



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated September 28, 2022, which reads as follows:

“G.R. No. 249999 (*People of the Philippines v. XXX and YYY; accused; XXX,¹ accused-appellant*). — On appeal² is the May 15, 2019 Decision³ of the Court of Appeals (CA) in CA-G.R. CR-HC No. 10674, affirming the October 9, 2017 Decision⁴ of the Regional Trial Court (RTC), Branch 270 of ██████████⁵ in Criminal Case No. 482-V-10 which found accused-appellant XXX guilty beyond reasonable doubt of Rape under Article 266-A of the Revised Penal Code (RPC).

The accusatory portion of the Information⁶ by which XXX and his brother YYY were charged with Rape reads:

That on or about February 7, 2010, in ██████████ and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and feloniously, by means of force and intimidation, have sexual intercourse with one [AAA],⁷ 16 years old, DOB:

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. 18-19.

³ *Id.* at 3-17. Penned by Associate Justice Pedro B. Corales and concurred in by Associate Justices Stephen C. Cruz and Germano Francisco D. Legaspi.

⁴ *Records*, pp. 401-411. Penned by Presiding Judge Evangeline M. Francisco.

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

⁶ *Records*, p. 1.

⁷ “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]).

August 23, 1993, (complainant/victim), against her will and without her consent, thereby subjecting the said minor to sexual abuse which debased, degraded and demeaned her intrinsic worth and dignity as a human being .

Contrary to Law.⁸

XXX pleaded “not guilty” to the crime charged while YYY remained at large.⁹ During pre-trial, the parties entered into stipulations and admitted the trial court’s jurisdiction, identity of XXX as the one charged and that the private complainant is deaf-mute.¹⁰

Trial ensued.

Version of the Prosecution

The prosecution offered in evidence the testimonies of the private complainant AAA assisted by sign language Interpreters Ana Liza Sia and Jose Irish Pascual, Medico-legal Officer Dr. Merle Tan (Dr. Tan), Social Worker of ██████████ Jerry O. Magbanua (SW Magbanua), Social Worker of ██████████ Jessabel Reyes, Forensic Deoxyribonucleic Acid (DNA) Analyst Police Chief Inspector Ma. Theresa Bodo (PCI Bodo), and private complainant’s father, BBB.¹¹ Part of the testimony of BBB was partially stipulated upon by the parties.¹²

The testimonies of the prosecution witnesses tended to establish the following:

At the time of the incident, AAA was 16 years old.¹³ At around 12:00 noon of February 7, 2010, AAA and her friend CCC were walking in the street near ██████████ City. They encountered YYY and CCC introduced him to AAA using sign language. XXX also arrived and he was likewise introduced to AAA. The group had a short conversation and XXX and YYY invited AAA and CCC to join them at a “yellow house.”¹⁴ They proceeded to the house and boarded a van.¹⁵

Upon their arrival at the house, YYY brought AAA upstairs while XXX ordered CCC to leave. Upstairs, YYY began kissing AAA despite her resistance. It was this point when several other persons arrived at the house. AAA shouted for help to no avail. One of the individuals covered her mouth with a handkerchief and punched her in the stomach which rendered her

⁸ Records, p. 1.

⁹ Id. at 41-44.

¹⁰ Id. at 84-85.

¹¹ Id. at 402.

¹² Id. at 99-100.

¹³ Id. at 94; born on August 23, 1993.

¹⁴ TSN, November 15, 2016, p. 9.

