



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 241780

Present:

PERALTA, C.J., Chairperson,
CAGUIOA,
LAZARO-JAVIER,
LOPEZ, and
ROSARIO, JJ.

- versus -

DANILO TUYOR y BANDERAS,
Accused-Appellant.

Promulgated:

OCT 12 2020

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DECISION

PERALTA, C.J.:

For consideration is the appeal of the Court of Appeals (CA) Decision¹ dated December 15, 2017 which affirmed with modification the Decision² dated October 9, 2015 of the Regional Trial Court (RTC), Branch 89, Bacoor City, finding accused-appellant Danilo Tuyor y Banderas (*Tuyor*) guilty of four (4) counts of Rape. The accusatory portions of the five (5) Informations³ state:

Criminal Case No. B-2008-771

That on or about the 29th of September 2007, in the Municipality of [REDACTED], Philippines and within the jurisdiction of this Honorable Court, the above-named accused, motivated by lust and with lewd designs, with the use of force, threat and intimidation, and taking advantage of his moral ascendancy did, then and there, willfully, unlawfully

¹ Penned by Associate Justice Ramon Paul L. Hernando (now a member of this Court), with Associate Justices Marlene B. Gonzales-Sison and Rafael Antonio M. Santos concurring; *rollo* pp. 2-20.

² Penned by Executive Judge Eduardo Israel Tanguanco; CA *rollo*, pp. 46-61.

³ *Rollo*, pp. 4-5.

and feloniously, have carnal knowledge of his step-daughter [AAA] – Minor, fourteen (14) years old, born on April 13, 1993, against her will and consent, which acts tend to debase, degrade and demean complainant’s intrinsic worth and integrity as a child, to the damage and prejudice of the said [AAA].

CONTRARY TO LAW.⁴

Criminal Case No. B-2008-770

That on or about the 24th day of October 2007, in the Municipality of [REDACTED], Philippines and within the jurisdiction of this Honorable Court, the above-named accused, motivated by lust and with lewd designs, with the use of force, threat and intimidation, and taking advantage of his moral ascendancy did, then and there, willfully, unlawfully and feloniously, have carnal knowledge of his step-daughter [AAA] – Minor, fourteen (14) years old, born on April 13, 1993, against her will and consent, which acts tend to debase, degrade and demean complainant’s intrinsic worth and integrity as a child, to the damage and prejudice of the said [AAA].

CONTRARY TO LAW.⁵

Criminal Case No. B-2008-769

That on or about the 17th day of July 2007, in the Municipality of [REDACTED], Philippines and within the jurisdiction of this Honorable Court, the above-named accused, motivated by lust and with lewd designs, with the use of force, threat and intimidation, and taking advantage of his moral ascendancy did, then and there, willfully, unlawfully and feloniously, have carnal knowledge of his step-daughter [AAA] – Minor, fourteen (14) years old, born on April 13, 1993, against her will and consent, which acts tend to debase, degrade and demean complainant’s intrinsic worth and integrity as a child, to the damage and prejudice of the said [AAA].

CONTRARY TO LAW.⁶

Criminal Case No. B-2008-768

That on or about the 24th day of September 2007, in the Municipality of [REDACTED], Philippines and within the jurisdiction of this Honorable Court, the above-named accused, motivated by lust and with lewd designs, with the use of force, threat and intimidation, and taking advantage of his moral ascendancy did, then and there, willfully, unlawfully and feloniously, have carnal knowledge of his step-daughter [AAA] – Minor, fourteen (14) years old, born on April 13, 1993, against her will and consent, which acts tend to debase, degrade and demean complainant’s intrinsic worth and integrity as a child, to the damage and prejudice of the said [AAA].

CONTRARY TO LAW.⁷

⁴ Records, pp. 1, 3.
⁵ *Id.* at 5, 7.
⁶ *Id.* at 9, 11.
⁷ *Id.* at 13, 15.

Criminal Case No. B-2008-767

That sometime in August 2007, at around 8:00 p.m. in the Municipality of ██████████, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, motivated by lust and with lewd designs, with the use of force, threat and intimidation, and taking advantage of his moral ascendancy did, then and there, willfully, unlawfully and feloniously, have carnal knowledge of his step-daughter [AAA] – Minor, fourteen (14) years old, born on April 13, 1993, against her will and consent, which acts tend to debase, degrade and demean complainant's intrinsic worth and integrity as a child, to the damage and prejudice of the said [AAA].

CONTRARY TO LAW.⁸

Tuyor pleaded not guilty⁹ in all the five (5) charges. Pre-trial and trial ensued.

For the Prosecution

The facts, as established by the prosecution, and as culled from the CA Decision are as follows:

The prosecution presented as witnesses AAA¹⁰ (the victim) and Dr. Bernadette J. Madrid of the Child Protection Unit of the Philippine General Hospital (PGH). The prosecution also adduced the following evidence: 1) Exhibit "A" – AAA's Certificate of Live Birth; 2) Exhibit "B" – BBB's Certificate of Live Birth, the alleged offspring of AAA with [Tuyor]; 3) Exhibit "C" – AAA's Affidavit; 4) Exhibit "E" – Medico[-]Legal Report No. 2007-4907; 5) Exhibit F – picture of AAA taken by the Child Protection Unit of PGH.

x x x x

[Tuyor] and CCC, the mother of private complainant AAA, were live-in partners for five years. CCC had three children, including AAA, with a different man before her cohabitation with [Tuyor]. [Tuyor] and CCC have three children of their own.

AAA testified that on July 17, 2007, around 9:30 o'clock in the evening, she was inside their room with all her five siblings. At that time her mother was at work at SM City Sucat. In a while, [Tuyor] asked all her five siblings to leave the room, leaving her alone. [Tuyor] closed the door and pulled her towards the bed. He then removed AAA's colored shorts and panty and pinned her thighs with his legs. AAA struggled and asked why [Tuyor] was doing it to her but he just kept silent. She cried and fought back but she was overpowered by [Tuyor]. Thereafter, he spread her legs and

⁸ *Id.* at 17.

