



[MODIFIED]

Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 263227

Present:

GESMUNDO, C.J.,
Chairperson,

- versus -

HERNANDO,
ZALAMEDA,
ROSARIO, and
MARQUEZ, JJ.

XXX,¹

Accused-Appellant.

Promulgated:

AUG 02 2023

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DECISION

HERNANDO, J.:

Accused-appellant XXX appeals the February 23, 2022 Decision² of the Court of Appeals (CA) in CA-G.R. CR-HC No. 02676-MIN, which affirmed the August 25, 2020 Consolidated Judgment³ of the Regional Trial Court (RTC), [REDACTED],⁴ in Criminal Case Nos. 3068-2015, 3069-2015, and 3070-2015, finding XXX

¹ Initials were used to identify the accused-appellant pursuant to the Supreme Court Amended Administrative Circular No. 83-2015 dated September 5, 2017 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."

² *Rollo*, pp. 9-30. Penned by Associate Justice Richard D. Mordeno and concurred in by Associate Justices Oscar V. Badelles, and Evalyn M. Arellano-Morales.

³ Records, Crim. Case No. 3068-2015, pp. 86-99. Penned by Presiding Judge Arvin Sadiri B. Balagot.

⁴ Geographical location is blotted out pursuant to Supreme Court Amended Administrative Circular No. 83-2015.

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guilty beyond reasonable doubt of Incestuous Rape under Article 266-B of the Revised Penal Code (RPC), as amended by Republic Act No. (RA) 8353.⁵

On July 23, 2015, three Informations⁶ were filed charging XXX with three counts of Rape. The Informations read:

Criminal Case No. 3068-2015

x x x x

That on or about March 7, 2015, in the [REDACTED], Philippines and within the jurisdiction of this Honorable Court, the said accused being the biological father of the complainant, with lewd design, with force, threat and intimidation, did then and there willfully, unlawfully and feloniously succeeded (sic) in having carnal knowledge [of] AAA,⁷ a fourteen (14) year old minor, against her will.

CONTRARY TO LAW.⁸

Criminal Case No. 3069-2015

x x x x

That on or about March 9, 2015, in the [REDACTED], Philippines and within the jurisdiction of this Honorable Court, the said accused being the biological father of the complainant, with lewd design, with force, threat and intimidation, did then and there willfully, unlawfully and feloniously succeeded (sic) in having carnal knowledge [of] AAA, a fourteen (14) year old minor, against her will.

CONTRARY TO LAW.⁹

Criminal Case No. 3070-2015

x x x x

That on or about March 13, 2015, in the Municipality of [REDACTED], Philippines and within the jurisdiction of this Honorable Court, the said accused being the biological father of the complainant, with

⁵ Entitled "AN ACT EXPANDING THE DEFINITION OF THE CRIME OF RAPE, RECLASSIFYING THE SAME AS A CRIME AGAINST PERSONS, AMENDING FOR THE PURPOSE ACT NO. 3815, AS AMENDED, OTHERWISE KNOWN AS THE REVISED PENAL CODE AND FOR OTHER PURPOSES." Approved: September 30, 1997.

⁶ Id. at 88-89.

⁷ "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. 7610, An Act Providing for Stronger Deterrence and Special Protection against Child Abuse, Exploitation and Discrimination, Providing Penalties for its Violation, and for Other Purposes; Republic Act No. 9262, An Act Defining Violence Against Women and Their Children, Providing for Protective Measures for Victims, Prescribing Penalties Therefor, and for Other Purposes; and Section 40 of A.M. No. 04-10-11-SC, known as the Rule on Violence against Women and their Children, effective November 15, 2004." (*People v. Dumadag*, 667 Phil. 664, 669 [2011]).

⁸ Records, Crim. Case No. 3068-2015, Vol. I, p. 2.

⁹ Records, Crim. Case No. 3069-2015, Vol. II, p. 2.

lewd design, with force, threat and intimidation, did then and there willfully, unlawfully and feloniously succeeded (sic) in having carnal knowledge [of] BBB, 11 years old minor, against her will.

