



Republic of the Philippines
Supreme Court
Baguio City

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated April 12, 2023 which reads as follows:

“G.R. No. 258850 (*People of the Philippines v. XXX*¹). — On appeal is the September 9, 2020 Decision² of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 13032, which affirmed with modification the March 22, 2019 Decision³ of the Regional Trial Court (RTC) of [REDACTED],⁴ Branch 124, in Criminal Case Nos. C-94915-16. The CA found accused-appellant XXX guilty beyond reasonable doubt of the crime of Qualified Statutory Rape, as defined under Article 266-A, paragraph (1)(d) in relation to Art. 266-B of the Revised Penal Code (RPC).

Antecedents

In two separate Informations⁵ both dated September 22, 2015, accused-appellant was charged with: (1) Sexual Assault defined under Art. 266-A, par. 2 of the RPC; and (2) Statutory Rape under Art. 266-A (1)(d) of the same law. The accusatory portions of which read:

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. 9-27. Penned by Associate Justice Ramon R. Garcia and concurred in by Associate Justices Marie Christine Azcarraga-Jacob and Bonifacio S. Pascua.

³ *Id.* at 30-47. Penned by Presiding Judge Glenda K. Cabello-Marin.

⁴ Geographical location is blotted out pursuant to Supreme Court Amended Administrative Circular No. 83-2015.

⁵ Records, Criminal Case No. 94915, pp. 2-3; Criminal Case No. 94916, pp. 14-15.

Criminal Case No. C-94915

That on or about the 20th day of September 2015 in [REDACTED] and within the jurisdiction of this Honorable Court, the above-named accused, being the biological father of minor victim [AAA],⁶ minor, 7 years old [DOB: July 17, 2008] with lewd design, with grave abuse of authority, by means of force, threats and intimidation and fraudulent machination while the minor was asleep and deprived of reason employed upon the person of said [AAA], did then and there willfully, unlawfully and feloniously, insert his penis inside the mouth of said minor and kissed her, against her will and without her consent, and uttering the threatening words, to wit: "HUWAG KANG MAGSUSUMBONG KAY NANAY DAHIL KUNG HINDI PAPAGALITAN KITA AT PAPTAYIN KO SILA NANAY AT TATAY!!!! AT MADADAMAY SILA NANAY AT TATAY PAG WALA SI MAMA MO DITO IPAPASOK KO ANG TITI KO SA PUKE MO!!! PAG NANDITO NA MAMA MO HINDI KITA GAGANUNIN!!!! All addressed to said minor victim.

CONTRARY TO LAW.⁷

Criminal Case No. C-94916

That on or about the 20th day of September 2015 in [REDACTED] and within the jurisdiction of this Honorable Court, the above-named accused, being the biological father of minor victim [AAA], minor, 7 years old [DOB: July 17, 2008] with lewd design, [with] grave abuse of authority, by means of force, threats and intimidation employed while the minor was asleep and deprived of reason upon the person of [said AAA], minor, 7 years old, did then and there willfully, unlawfully and feloniously, lie and had carnal knowledge upon the person of said Private Complainant against her will and without her consent.

CONTRARY TO LAW.⁸

Upon arraignment, accused-appellant pleaded not guilty to all the offenses charged against him.⁹ Trial on the merits thereafter ensued. The prosecution presented the following: (1) private complainant; (2) private complainant's grandmother; (3) Medico-Legal Officer Police Chief Inspector Jocelyn P. Cruz (PCI Cruz); (4) *Barangay Kagawad* Salvador Balatbat; and (5) Police Officer 2 Sarah Julaton. On the other hand, the defense presented accused-appellant as the lone witness.

⁶ "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]).

⁷ Records, p. 2.

⁸ Id. at 14.

⁹ Id. at 28.

Version of the Prosecution

Private complainant is the daughter of accused-appellant.¹⁰ She was born on July 17, 2008.¹¹ She recounted that accused-appellant ravished her inside their grandparent's house while she was at home together with her siblings.¹²

Private complainant averred that they live in the house of her maternal grandparent in [REDACTED].¹³ When her mother left to work abroad, private complainant and her three other brothers were left in the custody of their grandparent whom they call *nanay*.¹⁴ Accused-appellant would occasionally go to her grandparent's house to visit private complainant and her brothers.¹⁵

