

PEOPLE OF THE PHILIPPINES PLAINTIFF-APPELLEE, VS. LUISITO SALAZAR Y CASTRO, ACCUSED-APPELLANT.

Ponente: LAMPAS PERALTA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/7e87725d0c8d/>

LAMPAS PERALTA, J.:

The present appeal assails the Joint Decision dated November 20, 2012[1] in thirteen (13) criminal cases, docketed as Criminal Cases Nos. C-55573 (99), C-55574 (99), C-55575 (99), C-55576 (99), C-55577 (99), C-55578 (99), C-55579 (99), C-55580 (99), C-55581 (99), C-55582 (99), C-55583 (99), C-55584 (99) and C-55585 (99) of Branch 130, Regional Trial Court, Caloocan City, finding accused-appellant Luisito Salazar y Castro guilty beyond reasonable doubt of rape committed against AAA,[2] his own minor daughter, on thirteen (13) separate occasions.

THE ANTECEDENTS

The victim in this case, AAA, was born on August 21, 1982.[3] She was twelve (12) years of age at the time of the first incident, and fifteen (15) years of age at the time of the 13th incident. She lived with her family including her father, accused-appellant, in Caloocan City.[4]

In July 1994, about 12:00 midnight, AAA was sleeping on the living room floor of her family's house[5] when accused-appellant arrived, intoxicated.[6] He told her that he wanted to talk to her and led her outside the house. Once outside, he made her board a passenger jeepney that was parked in front of their house.[7] Accused-appellant then told AAA that she was “already a growing up child” and he would explain to her what to do in case she had a boyfriend.[8] He made her lie on the floor of the passenger jeepney, kissed her, and then touched her breasts and vagina. Accused-appellant forcibly removed her “sando” and pulled her shorts down to her knees. He succeeded in having carnal knowledge of her.[9] When he was through, accused-appellant stood up and AAA went inside the house. She did not tell anyone about her ordeal because accused-appellant threatened to kill her mother.[10]

Accused-appellant succeeded in having carnal knowledge of AAA for twelve (12) more times in January 1995, February 1995, March 1995, April 1995, May 1995, July 1995, August 1995, October 1995, September 1995, April 1996, December 1996 and April 1997[11] in a nipa hut near their house.[12] According to AAA, during the second incident, accused-appellant touched her breast and vagina before raping her.[13]

The factual findings of the trial court, based on the testimony of AAA, were summarized in its Joint Decision dated November 20, 2012 as follows:

“The victim AAA then 12 years old, having been born on August 21, 1982 as evidenced by her Birth Certificate (Exhibits 'A', 'A-1', and 'A-2') first testified for the prosecution. On the stand, she recalled the bitter experience she suffered in the hands of her father the accused Luisito Salazar. She recalled that sometime in the late evening of July 1994, she was roused from her sleep when her father came home reddish and

intoxicated. The latter summoned her to come out of the house and directed her to board the passenger jeepney parked a few meters away outside of their house. Seated beside her father inside the jeepney, she was told how she had grown to be a young woman and thereafter, explained and demonstrated to her what she should do if and when she would have a boyfriend. Her father compelled her to lie down on the stainless steel flooring of the jeepney, kissed her and thereafter touched her breast and vagina. Her 'sando' was removed and her short pants were forcibly pulled down to her knees. She tried to struggle and fight back, but her efforts proved futile until she felt an excruciating pain when her father tried to insert his penis inside her vagina. When through, her father stood up while she, on the other hand, went inside their house feeling weak and terrified because of the former's threat to kill her mother should she tell anyone about the incident. Her father, a known tough guy and trouble maker not only in their province in Nueva Ecija, but also in their place in Caloocan, she thus have every reason to believe this life threatening remarks keeping her mum regarding the incident. This was followed by twelve (12) more similar incidents occurring during the period covering the second week of January 1995; February 1995; March 1995; April 1995; May 1995; July 1995; August 1995; October 1995; September 1995; April 1996; December 1996 and April 1997, all of which took place inside a nipa hut measuring more or less 3 x 4 meters and is located near an unfinished house. There inside, she was repeatedly ravished by her father on different occasions even as her grandmother slumbered nearby. That it was only after the 12th incident of rape which coincided with the shooting of her father that she was able to finally muster the guts to tell her mother of how her father was sexually abusing her for the past several months. They proceeded to report the matter to the police authorities where her written statement was taken (Exhibits 'B', 'B-1' to 'B-3') before undergoing medico-legal examination at Camp Crame (Exhibit 'C'). Her Complaint Affidavit and Supplemental Affidavit were prepared and later filed before the Prosecutor's Office of Caloocan City for purposes of formal investigation and appropriate filing of charges (Exhibits 'D', 'D-1' and 'D-2'; Exhibits 'E', 'E-1' and 'E-23'). On the other hand, her father, after being discharged from the hospital from his gunshot wound at the back of the head, went to visit them briefly in their house before proceeding to BBB to recuperate.”[14]

