



REPUBLIC OF THE PHILIPPINES  
SUPREME COURT  
Manila

SECOND DIVISION

**NOTICE**

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **23 February 2022** which reads as follows:*

“**G.R. No. 234152** (*People of the Philippines v. ZZZ*<sup>1</sup>). — This appeal<sup>2</sup> filed by herein accused-appellant ZZZ (accused-appellant) assails the May 26, 2017 Decision<sup>3</sup> of the Court of Appeals (CA) in CA-G.R. CR HC No. 08023. The CA affirmed the October 5, 2015 Joint Decision<sup>4</sup> of the Regional Trial Court (RTC), Branch 19 of [REDACTED] which found accused-appellant guilty beyond reasonable doubt of the crime of Rape in Criminal Case No. 19-6297.<sup>5</sup>

Accused-appellant was charged with the crimes of Rape under Article 266-A of the Revised Penal Code (RPC), and Child Abuse under Section 10(a) of Republic Act No. (RA) 7610,<sup>6</sup> or the “Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act” under the following Informations:

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

<sup>2</sup> *Rollo*, pp. 16-18; Notice of Appeal dated June 22, 2017.

<sup>3</sup> *Id.* at 2-15. Penned by Associate Justice Renato C. Francisco and concurred in by Associate Justices Ramon M. Bato, Jr. and Manuel M. Barrios.

<sup>4</sup> *CA rollo*, p. 15-23; October 5, 2015 Joint Decision penned by Executive Judge Raul V. Babaran.

<sup>5</sup> Under Republic Act No. 7610 (Special Protection of Children against Child Abuse, Exploitation and Discrimination Act), Republic Act No. 9262 (Anti-Violence against Women and Their Children Act of 2004), its implementing rules, and A.M. No. 12-7-15-SC, the real name of the woman or child victim and those of the victim's immediate relatives, as well as other personal circumstances that would establish or compromise their identities, are withheld and replaced with fictitious initials to protect the victim's privacy.

<sup>6</sup> 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.” Approved: June 17, 1992.

10/10

Criminal Case No. 19-6297 for Rape:

That on or about the 19<sup>th</sup> day of October 2004, in [REDACTED], Philippines and within the jurisdiction of this Honorable Court, the said accused, by means of force and intimidation and with lewd design, did then and there, willfully, unlawfully and feloniously, have carnal knowledge with one AAA,<sup>7</sup> a minor of 12 years old, against her will and consent, to her damage and prejudice.

With the aggravating circumstance that the victim is under 18 years of age at the time of the commission of the offense and the accused is the common law husband of the mother of the victim.

CONTRARY TO LAW.<sup>8</sup>

Criminal Case No. 20-6298 for Child Abuse:

That on or about the 19<sup>th</sup> day of October 2004, in [REDACTED], Philippines and within the jurisdiction of this Honorable Court, the said accused, did then and there, willfully, unlawfully and feloniously, indulge in sexual intercourse with one AAA, a minor of 12 years old, thereby subjecting her to exploitation and sexual abuse.

With the aggravating circumstance that the victim is under 18 years of age at the time of the commission of the offense and the accused is the common law husband of the mother of the victim.

CONTRARY TO LAW.<sup>9</sup>

Accused-appellant pleaded not guilty to both charges.<sup>10</sup> Arraignment and pre-trial was conducted separately.<sup>11</sup> In the pre-trial for Criminal Case No. 20-6298, the prosecution and defense stipulated on (a) the jurisdiction of the trial court to hear and try the case, (b) identity of accused-appellant and that he is the same person who was arraigned in Criminal Case No. 20-6298, (c) the existence of the marriage certificate of BBB, mother of victim AAA, and accused-appellant, and (d) existence of the birth certificate of AAA, which states that she was born on July 24, 1992 in [REDACTED].<sup>12</sup>

<sup>7</sup> "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]).

<sup>8</sup> Records (Criminal Case No. 19-6297), p. 2.

