



Republic of the Philippines
Supreme Court
 * Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,
 Plaintiff-Appellee,

G.R. No. 263553

Members:

LEONEN, S.A.J., Chairperson
LAZARO-JAVIER,
LOPEZ, M.,
LOPEZ, J., and
KHO, JR., JJ.**

-versus-

XXX263553,*

Accused-Appellant.

Promulgated

NOV 20 2023

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DECISION

LAZARO-JAVIER, J.:

This Appeal¹ seeks to reverse the Decision² dated December 13, 2021 of the Court of Appeals in CA-G.R. CR-HC No. 03280 entitled *People of the Philippines v. XXX* affirming the conviction of accused-appellant

* In line with Amended Administrative Circular No. 83-2015, as mandated by Republic Act No. 8353 and Article 266-A of the Revised Penal Code, the names of the private offended parties, along with all other personal circumstances that may tend to establish their identities, are made confidential to protect their privacy.

** On Official Leave.

¹ *Rollo*, pp. 3-4.

² *Id.* at 11-35. Penned by Associate Justice Bautista G. Corpin, Jr., with the concurrence of Associate Justices Lorenza R. Bordios and Roberto P. Quiroz of the Special Eighteenth Division, Court of Appeals, Cebu City.

XXX263553 for five counts of rape under Article 266-A(1)(a) of the Revised Penal Code, as amended by Republic Act No. 8353.³

Accused-appellant was charged with five counts of rape under the following Informations, viz.:

Criminal Case No. RTC-5567

That sometime in the month of **January 2015** at [REDACTED], Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did, then and there willfully, unlawfully and feloniously, thru threats and intimidation, have carnal knowledge with his granddaughter [AAA263553], a 14-year-old minor, against her will and consent, to the damage and prejudice of said minor victim.

CONTRARY TO LAW.⁴

Criminal Case No. RTC-5568

That sometime in the month of **February 2015** at [REDACTED], Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did, then and there willfully, unlawfully and feloniously, thru threats and intimidation, have carnal knowledge with his granddaughter [AAA263553], a 14-year-old minor, against her will and consent, to the damage and prejudice of said minor victim.

CONTRARY TO LAW.⁵

Criminal Case No. RTC-5569^{*}

That sometime in the month of **March 2015** at [REDACTED], Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did, then and there willfully, unlawfully and feloniously, thru threats and intimidation, have carnal knowledge with his granddaughter [AAA263553], a 14-year-old minor, against her will and consent, to the damage and prejudice of said minor victim.

CONTRARY TO LAW.⁶

Criminal Case No. RTC-5570

That sometime in the month of **April 2015** at [REDACTED], Philippines, and within the jurisdiction of this Honorable Court, the above-named

³ Otherwise known as "The Anti-Rape Law of 1997," approved September 30, 1997.

⁴ Record, p. 1 (Crim. Case No. RTC-5567).

⁵ *Id.* (Crim. Case No. RTC-5568).

⁶ *Id.* (Crim. Case No. RTC-5569).

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accused, did, then and there willfully, unlawfully and feloniously, thru threats and intimidation, have carnal knowledge with his granddaughter [AAA263553], a 14-year-old minor, against her will and consent, to the damage and prejudice of said minor victim.

CONTRARY TO LAW.⁷

Criminal Case No. RTC-5571

That sometime in the month of May 2015 at [REDACTED], Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did, then and there willfully, unlawfully and feloniously, thru threats and intimidation, have carnal knowledge with his granddaughter [AAA263553], a 14-year-old minor, against her will and consent, to the damage and prejudice of said minor victim.

