Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

PEOPLE OF THE PHILIPPINES, Plaintiff- Appellee,	G.R. No. 239892
	Present:
- *versus* –	PERALTA, *C.J.*, *Chairperson*, CAGUIOA, REYES, J., LAZARO-JAVIER, and LOPEZ, *JJ.*
ROGER MENDOZA y GASPAR, Accused-Appellant.	**Promulgated:** JUN 10 2020

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DECISION

PERALTA, *C.J.*:

This is an appeal of the Decision[1] dated January 22, 2018 of the Court of Appeals (*CA*), affirming the Judgment[2] dated November 17, 2016 of the Regional Trial Court (*RTC*), National Capital Judicial Region, Branch 102, Quezon City in Criminal Case Nos. GL-Q-13-180860-61, and finding Roger Mendoza y Gaspar, guilty beyond reasonable doubt of two (2) counts of Rape under Article 266-A, par. 1(a) of the Revised Penal Code (*RPC*), as amended by Republic Act (*R.A.*) No. 8353.

The facts follow.

On December 25, 2011, around 7:00 p.m., private complainant AAA,[3] a thirteen (13)-year-old girl, went out to urinate in the restroom with no light

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1 Penned by Associate Justice Normandie B. Pizzaro, with Associate Justices Ramon A. Cruz and Pablito A. Perez concurring; *rollo*, pp. 2-18.

2 *Rollo*, pp. 45-55.

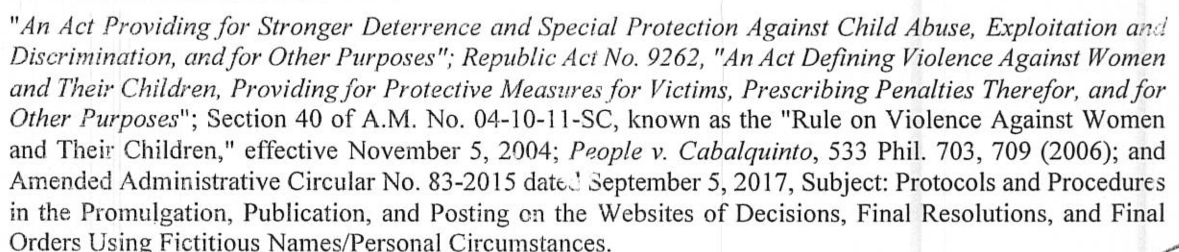
3 The identity of the victim or any information to establish or compromise her identity, as well as those of her immediate family or household members, shall be withheld pursuant to Republic Act No. 7610,

therein, located at the back of a three (3)-storey house where she lived with her father, brother, grandmother, and uncles. While inside the restroom, she was not able to lift the makeshift door of the cubicle to cover herself. After urinating, she was about to pull up her underwear when appellant Mendoza, her neighbor, suddenly went inside the cubicle where she was in and prevented her from raising her underwear and pants. Appellant told her that he will give her One Hundred Pesos (₱100.00). Appellant then proceeded to remove his shorts, inserted the tip of his penis into AAA's vagina, and kissed her neck, breasts, and lips. AAA tried to push appellant away, but failed to do so. The entire incident lasted about ten (10) minutes, and thereafter, appellant gave AAA One Hundred Pesos (₱100.00) and left. AAA went back to the house and did not tell anyone about what happened.

Then on January 1, 2012, around 7:00 p.m., AAA was alone in the third floor of the house watching television while her father BBB went out to throw the garbage. It was then that appellant suddenly appeared inside the house and found AAA in the third floor. Appellant placed himself on top of AAA and kissed her neck and breasts, and eventually removed his shorts and AAA's underwear and jogging pants. Appellant, thereafter, inserted the tip of his penis in AAA's vagina. AAA tried to fight, back to no avail. Appellant also told AAA that he loved her, but the former did not respond.

AAA's father arrived at the house and caught appellant lying beside his daughter with the zipper of his pants opened. When appellant saw AAA's father, the former stood up and told the father, "*aaregluhin na lang*" and "*nagmamahalan kami.*" The father asked AAA if what appellant said was true, but AAA denied it. AAA's father immediately called CCC, AAA's grandmother, and asked her to call the police and barangay officials. When CCC learned of what happened, she slapped appellant's face. There was tension in the house when appellant challenged AAA's father into a fight. When the police arrived, appellant could no longer be found. The incident was reported to the barangay and it was only then that AAA divulged what happened to her and appellant on December 25, 2011.

