

SUPREME COURT OF THE PHILIPPINES
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Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

PEOPLE OF THE PHILIPPINES, G.R. No. 228828
Plaintiff-Appellee,

Present:

-versus-

PERALTA, J., *Chairperson*,
LEONEN,
REYES, A., JR.,
HERNANDO, and
INTING, JJ.

ZZZ,
Accused-Appellant.

Promulgated:
July 24, 2019

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DECISION

LEONEN, J.:

In the absence of direct evidence, a resort to circumstantial evidence is usually necessary in proving the commission of rape. This is because the crime “is generally unwitnessed and very often only the victim is left to testify for [him or] herself. It becomes even more difficult when the complex crime of rape with homicide is committed because the victim could no longer testify.”¹

This Court resolves the appeal from the Court of Appeals’ February 29, 2016 Decision² in CA-G.R. CR-HC No. 06486. The Court of Appeals affirmed the Regional Trial Court’s March 4, 2013 Decision³ finding ZZZ

¹ *People v. Broniola*, 762 Phil. 186, 194 (2015) [Per J. Villarama, Jr., Third Division].

² *Rollo*, pp. 2–19. The Decision was penned by Associate Justice Zenaida T. Galapate-Laguilles, and concurred in by Associate Justices Mariflor P. Punzalan Castillo and Florito S. Macalino of the Tenth Division, Court of Appeals, Manila.

³ *CA rollo*, pp. 46–61. The Decision, in Crim. Case No. SCC-2594, was penned by Judge Hermogenes C. Fernandez of Branch 56, Regional Trial Court, [REDACTED].

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guilty beyond reasonable doubt of the crime of rape with homicide.

In an October 14, 1996 Information, ZZZ was charged with the crime of rape with homicide.⁴ It read:

That on or about the 16th day of May 1996 in the evening, in [REDACTED], Philippines and within the jurisdiction of this Honorable Court, the above-named accused, by means of force and intimidation, did then and there, willfully, unlawfully and feloniously have sexual intercourse with AAA against her will and consent and on the same occasion the said accused did then and there willfully, unlawfully and feloniously strike, assault and club the said victim inflicting upon her the following:

- Cracked temporal skull with brains coming out
- Lacerated wound (1/2) inch long below (L) labia

which directly caused her death, to the damage and prejudice of her heirs.⁵
(Citation omitted)

ZZZ went at large, but he was later arrested on February 6, 2003. Upon arraignment, ZZZ pleaded not guilty to the crime charged.⁶

The prosecution presented five (5) witnesses: (1) the victim's uncle BBB; (2) Senior Police Officer 3 Jaime Lavarias (SPO3 Lavarias); (3) Dr. Paz Q. Mejia (Dr. Mejia); (4) Dr. Ronald Bandonill (Dr. Bandonill); and (5) the victim's father CCC.⁷

BBB testified that he was the uncle of both AAA and ZZZ. The victim's father, CCC, was his brother, and ZZZ's mother is his second cousin. ZZZ's mother and AAA's father are relatives, making them related.⁸

BBB testified that at around 7:00 p.m. on May 16, 1996, he was on his way to the store to buy cigarettes when he saw ZZZ dragging AAA by the wrist toward the school. Though it was dark and he was about 10 meters away, he was able to see them using a flashlight he was carrying. Still, he said he presumed nothing was off, thinking they were relatives. He had merely reprimanded them before he went on to buy his cigarette and returned home, where he had a drinking spree with his nephews.⁹

⁴ CA *rollo*, p. 46.

⁵ Id.

⁶ Id.

⁷ Id. at 47-48. SPO3 Lavarias was also referred to in the *rollo* as PO3 Lavarias.

⁸ Id.

⁹ Id. and 96.

The following day, news spread that AAA was missing. With his cousin Josefino Camilet, BBB went on a search for his niece and informed barangay officials who then helped to look for her.¹⁰

A couple of days later, the barangay officials found a lifeless AAA in a bamboo grove near the school. BBB said that her niece's naked body had already blackened due to decomposition. On the same day, he said he found ZZZ in his house—the last time he had ever seen him.¹¹

SPO3 Lavarias testified that he was on duty the day AAA was found. When he and his companions went to [REDACTED], they saw AAA's corpse under the bamboo grove. They came to know the body's identity through BBB, who also claimed that ZZZ was the person behind the crime. Accompanied by BBB, the police went to ZZZ's house, but he was nowhere to be found. They proceeded to prepare an investigation report and requested an autopsy on AAA.¹²

