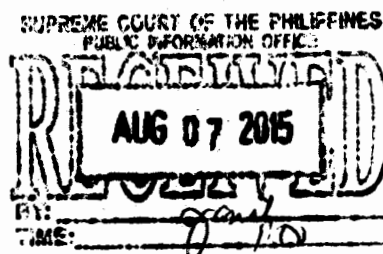




REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE



Sirs/Mesdames:

Please take notice that the Court, Second Division, issued a Resolution dated **01 July 2015** which reads as follows:

G.R. No. 214873 – (People of the Philippines v. Jason Manlapaz y Alarde)

The records of this case were elevated to this Court on November 5, 2014, pursuant to the Letter of the Court of Appeals (CA), dated June 30, 2014, stating that the notice of appeal filed by the accused-appellant, Jason Manlapaz y Alarde (*Manlapaz*), was given due course.

The Court notes the Letter, dated March 24, 2015, of the Bureau of Corrections, Muntinlupa City, informing it that upon verification with all of its prison facilities, it had no record yet of the confinement of one Jason Manlapaz y Alarde; and the separate manifestations filed by Manlapaz and the Office of the Solicitor General (OSG), dated March 12, 2015, and March 13, 2015, respectively, stating that they would no longer file their supplemental briefs and that they were adopting all the defenses and arguments raised in their briefs filed before the CA.

Hence, this disposition.

Subject of this appeal is the April 30, 2014 Decision¹ of the Court of Appeals (CA), in CA-G.R. CR-HC No. 05257, which affirmed with modification the August 4, 2011 Decision² of the Regional Trial Court, Branch 48, Masbate City (RTC), in Criminal Case No. 10922, finding Manlapaz guilty beyond reasonable doubt of the crime of rape committed against AAA.³

The Facts

Manlapaz was indicted for the crime of rape in the Information, the accusatory portion of which reads:

¹ Penned by Associate Justice Magdangal M. De Leon with Associate Justice Stephen C. Cruz and Associate Justice Eduardo B. Peralta, Jr., concurring; *rollo*, pp. 2-15.

² Penned by Judge Arturo Clemente B. Revil; *CA rollo*, pp. 64-72.

³ Per this Court's Resolution dated 19 September 2006 in A.M. No. 04-11-09-SC, as well as our ruling in *People v. Cabalquinto* (G.R. No. 167693, 19 September 2006, 502 SCRA 419), pursuant to Republic Act No. 9262 or the "Anti-Violence Against Women and Their Children Act of 2004" and its implementing rules, the real name of the victims and their immediate family members other than the accused are to be withheld and fictitious initials are to be used instead. Likewise, the exact addresses of the victims are to be deleted.

That in the year 1999 and on the 14th day of December, 2002 at 12:00 o'clock midnight, at Brgy. Puro, Municipality of Aroroy, Province of Masbate, Philippines and within the jurisdiction of this Honorable Court, the above-named accused with lewd design, did then and there willfully, unlawfully and feloniously, have carnal knowledge with one AAA, a 13-year old girl, against her will.

CONTRARY TO LAW.⁴

The CA synthesized the respective positions of the prosecution and the defense as follows:

Private complainant AAA testified that she and appellant are cousins. She stayed in the house of BBB, together with appellant, because her father wanted her to continue her studies.

In the year 1999, AAA recalled that appellant forced her to suck his penis, kissed and embraced her. Afterwards, appellant undressed her and inserted his penis into her vagina. She felt pain and cried after appellant made pumping motions.

The incident was repeated many times during her stay in their house and usually at around 1:00 o'clock in the morning whenever her Aunt BBB was out of their residence attending seminar and when their companions were already asleep. The last incident happened on December 14, 2002. She informed BBB about the sexual molestation but instead of believing her, BBB scolded her and told her that she is just destroying her reputation. Despite the sexual abuses committed against her, she did not get pregnant because BBB gave her contraceptive. The latter also gave her a bark of bancal tree for her to boil and take.

AAA revealed the incident to her teacher when she was sixteen (16) years old. She escaped and went to the house of Spouses Corong and Shirley Bajaro who helped her to file a case against the appellant. She was examined by Dra. Marilou Hernandez, the Municipal Health Officer of Aroroy, Masbate.

