



Republic of the Philippines
Supreme Court
 Manila

FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
 Plaintiff-Appellee,

G.R. No. 248113

Present:

GESMUNDO, C.J., Chairperson,
 CAGUIOA,
 INTING,*
 LOPEZ, M., and
 LOPEZ, J., JJ.

- versus -

CHRISTOPHER SANAY y
APAREJANO a.k.a. "KUYA
CHRIS,"

Promulgated:

DEC 07 2021

Accused-Appellant.

X-----X

DECISION

CAGUIOA, J.:

This is an appeal¹ from the Decision² dated January 21, 2019 of the Court of Appeals (CA), Second Division in CA-G.R. CR-HC No. 10066, which affirmed with modification the Decision³ dated May 5, 2017 of the Regional Trial Court (RTC) of Antipolo City, Branch 72, finding accused-appellant Christopher Sanay y Aparejano a.k.a. "Kuya Chris" (accused-appellant) guilty beyond reasonable doubt of two (2) counts of Rape, defined and penalized under Article 266-A(1), in relation to Article 266-B of the Revised Penal Code (RPC).

The Facts

Accused-appellant was charged with two (2) counts of Qualified Rape under Article 266-A(1)(a), in relation to Article 266-B of the RPC in Criminal

* Designated additional Member in lieu of Associate Justice Amy C. Lazaro-Javier per Raffle dated August 13, 2019.

¹ *Rollo*, pp. 17-20.

² *Id.* at 3-16. Penned by Associate Justice Marie Christine Azcarraga-Jacob, with the concurrence of Associate Justices Remedios A. Salazar-Fernando and Amy C. Lazaro-Javier (now a Member of the Court).

³ *CA rollo*, pp. 43-52. Penned by Presiding Judge Ruth C. Santos.

Cases Nos. 12-44800 and 12-44801, under two (2) separate Informations⁴ the accusatory portions of which read:

[Criminal Case No. 12-44800]

That in or about the first week of February 2012, in the City of Antipolo, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design, and by means of force, threat and intimidation, did, then and there, willfully, unlawfully and feloniously, have sexual intercourse with his live-in partner's daughter [AAA⁵], an eight (8) year old child, against the latter's will and consent.

CONTRARY TO LAW.⁶

[Criminal Case No. 12-44801]

That in or about the second week of March 2012, in the City of Antipolo, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design, and by means of force, threat and intimidation, did, then and there, willfully, unlawfully and feloniously, have sexual intercourse with his live-in partner's daughter [AAA], an eight (8) year old child, against the latter's will and consent.

CONTRARY TO LAW.⁷

Upon arraignment, accused-appellant pleaded not guilty to the charges against him. The criminal cases were then jointly tried.⁸

During trial, the prosecution presented private complainant AAA,⁹ her mother BBB,¹⁰ and Police Chief Inspector (PCI) Maria Anna Lissa¹¹ Dela Cruz (PCI Dela Cruz), the Medico-Legal Officer of the Rizal Provincial Crime Laboratory Office.¹² Accused-appellant was presented as the lone witness for the defense.¹³

⁴ Records, Vol. I, pp. 1-2; id., Vol. I-A, pp. 1-2.

⁵ The identity of the victim or any information which could establish or compromise her identity, as well as those of her immediate family or household members, shall be withheld pursuant to Republic Act No. (RA) 7610, entitled "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, entitled "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, entitled "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.)

⁶ Records, Vol. I, p. 1.

⁷ Id., Vol. I-A, p. 1.

⁸ *Rollo*, p. 5.

⁹ TSN, April 1, 2014; TSN, September 9, 2014.

¹⁰ TSN, November 4, 2014; TSN, February 10, 2015.

¹¹ Also appears as "Annalissa" in some parts of the records.

¹² TSN, August 10, 2015.

¹³ TSN, February 2, 2016; TSN, September 5, 2016; TSN, February 13, 2017.

Version of the Prosecution

The version of the prosecution, as summarized by the RTC and affirmed by the CA, is as follows:

It is gathered that the accused was the live-in partner of AAA's mother. In February 2012, at night time, AAA was already fast asleep together with her other siblings in their house. AAA's mother was attending to her stall in the market selling "tinapa". AAA was awakened when his *[sic]* older brother woke up to urinate. However, AAA was surprised when the accused was already lying beside her, drunk. AAA tried to rise from bed but the accused suddenly woke up. AAA's older brother was already lying on the floor and seemed to be sleeping. Thereafter, the accused unzipped his zipper. The next thing she remembered was that the accused inserted his penis in and out of her vagina and felt pain. AAA was crying but she did not ask the accused to stop and kept quiet. The accused even told him *[sic]* to keep quiet. Consequently, the accused stopped and they went to sleep. The accused slept on the "papag" while she slept beside her siblings.

