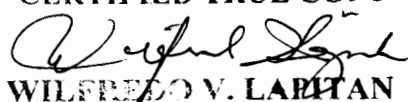




Republic of the Philippines
Supreme Court
 Manila

CERTIFIED TRUE COPY

 WILFREDO V. LAPID
 Division Clerk of Court
 Third Division

JUN 30 2016

THIRD DIVISION

PEOPLE OF THE PHILIPPINES,
 Plaintiff-Appellee,

G.R. No. 208646

Present:

VELASCO, JR., J.,
Chairperson,
 PERALTA,
 PEREZ,
 MENDOZA,* and
 REYES, JJ.

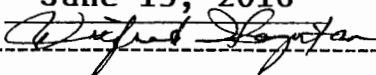
-versus-

LORETO SONIDO Y CORONEL,
 Accused-Appellant.

Promulgated:

June 15, 2016

X-----

 X

DECISION

PEREZ, J.:

For review is the Decision¹ of the Court of Appeals in C.A. G.R. CR-H.C. No. 00781-MIN dated 30 May 2013, which dismissed the appeal of appellant Loreto Sonido y Coronel and affirmed with modification the Judgment² of the Regional Trial Court (RTC) of Davao City, Branch 12, in Criminal Case No. 55,993-05, finding appellant guilty beyond reasonable doubt of the crime of rape.

Consistent with the ruling of this Court in *People v. Cabalquinto*,³ the real name and identity of the rape victim, as well as the members of her immediate family, are not disclosed. The rape victim shall herein be referred to as AAA. AAA's personal circumstances as well as other information

* Additional Member per Raffle dated 23 May 2016.

¹ *Rollo*, pp. 3-18; Penned by Associate Justice Renato C. Francisco with Associate Justices Romulo V. Borja and Oscar V. Badelles concurring.

² Records, pp. 159-184; Presided by Presiding Judge Pelagio S. Paguican.

³ 533 Phil. 703 (2006).



tending to establish her identity, and that of her immediate family or household members, are not disclosed in this decision.

Appellant was charged before the RTC with the crime of rape in an Information, the accusatory portion of which reads as follows:

That on or about December 29, 2004, in the City of Davao, Philippines, and within the jurisdiction of this Honorable Court, the above-mentioned accused, willfully, unlawfully and feloniously, had carnal knowledge [of AAA], 8 years old and a niece of the accused, which fact is herein alleged as an aggravating/qualifying circumstance.⁴

Upon arraignment, appellant pleaded not guilty to the crime charged. Trial on the merits ensued. The prosecution presented AAA, Dr. Paterna Banglot (Dr. Banglot), Delfin Amas Sr. (Amas), *Barangay* Captain Danilo Cristal and Prudencio Lagare, Jr., a police officer, as witnesses. Appellant was the lone witness for the defense.

The prosecution established that on 29 December 2004, eight (8) year-old AAA was sleeping in the *sala* of appellant's house and she awoke to find herself undressed with appellant, whom she calls *Tatay* Loreto (the husband of her mother's sister), on top of her. Appellant removed her underpants and inserted his penis into her vagina. AAA complained of pain to no avail. The incident was repeated shortly thereafter. Appellant then shouted threats against her and her family's life.⁵ AAA subsequently reported the incident on even date to appellant's neighbor, Amas, who then brought her to *Barangay* Captain Danilo Cristal.⁶

AAA was subjected to a physical examination by Dr. Banglot of the Davao Medical Center, Women and Children Protection Unit. Dr. Banglot's Medical Certificate states as follows:

ANOGENITAL EXAM

Genitalia	Annular hymen. Non-estrogenized. No hymenal laceration noted.
Anus	Good sphincteric tone.

IMPRESSION

⁴ Records, p. 1.

⁵ TSN, 12 May 2006, pp. 7-23.

⁶ Id. at 14 and TSN, 27 June 2007, pp. 2-12.

