



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated April 5, 2022 which reads as follows:

“**G.R. No. 251441 (*People of the Philippines v. FFF*¹)**. – This is an ordinary appeal under Rule 122 of the Rules of Court, seeking to reverse and set aside the Decision² dated July 5, 2019 of the Court of Appeals (CA) in CA-G.R. CR HC No. 11176. The assailed issuance affirmed with modification the April 30, 2018 Decision³ issued by Branch 68 of the Regional Trial Court (RTC) of Lingayen, Pangasinan which, in turn, found accused-appellant FFF (accused-appellant) guilty beyond reasonable doubt of the crime of qualified rape.

Antecedents

Accused-appellant is the biological father of AAA and CCC. BBB is the half-sister of AAA and CCC through their mother, MMM. Accused-appellant was indicted by virtue of an Information, the accusatory portion of which reads as follows:

That on November 26, 2016, around 1:00 o'clock in the afternoon at [REDACTED], Lingayen, Pangasinan and within the jurisdiction of this Honorable Court, the above-named accused,

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¹ Pursuant to Supreme Court Amended Administrative Circular No. 83-2015, the personal circumstances and other information which tend to establish or compromise the identity of the victim, including the names of her family members or relatives, and the *barangay* and town where the incidents occurred, are withheld. The names of the victim and her family members or relatives are replaced with fictitious initials. Likewise, the real name of the accused-appellant is replaced with fictitious initials by reason of his relationship to the minor victim.

² *Rollo*, pp. 3-13. Penned by Associate Justice Eduardo B. Peralta, Jr. with Associate Justices Ramon R. Garcia and Gabriel T. Robeniol concurring.

³ *CA rollo*, pp. 52-60. Rendered by Judge Maria Laarni R. Parayno.

father of six (6)[-]year[-] old minor private complainant AAA (DOB: April 9, 2010), did, then and there, willfully, unlawfully and feloniously insert his finger into the vagina of said complainant, to the damage and prejudice of said AAA.⁴

The evidence for the prosecution and the defense were summarized by the CA as follows:

AAA testified that around 1:00 o'clock in the afternoon of November 26, 2016, BBB, her half-sister, dropped her off to the house of her father, the accused-appellant. While she was alone with him, his father inserted his index finger inside her vagina. She cried as it was painful. Later in the afternoon, BBB fetched AAA and AAA told BBB what accused-appellant did to her.

In AAA's Sinumpaang Salaysay, she conveyed that after her father inserted his finger in her genitalia, he told her, "agka mandadalem kindi atem BBB."

The parties stipulated BBB's projected testimony to the effect that BBB reported the incident to the police and she assisted AAA in the proceedings.

In the Order dated November 7, 2017, the defense counsel also admitted the authenticity of the Medico-Legal Report and findings of Dr. Arggie Rosario Vallangca which reflected that there was new complete laceration on AAA's hymen at 5, 7, 9 and 11 o'clock positions.

The testimony of PO1 Jonalyn Rosalin was also dispensed with relative to Police blotter Entry No. 364 of the WCPD blotter entry of the PNP, Lingayen, Pangasinan and the defense counsel manifested that the certification issued by the police was a faithful reproduction of the actual entry.

What likewise abated the trial phase was the parties' accord with respect to P03 Elvenio Ramos' role in effecting the arrest of accused-appellant after the subject incident was reported to the police.

On the other hand, the accused-appellant denied the charge against him. He claimed that on November 26, 2016, as conductor of a bus, he was with a religious group of more than 56 passengers from Lingayen to Alaminos. The bus allegedly left at 8:00 in the morning at the pick-up point within the town proper of Lingayen and they arrived in Alaminos at 10:00 in the morning. Supposedly, they waited for their passengers inside the bus until the turnaround trip to Lingayen at 10:00 in the evening.⁵

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⁴ Records, 1.

⁵ Rollo, pp. 4-5.

On April 30, 2018, the trial court rendered a Decision⁶ finding accused-appellant guilty as charged. It found accused-appellant's defenses of denial and alibi patently insufficient to outweigh the positive and categorical testimony of AAA which was corroborated by the findings of the medical examiner. The credibility of AAA is bolstered by the fact that there was no reason for her to fabricate a story that she was sexually assaulted by her own father, the trial court added.

Thus, the RTC disposed:

WHEREFORE, in view of the foregoing, accused FFF is found GUILTY beyond reasonable doubt of qualified rape as defined and penalized under Article 266-A, paragraph 2 in relation to Article 266-B of the Revised Penal Code (as amended by R.A. No 8353) and is hereby sentenced to suffer the penalty of *reclusion perpetua*, and to pay private complainant "AAA" the amounts of ₱100,000.00 as civil indemnity, ₱100,000.00 as moral damages, and ₱100,000.00 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.

