

**Republic of the Philippines**  
**Supreme Court**  
**Manila**

**THIRD DIVISION**

**PEOPLE OF THE PHILIPPINES,**  
Plaintiff-appellee,

**G.R. No. 249500**

Present:

- versus -

**LEONEN, J.,**  
*Chairperson,*  
**CARANDANG,**  
**ZALAMEDA,**  
**ROSARIO, and**  
**MARQUEZ, JJ.**

**PO2 RHYAN CONCEPCION**  
**y ARGUELLES,**  
Accused-appellant.

Promulgated:

**December 6, 2021**

X-----~~MISPOCBA-H~~-----X

**DECISION**

**CARANDANG, J.:**

This Court resolves an appeal from the Decision<sup>1</sup> dated June 25, 2019 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 10147. The Decision affirmed with modification the Decision<sup>2</sup> dated November 27, 2017 of the Regional Trial Court (RTC) of Pasig City, Branch 158, which found Police Officer II (PO2) Rhyan Concepcion y Arguelles (accused-appellant) guilty of rape, as defined and penalized under paragraph 1(a) of Article 266-A and Article 266-B, respectively, of the Revised Penal Code (RPC), as amended by Republic Act (R.A.) No. 8353, in Criminal Case No. 151134.

<sup>1</sup> Rollo, pp. 3-21. Penned by Associate Justice Ruben Reynaldo G. Roxas with the concurrence of Associate Justices Marlene Gonzales-Sison and Victoria Isabel A. Paredes.

<sup>2</sup> CA rollo, pp. 58-78. Penned by Assisting Judge Nicanor A. Manalo, Jr.

### Facts of the Case

Accused-appellant was charged in an Information which reads:

On or about May 2, 2013, in Pasig City, and within the jurisdiction of this Honorable Court, the accused, through force, threat and intimidation, did then and there willfully, unlawfully and feloniously succeed in having carnal knowledge with one [REDACTED], 14 years old, a minor, against her will and consent,

Contrary to law.<sup>3</sup>

Accused-appellant pleaded not guilty to the crime charged.<sup>4</sup> During the pre-trial conference,<sup>5</sup> the prosecution and defense stipulated on the (i) RTC's jurisdiction over accused-appellant and the subject matter of the case, (ii) identity of accused-appellant as the one charged in the Information, and (iii) minority<sup>6</sup> of private complainant, AAA.<sup>7</sup>

The prosecution presented: (i) AAA; and (ii) her aunt, BBB,<sup>8</sup> as witnesses during the hearing on accused-appellant's application for bail. Accused-appellant, on the other hand, did not present rebuttal evidence to support his application. Trial on the merits then ensued after the RTC denied<sup>9</sup> the same.

During trial, the prosecution adopted the testimonies given by AAA and BBB during accused-appellant's application for bail. The parties dispensed with the testimony of Police Chief Inspector Charyl P. Escaro, M.D. (PCI Escaro) and stipulated on the following:

1. PCI Escaro is an expert witness and she initially examined AAA on May 3, 2013;
2. PCI Escaro requested AAA to execute a Sexual Crime Protocol;
3. During her examination, AAA executed a Manifestation of Consent;
4. After conducting the examination, PCI Escaro executed Medico-Legal Report No. R13-418; and
5. AAA's examination yielded negative for the presence of spermatozoa.<sup>10</sup>

---

<sup>3</sup> Records, p. 1.

<sup>4</sup> Id. at 76.

<sup>5</sup> Id. at 79-80.

<sup>6</sup> Id. at 29.

<sup>7</sup> The victim/private complainant will be referred to as "AAA". The real name of the victim/private complainant is withheld in accordance with A.M. No. 12-7-15-SC dated July 21, 2015.

<sup>8</sup> The victim's aunt will be referred to as "BBB". The real name of the victim/private complainant is withheld in accordance with A.M. No. 12-7-15-SC dated July 21, 2015.

<sup>9</sup> Records, pp. 121-125.

<sup>10</sup> Id. at 156.