CONTRARY TO LAW.¹⁰

On arraignment, XXX pleaded not guilty.¹¹ Pre-trial and trial on the merits followed.¹²

Version of the Prosecution

The prosecution presented AAA, BBB, CCC, the older sister of AAA and BBB, and [REDACTED] Municipal Health Officer Dr. Florilyn Pimentel (Dr. Pimentel) who conducted the medical examination of AAA and BBB.¹³

AAA was 16 years old when she testified in court on February 9, 2017.¹⁴ She accused her father of raping her twice. The first was committed on March 7, 2015 and the second was committed on March 9, 2015.¹⁵ Both incidents happened when she was 14 years old.¹⁶

On March 7, 2015, at around 10:00 p.m., AAA was sleeping with her siblings in their house located at [REDACTED] when XXX entered the room, laid down beside AAA, and removed her short pants. She protested and told XXX to leave but XXX threatened to kill her. At that moment, AAA as not able to move due to fear. XXX turned AAA sideways and he inserted his penis into her vagina from behind. Thereafter, XXX left.¹⁷

Two days after, on March 9, 2015, at around 7:00 a.m. XXX directed AAA's minor brother, DDD and sister, BBB, to take a bath in the river. When AAA's siblings left, XXX ordered AAA to go inside the house and then XXX undressed AAA. AAA objected but XXX ignored her protests. Instead, XXX told her to bend down. From behind, XXX inserted his penis into AAA's vagina.¹⁸

On March 13, 2015 the third and last incident of rape took place. This time, the victim was BBB. BBB was 15 years old when she testified on September 27, 2018. She narrated that her father raped her inside their house. BBB recalled that her mother and older sister were not around as they looked

¹⁰ Records, Crim. Case No. 3070-2015, Vol. III, p. 2.

¹¹ *Rollo*, p. 11.

¹² *Id.*

¹³ *Id.* at 12.

¹⁴ Records, Crim. Case No. 3068-2015, p. 86.

¹⁵ *Id.*

¹⁶ *Rollo*, p. 12.

¹⁷ *Id.*

¹⁸ *Id.*

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for cassava to eat. Her younger brother, DDD, on the other hand, fetched water. BBB was cooking when XXX appeared wearing only his underwear. XXX ordered her to lie down. XXX then placed himself on top of BBB and removed her short pants and underwear. XXX then inserted his penis into BBB's vagina. XXX then warned that if BBB tells her mother, he will kill all of them.¹⁹

The following day, on March 14, 2015, CCC, the older sister of AAA and BBB, went to their house to wash clothes.²⁰ While CCC was washing clothes, AAA approached her and revealed what their father had done.²¹

CCC acted upon such revelation the next day, March 16, 2015. She asked the assistance of *Barangay* Chairman EEE who referred the complaint to the Municipal Social Welfare and Development Office (MSWDO) of [REDACTED]. During the meeting, CCC disclosed her fear that her other sister, BBB could have been a victim too. The MSWDO personnel advised AAA to undergo a medical examination with BBB. Thus, when AAA returned to their house, she talked to BBB. BBB then revealed that indeed, XXX also raped her.²²

Dr. Pimentel examined AAA and BBB on March 16, 2015. She reduced her findings in the medical certificates²³ which stated that there are two hymenal lacerations on AAA and one hymenal laceration on BBB.²⁴

Version of the Defense

The defense presented XXX who vehemently denied the accusation against him.

He alleged that in the year 2015, AAA resided with CCC. However, he brought AAA back into his custody because CCC allowed AAA to work as a babysitter for another family. According to XXX, this infuriated CCC. He suspected that this was the reason CCC filed these cases against him. He added that he and CCC are not in good terms. There was an instance where he punched CCC's husband because CCC's husband, without permission, planted coconut trees on the land that XXX mortgaged to CCC.²⁵

XXX added that AAA and BBB resented him because he once caught them being absent in school so he scolded and beat them.²⁶

¹⁹ Id. at 13.

²⁰ Records, Crim. Case No. 3068-2015, p. 87.

²¹ Id.

²² Id. at 12.

²³ Id. at 20 and 27.

²⁴ Id.

²⁵ Id. at 13.

²⁶ Id.

