



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 244288

Present:

- versus -

PERLAS-BERNABE,
Acting Chief Justice,;*
Chairperson,
REYES, A., JR.,
HERNANDO,
INTING, and
DELOS SANTOS, JJ.

XXX,

Accused-Appellant.

Promulgated:

04 MAR 2020

X-----X

DECISION

REYES, JR., A.B., J.:

The Case

On appeal before this Court is the Decision¹ rendered by the Court of Appeals (CA) on September 27, 2018 in CA-G.R. CR HC NO. 09601, which affirmed the June 28, 2017 Judgment² of the Regional Trial Court (RTC) of [REDACTED], Catanduanes, Branch 43, in Criminal Case Nos. 4746 to 4751 and 4752 to 4763, finding accused-appellant XXX guilty beyond reasonable doubt of

* Acting Chief Justice per Special Order No. 2775, dated March 1, 2020.

¹ Penned by Associate Justice Stephen C. Cruz with Associate Justices Zenaida T. Galapate-Laguilles and Rafael Antonio M. Santos concurring; *rollo*, pp. 3-25.

² Penned by Judge Lelu P. Contreras; *CA rollo*, pp. 72-92.

six counts of Rape against AAA,³ and 12 counts of Rape qualified by minority and relationship against BBB,⁴ both of whom are his biological daughters.

The Antecedent Facts

On November 26, 2002, 18 separate informations were filed against herein accused-appellant charging him with 18 counts of Rape, committed against his own daughters, AAA and BBB, to wit:

Criminal Case No. 4746⁵

That one evening in May, 2004, at [REDACTED], Province of Catanduanes, Philippines and within the jurisdiction of this Honorable Court, the abovenamed accused, by means of force, threat and intimidation, with lewd design, did then and there willfully, unlawfully and feloniously, have carnal knowledge of AAA, without her consent, which said acts debased, degraded or demeaned the intrinsic worth and dignity of said child victim and human being, to her damage and prejudice and of the general public.

That the crime was aggravated by the relationship of the accused to the victim, the latter being his daughter, and the minority of the victim, she being only eight (8) years of age at the time of the incident.

CONTRARY TO LAW.

Criminal Case No. 4747⁶

That on the evening of June 2, 2004, at [REDACTED], Province of Catanduanes, Philippines and within the jurisdiction of this Honorable Court, the abovenamed accused, by means of force, threat and intimidation, with lewd design, did then and there willfully, unlawfully and feloniously, have carnal knowledge of AAA, without her consent, which said acts debased, degraded or demeaned the intrinsic worth and dignity of said child victim and human being, to her damage and prejudice and of the general public.

That the crime was aggravated by the relationship of the accused to the victim, the latter being his daughter, and the minority of the victim, she being only nine (9) years of age at the time of the incident.

CONTRARY TO LAW.

Criminal Case No. 4748⁷

That on the evening of November 30, 2004, at [REDACTED], Province of Catanduanes, Philippines and within the jurisdiction of this Honorable Court, the abovenamed accused,

³ The names and personal circumstances of the private complainants and their immediate family are withheld per Republic Act (RA) No. 7610 or the Special Protection of Children Against Child Abuse, Exploitation, and Discrimination Act (1992), RA No. 9262 or the Anti-Violence Against Women and Their Children Act of 2004, and Office of the Court Administrator Amended Administrative Circular No. 83-2015.

⁴ Id.

⁵ Records, Criminal Case No. 4746, p. 1.

⁶ Records, Criminal Case No. 4747, p. 1.

⁷ Records, Criminal Case No. 4748, p. 1.

Meyer

by means of force, threat and intimidation, with lewd design, did then and there willfully, unlawfully and feloniously, have carnal knowledge of AAA, without her consent, which said acts debased, degraded or demeaned the intrinsic worth and dignity of said child victim and human being, to her damage and prejudice and of the general public.

That the crime was aggravated by the relationship of the accused to the victim, the latter being his daughter, and the minority of the victim, she being only nine (9) years of age at the time of the incident.

CONTRARY TO LAW.

Criminal Case No. 4749⁸

That on the evening in December 16, 2004, at [REDACTED], Province of Catanduanes, Philippines and within the jurisdiction of this Honorable Court, the abovenamed accused, by means of force, threat and intimidation, with lewd design, did then and there willfully, unlawfully and feloniously, have carnal knowledge of AAA, without her consent, which said acts debased, degraded or demeaned the intrinsic worth and dignity of said child victim and human being, to her damage and prejudice and of the general public.

That the crime was aggravated by the relationship of the accused to the victim, the latter being his daughter, and the minority of the victim, she being only nine (9) years of age at the time of the incident.

CONTRARY TO LAW.

Criminal Case No. 4750⁹

That on the evening in December 16, 2005, at [REDACTED], Province of Catanduanes, Philippines and within the jurisdiction of this Honorable Court, the abovenamed accused, by means of force, threat and intimidation, with lewd design, did then and there willfully, unlawfully and feloniously, have carnal knowledge of AAA, without her consent, which said acts debased, degraded or demeaned the intrinsic worth and dignity of said child victim and human being, to her damage and prejudice and of the general public.

