



REPUBLIC OF THE PHILIPPINES  
SUPREME COURT  
Manila

SECOND DIVISION

**NOTICE**

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **August 22, 2022** which reads as follows:*

**“G.R. No. 256213 (People of the Philippines v. XXX256213)<sup>1</sup>.** – Before this Court is an appeal seeking the reversal of the Decision<sup>2</sup> dated September 18, 2020 of the Court of Appeals (CA) in CA-G.R. C.R. HC No. 11966, affirming the Decision<sup>3</sup> dated August 8, 2018 of the Regional Trial Court (RTC), Branch 73, Antipolo City in Criminal Case Nos. 08-37321-23, finding the accused-appellant XXX256213 guilty of two counts of qualified rape through sexual intercourse and of one count of rape through sexual assault.

In two separate Informations, XXX256213 was charged with Qualified Rape under Article 266-A(1) of the Revised Penal Code (RPC), the accusatory portions state:

Criminal Case No. 08-37321

That on or about 1<sup>st</sup> day of February 2008, [REDACTED], 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 sexual intercourse with one [AAA256213],<sup>4</sup> an eleven (11) year old minor and who is his stepdaughter, against her will and consent.<sup>5</sup>

<sup>1</sup> 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 RA 7610, entitled “AN ACT PROVIDING FOR STRONGER DETERRENCE AND SPECIAL PROTECTION AGAINST CHILD ABUSE, EXPLOITATION AND DISCRIMINATION, AND FOR OTHER PURPOSES,” approved on June 17, 1992; RA 9262, entitled “AN ACT DEFINING VIOLENCE AGAINST WOMEN AND THEIR CHILDREN, PROVIDING FOR PROTECTIVE MEASURES FOR VICTIMS, PRESCRIBING PENALTIES THEREFOR, AND FOR OTHER PURPOSES,” approved on March 8, 2004; and 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, PUBLICATION, AND POSTING ON THE WEBSITES OF DECISIONS, FINAL RESOLUTIONS, AND FINAL ORDERS USING FICTITIOUS NAMES/PERSONAL CIRCUMSTANCES,” dated September 5, 2017.

<sup>2</sup> Penned by Associate Justice Louise P. Acosta, with Associate Justices Remedios A. Salazar-Fernando and Eduardo B. Peralta, Jr., concurring; *rollo*, pp. 4-27.

<sup>3</sup> Penned by RTC Acting Presiding Judge Leili Cruz Suarez, Records (Folder 1) (Criminal Case No. 08-37321-23), pp. 231-239.

<sup>4</sup> See note 1.

<sup>5</sup> Records (Folder 1) (Criminal Case No. 08-37321-23), pp. 1-2.

Criminal Case No. 08-37322

That on or about (sic) 29<sup>th</sup> day of January 2008, ██████████, Philippines and within the jurisdiction of this Honorable Court, the above named accused, with lewd designs and by means of force, threat and intimidation did, then and there willfully, unlawfully and feloniously have sexual intercourse with one [AAA256213], an eleven (11) year old minor and who is his stepdaughter, against her will and consent.<sup>6</sup>

In a third Information,<sup>7</sup> XXX256213 was also charged with Rape by Sexual Assault under Article 266-A(2) of the RPC, the accusatory portion reads:

Criminal Case No. 08-37323

That on or about the 10<sup>th</sup> day of June 2008, ██████████, Philippines, and within the jurisdiction on 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 commit an act of sexual assault by inserting his finger inside the vagina of one [AAA256213], an eleven (11) year old minor and who is his stepdaughter, against her will and consent.<sup>8</sup>

On October 6, 2008, these cases were consolidated by way of an *Ex-Parte* Motion for Consolidation.<sup>9</sup> Upon arraignment,<sup>10</sup> XXX256213 pleaded not guilty<sup>11</sup> to the crimes charged. Following pre-trial, trial on the merits ensued.

Considering that AAA256213's Birth Certificate was admitted by the defense, the testimony of the Local Civil Registrar was dispensed with. Said Birth Certificate indicated that AAA256213 was 11 years old at the time of the incidents.

