



Republic of the Philippines
 Supreme Court
 Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES, G.R. No. 230222
Plaintiff-Appellee,

Present:

PERLAS-BERNABE, S.A.J.,
Chairperson,
 HERNANDO,
 INTING,
 DELOS SANTOS,
 GAERLAN,** JJ.

- versus -

VVV,*
Accused-Appellant.

Promulgated:

22 JUN 2020

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DECISION

INTING, J.:

Assailed in this ordinary appeal is the Decision¹ dated August 4, 2016 of the Court of Appeals (CA) in CA-G.R. CR No. 37242 affirming

* The identity of the victim or any information to establish or compromise her identity, as well as those of her immediate family or household members, shall be withheld pursuant to Republic Act No. (RA) 7610, "An Act Providing for Stronger Deterrence and Special Protection against Child Abuse, Exploitation and Discrimination, Providing Penalties for its Violation and For Other Purposes;" RA 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 Administrative Matter No. 04-10-11-SC, known as the "Rule on Violence against Women and Their Children," effective November 15, 2004; *People v. Cabalquinto*, 533 Phil. 703 (2006); and Amended Administrative Circular No. 83-2015 dated September 5, 2017, Subject: Protocols and Procedures in the Promulgation, Publication, and Posting on the Websites of Decisions, Final Resolutions, and Final Orders Using Fictitious Names/Personal Circumstances.

** Designated as additional member as per Special Order No. 2780 dated May 11, 2020; on leave.

¹ *Rollo*, pp. 2-15; penned by Associate Justice Rosmari D. Carandang (now a member of the Court) with Associate Justices Mario V. Lopez (now a member of the Court) and Myra V. Garcia-Fernandez, concurring.

with modification the Judgment² dated September 26, 2014 of Branch 18, Regional Trial Court (RTC), [REDACTED] Isabela in Criminal Case No. 5412. In the RTC Judgment, VVV (accused-appellant) was found guilty beyond reasonable doubt of Rape through sexual assault under paragraph 2, Article 266-A of the Revised Penal Code (RPC), as amended. In the assailed CA Decision, accused-appellant's conviction under paragraph 2, Article 266-A of the RPC was upheld; however, he was additionally found guilty of Rape through carnal knowledge under paragraph 1(a) of the same Article.

The Antecedents

In an Information³ dated June 15, 2010, accused-appellant was charged with Rape as defined and penalized under Article 266-A of the RPC, as amended. The accusatory portion of the Information reads:

That on or about the 10th day of June, 2010, in the municipality of [REDACTED], province of Isabela, Philippines and within the jurisdiction of this Honorable Court, the said accused with lewd designs, and by means of force and intimidation, did then and there, willfully, unlawfully and feloniously, lay with and have carnal knowledge with his own daughter [AAA], who is a minor of 15 years old, by then and there inserting his finger in her private parts, against her will and consent.

With the aggravating circumstances that the [victim] is a minor below 18 years old and that the accused is the father of the victim.

CONTRARY TO LAW.⁴

On arraignment, accused-appellant pleaded not guilty.⁵ Pre-trial and trial on the merits ensued.

As established by the prosecution, on June 10, 2010, at around 9:00 p.m., AAA was attending the wake of her grandmother at the latter's house in [REDACTED] Isabela. AAA was with her

² CA rollo, pp. 37-52; penned by Presiding Judge Rodolfo B. Dizon

³ Records, pp. 1-2.

⁴ *Id.* at 1.

⁵ See Order dated July 5, 2010, *id.* at 15.

father, herein accused-appellant, and her other siblings. Thereat, accused-appellant suddenly told AAA to get inside the room and give him a massage. After AAA obliged, accused-appellant told her to lie down. He then started to mash her breast. After a while, he put his hands inside her shorts and touched her vagina. He then inserted his forefinger into her vagina and made a push and pull motion for about three minutes. Thereupon, he pulled her right hand and placed it in his penis for about five minutes. He told her not to tell anyone about what happened; otherwise, he would maul and kick her. Afterwards, he took off her shorts and underwear, laid on top of her, inserted his penis into her vagina, and made a push and pull motion. He stopped after about five minutes and told her to sleep. Throughout the molestation, he was holding a *balisong* (knife) in his left hand. He then left the room and proceeded to play *tong-its*.⁶