Dr. Marilou A. Hernandez, Municipal Health Officer of Aroroy, Masbate, testified that she conducted examinations on AAA on December 19, 2002 that yielded the following results:

“Physical Examination:

-healing laceration – Muscosal surface of the lower lip:

Internal Examination:

-Hymenal laceration at 3 o'clock and 9 o'clock positions.

⁴ CA rollo, p. 64.

Norie C. Mendoza, Social Welfare Officer V of LGU, Aroroy, Masbate, testified that she conducted the Social Case Study Report on AAA through the coordination of Spouses Corong and Shirley Bajaro. AAA told her that a certain Jason Manlapaz had sexually molested her several times. She brought AAA to the Municipal Health Clinic and had her examined by Dr. Marilou A. Hernandez. Thereafter, they reported the incident to the police authorities.

Noel Cabilin, the Local Civil Registrar of Naval, Biliran, presented the Certificate of Live Birth of AAA to attest that the victim was a minor.

Version of the Defense

Appellant Jason Manlapaz testified that AAA is his first cousin. He denied having raped her in 1999 considering that in said year, she was still residing at Lucsoon, Naval, Biliran, Leyte where she was studying. It was only on May 31, 2000 when AAA started residing in their house.

He likewise denied having raped AAA on December 14, 2002 because at that time he was already asleep in a room together with his two (2) brothers while AAA was sleeping in the room of his parents together with his three (3) sisters. He used to sleep ahead of the members of the family because he was tired from work.

He recalled that he slapped AAA when the latter answered back BBB, who scolded her for coming home late after their Christmas party. AAA left their house on December 15, 2002.

BBB, mother of appellant, testified that AAA is her niece. The latter started staying in their house on June 1, 2000. Their house has two (2) rooms. She occupied the master bedroom together with her husband, her two (2) children and AAA. The other room was occupied by appellant and his two (2) brothers.

In the midnight of December 14, 2002, she was attending to her sick husband while her two (2) daughters were sleeping together with AAA. Appellant was also asleep in the other room together with his two (2) brothers.

In 1999, AAA was still residing in Lucsoon, Naval, Biliran, Leyte.

She further testified that AAA got pregnant sometime in July 2000. Upon the latter's request, she introduced her to a certain Ingga, a quack doctor, who gave her a roasted rice with herbal concoction. When AAA took the medicine, she bled with an odorous blood. When AAA complained of stomach pain, she gave her aspilets.

Ramil Rosas, a neighbor and a co-worker of accused, testified that he and appellant worked at Filmenera Resource Corporation on December 14, 2002 from 7 a.m. to 3 p.m.⁵

The Ruling of the RTC

On August 4, 2011, the RTC found Manlapaz guilty as charged. The RTC stated that the prosecution was able to establish with certitude that he had carnal knowledge of AAA, using force through the clear, positive and convincing testimony of the victim, who had no motive to testify falsely against him. It debunked his twin defenses of denial and alibi, considering them as unconvincing and self-serving negative evidence that could not prevail over the positive identification of him as the culprit. The decretal portion of the said decision reads:

WHEREFORE, premises considered accused JASON MANLAPAZ y ALARDE is found GUILTY beyond reasonable doubt of the crime of RAPE defined and penalized under Article 355 of the Revised Penal Code, as amended, and is sentenced to suffer the penalty of RECLUSION PERPETUA; to pay the victim the amount of FIFTY THOUSAND PESOS (PhP50,000.00), as civil indemnity and the amount of SEVENTY-FIVE THOUSAND PESOS (PhP75,000.00), as moral damages with no subsidiary imprisonment in case of insolvency.

The Provincial Jail Warden of Masbate Provincial Jail is directed to immediately transfer the accused Jason Manlapaz y Alarde to the National Bilibid Prison, Muntinlupa City.

SO ORDERED.⁶

Not satisfied, Manlapaz appealed the RTC judgment of conviction before the CA.

The Ruling of the CA

The CA affirmed the conviction of Manlapaz. It stated that the credible testimony of AAA was sufficient to sustain his conviction for rape. It rejected his twin defense of denial and alibi for want of material and competent corroboration. It, however, reduced the amount to be awarded as moral damages from ₱75,000.00 to ₱50,000.00, and directed him to pay additional ₱30,000.00 as exemplary damages. The dispositive portion of the CA decision reads:

⁵ Rollo, pp. 3-7.

⁶ CA rollo, pp. 71-72.