AAA shared that at 9:00 P.M. of April 2, 2013, she and BBB were at the Barangay Hall of Santolan, Pasig City. At that time, AAA was holding BBB's child when accused-appellant – a police officer – approached and asked her if the child was hers. After AAA replied that the child was not hers, accused-appellant asked for her cellular phone number which AAA gave. Later in the evening, accused-appellant called and invited her to eat at the McDonald's restaurant in [REDACTED]. AAA sought BBB's permission but the latter told her not to go since AAA and accused-appellant just met.<sup>11</sup>

AAA revealed that accused-appellant courted her and went to her home twice. During his initial visit on April 4, 2013, accused-appellant introduced himself to BBB, claimed that he is single, promised to pay for AAA's studies, and pledged that he is "*desidido talaga*" with AAA. AAA stated that accused-appellant – in his police uniform – went to her home on April 6, 2013 at 7:00 P.M. and then left an hour later. Although accused-appellant did not visit her home and they did not see each other anymore, accused-appellant still texted and called her.<sup>12</sup>

On May 2, 2013, AAA testified that accused-appellant kept on calling her cellular phone at 2:00 A.M. Accused-appellant was demanding from AAA to go to his office so they can eat at McDonald's. AAA relented due to accused-appellant's insistence. AAA sought BBB's permission first before she went to the Barangay Hall of [REDACTED] Pasig where Police Community Precinct (PCP) [REDACTED] – accused-appellant's office – is located.<sup>13</sup>

After a seven-minute walk, AAA arrived at the Barangay Hall. At that time, AAA shared that accused-appellant and a fellow police officer – who was about to leave – were manning [REDACTED], and that none of the Barangay Security Force members were present. After accused-appellant's fellow police officer left, accused-appellant turned off the room lights and pushed AAA towards the sofa. Accused-appellant proceeded to remove AAA's shorts and panties and then undressed himself. Accused-appellant kissed AAA's neck, held her arms, and inserted his penis to AAA's vagina. AAA felt pain. AAA lamented that while this was happening, she was resisting and shouting but no one can hear because a radio was playing loudly. AAA wanted to escape but: (i) the door was locked; (ii) accused-appellant threatened her well-being; and (iii) she imagined being shot with accused-appellant's gun which was lying on the table.<sup>14</sup>

AAA revealed that accused-appellant did pumping motions for around 30 minutes while the latter's penis was inside her vagina. Thereafter, AAA hastily dressed herself. Feeling dazed and confused, AAA started crying and she asked accused-appellant why he did this to her. AAA divulged that accused-appellant even had the audacity to ask her if he had a big penis to which she did not reply. Accused-appellant also asked her if she told BBB

<sup>11</sup> TSN dated November 19, 2013, pp. 5-6; records, p. 15.

<sup>12</sup> Id. at 7-10.

<sup>13</sup> Records, p. 16.

<sup>14</sup> TSN dated November 19, 2013, pp. 12-19.

that he was meeting him and she answered affirmatively. Accused-appellant reacted, “[g]ago ka! Dapat hindi mo sinasabi.” AAA countered, “[a]langan naman maglihim ako sa Tita ko.”<sup>15</sup>

After that exchange, AAA left ██████ and saw a barangay tanod and a police officer outside the barangay hall. AAA, however, did not disclose to these people what happened to her since she was still in shock. She likewise thought that they won’t believe her since they are accused-appellant’s friends and colleagues. AAA just opted to go home as quickly as she can.<sup>16</sup>

Hours after the horrible incident, AAA found herself stunned and baffled. BBB noticed that AAA was not eating, so she continuously asked the latter what was wrong. AAA finally relented and told BBB what happened when she met accused-appellant after midnight. BBB became furious after hearing AAA’s rape story since they trusted accused-appellant and took his word that he had sincere and good intentions when he was courting AAA.<sup>17</sup>

On cross-examination, AAA affirmed that the rape incident lasted for 30 minutes. She revealed that she was able to sketch accurately ██████ since she previously went there prior to May 2, 2013. Although it was not her habit to give her cellular phone number during the first meeting, she gave hers to accused-appellant thinking he will not harm her since he is a police officer. AAA’s aunt, BBB, does not allow AAA to go out at midnight, but the former made an exception at this instance since AAA was meeting accused-appellant. AAA admitted that she is no longer a virgin at the time of the rape incident, and her parents and BBB knew about this fact.<sup>18</sup>

When questioned by the RTC, AAA mentioned that on the day she first met accused-appellant, BBB visited her Barangay Tanod friend, Ate Baby. She is familiar with accused-appellant’s office because she went there before one evening when she bought something near the barangay hall. She decided to drop by accused-appellant’s office and to check on him. She explained that although she refused accused-appellant’s invitations to eat out, she finally decided to meet him in the early morning of May 2, 2013 because he appeared to be trustworthy as time passed by and she did not expect to be raped by him. AAA stated that she drew the sketch prior to having her picture taken inside ██████.<sup>19</sup>

BBB testified that AAA is her niece. She confirmed that AAA went with her on April 2, 2013 when she visited Ate Baby at the ██████ Barangay Hall. AAA met accused-appellant on that day. Accused-appellant called AAA to invite her to eat at a McDonald’s restaurant. BBB did not allow AAA to go with him since BBB didn’t know him. Instead BBB told

