



Republic of the Philippines
Supreme Court
Baguio City

THIRD DIVISION

NOTICE

Sirs/Mesdames

Please take notice that the Court, Third Division, issued a Resolution dated April 24, 2023, which reads as follows:

G.R. No. 258647– PEOPLE OF THE PHILIPPINES, plaintiff-appellee, versus RUSHEL DATUGAN* a.k.a. ROCHEL BRIONES y ESTANISLAO, accused-appellant.

It must be stressed that in criminal cases, an appeal throws the entire case wide open for review and the reviewing tribunal can correct errors, though unassigned in the appealed judgment, or even reverse the trial court’s decision based on grounds other than those that the parties raised as errors. The appeal confers upon the appellate court full jurisdiction over the case and renders such court competent to examine records, revise the judgment appealed from, increase the penalty, and cite the proper provision of the penal law.¹

After a careful review of the records of the case, the Court finds it appropriate to modify accused-appellant Rushel Datugan a.k.a. Rochel Briones y Estanislao’s (accused-appellant) conviction from simple rape to qualified rape.

*The use of a deadly weapon qualifies
the crime under Republic Act (R.A.)
No. 8353*

The Court notes that the crime occurred during the effectivity of R.A. No. 8353 or the Anti-Rape Law of 1997. Under Section 2 of the said law, the Revised Penal Code (RPC) was amended 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:

* Also “Rochel Briones y Datugan”; “Rushel” also appears as “Roschelle” and “Rochelle” in some parts of the records.

¹ *People v. Arguta*, 758 Phil. 594, 600 (2015).

“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.

x x x x

“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.**[”]
(Emphasis supplied)

The use of a deadly weapon was sufficiently alleged in the Information and proven during trial through AAA’s² credible testimony. Her testimony clearly showed that accused-appellant used a gun to make AAA submit to his will. In AAA’s *Sinumpaang Salaysay*,³ she categorically stated that at around 7:30 p.m. of October 20, 2007, she was making her way home when accused-appellant stopped her, pointed a gun at her and ordered her to go with him to the Drop Zone in San Joaquin, Mabalacat, Pampanga where the Subic-Clark-Tarlac Expressway was then being constructed. Accused-appellant and AAA went to the Drop Zone where accused-appellant ordered her to climb into a concrete sewerage pipe, take off her clothes and threatened to shoot her if she tried to run. Accused-appellant thereafter kissed her, mashed her breasts, laid on top of her and raped her.⁴ During trial, AAA once again stated in clear and positive manner how accused-appellant threatened her at gunpoint to go with him and take off her clothes, and then proceeded to have carnal knowledge of her.⁵ AAA narrated how accused-appellant held her at gunpoint throughout the entire ordeal.⁶

² 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. (RA) 7610, entitled “AN ACT PROVIDING FOR STRONGER DETERRENCE AND SPECIAL PROTECTION AGAINST CHILD ABUSE, EXPLOITATION AND DISCRIMINATION, PROVIDING PENALTIES FOR ITS VIOLATION 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,” effective 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. 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.

³ Folder of Exhibits, pp. 7-8.

⁴ *Id.* at 7.

⁵ TSN, August 3, 2010, pp. 7-9; TSN August 23, 2011, pp. 3-4.

⁶ *Id.* at 8-9; *id.*

The non-presentation of the gun is of no consequence for it is a settled rule that the weapon used in the commission of rape is not essential to the conviction of the accused under Article 266-B of the RPC, as amended.⁷ It suffices that the rape victim truthfully testified that the accused was armed with a deadly weapon when he committed the crime.⁸ AAA's testimony establishes the qualifying circumstance of use of a deadly weapon in the commission of rape under Article 266-B of the RPC.

The prosecution proved beyond reasonable doubt all the elements of qualified rape

The basic element of the crime of qualified rape as defined under Article 266-A, paragraph 1, in relation to Article 266-B, paragraph 2, of the RPC, as amended, is carnal knowledge by a man of a woman, with the qualifying circumstance that the same was committed with the use of a deadly weapon. Often the only available evidence thereof is the testimony of the woman that the man, armed with a deadly weapon, inserted his penis into her vagina.⁹ Thus, in reviewing rape cases, the Court is guided by these principles: *First*, the prosecution has to show the guilt of the accused by proof beyond reasonable doubt or that degree of proof that, to an unprejudiced mind, produces conviction. *Second*, unless there are special reasons, the findings of trial courts, especially regarding the credibility of witnesses, are entitled to great respect and will not be disturbed on appeal. *Third*, the disposition of rape cases are governed by the following guidelines: (1) an accusation for rape can be made with facility; it is difficult to prove but more difficult for the person accused, though innocent, to disprove; (2) in view of the intrinsic nature of the crime of rape where only two persons are usually involved, the testimony of the complainant must be scrutinized with extreme caution; and (3) the evidence for the prosecution must stand or fall on its own merits and cannot draw strength from the weakness of the evidence of the defense.¹⁰