CONTRARY TO LAW.⁸ (Emphasis in the original)

On arraignment, accused-appellant pleaded not guilty to all charges. The prosecution presented as witnesses AAA263553, AAA263553's younger brother BBB263553, Elmer V. Sandag (Sandag), and Dr. Eleanor Diapana (Dr. Diapana).⁹ On the other hand, accused-appellant himself and his daughter DDD263553 testified for the defense.¹⁰

Version of the Prosecution

AAA263553 testified that she was born on November 27, 2000, and hence, was 14 years old at the time she was raped by accused-appellant, her paternal grandfather. Her father worked at a sugarcane plantation while her mother worked as a stay-in nanny who would come home only once a week every Saturday afternoon* and report back to work every Sunday evening.¹¹

Accused-appellant started molesting her before she turned 10 years old by touching her vagina. He rubbed his penis against her private part when she turned 10. He inserted his penis into her vagina when she turned 13. He would sexually abuse her on weekend mornings or when she had no classes. He threatened to kill her if she would tell anyone

⁷ *Id.* (Crim. Case No. RTC-5570).

⁸ *Id.* at 13-14.

⁹ *Rollo*, p. 14.

¹⁰ *Id.* at 18.

¹¹ *Id.* at 14.

about his abuses. When she refused to have sexual intercourse with him because she was going to church, he summoned her to his house, pulled her hair, punched her in the stomach and pushed her back. When she tried to report the incident to her father, accused-appellant threatened to twist her head.¹²

While she was left alone in their house sometime in January 2015, accused-appellant arrived and told her to go with him to his house to get the tipster for *jai alai* and to have sexual intercourse with him. Afraid that he would maul her again, she went with him. In accused-appellant's house, he instructed her to take off her shorts and lie down, which she obeyed out of fear. He locked the door, went on top of her, removed her panties and his underwear, spread her legs, inserted his penis into her vagina, and made a push and pull movement. He pulled out his penis and ejaculated on her stomach to avoid pregnancy. Thereafter, he told her to sleep while waiting for the tipster.¹³

On the morning of February 2015, he did the same thing to her. He went to her house when she was left alone. He told her to get the tipster from his house, then had carnal knowledge of her.¹⁴ He did the same thing to her three more times on March 2015, April 2015, and May 2015 when each time she was left alone in the house. During the last incident on May 2015, he ejaculated inside her vagina.¹⁵

Around 9:00 p.m. of May 17, 2015, she, along with BBB263553 and AAA's cousins EEE263553 and FFF263553, attended a Bible study led by Sandag in the chapel. That night, BBB263553 asked her why she was always sleeping in their *lolo's* house. At first, she said that her *lolo* just wanted her to sleep in his house. She later opened up to BBB263553 when the latter told her that he saw accused-appellant kiss her. After listening to her narration, EEE263553 and Sandag fetched her mother from her workplace, and together, they proceeded to the police station.¹⁶

Her paternal aunts did not believe her story though. She felt humiliated and embarrassed that people saw her as a flirty or dirty girl.¹⁷

BBB263553 testified that he was already hearing rumors about his sister AAA263553 staying inside accused-appellant's house for too long,

¹² *Id.* at 15.

¹³ *Id.* at 15-16.

¹⁴ *Id.* at 16.

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

with all the windows and doors closed. Sometime in 2015, he was bathing at the well near their house when he saw AAA263553 go inside accused-appellant's house. He peeped through a gap between the wall and the roof of accused-appellant's house and saw accused-appellant on top of AAA263553 kissing her. He went home to put on his clothes and went back to accused-appellant's house. When he peeked again, he saw accused-appellant already naked and had inserted his penis into the private part of AAA263553 who was already crying. He uttered, "*What is that, Lo?*" but accused-appellant told him not to say anything or he would kill him.¹⁸

He confided in their catechist teacher Sandag about the incident. When he told AAA263553 that he saw accused-appellant kissing her, AAA263553 revealed to him that accused-appellant raped her several times. Even though he resented accused-appellant for the times he reprimanded him, he explained that he was not motivated by anger when he testified against accused-appellant.¹⁹

