

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. BENJAMIN PADILLA Y UNTALAN, ACCUSED-APPELLANT.

G.R. No. 182917. June 08, 2011

Ponente: LEONARDO-DE CASTRO, J.

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LEONARDO-DE CASTRO, J.:

The case before Us is an appeal from the Decision [1] dated November 15, 2007 of the Court of Appeals in CA-G.R. CR.-H.C. No. 00387. Said decision affirmed with modification the Joint Decision [2] dated September 3, 2004 of the Regional Trial Court (RTC) of Urdaneta City, Branch 49, in Criminal Case Nos. 11273-75, which convicted accused-appellant Benjamin Padilla y Untalan of three (3) counts of rape against the private complainant AAA. [3]

On March 12, 2001, accused-appellant was charged with three (3) counts of rape under three separate informations, the pertinent portions of which state:

CRIMINAL CASE NO. U-11273

That on or about January 13, 2001 at [XXX] and within the jurisdiction of this Honorable Court, the above-named accused, being the father of [AAA], a minor, 11 years old, by means of force and intimidation, did then and there willfully, unlawfully and feloniously have sexual intercourse with said [AAA], against her will and without her consent, to her damage and prejudice.

CONTRARY to Article 335, Revised Penal Code, as amended by R.A. 8353 and R.A. 7659. [4] (Emphases ours.)

CRIMINAL CASE NO. U-11274

That at about dawn of January 14, 2001 at [XXX] and within the jurisdiction of this Honorable Court, the above-named accused being the father of [AAA], a minor, 11 years old, by means of force and intimidation, did then and there willfully, unlawfully and feloniously have sexual intercourse with said [AAA], against her will and without her consent, to her damage and prejudice.

CONTRARY to Article 335, Revised Penal Code, as amended by R.A. 8353 and R.A. 7659. [5] (Emphases ours.)

CRIMINAL CASE NO. U-11275

That sometime in November 1999 at [XXX] and within the jurisdiction of this Honorable Court, the above-named accused being the father of [AAA], a minor, 10 years old, by means of force and intimidation, did then and there willfully, unlawfully and feloniously have sexual intercourse with said [AAA], against her will and without her consent to her damage and prejudice.

CONTRARY to Article 335, Revised Penal Code, as amended by R.A. 8353 and R.A. 7659. [6] (Emphases ours.)

On April 16 2001, accused-appellant separately entered a plea of not guilty in each of the three cases. [7] Thereafter, the cases were set for a joint pre-trial conference. In the said conference, the prosecution and the defense stipulated on the following matters, namely:

- The identity of the accused in [the] three cases;
- The identity of the private complainant [AAA] in [the] three cases;
- That the accused is the father of the private complainant; and
- That the private complainant is a minor having been born on February 28, 1989.[8]

The joint trial of the criminal cases, then, ensued.

The prosecution presented the testimony of AAA in order to prove that accused-appellant committed the three counts of rape as charged in the above informations. AAA testified that the date of her birth was February 28, 1989. In September of the year 1999, her mother, BBB, went to work abroad. Since then, AAA had been living in their house in XXX with the accused-appellant; CCC, her older brother; DDD, her younger brother; and EEE, her younger sister. AAA related that the incidents of rape charged against the accused-appellant occurred in November 1999, on January 13, 2001 and on January 14, 2001. In November 1999, AAA recounted that at around seven o'clock in the morning, she was at the second floor of their house changing her clothes as she was about to go to school. At that time, CCC was already working at the Asingan market as a helper, while DDD and EEE were outside the house. While AAA was changing clothes, the accused-appellant came in. The accused-appellant held her arm with his left hand and his right hand held a bolo. He pushed AAA and the latter fell down on the floor in a lying position. He told her not to shout or he would kill her. He proceeded to remove AAA's short pants and panty. He was able to spread apart the legs of AAA despite her efforts to prevent him. He then went on top of AAA and inserted his penis into her vagina. He then did the push and pull movement. Afterwards, he removed his penis, put on his brief and shorts and went to the market. [9]

As to the alleged second incident of rape on January 13, 2001, AAA related that the same likewise occurred at the upper floor of their house in the evening of the said date. AAA was then changing her clothes before going to bed, while her siblings CCC, DDD and EEE were already sleeping downstairs. The accused-appellant again came in. He held AAA with his left hand and his right hand held the same bolo used on the first incident of rape. AAA stated that the accused-appellant pushed her again on the floor, removing her shorts and panty. He spread her legs and went on top of her while she cried. He thrust his penis into her vagina then did the push and pull movement. Afterwards, he left AAA. The third incident of rape allegedly took place on January 14, 2001, at dawn as AAA slept at the ground floor of their house. CCC was already in the market, while DDD and EEE were sleeping at a distance of around two meters from AAA. The accused-appellant woke up AAA and whispered to her not to shout or he would kill her. He then removed her shorts and panty and spread her legs. He went on top of her, inserted his penis in her vagina and did the push and pull movement. Thereafter, the accused-appellant left. AAA said that at noontime on January 14, 2001, she and her younger siblings went to the house of her aunt, FFF. There, she reported the incidents of rape to FFF. They then waited for AAA's grandmother, GGG, and the latter accompanied AAA to the police station. [10]

