



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. 251116** (*People of the Philippines v. XXX251116*). – This Court resolves an appeal<sup>1</sup> dated September 16, 2019, assailing the Decision<sup>2</sup> dated August 30, 2019 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 01875-MIN, titled *People of the Philippines v. XXX*. The assailed Decision affirmed *in toto* the conviction of XXX251116 for qualified rape by the Regional Trial Court, Branch 27, [REDACTED] (RTC) in its Judgment<sup>3</sup> dated January 8, 2018 in Criminal Case Nos. 2015-6194, 2015-6196 and 2015-6221.

XXX251116 was charged with the crimes of qualified rape, acts of lasciviousness, and rape by sexual assault under the following Informations:

Amended Information  
Criminal Case No. 2015-6194

That on January 22, 2015, at more or less 12:25 o'clock in the afternoon, in [REDACTED], Philippines and within the jurisdiction of this Honorable Court, the above-named accused who is the step-father of the private offended party, did then and there wilfully (sic), unlawfully and feloniously force and intimidate [AAA251116]<sup>4</sup> 15 years old, minor and then forcibly committed sexual intercourse by forcibly inserting his penis into the vagina of the said minor against her will.

Contrary to and in violation of Article 266-A, paragraph 1, of the Revised Penal Code, in relation to R.A. 7610.<sup>5</sup>

<sup>1</sup> Rollo, pp. 13-14.

<sup>2</sup> Penned by Associate Justice Edgardo A. Camello, with Associate Justices Florencio M. Mamaug, Jr. and Lily V. Biton, concurring; rollo, pp. 5-12.

<sup>3</sup> Penned by Presiding Judge Giovanni Alfred H. Navarro; CA rollo, pp. 38-54.

<sup>4</sup> The identity of the victim or any information to 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, 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”; Section 40 of A.M. No. 04-10-11-SC, known as the “Rule on Violence Against Women and Their Children,” effective November 15, 2004; *People v. Cabalquinto*, 533 Phil. 703 (2006); and Amended Administrative Circular No. 83-2015 dated September 5, 2017, Subject: Protocols and Procedures in the promulgation, Publication, and Posting on the Websites of Decisions, Final Resolutions, and Final Orders Using Fictitious Names/Personal Circumstances.

<sup>5</sup> Records, p. 23.

## Criminal Case No. 2015-6196

That on January 23, 2015, at more or less 9:40 o'clock (sic) in the evening, in [REDACTED], Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, who is the stepfather of the private offended party, did then and there willfully, unlawfully, and feloniously with lewd design, commit acts of lasciviousness to [sic] his own stepdaughter [BBB251116], 17 years old, minor, by then and there touching her breast many times and attempting to remove the tie of her pajama, thereby debasing, degrading and demeaning the intrinsic worth and dignity and prejudicial to her mental and psychological development as [a] human being.

Contrary to and in violation of Article 336 of the Revised Penal Code, in relation to R.A. 7610.<sup>6</sup>

## Criminal Case No. 2015-6221

That on January 22, 2015, at more or less 12:25 o'clock (sic) in the afternoon, in [REDACTED], Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, who is the stepfather of the private offended part[y], did then and there willfully, unlawfully, and feloniously assaulted [sic] [AAA251116], 15 years old, minor, by inserting his finger to the vagina of the aforementioned [sic] minor, against her will.

Contrary to and in violation of Article 266-A, Second Form, of the Revised Penal Code, in relation to R.A. 7610.<sup>7</sup>

Upon arraignment, XXX251116 pleaded "not guilty" to the charges.<sup>8</sup> During pretrial, the prosecution and the defense stipulated that XXX251116 is the husband of CCC251116.<sup>9</sup> Joint trial ensued thereafter.

In Criminal Case No. 2015-6194 for qualified rape and Criminal Case No. 2015-6221 for rape by sexual assault, the prosecution presented AAA251116, CCC251116, and Dr. Ma. Resuel A. Fuentes (*Dr. Fuentes*) as its witnesses.

