

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. AAA, ACCUSED-APPELLANT.

G.R. No. 247007. March 18, 2021

Ponente: PERALTA, C.J.

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PERALTA, C.J.:

Before the Court is an appeal from the January 24, 2019 Decision[2] of the Court of Appeals (CA) in CA-G.R. CR-HC No. 01292-WN, which affirmed with modification the November 18, 2013 Judgment[3] of the Regional Trial Court (RTC), Branch 1, Butuan City in Criminal Case No. 12524, finding accused-appellant AAA guilty beyond reasonable doubt of Rape under Article 266-A, paragraph 1(d) of the Revised Penal Code (RPC) committed against BBB.

The antecedent facts are as follows:

Accused-appellant AAA was indicted for the crime of Rape under Article 266-A, paragraph 1(d) and 2 in relation to Article 266-B of the Revised Penal Code (RPC), as amended, in an Information,[4] dated September 10, 2007, the accusatory portion of which reads:

That on or about the 23[rd] day of August, 2007, at xxxxxxxxxxxx, Agusan del Norte, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, by means of force, did then and there willfully, unlawfully and feloniously commit an act of sexual assault by inserting his fingers in the vagina and thereafter have carnal knowledge to one, BBB a 7-year old minor, against the latter's will, to the damage and prejudice of said minor.

CONTRARY TO LAW.

During arraignment, the above Information was read and explained to accused-appellant AAA in the Cebu-Visayan dialect, to which he is fully conversant with, and thereafter, he entered a plea of not guilty to the offenses charged.[5] During pre-trial, the prosecution and the defense stipulated as to the identity of the accused and the minority of the victim.[6] After the termination of the pre-trial, trial on the merits ensued.

Version of the Prosecution

To substantiate its charges against AAA, the prosecution presented the minor victim, BBB; her brother, CCC; her sister, DDD; and her father, EEE as its witnesses.

The combined testimonies of these witnesses tend to show that on the evening of August 23, 2007 BBB was at their house located at xxxxxxxxxxxx, Agusan del Norte. Accused AAA arrived at their house before BBB and her siblings had their supper. AAA frequented their house and slept there for many nights, especially during school days. After BBB and her siblings finished eating dinner and while they were watching television, FFF, a close family friend, arrived. Her brothers, CCC and GGG, along with FFF, went out of their house to join their father, EEE, at the barangay hall where a filariasis program and medical mission was being held. After watching television, BBB and her sisters, DDD and HHH went to sleep. AAA was left alone in the living room still

watching television.

Later, BBB was awakened and found herself with AAA in the banana plantation near her house. AAA carried BBB to said place. BBB was told by AAA to urinate, but she did not do so. Next, AAA put BBB on the ground, opened his zipper and showed his penis to BBB. He also removed BBB's jogging pants and panty. AAA proceeded to touch her vagina and then inserted his penis into her vagina. AAA inserted his penis into BBB's genitalia more than once and during which, BBB felt so much pain. BBB cried and tried to shout, but AAA's hands were covering her mouth. After AAA was finished, he swiped his penis on her face. He then went home. After AAA left, BBB also went back to their house.

When BBB reached their house, she saw AAA already lying down on the bed in their living room but was not asleep. When BBB returned to their room, she tried to wake up DDD to borrow the latter's jogging pants. DDD answered BBB, but did not fully wake up. BBB also tried to tell DDD of her ordeal, but the latter did not respond because she was so sleepy. AAA, who overheard BBB talking to DDD, warned her, "Ayaw pagsaba diha BBB." (Do not make any noise BBB) Upon hearing this, BBB immediately went to sleep for she was afraid of AAA.

Meanwhile, CCC, GGG and FFF returned home at about 11:00 o'clock in the evening and AAA opened the door for them. AAA immediately told CCC that BBB had a nightmare that she was brought to the banana plantation and that her jogging pants and panty were removed. CCC did not mind what he heard because BBB had previous nightmare episodes. After watching television, CCC and GGG went to sleep, while AAA slept on the bed and FFF slept at the floor of the living room.