The testimony of Senior Police Officer (SPO) 2 Patricio Badua, Jr. was also submitted in order to prove that he indeed received a report in connection with the above-stated cases for rape. SPO2 Badua testified that on January 14, 2001, GGG reported that AAA was raped by the accused-appellant. SPO2 Badua recorded the report in the police blotter and advised GGG that AAA should undergo medical examination. [11] When GGG and AAA returned, SPO2 Badua took the sworn statement of AAA and he thereafter filed three criminal complaints in court against the accused-appellant. [12]

FFF next took the witness stand for the prosecution to corroborate the testimony of AAA. FFF testified, among other details, that AAA is the daughter of her sister, BBB. On January 14, 2001, at around eleven o'clock in the morning, FFF said that she was watering the plants in their yard when she saw AAA, together with DDD and EEE, proceeding towards her and they were crying. When FFF asked AAA why she was crying, the latter eventually revealed that the accused-appellant raped her. They then waited for GGG to arrive so they could have the accused-appellant picked up by the police. [13]

GGG also gave her testimony for the prosecution. GGG testified that her daughter, BBB, is married to accused-appellant. This fact was evidenced by a marriage certificate [14] that GGG presented in court. The Certificate of Live Birth [15] in the name of AAA was likewise presented in order to prove that AAA is the daughter of the accused-appellant and that her date of birth is February 28, 1989. According to GGG, she was at her store in XXX at around 11:00 a.m. on January 14, 2001. She then went home and saw her grandchildren - AAA, DDD and EEE - crying. [16] AAA reported to her that she (AAA) was raped by the accused-appellant. Afterwards, they went to the police station where AAA gave her statement. They then went to the hospital where AAA underwent a medical examination. [17]

Lastly, the prosecution presented the testimony of Dr. Noemie Taganas, the physician who examined AAA. Dr. Taganas testified that on January 14, 2001, she conducted an external and internal examination of AAA. [18] Dr. Taganas said that there was a swelling of the nipples, the labia majora, labia minora and the clitoris of AAA. Moreover, Dr. Taganas stated that the hymen of AAA showed incomplete and old healed lacerations at 12 o'clock, 3 o'clock, 6 o'clock and 9 o'clock positions. The hymen was lacerated only halfway. Dr. Taganas concluded that the physical virginity of AAA was already lost. [19]

The defense portrayed a different version of the events.

CCC testified for the defense in order to prove that he had no knowledge of the allegations of rape of his younger sister, AAA. He stated that, in 2001, the accused-appellant worked as a kargador (porter) in the market, usually around 5:00 a.m. to 11:00 a.m. CCC related that his family slept side by side on the lower floor of their house at about 8:00 p.m. or 9:00 p.m. Sometimes, he would sleep in another bed, which is separated from the other bed by a bamboo divider. CCC further testified that he did not remember any unusual incident that happened in the evening on the month of January 2001. Particularly, CCC said that he was asleep in their house and did not notice anything on that evening when AAA was allegedly raped by the accused-appellant. [20]

The accused-appellant also took the witness stand to prove his defense of denial and alibi. He testified that in November 1999, he earned a living by selling fruits at the Asingan market. During the market days of Monday, Wednesday and Friday back then, he would usually go out at 5:00 a.m. and stop selling fruits at 6:00 p.m. He denied the allegation of AAA that he raped her sometime in November 1999 and that he afterwards went to the Asingan market. He also testified that in the morning of January 14, 2001, he went to the Asingan market as he was already working there as a kargador. He came back to their house at 9:30 a.m. and found therein his children AAA, DDD and EEE. CCC was working at the market at that time. He asked AAA to cook food while he cleaned the house. As he was cleaning, he allegedly saw that his squash plant has withered. He asked who among his children destroyed the plant, but none of them admitted to the act. When he went to get his whipping stick, his children ran away to the bamboo groves. He then went to find CCC in the market and told him to follow his siblings. Afterwards, while he was still cleaning their house, two police officers came, looking for the house of Benjamin Padilla. When he told them that he was Benjamin Padilla, they handcuffed him and brought him to the police station where he was incarcerated. The accused-appellant again denied raping AAA. [21]

