Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff- Appellee,

- *versus* -

XXX,*
Accused-Appellant.

G.R. No. 236562

Present:

PERALTA, *C.J., Chairperson,*
CAGUIOA,
LAZARO-JAVIER,
LOPEZ, and
GAERLAN,* *JJ.*

Promulgated:

SEP 2 2 2020

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DECISION

PERALTA, *C.J.*:

For review is the Decision[1] dated July 17, 2017 of the Court of Appeals in CA-G.R. CR-HC No. 08135, which affirmed the Decision[2] dated February 9, 2016 of the Regional Trial Court, Branch 94, Quezon City (*RTC*) in Criminal Case No. Q-159338, convicting accused-appellant XXX of the crime of statutory rape.

The facts are as follows:

In an Information, accused-appellant was charged with the crime of rape committed against his minor niece AAA,[3] *viz.*:

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* Designated additional member per Special Order No. 2788 dated September 16, 2020.

* The real name of the accused-appellant is withheld pursuant to Amended Administrative Circular No. 83-2015 dated September 5, 2017. Moreover, the title of this case is in accordance with an appeal under Rule 124, Section 13(c) and Section 1; and Rule 125.

1 Penned by Associate Justice Manuel M. Barrios, with Associate Justices Ramon M. Bato, Jr. and Renato C. Francisco of the Eleventh Division, Court of Appeals, concurring; *rollo*, pp. 75-85.

2 CA *rollo*, pp. 102-112.

3 In *People v. Cabalquinto*, 533 Phil. 703 (2006) (Per J. Tinga, En Banc], this Court discussed the need to withhold the victim's real name and other information that would compromise the victim's identity, applying the confidentiality provisions of: (1) Republic Act No. 7610 (*Special Protection of Children against*

> That sometime during the month of April 2000 at [redacted], Philippines, the above named accused, by means of force and intimidation, and exercising moral ascendancy over one [AAA] since he is her maternal uncle, did then and there willfully, unlawfully and feloniously have carnal knowledge of the said [AAA], his very own niece and a minor seven (7) years of age at the time (born May 19, 1993), against the will of the offended party, to her damage and prejudice.
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> CONTRARY TO LAW.[4]

When arraigned on August 25, 2009, accused-appellant pleaded not guilty.[5] After the pre-trial, trial proper ensued.

The prosecution presented as witnesses complainant[6] AAA, her father CCC, Dr. Editha Martinez and Dr. Zorayda Umipig. However, complainant later recanted her testimony when she testified for the defense. The defense presented as witnesses complainant AAA, her mother BBB, the accused-appellant XXX, and the father of accused-appellant YYY.

The version of the prosecution, as stated by the Court of Appeals, is as follows:

In April 2000, complainant AAA and her family lived in a house in [redacted], Quezon City. Living together with them were complainant's maternal uncle, herein accused-appellant, and complainant's maternal grandparents and two maternal aunts. Complainant was nearly seven (7) years old at that time.[7]

One morning in April 2000, complainant's parents and siblings were not home, and complainant was left alone with accused-appellant. Appellant called complainant and dragged her to one of the rooms in the house. Inside the room, appellant pushed complainant towards the bed and pinned her down on the bed. Appellant asked complainant if she knew what her parents were doing and told her that they will do the same. Complainant cried. Appellant removed complainant's short pants and underwear, then he went on top of her and inserted his penis inside her vagina. When appellant finished, he dressed up complainant and poked an ice pick on the right side of her neck, warning her not to tell anyone about what happened. For fear of appellant, complainant kept to herself the incident which was repeated several times until 2003. In

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applying the confidentiality provisions of: (1) Republic Act No. 7610 (*Special Protection of Children against Child Abuse, Exploitation and Discrimination Act*) and its Implementing Rules and Regulations; (2) Republic Act No. 9262 (*Anti-Violence against Women and their Children Act of 2004*) and its Implementing Rules and Regulations; and (3) this Court's October 19, 2004 Resolution in A.M. No. 04-10-11-SC (*Rule on Violence against Women and their Children*); as cited in *People v. ZZZ*, G.R. No. 229862, June 19, 2019.

4 Records, p. 1.

5 *Id.* at 152.

6 The term "complainant" refers to private complainant AAA.

7 *Rollo*, p. 159; TSN, December 8, 2009, pp. 9-10.

