



**Republic of the Philippines
Supreme Court
Manila**

FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 181699

Present:

SERENO, *CJ.*,
Chairperson,
LEONARDO-DE CASTRO,
BERSAMIN,
VILLARAMA, JR., and
PEREZ, * *JJ.*

- versus -

JERRY BATULA, alias "Cesar,"
Accused-Appellant.

Promulgated:

NOV 28 2012

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DECISION

LEONARDO-DE CASTRO, J.:

For Our resolution is the appeal filed by accused-appellant Jerry Batula, *alias* Cesar (Batula), from the Decision¹ dated July 30, 2007 of the Court of Appeals in CA-G.R. CEB-CR-H.C. No. 00574, which affirmed with modification the Decision² dated December 10, 2003 of the Regional

* Per Special Order No. 1356 dated November 13, 2012.

¹ *Rollo*, pp. 4-14; penned by Associate Justice Pampio A. Abarintos with Associate Justices Francisco P. Acosta and Stephen C. Cruz, concurring.

² *CA rollo*, pp. 16-33.

Trial Court (RTC) of Calbiga, Samar, in Criminal Case No. CC-2002-1392, finding Batula guilty of raping AAA.³

Criminal Case No. CC-2002-1392 was initiated on October 7, 2002 when the City Prosecution Office of Calbiga, Samar, filed with the RTC an Information⁴ charging Batula as follows:

That on or about the 26th day of April, 2002, at around 7:00 A.M., more or less, in x x x and within the jurisdiction of this Honorable Court, the above-named accused, armed with a bladed weapon locally known as 'sundang', with lewd design and lustful intent, by means of force, threats and intimidation, did then and there wil[l]fully, unlawfully and feloniously had carnal knowledge with the helpless complainant, AAA, against her will and consent.

During his arraignment on October 17, 2002, Batula pleaded "not guilty."⁵

Trial proper ensued.

The prosecution presented the testimonies of AAA,⁶ the victim; BBB,⁷ the mother of AAA; Samuel Labanda (Labanda),⁸ an eyewitness to the circumstances immediately following the rape; and Dr. Felino Gualdrapa (Dr. Gualdrapa),⁹ the physician who conducted the physical examination of AAA. Their testimonies established the following version of events.

On April 26, 2002, AAA, then nine years old, went with her mother BBB and father CCC to their farm in Barangay Canano, Hinabangan, Samar.

³ The real name of the victim is withheld to protect her identity and privacy pursuant to Section 29 of Republic Act No. 7610, Section 44 of Republic Act No. 9262, and Section 40 of A.M. No. 04-10-11-SC. See our ruling in *People v. Cabalquinto*, 533 Phil. 703 (2006).

⁴ Records, p. 1.

⁵ Id. at 24.

⁶ TSN, January 13, 2003.

⁷ TSN, February 17, 2003.

⁸ TSN, May 26, 2003.

⁹ TSN, April 4, 2003.

Upon arrival at the farm at around 7:00 a.m., BBB ordered AAA to get the lighter from their nipa hut located at the other side of a hill. On her way back to where her parents were, AAA met Batula. Batula asked AAA for directions going to Barangay Canano. After answering Batula's questions, AAA resumed walking but she noticed that Batula was following her. Without any warning, Batula seized AAA and flung AAA to a creek that had nearly dried. AAA felt pain in her back. Batula made stabbing motions with his bolo, at the same time threatening AAA that "[i]f you will not undress yourself, I will stab you." Fearing for her life, AAA stripped off her *sando* and shorts. Batula also stripped himself naked. After lubricating his penis with his own saliva, Batula drove his penis into AAA's vagina. Severe pain wracked AAA's whole body, but unmindful of AAA's agony, Batula moved in a push and pull motion. However, Batula was interrupted when CCC, looking for his daughter, shouted, "Where are you, AAA?" Upon hearing CCC, Batula hurriedly picked up his bolo and clothes and left. AAA quickly dressed up and when she saw CCC, she immediately told her father that she had been raped. CCC searched for the perpetrator while AAA returned to her mother BBB. BBB almost fainted when she removed AAA's shorts and saw blood dripping down AAA's legs.