On September 27, 2002, the defense also presented the testimony of Dr. Noemie Taganas, who testified to the fact

that the lacerations found on the hymen of AAA on January 14, 2001 could still be detected as of that trial date. The defense, thus, moved for another physical examination of AAA, to which the prosecution did not object. On October 3, 2002, Dr. Taganas again testified, stating that she conducted another physical examination of AAA on September 27, 2002 and the internal findings arrived at were the same as those obtained from the previous examination. [22]

On September 3, 2004, the RTC rendered its Decision, finding accused-appellant guilty beyond reasonable doubt of three (3) counts of rape, ratiocinating thus:

Seeking exculpation from the crime, [accused-appellant] claimed that he could not have possibly raped his daughter in November of 1999 and 14 January 2001 because he was working as a baggage carrier in the market of Asingan, Pangasinan. As such, he would leave so early in the morning and would return home in the evening or at times, close to midday. He also said that it was impossible to rape her on the night of 13 January 2001 because all of them sleep side by side; their sleeping arrangement was not even the same all the time.

[Accused-appellant's] alibi and denial deserves scant consideration. On the contrary, [AAA's] straightforward and unwavering testimony deserves the badge of credence. She could not have spoken in such simple and forthright manner if the accusations were not true. It is improbable for guileless girls such as [AAA] to impute a crime so serious as rape to any man, let alone her father, if it were not true. The Court finds no motive for [AAA] to testify falsely against her father or implicate him in the commission of the same. The charges for rape could not have likewise been filed because [AAA] regarded [accused-appellant] as a cruel father as the defense would want the Court to believe. [AAA] has clearly identified her father as the perpetrator of the sexual molestation she suffered. She could not have done so if she had only been prompted to free herself from a strict and overweening parent meaning to enforce discipline. Moreover, ill motive is never an essential element of a crime. It becomes inconsequential more so when there are affirmative and categorical declarations towards the accused's accountability for the crime.

Amidst the firm bedrock of evidence, [accused-appellant]'s general denial pales in comparison. Like alibi, denial is inherently weak and must fail in the light of the positive declaration of the victim that the accused authored the abuses. [Accused-appellant's] bare assertions denying his culpability cannot overcome [AAA's] categorical testimony narrating her father's libidinous proclivities.

Her testimony is readily corroborated by the medical findings of her non-virgin state and the hymenal lacerations she suffered. Juxtaposed against such telling evidence of the prosecution, the bare denial and alibi of [accused-appellant] cannot prevail. Absent strong evidence to buttress such denial, [AAA's] positive testimony deserves far greater weight.

Furthermore, [accused-appellant] was persevering in his denial, so much so that he even questioned the medical findings of Dr. Taganas. He requested that [AAA] would undergo another medical examination, which request was granted by the Court. After examination, Dr. Taganas testified that her findings were all the same.

Little did [accused-appellant] know that by questioning the findings of the doctor, he just dug a hole for his grave and drove the final nail to his coffin. By questioning the medical findings, to the mind of the Court, [accused-appellant] admitted his crime. He admitted that there was indeed penetration but only that the same was not complete; thus, explaining that the laceration in [AAA's] hymen was only half way. It is very elementary that in rape cases, full penetration is not required. The mere touching of the penis of the lips of the vagina would already constitute rape.

From the plethora of evidence presented, the Court finds beyond the whisper of a doubt that [accused-appellant] committed the three counts of rape against his daughter [AAA], as alleged in the informations filed in Court. The complainant's age when the crimes were committed and the blood relationship between her and the accused have not been questioned. Hence, under R.A. 8353, the penalty of death awaits a

parent who commits the crime of rape against his or her child less than eighteen (18) years of age. Consistent with law and prevailing jurisprudence, he likewise incurs pecuniary obligations arising from his criminal liability. [23]

The RTC, thus, decreed:

WHEREFORE, premises considered, the Court finds and hereby pronounces the accused GUILTY beyond reasonable doubt of the crime of rape against his own daughter in each of these three (3) cases. He is hereby sentenced to suffer the supreme penalty of death in each of these cases pursuant to R.A. 7659, otherwise known as the Heinous Crime Law, and is hereby ordered to indemnify the private complainant in the amount of Php50,000.00 for each count of rape as civil indemnity, Php50,000.00 for each count of rape as moral damages and Php25,000.00 for each count of rape as exemplary damages.

Cost against the accused. [24]

Accused-appellant appealed the above judgment to the Court of Appeals. On November 15, 2007, the appellate court issued the assailed Decision, likewise pronouncing the guilt of the accused-appellant. The Court of Appeals found that:

The [testimony] of Private Complainant was clear, definite, and convincing. Her narration contains the details, which only a real victim could remember and reveal. In fact, even during the grueling cross-examination, the Private Complainant's testimony was unequivocal. It bears the hallmarks of truth as she remained consistent on material points[.] x x x.

x x x x

In contrast, the Accused-Appellant's claim that he was at the market of Asingan, Pangasinan on all the three (3) occasions of rape, is flimsy. We agree with the trial court that his defense of denial is intrinsically weak and must necessarily fail. Not to mention that the said defense is negative and a self-serving assertion, it has no weight in law if unsubstantiated by clear, strong, and convincing evidence of non-culpability. Also, the Accused-Appellant failed to buttress his denial by the required quantum of proof. Verily, it did not overcome the Private Complainant's affirmative, categorical, spontaneous, and convincing testimony.