In the police officers' Joint Affidavit, SPO3 Lavarias recalled that they went back to the barangay on May 20, 1996 and found YYY, ZZZ's brother. YYY told them that on the night of the incident, he was walking home with ZZZ and AAA when his brother told him to go home alone.¹³

Dr. Mejia, a municipal health officer in [REDACTED], testified that she was the physician who conducted the initial autopsy as requested by the police officers. According to her report, there was a crack on AAA's temporal skull and a half-inch long laceration below her left labia, while brain matter leaked above her left ear. The doctor also noted that the body had already been decomposing when it was found.¹⁴

Dr. Mejia, however, said that she could not give a precise medical opinion on the laceration on AAA's labia as she was not an obstetrician-gynecologist. She also could not precisely tell how many days lapsed since AAA had died, though she testified that the cracked temporal skull may have caused AAA's death.¹⁵

Dr. Bandonill, the medico-legal officer of the National Bureau of Investigation, testified that he conducted an autopsy on AAA on May 29, 1996. Upon examination, he found that the cadaver was at an advanced state of decomposition, the face was contorted, the tongue was protruding from the mouth, and all the extremities were flexed. He noted that the

¹⁰ Id.

¹¹ Id.

¹² Id.

¹³ Id. at 92-93.

¹⁴ Id. at 49.

¹⁵ Id.



contorted face could have been either due to decomposition or due to a grimace caused by pain before she died.¹⁶

Dr. Bandonill also observed contusions on AAA's face, right arm's anterior surface, and the front and side parts of her thigh. He noted contusions on the genital area, which could have been caused by a hard or blunt instrument. Clumps of dried blood from the vaginal opening could have also been caused by a tear inside the genital area.¹⁷

From these findings, Dr. Bandonill remarked that AAA might have been sexually assaulted. He added that AAA's death could have been caused by the traumatic cerebral contusion.¹⁸

CCC, the victim's father, testified that AAA was 11 years old when she was raped and killed. He showed that he spent ₱20,000.00 for the internment of AAA and ₱30,000.00 for miscellaneous expenses such as transportation costs. In anguish from AAA's death, he also asked for damages.¹⁹

For the defense, ZZZ testified that he was 15 years old when the incident happened, as evidenced by his birth certificate. He confirmed that he knew AAA as his cousin, and that both resided in the same barangay. On the night of May 16, 1996, he said that he went to his grandmother's house, where he watched television with his brother and around 20 other people—including AAA. After watching, he and his brother, YYY, returned to their sister's house to sleep. He said that he did not notice if AAA left their grandmother's house.²⁰

Cansino added that when AAA was found dead, none of the barangay officials and police officers went to his sister's house to investigate him. On May 22, 1996, his stepfather brought him to Tarlac to work as a helper in a grocery store, where he used the alias Peter Viray to be employed. He later found out that he was charged with rape with homicide of AAA.²¹

Also testifying for the defense was YYY, ZZZ's brother, who retracted what he had said earlier when the police interviewed him. Affirming ZZZ's testimony, he testified that on the night of the incident, they watched television at their grandmother's house before they went home and slept at their sister's house.²²

¹⁶ Id. at 49–50.

¹⁷ Id. at 50.

¹⁸ Id.

¹⁹ Id.

²⁰ Id. at 51.

²¹ Id. at 51–52.

²² Id. at 52.

In a March 4, 2013 Decision,²³ the Regional Trial Court found ZZZ guilty of the crime charged. The dispositive portion read:

WHEREFORE, premises considered, judgment is hereby rendered finding the accused GUILTY beyond reasonable doubt of the crime charged, punishable by *reclusion perpetua*. However, the service of sentence is hereby suspended, and in lieu of imprisonment, he is disposed with in an agricultural camp or any other training facility that may be supervised and controlled by the BUCOR, in coordination with the DSWD, in accordance with Section 51 of RA 9344.

The accused is ordered to pay the heirs of the victim: Php20,000.00 as actual damages; Php100,000.00 as civil indemnity *ex delicto*; Php75,000.00 as moral damages; and Php50,000.00 as exemplary damages.

