



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. 262627 (*People of the Philippines v. XXX*¹).—Accused-appellant XXX appeals² the June 11, 2021 Decision³ of the Court of Appeals (CA) in CA-G.R. CR HC No. 12780, which affirmed the November 16, 2018 Decision⁴ of the Regional Trial Court (RTC), Branch 194 of [REDACTED],⁵ in Criminal Case No. 15-1264 finding accused-appellant guilty beyond reasonable doubt of Rape under Article 266-A, paragraph 1(d), in relation to Art. 266-B of the Revised Penal Code (RPC), as amended by Republic Act No. (RA) 8353.⁶

The Factual Antecedents

On September 16, 2015, an Information⁷ was filed charging accused-appellant with the crime of Rape, to wit:

That on or about the 11th day of September 2015, in the [REDACTED] [REDACTED], Philippines and within the jurisdiction of this Honorable Court, the above-named accused, by means of force and intimidation, armed with a knife, did then and there willfully, unlawfully, feloniously, and forcibly have sexual

¹ 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.”

² *Rollo*, pp. 3-4.

³ *Id.* at 9-32. Penned by Associate Justice Walter S. Ong and concurred in by Associate Justices Nina G. Antonio-Villanueva and Alfredo D. Ampuan.

⁴ *Id.* at 35-43. Penned by Presiding Judge Marie Grace Javier Ibay.

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

⁶ Entitled, “AN ACT EXPANDING THE DEFINITION OF THE CRIME OF RAPE, RECLASSIFYING THE SAME AS A CRIME AGAINST PERSONS, AMENDING FOR THE PURPOSE ACT NO. 3815, AS AMENDED, OTHERWISE KNOWN AS THE REVISED PENAL CODE.” Approved: September 30, 1997.

⁷ Records, p. 4.

intercourse with complainant [AAA],⁸ a 6[-] year old minor, by inserting his penis into the complainant's vagina, such as [sic] degrades or demeans the intrinsic worth and dignity of the complainant as a human being, thus prejudicial to her normal growth and development, against her will and consent, to the damage and prejudice of the said complainant.

CONTRARY TO LAW.⁹

Accused-appellant pleaded not guilty to the crime charged.¹⁰ During pre-trial,¹¹ the parties stipulated on (a) the jurisdiction of the RTC; (b) the identity of the accused-appellant as named in the Information; and (c) the minority of private complainant. Thereafter, trial on the merits ensued.

The prosecution presented the testimonies of the following witnesses: (a) private complainant;¹² (b) BBB, private complainant's mother;¹³ (c) CCC, private complainant's father;¹⁴ and (d) Dr. Melissa Joyce P. Ramboanga (Dr. Ramboanga) of the Child Protection Unit of the Philippine General Hospital (PGH).¹⁵ It also submitted the following documentary evidence: (e) *Sinumpaang Salaysay* of BBB;¹⁶ (f) Medico-Legal Report No. 2015-15421¹⁷ showing the results of the physical examination and ano-genital examination of private complainant and its related documents (*i.e.*, Interview Sheet¹⁸ and Medical Exam pictures¹⁹); (g) Certificate of Live Birth of private complainant;²⁰ (h) Request for Physical and Genital Examination;²¹ (i) Affidavit of Attestation;²² and (j) the *Pinagsamang Salaysay ng Pag-Aresto* of the accused-appellant's arresting officers.²³

Meanwhile, the parties agreed to stipulate on the supposed testimony of prosecution witness Senior Police Officer 1 Maria Q. Bautista (SPO1 Bautista) of the Women and Children's Protection Desk (WCPD), that (i) she was the one who conducted the interview and encoded the *Sinumpaang*

⁸ "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]).

⁹ *Id.*

¹⁰ *Id.* at 62, 68.

¹¹ *Id.* at 71-72.

¹² TSN, October 18, 2016, pp. 3-20.

¹³ TSN, May 16, 2017, pp. 3-25.

¹⁴ TSN, April 3, 2018, pp. 8-21; Records, pp. 180,184.

¹⁵ TSN, August 23, 2016, pp. 3-18.

¹⁶ Records, pp. 193-194.

¹⁷ *Id.* at 195-196.

¹⁸ *Id.* at 204-205.

¹⁹ *Id.* at 198-203.

²⁰ *Id.* at 206-207.

²¹ *Id.* at 208.

²² *Id.* at 210.