1. Disclosure of Sexual Abuse
2. Medical Evaluation Revealed: Normal Genital Findings.

Note: Normal genital finding do not exclude sexual abuse.⁷

During direct examination, Dr. Banglot explained that sexual abuse may have happened but did not leave any mark on AAA's body. She further stated that considering the lapse of time (about twelve hours) between the incident and the examination, any abrasion would no longer be seen and will have healed because female genitalia are very vascular and have ample blood supply.⁸

Appellant denied the allegations against him. He asserted that he never touched nor committed any act of sexual abuse against AAA. He made insinuations that the charges are fabrications devised by Amas with whom appellant had a previous tiff.⁹

After trial, on 06 November 2009, appellant was found guilty beyond reasonable doubt of rape. The RTC disposed:

Wherefore, Premises Considered, Judgment is hereby rendered finding the Accused guilty beyond reasonable doubt of the crime of rape, defined and penalized under Article 266-A in relation to Article 266-B of the Revised Penal Code and hereby sentences the said Accused to suffer the penalty of RECLUSION PERPETUA and to pay Private Complainant [AAA] the sum of Seventy-Five Thousand (P75,000.00) Pesos as civil indemnity and Seventy-Five Thousand (P75,000.00) Pesos as moral damages.

Under Article 29 of the Revised Penal Code, the Accused who is detained is hereby entitled to the full credit of his preventive imprisonment if he agreed voluntarily in writing to abide by the rules and regulations imposed upon convicted prisoners. If he did not agree, he shall be entitled to 4/5 of his preventive imprisonment.¹⁰

On intermediate review, the Court of Appeals affirmed the RTC Decision and rendered the assailed decision affirming with modification the trial court's judgment, to wit:

⁷ Records, p. 7.
⁸ TSN, 3 July 2007, pp. 13-15.
⁹ TSN, 2 July 2008, pp. 17-24.
¹⁰ Records, p. 184.



WHEREFORE, the appeal is **DENIED**. The assailed Judgment dated November 06, 2009 of the Regional Trial Court, 11th Judicial Region, Branch 12 of Davao City, in Criminal Case No. 55,993-05 is **AFFIRMED** with **MODIFICATIONS** that civil indemnity and moral damages be reduced to FIFTY THOUSAND (P50,000.00) PESOS and exemplary damages be awarded in the amount of THIRTY THOUSAND (P30,000.00) PESOS. An interest at the rate of six percent (6%) period shall be applied to the award of civil indemnity, moral and exemplary damages from the finality of the judgment until fully paid.¹¹

Appellant filed the instant appeal. In a Resolution¹² dated 09 October 2013, appellant and the Office of the Solicitor General (OSG) were asked to file their respective supplemental briefs if they so desired. Both parties dispensed with the filing of supplemental briefs.¹³

The Court finds no reason to reverse appellant's conviction.

Articles 266-A and 266-B of the Revised Penal Code, as amended by Republic Act (R.A.) No. 8353,¹⁴ define and punish rape as follows:

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 woman is under twelve (12) years of age or is demented, even though none of the circumstances mentioned above be present.

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

X X X X

¹¹ *Rollo*, p. 17.

¹² *Id.* at 24.

¹³ *Id.* at (no proper pagination, should be p. 35); As noted by the Court in its Resolution dated 5 February 2014.

¹⁴ Effective 22 October 1997.

The crime charged was rape under paragraph 1 (d) of Article 266-A of the Revised Penal Code, as amended by R.A. No. 8353. Statutory rape is committed by sexual intercourse with a woman below twelve (12) years of age regardless of her consent, or the lack of it to the sexual act. Proof of force, intimidation, or consent is unnecessary. These are not elements of statutory rape as the absence of free consent is conclusively presumed when the victim is below the age of twelve. At that age, the law presumes that the victim does not possess discernment and is incapable of giving intelligent consent to the sexual act. To convict an accused of the crime of statutory rape, the prosecution carries the burden of proving; (1) the age of the complainant; (2) the identity of the accused; and (3) the sexual intercourse between the accused and the complainant.¹⁵ Full penile penetration of the female genitalia is likewise not required because carnal knowledge is simply the act of a man having sexual bodily connections with a woman.¹⁶