AAA also decided to go outside the room as she could not sleep. At around 4:00 a.m. of June 11, 2010, she decided to approach her aunt, BBB, who was then sitting near the coffin of her grandmother. She told BBB about the incident as well as all the other sexual abuses that accused-appellant committed against her since 2008. BBB proceeded to [REDACTED] Police Station and reported the incident. Thereafter, BBB, with AAA, went to [REDACTED] Hospital for a medico-legal examination.⁷

Dr. Mary Grace Bartolome-Agcaoili (Dr. Agcaoili) examined AAA and found that her hymen was “crescentric, tanner stage 4.” While finding that AAA’s private part had no bleeding, discharges, or lacerations in the hymen, Dr. Agcaoili did not exclude the possibility of sexual abuse.⁸

For his part, accused-appellant interposed denial. He testified that in the evening of June 10, 2010, he brought his children to the house of his in-laws to attend the wake of his mother-in-law. Thereat, he did not see where AAA and her siblings were as he became busy drinking and playing cards.⁹

⁶ *Rollo*, p. 4.

⁷ *Id.*

⁸ *Id.* at 5.

⁹ TSN, August 27, 2013, pp. 6-8.

Accused-appellant vehemently denied the charge of Rape against him and asserted that it was filed out of hatred. He stated that he once scolded AAA for having a drinking spree in another *barangay* and that there were times that she would not come home and sleep in their house.¹⁰

Accused-appellant also testified that he had quarrels with his wife regarding money matters, particularly on the fact that she would send money to his in-laws for the purchase of medicines, and that he had a disagreement with his in-laws when he disapproved of their wish to let his wife go to the United States of America (USA) in the hope that she would also be able to help her brothers to go abroad.¹¹ Moreover, accused-appellant stated that his in-laws did not speak to him after he refused to let his wife go to the USA.¹² He claimed that his in-laws, his wife, and his daughter conspired for him to be put in jail.¹³

On September 26, 2014, the RTC rendered its Judgment¹⁴ finding accused-appellant guilty of sexual assault under paragraph 2, Article 266-A of the RPC. The RTC sentenced him to suffer the penalty of imprisonment of ten (10) years of *prision mayor*, as minimum, to seventeen (17) years and four (4) months of *reclusion temporal*, as maximum; and to indemnify AAA in the following amounts: ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages, and ₱30,000.00 as exemplary damages.

Aggrieved, accused-appellant appealed to the CA.

Upon a reading of the Information, the CA observed that accused-appellant was charged with two offenses: (1) rape through sexual intercourse under paragraph 1(a), and (2) rape as an act of sexual assault under paragraph 2, both of Article 266-A of the RPC, as amended. The CA found that accused-appellant was charged with having carnal knowledge of AAA, his 15-year-old daughter, by means of force and intimidation; and, at the same time, he was charged with committing an act of sexual assault against AAA by inserting his finger into her private

¹⁰ *Id.*

¹¹ TSN, December 16, 2013, pp. 15-18.

¹² *Id.* at 18.

¹³ *Id.* at 19.

¹⁴ CA rollo, pp. 37-52.

part.¹⁵ The CA noted that the Information merely lacked the conjunctive word “and.”¹⁶ Furthermore, the CA found that the prosecution was able to prove during trial the guilt of accused-appellant for the two charges of rape.

Thus, on August 4, 2016, the CA rendered the assailed Decision¹⁷ affirming with modification the RTC Judgment, *viz.*:

WHEREFORE, premises considered, this Court AFFIRMS with MODIFICATION the Judgment dated September 26, 2014 of the Regional Trial Court (RTC) of Ilagan City, Isabela.

For rape through carnal knowledge/sexual assault under Art. 266-A paragraph 1 (a) of the Revised Penal Code (RPC), accused-appellant is hereby sentenced to suffer the penalty of *reclusion perpetua* without eligibility for parole, and to pay AAA the amount of P100,000 as civil indemnity, P100,000 as moral damages, and P100,000 as exemplary damages.

For rape through sexual assault under Art. 266-A, paragraph 2 of the Revised Penal Code (RPC), accused-appellant is sentenced to an indeterminate penalty of ten (10) years of *prision mayor*, as minimum, to seventeen (17) years and four (4) months of *reclusion temporal*, as maximum, and to pay AAA the amount of P30,000 as civil indemnity, P30,000 as moral damages, and P30,000 as exemplary damages.

