



Republic of the Philippines  
**Supreme Court**  
 Manila

SUPREME COURT OF THE PHILIPPINES  
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**SECOND DIVISION**

**THE PEOPLE OF THE PHILIPPINES,**  
 Plaintiff-Appellee,

**G.R. No. 230334**

Members:

**CARPIO, J.,** *Chairperson,*  
**CAGUIOA,**  
**INTING,\***  
**LAZARO-JAVIER, and**  
**ZALAMEDA, JJ.**

-versus-

Promulgated:

**XXX,\*\***

Accused-Appellant.

**19 AUG 2019**

X-----X

**DECISION**

**LAZARO-JAVIER, J.:**

**The Case**

This appeal seeks to reverse the Decision dated September 14, 2016,<sup>1</sup> of the Court of Appeals in CA-G.R. CR-HC No. 07064, affirming the conviction of appellant XXX for three (3) counts of qualified rape.

\* Designated additional member in lieu of Associate Justice Jose Reyes, Jr. per Raffle dated June 3, 2019.

\*\* Pursuant to Supreme Court Administrative Circular No. 83-2015 which mandates that the complete names of the women and children victims be replaced by fictitious initials. Also, *People v. Manjares*, G.R. No. 185844, November 23, 2011, decreed: "In line with 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, the identity of the victim or any information which could establish or compromise her identity, as well as those of her immediate family or household members, shall be withheld. For purposes of discussion, the private offended party and her immediate family members shall be referred to using initials. See *People v. Cabalquinto* (G.R. No. 167693, September 19, 2006, 502 SCRA 419) and *People v. Guillermo* (G.R. No. 173787, April 23, 2007, 521 SCRA 597)."

<sup>1</sup> Penned by Associate Justice Stephen C. Cruz and concurred in by now SC Associate Justices Jose C. Reyes, Jr. and Ramon Paul L. Hernando, *CA rollo*, pp. 96-110.

## The Proceedings Before the Trial Court

Appellant XXX was charged with three (3) counts of rape under the following Informations:

### Criminal Case No. 4792

That on or about the 18<sup>th</sup> day of April, 2000, at about 10:00 (o'clock) in the morning, at (MMM), Province of Batangas, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, a (brother-in-law) of one (AAA),<sup>2</sup> armed with a knife (kutsilyo), and by means of force and intimidation, did then and there willfully, unlawfully and feloniously lie with and have carnal knowledge with the said (AAA), a sixteen (16) year old minor, against her will and consent.

Contrary to law.<sup>3</sup>

X X X                      X X X                      X X X

### Criminal Case No. 4793

That on or about the 16<sup>th</sup> day of April, 2000, at about 3:00 (o'clock) in the afternoon, at (MMM), Province of Batangas, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, a (brother-in-law) of one (AAA), armed with a knife (kutsilyo), and by means of force and intimidation, did then and there wilfully, unlawfully and feloniously lie with and have carnal knowledge with the said (AAA), a sixteen (16) year old minor, against her will and consent.

Contrary to law.<sup>4</sup>

X X X                      X X X                      X X X

### Criminal Case No. 4794

That on or about the 23<sup>rd</sup> day of April, 2000, at about 4:00 (o'clock) in the afternoon, at (MMM), Province of Batangas, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, a (brother-in-law) of one (AAA), armed with a knife (kutsilyo), and by means of force and intimidation, did then and there wilfully, unlawfully and feloniously lie with and have carnal knowledge with the said (AAA), a sixteen (16) year old minor, against her will and consent.

<sup>2</sup> Pursuant to Supreme Court Administrative Circular No. 83-2015 which mandates that the complete names of the women and children victims be replaced by fictitious initials. Also, *People v. Manjares*, G.R. No. 185844, November 23, 2011, decreed: "In line with 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, the identity of the victim or any information which could establish or compromise her identity, as well as those of her immediate family or household members, shall be withheld. For purposes of discussion, the private offended party and her immediate family members shall be referred to using initials. See *People v. Cabalquinto* (G.R. No. 167693, September 19, 2006, 502 SCRA 419) and *People v. Guillermo* (G.R. No. 173787, April 23, 2007, 521 SCRA 597)."

