Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

PEOPLE OF THE PHILIPPINES, Plaintiff-Appellee,	**G.R. No. 202976**
	Present:
- *versus* -	SERENO, *CJ.*, Chairperson, LEONARDO-DE CASTRO, BERSAMIN, VILLARAMA, JR., and REYES, *JJ.*
MERVIN GAHI, Accused-Appellant.	Promulgated: FEB 19 2014

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D E C I S I O N

LEONARDO-DE CASTRO, *J.*:

This is an appeal from a Decision[1] dated August 31, 2011 of the Court of Appeals in CA-G.R. CEB-CR.-H.C. No. 00335, entitled *People of the Philippines v. Mervin Gahi*, which affirmed the Decision[2] dated April 22, 2005 of the Regional Trial Court of Carigara, Leyte, Branch 13 in Criminal Case Nos. 4202 and 4203. The trial court convicted appellant Mervin Gahi of two counts of rape defined under Article 266-A of the Revised Penal Code.

The accusatory portions of the two criminal Informations, both dated October 9, 2002, each charging appellant with one count of rape are reproduced below:

> [Criminal Case No. 4202]
>
> That on or about the 11th day of March, 2002, in the Municipality of Capoocan, Province of Leyte, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with deliberate intent and with lewd designs and by use of force and intimidation, armed with a knife, did then and there willfully, unlawfully and feloniously had carnal

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1 *Rollo*, pp. 4-33; penned by Associate Justice Ramon Paul L. Hernando with Associate Justices Edgardo L. de los Santos and Victoria Isabel A. Paredes, concurring.

2 CA *rollo*, pp. 26-42.

knowledge with (sic) [AAA[3]] against her will and a 16[-]year old girl, to her damage and prejudice.[4]

[Criminal Case No. 4203]

That on or about the 12th day of March, 2002, in the Municipality of Capoocan, Province of Leyte, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with deliberate intent and with lewd designs and by use of force and intimidation, armed with a knife, did then and there willfully, unlawfully and feloniously had carnal knowledge with (sic) [AAA] against her will and a 16[-]year old girl, to her damage and prejudice.[5]

When he was arraigned on November 4, 2002, appellant pleaded "NOT GUILTY" to the charges leveled against him.[6] Thereupon, the prosecution and the defense presented their evidence.

The pertinent facts of this case were synthesized by the Court of Appeals and presented in the assailed August 31, 2011 Decision in this manner:

The Prosecution's Story

The following witnesses were presented by the prosecution, who testified, as follows:

AAA is sixteen years old and a resident of x x x, Leyte. She testified that she knows accused Mervin Gahi, the latter being the husband of her aunt DDD.

The First Rape

AAA recounted that on March 11, 2002 at about 11:30 in the morning, she was in her grandmother BBB's house with her epileptic teenage cousin, CCC. At that time BBB was out of the house to collect money from debtors. While she was in the living room mopping the floor, accused Mervin arrived in the house. The latter was a frequent visitor as he used to make charcoal in the premises. When Mervin arrived, AAA was by her lonesome as CCC was out of the house.

AAA recounted that Mervin came near her and instructed her to "Lie down, lie down". Fearful upon hearing Mervin's orders, AAA stopped mopping the floor. Mervin, with his right hand, then held AAA's right arm. He pushed AAA, causing her to lose her balance and fall on the floor. Mervin raised AAA's skirt and proceeded to take off her underwear. All this time, Mervin was holding a knife with a blade of about 6 inches

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3 The Court withholds the real name of the victim-survivor and uses fictitious initials instead to represent her. Likewise, the personal circumstances of the victims-survivors or any other information tending to establish or compromise their identities, as well as those of their immediate families or household members, are not to be disclosed. (*See People v. Cabalquinto*, 533 Phil. 703 [2006].)

4 Records, p. 16.

5 Id. at 1.

6 Id. at 15.

long, poking it at AAA's right breast. Fearful for her life, AAA did not resist Mervin's initial advances. After taking off AAA's underwear, Mervin went on top of her and while in that position, he took off his shorts, inserted his penis inside her vagina and ejaculated. AAA's efforts to free herself from Mervin's hold were unsuccessful. As a result of her struggle, she felt tired and weak. After satisfying his lust, Mervin warned AAA to keep secret what transpired or else he would kill her. Afraid that he would make good his threat, AAA did not mention to anybody what happened, even to her aunt DDD, the wife of the accused.

