

## PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. CRISPINO BIMMACTAD, JR. Y BINLINGAN @ JUN-JUN, ACCUSED-APPELLANT.

Ponente: DIMAAMPAO, J.

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### DIMAAMPAO, J.:

Accused-appellant Crispino Bimmactad, Jr. a.k.a. Jun Jun (JUNJUN) insists on his innocence and bewails the Decision[1] of conviction dated 2 September 2013 of the Regional Trial Court, Second Judicial Region, Lagawe, Ifugao, Branch 14, for Qualified Rape, in Criminal Case No. 1831.

The Information[2] dated 3 August 2009 charged JUNJUN with the crime of Qualified Rape punishable under Articles 266-A and 266-B of the Revised Penal Code (RPC), as amended by Republic Act (RA) No. 8353[3] in relation to Paragraph (d), RA No. 7610[4], committed against his minor half-sister, AAA.[5] The accusatory averments read as follows:

“That sometime in the afternoon of August 2009, in a forested area at a nearby brook in Caba, Lagawe, Ifugao and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and feloniously thru force and intimidation, have carnal know-ledge of one (AAA), a minor, 9 years of age, against her will and consent.

CONTRARY TO LAW, all to her damage and prejudice.”[6]

Upon arraignment, JUNJUN pled not guilty[7] to the charge against him.[8] During the pre-trial conference, the defense admitted that AAA was nine years old in August 2009 and that she submitted herself for medical examination.[9] Trial on the merits ensued.

The prosecution endeavored to prove the following inculpatory facts:

AAA, a minor, and JUNJUN were half-blood siblings sharing a common maternal lineage in the person of Emilia Benligan (Emilia), their mother.

Sometime in August 2009, AAA, then nine years old, was called by JUNJUN to gather vegetables and to wash them at a nearby brook in Caba, Lagawe, Ifugao. Both gathered vegetables and proceeded to the brook. Arriving thereat, JUNJUN told AAA to jump into the brook and when she did so, he suddenly grasped and embraced her. Afterwards, JUNJUN laid AAA on a wooden board, removed her pants and then his pants. He inserted his penis into AAA's vagina causing her pain. She shouted for help by calling out "mama" and told JUNJUN that she will report what he did to her. This prompted JUNJUN to stop his beastly act, put his pants on, left AAA alone in the brook, and hurriedly went home. AAA reported the incident to her mother but she did nothing and merely replied: "Yes, we are going to bring him to jail if we have money." After the rape incident, AAA ran to a nearby church to hide. When the pastor asked her why she was hiding, she replied she was hiding from her brother.[10]

To bolster the testimony of AAA, one Jackelyn Balog (Jackelyn), the second cousin of Emilia, testified[11] that AAA narrated how JUNJUN raped her. AAA recounted that JUNJUN threatened her so she could not do anything but accede to his carnal desires. AAA complained that her mother, Emilia, refused to take action and ignored her.

Jackelyn brought AAA to her uncle, a certain Noel Benlingan (Noel) who lived in Bayyucan, another town of Lagawe.[12]

On 8 September 2009, Noel accompanied AAA to the Municipal Health Office of Lagawe for medical examination. Cherry Namujhe (Namujhe), the Municipal Health Officer, examined her and found out that she had two healed hymenal lacerations on her private part which could have been caused by a solid object bigger than an orifice.[13] Forthwith, AAA filed a criminal case against JUNJUN for qualified rape.

JUNJUN, for his part, vehemently denied the accusation against him and professed that on the date of the alleged incident, he was not in Caba, Lagawe with AAA as he was at the house of his grandfather in Bannit, Payawan, Lamut, Ifugao. JUNJUN avowed that he never lived with his mother Emilia and half-sister AAA in Caba. He merely visited them but did not spend the night with them.[14]

Ploughing through the diverse postures of the parties, the court a quo rendered the assailed Decision, disposing—

“WHEREFORE, in view of the foregoing, this court finds accused Crispino Bimmactad(,) Jr. alias JUN-JUN GUILTY beyond reasonable doubt of qualified rape as defined in Article 266-A of the Revised Penal Code, as amended by Republic Act No. 8353 and hereby sentenced (him) to suffer the penalty of Reclusion Perpetua. The accused is likewise ordered to pay the private complainant the amount of Seventy Five Thousand Pesos (P75,000.00) as moral damages.

SO ORDERED.”[15]

Crestfallen, JUNJUN (now, appellant) interposed this Appeal raising this solitary error—

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

We affirm the verdict of conviction with modification on the award of damages.