Accused-appellant is likewise ordered to pay interest on all damages at the legal rate of 6% per annum from the date of finality of this decision until full payment.

SO ORDERED.¹⁸

Hence, the present appeal. Per the Court’s Resolution¹⁹ dated August 7, 2017, both parties manifested that they would no longer file a supplemental brief before the Court.

¹⁵ *Rollo*, p. 7

¹⁶ *Id.*

¹⁷ *Id.* at 2-15.

¹⁸ *Id.* at 14-15.

¹⁹ *Id.* at 33-34.

In his appellate brief before the CA, accused-appellant raised the following assignment of errors:

I

THE TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT OF RAPE THROUGH SEXUAL ASSAULT, DESPITE THE UNRELIABILITY OF THE PROSECUTION WITNESSES' TESTIMONIES.

II

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT DESPITE THAT THE PHYSICAL EVIDENCE PROVES OTHERWISE.²⁰

The Court's Ruling

The appeal lacks merit.

At the outset, the Court notes that the CA convicted accused-appellant for two counts of Rape, while only one Information was filed against him. Duplicity of offenses charged contravenes Section 13, Rule 110 of the Rules of Court (Rules) which states that “[a] complaint or information must charge only one offense, except when the law prescribes a single punishment for various offenses.”

From a reading of the Information²¹ dated June 15, 2010, the Court agrees with the CA that accused-appellant was charged with two offenses—the act of having carnal knowledge of AAA constitutes one offense, while the act of inserting his finger into AAA’s private part constitutes another. Section 3(f),²² Rule 117 of the Rules allows the

²⁰ CA rollo, p. 22.

²¹ Records, pp. 1-2.

²² Section 3, Rule 117 of the Rules of Court provides:

SEC. 3. *Grounds.* — The accused may move to quash the complaint or information on any of the following grounds:

x x x x

(f) That more than one offense is charged except when a single punishment for various offenses is prescribed by law.

x x x x

accused to move for the quashal of the information based on the ground of duplicity of the offenses charged. However, under Section 9,²³ Rule 117 of the Rules, accused-appellant is deemed to have waived any objection based on this ground due to his failure to assert it before he pleaded to the Information. Thus, the CA was correct in holding that accused-appellant can be convicted for the two offenses.

Article 266-A of the RPC, as amended by Republic Act No. (RA) 8353,²⁴ known as The Anti-Rape Law of 1997, provides:

ART. 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;
- 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.

2) By any person who, under any of the circumstances mentioned in paragraph 1 hereof, shall commit an act of sexual assault by inserting his penis into another person's mouth or anal orifice, or any instrument or object, into the genital or anal orifice of another person.

The Court upholds the CA's finding that accused-appellant is guilty of the two offenses charged in the Information. Thus, accused-appellant's conviction for Rape through carnal knowledge under paragraph 1(a), Article 266-A [in relation to Article 266-B]²⁵ of the RPC

²³ Section 9, Rule 117 of the Revised Rules of Criminal Procedure provides:

SEC. 9. *Failure to move to quash or to allege any ground therefor.* — The failure of the accused to assert any ground of a motion to quash before he pleads to the complaint or information, either because he did not file a motion to quash or failed to allege the same in said motion, shall be deemed a waiver of any objections except those based on the grounds provided for in paragraphs (a), (b), (g), and (i) of Section 3 of this Rule.

²⁴ Entitled "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," approved on September 30, 1997.

²⁵ Article 266-B of the Revised Penal Code pertinently provides:

is affirmed. With respect to the finding of Rape through sexual assault under paragraph 2 of Article 266-A, however, there is a need to modify the nomenclature of the crime, its corresponding penalty, and the award of damages. This is in light of the fact that AAA was only 15 years old at the time of the incident.

