



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **11 November 2020** which reads as follows:*

“**G.R. No. 249595 (XXX* vs. People of the Philippines)**. -Through the present Petition for Review on *Certiorari*,¹ XXX seeks to reverse and set aside the Decision² dated February 28, 2018 of the Court of Appeals in CA-G.R. CEB CR-HC No. 02202 affirming his conviction for rape. He essentially reiterates that his conviction (a) was based on mere presumptions and generalizations; (b) disregarded the contradictions in AAA’s testimony; (c) found him guilty despite its own observation that AAA could only remember material points which someone else had told her; and (d) found him guilty despite the fact that he was able to sufficiently establish his defenses of denial and *alibi*.

Additionally, he faults AAA for failing to mention in her Sworn Statement the date of her alleged rape, for not admitting during the preliminary investigation that Reggie Saring was her boyfriend, and for mentioning that he supposedly had a knife only during her cross examination. He also points out that BBB’s inconsistent testimony amounted to perjury.

In its Comment³ dated June 4, 2020, the People of the Philippines, through the Office of the Solicitor General (OSG), counters that the evidence adduced by the prosecution satisfied the required quantum of proof to support

* 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.

¹ *Rollo*, pp. 3-46.

² Penned by Associate Justice Edgardo L. Delos Santos (now a member of this Court) and concurred in by Associate Justices Edward B. Contreras and Louis P. Acosta, all members of the Nineteenth Division, *id.* at 49-67.

³ OSG’s Comment, unnumbered page.

the verdict of conviction for the crime of rape. Besides, the trial court's factual findings on the credibility of witnesses, as affirmed by the Court of Appeals, are entitled to highest respect.

The Court's Ruling

XXX availed of a wrong remedy

Section 3, Rule 122 of the Rules of Court ordains:

Section 3. How appeal taken. —

(a) The appeal to the Regional Trial Court, or to the Court of Appeals in cases decided by the Regional Trial Court in the exercise of its original jurisdiction, shall be by notice of appeal with the court which rendered the judgment or final order appealed from and by serving a copy thereof upon the adverse party.

X X X X

(c) **The appeal in cases where the penalty imposed by the Regional Trial Court is *reclusion perpetua*, or life imprisonment or where a lesser penalty is imposed but for offenses committed on the same occasion or which arose out of the same occurrence that gave rise to the more serious offense for which the penalty of death, *reclusion perpetua*, or life imprisonment is imposed, shall be notice of appeal to the Court of Appeals in accordance with paragraph (a) of this Rule. (Emphasis supplied)**

X X X

As it was, XXX erroneously availed of Rule 45 instead of a notice of appeal. Consequently, it did not toll the finality of the assailed verdict of conviction.⁴ Hence, even on this ground alone, the petition should be dismissed.

But in the higher interest of substantial justice, the Court deems it proper to relax the rules and treat the present petition for review as an appeal. For the case involves the precious rights to life and liberty where the penalty of *reclusion perpetua*, *no less, has been imposed*. More so since the petition though captioned as one for review on *certiorari* was still filed within the fifteen (15) day reglementary for filing an appeal.⁵ So must it be.

Petitioner is guilty of simple rape

The trial court summarized AAA's testimony, in this wise:

She was then about to get out from the house when accused grabbed her hands and pulled her inside her bedroom while saying "let's do it again". She resisted but due to his superior strength, she was not able to free herself and he successfully dragged her inside. Accused

⁴ *Land Bank of the Philippines v. Court of Appeals*, 789 Phil. 577 (2016).

⁵ *Punongbayan-Visitacion v. People, et al.*, 823 Phil. 212 (2018).

forced her to lie on the bed and hurriedly tried to close the door of her bedroom. While accused was in the act of closing the door, she stood up and again tried to escape but he pushed her back with his two hands. She then shouted for help but he covered her mouth so no one could hear her.

While he was mounting on her, he looked out from the window to see if someone was outside. The window of her bedroom is facing a small road where some neighbors pass by. It has no glass or jalousies but an iron grill covered by a curtain.