SO ORDERED.²⁴

The trial court found that the circumstantial evidence presented by the prosecution proved ZZZ's guilt beyond reasonable doubt. It ruled that there was moral certainty that ZZZ perpetrated the crime since he had been the last person seen with AAA before she disappeared, and he fled and hid his identity when he learned that he was a suspect.²⁵ The trial court ruled that the positive identification of ZZZ prevailed over the defense of denial. It found his alibi that he went home after watching television did not preclude the possibility that he was at the crime scene.²⁶

Adopting the report of the social worker who was assigned to ZZZ, the trial court found that he acted with discernment in committing the crime against AAA.²⁷

Upon appeal, the Court of Appeals, in its February 29, 2016 Decision,²⁸ affirmed ZZZ's conviction:

IN VIEW OF THE FOREGOING, the instant Appeal is hereby DENIED for lack of merit. The Decision dated March 4, 2013 of the Regional Trial Court, Branch 56, [REDACTED], in Criminal Case No. SCC-2594 is hereby AFFIRMED.

SO ORDERED.²⁹

²³ Id. at 46–61.

²⁴ Id. at 61.

²⁵ Id. at 56.

²⁶ Id. at 57.

²⁷ Id. at 58.

²⁸ *Rollo*, pp. 2–19.

²⁹ Id. at 18–19.

The Court of Appeals agreed with the trial court in relying on the testimony of BBB, who saw ZZZ dragging AAA toward the school on the night of the incident. Aside from finding his testimony spontaneous and convincing, it did not find any motive from BBB to wrongly implicate ZZZ to the crime.³⁰

The Court of Appeals ruled that although BBB did not actually see ZZZ raping AAA, circumstantial evidence led to the reasonable conclusion that ZZZ perpetrated the crime: (1) BBB positively identified ZZZ as the person last seen with the victim immediately before the incident; and (2) ZZZ hid from authorities and adopted an alias. The Court of Appeals concluded that these pieces of circumstantial evidence operated against ZZZ.³¹

Furthermore, the Court of Appeals ruled that between the categorical statements and the bare denial of ZZZ, the former prevailed. While ZZZ's testimony was corroborated by his brother, the Court of Appeals ruled that the latter could not be considered a disinterested witness. Moreover, it found that it was not physically impossible for ZZZ to be in the crime scene since he and AAA resided in the same barangay.³²

The Court of Appeals held that the trial court was correct in retroactively applying Republic Act No. 9344, or the Juvenile Justice and Welfare Act of 2006. Under Section 6 of the law, a child above 15 years old but below 18 years old is not exempt from criminal liability when the child acted with discernment. The Court of Appeals found that ZZZ acted with discernment when he perpetrated the crime in a dark and isolated place, and when he evaded arrest by fleeing to Tarlac under an alias. It noted that even the social worker assigned to him arrived at the same conclusion.³³

As ZZZ was already above 30 years old when he was convicted, the Court of Appeals held that the automatic suspension of the penalty as provided under Sections 38 and 40 of Republic Act No. 9344 was no longer applicable.³⁴

ZZZ filed his Notice of Appeal. His appeal having been given due course, the Court of Appeals elevated the records of this case to this Court.³⁵

³⁰ Id. at 9–10.

³¹ Id. at 10–11.

³² Id. at 12.

³³ Id. at 15–17.

³⁴ Id. at 17–18.

³⁵ *CA rollo*, p. 146.

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In its February 20, 2017 Resolution,³⁶ this Court required the parties to submit their supplemental briefs. Both parties later manifested that they would adopt their Briefs before the Court of Appeals.³⁷

Accused-appellant mainly argues that the prosecution failed to prove his guilt.³⁸

First, accused-appellant questions the credibility of BBB's testimony. He claims that contrary to BBB's testimony, human experience dictates that BBB, as AAA's guardian, should have been alarmed when he allegedly saw him dragging her to a dark place. He also questions BBB's story in which AAA did not ask for help when BBB allegedly saw her being dragged.³⁹ Moreover, he finds it suspicious that BBB failed to find AAA's body when he purportedly searched the area near the school, as the corpse's stench would have caught his attention.⁴⁰ He surmises that BBB implicated him in the crime because BBB was himself investigated by the police.⁴¹

Even assuming that he was the last person seen with AAA, accused-appellant argues that this merely raises suspicion but is not sufficient to establish his guilt.⁴²

Second, accused-appellant posits that even if he committed the crime, the Information failed to allege that he acted with discernment, which meant that he should not be held criminally liable. He posits that the trial court, in failing to conduct its own determination and merely relying on the social worker's report, erred in ruling that he had acted with discernment.⁴³

Third, accused-appellant contends that he was not guilty of fleeing to evade the charge against him. He reasons that he went to Tarlac because he was brought there by his stepfather, and as a child, he had no choice but to follow this order. He also points out that he regularly returned to [REDACTED] every month while he was working in Tarlac.⁴⁴

Lastly, accused-appellant avers that his denial must be considered since it was corroborated by his brother, who was with him when the crime was committed. He posits that while the defense of denial is deemed

³⁶ *Rollo* p. 25.

