



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. 251658 (People of the Philippines v. XXX¹)**. — This is an appeal from the October 22, 2019 Decision² of the Court of Appeals (CA) in CA-G.R. CEB CR-HC No. 02616 affirming the Judgment³ of the Regional Trial Court (RTC), Branch 36, [REDACTED],⁴ in Crim. Case No. RTC-2011-141-CR which convicted accused-appellant XXX of the crime of Statutory Rape and sentenced him to suffer the penalty of *reclusion perpetua*.

The Factual Antecedents

The facts, as lifted from the CA Decision and the records, are as follows:

An Information⁵ dated May 26, 2011 was filed against accused-appellant before the RTC of [REDACTED], charging him with the crime of Rape. The accusative portion of the Information reads:

That on the 24th day of May 2011, in the Municipality of [REDACTED] [REDACTED], Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, by means of force, threat and intimidation, did then and there willfully, unlawfully and feloniously succeed in having

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 CA *Rollo*, pp. 5-17. Penned by Associate Justice Emily R. Aliño-Geluz and concurred in by Associate Justices Gabriel T. Ingles and Carlito B. Calpatura.

³ Records, pp. 340-351. Penned by Judge Lauro A.P. Castillo, Jr.

⁴ Geographical location is blotted out pursuant to Supreme Court Amended Administrative Circular No. 83-2015.

⁵ *Id.* at 1.

carnal knowledge of [REDACTED],⁶ 8 years of age, against her will.

[REDACTED], May 26, 2011.⁷

Version of the Prosecution

AAA testified that she was only 8 years old when the incident happened. She related that on May 24, 2011, she was left at home with accused-appellant, a “stay-out househelper” of her aunt, BBB. At around 2:00 p.m. that day, while AAA was washing her clothes, she was summoned by accused-appellant. When AAA approached accused-appellant, the latter removed her clothes. Inside her room, accused-appellant laid on top of AAA and inserted his penis into her vagina. AAA further recalled that after accused-appellant was through, he put on his trousers, whereupon BBB arrived and saw them. BBB then called her husband for help.⁸

BBB testified that she is the sister of AAA’s mother. AAA became BBB’s ward after the child’s mother left her during her infancy. BBB narrated that on May 24, 2011, she was drying her *palay* outside and went home at around 2:00 p.m. BBB recalled that when she entered AAA’s room, she saw accused-appellant in the act of pulling up his trousers while AAA was sitting on the floor, naked, and her legs parted. BBB asked accused-appellant why he “touched” AAA. After this, BBB immediately took AAA to the *barangay* to seek help.⁹

AAA was examined by Dr. Marishel M. Ramas (Dr. Ramas) and Dr. Ma. Teresita C. Lita (Dr. Lita) of the [REDACTED] Regional Medical Center. Their Medico-Legal Report indicates the following findings:

Hymen: absent, (-) erythema, (+) tenderness,
(+) whitish, mucoid discharge¹⁰

Dr. Lita declared that they performed the examination at 9:45 p.m. on May 24, 2011, around seven hours after the alleged rape. They found spermatozoa from the orifice of the vaginal canal or the opening of AAA’s

⁶ “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]).

⁷ Records, p. 1.

⁸ Rollo, pp. 6-7.

⁹ Id. at 7.

¹⁰ Id.

vagina. Dr. Lita further stated that no hymen was found in AAA for which reason, no laceration thereof was noted.¹¹

Version of the Defense

Accused-appellant confirmed that he was working for BBB at the date of incident on May 24, 2011. He recalled that at around 2:00 p.m. that day, he fell asleep while watching television in the *sala* of BBB's house. He further stated that he noticed AAA changing her clothes and moments later, BBB arrived. At this point, accused-appellant heard BBB asking AAA to identify the person who molested her. Allegedly, accused-appellant responded by pointing to a direction where a certain CCC, BBB's neighbor, had fled.¹²

Ruling of the Regional Trial Court

After trial, accused-appellant was convicted by the RTC and sentenced to suffer the penalty of *reclusion perpetua*. The dispositive portion of the RTC Judgment dated July 7, 2017 reads:

WHEREFORE, foregoing premises considered, the Court finds accused, [XXX], Guilty beyond reasonable doubt of the Statutory Rape, as defined under [Art.] 266 A (1), paragraph (d) of the Revised Penal Code as amended and hereby sentences him to a penalty of imprisonment of *Reclusion Perpetua*. He is also hereby ordered to pay the private offended party **P75,000.00** as civil indemnity, **P75,000.00** as moral damages, and **P75,000.00** as exemplary damages. He is further ordered to pay interest of six percent (6%) per annum on all these damages reckoned from the date of finality of this judgment until fully paid.

Costs against the accused.