On September 20, 2015, when she was still 7 years old, accused-appellant ravished her.¹⁶ As she was sleeping in a room she shared with her brothers and a cousin, she was awakened by accused-appellant.¹⁷ Accused-appellant undressed her and inserted his penis into her vagina.¹⁸ Accused-appellant wanted to insert his penis into her mouth but she was able to cover the same.¹⁹ Accused-appellant then told her to bend over and said that he will insert his penis into private complainant's anus.²⁰ Thereafter, accused-appellant then put on his shorts and brief and left the house.²¹

Private complainant failed to immediately reveal to others her ordeal in the hands of her own father as she was afraid that if she would tell anyone, accused-appellant would make good his threat to kill her mother and her family.²²

PCI Cruz corroborated private complainant's testimony. PCI Cruz testified that when she examined private complainant on September 22, 2015,²³ she noted erythema, or redness on the skin, on private complainant's *labia minora*.²⁴ There was also erythema on private complainant's posterior fourchette, or the lower part of the hymen and her urethral meatus, and swelling on the opening for the excretion of the urine under the clitoris.²⁵ The said injuries could have been caused by blunt object, such as an erect penis.²⁶

¹⁰ Id. at 12.

¹¹ Id.

¹² TSN, December 5, 2017, p. 5.

¹³ Id.

¹⁴ Id. at 15-14.

¹⁵ Id. at 6.

¹⁶ Id. at 7.

¹⁷ Id. at 5.

¹⁸ Id. at 15.

¹⁹ Id. at 9.

²⁰ Id. at 8.

²¹ Id.

²² Id. at 17.

²³ TSN, May 3, 2018, p. 4; records, p. 10.

²⁴ TSN, May 3, 2018, p. 6.

²⁵ Id.

²⁶ Id. at 7-8.

While there was no laceration on private complainant's hymen, PCI Cruz did not rule out rape or sexual abuse.²⁷ After the examination, PCI Cruz referred the private complainant to the Department of Social Welfare and Development (DSWD) for counselling. PCI Cruz reduced her findings in her Initial Medico-Legal Report dated September 22, 2015.²⁸

Version of the Defense

Accused-appellant belied the accusations against him. He attested that he had an adversarial relationship with his parents-in-law. As he was not welcome in their house,²⁹ he was never able to visit his children.³⁰

On September 20, 2015, he learned that his 12-year-old son was confined at [REDACTED] Hospital.³¹ At around 8:00 p.m., he proceeded to said hospital to attend to his son. Out of desperation and since he has nothing to fend his children, accused-appellant stole a cellular phone of a patient.³² At around 3:00 a.m. of the following day, he left the hospital to sell the cellular phone to his sister-in-law.³³ When her mother-in-law learned of the stolen cellular phone, the latter immediately called the *barangay* to report the incident.³⁴ As a result, accused-appellant was arrested.³⁵ A complaint for rape was then filed against him.³⁶ However, he maintained that on the day of the alleged incident, he was at the hospital attending to his son.³⁷

Ruling of the Regional Trial Court

The RTC, in its Decision³⁸ dated March 22, 2019, found accused-appellant guilty beyond reasonable doubt of Statutory Rape but acquitted him of Sexual Assault. In considering the evidence on record, it held that the offenses charged against the accused-appellant in Criminal Case Nos. C-94915 and C-94916 arose from one and the same incident which occurred on September 20, 2015 at around 12:00 midnight. Accordingly, since there was no interval of considerable period from the time the accused-appellant inserted his penis into AAA's vagina and into the latter's mouth, the former cannot be convicted for the crime of Sexual Assault in Criminal Case No. C-94915 as the same cannot be considered as a separate crime but a part of the series of acts committed by him for having carnal knowledge of his daughter.

²⁷ Id.

²⁸ TSN, May 3, 2018, p. 8; records, p. 10.

²⁹ TSN, September 20, 2018, p. 4.

³⁰ Id.

³¹ Id. at 5.

³² Id. at 6.

³³ Id. at 7.

³⁴ Id. at 8.

³⁵ Id. at 8-9.

³⁶ Id. at 9.

³⁷ Id. at 9-10.

³⁸ *Rollo*, pp. 30-47.

On the other hand, the trial court convicted accused-appellant for the crime of Statutory Rape by carnal knowledge in Criminal Case No. C-94916. It held that all the elements of the offense charged are present in this case. Moreover, the positive testimony of private complainant that accused-appellant inserted his penis into her vagina was supported by the findings of the medico-legal officer.

In addition, accused-appellant's defenses of denial and alibi were too weak as against private complainant's positive identification of the accused-appellant as the malefactor.