2004, when a neighbor, Ate Beth, observed that complainant was always staring blankly and was thinking deeply, complainant confided what appellant did to her. Complainant, however, begged Ate Beth not to tell her parents about her revelation.[8]

In 2006, complainant's mother, BBB, left the country to work in Australia, thus leaving complainant and her siblings in the care of their father. Sometime in October 2008, while BBB was in Australia, she communicated with complainant and was convincing her to live in the house built by BBB's parents in [redacted], Rizal where accused-appellant and his wife and child had transferred to in 2007. Complainant told BBB that she refused to live in [redacted], Rizal because accused-appellant had raped her. BBB was surprised, but she told complainant that she believed her, although she subsequently changed her stance.[9]

In 2009, complainant sought medical attention when she experienced difficulty in breathing and pain in her breasts. It was then that her father finally learned about the rape incident through Ate Beth. Thereafter, complainant and her father lost no time in filing a complaint against accused-appellant. On January 14, 2009, complainant was examined by Dr. Editha Martinez of the Philippine National Police Crime Laboratory, Camp Crame, Quezon City. A medico-legal report[10] was issued containing a finding of deep healed laceration at the 4 o' clock position in the hymen of complainant. Dr. Martinez explained that the healed laceration indicated that there was a previous blunt penetrating trauma to the hymen caused by any hard blunt object like an erect penis or finger. She stated that the deep healed laceration was consistent with the commission of the offense charged.[11]

In the medico-legal report, complainant was advised to consult an obstetrician-gynecologist. Hence, on January 26, 2009, complainant consulted Dr. Zorayda Umipig who examined her and issued her a certification[12] with the same finding of healed hymenal laceration at the 4 o' clock position. Dr. Umipig testified that the laceration could have been caused by an erect penis because it was located at the posterior side of the hymenal orifice.[13]

In defense, accused-appellant denied the accusation against him, reasoning that he could not have raped his niece, complainant herein, since at the alleged time of the rape, there were eleven (11) persons living in the same small house at [redacted], Quezon City. He said that their house, located in a squatters' area, was about five (5) by ten (10) meters with two small rooms

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8 *Id.*; TSN, November 24, 2009, pp. 6-13.
9 *Rollo*, p. 160; TSN, November 24, 2009, pp. 13-15.
10 Exhibit "J," records, p. 194.
11 *Rollo*, p. 160; TSN, November 24, 2009, pp. 20-26; TSN, December 8, 2009, pp. 6-7.
12 Exhibit "D-1," records, p. 231.
13 TSN, October 18, 2011, p. 11.

beside each other. The first room was occupied by complainant's family, while the second room was occupied by appellant's two sisters. Appellant's parents slept in the sala, while appellant either slept in the sala or in his sisters' room. Appellant contended that it was improbable for the crime to have been committed in April 2000, because they were always in the house since only his sister WWW was working at that time and the rest of them were unemployed. Moreover, in April 2000, complainant and her siblings were also on vacation from school.[14]

Further, accused-appellant stated that his sister BBB, mother of complainant, left the country to work in Australia in 2006. BBB was sending money to her husband CCC to support their family. However, CCC mishandled the funds; hence, starting in 2007, BBB sent remittance to him instead. This caused a rift between him and CCC; thus, his parents, who were in Australia since 2003, asked him to transfer to their newly-constructed house in [redacted], Rizal. He moved to [redacted], Rizal with his girlfriend and their child. He would usually fetch complainant and her siblings at [redacted], Quezon City every Friday, and they would stay with him in [redacted], Rizal during the weekend, then he would bring them back to [redacted], Quezon City on Sunday. Appellant asserted that nothing has changed in his relationship with complainant. After all, he stood as a second father to her and her siblings. When he learned that complainant had a relationship with a tomboy, he advised her of the impropriety of the same. In 2009, he was surprised when his sister BBB called him up and told him that a case for rape was filed against him.[15]

Accused-appellant's sister BBB and their father YYY corroborated appellant's testimony.[16]

The defense presented complainant as a witness and she recanted her previous testimony that accused-appellant raped her in April 2000. Complainant stated that she only dreamed of someone lying on top of her, and when she told their neighbor, Ate Beth, about her dream, Ate Beth already said that accused-appellant raped her because she saw him closing the door. Her father told her to file the complaint against the accused-appellant after Ate Beth told him that appellant raped her (complainant). Her father was angry at appellant and said that if they would not file the rape case, he would just kill a person. She just followed what her father told her to do because she was afraid of him. It was their neighbor Ate Beth who coached her what to say when she testified about the rape. She refused to stay in [redacted], Rizal because Ate Beth told her that if she (complainant) would stay there with the appellant, her father would leave her and go to Aklan. Complainant said that she had a laceration in her hymen because she had a relationship with a lesbian VVV from 2007 to 2009. VVV inserted her fingers in her vagina and she felt