<sup>3</sup> Record (Criminal Case No. 4792), p. 1.

<sup>4</sup> Record (Criminal Case No. 4793), p. 1.

Contrary to law.<sup>5</sup>

X X X            X X X            X X X

On arraignment, appellant pleaded not guilty.<sup>6</sup> Trial ensued.

AAA, her mother BBB, and Dr. Evelyn Noche testified for the prosecution. On the other hand, appellant, appellant's wife and AAA's sister CCC, and Anacleto A. Legaspi testified for the defense.

#### *Version of the Prosecution*

On April 16, 2000, around 3 o'clock in the afternoon, AAA was alone in their house when appellant arrived there and borrowed money from her. When AAA declined, appellant poked a long knife on her neck, forced her to lie down on a bamboo bed, and removed her underwear. Appellant forcibly inserted his penis into her vagina. AAA tried to wiggle out but appellant tightly held her. She then could not do anything more but cry. He threatened to kill her and her mother if she told anyone of the incident.<sup>7</sup>

On April 18, 2000, AAA was once again alone in their house while her parents were in the farm, and her sister CCC (appellant's wife), was at the town proper. Around 10 o'clock in the morning, while she was asleep, appellant arrived and once more ravished her. The same incident happened on April 23, 2000.

Thereafter, fearing that appellant would take advantage of her for the fourth time, she finally told her mother BBB about the three (3) incidents. BBB accompanied her to the police station to file a complaint against appellant. The police tried to apprehend appellant, but the latter was nowhere to be found.<sup>8</sup>

Examining Doctor Evelyn Noche found that AAA's hymen was no longer intact and had a 7 o'clock laceration. She recorded this finding in her Medico Legal Certificate dated April 26, 2000.<sup>9</sup>

The prosecution offered<sup>10</sup> the following exhibits: "A" to "A-2" – BBB's *Salaysay* dated April 26, 2000;<sup>11</sup> "B" to "B-2" – AAA's *Salaysay* dated April 26, 2000;<sup>12</sup> "C" to "C-1" – Medico Legal Certificate dated

<sup>5</sup> Record (Criminal Case No. 4794), p. 1.

<sup>6</sup> Record (Criminal Case No. 4792), pp. 35-36.

<sup>7</sup> TSN, February 4, 2013, pp. 4-5; Also see AAA's *Salaysay* dated April 26, 2000, Record (Criminal Case No. 4792), p. 8.

<sup>8</sup> TSN, February 4, 2013, pp. 6-10 and 12-14.

<sup>9</sup> TSN, October 22, 2012, pp. 3-4.

<sup>10</sup> TSN, March 18, 2013, pp. 3-4.

<sup>11</sup> Record (Criminal Case No. 4792), p. 7.

<sup>12</sup> *Id.* at 8-9.

April 26, 2000 issued by Dr. Evelyn Noche,<sup>13</sup> and “D” – AAA’s Birth Certificate.<sup>14</sup>

### *Version of the Defense*

On the dates in question, appellant was in Barangay Tanggoy, Balayan, Batangas, about one (1) to two (2) hours away by foot from AAA’s residence in MMM. He was cutting sugarcane in Barangay Tanggoy and rarely went home to MMM since it was milling season. It was also impossible for him to have had access to AAA because at the time of the alleged incidents, AAA was working as a housemaid in Cavite.<sup>15</sup>

He could not do the crime being imputed on him because he was a good person and he loved his wife and his children. He did not flee, nay, evade arrest.<sup>16</sup> His wife<sup>17</sup> CCC (AAA’s sister) and cousin<sup>18</sup> corroborated his alibi, *i.e.* he was in MMM on the dates of the alleged incidents and that he did not go into hiding.

The defense did not offer any documentary evidence.

