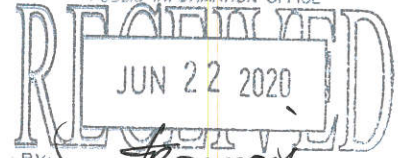


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SUPREME COURT OF THE PHILIPPINES
PUBLIC INFORMATION OFFICE



BY: *Francis*
DATE: *9.22.20m*

Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 244047

Present:

- versus -

CAGUIOA, *Working Chairperson,*
REYES, J. JR.,
HERNANDO,*
LAZARO-JAVIER, and
LOPEZ, JJ.

XXX,

Accused-Appellant.

Promulgated:

DEC 10 2019

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DECISION

REYES, J. JR., J.:

For our resolution is an appeal from the Decision¹ dated January 30, 2018 of the Court of Appeals in CA G.R. CR-HC No. 06453, which affirmed the Decision² dated September 30, 2013 of the Regional Trial Court (RTC) of Dagupan City in Criminal Case No. 2013-107-D, convicting XXX (accused-appellant) of qualified rape.

In an Information dated January 30, 2013, accused-appellant was charged with the crime of qualified statutory rape under paragraph 1(d), Article 266-A, in relation to Article 266-B of the Revised Penal Code (RPC), the accusatory portion of which reads:

That on or about the evening of January 2, 2013 and early in the morning of January 3, 2013 in Brgy. Cayanga, San Fabian, Pangasinan and within the [jurisdiction of this Honorable] Court, the above[-]named

* Additional member per Raffle dated February 9, 2019 in lieu of Chief Justice Diosdado M. Peralta.
¹ Penned by Associate Justice Maria Elisa Sempio Diy, with Associate Justices Fernanda Lampas Peralta and Franchito N. Diamante, concurring; *rollo*, pp. 2-22.
² Penned by Judge Caridad V. Galvez; *CA rollo*, pp. 29-41.

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accused, being the live-in partner [of the] mother of [AAA], a minor 5 years old of age (DOB-June 6, 2007) did then and there, willfully, unlawfully and feloniously have sexual intercourse with said minor against her will and consent and to her damage and prejudice.

Contrary to Art. 266-A part 1, sub-par. d, of the Revised Penal Code in relation to paragraphs a and 5 Art. 266-B thereof, as amended by RA 8353.³

When arraigned, accused-appellant pleaded not guilty to the charge. During pre-trial, the parties stipulated on the following: (1) identity of the parties; (2) minority of the [victim] having been born on June 6, 2007; (3) fact of reporting of the incident at the Philippine National Police (PNP), San Fabian, Pangasinan; and physical existence of Medico Legal Report or Certification issued by Dr. Brenda Tumacder of Region I Medical Center.⁴

During trial, the prosecution presented the victim (AAA),⁵ the victim's mother, and Police Officer 2 Irene Robosa (PO2 Robosa) as witnesses. The defense, on the other hand, presented the sole testimony of accused-appellant.

Despite the tender age of the victim, she took the witness stand. Under oath, AAA stated that "telling a lie is bad, and she promised to tell the truth." She also said she believes in God, but when asked what God would do to children who are bad, she blurted out that accused-appellant inserted his penis inside her vagina. When asked if she knows if God loves children who do not lie, she answered in the affirmative. She was then asked what she felt when accused-appellant inserted his penis in her vagina, and she answered, "none, Sir." However, when she relieved herself in the comfort room the next day, she felt pain in her vagina that made her cry. On cross-examination, she stated that she considers her "uncle," accused-appellant, "bad" because he placed his penis inside her vagina. AAA identified accused-appellant in open court.⁶

AAA's mother testified that accused-appellant was her live-in partner for almost three years until his arrest for the crime charged. She narrated that on January 2, 2013, she left their home to borrow money from her siblings. When she came back after about an hour, she found her daughter asleep. In the morning of the following day, when she was about to clean up her daughter in the comfort room after the latter relieved herself, she found her crying and complaining on how painful her vagina was. When she asked AAA what happened, the latter told her that accused-appellant inserted his penis inside her vagina. Alarmed, she inspected her 5-year-old daughter's

³ Id. at 29.

⁴ Id. at 29-30.

⁵ 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 initials shall instead be used in accordance with *People v. Cabalquinto*, 533 Phil. 703 (2006) and A.M. No. 04-11-09 SC dated September 19, 2006.

⁶ Id. at 32-33.