⁹ *CA rollo*, p. 47.

¹⁰ Under Republic Act No. 7610 (Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act), the real name of the victim and those of her immediate family members are withheld and fictitious initials are instead used to protect the victim's privacy.

inserted his penis into AAA's private parts. [Tuyor] later wiped his penis with a piece of cloth to remove the blood that came out from AAA's vagina. He likewise threatened AAA that he would kill her siblings and her mother if she told anyone about what happened. Hence, AAA kept silent and never told anyone about the incident.

Sometime in August 2007, at around 8 o'clock in the evening, AAA was inside her room sleeping when she felt that someone was on top of her. When she opened her eyes, she saw [Tuyor] naked from the waist down. Then, he covered her mouth and inserted his penis into her vagina. AAA cried and was threatened again by [Tuyor] not to tell anyone about what happened or he would kill her.

AAA was not able to narrate and testify on the third incident of rape on her direct examination for she was continuously crying.

Nevertheless, she was able to recall later that on September 29 and October 24, 2007 that she was at her room sleeping when [Tuyor] undressed her and covered her mouth. AAA was awakened when [Tuyor] inserted his penis into her vagina. Thereafter, he threatened AAA again to *[sic]* not tell anyone as to what happened or else he would kill her.

On October 26, 20-07, AAA complained of stomach cramps to her mother CCC so the latter brought her to a doctor where they found out that AAA was pregnant. AAA then told her mother that [Tuyor] had raped her several times. Thereafter, they went to the police station in ██████████, Cavite to file a complaint against [Tuyor]. AAA was examined by the Philippine General Hospital for medico-legal examination which showed that she suffered hymenal laceration and was indeed pregnant.

[Tuyor] was arrested by barangay officials and brought to the Bacoor police station where complaints for rape were filed against him.¹¹

For the Defense

Tuyor was given ample time to present his evidence, but he manifested through his counsel that he would no longer be presenting evidence.

RTC Ruling

On October 9, 2015, the RTC rendered its Decision, the dispositive portion of which reads:

ACCORDINGLY, in **Criminal Case B-2008-767**, finding the accused Danilo Tuyor y Banderas GUILTY beyond reasonable doubt of Rape, he is sentenced to suffer the penalty of *reclusion perpetua*.

He is ordered to pay AAA ₱50,000[.00] as civil indemnity, ₱50,000[.00] as moral damages and ₱30,000[.00] as exemplary damages

¹¹ Rollo, pp. 5-6. (Citations omitted)

and to pay the interest at the rate of six percent (6%) per annum on all damages awarded, to be computed from the date of the finality of this Decision until fully paid.

In **Criminal Case B-2008-768**, the accused Danilo Tuyor y Banderas is found GUILTY beyond reasonable doubt of Rape and is sentenced to suffer the penalty of *reclusion perpetua*.

He is ordered to pay AAA ₱50,000[.00] as civil indemnity, ₱50,000[.00] as moral damages and ₱30,000[.00] as exemplary damages and to pay the interest at the rate of six percent (6%) per annum on all damages awarded, to be computed from the date of the finality of this Decision until fully paid.

In **Criminal Case B-2008-769**, considering the failure of the prosecution to prove his guilt beyond reasonable doubt, the accused is ACQUITTED of the crime charged.

In **Criminal Case B-2008-770**, the accused Danilo Tuyor y Banderas is found GUILTY beyond reasonable doubt of Rape and sentenced to suffer the penalty of *reclusion perpetua*.

He is ordered to pay AAA ₱50,000[.00] as civil indemnity, ₱50,000[.00] as moral damages and ₱30,000[.00] as exemplary damages and to pay the interest at the rate of six percent (6%) per annum on all damages awarded, to be computed from the date of the finality of this Decision until fully paid.

In **Criminal Case B-2008-771**, the accused Danilo Tuyor y Banderas is found GUILTY beyond reasonable doubt of Rape and sentenced to suffer the penalty of *reclusion perpetua*.

He is ordered to pay AAA ₱50,000[.00] as civil indemnity, ₱50,000[.00] as moral damages and ₱30,000[.00] as exemplary damages and to pay the interest at the rate of six percent (6%) per annum on all damages awarded, to be computed from the date of the finality of this Decision until fully paid.

Being a detention prisoner, the accused is credited in full of the time he had undergone preventive imprisonment.

SO ORDERED.¹²

The RTC found AAA's testimony as categorical, straightforward, consistent and credible. AAA was able to narrate four of the five crimes of rape in detail: the act of Tuyor in inserting his private organ into hers; how she struggled to fight back against the accused; the pain she experienced during the rape; the whitish substance which came out from Tuyor; how Tuyor wiped her private part; and Tuyor's threats after the crimes of rape.¹³ Through AAA's narration, the RTC was fully convinced that Tuyor raped AAA. According to the court *a quo*, Tuyor can only be convicted of the crimes of

¹² CA rollo, pp. 60-61.

¹³ *Id.* at 56.

simple rape and not qualified rape. Although it was proven that AAA was a minor when the crimes of rape were committed, the relationship between AAA and Tuyor was not that of a stepfather-stepdaughter's since Tuyor was not married to AAA's mother. The special qualifying circumstance of a stepfather and stepdaughter relationship where the victim is a minor, cannot be considered in this case.

Tuyor filed his appeal with the CA. The accused-appellant Tuyor, and the plaintiff-appellee filed their respective Briefs.

CA Ruling

On December 15, 2017, the Court of Appeals issued its assailed Decision affirming accused-appellant Tuyor's conviction. The dispositive portion of the Decision reads:

WHEREFORE, the instant appeal is **DENIED**. The assailed x x x Decision dated October 9, 2015 of the Regional Trial Court (RTC) Branch 89 of ██████████ in Criminal Cases Nos. B-2008-767, B-2008-768, B-2008-769, B-2008-770, and B-2007-771 is hereby **AFFIRMED** with the **MODIFICATION** that as to each of said cases, the civil indemnity, moral damages and exemplary damages are increased to PhP100,000.00 as to each award. Lastly, accused-appellant is ordered to pay interest on the amounts awarded at the legal rate of 6% per *annum* from the date of finality of this judgment until fully paid.

