



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 9, 2020** which reads as follows:*

**“G.R. No. 249664\* – PEOPLE OF THE PHILIPPINES, plaintiff-appellee, versus JESS TORES\*\* y FLORES, accused-appellant.**

After a careful review of the records of the case and the issues submitted by the parties, the Court finds that the Court of Appeals, Sixth Division (CA) did not err in promulgating the Decision<sup>1</sup> dated April 12, 2019 (Decision) in CA-G.R. CR-HC No. 10707. The facts, as borne out by the records, sufficiently support the conclusion that accused-appellant **JESS TORES y FLORES** (accused-appellant) is indeed guilty of Rape. The issues and matters raised before the Court, the same ones already raised in the CA, there being no supplemental briefs filed, were sufficiently addressed and correctly ruled upon by the CA.

It is well-settled that the factual findings and evaluation of witnesses’ credibility and testimony should be entitled to great respect unless it is shown that the trial court may have overlooked, misapprehended, or misapplied any fact or circumstance of weight and substance.<sup>2</sup> This is so because trial courts are in the best position to ascertain and measure the sincerity and spontaneity of witnesses through their actual observation of the witnesses’ manner of testifying, their demeanor and behavior in court.<sup>3</sup> The rule is even more strictly applied if the appellate court has concurred with the trial court.<sup>4</sup>

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\* No unmodified version since the real name of the victim cannot be found in the records.  
\*\* Also appears as “Torres” in some parts of the records.  
<sup>1</sup> *Rollo*, pp. 3-13. Penned by Associate Justice Mariflor P. Punzalan Castillo, with Associate Justices Danton Q. Bueser and Rafael Antonio M. Santos concurring.  
<sup>2</sup> *People v. Agalot*, G.R. No. 220884, February 21, 2018, 856 SCRA 317, 327.  
<sup>3</sup> *People v. Gerola*, G.R. No. 217973, 19 July 2017, 831 SCRA 469, 479.  
<sup>4</sup> *People v. Agalot*, supra note 2, at 327.

There is no cogent reason to depart from this rule in this case.

In rape cases, the prosecution has the burden to conclusively prove the two elements of the crime, *viz.*: (1) the offender had carnal knowledge of a woman, and (2) he accomplished such act through force or intimidation, or when she was deprived of reason or otherwise unconscious, or when she was under 12 years of age or was demented.<sup>5</sup> Carnal knowledge of a woman suffering from mental retardation is rape as she is in the same class as a woman deprived of reason or otherwise unconscious.<sup>6</sup> In such case, all that needs to be proved for a successful prosecution are the facts of sexual congress between the rapist and his victim, and the latter's mental retardation.<sup>7</sup>

The Court agrees with the conclusions of the trial court and the CA that the prosecution has established the foregoing elements in the case at bar with proof beyond reasonable doubt.

Accused-appellant maintains that his conviction rests on tenuous grounds as AAA<sup>8</sup> failed to testify and the lower courts merely relied on the circumstantial evidence adduced from the testimonies of the prosecution witnesses. He also claims that the medico-legal report of Dr. Marinelle Sabog which showed old healed lacerations at the hymenal ring of AAA does not prove that it was he who had carnal knowledge with AAA. These assertions fail to persuade.

Firstly, the intellectual disability of AAA was established by the testimonies of the psychologist, her guardian, and the police officer who interviewed AAA. The psychologist testified that when he examined AAA for psychological evaluation, he tried various tests to measure her mental age equivalent. AAA, however, was unable to read and write and to express herself properly. Thus, the

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<sup>5</sup> *People v. Bermas*, G.R. No. 234947, June 19, 2019, 905 SCRA 455, 463.

<sup>6</sup> *People v. Dalan*, G.R. No. 203086, June 11, 2014, 726 SCRA 335, 340.

<sup>7</sup> *People v. Suansing*, G.R. No. 189822, September 2, 2013, 704 SCRA 515, 519 and 526.

