



Republic of the Philippines  
Supreme Court  
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **June 10, 2020** which reads as follows:*

“**G.R. No. 247325 (People of the Philippines v. XXX)**. - This is to resolve the appeal of appellant XXX that seeks to reverse and set aside the Decision<sup>1</sup> dated November 22, 2018 of the Court of Appeals (CA) in CA-G.R. CR HC No. 01832-MIN, affirming the Decision dated November 17, 2017 of the Regional Trial Court (RTC), Branch 23, Kidapawan City, finding appellant guilty beyond reasonable doubt of Simple Rape under Article 266-A, paragraph 1 of the Revised Penal Code (RPC).

The facts follow.

On September 30, 2010, AAA,<sup>2</sup> who was allegedly 14 years old at the time of the incident, accompanied her father, herein appellant XXX, to harvest bamboo shoots. While going about their business, XXX suddenly laid an empty sack on the floor, took off AAA’s short pants and panty, and told her to lie down on the ground. While AAA was on the floor, XXX then inserted his penis inside the vagina of AAA. AAA dressed up and noticed that there was blood in her underwear. AAA informed XXX that she will go home. XXX then told AAA not to tell her mother about the incident and that he will be

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<sup>1</sup> Rollo, pp. 4-12.

<sup>2</sup> Pursuant to R.A. No. 7610, "An Act Providing for Stronger Deterrence and Special Protection against Child Abuse, Exploitation and Discrimination, and for Other Purposes"; R.A. No. 9262, "An Act Defining Violence against Women and Their Children, Providing for Protective Measures for Victims, Prescribing Penalties Therefore, and for Other Purposes"; Section 40 of A.M. No. 04-10-11-SC, known as the "Rule on Violence against Women and Their Children," effective November 15, 2004; and *People v. Cabalquinto*, 533 Phil. 703 (2006), the real name of the rape victim is withheld and, instead, fictitious initials are used to represent her. Also, the personal circumstances of the victim or any other information tending to establish or compromise her identity, as well as those of her immediate family or household members, is not disclosed (*People v. CCC*, G.R. No. 220492, July 11, 2018).

Handwritten initials or mark.

the one to fetch water. AAA told her neighbor, who happened to be a relative, the unfortunate incident after a few days as she was feeling pain in her stomach and vagina. AAA claimed that XXX raped her on five other different occasions.

AAA was brought to the police station where she reported that she was sexually molested by XXX several times, with the latest abuse occurring in the morning of that day.

Dr. Jocelyn Encienzo (*Encienzo*) examined AAA later that day. Encienzo opined in her Medical Report that the healed lacerations in AAA's vagina were consistent with a finding of forced sexual intercourse.

Hence, an Information was filed against XXX for the crime of Rape which reads as follows:

That on or about September 30, 2010, in the City of Kidapawan, Philippines, and within the jurisdiction of this Honorable Court, the said accused, with lewd design, by means of force and intimidation and grave abuse of authority, willfully, unlawfully and feloniously had carnal knowledge with [AAA], his fourteen (14)-[year]-old daughter, against her will.

That the victim is under eighteen (18) years of age and the offender is her father is alleged herein as a qualifying circumstance.

CONTRARY TO LAW.<sup>3</sup>

XXX pleaded not guilty during his arraignment; thus, trial on the merits ensued.

XXX proffered the defense of denial. He averred that around seven o' clock in the morning of the day in question, he, his wife and children, including AAA were clearing the cornfield near their house. XXX claimed that he asked AAA to return the scythe he borrowed from his neighbor Efren Orias. XXX claimed AAA did not return until midnight. XXX further claimed that on the following day, AAA cooked rice around five o'clock in the morning and after breakfast, she went to the nearby spring to wash her clothes but soon found out that she was not there. XXX was surprised later that afternoon when agents from the DSWD and the police came by his house to arrest him for allegedly raping AAA.

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<sup>3</sup> Records, p. 3.

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On November 17, 2017, the RTC rendered its judgment finding XXX guilty beyond reasonable doubt of the crime charged against him. The dispositive portion of the RTC's Decision reads, as follows:

**WHEREFORE**, based on the foregoing premises, this court find[s] the accused [XXX] guilty beyond reasonable doubt of the crime of simple rape and he is sentenced to suffer the penalty of *Reclusion Perpetua*.

The accused is directed to pay the victim AAA the sum of ₱50,000.00 as civil indemnity, ₱50,000.00 as moral damages and ₱30,000.00 as exemplary damages. All damages awarded shall earn interest at the rate of 6% per annum from the date of finality of this decision until fully paid.

The period of preventive detention of the accused since November 17, 2010 is counted in his favor as partial service of his sentence. Cost de [Oficio].

