



Republic of the Philippines  
Supreme Court  
Baguio City

THIRD DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Third Division, issued a Resolution dated April 18, 2022, which reads as follows:*

“G.R. No. 239080 (*People of the Philippines v. Marco Antonio*) – This Court resolves an appeal<sup>1</sup> from the Decision<sup>2</sup> dated January 19, 2018 of the Court of Appeals (CA) in CA-G.R. CR-HC. No. 08712, which affirmed with modification the Judgment<sup>3</sup> dated September 28, 2016 of the Regional Trial Court (RTC), Branch 202, [REDACTED]<sup>4</sup> in Criminal Case No. 13-0804 finding accused-appellant Marco Antonio (*Marco*) guilty beyond reasonable doubt of rape.

In an Information dated April 26, 2013, Marco was charged with rape. The accusatory portion of the Information reads:

That on or about the 7<sup>th</sup> day of April, 2012, in the City of [REDACTED], Philippines and within the jurisdiction of this Honorable Court, the above-named accused, by means of force, threat or intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge with his sister-in-law AAA,<sup>5</sup> a seventeen (17) year old minor, by inserting his penis into her vagina against her will and without her consent which is prejudicial to the minor’s normal development and which act debases, degrades and demeans her intrinsic worth and dignity as a human being.

CONTRARY TO LAW.<sup>6</sup>

<sup>1</sup> *Rollo*, pp. 13-15.

<sup>2</sup> Penned by Associate Justice Socorro B. Inting, with Associate Justices Apolinario D. Bruselas, Jr. and Rafael Antonio M. Santos, concurring; *id.* at 2-12.

<sup>3</sup> Penned by Judge Elizabeth Yu Guray; *CA rollo*, pp. 39-54.

<sup>4</sup> Geographical location is blotted out pursuant to Supreme Court Amended Circular No. 83-2015, *supra* note 1.

<sup>5</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 Republic Act No. 7610, An Act Providing for Stronger Deterrence and Special Protection against Child Abuse, Exploitation and Discrimination, Providing Penalties for its Violation, and for Other Purposes; Republic Act No. 9262, An Act Defining Violence Against Women and their Children, Providing for Protective Measures for Victims, Prescribing Penalties Therefor, and for Other Purposes; and Section 40 of A.M. No. 04-10-11-SC., known as the “Rule on Violence against Women and their Children, effective November 15, 2002.” (*People v. Dumadag*, 667 Phil.664, 669 [2011]).

<sup>6</sup> Records, p. 1.

The evidence for the prosecution established that, on April 7, 2012, 17-year-old<sup>7</sup> AAA lived with her eldest sister BBB, and brother-in-law, Marco. AAA was taking a bath inside the bathroom of their house when Marco, who was then 43 years old, knocked on the door and asked her to let him in so he could urinate. AAA wrapped herself with a towel and unlocked the door. While inside the bathroom, Marco asked AAA to keep silent and removed the towel covering her. He then inserted his penis into her vagina. BBB caught Marco having carnal knowledge of AAA. Out of anger, BBB threw away AAA's belongings and kicked her out of the house. Subsequently, AAA lived with another sibling until she eventually moved to the house of her father, CCC.<sup>8</sup> In June 2012, AAA admitted to her other sister, DDD, and CCC, that Marco raped her. They then proceeded to the police station to report the incident.<sup>9</sup> AAA maintained that the abuse happened several times and that Marco threatened to kill her family if she reports to anyone.<sup>10</sup> Medico-Legal Report No. SA12-037-SPD/S<sup>11</sup> confirmed the existence of "clear evidence of blunt penetrating trauma to the hymen"<sup>12</sup> and "[s]hallow healed laceration at 2 o'clock position."<sup>13</sup>

For his defense, Marco denied raping AAA.<sup>14</sup> Marco maintained that their bathroom is adjacent to the road and that it was impossible and improbable for him to rape AAA without other people noticing them. BBB also denied seeing Marco having carnal knowledge of AAA on April 7, 2012.<sup>15</sup> The defense witnesses claimed that AAA no longer lived with them at the time of the alleged incident because she was asked to move to another sibling's house located one kilometer away after she was caught stealing.<sup>16</sup>