SO ORDERED.¹⁴

The CA held that the records clearly prove that Tuyor had carnal knowledge of AAA with force, threat and intimidation and by taking advantage of his moral ascendancy over AAA, being the live-in partner of AAA's mother.¹⁵ Based on AAA's testimony, it was established that Tuyor raped her.¹⁶ The prosecution's evidence has established that Tuyor committed four counts of qualified rape against AAA, to wit: (1) the presentation of AAA's Certificate of Live Birth, which proves that she was 14 years old when the incidents of rape happened; (2) Tuyor had carnal knowledge of AAA on four separate occasions through AAA's positive, categorical, and spontaneous testimony; (3) Tuyor perpetrated the acts through force, threat or intimidation by using force and threatening to kill AAA if the latter would tell anyone about the sexual assault; and (4) AAA is the live-in partner of AAA's mother.¹⁷

¹⁴ *Rollo*, p. 19.

¹⁵ *Id.* at 8.

¹⁶ *Id.*

¹⁷ *Id.* at 16.

As regards the medico-legal report presented before the RTC, the latter gave weight and credence to it, to which the CA affirmed. There is a presumption of regularity in the performance of the government doctor's functions and duties, when Dr. Irene Baluyut issued the medico-legal report.¹⁸ Since entries in the official records made in the performance of official duty are *prima facie* evidence of the facts therein stated, Dr. Baluyut's findings that AAA had sexual contact and was seven weeks pregnant at that time, are conclusive in the absence of evidence proving the contrary.¹⁹ Even assuming *arguendo* that the medico-legal report has no evidentiary value, the prosecution has established Tuyor's guilt beyond reasonable doubt, by sufficiently proving all the elements of qualified rape.²⁰

On January 15, 2018, accused-appellant Tuyor filed his Notice of Appeal²¹ before the CA, on the ground that the CA Decision dated December 15, 2017 is contrary to fact, law and applicable jurisprudence.

When this appeal was instituted before this Court, the parties made their Manifestations²² that they will adopt their appellant's and appellee's Briefs, respectively, in lieu of their Supplemental Briefs.

Issues

1. Whether the CA erred in not excluding Dr. Bernadette J. Madrid's testimony for allegedly being hearsay.
2. Whether the CA erred in giving due weight and credence to AAA's testimony.
3. Whether the CA erred in convicting Tuyor guilty beyond reasonable doubt of four (4) counts of qualified rape through sexual intercourse under Article 266(A)(1a), in relation to Article 266-B(1).

Tuyor faults the CA for affirming his conviction.

He argues that Dr. Madrid's testimony should have been excluded for being hearsay because she was neither present at the time the medico-legal report was made, nor was she present at the time of AAA's medical examination.

As regards AAA's testimony, Tuyor argues that AAA's failure to be consistent as to the exact date when she was allegedly raped for the second

¹⁸ *Id.* at 18.

¹⁹ *Id.*

²⁰ *Id.*

²¹ *CA rollo*, pp. 109-110.

²² *Id.* at 32-36; 37-42.



time, is fatal and should have been considered in favor of him. According to him, the RTC gave more credence to AAA's incredible testimony.²³

Ruling of the Court

We deny the appeal, but modify the crime committed,²⁴ the penalty imposed, and the awarded indemnities.

After establishing that the medico-legal report shall be given weight and credence, Dr. Madrid's testimony that she is familiar with Dr. Baluyut's signature and her interpretations of Dr. Baluyut's medico-legal report, shall also be given weight and credence.

The medico-legal report shall be given weight and credence, even if the physician who examined and prepared it, was not presented in court.

First, Dr. Baluyut's issuance of the medico-legal report falls under one of the exceptions to the hearsay rule.

Under Section 44, Rule 130 of the Rules on Evidence, "Entries in official records made in the performance of [her] duty [as] a public officer of the Philippines, x x x are *prima facie* evidence of the facts therein stated."

Dr. Baluyut, a government doctor, and who by actual practice and by virtue of her oath as civil service official, is competent to examine persons and issue medico-legal reports. There is a presumption of regularity in the performance of Dr. Baluyut's functions and duties when she issued the medico-legal reports. In the absence of evidence proving the contrary, Dr. Baluyut's finding that AAA had sexual intercourse with Tuyor, and was seven weeks pregnant when she was examined, are conclusive.

Second, when Dr. Madrid testified in court, she identified the signature of Dr. Baluyut in Medico-Legal Report No. 2007-4907, and mentioned that she is familiar with Dr. Baluyut's signature because she saw Dr. Baluyut sign a document, to wit:

Pros. Dumaul	: I am showing you a Medico[-]Legal [R]eport prepared by Dr. Irene D. Baluy[u]t. Will you go over this document[?]. Where is the Medico[-]Legal Report that you are referring to?
Witness	: This is the one. This is the Medico[-]Legal Report No. 2007-4907 prepared by Dr. Baluy[u]t and this is her signature, sir.

²³ CA rollo, p. 37.

²⁴ In Criminal Case Nos. B-2008-767 to B-2008-771.

x x x x

Pros. Dumauual : And how did you come to know that is the signature of
Dr. Baluyut?
Witness : I already saw her signing a document, sir.²⁵

Under Section 50(b), Rule 130 of the Rules on Evidence, “[T]he opinion of a witness x x x may be received in evidence regarding x x x [a] handwriting with which [s]he has sufficient familiarity.”

Since Dr. Madrid was familiar with Dr. Baluyut’s signature, because both of them work at the Philippine General Hospital (*PGH*), and she saw Dr. Baluyut sign a document, Dr. Madrid’s testimony with regard to Dr. Baluyut’s signature is admissible as an opinion of an ordinary witness.

Third, Dr. Madrid, a doctor from the Child Protection Unit (*CPU*) of the *PGH*, is an expert witness:

Pros. Dumauual : Madam Witness, since when have you been a doctor of
CPU-PGH?

