



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **February 15, 2022** which reads as follows:*

“G.R. Nos. 253560-62 (People of the Philippines, plaintiff-appellee vs. XXX and YYY,¹ accused-appellants).

This Appeal² seeks to reverse and set aside the February 13, 2020 Decision³ of the Court of Appeals (CA) in CA-G.R. CR-HC Nos. 12429, 12430, and 12441. The CA affirmed with modification the following Judgments of the Regional Trial Court of Balanga City, Bataan, Branch 3 (RTC):

1. October 26, 2018 Judgment⁴ in Criminal Case No. 16876, finding XXX guilty beyond reasonable doubt of Simple Rape under Article 266-A, paragraph 1 of the Revised Penal Code (RPC);

2. October 26, 2018 Judgment⁵ in Criminal Case No. 16877, finding XXX guilty beyond reasonable doubt of Simple Rape under Article 266-A, paragraph 1 of the RPC; and

- over – nine (9) pages ...

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¹ The names and personal circumstances of the private complainant and her immediate family are withheld per Republic Act No. 7610 or the Special Protection of Children Against Child Abuse, Exploitation, and Discrimination Act (1992), R.A. No. 9262 or the Anti-Violence Against Women and Their Children Act of 2004, and Office of the Court Administrator Amended Administrative Circular No. 83-2015.

² *Rollo*, pp. 40-42.

³ *Id.* at 7-39; penned by Associate Justice Rafael Antonio M. Santos with Associate Justices Elihu A. Ybañez and Tita Marilyn B. Payoyo-Villordon, concurring.

⁴ *CA rollo* (CA-G.R. CR-HC No. 12429), pp. 65-75; penned by Presiding Judge Marion Jacqueline P. Poblete.

⁵ *Id.* at 77-86.

3. October 26, 2018 Judgment⁶ in Criminal Case Nos. 15933 and 15934 finding XXX and YYY (*accused-appellants*), respectively, guilty beyond reasonable doubt of Qualified Rape under Article 266-A, paragraph 1(d) of the RPC.

Accused-appellant XXX was charged with simple rape in two separate Informations⁷ both dated October 27, 2016. The accusatory portions of the informations read:

Criminal Case No. 16877

That sometime in the month of July 2015, in x x x Philippines, and within the jurisdiction of this Honorable Court, the said accused, by means of force, threat and intimidation, did then and there willfully, unlawfully and feloniously succeeded to have sexual intercourse with his sister A2, thirteen (13) years old, against the will and consent of the latter, to her damage and prejudice.

CONTRARY TO LAW.⁸

Criminal Case No. 16876

That sometime in the month of January 2016, in x x x, Philippines, and within the jurisdiction of this Honorable Court, the said accused, by means of force, threat and intimidation, did then and there willfully, unlawfully and feloniously succeeded to have sexual intercourse with his sister A1, fourteen (14) years old, against the will and consent of the latter, to her damage and prejudice.

CONTRARY TO LAW.⁹

In another Information¹⁰ dated June 1, 2016, XXX was also charged with incest rape, to wit:

Criminal Case No. 15933

That on or about May 30, 2016, in x x x, Philippines, and within the jurisdiction of this Honorable Court, the said accused, by means of force and intimidation, did then and there, willfully,

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⁶ CA *rollo* (CA-G.R. CR-HC No. 12441), pp. 35-47; penned by Presiding Judge Marion Jacqueline P. Poblete.

⁷ *Rollo*, pp. 11-12.

⁸ *Id.* at 12.

⁹ *Id.* at 11.

¹⁰ *Id.* at 12.

unlawfully and feloniously insert his penis into the vagina of his sister A3, seven (7) years old, against the will and consent of the latter, thereby subjecting her to sexual abuse, to her damage and prejudice.

CONTRARY TO LAW.¹¹

On the other hand, accused-appellant YYY was charged with incest rape in an Information¹² dated June 1, 2016, which reads:

Criminal Case No. 15934

That on or about May 30, 2016, in x x x, Philippines, and within the jurisdiction of this Honorable Court, the said accused, by means of force and intimidation, did then and there willfully, unlawfully and feloniously insert his penis into the vagina of his daughter A3, seven (7) years old, against the will and consent of the latter, thereby subjecting her to sexual abuse, to her damage and prejudice.

CONTRARY TO LAW.¹³

As correctly held by the CA, all the elements of qualified rape were proven by the prosecution's evidence warranting the affirmance of the judgment of the courts *a quo* convicting accused-appellants. The CA's verdict is in full accord with the evidence on record.

In this case, both the RTC and the CA were one in giving credence to the testimonies of A1 and A2 that they were raped by XXX, their brother, as well as the narration of A3 who was ravished by XXX and YYY, her brother and father, respectively. They all affirmed in court their respective *Salaysay na Panghukuman* and were consistent, even during their respective cross-examinations, in their narration of how, when, and where they were raped by accused-appellants.¹⁴ The RTC found that the victims' respective testimonies were straightforward and were delivered in a clear, spontaneous, and candid manner.¹⁵

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¹¹ Id.

