



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated February 17, 2021 which reads as follows:

“G.R. No. 234774 – (PEOPLE OF THE PHILIPPINES, *plaintiff-appellee* v. XXX, *accused-appellant*). – This resolves the appeal pursuant to Section 13(c), Rule 124 of the Rules of Court, as amended, from the Decision¹ dated July 17, 2017 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 07126. The CA affirmed with modifications the Decision² of the Regional Trial Court (RTC) of Gapan City, Nueva Ecija, Branch 36, finding XXX (accused-appellant) guilty beyond reasonable doubt of the crime of rape under Article 266-A(1) of the Revised Penal Code (RPC) aggravated by the presence of the circumstances of minority and relationship in Criminal Case No. 11095.

Facts

On or about February 22, 2002, AAA,³ who was then six (6) years old was seen by her neighbors limping and with wounds on her face. The neighbors concerned over AAA’s appearance called upon Fe Panahon (Panahon) who was a Barangay Health Worker of Barangay San Vincente. Panahon then asked AAA what happened to her in which AAA replied, “*Galit sakín Tatay ko, kasi iyak ako ng*

- over – eight (8) pages ...

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¹ *Rollo*, pp. 2-15; penned by Associate Justice Carmelita Salandanan Manahan, with the concurrence of Associate Justices Elihu A. Ybañez and Soccoro B. Inting.

² *CA rollo*, pp. 30-34; penned by Judge Cielitolindo A. Luyun.

³ Pursuant to Supreme Court Amended Administrative Circular No. 83-2015, the personal circumstances and other information which tend to establish or compromise the identity of the victim, including the names of her family members or relatives, and the *barangay* and town where the incidents occurred, are withheld. The names of the victim and her family members or relatives are replaced with fictitious initials. Likewise, the real name of the accused-appellant is replaced with fictitious initials by reason of his relationship to the minor victim.

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pasok nya titi nya sa pepe ko kasi sakit eh.” AAA further said that her father inserted his penis into her vagina three times. Panahon immediately brought AAA to the barangay chairman and reported to him the incident. The barangay chairman ordered Panahon to bring AAA to the police station.⁴

During the investigation, AAA told the investigating police officer that she was struck by her father that afternoon. When asked for the reason, AAA repeated the answer she gave to Panahon.⁵

On the same day, herein accused-appellant was arrested by Senior Police Officer 2 (SPO2) Damaso N. Mangulabnan, SPO1 Efrenilo G. Rivera, and Police Officer 3 (PO3) Simeon P. Santiago with the cooperation of barangay councilor Efren Pangilinan.⁶ They attested that they also found a dagger in the person of the accused-appellant upon their arrest.⁷ At the police station, accused-appellant’s common-law wives came with him, one of which was AAA’s mother, BBB. BBB defended her husband and even said, “*May kalandian kasi yan, kaya nagahasa yan, sa San Leonardo, noong nakatira pa kami doon.*” BBB also refused to pursue legal action against the accused-appellant, thus, it was the investigating officer who filed the action.⁸

AAA was subjected to physical examination by Dr. Norma B. Sanchez of Dr. Paulino J. Garcia Memorial Research and Medical Center. She issued a Medical Certificate⁹ which indicated what injuries the victim sustained, to wit:

x x x x

HEENT = - 2 cm. lacerated wound, zygomatic area, left.
- [with] multiple superficial abrasion, forehead, nose
bridge, cheek R.
- pink palpebral conjunctivae
- no nasal discharge, No TP congestion.

NECK = Supple, no cervical lymphadenopathy

C/L = Normal rate, regular rhythm, no murmur.

ABDOMEN = Flat, soft, nontender, no organomegally.

Extremities = (+) 4cm. linear abrasion forearm (ventral) right

Genitalia: no pubic hair, well coaptated la[b]ia majora w/
incomplete hym[e]nal laceration at 2 & 11 o’clock position.

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⁴ *Rollo*, p. 4.

⁵ *Id.* at 4-5.

⁶ *Id.* at 5.

⁷ *Id.*

⁸ *Id.*

⁹ *Records*, p. 29.

LABORATORY EXAMINATION RESULTS:

URINALYSIS: straw/slightly turbid/
acidic/1.030/pus cell-1-2 hpf/red cell
2-3/hpf/sugar-negative/protein ++++

Gram staining:

gram negative bacilli in chain-moderate
No microorganism see
Negative for spermatozoa

Accused-appellant, was processed and was formally charged of the crime of rape in relation to Republic Act (R.A.) No. 7610 before the RTC Branch 36 of Gapan City, Nueva Ecija. The Information¹⁰ read as follows:

The undersigned Assistant Provincial Prosecutor accuses [XXX] of the crime of RAPE IN RELATION TO RA 7610, committed as follows:

That on or about 22nd day of February 2002, at x x x, in the City of Gapan, Province of Nueva Ecija, Republic of the Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with lewd designs and intent to have carnal knowledge of his daughter, AAA, a minor, 6 years of age, did then and there willfully, unlawfully and feloniously have sexual intercourse and carnal knowledge of said minor AAA, to her damage and prejudice.