On September 28, 2016, the RTC rendered its Judgment, the dispositive portion of which states:

**WHEREFORE, in view of the foregoing, this Court finds accused Marco Antonio GUILTY beyond reasonable doubt for the commission of RAPE and hereby sentences him to suffer the following penalty of RECLUSION PERPETUA which carries an accessory penalty of civil interdiction for the duration of the period of the sentence and perpetual disqualification. He is also liable to pay herein minor complainant AAA civil indemnity in the amount of [P]75,000.00 and moral damages in the amount of [P]75,000.00.**

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<sup>7</sup> *Id.* at 24.

<sup>8</sup> TSN, September 10, 2014, pp.7-8.

<sup>9</sup> TSN, September 30, 2014, pp.7-8.

<sup>10</sup> TSN, September 10, 2014, pp.9-10.

<sup>11</sup> Records, p. 15.

<sup>12</sup> *Id.*; CA *rollo*, pp. 52-53.

<sup>13</sup> *Id.* at 52.

<sup>14</sup> TSN, February 18, 2015, pp. 7-8.

<sup>15</sup> TSN, June 3, 2015, pp. 6, 11, 18.

<sup>16</sup> TSN, February 18, 2015, p. 9; TSN, March 18, 2015, p. 12.

**SO ORDERED.**<sup>17</sup>

The RTC held that the prosecution positively established the elements of rape under Article 266-A (1) (a). The RTC found the testimony of AAA credible and supported by the medico-legal report. The RTC added that even without actual force or intimidation, rape may be committed if the perpetrator has moral ascendancy over the minor victim. The RTC also ruled that AAA's failure to shout for help and her delay in reporting the incident are not indications of a fabricated charge or ill motive on the part of AAA.<sup>18</sup>

In convicting Marco, the RTC highlighted that the minor victim has an overall adaptive behavior akin to an individual whose chronological age is five years old. The RTC also took into account the Psychological Evaluation Report on AAA wherein it was stated that she manifested problems with her cognitive and intellectual functioning and that she is likely to exhibit difficulties in school and even in the community.<sup>19</sup>

In the Appellant's Brief,<sup>20</sup> the defense pointed out that no force, threat, or intimidation was employed on AAA because she readily opened the door and did not object nor show any resistance when Marco allegedly inserted his penis into her vagina. It was not even shown that he held her hands or that he was armed with a weapon or threatened to kill her.<sup>21</sup> Marco also questioned the reliance of the RTC on the perceived moral ascendancy over AAA.<sup>22</sup> He also maintained that the presence of healed laceration on AAA's hymen does not automatically mean sexual abuse.<sup>23</sup> He likewise argued that the RTC erred in relying on a Psychological Evaluation Report that was prepared by a psychologist who did not testify during trial.<sup>24</sup>

On January 19, 2018, the CA rendered its Decision, the dispositive portion of which states:

**WHEREFORE**, the foregoing [sic] considered, the present Appeal should be, as it is hereby ordered **DENIED**, and the *Judgment dated 28 September 2016* rendered by the Regional Trial Court, National Capital Judicial Region, Branch 202, ██████████ City in Criminal Case No. 13-0804 is hereby **AFFIRMED with MODIFICATION**.

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<sup>17</sup> CA *rollo*, p. 54.

<sup>18</sup> *Id.* at 52-53.

<sup>19</sup> *Id.* at 53.

<sup>20</sup> *Id.* at 25-36.

<sup>21</sup> *Id.* at 31.

<sup>22</sup> *Id.* at 31-32.

<sup>23</sup> *Id.* at 32.

<sup>24</sup> *Id.* at 33.