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WHEREFORE, the trial court's Decision dated August 4, 2001 is AFFIRMED with MODIFICATION as to the award of damages. Appellant is ordered to pay the offended party, private complainant AAA, the amounts of ₱50,000.00 as civil indemnity, ₱50,000.00 as moral damages, and ₱30,000.00 as exemplary damages, pursuant to prevailing jurisprudence.

SO ORDERED.⁷

The Issue

Insisting on his innocence, Manlapaz filed the present appeal and presented this

LONE ASSIGNMENT OF ERROR

THE COURT A QUO GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY OF RAPE DESPITE THE PROSECUTION'S FAILURE TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.⁸

The Court sustains the conviction of Manlapaz.

The RTC and the CA were one in finding that Manlapaz had carnal knowledge by force with AAA, a minor, being only thirteen (13) years of age at the time of the commission of the crime. Despite his vigorous protestations, the Court agrees with the CA that the prosecution was able to prove his guilt beyond reasonable doubt.

First, to prove the age of AAA at the time of the commission of the sexual molestation, the prosecution adduced in evidence her certificate of live birth. Noel Cabilin, the Local Civil Registrar of Naval, Biliran, Leyte, testified as to her minority, having been born on July 8, 1986. Manlapaz did not dispute this documentary evidence.

Second, the prosecution successfully established that it was Manlapaz who sexually ravished AAA through her categorical and spontaneous testimony, which proved convincing even under cross-examination. She revealed details that no child of her tender age could have invented or concocted. The only rational and natural conclusion to be made by any objective arbiter was to accord the fullest credence to her.

⁷ *Rollo*, pp. 14-15.

⁸ *Id.* at 50.

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In his quest for exculpation, Manlapaz made much of the testimony of Dr. Hernandez as she could not declare with certainty whether the hymenal lacerations were still healing or already healed despite the fact that the medical examination was conducted five (5) days after the incident complained of on December 19, 2002.

The Court is not convinced.

At the outset, it must be stressed that Dr. Hernandez was presented to testify only on the fact that she had examined AAA and on the results thereof, particularly on her findings as to the nature, extent and location of her wounds. As such, she could not be expected to state with definiteness as to whether the hymenal laceration was healing or already healed. At any rate, this Court had already concluded that a medical report was not even material for purposes of proving rape as it was merely corroborative in character and, thus, could be dispensed with accordingly.⁹ The Court's pronouncement in *People v. Ferrer*¹⁰ is instructive, to wit:

The medical report is by no means controlling. This Court has repeatedly held that a medical examination of the victim is not indispensable in the prosecution for rape, and no law requires a medical examination for the successful prosecution thereof. The medical examination of the victim or the presentation of the medical certificate is not essential to prove the commission of rape as the testimony of the victim alone, if credible, is sufficient to convict the accused of the crime. The medical examination of the victim as well as the medical certificate is merely corroborative in character. (Underscoring Supplied)

What militates against his claim of innocence is the time-honored rule that the issue of credibility of witnesses is a question best addressed to the province of the trial court because of its unique position to observe that elusive and incommunicable evidence of the witnesses' deportment on the stand while testifying. Absent any substantial reason which would justify the reversal of the trial court's assessment and conclusion, the reviewing court is generally bound by the trial court's findings, particularly when no significant facts and circumstances are shown to have been overlooked or disregarded which when considered would have affected the outcome of the case.¹¹ The rule finds an even more stringent application where the said findings are sustained by the CA.¹²

⁹ *People v. Dion*, G.R. No. 181035, July 4, 2011, 653 SCRA 117, 136.

¹⁰ 415 Phil. 188, 199 (2001).

¹¹ *People v. Dominguez, Jr.*, 650 Phil. 492, 520 (2010).

¹² *People v. Cabugatan*, 544 Phil. 468, 479 (2007).

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In the case at bench, the Court finds no cogent reason to depart from the trial court's findings and its calibration of the private complainant's credibility. It appears that AAA's narration of the events that led to the incident of December 14, 2002 was convincing and credible, without any artificialities or pretensions that would tarnish the veracity of her testimony. She credibly recounted how Manlapaz forced himself on her; how it caused her pain when he forcibly inserted his penis into her vagina; and how she immediately reported the incident to her aunt, BBB.

Furthermore, the testimonies of child-victims are normally given full weight and credit 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.¹³ Youth and immaturity are generally badges of truth and sincerity.¹⁴ Hence, there is neither cause nor reason to withhold credence on AAA's testimony.

