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Wilfredo V. Lapitan
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Division Clerk of Court
Third Division

Republic of the Philippines
Supreme Court
Manila

AUG 07 2017

THIRD DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 223513

Present:

VELASCO, JR., J.,
Chairperson,
BERSAMIN,
REYES,
JARDELEZA, and
TIJAM, JJ.

- versus -

ALEX AMAR y MONTANO,
Accused-Appellant.

Promulgated:

July 5, 2017

Mis. DC Bath

X-----X

DECISION

TIJAM, J.:

In this appeal, accused-appellant Alex Amar y Montano assails the February 27, 2015 Decision¹ of the Court of Appeals (CA) in CA-G.R. CR-HC No. 06579, which affirmed with modification, the December 3, 2013 Decision² of the Regional Trial Court (RTC) of Caloocan City, Branch 124, in Criminal Case No. 81116, finding him guilty beyond reasonable doubt of the crime of Rape.

The antecedent facts are as follows:

The accusatory portion of the April 14, 2009 Information³ charging accused-appellant of the crime of Rape, reads as follows:

¹ Penned by Associate Justice Jose C. Reyes, Jr. and concurred in by Associate Justices Francisco P. Acosta and Eduardo B. Peralta, Jr.; *rollo*, pp. 2-12.

² Penned by Presiding Judge Glenda K. Cabello-Marin; CA *rollo*, pp. 21-34.

³ As mentioned in the Appellee's Brief; *id.* at 87.

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That on or about the 13th day of April 2009 in Caloocan City, Metro Manila and within the jurisdiction of this Honorable Court, the above-named accused, being the biological father of AAA,⁴ minor, 16 years old, with lewd design, by means of force, threats and intimidation employed upon the person of AAA, did then and there willfully, unlawfully and feloniously, lie and had carnal knowledge of said minor against her will and without her consent.

CONTRARY TO LAW.⁵

During arraignment, accused-appellant pleaded not guilty to the charge. Thereafter, trial ensued.

On April 13, 2009, at 1:00 a.m., the victim, AAA, was sleeping alone in her room when she was roused from her sleep when she felt somebody holding her breast, who turned out to be accused-appellant, her own father. Accused-appellant then proceeded to undress AAA. He removed his shorts, positioned himself on top of AAA, inserted his penis into her vagina and had sex with her. Thereafter, accused-appellant ejaculated on a towel and left the room.

The incident was not the first time that the accused-appellant had carnal knowledge of AAA. Records show that the molestation started when AAA was in Grade 6, and was repeated ten (10) times in a month. After being silent for some time, on April 11, 2009,⁶ AAA narrated her ordeal to her aunt, DDD. The following day, CCC, the accused-appellant's eldest daughter, likewise confided to DDD that accused-appellant was sexually molesting her.

Later, at noontime of April 13, 2009, AAA recounted to DDD the latest sexual attack of the accused-appellant on her in the early morning of the same day. On even date,⁷ DDD revealed to BBB, AAA's mother what AAA went through in the hands of her father. Upon learning of the incident, BBB, together with AAA and CCC, lodged a complaint for sexual molestation against the accused-appellant, with the Barangay Women and Children's Desk (BWCD). Accused-appellant was held at the Barangay hall then turned over to the police for investigation.

Subsequently, AAA was brought to the hospital and was examined by Dr. Bonnie Chua. Her medical report revealed that her *labia majora* was coapted; her *labia minora* suffered abrasions; and that her hymen was

⁴ 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 their 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. 04-10-11-SC dated 19 October 2004. (*People of the Philippines v. Eladio B. Lumaho Alias "Attumpang"*, G.R. No. 208716, September 24, 2014.)

⁵ CA rollo, p. 21.

⁶ As mentioned in the RTC's December 13, 2013 Decision, id. at 23.

⁷ Id.

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lacerated.

