



Republic of the Philippines
Supreme Court
 Manila

CERTIFIED TRUE COPY
Welford E. Lapid
 WELFORD E. LAPIDAN
 Division Clerk of Court
 Third Division
 JUL 15 2016

THIRD DIVISION

PEOPLE OF THE PHILIPPINES,
 Plaintiff-Appellee,

G.R. No. 214473

Present:

VELASCO, JR., J.,
Chairperson,

-versus-

PEREZ,
 REYES,
 PERLAS-BERNABE,*
 LEONEN,**JJ.

EMETERIO MEDINA Y DAMO,
 Accused-Appellant.

Promulgated:

June 22, 2016

X-----*Welford E. Lapidan*-----X

RESOLUTION

PEREZ, J.:

For review is the Decision¹ of the Court of Appeals in CA-G.R. CR-HC No. 05906 dated 28 March 2014, which dismissed the appeal of appellant Emeterio Medina y Damo and affirmed with modification the Decision² dated 22 September 2011 of the Regional Trial Court (RTC) of Laoag City, Branch 11, in Criminal Case No. 9540, finding appellant guilty beyond reasonable doubt of the crime of Qualified Rape.

Following the Court's ruling in *People v. Cabalquinto*,³ the real name and identity of the rape victim, as well as the members of her immediate

* Additional Member per Raffle dated 13 June 2016.

** Additional Member per Raffle dated 13 June 2016.

¹ *Rollo*, pp. 2-22; Penned by Associate Justice Fernanda Lampas Peralta with Associate Justices Francisco P. Acosta and Myra V. Garcia-Fernandez concurring.

² Records, pp. 262-282; Presided by Presiding Judge Perla B. Querubin.

³ 533 Phil. 703 (2006).

family, including other identifying information, are not disclosed. The rape victim shall herein be referred to as AAA, and her mother as BBB.

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

That on or about the 9th day of May, 2000, in the [C]ity of Laoag, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused called to his house [AAA], a 4-year old girl and a neighbor of the accused in x x x, Laoag City and inside his house he took [AAA] into a room and did then and there willfully, unlawfully and feloniously remove her pants and then let her lie down on a bed (papag) and thereafter have a carnal knowledge of her without her consent.⁴

A warrant of arrest was issued against appellant on 24 August 2000 but appellant evaded arrest for six (6) years. The rape case was archived until appellant's eventual arrest in November 2007.⁵ Upon arraignment, appellant pleaded not guilty to the crime charged. During pre-trial, the parties stipulated, among others, that: (1) AAA was only four (4) years old, four (4) months and nine (9) days old on 9 May 2000, the date of the alleged crime; (2) Appellant was in Laoag City on 9 May 2000; (3) AAA and appellant are neighbours; and (4) AAA's father is appellant's first-degree cousin.⁶

Trial ensued. The prosecution presented, as witnesses, AAA, BBB, Jewell C. Diaz, Administrative Aide III of the Medical Records Section of Mariano Marcos Memorial Hospital and Medical Center, Dr. Mona Liza Pastrana (Dr. Pastrana) and Dr. Maria Geraldine Andaya La Madrid (Dr. La Madrid).

The prosecution established that in the morning of 9 May 2000, AAA, who was only four (4) years old at the time of the commission of the crime, and twelve (12) years old when she took the witness stand, was on her way to the store to buy vinegar for her mother, BBB, when appellant, whom she called Uncle Teriong, pulled her into his house. Appellant led AAA into his room, made her lie on the bed, removed her undergarments, laid on top of her and had carnal knowledge of AAA. AAA felt pain and cried but could not shout for fear that appellant would make real his threat to hurt her. After the act, appellant put back on AAA's clothes. AAA returned home and narrated the incident to her mother. BBB did not believe AAA at first until

⁴ Records, p. 1.

⁵ Id. at 15-17, 19-20, 22, and 31.

⁶ Id. at 46-48.



AAA described the appellant's bodily fluid as milk-looking.⁷ BBB thus had AAA physically examined.⁸

AAA was physically examined by Drs. Claribel Agatep (Agatep) and La Madrid. Dr. Pastrana, a physician and obstetrician of the Mariano Marcos Memorial Hospital and Medical center, testified to interpret the findings of Dr. Agatep who had left the country at the time of trial. Per the Medico-Legal Certificate⁹ dated 15 May 2000 issued by Dr. Agatep:

VAGINAL EXAMINATION:

x x x x

-Hymen- fresh vertical laceration on the right lateral aspect of the hymen about 0.4 cm

