



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **03 March 2021** which reads as follows:*

“G.R. No. 250861 (People of the Philippines v. BBB¹). — The conviction of the accused for two (2) counts of Qualified Rape is the subject of review in this appeal assailing the Court of Appeals’ (CA) Decision² dated July 24, 2019 in CA-G.R. CR-HC No. 11494.

ANTECEDENTS

BBB was charged with two (2) counts of Qualified Rape committed against her sister-in-law AAA,³ a 17-year-old minor, before the Regional Trial Court (RTC) docketed as Criminal Case Nos. 2014-66-I and 2014-116-I, to wit:

[Criminal Case No. 2014-66-I]

[x x x x]

That on or about 8th day of January 2014, in [x x x], Province of Quezon, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, being the brother-in-law of complainant minor

¹ Modified pursuant to SC Administrative Circular No. 83-15 dated July 27, 2015 (Re: Protocols and Procedures in the promulgation, publication, and posting on the Websites of Decisions, Final Resolutions and Final Orders Using Fictitious Names), in relation to Republic Act (RA) No. 7610, RA No. 8508, RA No. 9208, RA No. 9262, and RA No. 9344. Fictitious initials are instead used to represent the victims. Likewise, the personal circumstances or other information tending to establish or compromise their identities, as well as those of their immediate family or household members shall not be disclosed. The name of the accused-appellant is also blotted out as it tends to establish or compromise the victim’s identities.

² *Rollo*, pp. 3-19; penned by Associate Justice Marlene B. Gonzales-Sison, with the concurrence of Associate Justices Zenaida T. Galapate-Laguilles and Ronaldo Roberto B. Martin.

³ Any information to establish or compromise the identity of the victim, as well as those of her immediate or household family members, shall be withheld, and fictitious names are used, pursuant to RA No. 7610, An Act Providing for Stronger Deterrence and Special Protection Against Child Abuse, Exploitation and Discrimination, and for Other Purposes; RA No. 9262, An Act Defining Violence Against Women and Their Children, Providing for Protective Measures for Victims, Prescribing Penalties Therefor, and for Other Purposes; Section 40 of A.M. No. 04-10-11-SC, Rule on Violence Against Women and Their Children; and *People v. Cabalquinto*, 533 Phil. 703 (2006).

named [AAA], a minor then seventeen year(s) old, through threat, force and intimidation, did then and there, willfully, feloniously and unlawfully, had carnal knowledge to the latter against her will and without her consent, to her damage and prejudice.

CONTRARY TO LAW.

[Criminal Case No. 2014-116-I]

[x x x x]

That on or about 21st day of January 2014, in [x x x], Province of Quezon, Philippines, and within the jurisdiction of this Honorable Court, [brother-in-law], the above-named accused, being the brother of complainant-minor named [AAA], a minor then seventeen (17) year(s) old, through threat, force and intimidation, did then and there willfully, feloniously and unlawfully, had carnal knowledge to (*sic*) the latter against her will and without her consent, to her damage and prejudice.

ACTS CONTRARY TO LAW.⁴

BBB pleaded not guilty. At the joint pre-trial conference, the prosecution and the defense stipulated: (1) on the identity of BBB as the accused; (2) that BBB is the brother-in-law of AAA; and (3) the existence of the medical certificate as regards AAA's physical examination. Thereafter, consolidated trial ensued.⁵

In Criminal Case No. 2014-66-I, AAA testified that on January 8, 2014, at around 2:00 p.m., she was fixing her things inside her room when BBB arrived with their tricycle. AAA was then staying at the house of her sister CCC and BBB. At that time, AAA was on her bed, writing in her notebook, when BBB entered her room and handed her ₱120.00. AAA thought that it was the "boundary" for their tricycle so she accepted it. Thereafter, BBB went out of the room. AAA, however, noticed that BBB looked outside the window and immediately sneaked back to her room. All of a sudden, BBB held both AAA's legs. AAA pleaded to BBB, telling him not to do anything against her or else she would report it to her sister. BBB simply ignored AAA and countered that her sister would not believe her. At the same time, BBB pulled down AAA's shorts and panty and inserted his penis into her vagina. AAA felt pain at the lower part of her body, but she could not shout for help because BBB told her not to make any noise. After BBB gratified his lust, he threatened AAA not to tell anyone about what happened or else something bad will happen to her. AAA was not in good terms with her sister, and so she did not tell her about the incident.⁶

In Criminal Case No. 2014-116-I, AAA testified that on January 21, 2014, at around 3:00 p.m., she was on her bed writing some notes when

⁴ *Rollo*, p. 4.