Thirteen (13) informations were filed with the trial court charging accused-appellant with “RAPE, IN RELATION TO R.A. 7610” committed as follows:

Re: Criminal Case No. C-55573 (99)

“That sometime in the 2nd week of July, 1994, in Caloocan City, Metro-Manila and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design and by means of force, threats and intimidation, did then and there willfully, unlawfully and feloniously lie and have sexual intercourse with his daughter AAA, a minor of 12 years old, against the latter's will and without her consent.

Contrary to law.”[15]

xxx xxx xxx

Re: Criminal Case No. C-55574 (99)

“That sometime in the month of December 1996 in Caloocan City, Metro-Manila and within the jurisdiction of

this Honorable Court, the above-named accused, with lewd design and by means of force, threats and intimidation, did then and there willfully, unlawfully and feloniously lie and have sexual intercourse with his daughter AAA, a minor of 14 years old, against the latter's will and without her consent.

Contrary to law.”[16]

xxx xxx xxx

Re: Criminal Case No. C-55575 (99)

“That sometime in the 3rd week of April, 1997 in Caloocan City, Metro-Manila and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design and by means of force, threats and intimidation, did then and there willfully, unlawfully and feloniously lie and have sexual intercourse with his daughter AAA, a minor of 15 years old, against the latter's will and without her consent.

Contrary to law.”[17]

xxx xxx xxx

Re: Criminal Case No. C-55576 (99)

“That sometime in the 3rd week of April, 1996 in Caloocan City, Metro-Manila and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design and by means of force, threats and intimidation, did then and there willfully, unlawfully and feloniously lie and have sexual intercourse with his daughter AAA, a minor of 14 years old, against the latter's will and without her consent.

Contrary to law.”[18]

xxx xxx xxx

Re: Criminal Case No. C-55577 (99)

“That sometime in the 1st week of Dec. 1995 in Caloocan City, Metro-Manila and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design and by means of force, threats and intimidation, did then and there willfully, unlawfully and feloniously lie and have sexual intercourse with his

daughter AAA, a minor of 13 years old, against the latter's will and without her consent.

Contrary to law.”[19]

xxx xxx xxx

Re: Criminal Case No. C-55578 (99)

“That sometime in the 1st week of October 1995 in Caloocan City, Metro-Manila and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design and by means of force, threats and intimidation, did then and there willfully, unlawfully and feloniously lie and have sexual intercourse with his daughter AAA, a minor of 13 years old, against the latter's will and without her consent.

Contrary to law.”[20]

xxx xxx xxx

Re: Criminal Case No. C-55579 (99)

“That sometime in the last week of Aug. 1995 in Caloocan City, Metro-Manila and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design and by means of force, threats and intimidation, did then and there willfully, unlawfully and feloniously lie and have sexual intercourse with his daughter AAA, a minor of 13 years old, against the latter's will and without her consent.

Contrary to law.”[21]

xxx xxx xxx

Re: Criminal Case No. C-55580 (99)

“That sometime in the 1st week of July 1995 in Caloocan City, Metro-Manila and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design and by means of force, threats and intimidation, did then and there willfully, unlawfully and feloniously lie and have sexual intercourse with his daughter AAA, a minor of 13 years old, against the latter's will and without her consent.

Contrary to law.”[22]

xxx xxx xxx

Re: Criminal Case No. C-55581 (99)

“That sometime in the 1st week of May 1995 in Caloocan City, Metro-Manila and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design and by means of force, threats and intimidation, did then and there willfully, unlawfully and feloniously lie and have sexual intercourse with his daughter AAA, a minor of 13 years old, against the latter’s will and without her consent.