<u>The Second Rape</u>

AAA recalled that the second rape occurred on March 12, 2002 at about three o'clock in the afternoon. On her way to the field and with a carabao in tow, she was met by Mervin along the foot trail. While on the foot trail, Mervin went near AAA, prompting her to hurriedly scamper to BBB's house. Mervin followed her. Once in the living room of BBB's house, Mervin approached AAA, poked a knife at the right side of her body, pushed her and made her lie down. Out of fear, she didn't resist Mervin's advances. He threatened and ordered her to "*keep quiet, don't talk*". Then he raised her skirt and took off her underwear, after which, he took off his short pants and his brief, laid himself on top of her, and made pumping motions until he ejaculated. Blood came out of AAA's vagina. After the rape, AAA cried while the accused left the house. Just like before, she did not mention the incident to anybody, not even to her grandmother and to her aunt DDD, for fear that Mervin might kill them.

AAA narrated that the first person she told about her ordeal was Lynlyn, her employer in Ormoc, where AAA spent three months working, when the former was able to detect her pregnancy. It was also Lynlyn who accompanied her to the Capoocan Police Station to report and file the case. After reporting the matter to the police, AAA did not go back to Ormoc anymore and later gave birth. Instead, she and her baby stayed with the Department of Social Welfare and Development (DSWD).

Dr. Bibiana O. Cardente, the Municipal Health Officer of Capoocan, Leyte testified that upon the request of the Chief of Police of Capoocan, Leyte, she attended to AAA, a sixteen[-]year old who was allegedly raped by the husband of her aunt. The findings of Dr. Cardente were reduced in the form of a Medical Certificate issued on August 23, 2002, which she also identified and read the contents thereof in open court, as follows:

> "Patient claimed that she was allegedly raped by the husband of her aunt. The patient can't recall the exact date when she was raped.
>
> Phernache – at the age of 13 years old,
> Pregnancy test done at Carigara District Hospital today at August 23, 2002.
> Result: Positive for UGC, LMP-unknown
> Findings: Fundal Height-1 inch above the umbilicus compatible with 5 months pregnancy
> Presentation: cephalic
> FHB – RLQ"

Ofelia Pagay, a Social Welfare Officer III of the DSWD Regional Haven, Pawing, Palo, Leyte testified that she interviewed AAA upon the latter's admission to their office on August 29, 2002. Also interviewed were her mother, the MSWD of Capoocan, Leyte and the Social Welfare Crisis Unit of the DSWD. In her case study report on AAA, Ofelia recommended the necessary intervention for her because of an existing conflict in their family.

The Version of the Defense

BBB, AAA's 74-year old grandmother, testified that AAA is the daughter of her son DDD and EEE. She took custody of AAA after her parents got separated. Along with AAA her epileptic granddaughter, CCC was also living with them.

BBB recounted that on March 11, 2002, she was at her house doing household chores from morning until noon. She denied that a rape incident ever occurred at the said date as she stayed at home the whole day and did not chance upon Mervin at her house nor did AAA inform her about any rape incident.

BBB also recalled that on March 12, 2002 she stayed at home the whole day. She narrated that after having breakfast at about seven o'clock in the morning, AAA took a bath. She also saw AAA writing notes. At around three o'clock in the afternoon, AAA went to herd the carabao at the uphill portion of the place. Later, AAA returned and stayed in the house the rest of the afternoon. BBB again denied that a rape occurred on that day of March 12, 2002, as she did not see Mervin in her house. Neither did she observe any unusual behavior on the part of AAA nor did she receive a complaint from the latter that she was raped by Mervin.

Filomeno Suson, 51 years old, married, a farmer and a resident of Brgy. Visares, Capoocan, Leyte testified that on March 11, 2002 he was with Mervin at the copra kiln dryer situated in Sitio Sandayong, Brgy. Visares, Capoocan, Leyte from eight o'clock in the morning until twelve o'clock noon. Mervin was with his wife and two children and never left the place. He recalled that he left the place at 12:30 in the afternoon, and returned at 1:30 in the afternoon. He saw Mervin still processing the copra. He stayed at the dryer until five o'clock in the afternoon and did not see Mervin leave the place. The following day, March 12, 2002, he went back to the dryer at eight o'clock in the morning and saw Mervin near the copra kiln dryer regulating the fire so that the copra will not get burned. He stayed there until past noontime and did not see Mervin leave the place. When he returned at one o'clock in the afternoon, Mervin was already placing the copra inside the sack. He stayed until five o'clock in the afternoon. The following day, March 13, 2002, he saw Mervin hauling the copra. He did not observe any unusual behavior from him.