AAA was then examined by Dr. Paul Ed C. Ortiz at the police station on January 2, 2012 wherein the genital examination result turned out to be "grossly normal."


"*An Act Providing for Stronger Deterrence and Special Protection Against Child Abuse, Exploitation and Discrimination, and for Other Purposes*"; *Republic Act No. 9262, "An Act Defining Violence Against Women and Their Children, Providing for Protective Measures for Victims, Prescribing Penalties Therefor, and for Other Purposes*"; Section 40 of A.M. No. 04-10-11-SC, known as the "Rule on Violence Against Women and Their Children," effective November 5, 2004; *People v. Cabalquinto*, 533 Phil. 703, 709 (2006); and Amended Administrative Circular No. 83-2015 dated September 5, 2017, Subject: Protocols and Procedures in the Promulgation, Publication, and Posting on the Websites of Decisions, Final Resolutions, and Final Orders Using Fictitious Names/Personal Circumstances.

On May 15, 2013, or more than one (1) year after the incident, appellant was arrested somewhere in Nueva Ecija.

Thus, two (2) Informations were filed against appellant for the crime of Rape which reads as follows:

<u>Criminal Case No. GL-Q-13-180860</u>:

> That on or about the 25th day of December 2011, in Quezon City, Philippines, the above-named accused, by means of force and intimidation, with lewd design, did[,] then and there[,] willfully, unlawfully[,] and feloniously have carnal knowledge with one [AAA], a minor, 13 years old, against her will and without her consent, to the damage and prejudice of the said [AAA].
>
> CONTRARY TO LAW.

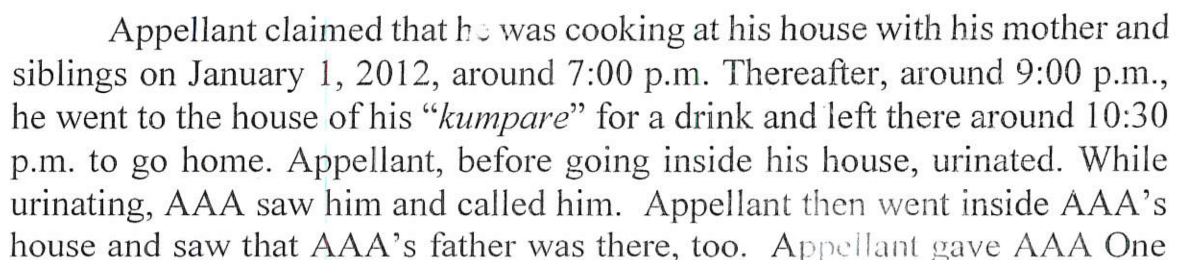
<u>Criminal Case No. GL-Q-13-180861</u>:

> That on or about the 1st day of January 2012, in Quezon City, Philippines, the above-named accused, by means of force and intimidation, with lewd designs, did[,] then and there[,] willfully, unlawfully[,] and eloniously have carnal knowledge with one [AAA], a minor, 13 years old, against her will and without her consent, to the damage and prejudice of the said [AAA].
>
> CONTRARY TO LAW.

Appellant, during his arraignment on June 26, 2013, with the assistance of counsel, pleaded not guilty to the crime charged. After pre-trial, trial on the merits ensued.

The prosecution presented the testimonies of the victim AAA, BBB, CCC, and Dr. Paul Ed C. Ortiz, the Medico-Legal Officer who examined the victim.

In his defense, appellant denied raping AAA. According to him, on December 25, 2011, around 7:00 p.m., he was in a drinking spree at the house of his best friend located about three (3) houses away from his place of residence. Appellant claimed that he was only able to go home the following day at around 5:00 to 6:00 a.m. and did not see AAA or any of her relatives.



Appellant claimed that he was cooking at his house with his mother and siblings on January 1, 2012, around 7:00 p.m. Thereafter, around 9:00 p.m., he went to the house of his "*kumpare*" for a drink and left there around 10:30 p.m. to go home. Appellant, before going inside his house, urinated. While urinating, AAA saw him and called him. Appellant then went inside AAA's house and saw that AAA's father was there, too. Appellant gave AAA One

Hundred Pesos (₱100.00) as Christmas gift, and before leaving, AAA thanked appellant and told him that his zipper was open.