During trial, the prosecution was able to present the following witnesses: (1) AAA256213, the private complainant; (2) BBB256213,<sup>12</sup> private complainant's mother; and (3) Police Chief Inspector Marianne Ebdane (*PCI Ebdane*), the Medico-Legal Officer who examined the victim. On the other hand, the defense only managed to present XXX256213 as their lone witness.<sup>13</sup>

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<sup>6</sup> Id. at 20-21.

<sup>7</sup> Id. at 43-44.

<sup>8</sup> Id.

<sup>9</sup> Id. at 16-17.

<sup>10</sup> Id. at 74.

<sup>11</sup> Id. at 75.

<sup>12</sup> See note 1.

<sup>13</sup> Id. at 232-233.

### *The Antecedents*

The version of the prosecution established that at the time, AAA256213 was 11 years old and was living with her mother, BBB256213, and XXX256213, her stepfather.<sup>14</sup>

On January 29, 2008, AAA256213 and BBB256213 were sleeping in their house. At around 2:00 a.m., XXX256213 tied AAA256213's hands and feet and placed something inside her mouth to keep her from shouting.<sup>15</sup> He removed her lower garments and inserted his penis into AAA256213's vagina. Thereafter, he removed his penis and licked her vagina and breasts. After the incident, XXX256213 warned AAA256213 not to tell anyone or "*malalagot ka sa akin,*" before he left to sleep beside AAA256213's mother.<sup>16</sup> Afterwards, AAA256213 retrieved a towel to cover herself and slept in the kitchen.<sup>17</sup>

After this first incident, AAA256213 told her mother about what XXX256213 did, but she did not believe her.<sup>18</sup>

Likewise, on February 1, 2008, the same turn of events occurred. AAA256213 and BBB256213 were sleeping in their house. At around 2:00 a.m., XXX256213 tied AAA256213's hands and feet and placed something inside her mouth to keep her from shouting. XXX256213 then proceeded to remove AAA256213's lower garments. At first, he inserted his finger into AAA256213's vagina and licked it. Then, he inserted his penis into AAA256213's vagina. Simultaneously, he removed AAA256213's upper garments and sucked her breasts. He then left to sleep beside AAA256213's mother. Again, AAA256213 retrieved a towel to cover herself and slept in the kitchen.<sup>19</sup>

On June 10, 2008, AAA256213 and XXX256213 were alone in the house. At around 1:00 p.m., while AAA256213 was sleeping, XXX256213 removed her clothes and inserted his finger into her vagina. Thereafter, XXX256213 left the house, while AAA256213 cried inside.<sup>20</sup>

Again, her mother BBB256213 did not believe her. Because of that, AAA256213 relayed the traumatic incident to her aunt, who recounted the incidents to BBB256213. AAA256213 then underwent medico-legal

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<sup>14</sup> *Rollo*, p. 6.

<sup>15</sup> *Id.*

<sup>16</sup> TSN (Folder 2), November 25, 2010, p. 6.

<sup>17</sup> *Rollo*, p. 7.

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

examinations to convince BBB256213 to initiate the proceedings for the instant case.<sup>21</sup>

On June 20, 2008, a medical examination was conducted on AAA256213 by PCI Ebdane for signs of sexual abuse. In the initial Medico-Legal Report,<sup>22</sup> a deep laceration was found at 6:00 o'clock position in her hymen. During her testimony, PCI Ebdane stated that the laceration could have been the result of an inserted penis, finger, or a blunt object, and concluded that the findings show clear evidence of blunt or penetrating trauma.<sup>23</sup>

On the part of the defense, XXX256213 alleged that on January 29, 2008, at around 2:00 a.m., he was at their *kubo*, separate from their house, with his wife and the victim's mother, BBB256213. He slept at around 8:00 p.m. and woke up between 4:00 to 5:00 a.m. of the next day.<sup>24</sup>

