



Republic of the Philippines  
**Supreme Court**  
 Manila

FIRST DIVISION

**NOTICE**

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated July 6, 2022, which reads as follows:*

**“G.R. Nos. 249661 & 251768 (*People of the Philippines v. XXX and YYY*)**. — On appeal<sup>2</sup> is the Decision<sup>3</sup> dated 14 February 2019 of the Court of Appeals (CA) in CA-G.R. CR No. 01848-MIN and CA-G.R.CR-HC No. 01849-MIN, which affirmed the convictions of accused-appellants XXX and YYY of rape by sexual intercourse under Article 266-A of the Revised Penal Code (RPC) in Criminal Case Nos. 6035, 6037, and 6040, but modified the awards of civil indemnity, moral and exemplary damages to ₱75,000.00 each.<sup>4</sup>

**Antecedents**

XXX (Criminal Case No. 6035<sup>5</sup>), YYY (Criminal Case No. 6037<sup>6</sup> & 6040<sup>7</sup>) and ZZZ (Criminal Case No. 6041) were each charged with rape under Article 266-A and 266-B of the RPC committed by sexual intercourse against AAA in separate Informations dated 15 June 2012, similarly worded as follows:

“That on the 3rd day of April, 2012 at 7:00 o’clock in the evening,

<sup>1</sup> Any information to establish or compromise the identity of the victim, as well as those of her immediate or household family members, shall be withheld, and fictitious names are used, pursuant to RA No. 7610, An Act Providing for Stronger Deterrence and Special Protection Against Child Abuse, Exploitation and Discrimination, and for Other Purposes; RA No. 9262, An Act Defining Violence Against Women and Their Children, Providing for Protective Measures for Victims, Prescribing Penalties Therefor, and for Other Purposes; Section 40 of A.M. No. 04-10-11-SC, Rule on Violence Against Women and Their Children; *People v. Cabalquinto*, 533 Phil. 703 (2006).

<sup>2</sup> *Rollo*, pp. 36-41.

<sup>3</sup> *Id.* at 5-35; penned by Associate Justice Walter S. Ong and concurred in by Associate Justices Edgardo T. Lloren and Florencio M. Mamauag, Jr.

<sup>4</sup> *Id.* at 34.

<sup>5</sup> Records, Criminal Case No. 6035, pp. 4-5.

<sup>6</sup> Records, Criminal Case No. 6037, pp. 1-2.

<sup>7</sup> Records, Criminal Case No. 6040, pp. 1-2.

more or less at [REDACTED], [REDACTED], Province of Surigao del Sur, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused with lewd design, by means of force and taking advantage of [AAA], while the latter was under the influence of liquor, with deliberate intent, did, then and there, willfully, unlawfully and feloniously have had (*sic*) sexual intercourse with the victim, by inserting his penis into the vagina of [AAA], against the will of the latter, to her damage and prejudice in the amount of P70,000.00.”

CONTRARY TO LAW. (In violation of Article 266-A of the Revised Penal Code.)<sup>8</sup>

YYY was charged with two (2) counts of Rape for having carnal knowledge of AAA twice in the same evening.<sup>9</sup>

XXX (Criminal Case No. 6036) and YYY (Criminal Case Nos. 6038 and 6039) were likewise additionally charged with rape by sexual assault committed against AAA in Informations worded as follows:

“That on the 3rd day of April, 2012 at 7:00 o’clock in the evening, more or less at [REDACTED], [REDACTED], Province of Surigao del Sur, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design, by means of force and taking advantage of [AAA], while the latter was under the influence of liquor, with deliberate intent, did, then and there, willfully, unlawfully and feloniously have had (*sic*) sexual intercourse with the victim, by inserting his penis into the mouth of [AAA], against the will of the latter, x x x.”<sup>10</sup>

Upon arraignment, all of the accused pleaded not guilty to the charges.<sup>11</sup> After the termination of pre-trial proceedings, trial on the merits ensued.<sup>12</sup>

### Version of the Prosecution

AAA, BBB, Senior Police Officer 2 (SPO2) Ramil A. Vertusazo and Dr. Mikhael Cereno M. Bajo (Dr. Bajo) testified for the prosecution. Their testimonies established that on 03 April 2012, at around 7:00 P.M., XXX sent a text message to AAA inviting her to drink at the house of YYY. AAA and XXX were just new friends, having been introduced to each other two months before the incident. AAA agreed to go.<sup>13</sup>

XXX then arrived at AAA’s house in a motorcycle. AAA and her sister boarded XXX’s motorcycle. Prior to their arrival at YYY’s house, AAA and XXX dropped AAA’s sister at the house of her friend.<sup>14</sup>

<sup>8</sup> Rollo, p. 7.

