



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 241249

Present:

PERALTA, C.J., Chairperson,
CAGUIOA,
REYES, J., JR.,
LAZARO-JAVIER, and
LOPEZ, JJ.

- versus -

RYAN FETALCO y SABLAY,
Accused-Appellant.

Promulgated:

JUL 28 2020

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DECISION

PERALTA, C.J.:

For consideration of this Court is the appeal of the Decision¹ of the Court of Appeals (CA) promulgated on February 28, 2018 which affirmed, with modification, the Judgment² dated May 18, 2016 of the Regional Trial Court (RTC), Branch 169, Malabon City in Criminal Case No. 33880-MN - which found appellant Ryan Fetalco y Sablay guilty beyond reasonable doubt of Statutory Rape.

In an Information dated February 24, 2006, appellant was charged with rape. The Information accused the appellant of having carnal knowledge of AAA,³ a lass then only four (4) years old:

¹ Penned by Associate Justice Magdangal M. De Leon, with Associate Justices Rodil V. Zalameda (now a member of this Court) and Renato C. Francisco concurring; *rollo*, pp. 2-20.

² Penned by Judge Emmanuel D. Laurea; *CA rollo*, pp. 53-58.

³ The identity of the victim or any information to establish or compromise her identity, as well as those of her immediate family or household members, shall be withheld pursuant to Republic Act No. 7610, "An Act Providing for Stronger Deterrence and Special Protection Against Child Abuse, Exploitation and Discrimination, and for Other Purposes"; Republic Act No. 9262, "An Act Defining Violence Against Women and Their Children, Providing for Protective Measures for Victims, Prescribing Penalties Therefor, and for Other Purposes"; Section 40 of A.M. No. 04-10-11-SC, known as the "Rule on Violence Against Women and

That on or about the 17th day of July 2005, in the City of ██████████, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design and by means of force and intimidation, did then [and there] willfully, unlawfully and feloniously have sexual intercourse with [AAA], a minor of 4-year (sic) old, against her will and without her consent, circumstances which debase, degrade and demean the intrinsic worth and dignity of a child as a human being, thereby endangering her youth, normal growth and development.

CONTRARY TO LAW.⁴

During arraignment, appellant pleaded not guilty to the charge. The prosecution presented three witnesses – private complainant AAA; complainant's mother BBB; and Medico-Legal Officer Dr. Ruby Grace Sabino-Dingson (*Dr. Sabino-Dingson*).

On July 23, 2005, or six days after the incident, AAA, who was then four years old,⁵ executed a *Sinumpaang Salaysay*⁶ wherein she stated that appellant inserted in her vagina the former's hairy male organ that resembled a rat which AAA referred to as "*daga*." In October 2007, or two years after the incident, AAA was presented in court and she averred that she knew appellant because he used to be their neighbor when they were still living in Malabon.⁷ On September 18, 2008, she testified that she was sleeping at the house of appellant when she was awakened and she saw her private part bleeding. She further narrated that appellant first inserted a "*daga*" in her vagina, and afterwards inserted a "*pantusok ng fishball*."⁸ However, during AAA's cross-examination on October 12, 2010, she narrated that appellant inserted a fishball stick in her vagina, and not a finger nor a "*daga*."⁹ She further narrated that there was no bleeding of her private organ,¹⁰ and that the incident transpired in their house, and not in the house of appellant.¹¹ When asked, AAA also admitted that her family was renting the place owned by the family of appellant, and that the relationship of her mother and appellant's family was not good.¹²

During trial, complainant's mother BBB testified that she was at their house when the incident happened. According to her, AAA disclosed that appellant inserted something that resembles a rat in her vagina. Allegedly,

Other Purposes"; Section 40 of A.M. No. 04-10-11-SC, known as the "*Rule on Violence Against Women and Their Children*," effective November 5, 2004; *People v. Cabalquinto*, 533 Phil. 703, 709 (2006); and Amended Administrative Circular No. 83-2015 dated September 5, 2017, Subject: Protocols and Procedures in the Promulgation, Publication, and Posting on the Websites of Decisions, Final Resolutions, and Final Orders Using Fictitious Names/Personal Circumstances.

