



Republic of the Philippines
Supreme Court
 Manila

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WILFREDO V. LAPITAN
 Division Clerk of Court
 Third Division
 SEP 05 2016

THIRD DIVISION

PEOPLE OF THE PHILIPPINES, **G.R. No. 217381**
 Plaintiff-Appellee,

Present:

VELASCO, JR., J.,
Chairperson,
 PERALTA,
 BERSAMIN,*
 PEREZ, and
 REYES, JJ.

- versus -

Promulgated:

VICENTE R. SALVADOR,
 Accused-Appellant.

July 20, 2016

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RESOLUTION

REYES, J.:

On appeal¹ is the Decision² dated September 11, 2014 of the Court of Appeals (CA) in CA-G.R. CR. H.C. No. 05484. The CA affirmed with modifications the Decision³ dated September 26, 2011 of the Regional Trial Court (RTC) of Calapan City, Oriental Mindoro, Branch 40, in Criminal Case No. C-04-7691, finding Vicente R. Salvador (Salvador) guilty beyond reasonable doubt of the crime of Rape, as defined under Article 266-A of the Revised Penal Code (RPC), in relation to Republic Act (R.A.) No. 7610.⁴

* Additional Member per Raffle dated May 13, 2015 *vice* Associate Justice Francis H. Jardeleza.

¹ Under Section 13(c), Rule 124 of the Rules of Court, as amended.

² Penned by Associate Justice Elihu A. Ybañez, with Associate Justices Japar B. Dimaampao and Carmelita S. Manahan concurring; CA *rollo*, pp. 133-146.

³ Issued by Judge Tomas C. Leynes; *id.* at 41-49.

⁴ Special Protection of Children Against Abuse, Exploitation and Discrimination Act. Approved on June 17, 1992.

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Facts

Salvador was charged with the crime of rape under Article 266-A of the RPC, in relation to R.A. No. 7610, in an Information, the accusatory portion of which reads:

That sometime on the 13th day of December 2003, at Barangay Palhi, City of Calapan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, motivated by lust and lewd desire, and by means of force and intimidation, willfully, unlawfully and feloniously had carnal knowledge of one [AAA],⁵ his thirteen (13) year old-virgin step daughter, living with him in the same house, against her will and without her consent, acts of child abuse which debase, degrade and demean the intrinsic worth and dignity of said [AAA], as a human being, to her damage and prejudice.⁶

Upon arraignment, Salvador entered a plea of not guilty. After pre-trial conference, trial on the merits ensued.⁷

The prosecution alleged the following:

AAA was born on December 17, 1991 to BBB and CCC. When her parents got separated, AAA chose to live with her mother BBB in Oriental Mindoro. Eventually, BBB cohabited with Salvador whom AAA looked up to as his father.⁸

On December 13, 2003, while AAA was alone in their house, Salvador poked an ice pick in AAA's belly and told her not to make any noise. Salvador then ordered AAA to lie down. AAA resisted but was overpowered by Salvador. Salvador then removed AAA's underwear, placed himself on top of AAA, and inserted his penis inside AAA's vagina. After having carnal knowledge of AAA, Salvador stood up, warned her against informing anyone of what he did, and went outside.⁹

AAA was pregnant at the time of the incident. Prior to December 13, 2003, Salvador had raped her several times. Two days after the incident, AAA gave birth to a boy. BBB was aware of her daughter's pregnancy, but she failed to do anything since she was afraid of Salvador. BBB only came

⁵ The real name of the victim, her personal circumstances and other information which tend to establish or compromise her identity, as well as those of her immediate family or household members, shall not be disclosed to protect her privacy and fictitious initials shall, instead, be used, in accordance with *People v. Cabalquinto* (533 Phil. 703 [2006]), and A.M. No. 04-11-09-SC dated September 19, 2006.

⁶ CA rollo, p. 41.

⁷ Id.

⁸ Id. at 134.

⁹ Id. at 134-135.

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home after AAA has given birth since she was harvesting *palay* in another town for about two weeks.¹⁰

BBB had previously noticed that AAA's belly was already bulging; when BBB tried to talk to AAA about it, the latter would only cry. BBB testified that sometime in December 2003, AAA told her that Salvador had previously raped her. BBB then tried to take AAA away from Salvador, but failed to do so since the latter was always on guard and they were afraid of him.¹¹

On January 27, 2004, Dr. Angelita C. Legaspi conducted a physical and cervico-vaginal examination of AAA upon request by police officers. She confirmed that AAA had sustained old-healed vaginal lacerations, which could have been caused by the delivery of a baby or by sexual intercourse. She likewise opined that it is possible for a woman to have been raped two days before she delivers or engage in sexual intercourse even if she is nine months pregnant.¹²

For his part, Salvador denied the allegations against him, and claimed that both AAA and BBB are his wives. He alleged that he is a member of the Tadyawan Tribe of Mangyan Cultural Minority which has a norm that allows a male to have two spouses as long as he can provide for them. He further averred that in their tribe, any person who is around 12 to 13 years old are allowed to get married or have common law spouses.¹³

Salvador further alleged that AAA loved him and voluntarily had sexual intercourse with him. He insinuated that AAA only lodged a complaint against him because her biological father was mad at him.¹⁴

Ruling of the RTC

On September 26, 2011, the RTC rendered its Decision,¹⁵ finding Salvador guilty beyond reasonable doubt of the crime of rape under Article 266-A, paragraph 1 of the RPC, in relation to R.A. No. 7610, and sentenced him to suffer the penalty of *reclusion perpetua*. The RTC further directed Salvador to pay AAA the following amounts: (1) ₱75,000.00 as civil indemnity; (2) ₱50,000.00 as moral damages; and (3) ₱50,000.00 as exemplary damages.¹⁶

¹⁰ Id. at 135.

