



Republic of the Philippines
 Supreme Court
 Manila

FIRST DIVISION

SUPREME COURT OF THE PHILIPPINES
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PEOPLE OF THE PHILIPPINES,

Plaintiff-Appellee,

G.R. No. 215194

Present:

- versus -

SERENO, *CJ.*,
 Chairperson,
 LEONARDO-DE CASTRO,
 PERALTA,*
 DEL CASTILLO,
 TIJAM, *JJ.*

RONALDO DELOSO y
 BAGARES,

Accused-Appellant.

Promulgated:

DEC 14 2017

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RESOLUTION

LEONARDO-DE CASTRO, *J.*:

We decide the appeal filed by the accused-appellant Ronaldo Deloso y Bagares¹ from the Decision² dated July 30, 2014 of the Court of Appeals in CA-G.R. CR.-H.C. No. 00981-MIN. The appellate court affirmed the Decision³ dated October 7, 2011 of the Regional Trial Court (RTC) of Cagayan De Oro City, Branch 19 in FC Crim. Case No. 2009-506, which found Deloso guilty of one count of qualified rape.

Deloso was charged with one count of rape committed against AAA⁴ in an Information, the accusatory portion of which provides:

* Per Raffle dated November 22, 2017.

¹ Also referred to as Ronald Deloso in other parts of the records.

² *Rollo*, pp. 3-16; penned by Associate Justice Rafael Antonio M. Santos with Associate Justices Edgardo T. Lloren and Edward B. Contreras concurring.

³ *CA rollo*, pp. 49-54; penned by Presiding Judge Evelyn Gamotin Nery.

⁴ The real name of the private complainant and those of her immediate family members who are involved in this case are withheld per Republic Act No. 7610 (Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act), Republic Act No. 9262 (Anti-Violence Against Women and Their Children Act of 2004), and A.M. No. 04-10-11-SC effective November 15, 2004 (Rule on Violence Against Women and Their Children). *See People v. Cabalquinto*, 533 Phil. 703 (2006).

Thus, the private offended party is referred to as AAA. The initials BBB refers to the mother of the private offended party, CCC to the private offended party's younger brother, and DDD to the nephew of the offended party. The initials XXX denotes the place where the crime charged was committed and YYY to the place of work of BBB.

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That on September 16, 2009 at more or less twelve midnight, at [XXX], Cagayan de Oro City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, while being the common law spouse of the mother of the offended party, by means of force, threat and intimidation, did then and there, willfully, unlawfully and feloniously, have carnal knowledge of the offended party, child [AAA], thirteen years of age, against her will and consent, to the damage and prejudice of the said offended party.

Contrary to law and with the aggravating circumstances that the offended party is below eighteen years old and the accused is the common law spouse of the parent of the offended party.⁵

When arraigned, Deloso pleaded not guilty to the charge.⁶ After the pre-trial conference, the trial court issued a Pre-Trial Order⁷ dated December 14, 2009 that contained the following stipulations of fact:

1. Identity of the accused;
2. Accused is the common-law spouse of [BBB], mother of "AAA";
3. Minority of the complainant;
4. [BBB] comes home every Saturday at [XXX], Cagayan de Oro City;
5. Authenticity and due execution of the Living Case Report dated September 1, 2009.

The pre-trial order containing the foregoing stipulations was signed by the accused and his counsel. In the trial that followed, the prosecution presented the testimonies of BBB,⁸ AAA,⁹ and CCC¹⁰ (the younger brother of AAA). The defense presented the lone testimony of Deloso.¹¹

The RTC summed up the prosecution's testimonial evidence as follows:

EVIDENCE FOR THE PROSECUTION:

40 years old "BBB", mother of the offended party "AAA" a resident of XXX attests that she and [Deloso] were live-in-partners for 5 years. She works as [a] dishwasher in a restaurant in [YYY], Cagayan de Oro and comes home to [XXX] only every Saturday. This leaves [Deloso], "AAA" and her youngest, 11 years (sic) old son "CCC" in the house. x x x.

⁵ Records, p. 4.
⁶ Id. at 16.
⁷ Id. at 28-30.
⁸ TSN, May 24, 2010.
⁹ TSN, August 4, 2010.
¹⁰ TSN, September 3, 2010.
¹¹ TSN, May 2, 2011.

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“BBB” recalls that on September 17, 2009 at 9:00 o’clock in the morning, a certain “Inday Ayon” called her through telephone at her workplace to go home as her daughter “AAA” was molested by [Deloso] the night before. She immediately went home and arrived at [XXX] at 10:00 o’clock in the morning. Nobody was home, thus she proceeded to the (Puerto) Police Station and there she saw “AAA” crying, while [Deloso] was already inside the detention cell.