Contrary to law.”[23]

xxx xxx xxx

Re: Criminal Case No. C-55582 (99)

“That sometime in the 1st week of April 1995 in Caloocan City, Metro-Manila and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design and by means of force, threats and intimidation, did then and there willfully, unlawfully and feloniously lie and have sexual intercourse with his daughter AAA, a minor of 13 years old, against the latter’s will and without her consent.

Contrary to law.”[24]

xxx xxx xxx

Re: Criminal Case No. C-55583 (99)

“That sometime in the 1st week of March 1995 in Caloocan City, Metro-Manila and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design and by means of force, threats and intimidation, did then and there willfully, unlawfully and feloniously lie and have sexual intercourse with his daughter AAA, a minor of 13 years old, against the latter’s will and without her consent.

Contrary to law.”[25]

xxx xxx xxx

Re: Criminal Case No. C-55584 (99)

“That sometime in the 1st week of Feb. 1995 in Caloocan City, Metro-Manila and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design and by means of force, threats and intimidation, did then and there willfully, unlawfully and feloniously lie and have sexual intercourse with his daughter AAA, a minor of 13 years old, against the latter’s will and without her consent.

Contrary to law.”[26]

xxx xxx xxx

Re: Criminal Case No. C-55585 (99)

“That sometime in the 2nd week of Jan. 1995 in Caloocan City, Metro-Manila and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design and by means of force, threats and intimidation, did then and there willfully, unlawfully and feloniously lie and have sexual intercourse with his daughter AAA, a minor of 13 years old, against the latter’s will and without her consent.

Contrary to law.”[27]

Upon arraignment, accused-appellant pleaded “not guilty” to the charges.[28] During the pre-trial,[29] the identity of accused-appellant as the person charged, and the jurisdiction of the trial court were admitted.

Trial ensued. The prosecution presented AAA[30] and Police Chief Inspector Jeciel Cui Baluyot[31] as its witnesses. The testimony of Police Chief Inspector Jeciel Cui Baluyot was dispensed with as she was not the Medico Legal Officer who examined AAA.[32] On the other hand, the defense presented accused-appellant[33] as its sole witness.

In a Joint Decision dated November 20, 2012,[34] the trial court convicted accused-appellant of thirteen (13) counts of rape under Article 266-A, paragraph 1 (a) of Republic Act (RA) No. 8353 and sentenced him as follows:

“WHEREFORE, premises considered, the Court hereby renders judgment ordering as follows:

In Criminal Case No. C-55573, the Court finds the accused Luisito Salazar y Castro GUILTY by proof beyond reasonable doubt of the crime of rape defined and penalized under Article 266-A, paragraph 1 (a) of Republic Act No. 8353. He is hereby sentenced to suffer the penalty of imprisonment of reclusion perpetua. The Court

likewise orders the accused to pay the private complainant AAA the amount of Php50,000.00 as civil indemnity and Php25,000.00 as and by way of exemplary damages.

In Criminal Case No. C-55574, the Court finds the accused Luisito Salazar y Castro GUILTY by proof beyond reasonable doubt of the crime of rape defined and penalized under Article 266-A, paragraph 1 (a) of Republic Act No. 8353. He is hereby sentenced to suffer the penalty of imprisonment of reclusion perpetua. The Court likewise orders the accused to pay the private complainant AAA the amount of Php50,000.00 as civil indemnity and Php25,000.00 as and by way of exemplary damages.

In Criminal Case No. C-55575, the Court finds the accused Luisito Salazar y Castro GUILTY by proof beyond reasonable doubt of the crime of rape defined and penalized under Article 266-A, paragraph 1 (a) of Republic Act No. 8353. He is hereby sentenced to suffer the penalty of imprisonment of reclusion perpetua. The Court likewise orders the accused to pay the private complainant AAA the amount of Php50,000.00 as civil indemnity and Php25,000.00 as and by way of exemplary damages.

In Criminal Case No. C-55576, the Court finds the accused Luisito Salazar y Castro GUILTY by proof beyond reasonable doubt of the crime of rape defined and penalized under Article 266-A, paragraph 1 (a) of Republic Act No. 8353. He is hereby sentenced to suffer the penalty of imprisonment of reclusion perpetua. The Court likewise orders the accused to pay the private complainant AAA the amount of Php50,000.00 as civil indemnity and Php25,000.00 as and by way of exemplary damages.