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vagina and saw that it was “very red.” Raged with what she just learned, she confronted accused-appellant, who she claimed to have admitted “play[ing] with the vagina” of the victim. AAA’s mother then sought the help of two men to accompany them to the police station. Accused-appellant came with them to the police station and thereat, admitted to “fingering the vagina” of the victim. AAA, thereafter, went to undergo physical examination.⁷

PO2 Robosa testified that she was the officer-on-duty on the day AAA and her mother reported the incident. She also testified that the incident was also reported to another police officer, SPO2 Bernadette Lopez. She claimed that during the second blotter, accused-appellant admitted to the commission of the crime.⁸

For his part, accused-appellant admitted to being the live-in partner of AAA’s mother. He narrated that on January 2, 2013, AAA’s mother left her children in his care. The victim and her two siblings slept beside each other. The next day, he was awakened by AAA’s mother, who confronted him about the rape incident. He denied the charge against him and claimed that AAA’s mother merely wanted to extort money from him as he allegedly will be receiving a large sum of money from a certain labor case he was involved in.⁹

On September 30, 2013, the RTC rendered a Decision, the dispositive thereof reads:

WHEREFORE, premises considered, the Court finds the accused [XXX] **GUILTY** beyond reasonable doubt of the crime of **Qualified Rape** and is hereby sentenced to suffer the penalty of **reclusion perpetua**. Furthermore, accused is hereby ordered to indemnify the offended party AAA civil indemnity of P75,000.00, moral damages of P75,000.00[,] and exemplary damages of P25,000.00.

SO ORDERED.¹⁰

On appeal, the CA affirmed the RTC ruling of conviction, with modification only as to the monetary awards as follows:

WHEREFORE, premises considered, the instant Appeal filed by accused-appellant [XXX] is hereby **DENIED**. The assailed Decision dated September 30, 2013 of Branch 43, Regional Trial Court of Dagupan City in Criminal Case No. 2013-107-D is **AFFIRMED with MODIFICATION**.

Accused-appellant [XXX] is found **GUILTY** beyond reasonable doubt of the crime of qualified statutory rape as defined under par. 1(d), Article 266-A and penalized under Article 266-B of the Revised Penal Code (RPC) and is hereby sentenced to suffer the penalty of *reclusion*

⁷ Id. at 31-32.

⁸ Id. at 30-31.

⁹ *Rollo*, p. 7.

¹⁰ *CA rollo*, p. 41.

perpetua without eligibility for parole. Furthermore, accused-appellant is hereby ordered to pay the victim, AAA, the following amounts: (1) one hundred thousand pesos (PhP100,000.00) as civil indemnity; (2) one hundred thousand pesos (PhP100,000.00) as moral damages; and (3) one hundred thousand pesos (PhP100,000.00) as exemplary damages. Interest at the rate of 6% *per annum* is imposed on all damages awarded to be computed from the finality of this Decision until such amounts are fully paid. Costs against accused-appellant.

SO ORDERED.¹¹

Accused-appellant, through counsel, then filed a Notice of Appeal¹² dated February 29, 2018, questioning the above-cited CA Decision.

Both the Office of the Solicitor General (OSG), for the People, and the accused-appellant filed their respective Manifestation In Lieu of Supplemental Brief, averring that they have already sufficiently discussed their arguments in their respective Briefs filed before the CA.¹³

The appeal before this Court is centered on the issue on the credibility of the victim's testimony. Accused-appellant maintains his theory that the child victim's testimony was coached as she simply blurted out that accused-appellant inserted his penis inside her vagina even when a different question was asked. Accused-appellant also pointed out AAA's altercation that she did not see accused-appellant's penis as she was asleep, to be inconsistent with her allegation that she knows that accused-appellant inserted his penis inside her vagina. Accused-appellant also argues that the fact that the victim testified that she did not feel anything when accused-appellant supposedly inserted his penis inside the victim's vagina belies the allegation of carnal knowledge as it is contrary to human nature and experience.

The only issue for our resolution is whether or not accused-appellant's conviction was proper.

We find no merit in this appeal.

In every prosecution for the crime of statutory rape, the following elements must be proven beyond reasonable doubt, to wit: (1) the offended party is under 12 years of age; and (2) the accused had carnal knowledge of the victim, regardless of whether there was force, threat, or intimidation or grave abuse of authority. In fine, it is enough that the age of the victim is proven and that there was sexual intercourse.¹⁴

Further, rape shall be qualified when the victim is below 18 years of age and the offender is a parent, ascendant, step-parent, guardian, relative by

¹¹ *Rollo*, p. 21.

¹² Records, pp. 116-117.

¹³ *Id.* at 30-32; 34-35.

