

THIRD DIVISION

[G.R. No. 214470, December 07, 2016]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, V.
JESUS MAYOLA Y PICAR, ACCUSED-APPELLANT.**

DECISION

PERALTA, J.:

This is an appeal of the Decision^[1] dated May 21, 2014 of the Court of Appeals (CA) dismissing appellant Jesus Mayola y Picar's appeal and affirming the Decision^[2] dated September 11, 2009 of the Regional Trial Court (RTC), Branch 55, Alaminos City, Pangasinan in Criminal Case No. 4758-A for the crime of qualified rape as defined and penalized under Article 266-A (1) (a) in relation to Article 266-B (1) of the Revised Penal Code (RPC), as amended by Republic Act (R.A.) No. 8353.

The facts follow.

Appellant is the father of AAA,^[3] the private complainant. The appellant, AAA, and her 3 siblings, CCC, DDD and EEE, lived in an 18-square-meter single room house in Brgy. Telbang, Alaminos City, Pangasinan. Her mother was then working as a househelper in Manila. According to AAA, appellant had sexual intercourse with her every other day since 2001 when she was just 13 years old. Her mother knew what the appellant did to her, but the former could not help her and the latter was afraid to report the incident to the authorities. In the evening of December 30, 2004, AAA and her brother CCC slept on a bamboo bed beside appellant while her sisters DDD and EEE slept on the floor. Appellant went on top of her and inserted his penis into her vagina when her siblings were already asleep. Appellant only stopped what he was doing when CCC woke up. Appellant then went at the back of their house, gathered the chairs, arranged them to form a makeshift bed, and called for her. AAA cried as she heeded appellant's call. AAA eventually was fed up with appellant's repeated violation of her chastity and told him not to do it again. AAA's sister, BBB, FFF and her uncle GGG accompanied her in reporting the incident to the Alaminos City Police Station where she was first investigated by the Chief of Police and later on by a policewoman. On January 2, 2005, she went to the Western Pangasinan District Hospital for medical examination. Based on medical findings, AAA was found to have nonporous introitus, old hymenal laceration at five o'clock and 7 o'clock positions. The vagina also admitted 2 fingers with slight difficulty and

there was no bleeding when AAA was subjected to internal examination. Hence, an Information was filed against appellant, which reads as follows:

That on or about December 30, 2004 in the evening in Barangay Telbang, Alaminos City, Pangasinan, Philippines and within the jurisdiction of this Honorable Court, the above-named accused by means of force, threat and intimidation did then and there wilfully, unlawfully and feloniously did (sic) lie and succeeded (sic) in having carnal knowledge of AAA, his fifteen (15) year-old daughter, despite her resistance and pleas for mercy, to her damage and prejudice.

Contrary to Article 266-A of the Revised Penal Code, as Amended.

Aside from the testimony of AAA, Dr. Ma. Teresa G. Sanchez, AAA's sisters BBB and DDD also testified against appellant.

Appellant, on the other hand, denied that he had sexual intercourse with AAA. He claimed that his children's hard feelings towards him for severely punishing them when they were at fault motivated them in filing a complaint.

The RTC found appellant guilty beyond reasonable doubt of the crime charged, thus:

WHEREFORE, in view of the foregoing consideration, this Court finds accused JESUS MAVOLA y PICAR GUILTY beyond reasonable doubt of the crime of rape as charged in the Information, and hereby sentences him to suffer the penalty of *reclusion perpetua*, to indemnify the offended party the amount of P75,000.00; to pay moral damages to the victim in the amount of P75,000.00, and P25,000.00 as exemplary damages.

SO ORDERED.^[4]

Subsequently, appellant filed an appeal with the CA and the latter, on May 21, 2014, affirmed the Decision of the RTC with modification as to the award of damages, thus:

WHEREFORE, premises considered, the Decision dated September 11, 2009 of the RTC, Branch 55, Alaminos City, Pangasinan in Criminal Case No. 4758-A is hereby AFFIRMED with MODIFICATION. Accused-appellant JESUS MAYOLA y PICAR is found GUILTY beyond reasonable doubt of the crime of qualified rape, and sentenced to *reclusion perpetua* without eligibility for parole. He is ordered to pay the victim AAA Seventy-Five Thousand Pesos (P75,000.00) as civil indemnity, Seventy-Five Thousand Pesos (P75,000.00) as moral damages, and Thirty Thousand Pesos (P30,000.00) as exemplary damages, with interest at the rate of 6% *per annum* from the date of finality of this judgment until fully paid.

SO ORDERED.^[5]

Appellant's motion for reconsideration having been denied, the present appeal was filed with this Court.

In its Manifestation^[6] dated February 6, 2015, appellant informed this Court that he is adopting all the defenses and arguments he raised in the Brief for the Accused-Appellant filed with the CA. Appellant assigns this lone error:

THE TRIAL COURT GRAVELY ERRED IN FINDING THAT THE GUILT OF THE ACCUSED-APPELLANT HAS BEEN PROVEN BEYOND REASONABLE DOUBT.

