



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Second Division, issued a Resolution dated 16 February 2022 which reads as follows:

“**G.R. No. 252222 (*People of the Philippines v. Christian Doma Bechayda*)**. – Before the Court is an appeal from the November 15, 2019 Decision of the Court of Appeals (CA) in CA-G.R. CR-HC No. 11969,¹ which affirmed the September 21, 2018 verdict² of the Regional Trial Court (RTC) of █████, █████.³

Two charges for rape, one through sexual assault and another one through sexual intercourse, were filed against Christian Doma Bechayda (Christian), thus:

That on the 27th day of July 2017, at Barangay █████, Municipality of █████, Province of █████, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with, lewd design, did then and there willfully, unlawfully and feloniously commit sexual assault upon the person of █████ [AAA], a minor, 8 years old, by then and there inserting his penis inside her anus and afterwards into the mouth of said [AAA], against her will and consent, to her damage and prejudice.

Contrary to Law.⁴

¹ Penned by Associate Justice Pedro B. Corales with the concurrence of Associate Justices Marlene Gonzales-Sison and Ronaldo Roberto B. Martin. *Rollo*, pp. 2-27.

² Decision in Crim. Case Nos. 2017-363-I and 2017-364-I, penned by Acting Presiding Judge █████ █████. *CA rollo*, pp. 41-54.

³ 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, entitled “An Act Providing for Stronger Deterrence and Special Protection Against Child Abuse, Exploitation and Discrimination, and for Other Purposes,” approved on June 17, 1992; RA 9262, entitled “AN ACT DEFINING VIOLENCE AGAINST WOMEN AND THEIR CHILDREN, PROVIDING FOR PROTECTIVE MEASURES FOR VICTIMS, PRESCRIBING PENALTIES THEREFOR, AND FOR OTHER PURPOSES,” approved on March 8, 2004; and Section 40 of A.M. No. 04-10-11-SC, otherwise known as the “RULE ON VIOLENCE AGAINST WOMEN AND THEIR CHILDREN” (November 15, 2004). (See footnote 4 in *People v. Cadano, Jr.*, 729 Phil. 576, 578 [2014], citing *People v. Lomaque*, 710 Phil. 338, 342 [2013]. See also Amended Administrative Circular No. 83-2015, 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,” dated September 5, 2017.) See further *People v. Ejercito*, G.R. No. 229861, July 2, 2018.

⁴ Records, pp. 153-154.

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That on the 27th day of July 2017, at Barangay ██████, Municipality of ██████, Province of ██████, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with, lewd design, by means of force, threats and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge upon the person of ██████ [AAA], an 8 year old minor, by forcibly inserting his penis inside her vagina, against her will and consent, to her damage and prejudice.

Contrary to Law.⁵

Christian pleaded not guilty to both charges.⁶ During trial, the prosecution presented AAA, her mother BBB, and her cousin CCC as witnesses;⁷ while the defense called Christian himself, Estelita Lada (Lada), Cecilia Marie (Marie), and Alex Nolleto (Nolleto).⁸

As summarized by the trial court, the evidence for the prosecution was as follows:

[AAA,] 8 years old, student, a resident of Brgy. ██████, ██████, ██████. Her testimony was offered to prove that she executed an affidavit relative to this case, and to prove other matters relevant to this case.

In her sworn statement which the said witness identified and thereafter marked as Exhibit A of the prosecution, [AAA] averred that on July 27, 2017 at about 4:00 in the afternoon, as she was walking on her way home coming from school, she met the accused at the municipal cemetery, and, who asked her “Nasaan бага ang ██████?” which she replied “Bay-un na po ah, paglampas ng sementeryo. While she was still walking, the accused suddenly grabbed her by the arm and said: “Papatayin kita pag nag-ingay ka, sumama ka sa akin.” The accused then brought her inside a mausoleum at the back and end (dulo at likod) part of the cemetery wherein she was directed to undress. Thereafter, the accused kissed her lips, her breasts, navel, and then her vagina. The accused then ordered her to lie face down at the concrete bench inside the mausoleum, and also directed her to bend over (tumuwad). The accused then inserted his penis inside her anus causing her to feel severe pain (masakit na masakit). The accused likewise instructed her to lie face up and then, he inserted his penis into her vagina. Because of the pain, the private complainant was about to shout, but the accused covered her mouth. Thereafter, the accused instructed the private complainant to sit down at the concrete bench, and then, he inserted his penis inside her mouth. After some push and pull movement, the private complainant saw white liquid coming out of the organ of the accused and which the said accused made her [swallow], to quote her statement: “Huwa[g] mong iluluwa, putang ina, huwa[g] kang malikot.” The accused once again threatened to kill her should she report the incident to anyone. The accused then wiped his organ using the private-complainant’s jacket and left. [AAA] dressed up immediately and went home wherein she

⁵ Id. at 5.

