

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, V. XXX,[] ACCUSED-APPELLANT.

G.R. No. 226467. October 17, 2018

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CAGUIOA, J:

Before this Court is an ordinary appeal[1] filed by the accused-appellant XXX assailing the Decision[2] dated March 1, 2016 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 06918, which affirmed the Decision[3] dated April 2, 2014 of the CCC, Regional Trial Court (RTC) in Criminal Case No. C-78912, finding XXX guilty beyond reasonable doubt of rape.

The Facts

An Information[4] was filed against XXX for the rape of AAA, which reads:

That on or about or sometime in July 2003 and immediately thereafter, at [CCC] and within the jurisdiction of this Honorable Court, the above-named accused, being the biological father of [AAA], a 10 year old minor, with lewd design and by means of force, violence and intimidation, did then and there willfully, unlawfully and feloniously have sexual intercourse with said [AAA], against her will and without her consent, which acts of the accused adversely affected the normal growth and development of the minor complainant.

CONTRARY TO LAW.[5]

During the trial, the prosecution presented, among others, AAA and Police Senior Inspector Marianne Ebdane (P/Sr. Insp. Ebdane), the medico-legal officer of the Eastern Police District, as witnesses. AAA's testimony, as summarized by the CA, was as follows:

Sometime in July 2003, around 8:30 in the morning, while she was inside their house in xxxx [CCC], appellant raped her by inserting his penis into her vagina. She was 10 years old at that time. She was lying on the bed when appellant arrived and laid beside her. Appellant embraced her while his hands touched her body. She was afraid and immobilized. Appellant asked her to give him a massage on his chest, but she refused. As result, appellant pulled her left hand and placed it on his chest as if massaging it, then pulled it down further to his penis. Appellant only stopped when he heard her mother arrive from the market. He stood from the bed and told her to fix her appearance. It took her a long time to report the incident because appellant threatened her mother and older sister.

In 2007, when she was already in 3rd year high school, she could no longer take appellant's abuses so she told her Technology, Livelihood, and Economic (TLE) teacher Deogracias Yuson about it. Her teacher reported it to the school's guidance counselor who, in turn, relayed it to the police station. Thereafter, she went home and learned that a commotion took place when appellant evaded arrest.[6]

Meanwhile, P/Sr. Insp. Ebdane testified as to the medico-legal findings. She testified that AAA suffered deep healed lacerations showing clear evidence of blunt force or penetrating trauma to the hymen.[7]

On the other hand, the evidence of the defense is based on the lone testimony of XXX, who testified as follows:

Sometime between August and September 2007, several men went to their house at xxxx [CCC] to arrest him. He thought he was being arrested for his illegal electrical connection and, thus, he decided to leave and temporarily stay at Maysan, Valenzuela. In 2008, he was arrested for allegedly raping his daughter AAA based on the complaint filed by his wife. While admitting that something happened between him and his daughter, he insisted that the same was consensual and it was even her daughter who initiated their sexual congress by guiding his hand to her vagina. He assailed the date of commission of the alleged crime claiming that the incident actually complained of happened in 2007. The year 2003 was intentionally placed in the information charging him to aggravate the crime to statutory rape. He likewise questioned the unreasonable delay in reporting the alleged rape incident.[8]

Ruling of the RTC

After trial on the merits, in its Decision dated April 2, 2014, the RTC convicted XXX of the crime of Statutory Rape. The dispositive portion of the said Decision reads:

WHEREFORE, the foregoing considered, this Court hereby finds accused [XXX], GUILTY beyond reasonable doubt of the crime of rape defined and penalized under Article 266-A, paragraph 1 (a) and (d) of Republic Act No. 8353 in relation to Republic Act No. 7610 and sentences him to suffer penalty of Reclusion Perpetua and to pay the complainant AAA the amount of Seventy Five Thousand Pesos (Php 75,000.00) as civil indemnity; Seventy Five Thousand Pesos (Php 75,000.00) as moral damages and Thirty Thousand Pesos (Php 30,000.00) as exemplary damages.