Furthermore, FFF is not eligible for parole pursuant to Section 3 of R.A No. 9346.

The accused, who is detained, is credited with the number of days he spent under detention, if he is qualified, otherwise, he shall be credited only with four-fifths (4/5) of his preventive imprisonment, pursuant to Article 29 of the Revised Penal Code, as amended.

SO ORDERED.⁷

Aggrieved, accused-appellant interposed an appeal with the CA.

On July 5, 2019, the appellate court issued the herein assailed Decision⁸ affirming the findings and conclusions of the trial court, albeit modifying the penalties imposed upon accused-appellant. Thus:

WHEREFORE, in light of the foregoing premises, the instant **APPEAL** is hereby **DENIED** for lack of merit. Hence, the Decision dated April 30, 2018 of RTC, Branch 68, Lingayen,

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⁶ CA *rollo*, pp. 52-60.

⁷ Id. at 59-60.

⁸ *Rollo*, pp. 3-13.

Pangasinan is **AFFIRMED WITH MODIFICATION** and in lieu of the penalty below, We impose the penalty of nine (9) years of *prison mayor*, as minimum, to fourteen (14) years, eight (8) months and one (1) day of *reclusion temporal*, as maximum. In addition, the awards of civil indemnity, moral and exemplary damages are modified to P30,000.00 for each item.

Finally, all damages awarded shall earn interest at the rate of 6% per annum from the date of finality of judgment until fully paid.

SO ORDERED.⁹

Hence, the present recourse.

On September 6, 2019, the CA issued a Minute Resolution¹⁰ giving due course to the Notice of Appeal¹¹ filed by accused-appellant, thereby ordering the elevation of the records of the instant case to this Court.

In a Resolution¹² dated June 15, 2020, this Court noted the records of the case forwarded by the CA. The parties were then ordered to file their respective supplemental briefs, should they so desire, within 30 days from notice.

In a Manifestation in Lieu of Supplemental Brief¹³ dated November 11, 2020, accused-appellant, through the Public Attorney's Office (PAO), declared that he would no longer file a supplemental brief because all of his contentions have been exhaustively ventilated in the Appellant's Brief¹⁴ that he filed with the CA. On December 21, 2020, the Office of the Solicitor General (OSG) filed a similar Manifestation¹⁵ on behalf of the People.

The Ruling of the Court

Under Article 266-A of the Revised Penal Code (RPC), rape is committed as follows:

ART. 266-A. *Rape, When and How Committed.* - Rape is committed-

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⁹ Id. at 13.
¹⁰ CA *rollo*, p. 101.
¹¹ Id. at 98-99.
¹² *Rollo*, pp. 21-22.
¹³ Id. at 23-25.
¹⁴ CA *rollo*, pp. 37-50.
¹⁵ *Rollo*, pp. 29-31.

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 twelve (12) years of age or is demented, even though none of the circumstances mentioned above be present.
2. By any person who, under any of the circumstances mentioned in paragraph 1 hereof, shall commit an act of sexual assault by inserting his penis into another person's mouth or anal orifice, or any instrument or object, into the genital or anal orifice of another person.

Having been found guilty of qualified rape through sexual assault under paragraph 2, Article 266-A of the RPC, accused-appellant reiterates the defenses of denial and alibi that he raised before the RTC and the CA.

The appeal is bereft of merit. The Court affirms accused-appellant's conviction, albeit with a modification as to the nomenclature of the crime and the penalty imposed, as well as the award of damages and civil indemnity due AAA.

*The prosecution was able to prove
accused-appellant's guilt beyond
reasonable doubt*

In reviewing rape convictions, the Court has been guided by three principles, namely: (a) that an accusation of rape can be made with facility; it is difficult for the complainant to prove but more difficult for the accused, though innocent, to disprove; (b) that in view of the intrinsic nature of the crime of rape as involving only two persons, the rapist and the victim, the testimony of the complainant must be scrutinized with extreme caution; and (c) that the evidence for the prosecution must stand or fall on its own merits, and cannot be allowed to draw strength from the weakness of the evidence for the defense.¹⁶

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¹⁶ *People v. Buado, Jr.*, 701 Phil. 72, 83-84 (2013).