Meanwhile, Labanda, who was in the vicinity, heard a muffled shout. Labanda was searching for the source of the sound when Batula suddenly passed by him naked. Batula was holding his short pants with his left hand to cover his front, and was carrying a bolo with his right hand. CCC thereafter arrived and he informed Labanda that his daughter AAA had been raped. Labanda prevented CCC from pursuing Batula for Batula was armed. Labanda had known Batula for a long time. Labanda and Batula's brother

both lived in Barangay San Jose, Hinabangan, Samar, and Batula regularly visited his brother.¹⁰

Dr. Gualdrapa, a physician at the Samar Provincial Hospital, affirmed before the RTC the results of his physical examination of AAA, as stated in his Medical Report/Certification dated April 26, 2002, to wit:

Vulva: (+) Redness – Swelling w/ blood clots noted; (+) lacerations approx. 0.75 cm at midline.

I/E : (+) Hymenal lacerated wounds, fresh at 12:00, 1:00, 4:00, 6:00, 8:00, 9:00, [and] 11:00 o'clock positions.¹¹

Dr. Gualrapa opined that the hymenal lacerations were inflicted within 48 hours preceding AAA's examination because of the presence of blood clots; and that said lacerations could have been caused by a blunt object such as a penis.

Batula and his brother, Gil Batula (Gil), testified for the defense. However, Gil's testimony was expunged from the records as he was killed sometime in August 2003, before he could be cross-examined by the prosecution.¹²

Batula denied the charges against him. He claimed that on April 25, 2002, he went to the mountain forest with his brother Gil to gather pieces of wood they could use as posts, and they stayed on the mountain for three days. They even passed a marijuana plantation on the mountain on the second day, but they did not report what they had discovered to the police

¹⁰ TSN, May 26, 2003, pp. 4-5.

¹¹ Records, p. 8; Exhibit "B."

¹² Id. at 133.

authorities. When they returned home, Batula learned from a certain Oday Cabigayan that somebody was raped and that he (Batula) was the suspect.¹³

The RTC rendered its Decision on December 10, 2003 finding Batula guilty beyond reasonable doubt of raping AAA. The dispositive portion of the said decision reads:

The ineluctable conclusion is that, the accused, **JERRY BATULA Y SABLAN alias “Cesar”** is found **guilty** of **RAPE** as charged in the Information, beyond reasonable doubt, and he is sentenced to the penalty of **DEATH** through **LETHAL INJECTION**; to indemnify the victim, AAA, in the amount of Php50,000.00; to pay moral damages, in the amount of Php50,000.00 and exemplary damages in the amount of Php30,000.00 and to pay the costs.

Let the aforementioned accused be detained at the New Bilibid Prisons, Muntinlupa[,] Manila, until further orders.

The Acting Branch Clerk of Court is advised to proceed accordingly, in so far as the record herein is concerned.¹⁴

When the record of the case was forwarded to us for review, we remanded the same to the Court of Appeals, conformably with our decision in *People v. Mateo*.¹⁵

The Court of Appeals, in its Decision dated July 30, 2007, affirmed Batula’s conviction by the RTC, but modified the penalty by reducing the death sentence to *reclusion perpetua*, without eligibility for parole, pursuant to Republic Act No. 9346. The appellate court decreed:

WHEREFORE, premises considered, the Decision dated December 10, 2003 and promulgated on January 8, 2004 of Branch 33, Regional Trial Court of Calbiga, Samar is **AFFIRMED WITH**

¹³ TSN, September 2, 2003, pp. 6-10.

¹⁴ CA *rollo*, p. 33.

¹⁵ G.R. Nos. 147678-87, July 7, 2004, 433 SCRA 640, 657-658.

MODIFICATION by reducing the meted penalty of death to *reclusion perpetua*, without eligibility to parole pursuant to R.A. No. 9346.¹⁶

Hence, Batula appeals before us with the same assignment of errors raised before the Court of Appeals:

I

THE TRIAL COURT GRAVELY ERRED IN GIVING FULL FAITH AND CREDENCE TO THE INCREDIBLE TESTIMONY OF THE PROSECUTION'S WITNESSES, MOTHER AND DAUGHTER X X X.