x x x x

SO ORDERED.[9]

Relying on AAA's direct testimony, the RTC held that it was convinced that XXX was guilty of having carnal knowledge of AAA by means of force and intimidation "sometime in July 2003." [10] The RTC likewise ruled that since XXX admitted that he did have sexual intercourse with his daughter – although he claimed that it happened in 2007, instead of 2003 – sufficed to convict him of the crime charged. As to the discrepancy in the dates, the RTC held:

Moreover, the precise time of the commission of the rape is not an essential element of the crime of rape. Neither is the exact date of commission of rape an element of the crime for the gravamen of the offense of rape is sexual intercourse without consent. In this case, accused candidly admitted having sexual intercourse with her daughter. Hence[,] whether it was perpetuated in 2003 or in 2007, the fact remains that he had carnal knowledge with this minor daughter and that it was done sans the latter's consent and, through violence and intimidation.[11]

Aggrieved, XXX appealed to the CA. In the appeal, XXX reiterated his claim for innocence for the crime charged. According to him, the evidence on record indicates that he did not have carnal knowledge of the victim "sometime in July 2003" – as stated in the information – and that instead it happened in 2007 and the same was consensual.[12]

Ruling of the CA

In the questioned Decision dated March 1, 2016, the CA affirmed the RTC's conviction of XXX.

The CA held that the exact date or place of the commission of the rape is not an element of the crime, and that what is decisive is that the act was committed. It ratiocinated that the exact place and time are minor matters which do not delve into the elements of the crime.[13]

Hence, the instant appeal.

Issue

Proceeding from the foregoing, for resolution of this Court is the issue of whether the RTC and the CA erred in convicting XXX.

The Court's Ruling

The appeal is partially meritorious. The Court modifies the conviction of XXX from Statutory Rape to Acts of Lasciviousness in relation to Section 5(b) of Republic Act No. 7610 (R.A. 7610), as the prosecution was unable to prove that he committed the crime charged beyond reasonable doubt.

In rape cases in general, the prosecution has the burden to conclusively prove the two elements of the crime – viz.: (1) that the offender had carnal knowledge of the girl, and (2) that such act was accomplished through the use of force or intimidation.[14] On the other hand, to convict an accused for Statutory Rape, the prosecution has the burden of proving only the following: (a) the age of the complainant; (b) the identity of the accused; and (c) the sexual intercourse between the accused and the complainant.[15]

Statutory Rape is committed by sexual intercourse with a woman below 12 years of age regardless of her consent, or the lack of it, to the sexual act.[16] What differentiates it with other instances of rape is that, proof of force, intimidation or consent is unnecessary, considering that the absence of free consent is conclusively presumed when the victim is below the age of 12.[17] At that age, the law presumes that the victim does not possess discernment and is incapable of giving intelligent consent to the sexual act.[18]

The Information in this case accuses XXX of committing Statutory Rape for having sexual intercourse with his then 10-year old daughter "sometime in 2003." The RTC and the CA convicted him of the crime charged essentially for the same reasons, to wit: (1) carnal knowledge was sufficiently proved as XXX himself admitted having had sexual intercourse with AAA, albeit in 2007; and (2) the discrepancy as to the date was immaterial as the exact time and place of the commission of the crime is not an element of the offense.

While the Court denounces XXX's acts – he himself having admitted to engaging in sexual intercourse with his minor daughter – the Court has no choice but to modify the conviction of XXX on the ground that the prosecution failed to sufficiently establish the elements of the crime of Rape, whether statutory or otherwise.

