



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **June 17, 2020** which reads as follows:*

“G.R. No. 231308 – PEOPLE OF THE PHILIPPINES v. XXX¹

This appeal assails the Decision² dated September 23, 2016 of the Court of Appeals in CA-G.R. CR-H.C. No. 07801 affirming the verdict of conviction of appellant XXX for qualified rape.

Antecedents

The Charge and The Plea

By Information³ dated August 4, 2011, appellant was charged with qualified rape as follows:

On the 3rd day of August, 2011, in x x x, Province of La Union, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design and by force and intimidation, did then and there, willfully, unlawfully and feloniously, pull one [AAA],⁴ an 11-year old minor and his stepdaughter, inside a parked jeep, and then insert repeatedly his penis into her female organ, to the damage and prejudice of the complaining minor.

- over – thirteen (13) pages ...

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¹ 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 initial shall, instead, be used, in accordance with *People v. Cabalquinto* [533 Phil. 703 (2006)] and Amended Administrative Circular No. 83-2015 dated September 5, 2017.

² Penned by Associate Justice Remedios A. Salazar-Fernando and concurred in by now Supreme Court Associate Justice Priscilla J. Baltazar-Padilla and Associate Justice Socorro B. Inting, *rollo*, pp. 2-17; *CA rollo*, pp. 89-104.

³ Record, pp. 1 and 2.

⁴ *Supra* note 1.

CONTRARY TO LAW.

On arraignment, appellant pleaded not guilty.⁵

During the pre-trial,⁶ the parties stipulated on the following: AAA was twelve (12) years old on August 3, 2011; and the medical certificate showed that she did not sustain vaginal laceration. Trial ensued.

During the trial, BBB, Dr. Julie Ann Gumangan (Dr. Gumangan), and SPO1 Marco Dulnuan (SPO1 Dulnuan) testified for the prosecution. While appellant testified as lone witness for the defense.

The Prosecution's Version

BBB testified that on August 3, 2011, around 8 o'clock in the morning, she was inspecting the national road leading to La Union where a landslide had just occurred. Suddenly, her stomach ached. Thinking she had diarrhea, she thought of going home but realized she had to relieve herself right away. She then walked to do it beside a jeepney parked nearby. She noticed though that there were people inside the jeepney – AAA and appellant. She recognized AAA as her husband's niece and appellant as AAA's stepfather.⁷

AAA was lying on the seat of the jeepney with her legs spread and undergarments rolled down to her knees. Appellant, on the other hand, was on top of AAA, his left leg kneeling on the jeepney's floor while his right leg was on the seat, doing a pumping motion. She initially got shocked and stood frozen in place. When she regained her composure, she asked appellant "what are you doing there?" Appellant got surprised and stopped what he was doing to AAA. After telling AAA to go home, BBB herself moved away from the jeepney as she got scared appellant would maul her. But appellant followed her. He knelt in front of her and asked forgiveness for what he did to AAA. She told appellant to go away. Thereafter, she asked her son to fetch AAA's mother and relayed to her what she just witnessed.⁸

SPO1 Dulnuan testified that he and SPO1 Rose Austria (SPO1 Austria) received a report from a concerned citizen of the alleged rape incident. They proceeded to the *situs criminis* where they found a

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⁵ Record, pp. 21 and 23.

⁶ *Id.* at 30-32.

⁷ TSN dated June 11, 2012, pp. 175-177.

⁸ *Id.* at 182 and 191.

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group of barangay officials guarding the supposed rapist, later identified as appellant. SPO1 Austria interviewed AAA who confirmed that it was appellant who raped her, while SPO1 Dulnuan talked to BBB who recounted that she witnessed appellant raping AAA. The police officers brought appellant to the police station for investigation. There, AAA and BBB prepared their sworn statements.⁹

AAA and her mother CCC went to a hospital where the former was examined by Dr. Gumangan. Per Medico-Legal Certificate dated August 4, 2011,¹⁰ Dr. Gumangan found that AAA sustained vaginal abrasion at 9 o'clock position. AAA also revealed to her that she was raped by appellant, her stepfather. He apparently told her to accompany him to the parked jeepney to retrieve charcoal. Inside the jeepney, appellant forced her to remove her shorts and lie down and had carnal knowledge of her.¹¹

