



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

SUPREME COURT OF THE PHILIPPINES
PUBLIC INFORMATION OFFICE

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Sirs/Mesdames:

*Please take notice that the Court, Third Division, issued a Resolution dated **February 5, 2020**, which reads as follows:*

“G.R. No. 227848 (*People of the Philippines, Plaintiff-Appellee, v. XXX,¹ Accused-Appellant*). – This appeal² seeks to reverse and set aside the Decision dated 25 June 2015³ of the Court of Appeals (CA) in CA-G.R. CR-HC No. 06293. The CA affirmed with modification the Judgment dated 29 May 2013⁴ of Branch 30, Regional Trial Court (RTC) of San Jose, Camarines Sur in Criminal Case Nos. T-3351-54, which found accused-appellant, XXX (accused-appellant), guilty beyond reasonable doubt of two (2) counts of qualified rape, defined and penalized under Article 266-A of the Revised Penal Code (RPC), as amended, as well as violation of Section 5(b) of Republic Act No. (RA) 7610, otherwise known as the “Special Protection of Children Against Abuse, Exploitation and Discrimination Act.”

Antecedents

Accused-appellant was charged with three (3) counts of rape and for violation of Section 5(b) RA 7610 under the following Informations:

Criminal Case No. T-3351

That sometime in June 2007, at around 8:00 o'clock in the evening in [REDACTED], Lagonoy, Camarines Sur, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did, then and there, willfully, unlawfully and feloniously[,] by force or intimidation[,] has (sic) carnal knowledge with his daughter[,] AAA, 15 years old, against her will, to her damage and prejudice.

¹ Pursuant to A.C. No. 83-2015, the complete names of the victim's family members or relatives who are mentioned in the court's decision or resolution should be replaced with fictitious initials. References to the specific barangay or town should be blotted out from the body of the decision, resolution, or order if its identification could lead to the disclosure of the identities of the women or children victims.

² Rollo, pp. 18-20.

³ Id. at 2-17; penned by Associate Justice Zenaida T. Galapate-Laguilles and concurred in by Associate Justices Mariflor P. Punzalan-Castillo and Florito S. Macalino (+) of the Eleventh Division, Court of Appeals, Manila.

⁴ CA rollo, pp. 43-50; penned by RTC Judge Noel D. Paulite.

No Bail Recommended.

ACTS CONTRARY TO LAW.⁵

Criminal Case No. T-3352

That sometime in August 2007, in [REDACTED], Lagonoy, Camarines Sur, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did[,] then and there, willfully, unlawfully and feloniously[,] by force or intimidation[,] has (sic) carnal knowledge with his daughter[,] “AAA”, 15 years old, against her will, to her damage and prejudice.⁶

Criminal Case No. T-3353

That sometime in October 2007, at around 10:00 o'clock in the evening, in [REDACTED], Lagonoy, Camarines Sur, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did[,] then and there, willfully, unlawfully and feloniously, by force or intimidation, has (sic) carnal knowledge with his daughter[,] “AAA”, 15 years old, against her will, to her damage and prejudice.

No Bail Recommended.

ACTS CONTRARY TO LAW.⁷

Criminal Case No. T-3354

That on or about the 15th day of March, 2008, at around 11:00 o'clock in the evening, in [REDACTED], Lagonoy, Camarines Sur, Philippines, and within the jurisdiction of this Honorable Court, while AAA, a minor, being only 15 years old, was inside their house, dressing up and was wearing only her bra and panty, the above-named accused who is her father, with lewd design, did[,] then and there, willfully, unlawfully and feloniously[,] come from behind, embrace her, kiss her face, touch and fondle her breasts which acts debase, degrade and demean the intrinsic worth and dignity of said victim, prejudicial to her development.

ACTS CONTRARY TO LAW.

Xxx

Bail Recommended.⁸

On arraignment, and ably assisted by his counsel, accused-appellant pleaded not guilty to all charges.⁹ During pre-trial, accused-appellant

⁵ Records, T-3351, p. 1.

⁶ *Rollo*, p. 3.

⁷ Records, T-3351, p.1.

⁸ Records, T-3354, p.1.

⁹ Records, p. 25.

admitted his identity as the accused named in each Information, and that he is the biological father of AAA.¹⁰ After pre-trial, trial on the merits ensued.

