



REPUBLIC OF THE PHILIPPINES  
SUPREME COURT  
Manila

SECOND DIVISION

**NOTICE**

Sirs/Mesdames:

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

“**G.R. Nos. 254869-70 (People of the Philippines, Plaintiff-appellee, v. XXX254869-70,<sup>1</sup> Accused-appellant)**. – Assailed in this ordinary appeal is the Decision<sup>2</sup> dated June 18, 2020 of the Court of Appeals (CA) in CA-G.R. CR-HC Nos. 01998-MIN and 01999-MIN which affirmed the Decision<sup>3</sup> dated May 30, 2018 in Criminal Case No. TC-2015-007 and Decision<sup>4</sup> dated May 30, 2018 in Criminal Case Nos. TC-2015-068 and TC-2015-069 of the Regional Trial Court of ██████ City, Misamis Occidental, Branch 16 (RTC) finding accused-appellant XXX254869-70 guilty beyond reasonable doubt of the crime of one (1) count of Qualified Rape and two (2) counts of Simple Rape, respectively, defined and penalized under paragraph 1 (a) of Article 266-A in relation to Article 266-B of the Revised Penal Code (RPC).

**The Facts**

This case stemmed from three (3) Informations filed before the RTC charging XXX254869-70 with three (3) counts of Rape of two (2) minor girls, both 13 years of age, under paragraph 1 (a) of Article 266-A in relation to Article 266-B of the Revised Penal Code (RPC), the accusatory portions of which read:

**Criminal Case No. TC-2015-007<sup>5</sup>**

<sup>1</sup> Pursuant to Supreme Court 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,” issued on September 5, 2017, in relation to Republic Act (RA) No. 7610, RA No. 8508, RA No. 9262, and RA No. 9344. Fictitious initials are instead used to represent the victims. Likewise, the personal circumstances or other information tending to establish or compromise their identity, as well as those of their immediate family or household members shall not be disclosed. The name of the accused-appellant is also blotted out as it tends to establish or compromise the victims’ identities.

<sup>2</sup> *Rollo*, pp. 5–35. Penned by Associate Justice Edgardo A. Camello with Associate Justices Evalyn M. Arellano-Morales and Angelene Mary W. Quimpo-Sale, concurring.

<sup>3</sup> *CA rollo* (CA-G.R. CR-HC No. 01999-MIN), pp.73–83. Penned by Presiding Judge Sylvia A. Singidas-Machacon.

<sup>4</sup> *Id.* at 56–72.

<sup>5</sup> *Id.* at 73–74.

That on or about the 14<sup>th</sup> day of October 2013, at about 12:00 o'clock noon, more or less, in barangay [REDACTED], municipality of [REDACTED], province of Misamis Occidental, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with intent to abuse of (sic) his niece (latter's father and accused's wife are siblings) 13 year old girl (born on May 5, 2000) whose name is withheld to protect her persona and reputation and hereinafter referred to as "[AAA254869-70]," did then and there wilfully, unlawfully and feloniously have carnal knowledge with the latter, by force[,] threat and intimidation, inside her dwelling and against her will.

CONTRARY TO LAW.

**Criminal Case No. TC-2015-068<sup>6</sup>**

That on or about the 18<sup>th</sup> day of July, 2013, at about 4:00 o'clock in the afternoon more or less at the coconut drier near the house of the minor complainant in [REDACTED], barangay [REDACTED], municipality of [REDACTED], province of Misamis Occidental, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design, did then and there wilfully, unlawfully and feloniously by means of force and intimidation have carnal knowledge with his grandniece[,] 13 year old girl (born on March 11, 2000) who (sic) name is concealed to protect her identity and reputation and hereinafter referred to as [BBB254869-70], by suddenly holding her at the same time threatening to kill her, removed her underwear, kissed her neck and pushed to make her lean on the wooden post inside the drier then and there inserted his penis into her vagina against her will.

CONTRARY TO LAW with special aggravating circumstances of minority of the victim and accused is the great uncle of the victim (accused is the uncle of [BBB254869-70]'s mother) and a closed (sic) relative.

**Criminal Case No. TC-2015-069<sup>7</sup>**

That on or about the 10<sup>th</sup> day of December, 2013, at about 4:00 o'clock in the afternoon more or less, in the municipal cemetery of [REDACTED], province of Misamis Occidental, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused with lewd design, did then and there wilfully, unlawfully and feloniously by means of force and intimidation have carnal knowledge with his grandniece[,] 13 year old girl (born on March 11, 2000) whose name is concealed to protect her identity and reputation and hereinafter referred to as [BBB254869-70], by bringing her to the municipal cemetery[,] kissed her neck several times, removed her pedal pants and underwear, fondled her vagina and made her lean on the tomb (pantyon) and inserted his penis into her vagina against her will and threatened to kill her if she shout (sic).