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14 *Rollo*, p. 160; TSN, March 24, 2015, pp. 4-14; TSN, September 8, 2015, p. 6.
15 *Id.* at 161; TSN, September 8, 2015, pp. 13-22.
16 TSN, March 13, 2012; TSN, October 9. 2012; TSN, December 4, 2012.

pain. Complainant stated that her father did not tell her to lie, only Ate Beth. Complainant lived with her mother on June 23, 2013.[17]

In a Decision[18] dated February 9, 2016, the RTC found accused-appellant guilty beyond reasonable doubt of the crime of statutory rape despite the recantation of complainant. The dispositive portion of the Decision reads:

> WHEREFORE, premises considered, judgment is hereby rendered finding accused [XXX] guilty beyond reasonable doubt of Statutory Rape and is sentenced to suffer the penalty of *reclusion perpetua* without eligibility for parole.
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> Accused is ordered to pay AAA P50,000.00 as civil indemnity, P50,000.00 as moral damages and P30,000.00 as exemplary damages.
>
> SO ORDERED.[19]

The RTC found the testimony of complainant for the prosecution to be credible and trustworthy. It stated that complainant's testimony was direct, candid and replete with details of the rape and she categorically pointed to the accused-appellant as her abuser. Moreover, the medical findings showed that complainant suffered a laceration in her hymen, which supported her allegation of rape. Complainant's Certificate of Live Birth indicated that she was born on May 19, 1993. Hence, she was only six (6) years old when the crime was committed in April 2000. Accused-appellant was thus charged and proven guilty of statutory rape. The trial court found the accused-appellant's defense of denial and the recantation of complainant to be unworthy of credence.[20]

The accused-appellant appealed the RTC's decision to the Court of Appeals, contending that the trial court erred in convicting him of the crime of statutory rape notwithstanding the recantation by the complainant of her earlier statements, and relying solely on the prosecution's assumptions and speculations without any direct and concrete evidence to prove his guilt beyond reasonable doubt.[21]

In a Decision[22] dated July 17, 2017, the Court of Appeals found the appeal unmeritorious and upheld the decision of the RTC. It gave full credence to the testimony of complainant who positively identified accused-appellant as the one who raped her several times when she was younger. In addition, the medical finding of deep healed laceration in complainant's hymen corroborated her statement that appellant raped her. The appellate

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17 TSN, June 24, 2014; TSN, November 4, 2014; TSN, December 16, 2014.
18 CA *rollo*, pp. 102-112.
19 *Id.* at 112.
20 *Id.* at 108-111.
21 *Id.* at 161-162.
22 *Supra* note 1.

court was not persuaded to reverse appellant's conviction on account of complainant's recantation, as it found her recantation insincere and unacceptable.

The Court of Appeals upheld the penalty meted out by the RTC, but modified the award of damages by increasing to ₱100,000.00 the civil indemnity, moral damages and exemplary damages; and it imposed interest of six percent (6%) *per annum* on all damages awarded to be computed from the date of finality of the Decision until fully paid. The *fallo* of the Decision reads:

> **WHEREFORE**, premises considered, the appeal is **DENIED**. The Decision dated 09 February 2016 of the Regional Trial Court, Branch 94, Quezon City, is **AFFIRMED** with **MODIFICATION** that accused-appellant is ordered to pay to private complainant the amounts of P100,000.00 as civil indemnity, P100,000.00 as moral damages, P100,000.00 as exemplary damages, plus interest on the aggregate amount at the rate of 6% per annum from the finality of this decision.[23]

The accused-appellant's motion for reconsideration was denied by the Court of Appeals in a Resolution[24] dated December 12, 2017.

Thus, accused-appellant filed this petition for review on *certiorari*, raising these issues:

1. Whether or not the circumstantial evidence presented by the prosecution were sufficient enough to warrant the conviction of herein accused-appellant for the crime of rape;

2. Whether or not the prosecution was able to establish all the elements for the rape;

3. Whether or not the prosecution was able to discharge "proof beyond reasonable doubt" on the basis of such evidences; and

4. Whether or not the court *a quo* is correct in convicting the accused-appellant for a crime he obviously did not commit based on such flimsy evidence.[25]

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23 *Id.* at 85.
24 CA *rollo*, pp. 221-224.
25 *Rollo*, p. 113.