CONTRARY TO LAW.¹¹

Accused-appellant was arraigned on January 21, 2004 and entered a plea of not guilty.¹² Trial then ensued.

During the trial, AAA testified that accused-appellant forced his penis to her vagina but did not succeed.¹³

Accused-appellant denied the accusation. In his defense, he said that he was charged of the offense for whipping his daughter, AAA, after learning from his wife, BBB, that AAA is always out of the house. On the day when the said rape happened, accused averred that he was in their house doing nothing. He also claimed that he and Panahon had an altercation over a land dispute which may be her motive in charging him of this case.¹⁴

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¹⁰ Id. at 3.

¹¹ Id.

¹² Id. at 18.

¹³ TSN dated September 12, 2006, pp. 6-7.

¹⁴ *Rollo*, pp. 8-9.

On August 28, 2014, the RTC rendered its Decision¹⁵ finding herein accused-appellant guilty of the crime of rape, to wit:

WHEREFORE, after weighing all the facts and evidence presented, this Court finds herein accused [XXX] beyond reasonable doubt of committing Rape under Article 266-A of the Revised Penal Code against his six years old daughter [AAA] and considering the presence of aggravating circumstances of minority and relationship, the accused is hereby sentenced to suffer death penalty and to pay private complainant moral damages in the amount of Fifty Thousand Pesos (P50,000). In view, however, of the enactment of RA9364 which prohibits the imposition of the death penalty in the Philippines, we reduce the death penalty to reclusion perpetua without eligibility of parole.

The Branch Clerk of Court is directed to immediately transmit to the Court of Appeals the record of this case together with a copy of the decision for automatic review.

SO ORDERED.¹⁶

On appeal, accused-appellant questioned the reliance of the trial court to the victim's testimony and disregarding his defense of denial. The CA, on its assailed Decision, denied the appeal and affirmed the RTC's ruling. The CA further modified the penalty imposed in line with the recent development in our jurisprudence. The dispositive portion of which reads:

WHEREFORE, premises considered, the instant Appeal is DENIED. The Decision dated August 28, 2014 of the Regional Trial Court, Branch 36, Gapan City, Nueva Ecija, in Criminal Case No. 11095 is AFFIRMED WITH MODIFICATIONS as to the awards of damages. The accused-appellant is ordered to pay AAA the amounts of One Hundred Thousand Pesos (Php 100,000.00) as civil indemnity, One Hundred Thousand Pesos (Php 100,000.00) as moral damages and One Hundred Thousand Pesos (Php 100,000.00) as exemplary damages.

In keeping with the recent jurisprudence, the accused is ORDERED to pay interest on all damages awarded at the legal rate of 6% per annum from the date of finality of this Decision.

SO ORDERED.¹⁷

Hence, the present appeal, the accused-appellant assailing his conviction on the ground that his guilt was not proven beyond

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¹⁵ CA rollo, pp. 30-34.

¹⁶ Id. at 34.

¹⁷ Rollo, p. 14.

reasonable doubt. Accused-appellant insists his denial and that he could not have committed the crime charged as he was not at the place where the crime was committed.

We note that both parties manifested that they would no longer submit supplemental briefs considering that they had already exhaustively discussed the issues in their briefs before the CA.¹⁸

Ruling

The appeal is not meritorious.

As found by both the RTC and CA, the prosecution has successfully established the elements of the crime of statutory rape committed by herein accused-appellant to his own daughter. The victim in the instant case is a child, six (6) years of age. Sexual intercourse with a girl below twelve (12) years of age is statutory rape. Force and intimidation are immaterial; the only subject of inquiry is whether carnal knowledge took place.¹⁹ Absence of free consent is conclusively presumed when the victim is below the age of twelve. At that age, the law presumes that the victim does not possess discernment and is incapable of giving intelligent consent to the sexual act. To convict an accused of the crime of statutory rape, the prosecution carries the burden of proving: (1) the age of the complainant; (2) the identity of the accused; and (3) the sexual intercourse.²⁰

It was clear in the testimony of the victim that her father, herein accused appellant, inserted his penis to her vagina and because of the pain it caused her, she cried loudly prompting her father to slap her face.²¹ It must be noted that the child at the time of the incident is only six (6) years old and that her perpetrator is her father. It is improbable for a child of that tender age to concoct such kind of lewd and malicious story against her own father if such was not true. A rape victim's testimony against her parent is entitled to great weight since, customarily, Filipino children revere and respect their elders. These values are so deeply ingrained in Filipino families that it is unthinkable for a daughter to concoct brazenly a story of rape against her father if such were not true. Indeed, courts usually give greater weight to the testimony of a girl who fell victim to sexual assault, especially a minor, particularly in incestuous rape as in this case,

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¹⁸ Id. at 24-26; 32-33.