In rape prosecutions, the rule is well-settled that an accusation of rape is easy to make, and difficult to prove, but it is even more difficult to disprove. Bearing in mind the intrinsic nature of the crime, the testimony of the complainant must be scrutinized with utmost care and caution and the evidence of the prosecution must stand or fall on its own merits; and cannot draw strength from the weakness of the defense.[16]

At the linchpin of this Appeal is the determination of whether or not the prosecution was able to prove beyond reasonable doubt the guilt of appellant. The resolution of this issue hinges on the credibility of the prosecution's evidence.

Appellant asserts that the testimony of AAA failed to establish that he succeeded in consummating the alleged rape since she testified that he immediately stopped when she screamed for help. In the absence of the slightest penetration, appellant, at most, can only be convicted of attempted rape.[17]

After a perspicacious review of the record, We find no cogent reason to deviate from the judgment of conviction. The prosecution convincingly discharged its onus of proving that appellant raped his minor half-sister, AAA. In her direct examination, AAA recounted with limpidity and straightforwardness how appellant raped her, viz:

"Q

AAA, when you said he raped you, could you relay the incident that happened that made you say he raped you?

A

He did something wrong to me.

Q

And can you relay to this court the incident that happened?

A

My brother called me to gather vegetable for our viand then he told me to make it fast so that we will go to wash it at the brook.

Q

So, you both went to look for vegetables(,) and what happened next?

A

Then we went to the brook purposely to wash the vegetables that we gathered then he told me to jump but I said, "it's up to (sic) me to jump." but when I jumped, he caught (sic) and embraced me.

Q

Could you demonstrate how he embraced you when you jumped?

A

(The witness demonstrated using both of her hands the act of embracing.)

Q

When you jumped and he also embraced you, what happened next?

A

Then after he embraced me, he brought me to a wooden board and laid me on that wooden board which he prepared then he removed his pants then she (sic) removed my pants and he did something wrong to me.

Q

And after he pulled down his pant(s), whose pants did he pull down first?

A

My pants.

Q

So, after he pulled down your pants and he pulled down also his pants, what happened next?

A

He did something wrong to me.

Q

Can you tell to this Honorable Court how he wronged you?

A

After he pulled down my pants and he also pulled down his pants, he inserted his penis into my vagina.

Q

And what was your position when he inserted his penis into your vagina, were you lying down, were you seating down, were you standing when your manung Jun Jun inserted his penis into your vagina?

A

On a lying position.

Q

Facing up or down?

A

I was lying facing up.

Q

And where were you lying then?

A

On a wooden board.

Q

AAA, while he was on the act of inserting his penis into your vagina, what did you do?

A

I screamed.

Q

What did you scream?

A

I shouted “mama”(.)

Q

How did you feel when (he) inserted his penis?

A

[I]t was painful.

Q

And after inserting his penis, what happened next?

A

When I told him that I will report what he did to me, he stopped?(.)

Q

What did he stop?

A

He stopped pumping.

Q

And what happened afterwards?

A

(No answer.)

Q

After you told your manung Jun Jun that you will report to your mother what he was doing and that he stopped, what did he do next?

A

He went home.”[18] (Emphases Ours)

We find and so hold that AAA's narration of her harrowing experience at the hands of appellant spawns the hallmark of forthrightness. She identified appellant with certainty and described how he raped her by inserting his penis into her vagina.

Appellant takes umbrage at AAA's testimony arguing that the medico-legal report indicating the presence of healed hymenal lacerations on AAA's vagina does not in any way support the accusation that he indeed raped AAA. Moreover, the court a quo should have taken into account that AAA was examined a month after the

alleged rape incident took place.[19]

Jurisprudence is replete with iterations that testimonies of child-victims of rape are to be given full weight and credence. Reason and experience dictate that a girl of tender years, who barely understands sex and sexuality, is unlikely to impute to any man a crime so serious as rape, if what she claims is not true. Her candid narration of how she was raped bears the earmarks of credibility, especially if no ill will — as in this case — motivates her to testify falsely against the accused. When a woman, more so when she is a minor, says she has been raped, she says in effect all that is required to prove the ravishment. The accused may thus be convicted solely on her testimony — provided it is credible, natural, convincing and consistent with human nature and the normal course of things.[20]

Certainly, no young girl would concoct a sordid tale of so serious a crime as rape at the hands of a close kin, undergo medical examination, then subject herself to the stigma and embarrassment of a public trial, if her motive were other than an earnest desire to seek justice.[21]

Therewithal, the results of the physical examination conducted on AAA by Municipal Health Officer Namujhe reinforces AAA's testimony, viz:

"Q Madam Witness, when this Marilyn Alonso came for medical examination(,) did you asked (sic) her why she came for medical examination?