DIAGNOSIS: Alleged Sexual Abuse

Fresh Laceration on the right lateral aspect of hymen 0.4 cm

During direct examination, Dr. Pastrana stated that "the hymeneal finding is a very rare finding for a child; a finding in a hymeneal area, it would be very impossible for a child to have an accident just for an accident to have that injury, x x x."¹⁰

Dr. La Madrid, on the other hand, testified that she had received a request for examination of AAA's specimen. Dr. La Madrid found that there was a predominance of infectious organisms surrounding the cells in said specimen and there was presence of inflammation. This could have been caused by manipulation of the vagina of the patient or trauma through insertion of a blunt object or a male reproductive organ.¹¹ She together with Dr. Leonisa Flojo-Abon issued a Gynecologic Cytology Report embodying said findings.¹²

Appellant, as sole witness for the defense, interposed the defenses of denial and alibi. He admitted knowing AAA as she is the daughter of his cousin but denied the rape charge against him. He maintained that on the date and time of the incident, he was at his cousin's wedding. He claimed

⁷ TSN, 24 January 2008, pp. 2-7; TSN, 26 June 2008, pp. 2-4.

⁸ TSN, 26 June 2008, pp. 4-7.

⁹ Records, p. 11.

¹⁰ TSN, 19 February 2009, p. 27.

¹¹ TSN, 6 November 2008, pp. 14-17.

¹² Records, p. 12; Exhibits "E", "E-1" and "E-2."



that the instant case arose from AAA's envy of the care packages he receives from his niece abroad.¹³

After trial, the RTC on 22 September 2011 found appellant guilty beyond reasonable doubt of qualified rape. The dispositive portion of the RTC Decision reads:

WHEREFORE, judgment is hereby rendered finding accused **EMETERIO MEDINA y DAMO, GUILTY BEYOND REASONABLE DOUBT** of qualified rape. He is hereby sentenced to a penalty of **RECLUSION PERPETUA**. Further, he is hereby directed to pay the private complainant the amounts of P75,000.00 as civil indemnity, P75,000.00 as moral damages and P25,000.00 as exemplary damages.¹⁴

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

WHEREFORE, the trial court's Decision dated September 22, 2011 finding accused-appellant Emeterio Medina y Damo guilty beyond reasonable doubt of rape is affirmed, subject to the modification that the penalty of *reclusion perpetua* should be without eligibility for *parole*, and the award of exemplary damages is increased to P30,000.00.¹⁵

Now before us for final review, the Court affirms the appellant's conviction.

Articles 266-A and 266-B of the Revised Penal Code, as amended by Republic Act No. 8353¹⁶ 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

¹³ TSN, 23 September 2010, pp. 35-45.

¹⁴ Records, p. 282.

¹⁵ *Rollo*, p. 21.

¹⁶ Effective 22 October 1997.

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

X X X X

Article 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 attendant circumstances:

X X X X

5) When the victim is a child below seven (7) years old;

X X X X

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. The absence of free consent is conclusively presumed when the victim is below the age of twelve (12). Sexual congress with a girl under twelve (12) years old is always rape. 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 should prove: (1) the age of the complainant; (2) the identity of the accused; and (3) the sexual intercourse between the accused and the complainant.¹⁷

Of primary importance in rape cases 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.¹⁸ 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

¹⁷ *People v. Mingming*, 594 Phil. 170, 185-186 (2008); See also *People v. Sabal*, G.R. No. 201861, 2 June 2014, 724 SCRA 407, 411.

¹⁸ *People v. Pascua*, 462 Phil. 245, 252 (2003).

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



The prosecution presented proof of the required elements of statutory rape. AAA's age, only four (4) years old at the time of the crime, was evidenced by her *Birth Certificate* and was stipulated upon by the parties; she was born on 31 May 1995, while the alleged rape was committed on 9 May 2000.²⁰ AAA positively identified in court appellant as the perpetrator of the crime.²¹ AAA, in the painstaking and degrading public trial, also related the painful ordeal of her sexual abuse by appellant to its minute and revolting details. The trial court, which had the better position to evaluate and appreciate testimonial evidence, found AAA's testimony to be more credible than that of the defense. Even during cross-examination, AAA notably remained steadfast and consistent in her narration of the incident.²²

The medical reports and the testimonies of the physicians confirm the truthfulness of the charge. It is of no moment that the primary physician Dr. Agatep was not able to take the witness stand to explain her findings. It is well to recall that medical examinations are merely corroborative in character and not an indispensable element for conviction in rape. Primordial is the clear, unequivocal and credible testimony of private complainant which we so find in the instant case.²³

The Court rejects appellant's defenses of denial and alibi. The defense of denial being a negative defense, if not substantiated by clear and convincing evidence, would merit no weight in law and cannot be given greater evidentiary value than the testimony of credible witnesses who testified on affirmative matters.²⁴ It has been ruled 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.²⁵

Appellant's ascription of ill-motive on the part of AAA is likewise not to be believed. It is highly implausible that AAA and her family would go through the harrowing experience of filing rape charges and the corresponding medical examination of one's private parts for such comparatively trivial reason as envy AAA supposedly harbors for goods appellant receives from abroad.

