



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated September 21, 2022, which reads as follows:

“G.R. No. 259739 (*People of the Philippines v. XXX*)¹. — On appeal² is the January 8, 2021 Decision³ of the Court of Appeals (CA) in CA-G.R. CR-HC-02064-MIN that affirmed with modifications the August 7, 2018 Judgment⁴ of the Regional Trial Court (RTC), Branch 43, [REDACTED]⁵ in Criminal Case No. 2017-6821. The RTC found accused-appellant XXX guilty beyond reasonable doubt for the crime of Rape under Article 266-A of the Revised Penal Code (RPC)⁶ as amended by Republic Act No. (RA) 8353.⁷

Factual Antecedents

An Information⁸ dated April 20, 2017 indicted accused-appellant XXX and his brother YYY (brother), as his accomplice, for the crime of Rape committed against AAA⁹ (victim). The accusatory portion of the Information reads:

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. 4-6.

³ *Id.* at 8-26. Penned by Associate Justice Richard D. Mordeno and concurred in by Associate Justices Loida S. Posadas-Kahulugan and Lily V. Biton.

⁴ *Id.* at 28-35. Penned by Presiding Judge Mirabeaus A. Undalok.

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

⁶ Act No. 3815, “AN ACT REVISING THE PENAL CODE AND OTHER PENAL LAWS [THE REVISED PENAL CODE] (1930).” Approved: December 8, 1930.

⁷ REPUBLIC ACT NO. 8353, “AN ACT EXPANDING THE DEFINITION OF THE CRIME OF RAPE, RECLASSIFYING THE SAME AS A CRIME AGAINST PERSONS, AMENDING FOR THE PURPOSE ACT NO 3815, OTHERWISE KNOWN AS THE REVISED PENAL CODE AND FOR OTHER PURPOSES [THE ANTI-RAPE LAW OF 1997] (1997).” Approved: September 30, 1997.

⁸ Records, p. 5.

⁹ “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.

That on November 30, 2016, at more or less 1:00 o'clock in the morning, [REDACTED], Philippines, within the jurisdiction of this Honorable Court, the [accused-appellant], who was with [brother], did then and there willfully, unlawfully and feloniously, by using force, threat, and intimidation, had carnal knowledge of, and sexual intercourse with, [victim], without her consent and against her will, at her dwelling located at the aforesaid address, while [brother] cooperated in the execution of the offense as an accomplice by acting as a lookout outside the same dwelling, to the damage and prejudice of the said [victim], the offense having been attended by the aggravating circumstance that it was committed inside the dwelling of the victim.

Contrary to and in violation of Article 266-A, Paragraph 1a of the Revised Penal Code.¹⁰

The victim was 20 years old and nine months pregnant at the time that she was raped by accused-appellant in the early morning of November 30, 2016.¹¹ Despite the harrowing experience that she went through, the victim narrated the incident in salient portions of her testimony during direct examination:

Q [Victim] do you remember where were you at around 1AM on November 30, 2016?

A I was in the house sleeping.

Q What, if any, took place while you were sleeping in your house?

A Somebody knocked on our door.

x x x x

Q What did you do then when you were surprised that someone [was] knocking at the door?

A I was afraid.

Q What did you do then after that?

A I thought it was my husband who dragged my foot.

Q Who is this person you are referring to?

A [Accused-appellant]

x x x x

Q How was he able to get inside your house and [grab] your right leg?

A He pushed the door and it was opened.

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]).

¹⁰ *Rollo*, pp. 28-29; records, p. 5.

¹¹ *Rollo*, pp. 11-12; TSN, August 29, 2017, pp. 1-16.

