



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated August 31, 2022, which reads as follows:

“G.R. No. 238526 (*People of the Philippines v. XXX and YYY; accused; XXX, accused-appellant*¹). — Challenged in this appeal² is the October 30, 2017 Decision³ of the Court of Appeals (CA) in CA-G.R. CR HC No. 08678 which affirmed the July 1, 2016 Judgment⁴ of the Regional Trial Court (RTC) of ██████████,⁵ Branch 265 in Criminal Case No. 125-603-H finding accused-appellant XXX (accused-appellant), guilty of the crime of Rape, as punished under Article 266-A 1(a), in relation to Art. 266-B of the Revised Penal Code (RPC), as amended by Republic Act No. (RA) 8353.⁶ The other accused, YYY remains at large.⁷

The Antecedents

Accused-appellant was charged before the RTC with the crime of Rape in an Amended Information,⁸ the accusatory portion of which 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. 27-28.

³ *Id.* at 2-26. Penned by Associate Justice Rafael Antonio M. Santos and concurred in by Associate Justices Marlene B. Gonzales-Sison and Socorro B. Inting.

⁴ *CA rollo*, pp. 45-60.

⁵ Geographical location is blotted out pursuant to Supreme Court Amended Administrative Circular No. 83-2015.

⁶ 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. 9815, AS AMENDED, OTHERWISE KNOWN AS THE REVISED PENAL CODE AND FOR OTHER PURPOSES.” Approved on September 30, 1997.

⁷ *Rollo*, p. 2.

⁸ Records, pp. 83-85.

The Prosecution, through the undersigned Public Prosecutor, charges [XXX] and [YYY], with the crime of rape (Under Art. 266-A 1(a) in rel. to Art. 266-B of the RPC, as amended by R.A. 8353) committed as follows:

On or about April 26, 2003, in [REDACTED] and within jurisdiction of this Honorable Court, the accused, conspiring and confederating together and both of them mutually helping and aiding one another, by means of force, threat and intimidation, did then and there willfully, unlawfully and feloniously have sexual intercourse with [AAA]⁹ [private complainant], against her will and consent, the said crime having been aggravated the circumstances of treachery, evident premeditation, abuse of superior strength and nighttime, to the damage and prejudice of the said victim.

Contrary to Law.¹⁰ (Underscoring in the original)

Version of the Prosecution

In 2003, 25-year old private complainant was employed as a babysitter in the residence of her uncle at [REDACTED].¹¹

On April 26, 2003, at around 6:00 a.m., while taking care of her uncle's one year-old baby, she accidentally lost grip of the child she was carrying in her hands. The baby fell to the floor which frightened her. Out of fear that her uncle and aunt would later reprimand her,¹² private complainant decided to leave the house.

Private complainant walked the streets until she reached a certain store at around noon of the same day. She fell asleep in front of the store until she was woken up by a woman who appeared to be the store owner. The woman told her not to leave the place because she would call people who could help her. After a while, two individuals alighted from a white car and asked her what she was doing in the store. Private complainant responded that she was not doing anything wrong, after which, the duo told her to come with them to the *barangay* hall in [REDACTED].¹³

Private complainant and the duo went to the *barangay* hall. Once inside, the two persons left her. She then noticed a man busy typing on his desk who asked for her name, which she provided.¹⁴

⁹ "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]).

¹⁰ *Rollo*, pp. 3-4. See also Records, pp. 83-84.

¹¹ *Rollo*, p. 4.

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

Thereafter, a tall and robust person in sando and maong t-shirt, whom private complainant later identified to be accused-appellant, approached her and introduced himself as a police officer. Accused-appellant asked her to come with him, but private complainant replied, “*dito na lang kuya.*”¹⁵

Despite her objection, accused-appellant held her hands and led her to the room located at the back of the *barangay* hall. At this point, private complainant was already crying because she thought that accused-appellant would kill her.¹⁶

Once inside the room, accused-appellant laid down on a carton on the floor and asked private complainant to likewise lie down. She acceded out of fear. Accused-appellant began taking off her t-shirt while she was lying on the floor. Private complainant tried to push accused-appellant away, but he was stronger than her. Helpless, private complainant shouted in fear, “*Wag po kuya x x x*” “*Tulong! Tulong!*” Unfortunately, no one heard her pleas.¹⁷

Accused-appellant pulled down private complainant’s underwear below her knees, removed his shorts, and went on top of private complainant who was shouting and pushing him away. Accused-appellant then inserted his penis inside private complainant’s vagina and had sexual intercourse with her.¹⁸

