PEOPLE OF THE PHILIPPINES, APPELLEE, VS. MELITON JALBUENA Y TADIOSA, APPELLANT.

G.R. No. 171163. July 04, 2007

Ponente: CARPIO MORALES, J.

Read online (full-text search, related cases, audio case brief): https://batas.org/library/g-r-no-171163/

CARPIO MORALES, J.:

Accused-appellant Meliton Jalbuena y Tadiosa was charged with rape of a daughter, a minor,[1] in an Information, docketed as Criminal Case No. 96-601 before the Lucena City Regional Trial Court, which reads:

x x x x

> That on or about the month of August 1996, at Barangay Ilayang Nangka, in the Municipality of Tayabas, Province of Quezon, Philippines[,] and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design, by means of force, threats and intimidation, did then and there[,] willfully, unlawfully and feloniously have carnal knowledge of one [AAA], his own daughter, a minor, 11 years of age,[2] against her will.[3]
>
> x x x x (Underscoring supplied)

From the evidence for the prosecution, the following version is culled:

In the morning of August 19, 1996, while her mother BBB was out of the house, her father- accused-appellant approached AAA while she was in bed, pulled down her underwear, placed himself on top of her, and inserted his penis in her vagina. She was warned not to report the incident to anyone; otherwise, something bad would occur to her.[4]

The incident was repeated on two other occasions, the last of which was in the morning and witnessed by her uncle CCC while accused-appellant was on top of her.

CCC reported what he saw to AAA's grandfather who merely advised her to avoid her father, to an aunt, as well as to her mother BBB who refused to believe it.[5]

AAA later mustered enough courage to narrate her ordeals to two classmates who reported them to their teacher, who in turn reported and brought her to the school principal.[6]

On September 12, 1996, Dr. Marilyn Salumbides examined AAA and reduced her findings to writing as follows:

> P.P.E.: Normal Looking External Genitalia
> Internal Exam - admits tip of finger with difficulty
>
> Hymen - intact
>
> Vaginal Smear taken for Spermatozoa - NONE SEEN
>
> x x x x[7] (Emphasis supplied)

Hence, accused-appellant's indictment.

Accused-appellant denied the accusation and gave his side of the case as follows:

He could not have raped AAA as his job as a canvasser of plastic wares required him to be out of the house most of the time, except on Saturdays, albeit he would return home in the afternoon or evening.[8]

Appellant's wife BBB corroborated his claim.

Branch 58 of the RTC of Lucena City, however, found the testimony of AAA "clear, consistent, direct and without any hesitation when confronted by the presence of her own abuser."[9] It discredited appellant's defense of alibi, there being no proof that it was physically impossible for him to be at the place, date and time of the commission of the offense.

The trial court thus disposed in its Judgment of September 11, 2003:[10]

> WHEREFORE, accused MELITON JALBUENA y TADIOSA of Bgy. Ilayang Nangka, Tayabas, Quezon, is hereby found guilty beyond reasonable doubt of the crime of statutory rape, defined and punished under Article 335 of the Revised Penal Code, as amended by R.A. 7659; and in the absence of any mitigating circumstance and with the special aggravating circumstances of minority and relationship alleged and duly proven by the prosecution, Meliton Jalbuena y Tadiosa is hereby sentenced to suffer the extreme penalty of DEATH.
>
> Further, accused is hereby ordered to pay to the offended party, [AAA] the amounts of P75,000.00, as civil indemnity, P50,000.00, as moral damages, and P25,000.00, as exemplary damages.
>
> The Jail Warden, Quezon Provincial Jail, Lucena City, is hereby ordered to immediately deliver the person of Meliton Jalbuena y Tadiosa to the National Bilibid Prisons, Muntinlupa City, and to remain thereat until the penalty imposed upon him may be served.
>
> The Branch Clerk of Court is hereby directed to forward the entire records of this case to the Supreme Court, Manila, for automatic review of the case pursuant to the provision of Article 47 of the Revised Penal Code, as amended.[11] (Emphasis in the original; underscoring supplied)

