



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **28 February 2022** which reads as follows:*

“**G.R. No. 252060** (*People of the Philippines v. XXX*¹). — This is an appeal² under Rule 124³ of the Rules of Court challenging the September 24, 2019 Decision⁴ of the Court of Appeals (CA) in CA-G.R. CR-HC No. 09771, which affirmed the August 11, 2017 Decision⁵ of the Regional Trial Court (RTC), [REDACTED], in Criminal Case Nos. R-QZN-16-03676-CR, R-QZN-16-03677-CR, and R-QZN-16-03678-CR, finding accused-appellant XXX (accused-appellant) guilty of three counts of Statutory Rape.

Version of the prosecution:

In 2006 to 2007, AAA⁶ and her older sister, BBB, lived in their aunt CCC’s house in [REDACTED],⁷ together with their uncle, herein accused-appellant, and some other relatives. CCC and accused-appellant are the

¹ Initials were used to identify the accused-appellant pursuant to 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. 17-19, 21.

³ As amended by A.M. No. 00-5-03-SC.

⁴ *Rollo*, pp. 3-16. Penned by Associate Justice Ronaldo Roberto B. Martin and concurred in by Associate Justices Fernanda Lampas-Peralta and Danton Q. Bueser.

⁵ *CA rollo*, pp. 43-53. Penned by Presiding Judge Roslyn M. Rabara-Tria.

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

siblings of AAA and BBB's father.⁸

AAA alleged that sometime in 2006, when she was still eight years old and a Grade 1 student, she was watching television in CCC's house when accused-appellant approached her and whispered, "*mag-sex tayo*" but she replied, "*ayaw ko.*" Accused-appellant then threatened her, "*Pag hindi ka sumunod hindi mo magugustuhan ang gagawin ko sa inyo.*" Thereafter, accused-appellant stood up to cover the window with a red blanket. Accused-appellant then pulled AAA towards the bedroom, removed her short pants and panty, made her bend over (*itinuwad*), and forcibly inserted his penis into her vagina. AAA cried out of pain. She also noticed a white sticky substance in her vagina. Crying in disgust, she immediately took a bath.⁹

In 2007, when AAA was still a Grade 2 student, she was again alone with accused-appellant in CCC's house. Accused-appellant forcibly had sexual intercourse with her after making the same threats.¹⁰

In 2009, AAA and BBB rented a house in [REDACTED]. However, accused-appellant continued to live with them since CCC had moved to the province. AAA alleged that she was alone cleaning the bathroom in the rented house when accused-appellant suddenly entered. Accused-appellant prevented her from leaving and even threw away the cleaning materials which she was holding. Accused-appellant forced her arms behind her back, made her bend over, and forcibly inserted his penis inside her vagina. Again, she felt a sticky substance in her vagina. AAA averred that she did not tell anyone about the rape incidents out of fear. Her mother had already passed away while her father already had another family in the province. She added that in April 2014, she refused her father's invitation to stay in the province because accused-appellant was also there. AAA eventually decided to tell BBB that accused-appellant had raped her years before.¹¹

BBB testified that accused-appellant is a younger brother of her father. Aside from AAA, she and her two other younger sisters, DDD and EEE, were also raped by accused-appellant. BBB disclosed that her rape case is still undergoing trial while DDD's suit did not proceed because she (DDD) failed to go to the prosecutor's office. BBB asserted that in May 2016, EEE told her that accused-appellant also raped her (EEE).¹²

Police Senior Inspector (PSI) Jasmine Marie Balbuena (PSI Balbuena) physically examined AAA. She issued an Initial Medico-Legal Report¹³ dated April 14, 2014 and a Final Medico-Legal Report No. R14-238¹⁴ dated April 14, 2014 which found evidence of blunt penetrating trauma to AAA's ano-

⁸ *Rollo*, p. 6.

⁹ *Rollo*, pp. 6-7; records, pp. 8-9; TSN, August 8, 2016, pp. 4-12.