A She was accompanied by her uncle Noel Benlingan and it was her uncle who told me that they came for medical examination.

Q Did you asked (sic) him why?

A Because she was allegedly raped.

Q And did you proceed with the actual medical examination?

A Yes, Ma'(a)m.

Q And what was your finding?

A There was a healed hymenal laceration, Ma'(a)m.

Q What was (sic) that mean?

A A healed laceration would mean that the laceration may have occurred more than one week or two weeks.

Q And where was the laceration?

A The laceration is located at 4:00 o'clock and 9:00 o'clock position.

Q Of the?

A Of the vaginal orifice.

x x x x x

Q Did you asked (sic) the victim when the alleged rape happened?

A Yes, Ma'(a)m, and I was informed that it happened many times in the house of the victim.

Q Did you asked (sic) the last time that she was raped?

A Yes, Ma'(a)m, and she stated it was on August 2009.

Q And the medical examination was a month after?

A Yes, Ma'(a)m.

Q Does that explain why the laceration on her vagina was healed?

A Yes, Ma'(a)m.

Q As a medical doctor, Madam Witness, what do you think caused the laceration?

A It could have been a solid object that is bigger than the orifice that was put inside the vagina.

Q In this particular case now, Madam Witness, what do you think caused the laceration on the vagina of the victim?

A I cannot actually attest to that, Madam, the medical certificate only certifies what was revealed during the examination.

Q But it is possible that what caused the laceration on her vagina is a solid object, is that what you said?

A Solid object, Ma'(a)m.

COURT (to the witness)

Q When you say solid object(,) does it include a penis of a man placed inside the vagina?

A Yes, Your Honor.

PROS. NIWANI (continuing)

Q In your sketch(,) Madam Witness, it stated here, 9:00 o'clock and 4:00 o'clock laceration, that means more than one laceration, did you determine that?

A Two lacerations, Ma'(a)m, one in the 4:00 o'clock posi-tion and one in the 9:00 o'clock position.”[22]  
(Emphases Ours)

Well-ensconced is the rule that when the victim's testi-mony is corroborated by a physician's finding of penetration, there is sufficient foundation to conclude the existence of the essential requisites of carnal knowledge. Lacerations, whether healed or fresh, are the best physical evidence of forcible defloration.[23]

Upon the other hand, appellant propounds that he could not have raped AAA since he did not reside with AAA in Caba, Lagawe but was living with his grandfather in Bannit, Payawan, Lamut, Ifugao.

We are not convinced.

It is elemental that both denial and alibi are inherently weak defenses which cannot prevail over the positive and credible testimony of the prosecution witness that the accused committed the crime. For the defense of alibi to prosper, the appellant must prove that he was somewhere else when the offense was committed and that he was so far away that it was not possible for him to have been physically present at the place of the crime or at its immediate vicinity at the time of its commission.[24]

Here, appellant's defense of alibi cannot prevail over the categorical statement of AAA, the victim. Appellant's assertion that he could not have committed the rape because he did not live with AAA and resided in another town within the same province, deserves scant consideration. Other than his bare denial, appellant did not adduce compelling evidence to prove that it was impossible for him to be within the vicinity during the commission of the alleged rape of AAA. Likewise, the defense failed to prove that it was physically impossible for appellant to have been at the locus criminis at the time of the commission of the rape.[25]

The record is devoid of showing that AAA was impelled by ill-motive to falsely impute the crime of rape against him. In actual fact, appellant admitted that he could not see any ill-motive on the part of AAA to falsely accuse him of the crime of rape and had no known grudge against him.[26]

Invariably, We resonate the disquisition of the court a quo, viz—

“(Appellant) denied having sexually abused the minor private complainant. The denial of the (appellant) could not overcome the positive statement of the minor victim that the (appellant) inserted his penis into her vagina.xxx On questioning by the court, the (appellant) stated that he do (sic) not know of any reason why his younger sister would impute such a grave offense to him, considering that he is even providing food to them. When there is nothing to indicate that a witness was actuated by improper motives, his positive and categorical declarations on the witness stand under solemn oath deserve full truth and credit.xxx