<sup>9</sup> Id. at 7-8.

<sup>10</sup> See Records, Criminal Case Nos. 6035, 6038 and 6039.

<sup>11</sup> Rollo, p. 8.

<sup>12</sup> Id.

<sup>13</sup> Id. at 9.

<sup>14</sup> Id.

XXX and AAA proceeded to the back of YYY's house where there was a cottage. YYY was introduced to AAA. AAA was familiar with YYY as they were schoolmates in grade school.<sup>15</sup> After a while, YYY brought a bottle of *Tanduay* and gave AAA and XXX their respective shots of liquor. ZZZ arrived and joined the drinking session.<sup>16</sup>

After drinking a few shots, AAA felt dizzy and complained that she was about to vomit. XXX insisted that she continue drinking. AAA obliged but later on began to vomit.<sup>17</sup>

XXX and YYY then brought AAA to the second floor of the house. YYY left. AAA continued to vomit inside the room, spilling some on her blouse. XXX then told AAA to remove her blouse. When AAA proceeded to lie in bed, XXX approached her, removed her bra and started kissing her neck and breasts. He then forcibly removed AAA's pants and panty. AAA tried to push him away but was unable to as XXX became mad and attempted to punch her. AAA tried to get out of bed but XXX pushed her back. He succeeded in inserting his penis in her vagina. Afterwards, XXX pushed AAA out of bed and forced her to kneel. He then proceeded to insert his penis in her mouth. AAA vomited.<sup>18</sup>

As someone knocked on the door, XXX took his penis out from AAA's mouth, dressed up, and took the rag inside the room. AAA fell asleep naked on the bed.<sup>19</sup>

After a while, AAA woke up sensing that someone is licking her vagina. AAA found out that it was YYY. She then tried to kick him but YYY held her legs and resumed licking her vagina. He then proceeded to insert his penis in her vagina. AAA tried to shout but YYY covered her face with a blanket. After succeeding in having carnal knowledge of her, YYY also inserted his penis into her mouth.<sup>20</sup>

YYY then suddenly stopped and ordered AAA to get dressed so that they could transfer to the adjacent room. AAA then put on her underwear and pants. Unable to find her blouse, YYY gave AAA a towel and led her towards the other room.<sup>21</sup>

Upon reaching the other room, YYY pushed AAA to the bed and forced her to remove her clothes. AAA cried while undressing. YYY repeated his acts in the other room. He inserted his penis in AAA's vagina and later on her mouth. YYY stopped when someone knocked on the door.

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<sup>15</sup> Id.

<sup>16</sup> Id.

<sup>17</sup> Id. at 9-10.

<sup>18</sup> Id. at 10.

<sup>19</sup> Id.

<sup>20</sup> Id. at 10-11.

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

He then ordered AAA to put on her clothes and left the room.<sup>22</sup>

XXX then entered the room, gave AAA her blouse and left.<sup>23</sup>

After a few moments, ZZZ entered the room and forcibly removed AAA's pants and panty. AAA tried to push him away but failed. ZZZ then removed her pants, mounted AAA, parted her legs and inserted his penis into her vagina. AAA cried and pleaded ZZZ to stop. The latter obliged and helped her dress up, and assisted her in coming down the stairs and out of the house.<sup>24</sup>

XXX offered AAA a ride home. AAA declined and said that her friend, CCC was going to fetch her, as she was able to send him a text message earlier.<sup>25</sup>

AAA and CCC proceeded to ██████ Bar. There she told what happened to DDD and his mother, BBB. BBB then brought AAA to ██████ Memorial Medical Center for examination. They also proceeded to the ██████ Police Station to report the incident and file a complaint.<sup>26</sup>

Dr. Bajo who examined AAA found that there was contusion or bruising on the abdomen, soreness in the central region of both thighs and mild tenderness over both breasts. He also found healed hymenal lacerations, but without the presence of a spermatozoa.<sup>27</sup>

### Version of the Defense

For the defense, XXX, YYY, ZZZ and WWW testified. The defense also adopted the testimony of Dr. Bajo as part of their evidence.