This case was forwarded to this Court for automatic review in view of the death penalty imposed. Per People v. Mateo,[12] however, this Court referred the case to the Court of Appeals by Resolution of July 26, 2005.[13]

The appellate court, finding that the testimony of AAA is credible and free from material inconsistencies and contradictions, affirmed the Judgment of the trial court by Decision of November 18, 2005,[14] disposing as follows:

> WHEREFORE, premises considered, the appealed judgment dated September 11, 2003 of the Regional Trial Court of Lucena City, Branch 58 in Criminal Case No. 96-601 finding MELITON JALBUENA y TADIOSA guilty of Statutory Rape and sentencing him to suffer the supreme penalty of DEATH is hereby AFFIRMED.
>
> In accordance with A.M. No. 00-5-03-SC which took effect on October 15, 2004, amending Section 13, Rule 124 of the Revised Rules of Criminal Procedure, let the entire records of this case be elevated to the Supreme Court for review.[15] (Emphasis in the original)

Hence, the present review of the case.

By Resolution of February 21, 2006, this Court required the parties to submit Supplemental Briefs within 30 days from notice if they so desire.[16] Both parties filed their respective Manifestations that they are no longer filing any Supplemental Briefs.[17]

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

In his Brief filed before the appellate court, accused-appellant faulted the trial court (1) for convicting him despite the failure of the prosecution to prove his guilt beyond reasonable doubt and (2) in not considering the information insufficient to support a judgment of conviction for failure to state the precise date of the commission of the rape.[18]

The second assigned error shall, for obvious reasons, first be resolved.

Appellant questions as fatally defective the information for failure to allege the date and time of the commission of the offense charged, thus violating his constitutionally protected right to be informed of the nature and cause of the accusation against him and depriving him of the opportunity to prepare for his defense.

Prior to its substantial incorporation in the Revised Rules of Court in 2000, Section 11, Rule 110 of the Rules of Court, reads:

> Sec. 11. Time of the commission of the offense. - It is not necessary to state in the complaint or information the precise time at which the offense was committed except when the time is a material ingredient of the offense, but the act may be alleged to have been committed at any time as near to the actual date at which offense was committed as the information or complaint will permit.[19] (Emphasis and underscoring supplied)

In rape, the gravamen of the offense, being the carnal knowledge of a woman, the date is not an essential element, hence, the specification of the exact date or time of its commission is not important. [20]

In statutory rape, like in this case, what matters most is that the information alleges that the victim is a minor under twelve years of age and that the accused had carnal knowledge of her.[21]

If accused-appellant found the information defective as it bears only the month and year of the incident complained of, he should have filed a Motion for Bill of Particulars, as provided for under Rule 116,[22] before he entered a plea. His failure to do so amounted to a waiver of the defect or detail desired in the information.[23]

> Indeed, in the case at bar, the criminal complaint states that the rape was committed "on or about the month of August 1996." Such an allegation in the criminal complaint as to the time of the offense was committed is sufficient compliance with the provisions of Section 11, Rule 110 of the Revised Rules of Criminal Procedure. Besides, if the appellant was of the belief that the criminal complaint was defective, he should have filed a motion for a bill of particulars with the trial court before his arraignment. The appellant failed to do so. It was only when the case was brought to this Court on automatic review that he raised the question of the supposed insufficiency of the criminal complaint, which is now too late by any reckoning.[24]

At all events, accused-appellant participated in the trial and never objected to the presentation of evidence by the prosecution that the rape was committed "on or about the month of August 1996."