The Defense's Version

Appellant testified that on August 3, 2011, he was supposed to deliver charcoal, but his delivery schedule got cancelled because of a landslide. Thus, he decided to unload the cargo from his jeepney. While unloading fifteen (15) sacks of charcoal, AAA arrived and offered her help. He rejected her offer but AAA insisted and unloaded the sacks of vegetables instead. Suddenly, BBB arrived and accused him of doing something bad to AAA. BBB left but came back five (5) minutes later accompanied by barangay tanods.¹²

He denied raping AAA. He treated her as his own child.¹³ BBB charged him with rape only because they had a previous disagreement involving a parcel of land.¹⁴

The Trial Court's Ruling

By Decision¹⁵ dated September 9, 2015, the trial court found appellant guilty of qualified rape, *viz.*:

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⁹ TSN dated May 22, 2012, pp. 162-165.

¹⁰ Record, p. 12.

¹¹ TSN dated January 24, 2012, pp. 152-156.

¹² TSN dated July 18, 2013, pp. 199-201.

¹³ *Id.* at 201.

¹⁴ *Id.* at 198-199 and 202.

¹⁵ Penned by Judge Ferdinand A. Fe, record, pp. 211-222.

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WHEREFORE, judgment is hereby rendered finding the accused **GUILTY** beyond reasonable doubt of qualified rape defined and penalized under Article 266-B and is hereby sentenced to suffer the penalty of **RECLUSION PERPETUA** without eligibility of parole and to pay the following:

- a. Seventy Five Thousand Pesos (Php75,000.00), Philippine Currency as civil indemnity;
- b. Seventy Five Thousand Pesos (Php75,000.00), Philippine Currency as moral damages;
- c. Thirty Thousand Pesos (Php30,000.00), Philippine Currency as exemplary damages and to pay the victim interest of six percent (6%) this judgment until the amount of damages this (sic) awarded is fully paid.

SO ORDERED.¹⁶

The trial court gave credence to the testimony of BBB who positively identified appellant as the person she saw having carnal knowledge of AAA on August 3, 2011. The trial court found her testimony straightforward, consistent and categorical. She had no motive to falsely testify against appellant other than to seek justice for AAA. Her testimony was also corroborated by Medico-Legal Dr. Gumangan who examined AAA and found that she sustained abrasion at 9 o'clock position on her labia minora, and by SPO1 Dulnuan, the first officer who proceeded to the scene of the crime.

Proceedings before the Court of Appeals

On appeal,¹⁷ appellant argued that he could not have been convicted of qualified rape because the qualifying circumstance of age and relationship was not alleged in the Information, hence, depriving him of his right to be informed of the nature and cause of the accusation against him; and, the prosecution failed to present AAA herself to testify, thus, his conviction merely rested on the testimony of an alleged eyewitness.

The People, through the Office of the Solicitor General (OSG), riposted:¹⁸

Appellant was not deprived of his right to due process because the Information expressly alleged that appellant had sexual congress with private offended party "AAA," "an 11-year old minor and his stepdaughter."

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¹⁶ *Id.* at 222.

¹⁷ *CA rollo*, pp. 30-43.

¹⁸ *Id.* at 67-80.

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Appellant's guilt was likewise established based on the testimony of the eyewitness who spontaneously reported the incident, indicating that the accusation was not out of ill motive but out of a desire to seek justice for the minor victim whom she treated as her niece. Too, AAA's mother immediately accompanied her child to undergo medical examination. No parent would subject her child to humiliation, disgrace, and trauma of such an ordeal other than to seek justice. If at all, AAA's failure to testify strongly indicated appellant's moral ascendancy over her and her mother.

The Court of Appeals' Ruling

By Decision¹⁹ dated September 23, 2016, the Court of Appeals affirmed. It found no reason to overturn the trial court's findings on BBB's credibility as a witness.

The Present Appeal

Appellant now seeks affirmative relief from the Court praying anew for his acquittal. In compliance with the Court's Resolution²⁰ dated August 7, 2017, both appellant and the OSG manifested that in lieu of supplemental briefs, they were adopting their respective briefs before the Court of Appeals.²¹

Issues

Was appellant denied of his right to be informed of the nature of the accusation against him?

Did the Court of Appeals err in affirming appellant's conviction for qualified rape?

Ruling

The appeal is partly meritorious.