On February 1, 2008, XXX256213 claimed that he was sleeping in the kitchen while BBB256213 and the victim slept in their room. He alleged that he was drunk as he and BBB256213 quarrelled earlier that day.<sup>25</sup>

On June 10, 2008, XXX256213 stated that he slept in the *kubo*, while BBB256213 and the victim slept inside their room.<sup>26</sup>

XXX256213 believed that the charges filed against him by the victim and his wife were because he used to maltreat them whenever he was drunk.<sup>27</sup>

In its Decision dated August 8, 2018, the RTC found XXX256213 guilty of the crimes charged and ruled that:

**WHEREFORE**, in light of all the foregoing, judgment is hereby rendered as follows:

1. In Criminal Case No. 08-37321 accused [XXX256213] is found **GUILTY** of Qualified Rape as defined and penalized under Article 266-A, 1(a), in relation to 266-B, 6<sup>th</sup> paragraph, No. 1 of the Revised Penal Code and is hereby sentenced to suffer the penalty of *reclusion perpetua*, and to indemnify the victim, AAA256213, the sum of [P]75,000.00 as civil indemnity, [P]75,000.00 as moral damages and another [P]75,000.00 as exemplary damages, all at the rate of 6% per *annum* from the finality of this Decision until fully paid;

<sup>21</sup> TSN (Folder 2), November 25, 2010, p. 9.

<sup>22</sup> Records (Folder 1) (Criminal Case No. 08-37321-23), p. 13.

<sup>23</sup> TSN (Folder 2), March 9, 2016, pp. 7-8.

<sup>24</sup> *Rollo*, p. 8.

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

<sup>27</sup> *Id.*

2. In Criminal Case No. 08-37322 accused [XXX256213] is **GUILTY** of Qualified Rape as defined and penalized under Article 266-A, 1(a), in relation to 266-B, 6<sup>th</sup> paragraph, No. 1 of the Revised Penal Code and is hereby sentenced to suffer the penalty of *reclusion perpetua*, and to indemnify the victim, AAA256213, the sum of [P]75,000.00 as civil indemnity, [P]75,000.00 as moral damages and another [P]75,000.00 as exemplary damages, all at the rate of 6% per *annum* from the finality of this Decision until fully paid;

3. In Criminal Case No. 08-37323 accused [XXX256213] is **GUILTY** beyond reasonable doubt of the crime of Sexual Assault, as defined and penalized under Article 266-A, No. 2 in relation to Article 266-B, 7<sup>th</sup> paragraph of the Revised Penal Code, and is hereby sentenced to an indeterminate prison term of six (6) years and one (1) day of *prision correccional*, as minimum, to ten (10) years of *prision mayor*, as maximum, He is also ordered to indemnify the victim, AAA256213, the amounts of [P]30,000.00 as civil indemnity, [P]30,000.00 as moral damages, and [P]30,000.00 as exemplary damages, all at the rate of 6% per *annum* from the finality of this Decision until fully paid.

**SO ORDERED.**<sup>28</sup>

The RTC lent full credence to AAA256213's testimony that XXX256213 raped her on three occasions.

In finding XXX256213 guilty of the crime of Qualified Rape under Article 266-A(1) of the RPC, the RTC found that all the elements were established in this case.<sup>29</sup>

The prosecution was able to duly prove that when the incidents of rape occurred, the victim, AAA256213, was still a child at merely 11 years old and thus, unable to give consent. While weeping, AAA256213 categorically testified and positively identified that it was XXX256213 who raped her by inserting his penis into her vagina on January 29, 2008, and again on February 1, 2008.<sup>30</sup>

The existence of force, threat, and intimidation was apparent when AAA256213 detailed that during the commission of rape, XXX256213 covered her mouth and tied her hands and feet and threatened her not to make a sound. Assuming *arguendo* that he did not employ force, threat, and intimidation, XXX256213 still exercised moral ascendancy as he was AAA256213's stepfather.<sup>31</sup>

Similarly, XXX256213 was found guilty of the crime of rape by sexual assault under Article 266-A(2) of the RPC when, on June 10, 2008, he inserted

<sup>28</sup> Records (Folder 1) (Criminal Case No. 08-37321-23), pp. 238-239.