SO ORDERED.¹³

In convicting accused-appellant, the RTC gave great weight to the testimony of AAA and held that "the straightforward description by AAA of the manner in which the accused consummated the rape is something that cannot be ignored, especially so that the account came from a girl as young as AAA."¹⁴ Notably, AAA was only 9 years old when she took the witness stand.

Aggrieved, accused-appellant elevated the case to the CA.

¹¹ Id.

¹² Id. at 8.

¹³ CA *rollo*, p. 50.

¹⁴ Id. at 48.

Ruling of the Court of Appeals

In its October 22, 2019 Decision,¹⁵ the CA denied accused-appellant's appeal and affirmed the Judgment of the RTC.

In affirming the RTC decision, the CA held that there can be rape even if the medical examination shows no vaginal laceration, and that the absence of physical injuries or fresh lacerations does not negate rape, contrary to accused-appellant's argument.¹⁶

Citing *People v. Napud, Jr.*,¹⁷ the appellate court declared that "what consummates the [crime of rape] is penile contact, however slight, with the labia of the victim's vagina without her consent."¹⁸

Moreover, the CA respected the findings of the trial court and stated that its findings are generally binding and conclusive upon the appellate court. Lastly, the CA gave great weight to AAA's testimony, considering that she was able to give a full and convincing narration of how the crime was committed.¹⁹

The dispositive portion of the CA Decision reads:

WHEREFORE, in view of the foregoing, the appeal is **DENIED**. The 7 July 2017 Judgment of the Regional Trial Court, [REDACTED], Branch 36, [REDACTED], in Criminal Case No. RTC-2011-141, is affirmed in toto.

SO ORDERED.²⁰

Undeterred, accused-appellant elevated the case to this Court by filing a Notice of Appeal²¹ dated November 12, 2019.

Issue

The sole issue for the resolution of the Court is whether the CA erred in affirming the RTC judgment convicting accused-appellant of the crime of Rape.

¹⁵ *Rollo*, pp. pp. 5-17.

¹⁶ *Id.* at 10-16.

¹⁷ 418 Phil. 268 (2001).

¹⁸ *Id.* at 279.

¹⁹ *Rollo*, pp. 13-16.

²⁰ *Id.* at 17.

²¹ *CA rollo*, pp. 18-20.

Our Ruling

The appeal lacks merit.

In his appellant's brief,²² accused-appellant puts in issue the testimonies of the prosecution witnesses and argues that they are marred by inconsistencies and contradictions and are therefore, not enough to sustain a finding of guilt.

In support of his defense, accused-appellant cites Dr. Lita, who stated during her examination of AAA on May 24, 2011 that the absence of hymen indicates that "penetration may have been done several months or weeks ago."²³ Accused-appellant likewise banks on the absence of irritation and redness on AAA's sexual organ which, according to him, "militates against the assertion that, on May 24, 2011, a mature male organ penetrated AAA's undeveloped vagina."²⁴

Further, accused-appellant asserts that the presence of spermatozoa on AAA's vaginal orifice does not prove rape. He posits that such fact is not determinative that the sperm emanated from penile penetration.

In view of the foregoing, accused-appellant concludes that the prosecution failed to establish his guilt beyond reasonable doubt and therefore his defense, no matter how weak, must prevail.²⁵

On the other hand, plaintiff-appellee, through the Office of the Solicitor General (OSG), contends in its brief²⁶ that AAA's positive identification of accused-appellant as the one who raped her prevails over the latter's denial. Plaintiff-appellee maintains that testimonies of rape victims who are young and immature deserve high consideration, for they would not likely fabricate stories and allow sensitive examination of their sex organs as well as be subject of public trial, if not for the ends of justice.²⁷

Plaintiff-appellee further adds that the absence of fresh laceration does not preclude the finding of rape, especially when the victim is of tender age, as the same is not an element of the crime. In contrast, the presence of spermatozoa in AAA's vaginal orifice fortifies her claim that she was raped, and this could not have been introduced other than by accused-appellant's dastardly act.²⁸

²² Id. at 25-39.

²³ Id. at 31.

²⁴ Id. at 34.

²⁵ Id. at 36-67.

²⁶ Id. at 55-66.

²⁷ Id. at 61-64.

²⁸ Id. at 63-64.

We are not persuaded by accused-appellant's arguments.

Article 266-A of the Revised Penal Code provides:

Art. 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:

- 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;
- 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; (Emphasis supplied)**

In *People v. Ramirez*,²⁹ the Court held that to convict an accused of Statutory Rape, the prosecution must prove the following elements: 1) the age of the complainant; 2) the identity of the accused; and 3) the sexual intercourse between the accused and the complainant.

In the present case, there is no dispute that the first two elements were established by the prosecution. The issue is regarding the third.

