



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 23, 2020** which reads as follows:*

“G.R. No. 248878 – PEOPLE OF THE PHILIPPINES v. XXX*

Antecedents

Appellant XXX was charged with two (2) counts of qualified rape under the following Informations, *viz.*:

Criminal Case No. 1550

That (in) June, 2007, at about 7:00 in the evening at [REDACTED] Municipality [REDACTED], Province of Masbate, Philippines, and within the jurisdiction of this Honorable Court, said accused by means of violence, force and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge (of) one (AAA),** a (13-year-old) minor, against her will and without her consent.

That the accused is a relative of the victim within the third civil degree.

Contrary to law.¹

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* The real name of the victim, her personal circumstances and other information which tend to establish or compromise her identity, as well as those of her immediate family, or household members, shall not be disclosed to protect her privacy, and fictitious initial shall, instead, be used, in accordance with *People v. Cabalquinto* [533 Phil 703 (2006)] and Amended Administrative Circular No. 83-2015 dated September 5, 2017.

** *Id.*

¹ *Rollo*, p. 4; *CA rollo*, pp. 73 and 124.

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Criminal Case No. 1551

That (in) March, 2008, at about 9:00 in the evening at [REDACTED], Province of Masbate, Philippines, and within the jurisdiction of this Honorable Court, said accused by means of violence, force and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge (of) one (AAA), a (14-year-old) minor, against her will and without her consent.

That the accused is a relative of the victim within the third civil degree.

Contrary to law.²

On arraignment, appellant pleaded not guilty.³

Complainant AAA, her mother BBB, and her live-in partner CCC testified for the prosecution. On the other hand, appellant, his sister YYY, and his father ZZZ testified for the defense.

Version of the Prosecution⁴

In June 2007, around 7 o'clock in the evening, 13-year old complainant was attending a dance at Morocborocan Barangay Plaza. Appellant, her maternal uncle, arrived and asked her to accompany him to the Morocborocan Elementary School. She obliged. On their way to the school, appellant led her into a dark corner, pushed her toward a bamboo bench, and removed her shorts and undergarment. Appellant then forcibly inserted his penis into her vagina. She shouted for help, but it was in vain. No one was there to help. After appellant's bestial act, he threatened to kill her if she ever told anyone about the incident. Then, he took her home. She did not tell anyone about the incident.

In March 2008, appellant went to complainant's house and asked the latter to go with him to a graduation ceremony. She refused but he insisted. But she held her ground. Undaunted, he then asked her mother BBB to let complainant go with him. BBB obliged and told complainant to accompany her uncle. While the graduation ceremony was still ongoing, appellant told her they should already go home. On their way back home, she walked quickly ahead of appellant but he caught up with her. Suddenly, he embraced her, pushed her to the ground, and kissed her. He also pointed a knife on her and ordered her

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² *Id.*; *id.*

³ *Id.* at 4; *id.* at 74 and 124.

⁴ *Id.* at 4-6; *id.* at 74 and 124-126.

not to make a noise. He then removed her undergarment and forcibly inserted his penis into her vagina. After ravishing her, appellant took her home.

After the second incident, she moved to Manila and stayed there until 2011. When she went back to Masbate, she lived in with her partner CCC. When CCC discovered she was no longer a virgin, she told him what her uncle did to her in 2007 and 2008. CCC, in turn, informed BBB what her brother did to complainant.

*Version of the Defense*⁵

Appellant invoked denial and alibi. He testified that he left Masbate and went to Sorsogon as early as 2006 and did not return to Masbate until August 2008. BBB and complainant initiated the charge because of his quarrel with BBB regarding the coconut harvest from their parents' property.

Ruling of the Trial Court

By Decision dated December 4, 2015,⁶ the trial court rendered a verdict of conviction, *viz.*:

WHEREFORE, premises considered, judgment is hereby rendered convicting the accused (XXX), for TWO (2) (c)ounts of RAPE under Art. 266-A of the Revised Penal Code as amended by RA 8353 and is sentenced to suffer the penalty of RECLUSION PERPETUA for each count. To pay the victim the amount of P50,000.00 as moral damages, the amount of P50,000.00 as civil indemnity and P25,000.00 as exemplary damages for each count, or in the total amount of P250,000.00 and to suffer all the accessory penalties provided for by law. No costs.

Accused (XXX) is hereby ordered committed to the Bureau of Jail Management and Penology at [REDACTED], Masbate and later to the New Bilibid Prison, Muntinlupa City, (Metro Manila).