> Appellant likewise never objected to the presentation of evidence by the prosecution to prove that the offenses were committed "on or about sometime (sic) 1987, prior and subsequent thereto." He cannot now pretend that he was unable to defend himself in view of the vagueness of the allegation in the Information as to when the crimes were committed, as it was shown to the contrary that he participated in the trial and was even able to give an alibi in his defense.[25] (Italics in the original)

On the merits, accused-appellant assails the credibility of AAA's testimony that she was raped three times, in light of the finding of Dr. Salumbides that her hymen was intact.

And accused-appellant questions the prosecution's failure to present as witness AAA's uncle CCC who allegedly saw him on top of AAA, which failure amounts to, so he claims, willful suppression of evidence.

In rape cases, the credibility of the victim is almost always the single most important issue.[26] If the testimony of

the victim passes the test of credibility, the accused may be convicted solely on that basis.[27] Significantly, the trial court, passing on AAA's credibility, noted:

> The credibility of the testimony of the offended party is put to a stringent test in order that it could be said as credible to sustain a conviction. The Court finds [AAA's] testimony to have passed said test. Her testimony given in open court is clear, consistent, direct and without any hesitation when confronted by the presence of her own abuser.
>
> It is noted that [AAA] had to tell her story several times - to her two classmates, to the teacher, the principal, the police, the doctor, the Municipal Trial Court Judge who conducted the preliminary investigation, to the prosecutor, to the social worker and to this Court, in the presence of the public and her father. Her testimony is one and the same - her father sexually abused her not once, but thrice, and that every time she was subjected to this maltreatment, her mother was out of their home, her father would pull down her panty, laid on top of her, placed his sexual organ into her own private part and made push and pull, or rubbing motions (binubundol-bundol o ikinikiskis). Worse, she was always warned not to tell anyone about the incidents or her father would kill her.[28] (Underscoring supplied)

Apropos is this Court's taking stock of the fact that when one accuses a close relative of having raped her, as in this case where AAA accused her very own father,[29] her testimony is entitled to greater weight.

> x x x [A] daughter would not accuse her own father of a serious offense like rape, had she really not been aggrieved. Her testimony against him is entitled to greater weight, since reverence and respect for elders is too deeply ingrained in Filipino children and is even recognized by law. x x x That she would accuse her own father of this heinous crime had she not been aggrieved would be absurd.[30] (Underscoring supplied)

Accused-appellant's claim that AAA charged him with rape because he would scold her very often does not impress. People v. Bidoc instructs:

> x x x In previous cases, this Court held that parental punishment or disciplinary chastisement is not enough for a daughter in a Filipino family to falsely accuse her father of rape. She would not subject herself to an examination of her private parts, undergo the trauma and humiliation of public trial, and embarrass herself with the need to narrate in detail how she was raped if she was not in fact raped. It takes depravity for a young girl to concoct a tale of defloration, which would put her own father on death row, drag herself and the rest of her family to a lifetime of shame, and make them the object of gossip among their classmates and friends.[31] (Underscoring supplied)

That AAA's hymen remained intact despite the claim of three occasions of rape is not impossible and does not negate a finding that they were committed.[32] A torn or broken hymen is not an essential element of rape, not even when the victim is an innocent child.[33] Dr. Salumbides, on cross- examination, testified that there are several classes of hymen; some are elastic and flexible that even in cases of several deliveries, the hymen remains intact.[34]

As to the failure of the prosecution to present AAA's uncle CCC and to proffer a plausible explanation therefor, a prosecutor has the discretion, the prerogative to determine the witnesses he is going to present.[35]

In any event, the records show that on the request of the prosecution,[36] several subpoenas[37] for, as well as bench warrants[38] against, CCC were issued. CCC, however, had ceased to reside in Barangay Ilayang Nangka and his whereabouts could not be ascertained. The trial court in fact even reprimanded on one occasion SPO2 Edilberto Conjares, the subpoena/warrant officer of the Philippine National Police in Tayabas, Quezon, for failure to serve the subpoena.[39]