II

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED OF THE CRIME CHARGED DESPITE THE FAILURE OF THE PROSECUTION TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.¹⁷

Batula assails the conflicting statements of AAA and her mother BBB. AAA testified that she did not know the name of the man who ravished her as that was the first time that she saw him. Yet, BBB narrated on the witness stand that AAA told her that she (AAA) had been raped by a man named Cesar. Batula asserts that such contradiction reveals the malicious intent of AAA's parents in implicating him in AAA's rape. Batula further imputes ill motive on the part of AAA's parents, averring that it was CCC, AAA's father, who was taking care of the marijuana plantation which Batula and his brother Gil discovered on the mountain, and that BBB and CCC were afraid that Batula might report the marijuana plantation to the authorities.¹⁸

¹⁶ *Rollo*, p. 14.

¹⁷ *CA rollo*, p. 64.

¹⁸ *Id.* at 72.

The Office of the Solicitor General, representing the State, insists that Batula's guilt was established beyond reasonable doubt by the credible testimonies of the prosecution witnesses.

Batula's appeal essentially challenges the credibility of the prosecution witnesses. The issue of credibility of witnesses is resolved primarily by the trial court since it is in a better position to decide the same after having heard the witnesses and observed their conduct, deportment and manner of testifying. Accordingly, the findings of the trial court are entitled to the highest degree of respect and will not be disturbed on appeal in the absence of any showing that it overlooked, misunderstood, or misapplied some facts or circumstances of weight or substance which would otherwise affect the result of the case.¹⁹ There is no exceptional reason herein for us to depart from the general rule.

As the RTC declared, AAA was straightforward, sincere, and very credible, as she recounted the rape incident on the witnesses stand:

Q You said, when you were going back to where your father and mother were, you met a person, and what did this person do when you met him?

x x x x

A The person asked me where the way to Brgy. Kanano is.

x x x x

Q And so, after that, what happened next?

A After that, while I proceeded on my way, I noticed that he was following me at my back.

Q After that, what happened next, if any?

A After that, I rested and suddenly, I was carried (ginsakmi), and I was thrown to a creek.

x x x x

¹⁹ *People v. Purazo*, 450 Phil. 651, 673 (2003).

Q Were you wet when you were thrown to the creek?

A Yes, sir.

Q After that, what did this person do?

A The person told me to undress myself and I obeyed because he was attempting to stab me.

Q Why? What was he armed or carrying then when you said he was trying to stab you?

A Sir, he was armed with a bolo.

x x x x

Q Why did you say that he was attempting to stab you, why, what was he doing?

A Because he said to me, "If you will not undress yourself, I will stab you."

Q So, what did you do with your clothing?

A So, I obeyed him and I undressed myself because I am afraid I might be stabbed.

x x x x

Q When you have already undressed yourself, what did this male person do, if any?

A I was held by this person to the place where there was no water and he also undressed himself.

x x x x

Q After this person undressed himself, what did this person do?

A The person put saliva to his penis.

Q After placing saliva into his penis, what did this person do?

A He inserted his penis to my vagina.

Q And what did you feel when he inserted his penis to your sexual organ?

A I felt so much pain. (At this juncture, the voice of the witness has changed and the witness is now crying. The witness is wiping the tears with her dress while the public prosecutor continue asking the question)

Q What did he do while his penis was inside your sexual organ?

A While his penis was inside my vagina, the person continuously made his push and pull movement (sakyod), and I heard a call from my father. (Witness continue crying)

Q You said, while you were on that situation, you heard your father calling?

A Yes, sir.

Q What were the words used by your father in calling?

A He said: "Where are you [AAA]?"

Q When you heard your father calling, what did this person do?

A He immediately got his bolo and his clothes and jumped to the creek.²⁰

Forced to relive her ordeal all over again, AAA broke down in tears as she was testifying. The crying of a victim during her testimony is evidence of the truth of the rape charges, for the display of such emotion indicates the pain that the victim feels when asked to recount her traumatic experience.²¹

The testimony of AAA was further corroborated by that of Labanda, which was equally adjudged by the RTC as credible:

The credible and straight forward testimony of the victim, and the equally credible testimony of Samuel Labanda who saw Jerry Batula passed him by immediately after the rape when the former hid when he heard a voice being suppressed, but a little of it came out corroborated the fact, of the presence of accused thereat. Samuel Labanda saw Jerry Batula covering his front with his right hand while the left, held the bolo, squares with the recollection of the minor-victim to that effect. The testimony of the victim that the accused had a bolo which was also corroborated by Samuel Labanda, is therefore true. And this court takes cognizance that in mountain barangay in this province, men carry bolo/knife the least, and/or a gun at most. Although, there is a slight contradiction which hand of the accused held what, it however does not affect the prosecution's cause, the same being only on minor point.²²

Moreover, the medical evidence likewise lends credence to AAA's testimony. It is well-settled that when the victim's testimony is corroborated by the physician's finding of penetration, there is sufficient foundation to conclude the existence of the essential requisites of carnal knowledge.