AAA251116 testified that she was born on June 18, 2000.<sup>10</sup> She affirms that XXX251116 is her stepfather as he was legally married to her mother, CCC251116.<sup>11</sup> On January 22, 2015, at around 12:00 p.m., she was at home from school having lunch with XXX251116. CCC251116 was in the mountains, while her sister BBB251116 was having lunch with her classmate.<sup>12</sup> After eating, XXX251116 called her to the room that he shared

<sup>6</sup> CA *rollo*, p. 39.

<sup>7</sup> *Id.* at 39-40.

<sup>8</sup> Order dated October 15, 2015; records, p. 26.

<sup>9</sup> See Joint Pre-Trial Order dated November 26, 2015, *id.* at 35-37.

<sup>10</sup> TSN, May 12, 2016, p. 2.

<sup>11</sup> *Id.* at 3.

<sup>12</sup> *Id.* at 4.

with CCC251116. AAA251116 obliged. Upon entering, XXX251116 asked her to lie down on the bed. When she refused, XXX251116 forcibly laid her down by holding both her hands.<sup>13</sup> AAA251116 protested by kicking XXX251116, but to no avail. She recalled that she restrained herself from shouting as she was afraid of him. After XXX251116 removed her skirt and panty, he undressed himself, mounted AAA251116, and mashed her breasts several times. After touching her breasts, he inserted his finger inside her vagina. He replaced his finger with his penis and then made a push-and-pull motion for about six times. After satisfying his lust, he threatened AAA251116 not to tell her mother, otherwise, he would kill her entire family. After the incident, AAA251116 noticed blood on her vagina.<sup>14</sup>

AAA251116 further testified that she did not reveal the incident to anyone. On September 3, 2015, when CCC251116 noticed her bulging abdomen, AAA251116 was compelled to tell the former of her pregnancy. At first, AAA251116 told her mother that it was her textmate who impregnated her, withholding the true details as she was fearful of the threats made by XXX251116. On September 9, 2015, she confided in her teacher, sharing that XXX251116 was the father of her unborn child. On the afternoon of the same day, some members of the personnel of the Department of Social Welfare and Development (*DSWD*) Office fetched her at school and brought her to the Misamis Oriental Provincial Hospital for medical check-up.<sup>15</sup> Finally, on September 27, 2015, she gave birth to her daughter in [REDACTED].<sup>16</sup>

CCC251116 testified that she is the mother of AAA251116, presenting the latter's Certificate of Live Birth<sup>17</sup> as proof of their relation. She affirms that she has been married to XXX251116 for 12 years after her first husband died in 2003, when AAA251116 was only 3 years old.<sup>18</sup> Upon getting married, they all lived in a house [REDACTED], which was owned by CCC251116 and her family. On September 3, 2015, AAA251116 asked CCC251116 to buy her a blouse for her cheerdance competition at school. While helping AAA251116 fit the new blouse, she noticed her daughter's abdomen distinctly protruding.<sup>19</sup> She instantly asked AAA251116 if she was pregnant, which the latter quickly denied. Unconvinced, CCC251116 prodded her stomach, which she observed was hard. She also noticed that AAA251116's pulse was racing. It was only after confronting her with these observations that AAA251116 finally admitted that she was indeed pregnant, but confessed that it was her textmate from Cebu who impregnated her. Distraught, CCC251116 visited her mother's house in [REDACTED] to tell her what happened. Her mother revealed that she already knew of AAA251116's pregnancy but held back from telling her.<sup>20</sup>

<sup>13</sup> *Id.* at 6.

<sup>14</sup> *Id.* at 10.

<sup>15</sup> *Id.* at 11.

<sup>16</sup> *Id.* at 27.

<sup>17</sup> Records, p. 84.

<sup>18</sup> TSN, February 10, 2016, pp. 4-5.

<sup>19</sup> *Id.* at 5.