Sandag testified that he asked AAA263553 to confirm BBB263553's report about accused-appellant kissing her. AAA263553 initially hesitated but later confided to him that accused-appellant violated her. He advised AAA263553 and BBB263553 not to tell their father yet because accused-appellant might kill all of them. At midnight on May 18, 2015, he, EEE, and AAA263553 fetched AAA263553's mother. Together, they reported the incident to the police officers.²⁰ *

Dr. Diapana identified and interpreted the medico-legal certificate issued by Dr. Clarissa U. Patrimonio who examined AAA263553 on May 17, 2015. She testified that the medico-legal certificate showed there were healed hymenal lacerations at the 3 o'clock and the 6 o'clock positions in AAA263553's genitals. These hymenal injuries are not common for a 14-year-old and may have been caused by sexual intercourse through penile penetration. But sexual intercourse, whether consented or forced, which occurred a day before the examination may or may not cause fresh laceration. There was also an erythema or redness on AAA263553's labia majora which could have been caused by trauma on the affected area. The specimen submitted for gram stain had pus cells indicating an infection that may have been caused by poor hygiene or transmission through sexual contact. There was spermatozoa inside AAA263553's vagina.²¹

¹⁸ *Id.* at 16--17.

¹⁹ *Id.* at 17.

²⁰ *Id.*

²¹ *Id.* at 17--18.

Version of the Defense

DDD263553, accused-appellant's daughter and AAA263553's paternal aunt, testified that on May 17, 2015, she was watching over her newborn child inside accused-appellant's house located at [REDACTED]. Accused-appellant left his house around 7:00 a.m. and returned around 4:00 p.m. Around that time, AAA263553 visited accused-appellant's house which was just five meters away, then left by 6:00 p.m. She did not notice anything unusual between accused-appellant and AAA263553. Accused-appellant was involved in *jai alai*, but not in the collection of bets. On May 18, 2015, Sandag informed her that AAA263553 filed cases against accused-appellant.²²

Accused-appellant testified that AAA263553's father is his son. He has two houses, one in [REDACTED], where he lived with his wife, and the other was in [REDACTED] where his daughter lived. He denied all the accusations against him. On May 17, 2015, he attended to his small farm from 5:00 a.m. to 5:30 a.m., went to his coconut farm and gathered *tuba* around 6:00 a.m., then went home around 8:30 a.m. to tend to his *sari sari* store. On May 18, 2015, he was surprised when a police officer arrived at his house in [REDACTED] and arrested him for the cases filed against him by AAA263553. Prior to the filing of the cases, he was on good terms with his grandchildren. He could not think of any reason why they would fabricate stories against him when in fact he loved them.²³

Ruling of the Trial Court

By Joint Decision²⁴ dated February 13, 2019, the trial court found accused-appellant guilty of five counts of incestuous rape. It ruled that the prosecution had sufficiently established all the elements of each of these crimes. It gave greater weight to the positive and convincing testimonies of the prosecution witnesses over accused-appellant's self-serving denial and alibi, thus:

WHEREFORE, premises considered, judgment is hereby rendered finding the accused, [XXX263553], **GUILTY** beyond reasonable doubt in all five counts of incestuous rape under Art. 266-A par. 1 (a) in relation to Art. 266-B par. 1 of the Revised Penal Code as amended by Republic Act [No.] 8353. He is sentenced to suffer the penalty of **RECLUSION**

²² *Id.* at 18.

²³ *Id.* at 19.

²⁴ CA *rollo*, pp. 59-77. Penned by Judge Amy Alabado Avellano, Regional Trial Court, [REDACTED]

PERPETUA for each case, without the possibility of parole. He is ordered to pay [AAA263553] the amounts of [PHP] 100,000.00 as civil indemnity, [PHP] 100,000.00 as moral damages, and [PHP] 100,000.00 as exemplary damages, for each count.

An interest at the rate of six percent (6%) per annum shall be applied to the award of civil indemnity, moral and exemplary damages from the finality of the judgment until fully paid.