The dispositive portion of the RTC Decision reads:

WHEREFORE, judgment is hereby rendered as follows:

1) The court finds accused [XXX] **NOT GUILTY** of the crime of rape by sexual assault under Article 266-A, paragraph 2 of the Revised Penal Code in Criminal Case No. C-94915. Accordingly, the said accused is hereby **ACQUITTED** of the crime charged in Criminal Case No. C-94915. Further, considering that the act from which civil liability might arise did not exist, the accused is hereby exonerated from any civil liability towards private complainant [AAA] in Criminal Case No. C-94915;

2) The Court finds accused [XXX] **GUILTY** beyond reasonable doubt of the crime of statutory rape by carnal knowledge, as defined under Article 266-A, paragraph (1)(d) of the Revised Penal Code in Criminal Case No. C-94916. Accordingly, said accused is hereby sentenced to suffer the penalty of *reclusion perpetua*, without the possibility of parole; and

3) Accused [XXX] is hereby adjudged civilly liable to private complainant [AAA] in Criminal Case No. C-94916. Accordingly, he is hereby ordered to pay said private complainant: a) ₱75,000.00 as civil indemnity; b) ₱75,000.00 as moral damages, and c) ₱75,000.00 as exemplary damages, with interest thereon at the rate of six percent (6%) *per annum* reckoned from the finality of this Decision until fully paid.

With costs against the accused.

SO ORDERED.³⁹

Aggrieved, accused-appellant appealed his conviction before the CA.

Ruling of the Court of Appeals

In its assailed September 9, 2020 Decision,⁴⁰ the CA affirmed the trial court's judgment of conviction but modified the nomenclature of the crime to Qualified Statutory Rape, considering the qualifying circumstances of minority and relationship, which were sufficiently alleged and proven by the

³⁹ Id.

⁴⁰ Id. at 9-27.

prosecution. Moreover, in order to conform to the prevailing jurisprudence, the CA likewise modified the amounts of monetary damages and ruled that the accused-appellant should pay the victim civil indemnity, moral damages, and exemplary damages in the amount of ₱100,000.00 each, which monetary damages shall earn interest at the legal rate of 6% per *annum* from the date of finality of the judgment until fully paid.

The dispositive portion of the CA Decision reads:

WHEREFORE, premises considered, the instant appeal is hereby **DENIED**. The Decision dated March 22, 2019 of the Regional Trial Court, Branch 124 (Family Court), ██████████ in Criminal Case Nos. C-94915-16 is **AFFIRMED with MODIFICATION** in that accused-appellant [XXX] is hereby held **GUILTY** beyond reasonable doubt of qualified statutory rape and is hereby sentenced to suffer the penalty of *reclusion perpetua*, without eligibility for parole, and ordered to pay private complainant [AAA] the amount of One Hundred Thousand Pesos (₱100,000.00) as civil indemnity; One Hundred Thousand Pesos (₱100,000.00) as moral damages; and One Hundred Thousand Pesos (₱100,000.00) as exemplary damages. Accused-appellant is further ordered to pay private complainant [AAA] interest on all damages awarded at the legal rate of six percent (6%) per annum from date of finality of this judgment.

SO ORDERED.⁴¹

Issue

Did the CA err in affirming accused-appellant's conviction?

Our Ruling

The appeal is bereft of merit.

Art. 266-A of the RPC, as amended, provides the elements for the crime of Rape, to wit:

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;and

⁴¹ Id. at 26.

- 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.

xx x x

Article 266-B. Penalties. – x 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 consanguinity or affinity within the third civil degree, or the common-law spouse of the parent of the victim;** (Emphasis supplied)

In every prosecution for the crime of Statutory Rape, the following elements must be proven beyond reasonable doubt, to wit: (1) the offended party is under 12 years of age; and (2) the accused had carnal knowledge of the victim, regardless of whether there was force, threat, or intimidation or grave abuse of authority.⁴² Proof of force, intimidation or consent is unnecessary, as they are not elements of statutory rape.⁴³ 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.⁴⁴ Thus, to sustain a conviction for Statutory Rape, the prosecution must establish the following: (a) the age of the complainant; (b) the identity of the accused; and (c) the sexual intercourse between the accused and the complainant.⁴⁵

Furthermore, these acts of Rape shall be qualified pursuant to Art. 266-B (1) of the RPC if: (i) the victim is under 18 years of age; and (ii) 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.⁴⁶ Parenthetically, the victim's minority and relationship with the perpetrator must both be alleged in the Information and proved, as in this case.⁴⁷

The RTC, as affirmed by the CA, found that the prosecution was able to establish beyond reasonable doubt all elements of Statutory Rape. Undeniably, accused-appellant is the biological father of private

⁴² *People v. XXX*, G.R. No. 244047, December 10, 2019.