### **The Trial Court’s Ruling**

By Decision dated May 26, 2014,<sup>19</sup> the trial court found appellant guilty of three (3) counts of rape, as charged, thus:

In view of the foregoing and by proof beyond reasonable doubt, the Court hereby renders judgment as follows:

1. In **Criminal Case No. 4792**, the Court finds accused (XXX) **GUILTY** beyond reasonable doubt of the crime of Rape as charged and hereby sentences him to suffer the penalty of Reclusion Perpetua without eligibility for parole, and indemnify the victim (AAA) the amount of Php50,000.00 as civil indemnity, Php75,000.00 as moral damages and Php25,000.00 as exemplary damages.
2. In **Criminal Case No. 4793**, the Court finds accused (XXX) **GUILTY** beyond reasonable doubt of the crime of Rape as charged and hereby sentences him to suffer the penalty of Reclusion Perpetua without eligibility for parole, and

<sup>13</sup> *Id.* at 10.

<sup>14</sup> *Id.* at 60.

<sup>15</sup> TSN, May 27, 2013, pp. 5-6; Also see appellant’s *Kontra-Salaysay* dated June 26, 2000, Record (Criminal Case No. 4792), p. 15.

<sup>16</sup> TSN, May 27, 2013, pp. 5-6; Also see appellant’s *Kontra-Salaysay* dated June 26, 2000, Record (Criminal Case No. 4792), p. 15.

<sup>17</sup> TSN, August 5, 2013, pp. 4-5; Also see CCC’s *Kontra-Sinumpaang Salaysay* dated July 26, 2013, Record (Criminal Case No. 4792), pp. 75-76.

<sup>18</sup> TSN, March 3, 2014, pp. 4-5; Also see Anacleto’s *Kontra-Salaysay* dated June 26, 2000, Record (Criminal Case No. 4792), p. 16.

<sup>19</sup> Penned by Judge Cristino E. Judit, Record (Criminal Case No. 4792), pp. 100-110; CA *rollo*, pp. 57-67,

indemnify the victim (AAA) the amount of Php50,000.00 as civil indemnity, Php75,000.00 as moral damages and Php25,000.00 as exemplary (d)amages.

3. In **Criminal Case No. 4794**, the Court finds accused (XXX) **GUILTY** beyond reasonable doubt of the crime of Rape as charged and hereby sentences him to suffer the penalty of Reclusion Perpetua without eligibility for parole, and indemnify the victim (AAA) the amount of Php50,000.00 as civil indemnity, Php75,000.00 as moral damages and Php25,000.00 as exemplary (d)amages.

**SO ORDERED.**<sup>20</sup>

The trial court gave full credence to AAA's testimony. It noted that AAA categorically identified appellant as the one who robbed her of her chastity. She testified in a straightforward and spontaneous manner on how appellant thrice violated her. AAA's testimony was consistent with the physical findings of Dr. Noche. Appellant, on the other hand, offered nothing but denial and alibi. The trial court emphasized that alibi becomes less plausible when corroborated by relatives and friends who may not be impartial witnesses. In any case, it was not physically impossible for appellant to have been at the *locus criminis* on the dates of the alleged incident considering that the distance between the two (2) places can be negotiated by foot for only two (2) hours. It was not shown either that AAA was motivated by ill will to falsely charge appellant with such heinous crime as rape.

### **The Proceedings Before the Court of Appeals**

#### *Appellant's Argument*<sup>21</sup>

On appeal, appellant faulted the trial court for rendering the verdict of conviction. He maintained it was physically impossible for him to have been at two (2) places at the same time. When the alleged incidents happened, he was in Tanggoy, Balayan, a kilometer away from MMM, where AAA lived. AAA's residence was at least an hour's walk from where he was. His whereabouts at the time of the alleged incident was duly corroborated by his wife and cousin.<sup>22</sup>

Too, the medico legal report itself did not support the assertion that he forced himself on AAA. The medico legal report only showed that AAA was no longer a virgin. This could have been a result of AAA's consensual sex

<sup>20</sup> Record (Criminal Case No. 4792), pp. 109-110; CA rollo, pp. 66-67.

<sup>21</sup> See Appellant's Brief dated January 29, 2016, CA rollo, pp. 43-55.