Accordingly, appellant Marco Antonio is hereby **ORDERED** to pay AAA the amount of One Hundred Thousand Pesos ([P]100,000.00) as civil indemnity, One Hundred Thousand Pesos ([P]100,000.00) as moral damages, and One Hundred Thousand Pesos ([P]100,000.00) as exemplary damages.

**SO ORDERED.**<sup>25</sup>

In affirming the conviction of Marco, the CA took into consideration his moral ascendancy over AAA, coupled with his threat of hurting her family.<sup>26</sup> In accordance with the ruling in *People v. Jugueta*,<sup>27</sup> the CA modified the penalty imposed by the RTC by increasing the civil indemnity and moral damages to ₱100,000.00 each, and awarding ₱100,000.00 as exemplary damages.<sup>28</sup>

Marco filed a Notice of Appeal<sup>29</sup> on February 9, 2018. This Court notified the parties to file their supplemental briefs.<sup>30</sup> However, Marco opted not to file a supplemental brief since he already adequately addressed issues in the case.<sup>31</sup> For its part, the Office of the Solicitor General manifested that it will not file a supplemental brief since its appellee's brief already exhaustively discussed its arguments.<sup>32</sup>

The issue in this case is whether accused-appellant is guilty of one count of rape by sexual intercourse under Article 266-A (1) (a).

After a judicious study of the case, this Court resolves to dismiss the appeal for failure to sufficiently show that the CA committed any reversible error in the assailed Decision as to warrant the exercise of Our appellate jurisdiction.

From the testimonies of the prosecution witnesses, the prosecution was able to firmly establish the elements of the crime of rape under Article 266-A of the Revised Penal Code, which include the following: (1) the accused had carnal knowledge of the victim; and (2) said act was accompanied (a) with the use of force, threat, or intimidation, or (b) when the victim is deprived of reason or otherwise unconscious, or (c) when the victim is under 12 years of age or is demented.<sup>33</sup>

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<sup>25</sup> *Rollo*, p. 11.

<sup>26</sup> *Id.* at 8-9.

<sup>27</sup> 783 Phil. 806 (2016).

<sup>28</sup> *Rollo*, pp. 10-11.

<sup>29</sup> *Id.* at 13.

<sup>30</sup> *Id.* at 19.

<sup>31</sup> *Id.* at 25-26.

<sup>32</sup> *Id.* at 30-31.

<sup>33</sup> Republic Act No. 8353, (1997), Sec. 2.

In the present case, the prosecution was able to establish beyond reasonable doubt that accused-appellant had carnal knowledge of 17-year-old AAA against her will through threat and intimidation. AAA's straightforward and consistent narration that accused-appellant entered the bathroom where she was taking a bath and that he suddenly removed the towel she used to cover herself and inserted his penis into her vagina deserves credence.<sup>34</sup> Her testimony is also corroborated by the findings of Medico-Legal Officer Benjamin Venacio J. Lara who conducted the anogenital examination and confirmed the presence of "clear evidence of blunt penetrating trauma to the hymen"<sup>35</sup> on the victim.

It is settled that hymenal injury has never been an element of rape, for a woman might still be raped without such injury resulting.<sup>36</sup> AAA's hymenal injury, described as shallow-healed laceration at the 2 o'clock position<sup>37</sup> is not incompatible with the evidence of rape. After all, this Court highlighted in *People v. Orilla*<sup>38</sup> that:

[T]he absence of fresh lacerations in Remilyn's hymen does not prove that appellant did not rape her. **A freshly broken hymen is not an essential element of rape and healed lacerations do not negate rape.** In addition, a medical examination and a medical certificate are merely corroborative and are not indispensable to the prosecution of a rape case. **The credible disclosure of a minor that the accused raped her is the most important proof of the sexual abuse.**<sup>39</sup> (Emphases supplied, citations omitted)

In the case of *People v. Aaron*,<sup>40</sup> which incidentally involved rape also committed by a brother-in-law, it was held that "physical resistance need not be established in rape when intimidation is used on the victim and the latter submits herself, against her will, to the rapist's embrace because of fear for her life and personal safety."<sup>41</sup> In the present case, AAA's perceived lack of resistance should not be taken against her. The following exchange established the continuing threat on AAA's life and the lives of her family members:

The Court:

Q: So, is it your testimony [t]his happened several more times?

x x x

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<sup>34</sup> TSN, September 10, 2014, pp. 6-8.