The physical evidence likewise reinforced the Private Complainant's testimony. The Medico-Legal Report of Dr. Noemie Taganas, who physically examined her on January 14, 2001, shows that her genital has healed laceration at 12, 3, 6, and 9:00 o'clock positions, and that her hymen orifice admits 1-2 fingers with slight difficulty. Consequently, the lacerations and pain that the Private Complainant suffered in her genital could be only the result of penile penetration forced upon her by the Accused-Appellant.[25]

The Court of Appeals, however, modified the penalty imposed by the RTC as follows:

The foregoing considered, We affirm the trial court's finding that the Accused-Appellant is guilty of three (3) counts of rape. The age of the Private Complainant at the time of the rape incidents, as well as her relationship with the Accused-Appellant, were sufficiently established by the prosecution and admitted by the Accused-Appellant. Thus, the trial court correctly meted out the penalty of death on all counts. However, Republic Act No. 9346, entitled, An Act Prohibiting the Imposition of Death Penalty in the Philippines, signed into law on June 24, 2006, prohibits the imposition of the death penalty. The Accused-Appellant, thus, shall suffer only the penalty of reclusion perpetua, on three (3) counts.

While We sustain the awards of Fifty Thousand Pesos (P50,000.00) and of Twenty-Five Thousand Pesos (P25,000.00) as civil indemnity and exemplary damages, respectively, for each count of rape, the award of moral damages, must, however, be increased from Fifty Thousand Pesos (P50,000.00) to Seventy-Five Thousand Pesos (P75,000.00) for each count in line with prevailing jurisprudence.[26] (Emphases ours.)

The dispositive portion of the Court of Appeals decision reads:

WHEREFORE, premises considered, the appealed decision is hereby AFFIRMED with MODIFICATION. The Accused-Appellant Benjamin Padilla is GUILTY beyond reasonable doubt of three (3) counts of rape and is sentenced to suffer the penalty of reclusion perpetua for each count. He is also hereby ORDERED to pay the Private Complainant Fifty Thousand Pesos (P50,000.00) as civil indemnity and Twenty-Five Thousand Pesos (P25,000.00) as exemplary damages, for each count of rape. As modified, the Fifty Thousand Pesos (P50,000.00) awarded below as moral damages is hereby INCREASED to Seventy-Five Thousand Pesos (P75,000.00), for each count of rape. Costs against the Accused-Appellant. [27]

Accused-appellant filed a Notice of Appeal, [28] which was given due course by the appellate court. [29] The records of the case were then elevated to this Court.

In an Order [30] dated July 14, 2008, we required the parties to file their supplemental briefs, if any, within thirty days from notice. The prosecution and the accused-appellant separately manifested [31] that, in lieu of filing their supplemental briefs before this Court, they were each adopting and repleading the briefs they respectively filed before the Court of Appeals.

The accused-appellant submits a lone assignment of error, arguing that the RTC gravely erred in finding him guilty of the crimes charged as the prosecution failed to establish his guilt beyond reasonable doubt. [32]

The accused-appellant avers that the trial court should have given weight to his testimony that he was working at the Asingan market as a kargador during the time the alleged rapes were committed. This statement was allegedly attested to by CCC. The accused-appellant argues that, although the defense of alibi is weak, the prosecution is not released from its burden to establish the guilt of the accused beyond reasonable doubt. He avers that the prosecution evidence must always rely on its own strength and not by the weakness of the evidence adduced by the defense. The prosecution failed to prove that (1) there had been carnal knowledge of AAA by the accused-appellant; and (2) the same was achieved through force and intimidation upon AAA or because the latter was deprived of reason or was otherwise unconscious. Hence, the accused-appellant claims that the presumption of innocence in his favor should be upheld.

After a thorough and conscientious review of the records of this case, the Court affirms the rulings of the Court of Appeals and the RTC that the guilt of the accused-appellant of the crime of rape was indeed established beyond reasonable doubt.

The provision of law that defines the crime of rape by sexual intercourse is Article 266-A of the Revised Penal Code, to wit:

ART. 266-A. Rape When and How Committed. - Rape is committed -

1. By a man who shall have carnal knowledge of a woman under any of the following circumstances:

- a. Through force, threat or intimidation;
- b. When the offended party is deprived of reason or is otherwise unconscious;
- c. By means of fraudulent machinations or grave abuse of authority;
- 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.