At the outset, the Court clarifies that under Section 13(c),[26] Rule 124 of the Rules of Court, as amended by A.M. No. 00-5-03-SC,[27] in cases where the Court of Appeals imposes the penalty of *reclusion perpetua*, life imprisonment or a lesser penalty, it shall render and enter judgment imposing such penalty. The judgment may be appealed to the Supreme Court by notice of appeal filed with the Court of Appeals. Upon advice, the parties may file their respective supplemental briefs before this Court. The title of the case shall remain as it was in the court of origin and the party appealing the case shall be called the "appellant" and the adverse party the "appellee," as in the Court of Appeals.[28] In this case, the penalty imposed by the Court of Appeals for the crime charged is *reclusion perpetua*; thus, the proper mode of appeal to this Court is by notice of appeal filed with the Court of Appeals. In the interest of justice, the Court treats this petition for review on *certiorari* filed under Rule 45 of the Rules of Court (where only questions of law may be raised) as an appeal under Section 13 of Rule 124 (where the whole case is thrown open for review). The Court adopts the appropriate terms for the parties in this case as well as retains the title of the case as it was in the court of origin.

Before this Court, appellant contends that the RTC and the Court of Appeals erred in convicting him of the crime of statutory rape notwithstanding the valid recantation by complainant of statements she made earlier. He argues that the prosecution failed to discharge the burden of proving his guilt beyond reasonable doubt since it merely relied on the unsubstantiated testimony of complainant, which she retracted in a subsequent testimony.

The main issues are:

1) Whether or not the Court of Appeals correctly upheld the decision of the RTC that accused-appellant is guilty beyond reasonable doubt of the crime of statutory rape; and

2) Whether or not the recantation of complainant should be accepted.

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[26] Rule 124, Sec. 13. *Certification or appeal of case to the Supreme Court.* — (a) Whenever the Court of Appeals finds that the penalty of death should be imposed, the court shall render judgment but refrain from making an entry of judgment and forthwith certify the case and elevate its entire record to the Supreme Court for review.

(b) Where the judgment also imposes a lesser penalty for offenses committed on the same occasion or which arose out of the same occurrence that gave rise to the more severe offense for which the penalty of death is imposed, and the accused appeals, the appeal shall be included in the case certified for review to the Supreme Court.

(c) In cases where the Court of Appeals imposes *reclusion perpetua*, life imprisonment or a lesser penalty, it shall render and enter judgment imposing such penalty. The judgment may be appealed to the Supreme Court by notice of appeal filed with the Court of Appeals.

[27] Re: Amendments to The Revised Rules of Criminal Procedure to Govern Death Penalty Cases, which took effect on October 15, 2004.

[28] See Rule 124 (Procedure in the Court of Appeals), Section 13 (last paragraph) and Section 1; Rule 125 (Procedure in the Supreme Court).

The appeal is unmeritorious. The Court affirms the decision of the Court of Appeals convicting appellant of the crime of statutory rape.

Rape is defined under Article 266-A of the Revised Penal Code (*RPC*), thus:

> Article 266-A. *Rape; When And How Committed. — Rape is Committed.* —
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> 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.
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> 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.

In this case, appellant committed the crime of statutory rape under paragraph 1(d) of Article 266-A of the RPC because complainant was six (6) years old at the time of the rape. The gravamen of the offense of statutory rape is the carnal knowledge of a woman below 12 years old. The law presumes that the victim does not and cannot have a will of her own on account of her tender years.[29] Moreover, the rape is qualified under Article 266-B[30] of the RPC by the circumstance that the complainant is under eighteen (18) years of age and the accused-appellant is a relative by consanguinity within the third civil degree of complainant as he is her uncle, being the brother of her mother; hence, the statutory rape is punishable with the death penalty. However, the imposition of the death penalty is prohibited by Republic Act No. 9346[31] and in its stead, the penalty of *reclusion perpetua* is to be imposed.

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29 *People v. Dollano, Jr.*, 675 Phil. 827, 843 (2011).

30 Article 266-B. *Penalties.* — 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

31 Anti-Death Penalty Law.

For a conviction of statutory rape under Article 266-A, paragraph 1(d) with the aforementioned qualifying circumstance under Article 266-B of the RPC, the prosecution must allege and prove the following elements: (1) accused-appellant had carnal knowledge of a woman; (2) the offended party is under twelve (12) years of age, a minor at the time of the rape; and (3) the offender is the uncle of the victim.