<sup>35</sup> Records, p. 116.

<sup>36</sup> *People v. Taguilid*, 685 Phil. 571, 580 (2012).

<sup>37</sup> CA rollo, p. 52.

<sup>38</sup> *People v. Orilla*, 467 Phil. 253-289 (2004).

<sup>39</sup> *Id.* at 274.

<sup>40</sup> 438 Phil. 296-314 (2002).

<sup>41</sup> *Id.* at 312, citing *People v. Quiamco*, 335 Phil. 988, 1000 (1997).

A: Yes, Sir. **He told me that he will kill my relatives if I will report this to anyone, Sir.**<sup>42</sup> (Emphases supplied)

Though it was only the April 7, 2012 incident that was alleged in the Information, it is clear from the quoted exchange that accused-appellant's threats to AAA cowed her into fear.

Moreover, since the perpetrator is the husband of her eldest sister and she was under their guardianship while she lived with them, he had moral ascendancy over her. In *People v. Baldino*,<sup>43</sup> it was held that the perpetrator need not be armed for force to be present because his size, weight and strength were enough to attain his evil design. In *Baldino*, the perpetrator was also the brother-in-law of the victim and it was held that he enjoyed ascendancy over the victim as the husband of her eldest sister.<sup>44</sup>

Though in this case, AAA voluntarily opened the door of the bathroom when accused-appellant knocked, it cannot be concluded that she willingly submitted to his lustful desire. No consent can be drawn from this innocent act to justify the abuse she suffered in his hands. Thus, though she did not physically resist accused-appellant, intimidation and threat were clearly present when he molested AAA.

With regard to the admissibility of the Psychological Evaluation Report, this Court finds that it is inadmissible due to the failure of the psychologist who prepared the document to properly identify and authenticate it during trial, in accordance with Section 20, Rule 132 of the Rules of Court which states:

SECTION 20. *Proof of private documents.* – Before any private document offered as authentic is received in evidence, its due execution and authenticity must be proved by any of the following means:

- (a) By anyone who saw the document executed or written;
- (b) By evidence of the genuineness of the signature or handwriting of the maker; or
- (c) By other evidence showing its due execution and authenticity.

Here, none of the enumerated means of authenticating the document was done during trial. Therefore, this Court cannot accord probative weight upon the document in view of the fact that the psychologist who issued the same did not testify in court to prove the facts stated therein.

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<sup>42</sup> TSN, September 10, 2014, p. 9.

<sup>43</sup> 397 Phil. 157-169 (2000).

<sup>44</sup> *Id.* at 162.

Nevertheless, this Court need not rely on the Psychological Evaluation Report to convict accused-appellant. The report is only intended to bolster the position of the prosecution that AAA could not have validly given consent to the sexual intercourse at the time of the incident. This fact had already been established beyond reasonable doubt through the other pieces of evidence of the prosecution.

Although the bathroom where the crime took place is adjacent to the road where they could have been heard by people, this fact did not make it impossible for the crime to be committed. It has long been recognized that many rape cases appealed to this Court were not always committed in secluded places. As aptly stated by this Court, “lust is no respecter of time or place, and rape defies constraints of time and space.”<sup>45</sup>

Even the alibi of accused-appellant that AAA was already living with another sibling of AAA and BBB at the time of the incident deserves scant consideration. Assuming that this is true, the distance of one kilometer from BBB and accused-appellant’s residence to the house of the other sibling did not make it impossible for the crime to be committed. Accused-appellant and BBB both admitted that the distance is just a three-to-five-minute tricycle ride.<sup>46</sup>

