



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. No. 254743 (*People of the Philippines, plaintiff-appellee v. Orlando Fernandez a.k.a. “Olang,” accused-appellant*).**

This is an appeal from the July 30, 2020 Decision<sup>1</sup> of the Court of Appeals (CA) in CA-G.R. CR-HC No. 12813. The CA affirmed with modification the December 7, 2018 Judgment<sup>2</sup> of the Regional Trial Court of Urdaneta City, Pangasinan, Branch 49 (RTC), in Criminal Case No. U-15525, finding Orlando Fernandez *a.k.a.* “Olang” (*accused-appellant*) guilty beyond reasonable doubt of Qualified Statutory Rape.

In two separate Informations, both dated April 23, 2008, accused-appellant was charged with rape, the accusatory portions of which read:

In Criminal Case No. U-15524:

That on or about December 15, 2007 at x x x Pangasinan and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and feloniously have sexual intercourse with [AAA],<sup>3</sup> minor, **6 years old**, possessing moral ascendancy over the latter, against her will

- over – six (6) pages ...

**264-B**

<sup>1</sup> *Rollo*, pp. 4-26; penned by Associate Justice Franchito N. Diamante, with Associate Justices Germano Francisco D. Legaspi and Alfredo D. Ampuan, concurring.

<sup>2</sup> *CA rollo*, pp. 50-59.

<sup>3</sup> The identity of the victim or any information to establish or compromise her identity, as well as those of her immediate family or household members, shall be withheld pursuant to Section 40 of Administrative Matter No. 04-10-11-SC (Rule on Violence against Women and Their Children) and Amended Administrative Circular No. 83-2015 (Protocols and Procedures in the Promulgation, Publication, and Posting on the Websites of Decisions, Final Resolutions, and Final Orders Using Fictitious Names/Personal Circumstances).

and without her consent, to her damage and prejudice, which acts degrade and demean the intrinsic worth and dignity of said minor as a human being.

CONTRARY to Art. 266-A, par. 2 in rel. to 266-B, 6<sup>th</sup> par., as amended by R.A. 8353.

In Criminal Case No. U-15525:

That on or about 4:00 o'clock in the afternoon of December 17, 2007 at x x x Pangasinan and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and feloniously have sexual intercourse with [AAA], **minor, 6 years old**, possessing moral ascendancy over the latter, against her will and without her consent, to her damage and prejudice, which acts degrade and demean the intrinsic worth and dignity of said minor as a human being.

CONTRARY to Art. 266-A, par. 2 in rel. to 266-B, 6<sup>th</sup> par., as amended by R.A. 8353.<sup>4</sup> (emphases supplied)

The Court finds no reason to deviate from the factual findings of the RTC, as affirmed by the CA, as there is no indication that it overlooked, misunderstood or misapplied the surrounding facts and circumstances of the case. In fact, the RTC was in the best position to assess and determine the credibility of the witnesses presented by both parties; hence, due deference should be accorded to the same.<sup>5</sup>

The prosecution was able to establish the elements of qualified rape under Article 266-A(1),<sup>6</sup> in relation to Art. 266-B<sup>7</sup> of the Revised Penal Code (*RPC*), viz.: (1) accused-appellant had carnal knowledge of AAA (*the victim*) by inserting his penis in her vagina; (2) such act was accomplished through intimidation; and (3) the victim was six years old at the time of the incident.

- over -

**264-B**

<sup>4</sup> CA rollo, pp. 50-51.

<sup>5</sup> *Melgar v. People*, 826 Phil. 177, 186 (2018).

<sup>6</sup> 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[.]

x x x x

<sup>7</sup> Article 266-B. *Penalty*. — 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[.]

The minority of the victim, then 6 years old, was both alleged in the information and proven beyond reasonable doubt during trial. Likewise, the prosecution was able to present the victim's certificate of live birth, which was offered and admitted in evidence by the trial court without any objection from accused-appellant.

Despite the taxing cross-examination, the victim's testimony of the alleged act of rape was consistent and definite. Indeed, the prosecution was able to prove beyond reasonable doubt that accused-appellant was the perpetrator of the crime. The victim narrated in detail that accused-appellant ordered her to go inside the bathroom of her mother's house. The victim obeyed him. Thereafter, accused-appellant followed the victim inside the bathroom where he removed her pants, then his pants and brief. Accused-appellant seated the victim on top of a drum and thereafter inserted his penis in her vagina.

The fact that the purported first incident of rape did not deter the victim from being in the company of accused-appellant later could not be taken against her. It must be emphasized that not every victim can be expected to act with reason or conformably with the usual expectation of mankind. Rape victims react differently. Some may offer strong resistance while others may be too intimidated to offer any resistance at all. There is no standard form of reaction for a woman when faced with a shocking and horrifying experience such as sexual assault. The workings of the human mind placed under emotional stress are unpredictable, and people react differently — some may shout, some may faint, and some may be shocked into insensibility, while others may openly welcome the intrusion. However, any of these conducts does not impair the credibility of a rape victim.<sup>8</sup> Indeed, it is unfair to expect and demand a rational reaction or a standard behavioral response from the victim who, at a tender age, was confronted with such a traumatic experience.

Nonetheless, accused-appellant argues that the presence of healed lacerations in the victim's hymen negates the charge of rape. The Court disagrees.

