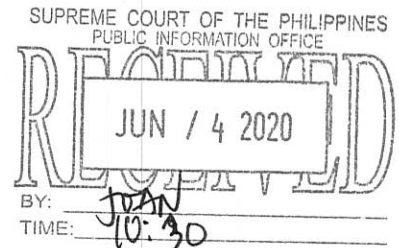


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MODIFIED



Republic of the Philippines
Supreme Court
Manila



FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated **December 10, 2019** which reads as follows:

“G.R. No. 242270 – (People of the Philippines v. DDD)”

This treats the appeal filed by accused-appellant DDD,¹ seeking the reversal of the Decision² dated May 23, 2018 rendered by the Court of Appeals (CA) in CA-G.R. CR-HC No. 09345, which affirmed the Decision³ dated March 21, 2017 of the Regional Trial Court (RTC) of GGG, Branch HHH convicting accused-appellant for violation of Qualified Rape as defined and penalized under Article 266-A(1)(a) in relation to Article 266-B of the Revised Penal Code, committed against his 15-year old daughter, private complainant (AAA).

The Antecedents

An Information was filed by the Public Prosecutor of GGG against DDD for Qualified Rape, the accusatory portion of which reads:

On February 28, 2016, in the GGG, the Philippines, accused, who is the biological father of complainant, [AAA], 15 years old, minor, by means of force, threat and intimidation,

¹ In line with the Court’s ruling in *People v. Cabalquinto*, 533 Phil. 703, 709 (2006), citing Rule on Violence Against Women and their Children, Sec. 40; Rules and Regulations Implementing Republic Act No. 9262, Rule XI, Sec. 63, otherwise known as the “Anti-Violence Against Women and their Children Act,” the real names of the rape victims will not be disclosed. The Court will instead use fictitious initials to represent them throughout the decision. The personal circumstances of the victims of any other information tending to establish or compromise their identities will likewise be withheld.

² Penned by Court of Appeals Associate Justice Edwin D. Sorongon and concurred by Associate Justices Sesinando E. Villon and Maria Filomena D. Singh; *CA rollo*, pp. 102-117.

³ Penned by Judge Cristina F. Javalera-Sulit, *id.* at 56-67.

15 years old, minor, by means of force, threat and intimidation, taking advantage of his moral ascendancy and strength, did then and there wilfully, unlawfully and feloniously have carnal knowledge of [AAA,] without her consent and against her will.

Contrary to law.⁴

During the arraignment on September 27, 2016, accused-appellant DDD pleaded not guilty. Trial ensued thereafter.

Evidence for the Prosecution

Complainant, who was born on November 1, 2000, was allegedly raped by DDD, her own father and the accused-appellant, on February 28, 2016 in their home in GGG. According to the complainant, the incident happened when she and her two (2) younger sisters named BBB and CCC were inside their room sleeping. She and CCC slept on the first bunk bed while BBB slept on the top bed. On the other hand, accused-appellant, slept on the floor using a mat. While they were all sleeping, AAA and DDD were awakened by a noise from their neighbor. DDD then stood up and drank water. Thereafter, he returned and checked upon his sleeping daughters. Subsequently, the AAA felt somebody touching and caressing her breasts. She averred that it was certainly the accused-appellant because she was able to see him due to the light coming from the outside. Accused-appellant DDD then asked her to lay on the floor but she refused to do so. She wanted to go to the bathroom but DDD pulled her down, undressed her and laid on top of her. At that time, he also removed his clothes. Even upon AAA's resistance, DDD held complainant's hands and kissed her on different parts of her body including her breasts. He also inserted his penis on the vagina of the complainant. It was only when he saw BBB, who was then on the top level of the double deck bed, make a slight movement that he stopped, stood up and went to the bathroom. AAA then covered herself with a blanket and dressed herself. When BBB stood up and asked what she was doing, she replied that she was going to drink water. Upon returning, DDD directed her to sleep on the floor with him but the complainant refused which angered the accused-appellant.⁵

The following day, when the accused-appellant went to work, the complainant narrated to BBB what had happened the night before. AAA said that the molestation that happened the previous night was not the first time.⁶

⁴ CA rollo, p. 56.

⁵ Rollo, p. 3.

⁶ Id. at 4.

