



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Third Division, issued a Resolution dated **March 16, 2022**, which reads as follows:*

“G.R. No. 254746 (People of the Philippines v. Eleuterio Polvorido, Jr.).

- The Court resolves to:

(1) **NOTE:**

- (a) accused-appellant’s Manifestation (in Lieu of Supplemental Brief) dated May 28, 2021, stating that he adopts the Brief for the Accused-Appellant as his supplemental brief, for the same has adequately discussed all the matters pertinent to the accused-appellants’ defense; and
 - (b) the Office of the Solicitor General’s Manifestation (in Lieu of Supplemental Brief) dated May 31, 2021, stating that it dispenses with the filing of the supplemental brief as the facts, issues and pertinent arguments involved in the present appeal have been succinctly discussed in its Brief for the Appellees dated September 25, 2018;
- (2) **DIRECT** the Superintendent of the New Bilibid Prison, Bureau of Corrections, Muntinlupa City, to **CONFIRM** to the Court the confinement therein of accused-appellant within five (5) days from notice hereof.

The appeal must fail.

Under Article 266-A (1) (d) in relation to Article 266-B (10) of the Revised Penal Code (RPC), qualified rape requires the following elements:

- (1) appellant had carnal knowledge of a woman;
- (2) such act is accomplished by using force or intimidation; and

(3) the offender knew of the physical handicap of the offended party at the time of the commission of the crime.¹

The trial court gave full credence to the positive, clear, and straightforward testimony of AAA. Indeed, the credible testimony of the victim in rape cases is sufficient to sustain a verdict of conviction. And while Dr. Mary Ann Sadia Cajandig's Medico-Legal finding that AAA had a "parous vagina" is not conclusive of penile penetration, it does not negate AAA's claim that she had been raped.² It is settled that rape is committed even with the slightest penetration of the woman's sex organ. Mere entry of the labia or lips of the female organ even without rupture of the hymen or laceration of the vagina is sufficient to warrant conviction for consummated rape.³

Too, AAA's physical handicap, being known to appellant when he raped her, was both alleged and proved. For one, any person who sees a wheelchair-bound individual would readily assume that such person has a walking disability. With more reason in the case of appellant who was supposed to be a long-time family friend of AAA and her husband BBB. For another, appellant did not deny that he was aware of AAA's disability at the time of the alleged rape incident.

As for the element of force, AAA testified that while she was sitting up on the floor, holding her baby, appellant pushed her into the room.

There, he forced her to lie down causing the latter to drop her baby on the floor. Then, in front of the baby, through force and intimidation, he had carnal knowledge of her against her will. He threatened her not to shout or he would hurt her baby.

The fact that she informed BBB of the incident only on the following day should not militate against her credibility. She explained that before she told BBB about the incident, she had to make sure that appellant was no longer around since she feared for the safety of her family and herself. For appellant threatened to kill her and her family should she report the incident to BBB.

In any event, delay in reporting the commission of a crime such as rape does not necessarily render such charge unworthy of belief. Only when the delay is unreasonable or unexplained may it work to discredit the complainant which is not the case here.⁴

¹ People v. Nicolas, 436 Phil. 462, 476 (2002).

² Defined as "having produced offspring" or "relaxation of the vaginal outlet" by the Merriam-Webster Dictionary, <https://www.merriam-webster.com/dictionary/parous> <last accessed on February 28, 2022>

³ People v. Gragasin, 613 Phil. 574, 592 (2009).

⁴ See People v. AAA, G.R. No. 248777, July 07, 2020.

Finally, there is no showing that AAA was impelled by any improper motive to falsely accuse appellant of such heinous crime of rape. Where there is no evidence that the principal witness for the prosecution was actuated by improper motive, the presumption is that he or she was not so actuated and his or her testimony is entitled to full credence.⁵

We have consistently pronounced that both denial and alibi are inherently weak defenses because they can easily be fabricated.⁶ These cannot prevail over the positive and credible testimony of the prosecution witness who consistently identified the accused as the one who committed the crime. Thus, as between a categorical testimony which has a ring of truth, on one hand, and mere denial and alibi, on the other, the former prevails.⁷

In any case, when the issue is one of credibility of witnesses, the Court will generally not disturb the trial court's findings, especially when the same were already affirmed in full by the Court of Appeals, as in this case. The trial court indeed is in a better position to decide the question of credibility as it heard the witnesses themselves and observed their deportment and the manner by which they testified during the trial.⁸

So must it be.

Penalty

Under Article 266-B of the RPC, the prescribed penalty is death where the offender knew of the physical handicap of the offended party at the time of the commission of the crime. By virtue of Republic Act No. 9346 (RA 9346), however, the death penalty is reduced to *reclusion perpetua* without eligibility for parole. Section 3 of RA 9346 states:

SEC. 3. Person convicted of offenses punished with *reclusion perpetua*, or whose sentences will be reduced to *reclusion perpetua*, by reason of this Act, shall not be eligible for parole under Act No. 4180, otherwise known as the Indeterminate Sentence Law, as amended.

Verily, the Court of Appeals correctly sentenced appellant to *reclusion perpetua* without eligibility for parole in accordance with Section 3 of RA 9346.

On the civil indemnity and damages, the Court of Appeals correctly awarded (a) Php100,000.00 as civil indemnity; (b) Php100,000.00 as moral

⁵ See *People v. Renato Galuga*, G.R. No. 221428, February 13, 2019.

⁶ See *People v. Villamor*, 780 Phil. 817, 825 (2016).

⁷ See *People v. Batalla*, G.R. No. 234323, January 7, 2019.

⁸ See *People v. Bay-Od*, G.R. No. 238176, January 14, 2019.

damages; and (c) Php100,000.00 as exemplary damages, in accordance with prevailing jurisprudence. These amounts shall earn six percent (6%) interest *per annum* from finality of this Resolution until fully paid.

ACCORDINGLY, the appeal is **DISMISSED** and the Decision dated June 9, 2020, **AFFIRMED**.

Appellant Eleuterio Polvorido, Jr. is found **GUILTY** of **QUALIFIED RAPE** in Criminal Case No. 7348. He is sentenced to *reclusion perpetua* without eligibility for parole and ordered to pay Php100,000.00 as civil indemnity; Php100,000.00 as moral damages; and Php100,000.00 as exemplary damages.

These amounts shall earn six (6%) percent interest *per annum* from finality of this Resolution until fully paid.

SO ORDERED.”

By authority of the Court:

MisaelDCB-H
MISAELO DOMINGO C. BATTUNG III
Division Clerk of Court
SGA
4/25/22

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