



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. 252271** (*People of the Philippines v. XXX*¹). — On appeal² is the October 21, 2019 Decision³ of the Court of Appeals (CA) in CA-G.R. CR-HC No. 09612, which affirmed the May 8, 2017 Decision⁴ of the Regional Trial Court (RTC) of ██████████,⁵ Branch 42, in Criminal Case No. 13-8518, finding accused-appellant XXX (accused-appellant) guilty beyond reasonable doubt of the crime of Rape under Article 266-A, paragraph 1 (a) of the Revised Penal Code (RPC), as amended, in relation to Republic Act No. (RA) 7610,⁶ otherwise known as “Special Protection of Children against Abuse, Exploitation and Discrimination Act.”

Antecedents:

The Information⁷ dated May 17, 2013 filed against accused-appellant alleged:

That on or about the 10th day of April, 2012, at around 10:00 o'clock in the morning, in ██████████, ██████████, Philippines, and within the jurisdiction of this Honorable Court, the

¹ Initials were used for the name of minor victim per Supreme Court Amended Administrative Circular No. 83-2015 or *Protocols and Procedures in the Promulgation, and Posting on the Websites of Decisions, Final Resolutions, and Final Orders using Fictitious Names/Personal Circumstances*.

² *Rollo*, pp. 15-16.

³ *Id.* at 3-14. Penned by Associate Justice Ronaldo Roberto B. Martin and concurred in by Associate Justices Fernanda Lampas Peralta and Danton Q. Bueser.

⁴ *CA rollo*, pp. 38-43. Penned by Presiding Judge Erwin Y. Dimayacyac.

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

⁶ Entitled “AN ACT PROVIDING FOR STRONGER DETERRENCE AND SPECIAL PROTECTION AGAINST CHILD ABUSE, EXPLOITATION AND DISCRIMINATION, PROVIDING PENALTIES FOR ITS VIOLATION, AND FOR OTHER PURPOSES.” Approved: June 17, 1992.

⁷ Records, p. 1.

above-named accused, [REDACTED], with lewd and unchaste design, by means of force and intimidation, taking advantage of his moral ascendancy as uncle of the victim-minor, did then and there willfully, unlawfully and feloniously lie with and succeeded in having sexual intercourse with one [JAH],⁸ a thirteen (13) year-old-girl minor against the latter's will and without her consent, acts which debase and seriously endanger victim's moral, psychological, social and emotional growth, to her damage and prejudice.

CONTRARY TO ART 335 of the RPC (sic) IN RELATION TO RA 7610.⁹

Upon arraignment, accused-appellant pleaded not guilty to the offense charged against him.¹⁰ Trial on the merits thereafter ensued.

Version of the Prosecution:

JAH was born on July 10, 1999.¹¹ She narrated that on April 10, 2012, at around 10:00 a.m.,¹² she was in their house in [REDACTED] together with her one-year old brother when accused-appellant arrived and asked where her parents were.¹³ JAH told accused-appellant that her parents were in a ginger farm.¹⁴ Accused-appellant then asked JAH for a glass of water to drink.¹⁵ When JAH went to the kitchen to get some water, accused-appellant suddenly embraced her and held her hand tightly while fondling her breast and touching her vagina.¹⁶ JAH got nervous especially since when she was in Grade 5, accused-appellant had previously fondled her breast and asked her to have sex with him.¹⁷ JAH tried to resist accused-appellant's sexual advances by removing his hands, however, the latter insisted and pulled her towards a room.¹⁸ JAH pleaded accused-appellant to stop, but despite her resistance, accused-appellant kept on pulling her and asking her to have sex with him.¹⁹

Accused-appellant forced JAH on the bed, removed her undergarments, laid on top of her, and inserted his penis into her vagina.²⁰ JAH narrated that she felt pain so she begged him to stop. Instead, accused-appellant persisted on his lustful desire while at the same time making pumping motions on top of JAH.²¹

⁸ 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]).

⁹ Records, p. 1.

¹⁰ Id. at 16.

¹¹ TSN, May 12, 2014, p. 5.

¹² TSN, May 12, 2014, p. 6.

¹³ Id. at 7-8.

¹⁴ Id. at 8.

¹⁵ Id.

¹⁶ Id. at 8-9.

¹⁷ Id. at 10.

¹⁸ Id. at 11.

¹⁹ Id.

²⁰ Id. at 12.

²¹ Id.