<sup>9</sup> Records (Criminal Case No. 20-6298), p. 2.

<sup>10</sup> Records (Criminal Case No. 19-6297), p. 18; Records (Criminal Case No. 20-6298), p. 25.

<sup>11</sup> Records (Criminal Case No. 19-6297), p. 18, 20; Records (Criminal Case No. 20-6298), p. 25, 34-35.

<sup>12</sup> Records (Criminal Case No. 20-6298), p. 34.

On accused-appellant's motion, both criminal cases were consolidated and jointly tried by the trial court.<sup>13</sup>

#### Version of the Prosecution:

The prosecution presented the testimonies of AAA,<sup>14</sup> Dr. Olivia Ay-ayen (Dr. Ay-ayen),<sup>15</sup> CCC,<sup>16</sup> and BBB.<sup>17</sup>

AAA was born on July 24, 1992, as shown in her Certificate of Live Birth.<sup>18</sup> After the death of her father, her mother BBB married accused-appellant.<sup>19</sup> AAA recounted that at the dawn of October 19, 2004, she was sleeping in her room in the house when accused-appellant, who was wearing only a towel, came in, and laid beside her.<sup>20</sup> Thereafter, accused-appellant held her wrist and started kissing her on the cheeks and mouth. AAA resisted by pushing accused-appellant back but accused-appellant tightened his grip on her wrist.<sup>21</sup> Accused-appellant then lifted her blouse and started fondling her breasts. Afterwards, he removed her panty, went on top of AAA and inserted his penis into her vagina. AAA recalled that she was cried in pain during her ordeal.<sup>22</sup> After satisfying his desires, accused-appellant left AAA's room. AAA opted not to tell BBB about the incident because she was afraid that accused-appellant would hurt her mother.<sup>23</sup> The presentation of her birth certificate revealed that AAA was only 12 years old at the time of the incident.<sup>24</sup>

Dr. Ay-ayen, medical officer of ██████████ District Hospital, performed the physical and genital examination on AAA.<sup>25</sup> In this regard, she prepared a Medical Certificate.<sup>26</sup> Based on her examination, AAA's vagina can admit two fingers with ease, which may be caused by a pointed sharp or corrugated object such as a penis.<sup>27</sup> On cross-examination, Dr. Ay-ayen concluded that AAA is no longer a virgin based on the healed lacerations located at 5 o'clock and 7 o'clock positions of the vagina.<sup>28</sup>

CCC, a teacher, narrated that on November 23, 2007, she saw AAA crying at school. When CCC approached AAA and asked her why she was crying, AAA

<sup>13</sup> Id. at 110.

<sup>14</sup> TSN, February 8, 2010, pp. 10-24.

<sup>15</sup> TSN, September 7, 2010, pp. 2-8.

<sup>16</sup> TSN, January 10, 2011, pp. 2-6.

<sup>17</sup> TSN, October 20, 2009, pp. 2-13.

<sup>18</sup> Records (Criminal Case No. 19-6297), p. 8; TSN, February 8, 2010, pp. 5-7.

<sup>19</sup> Records (Criminal Case No. 19-6297), p. 9; TSN, February 8, 2010, pp. 8-9.

<sup>20</sup> TSN, February 8, 2010, pp. 9-10.

<sup>21</sup> Id. at 11.

<sup>22</sup> Id. at 12-13.

<sup>23</sup> Id. at 13, 15-16.

<sup>24</sup> Records (Criminal Case No. 19-6297), p. 8; TSN, February 8, 2010, pp. 5-7.

<sup>25</sup> TSN, September 7, 2010, p. 4.

<sup>26</sup> Records (Criminal Case No. 20-6298), p. 12.

<sup>27</sup> TSN, September 7, 2010, pp. 4-5.