In Criminal Case No. C-55577, the Court finds the accused Luisito Salazar y Castro GUILTY by proof beyond reasonable doubt of the crime of rape defined and penalized under Article 266-A, paragraph 1 (a) of Republic Act No. 8353. He is hereby sentenced to suffer the penalty of imprisonment of reclusion perpetua. The Court likewise orders the accused to pay the private complainant AAA the amount of Php50,000.00 as civil indemnity and Php25,000.00 as and by way of exemplary damages.

In Criminal Case No. C-55578, the Court finds the accused Luisito Salazar y Castro GUILTY by proof beyond reasonable doubt of the crime of rape defined and penalized under Article 266-A, paragraph 1 (a) of Republic Act No. 8353. He is hereby sentenced to suffer the penalty of imprisonment of reclusion perpetua. The Court likewise orders the accused to pay the private complainant AAA the amount of Php50,000.00 as civil indemnity and Php25,000.00 as and by way of exemplary damages.

In Criminal Case No. C-55579, the Court finds the accused Luisito Salazar y Castro GUILTY by proof beyond reasonable doubt of the crime of rape defined and penalized under Article 266-A, paragraph 1 (a) of Republic Act No. 8353. He is hereby sentenced to suffer the penalty of imprisonment of reclusion perpetua. The Court likewise orders the accused to pay the private complainant AAA the amount of Php50,000.00 as civil indemnity and Php25,000.00 as and by way of exemplary damages.

In Criminal Case No. C-55580, the Court finds the accused Luisito Salazar y Castro GUILTY by proof beyond reasonable doubt of the crime of rape defined and penalized under Article 266-A, paragraph 1 (a) of Republic

Act No. 8353. He is hereby sentenced to suffer the penalty of imprisonment of reclusion perpetua. The Court likewise orders the accused to pay the private complainant AAA the amount of Php50,000.00 as civil indemnity and Php25,000.00 as and by way of exemplary damages.

In Criminal Case No. C-55581, the Court finds the accused Luisito Salazar y Castro GUILTY by proof beyond reasonable doubt of the crime of rape defined and penalized under Article 266-A, paragraph 1 (a) of Republic Act No. 8353. He is hereby sentenced to suffer the penalty of imprisonment of reclusion perpetua. The Court likewise orders the accused to pay the private complainant AAA the amount of Php50,000.00 as civil indemnity and Php25,000.00 as and by way of exemplary damages.

In Criminal Case No. C-55582, the Court finds the accused Luisito Salazar y Castro GUILTY by proof beyond reasonable doubt of the crime of rape defined and penalized under Article 266-A, paragraph 1 (a) of Republic Act No. 8353. He is hereby sentenced to suffer the penalty of imprisonment of reclusion perpetua. The Court likewise orders the accused to pay the private complainant AAA the amount of Php50,000.00 as civil indemnity and Php25,000.00 as and by way of exemplary damages.

In Criminal Case No. C-55583, the Court finds the accused Luisito Salazar y Castro GUILTY by proof beyond reasonable doubt of the crime of rape defined and penalized under Article 266-A, paragraph 1 (a) of Republic Act No. 8353. He is hereby sentenced to suffer the penalty of imprisonment of reclusion perpetua. The Court likewise orders the accused to pay the private complainant AAA the amount of Php50,000.00 as civil indemnity and Php25,000.00 as and by way of exemplary damages.

In Criminal Case No. C-55584, the Court finds the accused Luisito Salazar y Castro GUILTY by proof beyond reasonable doubt of the crime of rape defined and penalized under Article 266-A, paragraph 1 (a) of Republic Act No. 8353. He is hereby sentenced to suffer the penalty of imprisonment of reclusion perpetua. The Court likewise orders the accused to pay the private complainant AAA the amount of Php50,000.00 as civil indemnity and Php25,000.00 as and by way of exemplary damages.

In Criminal Case No. C-55585, the Court finds the accused Luisito Salazar y Castro GUILTY by proof beyond reasonable doubt of the crime of rape defined and penalized under Article 266-A, paragraph 1 (a) of Republic Act No. 8353. He is hereby sentenced to suffer the penalty of imprisonment of reclusion perpetua. The Court likewise orders the accused to pay the private complainant AAA the amount of Php50,000.00 as civil indemnity and Php25,000.00 as and by way of exemplary damages.

