



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Second Division, issued a Resolution dated **October 10, 2022** which reads as follows:

“**G.R. No. 255445** (*People of the Philippines, plaintiff-appellee v. Boyte Abegonia y Cabornay @ Boyet, accused-appellant*). — This Court resolves an Appeal¹ assailing the Decision² dated February 27, 2020 of the Court of Appeals (CA) in CA-G.R. CR. HC No. 02744. The CA earlier affirmed the December 11, 2017 Decision of the Regional Trial Court (RTC) of Calbiga, Samar, in Criminal Case No. CC-2013-1883, which found Boyte Abegonia y Cabornay @ Boyet (*Abegonia*) guilty of the crime of rape defined under Article 266-A³ of the Revised Penal Code (RPC).

The instant case stemmed from an Information charging Abegonia with the crime of rape, the accusatory portion of which reads:

That sometime in January 2012, at [REDACTED], Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with force, threats and intimidation, and with lewd designs, lustful intent, did, then and there, willfully, unlawfully and feloniously have carnal knowledge with private offended party [AAA255445],⁴ without her consent and against her will, to her damage and prejudice.

¹ CA rollo, pp. 105-107.

² Penned by Associate Justice Carlito B. Calpatura and concurred in by Associate Justices Gabriel T. Ingles and Emily R. Aliño-Geluz; rollo, pp. 5-15.

³ 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 otherwise unconscious; c) By means of fraudulent machination or grave abuse of authority; and 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.

2) By any person who, under any of the circumstances mentioned in paragraph 1 hereof, shall commit an act of sexual assault by inserting his penis into another person’s mouth or anal orifice, or any instrument or object, into the genital or anal orifice of another person.

⁴ 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 RA 7610, entitled “AN ACT PROVIDING FOR STRONGER DETERRENCE AND SPECIAL PROTECTION AGAINST CHILD ABUSE, EXPLOITATION AND DISCRIMINATION, AND FOR OTHER PURPOSES,” approved on June 17, 1992; RA 9262, entitled “AN ACT DEFINING VIOLENCE AGAINST WOMEN AND THEIR CHILDREN, PROVIDING FOR PROTECTIVE MEASURES FOR VICTIMS, PRESCRIBING PENALTIES THEREFOR, AND FOR OTHER PURPOSES,” approved on March 8, 2004; and Section 40 of A.M. No. 04-10-11-SC, otherwise known as the “RULE ON VIOLENCE AGAINST WOMEN AND THEIR CHILDREN” (November 15, 2004). (See footnote 4 in *People v. Cadano, Jr.*, 729 Phil. 576, 578 [2014], citing *People v. Lomaque*, 710 Phil. 338, 342 [2013]. See also Amended Administrative Circular No.

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CONTRARY TO LAW.⁵

Upon arraignment on October 10, 2016, Abegonia pleaded not guilty to the offense charged.⁶ Thereafter, pre-trial was conducted. Afterwards, trial ensued.

Sometime in January 2012, then 24-year-old AAA255445 was working in their family farm located at [REDACTED], Samar. Suddenly, Abegonia appeared and poked a gun at her. He then dragged AAA255445 towards the woods. Thereat, Abegonia kissed AAA255445's lips while touching the latter's breasts. Thereafter, he placed his gun near him and forced AAA255445 to lie on top of a pile of leaves. Abegonia then ordered AAA255445 to take off her clothes as he took off his and threatened to kill her if she did not follow. As soon as they were both naked, Abegonia covered AAA255445's mouth and inserted his penis into her vagina. AAA255445 tried but failed to escape because Abegonia was too strong to push and his gun was just lying beside him.⁷

After the incident, Abegonia threatened to kill AAA255445 if the latter told anybody of what transpired between them. He then went towards [REDACTED], Samar and was never heard from again.⁸

AAA255445 went home in pain. She did not tell her mother of the incident because she was scared of what Abegonia might do to her.⁹

On August 8, 2012, AAA255445's mother noticed that her tummy was larger than usual. Hence, AAA255445 went to the rural health clinic only to be found pregnant. Just then, AAA255445 confessed to her mother that Abegonia raped her last January 2012.¹⁰

