



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated **January 26, 2021** which reads as follows:

“G.R. No. 203103 – (PEOPLE OF THE PHILIPPINES, plaintiff-appellee v. ZZZ,¹ accused-appellant). – This is an ordinary appeal under Rule 122 of the Rules of Court, seeking to reverse and set aside the Decision² dated January 24, 2012 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 03816. The said issuance affirmed with modification the October 28, 2008 Joint Judgment³ of the Regional Trial Court (RTC), Branch 33 of Pili, Camarines Sur, in Criminal Case Nos. P-3714 and 3715 which, in turn, found accused-appellant ZZZ (ZZZ) guilty beyond reasonable doubt of one count of rape, and imposing upon him the penalty of *reclusion perpetua* and other monetary awards.

The Antecedents

ZZZ was indicted of the crime charged by virtue of two separate Informations which read as follows:

Criminal Case No. P-3714

That sometime on [sic] the month of February 2001 at around midnight in [REDACTED], Camarines Sur, Philippines

- over – thirteen (3) pages ...

199-B

¹ 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 the Amended Administrative Circular No. 83-2015 dated September 5, 2017.

² *Rollo*, pp. 2-11; penned by Associate Justice Agnes-Reyes Carpio and concurred in by Associate Justices Jose C. Reyes, Jr. and Priscilla J. Baltazar-Padilla (both now a retired Member of this Court).

³ *CA rollo*, pp. 12-22; rendered by Assisting Judge Lore R. Valencia-Bagalacsa.

A handwritten signature in blue ink, located in the bottom right corner of the page.

and within the jurisdiction of this Honorable Court, the above-named accused, through force and intimidation with the use of bladed weapon, did then and there willfully, unlawfully and feloniously succeed in having carnal knowledge with AAA, a 13[-]year old minor and biological daughter of the above-named accused against her will and consent to her damage and prejudice.

ACTS CONTRARY TO LAW.⁴

Criminal Case No. P-3715

That sometime on [sic] the month of February 2001 at around midnight in ██████████ Camarines Sur, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, through force and intimidation with the use of bladed weapon, did then and there willfully, unlawfully and feloniously succeed in having carnal knowledge with AAA, a 13[-]year old minor and biological daughter of the above-named accused, (after a first incident of rape) against her will and consent to her damage and prejudice.

ACTS CONTRARY TO LAW.⁵

Upon arraignment, ZZZ, assisted by counsel, pleaded not guilty to the offenses charged. Pre-trial thus ensued, followed by trial on the merits.

ZZZ is the live-in partner of BBB. The private offended party, AAA, is their biological daughter who was born on September 8, 1988. AAA is suffering from mild mental retardation, having an intelligence quotient of 57. While she was 16 years old at the time of her medical examination, she had the mental age of a 9-year old.

The evidence for the prosecution, as summarized by the trial court, established the following:

In February 2001, [AAA] and her family resided at ██████████ ██████████ Camarines Sur, which is also known as Pawili, Bula, Camarines Sur. At that time, [AAA]'s mother went to Cavite/Manila, after her father's sister got her mother to work there.

The Balbuena children, ten of them, lived in a one room house, that they slept together shoulder to shoulder, the room measuring about 4.6 meters by 2.5 meters (as demonstrated by [AAA]). [AAA], who was taking care of her youngest sister ██████████ (CCC), slept by the latter's side. Her father [ZZZ] slept beside

- over -

199-B

⁴ Id. at 65.

⁵ Id.

her brother [REDACTED] (DDD), whose age she could no longer remember. Then one night somebody removed her pants and shirt. It was her father, who also kissed her all over her body.

During the narration of facts in open Court, [AAA] could not answer directly what happened to her at their residence that night in February 2001. She was continuously crying. The Government Prosecutor therefore submitted in evidence the sworn statement of [AAA], which the latter affirmed and confirmed as true and correct.