Sometime in May 2013, appellant was then arrested in Nueva Ecija where he claimed to have already resided for more than a year, and it was only then that he learned about the charges against him.

On November 17, 2016, the RTC rendered its judgment finding appellant guilty beyond reasonable doubt of two (2) counts of rape. The dispositive portion of the RTC's Decision reads, as follows:

> WHEREFORE, in view of the foregoing, judgment is hereby rendered finding the accused ROGER MENDOZA y GASPAR, GUILTY beyond reasonable doubt of the crime of two (2) counts of rape penalized under [Article] 266-A, paragraph 1(a) of the Revised Penal Code as amended by R.A. No. 8353.
>
> Accordingly, said accused is hereby sentenced to suffer the penalty of Reclusion Perpetua without eligibility for parole and to indemnify private complainant [AAA] the amounts of Php 50,000.00 as civil indemnity, Php 50,000.00 as moral damages and Php 30,000.00 as exemplary damages, and interest at the rate of 6% per annum shall also be imposed on all damages awarded from the finality of this judgment until fully paid for each count.
>
> SO ORDERED.[4]

Appellant elevated the case to the CA, and on January 22, 2018, the appellate court dismissed appellant's appeal and affirmed his conviction of two (2) counts of Rape in a Decision that has the following dispositive portion:

> WHEREFORE, the appeal is DENIED. The assailed RTC Judgment dated November 17, 2016 is AFFIRMED with MODIFICATIONS in that the award of civil indemnity is increased from Fifty Thousand Pesos (PhP50,000.00) to Seventy-Five Thousand Pesos (PhP75,000.00), the award of moral damages is increased from Fifty Thousand Pesos (PhP50,000.00) to Seventy-Five Thousand Pesos (PhP75,000.00), and the award of exemplary damages is increased from Thirty Thousand Pesos (PhP30,000.00) to Seventy-Five Thousand Pesos (PhP75,000.00). Costs against the Accused-Appellant.
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> SO ORDERED.[5]

Appellant now comes to this Court for the resolution of his appeal pointing out the following issues:

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4 CA *rollo*, p. 55.
5 *Rollo*, p. 17.

I.
THE COURT *A QUO* GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT OF TWO (2) COUNTS OF RAPE, DESPITE THE CLEAR IMPROBABILITIES AND INCONSISTENCIES IN THE TESTIMONIES OF THE PROSECUTION'S WITNESSES.

II.
THE COURT *A QUO* GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT OF TWO (2) COUNTS OF RAPE, DESPITE THE PROSECUTION'S FAILURE TO ESTABLISH THE ELEMENTS THEREOF.[6]

According to appellant, the testimony of the victim is full of inconsistencies and improbabilities, therefore, it should not have been accorded full faith and credit. Appellant further claims that in both incidents of the alleged rape, the victim did not scream or shout for help. He also argues that there is no evidence to show that there was even a slight penetration of the victim's genitalia and that force, threat, or intimidation was employed by appellant to the victim.

The appeal has no merit.

In reviewing rape cases, we are guided by the following well-entrenched principles: (1) an accusation for rape can be made with facility: it is difficult to prove, but more difficult for the person accused, though innocent, to disprove it; (2) in view of the intrinsic nature of the crime of rape where only two persons are usually involved, the testimony of the complainant must be scrutinized with extreme caution; and (3) the evidence for the prosecution must stand or fall on its own merits, and cannot be allowed to draw strength from the weakness of the evidence for the defense.[7]

The determination of the credibility of the offended party's testimony is a most basic consideration in every prosecution for rape, for the lone testimony of the victim, if credible, is sufficient to sustain the verdict of conviction.[8] As in most rape cases, the ultimate issue in this case is credibility. In this regard, when the issue is one of credibility of witnesses, appellate courts will generally not disturb the findings of the trial court, considering that the latter is in a better position to decide the question as it heard the witnesses themselves and observed their deportment and manner of testifying during trial.[9] The exceptions to the rule are when such evaluation was reached arbitrarily, or when the trial court overlooked, misunderstood or misapplied