When accused-appellant was about to leave, he told JAH not to report what happened, otherwise, something bad would happen to her parents.²² Right after accused-appellant had left, JAH briefly sat on a chair and thereafter went to the toilet where she saw a sticky substance coming out of her vagina.²³ She was 13 years old at that time.

JAH testified that her parents only learned that accused-appellant had raped her when she was already five months pregnant.²⁴ It was her grandmother (BBB) who first knew she was pregnant.²⁵ When BBB learned that JAH was pregnant, they proceeded to the office of the Department of Social Welfare and Development (DSWD) and reported the rape incident.²⁶ The DSWD thereafter summoned JAH's parents and told them of the sexual abuse committed by accused-appellant against their daughter.²⁷ JAH averred that she gave birth on January 19, 2013 and pointed to accused-appellant as the father of the child.²⁸

CCC corroborated JAH. CCC testified that JAH is her daughter who was born on July 10, 1999, and that accused-appellant is her younger brother.²⁹ CCC narrated that, she first learned that accused-appellant raped JAH and had in fact impregnated her daughter when she was summoned by BBB to the latter's place on October 2, 2012.³⁰ Subsequently, CCC, BBB, and JAH went to the police station to report the incident.³¹

Dr. Toriano Guavez (Dr. Guavez) conducted JAH's physical examination.³² Dr. Guavez testified that upon examination, the subject is in a non-virgin state physically and that there were no external signs of application of any form of trauma.³³

Version of the Defense:

For his part, accused-appellant vehemently denied all the accusations against him. He testified that at around 7:00 a.m. of April 10, 2012, he left [REDACTED] and proceeded to [REDACTED].³⁴ He arrived at [REDACTED] at around 10:00 a.m. as it was supposedly a two-hour ride by motorcycle from [REDACTED] to [REDACTED].³⁵ On April 12, 2012, accused-appellant claimed that he celebrated his wife's birthday in [REDACTED] with the latter's siblings, and stayed at the house of his in-laws.³⁶ After the celebration

²² Id. at 13.

²³ Id. at 14.

²⁴ Id.

²⁵ Id.

²⁶ Id. at 15.

²⁷ Id.

²⁸ Id. at 17.

²⁹ TSN, June 23, 2014, p. 4.

³⁰ Id. at 5.

³¹ Id. at 7.

³² TSN, January 5, 2015, p.5.

³³ Records, p.7. Per Medico-Legal Report No. M-59-12 dated October 2, 2012.

³⁴ TSN, February 9, 2015, pp. 3-4.

³⁵ Id. at 4-5.

³⁶ Id. at 5-6.

of his wife's birthday, they returned to [REDACTED] on April 13, 2012.³⁷

Ruling of the Regional Trial Court:

The RTC, in its Decision³⁸ dated May 8, 2017, found accused-appellant guilty beyond reasonable doubt of the offense charged. The RTC held that the prosecution established all the elements of Rape by carnal knowledge. The RTC found accused-appellant's defenses of denial and alibi too weak as against JAH's positive identification of the accused-appellant as the rapist. The dispositive portion of the RTC Decision reads:

WHEREFORE, judgment is hereby rendered as follows:

1) Finding the accused [REDACTED] GUILTY beyond reasonable doubt of the crime of rape under Art. 266-A OF THE REVISED PENAL CODE *as amended by RA 8353 in rel. to RA 7610*. Considering the aggravating/qualifying circumstance of relationship to and minority of the victim, the court hereby sentences him to suffer the penalty of *reclusion perpetua* in lieu of death and not be eligible for parole pursuant to RA 9346.

2) The said accused is likewise ordered to pay complaining witness actual damages in the amount of ₱50,000.00, moral damages in the amount of ₱50,000.00, and another ₱30,000.00 as exemplary damages.

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

Let a *Mittimus* or Commitment Order be issued to transfer him to National Penitentiary/Bureau of Corrections pursuant to Supreme Court Circular No. 4-92-A, dated 20 April 1992.

Cost de officio.

SO ORDERED.³⁹

Aggrieved, accused-appellant appealed⁴⁰ his conviction before the CA.

Ruling of the Court of Appeals:

In its assailed October 21, 2019 Decision,⁴¹ the CA affirmed with modification the RTC's May 8, 2017 Decision. It held that accused-appellant's defenses of denial and alibi cannot be given greater evidentiary value over the credible testimony of JAH. The CA reiterated that JAH's narration of events should be given greater weight and credence since there was no proof to show any ill motive on her or her family's part in charging the accused-appellant with the crime of Rape.