- Q What did you do then after [accused-appellant] held your right leg?
A I tried my best that he would not push the door.
- Q What happened after that?
A He was so strong and that he was able to open the door.
- Q What happened after [accused-appellant] was able to push and open the door of your house then?
A He told me not to tell anybody and he pointed a knife on my neck.
- Q **What else did [accused-appellant] do after pointing a knife at your neck?**
A **He tried forcibly [to remove] my clothes.**
- Q **What happened when he forcibly removed your clothes?**
A **He told me not to say anything not to shout or else he will point a knife to the kids.**
- Q What did you do then after he said it to you?
A I just cried.
- Q **When you cried what did [accused-appellant] do?**
A **While crying he inserted his penis to my vagina.**
- Q **Why could you say that [accused-appellant] inserted his penis to your vagina?**
A **I felt pain.**
- Q **What did [accused-appellant] do other than inserting his penis to your vagina?**
A **He continued to point a knife on my neck.**
- Q **What was your condition as a woman at the time of the incident?**
A **I was pregnant.**
- Q **How many months were you pregnant?**
A **Nine (9) months.**
- x x x x
- Q **You said that you were pregnant then how were you able to know that [accused-appellant] inserted his penis to your vagina?**
A **He did the push and pull movements many times.**
- Q **After [accused-appellant] was able to insert his penis to your vagina and pumped, what else did [accused-appellant] do?**
A **He asked me if I feel pleasure.**
- Q **What was your answer to the question?**
A **I told him: No *Kuya* because I am pregnant.**
- Q **What was [accused-appellant] reply [sic] when you pleaded not to pursue his act or what he was going to do?**

A He did nothing but he continued his acts.

X X X X

Q May I repeat the question, what happened after [accused-appellant] was able to insert and pump his penis to your vagina?

A I tried to wrestle my body.

Q What happened after your efforts?

A I was able to grab his bonnet.

Q You mean to say [accused-appellant] was wearing a bonnet at that time?

A Yes, Sir.

Q [Accused-appellant] is present before this Honorable Court would you be able to identify him?

A Yes, Sir.

Q Please point to him?

Court Interpreter

The [victim] is pointing to a person seated in front of the gallery who identified himself as [accused-appellant].¹² (Emphases and italics added)

To summarize her testimony, the records show that the victim was asleep in her house when she heard a knock on the door.¹³ Suddenly, accused-appellant grabbed the victim's right leg, pushed the door open, pointed a knife to the victim's neck, then forcibly removed the victim's clothes.¹⁴ The victim felt helpless and cried while the accused-appellant inserted his penis into her vagina and did the push and pull movement for several times.¹⁵ The accused-appellant even asked the victim if she derived pleasure from the act, to which she tearfully replied no and pleaded him to stop.¹⁶

Summoning her strength, the victim wrestled her body and grabbed the accused-appellant's bonnet, which allowed her to identify him clearly.¹⁷ Accused-appellant hurried out of the victim's house and warned her not to report the incident or else he would harm her children.¹⁸

¹² *Rollo*, pp. 11-12, 17-19, 22-23; TSN, August 29, 2017, pp. 2-16.

¹³ *Rollo*, p. 11; TSN, August 29, 2017, p. 3.

¹⁴ *Rollo*, p. 11; TSN, August 29, 2017, pp. 3-4.

¹⁵ *Rollo*, p. 11; TSN, August 29, 2017, pp. 3-4.

¹⁶ *Rollo*, p. 11; TSN, August 29, 2017, p. 5.

¹⁷ *Rollo*, p. 11; TSN, August 29, 2017, p. 5.

¹⁸ *Rollo*, p. 12; TSN, August 29, 2017, p. 5-6.

