



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **26 February 2020** which reads as follows:*

“**G.R. No. 227877** (*People of the Philippines v. Pedro Pio Bartolome*). – Assailed in this ordinary appeal¹ is the Decision² dated April 26, 2016 of the Court of Appeals (CA) in CA-G.R. CR.-HC. No. 06931 which affirmed the Decision³ dated December 6, 2013 of Branch 172, Regional Trial Court (RTC), Valenzuela City in Criminal Case No. 1006-V-08 finding Pedro Pio Bartolome (accused-appellant) guilty beyond reasonable doubt of the crime of Rape defined and penalized under Article 266-A, in relation to Article 266-B, of the Revised Penal Code (RPC), as amended by Republic Act No. (RA) 8353, otherwise known as “The Anti-Rape Law of 1997.”

Facts

This case stemmed from an Information⁴ filed before the RTC charging the accused-appellant with the crime of Rape. The accusatory portion of which reads:

“That on or about August 12, 2006, in Valenzuela City and within the jurisdiction of this Honorable Court, accused PEDRO PIO BARTOLOME, did then and there willfully, unlawfully and feloniously, actuated by lust and with the use of a gun, had carnal knowledge of fifteen (15) year [sic] old minor [AAA],⁵ against

¹ *Rollo*, pp. 13-14.

² *Id.* at 2-12; penned by Associate Justice Leoncia Real-Dimagiba, with Associate Justices Priscilla J. Baltazar- Padilla and Jhosep Y. Lopez, concurring.

³ *CA rollo*, pp. 161-173; penned by Judge Nancy Rivas-Palmones.

⁴ *Id.* at 15-16.

⁵ 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

ndm

complainant's will and without her consent, to her damage and prejudice."

CONTRARY TO LAW.⁶

The prosecution alleged that at around 3:00 p.m. of August 12, 2006, AAA, then a 15-year-old high school student, went to her grandmother's house to get the clothes that she had left at the room of accused-appellant's daughter, EEE. Accused-appellant and his family lived in the house of AAA's grandmother as accused-appellant is the son-in-law of her grandmother. After getting her clothes in EEE's room on the second floor of the house, AAA saw accused-appellant standing on the stairs. Accused-appellant suddenly pulled AAA inside his room and locked the door. At gunpoint, accused-appellant instructed AAA to go to the bed. Thereafter, accused-appellant raised her shirt and pulled down her shorts and underwear. Accused-appellant started kissing her breasts and inserted his penis inside her vagina three times. Thereafter, accused-appellant suddenly stopped and told AAA to dress up. Accused-appellant warned AAA not to tell anybody or else he will kill her mother, (MMM).⁷

Haunted by her harrowing experience, AAA was unable to focus on her studies. Her class adviser noticed the sudden change in her behavior. AAA became aloof and did not want to talk especially with her male classmates. AAA likewise did not attend her classes for several weeks. As such, her class adviser visited her at home and encouraged her to return to school. When AAA went back to school, her class adviser asked what her problem was. AAA confessed to her that she was raped by her uncle, and that she was afraid because of her uncle's threat that her mother will be killed if she will disclose the incident. The class adviser called MMM, to go to the school and see her. There, the class adviser informed MMM of what accused-appellant did to her daughter.⁸

Abuse, Exploitation And Discrimination, Providing Penalties for its Violation 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" (November 15, 2004). See also Amended Administrative Circular No. 83-2015, entitled Protocols and Procedures in the Promulgation, Publication, and Posting on the Websites of Decisions, Final Resolutions, and Final Orders Using Fictitious Names/Personal Circumstances," dated September 5, 2017).

⁶ *Rollo*, pp. 15-16.

⁷ *Id.* at 3.

⁸ *Id.* at 4.

In his defense, accused-appellant pleaded not guilty to the charge against him. He averred that on August 12, 2006, he was in MCU Hospital together with his mother-in-law and MMM. He narrated that his daughter, JJJ, was confined in the hospital because of dengue and that his wife, RRR, was not around at that time as she was in Japan. At 1:12 p.m., his daughter was discharged from the hospital. They all left the hospital and went to Jollibee in Valenzuela City to have lunch. They finished eating at around 3:00 p.m., then headed to a drug store to buy medicine for JJJ. When they arrived home at around 4:00 p.m., JJJ stayed in the sala while MMM administered the medicine for her. Meanwhile, accused-appellant's three sons and other daughter were playing and watching television in another room. At around 4:30 p.m., accused-appellant and his son, SSS, left the house to go to accused-appellant's friend and churchmate until 6:00 p.m.⁹

Ruling of the RTC

In the Decision¹⁰ dated December 6, 2013, the RTC gave full faith and credence to the testimonies of the prosecution witnesses and convicted accused-appellant of the crime of rape. The RTC sentenced accused-appellant to suffer the penalty of *reclusion perpetua* and ordered him to pay AAA the amount of ₱50,000 as civil indemnity and ₱50,000 as moral damages.¹¹

Ruling of the CA

In the Decision¹² dated April 26, 2016, the CA affirmed accused-appellant's conviction. The CA brushed aside the defense of alibi interposed by accused-appellant in view of AAA's positive identification of him as the culprit and because AAA harbored no ill motive against accused-appellant.¹³

The Issue before the Court

The issue for the Court's resolution is whether or not accused-appellant's conviction should be upheld.