¹⁴ REVISED PENAL CODE, Article 266-A, as amended by Republic Act No. 8353; *People v. Francia*, G.R. No. 208625, September 6, 2017.

consanguinity or affinity within the third civil degree, or the common-law spouse of the parent of the victim;¹⁵ and/or when the victim is a child below seven years old.¹⁶

The RTC, as affirmed by the CA, correctly found that the aforementioned elements and circumstances were properly alleged in the Information and proven beyond reasonable doubt during the trial in the present case.

That the victim was only five years old at the time of the commission of the crime was not disputed. Likewise, there was no question regarding accused-appellant's relationship to the mother of the victim, *i.e.*, that they had been common-law spouses at the time of the rape incident. The only element in question, thus, is whether or not accused-appellant had carnal knowledge of the victim.

Contrary to accused-appellant's position, carnal knowledge in this case was proven through AAA's categorical testimony, found credible by the RTC and the CA, and corroborated by the medical findings. Despite her tender age, the five-year-old victim was able to clearly and plainly, recount her harrowing experience with accused-appellant, whom she calls "uncle," *viz.*:

Q: Do you [know] [XXX] whom you called uncle?

A: Yes, sir.

Q: I[s] Uncle inside the courtroom?

A: Yes, sir.

Q: Where is he, can you point to him?

Court Interpreter: Witness is pointing to a man seated in the front row wearing a yellow BJMP T-shirt and when asked his name, he identified himself as [XXX].

Q: What did uncle do to you?

A: He placed his penis inside my vagina, sir.

Q: Where is your vagina?

Court Interpreter: Witness is pointing at her vagina.

Q: And where is the penis?

Court Interpreter: Witness is pointing to where the penis of the Public Prosecutor is to be.

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Q: Are you sure it was his penis which he placed inside your vagina?

A: Yes, sir.

Q: It is not his finger?

A: No, sir.

¹⁵ Id., Article 266-B (1).

¹⁶ Id., Article 266-B (5).

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Q: Did he touch your vagina?

A: No, sir.

Q: When you said he placed his penis inside your vagina, it is not in the outside of your vagina?

A: No, sir.

Q: It is inside?

A: Yes, sir.

Q: And did you tell what happened to you to any person?

A: Yes, sir.

Q: Whom did you made (sic) the report?

A: To my mother, sir.

Q: Why did you make a report to your mother?

A: Because it was painful sir.

Q: And what did you tell your Mama?

A: I told my mother that my vagina is painful, sir.

Court Interpreter: Witness is pointing to her vagina.¹⁷

This Court cannot give credence to the inconsistencies and/or incredibility alleged by accused-appellant for us to be swayed from upholding the findings of the courts *a quo*.

Foremost, this Court has, time and again, ruled that “questions on the credibility of witnesses should best be addressed to the trial court because of its unique position to observe that elusive and incommunicable evidence of the witnesses’ deportment on the stand while testifying which is denied to the appellate courts. The rule is even more stringently applied if the appellate court has concurred with the trial court”¹⁸ as in this case.

Furthermore, jurisprudence is to the effect that testimonies of rape victims who are young and of tender age are credible. An innocent child, especially one who is as young as a five-year-old girl, who reveals that her chastity was abused deserves full credit.¹⁹ A rape victim, especially one of tender age, would not normally concoct a story of defloration, allow an examination of her private parts and thereafter permit herself to be subjected to a public trial, if she is not motivated solely by the desire to have the culprit apprehended and punished. Hence, when a woman – more so if she is a minor – says that she has been raped, she says in effect all that is necessary to show that rape was committed; and as long as the testimony meets the test of credibility, the accused may be convicted on that basis alone.²⁰

¹⁷ TSN, Direct Examination, pp. 5-10.

¹⁸ *Supra* note 14.

¹⁹ *People v. Udtohan*, 815 Phil. 449, 463 (2017).

²⁰ *People v. YYY*, G.R. No. 234825, September 5, 2018.

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Besides, the fact that AAA gave a response that she did not see accused-appellant's penis when asked during cross-examination if she did, was unduly stretched by accused-appellant's interpretation to mean that there was no penetration that happened. Whether or not AAA saw accused-appellant's penis is of no moment. What is decisive in a charge of rape is the positive identification of the victim that accused-appellant inserted his penis inside the victim's vagina. To reiterate with emphasis, AAA testified, in a plain and straightforward manner, that accused-appellant did not touch her vagina but inserted his penis inside it. AAA was also able to identify the male and female private organ in open court despite her tender age.