Afterwards, private complainant went out of the room crying, approached to the typist, and asked for his help. However, the typist ignored her.¹⁹

Distraught, she tried to locate accused-appellant in the *barangay* hall and when she did not find him, she remained seated inside the *barangay* hall.²⁰

On April 27, 2003, at around 12:00 midnight and 2:00 a.m., another man, later identified as accused YYY, arrived in the *barangay* hall who, upon seeing her, carried her to the room. Despite what was happening, the typist remained stuck to his seat and continued typing.²¹

While she was being carried, private complainant shouted, “Please help me, please help me.” No one helped her and she was raped the second time.²²

Despite what happened, she remained in the *barangay* hall because she did not know how to go back to her uncle’s house. Fortunately, she was

¹⁵ Id. at 4-5.

¹⁶ Id. at 5.

¹⁷ Id.

¹⁸ Id.

¹⁹ Id.

²⁰ Id.

²¹ Id.

²² Id.

eventually able to talk to a *barangay* official who, upon learning her circumstance, immediately contacted her uncle's wife to fetch her in the *barangay* hall. When she arrived, private complainant told her that she was raped.²³

On April 28, 2003, private complainant lodged a complaint before *Barangay Kagawad* BBB who immediately called Police Community Precinct [REDACTED] to report the incident. Upon receipt of the report, Police Inspector Jose Ogbac, Jr. instructed Senior Police Officer 1 Crispin Pio (SPO1 Pio) to look for accused-appellant who was accosted and brought to the precinct on the same day. Thereafter, accused-appellant was put in a police line-up where private complainant positively identified him as her assailant.²⁴

At around 4:00 p.m. of the same day, private complainant was brought to the Philippine National Police - Woman's Crisis and Child Protection Center in Camp Crame, Quezon City for physical examination. Medico-Legal Report No. 0072-4-28-03 prepared by Police Chief Inspector Jamie Rodrigo Letrero Leal (Dr. Leal) disclosed that private complainant suffered from abrasion and bruising in the posterior fourchette, bruising in the bilateral peri-hymenal area, and hymenal bruising at 6 o'clock. The report also concluded that there was "definitive evidence of recent penetration."²⁵

During trial, the prosecution presented the following witnesses:

- (i) private complainant;
- (ii) Dr. Nimia Hermilia C. De Guzman (Dr. De Guzman), a psychologist, who assessed private complainant to have a numerical IQ of 51 or mild mental retardation level. She was also diagnosed to be unaware of the actual activities in life situations and with very limited knowledge, but able to perform tasks subject to constant supervision. Dr. De Guzman pointed out that private complainant's mental age was equivalent to that of an 8-year-old child;²⁶
- (iii) *Barangay Tanod* CCC who testified that private complainant reported to her that she was raped;²⁷
- (iv) Police Chief Inspector Ruby Grace Sabino-Diangson as medico-legal officer who corroborated the findings of Dr. Leal;²⁸ and

²³ Id. at 6.

²⁴ Id.; See also CA *rollo*, p. 90

²⁵ *Rollo*, p. 6.

²⁶ CA *rollo*, p. 47

²⁷ Id. at 49-50.

²⁸ *Rollo*, p. 21; See also CA *rollo*, p. 98.

- (v) SPO1 Pio who testified that he received a call from the *barangay kagawad* and informed him that two *pasukob* members were involved in a rape case. He explained that a *pasukob* member was the counter part of the *barangay tanod*. He narrated that when he interviewed private complainant, her description of her assailants matched the physical features of both accused-appellant and YYY. He likewise testified, among others, that during the police line-up, consisting of seven persons which included accused-appellant, private complainant identified him as her perpetrator.²⁹

Version of the Defense

Accused-appellant vehemently denied the accusation against him. He claimed that on April 26, 2003, between 8:00 a.m. to 7:00 p.m., he was at his house in [REDACTED]. Afterwards, he played basketball in *Barangay* [REDACTED] and went back to his house at around 9:30 p.m. The following day, at around 9:00 a.m., his wife's uncle, WWW went to his house and asked for the whereabouts of accused YYY because a woman filed a rape complaint against him. When YYY arrived, accused-appellant told him about the complaint but YYY told accused-appellant to ignore it.³⁰

