



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **October 19, 2022**, which reads as follows:*

“**G.R. No. 257096 (People of the Philippines v. XXX¹)**. — On appeal is the February 5, 2021 Decision² of the Court of Appeals (CA) in CA-G.R. CR-HC No. 12998, affirming the March 8, 2019 Decision³ of the Regional Trial Court (RTC), Branch 194 of [REDACTED] in Criminal Case No. 2016-0033 which found accused-appellant XXX guilty beyond reasonable doubt of the crime of Qualified Rape under Article 266-A (1)(a) of the Revised Penal Code (RPC) in relation to Art. 266-B(1), as amended by Republic Act No. (RA) 8353⁴ or the Anti-Rape law of 1997.

The accusatory portion of the Information⁵ charging XXX with Qualified Rape reads:

That sometime in the month of September 2014, in the [REDACTED]
[REDACTED],⁶ Philippines and within the jurisdiction of this
Honorable Court, the above-named accused, being then the

¹ Initials were used to identify the accused-appellant pursuant to the Supreme Court Amended Administrative Circular No. 83-2015 dated September 5, 2017 entitled “Protocols and Procedures in the Promulgation, Publication, and Posting on the Websites of Decisions, Final Resolutions, and Final Orders using Fictitious Names/Personal Circumstances.”

² *Rollo*, pp. 8-29. Penned by Associate Justice Elihu A. Ybañez and concurred in by Associate Justices Rafael Antonio M. Santos and Raymond Reynold R. Lauigan.

³ *Id.* at 31-36. Penned by Presiding Judge Marie Grace Javier Ibay.

⁴ Entitled “AN ACT EXPANDING THE DEFINITION OF THE CRIME OF RAPE, RECLASSIFYING THE SAME AS A CRIME AGAINST PERSONS, AMENDING FOR THE PURPOSE ACT NO. 9815, AS AMENDED, OTHERWISE KNOWN AS THE REVISED PENAL CODE AND FOR OTHER PURPOSES.” Approved on September 30, 1997.

⁵ Records, pp. 2-3.

⁶ Geographical location is blotted out pursuant to Supreme Court Amended Administrative Circular No. 83-2015.

biological father of the complainant, AAA,⁷ 13 years old, a minor, with moral ascendancy upon her, by means of force, threats or intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge [of] said complainant, by then and there caressing her vagina, and thereafter, inserting his penis into her vagina, against her will and without her consent, to the damage and prejudice of the said complainant.

CONTRARY TO LAW.⁸

XXX was arrested on April 12, 2016 at Barangay [REDACTED].⁹ Upon arraignment, XXX pleaded “not guilty” to the crime charged.¹⁰ Pretrial ensued and the parties stipulated on the following: 1) The jurisdiction of the trial court as a Family Court; 2) Identity of the accused as the one named in the Information; and 3) The minority of the private complainant, subject to the presentation of the Certificate of Live Birth.¹¹

Version of the Prosecution

The prosecution presented the testimonies of private complainant AAA and BBB. Meanwhile, the direct testimony of medico-legal expert Dr. Sandra Stuart Hernandez (Dr. Hernandez) was stipulated upon but was subjected to cross examination by the defense.¹² Lastly, the testimony of Senior Police Officer 1 Maria Q. Bautista was dispensed with and stipulated upon.¹³

The following were thus culled:

AAA was born on August 26, 2002 and her biological father is accused-appellant XXX.¹⁴ Sometime in September 2014 at around 2:00 p.m., AAA was sleeping inside their home at [REDACTED]. Her mother was not around. One of her

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. Dumadag*, 667 Phil. 664, 669 [2011]).

⁸ Id. 2.

⁹ Id. at 42.

¹⁰ Id. at 72.

¹¹ Id. at 63-64.

¹² Id. at 161; The nature of the would be direct testimony of Dr. Hernandez was stipulated upon: 1) she is an expert witness; 2) that she conducted General/Physical and Ano-genital examination on minor complainant dated September 23, 2015; 4) that she reduced her finding on said Final Medico-Legal Report; 5) that she also asked the parties involved to sign the Consent Form of UP-PGH CPU; 6) that she received the Request for Examination from the City Social Welfare and Development Office, [REDACTED]; 7) that she will be able to identify the Request for Examination from the City Social Welfare and Development Office, [REDACTED].