At that moment, she struggled hard and kicked him but with her mouth still covered with his hand, he kissed her neck, ears, and lips while massaging her breast. She pleaded him to stop but accused continued his lustful desire on her by removing her shirt, short pants, and panty. Thereafter, he unzipped his short pants and forcefully tried to insert his penis inside her vagina. She again kicked him several times so that his penis will not enter into her vagina, but he successfully penetrated it and made push and pull movements. As soon as he reached climax, he pulled out his penis and scattered semen on the floor while saying "We will wipe this so that there will be no evidence". Thereafter, accused went out of their house as hurriedly as when he entered it, leaving her behind naked and still gasping for breath after she struggled so hard to defend herself.⁶

By the distinctive nature of rape cases, conviction usually rests solely on the basis of the testimony of the victim, provided that such testimony is credible, natural, convincing, and consistent with human nature and the normal course of things.⁷ The assessment of the credibility of witnesses, however, is a task most properly within the domain of trial courts. In *People v. Gahi*,⁸ the Court stressed that the findings of the trial court carry great weight and respect due to the unique opportunity afforded them to observe the witnesses when placed on the stand. Consequently, appellate courts will not overturn the factual findings of the trial court in the absence of facts or circumstances of weight and substance that would affect the result of the case. This rule even finds more stringent application where the said findings were sustained by the Court of Appeals.

We affirm.

First. AAA had absolutely no motive to falsely testify against XXX, her uncle-in-law. Filipino children have great respect and reverence for their elders. A rape victim's testimony against her relative goes against the grain of Filipino culture as it yields unspeakable trauma and social stigma on the child and the entire family.⁹

Second. Although the medical findings showed no lacerations in AAA's genitalia, the same does not negate rape since medical findings or

⁶ *Rollo*, pp. 106-107.

⁷ *People v. Palanay*, 805 Phil. 116, 126 (2017).

⁸ 727 Phil. 642 (2014).

⁹ *People v. Marmol*, 800 Phil. 813, 827 (2016).

proof of injuries are not among the essential elements in the prosecution for rape.¹⁰

Third. AAA's initial failure to recall the date when she got raped does not impair her credibility. For where the time of commission is not an essential element of the crime charged, conviction may be had on proof of the commission of the crime, even if it appears that the crime was not committed at the precise time alleged.¹¹

Fourth. True, AAA mentioned the knife held by XXX only during her testimony on cross, but the same does not diminish the value of her testimony. She was not asked about the knife when she gave her sworn statement, nor was she asked about it during her direct examination. The question only came to fore on cross. In any case, use of a knife or any other weapon for that matter is not an element of the crime of rape. So long as the accused was sufficiently shown to have succeeded in having carnal knowledge of the victim through the use of force, violence, or intimidation in whatever form, the requisite components of the crime are deemed satisfied.¹² Here, aside from using a knife on AAA, XXX also covered her mouth to prevent her from shouting, And although AAA forcefully resisted and even kicked him, she was no match to his sheer strength as he easily overpowered her and succeeded in having carnal knowledge of her.

In any case, variance in minor details has the effect of bolstering the witness' credibility because they discount the possibility of a rehearsed testimony.¹³ What remains paramount is the witness' consistency in relating the principal elements of the crime and the positive and categorical identification of the accused as the perpetrator of the same.¹⁴ Here, the minor inconsistencies do not negate the fact that XXX did have carnal knowledge of AAA against her will.

Anent the romantic relationship between AAA and Reggie, the same has no bearing on XXX' professed innocence. It does not dissolve his culpability for the rape of AAA.

Finally, as regards BBB's testimony, XXX' claim that the former committed perjury because his testimony bore inconsistencies is devoid of merit. There was nothing inconsistent in BBB's testimony pertaining to his angry reaction when his wife received a text message from AAA's boyfriend warning them that someone was taking advantage of their daughter and when he learned that it was XXX who raped his daughter. The supposed inconsistencies XXX wants to draw actually pertain to the variance between his testimony and that of BBB. The comparison is preposterous though to say the least.

¹⁰ *People v. Nical*, 754 Phil. 357, 364 (2015).

¹¹ *People v. Cinco*, 622 Phil. 858, 867 (2009).

¹² *People v. Garte*, 592 Phil. 304, 317 (2008).

¹³ *Id.*

¹⁴ *People v. Gerola*, 813 Phil. 1055, 1066 (2017).

***XXX' defenses of denial
and alibi are weak***

As for XXX' *alibi* and denial, the Court has often pronounced that the same are inherently weak defenses which cannot prevail over the positive and credible testimony of the prosecution witness that the accused committed the crime. Thus, as between a categorical testimony which has a ring of truth on one hand, and a mere denial and *alibi* on the other, the former is generally held to prevail.¹⁵ On this score, the Court of Appeals keenly ruled:

The accused-appellant fails to persuade this Court with the above assertion. Alibi is an inherently weak defense because it is easy to fabricate and highly unreliable. For the defense of alibi to prosper, the accused must prove that he was somewhere else when the offense was committed and that he was so far away that it was not possible for him to have been physically present at the place of the crime or at its immediate vicinity at the time of the commission.