³⁷ *Id.* at 37-38.

³⁸ *CA rollo* p. 33.

³⁹ *Id.* at 36.

⁴⁰ *Id.* at 37-38.

⁴¹ *Id.* at 39.

⁴² *Id.* at 39-40.

⁴³ *Id.* at 40-41.

⁴⁴ *Id.* at 41-42.

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inherently weak, the prosecution cannot profit from this alone; instead, it should rely on the strength of its own evidence.⁴⁵

On the other hand, plaintiff-appellee People of the Philippines, through the Office of the Solicitor General, argues that the circumstantial evidence submitted by the prosecution proves accused-appellant's guilt beyond reasonable doubt.⁴⁶ It avers that the circumstances in this case created an unbroken chain that led to the reasonable conclusion that accused-appellant raped and killed AAA.⁴⁷

Moreover, plaintiff-appellee argues that the testimony of ZZZ's brother, YYY, deserves no credence.⁴⁸ It points out that according to PO3 Lavarias' testimony, YYY narrated on May 20, 1996 that while he was walking home with accused-appellant and AAA on the night of the incident, his brother advised him to leave them behind.⁴⁹ In his testimony in court, however, YYY recanted this story and stated that he went home with accused-appellant. Plaintiff-appellee submits that YYY's narration in 1996 was more credible than his testimony, as it was taken almost right after the incident and when he was only seven (7) years old, leaving little room for coaching.⁵⁰

Plaintiff-appellee contends that the trial court did not err in giving credence to BBB's testimony, maintaining that there was nothing incredible in what he said: (1) he was not alarmed when he saw accused-appellant with AAA because they were relatives; and (2) he testified that both of them told him that they would follow him home after he had admonished them.⁵¹ Plaintiff-appellee also maintains that SPO3 Lavarias clarified that BBB was never a suspect in the case, quashing accused-appellant's claim that BBB had the motive to implicate him in the crime.⁵² It echoes the settled doctrine that appellate courts will generally not disturb the trial court's findings when it comes to witnesses' credibility.⁵³

Plaintiff-appellee asserts that the positive identification of accused-appellant, taken together with other circumstantial evidence, leads to a reasonable conclusion that he perpetrated the crime.⁵⁴

⁴⁵ Id. at 42-43.

⁴⁶ Id. at 83.

⁴⁷ Id.

⁴⁸ Id. at 93.

⁴⁹ Id. at 92.

⁵⁰ Id. at 93.

⁵¹ Id. at 96.

⁵² Id. at 96-97.

⁵³ Id. at 98.

⁵⁴ Id. at 100.

As to whether accused-appellant acted with discernment, plaintiff-appellee posits that the allegation in the Information sufficiently met the requirement.⁵⁵ Nevertheless, should there be a defect in the Information, plaintiff-appellee maintains that accused-appellant is deemed to have waived his objections when he entered his plea.⁵⁶ Moreover, it argues that hiding from authorities indicates accused-appellant's discernment, as it shows that he was fully aware of his act's consequences and depravity.⁵⁷

The issues for this Court's resolution are the following:

First, whether or not accused-appellant ZZZ is guilty beyond reasonable doubt of the crime of rape with homicide; and

Second, whether or not the prosecution proved that accused-appellant acted with discernment.

I

In *People v. Villarino*,⁵⁸ the elements of special complex crime of rape with homicide are the following:

- (1) the appellant had carnal knowledge of a woman; (2) carnal knowledge of a woman was achieved by means of force, threat or intimidation; and (3) by reason or on occasion of such carnal knowledge by means of force, threat or intimidation, the appellant killed a woman.⁵⁹

The commission of the crime of rape may be proven not only by direct evidence, but also by circumstantial evidence.⁶⁰ Circumstantial evidence are "proof of collateral facts and circumstances from which the existence of the main fact may be inferred according to reason and common experience."⁶¹

In the absence of direct evidence, a resort to circumstantial evidence is usually necessary in proving the commission of rape. This is because rape "is generally unwitnessed and very often only the victim is left to testify for [him or] herself. It becomes even more difficult when the complex crime of rape with homicide is committed because the victim could no longer testify."⁶²

⁵⁵ Id. at 105–106.

