inside her vagina. The healed laceration of her vagina was uncontested. The totality of the established circumstances thus constituted an unbroken chain of events which led to a fair and reasonable conclusion that fifteen (15)-year-old minor XXX was raped by her own father, herein appellant.

As for the alleged inconsistencies in XXX's testimony, it is settled that minor lapses are to be expected when a person is recounting details of a humiliating experience which are painful to recall.<sup>17</sup>

### Court of Appeals' Ruling

Under its assailed Decision dated April 12, 2019, the Court of Appeals affirmed with modification on the monetary awards, viz:

**WHEREFORE**, the appeal is **DENIED**. The **Decision** dated 17 November 2017 is **AFFIRMED WITH MODIFICATIONS** in that the awards of civil indemnity, moral damages, and exemplary damages are increased to One Hundred Thousand Pesos (₱100,000.00) each. All monetary awards for damages shall earn interest at the legal rate of six percent (6%) per annum from date of finality of this decision until fully paid.

SO ORDERED.<sup>18</sup>

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<sup>16</sup> *Rollo*, pp. 6-7.

<sup>17</sup> *CA rollo*, pp. 67-68.

<sup>18</sup> *Rollo*, p. 10.

Aside from upholding the trial court's findings, the Court of Appeals also held that inconsistencies in the testimony of witnesses with respect to minor details and collateral matters do not affect either the substance of their declaration, their veracity, or the weight of their testimony. Thus, the supposed discrepancies in XXX's testimony on such collateral matters do not diminish her credibility.<sup>19</sup>

Too, the Court of Appeals increased the award of civil indemnity, moral damages, and exemplary damages to ₱100,000.00, respectively pursuant to *People v. Pacayra*.<sup>20</sup>

### **The Present Petition**

Appellant now seeks affirmative relief from the Court and prays anew for his acquittal. In compliance with Resolution dated August 19, 2019 of the Court, the OSG<sup>21</sup> and appellant<sup>22</sup> manifested that in lieu of supplemental briefs, they were adopting their respective briefs submitted before the Court of Appeals.

### **Issue**

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

### **Ruling**

The appeal is devoid of merit.

Under Article 266-A of the Revised Penal Code, one of the ways by which rape is committed is when a man has carnal knowledge of a woman through force, threat, or intimidation. Here, XXX herself positively identified appellant, a man, as her sexual aggressor. Records bore XXX's detailed narration of the incident from when appellant woke her up, went on top of her, touched her breasts and vagina, removed her undergarment, and had carnal knowledge of her. XXX could not do anything out of fear that appellant would hurt her.<sup>23</sup>

Appellant, in the main, faults the Court of Appeals for affirming the trial court's factual findings on the credibility of XXX's

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<sup>19</sup> *Id.* at 7.

<sup>20</sup> 810 Phil. 275, 295 (2017).

<sup>21</sup> *Rollo*, pp. 25-26.

<sup>22</sup> *Id.* at 19-20.

<sup>23</sup> *CA rollo*, pp. 45-55.



testimony, peppered as it were with inconsistencies. If he indeed raped XXX, her siblings who were sleeping in the same room should have been awakened by his movements. More, it was impossible that XXX could not tell whether his penis was wholly inserted in her vagina.<sup>24</sup> His defense of denial should therefore prevail.

The argument fails to persuade.

XXX was only fifteen (15) years old when the incident happened as seen in her birth certificate.<sup>25</sup> It has been repeatedly held that when the offended party is of tender age and immature, 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 to if the matter to which she testified is not true. Youth and immaturity are generally badges of truth and sincerity.<sup>26</sup> The trial court could not therefore be faulted for giving full weight and credence to XXX's testimony.

When the credibility of witnesses is put in issue, the Court will generally not disturb the trial court's factual findings thereon, especially when affirmed by the Court of Appeals, as here. For the trial court is in a better position to decide the question of credibility as it heard the witnesses themselves and observed their deportment and the manner by which they testified during the trial.<sup>27</sup>

In any event, the alleged discrepancies, if any, are too trivial to merit consideration. It is settled that inconsistencies regarding minor matters which are irrelevant to the elements of rape cannot be considered as grounds for acquittal. Surely, rape victims are not expected to make an errorless recollection of the incident so humiliating and painful that they might be trying to obliterate it from their memory. A few inconsistent remarks in rape cases will not necessarily impair the testimony of the offended party.<sup>28</sup> Suffice it to state that minor inconsistencies in XXX's testimony serve as badges of truth indicating she was not a rehearsed witness.<sup>29</sup>

As it was though, XXX's testimony did not stand alone. It was corroborated by PCI Cruz, the Medico-Legal Officer who examined XXX. PCI Cruz found that XXX had a deep healed laceration in her

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<sup>24</sup> *Rollo*, pp. 6-7.