On October 10, 2012, AAA255445 and her mother went to the Women and Children Protection Unit of the Eastern Visayas Regional Medical Center in Tacloban City. Dr. Michael Japson Tenebro (*Dr. Tenebro*), the attending clinical psychologist, examined AAA255445 and found her to be traumatized from rape. He recommended AAA255445 to undergo psychotherapy to heal her from the trauma.¹¹ Likewise, Dr. Tenebro found AAA255445 to have

83-2015, entitled "PROTOCOLS AND PROCEDURES IN THE PROMULGATION, PUBLICATION, AND POSTING ON THE WEBSITES OF DECISIONS, FINAL RESOLUTIONS, AND FINAL ORDERS USING FICTITIOUS NAMES/PERSONAL CIRCUMSTANCES," dated September 5, 2017.

⁵ Records, p. 1.

⁶ Id. at 33.

⁷ Appellee's Brief; *CA rollo*, pp. 57-69.

⁸ Id.

⁹ Id.

¹⁰ Id. at 57-58.

¹¹ Id. at 58-59

inadequate intellectual ability and insights. Based on his expert observation, he claimed that AAA255445 acts the way a 12 to 14-year-old does.¹²

On February 25, 2013, the Department of Justice, through the Office of the Provincial Prosecutor, filed a case for rape against Abegonia. On September 20, 2016, Abegonia was caught in Metro Manila by virtue of a standing warrant.¹³

For his part, Abegonia denied having raped AAA255445. Admitting that he is the father of the child born by AAA255445 during the trial of the case,¹⁴ he argues that the carnal congress that happened between them was consensual, not coerced.¹⁵

In its Decision¹⁶ dated December 18, 2017, the RTC found Abegonia guilty as charged, the dispositive portion of which reads:

WHEREFORE, premises considered, accused **BOYTE ABEGONIA [y] CABORNAY** alias Boyte is hereby found **GUILTY** beyond reasonable doubt of the crime of Rape, defined under Article 266-A of the Revised Penal Code and is hereby sentenced to a penalty of *reclusion perpetua*. He is also ordered to indemnify the private complainant in the amount of One Hundred Thousand Pesos ([P]100,000.00) as civil indemnity and One Hundred Thousand Pesos ([P]100,000.00) as moral damages.

No costs.

SO ORDERED.¹⁷ (Emphases in the original)

The case was subsequently elevated to the CA. After due deliberations, the CA rendered its February 27, 2020 Decision¹⁸ affirming with modification the appealed decision of the trial court, the dispositive portion of which reads:

WHEREFORE, premises considered, the assailed Decision dated December 11, 2017 of the Regional Trial Court, Branch 33, Calbiga, Samar, is **AFFIRMED with MODIFICATION**. As modified, We find accused-appellant Boyte Abegonia [y] Cabornay **GUILTY** beyond reasonable doubt of Rape under [Article 266-A(1)] in relation to Article 266-B of the RPC in Criminal Case No. CC-2013-1883, and is sentenced to suffer *reclusion perpetua*. He is **ORDERED** to pay [AAA255445] the amounts of **[P]75,000.00 as civil indemnity, [P]75,000.00 as moral damages, and [P]75,000.00 as exemplary damages**. All the amounts of damages awarded shall earn interest at the rate of six percent (6%) per [*annum*] from the date of finality of judgment until fully paid.

¹² Id. at 32.

¹³ Id. at 59.

¹⁴ Id. at 33

¹⁵ Brief for the Accused-appellant; id. at 19.

¹⁶ Id. at 30.

¹⁷ Id. at 36.

¹⁸ *Rollo*, pp. 5-15.

SO ORDERED.¹⁹ (Emphases in the original)

Hence, the instant appeal.

In his appellant's brief, which he adopted before this court, accused-appellant submits the following assignment of errors:

I.

THE TRIAL COURT GRAVELY ERRED IN GIVING FULL WEIGHT AND CREDENCE TO THE INCREDIBLE AND UNBELIEVABLE TESTIMONY OF PRIVATE COMPLAINANT; AND

II.

THE TRIAL COURT GRAVELY ERRED IN NOT CONSIDERING THE DEFENSE INTERPOSED BY THE ACCUSED-APPELLANT.