²³ *Id.* at 209.

Salaysay of BBB; (ii) she executed the Affidavit of Attestation; (iii) she prepared the request for a physical and genital examination; (iv) she had no personal knowledge as to the arrest of the accused-appellant; (v) the first time she saw accused-appellant was on September 15, 2015 at around 8:51 p.m.; and (vi) it was on the same date that she first saw the general physical examination results.²⁴ The parties also agreed to stipulate on the testimony of witness *Barangay Tanod* DDD, that (i) he was on duty on the day the alleged incident was reported by CCC; and (ii) acting on said report, he proceeded to the junk shop in [REDACTED] where accused-appellant was invited to proceed to the barangay hall of [REDACTED].²⁵

On the other hand, the defense presented the lone testimony of accused-appellant as evidence.²⁶

Version of the Prosecution

On the day of the incident, private complainant was 6 years old since she was born on July 9, 2009.²⁷ Private complainant, BBB, and CCC reside in a squatters area in [REDACTED].²⁸ On September 11, 2015, at around 2:00 p.m., and while BBB went out of the house to buy viand within their neighborhood, private complainant and a certain playmate named *bunso* were left inside their home.²⁹ Accused-appellant passed by this house and saw from its window, private complainant and *bunso* watching television.³⁰ Accused-appellant then ordered *bunso* to get out of the house, immediately took a knife, and pointed the same at private complainant.³¹ Thereafter, he removed his clothes, undressed private complainant and mounted her. Private complainant screamed “*Mama!*” but accused-appellant covered her mouth with his hand.³² He then laid private complainant down on the bed and inserted his penis inside her vagina for a considerable length of time.³³ When he was finished, accused-appellant dressed up, threatened private complainant to keep quiet unless she wanted to be killed, and then left private complainant at the house.³⁴

Private complainant proceeded to the bathroom to wash her vagina but the same kept bleeding.³⁵ Private complainant called upon *bunso* to alert BBB.³⁶ At around the same time that BBB was coming back, she saw from a

²⁴ Id. at 144.

²⁵ Id. at 170.

²⁶ TSN, May 8, 2018, pp. 3-15.

²⁷ Records, pp. 206-207.

²⁸ Records, p. 193; TSN, May 16, 2017, p. 11.

²⁹ Records, p. 193; TSN, May 16, 2017, p. 5.

³⁰ TSN, October 18, 2016, p. 5.

³¹ Id. at 5, 7, 12-13.

³² Id. at 7-8, 12-13.

³³ Id. at 8, 13-14.

³⁴ Id. at 14.

³⁵ Id. at 14-15.

³⁶ Id. at 15.

distance of 10 meters, accused-appellant running out of her house.³⁷ As she rushed inside, she saw private complainant naked and crying, with the latter's thighs, underwear, and vagina covered in blood. She also saw drops of blood in the kitchen, sink, and floor.³⁸ Private complainant did not initially respond when BBB asked her about what happened but BBB nonetheless proceeded to rush the former to ██████████ Community Hospital, and then eventually to PGH.³⁹

Private complainant was confined in the hospital for five days or from September 11 to 16, 2015, where the doctors therein also advised BBB to enter the incident in the blotter of their barangay.⁴⁰ On September 12, 2015, a doctor from the PGH repaired the perineal laceration in private complainant's vagina.⁴¹ On September 14, 2015, CCC sought assistance from the police; consequently, SPO1 Bautista prepared a request for the physical and genital examination of private complainant.⁴² On September 15, 2015, Dr. Ramboanga examined private complainant. Medico-Legal Report No. 2015-15421 bore the findings that private complainant had a "healing laceration at the mediolateral area," as well as an absent hymen from the 5:00 to 8:00 o'clock positions, which indicated blunt force or penetrating trauma to private complainant's vagina.⁴³

On the evening of the same day, CCC went to the barangay hall to report the incident.⁴⁴ *Barangay Tanods* DDD and EEE coordinated with the police of the neighboring barangay where accused-appellant's junk shop was located. Accused-appellant initially refused and tried to escape, but he eventually joined them.⁴⁵ When BBB arrived at the ██████████ Police Station, SPO1 Bautista took and recorded BBB's statement.⁴⁶ Thereafter, accused-appellant was charged and subjected to inquest proceedings.⁴⁷

Version of the Defense

Accused-appellant denied the accusations against him. He alleged that he was working in a junk shop located in a different barangay when the *barangay tanods* arrived.⁴⁸ They invited him to go with them because he was told that his sister arrived from ██████████ asking for help. However, he was surprised to find out that his sister was not there.⁴⁹ He was then asked to stand

³⁷ Records, p. 194; TSN, May 16, 2017, pp. 5-6, 12-13.