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

CCC251116 also narrated that while she was at home on September 9, 2015, a barangay kagawad arrived to inform her that he would be picking up some of AAA251116's clothes. He also disclosed that AAA251116 would be taken to the DSWD Office as she had reportedly confessed to her teacher that her father, XXX251116, had molested her.<sup>21</sup> Upon hearing the news, she cried in disbelief, as she believed AAA251116 and XXX251116 were close. CCC251116 confronted XXX251116 about the molestation when he arrived from work, and he denied the accusation. CCC251116 and XXX251116 then proceeded to the DSWD Office to visit AAA251116. It was there that AAA251116 confessed that it was her stepfather who had impregnated her.<sup>22</sup>

For her part, Dr. Fuentes averred that on September 10, 2015, at around 10:20 a.m., she attended to AAA251116 as a patient, who visited the hospital for a prenatal check-up.<sup>23</sup> She found her to be pregnant at 35 weeks, the results having been reduced to writing in a Medico-Legal Certificate<sup>24</sup> dated September 17, 2015.

In Criminal Case No. 2015-6196 for acts of lasciviousness, the testimony of AAA251116 proved the following version of the facts:

AAA251116 testified that on January 23, 2015, at 9:00 p.m., she was sleeping in her bedroom together with her elder sister BBB251116.<sup>25</sup> During that time, she noticed that XXX251116 entered their bedroom. She confirmed that she was certain that it was XXX251116 who entered, as they were the only persons in the house, as CCC251116 left for Manila that day.<sup>26</sup> Thereat, XXX251116 approached the sleeping BBB251116, raised her blouse and touched her breast numerous times. During the ordeal, AAA251116 pretended to be asleep.<sup>27</sup> When AAA251116 saw that XXX251116 was attempting to remove BBB251116's pajama, she immediately told XXX251116 to leave the room.<sup>28</sup> The next morning, AAA251116 told BBB251116 what had transpired the night before.<sup>29</sup>

In Criminal Case Nos. 2015-6194, 2015-6196, and 2015-6221, the defense presented XXX251116 and CCC251116 as its witnesses.

XXX251116 denied having committed all the crimes as charged in the Informations. He admitted that AAA251116 is his stepdaughter, having been legally married to AAA251116's mother CCC251116.<sup>30</sup>

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<sup>21</sup> *Id.* at 7.

<sup>22</sup> *Id.*

<sup>23</sup> TSN, December 14, 2016, p. 3.

<sup>24</sup> Records, p. 85.

<sup>25</sup> TSN, May 31, 2016, p. 4.

<sup>26</sup> *Id.* at 6.

<sup>27</sup> *Id.* at 4.

<sup>28</sup> *Id.* at 23.

<sup>29</sup> *Id.* at 17.

<sup>30</sup> TSN, February 23, 2017, pp. 6-7.

XXX251116 claimed that at the time of the alleged rape against AAA251116 on January 22, 2015, he was working in Barangay [REDACTED] for Teofisto Osing, who employed him as a carpenter, electrician, and mason, for the construction of the latter's house.<sup>31</sup> He further claimed that he never goes home for lunch as they were regularly being served free meals at the workplace.<sup>32</sup> On cross-examination, he testified that the distance between his workplace and his home was only three kilometers, and that it would take him less than five minutes to travel to and from work on his motorcycle.<sup>33</sup>

XXX251116 insisted the impossibility of being the father of AAA251116's daughter, being incapable of bearing children, as he was electrocuted when he was 19 years old, and was hospitalized for two days due to the incident.<sup>34</sup> In fact, he and CCC251116 failed to bear any children despite being together for more than 13 years.