**SO ORDERED.**<sup>4</sup>

XXX appealed the case to the CA, and on November 22, 2018, the appellate court denied appellant's appeal and found appellant guilty beyond reasonable doubt of the crime of Simple Rape, in a decision which has the following as its decretal portion:

**WHEREFORE**, premises considered, the appeal is hereby **DENIED**.

The 17 November 2017 Decision rendered by the Regional Trial Court, 12th Judicial Region, Branch 23, Kidapawan City, in Criminal Case No. 359-2010 is **AFFIRMED** with **MODIFICATION**: That the award of Civil Indemnity, Moral and Exemplary Damages shall each be increased to ₱75,000.00.

The CA ruled that, even though the prosecution failed to prove that AAA was a minor at the time the incident took place, XXX may still be convicted of simple rape as all the elements of the said crime have been proven beyond reasonable doubt by the testimony of AAA and by the medical report. The CA also found that the testimony of AAA was credible when she narrated the abuse she suffered.

Hence, the present appeal.

### ***The Court's Ruling***

The appeal is without merit.

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<sup>4</sup> *Rollo*, p. 12.

Rape is a crime that is almost always committed in isolation or in secret, usually leaving only the victim to testify about the commission of the crime. As such, the accused may be convicted of rape on the basis of the victim's sole testimony provided such testimony is logical, credible, consistent and convincing. Moreover, the testimony of a young rape victim is given full weight and credence, considering that her denunciation against him for rape would necessarily expose herself and her family to shame and perhaps ridicule. Indeed, it is more consistent with human experience to hold that a rape victim of tender age will truthfully testify as to all matters necessary to show that she was raped.<sup>5</sup>

After an exhaustive review of the records of the case, the Court finds that the appellate court did not err in finding that the prosecution successfully proved beyond reasonable doubt that XXX committed rape against his own daughter. AAA positively identified her father as the one who raped her. The medical report corroborates that there was forced sexual intercourse. It is settled that the findings of fact by the trial court are accorded great weight, and are even held to be conclusive and binding unless they were tainted with arbitrariness or oversight since it is recognized that the trial court is better situated to assess the testimonies and evidence laid out before it during the trial.<sup>6</sup> We find no cogent reason to disturb the findings of the trial court as affirmed by the CA.

Be that as it may, XXX can only be convicted of simple rape. Despite the fact that the prosecution alleged in the Information that AAA was 14 years old at the time of the incident, the prosecution failed to present any of the proof to determine the age of the victim. The State should have been guided by the guidelines set out in *People v. Pruna*<sup>7</sup> which provides:

1. The best evidence to prove the age of the offended party is an original or certified true copy of the certificate of live birth of such party.

2. In the absence of a certificate of live birth, similar authentic documents such as baptismal certificate and school records which show the date of birth of the victim would suffice to prove age.

3. If the certificate of live birth or authentic document is shown to have been lost or destroyed or otherwise unavailable, the

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<sup>5</sup> *People v. Gallano*, 755 Phil. 120, 130 (2015).

<sup>6</sup> *Adolfo Catuiza v. People*, G.R. No. 237031 (Notice), April 4, 2018.

<sup>7</sup> 439 Phil. 440, 470, 471 (2002), as cited in *People v. Anthony Mabalo*, G.R. No. 238839, February 27, 2019.

W/A

testimony, if clear and credible, of the victim's mother or a member of the family either by affinity or consanguinity who is qualified to testify on matters respecting pedigree such as the exact age or date of birth of the offended party pursuant to Section 40, Rule 130 of the Rules on Evidence shall be sufficient under the following circumstances:

- a. If the victim is alleged to be below 3 years of age and what is sought to be proved is that she is less than 7 years old;
  - b. If the victim is alleged to be below 7 years of age and what is sought to be proved is that she is less than 12 years old;
  - c. If the victim is alleged to be below 12 years of age and what is sought to be proved is that she is less than 18 years old.
4. In the absence of a certificate of live birth, authentic document, or the testimony of the victim's mother or relatives concerning the victim's age, the complainant's testimony will suffice provided that it is expressly and clearly admitted by the accused.
5. It is the prosecution that has the burden of proving the age of the offended party. The failure of the accused to object to the testimonial evidence regarding age shall not be taken against him.
6. The trial court should always make a categorical finding as to the age of the victim.

Without the birth certificate or any of the other means to prove the true age of AAA, the Court is constrained to adopt the conclusion of the appellate court that the crime committed is simple rape.

**WHEREFORE**, the Court **AFFIRMS** *in toto* the Decision of the Court of Appeals in CA-G.R. CR HC No. 01832-MIN, dated November 22, 2018.

**SO ORDERED.”**

Very truly yours,

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

by:

**MARIA TERESA B. SIBULO**  
Deputy Division Clerk of Court  
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(CA-G.R. CR HC No. 01832-MIN)

The Hon. Presiding Judge  
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