Only XXX admitted to having sex with AAA but claimed that the act was consensual. XXX and YYY alleged that they, and YYY's sister-in-law, WWW helped AAA in reaching the second floor of the house. WWW prepared the bed and took care of AAA, while the two returned to ZZZ and resumed drinking.<sup>28</sup>

While drinking, they heard AAA vomiting in the room. XXX went up to check on AAA and saw that vomit was scattered all over the room and even on her blouse. She asked her if she was okay, told her to remove her blouse, and assisted to move her at the clean side of the bed. AAA voluntarily gave her blouse, which he hanged on a bench. AAA then started to kiss and embraced him. He kissed her back and ended having sexual

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<sup>22</sup> Id.

<sup>23</sup> Id.

<sup>24</sup> Id.

<sup>25</sup> Id. at 12

<sup>26</sup> Id.

<sup>27</sup> Records of Criminal Case No. 6035, p. 143.

<sup>28</sup> CA rollo, pp. 75-76.

intercourse with her. AAA then proceeded to perform oral sex on him. AAA vomited, spilling some on his penis. He then cleaned himself up, got dressed, left AAA and resumed drinking with YYY and ZZZ. He apologized to YYY for the mess in the room.<sup>29</sup>

Meanwhile, worried about what his mother would say about the messy room, YYY decided to go up and clean the room. He brought rags with him. Upon reaching the room, he found AAA sleeping on the bed. He woke her up and told her to move to the other room. As AAA was then only wearing her shorts and underwear, he gave her a towel to cover herself while he looked for her blouse. After finding her blouse, YYY brought AAA to his and his wife's room. He then told AAA to rest. He then cleaned the other room, and brought the dirty beddings and rags to the laundry area. He then resumed drinking with XXX and ZZZ, and warned them not to bring any more women in the future.<sup>30</sup>

XXX then asked ZZZ to check on AAA and see whether she can be brought home. ZZZ found AAA sitting on the bed and using her mobile phone. He asked her if she wanted to go home, and AAA acceded. He assisted her in going down the stairs and out of the house. XXX walked her out of the gate and offered to take her home but AAA said someone was picking her up.<sup>31</sup>

### Ruling of the RTC

On 24 November 2017, the RTC<sup>32</sup> convicted XXX of one count, and YYY of two counts, respectively, of rape by sexual intercourse. The trial court acquitted all of them of the charge of rape by sexual assault.<sup>33</sup> The RTC disposed:

**WHEREFORE**, judgment is hereby rendered as follows:

I. In **Criminal Case No. 6035**: the court finds [XXX] **GUILTY** beyond reasonable doubt of the crime of *Rape by Sexual Intercourse* as defined under Art.266-A, paragraph 1, of the Revised Penal Code, as amended. [XXX] is hereby sentenced to **RECLUSION PERPETUA**.

In addition, [XXX] shall pay private complainant [AAA] civil indemnity of P100,000.00, moral damages of P100,000.00, and exemplary damages of P100,000.00. All sums shall bear interest at *six percent (6%)* per annum from the finality of this judgment.

II. In **Criminal Case No. 6036**: on ground of reasonable doubt, the court finds [XXX] **NOT GUILTY** of the offense charged of *Rape by Sexual Assault*.

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<sup>29</sup> Id. at 76.

<sup>30</sup> Id.

<sup>31</sup> Id. at 77.

<sup>32</sup> Id. at 69-81; penned by Presiding Judge Edwin M. Malazarte.

<sup>33</sup> Id. at 79-80

III. **In Criminal Cases No. 6037 and 6040**: the court finds [YYY] **GUILTY** beyond reasonable doubt of *one count* of the crime of *Rape by Sexual Intercourse* as defined under Art. 266-A, paragraph 1, of the Revised Penal Code, as amended. [YYY] is hereby sentenced to **RECLUSION PERPETUA**.