³⁸ Records, p. 193, 205; TSN, May 16, 2017, p. 7.

³⁹ Records, p. 193, 204-205; TSN, May 16, 2017, p. 7-8.

⁴⁰ TSN, April 3, 2018, p.10.

⁴¹ TSN, August 23, 2016, pp. 8, 14.

⁴² Records, pp. 193 and 208

⁴³ Records, pp. 195-196; TSN, August 23, 2016, pp. 6-9 and 12.

⁴⁴ TSN, April 3, 2018, p. 10.

⁴⁵ Records, p. 209.

⁴⁶ Id. at 210.

⁴⁷ Id. at 8-9.

⁴⁸ TSN, May 8, 2018, p. 4.

⁴⁹ Id. at 6.



beside a woman and to sign a document. Although hesitant, he eventually signed the same because said *tanods* beat him up.⁵⁰

Accused-appellant claimed that his nickname is “██████” or “██████” and not “██████,” as CCC had alleged. He also denied having a relative known as “██████.”⁵¹ Lastly, accused-appellant asserted that it was impossible for him to have committed the crime imputed against him. He alleged that as a native of ██████ who had just moved to ██████, he would only conduct his business within the neighboring areas he was familiar with and had never ventured to private complainant’s house, let alone their barangay.⁵² He maintained that he did not know private complainant and had only met her for the first time during the inquest proceedings.⁵³

Ruling of the Regional Trial Court

In its November 16, 2018 Decision, the RTC found accused-appellant guilty beyond reasonable doubt of the crime of Rape.⁵⁴ The RTC held that the prosecution was able to establish that accused-appellant committed the act complained of based on (a) the testimony of private complainant pointing to the accused as the one who raped her, (b) which was consistent with BBB’s narration that she saw accused-appellant going out of her house, and (c) which was further corroborated by the findings of Dr. Ramboanga that the healing laceration could have been caused by a blunt penetrating trauma such as a penis.⁵⁵

Weighed against accused-appellant’s uncorroborated denial and alibi, the RTC found private complainant’s positive identification and candid narration more credible.⁵⁶ Notwithstanding any minor inconsistencies or the absence of specificities, private complainant was still able to vividly describe the actual bestial act perpetrated by accused-appellant against her.⁵⁷ The trial court thus ruled:

WHEREFORE, premises considered, accused [XXX] is found GUILTY beyond reasonable doubt of the crime of Rape under Article 266-A Par. 1(d) in relation to Article 266-B of the Revised Penal Code. He is hereby sentenced to suffer the penalty of *reclusion perpetua*.

Accused [XXX] is further ordered to pay the following civil liabilities to the private complainant:

⁵⁰ Id. at 7.

⁵¹ Id. at 8 and 14.

⁵² Id. at 4, 9-11.

⁵³ Id. at 4-5, 8, 11-13.

⁵⁴ *Rollo*, pp. 35-43.

⁵⁵ Id. at 40-41.

⁵⁶ Id. at 42.

⁵⁷ Id. at 41-42.

- 1) ₱30,000.00 as civil indemnity;
- 2) ₱30,000.00 as moral damages; and
- 3) ₱30,000.00 as exemplary damages.

As the accused is a detention prisoner, the period of his detention shall be credited in the period of his sentence. His continued detention is hereby ordered for the service of the remaining period of his sentence.

SO ORDERED.⁵⁸

Dissatisfied with the ruling of the trial court, accused-appellant elevated the case to the CA on December 7, 2018.⁵⁹

Ruling of the Court of Appeals

Accused-appellant raised the following errors on appeal: the trial court gravely erred in convicting him of Rape (a) despite the prosecution's failure to prove that he is the perpetrator of the crime; and (b) despite the improbable and inconsistent testimonies of the prosecution witnesses.⁶⁰