¹⁵ CA *rollo*, pp. 111- 112; TSN, November 15, 2016, pp. 16-18.

unconscious.¹⁶

AAA was awakened when she felt someone on top of her. She saw XXX kissing her and inserting his penis into her vagina. Thereafter others took turns to rape her including YYY. AAA could only cry in the midst of the ravishing she experienced.¹⁷

When they satisfied their lust, XXX and another individual boarded AAA on a motorcycle and left her in a vacant lot. A security guard saw AAA and with signs and gestures of help, the security guard assisted her and called her parents on the number she wrote.¹⁸

Her distraught parents arrived and immediately brought her to [REDACTED] Hospital where Dr. Tan conducted a medico-legal examination. Thereafter, they went to the police station to file a case against XXX, YYY, and several other persons who defiled her.¹⁹

The medical findings of Dr. Tan revealed that AAA had physical injuries on her breast and on her medial and lateral quadrants, several bruises and bite marks. Her genitals also had a number of lacerations and ecchymosis which were possibly caused by penetration of a blunt object like an erected penis. Dr. Tan likewise collected DNA²⁰ samples and preserved them until the trial court ordered for their examination.²¹

Meanwhile, PCI Bodo conducted DNA analysis on the vaginal, external genitalia and swabs obtained from AAA. The results revealed that the specimens contained a mixture of AAA's profile with four "allele" (a variant form of a gene) belonging to two or more persons.²²

During the pendency of the cases against XXX and his co-accused, AAA and her family hurriedly left for [REDACTED] as AAA's parents felt that their lives were in danger. They received threats from one of the accused's family who frequented their house and forced them to withdraw the charge against said co-accused and even offered them money and marriage so that AAA would not be able to pursue the rape case.²³ When they refused, the co-accused's mother along with police officers went to their house and threatened them saying, "*kalamansi lang katapat niyan, kikalawin kayo.*"²⁴

During trial, SW Magbanua testified that AAA was still emotional when

¹⁶ CA rollo, pp. 111-112.

¹⁷ Id.

¹⁸ TSN, November 15, 2016, pp. 7-9.

¹⁹ Id. at 9-10.

²⁰ CA rollo, p. 62.

²¹ Records, pp. 17-18; PGH Provisional Medico Legal Report No. 2010-7641.

²² TSN, May 9, 2017, pp. 4-10.

²³ Records, p. 406.

²⁴ TSN, November 15, 2016, pp. 3-7.

she was interviewed about the incident. He learned that she and her family, despite their yearning to pursue the case and seek justice, was hesitant to go to [REDACTED] due to their fear for their safety and financial constraints.²⁵ Hence, the trial court ordered that AAA be taken into protective custody by the City Social Welfare and Development Office of [REDACTED] when she arrived for trial. SW Reyes interviewed her and learned that AAA stopped schooling and experienced difficulties and hardships in their everyday living.²⁶

Version of the Defense

The defense countered the narration of the prosecution with the testimonies of XXX and his paternal aunt ZZZ.

XXX denied the charge against him. He did not know AAA and only saw her for the first-time during trial. On the day of the incident, he was not with his brother YYY but at his aunt's house at [REDACTED], a five-minute ride from his parents' house. He denied any connection or participation in the rape incident and averred that he was implicated by one of his co-accused because of the on-going gang war between his group and the latter's. He refused to undergo a DNA test as he was uncertain if indeed his brother YYY was involved in the crime, and their DNA samples may have similarities which might be used against him to falsely tie him to the crime.²⁷ His aunt ZZZ likewise averred that XXX was living in her house from 2000 up to 2013 and cannot recall any unusual incident that occurred on the alleged date of the incident.²⁸

Ruling of the Regional Trial Court

The RTC found XXX guilty beyond reasonable doubt of the crime of Rape as embodied in its October 9, 2017 Decision.²⁹ The dispositive portion of the ruling reads:

WHEREFORE, in the light [sic] of the foregoing, judgment is hereby rendered finding ACCUSED [XXX] guilty beyond reasonable doubt of the crime of RAPE defined and penalized under Article 266-A of the Revised Penal Code, as amended, and he is hereby sentenced to suffer the penalty of reclusion perpetua. His preventive imprisonment shall be credited in full to his favor. He is further directed to indemnify @ [AAA], the amount of Php 75,000.00 as civil indemnity, Php 75,000.00 as moral damages and Php 50,000.00 as exemplary damages

SO ORDERED.³⁰

²⁵ Records, p. 406.