⁶ Id. at 43.

⁷ RTC Decision, CA *rollo*, pp. 41-44.

⁸ Id. at 45-47.

reported to her relative that she was raped. They then went to the police station and since the private complainant did not know the name of the accused, she just made a description of her assailant. After a follow-up operation, the accused was arrested, and in a police lineup, [AAA] identified the accused as the same person who raped her.

[AAA] testified further that she was alone when she met the accused and it was the first time that he saw him. After the incident, her vagina and her anus were in pain. She likewise suffered a [headache] and was not able to go to school for quite a long time after the incident.

On cross[-]examination, she confirmed that she did not know the accused prior to the date of the incident, and when she made the description of her assailant, she did not yet see the accused inside the police station.

[BBB,] 37 years old, separated, a resident of Brgy. [REDACTED], [REDACTED], [REDACTED], and a housekeeper. Her testimony was offered to corroborate the testimony of the private complainant and to prove other matters relevant to this case.

In her judicial affidavit which she identified in open court, she averred that on July 27, 2017, she was in [REDACTED], [REDACTED], to get her and her father's pay-out in the 4Ps. While she was in [REDACTED], she entrusted her daughter [AAA] under the care of the latter's grandfather named [DDD], she also asked her niece [DDD] to look after her daughter, she learned that her daughter was raped when she called her through phone in the evening of July 27, 2017. She arrived here in [REDACTED], [REDACTED], in the morning of July 28, 2017, already and her daughter narrated to her the rape incident and what she had gone through from the hands of the accused. At 1:30 of July 28, 2017, Christian Bechayda was apprehended and her daughter positively identified him as the one who raped her.

Said witness then identified the Birth Certificate of the victim, the Medical Certificate as well as the picture of the accused.

On cross[-]examination, she stated that she did not have personal knowledge as to the circumstances surrounding the rape incident. She also has no personal knowledge who committed the said rape to her daughter.

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[CCC,] 22 years old, single but with live-in partner, a resident of Brgy. [REDACTED], [REDACTED], [REDACTED], and a housekeeper. Her testimony was offered to prove the material allegations in the information; that she is the cousin of the victim whom she first seen after the incident; and to prove other matters relevant to this case.

In her Judicial Affidavit which she identified in open court, said witness averred that on July 27, 2017, more or less 5:00 in the afternoon, she saw her cousin who is the private complainant in this case, arrive from school and who was then crying. In tears, the private complainant relayed to them that she was raped in the cemetery by a man whom she does not know the name. The private complainant nevertheless made a description of her assailant.

On cross examination, said witness testified that during the time that the child narrated to her about the rape incident, she has no knowledge if the victim did not know the identity of the accused.

There being no more witnesses to present, the prosecution formally offered their exhibits, to wit:

REAL/DOCUMENTARY-

Exhibit	Description	Purpose/s
A	- The sworn statement of [AAA]	To prove the material allegations in the Informations
B	The Judicial Affidavit of [REDACTED]	To prove material allegations in the informations and to prove other matters relevant to the cases
C	Medical Certificate of the private complainant	
D	Certificate of Live Birth of the private complainant	To prove that at the time of the incident, the private complainant is a minor.
E	Judicial Affidavit of [CCC]	To prove the material allegations in the informations, and as part of res gestae, as well as the tattoo mark on the leg of the accused, the place of the crime scene, and all the pictures taken in the police station of [REDACTED], [REDACTED]. ⁹

The defense presented four witnesses to prove that Christian had been drinking with friends at the time of the incident, *viz.*:

1. CHRISTIAN DOMA BECHAYDA - 30 years old, married, and a detention prisoner. His testimony was offered to prove that he was not at Brgy. [REDACTED], [REDACTED], [REDACTED], on July 27, 2017, specifically at the

⁹ Id. at 43-45.

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cemetery; to refute the material allegations in the complaint; and, to prove other matters relevant to his defense of alibi.

Said witness denied the allegations in the two informations and averred that on July 26, 2017 at around 7:00 in the morning, he was with a certain "Kuya Alex" and a certain "Kuya Abelio, they having been invited at the house of a certain Tiya Lita," situated in Brgy. [REDACTED], [REDACTED], [REDACTED]. He was at the said place until 4:00 in the afternoon. Then, they transferred to the house of Alex which is only five (5) houses away from the house of "Tiya Lita", wherein they had a drinking spree and wherein he slept over. It was on the following day or on July 27, 2017, at about 12:00 noon, that he left the place of Alex. He proceeded to his own place in Brgy. [REDACTED], [REDACTED], [REDACTED], and after half an hour, he returned to the place of Alex, in Brgy. [REDACTED], [REDACTED], [REDACTED], and just stayed thereat.