On accused-appellant's alibi, the rule is settled that for it to prosper, it must be established with clear and

convincing evidence not only that he was somewhere else when the crime was committed, but also that it was physically impossible for him to have been at the scene of the crime at the time of its commission.[40] This, accused-appellant failed to do. As reflected above, he admitted that after work, he goes home in the afternoon or early evening.[41]

The qualifying circumstances of minority and relationship were alleged and established. Hence, the death penalty imposed by the trial court and affirmed by the Court of Appeals is proper. In view, however, of the subsequent enactment on June 24, 2006 of Republic Act No. 9346, "An Act Prohibiting the Imposition of Death Penalty in the Philippines," accused- appellant must be sentenced to suffer the penalty of reclusion perpetua without eligibility for parole.[42]

A word on the award of moral damages. In accordance with prevailing jurisprudence, the amount of P50,000 which was awarded by the trial court and affirmed by the appellate court, is increased to P75,000.[43]

WHEREFORE, the assailed November 18, 2005 Decision of the Court of Appeals in CA-G.R. CR-H.C. No. 01496 is AFFIRMED with MODIFICATION in that in lieu of death penalty, accused-appellant, Meliton Jalbuena y Tadiosa, is sentenced to suffer reclusion perpetua without eligibility for parole, and the award of P50,000 for moral damages, is increased to P75,000.

SO ORDERED.

Puno C.J., Ynares-Santiago, Carpio, Austria-Martinez, Corona, Azcuna, Tinga, Chico-Nazario, Garcia, Velasco, Jr. and Nachura, JJ., concur.
Quisumbing, J., on official leave.
Sandoval-Gutierrez, J., on leave.

---

[1] Committed under the then Article 335 of the Revised Penal Code, as amended by RA 7659, which states:

> ART. 335. When and how rape is committed. - Rape is committed by having carnal knowledge of a woman under any of the following circumstances:
>
> - By using force or intimidation;
>
> - When the woman is deprived of reason or otherwise unconscious; and
>
> - When the woman is under twelve years of age or is demented;
>
> The crime of rape 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 attendant circumstances:
>
> - when the victim is under eighteen (18) years of age and the offender is a parent, ascendant, stepparent, 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

[2]AAA was born on December 10, 1984 per her Certificate of Live Birth, Exhibit "D," records, p. 415.

[3] Id. at 2.

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

[4] Id. at 57-60, TSN, June 11, 1997.

[5] Id. at 66-67.

[6]Id. at 60-61.

[7] Exhibit "A," records, p. 416.

[8] Id. at 362-368, TSN, September 25, 2002.

[9] Id. at 430.

[10]Id. at 425-433.

[11] Id. at 432-433.

[12]G.R. Nos. 147678-87, July 7, 2004, 433 SCRA 640. The case modified the pertinent provisions of the Revised Rules on Criminal Procedure, more particularly Section 3 and Section 10 of Rule 122, Section 13 of Rule 124, Section 3 of Rule 125 insofar as they provide for direct appeals from the Regional Trial Courts to the Supreme Court in cases where the penalty imposed is death, reclusion perpetua or life imprisonment and allowed intermediate review by the Court of Appeals before such cases are elevated to the Supreme Court.

[13] CA rollo, p. 110.

[14] Id. at 112-126. Penned by Justice Amelita G. Tolentino with the concurrence of Justices Bienvenido L. Reyes and Vicente S.E. Veloso.

[15] Id. at 125-126.

[16]Rollo, p. 18.

[17] Id. at 19-20, 22-24.

[18] CA rollo, p. 46.

[19] Section 11, Rule 110 of the 2000 Revised Rules of Criminal Procedure now states:
Sec. 11. Date of commission of the offense. - It is not necessary to state in the complaint or information the precise date the offense was committed except when it is a material ingredient of the offense. The offense may be alleged to have been committed on a date as near as possible to the actual date of its commission.