On his way home from a basketball game, accused-appellant passed by YYY on the store and asked him to join their drinking session. YYY declined the invitation and instead drank soda. After a while, they saw two women passing by. YYY then approached the women and put his arm around the person with the cleft palate prompting accused-appellant to shout: "*Tol, ibang klase ka pala kapag nakainom, kahit may bingot pinapatulan mo.*"³¹ The woman got mad at accused-appellant even as YYY drove them away. After five minutes, the two women came back. YYY then put his arm around the woman with the cleft palate and went to the back of the headquarters of the *barangay tanods*. Accused-appellant then went back to their office to retrieve his radio. When he was about to leave, he saw YYY coming from the back of the headquarters of the *barangay tanods*. Accused-appellant teased YYY once again, telling him, "*Ano tol, naiyot mo na?*"³² The woman got mad again at him and shouted invectives, prompting accused-appellant to go home. He denied raping private complainant.³³

When arraigned on November 17, 2003, accused-appellant pleaded "not guilty" to the crime.³⁴ Thereafter, the trial on the merits proceeded.³⁵

²⁹ CA rollo, pp. 49-50.

³⁰ Rollo, pp. 6-7; See also CA rollo, p. 37.

³¹ Rollo, p. 7.

³² Id.

³³ Id.

³⁴ Id. at 8.

³⁵ Id.

Ruling of the Regional Trial Court

In its July 1, 2016 Judgment, the RTC found accused-appellant guilty beyond reasonable doubt of the crime of Rape. The dispositive portion of the trial court's Judgment reads:

WHEREFORE, in light of the foregoing, the Court renders judgment finding the accused [XXX] **guilty beyond reasonable doubt** of the crime of rape defined and penalized under Article 266-A 1(a) in relation to Article 266-B of the Revised Penal Code, as amended by Republic Act No. 8353 and hereby sentences him to suffer the penalty of *Reclusion Perpetua*.

Further, accused [XXX] is ordered to pay the victim the amount of Php75,000.00 as civil indemnity, Php50,000.00 as moral damages, and another Php30,000.00 as exemplary damages. The award of damages shall earn interest at the rate of 6% per annum from the date of finality of the judgment until fully paid.

Finally, the case against accused [YYY] shall be placed in the archive pending his apprehension.

SO ORDERED.³⁶

Ruling of the Court of Appeals

Aggrieved, accused-appellant appealed with the CA. However, in its October 30, 2017 Decision, the appellate court sustained the conviction of accused-appellant with modification that the awards of civil indemnity, moral damages, and exemplary damages be increased to ₱75,000.00 each in view of prevailing jurisprudence.³⁷ The *fallo* of the appellate court's Decision reads:

WHEREFORE, the assailed Decision dated [July 1, 2016] of the Regional Trial Court, Branch 265, [REDACTED] in Criminal Case No. 125-603-H finding the accused-appellant, [XXX], guilty of the crime of Rape is hereby **AFFIRMED** with the modification that the moral and exemplary damages are increased to P75,000.00 each.

SO ORDERED.³⁸

Issue

The main issue in the instant case is whether accused-appellant is guilty beyond reasonable doubt of the crime of Rape.

Our Ruling

³⁶ CA *rollo*, p. 60.

³⁷ *Rollo*, pp. 9 and 26.

³⁸ *Id.* at 26.

The appeal is dismissed.

**Accused-appellant is guilty
beyond reasonable doubt of the
crime of Rape**

The gravamen of the crime of Rape is carnal knowledge of a woman against her will.³⁹ The following elements must be proven beyond reasonable doubt for the conviction of the accused: (i) that the accused had carnal knowledge of the victim; and (ii) the act was accomplished (a) through the use of force or intimidation; or (b) when the victim is deprived of reason or otherwise unconscious; or (c) when the victim is 12 years of age, or is demented.⁴⁰

In the instant case, the foregoing elements were present. Private complainant testified that accused-appellant had sexual intercourse with her, against her will, through force and intimidation. Private complainant clearly narrated the incident that transpired on April 26, 2003, to wit:

Q: And you were not also forced to undress?

A: He was the one who took off my clothes, sir.

Q: x x x, [A]t that point in time did you not shout for help?

A: I was shouting sir.

Q: What did you shout?

A: "Wag po kuya, x x x"⁴¹

x x x x

Q: When he tried to raise up your clothes your T-shirt, you did not scratch him, box him or kick him?

A: (Witness is making a motion of pushing away the [accused-appellant])

Q: Were you lying at that time?

A: Yes, sir.

Q: And he was on top of you when he raised your T-shirt?