Jackie Gucela, 18 years old, single, a farm laborer and a resident of Brgy. Lonoy, Kanaga, Leyte testified that he and AAA were sweethearts. Jackie recounted that the first time he got intimate and had sex with AAA was sometime in March 2000. He recalled that the last time he and AAA had sex was sometime in April 2002. He admitted that it was he who got AAA pregnant.

> Mervin Gahi, 35 years old, married, a farmer and a resident of Brgy. Visares, Capoocan, Leyte denied having been at the place of the alleged rapes on the days asserted by the complainant. He recalled that on March 11, 2002, he was at the area of Sandayong, Sitio Agumayan, Brgy. Visares, Capoocan, Leyte processing copra owned by Mrs. Josefina Suson. He started processing copra at six o'clock in the morning until about nine o'clock in the evening. With him were his wife and two children, May Jane and Mervin Jr. His landlord, Filomeno arrived later in the morning, and stayed until twelve o'clock noon. After having lunch at his house, Filomeno returned at one o'clock in the afternoon. Mervin recounted that he stopped working when he had lunch at his nearby house with his family, and during the intervening time, he did not leave the place to watch over the copra. After eating his lunch, he went back to the copra kiln drier to refuel and again watched over the copra. He stayed there and never left the place until nine o'clock in the evening.
>
> On March 12, 2002, Mervin recalled that he was at the copra kiln drier segregating the cooked copra from the uncooked ones until nine o'clock in the morning. When he was finished segregating, he smoked the uncooked copra. With him were his wife and children, and he stayed at the copra kiln dryer until six o'clock in the evening. The only time that he left the said place was when he had his lunch at eleven o'clock in the morning at his house. After having his lunch, he returned to the copra kiln drier. He admitted that he was familiar with Brgy. Sto. Nino, Capoocan, Leyte.
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> Mervin testified that on March 13, 2002 at twelve o'clock noon, he delivered the copra for weighing to the house of his landlord at Brgy. Visares, Capoocan, Leyte. It was his Kuya Noni (Filomino) and Ate Pensi (Maria Esperanza) who actually received the copra, with the latter even recording the delivery. According to him, it was impossible for him to have raped AAA on the alleged dates as he was at Brgy. Visares processing copra. He argued that a mistake was committed by AAA in accusing him considering the similarity between his name Mervin and x x x Jack[ie] Gucela's nickname, Melvin, who was known to be a suitor of AAA.
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> Ma. Esperanza V. Villanueva, 48 years old, married, a housewife and a resident of Brgy. Visares, Capoocan, Leyte testified that she knows Mervin. According to her, Mervin was a tenant and has been working as a copra drier for them for a couple of years. Esperanza recalled that on March 13, 2002, Mervin and his wife delivered copra to her house. The delivery, she said, was also recorded by her.[7] (Citations omitted.)

At the conclusion of trial, the April 22, 2005 Decision convicting appellant was rendered by the trial court. Dispositively, the said ruling states:

> **WHEREFORE**, premises considered, applying Article 266-A and 266-B of the Revised Penal Code as amended, and the amendatory provisions of R.A. 8353, (The Anti-Rape Law of 1997), in relation to Section 11 of R.A. 7659 (The Death Penalty Law), the Court found accused, **MERVIN GAHI**, **GUILTY**, beyond reasonable doubt for two counts of **RAPE** charged under Criminal Cases No. 4202 and 4203, and

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[7] *Rollo*, pp. 6-14.