In rape cases, the accused may be convicted on the basis of the lone, uncorroborated testimony of the rape victim, provided that her testimony is clear, convincing, and otherwise consistent with human nature. This is a matter best assigned to the trial court which had the first-hand opportunity to hear the testimonies of the witnesses and observe their demeanor, conduct, and attitude during cross-examination. Hence, the trial court's findings carry very great weight and substance.[19]

However, it is equally true that in reviewing rape cases, the Court observes the following guiding principles:

- (1) an accusation for rape can be made with facility; it is difficult to prove but more difficult for the person accused, though innocent, to disprove;
- (2) in view of the intrinsic nature of the crime where only two persons are usually involved, the testimony of the complainant must be scrutinized with extreme caution;
- (3) the evidence for the prosecution must stand or fall on its own merits, and cannot be allowed to draw strength from the weakness of the evidence for the defense.[20]

This must be so as the guilt of an accused must be proved beyond reasonable doubt. Before he is convicted, there should be moral certainty — a certainty that convinces and satisfies the reason and conscience of those who are to

act upon it.[21] Absolute guarantee of guilt is not demanded by the law to convict a person of a criminal charge but there must, at least, be moral certainty on each element essential to constitute the offense and on the responsibility of the offender. Proof beyond reasonable doubt is meant to be that, all things given, the mind of the judge can rest at ease concerning its verdict.[22] Again, these basic postulates assume that the court and others at the trial are able to comprehend the testimony of witnesses, particularly of the victim herself if she is presented and testified under oath.[23]

With the foregoing principles in mind, the Court holds that there exists reasonable doubt that XXX committed the crime charged against him. To reiterate, XXX was charged with Statutory Rape for allegedly having sexual intercourse with his then 10-year old daughter "sometime in 2003." The records would reveal, however, that the evidence presented by the prosecution failed to establish that he indeed had sexual intercourse with AAA in 2003, or at the time she was still 10 years old. On cross-examination, AAA testified as follows:

Q:

And according to the Information that alleged act of rape began sometime in July 2003, am I correct?

A:

Yes, sir.

Q:

And how old were you then?

A:

10 years old.

x x x x

Q:

Miss [AAA], were you studying back then?

A:

Yes, sir.

Q:

And you are studying in what school if you could recall?

A:

Bagong Silang, Caloocan High School.

Q:

You are in what year level then?

A:

Third year High School during that time of the incident, sir.

Q:

But is it not that the incident occurred when you were still 10 years old?

A:

Sorry sir, First Year High School

Q:

When you said the time of the incident I am referring to the date of sometime July 2003, is that clear to you?

A:

Yes, sir.

Q:

And according to you, you were only 10 years old then, correct?

A:

Yes, sir.

x x x x

Q:

So are you trying to tell me that your father was already there at the time that you are lying on the bed during the day time?

A:

Yes, sir.

Q:

Where is your mother then?

A:

She was at the market.

Q:

How about your older sister?

A:

She was with my mother, sir.

Q:

Could you recall for how long were they away just to buy at the market?

A:

Around one hour, sir.

Q:

Just as you were lying on the bed what happened next?

A:

He embraced me, sir. (Witness crying)

Q:

Was that the first time that your father embraced you?

A:

Yes, sir.

Q:

When you were growing up is it unusual for you to hug by your parent?

A:

It was not normal to us.

Q:

When you were growing up is it normal to you to kiss and hug by your parents?

A:

It's not the usual thing in our family sir, it's not quiet (sic) normal to us.

x x x x

Q:

And what did he do next after he embraced you?

A:

He asked me to massage his chest, sir.

Court to the witness:

Q:

What did you do?

A:

I declined, I said I do not like. Your Honor.

x x x x

Court to the Witness:

Q:

Was it the first time that your father entered the room and embraced you?

A:

Yes, Your Honor.

Atty. Kuong:

Q:

And considering that it is the first time you already felt that there is something wrong, am I correct?

A:

Yes, sir.

Court to the Witness:

Q:

What did you do?

A:

"Sinabi ko po na inaantok pa po ako pero ang sabi niya hilutin mo na ako sandali lang naman."

Q:

And what did he do next after you told him that you are still half a sleep (sic)?

A:

He pulled my hands sir.

x x x x

Q:

What happened afterwards?

A:

After that he placed my hand down to his penis.

Q:

What hand?

A:

The same hand, Your Honor, my left hand but at that time I was already seating on the bed.

x x x x

Q:

So, how long did he place your hand to his private area when you're seating already?

A:

"Saglit lang po kasi dumating na ang Mommy ko."