That the crime was aggravated by the relationship of the accused to the victim, the latter being his daughter, and the minority of the victim, she being only ten (10) years of age at the time of the incident.

CONTRARY TO LAW.

Criminal Case No. 4751¹⁰

That one evening sometime in Nov. 2006, at [REDACTED], Province of Catanduanes, Philippines and within the jurisdiction of this Honorable Court, the abovenamed accused, by means of force, threat and intimidation, with lewd design, did then and there willfully, unlawfully and feloniously, have carnal knowledge of AAA,

⁸ Records, Criminal Case No. 4749, p. 1.

⁹ Records, Criminal Case No. 4750, p. 1.

¹⁰ Records, Criminal Case No. 4751, p. 1.

Mejia

without her consent, which said acts debased, degraded or demeaned the intrinsic worth and dignity of said child victim and human being, to her damage and prejudice and of the general public.

That the crime was aggravated by the relationship of the accused to the victim, the latter being his daughter, and the minority of the victim, she being only ten (10) years of age at the time of the incident.

CONTRARY TO LAW.

Criminal Case No. 4752¹¹

That on the evening in July 24, 2008, at [REDACTED], Province of Catanduanes, Philippines and within the jurisdiction of this Honorable Court, the above named accused, exercising moral ascendancy over the minor victim being the latter's father, did then and there by means of force, threat and intimidation, with lewd design, have carnal knowledge of BBB, a child under twelve years of age, without her consent, which said acts debased, degraded or demeaned the intrinsic worth and dignity of said child victim and human being, to her damage and prejudice.

That the crime was aggravated by the relationship of the accused to the victim, the latter being his daughter, and the minority of the victim, she being only eight (8) years of age at the time of the incident.

CONTRARY TO LAW.

Criminal Case No. 4753¹²

That on the evening of August 2, 2008, at [REDACTED], Province of Catanduanes, Philippines and within the jurisdiction of this Honorable Court, the above named accused, exercising moral ascendancy over the minor victim being the latter's father, did then and there by means of force, threat and intimidation, with lewd design, have carnal knowledge of BBB, a child under twelve years of age, without her consent, which said acts debased, degraded or demeaned the intrinsic worth and dignity of said child victim and human being, to her damage and prejudice.

That the crime was aggravated by the relationship of the accused to the victim, the latter being his daughter, and the minority of the victim, she being only eight (8) years of age at the time of the incident.

CONTRARY TO LAW.

Criminal Case No. 4754¹³

That on the evening in November 14, 2008, at [REDACTED], Province of Catanduanes, Philippines and within the jurisdiction of this Honorable Court, the abovenamed accused, exercising moral ascendancy over the minor victim being the latter's father, did then and there by means of force, threat and intimidation, with lewd

¹¹ Records, Criminal Case No. 4752, p. 1.

¹² Records, Criminal Case No. 4753, p. 1.

¹³ Records, Criminal Case No. 4754, p. 1.

Meyer

design, have carnal knowledge of BBB, a child under twelve years of age, without her consent, which said acts debased, degraded or demeaned the intrinsic worth and dignity of said child victim and human being, to her damage and prejudice.

That the crime was aggravated by the relationship of the accused to the victim, the latter being his daughter, and the minority of the victim, she being only eight (8) years of age at the time of the incident.

CONTRARY TO LAW.

Criminal Case No. 4755¹⁴

That on the evening of December 24, 2008, at [REDACTED], Province of Catanduanes, Philippines and within the jurisdiction of this Honorable Court, the abovenamed accused, exercising moral ascendancy over the minor victim being the latter's father, did then and there by means of force, threat and intimidation, with lewd design, have carnal knowledge of BBB, a child under twelve years of age, without her consent, which said acts debased, degraded or demeaned the intrinsic worth and dignity of said child victim and human being, to her damage and prejudice.

That the crime was aggravated by the relationship of the accused to the victim, the latter being his daughter, and the minority of the victim, she being only eight (8) years of age at the time of the incident.

CONTRARY TO LAW.

Criminal Case No. 4756¹⁵

That on the evening in December 31, 2008, at [REDACTED], Province of Catanduanes, Philippines and within the jurisdiction of this Honorable Court, the abovenamed accused, exercising moral ascendancy over the minor victim being the latter's father, did then and there by means of force, threat and intimidation, with lewd design, have carnal knowledge of BBB, a child under twelve years of age, without her consent, which said acts debased, degraded or demeaned the intrinsic worth and dignity of said child victim and human being, to her damage and prejudice.

That the crime was aggravated by the relationship of the accused to the victim, the latter being his daughter, and the minority of the victim, she being only eight (8) years of age at the time of the incident.

CONTRARY TO LAW.