In the landmark case of *People v. Tulagan (Tulagan)*,²⁶ the Court pronounced that if the victim is 12 years old or above but under 18 years old, or at least 18 years old under special circumstances, “the nomenclature of the crime should be ‘Lascivious Conduct under Section 5(b) of RA 7610’ with the imposable penalty of *reclusion temporal* in its medium period to *reclusion perpetua*, but it should not make any reference to the RPC.” The crime shall be called “Sexual Assault under paragraph 2, Article 266-A of the RPC” with the imposable penalty of *prision mayor* only when the victim of the sexual assault is 18 years old or above and not demented.²⁷

Section 5(b), Article III of RA 7610,²⁸ otherwise known as the “Special Protection of Children against Abuse, Exploitation and Discrimination Act,” provides:

Section 5. *Child Prostitution and Other Sexual Abuse.* — Children, whether male or female, who for money, profit, or any other consideration or due to the coercion or influence of any adult, syndicate or group, indulge in sexual intercourse or lascivious conduct, are deemed to be children exploited in prostitution and other sexual abuse.

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 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.*

X X X X

²⁶ G.R. No. 227363, March 12, 2019.

²⁷ *Id.*

²⁸ Entitled “An Act Providing for Stronger Deterrence and Special Protection against Child Abuse, Exploitation and Discrimination, Providing Penalties for its Violation and For Other Purposes,” approved on June 17, 1992.

The penalty of *reclusion temporal* in its medium period to *reclusion perpetua* shall be imposed upon the following:

x x x x

- (b) Those who commit the act of sexual intercourse of lascivious conduct with a child exploited in prostitution or subject to other sexual abuse; Provided, That when the [victim] is under twelve (12) years of age, the perpetrators shall be prosecuted under Article 335, paragraph 3, for rape and Article 336 of Act No. 3815, as amended, the Revised Penal Code, for rape or lascivious conduct, as the case may be; Provided, That the penalty for lascivious conduct when the victim is under twelve (12) years of age shall be *reclusion temporal* in its medium period[.]

The following account reveals that accused-appellant is guilty both of Rape through carnal knowledge under paragraph 1(a), Article 266-A of the RPC and of Lascivious Conduct under Section 5(b), Article III of RA 7610:

Q Miss Witness, during the last time, you said that your father told you to enter the room because he wanted you to massage him, is that correct?

A Yes, sir.

Q And then, when you entered, you saw him sitting down and then he stood up and made you lie on the bed, is that correct?

A Yes, sir.

Q And you said that he started massaging your breast and after which, he placed his hand under your short pants and *took hold of your vagina*?

A Yes, sir.

Q And after he placed his hand under your shorts and took hold of your vagina, what did he do next?

A He placed his hand on top of my vagina, sir.

Q After which, what did he do next?

A He inserted his finger into my vagina, sir.

Q *Do you know how many fingers did he insert in your vagina?*

A *Only one, sir.*

Q *And when his finger was inserted into your vagina, what did he do next?*

A *He inserted it in a push and pull motion.*

Q *How long did he do that?*

A *Three (3) minutes, sir.*

Q *After three (3) minutes, what did he do next?*

A *He made me hold his penis, sir.*

Q *How did he make you do that?*

A *He pulled my hand and placed it in his penis, sir.*

COURT:

Q *Which hand?*

A *My right hand, sir.*

Q *May I interrupt, regarding the insertion...so he made his right hand in that act of inserting then which part of the hand? which finger did he use?*

A *Forefinger, sir.*

PROS. ERESE:

Q *How long did he make you hold his penis?*

A *Five (5) minutes, sir.*

Q *By the way, Miss Witness, when he made you hold his penis, did he say anything?*

A *Yes, sir.*



Q What was it?

A *He told me not to make any report to anyone, sir.*

Q Anything more?

A *He will maul me and kick me if I will make a report, sir.*

X X X

Q Did he tell you anything about what to do with his penis when you were holding it?

A Yes, sir.

Q What did he say? Can you still remember what he made you do with his penis?

A None, sir.

Q After holding his penis for about five minutes, what happened next?

A *He inserted his penis into my vagina.*

X X X

Q When he inserted his penis inside your vagina, were you still wearing your shorts?

A No more, sir.

Q And who took your shorts off?

A My father, sir.

Q And when he inserted his penis inside your vagina, what were your relative positions?

A We were lying down, sir. ²⁹ (Italics supplied.)

²⁹ TSN, August 13, 2012, pp. 3-7.