XXX251116 further testified that on the night of January 23, 2015, he did not enter the room of AAA251116 and BBB251116; neither did he touch BBB251116's breast nor attempt to remove her pajama, as BBB251116 was still in school attending evening classes at [REDACTED] City Colleges.<sup>35</sup>

Lastly, XXX251116 argued that AAA251116 came up with these fabricated charges as she held a grudge against him for confiscating her cellphone and breaking her sim card.<sup>36</sup> He also believed that both AAA251116 and BBB251116 wanted to destroy his family.<sup>37</sup>

CCC251116, who was also presented by the prosecution as a witness, corroborated XXX251116's claim that their union has not produced any children,<sup>38</sup> and that he does not go home for lunch during work.<sup>39</sup> On January 22, 2015, she was home the whole day and had lunch with her children.<sup>40</sup> She also testified that on January 23, 2015 at around 7:00 p.m., XXX251116 was lying down with her in bed, and that the latter rested the whole night as he was tired from work.<sup>41</sup> At around 9:40 p.m. of the same day, she averred that BBB251116 had not yet arrived home from evening class, being the one who would always open the door for her.<sup>42</sup>

On January 8, 2018, the RTC rendered a Judgment<sup>43</sup> disposing, thus:

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<sup>31</sup> *Id.* at 3-4.

<sup>32</sup> *Id.* at 5.

<sup>33</sup> *Id.* at 15.

<sup>34</sup> *Id.* at 7.

<sup>35</sup> *Id.* at 10.

<sup>36</sup> *Id.* at 6.

<sup>37</sup> *Id.* at 14.

<sup>38</sup> TSN, May 10, 2017, p. 9.

<sup>39</sup> *Id.* at 6.

<sup>40</sup> *Id.* at 6-7.

<sup>41</sup> *Id.* at 7.

<sup>42</sup> *Id.* at 12-14.

<sup>43</sup> CA *rollo*, pp. 38-54.

**WHEREFORE**, premises considered, judgment is hereby rendered as follows:

In **Criminal Case No. 2015-6194**, the Court finds the accused [XXX251116] **GUILTY** beyond reasonable doubt of the crime of Qualified Rape, as defined under Article 266-A and as penalized under Articles (sic) 266-B of the Revised Penal Code, as amended, and hereby sentences him to suffer the penalty of *reclusion perpetua* without the benefit of parole, and to pay [AAA251116] P100,000.00 as civil indemnity; P100,000.00 as moral damages; and P100,000.00 as exemplary damages, with interest at the rate of six percent (6%) per *annum* on all damages awarded from the date of the finality of this judgment until fully paid.

In the service of his sentence, the accused is hereby credited with the full time during which he has undergone preventive imprisonment, provided that he has agreed voluntarily in writing to abide by the same disciplinary rules imposed upon convicted prisoners.

In **Criminal Case No. 2015-6196**, the case against the accused is hereby **DISMISSED**.

In **Criminal Case No. 2015-6221**, the accused is hereby **ACQUITTED** of the crime charged.<sup>44</sup>

In finding XXX251116 guilty beyond reasonable doubt of qualified rape, the RTC found the testimonies of the prosecution to be worthy of credence. It ruled that AAA251116's narration of the facts fully established all the elements of qualified rape.

In dismissing Criminal Case No. 2015-6196 for rape by sexual assault, the RTC stated that:

[T]here was no break from the time of the insertion of the finger to [the] time of the insertion of the penis into her vagina and that the same were continuous. It is clear that the insertion of the finger and the insertion of the penis occurred during one continuing act of rape in which the accused was obviously motivated by a single criminal intent.<sup>45</sup>

Finally, the RTC acquitted XXX251116 from the charge of acts of lasciviousness in Criminal Case No. 2015-6221 for failure of the prosecution to present any evidence that force or coercion, as an element of acts of lasciviousness, attended the sexual abuse on the person of BBB251116.

Dissatisfied, XXX251116 interposed an appeal in Criminal Case No. 2015-6194 for qualified rape.<sup>46</sup> In the main, he argued that the testimony of AAA251116 is of doubtful credibility, she having admitted that she was angry

<sup>44</sup> *Id.* at 53. (Emphases in the original)

<sup>45</sup> *Id.* at 50.