He further testified that he was in [REDACTED] to look for money to pay his debt to CCC when he learned about the rape charges. Upon being informed, he immediately surrendered to the police.²⁷

Ruling of the Regional Trial Court

The RTC found XXX guilty beyond reasonable doubt of three counts of incestuous rape. It ruled that the straightforward testimonies of AAA and BBB against their father as the perpetrator, backed up by the medical findings of hymenal lacerations, are credible as opposed to the bare denial of XXX.²⁸ The trial court thus ruled:

WHEREFORE, premises considered, the Court finds:

1. In Criminal Case No. 3068-2015, accused XXX GUILTY of INCESTUOUS RAPE OF A MINOR penalized in Art. 266-B of the Revised Penal Code as amended by RA 8353. He is hereby ordered to suffer the penalty of RECLUSION PERPETUA WITHOUT PAROLE and to pay AAA, ₱100,000.00 as civil indemnity, ₱100,000.00 as moral damages, and ₱100,000.00 as exemplary damages.
2. In Criminal Case No. 3069-2015, accused XXX GUILTY of INCESTUOUS RAPE OF A MINOR penalized in Art. 266-B of the Revised Penal Code as amended by RA 8353. He is hereby sentenced to suffer the penalty of RECLUSION PERPETUA WITHOUT PAROLE and to pay the victim, AAA, ₱100,000.00 as civil indemnity, ₱100,000.00 as moral damages, and ₱100,000.00 as exemplary damages.
3. In Criminal Case No. 3070-2015, accused XXX GUILTY of INCESTUOUS RAPE OF A MINOR penalized in Art. 266-B of the Revised Penal Code as amended by RA 8353. He is hereby ordered to suffer the penalty of RECLUSION PERPETUA WITHOUT PAROLE and to pay the victim, BBB, ₱100,000.00 as civil indemnity, ₱100,000.00 as moral damages, and ₱100,000.00 as exemplary damages.
4. The civil damages shall earn the legal interest of 6% per annum from the finality of this judgment until fully paid.

SO ORDERED.²⁹

XXX appealed.³⁰

²⁷ TSN, February 27, 2020, p. 11.

²⁸ Rollo, p. 14.

²⁹ Records, Crim. Case No. 3068-2015, pp. 98-99.

³⁰ Rollo, p. 4.

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Ruling of the Court of Appeals

XXX argued that AAA and BBB lacked credibility given that their testimonies are inconsistent.

The appellate court, in its Decision dated February 23, 2022, denied XXX's appeal. It noted that minor inconsistencies may be expected of girls of such tender years, who are unaccustomed to a public trial, particularly one where she would recount such a harrowing experience. It further held that inconsistencies and contradictions in their declarations are quite expected. Nonetheless, inconsistencies and discrepancies on minor details and collateral matters do not affect the substance, truth, or weight of the victim's clear, convincing, and straightforward testimonies.³¹

The dispositive portion of the CA Decision reads:

WHEREFORE, the appeal is **DENIED**. The 25 August 2020 Consolidated Judgment of the Regional Trial Court (RTC), [REDACTED], in Criminal Case No. 3068-2015, Criminal Case No. 3069-2015 and Criminal Case No. 3070-2015, finding accused-appellant XXX guilty beyond reasonable doubt of three (3) counts of Incestuous Rape, is **AFFIRMED** in toto.

SO ORDERED.³²

Aggrieved, XXX comes before this Court raising the same arguments he raised before the CA in assailing his conviction.³³ He claims that AAA and BBB lacked credibility as they made inconsistent statements. XXX argues that AAA, should have shouted or made some noise as she claimed that XXX supposedly raped her while her siblings were sleeping in the same room. For the second incident, AAA should have avoided being left alone with XXX instead of following him inside the house where she was allegedly raped again.³⁴

XXX also avers that BBB's normal human reaction would have prompted her to be wary of being alone with XXX considering her testimony that the rape on March 13, 2015 was already the second incident. She allegedly should have known that XXX had ill intentions when she was told by XXX, who was then only in his underwear, to enter the house. She should have run away instead of following him.³⁵

³¹ Id. at 28.

³² CA rollo, pp. 21-22.

³³ Rollo, pp. 5-6.

³⁴ CA rollo, pp. 39-40.

³⁵ Id. at 40.

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Issue

Whether the prosecution proved XXX's guilt beyond reasonable doubt.

Our Ruling

We rule in the affirmative.