Accused-appellant's act of inserting his penis into AAA's vagina through force and intimidation constitutes Rape through carnal knowledge under paragraph 1(a), Article 266-A of the RPC. Moreover, accused-appellant's acts of intentionally holding AAA's vagina and inserting into it his right forefinger plainly constitute sexual abuse and lascivious conduct as defined in the Implementing Rules and Regulations of RA 7610, known as the "Rules and Regulations on the Reporting and Investigation of Child Abuse Cases," which pertinently provide:

Section 2. *Definition of Terms.* — As used in these Rules, unless the context requires otherwise —

x x x x

- (g) "Sexual abuse" includes the employment, use, persuasion, inducement, enticement or *coercion* of a child to engage in, or assist another person to engage in, sexual intercourse or lascivious conduct or the molestation, prostitution, or incest with children;
- (h) "Lascivious conduct" means the *intentional touching*, either directly or through clothing, of the *genitalia*, anus, groin, breast, inner thigh, or buttocks, or *the introduction of any object into the genitalia*, anus or mouth, of any person, whether of the same or opposite sex, with an *intent to abuse*, humiliate, harass, degrade, or arouse or *gratify the sexual desire of any person*, bestiality, masturbation, lascivious exhibition of the genitals or pubic area of a person[.](Italics supplied.)

In *Quimvel v. People*,³⁰ the Court ruled that "force and intimidation" is subsumed under "coercion and influence" and these terms are used almost synonymously, viz.:

The term "*coercion and influence*" as appearing in the law is broad enough to cover "*force and intimidation*" as used in the Information. To be sure, Black's Law Dictionary defines "*coercion*" as "*compulsion; force; duress*" while "[undue] *influence*" is defined as "*persuasion carried to the point of overpowering the will.*" On the other hand, "*force*" refers to "*constraining power, compulsion; strength directed to an end*" while jurisprudence defines "*intimidation*" as "*unlawful coercion; extortion; duress; putting in fear.*" As can be gleaned, the terms are used almost synonymously. It

³⁰ 808 Phil. 889 (2017).

is then of no moment that the terminologies employed by RA 7610 and by the Information are different.³¹

As can be gleaned from the testimony of AAA, accused-appellant, her own father, employed force, intimidation, coercion, and influence upon her. He threatened to maul and kick her if she would make a report about what happened.³² Also, he was holding a *balisong* (knife) in his left hand throughout the molestation.³³

In *Tulagan*,³⁴ the Court explained that the phrase “children exploited in prostitution,” on the one hand, contemplates four scenarios: (a) a child, whether male or female who, for money, profit or any other consideration, indulges in lascivious conduct; (b) a female child who, for money, profit or any other consideration, indulges in sexual intercourse; (c) a child, whether male or female, who, due to the coercion or influence of any adult, syndicate or group, indulges in lascivious conduct; and (d) a female, due to the coercion or influence of any adult, syndicate or group, indulges in sexual intercourse.

The phrase “other sexual abuse,” on the other hand, is construed in relation to the definitions of “child abuse” under Section 3, Article I of RA 7610 and of “sexual abuse” under Section 2(g) of the Rules and Regulations on the Reporting and Investigation of Child Abuse Cases. “Child abuse” as defined in the former provision refers to the maltreatment, whether habitual or not, of the child which includes sexual abuse, among other matters; on the other hand, “sexual abuse” as defined in the latter provision includes the employment, use, persuasion, inducement, enticement or coercion of a child to engage in, or assist another person to engage in, sexual intercourse or lascivious conduct or the molestation, prostitution, or incest with children.³⁵

Based on the facts of the case, it is undeniable that AAA was subjected to sexual abuse under the above definitions. She is a child who, due to the coercion or influence of accused-appellant, was subjected to the latter’s lascivious conduct. It also bears stressing that

³¹ *Id.* at 919. Citations omitted

³² TSN, August 13, 2012, p. 6.

³³ TSN, January 7, 2013, p. 9.

³⁴ *Supra* note 27.

³⁵ *Id.*

accused-appellant is the father of AAA; as such, he has moral ascendancy over AAA, his minor daughter. Where rape is committed by a relative, such as a father, stepfather, uncle, or common law spouse, moral influence or ascendancy takes the place of “force and intimidation” as an essential element of rape.³⁶

As previously mentioned, it is undisputed that AAA was only 15 years old at the time of the incident. This fact was alleged in the Information and shown in the Certificate of Live Birth of AAA.³⁷ Under Section 3(a) of RA 7610, the term “children” refers to persons below 18 years of age or those over, but unable to fully take care of themselves or protect themselves from abuse, neglect, cruelty, exploitation or discrimination because of a physical or mental disability or condition.