³⁷ Id. at 8.

³⁸ CA *rollo*, pp. 38-43.

³⁹ Id.

⁴⁰ Id. at 8-10.

⁴¹ *Rollo*, pp. 3-14.

The dispositive portion of the CA Decision reads:

WHEREFORE, premises considered, the assailed Decision dated May 8, 2017 RTC, [REDACTED] Judicial Region, Branch 42, [REDACTED], in Criminal Case No. 13-8518 is AFFIRMED.⁴²

Hence, the instant appeal.⁴³ According to accused-appellant, the RTC and the CA gravely erred in convicting him of the crime charged despite the absence of force, threat or intimidation employed against JAH. He also asserts that the RTC and the CA should not have relied on the inconclusive findings of the physician who examined JAH.

Issue

The issue is whether or not the accused-appellant's guilt for the charge of Rape was proven beyond reasonable doubt.

Our Ruling

The appeal is bereft of merit.

Article 266-A of the RPC, as amended, provides the elements for the crime of Rape, to wit:

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.

Article 266-B. *Penalties.* —

x x x x

The death penalty shall also be imposed if the crime of rape is committed with any of the following aggravating/qualifying circumstances:

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;**

⁴² Id.

⁴³ Id. at 15-16.

x x x x (Emphasis supplied)

Pursuant to paragraph 1 of Article 266-B, Rape is qualified if the following elements concur: a) the victim is a female over 12 years, but under 18 years of age; b) 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; and c) the offender had carnal knowledge of the victim either through force, threat or intimidation; or when she was deprived of reason or is otherwise unconscious; or by means of fraudulent machinations or grave abuse of authority.⁴⁴

The victim's minority and relationship with the perpetrator must both be alleged in the Information. In this case, it is indubitable that accused-appellant obtained carnal knowledge of the victim, who was a minor, by means of force, threat, and intimidation. JAH's testimony was as follows:

Q: On April 10, 2012 more or less 10:00 o'clock in the morning, what happened, if any?

A: On April 10, 2012 at around 10:00 o'clock in the morning it was summer vacation when [accused-appellant] ██████████ dropped by our house looking for my parents, sir.

Q: Do you know the real name of this [accused-appellant] ██████████?

A: Yes, sir, [accused-appellant] ██████████.

Q: How is he related to [accused-appellant] ██████████ who stands accused today?

A: They are one and the same person, sir.⁴⁵

x x x x

Q: You called him [accused-appellant] ██████████, how are you related to him?

A: He is my uncle, the youngest brother of my mother, sir.⁴⁶

x x x x

Q: What happened when [accused-appellant] ██████████ entered your house after asking where your parent's was?

A: Right after he asked me the whereabouts of my parents I told him that my parents where (sic) in the plantation of ginger, he also asked where my brother was and I told him that my brother was sleeping in the duyan, then he asked for water so [I] went to the kitchen to get water, right after he drunk, [sic] he embraced me tightly, sir.

Q: Was that the first time that the accused embraced you?

A: Yes, sir.⁴⁷

⁴⁴ *People v. Moya*, G.R. No. 228260, June 10, 2019, citing *People v. Arcillas*, 692 Phil. 40, 50 (2012).

⁴⁵ TSN, May 12, 2014, pp. 7-8.

⁴⁶ Id. at 8.

⁴⁷ Id. at 8-9.

x x x x

Q: Did you ask him why?

A: Yes, sir.

Q: What did he reply?

A: He did not say anything. [R]ight after he held my hands, he proceeded mashing my breasts and touching my vagina and then he asked me for us to have sex, sir.

Q: For how long did he mash your breast?

A: For a while, sir.

x x x x

Q: He proceeded touching your vagina, were they not simultaneous?

A: Yes, sir.⁴⁸

x x x x

Q: What was your answer to the proposal of the accused?

A: I told him that I do not like to do that, sir.

Q: When he proposed to that, was he still mashing your breast or touching your private parts?

A: The first time he proposed that he was doing the mashing and touching of my private parts, thereafter he distant (sic) himself, sir.

Q: How far?

A: About two feet away, sir.

Q: What were you doing while he was mashing your breast or touching your private parts?

A: I was trying to resist by removing his hands to my body but he was insistent, sir.

Q: So what happened?