In the night of March 2012, AAA was in the house of her aunt right in front of their house, which was being constructed in x x x. She was already sleeping with her five (5) siblings. Her mother was out to get fish to sell. They were sleeping at her grandmother's room. The accused was also sleeping thereat. While they were sleeping, the accused shook her to wake her up and turned off the light. The accused undressed her and inserted his penis in and out of her vagina. She again felt pain. Thereafter, the accused stopped and went out of the room. AAA went back to sleep. She did not report the incident to her mother. However, her mother learned the same from her younger sister. It was his *[sic]* older brother who discovered the incident. At that time, her brother went out to urinate and when he returned, he pretended to be sleeping. He later told it to her younger sister and it was the latter who told the same to their mother.

Her mother, BBB, asked AAA what really happened to her when her sister-in-law told her that she noticed that AAA was always staring blankly and on the verge of crying. At first, AAA did not want to tell her until she convinced her to tell the truth. Hence, AAA told her about what the accused did to her. Thereafter, she accompanied her daughter to the police station in order to file a complaint. They were also accompanied to Camp Crame for physical examination. She admitted however that she learned everything that she testified before the [c]ourt from her sister-in-law who discovered that something happened to AAA.

The medico-legal examination results showed that there was presence of congestion or redness in the hymenal region of the vagina of the victim. There was non-specific findings at the time of the examination but sexual abuse cannot be totally excluded. However, there was no laceration in the vagina of the victim. But the medico-legal officer opined that a mere rubbing or touching of the penis of the accused in the genitalia of AAA can cause the congestion or redness in the hymenal region. She also clarified that there is a possibility that there was no penile penetration but the rubbing of a penis occurred inside the vagina of the victim.¹⁴

¹⁴ Rollo, pp. 5-6.

During direct examination, BBB testified that AAA was born on November 4. However, she was unable to recall the year as she has several other children. She was also unable to secure a copy of AAA's birth certificate due to financial constraints.¹⁵

PCI Dela Cruz conducted the medical and genital examination of AAA. Among her pertinent findings was the presence of congestion, or redness, in the hymenal region, which was possibly caused by traumatic injury from a blunt object and injection.¹⁶ She then concluded that "[a]nogenital evaluation shows non-specific findings at the time of the examination, sexual abuse cannot be totally excluded."¹⁷

Version of the Defense

On the other hand, accused-appellant's defense is anchored on denial. His testimony is summarized as follows:

x x x [Accused-a]ppellant alleged that he was in Marikina City working as a construction worker from February 2012 up until the last week of August of that year and that he had been staying at the house of his live-in partner BBB's brother since January 2012. [Accused-a]ppellant also averred that AAA had been living with a relative somewhere in Antipolo City at the time of the alleged incidents, and that he never ever visited her abode during those times.¹⁸

RTC Ruling

On May 5, 2017, the RTC of Antipolo City, Branch 72 rendered a Decision¹⁹ convicting accused-appellant of two (2) counts of Simple Rape:

WHEREFORE, in view of the foregoing, the accused **CHRISTOPHER SANAY y APAREJANO** is hereby found **GUILTY** beyond reasonable doubt of two counts of Simple Rape under Article 266 of the Revised Penal Code in **Criminal Case[s] Nos. 12-44800 and 12-44801** and to penalty (*sic*) of *reclusion perpetua* for each count of rape. The accused is hereby ordered to pay ₱50,000.00 as civil indemnity, ₱50,000.00 as moral damages and ₱30,000.00 as exemplary damages.

SO ORDERED.²⁰ (Emphasis in the original)

The RTC found that the prosecution sufficiently established all the elements of rape. Accused-appellant's bare denial cannot outweigh the positive testimony of AAA in open court. He also failed to establish his alibi,

¹⁵ TSN, November 4, 2014, pp. 4-5.

¹⁶ TSN, August 10, 2015, pp. 6-7.

¹⁷ Records, Vol. I-A, p. 46. Italics omitted.

¹⁸ *Rollo*, pp. 6-7.

¹⁹ *CA rollo*, pp. 43-52.