<sup>8</sup> The identity of the victims or any information which could establish or compromise their identities, as well as those of their immediate family or household members, shall be withheld pursuant to Republic Act No. (RA) 7610, entitled "AN ACT PROVIDING FOR STRONGER DETERRENCE AND SPECIAL PROTECTION AGAINST CHILD ABUSE, EXPLOITATION AND DISCRIMINATION, AND FOR OTHER PURPOSES," approved on June 17, 1992; RA 9262, entitled "AN ACT DEFINING VIOLENCE AGAINST WOMEN AND THEIR CHILDREN, PROVIDING FOR PROTECTIVE MEASURES FOR VICTIMS, PRESCRIBING PENALTIES THEREFOR, AND FOR OTHER PURPOSES," approved on March 8, 2004; and Section 40 of A.M. No. 04-10-11-SC, otherwise known as the "Rule on Violence against Women and Their Children" (November 15, 2004). (See footnote 4 in *People v. Cadano, Jr.*, 729 Phil. 576, 578 [2014], citing *People v. Lomaque*, 710 Phil. 338, 342 [2013]. See also Amended Administrative Circular No. 83-2015, entitled "PROTOCOLS AND PROCEDURES IN THE PROMULGATION, PUBLICATION, AND POSTING ON THE WEBSITES OF DECISIONS, FINAL RESOLUTIONS, AND FINAL ORDERS USING FICTITIOUS NAMES/PERSONAL CIRCUMSTANCES," dated September 5, 2017; and *People v. XXX and YYY*, G.R. No. 235652, July 9, 2018.)

psychological evaluation was based on the child's clinical interview, reaction during the conduct of the tests and the narration of the guardian, BBB. The Psychological Report significantly concluded:

“Based from the aforementioned history, clinical interview and behavioral assessment results, **AAA has Moderate Intellectual Disability (Intellectual development disorder – formerly mental retardation)**. Her mental deficits resulted in impaired adaptive functioning such that she fails to meet standards of age, appropriate personal and social adaptive behaviors. She is slower in all areas of conceptual development and social and daily life skills.

Her condition explains her academic disability and difficulty in looking at the depth of communication and interaction. She merely depends on what people would tell her and thus, is very prone to suggestions of people around. This conveys that she is and was or will be an easy prey for abuse of any form.”<sup>9</sup> (Emphasis supplied)

Furthermore, as aptly noted by the CA, AAA's guardian, BBB, testified that AAA's behavior was comparable to a child around the ages of three to five years old. BBB also acknowledged the difficulty of AAA in expressing herself and in taking care of herself, such that BBB even had to bathe AAA.<sup>10</sup>

PO2 Emily Opinaldo, for her part, recounted that AAA had difficulty responding to simple questions such as her name and address. PO2 Opinaldo also observed that AAA was always smiling and referred to accused-appellant as her husband.<sup>11</sup>

The CA likewise correctly pointed out that accused-appellant himself admitted that AAA was “not normal” when he stated in the vernacular that *meron siyang pamali-mali*.<sup>12</sup>

Secondly, the fact of carnal knowledge between accused-appellant and AAA was sufficiently proven despite the non-presentation in court of the testimony of AAA. True, the testimony of the victim in rape cases is essential; but resort to circumstantial evidence becomes inevitable where the victim cannot testify by reason of mental incapacity.<sup>13</sup> This is sanctioned by Section 5, Rule 133 of

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<sup>9</sup> *Rollo*, p. 6.

<sup>10</sup> *Id.* at 9.

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> See *People v. Nerio, Jr.*, G.R. No. 200940, July 22, 2015, 763 SCRA 520, 529 and *People v. Ugang*, G.R. No. 144036, May 7, 2002, 381 SCRA 775, 783.

the Revised Rules on Evidence, subject to certain requisites which would sufficiently support conviction. These requisites are: (a) there is more than one (1) circumstance; (b) the facts from which the inferences are derived have been proven; and (c) the combination of all these circumstances results in a moral certainty that the accused, to the exclusion of all others, is the one who committed the crime.<sup>14</sup> Thus, to justify a conviction based on circumstantial evidence, the combination of circumstances must be interwoven in such a way as to leave no reasonable doubt as to the guilt of the accused.<sup>15</sup>

Here, although AAA did not testify, the confluence of the following circumstances establishes the guilt of accused-appellant with moral certainty:

1. Luzviminda Torio and CCC both saw accused-appellant on top of AAA inside a nipa hut near the seashore. They both testified that accused-appellant and AAA were naked from the waist down.<sup>16</sup>
2. Accused-appellant admitted that he and AAA were alone together inside the nipa hut.<sup>17</sup>
3. Accused-appellant immediately dismounted from AAA and scampered away when Luzviminda shouted for help.<sup>18</sup>
4. Accused-appellant admitted to PO3 Jessie Castro Tayab, who was one of the first responders to the crime scene, that he had sexual intercourse with AAA but explained that they were in a relationship.<sup>19</sup>
5. AAA was later diagnosed to be 15 weeks pregnant, with the estimated date of conception falling within the date of the alleged rape.<sup>20</sup>

In the face of the above overwhelming evidence against him, accused-appellant can only offer denial and the flimsy version that it was AAA who went to see him inside the nipa hut and embraced him.