⁵ *Id.* at 4-5.

⁶ *Id.* at 5-6.

BBB entered her room. AAA immediately got up and refused to receive the money that BBB was giving to her. BBB then went out of her room and she continued writing. Without noticing, BBB returned to her room, closed the door, and held her right leg. AAA then hit BBB with her notebook. AAA tried to fight back and kicked BBB. However, BBB overpowered her and succeeded in removing her shorts. BBB placed his knees at the back of AAA's knees, and succeeded in inserting his penis into her vagina. Again, BBB threatened AAA not to tell anybody about the incident. Afterwards, AAA cried and proceeded to a place where she usually went whenever she got lonely. Later, AAA found courage, and sought the help of her church members. AAA confided her ordeal to the church pastor who accompanied her to the police station.⁷

On January 28, 2014, AAA went to Quezon Medical Center (Women and Children Protection Unit) where she was physically examined. The physician reported that AAA's hymen has "[a]nnular Estrogenized type; (+) cleft at 7 o'clock position" and that the "[a]nogenital findings are suggestive of blunt force or penetrating trauma." The prosecution likewise submitted AAA's birth certificate to prove that the victim was born on October 12, 1996 and that she was only 17 years old when the crimes were committed.⁸

BBB denied the accusations. In Criminal Case No. 2014-66-I, BBB testified that on January 8, 2014, at around 2:00 p.m., he and CCC were waiting for passenger/s at the covered court. BBB and CCC got a passenger whom they brought to the public market. Thereat, BBB and CCC got another passenger. They returned to the public market at around 2:00 p.m. Thereafter, BBB brought CCC home. BBB then proceeded to the central elementary school to fetch their children and waited there until 4:00 p.m. BBB further testified that CCC and AAA are not in good terms because they were always arguing about the income of the tricycle he is operating. BBB claimed that AAA wanted all the profits for herself. CCC corroborated BBB's testimony. CCC narrated that she was alone in the house until BBB returned home with their children from school. CCC alleged that AAA harbored ill-feelings against her because they are always fighting.⁹

In Criminal Case No. 2014-116-I, BBB testified that on January 21, 2014, he stayed at their house because he could not leave CCC who was pregnant and suffering from abdominal pain. At around 3:00 p.m. of the same day, he fixed their tricycle until their children arrived from school at 4:00 p.m. After preparing their dinner, they all ate, watched television, and went to sleep. BBB also testified that AAA has a separate room. However, AAA was not in their house on January 21, 2014 and he did not know

⁷ *Id.* at 6-7.

⁸ *Id.* at 7.

⁹ *Id.* at 7-8.

where she went. BBB recalled that AAA usually comes home late at night and, that she is a “*layas*.” CCC corroborated BBB’s testimony and added that in the afternoon of January 21, 2014, at around 3:30 p.m., BBB was just cleaning their tricycle.¹⁰

On June 28, 2018, the RTC found BBB guilty of two (2) counts of Qualified Rape defined under paragraph 1 of Article 266-A in relation to paragraph 1 of Article 266-B of the Revised Penal Code. The RTC explained that the prosecution clearly proved that BBB had carnal knowledge of his sister-in-law, AAA, who was then 17 years of age, without her consent, through force, threat and/or intimidation,¹¹ thus:

IN THE LIGHT OF THE FOREGOING, judgment is hereby rendered against accused [BBB], finding him **GUILTY** beyond reasonable doubt of the two (2) counts of RAPE defined under par. 1 (sub par. a) of Article 266-A in relation to par. 1 of Article 266-B of the Revised Penal Code, but considering that the imposition of death penalty is prohibited under R.A. 9346, and since the provisions of the Indeterminate Sentence Law are not applicable, accordingly, this court hereby imposes upon the herein accused the penalty of *reclusion perpetua* for each count of rape **without the benefit of parole**, and for him to pay private complainant-victim the amount of [P]100,000.00 for each offense as civil indemnity, the amount of [P]100,000.00 for each offense as moral damages, and the amount of [P]100,000.00 for each offense as exemplary damages, to suffer all the accessory penalties, and to pay the cost of suit.

Likewise, issue commitment order for the immediate transfer of the said accused to the National Bilibid Prison, Muntinlupa City.

SO ORDERED.¹² (Emphases supplied; citations omitted.)