²⁰ *Id.* at 52.

particularly the fact that it was physically impossible for him to be at the *locus criminis* at the time of the commission of the crime.²¹

The RTC further held that the inconclusive finding of the medico-legal report is insignificant. Expert testimony is merely corroborative in convictions for rape cases, which may be solely based on the victim's credible testimony. The trial court also noted that the medico-legal officer's testimony considered the possibility that the victim was indeed sexually abused because of the redness or congestion in AAA's hymenal region.²²

As regards the charge of Qualified Rape, both the minority and relationship of AAA to accused-appellant must be alleged and established by the prosecution. However, while AAA was allegedly eight (8) years old when she was raped, the trial court found that there was no evidence of her minority other than her mother's testimony. On this basis, the RTC ruled that the qualifying circumstances of minority and relationship are unavailing. Accused-appellant was convicted with two (2) counts of Simple Rape and ordered to pay civil indemnity and moral damages in the amount of ₱50,000.00 each, as well as exemplary damages of ₱30,000.00.²³

CA Ruling

On appeal, the CA affirmed accused-appellant's conviction with modification as to the damages awarded. The dispositive portion of the CA Decision²⁴ dated January 21, 2019, reads as follows:

WHEREFORE, premises considered, the instant appeal is **DENIED**.

Accordingly, the assailed *Decision dated 05 May 2017* of the Regional Trial Court, Branch 72, Antipolo City, in Criminal Cases Nos. 12-44800 and 12-44801, convicting accused-appellant Christopher Sanay y Aparejano of two (2) counts of rape is [**AFFIRMED**] with the **MODIFICATION** that the awards of civil indemnity, moral damages and exemplary damages for each count is increased to P75,000.00 for each award.

Pursuant to the pronouncement in *Nacar v. Gallery Frames and Felipe Bordey, Jr.*[], accused-appellant is further **ORDERED** to pay legal interest on all awarded damages at 6% per *annum* from the filing of the Information on 24 August 2012 until the finality of this Decision, and another 6% per *annum* from such finality until full payment.

SO ORDERED.²⁵ (Emphasis and italics in the original)

²¹ Id. at 50-51.

²² Id. at 49-50.

²³ Id. at 51-52.

²⁴ *Rollo*, pp. 3-16.

²⁵ Id. at 14-15.

The CA agreed with the RTC's ruling that the testimony of AAA deserves due credence and weight. While AAA was raped at night sometime in March 2012, she was able to identify accused-appellant as the perpetrator when she saw him turn off the lights prior to sexually abusing her. Furthermore, AAA was familiar with accused-appellant, having personally known him as the common-law spouse of her mother, BBB.²⁶

As to accused-appellant's claim that there were no genital injuries reported in the medico-legal examination, the CA held that the absence of lacerations in the vaginal area does not negate rape. Full penetration of the vaginal orifice or the rupture of the hymen is unnecessary to consummate rape. Likewise, the medical examination of the victim, as well as the presentation of the medical report is not indispensable to the prosecution of the crime of rape, especially when there is sufficient evidence to prove the commission of the crime. In this case, the CA held that the testimony of AAA, being categorical, direct, and straightforward, is sufficient to convict accused-appellant.²⁷

Lastly, the CA affirmed the RTC's finding that the prosecution was unable to present evidence of AAA's minority at the time of the rape. To appreciate this qualifying circumstance, both the victim's minority and relationship should be alleged and proved beyond reasonable doubt. There being no concrete evidence of AAA's age, the CA upheld the trial court's decision to convict accused-appellant with two (2) counts of Simple Rape. The CA modified the award of damages by increasing the amount of civil indemnity and moral damages from ₱50,000.00 each to ₱75,000.00. The award of exemplary damages was also increased from ₱30,000.00 to ₱75,000.00.²⁸

Hence, this appeal to the Court.

The Court's Ruling

After a careful review of the records of the case and the issues submitted by the parties, the Court affirms the conviction of accused-appellant with modification.

In deciding cases involving rape, the Court recognizes that an accused may be convicted on the basis of the victim's sole and uncorroborated testimony, provided that it is logical, credible, consistent, and convincing.²⁹ This proceeds from the Court's appreciation of the intrinsic nature of the crime itself, which usually involves only two persons — the victim and the accused. On this premise, the victim's testimony is always subjected to careful scrutiny.

²⁶ Id. at 8-10.

²⁷ Id. at 11-13.

²⁸ Id. at 13-14.