SO ORDERED.⁷

The trial court gave full credence to complainant's testimony. It noted that complainant categorically identified appellant as the one who with use of force and intimidation robbed her of her chastity. She testified in a straightforward and spontaneous manner on the details of the twin rape incidents. The fact that she was unable to tell the exact

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⁵ *Id.* at 6-7; *id.* at 75 and 126-127.

⁶ Penned by Judge Arturo Clemente B. Revil, *CA rollo*, pp. 73-79.

⁷ *Id.* at 78-79.

date when these incidents happened did not affect the merits of the case. The exact date of the rape is not an essential element of the crime. Her delay in reporting the incidents cannot be taken against her either in view of appellant's threat to kill her and her mother if she ever told the incident to anyone. Appellant, on the other hand, offered nothing but denial and alibi. More, appellant failed to show that it was physically impossible for him to have been at the *situs criminis* on the dates and times the rape incidents took place.

Ruling of the Court of Appeals

By its assailed Decision dated May 29, 2019,⁸ the Court of Appeals affirmed with modification, *viz.*:

WHEREFORE, the appeal is **DENIED**. The Decision dated 4 December 2015 of the Regional Trial Court, Branch 50, San Jacinto, Masbate in Criminal Cases Nos. 1550 and 1551 is **AFFIRMED** with **MODIFICATION**:

1) In Criminal Case No. 1550, the accused-appellant **XXX** is found **GUILTY** of Qualified Rape and sentenced to suffer the penalty of *reclusion perpetua* without the benefit of parole. He is ordered to pay AAA (a) P100,000.00 as civil indemnity *ex delicto*; (b) P100,000.00 as moral damages; and (c) P100,000.00 as exemplary damages; all with interest at 6% *per annum* from finality of this Decision, until fully paid.

2) In Criminal Case No. 1551, the accused-appellant **XXX** is found **GUILTY** of Qualified Rape and sentenced to suffer the penalty of *reclusion perpetua* without the benefit of parole. He is ordered to pay AAA (a) P100,000.00 as civil indemnity *ex delicto*; (b) P100,000.00 as moral damages; and (c) P100,000.00 as exemplary damages; all with interest at 6% *per annum* from finality of this Decision, until fully paid.

SO ORDERED.⁹

The Court of Appeals concurred with the trial court that complainant's failure to state the exact dates of the incidents would not tilt the scales of justice in appellant's favor. It noted that a rape victim is not expected to recall in full detail the dates when he or she was violated against his or her will. Rape is a painful experience which is oftentimes not remembered in detail, thus, a rape victim cannot be expected to mechanically keep and give an accurate account

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⁸ Penned by Associate Justice Maria Filomena Singh and concurred in by Associate Justice Manuel M. Barrios and Associate Justice Ruben Reynaldo G. Roxas, *rollo*, pp. 3-19; CA *rollo*, pp. 123-139.

⁹ *Id.* at 18; *id.* at 138.

of the traumatic and horrifying experience he/she had undergone. In any case, complainant categorically narrated how appellant ravished her on two (2) separate occasions. As for the existence of threat and intimidation, the fact that complainant failed to state in her *Salaysay* that appellant threatened her with a knife did not diminish the credibility of her testimony in court. The mere fact that appellant was complainant's uncle was enough proof of intimidation.

The Present Appeal

Appellant now seeks affirmative relief and prays anew for his acquittal.

In compliance with Resolution dated October 14, 2019,¹⁰ appellant and the Office of the Solicitor General (OSG) manifested¹¹ that, in lieu of supplemental briefs, they were adopting their respective briefs before the Court of Appeals.

Issue

Did the Court of Appeals err in affirming appellant's conviction for two (2) counts of qualified rape?

Ruling

Appellant seeks a reversal of the verdict of conviction rendered against him by the trial court, as affirmed by the Court of Appeals. In the main, he assails complainant's testimony for being allegedly incredible, nay, improbable. He essentially asserts: It was incredulous for a woman, who claims to have been violated, to still go with her violator to a graduation ceremony. She failed to recall the exact dates when the alleged incidents happened. The prosecution failed to prove the element of force and intimidation. In her *Salaysay*, she did not mention that he pointed a knife at her. Lastly, it took her four (4) years from the time she was supposedly raped to report the matter. This proves she and her mother BBB only initiated the complaint because of his quarrel with BBB. In any case, he was in Sorsogon at the time of the alleged incidents. Hence, it was impossible for him to have been in Masbate where complainant was on the date the incidents happened.¹²

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¹⁰ *Rollo*, pp. 25-26.

¹¹ *Id.* at 28-30 and 33-34.