SO ORDERED.”[35]

Thus, accused-appellant filed the present appeal which is premised on the following assignment of errors:

“I

THE COURT A QUO GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY OF THE CRIMES CHARGED DESPITE THE PROSECUTION'S FAILURE TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.

II

THE COURT A QUO GRAVELY ERRED IN GIVING WEIGHT AND CREDENCE TO THE PRIVATE COMPLAINANT'S INCONSISTENT TESTIMONY.”[36]

THE ISSUE

Whether the trial court erred in finding accused-appellant guilty beyond reasonable doubt of thirteen (13) counts of rape.

THE COURT'S RULING

The present appeal is premised on the argument that the testimony of AAA on which the trial court based accused-appellant's conviction, deserves no credence because the same “suffers from material inconsistencies.”[37] Allegedly, AAA's testimony “changes as to the dates in her narration,”[38] “her reasons for telling her mother,”[39] the places where “all the alleged incidents occurred,”[40] and her “reason for not shouting during the first incident.”[41]

The asseveration does not impress.

In finding accused-appellant guilty of thirteen (13) counts of rape, the trial court gave credence to the testimony of AAA who, despite her tender age, candidly and positively testified on the material details of the incidents as follows:

“Q : To refresh your memory, do you remember when was the first time that your father committed that heinous thing?

A : Yes, ma'am.

Q : When was that?

A : July 1994.

Q : You were then going to school?

A : Yes.

Q : You were then in what grade?

A : Grade VI.

Q : Do you remember what time it was when your father committed this atrocity on you?

A : Yes, ma'am.

Q : What time?

A : 12:00 o' clock midnight.

Q : What happened? How did it start?

A : The first time happened inside a passenger jeep which was parked in front of our house.

Q : You were still awake on that day at midnight

A : Yes, ma'am.

Q : Why? Do you remember?

A : Because I felt somebody arrived.

Q : Where were you when you felt somebody arrived in your house?

A : I was in the living room.

Q : What were you doing in the living room?

A : I was sleeping there.

Q : Were you sleeping on a bed or on the floor?

A : On the floor.

Q : Was there anybody sleeping with you at that time?

A : Yes, ma'am.

Q : Who was that?

A : My grandmother.

Q : Who else, if there was anybody else?

A : No more.

Q : This grandmother of yours, whose mother is she, your father's mother or your mother?

A : My mother's mother.

Q : When you felt somebody arrived, what did you do?

A : I stood up.

Q : What did you do?

A : I looked who was that who arrived.

Q : Who was that?

A : My father.

Q : Did you open the door?

A : Yes, ma'am.

Q : When you say door, are you referring to the entrance or the front door?

A : Yes, ma'am.

Q : When you opened the front door, what happened after that?

A : I saw my father.

Q : Did your grandmother wake up?

A : No, ma'am.

Q : So what happened after that?

A : When I was about to sleep, my father told me he wanted to talk to me.

Q : What did you say?

A : I said yes to him.

Q : What happened after that?

A : He told me that I am already a growing up child, and that he would explain to me what to do in case I will have a boyfriend.

Q : How old were you then?

A : I was 12 years old then.

Q : When he was talking to you and telling you this thing, was this inside the house?

A : In front of our house where a passenger jeep was parked.

Q : How were you able to get out of the house?

A : My father called me.

Q : You mean to say that he was outside the house when he called you?

A : Yes, ma'am.

Q : Was he already inside the passenger jeep when he was talking to you about this thing?

A : Yes, ma'am.

Q : Were you already inside the passenger jeep when he was talking to you?

A : Yes, I was sitting.

Q : Who owns that passenger jeep?

A : That is the passenger jeep being driven by my cousin.

Q : The owner was your father or your cousin?

A : I do not know, ma'am.

Q : When your father told you that he is going to show you what to do when you already have a boyfriend, what happened?

A : He forced me to lie down on the floor of the passenger jeep.

Q : Then what happened?

A : That was the first time.

Q : When you were lying down on the floor of the jeep, what happened?

A : He kissed me, touched my breast and my vagina.

Q : Then what happened?

A : He forced to insert his penis into my vagina.

Q : What were you wearing at that time?

A : Shorts and 'sando'.

Q : When he was touching your breast, you were still dress with your sando?

A : Yes, ma'am.

Q : Can you describe to us how he touched your breast?

A : (witness demonstrating how his father touched her breast by using her right hand and putting it on her breast.)