EEE arrived home from the barangay hall at around 6:00 o'clock in the morning of the following day, August 24, 2007. BBB, who was then crying, approached EEE and confided to the latter that AAA brought her to the banana plantation and that the latter removed her jogging pants and panty. Before EEE could react, CCC intervened and told their father that according to AAA, BBB just had a nightmare during the night and so, EEE did not believe her. After he ate his breakfast, EEE went on his way to accompany their Barangay Chairman in going to a province. Seemingly undeterred, BBB again told EEE when he arrived home at about 4:00 to 5:00 o'clock in the afternoon of the same day, that AAA brought her to the banana plantation, removed her jogging pants and panty, and added that AAA inserted his penis into her vagina. This time EEE believed her. BBB, CCC and EEE then went to the banana plantation, where they recovered the jogging pants and panty that BBB wore on the night the incident happened.

EEE, CCC and BBB immediately reported the incident to the police. On August 25, 2007; they proceeded to the National Bureau of Investigation (NBI), Caraga to report the abuse and to execute an affidavit-complaint against AAA. BBB was also submitted to medical examination, where it was found that she sustained recent lacerations on her hymen at 6:00 and 9:00 o'clock positions. Such medical findings highly suggested that BBB was sexually abused.

BBB testified that she was very sure that her sexual molester was AAA because she was able to see his face through the aid of the light (fluorescent light) coming from outside the house of their neighbor, Auntie Neray. BBB also claimed that she recognizes AAA's voice to which she is very familiar with.[7]

Version of the Defense

To exculpate AAA from the charges against him, the defense presented AAA, his cousin, VVV, his brother, WWW and his father XXX.

AAA testified that during his direct examination held on November 25, 2009, that he was thirty (30) years old[8] and thus he was about twenty eight (28) years old when the rape incident happened on August 23, 2007, he

alleged that he was a student at xxxxxxxxxxxx High School until the time he was arrested. He recounted that after his classes are over, he would regularly proceed to the house of EEE to sleep there because it has a toilet room. The house of his uncle YYY was also located at Barangay xxxxxxxxxxxx but it does not have a comfort room. Upon arrival at the house of EEE on that Thursday night, the last night he slept thereat, he saw CCC watching television and told the latter that he will sleep in their house. He found a spot on the cemented floor near CCC and immediately slept. He did not wake up at any time during the night. Upon waking up early in the morning of the following day, he was surprised to find out that FFF was sleeping beside him and the mosquito net was pinned. FFF was his neighbor at Barangay xxxxxxxxxxxx. After fixing the mosquito net, he went on his way to the house of his uncle YYY. He recalled that FFF never slept at EEE's house except on that single night. On the following Sunday, he was arrested while in the dancing area and in the presence of lots of people for allegedly raping BBB. He vehemently denied the accusation.

On cross-examination, AAA claimed that although he frequented the house of EEE, he was not familiar with the names and faces of the latter's children, except for CCC with whom he usually had conversation. He maintained that he did not know that BBB is the daughter of EEE. He denied to have opened the door for CCC and his companions on the night of August 23, 2007. He never had a chance to talk to DDD and BBB because they seemed to dislike him. He did not know of any reason why BBB would accuse him of raping her.

VVV and WWW similarly testified that they were residents of Barangay xxxxxxxxxxxx and that they went to xxxxxxxxxxxx on August 23, 2007 to attend a filariasis program and medical mission held at the barangay hall, as well as to play basketball. Considering that there was no light in the nearby basketball court and since it was already past 8:00 o'clock in the evening then, they decided to proceed to the house of EEE to spend the night there. Upon arrival, they told CCC, who was then watching television, about their intention. They saw AAA and FFF sleeping side by side in the living room of the said house. CCC refused to accommodate them because there were no more sleeping mats available. They recalled that it was dark outside the house of EEE. There was no moonlight nor any light coming from the nearby houses. But they were carrying a flashlight which illuminated their way towards the house of Kagawad ZZZ where they slept overnight. They went back to the house of EEE at around 6:00 o'clock in the morning of the following day to check if AAA was still there. While thereat, they overheard EEE asked CCC on what happened to BBB, to which query, CCC replied that she just had a nightmare. AAA and FFF were no longer at the house of EEE at that time.