Criminal Case No. 4757¹⁶

That on the evening of January 17, 2009, at [REDACTED], Province of Catanduanes, Philippines and within the jurisdiction of this Honorable Court, the abovenamed accused, exercising moral ascendancy over the minor victim being the latter's father,

¹⁴ Records, Criminal Case No. 4755, p. 1.

¹⁵ Records, Criminal Case No. 4756, p. 1.

¹⁶ Records, Criminal Case No. 4757, p. 1.

Meyer

did then and there by means of force, threat and intimidation, with lewd design, have carnal knowledge of BBB, a child under twelve years of age, without her consent, which said acts debased, degraded or demeaned the intrinsic worth and dignity of said child victim and human being, to her damage and prejudice.

That the crime was aggravated by the relationship of the accused to the victim, the latter being his daughter, and the minority of the victim, she being only eight (8) years of age at the time of the incident.

CONTRARY TO LAW.

Criminal Case No. 4758¹⁷

That on the evening of December 24, 2009, at [REDACTED], Province of Catanduanes, Philippines and within the jurisdiction of this Honorable Court, the abovenamed accused, exercising moral ascendancy over the minor victim being the latter's father, did then and there by means of force, threat and intimidation, with lewd design, have carnal knowledge of BBB, a child under twelve years of age, without her consent, which said acts debased, degraded or demeaned the intrinsic worth and dignity of said child victim and human being, to her damage and prejudice.

That the crime was aggravated by the relationship of the accused to the victim, the latter being his daughter, and the minority of the victim, she being only nine (9) years of age at the time of the incident.

CONTRARY TO LAW.

Criminal Case No. 4759¹⁸

That on the evening of December 31, 2009, at [REDACTED], Province of Catanduanes, Philippines and within the jurisdiction of this Honorable Court, the abovenamed accused, exercising moral ascendancy over the minor victim being the latter's father, did then and there by means of force, threat and intimidation, with lewd design, have carnal knowledge of BBB, a child under twelve years of age, without her consent, which said acts debased, degraded or demeaned the intrinsic worth and dignity of said child victim and human being, to her damage and prejudice.

That the crime was aggravated by the relationship of the accused to the victim, the latter being his daughter, and the minority of the victim, she being only nine (9) years of age at the time of the incident.

CONTRARY TO LAW.

Criminal Case No. 4760¹⁹

That on the evening of December 24, 2010, at [REDACTED], Province of Catanduanes, Philippines and within the jurisdiction of this Honorable Court, the abovenamed accused,

¹⁷ Records, Criminal Case No. 4758, p. 1.

¹⁸ Records, Criminal Case No. 4759, p. 1.

¹⁹ Records, Criminal Case No. 4760, p. 1.

Meyers

exercising moral ascendancy over the minor victim being the latter's father, did then and there by means of force, threat and intimidation, with lewd design, have carnal knowledge of BBB, a child under twelve years of age, without her consent, which said acts debased, degraded or demeaned the intrinsic worth and dignity of said child victim and human being, to her damage and prejudice.

That the crime was aggravated by the relationship of the accused to the victim, the latter being his daughter, and the minority of the victim, she being only ten (10) years of age at the time of the incident.

CONTRARY TO LAW.

Criminal Case No. 4761²⁰

That on the evening of December 31, 2010, at [REDACTED], Province of Catanduanes, Philippines and within the jurisdiction of this Honorable Court, the abovenamed accused, exercising moral ascendancy over the minor victim being the latter's father, did then and there by means of force, threat and intimidation, with lewd design, have carnal knowledge of BBB, a child under twelve years of age, without her consent, which said acts debased, degraded or demeaned the intrinsic worth and dignity of said child victim and human being, to her damage and prejudice.

That the crime was aggravated by the relationship of the accused to the victim, the latter being his daughter, and the minority of the victim, she being only ten (10) years of age at the time of the incident.

CONTRARY TO LAW.

Criminal Case No. 4762²¹

That on the evening of January 1, 2011, at [REDACTED], Province of Catanduanes, Philippines and within the jurisdiction of this Honorable Court, the abovenamed accused, exercising moral ascendancy over the minor victim being the latter's father, did then and there by means of force, threat and intimidation, with lewd design, have carnal knowledge of BBB, a child under twelve years of age, without her consent, which said acts debased, degraded or demeaned the intrinsic worth and dignity of said child victim and human being, to her damage and prejudice.

That the crime was aggravated by the relationship of the accused to the victim, the latter being his daughter, and the minority of the victim, she being only ten (10) years of age at the time of the incident.

CONTRARY TO LAW.

Criminal Case No. 4763²²

That one evening in November, 2011, at [REDACTED], Province of Catanduanes, Philippines and

²⁰ Records, Criminal Case No. 4761, p. 1.

²¹ Records, Criminal Case No. 4762, p. 1.

²² Records, Criminal Case No. 4763, p. 1.

Mejia

within the jurisdiction of this Honorable Court, the abovenamed accused, exercising moral ascendancy over the minor victim being the latter's father, did then and there by means of force, threat and intimidation, with lewd design, have carnal knowledge of BBB, a child under twelve years of age, without her consent, which said acts debased, degraded or demeaned the intrinsic worth and dignity of said child victim and human being, to her damage and prejudice.