⁵⁶ Id. at 106.

⁵⁷ Id. at 106–107.

⁵⁸ 628 Phil. 269 (2010) [Per J. Del Castillo, Second Division].

⁵⁹ Id. at 280 citing *People v. Yatar*, 472 Phil. 556 (2004) [Per Curiam, En Banc].

⁶⁰ *People v. Belgar*, 742 Phil. 404, 415 (2014) [Per J. Bersamin, First Division].

⁶¹ *People v. Broniola*, 762 Phil. 186, 194 (2015) [Per J. Villarama, Jr., Third Division].

⁶² Id. citing *People v. Pascual*, 596 Phil. 260 (2009) [Per J. Leonardo-De Castro, En Banc].

Rule 133, Section 4 of the Revised Rules on Evidence provides the requirements for circumstantial evidence to be sufficient to sustain a conviction:

SECTION 4. Circumstantial evidence, when sufficient. —
Circumstantial evidence is sufficient for conviction if:

- (a) There is more than one circumstance;
- (b) The facts from which the inferences are derived are proven;
and
- (c) The combination of all the circumstances is such as to produce a conviction beyond reasonable doubt.

The trial court and the Court of Appeals considered the following circumstantial evidence in convicting accused-appellant: (1) BBB testified seeing him dragging AAA to the school on the night of the incident; (2) accused-appellant's brother, YYY, testified going home with him and AAA, but accused-appellant asked him to leave them behind; (3) after AAA's body had been found, accused-appellant fled town and hid his identity using an alias; and (4) the post-mortem examination conducted by Dr. Mejia and Dr. Bandonill confirmed that the cause of AAA's death was a traumatic cerebral contusion, while the dried blood from her vagina was caused by a tear inside the genital area.

A careful review of the records shows nothing that warrants the reversal of the trial court's and the Court of Appeals' rulings.

Accused-appellant questions the trial court's Decision by pointing out that the sole basis of his conviction is that he had been the last person seen with AAA before she disappeared. This is not the case. His conviction is anchored not only on this single instance, but on the series of circumstantial evidence against him. The circumstantial evidence proffered by the prosecution constitutes an unbroken chain that leads to a reasonable conclusion that accused-appellant, and no other person, was the author of the crime. Indeed, proof beyond reasonable doubt "does not mean such a degree of proof as to exclude the possibility of error and produce absolute certainty. Only moral certainty is required or that degree of proof which produces conviction in an unprejudiced mind."⁶³

Moreover, there is no showing that the trial court erred in giving credence to BBB's testimony. As BBB explained, he reprimanded accused-appellant and AAA when he saw them, but he was not suspicious since the two were relatives. Moreover, the prosecution established that BBB was not a suspect in the crime, and nor was there any proof that BBB had motive to erroneously implicate accused-appellant.

⁶³ Id. at 195 citing *People v. Guihama*, 452 Phil. 824, 843 (2003) [Per J. Azcuna, First Division].

As this Court held in *People v. Baron*,⁶⁴ “factual findings of the trial court and its evaluation of the credibility of witnesses and their testimonies are entitled to great respect and will not be disturbed on appeal, unless the trial court is shown to have overlooked, misapprehended, or misapplied any fact or circumstance of weight and substance.”⁶⁵ Here, it was not shown that the trial court erred and misapprehended any fact or evidence. The trial court’s findings, when affirmed by the Court of Appeals, are binding and conclusive on this Court.⁶⁶ Thus, its findings must not be disturbed.

Lastly, accused-appellant’s denial cannot prevail over the prosecution’s evidence. Although the testimony of his brother YYY corroborated his denial, it does not escape this Court’s attention that his brother admitted in his initial testimony that he did not go home with accused-appellant on the night of the incident. This Court has held that retractions are generally disfavored as they are unreliable.⁶⁷

Nevertheless, even if we consider YYY’s more recent testimony, accused-appellant’s alibi must still fail. For his defense of alibi to be credible, he must show that it was physically impossible for him to be at the crime scene when the crime was committed.⁶⁸ Yet, accused-appellant, who stayed in the same barangay as AAA and the school, failed to do so.

