



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **03 February 2021** which reads as follows:*

“G.R. No. 228961 (*People of the Philippines v. XXX*¹). –

Appellant XXX seeks a reversal of the verdict of conviction against him for three (3) counts of qualified rape.

In the main, he assails the respective testimonies of complainant AAA² and her mother BBB for being allegedly incredible, nay, improbable. He essentially asserts that their testimonies were riddled with inconsistencies pertaining to the exact place in the house AAA slept after the first alleged incident, whether BBB learned about the first alleged incident right on the following day or whether she had actually come home on that same day the first incident happened, and where BBB truly was on the day the third alleged incident took place. In any event, AAA’s testimonies appeared to be well-rehearsed. For in all three (3) alleged rape incidents, AAA described the same scenario, that he removed her shorts and panty, laid

¹ The real name of the victim, her personal circumstances and other information which tend to establish or compromise her identity, as well as those of her immediate family, or household members, shall not be disclosed to protect her privacy, and fictitious initial shall, instead, be used in accordance with *People v. Cabalquinto* [533 Phil 703 (2006)] and Amended Administrative Circular No. 83-2015 dated September 5, 2017.

² The real name of the victim, her personal circumstances and other information which tend to establish or compromise her identity, as well as those of her immediate family, or household members, shall not be disclosed to protect her privacy, and fictitious initial shall, instead, be used in accordance with *People v. Cabalquinto* [533 Phil 703 (2006)] and Amended Administrative Circular No. 83-2015 dated September 5, 2017.

her on a bamboo bed, secured her legs on his shoulders, and inserted his penis into her vagina. It is simply impossible that in all three (3) instances, she was raped in the same way. Lastly, AAA's lack of effort to ask for help from anyone in all three (3) instances is very disturbing. She simply said that her neighbors lived far away from their house and no one would hear her. She could have shouted, she just chose not to.³

The State, on the other hand, through Associate Solicitor Emerson S. Bañez, maintains that the trial court and the Court of Appeals correctly rendered a verdict of conviction. Minor inconsistencies do not diminish the veracity of a testimony but may, in fact, serve to enhance a witness' credibility.⁴

The appeal must fail.

Records bear AAA's detailed narration on how XXX, her own father, sexually ravished her, not once, but thrice, *viz.*:

First Incident - July 4, 2008: In the evening of that day, their mother was not around as she was then staying in her sister's house. She and her younger siblings were thus left in the care of their father in their home. Around 8 o'clock in the evening, while she was sleeping in the room with her younger siblings, XXX grabbed her foot. She knew it was her father because she recognized his voice. He then brought her downstairs and laid her down the bamboo bed. He took off her shorts and underwear. She begged her father to stop and tried to fight him off but the latter threatened to kill her if she continued to refuse. He pinned her legs apart on his shoulders, inserted his penis into her vagina, and made a push and pull movement. She felt pain and her arms went numb. After XXX satisfied his lust, he wiped off his semen with his shirt while she put on her clothes and went back to bed. Scared of XXX's death threat, she did not tell anyone about the incident.⁵

Second incident - December 21, 2008: Around 11 o'clock in the morning, she was left alone with XXX inside their house. Her mother was then out gathering firewood and her siblings were playing outside in a place a bit far from their house. Suddenly, XXX grabbed her, undressed her, and in the same position as before, succeeded in having carnal knowledge of her despite her effort to fight him off, kicking and scratching him. As before, XXX threatened to kill her if she reported to anyone the incident.⁶

³ CA rollo, pp. 36-39.

⁴ *Id.* at 86-88.

⁵ *Id.* at 44-45, 54-55, and 101.

⁶ *Id.* at 55 and 101.

Third incident - July 12, 2009: While she was watching television with her siblings in their neighbor's house, XXX came to fetch her. He told her that her mother wanted her to come home. Believing that her mother had returned from her errand, she went home with him. As soon as they got home, however, he pushed her by the door, took off her shorts and panty, and laid her down the floor. She resisted but XXX once again prevailed over her, even telling her "*come here, let's fuck.*" He inserted his penis into her vagina and once again made a push and pull movement. After a minute, a white substance came out of his penis.⁷

When the issue is one of credibility of witnesses, the Court will generally not disturb the trial court's factual findings, especially when they carry the full concurrence of the Court of Appeals, as in this case. For the trial court indeed is in a better position to decide the questions of credibility as it heard the witnesses themselves and observed their deportment and the manner by which they testified during the trial.