²⁰ TSN, January 13, 2003, pp. 10-15.

²¹ *People v. Ancheta*, 464 Phil. 360, 371 (2004).

²² *CA rollo*, pp. 30-31.

Lacerations, whether healed or fresh, are the best physical evidence of forcible defloration.²³

The purported inconsistency between the testimonies of AAA and her mother BBB merely refers to a minor detail. The central fact is that Batula, by means of force, threats, and intimidation, and use of a bolo, succeeded in having carnal knowledge of AAA. Whether AAA was able to name Batula as the perpetrator immediately after the rape or AAA was able to identify Batula as her rapist at a later time, does not depart from the fact that Batula raped AAA. We have said time and again that a few discrepancies and inconsistencies in the testimonies of witnesses referring to minor details and not in actuality touching upon the central fact of the crime do not impair the credibility of the witnesses. Instead of weakening their testimonies, such inconsistencies tend to strengthen their credibility because they discount the possibility of their being rehearsed testimony.²⁴

In contrast, Batula's defenses of alibi and denial are inherently weak and have always been viewed with disfavor by the courts due to the facility with which they can be concocted. They warrant the least credibility or none at all and cannot prevail over the positive identification of the accused by the prosecution witnesses.²⁵ In addition, Batula's alibi that he was in the forest with his brother Gil does not make it physically impossible for Batula to rape AAA on April 26, 2002 in Barangay Canano. For alibi to prosper, it must be proved that during the commission of the crime, the accused was in another place and that it was physically impossible for him to be at the crime scene.²⁶ The RTC pointed out that "the forest where [Batula] claimed to be when the rape occurred is in x x x [B]arangay Dalosduson, Hinabangan,

²³ *People v. Belen*, 432 Phil. 881, 893 (2002).

²⁴ *People v. Givera*, 402 Phil. 547, 566 (2001).

²⁵ *People v. Dacoba*, 352 Phil. 70, 78 (1998).

²⁶ *People v. Pruna*, 439 Phil. 440, 463-464 (2002).

Samar, linked by a road to Barangay Canano, so that impossibility and improbability are rendered naught.”²⁷

Batula’s imputation of ill motive on the part of AAA’s parents is just as specious. There is no independent and competent proof of the existence of such marijuana plantation or that it was being taken care of by CCC, the father of AAA. The RTC disregarded Batula’s accusation against AAA’s parents, observing that if indeed Batula and his brother Gil discovered the marijuana plantation together, why then did AAA’s parents not similarly file rape charges against Gil? In answer to its own question, the RTC ruled that it was simply because Gil had no participation at all in the rape of AAA, which was committed by Batula alone. Also, the alleged concoction by AAA’s parents of a sensational lie against Batula and the resulting public hearings of their daughter’s rape case run counter to the supposed intention of AAA’s parents to keep the existence of the marijuana plantation secret as Batula was more likely to talk, trapped as he was in a corner. In *People v. Geraban*,²⁸ we held:

It is unnatural for a parent, more so for a mother, to use her offspring as an engine of malice especially if it will subject her child to the humiliation, disgrace and even stigma attendant to a prosecution for rape, if she were not motivated solely by the desire to incarcerate the person responsible for her child’s defilement. x x x.

All told, we find no reason to reverse the judgment of conviction rendered by both the Court of Appeals and the RTC against Batula.

We now come to the propriety of the penalties imposed on Batula.

²⁷ CA rollo, p. 32.
²⁸ 410 Phil. 450, 461 (2001).

Article 335 of the Revised Penal Code, as amended by Republic Act No. 8353 or the Anti Rape Law of 1997,²⁹ which was renumbered as Art. 266-A and 266-B of the Revised Penal Code, describes how the crime of rape is committed:

ART. 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

d) When the offended party is under twelve (12) years of age or is demented, even though none of the circumstances mentioned above be present

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

Whenever the crime of rape is committed with the use of a deadly weapon or by two or more persons, the penalty shall be *reclusion perpetua* to death.