> sentenced to suffer the maximum penalty of **DEATH** in both cases and to pay civil indemnity in the amount of Seventy[-]Five Thousand (₱75,000.00) Pesos for each case and exemplary damages in the amount of Twenty[-]Five (₱25,000.00) Thousand Pesos for each case, to the victim [AAA]; and pay the costs.[8]

The case was subsequently elevated to the Court of Appeals. After due deliberation, the Court of Appeals affirmed with modification the appealed decision of the trial court in the now assailed August 31, 2011 Decision, the dispositive portion of which is reproduced here:

> **WHEREFORE**, premises considered, the assailed Decision dated April 22, 2005 of the Regional Trial Court, Eight Judicial Region, Branch 13 of Carigara, Leyte in Criminal Case Nos. 4202 and 4203, finding appellant Mervin Gahi guilty of two counts of Rape, is hereby AFFIRMED with the modification that accused-appellant is sentenced to suffer the penalty of *reclusion perpetua* for each count. Further, he is ordered to pay AAA the amount of Php50,000.00 for each count of rape as moral damages.[9]

Having been thwarted twice in his quest for the courts to proclaim his innocence, appellant comes before this Court for one last attempt at achieving that purpose. In his Brief, appellant submits a single assignment of error for consideration, to wit:

> THE TRIAL COURT ERRED IN CONVICTING THE ACCUSED-APPELLANT OF TWO COUNTS OF RAPE DESPITE FAILURE OF THE PROSECUTION TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.[10]

Appellant maintains that AAA's incredible and inconsistent testimony does not form sufficient basis for him to be convicted of two counts of rape. He argues that his testimony along with that of other defense witnesses should have been accorded greater weight and credibility. He faults the trial court for ignoring the extended time period between the alleged rapes and the birth of AAA's baby; and for disbelieving Jackie Gucela's testimony which stated that the latter was AAA's lover and the father of AAA's child, contrary to AAA's claim that the baby was the fruit of appellant's unlawful carnal congress with her. He also insists that his alibi should have convinced the trial court that he is innocent because he was at another place at the time the rapes were allegedly committed by him. On the strength of these assertions, appellant believes that he is deserving of an acquittal that is long overdue because the prosecution failed miserably to prove his guilt beyond reasonable doubt.

We are not persuaded.

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8 CA *rollo*, p. 42.
9 *Rollo*, p. 32.
10 CA *rollo*, p. 52.

Article 266-A of the Revised Penal Code defines when and how the felony of rape is committed, to wit:

> 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 is otherwise unconscious;
>
> (c) By means of fraudulent machination or grave abuse of authority;
>
> (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.
>
> 2) By any person who, under any of the circumstances mentioned in paragraph 1 hereof, shall commit an act of sexual assault by inserting his penis into another person's mouth or anal orifice, or any instrument or object, into the genital or anal orifice of another person.

According to the prosecution, appellant used force or intimidation in order to successfully have unlawful carnal knowledge of AAA. To be exact, appellant is alleged to have utilized, on two occasions, a knife and the threat of bodily harm to coerce AAA into submitting to his evil sexual desires. A careful perusal of AAA's testimony in open court reveals that she was clear and straightforward in her assertion that appellant raped her twice in the manner described by the prosecution. We sustain as proper the appellate court's reliance on the following portions of AAA's testimony regarding the first instance of rape:

> [PROSECUTOR MERIN]
>
> Q And you were alone in the house of your lola?
> A Yes, sir.
>
> Q And when you were alone in your lola's house at the sala, what did this accused do to you?
> A He suddenly went inside the sala and at that time I was mopping the floor.
>
> Q What did you use in mopping the floor?
> A Coconut husk.
>
> Q And when the accused suddenly appeared [at] the sala, while you were mopping the floor with a coconut husk, what did the accused do next, tell this court?
> A He said, lie down, lie down.

Q You mean he was fronting at (sic) you?
A Yes, sir.

Q And what did you do with his instruction to let you lie down?
A Nothing.

Q You mean you stop[ped] mopping the floor?
A Yes, sir.

Q Now, after you stop[ped] mopping, what next transpired if any, tell this court?
A He held me and let me lie down.

x x x x

Q And after you were laid down by the accused and you already [were lying] on the floor, what next transpired if any, tell the court?
A He raised my skirt and took off my panty.

Q What did you do when he tried to raise your skirt and took off your panty?
A I was trembling.

Q Why were you trembling?
A Because I was afraid.

Q Why were you afraid of Mervin Gahi x x x?
A Because he held something.

Q What was he holding?
A A knife.

x x x x

Q And what did he do with that knife he was holding?
A It was poked [at] me.

Q What part of your body was poked upon (sic)?
A (Witness indicated her right breast)

x x x x

Q While the accused was on top of you and took off his pants, what did the accused do upon your person?
A He inserted his penis.

Q You mean his penis was inserted [in]to what?
A To my vagina.