Likewise, it is of no moment that AAA responded that she did not feel pain when accused-appellant inserted his penis into her vagina; and that it was only later the next morning when she felt pain while relieving herself. Contrary to accused-appellant's argument, pain in female genitalia is not a standard consequence after a first ever sexual intercourse.²¹ It is possible for physiological manifestations of rape, such as pain, to appear only after the incident. At any rate, it bears stressing that it is carnal knowledge, not pain nor bleeding, which is essential to consummate rape.²²

Moreover, the medico-legal report corroborated AAA's testimony. It showed the presence of "[s]uperficial, fresh lacerations at 3 and 6 o'clock positions" of AAA's hymen and that the "[m]edical evaluation showed evidence of sexual abuse."²³ Jurisprudence states that when the testimony of a rape victim is consistent with the medical findings, sufficient basis exists to warrant a conclusion that the essential requisite of carnal knowledge has been established.²⁴

Neither will accused-appellant's imputation of ill-motive against the victim's mother sway this Court. Motives such as extortion, resentment, or revenge never have swayed this Court from giving full credence to the testimony of a minor rape victim.²⁵ Besides, such imputation deserves scant consideration as it was utterly unsubstantiated.

In all, the positive testimony of the child victim in this case, corroborated by the testimonies of her mother and the police officer on-duty when they reported the incident of rape, coupled with the medico-legal findings, sufficiently established beyond reasonable doubt the elements of the crime charged, and clearly outweighs the denial proffered by the accused-appellant. Mere denial, without any strong evidence to support it, can scarcely overcome the positive declaration by the child-victim of the identity of the accused and his involvement in the crime attributed to him.²⁶

²¹ *People v. Loriga and Arevalo*, 383 Phil. 572, 582 (2000).

²² *People v. Barrido*, 794 Phil. 194, 206 (2016).

²³ CA rollo, p. 39.

²⁴ *People v. Barcelá*, 652 Phil. 134, 146 (2010).

²⁵ *Supra* note 19, at 465.

²⁶ *Id.*


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Thus, having established beyond reasonable doubt the elements of qualified statutory rape in this case, the CA correctly imposed the penalty of *reclusion perpetua*, without eligibility for parole, pursuant to Article 266-B of the RPC; in relation to Republic Act No. 9346.²⁷


As to the awards of damages, the CA correctly increased the civil indemnity, moral damages, and exemplary damages to ₱100,000.00 each and also correctly imposed a 6% per annum interest thereon from the finality of the decision until full satisfaction pursuant to *People v. Jugueta*.²⁸

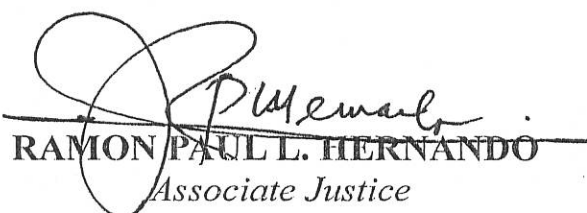
WHEREFORE, premises considered, the instant appeal is **DISMISSED**. The assailed Decision dated January 30, 2018 of the Court of Appeals in CA G.R. CR-HC No. 06453 is hereby **AFFIRMED in toto**.

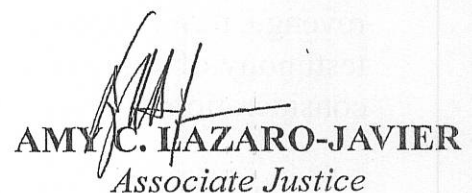
SO ORDERED.

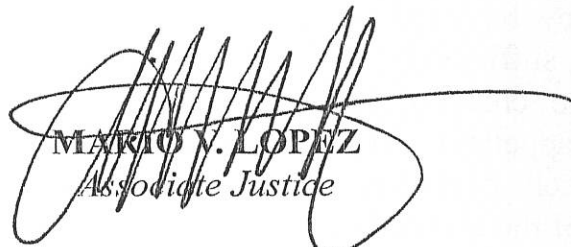

JOSE C. REYES, JR.
Associate Justice

WE CONCUR:


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice


RAMON PAUL L. HERNANDO
Associate Justice


AMY C. LAZARO-JAVIER
Associate Justice

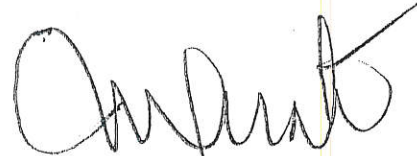

MARIO V. LOPEZ
Associate Justice

²⁷ AN ACT PROHIBITING THE IMPOSITION OF DEATH PENALTY IN THE PHILIPPINES, Approved: June 24, 2006.

²⁸ 783 Phil. 806, 848 (2016).

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.



DIOSDADO M. PERALTA
Chief Justice