CONTARY TO LAW with special aggravating circumstance of minority of the victim and accused is the great uncle of the victim (accused is the uncle of [BBB254869-70]'s mother) and a closed (sic) relative.

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<sup>6</sup> Id. at 56-57.

<sup>7</sup> Id. at 57-58.

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In **Criminal Case No. TC-2015-007**, the prosecution alleged that on October 14, 2013 at around 12:00 noon, AAA254869-70, then 13 years old and XXX254869-70's niece by affinity within the third degree, was sleeping alone in her house when she was awoken by XXX254869-70 removing her underwear and pants and kissing her vagina. She shouted but XXX254869-70 covered her mouth. XXX254869-70 then placed himself on top of AAA254869-70 and inserted his penis into her vagina, causing her to bleed and feel pain. Thereafter, XXX254869-70 told AAA254869-70 that he would "box" her should she tell anybody about the incident. Despite the threat, AAA254869-70 told her younger sister about what XXX254869-70 did to her.<sup>8</sup>

In **Criminal Case No. TC-2015-068**, the prosecution alleged that on July 18, 2013, BBB254869-70, then 13 years old and XXX254869-70's grandniece, was on board the latter's road roller traversing ██████████ road at around 4:00 in the afternoon. Upon passing by a copra dryer, BBB254869-70 asked XXX254869-70 to stop the vehicle to urinate. BBB254869-70 then alighted the vehicle and proceeded to urinate, but unbeknownst to her, XXX254869-70 had followed her. While BBB254869-70 was fixing her underwear, XXX254869-70 held BBB254869-70's hand and threatened her that if she told anyone, XXX254869-70 would kill somebody. BBB254869-70 claimed that XXX254869-70 asked her to remove her shorts and panty. Thereafter, XXX254869-70 inserted his penis into BBB254869-70's vagina while she was leaning on a flatwood in the copra dryer. BBB254869-70 explained that she was afraid to shout and even if she shouted, nobody could hear her because there were no neighbors around. BBB254869-70 could only cry as she felt pain when XXX254869-70 inserted his penis into her vagina. After the incident, XXX254869-70 repeated his threat, hence, she did not tell anyone.<sup>9</sup>

In **Criminal Case No. TC-2015-069**, the prosecution alleged that on December 10, 2013, BBB254869-70 needed to buy materials for her school project. XXX254869-70 offered her a ride in his motorcycle, which she was constrained to accept as it was already late in the afternoon. After buying the materials, XXX254869-70 drove BBB254869-70 to a cemetery instead of taking her home. XXX254869-70 then took BBB254869-70 to an elevated part of the cemetery and forced her to lean on a tomb where he held her hand, removed her undergarments, and inserted his penis into her vagina. BBB254869-70 felt pain and cried while XXX254869-70 was making a push-and-pull movement. She did not shout because nobody was around and she was afraid because XXX254869-70 had a gun. After the incident, BBB254869-70 boarded XXX254869-70's motorcycle. She did not immediately report what happened. It was only on October 28, 2014 that

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<sup>8</sup> *Rollo*, pp. 10–12.

<sup>9</sup> See *id.* at 13–15.

BBB254869-70 told her friend, her teacher, and XXX254869-70's daughter about the incidents.<sup>10</sup>

AAA254869-70's mother learned about the incident only on April 20, 2014 and immediately reported the same to the police.<sup>11</sup> On the other hand, BBB254869-70's mother reported the incidents to the police only on October 28, 2014 after learning the same from XXX254869-70's daughter.<sup>12</sup> During the trial, the attending physician who examined AAA254869-70 testified that he found an old, healed laceration on her hymen at the 6 o'clock position and concluded that the laceration was caused by a hard object such as an erect penis.<sup>13</sup> With respect to BBB254869-70, the attending physician who examined her testified that she found old, healed hymenal lacerations at the 3 o'clock, 6 o'clock and 9 o'clock positions and concluded that the penile penetrations may have been sustained either with or without force.<sup>14</sup>

In his defense, XXX254869-70 denied the accusations and countered that the victims' parents were just angry and had ill feelings towards him. XXX254869-70 also presented his Daily Time Records (DTRs), among others, as proof that he was at work at the time the alleged incidents of rape happened.<sup>15</sup>

