



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated July 27, 2022, which reads as follows:

“G.R. No. 254422 (People of the Philippines, *Plaintiff-Appellee vs. Jayson* Tambor y Corredo, Accused-Appellant*). – This is an appeal¹ assailing the Decision² dated July 7, 2020 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 12789. The CA affirmed with modifications the Decision³ dated August 23, 2018 of Branch 76, Regional Trial Court (RTC), ██████████, Rizal in Criminal Case No. 16505 that found Jayson Tambor y Corredo (accused-appellant) guilty beyond reasonable doubt of Qualified Rape under paragraph 1(a), Article 266-A, in relation to Article 266-B, of the Revised Penal Code (RPC), as amended by Republic Act No. (RA) 8353.⁴

The Antecedents

The case stemmed from an Information⁵ charging accused-appellant with Qualified Rape as follows:

That on or about the 16th day of November 2013, in the Municipality of ██████████, Province of Rizal, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design, and by means of force, threat and intimidation, did then and there willfully, unlawfully, and feloniously have carnal knowledge of AAA,⁶ a

* Referred to as “Jason” in some parts of the *rollo* and CA *rollo*.

¹ See Compliance and Notice of Appeal dated July 29, 2020, *rollo*, p. 23.

² *Rollo*, pp. 4-22. Penned by Associate Justice Marie Christine Azcarraga-Jacob and concurred in by Associate Justices Marlene B. Gonzales-Sison and Walter S. Ong.

³ CA *rollo*, pp. 51-58. Penned by Presiding Judge Josephine Zarate Fernandez.

⁴ The Anti-Rape Law of 1997, approved on September 30, 1997.

⁵ Records, pp. 3-4. Signed by Assistant Provincial Prosecutor Ma. Lourdes Zerelda S. Pacuribot and approved by Senior Assistant Provincial Prosecutor Leonardo T. Gonzales.

⁶ 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. (RA) 7610, “An Act Providing for Stronger Deterrence and Special Protection against Child Abuse, Exploitation and Discrimination, and for Other Purposes”; RA 9262, “An Act Defining Violence against Women and Their Children, Providing for Protective Measures for Victims, Prescribing Penalties Therefor, and for Other Purposes”; Section 40 of A.M. No. 04-10-11-SC, otherwise known as the “Rule on Violence against Women and Their Children,” (November 15, 2004). (See footnote 4 in *People v. Cadano, Jr.*, 729 Phil. 576, 578 (2014), citing *People v. Lomaque*, 710 Phil. 338, 342 (2013). See also Amended Administrative Circular No. 83-2015, entitled “Protocols and Procedures in the Promulgation,

17-year old minor at the time of the commission of the offense, by inserting his penis inside her vagina, against her will and without her consent, said act having been further qualified by poking a knife, a deadly weapon, on the said minor, during the commission of the act, which enabled him to threaten or coerce the minor to yield to his sexual desire and facilitate the consummation of the act.

CONTRARY TO LAW.⁷

Upon arraignment, accused-appellant pleaded not guilty to the crime charged.⁸

Trial on the merits ensued.

Version of the Prosecution

The prosecution alleged that on November 16, 2013, AAA, then 17 years old,⁹ called accused-appellant, her neighbor, to borrow ₱500.00 to purchase medicine for her sibling who was discharged from the hospital. Accused-appellant agreed to lend AAA the amount and told her to go to his house. In no time, AAA left her work and proceeded to accused-appellant's house.¹⁰

When AAA arrived at accused-appellant's house, the latter told her that he had no money to lend her. AAA thought that accused-appellant was merely fooling around because he had already agreed to lend her the money. Accused-appellant then invited her to go inside the house. Trusting accused-appellant, AAA went inside. Once inside, accused-appellant pulled AAA towards him. Then, he pushed her to the *papag* using his left hand while holding a knife with his right hand. Accused-appellant poked the knife at her side while undressing her and removing her underwear. Thereafter, he proceeded to insert his penis into her vagina. During the bestial act, accused-appellant threatened AAA that if she disclosed the incident to anyone, he will kill her and her older brother. After accused-appellant satisfied his lust, AAA immediately put on her clothes, left, and went home.¹¹

Fearing that accused-appellant might kill her and her brother, AAA kept her silence and proceeded to work at the garment factory the next day. She stayed there until her parents fetched her from work.¹²

At home, AAA's mother, BBB, observed that AAA was completely disoriented. On December 13, 2013, BBB finally confronted AAA and asked

Publication, and Posting on the Websites of Decisions, Final Resolutions, and Final Orders Using Fictitious Names/Personal Circumstances," dated September 5, 2017.).