¹¹ Id.

¹² Id. at 135-136.

¹³ Id. at 136.

¹⁴ Id. at 136-137.

¹⁵ Id. at 41-49.

¹⁶ Id. at 49.

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The RTC gave more credence to AAA's testimony, finding the same straightforward and candid.¹⁷ The RTC disregarded Salvador's claim that AAA is also his wife. The RTC pointed out that Salvador, other than his self-serving allegations, failed to adduce any evidence to support his defense. The RTC averred that Salvador's sweetheart defense cannot be given credence in the absence of corroborative proof that such romantic relationship existed.¹⁸

Ruling of the CA

On appeal, the CA, in its Decision¹⁹ dated September 11, 2014, affirmed the RTC Decision dated September 26, 2011 albeit with modifications. The CA clarified that Salvador is guilty of the crime of qualified rape, which is punishable by death. The CA explained that the Information alleged that AAA, at the time of the incident, was only 13 years old and Salvador is her step-parent. Accordingly, the CA, pursuant to R.A. No. 9346²⁰ ruled that Salvador was aptly meted the penalty of *reclusion perpetua*, but added that he is not eligible for parole.²¹

The CA further increased the award of moral damages from ₱50,000.00 to ₱75,000.00, but reduced the award of exemplary damages from ₱50,000.00 to ₱30,000.00. Moreover, the CA imposed interest on all monetary awards at the rate of six percent (6%) *per annum* from the date of finality of the judgment until fully paid.²²

Hence, this appeal.

Both Salvador and the Office of the Solicitor General manifested that they would no longer file with the Court supplemental briefs, and adopted instead their respective briefs with the CA.²³

Issue

Essentially, the issue for the Court's resolution is whether Salvador is guilty beyond reasonable doubt of the crime charged.

¹⁷ Id.

¹⁸ Id. at 48.

¹⁹ Id. at 133-146.

²⁰ AN ACT PROHIBITING THE IMPOSITION OF DEATH PENALTY IN THE PHILIPPINES.

Approved on June 24, 2006.

²¹ CA *rollo*, pp. 144-145.

²² Id.

²³ Id. at 26-27; 30-32.

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Ruling of the Court

The appeal is dismissed for lack of merit, but the lower courts' designation of the crime and penalty imposed are modified.

The crime of rape is defined under Article 266-A of the RPC, which pertinently states that:

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 otherwise unconscious;
- c. By means of fraudulent machination or grave abuse of authority; and
- 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.

x x x x

Under Article 266-B of the RPC, the felony of rape is qualified when the victim is under 18 years of age and the offender is a parent, step-parent, guardian, relative by consanguinity or affinity within the third civil degree, or the common-law-spouse of the parent of the victim.

“The elements of the offense charged are that: (a) the victim is a female over 12 years but under 18 years of age; (b) 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; and (c) the offender has carnal knowledge of the victim either through force, threat or intimidation; or when she is deprived of reason or is otherwise unconscious; or by means of fraudulent machinations or grave abuse of authority.”²⁴

After a thorough perusal of the records of this case, the Court finds that the prosecution was able to establish beyond reasonable doubt that Salvador had carnal knowledge of AAA against her will through force and intimidation. AAA testified that Salvador succeeded in having carnal

²⁴ *People v. Arcillas*, 692 Phil. 40, 50 (2012).

knowledge of her on December 13, 2003 by threatening her with an ice pick. Both the lower courts found AAA's testimony in this matter clear, convincing and credible. AAA even testified that she was raped by Salvador several times before the incident, which resulted in her pregnancy.

It is well-settled that, in a criminal case, factual findings of the trial court are generally accorded great weight and respect on appeal, especially when such findings are supported by substantial evidence on record. It is only in exceptional circumstances, such as when the trial court overlooked material and relevant matters, that this Court will re-calibrate and evaluate the factual findings of the court below.²⁵ The Court sees no reason to depart from the foregoing rule.

In an effort to avoid criminal liability, Salvador maintains that he and AAA are lovers; that both AAA and BBB are his wives and that this arrangement is allowed according to the norms of the Tadyawan Tribe of Mangyan Cultural Minority, of which he is a member.

The Court does not agree.