Aggrieved, BBB elevated the case to the CA docketed as CA-G.R. CR-HC No. 11494. On July 24, 2019, the CA affirmed the RTC’s judgment of conviction with modification as to the imposition of interest, thus:¹³

WHEREFORE, in light of the foregoing, the appeal is **DISMISSED**. The Joint Decision dated June 28, 2018 of the Regional Trial Court of Infanta, Quezon, Branch 65, in Criminal Case Nos. 2014-66-I and 2014-116- I, is hereby **AFFIRMED** with the **ADDITION** that the awards of civil indemnity, moral damages and exemplary damages for each of the two (2) counts of rape shall earn legal interest of 6% from the date of finality of this Joint Decision until satisfaction of the awards.

SO ORDERED.¹⁴ (Emphases in the original.)

¹⁰ *Id.* at 8-9.

¹¹ *CA rollo*, pp. 48-61.

¹² *Id.* at 61.

¹³ *Rollo*, pp. 3-19.

¹⁴ *Id.* at 18.

Hence, this recourse. BBB faults the CA and the RTC for rendering a guilty verdict that is contrary to facts, law and applicable jurisprudence.

RULING

The appeal is unmeritorious.

We stress that the CA's and the RTC's assessment on the credibility of the prosecution witness and the veracity of her testimony is given the highest degree of respect,¹⁵ especially if there is no fact or circumstance of weight or substance that was overlooked, misunderstood or misapplied, which could affect the result of the case.¹⁶ Moreover, the trial court had the best opportunity to determine the credibility of the prosecution witness, having evaluated her emotional state, reactions and overall demeanor in open court. Here, AAA vividly recalled how BBB raped her on two (2) occasions when she was only 17 years old, thus:

[Criminal Case No. 2014-66-I]

FISCAL AVELLANO:

[x x x x]

Q: So, what did you do when he held both of your legs?

A: "*Sabi ko po sa kanya na wag n'ya akong aanuhin at isusumbong ko s'ya kay ate.*" (Witness is about to cry.)

Q: When you said that to him, what was the response of your Kuya [BBB], if he responded?

A: "*Hindi daw naman po siya maniniwala gawa ng buntis na daw po naman ang ate.*"

Q: When your Kuya [BBB] said that to you, what happened next, if there was any?

A: "*Hinubad po niya 'yong shorts ko pati 'yong panty ko.*"

FISCAL AVELLANO:

Your Honor, we would like to make it on record that the witness is crying.

[x x x x]

THE COURT:

Noted.

¹⁵ *People v. Matignas*, 428 Phil. 834, 869 (2002), citing *People v. Basquez*, 418 Phil. 426 (2001); *People v. Jaberto*, 366 Phil. 556, 566 (1999); *People v. Deleverio*, 352 Phil. 382, 401 (1998).

¹⁶ *People v. Orosco*, 757 Phil. 299, 310 (2015), citing *People v. De Leon*, 608 Phil. 701, 721 (2009).

FISCAL AVELLANO:

Q: Was he successful in removing your shorts and panty?

A: Yes, ma'am.

Q: When he succeeded in removing your shorts and panty, what did [BBB] do next to you, if there was any?

A: *"Inano po niya 'yong ari niya sa ari ko."*

Q: What do you mean by "inano"?

A: *"Ipinasok po."*

Q: Was he successful in entering his "ari" to your "ari"?

A: Yes, ma'am.

FISCAL AVELLANO:

We would like to make it on record, your Honor, that the private complainant -witness is profusely sobbing/crying.

THE COURT:

Noted.

[x x x x]

FISCAL AVELLANO:

Q: So, what happened next after he succeeded in inserting his organ to your organ?

A: *"Ako po'y nakahiga noon, naiyak na po ako, hindi po ako makasigaw dahil sinabihan po niya ako na wag daw po akong maingay."*

COURT:

Q: Aside from telling you "*na wag kang maingay,*" were there any other words that he told you?

A: *"Pagkatapos po ng ginawa niya sa akin ay sinabihan po niya ako na wag magsusumbong kahit kanino at may mangyayari sa aking masama."*¹⁷ (Emphases supplied; italics in the original.)

[Criminal Case No. 2014-116-I]:

Q: When did you notice that he again entered your room?

¹⁷ Rollo, pp. 11-12.

A: When he already held my right leg, ma'am. (Witness is holding her right leg on the back of the knee.)

Q: So, what did you do, if you did anything, when he held that part of your body?

A: I hit him with my notebook.

Q: And what happened next after you hit him with your notebook?

A: He removed my shorts, ma'am.

Q: What did you do when he removed your shorts?

A: *"Sinisipa ko po siya."*

Q: Were you able to kick him?

A: Yes, ma'am, on his left upper leg.

Q: Was he successful in removing your shorts?

A: Yes, ma'am.

Q: What happened next when he succeeded in removing your shorts, if there was any?

