



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

THE PEOPLE OF THE PHILIPPINES, G.R. No. 207819
Plaintiff-Appellee, Present:

- versus -

GUILLERMO B. CADANO, JR.,
Accused-Appellant.

CARPIO, J., Chairperson,
BRION,
DEL CASTILLO,
PEREZ, and
PERLAS-BERNABE, JJ.

Promulgated:
MAR 12 2014 *Honorable Perlas-Bernabe*

X-----X

DECISION

PERLAS-BERNABE, J.:

Before the Court is an ordinary appeal filed by accused-appellant Guillermo B. Cadano, Jr., (Cadano) assailing the Decision¹ dated November 27, 2012 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 04739 which affirmed the Decision² dated July 14, 2010 of the Regional Trial Court of Pasig City, Branch 261 (RTC) in Criminal Case Nos. 120494-H to 120496-H, finding Cadano guilty of three (3) counts of statutory rape.

The Facts

On February 26, 2001, three (3) Informations³ were filed before the RTC charging Cadano of raping his common-law-spouse's daughter, AAA,⁴ viz.:

¹ Rollo, pp. 2-13. Penned by Associate Justice Francisco P. Acosta, with Associate Justices Fernanda Lampas Peralta and Angelita A. Gacutan, concurring.
² CA rollo, pp. 18-25. Penned by Acting Presiding Judge Leili Cruz Suarez.
³ Docketed as: (a) Crim. Case No. 120494-H, id. at 6-7; (b) Crim. Case No. 120495, id. at 8-9; and (c) Crim. Case No. 120496-H, id. at 10-11.
⁴ 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 Republic Act

N

Crim. Case No. 120494-H

On or about December 26, 1996 in Pasig City, and within the jurisdiction of this Honorable Court, the said accused, by means of force, violence and intimidation, did then and there willfully, unlawfully and feloniously have sexual intercourse with his common-law-wife's daughter, [AAA], a minor who was then about 8 years and 5 months old, being born on 25 July 1988 and with whom accused has moral ascendancy as she considered him as her father and carries his surname although she is not his daughter but a daughter of another man having previous relationship with his common-law-wife, which sexual act was against the will and consent of said [AAA].

Contrary to Law.⁵

Crim. Case No. 120495-H

On or about December 27, 1996 in Pasig City, and within the jurisdiction of this Honorable Court, the said accused, by means of force, violence and intimidation, did then and there willfully, unlawfully and feloniously have sexual intercourse with his common-law-wife's daughter, [AAA], a minor who was then about 8 years and 5 months old, being born on 25 July 1988 and with whom accused has moral ascendancy as she considered him as her father and carries his surname although she is not his daughter but a daughter of another man having previous relationship with his common-law-wife, which sexual act was against the will and consent of said [AAA].

Contrary to Law.⁶

Crim. Case No. 120496-H

Sometime in June 2000, in Pasig City, and within the jurisdiction of this Honorable Court, the said accused, by means of force, violence and intimidation, did then and there willfully, unlawfully and feloniously have sexual intercourse with his common-law-wife's daughter, [AAA], a minor who was then about 11 years and 11 months old, being born on 25 July 1988 and with whom accused has moral ascendancy as she considered him as her father and carries his surname although she is not his daughter but a daughter of another man having previous relationship with his common-law-wife, which sexual act was against the will and consent of said [AAA].

Contrary to Law.⁷

No. (RA) 7610, entitled "AN ACT PROVIDING FOR STRONGER DETERRENCE AND SPECIAL PROTECTION AGAINST CHILD ABUSE, EXPLOITATION AND DISCRIMINATION, AND FOR OTHER PURPOSES"; RA 9262, entitled "AN ACT DEFINING VIOLENCE AGAINST WOMEN AND THEIR CHILDREN, PROVIDING FOR PROTECTIVE MEASURES FOR VICTIMS, PRESCRIBING PENALTIES THEREFOR, AND FOR OTHER PURPOSES"; and Section 40 of A.M. No. 04-10-11-SC, known as the "Rule on Violence against Women and Their Children," effective November 5, 2004. (See *People v. Lomaque*, G.R. No. 189297, June 5, 2013, 697 SCRA 383, 389, citing *People v. Dumadag*, G.R. No. 176740, June 22, 2011, 652 SCRA 535, 538-539.)

⁵ *CA rollo*, p. 6.

⁶ *Id.* at 8.

⁷ *Id.* at 10.