Contrary to accused-appellant's arguments, and as correctly held by both the RTC and the CA, a medical examination is not indispensable in a prosecution for rape. In fact, there can be rape even if the medical examination shows no vaginal laceration.³⁰ Unsurprisingly, a medical examination is not one of the elements of the crime of rape, much less a finding of laceration. In *People v. Bay-od*,³¹ the Court stated:

Accordingly, We find the medical finding of Dr. Bentrez regarding the absence of laceration in AAA's hymen to be, by itself, insufficient to disprove AAA's claim of rape against the appellant. The absence of laceration or injury to AAA's hymen during the time she was examined may have been caused by a number of reasons – none of which, however, would have any definitive bearing on whether appellant had carnal knowledge of AAA or not.

It should be emphasized at this point that carnal knowledge, as an element of rape under Article 266-A(1) of the RPC, is not synonymous to sexual intercourse in its ordinary sense; it implies neither the complete

²⁹ 827 Phil. 203, 211 (2018).

³⁰ *People v. Nical*, 754 Phil. 357, 364 (2015), citing *People v. Campos*, 394 Phil. 868, 872 (2000).

³¹ G.R. No. 238176, January 14, 2019.

penetration of the vagina nor the rupture of the hymen. **Indeed, jurisprudence has held that even the slightest penetration of the victim's genitals – i.e., the “touching” by the penis of the vagina's labia – is enough to satisfy the element.**³² (Emphasis supplied)

Indeed, Our jurisprudence is replete with cases declaring this principle. Thus, accused-appellant's reliance on the absence of laceration, whether on the hymen or the vagina, is misplaced.

In any case, accused-appellant does not deny the fact that there was penetration, only that it may have happened “several months or weeks ago,” and not on May 24, 2011 as alleged in the Information. In response to this assertion, *People v. Ceredon*³³ makes the following discussion:

The date or time of the commission of the rape need not be alleged with precision. It is enough for the information or complaint to state that the crime has been committed at a time as near as possible to the date of its actual commission. Failure to allege the exact date when the crime happened does not render the information defective, much less void.

An information is valid as long as it distinctly states the elements of the offense and the constitutive acts or omissions. The exact date of the commission of a crime is not an essential element of it. Thus, in a prosecution for rape, the material fact or circumstance to be considered is the occurrence of the rape, not the time of its commission. The failure to specify the exact date of time when it was committed does not *ipso facto* make the information defective on its face.³⁴

Given the foregoing, even assuming *arguendo* that the crime did not happen on May 24, 2011, it is sufficiently established that it *did* happen, with AAA and BBB united in identifying accused-appellant as the perpetrator.

Accused-appellant further argues that the presence of spermatozoa on AAA's vaginal orifice does not prove rape. According to him, such fact does not necessarily prove sexual intercourse.

Accused-appellant's contention is unconvincing.

In *People v. Alberca*³⁵ (*Alberca*) this Court discussed:

Likewise, the absence of hymenal fluid or spermatozoa is not a negation of rape. **The presence or absence thereof is immaterial since it is penetration, not ejaculation, which constitutes the crime of rape.** Besides, the absence of the seminal fluid from the vagina could be due to a number of factors, such as the vertical drainage of the semen from the

³² Id. Citation omitted

³³ 566 Phil. 536 (2008).

³⁴ Id. at 557-558.

³⁵ 810 Phil. 896 (2017).

vagina, the acidity of the vagina, or simply the washing of the vagina after the sexual intercourse. At any rate, the presence of spermatozoa is not an element of the crime of rape.³⁶ (Emphasis supplied)

If the absence of spermatozoa is not a negation of rape as *Alberca* teaches, then what more the presence of such in the victim's vaginal orifice? In other words, the likelihood of rape having been committed against a child is higher if sperm is present, than when it is absent in the victim's vaginal orifice for otherwise, where did the sperm come from? Note that accused-appellant does not challenge the finding of spermatozoa in AAA's vaginal orifice but instead, argues only that the same does not prove the fact of penetration. However, as discussed, the Court cannot subscribe to such argument.

Lastly, accused-appellant impugns the credibility of the witnesses – AAA herself and BBB. He contends that –

Where there was material and unexplained inconsistency between the testimonies of the prosecution [witnesses] relating not to inconsequential details, but to the alleged incident itself, x x x, the inherent suspicious character of the testimony given had the effect of vitiating the said testimony.³⁷

A review of the transcripts of stenographic notes during the hearing reveals otherwise. AAA herself, during her testimony, made a straightforward and consistent narration of the incident, to wit:³⁸

DIRECT EXAMINATION

Q: Do you recall where you were on May 24, 2011 at about 2:00 o'clock in the afternoon?

A: Yes, sir.

Q: Please tell this honorable court where you were then?

A: I was in our house, sir.

