Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

- *versus* -

RAMON BAY-OD,
Accused-Appellant.

G.R. No. 238176

Present:

PERALTA, *J.*, *Chairperson*,
LEONEN,
REYES, A.B., JR.,
HERNANDO, and
CARANDANG,* *JJ.*

Promulgated:

January 14, 2019

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DECISION

PERALTA, *J.*:

At bench is an appeal[1] from the Decision[2] dated October 20, 2017 of the Court of Appeals (*CA*) in CA-G.R. CR-HC No. 08666, which affirmed *in toto* the conviction of herein appellant Ramon Bay-od for qualified statutory rape.

The antecedents:

On April 11, 2014, a criminal information for statutory rape under Article 266-A(1)(d)[3] as qualified by item 5 of the fifth paragraph of Article

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* Designated Additional Member per Special Order No. 2624 dated November 28, 2018.

1 By way of an ordinary appeal pursuant to Section 13(c) of Rule 124 of the Rules of Court, as amended by A.M. No. 00-5-03-SC.

2 Penned by Associate Justice Marlene B. Gonzales-Sison for the 15th Division of the CA, with Associate Justices Socorro B. Inting and Rafael Antonio M. Santos concurring; *rollo*, pp. 2-14.

3 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) x x x.

266-B[4] of the Revised Penal Code (*RPC*), as amended, was filed against the appellant before the Regional Trial Court (*RTC*) of Lagawe, Ifugao. The Information accused the appellant of having carnal knowledge of AAA,[5] a lass then only six (6) years old:

> That on or about the year 2011, at CCC, hence within the jurisdiction of this Honorable Court, the [appellant], DID then and there willfully, unlawfully and feloniously, have carnal knowledge of AAA, a minor, 6 years of age at the time, by inserting his penis into the vagina of the victim.
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> CONTRARY TO LAW and to the damage and prejudice of the victim.[6]

The Information was raffled to Branch 14 of the Lagawe RTC and was docketed as Criminal Case No. 2224.

After being apprised of the accusation against him, the appellant entered a plea of not guilty. During the pre-trial conference, the prosecution and the defense stipulated on the fact that AAA was only 6 years old in 2011 — the year when the supposed rape took place. Trial thereafter ensued.

The prosecution mainly hinged their cause on the testimonies of AAA and the latter's mother, BBB. The prosecution's version, as culled from said testimonies, were summarized by the CA as follows:

> Sometime in the year 2011, AAA, who was then 6 years old, was looking for playmates along their neighborhood when [appellant] called her to go inside the latter's house at "CCC." Once inside, [appellant] forcibly had sex with AAA by removing the latter's clothes and by inserting his penis into AAA's vagina. AAA felt pain and cried and so [appellant] stopped. Afterwards, AAA put on her clothes and went home but decided not to tell her parents about the incident because she was

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x x x.

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. (Emphasis supplied)

[4] The pertinent portion of Article 266-B of the RPC, as amended, provides:

Article 266-B. *Penalty*. x x 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.) x x x.

x x x

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

x x x. (Emphasis supplied).

[5] The victim's name and personal circumstances, as well as the names of the victim's immediate family or household members, are withheld and replaced with fictitious initials pursuant to Section 44 of Republic Act No. 9262 and Section 40 of A.M No. 04-10-11-SC or the Rule on Violence Against Women and their Children. See *People v. Cabalquinto*, 533 Phil. 703 (2006).

[6] *Rollo*, p. 3.