[20]People v. Almendral, G.R. No. 126025, July 6, 2004, 433 SCRA 440, 451; People v. Espinosa, G.R. No. 138742, June 15, 2004, 432 SCRA 86, 92; People v. Pascual, 428 Phil.1038, 1049 (2002); People v. Alicante, 388 Phil. 233, 258 (2000); People v. Alvero, 386 Phil. 181, 191 (2000); People v. Bugayong, 359 Phil. 870, 878 (1998).

[21] People v. Hilet, 450 Phil. 481, 488 (2003).

[22] Section 10, Rule 116 of the 1985 Rules of Criminal Procedure, now Section 9, Rule 116 of the 2000 Revised Rules of Criminal Procedure, states:
Section 10. Bill of Particulars.- Accused may, at or before arraignment, move for a bill of particulars to enable him properly to plead and to prepare for trial. The motion shall specify the alleged defects and the details desired.

[23]People v. Almendral, supra note 20 at 451-452.

[24]People v. Espinosa, supra note 20 at 93.

[25]People v. Almendral, supra note 20 at 452.

[26] People v. Fernandez, G.R. No. 172118, April 24, 2007; People v. Corpuz, G.R. No. 168101, February 13, 2006, 482 SCRA 435, 448.

[27] People v. Fernandez, supra; People v. Corpuz, supra at 448; People v. Guambor, 465 Phil. 671, 678 (2004).

[28] Records, pp. 430-431.

[29] People v. Herevese, 457 Phil. 725, 736 (2003); People v. Briones, 439 Phil. 675, 676 (2002); People v. Miasco, 416 Phil. 612, 627 (2001); People v. Teves, 397 Phil. 536, 542 (2000); People v. Ramos, 386 Phil. 662,667 (2000).

[30]People v. Briones, supra at 685. Vide People v. Pangilinan, G.R. No. 171020, March 14, 2007; People v. Calderon, 441 Phil. 634, 643-644 (2002).

[31] G.R. No. 169430, October 31, 2006, 506 SCRA 481, 499.

[32] People v. Gagto, 323 Phil. 539, 551 (1996).

[33]People v. Ballesterol. 436 Phil. 274, 282 (2002); People v. Lomibao, 391 Phil. 912, 927 (2000); People v. Tirona, 360 Phil. 611, 621 (1998).

[34] Records, p. 68, TSN, June 11, 1997.

[35] Calimutan v. People, G.R. No. 152133, February 9, 2006, 482 SCRA 44, 64-65; People v. Reyes, 447 Phil 668, 677 (2003); Lucas v. Court of Appeals, 438 Phil. 530, 542 (2002); People v. Gelin, 429 Phil. 483, 493 (2002); People v. Requiz, 376 Phil. 750, 760 (1999); People v. Jamiro, 344 Phil. 700, 718 (1997).

[36] Records, p. 68, TSN, June 11, 1997.

[37] Id. at 70, 79, 97, 105, 114, 122, 129, 135, 144, 157, 163, 171, 179, 186, 196, 205, 217, 222, 230, 238, 246, 255.

[38] Id. at 182, 271.

[39] Order dated August 27, 1998, records, pp. 151-152.

[40]People v. Espinosa, supra note 20 at 100. People v. Orilla, G.R. Nos. 148939-40, February 13, 2004, 422 SCRA 620, 633; People v. Obrique, 465 Phil. 221, 243 (2004).

[41] Records, p. 366, TSN, September 25, 2002.

[42] Vide People v. Bidoc, supra note 31; People v. Tubongbanua, G.R. No. 171271, August 31, 2006, 500 SCRA 727; People v. Quiachon, G.R. No. 170236, August 31, 2006, 500 SCRA 704; People v. Salome, G.R. No. 169077; August 31, 2006, 500 SCRA 659.

[43] People v. Fernandez, supra note 25; People v. Guillermo, April 23, 2007; People v. Pangilinan, supra note 30.

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.