Q Now, how did you feel when he tried to insert his penis [in]to your vagina?
A I became weak.[11]

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[11] TSN, February 28, 2003, pp. 6-9.

As for the second instance of rape, we agree with the lower courts that AAA was likewise clear and straightforward in recounting that:

[PROSECUTOR MERIN]

Q Where were you on March 12, 2002 when raped again by the accused?
A I was tethering a carabao.

x x x x

Q When you were trying to bring that carabao what happened tell the court?
A At that time when I was able to bring the carabao to be fed I saw him.

Q Whereat did you see him?
A He was on the foot trail.

x x x x

Q When you saw the accused on your way to tether the carabao of your lola, what did the accused do [to] you?
A He drew nearer to me.

Q After he drew nearer to you, what did he do next?
A He poked a knife [at] me.

x x x x

Q After you were poked by that knife by the accused, what else happened?
A He said, "Keep quiet, don't talk."

Q After he said that what next happened?
A He made me to (sic) lie.

Q Whereat?
A When he poked his knife at me he held my upper arms.

Q Were you already lying?
A He pushed me and I was made to lie.

Q You mean on the roadside?
A No, at the sala of the house of my grandmother.

Q You mean you were led to the house of your Lola?
A No sir.

Q Where were you brought?
A At that time when I was able to bring the carabao to be [fed] when I saw him I ran back to the house of my grandmother.

x x x x

Q And when you were already inside the house of your Lola what happened, tell the Court?
A He was already there.

x x x x

Q After your skirt was raised up by the accused, what did the accused do next, tell the Court?
A He took off my panty.

x x x x

Q Did you not prevent Mervin from taking off your panty?
A No sir.

Q Why did you not wrestle out?
A I am afraid because of the knife.

x x x x

Q After he took off his brief, what did accused do, tell the Court?
A He laid himself on top of me.

Q After he laid himself on top of you, what else did he do?
A He inserted his penis [in]to my vagina.

x x x x

Q Was he successful in inserting his penis [in]to your vagina?
A Yes sir.

Q After inserting his penis [in]to your vagina, what else did accused do to his penis?
A He kept on pumping himself, meaning making a going and out movement.

Q You mean he was making in and out movement of (sic) your vagina?
A Yes, sir.

Q Was he able to reach ejaculation?
A Blood.

Q You mean blood came out?
A Yes, sir.

Q From where?
A From my vagina.[12]

Appellant questions the weighty trust placed by the trial court on the singular and uncorroborated testimony of AAA as the basis for his conviction. On this point, we would like to remind appellant that it is a fundamental principle in jurisprudence involving rape that the accused may

[12] TSN, July 3, 2003, pp. 9-13.

be convicted based solely on the testimony of the victim, provided that such testimony is credible, natural, convincing and consistent with human nature and the normal course of things.[13]

It is likewise jurisprudentially settled that when a woman says she has been raped, she says in effect all that is necessary to show that she has been raped and her testimony alone is sufficient if it satisfies the exacting standard of credibility needed to convict the accused.[14] Thus, in this jurisdiction, the fate of the accused in a rape case, ultimately and oftentimes, hinges on the credibility of the victim's testimony.

In this regard, we defer to the trial court's assessment of the credibility of AAA's testimony, most especially, when it is affirmed by the Court of Appeals. In *People v. Amistoso*,[15] we reiterated the rationale of this principle in this wise:

> Time and again, we have held that when it comes to the issue of credibility of the victim or the prosecution witnesses, the findings of the trial courts carry great weight and respect and, generally, the appellate courts will not overturn the said findings unless the trial court overlooked, misunderstood or misapplied some facts or circumstances of weight and substance which will alter the assailed decision or affect the result of the case. This is so because trial courts are in the best position to ascertain and measure the sincerity and spontaneity of witnesses through their actual observation of the witnesses' manner of testifying, their demeanor and behavior in court. Trial judges enjoy the advantage of observing the witness' deportment and manner of testifying, her "furtive glance, blush of conscious shame, hesitation, flippant or sneering tone, calmness, sigh, or the scant or full realization of an oath" – all of which are useful aids for an accurate determination of a witness' honesty and sincerity. Trial judges, therefore, can better determine if such witnesses are telling the truth, being in the ideal position to weigh conflicting testimonies. Again, unless certain facts of substance and value were overlooked which, if considered, might affect the result of the case, its assessment must be respected, for it had the opportunity to observe the conduct and demeanor of the witnesses while testifying and detect if they were lying. The rule finds an even more stringent application where the said findings are sustained by the Court of Appeals.

