REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Second Division, issued a Resolution dated **17 February 2021** *which reads as follows*:

"G.R. No. 251751 (*People of the Philippines v. Danmar Jovellanos y Aquino*). –

For a charge of rape by sexual intercourse under Article 266-A(1) of the Revised Penal Code (RPC) to prosper, the prosecution must prove that: (a) the offender had carnal knowledge of a woman; and (b) he accomplished this act under the circumstances mentioned in the provision, *e.g.*, through force, threat or intimidation. The gravamen of rape is sexual intercourse with a woman against her will.[1]

Here, the prosecution was able to prove all the elements of rape by sexual intercourse under Article 266-A of the RPC, as amended. The trial court gave credence to AAA's[2] straightforward, candid, and positive testimony that accused-appellant Danmar Jovellanos *y* Aquino had carnal knowledge of her on four (4) separate occasions, each time threatening to kill her or her foster parents should she not accede to his lustful design. The trial court's factual findings on this score carry the full concurrence of the Court of Appeals. Time and again, the Court has held that trial judges are in the best position to assess whether the witness is telling a

---

1 *People v. Ejercito*, 834 Phil. 837, 844 (2018).

2 The real name of the victim, her personal circumstances and other information which tend to establish or compromise her real 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 vs. Cabalquinto* [533 Phil 703 (2006)] and Amended Administrative Circular No. 83-2015 dated September 5, 2017.

truth or lie as they have the direct and singular opportunity to observe the facial expression, gesture and tone of voice of the witness while testifying. Having seen and heard the witnesses themselves and observed their behavior and manner of testifying, the trial court stood in a much better position to decide the issue of credibility.[3]

Accused-appellant nonetheless argues that the element of force or intimidation was absent. He asserts that AAA's narration of events did not show that she resisted the sexual encounter. First, she did not even shout for help from the neighbors before, during or after the incidents. She did not even try to run away but simply followed what he allegedly told her to do, *i.e.*, lie down on the bamboo bed or to follow him to the nipa hut after he purportedly woke her up. Her actuations supposedly indicated that there was no force or intimidation employed against her.

Resistance is not an element of rape, and its absence does not denigrate the victim's claim that accused-appellant employed force and intimidation on her. In any event, the failure of the victim to shout or to offer tenacious resistance does not make the sexual congress voluntary. Indeed, rape victims have no uniform reaction; some may offer strong resistance; others may be too intimidated to offer any resistance at all.[4] In the case of AAA, she submitted to accused-appellant's sexual desires because she was afraid of his threat to kill her or her foster parents.

Accused-appellant merely offered denial and alibi which did not overcome the clear, categorical and positive testimony of AAA that he sexually assaulted her on four (4) separate occasions. 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 the ring of truth on the one hand, and a mere denial and alibi on the other, the former is generally held to prevail.[5]

Accused-appellant further attempts to discredit AAA's credibility, claiming that it was impossible for him to have sexually assaulted her inside a nipa hut that is open to public view, enclosed merely by bamboos and surrounded by nearby houses. But crimes against chastity have been committed in many different places which may be considered as unlikely or inappropriate and that the scene of the rape is not always or necessarily isolated or secluded for lust is no respecter of time or place.[6] Thus, the location of the nipa hut, even if it was in public view, was not a hindrance for accused-appellant to satisfy his lust and ravage AAA.

---

3 *People v. Adajar*, G.R. No. 231306, June 17, 2019.
4 *People v. Buendia*, 373 Phil. 430, 442 (1999).
5 *People v. Piosang*, 710 Phil. 519, 527 (2013).
6 *People v. XXX*, G.R. No. 236562, September 22, 2020.

Too, accused-appellant claims that the rape accusation was merely fabricated, being simply a result of misunderstanding between his parents and AAA's aunt involving a land dispute.

We do not agree. Rape is a serious crime. AAA, then only 14 years old when it all happened, would not impute such a serious crime and allow herself to be exposed in public trial if it were not true. In ***People v. Pareja,***[7] citing ***People v. Perez,***[8] we said:

> This Court has held time and again that testimonies of rape victims who are young and immature deserve full credence, considering that no young woman, especially of tender age, would concoct a story of defloration, allow an examination of her private parts, and thereafter pervert herself by being subject to a public trial, if she was not motivated solely by the desire to obtain justice for the wrong committed against her. Youth and immaturity are generally badges of truth. It is highly improbable that a girl of tender years, one not yet exposed to the ways of the world, would impute to any man a crime so serious as rape if what she claims is not true.

Penalty and Damages

Consistent with ***People v. Tulagan,***[9] the Court of Appeals correctly found accused-appellant guilty of four (4) counts of rape by sexual intercourse under Article 266-A of the RPC and imposed *reclusion perpetua* for each count.

Likewise, following ***People v. Tulagan***, the awards of civil, moral and exemplary damages of ₱75,000.00 are in order. These amounts shall earn annual legal interest of six percent (6%) from finality of this Resolution until they are fully paid.

WHEREFORE, the appeal is **DISMISSED**. The Decision of the Court of Appeals dated September 27, 2019 in CA-G.R. CR No. 40462 is **AFFIRMED** finding accused-appellant **DANMAR JOVELLANOS *y* AQUINO GUILTY** beyond reasonable doubt of four (4) counts of rape by sexual intercourse under Article 266-A, in relation to Article 266-B of the Revised Penal Code. Accordingly, for each count of rape, he is sentenced to *reclusion perpetua* and directed to pay the following amounts: (*a*) ₱75,000.00 as civil indemnity; (*b*) ₱75,000.00 as moral damages; and (*c*) ₱75,000.00 as exemplary damages.

---

7 724 Phil. 759, 780 (2014).
8 595 Phil. 1232, 1251-1252 (2008).
9 G.R. No. 227363, March 12, 2019.

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

SO ORDERED."

By authority of the Court:

TERESITA AQUINO TUAZON
Division Clerk of Court

By:

MA. CONSOLACION GAMINDE-CRUZADA
Deputy Division Clerk of Court
11 MAY 2021

PUBLIC ATTORNEY'S OFFICE (reg)
Special & Appealed Cases Service
Department of Justice
5th Floor, PAO-DOJ Agencies Building
NIA Road corner East Avenue
Diliman, 1104 Quezon City

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

DANMAR JOVELLANOS y AQUINO (reg)
Accused-Appellant
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 43
2400 Dagupan City
(Crim. Case Nos. 2016-0641-D to 0644-D)

COURT OF APPEALS (x)
Ma. Orosa Street
Ermita, 1000 Manila
CA-G.R. CR-H.C. No. 40462

JUDGMENT DIVISION (x)
Supreme Court, Manila

PUBLIC INFORMATION OFFICE (x)
LIBRARY SERVICES (x)
[For uploading pursuant to A.M. No. 12-7-SC]

OFFICE OF THE CHIEF ATTORNEY (x)
OFFICE OF THE REPORTER (x)
PHILIPPINE JUDICIAL ACADEMY (x)
Supreme Court, Manila

Please notify the Court of any change in your address.
GR251751. 02/17/21 (147)URES(m)

(147)URES(m)