Yet, Manlapaz argues that: a) it would be difficult for him to commit the crime charged considering that his parents and three (3) siblings were then sleeping with AAA in the same room where the sexual assault was committed; b) AAA merely concocted the accusation of rape out of hatred because she resented his infliction of physical harm on her; c) AAA's failure to narrate to social worker Nory Mendoza (*Mendoza*) the penetration of the penis into her vagina created serious doubt as to the truthfulness of the rape charge; and d) AAA's failure to pinpoint the exact date in 1999 when she was raped rendered her credibility suspect.

The Court is not persuaded.

Anent Manlapaz' first argument, it must be stressed that the sexual molestation was committed in the dead of night, between 12:00 midnight and 1:00 o'clock in the morning. At these late hours, everybody was already sleeping, and it is not impossible or incredible for the members of the family to be in deep slumber and not to be awakened while the brutish sexual assault on her was being committed.¹⁵ Lust is no respecter of time and place.¹⁶ Several times, the Court has held that rape can be committed even in places where people congregate, in parks, along the roadsides, in school premises, in a house where there are other occupants, in the same room where other members of the family are also sleeping, and even in places which to many, would appear unlikely and high risk venues for its commission.¹⁷

¹³ *Llave v. People*, 522 Phil. 340, 364 (2006).

¹⁴ *People v. Guambor*, 465 Phil. 671, 678 (2004).

¹⁵ *People v. Tan, Jr.*, 332 Phil. 465, 476 (1996).

¹⁶ *People v. Segundo*, G.R. No. 88751, December 27, 1993, 228 SCRA 691, 696.

¹⁷ *People v. Mangompit, Jr.*, 406 Phil. 411, 428 (2001).

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The Court rejects the argument of Manlapaz that AAA might have been prompted to falsely testify against him because he once slapped her. The resentment angle, even if true, does not necessarily detract from AAA's credibility as witness. Motives, such as those arising from family feuds, resentment, or revenge, have not prevented the Court from giving, if proper, full credence to the testimony of minor complainants¹⁸ who remained steadfast throughout their direct and cross-examination.¹⁹ After all, ill-motive is never an essential element of a crime.

Also, the fact that AAA did not narrate to social worker Mendoza, during her interview, about the penetration of Manlapaz's penis into her vagina, is not fatal to the cause of the prosecution. Let it be underscored that it is not uncommon for a young girl of tender age to refuse to recount to total strangers the details of a harrowing experience, one which even an adult would like to bury in oblivion deep in the recesses of her mind.²⁰

The last contention of Manlapaz is likewise untenable. Time and again, the Court has repeatedly held that it is not incumbent upon the victim to establish the date when she was raped for purposes of convicting the perpetrator. In rape cases, the date of commission is not an essential element of the offense; what is material is its occurrence,²¹ which in this case, was sufficiently established by AAA. It is understandable that she had no clear memory as to when the incidents occurred when she took the witness stand to testify against her first cousin. Yet, despite her age, she was able to narrate the incident, albeit not exactly with the same coherence as a fully capacitated adult witness would.

The denial of Manlapaz must be rejected as the same cannot prevail over AAA's positive identification of him as her violator. As negative evidence, it pales in comparison with a positive testimony that asserts the commission of a crime and the identification of the accused as its culprit.²² The Court finds that the facts in this case do not present any exceptional circumstance warranting a deviation from this established rule. The defense of alibi is likewise unavailing. In order that alibi might prosper, it is not enough to prove that the accused has been somewhere else during the commission of the crime; it must also be shown that it would have been impossible for him to be anywhere within the vicinity of the crime scene.²³ Manlapaz miserably failed to discharge this burden. Further, his alibi was not corroborated and substantiated by clear and convincing evidence.

¹⁸ *People v. Alejo*, 458 Phil. 461, 476 (2003).

¹⁹ *People v. Rata*, 463 Phil. 619, 631 (2003).

²⁰ *People v. Rellota*, G.R. No. 168103, August 3, 2010, 626 SCRA 422, 437.

²¹ *People v. Colorado*, G.R. No. 200792, November 14, 2012, 685 SCRA 660, 671.

²² *People v. Canares*, 599 Phil. 60, 76 (2009).

²³ *People v. Abella*, 624 Phil. 18, 36 (2010).