A: I proceeded inside the sala and he also entered and insistent (sic) to have sex and he pulled me, sir.

Q: What was your reaction?

A: I told him I do not like to do that because I was afraid of him as well as my parents, sir.⁴⁹

x x x x

Q: What happened next?

A: He tried to lay me on the bed but I tried to get up but he (sic) pushed me down he put himself on top of me and he removed my undergarments, then right after that, he removed his shorts, sir.

⁴⁸ Id. at 9.

⁴⁹ Id. at 10-11.

Q: What happened after that?

A: Right after that, he held my hands and he inserted his penis to my vagina, sir.

Q: What was your position while he was doing that?

A: I was lying while he was top of me, sir.

Q: What happened after that?

A: I was telling him that I want him to stop because it was very painful but he said that it will take a while, sir.⁵⁰

x x x x

Q: For how long did the accused inserted his penis to your vagina?

A: For a long time, sir.

Q: What commotion, [sic] if any, did the accused do while he was on top of you?

A: He was doing the pumping motion, he wanted to kiss me but I avoided his face from touching my lips because I said to him that I do not like what he was doing, sir.⁵¹

x x x x

Q: After that, what happened?

A: Then he said something to me before he left that I should never report what had happened to us or to anybody and he will be doing something bad against my parents, sir.⁵²

x x x x

Q: How about you, what did you do after the accused left?

A: I was just seated on our chair, sir.

Q: For how long?

A: For quite long, sir.

Q: What happened next?

A: Then I felt going to the comfort room and I saw that there was sticky substance that emerged from me, sir.⁵³

For his defense, accused-appellant questions JAH's credibility which according to him was improbable. He further asserts that JAH's delay in reporting the crime equated to a fabrication of the accusation against him.⁵⁴

The arguments of the accused-appellant fail to convince.

Well-settled is the rule that the trial court's evaluation of a witness is generally accorded great weight and respect as they are in a better position to

⁵⁰ Id. at 12.

⁵¹ Id.

⁵² Id. at 13.

⁵³ Id. at 13-14.

⁵⁴ CA *rollo*, pp. 31-34.

determine the latter's conduct and demeanor, and to determine whether indeed they are telling the truth.⁵⁵

Furthermore, the delay in reporting the incident is not necessarily an indication that the charge is fabricated. The victim's conduct after the sexual molestation and her inability to report the incident are also not enough to discredit her.⁵⁶ The Court, in *People v. Cubay*⁵⁷ has elucidated:

[T]o blame the victim for not raising the injustice that had happened to her immediately after her first ordeal to the proper authorities and allowing the perpetrator to continue with his vile advances would be absurd. Every person's reaction to a heinous act committed against his/her person, honor, liberty and/or property cannot be simply chalked up to mathematical statistics and logical drivel. One may instantly fling himself/herself against his/her attacker in righteous fury and seek immediate and just reparation for the damage done to his/her person and honor, while another may need a longer time to recover his/her sanity due the shock of the abuse, thus, committed against him/her and prefer to delay his/her retaliation against his/her tormentors. Only an omnipotent, omniscient and omnipresent God could tell how a rape victim should and would react after such harrowing and stressful situation. If even trained experts in this field have differing opinions on how the abused mind of a rape victim reacts after the fact, the Court should apply the same level of caution and not make any speculative judgments regarding when a rape victim should have been considered recovered enough to face his/her abuser/s privately, much less publicly in court.⁵⁸

Accused-appellant's evidence are too unconvincing. His defenses of denial and alibi are inherently weak defenses. To stress, JAH's positive identification of the accused-appellant as the one who had sexual congress with her is categorical and firm. Therefore, it should be given more credence as against the inherently weak defenses of denial and alibi of accused-appellant.

The Court, in *People v. Menaling*,⁵⁹ has pronounced:

Rape is a crime that is almost always committed in isolation or in secret, usually leaving only the victim to testify about the commission of the crime. Thus, the accused may be convicted of rape on the basis of the victim's sole testimony provided such testimony is logical, credible, consistent and convincing. Moreover, the testimony of a young rape victim is given full weight and credence considering that her denunciation against him for rape would necessarily expose herself and her family to shame and perhaps ridicule.⁶⁰

Furthermore, the Court finds as untenable accused-appellant's contention that the Medico-Legal Report presented by the prosecution cannot be used as evidence against him since it did not state any external signs of trauma or struggle.

⁵⁵ *Villarba v. Court of Appeals*, G.R. No. 227777, June 15, 2020.