On cross[-]examination, he testified that it was around 2:00 in the afternoon of July 27, 2017 when he went back to the house of Alex which is only half kilometer away from the cemetery. He did not know the private complainant prior to July 27, 2017, and, thus he did not know of any reason why she would point to him as the one who abused her.

2. ESTELITA C. LADA - 22 years old, married, a resident of Brgy. [REDACTED], [REDACTED], [REDACTED], and a storekeeper. Her testimony was offered to prove that she was present in her residence at Brgy. [REDACTED], [REDACTED], [REDACTED] on July 27, 2017 and the accused was one of her visitors during that time, and to prove other matters relevant to the defense.

In her Kontra Salaysay which she identified in open court, said witness declared that the rape charge against the accused is not true. She averred that on July 27, 2017 at around 4:00 in the afternoon, accused Bechayda and companions arrived in their house bringing them wine and pulutan. The group had a drinking spree and she did not see him leave their place from 4:00 in the afternoon up to 7:00 in the evening of that date.

In open court, she continued to testify that July 27, 2017 is the fiesta of Barangay [REDACTED], [REDACTED], [REDACTED], and among her visitors was accused Bechayda who arrived thereat together with a certain Biman Gucilatar at around 4:00 o'clock of the same date. The said duo came from the house of Cecilia Marie whose house could be reached for only seconds by walk from their house; that the cemetery is only fifteen (15) minute-walk from their house.

The prosecution did not cross examine the said witness.

3. CECILIA MARIE - 58 years old, married, a resident of Brgy. [REDACTED], [REDACTED], [REDACTED]. Her testimony was offered to prove that on July 27, 2017, it was the barangay fiesta of Brgy. [REDACTED], [REDACTED], [REDACTED], and that the accused in this case was one of his visitors, and to prove other matters relevant to the defense of alibi of the accused.

In her Kontra-Salaysay which she identified in open court, said witness belied the charges against the accused and declared that on July 27, 2017, the accused was in her company from around 7:00 in the morning up to 4:00 in the afternoon. The accused was then having a drinking spree with

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Dino Jayllo and a certain Geman from 7:00 in the morning and was enjoying singing in their rented videoke machine. At 4:00 p.m., the group transferred to another house to continue their drinking session.

On cross[-]examination, said witness testified that she stayed at the place where the accused and his companions were having a drinking session, and only left them whenever she answered the call of nature.

4. BIMAN GUCILATAR - the prosecution and the defense stipulated on the possible testimony of the witness [to] the effect that at about 1:00 to 4:30 in the afternoon, he saw the accused having a drinking session and singing using the videoke machine; and, that after 4:30, the accused was still at the said place.

5. ALEX NOLLEDO - 38 years old, single, a resident of Brgy. [REDACTED], [REDACTED], [REDACTED], and a construction worker. His testimony was offered to corroborate the testimony of the accused and his other witnesses; to support the defense of the accused of denial and alibi, and to prove other matters relative to the defense of the accused.

Alex Nolleddo claimed that the charges lodged against accused Bechayda are not true and averred that on July 27, 2017 at around 1:00 o'clock to 4:00 o'clock in the afternoon of July 27, 2017, accused Bechayda, a certain Joselito and he were having a drinking spree in their house located at Purok 6, Brgy. [REDACTED], [REDACTED], [REDACTED]; that, accused Bechayda did not leave their place and in fact, it was there where the said accused fall [sic] [a]sleep. Said accused only left their place in the morning of the following day.

On cross[-]examination, said witness testified that accused Bechayda was with him during the entire 24 hours of July 27, 2017; that said accused left the place of their drinking session only once and it was during the time that the said accused urinated at the side of their house.¹⁰

The trial court found Christian guilty of both charges. For the crime of rape through sexual assault, he was sentenced to imprisonment for an indeterminate period of ten (10) years of *prision mayor*, as minimum, to seventeen (17) years and four (4) months of *reclusion temporal*, as maximum. For the crime of rape under paragraph 1(d) of Article 266-A of the Revised Penal Code, he was sentenced to *reclusion perpetua* without eligibility for parole, apart from damages and civil indemnity in both cases.¹¹

The trial court gave credence to AAA's testimony regarding the incident. She was able to recall in detail how she met the accused while walking along the street near the municipal cemetery, and how she was grabbed by the arm, taken to an isolated part of the graveyard, threatened, and finally sexually abused by the accused. AAA's narration was likewise corroborated by the results of her medical examination, which showed that she sustained lacerations and hematoma-inducing injuries to her vagina and

¹⁰ Id. at 45-47.

