



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

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

“**G.R. No. 249833** (*People of the Philippines v. XXX*¹). — This is an appeal² assailing the April 29, 2019 Decision³ of the Court of Appeals (CA) in CA-G.R. CR. HC. No. 09505, which affirmed with modifications the February 28, 2017 Decision⁴ of the Regional Trial Court (RTC) of [REDACTED], Branch 89, finding accused-appellant XXX guilty beyond reasonable doubt of Rape under paragraph 1, Article 266-A of the Revised Penal Code (RPC), as amended by Republic Act No. (RA) 8353, otherwise known as the Anti-Rape Law of 1997.

Antecedents

In an Information,⁵ accused-appellant was charged with Rape as follows:

That on or about the 30th day of December, 2009, in [REDACTED],⁶ Philippines, the said accused, by means of force and intimidation, did, then and there, willfully, unlawfully and feloniously have carnal knowledge with

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. 17-20.

³ *Id.* at pp. 3-16. Penned by Associate Justice Nina G. Antonio-Valenzuela and concurred in by Associate Justices Ricardo R. Rosario (now a member of this Court) and Perpetua T. Atal-Paño.

⁴ *CA rollo*, pp. 43-49. Penned by Presiding Judge Cecilyn E. Burgos-Villavert.

⁵ Records, p. 1.

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

one [AAA],⁷ a minor, 14 years of age, mute and demented, against her will and without her consent, to the damage and prejudice of the said [AAA].

CONTRARY TO LAW.⁸

Accused-appellant pleaded not guilty during arraignment.⁹ Trial and pre-trial ensued thereafter.¹⁰

When interviewed by the trial court, the victim AAA could not comprehend the questions asked of her.¹¹ She was thus referred to the National Center for Mental Health (NCMH)¹² which issued a psychological report indicating that AAA's mental age is that of a 4-year old child, with an intelligence quotient (IQ) of 20, and with severe mental retardation or intellectual disability.¹³

Version of the Prosecution

The prosecution presented four witnesses: (1) BBB, the sister of AAA;¹⁴ (2) Dr. Jesille Baluyot (Dr. Baluyot), medico-legal officer;¹⁵ (3) Senior Police Officer 3 Florence Constanilla;¹⁶ and (4) CCC, the mother of AAA.¹⁷ Their combined testimonies tend to establish the following:

At around 9:00 a.m. on November 30, 2009, BBB (then 12 years old) woke up at the first floor of the two-story house they shared with accused-appellant, a *balut* vendor.¹⁸ After washing her face, BBB saw accused-appellant watching "bold" VCD.¹⁹ She asked him to turn off the television and the latter acceded.²⁰ Then, accused-appellant asked BBB to get his clothes from his partner's house located 15 minutes away by walking.²¹ AAA (14 years old at that time) was left in the house along with their other siblings.²² BBB left the door open.²³

⁷ Initials were used for the names of the victim and her family per Supreme Court Amended Administrative Circular No. 83-15 or *Protocols and Procedures in the Promulgation, Publication, and Posting on the Websites of Decisions, Final Resolutions, and Final Orders using Fictitious Names/Personal Circumstances* dated September 5, 2017.

⁸ Records, p. 1.

⁹ *CA rollo*, p. 1.

¹⁰ *Id.*

¹¹ Records, p. 102.

¹² *Id.*

¹³ *Id.* at 140-141.

¹⁴ TSN, May 9, 2011, pp. 1-34; TSN, February 10, 2012, pp. 1-7; TSN, May 7, 2012, pp. 1-11; TSN, June 4, 2012, pp. 1-4.

¹⁵ TSN, June 3, 2014, pp. 1-21.

¹⁶ TSN, March 3, 2015, pp. 1-15.

¹⁷ TSN, June 15, 2015, pp. 1-15.

¹⁸ TSN, May 9, 2011, pp. 9, 7, 31-32.

¹⁹ *Id.* at 9-10.

²⁰ *Id.* at 11.

²¹ *Id.* at 12, 14-15.

²² *Id.* at 12.