The Court holds that all the aforementioned elements of qualified rape were established by the prosecution. Anent the first element, the testimony of complainant[32] showed that appellant had carnal knowledge of complainant in April 2000, *viz.*:

FISCAL
In the year 2000, April, Ms. Witness, do you remember of any unusual incident that happened to you with [XXX]?

WITNESS
Yes, ma'am.

FISCAL
What was that incident?

WITNESS
During that time when my parents were not at home and me and [XXX] were alone, he dragged me inside the room and pushed me towards the bed.

FISCAL
After he pushed you towards the bed, what happened next?

WITNESS
He asked me if I know what my parents are doing because we will do the same.

FISCAL
And what was your answer, Ms. Witness?

WITNESS
I cried, ma'am.

FISCAL
x x x After he pushed you and asked you what your Mom and Dad were doing, what happened next?

WITNESS
He removed my shorts and panty, ma'am.

FISCAL
Did you shout for help?

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32 Private complainant was 16 years old when she testified in court.

WITNESS
I cried and he threatened me and he inserted his "*ari sa akin.*"

FISCAL
When you said "*ari*," Madame Witness, what do you mean?

WITNESS
"*Titi niya*" (His penis), ma'am.

FISCAL
x x x Where did he insert his penis?

WITNESS
In my vagina, ma'am.

FISCAL
After he inserted his penis into your vagina, what happened next, Madame Witness?

WITNESS
After that, he dressed me up and he pointed a sharp instrument to me.

FISCAL
What is that sharp instrument, Madam Witness?

WITNESS
An icepick, ma'am.[33]

The RTC gave credence to the testimony of complainant, which was affirmed by the Court of Appeals, and the Court sustains their findings. Settled is the rule that the trial court's conclusions on the credibility of witnesses in rape cases are generally accorded great weight and respect, and at times even finality, unless there appears certain facts or circumstances of weight and value which the lower court overlooked or misappreciated and which, if properly considered, would alter the result of the case.[34] In this case, the Court does not find any cogent reason to overturn the conviction of the accused-appellant.

In regard to the element of minority, the prosecution presented the birth certificate[35] of complainant, which showed that she was born on May 19, 1993 and her parents are BBB and CCC. Therefore, at the time of the rape in April 2000, complainant was only six (6) years old, thus satisfying the age requirement of the victim in statutory rape (below 12 years old) as well as in qualified rape (below 18 years old). The birth certificates[36] of appellant and complainant's mother BBB showed that they are siblings because they have the same parents. Hence, the prosecution established that appellant is an uncle

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33 TSN, November 24, 2009, pp. 6-8.
34 *People v. Villamor*, 780 Phil. 817, 829 (2016).
35 Exhibit "A," records, p. 156.
36 Exhibits "H" and "I," *id.* at 171-172.

of complainant. In fine, all the elements of the offense charged were established by the prosecution.

Arguing for his acquittal, appellant emphasizes that complainant recanted her testimony which, when considered together with the alleged inconsistent and inconclusive testimonies of the prosecution witnesses, should result in his acquittal because the evidence presented did not fulfill the test of moral certainty required for conviction.

First, appellant contends that complainant's testimony of rape is not credible as it is against human nature and common human experience for a person to commit rape in broad daylight and in a small house of five (5) by ten (10) meters where 11 persons reside.

The contention is without merit. The argument that rape cannot be committed in a house where other members of the family reside or may be found is a contention that has long been rejected by the Court.[37] It is almost a matter of judicial notice that crimes against chastity have been committed in many different places which may be considered as unlikely or inappropriate and that the scene of the rape is not always or necessarily isolated or secluded for lust is no respecter of time or place.[38] Thus, rape can, and has been, committed in places where people congregate, *e.g.*, inside a house where there are occupants, a five (5) meter room with five (5) people inside, or even in the same room which the victim is sharing with the sister of the accused.[39] Thus, it is not improbable for appellant to have raped complainant in their house where 11 family members reside. To stress, complainant testified that she was raped during daytime when no one was home except for herself and appellant.