<sup>29</sup> *Id.* at 235.

<sup>30</sup> Records (Folder 1) (Criminal Case No. 08-37321-23), p. 235.

<sup>31</sup> *Id.* at 235-A.

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his finger into the victim's vagina.<sup>32</sup> AAA256213 was 11 years old when this occurred. Again, the RTC found it no longer essential to prove the existence of force, intimidation, or threat, considering that AAA256213 was under 12 years old at the time and XXX256213 exercised moral ascendancy over her as her stepfather.<sup>33</sup>

Lastly, the RTC rejected XXX256213's defense that AAA256213 did not shout or make an outcry when there were nearby persons for this did not mean that she was not raped or abused, as resistance of the victim is not an element of the crime of qualified rape or sexual abuse.

From this, XXX256213 filed a notice of appeal<sup>34</sup> on September 25, 2018, impugning the RTC's pronouncement.

The CA, in its Decision dated September 18, 2020, denied the appeal, and affirmed the rulings of the RTC with a modification on the penalty to be served and the monetary awards, to wit:

**ACCORDINGLY**, the appeal is hereby **DENIED**.

The Decision dated 8 August 2018 of the Regional Trial Court ("**RTC**"), Branch 73, [REDACTED], finding accused-appellant [XXX256213] guilty for two (2) counts of qualified rape in Criminal Cases No. 08-37321 to 08-37322, and one (1) count of sexual assault in Criminal Case No. 08-37323 is **AFFIRMED with MODIFICATIONS** as follows:

a) In Criminal Cases No. 08-37321 to 08-37322, the awards of civil indemnity, moral damages, and exemplary damages are each increased to One Hundred Thousand Pesos ([P]100,000[.00]) for each count of qualified rape; and

b) In Criminal Case 08-37323, the accused-appellant is sentenced to suffer an indeterminate penalty of eight (8) years and one (1) day of *prision mayor*, as minimum to seventeen (17) years and four (4) months of *reclusion temporal*, as maximum.

**SO ORDERED.**<sup>35</sup>

The CA reiterated that under Article 266-A(1) of the RPC, the gravamen of the crime of rape is carnal knowledge of "a woman against her will or without her consent." Sexual intercourse with a woman below 12 years of age regardless of her consent, or the lack of it, to the sexual act, is statutory rape. The CA observed that during the victim's testimony, she cried on several occasions resulting in the suspension of the proceedings, as if the series of

<sup>32</sup> Rollo, pp. 7-8.

<sup>33</sup> Records (Folder 1) (Criminal Case No. 08-37321-23), p. 238.

<sup>34</sup> CA rollo, p. 14.

<sup>35</sup> Rollo, pp. 26-27.

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events happened recently, despite the lapse of two years.<sup>36</sup> Furthermore, the CA rejected XXX256213's bare denials as the victim was able to positively identify the former as her assailant.<sup>37</sup>

The CA disagreed with XXX256213's defense that there were several inconsistencies and improbabilities in the victim's testimony or specifically that the three incidents of rape were described in a manner that was too identical with one another. Rather, the way in which AAA256213 testified in open court was straightforward and consistent with her narration of the incidents in her affidavit. These were also corroborated by the medical examination.<sup>38</sup>

Also, the CA did not consider XXX256213's defenses that no moral ascendancy was exercised over the victim that prevented her from resisting as the victim was not demented, deprived of reason, or unconscious at the time the crime was committed. These were immaterial as the crime was committed against an 11-year-old victim. Further, the prosecution proved that XXX256213 tied the victim's hands and feet, as well as her mouth when he committed the crimes against her and moreover, the victim also testified that XXX256213 threatened her verbally and gave her a "menacing stare."<sup>39</sup>

Notwithstanding the absence of force and intimidation, the qualifying circumstance of relationship in the crime of rape was duly proven by the prosecution, as XXX256213 was the victim's stepfather and husband of the victim's mother, BBB256213. This was admitted by XXX256213 himself and the victim.