XXX averred that the rape charge against his son AAA was merely fabricated because EEE has a grudge against him. According to XXX, he illegal logging activity of EEE in their ancestral domain in xxxxxxxxxxxx before the Department of Environment and Natural Resources (DENR). As a result of which, the DENR confiscated all the logs that were cut. The incident was continuously broadcasted over the radio. He considered the accusation of rape against his son as an act of vengeance of EEE. During cross-examination, XXX admitted that it was actually a certain Tata Ambongan who reported the said illegal logging activity and that no criminal or administrative charge was filed against EEE.[9]

By way of rebuttal, the prosecution recalled to the witness stand CCC and EEE to amplify their claims as well as to refute the allegations of the defense witnesses.

Also during rebuttal, the prosecution presented Dr. Roslyn D. Orais (Dr. Orais), a Medico-legal Officer of the NBI, Caraga. Dr. Orais testified that she conducted an examination on the genitalia of BBB. She observed that there was redness on the entire fourchette and a slight touch of the area would bring pain to BBB. She also found that BBB sustained hymenal lacerations at 6:00 and 9:00 o'clock positions. She opined that these injuries could have been caused by the insertion of a blunt object like an erect penis. The injuries in the vagina highly suggested

of a sexual abuse committed against BBB. She prepared Medico-legal Report No. CRG-MG-07-075 and her above finding were reflected therein. She recommended that BBB should undergo some psychiatric treatment. She also prepared a preliminary report dated August 26, 2007 in connection with the case.[10]

RTC Ruling

On November 18, 2013, the RTC rendered a Judgment finding accused- appellant AAA guilty of Rape under Article 266-A, paragraph 1(d) of the RPC, as amended. No prosecution evidence was adduced to prove the charge of Rape by Sexual Assault under Article 266-A, paragraph 2. The fallo of which reads:

WHEREFORE, after weighing the evidence of both parties, accused AAA aka "NNN" is hereby found guilty beyond reasonable doubt of the crime of rape. Accordingly, he is sentenced to Reclusion Perpetua and to pay private complainant the sum of [P]50,000.00 as civil indemnity and another [P]50,000.00 as moral damages.

He shall serve his sentence at Davao Prison and Penal Farms, Panabo City, Davao del Norte. In the service of his sentence, he shall be credited with the full time benefit of his preventive imprisonment if he agrees in writing to abide by the same disciplinary rules imposed upon convicted prisoners otherwise if not he shall only be credited with 4/5 of his preventive imprisonment pursuant to Article 29 of the Revised Penal Code as amended.

SO ORDERED.[11] (Italics supplied)

The RTC sustained the version proffered by the prosecution declaring that the latter was able to establish with certitude that AAA had carnal knowledge of BBB who was only seven years old at the time of the commission of the offense as evidenced by her certificate of live birth. According to the RTC, such fact of the felonious coitus was established mainly through the credible testimony of the minor victim BBB. The trial court rejected the defense of denial interposed by AAA being a mere self-serving assertion that is inherently weak and cannot prevail over the positive and undeviating testimonies of the prosecution witnesses.

Not in conformity, AAA appealed the RTC's verdict of conviction before the CA.

The CA Ruling

On January 24, 2019, the CA rendered its assailed Decision affirming the conviction of accused-appellant AAA of the crime of Rape under Article 266-A, paragraph 1(d) of the RPC, but modified the amounts of damages to be awarded. The dispositive portion of which states:

WHEREFORE, for lack of merit, the instant appeal is DENIED. The November 18, 2013 Decision of the Regional Trial Court, Branch 1, Butuan City, in Criminal Case No. 12524 is AFFIRMED with MODIFICATION. Accused-appellant AAA is found GUILTY beyond reasonable doubt of the crime of Rape under Article 266-A, paragraph 1(d) of the Revised Penal Code.

Accordingly, accused-appellant AAA is SENTENCED to suffer the penalty of reclusion perpetua; and is ORDERED to pay private complainant BBB the amounts of Seventy Five Thousand Pesos (P75,000.00) as civil indemnity, Seventy Five Thousand Pesos (P75,000.00) as moral damages, and Seventy Five Thousand Pesos (P75,000.00) as exemplary damages.

All monetary awards for damages shall earn interest at the legal rate of six percent (6%) per annum from the date of finality of this judgment until fully paid.

