



JUL 10 2019

BY: YSA
TIME: 3:30

Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 239336

Present:

- versus -

PERALTA, J., *Chairperson*,
LEONEN,
REYES, A., JR.,
HERNANDO, and
INTING, JJ.

CCC,
Accused-Appellant.

Promulgated:

June 3, 2019

[Signature]

X-----X

DECISION

PERALTA, J.:

For consideration of this Court is the appeal of the Decision¹ dated March 27, 2018 of the Court of Appeals (CA) in CA-G.R. CR HC No. 01705-MIN dismissing appellant CCC's appeal and affirming with modification the Decision² dated April 24, 2017 of the Regional Trial Court (RTC), Branch 22, [REDACTED], Cotabato City in Criminal Case No. 11-127, convicting the same appellant of the crime of Qualified Rape.

The facts follow.

¹ Penned by Associate Justice Ruben Reynaldo G. Roxas, with Associate Justices Edgardo T. Lloren and Walter S. Ong concurring; *rollo*, pp. 3-12.

² Penned by Presiding Judge Laureano T. Alzate; CA *rollo*, pp. 32-49.

[Signature]

AAA,³ the victim, is the biological daughter of appellant, who is married to AAA's mother (BBB) on December 26, 1998 as shown in AAA's Certificate of Live Birth. AAA was born on September 21, 1999.

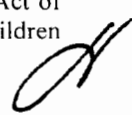
Sometime in September 2009, when AAA was 10 years old, she was sleeping inside their house with her sibling and their parents when at past midnight, she was awakened because she felt appellant inserting his erect penis into her vagina and succeeded in doing so, against her will. AAA was not able to shout for help because she was shocked and did not know what to do. She then felt pain in her vagina until appellant pulled his penis out. Thereafter, appellant put AAA's pajama back on. The same deed happened between AAA and the appellant less than ten (10) times on different occasions until AAA's mother, BBB and some church members noticed that AAA's belly was getting bigger. BBB brought AAA to a "hilot" who told them that AAA was pregnant prompting BBB to bring her daughter to a clinic for an ultrasound procedure to determine if she was really pregnant. The result of the ultrasound procedure showed that AAA was, indeed, pregnant. When BBB confronted AAA about her pregnancy, AAA told her mother that appellant was the one who had been having sexual intercourse with her. Thus, appellant left their house and stayed in another house. AAA eventually gave birth to a child at a hospital. The custody of AAA's child was then transferred to the Department of Social Welfare and Development.

Subsequently, AAA filed this case against appellant with an Information that reads as follows:

That sometime in September, 2009, in the Municipality of [REDACTED], Province of Cotabato, and within the jurisdiction of this Court, the said accused, with lewd design, through force and intimidation, did then and there willfully, unlawfully and feloniously have sexual intercourse with AAA, a minor, who is only 10 years old, and who is his own daughter, against her will.

³ This is pursuant to the ruling of this Court in *People of the Philippines v. Cabalquinto* (533 Phil. 703 (2006)), wherein this Court resolved to withhold the real name of the victims-survivors and to use fictitious initials instead to represent them in its decisions. Likewise, the personal circumstances of the victims-survivors or any other information tending to establish or compromise their identities, as well as those of their immediate family or household members, shall not be disclosed. The names of such victims, and of their immediate family members other than the accused, shall appear as "AAA," "BBB," "CCC," and so on. Addresses shall appear as "XXX" as in "No. XXX Street, XXX District, City of XXX."

The Supreme Court took note of the legal mandate on the utmost confidentiality of proceedings involving violence against women and children set forth in Sec. 29 of Republic Act No. 7610, otherwise known as Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act; Sec. 44 of Republic Act No. 9262, otherwise known as Anti-Violence Against Women and Their Children Act of 2004; and Sec. 40 of A.M. No. 04-10-11-SC, known as Rule on Violence Against Women and Their Children effective November 15, 2004.



This crime is attended by an aggravating circumstance of relationship.

CONTRARY TO LAW.⁴

On his arraignment on September 28, 2011, appellant entered a plea of “not guilty.” Trial on the merits ensued.

The prosecution presented the testimonies of AAA and her mother, BBB.