¹² *CA rollo*, pp. 66-70.

The appeal must fail.

Records bear complainant's detailed narration of what appellant did to her in June 2007 and March 2008, viz.:

June 2007 Incident

x x x

x x x

x x x

Q Madam Witness, on June 2007 at around 7:00 o'clock in the evening, do you remember where were you?

A I was attending a dance and I was standing there and he arrived and requested me to go with him to the school and I do not know what we will do there.

Q And who is this person who arrived and told you to accompany him to the school?

A My uncle.

Q And who is this uncle?

A (XXX)¹³

x x x

x x x

x x x

Q So, what happened after you were told to accompany him?

A I asked him on what to do there but he told me to just accompany him.

Q And you went with him?

A Yes, sir.

Q How far is the school from the barangay plaza of Morocborocan?

A About thirty (30) meters.

Q And when you arrived at the school, what happened?

A When we arrived there, I was surprised because the place was dark and then he made me lie on a bamboo bench and then he remove(d) my shorts.

Q And during that time were you able to shout, Madam Witness?

A Yes, sir.

Q What happened when you shouted?

A I was afraid because there was no people there, only the two (2) of us.

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¹³ *Id.* at 103.

Q While you were being undressed and while your underwear was removed, what did you do if any?

A I told him, why are you doing this to me and why did you bring me here in the school but he told me that, I should not tell it to my mother.

Q And what else did you do, Madam Witness?

A I pushed him but he still insisted on inserting his penis to my vagina.

Q And what did you (feel) when the accused inserted his penis into your vagina?

A I was hurt because he inserted forcefully and he forced me.

Q And after that, what happened next, Madam Witness?

A He told me that he will bring me home and I should not tell my mother because he will do something wrong.

Q And what was that something wrong that will be done to you or your family if you will tell your mother about the incident?

A He will kill me.¹⁴

x x x x x x x x x

March 2008 Incident

x x x x x x x x x

Q Madam Witness, you claimed that you were in your house at around 9:00 o'clock in the evening sometimes (sic) in March 2008, and what happened during that time?

A He requested me to attend the graduation ceremony, I refused but he insisted me "pinilit nya ako" to go with him.¹⁵

x x x x x x x x x

Q And so, what happened next?

A He approached my mother and informed my mother that I will go with him in attending the graduation ceremony and my mother permitted me to go with him.¹⁶

x x x x x x x x x

Q And for how long did you stay there?

A It is not long because at around 9:00 o'clock, he requested (sic) me that we will go home.

Q Who requested you to go home?

A My uncle (XXX).

¹⁴ *Id.* at 104-105.

¹⁵ *Id.* at 105-106.

¹⁶ *Id.* at 106.



Q You are referring to the accused?
A Yes, sir.

Q But during that time the graduation ceremony was not yet ended?
A Yes, sir.

Q So you proceeded in going home. What happened while you were walking?
A I walked fast and in fact, I ran but still he overtook me.

Q And when you were overtaken by the accused what happened?
A He embraced me and he pushed me and then again he did something bad to me.

Q For the record Madam Witness, what was that bad things (sic) that was done to you by the accused x x x
A He kept on kissing me, removed my panty and inserted his penis (in) my vagina.¹⁷

x x x x x x x x x

Q And while he was doing that, what did you do if any?
A He pointed something “tinutukan nya ako sin matarum” and told me not to make (a) noise.

Q So, he was armed during that time?
A Yes, sir.¹⁸

x x x x x x x x x

Q So, for the record Madam Witness, during the first incident or even after the first incident and after the second incident, what was the main reason why you did not tell your mother or to any other person about the sexual assault that was committed against you by the accused?
A I was afraid because he threatened that, to kill my family.¹⁹

x x x x x x x x x

The trial court and the Court of Appeals gave full credence to complainant’s testimony for being straightforward and spontaneous. Her credible testimony was in fact sufficient to support the verdict of conviction against appellant for two (2) counts of qualified rape.

The nature of the crime of rape often entails reliance on the lone uncorroborated testimony of the victim, which is sufficient to support

¹⁷ *Id.* at 107-108.
¹⁸ *Id.* at 108.
¹⁹ *Id.*



a conviction, provided it is clear, convincing, and otherwise consistent with human nature.²⁰ As both the trial court and the Court of Appeals keenly noted, complainant's testimony was credible, categorical, and straightforward, on how appellant, through force and intimidation, inserted his penis into her vagina on two (2) separate occasions.