Given that AAA was only 15 years old at the time of the incident, instead of Rape through sexual assault under paragraph 2, Article 266-A of the RPC, accused-appellant should thus be held liable for Lascivious Conduct under Section 5(b), Article III of RA 7610. This is in addition to accused-appellant’s conviction for Rape through carnal knowledge under paragraph 1(a), Article 266-A, in relation to Article 266-B, of the RPC, which was correctly ruled by the CA.

The Court rejects accused-appellant’s contention that the charge of Rape against him was filed out of hatred.

“AAA’s credibility cannot be diminished or tainted by [an] imputation of ill motives. It is highly unthinkable for the victim to falsely accuse her father solely by reason of ill motives or grudge.”³⁸ Furthermore, motives such as family feuds, resentment, hatred, or revenge have never convinced the Court from giving full credence to the testimony of a minor rape victim.³⁹

In *People v. Manuel*,⁴⁰ the Court held:

³⁶ *Ramilo v. People*, G.R. No. 234841, June 3, 2019.

³⁷ Records p. 10.

³⁸ *People v. Zafra*, 712 Phil. 559, 575 (2013), citing *People v. Acala*, 366 Phil. 797, 814 (1999).

³⁹ *Dizon v. People*, 616 Phil. 498, 515 (2009), citing *People v. Audine*, 539 Phil. 583, 605 (2006).

⁴⁰ 358 Phil. 664 (1998). Citations omitted.

Evidently, no woman, least of all a child, would concoct a story of defloration, allow examination of her private parts and subject herself to public trial or ridicule if she has not, in truth, been a victim of rape and impelled to seek justice for the wrong done to her being. It is settled jurisprudence that testimonies of child-victims are given full weight and credit, since 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.⁴¹

The Court is also not swayed by accused-appellant's insistence that the testimonies of the prosecution witnesses are unreliable.

Accused-appellant contends that it is "highly incredible and contrary to ordinary conduct and human experience" that AAA kept silent for so many years if indeed he had been sexually assaulting her since 2008. He avers that his wife came home for a vacation in 2008 and yet AAA did not tell her about any of his alleged sexual acts.⁴² He also points out AAA's testimony that her siblings knew what was happening and yet no one dared to inform their mother or other relatives about it.⁴³

Furthermore, accused-appellant asserts that the place of the incident would be so unlikely for a sexual molestation to happen.⁴⁴ He specifically refers to AAA's description of the place and circumstances of the incident, which was inside the only room of the house of her grandmother, with no light and no door and with only a curtain made of thin material to cover it, while the wake of her grandmother was being held at the living room.⁴⁵

Between the assertions of accused-appellant and the testimony of AAA, the latter deserves credence. Jurisprudence has emphasized that "the trial court's evaluation and conclusion on the credibility of witnesses in rape cases are generally accorded great weight and respect, and at times even finality, especially after the CA, as the intermediate reviewing tribunal, has affirmed the findings."⁴⁶ This applies in the absence of "a clear showing that the findings were reached arbitrarily, or

⁴¹ *Id.* at 674.

⁴² *CA rollo*, p. 29, citing TSN, September 17, 2012, p. 6.

⁴³ *Id.* at 29-30, citing TSN, August 13, 2012, p. 26.

⁴⁴ *Id.* at 30.

⁴⁵ *Id.*, citing TSN, January 7, 2013, p. 4.

⁴⁶ *People v. Ganaba*, G.R. No. 219240, April 4, 2018, 860 SCRA 513, 524, citing *People v. Domingo*, 810 Phil. 1040, 1046-1047 (2017).

that certain facts or circumstances of weight, substance or value were overlooked, misapprehended or misappreciated that, if properly considered, would alter the result of the case.”⁴⁷

Further, the Court finds no reason to rule that the delay on the part of AAA to report the alleged prior incidents of sexual molestation puts a dent on the credibility of her testimony. The Court agrees with the CA that it is not uncommon for young girls to conceal for some time the assault against their virtue; and it is not expected of a young girl like AAA, as opposed to a mature woman, to have the courage and intelligence to immediately report a sexual assault committed against her.