For his part, accused-appellant denied the accusation against him. He countered that on the date of the alleged incident, he was actually asleep as he went to bed early on the night of April 12, 2009 since he had to wake up early for his work the following day. He claimed that on April 13, 2009, he reported for work in the morning only. He arrived from work on the same day, at around 3 o'clock in the afternoon. When his wife came home, he was surprised that she was with some police officers. He was immediately handcuffed and brought to the police station where he was mauled by the police.

On December 3, 2013, the RTC rendered its Decision,⁸ convicting accused-appellant of the crime of Rape, sentencing him to suffer the penalty of *reclusion perpetua* and ordering him to pay damages. The dispositive portion of the Decision reads as follows:

WHEREFORE, the Court finds the accused ALEX AMAR Y MONTANO, guilty beyond reasonable doubt of the crime of rape. Accordingly, he is hereby sentenced to suffer the penalty of *reclusion perpetua* without the possibility of parole.

Further, the accused is hereby adjudged civilly liable to AAA. Accordingly, he is hereby ordered to pay said private complainant: a) Php 75,000.00 as civil indemnity; b) Php 75,000.00 as moral damages; and c) Php 25,000.00 as exemplary damages.

SO ORDERED.⁹

On appeal, the CA rendered its February 27, 2015 Decision,¹⁰ affirming with modification the RTC's Decision, the dispositive portion of which reads as follows:

WHEREFORE, the instant appeal is **DISMISSED**. The Decision promulgated on December 3, 2013 of the Regional Trial Court of Caloocan City, Branch 124, in Criminal Case No. 81116 is **AFFIRMED with MODIFICATION**, increasing the award of exemplary damages from Php25,000.00 to Php30,000.00 and imposing interest upon the amounts of indemnity and damages awarded at the rate of 6% per annum to be computed from the date of the finality of this judgment until fully paid.

SO ORDERED.¹¹

On April 20, 2015, accused-appellant appealed the CA's Decision before this Court *via* Section 13(c) of Rule 124, as amended by A.M. No. 00-5-03-SC with the CA.

⁸ Id. at 21-34.

⁹ Id. at 33-34.

¹⁰ *Rollo*, 2-12.

¹¹ Id. at 12.

In this Court's September 19, 2016 Resolution,¹² We noted the Office of the Solicitor General's (OSG) Manifestation¹³ stating that it will no longer file a supplemental brief; and, the accused-appellant's Manifestation¹⁴ stating that he is dispensing with his supplemental brief, and thus, adopting his appellant's brief with the CA.

In his appeal, accused-appellant banks on the court *a quo's* error in disregarding his version. Aside from invoking the defense of denial and alibi, he insists that AAA's failure to immediately report the rape incident is not the normal behavior of a minor girl who had been previously sexually assaulted. He claims that AAA's testimony was not credible.

The OSG, on the other hand, maintains that the prosecution proved all the elements of the offense beyond reasonable doubt and that accused-appellant's defenses of denial and alibi were not proved by clear and convincing evidence.

The appeal is bereft of merit. .

Article 266-A of the Revised Penal Code (RPC) defines the crime of Rape, *viz.*:

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[.]

x x x x

From the above-quoted provision of law, the elements of rape (under paragraph 1, subparagraph a) are as follows: (1) that the offender is a man; (2) that the offender had carnal knowledge of a woman; and (3) that such act is accomplished by using force, (threat) or intimidation.

The RTC and the CA were one in finding that accused-appellant had carnal knowledge of AAA against the latter's will through force and intimidation. Notably, in rape committed by a close kin, such as the victim's father, stepfather, uncle, or the common-law spouse of her mother, it is not necessary that actual force or intimidation be employed; moral influence or ascendancy takes the place of violence or intimidation.¹⁵

¹² Id. at 29.

¹³ Id. at 20.

¹⁴ Id. at 25.

¹⁵ *People v. Sixto Padua y Felomina*, G.R. No. 192821, March 21, 2011.

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We defer to the factual findings of the RTC and CA.

