



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated February 10, 2021 which reads as follows:

“G.R. No. 241327 – PEOPLE OF THE PHILIPPINES, plaintiff-appellee, versus REYNALDO LORE, accused-appellant.

After a careful review of the records of the case and the issues submitted by the parties, the Court finds that the Court of Appeals (CA), in CA-G.R. CR-HC No. 01156, did not err in promulgating the Decision¹ dated February 26, 2018 (Decision). The facts, as borne out by the records, sufficiently support the conclusion that accused-appellant Reynaldo Lore (accused-appellant Lore), is indeed guilty of one count of Rape. The issues and matters raised before the Court are the same ones already raised before the CA, there being no supplemental briefs filed. These issues and matters were sufficiently addressed and correctly ruled upon by the CA.

It is well-settled that in the absence of facts or circumstances of weight and substance that would affect the result of the case, appellate courts will not overturn the factual findings of the trial courts.² Thus, when the case pivots on the issue of the credibility of the victim, the findings of the trial courts necessarily carry great weight and respect as they are afforded the unique opportunity to ascertain the demeanor and sincerity of witnesses during trial.³ This rule finds an even more stringent application where the CA and Regional Trial Court (RTC) are in agreement in their findings.⁴

In this case, while the CA modified the RTC’s findings as to one count of rape — that which was alleged in the Information to

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¹ *Rollo*, pp. 4-22. Penned by Associate Justice Gabriel T. Robeniol and concurred in by Associate Justices Marilyn Lagura-Yap and Geraldine C. Fiel-Macaraig.

² *People v. Gerola*, G.R. No. 217973, July 19, 2017, 831 SCRA 469, 478.

³ *People v. Aguilar*, G.R. No. 177749, December 17, 2007, 540 SCRA 509, 522-523.

⁴ *See People v. Regaspi*, G.R. No. 198309, September 7, 2015, 769 SCRA 287, 292.

have occurred in 2005 — the RTC and CA remain in agreement as regards the occurrence of the rape which occurred in April 2006.

The Court agrees with the conclusions of the RTC and the CA in Criminal Case No. H-1519, particularly with the finding that all the elements of the crime of simple rape, and not statutory nor qualified rape, were proven beyond reasonable doubt.

Article 266-A of the Revised Penal Code 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 is 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.

The prosecution's evidence proved the commission of the crime under paragraph (a) above — that accused-appellant Lore had carnal knowledge of private complainant, AAA,⁵ through force, threat, or intimidation. Both the CA and RTC found that the following proved the fact of sexual intercourse and accused-appellant Lore's use of

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⁵ The identity of the victims or any information which could establish or compromise their identities, as well as those of their immediate family or household members, shall be withheld pursuant to Republic Act No. (RA) 7610, titled "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, titled "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. 83-2015, titled "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; and *People v. XXX and YYY*, G.R. No. 235652, July 9, 2018, 871 SCRA 424.)

force, threat, and intimidation to consummate the crime: AAA's positive identification of accused-appellant Lore as her abuser; and her vivid narration of how accused-appellant Lore carried her to a grassy area, ordered and forced her to undress, covered her mouth, inserted his penis into her vagina, and threatened to kill her if she told anyone about the incident. AAA's testimony was also corroborated by the medical certificate issued by Dr. Antonia Ruiz Dalipi (Dr. Dalipi), which established the injuries on AAA's genitalia caused by the rape.

Accused-appellant Lore argues that it was impossible for the rape to have occurred because on April 18, 2006, he was supposedly night fishing with his wife, -CCC at the seashore — a story which was sought to be corroborated by CCC's testimony. However, against AAA's direct, positive, and categorical assertions, his defense of alibi and denial cannot be given credence. Courts have always looked upon the defense of alibi with suspicion and have always received it with caution not only because it is inherently weak and unreliable but also because it is easily fabricated.⁶ As a means of defense, it is weak *when not substantiated by the testimony of a credible witness*.⁷ CCC cannot be considered a credible witness on account of her relationship with him.