Accused-appellant faults the trial and appellate courts for giving credence to the testimony of AAA255445 and claims that the courts were oblivious to the existence of circumstances that would reveal AAA255445's contrived and unnatural version of the alleged rape. *First*, AAA255445 did not undergo medical examination immediately after she was allegedly raped. Without the findings of fresh lacerations or any other signs of injury that would indicate resistance, accused-appellant claims that it is difficult to conclude that AAA255445 was forced to have carnal knowledge with him. *Second*, accused-appellant harps on AAA255445's narration of details and the circumstances surrounding its commission, pointing out that she could have easily escaped or at least called for help and the people nearby could have rescued her from possible harm. *Third*, accused-appellant highlights AAA255445's inconsistent recollection of how she was raped. According to accused-appellant, AAA255445's failure to present a reasonable rape ambience detailing as much as possible how she ought to have been raped made her testimony vague. *Lastly*, accused-appellant notes that AAA255445's demeanor and actions after the alleged rape betray her credibility. He claims that AAA255445's failure to disclose her harrowing ordeal even to her mother is highly inconsistent with the natural reaction of a woman that was defiled.²⁰

For the People, the Office of the Solicitor General (*OSG*) maintains that a medico-legal examination is not essential to prove rape. It is merely corroborative and can be dispensed with. The *OSG* likewise asserts that AAA255445's lack of resistance in her ordeal does not mean consent to being raped. The *OSG* adds that she cannot be expected to recall the gory details of her defilement because the workings of a human mind placed under emotional stress are unpredictable. Finally, the *OSG* views AAA255445's long silence and belated reporting as common to victims of rape. Besides, accused-

¹⁹ *Id.* at 14.

²⁰ *Id.* at 23-25.

appellant's threat to kill AAA255445 hindered the latter from immediately reporting her unpleasant experience to the authorities.²¹

We deny the appeal.

Under Article 266-A(1)(a) of the RPC, as amended, rape is committed when: (1) the offender had carnal knowledge of a woman; and (b) the same was committed by using force and intimidation.

As presented by the prosecution, Abegonia employed force or intimidation to carry out his plan to have unlawful carnal knowledge with AAA255445. As testified to by AAA255445, accused-appellant dragged her to the woods and used his gun and the threat of bodily harm to subdue AAA255445 into submitting to his evil sexual desires.²² The following excerpt of the transcript of stenographic notes discloses the positive, clear, and straightforward manner by which AAA255445 recalled her ordeal in the hands of Abegonia and the circumstances that followed suit, thus:

Q: Ms. Witness, you said that you were touched by [Abegonia] on 2012?

A: Yes, ma'am.

Q: And where were you when he touched you?
What were you doing at that time?

A: I was taking care of our rice plantation,
scaring the birds.

Q: What time was that if you can still recall?

A: It was in the afternoon.

Q: Who was with you at that time?

A: Nobody[,] it was only me.

x x x x

Q: Where did [Abegonia] [come] from at that time
when he touched you?

A: He was hunting birds, "Maya".

Q: And he was using a gun?

A: Yes, ma'am.

Q: By the way, how did [Abegonia] approach you?

A: He just held my armpits and dragged me to
the woods.

Q: You said that while [Abegonia] was holding your
armpits and dragged you to the woods, where
was his gun placed?

²¹ Id. at 57-69.

²² Id. at 57.

- A: It was placed at his back.
- Q: According to you, you were dragged into the woods; upon [reaching the woods], what did he exactly do to you?
- A: That's it, he undressed me and placed his penis into my vagina.
- Q: Where did he place his gun while he was undressing you?
- A: He placed it near him.
- Q: And did you attempt to run or shout?
- A: No, ma'am, because he was holding me. (witness demonstrated by touching both her right and left arms, crossing her hand)
- Q: Why did you not ask for help [or] shout for help?
- A: Because there was nobody else around in the place.
- Q: After [Abegonia], as you said, undressed you[,] placed himself in front of you[,] and placed his penis into your vagina, what else happened?
- A: I was crying at that time.
- Q: How long did it take before [Abegonia] take off his penis from your vagina?
- A: It took a longer time.
- Q: What else did he do after he took his penis? What else happened?
- A: When he finished, he went home.
- Q: And yourself, what did you do?
- A: I was crying.
- Q: Did he say anything [after what he did to you?]
- A: Yes, ma'am, he just said "Don't tell anybody because I will kill you."²³