Specifically, Article 266-A(1)(d) spells out the definition of the crime of statutory rape, the elements of which are: (1) that the offender had carnal knowledge of a woman; and (2) that such a woman is under twelve (12) years of

age or is demented.

In the prosecution of statutory rape cases, force, intimidation and physical evidence of injury are not relevant considerations; the only subject of inquiry is the age of the woman and whether carnal knowledge took place. The law presumes that the victim does not and cannot have a will of her own on account of her tender years; the child's consent is immaterial because of her presumed incapacity to discern good from evil. [33]

In the instant case, the element of carnal knowledge was primarily established by the testimony of AAA, which the Court of Appeals and the RTC found to be unequivocal and deserving credence. In this regard, the Court reiterates the oft-cited doctrine that:

In a prosecution for rape, the victim's credibility becomes the single most important issue. For when a woman says she was raped, she says in effect all that is necessary to show that rape was committed; thus, if her testimony meets the test of credibility, the accused may be convicted on the basis thereof.

The rule is settled that the trial court's findings on the credibility of witnesses and of their testimonies are entitled to the highest respect and will not be disturbed on appeal, in the absence of any clear showing that the court overlooked, misunderstood or misapplied some facts or circumstances of weight and substance which would have affected the result of the case. This is because the trial court, having seen and heard the witnesses themselves, and observed their behavior and manner of testifying, is in a better position to decide the question of credibility. [34]

We perused the entire records of the case and we are inclined to agree with the factual findings of the RTC and the Court of Appeals on the issue of the credibility of AAA's testimony. AAA unhesitatingly pointed to her father, the accused-appellant, as the perpetrator of the reprehensible acts of rape against her. The testimony of AAA was indeed straightforward, unequivocal, definite and convincing. AAA tearfully narrated the ordeal that she suffered at the hands of the accused-appellant as follows:

[PROSECUTOR SILVESTRE RIDAO]

Q:

The first incident, Madam Witness, is November 1999. Where were you when the incident happened?

[AAA]

A:

I was in our house, sir.

Q:

What were you doing in your house?

A:

I was changing my clothes, sir.

Q:

For what?

A:

I was going to school that time, sir.

Q:

What time was that?

A:

Seven o'clock, sir.

Q:

Where was your brother [CCC] at that time?

A:

He was at the market, sir.

x x x x

Q:

How about the two, [DDD] and [EEE], where were they?

x x x x

A:

They were outside the house, sir.

Q:

What happened while you were changing your clothes?

A:

My father came, sir.

Q:

By the way, what part of the house were you in?

A:

I was upstairs, sir.

x x x x

Q:

What did your father do when he went to the second floor?

A:

He held me, sir.

Q:

With what hand did he hold you?

A:

His left hand, sir.

x x x x

Q:

You said he held you with his left hand. How about his right hand, what was his right hand doing?

A:

His right hand was holding a bolo, sir.

x x x x

Q:

What happened next after he held you?

A:

He pushed me, sir.

Q:

What happened to you when he pushed you?

A:

I fell down in a lying position, sir.

x x x x

Q:

What did your father tell you, if any, Madam Witness?

A:

He told me not to shout because he will kill me, sir.

x x x x

Q:

After you were pushed on the floor, what happened next?

A:

He removed my short pants and my panty, sir.

Q:

What did you do while he was removing your shorts and panty?

A:

I was crying, sir.

Q:

What did he do next, Madam Witness?

A:

He removed his shorts and brief, sir.

x x x x

Q:

What did your father do when he removed his shorts and brief?

A:

He spread my legs sir.

x x x x

Q:

What happened next after he spread your legs?

A:

He went on top of me, sir.

x x x x

Q:

What happened next after he went on top of you?

A:

He inserted his penis inside my vagina, sir.

Q:

What did you feel when he inserted his penis to your vagina?

A:

It was painful, sir.

x x x x

PROS. RIDAO:

May we just put on record, Your Honor, that the witness is crying.

COURT:

Put that on record.

x x x x

Q:

After he inserted his penis into your vagina, what did he do next?

A:

He did the push and pull movement, sir.

Q:

What happened next after he did the push and pull movement?

A:

He removed his penis and stood up, sir.

x x x x

Q:

Do you recall where you were, Madam Witness, on January 13, 2001 in the evening?

x x x x

A:

I was in our house, sir.

Q:

In what particular place in your house?

A:

Upstairs, sir.

Q:

What were you doing upstairs?

A:

I was changing my clothes, sir.

x x x x

Q:

Where was your older brother, [CCC], at that time?

A:

He was already asleep, sir.

Q:

How about [DDD] and [EEE]?

A:

They were already asleep, sir.

Q:

Where were they sleeping?

A:

Downstairs, sir.

