



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **March 15, 2022** which reads as follows:*

“G.R. No. 238177 (*People of the Philippines v. Jomer Novelas y Gozon @ “Mata”*). – Before the Court is an ordinary appeal¹ from the Decision² dated October 26, 2017 of the Court of Appeals (CA) in C.A.-G.R. CR-HC No. 08535, which affirmed the Decision³ dated July 22, 2016 of the Regional Trial Court (RTC), Branch 5, Manila finding Jomer Novelas y Gozon alias “Mata” (accused-appellant) guilty beyond reasonable doubt of the crime of Statutory Rape under Article 266 (A), paragraph 1(d),⁴ in relation to Article 266 (B),⁵ of the Revised Penal Code (RPC), as amended.

The Facts

Accused-appellant was charged with rape under Article 266(A), paragraph 1(d) of the RPC allegedly committed as follows:

That on or about September 15, 2015, in the City of Manila, Philippines, the said accused, with lewd design and by means of force, threat and intimidation, did then and there

- over – twelve (12) pages ...

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¹ *Rollo*, pp. 16-17.

² *Id.* at 2-15; penned by Associate Justice Ramon Paul L. Hernando (now a Member of this Court) and concurred in by Associate Justices Remedios Salazar-Fernando and Mario V. Lopez (now a Member of this Court).

³ *CA rollo*, pp. 45-57; penned by Presiding Judge Emily L. San Gaspar-Gito.

⁴ 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:

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.

⁵ Article 266-B. *Penalties. — Rape under paragraph 1 of the next preceding article shall be punished by reclusion perpetua.*

x x x x

willfully, unlawfully and knowingly commit sexual abuse against one AAA,⁶ an 11 year-old minor, assisted by her uncle BBB, by then and there covering the latter's mouth, pulling down her shorts, thereafter, kissing her on the lips, licking her breast and inserting his penis into the vagina of said AAA, thus, succeeded in having carnal knowledge to said AAA, against her will and without her consent, to her damage and prejudice.

Contrary to Law.⁷

On arraignment, accused-appellant pleaded not guilty. Trial ensued.⁸

Version of the prosecution

The prosecution presented as witnesses, private complainant AAA, BBB, Barangay *Tanod* Wilfredo de Guzman (Brgy. Tanod de Guzman), Senior Police Officer 3 Dolores Villegas (SPO3 Villegas), and Dr. Renee Joy P. Neri (Dr. Neri).⁹ Evidence for the prosecution established the following:

AAA was only 11 years old at the time of the incident, having been born on November 23, 2003. She has only reached Grade 1 because she used to skip her classes. Her parents are both blind.

On September 15, 2016, at around 6:00 o'clock in the morning, AAA was in their house in Manila. She and her mother were washing their clothes. She went upstairs when [accused-appellant] signaled her to do so. At the time, [accused-appellant] was holding a knife. She obliged. [Accused-appellant] followed her. Upstairs, [accused-appellant] kissed her on the lips and breasts. He was intoxicated at the time. He took-off her shirt, shorts and panty. Thereafter, he inserted his penis into her vagina. While doing so, he placed a pillow over her.

AAA felt pain when he inserted his penis into her vagina. She did not shout because she was afraid and because he was strong.

Suddenly, her father arrived and this prompted [accused-appellant] to stop. Her father must have known what happened as their house upstairs was in topsy-turvy condition. She left their

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⁶ 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 Amended Administrative Circular No. 83-2015 dated September 5, 2017.

⁷ *Rollo*, p. 3.

⁸ *Id.*

⁹ *Id.*

house and went to her father's friend in Tondo. She reported to the latter what happened to her. Her father's friend brought her home after two hours. When her father learned about the incident, they proceeded to the barangay.

AAA was familiar with [accused-appellant] as he lived within their area. She knew him to have a girlfriend and into drugs.

AAA and her parents sought the assistance of [Brgy. Tanod de Guzman] on September 15, 2015 at around 6:30 o'clock in the morning, regarding the rape committed by [accused-appellant]. In response [Brgy.] Tanod de Guzman proceeded to the place of [accused-appellant] and invited him to the Barangay. A confrontation took place between AAA and [accused-appellant] at the barangay hall and this prompted [Brgy.] Tanod de Guzman to bring him to Precinct No. 4 for investigation.