<sup>22</sup> CA rollo, p. 51.

with a man but not necessarily him or could have been due to some other reason.<sup>23</sup>

AAA's testimony on how the alleged rape incidents happened was not credible. Aside from AAA's account of the first alleged incident of rape, *i.e.* she was alone at home, he suddenly arrived, he poked her with a knife, threatened to kill her, undressed her, and ravished her, AAA no longer offered any details on how the purported second and third incidents supposedly happened. This raised suspicion that the second and third incidents were merely fabricated. The same possibility existed for the first alleged incident of rape. Considering these doubts, his guilt cannot be said to have been proven beyond reasonable doubt.<sup>24</sup>

### *The People's Arguments*<sup>25</sup>

The Office of the Solicitor General (OSG) through Assistant Solicitor General Nyriam Susan O. Sedillo-Hernandez and Associate Solicitor Byron P. Perez countered that the elements of rape were all proven on three (3) counts. Appellant's bare denial and alibi cannot prevail over AAA's clear and positive testimony. AAA's testimony was corroborated by Dr. Noche's finding that the former's vagina had lacerations and her hymen was no longer intact.<sup>26</sup>

Appellant also failed to show that it was physically impossible for him to have been at MMM, Batangas on the dates and time in question. Appellant and his witnesses admitted that MMM was only a kilometer away from Barangay Tanggoy, a distance that may easily be traversed by foot, car, or any vehicle in thirty (30) minutes. In any case, appellant's alibi and denial were not plausible even though corroborated by relatives who were not impartial witnesses.<sup>27</sup>

### **The Court of Appeals' Ruling**

By its assailed Decision dated September 14, 2016,<sup>28</sup> the Court of Appeals affirmed with modification, thus:

**WHEREFORE**, premises considered, the Decision dated May 26, 2014 of the Regional Trial Court of Balayan, Batangas, Branch 10, finding appellant (XXX) guilty in Criminal Case Nos. 4792 to 4794, is hereby **AFFIRMED** with **MODIFICATION**. Appellant shall suffer the penalty of *reclusion perpetua* without eligibility for parole. Appellant is ordered to

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<sup>23</sup> *Id.* at 51-52.

<sup>24</sup> *Id.* at 52-53.

<sup>25</sup> See Appellee's Brief dated May 30, 2016, *CA rollo*, pp. 80-89.

<sup>26</sup> *CA rollo*, pp. 86-87.

<sup>27</sup> *Id.* at 87-88.

<sup>28</sup> Penned by Associate Justice Stephen C. Cruz and concurred in by now SC Associate Justices Jose C. Reyes, Jr. and Ramon Paul L. Hernando, *CA rollo*, pp. 96-110.

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pay the private offended party as follows: Php100,000.00 as civil indemnity, Php100,000.00 as moral damages, and Php100,000.00 as exemplary damages. He is FURTHER ordered to pay interest on all damages awarded at the legal rate of six percent (6%) per annum from the date of finality of this judgment.

**SO ORDERED.**<sup>29</sup>

The Court of Appeals found that AAA gave a complete account of the ordeal she suffered in appellant's hands. It held that appellant's denial and alibi were weak, nay, unsubstantiated. The same cannot overcome AAA's positive declaration. Too, jurisprudence has settled that there is no "physical impossibility" in instances where it would take appellant only one and a half hour by foot to traverse the distance between the place where he allegedly was at the time of the offense and the *locus criminis*. More, one could easily fabricate an alibi and ask friends and relatives to corroborate it.

### **The Present Appeal**

Appellant now seeks affirmative relief from the Court and pleads anew for his acquittal.

For the purpose of this appeal, both appellant and the OSG manifested that in lieu of supplemental briefs, they were adopting their respective briefs before the Court of Appeals.<sup>30</sup>

### **The Issue**

Did the Court of Appeals err when it affirmed appellant's conviction for three (3) counts of rape?

### **The Ruling**

#### **Criminal Case No. 4793**

Appellant asserts he should be acquitted because AAA's testimony is not credible and it was physically impossible for him to have been in AAA's residence on the alleged date and time of the incident.