In the case at bar, the prosecution was able to prove beyond reasonable doubt all the elements of qualified rape through sexual intercourse. AAA narrated the sordid details of the sexual abuse she suffered in accused-appellant's hands. As found by the Regional Trial Court¹¹ (RTC) and the Court of Appeals¹² (CA), AAA's testimony on how accused-appellant, through force and intimidation, laid on top of AAA and inserted his penis into her vagina was credible, categorical, and straightforward. As to the

⁷ *People v. Santos*, 590 Phil. 564, 585 (2008), citing *People v. Degamo*, G.R. No. 121211, April 30, 2003, 402 SCRA 133, 145, further citing *People v. Vitancur*, G.R. No. 128872, November 22, 2000, 345 SCRA 414, 424.

⁸ *Id.* at 585.

⁹ *Id.* at 589-590.

¹⁰ *People v. Bidoc*, G.R. No. 169430, October 31, 2006, 506 SCRA 481, 495.

¹¹ See Decision dated April 10, 2019 of the Regional Trial Court of Angeles City, Branch 61 in Criminal Case No. 09-4803, penned by Acting Presiding Judge Katrina Nora S. Buan Factoria; *rollo*, pp. 25-36.

¹² See Decision dated January 8, 2021 of the Court of Appeals in CA-G.R. CR HC No. 13301, penned by Associate Justice Nina G. Antonio-Valenzuela and concurred in by Associate Justices Tita Marilyn B. Payoyo-Villordon and Bonifacio S. Pascua; *id.* at 10-20.

inconsistencies between AAA's and witness Eriberto Carriedo's testimonies, the Court finds the same to refer to minor matters which do not destroy AAA's credibility. That their narrations differ on whether: (1) AAA was found alone or with accused-appellant; and (2) if she shouted for help or not do not affect the essential elements of the crime of qualified rape. What matters is AAA's clear, categorical, and positive identification of accused-appellant as her assailant. Hence, the Court sees no reason to depart from the RTC's and the CA's findings. Absent any evidence that the RTC's assessment was tainted with arbitrariness or oversight of a fact of consequence or influence — especially so when affirmed by the CA — it is entitled to great weight, if not conclusive and binding on the Court.¹³

Notably, against AAA's categorical, straightforward and spontaneous testimony, accused-appellant's alibi is unsubstantiated and is in fact, contradicted by the testimony of his uncle, Francisco June Estanislao (Estanislao), who narrated that he and accused-appellant were at a quarry site in Tabun, Mabalacat on October 20, 2007 between 5:00 p.m. to 8:00 p.m., and that it was around 8:30 p.m. that he and accused-appellant went home to Mawaque Resettlement, Mabalacat, Pampanga.¹⁴ This directly belies accused-appellant's claim that he was at home in Mawaque Resettlement at around 7:00 p.m. of October 20, 2007.¹⁵

Accused-appellant also testified that the Mawaque Resettlement was one (1) jeep and one (1) tricycle away from the Drop Zone,¹⁶ which was corroborated by Estanislao who testified that San Joaquin, Mabalacat where the Drop Zone is located is about forty (40) minutes to one (1) hour away from the Mawaque Resettlement,¹⁷ thus making it not physically impossible for accused-appellant to be at the scene of the crime. The Court has consistently held that "alibi and denial, if not substantiated by clear and convincing evidence, are negative and self-serving evidence undeserving of weight in law."¹⁸ The defense of denial and alibi should be considered with suspicion and always received with caution, not only because it is inherently weak and unreliable, but also because it is easily fabricated and concocted.¹⁹

*People v. Moreno*²⁰ further explains:

Denial is inherently a weak defense which cannot outweigh positive testimony. A categorical statement that has the earmarks of truth prevails over a bare denial which can easily be fabricated and is inherently unreliable. **For the defense of *alibi* to prosper, the accused must prove that he [or she] was at some other place at the time of the commission**

¹³ *People v. Manaligod*, 831 Phil. 204, 211 (2018).

¹⁴ TSN, September 13, 2018, pp. 3-4.

¹⁵ TSN, October 5, 2015, p. 4.

¹⁶ TSN, June 13, 2016, p. 3.

¹⁷ TSN, March 7, 2019, p. 5.