Q:

While changing your clothes, Madam Witness, what happened?

A:

My father came again, sir.

Q:

What did you do when he came near you?

A:

He held me again, sir.

Q:

How did he hold you?

x x x x

A:

His left hand, sir.

Q:

About [his] right hand, what was his right hand doing?

A:

His right hand was holding a bolo, sir.

x x x x

Q:

What did he do next after he held your arm?

A:

He again pushed me, sir.

Q:

What happened to you when he pushed you?

A:

I fell down, sir.

x x x x

Q:

What did your father do next after you fell on the floor?

A:

He removed my shorts and panty, sir.

x x x x

Q:

What did your father do next?

A:

He spread my [legs], sir.

x x x x

Q:

What did he do next after spreading your legs?

A:

He went on top of me, sir.

x x x x

Q:

What did your father do next?

A:

He inserted his penis in my vagina, sir.

x x x x

Q:

What did your father do next after inserting his penis into your vagina?

A:

He did the push and pull movement, sir.

Q:

While doing the push and pull movement, what did you feel?

A:

I felt pain, sir.

Q:

After he did the push and pull movement, what did you feel?

A:

I felt something hot, sir.

Q:

Coming from what?

A:

Coming from his penis, sir.

Q:

Where did you feel that something hot?

A:

My vagina, sir.

Q:

What did your father do next after you felt something hot in your vagina?

A:

He removed his penis from my vagina, sir.

Q:

And then what did he do?

A:

He put on his brief and shorts, sir.

Q:

And then?

A:

Then he left, sir.

x x x x

Q:

On January 14, 2001, at dawn, Madam Witness, do you recall where you were?

x x x x

A:

I was in our house, sir.

Q:

In what particular place in your house?

A:

Downstairs, sir.

Q:

What were you doing downstairs?

A:

I was sleeping, sir.

Q:

About your brother [CCC], where was he?

A:

He was in the market, sir.

Q:

About your brother [DDD], where was he?

A:

He was still sleeping, sir.

Q:

About your sister [EEE], where was she?

A:

She was still sleeping at that time, sir.

Q:

Where were they sleeping?

A:

On the ground floor, sir.

x x x x

Q:

What time were you awakened at dawn?

A:

I cannot remember but it was early dawn, sir.

Q:

Why were you awakened?

A:

My father woke me up, sir.

Q:

How did he woke you up?

A:

He shook me, sir.

x x x x

Q:

After you were awakened, what did your father do next?

A:

He threatened me, sir.

Q:

How did he threaten you? What did he tell you?

A:

He said to me: "Don't shout or else I will kill you".

Q:

How did he tell that to you?

A:

He whispered it to me, sir.

Q:

After making that threat, what did he do next[?]

A:

He removed my shorts and panty, sir.

x x x x

Q:

After removing your shorts and panty, what did he do next?

A:

He also removed his shorts and brief, sir.

x x x x

Q:

What did your father do next?

A:

He spread my legs again, sir.

x x x x

Q:

What did your father do next?

A:

He went on top of me, sir.

Q:

And then what did he do next?

A:

He inserted his penis inside my vagina, sir.

x x x x

Q:

What did you do after he inserted his penis inside your vagina?

A:

He did the push and pull [movement], sir.

x x x x

Q:

After your father did the push and pull movement, what did you feel?

A:

I felt something hot, sir.

Q:

And after you felt something hot, what did your father do?

A:

He removed his penis from my vagina, sir. [35]

The above testimony of AAA that the accused-appellant had sexual intercourse with her was also corroborated by the medical findings of Dr. Taganas that AAA was no longer physically a virgin. In *People v. Oden*, [36] we held that "[t]he spontaneity with which the victim has detailed the incidents of rape, the tears she has shed at the stand while recounting her experience, and her consistency almost throughout her account dispel any insinuation of a rehearsed testimony. The eloquent testimony of the victim, coupled with the medical findings attesting to her non-virgin state, should be enough to confirm the truth of her charges." [37]

Moreover, *People v. Bon* [38] reiterates that "no sane woman, least of all a child, would concoct a story of defloration, allow an 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. Testimonies of child-victims are normally given full weight and credit, since when a woman, more so if she is a minor, says that she has been raped, she says in effect all that is necessary to show that rape has been committed. Youth and immaturity are generally badges of truth and sincerity." [39]

Thus, the Court rules that the element of carnal knowledge of AAA by the accused-appellant was sufficiently proven in each of the three (3) counts of rape in this case.