⁴ *Rollo*, p. 3.

⁵ Per her Birth Certificate, (Exhibit "C").

⁶ Exhibits, p. 14.

⁷ TSN, October 17, 2007, pp. 3-4.

⁸ TSN, September 18, 2008, p. 5.

⁹ TSN, October 12, 2010, pp. 2-4.

¹⁰ *Id.* at 7.

¹¹ *Id.* at 4-5.

¹² *Id.* at 9.

AAA described it as “*titi ni kuya na maitim parang daga may balahibo.*” BBB further testified that the incident took place in the house of appellant, and that AAA did not mention a finger or a fishball stick being inserted in her vagina.¹³

The prosecution, likewise, presented P/Supt. Dr. Sabino-Dingson, Medico-Legal Officer and Concurrent Chief of the Medico Legal Division, PNP Crime Laboratory, Camp Crame, Quezon City. Dr. Sabino-Dingson presented to the court the original copy of Medico Legal Report No. M-2760-05 dated July 23, 2005 which was signed by Police Chief Inspector Pierre Paul F. Carpio (*Dr. Carpio*) and the Request for Genital Examinations from the Women and Children’s Protection Desk of the [REDACTED] Police Station. Dr. Sabino-Dingson testified that the examination was performed by Dr. Carpio and that based on their record, it can be deduced that AAA’s hymen has shallow healed lacerations at 9 o’clock position and with conclusion that shows clear evidence of penetrating trauma. She further testified that based on her experience as medical examiner, the conclusion given by Dr. Carpio is consistent with the testimony given by AAA on what appellant did to her.

The appellant denied all the charges against him. He testified that on July 17, 2005, he was cleaning his brother’s house with his cousins from 9 o’clock until 11 o’clock in the morning. They then had lunch at around 11:30 o’clock in his brother’s house which appellant admitted is only one house away from AAA’s house. The appellant further averred that the only reason why he was accused of rape was because AAA’s family failed to pay rentals for three (3) months.

On May 18, 2016, the RTC promulgated its Decision convicting appellant of Statutory Rape. The dispositive portion of the Decision reads as follows:

WHEREFORE, premises considered, the Court finds accused RYAN FETALCO Y SABLAY GUILTY beyond reasonable doubt of STATUTORY RAPE, and hereby sentences him to suffer the penalty of *RECLUSION PERPETUA* without eligibility for parole, with all the accessory penalties provided by law, and to pay the costs.

In the service of his sentence, the accused is entitled to the benefits of Article 29 of the Revised Penal Code as amended.

Accused is further ordered to indemnify the offended party in the sum of Seventy[-]Five Thousand Pesos (Php75,000.00) as civil indemnity; Seventy[-]Five Thousand Pesos (Php75,000.00) as moral damages; and Thirty Thousand Pesos (Php30,000.00) as exemplary damages.

SO ORDERED.¹⁴



¹³ Rollo, p. 7.

¹⁴ CA rollo, pp. 189-190.

In convicting the appellant, the RTC held that while there were indeed discrepancies in AAA's testimony, the court is inclined to give considerable latitude to the child witness and to give credence to her testimony when she, in child-like innocence and candor, described the object that was inserted into her vagina as "*daga*," having been struck most by its hairiness. Noting that AAA was merely four (4) and a half years old at the time of the incident, the court held that it is highly improbable that a girl of tender years would impute to any man a crime as serious as rape if what she claims is not true. Moreover, the court held that any doubt that may surround AAA's testimony was erased by the result of the medico-legal examination performed on AAA which showed "clear evidence of penetrating trauma." Lastly, the RTC rules that appellant's defense of denial and alibi cannot be given any weight if not substantiated by clear and convincing evidence.¹⁵