“AAA” worriedly told her that her stepfather [Deloso] molested her: accordingly the first on September 15, 2009 and was successively done until September 16, 2009, which incident was witnessed by [her] youngest son, “CCC.” “AAA” further told her that [Deloso] would kill them all if she reveals to them the incident. “CCC” also confirmed to her that he saw [Deloso] molesting “AAA” by holding her and mounting her in the room of their house in [XXX] about 12:00 midnight. She had the incident blotted x x x.

Private complainant “AAA,” avers that she is now 14 years old having been born on July 22, 1996. x x x.

“AAA” recalls that on September 16, 2009, at about 12:00 o’clock midnight, she, together with [her] 11-year-old brother “CCC” and a certain nephew [DDD] were sleeping side by side in their room - sized about (2 by 2 meters/ 2 square meters) while [Deloso] was sleeping in the “sala.” She was awakened when [Deloso] removed her shirt and panty. [Deloso], who was only wearing [a] shirt, without lower garments and underwear, inserted his penis into her vagina. “AAA” felt pain. She did not shout but wrestled against [Deloso] who held her both hands. When asked where was her brother “CCC” when [Deloso] inserted his penis into her vagina, “AAA” clarified that [Deloso] first carried and transferred “CCC” somewhere at her feet’s side. While on top of her, [Deloso] warned not to tell “BBB” of the incident. [Deloso] then dressed up, wore his underwear and lie beside her, when “CCC” suddenly shouted at the accused that he will report him to the Barangay. [Deloso] was pissed off - saying “bullshit” to “CCC” and threw the blanket at the latter. “CCC” ran through the small door towards their aunt’s house. [Deloso] chased him while “AAA” attempted to follow “CCC” but did not push through, instead went back to their house. After a while, [Deloso] came back in the house and slept in the “sala.” “AAA” further testified that though it was the first time that “CCC” witnessed [Deloso] raping her, she revealed x x x to the Court that [Deloso] has been sexually abusing her several times already. x x x “CCC” reported the raping incident to their aunt, and eventually to the Barangay Office that led to the arrest of [Deloso].

“AAA” on the clarificatory questions by the Court admitted that her mother “BBB” had long been suspecting that [Deloso] had raped her, but she had to deny to “BBB” every time the latter would ask her because she was afraid of the threats of [Deloso].

Last prosecution witness is the 12 years old brother of the private complainant, “CCC.” His relationship with the accused is not good, since [Deloso] “raped” [his] sister “AAA” in their house. When asked how, “CCC” elaborated this by testifying that [Deloso] opened the skirt of “AAA,” removed her panty and mounted on her making a push and pull movement several times and holding her both hands, while “AAA” was crying. He further heard [Deloso] telling “AAA” “*pagtarung ba ayaw*

paglingas!” (be cooperative don’t keep moving!) “CCC” testified that he was able to wake up when [Deloso] transferred him from beside “AAA” to the place near the door. When asked how he saw [Deloso] raping “AAA,” “CCC” answered that there was a light illuminated from their neighbor’s house. Though he did not actually see the penis of [Deloso] inserted to “AAA’s” vagina, he was certain that [Deloso] was not wearing his “brief”/underwear and that the accused made push and pull motions. When [Deloso] finished raping “AAA” it was then that he shouted at the accused that he would report him to the Barangay Chairman. [Deloso] then threw the blanket at him, saying “bullshit!” “CCC” then ran (passing through a small opening of their house) towards his cousin’s house to hide. “CCC” could not exactly recall the date of the raping incident, but he was so certain that it happened in *a midnight in 2009* and at that time he was going to school.¹² (Citations omitted.)

The prosecution presented the following documentary evidence: (1) the Certificate of Live Birth¹³ of AAA; and (2) the Living Case Report¹⁴ issued by the Northern Mindanao Medical Center, which contained the results of the medical examination of AAA.

On the other hand, the RTC summarized the testimony of Deloso in this wise:

EVIDENCE FOR THE DEFENSE:

Sole witness for the defense is the accused himself, Ronaldo Deloso to prove that on the night of [the] incident he merely inserted his finger but not his penis into the vagina of “AAA.”

On September 16, 2009, he was just in their house at XXX together with “AAA” and “CCC,” the children of his live-in-partner “BBB.” The children slept early while he slept at 11:00 o’clock in the evening. Admittedly, he inserted his finger into her vagina that night (or as referred by him at 1:00 o’clock early dawn of September 17, 2009) of September 16, 2009 while “AAA” was lying down. [Deloso] claimed that he was never on top of “AAA.” “AAA” was then awakened and also “CCC.” “CCC” shouted and ran outside. The following day at 7:00 o’clock he was arrested. [Deloso] further denied that he had sexually molested nor had any sexual intercourse with her prior to September 16, 2009.¹⁵

In its **Decision dated October 7, 2011**, the RTC found Deloso guilty of the crime charged. The trial court decreed:

ALL THE FOREGOING CONSIDERED, the Court finds accused Ronaldo Deloso GUILTY beyond reasonable doubt of the crime of Qualified Rape as defined under the 1st paragraph of Article 266-A of the Revised Penal Code, and for which he is imposed the penalty to serve the imprisonment of RECLUSION PERPETUA without eligibility for parole as provided for by Republic Act No. 9346 and to indemnify to pay

¹² CA rollo, pp. 50-52.