Records bear AAA's detailed narration of what appellant did to her on April 16, 2000, *viz*:

x x x

x x x

x x x

<sup>29</sup> CA *rollo*, p. 109.

<sup>30</sup> *Rollo*, pp. 24-25 and 28-30.

T – Sino naman itong si (XXX) na iyong inihahabla?

S – Siya po ay aking bayaw.

T – Bakit mo naman siya inihahabla?

S – Ako po ay kanyang ginahasa.

T – Kailan at saan naman ikaw ay kanyang ginahasa?

S – Noong una po ay noong ika 16 ng Abril 2000 na ang oras ay humigit kumulang sa ika 3:00 ng hapon sa loob ng aming bahay sa (MMM), Balayan, Batangas.

T – Paano ka naman niya ginahasa noong ika-16 ng Abril 2000?

S – Noon pong ika 16 ng Abril 2000 na ang oras ay humigit kumulang sa ika 3:00 ng hapon habang ako po ay nasa loob ng aming bahay ay pumanhik ang kuya (XXX) at nautang ng pera sa akin at noong hindi ko pinautang ay sinarahan nito ang pinto, nagbukas ng balisong at ako ay tinutukan sa leeg at sinabi na ako ay huwag magsusumbong at ako ay kanyang papatayin at pagkatapos ako ay kanyang inihiga sa papag at pagkatapos ako ay kanyang hinubuan ng panty at siya ay nag-hubo din at pilit po niyang ipinasok ang matigas niyang titi sa aking puki at wala na apo (sic) akong magawa kundi ang umiyak na lamang.

T – Ano naman ang naramdaman mo noong ipinapasok ni (XXX) ang kanyang titi sa iyong puki?

S – Masakit po at ako po ay pumipiglas upang makawala subalit mahigpit po ang kanyang pagkakayapos sa akin at ako po ay nanghina na.<sup>31</sup>

x x x

x x x

x x x

Q: Can you still remember, Madam Witness, what were you wearing at the time you were rape(d) on April 16, 2000?

A: I was wearing short, sir.

Q: And what about the accused in this case?

A: He was wearing pants, sir.

Q: And could you still remember where did the accused pointed the “pang-urak ng baboy” to you, on what part of your body?

A: On my throat, sir.<sup>32</sup>

x x x

x x x

x x x

The trial court gave full credence to AAA’s testimony for being straightforward and spontaneous. Her credible testimony was in fact sufficient to support the verdict of conviction against appellant for the crime of rape. More so since her testimony was corroborated by the medical findings of Dr. Noche, who testified that AAA was positive for fresh hymenal laceration at 7 o’clock position. *People v. Mabalo*<sup>33</sup> instructs that medical findings that the victim sustained hymenal laceration are corroborative of the testimony of the rape victim.

<sup>31</sup> See AAA’s Salaysay dated April 26, 2000, Record (Criminal Case No. 4792), pp. 8-9.

<sup>32</sup> TSN, February 4, 2013, p. 10.

<sup>33</sup> G.R. No. 238839, February 27, 2019.



Against AAA's positive testimony and Dr. Noche's corroborative medical findings, 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.<sup>34</sup>

Further, the Court has consistently enunciated 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 at the time of its commission.<sup>35</sup>

In *People v. Malate*,<sup>36</sup> the Court 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 distance from each other. The same is true in this case. The barangay where appellant claims that he was at the time of the incident and the barangay where AAA's house was situated, were both within MMM, Batangas. By foot, the two (2) barangays were only an hour away from each other.

More, there was no showing that AAA was compelled by improper motive or was influenced by any of her family members to falsely accuse appellant of such heinous crime as rape. In *People v. Galuga*,<sup>37</sup> this Court decreed that where there is no evidence that the principal witness for the prosecution was actuated by improper motive, the presumption is that he or she was not so actuated and his or her testimony is entitled to full credence.

In any event, 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.<sup>38</sup> So must it be.