Thus, appellant appealed before the CA. On February 28, 2018, the CA promulgated its assailed Decision which affirmed with modification the decision of the RTC, thus:

WHEREFORE, the appeal is DISMISSED. The May 18, 2016 Decision of the RTC of Malabon City, Branch 169 in Crim. Case No. 33880-MN is AFFIRMED WITH MODIFICATION as to the amount of damages. Accused-appellant Ryan Fetalco y Sablay is GUILTY beyond reasonable doubt of STATUTORY RAPE as defined in Article 266-A and penalized in Article 266-B of the Revised Penal Code. Appellant is ordered to pay AAA the following amounts: civil indemnity of ₱75,000.00, moral damages of ₱75,000.00, and exemplary damages of ₱75,000.00. All monetary awards for damages shall earn interest at the legal rate of six percent (6%) *per annum* from date of finality of this Decision until fully paid.

SO ORDERED.¹⁶

The CA held that all the elements of Statutory Rape are present. As to the contention that the inconsistencies on AAA's testimony cast doubt on the accusation of rape by sexual intercourse, the court highlighted the fact that AAA executed the *Sinumpaang Salaysay* when she was only four years old, six days after the crime was committed. Hence, considering that what transpired was still fresh in AAA's mind at that time, the court held that AAA's statement in the *Sinumpaang Salaysay* that appellant inserted a "*daga*" into her private organ cannot be disregarded. Moreover, the court ruled that two years had already passed since the incident when AAA testified during trial that what was inserted was not a "*daga*" but a fishball stick. As to appellant's averment that the testimony of the medico-legal officer who testified in court is considered hearsay since he was not the one who personally examined AAA, the CA held that the medical examination of the victim or the presentation of medical certificate is not essential to prove the

¹⁵ *Id.* at 56-57.

¹⁶ *Rollo*, p. 19.

commission of rape since the testimony of the victim alone, if credible, is sufficient to convict the accused of the crime.¹⁷

Hence, this appeal wherein the appellant presents the following issues:

I.

THE TRIAL COURT GRAVELY ERRED WHEN IT GAVE FULL CREDENCE TO THE INCONSISTENT TESTIMONIES OF PRIVATE COMPLAINANT AAA AND BBB.

II.

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT DESPITE THE PROSECUTION'S FAILURE TO PROVE RAPE BY SEXUAL INTERCOURSE AS ALLEGED IN THE INFORMATION.

III.

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT DESPITE THE ABSENCE OF ACTUAL PROOF AS THE MEDICO-LEGAL OFFICER WHO PREPARED THE MEDICAL CERTIFICATE WAS NOT PRESENTED IN COURT.

IV.

THE TRIAL COURT GRAVELY ERRED IN NOT CONSIDERING THE ACCUSED-APPELLANT'S DEFENSES OF DENIAL AND ALIBI.¹⁸

In his Brief, appellant contends that AAA's contradictory statements on important details in her *Sinumpaang Salaysay* and her testimony when she was called to testify in court cast serious doubt on the guilt of appellant. Appellant further contends that the medico-legal report must not be given probative weight because the medico-legal officer who prepared the medical certificate was not presented in court.

The primary issue to be resolved by this Court, in the instant case, is whether or not the appellant's guilt has been proven beyond reasonable doubt.

OUR RULING

The appeal is dismissed.

The pertinent provisions of Article 266-A of the Revised Penal Code, as amended, provide:

¹⁷ *Id.* at 13-17.

¹⁸ *CA rollo*, pp. 33-34.