BBB assisted his niece, AAA, in lodging a complaint before the barangay and in executing her Judicial Affidavit before the Manila Police District, Police Station No. 1. He also brought her to the Children's Protection Unit-Philippine General Hospital (CPU-PGH) for her physical examination.

SPO3 [Villegas], the investigator-on-duty at Police Station 1 on September 16, 2015 interviewed AAA and translated her narration into her *Sinumpaang Salaysay*. She booked [accused-appellant] and referred the case to the Inquest Prosecutor. She also received AAA's Medico Legal Report.

Dr. [Neri], the physician assigned at the CPU-PGH, examined AAA. Per her findings, the ano-genital examination is indicative of blunt force or penetrating trauma. She issued the Final Medico Legal Report No. 2015-15426 containing her findings.¹⁰

Version of the defense

The defense, on the one hand, presented accused-appellant and his mother, Mercedes Novelas (Mercedes), as witnesses. The following was established by the defense:

[Accused-appellant] denied the charge.

He admitted that AAA was his neighbor. He recounted that on the given date, at around 6:00 o'clock in the morning, he was on his way home after driving his tricycle. He was then at the marketplace at the house of his brother. It was the place where he usually parked his tricycle.

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¹⁰ Id. at 3-5.

He however admitted that he was residing near AAA's house in Manila and that it would take him only eight (8) minutes to go from the marketplace to the said address.

After parking his tricycle, he went directly to his house and went to sleep. His mother, nephew and stepfather were at home. Before entering his house, he saw AAA at the corner of an alley doing the laundry. While knocking at their door, he saw AAA went upstairs. Meanwhile, his mother opened the door and thereafter, he went directly to his room and slept. He was the only one in the room.

He woke up at 8:00 o'clock in the morning. Barangay Officials were looking [for] him. He asked them why and he was told that they just wanted to talk to him. They handcuffed him and asked him not to say a word anymore. They brought him to the barangay. AAA and a Kagawad talked to him about the complaint of rape. He cried but his mother could not do anything because he was already handcuffed and there were already a lot of people around. Thereafter, he was brought to the hospital for physical examination and to Police Station No. 1 where he was put in jail.

After four to five days, he was inquested.

He labelled AAA's testimony as a mere lie. He admitted that his nickname is "Mata." He felt that AAA had a crush on him because everytime [sic] his friends would come to his house, she would go out of her house and flirt with them. He would only look at her and make face. He denied taking advantage of such situation and because he had a girlfriend who was his live-in partner. But he did not why AAA would falsely charge him. He surmised that the reason might be because their families had frequent fights over electricity, both of them having electric jumper installed in their houses.

Mercedes, his mother, corroborated his testimony.

She claimed that [accused-appellant] arrived at their house at around 6:00 o'clock in the morning of the given date, having just come home from his friend's house. He knocked on the door and she opened it. Thereafter, he just went upstairs to sleep. She then attended to her grandchild who was about to go to school. She just stayed home and did not leave. Neither did her son leave.

At around 8:00 o'clock of the same date, [accused-appellant] was arrested at home by the barangay officials. She was the first one to know that a complaint was filed against him. She woke him up. Thereafter, the barangay officials handcuffed him and brought him to the barangay. She did not notice anything unusual with him when he arrived at 6:00 o'clock in the morning of that day. She was therefore very surprised when he was invited by the barangay officials.

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She felt that AAA liked her son because whenever she would see him, she would always be excited. She also admitted that her family and that of AAA had an altercation over electricity. And for that reason, AAA's family must have been mad at them. Mercedes believed that her son could not do the thing with which he was charged.¹¹

The RTC Ruling

On July 22, 2016, the RTC rendered a Decision,¹² convicting accused-appellant of the offense charged, *viz.*:

WHEREFORE, in view of the foregoing disquisition, the Court finds JOMER NOVELAS y GOZON guilty beyond reasonable doubt of the crime of STATUTORY RAPE defined and penalized under Article 266-A paragraph 1 (d) of the *Revised Penal Code*. He is hereby sentenced to suffer the penalty of *reclusion perpetua* with all the accessory penalties provided by law.

He is further adjudged to pay AAA civil indemnity of P50,000.00, moral damages of P50,000.00, exemplary damages of P25,000.00, and the costs of suit.