Anent the inconsistent statements made by AAA in her testimony which were pointed out by appellant, we agree with the assessment made by the Court of Appeals that these are but minor discrepancies that do little to affect the central issue of rape which is involved in this case. Instead of diminishing AAA's credibility, such variance on minor details has the net effect of bolstering the truthfulness of AAA's accusations. We have constantly declared that a few discrepancies and inconsistencies in the testimonies of witnesses referring to minor details and not in actuality

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[13] *People v. Penilla*, G.R. No. 189324, March 20, 2013, 694 SCRA 141, 149.

[14] *People v. Monticalvo*, G.R. No. 193507, January 30, 2013, 689 SCRA 715, 734.

[15] G.R. No. 201447, January 9, 2013, 688 SCRA 376, 387-388 citing *People v. Aguilar*, 565 Phil. 233, 247-248 (2007).

touching upon the central fact of the crime do not impair the credibility of the witnesses because they discount the possibility of their being rehearsed testimony.[16]

Notable is the fact that no ill motive on the part of AAA to falsely accuse appellant was ever brought up by the defense during trial. This only serves to further strengthen AAA's case since we have consistently held that a rape victim's testimony as to who abused her is credible where she has absolutely no motive to incriminate and testify against the accused.[17] It is also equally important to highlight AAA's young age when she decided to accuse her kin of rape and go through the ordeal of trial. In fact, when she painfully recounted her tribulation in court, she was just at the tender age of sixteen (16) years old.[18] Jurisprudence instructs us that no young woman, especially of tender age, would concoct a story of defloration, allow an examination of her private parts, and thereafter pervert herself by being subjected to public trial, if she was not motivated solely by the desire to obtain justice for the wrong committed against her.[19]

In a bid to exculpate himself, appellant argues that he could not have possibly been guilty of rape because the time period between the rape incidents and the birth of the alleged fruit of his crime is more than the normal period of pregnancy. He also points out that defense witness Jackie Gucela's admission that he was AAA's lover and the father of her child should suffice to negate any notion that he raped AAA twice. Lastly, he puts forward the defense of alibi.

We are not convinced by appellant's line of reasoning which appears ostensibly compelling, at the outset, but is ultimately rendered inutile by jurisprudence and the evidence at hand.

With regard to appellant's first point, we express our agreement with the statement made by the Court of Appeals that it is not absurd nor contrary to human experience that AAA gave birth ten (10) months after the alleged sexual assault as there may be cases of long gestations. In any event, we dismiss appellant's contention as immaterial to the case at bar because jurisprudence tells us that impregnation is not an element of rape.[20] This rule was eloquently explained in *People v. Bejic*[21]:

> It is well-entrenched in our case law that the rape victim's pregnancy and resultant childbirth are irrelevant in determining whether or not she was raped. Pregnancy is not an essential element of the crime of rape. Whether the child which the rape victim bore was fathered by the accused, or by some unknown individual, is of no moment. What is important and decisive is that the accused had carnal knowledge of the victim against the

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16 *People v. Batula*, G.R. No. 181699, November 28, 2012, 686 SCRA 575, 586-587.
17 *People v. Cabungan*, G.R. No. 189355, January 23, 2013, 689 SCRA 236, 246.
18 TSN, February 28, 2003, p. 2.
19 *People v. Tolentino*, G.R. No. 187740, April 10, 2013, 695 SCRA 545, 554.
20 *People v. Maglente*, 578 Phil. 980, 996 (2008).
21 552 Phil. 555, 573 (2007).

> latter's will or without her consent, and such fact was testified to by the victim in a truthful manner. (Citation omitted.)

Likewise, we assign no significance to the testimony of defense witness Jackie Gucela. Firstly, AAA categorically denied that Jackie Gucela was her boyfriend [22] or that she had sexual relations with him or any other person other than appellant near the time of the rape incidents at issue.[23] For the sweetheart theory to be believed when invoked by the accused, convincing evidence to prove the existence of the supposed relationship must be presented by the proponent of the theory. We elucidated on this principle in *People v. Bayrante*,[24] to wit:

> For the ["sweetheart"] theory to prosper, the existence of the supposed relationship must be proven by convincing substantial evidence. Failure to adduce such evidence renders his claim to be self-serving and of no probative value. For the satisfaction of the Court, there should be a corroboration by their common friends or, if none, a substantiation by tokens of such a relationship such as love letters, gifts, pictures and the like. (Citation omitted.)

