



Republic of the Philippines  
Supreme Court  
Cagayan de Oro City

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **March 6, 2023** which reads as follows:*

“**G.R. No. 262577 (People of the Philippines v. XXX<sup>1</sup>)**. — On appeal<sup>2</sup> is the March 28, 2022 Decision<sup>3</sup> of the Court of Appeals (CA) in CA-G.R. CR-HC No. 13553, affirming with modifications the July 17, 2019 Judgment<sup>4</sup> of the Regional Trial Court (RTC), Branch 4 of [REDACTED], [REDACTED]<sup>5</sup> in Criminal Case Nos. 15401, 15402, and 15403, finding accused-appellant XXX guilty beyond reasonable of the crime of Qualified Rape.

**The Factual Antecedents**

In three separate Informations,<sup>6</sup> accused-appellant was charged with the crime of Rape, the accusatory portions of which state:

Criminal Case No. 15401

That on or about the First week of April, 2012 in the municipality of [REDACTED] and within the jurisdiction of this Honorable Court, the said accused [XXX], father of the offended party, [AAA],<sup>7</sup> a

<sup>1</sup> Initials were used to identify the accused-appellant pursuant to the Supreme Court Amended Administrative Circular No. 83-2015 dated September 5, 2017 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.”

<sup>2</sup> *Rollo*, p. 3.

<sup>3</sup> *Id.* at 9-20. Penned by Associate Justice Tita Marilyn B. Payoyo-Villordon and concurred in by Associate Justices Eduardo B. Peralta, Jr. and Angelene Mary W. Quimpo-Sale.

<sup>4</sup> *Id.* at 23-32. Penned by Judge Lyliha L. Abella-Aquino.

<sup>5</sup> Geographical location is blotted out pursuant to Supreme Court Amended Administrative Circular No. 83-2015.

<sup>6</sup> Records, pp. 1-2; 14-15; 27-28.

<sup>7</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, 2004.” (*People v. Dumadag*, 667 Phil. 664, 669 [2011]).

minor 14 years old, thus having moral ascendancy over the person of the complainant with lewd design and through force and intimidation, did, then and there willfully, unlawfully and feloniously have [sexual] intercourse with [his] own daughter, the herein complainant, [AAA], a minor 14 years old against her will.

Contrary to law.<sup>8</sup>

Criminal Case No. 15402

That on or about the last week of March, 2012 in the municipality of [REDACTED] and within the jurisdiction of this Honorable Court, the said accused [XXX], father of the offended party, [AAA], a minor 14 years old, thus having moral ascendancy over the person of the complainant with lewd design and through force and intimidation, did, then and there willfully, unlawfully and feloniously have [sexual] intercourse with [his] own daughter, the herein complainant, [AAA], a minor 14 years old against her will.

Contrary to law.<sup>9</sup>

Criminal Case No. 15403

That on or about two (2) days after the first rape on the last week of March, 2012 in the municipality of [REDACTED] and within the jurisdiction of this Honorable Court, the said accused [XXX], father of the offended party, [AAA], a minor 14 years old, thus having moral ascendancy over the person of the complainant with lewd design and through force and intimidation, did, then and there willfully, unlawfully and feloniously have [sexual] intercourse with [his] own daughter, the herein complainant, [AAA], a minor 14 years old against her will.

Contrary to law.<sup>10</sup>

Upon arraignment on July 3, 2013, accused-appellant pleaded not guilty to the charges against him.<sup>11</sup> Thereafter, trial on the merits subsequently ensued.

The prosecution presented the testimonies of private complainant AAA and BBB, the aunt of private complainant.<sup>12</sup> The testimony of CCC, private complainant's mother was dispensed with considering the stipulations and admissions made by the prosecution and defense.<sup>13</sup> On the other hand, the defense presented the accused-appellant himself.<sup>14</sup>

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<sup>8</sup> Id. at 1.