¹² Id. at 12-13.

¹³ Id. at 13.

¹⁴ Id. at 23-25.

¹⁵ CA *rollo* (CA-G.R. CR-HC No. 12429), pp. 71 & 83; CA *rollo* (CA-G.R. CR-HC No. 12441), p. 44.

Thus, the Court finds no basis to deviate from the settled rule that testimonies of rape victims who are young and immature are credible.¹⁶ Testimonies of child victims are given full weight and credit, for when a woman or a girl-child says that she has been raped, she says in effect all that is necessary to show that rape was indeed committed.¹⁷ This rule finds no better application than when the offender is the victim's blood relation,¹⁸ as in this case.

Indeed, where there is nothing to indicate that the witnesses for the prosecution were actuated by improper motive, their positive and categorical declarations on the witness stand under the solemnity of an oath deserve full faith and credence.¹⁹ Significantly, accused-appellants did not impute any improper motive on the victims' part to falsely testify against them. There being no fact or circumstance of weight and substance that would otherwise warrant a different conclusion, the RTC's evaluation of the credibility of the prosecution witnesses must be sustained. Thus, the CA correctly affirmed the factual findings of the RTC.

In Criminal Case Nos. 16876 and 16877, the CA modified the offense committed by XXX from simple rape to qualified rape, and correctly relied on *People v. Pruna*²⁰ (*Pruna*) in holding that the prosecution was able to prove the minority of A1 and A2. In *Pruna*, the Court laid down the following guidelines in appreciating documentary and testimonial evidence to prove the age and minority of the victim:

1. The best evidence to prove the age of the offended party is an original or certified true copy of the certificate of live birth of such party.

2. In the absence of a certificate of live birth, similar authentic documents such as baptismal certificate and school records which show the date of birth of the victim would suffice to prove age.

3. If the certificate of live birth or authentic document is shown to have been lost or destroyed or otherwise unavailable, the testimony, if clear and credible, of the victim's mother or a member of the family either by affinity or consanguinity who is qualified to testify on matters respecting pedigree such as the exact

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¹⁶ *People v. Santos*, 452 Phil. 1046, 1063 (2003).

¹⁷ *People v. Aguilar*, 643 Phil. 643, 654 (2010).

¹⁸ *People v. Sanchez*, 458 Phil. 131, 145 (2003).

¹⁹ *People v. Rosas*, 591 Phil. 111, 124 (2008).

²⁰ 439 Phil. 440 (2002).

age or date of birth of the offended party pursuant to Section 40, Rule 130 of the Rules on Evidence shall be sufficient under the following circumstances:

a. If the victim is alleged to be below 3 years of age and what is sought to be proved is that she is less than 7 years old;

b. If the victim is alleged to be below 7 years of age and what is sought to be proved is that she is less than 12 years old;

c. If the victim is alleged to be below 12 years of age and what is sought to be proved is that she is less than 18 years old.

4. In the absence of a certificate of live birth, authentic document, or the testimony of the victim's mother or relatives concerning the victim's age, the complainant's testimony will suffice provided that it is expressly and clearly admitted by the accused.

5. It is the prosecution that has the burden of proving the age of the offended party. The failure of the accused to object to the testimonial evidence regarding age shall not be taken against him.

6. The trial court should always make a categorical finding as to the age of the victim.²¹

In this case, the prosecution failed to submit A1 and A2's birth certificates or any authentic documents that reflect their age and are issued for such purpose. There was also no finding that the same had been lost or destroyed or were otherwise unavailable. However, the victims themselves and ABC, their mother, testified as to their ages at the time of the incident. This was expressly admitted by accused-appellants during the pre-trial conferences, as found by the CA. Thus, paragraph 4 of the above guidelines is applicable, such that A1 and A2's ages at the time of the rape incidents are deemed duly proven by the prosecution. The CA also noted that the victims' relationships with accused-appellants were established by the evidence because all the parties, including accused-appellants, testified on their relationship with one another.²² The CA thus correctly found XXX guilty of qualified rape in Criminal Case Nos. 16876 and 16877.

Under Article 266-A and Art. 266-B of the RPC, qualified rape is punishable by death:

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²¹ Id. at 470-471.

²² *Rollo*, pp. 21-22.

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.

x x x x

Article 266-B. Penalties. — x x x.

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; (emphasis supplied)

However, Republic Act (R.A.) No. 9346 has prohibited the imposition of the death penalty. Thus, XXX was correctly meted the penalty of *reclusion perpetua* without eligibility for parole.

