



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **14 June 2021** which reads as follows:*

“G.R. No. 253603 (*People of the Philippines v. Salvador Rabelas y Buban*). –

The Court **NOTES:**

1. the manifestation¹ (in lieu of supplemental brief) dated January 14, 2021 of counsel for appellant Salvador Rabelas y Buban (appellant), adopting their brief filed before the Court of Appeals as appellant supplemental brief since the same had adequately discussed the arguments in the instant case;

2. the letter² dated January 21, 2021 of CTSSupt. Albert C. Manalo, Officer-In-Charge, Inmate Document and Processing Division, Bureau of Corrections, Muntinlupa City, confirming the confinement of appellant at the said institution since October 1, 2018; and

3. the manifestation and motion³ (in lieu of supplemental brief) dated February 8, 2021 of the Office of the Solicitor General, dispensing with the filing of supplemental brief as it had fully refuted and discussed all the points of arguments in its main brief.

Appellant is guilty of qualified statutory rape

¹ *Rollo*, pp. 18-19.

² *Id.* at 22.

³ *Id.* at 23-24.

mtc

Appellant assails the trial court's verdict of conviction against him for Qualified Statutory Rape, as affirmed by the Court of Appeals. He insists he had a romantic relationship with AAA⁴ and the latter willingly had sexual congress with him as a consequence of their love for each other.

To begin with, we affirm the trial court's finding, as concurred in by the Court of Appeals, that appellant had sexual intercourse with AAA, who is suffering from mental retardation and is incapable of giving consent. This is Statutory Rape. It requires the following elements: (1) the offended party is under twelve (12) years of age; and (2) the accused has carnal knowledge of her, regardless of whether there was force, threat or intimidation, whether the victim was deprived of reason or consciousness, or whether it was done through fraud or grave abuse of authority.⁵ It is also settled that sexual intercourse with a woman who is a mental retardate, with a mental age below twelve (12) years old, constitutes Statutory Rape.⁶ Additionally, Statutory Rape can be qualified by the circumstances under Article 266-B⁷ of the Revised Penal Code (RPC), as amended, among which is “[w]hen the offender knew of the mental disability, emotional disorder and/or physical handicap of the offended party at the time of the commission of the crime.”

First. Appellant admitted having had carnal knowledge of AAA during their alleged romantic relationship over a span of three (3) years from 2006 to 2009. He even acknowledged that he is the father of AAA's son, which fact was reflected in the boy's birth certificate. Verily, the element of sexual intercourse was established by appellant's own admission and acknowledgement of paternity of the child and the matching Deoxyribonucleic Acid (DNA) test results.⁸

Second. AAA was incapable of giving consent to sexual intercourse. Dr. Lalyn Irene Marzan (Dr. Marzan) confirmed that AAA had an Intelligence Quotient (IQ) of 36 (Moderate Mental Retardation) and a mental age of 10.8 years old. Dr. Marzan drew this conclusion from a series of IQ tests and interview questions specifically framed to determine AAA's ability to recognize certain things and concepts, ability to make judgments, and measure her perception of and reaction to certain disturbances. Dr. Marzan also noted that the only detail AAA knew about herself is her name. AAA could not give other details about herself, not even her own family name. Also, AAA had

⁴ 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.

⁵ See *People v. Fetalco*, G.R. No. 241249, July 28, 2020.

⁶ *People v. Deniega*, 811 Phil. 712, 721 (2017).

⁷ **Article 266-B. Penalty.** – Rape under paragraph 1 of the next preceding article shall be punished by *reclusion perpetua*.

x x x x

10) When the offender knew of the mental disability, emotional disorder and/or physical handicap of the offended party at the time of the commission of the crime.

x x x x

⁸ *Rollo*, p. 9.

poor abstract reasoning or orientation of time and place.⁹ On this score, *People v. Quintos*,¹⁰ teaches:

The term, “deprived of reason,” is associated with insanity or madness. A person deprived of reason has mental abnormalities that affect his or her reasoning and perception of reality and, therefore, his or her capacity to resist, make decisions, and give consent.

The term, “demented,” refers to a person who suffers from a mental condition called dementia. Dementia refers to the deterioration or loss of mental functions such as memory, learning, speaking, and social condition, which impairs one’s independence in everyday activities.

We are aware that the terms, “mental retardation” or “intellectual disability,” had been classified under “deprived of reason.” The terms, “deprived of reason” and “demented”, however, should be differentiated from the term, “mentally retarded” or “intellectually disabled.” An intellectually disabled person is not necessarily deprived of reason or demented. This court had even ruled that they may be credible witnesses. However, his or her maturity is not there despite the physical age. He or she is deficient in general mental abilities and has an impaired conceptual, social, and practical functioning relative to his or her age, gender, and peers. Because of such impairment, he or she does not meet the “socio-cultural standards of personal independence and social responsibility.”

Thus, a person with a chronological age of 7 years and a normal mental age is as capable of making decisions and giving consent as a person with a chronological age of 35 and a mental age of 7. Both are considered incapable of giving rational consent because both are not yet considered to have reached the level of maturity that gives them the capability to make rational decisions, especially on matters involving sexuality. Decision-making is a function of the mind. Hence, a person’s capacity to decide whether to give consent or to express resistance to an adult activity is determined not by his or her chronological age but by his or her mental age. Therefore, in determining whether a person is “twelve (12) years of age” under Article 266-A(1)(d), the interpretation should be in accordance with either the chronological age of the child if he or she is not suffering from intellectual disability, or the mental age if intellectual disability is established.

