



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

SUPREME COURT OF THE PHILIPPINES
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Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated **July 15, 2020**, which reads as follows:

“G.R. No. 232654 – (PEOPLE OF THE PHILIPPINES, plaintiff-appellee v. MARLON SALAZAR alias “Dodong,” accused-appellant). – This resolves the appeal pursuant to Section 13(c), Rule 124 of the Rules of Court, as amended, from the Decision¹ dated October 30, 2015 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 05603. The CA affirmed the Decision of the Regional Trial Court (RTC) of San Carlos City, Pangasinan, Branch 57, finding accused-appellant Marlon Salazar alias “Dodong” (accused-appellant) guilty beyond reasonable doubt of the crime of rape under Article 266-A(1) in relation to Art. 266-B of the Revised Penal Code (RPC) in Criminal Case No. SSC-5549.

Accused-appellant was charged with the crime of Rape by virtue of an Information, dated August 24, 2009, the accusatory portion of which reads:

That on July 14, 2009 in the afternoon in San Carlos City, Pangasinan, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design, using force and intimidation had carnal knowledge of one AAA,² 4 years old, against the latter’s will and consent, to the damage and prejudice of the private offended party.

Contrary to Article 266-A, 1(a) in relation to Art. 266-B, par.2, both of the Revised Penal Code.³

Pursuant to a warrant issued by the RTC, accused-appellant was arrested and detained on October 1, 2009. Thereafter, on October 27, 2009,

¹ Penned by Associate Justice Myra V. Garcia-Fernandez, with Associate Justices Rosmari D. Carandang and Mario V. Lopez (now Members of this Court), concurring; *rollo*, pp. 2-11.

² 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.

³ *Rollo*, p. 3.

he was arraigned. Assisted by counsel, accused-appellant entered a plea of not guilty to the offense charged.⁴

After pre-trial, trial on the merits ensued.

The prosecution presented as witnesses: the minor offended party, AAA; her mother, BBB; AAA's Yaya, CCC; and Dr. Brenda M. Tumacder (Dr. Tumacder), the medical officer who examined the victim. Their testimonies tend to establish the following facts:

On July 14, 2009, AAA was inside the room in their house which was dedicated as her father's office; with her was accused-appellant, who worked as their houseboy. Therein, accused-appellant suddenly approached AAA, removed her panty, spat on her vagina, held her legs tightly, and kissed her. Then, he pulled down his pants and inserted his penis in her vagina. AAA cried during the ordeal. After the incident, the accused-appellant went to the kitchen. AAA, on the other hand, went to join her yaya, CCC, who was watching TV in the living room. AAA did not tell anyone of what happened.⁵

About two days thereafter, CCC noticed that there was pus in AAA's panty. CCC immediately informed AAA's mother, BBB. At that point, BBB was not able to process the information as AAA was then suffering from a fever. The following day, CCC again related to BBB that she saw some mucous-like substance in AAA's panty. BBB then inspected AAA's vagina and saw that there was pus. BBB decided to have AAA examined the following day.⁶

BBB brought AAA to Dr. Minerva Gallego, a pediatrician. Based on the laboratory test result conducted on AAA which confirmed the presence of pus in her vagina, AAA was prescribed with antibiotics and was required to use vaginal wash. With this information, BBB tried to coax AAA to tell her what happened, but it was not until July 22, 2009 that AAA related to BBB that she was molested by accused-appellant.⁷

During their second visit to the pediatrician, BBB was advised to submit AAA for medical examination. Thus, AAA and BBB went to the San Carlos City Police Station to first report the incident.⁸

⁴ Id.
⁵ CA rollo, p. 22.
⁶ Id. at 22-24.
⁷ Id. at 23.
⁸ Id.

On July 21, 2009, AAA was brought to the Region I Medical Center in Dagupan City, where she was examined by Dr. Tumacder, a medical specialist and the head of the Women and Children Protection Unit therein.⁹ Based on the Medico-Legal Report, AAA sustained the following injuries in her vagina:

erythema over fossa navicularis.

(+)Laceration, healed at 7:00 o'clock position

Medical evaluation showed evidence of sexual abuse¹⁰

After the prosecution rested, accused-appellant testified in his defense.

Accused-appellant denied the accusation against him and averred that he knew of no reason why he was being implicated in the rape committed against AAA. Accused-appellant testified that in July 2009, it was his fifth month working for the family of AAA as a carwash boy/household helper. He admitted that on the day of the alleged incident, he was at his employer's house.¹¹

Further, accused-appellant claimed that on July 18, 2009, he went home to Bugallon, Pangasinan, as he was sent home by DDD, one of the family's household helpers. While in Bugallon, accused-appellant was accused by BBB's uncle, EEE, of raping AAA, which he denied. EEE then brought accused appellant to his home where he was made to admit to the rape. Accused-appellant was later detained in San Carlos City on account of the rape charges.¹²

On May 23, 2012, the RTC rendered its Decision,¹³ ruling as follows:

WHEREFORE, premises considered, this Court finds the accused MARLON SALAZAR @ "Dodong" GUILTY beyond reasonable doubt for the crime of rape defined and penalized under Article 266-A of the Revised Penal Code in relation to Republic Act (R.A.) 7610 and he is hereby sentenced to suffer the penalty of reclusion perpetua. Further, the accused is hereby ordered to pay the victim, AAA the amount of Fifty Thousand (Php50,000.00) Pesos as moral damages, and another Fifty Thousand (Php50,000.00) Pesos as exemplary damages and to pay the cost of suit.

⁹ Id. at 23-25.

¹⁰ Id. at 22.

¹¹ *Rollo*, p. 5, *CA rollo*, pp. 25-26.

¹² Id.