However, the penalty was modified by the CA in Criminal Case No. 08-37323 involving rape through sexual assault. The penalty of rape through sexual assault under Article 266-A(2) of the RPC when the victim is under 18 years of age and committed by a step-parent, should be meted with a penalty of eight years and one day of *prision mayor*, as minimum, to 17 years and four months of *reclusion temporal*, as maximum, as opposed to the RTC's imposition of to an indeterminate prison term of six years and one day of *prision correccional*, as minimum, to 10 years of *prision mayor*, as maximum.

Due to pronouncements in recent jurisprudence,<sup>40</sup> the CA also increased the monetary awards of civil indemnity, moral damages, and exemplary damages from ₱75,000.00 to ₱100,000.00, respectively, in Criminal Case Nos. 08-37321 to 08-37322, for each count of qualified rape.

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<sup>36</sup> Id. at 18.

<sup>37</sup> Id. at 24.

<sup>38</sup> Id. at 17-18.

<sup>39</sup> Id. at 19.

<sup>40</sup> *People v. Descartín*, 810 Phil. 881, 894-895 (2017). (Citation omitted)

Hence, the instant appeal.

### *Issue*

The question for the Court to resolve is whether the CA erred in upholding the decision of the RTC finding the accused-appellant guilty of the crimes of Qualified Rape and Rape by Sexual Assault under Article 266-A(1) and 266-A(2) of the RPC.

### *Our Ruling*

The appeal is unmeritorious.

After a careful review of the records, We find that the prosecution has proven beyond reasonable doubt that accused-appellant committed two counts of qualified rape by sexual intercourse and one count of rape by sexual assault.

Article 266-A(1) and (2) of the RPC provide the elements on how rape by sexual intercourse and rape by sexual assault are committed:

Article 266-A. *Rape: When and How Committed.* — Rape is committed —

1) By a man who shall have carnal knowledge of a woman under any of the following circumstances:

- a) Through force, threat, or intimidation;
- b) When the offended party is deprived of reason or otherwise unconscious;
- c) By means of fraudulent machination or grave abuse of authority; and
- d) When the offended party is under twelve (12) years of age or is demented, even though none of the circumstances mentioned above be present.

2) By any person who, under any of the circumstances mentioned in paragraph 1 hereof, shall commit an act of sexual assault by inserting his penis into another person's mouth or anal orifice, or any instrument or object, into the genital or anal orifice of another person.

The elements of Qualified Rape are: (1) sexual congress; (2) with a woman; (3) done through force, threat or intimidation, among others, and without the consent of the victim; (4) the victim is under 18 years of age at the time of the rape; (5) 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.<sup>41</sup>

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<sup>41</sup> *People v. XYY*, G.R. No. 249148, October 4, 2021 (Minute Resolution).

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As correctly ruled by the CA, the prosecution was able to establish beyond reasonable doubt all the elements of the crimes charged under Article 266-A(1) in relation to Article 266-A(2) of the RPC.

In the case at bar, AAA256213 was able to categorically testify and positively identify in open court the accused-appellant and that he was the one who raped her by inserting his penis into her vagina on January 29, 2008, and on February 1, 2008.

The claim of the victim that the accused-appellant raped her by sexual assault was also proven when AAA256213 testified that on June 10, 2008, she was sleeping when accused-appellant removed her clothes and inserted his finger into her vagina.

In all three instances, the prosecution was able to prove that at the time the incidents of rape occurred, the victim, AAA256213, was still a child at merely 11 years old and thus, unable to give consent. Further, the victim's testimony was corroborated by the findings of the medical examination conducted by PCI Ebdane.