<sup>46</sup> See Notice of Appeal dated February 15, 2018, *id.* at 14-15.

at her stepfather for maltreating her, her sister BBB251116, and her mother CCC251116.<sup>47</sup>

In a Decision<sup>48</sup> dated August 30, 2019, the CA affirmed *in toto* the Judgment of the RTC, ruling in this wise:

FOR THESE REASONS, we DENY the appeal and AFFIRM *in toto* the Judgment dated January 8, 2018 of the Regional Trial Court, Branch [REDACTED]

SO ORDERED.<sup>49</sup>

In withholding appellate relief, the CA found XXX251116's denial and alibi unconvincing, especially since his workplace was only a few minutes away from the *locus criminis*. It also agreed with the RTC that XXX251116's defenses cannot prevail over the positive, straightforward, and consistent testimony of AAA251116. Lastly, the CA considered as pathetic reasoning the argument that the criminal cases were ill-motivated as the sisters were out to get revenge for maltreating them. The CA reasoned that there appears to be "no incongruity with wanting to seek justice from maltreatment alongside with seeking justice for sexual abuse."<sup>50</sup>

XXX251116 now comes before this Court *via* a Notice of Appeal<sup>51</sup> seeking recourse anew for this acquittal.

The issue for this Court's resolution is whether the CA erred in affirming *in toto* the Judgment of the RTC finding XXX251116 guilty of the crime of qualified rape.

The appeal lacks merit.

The crime of rape qualified by relationship is defined and penalized under Article 266-A in relation to Article 266-B of the Revised Penal Code, as amended, which respectively provide:

**Art. 266-A. Rape; When and How Committed. - Rape is Committed.**

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

a) Through **force, threat or intimidation;**

<sup>47</sup> See Accused-Appellant's Brief dated June 14, 2018, *id.* at 32-33.

<sup>48</sup> *Rollo*, pp. 5-12.

<sup>49</sup> *Id.* at 9-11.

<sup>50</sup> *Id.*

<sup>51</sup> *Id.* at 13-14.

- b) When the offended party is deprived or reason or is otherwise unconscious;
- c) By means of fraudulent machination or grave abuse of authority;
- 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. x x x

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

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, **stepparent**, guardian, relative by consanguinity or affinity within the third civil degree, or the common-law spouse of the parent of the victim. (Emphasis ours)

Hence, in a conviction for qualified rape, the prosecution must prove all the elements thereof, which are:

- (1) sexual congress; (2) with a woman; (3) done by force and without consent; (4) the victim is under eighteen (18) years of age at the time of the rape; (5) the offender is a parent, ascendant, stepparent, guardian, relative by consanguinity or affinity within the third civil degree, or the common-law spouse of the parent of the victim.<sup>52</sup>

Crucial is the fact that “the minority of the victim **and** his relationship with the offender should **both** be alleged in the Information and proven beyond reasonable doubt during trial in order to qualify the rape charge as these circumstances have the effect of altering the nature of the rape and its corresponding penalty.”<sup>53</sup>

As correctly found by the CA, all the elements are present in this case.

It is undisputed that AAA251116 is the stepdaughter of XXX251116, as alleged in the Information and as admitted during trial.<sup>54</sup> The fact that AAA251116 was only 15 years old when the offense was committed was satisfactorily proven by her Certificate of Live Birth<sup>55</sup> and was admitted by the defense. Her age of 15 years old was also alleged in the Information.

<sup>52</sup> *People v. ZZZ*, G.R. No. 224584, September 4, 2019, 918 SCRA 1, 17.

<sup>53</sup> *People v. De Guzman*, G.R. No. 224212, November 27, 2019, 926 SCRA 124, 139. (Emphasis in the original)

<sup>54</sup> TSN, February 10, 2016, pp. 3-5; TSN, February 23, 2017, pp. 6-7.

<sup>55</sup> Records, p. 85.



In testifying before the RTC, AAA251116 was able to narrate in detail the crime committed, thus:

x x x x

Q Now, on January 22, 2015, at 12:00 plus noon kindly tell this Honorable Court where were you?

A We were home from school. I went home to take lunch together with my father.