In her sworn declaration given before the police officer of Bula, Camarines Sur, [AAA], among other things, related that her father “forcibly” raped her several times sometime in February 2001. Her father was armed with a bladed weapon, [AAA] said. She was still 13 years old at that time and taking care of her youngest sister. Her father poked a bladed weapon at her, grabbed her and removed her short pants and T-shirt. She tried to evade him, but he forcibly laid her down and started kissing, caressing, and touching her private parts. Thereafter, her father sexually molested her. Her father threatened to behead her if she would tell her mother. She only informed her aunt [EEE] on July 12, 2004 about the incident. She decided to leave their house together with her aunt, but while they were walking at the [REDACTED] bridge, her mother caught them. She then told her of her ordeal.⁶

The medical examination conducted on AAA yielded the following findings:

1. Cervix admits 1 finger with ease
2. (+) old laceration on 3:00 o'clock position, 6:00 o'clock position and 9:00 o'clock position.⁷

Professing innocence, ZZZ denied the accusations against him. He claimed that in February 2001, he was working as a furniture maker in Naga City, and that he went home only twice a month. Contrary to AAA's claim, BBB only started working in Manila in the year 2002. ZZZ asserted that he was a strict father to his children, forbidding them from attending social gatherings. AAA allegedly disliked ZZZ's drinking habits. Likewise, AAA had a boyfriend at the time of the alleged rape incidents and was “*mahilig sa barkada.*”

On October 28, 2008, the RTC found ZZZ guilty of one count of rape, as charged in Criminal Case No. P-3714. The dispositive portion of the Joint Judgment reads:

- over -

199-B

⁶ Id. at 17.

⁷ Id. at 15.

WHEREFORE, in view of the foregoing considerations, this Court hereby finds accused [ZZZ],

1. In Criminal Case No. P-3715, he is *ACQUITTED* of the charge for insufficiency of evidence;

2. In Criminal Case No. 3714, *GUILTY* beyond reasonable doubt of the crime for which he is charged, and is therefore sentenced to suffer imprisonment of *RECLUSION PERPETUA*, to indemnify [AAA] Fifty Thousand Pesos (P50,000.00) as civil liability, Fifty Thousand Pesos as moral damages, and Fifty Thousand Pesos (P50,000.00) as exemplary damages, and to pay the costs of this suit.

The period of accused's imprisonment from July 28, 2004 is considered in the service of his sentence.

SO ORDERED.⁸

Aggrieved, ZZZ interposed an appeal to the CA contending, *inter alia*, that he must be acquitted because of the inherent vagueness and uncertainty of AAA's testimony, the impossibility of committing the crime of rape in their crowded room, and the alleged lack of credibility of AAA because of her mental condition.

ZZZ's appeal was denied by the CA in the herein assailed Decision dated January 24, 2012, the dispositive portion of which states:

WHEREFORE, the assailed Joint Judgment dated October 28, 2008 of the Regional Trial Court, Branch 33, Pili, Camarines Sur, is *AFFIRMED* with *MODIFICATION*. Accordingly, accused-appellant is directed to pay P75,000.00 as civil indemnity, P75,000.00 as moral damages, and P30,000.00 as exemplary damages.

SO ORDERED.⁹

Hence, the present recourse.

On March 1, 2012, the CA issued a minute resolution¹⁰ giving due course to the Notice of Appeal¹¹ filed by ZZZ, thereby ordering the elevation of the records of the instant case to this Court.

- over -

199-B

⁸ Id. at 22.

⁹ *Rollo*, p. 10.

¹⁰ Id. at 15.

¹¹ *CA rollo*, p. 105.

In a Resolution¹² dated October 8, 2012, this Court noted the records of the case forwarded by the CA. The parties were then ordered to file their respective supplemental briefs, should they so desire, within 30 days from notice.

On December 13, 2012, the Office of the Solicitor General filed a Manifestation¹³ on behalf of the People stating that it would no longer file a supplemental brief because all of its contentions had been amplified in full in the Appellee's Brief¹⁴ that it submitted to the CA. On January 18, 2013, ZZZ, through the Public Attorney's Office, filed a similar Manifestation.¹⁵

The Issue

The issue raised for the Court's resolution is whether or not the CA correctly upheld the conviction of ZZZ for the crime of rape.