---

<sup>15</sup> Id.  
<sup>16</sup> Id. at 17.  
<sup>17</sup> Id.  
<sup>18</sup> Records, pp. 25-31.  
<sup>19</sup> Id. at 32-37.

accused-appellant, “[p]umunta ka sa bahay para makilala kita [nang] personal.” On April 4, 2013, BBB met accused-appellant when the latter went to their home to court AAA. Accused-appellant went to their home twice and asked AAA to meet him on April 29, 2013 at the Barangay Hall so he could give her money for her education.<sup>20</sup>

BBB stated that at first, accused-appellant told her that he was 21 years old. Accused-appellant later on revealed that he was 26 years old and represented himself to be single. Accused-appellant divulged that he came from a broken family and that he supports his siblings. BBB admitted that accused-appellant gained her trust when accused-appellant started to share about his life. Accused-appellant stopped coming over after he learned that BBB were moving to a new home although he still texted and called AAA. However, accused-appellant got mad when he discovered that AAA tells BBB everything that accused-appellant and AAA talk about.<sup>21</sup>

BBB affirmed that accused-appellant started to call AAA at 5:00 P.M. of May 1, 2013 to invite her to eat at a McDonald’s restaurant later in the evening. Because of accused-appellant’s insistence, AAA accepted accused-appellant’s invitation. AAA asked for BBB’s permission which the latter granted. At 10:00 P.M., AAA went to PCP 24 but since accused-appellant’s colleagues were still there, accused-appellant told AAA to come back. At 1:20 A.M. of May 2, 2013, accused-appellant called AAA and instructed her to go to PCP 24.<sup>22</sup>

When BBB woke up at 10:00 A.M., she asked AAA how her midnight snack with accused-appellant went. AAA was not responding, and BBB noticed that AAA was on the verge of tears. BBB furiously asked AAA what happened to her. AAA told her that instead of eating, accused-appellant waited for his colleagues to leave, turned off the lights of their office, and raped her despite her resistance.<sup>23</sup>

BBB sought the advice of her police officer brother and she was told to proceed to the Women and Children Protection Center (WCPD) in Camp Crame. After preparing the Complaint Sheet, AAA was medically examined. Accused-appellant was arrested by Police Senior Inspector (PSI) Napoleon Cruz (PSI Cruz) and accused-appellant was detained at Camp Crame.<sup>24</sup>

On cross-examination, BBB admitted that she was not present nor near the area at the time the rape incident took place. She averred that what she knows about the rape incident is based on what AAA told her and that she believes AAA. BBB stated that she is AAA’s guardian because AAA’s mother is in prison and AAA’s father rarely supports her and her siblings. BBB acknowledged that AAA’s mother was arrested by the Pasig City

---

<sup>20</sup> TSN dated April 3, 2014, pp. 6-7.

<sup>21</sup> Records, pp. 19-20.

<sup>22</sup> Id. at 20.

<sup>23</sup> Id.

<sup>24</sup> TSN dated April 3, 2014, pp. 5, 9-11.



Police for a drug-related offense. BBB confirmed that she gave her permission to AAA to meet accused-appellant at 10:00 P.M. of May 1, 2013. AAA did not, however, seek BBB's permission when she went out after midnight of May 2, 2013 since BBB was already asleep then.<sup>25</sup>

On re-direct examination, BBB explained that she allowed AAA to meet accused-appellant since she trusted him being a police officer "*na hindi niya po lolokohi[n] ang pamangkin ko, at sa kalagayan ng pamangkin ko, siguro alam naman niya kung ano ang nangyari sa pamilya ni AAA*".<sup>26</sup>

When questioned by the RTC, BBB stated that she knew that accused-appellant and AAA talked when they were there on April 2, 2013 and that AAA gave her cellular phone number to accused-appellant. AAA repeatedly went to the Barangay Hall at the time of the rape incident because "*kinukulit po daw siya sa text, tawag [nang] tawag*" for them to eat at a McDonald's restaurant. BBB disclosed that during accused-appellant's two visits to their home, he wore his police uniform, brought food, and gave money to AAA's siblings. BBB answered negatively when asked if she knew if accused-appellant was one of those who arrested AAA's mother.<sup>27</sup>

Before questions were propounded to prosecution witness PSI Cruz, the parties stipulated that: (i) on May 3, 2013, he was assigned at the Women and Children Protection Division-Criminal Investigation and Detection Group (WCPD-CIDG) in Camp Crame, Quezon City; and (ii) he and PO2 Mary Grace Marasigan (PO2 Marasigan) apprehended accused-appellant. After PSI Cruz's testimony, the parties dispensed with PO2 Marasigan's testimony and stipulated that the latter took the statement of AAA via Question and Answer at Camp Crame.<sup>28</sup>

On the other hand, (i) accused-appellant, (ii) SPO3 Dominador C. Reyes, Jr. (SPO3 Reyes), (iii) PO3 Alexander Valentin, (iv) Vanessa Vivar (Vivar), (v) Rolando Recto (Recto), and (vi) PO1 Eleazar N. De Leon (PO1 De Leon) testified for the defense.

