



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **October 19, 2022**, which reads as follows:*

“G.R. No. 232294 (*People of the Philippines v. XXX*¹). — This is an appeal from the January 20, 2017 Decision² of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 06592, affirming with modifications the September 5, 2013 Decision³ of the Regional Trial Court (RTC) of [REDACTED], in which convicted accused-appellant XXX of 10 counts of the crime of Rape, and one count of the crime of Acts of Lasciviousness. The RTC sentenced XXX to suffer the penalty of 10 counts of *reclusion perpetua* corresponding to each count of rape, and one count of *prision mayor* corresponding to the crime of Acts of Lasciviousness and ordered him to pay damages.

The Factual Antecedents

The facts, as lifted from the CA Decision and the records, are as follows:

An Information⁴ dated December 8, 2009 was filed against XXX, charging him with the crime of Acts of Lasciviousness in relation to Republic Act No. (RA) 7610.⁵ The accusatory portion of the Information reads:

¹ Initials were used to identify the accused-appellant pursuant to the Supreme Court Amended Administrative Circular No. 83-2015 dated September 5, 2017 entitled “Protocols and Procedures in the Promulgation, Publication, and Posting on the Websites of Decisions, Final Resolutions, and Final Orders using Fictitious Names/Personal Circumstances.”

² *Rollo*, pp. 2-17. Penned by Associate Justice Ma. Luisa C. Quijano-Padilla and concurred in by Associate Justices Normandie B. Pizarro and Samuel H. Gaerlan (now a Member of this Court).

³ Records, pp. 133-145. Penned by Presiding Judge Norman V. Pamintuan.

⁴ *Id.* at pp.1-2.

⁵ Entitled “AN ACT PROVIDING FOR STRONGER DETERRENCE AND SPECIAL PROTECTION AGAINST CHILD ABUSE, EXPLOITATION AND DISCRIMINATION, PROVIDING PENALTIES FOR ITS VIOLATION, AND FOR OTHER PURPOSES [SPECIAL PROTECTION OF CHILDREN AGAINST ABUSE, EXPLOITATION, AND DISCRIMINATION ACT] (1992).” Approved: June 17, 1992.

That on or about the sixth (6th) day of December, 2009, in the City of [REDACTED], Philippines,⁶ and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design and for his sexual gratification, did then and there [willfully], unlawfully and feloniously commit acts of lasciviousness upon the person of [REDACTED],⁷ a 12-year old minor, by then and there hugging her and touching her breasts against her will and consent, to her damage and prejudice. The accused is the brother-in-law of the minor [REDACTED]

CONTRARY TO LAW.⁸

In addition, another Information⁹ dated March 31, 2010 was filed against XXX, this time charging him with the crime of Rape in relation to RA 7610. The accusatory portion of the Information reads:

That on or about the seventeenth (17th) day of October, 2009, in the City of [REDACTED], Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, armed with a knife, did then and there willfully, unlawfully, feloniously and with force have sexual intercourse with [REDACTED], a 12-year old minor, against her will and consent, to her damage and prejudice. The accused is the brother-in-law of the minor complainant.

CONTRARY TO LAW.¹⁰

Nine other Informations for Rape were filed against XXX stating the same allegations, except for the dates of commission, which were on October 19, 21, 24, 27, 31, November 5, 11, 17, and 25 2009.¹¹

Version of the Prosecution

AAA testified that she was born on January 22, 1997 and is residing in [REDACTED]. According to AAA, she knows XXX, whom she calls "Kuya [XXX],"¹² he being the live-in partner of her elder sister.¹³

AAA narrated that on December 6, 2009 when the lascivious acts were committed, XXX, she, and three of her siblings including XXX's partner,

⁶ Geographical location is blotted out pursuant to Supreme Court Amended Administrative Circular No. 83-2015.

⁷ "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 No. 7610, An Act Providing for Stronger Deterrence and Special Protection against Child Abuse, Exploitation and Discrimination, Providing Penalties for its Violation, and for Other Purposes; Republic Act No. 9262, 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 15, 2004." (*People v. Dumadag*, 667 Phil. 664, 669 [2011]).