We are inclined to believe in the findings of the trial court that the arrival of Dante and Mark in Tagbilaran City was adjusted to make it impossible for Dante to divert to the victim's place before returning to PMFTC's warehouse at 5:13 o'clock in the afternoon. There was no showing that Mark indeed entered the bank to deposit money at around 5 o'clock in the afternoon. Thus, the trial court's finding on this matter is entirely plausible for the duo could have returned to Tagbilaran at an earlier time giving Dante ample time to drive off to the victim's house, carry out his dastardly deed, and return to PMFTC by 5:13 o'clock in the afternoon.¹⁶

Further, defense witness Blarney Pateña admitted that the entries in the logbook were altered. Thus, the logbook cannot be a reliable evidence of XXX' claimed presence in the warehouse from 5 o'clock to 8 o'clock in the evening of September 11, 2013.

All told, the Court of Appeals did not err in affirming XXX' conviction for the crime of rape as defined and penalized under Article 266-A of the Revised Penal Code (RPC), *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;

x x x x

***Imposable Penalties and
Damages***

Both the trial court and the Court of Appeals correctly sentenced to *reclusion perpetua* pursuant to Article 266-B of the RPC. He, too, was

¹⁵ *People v. Villaros*, G.R. No. 228779, October 8, 2018.

¹⁶ *Rollo*, pp. 64-65.

properly held liable for ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages, and ₱75,000.00 as exemplary damages in conformity with prevailing jurisprudence.¹⁷

These amounts shall also earn six percent (6%) interest *per annum* from finality of this resolution until fully paid.

As for attorney's fees and costs of suit, a rigid standard is imposed on the courts before the same may be granted. It is imperative that they clearly and distinctly set forth in their decisions the basis for the award thereof. It is not enough that they merely state the amount of the grant in the dispositive portion of their decisions.¹⁸ Here, neither the trial court nor the Court of Appeals gave any justification for the award of attorney's fees and costs of suit, thus, the same ought to be deleted.

WHEREFORE, the petition is **DENIED**. The assailed Decision dated February 28, 2018 of the Court of Appeals in CA-G.R. CEB CR-HC No. 02202 is **AFFIRMED** with **MODIFICATION**.

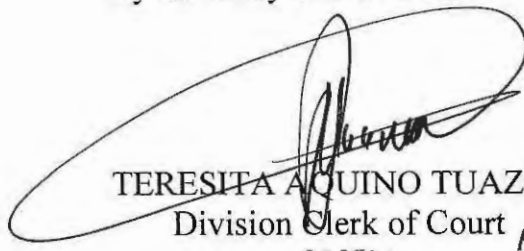
XXX is found **GUILTY** of **SIMPLE RAPE** and sentenced to **RECLUSION PERPETUA**. He is directed **TO PAY AAA ₱75,000.00** as civil indemnity, ₱75,000.00 as moral damages, and ₱75,000.00 as exemplary damages.

All monetary awards are subject to six percent (6%) interest *per annum* from finality of this Resolution until fully paid.

The award of attorney's fees and costs of suit is deleted.

SO ORDERED.¹⁹

By authority of the Court:


TERESITA AQUINO TUAZON
Division Clerk of Court p. 12/4
07 DEC 2020

¹⁷ *People v. Jugueta*, 783 Phil. 806, 849 (2016):

x x x x

II. For Simple Rape/Qualified Rape:

x x x

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

Civil indemnity - P75,000.00

Moral damages - P75,000.00

Exemplary damages - P75,000.00

x x x x

¹⁸ *PNCC v. APAC Marketing Corp.*, 710 Phil. 389, 396 (2013).

*ATTY. MENEDIO THADEUS P. BERNIDO (reg)
Counsel for Petitioner
261-1 CPG North Avenue
2300 Tagbilaran City, Bohol

*OFFICE OF THE SOLICITOR GENERAL (reg)
134 Amorsolo Street
1229 Legaspi Village
Makati City

*XXX (reg)
Petitioner
c/o The Director
Bureau of Corrections
1770 Muntinlupa City

THE DIRECTOR (reg)
Bureau of Corrections
1770 Muntinlupa City

HON. PRESIDING JUDGE (reg)
Regional Trial Court, Branch 47
Tagbilaran City, Bohol
(Crim. Case No. 16539)

COURT OF APPEALS (reg)
Visayas Station
Cebu City
CA-G.R. CEB CR-H.C. No. 02202

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Supreme Court, Manila

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Supreme Court, Manila

*with copy of CA Decision dated 28 February 2018.
Please notify the Court of any change in your address.
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