For his defense, accused-appellant denied the charge against him. He claimed that on May 1, 2013 at 11:30 P.M., he got home at Unit 401 4<sup>th</sup> Flr., No. 2474 Juan Luna St., Gagalangin, Tondo, Manila. At 3:00 A.M. of May 2, 2013, he was asleep with his common-law wife, Vivar, in their home. On the next day, he left their home at 8:50 A.M. to go to [REDACTED], Pasig City for his duty. He arrived at his office at 9:30 A.M. although his duty was supposed to begin at 8:00 A.M. He went home at 8:00 P.M. after his duty.<sup>29</sup>

---

<sup>25</sup> Id. at 13-16.

<sup>26</sup> Id. at 16-17.

<sup>27</sup> Id. at 18-19.

<sup>28</sup> Records, p. 168.

<sup>29</sup> TSN dated October 26, 2015, pp. 4-8.



On May 3, 2013 at 6:30 P.M., accused-appellant was asked to report at the Pasig City Police Station in Caniogan by PSI Mario Rariza. When he got there, accused-appellant was handcuffed and arrested by PSI Cruz. Accused-appellant was brought to Camp Crame and was detained thereat. On May 6, 2013, he was brought to Prosecutor Richie Macapagal for inquest proceedings.<sup>30</sup>

Accused-appellant admitted that he knew AAA and that he met her on April 2, 2013. He alleged that BBB is an informant who shared information regarding the illegal sale of prohibited drugs in their area. AAA stated that he last saw AAA after his duty on April 4, 2013. He went to their home after he met an informant who secretly identified and pointed out a target person. Accused-appellant mentioned that he briefly joined a drinking session and left after 30 minutes.<sup>31</sup>

In order to escape his predicament, accused-appellant asserted that PSI Cruz tried to extort ₱500,000.00 from him. He did not accept the offer since he did not do anything wrong and he did not have that amount to give. For the attempted extortion, he averred that he filed a complaint before the People's Law Enforcement Board (PLEB) against PSI Cruz. He learned from a relative that this complaint was eventually dismissed since accused-appellant was not able to attend the proceedings because of his detention. Accused-appellant believed that AAA filed the present case because she harbors a grudge against him. AAA's mother was arrested by the Pasig City Police – which he was a member of at that time – for allegedly violating sections 5, 6, and 11 of R.A. No. 9165. He added that BBB is angry with him because sometime in 2003, he hurt CCC and the latter told BBB about the incident. He asserted that all offices in the Barangay Hall operated for 24 hours and they are always manned. If someone was crying for help, it is impossible not to hear that person.<sup>32</sup>

On cross-examination, accused-appellant revealed that he is just renting the unit where he was staying at with Vivar. The working hours found in their Daily Attendance Sheet for their office is fixed at 8:00 A.M. to 8:00 P.M. and they merely sign beside their names. Accused-appellant clarified that he is not part of the anti-illegal drug team and that he serves as a first responder of the barangay. Accused-appellant mentioned that he was just recently transferred to Pasig City from his previous station in the City of Manila. He disclosed that while PSI Cruz attempted to extort from him ₱500,000.00, AAA never asked any amount from him. He averred that PSI Cruz physically hurt him while he was under the latter's custody. At that time of his testimony, he was already a dismissed police officer who has been demoted before. When he went to BBB's home on April 4, 2013, he merely accepted BBB and AAA's invitation and for him to see, at the same

---

<sup>30</sup> Id. at 8-10.

<sup>31</sup> Id. at 13-15.

<sup>32</sup> Id. at 16-18.