Witness : Since January, 1997, sir.

Pros. Dumauual : [Doctor,] [y]ou said that you were already connected with
the *PGH* since 1997.

Witness : Yes, sir.

Pros. Dumauual : And on October 26, 2007[,] how long have you been a
medico legal officer?

Witness : 10 years, sir.²⁶

Under Section 49 of the Rules of Evidence, “The opinion of a witness on a matter requiring special knowledge, skill, experience or training which [s]he is shown to possess, may be received in evidence.”

The prosecution was able to establish Dr. Madrid’s expertise in the relevant medical field. Dr. Madrid’s interpretation of the entries made by Dr. Baluyut in the medico-legal report is admissible as expert testimony.

With respect to the probative value of Dr. Madrid’s expert testimony, this will depend on her credibility as an expert witness and the relevance of her testimony to the issue at hand. As a rule, the trial judge’s assessment of the witnesses’ testimonies and findings of fact are accorded great respect on appeal.²⁷ In the absence of any substantial reason to justify the reversal of the trial court’s assessment and conclusion, like when no significant facts and

²⁵ TSN, August 5, 2013, pp. 4-5.

²⁶ *Id.* at 3.

²⁷ *People v. Labraque*, 818 Phil. 204, 211 (2017, citing *People v. Alberca*, 810 Phil. 896, 906 (2017)).

circumstances are shown to have been overlooked or disregarded, the reviewing court is generally bound by the former's findings.²⁸ The rule is even more stringently applied if the appellate court has concurred with the trial court.²⁹

Dr. Madrid testified as regards Dr. Baluyut's findings contained in the medico-legal report, to wit:

Pros. Dumauual : Can you tell us the case of [AAA] based on the data record?

Witness : Based on the record [AAA] appeared before Dr. Baluy[u]t on October 26, 2007 and conducted the examination and attached to the record the picture of the said victim, sir.

x x x x

Pros. Dumauual : What can you say about the findings of Dr. Baluy[u]t to [AAA]?

Witness : Based on the medical examination of Dr. Baluy[u]t that there is a definite evidence of sexual abuse on the genitalia of the victim on the 5:00 o'clock position, sir.³⁰

There is no substantial reason to justify the reversal of the RTC's assessment and conclusion on the probative value of Dr. Madrid's expert testimony. Moreso, the CA concurred with the RTC on the matter. The relevance of Dr. Madrid's testimony to the issue at hand was also established where she testified that based on the medico-legal report, AAA was sexually abused.

AAA's testimony must be given due weight and credence.

In determining whether AAA's testimony should be given due weight and credence, it is important to take into consideration the *women's honor* doctrine which states, "[the] well-known fact that women, especially Filipinos would not admit that they have been abused unless that abuse had actually happened, [because it is] their natural instinct to protect their honor,"³¹ borders on the fallacy of *non-sequitur*, to wit:³²

x x x While the factual setting back then would have been appropriate to say it is natural for a woman to be reluctant in disclosing a sexual assault;

²⁸ *Id.* at 211-212.

²⁹ *Id.* at 212.

³⁰ TSN, August 5, 2013, pp. 4-5.

³¹ *People v. Taño, et al.*, 109 Phil. 912, 914 (1960).

³² *People v. Amarela*, G.R. Nos. 225642-43, January 17, 2018, 852 SCRA 54, 68.

today we simply cannot be stuck to the *Maria Clara* stereotype of a demure and reserved Filipino woman. We should stay away from such mindset and accept the realities of a woman's dynamic role in society today; she who has over the years transformed into a strong and confidently intelligent and beautiful person, willing to fight for her rights.³³

Through this, the Court can evaluate the weight and credibility of a private complainant of rape without gender bias or cultural misconception.³⁴

It is a settled rule that rape may be proven by the sole and uncorroborated testimony of the offended party, provided that her testimony is clear, positive and probable.³⁵

As a general rule, findings of facts and assessment of credibility of witnesses are matters best left to the trial court.³⁶ Jurisprudence has set the following guidelines:

First, **the Court gives the highest respect to the RTC's evaluation of the testimony of the witnesses**, considering its unique position in directly observing the demeanor of a witness on the stand. From its vantage point, the trial court is in the best position to determine the truthfulness of witnesses.

Second, **absent any substantial reason which would justify the reversal of the RTC's assessments and conclusions, the reviewing court is generally bound by the lower court's findings**, particularly when no significant facts and circumstances, affecting the outcome of the case, are shown to have been overlooked or disregarded.

And third, **the rule is even more stringently applied if the CA concurred with the RTC.**³⁷

AAA's testimony with regard to the first, second, fourth and fifth counts of rape committed against her, was categorical and straightforward. There could be no substantial reason to overturn the weight given by the RTC, and as affirmed by the CA.

On the first count of rape, AAA narrated:

PROS. DUMAUAL : Can you still remember when was the first time
you were raped by the accused, [AAA]?
WITNESS : AAA: July 17, 2007, sir.

x x x x

³³ *Id.*

³⁴ *Id.*

³⁵ *People v. Barberan, et al.*, 788 Phil. 103, 109 (2016).

³⁶ *People v. Dayaday*, 803 Phil. 363, 371 (2017).

³⁷ *People v. Tanglao*, G.R. No. 219963, June 13, 2018. (Emphases ours)

PROS. DUMAUAL : Can you still remember the exact time when you were first abused by the accused [o]n July 17, 2007?

WITNESS : 9:30 in the evening, sir.

PROS. DUMAUAL : What were you doing on July 17, 2007 at around 9:30 in the evening in your house?

WITNESS : I was inside our room, sir.

x x x x

PROS. DUMAUAL : Where was the accused during that time?

WITNESS : Also inside the room, sir.

x x x x

PROS. DUMAUAL : Do you know if during that time your siblings were already sleeping?

WITNESS : At that time, he asked my siblings to go out and go to sleep and until the time we were the ones left in the room, sir.

x x x x

PROS. DUMAUAL : What did the accused exactly tell you before he raped you?