⁸ Records, p. 1.

⁹ *Rollo*, p. 4.

¹⁰ Records, p. 134.

¹¹ Id. at 134-138.

¹² Referred to as "Kuya [XXX]" in the Complaint-Affidavit of AAA (Records, pp. 5-8).

¹³ *Rollo*, p. 4.

were all sleeping in a single room in their house. AAA added that she was not that close to XXX because he allegedly abused and raped her.¹⁴

AAA claimed that at around 7:00 p.m. on that date, XXX, wanting to rape her, embraced her and touched her breasts. AAA resisted, prompting XXX to threaten to kill her and her entire family. Fortunately, AAA was able to escape to her aunt's house and report the attempt made by accused-appellant.¹⁵

Moreover, AAA recalled that the first incident of rape happened on October 17, 2009 at around 11:30 p.m., in their house. She was awakened and saw accused-appellant on top of her with no lower garments. AAA eventually found herself naked. She recounted that accused-appellant licked her vagina, kissed her neck and breasts, and thereafter inserted his penis into her vagina. She was raped nine more times on different dates. AAA admitted that she reported the incidents only later because she was threatened by accused-appellant that he will kill her and her siblings if she did.¹⁶

In summary, AAA claimed that XXX raped her 10 times in total, specifically on the following dates: October 17, 19, 21, 24, 27, and 31, 2009, as well as on November 5, 11, 17, and 25, 2009.

Version of the Defense

XXX denied all the accusations against him. He claimed that on December 6, 2009, he was in [REDACTED] with his wife, two children, father-in-law, and the brothers of his wife. While having dinner, they were surprised when police officers suddenly arrived and asked to talk to him. He was afterwards brought to the police station and was forced to admit the abuse allegedly committed against AAA. He wanted to explain but was not given the chance and was detained hastily.¹⁷

In addition, XXX stated that on October 17, 2009, he was at [REDACTED], where he has been working as a construction worker for six months already. He denied the accusation of AAA, particularly, that he was lying on top of her and the he was pulling his short and her panty down. XXX likewise refuted the allegation that he sexually harassed AAA. He maintained that he does not know of any previous altercation with AAA prior to the case.¹⁸

¹⁴ Id.

¹⁵ Records, p. 6.

¹⁶ *Rollo*, pp. 4-5.

¹⁷ Id. at 5.

¹⁸ Id. at 5-6.

Ruling of the Regional Trial Court

In a Decision¹⁹ dated September 5, 2013, the RTC found XXX guilty of the charges against him. The dispositive portion reads:

WHEREFORE, premises considered, [XXX] is hereby found **GUILTY** beyond reasonable doubt of ten (10) counts of Rape committed under Republic Act No. 8353 in relation to Republic Act No. 7610. The Court hereby imposes upon the accused the penalty of *Reclusion Perpetua* for each count or a total of ten (10) *Reclusion Perpetua*. He is also ordered to indemnify the private complainant the sum of Fifty Thousand Pesos (P50,000.00) for each count or a total of Five Hundred Thousand Pesos (P500,000.00) and the additional amount of One Hundred Thousand Pesos (P100,000.00) as moral damages.

Accused is, likewise, found **GUILTY** beyond reasonable doubt for the Acts of Lasciviousness he committed and is sentenced to a penalty of imprisonment of Ten (10) Years and One (1) Day to Twelve (12) Years of *Prision Mayor*.

SO ORDERED.²⁰

In convicting XXX, the RTC gave great weight to the testimony of AAA which it found “credible and enough to convict the accused.”²¹ The RTC likewise held that AAA’s testimony on how she was raped by XXX on 10 separate incidents was “clear, straightforward, and bereft of any material or significant inconsistencies.”²²

Further, the RTC declared that AAA’s testimony was corroborated and confirmed by the internal examination made by Dr. Rolando Marfel G. Ortiz, who found that there were hymenal lacerations on AAA.²³

Aggrieved, accused-appellant elevated the case to the CA.