¹¹ Id. at 53-54.

anus, indicating blunt force trauma or penetration thereat.¹² The trial court also sustained AAA's identification of her assailant. It ruled that her description of the assailant's hair color, facial features, and right leg tattoo, coupled with her positive identification of Christian at the police lineup, sufficiently identified the latter as the one who committed the crime.¹³ The trial court likewise ruled that the positive identification of Christian by AAA effectively debunked his defense of alibi, considering that he and his witnesses could not agree on the exact day (January 26 or 27) of their drinking spree;¹⁴ and that Christian admitted in open court that he returned to Alex Nolloedo's house, which is located at the same barangay where the incident happened, at around 2:00 p.m. of July 27, 2017.¹⁵

In his appeal brief, Christian raised the following errors: 1) the unreliability of AAA's testimony, particularly her failure to state whether the gate to the tomb where the actual rape allegedly happened was locked, and the possibility that she was coached by her mother BBB;¹⁶ 2) the unreliability of AAA's out-of-court identification of Christian, particularly, the non-presentation of a cartographic sketch of the accused during trial, and the fact that AAA and Christian only saw each other three (3) times: during the actual incident, at the police lineup, and at the trial;¹⁷ 3) the lack of physical evidence of rape resulting from the prosecution's failure to state the purpose for offering AAA's medical certificate;¹⁸ and 4) the failure of the trial court to consider his defense of alibi.¹⁹

As earlier mentioned, the CA sustained Christian's conviction. The appellate court found AAA's testimony clear and categorical as to the fact of rape. Addressing the credibility issues raised by the defense, the CA ruled that the testimony of the rape victim alone suffices for a rape conviction; and that there is no rule requiring corroboration of the victim's testimony.²⁰ It also cited the special approach taken by jurisprudence to the evaluation of the testimonies of rape victims, thus:

Emphasis must also be given to the fact that the credibility of young and immature rape victims as witnesses is upheld considering not only their relative vulnerability but also the shame and embarrassment to which they would be exposed if the matter subject of their testimonies were not true. Reason and experience dictate that a girl of tender years, who barely understands sex and sexuality, is unlikely to impute to any man a crime so serious as rape, if what she claims is not true. Indeed, when a woman, more so when she is a minor, says she has been raped, she says in effect all that

¹² Id. at 48-51. The RTC decision quotes the testimonial transcripts at length, id. at 48-50.

¹³ Id. at 51-52.

¹⁴ Id. at 52.

¹⁵ Id.

¹⁶ Id. at 35-36.

¹⁷ Id. at 36.

¹⁸ Id. at 37.

¹⁹ Id. at 38.

²⁰ CA Decision, *rollo*, p. 15.

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is required to prove the ravishment. Youth and immaturity are generally badges of truth and sincerity. Further, 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. In fact, [Christian] even admitted during his cross-examination that he does not know of any reason why AAA would file a case against him.²¹

The CA further ruled that AAA's failure to state whether the tomb where the rape allegedly occurred was locked has no effect on her credibility, since jurisprudence holds that rape can be committed anytime and anywhere.²²

The appellate court also sustained AAA's identification of Christian at the police lineup, finding no proof of suggestion on the part of the police officers involved. Nevertheless, any defect in the police lineup identification was cured by the identification made in court during the trial.²³ The reliability of AAA's identification is also bolstered by the fact that the perpetrator conversed with her before pulling her into the "*bahay na may nitso*" where the alleged crime was committed, giving AAA sufficient time to recognize his facial and bodily features.²⁴ The defense was likewise unable to adduce any proof whatsoever that AAA's testimony was coached or improperly suggested by BBB. All told, AAA's testimony and positive identification of Christian prevails over the testimonies of the defense witnesses, especially considering that the defense witnesses admitted that the cemetery was only fifteen (15) minutes or a half-kilometer away from Nollado's house, where Christian stayed during the time of the incident.

Applying *People v. Tulagan*,²⁵ the CA ruled that the proper nomenclature of the crime committed in Crim. Case No. 2017-363-I is sexual assault under Article 266-A(2) of the Revised Penal Code, in relation to Section 5(b) of R.A. No. 7610.²⁶ As regards Crim. Case No. 2017-364-I, the CA ruled that while the RTC correctly convicted Christian of statutory rape as defined in Article 266-A(1)(d) of the Revised Penal Code, the trial court erred in adding the phrase "without eligibility for parole" in the *fallo*, since the imposable penalty is actually *reclusion perpetua* and not death, given the lack of aggravating circumstances.²⁷

The CA modified the penalty in Crim. Case No. 2017-363-I, in accordance with the provisions of Section 5(b) of Republic Act No. 7610 and

²¹ Id.

²² Id. at 16.

²³ Id.

²⁴ Id. at 16-17.

²⁵ G.R. No. 227363, March 12, 2019.

²⁶ CA Decision, *rollo*, pp. 18-19.