²³ *Id.*

When BBB came back, the door was already closed.²⁴ Peeping through a hole,²⁵ she saw accused-appellant moving in an up and down motion on top of AAA.²⁶ Accused-appellant was fully naked while AAA only had her shirt on.²⁷ BBB knocked on the door and still through the hole, saw accused-appellant and her sister put on their clothes.²⁸ The door was opened by AAA who immediately embraced her sister.²⁹ BBB then asked AAA to go to their mother's cousin while she herself went to their mother and reported the incident.³⁰ Accused-appellant remained inside the house.³¹

Upon being told of what happened, the siblings' mother, CCC, went to AAA and asked her about the incident.³² In response, AAA motioned her hands on both her legs and made a "pulling" gesture.³³ She then pointed to her vagina and indicated that it was painful.³⁴ CCC reported the incident to the *barangay*.³⁵

Upon genital examination, Dr. Baluyot found a shallow healed laceration at 3 o'clock position and a deep healed laceration at 9 o'clock position in AAA's hymen, and opined that the same were caused by a blunt penetrating trauma to the hymen—possibly by a fully erect male sex organ.³⁶

Evidence for the Defense

The defense presented accused-appellant as its lone witness, who proffered the defenses of alibi and denial.³⁷ According to him, on the day of the incident, he was in [REDACTED], located 30 minutes away from AAA's house by walking.³⁸ He claimed that the complaint was filed because he previously quarreled with AAA's brother.³⁹ He did not file a counter-complaint because he pitied AAA's family.⁴⁰

Ruling of the Regional Trial Court

The trial court found accused-appellant guilty of the crime charged, *viz.*:

²⁴ Id. at 15.

²⁵ Id.

²⁶ Id. at 19, 21.

²⁷ Id. at 20-21.

²⁸ Id. at 22.

²⁹ Id. at 23.

³⁰ Id.

³¹ Id.

³² TSN, June 15, 2015, p. 10.

³³ Id. at 10-11.

³⁴ Id. at 11-12.

³⁵ Id. at 13.

³⁶ TSN, June 3, 2014, pp. 9-11.

³⁷ TSN, May 2, 2016, pp. 1-15.

³⁸ Id. at 4-5.

³⁹ Id. at 7.

⁴⁰ Id. at 11.

WHEREFORE, premises considered, the Court finds accused [XXX] **GUILTY** beyond reasonable doubt of the crime of simple rape under Art. 266-A paragraph 1 of the Revised Penal Code, as amended by RA No. 8353. Accused is hereby sentenced to suffer the penalty of *reclusion perpetua* or 20 years and 1 day to 40 years and to pay AAA P75,000.00 as civil indemnity, P50,000.00 as moral damages, and P30,000.00 as exemplary damages, all with interest at the rate of 6% per annum from the finality of this judgment until fully paid.

SO ORDERED.⁴¹

The trial court held that all the elements of Rape under par. 1(b), Art. 266-A are present;⁴² that AAA, who was intellectually-disabled, is properly classified as a person “deprived of reason” under par. 1(b) and not a “demented” person under par. 1(d);⁴³ that accused-appellant can still be convicted of Rape under par. 1(b) even if her mental disability was not alleged in the Information because accused-appellant failed to raise it as an objection and because it was established that there was sexual congress between accused-appellant and AAA who was mentally incapacitated;⁴⁴ that even if AAA failed to testify, BBB’s testimony and the medical report sufficiently established carnal knowledge;⁴⁵ that accused-appellant’s defenses lacked merit;⁴⁶ and that there are no aggravating or mitigating circumstance.⁴⁷

Thus, accused-appellant’s appeal before the appellate court, assigning the following errors:

I

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT DESPITE THE DISCREPANCY AS TO THE DATE OF THE ALLEGED INCIDENT AS STATED IN THE INFORMATION AND AS TO THAT PROVED DURING TRIAL.⁴⁸

II

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT DESPITE FAILURE OF THE PROSECUTION TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.⁴⁹

Accused-appellant argued that (1) his right to be informed of the nature and cause of accusation against him had been violated since the Information alleged that the crime was committed on or about December 30, 2009, but BBB testified that it happened on November 30, 2009;⁵⁰ (2) that the findings

⁴¹ CA *rollo*, p. 49.

⁴² Id. at 45-46.

⁴³ Id. at 46.

⁴⁴ Id.