Too, AAA was only sixteen (16) years old when the incident happened in April 2000. It has been repeatedly held that 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

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<sup>34</sup> *People of the Philippines v. Jordan Batalla*, G.R. No. 234323, January 07, 2019.

<sup>35</sup> *People of the Philippines v. Aurelio Matunhay*, 628 Phil. 208, 218 (2010).

<sup>36</sup> 606 Phil. 825, 837 (2009).

<sup>37</sup> G.R. No. 221428, February 13, 2019.

<sup>38</sup> *People of the Philippines v. Anthony B. Mabalo*, G.R. No. 238839, February 27, 2019; also see *People of the Philippines v. Ramon Bay-Od*, G.R. No. 238176, January 14, 2019.

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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.<sup>39</sup>

As for the crime committed, the trial court and the Court of Appeals correctly convicted appellant of qualified rape.

Article 266-B of the Revised Penal Code (RPC), as amended by Republic Act 8353<sup>40</sup> (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, AAA was sixteen (16) years old when the incident happened. This is proved by AAA's birth certificate<sup>41</sup> and her mother's testimony.<sup>42</sup> Too, as the Informations clearly stated, appellant is her brother-in-law, being her sister's husband, making appellant a relative within the third civil degree, thus:

x x x the above-named accused, a (brother-in-law) of one (AAA), armed with a knife (kutsilyo), and by means of force and intimidation, did then and there wilfully, unlawfully and feloniously lie with and have carnal knowledge with the said (AAA), a sixteen (16) year old minor, against her will and consent.

X X X

X X X

X X X

That appellant is AAA's brother-in-law was attested to by her sister CCC<sup>43</sup> and appellant<sup>44</sup> himself.

In fine, there is no cogent reason to reverse appellant's conviction for qualified rape in Criminal Case No. 4793.

#### **Criminal Case Nos. 4792 and 4794**

We, however, find that the prosecution failed to sufficiently establish the elements of rape as defined and penalized under paragraph 1(a) of Article 266-A of the Revised Penal Code, viz: (1) the offender had carnal knowledge of a woman; and (2) such act was accomplished through force, threat, or intimidation.<sup>45</sup>

The Court refers to AAA's testimony in Criminal Case No. 4792, viz:

<sup>39</sup> *People of the Philippines v. Victor P. Padit*, 780 Phil. 69, 80 (2016).

<sup>40</sup> The Anti-Rape Law of 1997.

<sup>41</sup> Exhibit "D," Record (Criminal Case No. 4792), p. 60.

<sup>42</sup> Record (Criminal Case No. 4792), p. 69.

<sup>43</sup> See CCC's Kontra-Sinumpaang Salaysay dated July 26, 2013, Record (Criminal Case No. 4792), p. 76.

<sup>44</sup> TSN, May 27, 2013, p. 6.

<sup>45</sup> *People of the Philippines v. Henry Bentayo*, 810 Phil. 263, 269 (2017).

*N*

X X X

X X X

X X X

T – Nasabi mo na noong ika 16 ng Abril 2000 ay una kang ginahasa ni (XXX) bakit mayroon pa bang sumunod na panggagahasa sa iyo si (XXX)?

S – Opo ito po ay noong martes ika 18 ng Abril 2000 na ang oras ay humigit kumulang sa ika 10:00 ng umaga habang ako lamang po ang tao sa aming bahay.<sup>46</sup>

X X X

X X X

X X X

Q: You said, Madam Witness, that on April 18, you were raped by the accused in this case, is that correct?

A: Yes, sir.

Q: Where did it happen?

A: At our house, sir.

Q: And what part of the house where you raped by the accused in this case?

A: Inside our house, sir.

Q: Was it in a room inside your house or was it outside the room?

A: Inside the room.<sup>47</sup>

X X X

X X X

X X X

Q: And what about on April 18, 2000 where did he point the “pang-urak ng baboy” to you?

A: Also on the same place, on the throat.<sup>48</sup>

X X X

X X X

X X X

and Criminal Case No. 4794, viz:

X X X

X X X

X X X

T – Nasundan pa ba ito?