That the crime was aggravated by the relationship of the accused to the victim, the latter being his daughter, and the minority of the victim, she being only eleven (11) years of age at the time of the incident.

CONTRARY TO LAW.

Arraigned upon these informations, accused-appellant entered a negative plea to all of them. A preliminary conference having been conducted, trial on the merits thereafter ensued.²³

The version of the prosecution

In these 18 cases, the prosecution presented the testimonies of the following: the private complainants (1) AAA and (2) BBB; (3) PO2 Maricel Masagca (PO2 Masagca); (3) PO3 Catherine Surban (PO3 Surban); (4) Dr. Gibson Gabitan (Dr. Gabitan); and (5) Punong Barangay Lino Suarez (PB Suarez).²⁴

Accused-appellant and his wife had four children during their marriage: AAA, who was born on June 2, 1995; BBB, who was born on November 12, 2000; a third daughter; and a son.²⁵

Owing to accused-appellant's extreme cruelty, his wife left the family to work in Manila when AAA was about seven years old. During her testimony, AAA recalled an incident when accused-appellant, who was having a drinking spree, had dragged her mother because of jealousy. When her mother returned from Manila because of the death of their grandfather, she wanted to take them (the children) into her custody, but accused-appellant caught up with her near the river and forced her to eat sand. After her mother had left the family, AAA's horrifying and harrowing ordeal in the hands of accused-appellant began, as the latter turned to her to satisfy his sexual needs. Accused-appellant even justified his bestial acts against AAA by saying, "*Kung dai ko binyaan ni mama mo, dai ko man ini gigibohon*" (Had your mother not left me, I would not be doing this).²⁶

During the investigation conducted by PO2 Masagca, AAA could not recall the exact dates and times when she was raped by accused-appellant because she was always crying. Notwithstanding, PO2 Masagca exerted efforts to help AAA recall some of the dates. Thus, AAA's *Sinumpaang*

²³ CA rollo, p. 79.

²⁴ Rollo, p. 12.

²⁵ Id.

²⁶ Id.

Meyer

Salaysay indicated only the period from May 2004 to November 2006 while the entry in the police blotter shows only the years 2004 until 2006. However, during the clarificatory hearing conducted by the investigating prosecutor on November 25, 2012, AAA was able to recall some of the incidents that transpired on or around an important occasion or event.²⁷

For instance, AAA recalled that on the evening of May 2004, there was a typhoon and she (AAA) was lying down in supine position when accused-appellant undressed her, pulled down his own shorts and inserted his penis into her vagina while on top of her. On June 2, 2004, AAA's birthday, accused-appellant, after a drinking spree held AAA's hands, undressed her and repeated what he did before. On the evening of November 30, 2004, the Fiesta of San Andres, accused-appellant was drunk again. He burned their clothes under the bed and uttered, "I will kill you." He violated AAA again and told AAA, "*Kung dai ko binyaan ni mama mo, dai ko man ini gigibohon*" (Had your mother not left me, I would not be doing this). On the evening of December 16, 2004, *Simbang Gabi*, a drunk accused-appellant again assaulted AAA. He violated AAA on the evening of the following year, December 16, 2005, during a *Simbang Gabi*. Sometime in the evening of November 2006, accused-appellant yet again violated AAA.²⁸

Stock must be taken of the fact that all these sexual abuses were committed against AAA inside the house of her paternal grandmother at [REDACTED] while she was with her siblings, who were asleep. On one occasion, while being raped, she was threatened by accused-appellant that he would kill all of them if she made any noise.²⁹ AAA did not disclose her violations to her grandmother because she believed that the latter always tended to side with her son. She would only cry every time accused-appellant abused her and would get angry with the latter because of the excruciating pain she felt, not knowing why she became the object of her father's lecherous propensities. Although she did not bleed, AAA knew that accused-appellant's penis was inserted into her vagina, because her *puson* (hypogastric area) was painful and she noticed something sticky.³⁰

During the occurrence of a typhoon in November 2006, AAA was invited by her aunt, [REDACTED] (Auntie [REDACTED]), to sleep in their house and she accepted the invitation as she did not want what accused-appellant had been doing to her. Since then, she refused to go home. While unwilling to go home, AAA did not tell her Auntie [REDACTED] the real reason for her leaving as she was afraid that accused-appellant might do something to her siblings, who were still staying with him. It was only when BBB confided to their Auntie [REDACTED] that she had also been raped by accused-appellant that AAA revealed what happened to her.³¹

²⁷ *Rollo*, pp. 12-13.

²⁸ *Id.* p. 13; *CA rollo*, p. 81.

²⁹ "*Dai magpaparibok ta gagadanon ko kamo*"; *rollo*, p. 14.