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<sup>14</sup> See *People v. Nerio, Jr.*, id. at 530.

<sup>15</sup> Id.

<sup>16</sup> *Rollo*, pp. 10-11.

<sup>17</sup> Id. at 12.

<sup>18</sup> Id. at 5.

<sup>19</sup> Id.

<sup>20</sup> Id. at 7.

It is an established rule, however, that denial is an inherently weak defense and constitutes self-serving negative evidence, which cannot be accorded greater evidentiary weight than the positive declaration by a credible witness.<sup>21</sup> Notably, as well, there was no showing of any ill-motive on the part of Luzviminda and CCC to testify against accused-appellant.

Anent the medico-legal report showing AAA's hymenal lacerations as old and healed, this does not detract from the findings against the guilt of accused-appellant. The absence of fresh lacerations does not prove that the victim was not raped.<sup>22</sup> In *People v. Evangelio*,<sup>23</sup> the Court ruled that the presence of healed hymenal lacerations the day after the victim was raped does not negate the commission of rape by the accused-appellant when the crime was proven by the combination of highly convincing pieces of evidence. In addition, a medical examination and a medical certificate are merely corroborative and are not indispensable to the prosecution of a rape case.<sup>24</sup>

In view of the foregoing, the Court is convinced that the prosecution proved accused-appellant's guilt beyond reasonable doubt.

Under Article 266-B(10) of the Revised Penal Code, when the offender committed the crime, knowing of the intellectual disability of the offended party, the death penalty shall be imposed. This applies here as the qualifying circumstance was alleged in the Information and proven during trial by the very admission of accused-appellant. However, considering that the imposition of the death penalty is prohibited, the proper penalty is *reclusion perpetua*. Pursuant to Administrative Matter No. 15-08-02-SC,<sup>25</sup> when circumstances are present warranting the imposition of the death penalty, but that this penalty is not imposed because of Republic Act No. (RA) 9346, the qualification of "without eligibility for parole" shall be used to qualify *reclusion perpetua* in order to emphasize that the accused should have been sentenced to suffer the death penalty had it not been for RA 9346. Thus, the Court modifies the penalty imposed against accused-appellant accordingly.

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<sup>21</sup> *People v. Udtohan*, G.R. No. 228887, August 2, 2017, 834 SCRA 330, 347.

<sup>22</sup> *People v. Bragat*, G.R. No. 222180, November 22, 2017, 846 SCRA 469, 480.

<sup>23</sup> G.R. No. 181902, August 31, 2011, 656 SCRA 579.

<sup>24</sup> *Id.* at 595.


<sup>25</sup> GUIDELINES FOR THE PROPER USE OF THE PHRASE "WITHOUT ELIGIBILITY FOR PAROLE" IN INDIVISIBLE PENALTIES, which took effect on August 4, 2015. See also *People v. Blanza, Jr.*, G.R. No. 247005, July 1, 2020.

Likewise, in line with current jurisprudence, the Court modifies the award of damages to ₱100,000.00 as civil indemnity, ₱100,000.00 as moral damages, and ₱100,000.00 as exemplary damages.<sup>26</sup>

**WHEREFORE**, premises considered, the appeal is **DISMISSED** for lack of merit. The Court hereby **ADOPTS** the findings of fact and conclusions of law in the Decision dated April 12, 2019 of the Court of Appeals, Sixth Division, in CA-G.R. CR-HC No. 10707, which found accused-appellant JESS TORES y FLORES **GUILTY** beyond reasonable doubt of Qualified Rape as defined and punished under Article 266-A, paragraph 1(b) in relation to Article 266-B, paragraph 6(10) of the Revised Penal Code. This assailed Decision is **AFFIRMED with MODIFICATION** in that accused-appellant is sentenced to suffer the penalty of *reclusion perpetua* without eligibility for parole; and to pay the victim ₱100,000.00 as civil indemnity, ₱100,000.00 as moral damages, and ₱100,000.00 as exemplary damages. The award of damages shall earn interest at the rate of six percent (6%) *per annum* from the date of finality of the judgment until fully paid.

**SO ORDERED.”**

**By authority of the Court:**

  
**LIBRADA C. BUENA**  
Division Clerk of Court  
C-15728

by:

**MARIA TERESA B. SIBULO**  
Deputy Division Clerk of Court

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<sup>26</sup> *People v. Jugueta*, G.R. No. 202124, April 5, 2016, 788 SCRA 331, 382-383.



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Manila  
(CA-G.R. CR HC No. 10707)

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