A: Yes, sir I was lying on the floor.

Q: Was he on top of you when he was trying to raise your T-shirt?

A: No, sir he was standing, sir.

Q: He was standing and you were lying on the floor?

A: Yes, sir.

Q: You did not kick him in the ass when he was standing?

³⁹ *People v. ZZZ*, G.R. No. 232500, July 28, 2020.

⁴⁰ REVISED PENAL CODE, ARTICLE 266-A; See also *People v. Oropesa*, G.R. No. 229084, October 2, 2019.

⁴¹ *Rollo*, p. 11.

A: When I was trying to push him, but he was stronger than I am, sir.

Q: Was he able to raise your shirt?

A: Yes, sir.

Q: And you [were] wearing a bra?

A: Yes, sir.

Q: You also mentioned that he pulled down your pants?

A: He pulled my pants and I was trying to pull it back, sir.⁴²

Q: And he was able to pull down your pants until your knees?

A: Yes, sir.

Q: And you also mentioned “hinila pababa ang panty”. Was he able to pull it down?

A: Yes, sir, he succeeded in pulling it down but I try [sic] to pull it back, sir.

x x x x

Q: And after that, you mentioned in your affidavit that at that point in time, he then “tinanggal niya ang kanyang short”

A: He was the one who removed his own short, sir.⁴³

x x x x

Q: You did not kick him when he was taking off his shorts?

A: I was pushing him, sir.

Q: While you were lying and he’s taking off his shorts, you did not kick him?

A: I was trying to push him, sir.

x x x x

Q: When according to your affidavit, he was able to penetrate you when you already put up your pants and panty when he penetrated you?

A: It was already inside of me, sir, because it was painful.⁴⁴

Private complainant’s testimony was likewise corroborated by the Medico-Legal Report of Dr. Leal who conducted a physical examination on her on April 28, 2003. Dr. Leal found that private complainant suffered from abrasion and bruising in the posterior fourchette, bruising in the bilateral perihymenal area, and hymenal bruising at 6 o’clock. Dr. Leal concluded that there was “definitive evidence of recent penetration.”⁴⁵

⁴² Id. at 12.

⁴³ Id. at 13.

⁴⁴ Id. at 14.

⁴⁵ Id. at 6.

In view of the foregoing testimonial, documentary and object evidence, this Court finds that the prosecution sufficiently proved that accused-appellant committed the crime of Rape on private complainant.

Private complainant's mental retardation was not alleged in the Information and the prosecution failed to prove that accused-appellant knew of the mental disability of private complainant so as to qualify the crime of rape

Paragraph 10, Article 266-B of the RPC provides that the perpetrator's knowledge of the victim's mental disability at the time of the commission of the rape, qualifies the crime wherein the imposable penalty is death. Thus, Article 266-B of the RPC provides:

The death penalty shall also be imposed if the crime of rape is committed with any of the following aggravating/qualifying circumstances:

x x x x

10) When the offender knew of the mental disability, emotional disorder and/or physical handicap of the offended party at the time of the commission of the crime.

Dr. De Guzman testified that upon her examination of private complainant, it was found out that she has a numerical IQ of 51 which was classified under the mild mental retardation level. She further pointed out that private complainant's mental age was equivalent to that of an 8-year-old child;⁴⁶

However, private complainant's mental disability may not be appreciated to qualify the crime of Rape. Firstly, the Information failed to aver that private complainant suffers from a mental disability and that accused-appellant knew of such handicap when the crime was committed. Settled is the rule that qualifying and aggravating circumstances must be stated in the Information to ensure that the accused are properly apprised of the crime they are charged with in consideration of their constitutional right to be properly informed of the nature and cause of the accusation against them.⁴⁷ Thus, We have previously held that "an allegation in the Information of such knowledge of the offender is necessary, as a crime can only be qualified by circumstances pleaded in the indictment."⁴⁸ Secondly, the prosecution failed to prove during

⁴⁶ CA rollo, p. 47

⁴⁷ *People v. Toro*, G.R. No. 245922, January 25, 2021.

⁴⁸ *People v. Castillo*, G.R. No. 242276, February 18, 2020.

trial that accused-appellant knew at the time of the commission of the crime that private complainant suffers from a mental disability.⁴⁹

Thus, We find that the trial court and appellate court did not err in not appreciating the qualifying circumstance of private complainant's mental disability.

The prosecution failed to prove beyond reasonable doubt the aggravating circumstances of treachery, evident premeditation and nighttime.