### The RTC Ruling

In a Decision<sup>16</sup> dated May 30, 2018 in **Criminal Case No. TC-2015-007**, the RTC found XXX254869-70 guilty beyond reasonable doubt of the crime of **Qualified Rape** in view of the presence of the qualifying circumstances of AAA254869-70's minority and her relationship with XXX254869-70 as a relative by affinity within the third degree. XXX254869-70 was sentenced to suffer the penalty of *reclusion perpetua* without eligibility for parole and pay AAA254869-70 the amounts of ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages and ₱75,000.00 as exemplary damages. XXX254869-70 was also sentenced to suffer all the accessory penalties provided for by law and to pay the costs.<sup>17</sup>

In a Decision<sup>18</sup> dated May 30, 2018, the RTC ruled as follows: (a) in **Criminal Case No. TC-2015-068**, XXX254869-70 was found guilty beyond reasonable doubt of the crime of **Simple Rape** and sentenced to suffer the penalty of *reclusion perpetua* and pay the amounts of ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages and ₱75,000.00 as exemplary

<sup>10</sup> See *id.* at 15-16.

<sup>11</sup> See *id.* at 11.

<sup>12</sup> *Id.* at 16.

<sup>13</sup> See *id.* at 12.

<sup>14</sup> See *id.* at 17.

<sup>15</sup> See *id.* at 12-13.

<sup>16</sup> *CA rollo* (CA-G.R. CR-HC No. 01999-MIN), pp.73-83.

<sup>17</sup> *Id.* at 83.

<sup>18</sup> *Id.* at 56-72.

damages; and (b) in **Criminal Case No. TC-2015-069**, XXX254869-70 was found guilty beyond reasonable doubt of the crime of **Simple Rape** and sentenced to suffer the penalty of *reclusion perpetua* and pay the amounts of ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages and ₱75,000.00 as exemplary damages. XXX254869-70 was also sentenced to suffer all the accessory penalties provided for by law and to pay the costs.<sup>19</sup>

In all three (3) cases, the RTC gave credence to the testimonies of the two (2) minor victims, which were strengthened and corroborated by the findings of the attending physicians who examined them. As regards XXX254869-70's alibi, the RTC also held that it was not physically impossible for him to be at the scene of the crime despite presentation of his DTRs, which he presented to prove that he was at work when the alleged rape incidents were committed.<sup>20</sup>

Aggrieved, XXX254869-70 filed the consolidated appeals to the CA.

### The CA Ruling

In a Decision<sup>21</sup> dated June 18, 2020, the CA in CA-G.R. CR-HC Nos. 01998-MIN and 01999-MIN affirmed the RTC rulings in the three (3) criminal cases. It found that the prosecution satisfactorily established the elements to prove that XXX254869-70 raped and sexually abused the two (2) minor victims.<sup>22</sup>

The CA also held, among others, that the two (2) minor victims not only positively identified XXX254869-70 as the perpetrator of the crimes, but the factual accounts were also rendered in a categorical and straightforward manner. It rejected XXX254869-70's contention that the two (2) minor victims did not offer any form of resistance, since the law does not impose a burden on the rape victim to prove resistance because it is not an element of rape. Thus, failure to shout or offer tenacious resistance does not make voluntary the victim's submission in the criminal act of the offender.<sup>23</sup>

Hence, this appeal.<sup>24</sup>

### The Issue Before the Court

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<sup>19</sup> Id. at 71-72.

<sup>20</sup> See id. at 69 and 79.

<sup>21</sup> *Rollo*, pp. 5-35.

<sup>22</sup> See id. at 29-34.

<sup>23</sup> Id.

<sup>24</sup> See Notice of Appeal dated July 6, 2020; id. at 36-37.

The issue before the Court is whether or not the CA erred in affirming the RTC Decisions finding accused-appellant XXX254869-70 guilty of the crimes charged.

### The Court's Ruling

After a judicious study of the case, the Court resolves to deny the appeal.