⁴⁵ Id. at 47.

⁴⁶ Id. at 47-48.

⁴⁷ Id. at 48.

⁴⁸ Id. at 30.

⁴⁹ Id. at 32.

⁵⁰ Id. at 31.

of laceration cannot be imputed against him since they had already healed when AAA was examined two days after the alleged incident;⁵¹ (3) that BBB's testimony on the number of people in the house when the incident happened is inconsistent;⁵² (4) that the filing of the complaint was likely propelled by ill motive since accused-appellant had a prior violent encounter with AAA's brother;⁵³ and (5) that the defense of alibi should not be disregarded in view of the weakness of the prosecution's evidence.⁵⁴

In response, the plaintiff-appellee argued that (1) the failure to specify the exact date in the Information is not fatal since the date of commission of the crime is not an essential element of Rape;⁵⁵ (2) that the records consistently show that the crime was committed on November 29, 2009 and that such date had never been an issue in the proceedings below;⁵⁶ (3) that even accused-appellant's alibi is predicated on November 29, 2009 being the date of commission of the crime;⁵⁷ and (4) that the inconsistencies referred to by accused-appellant are minor.⁵⁸

Ruling of the Court of Appeals

The appellate court affirmed accused-appellant's conviction but modified the RTC Decision in that the mode of commission of Rape was specified (*i.e.*, under par. 1(b) of Art. 266-A) and the award of damages increased, *viz.*:

We **MODIFY** the Decision dated 28 February 2017, of the Regional Trial Court, Branch 89, [REDACTED], as follows:

1. We find the appellant [XXX] **GUILTY** beyond reasonable doubt of the crime of Rape punished under Article 266-A(1)(b), Revised Penal Code, and sentence him to the indivisible penalty of *Reclusion Perpetua*.
2. We order the appellant [XXX] to pay AAA the following sums: ₱75,000.00 (as civil indemnity); ₱75,000.00 (as moral damages); ₱75,000.00 (as exemplary damages).

All sums awarded are subject to interest at the rate of 6% *per annum* from the finality of [this] Decision, until full payment.

IT IS SO ORDERED.⁵⁹

⁵¹ Id. at 35-36.

⁵² Id. at 37-38.

⁵³ Id. at 39.

⁵⁴ Id. at 39-40.

⁵⁵ Id. at 76.

⁵⁶ Id. at 77.

⁵⁷ Id. at 77-78.

⁵⁸ Id. at 78.

⁵⁹ *Rollo*, p. 15.

The CA agreed with the trial court that accused-appellant was guilty of Rape under par. 1(b) of Art. 266-A since he had carnal knowledge of a person “deprived of reason,” having an intellectual disability;⁶⁰ that while the Information erroneously referred to par. 1(d), this will not exonerate accused-appellant since he did not object during arraignment and because he can still be convicted of Rape upon proof that he had carnal knowledge of AAA who was intellectually-disabled;⁶¹ that the discrepancy on the date of commission of the crime in the Information and in BBB’s testimony is immaterial since the date of commission is not an essential element of Rape, and further because objections to matters of form or substance in the Information cannot be made on appeal;⁶² and that accused-appellant’s defenses of denial and alibi cannot prevail over the clear and categorical statements of the prosecution’s witnesses.⁶³

Thus, this appeal.⁶⁴

Both parties manifested that they are adopting the briefs they filed before the CA and will no longer file a Supplemental Brief before this Court.⁶⁵

Issue

Did the appellate court err in sustaining the conviction of accused-appellant?

Our Ruling

The appeal is unmeritorious.

The prosecution was able to establish the elements of Rape

Rape is defined and penalized under par. 1, Art. 266-A of the RPC, as amended by RA 8353, as follows:

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:

⁶⁰ Id. at 12.

⁶¹ Id.

⁶² Id. at 12-13.

⁶³ Id. at 13.

⁶⁴ Id. at 17-20.

⁶⁵ Id. at 25-29; 31-35.

- a) Through force, threat, or intimidation;
- b) When the offended party is deprived of reason or otherwise unconscious;
- c) By means of fraudulent machination or grave abuse of authority; and
- 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.

