



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. 252307 (*People of the Philippines v. XXX*)¹. — The law does not impose a burden on the rape victim to prove resistance as, in any rape case, resistance is not an element of the crime.² It is not incumbent upon the victim in the criminal prosecution of rape to prove categorically the acts of resistance she has resorted to before a conviction may be had.

On appeal is the May 27, 2019 Decision³ of the Court of Appeals (CA) in CA G.R. CR-HC No. 10513, which affirmed the May 15, 2017 Decision⁴ of Branch 33 of the Regional Trial Court (RTC) of [REDACTED]⁵ in Criminal Case No. 33-1221-2012, finding accused-appellant XXX (accused-appellant) guilty beyond reasonable doubt of the crime of Rape.

Factual Antecedents:

Accused-appellant was charged with the crime of Rape in an Information,⁶ the accusatory portion of which reads:

That on or about the 22nd of November 2009, in the [REDACTED] Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with lewd designs, did then and

¹ Initials were used to identify the accused-appellant pursuant to Amended Administrative Circular No. 83-15 dated September 5, 2017 entitled “Protocols and Procedures in the Pronuldgation, Publication, and Posting on the Websites of Decisions, Final Resolutions, and Final Orders using Fictitious Names/Personal Circumstances.

² *People v. XYX*, G.R. No. 230716, June 23, 2021.

³ *Rollo*, pp. 3-12. Penned by Associate Justice Mario V. Lopez (now a Member of the Court) and concurred in by Associate Justices Zenaida T. Galapate-Laguilles and Tita Marilyn B. Payoyo-Villordon.

⁴ *CA rollo*, pp. 55-64. Penned by Executive Judge Francisco S. Donato.

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

⁶ Records, p. 1.

there willfully, unlawfully and feloniously have sexual intercourse with AAA,⁷ a 16-year old minor, while she was unconscious for being asleep due to drunkenness, and when she was roused during the sexual intercourse, she tried to resist but the accused, by means of force, continued to ravish her against her will without her consent, to her damage and prejudice.

That as a consequence of the rape, the private offended party became pregnant by the accused.

CONTRARY TO LAW.⁸

Version of the Prosecution:

AAA testified that on November 21, 2009, she and her friends went to the house of YYY to celebrate the birthday of one of their friends. By around 3:00 p.m., their group started drinking alcohol. Unconscious of her alcohol intake, AAA became completely drunk and consequently fell asleep on the chair where she was seated in the living room inside YYY's house.⁹

AAA was thereafter awoken at around 3:30 a.m. of November 22, 2009 and noticed that she was already naked, with accused-appellant on top of her, also undressed from waist down, kissing her lips and having sexual intercourse with her. She thereafter pushed accused-appellant, but to no avail. When accused-appellant was done satisfying his lust, AAA went outside, sat, and cried. Accused-appellant let her be and just stayed at her side.¹⁰

On May 19, 2010, AAA went to the doctor to have herself examined, and therein found out that she was already six months pregnant. She then decided to file a criminal complaint against accused-appellant for Rape.

When asked about the details of the incident, AAA could only narrate the events prior to her drunkenness and those that took place after the sexual intercourse.¹¹

In addition, AAA narrated that accused-appellant threatened her, saying that if AAA would ignore him, accused-appellant would reveal what happened to them.¹²

⁷ "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. Dumadog*, 667 Phil. 664, 669 [2011]).

⁸ *Id.*

⁹ TSN, January 27, 2014, p. 2

¹⁰ *Id.* at 2-4.

¹¹ *Id.* at 7-8.

¹² *Id.* at 16.

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Considering her pregnant state, AAA felt compelled to report the incident to the *barangay* authorities, and consequently a confrontation in the *barangay* was scheduled. However, accused-appellant was not able to attend, prompting AAA to report the incident to the police.¹³

The prosecution also presented Dr. Roselyn Cuarteros as an expert witness. She testified on the pregnancy examination conducted on AAA and the fact that she visited a doctor to check her condition.¹⁴ AAA gave birth on August 17, 2010.

In addition, the prosecution presented documentary exhibits consisting of the sworn statement of AAA, the joint affidavit of BBB and CCC, medical certificate issued by Dr. Benjamin O. Tolero, and the birth certificate of AAA and her daughter.¹⁵

Version of the Defense:

For the defense, accused-appellant testified that on November 21, 2009, he went to the house of YYY to attend a birthday celebration. According to him, he spent the whole night there. In particular, he slept in the living room of the house.¹⁶

When asked whether he was with someone, he answered that he was with AAA. According to accused-appellant, AAA slept with him and they had consensual sex which lasted for not more than two hours.¹⁷ When asked if AAA protested, accused-appellant said that AAA did not try to resist, shout nor ask for help. In fact, AAA even covered his mouth as he was “*noisy*.”¹⁸

YYY corroborated accused-appellant’s testimony stating that he observed that AAA and accused-appellant were sweethearts, and that it was AAA who lay beside accused-appellant. However, according to YYY, there was no drinking spree that took place.¹⁹

Further, ZZZ testified that her friends went to her father’s (YYY) house to celebrate her birthday. She noticed AAA and the accused-appellant always close by or beside each other. ZZZ narrated that AAA was with the group on the second floor, while accused-appellant was on the first floor. Thereafter, ZZZ surmised that AAA joined accused-appellant downstairs at midnight when everyone is not able to notice.²⁰

¹³ Id.

