SECOND DIVISION

[G.R. No. 225793, August 14, 2019]

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

DECISION

REYES, J. JR., J.:

For our consideration is an Appeal[1] filed by XXX (accused-appellant), assailing the Decision[2] dated September 16, 2015 of the Court of Appeals (CA) in CA-G.R. CR HC No. 06737, which affirmed with modification, only as to the amount of the damages awarded, the Judgment[3] dated March 13, 2014 of the Regional Trial Court (RTC) of Ligao City, Albay in Criminal Case Nos. 6555, 6556, 6557, and 6558, finding accused-appellant guilty beyond reasonable doubt of the crime of rape defined and penalized under Article 266-A and Article 266-B of the Revised Penal Code.

Four separate Informations were filed against accused-appellant, charging him of qualified rape committed against his then 15-year-old daughter on four different occasions as follows:

Criminal Case No. 6555

> That on or about 11 o'clock in the morning of January 14, 2012[,] in YYY, Province of Albay, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, through force, threats and intimidation with the use of a bolo, did then and there wilfully, unlawfully and feloniously, have carnal knowledge of his biological daughter, AAA, a fifteen (15) year old minor, against her will and without her consent, to her damage and prejudice.
>
> CONTRARY TO LAW.

Criminal Case No. 6556

> That on or about 3:00 o'clock in the afternoon of January 14, 2012[,] in YYY, Province of Albay, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, through force, threats and intimidation with the use of a bolo, did then and there wilfully, unlawfully and feloniously, have carnal knowledge of his biological daughter, AAA, a fifteen (15) year old minor, against her will and without her consent, to her damage and prejudice.
>
> CONTRARY TO LAW.

Criminal Case No. 6557

That on or about 11:00 o'clock in the morning of January 18, 2012[,] in YYY, Province of Albay, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, through force, threats and intimidation with the use of a bolo, did then and there wilfully, unlawfully and feloniously, have carnal knowledge of his biological daughter, AAA, a fifteen (15) year old minor, against her will and without her consent, to her damage and prejudice.

CONTRARY TO LAW.

Criminal Case No. 6558

That on or about 3:00 o'clock in the afternoon of January 21, 2012[,] in YYY, Province of Albay, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, through force, threats and intimidation with the use of a bolo, did then and there wilfully, unlawfully and feloniously, have carnal knowledge of his biological daughter, AAA, a fifteen (15) year old minor, against her will and without her consent, to her damage and prejudice.

CONTRARY TO LAW.[4]

The prosecution's evidence consists mainly of the testimonies of the victim (AAA)[5] and Dr. Jeremias T. Rebueno (Dr. Rebueno), the medico-legal doctor who conducted physical examination on AAA, AAA's certificate of live birth, and the Medico-Legal Certificate.

AAA's minority and relationship with the accused-appellant were established and undisputed.[6]

AAA testified that on January 14, 2012, at around 11:00 in the morning, she was at home with accused-appellant and her siblings. Their mother was in the centro of the barangay at that time. Accused-appellant told AAA's siblings to go to the cornfield to pull out weeds. When accused-appellant was finally alone with AAA, he dragged her to the living room, took off her shorts and underwear, went on top of her, and forced his penis into her vagina. AAA tried not to open her thighs as much as possible while crying angrily to prevent her father's penis to get in her vagina but she still felt the pain in there. Accused-appellant threatened AAA with a *bolo* and told her that he will kill her if she shouts. Accused-appellant had a hard time trying to penetrate AAA's vagina but he kept going until he ejaculated. AAA could not do anything but cry because of her father's threat. Accused-appellant threatened AAA that he will kill her and her mother if she tells the latter about the incident.[7]

The next incident happened on the same day around 3:00 in the afternoon as AAA was still alone with accused-appellant. Again, she was dragged into the living room, undressed, and molested in the same manner. She pleaded to her father but he did not stop until he ejaculated. AAA could only cry the whole time as she could not fight back against her father who had a *bolo* with him.[8]

