



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated July 10, 2023, which reads as follows:

“**G.R. No. 262377 – PEOPLE OF THE PHILIPPINES, plaintiff-appellee, versus XXX,* accused-appellant.** – The Court **NOTES** accused-appellant’s Manifestation (in Lieu of Supplemental Brief) dated April 4, 2023, stating that he adopts his Appellant’s Brief as his supplemental brief considering that it had adequately presented and discussed all the issues inclined to his innocence.

On appeal is the October 26, 2021 Decision¹ of the Court of Appeals (CA) in CA-G.R. CR HC No. 03491. The CA affirmed the June 11, 2019 Decision² of the Regional Trial Court, Branch 62, ██████████ (RTC), in Criminal Case No. 4275, finding accused-appellant XXX guilty of the crime of Rape, under Article 266 of the Revised Penal Code (RPC), in relation to Republic Act No. 7610 (RA No. 7610).³

The Facts

In an Amended Information, XXX was charged with Rape, under Article 266-A of the RPC, in relation to RA No. 7610, the dispositive portion of which reads:

That on or about the 31st day of October 2017, ██████████, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design and with threat, force and intimidation, did then and there, willfully, unlawfully and feloniously have carnal knowledge of or sexual intercourse with AAA, a minor, 13 years old,

* In line with Amended Administrative Circular No. 83-2015, as mandated by Republic Act No. 8505, the names of the private offended party, along with all other personal circumstances that may tend to establish her identity, are made confidential to protect her privacy and dignity.

¹ *Rollo*, pp. 11-32. Penned by Associate Justice Nancy C. Rivas-Palmones and concurred in by Associate Justices Pamela Ann Abella Maxino and Lorenza R. Bordios.

² *Id.* at 34-39. Penned by Judge Frances V. Guanzon.

³ 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.

without her consent and against her will, to the damage and prejudice of said AAA.⁴ (Underscoring omitted)

During arraignment, XXX pleaded not guilty. At the pre-trial, the defense admitted the following: (1) the territorial jurisdiction of the court; (2) the identity of the accused as the same person charged in the Information; (3) the victim is the daughter of the accused; (4) the minority of the victim; and (5) the victim is living with the accused in [REDACTED].⁵

Thereafter, trial ensued.

The Version of the Prosecution

The prosecution presented three witnesses: (1) The minor victim AAA; (2) Dr. Ma. Theresa Gonzaga (**Dr. Gonzaga**), the medico-legal officer; and (3) Police Corporal Jenelyn Duales (**PC Duales**), the investigator.

AAA narrated that XXX is her biological father, but since her mother and father XXX were not married, she has a different family name from his. AAA was only 13 years old when the incident happened.

According to AAA, on October 31, 2017, she and her father XXX went to [REDACTED], to visit her grandmother. AAA and XXX arrived at [REDACTED] in the morning, and the latter left to drink with his siblings, and only returned at around 9:00 p.m.

Upon XXX's return, he brought AAA to the upper portion of his sibling's unoccupied house. XXX told AAA that they were going to have sex, but AAA refused. XXX nevertheless undressed himself and AAA, made her lie down, and spread her legs. XXX went on top of AAA, inserted his penis into her vagina, and made a push and pull motion. AAA pushed XXX, but he was too strong. After having carnal knowledge of his daughter, XXX told her that if she tells anyone about what happened, he will kill her. Thereafter, XXX went to sleep.

AAA put on her clothes and was reduced to tears. AAA stayed at the upper house as it was too dark outside. Subsequently, XXX woke up and again undressed AAA. For the second time, XXX inserted his penis into his

⁴ *Rollo*, pp. 11-12, CA Decision.