The first two (2) rape incidents occurred on December 26 and 27, 1996, or prior to the passage of Republic Act No. (RA) 8353,⁸ otherwise known as the “Anti-Rape Law of 1997,” hence, Cadano was charged under the old rape provision, *i.e.*, Article 335 of the Revised Penal Code (RPC). On the other hand, the third rape incident occurred in June 2000, or after the passage of RA 8353, hence, the accused was charged under the amended rape provision, *i.e.*, Article 266-A of the RPC, as amended.

The prosecution’s allegations for each incident are briefly stated below:

A. *First Rape Incident (Criminal Case No. 120494-H)*

On December 26, 1996, AAA – who was eight (8) years and five (5) months old at the time⁹ – was at the Philippine General Hospital with her mother, BBB,¹⁰ who was recuperating after giving birth to AAA’s fourth sibling. Cadano, BBB’s common-law spouse, asked AAA to go home with him to Pasig City to clean their house as it was flooded. AAA followed him and left BBB in the hospital, while the rest of her siblings stayed in the house of Cadano’s parents in Sta. Mesa, Manila.

On the same day, Cadano and AAA arrived at their house in Pasig City. At around noon, he asked her to lie down in the room. He removed her shorts and underwear, asked her to spread her legs, and thereafter inserted his penis into her vagina. She felt pain and exclaimed “*Aray!*” but he leaned into her and told her to be quiet. After he was finished, he brandished a knife and threatened her not to tell her mother.¹¹

B. *Second Rape Incident (Criminal Case No. 120495-H)*

On December 27, 1996,¹² AAA’s siblings arrived in their Pasig City residence, during such time BBB was still at the hospital. While AAA was sleeping beside her siblings, she was awakened when Cadano, once more, spread her legs, inserted his penis into her vagina, and made pumping movements. After he was finished, he warned AAA to not speak of what had occurred.¹³

⁸ Entitled “AN ACT EXPANDING THE DEFINITION OF THE CRIME OF RAPE, RECLASSIFYING THE SAME AS A CRIME AGAINST PERSONS, AMENDING FOR THE PURPOSE ACT NO. 3815, AS AMENDED, OTHERWISE KNOWN AS THE REVISED PENAL CODE, AND FOR OTHER PURPOSES.”

⁹ *Rollo*, p. 3.

¹⁰ See note 4.

¹¹ *Rollo*, p. 5.

¹² *Id.* at 3.

¹³ *Id.* at 5.

C. *Third Rape Incident (Criminal Case No. 120496-H)*

Sometime in June 2000, in the city of Pasig, AAA – then at the age of 11 years and 11 months old¹⁴ – was playing with her siblings outside their house, while BBB was also outside working. Cadano then called AAA and asked her to buy food and get the money from his pants inside the house, to which AAA complied. Subsequently, Cadano followed AAA inside, and told her to lie down. AAA refused, but he pulled her down and asked her to remove her shorts and panty. Thereafter, he inserted his penis into her vagina.

On October 22, 2000, AAA told her mother what Cadano did to her. The following day BBB and AAA proceeded to Camp Crame for a medical examination that yielded positive results of penetration.¹⁵

In his defense, Cadano denied the allegations made against him, maintaining that he never raped nor sexually abused AAA in any manner. He likewise alleged that BBB filed the charges against him on AAA's behalf as they were having family problems because BBB would always go out at night to work and thus, neglected their children.¹⁶

Upon arraignment, Cadano pleaded not guilty to the three (3) counts of statutory rape charged against him.¹⁷

The RTC Ruling

In a Decision¹⁸ dated July 14, 2010, the RTC convicted Cadano of three (3) counts of statutory rape and sentenced him to suffer the penalty of *reclusion perpetua*¹⁹ for every count and ordered him to pay the amount of ₱75,000.00 as civil indemnity, ₱50,000.00 as moral damages, ₱25,000.00 as exemplary damages, and the costs of suit, with legal interest from the date of the filing of the information until fully paid.²⁰ It found that the prosecution, through AAA's testimony coupled with the medico-legal report, had proven beyond reasonable doubt that Cadano had carnal knowledge of the victim and that such was without her consent, considering that she was below 12 years old when the crimes were committed against her. Consequently, the

¹⁴ Id. at 4.

¹⁵ Id. at 6.

¹⁶ Id. at 7.

¹⁷ CA *rollo*, p. 19.

¹⁸ Id. at 18-25.

¹⁹ While the imposable penalty should have been that of death for the third incident, in view of the enactment of RA 9346 entitled the "ACT PROHIBITING THE IMPOSITION OF DEATH PENALTY IN THE PHILIPPINES," the imposition of death penalty is now prohibited thus, what was meted out was only *reclusion perpetua*.