In its June 11, 2021 Decision, the CA affirmed the findings of the RTC, albeit with modification as to the amount of the monetary awards.⁶¹ The CA confirmed that the prosecution was able to establish the existence of all the elements of Statutory Rape, *i.e.*, carnal knowledge of a female under 12 years of age.⁶² Citing her testimony at length, the CA was convinced of private complainant's credibility as she was able to both narrate everything that was done to her that day, as well as positively identify that it was accused-appellant who raped her. Even if private complainant admitted that she did not personally know him at the time of the incident, private complainant testified with certainty at the witness stand that it was accused-appellant who entered their house, undressed her, and inserted his penis into her vagina.⁶³

The dispositive portion of the assailed Decision reads:

The appeal is DENIED. The *Decision* dated 16 November 2018 rendered by Branch 194 of the Regional Trial Court, [REDACTED], [REDACTED] in Criminal Case No. 15-1264, convicting appellant [XXX] of the crime of Statutory Rape under Article 266-A, paragraph 1(d) of the Revised Penal Code, as amended, and sentencing him to suffer the penalty of *reclusion perpetua*, is AFFIRMED with MODIFICATION, in that appellant is directed to pay private complainant civil indemnity of Php 75,000.00, moral damages of Php 75,000.00, and exemplary damages of Php 75,000.00, all with interest at 6% per *annum* from the date of finality of this judgment until fully paid.

⁵⁸ Id. at 42-43.

⁵⁹ Records, p. 256.

⁶⁰ CA *rollo*, p. 32.

⁶¹ *Rollo*, pp. 9-32.

⁶² Id. at 20-22.

⁶³ Id. at 22-26.

IT IS SO ORDERED.⁶⁴

Aggrieved by the CA's affirmation of his conviction, accused-appellant filed a Notice of Appeal on July 2, 2021.⁶⁵

Issue

The sole issue to be resolved in the present case is whether accused-appellant is guilty beyond reasonable doubt for the crime of Rape.

Our Ruling

We dismiss the appeal for lack of merit, but qualify the crime committed and modify the penalties to be imposed.

Statutory Rape is committed by having sexual intercourse with a woman below 12 years of age regardless of her consent or the lack of it, to the sexual act. It is well-established that proof of force, intimidation or consent is unnecessary as they are not elements of Statutory Rape, considering that the absence of free consent is conclusively presumed when the victim is below the age of 12. At that age, the law presumes that the victim does not possess discernment and is incapable of giving intelligent consent to the sexual act.⁶⁶

After a judicious examination of the records, this Court finds no cogent reason to vacate the courts *quo's* appreciation of the evidence. We agree with the CA's finding that conviction for Statutory Rape is warranted, since the prosecution has sufficiently proven **(a) the age of the complainant; (b) the identity of the accused; and (c) the sexual intercourse between the accused and the complainant.**⁶⁷

First, as evidenced by the Certificate of Live Birth⁶⁸ which was affirmed by the parties' stipulations,⁶⁹ private complainant was indeed only 6 years old at the time of the incident.

Second, the identity of the accused-appellant was ascertained when private complainant, in open court, positively pointed at him as her assailant, to wit:

Q: Sino yung lalaking iyon? Kilala mo ba siya? Pero nahuli na siya?

A: Opo.

Q: Nakakulong na ba siya ngayon?

⁶⁴ Id. at 32.

⁶⁵ Id. at 3-4.

⁶⁶ *People v. Manaligod*, 831 Phil. 204, 211 (2018).

⁶⁷ Id., citing *People v. Cadano, Jr.*, 729 Phil. 577, 584-585 (2014).

⁶⁸ Records, pp. 206-207.

⁶⁹ Id. at 71.

A: Opo.

Q: Nandito ba siya ngayon?

A: Opo.

Q: Maituturo mo ba siya? Mahahanap mo?

A: (Minor complainant nodded her head.)

Q: Sige nga, pwede mo bang ituro para alam ng Korte kung siya nga yun?

A: (Minor complainant nodded her head.)

Q: Gusto mo bang ituro dun o gamitin natin to, yung salamin? Pwede mo bang puntahan dun? Ituro mo? Samahan kita, gusto mo? Ituturo natin, kaya mo?

A: (At this juncture, the minor complainant was accompanied by the public prosecutor.) Pang-ilan siya? Pang-two (2) siya?

COURT INTERPRETER:

Witness pointed to the detainee, seated at the last row, second from the wall. When asked to identify himself, answered --- (to the detainee) Sir, tayo po tayo. Ano pong pangalan nila?