¹⁰ *Id.* at 7.

¹¹ *Rollo*, pp. 6-7; records, pp. 8-9; TSN, August 8, 2016, pp. 4-12.

¹² *Id.* at 8; *id.* at 10-11; TSN, September 19, 2016, pp. 3-8.

¹³ Records, p. 14.

¹⁴ *Id.* at 67.

genital area.

The birth certificate¹⁵ of AAA confirmed that she was born on December 12, 1998 and that she was still a minor when the rape incidents allegedly occurred.

Version of the defense:

Accused-appellant countered that eight other relatives lived in CCC's house from 2006 to 2007, and that most of them were always around so raping AAA was virtually impossible. He asserted that the house was too small as it only had one room and one bathroom without a door. He averred that from 2008 to 2009, AAA studied in the province and from 2009 to 2010, she attended a school in ██████████. Accused-appellant alleged that AAA and BBB held a grudge against him because he sold all his belongings in 2010 when he transferred to the province without leaving anything to them. AAA and BBB were ejected by the owner of the rented house which might have made them angrier.¹⁶

CCC asserted that she never noticed any sign that AAA had been sexually assaulted from 2006 to 2007. She stated that in 2007, several relatives stayed in her house and that her sister, FFF, was always in the house. CCC claimed that AAA studied in the province starting 2008 and returned in April 2010.¹⁷

GGG, AAA's cousin, testified that he lived with AAA in CCC's house from 2006 to 2008. He stated that from 2006 to 2007, he and AAA attended school at 7 a.m., returned home by 12:00 noon, finished their schoolwork, and then played. He added that in 2007, accused-appellant just stayed in the house since he had no job. In 2008, AAA went on vacation in their province, and GGG never heard from her again.¹⁸ He admitted, though, that he was not always with AAA when they still lived together in CCC's house.¹⁹

HHH, another one of accused-appellant's nieces, averred that AAA's family may have resented accused-appellant after he sold his belongings to her (HHH's) parents so that he could transfer to the province. HHH alleged that AAA's family also held a grudge against her family.²⁰ However, she admitted that she had no personal knowledge about what transpired and that it was only her opinion that no rape happened.²¹

¹⁵ Id. at 15 and 66.

¹⁶ *Rollo*, p. 8; TSN, January 20, 2017, pp. 4-7 and 12-15.

¹⁷ Id.; TSN, February 27, 2017, pp. 3-4 and 14.

¹⁸ Id. at 8-9; TSN, April 3, 2017, pp. 4-9 and 11.

¹⁹ TSN, April 3, 2017, pp. 12-13.

²⁰ *Rollo*, p. 9; TSN, April 24, 2017, pp. 4-5 and 8.

²¹ TSN, April 24, 2017, p. 8.

The proceedings:

In three Informations²² all dated October 3, 2014, accused-appellant was charged with Rape under Article 266-A of the Revised Penal Code (RPC), the accusatory portions of which read:

In Crim. Case No. R-QZN-16-03676-CR

That sometime in the year 2006, in [REDACTED], the said accused, by means of force and intimidation, did then and there willfully, unlawfully, and feloniously have carnal knowledge of one [AAA], 8 years old, a minor, his niece, by then and there threatening her [with] the following remarks to wit: "PAG DI KA SUMUNOD AY DI MO MAGUGUSTUHAN ANG GAGAWIN KO SA INYO" and thereafter had sexual intercourse with her, all against her will and without her consent, to the damage and prejudice of the said offended party.

CONTRARY TO LAW.²⁴

In Crim. Case No. R-QZN-16-03677-CR

That sometime in the year 2007, in [REDACTED], the said accused, by means of force and intimidation, did then and there willfully, unlawfully, and feloniously have carnal knowledge of one [AAA], 8 years old, a minor, his niece, by then and there threatening her [with] the following remarks to wit: "PAG DI KA SUMUNOD AY DI MO MAGUGUSTUHAN ANG GAGAWIN KO SA INYO" and thereafter had sexual intercourse with her, all against her will and without her consent, to the damage and prejudice of the said offended party.