⁷ Records, p. 3.

⁸ *CA rollo*, p. 51.

⁹ See Investigation Data Form, Memorandum titled "Prosecution Referral," Sworn Statement of AAA's mother BBB, and Sworn Statement of AAA; records, pp. 10-14.

¹⁰ *Rollo*, p. 6.

¹¹ *Id.* at 6-7.

¹² *Id.* at 7.

what was bothering her. AAA then disclosed to BBB that accused-appellant sexually abused her. In no time, BBB and AAA reported the incident to the police.¹³

Version of the Defense

For his part, accused-appellant denied the allegations against him. He insisted that AAA went to his house twice to borrow money. The first instance was on November 16, 2013 when AAA wanted to borrow money for her enrollment. When he told her that he did not have any money, AAA left. The second was on the following Saturday when AAA asked an amount to buy an anti-rabies injection for someone who was bitten by their dog. At that time, BBB saw AAA and told her, “AAA anong ginagawa mo dyan kina Jayson, namomokpok ka ba?” AAA immediately left accused-appellant’s house. Later, he received a text message stating, “sinungaling ka pala eh,” to which he replied, “ano bang kasalanan ko?”¹⁴

Sometime in 2013, accused-appellant received a subpoena relative to a rape complaint. When he went to BBB’s house to inquire why a criminal complaint was filed, BBB demanded ₱10,000.00 in exchange for the withdrawal of the complaint. He acceded to BBB’s demand, but he was not able to pay because he was arrested in 2015.¹⁵

The RTC Ruling

In the Decision¹⁶ dated August 23, 2018, the RTC found accused-appellant guilty beyond reasonable doubt of Qualified Rape, thus:

WHEREFORE, premises considered judgment is hereby rendered finding accused JAYSON TAMBOR y CORREDO GUILTY beyond reasonable doubt of committing QUALIFIED RAPE (Article 266-A, paragraph 1(a), in relation to Article 266-B, paragraph 2, RPC as amended by R.A. 8353). The Court hereby orders the accused to suffer the penalty of *RECLUSION PERPETUA*.

Accused JAYSON TAMBOR y CORREDO is likewise ordered to indemnify AAA with the following amounts: (1) ONE HUNDRED THOUSAND PESOS (₱100,000.00) as civil indemnity; (2) ONE HUNDRED THOUSAND PESOS (₱100,000.00) as moral damages[;] and (3) ONE HUNDRED THOUSAND PESOS (₱100,000.00) as exemplary damages.

Accused JAYSON TAMBOR y CORREDO is ordered committed to the National Bilibid Prison in Muntinlupa City for the service of his sentence. He is credited with the time spent for his preventive detention pursuant to Article 29, RPC as amended.

¹³ Id.

¹⁴ Id. at 7-8.

¹⁵ Id. at 8.

¹⁶ CA *rollo*, pp. 51-58.

SO ORDERED.¹⁷

The RTC ruled: (1) that all the elements of Qualified Rape were proven beyond reasonable doubt; (2) that AAA was a child who was incapable of giving consent to any lascivious conduct; and (3) that accused-appellant's use of a deadly weapon qualified the crime of Rape.¹⁸

The CA Ruling

In the assailed Decision¹⁹ dated July 7, 2020, the CA denied the appeal and affirmed the RTC Decision with modifications, thus:

WHEREFORE, premises considered, the instant appeal is DENIED.

Accordingly, the assailed *Decision dated 23 August 2018* of the Regional Trial Court of ██████████, Rizal, Branch 76 in Criminal Case No. 16505, is hereby AFFIRMED subject to the following MODIFICATIONS:

- 1) Appellant Jayson Tambor y Corredo is found GUILTY beyond reasonable doubt of the crime of Rape as defined and penalized under paragraph 1(a), Article 266-A and paragraph 2, Article 266-B of the Revised Penal Code, as amended by R.A. No. 8353;
- 2) Appellant Tambor is ORDERED to pay AAA the reduced amount of Php 75,000.00 as civil indemnity, Php 75,000.00 as moral damages and Php 75,000.00 as exemplary damages; and
- 3) Appellant Tambor is ORDERED to pay interest at the rate of six percent (6%) per *annum* from the finality of this *Decision* until fully paid, to be imposed on the civil indemnity, moral damages, and exemplary damages awarded to the offended party.

