



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **26 April 2021** which reads as follows:*

“G.R. No. 250903 (*People of the Philippines v. XXX*) – The Court NOTES:

1. The manifestation¹ (in lieu of supplemental brief) dated February 16, 2021 of the Public Attorney’s Office, dispensing with the filing of supplemental brief since it had exhaustively discussed the assigned errors in the appellant’s brief, and no new issues material to the case were discovered; and

2. The manifestation and motion² (in lieu of supplemental brief) dated February 15, 2021 of the Office of the Solicitor General, dispensing with the filing of supplemental brief since it had fully refuted and discussed all the points of arguments raised by the accused-appellant in his main brief.

We affirm.

The Informations charged accused-appellant XXX³ with two (2) counts of rape defined under Article 266-A(1)(a) of the Revised Penal Code as amended by Republic Act No. 8353 (RA 8353),⁴ *viz.*:

¹ *Rollo*, pp. 24-26.

² *Id.* at 29-31.

³ 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.

⁴ 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.

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;

It requires the following elements: (1) accused had carnal knowledge of a woman; and (2) he accompanied such act by force, threat, or intimidation.⁵ The prosecution established the presence of these elements to a moral certainty here.

During the trial, AAA testified on the March 21, 2001 incident, thus:⁶

Q: In this case that happened on March 21, 2001 at 11:00 o'clock in the evening, did you remove your clothing because you were threatened by your father or your father was the one who forcible removed your clothes?

A: It was my father who forcible removed my clothes.

Q: And why did you also say that you were forced to remove your clothes because your father threatened you?

A: Because he was threatening me.

x x x x

Q: After your father spread your legs, what happened next, if any?

A: He placed himself on top of me.

Q: After he placed himself on top of you, what happened next?

A: He asked me if it was painful [, sir.]

Q: Why did he ask you if it was painful?

A: Because he inserted his penis.

Q: And what was your response when he asked you if it was painful?

A: I told him that it was painful, sir.

Q: Which is painful?

A: My vagina, sir.

As for the July 17, 2001 incident:⁷

Q: While you were in your room at around 3:00 to 5:00 o'clock in the morning of July 17, 2001, do you recall of any unusual incident that happened to you?

A: Yes, sir.

Q: What was that incident?

A: Rape, sir.

Q: Who raped you?

A: My father.

⁵ See 810 Phil. 253, 289 (2017).

⁶ CA *rollo*, pp. 84-85.

⁷ *Id.* at 85.

Q: How was your father able to rape you?

A: He suddenly opened the door of my room.

Q: Then, what happened?

A: He placed himself on top of me, sir.

Q: How was he able to place himself on top of you immediately upon opening the door of your room?

A: He first embraced me and after that, he placed himself on top of me, sir.

Q: After he placed himself on top of you, what happened next?

A: He inserted his penis into my vagina.

Q: Were you wearing clothes at that time?

A: No, sir.

Q: How did it happen that you were not wearing clothes at that time?

A: He instructed me to remove my clothes.

Q: Did you follow him?

A: Yes, sir.

Q: Why did you follow him?

A: Because he was threatening me.

Verily, AAA was forced to retell the sordid details of the bestial act and relive the twin rapes all over again when she took the witness stand. As AAA narrated, she was alone in the living room of their house on March 21, 2001, around 11 o'clock in the evening when appellant suddenly appeared, led her into her room, warned her not to tell anyone about the incident, then forcibly undressed her. She resisted, but to no avail. He then mounted her and inserted his penis into her vagina.⁸ After the ordeal, he warned her again not to tell anyone of the incident, so she kept silent out of fear.⁹ A similar incident occurred on July 17, 2001. He went to her room, undressed himself, and ordered her to remove her clothes and spread her legs. He got on top of her and inserted his penis into her vagina.¹⁰ Though she tried to resist, she failed to stop the lustful advances of her father who not only exercised moral ascendancy over her, but also warned her twice not to tell anyone of the rapes.¹¹

Appellant, nevertheless, attempts to discredit AAA because the latter allegedly had hallucinations due to a mental condition she developed when she underwent surgery for her hydrocephalus when she was just three (3) months old. Too, AAA gave conflicting statements on how she got undressed during the alleged rape incidents. At any rate, the charges against him were merely fabricated by his wife's relatives who had been trying to separate them for years.¹²

⁸ *Id.* at 81.