<sup>28</sup> Id. at 7.

confided that she was molested by accused-appellant.<sup>29</sup> On November 28, 2007, AAA did not go home, and instead went to the house of CCC, together with the guidance counselor. CCC recalled that AAA did not want to go home because she was afraid that the rape incident will happen to her again.<sup>30</sup>

BBB, the mother of AAA, testified that on the night of November 28, 2007, she got worried when AAA did not come home from school. She and accused-appellant went looking for her, and they were informed that AAA was seen talking to CCC inside the school. BBB immediately went to the house of CCC, who advised her that AAA was at the house of a certain DDD in [REDACTED]. At the house of DDD, BBB learned for the first time from CCC that AAA was being molested by accused-appellant since she was in Grade 4, and that accused-appellant raped AAA.<sup>31</sup>

#### **Version of the Defense:**

For his part, accused-appellant denied having raped or molested AAA, his stepdaughter. He testified that at around 5:00 a.m. of October 19, 2004, he left his house and drove his jeepney to take passengers from [REDACTED] to [REDACTED].<sup>32</sup> Thereafter, he returned to his house.<sup>33</sup>

#### **Ruling of the Regional Trial Court:**

On October 5, 2015, the RTC rendered its judgment convicting accused-appellant of Rape, thus:

**WHEREFORE**, judgment is hereby rendered finding the accused [REDACTED] guilty beyond reasonable doubt of the crime of **RAPE** and hereby sentences him to suffer the penalty of **Reclusion Perpetua** and to pay complainant AAA the amount of P75,000.00 as moral damages, P75,000.00 as civil indemnity and P25,000.00 as exemplary damages.

**SO ORDERED.**<sup>34</sup>

The RTC convicted accused-appellant of the crime of Rape under Article 266-A of the RPC in Criminal Case No. 19-6297. The RTC accorded great weight to AAA's testimony over accused-appellant's negative and self-serving account.<sup>35</sup> However, the RTC acquitted the accused-appellant in Criminal Case No. 20-6298. Citing earlier rulings of this Court, the RTC held that if the victim of sexual intercourse is 12 years or older, the offender may be charged only with sexual abuse under Section 5(b) of RA 7610 or Rape under Article 266-A of the RPC, but may not be accused of both crimes for the same act because his right

<sup>29</sup> TSN, January 10, 2011, 2-4.

<sup>30</sup> Id. at 4-6.

<sup>31</sup> TSN, October 20, 2009, pp. 5-6.

<sup>32</sup> TSN, January 14, 2013, pp. 4-5.

<sup>33</sup> TSN, May 21, 2012, pp. 3-6.

<sup>34</sup> CA *Rollo*, pp. 22-23.

<sup>35</sup> Id. at 19-23.

against double jeopardy will be prejudiced. Thus, the RTC held that accused-appellant may only be charged with Rape under Article 266-A of the RPC.<sup>36</sup>

Accused-appellant appealed before the CA.

In his appeal, accused-appellant decried the RTC's finding of guilt, and argued that the RTC erred in giving weight and credence to the testimony of AAA. Accused-appellant argued that AAA's testimony is uncorroborated and incredulous, taking particular note that AAA did not shout during the alleged rape incident and that her room is adjacent to the rooms of her mother and sister.<sup>37</sup> On the other hand, the Office of the Solicitor General stressed that accused-appellant's guilt has been proven beyond reasonable doubt, with AAA's testimony entitled to full faith and credit and corroborated by medical and physical evidence.<sup>38</sup>

### **Ruling of the Court of Appeals:**

In its May 26, 2017 Decision, the CA sustained accused-appellant's conviction for the crime of Rape:

**WHEREFORE**, premises considered, the appeal is DENIED. The Joint Decision dated 05 October 2015 of Branch 19, Regional Trial Court of ██████████ ██████████ in Criminal Case Nos. 19-6297 and 20-6298 is AFFIRMED with MODIFICATION. Appellant ZZZ is found GUILTY beyond reasonable doubt of the crime of rape and is sentenced to suffer the penalty of *reclusion perpetua* without eligibility for parole. He is ORDERED to pay AAA exemplary damages in the increased amount of P75,000.00. He is further ORDERED to pay interest on all damages awarded at the rate of six (6%) per annum from the time of finality of this decision until fully paid.