⁵ *Id.* at 12.

daughter's vagina and kissed her breasts. XXX told AAA to remain calm because she will not get pregnant. XXX rested for a bit, and then had carnal knowledge of his daughter for a third time. After raping AAA three times, they went to the house of XXX's brother, where AAA slept with her cousins.⁶

XXX went back to [REDACTED], while AAA was left behind at [REDACTED]. However, XXX fetched AAA as no one would look after her siblings. When XXX and AAA arrived at [REDACTED], XXX hit AAA's head with a shovel and twisted her right hand, because things were scattered inside the house. The *Purok* President helped AAA and brought her to her house where she was treated. The *Purok* President then brought AAA to the *Barangay* and to the Department of Social Welfare and Development (DSWD) in [REDACTED]. Thereafter, AAA was brought to the police station where she narrated what transpired on October 31, 2017.

Dr. Gonzaga conducted a medical examination on AAA. In the Medical Report dated May 21, 2018, Dr. Gonzaga found that there is already a scar formation which could mean that AAA has been sexually abused. Dr. Gonzaga added that the fact that her index finger can be admitted with ease in AAA's vaginal opening is indicative that there has been sexual penetration.⁷

PC Duales testified that she was the investigating officer of the case filed by AAA against her father XXX. According to her, AAA arrived at their office together with her aunt, and reported that she was raped by XXX.⁸

The Version of the Defense

For the defense, XXX admitted that AAA is his daughter. XXX recounted that on October 31, 2017, he was at the sugarcane field in [REDACTED], harvesting sugarcane with his live-in-partner FFF, and other companions. XXX stayed at the sugarcane field the entire day and went home at around 5:00 p.m. Upon reaching home, he found out that AAA allowed her younger sibling to eat "*balinhoy*," which caused the child to vomit. This angered him, so he slammed AAA against the wall, which caused her to be hit by the shovel she was leaning on. Regretting what he did, XXX hugged AAA.

⁶ Id. at 35, RTC Decision.

⁷ Id. at 14, CA Decision.

⁸ Id. at 36, RTC Decision.

The following day, the *Purok* President came and asked XXX why he hit AAA, and told him that it is unlawful to hit a child. XXX was then taken to the *Barangay*, where he was made to sign a form which said that the DSWD will take AAA.⁹

Lastly, FFF, the live-in partner of XXX, testified that after AAA fed her younger sibling *balinghoy*, XXX asked her to wash her younger sibling, to which AAA allegedly replied, “*gago ka pala eh*,” which prompted XXX to elbow her towards the wall.¹⁰

The Ruling of the RTC

In a Decision,¹¹ dated June 20, 2019, the RTC found XXX guilty beyond reasonable doubt of the crime of Rape, in relation to RA No. 7610:

WHEREFORE, premises considered, accused [XXX] is hereby **CONVICTED** of the crime charged and he is imposed the penalty of imprisonment of **RECLUSION PERPETUA** and directed to pay the victim the amount of Fifty Thousand Pesos (Php50,000.00) as moral damages.

Accused who is detained is entitled to the full credit of his preventive detention and ordered immediately committed to the National Penitentiary Muntinlupa for service of sentence.

COSTS AGAINST THE ACCUSED.

SO ORDERED.¹² (Emphasis in the original)

In convicting XXX, the RTC took note that his only defense was denial, a weak defense, which cannot prevail over the positive and categorical identification of a credible witness. In appreciating AAA’s consistent testimony over XXX’s bare denial, the RTC explained:

In the case before us, the denial of the accused was corroborated only by his live-in partner. x x x

On the other hand, AAA was consistent and straightforward in her testimony and that she did not crumble during the rigor of cross-examination. She categorically testified that her father brought her to [REDACTED], [REDACTED] to visit her grandmother. At night time her father brought her to the house at the upper portion, which house has no lights

⁹ Id. at 36-37.

¹⁰ Id. at 37.

¹¹ Id. at 34-39.

¹² Id. at 39.

and in there she was undressed made to lie down and her father inserted his penis to her vagina.¹³

The RTC likewise found XXX's insinuation, that AAA filed the rape case because her father hit her, incredible. According to the RTC, "it is inconceivable for a child to concoct a sordid tale of so serious a crime as rape at the hands of her father, and subject herself to the stigma and embarrassment of a public trial, if her motive were other than the earnest desire to seek justice."¹⁴

Aggrieved, XXX appealed to the CA.