SO ORDERED.[12]

In the assailed decision, the CA found no substantial error in the judgment rendered by the RTC. It ruled that the credible testimony of BBB was sufficient to sustain AAA's conviction as said minor victim was able to narrate in

great details the circumstances of the rape incident. It found that the age of BBB remained undisputed and supported by the evidence on record. The CA observed that BBB was able to positively identify AAA as the person who sexually abused her. Lastly, the CA rejected the defense of denial proffered by AAA for being self-serving and unsupported by any plausible proof.

The Issues

Unfazed, AAA filed the present appeal and posited the same lone assignment of error he previously raised before the CA, to wit:

THE COURT A QUO GRAVELY ERRED IN CONVICTING ACCUSED-APPELLANT OF THE OFFENSE CHARGED NOTWITHSTANDING THE FAILURE OF THE PROSECUTION TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.[13]

In the Resolution,[14] dated June 26, 2019, the Court directed both parties to submit their supplemental briefs, if they so desired. On September 26, 2019, the Office of the Solicitor General filed its Manifestation and Motion (in Lieu of Supplemental Brief)[15] stating that it will no longer file a supplemental brief as its Appellee's Brief had sufficiently ventilated the issue raised. On October 7, 2019, accused-appellant AAA filed a Manifestation In Lieu of Supplemental Brief[16] averring that he would adopt all his arguments in his Appellant's Brief filed before the CA.

The Court's Ruling

The appeal is devoid of merit. AAA's conviction must stand.

The provision of law that defines the crime of rape by sexual intercourse is Article 266-A, paragraph 1 of the RPC, as amended, 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. (Emphasis supplied)

Specifically, Article 266-A, paragraph 1(d) spells out the definition of the crime of statutory rape.

Statutory rape is committed by sexual intercourse with a woman below twelve years (12) of age regardless of her consent, or the lack of it, to the sexual act.[17] Basic in the prosecution of statutory rape is that there must be concurrence of the following elements: (1) the victim is a female under 12 years of age or is demented; and (2) the offender has carnal knowledge of the victim.[18] Thus, to successfully convict an accused for said crime, it is imperative for the prosecution to prove that the age of the victim is under 12 years and that carnal knowledge took place.

In the case at bench, the element of carnal knowledge was primarily established by the testimony of BBB, which the CA and the RTC found to be unequivocal and deserving credence. The trial court found BBB's testimony to be "very credible" as it was made in a "categorical and straightforward"[19] manner. Notably, the CA agreed with the RTC on this point and saw no reason to overturn the same. After approximating the perspective of the trial

court thru a meticulous scrutiny of the records, the Court likewise finds no justification to disturb its findings. Despite his vigorous protestations, the Court agrees with the findings of the courts a quo that the prosecution was able to prove beyond the whisper of a doubt that AAA raped BBB on the night of August 23, 2007.

Time and again, this Court has emphasized that the manner of assigning values to declarations of witnesses on the witness stand is best and most competently performed by the trial judge who has the unique and unmatched opportunity to observe the demeanor of witnesses and assess their credibility. In essence, when the question arises as to which of the conflicting versions of the prosecution and the defense is worthy of belief, the assessment of the trial court is generally given the highest degree of respect, if not finality. The assessment made by the trial court is even more enhanced when the CA affirms the same, as in this case.[20]

Here, BBB narrated in the painstaking and well-nigh degrading public trial her unfortunate and painful ordeal in a simple yet logical and convincing manner. Without hesitation, BBB pointed an accusing finger against AAA as the person who ravished and sexually molested her on the night of August 23, 2007. She credibly recounted how AAA brought her to an area in the banana plantation and placed her on the ground; that he opened his zipper and showed his penis to her; that he removed her jogging pants and panty; that he touched her vagina twice and then inserted his penis into her vagina more than once; that she felt so much pain each time AAA inserted his penis into her genitalia; that she tried to shout, but her mouth was covered by AAA's hands; and that after AAA was finished, he swiped his penis on her face twice.

BBB's statements pertaining to the identity of AAA as her violator and the perverse acts he visited upon her, were straightforward and categorical, which remained to be so under cross-examination. Hailed to the witness stand, BBB never wavered neither did her statements vacillate between uncertainty and certitude. Considering her tender years, BBB could not have invented a horrid tale, but must have truthfully recounted a harrowing experience.