Rape is particularly odious, one which figuratively scrapes the bottom of the barrel of moral depravity, when committed against a minor.¹⁷ It is essentially an offense of secrecy involving only two persons and not generally attempted save in secluded places far from prying eyes.¹⁸ Thus, the accused can be convicted solely on the testimony of the victim for as long as such testimony is credible, convincing, and consistent with human nature and the normal course of things.¹⁹

In the present case, AAA was able to recall in open court the harrowing details of accused-appellant's dastardly acts:

Q: Tapos dalawa lang kayo ni papa mo doon sa bahay niya di ba? (It was only you and your papa whose [sic] in the house right?)

A: Opo (yes mam).

Q: May ginawa ba ang papa mo noon sa iyo? (Did your father do something to you?)

A: Opo (yes mam).

Q: Ano naman ang ginawa ni papa mo sa iyo? (What did your father do to you?)

A: Nilagay niya yung kamay niya sa akin (He put his hand to me).

Q: Saan niya inilagay yung kamay niya? (Where did he put his hand?)

A: Sa pipit ko (In my vagina).

Q: Buong kamay ba o daliri lang? (Did he put his hand or finger only?)

A: Daliri lang po (finger only).

Q: Alin dito sa daliri, alam mo kung ano? (Which finger did he put? Do you know?)

Interpreter: Witness pointed to her point finger.

Q: Ipinasok ba niya sa loob ng pipit mo? (Did he insert it inside your vagina?)

A: Opo (yes mam).

Q: Ano ang naramdaman mo? (What did you feel?)

A: Masakit (It was painful).

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¹⁷ *People v. Lopez*, 617 Phil. 733, 736 (2009).

¹⁸ *People v. Llanas, Jr.*, 636 Phil. 611, 621 (2010).

¹⁹ *People v. Nuyok*, 759 Phil. 437, 450 (2015).

- Q: Umiyak ka? (Did you cry?)
A: Opo (yes mam).
- Q: Bago inilagay ni papa mo yung daliri niya sa pipit mo, may tinanggal ba siya na damit sa iyo? (Before your papa insert [sic] his finger into your vagina, did he remove any of your clothes?)
A: Opo (yes mam).
- Q: Ano ang tinanggal niya? (What did he removed? [sic])
A: Short pants.
- Q: Tapos sabi mo umiyak ka, ano ang sinabi ni papa mo nung umiyak ka, may sinabi ba siya? (Then you said you cried, what did your papa tell you, did he tell you anything?)
A: Wala po (none).
- Q: Tapos yung araw na yun, sinundo ka ulit ni ate BBB? (That same day, your ate BBB fetched you?)
A: Opo (yes mam).
- Q: Doon ka ba natulog ng gabi o hindi? (Did you sleep there that night or not?)
A: Hindi po (No mam).
- Q: Kasi hapon, sinundo ka niya ulit? (Because in the afternoon, she fetched you again?)
A: Opo (yes mam).
- Q: Sinabi mo kay ate BBB yung ginawa sa iyo ng papa mo? (Did you tell ate BBB what your papa do [sic] to you?)
A: Opo (yes mam).
- Q: Noong sinabi mo kay ate BBB, ano ang sinabi ni ate BBB? (When you told ate BBB, what did your ate BBB tell you?)
A: No answer.
- Q: Ano ang sinabi ni ate BBB ng sinabi mo "Ate, ipinasok ni papa ang daliri niya sa pipit ko?" (What did ate BBB tell you when you told her that your papa inserted his finger to your vagina?)
A: No answer.
- Q: Nagsumbong ba siya sa pulis? (Did she report to the police?)
A: Opo (yes mam).

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- Q: Noong sinabi mo ba kay ate BBB ang ginawa ng papa mo, umiiyak ka? (When you tell [sic] your ate BBB about what your papa did to you, were you crying?)
- A: Hindi na po (not anymore).²⁰

It bears noting that AAA was only six years old at the time of the commission of the crime. It is settled that testimonies of child-victims are normally given full weight and credit, since when a girl, particularly if she is a minor, says that she has been raped, she says in effect all that is necessary to show that rape has in fact been committed.²¹ Youth and immaturity are generally badges of truth and sincerity.²² A young girl's revelation that she had been raped, coupled with her voluntary submission to medical examination and willingness to undergo public trial where she could be compelled to give out the details of an assault on her dignity, cannot be so easily dismissed as mere concoction.²³

AAA's testimony relative to the crime was also corroborated by medical findings. The records show that AAA's hymen sustained new lacerations at the 5, 7, 9 and 11 o'clock positions. Case law teaches us that when a rape victim's testimony on the manner she was defiled is straightforward and candid, and is corroborated by the medical findings of the examining physician, it is sufficient to support a conviction for rape.²⁴

In a prosecution for rape, the material fact or circumstance to be considered is the occurrence of the rape, which the prosecution in this case was able to prove beyond reasonable doubt.²⁵

Accused-appellant's defenses of denial and alibi are inherently weak

Accused-appellant's denial and alibi are not enough to overcome the evidence adduced by the prosecution.