Based on the victim's responses to the clarificatory questions, although there was no light in the room where they slept, there was a light coming from the kitchen which illuminated the room through the bare roof.¹⁹

The police officers undertook an investigation, which resulted in the identification of accused-appellant through photographs presented in a rogue gallery.²⁰

For his part, the accused-appellant denied the commission of rape against the victim.²¹ As an alibi, he posited that he was sleeping at his mother's house on the night of the incident and was surprised when, after voluntarily surrendering to the police for a different crime, he was arrested for rape.²²

Upon arraignment on May 17, 2017, accused-appellant and his brother pleaded not guilty.²³ After the conduct of the preliminary conference and the pre-trial proceedings, trial on the merits ensued.²⁴

Ruling of the Regional Trial Court

The Judgment²⁵ dated August 7, 2018 found accused-appellant guilty beyond reasonable doubt for the crime of Rape and acquitted his brother. The dispositive portion of the Judgment reads:

WHEREFORE, premises considered, the Court hereby renders judgment finding [accused-appellant] guilty beyond reasonable [doubt] for Rape and sentences him to *reclusion perpetua* and to pay [victim] the following sums: [P]100,000.00 as civil indemnity, [P]100,000.00 as moral damages, and [P]100,000.00 as exemplary damages, which shall likewise earn interest at the rate of 6% per annum from date of finality of judgment until fully paid.

The Court acquits [brother] on reasonable doubt. BJMP- [REDACTED] is hereby directed to release him from detention unless held for some other lawful cause.

[Accused-appellant] shall serve sentence at Davao Penal Farm and Prison at Dujali, Davao del Norte. His preventive detention at BJMP- [REDACTED] [sic] is fully credited in the service of his sentence.

SO ORDERED.²⁶

¹⁹ *Rollo*, p. 12; TSN, August 29, 2017, pp. 5-6.

²⁰ *Rollo*, pp. 12-13.

²¹ *Rollo*, p. 13; TSN, February 20, 2018, p. 3.

²² *Rollo*, p. 13; TSN, February 20, 2018, pp. 3-5.

²³ *Rollo*, p. 11.

²⁴ *Id.*

²⁵ *Id.* at 28-35.

²⁶ *Id.* at 34-35.

The RTC held that accused-appellant directly participated in the commission of Rape.²⁷ The victim positively identified accused-appellant as the one who raped her while she was nine months pregnant during her testimony before the court.²⁸

Aggrieved, accused-appellant appealed²⁹ the Judgment to the CA.

Ruling of the Court of Appeals

On January 8, 2021, the appellate court rendered its assailed Decision.³⁰ The CA sustained the conviction for Rape of accused-appellant.³¹ However, the CA reduced the awards for civil, moral, and exemplary damages to a fixed monetary amount of ₱75,000.00 each.³² Thus, the dispositive portion of the assailed CA Decision reads:

WHEREFORE, the appeal is **DENIED**. The assailed Judgment dated 7 August 2018 of the Regional Trial Court (RTC), Branch 43, [REDACTED] in Criminal Case No. 2017-6821 finding [accused-appellant] guilty beyond reasonable doubt for Rape with the penalty of *Reclusion Perpetua* is **AFFIRMED with MODIFICATION** on the award for civil, moral, and exemplary damages which should be reduced from ₱100,000.00 to ₱75,000.00 each.

SO ORDERED.³³

The appellate court found no merit in accused-appellant's argument that his guilt beyond reasonable doubt was not established because his identification as the perpetrator was "tainted with a highly irregular out-of-court identification."³⁴ Instead, the CA found that: (1) a rogue gallery was presented to the victim which aided in the identification of the accused-appellant as the perpetrator;³⁵ (2) the victim's testimony was straightforward when she said that she was able to grab the accused-appellant's bonnet off his face;³⁶ and (3) all the elements of the crime of Rape were present.³⁷

Aggrieved, accused-appellant filed his Notice of Appeal.³⁸

²⁷ Id. at 32-34.

²⁸ Id. at 34.

²⁹ Id. at 92-93.

³⁰ Id. at 8-26.

³¹ Id. at 15.

³² Id. at 25, citing *People v. Jugueta*, 738 Phil. 806, 849 (2016).

³³ Id. at 26.

³⁴ Id. at 15.

³⁵ Id. at 15-17.

³⁶ Id. at 17-22.