Ruling of the Court of Appeals

In its January 20, 2017 Decision,²⁴ the CA denied XXX’s appeal and affirmed the RTC decision.

In ruling so, the CA agreed with the finding of the RTC that AAA’s testimony was clear, straightforward, and bereft of any material or significant inconsistencies, and noted the lack of improper or ill motive on the part of

¹⁹ Records, pp. 133-145.

²⁰ Id. at 145.

²¹ Id. at 41.

²² Id.

²³ Id. at 143-144.

²⁴ *Rollo*, pp. 2-17.

AAA and the witnesses in pursuing the case. The CA further held that AAA's positive identification of XXX as the perpetrator is worthy of belief.²⁵

Moreover, the CA held that XXX failed to substantiate his denial and alibi; and that the same cannot prevail over AAA's direct, positive, and categorical assertion.²⁶

The dispositive portion of the CA Decision reads:

WHEREFORE, the instant appeal is **DISMISSED** and the September 5, 2013 Decision of the Regional Trial Court, Branch 73, [REDACTED], finding accused-appellant [XXX] guilty beyond reasonable doubt of the crimes charged is hereby **AFFIRMED** with the following **MODIFICATIONS**: (1) He is **ORDERED** to **PAY** private complainant the amount of P75,000.00 as civil indemnity, P75,000.00 as moral damages, and P75,000.00 as exemplary damages, for each count of rape; and (2) to **PAY** interest at the rate of six percent (6%) *per annum* from the date of finality of the Decision until fully paid.

SO ORDERED.²⁷

Undeterred, XXX elevated the case to this Court by filing a Notice of Appeal²⁸ dated February 14, 2017.

Issues

For the resolution of the Court are the following issues:

1. Whether XXX is liable for the crimes of Rape and Acts of Lasciviousness; and
2. Whether the prosecution was able to prove beyond reasonable doubt all the 10 counts of Rape as charged.

In his appellant's brief,²⁹ XXX mainly argues that the RTC erred in convicting him. He asserts that the lone testimony of AAA is not enough to establish with moral certainty that he committed the crimes charged.³⁰

Moreover, XXX contends that the prosecution failed to sufficiently establish his guilt as to the nine other charges of Rape, aside from the October 17, 2009 incident.

²⁵ Id. at 7-14.

²⁶ Id. at 14-16.

²⁷ Id. at 17.

²⁸ Id. at 18-21.

²⁹ CA *rollo*, pp. 74-111.

³⁰ Id. at 82-95.

Lastly, XXX maintains that both the RTC and the CA erred in disregarding his defenses of denial and alibi.

Our Ruling

The appeal is partly meritorious.

XXX is guilty of the crimes of Rape and Acts of Lasciviousness.

In maintaining his innocence, XXX asserts that the prosecution failed to establish his guilt beyond reasonable doubt. Moreover, he faults the RTC for taking AAA's word absolutely and without any reservation. He states:

16. In the instant case, the court *a quo* gravely erred by simply taking the words of the private complainant that she was raped on ten (10) separate incidents and was subjected to acts of lasciviousness in one (1) incident without any reservation whatsoever x x x.³¹

XXX likewise strongly relies on the defenses of denial and alibi, which, according to him, should not have been disregarded by the RTC, thus:

26. The court *a quo* gravely erred in simply disregarding the accused-appellant's defenses. The fact that the accused-appellant's defenses constitute alibi are no cause for the court *a quo* to disregard and brush them aside x x x.³²

XXX's contentions are wrong.

As correctly affirmed by the CA, AAA's testimony which was clear, straightforward, and bereft of any material or significant inconsistencies deserves great weight. Her testimony³³ is telling:

Q: AAA, do you know why you are here today?

A: Yes ma'am.

Q: Can you tell us why you are here today?

A: To have the accused incarcerated.

Q: You want to send somebody to jail, who is that somebody?

A: **XXX, ma'am.**

Q: Why do you want to send him to jail?

A: **Because he raped me.**

³¹ Id. at 84.

³² Id. at 94.