⁹ *Rollo*, pp. 4-5.

¹⁰ *CA rollo*, pp. 161-173.

¹¹ *Id.* at 173.

¹² *Rollo*, pp. 2-12.

¹³ *Id.* at 229

The Court's Ruling

Accused-appellant denies having raped AAA at 3:00 p.m. of August 12, 2006 at his residence. He argues that it was physically impossible for him to rape AAA at that time and place as he arrived home from the hospital that day at 4:00 p.m. with MMM, his daughter, and AAA's grandmother. His three children, who were allegedly present in their house at the date and time of the incident corroborated his defense.

We are not persuaded.

Article 266-A of the RPC defines the crime of rape by sexual intercourse as follows:

“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;
 - 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.

x x x x.”

For the charge of rape to prosper, the prosecution has the burden of proving that: (1) the offender had carnal knowledge of a woman; and (2) he accomplished the act through force, threat or intimidation, or when she was deprived of reason or otherwise unconscious, or when she was under 12 years of age or was demented.¹⁴ The gravamen of this crime is sexual intercourse with a woman against her will or without her

¹⁴ *People v. Delos Santos, Jr.*, 685 Phil. 164, 178-179 (2012).

consent.¹⁵

The crime of rape, due to its intimate nature, is usually a crime bereft of witnesses, and, more often than not, the victim is left to testify for herself. Thus, in the resolution of rape cases, the victim's credibility becomes the primordial consideration. It is settled that when the victim's testimony is straightforward, convincing, and consistent with human nature and the normal course of things, unflawed by any material or significant inconsistency, it passes the test of credibility, and the accused may be convicted solely on the basis thereof.¹⁶

Moreover, in matters pertaining to the victim's credibility, the Court gives great weight to the trial court's findings, considering that it had the full opportunity to observe directly the witnesses' demeanor, conduct and manner of testifying. Indeed, the emphasis, gesture, and inflection of the voice are potent aids in ascertaining the witness' credibility, which no longer appear on the records. These are important in unearthing the truth and determining the witnesses' candor.¹⁷

Here, to establish the crime of rape, the prosecution presented AAA. While she was testifying how her uncle, accused-appellant, defiled her, the court *a quo* observed that AAA was crying and trembling showing her naive and timid nature. She testified that even if accused-appellant's daughter, JJJ was at the living room of her grandmother's house at the ground floor, accused-appellant suddenly pulled her inside his room on the second floor and locked the door. At gunpoint, accused-appellant instructed her to go to the bed. Thereafter, accused-appellant raised her shirt and pulled down her shorts and underwear. Accused-appellant started kissing her breasts and inserted his penis inside her vagina three times.

AAA candidly and consistently recollected how accused-appellant had sexual intercourse with her through force and intimidation at around 3:00 p.m. of August 12, 2006. Due to her harrowing experience, AAA was unable to focus on her studies. She had a sudden change in her behavior. AAA became aloof and did not want to talk especially with her male classmates. AAA likewise did not attend her classes for several weeks.

¹⁵ *People v. Quintal*, 656 Phil. 513, 522 (2011).

¹⁶ *People v. Arceo*, 772 Phil. 613, 620 (2015), citing *People v. Ocdol*, 741 Phil. 701, 714 (2014).

¹⁷ *People v. Martinez*, G.R. No. 226394, March 7, 2018, 858 SCRA 41, 57.

Indubitably, AAA cannot be mistaken that accused-appellant was her rapist. Accused-appellant was her uncle who is very known to her and who just lived in front of their house. Set against AAA's positive identification of accused-appellant as her defiler, accused-appellant's defenses of denial and alibi must fail.

The Court cannot consider as binding truth the corroboration made by accused-appellant's children that accused-appellant arrived home on August 12, 2006 only at 4:00 p.m. This is not the first time that the Court has encountered a case where the accused's alibi was corroborated by a close kin. In this situation, it comes naturally to some to give more weight to blood ties and close relationship than to the objective truth. Besides, accused-appellant's alibi is overturned by the testimonies of AAA's siblings CCC and DDD that accused-appellant, together with MMM, their grandmother, and cousin JJJ, all arrived at the house of accused-appellant as early as 2:00 p.m. not 4:00 p.m. Soon after administering JJJ's medicine, MMM left at once and went home.