The Ruling of the CA

On October 26, 2021, the CA rendered the assailed Decision,¹⁵ affirming with modification the RTC Decision, thus:

WHEREFORE, in view of the foregoing, the appeal is **DENIED**. The Decision dated June 11, 2019, of the Regional Trial Court Branch 62, ██████████, in Criminal Case No. 4275 convicting accused-appellant XXX of simple rape is **AFFIRMED with MODIFICATION**.

Accused-appellant XXX is sentenced to suffer the penalty of *Reclusion Perpetua* and ordered to pay the victim P75,000.00 as moral damages, P75,000.00 as civil indemnity, and P75,000.00 as exemplary damages, which shall all bear interest at the rate of six percent (6%) per *annum*, from the date of finality of this Decision until fully paid.

SO ORDERED.¹⁶ (Emphasis in the original)

According to the CA, the proper crime charged against XXX should be Rape under Article 266-A (1), in relation to Article 266-B of the RPC.¹⁷

Moreover, the CA found that AAA positively and unequivocally identified her father, XXX, as her rapist. AAA's testimony established that she was raped by her father on October 31, 2017. The CA ruled that although XXX admitted that he is AAA's father, the same should not be

¹³ Id. at 37-38.

¹⁴ Id. at 38.

¹⁵ Id. at 11-32.

¹⁶ Id. at 31.

¹⁷ Id. at 24.

taken against him, as the qualifying circumstance of relationship was not alleged in the Amended Information.¹⁸

Unsatisfied, XXX filed the present appeal.

The Issue

Is XXX guilty of the crime of Simple Rape?

The Ruling of the Court

The Court sustains XXX's conviction.

The prosecution successfully proved beyond reasonable doubt that XXX raped his minor daughter, AAA.

XXX is guilty of Simple Rape. Article 266-A of the RPC provides:

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 machinations or grave abuse of authority;
 - d. When the offended party is under twelve (12) years of age or is demented, even though none of the circumstances mentioned above be present.
- 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.

The crime of Qualified Rape under Article 266-B (1)¹⁹ of the RPC requires the concurrence of the twin aggravating circumstances of the victim's minority and her relationship to the perpetrator. Both should be

¹⁸ Id. at 30.

¹⁹ Article 266-B. Penalties -

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[.]

alleged and proved.²⁰ Otherwise, the accused could only be held guilty of simple rape.²¹

The CA was correct in finding that although the circumstance of minority was alleged in the Information, the circumstance of relationship was not alleged. Thus, XXX can only be convicted of Simple Rape. In *People v. Arcillas*,²² the Court explained:

Rape is qualified and punished with death when committed by the victim's parent, ascendant, step-parent, guardian, or relative by consanguinity or affinity within the third civil degree, or by the common-law spouse of the victim's parent. **However, an accused cannot be found guilty of qualified rape unless the information alleges the circumstances of the victim's over 12 years but under 18 years of age and her relationship with him.** The reason is that such circumstances alter the nature of the crime of rape and increase the penalty; hence, they are special qualifying circumstances. As such, both the age of the victim and her relationship with the offender must be specifically alleged in the information and proven beyond reasonable doubt during the trial; otherwise, the death penalty cannot be imposed.²³ (Emphasis supplied)

Thus, to support a conviction for Simple Rape, the following elements must be established: (1) the offender had carnal knowledge of a woman; and (2) the offender accomplished such act through force or intimidation, or when the victim was deprived of reason or otherwise unconscious, or when she was under twelve (12) years of age or was demented.²⁴

In this case, the prosecution successfully established with moral certainty the elements of carnal knowledge and force or intimidation. In her testimony, AAA positively identified her father, XXX, as the one who raped her:

Q: Madam witness, how are you related to XXX the accused in this case?