A: *"Yong pong tuhod niya ay inilagay sa likod ng tuhod ko at inalis po ang butones ng shorts niya."*

Q: What was your position when the accused removed your shorts?

A: *"Nakadapa po ako."*

THE COURT:

Q: To where were you lying down?

A: On my bed because I was then writing at that time, Your Honor.

FISCAL AVELLANO:

Q: You said that you were lying on your stomach, where was the accused, in relation to you, when he removed your shorts?

A: *"Nakadapa po ako, nasa likuran ko siya, nakatoon po ang tuhod niya sa likuran ng tuhod ko."* I was on my stomach and he was on my back at the end of my feet.)

Q: You said that he succeeded in removing your shorts. After he succeeded in removing your shorts, what did he do next, if there was any?

A: *"Dinapaan po niya ako."*

Q: You said, “*dinapaan ka niya*,” and you said also that you were “*nakadapa*,” what happened next after he was “*nakadapa*” to you?

A: “*Ipinasok na po niya yong ari niya sa ari ko.*”

[x x x x]

Q: So, what happened when he inserted his organ to your organ, if there was any?

A: “*Ipinu push po niya yong sarili niya.*”

THE COURT:

Q: To where?

A: “*Doon po sa akin[.]*”¹⁸ (Emphases supplied; italics in the original.)

Corollarily, BBB’s denial cannot prevail over the positive declaration of the prosecution witness. This negative defense is self-serving and undeserving of weight in law absent clear and convincing proof.¹⁹ Also, BBB’s argument that he could not have raped AAA because CCC is in their house is specious. Suffice it to say that lust respects no time, locale, or circumstance.²⁰

Notably, BBB was charged with rape qualified by the circumstance under Article 266-B paragraph 1 of the Revised Penal Code that the victim is under 18 years of age and the offender is a relative by affinity within the third civil degree. Verily, the prosecution sufficiently alleged and proved this circumstance during trial. The prosecution and the defense stipulated that BBB is the brother-in-law of the victim AAA, being the husband of the latter’s older sister CCC, and consequently, a relative by affinity within the third civil degree. Moreover, AAA’s birth certificate showed that she was only 17 years old when the crimes were committed.

The crime of Qualified Rape is punishable with death.²¹ Considering that death penalty may not be imposed,²² the CA and the RTC correctly penalized BBB of *reclusion perpetua* in lieu of death and without eligibility

¹⁸ *Id.* at 12-14.

¹⁹ *People v. Togahan*, 551 Phil. 997, 1013-1014 (2007).

²⁰ *People v. Villamor*, 780 Phil. 817, 826 (2016).

²¹ ART. 266-B. *Penalties.* – Rape under paragraph 1 of the next preceding article shall be punished by *reclusion perpetua*.

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[.]

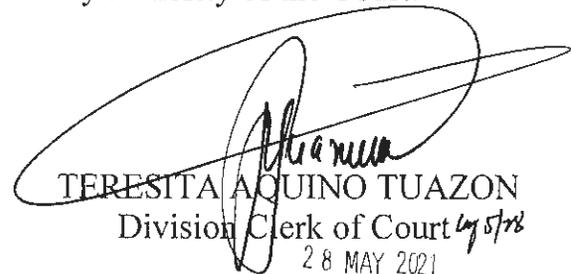
²² RA No. 9346.

for parole.²³ Lastly, consistent with prevailing jurisprudence, the CA and the RTC properly awarded civil indemnity, moral and exemplary damages of ₱100,000.00 each which shall all earn interest at the rate of six percent (6%) *per annum* from finality of the decision until fully paid.²⁴

FOR THESE REASONS, the appeal is **DISMISSED**. The Court of Appeals' Decision dated July 24, 2019 in CA-G.R. CR-HC No. 11494 is **AFFIRMED**. The accused-appellant BBB is found guilty of two (2) counts of Qualified Rape, and is meted the penalty of *reclusion perpetua* without eligibility for parole for each crime. The accused-appellant is also ordered to pay the victim, for each count, the amounts of ₱100,000.00 as civil indemnity, ₱100,000.00 as moral damages, and ₱100,000.00 as exemplary damages. All awards for damages shall earn an interest rate of six percent (6%) *per annum* from finality of the Resolution until fully paid.

SO ORDERED." (Rosario, J., *on leave*.)

By authority of the Court:


TERESITA AQUINO TUAZON
Division Clerk of Court *by s/r*
28 MAY 2021

²³ *People v. Gaa*, 810 Phil. 860, 871 (2017).

²⁴ *People v. Jugueta*, 783 Phil. 806 (2016).

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