³⁰ *Id.*

³¹ *Id.*

Meyer

During the investigation conducted by PO3 Surban, BBB also could not recall the exact dates when she was repeatedly abused by accused-appellant. Thus, both BBB's *Sinumpaang Salaysay* and the entry in the police blotter indicated only the year 2008 to November 2011. During the clarificatory hearing conducted by the investigating prosecutor on November 23, 2012, BBB was able to recall the incidents of sexual abuse which transpired at or near important occasions or events.³²

Particularly, BBB recalled that at about 7:00 in the evening of July 24, 2008, she (BBB), the accused-appellant, and her siblings went swimming in Barangay Bon-ot, San Andres to celebrate the birthday of their neighbor. Accused-appellant, who was drunk, made BBB face him, placed her left leg over his leg, and kissed her mouth. He also unzipped his pants, pulled down her shorts and underwear, and inserted his penis into her vagina. On August 2, 2008, at 8:00 pm, accused-appellant held BBB's breast while holding his penis. He then inserted his penis inside her vagina. Accused-appellant had sexual intercourse with BBB again on November 14, 2008 at about 7:00 or 8:00 in the evening, two days after BBB celebrated her birthday. The same sexual abuse was committed against BBB on December 24, 2008 at about 10:00 or 11:00 pm. At that time, accused-appellant had a drinking spree at their neighbor's place while waiting for *Noche Buena*. At about 9:00 or 10:00 pm on December 31, 2008, before New Year's Day, accused-appellant made BBB face him as the latter was pretending to be asleep. He then unzipped his zipper, removed BBB's shorts and underwear and inserted his penis into her vagina. He raped her again on the evening of January 17, 2009, a couple of days before the barangay fiesta. Accused-appellant once again violated BBB on Christmas Eve of 2009 and on New Year's Eve of 2009 and 2010. Another abuse was committed on the evening of January 1, 2011. After BBB had celebrated her birthday on November 12, 2011 and when accused-appellant's girlfriend was already staying at their house, BBB's was once again raped by accused-appellant.³³

When accused-appellant raped BBB for the first time, she kept silent because she was afraid. At that time, she had no knowledge of what accused-appellant was doing to her and she cried thereafter. BBB recalled of a time she resisted accused-appellant by turning her back towards him, but he would turn her body to face him and would not notice that she had woken up. Whenever she was sexually abused, she would just cry and question why accused-appellant would do such things to her every time he was drunk. According to BBB, the incidents in 2008 and 2009 were committed while she and accused-appellant were living in the house of their grandmother. In 2009, they transferred to a small house. She could not remember seeing blood stains in her private parts when she was first sexually abused as she was not yet aware of what was happening and simply felt pain when she urinated.³⁴

³² Id.

³³ *Rollo*, pp. 15-16; *CA rollo*, pp. 83-84.

³⁴ *CA rollo*, pp. 84-85.

In 2012, when she was already fed up with accused-appellant's repeated assaults, BBB told Auntie ■ about what had happened. Despite being informed of what was done to AAA and BBB, Auntie ■ did not yet take any action except to send BBB to ■ to stay with their mother's sister. Accused-appellant then filed a case against Auntie ■ for sending BBB away, which caused the parties to meet at the barangay hall. Thereat, accused-appellant asked Auntie ■ why BBB was allowed to go to ■, prompting AAA to respond that it was better to spare her because she [AAA] thought that what the former did was only done to her. AAA did not even mention that accused-appellant had sexually abused them then, but it was he who said that he did not rape them.³⁵

PB Suarez confirmed the complaint against Auntie ■ and testified that a mediation conference was conducted on June 17, 2012 where the latter, accused-appellant, AAA and BBB were inside the session hall of the barangay. Thereat, AAA cursed at accused-appellant and wanted him to go to jail. When asked by PB Suarez about the reaction of her sister, BBB told him that what should not be done to them by their father was committed by accused-appellant. When PB Suarez asked if she was raped, BBB answered in the affirmative. PB Suarez then called a policeman, relayed the information and accompanied the private complainants and Auntie ■ to the police station to report the incidents. Thereafter, AAA and BBB were brought to the J.M. Alberto Memorial Hospital for examination.³⁶

Dr. Gabitan examined both AAA and BBB on June 17, 2012. His findings on both of them indicated "grossly normal-looking external genitalia; no lacerations, no hematoma, hymen not present." Dr. Gabitan explained that he was not able to see any lacerations on the genitals of AAA and BBB, considering they were children "whose development is rapid growth and the replacement of the tissues appeared." He also confirmed that there is a possibility of an insertion without any bleeding depending on the hymen, as there are those that are very elastic and fibrous and during any time of insertion, they may not sustain any bleeding at all.³⁷

The version of the defense

Denying the accusations against him, accused-appellant claimed that in the years 2003 and 2004, he worked in Muntinlupa City as a mason for AVIDA, a construction company. In 2005, he returned to Catanduanes and worked in a Day Care Center in the Municipality of Gigmoto for seven straight months during which time he stayed in the barracks. After they were pulled out of the said project, he worked in Bon-ot, San Andres building cottages on the beach. He claimed that in between this project, he went home to ■ and stayed there with his other daughter and son, while AAA was residing with her Auntie ■ and BBB stayed with his cousin, ■. He worked from 6:00 am to 5:00 pm and claimed that he only saw AAA and

³⁵ Id. at 85-86.