The accused-appellant cannot likewise rely on his defense of alibi to disprove the testimony of AAA. Verily, denial and alibi are inherently weak defenses and constitute self-serving negative evidence, which cannot be accorded greater evidentiary weight than the positive declaration of a credible witness. Between the positive assertions of the victim and the negative averments of the appellant, the former indisputably deserve more credence and are entitled to greater evidentiary weight. [40] For alibi to prosper it is not enough for the appellant to prove that he was somewhere else when the crime was committed; he must likewise demonstrate that it was physically impossible for him to have been at the scene of the crime at the time of its commission. [41]

In the instant case, the accused-appellant merely denied that he raped AAA in November 1999. The accused-appellant did not deny that he was in their house, with all of his children, on the night when the second incident of rape on January 13, 2001 took place. As to the rape that was committed in the early morning hours of January 14, 2001, the accused-appellant denied the same, stating that he was at the Asingan market when the rape supposedly occurred and that he only came home at around 9:30 a.m. on the said date. However, other than his testimony in court, the accused-appellant failed to submit any other evidence to prove that he was indeed at the Asingan market when the third incident of rape was committed. The testimony of CCC did not particularly provide any specific corroboration on this point, as CCC merely testified that the accused-appellant usually goes to work at the Asingan market at 5:00 a.m. to 11:00 a.m. The accused-appellant even subsequently denied in his cross-examination that he went home at about 9:30 a.m. on January 14, 2001 without so much of an explanation. [42] Furthermore, the accused-appellant failed to demonstrate that it was physically impossible for him to be at their house at the time of the commission of the third incident of rape. CCC stated in his cross-examination that the Asingan market was only 10 minutes away from their house if one were to go there by foot. [43] Thus, it would have been relatively easy for the accused-appellant to go back from the Asingan market to their house to carry out the sexual abuse against AAA and then go to the market again. Consequently, the accused-appellant's defense of alibi cannot overcome the positive declaration of AAA.

As to the second element of statutory rape, the fact that AAA was under 12 years of age when the incidents of rape occurred had likewise been clearly established in the instant case. During the pre-trial conference before the RTC, the parties stipulated that AAA was born on February 28, 1989 and such fact was also evidenced by the Certificate of Live Birth of AAA, which was presented during the trial. Thus, AAA was only 10 years old and 11 years old, respectively, when the incidents of rape charged against the accused-appellant took place in November 1999 and January 2001. Moreover, the parties previously stipulated during the pre-trial conference and, thereafter, the accused-appellant admitted during trial that he is the biological father of AAA. The said fact is also evident in the Certificate of Live Birth of AAA.

The age of AAA and her relationship to the accused-appellant qualify the three (3) counts of rape in this case, as provided for under Article 266-B of the Revised Penal Code, which reads:

Art. 266-B. Penalties. - x x x

The death penalty shall also be imposed if the crime of rape is committed with any of the following aggravating/qualifying circumstances:

1. When the victim is under eighteen (18) years of age and the offender is a parent, ascendant, step-parent, guardian, relative by consanguinity or affinity within the third civil degree, or the common-law spouse of the parent of the victim.

In sum, the Court finds the accused-appellant guilty beyond reasonable doubt of three (3) counts of statutory rape in its qualified form.

Notwithstanding the provisions of Article 266-B of the Revised Penal Code, the Court of Appeals correctly held that the appropriate penalty that should be imposed upon the accused-appellant is reclusion perpetua for each count of rape. This is in accordance with the provisions of Republic Act No. 9346, entitled an Act Prohibiting the Imposition of Death Penalty in the Philippines, which took effect on June 30, 2006. Section 2 of Republic Act No. 9346 imposes the penalty of reclusion perpetua in lieu of death, when the law violated makes use of the nomenclature of the penalties of the Revised Penal Code. [44] Section 3 of Republic Act No. 9346 further provides that persons convicted of offenses punished with reclusion perpetua, or whose sentences will be reduced to reclusion perpetua, shall not be eligible for parole under Act No. 4103, otherwise known as the Indeterminate

Sentence Law, as amended.

The Court affirms the appellate court's award of P75,000.00 as moral damages for each count of rape in accordance with the current jurisprudence on qualified rape. However, the awards of P50,000.00 as civil indemnity and P25,000.00 as exemplary damages for each count of rape should be increased to P75,000.00 and P30,000.00, respectively, in keeping with recent case law. [45]

WHEREFORE, in light of the foregoing, the appeal is DENIED. The Decision dated November 15, 2007 of the Court of Appeals in CA-G.R. CR.-H.C. No. 00387 is AFFIRMED WITH MODIFICATIONS. The accused-appellant Benjamin Padilla y Untalan is found GUILTY beyond reasonable doubt of three (3) counts of QUALIFIED RAPE and is hereby sentenced to suffer the penalty of reclusion perpetua, without the possibility of parole. The accused-appellant is ORDERED to pay AAA for each count of rape P75,000.00 as civil indemnity, P75,000.00 as moral damages and P30,000.00 as exemplary damages, plus legal interest on all damages awarded at the legal rate of 6% from the date of finality of this Decision. No costs.