In criminal prosecutions, every element constituting the offense must be alleged in the Information before an accused may be convicted of the crime charged. This is to apprise the accused of the nature of the accusation against him, which is part and parcel of the rights accorded to an accused enshrined in Article III, Section 14(2) of the 1987 Constitution. Section 6, Rule 110 of the Rules of Court, in turn, pertinently provides:

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¹⁹ Supra note 2.

²⁰ *Rollo*, pp. 24-25.

²¹ *Id.* at 32-34 and 26-28.

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Section 6. Sufficiency of complaint or information. - A complaint or information is sufficient if it states the name of the accused, the designation of the offense by the statute, the acts or omissions complained of as constituting the offense; the name of the offended party; the approximate time of the commission of the offense, and the place wherein the offense was committed.

Here, the Information²² charged appellant with qualified rape, as follows:

On the 3rd day of August, 2011, in x x x, Province of La Union, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design and by force and intimidation, did then and there, willfully, unlawfully and feloniously, pull one [AAA], an 11-year old minor and his stepdaughter, inside a parked jeep, and then insert repeatedly his penis into her female organ, to the damage and prejudice of the complaining minor.

CONTRARY TO LAW.

The above-quoted Information alleged that AAA was appellant's "stepdaughter." *People v. De Guzman*²³ explained that a stepfather-stepdaughter relationship presupposes a legitimate relationship between the appellant and the victim's mother. Thus, a "stepfather" is the "husband of one's mother by virtue of a marriage subsequent to that of which the person spoken of is the offspring."

Here, the prosecution failed to establish this stepparent-stepdaughter relationship between appellant and AAA. No proof of marriage was presented in order to establish appellant's legal relationship with AAA's mother. On the contrary, records show that appellant was actually the common law spouse of CCC. During the trial, appellant testified:

ATTY. TOLENTINO:
XXXX

Q Mr. Witness do you know [AAA], the private complainant in this case?

XXXX

A She is my stepdaughter, ma'am.

Q Whose daughter is she, Mr. Witness?

A She is the daughter of my live-in partner, ma'am.²⁴

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²² Supra note 3.

²³ G.R. No. 224212, November 27, 2019.

²⁴ TSN dated July 18, 2013, p. 197.

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In *People v. Begino*,²⁵ the Court ruled that since the qualifying circumstance of “common law spouse” was not alleged in the Information against appellant, he could not be convicted of rape in the qualified form as he was not properly informed of the nature and cause of accusation against him. So must it be.

Appellant is guilty of simple rape

Article 266-A of the Revised Penal Code (RPC) ordains:

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 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.

x x x

x x x

x x x

Based on the quoted provision, rape has the following elements: 1) the offender had carnal knowledge of a woman; and 2) he accomplished this act through force, threat or intimidation, when she was deprived of reason or otherwise unconscious, or when she was under 12 years of age or was demented.²⁶

All the elements are present in this case. Consider:

First, Eyewitness BBB testified:

PROS. LAMONG:

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Q Now, Madam witness, on August 3, 2011 at around 8:30 in the morning, do you remember where were you?

A I was at the road, sir.

xxxx

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²⁵ 601 Phil. 182, 191 (2009).

²⁶ *People v. Hilarion*, 722 Phil. 52, 55 (2013).

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Q And what were you doing along the road in that morning?

A I was looking at the place where a landslide (sic) because even the vehicle of [the] Mayor could not pass, sir.²⁷

x x x

x x x

x x x

Q So, after witnessing that, Madam witness, what happened next?

A While thereat, I felt that my stomach is aching, sir. I think, I'm having a diarrhea, that's why I went home.

Q Were you able to reach your house?

A No, sir. I was supposed to move my bowel beside the jeep. When I was about to move my bowel beside the jeep, I held the iron barrel at the back of the jeep and when I was about to step inside the jeep, however, I noticed a child and a man.

Q What is the name of this child, if you know, Madam witness?

A [AAA], sir.

Q How about this man you saw inside the jeep together with [AAA], what is his name?

A He is being called by the name [XXX], sir.²⁸

x x x

x x x

x x x

Q Now, you mentioned a while ago that when you were about to step on the jeep, you saw [XXX] and [AAA], what were they doing inside the jeep?

A He is in the act of raping [AAA] because the child is lying on the seat of the jeep.

Q How about [XXX], where was he when [AAA] was lying on the seat of the jeep?

A (Witness demonstrated that the right leg of the accused is kneeling while the other one is stretched and made a pumping movement.)

xxxx

Q While the accused was in that position and making a pumping motion, how was the position of the child?