Q:

so (sic), what did he do upon seeing that your mother arrived?

A:

He did not see my mother coming but he heard the opening of the gate.

Q:

So, did he continue doing it after you already heard the gate opened?

A:

No, sir.

Court to the witness:

Q:

Meaning he placed your right hand or left hand to his penis?

A:

Yes, my left hand, Your Honor.

Court to the Witness:

Q:

So meaning, he continue doing it after you heard that the gate opened?

A:

Not anymore, sir.

Q:

But your father was still wearing shorts?

A:

Yes, Your Honor.

Q:

So, your left hand was placed to his penis on top of his shorts?

A:

Yes, Your Honor.

x x x x

Q:

After your mother already arrived did he stand up afterwards?

A:

Yes, sir.

Q:

And what did you do after he already stood up?

A:

I lied down and continued crying and my father proceeded to the comfort room and when he saw me crying he told me to wipe my tears and "minura po niya ako."

Q:

So, nothing more happened on that particular day, am I correct?

A:

None other, sir.

Q:

And that particular day that you are referring to happened sometime in July 2003, am I correct?

A:

Yes, sir.

SP Latosa:

Q:

May I move for continuance, Your Honor.[24] (Emphasis supplied)

During the redirect examination, the prosecution tried to re-establish that sexual intercourse happened between AAA and XXX. However, on re-cross examination, AAA's testimony again revealed that no sexual intercourse happened in July 2003:

ATTY. KUONG:

Recross, your Honor.

Miss Witness, a while ago you restated that the accused placed your left hand on his penis and such lasted for about three (3) minutes, am I correct?

A:

Yes, sir.

Q:

And in those three (3) minutes that elapse (sic) did you do anything?

A:

Wala po Umiiyak lang po ako

Q:

So you remain lying on the bed crying is that correct?

A:

Yes, sir.

Q:

And the accused remain lying as well am I correct?

A:

Yes, sir.

ATTY. KUONG:

That will be all your Honor.[25]

The "admission" relied upon by the RTC and the CA in convicting the accused-appellant was XXX's admission that he indeed had sexual intercourse with AAA, but that the same happened in 2007 and that it was consensual.[26]

The lower courts, however, erred in relying on the said "admission."

To reiterate, one of the guiding principles to be followed by the courts in determining the guilt of an accused in a rape case is that the evidence for the prosecution must stand or fall on its own merits.[27] On its own, the testimony of AAA, as shown above, establishes that what happened "sometime in July 2003" was that XXX put her hand on his penis. She likewise testified that nothing else happened as XXX was interrupted because BBB already arrived from the market. Thus, the prosecution's evidence failed to establish the most crucial element of the crime of Rape – that is, the sexual intercourse between the accused and the complainant.

Neither could XXX be convicted through his admission that he had sexual intercourse with AAA in 2007. This is

because the Information filed in this case accused XXX of having sexual intercourse with AAA "sometime in July 2003." While it is true, as the RTC and the CA held, that the exact place and time of the commission of the crime is not an element of the crime of Rape, XXX still could not be convicted of the crime for to do so would be to offend the basic tenets of due process in criminal prosecutions.

An essential component of the right to due process in criminal proceedings is the right of the accused to be sufficiently informed of the cause of the accusation against him. This is implemented through Section 9, Rule 110 of the Rules of Court, which states:

SEC. 9. Cause of the Accusation.—The acts or omissions complained of as constituting the offense and the qualifying and aggravating circumstances must be stated in ordinary and concise language and not necessarily in the language used in the statute but in terms sufficient to enable a person of common understanding to know what offense is being charged as well as its qualifying and aggravating circumstances and for the court to pronounce judgment.