¹⁹ *People v. Balinao*, 738 Phil. 280, 290 (2014).

²⁰ *People v. Cadano, Jr.*, 729 Phil. 576, 584-585 (2014).

²¹ TSN dated September 12, 2006, pp. 6-7.

because no woman would be willing to undergo a public trial and bear the concomitant shame, humiliation, and dishonor of exposing her own degradation were it not for the purpose of condemning injustice and ensuring that the offender is punished.²²

Accused-appellant's defense of alibi will not prosper in the instant case. To be valid, for purposes of exoneration from a criminal charge, the defense of alibi must be such that it would have been physically impossible for the person charged with the crime to be at the *locus criminis* at the time of its commission, the reason being that no person can be in two places at the same time. The excuse must be so airtight that it would admit of no exception. Where there is the least possibility of accused's presence at the crime scene, the alibi will not hold water.²³ To reiterate, accused-appellant in the case at bar is the father of the victim who lives with her in the same house. Accused-appellant also averred that he was at the back of the said house planting eggplants at the time of the crime. Considering that there is a chance for the accused-appellant to be present at the crime scene, his defense of alibi must fail.

Lastly, accused-appellant denies the commission of rape against his daughter. He averred that he merely whipped the victim for always going out of the house and that he had an altercation with the witness Panahon that's why he was being charged of rape. This Court is not convinced. Denial is inherently a weak defense which cannot outweigh positive testimony. As between a categorical statement that has the earmarks of truth on the one hand and bare denial, on the other, the former is generally held to prevail.²⁴ It is worthy to note that the victim spontaneously narrated what had transpired between her and her father at that time when she was asked by Panahon. Also, during trial, the victim was able to relay the same in open court. We have consistently held that because of the nature of the crime of rape the lone testimony of the rape victim, when found to be credible, natural, and consistent with human nature, is enough to sustain a conviction.²⁵ In the instant case, the consistent testimony made by the child victim erases the doubts that indeed herein accused-appellant committed the rape charged.

Anent the penalty, We affirm the ruling made by the CA. Under Article 266-B of the RPC, the penalty of death is imposable when the

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²² *Campos v. People*, 569 Phil. 658, 668 (2014).

²³ *People v. Bracamonte*, 327 Phil. 160, 162 (1996).

²⁴ *People v. Gabriel*, 807 Phil. 516, 522 (2017).

²⁵ *People v. Olimba*, 645 Phil. 468, 480 (2010).


victim in the crime of rape is a child below seven (7) years of age. Nonetheless, in view of R.A. No. 9346,²⁶ the penalty of *reclusion perpetua* shall be imposed, qualified by the phrase “without eligibility for parole,” as directed by A.M. No. 15-08-02-SC.

With respect to the civil liability, CA’s imposition is in accordance with the Court’s ruling in *People v. Jugueta*.²⁷ Thus, this Court affirms the same.

WHEREFORE, the Court **ADOPTS** the findings of fact and conclusions of law in the July 17, 2017 Decision of the Court of Appeals in CA-G.R. CR HC No. 07126 and **AFFIRMS** said Decision finding accused-appellant XXX **GUILTY** beyond reasonable doubt of the crime of rape, as defined and penalized under Article 266-A(1) in relation to Article 266-B of the Revised Penal Code, sentencing him to suffer the penalty of *reclusion perpetua* without eligibility for parole. In addition, in accordance with recent jurisprudence, accused-appellant is **ORDERED** to **PAY** the private complainant, AAA the amounts of ₱100,000.00 as civil indemnity, ₱100,000.00 as moral damages, and ₱100,000.00 as exemplary damages. All damages awarded shall earn interest at the rate of six percent (6%) *per annum* from the date of finality of this Resolution until fully paid.²⁸

SO ORDERED.”

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court *m.c./114*

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court
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²⁶ An Act Prohibiting the Imposition of Death Penalty in the Philippines.

²⁷ 783 Phil. 806 (2016).

²⁸ *Nacar v. Gallery Frames*, 716 Phil. 267 (2013).



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Court of Appeals (x)
Manila
(CA-G.R. CR HC No. 07126)

The Hon. Presiding Judge
Regional Trial Court, Branch 36
Gapan City, 3105 Nueva Ecija
(Crim. Case No. 11095)

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