Other than Salvador's testimony that AAA is also his wife, there is no other evidence which would support the said claim. It is but a mere unsubstantiated allegation and, hence, not worthy of credence. Further, as pointed out by the CA, Salvador admitted that he met AAA and BBB sometime in 1999, immediately took both of them as his wives and had sexual intercourse with them alternately. In 1999, AAA was barely 8 years old and would not be able to understand love, sex and sexuality at such a tender age.

In any case, it is highly unlikely that AAA would concoct her accusations against Salvador and publicly expose her dishonor and shame if it were not really true that she was raped. Courts give full weight and credence to testimonies of child-victims of rape. Youth and immaturity are generally badges of truth. It is highly improbable that a 13-year-old girl like AAA would impute a crime as serious as rape to the common-law spouse of her mother, undergo the humiliation of a public trial and put up with the shame, humiliation and dishonor of exposing her own degradation were it not to condemn an injustice and to have the offender apprehended and punished.²⁶ The weight of such testimony may be countered by physical evidence to the contrary or indubitable proof that the accused could not have committed the rape, but in the absence of such countervailing proof, the testimony shall be accorded utmost value.²⁷

²⁵ See *Seguritan v. People*, 632 Phil. 415 (2010).

²⁶ See *People v. Mangitngit*, 533 Phil. 837, 851 (2006).

²⁷ See *People v. Bon*, 536 Phil. 897, 915 (2006).

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The foregoing notwithstanding, there is a need to modify the lower courts' designation of the crime committed by Salvador and the penalty imposed upon him.

In *People v. Arcillas*,²⁸ the Court explained that:

Rape is qualified and punished with death when committed by the victim's parent, ascendant, step-parent, guardian, or relative by consanguinity or affinity within the third civil degree, or by the common-law spouse of the victim's parent. However, an accused cannot be found guilty of qualified rape unless the information alleges the circumstances of the victim's over 12 years but under 18 years of age and her relationship with him. The reason is that such circumstances alter the nature of the crime of rape and increase the penalty; hence, they are special qualifying circumstances. As such, both the age of the victim and her relationship with the offender must be specifically alleged in the information and proven beyond reasonable doubt during the trial; otherwise, the death penalty cannot be imposed.²⁹ (Citations omitted)

Accordingly, there is a need to specifically allege in the information (1) the age of the victim, and (2) the relationship of the victim to the offender. The information in this case alleged that AAA was a "thirteen (13) year-old-virgin." AAA's age at the time of the incident was sufficiently alleged in the information and established during the trial.

The information likewise alleged that AAA is Salvador's "step-daughter, living with him in the same house." However, a perusal of the records shows that Salvador is only the common-law husband of BBB. No evidence was adduced that BBB and Salvador legally married after the former separated from CCC. The information failed to allege that BBB and Salvador are common-law spouses.

Salvador's being the common-law husband of BBB at the time of the commission of rape, even if established during the trial, could not be appreciated since the information did not specifically allege it as a qualifying circumstance. Otherwise, Salvador would be deprived of his right to be informed of the charge lodged against him. Accordingly, Salvador is only guilty of simple rape, which is punishable by *reclusion perpetua*.

²⁸ 692 Phil. 40 (2012).

²⁹ Id. at 52.

Considering that Salvador is only liable for simple rape, there is a need to modify the monetary awards granted to AAA. It is settled that the victim in simple rape is entitled to a civil indemnity of ₱75,000.00, moral damages of ₱75,000.00, and exemplary damages of ₱75,000.00.³⁰

In addition, and in conformity with current policy, the Court imposes interest on all monetary awards for damages at the rate of six percent (6%) *per annum* from the date of finality of this Resolution until fully paid.³¹

WHEREFORE, in consideration of the foregoing disquisitions, the appeal is **DISMISSED**. The Decision dated September 11, 2014 of the Court of Appeals in CA-G.R. CR. H.C. No. 05484 is hereby **AFFIRMED WITH MODIFICATIONS**. Accused-appellant Vicente R. Salvador is hereby found **GUILTY** beyond reasonable doubt of the crime of Simple Rape under Article 266-A of the Revised Penal Code and is hereby sentenced to suffer the penalty of *reclusion perpetua*. He is directed to pay the victim ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages, and ₱75,000.00 as exemplary damages. In addition, 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 Resolution until fully satisfied.

SO ORDERED.



BIENVENIDO L. REYES
Associate Justice

WE CONCUR:



PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson

³⁰ *People of the Philippines v. Ireneo Jugueta*, G.R. No. 202124, April 5, 2016.

³¹ *People v. Veloso*, 703 Phil. 541, 556 (2013).


DIOSDADO M. PERALTA
 Associate Justice


LUCAS P. BERSAMIN
 Associate Justice


JOSE PORTUGAL PEREZ
 Associate Justice

ATTESTATION

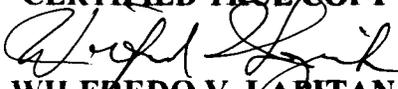
I attest that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


PRESBITERO J. VELASCO, JR.
 Associate Justice
 Chairperson, Third Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


MARIA LOURDES P. A. SERENO
 Chief Justice

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WILFREDO V. LAPITAN
 Division Clerk of Court
 Third Division

SEP 05 2016