²⁷ In accordance with A.M. No. 15-08-02-SC (Guidelines for the Proper Use of the Phrase "Without Eligibility for Parole" in Indivisible Penalties, which states in part that: "In cases where the death penalty is not warranted, there is no need to use the phrase "without eligibility for parole" to qualify the penalty of reclusion perpetua; it is understood that convicted persons penalized with an indivisible penalty are not eligible for parole".

the Indeterminate Sentence Law. It also increased the awards of civil indemnity, moral damages, and exemplary damages in line with jurisprudence; and imposed an additional fine in accordance with Section 31(f) of Republic Act No. 7610. The *fallo* of the CA decision reads:

WHEREFORE, the instant appeal is **DENIED**. The September 21, 2018 Joint Decision of the Regional Trial Court, [REDACTED] in Crim. Case Nos. 2017-363-I and 2017-364-I is **AFFIRMED** with **MODIFICATIONS**. Judgment is hereby rendered as follows:

1. In Crim. Case No. 2017-363-I, accused-appellant Christian Doma Bechayda is found guilty of sexual assault under Article 266-A (2) of the Revised Penal Code in relation to Section 5(b) of Republic Act (R.A.) No. 7610 and sentenced to an indeterminate penalty of twelve (12) years, ten (10) months and twenty-one (21) days of reclusion temporal, as minimum, to fifteen (15) years, six (6) months and twenty (20) days of reclusion temporal, as maximum. He is ordered to pay private complainant AAA civil indemnity, moral damages, and exemplary damages amounting to P50,000.00 each and a fine of P15,000.00.

2. In Crim. Case No. 2017-364-I, accused-appellant Christian Doma Bechayda is found guilty of statutory rape and sentenced to suffer the penalty of reclusion perpetua. He is ordered to pay private complainant AAA civil indemnity, moral damages, and exemplary damages amounting to P75,000.00 each.

All awarded damages shall earn six percent (6%) interest per annum from date of finality of this judgment until fully paid.

SO ORDERED.²⁸

In the present appeal,²⁹ both parties replead their respective arguments before the CA.³⁰

I.

Upon a painstaking perusal of the record, we sustain the evaluation of AAA's testimony by both courts *a quo*. AAA's sworn statement, which was admitted as part of her direct examination, with minimal cross-examination,³¹ clearly and categorically establishes the fact of rape. Her narration of the incident is replete with details about how Christian approached her, snatched her arm, and brought her to the far back end of the cemetery.³² She was further able to relate how Christian threatened to kill her if she did not follow him into the cemetery; how she was forced to undress; and most crucially, how she was kissed, touched, and forced to lay prone and then to bend over a concrete

²⁸ Id. at 21-22.

²⁹ Id. at 24-25.

³⁰ Id. at 33-34, 40-41.

³¹ The entirety of AAA's cross-examination is two pages long. The defense only asked AAA four (4) questions before resting. TSN, February 2, 2018, pp. 6-7.

³² "SINUMPAANG SALAYSAY NA BINIGAY NI [AAA]", records, p. 12.

bench inside a mausoleum, after which the appellant inserted his penis into her anal and vaginal openings; how appellant forced her to swallow his semen; and finally, how appellant ordered her to stay silent about the horrific incident under threat of death.³³ Well-established is the rule that, due to the intimate but violative nature of the crime, a conviction for rape can be sustained on the sole basis of the credible, natural, and convincing testimony of the victim.³⁴

Appellant's suggestion that BBB coached her daughter's testimony has no factual basis whatsoever in the record, which instead shows that AAA and Christian were complete strangers who met for the first time on that fateful