Art. 266-A. *Rape; When and How 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 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

Statutory rape is committed when: (1) the offended party is under twelve (12) years of age; and (2) the accused has carnal knowledge of her, regardless of whether there was force, threat or intimidation, whether the victim was deprived of reason or consciousness, or whether it was done through fraud or grave abuse of authority. In statutory rape, it is enough that the age of the victim is proven and that there was sexual intercourse.¹⁹ It is not necessary to prove that the victim was intimidated or that force was used against her, because in statutory rape the law presumes that the victim, on account of her tender age, does not and cannot have a will of her own.²⁰

In the present case, both the RTC and the CA found that the prosecution was able to prove beyond reasonable doubt all the elements of statutory rape, and this Court finds no cogent reason to depart from these findings. It is elementary that the assessment of a trial court in matters pertaining to the credibility of witnesses, especially when already affirmed by an appellate court on appeal, are accorded great respect — if not binding significance — on further appeal to this Court. The rationale of this rule is the recognition of the trial court's unique and distinctive position to be able to observe, first hand, the demeanor, conduct and attitude of the witness whose credibility has been put in issue.²¹ Accordingly, the errors assigned by the appellant are insufficient to overturn the findings of the RTC and the CA.

The presence of the first element is unquestionable. As evidenced by her Birth Certificate²² showing that she was born on January 19, 2001, AAA was only four (4) years old at the time the crime was committed in 2005. It is

¹⁹ *People v. Brioso*, 788 Phil. 292, 305 (2016).

²⁰ *People v. Lopez*, 617 Phil. 733, 745 (2009).

²¹ *People v. Ramon Bay-od*, G.R. No. 238176, January 14, 2019.

²² Exhibit "C."

settled that in cases of statutory rape, the age of the victim may be proved by the presentation of her birth certificate.²³

The second element of the crime was duly proven by the prosecution with the testimony of the victim. AAA positively identified the accused as the one who ravaged her and she clearly narrated her harrowing experience in the hands of the accused. She explained that she knew appellant as their neighbor,²⁴ and narrated how the latter inserted into her vagina his hairy male organ, which AAA referred to as “*daga*.”²⁵ Time and again, this Court has held that when the offended parties are young and immature girls, as in this case, courts are inclined to lend credence to their version of what transpired, considering not only their relative vulnerability, but also the shame and embarrassment to which they would be exposed if the matter about which they testified were not true. A young girl would not usually concoct a tale of defloration; publicly admit having been ravished and her honor tainted; allow the examination of her private parts; and undergo all the trouble and inconvenience, not to mention the trauma and scandal of a public trial, had she not in fact been raped and been truly moved to protect and preserve her honor, and motivated by the desire to obtain justice for the wicked acts committed against her. Moreover, the Court has repeatedly held that the lone testimony of the victim in a rape case, if credible, is enough to sustain a conviction.²⁶

The alleged inconsistencies in AAA’s testimony are not enough to sway this Court to depart from the RTC and the CA’s findings. Appellant is fixated with AAA’s testimonies given in 2008 wherein she said that the incident took place at the house of the appellant where she was sleeping and that he removed her panty then used his finger and a fishball stick to poke her vagina.²⁷ He claims that these are inconsistent with AAA’s statements that the incident happened at their house and that appellant inserted a “*daga*,” referring to his genitalia.

We find these alleged inconsistencies too thin for us to question AAA’s credibility. This Court has ruled that since human memory is fickle and prone to the stresses of emotions, accuracy in a testimonial account has never been used as a standard in testing the credibility of a witness.²⁸ This is especially true when the testimony is given by child victims who were exposed to extremely traumatic situations at a very tender age.

Moreover, the inconsistency as regards the place of the commission of the offense is not material so as to render AAA’s testimony incredible. The

²³ *People v. Jalosjos*, 421 Phil. 43, 84 (2001).

²⁴ TSN, October 17, 2007, pp. 3-4.

²⁵ TSN, September 18, 2008, p. 5.

²⁶ *People v. Chingh*, 661 Phil. 208, 218 (2011).

²⁷ *Rollo*, p. 38.

²⁸ *People v. Lagbo*, 780 Phil. 834, 843 (2016).

alleged inconsistency on the place where the crime happened is a minor inconsistency which should generally be given liberal appreciation considering that the place of the commission of the crime in rape cases is after all not an essential element thereof. What is decisive is that appellant's commission of the crime charged has been sufficiently proved,²⁹ a condition that had been satisfied in this case.