Both the RTC and the CA were correct in finding that Manlapaz is guilty of simple rape by sexual intercourse only. For one to be convicted of qualified rape, at least one of the aggravating/qualifying circumstances mentioned in Article 266-B of the Revised Penal Code, as amended, must be alleged in the information and duly proved during the trial.²⁴ Here, the minority of AAA was duly alleged and proved during trial. AAA's relationship with Manlapaz as her first cousin, however, was not pleaded in the indictment although it was sufficiently established through the testimony of the said victim and the admission of Manlapaz himself. Accordingly, the penalty of *reclusion perpetua* meted out by both courts *a quo* against Manlapaz was proper.

The Court also sustains the CA in awarding ₱50,000.00 as civil indemnity and in reducing the award of moral damages from ₱75,000.00 to ₱50,000.00 being in consonance with the prevailing jurisprudence.²⁵ The CA was likewise justified in awarding exemplary damages of ₱30,000.00.²⁶ Under Article 2230 of the New Civil Code, in criminal offenses, exemplary damages as a part of the civil liability may be imposed when the crime was committed with one or more aggravating circumstances. In *People v. Pangilinan*,²⁷ it was held that when either one of the qualifying circumstances of relationship and minority is omitted or lacking, that which is pleaded in the Information and proved by the evidence may be considered as an aggravating circumstance. As such, AAA's minority may be considered as an aggravating circumstance. Moreover, the aggravating circumstance of nighttime was likewise proven as it was shown that Manlapaz waited until late in the night, when the other family members were in deep slumber, before consummating his carnal desire for the victim.

Finally, in line with the Court's recent pronouncement, an interest of 6% per annum shall be imposed on all damages awarded from the date of the finality of this judgment until fully paid.²⁸

WHEREFORE, the appeal is **DISMISSED**. The April 30, 2014 Decision of the Court of Appeals in CA-G.R. CR-HC No. 05257 is **AFFIRMED**. Accused-appellant Jason Manlapaz y Alarde is found **GUILTY** beyond reasonable doubt of the crime of simple rape, defined and penalized under Article 266-A, paragraph 1 (a) of the Revised Penal

²⁴ *People v. Basmayor*, 598 Phil. 194, 212 (2009).

²⁵ *People v. Padilla*, 617 Phil. 170, 186 (2009).

²⁶ *People v. Peralta*, 619 Phil. 268, 275 (2009).

²⁷ G.R. No. 183090, November 14, 2011, 660 SCRA 16, 36.


²⁸ *People v. Linsie*, G.R. No. 199494, November 27, 2013, 711 SCRA 125, 140.

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Code, as amended. He is sentenced to suffer the penalty of *Reclusion Perpetua*, and to pay the victim the amount of Fifty Thousand Pesos (₱50,000.00) as civil indemnity, Fifty Thousand Pesos (₱50,000.00) as moral damages, and Thirty Thousand Pesos (₱30,000.00) as exemplary damages. The accused-appellant is further ordered to pay the interest on all monetary awards for damages at the rate of Six Percent (6%) per annum reckoned from the date of finality of this resolution until fully satisfied. (*Brion, J., on leave, Bersamin, J., designated Acting Member, per Special Order No. 2079, dated June 29, 2015*)

SO ORDERED.

Very truly yours,


MA. LOURDES Q. PERFECTO
Division Clerk of Court *jde*
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OFFICE OF THE SOLICITOR GENERAL (reg)

134 Amorsolo Street
1229 Legaspi Village
Makati City

**PUBLIC ATTORNEY'S OFFICE (reg)
(ATTY. MARIA LOURDES E. MISLANG)**

Department of Justice
PAO-DOJ Agencies Building
NIA Road corner East Avenue
Diliman, 1104 Quezon City

THE DIRECTOR (reg)

Bureau of Corrections
1770 Muntinlupa City

THE DIRECTOR (reg)

Bureau of Jail Management and Penology
Arroy and Baleno, Masbate

JASON MANLAPAZ y ALARDE (reg)

Accused-Appellant
c/o The Director
Bureau of Corrections
1770 Muntinlupa City

HON. PRESIDING JUDGE (reg)

Regional Trial Court, Branch 48
Masbate City
Crim. Case No. 10922

COURT OF APPEALS (x)

Ma. Orosa Street
Ermita, 1000 Manila
CA-G.R. CR H.C. No. 05257

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