Both the RTC and the CA correctly found that the elements of rape through force, threat or intimidation were present in this case.<sup>25</sup> Further, '[i]t is not necessary that actual force or intimidation be employed; as moral influence or ascendancy takes the place of violence or intimidation. Jurisprudence holds that the failure of the victim to shout for help does not negate rape. Even the victim's lack of resistance, especially when intimidated by the offender into submission, does not signify voluntariness or consent. x x x [E]ven absent any actual force or intimidation, rape may be committed if the malefactor has moral ascendancy over the victim.'<sup>26</sup> Here, XXX254869-70 is the granduncle and uncle by affinity of the two (2) minor victims. Perforce, moral ascendancy is substituted for force and intimidation.<sup>27</sup>

The Court, however, deems it proper to modify the penalties and/or monetary awards as follows: (a) in **Criminal Case No. TC-2015-007**, for Qualified Rape, XXX254869-70 should be penalized with *reclusion perpetua* without eligibility for parole.<sup>28</sup> He should be ordered to pay AAA254869-70 ₱100,000.00 each for civil indemnity, moral damages, and exemplary damages with legal interest at the rate of six percent (6%) per annum from the date of finality of judgment until fully paid, consistent with the Court's ruling in *People v. Jugueta*;<sup>29</sup> and (b) in **Criminal Case No. TC-2015-068 and TC-2015-069** for Simple Rape, legal interest at the rate of six percent (6%) per annum on all monetary awards shall be imposed on all amounts of damages from the date of finality of judgment until fully paid consistent with prevailing jurisprudence.<sup>30</sup>

**FOR THESE REASONS**, the appeal is **DENIED**. The Court **ADOPTS** the findings of fact and conclusions of law in the Decision dated June 18, 2020 of the Court of Appeals in CA-G.R. CR-HC Nos. 01998-MIN and 01999-MIN and **AFFIRMS with MODIFICATION** said Decision as follows:

<sup>25</sup> See *People of the Philippines v. Tionloc*, 805 Phil. 907, 915 (2017).

<sup>26</sup> See *People of the Philippines v. Amoc*, 810 Phil. 253, 260 (2017); citations omitted.

<sup>27</sup> See *id.*

<sup>28</sup> See A.M. No. 15-08-02-SC dated August 4, 2015, entitled "GUIDELINES FOR THE PROPER USE OF THE PHRASE 'WITHOUT ELIGIBILITY FOR PAROLE' IN INDIVISIBLE PENALTIES."

<sup>29</sup> 783 Phil. 806 (2016).

<sup>30</sup> See *Nacar v. Gallery Frames*, 716 Phil. 267 (2013).

- (a) In Criminal Case No. TC-2015-007, XXX254869-70 is hereby found **GUILTY** beyond reasonable doubt of the crime of Qualified Rape, as defined and penalized under Article 266-A in relation to Article 266-B of the RPC. He is sentenced to suffer the penalty of *reclusion perpetua*, without eligibility for parole, and is ordered to pay AAA254869-70 the amounts of ₱100,000.00 as civil indemnity, ₱100,000.00 as moral damages, and ₱100,000.00 as exemplary damages.
- (b) In Criminal Case No. TC-2015-068, XXX254869-70 is hereby found **GUILTY** beyond reasonable doubt of the crime of Simple Rape, as defined and penalized under Article 266-A in relation to Article 266-B of the RPC. He is sentenced to suffer the penalty of *reclusion perpetua*, and is ordered to pay BBB254869-70 the amounts of ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages, and ₱75,000.00 as exemplary damages;
- (c) In Criminal Case No. TC-2015-069, XXX254869-70 is hereby found **GUILTY** beyond reasonable doubt of the crime of Simple Rape, as defined and penalized under Article 266-A in relation to Article 266-B of the RPC. He is sentenced to suffer the penalty of *reclusion perpetua*, and is ordered to pay BBB254869-70 the amounts of ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages, and ₱75,000.00 as exemplary damages; and

In addition, all monetary awards due AAA254869-70 and BBB254869-70 shall earn legal interest at the rate of six percent (6%) per annum from the date of finality of this judgment until fully paid.

**SO ORDERED.”**

By authority of the Court:

TERESITA AQUINO TUAZON  
Division Clerk of Court

By:



MA. CONSOLACION GAMINDE-CRUZADA  
Deputy Division Clerk of Court

2 MAR 2023

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XXX254869 (reg)  
Prison No. R218P-467  
Accused-Appellant  
c/o The Superintendent  
San Ramon Prison and Penal Farm  
Zamboanga City

THE SUPERINTENDENT (reg)  
San Ramon Prison and Penal Farm  
Zamboanga City

HON. PRESIDING JUDGE (reg)  
Regional Trial Court, Branch 16  
Misamis Occidental  
(Crim. Case No. TC-2015-007, TC-2015-068 and  
TC-2015-069)

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CA-G.R. CR-HC Nos. 01998-MIN & 01999-MIN

\*with copy of CA Decision dated June 18, 2020  
*Please notify the Court of any change in your address.*  
GR254869-70. 07/18/2022(152)URES(m)