⁵⁶ *People v. XXX*, G.R. No. 230981, July 15, 2020.

⁵⁷ G.R. No. 224597, July 29, 2019.

⁵⁸ Id.

⁵⁹ 784 Phil 592 (2016).

⁶⁰ Id. at 604-605, citing *People v. Gallano*, G.R. No. 184762, February 25, 2015.

A medical examination of the victim is not indispensable in the prosecution for rape, and no law requires a medical examination for the successful prosecution thereof.⁶¹ The medical examination of the victim or the presentation of the medical certificate is not essential to prove the commission of rape, as the testimony of the victim alone, if credible, is sufficient to convict the accused of the crime.⁶²

However, we hold that the RTC and the CA erred in appreciating the qualifying circumstance of relationship. Concededly, the Information mentioned that accused-appellant was an uncle of JAH. Their relationship as uncle-niece was established during trial. However, this does not suffice for the circumstance of relationship to be considered as having qualified the crime. Jurisprudence teaches that it must be specifically alleged that accused-appellant is a relative by consanguinity or affinity within the third civil degree.

Our pronouncement in *People v. Libo-on*⁶³ is instructive:

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.⁶⁴

In fine, relationship could not be considered as a qualifying circumstance in this case since the Information did not specifically allege that accused-appellant is a relative by consanguinity or affinity within the third civil degree. Consequently, accused-appellant may only be held liable for the crime of Rape. Moreover, any reference to RA 7610 is deleted pursuant to our pronouncement in *People v. Tulagan*.⁶⁵

⁶¹ *People v. Manaligod*, 831 Phil 204, 213 (2018).

⁶² *Id.*

⁶³ *People v. Lastrillo*, 798 Phil. 103, 118-119 (2016), citing *People v. Libo-on*, 410 Phil. 378, 406-407 (2001).

⁶⁴ *Id.*

⁶⁵ G.R. No. 227363, March 12, 2019.

In addition, the damages awarded by the RTC and the CA must likewise be modified. Pursuant to *People v. Jugueta*,⁶⁶ the proper amount of civil indemnity, moral damages, and exemplary damages should be ₱75,000.00 each.

Also, in consonance with prevailing jurisprudence, the damages awarded shall earn interest at the rate of six percent (6%) per *annum* from the date of finality of the judgment until fully paid.

Finally, the phrase “without eligibility for parole” is deleted pursuant to A.M. No. 15-08-02-SC.⁶⁷

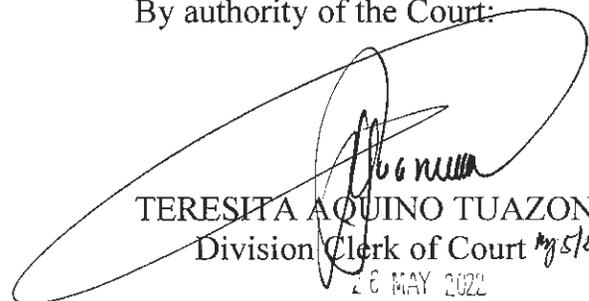
WHEREFORE, the appeal is hereby **DISMISSED**. The assailed October 21, 2019 Decision rendered by the Court of Appeals in CA-G.R. CR-HC No. 09612, is **AFFIRMED with MODIFICATIONS**.

Accused-appellant XXX is found **GUILTY** of the crime of Rape and is sentenced to suffer the penalty of *reclusion perpetua*. The phrase “without eligibility for parole” is deleted. Accused-appellant XXX is also ordered to **PAY JAH** civil indemnity, moral damages, and exemplary damages at ₱75,000.00 each.

All damages awarded shall earn interest at the rate of six percent (6%) per *annum* from the finality of this Resolution until full payment.

SO ORDERED.”

By authority of the Court:


TERESITA AQUINO TUAZON
Division Clerk of Court
26 MAY 2022

⁶⁶ 783 Phil 806, 848 (2016).

⁶⁷ Guidelines for the Proper Use of the Phrase “Without Eligibility for Parole in Indivisible Penalties.” Issued on August 4, 2015.

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THE DIRECTOR (reg)

Bureau of Corrections
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HON. PRESIDING JUDGE (reg)

Regional Trial Court, Branch 42
Pinamalayan, Oriental Mindoro
(Crim. Case No. 13-8518)

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*with copy of CA Decision dated 21 October 2019

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