CONTRARY TO LAW.²⁴

In Crim. Case No. R-QZN-16-03678-CR

That sometime in the year 2009, in [REDACTED], the said accused, by means of force and intimidation, did then and there willfully, unlawfully, and feloniously have carnal knowledge of one [AAA], 9 years old, a minor, his niece, by then and there [having] sexual intercourse with her, all against her will and without her consent, to the damage and prejudice of the said offended party.

CONTRARY TO LAW.²⁵

During his arraignment, accused-appellant entered a plea of "not guilty"²⁶ to all charges.

At the pre-trial, the parties stipulated on the following: "(a) the jurisdiction of the trial court over the person of the [accused-appellant]; (b) the identity of the [accused-appellant] as the same person charged in the

²² Records, p. 1.

²³ Records (Crim. Case No. R-QZN-16-03676-(R), p. 1.

²⁴ Records (Crim. Case No. R-QZN-16-03677-(R), p. 1.

²⁵ Records (Crim. Case No. R-QZN-16-03678-(R), p. 1.

²⁶ Id. at 33-36.

Information[s], present in court and arraigned x x x; [and] (c) the minority of the private complainant.”²⁷

During the joint trial, the parties stipulated on the testimony of PSI Balbuena, to wit:

- a) [that] she is a Doctor of Medicine;
- b) that she is presently assigned at PNP Crime Laboratory Office, Camp Crame, QC;
- c) that their office received a Request for Genital Examination dated April 14, 2014 from [REDACTED] Police Station (PS-4) for the examination of private complainant;
- d) that on the same date April 14, 2014, she examined the private complainant with the following findings:

‘Hymen: Presence of shallow healed laceration at 3 o’clock position
Anus: unremarkable
Body: no sign of external physical injury’
‘conclusion: Ano-genital findings are diagnostic of blunt penetrating trauma.’
- e) that she also prepared the Initial Medico Legal Report No. R14-238 (Exhibit ‘D’) and Final Medico Legal Report No. R14-238 dated April 14, 2014 (Exhibit ‘F’);
- f) that prior to the examination, she secured the consent of [BBB], sister of the private complainant and the private complainant [AAA];
- g) that she also prepared a Sexual Protocol and Sexual Crime Protocol[;]
- h) that if and when presented she will be able to identify the said documents;
- i) that Doctor Balbuena has no personal knowledge of the facts and circumstances surrounding these cases;²⁸

Similarly, the parties stipulated on the testimony of Senior Police Officer 2 Marites Javier, as follows:

- a) that on April 16, 2014, she was the police officer assigned at Women’s and Children Protection Desk, [REDACTED];
- b) that she was the one who personally investigated these cases;
- c) that in the course of her investigation, she assisted in the preparation of the Malaya at Kusang Loob na Salaysay of the private complainant (Exhibit ‘A’) as well as the Malaya at Kusang Loob na Salaysay of [BBB], the sister of the private complainant (Exhibit ‘B’);

²⁷ Id. at 34.

²⁸ Id. at 49-50.

- d) [that] if and when presented, she will be able to identify the said documents; [and]
- e) that she has no personal knowledge as to the facts and circumstances surrounding these cases.²⁹

They also stipulated on the testimony of Police Inspector Ramon I. Lucero, to wit:

- a) that he is a member of [REDACTED] Police Provincial Office assigned at [REDACTED] Municipal Police Station;
- b) that on May 16, 2016, at around 6:00 o'clock p.m[.], by virtue of the warrant of arrest issued by this court dated April 22, 2016, the said witness together with other police officers, caused the arrest of the [accused-appellant];
- c) that the witness executed a Memorandum detailing the circumstances of the arrest of the [accused-appellant];
- d) that he has no personal knowledge as to the facts and circumstances surrounding these cases.³⁰

Ruling of the Regional Trial Court:

In a Decision³¹ dated August 11, 2017, the RTC convicted accused-appellant of three counts of Statutory Rape. The trial court found that AAA's testimony, as a child witness, was credible as she positively identified accused-appellant as her abuser. She was emotional and in tears when she testified. Moreover, the medical findings supported AAA's allegation that she was raped when she was just eight (in 2006 and 2007) and nine (in 2009) years old.³²

Furthermore, the RTC did not find merit in accused-appellant's defenses of denial, ill motive, and improbability of commission of the crime.³³ Since it was alleged and proven that accused-appellant is AAA's uncle, the trial court opined that accused-appellant should suffer the penalty of death. However, in view of the proscription under Republic Act No. 9346,³⁴ the penalty of *reclusion perpetua* without eligibility for parole in each case should be meted instead. The RTC also awarded damages pursuant to *People v. Jugueta*.³⁵

The dispositive portion of the RTC's Decision reads:

²⁹ Id. at 50.

³⁰ Id. at 53.

³¹ CA *rollo*, pp. 43-53.

³² Id. at 50-51.

³³ Id.

³⁴ Entitled "AN ACT PROHIBITING THE IMPOSITION OF DEATH PENALTY IN THE PHILIPPINES." Approved June 24, 2006.

³⁵ 783 Phil. 806, 848 (2016); CA *rollo*, p. 52.

WHEREFORE, premises considered, the court finds the accused [XXX] guilty beyond reasonable doubt of statutory rape (3 counts) and is sentenced to suffer the penalty of *reclusion perpetua* without eligibility for parole in each case.

Accused is ordered to pay [AAA] ₱100,000.00 as civil indemnity, ₱100,000.00 as moral damages and ₱100,000.00 as exemplary damages.

Accused is likewise ordered to pay interest on all monetary awards for damages at the rate of six per cent (6%) per *annum* from the date of finality of this Decision until fully satisfied.

Let mittimus issue.

SO ORDERED.³⁶

Aggrieved, accused-appellant appealed³⁷ before the CA and assigned these errors:

I

THE TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY OF THREE COUNTS OF STATUTORY RAPE DESPITE THE VIOLATION OF THE ACCUSED-APPELLANT'S CONSTITUTIONAL RIGHT TO BE INFORMED OF THE NATURE AND CAUSE OF ACCUSATION AGAINST HIM.

II

THE TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT OF THE CRIMES CHARGED DESPITE AAA'S HIGHLY INCREDIBLE TESTIMONY.

III

THE TRIAL COURT GRAVELY ERRED IN GIVING CREDENCE TO AAA'S TESTIMONY DESPITE BEING UNCORROBORATED BY ANY OTHER EVIDENCE.³⁸

Accused-appellant argued that the Informations violated his constitutional right to be informed of the nature and cause of accusation against him because the years were widely inclusive and lacked specificity.³⁹ Moreover, he insisted that the prosecution failed to establish his guilt beyond reasonable doubt,⁴⁰ especially considering that AAA still lived with him in the same house in 2009.⁴¹ The complainant also reported the matter late and the medico-legal examination was conducted only on April 14, 2014 or five years

³⁶ CA rollo, pp. 52-53.

³⁷ Id. at 10-11.

³⁸ Id. at 25.

³⁹ Id. at 32.

⁴⁰ Id. at 34-35.

⁴¹ Id. at 35-37.

after the last incident allegedly occurred.⁴²

On the other hand, the People of the Philippines, through the Office of the Solicitor General, contended that the RTC did not err in finding accused-appellant guilty as charged and in disregarding his defense of denial.⁴³ It argued that the precise date of the commission of rape is not an essential element of the felony and that the lack of particularity did not render the Informations *ipso facto* defective.⁴⁴ Delay in reporting the crime does not impair the credibility of the witness whose testimony was corroborated by the medical findings,⁴⁵ more so when the abuser is her uncle.⁴⁶ Lastly, accused-appellant's defenses of denial and impossibility of the commission of the crime do not hold water.⁴⁷