SO ORDERED.²⁵ (Emphasis in the original)

Proceedings before the Court of Appeals

Dissatisfied, accused-appellant appealed to the Court of Appeals and prayed for a verdict of acquittal. He argued that the trial court erred in convicting him despite the prosecution's failure to prove his guilt beyond reasonable doubt. The testimonies of AAA263553 and BBB263553 were inconsistent and incredible. AAA263553 could not recall the exact dates of the rape incidents. It took her four years from the alleged first rape incident before reporting the rape incidents. There was no showing of any physical struggle or resistance on her part every time accused-appellant allegedly assaulted her. Her medical certificate did not show any fresh lacerations or presence of spermatozoa. BBB263553's narration is suspect because of his tendency to exaggerate things and make up stories out of his resentment towards accused-appellant. The prosecution failed to prove the qualifying circumstances of minority and relationship. It only presented a photocopy of AAA263553's Certificate of Live Birth and did not present a copy of the birth certificate of AAA263553's father to prove her relationship with him (accused-appellant).²⁶

On the other hand, the People, through the Office of the Solicitor General (OSG) countered that the verdict of conviction should remain in place as the prosecution had sufficiently established all the elements of Qualified Rape under Article 266-A(1) in relation to Article 266-B of the Revised Penal Code for each of the five charges. AAA263553's minority at the time of the commission of the crimes was duly established through the stipulation of the parties during the pre-trial, while the relationship between accused-appellant and AAA263553 was established through AAA263553's categorical declaration and accused-appellant's own admission in open court that AAA263553 is his granddaughter. Carnal knowledge was established by AAA263553's positive identification of accused-appellant as the one who raped her through threat or intimidation on five separate occasions. The fact that AAA263553 failed to recall the exact dates of the rape incidents should

²⁵ *Id.* at 77.

²⁶ *Id.* at 34-57.

not affect her credibility as she was able to vividly narrate the sexual acts committed against her by accused-appellant on five separate occasions. Neither should her delay in reporting the incident affect her credibility considering that she was being threatened by accused-appellant.²⁷

The Ruling of the Court of Appeals

In its assailed Decision²⁸ dated December 13, 2021, the Court of Appeals affirmed. It ruled that the elements of incestuous rape were established through AAA263553's categorical testimony and identification of accused-appellant as the one who raped and abused her on five separate occasions, as corroborated by medical findings, and the testimony of BBB263553. The same prevail over accused-appellant's weak denial and alibi.²⁹

The Present Appeal

Accused-appellant now seeks affirmative relief from the Court and pleads anew for his acquittal.³⁰

In compliance with the Resolution³¹ dated January 18, 2023, the accused-appellant³² and the People³³ manifested that, in lieu of supplemental briefs, they were adopting their respective briefs before the Court of Appeals.

Our Ruling

We affirm.

Under Article 266-A(1)(a) of the Revised Penal Code, as amended by Republic Act No. 8353, rape has the following elements: (1) the offender had carnal knowledge of a woman; and (2) such act was accomplished through force, threat, or intimidation.³⁴ It can further be qualified by the circumstances

²⁷ *Id.* at 88–116.

²⁸ *Rollo*, pp. 11–35.

²⁹ *Id.* at 21–34.

³⁰ *Id.* at 5–6.

³¹ *Id.* at 56–57.

³² *Id.* at 66–68.

³³ *Id.* at 58–59.

³⁴ 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;

under Article 266-B³⁵ of the Revised Penal Code, as amended, among which is “when the victim is under 18 years of age and the offender is an ascendant or relative by consanguinity or affinity within the third civil degree.” **When a grandfather commits the odious crime of rape against his own granddaughter who was a minor at the time of the commission of the offenses, as in this case, there is no need to prove actual force, threat or intimidation because his moral ascendancy or influence over the latter substitutes for violence and intimidation.**³⁶

Here, accused-appellant committed five counts of qualified rape by having carnal knowledge of his minor granddaughter, AAA263553, on five separate occasions. The prosecution sufficiently established that in January, February, March, April, and May 2015, accused-appellant had carnal knowledge of his granddaughter AAA263553, who was then 14 years old. Although accused-appellant was shown to have employed threats and intimidation to accomplish his evil desire, such threat or intimidation is unnecessary for the purpose of convicting accused-appellant of rape. Moral ascendancy substitutes force or intimidation in incestuous rape of a minor.