Article 266-A paragraph (1) and Art. 266-B of the RPC state how Qualified Rape is committed. It reads:

Article 266-A. *Rape: When and How Committed.* — Rape is committed:

1) By a man who shall have carnal knowledge of a woman under any of the following circumstances:

- a) Through force, threat, or intimidation;
- b) When the offended party is deprived of reason or is otherwise unconscious;
- c) By means of fraudulent machination or grave abuse of authority; and
- d) When the offended party is under twelve (12) years of age or is demented, even though none of the circumstances mentioned above be present.³⁶

Article 266-B. *Penalties.*— Rape under paragraph 1 of the next preceding article shall be punished by *reclusion perpetua*.

Whenever the rape is committed with the use of a deadly weapon or by two or more persons, the penalty shall be *reclusion perpetua* to death.

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.

The crime of rape becomes qualified when the victim is under 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.³⁷ Thus, the elements of Qualified Rape are: (1) sexual congress; (2) with a woman; (3) done by force and without consent;

³⁶ REVISED PENAL CODE, Article 266-A, as amended by Republic Act No. 8353 (1997).

³⁷ REVISED PENAL CODE, Article 266-B, as amended by Republic Act No. 8353 (1997).

(4) the victim is under 18 years of age at the time of the rape; and (5) the offender is a parent (whether legitimate, illegitimate or adopted) of the victim.³⁸

The prosecution sufficiently established and proved all the elements of Qualified Rape. We give deference to the factual findings of the trial court, especially when it is affirmed by the CA, because when the trial court looks through the case, it observes in actuality the conduct of each witness. It studies every area that is in question through the utmost assessment of all evidence. As a result, appellate courts will uphold these factual findings when there are no errors in appreciation of material facts or circumstances.³⁹ Thus, there is no reason to deviate from the ruling of the RTC and CA which found XXX guilty of three counts of Qualified Rape. AAA and BBB testified that their father, XXX, inserted his penis in their private parts to satisfy his lust, on three different occasions. However, the offense should be more accurately termed as Qualified Statutory Rape. Their Certificates of Live Birth⁴⁰ proved their minority at the time of the commission of rape.

AAA and BBB narrated the traumatic experiences they suffered because of their father. AAA categorically testified on the first and second incidents of rape which happened on March 7, 2015 and March 9, 2015, and the subject of Criminal Case Nos. 3068-2015, 3069-2015, in this manner, respectively:

The March 7, 2015 incident:

Q: x x x can you tell what happened that evening of March 7, 2017 at 10:00 in the evening?

A: x x x we were sleeping together with my siblings when my father entered where we were sleeping.

x x x x

Q: And x x x what happened next?

A: Then he moved my siblings in [sic] my feet.

x x x x

Q: After he moved your siblings what happened?

A: He touched me by removing my shorts, ma'am.

Q: What was your reaction x x x?

A: I told him to leave x x x.

Q: And what was his response when you told him to leave?

A: He told me don't tell anyone if you will tell I will kill you.

³⁸ *People v. Salaver*, 839 Phil. 90, 102 (2018), citing *People v. Colentava*, 753 Phil. 361, 372-373 (2015).

³⁹ *People v. Tulagan*, 849 Phil. 197, 216 (2019), citing *People v. Gahi*, 727 Phil. 642, 658 (2014).

⁴⁰ Records, Crim. Case No. 3068-2015, pp. 19 and 26.

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x x x x

Q: x x x you said that your father also removed your underwear?

A: Yes, your Honor.

Q: What happened after that?

x x x x

A: He laid me sideways? [sic]

x x x x

Q: Okay, what happened after your father turned you sideways?

A: That time he used in touching his.

Q: Please clarify what is his?

A: His penis.

Q: What part of your body did he place his penis?

A: In my vagina, your Honor.⁴¹

The March 9, 2015 incident:

Q: And what happened next when you were left x x x in your house?

A: He called me and told me to go inside.

x x x x

Q: What happened when you were inside?

A: He undressed me by removing my shorts and panty [sic].

x x x x

Q: What was your reaction when your father removed your shorts and panty [sic]?

A: I told him don't.

Q: And what happened when he was able to undress you?

A: He ordered me to bend down.

x x x x

Q: After you bent down, what happened next?

A: Then that moment he touched me.

Q: When you said he touched you, what do you exactly mean by that?