Accused-appellant points out that the date August 12, 2006 was a Saturday. As such, there were no classes that day and three of his other children were all home. Such being the case, it was highly improbable that he was able to commit the act of rape against AAA without his children seeing or hearing it.

Time and again, it has been said that lust is no respecter of place and time. It is not necessary that the place where the rape is committed be isolated. Rapists are not deterred from committing their odious acts by the presence of people nearby. In fact, there have been too many instances when rape was committed under circumstances as indiscreet and audacious as a room full of family members sleeping side by side.¹⁸

In this case, AAA convincingly and consistently testified that even if accused-appellant's daughter, JJJ was in the living room at the ground floor of her grandmother's house, accused-appellant suddenly pulled her inside his room on the second floor and locked the door. Apparently, neither the cramped room, nor the presence of other people in the house, nor the high risk of being caught, has been held sufficient and effective obstacle to deter the commission of rape. On this score, the Court brushes aside the alibi of the accused-appellant.

Accused-appellant now attacks AAA's credibility and contends

¹⁸ See *People v. Panes*, 817 Phil. 1096, 1103 (2017).

that her statements are unworthy of belief. He argues that had he indeed inserted his penis into AAA's vagina three times, which allegedly caused AAA to bleed, the insertion should have caused extra-genital physical injury to AAA, but there was none according to her physical examination.

The Court has ruled that in rape cases, the absence of fresh lacerations does not preclude the finding of rape,¹⁹ especially when the victim is of tender age such as AAA.²⁰ Moreover, laceration of the hymen is not an element of the crime of rape.²¹ Hymenal rupture or any indication of vaginal laceration or genital injury is not necessary for the consummation of rape.²² Its absence does not negate a finding of forced sexual coitus.²³ For the rule is well settled that rape is consummated by the slightest penile penetration of the labia majora or pudendum of the female organ.²⁴ Indeed, the evidentiary weight of the medical examination of the victim, as well as the medical certificate, is merely corroborative in character and is not an indispensable element for conviction for rape.²⁵

Be that as it may, the CA in this case aptly noted that the absence of extra-genital physical injuries, per medico legal report,²⁶ may be attributed to the fact that AAA was examined several months after the rape occurred. The rape happened on August 12, 2006, but she was examined only on November 29, 2006. Besides, the medico legal report did not exclude the possibility that AAA was actually sexually abused.

Accused-appellant also questions the delay in AAA's reporting of the alleged rape, arguing that the four months delay in reporting the incident rendered AAA's credibility doubtful.

Delay in reporting a rape, if sufficiently explained, does not affect a witness' credibility.²⁷

¹⁹ *People v. Pruna*, 439 Phil. 440, 463 (2002), citing *People v. Geraban*, 410 Phil. 450, 462 (2001).

²⁰ *People v. Pruna*, *id.* citing *People vs. Ayo*, 365 Phil. 88, 102 (1999).

²¹ *People v. Esteves*, 438 Phil. 687, 699 (2002), citing *People v. Llamo*, 380 Phil. 759, 774 (2000), see *People v. Sapinoso*, 385 Phil. 374, 387 (2000).

²² *People v. Deauna*, 435 Phil. 141, 151 (2002), citing *People v. Lerio*, 381 Phil. 80, 88 (2000).

²³ *People v. Deauna*, *id.*, citing *People vs. Almacin*, 363 Phil. 18, 31 (1999).

²⁴ *People v. Pruna*, *supra* note 19, citing *People v. Rufales*, 379 Phil. 980, 988 (2000); See *People v. Briones*, 439 Phil. 675, 686 (2002), citing *People v. Barredo*, 385 Phil. 760, 769 (2000); *People v. Balgos*, 380 Phil. 343, 359 (2000).

²⁵ *People v. Lerio*, *supra* note 22; *People v. Baltazar*, 385 Phil. 1023, 1036 (2000); See *People v. Auxtero*, 351 Phil. 1001, 1009 (1998); *People v. Venerable*, 352 Phil. 623, 634 (1998).

²⁶ Records, p. 45.

²⁷ *People v. Dayuha*, 396 Phil. 721, 727 (2000).

Considering AAA's tender age, her reluctance to reveal her ordeal was not unreasonable. She feared accused-appellant's threat that he will kill her mother if she will disclose what happened. Moreover, anyone, especially a child like AAA, who has just been sexually assaulted is not expected to immediately regain composure, as she will naturally be confused and dazed by her harrowing experience. The silence of AAA, her failure to immediately disclose her defilement to persons close to her, and to report the matter to the authorities do not warrant the conclusion that she was not sexually molested, and that her charges against accused-appellant are all baseless, untrue, and fabricated.²⁸ The fact that fear prevented her from at once revealing what had been done to her by accused-appellant, whom she always saw in front of their house is a reasonable explanation.