The Court has previously held:

Also, alibi assumes significance or strength only when it is amply corroborated by credible and disinterested witnesses. In this regard, it should be noted that alibi becomes unworthy of merit not only because accused-appellant was positively identified by AAA but also in cases where it is established mainly by the accused himself, his relatives, friends and comrades-in-arms, and not by credible persons.⁸

Furthermore, CCC significantly wavered while testifying on the details of her husband's supposed alibi. While the defense claims that at around 9:00 in the evening of April 18, 2006 (the day of the first rape), accused-appellant Lore was gathering shellfish with CCC on the shore, CCC, however, had this to say on direct examination:

Q: On April 18, 2006 at around 8:00 o'clock in the evening, do you remember where were you?

A: **I was in the house sir.**

Q Do you have a companion during that date and time?

A: Yes sir.

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⁶ *People v. Gopio*, G.R. No. 133925, November 29, 2000, 346 SCRA 408, 424.

⁷ *Id.*

⁸ *People v. Apattad*, G.R. No. 193188, August 10, 2011, 655 SCRA 335, 349. *See also People v. Gopio*, supra note 6; *People v. Rivera*, G.R. No. 139180, July 31, 2001, 362 SCRA 153, 180.

Q: Who was your companion, Madam witness?
A: **My husband.**⁹

CCC also could not say for certain what date it was when she was gathering shellfish with her husband, which casts doubt on whether she was even testifying on what occurred on the night of the alleged rape. On cross-examination, she admitted:

Q: When was that when you were at the seashore with your husband night catching fish? (*sic*)

A: At 9:00 o'clock.

Q: What month was that and year?

A: It was a long time ago.

Q: Yes, I am asking you because it was a long time ago, are you sure that it was on such date and time that you were there?

A: (No answer).¹⁰

Finally, while on direct examination, she testified that on the night of the first rape, she and her husband went home ahead of the victim, AAA, and her companions, who remained at the seashore.¹¹ However, on cross-examination, she said that it was the other way around:

Q: It is clear now that at the time when you were together with your husband at the seashore, [AAA] was also there, isn't it?

A: No, sir.

Q: Isn't it that you said a while ago that you saw [AAA] with three companions?

A: Yes, sir.

Q: Which is which now, was [AAA] at the seashore when you and your husband were also there at 9:00 o'clock in the evening?

A: I saw her with other men.

Q: You said that there was a moment that you and your husband separated because he defecated, where was [AAA] at that time?

A: **She was at home.**

Q: You mean at the house of [AAA]?

A: Yes, sir.

Q: **It is now clear that [AAA] and her group left the seashore earlier than you and your husband?**

A: **Yes, sir.**

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⁹ Transcript of Stenographic Notes (TSN), May 6, 2009, p. 4. Emphasis supplied.

¹⁰ Id at 9.

¹¹ Id. at 5

Q: **And are you sure of that?**
A: **(Witness nodded).**¹²

In contrast, the alleged inconsistencies in AAA's testimony are trivial and do not affect her credibility, nor disprove the commission of the crime. For instance, accused-appellant Lore argues that AAA's statements on cross-examination that there was no one else at the place where the rape allegedly occurred were unbelievable because it was in an inhabited area near the seashore, frequented by many people whose livelihood was fishing.¹³ This is clearly tangential to the issue of rape. Another supposedly incredible statement made by AAA during cross-examination was that while accused-appellant Lore carried her, he covered her mouth and was also carrying a flashlight — supposedly an impossible task which renders AAA's testimony unreliable.¹⁴ The Court finds that no such conclusion may be made based merely on these marginal and inconclusive statements.

