



REPUBLIC OF THE PHILIPPINES  
SUPREME COURT  
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **07 July 2021** which reads as follows:*

**“G.R. No. 252295 (*People of the Philippines v. Jayson Reyes y Sinanggote and Mark Nuñez y Bonhan*). – We affirm.**

AAA<sup>1</sup> recounted in detail how she got raped twice on the night of July 11, 2016. She testified that on that day, around 6 o’clock in the evening, she went to the house of her friend Rachelle Reyes to attend the latter’s birthday party.<sup>2</sup> Appellants Jayson Reyes y Sinanggote (Jayson) and Mark Nuñez y Bonhan (Mark), Rachelle’s brother and friend, respectively, were also there. Around 10:00 in the evening, she accompanied Rachelle in going to the jeepney stop because her (Rachelle) husband was already looking for her.<sup>3</sup> Rachelle asked her to go back to their house to tell her (Rachelle) mother that she already went home.<sup>4</sup> She heeded and while waiting for Rachelle’s mother, she sat on the sofa in the living room. Jayson and Mark were the only other persons left in the room.<sup>5</sup>

Then, Jayson suddenly closed the door, turned off the lights,<sup>6</sup> and covered her mouth and held her shoulders.<sup>7</sup> She resisted as she told Jayson and Mark that she already wanted to go home. But Jayson did not desist as he

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<sup>1</sup> 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.

<sup>2</sup> *Rollo*, p. 5.

<sup>3</sup> *Id.*

<sup>4</sup> Record, p. 93.

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> TSN, October 17, 2016, p. 20.

ordered her to shut up.<sup>8</sup> While Jayson was restraining her, Mark removed his clothes, undressed her, separated her thighs, and inserted his penis into her vagina.<sup>9</sup> She cried and tried to shout for help but Jayson kept her mouth covered.<sup>10</sup> After satisfying his lust, Mark gave way to Jayson. This time, it was Mark's turn to hold her shoulders and cover her mouth while Jayson removed his clothes, kissed her, separated her thighs, and inserted his penis into her vagina.<sup>11</sup> She was so helpless and all she could do was cry. It was only after Jayson's mother arrived that she finally got the chance to push Jayson away.<sup>12</sup>

She immediately put on her clothes and sat in the corner of the house, crying. Mark just sat on the sofa while Jayson went outside as if nothing happened.<sup>13</sup> Jayson's mother saw the blood stains on the sofa and on the floor. She got a rug, wiped the blood, and then went to the toilet to wash it.<sup>14</sup> Jayson's mother asked her why she was crying. Too scared to respond, she could not speak, instead, she quickly ran outside the house.<sup>15</sup> There, she met her neighbor BBB to whom she confided that appellants raped her. BBB, in turn, told another neighbor, CCC about the rape and both went to report the incident to her mother.<sup>16</sup> Wasting no time, her parents immediately reported the incident to the police.<sup>17</sup>

Both the trial court and the Court of Appeals found AAA's testimony to be categorical, straightforward, and credible. Hence, even standing alone, her testimony is sufficient to support a verdict of conviction.<sup>18</sup> As it was though, her testimony does not stand alone. It was firmly corroborated by the physical evidence on record. Dr. Ruby Grace Sabino-Diangson (Dr. Diangson) reported that per her physical examination of AAA, the latter sustained deep and fresh hymenal lacerations at 6 o'clock position.<sup>19</sup> Dr. Diangson elucidated that the lacerations were inflicted within 24 hours prior to the examination.<sup>20</sup> She also found that AAA sustained abrasion and congestion in the *posterior fourchette*, or the inner part of her vagina.<sup>21</sup> Indeed, the credible testimony of a rape victim assumes more significance and weight when it conforms with the physical evidence as in this case.

Jayson, nonetheless, maintains that he and AAA were once lovers. She only filed the complaint against him because he broke up with her on the same night the alleged incident happened.

We are not persuaded.

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<sup>8</sup> *Id.*

<sup>9</sup> *Id.* at 20-21.

<sup>10</sup> *Id.* at 22.

<sup>11</sup> *Id.* at 22-23.

<sup>12</sup> *Id.* at 23.

<sup>13</sup> *Id.*

<sup>14</sup> *Id.* at 24.

<sup>15</sup> *Id.*

<sup>16</sup> *Id.* at 25.

<sup>17</sup> *Rollo*, p. 6.

<sup>18</sup> See *People v. Suedad*, 786 Phil. 803, 813-814 (2016).

<sup>19</sup> Record, p. 95.

<sup>20</sup> *Rollo*, p. 6.

<sup>21</sup> *Id.* at 6-7.

Jayson's "sweetheart theory" if at all equates to an admission that he indeed had carnal knowledge of AAA. But even if his "sweetheart theory" were true, the same does not necessarily negate the commission of rape.<sup>22</sup> Being sweethearts does not prove consent to the sexual act.<sup>23</sup> Love is not a license for lust.<sup>24</sup> Here, records show that AAA did not consent to the sexual act as she, in fact, resisted and repeatedly pleaded to go home. However, her pleas fell on deaf ears. Jayson and Mark tenaciously incapacitated her so that she could neither move nor shout, thus, enabling each of them to take turns in raping her.