<sup>25</sup> *CA rollo*, p. 45.

<sup>26</sup> *People v. Lagbo*, 780 Phil. 834, 845-846 (2016).

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

<sup>28</sup> *People v. Linsie*, 722 Phil. 374, 384 (2013).

<sup>29</sup> *People v. David*, 461 Phil. 364, 383 (2003).

vagina which could have occurred at the time of the crime, corroborating private complainant's claim that she was raped.<sup>30</sup> When the forthright testimony of a rape victim is consistent with medical findings as here, the essential requisite of carnal knowledge is deemed to have been sufficiently established.<sup>31</sup>

Against XXX's testimony, appellant only offered denial and alibi. He averred that he could not remember anything that night because he was so drunk. This defense is unmeritorious. We have pronounced time and again that denial and alibi are inherently weak defenses which cannot prevail over the positive and credible testimony of the prosecution witness that it was appellant who committed the crime. Hence, as 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.<sup>32</sup>

All told, XXX's spontaneous and straightforward recollection of the heinous acts committed on her by appellant, as corroborated by PCI Cruz, proved that appellant was able to have carnal knowledge of her. This case is one where a father purposely satiated his lecherous desire on his own flesh and blood, moral ascendancy substitutes for the element of force and violence. The Court of Appeals, therefore, did not err when it affirmed the trial court's verdict of conviction for qualified rape against appellant.

Further, when the victim is under eighteen (18) years of age and the offender is a parent, as here, rape is qualified under Article 266-B of the Revised Penal Code.<sup>33</sup> Consequently, the death penalty should have been imposed were it not for the enactment of RA 9346.<sup>34</sup> The courts below therefore correctly sentenced appellant to *reclusion perpetua*<sup>35</sup> without eligibility for parole.<sup>36</sup>

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<sup>30</sup> Rollo, pp. 7-8.

<sup>31</sup> *People v. Sabal*, 734 Phil. 742, 746 (2014), citing *People v. Perez*, 595 Phil. 1232 (2008).

<sup>32</sup> *People v. Batalla*, G.R. No. 234323, January 07, 2019.

<sup>33</sup> As amended by Republic Act No. 8353, otherwise known as the "Anti-Rape Law of 1997."

<sup>34</sup> An Act Prohibiting the Imposition of Death Penalty in the Philippines.

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. 4180, otherwise known as the Indeterminate Sentence Law, as amended.

<sup>35</sup> Section 3, RA 9346.

<sup>36</sup> A.M. 15-08-02 clarifies:

xxx the following guidelines shall be observed in the imposition of penalties and in the use of the phrase "*without eligibility for parole*":

(1) In cases where the death penalty is not warranted, there is no need to use the phrase "*without eligibility for parole*" to qualify the penalty of *reclusion perpetua*; it is understood that convicted persons penalized with an indivisible penalty are not eligible for parole; and

(2) When circumstances are present warranting the imposition of the death penalty, but this penalty is not imposed because of R.A. 9346, the qualification of "*without eligibility for parole*" shall be used 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.



**WHEREFORE**, the appeal is **DISMISSED**. The Decision dated April 12, 2019 of the Court of Appeals in CA-G.R. CR HC No. 10200 is **AFFIRMED**.

Appellant **BBB** is **guilty** of **QUALIFIED RAPE** and sentenced to *reclusion perpetua* **without eligibility for parole**. He is further ordered to pay ₱100,000.00 as civil indemnity, ₱100,000.00 as moral damages and ₱100,000.00 as exemplary damages. 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 *9/14*

by:

**MARIA TERESA B. SIBULO**  
Deputy Division Clerk of Court  
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Manila  
(CA-G.R. CR HC No. 10200)

The Hon. Presiding Judge  
Regional Trial Court, Branch 289  
1470 Malabon City  
(Crim. Case No. 17-221-MAL)

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