Indeed, the nature of the crime of rape often entails reliance on the lone uncorroborated testimony of the victim, which is sufficient to support a conviction, provided it is clear, convincing, and consistent with human nature.⁸ As both the trial court and the Court of Appeals keenly noted, AAA's testimony was credible, categorical, and straightforward, on how XXX, through force and threat, had carnal knowledge of her on three (3) separate occasions. The Court has often held that a victim's credible testimony is in fact sufficient to support the verdict of conviction.⁹

Born on [REDACTED], AAA was only thirteen (13) years old when the first and second incidents happened in July 2008 and December 2008, and fourteen (14) years old when the third incident happened in July 2009. *People v. Padit*¹⁰ emphasized that 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. Youth and immaturity are generally badges of truth and sincerity.

Against AAA's positive testimony, XXX only offers denial and alibi. But these are inherently weak defenses which cannot prevail over the positive and credible testimony of the prosecution witness pointing to the accused as the author of the crime. As between a categorical testimony which has a ring of truth on one hand, and a mere denial on the other, the former must generally prevail.¹¹

⁷ *Id.* at 45 and 102.

⁸ *People v. Ronquillo*, 818 Phil. 641, 649-650 (2017).

⁹ *People v. Agalot*, 826 Phil. 541, 555-556 (2018).

¹⁰ 780 Phil. 69, 80 (2016).

¹¹ *People v. Batalla*, G.R. No. 234323, January 07, 2019.

Further, the Court has consistently ruled that for alibi to prosper it is not enough for XXX to prove that he was somewhere else when the crime was committed; he must likewise demonstrate that it was physically impossible for him to have been at the scene of the crime on the dates and times of its commission.¹² Here, XXX claims that during the dates and time of the alleged incidents, he was at work. In fact, he spends most of his time at work, leaving their house as early as 3 or 4 o'clock in the morning and going back at 10 or 11 o'clock in the evening. As the Court of Appeals correctly noted, however, XXX himself admitted that the furniture shop where he worked was merely two (2) kilometers away from his house.¹³ Thus, it was not, at all, physically impossible for XXX to have been at the *situs criminis* on the dates and times they actually happened.

In *People v. Malate*,¹⁴ the Court held that there was no physical impossibility for Malate to have been at the scene of the crime considering that the place where Malate claimed he was and the *locus criminis* were both within the same municipality and were walking distance from each other. Too, in *People v. Mokammad*,¹⁵ it was ruled that it was not physically impossible for appellants to have been at the *situs criminis* considering that their respective houses were only an hour's drive away. In *People v. Pulgo*,¹⁶ the Court even held that it was not physically impossible for appellant therein to have been at the *situs criminis* in Lorega, Cebu City, which was three (3) hours away from Moalboal, Cebu where he claimed to have been at the time the crime was committed.

As regards AAA's failure to state the exact place where she went back to sleep after the first incident happened, the date when she told the incidents to her mother, or where exactly her mother was during those incidents, do not weaken her credibility. In *People v. Gerola*,¹⁷ the Court ordained that inconsistencies or discrepancies in the victim's testimonies do not, by themselves, diminish the credibility of such testimony. Protracted cross-examination of a minor girl not accustomed to public trial would naturally produce contradictions which nevertheless would not destroy her credibility. Variance in minor details not relating to the material elements of the crime itself has the net effect of bolstering instead of diminishing the witness' credibility because they discount the possibility of a rehearsed testimony. What remains paramount is the witness' consistency in relating the principal elements of the crime and the positive and categorical identification of the accused as the perpetrator of the same. So must it be.

¹² *People v. Matunhay*, 628 Phil. 208, 218 (2010).

¹³ *CA rollo*, p. 111.

¹⁴ 606 Phil. 825, 837 (2009).

¹⁵ 613 Phil. 116, 128 (2009).

¹⁶ 813 Phil. 205, 219 (2017).

¹⁷ 813 Phil. 1055, 1064 and 1066 (2017).

As for AAA's delay in reporting the crime, the same does not diminish her credibility either. It has been established that long silence and delay in reporting the crime of rape have not always been construed as indications of a false accusation. A rape charge becomes doubtful only when the delay in revealing its commission is unreasonable and unexplained.¹⁸ This is because the victim may choose to keep quiet rather than expose her defilement to the harsh glare of public scrutiny.¹⁹ Here, AAA testified that XXX, her own father, threatened to kill her if she told anyone what he did to her. Considering that she constantly lived with XXX, the fear that XXX may make true his threat is ever present. This is a reasonable explanation for complainant's delay in reporting the incidents.