Ruling of the Court of Appeals:

The CA, in its assailed September 24, 2019 Decision,⁴⁸ affirmed the RTC's ruling.⁴⁹ The CA held that the prosecution proved beyond reasonable doubt that accused-appellant is guilty of three counts of Statutory Rape.⁵⁰ It disregarded accused-appellant's defense of complete denial, arguing that someone else had "touched" AAA.⁵¹ It additionally found that:

With respect to the alleged 2009 rape, it is true that AAA was in the province that year having enrolled in a school there as evidenced by her *Palagiang Talaan sa Mababang Paaralan*. Also, AAA's school record reveals that she was enrolled in the said school on 10 June 2008 for "School Year 2008-2009" as a Grade Three student and that she finished the curriculum making her eligible for admission to Grade Four. However, in the same school record, there is no showing that AAA had again enrolled in that school for the succeeding school year. In fact, [XXX] himself admitted that in 2009 to 2010, AAA went to a school in [REDACTED] and it was in 2010 when [XXX] transferred to their province where he was eventually arrested.

Thus, [XXX] failed to effectively negate the allegation that he was in the same house in about the same time frame when the victim claimed she was raped and that [XXX] was, in fact, her rapist. More importantly, the requirement that the time of the commission of the offense must be alleged as near to the actual date as the information or complaint will permit finds no strict necessity and application here as there is no disparity in the victim's testimony as to the time of the commission of the offense.⁵²

Similarly, the Final Medico Legal Report which indicated that AAA's hymen had a shallow healed laceration at 3 o'clock position is proof that she

⁴² Id. at 37.

⁴³ Id. at 64-66.

⁴⁴ Id. at 67.

⁴⁵ Id. at 70.

⁴⁶ Id. at 68-69.

⁴⁷ Id. at 71.

⁴⁸ *Rollo*, pp. 3-16.

⁴⁹ Id. at 15.

⁵⁰ Id. at 10-11.

⁵¹ Id. at 11.

⁵² Id. at 11-12.

had sexual intercourse. Thus, AAA's testimony was corroborated by the physician's finding.⁵³

The CA found that when juxtaposed with the positive and categorical identification of AAA, accused-appellant's denial pales in comparison.⁵⁴ AAA's birth certificate showed that she was only eight years old in 2006 and 2007, and nine years old in 2009 when she was raped.⁵⁵ Since AAA did not immediately report the crimes, BBB allowed accused-appellant to live with them in 2009. They only discovered the rapes in April 2014 when AAA told BBB not to send her (AAA) to the province because accused-appellant had already transferred there. Besides, delay in the reporting of the rape does not mean that the accusation was false. Accused-appellant, as AAA's uncle, enjoyed moral ascendancy over her.⁵⁶

Discontented, accused-appellant appealed⁵⁷ his case before Us.

Issue

The issue is whether or not accused-appellant is guilty beyond reasonable doubt of committing three counts of Statutory Rape.

Our Ruling

The appeal lacks merit.

Article 266-A, paragraph (1) of the RPC defines the felony of Rape 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:
 - 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.⁵⁸
(Underscoring supplied)

According to Article 266-B of the RPC, Rape under paragraph 1 of Article 266-A shall be punished by *reclusion perpetua*. However, the Rape

⁵³ Id. at 12.

⁵⁴ Id. at 12-13.

⁵⁵ Id. at 13.

⁵⁶ Id. at 13-14.

⁵⁷ Id. at 17-19, and 21.

⁵⁸ REVISED PENAL CODE, Article 266-A, as amended by Republic Act No. 8353 (1997).

will be qualified and the death penalty shall be imposed:

1. When the victim is under eighteen (18) years of age and the offender is a parent, ascendant, step-parent, guardian, relative by consanguinity or affinity within the third civil degree, or the common law spouse of the parent of the victim[.] (Underscoring supplied).

