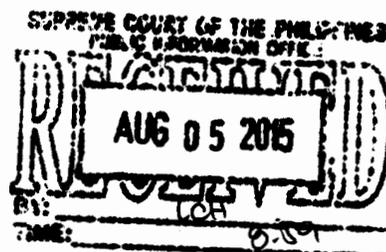




Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION



NOTICE

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated June 22, 2015, which reads as follows:

“G.R. No. 210566 (*People of the Philippines vs. Marlon Buado y Espina*). – Accused-appellant Marlon Buado y Espina (Buado) challenges in this appeal the Decision¹ dated July 24, 2013 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 04928, which affirmed the Decision² dated December 6, 2010 of the Regional Trial Court (RTC) of Quezon City, Branch 86, in Criminal Case No. Q-03-120435 of conviction for Rape in relation to Republic Act No. 7610.³

AAA,⁴ the complainant who was 15 years old then, testified that in the evening of January 19, 2003, she was sleeping alone in her room when she felt that someone was touching and kissing different parts of her body. She was able to recognize the culprit as Buado since she was familiar with his face and voice as they were neighbors. Buado mounted AAA, removed her duster, held up her arms and pinned her legs. He then inserted his penis into her vagina, and after several push and pull movements, AAA felt warm fluid coming out of Buado’s penis.⁵ Upon hearing the barking of the dogs outside, Buado hurriedly left. AAA immediately turned on the lights and saw Buado standing by the alley. Notwithstanding Buado’s threat to report her for possessing a sachet of *shabu* if she resists his demands,⁶ AAA relayed the incident to her aunt who immediately reported the matter to the authorities and had AAA examined. AAA’s physical examination revealed

¹ Penned by Associate Justice Manuel M. Barrios, with Associate Justices Remedios A. Salazar-Fernando and Normandie B. Pizarro concurring; CA *rollo*, pp. 109-116.

² Rendered by Acting Presiding Judge Hon. Maria Filomena D. Singh; *id.* at 15-22.

³ AN ACT PROVIDING FOR STRONGER DETERRENCE AND SPECIAL PROTECTION AGAINST CHILD ABUSE, EXPLOITATION AND DISCRIMINATION, AND FOR OTHER PURPOSES. Approved on June 17, 1992.

⁴ The real name of the victim, her personal circumstances and other information which tend to establish or compromise her identity, as well as those of her immediate family or household members, shall not be disclosed to protect her privacy and fictitious initials shall, instead, be used, in accordance with *People v. Cabalquinto* (533 Phil. 703 [2006]), and A.M. No. 04-11-09-SC dated September 19, 2006.

⁵ CA *rollo*, pp. 16-20.

⁶ *Id.* at 114.

deep healed lacerations and abrasions in her vestibule which indicate recent sexual intercourse.⁷

Buado, testifying in his own behalf, denied the charges against him and invoked the defense of *alibi*. He alleged that on the date and time of the incident, he was already sleeping with his wife, and then he went to a friend's house to watch cable television. Thereafter, his wife fetched him, and while on their way home, they met AAA who offered them *shabu*. He got angry and yelled at AAA. He further said that AAA resented him because he had caused the arrest of a certain Jet-Jet who was AAA's cohort in their illegal drugs trade.⁸

After trial, the RTC rendered judgment on December 6, 2010, convicting Buado of the crime charged and sentenced him to suffer the penalty of *reclusion perpetua*, and ordered him to pay AAA civil indemnities of ₱75,000.00 and moral damages of ₱50,000.00.⁹

On appeal, the CA rendered its Decision dated July 24, 2013, affirming the RTC decision in its entirety. Buado then appealed to this Court for review.¹⁰

The appeal lacks merit.

To support his claim of innocence, Buado anchors his prayer for acquittal on the following defenses: (1) the testimony of AAA has no detailed and complete narration of the incident; (2) there was no showing of force or intimidation; (3) AAA's conduct after the rape was unusual as she did not show any violent reaction or recrimination; and (4) the findings in the medical examination showed healed lacerations which contradict AAA's claim of rape.¹¹

One. AAA's failure to recall and recite the exact details of the rape does not militate against her credibility since rape victims are not expected to cherish in their memories an accurate account of the dates, number of times and manner they were violated.¹² In resolving rape cases, the primordial question is the credibility of the complainant's testimony since she alone can testify as to its occurrence. Here, the trial judge, who had the opportunity of observing AAA's manner and demeanor on the witness stand, found AAA's testimony to be credible in itself. AAA's credibility was further strengthened by her conduct immediately following her being raped. After Buado hurriedly left, AAA immediately reported the incident to her

⁷ Id. at 111.