¹³ Id. at 162; It was stipulated that the witness was as the one who took the Sinumpaang Salaysay of Mary Rose and that she had no personal knowledge of the incident that transpired.

¹⁴ Records, p. 181.

brothers, although at home, was also asleep.¹⁵ She was roused from her sleep when she felt that her shorts and panties were being pulled down. She was awakened and saw that her father was undressing her. She resisted but her father prevailed. He then undressed by removing his shorts. He touched his daughter's private organ, mounted her and inserted his penis into her vagina. AAA strongly struggled but XXX threatened that he will kill her and her mother.¹⁶

It took AAA four days after the harrowing experience to tell her mother CCC what she suffered in the hands of her very own father. However, CCC did nothing as she herself was afraid of her husband XXX.¹⁷

It was only in 2015 when the incident was reported to the authorities when BBB, AAA's cousin, learned of the rape. She accompanied AAA to the police to report the defilement AAA's father did to her. They were then referred to the office of Department of Social Welfare and Development (DSWD) in [REDACTED] which endorsed them to the Child Protection Unit of the Philippine General Hospital (PGH) in order for AAA to be examined under medico-legal and psychosocial intervention.¹⁸

Dr. Hernandez of PGH, with the written consent of BBB,¹⁹ conducted the physical and *ano-genital* examination on AAA. Dr. Hernandez reduced her findings in the Final Medico-Legal Report.²⁰ The medical impression stated: "No evident injury at the time of examination but medical evaluation cannot exclude sexual abuse."²¹

Version of the Defense

The defense vehemently denied the narration of the prosecution. XXX refuted the charges against him and averred that it was merely concocted and was borne out of his wife and children's resentment against him because of his constant drinking.²² He claimed that he could not recall any unusual incident that transpired in the whole month of September 2014 except when he had a physical altercation with his two sons after they sided with their mother during an argument. He maintained that he would start his day at 2:00 a.m. buying fish in the "bulungan." He would then deliver the fish orders in the canteens he was supplying. Thereafter, he would proceed to [REDACTED] Market to open his fish stall at around 4:00 a.m. He usually closes his stall at 12:00 noon and would go the house of his buddy YYY to have a drink. He would return to his stall and go home at around 10:30 to 11:00 p.m. By the time he gets home,

¹⁵ Id. at 179.

¹⁶ TSN, August 29, 2017, pp. 5-6.

¹⁷ Id. at 16.

¹⁸ Id.

¹⁹ Records, p. 184

²⁰ Id. at 183-186.

²¹ Id. at 183.

²² TSN, August 7, 2018, p. 6.

his wife and children were already sleeping.²³

Ruling of the Regional Trial Court

The RTC rendered a Decision²⁴ finding XXX guilty of Qualified Rape. The trial court disposed the cases in this wise:

WHEREFORE, premises considered, accused [XXX] is found **GUILTY** beyond reasonable doubt of the crime of incestuous rape of a minor under Article 266-A (1) in relation to Article 266-B of the Revised Penal Code as amended by Republic Act No. 8353 and, pursuant to RA 9346 which prohibits the imposition of the supposed penalty of death, accused is hereby sentenced to suffer the penalty of *reclusion perpetua* without eligibility of parole.

Accused [XXX] is further ordered to pay the following civil liabilities to the private complainant plus 6% interest *per annum* on the total monetary awards from finality of decision until fully paid:

- 1) P75,000.00 as civil indemnity;
- 2) P75,000.00 as moral damages; and
- 3) P30,000.00 as exemplary damages.

As the accused is a detention prisoner, the period of his detention shall be credited in the period of his sentence.

The Board of Pardons and Parole shall include the name of the accused among those persons convicted of crimes punished with *reclusion perpetua* by reason of RA 9346 in publication required by its Section 4.