Q : Did he remove your 'sando' in order to touch your breast?

A : Yes, ma'am.

Q : What about your shorts, what did he do to your shorts?

A : He forcibly removed my shorts.

Q : Up to what part of your body or legs?

A : Up to my knees. (witness pointing to her half of her leg)

Q : Was he able to put his penis inside your vagina?

A : Yes, ma'am.

Q : Can you describe what he did when he placed it inside your vagina?

A : I cannot do so at the moment, ma'am.

Q : Did you feel that his penis was placed inside your vagina?

A : Yes, ma'am.

Q : What did you feel?

A : 'Mahapdi'.

Q : After that, what happened?

A : I felt very weak.

Q : What did he do?

A : He still continued what he was doing.

Q : After that, what happened?

A : Nothing else.

Q : Did he stand up after he was through?

A : Yes, ma'am.

Q : What about you, what did you do?

A : I went inside the house.

Q : When you went inside the house, what did you do?

A : I laid down.

Q : Did you tell your mother about it

A : No, ma'am.

Q : Did you tell your grandmother?

A : No, ma'am.

Q : Why not?

A : Because I was afraid.

Q : You were afraid of whom?

A : To him.

Q : Was there anything he said or did that made you afraid aside from what he did?

A : Yes, ma'am.

Q : What?

A : He told me that he will kill my mother if I will tell about the incident to anybody else.

Q : You believed him?

A : Yes, ma'am.

Q : What was the basis of that belief that he will really kill your mother?

A : The mere fact that he was able to do this thing to me, I believe he can also do what he told me.

Q : Was that incident repeated?

A : Yes, ma'am.

STATE PROS. LATOSA: May I make it of record that the witness is crying and in fact having a hard time narrating the offense committed on her by her father because sometimes he has to breath deeply and in as much as it is already almost 12:00 o'clock noon, may I just move for a continuance.”[42]

X X X

“SP LATOSA : Mrs. Witness, in the last hearing or trial I asked you about the first time your father/accused raped you and if that was the only time and was it repeated and you said 'yes'. Now, do you remember when the second or the succeeding rapes occurred?

A : Yes, ma'am.

Q : All in all, before you mentioned the particular dates or months, can you remember all in all how many times you were raped by your father/accused including the first time?

A : Yes, ma'am.

Q : How many times? Including the first time?

A : About 13 times, ma'am.

Q : What about the second to the 13th times can you tell in chronological order when this occurred?

A : Second week of January 1995; February 1995; March 1995; April 1995; May 1995; July 1995; August 1995; October 1995; September 1995; April 1996; December 1996 and April 1997.

X X X

Q : And these rapes where did these occurred?

A : First was in a passenger jeepney the second was at a nipa hut near our house which is under construction.

Q : This house which was under construction, where was this located?

A : CCC, Caloocan City.

Q : Is this far away from the other house which you were originally residing in during the fifth incident?

A : No, ma'am.

Q : What about the 3rd to the 13th where does these incidents took place?

A : The same place, ma'am.

Q : Do you mean it happened in the same nipa hut near your house?

A : Yes, ma'am.”[43]

X X X

“Q : What did your father do during that second incident?

A : She (sic) touched my breast and my vagina.

Q : That was all that your father do?

A : There were others.

Q : What else?

A : (Witness is crying) He inserted his penis to my vagina.”[44]

X X X

“Q : What made you believe that your father would really kill your mother and your grandmother?

A : Because in our province in BBB he has many enemies and he is a trouble maker.”[45]

The testimony of AAA is clear and positive that she was afraid of accused-appellant, her father.[46] She believed him when he said that he would kill her mother if she told anyone about the rapes, because her father was a trouble maker who had many enemies in CCC and in their province of BBB.[47]

RA No. 8353, otherwise known as “The Anti-Rape Law of 1997,” provides that rape is committed by a man who shall have carnal knowledge of a woman under any of the following circumstances:

“a) Through force, threat or intimidation;

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

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

d) When the offended party is under twelve (12) years of age or is demented, even though none of the

circumstances mentioned above be present.”