The third incident happened a few days thereafter. On January 18, 2012, at around 11:00 in the morning, accused-appellant again dragged AAA in the living room, removed her clothes, and went on top of her. AAA tried again to close her thighs for her father's penis not to get inside her vagina and pleaded for her father to stop as she still felt the pain in her vagina. Accused-appellant continued until he ejaculated. Like in the previous incident, AAA was not able to do anything but cry as accused-appellant had a *bolo* with him.[9]

On January 21, 2012, at around 3:00 in the afternoon, accused-appellant took advantage of AAA again. Accused-appellant told AAA to go to the house of her grandmother on the mountain to purportedly get sweet potatoes. However, when she arrived thereat, nobody was there. Little did she know that accused-appellant followed her. When she got in the house, accused-appellant came right after her and closed the door behind him. She told her father that they should go back home but he pushed her towards the post. While standing against the post, accused-appellant removed AAA's shorts and underwear. AAA tried to push accused-appellant away but the latter was holding on to the post, pinning her against it. Accused-appellant inserted his penis into AAA's vagina. After ejaculating, accused-appellant put AAA's shorts back on. Thereafter, AAA ran away.[10]

On January 31, 2012, AAA was able to go to her auntie and grandmother and told them her harrowing experiences in the hands of accused-appellant. She was then accompanied to the police station.[11]

The following day, AAA was examined by Dr. Rebueno, who found an intact hymenal membrane, no laceration, no abrasion or hematoma on AAA's body and vaginal canal. Dr. Rebueno, however, testified that such findings and the allegation of rape are not inconsistent from each other because according to the detailed history he got from AAA, an "inter labial sex" occurred between her and accused-appellant on several occasions. He explained that in inter labial sex, the penis is inserted in the vagina but only up to a point where it touches the labia of the vagina without penetrating the vaginal orifice.[12] Full penetration was prevented because the male organ was in between the victim's legs.[13]

The defense, on the other hand, offered the sole testimony of accused-appellant consisting merely of denial and alibi.[14]

On March 13, 2014, the RTC issued a Judgment, finding accused-appellant guilty beyond reasonable doubt of all the charges and thereby imposed the penalty of *reclusion perpetua*, without eligibility of parole with all the accessories provided under the law, and ordered him to pay the victim P50,000.00 as civil indemnity, P50,000.00 as moral damages, and P25,000.00 as exemplary damages.[15]

The trial court found AAA's testimony consistent and credible. According to the RTC, force, threat, or intimidation was established through AAA's testimony stating that accused-appellant was holding a *bolo* while molesting her, and that accused-appellant made verbal threats that he will kill her or her mother.[16]

As to the lack of laceration wound in the vagina, the RTC ruled that such fact does not negate sexual intercourse. Citing jurisprudence, the RTC explained that rape is

consummated even "by the slightest penetration of the female organ, *i.e.*, [the] touching of either the labia or the pudendum by the penis."[17] From the evidence gathered in this case, the tip of accused-appellant's penis touched the opening of her vagina.[18] This was also consistent with the testimony of Dr. Rebueno.[19] The RTC disposed, thus:

> **WHEREFORE**, foregoing premises considered, judgment is hereby rendered finding [accused-appellant] XXX GUILTY beyond reasonable doubt in Criminal Case No. 6555; GUILTY beyond reasonable doubt in Criminal Case No. 6556; GUILTY beyond reasonable doubt in Criminal Case No. 6557[;] and also GUILTY beyond reasonable doubt in Criminal Case No. 6558, all of the crime of rape as charged in the respective informations. For each count, [accused-appellant] is sentenced to suffer the penalty of RECLUSION PERPETUA, without eligibility for parole and with all the accessories provided for by law, and to pay the victim Php50,000.00 as civil indemnity *ex delicto*; Php50,000.00 as moral damages and Php25,000.00 as exemplary damages.
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> Costs against the accused.
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> **SO ORDERED.**[20]

In its assailed Decision, the CA affirmed the RTC's finding of conviction with modification only as to the award of damages, thus:

> **WHEREFORE**, in view of the foregoing, the instant appeal is hereby **DENIED**. The assailed Judgment dated March 13, 2014[,] rendered by the Ligao City, Albay Regional Trial Court, Branch 13 in Criminal Case Nos. 6555, 6556, 6557, and 6558[,] is hereby **AFFIRMED** with **MODIFICATIONS** by increasing in each case the award of civil indemnity from [P]50,000.00 to [P]150,000.00; moral damages from [P]50,000.00 to [P]150,000.00, and exemplary damages from [P]25,000.00 to [P]100,000.00 and holding accused XXX liable for interest of 6% *per annum* on the monetary awards reckoned from the finality of this decision until fully paid.
>
> All other aspects of the *fallo* of the assailed Judgment, stand.
>
> **SO ORDERED.**[21]

Before this Court, accused-appellant merely reiterates his argument regarding the credibility of AAA's testimony. According to him, it was highly improbable for him to have perpetrated the rape in the living room of their family home, as well as in the house of AAA's grandmother, during daytime without risk of apprehension. Accused-appellant raises again the fact that no laceration or abrasion was found on AAA's body and vagina and argues that such findings indicate the absence of abuse and sexual intercourse.

We find no merit in this appeal.

Jurisprudence is replete with cases where the Court ruled that questions on the credibility of witnesses should best be addressed to the trial court because of its

unique position to observe that elusive and incommunicable evidence of witnesses' deportment on the stand while testifying, which is denied the appellate courts. The trial judge has the advantage of actually examining both real and testimonial evidence including the demeanor of the witnesses. Hence, the judge's assessment of the witnesses' testimonies and findings of fact are accorded great respect on appeal. In the absence of any substantial reason to justify the reversal of the trial court's assessment and conclusion, as when no significant facts and circumstances are shown to have been overlooked or disregarded, the reviewing court is generally bound by the former's findings. The rule is even more stringently applied if the appellate court has concurred with the trial court.[22]

In this case, we find no cogent reason to deviate from the findings and conclusion of the RTC, as affirmed by the CA, especially with regard to the credibility of AAA's testimony. The RTC, as affirmed by the CA, correctly ruled that the elements of qualified rape through force, threat and intimidation were clearly established in this case, to wit: (1) sexual congress; (2) with a woman; (3) done by force and without consent; (4) the victim is under 18 years of age at the time of the rape; and (5) the offender is a parent (whether legitimate, illegitimate or adopted) of the victim.[23]

Accused-appellant's claim that the situations alleged by AAA were highly improbable for rape to be perpetrated should be given scant consideration. Jurisprudence instructs us that lust is no respecter of time or place; rape defies constraint of time and space. Rapists are not deterred from committing the odious act of sexual abuse by mere inconvenience or awkwardness of the situation or even by the presence of people or family members nearby. Rape is committed not exclusively in seclusion. [24]

We are neither swayed by accused-appellant's persistent argument that the medical findings negate AAA's allegation of rape considering that there was no laceration or hematoma found in her body and especially in her hymen.

As correctly held by the courts *a quo*, the slightest penetration of the labia of the female victim's genitalia consummates the crime of rape. Full penile penetration that causes hymenal laceration is not necessary for the prosecution of rape to prosper. In the case of *People v. Besmonte*,[25] the Court explained:

> Carnal knowledge, the other essential element in consummated statutory rape, does not require full penile penetration of the female. In *People v. Campuhan*, the Court made clear that the mere touching of the external genitalia by a penis capable of consummating the sexual act is sufficient to constitute carnal knowledge. All that is necessary to reach the consummated stage of rape is for the penis of the accused capable of consummating the sexual act to come into contact with the lips of the pudendum of the victim. This means that the rape is consummated once the penis of the accused capable of consummating the sexual act touches either labia of the pudendum. And *People v. Bali-Balita* instructed that the touching that constitutes rape does not mean mere epidermal contact, or stroking or grazing of organs, or a slight brush or a scrape of the penis on the external layer of the victim's vagina, or the mons pubis, but rather the erect penis touching the labias or sliding into the female genitalia. Consequently, the conclusion that touching the labia majora or