<sup>9</sup> Id. at 14.

<sup>10</sup> Id. at 27.

<sup>11</sup> Id. at 56.

<sup>12</sup> *Rollo*, p. 24.

<sup>13</sup> Id. at 27.

<sup>14</sup> Id. at 24.

### Version of the Prosecution

Private complainant testified that on three separate incidents in 2012, when she was only 14 years old, accused-appellant, her father, sexually assaulted her. Private complainant stated that she was living with accused-appellant and her two younger sisters. Meanwhile, CCC, her mother, was in [REDACTED] working.<sup>15</sup>

Private complainant narrated that the first incident (Criminal Case No. 15402) happened in the last week of March 2012. At that time, she was sleeping in their family home when she was roused from her sleep when she noticed her father, accused-appellant holding her breast. Private complainant fought and pushed accused-appellant, however, he hit her in the head. Accused-appellant then positioned himself on top of private complainant and proceeded to remove her pants and panty. Thereafter, he had carnal knowledge of her,<sup>16</sup> causing private complainant to cry in pain.<sup>17</sup>

A few days after the first incident (Criminal Case No. 15403), private complainant was again awakened when accused-appellant groped her breast, and removed her clothes. After which, accused-appellant inserted his penis inside her vagina.<sup>18</sup>

Private complainant also testified that sometime during the first week of April 2012 (Criminal Case No. 15401), accused-appellant sexually molested her again in their family home. She recounted that while she was sleeping, accused-appellant undressed her, laid on top of her, and inserted his penis inside her vagina.<sup>19</sup> While accused-appellant was doing the sexual act, all private complainant could do was cry.<sup>20</sup>

Private complainant did not immediately report the incidents to anyone as she was afraid. She testified that accused-appellant mauled and threatened to kill her if she tells anyone of the incidents.<sup>21</sup> It was only on September 5, 2012, when her aunt, BBB, observed that her abdomen was getting bigger, and thereafter, confronted her, that private complainant admitted that accused-appellant raped her and that he was the father of her child.<sup>22</sup> The next day, private complainant and BBB proceeded to the police station to report the incidents<sup>23</sup> and execute a sworn statement.<sup>24</sup> Thereafter, Dr. Arnel G. Reynon (Dr. Reynon), the attending physician at [REDACTED] Municipal Hospital

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

<sup>16</sup> TSN, January 23, 2014, pp. 3-5.

<sup>17</sup> TSN, February 18, 2016, p. 3.

<sup>18</sup> Id.

<sup>19</sup> Id. at 3-4.

<sup>20</sup> Id. at 4.

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

<sup>22</sup> TSN, February 27, 2017, p. 3.

<sup>23</sup> TSN, February 18, 2016, p. 5.

<sup>24</sup> Records, p. 3.

conducted a medico-legal examination<sup>25</sup> on private complainant, and issued a Medico-Legal Certificate.<sup>26</sup> The Medico-Legal Certificate indicated that there is a presence of healed hymenal lacerations at 3:00 and 7:00 o'clock positions, and that private complainant is 24 weeks pregnant.<sup>27</sup>

### Version of the Defense

Accused-appellant vehemently denied the accusations against him. He admitted that private complainant is one of his daughters, however, denied that he sexually assaulted her.<sup>28</sup> He alleged that he and his three daughters sleep together in one room, but his daughters sleep separately from him. Accused-appellant further alleged that private complainant hated him because when he found out that she absents herself from school, and has a boyfriend, he scolded her.<sup>29</sup> Although accused-appellant testified that he always sees private complainant every afternoon whenever he gets home from work, he never noticed that her abdomen was getting bigger. Accused-appellant stated that he only learned about private complainant's pregnancy from BBB as the latter was the one who brought private complainant to the Department of Social Welfare and Development.<sup>30</sup>

Accused-appellant also surmised that private complainant accused him of rape because his in-laws hate him as he was the one receiving money from his spouse and did not share it with them.<sup>31</sup>