In rape cases, primordial is the credibility of the victim's testimony because the accused may be convicted solely on said testimony provided it is credible, natural, convincing and consistent with human nature and the normal course of things.¹⁷

AAA vividly described the rape committed against her as an eight-year old¹⁸ on 29 December 2004. Her recollections during trial revealed a credible and consistent narration of her ordeal with appellant's hands. AAA disclosed details that no child of her young age could have invented or concocted; she never wavered in her allegations of rape against appellant that the Court is convinced that the RTC and the Court of Appeals were correct in according full credence to her. Testimonies of child victims are given full weight and credit, for when a woman or a girl-child says that she has been raped, she says in effect all that is necessary to show that rape was indeed committed. Youth and maturity are generally badges of truth and sincerity.¹⁹

Appellant's argument that AAA's testimony is rife with inconsistencies, reason to acquit him of the crime charged, fails to convince us. The recognized rule in this jurisdiction is that the assessment of the credibility of witnesses is best left to the trial court judge because of his unique opportunity to observe their deportment and demeanor on the witness stand, a vantage point denied appellate courts. And when the trial court

¹⁵ *People v. Mingming*, 594 Phil. 170, 185-186 (2008).

¹⁶ *People v. Teodoro*, 704 Phil. 335, 345 (2013).

¹⁷ *People v. Pascua*, 462 Phil. 245, 252 (2003).

¹⁸ Records, p. 6; Exhibit "D."

¹⁹ *People v. Aguilar*, 643 Phil. 643, 654 (2010) citing *People v. Corpuz*, 517 Phil. 622, 636-637 (2006).

judge's findings have been affirmed by the Court of Appeals, these are generally binding and conclusive upon this Court.²⁰ While there are exceptions to the rule, the Court finds no substantial reason to overturn the similar conclusions of the RTC and the Court of Appeals on the matter of AAA's credibility. Besides, inaccuracies and inconsistencies are expected in a rape victim's testimony. Rape is a painful experience which is oftentimes not remembered in detail. It causes deep psychological wounds that scar the victim for life and which her conscious and subconscious mind would opt to forget.²¹ Inconsistencies in the testimony of the witness with regard to minor or collateral matters do not diminish the value of the testimony in terms of truthfulness or weight. The gravamen of the felony is the carnal knowledge by the appellant of the private complainant under any of the circumstances provided in Article 266-A of the Revised Penal Code, as amended by R.A. No. 8353.²²

While indeed AAA's medical examination did not show traces of injuries or lacerations, the rule is settled that hymenal lacerations are not an element of rape.²³ In fact, it has also been ruled that a medical examination is merely corroborative in character and is not an indispensable element for conviction in rape. Of primary importance is the clear, unequivocal and credible testimony of private complainant which we so find in the instant case.²⁴

The Court also has said often enough that in concluding that carnal knowledge took place, full penetration of the vaginal orifice is not an essential ingredient, nor is the rupture of the hymen necessary; the mere touching of the external genitalia by the penis capable of consummating the sexual act is sufficient to constitute carnal knowledge. To be precise, the touching of the labia majora or the labia minora of the pudendum by the penis constitutes consummated rape.²⁵ Herein, AAA unflinchingly testified that appellant "*inserted his penis but it was not fully inserted though it was pressed very hard x x x;*" and that she did feel appellant's male anatomy inside her female anatomy but the latter pulled it out "*hurriedly.*"²⁶ The examining physician confirmed that any abrasion caused by the incident could have healed in the intervening period as female genitalia are very vascular.²⁷

²⁰ *People v. Manalili*, 716 Phil. 762, 772-773 (2013).

²¹ See *People v. Pareja*, 724 Phil. 759, 774 (2014) citing *People v. Saludo*, 662 Phil. 739, 753 (2011).

²² *People v. Macapanas*, 634 Phil. 125, 145 (2010).

²³ *People v. Esteban*, G.R. No. 200920, 9 June 2014, 725 SCRA 517, 526.