WITNESS : He told me that he ordered my sibling (sic) to go out of the room, sir.

x x x x

PROS. DUMAUAL : After telling you that, what did the accused do next?

WITNESS : He removed my clothes and pulled me towards the bed, sir.

PROS. DUMAUAL : What clothes were you wearing then?

WITNESS : I was wearing white t-shirt and colored shorts, sir.

PROS. DUMAUAL : Where were you when he removed your clothes?

WITNESS : In the room, sir.

x x x x

PROS. DUMAUAL : You said you were wearing white t-shirt and colored shorts. What clothes did the accused removed (sic) first?

WITNESS : Shorts, sir.

x x x x

PROS. DUMAUAL : What was your reaction when he removed your shorts?

WITNESS : I was struggling against him and I was asking why, sir.

PROS. DUMAUAL : And what was the answer of the accused when you asked him why he was doing that to you?

WITNESS : Nothing, sir. He did not say anything.

x x x x

PROS. DUMAUAL : How was he able to remove your shorts considering that it has buttons and buttons are difficult to remove?

WITNESS : He removed the buttons one by one and then he pinned down my thigh with his legs, sir.

PROS. DUMAUAL : What was his position when he remove (*sic*) you shorts?

WITNESS : His feet were straight, sir.

x x x x

PROS. DUMAUAL : After he removed your shorts, what did he do next?

WITNESS : He raped me, sir.

PROS. DUMAUAL : Why did you say that he raped you?

WITNESS : When I was lying down that's the time he forced me and I was crying at that time, sir.

x x x x

PROS. DUMAUAL : You said that he forced you. How did he force you? What did he do when you said that he forced you?

WITNESS : He was holding both of my shoulders and I was pushing him away, but I couldn't fight him back considering that he was strong, sir.

PROS. DUMAUAL : When he held your shoulders, what did he do next?

WITNESS : Then he raped me, sir.

PROS. DUMAUAL : By rape, you mean what?

WITNESS : He spread my legs and inserted his organ into mine, sir.

x x x x

PROS. DUMAUAL : Was he able to penetrate you?

WITNESS : Yes, sir.

x x x x

PROS. DUMAUAL : How long did he penetrate you?

WITNESS : Only for a short period of time.

PROS. DUMAUAL : Was that the first time that you had an experience of penetration?

WITNESS : Yes, sir.

PROS. DUMAUAL : And what did you feel?

WITNESS : It was painful, sir.

x x x x

PROS. DUMAUAL : What was your reaction when he tried to in and out his private part?

WITNESS : I was just crying, sir.

x x x x

COURT : By the way, after he removed his private part in and out of your private part, what happened?

WITNESS : Blood came out, Your Honor.

x x x x

PROS. DUMAUAL : Why did you not report to them what the accused did to you?

WITNESS : He threatened that he would kill us all, sir.

PROS. DUMAUAL : Who threatened you?

WITNESS : The accused, Danilo Tuyor, sir.

PROS. DUMAUAL : When did he tell you that he would kill you all?

WITNESS : He whispered it to me, sir.

PROS. DUMAUAL : When was that?

WITNESS : After doing what he did to me and when my siblings arrived, we were the only ones left in that room that's the time he told me the threat, sir.³⁸

On the second incident of rape, AAA recalled how the ordeal transpired:

PROS. DUMAUAL : You said you were raped five times. When was the second time that you were raped by the accused?

WITNESS : August 2008, sir.

x x x x

PROS. DUMAUAL : But can you still remember what you were doing during that time that you were raped for the second time?

WITNESS : I was about to go to sleep, sir.

PROS. DUMAUAL : What time was that?
WITNESS : 8 o'clock, sir.

x x x x

COURT : **And how did the rape occur?**
WITNESS : **I was already asleep until the time that I felt that he was on top of me, Your Honor.**

x x x x

PROS. DUMAUAL : **You said that you noticed the accused was already on top of you, how did you come to know that it was the accused who was on top of you considering that you said that you had no electricity during that time?**
WITNESS : **Because at that time, he was our only companion in that house, sir.**

x x x x

PROS. DUMAUAL : **And what did he do when he went on top of you?**
WITNESS : **I did not know then that I was already naked and I only felt that he was already on top of me, sir.**

PROS. DUMAUAL : **By naked, you mean your total body?**
WITNESS : **Only my clothing from the waist down, sir.**

x x x x

PROS. DUMAUAL : **What did the accused do when you found him on top of you in the night of August 2008?**
WITNESS : **He inserted his organ into mine, sir.**

x x x x

PROS. DUMAUAL : **And what did he do after the accused inserted his private part into your private part?**
WITNESS : **He covered my mouth, sir.**

PROS. DUMAUAL : **How about him, did he make any motion while he inserted his private part into your private part?**
WITNESS : **He held both of my hands, sir.**

PROS. DUMAUAL : **And how long did he insert his private part into your private part?**
WITNESS : **Only for five minutes, sir.**

PROS. DUMAUAL : **And during that time that he inserted his private part into your private part for five minutes, did he make any motion.**
WITNESS : **No, sir. I didn't know considering that he had my eyes closed, sir.**



PROS. DUMAUAL : And what did you feel when he inserted his private part into your private part in the night of August 2008 when he raped you for the second time?

WITNESS : *Masakit po.*

PROS. DUMAUAL : **You said that he inserted his private part into your private part for almost five minutes. After five minutes, what did he do next?**

WITNESS : *Nilabas-masok nya po.*

PROS. DUMAUAL : **Did you notice if there was something that came out from you?**

WITNESS : **No, I didn't notice, sir.**

PROS. DUMAUAL : **How about him, did you notice if there was something that came out form (*sic*) his private part?**

WITNESS : **There was, sir.**

PROS. DUMAUAL : How did you come to know that considering that it was dark?

WITNESS : I was able to touch something which was sticky coming from his organ, sir.

PROS. DUMAUAL : How were you able to touch that sticky substance when according to you during that time he was covering your mouth and holding your hands?