Accused-appellant Lore also claims that AAA made conflicting statements on (a) who undressed her — herself, or accused-appellant Lore;¹⁵ and (b) after the rape, she went home alone because her little brother, BBB, was watching TV.¹⁶ Again, accused-appellant Lore's attempts to discredit AAA's testimony fail miserably. AAA actually clarified in her testimony that accused-appellant Lore commanded and forced her to undress herself.¹⁷ As to BBB's whereabouts after the rape— this does little to damage AAA's testimony about the rape itself, and is not inconsistent with her statement that BBB was sent off to buy cigarettes prior to the rape. At any rate, AAA was actually able to clarify that when BBB arrived with the cigarette and lighter, he could not find AAA and accused-appellant Lore, as the rape was occurring at that time.¹⁸ When BBB called for them, the rape was finished, accused-appellant Lore stood up, and they went home afterwards.¹⁹ All in all, the supposed inconsistencies in AAA's testimony were brought about by accused-appellant Lore's strained and selective reading of portions of AAA's statements.

The Court also agrees with the CA that accused-appellant Lore's insinuation of improper motive on AAA deserves scant

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¹² Id. at 11-12. Emphasis supplied.

¹³ CA *rollo*, pp. 62-63.

¹⁴ Id. at 63-64.

¹⁵ Id. at 64-65.

¹⁶ Id. at 65-66.

¹⁷ Id. at 65.

¹⁸ TSN, June 12, 2008, pp. 15-21.

¹⁹ Id.

consideration. Accused-appellant Lore argues that the charges filed against him were fabricated and intended as retribution for his act of inflicting corporal punishment on AAA when he allegedly stole money from him.²⁰ However, neither accused-appellant Lore nor his wife can say for certain when this occurred. Furthermore, as the CA rightly said, this argument is improbable because of the “grossly disproportionate accusation of thievery as against rape itself.”²¹

Finally, accused-appellant argues that neither the medical certificate nor Dr. Dalipi’s testimony categorically declares that the laceration on AAA’s genitalia were caused by the insertion of a male organ, since Dr. Dalipi clarified that the lacerations could have also been caused by some other blunt or hard object.²² Accused-appellant Lore misses the point. Dr. Dalipi’s testimony saying that the cause of the lacerations could have been the insertion of a male organ into the vagina corroborates AAA’s credible and detailed testimony of what accused-appellant Lore had done to her. These two pieces of evidence together establish the commission of the crime by the accused-appellant.

From all the foregoing, the CA’s finding that accused-appellant Lore is guilty beyond reasonable doubt of simple rape under Article 266-A(1)(a) in relation to 266-B of the Revised Penal Code, and not of qualified rape, is supported by law and the evidence at hand. AAA’s minority, while alleged in the information, was not substantiated by AAA’s birth certificate nor any other evidence, and hence, cannot be considered to qualify the offense. While the RTC made the observation that AAA is in her teenage years, it made no categorical finding of her age, and correctly refrained from

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²⁰ *Rollo*, pp. 8 and 17.

²¹ *Id.* at 17.

²² *CA rollo*, pp. 67-68.

appreciating the same for purposes of qualifying the offense.²³ Notably, however, the CA erred in finding that the relationship between AAA and accused-appellant Lore was not proven because accused-appellant Lore's marriage certificate was not offered in evidence; on the contrary, accused-appellant Lore himself admitted that AAA is his niece-in-law, his wife being AAA's father's sister. Nevertheless, their relationship was never alleged in the Informations filed against accused-appellant Lore, and should likewise not serve to qualify the offense.

As regards Criminal Case No. H-1520, however, the Court agrees with the CA that accused-appellant Lore must be acquitted of the charges therein. The information for this case charges accused-appellant Lore with having committed rape sometime in 2005. No evidence was presented to prove that accused-appellant Lore committed rape against AAA in that year. Instead, evidence was presented to prove that a second rape occurred on April 19, 2006. The Court notes with approval the CA's findings on this matter:

The Court is mindful of the principle that the date of the commission of the crime need not be exactly specified in the *Information*, and that it will suffice if it is alleged to be on or about a certain date, allowing a reasonable degree of variance. Exactitude

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²³ In *XXX v. People*, G.R. No. 243151, September 02, 2019, the Court affirmed the *People v. Pruna (Pruna)*, 439 Phil. 440 (2002), Guidelines on establishing a victim's age. The *Pruna* Guidelines are as follows:

In order to remove any confusion that may be engendered by the foregoing cases, we hereby set the following guidelines in appreciating age, either as an element of the crime or as a qualifying circumstance.