We first address accused-appellant's claim that the dates of the alleged rape incidents should have been specified in the Informations. "Time and again, We have ruled that the date is not an essential element of the crime of rape because the gravamen of the offense is carnal knowledge of a woman. As such, the time of commission in rape cases need not be accurately stated.⁵⁹ We underscore that any 'discrepancies in details which are irrelevant to the elements of the crime are not grounds for acquittal.'⁶⁰

We find that accused-appellant indeed raped AAA on three occasions. Given accused-appellant's moral ascendancy over the complainant, he successfully coerced her to yield to his sexual desires. He did so by threatening to inflict harm if she refused. "The moral ascendancy of an accused over the victim renders it unnecessary to show physical force and intimidation since, in rape committed by a close kin, such as the victim's father, stepfather, uncle, or the common-law spouse of her mother, moral influence or ascendancy takes the place of violence or intimidation."⁶¹

Similarly, "[t]he Court has consistently held 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. When the offended party is of tender age and immature, courts are inclined to give credit to her account of what transpired, considering not only her relative vulnerability but also the shame to which she would be exposed if the matter to which she testified is not true.⁶² Youth and immaturity are generally badges of truth and sincerity.⁶³ 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."⁶⁴

AAA's account of what transpired persuaded this Court of the accused-appellant's guilt, since it is also corroborated by the testimonies (stipulated

⁵⁹ *People v. XXX*, G.R. No. 249148 (*Notice*), October 4, 2021, citing *People v. _____*, G.R. No. 229836, July 17, 2019.

⁶⁰ *Id.*, citing *People v. Quiapo*, G.R. No. 218804, August 6, 2018.

⁶¹ *People v. XXX*, G.R. No. 248421 (*Notice*), September 27, 2021, citing *People v. Belen*, 803 Phil. 751, 767 (2017).

⁶² *People v. AAA*, G.R. No. 247007, March 18, 2021, citing *People v. Prodeciado*, 749 Phil. 746, 758 (2014).

⁶³ *Id.*, citing *People v. Guambor*, 465 Phil. 671, 678 (2004).

⁶⁴ *Id.*, citing *People v. Dalipe*, 633 Phil. 428, 448 (2010).

and in court) of the prosecution witnesses. In any case, “rape may be proven by the sole and uncorroborated testimony of the offended party, provided that her testimony is clear, positive and probable.”⁶⁵

Furthermore, AAA’s testimony should be given more bearing as the RTC found it credible. The trial court even mentioned that AAA cried⁶⁶ while she was testifying. Indeed, the trial court “is in the best position to assess the credibility of the victim. Absent any proof that the judge erred in appreciating the testimony, the credibility of the testimony stands.”⁶⁷ There is no indication that the trial court erred in its evaluation of AAA’s testimony. The defense failed to provide a compelling reason to depart from the trial court’s factual findings that accused-appellant raped his niece. In fine, “the credible testimony of the rape victim is sufficient to sustain a verdict of conviction. More so, when the victim’s testimony firmly conformed with the medical findings of the doctor who examined her, as here.”⁶⁸

AAA’s delay in reporting the crimes should not be taken against her. Jurisprudence teaches that “long silence and delay in reporting the crime of rape have not always been construed as indications of a false accusation. A rape charge becomes doubtful only when the delay in revealing its commission is unreasonable and unexplained.”⁶⁹ AAA insisted that accused-appellant threatened her if she attempted to tell anyone about the sexual attacks. To stress, she lived in the same house as accused-appellant. As AAA’s uncle, accused-appellant constantly exercised physical and moral ascendancy over her. In 2009, she was afraid to live again with accused-appellant in BBB’s house but could not do anything. She averred that she needed to “*makiisa*” since accused-appellant is her uncle and nobody knew about the rapes yet at that time.⁷⁰

The defense also claimed that AAA failed to protest during the rape. However, this should not discredit her allegations, when contrasted with accused-appellant’s feeble claim that he was charged because he sold his belongings. Besides, the victim did not shout because she feared for her safety.⁷¹ “Time and again, this Court has recognized that there is no clear-cut behavior that can be expected of a person who has been raped. People react differently. When placed under emotional stress or a distressing situation, the workings of the human mind can be unpredictable. Some may shout or offer strong resistance, some may be too intimidated to do anything at all, others may faint or be shocked into insensibility, or there may also be those who openly welcome the intrusion. Nevertheless, none of these reactions impair

⁶⁵ *People v. Seguisabal*, G.R. No. 240424, March 18, 2021, citing *People v. Nocido*, G.R. No. 240229, June 17, 2020.