Insisting on his innocence, accused-appellant imputes ill motive on the part of AAA and her family. He alleges that MMM, was harboring ill motive against his family because of jealousy and anger due to his opposition to allow AAA's family to transfer in the newly renovated house owned by his mother-in-law, without advance payment. In fact, accused-appellant averred that MMM even accused him of pimping AAA's younger sister to a male Japanese.

We quote with approval the apt disquisition of the RTC, which the CA upheld:

With regard to the allegation of ill motive of the family of AAA, the same deserves no merit. It is undisputed that, AAA's mother [MMM] came to know about the rape only after she was called by the teacher of AAA in school for the latter's long absences in her classes. The filing of the complaint against the accused was not triggered by the alleged feud of the family of AAA and the accused. The initiation of the filing of the case was triggered when AAA revealed the rape incident to her teacher, [OOO]. Moreover, [MMM] took care of [JJJ], the daughter of the accused while JJJ was in the hospital and even administered [JJJ]'s medicine as soon as [JJJ] arrived home, clearly showing that there was no animosity between AAA's and [the] accused's family. Thus, the filing of the case could not be said to be ill-motivated.²⁹

Furthermore, no member of a rape victim's family would dare encourage the victim to publicly expose the dishonor to the family unless the crime was in fact committed,³⁰ especially in this case where

²⁸ *People v. Emilio*, 445 Phil. 15, 24 (2003), citing *People v. Yambao*, 271 Phil. 601, 608 (1991).

²⁹ *Rollo*, p. 9.

³⁰ *People v. Abangin*, 358 Phil. 303, 314 (1998).

the victim and the offender are relatives by affinity. It is unnatural for a mother such as MMM to use her daughter as an engine of malice, especially if it will subject her child to embarrassment and lifelong stigma.³¹

All told, We find that the prosecution has successfully discharged its burden of proving the guilt of accused-appellant with moral certainty thus, the Court is constrained to uphold his conviction.

Having established that accused-appellant had carnal knowledge of AAA through force, threat, or intimidation, he should be convicted of rape under paragraph 1 (a), Article 266-A of the RPC, as amended by RA 8353. To note, although AAA was only 15 years old, hence a minor at that time, it was neither alleged nor proven that accused-appellant was her parent, ascendant, stepparent, guardian, relative by consanguinity or affinity within the third civil degree, or the common law spouse of the parent of the victim so as to qualify the crime and impose a higher penalty. As such, pursuant to the first paragraph of Article 266-B of the same law, accused-appellant should be meted out with the penalty of *reclusion perpetua* as ruled by both the RTC and the CA. However, the Court modifies the monetary awards in AAA's favor in the amounts of ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages, and ₱75,000.00 as exemplary damages, all with legal interest at the rate of 6% per annum from finality of this ruling until fully paid in accordance with prevailing jurisprudence.³²

WHEREFORE, the appeal is **DENIED**. The Decision dated April 26, 2016 of the Court of Appeals (CA) in CA-G.R. CR. HC. No. 06931 is hereby **AFFIRMED** with **MODIFICATION**. Accused-appellant Pedro Pio Bartolome is hereby found **GUILTY** beyond reasonable doubt of the crime of Rape under Article 266-A of the Revised Penal Code, as amended by Republic Act No. 8353. Accordingly, he is sentenced to suffer the penalty of *reclusion perpetua*.

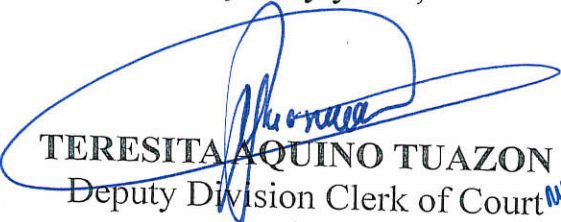
Further, he is ordered to pay AAA the amounts of ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages and ₱75,000.00 as exemplary damages, all with legal interest at the rate of 6% per annum from finality of this ruling until fully paid.

³¹ *People v. Velarde*, 661 Phil. 699, 713 (2011).

³² *People v. Ejercito*, G.R. No. 229861, July 2, 2018.

SO ORDERED.” (*Hernando, J.*, recused from the case due to prior participation in the Court of Appeals; *Zalameda, J.*, designated additional member per Raffle dated February 24, 2020.)

Very truly yours,


TERESITA AQUINO TUAZON
Deputy Division Clerk of Court *MC 8/27*
28 AUG 2020

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HON. PRESIDING JUDGE (reg)
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*with copy of CA decision dated 26 April 2016
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