After a few days, AAA was directed by her older brother, EEE to go to their maternal aunt's house in Cavite City by the name of FFF. There, she was asked by her aunt whether her accusations against her father are true which she confirmed. Thereafter, AAA and her aunt went to Manila to tell her paternal grandmother about the sexual molestation and abuse done to her. AAA's aunt also prevented complainant from returning home until DDD was arrested and jailed.⁷

On April 3, 2016, AAA reported the alleged sexual abuse and molestation to the police authorities through her affidavit. Consequently, a team of police officers were dispatched to arrest DDD who admitted to the allegations against him and pleaded for forgiveness.⁸

The Initial Medico-Legal Report and Medico-Legal Report No R16-0141 conducted on April 4, 2016 by PSI Maritess A. Ombao (PSI Ombao) revealed a clear evidence of blunt penetrating trauma to private complainant's hymen which was supported by the findings of shallow healed lacerations at 3:00 o'clock and 9:00 o'clock positions.⁹

Evidence for the Defense

Accused-appellant vehemently denied the charge against him and offered the defense of alibi and denial to exonerate himself from liability. In his own account, he asserted that he could not have done the hideous act and offered his explanation that on February 28, 2016, he was at work in JJJ and only arrived at their house at around 9:00 p.m. where he saw his three (3) daughters watching television. He went to bed at around 10:30 p.m. to 11:00 p.m. that night.¹⁰ Additionally, DDD claimed that the charge against him was only upon the persuasion of the family of his late wife to get even at him for his failure to take care of her before her death.¹¹

Ruling of the Trial Court

On March 21, 2017, the Regional Trial Court (RTC) rendered a Decision¹² convicting DDD of the crime of rape defined and penalized under Article 266-A paragraph 1(a) in relation to Article 266-B of the Revised Penal Code. The dispositive portion reads as follows:

⁷ Id.

⁸ Id.

⁹ Id. at 5.

¹⁰ Id.

¹¹ Id.

¹² Supra note 2.

WHEREFORE, judgment is hereby rendered as follows:

1. Finding the accused-appellant [DDD] GUILTY beyond reasonable doubt of the crime of rape defined and penalized under Article 266-A paragraph 1(a) in relation to Article 266-B of the Revised Penal Code. Consequently, the court hereby sentences him to suffer the penalty of *reclusion perpetua* without eligibility for parole pursuant to R.A. 9346.

2. Said accused is likewise ordered to pay private complainant civil indemnity in the amount of P100,000.00 for moral damages, the sum of P100,000.00 and P100,000.00 as exemplary damages, for a total of P300,000.00

All damages awarded shall earn legal interest at the rate of 6% per annum from the date of finality of judgment until fully paid.

Costs de officio.

SO ORDERED.¹³

The RTC found that the prosecution established DDD's guilt beyond reasonable doubt for the crime of qualified rape. Likewise, the RTC found the testimony of AAA narrating the rape incident to be credible. In contrast, DDD's defense of denial and alibi was found by the RTC to be incredulous. According to the RTC, such defense is too flimsy and can be considered as a mere afterthought and cannot prevail over the positive identification and straightforward testimony given by AAA.¹⁴

Aggrieved, the accused-appellant filed an appeal before the CA. He anchored his appeal on the lack of resistance of AAA during the supposed sexual abuse. He also pointed to the impossibility to consummate the complained act given that they were inside a small room where his two other daughters were sleeping.¹⁵

Ruling of the CA

On May 23, 2018, the CA rendered the assailed Decision¹⁶ affirming DDD's conviction of the crime of qualified rape. The CA ratiocinated that AAA positively identified DDD, her father, as her assailant and that all the elements to convict the accused were

¹³ CA Rollo, at 66-67.

¹⁴ Id. at 63-64.

¹⁵ Rollo, p. 6.

¹⁶ Supra note 1.

sufficiently proven. Aside from that, the alleged lack of resistance of AAA was not taken against her since it is not an element of rape. Moreover, the crampedness of the room where the alleged act occurred would not suffice to exculpate the accused since, as held by the Supreme Court, lust is no respecter of time and place and that it can be committed even in a small space or area. Additionally, the CA ruled that the delay in the reporting of the sexual abuse does not prove the falsity of the allegations since victims are oftentimes overwhelmed by fear than by reason.

Thus, the dispositive portion of the assailed CA decision reads:

WHEREFORE, premises considered, the instant appeal is **DISMISSED**. The *Decision* dated March 21, 2017 of the Regional Trial Court (RTC) of GGG, Branch HHH, in *KKK* is hereby **AFFIRMED**.