In the present case, although it is a person other than the accused who is claiming to be the victim's sweetheart and the father of her child, such an assertion must nonetheless be believably demonstrated by the evidence.

The defense failed to discharge the burden of proving that AAA and Jackie Gucela had any kind of romantic or sexual relationship which resulted in AAA's pregnancy. We quote with approval the discussion made by the Court of Appeals on this matter:

> Like the trial court, We have our reservations on [Jackie]'s credibility. AAA, from the outset, has denied any romantic involvement with [Jackie]. On the other hand, to prove his claim that they were sweethearts, [Jackie] presented three love letters purportedly authored by AAA. An examination of the contents of the letters however fails to indicate any intimate relations between AAA and [Jackie]. Nowhere in the contents of the said letters did AAA even profess her love for [Jackie]. In the first letter, [Jackie] maintained that AAA signed the letter as "*SHE*" to hide her identity. Other than such assertion, he however failed to establish by any conclusive proof that the "*SHE*" and AAA were one and the same person. Neither did he explain if he was the "*Boy*" being alluded to in the first letter. The second letter, which was also unsigned by AAA, was a poem written by Joyce Kilmer entitled Trees, and the third letter although vague as to its contents, does not appear to be a love letter at all. Our inevitable conclusion: the letters are not love letters at all between AAA and [Jackie]. Even if We were to assume for the sake of argument that [Jackie] fathered AAA's child, We are hard pressed to find malice or any ill motive on the part of AAA to falsely accuse no less than her uncle, if the same was not true. At most, We believe that [Jackie]'s testimony is a

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[22] TSN, August 6, 2003, p. 6.

[23] TSN, December 5, 2003, p. 11.

[24] G.R. No. 188978, June 13, 2012, 672 SCRA 446, 465.

> desperate attempt on his part to let Mervin off the hook, so to speak.[25] (Citations omitted.)

In any event, even assuming for the sake of argument that AAA had a romantic attachment with a person other than the accused at the time of the rape incidents or thereafter, this circumstance would not necessarily negate the truth of AAA's statement that the appellant, her aunt's husband, twice had carnal knowledge of her through force and intimidation and without her consent.

We are similarly unconvinced with appellant's defense of alibi. We have consistently held that alibi is an inherently weak defense because it is easy to fabricate and highly unreliable.[26] Moreover, we have required that for the defense of alibi to prosper, the appellant must prove that he was somewhere else when the offense was committed and that he was so far away that it was not possible for him to have been physically present at the place of the crime or at its immediate vicinity at the time of its commission.[27]

In the case at bar, the testimony of defense witness Filomeno Suson made known to the trial court that the distance between the scene of the crime and the copra kiln dryer where appellant claimed to have been working the entire time during which the incidents of rape occurred can be traversed in less than an hour.[28] Thus, it was not physically impossible for appellant to be at the *locus criminis* on the occasion of the rapes owing to the relatively short distance. This important detail coupled with AAA's positive and categorical identification of appellant as her rapist demolishes appellant's alibi since it is jurisprudentially-settled that alibi and denial cannot prevail over the positive and categorical testimony and identification of an accused by the complainant.[29]

Having affirmed the factual bases of appellant's conviction for two (2) counts of simple rape, we now progress to clarify the proper penalties of imprisonment and damages that should be imposed upon him owing to the conflicting pronouncements made by the trial court and the Court of Appeals. To recall, the Court of Appeals downgraded the penalty imposed on appellant from death (as decreed by the trial court) to *reclusion perpetua.* It has been established that appellant committed the aforementioned felonies with the use of a deadly weapon which according to Article 266-B, paragraph 2 of the Revised Penal Code[30] is punishable by *reclusion perpetua* to death. There being no aggravating circumstance present in this case, the

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25 *Rollo*, pp. 25-26.
26 *People v. Gani*, G.R. No. 195523, June 5, 2013.
27 *People v. Piosang*, G.R. No. 200329, June 5, 2013.
28 TSN, October 6, 2004, pp. 18-19.
29 *People v. Gani*, supra note 26.
30 Article 266-B. *Penalties.* – x x x.