¹⁴ TSN, December 10, 2012, pp. 1-3

¹⁵ Records, p. 181.

¹⁶ TSN, September 9, 2014, pp. 2-3.

¹⁷ Id. at pp. 2-5.

¹⁸ Id. at 6.

¹⁹ Id. at pp. 8-9.

²⁰ TSN, March 9, 2015, pp. 4-5.

Ruling of the Regional Trial Court:

On May 15, 2017, the RTC, Branch 33 of ██████████, found accused-appellant guilty beyond reasonable doubt of the crime of Rape under Article 266-A(1)(b) in relation to Article 266-B of the Revised Penal Code, and accordingly sentenced him to suffer the penalty of *reclusion perpetua*.²¹

The RTC emphasized that accused-appellant never denied having sexual intercourse with AAA but only claimed that the copulation was consensual. AAA on the other hand, recalled that she was very drunk and drifted into sleep after the drinking spree. When she woke up, she noticed that she was already naked with accused-appellant on top of her, kissing her and having sexual intercourse with her.²² Given the circumstances, AAA was unconscious at the time of the sexual abuse, and was not in a position to exercise any judgment about the matter.²³ In any event, AAA's act of pushing the accused-appellant upon noticing what was happening between her and accused-appellant is a clear indication that she resisted and struggled to stop the accused-appellant.²⁴ The absence of the will determines the existence of the rape.²⁵ As aptly observed by the RTC:

The absence of the will determines the existence of the rape. x x x .

x x x x

When a woman is "deprived of reason" or is "unconscious", she is deemed to have "no will". x x x .

x x x x

Thus, as pointed out by one of our early commentators on the Revised Penal Code, x x x , "He who lies with a woman, while the latter is in a state of unconsciousness or drowsiness, is guilty of rape."²⁶

Moreover, the RTC held that AAA was raped since she had no will at the time she was sexually abused. She cannot be said to have consented or agreed to the sexual act.²⁷ The RTC also declared that he who alleges consensual sexual congress, must provide convincing proof attesting to the romantic or sexual relationship between the offender and his supposed victim.²⁸

The dispositive portion of the RTC Decision reads:

²¹ Records, p. 189.

²² Id. at 182-183.

²³ Id. at 186.

²⁴ Id.

²⁵ Id.

²⁶ CA *rollo*, pp. 61-63.

²⁷ Records, p. 186.

²⁸ Id. at 187.

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WHEREFORE, taking all the foregoing premises into consideration, the accused, [XXX], is hereby found GUILTY beyond reasonable doubt of the crime of rape under Article 266-A (1)(b) in relation to Article 266-B of the Revised Penal Code and is accordingly sentenced to suffer the penalty of RECLUSION PERPETUA.

He is likewise ordered to pay [AAA] PhP 75,000.00 as civil indemnity, PhP 75,000.00 as moral damages and PhP 30,000.00 as exemplary damages with interest thereon at the rate of six (6%) per annum on the award of all the damages reckoned from the finality of this Decision until fully paid.

With costs against the accused.

SO DECIDED."²⁹

Aggrieved, accused-appellant brought his case before the CA.³⁰

Accused-appellant argued before the CA that the RTC gravely erred in convicting him of Rape on the basis of the incredible testimony of AAA and the lack of physical evidence on record.³¹ Accused-appellant insisted that AAA did not even shout or show active resistance during their sexual intercourse.³² AAA's failure to shout for help despite many opportunities given to her casts doubt on her credibility as it is contrary to human experience and renders her claim of rape difficult to believe.

Further, accused-appellant alleged that the events as narrated by AAA were incredible to believe, especially considering that he was not alone with AAA when the alleged rape took place. Accused-appellant maintained that they were inside YYY's house and in close proximity to the other guests, who were then sleeping upstairs. Thus, it is highly incredible for accused-appellant to commit the Rape in the presence of, or at least in hearing distance, of the other guests.³³

Ruling of the Court of Appeals:

The CA denied the appeal of accused-appellant but modified the award of exemplary damages. Echoing the pronouncement of the RTC, the CA held that resistance is not an element of the crime of Rape, and in fact, need not be shown by the prosecution.³⁴ The main element of rape is lack of consent. Lack of resistance does not negate rape especially when the victim is unconscious, deprived of reason, manipulated, demented, or young either in chronological age or mental age.