WITNESS : After the act, sir.

x x x x

PROS. DUMAUAL : After he wiped your private part and he wiped his private part, what did he do?

WITNESS : I was crying, sir.³⁹

As regards the third count of rape, the elements of the crime were not established. While AAA testified on the third count of rape, she was crying profusely during the direct examination; and the prosecution had to ask for a continuance, to wit:

PROS. DUMAUAL : And where were you when you were raped for the third time [o]n September 24, 2007?

WITNESS : I was doing the dishes then, sir.

PROS. DUMAUAL : What portion of your house were you washing the dishes?

WITNESS : In the kitchen, sir.

PROS. DUMAUAL : It was already 10 o'clock. Why is it that it was only then that you were washing the dishes?

WITNESS : Because we just had dinner, sir.

³⁹ *Id.* at 16-20. (Emphases supplied)



PROS. DUMAUAL : And who were your companions in eating supper?
 WITNESS : My siblings and my mother because after my mother came from work, sir, that same night, she would also sell ballot.

PROS. DUMAUAL : What time did your mother arrive on that night of September 24, 2007?
 WITNESS : 9 o'clock, sir.

x x x x

PROS. DUMAUAL : While washing the dishes, where were your siblings?
 WITNESS : Already asleep, sir.

COURT : And where was your mother then?
 WITNESS : We all had supper then, Your Honor, and after that, I did the dishes and that's the time she left, Your Honor.

COURT : So while washing dishes, your mother had already left home?
 WITNESS : Yes, Your Honor.

COURT : And what time did [s]he usually return after selling ballot?
 WITNESS : Sometimes 1 o'clock early morning, sometimes 2 o'clock, Your Honor.

COURT : By the way, what was your mother's work in SM hen?
 WITNESS : In the alteration department, Your Honor.

PROS. DUMAUAL : Your Honor, please, it appears that the witness is already crying and likewise the mother. Can we ask for a continuance?⁴⁰

When her examination continued before the RTC, she no longer testified on the third count of rape.⁴¹

On the fourth incident of rape, AAA declared:

PROS. DUMAUAL : So when was the fourth time that you were sexually abused by the accused?
 WITNESS : September 29, 2007, sir.

PROS. DUMAUAL : What time?
 WITNESS : 10:05 in the evening, sir.

⁴⁰ *Id.* at 23-25.

⁴¹ TSN, October 19, 2010, pp. 1-21; TSN, December 14, 2010, pp. 1-8; TSN, March 6, 2012, pp. 1-12.

PROS. DUMAUAL : Where were you that time?
WITNESS : I was about to go to sleep when he laid down beside me, sir.

PROS. DUMAUAL : Where were you suppose[d] to sleep on that time and date?
WITNESS : On the floor, sir.

PROS. DUMAUAL : Do you have companions inside that place where you were about to sleep and then he laid beside you?
WITNESS : He told my siblings to go out, sir.

x x x x

PROS. DUMAUAL : So when they went out of the place, what happened?
WITNESS : He pulled me inside the room and that is where he raped me, sir.

x x x x

PROS. DUMAUAL : So, was he able to pull you out to that room?
WITNESS : Yes, sir.

PROS. DUMAUAL : And what happened when he was able to pull you inside the room?
WITNESS : He covered my mouth with the handkerchief, sir. Before that I am asking him why but he did not answer and then he pulled me inside the room.

x x x x

PROS. DUMAUAL : So what happened when you were pulled inside the room?
WITNESS : That's when he started raping me, sir.

PROS. DUMAUAL : How did he start raping you?
WITNESS : He held my hands and then pinned "inipit" down my legs and then he inserted his genital organ into mine, sir.

PROS. DUMAUAL : What was your position when he held your hands and pinned your legs?

Interpreter : The witness demonstrated her hands downwards.
WITNESS : He hold (*sic*) my hands and he pinned my two legs, sir.

PROS. DUMAUAL : Were you standing when he hold (*sic*) your hands?
WITNESS : I was sitting, sir.

PROS. DUMAUAL : Were you wearing something during that time that he held your hands and pinned your legs?
WITNESS : Yes, sir.

- PROS. DUMAUAL : What was something in your body?
WITNESS : I was wearing short and t-shirt, sir.
- PROS. DUMAUAL : Considering that you were wearing shorts, how was he able to insert his private part with your private part?
- WITNESS : My legs was (*sic*) pinned down by his legs and then he spread my legs, sir.
- PROS. DUMAUAL : Why was your short already placed down, who did that?
WITNESS : He did it, sir.
- PROS. DUMAUAL : When did he pull down your shorts?
WITNESS : Before he started raping me, sir.
- PROS. DUMAUAL : What was your position when he pulled your short?
WITNESS : Lying, sir.
- PROS. DUMAUAL : And what did you do, if any, when he pulled your short?**
WITNESS : He told me not to tell that matter to my mother or he would kill us, sir.

x x x x

- PROS. DUMAUAL : And what happened when he inserted his private part into your private part?
- Interpreter : Make it of record that the witness is crying.
WITNESS : That is when he started raping me but I did not know for how long he did that to me, sir.
- PROS. DUMAUAL : What did the accused do when his private part was inserted into yours?
WITNESS : Nothing, he was just quiet, sir.
- PROS. DUMAUAL : Was there any movement that transpire[d]?
WITNESS : None, sir.
- PROS. DUMAUAL : You mean to say his private part was just inserted to your private part without him doing anything?**
WITNESS : Aside from what he told me not to tell that to my mother or else he would kill us also, sir.

x x x x

- PROS. DUMAUAL : Did you notice if something came out from him?**
WITNESS : Yes, sir.
- PROS. DUMAUAL : What was that that came out from the accused?**
WITNESS : Looks like something white, sir.
- 

PROS. DUMAUAL : Did you observe what was that?
WITNESS : No, sir.

PROS. DUMAUAL : In what particular part of his body did that something white come out?
WITNESS : From his organ, sir.

PROS. DUMAUAL : So after noticing that whitish substance came out from his private organ, what did the accused do next, if any?