The rest of the assailed *Decision* STANDS.

SO ORDERED.²⁰

The CA ruled as follows: (1) it held that all the elements of Simple Rape were proven by the prosecution beyond reasonable doubt;²¹ (2) it affirmed the RTC findings as to the credibility of AAA as a witness; (3) it emphasized that AAA was fearful of accused-appellant's threat; thus, she still went to work the day after the rape incident; (4) it upheld the RTC's ruling that the delay in disclosing and reporting the rape incident to the

¹⁷ Id. at 57-58.

¹⁸ Id. at 56-57.

¹⁹ *Rollo*, pp. 4-22.

²⁰ Id. at 20-21.

²¹ Id. at 10.

authorities was well-explained and justified;²² (5) it discussed that the rape victim's moral character is immaterial where it was shown that intimidation was used for the victim to have sexual intercourse;²³ and (6) it modified the nomenclature of the crime and the monetary awards.

Furthermore, the CA held that the use of a deadly weapon is not among the special qualifying circumstances under paragraph 5 of Article 266-B of the RPC which qualifies the crime of Rape. Thus, it held that accused-appellant is guilty of Simple Rape and reduced the monetary awards of civil indemnity, moral damages, and exemplary damages from ₱100,000.00 to ₱75,000.00 each.²⁴

Hence, the instant appeal.

Accused-appellant manifested that he will no longer file a supplemental brief before the Court.²⁵ Plaintiff-appellee, through the Office of the Solicitor General (OSG), similarly manifested that it will no longer file a supplemental brief.²⁶

In the Brief for the Accused-Appellant²⁷ before the CA, accused-appellant ascribed error to the RTC for giving credence and weight to AAA's testimony;²⁸ he claimed that several improbabilities appear in AAA's testimony; he insisted that AAA's testimony is too simplistic and improbable because she testified that accused-appellant inserted his penis only without touching her private parts and kissing any part of her body;²⁹ he faulted AAA for not resisting or shouting during the alleged rape incident; he questioned the behavior of AAA a day after the alleged incident and the delay in reporting it to the authorities; and that no rape took place because AAA still reported to work a day after the alleged incident.³⁰

On the other hand, the OSG, in its Brief for the Plaintiff-Appellee,³¹ countered that accused-appellant's guilt was proven beyond reasonable doubt; it argued that AAA's failure to shout does not make voluntary her submission to accused-appellant's criminal act; it contended that AAA cannot be expected to react in a certain way because she just experienced psychological trauma from the incident; it pointed out that accused-appellant poked a knife at AAA's side, making the situation more traumatic for a minor like her; AAA's fear was well-founded;³² and there was no delay in reporting the incident to the authorities because she reported it a month after

²² Id. at 16-18.

²³ Id. at 18.

²⁴ Id. at 19-20.

²⁵ See Manifestation In Lieu of a Supplemental Brief dated June 4, 2021, id. at 35-36.

²⁶ See Manifestation (In Lieu of Supplemental Brief) dated June 24, 2021, id. at 40-41.

²⁷ CA *rollo*, pp. 32-49.

²⁸ Id. at 38-39.

²⁹ Id. at 40-42.

³⁰ Id. at 44-45.

³¹ Id. at 77-93.

³² Id. at 87-89.

the rape incident.³³

The Issue

The issue to be resolved is whether the CA correctly convicted accused-appellant for Simple Rape.

Our Ruling

The appeal is without merit.

Well settled is the rule that “the matter of ascribing substance to the testimonies of witnesses is best discharged by the trial court, and the appellate courts will not generally disturb the findings of the trial court in this respect.”³⁴ As explained in *Estrella v. People*³⁵:

Findings of the trial court which are factual in nature and which involve the credibility of witnesses are accorded with respect, if not finality by the appellate court, when no glaring errors, gross misapprehension of facts, and speculative, arbitrary, and unsupported conclusions can be gathered from such findings. The reason is quite simple: the trial judge is in a better position to ascertain the conflicting testimonies of witnesses after having heard them and observed their deportment and mode of testifying during the trial.³⁶

After a judicious perusal of the records of the instant appeal, the Court finds no compelling reason to depart from the RTC and CA’s factual findings. However, the Court affirms accused-appellant’s conviction of Simple Rape as held by the CA, and not Qualified Rape as ruled by the RTC.