The factual findings of the trial court, especially when affirmed by the CA, are entitled to great weight and respect, if not conclusiveness, since the trial court was in the best position as the original trier of the facts in whose direct presence and under whose keen observation the witnesses rendered their respective versions of the events that made up the occurrences constituting the ingredients of the offense charged.¹⁶

After a careful review of the evidence and testimony proffered by the Prosecution, the Court opines that the trial court and the CA were not mistaken in their assessment of the credibility of AAA's testimony. The accused-appellant failed to show that both tribunals overlooked a material fact that otherwise would change the outcome of the case or misunderstood a circumstance of consequence in their evaluation of the credibility of the witnesses.¹⁷ Thus, this Court will not disturb on appeal the RTC's findings of fact as affirmed by the CA, but must fully accept the same.

It is jurisprudentially settled that in a prosecution for rape, the accused may be convicted solely on the basis of the testimony of the victim that is credible, convincing and consistent with human nature and the normal course of things.¹⁸

Contrary to accused-appellant's assertion, AAA's testimony regarding her ordeal on April 13, 2009 was credible, as she delivered it in a straightforward and convincing manner that is worthy of belief. The pertinent portions of her testimony are reproduced below:

Q: When the accused entered your room, what did he do first?

A: He held my private part, sir.

Q: And after that?

A: He undressed me, sir. He removed my shirt and pants.

Q: What was your reaction?

A: I was surprised, sir.

Q: After you were undressed by your father, what happened next?

A: He placed himself on top of me, sir.

Q: Were you lying down at that time?

A: Yes, sir.

Q: On the bed?

A: Yes, sir.

¹⁶ *People v. Deligero*, G.R. No. 189280, April 17, 2013.

¹⁷ *People v. Ricardo M. Vidaña*, G.R. No. 199210, October 23, 2013.

¹⁸ *People v. Bustamante*, G.R. No. 189836, June 5, 2013.

Q: And what did he do next after he lied on top of you?

A: He inserted his private part inside my private part, sir.¹⁹

It has been previously held that it is against human nature for a young girl to fabricate a story that would expose herself as well as her family to a lifetime of shame, especially when her charge could mean the death or lifetime imprisonment of her father.²⁰ That legal dictum finds application in the case at bar since accused-appellant did not allege nor prove any sufficient improper motive on the part of AAA to falsely accuse him of such a serious charge of raping his own flesh and blood.

We make short shrift of accused-appellant's claim that AAA's failure to immediately report the rape incident is not the normal behavior of a minor girl who had been previously sexually assaulted.

The harrowing incident experienced by AAA in the hands of her own father would negate any reasonable standard form of reaction on a rape victim. Time and again, this Court has recognized that different people react differently to a given situation involving a startling occurrence. The workings of the human mind placed under emotional stress are unpredictable, and people react differently – some may shout, others may faint, and still others may be shocked into insensibility even if there may be a few who may openly welcome the intrusion.²¹

Accused-appellant's defenses, consisting of mere denial and *alibi*, fail to persuade Us.

[D]enial, if unsubstantiated by clear and convincing evidence, is a self-serving assertion that deserves no weight in law,²² as in this case. Likewise, *alibi* is one of the weakest defenses not only because it is inherently frail and unreliable, but also because it is easy to fabricate and difficult to check or rebut.²³ Here, accused-appellant's *alibi* cannot prevail over the positive identification of his own daughter who had no improper motive to testify falsely.

Penalty and Damages

Under Article 266-B of the RPC, the death penalty shall be imposed when the victim of rape is below 18 years of age and the offender is a parent, ascendant, step-parent, guardian, relative by consanguinity or affinity within the third civil degree, or the common-law spouse of the parent of the victim.²⁴ Indeed, the moral ascendancy and influence the father has over his

¹⁹ *Rollo*, p. 7.

²⁰ *People v. Ricardo M. Vidaña*, G.R. No. 199210, October 23, 2013.

²¹ *People v. Aurelio Jastiva*, G.R. No. 199268, February 12, 2014.

²² *People v. Edmundo Vitero*, G.R. No. 175327, April 3, 2013, citing *People v. Ogarte*, G.R. No. 182690, May 30, 2011, 649 SCRA 395.

²³ *People v. Edmundo Vitero*, supra note 22.