²⁰ Records, p. 48; TSN, 26 June 2008, p. 3.

²¹ TSN, 24 January 2008, p. 3.

²² Records, pp. 273-277.

²³ See *People v. Lerio*, 381 Phil. 80, 88 (2000).

²⁴ See *People v. Tagana*, 468 Phil. 784, 807 (2004).

²⁵ Id. at 807-808.



Mention-worthy is appellant's immediate flight from his home shortly after the incident²⁶ and his evasion of arrest for more than six (6) years. Jurisprudence has repeatedly declared that flight is an indication of guilt. The flight of an accused, in the absence of a credible explanation, would be a circumstance from which an inference of guilt may be established for a truly innocent person would normally grasp the first available opportunity to defend himself and assert his innocence.²⁷ In the case at bar, appellant's flight incontestably evidenced guilt.

All told, the prosecution was able to establish appellant's guilt of the crime charged beyond reasonable doubt.

Statutory rape, penalized under Article 266 A (1), paragraph (d) of the Revised Penal Code, as amended by Republic Act 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. In the instant case, as the victim, AAA, is below seven (7) years old, specifically four (4) years old at the time of the crime, the imposable penalty is death. The passage of Republic Act No. 9346 debars the imposition of the death penalty without declassifying the crime of qualified rape as heinous. Thus, the appellate court correctly reduced the penalty from death penalty to *reclusion perpetua*, without eligibility for parole.²⁸

We, however, modify the appellate court's award of damages and increase it as follows: ₱100,000.00 as civil indemnity, ₱100,000.00 as moral damages, and ₱100,000.00 as exemplary damages pursuant to prevailing jurisprudence.²⁹ Further, 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.³⁰

WHEREFORE, premises considered, the Decision dated 28 March 2014 of the Court of Appeals of Manila, Ninth Division, in CA-G.R. CR-HC No. 05906, finding appellant Emeterio Medina y Damo guilty beyond

²⁶ TSN dated 17 July 2008, p. 17.

²⁷ *People v. Del Mundo*, 418 Phil. 740, 753 (2001).

²⁸ Pursuant to Section 3 of R.A. 9346 (An Act Prohibiting the Imposition of Death Penalty in the Philippines) which states that:

SEC. 3. Persons convicted of offenses punished with *reclusion perpetua*, or whose sentences will be reduced to *reclusion perpetua*, by reason of this Act, shall not be eligible for parole under Act No. 4180, otherwise known as the Indeterminate Sentence Law, as amended.

²⁹ *People v. Gambao*, 718 Phil. 507 (2013).

³⁰ *People v. Vitero*, 708 Phil. 49, 65 (2013).

reasonable doubt of the crime of qualified rape in Criminal Case No. 9540, is hereby **AFFIRMED with MODIFICATIONS**. Appellant is ordered to pay the private offended party as follows: ₱100,000.00 as civil indemnity, ₱100,000.00 as moral damages, and ₱100,000.00 as exemplary damages. He is **FURTHER** ordered to pay interest on all damages awarded at the legal rate of six percent (6%) *per annum* from the date of finality of this judgment until fully paid.


No pronouncement as to costs.

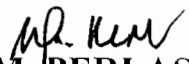
SO ORDERED.

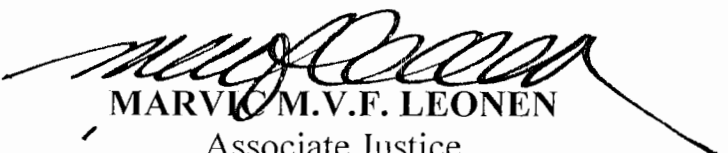

JOSE PORTUGAL PEREZ
Associate Justice

WE CONCUR:


PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson


BIENVENIDO L. REYES
Associate Justice


ESTELA M. PERLAS-BERNABE
Associate Justice


MARVIC M.V.F. LEONEN
Associate Justice

ATTESTATION


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



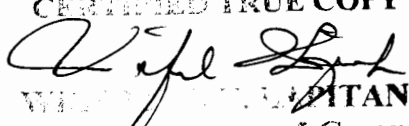
PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson, Third Division

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 Resolution 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

CERTIFIED TRUE COPY

WILSON VELASCO
 Division Chairperson of Court
 Third Division
JUL 15 2016