Second, appellant pointed out the inconsistencies in the statements of complainant and her father, CCC. Complainant stated in her affidavit-complaint[40] that appellant stopped sexually abusing her when her father ceased working in 2003 when he underwent surgery. However, during re-direct examination in court, complainant made the correction that her father's operation actually occurred in 1999; that it was in 2003 that their family left for Aklan and the rape stopped.[41] She said that it was her father who provided the date of his operation in her affidavit-complaint.[42] Her father also corroborated the fact that his operation for hernia took place in January 1999 and he was mistaken in telling complainant that he was operated in 2003.[43] He testified that he went to the province in 2003 and his kids followed him

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37 *People v. Poñado*, 370 Phil. 558, 572 (1999).
38 *People v. Sandico*, 366 Phil. 663, 675 (1999).
39 *Id.*
40 Exhibit "B," records, p. 126.
41 TSN, June 22, 2010, pp. 3, 4, 13.
42 *Id.* at 4.
43 TSN, August 24, 2010, pp. 5, 14.

there, and they returned to Manila in December 2003.[44] Moreover, complainant's mother BBB, who testified for the defense, stated that she and her children went to Aklan in 2003 and stayed there from May to December 2003.[45] Thus, it is apparent that complainant made an innocuous mistake when she stated in her affidavit-complaint that her father's operation occurred in 2003, which she subsequently corrected during her testimony in court.

The general rule is that contradictions and discrepancies between the testimony of a witness in contrast with what was stated in an affidavit do not necessarily discredit her.[46] Affidavits given to police and barangay officers are *ex parte*.[47] *Ex parte* affidavits are almost always incomplete and often inaccurate for varied reasons.[48] In any case, open court declarations take precedence over written affidavits in the hierarchy of evidence.[49] Testimonies given during trials are much more precise and elaborate than those stated in sworn statements.[50] In this case, complainant satisfactorily explained in court the correction of the statement she made in her affidavit-complaint.

In addition, appellant argues that since complainant's father underwent surgery in January 1999, there would be no opportunity for appellant to rape complainant in April 2000, considering that her father was unemployed and had to stay home to recover.

The argument is tenuous. Complainant's father testified that he underwent surgery for hernia in January 1999 and he started to work one month following his operation.[51] The rape happened in April 2000, or one (1) year and three (3) months after his operation, which is sufficient time for him to recover from his operation and be able to work or go out of the house. Moreover, complainant testified that the rape happened in the morning when her parents and siblings were not home, and she was left alone with appellant.[52] Since it was appellant's defense that complainant's father was at home and not working during the time of the rape, it was incumbent upon the defense to prove it. However, the defense failed to do so.

Third, appellant asserts that although the medico-legal officer who examined complainant found a deep healed laceration at the 4 o'clock position in her hymen that was caused by a blunt hard object, the said officer was unable to confirm whether such laceration was caused by the insertion of appellant's penis into complainant's vagina in April 2000. Appellant asserts

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44 *Id.* at 18.
45 TSN, March 13, 2012, pp. 17, 18, 20.
46 *People v. Masapol*, 463 Phil. 25, 33 (2003).
47 *Id.*
48 *People v. Erardo*, 343 Phil. 438, 450 (1993).
49 *People v. Balleno*, 455 Phil. 979, 986 (2003).
50 *People v. Erardo*, *supra* note 48.
51 TSN, August 24, 2010, pp. 5, 7.
52 TSN, November 24, 2009, pp. 6-13; TSN, June 22, 2010, p. 13.

that the hymenal laceration could have been caused by the finger insertion by complainant's lesbian lover prior to the medical examination.

It must be stressed that the foremost consideration in the prosecution of rape is the victim's testimony and not the findings of the medico-legal officer.[53] A medical examination of the victim is not indispensable in a prosecution for rape; the victim's testimony alone, if credible, is sufficient to convict.[54] In this case, the conviction of appellant is based primarily on the credibility of the testimony of complainant who testified in a clear, positive and straightforward manner that appellant raped her. The medico-legal finding of healed hymenal laceration and the expert testimony are merely corroborative in character and not essential to conviction.[55]

Fourth, appellant contends that complainant's long and unexplained silence for nine years rendered her original testimony implausible. Complainant's parents, grandparents and other relatives, who were all living with complainant, did not perceive any unusual behavior or physical signs of child abuse or trauma after the alleged rape.