Rape through sexual intercourse is defined under paragraph 1 of Article 266-A and is penalized under Article 266-B of the RPC, as amended, which provides as follows:

Art. 266-A. *Rape; When And How Committed.* — Rape is committed —

- a) 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 otherwise unconscious;
 - c) By means of fraudulent machination or grave abuse of authority; x x x

³³ Id. at 90.

³⁴ *Estrella v. People*, G.R. No. 212942, June 17, 2020.

³⁵ Id.

³⁶ Id., citing *People v. Aspa, Jr.*, G.R. No. 229507, August 6, 2018.

x x x x

Art. 266-B *Penalties*. — Rape under paragraph 1 of the next preceding article shall be punished by *reclusion perpetua*.

x x x x

Under paragraph 1(a), Article 266-A of the RPC, as amended by RA 8353, the elements of Rape through sexual intercourse are: (1) that the offender had carnal knowledge of a woman; and (2) that such act was accomplished through force, threat, or intimidation.³⁷ From these requisites, it can thus be deduced that rape is committed the moment the offender has sexual intercourse with a woman by using force or intimidation.³⁸ The gravamen of the crime of Rape is sexual congress with a woman by force and without consent.³⁹

Records reveal that the prosecution was able to establish beyond reasonable doubt that accused-appellant had carnal knowledge of AAA against her will through threat and intimidation. Armed with a knife, accused-appellant threatened AAA not to tell anyone about his bestial act; otherwise, he would kill her and her brother.⁴⁰

AAA painstakingly recalled how accused-appellant succeeded in having sexual intercourse with her through force, threat, and intimidation.⁴¹ She categorically testified that accused-appellant raped her on November 16, 2013, when she was then 17 years old; thus:

Q: What happened on November 16, 2013?

A: I borrowed money from him (pointing to the accused left alone in the Courtroom in view of the order of the Court for the exclusion of other persons[,] it appearing that this is a sensitive case) and I called him thru cellphone, ma'am.

Q: You are saying that you borrowed money from him, who is this him that your are referring to?

A: From *Kuya* Jayson (looking at the direction where the accused is seated), ma'am.

x x x x

Q: Why do you call him *Kuya* Jayson?

A: He is our neighbor and he is a friend of my older brother, ma'am.

x x x x

³⁷ *People v. CCC*, G.R. No. 231925, November 19, 2018.

³⁸ See *People v. Aca-ac*, 409 Phil 425, 436 (2001).

³⁹ *People v. Dimaano*, 506 Phil 630, 648 (2005).

⁴⁰ See *rollo*, p. 15.

⁴¹ *Id.* at 10.

Q: And when you made the call to the accused, what did he tell you?

A: For me to go to their house, ma'am.

Q: And what did you do upon hearing that?

A: When I went out from work at 7:00 p.m., I first did the laundry before going to their house, ma'am.

x x x x

Q: And what happened after you reach[ed] his house, who was the person who was there to greet you when you reached his house?

A: Only him, ma'am, he was the only one.

Q: And what did he tell you when he saw you?

A: He told me that he has no money to lend me, ma'am.

Q: So what did you do upon learning that he had no money to lend you?

A: I initially thought he was just joking because he told me that if I go there, he will lend me money, ma'am.

Q: What happened next after his answer which you thought that he was only joking, what happened next?

A: He told me that he will talk to me inside, ma'am, that we will have a conversation inside.

Q: Inside what?

A: Inside his house, ma'am.

Q: What did you do upon hearing him that he wanted to talk to you inside his house?

A: I consented because I trusted him, ma'am.

Q: Why did you say "*tiwala ka sa kanya*"?

A: Because we became close friends, ma'am.

Q: And what happened when you were inside the house?

A: He pulled me and I noticed that he was holding a knife, ma'am.

Q: And what did you do when you saw that he was holding a knife?

A: I got confused and I did not know what to do, ma'am.

Q: And what happened next?

A: He pushed me towards their *papag*, ma'am.

Q: Where was the knife when he pushed you to that *papag*?

A: He was holding it, ma'am.

Q: What hand was he holding it?