It is fundamental that every element of which the offense is composed must be alleged in the Information. No Information for a crime will be sufficient if it does not accurately and clearly allege the elements of the crime charged.[28] The test in determining whether the information validly charges an offense is whether the material facts alleged in the complaint or information will establish the essential elements of the offense charged as defined in the law. In this examination, matters aliunde are not considered.[29] The purpose of the law in requiring this is to enable the accused suitably to prepare his defense, as he is presumed to have no independent knowledge of the facts that constitute the offense.[30]

In the present case, again, the Information specifically accused XXX of having sexual intercourse with AAA "sometime in July 2003." The date, in this case, is essential because in July 2003, AAA was only 10-years old; thus, making the accusation against him that for Statutory Rape instead of Simple Rape – which, as previously discussed, imposes on the prosecution different elements to prove. To repeat, in cases of Statutory Rape, the element of proving force and intimidation is dispensed with considering that the absence of free consent is conclusively presumed when the victim is below the age of 12.[31] Thus, the prosecution only needs to prove the age of the victim, and the fact that sexual intercourse happened. In contrast, in Simple Rape, the prosecution has the burden of proving another element, namely, that the accused employed force and intimidation, for example,[32] in order to have sexual intercourse with the victim.

Therefore, as the two crimes have different elements – and would therefore entail different defenses on the part of the accused – the courts cannot thus equate one with the other. To do so would be to offend the due process rights of the accused.

Applying the foregoing to the present case, the Court cannot therefore use the "admission" by XXX, as his admission pertains to his having sexual intercourse with AAA in 2007, or when AAA was already 14 years old – beyond the age set for Statutory Rape. Consequently, for this act to be considered Rape, the prosecution needed to prove that XXX employed force and intimidation to cow AAA into submission. The prosecution, however, was unable to do so simply because it was not legally allowed to do so. Again, the Information charges the accused for the events in 2003, not 2007. It cannot therefore offer evidence for events other than what happened in 2003. Recognizing this, the RTC Judge even correctly limited the inquiry of the prosecution during AAA's redirect examination:

Q:

Miss Witness, in what other ways if any were you sexually abused by the accused...

ATTY. KUONG:

Objection your Honor.

COURT:

What we are trying here is the case on July 2003.

ATTY. ABQUINA:

I was referring on the same day your Honor by way of reaction the witness answered three (3) minutes. I was asking at that direction.

COURT:

Witness may answer.

[AAA]:

After he placed my left palm to his penis he suddenly pushed me on the bed and it made me lie down and he on top of me, and he pulled down my shorts and he inserted his penis, sir.

ATTY. KUONG:

May we moved (sic) that the same be stricken (sic) out your Honor.

COURT:

Strike out.

SP. II LATOSA:

So what happened after the accused put down your shorts?

ATTY. KUONG:

We object to that your Honor, misleading as it was not discuss (sic) during the cross, the witness answered that none other happened.

COURT:

Sustained, sustained.[33] (Emphasis supplied)

The RTC and the CA thus erred in convicting XXX for Statutory Rape.

This is not to say, however, that the Court is acquitting XXX.

Similar to the Court's disquisition in the case of *People v. Caoili*,^[34] the Court is applying the variance doctrine under Section 4, in relation to Section 5 of Rule 120 of the Rules of Court. XXX can thus be held guilty of the lesser crime of Acts of Lasciviousness, defined and punished under Article 336 of the Revised Penal Code, in relation to R.A. 7610, as a charge of acts of lasciviousness is necessarily included in a complaint for rape.^[35]

The elements of acts of lasciviousness are: (1) that the offender commits any act of lasciviousness or lewdness; (2) that it is done under any of the following circumstances: (a) by using force or intimidation, (b) when the offended party is deprived of reason or otherwise unconscious; or (c) when the offended party is under twelve (12) years of age.^[36]

Applied in this case, what the testimony of AAA proves is that, when she was 10 years old, XXX got a hold of her hand and placed it on top of his penis. Undoubtedly then, the established facts in this case complies with the elements needed to be proved to reach a conviction for acts of lasciviousness, specifically, that there is an act of lasciviousness or lewdness committed against a person who is under 12 years old.