The contention is without merit. The Court has repeatedly held that delay in reporting an incident of rape is not necessarily an indication that the charge is fabricated.[56] It is not uncommon for young girls to conceal for some time the assaults on their virtue because of the rapist's threats on their lives.[57] It is common that a rape victim prefers to suffer in silence because of fear of her aggressor and the lack of courage to face the public stigma stemming from the abuse.[58] Appellant threatened complainant with an icepick after the rape, warning her not to tell anyone. Complainant said that she did not tell anyone about the rape because she was scared of appellant.[59] She did not report the rape even when appellant was no longer living with them because she lost hope and lacked courage to do so.[60] She finally revealed to her mother in October 2008 that appellant had raped her because her mother, who was then working in Australia, was insisting that she live in the house of her maternal grandparents in [redacted], Rizal where appellant was residing. Complainant refused to live in the same house with appellant because he had raped her. Complainant and her father filed the case for rape in 2009 after she revealed to her father that she was raped by appellant.

Regarding the recantation of complainant, the Court sustains the finding of the Court of Appeals that it does not persuade to overturn appellant's conviction.

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53 *People v. ZZZ*, *supra* note 2.
54 *Id.*
55 *Id.*
56 *People v. Alfaro*, 458 Phil. 942, 961 (2003).
57 *People v. Ramos*, 315 Phil. 435, 442 (1995).
58 *People v. Lantano*, 566 Phil. 628, 639 (2008).
59 TSN, June 22, 2010, p. 5.
60 *Id.*

In rape cases particularly, the conviction or acquittal of the accused most often depends almost entirely on the credibility of the complainant's testimony.[61] By the very nature of this crime, it is generally unwitnessed and usually the victim is left to testify for herself.[62] When a rape victim's testimony is clear, consistent and credible to establish the crime beyond reasonable doubt, a conviction may be based on it, notwithstanding its subsequent retraction.[63] Mere retraction by a prosecution witness does not necessarily vitiate her original testimony.[64] Recantation is frowned upon by the courts. *People v. Teodoro*[65] held, thus:

> As a rule, recantation is viewed with disfavor firstly because the recantation of her testimony by a vital witness of the State like AAA is exceedingly unreliable, and secondly because there is always the possibility that such recantation may later be repudiated. Indeed, to disregard testimony solemnly given in court simply because the witness recants it ignores the possibility that intimidation or monetary considerations may have caused the recantation. Court proceedings, in which testimony upon oath or affirmation is required to be truthful under all circumstances, are trivialized by the recantation. The trial in which the recanted testimony was given is made a mockery, and the investigation is placed at the mercy of an unscrupulous witness. Before allowing the recantation, therefore, the court must not be too willing to accept it, but must test its value in a public trial with sufficient opportunity given to the party adversely affected to cross-examine the recanting witness both upon the substance of the recantation and the motivations for it. The recantation, like any other testimony, is subject to the test of credibility based on the relevant circumstances, including the demeanor of the recanting witness on the stand. In that respect, the finding of the trial court on the credibility of witnesses is entitled to great weight on appeal unless cogent reasons necessitate its re-examination, the reason being that the trial court is in a better position to hear first-hand and observe the deportment, conduct and attitude of the witnesses.

In this case, the trial court did not believe the recantation of complainant as it held:

> Lastly, the recantation of AAA is unworthy of credence.
>
> x x x Courts look with disfavor upon retractions because they can easily be obtained from witnesses through intimidation or for monetary consideration. It is also a dangerous rule for courts to reject testimony solemnly taken before courts of justice simply because the witness who gave it later changed his mind for one reason or another. x x x. A retraction does not necessarily negate an earlier declaration. (citation omitted)
>
> AAA claimed that she lied when she first testified and everything that she stated at that time were dictated to her by Ate Beth. However, **the court**

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61 *People v. Espenilla*, 718 Phil. 153, 166 (2013).
62 *Id.*
63 *Id.*
64 *Id.*
65 704 Phil. 335, 356-357 (2013). (Citations omitted)

> **notes that the initial testimony of AAA is positive, credible and convincing. There was no indication whatsoever, from her tone of voice, facial expression or action that she was lying. Further, it must be noted that when AAA made the recantation, she was already in the custody of her mother BBB who sided with the accused. Thus, it is not far-fetched that AAA was influenced by BBB to retract her initial testimony.** Finally, the defense failed to show why Ate Beth would make AAA lie on such a serious matter.[66]

The Court of Appeals also disregarded the recantation of complainant as it found, thus:

> Here, We note that private complainant's recollection of the rape incidents were unrelentingly categorical and firm that accused-appellant committed the rape by removing her undergarments, pinning her down on the bed, and inserting his penis inside her vagina. Not even her recantation can depreciate the direct and tangible evidence establishing the guilt of accused-appellant. Her belated claim that it was only Ate Beth who coached her to impute such crime to accused-appellant is nonsensical under the circumstances, considering that nothing was shown of any underlying motive on the part of Ate Beth to do the same. Private complainant even admitted that she also confided to her paternal aunt, DDD, and her cousin FFF about her predicament, on her own volition, and without the instruction of Ate Beth; thus, this belies her claim that Ate Beth was the instigant of this entire controversy. It is also noteworthy that at the time private complainant recanted on 04 November 2014, she was already of age and in the custody of her mother, BBB, who was already back from Australia. Private complainant undoubtedly depended on her mother for sustenance and support, especially so since her father had no stable job. It is not unnatural or illogical to postulate that her mother prevailed over private complainant to retract her accusation against her mother's brother, herein accused-appellant. Such recantation, therefore is deemed insincere and unacceptable.[67]

The Court has reviewed the records of this case and agrees with the findings of the RTC and the Court of Appeals that the recantation of complainant does not negate the veracity of her earlier testimony for the prosecution that appellant raped her. As stated by the trial court, complainant's testimony for the prosecution was direct, candid, credible, and convincing, unlike her recantation. Complainant would not have gone through the ordeal of having her private parts examined, undergoing trial against her uncle, appellant herein, that would affect her relations with her maternal relatives, and exposed herself to the stigma of such revelation unless she desired justice for herself. Complainant's allegation that it was her neighbor, Ate Beth, who taught her the words she uttered before the trial court and who instigated her to impute the crime of rape against her uncle fails to convince the Court. The defense did not establish that Ate Beth had a motive to do so. Complainant would not impute such a serious crime against her own uncle, who claims to be a second father to her, on the mere instigation of a neighbor if it were not true. As noted by the RTC and the Court of Appeals,

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66 Records, pp. 399-340. (Citations omitted; emphases ours)

67 *Rollo*, p. 165.

at the time of her recantation, complainant was already in the custody of her mother who sided with appellant and possibly influenced complainant to recant her initial testimony.

Appellant's defense of denial cannot overcome the categorical testimony of complainant for the prosecution that appellant raped her.[68] Denial is an intrinsically weak defense which must be buttressed with strong evidence of non-culpability to merit credibility.[69]

Based on the foregoing, the Court upholds the Decision of the Court of Appeals that accused-appellant is guilty beyond reasonable doubt of the crime of statutory rape.

In regard to the penalty imposed, the Court of Appeals correctly held, thus:

> On the imposable penalty, Article 266-B (1) of the Revised Penal Code imposes the death penalty if the rape is qualified by the circumstances of the victim's minority and accused-appellant's relationship, as in this case, private complainant was only seven (7) years old at the time of commission of the crime and accused-appellant was her uncle. However, Republic Act No. 9346 has prohibited the imposition of the death penalty, so that the proper penalty that can be imposed upon accused-appellant in lieu of the death penalty is *reclusion perpetua*, without eligibility for parole. Hence, the trial court correctly imposed said penalty.
>
> However, We modify the awards of damages to conform to prevailing jurisprudence. In Qualified Rape where the penalty imposed is death but reduced to *reclusion perpetua* because of RA 9346, civil indemnity, moral damages and exemplary damages should each be imposed in the amount of P100,000.00. In addition, all damages awarded shall earn interest at the rate of six percent (6%) per annum to be computed from the date of finality of this Judgment until fully paid.[70]

WHEREFORE, the appeal is **DENIED**. The Decision of the Court of Appeals dated July 17, 2017 in CA-G.R. CR-HC No. 08135, finding accused-appellant XXX guilty beyond reasonable doubt of the crime of statutory rape is hereby **AFFIRMED**. Accused-appellant is sentenced to suffer the penalty of *reclusion perpetua*, without eligibility for parole, and **ORDERED** to **PAY** private complainant AAA ₱100,000.00 as civil indemnity; ₱100,000.00 as moral damages; and ₱100,000.00 as exemplary damages. All damages awarded shall be subject to an interest of six percent (6%) *per annum* to be computed from the finality of this Decision until fully paid.

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68 *People v. Bentayo*, 810 Phil. 263, 274 (2017).

69 *Id.*

70 *Rollo*, pp. 84-85. (Citations omitted)

SO ORDERED.

DIOSDADO M. PERALTA
Chief Justice

WE CONCUR:

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

AMY C. LAZARO-JAVIER
Associate Justice

MARIO V. LOPEZ
Associate Justice

SAMUEL H. GAERLAN
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