SO ORDERED.¹³

The RTC found that all the elements of Statutory Rape under Article 266-A, paragraph 1(d) of the RPC are present in the instant case. First, the offender, accused-appellant, is a man. Second, he succeeded in having carnal knowledge with AAA by inserting his penis into AAA's vagina. Such carnal knowledge was supported by Final Medico-Legal Report No. 2015-15426 stating that there was a "*petechiae 1 o'clock position*" at the perihymenal area and "*hymenal bruise 4 o'clock to 6 o'clock position*." Lastly, AAA was only eleven (11) years old at the time of the incident as evidenced by her Certificate of Live Birth stating that she was born on November 23, 2003.¹⁴ The RTC held that sexual congress with a girl under twelve (12) years old is always rape. The trial court likewise noted that AAA was initially considered to have Attention Deficit Hyperactivity Disorder or ADHD that needs further evaluation and management by a developmental pediatrician. In any event, not only was AAA an 11-year-old minor at the time of the incident, she was also subjected by

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¹¹ Id. at 5-6.

¹² *CA rollo*, pp. 45-57.

¹³ Id. at 56.

¹⁴ Id. at 51.

accused-appellant to force, violence, and intimidation in the commission of the subject rape.¹⁵ The RTC gave no evidentiary weight to accused-appellant's unsubstantiated defenses of denial and alibi, which are weak and cannot prevail over the positive and categorical declarations of AAA. The RTC found AAA's testimony as clear and straightforward. She remained consistent all throughout her testimony despite having been subjected to repeated questions and penetrating cross-examination.¹⁶

The CA Ruling

On appeal, the CA, through the assailed Decision,¹⁷ affirmed with modifications the RTC Decision. The CA held:

WHEREFORE, premises considered, the appeal is **DENIED**. The assailed *Decision* dated July 22, 2016 by the Regional Trial Court, Branch 5 of Manila in Criminal Case No. 15320042 convicting accused-appellant Jomer Gozon Novelas alias "*Mata*" of the crime of statutory rape and sentencing him to *reclusion perpetua* with all the accessory penalties provided by law is hereby **AFFIRMED with the following MODIFICATIONS**. Accused-appellant is **ORDERED** to pay private complainant AAA the following amounts:

- (1) PhP75,000.00 as civil indemnity;
- (2) PhP75,000.00 as moral damages;
- (3) PhP75,000.00 as exemplary damages;
- (4) Interest at the rate of 6% *per annum* from the date of finality of this decision until full payment, to be imposed on the civil indemnity, moral damages, and exemplary damages.

SO ORDERED.¹⁸

The CA agreed with the conclusion of the RTC that all the elements of Statutory Rape were established by the prosecution. The CA also brushed aside accused-appellant's attempt to discredit AAA's testimony. Apart from the fact that AAA was merely eleven (11) years old at the time of the rape, the CA further noted that her highest educational attainment was only Grade 1. Accused-appellant injected malice to AAA's statements during her cross-examination and tried to imply the possibility that AAA only made up the charge of rape.

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¹⁵ Id. at 52.

¹⁶ Id. at 53-55.

¹⁷ *Rollo*, pp. 2-15.

¹⁸ Id. at 14.

Nonetheless, the CA ruled that AAA's positive identification of accused-appellant as the perpetrator of the rape and her categorical statements on how accused-appellant succeeded in having carnal knowledge with her are sufficient circumstantial evidence to sustain accused-appellant's conviction. That AAA might not have seen accused-appellant's actual penetration is inconsequential because AAA testified that she saw accused-appellant's penis, and both of accused-appellant's hands were busy (one was holding a pillow over AAA's head and the other holding AAA's hand or the chair on which AAA was made to lie on) when he was consummating the rape.¹⁹ Neither can the Final Medico-Legal Report help accused-appellant. The absence of injury or laceration would not negate rape as the slightest genital contact, however brief, can already be deemed as rape. Full penetration is immaterial.²⁰ In sum, the CA affirmed the factual findings and ruling of the RTC specifically on the credibility of the parties' witnesses, the trial court being in the best position to ascertain the demeanor of said witnesses.²¹

Aggrieved, accused-appellant is now before this Court in his final appeal to overturn his conviction.