⁴³ *People v. [REDACTED]*, G.R. No. 229836, July 17, 2019.

⁴⁴ *Id.*

⁴⁵ *People v. De Guzman*, 840 Phil. 759, 767 (2018).

⁴⁶ *Id.*

⁴⁷ *People v. Ibañez*, G.R. No. 231984, July 6, 2020.

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complainant.⁴⁸ Accused-appellant's relationship with the victim was likewise established by the testimonies of the private complainant as well as accused-appellant's own admission. Private complainant also categorically and unequivocally identified accused-appellant as the one who had carnal knowledge of her against her will on September 20, 2015, and while she was still below 12 years of age. The age of private complainant was uncontested as her birth certificate was presented and admitted to court.

Private complainant's testimony was as follows:

Q: Do you know a certain [XXX]?

A: Yes Ma'am.

Q: Why do you know him?

A: He is my father ma'am.⁴⁹

x x x x

Q: According to your *Salaysay* there is an incident that happened on September 20, 2015?

A: Yes, Ma'am.

Q: Where were you on such particular date and time

A: I was at home ma'am.

Q: Where is your house located?

A: [REDACTED] ma'am.

x x x x

Q: Is that located in [REDACTED]?

A: Yes ma'am.

Q: And what are you doing inside your house on September 20, 2015?

A: I was sleeping ma'am.

Q: Who was with you at that time?

A: Kuya [REDACTED] and my youngest brother, [REDACTED].

Q: Who else if there is any?

A: [REDACTED] my cousin.

Q: Is there anything that happened on that day while you were sleeping together with [REDACTED], [REDACTED] and [REDACTED]?

A: Yes, ma'am.

Q: What was that?

A: He undressed me and then he removed his shorts and brief.

Q: And who [are you referring to?]

⁴⁸ Records, p. 9.

⁴⁹ TSN, December 5, 2017, pp. 3-4.

A: My father, my papa.

Q: And what is the complete name again of your papa?

A: [REDACTED] ma'am.

Q: Is your papa also staying in your house in [REDACTED]?

A: No ma'am.

Q: And where is the house of your Papa?

A: *Sa riles* po. x x x.

Q: And how far is your Papa's house to your house? [sic]

A: [one hour only], he was living across the house of my aunt.

Q: But is your father allowed to go to your house located in [REDACTED]?

A: He was the one taking care of me.⁵⁰

x x x x

Q: Before you sleep on September 20, 2015, is your father already there?

A: Yes ma'am.

Q: You said a while ago that your father removed your shorts?

A: Yes ma'am.

Q: And how far was your father when he removed your shorts?

A: He approached me and then he undressed me.

Q: By the way, who was beside you at that time when your father approached you?

A: Kuya [REDACTED] ma'am.

Q: Was he the only person beside you?

A: There was no one beside me on the other side.

Q: Can you tell us what cloth did your father remove from you?

A: My shorts and panty, ma'am.

Q: What was your position when your father removed your shorts and panty?

A: "*Pinatuwad nya po ako.*" x x x.⁵¹

x x x x

Q: You said that your father undressed you and then he removed your shorts and ordered you to "*na pinatuwad ka*" and after that, that's the time that he inserted his penis into your anus, do you recall it?

A: Yes ma'am.

x x x x

⁵⁰ Id. at 5-6.

⁵¹ Id. at 7-8.

Q: How about into your vagina was he able to ~~insert~~ his penis into your vagina?

A: Yes ma'am.

Q: On that particular incident?

A: At first, he told me to lay down. [sic] I was facing him and then he inserted his penis into my vagina and [thereafter] he told me to bend over and told me "*sa puwet naman daw.*"

Q: So before your father ordered you to bend over, he inserted his penis into your vagina and then afterwards to your anus, is that what you meant x x x?

A: Yes ma'am.⁵²

It is beyond doubt that the accused-appellant had carnal knowledge of private complainant. The victim consistently stated that accused-appellant inserted his penis into private complainant's vagina and succeeded in having carnal knowledge of her.