¹³ Rendered by Judge Renato D. Pinlac, *CA rollo*, pp. 21-30.

SO ORDERED. 14

Accused-appellant filed an appeal before the CA, which rendered the herein assailed Decision,¹⁵ dated October 30, 2015, affirming that of the RTC. The dispositive portion reads:

WHEREFORE, the decision dated May 23, 2012 of the Regional Trial Court of San Carlos, Pangasinan in Criminal Case No. SSC-5549 finding accused-appellant Marlon Salazar alias "Dodong" guilty beyond reasonable doubt of rape and sentencing him to suffer the penalty of reclusion perpetua is AFFIRMED with MODIFICATION. The accused-appellant is liable to pay the victim P100,000.00 as civil indemnity, P100,000.00 as moral damages and P100,000.00 as exemplary damages. The award of damages shall earn interest at the rate of 6% interest per annum from finality of the decision until fully paid.

SO ORDERED.¹⁶

In this appeal, both parties manifested that they would no longer submit supplemental briefs considering that they had already exhaustively discussed the issues in their briefs before the CA.¹⁷

In the main, accused-appellant assails the judgment of conviction on the ground that his guilt has not been proven beyond reasonable doubt. Accused-appellant suggests that the injuries sustained by AAA could have been her own doing as a girl her age is naturally active, curious, and playful. Further, accused-appellant submits that it is likely that CCC, who holds a grudge against him, merely influenced AAA to falsely accuse him of rape.¹⁸

The appeal is *not meritorious*.

The Court finds that the prosecution successfully established all the elements of the crime of rape under Article 266-A (1) in relation to Art. 266-B of the RPC.

Foremost, the Court sees no reason to depart from the findings of both the RTC and the CA that the testimony of AAA is both credible and sufficient to establish the guilt of accused-appellant beyond reasonable doubt. The Court accords upon such findings utmost respect and finality,

¹⁴ Id. at 30.

¹⁵ *Rollo*, pp. 2-11.

¹⁶ Id. at 10.

¹⁷ Id. at 22-29.

¹⁸ *CA rollo*, pp. 15-17.

there being no showing that significant facts have been overlooked or disregarded, which could have otherwise affected the outcome of the case.¹⁹

As found by the RTC and the CA, while AAA was merely four years old at the time the crime was committed, her testimony was positive, direct, and categorical in describing her ordeal and in identifying accused-appellant as the perpetrator of the crime. Suffice it to say that a child of tender years, one that is not yet exposed to the ways of the world, would not have likely told a story so horrid and repulsive as rape, if it were not true.²⁰ Further, AAA's testimony was corroborated by the medico-legal findings that she sustained healed lacerations on her hymen at 7:00 o'clock position, which is consistent with sexual abuse.²¹

Accused-appellant's defenses of denial and alibi, in the absence of clear and convincing proof to substantiate the same, do not stand against the categorical statement and positive identification of the victim,²² particularly, as the same is corroborated by the physical evidence of injury. Moreover, accused-appellant failed to prove that it was impossible for him to have been at the scene of the crime when it was committed.²³ On the contrary, accused-appellant admitted that, on the day of the incident, he reported for work and was at the house where AAA and her family reside. Considering that there is a chance for the accused-appellant to be present at the crime scene, his defense of alibi must fail.²⁴

Anent the penalty, under Article 266-B of the RPC, the penalty of death is imposable when the victim in the crime of rape is a child below seven (7) years of age. Nonetheless, in view of Republic Act No. 9346,²⁵ the penalty of *reclusion perpetua* shall be imposed, qualified by the phrase "without eligibility for parole," as directed by A.M. No. 15-08-02-SC.

With respect to the civil liability, considering that the CA's imposition is in accordance with the Court's ruling in *People v. Jugueta*.²⁶ The Court affirms the same.

WHEREFORE, in view of the foregoing, the appeal is hereby **DISMISSED**. Accordingly, the Decision, dated October 30, 2015, of the Court of Appeals in CA-G.R. CR-HC No. 05603 convicting accused-appellant Marlon Salazar alias "Dodong" of the crime of Rape under Article

¹⁹ *People v. Banzuela*, 723 Phil. 797, 814 (2013).

²⁰ *People v. Pareja*, 724 Phil. 759, 779 (2014), citing *People v. Perez*, 595 Phil. 1232, 1251-1252 (2008).

²¹ *Rollo*, p. 22.

²² *People v. Romobio*, G.R. No. 227705, October 11, 2017, 842 SCRA 512, 532.

²³ *People v. Evangelio et al.*, 672 Phil. 229, 245 (2011).

²⁴ *Id.*

²⁵ AN ACT PROHIBITING THE IMPOSITION OF DEATH PENALTY IN THE PHILIPPINES.

²⁶ 783 Phil. 806 (2016).

266-A(1) in relation to Article 266-B of the Revised Penal Code is hereby **AFFIRMED with MODIFICATION**. Accused-appellant is hereby sentenced to suffer the penalty of *reclusion perpetua* without eligibility for parole. In addition, in accordance with recent jurisprudence,²⁷ he is ordered to pay private complainant AAA the amounts of ₱100,000.00 as civil indemnity, ₱100,000.00 as moral damages, and ₱100,000.00 as exemplary damages. All damages awarded shall earn interest at the rate of six percent (6%) *per annum* from the date of finality of this Resolution until fully paid.²⁸

SO ORDERED.”

(Carandang, J., recused herself from the case due to her prior action in the Court of Appeals; Lazaro-Javier, J., designated additional Member per Raffle dated March 2, 2020)

By authority of the Court:

Misael C. Batt
MISAELO DOMINGO C. BATTUNG III
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²⁷ Id.

²⁸ *Nacar v. Gallery Frames*, 716 Phil. 267 (2013).