SO ORDERED.²⁵

The trial court convicted XXX of Qualified Rape on the basis of the totality of evidence presented by the prosecution. The RTC gave more credence to AAA's positive and categorical declaration that she was raped by her father. It also stated that a medico-legal finding was merely corroborative in nature. As to the denial and alibi interposed by the defense, the trial court gave no merit to the same considering that at the time of the incident, he was admittedly merely drinking with his buddy. As to his claim that the charges were concocted by his family, the RTC rejected the allegation since it was too shallow to bear weight grave enough to impugn a crime.²⁶

Aggrieved, XXX appealed his conviction before the appellate court.²⁷ XXX raised the following arguments, *viz.*: 1) The Information failed to state the approximate date of the commission of the alleged offenses in violation of his constitutional right to be informed; 2) The trial court erred in heavily

²³ Id. at 5-6 and 10-13.

²⁴ *Rollo*, pp. 31-36.

²⁵ Id. at 36.

²⁶ Id. at 34-35.

²⁷ *CA rollo*, pp. 12-13.

relying on the materially inconsistent testimonies of AAA in open court *vis-à-vis* her *Sinumpaang Salaysay* on the alleged insertion of XXX's penis into her vagina; and 3) The medico-legal report stating that no injuries were found on AAA contradicted the allegation of rape.²⁸

Ruling of the Court of Appeals

Finding no reversible error in the RTC Decision, the CA upheld the trial court's judgment of conviction. However, it modified the award of damages.²⁹ The dispositive portion of the judgment reads:

FOR THESE REASONS, the Decision rendered by Branch 194 of the [REDACTED] of the Regional Trial Court of [REDACTED] dated 08 March 2019 finding accused-appellant WWW guilty beyond reasonable doubt of the crime of Rape in Criminal Case No. 2016-0033 is hereby **AFFIRMED WITH MODIFICATION** in that [XXX] is ordered to pay the victim AAA civil indemnity in the amount of One Hundred Thousand Pesos (P100,000.00), moral damages in the amount of One Hundred Thousand Pesos (P100,000.00) and exemplary damages in the amount of One Hundred Thousand Pesos (P100,000.00). Legal interest of six percent (6%) per *annum* is hereby imposed on all the monetary awards from the finality of this Decision until fully paid.

SO ORDERED.³⁰

Undeterred, accused-appellant brought the case before Us with the same arguments raised in the appellate court.³¹ The fundamental issue in this present appeal is whether the CA correctly found accused-appellant guilty of Qualified Rape.

Our Ruling

The appeal is dismissed.

***Date of commission of rape
not required to be stated with
exactitude***

In crimes where the date of commission is not a material element, it is not necessary to allege such date with absolute specificity or certainty in the information.³² The Rules of Court merely requires, for the sake of properly informing an accused, that the date of commission be approximated.³³

²⁸ *Rollo*, pp. 14-15

²⁹ *Id.* at 17-27.

³⁰ *Id.* at 27-28.

³¹ *Id.* at 3.

³² See *People v. Delfin*, 738 Phil. 811, 817 (2014).

³³ See *People v. Daguno*, G.R. No. 235660, March 4, 2020.

Secs. 6 and 11, Rule 110 of the Rules of Court are instructive on the matter:

Sec. 6. Sufficiency of complaint or information. – **A complaint or information is sufficient if it states** the name of the accused; the designation of the offense given by the statute; the acts or omissions complained of as constituting the offense; the name of the offended party; **the approximate date of the commission of the offense;** and the place where the offense was committed.

When an offense is committed by more than one person, all of them shall be included in the complaint or information.

Sec. 11. Date of commission of the offense. - **It is not necessary to state in the complaint or information the precise date the offense was committed except when it is a material ingredient of the offense.** The offense may be alleged to have been committed on a date as near as possible to the actual date of its commission. (Emphasis supplied).

In *People v. Espejon*,³⁴ a case on all fours, the Court *En Banc* explained that the date or time of the commission of the rape need not be alleged with precision. It is enough for the information or complaint to state that the crime has been committed at a time as near as possible to the date of its actual commission. Failure to allege the exact date when the crime happened does not render the information defective, much less void. We quote the relevant portion of the ruling, to wit:

Appellant argues that because the Information had not specifically alleged the exact date of the commission of the crime, he was deprived of the opportunity to defend himself fully. On this premise, he claims that the Information should be considered fatally defective and void. According to him, such defect cannot be cured by evidence, without jeopardizing his right to be informed of the nature of the charge against him.