S – Opo nasundan pa po ito noong ika 23 ng Abril 2000 na ang oras ay humigit kumulang sa ika 4:00 ng hapon sa amin po uling bahay.<sup>49</sup>

X X X

X X X

X X X

Q: Now you also made mentioned (sic) that you were rape (sic) on April 23, 2000. Is that correct?

A: Yes, sir.

Q: And where were you rape (sic) during that time?

A: Inside our house, sir.

<sup>46</sup> See AAA’s Salaysay dated April 26, 2000, Record (Criminal Case No. 4792), pp. 8-9.

<sup>47</sup> TSN, February 4, 2013, p. 6.

<sup>48</sup> *Id.* at 10.

<sup>49</sup> See AAA’s Salaysay dated April 26, 2000, Record (Criminal Case No. 4792), pp. 8-9.

Q: And was she (sic) armed with any weapon during that time?

A: Yes, sir.

Q: In those incidents of rape?

A: Yes, sir.

Q: What kind of deadly weapon is that?

A: Long knife used in slaughtering pig, sir.<sup>50</sup>

x x x

x x x

x x x

Q: What about on April 23, 2000?

A: Also on my throat and I was injured, sir.<sup>51</sup>

x x x

x x x

x x x

AAA's narration of the second and third incidents leaves much to be desired. AAA testified that appellant threatened her with a long knife and raped her on April 18 and 23, 2000. She did not specifically state how appellant threatened her with a long knife and how he supposedly "raped" her on these two (2) occasions. *People v. Matunhay*<sup>52</sup> relevantly pronounced:

The Other Rapes Not Proven With Moral Certainty

We cannot sustain the lower courts' convictions for the rapes committed in December 1997; first week of January 1998; first week of March 1998; and first week of June 1998. **It is settled that each and every charge of rape is a separate and distinct crime that the law requires to be proven beyond reasonable doubt.** The prosecution's evidence must pass the exacting test of moral certainty that the law demands to satisfy the burden of overcoming the appellant's presumption of innocence.

x x x

x x x

x x x

For the rape that allegedly happened in the first week of January 1998, AAA merely testified that the appellant had "raped" her after threatening her with a bolo. With regard to the rape in the first week of March 1998, AAA merely stated that the appellant had threatened to kill her with a bolo "if she refused" and provided no other details. AAA also stated that the appellant had "raped" her in May and June 1998 without saying more. She could not even remember if she reported these alleged rape incidents to the police.

**These statements, to our mind, are clearly inadequate and grossly insufficient to engender a well-founded belief in an unprejudiced mind that the appellant had indeed raped the victim on the above-mentioned occasions. A witness is not permitted to make her own conclusions of law; her testimony must state evidentiary facts,**

<sup>50</sup> TSN, February 4, 2013, p. 9.

<sup>51</sup> *Id.* at 10.

<sup>52</sup> *Supra* note 35, at 219-220.

specifically in rape cases, that the appellant's penis, at the very least, touched the labia of the victim's private part. In other words, AAA could not simply claim that she had been raped without elaborating on how the appellant had perpetrated his lustful act. To reiterate, whether AAA had been raped is a conclusion for this Court to make based on the evidence presented.

In *People v. Garcia* where the appellant was charged with 183 counts of rape, we held that:

x x x Be that as it may, however, on the bases of the evidence adduced by the prosecution, appellant can be convicted only of the two rapes committed in November, 1990 and on July 21, 1994 as testified to by complainant, and for the eight counts of rape committed in May and June and on July 16, 1994 as admitted in appellants aforementioned letter of August 24, 1994. We cannot agree with the trial court that appellant is guilty of 183 counts of rape because, as correctly asserted by the defense, each and every charge of rape is a separate and distinct crime so that each of them should be proven beyond reasonable doubt. On that score alone, **the indefinite testimonial evidence that complainant was raped every week is decidedly inadequate and grossly insufficient to establish the guilt of appellant therefor with the required quantum of evidence.** So much of such indefinite imputations of rape, which are uncorroborated by any other evidence, fall within this category. (Emphasis supplied)

So must it be.