³³ AAA's narration of the incident (Records, pp. 12-13) runs as follows:
 TANONG: Ano ang nakita mo sa dulo ng sementeryo?
 SAGOT: Nandoon na po ang lalaking nagtanong sa akin kung nasan ang [REDACTED].
 TANONG: Ano ang kanyang ginawa?
 SAGOT: Hinawakan niya po ako sa braso at sinabi na "PAPATAYIN KITA PAG NAG-INGAY KA. SUMAMA KA SA AKIN!"
 TANONG: Ano ang ginawa mo?
 SAGOT: Sumunod ako sa kanya.
 TANONG: San ka niya dinala?
 SAGOT: Sa dulo at likod ng sementeryo malapit sa palayan at dinala niya ako sa loob ng bahay na may nitso.
 TANONG: Ano ang kasunod niyang ginawa?
 SAGOT: Pinaghubad niya po ako una po ang aking jacket, sumunod po ang aking blouse, palda, short at pati na rin ang panty.
 TANONG: Ano pa ang kasunod na nangyari?
 SAGOT: Hinalikan niya ako sa labi, dito po (tinuturo ang suso ng bata), pusod pati na rin ito (tinuturo ang kanyang ari).
 TANONG: Ano pa ang kasunod niyang ginawa?
 SAGOT: Inutusan niya po ako na dumapa at tumuwad sa upuang semento na nasa gilid ng bahay ng nitso.
 TANONG: Ano pa ang nangyari?
 SAGOT: Ipinasok niya po ang kanyang ari (titi) sa aking pwet.
 TANONG: Ano ang iyong naramdaman?
 SAGOT: Masakit na masakit po.
 TANONG: Pagkatapos ano ang kasunod na ginawa niya?
 SAGOT: Inutusan niya po ako na humiga at ipinasok naman po niya ang dulo ng kanyang ari (titi) sa aking ari (pepe).
 TANONG: Ano ang iyong naramdaman?
 SAGOT: Nasaktan po ako at sisigaw na sana pero tinakpan niya ang bibig ko. [sic]
 TANONG: Ano pa ang kasunod niyang ginawa?
 SAGOT: Ganito po ginawa niya (Ipinapakita ng bata ang pagpasok labas ng daliri niya sa kanyang bibig).
 TANONG: Ano ang iyong nakita?
 SAGOT: Nakita ko po na may lumabas na puti sa kanyang ari at isinubo niya sa akin.
 TANONG: Ano ang sinabi niya sa iyo?
 SAGOT: "HUWAG MONG ILULUWA, PUTANG INA, HUWAG KANG MALIKOT!"
 TANONG: Ano naman ang iyong ginawa pagkatapos niyang sabihin iyon?
 SAGOT: Inipon ko na lang sa bibig ang kulay puti na lumabas sa kanyang ari (titi).
 TANONG: Ano pa ang sinabi nya sa iyo?
 SAGOT: Sabi niya po ay "PAG-UWI MO AY SABIHIN MO NA KAYA KA HULING SUMIBIG DAHIL NAKIPAGLARO KA SA KAKLASE, PAG NAGSUMBONG KA, PAPANAYIN KITA!"
 TANONG: Ano ang kasunod na nangyari?
 SAGOT: Pinunas niya po ang jacket ko sa kanyang ari (titi) pagkatapos ay nagbihis na po siya at sinabi na titingnan muna niya ang kanyang mga kabarkada.
 TANONG: Gaano katagal na ginawa ang panggagahasa sa iyo?
 SAGOT: Matagal po.

³⁴ *People v. Deliola*, 794 Phil. 194, 207 (2016); *People v. Barberan, et al.*, 788 Phil. 103, 107 (2016).

day in the cemetery.³⁵ The defense likewise presented no proof that BBB and Christian knew each other prior to the incident. Given these circumstances, there can be no basis for any ill will or underlying motive for BBB to provide coaching or improper suggestions to her daughter. While accusations of rape are indeed treated with extreme caution,³⁶ testimonies of young children who become rape victims are given full weight and credit, considering their relative vulnerability, level of emotional and mental maturity, and the stigma attached to openly speaking about rape.³⁷ Despite the numerous scientific studies cited by the defense to support its stance about the suggestibility of children and its effect on the evidentiary value of their statements, we reiterate that the defense **did not present any evidence** pointing to any reason or justification for BBB to coach or provide testimonial suggestions to her daughter.

Contrary to appellant's stance, the lack of detail on whether the tomb which became the *locus criminis* was open or locked does not render AAA's testimony "extremely incredible." This feeble argument loses sight of the judicially accepted principle that rape can be committed anywhere,³⁸ even in a cemetery.³⁹

Likewise, the CA correctly brushed aside appellant's objection to the admission of AAA's medical certificate without a statement of the purpose for its offer, since the law does not require medical confirmation of the fact of rape. Medical examination reports of rape victims are mere corroborative evidence.⁴⁰ Here, both courts *a quo* found the clear, credible, and categorical testimony of AAA sufficient to establish the existence of the elements of the crimes charged, even without the medical certificate, which was only cited as corroborative evidence.

II.

We likewise uphold the propriety of AAA's identification of her assailant.

Philippine courts have followed their American counterparts in adopting a totality-of-circumstances approach to evaluating out-of-court identification of suspects. The approach, as first applied by this Court in *People v. Teehankee, Jr.*⁴¹ considers the following factors: (1) the witness's

³⁵ Both AAA and Christian categorically declared that they did not know each other prior to the incident. TSN, April 6, 2018, p. 7; TSN, February 5, 2018, p. 7.

³⁶ *People v. Penilla*, 707 Phil. 130, 137 (2013).

³⁷ *People v. Colentava*, 753 Phil. 361, 376-377 (2015), citing *People v. Garcia*, 695 Phil. 576, 588-589 (2012).

³⁸ *People v. Gunsay*, 813 Phil. 381, 387 (2017); *People v. Diunsay-Jalandoni*, 544 Phil. 163, 171 (2007).

³⁹ *People v. Banzuela*, 723 Phil. 797, 820-821 (2013); *People v. Palar*, 637 Phil. 458, 465-466 (2010); *People v. Jusayan*, 472 Phil. 205, 217 (2004); *People v. Egot*, 215 Phil. 112, 118 (1984).