DETAINEE:

[XXX].⁷⁰

Accused-appellant nonetheless asserts that his identification was doubtful and thus unreliable, as it was not based upon private complainant's own recollection but upon the influence of her parents.⁷¹ He argues (a) that private complainant admitted during cross-examination that she did not personally know accused-appellant;⁷² and (b) that BBB did not personally know him or to have clearly seen him or remembered his face when he supposedly ran out from her house; neither could she have known that it was him when he was arrested since private complainant at that time had still refused to disclose to her or to the doctors anything about the incident.⁷³

Accused-appellant's contentions deserve scant consideration. It is irrelevant whether the victim or her witnesses are personally acquainted or familiar with the assailant, as such has never been a requisite to be able to personally identify the latter.⁷⁴ On the contrary, the fact that accused-appellant is a complete stranger to private complainant bolsters the credibility of her

⁷⁰ TSN, October 18, 2016, pp. 5-6.

⁷¹ CA rollo, pp. 41-42.

⁷² Id. at 38.

⁷³ Id. at 38-40.

⁷⁴ See RULES OF COURT, Rule 130, Secs. 21 and 22; see also A.M. No. 004-7-SC, Entitled, "RULE ON EXAMINATION OF A CHILD WITNESS." Approved: November 21, 2000.

Section 21. *Witnesses; their qualifications.* - All persons who can perceive, and perceiving, can make known their perception to others, may be witnesses.

Section 22. *Testimony confined to personal knowledge.* - A witness can testify only to those facts which he or she knows of his or her personal knowledge; that is, which are derived from his or her own perception.

testimony, since there is no indication whatsoever that she had any ill motive to file the rape charge.⁷⁵

In *People v. Regala*,⁷⁶ the minor-complainant's account was given credence since she was likewise not shown to have any ill motive to falsely implicate accused-appellant who was a stranger to her. The Court therein further explained how "it simply would be unnatural for a young and innocent girl to concoct a story of defloration, allow an examination of her private parts, and thereafter subject herself to a public trial or ridicule if she was not, in fact, a victim of rape and deeply motivated by a sincere desire to have the culprit apprehended and punished."⁷⁷ Therefore, even if private complainant did not personally know the accused-appellant, the spontaneity in her recognition of him as her rapist at the witness stand, sufficiently established his identity as the perpetrator of the crime.⁷⁸

Meanwhile, this Court also echoes the CA's findings as to the trustworthiness of BBB's identification, viz.:

Second, it is unlikely for the relative of the victim, such as BBB in this case, to point to someone else as the author of the crime other than the real culprit. Considering that it is her daughter who is the victim in this case, BBB would have no reason to simply impute the crime to anybody. Third, often, the face and body movements of the assailant create an impression which cannot be easily erased from the memory of a witness. x x x.

It is also well to note that the crime happened in broad daylight, and BBB had an unobstructed view of appellant, who was then just ten (10) meters away from her. Normally, where conditions of visibility are favorable and the witness does not appear to be biased, her assertion as to the identity of the malefactor should be accepted. This is more so when the witness is a close relative, like the mother of the victim in this case, because witnesses such as her usually strive to remember the face of the assailant.⁷⁹ (Citations omitted)

Lastly, the fact of sexual intercourse was established by private complainant's straightforward and categorical testimony, to wit:

Q: Tapos sabi mo kanina, yung lalaking tinuro mo, pinaalis niya si bunso.
Tapos, anong ginawa niyang sumunod pagkaalis ni bunso?
A: Ano tinawagan niya po si mama.

x x x x

Q: Tapos?
A: Tapos naghubad po siya. Tinusok niya yung ari niya sa pepe ko (At this juncture, minor complainant is pointing to her genital/private part.)

⁷⁵ See *People v. Fabro*, 269 Phil. 409, 418 (1990), citing *People v. Esquillo*, 253 Phil. 564, 569 (1989).

⁷⁶ 386 Phil. 148 (2000).

⁷⁷ Id. at 158, citing *People v. Dado*, 314 Phil. 635, 642 (1995).

⁷⁸ See *People v. Abo*, 300 Phil. 657, 666 (1994).

⁷⁹ *Rollo*, p. 29.

Q: Bago siya naghubad, ano muna ginawa niya?
A: Yung kutsilyo po, dito sa harapan. Tapos pumatong[.]

Q: Anong ginawa niya?
A: Yung kutsilyo dito sa harapan ko.

Q: Tinusok ka ng kutsilyo dito?
A: Opo.

x x x x

COURT:
Witness is pointing to her right side with her right hand.