II

Republic Act No. 9344, or the Juvenile Justice and Welfare Act of 2006, provides the minimum age of criminal responsibility:

SECTION 6. Minimum Age of Criminal Responsibility. — A child fifteen (15) years of age or under at the time of the commission of the offense shall be exempt from criminal liability. However, the child shall be subjected to an intervention program pursuant to Section 20 of this Act.

A child is deemed to be fifteen (15) years of age on the day of the fifteenth anniversary of his/her birthdate.

A child above fifteen (15) years but below eighteen (18) years of age shall likewise be exempt from criminal liability and be subjected to an intervention program, unless he/she has acted with discernment, in which

⁶⁴ 776 Phil. 725 (2016) [Per J. Leonen, Second Division].

⁶⁵ Id. at 734 citing *People v. De Jesus*, 695 Phil. 114, 122 (2012) [Per J. Brion, Second Division].

⁶⁶ *Land Bank of the Philippines v. Musni*, 806 Phil. 308, 321–323 (2017) [Per J. Leonen, Second Division] citing *Manotok Realty, Inc. v. CLT Realty Development Corporation*, 512 Phil. 679, 706 (2005) [Per J. Sandoval-Gutierrez, Third Division].

⁶⁷ *People v. Zafra*, 712 Phil. 559 (2013) [Per J. Leonardo-De Castro, First Division].

⁶⁸ *People v. Ravanes*, 348 Phil. 689 (1998) [Per J. Bellosillo, First Division].

case, such child shall be subjected to the appropriate proceedings in accordance with this Act.

The exemption from criminal liability herein established does not include exemption from civil liability, which shall be enforced in accordance with existing laws.

This Court has defined discernment as the “mental capacity of a minor to fully appreciate the consequences of his unlawful act.”⁶⁹ This is determined by considering all the facts of each case.⁷⁰

Under Republic Act No. 9344, children above 15 years old but below 18 years old who acted without discernment are exempt from criminal responsibility. They “shall be released and shall be subjected to an intervention program as may be determined by a local social welfare and development officer, pursuant to Section 20[.]”⁷¹

On the other hand, if they acted with discernment, they shall not be exempt from criminal responsibility. In *Dorado v. People*, this Court explained how the law applies to children in conflict with the law who acted with discernment:

Consequently, under R.A. No. 9344, only a child above fifteen (15) years but below eighteen (18) years of age who acted with discernment shall not be exempted from criminal responsibility. Nevertheless, the said child does not immediately proceed to trial. Instead, he or she may undergo a diversion, which refers to an alternative, child-appropriate process of determining the responsibility and treatment of the [child in conflict with the law] without resorting to formal court proceedings. If the diversion is unsuccessful or if the other grounds provided by law are present, then the [child in conflict with the law] shall undergo the appropriate preliminary investigation of his or her criminal case, and trial before the courts may proceed.

Once the [child in conflict with the law] is found guilty of the offense charged, the court shall not immediately execute its judgment; rather, it shall place the [child in conflict with the law] under suspended sentence. Notably, the suspension shall still be applied even if the juvenile is already eighteen (18) years of age or more at the time of the pronouncement of his or her guilt. During the suspension, the court shall impose the appropriate disposition measures as provided in the Supreme Court Rule on Juveniles in Conflict with the Law. If the disposition measures are successful, then the court shall discharge the [child in conflict with the law]. Conversely, if unsuccessful, then the court has the following options: (1) to discharge the child, (2) to order execution of sentence, or (3) to extend the suspended sentence for a certain specified

⁶⁹ *Madali v. People*, 612 Phil. 582, 606 (2009) [Per J. Chico-Nazario, Third Division].

⁷⁰ *Id.*

⁷¹ *Dorado v. People*, 796 Phil. 233, 246 (2016) [Per J. Mendoza, Second Division].

period or until the child reaches the maximum age of twenty-one (21) years.⁷² (Citations omitted)

Here, accused-appellant argues that even if he were guilty of raping AAA, he must still be exempt from criminal liability since he was only 15 years old⁷³ when he committed the offense and the prosecution failed to prove that he acted with discernment.