According to appellant, had it been true that private complainant AAA felt violated since she was thirteen (13) years old, then she would not have slept side by side with the appellant; thus, such behavior is not in accordance with one who is a victim of sexual abuse. He further questions private complainant's delay in reporting the incident. He also claims that there is illmotive on the part of the private complainant in filing the rape charge against him.

Under paragraph 1 (a) of Article 266-A of the RPC, the elements of rape are: (1) that the offender had carnal knowledge of a woman; and (2) that such act was accomplished through force, threat, or intimidation.

In this case, all the elements of the crime charged in the Information are present. Private complainant AAA positively identified appellant as the perpetrator. Her clear and straightforward testimony, corroborated by the medical findings show beyond reasonable doubt that AAA was already in a non-virginal state after she was raped. When the victim's testimony is corroborated by the physical findings of penetration, there is sufficient foundation to conclude the existence of the essential requisite of carnal knowledge.^[7] As ruled by the CA:

Private complainant AAA positively identified accused-appellant Mayola as her abuser. She did not waver on the material points of her testimony and maintained the same even on cross-examination.

Moreover, private complainant AAA's testimony is corroborated by the result of her medical examination which showed the presence of "old hymenal laceration at five (5) o'clock and seven (7) o'clock position" in her private part. This finding is consistent with her declaration that accused-appellant Mayola had been raping her since she was thirteen (13) years old.

It is also worthy to note that when private complainant AAA relived her ordeal at the witness stand, she broke down in tears several times. This only bolsters her credibility. Her emotional anguish is consistent with the ruling of the Supreme Court that the crying of a victim during her testimony is evidence of the truth of the rape charges, for the display of such emotion indicates the trauma she suffered while under the evil control of her tormentor.^[8]

Anent the second element, it was duly proven and uncontested that appellant is the father of private complainant. When the offender is the victim's father, as in this

case, there need not be actual force, threat or intimidation because when a father commits the odious crime of rape against his own daughter, his moral ascendancy or influence over the latter substitutes for violence and intimidation.^[9]

Appellant questions the behavior of private complainant AAA as not being the proper behavior of a victim of sexual abuse. Such contention deserves scant consideration. A person accused of a serious crime such as rape will tend to escape liability by shifting the blame on the victim for failing to manifest resistance to sexual abuse.^[10] However, this Court has recognized the fact that no clear-cut behavior can be expected of a person being raped or has been raped. It is a settled rule that failure of the victim to shout or seek help does not negate rape.^[11] Even lack of resistance will not imply that the victim has consented to the sexual act, especially when that person was intimidated into submission by the accused.^[12] In cases where the rape is committed by a relative such as a father, stepfather, uncle, or common-law spouse, moral influence or ascendancy takes the place of violence.^[13] Thus, the CA correctly ruled that:

There has never been any uniformity or consistency of behavior to be expected from those who had the misfortune of being sexually molested. The Supreme Court has pointed out that some of them have found the courage early on to publicly denounce the abuses they experienced, but still there were others who have opted to initially keep their harrowing ordeals to themselves and to just move on with their lives as if nothing had happened, until the limits of their tolerance were reached. Also, the immature and inexperienced could not be expected to measure up to the same standard of conduct and reaction that would be expected from adults whose maturity in age and experience could have brought them to stand up more quickly to their interest. Lastly, long silence and delay in reporting the crime of rape to the proper authorities have not always been considered as an indication of a false accusation.

The delay in reporting the incident is also not a factor in diminishing the value of private complainant AAA's testimony. In *People v. Ogarte*,^[14] this Court ruled that the rape victim's deferral in reporting the crime does not equate to falsification of the accusation, thus:

The failure of complainant to disclose her defilement without loss of time to persons close to her or to report the matter to the authorities does not perforce warrant the conclusion that she was not sexually molested and that her charges against the accused are all baseless, untrue and fabricated. Delay in prosecuting the offense is not an indication of a fabricated charge. Many victims of rape never complain or file criminal charges against the rapists. They prefer to bear the ignominy and pain, rather than reveal their shame to the world or risk the offenders' making good their threats to kill or hurt their victims.

Therefore, the CA correctly ruled that:

There has never been any uniformity or consistency of behaviour to be expected from those who had the misfortune of being sexually molested. The Supreme Court

has pointed out that some of them have found the courage early on to publicly denounce the abuses they experienced, but still there were others who have opted to initially keep their harrowing ordeals to themselves and to just move on with their lives as if nothing had happened, until the limits of their tolerance were reached. Also, the immature and inexperienced could not be expected to measure up to the same standard of conduct and reaction that would be expected from adults whose maturity in age and experience could have brought them to stand up more quickly to their interest. Lastly, long silence and delay in reporting the crime of rape to the proper authorities have not always been considered as an indication of a false accusation.^[15]

Appellant's claim of ill motive on the part of private complainant AAA as the prime reason the latter has accused him of committing the crime is untenable. It is highly unthinkable for the victim to falsely accuse her father solely by reason of ill motives or grudge."^[16] Furthermore, motives such as resentment, hatred or revenge have never swayed this Court from giving full credence to the testimony of a minor rape victim.^[17] In *People v. Manuel*,^[18] this Court ruled:

Evidently, no woman, least of all a child, would concoct a story of defloration, allow examination of her private parts and subject herself to public trial or ridicule if she has not, in truth, been a victim of rape and impelled to seek justice for the wrong done to her being. It is settled jurisprudence that testimonies of child-victims are given full weight and credit, since when a woman or a girl-child says that she has been raped, she says in effect all that is necessary to show that rape was indeed committed. It must be remembered that as to appellant's defense of denial and alibi, bare assertions thereof cannot overcome the categorical testimony of the victim. Denial is an intrinsically weak defense which must be buttressed with strong evidence of non-culpability to merit credibility. On the otherhand, for alibi to prosper, it must be demonstrated that it was physically impossible for appellant to be present at the place where the crime was committed at the time of commission.^[19]

As to the penalty imposed, the RTC and the CA were correct in imposing the penalty of *reclusion perpetua*, instead of death by virtue of R.A. No. 9346, as the rape is qualified by private complainant AAA's minority and appellant's paternity. However, in the award of damages, a modification must be made per *People v. Ireneo Jugueta*.^[20] Where the penalty imposed is Death but reduced to *reclusion perpetua* because of R.A. No. 9346, the amounts of damages shall be as follows:

1.	Civil	Indemnity-	P100,000.00
2.	Moral	Damages-	P100,000.00
3.	Exemplary Damages- P100,000.00		

WHEREFORE, the appeal of Jesus Mayola y Picar is **DISMISSED** for lack merit and the Decision dated May 21, 2014 of the Court of Appeals, affirming the Decision dated September 11, 2009 of the Regional Trial Court, Branch 55, Alaminos City, Pangasinan in Criminal Case No. 4758-A convicting appellant of the crime of qualified rape defined and penalized under Article 266-A (1) (a) in relation to Article

266-B (1) of the Revised Penal Code, as amended by R.A. No. 8353, and imposing the penalty of *Reclusion Perpetua* without eligibility for parole, is **AFFIRMED** with the **MODIFICATION** that the award of damages must be in this manner per *People v. Ireneo Jugueta*:^[21] P100,000.00 as civil indemnity, P100,000.00 as moral damages, and P100,000.00 as exemplary damages, with legal interest on all damages awarded at the rate of 6% per annum from the date of the finality of this Decision until fully paid.

SO ORDERED.

Velasco, Jr., (Chairperson), Brion,^[] Perez and Reyes, JJ., concur.*

December 16, 2016

NOTICE OF JUDGMENT

Sirs / Mesdames:

Please take notice that on **December 7, 2016** a Decision, copy attached hereto, was rendered by the Supreme Court in the above-entitled case, the original of which was received by this Office on December 16, 2016 at 11:00 a.m.

Very truly yours,

(SGD) WILFREDO V. LAPITAN
Division Clerk of Court

^[*] Designated Additional Member in lieu of Associate Justice Francis H. Jardeleza, per Raffle dated February 1, 2016.

^[1] Penned by Associate Justice Remedios A. Salazar-Fernando, with the concurrence of Associate Justices Apolinario D. Bruselas, Jr. and Samuel H. Gaerlan.

^[2] Penned by Presiding Judge Elpidio N. Abella.

^[3] This is pursuant to the ruling of this Court in *People of the Philippines v. Cabalquinto* (533 Phil. 703, 709 [2006]), wherein this Court resolved to withhold the real name of the victims-survivors and to use fictitious initials instead to represent them in its decisions. Likewise, the personal circumstances of the victims-survivors or any other information tending to establish or compromise their identities, as well as those of their immediate family or household members, shall not be disclosed. The names of such victims, and of their immediate family members other than the accused, shall appear as "AAA," "BBB," "CCC," and so on. Addresses shall appear as "XXX" as in "No. XXX Street, XXX District, City of XXX."

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

[4] *CA rollo*, p. 24.

[5] *Rollo*, p. 10.

[6] *Id.* at 19-24.

[7] *People v. Estoya*, 700 Phil. 490,499 (2012), citing *People v. Dizon*, 453 Phil. 858, 883 (2003).

[8] *Rollo*, p. 7.

[9] *People v. Flagrante*, G.R. NO. 182521, February 9, 2011, 642 SCRA 566, 579-580.

[10] *People v. Pareja*, 724 Phil. 759, 778 (2014).

[11] *Id.*

[12] *Id.*

[13] *People v. Pacheco*, G.R. No. 187742, April 20, 2010, 618 SCRA 606, 615.

[14] G.R. No. 182690, May 30, 2011, 649 SCRA 395, 412.

[15] *Rollo*, p. 8.

[16] *People v. Zafra*, G.R. No. 197363, June 26, 2013, 700 SCRA 106, 120.

[17] *People v. Mangitngit*, 533 Phil. 837, 852 (2006).

[18] 358 Phil. 664, 674 (1998).

[19] *People v. Abulon*, 557 Phil. 428, 448 (2007).

[20] G.R. No. 202124, April 5, 2016.

[21] *Id.*



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