To secure a conviction for Rape, the prosecution must establish the following elements: (1) the offender is a man who had carnal knowledge of a woman; and (2) he accomplished such act through any of the four modes enumerated in the provision—*i.e.*, through force, threat, or intimidation; when the offended party is deprived of reason or otherwise unconscious; by means of fraudulent machination or grave abuse of authority; or when the offended party is under 12 years of age or is demented.⁶⁶ When the law speaks of “12 years of age” under the last mode, and the victim is intellectually-disabled, it refers to mental and not chronological age of the victim.⁶⁷ When the law speaks of being “demented,” it refers to a person suffering from dementia.⁶⁸

Here, the prosecution was able to establish the two elements of Rape.

First, accused-appellant, a man, had carnal knowledge of AAA, a woman. This was established through the positive and categorical testimony of BBB, who saw accused-appellant moving in an up and down motion on top of AAA.⁶⁹ BBB’s testimony was also corroborated by the medical findings of Dr. Baluyot, who found a shallow healed laceration at 3 o’clock position and a deep healed laceration at 9 o’clock position in AAA’s hymen.⁷⁰ Whether healed or fresh, lacerations are the best evidence of forcible defloration.⁷¹

Second, the victim, AAA, is below 12 years of mental age when the act was committed. The records show that her mental age is that of a 4-year old child, with an IQ of 20, and with intellectual disability, as diagnosed by the NCMH.⁷²

Notably, the appellate court convicted accused-appellant of Rape under par. 1(b) of Art. 266-A and considered AAA, who was intellectually-disabled, as a person “deprived of reason.” However, it should be clarified that while

⁶⁶ *People v. ABC*, G.R. No. 244835, December 11, 2019.

⁶⁷ *People v. Deniega*, 811 Phil. 712, 722 (2017), citing *People v. Quintos*, 746 Phil. 809, 831 (2014).

⁶⁸ *Id.*, citing *People v. Quintos*, *supra* at 829.

⁶⁹ TSN, May 9, 2011, pp. 19, 21.

⁷⁰ TSN, June 3, 2014, pp. 9-11.

⁷¹ *People v. Manaligod*, 831 Phil. 204, 213 (2018). See *People v. Evangelio*, 672 Phil. 229, 245 (2011), where the Court, citing *People v. Orilla*, 467 Phil. 253, 247 (2004), held that a freshly broken hymen is not an essential element of Rape and that healed lacerations do not negate such crime.

⁷² Records, pp. 140-141.



there have been earlier cases holding that carnal knowledge of an intellectually-disabled person falls under paragraph 1(b), the latest jurisprudence on the matter categorically classifies such act as falling under par. 1(d), viz.:

Following these developments, it is clear that as regards rape of mental retardate, the Court now holds that, following *People v. Quintos*, when the victim is a mental retardate whose mental age is that of a person below 12 years old, the rape should be classified as statutory rape under Article 266-A, paragraph 1(d) of the RPC, as amended.⁷³

Here, since what was proven during trial is that AAA is intellectually-disabled with mental age below 12 years old, and not that she was “deprived of reason” during the act, the crime committed is Rape under par. 1(d) of Art. 266-A.

The conviction still stands even if there is no explicit mention of mental retardation or intellectual disability in the Information. The test of sufficiency of an information is whether it enables a person of common understanding to know the charge against him or her, and the court to render judgment properly.⁷⁴ The use of derivatives or synonyms, or allegations of basic facts constituting the offense charged is sufficient.⁷⁵ Here, the description of the victim as “mute” and “demented”—the latter meaning in plain language “mad” or “insane”⁷⁶—sufficed to inform accused-appellant of the nature and cause of the accusation against him (especially considering that he lived with AAA and should therefore have some knowledge of AAA’s condition). As the Court noted in a prior case, an information that does not expressly allege mental retardation but mentions the childish mentality of a victim and with accompanying medical certificate indicating such disability suffice to inform the accused-appellant of the nature of the charge.⁷⁷

We also reject accused-appellant’s attack on the Information which does not accurately bear the date of commission of the crime. First, the Rules of Court expressly states that it is not necessary to state in the Information the precise date the offense was committed except when it is a material ingredient of the offense.⁷⁸ In our jurisdiction, it is settled that the date of commission is not an essential element of Rape.⁷⁹ Second, the records consistently show that

⁷³ *People v. Castillo*, G.R. No. 242276, February 18, 2020.