FISCAL MENDOZA:
Right rib?

COURT INTERPRETER:
Right rib[.]

x x x x

Q: So, tinusok ka niya ng kutsilyo dito?
A: Opo.

Q: Tapos, anong ginawa niyang sumunod nung tinusok ka ng kutsilyo?
A: Ano po tapos yung ano yung pagkatapos niya yung nagbihis po siya tapos yung nakahubad po siya pinatungan niya ako tapos tinakpan niya po yung dito ko. Sumigaw po ako, "Mama!" tapos tinakpan niya na po yung bibig ko.

x x x x

Q: Tapos anong nangyaring sumunod nung naghubad na siya, pagkatapos niyang maghubad?
A: Ano matagal po siyang nag-ano tinusok. Masakit po. (At this juncture, minor complainant is pointing to her private part using her right hand.)

Q: Anong tinusok niya, kung alam mo?
A: Titi.⁸⁰

x x x x

Q: Tapos ano pa ginawa niya?
A: Ano po. Masakit po. Matagal po yung ginawa niya.

Q: Bakit? Ano bang ginawa niya at nasaktan ka? Ituro mo dito sa doll.
Anong ginawa niya?
A: Tinusok po.

Q: Saan?
A: Dito.

⁸⁰ TSN, October 18, 2016, pp. 6-8.

Q: Ito? Dito? Sa may pepe?

A: Opo.

Q: Anong ginawa niya sa pepe mo?

A: Tinusok po.

Q: Anong ginamit niyang pantusok?

A: Titi.

Q: Titi? Ituro mo dito sa doll.

A: (Minor complainant is pointing to the private part of the male doll).⁸¹

Accused-appellant attempts to discredit private complainant's credibility by alleging that her testimony contained improbabilities and inconsistencies.⁸² He argues that it was contrary to human experience that (a) private complainant did not shout, run, or seek help as soon as she saw the accused-appellant enter their house when she barely knew him; (b) nobody heard private complainant when the latter cried and called for her mother considering that the houses in their barangay were made of light materials and were situated next to each other; and (c) the alleged incident took place at 2:00 p.m. when the risk of apprehension was high.⁸³

This Court is not impressed with these defenses. Contrary to accused-appellant's assertions, private complainant did try to shout for help and call for her mother when he went on top of her; however, she was immediately disabled by accused-appellant who covered her mouth and threatened her with a knife.⁸⁴ In any event, it is well-settled that rape victims react differently such that there is no uniform behavior that can be expected from those who had the misfortune of being sexually molested. Thus, while some may shout, faint, choose to keep the ordeal, or be shocked into insensibility, none of these will impair the credibility of a rape victim nor negate the commission of rape.⁸⁵ Likewise, the Court has time and again held that rape is no respecter of time or place as it can be committed in small, confined places, or in places which many would consider as unlikely and inappropriate, or even in the presence of other family members.⁸⁶

Accused-appellant's other argument that there is doubt as to whether private complainant was indeed raped and that it is possible that private complainant's injuries were merely caused by an accident,⁸⁷ must likewise be rejected. Grasping at straws, accused-appellant points to a supposed inconsistency in the Interview Sheet,⁸⁸ where BBB declared how she was told

⁸¹ Id, at 13.

⁸² CA rollo, pp. 42, 45.

⁸³ Id, at 43-44.

⁸⁴ TSN, October 18, 2016, pp. 7-8, 12-13.

⁸⁵ *People v. XXX*, G.R. No. 230904, January 8, 2020, citing *People v. Palanay*, 805 Phil. 116, 126-127 (2017).

⁸⁶ *People v. Gunsay*, 813 Phil. 381, 387 (2017), citing *People v. Gopio*, 400 Phil. 217, 238-239 (2000).

⁸⁷ CA rollo, p. 44.