We are not persuaded. An information is valid as long as it distinctly states the elements of the offense and the acts or omissions constitutive thereof. **The exact date of the commission of a crime is not an essential element of it. Thus, in a prosecution for rape, the material fact or circumstance to be considered is the occurrence of the rape, not the time of its commission. The failure to specify the exact date or time when it was committed does not ipso facto make the information defective on its face.**

In *People v. Magbanua*, the Court had the occasion to rule on this matter thus:

Although the information did not state with particularity the dates when the sexual attacks took place, we believe that the allegations therein that the acts were committed **‘[i]n the**

³⁴ 427 Phil. 672 (2002).

year 1991 and the days thereafter' substantially apprised appellant of the crime he was charged with since all the essential elements of the crime of rape were stated in the information. As such, appellant cannot complain that he was deprived of the right to be informed of the case filed against him. An information can withstand the test of judicial scrutiny as long as it distinctly states the statutory designation of the offense and the acts or omissions constitutive thereof.

Justifying the ruling, the Court continued:

x x x. **The date or time of the commission of rape is not a material ingredient of the said crime because the gravamen of rape is carnal knowledge of a woman through force and intimidation. In fact, the precise time when the rape takes place has no substantial bearing on its commission.** As such, the date or time need not be stated with absolute accuracy. It is sufficient that the complaint or information states that the crime has been committed at any time as near as possible to the date of its actual commission. x x x.³⁵ [Emphasis Ours; Citation omitted]

Here, the allegation “That sometime in the month of September 2014” in the Information,³⁶ indicating the month and year as the approximate time of the rape, is sufficient to apprise the accused-appellant. Thus, it did not violate his constitutional right to be informed. His allegation that it placed him in an unfair position with an unreasonable burden of having to recall his activities during the entire duration of September 2014 is clearly unfounded.

As correctly ruled by the CA, the date and time of the commission of the crime of rape becomes important only when it creates a serious doubt as to the commission of the rape itself, or the sufficiency of the evidence for purposes of conviction, or when the accuracy and truthfulness of the complainant’s narration practically hinge on the date of the commission of the crime.³⁷

In the case at bar, AAA’s testimony was credible, clear, and straightforward that the date of the commission of the sexual defilement on her is immaterial to the fact of its commission. Nevertheless, when the accused-appellant pled not guilty under the assailed Information during his arraignment, instead of filing a motion to quash anent the date of commission, he already waived his right to question its form and deemed such inaction a waiver of any objections based on the grounds provided for by the rules.³⁸

***All elements including minority
and relationship must be proven***

³⁵ Id. at 680-681.

³⁶ Records, p. 2.

³⁷ *Rollo*, p. 18.

³⁸ RULE 117, SECTIONS 1, 3, 4, 7.

*to sustain conviction of
Qualified Rape*

Art. 266-A, par. (1) of the RPC provides when and how rape is committed, thus: (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 12 years of age or is demented, even though none of the circumstances mentioned above be present.³⁹

Rape becomes qualified 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.”⁴⁰ Thus, the elements of Qualified Rape are: “(1) sexual congress; (2) with a woman; (3) done by force, [threat or intimidation] and without consent [or those instances cited in Art. 266-A of the RPC]; (4) the victim is under [18] years of age at the time of the rape; and (5) the offender is [either] a parent (whether legitimate, illegitimate or adopted), [ascendant, stepparent, guardian, relative by consanguinity or affinity within the third civil degree, or the common-law spouse of the parent] of the victim.”⁴¹

In this case, AAA’s minority and her relationship with the accused-appellant, being her own father were not only properly alleged but also admitted during pre-trial,⁴² and proven during trial. The fact of her minority, *i.e.*, 12 years old, at the time the crime was committed against her was evidenced by her Certificate of Live Birth which was duly presented and admitted.⁴³ As to the commission of the rape itself, the private complainant was able to narrate the sexual molestation she suffered in the hands of the accused-appellant in a detailed, clear, straightforward, and unequivocal manner that can stand on its own even without corroboration from other witnesses. The relevant portion of her narration against her own father reveals:

PROS. C. P. MENDOZA:

Q: [AAA], kilala mo itong si [XXX]?