### Ruling of the Regional Trial Court

In its July 17, 2019 Judgment, the RTC found accused-appellant guilty beyond reasonable doubt of the crime of Rape.<sup>32</sup> It held that the gravamen of Rape which is carnal knowledge of a woman was proven by the prosecution. The RTC gave more credence to private complainant's clear and categorical testimony regarding the sexual advances committed by accused-appellant as opposed to the latter's defense of denial and imputation of ill motive.<sup>33</sup> The RTC thus ruled:

WHEREFORE, after a careful evaluation of the evidence adduced with reference to laws and prevailing jurisprudence, accused [XXX] is hereby found GUILTY beyond reasonable doubt in **Criminal Cases No. 15401, 15402, and 15403** for the crime of Rape, defined and penalized under Article 266 (A) No. 1 (a) in relation to Article 266-B No. 1 of the Revised Penal Code, as amended by Republic Act 8353 and shall suffer the

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<sup>25</sup> *Rollo*, pp. 12-13.

<sup>26</sup> Records, p. 4.

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

<sup>28</sup> TSN, January 21, 2019, pp. 2-4.

<sup>29</sup> *Id.* at 4.

<sup>30</sup> *Id.* at 5.

<sup>31</sup> *Id.* at 5-7.

<sup>32</sup> *Rollo*, p. 32.

<sup>33</sup> *Id.* at 30.



penalty of *Reclusion Perpetua* in each case. He is likewise ordered to pay the offended party the amount of P100,000.00 as civil indemnity, P100,000.00 as moral damages, and P100,000.00 as exemplary damages in each case.

Record shows that accused was under the custody of Bureau of Jail Management and Penology, [REDACTED] District Jail since May 24, 2013. The preventive imprisonment of the accused during the pendency of this case shall be credited in full in his favor if he abided with the disciplinary rules imposed upon convicted prisoners.

SO ORDERED.<sup>34</sup>

Aggrieved with the RTC's findings, accused-appellant filed an appeal<sup>35</sup> to the CA.

### **Ruling of the Court of Appeals**

In its March 28, 2022 Decision, the CA found no reason to disturb the findings of the RTC. Thus, it affirmed the trial court's ruling with modifications by adding the qualification "without eligibility for parole" to the penalty pursuant to Republic Act No. (RA) 9346,<sup>36</sup> and imposing a six percent (6%) interest per *annum* on all amounts awarded from finality of the decision until fully paid.<sup>37</sup> The dispositive portion<sup>38</sup> of the CA Decision reads:

**WHEREFORE**, premises considered, the appeal is **DENIED**. The Judgment dated 17 July 2019 of the Regional Trial Court [Second] Judicial Region, Branch 4, Family Court, [REDACTED], finding accused-appellant [XXX] **GUILTY** beyond reasonable doubt of three (3) counts of qualified rape, in Criminal Cases Nos. 15401, 15402 and 15403, is **AFFIRMED with MODIFICATIONS**.

Accused-appellant shall suffer the penalty of *reclusion perpetua*, without eligibility for parole, for each count.

All amounts awarded shall earn six percent (6%) [interest] per *annum* from finality of this Decision until fully paid.

The rest of the Judgment stands.

SO ORDERED.<sup>39</sup>

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<sup>34</sup> Id. at 32.

<sup>35</sup> Records, p. 210.

<sup>36</sup> Entitled "AN ACT PROHIBITING THE IMPOSITION OF DEATH PENALTY IN THE PHILIPPINES." Approved: June 24, 2006.

<sup>37</sup> *Rollo*, pp. 18-19.

<sup>38</sup> Id. at 19.

<sup>39</sup> Id.

Dissatisfied with the CA's affirmation of his conviction, accused-appellant filed the present appeal.<sup>40</sup>

### Issue

The sole issue for this Court's resolution is whether accused-appellant is guilty beyond reasonable doubt of three counts of Qualified Rape.