The qualifying circumstance of relationship of the crime of rape was also proven by the prosecution under Article 266(B) of the RPC.<sup>42</sup> The accused-appellant is the victim's stepfather, being the husband of the victim's mother. Such fact was admitted by the victim<sup>43</sup> and by the accused appellant.<sup>44</sup>

The accused-appellant's position that AAA256213 was not demented when she was raped and assaulted and was not deprived of reason or rendered unconscious is unacceptable. Sexual intercourse committed against a child under 12 years of age is statutory rape, regardless of the circumstances of the victim. Proof of force and intimidation is unnecessary as they are not elements of statutory rape, considering that the absence of consent is conclusively presumed when the victim is below the age of 12.

In *People v. Suedad*,<sup>45</sup> this Court declared that:

Sexual congress with a girl under 12 years old is always rape. In this type of rape, force and intimidation are immaterial; the only subject of inquiry

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<sup>42</sup> ARTICLE 266-B. *Penalties.* — Rape under paragraph 1 of the next preceding article shall be punished by *reclusion perpetua*. x x x

The death penalty shall also be imposed if the crime of rape is committed with any of the following aggravating/qualifying circumstances:

1. When the victim is under eighteen (18) years of age and the offender is a parent, ascendant, step-parent, guardian, relative by consanguinity or affinity within the third civil degree, or the common-law spouse of the parent of the victim. x x x

<sup>43</sup> TSN (Folder 2), October 13, 2010, p. 3.

<sup>44</sup> TSN (Folder 2), October 19, 2016, p. 3.

<sup>45</sup> 786 Phil. 803 (2016).

is the age of the woman and whether carnal knowledge took place. The law presumes that the victim does not and cannot have a will of her own on account of her tender years; the child's consent is immaterial because of her presumed incapacity to discern evil from good.

In rape cases, primordial is the credibility of the victim's testimony because the accused may be convicted solely on said testimony provided it is credible, natural, convincing and consistent with human nature and the normal course of things.

It is also well-settled that the trial court's findings on the credibility of witnesses and of their testimonies are entitled to the highest respect and will not be disturbed on appeal, in the absence of any clear showing that the court overlooked, misunderstood or misapplied some facts or circumstances of the case. This is because the trial court, having seen and heard the witnesses themselves, and observed their behavior and manner of testifying, is in a better position to decide the question of credibility.<sup>46</sup>

Even then, accused-appellant employed force in raping the victim. Regarding the incident on January 29, 2008, AAA256213 testified that:

Q: Did your Papa say anything to you?

A: Yes, Sir.

Q: What did he say?

A: That I should not tell the incident to anyone, *malalagot daw ako sa kanya*.<sup>47</sup>

AAA256213 also testified on the events that transpired on said date:

Q: You testified that your stepfather raped you. do you remember that?

A: Yes, Sir.

Q: You said your hands were tied, who tied your hands?

A: [XXX256213], Sir.

Q: Were you awake when your hands were tied by [XXX256213]?

A: I was asleep, Sir.

Q: As you were asleep, you did not see who tied your hands?

A: I am sure that he was the one who tied my hand because when I woke up, I saw his hand. Sir.

Q: What did he use in tying your hand?

A: *Makapal na tela*.

Q: How about your legs, who tied your legs?

A: It was also [XXX256213], Sir.

Q: What did he use in tying your legs?

A: "*lubid*", Sir.

<sup>46</sup> Id. at 812-813. (Citations omitted)

<sup>47</sup> TSN (Folder 2), November 25, 2010, p. 6.

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Q: When you were awake by the accused, what did you do?

A: None, I just cried because I cannot shout, Sir.

Q: Why you cannot shout?

A: He covered my mouth by a handkerchief, Sir.<sup>48</sup>

On the incident of February 1, 2008, AAA256213 testified that:

Q: You said that your hands were tied by the accused. What did he use in tying your hands?

A: The same as he used when he raped me on January 28, 2008, Sir.<sup>49</sup>

As to the incident on June 10, 2008, AAA256213 narrated that:

Q: And you testified about the June 10, 2008, incident, do you remember that?

A: Yes, Sir.

Q: Who were present at the time inside your house?

A: [XXX256213], my 2 siblings and me, Sir.

Q: While the accused put his finger into your vagina, where were your siblings then?