WITNESS [AAA] (Private complainant)

A: Opo.

³⁹ REVISED PENAL CODE, ARTICLE 266-A, AS AMENDED BY REPUBLIC ACT NO. 8353 (1997).

⁴⁰ REVISED PENAL CODE, ARTICLE 266-B, AS AMENDED BY REPUBLIC ACT NO. 8353 (1997).

⁴¹ See *People v. De Guzman*, G.R. No. 224212, November 27, 2019, citing *People v. Salaver*, 839 Phil. 90, 102 (2018), citing *People v. Colentava*, 753 Phil. 361, 372-373 (2015).

⁴² Records, pp.63-64

⁴³ *Id.* at 181.

Q: Bakit mo siya kilala?

A: Papa ko po siya.

Q: Doon sa Certificate of Live Birth mo may nakapangalang tatay, paki basa nga para sa korteng ito?

A: [XXX], po.

Q: [AAA], nandito ka sa korte tumetestigo laban sa kanya, kinasuhan mo siya, bakit?

A: Dahil sa paghipo sa akin tapos ginalagaw niya po ako.

Q: Pag sinabi mong ginalaw, ano ang ibig mong sabihin?

A: Pinasok niya po ang ari niya sa ari ko po.

x x x x

Q: Bago nangyari yung panghihipo at pagalaw sa iyo ng papa mo, ano naman ang ginawa mo muna?

A: Kumakain po ako noon tapos pagkatapos ko pong kumain natulog ako.

Q: Tapos anong sumunod na nangyari?

A: Nagising po ako ng may naghuhubad po sa akin.

Q: Sino yung nakita nanghuhubad sa iyo?

A: Si papa po.

Q: Nahubaran ka ba niya?

A: **Nanlaban po ako ng konti pero natanggal na rin po yung ano po.**

Q: Sabi mo na, natanggal niya?

A: Opo.

Q: Ano yung natanggal niya?

A: Yung short ko po at saka yung panty.

Q: Pagkatapos niyang tanggalin yung short at panty mo, anong nangyari? Anong sumunod niyang ginawa?

A: **Naghubad na rin po siya tapos po pinasok niya po yung ari sa akin po.**

Q: Sabi mo naghubad siya, ano yung hinubad niya?

A: Yung pag[sic] ibaba niya po.

x x x x

Q: Pagkatapos niyang maghubad, anong ginawa niya?

A: Pinasok niya po yung ari niya sa ari ko po.

Q: Noong pinasok niya yung ari niya sa ari mo, ano yung posisyon niya, nasa tabi mo ba siya o nasa ibabaw mo, ganon?

A: Ibabaw po.

Q: Ano naramdaman mo noong pinasok niya yung ari din niya sa ari mo?

A: Masakit po.

Q: Ano ang ginawa mo habang ginagawa niya iyon?

A: Nanlaban po ako.

Q: Paano ka nanlaban?

A: Pinipilit ko pong tinutulak siya sa harapan ko.

Q: Natulak mo ba siya?

A: Hindi po.

Q: Anong ginawa niya habang tinutulak mo siya?

A: **Tinatakot niya po ako na papatayin niya ako tapos sila mama.**⁴⁴
(Emphasis and underscoring Ours)

It is thus undeniable that the private complainant was raped by XXX, her own father, who had moral ascendancy over her, by employing force, threats and intimidation. The elements of the crime were satisfied and this Court agrees with the CA in sustaining the trial court's reliance on the positive and categorical testimony of private complainant in establishing the guilt of accused-appellant.

*Complete reading of statement
necessary to fully comprehend
the narration of the witness;
Minor inconsistencies not
fatal*

Accused-appellant avers that the private complainant's testimony was incredible due to the inconsistencies between her *Sinumpaang Salaysay*⁴⁵ and her testimony in open court. He argues that there was only a mere impression of penetration in light of her statements in her *Sinumpaang Salaysay* stating that she cried and prompted the accused-appellant stop.⁴⁶

We find the argument of accused-appellant preposterous.