The Court has consistently held that testimonies of child-victims are normally given full weight and credit, since when a girl, particularly if she is a minor, says that she has been raped, she says in effect all that is necessary to show that rape has in fact been committed. When the offended party is of tender age and immature, courts are inclined to give credit to her account of what transpired, considering not only her relative vulnerability but also the shame to which she would be exposed if the matter to which she testified is not true.[21] Youth and immaturity are generally badges of truth and sincerity.[22] A young girl's revelation that she had been raped, coupled with her voluntary submission to medical examination and willingness to undergo public trial where she could be compelled to give out the details of an assault on her dignity, cannot be so easily dismissed as mere concoction.[23]

In addition, BBB's testimony was corroborated by the medical findings of Dr. Orais. She testified that when she conducted an examination of the genitalia of BBB, she noted the redness of the entire fourchette and the lacerations on the victim's hymen at 6:00 and 9:00 o'clock positions. According to Dr. Orais, such medical findings highly suggest that BBB was sexually molested. It has been said that when the testimony of a rape victim is consistent with the medical findings, sufficient basis exists to warrant a conclusion that the essential requisite of carnal knowledge has thereby been established.[24] Hence, said testimony of Dr. Orais strengthens even more the claim of rape by BBB against appellant.

The crux of AAA's plea for exoneration mirrors on the alleged failure of the prosecution to establish with moral certainty the identity of the perpetrator as that of the accused-appellant. He argues that it improbable for BBB to see and identify the perpetrator of the rape because it was dark in the place where the alleged rape incident happened. He theorizes that FFF could be the possible culprit because as testified by BBB, she had only seen AAA lying on the bed when she reached her home from the banana plantation while FFF was nowhere in sight.

The contentions failed to muster legal and rational merit.

Proving the identity of the accused as the malefactor is the prosecution's primary responsibility. Thus, in every criminal prosecution, the identity of the offender, like the crime itself, must be established by proof beyond reasonable doubt. Indeed, the first duty of the prosecution is not to prove the crime but to prove the identity of the perpetrator, for even if the commission of the crime can be established, there can be no conviction without proof of identity of the culprit beyond reasonable doubt.[25] In the case at bench, the prosecution's evidence on the identity of AAA as the offender is clear and unmistakable.

While AAA attempts to hide his identity in the blackness of the night, his identity has been revealed and the darkness that is his cover has been dispelled by the credible testimony of BBB that, while it was indeed dark in the place where the rape incident took place, there was, however, adequate light coming from outside the house of their neighbor, Auntie Neray, which illuminated the area. Thus, she was able to take a good look at the face of the appellant as her ravisher. This detail makes her testimony and positive identification of AAA more reliable. Visibility is indeed a vital factor in determining whether an eyewitness could have identified the perpetrator of a crime.[26] It is settled that when conditions of visibility are favorable, and when the witnesses do not appear to be biased, their assertion as to the identity of the malefactor should normally be accepted.[27]

To be sure, BBB had an unobstructed view of AAA because of their proximity with each other at the time of the incident. She also testified that she recognized AAA's voice when the latter ordered her to urinate before he sexually molested her. Given her familiarity with AAA who frequented their house to sleep thereat for many times, as well as the illumination provided by the light outside the house of her Auntie Neray, eliminated any possibility of mistaken identification.

Moreover, experience suggests that it is precisely because of the unusual acts of violence committed right before their eyes that witnesses can remember the identities of criminals with a high degree of reliability at any given time.[28] Indeed, although BBB was subjected to rigorous cross-examination, she neither faltered in her positive identification of accused-appellant nor gave any statements materially inconsistent with her entire testimony.

AAA's insinuation that FFF could be the perpetrator of the crime as the latter was missing when BBB arrived at their house from the banana plantation is flimsy and unpersuasive. BBB could not find FFF anywhere in the house because the latter was still outside with CCC and GGG attending a filariasis program and medical mission at the barangay hall. Culled from the testimony of CCC, he, GGG and FFF went out of their house to join EEE at the barangay hall and that they returned home only at around 11:00 o'clock in the evening, long after the rape incident occurred. Notably, it was AAA who opened the door for them and he immediately told CCC that BBB had a nightmare,[29] a story he contrived to fend off suspicion. Obviously, this is nothing more than a desperate attempt of AAA to clear him from criminal liability.