A: On his right hand, ma'am.

Q: And what did he use to push you on that *papag*?

A: His left hand, ma'am.

x x x x

Q: What happened next when you were already lying on that *papag*?

A: I pleaded to him but he could not hear me, ma'am.

x x x x

Q: What happened after you were pleading at him, pleading at him for what?

A: For him not to do it to me, ma'am.

Q: What do you mean do it, what is that he was going to do to you?

A: He told me not to create a noise and I started to tremble, ma'am.

x x x x

Q: What did he do next after you were prostrate on that *papag* and was pleading at him?

A: That is the point where I felt him removing my lower garment, ma'am, my leggings.

Q: And what else was removed aside from your leggings?

A: My panty, ma'am.

Q: Where was the knife when he was removing your leggings and panty?

A: On my side, ma'am.

Q: Who was holding the knife pointing it at your side?

A: *Kuya* Jayson, ma'am.

Q: And then, after he was able to remove your leggings and panty, what happened next?

A: He inserted his private part into my private part, ma'am.

Q: Where was the knife while he was doing that?

A: It was on my side, ma'am.

Q: What was he telling you while he was inserting and pulling his penis inside your vagina?

A: He told me not to inform it (*sic*) anybody, ma'am[;] otherwise he will kill me and my older brother.

Q: What happened after he finished doing that, inserting his penis inside your vagina?

A: Thereafter, I immediately wore my clothing and immediately left, ma'am.

Q: And then, what happened after that?

A: I do not recall how I was able to go home, *parang lutang na po kasi ang isip ko*, and I have so many questions on my mind why that happened, ma'am.⁴²

Based on AAA's testimony, it is clear that accused-appellant forcibly inserted his penis into AAA's vagina, and at the same time, poked a knife at her side and threatened her that he would kill her and her brother if she told anybody about the incident.⁴³ Thus, there is no doubt that the crime of Rape was consummated.

Moreover, it must be emphasized that "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."⁴⁴ As explained in *People v. Ragasa*⁴⁵:

Evidently, no woman, least of all a child, would concoct a story of defloration, allow examination of her private parts and subject herself to public trial or ridicule if she has not, in truth, been a victim of rape and impelled to seek justice for the wrong done to her being.⁴⁶

Furthermore, it has been held that "youth and immaturity are generally badges of truth and sincerity."⁴⁷

Accused-appellant insists: (1) that the improbabilities in AAA's statements cast doubt on her credibility; (2) that AAA's failure to resist or shout during the alleged rape incident is contrary to an offended party's natural instinct of self-preservation;⁴⁸ (3) that AAA's behavior immediately after the incident, *i.e.*, reporting to work a day after the incident, is not consistent with one subjected to sexual abuse; and (4) that AAA's testimony was neither credible nor consistent with human nature.⁴⁹

Accused-appellant is grasping at straws.

It is well settled that rape victims react differently.⁵⁰ "There is no standard form of reaction for a woman when facing a shocking and horrifying experience such as a sexual assault."⁵¹ It may be noted that "some may offer strong resistance while others may be too intimidated to offer any resistance at all."⁵² In *People v. Villamor*,⁵³ a case where the offended party neither shouted nor tried to wake up her siblings, the Court discussed:

⁴² As culled from the CA Decision, *id.* at 10-13.

⁴³ See *id.* at 15.

⁴⁴ *People v. ABC*, G.R. No. 244835, December 11, 2019, citing *People v. Alberca*, 810 Phil. 896, 906 (2017).

⁴⁵ 826 Phil. 468 (2018).

⁴⁶ *Id.* at 482.

⁴⁷ *People v. Deliola*, 794 Phil 194, 208 (2016), citing *People v. Suarez*, 750 Phil 858, 869 (2015).

⁴⁸ CA rollo, p. 44.

⁴⁹ *Id.*

⁵⁰ *People v. Palanay*, 805 Phil. 116, 126-127 (2017).

⁵¹ *Id.* at 127.