The crime committed would thus be Acts of Lasciviousness, in relation to Section 5(b), R.A. 7610, as the current prevailing jurisprudence holds that the said law "finds application when the victims of abuse, exploitation or discrimination are children."^[37] Such is the designation of the crime following the guidelines laid down by the Court in *Caoili*, to wit:

Accordingly, for the guidance of public prosecutors and the courts, the Court takes this opportunity to prescribe the following guidelines in designating or charging the proper offense in case lascivious conduct is committed under Section S(b) of R.A. No. 7610, and in determining the imposable penalty:

1. The age of the victim is taken into consideration in designating or charging the offense, and in determining the imposable penalty.
2. If the victim is under twelve (12) years of age, the nomenclature of the crime should be "Acts of Lasciviousness under Article 336 of the Revised Penal Code in relation to Section S(b) of R.A. No. 7610." Pursuant to the second proviso in Section S(b) of R.A. No. 7610, the imposable penalty is reclusion temporal in its medium period.
3. If the victim is exactly twelve (12) years of age, or more than twelve (12) but below eighteen (18) years of

age, or is eighteen (18) years old or older but is unable to fully take care of herself/himself or protect herself/himself from abuse, neglect, cruelty, exploitation or discrimination because of a physical or mental disability or condition, the crime should be designated as "Lascivious Conduct under Section 5(b) of R.A. No. 7610," and the imposable penalty is reclusion temporal in its medium period to reclusion perpetua.[38] (Emphasis and underscoring supplied)

At this juncture, the Court takes the opportunity to remind public prosecutors of their crucial role in drafting criminal complaints or Informations.[39] They have to be more judicious and circumspect in preparing the Information since a mistake or defect therein may not render full justice to the State, the offended party and even the offender.[40]

Finally, while the Court denounces XXX's act in 2007 which he admitted doing, it is well to clarify that the Court is not adjudging him guilty of any crime for the said act. The Court recognizes that sex with one's own child, especially a minor, is per se abhorrent.[41] Yet, the Court equally recognizes that its solemn power and duty is limited to the interpretation and application of the law in a specific set of facts. XXX's act of having sexual intercourse with his 14-year old daughter – while undoubtedly deplorable – is not the subject matter of this case. It is, therefore, incumbent upon the prosecutorial arm of the government to determine whether it believes that XXX committed a crime in 2007, and thus should stand to be indicted regarding the said act.

In this regard, the Clerk of Court is hereby directed to forward a copy of the records of this case to the Department of Justice for appropriate action in relation to XXX's admission on the events in 2007. The Court reserves its judgment on his guilt until such time that the said case, if it becomes one, reaches the Court.

Finally, with regard to the amount of damages, the Court deems it proper to impose damages in light of the gravity and the seriousness of the offense. In consonance with prevailing jurisprudence,[42] XXX is hereby ordered to pay AAA the amounts of fifty thousand pesos (P50,000.00) as civil indemnity, fifty thousand pesos (P50,000.00) as moral damages, and fifty thousand pesos (P50,000.00) as exemplary damages. Interest at the rate of 6% per annum on the monetary awards reckoned from the finality of this decision is likewise imposed to complete the quest for justice and vindication on the part of AAA.[43]

WHEREFORE, in view of the foregoing, the appeal is hereby PARTIALLY GRANTED. The Court DECLARES accused-appellant XXX GUILTY of ACTS OF LASCIVIOUSNESS, IN RELATION TO SECTION 5(B) OF R.A. NO. 7610, for which he is sentenced to suffer the penalty of reclusion temporal in its medium period. The Decision dated March 1, 2016 of the Court of Appeals in CA-G.R. CR-HC No. 06918 is further modified by decreasing the awards for civil indemnity and moral damages to fifty thousand pesos (P50,000.00) each and increasing the exemplary damages to fifty thousand pesos (P50,000.00) consistent with prevailing jurisprudence.

Let a copy of this Decision and a copy of the records of this case be forwarded to the Department of Justice for appropriate action.

SO ORDERED.

Carpio (Chairperson), Perlas-Bernabe, A. Reyes, Jr., and J. Reyes, Jr., JJ., concur.