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6 CA *rollo*, pp. 29 and 33.
7 *People v. Padilla,* 617 Phil. 170, 182-183 (2009); *People v. Ramos*, 577 Phil. 297, 304 (2008).
8 *People v. Peralta*, 619 Phil. 268, 273 (2009).
9 *Remiendo v. People,* 618 Phil. 273, 287 (2009).

some facts or circumstance of weight and substance which could affect the result of the case.[10]

Here, appellant insists that in the victim's testimony in court and in the *Sinumpaang Salaysay*, she mentioned that appellant inserted the tip of his penis into her vagina, while in the Sexual Crime Protocol Form of the Medico-Legal Officer, the victim wrote that appellant inserted his penis into her vagina. Appellant also claims that it was highly improbable that it took more or less ten (10) minutes to insert the tip of his penis in her vagina. Such assertions of appellant are inconsequential because such inconsistencies or discrepancies are just minor details. As aptly ruled by the CA:

> x x x The alleged inconsistencies and improbabilities do not negate the statement and narration of the Private Complainant that the Accused-Appellant inserted his organ into her vagina. Moreover, since human memory is fickle and prone to the stresses of emotions, accuracy in a testimonial account has never been used as a standard in testing the credibility of a witness. This, coupled with the fact that the victim is a thirteen (13)-year-old girl, innocent and unfamiliar with sexual congress, belies the Accused-Appellant's claim.[11]

This Court has consistently ruled that inconsistencies of witnesses with respect to minor details and collateral matters do not affect the substance of their declarations, their veracity or the weight of their testimonies. It would be unfair to expect a flawless recollection from one who is forced to relieve the gruesome details of a painful and humiliating experience such as rape.[12] More so, the minor inconsistencies signified that the witness was neither coached nor lying on the witness stand. What is important is her complete and vivid narration of the rape itself, which the trial court herein found to be truthful and credible.[13]

This Court also finds no merit as to the contention of appellant that the victim's credibility has been tarnished by her failure to immediately report the first incident of the alleged rape. The delay in reporting the incident is not a factor in diminishing the value of AAA's testimony. In *People v. Ogarte*,[14] this Court ruled that the rape victim's deferral in reporting the crime does not equate to falsification of the accusation, thus:

> The failure of complainant to disclose her defilement without loss of time to persons close to her or to report the matter to the authorities does not perforce warrant the conclusion that she was not sexually molested and that her charges against the accused are all baseless, untrue and fabricated. Delay in prosecuting the offense is not an indication of a fabricated charge. Many victims of rape never complain or file criminal charges against the

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[10] *People v. Panganiban*, 412 Phil. 98, 108-109 (2001).
[11] *Rollo*, p. 12.
[12] *People v. Bautista*, 474 Phil. 531, 555 (2004).
[13] *People v. Santos*, 420 Phil. 620, 631 (2001).
[14] 664 Phil. 642 (2011).

> rapists. They prefer to bear the ignominy and pain, rather than reveal their shame to the world or risk the offenders' making good their threats to kill or hurt their victims.[15]

Also, as to appellant's claim that the victim's failure to shout for help affects her credibility, such deserves scant consideration. This Court has recognized the fact that no clear-cut behavior can be expected of a person being raped or has been raped. It is a settled rule that failure of the victim to shout or seek help do not negate rape.[16] Behavioral psychology teaches that people react to similar situations dissimilarly.[17] The range of emotions shown by rape victims is yet to be captured even by calculus. It is, thus, unrealistic to expect uniform reactions from rape victims.[18] Indeed, we have not laid down any rule on how a rape victim should behave immediately after she has been abused. This experience is relative and may be dealt with in any way by the victim depending on the circumstances, but her credibility should not be tainted with any modicum of doubt. Different people act differently to a given stimulus or type of situation, and there is no standard form of behavioral response when one is confronted with a strange or startling or frightful experience.[19]

As to appellant's argument that there was no evidence of penile penetration in the victim's genitalia, such is worthless. In *People v. Teodoro*,[20] this Court held that:

> In objective terms, carnal knowledge, the other essential element in consummated statutory rape, **does not require full penile penetration of the female**. The Court has clarified in *People v. Campuhan* 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. As the Court has explained in *People v. Bali-balita*, 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. Accordingly, the conclusion that touching the *labia majora* or the *labia minora* of the pudendum constitutes consummated rape proceeds from the physical fact that the *labias* are physically situated beneath the mons pubis or the vaginal surface, such that for the penis to touch either of them is to attain some degree of penetration beneath the surface of the female genitalia. It is required, however, that this manner of touching of the *labias* must be sufficiently and convincingly established.[21]