The Ruling of the Court

Time and again, the Court has held that when the issues involve matters of credibility of witnesses, the findings of the trial court, its calibration of the testimonies, and its assessment of the probative weight thereof, as well as its conclusions anchored on said findings, are accorded high respect, if not conclusive effect. This is so because the trial court has the unique opportunity to observe the demeanor of witnesses and is in the best position to discern whether they are telling the truth.¹⁶ Moreover, the CA, performing its sworn duty to re-examine the trial records as thoroughly as it could in order to uncover any fact or circumstances that could impact the verdict in favor of the appellant, is presumed to have uncovered none sufficient to undo or reverse the conviction.¹⁷ Thus, it bears to reiterate that in the review of a case, the Court is guided by the long-standing principle that factual findings of the trial court, especially when affirmed by the CA, deserve great weight and respect.¹⁸

In reviewing rape convictions, the Court has been guided by three principles, namely: (a) that an accusation of rape can be made with facility; it is difficult for the complainant to prove but more difficult for the accused, though innocent, to disprove; (b) that in view

- over -

199-B

¹² *Rollo*, pp. 17-18.

¹³ *Id.* at 23-24.

¹⁴ *CA rollo*, pp. 61-77.

¹⁵ *Rollo*, pp. 26-28.

¹⁶ *People v. Dayaday*, 803 Phil. 363, 370-371 (2017).

¹⁷ *People v. Sota*, 821 Phil. 887, 900 (2017).

¹⁸ *People v. Racal*, 817 Phil. 665, 676 (2017).

of the intrinsic nature of the crime of rape as involving only two persons, the rapist and the victim, the testimony of the complainant must be scrutinized with extreme caution; and (c) that the evidence for the prosecution must stand or fall on its own merits, and cannot be allowed to draw strength from the weakness of the evidence for the defense.¹⁹ Rape is particularly odious, one which figuratively scrapes the bottom of the barrel of moral depravity, when committed against a minor.²⁰ It is essentially an offense of secrecy involving only two persons and not generally attempted save in secluded places far from prying eyes.²¹ Thus, the accused can be convicted solely on the testimony of the victim for as long as such testimony is credible, convincing, and consistent with human nature and the normal course of things.²²

Following a thorough and judicious review of the records of this case, as well as the parties' respective postures as asseverated in their pleadings, We find the appeal to be bereft of merit.

AAA is a credible witness.

It is beyond cavil that AAA is suffering from mental retardation. The prosecution was able to establish AAA's condition after she was examined by Dr. Imelda C. Escudra of the Department of Psychiatry, Bicol Medical Center, Naga City who, in turn, testified in open court as regards AAA's condition.

In *People v. Dalandas*,²³ the Court defined mental retardation in the following manner:

Mental retardation is a chronic condition present from birth or early childhood and characterized by impaired intellectual functioning measured by standardized tests. It manifests itself in impaired adaptation to the daily demands of the individuals own social environment. Commonly, a mental retardate exhibits a slow rate of maturation, physical and/or psychological, as well as impaired learning capacity.²⁴

Mental retardation *per se* does not affect a witness' credibility.²⁵ A mental retardate may be a credible witness.²⁶ The

- over -

199-B

¹⁹ *People v. Buado, Jr.*, 701 Phil. 72, 83-84 (2013).

²⁰ *People v. Lopez*, 617 Phil. 733, 736 (2009).

²¹ *People v. Llanas, Jr.*, 636 Phil. 611, 621 (2010).

²² *People v. Nuyok*, 759 Phil. 437, 450 (2015).

²³ 442 Phil. 688 (2012).

²⁴ *Id.* at 695.

²⁵ *People v. Obogne*, 730 Phil. 354, 359 (2014).