²⁰ CA *rollo*, p. 25.

RTC did not give credence to Cadano's defenses of denial and alibi in light of AAA's positive assertions.²¹

Further, the RTC noted that the qualifying circumstance of relationship, *i.e.*, Cadano being a common-law spouse of BBB, the mother of AAA, cannot be considered in the first and second rape incidents that occurred on December 26 and 27, 1996 as they were committed prior to the passage of RA 8353 in 1997, but could be appreciated as regards the third rape incident that happened in June 2000.²²

Dissatisfied, Cadano elevated his conviction to the CA.

The CA Ruling

In a Decision²³ dated November 27, 2012, the CA affirmed the RTC's ruling *in toto*. In denying Cadano's appeal, the CA gave great weight to the RTC's assessment that AAA's testimony is credible and reliable. It likewise noted that the alleged inconsistencies in AAA's testimony are "trivial and forgivable, since a victim of rape cannot possibly give an exacting detail for each of the previous incidents, since they may just be but mere fragments of a prolonged and continuing nightmare, a calvary she might even be struggling to forget" and thus, do not impair her credibility.²⁴

Aggrieved, Cadano filed the instant appeal.

The Issue Before the Court

The essential issue for the Court's resolution is whether or not Cadano's conviction should be upheld.

Ruling of the Court

The Court sustains Cadano's conviction.

At the outset, the Court notes that the first and second rape incidents were committed during the effectivity of the old rape provision, *i.e.*, Article 335 of the RPC, which reads as follows:

Article 335. *When and how rape is committed.* - Rape is committed by having carnal knowledge of a woman under any of the following circumstances:

²¹ Id. at 22-25.

²² Id. at 25.

²³ *Rollo*, pp. 2-13.

²⁴ Id. at 8-11, citing *People v. Rellota*, G.R. No. 168103, August 3, 2010, 626 SCRA 422, 437.

x x x x

3. When the woman is under twelve years of age, even though neither of the circumstances mentioned in the two next preceding paragraphs shall be present.

The crime of rape shall be punished by *reclusion perpetua*.

Whenever the crime of rape is committed with the use of a deadly weapon or by two or more persons, the penalty shall be *reclusion perpetua* to death.

When by reason or on the occasion of the rape, the victim has become insane, the penalty shall be death.

When rape is attempted or frustrated and a homicide is committed by reason or on the occasion thereof, the penalty shall be likewise death.

When by reason or on the occasion of the rape, a homicide is committed, the penalty shall be death.

On the other hand, the third rape incident occurred during the advent of RA 8353, and, as such, Articles 266-A and 266-B of the RPC, as amended and hereunder quoted, are applicable:

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:

x x x x

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

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:

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

Statutory rape is committed by sexual intercourse with a woman below 12 years of age regardless of her consent, or the lack of it, to the sexual act. Proof of force, intimidation or consent is unnecessary as they are not elements of statutory rape, considering that the absence of free consent is conclusively presumed when the victim is below the age of 12. At that age, the law presumes that the victim does not possess discernment and is incapable of giving intelligent consent to the sexual act. Thus, to convict an accused of the crime of statutory rape, the prosecution carries the burden of proving: (a) the age of the complainant; (b) the identity of the accused; and (c) the sexual intercourse between the accused and the complainant.²⁵

A judicious review of the records would reveal that the aforementioned elements of statutory rape are present. ***First***, the presentation of AAA's Certificate of Live Birth showing that she was born on July 25, 1998 has proven that she was below 12 years of age when the three (3) rape incidents happened on December 26 and 27, 1996, and in June 2000, respectively. ***Second***, the prosecution proved that Cadano indeed had carnal knowledge of AAA on three (3) separate occasions through the latter's positive, categorical, and spontaneous testimony, as corroborated by the medico-legal report.

Given the foregoing, the Court finds no cogent reason to reverse the RTC's assessment of AAA's credibility, which was affirmed by the CA. Absent any evidence that the trial court's assessment was tainted with arbitrariness or oversight of a fact of consequence or influence – especially so when affirmed by the CA – it is entitled to great weight, if not conclusive and binding on the Court.²⁶ Moreover, “[t]estimonies of child-victims are normally given full weight and credit, since when a girl, particularly if she is a minor, says that she has been raped, she says in effect all that is necessary to show that rape has in fact been committed. 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 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. A young girl's revelation that she had been raped, coupled with her voluntary submission to medical examination and willingness to undergo public trial where she could be compelled to give out the details of an assault on her dignity, cannot be so easily dismissed as mere concoction.”²⁷

The Court likewise agrees that Cadano should suffer the penalty of *reclusion perpetua* for each count of statutory rape. On this matter, it is apt to discuss that RA 8353 introduced various qualifying circumstances that

²⁵ *People v. Garcia*, G.R. No. 200529, September 19, 2012, 681 SCRA 465, 476, citing *People v. Mingming*, 594 Phil. 170, 185-186 (2008).