A: They were outside the house, playing, Sir.

Q: Am I correct that the accused did not tie your hands during June 10, 2008, incident?

A: Yes, he did not tie my hands, Sir.

Q: And he did not tie your legs, correct?

A: Yes, he did not, Sir.

Q: Am I correct that on June 10, 2008, incident happened at noon time?

A: Yes, Sir.

Q: While he was doing bad things to you, you did not fight him, correct?

A: No, Sir because I was afraid, Sir.<sup>50</sup>

It can be gleaned from AAA256213's testimony that force and intimidation was still employed by the accused-appellant in the commission of the crimes, he tied AAA256213's hands and feet, placed something in her mouth so she could not speak, and threatened her.

Further, it was held in *People v. XXX*,<sup>51</sup> that:

<sup>48</sup> TSN (Folder 2), February 2, 2011, pp. 3-4.

<sup>49</sup> Id. at 8.

<sup>50</sup> Id. at 8-9.

<sup>51</sup> G.R. No. 246499, November 4, 2020.

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In *People v. Entrampas*, this Court held that “the silence of the rape victim does not negate her sexual molestation or make her charge baseless, untrue, or fabricated.” Further:

Force and intimidation must be appreciated in light of the victim's perception and judgment when the assailant committed the crime. *In rape perpetrated by close kin, such as the common-law spouse of the child's mother, actual force or intimidation need not be employed.*

“While [accused-appellant] was not the biological father of AAA . . . [she] considered him as her father since she was a child.” *Moral influence or ascendancy added to the intimidation of AAA. It enhanced the fear that cowed the victim into silence. Accused-appellant's physical superiority and moral influence depleted AAA's resolve to stand up against her foster father. . . . As accused-appellant sexually assaulted AAA, she cried and pleaded him to stop. Her failure to shout or tenaciously repel accused-appellant does not mean that she voluntarily submitted to his dastardly act. (Emphasis supplied, citation omitted)*

Here, as in *Entrampas*, accused-appellant was of close kin to the victim, his niece. Worse, during the rape incidents, the victim knew that her uncle had once beat up one of their relatives. Certainly, his influence, coupled with his reputation for violence, attended the crime that accused-appellant committed against AAA.<sup>52</sup>

Likewise, We reject the defense of accused-appellant questioning the credibility of AAA256213's testimony in view of the similarity of the manner the commission of the rapes on January 29, 2008 and February 1, 2008 were narrated.

In *People v. Ochinang y Velasco*,<sup>53</sup> this Court stated that:

Testimonies of child-victims are normally given full weight and credit, since when a woman, more so if she is a minor, says that she has been raped, she says in effect all that is necessary to show that rape was committed. Youth and immaturity are generally badges of truth and sincerity.<sup>54</sup>

As found by the CA, the identity of the testimonies in committing the rapes does not necessarily indicate that AAA256213 was instructed on how to present her case.

Verily, the guilt of accused-appellant was established by the prosecution beyond reasonable doubt. Absent any indication that the RTC and CA overlooked or misapplied the surrounding facts and circumstances, this Court finds no reason to deviate from their factual findings. In this regard, it should be noted that the RTC is in the best position to assess and determine

<sup>52</sup> Id. (Citations omitted)

<sup>53</sup> G.R. No. 238615, May 14, 2021 (Minute Resolution).

<sup>54</sup> Id.

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the credibility of the witnesses presented by both parties. Considering the age of the victim and the relationship of accused-appellant to her, accused-appellant is hereby found guilty of Qualified Statutory Rape.

As regards the penalty, the crime of qualified rape through sexual intercourse is penalized by death. However, by virtue of the suspension of the imposition of the death penalty, A.M. No. 15-08-02-SC provides that the penalty to be imposed under such circumstance shall be *reclusion perpetua* without eligibility for parole.