³⁷ Id. at 4-6.

³⁸ Id. at 3-5.

Issue

The sole issue is whether accused-appellant is guilty of the crime of Rape under Art. 266-A of the RPC, as amended by RA 8353.

Our Ruling

The appeal is without merit. Thus, accused-appellant's conviction of guilt beyond reasonable doubt for Rape is affirmed.

Positive testimony prevails over the defenses of denial and alibi

After examination of the testimonies of the witnesses and the evidence adduced by the parties, We find no reason to disturb the factual findings of the RTC as affirmed by the CA. Settled is the rule that the evaluation of the credibility of a witness is "best left to the trial court because it has the opportunity to observe the witnesses and their demeanor during the trial."³⁹ This Court gives great respect to the findings of trial courts, especially when affirmed by the appellate court.⁴⁰

In jurisprudence, We held that denial is inherently a weak defense which cannot outweigh positive testimony. A categorical statement that has the earmarks of truth prevails over a bare denial⁴¹ which can easily be fabricated and is inherently unreliable.⁴² For the defense of alibi to prosper, the accused must prove that he was at some other place at the time of the commission of the crime and it was physically impossible for him to be at the *locus delicti* or within its immediate vicinity. These requirements of time and place must be strictly met.⁴³

We agree with the appellate court that the victim's testimony was straightforward. Through her positive and direct testimony, the victim identified the accused-appellant as the assailant and established all the elements of Rape. On the contrary, the accused-appellant failed to prove that he was at some other place at the time of the commission of the crime and it was physically impossible for him to be at the *locus delicti* or within its immediate vicinity. Accused-appellant's statements that it would cost him a significant amount of money and time to arrive at the victim's house⁴⁴ fail to

³⁹ *People v. Manalang*, G.R. No. 198015, January 20, 2021, citing *People v. Corpuz*, 812 Phil. 62, 88 (2017).

⁴⁰ *Id.*

⁴¹ *People v. Moreno*, G.R. No. 191759, March 2, 2020, citing *People v. Mat-an*, 826 Phil. 511, 524 (2018).

⁴² *People v. Moreno*, *supra*, citing *People v. Pulgo*, 813 Phil. 205, 219 (2017).

⁴³ *Id.*, citing *People v. Aquino*, 724 Phil. 739, 754 (2014).

⁴⁴ *Rollo*, pp. 13, 33; TSN, February 20, 2018, pp. 3-5.

impress Us. Therefore, the victim's positive testimony prevails over the accused-appellant's weak defenses of denial and alibi.

Accused-appellant is guilty beyond reasonable doubt of Rape under Art. 266-A of the RPC, as amended by RA 8353

The crime of Rape is committed:

Art. 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;

Jurisprudence dictates that the elements of Rape by sexual intercourse under Art. 266-A, paragraph 1 of the RPC are: (1) the offender is a man; (2) the offender had carnal knowledge of a woman; and (3) the sexual act was accomplished by using force, threat, or intimidation.⁴⁵

Carnal knowledge of a woman against her will, effected through force and intimidation is rape.⁴⁶ Force, as an element of rape, must be sufficient to consummate the purposes which the accused had in mind.⁴⁷ It need not be overpowering or absolutely irresistible.⁴⁸ The force or violence necessary in rape is naturally a relative term, depending on the age, size, and strength of the parties and their relation to each other,⁴⁹ as in this case where accused-appellant raped a woman who was heavily pregnant.⁵⁰

On the other hand, intimidation must produce fear that if the victim does not yield to the bestial demands of the accused, something would happen to her at that moment or even thereafter as when she is threatened with death if she reports the incident.⁵¹ Intimidation includes the moral kind as the fear caused by threatening the girl with a knife.⁵² A rape victim, however, has no burden to prove that she did all within her power to resist the force or intimidation employed upon her.⁵³ Resistance is not an element of rape.⁵⁴ In

⁴⁵ *People v. Salazar*, G.R. No. 239138, February 17, 2021, citing *People v. Tionloc*, 805 Phil. 907, 915 (2017). See also *People v. Corpuz*, 812 Phil. 62, 79-80 (2017).