In this case, we are not holding Batula liable for statutory rape as the fact that AAA was only nine years old at the time of commission of the rape, although proved during the trial, was not alleged in the Information. Nonetheless, Batula can still be convicted for rape as it was properly alleged in the Information, and subsequently proved beyond reasonable doubt during trial, that he had carnal knowledge of AAA by means of force, threats, and intimidation, and armed with a bladed weapon. Batula's use of a bladed weapon qualifies the rape, for which the higher penalty of *reclusion perpetua* to death is prescribed. The prescribed penalty being indivisible, we refer to Article 63 of the Revised Penal Code which provides:

²⁹ Took effect on October 22, 1997.

ART. 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.

2. When there are neither mitigating nor aggravating circumstances in the commission of the deed, the lesser penalty shall be applied.

3. When the commission of the act is attended by some mitigating circumstance 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 courts 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. (Emphases supplied.)

There being no aggravating circumstance alleged and proved herein, we follow our pronouncement in *People v. Ayuda*,³⁰ that “[w]here no aggravating circumstance is alleged in the information and proven during the trial, the crime of rape through the use of a deadly weapon may be penalized **only with *reclusion perpetua***, not death.”

Lastly, we leave undisturbed the order of the RTC, affirmed by the Court of Appeals, for Batula to pay AAA the amounts of ₱50,000.00 as civil indemnity, ₱50,000.00 as moral damages, and ₱30,000.00 as exemplary damages, such awards being in accordance with law and jurisprudence. An award of civil indemnity *ex delicto* is mandatory upon a finding of the fact of rape, and moral damages may be automatically awarded in rape cases

³⁰ 459 Phil. 173, 185 (2003).

without need of proof of mental and physical suffering.³¹ An award of exemplary damages is also in order pursuant to Article 2230 of the New Civil Code since the qualifying circumstance of use of a deadly weapon attended the commission of the rape. When a crime is committed with an aggravating circumstance, either qualifying or generic, an award of ₱30,000.00 as exemplary damages is justified.³²

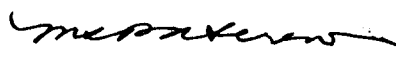
Finally, in addition to the damages awarded, the accused should also pay interest of six percent (6%) per annum from the finality of this judgment until the amount of damages is fully paid.³³

WHEREFORE, the instant appeal is **DENIED** and the Decision dated July 30, 2007 of the Court of Appeals in CA-G.R. CEB-CR-H.C. No. 00574 is hereby **AFFIRMED** with modification that the accused shall pay six percent (6%) interest per annum on the damages awarded from the finality of this judgment until fully paid.

SO ORDERED.


TERESITA J. LEONARDO-DE CASTRO
Associate Justice

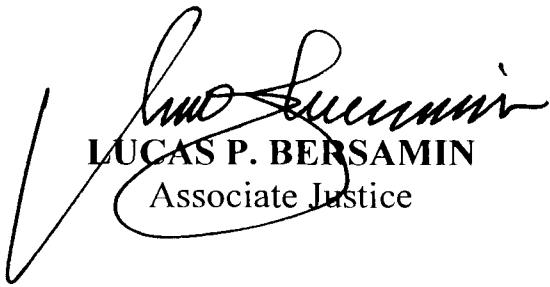
WE CONCUR:


MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson

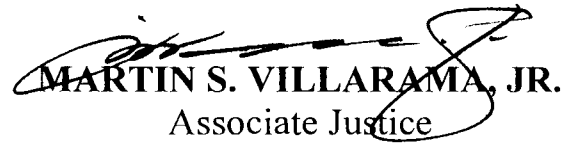
³¹ *People v. Atadero*, G.R. No. 183455, October 20, 2010, 634 SCRA 327, 348.

³² *People v. Macapanas*, G.R. No. 187049, May 4, 2010, 620 SCRA 54, 76-77.

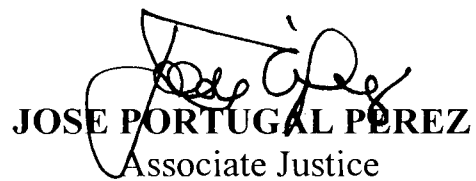
³³ *People v. Atadero*, supra note 31 at 349.



LUCAS P. BERSAMIN
Associate Justice




MARTIN S. VILLARAMA, JR.
Associate Justice



JOSE PORTUGAL PEREZ
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARIA LOURDES P. A. SERENO
Chief Justice