It is worthy to note that both the RTC and the CA found the testimony of AAA credible and persuasive. According to the CA, AAA’s spontaneous, direct, and sincere manner of presenting her testimony on how she was raped by her father bears the earmarks of credibility.⁴⁸ The CA also noted the RTC’s observation of AAA’s demeanor at the witness stand which was natural, convincing, and consistent with human nature and the normal course of things.⁴⁹ As observed by the RTC, AAA was candid and truthful. Further, when asked to identify her father in court, AAA approached accused-appellant “frontally and gave him a resounding slap on the face and cried out unabashedly.”⁵⁰

“The credibility of the witnesses is best addressed by the trial court, it being in a better position to decide such question, having heard them and observed their demeanor, conduct, and attitude under grueling examination.”⁵¹ Considering that there is no evidence that the RTC’s assessment on the credibility of the AAA’s testimony was tainted with arbitrariness or oversight of a fact, it is entitled to great weight, if not conclusive or binding on the Court.⁵²

⁴⁷ *Id.*

⁴⁸ *Rollo*, p. 8.

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ *People v. Manson*, 801 Phil. 130, 140 (2016).

⁵² *Id.*



Accused-appellant also questions AAA's medical certificate, which showed that she did not suffer any hymenal injury despite the fact that she was examined a few hours after the alleged sexual molestation.⁵³ He asserts that the lack of physical manifestation of Rape by sexual assault weakens the case against him.⁵⁴

The Court remains unswayed. As held in *People v. Amarela*:⁵⁵

The absence of any superficial abrasion or contusion on the person of the offended party does not militate against the claim of the latter whose clear and candid testimony bears the badges of truth, honesty, and candor. It must be stressed that *the absence or presence of visible signs of injury on the victim depends on the degree of force employed by the accused to consummate the purpose which he had in mind to have carnal knowledge with the offended woman*. Thus, the force employed in rape need not be so great nor of such a character as could not be resisted. It is only that the force used by the accused is sufficient to enable him to consummate his purpose.⁵⁶ (Italics in the original.)

In sum, the Court holds accused-appellant guilty of both Rape under paragraph 1(a), Article 266-A, in relation to Article 266-B, of the RPC and Lascivious Conduct under Section 5(b), Article III of RA 7610.

As regards the penalty and damages, the Court finds that the CA's imposition with respect to the crime of Rape under paragraph 1(a), Article 266-A, in relation to Article 266-B, of the RPC conforms to recent jurisprudence.⁵⁷ Considering the qualifying circumstances of minority and relationship, the proper penalty would have been death if not for the prohibition under RA 9346.⁵⁸ As such, the CA correctly imposed *reclusion perpetua* without eligibility for parole in lieu of death. It also correctly ordered accused-appellant to pay AAA civil indemnity, moral damages, and exemplary damages, each in the amount of ₱100,000.00, with interest at the rate of 6% *per annum* from the date of finality of judgment until fully paid.

⁵³ *Rollo*, p. 31.

⁵⁴ *Id.* at 33.

⁵⁵ G.R. Nos. 225642-43, January 17, 2018, 852 SCRA 54.

⁵⁶ *Id.* at 66.

⁵⁷ See *People v. Jugueta*, 783 Phil. 806 (2016).

⁵⁸ Entitled "An Act Prohibiting the Imposition of Death Penalty in the Philippines," approved on June 24, 2006.

With respect to the offense of Lascivious Conduct under Section 5(b), Article III of RA 7610, considering that AAA was more than 12 years old but less than 18 years old at the time of the incident, the imposable penalty is *reclusion temporal*, in its medium period, to *reclusion perpetua*. Since the perpetrator of the offense is her own father, and this was alleged in the Information and proven during trial, such relationship should be considered as an aggravating circumstance for the purpose of increasing the period of the imposable penalty. There being no mitigating circumstance to offset the alternative aggravating circumstance, the penalty provided shall be imposed in its maximum period, *i.e.*, *reclusion perpetua*.⁵⁹ This is also in conformity with Section 31(c),⁶⁰ Article XII of RA 7610 which expressly provides that the penalty shall be imposed in its maximum period when the perpetrator is, among others, the parent of the victim. Moreover, pursuant to *People v. Jugueta*⁶¹ and *Tulagan*,⁶² accused-appellant should be ordered to pay AAA civil indemnity, moral damages, and exemplary damages, each in the amount of ₱75,000.00, with interest at the rate of 6% *per annum* from the date of finality of judgment until fully paid. Furthermore, pursuant to Section 31(f),⁶³ Article XII of RA 7610, accused-appellant shall pay a fine in the amount of ₱15,000.00.