¹³ Records, p. 86.

¹⁴ Id. at 87.

¹⁵ CA rollo, p. 52.

the victim, “AAA” ₱75,000.00 as civil indemnity, ₱50,000.00 as moral damages, and ₱10,000 as temperate damages.¹⁶ (Citations omitted.)

The RTC gave more credence to the positive testimonies of AAA and CCC that Deloso had sexual intercourse with AAA and rejected the allegation of Deloso that he merely inserted his finger into AAA’s female organ. The trial court also found that the qualifying circumstances of AAA’s minority and her relationship with Deloso, *i.e.*, that he is the common-law spouse of BBB, were both alleged in the information and proven in this case.

On appeal,¹⁷ the Court of Appeals rendered the assailed **Decision dated July 30, 2014** that affirmed *in toto* the judgment of the trial court. The appellate court found no reason to depart from the trial court’s appreciation of the credibility of the prosecution witnesses. The clear and categorical testimony of AAA, as corroborated by the testimony of CCC, was held to be sufficient to establish the act of rape committed by Deloso. The latter’s defense of denial cannot prevail over the straightforward, categorical, and unequivocal testimonies of said witnesses.

The case is now before us on appeal¹⁸ and the parties herein no longer filed their respective supplemental briefs.¹⁹

The Ruling of the Court

We resolve to deny the appeal.

In the Revised Penal Code, as amended, the crime of rape is committed in the following manner:

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 is 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.

¹⁶ Id. at 54.

¹⁷ Records, p. 142.

¹⁸ *Rollo*, pp. 17-19.

¹⁹ Id. at 24-27, 37-40.

For a charge of rape to prosper under the above provision, the prosecution must prove that: (1) the offender had carnal knowledge of a woman; and (2) he accomplished such act through force, threat, or intimidation, or when she was deprived of reason or otherwise unconscious, or when she was under twelve years of age or was demented.²⁰

In this case, both the RTC and the Court of Appeals found that the element of carnal knowledge had been duly established by the testimonial evidence adduced by the prosecution that Deloso forcibly had sexual intercourse with AAA around midnight on September 16, 2009. The lower courts found credible and convincing the testimonies of AAA and CCC on this matter and their positive identification of Deloso as the offender in this case. After thoroughly reviewing the records before us, we find no reason to disturb, much less overturn, the lower courts' appreciation of the credibility of the testimonies of AAA and CCC. The same were given in a straightforward manner and devoid of any material inconsistencies. As reiterated in our ruling in *People v. Leonardo*²¹:

It is a fundamental rule that the trial court's factual findings, especially its assessment of the credibility of witnesses, are accorded great weight and respect and binding upon this Court, particularly when affirmed by the Court of Appeals. This Court has repeatedly recognized that the trial court is in the best position to assess the credibility of witnesses and their testimonies because of its unique position of having observed that elusive and incommunicable evidence of the witnesses' deportment on the stand while testifying, which opportunity is denied to the appellate courts. Only the trial judge can observe the furtive glance, blush of conscious shame, hesitation, flippant or sneering tone, calmness, sigh, or the scant or full realization of an oath. These are significant factors in evaluating the sincerity of witnesses, in the process of unearthing the truth. The appellate courts will generally not disturb such findings unless it plainly overlooked certain facts of substance and value that, if considered, might affect the result of the case. (Citations omitted.)

Anent the element of force, threat or intimidation, Deloso claims that the same was not fully established in the testimony of AAA and he was not even armed with any weapon with which to threaten AAA. The Court of Appeals was correct to dismiss said argument, given the settled rule that in cases where the rape is committed by a close kin, such as the victim's father, stepfather, uncle, or the common-law spouse of her mother, it is not necessary that actual force or intimidation be employed; moral influence or ascendancy takes the place of violence or intimidation.²²

In his defense, Deloso could only muster a denial in that he allegedly did not have sexual intercourse with AAA, but he merely inserted his finger

²⁰ *People v. Rayon, Sr.*, 702 Phil. 672, 685 (2013).

²¹ 638 Phil. 161, 189 (2010).