²⁴ See *People v. Lerio*, 381 Phil. 80, 88 (2000).

²⁵ See *People v. Campuhan*, 385 Phil. 912, 920 (2000).

²⁶ TSN, 12 May 2006, pp. 33-36.

²⁷ TSN, 3 July 2007, pp. 13-15.

Appellant confirmed that AAA had been living in his home but denied the rape allegations and attributed such fabrications to an allegedly vengeful neighbor, Amas. The Court is not swayed. Denial is inherently weak. Being a negative defense, if not substantiated by clear and convincing evidence, it would merit no weight in law and cannot be given greater evidentiary value than the testimony of credible witnesses who testified on affirmative matters.²⁸ This Court has strongly declared that between categorical testimonies that ring of truth on one hand and bare denial on the other, the former must prevail. Positive identification of the appellant, when categorical and consistent and without any ill motive on the part of the eyewitnesses testifying on the matter, prevails over alibi and denial.²⁹

The prosecution evidence has altogether proven beyond reasonable doubt appellant's guilt of the crime of statutory rape.

Statutory rape, penalized under Article 266 A (1), paragraph (d) of the Revised Penal Code, as amended by R.A. No. 8353 or the Anti-Rape Law of 1997, carries the penalty of *reclusion perpetua* unless attended by qualifying circumstances defined under Article 266-B. The prosecution only gave proof of AAA's age at the time of the crime but did not substantiate the allegation of kinship between AAA and appellant. There being no qualifying circumstance, the penalty of *reclusion perpetua*, without eligibility for parole, imposed by the RTC, affirmed by the Court of Appeals, is proper. However, we increase the amount of civil indemnity of ₱50,000.00 to ₱75,000.00, moral damages of ₱50,000.00 to ₱75,000.00 and exemplary damages of ₱30,000.00 to ₱75,000.00 pursuant to prevailing jurisprudence.³⁰ The amount of damages awarded should earn interest at the rate of six percent (6%) *per annum* from the finality of this judgment until said amounts are fully paid.³¹

WHEREFORE, premises considered, the Decision dated 30 May 2013 of the Court of Appeals, Cagayan de Oro City, Twenty-First Division, in CA-G.R. CR-HC No. 00781-MIN, finding appellant Loreto Sonido y Coronel guilty of rape in Criminal Case No. 55,993-05, is **AFFIRMED** with **MODIFICATIONS**. Appellant Loreto Sonido y Coronel is ordered to pay the private offended party as follows: ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages, ₱75,000.00 as exemplary damages. He is **FURTHER** ordered to pay interest on all damages awarded at the legal rate

²⁸ See *People v. Tagana*, 468 Phil. 784, 807 (2004).

²⁹ *Id.* at 807-808.

³⁰ *People v. Jugueta*, G.R. No. 202124, 5 April 2016.

³¹ *People v. Vitero*, 708 Phil. 49, 65 (2013).

of six percent (6%) *per annum* from the date of finality of this judgment until fully paid.


No pronouncement as to costs.

SO ORDERED.




JOSE PORTUGAL PEREZ
Associate Justice

WE CONCUR:



PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson



DIOSDADO M. PERALTA
Associate Justice



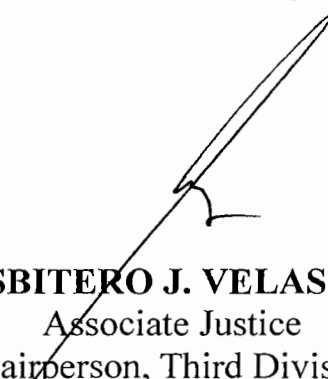
JOSE CATRAL MENDOZA
Associate Justice



BIENVENIDO L. REYES
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



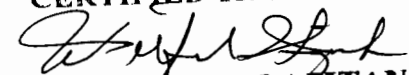
PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson, Third Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, it is hereby certified that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARIA LOURDES P. A. SERENO
Chief Justice

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WILFREDO V. LAPITAN
Division Clerk of Court
Third Division
JUN 30 2016