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15 *Id.* at 661.
16 *People v. Pareja*, 724 Phil. 759, 778 (2014).
17 *People v. Ibay*, 303 Phil. 16, 26 (1994).
18 *People v. Montemayor,* 444 Phil. 169, 186 (2003).
19 *People v. Talaboc*, 326 Phil. 451, 464 (1996).
20 704 Phil. 335 (2013), as cited in *People v. Baguion,* G.R. No. 223553, July 4, 2018.
21 *Id.* (Emphasis supplied).

Thus, the CA did not err when it thus ruled:

> x x x Penetration of a woman's sex organ is not an element of the crime of Rape. Penile invasion of and contact with the labia would suffice. Note that even the briefest of contacts under circumstances of force, intimidation, or unconsciousness is already Rape. In order to sustain a conviction of Rape, penetration of the female genital organ by the male is not indispensable. Neither rupture nor laceration of any part of the woman's genitalia is required. Thus, the fact that there is no sign of laceration will not negate a finding that Rape was committed. In addition, a medical certificate is not necessary to prove the commission of Rape, as even a medical examination of the victim is not indispensable in a prosecution for Rape. Expert testimony is merely corroborative in character and not essential to conviction.[22]

It is also argued that the prosecution was not able to prove the presence of force, intimidation or threat. The absence of external signs of physical injuries does not necessarily negate rape.[23] In rape, force need not always produce physical injuries. What is important is that the victim was able to give a credible and clear testimony as to the presence of the intimidation that was employed. Thus, the argument of appellant is inconsequential.

Appellant reiterates his defense of denial. Denial and alibi are viewed by this Court with disfavor,[24] considering these are inherently weak defenses,[25] especially in light of private complainant's positive and straightforward declarations identifying accused-appellant[26] as the one who committed the bastardly act against her, as well as her straightforward and convincing testimony detailing the circumstances and events leading to the rape.[27] In this instance, appellant offered nothing but denial without further proof.

WHEREFORE, the appeal of Roger Mendoza y Gaspar is **DISMISSED** for lack of merit. Consequently, the Decision dated January 22, 2018 of the Court of Appeals finding the same appellant guilty beyond reasonable doubt of two (2) counts of Rape under Article 266-A, paragraph 1(a) of the Revised Penal Code, as amended by R.A. No. 8353, is **AFFIRMED**.

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22 *Rollo*, p. 13.

23 *People v. Malones*, 469 Phil. 301, 325 (2004), citing *People v. Manrique*, 432 Phil. 801, 809 (2002).

24 *People v. Malana*, 646 Phil. 290, 308 (2010), citing *People v. Peralta, supra* note 6, at 274.

25 *People v. Estrada,* 624 Phil. 211, 217 (2010).

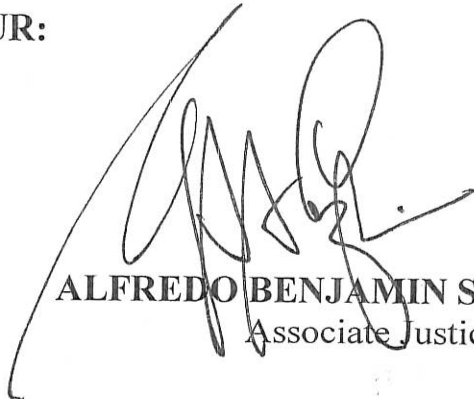
26 *People v. Paculba*, 628 Phil. 662, 676 (2010; *People v. Achas*, 612 Phil. 652, 666 (2009).

27 *Id.*

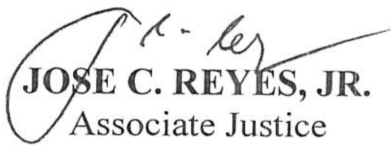
SO ORDERED.

DIOSDADO M. PERALTA
Chief Justice

WE CONCUR:



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice



JOSE C. REYES, JR.
Associate Justice

AMY C. LAZARO-JAVIER
Associate Justice

MARIO V. LOPEZ
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, 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.

DIOSDADO M. PERALTA
Chief Justice