Indeed, for lack of evidentiary facts showing that appellant did have, through force and intimidation, carnal knowledge of AAA on April 18 and 23, 2000, appellant must be acquitted in both Criminal Case Nos. 4792 and 4794.

### Penalty in Criminal Case No. 4793

Articles 266-A and B of the RPC, as amended by RA 8353, provides:

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:

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- 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. 9346<sup>53</sup> (RA 9346) the death penalty may no longer be imposed. The trial court and Court of Appeals, therefore, correctly sentenced appellant to *reclusion perpetua*, without the benefit of parole.

The Court of Appeals too, correctly awarded the following civil indemnity and damages in accordance with prevailing jurisprudence:<sup>54</sup> (a) Php100,000.00 as civil indemnity; (b) Php100,000.00 as moral damages; and (c) Php100,000.00 as exemplary damages. These amounts shall earn six percent (6%) interest *per annum* from finality of this decision until fully paid.


**ACCORDINGLY**, the Decision dated September 14, 2016 of the Court of Appeals in CA-G.R. CR-HC No. 07064 is **AFFIRMED with MODIFICATION**:

1. In *Criminal Case No. 4792* and *Criminal Case No. 4794*, appellant XXX is **ACQUITTED**; and

2. In *Criminal Case No. 4793*, appellant XXX is found **GUILTY** of Qualified Rape. He is sentenced to suffer *reclusion perpetua* without eligibility for parole and ordered to **pay** AAA Php100,000.00 as civil indemnity; Php100,000.00 as moral damages; and Php100,000.00 as exemplary damages.

These amounts shall earn six percent (6%) interest *per annum* from finality of this decision until fully paid.

**SO ORDERED.**

  
**AMY C. LAZARO-JAVIER**  
Associate Justice

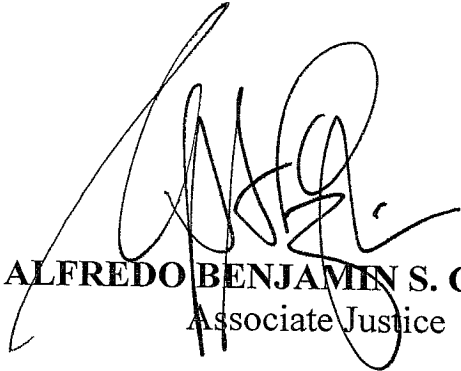
<sup>53</sup> An Act Prohibiting the Imposition of Death Penalty in the Philippines.

<sup>54</sup> *People of the Philippines v. Dominador Udtohan*, 815 Phil. 449, 466 (2017), citing *People of the Philippines v. Ireneo Jugueta*, 883 Phil. 806, 839-840 (2016).

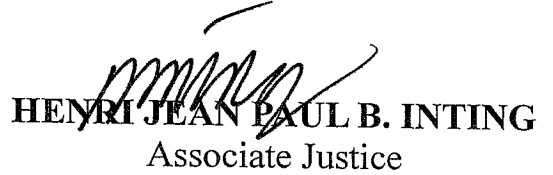
**WE CONCUR:**




**ANTONIO T. CARPIO**  
Acting Chief Justice  
Chairperson



**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice



**HENRI JEAN PAUL B. INTING**  
Associate Justice



**RODIL V. ZALAMEDA**  
Associate Justice

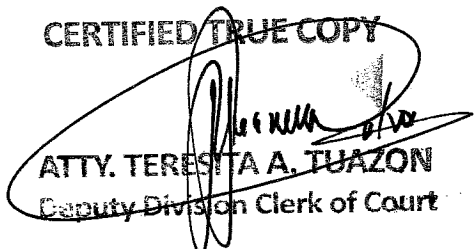
**CERTIFICATION**

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.



**ANTONIO T. CARPIO**  
Acting Chief Justice

**CERTIFIED TRUE COPY**



**ATTY. TERESITA A. TUAZON**  
Deputy Division Clerk of Court

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