Appellant denied the charge against him. During his direct examination, when he was asked about her daughter’s motive in naming him as the one who violated her, appellant answered, “*Nagkasala po ako, your Honor*” (I have sinned, your Honor), but was not able to explain what had happened.⁵ And when asked whether he is admitting that he had carnal knowledge with his daughter, appellant replied, “Because according to Proverbs 28:13, *ang nagkukubli ng kanyang sala ay hindi mapapabuti ngunit kinakahabagan ng Diyos ay ang nagpaparito at nagsisisi.*” (Because according to Proverbs 28:13, whoever conceals his sins will not succeed but God is merciful to whoever confesses and repents for them.)⁶

The RTC found appellant guilty beyond reasonable doubt of the crime of Qualified Rape and sentenced him to suffer the penalty of *reclusion perpetua*. The dispositive portion of the Decision reads follows:

WHEREFORE, finding accused, CCC, GUILTY beyond reasonable doubt of the crime of qualified rape committed against AAA, he is hereby sentenced to suffer the penalty of *reclusion perpetua* with no possibility of parole and further, ordered him to indemnify AAA the amounts of Php75,000.00 as civil indemnity, Php50,000.00 as moral damages and Php25,000.00 as exemplary damages.

SO ORDERED.⁷

The CA affirmed the decision of the RTC with modification that appellant is guilty beyond reasonable doubt of Qualified Rape under Article 266-A, in relation to Article 266-B of the Revised Penal Code (*RPC*), and ordered appellant to pay AAA the amount of ₱100,000.00 as civil indemnity, ₱100,000.00 as moral damages, and ₱100,000.00 as exemplary damages, thus:

⁴ Records, p. 4.

⁵ TSN, March 30, 2017, pp. 7-8.

⁶ *Id.* at 9-10.

⁷ Records, p. 114.

WHEREFORE, premises considered, the appeal is DENIED. The Decision dated 24 April 2017 of the RTC, 12th Judicial Region, Branch 22, [REDACTED], Cotabato, in Crim. Case No. 11-127, finding appellant guilty beyond reasonable doubt for the crime of Qualified Rape under Article 266-A in relation to article 266-B of the Revised Penal Code is hereby AFFIRMED with MODIFICATIONS in that the award of civil indemnity, moral damages and exemplary damages are increased to One Hundred Thousand Pesos (P100,000), respectively each. The civil indemnity and damages shall earn interest at the legal rate of six percent (6%) per annum from date of finality of this Decision until fully paid.

SO ORDERED.⁸

Hence, the present appeal.

According to appellant, the prosecution was not able to prove his guilt beyond reasonable doubt.

The appeal lacks merit.

Under paragraph 1(a) of Article 266-A of the RPC, the elements of rape are: (1) that the offender had carnal knowledge of a woman; and (2) that such act was accomplished through force, threat, or intimidation. However, when the offender is the victim's father, as in this case, there need not be actual force, threat or intimidation because when a father commits the odious crime of rape against his own daughter who was also a minor at the time of the commission of the offenses, his moral ascendancy or influence over the latter substitutes for violence and intimidation.⁹ In this case, all the elements are present. In addition, the Certificate of Live Birth¹⁰ of AAA proves that she was 10 years old when she was raped by appellant and that the latter is her biological father, thus, qualifying the crime of rape.

In her testimony, AAA was categorical in her narration of the incident that happened, thus:

COURT: (To the witness).

Q – A while ago, you testified that you woke up, what prompted you to woke (sic) up?

A – I felt what was (sic) my father doing ot (sic) me, Your Honor.

x x x x

⁸ *Id.* at 12.

⁹ *People v. Fragante*, 657 Phil. 577, 592 (2011).

¹⁰ Exhibit “B,” Folder of Exhibits, p. 3.

PROS. FAJARDO:

Q – Why? What was he doing at that time when you woke up?

A – He was inserting his pennies (sic) into my vagina, sir.

x x x x

Q - And when you woke up, as you said, because of what your father was already doing to you, what did you do?

A – “Nagalisu-liso ako.” I was constantly moving, sir.

COURT: (To the witness)

We clarify the matters. Just refresh your memory.

Q – When you woke up passed (sic) 12:00 incident, was your father already attempting to insert his pennis (sic) into your vagina or your father had already inserted his pennies (sic) into your vagina?

A – He was still trying to insert his pennis (sic) into my vagina, Your Honor.

Q – And your pajama and your panty were already lowered up to your thigh?

A – Yes, Your Honor.

Q – What was your position at the time when your father was trying to insert his pennis (sic) into your vagina?

A – I was lying on my side, Your Honor.

Q – And your father was [at] your back?