⁵² *People v. XXX*, G.R. No. 235662, July 24, 2019.

x x x The Court had consistently found that there is no uniform behavior that can be expected from those who had the misfortune of being sexually molested. While there are some who may have found the courage early on to reveal the abuse they experienced, there are those who have opted to initially keep the harrowing ordeal to themselves and attempted to move on with their lives. This is because a rape victim's actions are oftentimes overwhelmed by fear rather than by reason. The perpetrator of the rape hopes to build a climate of extreme psychological terror, which would numb his victim into silence and submissiveness. x x x⁵⁴ (Citation omitted)

Likewise, in *People v. Villalobos*,⁵⁵ the Court said:

The failure to shout or offer tenacious resistance cannot be construed as a voluntary submission to culprit's desires. Also, failure of the victim to shout for help does not negate rape. It is enough if the prosecution had proven that force or intimidation concurred in the commission of the crime as in this case. The law does not impose upon a rape victim the burden of proving resistance. Besides, physical resistance need not be established in rape when intimidation is exercised upon the victim and the latter submits herself against her will to the rapist's advances because of fear for her life and personal safety. In any event, the workings of the human mind placed under emotional stress are unpredictable such that different people react differently to a given situation or type of situation and there is no standard form of behavioral response when one is confronted with a strange or startling or frightful experience. x x x⁵⁶ (Citations omitted)

Similarly, in the case of *People v. Gecomo*,⁵⁷ the Court held:

That complainant, went to work the following day does not disprove the fact that she had been raped. Although her conduct may appear unnatural to appellant, it is not difficult to understand or rationalize. Complainant's performance of her assigned tasks at the restaurant, even after she was assaulted by appellant, is easily explained by her fear that he would kill her if she told her family about it. If she had been absent from work, her mother would have become suspicious of her action, and she would then find it difficult to avoid reporting the offenses committed against her.⁵⁸

Beyond doubt, neither AAA's failure to shout or offer resistance during the rape incident nor her act of reporting to work the day after the traumatic event impairs her credibility and should be taken against her. AAA was clearly overwhelmed by fear rather than by reason because accused-appellant poked a knife at her side and threatened to kill her and her older brother if she told anyone about the incident. Simply stated, AAA was cowed into silence for fear that accused-appellant would make good on his

⁵³ 780 Phil. 817 (2016).

⁵⁴ Id. at 830.

⁵⁵ 833 Phil. 123 (2018).

⁵⁶ Id. at 142.

⁵⁷ 324 Phil. 297 (1996).

⁵⁸ Id. at 316.

threat to her own life and her brother's life. Such fear is also the reason why she continued reporting to work the day after the rape incident because she merely tried to prevent any suspicion that would make it difficult for her to report the accused-appellant's bestiality to anyone.

In trying to exculpate himself, accused-appellant argues that the delay in reporting the rape incident to the authorities was unreasonable and unexplained; that the charge of Rape was merely an afterthought on the part of BBB after accused-appellant refused to heed her demand for ₱10,000.00; and that AAA's act of belatedly filing the complaint casts serious doubts on her true motive.⁵⁹

Accused-appellant's arguments fail to persuade.

At the outset, it must be stressed that accused-appellant's allegation of extortion on the part of BBB is unsubstantiated and unsupported by independent and convincing evidence. Accused-appellant's assertion of extortion lacks factual anchorage to warrant even a slight consideration from the Court.⁶⁰

Moreover, after a careful perusal of the factual background of the case, the Court finds that there is no unreasonable delay on the part of AAA in reporting the rape incident to the proper authorities.

Jurisprudence provides that delay in reporting an incident of rape due to threats neither affects the credibility of the complainant nor can it be taken against her.⁶¹ "Delay in revealing the commission of a crime such as rape does not necessarily render such charge unworthy of belief. This is because the victim may choose to keep quiet rather than expose her defilement to the harsh glare of public scrutiny."⁶² The charge of rape becomes doubtful only if the delay was unreasonable and unexplained.⁶³

In *People v. XXX*,⁶⁴ the Court ratiocinated:

x x x Delay in prosecuting the offense is not an indication of a fabricated charge, and does not necessarily cast doubt on the credibility of the victim. This especially holds true if the victim faces the threat of physical violence. Unfortunately for the victim, pain and ignominy are better than risking having the offender make good his threats of retaliation. In fact, "it is not uncommon for a young girl to be intimidated and cowed into silence and conceal for some time the violation of her honor, even by the mildest threat against her life." In AAA's case, she was cowed into silence by XXX, who threatened to kill her family should she report the rape incident.⁶⁵ (Citations omitted)

⁵⁹ CA rollo, pp. 44-46.

⁶⁰ See rollo, p. 18.