A: He inserted his penis to my vagina, ma'am.

⁴¹ TSN, February 9, 2017, pp. 10-15.

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Q: At that time what was the position of your father?

A: He was standing.

Q: Was he in front of you or at your back?

A: He was at the back, ma'am.⁴²

In the same way, BBB positively testified on her father's commission of rape against her which happened on March 13, 2015 and the subject of Criminal Case No. 3070-2015, in this wise:

Q: You said something happened to you on March 13, 2015, can you please tell us what happened to you on that date?

A: I was inside our house and my father was also there.

Q: Where was your other sibling?

A: My mother and my elder sister looked for cassava while my younger siblings fetched water.

x x x x

Q: When you saw him wearing was only his brief [sic] what happened?

A: He told me to lie down.

Q: Did you obey him?

A: Yes, sir.

Q: And what else did he do?

A: He went on top of me.

Q: And when he was on top of you, what did he do?

A: He undressed me.

x x x x

Q: When he already removed your pants and your underwear, what did you do?

A: I struggled to put it back on but he kept on pulling it down.

Q: While he was pulling that did he say anything else to you?

A: He told me not to tell it to my mother? [sic]

Q: And was he successful in removing your undergarments?

A: Yes, sir.

Q: x x x what happened next?

A: He had sex with me, ma'am.

Q: What do you mean he had sex with you?

A: He forcibly entered his penis into my vagina.

x x x x

⁴² Id. at 18-20.

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Q: You said that he tried inserting his penis into your vagina, was he successful in inserting his penis in your vagina?

A: No, ma'am.

Q: What did you feel that time?

A: It was painful.

Q: Where is the pain at that time?

A: In my vagina, ma'am.

Q: Did you say anything to him when you felt pain?

A: Yes, ma'am.

Q: What did you exactly tell him?

A: I complained that it was painful.

Q: And then what did he do or say to you?

A: He did not continue.

Q: Did you incur any wound?

A: There was blood.

Q: In your vagina?

A: Yes, ma'am.

Q: And then what happened next?

A: Then he told me not to report it to my mother otherwise he will kill all of us.⁴³

There can be carnal knowledge even when the penis was not completely inserted into the vagina and the hymen of the victim was not ruptured.⁴⁴ Even when the penis merely touched the vagina's labia or the lips of the female organ, the crime of rape is already deemed consummated⁴⁵ such as what happened in the case of BBB. For elucidation, We cite the recent pronouncement of the Court in *People v. Agao*,⁴⁶ viz.:

This operative definition, however, as will be demonstrated, calls for a clarificatory rephrasing, as its physical characterization below proves the same to be either inconsistent or otherwise problematic and uncertain. For the avoidance of doubt and for pedagogical purposes, the Court finds it necessary to herein include a brief descriptive discussion of the parts of the external female genitalia including a clear indication of the situs of the pertinent parts, in order to categorically delineate for the bench and the bar which physical threshold, when crossed, constitutes rape in the consummated stage.

⁴³ TSN, September 27, 2018, pp. 6-10.

⁴⁴ *People v. Dimanawa*, 628 Phil. 678, 690 (2010), citing *People v. Quiñanola*, 366 Phil. 390, 410 (1999).

⁴⁵ Id.

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The vulva, or *pudendum*, is a collective term for the external female genital parts that are visible in the perineal area. According to Aikaterini Delivellotou and George Creatsas, in their article "Anatomy of the Vulva[.]" the parts of vulva that are crucial for a clear discussion of the consummation of rape are as follows:

The vulva consists of the [*mons pubis*], the [*labia majora*], the [*labia minora*], hymen, the clitoris, the vestibule of the vagina, the urethral orifice, Skene's glands, Bartholin's glands, and the vestibular bulbs x x x.