⁴⁰ *People v. Manaligod*, 831 Phil. 204, 213 (2018); *People v. Belen*, 803 Phil. 751, 768-769 (2017), citing *People v. Ferrer*, 415 Phil. 188, 199 (2001).

⁴¹ 319 Phil. 128 (1995).

opportunity to view the criminal at the time of the crime; (2) the witness's degree of attention at that time; (3) the accuracy of any prior description given by the witness; (4) the level of certainty demonstrated by the witness at the identification; (5) the length of time between the crime and the identification; and, (6) the suggestiveness of the identification procedure.⁴² In *People v. Pineda*,⁴³ the Court supplemented these six factors with twelve danger signals which indicate that the result of the identification process may be erroneous even if proper measures were followed. These twelve signals are: (1) the witness originally stated that he could not identify anyone; (2) the identifying witness knew the accused before the crime, but made no accusation against him when questioned by the police; (3) a serious discrepancy exists between the identifying witness's original description and the actual description of the accused; (4) before identifying the accused at the trial, the witness erroneously identified some other person; (5) other witnesses to the crime fail to identify the accused; (6) before trial, the witness sees the accused but fails to identify him; (7) before the commission of the crime, the witness had limited opportunity to see the accused; (8) the witness and the person identified are of different racial groups; (9) during his original observation of the perpetrator of the crime, the witness was unaware that a crime was involved; (10) a considerable time elapsed between the witness's view of the criminal and his identification of the accused; (11) several persons committed the crime; and (12) the witness fails to make a positive trial identification.⁴⁴

Appellant harps on the lack of a cartographic sketch during the identification process. However, cartographic sketches are mere investigatory aids which are neither indispensable nor essential to the prosecution of a crime.⁴⁵

Appellant also argues that his identification as the perpetrator of the crime is defective because AAA had never met him before the incident occurred and they only met twice prior to the trial of the case.

While courts indeed give lesser weight to identifications made on the basis of a single encounter, it must be remembered that the present case involves rape, a crime which involves the violent intrusion into the personal, intimate space of another person. Thus, the Court has held that "*a man and a woman cannot be physically closer to each other than during a sexual act.*"⁴⁶ The following passage in *People v. Esoy, et al.*,⁴⁷ rings particularly true in this case:

⁴² Id. at 180.

⁴³ 473 Phil. 517 (2004).

⁴⁴ Id. at 547-548.

⁴⁵ *People v. Guimba*, 441 Phil. 362, 374-375 (2002).

⁴⁶ *People v. Navales*, 392 Phil. 213, 223 (2000).

⁴⁷ 631 Phil. 547 (2010).

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It is known that the most natural reaction of a witness to a crime is to strive to look at the appearance of the perpetrator and to observe the manner in which the offense is perpetrated. Most often the face of the assailant and body movements thereof, create a lasting impression which cannot be easily erased from a witness's memory. Experience dictates that precisely because of the unusual acts of violence committed right before their eyes, eyewitnesses can remember with a high degree of reliability the identity of criminals at any given time.⁴⁸

The records show that the rape occurred on July 27, 2017 at about 4:00 p.m. Thereafter, AAA went home and told her cousin, aunt, and uncle about what happened.⁴⁹ Since her mother was in another town to get the 4Ps benefit of her grandfather, it was her aunt who accompanied her to the police station.⁵⁰ At about 6:00 p.m. of the same day, AAA was able to provide a description of her attacker to the police officers on duty, as follows:

[L]alaki na matangkad, payatin ang katawan, medyo pahaba ang mukha, lubog ang pisngi, medyo matangos ang ilong, kayumanggi ang kulay, nakapuyod ang buhok at may kulay na dilaw ang kanyang buhok sa ibabaw at may tattoo siya sa kanang binti.⁵¹

Based on this description, the officers on duty conducted a follow-up operation to find the suspect. Initially, they were able to find a certain "Alyas John" whom they invited to the police station, but when he was shown to AAA, she said that he was not the attacker.⁵² The next day, July 28, 2017, from about 9:30 a.m. to 1:30 p.m., the police, assisted by barangay officials, were able to gather four (4) persons who matched the description to form a police lineup.⁵³ The last person in the lineup was brought to the police station at 1:30 p.m., after which the lineup was formed and shown to AAA.⁵⁴ From the lineup, AAA pointed to a man who was identified as the appellant,⁵⁵ and who matched the description given by AAA, particularly with respect to the right leg tattoo.

Given these circumstances, we find that the out-of-court identification of appellant as the attacker satisfies the totality of circumstances test as defined in *Teehankee* and *Pineda*. Contrary to appellant's contentions, AAA had ample time to see her attacker's face, considering the following circumstances on record: 1) the incident happened in the afternoon; 2) AAA

⁴⁸ Id. at 555-556.