⁶¹ *People v. Bongos*, 824 Phil. 1004, 1023 (2018).

⁶² *People v. YYY*, G.R. No. 234825, September 5, 2018.

⁶³ *People v. Bongos*, supra note 61.

⁶⁴ G.R. No. 240441, December 4, 2019.

⁶⁵ Id.

In the case at bench, the delay in reporting the incident neither weakened AAA's testimony nor affected her credibility because accused-appellant threatened to kill her and her brother. To repeat, she was cowed into silence because of the threat made against her life and her brother's life. Hence, the 27-day delay in reporting the rape incident cannot be said to be unreasonable considering the trauma, shame, and fear that AAA felt.

In addition, it is worthy to recall that accused-appellant is AAA's close friend and neighbor. Evidently, accused-appellant's proximity makes the threat credible for AAA, giving her a reason to fear because she is under the watchful eye of accused-appellant.

In a number of cases, the Court ruled that a delay of seventeen days, thirty-five days, or even six months, by a victim of rape in reporting the attack on her honor does not detract from the veracity of her charge.⁶⁶

In fact, in *People v. YYY*,⁶⁷ the Court held that even an 11-year delay (from 1993 to 2004) in reporting the rape incident is still reasonable considering that the victim was scared off from reporting the incident due to the death threats made by the accused.

All told, the Court sustains accused-appellant's conviction.

As to the proper nomenclature of the crime, the CA correctly ruled that accused-appellant should be held guilty of Simple Rape through sexual intercourse under paragraph 1(a), Article 266-A of the RPC, as amended by RA 8353, and not Qualified Rape as held by the RTC.⁶⁸

There is no question that accused-appellant's use of a knife was sufficiently alleged in the information and proven during trial. However, the Court highlights the fact that the use of such deadly weapon does not qualify the crime of Rape.⁶⁹

Whenever the crime of Rape is committed with the use of a deadly weapon, the penalty shall be *reclusion perpetua* to death as provided under paragraph 2 of Article 266-B⁷⁰ of the RPC.⁷¹ Nonetheless, it is improper to designate the crime as Qualified Rape considering that *the use of deadly weapon* is not among the special qualifying circumstances enumerated under paragraph 6⁷² of Article 266-B of the RPC.

⁶⁶ *People v. Gecomo*, supra note 57, at 315-316.

⁶⁷ Supra note 62.

⁶⁸ *Rollo*, pp. 19-20.

⁶⁹ See *id.*

⁷⁰ Article 266-B. *Penalties*. — x x x

Whenever the rape is committed with the use of a deadly weapon or by two or more persons, the penalty shall be *reclusion perpetua* to death.

x x x x

⁷¹ *People v. Villalobos*, supra note 55, at 144.

⁷² Article 266-B. *Penalties*. — x x x

x x x x

Also, in view of the fact that the penalty of *reclusion perpetua* to death includes two indivisible penalties, Article 63⁷³ of the RPC is applicable such that when there are neither mitigating nor aggravating circumstances, the lesser penalty, which is *reclusion perpetua*, shall be applied. Thus, considering that accused-appellant committed Rape through sexual intercourse by using a knife and there was neither aggravating nor mitigating circumstance, the Court sustains the CA's findings that the proper penalty to be imposed is the lesser penalty of *reclusion perpetua*.⁷⁴

Pursuant to A.M. No. 15-08-02-SC,⁷⁵ the phrase "without eligibility for parole" need not be stated to qualify the penalty imposed. In the case, there is no need to append the phrase "*without eligibility for parole*" to qualify the penalty of *reclusion perpetua* because death penalty is not warranted considering the absence of any aggravating circumstance.

Under A.M. No. 15-08-02-SC, when there are circumstances warranting the imposition of the death penalty, but the same is not imposed in view of RA 9346,⁷⁶ the phrase "without eligibility for parole" shall be used to qualify *reclusion perpetua* in order to emphasize that the accused should have been sentenced to suffer the death penalty had it not been for