9

time, the subject. His objective was to identify the subject in order for him to share that information to his colleagues from SAID.<sup>33</sup>

SPO3 Reyes affirmed that he was on duty at the Barangay Santolan Police Community Precinct on May 1, 2013, from 8:00 A.M. to 8:00 P.M., and nothing out of the ordinary happened at that time. On cross-examination, he revealed that he was not physically in the office since he was on mobile patrol with PO3 Alexander Valentin (PO3 Valentin). On re-direct examination, SPO3 Reyes maintained that they lock their office when no one is manning it and the keys thereto are kept with the key of their vehicle. He admitted, however, that he is unsure of whether other persons had duplicate copies aside from those in-duty. The parties dispensed with PO3 Valentin's testimony and stipulated that it will merely corroborate SPO3 Reyes' testimony.<sup>34</sup>

Vivar corroborated accused-appellant's testimony that the latter was home with her from 11:30 P.M. of May 1, 2013 until 8:50 A.M. of May 2, 2013. During that period, accused-appellant: (i) laundered using a washing machine; and (ii) went out of their rented unit briefly to look outside the window. She requested for copy of the CCTV footage for that period to prove her claim.<sup>35</sup>

Recto testified that he is the administrative manager of the five-floor building where accused-appellant resides. He affirmed that accused-appellant is a lessee of the Unit 401 and the CCTV camera on that floor is placed near the said unit. When initially questioned by the RTC, he admitted that he was not the one who downloaded the video footage and shared that the one who did so is no longer connected with their office. He mentioned that CCTV video footages had a lifespan of three weeks.<sup>36</sup>

On cross-examination, Recto mentioned that a certain Rafael Santos was in-charge of the CCTV on May 2, 2013. Recto was not around when an investigating team asked for a copy of the subject CCTV video footage.<sup>37</sup>

PO1 De Leon testified that he was instructed by his immediate commanding officer PSI Rodeliza S. Nauy, the Summary Hearing Officer of accused-appellant's administrative case, to conduct an ocular inspection of accused-appellant's residence for entry and exit points. On September 2, 2013, PO1 De Leon went to HMCL Residences to comply. While he was there, he also watched a copy of the subject CCTV video footage to verify if the same matches what they have in their office. In PO1 De Leon's non-expert opinion, it appears that the copy in their office was the same as the HMCL Residences administration office copy since the format of the date, timer, and seconds were similar. He admitted having only watched the time

---

<sup>33</sup> TSN dated February 1, 2016, pp. 4-27.

<sup>34</sup> TSN dated February 29, 2016, pp. 4-12.

<sup>35</sup> TSN dated March 14, 2016, pp. 5-7.

<sup>36</sup> TSN dated April 25, 2016, pp. 8-15.

<sup>37</sup> TSN dated June 20, 2016, pp. 4-5.

that was assigned to him, and not the whole CCTV video footage. After watching the CCTV video footage from 1:00 A.M. to 2:00 A.M. of May 2, 2013, he saw a man quickly stepped out of Unit 401 and returned inside. PO1 De Leon is uncertain, however, if the man he saw was accused-appellant since the video footage was not good quality. PO1 De Leon added that he can no longer remember additional details because many years have passed by since he saw the video footage. When asked if the man he saw at the footage went out again of his unit, PO1 De Leon admitted that he was just told that person went out this time in the morning already. PO1 De Leon shared that he did not reduce into writing the result of his inspection.<sup>38</sup>

On cross-examination, PO1 De Leon confirmed that he is not an expert to confirm if the date reflected on the CCTV footage is unaltered. On re-direct examination, he explained that it was the hearing officer's responsibility to reduce PO1 De Leon's findings in writing. On re-cross examination, PO1 De Leon divulged that he saw Vivar in their office in Camp Bagong Diwa for violation of Presidential Decree No. 1602 (illegal gambling).<sup>39</sup>

### **Ruling of the Regional Trial Court**

On November 27, 2017, the RTC found accused-appellant guilty beyond reasonable doubt for the crime charged. The RTC accorded AAA's narration – showing how accused-appellant had sexual intercourse with her and how accused-appellant sexually abused her on May 2, 2013 – more credible than accused-appellant's version of the events since it was “candid, categorical, and straightforward.”<sup>40</sup> AAA's testimony was consistent with the contents of her Sinumpaang Salaysay.

The RTC noted that accused-appellant's testimony failed to show that it was physically impossible for him to be at the police station, where the crime was committed, on May 2, 2013 at 3:00 A.M. The trial court observed that even if the CCTV footage were considered, accused-appellant failed to submit a copy of the CCTV footage from the day before (*i.e.*, May 1, 2013) to prove his claim that he went home at 11:30 P.M. of that day and left at 8:50 A.M. of May 2, 2013.<sup>41</sup>

Neither did the testimony of the other defense witnesses help accused-appellant's case. *First*, accused-appellant's common law wife Vivar stated that accused-appellant was doing the laundry at the time of the incident, whereas accused-appellant testified that he was sleeping with her at that time. *Second*, SPO3 Reyes admitted that he was not sure if anyone had an extra key to the precinct, thus, the defense could not prove that it would have been impossible to commit the crime there.<sup>42</sup>

---

<sup>38</sup> TSN dated April 25, 2016, pp. 24-32.