The trial court and the Court of Appeals found that accused-appellant acted with discernment in carrying out the crime.⁷⁴ First, he perpetrated the crime in a dark and isolated place. Second, after knowing that he had been tagged as the suspect, he evaded authorities by fleeing to Tarlac and concealing his identity. Third, as confirmed by the social worker assigned to him, he knew and understood the consequences of his acts. Lastly, Dr. Bandonill concluded that AAA was raped by means of force, as evidenced by the contusions all over her body and by the tear from her vaginal area.

As can be gleaned from these facts, accused-appellant committed the crime with an understanding of its depravity and consequences. He must suffer the full brunt of the penalty of the crime.

Considering that accused-appellant is already over 30 years old when he was convicted, the automatic suspension of the sentence provided under Section 38 of Republic Act No. 9344, in relation to Section 40, may no longer be applied. While the suspension of sentence still applies even if the child in conflict with the law is already of the age of majority at the time his conviction was rendered, the suspension applies only until the minor reaches the maximum age of 21.⁷⁵ The provisions state:

SECTION 38. Automatic Suspension of Sentence. — Once the child who is under eighteen (18) years of age at the time of the commission of the offense is found guilty of the offense charged, the court shall determine and ascertain any civil liability which may have resulted from the offense committed. However, instead of pronouncing the judgment of conviction, the court shall place the child in conflict with the law under suspended sentence, without need of application: Provided, however, That suspension of sentence shall still be applied even if the juvenile is already eighteen years (18) of age or more at the time of the pronouncement of his/her guilt.

Upon suspension of sentence and after considering the various circumstances of the child, the court shall impose the appropriate

⁷² Id. at 246–247.

⁷³ CA *rollo*, p. 58. Accused-appellant's birth certificate reflected that he was born on March 21, 1981. When the incident happened on May 16, 1996, he was 15 years, one month, and 25 days old.

⁷⁴ Id. at 59 and *rollo*, p. 17.

⁷⁵ *People v. Ancajas*, 772 Phil. 166, 188 (2015) [Per J. Peralta, Third Division].

disposition measures as provided in the Supreme Court Rule on Juveniles in Conflict with the Law.

....

SECTION 40. Return of the Child in Conflict with the Law to Court. — If the court finds that the objective of the disposition measures imposed upon the child in conflict with the law have not been fulfilled, or if the child in conflict with the law has willfully failed to comply with the conditions of his/her disposition or rehabilitation program, the child in conflict with the law shall be brought before the court for execution of judgment.

If said child in conflict with the law has reached eighteen (18) years of age while under suspended sentence, the court shall determine whether to discharge the child in accordance with this Act, to order execution of sentence, or to extend the suspended sentence for a certain specified period or until the child reaches the maximum age of twenty-one (21) years.

As to the proper penalty for rape with homicide, Articles 266-A and 266-B of the Revised Penal Code provides:

ARTICLE 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.

ARTICLE 266-B. Penalties. — Rape under paragraph 1 of the next preceding article shall be punished by *reclusion perpetua*.

....

When by reason or on the occasion of the rape, the victim has become insane, the penalty shall be *reclusion perpetua* to death.

Thus, the imposable penalty for the crime of rape with homicide is death. Under Article 63⁷⁶ of the Revised Penal Code, if the penalty

⁷⁶ REV. PEN. CODE, art. 63, par. 2 provides:

ARTICLE 63. Rules for the Application of Indivisible Penalties. — In all cases in which the law prescribes a single indivisible penalty, it shall be applied by the courts regardless of any mitigating or aggravating circumstances that may have attended the commission of the deed.

In all cases in which the law prescribes a penalty composed of two indivisible penalties, the

prescribed by law is composed of two (2) indivisible penalties, the lesser penalty shall be imposed if neither mitigating nor aggravating circumstances are present in the commission of the crime. Absent any aggravating circumstances, the lesser penalty of *reclusion perpetua* is imposable. Furthermore, since accused-appellant was a minor when he committed the crime, he is entitled to the privileged mitigating circumstance of minority under Section 68(2)⁷⁷ of the Revised Penal Code. Thus, the proper imposable penalty on him is *reclusion temporal*.

Applying the Indeterminate Sentence Law, the indeterminate penalty has a minimum period within the range of *prision mayor*—the penalty one (1) degree lower to that provided in Article 249—and a maximum period within the range of *reclusion temporal* in its medium period. Hence, the indeterminate sentence of 10 years and one (1) day of *prision mayor*, as minimum, to 17 years and four (4) months of *reclusion temporal*, as maximum, should be imposed.