A complete reading of her *Sinumpaang Salaysay* reveals no inconsistency at all as alleged by the accused appellant. The fact that she was raped by accused-appellant was established in both her *Sinumpaang Salaysay* and testimony in open court. An excerpt of her statement in the *Sinumpaang Salaysay*, reads:

10. TANONG: Maari mo bang isalaysay ang mga pangyayari?

SAGOT: Opo, ganito po yon ako po ay natutulog noon hapon nayon, ang mama ko ay wala at nasa trabaho rin kasama kuya [DDD] ko na natutulog ng oras din yon, nagising na lang ako sa aking pagkatulog ng maramdaman ko na lang na hinubaran na ako ng short at panty ni papa tapos, hinipuan ako sa aking pepe, at naghubad din siya ng suot nito na pang ibaba **tapos**

⁴⁴ TSN, August 29, 2017, pp. 4-7.

⁴⁵ Records, pp. 11-12.

⁴⁶ CA rollo, p. 50.

ipinasok nito ang ari nya' sa pepe ko, at ako ay lumaban at nagpumilit pa rin siya kaya iyak ako ng iyak at tumigil din sa ginagawang panghahalay sa akin.⁴⁷ (Emphasis Ours)

Thus, the private complainant was clear that her father forcefully inserted his penis into her vagina thereby successfully raping her. He only stopped after the defilement has been done.

Verily, if there is any inconsistency between the affidavit and the testimony of a witness, the latter should be given more weight since affidavits being taken *ex-parte* are usually incomplete and inaccurate. In the same vein, minor inconsistencies in the victim's testimony do not impair her credibility or alter or diminish the essential fact of the commission of rape.⁴⁸

In *People v. Ganaba*,⁴⁹ this Court elucidated on the matter:

Rape is a painful experience which is oftentimes not remembered in detail. For such an offense is not analogous to a person's achievement or accomplishment as to be worth recalling or reliving; rather, **it is something which causes deep psychological wounds and casts a stigma upon the victim, scarring her psyche for life and which her conscious and subconscious mind would opt to forget. Thus, a rape victim cannot be expected to mechanically keep and then give an accurate account of the traumatic and horrifying experience she had undergone.**⁵⁰ (Emphasis Ours; citations omitted)

Hence, minor lapses, such as seemingly vague narrations, are to be expected when a person is recounting details of a humiliating experience which are painful to recall. Oftentimes, victims or witnesses are testifying in the presence of strangers about an extremely intimate matter not normally talked about in public. Such circumstances may be expected to cause their narration to be less than letter-perfect.⁵¹ Be as it may, those minor lapses, most often than not, only fortify the testimony as badges of truth. After all, when the victim's testimony is credible, even if there are minor inconsistencies or lapses, it may still be the sole basis for the accused's conviction, such as in this case.

Medical findings are corroborative in nature and not an element of rape

Accused-appellant, in an attempt to reverse his conviction, alleges that the medical findings belie the private complainant's charge of rape.⁵²

⁴⁷ Records, p. 11.

⁴⁸ 829 Phil. 306 (2018).

⁴⁹ G.R. No. 219240. April 4, 2018.

⁵⁰ Id. at 320.

⁵¹ See *People v. Natan*, 581 Phil. 649, 655 (2008).

⁵² CA rollo, pp. 51-53.

We disagree. As correctly found by the CA:

A perusal of the medico-legal report would show that no evident injury was found from AAA at the time of the examination on 23 September 2015. However, the absence of healed lacerations cannot be the sole basis of accused-appellant's acquittal for it has been repeatedly held that a medico-legal's findings are at most corroborative because they are mere opinions that can only infer possibilities and not absolute necessities. **A medico-legal, who did not witness the actual incident, cannot testify on what exactly happened as his[/her] testimony would not be based on personal knowledge or derived from his[/her] own perception. Consequently, a medicolegal's [sic] testimony cannot establish certain fact as it can only suggest what most likely happened. Even the medico-legal report [in this case] categorically stated that despite the finding that there was no evident injury at the time of examination, it cannot exclude sexual abuse.**