⁸⁸ Records, p. 205.

varying reasons when she first interviewed private complainant: “*Iba-iba kasi kuwento nya. Mayroong, nadulas sya, nahulog sa upuan, at yung naglalaro sya ng walis tambo at natusok sya.*”⁸⁹

However, BBB’s out-of-court declarations therein cannot be used to impugn private complainant’s testimony.⁹⁰ Even assuming that private complainant gave BBB different accounts of what had happened to her when she was first interviewed in the hospital, her initial reluctance to reveal to her mother the sexual assault upon her, does not detract from her credibility as such hesitation may be attributable to her age or the accused-appellant’s threats of physical harm against her.⁹¹

In this regard, the Court has ruled that it is not proper to judge the actions of children who have undergone traumatic experiences by the norms of behavior expected under the circumstances from mature persons. There is no standard form of behavioral response when one is confronted with a strange, startling, frightful or traumatic experience.⁹² In addition, We have recognized that rape is a harrowing experience and the shock concomitant to it may linger for a while, such that victims would oftentimes rather bear the ignominy and the pain in private than reveal their shame to the world, or risk the rapist’s making good the threat to do them harm.⁹³

In any event, private complainant has already narrated what had truly happened to her when she was put on the witness stand. When the victim’s testimony is straightforward, convincing, and consistent with human nature and the normal course of things, unflawed by any material or insignificant inconsistency, it passes the test of credibility, and the accused may be convicted solely on the basis thereof.⁹⁴ With more reason, private complainant’s claim must be given credence, as it is corroborated by Dr. Ramboanga’s medical findings of a healing laceration indicative of blunt force or penetrating trauma.⁹⁵ Notably, lacerations, whether healed or fresh, are the best physical evidence of forcible defloration.⁹⁶

Despite the foregoing, We find it necessary to correct the crime imputed against the accused-appellant by the RTC and the CA. Accused-appellant is guilty of **Qualified Statutory Rape** under Art. 266-B of the RPC, as amended by RA 8353. Art. 266-B of the RPC, as amended, not only provides

⁸⁹ CA rollo, p. 44.

⁹⁰ See RULES OF COURT, Rule 130, Sec. 29.

Sec. 29. *Admission by third party.* - The rights of a party cannot be prejudiced by an act, declaration, or omission of another, except as hereinafter provided.

⁹¹ See *People v. Capareda*, 473 Phil. 301, 318 (2004), citing *People v. Puerta*, 416 Phil. 177, 191 (2001).

⁹² *Id.*, citing *People v. Conde*, 429 Phil. 686, 697 (2002); and *People v. Negosa*, 456 Phil. 861, 874 (2003).

⁹³ *Id.*, at 319, citing *People v. Burgos*, 421 Phil. 1006, 1018 (2001).

⁹⁴ *People v. Ocdol*, 741 Phil. 701, 714 (2014).

⁹⁵ Records, pp. 195-196; TSN, August 23, 2016, pp. 6-9, 12.

⁹⁶ *People v. Brondial*, 397 Phil. 663, 688 (2000), citing *People v. Acala*, 366 Phil. 797, 813 (1999), further citing *People v. Obejas*, 299 Phil. 583, 588 (1994).

the penalties for the crime of rape, but also the aggravating or qualifying circumstances thereof, to wit:

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

Whenever the rape is committed with the use of a deadly weapon or by two or more persons, the penalty shall be *reclusion perpetua* to death.

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:

x x x x

5) When the victim is a child **below seven (7) years old**; (Emphasis supplied).

To be convicted of Qualified Rape, at least one of the aggravating/qualifying circumstances mentioned in Art. 266-B must be alleged in the Information and duly proven during the trial.⁹⁷ In the present case, the two qualifying circumstances of use of a deadly weapon and the child victim's age being below 7 years old, were properly alleged and proven. The Information sufficiently described accused-appellant as having committed the bestial act, while "armed with a knife" against private complainant when she was still a "6-year old minor."⁹⁸ There is no need for the allegations to be preceded by the particular words "qualifying/aggravating, qualifying, or qualified by" in order that such circumstances may be appreciated as such, when it is the law itself which provides for the qualification of the crime.⁹⁹

The use of a deadly weapon was established during trial through the consistent and credible testimony of private complainant¹⁰⁰ that she was threatened by accused-appellant with a knife pointed at her right side before he undressed himself and mounted her,¹⁰¹ which the defense failed to dispute with its mere denial and alibi. Meanwhile, private complainant's age as a 6-year old minor at the time of the incident, was proven through the presentation of her Certificate of Live Birth, as well as the parties' stipulation during pre-trial.¹⁰² Further, as decreed in *People v. Tulagan*,¹⁰³ the proper designation of the crime is always "Qualified Statutory Rape" if the sexual

⁹⁷ *People v. Galagar, Jr.*, 719 Phil. 463, 472 (2013), citing *People v. Macapanas*, 634 Phil. 125, 148 (2010).