⁶⁶ TSN, August 8, 2016, p. 12.

⁶⁷ *People v. Salazar*, G.R. No. 239138, February 17, 2021, citing *People v. Abangin*, 358 Phil. 303, 313 (1998).

⁶⁸ *People v. XXX*, G.R. No. 252351, July 7, 2021.

⁶⁹ *People v. XXX*, G.R. No. 228961 (*Notice*), February 3, 2021, citing *People v. Bejim*, 824 Phil. 10, 22 (2018).

⁷⁰ TSN, August 8, 2016, p. 16.

⁷¹ *Id.* at 13-14.

the credibility of a rape victim.”⁷² In this case, although AAA did not scream or immediately ask for help, it “does not imply that her experience was not real or that she consented to the criminal acts of the accused-appellant.”⁷³

The defense of accused-appellant that he could not have committed the rapes since there was “always” someone else inside the house deserves no credit since there is “no rule that rape can be committed only in seclusion.” The Court held in *People v. XXX*⁷⁴ that:

It is well-settled that close proximity of other relatives at the scene of the rape does not negate the commission of the crime. Rape can be committed even in places where people congregate, in parks, along the roadside, within school premises, inside a house where there are other occupants, and even in the same room where other members of the family are also sleeping. It is not impossible or incredible for the members of the victim’s family to be in deep slumber and not to be awakened while a sexual assault is being committed. Lust is no respecter of time and place; neither is it deterred by age nor relationship.⁷⁵

Even AAA’s school records for SY 2008-2009 in the province⁷⁶ would not automatically prove that accused-appellant was not in the same place as her. There was still a possibility that he could have travelled to where the victim was to commit the reprehensible deed.

Accused-appellant merely denied the charges against him. Unfortunately for him, such denial failed to convince Us of his innocence. Without a doubt, “[a]libi and denial are weak and inferior defenses compared to the positive identification of the accused-appellant as the perpetrator. Alibi and denial, if not substantiated by clear and convincing evidence, are negative and self-serving evidence undeserving of weight in law.”⁷⁷ This is notwithstanding the testimonies of the defense witnesses since they did not establish that they were with AAA the whole day, every day. Thus, they could not account for accused-appellant’s whereabouts, and they could not prove with absolute certainty that accused-appellant did not rape AAA.

The RTC and the CA correctly found accused-appellant guilty only of Statutory Rape and not Qualified Rape. This Court noted that while accused-appellant admitted, and the Information alleged, that AAA is his niece, the Informations nonetheless failed to allege that they are relatives by affinity or consanguinity within the third civil degree.

Our pronouncement in *People v. Libo-on*⁷⁸ is instructive:

⁷² *People v. XXX*, supra note 61, citing *People v. XXX*, G.R. No. 235662, July 24, 2019.

⁷³ *Id.*

⁷⁴ *Id.*

⁷⁵ *Id.*, citing *People v. Descartin*, 810 Phil. 881, 892 (2017).

⁷⁶ *Records*, pp. 81-82.

⁷⁷ *People v. XXX*, G.R. No. 256214 (*Notice*), October 4, 2021, citing *People v. Pentecostes*, 820 Phil. 823, 843 (2017).

⁷⁸ *People v. Lastrollo y Doe*, 798 Phil. 103, 118-119 (2016), citing *People v. Libo-on*, 410 Phil. 378, 406-407 (2001).