<sup>39</sup> TSN dated April 19, 2016, pp. 2-12.

<sup>40</sup> Records, p. 282.

<sup>41</sup> CA *rollo*, pp. 75.

<sup>42</sup> Id. at 75-76.

Accused-appellant's averment that AAA's family had an ill-motive against him was found baseless. The trial court found implausible accused-appellant's assertion that AAA's family resented accused-appellant since AAA's mother was detained for violating Sections 5, 11, and 26 of R.A. 9165 since accused-appellant was not a member of the Pasig Police Station Anti-Illegal Drugs nor was he one of the arresting officers. Moreover, it would defy logic for AAA's aunt to give accused-appellant information about the selling and use of illegal drugs if, indeed, AAA's family abhorred him.<sup>43</sup>

Since it was proven by the prosecution that: (i) accused-appellant had carnal knowledge of AAA by the insertion of his penis into her vagina for 30 minutes and (ii) the carnal act was accomplished through force or intimidation by placing his service firearm on the table near AAA and threatened AAA to kill her.<sup>44</sup>

Accordingly, the RTC sentenced accused-appellant to suffer the penalty of *reclusion perpetua*. The RTC ordered accused-appellant to pay AAA ₱100,000.00 each as civil indemnity and moral damages in consonance with this court's ruling in *People v. Jugueta*.<sup>45</sup>

Aggrieved, accused-appellant appealed his conviction to the CA. In his Brief,<sup>46</sup> he argued that AAA's testimony was riddled with inconsistencies that bring doubt to AAA's accusation of rape. Accused-appellant took issue with AAA's direct testimony where she stated that she met accused-appellant thrice before the incident occurred, whereas she clarified with the RTC that she met accused-appellant a total of five times. Accused-appellant emphasized that the lack of any torn clothes or body injuries negated AAA's claim that she resisted the alleged rape. AAA's failure to immediately report the matter to the police officer and Barangay Tanod outside the police hall cast serious doubt on AAA's claim that accused-appellant raped her. Lastly, AAA's allegation that accused-appellant ejaculated inside her (after initially stating that she could not know if he ejaculated inside her) was refuted by the findings of the medico-legal. Dr. Escaro's Medico Legal Report failed to confirm the presence of spermatozoa. The Medico Legal Report did not state that deep healed lacerations in AAA's vagina was caused by accused-appellant – especially since AAA admitted that she already experienced sexual intercourse before the alleged rape. In all, the prosecution's contradictory evidence could not overcome accused-appellant's right to be presumed innocent.<sup>47</sup>

---

<sup>43</sup> Id. at 77.

<sup>44</sup> Id. at 77-78.

<sup>45</sup> 783 Phil. 806 (2016).

<sup>46</sup> CA rollo, pp. 36-55.

<sup>47</sup> Id. at 47-52.



The Office of the Solicitor General (OSG), appearing for the prosecution, asserted that accused-appellant is guilty of rape since the totality of evidence undisputedly showed that accused-appellant “[took] advantage of [AAA]’s youth and relative lack of physical strength”<sup>48</sup> in order to successfully have carnal knowledge of AAA through force and intimidation. The OSG explained that the inconsistencies in AAA’s testimony as to the number of times she met with accused-appellant and whether accused-appellant ejaculated inside AAA’s vagina are irrelevant in finding accused-appellant guilty of rape. The OSG reiterated that AAA did not immediately report the crime to the police officer and Barangay Tanod who were outside the police precinct because of fear that they would not believe her. As to accused-appellant’s denial and alibi, the OSG observed that the same were merely self-serving since there was no evidence to prove his exact whereabouts at the time of the incident.<sup>49</sup>

### **Ruling of the Court of Appeals**

On June 25, 2019, the CA affirmed accused-appellant’s conviction with modification as to the monetary awards – particularly, by awarding AAA with ₱75,000.00 each as civil indemnity, moral damages, and exemplary damages with legal interest of 6% *per annum* from the date of the finality of the judgment until full payment.<sup>50</sup>

While the CA held that the factual findings of the RTC are accorded great weight and respect in the absence of a clear showing of arbitrariness, the appellate court nevertheless reviewed the records of the case and found no reason to depart from the RTC’s conclusion. The CA gave full credence to AAA’s candid, detailed, and straightforward testimony narrating what she was wearing, what happened from the time she arrived at the police station, how the police precinct looked like, and how accused-appellant raped her.<sup>51</sup>

The CA debunked accused-appellant’s assertion that AAA did not resist being raped because accused-appellant pushed AAA to the sofa and pinned her down, thus, avoiding any form of resistance from AAA. “[F]orce or violence that is required in rape cases is relative; when applied, it need not be overpowering or irresistible. That it enables the offender to consummate his purpose is enough. The parties’ relative age, size, and strength should be taken into account in evaluating the existence of the element of force in the crime of rape.”<sup>52</sup> Also, accused-appellant’s position as a police officer and his possession of a firearm at the time of the incident sufficiently intimidated AAA into submission.<sup>53</sup>

---

<sup>48</sup> Id. at 99.