For his defense, accused-appellant attacks private complainant's credibility for having inconsistent and improbable testimonies. The accused-appellant further claimed that since the testimonies of private complainant were inconsistent, it cannot be relied upon and that the same is sufficient to support his acquittal for failure of the prosecution to establish his guilt beyond reasonable doubt.

The arguments of the accused-appellant fail to persuade Us.

We entertain no doubt as to the credibility of private complainant and has no reason to deviate from the findings of the lower courts in giving credence to the victim's version of the rape incident. Well settled is the rule that the trial court's evaluation of a witness is generally accorded great weight and respect as they are in a better position to determine the latter's conduct and demeanor, and to determine whether indeed they are telling the truth. Trial courts are in the best position to ascertain and measure the sincerity and spontaneity of witnesses through their actual observation of the witnesses' manner of testifying, their demeanor and their behavior in court.⁵³ Trial judges, therefore, can better determine if such witnesses are telling the truth, being in the ideal position to weigh conflicting testimonies.⁵⁴ The rule finds an even more stringent application where the said findings are sustained by the CA.⁵⁵

The Court, in *People v. Olpindo*,⁵⁶ has elucidated that:

⁵² Id. at 15-16.

⁵³ *People v. BBB*, G.R. No. 232071, July 10, 2019.

⁵⁴ Id.

⁵⁵ Id.

⁵⁶ G.R. No. 252861, February 15, 2022.

Rape is a crime that is almost always committed in isolation or in secret, usually leaving only the victim to testify about the commission of the crime. As such, the accused may be convicted of rape on the basis of the victim's sole testimony provided such testimony is logical, credible, consistent, and convincing. Moreover, the testimony of a young rape victim is given full weight and credence considering that her denunciation against him for rape would necessarily expose herself and her family to shame and perhaps ridicule. Indeed, it is more consistent with human experience to hold that a rape victim of tender age will truthfully testify as to all matters necessary to show that she was raped.⁵⁷

As aptly noted by the appellate court, inaccuracies and inconsistencies in a rape victim's testimony are generally expected. This Court likewise pronounced in *People v. Talmesa*⁵⁸ that accuracy in a testimonial account of a rape victim has never been used as a standard in testing the credibility of the witness, viz.:

[I]naccuracies and inconsistencies are expected in a rape victim's testimony. Rape is a painful experience which is oftentimes not remembered in detail. Such an offense is not analogous to a person's achievement or accomplishment as to be worth recalling or reliving; rather, it is something which causes deep psychological wounds and casts a stigma upon the victim, scarring her psyche for life and which her conscious and subconscious mind would opt to forget. Thus, a rape victim cannot be expected to mechanically keep and then give an accurate account of the traumatic and horrifying experience she had undergone.⁵⁹

Moreover, accused-appellant has utterly failed to overturn the burden of evidence against him. The accused-appellant's defenses of denial and alibi are inherently weak defenses. The positive and categorical testimonies of private complainant, therefore, should be given more credence as against the defenses of denial and alibi professed by the accused-appellant.

Considering the concurrence of the aggravating/qualifying circumstances of minority and relationship, this Court subscribes to the appellate court's conviction of the accused-appellant of Qualified Statutory Rape pursuant to Art. 266-A (1)(d) in relation to Art. 266-B of the RPC.

In addition, the damages awarded by the appellate court must likewise be sustained. Pursuant to *People v. Jugueta*,⁶⁰ where the penalty imposed is death but reduced to *reclusion perpetua* because of Republic Act No. 9346,⁶¹ the civil indemnity, moral damages, and exemplary damages amounting to ₱100,000.00 each is sustained.

⁵⁷ Id.

⁵⁸ G.R. No. 240421, November 16, 2020.

⁵⁹ Id.

⁶⁰ 783 Phil 806, 848 (2016).

⁶¹ Entitled "AN ACT PROHIBITING THE IMPOSITION OF DEATH PENALTY IN THE PHILIPPINES." Approved: June 24, 2006.

Also, in consonance with prevailing jurisprudence, the amount of damages shall earn interest at the rate of 6% per *annum* from the date of finality of the judgment until fully paid.

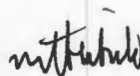
WHEREFORE, the appeal is **DISMISSED**. The assailed September 9, 2020 Decision rendered by the Court of Appeals in CA-G.R. CR-H.C. No. 13032, is **AFFIRMED**.

SO ORDERED.”

By authority of the Court:

LIBRADA C. BUENA
Division Clerk of Court

by:



MARIA TERESA B. SIBULO
Deputy Division Clerk of Court

446

APR 25 2023

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