In addition, [YYY] shall pay private complainant [AAA] civil indemnity of P100,000.00, moral damages of P100,000.00, and exemplary damages of P100,000.00. All sums shall bear interest at six percent (6%) per annum from the finality of this judgment.

IV. **In Criminal Case No. 6038 and 6039**: on ground of reasonable doubt, the court finds [YYY] **NOT GUILTY** of the offense charged of Rape by Sexual Assault.

V. **In Criminal Case No. 6041**: on ground of reasonable doubt, the court finds [ZZZ] **NOT GUILTY** of the offense charged of Rape by Sexual Intercourse.

The Jail Warden of the Surigao del Sur District Jail is directed to immediately release [ZZZ], unless he is detained for some other lawful cause.

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

While the trial court found that force was sufficiently established for the charges of rape by sexual intercourse, it found that the prosecution failed to prove beyond reasonable doubt that AAA was forced to conduct *fellatio*.<sup>35</sup>

It also acquitted ZZZ of the charge of rape by sexual intercourse, finding it unlikely that AAA would seek help from his alleged abuser. It opined that AAA should have run away.<sup>36</sup>

Aggrieved, XXX and YYY appealed before the CA.

### **Ruling of the CA**

On 14 February 2019, the CA affirmed<sup>37</sup> the RTC's decision with modification as to the award of damages, thus:

The appeal is DENIED. The assailed Consolidated Decision dated 24 November 2017 of the Regional Trial Court, 11th Judicial Region, Branch 27, ██████████, Surigao del Sur, in Criminal Cases No. 6035, No. 6037 and No. 6040, is AFFIRMED with MODIFICATION, in that civil indemnity, moral damages and exemplary damages awarded in favor of the private complainant in Criminal Cases No. 6035, No. 6037 and No. 6040 are all modified and decreased to Seventy-Five Thousand Pesos (P75,000.00) each, which shall earn interest at the rate of 6% per annum from the date of finality of this judgment until fully paid.

<sup>34</sup> Id.

<sup>35</sup> Id. at 79.

<sup>36</sup> Id.

<sup>37</sup> *Rollo*, p. 34.

SO ORDERED.<sup>38</sup>

Hence, accused-appellants XXX and YYY separately filed before the CA their respective notices of appeal.<sup>39</sup>

### Issue

The Court is confronted with the issue of whether or not the CA correctly upheld the conviction of XXX and YYY for rape by sexual intercourse.

YYY and XXX question AAA's credibility. Specifically, XXX claims that the element of force was not substantiated. He emphasizes that AAA failed to give any effective resistance to the alleged sexual advances, and points out that there were no medical findings that AAA sustained injuries consistent with force. He also contests his conviction on the ground that the Information merely alleged that AAA was "under the influence of liquor," and that the same did not amount to being asleep or otherwise deprived of reason. He claims that AAA is not credible because she failed to immediately report the rape.<sup>40</sup>

Meanwhile, YYY claims that the factual findings of the RTC and CA are imbued with cultural misconceptions and gender bias. ZZZ' exoneration should also lead to their acquittal. Further, YYY maintains it is improbable that the manner by which the rapes were committed were exactly the same.<sup>41</sup>

### Ruling of the Court

The appeal lacks merit.

*The allegations in the Information sufficiently informed XXX and YYY of the nature of the charge against them*

Pursuant to the right of an accused to be informed of the nature and cause of the accusation against him or her, he or she cannot be convicted of a crime, unless it is clearly charged in the complaint or information. Our rules in criminal procedure provide for the standard of sufficiency in the allegations in an Information, viz.:

**Sec. 6. Sufficiency of complaint or information.** – A complaint or information is sufficient if it states the name of the accused; the designation of the offense by the statute; **the acts or omissions complained of as constituting the offense**; the name of the offended

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<sup>38</sup> Id.

<sup>39</sup> Id.at 36-38.

<sup>40</sup> Id. at 69-77.

<sup>41</sup> Id.

party; the approximate time of the commission of the offense; and the place wherein the offense was committed.

When the offense is committed by more than one person, all of them shall be included in the complaint or information.

x x x x

Section 8. *Designation of the offense.* — The complaint or information shall state the designation of the offense given by the statute, **aver the acts or omissions constituting the offense**, and specify its qualifying and aggravating circumstances. If there is no designation of the offense, reference shall be made to the section or subsection of the statute punishing it.