The *fallo* of the CA Decision reads:

²⁹ CA *rollo*, p. 64.

³⁰ *Id.* at 13.

³¹ *Id.* at 44.

³² *Id.* at 47-48.

³³ *Id.* at 49.

³⁴ *Rollo*, p. 9.

FOR THE STATED REASONS, the appeal is DENIED.

The assailed Decision of the Regional Trial Court finding accused-appellant [XXX] guilty is AFFIRMED with MODIFICATION in that the award of exemplary damages is increased to PhP 75,000.00. For being a detention prisoner, the entire period of his preventive imprisonment shall be credited in the service of sentence imposed on him in accordance with Article 29 of the Revised Penal Code.³⁵

Unrelenting, accused-appellant brought his case before Us raising the following –

Issue:

The sole issue before this Court is whether accused-appellant is guilty beyond reasonable doubt for the crime of Rape. ³⁶

Our Ruling

After a careful perusal of the records, We dismiss the appeal.

The crime of Rape is generally unwitnessed, and very often, only the victim is left to testify for herself.³⁷ “Due to the nature of rape cases, a victim’s credibility becomes the primordial consideration. A finding that the accused is guilty of rape may be based solely on the victim’s testimony if such testimony meets the test of credibility.”³⁸ “This Court has ruled that when a woman states that she has been raped, she says in effect all that would be necessary to show that rape did take place. However, the testimony of the victim must be scrutinized with extreme caution.”³⁹

“If a victim’s testimony is straightforward, convincing, and consistent with human nature, and the normal course of things, unflawed by any material significant inconsistency, it passes the test of credibility and the accused may be convicted solely on this basis x x x .”⁴⁰

To illustrate the credibility of AAA’s testimony, we reproduce pertinent parts of her examination as a witness:

Q: Why do you want to file a formal complaint against [XXX]?

A: Because he raped me when I was drunk.

Q: When and where did the incident happen?

A: I and my barkadas (x x x) were drinking GSM Blue and Generoso at the house of [YYY]. Then there I was totally drunk and I lost my consciousness. I slept at my own seat but when I was awoken, I noticed that I was undressed

³⁵ Id. at 10-11.

³⁶ CA rollo, p. 4d.

³⁷ *People v. ZZZ*, G.R. No 228828, July 24, 2019.

³⁸ *People v. Brioso*, 600 Phil. 530, 539 (2009).

³⁹ Id.

⁴⁰ *People v. Rusco*, 796 Phil. 147-154 (2016), citing *People v. Manigo*, 725 Phil. 324, 327 (2014).

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and [XXX] was on top of me undressed too, kissing my lips, and he is [having] intercourse with me. I refused and pushed him back but it was too late because he did it already.

x x x x

Q: What did you do after the incident? Did you tell anybody what happened?
A: No ma'am. Because I was afraid that somebody will come to know what happened that's why I kept it within me ma'am.

Q: But now why you got courage to tell the truth?
A: Because I surrendered that I can't solve this problem within me and I didn't expect that it will bear fruit what he did to me ma'am. I am already 6 months pregnant ma'am.

x x x x

Q: So, what time in your calculation, Madam Witness when you were intoxicated?

A: I don't know, sir.

Q: Were you totally drunk?

A: Yes, sir.

Q: And you (did) not even know what time you went to bed to sleep?

A: I don't know, sir. I just woke up in the place where we were drinking.

Q: Where in exact, Madam Witness is the place where you drink with your friends?

A: Just at the opening of the door, sir.

x x x

Q: At around what time were you roused from sleep, Madam Witness?

A: Around 3:00 in the morning, sir.

Q: So, when you woke up, the accused was already with you?

A: Yes, sir.

Q: He was kissing your lips, isn't it, Madam Witness?

A: Yes, sir.

Q: And he was having intercourse with you, isn't it, Madam Witness?

A: Yes, sir.

Q: How long was the intercourse if you noticed, Madam Witness?

A: I don't know, sir. When I woke up, I pushed him. After that he stood and seated while I was still lying on the floor, sir.⁴¹

The foregoing testimony of AAA shows that because of her drunken state, she could not recall the specific circumstances attendant during the rape incident, other than that when she woke up, she found accused-appellant kissing

⁴¹ *Rollo*, pp. 7-9.

her and on top of her, in the middle of the act of sexual intercourse. This is not significantly inconsistent with human nature.