Version of the Prosecution

Sometime in June of 2007, while AAA's mother was in Manila and while she was sleeping with her four (4) younger siblings in their sala,¹¹ AAA was awakened by her father who removed her shorts, underwear and dress; laid on top of her; spread wide her legs; and inserted his penis into her vagina. AAA was unable to shout as XXX was covering her mouth. Although it was dark, AAA was certain that it was XXX, her father, who did the bestial act. AAA felt pain and was left by XXX crying while putting her dress on. AAA kept mum for the sake of her mother and siblings.¹²

Again, in October 2007, while AAA's other siblings were watching television at their neighbor's house, XXX fondled AAA's breasts, removed her shorts and underwear, and forced AAA to have sex with him in the kitchen. AAA resisted and attempted to run away but XXX overpowered her.¹³ When AAA did not find her mother, who at that time was in school serving as watcher in the election, she went to her other siblings who were at their neighbor's house and went home together. Since then, AAA was afraid and kept her distance from XXX. AAA always felt weak and suffered from stomach ache.¹⁴

At around 11:00 o'clock, on the evening of 15 March 2008, which was a day after their *barangay* fiesta, and upon the instruction of an older sister to change her clothes at home, AAA, who was inside her room wearing only her bra and panty, was surprised by XXX who suddenly appeared and touched her breasts. AAA tried to stop XXX from what he was doing to her but did so only when her older sister knocked on the door. AAA and her older sister went to the *barangay* and revealed her unfortunate ordeal in the hands of their very own father.¹⁵

The medico-legal examination conducted on AAA revealed the following results:

Ano-Genital Examination:

External Genitalia: Pubic hair abundant. Labia majora and labia minora coaptated. Fourchette Tense.

¹⁰ *Id.* at 35.

¹¹ *Rollo*, pp. 3-4; *CA rollo*, p. 45.

¹² *Id.*

¹³ *Rollo*, p. 4; *CA rollo*, pp. 45-46.

¹⁴ *CA rollo*, pp. 45-46.

¹⁵ *Rollo*, p. 4; *CA rollo*, p. 46.

Hymen: Annular with physiologic notch noted at its 12, 7, and 3 o'clock position[s]. Hymenal orifice measures 2.0 cm.¹⁶

On the other hand, to prove AAA's minority, the prosecution offered in evidence her baptismal certificate¹⁷ and certificate of live birth.¹⁸

Version of the Defense

Accused-appellant denied all the charges against him. He claimed that during the times when the alleged incidents occurred, AAA was actually living in Tondo, Manila, with a maternal uncle. Binamera, their neighbor, corroborated this.¹⁹ Accused-appellant likewise claimed that the charges were maliciously authored by AAA's mother in retaliation and for harboring ill-will against him after he spanked and strangled her when he found out that she had gambled and indulged in a *videoke* bar.²⁰

Ruling of the RTC

The RTC rendered Judgment²¹ finding accused-appellant guilty beyond reasonable doubt of two (2) counts of rape, and violation of Section 5(b) of RA 7610. However, accused-appellant was acquitted for one (1) count of rape in Criminal Case No. T-3352.²² The decretal portion of the Judgment is as follows:

WHEREFORE, in view of the foregoing, JUDGMENT are hereby rendered finding the accused XXX GUILTY beyond reasonable doubt of two (2) counts of Rape in Criminal Case Nos. T-3351 and T-3353, defined and penalized under Article 266-A of Revised Penal Code and the accused is hereby sentenced to suffer the penalty of Reclusion Perpetua on each count of rape. Likewise, this Court finds the afore-named accused GUILTY beyond reasonable doubt of the offense of crime (sic) of Violation of Section 5 (b) of Republic Act No. 7610, in Criminal Case No. T-3354, and he is hereby sentenced to suffer the indeterminate penalty of Ten (10) years and One (1) Day of Prision Mayor as Minimum to Fourteen (14) years, Eight (8) Months and One (1) day of Reclusion Temporal as Maximum. Accused is likewise ordered to pay the private offended party the amount of Php 50,000.00 each of these three (3) charges, as civil indemnity; Php 50,000 each for moral damages; both temperate damages in the amount of Php 25,000.00, and exemplary damages in the amount of Php 30,000.00 for each of these offense.

¹⁶ CA rollo, p. 46.

¹⁷ Records, p. 8.

¹⁸ *Id.* at 86.

¹⁹ Rollo, p. 4.

²⁰ *Id.* at pp. 4-5.

²¹ CA rollo, pp. 43-50.

²² *Id.* at 49-50.

Accused is hereby ACQUITTED for the crime of Rape in Criminal Case No. T-3352 for failure of the prosecution to prove the guilt of the accused beyond reasonable doubt.