More, it has been repeatedly ruled that under prevailing jurisprudence, admission in open court of relationship has been held to be sufficient and conclusive with regard to fathers and grandfathers in relation to their daughters and granddaughters respectively.³⁷ In *People v. Tabayan*,³⁸ the Court appreciated the admission of the accused that he is the grandfather of the victim therein, viz:

For one to be convicted of qualified rape, at least one of the aggravating/qualifying circumstances mentioned in Article 266-B of the Revised Penal Code, as amended, must be alleged in the information and duly proved during the trial. In the instant case, the aggravating/qualifying circumstance of minority (under twelve years old) and relationship have been alleged in the Information. AAA’s minority has been proved by her Certificate of Live Birth showing that she was born on 1 July 1998,

³⁵ **Article 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, step-parent, guardian, relative by consanguinity or affinity within the third civil degree, or the common-law spouse of the parent of the victim;

x x x x

³⁶ *People v. CCC*, 836 Phil. 133, 142 (2018) [Per J. Martires, Third Division].

³⁷ *People v. Ending*, 698 Phil. 396 (2012) [Per J. Del Castillo, Second Division]; *People v. ZZZ*, 870 Phil. 725 (2020) [Per J. Leonen, Third Division]; *People v. Tabayan*, 736 Phil. 543 (2014) [Per J. Perez, Second Division].

³⁸ 736 Phil. 543 (2014) [Per J. Perez, Second Division].

thus, she was only eight (8) years old when she was raped by the appellant on 24 July 2006. As regards the qualifying circumstance of relationship, it is alleged in the Information that AAA is the granddaughter of the appellant. The appellant himself admitted during trial that AAA is his granddaughter, being the daughter of his son. Under prevailing jurisprudence, admission in open court of relationship has been held to be sufficient and, hence, conclusive to prove relationship with the victim.³⁹

Indeed, the more stringent requirement of adducing additional documentary evidence to support the admission of the accused regarding his filial relationship with the victim only applies when the relationship alleged relates to stepfathers⁴⁰ and not to natural paternal relationships as in this case. Thus, the admission of accused-appellant that AAA263553 is his granddaughter is conclusive on the Court.

Too, the Court respects the trial court's factual assessment and conclusion that the testimony of AAA263553, as supported by medical findings and BBB263553's testimony, is credible and convincing⁴¹ since it had the opportunity to observe firsthand her conduct and demeanor while testifying. More so because such findings carry the full concurrence of the Court of Appeals.⁴²

Penalties and Damages

Records show that AAA263553's minority at the time the crimes were committed was established through the parties' stipulation during the pre-trial. Additionally, accused-appellant himself admitted in open court that AAA263553 is his granddaughter.

Consequently, accused-appellant is guilty of qualified rape under Article 266-A(1)(a) in relation to Article 266-B(1) of the Revised Penal Code, as amended, for which the death penalty should have been imposed were it not for Republic Act No. 9346.⁴³ The Court of Appeals and the trial court, therefore, in each case, correctly sentenced accused-appellant to *reclusion perpetua* for each case, without eligibility for parole.⁴⁴ They were also correct in awarding PHP 100,000.00 as civil indemnity, PHP

³⁹ *Id.* at 560-561.

⁴⁰ *People v. Sistoso*, 434 Phil. 814 (2002) [Per J. Bellosillo, *En Banc*]; *People v. Fontanilla*, 456 Phil. 454 (2003) [Per J. Carpio Morales, *En Banc*].