### Our Ruling

The appeal lacks merit.

Accused-appellant argues that the trial court erred in giving full credence to the testimony of private complainant. Accused-appellant contends that private complainant's testimony is incredible and unconvincing. He claims that it was impossible for private complainant's two siblings not to be awakened during the alleged three separate incidents of rape since they were all sleeping in the same small room. He adds that private complainant stated that she fought, and she was allegedly boxed in the head. This circumstance could have easily awakened her two siblings.<sup>41</sup>

We find accused-appellant's argument untenable. The Court has recognized that lust is no respecter of time and place, and the proximity of the number of people at the rape scene does not negate the commission of rape.<sup>42</sup> In *People v. Traigo*,<sup>43</sup> the Court held:

Rape can thus be committed even in places where people congregate, in parks, along the roadside, within school premises, inside a house where there are other occupants, and **even in the same room where other members of the family are also sleeping. To our mind, it is not impossible or incredible for the members of the victim's sisters to be in deep slumber and not to be awakened while a sexual assault is being committed.**<sup>44</sup> (Emphasis supplied)

The Court is also not convinced by accused-appellant's contention that if indeed it was true that he raped private complainant, she could have reported the incidents and sought help from her teachers, neighbors, and BBB to prevent accused-appellant from committing the alleged rape again. Accused-appellant, thus claims that private complainant's inaction casts serious doubt on her credibility.<sup>45</sup>

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<sup>40</sup> Id. at 3.

<sup>41</sup> CA rollo, pp. 33-37.

<sup>42</sup> *People v. XXX*, G.R. No. 232308, October 7, 2020.

<sup>43</sup> 734 Phil. 726 (2014).

<sup>44</sup> Id. at 730, citing *People v. Cabral*, 623 Phil. 809, 815 (2009).

<sup>45</sup> CA rollo, p. 37.



We are not persuaded. Contrary to accused-appellant's contentions, the Court in *People v. CCC*,<sup>46</sup> discussed:

Time and again, the Court has held that there is no uniform behavior that can be expected from those who had the misfortune of being sexually molested. While there are some who may have found the courage early on to reveal the abuse they experienced, there are those who have opted to initially keep the harrowing ordeal to themselves and attempt to move on with their lives. This is because a rape victim's actions are oftentimes overwhelmed by fear rather than by reason. The perpetrator of the rape hopes to build a climate of extreme psychological terror, which would numb his victim into silence and submissiveness. **In fact, incestuous rape further magnifies this terror, for the perpetrator in these cases, such as the victim's father, is a person normally expected to give solace and protection to the victim. Moreover, in incest, access to the victim is guaranteed by the blood relationship, magnifying the sense of helplessness and the degree of fear.**<sup>47</sup> (Emphasis supplied)

The failure of private complainant to immediately report the rape incidents to anyone, including the authorities, must not be taken against her. We find that private complainant's action is justified<sup>48</sup> considering that accused-appellant cautioned her not to reveal the sexual molestations.<sup>49</sup> The Court emphasized that the parent of the victim in incestuous rape is able to pervert moral ascendancy and influence over the victim in order to intimidate the latter.<sup>50</sup> "Hence, even in the absence of verbal threats against the victim's life, the parent molester's moral ascendancy and influence take the place of intimidation, especially so when they are living under the same roof."<sup>51</sup>

It is worthy to note that in *People v. Elimancil*,<sup>52</sup> the Court stressed:

The determination of the credibility of the offended party's testimony is a most basic consideration in every prosecution for rape, for the lone testimony of the victim, if credible, is sufficient to sustain the verdict of conviction. As in most rape cases, the ultimate issue in this case is credibility. In this regard, when the issue is one of credibility of witnesses, appellate courts will generally not disturb the findings of the trial court, considering that the latter is in a better position to decide the question as it heard the witnesses themselves and observed their deportment and manner of testifying during trial. The exceptions to the rule are when such evaluation was reached arbitrarily, or when the trial court overlooked,

<sup>46</sup> G.R. No. 239336, June 3, 2019.