³⁶ Id. at 86.

³⁷ Id. at 86-87.

Meyer

BBB in school. Accused-appellant had no idea or reason why AAA and BBB that charged him with rape.³⁸

Accused-appellant did not adduce a shred of evidence that he worked as a mason or construction worker. Although he claimed that he was issued an Identification Card (or ID), he did not present it in court. He claimed that whenever AAA and BBB met him, they would kiss his hand; that he had a good relationship with his children, especially because he sent them money and showed them love and care. Thus, he was surprised when AAA and BBB accused him of rape that was raised before the *Punong Barangay*.³⁹

The Ruling of the RTC

After due proceedings, the RTC found accused-appellant guilty beyond reasonable doubt of six counts of Rape against AAA and 12 counts of rape against BBB, both of which are qualified by minority and relationship. The RTC gave credence to the testimonies of the private complainants as child victims and was convinced that accused-appellant had repeatedly raped them as alleged in the informations.

Regarding them as weak defenses, the RTC rejected accused-appellant's denial and alibi. In its Judgment⁴⁰ of June 28, 2017, the RTC disposed of the cases in this wise:

WHEREFORE, this Court finds XXX GUILTY beyond reasonable doubt of six (6) counts of **RAPE** committed against AAA and twelve (12) counts of **RAPE** committed against BBB and is, hereby, sentenced to suffer the penalty of *reclusion perpetua* on eighteen (18) counts, without eligibility for parole and to pay each of the victims, AAA and BBB, the amounts of SEVENTY-FIVE THOUSAND PESOS (₱75,000.00), as civil indemnity, SEVENTY-FIVE THOUSAND PESOS (₱75,000.00), as moral damages and SEVENTY-FIVE THOUSAND PESOS (₱75,000.00), as exemplary damages, for each count, which shall be subject to legal interest at the rate of six percent (6%) *per annum* from the date of finality of judgment until fully paid.

SO ORDERED.⁴¹

On appeal, accused-appellant maintained that the prosecution failed to prove that he even had carnal knowledge of AAA and BBB.⁴² He challenged the credibility of the private complainants and asserted that it was impossible for him to have raped them, given the testimonies of the two that they were raped in the same room where all of his other children were sleeping. Accused-appellant argued that a slight movement in the said room would surely have awaken his other children.⁴³ He added that the medical findings

³⁸ Id. at 87.

³⁹ Id. at 88.

⁴⁰ Supra note 2.

⁴¹ Id. at 91-92.

⁴² Id. at 66.

⁴³ Id. at 66-67.

Meyer

do not support the theory that the private complainants had been raped because these medical findings failed to determine whether AAA and BBB had previous sexual intercourse.⁴⁴

The Ruling of the CA

Upholding the credibility of the private complainants and the reliability of their straightforward testimonies, the CA held that questions pertaining to the same should have been addressed before the trial court. The CA also found that the testimony of Dr. Gabitan refuted accused-appellant's claim as the former testified that it is possible for a laceration to be replaced by other tissues if the examination was conducted more than a year after the sexual abuse was committed.⁴⁵ Furthermore, the CA held that the testimony of the victim, and not the findings of the medico-legal officer, is the most important element to prove that the crime of rape has been committed. The CA likewise added that accused-appellant failed to establish any ill motive that could have compelled AAA and BBB to falsely accuse him of committing such crime.

In the end, the CA merely modified the RTC's judgement only with respect to the award of civil indemnity and damages, the decretal portion of the assailed Decision dated September 27, 2018 reads:

WHEREFORE, premises considered, the instant appeal is hereby **DENIED**. The Judgment dated June 28, 2017 of the Regional Trial Court (RTC), Branch 43 of Virac, Catanduanes, is **AFFIRMED with MODIFICATION** that the award of civil indemnity, moral damages and exemplary damages are increased to Php100,000, respectively, for each count of Qualified Rape. In addition, thereto, an interest is imposed on all damages awarded at the rate of six (6%) percent *per annum* from date of finality of judgment until its fully paid.

SO ORDERED.⁴⁶

Hence, this instant appeal. In its manifestation dated June 27, 2019, the plaintiff-appellee People of the Philippines expressed that it will no longer be filing any supplemental briefs in view of the arguments presented in its appellee's brief.⁴⁷ Accused-appellant manifested the same with respect to his appellant's brief in his manifestation dated July 17, 2019.⁴⁸

The Issues

Before this Court, the accused-appellant once again raise the following issues:

- I. WHETHER OR NOT THE CA GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT OF 18

⁴⁴ Id. at 66.

⁴⁵ *Rollo*, pp. 21-22.

⁴⁶ Id. at 24.