The anterior and posterior boundaries of the vulva extend from the [*mons pubis*] to the anus, respectively; its lateral boundaries lie at the genitocrural folds. The vulvar epithelium exhibits regional differences in tissue structure based on embryonic derivation. The skin-bearing [*mons pubis*], perineum, and [*labia*] are derived from the embryonic ectoderm. Vulvar skin, like skin at other sites, has a keratinized, stratified, squamous epithelial structure with hair follicles, sebaceous glands, and sweat glands. The thickness degree of keratinization of vulvar skin decreases progressively from the [*labia majora*], over the clitoris, to the [*labia minora*]. The vulvar vestibule, derived from the embryonic endoderm, is nonkeratinized. x x x
[Mons Pubis]

The [*mons pubis*] (*mons Veneris*) is the rounded eminence in front of the pubic symphysis, which is formed by a collection of adipose tissue beneath the integument. During puberty, it becomes covered with hair up to its junction with the abdominal wall. The hair pattern, or escutcheon, of most women is triangular. Genetic and racial differences produce a variety of normal hair patterns, with approximately one in four women having a modified escutcheon with a diamond pattern.

[Labia Majora]

The [*labia majora*] are a pair of prominent longitudinal, cutaneous folds of fibroadipose tissue that are homologous to the scrotum in the male. The structures bear epidermal tissue resembling the dartos tunic of the scrotum, as well as adipose tissue, areolar tissue, blood vessels, nerves, and glands. The [*labia majora*] also include the terminal extension of the round ligament and, occasionally, a peritoneal diverticulum, the canal of Nuck.

The size of the [*labia majora*] is related to fat content. Each is approximately 7 to 8 cm in length and 2 to 3 cm in width. The [*labia majora*] extend downward and backward from the [*mons pubis*], thus forming the lateral boundaries of a fissure or cleft (the pudendal cleft or rima) into which the vagina and urethra open.

Guided by the foregoing anatomical description, the Court now reiterates, even as it clarifies, that rape of a female victim by a male person through penile penetration reaches the consummated stage as soon as the penis penetrates the cleft of the *labia majora*, also known as the vulval or pudendal cleft, or the fleshy outer lip of the vulva, in even the slightest degree. Simply put, mere introduction, however slight, into the cleft of the *labia majora* by a penis that is capable of penetration, regardless of whether such penile penetration is thereafter fully achieved, consummates the crime of rape.

Necessarily, the Court must now revisit and clarify the language of the description in the cases of *Dela Peña*, *Oliver*, *Puertollano*, *Campuhan*, *Ombreso*, *Comanda*, and *Francisco*, which have collectively described that the act of rape is considered consummated as soon as the penis touches either the *pudendum* or the *labia* of the victim's vagina.

With careful and decisive reference to the anatomical illustration above, the Court clarifies that when jurisprudence refers to "mere touching," it is not sufficient that the penis grazed over the *pudendum* or the fleshy surface of the *labia majora*. **Instead, what jurisprudence considers as consummated rape when it describes a penis touching the vagina is the penis penetrating the cleft of the labia majora, however minimum or slight.** Similarly, a mere grazing by the penis of the fleshy portion, not the vulval cleft of the *labia majora*, will also constitute only attempted rape and not consummated rape, since the same cannot be considered to have achieved the slightest level of penetration. **Stated differently, the Court here elucidates that "mere touch" of the penis on the labia majora legally contemplates not mere surface touch or skin contact, but the slightest penetration of the vulval or pudendal cleft, however minimum in degree.** (Emphases in the original)

XXX argues that AAA should have shouted or made some noise as she claimed that XXX supposedly raped her while her siblings were sleeping in the same room, and that AAA should have avoided being left alone with XXX instead of following him inside the house where she was allegedly raped again.⁴⁷ For BBB's part, he insists that BBB's normal human reaction would have prompted her to be wary of being alone with XXX considering her testimony that the rape on March 13, 2015 was already the second incident. She allegedly should have known that XXX had ill intentions when she was told by XXX, who was then only in his underwear, to enter the house. She should have run away instead of following him.⁴⁸

We find these expositions unacceptable.

First, *People v. CCC*⁴⁹ explained that lust is no respecter of time and place. Rape can be committed anywhere even in a bedroom where other family

⁴⁷ CA rollo, pp. 39-40.

⁴⁸ Id. at 40.

⁴⁹ 852 Phil. 523, 532 (2019), citing *People v. Traigo*, 734 Phil. 726, 730 (2014).

members are sleeping.⁵⁰ Jurisprudence further taught us that small and confined spaces will not prevent rape from happening because privacy is not a hallmark of such crime.⁵¹

Thus, XXX's illogical contention that AAA should have shouted or made some noise when she was being raped since her siblings were sleeping in the same room does not persuade Us.