By way of alibi, the (appellant) claimed that he never lived with his younger sister, the minor private complainant, and their mother. It is his claim that he was staying with his grandfather at Bannit, Lamut, Ifugao.xxx The alibi of the (appellant) could not be sustained. He admitted that he visits his mother and younger sister twice a month to bring their rice and that in fact he visited his mother and younger sister on (sic) August 2009 at (sic) Caba, Lagawe, Ifugao. He likewise stated that the travel time for a jeep from Bannit, Lamut, Ifugao to Caba, Lagawe, Ifugao would not take several hours. It is not therefore impossible for the (appellant) to be at (sic) Caba, Lagawe, Ifugao on (sic) August 2009 to commit the acts imputed against him by his younger sister.xxx”[27] (Emphases Ours)

With this discourse, We sustain the factual findings of the court a quo that the prosecution was able to establish with moral certainty the guilt of appellant.

Anent the award of damages, We find that a modification is in order. Prevailing jurisprudence dictates that civil indemnity and exemplary damages should be awarded.[28] AAA, being the victim of qualified rape, a minor and half-sister of the appellant, is also entitled to recover in addition to moral damages the amounts of P75,000.00 as civil indemnity, and P30,000.00 as exemplary damages. This is due to the attendance of the qualifying circumstances of the minority of AAA and the relationship between her and the appellant. In addition, in conformity with recent doctrinal policy, all damages awarded shall earn interest at the rate of 6% per annum from date of finality of judgment until fully paid.[29]

WHEREFORE, the Decision of conviction dated 2 September 2013 of the Regional Trial Court, First Judicial Region, Lagawe, Ifugao, Branch 14, in Criminal Case No. 1831, is hereby AFFIRMED with MODIFICATION in that accused-appellant Crispino Bimmactad, Jr. a.k.a. Jun Jun is ORDERED to pay in addition to the amount of P75,000.00 as moral damages, the amounts of P75,000.00 as civil indemnity and P30,000.00 as exemplary damages. All damages awarded shall be subject to interest at the legal rate of six percent (6%) per annum from the finality of this judgment until full payment.

**SO ORDERED.**

Diamante, and Salandanan-Manahan, JJ., concur.

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[1] Original Record, pp. 110-115.

[2] *Id.*, pp. 1-2.

[3] Anti-Rape Law of 1997.

[4] Special Protection of Children Against Abuse, Exploitation and Discrimination Act

[5] In accordance with the ruling of the Supreme Court in *People v. Cabalquinto*, 502 SCRA 419, 425-426 (19 September 2006).

[6] Original Record, p. 1.

[7] See Order dated 23 February 2010; *Id.*, p. 22.

[8] See Certificate of Arraignment; *Id.*, p. 23.

[9] See Order dated 27 April 2012 ; *Id.*, pp. 35-36.

[10] See Transcripts Folder I; TSN dated 3 February 2011, p. 3-6.

[11] See Transcripts Folder II; TSN dated 9 December 2010, pp. 1-5.

[12] See *Id.*, pp. 2-4.

[13] See *Id.*, 4 May 2011, pp. 2-11.

[14] See *Id.*, I; TSN dated 4 June 2013, pp. 1-5.

[15] Original Record, p. 115.

[16] See *People v. Jastiva*, 716 SCRA 125, 145 (12 February 2014).

[17] See Appellant's Brief; Rollo, p. 34.

[18] Transcripts Folder I; TSN dated 3 February 2011, pp. 3-4.

- [19] See Appellant's Brief; Rollo, p. 35.
- [20] See *People v. Veloso*, 690 SCRA 586, 597 (13 February 2013).
- [21] *People of the Philippines v. Emiliano Capareda*, G.R. No. 128363 (27 May 2004).
- [22] Transcripts Folder I; TSN dated 4 May 2011, pp. 5-7.
- [23] *People v. Batula*, 686 SCRA 575, 586 (28 November 2012).
- [24] See *People v. Piosang*, 697 SCRA 587, 596-597 (5 June 2013).
- [25] See *People v. Delabajan*, 668 SCRA 859, 866 (21 March 2012).
- [26] See Transcripts Folder I; TSN dated 4 June 2013, pp. 8-9.
- [27] Original Record, pp. 114-115.
- [28] See *People v. Venturina*, 680 SCRA 508, 518 (12 September 2012).
- [29] See *People v. Guillen*, 710 SCRA 533, 543 (25 November 2013).

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