SO ORDERED.¹⁷

Dissatisfied with the decision of the CA, DDD filed a notice of appeal dated June 14, 2018.¹⁸ Both the plaintiff-appellee and the accused appellant manifested that they are adopting their respective briefs before the CA as their Supplemental Briefs before this Court.¹⁹

The Issue

The paramount issue for the Court's resolution is whether or not DDD's conviction should be sustained.

In seeking the reversal of the CA decision, DDD pointed out that AAA and her sisters' conduct of failing to offer any resistance during the alleged sexual abuse raises doubts as to the truthfulness of the crime charged. Specifically, AAA did not do anything from the alleged first incident on November 6, 2013 to the alleged second incident on February 20, 2014. Aside from that, DDD insisted that AAA did not struggle or fight back the alleged sexual abuse. Furthermore, to back up his claims, DDD said that there was impossibility to consummate the alleged sexual abuse considering that the room where they were in has a floor area of about 4x3 square meters. DDD also intimated that the instant case against him was brought about by the prodding of the relatives of his deceased wife

¹⁷ *Rollo*, p. 16.

¹⁸ *CA rollo*, p. 122.

¹⁹ *Rollo*, pp. 26-27, 32-33.

because they think that he did not support her during the time of her stroke until she died.²⁰

On the other hand, the People, through the Office of the Solicitor General (OSG), counters that the prosecution proved the guilt of the accused beyond reasonable doubt through the testimony of AAA which was found by the RTC to be clear, categorical and straightforward, unshaken by the defense's cross-examination, thereby bearing the earmarks of truthfulness. AAA unwaveringly and positively identified accused-appellant as the person who sexually abused her without any purpose rather than to bring him to justice.²¹

Ruling of the Court

The instant petition is bereft of merit. We find no reason to depart from the rulings of the Regional Trial Court and the Court of Appeals.

In the main, accused-appellant attacks AAA's credibility, averring that the facts and circumstances narrated by AAA are beyond the bounds of possibility. Specifically, accused-appellant points out that AAA and her sisters' conduct of failing to offer any resistance during the alleged sexual abuse and the long passage of time from the date of the alleged abuse to its reporting casts serious doubt on the veracity of such claim. Moreover, accused-appellant insists that there is physical impossibility for him to rape AAA considering the size of the room they were staying in. Furthermore, accused-appellant, in order to exonerate himself, averred that the charges were brought about by the prodding of his deceased wife's relatives.

We are not convinced.

The RTC and the CA have exhaustively discussed, explained and rebutted all the defenses raised by the accused-appellant and we see no reason to deviate from such pronouncements.

When it comes to credibility, the trial court's assessment deserves great weight, and is even conclusive and binding, if not tainted with arbitrariness or oversight of some fact or circumstance of weight and influence. The reason is apparent. Having the full opportunity to observe directly the witnesses' deportment and manner of testifying, the trial court is in a better position than the appellate

²⁰ CA rollo, pp. 35-53.

²¹ Id. at 82.

court to properly evaluate testimonial evidence.²² Matters of credibility are addressed basically to the trial judge who is in a better position than the appellate court to appreciate the weight and evidentiary value of the testimonies of witnesses who have personally appeared before him.²³ The appellate courts are far detached from the details and drama during trial and have to rely solely on the records of the case in its review. On the matter of credence and credibility of witnesses, therefore, the Court acknowledges said limitations and recognizes the advantage of the trial court whose findings must be given due deference.²⁴ Since the defense failed to show any palpable error, arbitrariness, or capriciousness on the findings of fact of the trial court, these findings deserve great weight and are deemed conclusive and binding more so that it is concurred by the appellate court.²⁵

Thus, we agree with the RTC and the CA in applying the jurisprudential principle that testimonies of child victims are to be 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.²⁶ The imputation of DDD of concocting a fabricated story deserves scant consideration. As found by the RTC and CA, AAA's testimony was candid, spontaneous, and consistent. Hence, there is no apparent reason not to believe the testimony of AAA.

Besides, as culled from the records, the findings of the RTC and the CA were not solely based on the testimony of AAA. The testimonies of other prosecution witnesses and other pieces of evidence, which corroborated with AAA's testimony, were also greatly considered.

