



REPUBLIC OF THE PHILIPPINES  
SUPREME COURT  
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Second Division, issued a Resolution dated **22 June 2020** which reads as follows:

“**G.R. No. 248603** (*People of the Philippines v. Jayson Mallon y Vivas*). – After a thorough review of the records and issues submitted by the parties, the Court resolves to **DISMISS** the appeal from the Decision<sup>1</sup> dated March 20, 2019 of the Court of Appeals (CA) in CA G.R. CR HC No. 10577 for failure of Jayson Mallon y Vivas (accused-appellant) to prove that the CA committed reversible error in affirming with modification the Decision<sup>2</sup> dated February 8, 2018 of Branch 34, Regional Trial Court (RTC) of Calamba City, Laguna finding him guilty of Simple Rape.

*The Antecedents*

An Information was filed before the RTC charging accused-appellant with Rape. The accusatory portion of the Information states:

That on or about November 14, 2016 at Barangay XXX, Calamba City, Laguna, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design and by means of force, threat and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of a sixteen (16) year old minor, AAA,\* against her will and consent, to her damage and prejudice.

<sup>1</sup> *Rollo*, pp. 3-12; penned by Associate Justice Manuel M. Barrios with Associate Justices Japar B. Dimaampao and Maria Filomena D. Singh, concurring.

<sup>2</sup> *CA rollo*, pp. 39-48; penned by Presiding Judge Maria Florencia B. Formes-Baculo.

\* 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 pursuant to RA 7610, entitled “An Act Providing for Stronger Deterrence and Special Protection Against Child Abuse, Exploitation and Discrimination, and for other purposes” approved on June 17, 1992; RA 9262, entitled “An Act Defining Violence Against Women and Their Children, Providing for Protective Measures for victims, Prescribing Penalties Therefore, and for other Purposes,” approved on March 8, 2004; and Section 40 of A.M. No. 04-10-11-SC, otherwise known as the “Rule on Violence against Women and Their Children” (See *People v. Ejercito*, G.R. No. 229861, July 2, 2018.)

CONTRARY TO LAW.<sup>3</sup>

The prosecution alleged that on November 13, 2016, at around 5:00 p.m., members of the cellular phone group known as “Clan” gathered and had a drinking spree. AAA and accused-appellant were members of the group. AAA came to know accused-appellant through her ex-boyfriend. During the event, accused-appellant asked AAA to drink, but she declined as she felt some alarm and discomfort in his presence. Accused-appellant did not take it so well that he forced AAA to drink.<sup>4</sup>

After the drinking session, AAA and one Emman Dorado (Emman) walked home together until they reached a nipa hut where they parted ways. It was at this point that AAA saw accused-appellant together with two companions. Accused-appellant informed AAA that there was a curfew and that they should go back to avoid being apprehended. However, a few minutes later, accused-appellant’s companions intimated to them that they were going ahead. AAA wanted to go with them, but the two refused her. After the two left, AAA told accused-appellant that she was also going home, but the latter suddenly grabbed her tightly in the right arm. AAA then screamed and pleaded to let her go home, but accused-appellant slapped her twice and insisted to accompany her. Accused-appellant dragged AAA towards the nipa hut, slapped her, pulled her hair, punched her in the stomach, and threatened to kill her family if she reports the incident. It was in the nipa hut where accused-appellant undressed AAA, removed his own clothes, and then inserted his penis into her vagina. After satisfying his beastly desires, accused-appellant threw AAA’s clothes towards her and threatened her again. She then went home at around 3:30 a.m., of November 14, 2016. Accused-appellant also went on his way home.<sup>5</sup>

At around 4:00 p.m., of the same day, AAA told her mother about her ordeal. Her mother immediately reported the incident to the police.<sup>6</sup> A medical officer then subjected AAA to a physical examination on the following day which revealed that she had deep healing hymen lacerations at 6 o’clock position with her pre-hymenal area slightly swollen.<sup>7</sup>

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<sup>3</sup> *Rollo*, pp. 4-5.

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

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

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

<sup>7</sup> *Id.* at 6-7.



For his part, accused-appellant denied the allegations against him. Although he admitted that he was present during the drinking spree of the Clan on November 13, 2016, he denied that AAA was a member of the group and asserted that AAA merely gate-crashed the event. He maintained that he and Emman left the venue and decided to go home while AAA stayed. He did not see AAA thereafter until the following day. While admitting that the nipa hut was near his house, he denied raping AAA there. He surmised that AAA was only mad at him considering that he refused to help her reconcile with her ex-boyfriend, Ralph, who impregnated her and refused to speak with her since then.<sup>8</sup>