A: My father.

Q: You stated in your personal circumstances that your family name is [REDACTED], why is it that your family name of your (*sic*) papa or your father is [REDACTED]?

A: Because my mother and my father are not married.

Q: Where is your mother now?

A: Already dead.

PROS. URIARTE:

²⁰ *People v. Armodia*, 810 Phil. 822, 832-833 (2017).

²¹ *People v. Gallano*, 755 Phil. 120, 131 (2015).

²² 692 Phil. 40 (2012).

²³ *Id.* at 41.

²⁴ *People v. XXX*, G.R. No. 232308, October 7, 2020.

Q: On October 31, 2017, where did you and your father go?

A: At [REDACTED], [REDACTED] [REDACTED].

Q: Why did you and your father go to [REDACTED]?

A: We went to Nanay.

Q: So you visited your grandmother?

A: Yes.

COURT:

Q: Who is Nanay?

A: My grandmother.

PROS. URIARTE:

Q: How long did you stay there in the house of your grandmother?

A: Once.

Q: So, while you were at the house of your grandmother, where was your father?

A: He drunk (*sic*).

Q: What time did you arrived (*sic*) there at the house of your grandmother?

A: In the morning.

Q: You said that your father drunk (*sic*), where did he drink?

A: With his siblings.

Q: What time did he return to you, at your grandmother's house?

A: 9 o'clock.

Q: In the evening?

A: In the evening.

Q: So after your father returned, what did he do?

A: He took off my shorts and my dress.

Q: Where did he bring you?

A: Inside the house.

Q: Who were inside the house?

A: Papa.

Q: Where is that house located?

A: Up there, at the upper portion of the place.

Q: You mean to say your father brought you to other (*sic*) place?

A: At the upper portion.

COURT:

Q: Does not (*sic*) the house of your lola anymore?

A: No.

Q: Who was occupying that house upstairs?

A: The younger sibling of papa.

Q: When your papa brought you there, was there anybody there in the house?

A: Nobody.

Q: What did your father tell you when he brought you to that house?

A: He told me that we will have sex.

Q: So what's your reply, after he told you that you will have sex?

A: I said, I don't want it's painful.

Q: So what did he do?

A: He undressed me and he placed his penis inside my vagina.

Q: How about him, did he also took off his clothes?

A: He took off his shorts and shirt.

Q: What is your position when your father inserted his penis inside your vagina?

A: He spread my 2 legs.

COURT:

Q: What is your position?

A: I was lying down.

PROS. URIARTE:

Q: While your father was on top on (*sic*) you, what did he do?

A: He made a push and pull motion.

Q: After that, what happened?

A: I pushed him but he was very strong.

Q: Is there anything that your father tells you at the time?

A: He told me that if I tell anybody he will kill me and my family.

x x x x

PROS URIARTE:

Q: So after your father had sexual intercourse with you, what happened?

A: He rested and then he inserted his penis inside my vagina.

Q: You said that both of you were naked at the first time he had sexual intercourse with you, is that correct?

A: Yes.

Q: When your father rested, what did you do?

A: I was just crying.

Q: You did not wear your clothes again?

A: I put it on.

Q: Your father was still naked at the time that he rested?

A: Yes.

COURT:

Q: When you say he was resting he was sleeping or was he lying there?

A: He was sleeping.

PROS. URIARTE:

Q: Was he drunk at that time?

A: He was drunk.

COURT:

Q: Did you not attempt to go out from the house, while he was already sleeping?

A: No.

Q: Why?

Q: Why?

A: Because it was dark.

PROS. URIARTE:

Q: So you said that after he rested he again had sexual intercourse with you, is that correct?

A: Yes.

Q: What did he do after he had sexual intercourse with you?

A: He again inserted his penis inside my vagina.

COURT:

Q: But you said that you put on your clothes?

A: Yes.

Q: What did he do?

A: He again undressed me.

PROS. URIARTE:

Q: Your blouse and your shorts?