³³ TSN, March 27, 2012, pp. 3-7.

Q: Can you tell us the details of the abuse, you said he raped you? Do you remember when it happened?

A: Yes ma'am.

Q: When did it happen?

A: October 17, 2009.

Q: What time?

A: 11:30 in the evening.

x x x x

Q: Could you tell us what happened at that time?

A: He threatened me.

Q: What were you doing at that time?

A: I was sleeping.

Q: While you were sleeping, were you awakened?

A: I was awakened ma'am.

Q: When you woke up, what happened?

A: **He was already on top of me.**

Q: What happened next when you woke up?

A: **When I woke up, I found myself naked.**

Q: What do you mean naked?

A: My shorts and panty were taken off.

Q: How about him, was his shirts [sic] and shorts on?

A: Only shirt ma'am.

Q: How about his shorts?

A: No ma'am.

Q: You woke up he was on top of you, you were naked and he was naked at the bottom, what happened next?

A: **He raped me ma'am.**

Q: Could you describe to us how he abused you?

A: He licked my vagina.

x x x x

Q: I would like to manifest that the witness is choking in tears while telling her story of the alleged abuse. After the licking of your vagina, what happened next?

A: He kissed me in my neck and in my breast.

Q: After he kissed you in your neck and breast, what happened next?

A: That is all he did.

x x x x

Q: What else did he do to you?

A: **He inserted his penis in my vagina.**

Q: How many times did he inserted his penis into your vagina?

A: **Ten times ma'am.**

x x x x

Q: After that, what happened next, after he allegedly abused you?

A: He repeatedly did it again.

Q: How many times did he do it?

A: The whole incidents totaled 10 times.

x x x x

Q: x x x. Clarificatory question. The incident happened on December 6, 2009,

what did he do to you?

A: He touched me sir.

Q: Where did he touch you?

A: In my breast sir.

Q: This is not part of the ten times that you mentioned?

A: Yes sir. (Emphasis supplied)

x x x x

Aside from being able to pinpoint who her abuser is, AAA was likewise able to recount with clarity even the smallest details of the incident. The unflinching and straightforward testimony of AAA of the ordeal she went through points to no other conclusion than that XXX sexually abused her.

In *People v. ZZZ*,³⁴ the Court held that –

[T]he settled rule is that the trial court's determination of witness credibility will not be disturbed on appeal unless significant matters have been overlooked. Such determination is treated with respect, as the trial court has the opportunity to observe the witnesses' demeanor during trial. Its findings assume even greater weight when they are affirmed by the Court of Appeals.³⁵

Further, in *People v. Arces*,³⁶ the Court made the following clarification:

And while an accused may be convicted of rape solely on the basis of the testimony of the complainant, such testimony should meet the test of credibility – it should be straightforward, clear, positive, and convincing.³⁷

³⁴ G.R. No. 229209, February 12, 2020.

³⁵ Id.

³⁶ 841 Phil. 443 (2018).

³⁷ Id. at 451. Citation omitted.

In the present case, We find AAA's testimony to have passed the test of credibility.

XXX likewise faults the RTC and the CA for disregarding his denial and alibi that he was at different places on October 17, 2009 and on December 6, 2009, when the Rape and Acts of Lasciviousness respectively took place. XXX states in his brief:

The accused-appellant has raised the defense of alibi, which will be further discussed in detail below, which the prosecution failed to controvert as it did not present any supporting witness aside from AAA herself to establish the moral certainty that the accused-appellant was with AAA at the dates he allegedly raped and molested her.³⁸

Although the burden of proof does not shift to the defense, the burden of evidence, on the other hand, shifts from party to party depending upon the exigencies of the case.³⁹

In *People v. Mon*,⁴⁰ the Court held:

To establish alibi, the accused must prove (a) that he was present at another place at the time of the perpetration of the crime, and (b) that it was physically impossible for him to be at the scene of the crime. Physical impossibility "refers to the distance between the place where the accused was when the crime transpired and the place where it was committed, as well as the facility of access between the two places."⁴¹

Guided by the foregoing, the burden is therefore on XXX to prove that the requisites to establish alibi are met. In his futile attempt to do so, he testified that on October 17, 2009, he was at [REDACTED] beach in [REDACTED] and on December 6, 2009, he was with his father-in-law (AAA's father) who supposedly witnessed the police visiting their house and taking him to the police station.⁴²

XXX's arguments are utterly misplaced. The requisites for the establishment of alibi are not met.