#### *The RTC Ruling*

In the Decision<sup>9</sup> dated February 8, 2018, the RTC found accused-appellant guilty beyond reasonable doubt of the crime of Statutory Rape, defined and penalized under Article 266-A of the Revised Penal Code (RPC), as amended by Republic Act No. 8353<sup>10</sup> and accordingly, sentenced him to suffer the penalty of *reclusion perpetua* and ordered him to pay AAA the amounts of ₱50,000.00 as civil indemnity, ₱50,000.00 as moral damages, and ₱30,000.00 as exemplary damages, with an interest rate of 6% from finality of the decision until fully paid.<sup>11</sup>

The RTC found the prosecution to have duly established all the essential elements of the crime charged as it was proven that AAA was sexually abused by accused-appellant.<sup>12</sup> It gave credence to AAA's candid, straightforward, and categorical account of the incident which was adequately corroborated by the medical findings of Dr. Roy A. Camarillo.<sup>13</sup> The RTC found that accused-appellant employed intimidation that empowered him to drag AAA to the nipa hut and have carnal knowledge of AAA against the latter's consent. The RTC also noted that accused-appellant merely proffered denial and alibi to overcome the positive, categorical, and unequivocal testimony of AAA.<sup>14</sup>

Aggrieved, accused-appellant appealed<sup>15</sup> to the CA.

<sup>8</sup> *Id.* at 7.

<sup>9</sup> CA *rollo*, pp. 39-48.

<sup>10</sup> The Anti-Rape Law of 1997.

<sup>11</sup> CA *rollo*, pp. 47-48.

<sup>12</sup> *Id.* at 45.

<sup>13</sup> *Id.* at 45-46.

<sup>14</sup> *Id.* at 46.

<sup>15</sup> *Rollo*, pp. 13-14.

*The CA Ruling*

In the Decision<sup>16</sup> dated March 20, 2019, the CA affirmed with modification accused-appellant's conviction. It found accused-appellant guilty beyond reasonable doubt of the crime of Simple Rape under Article 266-A, paragraph 1 (a) of the RPC and accordingly sentenced him to suffer the penalty of *reclusion perpetua* and ordered him to pay AAA the amounts of ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages, and ₱75,000.00 as exemplary damages, with an interest rate of 6% on all damages awarded from the date of finality of its decision until fully paid.<sup>17</sup>

The CA affirmed the RTC's findings that all the elements of Rape by carnal knowledge was established by the prosecution. AAA categorically and candidly identified that accused-appellant had sexual intercourse with her through violence and intimidation; and that her testimony was corroborated by the physical findings of the examining doctor.<sup>18</sup> It also ruled that the inconsistencies raised by accused-appellant against the prosecution are mere trivial matters which do not negate the existence of all the elements of the crime nor diminished AAA's credibility.<sup>19</sup>

However, the CA modified the incorrect designation of the crime from Statutory Rape to Simple Rape punishable under Article 266-A(1) (a) of the RPC.<sup>20</sup> The CA ruled that accused-appellant should be convicted for Simple Rape and not Statutory Rape because AAA was not below 12 years old, but rather 16 years old at the time of the incident.<sup>21</sup>

Undeterred, accused-appellant filed the instant appeal.

*The Issue before the Court*

The issue for the Court's resolution is whether accused-appellant's conviction for the crime of Simple Rape should be upheld.

<sup>16</sup> *Rollo*, pp. 3-12.

<sup>17</sup> *Id.* at 11.

<sup>18</sup> *Id.* at 8.

<sup>19</sup> *Id.* at 9.

<sup>20</sup> ART. 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;

x x x x.

<sup>21</sup> *Rollo*, p.11.



*The Court's Ruling*

The appeal is bereft of merit.

Accused-appellant faults the RTC and CA for failing to consider the inconsistencies in the prosecution's evidence which raise doubt on AAA's credibility.

A plain reading of the Information reveals that accused-appellant was charged with the crime of Rape under Article 266-A, paragraph 1 (a) of the RPC. The Court agrees with the findings of both the RTC and the CA in convicting accused-appellant of Simple Rape instead considering that the victim was not below 12 years old at the time of the incident. The RTC properly ruled that the prosecution established beyond reasonable doubt that accused-appellant had carnal knowledge of the victim, AAA against her will and such act was committed through violence and intimidation upon her. AAA clearly testified that accused-appellant, through violence and intimidation, dragged her to a nipa hut, undressed her, and inserted his penis into her vagina against her will. This was even corroborated by the medical findings conducted immediately after the incident.

Indeed, the straightforward and categorical testimony of AAA and her positive identification of accused-appellant proved that the latter had carnal knowledge of AAA against her will. As such, her testimony must prevail over the uncorroborated and self-serving denial of accused-appellant. Moreover, AAA's credibility is bolstered by her prompt report of the incident to her mother a day after it transpired and by their immediate action for AAA to undergo a medico-legal examination, despite the threats made against her life by accused-appellant. These matters only proved that AAA did not have the luxury of time to fabricate a rape story.<sup>22</sup>

The Court equally holds that the factual questions raised by accused-appellant pertain only to inconsequential matters that do not bear upon the elements of the crime. The inconsistency as to the exact time when AAA reported the incident to her mother is trivial. What is decisive in a prosecution for rape is whether the commission of the crime has been sufficiently proven.<sup>23</sup> Inconsistencies and discrepancies on minor details that are irrelevant to the constitutive elements of the

<sup>22</sup> *People v. Gunsay*, 813 Phil. 381, 387 (2017).