⁴⁷ Id. at 34-36.

⁴⁸ Id. at 41-43.

Meyer

COUNTS OF QUALIFIED RAPE DESPITE THE PROSECUTION'S FAILURE TO ESTABLISH THE ELEMENTS THEREOF

- II. WHETHER OR NOT THE CA GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT OF 18 COUNTS OF QUALIFIED RAPE DESPITE THE INSUFFICIENCY OF EVIDENCE AGAINST HIM
- III. WHETHER OR NOT THE CA GRAVELY ERRED IN FAILING TO GIVE CREDENCE TO THE ACCUSED-APPELLANT'S DEFENSE OF DENIAL IN LIGHT OF THE WEAKNESS OF THE PROSECUTION'S CASE

Accused-appellant maintains that the prosecution failed to prove that he had raped AAA and BBB. He argues that the medical examinations conducted on the private complainants both indicated normal looking external genitalias with no hematomas and lacerations, and were insufficient to prove that AAA and BBB had been raped or had previous sexual intercourse. He reiterates that it would have been impossible for him to have raped the private complainants in the same room where all of his other children were sleeping as any slight movement will certainly awaken them. He likewise points out that after the alleged abuse, AAA did nothing and BBB did not treat him any differently. They neither attempted to shout nor asked for help despite having several opportunities to do so.

The Court's Ruling

The conviction of accused-appellant stands.

The elements of the crime charged

The crime of rape is punishable under Article 266-A of the Revised Penal Code (RPC), to wit:

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;

b) When the offended party is deprived of reason or otherwise unconscious;

c) By means of fraudulent machination or grave abuse of authority; and

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.

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x x x x

The felony is further qualified by relationship under Article 266-B of the RPC, which states:

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

x 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:

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.

Accordingly, in order to sustain a conviction of qualified rape, the following elements must be present: (1) sexual congress; (2) with a woman; (3) done by force and without consent; (4) the victim being under eighteen (18) years of age at the time of the rape; and that (5) the offender is a parent (whether legitimate, illegitimate, or adopted) of the victim.⁴⁹

The foregoing elements are all present in the instant case.

AAA and BBB categorically testified as to how the accused-appellant had carnal knowledge of them on numerous occasions between the years 2004 and 2011: six times in the case of AAA and 12 times in the case of BBB. AAA narrated how, during the onset of a typhoon in May 2004, accused-appellant undressed her while she was lying down, pulled down his shorts, and inserted his penis into her vagina while on top of her. Her testimony remained consistent as she narrated how accused-appellant repeated the said actions on five more occasions. Meanwhile BBB candidly testified that on the evening of July 24, 2008, accused-appellant made her face him, placed her left leg over his, and kissed her mouth. He then unzipped his pants, pulled down BBB's shorts and underwear, and inserted her penis into her vagina. Like her sister, BBB's testimony remained straightforward as she testified to having suffered the horrific acts of her father 11 more times thereafter.

As to minority, AAA's certificate of live birth⁵⁰ discloses that she was eight years old when she was first raped by accused-appellant, the last reported sexual abuse having occurred when she was 11 years of age. Whereas, BBB's Certificate of Live Birth⁵¹ reveals that she was raped by

⁴⁹ *People v. Luzon*, G.R. No. 223681, August 20, 2018 citing *People v. Colentava*, 753 Phil. 361, 372-373 (2015).

⁵⁰ Records, Criminal Case No. 4746, p. 10.

⁵¹ Records, Criminal Case No. 4757, p. 10.

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accused-appellant when she was only seven years old, the last incident of rape having been committed when she was about 10 years of age.

Furthermore, both private complainants claimed to having been afraid of accused-appellant who was their biological father, with AAA testifying that the latter had threatened to kill her once. On this score, it bears stressing that even without the use of force or intimidation or failure to prove the presence thereof, the moral ascendancy that exists with accused-appellant being the private complainants' father is sufficient. In cases of incestuous rape of a minor, it has been established that moral ascendancy of the ascendant substitutes force or intimidation.⁵²

The credibility of the witnesses

Accused-appellant hopes to discredit the testimonies of AAA and BBB by claiming that it would have been impossible for him to commit the heinous acts while within the same room as the rest of his children. He likewise claims that neither AAA nor BBB attempted to shout or asked for help despite having plenty of opportunities to do so.

We are not convinced.

Conviction in rape cases frequently rests on the basis of the testimony of the victim, as long as the claims asserted are credible, natural, convincing, and consistent with human nature and the normal course of things.⁵³ Verily, the credibility of the victim is of the utmost consideration in the resolution of such cases.⁵⁴

In this regard and as previously discussed by the CA, the evaluation of the credibility of witnesses and their reliability is an issue best raised before the trial court; which possesses the unique opportunity to examine the witnesses first-hand and observe their demeanor, conduct, and attitude throughout their testimony.⁵⁵ The factual findings of the trial court, its appreciation of the testimonies of the witnesses, and the conclusions reached on the basis of such findings, when affirmed by the appellate court, are generally binding and conclusive upon this Court.⁵⁶

Applying the foregoing here, the ruling of the RTC concerning the credibility of the prosecution witnesses, as affirmed by the CA, must be given weight and credence by this Court. In light of the unwavering testimonies of the witnesses for the prosecution, particularly the private complainants themselves, We see no cogent reason to disturb such findings of credibility and reliability of testimony and hold that the prosecution indeed established all the elements of qualified rape.