Accused-appellant, nonetheless, questions the credence accorded by the trial court on the uncorroborated testimony of AAA255445 to support his conviction. On this point, we deem it proper to remind accused-appellant of the fundamental principle in jurisprudence involving rape, which states that the accused may be convicted based solely on the testimony of the victim, provided that such testimony is credible, natural, convincing, and consistent with human nature and the normal course of things.²⁴

Here, AAA255445's testimony was clear and straightforward. Her narration of her sexual indignity caused by accused-appellant was credible

²³ TSN, May 9, 2017, pp. 19-22.

²⁴ See *People v. ZZZ*, G.R. No. 229209, February 12, 2020.

despite a finding that she is intellectually challenged. In fact, her straightforward identification of accused-appellant as the perpetrator and unwavering testimony of defilement is sufficiently credible, independent of her perceived propensity for truthfulness based on gender stereotypes.²⁵

This Court accords great respect to the trial court's findings on the witnesses' credibility considering that it was in the position to weigh conflicting testimonies of the parties, opportunity to observe the demeanor of the witnesses; and ascertain the expressions made that could suggest sincerity, spontaneity, or lies not reflected in the documentary or object evidence.²⁶

In this case, we defer to the assessment made by the trial court on AAA255445's credibility. Her unwavering claim of sexual defilement and the medical certificate indicating the presence of healed lacerations, more so, the accused-appellant's subsequent admission of paternity to AAA255445's child born out of their coitus were enough to support a conviction. All these were affirmed by the CA when it found AAA255445's testimony "convincing with no inconsistency with regard to the material elements of the crime of rape."²⁷

Accused-appellant, however, capitalizes on the failure of AAA255445 to immediately submit herself to medical examination after the alleged rape and the inconsistency of the medical certificate *vis-à-vis* her narration of facts. He claims that without any findings of fresh lacerations or any other signs of injury that would indicate resistance, it is difficult to conclude that AAA255445 was indeed raped, contrary to his defense that sexual intercourse was consensual.²⁸

Settled is the rule that a medical examination is not indispensable in the prosecution of rape, and no law requires a medical examination for the successful prosecution thereof.²⁹ In fact, the absence of contusions and abrasions in the woman's body does not negate rape.³⁰ A medical report is merely corroborative to a claim of rape and its presentation is not a condition *sine qua non* to prove the commission of rape because as stated earlier, the testimony of the victim alone, if credible, is sufficient to convict the accused of the crime.³¹

We find no inconsistency in the medical examination report and the narration of events made by AAA255445. On the contrary, the medical result validates that AAA255445 suffered hymenal lacerations which could likely

²⁵ *People v. XXX*, G.R. No. 229209, February 12, 2020.

²⁶ See *People v. Raymundo Rapiz y Correa*, G.R. No. 240662, September 16, 2020.

²⁷ Records, p. 11.

²⁸ *Rollo*, p. 23.

²⁹ *People v. Prodelciado*, 749 Phil. 746, 765 (2014).

³⁰ *People v. Ramos*, 838 Phil. 797, 800 (2018).

³¹ *Supra* note 29.

be caused by an insertion of a hard object such as an erected penis.³² And as shown by the evidence for the prosecution, AAA255445 has positively identified accused-appellant as the person who caused the same when he forced himself on her.