It bears stressing that what transpired in the present case is incestuous rape of AAA, a minor, and actual force or intimidation need not even be employed because the overpowering moral influence of accused-appellant, AAA's own father, was sufficient to cow AAA into submission to his beastly desires.[48] As held:

“x x x The moral and physical dominion of the father is sufficient to cow the victim into submission to his beastly desires. One should bear in mind that in incestuous rape, the minor victim is at a great disadvantage. The assailant, by his overpowering and overbearing moral influence, can easily consummate his bestial lust with impunity. As a consequence, proof of force and violence is unnecessary, unlike when the accused is not an ascendant or a blood relative of the victim.” x x x

There is no merit in accused-appellant's argument that AAA's testimony was filled with inconsistencies. The alleged variances in the dates and places of the incidents of rape, and AAA's reasons for telling her mother and for not shouting, do not diminish the credibility of AAA's testimony. It must be borne in mind that AAA was of the tender age of twelve (12) when she was first raped by her own father. It is well-settled that courts expect minor inconsistencies when a child-victim narrates the details of a harrowing experience like rape.[49] Inconsistencies in a rape victim's testimony do not impair her credibility, especially if the inconsistencies refer to trivial matters that do not alter the essential fact of the commission of rape. A rape victim is not expected to mechanically keep in memory details of the rape incident and then when called to testify automatically give an accurate account of the traumatic experience she suffered.[50] Moreover, for a discrepancy to serve as basis for acquittal, the same must refer to significant facts vital to the guilt or innocence of the accused. Inconsistencies which have nothing to do with the elements of the crime, cannot be a ground to reverse a conviction.[51]

Accused-appellant's further contention that the prosecution “failed to corroborate the lone testimony” of AAA because it failed to present “the doctor who personally examined her and elucidate on the extent of any injuries she may have sustained arising out of the incident”[52] is unfounded. It is basic that a medical examination is not an indispensable element in prosecutions for rape.[53] That the prosecution did not present the medico-legal officer who examined AAA is, therefore, not an obstacle to a finding of guilt on the part of accused-appellant.

In any event, records bear that AAA underwent physical examination, wherein the medico-legal officer found “an elastic fleshy-type hymen with deep healed lacerations at the 3 and 6 o' clock positions and shallow healed lacerations at 5 and 7 o' clock positions.” The medico-legal officer also found that AAA's “[e]xternal vaginal orifice offers strong resistance to the introduction of the examining index finger.”[54] The non-presentation of the medico-legal officer on the witness stand is not fatal to the prosecution, as the prosecution has the prerogative of choosing its witnesses. Well-settled is the doctrine that “the non-presentation of certain witnesses by the prosecution is not a plausible defense and the matter of choosing witnesses to present lies in the sound discretion of the prosecutor handling the case.”[55]

Ineluctably, there is no merit in accused-appellant's defense of denial.[56] Between the categorical and positive averments of AAA establishing the fact of rape and the identity of accused-appellant as the perpetrator, and accused-appellant's denial which is uncorroborated by reliable and independent evidence, the former indisputably deserve more credence and is entitled to greater evidentiary weight.[57]

Then again, squarely applicable in this case is the time-honored rule that the trial court's assessment of credibility of the prosecution and the defense “is generally viewed as correct and entitled to the highest respect because it is more competent to conclude so, having had the opportunity to observe the witnesses' demeanor and deportment on the witness stand, and the manner in which they gave their testimonies, and therefore could better discern if

such witnesses were telling the truth.”[58]

Anent the trial court's imposition of the penalty of reclusion perpetua for each count of rape, the same is correct pursuant to Article 266-B,[59] Revised Penal Code, as amended by RA No. 8353. But the award of civil indemnity of P50,000.00 and exemplary damages of P25,000.00 should be increased to P75,000.00 and P30,000.00, respectively, pursuant to prevailing jurisprudence.[60] Furthermore, the trial court should have also awarded moral damages of P75,000.00 for each count of rape. It is now settled that moral damages, which are separate and distinct from civil indemnity,[61] are automatically awarded to rape victims without the necessity of proof, for it is assumed that she suffered moral injuries entitling her to said award.[62] Thus:

“Lastly, we modify the appellant's civil liability to include civil indemnity and to increase the exemplary damages awarded. Civil indemnity is automatically awarded upon proof of the commission of the crime by the offender. Under prevailing jurisprudence, the offended party is entitled to P75,000 as civil indemnity, P75,000 as moral damages, and P30,000 as exemplary damages to deter other persons with perverse or aberrant sexual behavior from sexually abusing their children.”[63]

WHEREFORE, the trial court's Decision dated November 20, 2012 finding accused-appellant Luisito Salazar y Castro guilty beyond reasonable doubt of thirteen (13) counts of rape is affirmed, subject to the modification that for each count of rape, (i) civil indemnity and exemplary damages are increased to P75,000.00 and P30,000.00, respectively, and (ii) accused-appellant is further ordered to pay AAA P75,000.00 as moral damages.