<sup>47</sup> *Id.*, citing *People v. Navasero, Sr.*, G.R. No. 234240, February 6, 2019, further citing *People v. Descartin, Jr.*, 810 Phil. 881, 893 (2017).

<sup>48</sup> *People v. Lantano*, 566 Phil. 628, 639 (2008), citing *People v. Tabugoca*, 349 Phil. 236, 252 (1998); *People v. Matrimonio*, 290 Phil. 96, 116 (1992); *People v. Degala*, 411 Phil. 650, 663 (2001); *People v. Melivo*, 323 Phil. 412, 421-422 (1996); *People v. Aguero*, 417 Phil. 836, 851 (2001).

<sup>49</sup> TSN, February 18, 2016, p. 7.

<sup>50</sup> *People v. Lantano*, *supra*, citing *People v. Melivo*, *supra* at 423.

<sup>51</sup> *Id.*, citing *People v. Acala*, 366 Phil. 797, 829 (1999); *People v. Alfaro*, 458 Phil. 942, 961 (2003).

<sup>52</sup> G.R. No. 234951, January 28, 2019.

misunderstood or misapplied some facts or circumstance of weight and substance which could affect the result of the case. x x x.<sup>53</sup>

Likewise, in *People v. Traigo*,<sup>54</sup> the Court ruled that “as a general rule, the findings of facts and assessment of credibility of witnesses are matters best left to the trial court because of its unique position of having observed that elusive and incommunicable evidence of the witnesses’ deportment on the stand while testifying.”<sup>55</sup>

After a careful review of the records, the Court upholds the credibility of private complainant’s testimony and affirms the findings of facts of the lower courts. Similarly, the Court is convinced that the crime of Qualified Rape was sufficiently established.

Articles 266-A and 266-B of the Revised Penal Code provide that Rape is committed as follows:

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 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.<sup>56</sup>

x x x x

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

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**

<sup>53</sup> Id., citing *People v. Malana*, 644 Phil. 290, 302 (2010), further citing *People v. Peralta*, 619 Phil. 268, 273 (2009); *Remiendo v. People*, 618 Phil. 273, 287 (2009); *People v. Panganiban*, 412 Phil. 98, 107 (2001).

<sup>54</sup> Supra.

<sup>55</sup> Id. at 729, citing *People v. Lasola*, 376 Phil. 349, 358 (1999).

<sup>56</sup> REVISED PENAL CODE, ARTICLE 266-A.



consanguinity or affinity within the third civil degree, or the common-law spouse of the parent of the victim;<sup>57</sup> (Emphasis supplied)

X X X X

Thus, the elements of Qualified Rape are: (a) sexual congress; (b) with a woman; (c) done by force and without consent; (d) the victim is under 18 years of age at the time of the rape; and (e) 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>58</sup>

In the case at bar, all the elements are present. We note that the three Informations alleged private complainant's minority, and relationship with accused-appellant.<sup>59</sup> The Informations stated that at the time the rape incidents happened, private complainant was only 14 years old.<sup>60</sup> Further, during trial, the prosecution presented<sup>61</sup> the Certificate<sup>62</sup> from the Office of the Civil Registrar of [REDACTED] which stated that private complainant was born on May 12, 1998. The same certificate also showed that accused-appellant was the father of private complainant.<sup>63</sup> Accused-appellant likewise admitted in his testimony that private complainant is one of his daughters.<sup>64</sup>

As correctly found by the RTC and affirmed by the CA, the fact of sexual congress was sufficiently proven by the prosecution. Private complainant narrated in a clear and categorical manner the three rape incidents that happened, thus:

Pros. Geron:

X X X X

Q: You said that your father is [XXX]; is he the same person who is accused in these cases?