⁷⁴ *People v. Lira*, G.R. No. 235991, March 18, 2021, citing *People v. Batin*, 564 Phil. 249, 269 (2007).

⁷⁵ *Villarba v. Court of Appeals*, G.R. No. 227777, June 15, 2020, citing *Quimvel v. People*, 808 Phil. 889, 920 (2017).

⁷⁶ Merriam-Webster Dictionary <<https://www.merriam-webster.com/dictionary/demented>> (visited October 5, 2022).

⁷⁷ See also *People v. Race, Jr.*, 287 Phil. 98, 110-111 (1992) where the Court held that the allegations that the victim was “a deaf-mute, retarded and an [imbecile]” sufficed to alert the accused that the charge against him was rape under the circumstance that the woman was deprived of reason, even though the Information did not allege that the victim was “deprived of reason or otherwise unconscious.”

⁷⁸ RULES OF COURT, Rule 110, Sec. 11.

⁷⁹ *People v. Gerola*, 813 Phil. 1055, 1066 (2017).

the date of commission had never been an issue in the proceedings below; even accused-appellant's alibi is predicated on the incident occurring on such date.

As to the inconsistency in BBB's testimony regarding the exact number of people in the house, We disagree with accused-appellant that such discrepancy proves BBB's lack of credibility. It is elementary that minor inconsistencies not touching on the central fact of the crime do not impair the credibility of witnesses; on the contrary, they even tend to strengthen such credibility since they discount the possibility of the witnesses being rehearsed.⁸⁰

Finally, We cannot give credence to accused-appellant's defense of alibi. For one, he utterly failed to substantiate such allegation and show that it was physically impossible for him to be at the crime scene during the incident. For another, an inherently-weak defense like alibi cannot prevail over a positive and credible testimony of an eyewitness,⁸¹ especially one that is corroborated by medical findings.

Penalty and Damages

Art. 266-B of the RPC, as amended by RA 8353, punishes Rape under par. 1 of Art. 266-A with *reclusion perpetua*.⁸² Considering that there are no ordinary aggravating or mitigating circumstances, the appellate court correctly affirmed the trial court's imposition of such penalty. The CA also correctly modified the damages in line with *People v. Jugueta*,⁸³ which instructs that when the penalty imposed is *reclusion perpetua* (as in this case), the victim should be awarded civil indemnity and moral and exemplary damages of ₱75,000.00 each.⁸⁴

In all, the appellate court correctly affirmed the RTC's conviction of accused-appellant and the penalty against him albeit that the crime was committed under par. 1(d) of Art. 266-A and not par. 1(b) thereof.

WHEREFORE, the appeal is **DISMISSED**. The April 29, 2019 Decision of the Court of Appeals in CA-G.R. CR. HC. No. 09505 is **AFFIRMED WITH MODIFICATIONS**. Accused-appellant XXX is found

⁸⁰ *Albotra v. People*, G.R. No. 221602, November 16, 2020, citing *People v. Chan*, G.R. No. 226836, December 5, 2018.

⁸¹ See *People v. BBB*, G.R. No. 248023, June 17, 2020, citing *People v. Batalla*, G.R. No. 234323, January 7, 2019, where the Court reiterated that denial and alibi are inherently weak defenses that cannot prevail over the positive and credible testimony of the prosecution witness.

⁸² Paragraph 1, Article 266-B reads:

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

⁸³ 783 Phil. 806 (2016).

⁸⁴ *Id.* at 849.

GUILTY beyond reasonable doubt of Rape under paragraph 1(d), Article 266-A of the Revised Penal Code, as amended by Republic Act No. 8353. Accordingly, he shall suffer the penalty of *reclusion perpetua* and shall pay civil indemnity and moral and exemplary damages to AAA amounting to ₱75,000.00 each. Such monetary award shall earn interest at the legal rate of 6% per *annum* from the date of finality of this Resolution until fully paid.

SO ORDERED.” *Kho, Jr., J., designated additional Member per Raffle dated October 10, 2022 vice Rosario, J., who recused due to prior participation in the CA.*

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court 

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court
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