<sup>49</sup> Id. at 98-103

<sup>50</sup> *Rollo*, p. 20.

<sup>51</sup> Id. at 11-12.

<sup>52</sup> Id. at 16, *citing People v. Joson*, 751 Phil. 450 (2015).

<sup>53</sup> Id. at 17-18.



The minor inconsistencies in AAA's testimony, *i.e.*, the number of times AAA met with accused-appellant and AAA's recollection of whether accused-appellant ejaculated inside her, would not merit accused-appellant's acquittal. The CA ruled that such inconsistencies did not change the fact that accused-appellant had carnal knowledge of AAA through force or intimidation. The presence of these minor inconsistencies are not only evidence of one's fickle-mindedness due to the stresses of emotions but are also badges of truth and candidness. The fact that AAA agreed to meet with accused-appellant during the early hours of May 2, 2013 does not mean that AAA deserved to be sexually assaulted.<sup>54</sup>

The CA reminded that the defense of denial and alibi are inherently weak and cannot overturn the positive and credible testimony of the prosecution witnesses. Following the RTC's observations, accused-appellant failed to show that it was physically impossible for him to be at the police precinct at 2:00 A.M. of May 2, 2013. Anent the CCTV footage submitted by the defense, the CA pointed out that the same was not properly presented in evidence. The CCTV footage was not duly authenticated by the person who downloaded or copied it from the main source/server. As regards SPO3 Reyes's testimony that he did not see anything unusual at the police station at the time of the incident, the same did not negate the possibility that accused-appellant raped AAA since SPO3 Reyes admitted that he and PO3 Valentin were on mobile patrol for the entirety of their duty.<sup>55</sup>

Lastly, the CA reduced the monetary awards given to AAA to be in accord with Our ruling in *People v. Jugueta*,<sup>56</sup> which pronounced that the indemnity and damages imposed against an accused found guilty of the crime of rape and sentenced to *reclusion perpetua* shall be ₱75,000.00 each as civil indemnity, moral damages, and exemplary damages.<sup>57</sup>

Accused-appellant filed a Notice of Appeal.<sup>58</sup> Both the OSG and accused-appellant manifested that they will no longer file any supplemental brief.<sup>59</sup>

### **The Ruling of the Court**

The appeal is without merit.

This Court repeats that "an appeal in criminal cases opens the entire case for review, and it is the duty of the reviewing tribunal to correct, cite, and appreciate errors in the appealed judgment whether they are assigned or unassigned."<sup>60</sup> "The appeal confers the appellate court full jurisdiction over

---

<sup>54</sup> Id. at 16-17.

<sup>55</sup> Id. at 18-20.

<sup>56</sup> 783 Phil. 806 (2016).

<sup>57</sup> *Rollo*, p. 20

<sup>58</sup> Id. at 137-138.

<sup>59</sup> Id at 31-33 and 41-43.

<sup>60</sup> *Rivac v. People*, 824 Phil. 156, 166 (2018) citing *People v. Dahil*, 750 Phil. 212 (2015).



the case and renders such court competent to examine records, revise the judgment appealed from, increase the penalty, and cite the proper provision of the penal law.”<sup>61</sup>

The arguments of accused-appellant are hinged primarily on AAA’s lack of credibility. It is well-settled “that the assessment of the credibility of witnesses and their testimonies is best undertaken by a trial court, whose findings are binding and conclusive on appellate courts. Matters affecting credibility are best left to the trial court because of its unique opportunity to observe the elusive and incommunicable evidence of that witness’ deportment on the stand while testifying, an opportunity denied to the appellate courts which usually rely on the cold pages of the silent records of the case.”<sup>62</sup> Both the trial court and the CA held that AAA was a credible witness. They ruled that her testimony deserved credence and is sufficient evidence that she was raped by accused-appellant. We find no persuasive reason to overturn these findings.