Section 9. *Cause of the accusation.* — **The acts or omissions complained of as constituting the offense and the qualifying and aggravating circumstances must be stated in ordinary and concise language and not necessarily in the language used in the statute** but in terms sufficient to enable a person of common understanding to know what offense is being charged as well as its qualifying and aggravating circumstances and for the court to pronounce judgment. (Emphasis Ours)

Thus, from the legal and practical view, it is not the provision of law, caption or preamble of the information, but the actual narration of facts which informs the accused of the nature of the crime charged against him or her.<sup>42</sup> In this case, this Court finds that the Informations sufficiently apprised XXX and YYY that they are being charged with rape by sexual intercourse. Under Article 266-A of the RPC, rape is committed by having carnal knowledge of a woman under any of the following circumstances:

1. By using force, threat, or intimidation;
2. When the offended party is deprived of reason or is otherwise unconscious;
3. By means of fraudulent machination or grave abuse of authority;  
and
4. When the offended party is under twelve (12) years of age or is demented, even though none of the circumstances mentioned above be present.

The Information, in this case, alleged that XXX and YYY had carnal knowledge of AAA “by means of force and taking advantage of [AAA], while the latter was under the influence of liquor.”<sup>43</sup> Such allegation sufficiently creates an indictment of rape under paragraph 1 of Article 266-A. On this note, this Court disagrees with the CA that the information charged XXX and YYY with rape against a victim who is deprived of reason or

<sup>42</sup> See *People v. Delector*, 819 Phil. 310, 320 (2017).

<sup>43</sup> *Rollo*, p. 7.

unconscious. Verily, rape under paragraph 2 contemplates a situation where the offended party was totally unconscious, asleep or in a comatose state incapable of giving consent to the sexual act.<sup>44</sup> Nonetheless, as will be discussed below, the element of force should be evaluated in relation to the allegation that the offended party was intoxicated at the time of the rape.

In any case, this Court finds that XXX's right to be informed was not violated. They were sufficiently informed that they were being charged with raping AAA. It does not appear that they were prevented from preparing their defense. XXX was even able to interpose his defense that the sexual intercourse was consensual.<sup>45</sup>

Further, this Court notes that XXX failed to raise the supposed defect in the phrasing of the elements of rape in their motion to quash<sup>46</sup> before the trial court. XXX and YYY only objected to the splitting of the charges of rape by sexual intercourse and rape by sexual assault.<sup>47</sup> They even entered their plea to the aforesaid information. Thus, this Court holds that XXX and YYY have impliedly accepted the sufficiency and understood the allegations concerning rape by sexual intercourse.

*AAA's testimony as to each of the incidents of rape by sexual intercourse deserves credence*

Central to appeals on rape cases is the credibility of the victim. As the reviewing court, this Court generally defers to the findings of the trial court because of its unique position of having observed the witnesses, their demeanor, attitude, and conduct during their direct and cross-examination. This principle gains more strength if the RTC's findings are affirmed by the CA.<sup>48</sup> In this case, this Court was not presented a convincing reason to depart from the observations of the RTC as to AAA's narration of the rape incidents. Verily, the RTC observed that AAA was generally categorical, straightforward, spontaneous, and frank when she testified. It also observed that she was precise and passionate about the acts committed to her by XXX and YYY.<sup>49</sup>

Either way, this Court finds the points raised by XXX and YYY insufficient to cast doubt on AAA's account of her unfortunate experience. At the outset, it is undisputed that AAA was heavily intoxicated at the time of the rapes. Even XXX and YYY acknowledged that AAA had to be assisted to the second floor of YYY's house, and vomited several times as a result of her intoxication. While AAA was not totally deprived of consciousness or asleep, this fact is crucial in determining whether rape

<sup>44</sup> *People v. XXX*, G.R. No. 247754, 07 October 2020.

<sup>45</sup> *Rollo*, p. 26.

<sup>46</sup> Records, Criminal Case No. 6035, pp. 179-184.

<sup>47</sup> *CA rollo*, p. 71.

<sup>48</sup> *People v. Pareja*, 724 Phil. 759, 773 (2014), citing *People v. Manalili*, 716 Phil. 762, 772-773 (2013).