Q Your school is in [REDACTED]

A Yes, Sir.

x x x x

Q After you and your papa [XXX251116] were eating lunch together, after that what happened?

A He went inside their room and he called me.

x x x x

Q You said that when you (sic) papa [XXX251116] went inside the room and you were called, what was your reply, if any?

A I did not mind his call.

Q Now, when you did not mind his call, you were called again by your father. Is that correct?

A Yes.

Q For the second time you were called, what did you do?

A I went to their room.

Q Now, you were able to get inside the room of your papa [XXX251116] and your mother [CCC251116]?

A Yes.

Q Now, while inside that room, what did your papa [XXX251116] tell you, if any?

A He told me to sit on the bed.

Q And also to lay (sic) down?

A Yes.

Q Did you heed his request to lay (sic) down on the bed?

A No.

Q Since you did not heed his request, what did then (sic) your papa [XXX251116] do to you?

A His both (sic) hands were holding both my hands and he let me lay (sic) down.

Q You said that your both (sic) hands were held by your papa [XXX251116], what kind of hands (sic) by your papa [XXX251116]?

A Two hands.

Q Now, when your papa [XXX251116] held your both (sic) hands, what did you do, what was your reaction?

A I tried to move and I kicked him.

Q Did you shout?

A No.

Q Why, kindly tell this Honorable Court why you did not shout?

A I was afraid of him because he was really brave (sic) at that time.

Q After your papa [XXX251116] held your both (sic) hands, what did your papa [XXX251116] do to you?

A His right hand held both my hands and then he removed my skirt and panty with the other hand?

Q What was your position at that time when your papa [XXX251116] removed your skirt and panty?

A I was still kicking him and I was still moving.

x x x x

Q Now, was your papa [XXX251116] able to remove your skirt and panty?

A Yes.

Q May we know your attire at the upper portion?

A Uniform.

Q A t-shirt or blouse?

A Blouse.

Q After your papa [XXX251116] able (sic) to remove your skirt and panty, what did you do then?

A Then he open (sic) the zipper and then lower (sic) his short pant (sic) and his brief.

Q Now, this time when your papa [XXX251116] opened his zipper and lower (sic) his short pant (sic), what were you doing at that time?

A I was still kicking and I was still moving.

x x x x

Q Now, when your papa [XXX251116] was already on top you (sic), what did you do?

A I was still moving and still kicking him.

Q Did you shout?

A No.

Q Why?

A I was afraid of him.

x x x x

Q After your papa [XXX251116] was able to insert his finger to your vagina, what did he do next?

A He removed his finger and replaced with his penis, insert his scrotum.

Q You said his “itlog” was able to penetrate to (sic) your vagina. Are you sure that thing was able to penetrate to (sic) your vagina, scrotum not penis of your father?

A The penis.

Q When your father inserted his penis to (sic) your vagina, he made a push and pull movement?

A Yes.

Q At that time that he insert (sic) his penis to (sic) your vagina, what did you do?

A I was still kicking him and I am still moving so that he cannot deflower me.

Q But he successfully broke your virginity?

A Yes.

x x x x

Q Now, after he inserted his penis to (sic) your vagina, what happened next?

A Then he made push and pull.

Q How many times he made (sic) push and pull?

A To my estimate six times.

Q After that he removed his penis?

A Yes.

Q After he removed his penis, what did he tell you?

A He told me that I should not tell my mother because if I will he will kill us.<sup>56</sup>

Given AAA251116’s straightforward and categorical recollection of how her stepfather forcibly molested her, this Court finds no reason to deviate from the identical conclusions of the RTC and the CA regarding her credibility. Her story bears the earmarks of truth and is untouched by any vice of falsehood. It is well established in this jurisdiction that:

[T]he assessment of the credibility of witnesses is a domain best left to the trial court judge because of his unique opportunity to observe their deportment and demeanor on the witness stand; a vantage point denied the appellate courts, and when his findings have been affirmed by the CA, these are generally binding and conclusive upon this Court.<sup>57</sup>

Considering AAA251116’s minority, this Court likewise adheres to the principle that “full weight and credit considering that their youth and immaturity are generally badges of truth and sincerity. Indeed, leeway should

<sup>56</sup> TSN, May 12, 2016, pp. 3-10.