⁴¹ *See People v. Hirang*, 803 Phil. 277, 290 (2017) [Per J. Reyes, Third Division].

⁴² *Castillano v. People*, G.R. No. 222210, June 20, 2016; *People v. XXX*, G.R. No. 252294, May 5, 2021 [Notice, First Division].

⁴³ An Act Prohibiting the Imposition of Death Penalty in the Philippines, approved June 24, 2006.

⁴⁴ *People of the Philippines v. BBB*, G.R. No. 249260, May 5, 2021 [Per J. Inting, Third Division].

100,000.00 as moral damages and PHP 100,000.00 as exemplary damages, for each count of rape, in conformity with prevailing jurisprudence.⁴⁵ These amounts shall earn 6% interest per annum from finality of this Decision until fully paid.

Under Article 266-B of the Revised Penal Code, as amended by Republic Act No. 8353, qualified rape is punishable by death when the victim is a minor under 18 years of age and the accused is an ascendant or relative by consanguinity or affinity within the third civil degree. But due to the enactment of Republic Act No. 9346, the death penalty is automatically reduced to *reclusion perpetua* which should be qualified by the phrase “without eligibility for parole” pursuant to the Court’s Guidelines⁴⁶ in Administrative Matter No. 15-08-02-SC.⁴⁷

ACCORDINGLY, the Appeal is **DISMISSED**. The Decision dated December 13, 2021 of the Court of Appeals in CA-G.R. CR-HC No. 03280 is **AFFIRMED**. In Criminal Case Nos. RTC-5567 to 5571, accused-appellant **XXX263553** is found **GUILTY** of five counts of **Qualified Rape** under Article 266-A(1)(a) in relation to Article 266-B(1) of the Revised Penal Code, as amended. In each case, he is sentenced to **RECLUSION PERPETUA**, without eligibility for parole. For each case, too, he is ordered to **PAY AAA263553 PHP 100,000.00** as civil indemnity, **PHP 100,000.00** as moral damages, and **PHP 100,000.00** as exemplary damages.

These monetary awards shall earn 6% interest per annum from finality of this Decision until fully paid.

⁴⁵ *People v. Rabelas*, G.R. No. 253603, June 14, 2021 [Notice, Second Division]; *People v. Jugueta*, 783 Phil. 806, 848 (2016) [Per J. Peralta, *En Banc*].

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II. For Simple Rape/Qualified Rape:

I.1 Where the penalty imposed is Death but reduced to *reclusion perpetua* because of RA 9346:

Civil indemnity – P100,000.00

Moral damages – P100,000.00

Exemplary damages – P100,000.00

⁴⁶ In this light, the following guidelines shall be observed in the imposition of penalties and in the use of the phrase “without eligibility for parole”:

(1) In cases where the death penalty is not warranted, there is no need to use the phrase “without eligibility for parole” to qualify the penalty of *reclusion perpetua*; it is understood that convicted persons penalized with an indivisible penalty are not eligible for parole; and

(2) When circumstances are present warranting the imposition of the death penalty, but this penalty is not imposed because of R.A. No. 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.


⁴⁷ Guidelines for the Proper Use of the Phrase: “Without Eligibility for Parole” in Indivisible Penalties, August 4, 2015.

SO ORDERED.




AMY C. LAZARO-JAVIER
Associate Justice


WE CONCUR:



MARVIC M.V.F. LEONEN
Senior Associate Justice
Chairperson



MARION V. LOPEZ
Associate Justice




JHOSEP V. LOPEZ
Associate Justice

(On Official Leave)
ANTONIO T. KHO, JR.
Associate Justice

ATTESTATION


I attest that the conclusions in the Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARVIC M.V.F. LEONEN
Senior Associate Justice
Chairperson

CERTIFICATION

Pursuant to Section Article VIII, Section 13 of the Constitution and the above Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ALEXANDER G. GESMUNDO
Chief Justice