<sup>49</sup> *CA rollo*, pp. 78, 80.

under Article 266 of the RPC was sufficiently established.

*AAA's testimony sufficiently established the element of force*

After examination of AAA's testimony, this Court finds that she has amply shown that she was forced to succumb to accused-appellants' bestial desires, while she was heavily intoxicated. She testified that despite her efforts to resist, XXX was able to force her to remove her clothing, and was able to have carnal knowledge of her, *viz.* :

Q: What happened when you and [XXX] were left inside the room?

A: I continued vomiting, sir.

Q: **What did [XXX] do if any when you continued vomiting?**

A: **He told me to remove my blouse, sir.**

Q: **Did you comply?**

A: **I resisted, sir.**

Q: **And what did [XXX] do when you resisted?**

A: **He forced me to remove my blouse, sir.**

Q: **And did you remove your blouse after [XXX] forced you?**

A: **Yes, sir.**

Q: **And what happened when you removed your blouse as told by [XXX]?**

A: **He went near me, sir.**

Q: **What did he do if any when he went near you?**

A: **He removed my bra, sir.**

Q: **Did you agree or give your consent when he removed your bra?**

A: **I pushed him but I was already weak at that time, sir.**

Q: **You mean you resisted when [XXX] removed your bra?**

A: **Yes, sir.**

Q: **And was your [removed] by [XXX]?**

A: **Yes, sir.**

Q: **And what happened after your bra was removed by [XXX]?**

A: **He kissed me on my neck and my breast, sir.**

Q: **What did you do when he kissed your neck and your breast?**

A: **I pushed him again but he was stronger than me, sir.**

Q: **So, after you were kisses (sic) on your breast and your neck by [XXX], what happened next?**

A: **He forced me to remove my pants and my panty, sir.**

Q: **What did you do when [XXX] forced you to remove your pants and panty**

A: **I stopped him, sir.**

Q: **Were you able to stop him?**

A: **No because I was afraid, sir.**

Q: **Why were you afraid?**

A: **Because I saw him becoming mad, sir.**

Q: **Other than becoming mad, what if any did he do if you recall?**

A: **He attempted to punch me, sir.**<sup>50</sup> (Emphasis ours)

That she was likewise forced by YYY was apparent from the following portion of her testimony:

Q: And while you were asleep, could you recall what happened next?

A: **I was awakened because I felt there was somebody [licking] my vagina, sir.**

Q: What happened after you felt [someone licking] your vagina?

A: I crawled up the upper part of the bed, sir.

Q: And what did you see if any when you moved upward the bed?

A: I saw [YYY], sir.

Q: What was he doing when you saw him?

A: **He pulled me down the bed, sir.**

Q: And what did you do when Alexander pulled you down?

A: **I continued kicking him, sir.**

Q: And what did [YYY] do when you kicked him continuously?

A: **He held my left and he kept doing that and I feel weak again, sir.**

Q: And what happened after you are weak?

A: He licked my vagina, sir.

Q: And what did you do while [YYY] was licking your vagina?

A: I kept on crying, sir.

Q: **After licking your vagina, what did [YYY] do?**

A: **He forcibly inserted his penis into my vagina, sir.**

Q: **Was Alexander able to insert his penis into your vagina?**

A: **Yes, sir.**

Q: **And what did he do when his penis was inserted?**

A: **He pumped, sir.**

Q: **What about you what did you [do] when Alexander was pumping on you?**

A: **I attempted to shout but he covered my face with a blanket, sir.**

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<sup>50</sup> TSN, 21 May 2014, pp. 11-12.