²⁹ *People v. XXX*, G.R. No. 225059, July 23, 2018, 873 SCRA 127, 138.



The prosecution must successfully establish the credibility of the victim, and its evidence must stand on its own merits, without drawing strength from the weakness of the evidence for the defense.³⁰

As well, the Court will not reverse the findings of the trial court in the absence of facts or circumstances that were overlooked, misunderstood, or misapplied, which would substantially affect the result of the case. This includes the trial court's findings on the credibility of witnesses, it being in the best position to observe the deportment of the witnesses during their testimonies.³¹

In this case, the RTC, as affirmed by the CA, found that accused-appellant was guilty beyond reasonable doubt for Simple Rape punishable under Article 266-A(1)(a) of the RPC. However, to exculpate himself from liability, accused-appellant points out that the medico-legal findings contradict AAA's accusations. The evidence purportedly shows that there was no penetration of AAA's hymen. Furthermore, when the medico-legal officer authenticated the report before the RTC, she testified that the redness in the victim's hymenal region is merely caused by rubbing. On this basis, accused-appellant argues that his conviction must be reversed.³²

The Court does not agree.

While PCI Dela Cruz, the medico-legal officer who examined AAA, testified that penile insertion in an eight (8)-year-old "could cause laceration" and there was none in this case,³³ she nonetheless concluded in her report that:

CONCLUSION: Anogenital evaluation shows non-specific findings at the time of the examination, **sexual abuse cannot be totally excluded.**³⁴
(Additional emphasis supplied; italics omitted)

PCI Dela Cruz also clarified during her cross-examination as follows:

[*Cross-Examination of PCI Dela Cruz:*]

[Atty. Neil Brian Galit:] Ms. Witness, you mentioned that based on your examination there was no laceration, is that correct?

[PCI Dela Cruz:] Yes, sir.

Q How was that there is no laceration?

A **Sir, there's possible (*sic*) that there was no penal (*sic*) penetration.**

³⁰ See *People v. Dolandolan*, G.R. No. 232157, January 8, 2020, 928 SCRA 329, 340.

³¹ See *People v. Dereco*, G.R. No. 243625, December 2, 2020, p. 5.

³² *CA rollo*, pp. 36-39.

³³ TSN, August 10, 2015, p. 8.

³⁴ Records, Vol. I-A, p. 46.

- Q And you mentioned also earlier that there was a rubbing of a penis in the vagina of the victim? How was that rubbing made, outside of the organ of the victim?
- A Inside the genitalia, sir.³⁵ (Emphasis and underscoring supplied)

Clearly, the results of PCI Dela Cruz's examination of AAA do not conclusively foreclose the possibility that AAA was indeed raped. PCI Dela Cruz even explained her findings, specifically, the absence of hymenal lacerations relative to the redness found in AAA's hymenal region. She testified that although she cannot definitively state that there was penile penetration, she was nonetheless certain that there was a rubbing of the penis "[i]nside the genitalia"³⁶ of the victim.

That the findings of the medico-legal were inconclusive as to the allegation of sexual abuse is insignificant to the conviction of accused-appellant. It is well-settled that a medical report is neither controlling nor indispensable to the prosecution of the crime of rape.³⁷ Neither is a successful prosecution for rape anchored on evidence of penile penetration in the victim's genitalia.³⁸ As the Court held in *People v. Soria*:³⁹

The failure of "AAA" to mention that her panty was removed prior to the rape does not preclude sexual assault. We cannot likewise give credence to the assertion of appellant that the crime of rape was negated by the medical findings of an intact hymen or absence of lacerations in the vagina of "AAA". **Hymenal rupture, vaginal laceration or genital injury is not indispensable because the same is not an element of the crime of rape. "An intact hymen does not negate a finding that the victim was raped."** Here, the finding of reddish discoloration of the hymen of "AAA" during her medical examination and the intense pain she felt in her vagina during and after the sexual assault sufficiently corroborated her testimony that she was raped.⁴⁰ (Emphasis supplied)

Accordingly, the more important consideration is AAA's testimony. As mentioned, the conviction of an accused may be based on the sole testimony of the victim, provided that the testimony is clear, convincing, and otherwise consistent with human nature.⁴¹

Here, AAA categorically stated that, on two (2) separate occasions, it was accused-appellant who had carnal knowledge of her, through force and intimidation. She testified that in the night of February 2012, she woke up to find accused-appellant beside her. Accused-appellant then undressed AAA and inserted his penis in her vagina repeatedly. AAA cried but accused-appellant told her to keep quiet. After accused-appellant had carnal knowledge

³⁵ TSN, August 10, 2015, p. 9.