Second, We cannot sustain XXX's contention that AAA should have avoided being left alone with him instead of following him inside the house where she was allegedly raped again.⁵²

The Court held that individual differences dictate that there is no singular response when a person encounters a certain situation, especially when involving an extremely traumatic experience such as rape committed by one's own father.⁵³ Yet, a child victim should not be judged based on the course of action taken even when it is the opposite of the normal behavior of a mature individual.⁵⁴

Hence, XXX cannot fault AAA for keeping her silence while she was being defiled especially so when it was brought about by fear or an otherwise overwhelming emotion of helplessness.

Third, XXX argues that BBB should have been wary of being alone with him considering her testimony that the rape on March 13, 2015 was the second incident. XXX posits that BBB should have known that he had ill intentions when XXX, who was in his underwear, told her to enter the house. XXX points out that BBB should have run away instead of following him.⁵⁵

The Court explained that the rape victim's actions are oftentimes influenced by fear rather than by reason.⁵⁶ The perpetrator of the rape hopes to build a climate of extreme psychological terror, which would numb the victim into silence and submissiveness.⁵⁷ In fact, incestuous rape further magnifies this terror, for the perpetrator in these cases, such as the victim's father, is a person normally expected to give solace and protection to the victim.⁵⁸ Moreover, in incest, access to the victim is guaranteed by the blood relationship, magnifying the sense of helplessness and the degree of fear.⁵⁹

⁵⁰ Id.

⁵¹ Id., citing *People v. Nuyok*, 759 Phil. 437, 454 (2015).

⁵² CA rollo, pp. 39-40.

⁵³ *People v. Salazar*, G.R. No. 239138, February 17, 2021, citing *People v. Gacusan*, 809 Phil. 773, 784-785 (2017).

⁵⁴ Id.

⁵⁵ CA rollo, p. 40.

⁵⁶ *People v. Noel Navasero, Sr.*, 846 Phil. 564, 596 (2019).

⁵⁷ Id.

⁵⁸ Id.

⁵⁹ Id.

Here, XXX is in no place to question the responses of AAA and BBB to the traumatic stimuli he himself created.

This Court is aware of the theory on Child Sexual Abuse Accommodation Syndrome (CSAAS) which was introduced by Roland Summit, M.D. in 1983 as a model for understanding why the behavior of children who have been sexually abused may seem strange to adults.⁶⁰ In the United States, expert witnesses described this to have the following stages:

- (1) The first stage, described as "secrecy," was explained in terms of both what an abuser does and why the child keeps the matter secret - because of embarrassment or shame, "sometimes enforced" by the adult telling the child to keep it secret or suggesting negative consequences if it is revealed.
- (2) The second stage is "helplessness" or the absence of power a child has in a relationship with a parental figure or trusted adult.
- (3) The third stage is "entrapment" and "accommodation" which happen when the child fails to seek protection.
- (4) The stage of "delayed disclosure" which was opined to have the tendency to be delayed because of the child's fear, shame, or emotional confusion.
- (5) The final stage called "retraction," which was said to involve the child's denial that the abuse has occurred.⁶¹

Selected courts in the United States admit expert testimony on CSAAS for a limited purpose of disabusing the mind of common misconceptions it might have about how child victims react to sexual abuse. It is often used to rehabilitate the credibility of the witness when the abuser suggests that the child's conduct is inconsistent with the testimony about molestation.⁶²

Interestingly, children are often told to be wary of strangers, to cry or shout right away whenever they feel threatened. However, were children taught how to respond when the peril comes from a person so familiar, including their father? In such a situation, should their silence, accommodation, or helplessness be deemed inconsistent to what is normal?

We may have to adjust our perspective and try to see things from the eyes of child victims. Actions which we commonly see as strange and inconsistent to the norm may actually be seen by victims as the only expected recourse or way out for them.

⁶⁰ *People v. Bowker*, 203 Cal. App 3d (Cal. Ct. App 1988), citing Summit, *The Child Sexual Abuse Accommodation Syndrome* (1983) 7 Int'l. J. of Child Abuse & Neglect 177. See also Comment, *The Admissibility of "Child Sexual Abuse Accommodation Syndrome" in California Criminal Courts* (1986) 17 Pacific L.J. 1361.