The Court also rejects the contention of the defense that BBB may have been prompted and influenced by her father, EEE, to testify falsely against AAA in view of EEE's quarrel with the accused-appellant's father, XXX. Aside from being uncorroborated by independent and competent evidence, we find the same specious and implausible. The resentment angle, even if true, does not necessarily detract from BBB's credibility as a witness. Motives, such as those arising from family feuds, resentment, or revenge, have not prevented the Court from giving, if proper, full credence to the testimony of minor complainants[30] who remained steadfast throughout their direct and cross-examination.[31] After all, ill motive is never an essential element of a crime.

Neither is the Court convinced that EEE would use and manipulate his own daughter, BBB, to wrongfully accused-appellant because he harbored ill-feelings against the latter's father. It is unthinkable that a father would sacrifice her daughter's honor to satisfy his grudge, knowing fully well that such an experience would certainly

damage her daughter's psyche and mar her entire life. A father would not subject his daughter to a public trial with its accompanying stigma on her as the victim of rape, if said charges were not true. Where the charges against the appellant involve a heinous offense, a minor disagreement, even if true, does not amount to a sufficient justification for dragging a young girl's honor to a merciless public scrutiny that a rape trial brings in its wake.[32]

Amidst the firm bedrock of prosecution evidence, AAA's general denial pales in comparison. AAA denies having sexually molested BBB, contending that he was sleeping the whole night of August 23, 2007 at the house of BBB and only woke up early in the morning of the following day. His cousin VVV and brother WWW testified that they saw AAA sleeping in the living room of BBB's house on the night of August 23, 2007, but they immediately left after they were refused accommodation. Hence, they have no personal knowledge if AAA was indeed sleeping the entire night. What can be gleaned from the testimonies of these defense witnesses is that AAA was within the immediate vicinity of locus criminis when the rape happened. The banana plantation is about 40 to 50 meters away and located at the back of BBB's house.[33]

The defense of denial has been invariably viewed by the Court with disfavor for it can easily be concocted and is a common and standard defense ploy in prosecutions for rape. In order to prosper, the defense of denial must be proved with strong and convincing evidence.[34] Accused-appellant failed to do so in this case. Verily, AAA's bare assertions denying his culpability cannot overcome BBB's categorical testimony narrating his libidinous proclivity. As negative evidence, it pales in comparison with a positive testimony that asserts the commission of a crime and the identification of the accused as its culprit.[35]

The Court finds, however, that AAA is criminally liable for Simple Rape by Sexual Intercourse, and not Statutory Rape in Criminal Case No. 12524.

In *People v. Pruna*, [36] the Court established the guidelines in appreciating age, either as an element of the crime or as a qualifying circumstance, as follows:

1. The best evidence to prove the age of the offended party is an original or certified true copy of the certificate of live birth of such party.
2. In the absence of a certificate of live birth, similar authentic documents such as baptismal certificate and school records which show the date of birth of the victim would suffice to prove age.
3. If the certificate of live birth or authentic document is shown to have been lost or destroyed or otherwise unavailable, the testimony, if clear and credible, of the victim's mother or a member of the family either by affinity or consanguinity who is qualified to testify on matters respecting pedigree such as the exact age or date of birth of the offended party pursuant to Section 40, Rule 130 of the Rules on Evidence shall be sufficient under the following circumstances:
 - a. If the victim is alleged to be below 3 years of age and what is sought to be proved is that she is less than 7 years old;
 - b. If the victim is alleged to be below 7 years of age and what is sought to be proved is that she is less than 12 years old;
 - c. If the victim is alleged to be below 12 years of age and what is sought to be proved is that she is less than 18 years old.
4. In the absence of a certificate of live birth, authentic document, or the testimony of the victim's mother or relatives concerning the victim's age, the complainant's testimony will suffice provided that it is expressly and clearly admitted by the accused.
5. It is the prosecution that has the burden of proving the age of the offended party. The failure of the accused

to object to the testimonial evidence regarding age shall not be taken against him.[37]

In the case at bench, the prosecution adduced in evidence an unauthenticated photocopy of the certificate of live birth[38] of BBB, which was marked as Exhibit "C", to prove that she was below twelve (12) years old at the time of the commission of the crime. We note that in its Opposition to the Offer of Exhibits,[39] the defense objected to the admissibility of Exhibit "C" because it was not authenticated by any competent person. We likewise note that while at the witness stand, BBB claimed that she is eight (8) years old. A careful review of the transcript of the testimonies of the prosecution witnesses shows that neither of BBB's siblings, CCC and DDD, nor her father, EEE, testified as to her age at the time of the rape incident. Neither was there an observation from the RTC to the effect that at the time BBB took the witness stand, she, on basis of her body and facial features, appeared to be below (12) years old.