[*] The identity of the victim or any information which could establish or compromise her identity, as well as those of her immediate family or household members, shall be withheld pursuant to Republic Act No. (RA) 7610, entitled "AN ACT PROVIDING FOR STRONGER DETERRENCE AND SPECIAL PROTECTION AGAINST CHILD ABUSE, EXPLOITATION AND DISCRIMINATION, AND FOR OTHER PURPOSES," approved on June 17, 1992; RA 9262, entitled "AN ACT DEFINING VIOLENCE AGAINST WOMEN AND THEIR

CHILDREN, PROVIDING FOR PROTECTIVE MEASURES FOR VICTIMS, PRESCRIBING PENALTIES THEREFORE, AND FOR OTHER PURPOSES," approved on March 8, 2004; and Section 40 of A.M. No. 04-10-11-SC, otherwise known as the "Rule on Violence against Women and Their Children" (November 15, 2004). (See footnote 4 in *People v. Cadano, Jr.*, 729 Phil. 576, 578 [2014], citing *People v. Lomaque*, 710 Phil. 338, 342 [2013]. See also Amended Administrative Circular No. 83-2015, entitled "PROTOCOLS AND PROCEDURES IN THE PROMULGATION, PUBLICATION, AND POSTING ON THE WEBSITES OF DECISIONS, FINAL RESOLUTIONS, AND FINAL ORDERS USING FICTITIOUS NAMES/PERSONAL CIRCUMSTANCES," dated September 5, 2017); *People v. XXX*, G.R. No. 235652, July 9, 2018.

[1] Designated additional Member per Special Order No. 2587 dated August 28, 2018. See Notice of Appeal dated March 10, 2016, rollo, pp. 18-19

[2] Rollo, pp. 2-17. Penned by Associate Justice Amy C. Lazaro-Javier with Associate Justices Celia C. Librea-Leagogo and Melchor Q.C. Sadang, concurring.

[3] CA rollo, pp. 47-55. Penned by Presiding Judge Raymundo G. Vallega.

[4] Records, p. 1.

[5] Id.

[6] Rollo, p.4.

[7] Id. at 6-7.

[8] Id. at 7.

[9] CA rollo, pp. 54-55.

[10] Id. at 51.

[11] Id. at 53.

[12] Brief for the Accused-Appellant, id. at 39-42.

[13] Rollo, p. 15.

[14] *People v. Soronio*, 281 Phil. 820, 824 (1991).

[15] *People v. Manaligod*, G.R. No. 218584, April 25, 2018, p. 4.

[16] Id.

[17] Id.

[18] Id.

[19] *People v. Alemania*, 440 Phil. 297, 304-305 (2002).

[20] *People v. Lumibao*, 465 Phil. 771, 780 (2004).

[21] Id. at 781.

[22] Id.

[23] Id.

[24] TSN, April 27, 2011, pp. 3-18.

[25] TSN, February 20, 2012, pp. 24-25.

[26] TSN, November 12, 2013, pp. 11, 13-15.

[27] *People v. Lumibao*, supra note 20, at 780.

[28] *Dela Chica v. Sandiganbayan*, 462 Phil. 712, 719 (2003).

[29] *Id.*

[30] *Id.*

[31] *People v. Manaligod*, supra note 15, at 4.

[32] Because Rape may also be committed when the victim was deprived of reason (Article 266-A(1)(b), RPC) or through fraudulent machinations or grave abuse of authority (Article 266-A(1)(c), RPC)

[33] TSN, February 20, 2012, pp. 19-21.

[34] G.R. Nos. 196342 & 196848, August 8, 2017, 835 SCRA 107.

[35] *People v. Poras*, 626 Phil. 526 (2010).

[36] *Id.* at 547.

[37] *People v. Caoili*, supra note 34, at 144.

[38] *Id.* at 153-154.

[39] *Id.* at 143.

[40] *Id.*

[41] *People v. Silvano*, 368 Phil. 676, 703 (1999)

[42] Applying by analogy the imposition by *People v. Jugueta*, [783 Phil. 806 (2016)] of the same amounts when the crime committed is attempted qualified rape.

[43] *People v. Arcillas*, 692 Phil. 40, 54 (2012).

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