³⁶ Id.

³⁷ *People v. Ferrer*, G.R. No. 142662, August 14, 2001, 362 SCRA 778, 788.

³⁸ See *People v. Mendoza*, G.R. No. 239892, June 10, 2020, pp. 7-8.

³⁹ G.R. No. 179031, November 14, 2012, 685 SCRA 483.

⁴⁰ Id. at 505. Citations omitted.

⁴¹ *People v. Nievera*, G.R. No. 242830, August 28, 2019, 916 SCRA 338, 349, citing *People v. Alemania*, G.R. Nos. 146521-22, November 13, 2002, 391 SCRA 619, 625.



of AAA, he stood up and slept on the *papag* while AAA went to sleep beside her siblings.⁴²

The following month, or in March 2012, AAA testified that she was again raped while she and her siblings were at the house of her aunt in Antipolo. She was sleeping with her siblings in their grandmother's bedroom when accused-appellant woke her up. He turned off the lights and undressed AAA. Again, accused-appellant had carnal knowledge of AAA by inserting his penis in her vagina. When he was done, accused-appellant left the room and AAA went back to sleep.⁴³

Worth noting is AAA's straightforward and candid testimony, *viz.*:

[*Direct Examination of AAA*]

[Prosecutor Christian I. Bangui:] [AAA], do you remember that during the last hearing in this case, you testified that the accused in this case, Christopher Sanay alias *Kuya* Chris inserted his penis inside your vagina while you were lying down?

[AAA:] Yes, sir.

Q: Okay. And how did you feel when *Kuya* Chris inserted his penis inside your vagina?

A: "*Masakit*," it's painful.

Q: **And what made you sure that it was the penis of *Kuya* that was inserted in your vagina?**

A: **Because he undressed me and thereafter inserted his penis in my vagina.**

Q: And how long did he do this to you?

A: I don't know.

Q: Did he insert it in and out?

A: Yes, sir.

Q: And did you feel the pain?

A: Yes, sir.

x x x x

Q: You mentioned that this incident transpired on February 2012, do you remember saying that?

A: Yes, sir.

Q: Was there any other incident involving you and the accused?

A: Yes, sir.

Q: Was it on the following month?

A: It's March.

Q: March 2012?

⁴² TSN, April 1, 2014, pp. 8-11; TSN, September 9, 2014, pp. 5-8.

⁴³ TSN, September 9, 2014, pp. 9-14.

A: Yes, sir.

Q: And when this incident transpired, where were you? Where did this incident transpired (*sic*)?

A: I think if I'm not mistaken, I was in the house of *Tita* [CCC].

Q: This incident, did it transpired (*sic*) in the daytime or night time?

A: Night time.

Q: Okay. And what were you doing before the incident?

A: I was already asleep.

Q: Were you alone?

A: I was also with my siblings.

x x x x

Q: The accused in this case, [*Kuya*] Chris, was he around then?

A: Yes, sir.

Q: Why was he there?

A: He also sleeps there.

x x x x

Q: What happened while you were sleeping inside the room of your *Lola*?

A: *Kuya* Chris woke me up and turned off the light.

Q: This is the second incident, am I correct?

A: Yes, sir.

Q: How did *Kuya* Chris woke (*sic*) you up?

A: *Inug-og po niya ako*. (He shook me).

Q: Okay. And when you say *Kuya* Chris, you are referring to the accused in this case, Christopher Sanay?

A: Yes, sir.

Q: When you woke up, what happened?

A: He undressed me.

Q: Okay. And after undressing you, what did he do next?

A: He again inserted his penis in my vagina.

Q: And what did you do when he again inserted his penis in your vagina?

A: Nothing.

Q: **How did you feel?**

A: **It's painful.**

Q: Did he again inserted (*sic*) his penis in and out of your vagina?

A: Yes, sir.

Q: **What made you sure that it was the penis of the accused which was inserted in your vagina?**



A: **Because I felt it.**⁴⁴ (Emphasis and italics supplied)

During cross-examination, AAA firmly stood by her statements that accused-appellant was her assailant in both cases:

[*Cross-Examination of AAA*]

[Atty. De Mille V. Cero:] According to you, at these two incidents, *Kuya* Chris inserted his penis to your private part?

[AAA:] Yes, sir.