In the case of *People v. Austria*, the Supreme Court cited their ruling in *Gabayron* where the conviction of the accused for rape was sustained even though the victim's hymen remained intact after the incidents because medical researches show that negative findings of lacerations are of no significance, as the hymen may not be torn despite repeated coitus. It was noted that many cases of pregnancy has been reported about women with unruptured hymens, and that there could still be a finding of rape even if, despite repeated intercourse over a period of years, the victim still retained an intact hymen without signs of injury.⁵³ (Citations omitted; emphasis Ours)

Thus, the existence of injuries is not an indispensable element of rape and need not be proved to attain conviction. Medical findings and expert testimonies are merely corroborative in character and a conviction may stand even if based solely on the victim's credible testimony.⁵⁴ In the case at bar, although the medical findings stated that no injury was found on the private complainant, it also expressly stated that medical evaluation cannot exclude sexual abuse. The conclusion of the medico-legal expert in this case only served to boost the private complainant's position that she was indeed raped.⁵⁵

Defenses of denial and alibi are inherently weak

This Court also rejects the defenses of denial and alibi of the accused-appellant stating that the charges were borne out of his wife and children's resentment due to his constant drinking, and that he was somewhere else when

⁵³ *Rollo*, pp. 25-26.

⁵⁴ *People v. Pareja*, 724 Phil. 759, 780 (2014).

⁵⁵ Records, p. 14.

the crime was committed based on his daily schedule.⁵⁶

Defenses of denial and alibi are inherently weak defenses which constitute self-serving negative evidence, especially when weighed against the clear, positive, and credible assertions of the victim which are entitled to greater evidentiary weight.⁵⁷

For the defenses of denial and alibi to prosper, the settled rule is that the accused must prove that he was somewhere else when the offense was committed **and** that he was so far away that it was not possible for him to have been physically present at the place of the crime or at its immediate vicinity at the time of its commission.⁵⁸

Here, the denial and alibi of the accused-appellant failed the test as his defense was not only uncorroborated but also flimsy and unworthy of belief.

All told, the CA correctly affirmed the conviction of the accused-appellant for the crime of Qualified Rape and sentenced him to suffer the penalty of *reclusion perpetua* without eligibility for parole and appropriately modified the awards of civil indemnity, moral damages and exemplary damages in the amount of ₱100,000.00 each. Interest at the rate of six percent (6%) *per annum* on all damages awarded from date of finality of this resolution until full payment was correctly imposed based on prevailing jurisprudence.⁵⁹

WHEREFORE, the appeal is **DISMISSED** for lack of merit. The February 5, 2021 Decision of the Court of Appeals in CA-G.R. CR-HC No. 12998 which found accused-appellant XXX guilty beyond reasonable doubt of the crime of Qualified Rape under Article 266-A (1)(a) of the Revised Penal Code in relation to Article 266-B(1) as amended by Republic Act No. 8353 or the Anti-Rape law of 1997 is **AFFIRMED**.

The accused-appellant's Manifestation (in Lieu of Supplemental Brief), pursuant to the Resolution dated November 15, 2021; and the Office of the Solicitor General's Manifestation in Lieu of Supplemental Brief, pursuant to the Resolution dated November 15, 2021, are both **NOTED**; and the Office of the Solicitor General is required to **SUBMIT**, within five (5) days from notice hereof, a soft copy in compact disc, USB or e-mail containing the PDF file of the signed manifestation in lieu of supplemental brief, pursuant to A.M. Nos. 10-3-7-SC and 11-9-4-SC.

⁵⁶ CA rollo, p. 45.

⁵⁷ *People v. Villanueva*, G.R. No. 230723, February 13, 2019.

⁵⁸ *People v. Ganaba*, supra note 51 at 322.

⁵⁹ See *People v. Jugueta*, 783 Phil. 806, 848 (2016).

SO ORDERED.”

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court *ok 11/9*

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court
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Court of Appeals (x)
Manila
(CA-G.R. CR-HC No. 12998)

The Hon. Presiding Judge
Regional Trial Court, Branch 194
1700 Parañaque City
(Crim. Case No. 2016-0033)

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The Director General
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