This Court has consistently held that not only the commission of the crime be proven beyond reasonable doubt, but every qualifying or aggravating circumstances alleged to have attended such crime must likewise be shown by the same degree of proof.⁵⁰

Firstly, for treachery to be appreciated, the following elements must concur: (a) the employment of means of execution which gives the person attacked no opportunity to defend or retaliate; and, (b) said means of execution were deliberately or consciously adopted.⁵¹

The essence of treachery is a deliberate and sudden attack, affording the hapless, unarmed and unsuspecting victim no chance to resist or to escape.⁵² Treachery may still be appreciated even though the victim was forewarned of the danger because what is decisive is that the attack was executed in a manner that the victim was rendered defenseless and unable to retaliate.⁵³

However, in the instant case, the prosecution failed to show that accused-appellant deliberately adopted the mode of execution to ensure that private complainant is deprived of the opportunity to defend herself.

Secondly, We find that evident premeditation is not attendant in the instant case, the requisites of which are: (1) the time when the accused determined to commit the crime; (2) an act manifestly indicating that the accused had clung to his/her determination to commit the crime; and (3) the lapse of a sufficient length of time between the determination and execution to allow him/her to reflect upon the consequences of his act.⁵⁴ This Court finds that the prosecution failed to aver the facts to convince Us that the criminal act herein was preceded by cool thought and reflection upon accused-appellant's

⁴⁹ *People v. Avelino, Jr.*, G.R. No. 231358, July 8, 2019.

⁵⁰ *People v. Toro*, supra.

⁵¹ Id.

⁵² *People v. Moreno*, G.R. No. 191759, March 2, 2020.

⁵³ *People v. Acabo*, G.R. No. 229823, February 27, 2019.

⁵⁴ *People v. Dayrit*, G.R. No. 241632, October 14, 2020.



resolution to carry out the crime within the space and time to arrive at a calm judgment, which is the essence of evident premeditation.⁵⁵

Lastly, We likewise cannot appreciate the aggravating circumstance of nighttime. This Court finds that the prosecution failed to prove by sufficient evidence that nighttime was purposely and deliberately sought by accused-appellant in the commission of the crime.⁵⁶ Moreover, the aggravating circumstance of abuse of superior strength may not be appreciated since it is inherent in the crime of rape.⁵⁷

Denial and alibi are inherently weak defenses

Accused-appellant interposed the defenses of denial and alibi. However, both are inherently weak defenses as they are self-serving and may be easily fabricated. Thus, it cannot be accorded greater weight than private complainant's credible testimony and her positive identification of accused-appellant as the person who, using force and intimidation, had carnal knowledge of her against her will. In *People v. Gonzales*,⁵⁸ We underscored that for the Court to consider alibi as a valid defense, the accused must first prove with clear and convincing evidence that: (i) he was in a place other than the *situs criminis* at the time when the crime was committed; and (ii) it was physically impossible for him to be at the scene of the crime when the crime was committed. Thus, where there is the least chance for the accused to be present at the crime scene, the defense of alibi must fail.⁵⁹

In the instant case, accused-appellant failed to satisfactorily prove that it was physically impossible for him to be at the crime scene when the crime was perpetrated. Indeed, even based on his testimony, he was within the vicinity at or about the time the crime was committed.⁶⁰

The alleged inconsistencies in private complainant's testimony are trivial and minor insufficient to overturn accused-appellant's conviction for the crime of Rape. Overall, the Court finds private complainant's testimony to be credible and straightforward.

In sum, We hold that the prosecution has proven beyond reasonable doubt that indeed, accused-appellant is guilty of the crime of Rape. An affirmation of the appellate court's judgment of conviction as to the crime charged is therefore in order.

⁵⁵ Id.

⁵⁶ Id.

⁵⁷ *People v. Edem*, 428 Phil. 43, 74 (2002).

⁵⁸ G.R. No. 230909, June 17, 2019.

⁵⁹ Id.

⁶⁰ *Rollo*, pp. 6-7; See also *CA rollo*, p. 37.

WHEREFORE, the appeal is **DISMISSED**. The October 30, 2017 Decision of the Court of Appeals in CA-G.R. CR HC No. No. 08678 is hereby **AFFIRMED**.

SO ORDERED.”

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court
Manila

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court
91-I
SEP 22 2022

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Manila
(CA-G.R. CR-HC No. 08678)

The Hon. Presiding Judge
Regional Trial Court, Branch 265
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(Crim. Case No. 125-603-H)

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