Accordingly, the civil indemnity and damages awarded by the CA must be increased pursuant to the Court's ruling in *People v. Jugueta*.²³ Under said case, where the penalty imposed is death but reduced to *reclusion perpetua* because of R.A. No. 9346, as in this case, the civil indemnity, moral damages, and exemplary damages to be paid by the accused should be ₱100,000.00 each.²⁴

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²³ 783 Phil. 806 (2016).

²⁴ Id. at 850.

As regards Criminal Case Nos. 15933 and 15934, the CA modified the offense from qualified rape to statutory rape. It held that accused-appellants committed statutory rape since A3 was below twelve (12) years old when she was ravished by accused-appellants.

The CA must have overlooked that aside from affirming the finding of the RTC on A3's age at the time of the incident, it had also upheld the trial court's finding on the relationship between A3 and accused-appellants.

Hence, the minority of A3 and her filial relationship with accused-appellants raised the crime of statutory rape to qualified rape, pursuant to Art. 266-B of the RPC. YYY is A3's father, while XXX is her brother, a relative by consanguinity within the third civil degree. Thus, it was error for the CA to downgrade the offense from qualified rape to statutory rape. It bears emphasis that qualified rape is statutory rape in its qualified form;²⁵ but it is different from statutory rape as to the modes of its commission, the circumstances present, and the prescribed penalties for such crimes. In this case, the qualifying circumstances of minority and relationship were both alleged in the informations filed against accused-appellants and duly established by the prosecution during trial. Thus, the RTC properly held that accused-appellants were guilty of qualified rape.

Interestingly, despite the modification made by the CA, it affirmed the penalties imposed by the RTC which were based on the offense of qualified rape. While statutory rape is punishable by *reclusion perpetua*, the penalty for qualified rape is death, but reduced to *reclusion perpetua* without eligibility for parole, in view of R.A. No. 9346.

Hence, the Court deems it proper to revert to the original offense that accused-appellants were found liable of by the RTC, in Criminal Case Nos. 15933 and 15934, having committed qualified rape for which the penalty is *reclusion perpetua* without eligibility for parole. As regards the damages to be imposed, We affirm the CA's ruling that the amounts of civil indemnity and damages should be increased to ₱100,000.00 each.

Finally, all the amounts awarded to the victims are subject to a legal interest of six percent (6%) *per annum* from the finality of this resolution until fully paid, consistent with the Court's ruling in *Nacar v. Gallery Frames*.²⁶

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²⁵ *People v. Barcelá*, 652 Phil. 134, 149 (2010).

²⁶ 716 Phil. 267, 283 (2013).

WHEREFORE, the February 13, 2020 Decision of the Court of Appeals in CA-G.R. CR-HC Nos. 12429, 12430, and 12441 is **AFFIRMED with the following MODIFICATIONS**:

1. In Criminal Case No. 16876, accused-appellant XXX is found **GUILTY** beyond reasonable doubt of Qualified Rape. He is **SENTENCED** to suffer the penalty of *reclusion perpetua* without eligibility for parole and **ORDERED** to **PAY** the offended party ₱100,000.00 as civil indemnity, ₱100,000.00 as moral damages, and ₱100,000.00 as exemplary damages;

2. In Criminal Case No. 16877, accused-appellant XXX is found **GUILTY** beyond reasonable doubt of Qualified Rape. He is **SENTENCED** to suffer the penalty of *reclusion perpetua* without eligibility for parole and **ORDERED** to **PAY** the offended party ₱100,000.00 as civil indemnity, ₱100,000.00 as moral damages, and ₱100,000.00 as exemplary damages;

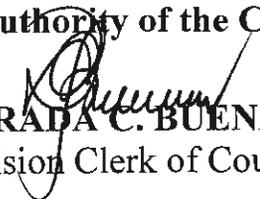
3. In Criminal Case No. 15933, accused-appellant XXX is found **GUILTY** beyond reasonable doubt of Qualified Rape. He is **SENTENCED** to suffer the penalty of *reclusion perpetua* without eligibility for parole and **ORDERED** to **PAY** the offended party ₱100,000.00 as civil indemnity, ₱100,000.00 as moral damages, and ₱100,000.00 as exemplary damages; and

4. In Criminal Case No. 15934, accused-appellant YYY is found **GUILTY** beyond reasonable doubt of Qualified Rape. He is **SENTENCED** to suffer the penalty of *reclusion perpetua* without eligibility for parole and **ORDERED** to **PAY** the offended party ₱100,000.00 as civil indemnity, ₱100,000.00 as moral damages, and ₱100,000.00 as exemplary damages;

5. The civil indemnity and the damages awarded shall earn interest at the rate of six percent (6%) *per annum* computed from the date of finality of this Resolution until full payment.

SO ORDERED.”

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court_{m5/11}

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court
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Manila
(CA-G.R. CR-HC Nos. 12429, 12430
& 12441)

The Hon. Presiding Judge
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(Crim. Case Nos. 16876, 16877, 15933
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