A – Yes, Your Honor.

x x x x

PROS. FAJARDO:

Q – So, when you woke up, he was still trying to insert his pennis (sic) into your vagina?

A – Yes, sir.

Q – Was he able to insert his pennis (sic) to your vagina?

A – Yes, sir.

COURT: (To the witness).

Q – What did you feel, when his pennis (sic) entered into your vagina?

A – I felt pain, Your Honor.

Q – When the pennis (sic) of your father was inside your vagina, what did your father do?

A – He removed his pennis (sic) and put on my pajama, Your Honor.

Q – Did you observe if your father did a push and pull movement, when his pennis (sic) was inside your vagina?

A – Yes, Your Honor.

x x x x

PROS. FAJARDO:

Q – How long was he doing that?

A – I think within two (2) or three (3) minutes, sir.



Q – And after that, what happened?

A – “Nalabasan siya, sir.”

Q – Inside your vagina?

A – Out side (sic) of my vagina, sir.

Q – Madam Witness (sic), were you talking of that night, when you said, this was the first time? (sic)

A – Yes, sir.

Q – After that Madam Witness, was there any occasion that your father have done again to you? (sic)

A – Yes, sir.

Q – How many times?

A – I was not able to count, sir.

Q – You mean, when you say, you cannot count, another (sic) times, many times?

A – Yes, sir.

COURT: (To witness).

Q – From range one (1) to ten (10), what is the range?

A – Less than ten (10) times, Your Honor.

COURT: Clarificatory to the witness.

Q – How was your father able to insert his pennis (sic) of (sic) your vagina, and according to you, you were lying on your side, and your panty and your pajama were lowered up to your thigh only?

A – I was lying on my right side, while he was lying behind me. He inserted his pennis (sic) through my back, Your Honor.

x x x x

Q – Considering that you were lying beside your sister [DDD] and your mother, why did you not shout for help? While your father was doing the pushed (sic) and pull movement as his pennis (sic) was already inserted your vagina? (sic)

A – Because that time, Your Honor, I don't know what to do. I was shocked, as if I was out of my mind, Your Honor.

Q – [W]hen you said, as if you were out of your mind, were you still conscious on that particular moment, while your father was doing the push and pull movement when his pennis (sic) was inside your vagina?

A – What I mean, what I said, I was out of my mind, I don't know what to do, Your Honor.

Q – Why you did (sic) not push away your father, while his erected pennis (sic) inside your vagina?

A – I was still innocent that time, Your Honor, and I don't know what to do.¹¹

In questioning the credibility of the victim's testimony, appellant argues that it is impossible for her to have been raped since she was sleeping inside their room with her mother and her sister. He adds that AAA could have easily resisted any assault on her person and sought help from her mother or sister who were sleeping beside her. Thus, according to appellant, AAA's testimony is incredulous and contrary to human experience.

Appellant's argument is untenable. It is recognized that lust is no respecter of time and place; rape can thus be committed even in places where people congregate, in parks, along the roadside, within school premises, inside a house where there are other occupants, and even in the same room where other members of the family are also sleeping.¹² In *People v. Nuyok*,¹³ this Court held that the presence of other people in a cramped space does not restrict the actions of someone who commits the crime of rape, thus:

The presence of others as occupants in the same house where the accused and AAA lived did not necessarily deter him from committing the rapes. The crowded situation in any small house would sometimes be held to minimize the opportunity for committing rape, but it has been shown repeatedly by experience that many instances of rape were committed not in seclusion but in very public circumstances. Cramped spaces of habitation have not halted the criminal from imposing himself on the weaker victim, for privacy is not a hallmark of the crime of rape. x x x¹⁴

Time and again, the Court has held that there is no uniform behavior that can be expected from those who had the misfortune of being sexually molested.¹⁵ While there are some who may have found the courage early on to reveal the abuse they experienced, there are those who have opted to initially keep the harrowing ordeal to themselves and attempt to move on with their lives.¹⁶ This is because a rape victim's actions are oftentimes overwhelmed by fear rather than by reason.¹⁷ The perpetrator of the rape hopes to build a climate of extreme psychological terror, which would numb his victim into silence and submissiveness.¹⁸ In fact, incestuous rape further magnifies this terror, for the perpetrator in these cases, such as the victim's father, is a person normally expected to give solace and protection to the victim.¹⁹ Moreover, in incest, access to the victim is guaranteed by the blood relationship, magnifying the sense of helplessness and the degree of fear.²⁰

¹² *People v. Traigo*, 734 Phil. 726, 730 (2014).