²⁶ *Id.*

acceptance of her testimony depends on the quality of her perceptions and the manner she can make them known to the court.²⁷ As long as a witness' testimony is straightforward, candid and unflawed by inconsistencies or contradictions in its material points, and his or her demeanor is consistent with one who has been victimized to thus bolster credibility with the verity born out of human nature and experience, credibility can be accorded to him or her.²⁸

Indeed, a mentally retarded victim cannot fabricate her charges.²⁹ The fact that AAA broke down and cried on the witness stand is, to the mind of the Court, a stirring sign of the truth of her allegations.³⁰ In *People v. Castillo*,³¹ the Court held:

It bears emphasis that the competence and credibility of mentally deficient rape victims as witnesses have been upheld by this Court where it is shown that they can communicate their ordeal capably and consistently. Rather than undermine the gravity of the complainant's accusations, it even lends greater credence to her testimony, that, someone as feeble-minded and guileless could speak so tenaciously and explicitly on the details of the rape if she has not in fact suffered such crime at the hands of the accused. Moreover, it is settled that when a woman says she has been raped, she says in effect all that is necessary to show that she has been raped and her testimony alone is sufficient if it satisfies the exacting standard of credibility needed to convict the accused.³²

In this regard, We note the following synthesis of the trial court with regard to AAA's testimony:

[AAA] sufficiently and positively related to the Court, although in a halting manner, punctuated by crying episodes and moments of lengthy silence, her father's initial sexual intercourse with her. Dr. Escuadra, the psychiatrist who conducted the psychiatric examination of [AAA] explained the latter's condition of having a mental age of a nine year old child. The Court ruled that "*a child of tender years cannot be expected to be able to recount the details of her torment with exactitude.*" However, private complainant was able to identify her father positively as the one who removed her clothes that night of February 2001 and had sexual intercourse with her against her will and consent. That [ZZZ] is [AAA]'s father is borne by the evidence on record.

- over -

199-B

²⁷ *People v. Tamano*, 652 Phil. 214, 229 (2010).

²⁸ *People v. Macapal, Jr.*, 501 Phil. 675, 684 (2005).

²⁹ *People v. Suansing*, 717 Phil. 100, 111 (2013).

³⁰ *People v. Tablang*, 619 Phil. 757, 770 (2009).

³¹ 641 Phil. 570 (2010).

³² *Id.* at 587-588.

Accused himself caused the registration of [AAA]'s birth as indicated in the latter's birth record. In fact, during the pre-trial, defense admitted that [AAA] is [ZZZ]'s daughter.³³

We find that AAA was able to recall, albeit with much difficulty given her condition, the act of rape committed against her. She was likewise able to identify ZZZ, her own biological father, as the perpetrator of such act. Her testimony was corroborated with the result of her medical examination which found lacerations on AAA.

It has been repeatedly held that the RTC's assessment of the credibility of witnesses deserves great respect in the absence of any attendant grave abuse of discretion, since it has the advantage of actually examining the real and testimonial evidence, including the conduct of the witnesses, and is in the best position to rule on the matter. This rule finds greater application when the RTC's findings are sustained by the CA, as in this case.³⁴

ZZZ's claim that rape cannot occur in a small room that AAA shared with her siblings is untenable.

Furthermore, the Court finds no merit in ZZZ's assertion defense that AAA could not have been raped because the crime was committed in a cramped room that AAA shared with her siblings.

It is well-settled that close proximity of other relatives at the scene of the rape does not negate the commission of the crime.³⁵ In *People v. Corial*,³⁶ the Court held that rapists are not deterred from committing the odious act of sexual abuse by the mere presence nearby of people or even family members; rape is committed not exclusively in seclusion.³⁷ Lust is no respecter of time and place,³⁸ and rape defies constraints of time and space.³⁹ In *People v. Sangil, Sr.*,⁴⁰ We held that:

In *People v. Ignacio*, we took judicial notice of the interesting fact that among poor couples with big families living in small quarters, copulation does not seem to be a problem despite

- over -

199-B

³³ *Rollo*, pp. 19-20.