²⁴ *People v. Oliver A. Buclao*, G.R. No. 208173, June 11, 2014.

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child supplants the element of violence or intimidation.²⁵ The death penalty cannot, however, be imposed in view of Republic Act No. 9346. In lieu of the death penalty, the penalty of *reclusion perpetua* without eligibility for parole shall be imposed.²⁶

In this case, both the trial court and CA found that the prosecution proved beyond reasonable doubt the qualifying circumstances of minority and relationship, *i.e., the offender, accused-appellant, is the parent of the minor victim, AAA.*²⁷ This Court sees no reason to depart from the findings of the lower courts.

Nonetheless, this Court modifies the appellate court's award of damages and increases it as follows: Php 100,000.00 as civil indemnity, Php 100,000.00 as moral damages, and Php 100,000.00 as exemplary damages, pursuant to prevailing jurisprudence.²⁸

To conform to Our pronouncement in *People v. Jugueta*,²⁹ the civil indemnity and moral damages awarded must be increased from Php 75,000.00 to Php 100,000.00 each.³⁰ We further increase the payment of exemplary damages from Php 30,000.00 to Php 100,000.00 in accordance with Article 2230 of the Civil Code, in view of the qualifying circumstance of relationship, as well as accused-appellant's moral corruption, perversity, and wickedness in ravishing his own daughter.³¹ The imposition of exemplary damages is further warranted to deter others from committing similar acts or for correction for the public good.³²

We uphold the Court of Appeals' pronouncement that the interest at the rate of six percent (6%) *per annum* shall be imposed on all damages awarded from the date of finality of judgment until fully paid.

WHEREFORE, premises considered, the February 27, 2015 Decision of the Court of Appeals in CA-G.R. CR-HC No. 06579, which affirmed with modification, the December 3, 2013 Decision of the Regional Trial Court of Caloocan City, Branch 124, in Criminal Case No. 81116, is hereby **AFFIRMED with MODIFICATION** insofar as payment for damages is concerned. Accused-appellant Alex Amar y Montano is ordered to pay the private offended party as follows: Php 100,000.00 as civil indemnity, Php 100,000.00 as moral damages, Php 100,000.00 as exemplary damages, pursuant to prevailing jurisprudence. He is **FURTHER** ordered to pay interest on all damages awarded at the legal rate of six percent (6%) *per*

²⁵ Id.

²⁶ Id.

²⁷ *People v. Candellada*, G.R. No. 189293, July 10, 2013.

²⁸ *People v. Ireneo Jugueta*, G.R. No. 202124, April 5, 2016.

²⁹ G.R. No. 202124, April 5, 2016.

³⁰ *People v. Michael Palanay y Minister*, G.R. No. 224583, February 1, 2017.

³¹ Id.

³² Id.

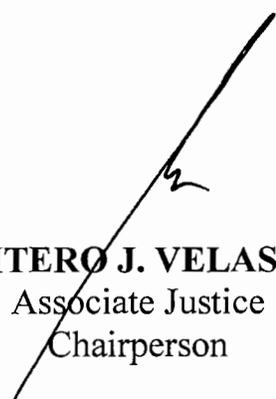
annum from the date of finality of this Decision until fully paid.

SO ORDERED.

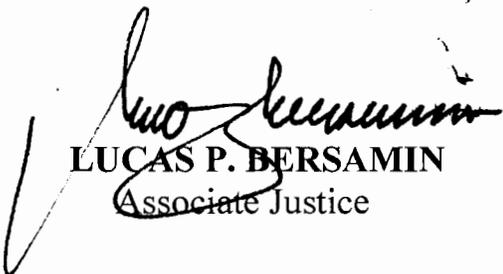


NOEL GIMENEZ TIJAM
Associate Justice

WE CONCUR:



PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson



LUCAS P. BERSAMIN
Associate Justice



BIENVENIDO L. REYES
Associate Justice



FRANCIS H. JARDELEZA
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision 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

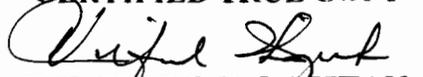
CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision 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

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