WITNESS : He wiped it out and asked me to stand up while I was crying, sir.

PROS. DUMAUAL : When did you start crying?

WITNESS : "Pagpasok ng ari nya", sir.⁴²

On the fifth incident of rape, AAA stated:

Pros. Dumauual : Because you did not report the incident it appears that there was another time that you were sexually abused again by the accused. Can you still remember when was that?

Witness : October 24, sir.

Pros. Dumauual : Of what year?

Witness : 2007, sir.

Pros. Dumauual : And can you still remember the time when that sexual abused (*sic*) happened on October 24, 2007?

Witness : 9:30 o'clock in the evening, sir.

Pros. Dumauual : And where were [you] during that time? During that time and date?

Witness : I was already lying down on my bed and it was about 5 minutes and then suddenly I felt that somebody lay down beside me, although I have may (*sic*) family lying beside me but not that close, it was only the accused who laid beside me so close, sir.

x x x x

Pros. Dumauual : So who were with you on October 24, 2009 when you were already sleeping at around 9:30 o'clock in the evening?

Witness : My younger siblings, sir.

Pros. Dumauual : And how far were they from the place where you were sleeping?

Witness : We were lying beside each other, sir.

Pros. Dumauual : So, you said a while ago that you were asleep and somebody laid beside you. Did you come to know who was that person who laid beside you?

Witness : When I was awaken[ed,] I realized that it was the accused who laid beside me, sir.

Pros. Dumauual : What made you realized (*sic*) that it was the accused who laid beside you?

Witness : Because he placed his hand on my breast and he mashed it, sir.

Pros. Dumauual : For how long did he mash your breast?

Witness : I did not know probably 2 minutes, sir.

x x x x

Pros. Dumauual : After mashing your breast for 2 minutes, what did the accused do next, if any?

Witness : The same, sir. I was facing my side when he raped me.

Pros. Dumauual : Right side or left side?

Interpreter : Make it of record that the witness turn[ed] to her right side.

Pros. Dumauual : Where was the accused when you were facing right side?

Witness : Behind me, sir.

Pros. Dumauual : What did he do?

Witness : He removed my short, sir.

x x x x

Pros. Dumauual : What did he do with your panty?

Witness : He pulled them halfway down my legs and then he inserted his organ into my private part, sir.

Pros. Dumauual : Are you sure that he was able to insert his private part into your private part?

Witness : Yes, sir.

x x x x

Pros. Dumauual : Did you notice if there was movement made by the accused while his private part was inserted into your private part while you were facing the right side and he was at your back?

Witness : No, sir.

Pros. Dumauual : Did you notice if there was something that came out from his private part on that time and date?

Witness : Yes, sir.



Pros. Dumauual : How did you come to know that something came out from his private part?
Witness : That something came out from his private part felt hot, sir.⁴³

Based on AAA's testimony, the elements of rape were proven beyond reasonable doubt.

Under Article 266-A, rape is committed:

Article 266-A. Rape: When and How Committed. – x x x

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

Tuyor had carnal knowledge of AAA through force, threat and intimidation. AAA's positive, categorical and spontaneous testimony shows that on these four separate instances, Tuyor had inserted his penis into her vagina against her will by using force and threatening to kill AAA if she would tell anyone about the rape.

AAA's inconsistency as to the exact date of the second rape does not in itself, cast doubt on Tuyor's guilt. **Since the essence of rape is carnal knowledge of a person through force or intimidation against that person's will,⁴⁴ the precision as to the time when the rape is committed has no bearing on its commission.⁴⁵**

Tuyor can only be convicted with four (4) counts of simple rape.

Under Article 266-B of the RPC, death penalty shall be imposed in a crime of rape through sexual intercourse:

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.

⁴³ *Id.* at 12-15. (Emphases ours)

⁴⁴ *People v. ZZZ*, G.R. No. 224584, September 4, 2019.

⁴⁵ *Id.*

In order to qualify the rape, the minority of the victim and his or her relationship with the offender should both be **alleged in the Information and proven beyond reasonable doubt during trial.**⁴⁶ The *raison d'etre* is that the special qualifying circumstances of minority and relationship have the effect of altering the nature of the rape and its corresponding penalty.⁴⁷ Otherwise, death penalty cannot be imposed upon the offender.⁴⁸

AAA's minority at the time the crimes were committed against her, was properly alleged and proven during trial. Evidence also proved that Tuyor had carnal knowledge of AAA without the latter's consent, with the use of force, threat and intimidation, and by taking advantage of his moral ascendancy. However, in the five Informations, the allegation that AAA is the "stepdaughter" of Tuyor, is inaccurate. Neither AAA is the stepdaughter of Tuyor nor is the latter the stepfather of the former, because such a relationship presupposes a legitimate relationship between the appellant and the victim's mother.⁴⁹ A stepdaughter is the daughter of one's wife or husband by a former marriage, or a stepfather is the husband of one's mother by virtue of a marriage subsequent to that of which the person spoken of is the offspring.⁵⁰

During trial, the prosecution failed to establish the stepparent-stepdaughter relationship between Tuyor and AAA. No proof of marriage was presented to establish Tuyor's relationship with AAA's mother. On the contrary, AAA's testimony shows that Tuyor was the live-in partner of AAA's mother, to wit:

Pros. Dumauual : How were you related to the accused?
Witness : He is my stepfather, sir.

Pros. Dumauual : How did he become your stepfather?
Witness : He is the live-in partner of my mother, sir.⁵¹

x x x x

COURT : Is the accused married to your mother?
Witness : No, Your Honor.⁵²

Although the State has successfully proven the common-law relationship, the crime is only simple rape where the information does not properly allege the qualifying circumstance of relationship between the accused and the victim.⁵³ This is because the accused's right to be informed

⁴⁶ *People v. Romeo de Castro de Guzman*, G.R. No. 224212, November 27, 2019.

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ *People v. Melendres*, 393 Phil. 878, 896 (2000).

⁵¹ TSN, October 19, 2010, p. 7.