Measured against the yardstick enunciated in the Pruna case, the Court holds that the unauthenticated photocopy of BBB's birth certificate and the allegation of BBB that she is eight years old while at the witness stand do not constitute sufficient proof of her exact age during the rape incident. In *People v. Belen*,[40] a photocopy of the victim's birth certificate was not accorded probative weight. While in *People v. Lastrollo*,[41] the victim's testimony on her age was considered insufficient since it was not clearly and expressly admitted by the accused. True, the prosecution and the defense stipulated that BBB was still a minor on August 23, 2007. But was she below twelve (12) years old when the rape happened? The evidence on records does not say so. Certainly, minority does not only mean one is below twelve (12) years old. It means that one has not reached the age of majority - eighteen (18) years old.

The Court determines that AAA succeeded in having carnal knowledge of BBB against her will through force. BBB testified in this wise, to wit:

Q How did AAA abuse you?

A He removed my jogging pants and underwear.

Q After AAA removed your jogging pants and underwear?

A He put me down on the ground.

Q After AAA placed you on the ground, what did he do next to you, if any?

A He unzipped his zipper.

Q After he opened his zipper, what did AAA do next, if any?

A He showed his penis.

Q After AAA showed his penis, what did he do next to you, if any?

A He touched my vagina with his hand.

Q How many times if you can recall did AAA touch your "pipi" (vagina) with his hand?

A Twice, Sir.

Q After AAA touched your "pipi" (vagina) using his hand, what did AAA do next to you, if any?

A He then inserted his penis into my vagina.

Q How did you feel when AAA inserted his "Tin-tin" (penis) into your "pipi" (vagina) if any?

A I felt pain.

Q What reaction did you feel if any when AAA inserted his "Tin-tin"(penis) to your "pipi" (vagina)

A Painful.

Q Since you felt pain when AAA inserted his "Tin-tin" (penis) to your "pipi" (vagina), did you not shout or cry?

A I cried.

Q Did you not shout?

A My mouth was covered.

Q What did AAA use to cover your mouth to prevent you from shouting?

A His hands.

Q If you can recall, how many times did AAA insert his "tin-tin" into your "pipi"?

A More than once.

Q Everytime AAA inserted his "tin-tin" into your "pipi", how did you feel?

A I felt so much pain.

Q After AAA inserted his "tin-tin" to your "pipi" more than once, what did AAA do next, if any?

A He then swipe his penis into my face.

Q How many times did AAA swipe his "tin-tin" to your face, if you can recall?

A Twice.

Q After swiping twice his "Tin-tin" into your face, what did AAA do next to you, if any?

A He then stood up and closed his zipper.

Q After AAA closed his zipper. What did AAA do next, if any?

A He went home.[42]

From the foregoing, it is clear that AAA placed BBB on the ground, removed her jogging pants and underwear, touched her vagina twice, forced himself on her and inserted his penis into her vagina. She felt immense pain during the sexual attack. She tried to scream, but AAA's hands covered her mouth. She merely cried in silence. Thus, we are convinced that AAA had employed force to subjugate BBB's will. BBB was a defenseless girl subdued into submission through the use of force by a very much older man, as AAA was then 28 years old, who had lust in his heart and his loins.

Considering that AAA is guilty of Simple Rape by Sexual Intercourse, the penalty to be imposed is reclusion perpetua pursuant to Article 266-B[43] of the RPC, as amended.