When directed by the Court to file supplemental briefs, both accused-appellant and the People, through the Office of the Solicitor General, manifested that they are no longer filing a supplemental brief. Instead, they are adopting and repleading their respective assertions and arguments in their briefs filed before the CA.²²

The Issue

The crux of the appeal is whether the CA correctly affirmed the RTC Decision finding accused-appellant guilty beyond reasonable doubt of the crime of Statutory Rape.

The Court's Ruling

The appeal has no merit.

The elements of Statutory Rape are: (1) the offended party is under twelve (12) years of age; and (2) the accused had carnal knowledge of the victim, regardless of whether there was force, threat,

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¹⁹ Id. at 7-13.

²⁰ Id. at 13.

²¹ Id. at 13-14.

²² Id. at 25-27 and 30-33.

or intimidation or grave abuse of authority. It is enough that the age of the victim is proven and that there was sexual intercourse.²³ The gravamen of the offense is the carnal knowledge of a woman below twelve (12) years old. The law presumes that the victim does not and cannot have a will of her own on account of her tender years.²⁴

As found by the trial court and aptly affirmed by the CA, all the elements of Statutory Rape are present in the instant case.

First, AAA's Certificate of Live Birth shows that she was born on November 23, 2003.²⁵ She was only eleven (11) years and ten (10) months old at the time of the rape on September 15, 2015.

Second, the prosecution established that accused-appellant had carnal knowledge of AAA. AAA positively identified accused-appellant as the perpetrator of the rape. She testified that accused-appellant removed her shorts and underwear and his own shorts and briefs and she saw accused-appellant's private organ. Thereafter, accused-appellant inserted his penis into AAA's vagina.²⁶

It need not be stressed that factual findings of the trial court, when affirmed by the CA, are considered binding and conclusive upon this Court.²⁷

Accused-appellant nonetheless insists that AAA's testimony was tainted with inconsistencies. In fact, AAA admitted during her cross-examination that she merely felt accused-appellant's penetration but did not actually see it. Further, there was no deep or fresh lacerations on AAA's hymen as shown by the Final Medico-Legal Report. Rather, only a petechiae and a hymenal bruise were noted by Dr. Neri on AAA's perihymenal area. Accused-appellant argues that petechiae is usually caused by micro-organisms and not by penile penetration; while hymenal bruise may indicate injury due to straddle accident and not due to sexual penetration. These, according to accused-appellant, are sufficient to raise an iota of reasonable doubt on AAA's charge of rape and accused-appellant's guilt thereof.²⁸

Accused-appellant's arguments fail to persuade.

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²³ *People v. Ronquillo*, 818 Phil. 641, 648 (2017).

²⁴ *People v. XXX*, G.R. No. 236562, September 22, 2020.

²⁵ *CA rollo*, p. 51.

²⁶ *Rollo*, pp. 12-13.

²⁷ *Labosta v. People*, G.R. No. 243926, June 23, 2020.

²⁸ *CA rollo*, p. 38.

In *People v. Nocido*,²⁹ the Court held:

It is a settled rule that rape may be proven by the sole and uncorroborated testimony of the offended party, provided that [the] testimony is clear, positive, and probable.

The Supreme Court is guided by jurisprudence in addressing the issue of credibility of witnesses. First, the credibility of witnesses is best addressed by the trial court, considering that it is in a unique position to directly observe the demeanor of a witness on the stand. Since the trial judge is in the best position to determine the truthfulness of witnesses, the judge's evaluation of the witnesses' testimonies is given the highest respect, on appeal. Second, in the absence of substantial reason to justify the reversal of the RTC's assessments and conclusions, the reviewing court is generally bound by the lower court's finding, particularly when no significant facts and circumstances, affecting the outcome of the case, are shown to have been disregarded. Third, the rule is even more stringently applied if the CA concurred with the RTC.³⁰ (Citations and emphasis omitted)

As correctly held by the CA, the alleged inconsistencies in AAA testimony were sufficiently explained during her redirect examination when she narrated the details on how accused-appellant consummated the rape.³¹ At any rate, inconsistencies in the testimony of the victim does not necessarily render such testimony incredible.³² Instead, minor inconsistencies are badges of truth because they indicate that the charges are not fabricated and the witness is not a rehearsed witness.³³ What is decisive in a charge of rape is the complainant's positive identification of the accused as the malefactor.³⁴

More importantly, the Court has consistently held that testimonies 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.³⁵ Testimonies of rape victims who are

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²⁹ G.R. No. 240229, June 17, 2020.