⁹ *Id.* at 140.

¹⁰ *Id.* at 82.

¹¹ *Id.* at 85-86.

¹² *Id.* at 62.

We are not convinced.

At the outset, the assessment of credibility is best undertaken by the trial court since it has the opportunity to observe evidence beyond what is written or spoken, such as the deportment of the witness while testifying on the stand.¹³ Hence, the trial court's factual findings on the credibility of witnesses are binding and conclusive on the reviewing court, especially when affirmed by the Court of Appeals, as here.¹⁴

At any rate, appellant's assertions are utterly bereft of merit.

First. AAA's mental condition did not diminish her qualification or credibility as a witness. Section 21, Rule 130 of the Revised Rules of Evidence pertinently reads:

Section 21. Witnesses; their qualifications. — All persons **who can perceive, and perceiving, can make known their perception to others**, may be witnesses.

x x x x

Notably, Section 21 of the present Rule was renumbered from Section 20. Prior to Rule 130's amendment, the now deleted Section 21 formerly read:

Section 21. *Disqualification by reason of mental incapacity or immaturity.*
— The following persons cannot be witnesses:

(a) Those whose mental condition, at the time of their production for examination, is such that they are **incapable of intelligently making known their perception to others**;

The deletion, however, had no substantial effect on Section 21 as presently worded. For the rule remains, as it was, that a person would still qualify as a witness despite his or her mental illness so long as he or she is capable of perceiving, and perceiving, can make known his or her perception to others at the time of examination.

As the courts below aptly noted here, AAA showed her capacity to perceive and make known her perceptions when she testified on four (4) different trial dates.¹⁵ Obviously, AAA's condition was no obstacle for her to communicate her harrowing experiences in the hands of her own father.

Dr. Jose Rommel Soriano even vouched for AAA's capacity to testify, thus:

Q: What do you expect from the complainant considering the findings that you made?

¹³ See 741 Phil. 701, 711 (2014).

¹⁴ See 768 Phil 593, 598 (2015).

¹⁵ *Id.* at 144.

A: With regards to the possibility of the complainant to testify in Court at present, her competency is better than before. No symptoms of psychosis is present although there were still features of anxiety, depressive features went down, and so she can narrate and tell to everybody what really happened to her, although some hesitancy was still noted, but grossly she can tell the details of what happened to her during the time she was abused.¹⁶

At any rate, AAA's mental condition does not appear to have been caused by her surgery, contrary to appellant's claim. For AAA testified that her mental illness only started to manifest after the rape incidents, thus:

Q: For how long have you been suffering from this hallucination and hearing voices in your head?

A: For two (2) years, ma'am.

Q: From what particular date?

A: Since this rape happened, Your Honor

Q: When did this rape happen?

A: On March 21, 2001, Your Honor.

Q: When you were still nine (9) years old, have you been suffering from this hallucination?

A: No, ma'am.

Q: When you were twelve (12) years old, did you suffer from this hallucination?

A: No, ma'am.¹⁷

Second. AAA sufficiently explained the supposed inconsistency in her testimony, *viz.* :

Q: Now in your direct testimony, you had a hard time in answering who actually removed your clothes. Was that a manifestation of conflicting statements in your head?

A: Yes, ma'am.

Q: So in other words, up to this point in time, you were still suffering from conflicting statements and hallucination, is that correct?

A: Sometimes when I get tired, ma'am.

Q: So while you were testifying in your direct examination, you were tired, is that correct?