As for XXX's argument that AAA's testimony seemed well rehearsed, the same lacks merit. Even admitting that AAA described the same scenario in all three (3) rape incidents, this is not a sign that the same was rehearsed or concocted. Contrary to appellant's claim, it is not improbable that a person would have sexual intercourse with another in the same position or manner. Too, it is not far-fetched for a person who forces another to have sexual intercourse against the latter's will would consciously adopt a certain position in order to prevent said person from putting up a fight or deprive him or her of the chance to escape. This is what happened here. By securing AAA's legs onto his shoulders and holding on to them while AAA was laid down and XXX was standing up, AAA was unable to use her legs to run away or kick him more in her defense. AAA could not also reach XXX because of the awkward position they were in. In any event, the manner on how XXX actually had intercourse with AAA is immaterial. What matters is that AAA established that XXX had intercourse with her against her will.

Lastly, we cannot give credence to XXX's claim that he was falsely charged with rape because he repeatedly reprimanded AAA regarding her studies. As held in *People v. Lao*,²⁰ a teenage unmarried lass would not ordinarily file a rape complaint against anybody, much less her own father, if it were not true. In *People v. CCC*,²¹ the Court further ordained that a daughter who would make up a story that would send her own father to jail is far beyond what the human conscience could take. Indeed, in a culture where children are taught to be respectful to and caring of their elders, it is not an easy feat for a daughter to charge her own father with such a bestial act and in the process, also subject herself to the humiliation of a public trial, if such allegation was not true. More, AAA supplied details regarding the incidents which she could not have given if she had not experienced it. On this score, *People v. Santiago*²² is apropos:

¹⁸ *People v. Bejim*, 824 Phil. 10, 22 (2018).

¹⁹ *People v. YYY*, G.R. No. 234825, September 05, 2018.

²⁰ 319 Phil. 232, 243 (1995).

²¹ 836 Phil. 133 142, (2018).

²² 274 Phil. 847, 856 (1991).

The main question raised by appellant is credibility of the prosecution's main witness — the victim herself. It is well-settled that the lone testimony of the victim in the prosecution for rape, if credible, is sufficient to sustain a verdict of conviction, the rationale being that owing to the nature of the offense, the only evidence that can oftentimes be adduced to establish the guilt of the accused is the offended party's testimony. Hence, **if the testimony of the offended party is not improbable, a defendant may be convicted on the lone testimony of the victim.** We have perused the lone testimony of the victim and We found nothing improbable about it. On the contrary, the victim has testified clearly and logically as to events which happened on that fateful day. **Her narration of events even included details which she could not have supplied if they were not true.** (Emphasis supplied)

People v. Arofo,²³ further enunciated:

Settled is the rule that no woman would openly admit that she was raped and consequently subject herself to an examination of her private parts, undergo the trauma and humiliation of a public trial, and embarrass herself with the need to narrate in detail how she was raped, if she was not raped at all. In the instant case, GLENDA narrated clearly and spontaneously how ARMAN and GASPAR raped her on 1 March 1989. **Her narration was made with such richness of details as only one telling the truth could do so.**

Furthermore, there is absolutely no showing that GLENDA was actuated by any sinister motive to falsely implicate ARMAN and GASPAR. **A victim of rape would not come out in the open if her motive were anything other than to obtain justice. The testimony of a woman as to who abused her is credible where she has absolutely no motive to testify against the accused.** (Emphasis supplied)

Article 266-B of the Revised Penal Code (RPC), as amended by Republic Act No. 8353²⁴ (RA 8353) ordains that qualified rape is committed when the victim is below 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.

Here, AAA was only thirteen (13) years old when the first and second rape incidents happened; and only fourteen (14) years old when the third rape incident happened. Her age and her relationship with XXX were both established by the offer of her birth certificate.²⁵ Too, the

²³ 430 Phil. 475, 483-484 (2002).

²⁴ The Anti-Rape Law of 1997, approved on September 30, 1997.

²⁵ CA rollo, p. 59.

Information for Criminal Case Nos. 5109 and 5110 both alleged that XXX had carnal knowledge “*of his own daughter*” and in Criminal Case No. 5096 the qualifying circumstance “*that the victim is under eighteen (18) years of age and the accused is her father*” was alleged,²⁶ to wit:

Criminal Case No. 5109

That on [or about] the 4th day of July 2008 in the [REDACTED] Province of Leyte, within the jurisdiction of Honorable Court, the said accused, by force, threat and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge [of] his own daughter and [13-year-old AAA] without the latter’s consent and against her will.

CONTRARY TO LAW.²⁷

Criminal Case No. 5110

That on or about [the] 21st day of December 2008 in the [REDACTED], Province of Leyte, Philippines and within the jurisdiction of the Honorable Court, the said accused by force, threat and intimidation did then and there willfully, unlawfully and feloniously have carnal knowledge (of) his own daughter and [13-year-old AAA] without the latter’s consent and against her will.