³⁰ Id.

³¹ *Rollo*, pp. 11-12.

³² *People v. Udtohan*, 815 Phil. 449, 463 (2017).

³³ Id., see also *People v. BBB*, G.R. No. 248023, June 17, 2020.

³⁴ *People v. Udtohan*, supra at 450.

³⁵ *People v. AAA*, G.R. No. 247007, March 18, 2021.

young and of tender age are credible. The revelation of an innocent child whose chastity was abused deserves full credence.³⁶ Youth and immaturity are generally badges of truth and sincerity.³⁷

On this score, the following findings of the trial court are significant:

AAA's testimony, alone, had passed the test of credibility. She narrated her ordeal in a clear and straightforward manner. Despite having been subjected to penetrating cross-examination, she remained consistent. The [c]ourt carefully studied her testimony to see any taint of dishonesty but instead the [c]ourt was convinced of her candor. She remained consistent all throughout her testimony even when the questions were repeated several times. What is clear from her testimony is the fact that [accused-appellant] had carnal knowledge of her.

At this juncture, it is worthy to stress that there appears to be no showing that AAA was motivated to falsely implicate [accused-appellant] with the commission of such heinous crime. They had no altercation at all. Absent any convincing evidence showing improper motive on the part of AAA strongly tends to sustain that no such improper motive exists and that her testimony is worthy of full faith and credit.³⁸

To reiterate, findings of the trial courts on the credibility of witnesses deserve a high degree of respect and will not be disturbed during appeal in the absence of any clear showing that the trial court overlooked, misunderstood or misapplied some facts or circumstances of weight and substance which could have altered the conviction of the appellant.³⁹

Further, the fact that there was no laceration of AAA's hymen does not negate rape and would not support accused-appellant's plea for innocence. The element of rape does not include hymenal laceration, for mere touching, no matter how slight of the *labia* or lips of the female organ by the male genital, even without rupture or laceration of the hymen, is sufficient to consummate rape.⁴⁰ Also undeserving of merit is accused-appellant's assertion that the petechiae and bruise on AAA's hymen do not indicate rape because they are not ordinarily due to penetration by the penis. Suffice it to

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³⁶ *People v. Udtohan*, supra note 32 at 463.

³⁷ *People v. AAA*, supra at 35.

³⁸ CA rollo, p. 55.

³⁹ *Labosta v. People*, supra note. 27.

⁴⁰ *People v. Nocido*, supra note 29, citing *People v. ZZZ*, G.R. No. 229862, June 19, 2019.

state that Dr. Neri, in the Final Medico-Legal Report, concluded that AAA's anogenital findings are indicative of blunt force or **penetrating trauma**.⁴¹

Confronted with the prosecution's evidence, accused-appellant could only offer denial and alibi as defenses. These defenses are inherently weak and cannot prevail over the positive and categorical testimony of AAA, more so considering accused-appellant's failure to prove that it was physically impossible for him to be at the scene of the crime at the time of the rape. On the contrary, accused-appellant admitted that AAA was his neighbor and at time of the subject rape, he was at his house, which is just beside AAA's house⁴² where the rape was committed.

All told, the CA did not err in affirming accused-appellant's conviction for Statutory Rape. The modified amounts of damages are likewise sustained for being in accord with prevailing jurisprudence.⁴³

WHEREFORE, the appeal is **DENIED**. The Decision dated October 26, 2017 of the Court of Appeals in C.A.-G.R. CR-H.C. No. 08535, finding accused-appellant Jomer Novelas y Gozon alias "Mata" guilty beyond reasonable doubt for Statutory Rape under Article 266 (A), paragraph 1 (d) of the Revised Penal Code is **AFFIRMED**.

SO ORDERED."

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court *sltz*

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court
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⁴¹ *Rollo*, p. 5.

⁴² *Id.*

⁴³ See *People v. Jugueta*, 783 Phil. 806 (2016).



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

Court of Appeals (x)
Manila
(CA-G.R. CR-HC No. 08535)

The Hon. Presiding Judge
Regional Trial Court, Branch 5
1000 Manila
(Crim. Case No. 15-320042)

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

Mr. Jomer G. Novelas
Accused-Appellant
c/o The Director General
Bureau of Corrections
1770 Muntinlupa City

The Director General
Bureau of Corrections
1770 Muntinlupa City

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