²⁶ Id. at 407.

²⁷ TSN, May 29, 2017, pp. 276-291.

²⁸ Records, p. 408.

²⁹ *Rollo*, pp. 3-17.

³⁰ Records, pp. 410-411.

The trial court was convinced that the prosecution was able to establish all the elements of the crime of Rape and took into account AAA's clear testimony identifying XXX as one of her rapists. The RTC also took note of XXX's blatant refusal to give his DNA sample as a circumstance from which his guilt may be inferred. In the same breath, the RTC ultimately rejected his defenses of alibi and denial in light of the strong evidence presented by the prosecution.³¹

Aggrieved, XXX appealed his conviction before the CA.³²

Ruling of the Court of Appeals

The appellate court sustained the guilty verdict against XXX. However, it modified the award of exemplary damages in line with prevailing jurisprudence. The dispositive portion of the judgment reads:

WHEREFORE, the instant appeal is **DENIED**. The October 9, 2017 Decision of the Regional Trial Court, Branch 270, ██████████ in Crim. Case No. 482-V-10 is **AFFIRMED** with **MODIFICATIONS** that the exemplary damages is increased to ₱75,000.00 and all monetary awards shall earn 6% interest *per annum* from date of finality of this judgment until fully paid.

SO ORDERED.³³

Undeterred, accused-appellant brought the case before Us.³⁴ When required by this Court to file Supplemental Briefs, both the Public Attorney's Office representing XXX, and the Office Solicitor General representing the State, manifested that they shall dispense with the filing of the said pleading and instead adopt their respective briefs filed before the CA.³⁵

Issue

The fundamental issue in this appeal is whether the CA correctly found accused-appellant guilty of Rape.

Our Ruling

The appeal is dismissed.

We state at the outset that jurisprudence has emphatically maintained that the evaluation of the credibility of witnesses and their testimonies is a matter best undertaken by the trial court because of its unique opportunity to observe

³¹ Id. at 408-410.

³² CA rollo, pp. 14-15.

³³ Rollo, pp. 16-17.

³⁴ Id. at 18-21.

³⁵ Id. at 25-31.

the witnesses first hand and to note their demeanor, conduct, and attitude under grueling examination. The trial court's evaluation and conclusion on the credibility of witnesses, especially in rape cases, are generally accorded great weight and respect, and at times even finality, especially after the CA, as the intermediate reviewing tribunal, has affirmed the findings; unless there is a clear showing that the findings were reached arbitrarily, or that certain facts or circumstances of weight, substance or value were overlooked, misapprehended or mis-appreciated that, if properly considered, would alter the result of the case.³⁶ We find none of the exceptions in this case.

Accused-appellant maintains that private complainant's testimony is not credible as her statements in her *Karagdagang Salaysay (salaysay)* and her testimony before the court are riddled with fatal inconsistencies. She failed to positively identify XXX as one of those who raped her and did not cite accused-appellant's name in the *salaysay*. She likewise belatedly implicated him in the rape case. Moreover, in open court she identified him as the one who brought her upstairs, but on cross examination she said that it was someone else. Lastly, he insists that the evidence of the prosecution is "frail and effete" and his defenses of alibi and denial should not be disregarded outright.³⁷

The arguments of accused-appellant fail to convince.

Art. 266-A, par. (1) of the RPC provides when and how Rape is committed, thus: (1) By a man who shall have carnal knowledge of a woman under any of the following circumstances: **a) Through force, threat, or intimidation;** b) When the offended party is deprived of reason or is otherwise unconscious; c) By means of fraudulent machination or grave abuse of authority; and d) When the offended party is under 12 years of age or is demented, even though none of the circumstances mentioned above be present.³⁸

In the case at bar, this Court agrees with the appellate court in sustaining the conclusion that the prosecution was able to prove all the elements of the crime.³⁹ The positive identification of the accused-appellant and his involvement in the crime were established by the persuasive and strong testimony of the private complainant. The relevant portion of her direct testimony is hereto quoted, thus:

- Q. How did you come to know this [XXX]?
- A. I was with [CCC], we met with [XXX]—

³⁶ See *People v. Ganaba*, 829 Phil. 306, 215 (2018).