In accordance with *People v. Jugueta*,⁷⁸ the proper amount of damages for the special complex crime of rape with homicide when the penalty imposed is *reclusion perpetua* should be ₱75,000.00 each for civil indemnity, moral damages, and exemplary damages. This Court also affirms the award of actual damages of ₱20,000.00. In addition, the damages awarded shall earn legal interest at the rate of six percent (6%) per annum from the finality of the judgment until fully paid.

WHEREFORE, the Court of Appeals' February 29, 2016 Decision in CA-G.R. CR-HC No. 06486 is **AFFIRMED with MODIFICATION**. Accused-appellant ZZZ is found **GUILTY** beyond reasonable doubt of the special complex crime of rape with homicide and is sentenced to suffer the indeterminate penalty of ten (10) years and one (1) day of *prision mayor*, as minimum, to seventeen (17) years and four (4) months of *reclusion temporal*, as maximum.

Accused-appellant is ordered to pay the heirs of AAA the amounts of: (1) Seventy-Five Thousand Pesos (₱75,000.00) as civil indemnity; (2) Seventy-Five Thousand Pesos (₱75,000.00) as moral damages; (3) Seventy-

following rules shall be observed in the application thereof:

....

2. When there are neither mitigating nor aggravating circumstances in the commission of the deed, the lesser penalty shall be applied.

⁷⁷ REV. PEN. CODE, art. 68, par. 2 provides:

ARTICLE 68. Penalty to Be Imposed Upon a Person Under Eighteen Years of Age. — When the offender is a minor under eighteen years and his case is one coming under the provisions of the paragraph next to the last of article 80 of this Code, the following rules shall be observed:

....

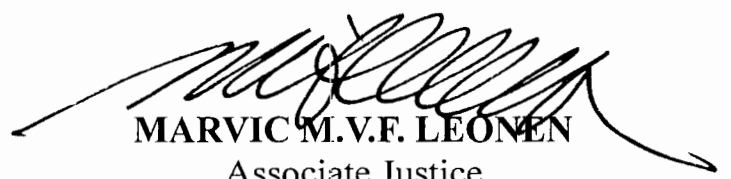
2. Upon a person over fifteen and under eighteen years of age the penalty next lower than that prescribed by law shall be imposed, but always in the proper period.

⁷⁸ 783 Phil. 806 (2016) [Per J. Peralta, En Banc].

Five Thousand Pesos (₱75,000.00) as exemplary damages; and (4) Twenty Thousand Pesos (₱20,000.00) as actual damages.


All damages awarded shall be subject to interest at the rate of six percent (6%) per annum from the finality of this Decision until fully paid.

SO ORDERED.




MARVIC M.V.F. LEONEN
Associate Justice

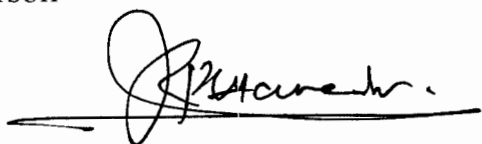
WE CONCUR:



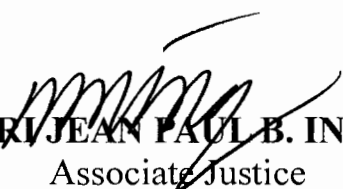
DIOSDADO M. PERALTA
Associate Justice
Chairperson



ANDRES B. REYES, JR.
Associate Justice



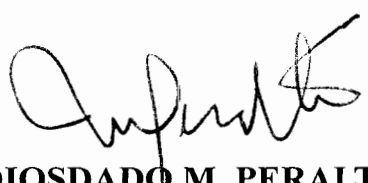
RAMON PAUL L. HERNANDO
Associate Justice



HENRI JEAN PAUL B. INTING
Associate Justice

ATTESTATION

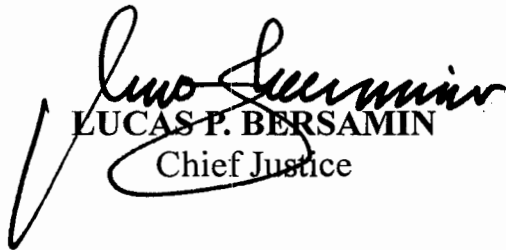
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



DIOSDADO M. PERALTA
Associate Justice
Chairperson

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.



LUCAS P. BERSAMIN
Chief Justice