> afraid of the [appellant] who warned her not [to] tell the incident to anybody. However, she told her brother about what [appellant] did to her.
>
> Sometime in October 2013, while AAA and her brother were having an argument, BBB, the victim's mother, heard her son teasing AAA saying "*op-opya ah te iniyut da-ah eh Lamon*," which means "*shut up because you were sexually abused by Lamon.*" Upon hearing such words, BBB immediately confronted AAA about the veracity of her brother's statement to which AAA confessed that she was indeed raped by the [appellant].[7]

Aside from the testimonies of AAA and BBB, the prosecution also called to the witness stand one Dr. Florilyn Joyce Bentrez (*Dr. Bentrez*) — the medical officer who conducted a physical examination on AAA on November 15, 2013 and who also issued a corresponding medical certificate detailing the results of such examination. The CA captured the substance of Dr. Bentrez's testimony in this wise:

> On November 15, 2013, [Dr. Bentrez], medical officer of the Municipal Health Office of Lagawe, Ifugao, conducted a physical examination on AAA and issued a medical certificate attesting that upon examination of the victim, she found no noted laceration, hematoma and bleeding on the victim's genital area. Nevertheless, she testified that despite the absence of laceration on the victim's vagina and that even if the vagina remains intact, it is still possible that AAA was raped because not all patients have the same shape of hymen and not all penetrations injure the hymen.[8]

The defense, on the other hand, relied on the sole testimony of the appellant. The appellant flat out denied having raped AAA. He claims that the charge against him was merely fabricated by the family of AAA — his distant relatives — out of envy.

Ruling of the RTC

On July 1, 2016, the RTC issued a Decision[9] finding the appellant guilty of qualified statutory rape as charged. In so finding, the RTC accorded full weight and credence on the version of the prosecution, as relayed by the testimonies of AAA and BBB.

The RTC noted that, given the particular nature of the rape for which he was convicted, the appellant would have merited the death penalty under Article 266-B of the RPC. The trial court, however, was quick to observe

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7 *Id.* at 3-4. (Citations omitted)

8 *Id.* at 4. (Citations omitted)

9 Penned by Presiding Judge Romeo U. Habbiling; CA *rollo*, pp. 39-47.

that the imposition of the death penalty is presently outlawed by virtue of Republic Act (*R.A.*) No. 9346.[10]

Hence, instead of meting the death sentence, the RTC imposed upon the appellant the penalty of *reclusion perpetua*, without eligibility for parole, pursuant to Sections 2(a) and 3 of R.A. No. 9346.[11] With respect to the appellant's civil liabilities, on the other hand, the RTC directed the appellant to pay the following amounts to AAA: (a) ₱100,000.00 by way of civil indemnity, (b) ₱100,000.00 by way of moral damages, (c) ₱100,000.00 by way of exemplary damages and (d) interest on the said monetary obligations at the rate of 6% *per annum* from the finality of the decision until satisfaction. The dispositive part of the decision of the RTC accordingly reads:

> WHEREFORE, in view of the foregoing, this [C]ourt finds [appellant] **GUILTY** beyond reasonable doubt of the crime of rape defined in paragraph 1(d), Article 266-A and penalized under Article 266-B of the [RPC], as amended by [R.A.] 8353, and hereby sentenced [appellant] to suffer the penalty of imprisonment of ***reclusion perpetua [without eligibility for parole], in lieu of the death penalty***, pursuant to [RA] 9346. The [appellant] is, likewise, ordered to pay [AAA] the amount of One Hundred Thousand ([₱]100,000.00) Pesos as moral damages, One Hundred Thousand ([₱]100,000.00) Pesos as exemplary damages and One Hundred Thousand ([₱]100,000.00) Pesos as civil indemnity with an interest of six percent (6%) per annum from the finality of this Decision until satisfaction of the award.
>
> SO ORDERED.[12]

Aggrieved, the appellant filed an appeal with the CA.

Ruling of the Court of Appeals

On October 20, 2017, the Court of Appeals rendered a Decision dismissing the appellant's appeal and affirming *in toto* the decision of the RTC. Thus:

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10 *See* Section 1 of R.A. No. 9346.

11 Sections 2 (a) and 3 of R.A. No. 9346 reads:

SEC. 2. In lieu of the death penalty, the following shall be imposed.