¹³ 759 Phil. 437 (2015).

¹⁴ *Id.* at 454.

¹⁵ *People v. Noel Navasero, Sr.*, G.R. No. 234240, February 6, 2019.

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*, citing *People v. Descartin, Jr.*, G.R. No. 215195, June 7, 2017, 826 SCRA 650, 663.

This Court, therefore, shall uphold the credibility of AAA's testimony. In *People v. Malana*,²¹ this Court ruled that when the issue is one of credibility of witnesses, appellate courts will generally not disturb the findings of the trial court, thus:

In reviewing rape cases we are guided by the following well-entrenched principles: (1) an accusation for rape can be made with facility: it is difficult to prove but more difficult for the person accused, though innocent, to disprove it; (2) in view of the intrinsic nature of the crime of rape where only two persons are usually involved, the testimony of the complainant must be scrutinized with extreme caution; and (3) the evidence for the prosecution must stand or fall on its own merits, and cannot be allowed to draw strength from the weakness of the evidence for the defense.

The determination of the credibility of the offended party's testimony is a most basic consideration in every prosecution for rape, for the lone testimony of the victim, if credible, is sufficient to sustain the verdict of conviction. As in most rape cases, the ultimate issue in this case is credibility. In this regard, when the issue is one of credibility of witnesses, appellate courts will generally not disturb the findings of the trial court, considering that the latter is in a better position to decide the question as it heard the witnesses themselves and observed their deportment and manner of testifying during trial. The exceptions to the rule are when such evaluation was reached arbitrarily, or when the trial court overlooked, misunderstood or misapplied some facts or circumstance of weight and substance which could affect the result of the case. None of these circumstances are present in the case at bar to warrant its exception from the coverage of this rule.

It is well-established that when a woman says that she has been raped, she says, in effect, all that is necessary to show that she has indeed been raped. A victim of rape would not come out in the open if her motive were anything other than to obtain justice. Her testimony as to who abused her is credible where she has absolutely no motive to incriminate and testify against the accused, as in this case where the accusations were raised by private complainant against her own father.²²

Anent appellant's defense of denial, bare assertions thereof cannot overcome the categorical testimony of the victim. Denial is an intrinsically weak defense which must be buttressed with strong evidence of non-culpability to merit credibility.²³

As to the penalty imposed, the RTC was correct in imposing the penalty of *reclusion perpetua* in lieu of death because of its suspension under R.A. No. 9346.²⁴

²¹ 646 Phil. 290 (2010).

²² *Id.* at 301-303. (Citations omitted).

²³ *People v. Abulon*, 557 Phil. 428, 447 (2007).

²⁴ Art. 266-B, Revised Penal Code. x x x

The death penalty shall also be imposed if the crime of rape is committed with any of the following aggravating/qualifying circumstances:

As to the award of damages, the modifications made by the CA already conform to the latest jurisprudence on the matter.²⁵

WHEREFORE, the appeal of CCC is **DISMISSED** for lack of merit, and the Decision dated March 27, 2018 of the Court of Appeals in CA-G.R. CR HC No. 01705-MIN, dismissing appellant's appeal and affirming with modification, the Decision dated April 24, 2017 of the Regional Trial Court, Branch 22, [REDACTED], Cotabato City in Criminal Case No. 11-127, convicting appellant of Qualified Rape defined and penalized under Article 266-A (1) in relation to Article 266-B of the RPC, as amended by R.A. No. 8353, and imposing the penalty of *Reclusion Perpetua* without eligibility for parole under R.A. No. 9346, is **AFFIRMED**.

SO ORDERED.



DIOSDADO M. PERALTA
Associate Justice

1) When the victim is under eighteen (18) years of age and the offender is a parent, ascendant, stepparent, 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

²⁵ See *People v. Jugueta*, 783 Phil. 806 (2016).



WE CONCUR:


MARVIC MARIO VICTOR F. LEONEN
 Associate Justice



ANDRES B. REYES, JR.
 Associate Justice


RAMON PAUL L. HERNANDO
 Associate Justice


HENRI JEAN PAUL B. INTING
 Associate Justice

ATTESTATION

I attest 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
 Associate Justice
 Chairperson, Third Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, 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.


LUCAS P. BERSAMIN
 Chief Justice