Accused is entitled to the full credit of his preventive imprisonment if he abides by the disciplinary rules imposed upon convicted prisoners during his confinement, otherwise he shall only be entitled to four-fifths (4/5) thereof.

SO ORDERED.²³

Aggrieved, accused-appellant appealed²⁴ to the CA.

Ruling of the CA

The CA, not impressed by the arguments of accused-appellant, rendered the assailed Decision²⁵ dated 25 June 2015, affirming his conviction, albeit modifying the amount of indemnity. The decretal portion of the assailed Decision is as follows:

WHEREFORE, premises considered, the appeal is hereby **DENIED**. The appealed Decision dated 29 May 2013 of the Regional Trial Court (RTC), Branch 30 of San Jose, Camarines Sur in Criminal Case Nos. T-3351, T-3353 for Rape and Criminal Case No. T-3354 for violation of Sec. 5 (b) of Republic Act 7610 is hereby **AFFIRMED** with **MODIFICATION** by increasing the amount of indemnity to Php 75,000.00 each for two counts of rape and increasing as well the maximum penalty imposed for violation of R.A 7610 from fourteen (14) years, eight (8) months and one (1) day of reclusion temporal to *reclusion perpetua*.

SO ORDERED.²⁶

Hence, the instant appeal²⁷

Issue

Whether or not the prosecution was able to establish accused-appellant's guilt beyond reasonable doubt for two (2) counts of qualified rape, and one (1) count of violation of Section 5(b) of RA 7610.

²³ *Id.*

²⁴ Records, p. 213.

²⁵ CA rollo, pp. 102-117.

²⁶ *Id.* at 119.

²⁷ CA rollo, pp. 119-121.

Ruling of the Court

The appeal is dismissed for lack of merit.

The RTC, as affirmed by the CA, found the evidence of the prosecution sufficient to convict accused-appellant for the crimes charged. It is well-settled that the trial court's factual findings on the credibility of witnesses are accorded the highest weight and respect by the appellate courts. This is because it is the trial court which is given the best opportunity to observe up close the manner by which these witnesses testified, as well as their demeanor while testifying.²⁸ In the absence of a clear showing that the trial court overlooked or misconstrued some material facts or committed grave abuse of discretion, the appellate court will not disturb such factual findings.²⁹ This rule becomes even more compelling when the CA concurs with the RTC, as in the instant case.

The Court finds no reason to disturb the common findings of the lower courts.

To prove the crime of qualified rape in this case, the prosecution must establish the following elements: (1) the offender is a man; (2) the offender had carnal knowledge of a woman; and (3) such act was accomplished by using force, threat, or intimidation.³⁰

In addition, the prosecution must also establish the qualifying circumstances of minority and relationship³¹

The elements of rape, along with the circumstance of relationship, were established through AAA's testimony. Referring to the June 2007 incident, AAA testified in open court:

[Prosecutor Wenifredo Pornillos, Jr.]

Q: After your father removed your shorts and underwear, what did your father do next?

A: He inserted his penis into my vagina.

Q: How did (sic) your father able to insert his penis into your vagina?

A: He opened (sic) wide my legs.

Q: When your father was opening your legs wide (sic), what did you do?

A: I tried to close my legs.

²⁸ *People v. Gerola*, 813 Phil. 1055-1069 (2017); G.R. No. 217973, 19 July 2017, 831 SCRA 469.

²⁹ *Rimando v. People*, G.R. No. 229701, 29 November 2017, 847 SCRA 339.

³⁰ *People v. Amoc*, 810 Phil. 253-263 (2017); G.R. No. 216937, 05 June 2017, 825 SCRA 608.

³¹ *People v. Palanay*, 805 Phil. 116-130 (2017); G.R. No. 224583, 01 February 2017, 816 SCRA 493.

COURT :

Where was your father when you said he inserted his penis inside your vagina?

A: He was on top of my body.³²

AAA also narrated on the witness stand the harrowing ordeal she suffered during the incident in October 2007 in this wise:

[Prosecutor Wenifredo Pornillos, Jr.]

Q: You said your father undress (sic) you, your father let you lie down, what did you do when your father was letting you lie down?

A: I want (sic) to run away, but I cannot do because he was too strong.

xxx

Q: While you were lying down your father got undress (sic), and (sic) what did your father do next?

A: He again inserted his penis to my vagina.

Q: How did you know that it was the penis of your father which was inserted in your vagina?

A: Because I saw him that he was the one who touched my breast when I was washing the dishes.

Q: How was your father able to insert his penis into your vagina?