<sup>57</sup> *People v. Pareja*, 724 Phil. 759, 773 (2014).

be given to witnesses who are minors, especially when they are relating past incidents of abuse.”<sup>58</sup>

Clearly, AAA251116 chose to stay silent out of fear that XXX251116 would make good on his threats to kill her family; such a reaction is neither incredulous nor contrary to human experience. In any rape case, the law does not impose a burden on the victim to prove resistance, as it is not an element of rape.<sup>59</sup> It is unsurprising that AAA251116, a girl of 15, was vulnerable and easily cowed into silence by an attacker, who was not only a grown man but, worse, was someone who had been exercising parental authority over her since she was three.

In his hopeless effort to prove the implausibility that he had carnal knowledge of his stepdaughter, XXX251116 merely interposes the defense of denial and alibi, which this Court rejects in light of AAA251116’s credible declarations and her ability to positively identify XXX251116 as the defiler of her virtue.<sup>60</sup> Universally accepted is the rule that “alibi and denial cannot prevail over the positive and categorical testimony and identification of the complainant.”<sup>61</sup>

This Court finds it difficult to believe that AAA251116 came up with trumped-up charges against XXX251116 having harbored a grudge for taking her cellphone and breaking her sim card. “Not even the most ungrateful daughter would push her own father to the wall as the fall guy in any crime unless the accusation against him is true.”<sup>62</sup> As pointed out by the RTC, AAA251116 continued to refer to XXX251116 as “Papa XXX251116” out of respect to her stepfather.<sup>63</sup> In *People v. Pacayra*,<sup>64</sup> this Court declared that “it is against human nature of a young girl to fabricate a story that would expose herself and her family to a lifetime of shame, especially when her charge could mean the death or lifetime imprisonment of her father.” More, in *People v. Canoy*,<sup>65</sup> where the victim was alleged to have concocted the rape to exact revenge, the Court ruled:

We must brush aside as flimsy the appellant’s insistence that the charges were merely concocted by his daughter to punish him for bringing in his illegitimate daughters to live with them and for maltreating her. It is unthinkable for a daughter to accuse her own father, to submit herself for examination of her most intimate parts, put her life to public scrutiny and expose herself, along with her family, to shame, pity or even ridicule not just for a simple offense but for a crime so serious that could mean the death sentence to the very person to whom she owes her life, had she really not

<sup>58</sup> *People v. Caoili*, 815 Phil. 839, 881 (2017).

<sup>59</sup> *People v. Palanay*, 805 Phil. 116, 124 (2017).

<sup>60</sup> TSN, May 12, 2016, p. 3.

<sup>61</sup> *People v. Rupal*, 834 Phil. 594, 613 (2018).

<sup>62</sup> *People v. Venturina*, 694 Phil. 646, 655 (2012).

<sup>63</sup> TSN, May 12, 2016, p. 3.

<sup>64</sup> 810 Phil. 275, 293 (2017).

<sup>65</sup> *People v. Canoy*, 459 Phil. 933 (2003).

have been aggrieved. Nor do we believe that the victim would fabricate a story of rape simply because she wanted to exact revenge against her father, appellant herein, for allegedly scolding and maltreating her.<sup>66</sup>

Although the alibi may stand searching scrutiny, it is incumbent upon the defense to demonstrate that it was physically impossible for the accused to be present at the place where the crime was committed at the time of commission.<sup>67</sup> Here, XXX251116 proffers the defense that during the time material to the case, he was in another barangay working at a construction site. Unfortunately, his alibi crumbled at his own admission that the distance between his alleged whereabouts and the *locus criminis* was only less than five minutes by motorcycle.<sup>68</sup> Such short distance cannot foreclose the possibility that XXX251116 could have easily driven home for the meantime to satisfy his lust and quickly return to his workplace undetected.