A The child is lying on the seat of the jeep and her legs were spread, sir.²⁹

x x x

x x x

x x x

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²⁷ TSN dated June 11, 2012, p. 176.

²⁸ *Id.* at 177.

²⁹ *Id.* at 178.

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THE COURT:

Q You said the accused was raping the child, why, what was he doing?

A I saw the man in a (sic) pumping movement, You Honor.

Q You see (sic) his organ?

A Yes, Your Honor.

Q Where was the organ of the man placed?

A It was inserted into the vagina of the child, Your Honor.

Q What was the child doing, was she crying?

A No, Your Honor, she is, as is, lying down and she is not crying.³⁰

x x x

x x x

x x x

PROS. LAMONG:

xxxx

Q How far were the accused and the child when you saw them?
How far were they from you?

A I was at the entrance of the jeep, sir. I am very near.

THE COURT:

xxxx

Q The back of the accused was turned against you?

A The man is facing me, Your Honor, because he is facing the entrance of the jeep. He is facing the door of the jeep.³¹

BBB narrated the rape incident and positively identified appellant as the person whom she saw having carnal knowledge of eleven (11)-year old AAA on August 3, 2011 inside a parked jeepney. AAA was lying on the seat of the jeepney, her legs were spread while appellant was on top. Appellant was kneeling on the jeep's floor, his left leg on the floor while his right leg was on the seat, and was inserting his penis into AAA's vagina. Her testimony was straightforward, categorical, and detailed. It is settled that when a testimony is given in a candid and straightforward manner, there is no room for doubt that the witness is telling the truth.

Notably, AAA and BBB are relatives, the former being the niece of BBB's husband. In *People v. Sualog*,³² the Court ruled that blood relationship by affinity or consanguinity between a witness and

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³⁰ *Id.* at 179.

³¹ *Id.* at 180

³² *See* 398 Phil. 637, 652 (2000).

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the victim does not, by itself, impair the credibility of the former. On the contrary, relationship strengthens credibility, for it is unnatural for an aggrieved relative to falsely accuse someone else other than the actual culprit. The earnest desire to seek justice for a dead kin is not served should the witness abandon his or her conscience and prudence and blame one who is innocent of the crime. Consequently, in the absence of any evidence that would suggest an improper motive against BBB, her testimony positively identifying appellant as the person who raped AAA is worthy of credence.

Appellant, nonetheless, assails his conviction based on the testimony of a mere witness, not the complainant herself. On this score, *People v. Dagsa*³³ decreed:

[W]here the prosecution eyewitnesses were familiar with both the victim and the accused, and where the locus criminis afforded good visibility, and where no improper motive can be attributed to the witnesses for testifying against the accused, then their version of the story deserves much weight x x x.

To be sure, BBB was not just an ordinary witness. She was an eyewitness. She was only a few meters away from AAA and appellant when she saw the crime being committed; the crime also took place in broad daylight; and she knew both AAA and appellant very well such that she could readily identify them. Applying *Dagsa*, BBB's testimony is indeed worthy of credence.

Too, BBB's testimony was corroborated by medical findings. Dr. Gumangan examined AAA and found the latter sustained abrasion at 9 o'clock position on her labia minora. Hymenal lacerations or abrasions, in this case, whether healed or fresh, are the best evidence of forcible defloration. And when the consistent and forthright testimony of a rape victim is consistent with medical findings, there is sufficient basis to warrant a conclusion that the essential requisites of carnal knowledge have been established. So must it be.

Second, in *People v. Pruna*,³⁴ the Court laid down the guidelines in determining the age of the victim:

1. The best evidence to prove the age of the offended party is an original or certified true copy of the certificate of live birth of such party.

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³³ 824 Phil. 704, 720 (2018).

³⁴ 439 Phil. 440, 470-471 (2002).

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2. In the absence of a certificate of live birth, similar authentic documents such as baptismal certificate and school records which show the date of birth of the victim would suffice to prove age.

3. If the certificate of live birth or authentic document is shown to have been lost or destroyed or otherwise unavailable, the testimony, if clear and credible, of the victim's mother or a member of the family either by affinity or consanguinity who is qualified to testify on matters respecting pedigree such as the exact age or date of birth of the offended party pursuant to Section 40, Rule 130 of the Rules on Evidence shall be sufficient under the following circumstances:

- a. If the victim is alleged to be below 3 years of age and what is sought to be proved is that she is less than 7 years old;
- b. If the victim is alleged to be below 7 years of age and what is sought to be proved is that she is less than 12 years old;
- c. If the victim is alleged to be below 12 years of age and what is sought to be proved is that she is less than 18 years old.