WHEREFORE, the appeal is **DISMISSED**. The assailed Decision dated August 4, 2016 of the Court of Appeals in CA-G.R. CR No. 37242 is **AFFIRMED with MODIFICATION**. Accused-appellant VVV is found guilty beyond reasonable doubt of:

⁵⁹ *Ramilo v. People*, *supra* note 38.

⁶⁰ Section 31 (c) of RA 7610 provides:

Section 31. *Common Penal Provisions*. —

x x x x

(c) The penalty provided herein shall be imposed in its maximum period when the perpetrator is an ascendant, parent guardian, stepparent or collateral relative within the second degree of consanguinity or affinity, or a manager or owner of an establishment which has no license to operate or its license has expired or has been revoked;

⁶¹ *Supra* note 58.

⁶² *Supra* note 27.

⁶³ Section 31 (f) of RA 7610 provides:

Sec. 31. *Common Penal Provisions*. —

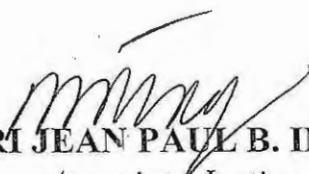
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(f) A fine to be determined by the court shall be imposed and administered as a cash fund by the Department of Social Welfare and Development and disbursed for the rehabilitation of each child victim, or any immediate member of his family if the latter is the perpetrator of the offense.

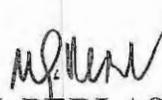
- (1) *Rape* under paragraph 1(a) of Article 266-A, in relation to Article 266-B, of the Revised Penal Code, as amended, and is hereby sentenced to suffer the penalty of *reclusion perpetua*, without eligibility for parole, and to pay the victim, AAA, the amounts of ₱100,000.00 as civil indemnity, ₱100,000.00 as moral damages, and ₱100,000.00 as exemplary damages; and
- (2) *Lascivious Conduct* under Section 5(b), Article III of Republic Act No. 7610 and is hereby sentenced to suffer the penalty of *reclusion perpetua* and to pay a fine of ₱15,000.00. He is further ordered to pay the victim, AAA, the amounts of ₱75,000 as civil indemnity, ₱75,000.00 as moral damages, and ₱75,000.00 as exemplary damages.

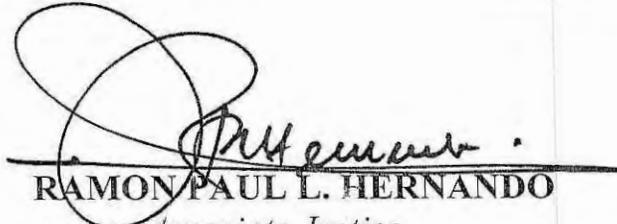
All monetary awards so imposed are subject to interest at the rate of 6% *per annum* from the date of finality of this Decision until fully paid.

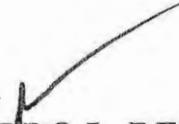
SO ORDERED.


HENRI JEAN PAUL B. INTING
Associate Justice

WE CONCUR:


ESTELA M. PERLAS-BERNABE
Senior Associate Justice
Chairperson

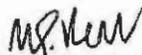

RAMON PAUL L. HERNANDO
Associate Justice


EDGARDO L. DELOS SANTOS
Associate Justice

(On leave)
SAMUEL H. GAERLAN
Associate Justice

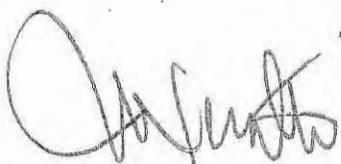
ATTESTATION

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.


ESTELA M. PERLAS-BERNABE
Senior Associate Justice
Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, 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.


DIOSDADO M. PERALTA
Chief Justice