A: No, ma'am.

Q: But you gave conflicting answers, do you remember that?

A: Yes, ma'am.

Q: So even if you were not tired, you were still suffering from conflicting statements in your head, is that correct?

A: No, ma'am.

¹⁶ *Id.*

¹⁷ *Id.* at 145-146.

Q: So how can you explain that?

A: Because too many questions are being asked continuously, ma'am.¹⁸

In any event, the so-called inconsistency in AAA's testimony pertaining to who took off her clothes is too trivial to diminish her credibility.¹⁹ It does not change the fact that her own father had carnal knowledge of her through force or intimidation to satisfy his bestial desire.

More, variance in minor details has the effect of bolstering rather than diminishing the witness' credibility as it discounts the possibility of a rehearsed testimony. What remains paramount is the witness' consistency in relation to the principal elements of the crime and the positive and categorical identification of the accused as the perpetrator of the same, as here.²⁰

Finally. the Court finds that the charges were real and not fabricated. Indeed, a young girl's revelation that she had been raped, coupled with her voluntary submission to medical examination and willingness to undergo public trial where she could be compelled to give out the details of the assault on her dignity cannot be so easily dismissed as mere concoction.²¹ It is highly improbable that a girl would fabricate a story that would expose herself and her family to a lifetime of dishonor,²² especially when her charge would mean the long-term imprisonment of a blood relative, her own father in this case.

All told, the courts below did not err in giving credence to AAA's categorical and straightforward testimony. In light of her positive identification of appellant as her assailant, appellant's defense of denial crumbles with ease.

Penalty

Article 266-B of the Revised Penal Code, as amended by RA 8353, prescribes the penalty of *reclusion perpetua* for rape. Where the victim however is under eighteen (18) years of age and the offender is a parent of said victim, the proper penalty is death.²³

Here, AAA was sixteen (16) years of age when she got raped. The prosecution offered in evidence her birth certificate to prove her minority at the time of the incidents. Meanwhile, her blood relation with appellant is undisputed and affirmed in the same birth certificate. Consequently, the death penalty should have been imposed were it not for the enactment of Republic Act No. 9346.²⁴ The courts below therefore correctly sentenced appellant to *reclusion perpetua* without eligibility for parole.²⁵

¹⁸ *Id.* at 144-145.

¹⁹ See 813 Phil. 1055, 1065 (2017).

²⁰ *Id.*

²¹ *CA rollo*, p. 114, citing 728 Phil. 576, 585 (2014).

²² See 652 Phil. 134, 145 (2010).

²³ Article 266-B(1).

²⁴ An Act Prohibiting the Imposition of Death Penalty in the Philippines.

²⁵ Section 3, RA 9346.

The Court of Appeals, too, properly increased the award of civil indemnity, moral damages, and exemplary damages to ₱100,000.00 each for each count in accordance with *People v. Jugueta*.²⁶ These amounts shall earn six percent (6%) interest *per annum* from finality of this Resolution until fully paid.²⁷

ACCORDINGLY, the appeal is **DISMISSED**. The Decision of the Court of Appeals dated August 23, 2017, in CA-G.R. CR HC No. 08629 is **AFFIRMED**.

Appellant **XXX** is found **GUILTY** of two (2) counts of **Qualified Rape** and is sentenced to *reclusion perpetua* without eligibility for parole. He is further ordered to **pay** civil indemnity, moral damages, and exemplary damages of ₱100,000.00 each for each count. These amounts shall earn six percent (6%) interest *per annum* from finality of this Resolution until fully paid.

SO ORDERED.”

By authority of the Court:

TERESITA AQUINO TUAZON
Division Clerk of Court

By:



MA. CONSOLACION GAMINDE-CRUZADA
Deputy Division Clerk of Court

14 JUN 2021

14/14

²⁶ See 783 Phil. 806, 843 (2016).

²⁷ 716 Phil. 267, 283 (2013).

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