⁸ Id. at 20, 111.

⁹ Id. at 21.

¹⁰ *Rollo*, pp. 10-11.

¹¹ *CA rollo*, pp. 54-58.

¹² *People v. Lor*, 413 Phil. 725, 736 (2001).

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aunt. After that, they went to the police station to report the incident and to submit herself to a medical examination.

Two. AAA's failure to shout or tenaciously resist Buado's advances should not be taken as a manifestation of her voluntary submission to Buado's carnal desires. A rape victim has no burden to prove that she did all within her power to resist the force or intimidation employed upon her.¹³ The lack of active resistance cannot be equated to consent. Besides, resistance is not an element of rape.¹⁴ The fact that Buado threatened to report AAA for possessing a sachet of *shabu* if she resists his demands is enough to intimidate AAA.

Three. AAA's conduct after the rape is also not enough to taunt her credibility. "Victims of a crime as heinous as rape cannot be expected to act within reason or in accordance with society's expectations. It is unreasonable to demand a standard rational reaction to an irrational experience, especially from a young victim. One cannot be expected to act as usual in an unfamiliar situation as it is impossible to predict the workings of a human mind placed under emotional stress. Moreover, it is wrong to say that there is a standard reaction or behavior among victims of the crime of rape since each of them had to cope with different circumstances."¹⁵

Four. The fact that AAA has healed lacerations in her hymen, as pointed to by Buado, cannot work in his favor. "It is settled that healed lacerations do not negate rape. In fact, lacerations, whether healed or fresh, are the best physical evidence of defloration."¹⁶ Besides, a freshly broken hymen is not also an essential element of rape. In the context in which it is used in the Revised Penal Code, carnal knowledge does not necessarily require that the vagina be penetrated or that the hymen be ruptured.¹⁷

Having in mind the parameters set forth by this Court in its long line of decisions involving rape, Buado's other denials and *alibi* cannot prevail over the strength of AAA's testimony. Buado's unsubstantiated assertion that he was in his house and already asleep did not rule out his presence on the date and place of the commission of the crime because it was not physically impossible for him to commit the crime charged since his house was merely five houses away from AAA's house. Moreover, none of his friend or even his wife corroborated his *alibi*.¹⁸

In sum, the Court finds no reason to reverse the finding of the RTC and the CA. Thus, Buado's conviction for the crime of rape must stand.

¹³ *People v. Rivera*, G.R. No. 200508, September 4, 2013, 705 SCRA 187, 205, citing *People v. Baldo*, 599 Phil. 382, 389 (2009).

¹⁴ *Id.* See also *People v. Durano*, 548 Phil. 383, 397 (2007).

¹⁵ *People v. Pareja*, G.R. No. 202122, January 15, 2014, 714 SCRA 131, 153-154.

¹⁶ *People v. Vergara*, G.R. No. 199226, January 15, 2014, 714 SCRA 64, 75.

¹⁷ *People v. Dimanawa*, 628 Phil. 678, 690 (2010).

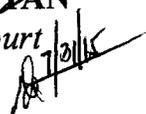
¹⁸ CA rollo, p. 20.

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Finally, the attendance of AAA's minority as an aggravating circumstance should still justify the grant of exemplary damages to protect hapless individuals from molestation. The grant in this regard should be in the sum of ₱30,000.00. In addition, interest at the rate of six percent (6%) *per annum* is imposed on all the monetary awards for damages to be reckoned from the date of finality of this judgment until fully paid.¹⁹

WHEREFORE, the instant appeal is **DENIED**. The Decision dated July 24, 2013 of the Court of Appeals in CA-G.R. CR-HC No. 04928, which found accused-appellant Marlon Buado y Espina **GUILTY** in Criminal Case No. Q-03-120435 of the crime of Rape is **AFFIRMED** with **MODIFICATIONS** that AAA is further awarded the amount of ₱30,000.00 as exemplary damages and interest at the rate of six percent (6%) *per annum* is imposed on all damages awarded from the date of finality of this judgment until fully paid." (Jardeleza, J., no part in view of participation in the Office of the Solicitor General; Mendoza, J., designated additional member per Raffle dated March 16, 2015.)

Very truly yours,


WILFREDO V. LAPITAN
 Division Clerk of Court 

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The Presiding Judge
 REGIONAL TRIAL COURT
 Branch 86, 1100 Quezon City
 (Crim. Case No. Q-03-120435)

The Chief Superintendent
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¹⁹ *People v. Reyes*, G.R. No. 173307, July 17, 2013, 701 SCRA 455, 464-465.