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;
- 2) When the victim is under the custody of the police or military authorities or any law enforcement or penal institution;
- 3) When the rape is committed in full view of the spouse, parent, any of the children or other relatives within the third civil degree of consanguinity;
- 4) When the victim is a religious engaged in legitimate religious vocation or calling and is personally known to be such by the offender before or at the time of the commission of the crime;
- 5) When the victim is a child below seven (7) years old;
- 6) When the offender knows that he is afflicted with Human Immuno-Deficiency Virus (HIV)/Acquired Immune Deficiency Syndrome (AIDS) or any other sexually transmissible disease and the virus or disease is transmitted to the victim;
- 7) When committed by any member of the Armed Forces of the Philippines or para-military units thereof or the Philippine National Police or any law enforcement agency or penal institution, when the offender took advantage of his position to facilitate the commission of the crime;
- 8) When by reason or on the occasion of the rape, the victim has suffered permanent physical mutilation or disability;
- 9) When the offender knew of the pregnancy of the offended party at the time of the commission of the crime; and
- 10) When the offender knew of the mental disability, emotional disorder and/or physical handicap of the offended party at the time of the commission of the crime.

x x x x

⁷³Article 63. *Rules for the application of indivisible penalties.* — x x x

In all cases in which the law prescribes a penalty composed of two indivisible penalties, the following rules shall be observed in the application thereof:

x x x x

2. When there are neither mitigating nor aggravating circumstances and there is no aggravating circumstance, the lesser penalty shall be applied.

x x x x

⁷⁴See *rollo*, p. 19.

⁷⁵Entitled "*Guidelines for the Proper Use of the Phrase 'Without Eligibility for Parole' in Indivisible Penalties*," dated August 4, 2015.

⁷⁶An Act Prohibiting the Imposition of Death Penalty in the Philippines, approved June 24, 2006.

the said law.⁷⁷ Conversely, when death penalty is not warranted, as in the case at bench, there is no need to qualify the penalty of *reclusion perpetua*. Undoubtedly, both the CA and the RTC correctly imposed the penalty of *reclusion perpetua* without appending the phrase “without eligibility for parole.” Therefore, the dispositive portion of this Resolution should simply state that accused-appellant is sentenced to suffer the penalty of *reclusion perpetua* without any qualification.

On the awards of civil indemnity and damages, prevailing jurisprudence⁷⁸ dictates the grant of the following: (a) ₱75,000.00 as civil indemnity; (b) ₱75,000.00 as moral damages; and (c) ₱75,000.00 as exemplary damages. These amounts shall also earn six percent (6%) legal interest rate *per annum* from the finality of this Resolution until fully paid.

WHEREFORE, the appeal is **DISMISSED**. The Decision dated July 7, 2020 of the Court of Appeals in CA-G.R. CR-HC No. 12789 finding Jayson Tambor y Corredo **GUILTY** beyond reasonable doubt of Rape defined under paragraph 1 of Article 266-A and penalized under Article 266-B of the Revised Penal Code, as amended by Republic Act No. 8353, is **AFFIRMED**.

Accused-appellant Jayson Tambor y Corredo is sentenced to suffer the penalty of *reclusion perpetua* and is hereby **ORDERED** to pay AAA the following amounts: ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages, and ₱75,000.00 as exemplary damages. All the damages awarded shall earn interest at the legal rate of six percent (6%) *per annum* from the finality of this Resolution until fully paid.

SO ORDERED.”

By authority of the Court:

Misael Domingo C. Battung III
 MISAELO DOMINGO C. BATTUNG III
 Division Clerk of Court July 27, 2022

⁷⁷ x x x [T]he following guidelines shall be observed in the imposition of penalties and in the use of the phrase “without eligibility for parole”:

- (1) In cases where the death penalty is not warranted, there is no need to use the phrase “without eligibility for parole” to qualify the penalty of *reclusion perpetua*; it is understood that convicted persons penalized with an indivisible penalty are not eligible for parole; and
- (2) When circumstances are present warranting the imposition of the death penalty, but this penalty is not imposed because of R.A. No. 9346, the qualification of “without eligibility for parole” shall be used to qualify *reclusion perpetua* in order to emphasize that the accused should have been sentenced to suffer the death penalty had it not been for R.A. No. 9346.

⁷⁸ *People v. Tulagan*, G.R. No. 227363, March 12, 2019, citing *People v. Jugueta*, 783 Phil. 806, 849 (2016).

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Legaspi Village, 1229 Makati City

The Presiding Judge
REGIONAL TRIAL COURT
Branch 76, San Mateo, 1850 Rizal
(Criminal Case No. 16505)

The Superintendent
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1770 Muntinlupa City

Mr. Jayson Tambor y Corredo
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