A: Yes sir.

Q: **So you accused your father of the crime of rape. My question now [AAA] is, how many times were you raped by your father?**

A: **Three (3) times sir.**

Q: **Do you still remember the first time?**

A: **Last week of May and first week of June sir.**

<sup>57</sup> REVISED PENAL CODE, ARTICLE 266-B.

<sup>58</sup> *People v. XXX*, G.R. No. 235662, July 24, 2019.

<sup>59</sup> Records, pp. 1-2; 14-15 and 27-28.

<sup>60</sup> Id.

<sup>61</sup> *Rollo*, p. 27.

<sup>62</sup> Records, p. 5.

<sup>63</sup> Id.

<sup>64</sup> TSN, January 21, 2019, p. 2.

Q: **Let us talk about the first incident; around what time did it take place?**

A: **At night time sir.**

Q: What were you doing before it took place?

A: I was then sleeping sir.

Q: And while you were sleeping, what happened?

A: I felt somebody groping me sir.

Q: What part of your body was being groped or held?

A: My breast sir.

Q: And were you awakened?

A: Yes sir.

Q: And what did you notice when you opened your eyes?

A: I saw my father sir.

Q: And what was he doing?

A: He removed my clothes sir.

Q: What were you wearing at the time?

A: Pajama and T-shirt sir.

Q: And what did you do when you saw your father removing your clothes?

A: I resisted sir.

Q: And when you resisted, what did he do to you?

A: He hit my head sir.

Q: And when he hit you on the head, what did you do?

A: I kept silent sir.

Q: **And when you kept silent, what did your father do?**

A: **He raped me sir.**

Q: **What do you mean he raped you?**

A: **He inserted his penis into my vagina sir.**

Q: What was your position when he inserted his sexual organ into yours?

A: I was lying on my back sir.

Q: How about your father?

A: He was on top of me sir.

Q: You said that he introduced his sexual organ into yours, what did you feel when his sexual organ was introduced into yours?

A: I felt pain sir.

Q: And when his sexual organ was already introduced into yours, what did your father do?

A: He raped me sir.

Q: For how long was he on top of you?

A: Long time sir.

Q: While he was on top of you, what did you do?

A: I was crying sir.

Q: When he was through, what did your father do?

A: He told me that if I will report, he will kill me sir.

Q: How about you, what did you do?

A: Nothing sir, just crying.

Q: And where did your father proceed after that?

A: He went to sleep sir.

Q: And were you still able to sleep the rest of the night?

A: No more sir.

Q: **Do you still remember the second incident?**

A: **Last week of May and first week of June sir.**

Q: Where were you at that time?

A: I was inside our house sir.

Q: Around what time did it take place?

A: At night time sir.

Q: How did it happen?

A: He groped me again sir.

Q: And what part again of your body did he grope for?

A: My breast sir.

Q: And aside from caressing your breast, what else did your father do?

A: He undressed me again sir.

Q: **And after undressing you, what did your father do?**

A: **He raped me again sir.**

Q: **What do you mean "he raped you"?**

A: **He inserted his sexual organ into my vagina sir.**

Q: And again, what was your position when you were raped for the second time by your father?

A: I was lying on my back sir.

Q: And what did you do while he was doing this thing to you?

A: I was just crying sir.

Q: **How long after that did the third incident take place?**

A: **Long after sir.**



Q: Where did it take place?

A: In our house sir.

Q: What were you doing before it happened?

A: I was sleeping sir.

Q: And what awaken you?

A: The things that my father was doing sir.

Q: What were the things that he did to you that awaken you?

A: His groping of me and undressing me sir.

Q: Was he able to undress you?

A: Yes sir; he put up my t-shirt and pulled down my pajama sir.

Q: **And after putting up your t-shirt and pulled down your pajama, what did he do?**

A: **He went on top of me and inserted his sexual organ into my vagina sir.**

Q: Did you not try to prevent him from doing these things to you?