Q: Please tell this honorable court also what were you doing then?

A: I was washing the clothes, sir.

Q: Were you able to finish washing the clothes?

A: No, sir.

Q: Why were you not able to finish washing them?

A: Because I was summoned by him, sir.

Q: When you mentioned summoned by him, to whom were you referring to?

A: [XXX], sir.

³⁶ Id. at 907-908. Citation omitted.

³⁷ CA *rollo*, pp. 34-35.

³⁸ TSN, November 14, 2012, pp. 1-16.

Q: After you were called by this [XXX], what did you do next, if any?

A: I went near him, sir.

Q: Where was he then situated?

A: He was near the door of our living room, sir.

Q: What happened next after you went to [XXX]?

A: He raped me, sir.

Q: By the way, when you said rape, what particularly did [XXX] do to you?

A: He had sexual intercourse with me, sir.

Q: In that place near the door or to a particular room?

A: In bed, sir.

Q: In whose bed was that, yours, your mother or with that of [XXX]?

A: My bed, sir.

Q: And that bed is inside the room?

A: Yes, sir.

Q: Now, before you were raped by [XXX], what were you wearing then?

A: I was wearing my clothes, sir.

Q: Now, were you wearing those clothes when you were raped by [XXX]?

A: Yes, sir.

Q: At the actual time that you were raped, was it worn by you or it was undressed by [XXX]?

A: It was removed by [XXX], sir.

Q: Now, are you aware where the urine would pass coming out from your body?

A: In my vagina, sir.

Q: And are you also aware where would the urine pass if a male person would urinate?

A: Through the penis, sir.

Q: Now, at the time that you said you were raped by [XXX], did you come to see that portion of the body where urine would come out from a male person on that body of [XXX]?

A: Yes, sir.

Q: At that time that you were raped, was it inside your body where your urine would come out when you urinate?

A: Yes, sir.

x x x x

Q: Now, would you still be able to identify this [XXX]?

A: Yes, sir.

Q: Is he present now in the courtroom?



A: Yes, sir.

Q: Please point him out:

INTERPRETER: Witness, with the use of laser pointer, pointing to the person seated at the session hall, who when asked of his name identified himself as [XXX].

x x x x

Q: You claimed earlier that you were raped by [XXX] on May 24, 2011. Please describe to the court what you saw about his penis?

A: Dark, your Honor.

Q: Was it flaccid or erect?

A: It was erect, your Honor.

Q: If you can estimate, how long was that? You may demonstrate by using your finger...like this, like that.

INTERPRETER: Witness demonstrating using her fingers, and when measured it was about 5 inches long.³⁹

In *People v. ZZZ*,⁴⁰ the Court held that –

[T]he settled rule is that the trial court's determination of witness credibility will not be disturbed on appeal unless significant matters have been overlooked. Such determination is treated with respect, as the trial court has the opportunity to observe the witnesses' demeanor during trial. Its findings assume even greater weight when they are affirmed by the Court of Appeals.⁴¹

Further, in *People v. Arces*,⁴² the Court made the following clarification:

And while an accused may be convicted of rape solely on the basis of the testimony of the complainant, such testimony should meet the test of credibility – it should be straightforward, clear, positive, and convincing.⁴³

In the present case, We find AAA's testimony to have passed the test of credibility. Therefore, there is no reason to reverse the findings of the RTC and the CA.

Here, the RTC found AAA's deportment while testifying was "a picture of an innocent girl recounting what had happened to her."⁴⁴ AAA was likewise

³⁹ Id. at 3-14.

⁴⁰ G.R. No. 229209, February 12, 2020.

⁴¹ Id.

⁴² 841 Phil. 443 (2018).

⁴³ Id. at 451. Citation omitted.

⁴⁴ CA *rollo*, p. 48.

observed by the RTC to be afraid of accused-appellant while giving her testimony. Lastly, the straightforward description by AAA of the manner in which accused-appellant consummated the rape is something that cannot be ignored.

Such testimony was likewise corroborated not only by the testimony of BBB, but also by the medical examination conducted by Dr. Lita. To recap, the medical examination indicated the presence of spermatozoa in AAA's vagina.

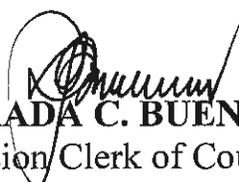
These findings were then affirmed by the CA, which found that AAA was able to give a "full and convincing narration of how the crime was committed."⁴⁵

Given the foregoing, the Court finds no reason to disturb the findings of the RTC and the CA.

WHEREFORE, the appeal is **DISMISSED** for lack of merit. The October 22, 2019 Decision of the Court of Appeals in CA-G.R. CEB CR-HC No. 02616 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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⁴⁵ *Rollo*, p. 16.

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