4. In the absence of a certificate of live birth, authentic document, or the testimony of the victim's mother or relatives concerning the victim's age, the complainant's testimony will suffice provided that it is expressly and clearly admitted by the accused.

5. It is the prosecution that has the burden of proving the age of the offended party. The failure of the accused to object to the testimonial evidence regarding age shall not be taken against him.

6. The trial court should always make a categorical finding as to the age of the victim.

Here, although the Information alleged that AAA was eleven (11) years old at the time of the incident, the prosecution failed to present any proof to establish her minority. No documentary evidence such as a birth certificate or other authentic documents were offered to prove AAA's age and there was no explanation why none was presented. Neither was there testimonial evidence from the concerned individuals to establish her age.³⁵ Thus, on the basis of *Pruna*, AAA's age cannot be considered here.

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³⁵ *People v. Gozo*, G.R. No. 225605, July 23, 2018.

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Be that as it may, rape was still sufficiently established in this case. In *People v. Hilarion*,³⁶ the Court convicted the accused for simple rape after the prosecution failed to prove the victim's age with certainty, thus:

Second, the appellant employed threat, force and intimidation to satisfy his lust. As an element of rape, force, threat or intimidation need not be irresistible, but just enough to bring about the desired result. In the present case, AAA testified that she cried when the appellant inserted his penis into her vagina. As a child of tender years, she could not reasonably be expected to resist in the same manner that an adult would under the same or similar circumstances. x x x

Here, appellant's moral ascendancy or influence over AAA as the common law spouse of her mother supplants the element of violence or intimidation. Thus, even if there was no evidence that appellant actually threatened her with a weapon or otherwise before forcing himself on her, her ingrained fear of him and what he could do to her and her mother led her to bear his abuse in silence.

Penalty

Article 266-B in relation to Article 266-A (1)(a) of the RPC provides that the penalty for simple rape is *reclusion perpetua*. There being no qualifying circumstances, the Court of Appeals did not err in affirming the trial court's imposition of the penalty of *reclusion perpetua* against appellant.

As to the award of damages, the Court of Appeals correctly ordered the payment of P75,000.00 as civil indemnity and P75,000.00 as moral damages to AAA. In conformity with recent jurisprudence, however, the exemplary damages should be increased to P75,000.00.³⁷ In addition, these amounts shall earn six percent (6%) interest per annum from finality of this Resolution until fully paid.

ACCORDINGLY, the appeal is **PARTLY GRANTED**. The assailed Decision dated September 23, 2016 of the Court of Appeals in CA-G.R. CR-H.C. No. 07801 is **AFFIRMED with MODIFICATION**.

Appellant XXX is found **GUILTY** of SIMPLE RAPE and sentenced to *RECLUSION PERPETUA*. He is ordered to pay AAA P75,000.00 as civil indemnity, P75,000.00 as moral damages, and

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³⁶ 722 Phil. 52, 55-56 (2013).

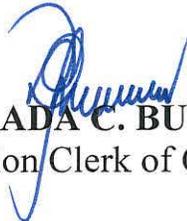
³⁷ *People v. Gozo*, supra note 35.

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P75,000.00 as exemplary damages. All monetary awards shall earn six percent (6%) interest per annum from finality of this Resolution until fully paid.

SO ORDERED.”

Very truly yours,


LIBRADA C. BUENA
Division Clerk of Court

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court *for role*
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The Solicitor General
134 Amorsolo Street, Legaspi Village
1229 Makati City

Court of Appeals (x)
Manila
(CA-G.R. CR HC No. 07801)

The Hon. Presiding Judge
Regional Trial Court, Branch 67
Bauang, 2501 La Union
(Crim. Case No. 4144-Bg)

PUBLIC ATTORNEY’S OFFICE
Special and Appealed Cases Service
Counsel for Accused-Appellant
DOJ Agencies Building, Diliman
1101 Quezon City

XXX
Accused-Appellant
c/o The Director General
Bureau of Corrections
1770 Muntinlupa City

The Director General
Bureau of Corrections
1770 Muntinlupa City

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