With respect to the crime of rape by sexual assault, *People v. Tulagan*<sup>55</sup> instructs that the designation of the crime when committed against a child below 12 years of age is Sexual Assault under Article 266-A(2) of the RPC in relation to Section 5(b) of Republic Act (R.A.) No. 7610, punishable by *reclusion temporal* in its medium period. Applying the Indeterminate Sentence Law, We impose the penalty of twelve (12) years, ten (10) months and twenty one (21) days of *reclusion temporal*, as minimum, to fifteen (15) years, six (6) months and twenty one (21) days of *reclusion temporal*, as maximum.

This Court agrees with the CA's modification of the amounts awarded to the victim for each count of qualified rape in line with the rulings of *People v. Jugueta*,<sup>56</sup> and *People v. Tulagan*,<sup>57</sup> which now impose a minimum amount of ₱100,000.00 as civil indemnity; ₱100,000.00 as moral damages; and ₱100,000.00 as exemplary damages in cases where the proper penalty for the crime committed by the accused is death, but where it cannot be imposed due to the enactment of R.A. No. 9346. Thus, the awards of civil indemnity, moral damages, and exemplary damages are each increased from ₱75,000.00 to ₱100,000.00 for each count of qualified statutory rape by sexual intercourse.

All monetary awards shall earn an interest at the legal rate of six percent (6%) *per annum* from the date of finality of this Resolution until full payment.

Modification of the penalty is but a mere consequence of this Court's review of an appeal in a criminal case. Settled is the rule that an appeal in a criminal case throws the entire case wide open for review and the reviewing tribunal can correct errors, though unassigned in the appealed judgment, or even reverse the trial court's decision based on grounds other than those raised as errors by the parties. The appeal confers the appellate court full jurisdiction over the case and renders such court competent to examine the records, revise the judgment appealed from, increase the penalty, and cite the proper provision of the penal law.<sup>58</sup>

<sup>55</sup> G.R. No. 227363, March 12, 2019.

<sup>56</sup> 783 Phil. 806, 848 (2016).

<sup>57</sup> *Supra* note 54.

<sup>58</sup> *People v. Ochinang y Velasco*, *supra* note 54, citing *People v. Moya*, G.R. No. 228260, June 10, 2019.

**FOR THESE REASONS**, the appeal is hereby **DENIED**. The Decision dated September 18, 2020 of the Court of Appeals in CA-G.R. C.R. HC No. 11966 is **AFFIRMED** with **MODIFICATIONS**, as follows:

a.) In Criminal Case Nos. 08-37321 to 08-37322, accused-appellant is sentenced to suffer the penalty of *reclusion perpetua*, without eligibility for parole for each count of rape. Accused-appellant is likewise **ORDERED TO PAY** AAA256213 the amounts of ₱100,000.00 as civil indemnity, ₱100,000.00 as moral damages, and ₱100,000.00 as exemplary damages, for each count of Qualified Rape; and

b.) In Criminal Case No. 08-37323, accused-appellant is sentenced to suffer an indeterminate penalty of twelve (12) years, ten (10) months and twenty one (21) days of *reclusion temporal*, as minimum, to fifteen (15) years, six (6) months and twenty one (21) days of *reclusion temporal*, as maximum.

c.) Legal interest at the rate of six percent (6%) *per annum* shall be imposed on all damages awarded from the finality of this Resolution until full payment.

**SO ORDERED.”**

By authority of the Court:

TERESITA AQUINO TUAZON  
Division Clerk of Court

By:



MA. CONSOLACION GAMINDE-CRUZADA  
Deputy Division Clerk of Court

27 DEC 2022

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Accused-Appellant  
c/o The Director  
Bureau of Corrections  
1770 Muntinlupa City

THE DIRECTOR (reg)  
Bureau of Corrections  
1770 Muntinlupa City

HON. PRESIDING JUDGE (reg)  
Regional Trial Court, Branch 73  
1870 Antipolo City  
(Crim. Case Nos. 08-37321-23)

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Supreme Court, Manila

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\*with copy of the CA Decision dated September 18, 2020  
*Please notify the Court of any change in your address.*  
GR256213. 08/22/2022B(213)URES(m)