“Motives such as family feuds, resentment, hatred or revenge have never swayed this Court from giving full credence to the testimony of a rape victim. Also, ill motives become inconsequential if there is an affirmative and credible declaration from the rape victim, which clearly establishes the liability of the accused.”<sup>63</sup>

Accused-appellant, however, argues that his defense of denial and alibi should have been considered and given credence. To support his defense, he offered in evidence the CCTV footages to prove that it was physically impossible for him to rape the victim at that time since he was at home with Vivar. However, We agree with both the RTC and the CA that the CCTV footages cannot be admitted and relied upon. A careful perusal of the records reveals that the person who supposedly downloaded or copied the CCTV footages from the main server was never identified. At most, defense witness Recto – who admitted that he was not the one who downloaded a copy of the CCTV footage and that he was not present when police officers asked for the same – mentioned that a certain Rafael Santos was in-charge of the CCTV at the time of the rape incident. Curiously, Rafael Santos was not presented in court.

We affirmed in *People v. Manansala*<sup>64</sup> that under the Rules of Electronic Evidence, “persons authorized to authenticate the video or CCTV recording is not limited solely to the person who made the recording but also by another witness who can testify to its accuracy.” Recto was presented in court to authenticate the CCTV footages as “another competent witness who can testify to its accuracy.” However, *Manansala* requires the party presenting the recording to account for: (i) its origin; (ii) how it was transferred to a storage device; and (iii) how it reached the trial court for its

---

<sup>61</sup> Id. See *People v. Comboy*, 782 Phil. 187 (2016).

<sup>62</sup> *Rondina v. People*, 687 Phil. 274 (2012) citing *People v. Dahilig*, 677 Phil. 92 (2011).

<sup>63</sup> Id., citing *Dizon v. People*, 616 Phil. 498 (2009).

<sup>64</sup> G.R. No. 233104, September 2, 2020.

presentation. Aside from general assurances that he is familiar with the CCTV footages, Recto's testimony failed to account for these requirements. Notably, Recto was not even authenticating the copy of the CCTV footages of the building administration but the one found in Vivar's laptop.

Neither does PO3 De Leon's assessment as regards the genuineness of the CCTV footages hold much weight. He is admittedly not an expert and if his task was to compare the copies of the CCTV footages of the building administration and in their office, it would have been circumspect for him to view both side by side.

Alibi is an issue of fact that hinges on the credibility of witnesses, and that the assessment made by the trial court must be accepted unless it is patently and clearly inconsistent.<sup>65</sup> We agree with the CA's observation that although SPO3 Reyes did not see anything unusual at the police station at the time of the incident, it did not negate the possibility that accused-appellant raped AAA since SPO3 Reyes admitted that he and PO3 Valentin were on mobile patrol for the entirety of their duty.

A review of the CA decision shows that it did not commit any reversible error in affirming accused-appellant's conviction. The records show that accused-appellant forced AAA to have sex with him despite AAA's resistance and protestations. The absence of spermatozoa does not prove that rape has not taken place since the presence thereof is not an element of the crime.

As to the penalty imposed, the CA was correct in affirming the penalty of *reclusion perpetua*. However, the amount of civil indemnity, moral damages, and exemplary damages should be increased to ₱100,000.00 each in line with prevailing jurisprudence.

**WHEREFORE**, the instant appeal is **DISMISSED**. The Decision dated June 25, 2019 of the Court of Appeals in CA-G.R. CR-HC No. 10147 is **AFFIRMED with MODIFICATION**. Accused-appellant PO2 Rhyann Concepcion y Arguelles is found **GUILTY** beyond reasonable doubt for Rape and is sentenced the penalty of *reclusion perpetua*. Accused-appellant is **ORDERED** to pay AAA civil indemnity, moral damages, and exemplary damages in the amount of ₱100,000.00 each.

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

**SO ORDERED.**



---

<sup>65</sup> *People v. Apattad*, 671 Phil. 95 (2011), citing *People v. Estoya*, 472 Phil. 602 (2004).

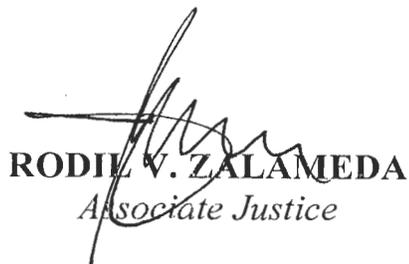


**ROSMARID D. CARANDANG**  
*Associate Justice*

**WE CONCUR:**



**MARVIC MARIO VICTOR F. LEONEN**  
*Associate Justice*



**RODIL V. ZALAMEDA**  
*Associate Justice*



**RICARDO R. ROSARIO**  
*Associate Justice*



**JOSE MIDAS P. MARQUEZ**  
*Associate Justice*

**ATTESTATION**

I attest 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.



**MARVIC MARIO VICTOR F. LEONEN**  
*Associate Justice*

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, 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*