First, XXX was not able to prove that he was at [REDACTED] beach on the night of October 17, 2009. Aside from his lone testimony, nothing else was presented to corroborate this allegation. Moreover, faulting the prosecution for failing to present a witness to *disprove* his alibi is not only illogical but outright absurd.

³⁸ CA rollo, p. 83.

³⁹ *Bautista v. Sarmiento*, 223 Phil. 181, 186 (1985).

⁴⁰ 843 Phil. 895, 906-907 (2018), citing *People v. Mosquera*, 414 Phil. 740, 749 (2001).

⁴¹ Id.

⁴² Rollo, pp. 5-6.

Second, XXX's assertion that –

24. Had the accused-appellant been lying, surely his father-in-law would have protested in open court, considering that the person raped was her own child. As mentioned earlier, the prosecution failed to controvert this by presenting rebuttal evidence. If anything, this shows that the story of the accused-appellant is consistent x x x.⁴³ (Underscoring in the original)

is *non-sequitur*. XXX impresses upon this Court that the sole reason his father-in-law kept quiet during that specific hearing was because he was telling the truth about the evening of December 6, 2009. While a father would ordinarily revolt against a lie committed by his daughter's abuser, this is not always the case, especially in a court proceeding where proper decorum is strictly observed.

Lastly, there was no physical impossibility for him to be at the scene of the crime on the night of October 17, 2009, [REDACTED] beach being a mere 11 kilometers away.

The prosecution failed to prove beyond reasonable doubt the nine other counts of Rape

On this point, XXX faults the RTC for simply making a “blanket statement” that he raped AAA 10 times. He likewise assails AAA testimony, saying that “no such narration was made by the private complainant with respect to the other dates aside from a mere blanket statement.”⁴⁴ Lastly, he denounces the RTC and the prosecution's failure to interpose probing questions as to the other incidents aside from the October 17, 2009 rape incident.

XXX's arguments are well-taken.

A review of the Transcript of Stenographic Notes taken during the proceedings will reveal that although AAA was able to sufficiently detail the transgressions on October 17, 2009 and December 6, 2009, she failed to recount what happened on the nine other dates when the other incidents of rape allegedly happened, specifically on October 19, 21, 24, 27, and 31, 2009, as well as on November 5, 11, 17, and 25, 2009.

In *People v. Garcia*,⁴⁵ the Court declared:

We cannot agree with the trial court that appellant is guilty of 183 counts of rape because, as correctly asserted by the defense, each and every charge of rape is a separate and distinct crime so that each of them should be proven

⁴³ CA rollo, p. 92.

⁴⁴ Rollo, p. 86.

⁴⁵ 346 Phil. 475 (1997).

beyond reasonable doubt. On that score alone, the indefinite testimonial evidence that complainant was raped every week is decidedly inadequate and grossly insufficient to establish the guilt of appellant therefore with the required quantum of evidence. So much of such indefinite imputations of rape, which are *unsubstantiated by any other evidence*, fall within this category.⁴⁶

In conjunction with this is the ruling in *People v. Dechoso*,⁴⁷ where the Court reiterated the principle:

As with other rape cases, the Court, in resolving the present case, is guided by three settled principles: (1) an accusation of rape can be made with facility and while the accusation is difficult to prove, it is even more difficult for the person accused, though innocent, to disprove; (2) considering that, in the nature of things, only two persons are usually involved in the crime of rape, the testimony of the complainant should be scrutinized with great caution; and (3) the evidence of the prosecution must stand or fall on its own merit, and cannot be allowed to draw strength from the weakness of the evidence for the defense.⁴⁸

Indeed, accusing a person of Rape can be done with extreme ease by merely making such allegation, as in the present case. To recap, AAA claims that she was raped nine other times. However, sheer accusation, bereft of even the slightest indication that rape was committed on such date, is insufficient.