⁵² TSN, March 6, 2012, p. 10.

⁵³ *People v. Romeo de Castro de Guzman*, *supra* note 46.

of the nature and cause of the accusation against him is inviolable.⁵⁴ Tuyor can only be convicted of simple rape, and not of qualified rape.

The Penalties

In Criminal Cases No. B-2008-767, B-2008-768, B-2008-770, B-2008-771, Rape through Sexual Intercourse, under paragraph 1 of Article 266-A, were committed without any of the qualifying or aggravating circumstances enumerated under Article 266-B, where the penalty for each count of rape shall be *reclusion perpetua*.

The Damages

For the four (4) counts of rape, the award of civil indemnities, moral and exemplary damages are proper.

Jurisprudence has settled that an award of civil indemnity *ex delicto* is mandatory upon a finding of the fact of rape, while moral damages may be automatically awarded in rape cases without need of proof of mental and physical suffering.⁵⁵ The award of exemplary damages is also proper to set a public example, to serve as deterrent to elders who abuse and corrupt the youth, and to protect the latter from sexual abuse.⁵⁶

For the crime of simple rape under Article 266-A(1), the penalty to be imposed is *reclusion perpetua*,⁵⁷ with civil indemnity of ₱75,000.00, moral damages of ₱75,000.00, and exemplary damages of ₱75,000.00; in accordance with *People v. Jugueta*.⁵⁸

In consonance with prevailing jurisprudence, the amount of damages awarded shall earn interest at the rate of six percent (6%) *per annum* from the finality of this judgment until said amounts are fully paid.

⁵⁴ *Id.*

⁵⁵ *People v. Tulagan*, G.R. No. 227363, March 12, 2019.

⁵⁶ *People v. Layco, Sr.*, 605 Phil. 877, 882 (2009).

⁵⁷ Article 266-B of the revised Penal Code provides:

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

⁵⁸ 783 Phil. 806 (2016).

II. For Simple Rape/Qualified Rape:

2.1 Where the penalty imposed is *reclusion perpetua*[;] other than [where the penalty imposed is Death but reduced to *reclusion perpetua* because of RA 9346, or where the crime committed was not consummated but merely attempted] x x x:

a. Civil indemnity – ₱75,000.00

b. Moral damages – ₱75,000.00

c. Exemplary damages – ₱75,000.00

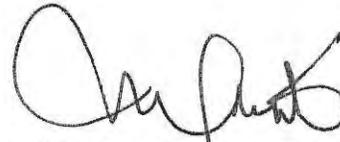
WHEREFORE, PREMISES CONSIDERED, the appeal is **DISMISSED.** The Decision dated October 9, 2015 of the Regional Trial Court, Branch 89, Bacoor City in Criminal Cases No. B-2008-767 to B-2008-771, as affirmed by the Court of Appeals Decision dated December 15, 2017 in CA-G.R. CR-HC No. 08607 is **AFFIRMED** with **MODIFICATIONS.** We find accused-appellant Danilo Tuyor y Banderas:

1. Guilty beyond reasonable doubt of **Simple Rape under Article 266-A(1)(a) and penalized in Article 266-B of the Revised Penal Code,** in Criminal Case No. B-2008-767, and is sentenced to suffer the penalty of *reclusion perpetua*, and with modification as to the award of damages. Accused-appellant is **ORDERED** to **PAY** AAA the amounts of ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages, and ₱75,000.00 as exemplary damages.
2. Guilty beyond reasonable doubt of **Simple Rape under Article 266-A(1)(a) and penalized in Article 266-B of the Revised Penal Code,** in Criminal Case No. B-2008-768, and is sentenced to suffer the penalty of *reclusion perpetua*, and with modification as to the award of damages. Accused-appellant is **ORDERED** to **PAY** AAA the amounts of ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages, and ₱75,000.00 as exemplary damages.
3. Not guilty of **Simple Rape under Article 266-A(1)(a) and penalized in Article 266-B of the Revised Penal Code,** in Criminal Case No. B-2008-769, considering his guilt was not proven beyond reasonable doubt. Accused-appellant is **ACQUITTED** of the crime charged.
4. Guilty beyond reasonable doubt of **Simple Rape under 266-A(1)(a) and penalized in Article 266-B of the Revised Penal Code,** in Criminal Case No. B-2008-770, and is sentenced to suffer the penalty of *reclusion perpetua*, and with modification as to the award of damages. Accused-appellant is **ORDERED** to **PAY** AAA the amounts of ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages, and ₱75,000.00 as exemplary damages.
5. Guilty beyond reasonable doubt of **Simple Rape under 266-A(1)(a) and penalized in Article 266-B of the Revised Penal Code,** in Criminal Case No. B-2008-771, and is sentenced to suffer the penalty of *reclusion perpetua*, and with modification as to the award of damages. Accused-appellant is **ORDERED** to **PAY** AAA the amounts of ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages, and ₱75,000.00 as exemplary damages.



Legal interest of six percent (6%) *per annum* is imposed on all damages awarded from the date of finality of this Decision until fully paid.

SO ORDERED.



DIOSDADO M. PERALTA
Chief Justice

WE CONCUR:



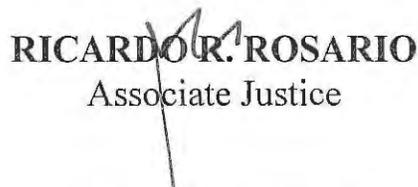
ALFREDO BENJAMIN S. CAGUIOA
Associate Justice



AMY C. LAZARO-JAVIER
Associate Justice



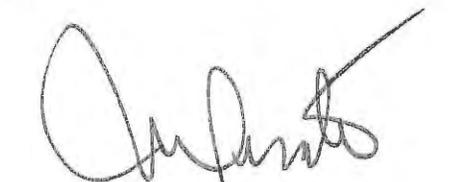
MARIO N. LOPEZ
Associate Justice



RICARDO R. ROSARIO
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.



DIOSDADO M. PERALTA
Chief Justice