(a) the penalty of *reclusion perpetua*, when the law violated makes use of the nomenclature of the penalties of the Revised Penal Code; or

(b) x x x.

SEC. 3. Person 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.

12 CA *rollo*, pp. 46-47.

> **WHEREFORE**, in light of the foregoing, the appeal is **DISMISSED** and the Decision dated July 1, 2016 of the [RTC] of Lagawe, Ifugao, Branch 14, in Criminal Case No. 2224 is hereby **AFFIRMED** *in toto*
>
> SO ORDERED.[13]

Undeterred, appellant filed the present appeal before this Court.

The Present Appeal

The appellant claims that the RTC and the CA erred in according full weight and credence to the version of the prosecution, particularly to the accusation of rape by AAA. He argues that such accusation was actually disproved by the results of the medical examination conducted by Dr. Bentrez on AAA.

The appellant points out that AAA's hymen was medically found to be still intact. On this end, he relies on and cites Dr. Bentrez's testimony wherein the latter stated that she, in her medical examination of AAA, found no laceration or scar in the latter's hymen.[14] Such findings, the appellant posits, are actually inconsistent with the conclusion that he had carnal knowledge of AAA and, hence, should be considered fatal to the charge of statutory rape.

In view of the apparent incredibility of AAA's testimony, the appellant, thus, urges this Court to instead give recognition to his alternate version of the events as the truth of what happened in this case and, ultimately, to acquit him of the crime charged.

Our Ruling

We deny the appeal.

It is elementary that the assessment of a trial court in matters pertaining to the credibility of witnesses, especially when already affirmed by an appellate court on appeal, are accorded great respect — if not binding significance — on further appeal to this Court.[15] The rationale of this rule is

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13 *Rollo*, p. 13.
14 CA *rollo*, p. 33.
15 *People v. Piosang*, 710 Phil. 519, 526 (2013).

the recognition of the trial court's unique and distinctive position to be able to observe, first hand, the demeanor, conduct and attitude of the witness whose credibility has been put in issue.[16]

While conformity to the foregoing rule is concededly *not* absolute, it must be underscored that any deviation therefrom had only been allowed in light of highly meritorious circumstances, such as when it is clearly shown that the trial court had "*overlooked certain facts of substance and of value which, if considered, might affect the outcome of the case.*"[17]

The appellant, in this appeal, insists that such a circumstance obtains in this case. He, in essence, claims that the RTC and the CA had overlooked the significance of the testimony of Dr. Bentrez that, if considered, would cast serious doubt on the veracity of AAA's accusation of rape. In this context, the appellant urges this Court to take a second look at the testimony of AAA and recalibrate the weight accorded it by the RTC and the CA.

We do not agree.

AAA's Claim of Rape Not Negated By Medical Finding that Her Hymen is Intact

The medical finding of Dr. Bentrez that AAA has no injury in her hymen is not fatal to the accusation of rape against the appellant. AAA's narration that appellant had intercourse with her is not, in and of itself, inconsistent with such finding. Indeed We, in not a few cases already, have affirmed convictions for rape despite the absence of injury on the victim's hymen in view of the **medical possibility for a hymen to remain intact despite history of sexual intercourse.**[18] In *People v. Opong*,[19] We ran down some of these cases:

> In *People v. Gabayron,* we sustained the conviction of accused for rape even though the victim's hymen remained intact after the incidents because **medical researches show that negative findings of lacerations are of no significance, as the hymen may not be torn despite repeated *coitus*. It was noted that many cases of pregnancy had been reported about women with unruptured hymens, and that there could still be a**

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16 *People v. Costelo*, 375 Phil. 381 (1999).

17 *People v. Realon*, 187 Phil. 765, 787 (1980), citing *People v. Repato*, 180 Phil. 388 (1979) and *People v. Espejo, et al.,* 146 Phil. 894 (1970). *See* also *People v. Laganzon*, 214 Phil. 294, 307 (1984), citing *People v. Surban*, 123 SCRA 232-233; *People v. Balmaceda*, 87 SCRA 94; *People v. Cunanan*, 75 SCRA 15; *People v. Ancheta*, 60 SCRA 333; *People v. Geronimo*, 53 SCRA 246; *People v. Abboc*, 53 SCRA 54.