Q: How sure you (*sic*) that it was the private part of *Kuya* Chris that was inserted to your private part.

A: **I saw his face.**⁴⁵ (Emphasis and italics supplied)

It bears reiterating that the Court grants the highest degree of respect to the findings of the trial court, especially when the conviction of the accused rests on the credibility and veracity of the witnesses' testimonies.⁴⁶ In certain cases, these findings are even held to be conclusive and binding on the Court, provided it is not tainted with arbitrariness or oversight.⁴⁷ There being no factual circumstance that the lower courts overlooked or misunderstood in this case, the Court upholds the findings of the RTC and the CA in giving credence to AAA's testimony. In *People v. Gerola*,⁴⁸ the Court explained:

The assessment of the credibility of witnesses is a task most properly within the domain of trial courts. In *People v. Gahi*, the Court stressed that the findings of the trial court carry great weight and respect due to the unique opportunity afforded them to observe the witnesses when placed on the stand. Consequently, appellate courts will not overturn the factual findings of the trial court in the absence of facts or circumstances of weight and substance that would affect the result of the case. Said rule finds an even more stringent application where the said findings are sustained by the CA, as in the case at hand[.]⁴⁹

However, in an attempt to further bolster his defense, accused-appellant argues that AAA could not have identified him as the perpetrator of the crime, considering that she herself testified that the rape occurred in the middle of the night. Accused-appellant therefore questions the veracity of her testimony, pointing out that AAA could not have seen the face of her alleged rapist, much less recognize him inside a dark room at nighttime.⁵⁰

This argument is without merit.

⁴⁴ TSN, September 9, 2014, pp. 5-13.

⁴⁵ Id. at 27.

⁴⁶ *Reyes, Jr. v. Court of Appeals*, G.R. No. 127703, January 18, 2002, 374 SCRA 86, 92.

⁴⁷ *People v. Quinto*, G.R. No. 246460, June 8, 2020, p. 8.

⁴⁸ G.R. No. 217973, July 19, 2017, 831 SCRA 469.

⁴⁹ Id. at 478. Citations omitted.

⁵⁰ CA rollo, pp. 35-36.

A victim who was sufficiently acquainted with their assailant due to a prior relationship or association, such as being “barriomates,”⁵¹ neighbors,⁵² or as the second husband of their grandmother,⁵³ signifies a certain familiarity with the assailant’s physical features, which the victim may easily perceive at the time of the commission of the crime. Accordingly, even when the offense was committed under circumstances that make it difficult for the victim to ascertain the identity of the perpetrator, as in this case where AAA was raped at night, the identification of the accused is deemed credible when the victim is closely familiar with the assailant.⁵⁴

In this case, AAA testified that she was certain accused-appellant was her rapist in the night of February 2012 because of his proximity while he undressed AAA, prior to having carnal knowledge of her. AAA also heard accused-appellant’s voice when he directed AAA to keep quiet.⁵⁵ Notably, accused-appellant does not dispute his common-law relationship with BBB, the victim’s mother. He testified that he lived with BBB since 2006,⁵⁶ or about six (6) years prior to the time when AAA was sexually abused. For this reason, and as the CA astutely observed, AAA grew up with accused-appellant, and became keenly familiar with his physiological traits. Having known him for years beforehand, there is no room to doubt AAA’s categorical and positive identification that it was accused-appellant who raped her that night.

As regards the identification of accused-appellant in March 2012, AAA categorically testified that accused-appellant shook her awake and only thereafter did he turn the lights off.⁵⁷ She also adamantly reiterated this fact when asked in her cross-examination whether the light was already turned off as she was about to sleep then.⁵⁸ AAA therefore clearly saw her assailant. Considering further that she was sleeping with her siblings at that time, with the eldest being ten (10) years old,⁵⁹ AAA could easily distinguish accused-appellant from the other occupants of the room.

Under these circumstances, the Court finds no reason to doubt the findings of the trial court, as affirmed by the CA, on the credibility of accused-appellant’s identification. AAA’s familiarity with accused-appellant, coupled with her unwavering, straightforward, and candid testimony, sufficiently convinces the Court that she was able to recognize accused-appellant even under the cover of darkness.

⁵¹ *People v. Calixtro*, G.R. No. 92355, January 24, 1991, 193 SCRA 303, 313.

⁵² *People v. Reynaldo*, G.R. No. 116305, July 2, 1998, 291 SCRA 701, 711-712; *People v. Inot*, No. L-36790, May 29, 1987, 150 SCRA 322, 326-327.