SO ORDERED.

Corona, C.J., (Chairperson), Velasco, Jr., Del Castillo, and Perez, JJ., concur.

[1] Rollo, pp. 2-22; penned by Associate Justice Normandie B. Pizarro with Associate Justices Edgardo P. Cruz and Fernanda Lampas Peralta, concurring.

[2] CA rollo, pp. 40-50; penned by Presiding Judge Rodrigo G. Nabor.

[3] The real name or any other information tending to establish the identity of the private complainant and those of her immediate family or household members shall be withheld in accordance with Republic Act No. 7610, An Act Providing for Stronger Deterrence and Special Protection Against Child Abuse, Exploitation and Discrimination, Providing Penalties for its Violation, and for Other Purposes; Republic Act No. 9262, An Act Defining Violence Against Women and Their Children, Providing for Protective Measures for Victims Prescribing Penalties Therefor, and for Other Purposes; Sec. 40 of A.M. No. 04-10-11-SC, known as "Rule on Violence Against Women and Their Children" effective November 15, 2004; and People v. Cabalquinto, G.R. No. 167693, September 19, 2006, 502 SCRA 419.

Thus, the private offended party shall be referred to as AAA. BBB shall refer to her mother. CCC shall stand for the name of her older brother, whereas DDD and EEE shall indicate the names of her younger brother and younger sister, respectively. FFF shall pertain to the sister of the private offended party's mother, while GGG shall designate the maternal grandmother of the private offended party. XXX shall denote the place where the crime was allegedly committed.

[4] Records (Criminal Case No. U-11273), p. 1.

[5] CA rollo, p. 8.

[6] Records (Criminal Case No. U-11275), p. 1.

[7] Records (Criminal Case No. U-11273), p. 28.

[8] Id. at 37.

[9] TSN, August 22, 2001, pp. 2-9.

[10] Id. at 9-17.

[11] TSN, June 11, 2001, pp. 3-4.

[12] Id. at 5.

[13] TSN, June 19, 2001, pp. 2-6.

[14] Records (Criminal Case No. U-11273), p. 93.

[15] Id. at 2.

[16] TSN, August 7, 2001, pp. 7-8.

[17] Id. at 9-10.

[18] The findings of Dr. Taganas were set forth in the Medico-Legal Certification, which recites:

MEDICO-LEGAL CERTIFICATION

TO WHOM IT MAY CONCERN:

This is to certify that [AAA], 12 years old, female and a resident of [XXX] came to this hospital for consultation and examination on January 14, 2001 with the following findings:

A. External Findings:

- Swelling of both nipples
- Swelling of the labia majora, labia minora and clitoris

B. Internal Findings:

- Hymen showing incomplete and old healed laceration about 12:00, 3:00, 6:00 and 9:00 o'clock position.
- Hymen orifice admits 1-2 fingers with slight difficulty.

DIAGNOSIS: Physical Virginity, Lost
(Signed)

NOEMIE M. TAGANAS, M.D.
Chief of Hospital (Records [Criminal Case No. U-11273], p. 94.)

[19] TSN, December 4, 2001, pp. 4-6.

[20] TSN, February 4, 2002, pp. 5-10.

[21] TSN, June 10, 2002, pp. 6-11.

[22] TSN, September 27, 2002, pp. 2-5.

[23] CA rollo, pp. 48-50.

[24] Id. at 50.

[25] Rollo, pp. 18-20.

[26] Id. at 20-21.

[27] Id. at 21-22.

[28] Id. at 23-25.

[29] Id. at 26.

[30] Id. at 28.

[31] Id. at 29-34.

[32] CA rollo, p. 89.

[33] *People v. Teodoro*, G.R. No. 172372, December 4, 2009, 607 SCRA 307, 314-315.

[34] *People v. Paculba*, G.R. No. 183453, March 9, 2010, 614 SCRA 755, 763-764.

[35] TSN, August 22, 2001, pp. 4-15.

[36] 471 Phil. 638 (2004).

[37] Id. at 667.

[38] G.R. No. 166401, October 30, 2006, 506 SCRA 168.

[39] Id. at 187.

[40] *People v. Bang-ayan*, G.R. No. 172870, September 22, 2006, 502 SCRA 658, 670.

[41] *People v. Matunhay*, G.R. No. 178274, March 5, 2010, 614 SCRA 307, 317.

[42] TSN, June 11, 2002, p. 4.

[43] TSN, February 4, 2002, p. 10.

[44] *People v. Dimanawa*, G.R. No. 184600, March 9, 2010, 614 SCRA 770, 783.

[45] *People v. Documento*, G.R. No. 188706, March 17, 2010, 615 SCRA 610, 614-618; *People v. Garcia*, G.R. No. 177740, April 5, 2010, 617 SCRA 318, 335.

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