Alibi and denial are considered with suspicion and received with caution, not only because they are inherently weak and unreliable but also because they are easily fabricated and concocted²⁶ and

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²⁰ TSN, October 2, 2017, pp. 5-10.

²¹ *People v. Piosang*, 710 Phil. 519, 526 (2013).

²² *People v. Famudulan*, 763 Phil. 138, 147 (2015).

²³ *People v. Tuballas*, 811 Phil. 201, 217 (2017).

²⁴ *People v. XXX*, G.R. No. 239906, August 26, 2020.

²⁵ *People v. Garcia*, 722 Phil. 60, 71 (2013).

²⁶ *People v. Pagamucan*, 820 Phil. 732, 738 (2017).

difficult to check or rebut.²⁷ Emphatically, for the defense of *alibi* to prosper, accused-appellant must prove not only that he was at some other place when the crime was committed but that it was physically impossible for him to be at the *locus criminis* at the time of its commission.²⁸ Such is not the case here. Where there is the least chance for the accused to be present at the crime scene, the defense of *alibi* must fail.²⁹

In the face of the positive identification by AAA, accused-appellant's self-serving denial and *alibi* cannot prevail.³⁰

Nevertheless, there is a need to modify the nomenclature of the crime committed by accused-appellant, as well as the imposable penalty and the monetary awards due AAA

AAA testified that accused-appellant inserted his finger into her vagina when she was six years old. The veracity of this testimony has been established by the prosecution beyond reasonable doubt.

In *People v. Tulagan*³¹ (*Tulagan*), the Court ruled that when sexual assault is committed against a child below twelve (12) years old, the crime committed is Sexual Assault under paragraph 2, Article 266-A of the RPC, in relation to Section 5(b), Article III of Republic Act No. (R.A.) 7610. The imposable penalty is *reclusion temporal* in its medium period.³² Section 31(c)³³ of R.A. No. 7610 also provides that when the perpetrator is a parent of the victim, as in this case, the penalty shall be imposed in its maximum period.

Applying the Indeterminate Sentence Law, accused-appellant is sentenced to suffer the penalty ranging from 17 years, 4 months and 1 day to 20 years of *reclusion temporal* in its maximum period.

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²⁷ *People v. Agalot*, 826 Phil. 541, 557 (2018).

²⁸ *People v. Villanueva*, 822 Phil. 735, 745 (2017).

²⁹ *People v. Bongos*, 824 Phil. 1004, 1022 (2018).

³⁰ *People v. Gersamio*, 763 Phil. 523, 540 (2015).

³¹ G.R. No. 227363, March 12, 2019.

³² *Id.*

³³ Section 31. *Common Penal Provisions.* —

x x x x

c. The penalty provided herein shall be imposed in its maximum period when the perpetrator is an ascendant, parent, guardian, stepparent or collateral relative within the second degree of consanguinity or affinity x x x.

In consonance with *Tulagan*, accused-appellant is ordered to pay AAA civil indemnity, moral damages and exemplary damages, each in the amount of ₱50,000.00. The total monetary awards shall earn legal interest at the rate of six percent (6%) *per annum*, computed from the time of finality of this Resolution until its full satisfaction.³⁴

WHEREFORE, the appeal is **DENIED**. The July 5, 2019 Decision of the Court of Appeals in CA-G.R. CR HC No. 11176 is hereby **AFFIRMED** with **MODIFICATION**. Accused-appellant FFF is found **GUILTY** beyond reasonable doubt of the crime of Sexual Assault under paragraph 2, Article 266-A of the Revised Penal Code, in relation to Section 5(b), Article III of Republic Act No. 7610, and is sentenced to suffer the penalty of seventeen (17) years, four (4) months and one (1) day to twenty (20) years of *reclusion temporal* in its maximum period. Accused-appellant is likewise **ORDERED** to **PAY** AAA civil indemnity, moral damages and exemplary damages in the amount of ₱50,000.00 each. The total monetary awards shall earn legal interest at the rate of 6% *per annum*, reckoned from the time of finality of this Resolution until the same is fully paid.

SO ORDERED.”

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court
m9/19

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court

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SEP 23 2022

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(CA-G.R. CR-HC No. 11176)

The Hon. Presiding Judge
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(Crim. Case No. L-11372)

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³⁴ *Nacar v. Gallery Frames*, 716 Phil. 267, 281 (2013).



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