The finding of healed lacerations does not weaken the victim's credibility nor disprove her claim that accused-appellant had raped her.<sup>9</sup> In fact, the presence of lacerations is not necessary to sustain a conviction. An accused may also be found guilty of rape regardless of

- over -

**264-B**

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<sup>8</sup> *People v. Palanay*, 805 Phil. 116, 126-127 (2017).

<sup>9</sup> *People v. Viñas*, G.R. No. 234514, April 28, 2021.

the existence or inexistence of lacerations. The absence of lacerations is not a sufficient defense. However, the presence of lacerations may be used to sustain the conviction of an accused by corroborating testimonies of abuse and documents showing trauma upon the victim's genitals.<sup>10</sup>

With regard to accused-appellant's defenses of denial and alibi, the same deserve scant consideration. It is a time-honored principle in jurisprudence that positive identification prevails over alibi since the latter can easily be fabricated and is inherently unreliable.<sup>11</sup> For alibi to prosper, not only must an accused prove that he was at another place at the time of the commission of the crime, but also that it was physically impossible for him to be at the crime scene at that time.<sup>12</sup>

Here, accused-appellant utterly failed to prove that it was physically impossible for him to commit the crime. Given the victim's positive identification of accused-appellant as the perpetrator of the crime, and the lack of physical impossibility for said accused-appellant to be at the scene of the crime at the time of its commission, accused-appellant's defenses of denial and alibi must fail.

The Court likewise notes the defense raised by accused-appellant before the RTC of his insanity in relation to a prior clinical diagnosis of schizophrenia, undifferentiated type. However, as correctly held by the RTC, he failed to prove that he was suffering from such mental illness at the time or immediately before the commission of the offense.

For the accused to be exempted from criminal liability under a plea of insanity, he must successfully show that: (1) he was completely deprived of intelligence; and (2) such complete deprivation of intelligence must be manifest at the time or immediately before the commission of the offense.<sup>13</sup>

Although accused-appellant's purported condition was supported by a Medical Certificate dated November 10, 1993, the same cannot be used as evidence in the instant case. For one, said medical certificate was issued 14 years before the incident in 2007. Notwithstanding the findings that accused-appellant might be

- over -

**264-B**

<sup>10</sup> *People v. Ibañez*, G.R. No. 231984, July 6, 2020.

<sup>11</sup> *People v. Palanay*, supra note 8 at 127.

<sup>12</sup> *People v. Dalipe*, 633 Phil. 428, 447 (2010).

<sup>13</sup> *People v. Dela Cruz*, G.R. No. 227997, October 16, 2019; *People v. Bacolot*, G.R. No. 233193, October 10, 2018, 841 SCRA 989.

suffering from schizophrenia in 1993, it cannot be a conclusive proof that accused-appellant was also suffering from said illness at the time of the commission of the crime. Accused-appellant's history of schizophrenic disorder will not suffice to free him from criminal liability, there being no proof that he was suffering from the illness at the time or during the rape incident.

Moreover, it was not established that said illness completely deprived accused-appellant of reason and/or intelligence to act. To reiterate, the defense of insanity may be accorded weight only if there is also proof of abnormal psychological behavior immediately before or simultaneous with the commission of the crime. The evidence on the alleged insanity must refer to the time preceding the act under prosecution or at the very moment of execution.<sup>14</sup> This, accused-appellant utterly failed to establish.

As to the penalty, the lower courts correctly imposed the penalty of *reclusion perpetua* without eligibility for parole, in view of Republic Act No. 9346,<sup>15</sup> which prohibits the imposition of the death penalty. The lower courts aptly awarded civil indemnity, moral damages, and exemplary damages of ₱100,000.00 each, and likewise correctly imposed a six percent (6%) *per annum* interest thereon from the finality of the decision until full satisfaction, in line with current jurisprudence.<sup>16</sup>

**WHEREFORE**, the appeal is **DISMISSED**. The Court **AFFIRMS** the findings of fact and conclusions of law in the July 30, 2020 Decision of the Court of Appeals in CA-G.R. CR-HC No. 12813. Accused-appellant Orlando Fernandez *a.k.a.* "Olang" is **GUILTY** beyond reasonable doubt of the crime of Qualified Statutory Rape under Article 266-A, paragraph 1(a) in relation to Article 266-B(1) of the Revised Penal Code, as amended by Republic Act No. 8353, and is hereby sentenced to suffer the penalty of *reclusion perpetua* without eligibility for parole.

Accused-appellant is **ORDERED** to **PAY** AAA the amounts of ₱100,000.00 as civil indemnity, ₱100,000.00 as moral damages, and ₱100,000.00 as exemplary damages. All amounts awarded shall earn interest at the rate of six percent (6%) *per annum* from the date of finality of judgment until fully paid.

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**264-B**

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<sup>14</sup> See *People v. Bacolot*, supra at 1001-1002.

<sup>15</sup> Anti-Death Penalty Law.

<sup>16</sup> *People v. XXX*, G.R. No. 244047, December 10, 2019.

**SO ORDERED.”**

**By authority of the Court:**

  
**LIBRADA C. BUENA**  
Division Clerk of Court *mb/k*

by:

**MARIA TERESA B. SIBULO**  
Deputy Division Clerk of Court  
**264-B**

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Court of Appeals (x)  
Manila  
(CA-G.R. CR HC No. 12813)

The Hon. Presiding Judge  
Regional Trial Court, Branch 49  
Urdaneta City, 2428 Pangasinan  
(Crim. Case No. U-15525)

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