Our review of AAA's testimony revealed the same to be a clear and categorical account of how the appellant had carnal knowledge of her. AAA bluntly recalled that appellant inserted both the "*daga*" and a fishball stick, to wit:

Q: Going back to your Affidavit where you affixed your thumbmark, do you recall if you tell (sic) the police was inserted on your vagina, you said "DAGA"?

A: Yes, Sir.

Q: What did you tell the police "DAGA" and not stick of fishballs?

A: At first, "DAGA", after a while stick, Ma'am.

Q: Where did he get the "DAGA"?

Fiscal:

We would like to manifest that the witness is already crying. May we ask for continuance as per request of the Social Worker.³⁰

The alleged inconsistency brought about by AAA's statement that appellant inserted a fish ball stick is more imagined than real. AAA categorically testified that appellant inserted two objects: his penis a.k.a. "*daga*" and a fishball stick. Simply because AAA failed to mention one of these items one time during the trial does not mean that she was lying during all the other times when she clearly conveyed that she was raped.

The victim was just a child called to remember each and every harrowing moment of her plight. In this case, the proceedings even lasted for years. It must be noted that it was 2005 when she executed her *Sinumpaang Salaysay* wherein she stated that appellant inserted into her vagina his hairy male organ which resembled a rat. In 2008, she testified in court that accused-appellant inserted both his a "*daga*" and a fishball stick. And in 2010, almost five years after the time of rape, she stated that what was inserted was a fishball stick. It is, thus, clear that there were considerable gaps between the dates when she had testified.

At such a young age, it is only natural for AAA to forget some details of her horrors to cope with the trauma. Rape is a painful experience which is

²⁹ *People v. Vergara*, 724 Phil. 702, 710 (2014).

³⁰ TSN, September 18, 2008, pp. 5-6.

oftentimes not remembered in detail. It is something which causes deep psychological wounds and casts a stigma upon the victim, scarring her psyche for life and which her conscious and subconscious mind would opt to forget. Thus, a rape victim cannot be expected to mechanically keep and then give an accurate account of the traumatic and horrifying experience she had undergone.³¹

In *People v. Piosang*,³² We have held that testimonies of child-victims are normally given full weight and credit, since when a girl, particularly if she is a minor, says that she has been raped, she says in effect all that is necessary to show that rape has, in fact, been committed. 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. Considering that AAA was only four (4) years old when she was raped and was only six (6) years old when she took the witness stand, she could not have invented a horrible story.³³

We do not find it necessary anymore to belabor on the issue raised by the appellant on the probative value of the medico-legal report. A medico-legal report is not indispensable to the prosecution of the rape case, it being merely corroborative in nature. At this point, the fact of rape and the identity of the perpetrator were proven even by the lone testimony of AAA. The credible disclosure of AAA that appellant raped her is the most important proof of the commission of the crime.³⁴

As regards, the defense of alibi, We have pronounced time and again that both denial and alibi are inherently weak defenses which cannot prevail over the positive and credible testimony of the prosecution witness that the accused committed the crime. Thus, as between a categorical testimony which has a ring of truth on one hand, and a mere denial and alibi on the other, the former is generally held to prevail. For the defense of alibi to prosper, it must be sufficiently convincing as to preclude any doubt on the physical impossibility of the presence of the accused at the *locus criminis* or its immediate vicinity at the time of the incident. Here, appellant claims that he was at his brother's house at the time of the incident. Unfortunately for him, he was clearly in the immediate vicinity of the *locus criminis* at the time of the commission of the crime as he admitted that this place is one house away from where AAA lives.³⁵ Moreover, accused-appellant did not even bother to corroborate his alibi by presenting his cousins whom he says he was with.

³¹ *People v. Brioso*, *supra* note 18, at 310.

³² 710 Phil. 519, 526 (2013).