Neither do we find AAA255445's failure to put up resistance or attempt to escape reasons to doubt her credibility. A rape victim's failure to scream does not in any way disprove the commission of rape. The failure of the victim to run, shout, or seek help does not negate rape, and neither does her lack of resistance imply that she consented to the sexual act, especially when she was intimidated into submission by the perpetrator.³³ As testified by AAA255445, accused-appellant's gun was just lying beside him and there is no stopping him from using it if she dared to scream or flee. Further, considering AAA255445's manifest inadequate intellectual ability, it is highly improbable that she would fabricate the rape charge against accused-appellant. It is likewise unlikely that she was instructed into charging accused-appellant given her limited intellect. Due to AAA255445's mental condition, only a very traumatic experience would leave a lasting impression on her so that she would be able to recall it when asked.³⁴

Even AAA255445's failure to disclose her execrable experience with her family cannot be taken against her. A rape victim cannot be expected to act rationally after suffering from a traumatic and harrowing ordeal. As such, the victim's decision to suffer in silence should not render her testimony suspect and unworthy of credence.³⁵

We are similarly unconvinced by accused-appellant's defense of consensual sexual congress, which he belatedly invoked, as his last bid to exculpate himself from criminal liability.

In *People v. Ramos*,³⁶ we said that in utilizing the sweetheart defense, there must be proof by compelling evidence, that the accused and the victim were in fact lovers, and that the victim consented to the alleged sexual relations. The second is as important as the first because love is not a license for lust.³⁷ Similarly, evidence of the relationship is required, such as love notes, mementos, and credible witnesses attesting to the consensual romantic relationship between the offender and his supposed victim.³⁸ Here, as noted by the trial court, accused-appellant never categorically stated that he was romantically involved with AAA255445. He merely claimed that they were friends but their mere friendship alone is not enough reason why AAA255445 would consent to have sex with him. Besides, even assuming that they have a

³² Id. at 764-765.

³³ *Supra* note 30, at 811.

³⁴ *People v. Suansing*, 717 Phil 100, 112 (2013).

³⁵ *Supra* note 30.

³⁶ Id. at 813.

³⁷ Id.

³⁸ *People v. XXV*, G.R. No. 243988, August 27, 2020.

relationship, accused-appellant cannot force AAA255445 to have sex against her will. A “love affair” neither justifies rape nor serves as a license, for lust. In addition, the filing of criminal charges is not the act of a woman savoring consensual coitus but that of a maiden seeking retribution for the outrage committed against her.³⁹

Now, as to the proper penalties for simple rape, it has been established that accused-appellant committed rape with the use of a deadly weapon, which, according to Article 266-B (2nd paragraph)⁴⁰ of the RPC, is punishable by *reclusion perpetua* to death. In the absence of any aggravating or mitigating circumstance in this case, the lesser penalty of *reclusion perpetua* was properly imposed by the CA.

For the award of damages, following our ruling in *People v. Jugueta*,⁴¹ accused-appellant is mandated to pay AAA255445 civil indemnity of ₱75,000.00, moral damages of ₱75,000.00, and exemplary damages of ₱75,000.00. The award of civil indemnity *ex delicto* is mandatory upon a finding of the fact of rape, while moral damages may be automatically awarded in rape cases without need of proof of mental and physical suffering. The award of exemplary damages is also proper to set a public example and to protect the young from sexual abuse.⁴²

In consonance with prevailing jurisprudence, the amount of damages awarded shall earn interest at the rate of six percent (6%) per *annum* from the finality of this ruling until said amounts are fully paid.

FOR THESE REASONS, the appeal is **DISMISSED**. The Decision dated February 27, 2020 rendered by the Court of Appeals in CA-G.R. CR. HC No. 02744 is **AFFIRMED**. Accused-appellant Boyte Abegonia y Cabornay @ Boyet is **GUILTY** of rape and is sentenced to suffer the penalty of *reclusion perpetua*. He is **ORDERED** to pay AAA255445 the following amounts: civil indemnity of ₱75,000.00, moral damages of ₱75,000.00, and exemplary damages of ₱75,000.00. All monetary awards for damages shall earn interest at the legal rate of six percent (6%) per *annum* from the finality of this Resolution until fully paid.

SO ORDERED.”

³⁹ Id.

⁴⁰ Article 266-B. Penalties.

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.

⁴¹ 783 Phil. 806 (2016).

⁴² *People v. Nocado*, G.R. No. 240229, June 17, 2020.

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By authority of the Court:

TERESITA AQUINO TUAZON
Division Clerk of Court

By:



MA. CONSOLACION GAMINDE-CRUZADA
Deputy Division Clerk of Court^{MM 6/1/23}
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