A: He forced opened my legs.³³

Indeed, AAA was able to narrate her revolting experiences of rape in the hands of accused-appellant in a straightforward and categorical manner. She positively testified that on two (2) different dates, accused-appellant had carnal knowledge of her without her consent. She was also able to positively identify accused-appellant as the perpetrator of the crimes.

The prosecution was also able to establish the element of minority through AAA's birth certificate, showing she was merely fifteen (15) years old when the acts of rape were committed.

The testimony of a rape victim of tender or immature age, like AAA, deserves full credit.³⁴ Furthermore, it has been consistently held that a daughter will not ordinarily impute such an odious charge against her own father, voluntarily submit herself to a medical examination, and willingly undergo public trial where she may be compelled to narrate in detail the circumstances of her harrowing experience of unwanted sexual congress, had she not been impelled by a sincere desire to seek justice for her

³² Original Record, p. 58; TSN dated 21 July 2010, pp. 4-5.

³³ Original Record, pp. 61-64; TSN dated 21 July 2010, pp. 9-11.

³⁴ *People v. Guillermo*, 550 Phil. 176-190 (2007); G.R. No. 173787, 23 April 2007, 521 SCRA 597.

debasement.³⁵ We see no compelling reason to deviate from these settled doctrines.

As regards accused-appellant's contention on the alleged absence of laceration in the hymenal area, as evidenced by the medico-legal report, it suffices to state that laceration of the hymen is not an element of the crime of rape; the presence of injuries in the genital area is not necessary to consummate the crime of rape. That accused-appellant succeeded having succeeded carnal knowledge of AAA with the use of force or intimidation and without her consent consummates the crime of rape.³⁶

Accused-appellant's blanket denial of the charges against him must likewise fail in light of the detailed, consistent and categorical testimony of AAA, positively identifying him as the perpetrator of the unwanted sexual congress. Denial, being self-serving, is inherently weak and is looked upon with great disfavor.³⁷ As such, accused-appellant's bare denial cannot be given more evidentiary weight than the testimony of AAA.

All told, the prosecution was clearly able to establish the guilt beyond reasonable doubt of accused-appellant for two (2) counts of rape under Article 266-A of the RPC. In addition, since the prosecution was able to establish both the circumstances of minority and relationship, the rape committed becomes qualified.³⁸

We also find the charge for violation of Section 5(b) of RA 7610³⁹ sufficiently proven. Lascivious conduct under Section 5(b) of RA 7610 has three (3) elements: (1) the accused commits an act of sexual intercourse or lascivious conduct; (2) the said act is performed with a child exploited in prostitution or subjected to other sexual abuse⁴⁰; and (3) the child is below

³⁵ *People v. Barcelá*, 652 Phil. 134-151 (2010); G.R. No. 179948, 08 December 2010; 637 SCRA 599.

³⁶ *People v. Nical*, 754 Phil. 357-370 (2015); G.R. No. 210430, 18 February 2015, 751 SCRA 218.

³⁷ *People v. Cabiles*, 810 Phil. 969-978 (2017); G.R. No. 220758, 07 June 2017, 827 SCRA 89.

³⁸ *Rollo* at 14.

³⁹ Section 5. Child Prostitution and Other Sexual Abuse. — Children, whether male or female, who for money, profit, or any other consideration or due to the coercion or influence of any adult, syndicate or group, indulge in sexual intercourse or lascivious conduct, are deemed to be children exploited in prostitution and other sexual abuse. The penalty of reclusion temporal in its medium period to reclusion perpetua shall be imposed upon the following: xxx xxx xxx

(b) Those who commit the act of sexual intercourse or lascivious conduct with a child exploited in prostitution or subject to other sexual abuse; Provided, That when the victim is under twelve (12) years of age, the perpetrators shall be prosecuted under Article 335, paragraph 3, for rape and Article 336 of Act No. 3815, as amended, the Revised Penal Code, for rape or lascivious conduct, as the case may be: Provided, That the penalty for lascivious conduct when the victim is under twelve (12) years of age shall be reclusion temporal in its medium period.

⁴⁰ Section 2(h) of the Rules and Regulations on the Reporting and Investigation of Child Abuse Cases:

(h) "Lascivious conduct" means the intentional touching, either directly or through clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks, or the introduction of any object into the genitalia, anus or mouth, of any person, whether of the same or opposite sex, with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person, bestiality, masturbation, lascivious exhibition of the genitals or pubic area of a person.