²⁶ See *id.* at 477.

²⁷ *Id.* at 477-478; citations omitted.

would increase the penalty for the crime of rape from *reclusion perpetua* to death, *e.g.*, when the offended party is a minor under 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 victim²⁸ – a circumstance that was not present under the old rape provision, *i.e.*, Article 335 of the RPC. Thus, the aforementioned circumstance could not qualify the first two (2) rape incidents which occurred prior to the enactment of RA 8353, but it could be properly appreciated in the third one. Nevertheless, in light of the abolition of the death penalty pursuant to RA 9346,²⁹ the impossible penalty for the third rape incident is lowered to *reclusion perpetua*, with the offender being rendered ineligible for parole.³⁰

However, the RTC and the CA erred in awarding the amounts of ₱75,000.00 as civil indemnity *ex delicto*, ₱50,000.00 as moral damages, and ₱25,000.00 as exemplary damages in favor of AAA for all three (3) counts of statutory rape. Case law provides that for each count of statutory rape punishable under Article 335 of the RPC, or the old rape provision, the amounts of ₱50,000.00 as civil indemnity *ex delicto*, ₱50,000.00 as moral damages, and ₱30,000.00 as exemplary damages should be awarded to the victim.³¹ On the other hand, jurisprudence instructs that for each count of statutory rape punishable under Article 266-A in connection with Article 266-B of the RPC, as amended, the amounts of ₱75,000.00 as civil indemnity *ex delicto*, ₱75,000.00 as moral damages, and ₱30,000.00 as exemplary damages should be awarded to the victim, considering that the circumstances surrounding the crime would justify the imposition of the death penalty were it not for the passage of RA 9346.³² Accordingly, the Court deems it proper to adjust the damages awarded to AAA.

WHEREFORE, the appeal is **DENIED**. The Decision dated November 27, 2012 of the Court of Appeals in CA-G.R. CR-HC No. 04739 is hereby **AFFIRMED**, finding accused-appellant Guillermo B. Cadano, Jr. (Cadano), **GUILTY** beyond reasonable doubt of three (3) counts of statutory rape, with **MODIFICATIONS** in that:

- (a) In Criminal Case No. 120494-H, Cadano is sentenced to suffer the penalty of *reclusion perpetua* and ordered to pay AAA the amounts of ₱50,000.00 as civil indemnity, ₱50,000.00 as moral damages, ₱30,000.00 as exemplary damages, and the costs of suit, with legal interest from the date of filing of the information until fully paid;

²⁸ See Article 266-B of the RPC.

²⁹ Entitled “AN ACT PROHIBITING THE IMPOSITION OF DEATH PENALTY IN THE PHILIPPINES.”


³⁰ See Sections 2 and 3, RA 9346.

³¹ See *People v. Teodoro*, G.R. No. 175876, February 20, 2013, 691 SCRA 324, 345-346.


³² See *People v. Apattad*, G.R. No. 193188, August 10, 2011, 655 SCRA 335, 353-355.

- (b) In Criminal Case No. 120495-H, Cadano is sentenced to suffer the penalty of *reclusion perpetua* and ordered to pay AAA the amounts of ₱50,000.00 as civil indemnity, ₱50,000.00 as moral damages, ₱30,000.00 as exemplary damages, and the costs of suit, with legal interest from the date of filing of the information until fully paid; and
- (c) In Criminal Case No. 120496-H, Cadano is sentenced to suffer the penalty of *reclusion perpetua* without eligibility for parole and ordered to pay AAA the amounts of ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages, ₱30,000.00 as exemplary damages, and the costs of suit, with legal interest from the date of filing of the information until fully paid.

SO ORDERED.


ESTELA M. PERLAS-BERNABE
Associate Justice

WE CONCUR:


ANTONIO T. CARPIO
Associate Justice
Chairperson



ARTURO D. BRION
Associate Justice


MARIANO C. DEL CASTILLO
Associate Justice


JOSE PORTUGAL PEREZ
Associate Justice

A T T E S T A T I O N

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ANTONIO T. CARPIO
Associate Justice
Chairperson, Second Division

C E R T I F I C A T I O N

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARIA LOURDES P. A. SERENO
Chief Justice