More, complainant was only thirteen (13) years old when the incident happened in June 2007, and fourteen (14) years old when the second incident happened in March 2008. When the offended party is of tender age and immature, courts are inclined to give credit to her account of what transpired, 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. Youth and immaturity are generally badges of truth and sincerity.²¹

Against complainant's positive testimony, appellant only offers denial and alibi. The Court has pronounced time and again that both denial and alibi are inherently weak defenses which cannot prevail over the positive and credible testimony of the prosecution witness that the accused committed the crime. Thus, as between a categorical testimony which has a ring of truth on one hand, and a mere denial on the other, the former must generally prevail.²²

Further, the Court has consistently ruled that for alibi to prosper it is not enough for the appellant to prove that he was somewhere else when the crime was committed; he must likewise demonstrate that it was physically impossible for him to have been at the scene of the crime on the dates and times of its commission.²³ Here, appellant claims he was in Sorsogon at the time of the twin incidents which both happened in Masbate. As the Court of Appeals correctly noted, however, appellant himself stated that Sorsogon is only an hour away from Masbate.²⁴ Thus, it was not physically impossible at all for appellant to have been at the *situs criminis* at the dates and times they actually happened.

In *People v. Malate*,²⁵ we held that there was no physical impossibility for Malate to have been at the scene of the crime considering that the place where Malate claimed he was and the *locus criminis* were both within the same municipality and were walking

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²⁰ *People v. Ronquillo*, 818 Phil. 641, 649-650 (2017).

²¹ *People v. Padit*, 780 Phil. 69, 80 (2016).

²² *People v. Batalla*, G.R. No. 234323, January 07, 2019.

²³ *People v. Matunhay*, 628 Phil. 208, 218 (2010).

²⁴ *Rollo*, p. 15; *CA rollo*, p. 135.

²⁵ 606 Phil. 825, 837 (2009).

distance from each other. In *People v. Mokammad, et al.*,²⁶ we ruled that it was not physically impossible for appellants to have been at the *situs criminis* considering that their respective houses were only an hour's drive away. In *People v. Pulgo*,²⁷ we even held that it was not physically impossible for appellant therein to have been at the *situs criminis* in Lorega, Cebu City, which was three (3) hours away from Moalboal, Cebu where he claimed to have been at the time the crime was committed.

As regards complainant's failure to state the exact dates when the rape incidents happened, the same does not weaken her credibility. *People v. Bolo*²⁸ held that the prosecution's failure to specify the exact time and place of the commission of the crime does not call for appellant's acquittal for they are not elements of the crime of rape. *People v. Nuyok*²⁹ further ordained:

The failure to specify the exact date or time when the rapes were committed did not *ipso facto* render the informations defective. **Neither the date nor the time of the commission of rape is a material ingredient of the crime, for the essence of the crime is carnal knowledge of a female against her will through force or intimidation.** Precision as to the time when the rape is committed has no bearing on its commission. Consequently, **the date or the time of the commission of the rape need not be stated in the complaint or information with absolute accuracy,** for it is sufficient that the complaint or information states that the crime was committed at any time as near as possible to the date of its actual commission. (Emphasis supplied)

Neither does complainant's delay in reporting the crime diminish her credibility. It has been established that long silence and delay in reporting the crime of rape have not always been construed as indications of a false accusation. A rape charge becomes doubtful only when the delay in revealing its commission is unreasonable and unexplained.³⁰ This is because the victim may choose to keep quiet rather than expose her defilement to the harsh glare of public scrutiny.³¹ Here, complainant testified that appellant, her maternal uncle, threatened to kill her and her mother if she told anyone what he did to her. This is a reasonable explanation for complainant's delay in reporting the incident.

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²⁶ 613 Phil. 116, 129 (2009).

²⁷ 813 Phil. 205, 218 (2017).

²⁸ 792 Phil. 905, 921 (2016).

²⁹ 759 Phil. 437, 448-449 (2015).

³⁰ *People v. Bejim*, 824 Phil. 10, 22 (2018).

³¹ *People v. YYY*, G.R. No. 234825, September 05, 2018.

Lastly, we cannot give credence to appellant's claim that he was falsely charged with rape because he and complainant's mother had a quarrel over the coconut harvest from their parents' land. As held in *People v. Vergel*,³² no mother would sully the honor of her child if she were not motivated by an honest desire to punish her daughter's molester. It would be incredulous for complainant's mother to smear the former's honor and put her to the rigors and humiliation of rape proceedings just to take revenge on her own brother only because of a supposed quarrel over some coconut harvest.

Be that as it may, when the issue is one of credibility of witnesses, the Court will generally not disturb the findings of the trial court, especially when already affirmed by the Court of Appeals. The trial court indeed is in a better position to decide the question of credibility as it heard the witnesses themselves and observed their deportment and the manner by which they testified during the trial.³³ So must it be.