³⁷ *CA rollo*, pp. 48-53.

³⁸ REVISED PENAL CODE, ARTICLE 266-A, as amended by REPUBLIC ACT NO. 8353 entitled "AN ACT EXPANDING THE DEFINITION OF THE CRIME OF RAPE, RECLASSIFYING THE SAME AS A CRIME AGAINST PERSONS, AMENDING FOR THE PURPOSE ACT NO. 3815, AS AMENDED, OTHERWISE KNOWN AS THE REVISED PENAL CODE AND FOR OTHER PURPOSES." Approved on September 30, 1997.

³⁹ *Rollo*, p. 9.

Pros. Fajardo:

May I put on record that the witness at this point is already crying.

Court:

Are you okay, can we proceed?⁴⁰

x x x x

Court:

Q. Which came first, the act of punching or the act of putting handkerchief to your mouth?

A. First, they put the handkerchief.

x x x x

Pros Fajardo:

Q. Okay, how many can you recall those male persons who actually raped you?

A. Ten.

Q. You saw them one by one?

A. I can no longer anymore.

Q. When [YYY] punched you, what happened, what did you feel? According to you, when [YYY] punched you, you were unconscious?

A. Yes.

Q. And then after that, that was the time that you were raped by the ten men?

A. Yes.

Q. How did you see the ten men when according to you, you were unconscious?

A. I was able to open my eyes from time to time. I regained consciousness from time to time.

Q. So the moment or that the time that you became unconscious, did you pretend to sleep, is that what you were trying to do?

A. I opened my eyes.⁴¹

x x x x

Pros. Fajardo:

Q. Among the ten persons who raped you, can you looked (sic) around and tell us if one of those persons who raped you is present in this court room right now?

A. [witness pointed to a male person wearing yellow shirt seated on the first row] There.

Q. The witness is pointing to [XXX].

⁴⁰ TSN, November 15, 2016, p. 9. See also records, p. 138.

⁴¹ Id. at 13-14. See also records, pp. 142-143.

Court:
Which she identified earlier

x x x x

Court
When you say rape, can you elaborate?

Pros. Fajardo:
Let us get the doll. We have a very beautiful doll. When you say rape, what do you mean? Do you understand what rape means? Can you demonstrate? This is [AAA] and this is [XXX] [*referring to a male and female doll*] Tama ba ang rape ay kiss? Can you show to us what did [XXX] do to you by holding this doll, this is [AAA] and this is [XXX]?

x x x x

Pros. Fajardo.
Q. [XXX] kissed you?
A. [*witness signed yes and pointed to her lips, neck, chest area and lower extremities*]

Q. [XXX] put his arms around you.
A. [*witness signed*] Yes, Sir.

Q. [XXX] went here?

Court:
Stay on top?
Witness:
[witness signed] Yes, your Honor.

Pros. Fajardo:
Q. **And pasok?**
A. **[witness signed] Yes, Sir.**

x x x x

Q. **When I say rape, what do I mean is that the penis was inserted inside?**
A. **[witness signed] Yes, sir.**⁴² (Underscoring supplied)

During her cross examination, private complainant stated:

Court: Why did you not mention [XXX]? [XXX] raped you?
A: **[witness signed] Yes, Sir.**

Q. But you were not able to see his face near your face?
Witness:
[witness signed] I saw, your Honor.

Court: But it was not mentioned.

⁴² Id. at 3-6.