⁴⁶ See *People v. Trayco*, 612 Phil. 1140, 1152 (2009).

⁴⁷ *People v. Amogis*, 420 Phil. 278, 292 (2001).

⁴⁸ *People v. Barangan*, 560 Phil. 811, 836 (2007), citing *People v. Villaflores*, 255 Phil. 776, 784-785 (1989).

⁴⁹ *People v. Savellano*, 156 Phil. 308, 317 (1974). See also *People v. Salome*, 532 Phil. 368, 378-379 (2006).

⁵⁰ See *People v. Dagsa*, 824 Phil. 704, 722 (2018).

⁵¹ *People v. Frias*, 718 Phil. 173, 183 (2013), citing *People v. Sgt. Bayani*, 331 Phil. 169, 193 (1996).

⁵² *Id.*

⁵³ *People v. Japson*, 743 Phil. 495, 503-504 (2014).

⁵⁴ *People v. Durano*, 548 Phil. 383, 397 (2007).



rape cases alleged to have been committed by force, threat, or intimidation, what is imperative for the prosecution to establish is that the element of voluntariness on the part of the victim be absolutely lacking. The prosecution must prove that the force or intimidation was actually employed by accused upon his victim to achieve his end. Failure to do so is fatal to its cause.⁵⁵

In the case at bar, the prosecution proved beyond reasonable doubt that accused-appellant committed Rape against the victim by having sexual intercourse with her through force, threat, or intimidation.

All the elements of Rape are present from the straightforward testimony of the victim and her revelations that accused-appellant inserted his penis into her vagina, continuously pumped on top of her while she was pregnant, crying in pain, and pleading him to stop. Despite her incessant prodding, accused-appellant did not stop until his own lust was satisfied. Accused-appellant even asked the victim if she derived any pleasure from the dastardly act.

In fact, prior to mounting the victim, the accused-appellant used brute force to physically grab her right leg and forcibly remove her clothes. He likewise threatened and intimidated the victim by pointing a knife to her neck. Moreover, the victim was threatened that if she shouted or made any kind of noise, the knife would be pointed to her children. Finally, accused-appellant insisted that the incident should not be reported to the authorities.

Based on the foregoing, there is no doubt that accused-appellant is guilty as charged.

Under Art. 266-B⁵⁶ of the RPC, as amended, the crime of Rape is punishable by *reclusion perpetua*. Both the trial court and appellate court were correct in imposing the penalty of *reclusion perpetua*. Thus, We affirm the penalty imposed on accused-appellant.

As to the civil liabilities imposed, We rule that the appellate court correctly modified the civil liabilities consistent with the latest jurisprudence.⁵⁷ Thus, We affirm the findings of the CA and uphold the guilt beyond reasonable doubt of accused-appellant.

WHEREFORE, the appeal is **DISMISSED**. The assailed January 8, 2021 Decision of the Court of Appeals in CA-G.R. CR-HC-02064-MIN, which affirmed with modifications the August 7, 2018 Judgment of the Regional Trial Court of Branch 43, [REDACTED] in Criminal Case No. 2017-

⁵⁵ Id.

⁵⁶ Article 266-B. *Penalty*. — Rape under paragraph 1 of the next preceding article shall be punishable by *reclusion perpetua*.

x x x x

⁵⁷ *Rollo*, p. 25, citing *People v. Jugueta*, supra note 30.

6821 finding accused-appellant XXX **GUILTY** beyond reasonable doubt of Rape under Article 266-A of the Revised Penal Code is **AFFIRMED**.

SO ORDERED.” *Gesmundo, C.J., on official business.*

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court *9/21/22*

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court

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OCT 10 2022

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The Hon. Presiding Judge
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