CONTRARY TO LAW.²⁸

Criminal Case No. 5096

That on the 12th day of July 2009, in the [REDACTED] Province of Leyte, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, being the biological father of [AAA], 14 years of age, and by means of force, threat and intimidation, did then and there willfully, unlawfully and feloniously succeed in having carnal knowledge of said [AAA], against her will.

CONTRARY TO LAW, with the aggravating/qualifying circumstance that the victim is under eighteen (18) years of age and the accused is her father.²⁹

In fine, XXX’s conviction for three (3) counts of qualified rape is in accord with law and evidence.

²⁶ *Id.* at 42-43.

²⁷ *Id.* at 42.

²⁸ *Id.* at 42-43.

²⁹ *Id.* at 43.

Penalty

Articles 266-A and B of the RPC, as amended by RA 8353, provide:

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;*

x x x x

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

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;

x x x x

With the enactment of Republic Act No. 9346³⁰ (RA 9346), the death penalty may no longer be imposed. A.M. No. 15-08-02-SC,³¹ on the other hand, states that “*when circumstances are present warranting the imposition of the death penalty, but this penalty is not imposed because of RA 9346, the qualification ‘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.*” The Court of Appeals, therefore, correctly sentenced XXX to *reclusion perpetua* without eligibility for parole.

On the monetary awards, *People v. Jugueta*³² held:

II. For Simple Rape/Qualified Rape:

- 1.1 Where the penalty imposed is Death but reduced to *reclusion perpetua* because of RA 9346:

³⁰ An Act Prohibiting the Imposition of Death Penalty in the Philippines, approved on June 24, 2006.

³¹ Guidelines for the Proper Use of the Phrase “without eligibility for parole” in Indivisible Penalties, August 4, 2015; Also see *People v. Ursua*, 819 Phil. 467, 476 (2017).

³² 783 Phil. 806, 848 & 854 (2016).

- a. Civil indemnity – ₱100,000.00
- b. Moral damages – ₱100,000.00
- c. Exemplary damages – ₱100,000.00

x x x In addition, the civil indemnity, moral damages, exemplary damages and temperate damages payable by the appellant are subject to interest at the rate of six percent (6%) per annum from the finality of this decision until fully paid.

*People v. Brioso*³³ further enunciated:

[As] it now stands, in cases of simple or qualified rape, among others, where the imposable penalty is death but the same is reduced to *reclusion perpetua* because of RA 9346, the amounts of civil indemnity, moral damages and exemplary damages are pegged uniformly at P100,000.00. Thus, the awards of civil indemnity, moral damages and exemplary damages, given to AAA, should be increased to P100,000.00 each.

ACCORDINGLY, the appeal is **DISMISSED** and the Decision dated July 29, 2016 in CA-G.R. CR-HC No. 01667, **AFFIRMED**.

In **Criminal Case No. 5109**, appellant **XXX** is found **GUILTY** of **QUALIFIED RAPE** and sentenced to *reclusion perpetua* without eligibility for parole. He is also ordered to **PAY AAA** the following amounts:

- (1) ₱100,000.00 as civil indemnity;
- (2) ₱100,000.00 as moral damages; and
- (3) ₱100,000.00 as exemplary damages.

In **Criminal Case No. 5110**, appellant **XXX** is found **GUILTY** of **QUALIFIED RAPE** and sentenced to *reclusion perpetua* without eligibility for parole. He is ordered to **PAY AAA** the following amounts:

- (1) ₱100,000.00 as civil indemnity;
- (2) ₱100,000.00 as moral damages; and
- (3) ₱100,000.00 as exemplary damages.

In **Criminal Case No. 5096**, appellant **XXX** is found **GUILTY** of **QUALIFIED RAPE** and sentenced to *reclusion perpetua* without eligibility for parole. He is ordered to **PAY AAA** the following amounts:

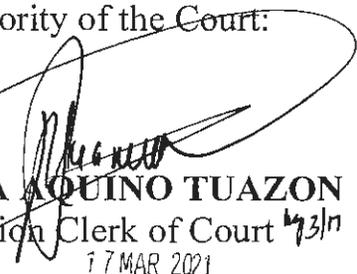
³³ 788 Phil. 292, 319 (2016).

- (1) ₱100,000.00 as civil indemnity;
- (2) ₱100,000.00 as moral damages; and
- (3) ₱100,000.00 as exemplary damages.

All monetary awards shall earn six percent (6%) interest *per annum* from finality of this Resolution until fully paid.

SO ORDERED.”

By authority of the Court:


TERESITA AQUINO TUAZON
Division Clerk of Court *4/3/21*
17 MAR 2021

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