A: I didn't do anything sir, I was crying.<sup>65</sup> (Emphases supplied)

We find private complainant's account of how accused-appellant sexually molested her clear and categorical. The Court has consistently held that "testimonies of child victims are given full weight and credit, because 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."<sup>66</sup> Moreover, "youth and immaturity are generally badges of truth and sincerity."<sup>67</sup>

The variance as to the date of the commission of the crime as testified to by private complainant and as stated in her Sworn Statement is inconsequential because the testimony of private complainant is consistent on material points. In *People v. Gerola*,<sup>68</sup> the Court ruled:

Time and again, the Court has held that the **date or time of the commission of rape is not a material ingredient of the crime and need not be stated with absolute accuracy**; where the time of commission is not an essential element of the crime charged, conviction may be had on proof of the commission of the crime, even if it appears that the crime was not committed at the precise time alleged. It is well to stress that variance in minor details has the net effect of bolstering instead of diminishing the witness' credibility because they discount the possibility of a rehearsed testimony. **Instead, what remains paramount is the witness' consistency in relating the principal elements of the crime and the positive and**

<sup>65</sup> TSN, February 18, 2016, pp. 2-4.

<sup>66</sup> *People v. Salaver*, 839 Phil. 90, 103 (2018), citing *People v. Vergara*, 724 Phil. 702, 709 (2014).

<sup>67</sup> *Id.*

<sup>68</sup> 813 Phil. 1055, 1066 (2017).



**categorical identification of the accused as the perpetrator of the same.**<sup>69</sup> (Emphases supplied)

It bears to note as well that the trial court asked private complainant during her testimony regarding the variance as to when the incidents happened. Private complainant answered that she was marked by confusion when she mentioned last week of May and first week of June as the date of the incidents. She then clarified that she was sexually molested on the last week of March and first week of April.<sup>70</sup>

As correctly held by the appellate court, private complainant identified accused-appellant as the perpetrator and categorically asserted that he had carnal knowledge of her on three separate occasions. She narrated clearly that accused-appellant forced himself on her and inserted his penis into her vagina.<sup>71</sup> Verily, private complainant's testimony was corroborated by the findings of Dr. Reynon which indicated that private complainant had healed lacerations at 3:00 and 7:00 o'clock positions, and at the time of the examination, she was 24 weeks pregnant.<sup>72</sup>

Significantly, as to the element of force, threat, or intimidation, We emphasize that there need not be actual force, threat, or intimidation when the perpetrator is the victim's father. The father's moral ascendancy or influence over the victim takes the place of violence and intimidation.<sup>73</sup> In any event, it has not escaped Our notice that accused-appellant threatened to kill private complainant if she discloses the incestuous events to anyone. Thus, We hold that the CA was correct in ruling that all the elements of Qualified Rape were sufficiently established.

Anent accused-appellant's defenses of denial and alibi, the Court finds these devoid of merit. The Court, in *People v. Salazar*,<sup>74</sup> pronounced:

Denial is an inherently weak defense and is generally viewed upon with disfavor, because it is easily concocted but difficult to disprove. Thus, denial will not prevail over positive identification of the accused. For an alibi to prosper, it must be proved that the accused was in another place during the commission of the crime, rendering it physically impossible for the accused to be at the scene of the crime. Further, an alibi must be corroborated by a disinterested witness.

<sup>69</sup> *Id.*, citing *People v. Cinco*, 622 Phil. 858, 867-868 (2009); *People v. Ching*, 563 Phil. 443, 444 (2007), *People v. Gahi*, 727 Phil. 642, 659 (2014); *People v. Appegu*, 429 Phil. 467, 477 (2002).

<sup>70</sup> TSN, February 18, 2016, pp. 5-6.

<sup>71</sup> *Rollo*, pp. 15-16.

<sup>72</sup> *Id.* at 16.