⁴⁹ "SINUMPAANG SALAYSAY NA BINIGAY NI [AAA]", records, p. 13.

⁵⁰ Id.

⁵¹ Sinumpaang Salaysay sa Pag-aresto (executed by PO2 Ian Rey A. Abitonía), id. at 19.

⁵² Id. at 19-21.

⁵³ Id.

⁵⁴ Id. at 21.

⁵⁵ Id. An undated photograph showing the four persons in the line-up with AAA pointing to appellant, with the caption "Photo shows the victim [AAA] while pointing to Christian Doma Bechayda as identified by the victim as the same person who sexually abused her on July 27, 2017 at around 04:00 o'clock in the afternoon at P[urok] 2, Brgy. [REDACTED], [REDACTED], [REDACTED]" is found in Records, p. 28.

stated that appellant kissed her face, chest, navel, and private parts;⁵⁶ and 3) AAA testified that the whole incident took a long time.⁵⁷ The identification was made less than twenty-four hours after the incident, and was made in a police lineup composed of four persons, after AAA had already ruled out one previously invited suspect. Even the defense concedes that AAA's description of her assailant, which she gave after a mere two (2) hours after the incident and before any suspects were presented to her for identification, "perfectly matches" appellant's appearance.⁵⁸ Furthermore, as correctly pointed out by the CA, the out-of-court identification was confirmed by the in-court identification of the appellant.⁵⁹

III.

Finally, the CA correctly rejected the defense of alibi. As correctly noted by the CA,⁶⁰ lesser weight should be accorded to the defense witnesses' testimonies, considering their friendly relations with the accused.⁶¹ More importantly, while the defense witnesses unanimously stated that Christian was drinking with them on the day of the incident,⁶² they likewise unanimously admitted that their location with respect to the *locus criminis* did not preclude the possibility of Christian being in the cemetery at the time of the incident. According to appellant himself, as corroborated by Lada, he and his friends started their drinking spree at Lada's house⁶³ which is, by Lada's own admission, a mere 15-minute walk away from the cemetery.⁶⁴ Christian and his friends then moved to Nollado's house, which is just five houses away from Lada's house;⁶⁵ and by appellant's own admission, just 500 meters away from the cemetery.⁶⁶ Taking all the defense testimonies together, it becomes clear that Christian was in Barangay ██████, well within walking distance of the cemetery, from the morning of July 26 until the early morning of July 28, including the whole day of July 27, when the rape incident occurred, thus precluding the physical impossibility of him committing the crime.

Given the foregoing findings, the *courts a quo* therefore correctly accorded greater weight to AAA's positive identification of her attacker over Christian's defense of alibi. Our recent pronouncement in *Ledesma v. People* is apropos:

⁵⁶ Id. at 12-13.

⁵⁷ Id.

⁵⁸ Appellant's Brief, CA *rollo*, p. 37.

⁵⁹ CA Decision, *rollo*, p. 16.

⁶⁰ CA Decision, *id.* at 18.

⁶¹ See *Ledesma v. People*, G.R. No. 238954, September 14, 2020; *People v. Dadao, et al.*, 725 Phil. 298, 312 (2014); *People v. Aquino*, 724 Phil. 739, 754-755 (2014).

⁶² TSN, April 6, 2018, p. 7 (Christian); Kontra-Salaysay, records, p. 33 (Marie); TSN, April 20, 2018, p. 5 (Lada); TSN, August 20, 2018, pp. 4-5 (Nollado).

⁶³ TSN, April 6, 2018, p. 3; TSN, April 20, 2018, p. 5.

⁶⁴ TSN, April 20, 2018, p. 5.

⁶⁵ TSN, April 6, 2018, p. 4.

⁶⁶ Id. at 7.

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It is settled that positive identification, where categorical and consistent, and without any showing of ill motive on the part of the eyewitnesses testifying on the matter, prevails over alibi since the latter can easily be fabricated and is inherently unreliable. It is likewise settled that where there is nothing to indicate that a witness for the prosecution was actuated by improper motive, the presumption is that he was not so actuated and his testimony is entitled to full faith and credit.⁶⁷

WHEREFORE, the present appeal is **DISMISSED**. The November 15, 2019 Decision of the Court of Appeals in CA-G.R. CR-HC No. 11969 is hereby **AFFIRMED**.


SO ORDERED."

By authority of the Court:

TERESITA AQUINO TUAZON
Division Clerk of Court

By:



MA. CONSOLACION GAMINDE-CRUZADA
Deputy Division Clerk of Court 
19 AUG 2022

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⁶⁷ *Ledesma v. People*, supra note 61 at 8.- more -

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Bureau of Corrections
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HON. PRESIDING JUDGE (reg)
Regional Trial Court, Branch 65
Infanta, Quezon
(Crim. Case Nos. 2017-363-I & 2017-364-I)

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