³⁴ *People v. Urmaza*, 829 Phil. 324, 339 (2018).

³⁵ *People v. Descartin*, 810 Phil. 881, 892 (2017).

³⁶ 451 Phil. 703 (2003).

³⁷ *People v. Barberan, et al.*, 788 Phil. 103, 110 (2016).

³⁸ *People v. Bugna*, 829 Phil. 536, 547 (2018).

³⁹ *People v. Molejon*, 830 Phil. 519, 533 (2018).

⁴⁰ 342 Phil. 499 (1997).

the presence of other persons around them. Considering the cramped space and meager room for privacy, couples perhaps have gotten used to quick and less disturbing modes of sexual congresses which elude the attention of family members; otherwise, under the circumstances, it would be almost impossible to copulate with them around even when asleep. It is also not impossible nor incredible for the family members to be in deep slumber and not be awakened while the sexual assault is being committed. One may also suppose that growing children sleep more soundly than grown-ups and are not easily awakened by adult exertions and suspirations in the night. There is no merit in appellant's contention that there can be no rape in a room where other people are present. There is no rule that rape can be committed only in seclusion. We have repeatedly declared that "lust is no respecter of time and place," and rape can be committed in even the unlikeliest of places.⁴¹ (Citations omitted)

Cramped spaces of habitation have not halted the criminal from imposing himself on the weaker victim, for privacy is not a hallmark of the crime of rape.⁴² Neither the crampedness of the room, nor the presence of other people therein, nor the high risk of being caught, has been held a sufficient and effective obstacle to deter the commission of rape.⁴³

ZZZ's defense of alibi and denial cannot prevail over AAA's positive identification.

ZZZ's bare defense of alibi and denial finds no support in our jurisprudence.

This Court has time and again declared that the defense of alibi and denial, if not substantiated by clear and convincing evidence, are negative and self-serving evidence undeserving of weight in law. They are considered with suspicion and received with caution, not only because they are inherently weak and unreliable but also because they are easily fabricated and concocted⁴⁴ and difficult to check or rebut.⁴⁵ Emphatically, for the defense of *alibi* to prosper, appellant must prove not only that he was at some other place when the crime was committed but that it was physically impossible for him to be at the *locus criminis* at the time of its commission.⁴⁶ Such is not the case

- over -

199-B

⁴¹ Id. at 506-507.

⁴² *People v. Nuyok*, 759 Phil. 437-454 (2015).

⁴³ *People v. Gerandoy*, 743 Phil. 396, 415-416 (2014).

⁴⁴ *People v. Pagamucan*, 820 Phil. 732, 738 (2017).

⁴⁵ *People v. Agalot*, 826 Phil. 541, 557 (2018).

⁴⁶ *People v. Villanueva*, 822 Phil. 821, 834-835 (2017).

here. Where there is the least chance for the accused to be present at the crime scene, the defense of alibi must fail.⁴⁷

Denial and alibi are inherently weak defenses and must be brushed aside when the prosecution has sufficiently and positively ascertained the identity of the accused.⁴⁸ In the face of the positive identification by AAA, ZZZ 's self-serving denial and alibi cannot prevail.⁴⁹

There is, however, a need to modify the nomenclature of the crime committed, as well as the penalty imposed upon ZZZ.

ZZZ is guilty of qualified rape.

Article 266-A(1) and Article 266-B of the Revised Penal Code (RPC) read 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 is otherwise unconscious;
- c. By means of fraudulent machination or grave abuse of authority;
- 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 x x x

ART. 266-B. *Penalties.* - Rape under paragraph 1 of the next preceding article shall be punished by *reclusion perpetua*.

x x x x

The death penalty shall also be imposed if the crime of rape is committed with any of the following aggravating/qualifying circumstances:

- over -

199-B

⁴⁷ *People v. Bongos*, 824 Phil. 1004, 1021-1022 (2018).

⁴⁸ *People v. Alberca*, 810 Phil. 896, 909 (2017).