Article 266-B of the Revised Penal Code (RPC), as amended by Republic Act 8353³⁴ (RA 8353) ordains that qualified rape is committed when the victim is below 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.

Here, complainant was thirteenth (13) years old when the first incident happened and fourteen (14) years old when the second incident happened. Her age was established by the offer of her birth certificate.³⁵ Too, the Informations alleged that accused is a "*relative of the victim within the third civil degree.*"

In fine, the trial court correctly rendered, and the Court of Appeals correctly affirmed, the verdict of conviction against appellant for two (2) counts of qualified rape.

Penalty

Articles 266-A and B of the RPC, as amended by Republic Act 8353³⁶ (RA 8353), provide:

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³² 374 Phil. 535, 550 (1999).

³³ *People v. Mabalo*, G.R. No. 238839, February 27, 2019; also see *People v. Bay-Od*, G.R. No. 238176, January 14, 2019.

³⁴ The Anti-Rape Law of 1997.

³⁵ Exhibit "E."

³⁶ *Supra* note 34.

Article 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;*

x x x

x x x

x x x

Article 266-B. *Penalty.* - Rape under paragraph 1 of the next preceding article shall be punished by reclusion perpetua.

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 x x

x x x

With the enactment of Republic Act No. 9346³⁷ (RA 9346), the death penalty may no longer be imposed. A.M. No. 15-08-02-SC,³⁸ on the other hand, states that “*when circumstances are present warranting the imposition of the death penalty, but this penalty is not imposed because of R.A. No. 9346, the qualification ‘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 R.A. No. 9346.*” The Court of Appeals, therefore, correctly sentenced appellant to *reclusion perpetua* without eligibility for parole.

On the monetary awards, *People v. Jugueta*³⁹ held:

II. For Simple Rape/Qualified Rape:

1.1 Where the penalty imposed is Death but reduced to *reclusion perpetua* because of RA 9346:

- a. Civil indemnity – ₱100,000.00
- b. Moral damages – ₱100,000.00
- c. Exemplary damages – ₱100,000.00

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³⁷ An Act Prohibiting the Imposition of Death Penalty in the Philippines.

³⁸ Guidelines for the Proper Use of the Phrase “without eligibility for parole” in Indivisible Penalties, August 4, 2015; Also see *People v. Ursua*, 819 Phil. 467, 476 (2017).

³⁹ 783 Phil. 806, 848 (2016).

*People v. Brioso*⁴⁰ further enunciated:

x x x As it now stands, in cases of simple or qualified rape, among others, where the imposable penalty is death but the same is reduced to *reclusion perpetua* because of RA 9346, the amounts of civil indemnity, moral damages and exemplary damages are pegged uniformly at P100,000.00. Thus, the awards of civil indemnity, moral damages and exemplary damages, given to AAA, should be increased to P100,000.00 each.

ACCORDINGLY, the appeal is **DENIED**. The Court of Appeals Decision dated May 29, 2019 in CA-G.R. CR-HC No. 08130 is **AFFIRMED**.

In **Criminal Case No. 1550**, appellant **XXX** is found **GUILTY** of **QUALIFIED RAPE** and is sentenced to *reclusion perpetua* without eligibility for parole. He is also ordered to **PAY AAA** the following amounts:

- (1)P100,000.00 as civil indemnity;
- (2)P100,000.00 as moral damages; and
- (3)P100,000.00 as exemplary damages.

In **Criminal Case No. 1551**, appellant **XXX** is found **GUILTY** of **QUALIFIED RAPE** and is sentenced to *reclusion perpetua* without the benefit of parole. He is ordered to **PAY AAA** the following amounts:

- (1)P100,000.00 as civil indemnity;
- (2)P100,000.00 as moral damages; and
- (3)P100,000.00 as exemplary damages.

All monetary awards shall earn six percent (6%) interest *per annum* from finality of this Resolution until fully paid.

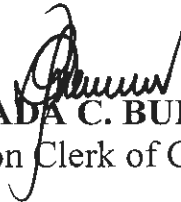
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⁴⁰ 788 Phil. 292, 319 (2016).

SO ORDERED.”

Very truly yours,


LIBRADA C. BUENA
Division Clerk of Court *11/4*

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court
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The Solicitor General
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Court of Appeals (x)
Manila
(CA-G.R. CR HC No. 08130)

The Hon. Presiding Judge
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(Crim. Case Nos. 1550 & 1551)

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