Neither can XXX251116's insistence of his alleged electrocution exculpate him from liability. Aside from failing to present corroborating medical evidence that his accident is directly connected to his infertility which cannot merely be presumed, it must be remembered that, under our jurisprudence, the failure to impregnate a victim of rape is not an element thereof. Verily, his infertility does not *ipso facto* rule out the possibility of sexual intercourse.

In the final analysis, the CA's verdict is in full accord with the evidence on record. It is beyond cavil that XXX251116 had carnal knowledge of his stepdaughter, AAA251116, a minor, while using his moral ascendancy and intimidation to submit her to his bestial desires. Undoubtedly, XXX251116 committed the crime of qualified rape. Therefore, both the RTC and the CA properly sentenced him to the penalty of *reclusion perpetua* without eligibility for parole.<sup>69</sup>

**FOR THESE REASONS**, the appeal is **DISMISSED**. The Decision dated August 30, 2019 of the Court of Appeals in CA-G.R. CR-HC No. 01875-MIN is **AFFIRMED**. Accused-appellant XXX251116 is found **GUILTY** beyond reasonable doubt of qualified rape, as defined and penalized under Article 266-A, in relation to Article 266-B, of the Revised Penal Code, as amended, and **SENTENCED** to suffer the penalty of *reclusion perpetua* without eligibility for parole. Accused-appellant is **DIRECTED** to **PAY** AAA251116 ₱100,000.00 as civil indemnity; ₱100,000.00 as moral damages; and ₱100,000.00 as exemplary damages.

<sup>66</sup> *Id.* at 944. (Citation omitted)

<sup>67</sup> *People v. Bentayo*, 810 Phil. 263, 274 (2017).

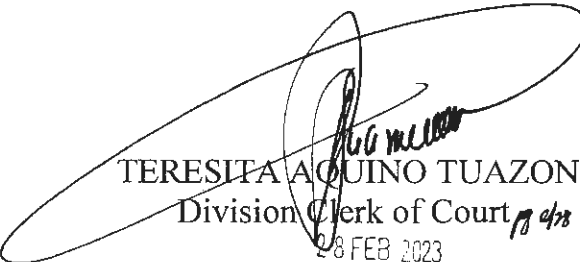
<sup>68</sup> TSN, February 23, 2017, p. 15.

<sup>69</sup> See A.M. No. 15-08-02-SC, entitled "Guidelines for the Proper Use of the Phrase 'Without Eligibility for Parole' in Indivisible Penalties."

Legal interest of six percent (6%) *per annum* is imposed on all damages awarded from the date of finality of this Resolution until fully paid.

**SO ORDERED.”**

By authority of the Court:

  
 TERESITA AQUINO TUAZON  
 Division Clerk of Court  
 28 FEB 2023

OFFICE OF THE SOLICITOR GENERAL (reg)  
 I34 Amorsolo Street  
 1229 Legaspi Village  
 Makati City

PUBLIC ATTORNEY'S OFFICE (reg)  
 Regional Special & Appealed Cases Unit –  
 Mindanao Station  
 BJS Building, Tiano-San Agustin Sts.  
 Cagayan de Oro City

XXX251116 (reg)  
 Prison No. D218P-0404  
 Accused-Appellant  
 c/o The Superintendent  
 Davao Prison and Penal Farm  
 B.E. Dujali, Davao del Norte

THE SUPERINTENDENT (reg)  
 Davao Prison and Penal Farm  
 B.E. Dujali, Davao del Norte

THE DIRECTOR (reg)  
 Bureau of Corrections  
 1770 Muntinlupa City

HON. PRESIDING JUDGE (reg)  
 Regional Trial Court, Branch 27  
 Gingoog City, Misamis Oriental  
 (Crim. Case Nos. 2015-6194, 2015-6196 &  
 2015-6221)

COURT OF APPEALS (reg)  
 Mindanao Station  
 Cagayan de Oro City  
 CA-G.R. CR-HC No. 01875-MIN

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