



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **20 January 2021** which reads as follows:*

“**G.R. No. 242280 – (People of the Philippines vs. XXX).** – The Court **NOTES** the Office of the Solicitor General’s Manifestation¹ (in lieu of supplemental brief) dated January 14, 2020 by way of compliance with the Resolution² dated January 14, 2019, adopting and repleading the Appellee’s Brief in lieu of supplemental brief.

Appellant assails the trial court’s verdict of conviction against him for Qualified Statutory Rape, as affirmed by the Court of Appeals. He insists that his denial must prevail over complainant’s testimony which he claims was incredible and borne out of her mother’s resentment against him.

To begin with, we affirm the trial court’s finding that AAA’s³ testimony is credible and straightforward and, as such, is sufficient to convict appellant of Rape through sexual intercourse, the elements of which are: (1) that the offender is a man; (2) that the offender had carnal knowledge of a woman; and (3) that such act is accomplished by using force or intimidation. Rape by sexual intercourse is a crime committed by a man against a woman, and the central element is carnal knowledge.⁴

¹ *Rollo*, pp. 37-39.

² *Id.* at 28-29.

³ 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.

⁴ *People v. Caoili*, 815 Phil. 839, 883 (2017).

First. AAA's testimony was replete with details which she could not have narrated had she not herself actually experienced the heinous crime of Rape. She was roused from sleep when appellant touched her feet. After she went near him, appellant immediately covered her mouth and told her to keep quiet. She tried to resist but he was too strong for her. He removed her shorts, panty, t-shirt and sando while he also removed his shorts and brief. After instructing her to lie down, appellant, opened her legs and went on top of her and rubbed "*kiniskis*" his erect penis on her vagina. On cross, she clarified that what she meant by "*kiniskis*" was he was able to penetrate her.

In any event, appellant, being the common-law husband of BBB, had moral ascendancy over AAA. A father figure's moral ascendancy or influence supplants the element of violence or intimidation in a charge of Rape.⁵

Second. AAA's tale of sexual ravishment was corroborated by medical findings that she had "*deep healed laceration at the 4, 6, 7 & 8 o'clock positions.*" Hymenal lacerations, whether healed or fresh, are the best evidence of forcible defloration. And when the consistent and forthright testimony of a rape victim is consistent with medical findings, there is sufficient basis to warrant a conclusion that the essential requisites of carnal knowledge have been established.⁶

Third. Appellant alluded ill motive on BBB for instigating the complaint. He claimed that BBB was angry for not buying her a house and lot as he promised. The Court finds this aspersion of ill-motive flimsy. It is highly implausible that AAA and BBB would go through the harrowing experience of filing rape charges against appellant for such relatively trivial reason.⁷ More important, motive is irrelevant where the victim had positively identified appellant as the person who raped her.

Besides, a young girl would not accuse her father figure of a serious offense like rape, had she really not been aggrieved. Her testimony against him is entitled to greater weight, since reverence and respect for elders is too deeply ingrained in Filipino children and is even recognized by law.⁸

Fourth. The supposed inconsistency in AAA's testimony on direct (that appellant removed her clothes as she quietly lay on the floor) and on cross (that appellant pushed her onto the foam mattress, she attempted to shout and remove appellant's hand from her mouth) hinges on a trivial matter and does not detract from the fact that she was sexually violated on April 15, 2016. When the offended party is of tender age and immature, courts are inclined to give credit to her account of what transpired, considering not only her relative

⁵ See *People v. Austria*, 820 Phil. 747, 766 (2017).

⁶ *People v. Ronquillo*, 818 Phil. 641, 651 (2017).

⁷ See *People v. Medina*, 788 Phil. 115, 124 (2016).

⁸ See *People v. ZZZ*, G.R. No. 224584, September 04, 2019.

vulnerability but also the shame to which she would be exposed if the matter to which she testified is not true. Youth and immaturity are generally badges of truth and sincerity.⁹ Errorless recollection of a harrowing incident cannot be expected of a witness, especially when she is recounting details of an experience so humiliating and so painful as rape. What is important is that the victim's declarations are consistent on basic matters constituting the elements of rape and her positive identification of the person who committed it.¹⁰

Against complainant's positive identification of appellant as the one who sexually ravished her on April 15, 2016 and the corroborative medical findings of Dr. Sabino-Diangson, appellant merely interposed denial. Denial is the weakest of all defenses. It easily crumbles in the face of positive identification of the accused as the perpetrator of the crime.¹¹

***Appellant is guilty
of qualified rape
only, not qualified
statutory rape***

Statutory Rape is committed by sexual intercourse with a woman below twelve (12) years of age regardless of her consent, or the lack of it, to the sexual act.¹² Thus, to sustain a conviction therefor, the prosecution must prove: (a) the age of the complainant; (b) the identity of the accused; and (c) the sexual intercourse between the accused and the complainant.¹³

Here, the Information alleged that complainant was fifteen (15) years when she was raped on April 15, 2016, although it was eventually proven during trial through her birth certificate and her testimony that she was in fact only eleven (11) years old at the time. Verily, it was erroneous for the lower courts to have convicted appellant of Qualified Statutory Rape. For AAA's age was not properly alleged in the Information. Qualifying circumstances must be properly pleaded in the indictment. If the same are not properly pleaded but proved, they shall be considered only as aggravating circumstances since the latter admit of proof even if not pleaded. It would be a denial of the right of the accused to be informed of the charges against him and consequently, a denial of due process.¹⁴

On the other hand, the elements of Qualified Rape are: (1) sexual congress; (2) with a woman; (3) done by force and without consent; (4) the victim is under eighteen (18) years of age at the time of the rape; (5) the

⁹ *People v. Araojo*, 616 Phil. 275, 287 (2009). citing *Llave v. People*, 522 Phil. 340 (2006) and *People v. Guambor*, 465 Phil. 671, 678 (2004).