SO ORDERED.

Acosta, and Garcia-Fernandez, JJ., concur.

[1] pp. 48-61, Rollo

[2] Pursuant to Section 44, RA No. 9262 (Anti-Violence Against Women and Their Children Act of 2004) and the Supreme Court Decision dated September 19, 2006 in *People vs. Cabalquinto* (502 SCRA 419) and Decision dated November 22, 2007 in *People vs. Ching* (538 SCRA 117), the identities of the victim and her immediate family members, including any identifying information, are withheld.

[3] p. 82, Original Records

[4] p. 6, TSN dated October 21, 2002

[5] p. 4, TSN dated May 19, 2003

[6] p. 7, TSN dated July 7, 2004

[7] p. 7, TSN dated May 19, 2003

[8] p. 6, *Ibid.*

[9] pp. 8-10, *Ibid.*

[10] p. 11, *Ibid.*

[11] p. 3, TSN dated June 9, 2004

[12] pp. 3, 6-7, *Ibid.*

[13] p. 9, TSN dated July 7, 2004

[14] pp. 54-55, Rollo

[15] p. 1, Original Records

[16] p. 2, Ibid.

[17] p. 3, Ibid.

[18] p. 4, Ibid.

[19] p. 5, Ibid.

[20] p. 6, Ibid.

[21] p. 7, Ibid.

[22] p. 8, Ibid.

[23] p. 9, Ibid.

[24] p. 10, Ibid.

[25] p. 11, Ibid.

[26] p. 12, Ibid.

[27] p. 13, Ibid.

[28] p. 37, Ibid.

[29] p. 56, Rollo

[30] TSN dated October 21, 2002, May 19, 2003 and June 9, 2004

[31] TSN dated November 17, 2008

[32] pp. 4-6, TSN dated November 17, 2008

[33] TSN dated February 22, 2010

[34] pp. 48-61, Rollo

[35] pp. 59-61, Ibid.

[36] p. 24, Ibid.

[37] p. 38, Ibid.

[38] p. 38, Ibid.

[39] p. 40, Ibid.

[40] p. 41, Ibid.

[41] p. 42, Ibid.

[42] pp. 2-12, TSN dated May 19, 2003

[43] pp. 2-3, 6-7, TSN dated June 9, 2004

[44] pp. 8-9, TSN dated July 7, 2004

[45] p. 12, Ibid.

[46] p. 11, TSN dated May 19, 2003

[47] p. 12, TSN dated July 7, 2004

[48] People of the Philippines vs. Nasario Castel, 572 SCRA 642, November 28, 2008

[49] People of the Philippines vs. Gregorio Carpio, 508 SCRA 604, November 29, 2006

[50] People of the Philippines vs. Geronimo M. Boromeo, 430 SCRA 533, June 3, 2004

[51] People of the Philippines vs. Manuel M. Perez, 353 SCRA 609, March 5, 2001

[52] p. 43, Rollo

[53] People of the Philippines vs. Marcelino A. Bugarin, 273 SCRA 384, June 13, 1997

[54] p. 85, Original Records

[55] People of the Philippines vs. Roger Rama, 350 SCRA 266, January 25, 2001

[56] p. 43, Rollo

[57] People of the Philippines vs. Joselito Pascua, 416 SCRA 548, November 27, 2003

[58] People of the Philippines vs. Anselmo Butron, 272 SCRA 352, May 7, 1997

[59] ART. 266-B. Penalties. -- Rape under paragraph 1 of the next preceding article shall be punished by reclusion perpetua.

[60] People of the Philippines vs. Nilo Rocabo, 644 SCRA 508, March 2, 2011

[61] People of the Philippines vs. Victor T. Taperla, 395 SCRA 310, January 16, 2003

[62] People of the Philippines vs. Junior Bang-ayan, 502 SCRA 658, September 22, 2006

[63] People of the Philippines vs. Nilo Rocabo, *supra*.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.