⁹⁸ Records, p. 4.

⁹⁹ *People v. Jumawid*, 606 Phil. 816, 823 (2009).

¹⁰⁰ In *People v. Fabro*, supra note 73, the Court corrected the trial court and held that the deadly weapon (therein, the *bolo*) need not be presented to establish the aggravating circumstance.

¹⁰¹ TSN, October 18, 2016, pp. 7-8, 12-13.

¹⁰² Records, pp. 71 and 206-207.

¹⁰³ 849 Phil. 197 (2019).

intercourse is committed with a child below 7 years old, whether or not exploited in prostitution.¹⁰⁴

Based on the foregoing, We therefore find accused-appellant guilty of Qualified Statutory Rape under Art. 266-A, par. 1 (d), in relation to Art. 266-B of the RPC.

While the use of the knife as a deadly weapon carries the imposable penalty of *reclusion perpetua* to death, the heavier penalty of death is applicable in this case where another aggravating/qualifying circumstance is attendant, pursuant to Art. 63 of the RPC.¹⁰⁵ In any event, the circumstance that the child victim's age is 6 years old, likewise already merits the imposition of the death penalty.¹⁰⁶ In view however of RA 9346,¹⁰⁷ and in accordance with Administrative Matter No. 15-08-02-SC,¹⁰⁸ We hereby modify the penalty meted by the RTC and CA to ***reclusion perpetua without eligibility for parole***.

We likewise further modify the civil liabilities previously awarded (*i.e.*, civil indemnity, moral damages, and exemplary damages) to ₱100,000.00 each, with interest at six percent (6%) per *annum* accruing from the finality of judgment until full payment, consistent with prevailing jurisprudence.¹⁰⁹

WHEREFORE, the appeal is **DISMISSED**. The assailed June 11, 2021 Decision of the Court of Appeals in CA-G.R. CR HC No. 12780, is **AFFIRMED with MODIFICATION**. Accused-appellant XXX is found **GUILTY** beyond reasonable doubt of Qualified Statutory Rape under Article 266-A, Paragraph 1(d), in relation to Article 266-B of the Revised Penal Code and is thus sentenced to suffer the penalty of *reclusion perpetua* without eligibility for parole. Moreover, accused-appellant shall pay the private complainant AAA the following amounts: (1) ₱100,000.00 as civil indemnity;

¹⁰⁴ Id. at 315.

¹⁰⁵ REVISED PENAL CODE, Art. 63; see *People v. Galagar, Jr.*, supra.

Art. 63. *Rules for the Application of Indivisible Penalties.* — x x x

In all cases in which the law prescribes a penalty composed of two indivisible penalties, the following rules shall be observed in the application thereof:

When in the commission of the deed there is present only one aggravating circumstance, the greater penalty shall be applied.

¹⁰⁶ See *People v. Bay-od*, G.R. No. 238176, January 14, 2019; see also *People v. Tulagan*, supra.

¹⁰⁷ Entitled "AN ACT PROHIBITING THE IMPOSITION OF THE DEATH PENALTY IN THE PHILIPPINES." Approved: June 24, 2006.

¹⁰⁸ Entitled "GUIDELINES FOR THE PROPER USE OF THE PHRASE 'WITHOUT ELIGIBILITY FOR PAROLE' IN INDIVISIBLE PENALTIES." Approved: August 4, 2015.

II. In these lights, the following guidelines shall be observed in the imposition of penalties and in the use of the phrase "*without eligibility for parole*."

x x x x


(2) When circumstances are present warranting the imposition of the death penalty, but this penalty is not imposed because of RA No. 9346, the qualification of "*without eligibility for parole*" shall be used to qualify *reclusion perpetua* in order to emphasize that the accused should have been sentenced to suffer the death penalty had it not been for RA No. 9346.

¹⁰⁹ *People v. Jugueta*, 783 Phil. 806, 840 (2016); *Nacar v. Gallery Frames*, 716 Phil. 267, 282 (2013).

(2) ₱100,000.00 as moral damages; and (3) ₱100,000.00 as exemplary damages. All amounts are subject to legal interest at the rate of six percent (6%) per *annum* from finality of this Resolution until fully paid.

SO ORDERED.”

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court

192-A

MAR 17 2023

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The Director General
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The Hon. Presiding Judge
Regional Trial Court, Branch 194
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(Crim. Case No. 15-1264)

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