It must be stressed that testimonies of child victims are given full weight and credit, because when a person, more so if a minor, says that they have been raped, they say in effect all that is necessary to show that rape was committed. Youth and immaturity are generally badges of truth and sincerity.<sup>47</sup> No person, especially one of tender age, would concoct a story of defloration, allow an examination of their private parts, and permit themselves to be subjected to a public trial, unless they are motivated solely by the desire to have the culprit apprehended and punished.<sup>48</sup> Here, this Court finds it difficult to believe that AAA is capable of falsely accusing the husband of her elder sister just to exact revenge on them for asking her to leave their house. When a rape victim’s testimony is straightforward and candid, unshaken by rigid cross-examination and unflawed by inconsistencies or contradictions in its material points, the same must be given full faith and credit.

The defense of alibi should be considered with suspicion and always received with caution, not only because it is inherently weak and unreliable, but also because it is easily fabricated. Here, though accused-appellant’s wife and son attempted to corroborate his testimony, their respective

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<sup>45</sup> *People v. Pareja*, 724 Phil. 759, 777 (2014).

<sup>46</sup> TSN, February 18, 2015, p. 9; TSN, March 18, 2015, p. 12-13.

<sup>47</sup> *People v. Vergara*, 724 Phil. 702, 709 (2014).

<sup>48</sup> *People v. Ramirez*, 334 Phil. 305, 320 (1997).

testimonies, assuming these are true, did not totally make it impossible for the crime to happen. Furthermore, because of their relation to accused-appellant, they are expected to testify in favor of him. Hence, their respective testimonies failed to overthrow the evidence of the prosecution.

While rape under paragraph 1 of Article 266-A is punished by *reclusion perpetua*, it must be noted that AAA's relationship to accused-appellant increases the penalty to be imposed to death penalty because they are relatives by affinity within the second degree. Article 266-B, states in part:

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

x 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.

Republic Act No. 9346<sup>49</sup> proscribes imposing the death penalty and in lieu thereof, imposes the penalty of *reclusion perpetua* without eligibility for parole under Act No. 4103.<sup>50</sup> The phrase "without eligibility for parole" should be added to accused-appellant's conviction in accordance with AM-No-15-08-02-SC.<sup>51</sup>

Likewise, this Court modifies the CA's award of civil indemnity, moral damages, and exemplary damages in the amount of ₱100,000.00 each. In line with this Court's ruling in *Nacar v. Gallery Frames*,<sup>52</sup> an interest at the rate of six percent (6%) *per annum* shall be imposed on all damages awarded from the date of finality of this Resolution until fully paid.

**WHEREFORE**, premises considered, the instant appeal is **DISMISSED** for lack of merit. The assailed Decision of the Court of Appeals dated January 19, 2018 is hereby **AFFIRMED** with

<sup>49</sup> Anti-Death Penalty Law.

<sup>50</sup> Indeterminate Sentence Law.

<sup>51</sup> Guidelines for the Proper Use of the Phrase "*Without Eligibility for Parole*" in Indivisible Penalties.

<sup>52</sup> 716 Phil. 267 (2013).



**MODIFICATION.** Accused-appellant Marco Antonio is convicted of rape and is accordingly meted the penalty of *reclusion perpetua* without eligibility for parole. He is **ORDERED** to **PAY AAA**, the amounts of ₱100,000.00 as civil indemnity, ₱100,000.00 as moral damages, and ₱100,000.00 by way of exemplary damages, with interest at the rate of six percent (6%) *per annum* from the finality of this Resolution until fully paid.

**SO ORDERED.”**

By authority of the Court:

*Mis-ADC Batt*  
**MISAELO DOMINGO C. BATTUNG III**  
*Division Clerk of Court JB 12/15/22*

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CA-G.R. CR HC No. 08712  
1000 Manila

OFFICE OF THE SOLICITOR GENERAL  
134 Amoroso Street  
1229 Legaspi Village, Makati City

The Presiding Judge  
REGIONAL TRIAL COURT  
Branch 202, 1740 Las Pinas City  
(Criminal Case No. 13-0804)

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