Q: **And what happened when he covered your face with a blanket?**

A: **He continued pumping, sir.**<sup>51</sup> (Emphasis supplied)

From AAA's narration, it is apparent that she did not voluntarily acquiesce to the sexual act. AAA's failure to give "effective resistance" and the lack of defensive injuries do not negate AAA's account of the rapes. It bears to emphasize that AAA was heavily intoxicated at the time of the incident and she was aware that she did not possess enough strength to defeat XXX and YYY. She resisted them but miserably failed. To require her to fight XXX and YYY more aggressively just to prove the incidents of rape would be to completely ignore her intoxicated state at that time. Verily, there is no universal way of reacting to assault or trauma. In rape, the force and intimidation must be viewed in the light of the victim's perception and judgment at the time of the commission of the crime. Some victims may choose to succumb to the assault while some may opt to fight their attackers. In any case, resistance is not an element of rape. A rape victim has no burden to prove that she did all within her power to resist the force or intimidation employed upon her. As long as the force or intimidation is present, whether it was more or less irresistible is beside the point.<sup>52</sup>

Further, it is also relevant to point out that contrary to YYY's argument, AAA sustained bruises in her abdomen. Dr. Bajo also noted that there was soreness in the central regions of her thighs and tenderness in her breasts.<sup>53</sup>

Likewise, XXX's claim that AAA did not immediately report the crimes to the authority is also inaccurate, and thus does not weaken her story. AAA was examined a few hours after the rape incident.<sup>54</sup> She then reported the incident and filed a complaint at the police station. In fact, XXX and YYY were arrested early morning of the following day.<sup>55</sup> That AAA first chose to tell her experience to her friends, instead of the police or even her mother, should not be taken against her. What matters is she reported to the police and had herself examined when she was ready. In any case, the time between the commission of the offense and her arrival at the police station is negligible to persuade us from giving credence to AAA's testimony.

*The CA correctly imposed the penalty and damages*

This Court likewise affirms the penalty and damages imposed by the RTC, and modified by the CA, as they are consistent with Article 266-B of the RPC, as amended by RA 8353<sup>56</sup> as well as prevailing jurisprudence.<sup>57</sup>

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<sup>51</sup> Id. at 13-14.

<sup>52</sup> *People v. Bisora*, 810 Phil. 339, 344 (2017), citing *People v. Baldo*, Phil rep.

<sup>53</sup> *CA rollo*, p. 75.

<sup>54</sup> Records, Criminal Case No. 6035, p. 142; TSN, 21 May 2014, p. 22.

<sup>55</sup> *CA rollo*, pp. 74-75.

<sup>56</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." Approved: 30 September 1997.

<sup>57</sup> See *People v. Jugueta*, 783 Phil. 806, 832 (2016).

**WHEREFORE**, the appeals are **DISMISSED**. The Decision of the Court of Appeals in CA-G.R. CR-HC No. 01848-MIN and CA-G.R. CR-HC No. 01849-MIN dated 14 February 2019 is **AFFIRMED**. Accused-appellants XXX and YYY are both found **GUILTY of SIMPLE RAPE**. They are each sentenced to *reclusion perpetua* and ordered to **PAY** private complainant AAA:

- 1) ₱75,000.00 as civil indemnity;
- 2) ₱75,000.00 as moral damages; and
- 3) ₱75,000.00 as exemplary damages.

These amounts shall be subject to six percent (6%) interest per *annum* from finality of this Resolution until fully paid.

The compliance of accused-appellant YYY with the Resolution dated 26 April 2021, submitting thru electronic mail the signed formal entry of appearance with motion for leave to file supplemental brief and the signed supplemental brief itself, is **NOTED**; and the said accused-appellant is required to **SUBMIT**, within five (5) days from notice hereof, a soft copy in compact disc, USB, or e-mail containing the PDF file of the signed compliance, pursuant to A.M. Nos. 10-3-7-SC and 11-9-4-SC.

**SO ORDERED.”**

**By authority of the Court:**

  
**LIBRADA C. BUENA**  
Division Clerk of Court *Librada C. Buena*

by:

**MARIA TERESA B. SIBULO**  
Deputy Division Clerk of Court  
**171-I**

SEP 29 2022

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

Court of Appeals  
9000 Cagayan de Oro City  
(CA-G.R. CR-HC Nos. 01848-MIN  
and 01849-MIN)

The Hon. Presiding Judge  
Regional Trial Court, Branch 27  
Tandag City, 8300 Surigao del Sur  
(Crim. Case Nos. 6035 to 6041)

The Superintendent  
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Davao Prison and Penal Farm  
B.E. Dujali, Davao del Norte

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XXX & YYY  
Accused-Appellants  
c/o The Superintendent  
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Davao Prison and Penal Farm  
B.E. Dujali, Davao del Norte

The Director General  
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