

SECOND DIVISION

[G.R. No. 201861, June 02, 2014]

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. VALENTIN SABAL Y PARBA, JR., APPELLANT.

RESOLUTION

BRION, J.:

We decide the appeal, filed by appellant Valentin Sabal, Jr., challenging the February 8, 2012 decision^[1] of the Court of Appeals (CA) in CA-G.R. CR HC No. 00795. The assailed CA decision affirmed with modification the August 20, 2008 decision^[2] of the Regional Trial Court (RTC), Branch 8, City of Malaybalay, which found the appellant guilty beyond reasonable doubt of two (2) counts of statutory rape.

In its decision dated August 20, 2008, the RTC convicted the appellant of two counts of statutory rape for having carnal knowledge with two his nieces, AAA and BBB on May 2, 2003. The RTC found the testimonies of the AAA and BBB credible and convincing; it was corroborated by the findings of Dr. Victoria Galang showing that both victims suffered hymenal lacerations on their private part. The RTC added that it was inconceivable for minor children aged ten (10) and seven (7) years old, who are unfamiliar and naïve in the ways of the world, to fabricate a story of rape, allow an examination of their private parts, and submit themselves to public ridicule had they not been really sexually abused. It also found unmeritorious the appellant's denial for being uncorroborated. Accordingly, the RTC imposed on the appellant the penalty of *reclusion perpetua*, and directed him to pay P75,000.00 as civil indemnity, P50,000.00 as moral damages, and P25,000.00 as actual damages, for each count of statutory rape.

On appeal, the CA affirmed the RTC decision with the following modifications: (1) the appellant is sentenced to suffer the penalty of *reclusion perpetua* without eligibility for parole in each count; (2) moral damages is increased from P50,000.00 to P75,000.00; (3) the award of actual damages is deleted; and (4) the appellant is further ordered to pay the victims P30,000.00 as exemplary damages.

Our Ruling

We affirm the appellant's conviction, but modify the designation of the crime committed. We also impose a 6% interest on all the monetary awards for damages to be reckoned from the date of finality of this decision until fully paid.

For a charge of rape to prosper under Article 266-A of the Revised Penal Code, as amended, the prosecution must prove that (1) the offender had carnal knowledge of a woman; and (2) he accomplished such act through force, threat, or intimidation, or when she was deprived of reason or otherwise unconscious, or when she was

under 12 years of age or was demented.^[3]

Sexual congress with a girl under 12 years old is always rape.^[4] In this type of rape, force and intimidation are immaterial; **the only subject of inquiry is the age of the woman and whether carnal knowledge took place.**^[5] The law presumes that the victim does not and cannot have a will of her own on account of her tender years; the child's consent is immaterial because of her presumed incapacity to discern evil from good.^[6]

In the present case, AAA testified that while she was in the house of her grandmother in the afternoon of May 2, 2003, her uncle, herein appellant, undressed her and went on top of her; the appellant then inserted his penis in her vagina, as a result of which she felt pain. BBB, for her part, narrated that on the same day and place, the appellant removed her panty, inserted his penis in her vagina, and made a 'push and pull movement.' According to BBB, she kept crying during the rape.

We see no reason to disbelieve the testimonies of AAA and BBB, which the trial and appellate courts found credible and straightforward. When a woman or a girl-child says that she has been raped, she says in effect all that is necessary to show that rape was indeed committed. Youth and immaturity are generally badges of truth and sincerity.^[7]

Notably, Dr. Galang's medical findings showed that both victims suffered hymenal lacerations on their private part; she also testified that there had been penetration of the victims' vagina. The Court held in *People v. Perez*,^[8] that [h]ymenal lacerations, whether healed or fresh, are the best evidence of forcible defloration. And when the consistent and forthright testimony of a rape victim is consistent with medical findings, there is sufficient basis to warrant a conclusion that the essential requisites of carnal knowledge have been established.

We find unmeritorious the appellant's twin defenses of denial and alibi. Denial could not prevail over the victim's direct, positive and categorical assertion. In like manner, for alibi to prosper, it is not enough for the accused to prove that he was somewhere else when the crime was committed. He must also prove that he could not have been physically present at the scene of the crime or its immediate vicinity at the time of its commission. In the present case, the appellant admitted that he was also in Malaybalay City when the incidents happened. It is settled that alibi necessarily fails when there is positive evidence of the physical presence of the accused at the crime scene or its immediate vicinity.^[9]

We modify the crime committed by the appellant in Criminal Case Nos. 13103-03 and 13104-03 from statutory rape to qualified rape. The presented evidence^[10] showed that AAA and BBB were ten (10) and seven (7) years old, respectively, when the appellant raped them on May 2, 2003. The evidence also established that the appellant was the brother of the victims' father. Under Article 266-B of the Revised Penal Code, the death penalty shall be imposed when the victim 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. The minority of the victims and their relationship to the