18 years old. As correctly held by the CA, all the foregoing elements had been satisfactorily established, *viz*:

First, a perusal of the records readily reveal that appellant embraced "AAA" and fondled and touched her breasts as vividly attested to by her. Second, the appellant used his moral ascendancy over his daughter in order to perpetrate his lascivious conduct. Finally, "AAA" was admittedly and indisputably below 18 years of age as borne by the evidentiary record.⁴¹

We now discuss the proper penalty to be imposed for each of the two (2) counts of rape, and for violation of Section 5(b) of RA 7610.

The penalty imposed by the RTC, which is *reclusion perpetua* for each count of rape, and affirmed by the CA must be modified. Under Article 266-B(1) of the RPC, the penalty of death shall be imposed when the victim is less than 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. In this case, both the circumstances of minority and relationship, AAA being the daughter of XXX, were sufficiently alleged in the Information and proven during trial. In view of RA 9346⁴² which prohibits the imposition of death penalty, and pursuant to AM No. 15-08-02-SC,⁴³ the penalty against XXX for each count of rape should be *reclusion perpetua* without eligibility for parole.

Anent the charge for violation of Section 5(b) of RA 7610, the imposable penalty is *reclusion temporal* in its medium period to *reclusion perpetua*. In view of the alternative circumstance of relationship taken against accused-appellant, which is always construed as aggravating, and in the absence of any mitigating circumstance to offset the same, the maximum imposable penalty of *reclusion perpetua* is deemed proper.

As regards the liability of accused-appellant for damages, the awards should be modified to conform to recent jurisprudence.⁴⁴ Accused-appellant is thus liable to pay Php100,000.00 as civil indemnity, Php100,000.00 as moral damages, and Php100,000.00 as exemplary damages, for each count of qualified rape. For his conviction for violation of Section 5(b), RA 7610, accused-appellant is likewise liable to pay Php75,000.00 as civil indemnity,

⁴¹ *Rollo*, p. 14

⁴² An Act Prohibiting the Imposition of Death Penalty in the Philippines; Section 3 thereof states:
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. 4103, otherwise known as the Indeterminate Sentence Law, as amended.

⁴³ Guidelines for the Proper Use of the Phrase "Without Eligibility for Parole" in Indivisible Penalties dated 04 August 2015.

⁴⁴ *People v. Jugueta*, G.R. No. 202124, 05 April 2016, 788 SCRA 331.

Php75,000.00 as moral damages, and Php75,000.00 as exemplary damages.⁴⁵ He is also imposed a fine of Php15,000⁴⁶ in accordance with Section 31(f) of RA 7610. The entire monetary award shall earn legal interest at a rate of six percent (6%) *per annum* from the date of finality of this judgment until full payment⁴⁷

WHEREFORE, the Decision dated 25 June 2015 of the Court of Appeals in CA-G.R. CR No. 06293 is hereby **AFFIRMED** with **MODIFICATIONS**. Accordingly, accused-appellant XXX is found **GUILTY** beyond reasonable doubt:

1. In Criminal Case Nos. T-3351 and T-3353, of Qualified Rape under Article 266-A and penalized under Article 266-B (1) of the Revised Penal Code, and is sentenced to suffer the penalty of *reclusion perpetua* without eligibility for parole for each count. Accused-appellant is ordered to pay AAA, for each count of qualified rape, the amounts of Php100,000.00 as civil indemnity, Php 100,000.00 as moral damages, and Php100,000.00 as exemplary damages.
2. In Criminal Case No. T-3354, of Lascivious Conduct under Section 5(b) of RA 7610, and is sentenced to suffer the penalty of *reclusion perpetua* and to pay a fine of Php15,000.00. Accused-appellant is further ordered to pay AAA the amounts of Php75,000.00 as civil indemnity, Php75,000.00 as moral damages, and Php75,000.00 as exemplary damages.

The aggregate monetary awards and fine shall earn legal interest at the rate of six percent (6%) *per annum* from date of finality of this Resolution until fully paid.

SO ORDERED.”

Very truly yours,

Mis-DC Bath
MISAEL DOMINGO C. BATTUNG III
Division Clerk of Court
9/7/2020

⁴⁵ *Id.*

⁴⁶ *People v. Caoili*, 815 Phil. 839-954 (2017); G.R. Nos. 196342 and 196848, 08 August 2017, 835 SCRA 107.

⁴⁷ *People v. Tulagan*, G.R. No. 227363, 19 March 2019.

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The Presiding Judge
REGIONAL TRIAL COURT
Branch 30, San Jose
Camarines Sur
(Crim. Case Nos. T-3351, T-33352 & T-3353)

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