⁵³ *People v. Intong*, G.R. Nos. 145034-35, February 5, 2004, 422 SCRA 134.

⁵⁴ See *People v. Bugna*, G.R. No. 218255, April 11, 2018, 861 SCRA 137, 150.

⁵⁵ See TSN, April 1, 2014, pp. 10-11; TSN, September 9, 2014, pp. 5-6.

⁵⁶ TSN, February 2, 2016, p. 3.

⁵⁷ TSN, September 9, 2014, p. 12.

⁵⁸ *Id.* at 32.

⁵⁹ *Id.* at 11.

However, as regards the qualifying circumstance of minority, the Court finds that the lower courts erred in finding that the age of AAA was not established by the prosecution. While it is true that the Court laid down in *People v. Pruna*⁶⁰ (*Pruna*) the guidelines⁶¹ for proving the age of the victim, the trial court should not have taken against the prosecution the failure of BBB to secure a copy of AAA's birth certificate and baptismal certificate.⁶² In her testimony, she clearly explained that since she gave birth to AAA at home, she registered the birth of AAA late. She further testified that she has not secured a copy of AAA's birth certificate yet because "we [do not] have money until now."⁶³

Since AAA's family is unable to meet the expense for obtaining a birth or baptismal certificate, the trial court should have been prompted to make further inquiries as to the victim's age, especially since it is in the best position to observe AAA's physical appearance firsthand. In *People v. Bolo*,⁶⁴ the Court acknowledged that even with the *Pruna* guidelines, the minority of a victim below ten (10) years old may be readily perceived by the trial court, thus:

Nevertheless, despite the foregoing and in the interest of justice and fairness, the pieces of evidence and the circumstances of the instant case should be appreciated in determining whether the age of the victim was actually established by the prosecution.

x x x x

Consequently, notwithstanding the fact that AAA's original or duly certified birth certificate, baptismal certificate or school records, were never

⁶⁰ G.R. No. 138471, October 10, 2002, 390 SCRA 577.

⁶¹ These guidelines are as follows:

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. *People v. Pruna*, id. at 604.

⁶² CA rollo, p. 51.

⁶³ TSN, November 4, 2014, p. 5.

⁶⁴ G.R. No. 217024, August 15, 2016, 800 SCRA 276.

presented by the prosecution, the Court agrees with the lower court and the appellate court that AAA's minority was duly established by the evidence on record. Additionally, the CA, citing *People v. Tipay*, aptly concluded that the presentation of the certificate of birth is not at all times necessary to prove minority. **The minority of a victim of tender age who may be below the age of ten is quite manifest and the court can take judicial notice thereof. The crucial years pertain to the ages of fifteen to seventeen where minority may seem to be dubitable due to one's physical appearance.**⁶⁵ (Emphasis supplied)

On this point, it bears noting that AAA testified before the trial court on April 1, 2014 and September 9, 2014, or only two (2) years after the commission of the crime in February and March 2012. During her direct examination, AAA testified that she was ten (10) years old, and that her birthday is on November 4, 2003.⁶⁶ This is the same date of birth she stated in her sworn statement.⁶⁷ Her mother, BBB, likewise stated that AAA was born on November 4 but she "forgot the year because [she has] several children".⁶⁸ Nevertheless, when she initiated the criminal complaint against accused-appellant, she stated in her sworn statement that AAA was born on November 4, 2003.⁶⁹ The medico-legal report likewise indicates the same birthdate, and that AAA was eight (8) years old at the time of her medical examination on May 28, 2012.⁷⁰

Considering the proximity of the dates when the incidents took place to the time AAA testified before the trial court, the above-mentioned evidence indicating that AAA was eight (8) years old at the time she was raped deserves probative value.

Furthermore, under the fourth guideline in *Pruna*, the complainant's own testimony suffices to prove the age of the victim when it is expressly and clearly admitted by the accused. Here, accused-appellant, in his direct testimony, testified that he knew AAA was nine (9) years old in January 2012.⁷¹ Thus, even if the Court were to strictly apply the guidelines in *Pruna* in this case, accused-appellant's own testimony erases any doubt as to the minority of AAA. Whether AAA was eight (8) or nine (9) years old when she was raped, the prosecution sufficiently established that AAA, at the very least, was below twelve (12) years old during the dates material to this case.