We sustain the civil indemnity, moral damages and exemplary damages awarded by the CA. Civil indemnity is awarded upon the finding of rape. Similarly, moral damages are awarded to rape complainants without need of pleading or proof of its basis; the law assumes that a rape complainant actually suffered moral injuries entitling her to the award. Exemplary damages, on the other hand, are awarded in rape cases to serve as deterrent against the commission of this bestial offense.[44]

Conformably with the ruling in *People v. Jugueta*,[45] which laid to rest the inconsistencies in the fixing of damages as part of the civil liability in crimes, the Court awards the victim BBB with P75,000.00 as civil indemnity, P75,000.00 as moral damages and P75,000.00 as exemplary damages. Further, six percent (6%) interest per annum shall be imposed on all damages awarded to be reckoned from the date of the finality of this judgment until fully paid.[46]

WHEREFORE, the appeal is DISMISSED. The Decision of the Court of Appeals, dated January 24, 2019, in CA-G.R. CR-HC No. 01292-MIN is hereby AFFIRMED with MODIFICATION. Accused-appellant AAA is found GUILTY beyond reasonable doubt of Simple Rape by Sexual Intercourse under Article 266-A, paragraph 1(a) of the Revised Penal Code, amended, and is sentenced to suffer the penalty of Reclusion Perpetua. He is ordered to pay BBB the amounts of P75,000.00 as civil indemnity, P75,000.00 as moral damages, and P75,000.00 as exemplary damages. He is also ordered to pay interest at the rate of six percent (6%) per annum from the time of finality of this decision until fully paid, to be imposed on the civil indemnity, moral damages and exemplary damages.

SO ORDERED.

Caguioa, Carandang, Zalameda, and Gaerlan, JJ., concur.

[1] In accordance with Amended Administrative Circular No. 83-2015, the identities of the parties, records and

court proceedings are kept confidential by replacing their names and other personal circumstances with fictitious initials, and by blotting out the specific geographical location that may disclose the identities of the victims.

[2] Penned by Associate Justice Evalyn M. Arellano-Morales, with Associate Justice Oscar V. Badelles and Associate Justice Florencio M. Mamauag, Jr., concurring; rollo, pp. 4-20.

[3] Penned by Judge Eduardo S. Casals; records pp. 389-414.

[4] Records, pp. 1-2.

[5] Id. at 188.

[6] Id. at 199.

[7] Id. at 390-398.

[8] TSN, November 25, 2009, p. 2.

[9] Id. at 400-407.

[10] Id. at 408-411.

[11] Id. at 414.

[12] Rollo, pp. 19-20.

[13] CA rollo, p. 51.

[14] Rollo, pp. 26-27.

[15] Id. at 32-33.

[16] Id. at 38-39.

[17] *People v. Garcia*, 695 Phil. 576, 587 (2012).

[18] *People v. Besmonte*, 735 Phil. 234, 246 (2014).

[19] Records, p. 413.

[20] *People v. Garcia*, supra note 17, at 588.

[21] *People v. Prodenciado*, 749 Phil. 746, 758 (2014).

[22] *People v. Guambor*, 465 Phil. 671, 678 (2004).

[23] *People v. Dalipe*, 633 Phil. 428, 448 (2010).

[24] *People v. Tormis*, 595 Phil. 589, 603 (2008).

[25] *People v. Espera*, 718 Phil. 680, 694 (2013).

[26] *People v. Ramirez*, 409 Phil. 238, 250 (2001).

[27] *People v. Cogonon*, 331 Phil. 208, 219 (1996).

[28] *People v. Porras*, 413 Phil. 563, 587 (2001).

[29] Records, pp. 392-393.

[30] *People v. Alejo*, 458 Phil. 461, 476 (2003).

[31] *People v. Eduardo Rata*, 463 Phil. 619, 631 (2003).

[32] *People v. Arpon*, 678 Phil. 752, 781 (2011).

[33] *Records*, p. 397.

[34] *People v. Mendoza*, 785 Phil. 641, 661 (2016).

[35] *People v. Canares*, 599 Phil. 60, 76 (2009).

[36] 439 Phil. 440 (2002).

[37] *Id.* at 470-471.

[38] *Records* p. 14.

[39] *Id.* at 245-246.

[40] 803 Phil. 751, 772 (2017).

[41] 798 Phil. 103, 120 (2016).

[42] TSN, March 13, 2009, pp. 6-9.

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

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[44] *People v. Mingming*, 594 Phil. 170, 197 (2008).

[45] 783 Phil. 806 (2016).

[46] *People v. Romobio*, 820 Phil. 168, 194-195 (2017).

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