⁴⁹ *People v. Gersamio*, 763 Phil. 523, 540 (2015).

1. When the victim is under eighteen (18) years of age and the offender is a 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.

In a conviction for qualified rape, the prosecution must prove all the elements thereof, which are: (1) sexual congress (2) with a woman; (3) done by force, threat, or intimidation without consent; (4) the victim is under eighteen years of age at the time of the rape; and (5) the offender is a parent, ascendant, stepparent, guardian, relative by consanguinity or affinity within the third civil degree of the victim, or the common-law spouse of the parent of the victim.⁵⁰

In the instant case, ZZZ admitted during pre-trial that AAA is his biological daughter who was 13 years old at the time of the commission of the crime in February 2001. The prosecution was able to prove the fact that ZZZ had sexual intercourse with AAA who, in turn, was able to recount the sordid details of her harrowing experience. ZZZ is therefore guilty of the crime of qualified rape.

Article 266-B of the RPC prescribes the death penalty for the crime of qualified rape. However, in light of the abolition of the death penalty pursuant to Republic Act No. 9346,⁵¹ the imposable penalty is lowered to *reclusion perpetua*⁵² without eligibility for parole.⁵³

With respect to the damages awarded in favor of AAA, the same must be increased in light of the Court's ruling in *People v. Jugueta*,⁵⁴ as follows:

1. One Hundred Thousand Pesos (₱100,000.00) as civil indemnity;
2. One Hundred Thousand Pesos (₱100,000.00) as moral damages; and
3. One Hundred Thousand Pesos (₱100,000.00) as exemplary damages.

In rape cases, the award of civil indemnity is mandatory upon proof of the commission of rape, whereas moral damages are

- over -

199-B

⁵⁰ *People v. Palanay*, 805 Phil. 116, 123 (2017).

⁵¹ Entitled, "AN ACT PROHIBITING THE IMPOSITION OF DEATH PENALTY IN THE PHILIPPINES."

⁵² *People v. Cadano, Jr.*, 729 Phil. 576, 586 (2014).

⁵³ *People v. Aycardo*, 810 Phil. 309, 317 (2017).

⁵⁴ 783 Phil. 806 (2016).

automatically awarded without the need to prove mental and physical suffering.⁵⁵ Exemplary damages are also imposed, as an example for the public good and to protect minors from all forms of sexual abuse.⁵⁶

All damages awarded shall earn legal interest at the rate of six percent (6%) *per annum* from the date of finality of this Resolution until their full satisfaction.⁵⁷

WHEREFORE, premises considered, the appeal is **DENIED** for lack of merit. Accordingly, the Decision dated January 24, 2012 of the Court of Appeals in CA-G.R. CR-HC No. 03816 is **AFFIRMED** with **MODIFICATION**. Accused-appellant ZZZ is hereby found guilty beyond reasonable doubt of the crime of qualified rape and is sentenced to suffer the penalty of *reclusion perpetua* without eligibility for parole. The amounts of civil indemnity, moral damages, and exemplary damages awarded to AAA are increased to ₱100,000.00 each. Interest at the rate of six percent (6%) *per annum* is hereby imposed on the total monetary award from the date of finality of this Resolution until its full satisfaction.

SO ORDERED.” *Zalameda, J., took no part; Perlas-Bernabe, J., designated Additional Member per Raffle dated July 8, 2020.*

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court *21-3/8*

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court
199-B

- over -

⁵⁵ *People v. Buclao*, 736 Phil. 325, 340 (2014).

⁵⁶ *Id.*

⁵⁷ *Nacar v. Gallery Frames*, 716 Phil. 267 (2013).



The Solicitor General
134 Amorsolo Street, Legaspi Village
1229 Makati City

Court of Appeals (x)
Manila
(CA-G.R. CR HC No. 03816)

The Hon. Presiding Judge
Regional Trial Court, Branch 33
Pili, 4418 Camarines Sur
(Crim. Case Nos. P-3714 & P-3715)

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199-B

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