¹⁸ *People v. Conde*, G.R. No. 254251, June 22, 2022, p. 10, citing *Curro v. People*, G.R. Nos. 224562 & 237216, September 18, 2019, p. 11.

¹⁹ *Id.*, citing *Artates v. People*, G.R. No. 235724, March 11, 2020, 935 SCRA 579, 594-595.

²⁰ G.R. No. 191759, March 2, 2020, 934 SCRA 111.

of the crime[,] and [that] it was physically impossible for him [or her] to be at the *locus delicti* or within its immediate vicinity. These requirements of time and place must be strictly met.²¹ (Emphasis supplied)

In the case at bar, AAA's positive identification of accused-appellant as her rapist prevails over accused-appellant's bare denial. In addition, the defense failed to substantiate his defense of alibi. There is no shadow of proof that it was physically impossible for accused-appellant to be at the *locus delicti* or within its immediate vicinity at the time of the commission of the crime.

As to the allegation of AAA's minority, aside from the testimony of AAA, no independent substantial evidence was presented to prove her age. Neither was it shown by the prosecution that the said documents had been lost, destroyed, unavailable or were otherwise totally absent, nor did accused-appellant expressly and clearly admit AAA's age. As such, the prosecution was not able to sufficiently establish AAA's age in accordance with the guidelines laid down by the Court in *People v. Pruna*.²²

Article 266-B of the RPC, as amended, provides that whenever rape is committed through force, threat or intimidation, the penalty shall be *reclusion perpetua*. However, whenever the rape is committed with the use of a deadly weapon, such as a gun in this case, the penalty shall be *reclusion perpetua* to death. Article 63(2) of the RPC states that when the law prescribes a penalty composed of two indivisible penalties and there are neither mitigating nor aggravating circumstances in the commission of the deed, the lesser penalty shall be applied. Since no aggravating nor any mitigating circumstance had been proved, the Court imposes the penalty of *reclusion perpetua*. As regards the modifications introduced by the CA to accused-appellant's pecuniary liabilities, the same are in accord with the Court's ruling in *People v. Jugueta*.²³

ACCORDINGLY, the Court **MODIFIES** the Decision of the Court of Appeals dated January 8, 2021. Accused-appellant RUSHEL DATUGAN a.k.a. ROCHEL BRIONES y ESTANISLAO is **GUILTY** beyond reasonable doubt of **QUALIFIED RAPE**, as defined and penalized under Article 266-A, paragraph 1, in relation to Article 266-B of the Revised Penal Code, as amended, and is sentenced to suffer the penalty of *reclusion perpetua*.

Further, accused-appellant RUSHEL DATUGAN a.k.a. ROCHEL BRIONES y ESTANISLAO is **ORDERED** to pay the victim, AAA, the amount of Seventy-Five Thousand Pesos (₱75,000.00) as civil indemnity *ex delicto*, Seventy-Five Thousand Pesos (₱75,000.00) as moral damages, and Seventy-Five Thousand Pesos (₱75,000.00) as exemplary damages. All

²¹ Id. at 123. Citations omitted.

²² 439 Phil. 440 (2002).

²³ 783 Phil. 806 (2016).

amounts awarded shall earn interest at the rate of six percent (6%) *per annum* from the date of finality of this Resolution until fully paid.

SO ORDERED.

By authority of the Court:

Misael C. Battung III
MISAELO DOMINGO C. BATTUNG III
Division Clerk of Court JB 4/8/23

Special & Appealed Cases Service
PUBLIC ATTORNEY'S OFFICE
DOJ Agencies Building
East Avenue cor. NIA Road
Diliman, 1104 Quezon City

COURT OF APPEALS
CA-G.R. CR HC No. 13301
1000 Manila

OFFICE OF THE SOLICITOR GENERAL
134 Amorsolo Street
1229 Legaspi Village, Makati City

The Presiding Judge
REGIONAL TRIAL COURT
Branch 61, Angeles City
2009 Pampanga
(Crim. Case No. 09-4803)

Mr. Rushel Datugan
c/o The Superintendent
BUREAU OF CORRECTIONS
New Bilibid Prisons
1770 Muntinlupa City

The Superintendent
New Bilibid Prison
BUREAU OF CORRECTIONS
1770 Muntinlupa City

PHILIPPINE JUDICIAL ACADEMY
Research Publications and Linkages Office
Supreme Court, Manila
[research_philja@yahoo.com]

PUBLIC INFORMATION OFFICE
Supreme Court, Manila
[For uploading pursuant to A.M. 12-7-1-SC]

LIBRARY SERVICES
Supreme Court, Manila

Judgment Division
JUDICIAL RECORDS OFFICE
Supreme Court, Manila

G.R. No. 258647

**(356)
URES**