⁶¹ *Id.*

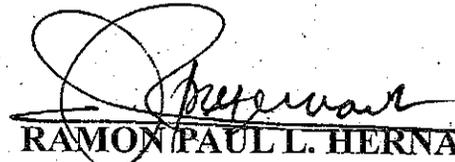
⁶² *People v. Wells* (2004) 118 Cal. App. 4th 179, 188 [12 Cal. Rptr. 3d. 762].

Countless incestuous rape cases come before Us and the defense often attacks the credibility of the victims based on their “inconsistent” responses to what is “normal.” This is not only diabolical but absurd as well. There is a need to correct our minds that these are not actually strange nor inconsistent but the normal course of action on the part of children who are victims of sexual abuse.

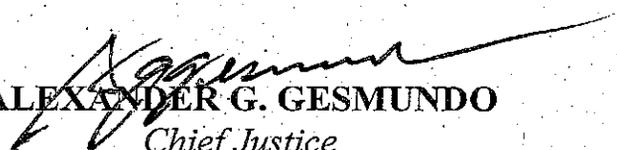
WHEREFORE, the appeal is **DISMISSED** and the Decision of the Court of Appeals dated February 23, 2022 in CA-G.R. CR-HC No. 02676-MIN is **AFFIRMED**.

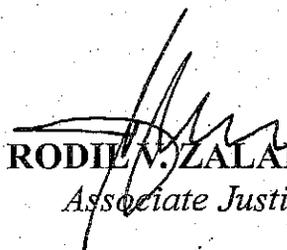
1. In Criminal Case No. 3068-2015, accused-appellant XXX is found **GUILTY** of Qualified Statutory Rape under Article 266-A in relation to Article 266-B of the Revised Penal Code as amended by Republic Act No. 8353 and **SENTENCED** to **SUFFER** the penalty of *reclusion perpetua* without eligibility for parole. He is **ORDERED** to **PAY** AAA, ₱100,000.00 as civil indemnity, ₱100,000.00 as moral damages, and ₱100,000.00 as exemplary damages.
2. In Criminal Case No. 3069-2015, accused-appellant XXX is found **GUILTY** of Qualified Statutory Rape under Article 266-A in relation to Article 266-B of the Revised Penal Code as amended by Republic Act No. 8353 and **SENTENCED** to **SUFFER** the penalty of *reclusion perpetua* without eligibility for parole. He is **ORDERED** to **PAY** AAA, ₱100,000.00 as civil indemnity, ₱100,000.00 as moral damages, and ₱100,000.00 as exemplary damages.
3. In Criminal Case No. 3070-2015, accused-appellant XXX is found **GUILTY** of Qualified Statutory Rape under Article 266-A in relation to Article 266-B of the Revised Penal Code as amended by Republic Act No. 8353 and **SENTENCED** to **SUFFER** the penalty of *reclusion perpetua* without eligibility for parole. He is **ORDERED** to **PAY** BBB ₱100,000.00 as civil indemnity, ₱100,000.00 as moral damages, and ₱100,000.00 as exemplary damages.
4. The civil damages shall earn the legal interest of 6% per *annum* from the finality of this judgment until fully paid.

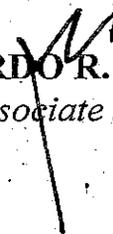
SO ORDERED.

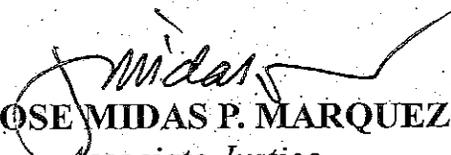

RAMON PAUL L. HERNANDO
Associate Justice
Working Chairperson

WE CONCUR:


ALEXANDER G. GESMUNDO
Chief Justice
Chairperson

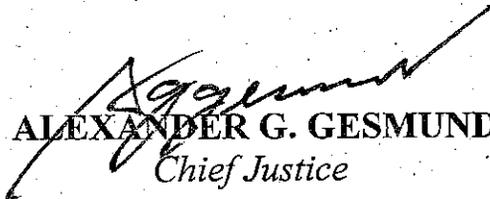

RODIEN N. ZALAMEDA
Associate Justice


RICARDO R. ROSARIO
Associate Justice


JOSE MIDAS P. MARQUEZ
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