³³ *Id.*

³⁴ *People v. Hernando Bongos*, G.R. No. 227698, January 31, 2018.

³⁵ *People v. Jordan Batalla y Aquino*, G.R. No. 234323, January 7, 2019.

This Court, however, modifies the designation of the crime committed. Sexual intercourse with a woman who is below 12 years of age constitutes statutory rape. As a qualification, Article 266-B of the Revised Penal Code, as amended, provides that the death penalty shall be imposed “when the victim is a child below seven (7) years old.” The age of the victim (four [4] years old) was sufficiently alleged in the Information and proved by the prosecution. Hence, the crime committed by appellant is qualified statutory rape under Article 266-B, with death as its imposable penalty. Nevertheless, We note that the RTC imposed the correct penalty which is *reclusion perpetua*, without eligibility for parole, in view of the enactment of Republic Act No. 9346 (R.A. 9346), which prohibits the imposition of death penalty.³⁶

Lastly, We likewise modify the amounts awarded to AAA. In the case of *People v. Jugueta*,³⁷ the increase in the amounts of civil indemnity, moral damages and exemplary damages has been explained in detail. 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 R.A. 9346, the amounts of civil indemnity, moral damages and exemplary damages are pegged uniformly at ₱100,000.00. Thus, the awards of civil indemnity, moral damages and exemplary damages, given to AAA, should be increased to ₱100,000.00 each.³⁸

WHEREFORE, the instant appeal is **DISMISSED**. The February 28, 2018 Decision of the Court of Appeals is **AFFIRMED** with the following **MODIFICATIONS**:

1) Accused-appellant is **ORDERED** to **PAY** the increased amounts of ₱100,000.00 as civil indemnity, ₱100,000.00 as moral damages and ₱100,000.00 as exemplary damages; and

2) Accused-appellant is additionally **ORDERED** to **PAY** the victim, AAA, interest at the rate of six percent (6%) *per annum* on all damages awarded from the date of finality of this Decision until fully paid.

SO ORDERED.

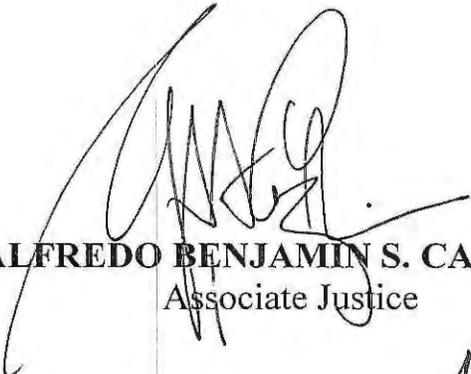

DIOSDADO M. PERALTA
Chief Justice

³⁶ *People v. Gani*, 710 Phil. 466, 475 (2013).

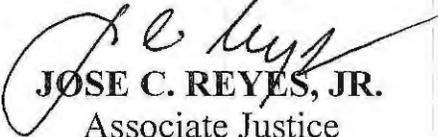
³⁷ *People v. Jugueta*, 783 Phil. 806 (2016).

³⁸ *People v. Briosos*, *supra* note 18, at 319.

WE CONCUR:



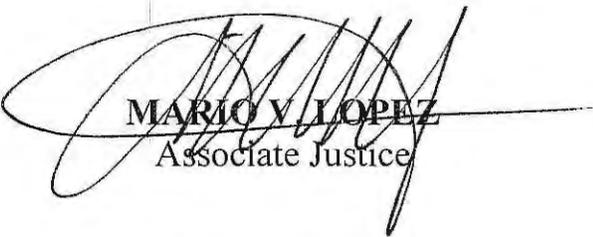
ALFREDO BENJAMIN S. CAGUIOA
Associate Justice



JOSE C. REYES, JR.
Associate Justice



AMY C. LAZARO-JAVIER
Associate Justice



MARIO V. LOPEZ
Associate Justice

CERTIFICATION

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



DIOSDADO M. PERALTA
Chief Justice