**SO ORDERED.**<sup>39</sup>

The CA observed that AAA's failure to alert her sibling and mother who were in adjacent rooms at the time of the incident does not cast doubt on her credibility or negate the fact that she was raped.<sup>40</sup> The CA likewise found that accused-appellant's defenses of denial and alibi must fail. While the CA appreciated the qualifying circumstance of minority, it however refrained from appreciating relationship as a qualifying circumstance since the same was not specifically alleged in the information.<sup>41</sup>

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<sup>36</sup> Id. at 17.

<sup>37</sup> Id. at 52-56.

<sup>38</sup> Id. at 78-88.

<sup>39</sup> *Rollo*, p. 15.

<sup>40</sup> Id. at 8-12.

<sup>41</sup> Id. at 12-15.

Hence, this appeal.<sup>42</sup> Accused-appellant and the OSG manifested that they were adopting their respective briefs filed with the CA and dispensing with the filing of supplemental briefs.<sup>43</sup>

### Issue

The sole issue for resolution is whether or not accused-appellant is guilty beyond reasonable doubt of Rape.

### Our Ruling

The appeal is bereft of merit.

**Accused-appellant is guilty beyond reasonable doubt of Rape.**

For a charge of Rape by sexual intercourse under Article 266-A (1) of the RPC, as amended by RA 8353,<sup>44</sup> to prosper, the prosecution must prove that: (a) the offender had carnal knowledge of a woman, and (b) the offender accomplished this act under the circumstances mentioned in the provision, e.g., through force, threat or intimidation. The gravamen of Rape is sexual intercourse with a woman against her will.<sup>45</sup> In the review of rape cases, we continue to be guided by the following principles: (1) an accusation for rape can be made with facility, it is difficult to prove but more difficult for the person accused, though innocent, to disprove, (2) in view of the nature of the crime of Rape where only two persons are usually involved, the testimony of the complainant is scrutinized with extreme caution, and (3) the evidence for the prosecution stands or falls on its own merits and cannot be allowed to draw strength from the weakness of the defense. Thus, in a prosecution for Rape, the complainant's credibility becomes the single most important issue.<sup>46</sup>

When it comes to credibility, the assessment by the trial court deserves great weight, and even conclusive and binding effect, unless the same is tainted with arbitrariness or oversight of some fact or circumstance of weight and influence. Since it had the full opportunity to observe directly the deportment and the manner of testifying of the witnesses before it, the trial court is in a better position than the appellate court to properly evaluate testimonial evidence. The rule finds an even more stringent application where the CA sustained said findings, as in this case.<sup>47</sup>

<sup>42</sup> Id. at 16-18; Notice of Appeal dated June 22, 2017.

<sup>43</sup> Id. at 23-37 and 32-34.

<sup>44</sup> 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." Approved: September 30, 1997.

<sup>45</sup> *People v. Ejercito*, 834 Phil. 837, 844 (2018).

<sup>46</sup> *People v. Galuga*, G.R. No. 221428, February 13, 2019, citing *People v. Ramos*, 743 Phil. 344, 355-356 (2014).

<sup>47</sup> Id.

Taking into consideration the aforementioned principles, the Court finds no cogent reason to disturb the findings of the courts *a quo* that the elements of Rape by sexual intercourse under Article 266-A (1) of the RPC, as amended, were duly established. AAA's straightforward and positive testimony that accused-appellant raped her and utilized force by gripping her wrists to do so, corroborated by the medical certificate indicating healed lacerations on her hymen, and the lack of dispute that AAA was only 12 years old at the time of the incident, are sufficient for conviction.