Another argument the accused-appellant raised before the Court is the lack of resistance on the part of AAA, suggesting that she consented to the sexual intercourse. Time and again this Court has pronounced that resistance is not an element of rape, and its absence does not denigrate the victim's claim that accused-appellant employed force and intimidation on her. In any event, the failure of the victim to shout or to offer tenacious resistance does not make the sexual congress voluntary. Indeed, rape victims have no uniform reaction; some may offer strong resistance; others may be too intimidated to offer any resistance at all.⁴²

It also bears emphasis that AAA was unconscious when accused-appellant had sexual intercourse with her. The Rape was already *fait accompli* when AAA woke up. Accused-appellant already had sexual intercourse with her. Elsewise stated, the crime of Rape was already consummated when AAA was roused from her sleep. Clearly, resistance of any kind could not be expected from AAA considering her drunken state or unconsciousness.

Article 266-A(1) of the Revised Penal Code (RPC) clearly provides:

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:

x x x x

(b) When the offended party is deprived of reason or otherwise unconscious;

x x x x

Our pronouncement *People v. XXX*⁴³ is relevant:

Unquestionably, carnal knowledge of a woman who is unconscious is rape for the simple reason that she cannot freely and voluntarily consent to engaging in sexual intercourse. An unconscious person cannot rationally respond to stimuli or perform acts such as giving consent or offering resistance because he or she is either unaware, asleep, or in a coma.

People v. De La Cruz held that the carnal knowledge of a woman who is asleep constitutes rape. Likewise, in *People v. Aban*, the Court sustained the conviction of rape upon finding that AAA was asleep when Aban had carnal knowledge of her.

⁴² *People v. Jovellanos*, G.R. No. 251751 (Notice), February 17, 2021.

⁴³ G.R. No. 247754, October 7, 2020.

XXX nonetheless argues that since AAA was unconscious when the rape was committed, there was no direct evidence to support his conviction therefor.

In cases where the victim, being the sole witness, cannot testify on the actual commission of the rape because she was rendered unconscious when the act was committed, conviction for rape may be based on circumstantial evidence. To rule otherwise would obstruct the successful prosecution of a rapist who renders his victim unconscious before the consummation.⁴⁴ (Citations omitted)

As regards the penalty and awards of damages. The penalty of *reclusion perpetua* is imposed for Rape under Article 266-A(1), in relation to Article 266-B of the RPC. Moreover, *People v. Jugueta*⁴⁵ teaches that for the crime of Rape punishable by *reclusion perpetua*, the accused-appellant must be ordered to pay civil indemnity in the amount of ₱75,000.00, moral damages in the amount of ₱75,000.00, and exemplary damages in the amount of ₱75,000.00. In addition, all these monetary awards shall earn interest at the rate of six percent (6%) per *annum* from date of finality of the judgment until fully paid.

In view of the foregoing, the RTC and the CA correctly imposed the penalty of *reclusion perpetua* upon accused-appellant. Moreover, the damages as modified by the CA in the amounts of ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages, and ₱75,000.00 as exemplary damages, all with interest at the rate of six percent (6%) per *annum* from date of finality of the judgment until fully paid, are proper.

In sum, accused-appellant's appeal deserves no consideration at all.

WHEREFORE, the appeal is **DISMISSED**. The Decision of the Court of Appeals dated May 27, 2019 in CA G.R. CR-HC No. 10513 finding accused-appellant XXX **GUILTY** beyond reasonable doubt of Rape, and sentencing him to suffer the penalty of *reclusion perpetua*, and to pay AAA civil indemnity of ₱75,000.00, moral damages of ₱75,000.00, and exemplary damages of ₱75,000.00, is hereby **AFFIRMED**. 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.

The Court resolves to:

1. **NOTE** the manifestation in lieu of supplemental brief dated September 2, 2021 stating that the brief for the appellee has adequately discussed all the matters pertinent to accused-appellant's defense, hence, adopting the same as appellant's supplemental brief;

⁴⁴ Id.

⁴⁵ 783 Phil. 806 (2016).

2. **NOTE** the manifestation (in lieu of supplemental brief) dated September 10, 2021 of the Office of the Solicitor General, stating that it will no longer file a supplemental brief, there being no significant transaction, occurrence or event that happened since the filing of its Appellee's Brief dated February 20, 2019; and

3. **NOTE** the letter dated August 22, 2021 of CTSSupt. Ricardo S. Zulueta, Superintendent, New Bilibid Prison-MaxSeCom, Muntinlupa City, confirming the confinement of accused-appellant in the said institution since March 10, 2018.

SO ORDERED.”

By authority of the Court:

TERESITA AQUINO TUAZON
Division Clerk of Court

By:



MA. CONSOLACION GAMINDE-CRUZADA
Deputy Division Clerk of Court
23 MAY 2022

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HON. PRESIDING JUDGE (reg)
Regional Trial Court, Branch 33
Ballesteros, Cagayan
(Crim. Case No. 33-1221-2012)

*For this resolution only
Please notify the Court of any change in your address.
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