Anent the accused-appellant's theory as to the failure of AAA and her sisters to offer any resistance during the alleged sexual abuse and the long passage of time from the date of the alleged abuse to its reporting, it is already well-settled that not all victims react the same way. Some people may cry out, some may faint, some may be shocked into insensibility, while others may appear to yield to the intrusion. Some may offer strong resistance while others may cow to the intimidation and be too intimidated to offer any resistance at all. Furthermore, resistance is not an element of rape. A rape victim has no burden to prove that she did all within her power to resist the force or

²² *People v. Apattad*, 671 Phil. 95, 113 (2011).

²³ *Valbueco, Inc. v. Province of Bataan*, 710 Phil. 633, 652 (2013).

²⁴ *People v. Vergara*, 713 Phil. 224, 234 (2013).

²⁵ *People v. Apattad*, supra note 21, at 112-113.

²⁶ *People of the Philippines v. Ricardo Pamintuan y Sahagun*, 710 Phil. 414, 422 (2013).

intimidation employed upon her. As long as the force or intimidation is present, whether it was more or less irresistible is of no moment.²⁷

In a last ditch effort, DDD said that there was impossibility to consummate the alleged sexual abuse considering that the room where they were in has a floor area of about 4x3 square meters. It has been repeatedly held that for the crime of rape to be committed, it is not necessary for the place to be ideal or the weather to be fine, for rapists bear no respect for locale and time when they carry out their evil deed. In a catena of cases, it has been held that rape can be committed even in places where people congregate, in parks, along the roadside, 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 are high risk venues for its commission. Besides, there is no rule that rape can be committed only in seclusion. Indeed, lust is no respecter of time and place.²⁸

The accused even brought up that the case against him was triggered by the relatives of his deceased wife to get back at him for not supporting his wife during the time that she had a stroke. This statement is untrustworthy and merely self-serving. Moreover, as this Court has pronounced in *Rondina v. People*,²⁹ ill motives become inconsequential if there is an affirmative and credible declaration from the rape victim, which clearly establishes the liability of the accused. In this case, AAA categorically identified the appellant as her assailant. Her account of the incident was given credence by both lower courts to which this Court conforms. Thus, the appellant's flimsy allegation of ill motive is immaterial. Besides, it is highly unlikely that a woman would concoct a story of defloration, allow an examination of her private parts and submit herself to public humiliation and scrutiny via an open trial, if her sordid tale was not true and her sole motivation was not to have the culprit apprehended and punished.³⁰

All told, we find no reversible error in the factual findings and legal conclusions of the RTC, as affirmed by the CA, for the conviction of the accused-appellant for rape under Article 266-A. Under Article 266-B, the rape is qualified by relationship of the parties which calls for the imposition of the death penalty, accused-appellant being the father of AAA. However, it must be noted that due to the passage of Republic Act (R.A.) No. 9346 which suspended the

²⁷ *People v. Bisora y Lagonoy*, 810 Phil. 993, 344 (2017).

²⁸ *Ramos v. People*, G.R. No. 226454, November 20, 2017.

²⁹ 687 Phil. 274, 292 (2012).

³⁰ *People v. Nardo*, 405 Phil. 826, 844 (2001).

imposition of the death penalty, the accused-appellant shall suffer the penalty of *reclusion perpetua* without eligibility for parole. Furthermore, pursuant to the case of *People v. Jugueta*,³¹ the accused-appellant shall pay AAA ₱100,000.00 as civil indemnity, ₱100,000.00 as moral damages, and ₱100,000.00 as exemplary damages, all with legal interest at the rate of 6% per annum from finality of this ruling until fully paid.³²

WHEREFORE, the appeal is **DISMISSED** for lack of merit. Accordingly, the assailed Decision of the Court of Appeals dated May 23, 2018 in CA-G.R. CR-HC No. 09345 is hereby **AFFIRMED in toto**. The accused-appellant, DDD, is hereby **SENTENCED** to suffer the penalty of *reclusion perpetua* without eligibility for parole and ordered to **PAY** AAA ₱100,000.00 as civil indemnity, ₱100,000.00 as moral damages, and ₱100,000.00 as exemplary damages, all with legal interest at the rate of 6% per annum from finality of this ruling until fully paid.

SO ORDERED.”

Very truly yours,


LIBRADA C. BUENA
Division Clerk of Court

270-B

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³¹ 783 Phil. 806, 850 (2016).

³² *People v. Flores*, 653 Phil. 313, 327 (2010).