1. The best evidence to prove the age of the offended party is an original or certified true copy of the certificate of live birth of such party.
2. In the absence of a certificate of live birth, similar authentic documents such as baptismal certificate and school records which show the date of birth of the victim would suffice to prove age.
3. If the certificate of live birth or authentic document is shown to have been lost or destroyed or otherwise unavailable, the testimony, if clear and credible, of the victim's mother or a member of the family either by affinity or consanguinity who is qualified to testify on matters respecting pedigree such as the exact age or date of birth of the offended party pursuant to Section 40, Rule 130 of the Rules on Evidence shall be sufficient under the following circumstances:
 - a. If the victim is alleged to be below 3 years of age and what is sought to be proved is that she is less than 7 years old;
 - b. If the victim is alleged to be below 7 years of age and what is sought to be proved is that she is less than 12 years old;
 - c. If the victim is alleged to be below 12 years of age and what is sought to be proved is that she is less than 18 years old.
4. In the absence of a certificate of live birth, authentic document, or the testimony of the victim's mother or relatives concerning the victim's age, the complainant's testimony will suffice provided that it is expressly and clearly admitted by the accused.
5. It is the prosecution that has the burden of proving the age of the offended party. The failure of the accused to object to the testimonial evidence regarding age shall not be taken against him.
6. The trial court should always make a categorical finding as to the age of the victim.

is not an unwavering requirement in criminal informations, and the absence thereof is not necessarily fatal for the prosecution's cause.

However, in the case at bench, even if imprecision in the manner of alleging the date of the commission of the second rape is forgiven, the state of the evidence and the indictment is such that there is no proof of the rape charged in the *Information* in Criminal Case No. H-1520, and there is no *Information* charging accused-appellant [Lore] for the rape he allegedly committed on April 19, 2006.

Withal, accused-appellant [Lore]'s observation that the *Medical Report* issued by Dr. Dalipi was dated April 19, 2006, and his conclusion that he could not have committed rape in the evening of April 19, 2006, become material and convincing.²⁴

With regard to the penalty, the CA was correct in imposing *reclusion perpetua* in Criminal Case No. H-1519.²⁵ The Court likewise affirms the damages imposed by the CA as the same is in accordance with *People v. Jugueta*.²⁶

WHEREFORE, premises considered, the appeal is **DISMISSED** for lack of merit. The findings of facts and conclusions of law of the of the Court of Appeals in its Decision dated February 26, 2018 in CA-G.R. CR-HC No. 01156 are **ADOPTED** and the said Decision is hereby **AFFIRMED**.

SO ORDERED.”

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court
CA-711

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court
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²⁴ *Rollo*, p. 19-20.

²⁵ *Id.* at 20.

²⁶ 783 Phil. 806 (2016).



The Solicitor General
134 Amorsolo Street, Legaspi Village
1229 Makati City

Court of Appeals
6000 Cebu City
(CA-G.R. CR HC No. 01156)

The Hon. Presiding Judge
Regional Trial Court, Branch 18
Hilongos, 6524 Leyte
(Crim. Case Nos. H-1519 to H-1520)

PUBLIC ATTORNEY'S OFFICE
Regional Special and Appealed
Cases Unit
Counsel for Accused-Appellant
3rd Floor, Taft Commercial Center
Metro Colon Carpark
Osmeña Boulevard, 6000 Cebu City

Mr. Reynaldo Lore
Accused-Appellant
c/o The Director General
Bureau of Corrections
1770 Muntinlupa City

The Director General
Bureau of Corrections
1770 Muntinlupa City

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