As for Mark's alibi that he had already left and gone home around the same time AAA got raped, the same must fail. Alibi cannot prevail over AAA's positive and unwavering identification of both him and Jason as the persons who succeeded in having carnal knowledge of her through force and against her will.<sup>25</sup>

Notably, appellants acted in conspiracy in raping AAA, not once, but twice. Conspiracy exists when the acts of the accused demonstrate a common design towards the accomplishment of the same unlawful purpose.<sup>26</sup> Here, the acts of appellants clearly indicated a unity of action towards one common purpose: to take turns in raping the victim. Thus, while AAA was seated on the sofa, waiting for Rachele's mother to arrive, Jayson suddenly shut the door and turned off the lights, held AAA's shoulders, covered her mouth, and ordered her to keep quiet; while Jayson was restraining AAA, Mark took off his clothes, undressed her, separated her thighs, and inserted his penis into her vagina; after satisfying his lust, Mark got off from AAA and exchanged places with Jayson. This time, it was Mark's turn to restrain AAA, while Jayson did the same things Mark earlier did to AAA. Jayson took off his clothes, undressed her, separated her thighs, and inserted his penis into her vagina.

In conspiracy, the act of one is the act of all. Appellants, therefore, are each liable for two (2) counts of Rape.<sup>27</sup>

Under Article 266-B of the Revised Penal Code, the penalty of *reclusion perpetua* to death shall be imposed whenever the rape is committed by two (2) or more persons.<sup>28</sup> Since *reclusion perpetua* and death are two (2) indivisible penalties, Article 63<sup>29</sup> of the Revised Penal

<sup>22</sup> See *People v. Yaba*, 742 Phil. 298, 306 (2014).

<sup>23</sup> *People v. Magbanua*, 576 Phil. 642, 648 (2008).

<sup>24</sup> *People v. Manallo*, 448 Phil. 149, 166 (2003).

<sup>25</sup> See *People v. Vitero*, 708 Phil. 49, 63 (2013).

<sup>26</sup> See *People v. Dela Torre*, 588 Phil. 937, 942 (2008), as cited in *People v. Delabajan*, 685 Phil. 236, 242 (2012).

<sup>27</sup> See *People v. Delabajan*, *id.*

<sup>28</sup> See *People v. Hidalgo*, 768 Phil. 355, 364-365 (2015).

<sup>29</sup> Article 63. *Rules for the application of indivisible penalties.* - In all cases in which the law prescribes a single indivisible penalty, it shall be applied by the courts regardless of any mitigating or aggravating circumstances that may have attended the commission of the deed.

In all cases in which the law prescribes a penalty composed of two indivisible penalties, the following rules shall be observed in the application thereof:

1. When in the commission of the deed there is present only one aggravating circumstance, the greater penalty shall be applied.

Code applies. When neither mitigating nor aggravating circumstance attended the commission of the crime, the lesser penalty of *reclusion perpetua* shall be applied.<sup>30</sup>

Consistent with prevailing jurisprudence,<sup>31</sup> we sustain the award of ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages, and ₱75,000.00 as exemplary damages, for each count of Rape.<sup>32</sup> These amounts shall earn six percent (6%) interest *per annum* from finality of this Resolution until fully paid.

**WHEREFORE**, the appeal is **DENIED** and the Court of Appeals' Decision in CA-G.R. CR-HC No. 09940 dated October 8, 2019, **AFFIRMED**. Appellants **Jayson Reyes y Sinanggote and Mark Nuñez y Bonhan** are each found **GUILTY of two (2) counts of RAPE** and sentenced to *reclusion perpetua* in each case.

They are further ordered to **PAY AAA** ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages, and ₱75,000.00 as exemplary damages, for each count. These amounts shall earn six percent (6%) interest *per annum* from finality of this Resolution until fully paid.

**SO ORDERED.**" (J. Lopez, J., designated additional member per Special Order No. 2822 dated April 7, 2021.)

By authority of the Court:

TERESITA AQUINO TUAZON  
Division Clerk of Court

By:



MA. CONSOLACION GAMINDE-CRUZADA  
Deputy Division Clerk of Court

09 AUG 2021

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2. When there are neither mitigating nor aggravating circumstances and there is no aggravating circumstance, the lesser penalty shall be applied.
  3. When the commission of the act is attended by some mitigating circumstances and there is no aggravating circumstance, the lesser penalty shall be applied.
  4. When both mitigating and aggravating circumstances attended the commission of the act, the court shall reasonably allow them to offset one another in consideration of their number and importance, for the purpose of applying the penalty in accordance with the preceding rules, according to the result of such compensation.

<sup>30</sup> *People v. Villanueva*, 822 Phil. 735, 748 (2017).

<sup>31</sup> *People v. Jugueta*, 783 Phil. 806, 848-849 (2016).

<sup>32</sup> See *People v. Villanueva*, *supra*.

OFFICE OF THE SOLICITOR GENERAL (reg)  
134 Amorsolo Street  
1229 Legaspi Village  
Makati City

PUBLIC ATTORNEY'S OFFICE (reg)  
Special & Appealed Cases Service  
Department of Justice  
PAO-DOJ Agencies Building  
NIA Road corner East Avenue  
1104 Diliman, Quezon City

JAYSON REYES y SINANGGOTE (reg)  
MARK NUÑEZ y BONHAN (reg)  
Accused-Appellants  
c/o The Director  
Bureau of Corrections  
1770 Muntinlupa City

THE DIRECTOR (reg)  
Bureau of Corrections  
1770 Muntinlupa City

HON. PRESIDING JUDGE (reg)  
Regional Trial Court, Branch 229  
Quezon City  
(Crim. Case Nos. R-QZN-16-07127-CR &  
R-QZN-16-07128-CR)

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Supreme Court, Manila

COURT OF APPEALS (x)  
Ma. Orosa Street  
Ermita, 1000 Manila  
CA-G.R. CR-HC No. 09940

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