18 See *People v. Lagbo*, 780 Phil. 834 (2016).

19 577 Phil. 571 (2008).

> **finding of rape even if, despite repeated intercourse over a period of years, the victim still retained an intact hymen without signs of injury.**
>
> In *People v. Capt. Llanto,* citing *People v. Aguinaldo,* we likewise affirmed the conviction of the accused for rape despite the absence of laceration on the victim's hymen since **medical findings suggest that it is possible for the victim's hymen to remain intact despite repeated sexual intercourse. We elucidated that the strength and dilatability of the hymen varies from one woman to another, such that it may be so elastic as to stretch without laceration during intercourse; on the other hand, it may be so resistant that its surgical removal is necessary before intercourse can ensue.**
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> In *People v. Palicte* and in *People v. Castro,* the rape victims involved were minors. The medical examination showed that their hymen remained intact even after the rape. Even then, we held that such fact is not proof that rape was not committed.[20]

Moreover, in *People v. Pamintuan,*[21] We recognized that the absence of injuries in a rape victim's hymen could also be **attributed to a variety of factors that do not at all discount the fact that rape has been committed.** As *Pamintuan* observed:

> **The presence or absence of injuries would depend on different factors, such as the forcefulness of the insertion, the size of the object inserted, the method by which the injury was caused, the changes occurring in a female child's body, and the length of healing time, if indeed injuries were caused.** Thus, the fact that AAA did not sustain any injury in her sex organ does not *ipso facto* mean that she was not raped.[22]

Accordingly, We find the medical finding of Dr. Bentrez regarding the absence of laceration in AAA's hymen to be, by itself, insufficient to disprove AAA's claim of rape against the appellant. The absence of laceration or injury to AAA's hymen during the time she was examined may have been caused by a number of reasons — none of which, however, would have any definitive bearing on whether appellant had carnal knowledge of AAA or not.

It should be emphasized at this point that carnal knowledge, as an element of rape under Article 266-A(1) of the RPC, is not synonymous to sexual intercourse in its ordinary sense; it implies neither the complete penetration of the vagina nor the rupture of the hymen.[23] Indeed, jurisprudence has held that even the slightest penetration of the victim's genitals — *i.e.*, the "*touching*" by the penis of the vagina's *labia* — is enough to satisfy the element.[24] As *People v. Bormeo*[25] held:

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20 *Id.* at 592-593 (Citations omitted, emphasis supplied)
21 710 Phil. 414 (2013).
22 *Id.* at 426. (Emphasis supplied).
23 *People v. Dimanawa*, 628 Phil. 678, 690 (2010).
24 *People vs. Campuhan*, 385 Phil. 912, 920 (2000).
25 292-A Phil. 691 (1993).

> Carnal knowledge has been defined as the act of a man having sexual bodily connections with a woman; sexual intercourse. An essential ingredient thereof is the penetration of the female sexual organ by the sexual organ of the male. **In cases of rape, however, mere proof of the entrance of the male organ into the labia of the pudendum or lips of the female organ is sufficient to constitute a basis for conviction.**[26]

And in *People v. Quiñanola*:[27]

> In the context it is used in the Revised Penal Code, carnal knowledge, unlike its ordinary connotation of sexual intercourse, does not necessarily require that the vagina be penetrated or that the hymen be ruptured. **The crime of rape is deemed consummated even when the man's penis merely enters the labia or lips of the female organ or, as once so said in a case, by the *mere touching* of the external genitalia by a penis capable of consummating the sexual act.**[28]

Here, the fact that the appellant had carnal knowledge of AAA had been clearly established by the latter's testimony. Such testimony stands independently of the medical findings of Dr. Bentrez.