Whenever the rape is committed with the use of a deadly weapon or by two or more persons, the penalty shall be *reclusion perpetua* to death.

proper penalty of imprisonment should be *reclusion perpetua* for each instance of rape.

It is worth noting that appellant is an uncle by affinity of AAA. Following the 5th paragraph (1) of Article 266-B of the Revised Penal Code,[31] a relationship within the third degree of consanguinity or affinity taken with the minority of AAA would have merited the imposition of the death penalty. However, no such close relationship was shown in this case as accused appears to be the husband of AAA's father's cousin. In any case, the death penalty has been abolished by the enactment of Republic Act No. 9346 which also mandated that the outlawed penalty be replaced with *reclusion perpetua*. A qualifying or aggravating circumstance, if properly alleged and proven, might not have the effect of changing the term of imprisonment but it would, nevertheless, be material in determining the amount of pecuniary damages to be imposed.

Thus, in view of the foregoing, we affirm the penalty imposed by the Court of Appeals which was *reclusion perpetua* for each conviction of simple rape. The award of moral damages in the amount ₱50,000.00 is likewise upheld. However, the award of civil indemnity should be reduced from ₱75,000.00 to ₱50,000.00 in line with jurisprudence.[32] For the same reason, the award of exemplary damages should be increased from ₱25,000.00 to ₱30,000.00.[33] Moreover, the amounts of damages thus awarded are subject further to interest of 6% per annum from the date of finality of this judgment until they are fully paid.[34]

WHEREFORE, premises considered, the Decision dated August 31, 2011 of the Court of Appeals in CA-G.R. CEB-CR.-H.C. No. 00335, affirming the conviction of appellant Mervin Gahi in Criminal Case Nos. 4202 and 4203, is hereby **AFFIRMED with MODIFICATIONS** that:

(1) The civil indemnity to be paid by appellant Mervin Gahi is decreased from Seventy-Five Thousand Pesos (₱75,000.00) to Fifty Thousand Pesos (₱50,000.00);

(2) The exemplary damages to be paid by appellant Mervin Gahi is increased from Twenty-Five Thousand Pesos (₱25,000.00) to Thirty Thousand Pesos (₱30,000.00); and

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[31] Article 266-B. *Penalties.* – x x x.

The death penalty shall also be imposed if the crime of rape is committed with any of the following aggravating/qualifying circumstances:

1. When the victim is under eighteen (18) years of age and the offender is a parent, ascendant, stepparent, guardian, relative by consanguinity or affinity within the third civil degree, or the common law spouse of the parent of the victim.

[32] *People v. Lomaque*, G.R. No. 189297, June 5, 2013.

[33] *People v. Basallo*, G.R. No. 182457, January 30, 2013, 689 SCRA 616, 645.

[34] *People v. Vitero*, G.R. No. 175327, April 3, 2013, 695 SCRA 54, 69.

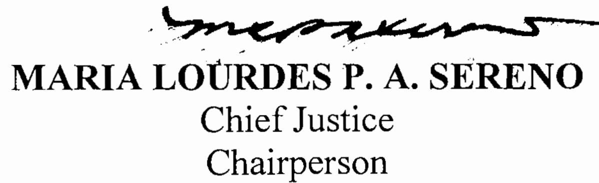
(3) Appellant Mervin Gahi is ordered to pay the private offended party interest on all damages at the legal rate of six percent (6%) per annum from the date of finality of this judgment.

No pronouncement as to costs.

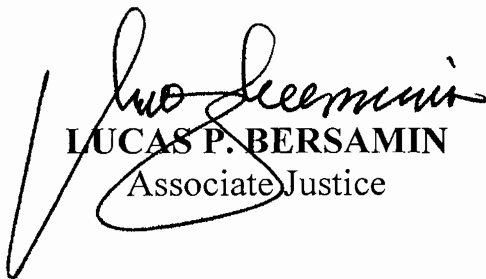
SO ORDERED.

TERESITA J. LEONARDO-DE CASTRO
Associate Justice

WE CONCUR:



MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson



LUCAS P. BERSAMIN
Associate Justice

MARTIN S. VILLARAMA, JR.
Associate Justice

BIENVENIDO L. REYES
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.

MARIA LOURDES P. A. SERENO
Chief Justice