²² *People v. Padua*, 661 Phil. 366, 370 (2011); see also *People v. Belen*, G.R. No. 215331, January 23, 2017.

into her female organ. The Court finds that the lower courts did not err in disregarding Deloso's denial. Totally unsupported by any other evidence, the allegation cannot overcome AAA's and CCC's positive declarations on the identity of Deloso and his perpetration of the crime charged. We held in *People v. Malones*,²³ that "denial is inherently a weak defense. It cannot prevail over positive identifications, unless buttressed by strong evidence of non-culpability." Stated alternatively, a denial, just like alibi, constitutes self-serving negative evidence which cannot be accorded greater evidentiary weight than the declaration of credible witnesses who testify on affirmative matters.²⁴

Furthermore, as pointed out by the Court of Appeals, Deloso neither alleged nor proved any ill motive on the part of AAA, CCC, and even BBB to falsely accuse him of the rape. As such, Deloso's denial pales into insignificance when compared with the credibility of the prosecution witnesses' testimonies.

The Proper Penalties

Under Article 266-B of the Revised Penal Code, the minority of a rape victim and her relationship to the offender qualify the charge of rape. Thus:

Art. 266-B. *Penalties.* — x x x.

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, stepparent, guardian, relative by consanguinity or affinity within the third civil degree, or the common-law spouse of the parent of the victim.

In this case, we uphold the trial court's finding that the qualifying circumstances of minority and relationship attended the commission of the crime. Said circumstances were specifically alleged in the information and sufficiently proved during the trial of the case.

The fact that AAA was only 13 years old when the rape incident occurred on September 16, 2009 was established by her Certificate of Live Birth that was offered in evidence, which stated that she was born on July 22, 1996. As to the relationship of AAA to Deloso, the defense already stipulated on the fact that Deloso is the common-law spouse of AAA's mother and he likewise admitted this fact when he testified in court.

²³ 469 Phil. 301, 328 (2004).

²⁴ *People v. Francisco*, 397 Phil. 973, 985 (2000).

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Notwithstanding the provisions of Article 266-B of the Revised Penal Code, the RTC and the Court of Appeals correctly held that the appropriate penalty that should be imposed upon Deloso is *reclusion perpetua*. This is in accordance with the provisions of Republic Act No. 9346,²⁵ which prohibits the imposition of the death penalty.

As to the award of damages, the Court finds that the same should be modified. In accordance with our ruling in *People v. Jugueta*,²⁶ the award of civil indemnity is increased from ₱75,000.00 to ₱100,000.00 and the award of moral damages is increased from ₱50,000.00 to ₱100,000.00. In lieu of temperate damages, exemplary damages is awarded in the amount of ₱100,000.00. We held in *People v. Llanas, Jr.*²⁷ that “[t]he award of exemplary damages is also proper not only to deter outrageous conduct, but also in view of the aggravating circumstances of minority and relationship surrounding the commission of the offense, both of which were alleged in the information and proved during the trial.”

WHEREFORE, the Court **AFFIRMS with MODIFICATIONS** the Decision dated July 30, 2014 of the Court of Appeals in CA-G.R. CR.-H.C. No. 00981-MIN. The accused-appellant Ronaldo Deloso y Bagares is found **GUILTY** beyond reasonable doubt of one count of qualified rape and is hereby sentenced to suffer the penalty of *reclusion perpetua* without eligibility for parole. The accused-appellant is **ORDERED** to pay AAA ₱100,000.00 as civil indemnity, ₱100,000.00 as moral damages, and ₱100,000.00 as exemplary damages, plus legal interest on all damages awarded at the legal rate of 6% from the date of finality of this Decision. Costs against the accused-appellant.

SO ORDERED.


TERESITA J. LEONARDO-DE CASTRO
Associate Justice

²⁵ “An Act Prohibiting the Imposition of Death Penalty in the Philippines.” Section 2 thereof states:
SEC. 2. In lieu of the death penalty, the following shall be imposed:
(a) the penalty of *reclusion perpetua*, when the law violated makes use of the nomenclature of the penalties of the Revised Penal Code; or
(b) the penalty of life imprisonment, when the law violated does not make use of the nomenclature of the penalties of the Revised Penal Code.

²⁶ G.R. No. 202124, April 5, 2016, 788 SCRA 331.

²⁷ 636 Phil. 611, 626 (2010).

WE CONCUR:



MARIA LOURDES P. A. SERENO

Chief Justice
Chairperson



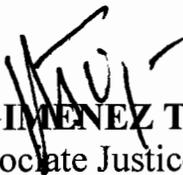
DIOSDADO M. PERALTA

Associate Justice



MARIANO C. DEL CASTILLO

Associate Justice



NOEL GIMENEZ TIJAM

Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARIA LOURDES P. A. SERENO

Chief Justice