It is well-settled that this attendant circumstance, as well as the other circumstances introduced by Republic Act Nos. 7659 and 8493 are in the nature of qualifying circumstances. These attendant circumstances are not ordinary aggravating circumstances which merely increase the period of the penalty. Rather, these are special qualifying circumstances which must be specifically pleaded or alleged with certainty in the information; otherwise, the death penalty cannot be imposed.

In this regard, we have previously held that if the offender is merely a relation – not a parent, ascendant, step-parent, or guardian or common-law spouse of the mother of the victim – it must be alleged in the information that he is ‘a relative by consanguinity or affinity (as the case may be) within the third civil degree.’ Thus, in the instant case, the allegation that accused-appellant is the uncle of private complainant [or the private complainant is the niece of the accused-appellant] is not specific enough to satisfy the special qualifying circumstance of relationship. The relationship by consanguinity or affinity between appellant and complainant was not alleged in the information in this case. Even if it were so alleged, it was still necessary to specifically allege that such relationship was within the third civil degree.⁷⁹

Based on the aforementioned pronouncement, accused-appellant was properly found guilty of committing three counts of Statutory Rape,⁸⁰ and accordingly sentenced to suffer the penalty of *reclusion perpetua* for each count. The phrase “without eligibility for parole” should, however, be deleted.⁸¹ Furthermore, the awards for each count for civil indemnity, moral damages, and exemplary damages, should be decreased to ₱75,000.00 each.⁸² Nonetheless, the imposition of the interest rate of six percent (6%) per *annum* on the said monetary awards from the finality of the judgment until fully paid is affirmed.⁸³

WHEREFORE, the appeal is **DISMISSED**. The September 24, 2019 Decision of the Court of Appeals in CA-G.R. CR-HC No. 09771 finding accused-appellant XXX guilty of committing three counts of Statutory Rape and sentencing him to suffer the penalty of *reclusion perpetua* for each count is hereby **AFFIRMED with MODIFICATION** in that the phrase “without eligibility for parole” is **DELETED** and the awards of civil indemnity, moral damages, and exemplary damages are **REDUCED** to ₱75,000.00 each, for each count. The monetary awards shall earn interest at the rate of six percent (6%) per *annum* from date of finality of this Resolution until fully paid.

SO ORDERED.”

⁷⁹ *Id.*

⁸⁰ *People v. XXX*, G.R. No. 233748 (Notice), September 27, 2021, citing *People v. Deliola*, 794 Phil. 194, 205 (2016).

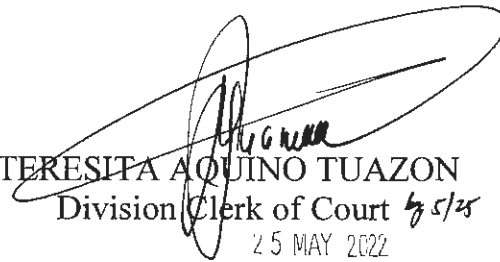
The elements of Statutory Rape are as follows: “(1) the offended party is under 12 years of age; and (2) the accused had carnal knowledge of the victim, regardless of whether there was force, threat, or intimidation or grave abuse of authority. It is enough that the age of the victim is proven and that there was sexual intercourse.”

⁸¹ A.M. No. 15-08-02-SC *Guidelines for the Proper Use of the Phrase “Without Eligibility for Parole” in Indivisible Penalties*. August 4, 2015.

⁸² *People v. XXX*, supra note 76.

⁸³ *People v. Juguetta*, 783 Phil. 806, 848 (2016).

By authority of the Court:



TERESITA AQUINO TUAZON
 Division Clerk of Court *by 5/25*
 25 MAY 2022

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 Accused-Appellant
 c/o The Director
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THE DIRECTOR (reg)
 Bureau of Corrections
 1770 Muntinlupa City

HON. PRESIDING JUDGE (reg)
 Regional Trial Court, Branch 94
 Quezon City
 (Crim. Cases Nos. R-QZN-16-03676-CR, R-QZN-16-03677-CR & R-QZN-16-03678-CR)

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