With respect to the qualifying circumstance of relationship, there is no question that accused-appellant was the common-law spouse of BBB. BBB testified that she started living together with accused-appellant in 2006, and that she ended the relationship only after learning what happened to AAA.⁷²

⁶⁵ Id. at 291-293; citations omitted.

⁶⁶ TSN, April 1, 2014, p. 3.

⁶⁷ Records, Vol. I-A, p. 7.

⁶⁸ TSN, November 4, 2014, p. 4.

⁶⁹ Records, Vol. I-A, p. 10.

⁷⁰ Id. at 46.

⁷¹ TSN, September 5, 2016, p. 8.

⁷² TSN, November 4, 2014, pp. 6-7.

Her testimony also coincided with accused-appellant's own narration that he began living with BBB in 2006.⁷³ During his cross-examination, accused-appellant further admitted that BBB was his common-law spouse.⁷⁴

Accordingly, since AAA was below twelve (12) years old when accused-appellant had carnal knowledge of her, accused-appellant should be convicted of two (2) counts of Qualified Statutory Rape instead of Simple Rape. Under Article 266-B of the RPC, the crime of Qualified Statutory Rape is punished by death. However, considering that the imposition of the death penalty is suspended by virtue of Republic Act No. 9346,⁷⁵ the penalty is automatically reduced to *reclusion perpetua* for each count.

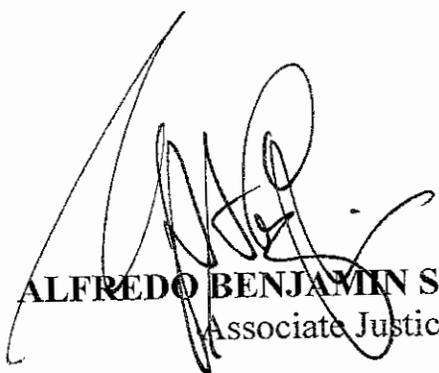
Following prevailing jurisprudence,⁷⁶ the award of damages for each count should also be increased to ₱100,000.00 as civil indemnity, ₱100,000.00 as moral damages, and ₱100,000.00 as exemplary damages. Six percent (6%) interest *per annum* on the award of damages is likewise imposed, reckoned from the finality of this Decision until full payment.⁷⁷

WHEREFORE, premises considered, the appeal is **DISMISSED** for lack of merit. The Decision dated January 21, 2019 of the Court of Appeals, Second Division, in CA-G.R. CR-HC No. 10066 is hereby **AFFIRMED WITH MODIFICATION**.

In Criminal Cases Nos. 12-44800 and 12-44801, accused-appellant Christopher Sanay y Aparejano a.k.a. "Kuya Chris" is found **GUILTY** beyond reasonable doubt of two (2) counts of Qualified Statutory Rape. He is sentenced to suffer the penalty of *reclusion perpetua* without eligibility for parole, and to pay AAA ₱100,000.00 as civil indemnity, ₱100,000.00 as moral damages, and ₱100,000.00 as exemplary damages for each count.

All monetary awards shall earn interest at the legal rate of six percent (6%) *per annum* from the date of finality of this Decision until fully paid.

SO ORDERED.


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

⁷³ TSN, February 2, 2016, p. 3; TSN, September 5, 2016, p. 9.

⁷⁴ TSN, February 13, 2017, p. 3.

⁷⁵ AN ACT PROHIBITING THE IMPOSITION OF DEATH PENALTY IN THE PHILIPPINES, approved on June 24, 2006.

⁷⁶ *People v. Jugueta*, G.R. No. 202124, April 5, 2016, 788 SCRA 331, 382-383.

⁷⁷ Id. at 388; see also *People v. Tuyor*, G.R. No. 241780, October 12, 2020, p. 24 and *People v. Romobio*, G.R. No. 227705, October 11, 2017, 842 SCRA 512, 538.

WE CONCUR:


ALEXANDER G. GESMUNDO
Chief Justice
Chairperson

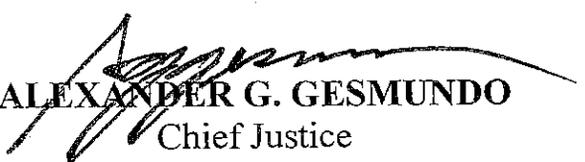

HENRI JEAN PAUL B. INTING
Associate Justice


MARIO V. LOPEZ
Associate Justice


JHOSEP Y. 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.


ALEXANDER G. GESMUNDO
Chief Justice