A: Yes.

Q: Aside from having sexual intercourse, did he kiss you?

A: He kissed me and he kissed my breasts.

Q: So after the 2nd time he has sexual intercourse with you, what happened next?

A: He told me that I have to remain calm because I will not get pregnant.

Q: And what did he do after that?

A: He told me that we were going to the house of his sibling because we will going (*sic*) to sleep there.

Q: How many times did your father have sexual intercourse with you on that night?

A: 3 times (3X).

Q: You said a while ago he had sexual intercourse of (*sic*) you twice, when is the 3rd time?

A: At [REDACTED]

COURT:

Q: Where exactly in [REDACTED]?

A: At the upper portion.

Q: You mean to say after the 2nd time he raped you?

A: Yes.

Q: He rested again.

A: Yes, he rested.

Q: So it was early in the morning when he raped you for the 3rd time?

A: Night time.

Q: So how did he do it for the 3rd time?

A: He again undressed me and he again inserted his penis to my vagina.

Q: And after he inserted his penis to your vagina, what did he do?

A: He told me to remain calm because I will not get pregnant.

Q: So you mean to say you never sleep on that night?

A: No.

Q: What time did you leave that house?

COURT:

Q: Was still night time or early in the morning?

A: Night time.

Q: After he raped you?

A: Yes.

Q: After he raped you 3rd times (*sic*) you leave that house?

A: Yes, we went to the house of his younger sibling.²⁵

Based on the foregoing, AAA gave a clear and straightforward narration of how her father, XXX, undressed her and forcefully inserted his penis into her vagina, and threatened that he will kill her if she tells anyone about what happened. AAA's testimony likewise conforms with the physical evidence through Dr. Gonzaga's testimony and medical findings that AAA has a healed lacerated hymen, and that there is already a scar formation which could be indicative that AAA has been sexually abused.²⁶

It is settled that the testimonies of child victims are given full weight and credit, for when a woman or a girl-child says that she has been raped, she says in effect all that is necessary to show that rape was indeed committed.²⁷ Moreover, no woman, least of all a child, would concoct a story of sexual abuse, allow examination of her private parts and subject herself to public trial or ridicule if she has not, in truth, been a victim of rape and impelled to seek justice for the wrong done to her being. When the offended party is of tender age and immature, courts are inclined to give credit to her account of what transpired, considering not only her relative vulnerability but also the shame to which she would be exposed if the matter to which she testified is not true.²⁸

Indeed, AAA's testimony on the rape incident was clear, categorical, and convincing. AAA, a girl of tender years, would not publicly accuse her father of rape if it were not true. Filipino children have great respect and reverence for their elders. For this reason, great weight is given to an accusation a child directs against a close relative, especially her father.²⁹

Lastly, the Court respects the RTC's factual assessment that AAA's testimony was credible and convincing. Settled is the rule that findings of the trial courts which are factual in nature and which involve credibility of witnesses are accorded respect when no glaring errors, gross

²⁵ *Rollo*, pp. 18-24, CA Decision.

²⁶ *Id.* at 14, CA Decision.

²⁷ *People v. ABC*, G.R. No. 244835, December 11, 2019, 927 SCRA 722.

²⁸ *Id.* at 723.

²⁹ *People v. Marmol*, 800 Phil. 813 (2016).

misapprehension of facts, or speculative, arbitrary and unsupported conclusions can be gathered from such findings.³⁰ Here, the evidence on record fully supports the RTC's factual findings, as affirmed by the CA.

WHEREFORE, the appeal is **DISMISSED**. The Decision, dated October 26, 2021, of the Court of Appeals in CA-G.R. CR HC No. 03491 is **AFFIRMED**.

SO ORDERED."

By authority of the Court:

Misael C. Battung III
MISAELO DOMINGO C. BATTUNG III
Division Clerk of Court

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³⁰ *People v. Villamin*, 625 Phil. 698, 712-713 (2010).