<sup>23</sup> *People v. Manalo*, 444 Phil. 654, 665 (2003).

crime cannot be considered grounds for acquittal.<sup>24</sup> For a discrepancy to serve as basis for acquittal, it must refer to significant facts vital to the guilt or innocence of the accused and not inconsistencies which has nothing to do with the elements of the crime.<sup>25</sup>

The absence of injuries on AAA's body neither negates the commission of rape. Rape is about the abuser exercising power and control over his victim. It is a conscious process of intimidation by which the abuser keeps his prey in a state of fear and humiliation.<sup>26</sup> Thus, it is not impossible for the victim not to make an outcry against her assailant, even if the latter is unarmed.<sup>27</sup>

Lastly, the accused-appellant's attack on the personality of the victim as "rebellious" for engaging in underage drinking and in joining the group of accused-appellant is illogical and misplaced. Accused-appellant's attempt to paint AAA as someone with loose morals must fail. The victim's moral character is immaterial in the prosecution and conviction for the crime of rape where, as in the instant case, it is shown that violence and intimidation were used to force her to have sex with accused-appellant.<sup>28</sup> More importantly, the Court is not inclined to exculpate accused-appellant by blaming the victim herein.

In fine, the Court sees no cogent reason to disturb the unanimous findings and legal conclusions of the RTC and the CA that accused-appellant was guilty of Simple Rape and in imposing upon him the penalty of *reclusion perpetua*. Time and again, the Court has stressed that factual findings of the trial court, including its evaluation of the credibility of witnesses and their testimonies, must be accorded respect and not be disturbed on appeal, except when the trial court is shown to have overlooked, misapprehended, or misapplied any fact or circumstance of weight and significance, which, if considered, would have affected the result of the case.<sup>29</sup> This is especially true where, as in the case herein, the RTC's findings were affirmed by the CA.<sup>30</sup>

**WHEREFORE**, the Court **ADOPTS** the findings of fact and conclusions of law in the Decision dated March 20, 2019 of the Court of

<sup>24</sup> *People v. Bares*, 407 Phil. 747, 765 (2001) as cited in *People v. Manalo*, *id.*

<sup>25</sup> *People v. Perez*, 406 Phil. 153, 163 (2001).

<sup>26</sup> *People v. Juntilla*, 373 Phil. 351, 364-365 (1999); *People v. Alimon*, 327 Phil. 447, 465 (1996) as cited in *People v. Bohol*, 415 Phil. 749, 761 (2001).

<sup>27</sup> *People v. Silvano*, 368 Phil. 676, 697 (1999) as cited in *People v. Bohol*, *id.*

<sup>28</sup> *People v. Bernaldez*, 379 Phil. 493-506 (2000).

<sup>29</sup> *People v. Ambatang*, 808 Phil. 236, 242 (2017).

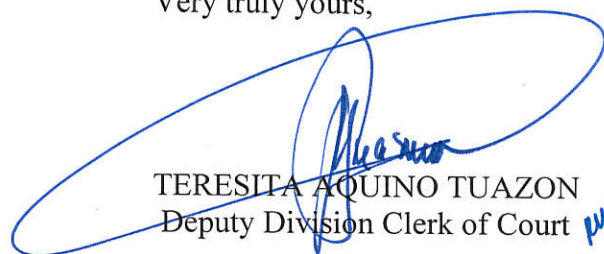
<sup>30</sup> *Bastian v. Court of Appeals*, 575 Phil. 42, 55 (2008).



Appeals in CA-G.R. CR-HC No. 10577 finding accused-appellant Jayson Mallon y Vivas **GUILTY** of the crime of Simple Rape under Article 266-A of the Revised Penal Code, sentencing him to suffer the penalty of *reclusion perpetua*, and ordering him to pay AAA the amounts of ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages, and ₱75,000.00 as exemplary damages, with legal interest at the rate of 6% per *annum* on all the monetary awards from the date of finality of this Resolution until fully paid.

**SO ORDERED.**” (GAERLAN, J., designated as additional member, per Special Order No. 2780 dated May 11, 2020, on leave).

Very truly yours,



TERESITA AQUINO TUAZON  
Deputy Division Clerk of Court *mcg/13*

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HON. PRESIDING JUDGE (reg)  
Regional Trial Court, Branch 34  
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(Crim. Case No. 28803-2017-C)

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