In all the above circumstances, rape is ensured because the victim lacks the awareness or presence of mind to resist a sexual abuse. The unconscious, the manipulated, the reason-deprived, the demented, and the young cannot be expected to offer resistance to sexual abuse for the simple reason that their mental statuses render them incapable of doing so. They are incapable of rational consent. Thus, sexual intercourse with them is rape. No evidence of force, intimidation, or resistance is necessary. (Emphasis supplied)

So must it be.

Third. The circumstances show that appellant knew and took advantage of AAA’s mental retardation, thus, qualifying the Statutory Rape

⁹ *Id.* at 7.

¹⁰ 746 Phil. 809, 829-831 (2014).

he committed. Circumstantial evidence may be characterized as evidence that proves a fact or series of facts from which the facts in issue may be established by inference. It is not a weaker form of evidence *vis-à-vis* direct evidence as case law has consistently recognized that it may even surpass the latter in weight and probative force. Circumstantial evidence is sufficient for conviction if: (a) there is more than one (1) circumstance; (b) the facts from which the inferences are derived are proven; and (c) the combination of all these circumstances is such as to produce a conviction beyond reasonable doubt.¹¹

These circumstances are as follows: 1) appellant himself admitted that he knew AAA could not talk because she fell to the ground when she was a year old;¹² 2) appellant had lived with AAA and her family for over three (3) years and would have surely observed AAA's state of mental retardation;¹³ 3) appellant knew that AAA was incapable of taking care of herself, even remarking that she was always dirty;¹⁴ and 4) he admitted that during their cohabitation, AAA had mental issues and was seeing a doctor.¹⁵ Surely, from all these circumstances, the logical and certain inference is that appellant had knowledge of AAA's mental retardation and took advantage of her condition to have carnal knowledge of her.

Fourth. Appellant imputed ill motive on BBB for instigating the complaint. He claimed that BBB was jealous because he chose AAA over her. The Court finds this aspersion of ill-motive flimsy. It is highly implausible that BBB would go through the harrowing experience of filing rape charges, on behalf of her daughter, against appellant for such relatively trivial reason.¹⁶

Against the testimonial and scientific evidence against him, appellant merely interposed denial and the "sweetheart theory." 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.¹⁷ Also, appellant's "sweetheart theory" is not legally feasible because AAA, to repeat, is incapable of giving consent to sexual intercourse. *People v. Acero*¹⁸ pointedly observed:

The appellant's contention does not hold water. A defense based on the "sweetheart theory" in rape cases is no defense at all in rape where the victim is a mental retardate. It is settled that sexual intercourse with a mental retardate constitutes rape. An imbecile has an intellectual function equivalent to that of an average seven-year-old child. Cherry, an imbecile, cannot give legal consent to sexual intercourse. x x x

Penalties and damages

¹¹ See *People v. Jaen*, G.R. No. 241946, July 29, 2019.

¹² *CA rollo*, p. 53.

¹³ *Id.* at 64.

¹⁴ *Id.*

¹⁵ *Id.* at 55.

¹⁶ See *People v. Medina*, 788 Phil. 115 (2016).

¹⁷ *People v. Glino*, 564 Phil. 396, 420 (2007).

¹⁸ 469 Phil. 686, 694-695 (2004).

The crime of rape is defined and penalized under Article 266-A of the RPC, as amended, 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 involving mental retardation, Article 266-B of the RPC provides:

Article 266-B Penalty – x x x

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:

x x x x

10) When the offender knew of the mental disability, emotional disorder and/or physical handicap of the offended party at the time of the commission of the crime.

x x x x

Under Article 266-B of the RPC, the prescribed penalty is death where the offender knew of the victim's mental disability. By virtue of Republic Act No. 9346¹⁹ (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.

¹⁹ An Act Prohibiting the Imposition of Death Penalty in the Philippines, approved on June 24, 2006.

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.²⁰ 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 July 9, 2019 of the Court of Appeals in CA-G.R. CR-HC No. 11848 is **AFFIRMED WITH MODIFICATION**. Appellant **SALVADOR RABELAS y BUBAN** is found **GUILTY** of **QUALIFIED STATUTORY RAPE** and sentenced to **RECLUSION PERPETUA** without eligibility for parole.

He is further ordered **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.” (J. Lopez, J., designated additional member per Special Order No. 2822 dated April 7, 2021)

By authority of the Court:

TERESITA AQUINO TUAZON
Division Clerk of Court

By:



MA. CONSOLACION GAMINDE-CRUZADA
Deputy Division Clerk of Court *by 7/c*

07 JUL 2021

²⁰ *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-₱100,000.00

Moral damages - ₱100,000.00

Exemplary damages - ₱100,000.

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THE DIRECTOR (reg)

Bureau of Corrections
1770 Muntinlupa City

***CTSSUPT. ALBERT C. MANALO (reg)**

Officer-in-Charge
Inmate Documents and
Processing Division
Bureau of Corrections
Muntinlupa City

HON. PRESIDING JUDGE (reg)

Regional Trial Court, Branch 5
Libmanan, Canarines Sur
(Crim. Case No. L-4638)

JUDGMENT DIVISION (x)

Supreme Court, Manila

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Supreme Court, Manila

COURT OF APPEALS (x)

Ma. Orosa Street
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CA-G.R. CR-HC No. 11848

*For this resolution only

**with copy of the CA Decision dated 9 July 2019

Please notify the Court of any change in your address.

GR253603. 6/14/2021(34)URES(m) *ptk*