⁵² *People v. Bugna*, G.R. No. 218255, April 11, 2018, 861 SCRA 152.

⁵³ *People v. Ayade*, 624 Phil. 237, 243 (2010).

⁵⁴ *People v. Ocdol*, 741 Phil. 701, 714 (2014).

⁵⁵ *People v. Nuyok*, 759 Phil. 437, 452 (2015).

⁵⁶ *People v. Udtohan*, 815 Phil. 449, 463 (2017) citing *People v. Buclao*, 736 Phil. 325 (2014).

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Failure to resist or ask for help sufficiently explained

Accused-appellant even goes so far as to question the failure of the private complainants to shout or ask for help when they were supposedly raped by him. However, such failure was sufficiently explained by both AAA and BBB during their testimonies. AAA was afraid of accused-appellant, even more so when he threatened to kill her. While she left their home to live with her aunt, she did not report the sexual abuse in fear of what the accused-appellant will do to her siblings who were still living with him. In the case of BBB, she categorically testified that she was likewise afraid of the accused-appellant and, given her tender age at the time, she was unaware of what the latter was doing to her.

Notwithstanding the testimonies of the private complainants, the Court holds that their respective behavior, during the occurrence or subsequent to the commission of the rape, do not affect their credibility. In *People v. Palanay*,⁵⁷ We explained thusly:

Rape victims react differently. Some may offer strong resistance while others may be too intimidated to offer any resistance at all. There is no standard form of reaction for a woman when facing a shocking and horrifying experience such as a sexual assault. The workings of the human mind placed under emotional stress are unpredictable, and people react differently some may shout, some may faint, and some may be shocked into insensibility, while others may openly welcome the intrusion. However, any of these conducts does not impair the credibility of a rape victim. (citations omitted)⁵⁸

A medical report is merely corroborative in character

Anent accused-appellant's argument that the medical examination failed to prove that AAA and BBB were raped in light of the lack of lacerations in their respective genitalias, the same is untenable. As the CA already discussed, Dr. Gabitan clearly testified that, given the length of time that has elapsed from the occurrence of the sexual abuse and the medical examination conducted on the private complainants, it is possible for lacerations to be replaced by new tissues.

At any case, it is well established that a medical report is not material for the purpose of proving the commission of rape and is merely corroborative in character.⁵⁹

The penalty imposed

As to the penalty, the RTC correctly imposed the penalty of *reclusion perpetua* for each count of rape, without eligibility for parole, in lieu of the

⁵⁷ 805 Phil. 116 (2017).

⁵⁸ Id. at 126-127.

⁵⁹ *People v. Prodeniado*, 749 Phil. 746, 763 (2014).

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death penalty, the same being consistent with A.M. No. 15-08-02-SC⁶⁰ and RA No. 9346.⁶¹ As to the monetary award for each count of rape, it was likewise proper for the CA to modify the civil indemnity, moral damages, and exemplary damages to ₱100,000.00 each, pursuant the guidelines set in *People v. Jugueta*,⁶² with interest at six percent (6%) *per annum* on all the amounts awarded reckoned from the finality of this Decision until fully paid.

WHEREFORE, premises considered, the appeal is hereby **DENIED** for lack of merit. The Decision dated September 27, 2018 promulgated by the Court of Appeals in CA-G.R. CR HC NO. 09601 is **AFFIRMED**.

SO ORDERED.

Reyes
ANDRES B. REYES, JR.
Associate Justice

⁶⁰ In these lights, the following guidelines shall be observed in the imposition of penalties and in the use of the phrase “*without eligibility for parole*”:

x x x x

(2) When circumstances are present warranting the imposition of the death penalty, but this penalty is not imposed because of R.A. 9346, the qualification of “*without eligibility for parole*” shall be used to qualify *reclusion perpetua* in order to emphasize that the accused should have been sentenced to suffer the death penalty had it not been for R.A. No. 9346.

⁶¹ An Act Prohibiting the Imposition of Death Penalty in The Philippines (2006).

⁶² 783 Phil. 806, 832 (2016).

WE CONCUR:

MP. Bernabe
ESTELA M. PERLAS-BERNABE
Acting Chief Justice
Senior Associate Justice
Chairperson

R. Hernandez
RAMON PAUL L. HERNANDO
Associate Justice

HJPB. Inting
HENRI JEAN PAUL B. INTING
Associate Justice

E. De los Santos
EDGARDO L. DELOS SANTOS
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.

MP. Bernabe
ESTELA M. PERLAS-BERNABE
Acting Chief Justice

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