Atty. Kuong:

Q. You said that once in a while nagigising ako paunti-unti lang?

A. [witness signed] My eyes were closed because I felt dizzy.

Q. Since you felt dizzy and there are times which you are closing your eyes, you cannot remember if all of these ten males were able to satisfy their lust or raped you?

A. [witness signed] I cannot remember some of the faces.

x x x x

Witness: [witness signed] **First was [YYY], followed by [XXX], then [WWW] and the last one as far as I can recall was [VVV]. I cannot remember the others because I lost consciousness.**⁴³

The capacity of a deaf-mute to testify has long been recognized. Although she was a minor and a deaf-mute, the private complainant, under oath, was able to comprehend the facts she testified on and accurately communicated her recollection of what happened with the aid of the anatomical/paper doll.⁴⁴

In the case at bar, private complainant's categorical and consistent testimony satisfactorily proves all the elements of the crime and the identity of the accused-appellant as one who defiled her.⁴⁵ Her narration settled the fact that accused-appellant had carnal knowledge of her through force when she was punched and rendered unconscious. Hence, after a careful review of the records, this Court finds no reason to digress from the findings of the trial court and the appellate court that the victim was, indeed, raped and accused-appellant was guilty thereof.

Verily, a rape victim, especially one of tender age, would not normally concoct a story of defloration, allow an examination of her private parts and thereafter permit herself to be subjected to a public trial, if she is not motivated solely by the desire to have the culprit apprehended and punished. Thus, when a woman, more so if she is a minor, says that she has been raped, she says in effect all that is necessary to show that rape was committed and as long as the testimony meets the test of credibility, the accused may be convicted on that basis alone.⁴⁶

We quote with approval the findings of the CA:

Clearly, [AAA]'s woeful tale of her harrowing experience is impressively definite and convincing; there is no indication whatsoever of concocted recital. She was also positive and firm in pointing to [XXX] as her assailant. **Her condition of being a deaf-mute did not prevent her from recounting the**

⁴³ Id. at 20-21.

⁴⁴ Id. at 10.

⁴⁵ Id. at 19-21.

⁴⁶ *People v. XXX*, G.R. No. 244047, December 10, 2019.

details of [XXX inserting] his penis into her vagina. A rape victim's testimony as to who abused her is credible where she has absolutely no motive to incriminate and testify against the accused, as in this case. Notably, no ill motive on the part of [AAA] to falsely accuse [XXX] was ever brought up by the defense during trial. It is also equally important to highlight that despite the harassment suffered by [AAA]'s family, their financial incapacity, the lapse of time, and the hardship entailed in travelling from [REDACTED] back to [REDACTED], AAA relentlessly pursued the rape case against accused-appellant. A young girl would not concoct a sordid tale of a crime as serious as rape, allow the examination of her private part, and subject herself to the stigma and embarrassment of a public trial, if her motive was other than a fervent desire to seek justice and put the real culprit behind bars. It would take a great amount of moral depravity for a young woman to concoct an ugly story that would not only drag herself and her family to a lifetime of shame but also possibly put accused-appellant for the rest of his remaining life in prison.⁴⁷ (Citations omitted; emphasis supplied)

We also find unmeritorious the allegations that private complainant's testimony was incredible due to the inconsistencies between her *salaysay* and her testimony in open court, and the fact that she failed to include accused-appellant in her early complaints.

It has often been noted by this Court that if there is an inconsistency between the affidavit and the testimony of a witness, the latter should be given more weight since affidavits being taken *ex-parte* are usually incomplete and inaccurate.⁴⁸ In the same vein, inconsistencies in the victim's testimony do not impair her credibility, especially if the inconsistencies refer to trivial matters, such as who brought the private complainant upstairs before the rape, or who raped her first. The private complainant was clear that accused-appellant was one of those who raped her.⁴⁹ This positive identification strongly outweighs the inconsistencies and lapses attributed to her testimony.⁵⁰

In *People v. Ganaba*,⁵¹ this Court stated:

Rape is a painful experience which is oftentimes not remembered in detail. For such an offense is not analogous to a person's achievement or accomplishment as to be worth recalling or reliving; rather, it is something which causes deep psychological wounds and casts a stigma upon the victim, scarring her psyche for life and which her conscious and subconscious mind would opt to forget. Thus, a rape victim cannot be expected to mechanically keep and then give an accurate account of the traumatic and horrifying experience she had undergone. (Emphasis supplied; citations omitted)

If at all, her emotional and natural testimony in open court only bolstered

⁴⁷ *Rollo*, p. 14.

⁴⁸ See *People v. Manigo*, 725 Phil. 324, 333 (2014).

⁴⁹ TSN, November 15, 2016, pp. 19-21.

⁵⁰ *Id.* at pp. 3-4.

⁵¹ *Supra* note 36 at 320.

the credibility of private complainant; the alleged discrepancies on non-material matters only strengthened her testimony signifying that the same was not rehearsed. The act of testifying before the court in itself is already a daunting undertaking, doubly more when testifying on something that is traumatic.

Hence, minor lapses are to be expected when a person is recounting details of a humiliating and painful experience. Oftentimes, victims or witnesses are testifying in open court in the presence of strangers about an extremely intimate matter not normally talked about in public. Such circumstances may be expected to cause their narration to be less than letter-perfect.⁵² Be as it may, in rape cases, the credibility of the victim's testimony is almost always the single most important factor. When the victim's testimony is credible, even if there are minor inconsistencies, it may be the sole basis for the accused's conviction.⁵³

Moreover, private complainant explained why she failed to initially implead accused-appellant. She was also emphatic and consistent in her declaration that accused-appellant was among her rapists.⁵⁴ This Court long pronounced that delay in revealing the commission of a crime such as rape does not necessarily render such charge unworthy of belief. This is because the victim may choose to keep quiet rather than expose her defilement to the harsh glare of public scrutiny. Only when the delay is unreasonable or unexplained may it work to discredit the complainant.⁵⁵ Here, the delay in impleading the accused-appellant was sufficiently explained and her reason behind it was certainly justified and reasonable and did not destroy the prosecution's case against the accused-appellant.

Considering that private complainant effectively did all that is necessary to show that rape was committed against her by the accused-appellant, and her testimony meets the test of credibility, and accused-appellant failed to debunk her narrations, offering nothing but weak alibis, bare denials, and flimsy arguments,⁵⁶ the evidence of the prosecution prevails.

Finally, this Court sustains the appellate court's modification in the award of exemplary damages from ₱50,000.00 to ₱75,000.00, and the imposition of interest at the rate of six percent (6%) per *annum* on all damages awarded from the date of finality of judgment until fully paid in light of prevailing jurisprudence.⁵⁷

WHEREFORE, the appeal is **DISMISSED** for lack of merit. The May

⁵² See *People v. Natan*, 581 Phil. 649, 655 (2008).

⁵³ *People v. Rupal*, 834 Phil. 594, 610 (2018).

⁵⁴ TSN, November 15, 2016, p. 22.

⁵⁵ *People v. YYY*, 839 Phil. 1147, 1165 (2018), citing: *People v. Buenvinoto*, 735 Phil. 724, 735 (2014).

⁵⁶ TSN, November 15, 2016, pp. 2-13.

⁵⁷ See *People v. Jugueta*, 783 Phil. 806, 848 (2016).

15, 2019 Decision of the Court of Appeals in CA-G.R. CR-HC No. 10674 finding accused-appellant XXX guilty beyond reasonable doubt of Rape is **AFFIRMED.**

SO ORDERED.”

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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OCT 13 2022

The Solicitor General
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Court of Appeals (x)
Manila
(CA-G.R. CR-HC No. 10674)

The Hon. Presiding Judge
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1440 Valenzuela City
(Crim. Case No. 482-V-10)

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