AAA's Testimony is Credible and AAA is a Credible Witness; Appellant's Denial is Unavailing

Our review of AAA's testimony revealed the same to be a clear and categorical account of how the appellant had carnal knowledge of her. AAA bluntly recalled:

> PROS. TILAN ON DIRECT EXAMINATION:
>
> Q: What did [the appellant] do to you?
> A: He forcibly had sex with me.
>
> Q: Could you describe to the court how [the appellant] had sex with you.
> A: He removed m[y] upper garment and panty and he undress himself.
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> Q: Prior to that, he removed your garment and your clothes, what did he do?
> A: He inserted his penis into my vagina.

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26 *Id.* at 704. (Citations omitted, emphasis supplied).
27 366 Phil. 390 (1999).
28 *Id.* at 410. (Citations omitted, emphasis supplied).

Q: When he inserted his penis into your vagina, what did you feel?
A: Painful, so I cried.[29]

It must also be considered that AAA was only six (6) years old when she was raped and only nine (9) years old when she took the witness stand. In *People v Piosang*,[30] We held that testimonies of child victims, such as AAA, are in general ought to be accorded full weight and credit:

> Testimonies of child-victims are normally given full weight and credit, since when a girl, particularly if she is a minor, says that she has been raped, she says in effect all that is necessary to show that rape has in fact been committed. **When the offended party is of tender age and immature, courts are inclined to give credit to her account of what transpired, considering not only her relative vulnerability but also the shame to which she would be exposed if the matter to which she testified is not true. Youth and immaturity are generally badges of truth and sincerity**.

Though the appellant tried to cast aspersions on the motives of AAA in testifying so — the former claiming that AAA was just influenced by her family who, in turn, was only envious of him — the same falls flat for being utterly unsubstantiated. In this regard, We agree with the CA in dismissing such aspersions in light of the failure of the appellant to adduce any evidence supporting the same:

> [Appellant] attributes ill motive against AAA's family and claims that they are envious of him although he does not know of any reason why they should envy him. However, as the OSG correctly observed, [appellant] did not adduce any evidence on record showing any ill-motive on the part of AAA and her family as to why she would testify adversely against him. In a litany of cases, it has been ruled that — "when there is no showing of any improper motive on the part of the victim to testify falsely against the accused or to falsely implicate the latter in the commission of the crime, the logical conclusion is that no such improper motive exists, and that the testimony is worthy of full faith and credence." Stated otherwise, where no compelling and cogent reason[s] [are] established that would explain why the complainant was so driven as to blindly implicate an accused, the testimony of a young girl of having been the victim of a sexual assault cannot be discarded.[31]

All in all, We found no error on the part of the RTC and the CA in according AAA's testimony full weight and credence. The testimony is categorical and, in conjunction with the other evidence on record, positively establishes the guilt of the appellant for the crime charged. Against such testimony, the unsubstantiated denial of the appellant must certainly fail.[32]

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29 CA *rollo*, p. 43.
30 *Supra* note 15. (Citations omitted, emphasis supplied).
31 *Rollo*, pp. 10-11. (Citations omitted).
32 *People v. Del Castillo*, 584 Phil. 721 (2008).

WHEREFORE, premises considered, the instant appeal is **DISMISSED**. The Decision dated October 20, 2017 of the Court of Appeals in CA-G.R. CR-HC No. 08666 is hereby **AFFIRMED *in toto***.

SO ORDERED.

DIOSDADO M. PERALTA
Associate Justice

WE CONCUR:

MARVIC M.V.F. LEONEN
Associate Justice

ANDRES B. REYES, JR.
Associate Justice

RAMON PAUL L. HERNANDO
Associate Justice

ROSMARI D. CARANDANG
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.

DIOSDADO M. PERALTA
Associate Justice
Third Division, Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, I certify 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.

LUCAS P. BERSAMIN
Chief Justice