<sup>73</sup> *People v. Bentayo*, 810 Phil. 263, 269 (2017), citing *People v. Fragante*, 657 Phil. 577, 592 (2011).

<sup>74</sup> G.R. No. 239138, February 17, 2021.

Bare, unsubstantiated denial is “negative self-serving evidence which cannot be given greater evidentiary weight than the testimony of the complaining witness who testified on affirmative matters.” x x x.<sup>75</sup>

In this case, XXX failed to provide any evidence to substantiate his defenses of denial and alibi. Accused-appellant’s bare assertion that he did not rape his daughter, and that there was no instance that he and private complainant would sleep beside each other in the same room<sup>76</sup> must fail in light of private complainant’s candid and straightforward testimony and identification that accused-appellant raped her. We hold that between accused-appellant’s unsubstantiated defense of denial and alibi, and private complainant’s credible testimony, the latter shall prevail.

In the same vein, We reject accused-appellant’s imputation of ill motive against private complainant and his in-laws. To recall, accused-appellant testified that the reason why he is being accused of rape was because private complainant and his in-laws hated him.<sup>77</sup> Notably, it is settled that “motives such as extortion, resentment, or revenge never have swayed this Court from giving full credence to the testimony of a minor rape victim. Besides, such imputation deserves scant consideration as it was utterly unsubstantiated.”<sup>78</sup>

All told, the Court affirms the ruling of the CA finding accused-appellant guilty beyond reasonable doubt of three counts of Qualified Rape. Thus, the CA properly imposed for each count the penalty of *reclusion perpetua* without eligibility for parole and affirmed the awards of civil indemnity, moral damages and exemplary damages in the amount of PHP 100,000.00 each, in line with prevailing jurisprudence.<sup>79</sup> Similarly, We affirm the imposition of six percent (6%) interest per *annum* on all damages awarded reckoned from the date of finality of the judgment until fully paid.

**WHEREFORE**, the appeal is **DISMISSED**. The assailed March 28, 2022 Decision of the Court of Appeals in CA-G.R. CR-HC No. 13553 is **AFFIRMED**. Accused-appellant XXX is found **GUILTY** beyond reasonable doubt of three counts of Qualified Rape. Accordingly, he sentenced to suffer the penalty of *reclusion perpetua*, without eligibility for parole for each count. Further, accused-appellant is directed to **PAY** private complainant AAA, for each count, the following amounts: (1) PHP 100,000.00 as civil indemnity; (2) PHP 100,000.00 as moral damages; and (3) PHP 100,000.00 as exemplary damages. All monetary awards are subject to the legal interest at the rate of six percent (6%) per *annum* from finality of this Resolution until fully paid.

<sup>75</sup> Id., citing *People v. Pancho*, 462 Phil. 193, 206 (2003), *People v. Velasco*, 722 Phil. 243, 257 (2013); further citing *People v. Musa*, 422 Phil. 563, 580 (2001).

<sup>76</sup> TSN, January 21, 2019, p. 4.


<sup>77</sup> Id. at 4-6.

<sup>78</sup> *People v. XXX*, G.R. No. 244047, December 10, 2019, citing *People v. Udtohan*, 815 Phil. 449, 465 (2017).

<sup>79</sup> *People v. Jugueta*, 783 Phil. 806, 848 (2016).

**SO ORDERED.”**

**By authority of the Court:**

  
**LIBRADA C. BUENA**  
Division Clerk of Court *gkolu*

by:

**MARIA TERESA B. SIBULO**  
Deputy Division Clerk of Court

**191-A**  
**MAR 16 2023**

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Court of Appeals (x)  
Manila  
(CA-G.R. CR-HC No. 13553)

The Hon. Presiding Judge  
Regional Trial Court, Branch 4  
Carig, Tuguegarao City, 3500 Cagayan  
(Crim. Case Nos. 15401 to 15403)

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