Applying the foregoing principles, We hold that the prosecution failed to establish beyond reasonable doubt that XXX committed the nine other allegations of rape on October 19, 21, 24, 27, and 31, 2009, as well as on November 5, 11, 17, and 25, 2009.

In fine, We hold XXX guilty beyond reasonable doubt of the crime of Rape committed on October 17, 2009.

However, there is a need to modify the nomenclature of the crime committed on December 6, 2009 from Acts of Lasciviousness to "Lascivious Conduct under Section 5(b) of RA 7610." As pointed out in *People v. Caoili*:⁴⁹

3. If the victim is exactly twelve (12) years of age, or more than twelve (12) but below eighteen (18) years of age, or is eighteen (18) years old or older but is unable to fully take care of herself/himself or protect herself/himself from abuse, neglect, cruelty, exploitation or discrimination because of a physical or mental disability or condition, the crime should be designated as "Lascivious Conduct under Section 5(b) of R.A. No. 7616," and the imposable penalty is *reclusion temporal* in its medium period to *reclusion perpetua*.⁵⁰

⁴⁶ Id. at 497.

⁴⁷ G.R. No. 248530, March 3, 2021.

⁴⁸ Id.

⁴⁹ 815 Phil. 839 (2017).

⁵⁰ Id. at 894.

In this case, it is beyond cavil that AAA is 12 years of age. Moreover, XXX is the victim's brother-in-law. "In crimes against chastity, such as [lascivious conduct], relationship is always aggravating."⁵¹ Hence, the imposable penalty of *reclusion temporal* in its medium period to *reclusion perpetua*, "shall be applied in its maximum period," i.e., "*reclusion perpetua*."⁵² Moreover, XXX shall pay a fine of ₱15,000.00 pursuant to Section 31(f) of RA 7610.

WHEREFORE, the appeal is hereby **PARTIALLY GRANTED**. The January 20, 2017 Decision of the Court of Appeals in CA-G.R. CR-H.C. No. 06592 is **AFFIRMED WITH MODIFICATIONS**. Accused-appellant XXX is hereby declared guilty beyond reasonable doubt of:

1. One count of Rape, and is sentenced to suffer the penalty of *reclusion perpetua*. He is also ordered to pay the victim civil indemnity, moral damages, and exemplary damages amounting to ₱75,000.00 each.
2. Lascivious Conduct under Section 5(b) of Republic Act No. 7610, and is sentenced to suffer the penalty of *reclusion perpetua*. He is further ordered to pay the victim civil indemnity, moral damages and exemplary damages each in the amount of ₱75,000.00, and a fine of ₱15,000.00.

All monetary awards shall earn interest at the rate of six percent (6%) per *annum* from date of finality of this Resolution until full payment.

SO ORDERED."

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court

140-I

OCT 27 2022

⁵¹ Id. at 896.

⁵² Id.

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

Court of Appeals (x)
Manila
(CA-G.R. CR-HC No. 06592)

The Hon. Presiding Judge
Regional Trial Court, Branch 73
Olongapo City, 2200 Zambales
(Crim. Case Nos. 304-2009FC &
80 to 89-2010FC)

PUBLIC ATTORNEY'S OFFICE
Special and Appealed Cases Service
Counsel for Accused-Appellant
5/F, DOJ Agencies Building, NIA Road
cor. East Avenue, Diliman, 1101
Quezon City

XXX
Accused-Appellant
c/o The Director General
Bureau of Corrections
1770 Muntinlupa City

The Director General
Bureau of Corrections
1770 Muntinlupa City

Public Information Office (x)
Library Services (x)
Supreme Court
(For uploading pursuant to A.M.
No. 12-7-1-SC)

Philippine Judicial Academy (x)
Supreme Court

Judgment Division (x)
Supreme Court



140-I

UR