AAA's testimony is clear, candid, consistent in its material points, and unshaken during grueling cross-examination. 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. 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.<sup>48</sup>

Moreover, accused-appellant's attempt to discredit AAA's testimony on the basis of her failure to alert her sibling and mother who were in adjacent rooms at the time of the commission of rape deserves scant consideration. Victims of a crime as heinous as rape cannot be expected to act within reason or in accordance with society's expectations. It is unfair and unreasonable to demand a standard of rational reaction to an irrational experience, especially from a 12-year-old victim.<sup>49</sup> In addition, the close proximity of other relatives to the scene of the rape does not render the commission of the crime impossible or incredible. Rape can be committed even in places where people congregate, inside a house where there are other occupants, and even in the same room where other members of the family are also sleeping.<sup>50</sup>

Given the foregoing, accused-appellant's defense of denial cannot overcome the categorical testimony of the victim. Denial is an intrinsically weak defense which must be buttressed with strong evidence of non-culpability to merit credibility. A denial, which necessarily constitutes self-serving negative evidence, cannot prevail over the declaration of credible witnesses who testify on affirmative matters.<sup>51</sup>

The CA and the RTC correctly disregarded the qualifying circumstance of the accused-appellant being AAA's stepfather, although it was proven during

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<sup>48</sup> *People v. XXX*, G.R. No. 239906, August 26, 2020.

<sup>49</sup> *People v. XXX*, G.R. No. 230981, July 15, 2020, citing *Pendoy v. Court of Appeals*, G.R. No. 228223, June 10, 2019.

<sup>50</sup> *People v. Licaros*, G.R. No. 238622, December 7, 2020, citing *People v. Descartin, Jr.*, 810 Phil. 881-892 (2017).

<sup>51</sup> *Id.*

trial, since the Information incorrectly averred that accused-appellant is the common-law father of AAA. It is settled that for the qualifying circumstances of minority and relationship to be appreciated, both circumstances must be specifically alleged in the information and duly proven during the trial with equal certainty as the crime itself.<sup>52</sup>

### **Penalty, Damages, and Civil Indemnity**

In view of accused-appellant's conviction for Rape under paragraph 1 (a), Article 266-A of the RPC, as amended by RA 8353, he was properly meted out the penalty of *reclusion perpetua*. However, the phrase "without eligibility for parole" shall be deleted pursuant to the Court's guidelines in A.M. No. 15-08-02-SC.<sup>53</sup>

The CA's award of ₱75,000 each as civil indemnity, moral damages, and exemplary damages likewise conforms to prevailing jurisprudence.<sup>54</sup> All damages awarded shall earn six percent (6%) interest per *annum* from the date of finality of this Resolution until full payment.

**WHEREFORE**, the appeal is **DISMISSED**. The May 26, 2017 Decision of the Court of Appeals in CA-G.R. CR HC No. 08023 is hereby **AFFIRMED**. Accused-appellant ZZZ is found **GUILTY** of Rape and sentenced to suffer the penalty of *reclusion perpetua*. The phrase "without eligibility for parole" is deleted. He is ordered to pay AAA (i) ₱75,000.00 as civil indemnity, (ii) ₱75,000.00 as moral damages, and (iii) ₱75,000.00 as exemplary damages. Interest at the rate of six percent (6%) per *annum* shall be imposed on the aggregate amount of the monetary awards computed from the finality of this Resolution until full payment.

**SO ORDERED."**

By authority of the Court:

TERESITA AQUINO TUAZON  
Division Clerk of Court

By:



MA. CONSOLACION GAMINDE-CRUZADA  
Deputy Division Clerk of Court

10 JUN 2020

<sup>52</sup> *People v. Paldo*, 723 Phil. 723, 737-738 (2013).

<sup>53</sup> *People v. XXX*, G.R. No. 249647 (Notice), December 9, 2020.

<sup>54</sup> *People v. Jugueta*, 783 Phil. 806, 848-849 (2016).

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THE DIRECTOR (reg)  
Bureau of Corrections  
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HON. PRESIDING JUDGE (reg)  
Regional Trial Court, Branch 19  
Cauayan City, Isabela  
(Crim. Case Nos. 19-6297 & 20-6298)

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*pa/lo*