¹⁰ *People v. Daco*, 589 Phil. 335, 348 (2008).

¹¹ *People v. Glinio*, 564 Phil. 396, 420 (2007).

¹² *People v. XXX*, G.R. No. 226467, October 17, 2018 citing *People v. Manaligod*, 831 Phil. 204, 211 (2018).

¹³ See *People v. Manaligod*, *id.*

¹⁴ *People v. Begino*, 601 Phil. 182, 191 (2009).

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.¹⁵

Based on complainant's credible and straightforward testimony, the prosecution had established all the elements of Qualified Rape. Appellant had sexual congress with AAA - his common-law wife's daughter – who was below eighteen (18) years old at the time, as alleged in the Information and proved by her certificate of live birth. The circumstance of relationship was also alleged and established by AAA and BBB's respective testimonies and appellant's own admission. Appellant employed force, coupled with his moral ascendancy, when he pushed and held complainant as he took off her clothes and later on covered her mouth and had carnal knowledge of her.

Imposable Penalties and Damages

The crime of Rape is 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;
 - 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 purposes of imposing the death penalty in cases of Qualified Rape, Article 266-B of the RPC provides:

Article 266-B Penalty – x x x

x x x x

¹⁵ *People v. Buclao*, 736 Phil. 325, 336 (2014).

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

1) When the victim is under 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;

x x x x

Under Article 266-B of the RPC, the prescribed penalty is death where the victim is below eighteen (18) years of age and the violator is her parent's common-law spouse. By virtue of Republic Act No. 9346 (RA 9346), however, the death penalty is reduced to *reclusion perpetua* without eligibility for parole. Section 3 of RA 9346 states:

SEC. 3. Person 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. 4180, otherwise known as the Indeterminate Sentence Law, as amended.

Additionally, appellant is liable for ₱100,000.00 as civil indemnity, ₱100,000.00 as moral damages, and ₱100,000.00 as exemplary damages in conformity with prevailing jurisprudence.¹⁶ These amounts shall earn six percent (6%) interest *per annum* from finality of this Resolution until fully paid.

WHEREFORE, the appeal is **DISMISSED**. The assailed Decision dated May 9, 2018 of the Court of Appeals in CA-G.R. CR-HC No. 09398 is **AFFIRMED WITH MODIFICATION**. Appellant **XXX** is found **GUILTY** of **QUALIFIED RAPE** and sentenced to **RECLUSION PERPETUA** without eligibility for parole.

He is further required **TO PAY** AAA ₱100,000.00 as civil indemnity, ₱100,000.00 as moral damages, and ₱100,000.00 as exemplary damages. All monetary awards are subject to six percent (6%) interest *per annum* from finality of this Resolution until fully paid.

SO ORDERED." (Rosario, J., designated additional member per Special Order No. 2797 dated November 5, 2020; on official leave)

¹⁶ *People v. Jugueta*, 783 Phil. 806, 848 (2016):

II. For Simple Rape/Qualified Rape:

1.1 Where the penalty imposed is Death but reduced to *reclusion perpetua* because of RA 9346:

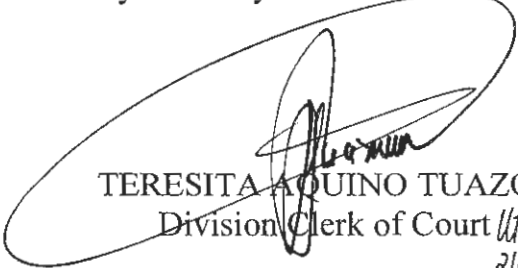
Private parts

Civil indemnity-P100,000.00

Moral damages - P100,000.00

Exemplary damages - P100,000.

By authority of the Court:


TERESITA AQUINO TUAZON
Division Clerk of Court *Utth*
2/11

*PUBLIC ATTORNEY'S OFFICE (reg)
Special & Appealed Cases Service
Department of Justice
PAO-DOJ Agencies Building
NIA Road corner East Avenue
1104 Diliman, Quezon City

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

*XXX (reg)
Accused-Appellant
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 94
1100 Quezon City
(Crim. Case No. R-QZN-16-03789-CR)

JUDGMENT DIVISION (x)
Supreme Court, Manila

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OFFICE OF THE REPORTER (x)
PHILIPPINE JUDICIAL ACADEMY (x)
Supreme Court, Manila

COURT OF APPEALS (x)
Ma. Orosa Street
Ermita, 1000 Manila
CA-G.R. CR-HC No. 09398

*with copy of CA Decision dated 9 May 2018
Please notify the Court of any change in your address.
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