



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

PEOPLE OF THE PHILIPPINES G.R. No. 183652
and AAA,

Petitioner,

Present:

- versus -

VELASCO, JR., J., *Chairperson*,
PERALTA,
DEL CASTILLO,*
VILLARAMA, JR., and
REYES, JJ.

COURT OF APPEALS, 21st
DIVISION, MINDANAO
STATION, RAYMUND
CARAMPATANA, JOEFHEL
OPORTO, and MOISES
ALQUIZOLA,

Promulgated:

February 25, 2015

Respondents.

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DECISION

PERALTA, J.:

Before the Court is a Petition for *Certiorari* questioning the Decision¹ of the Court of Appeals (CA) dated June 6, 2008 in CA-G.R. CR HC No. 00422-MIN. The CA reversed and set aside the Decision² of the Regional Trial Court (RTC) of Kapatagan, Lanao del Norte, Branch 21, dated February 28, 2006 in Criminal Case No. 21-1211, and acquitted private respondents Raymund Carampatana, Joeffel Oporto, and Moises Alquizola of the crime of rape for the prosecution's failure to prove their guilt beyond reasonable doubt.

* Designated Acting Member in lieu of Associate Justice Francis H. Jardeleza, per Special Order No. 1934 dated February 11, 2015.

¹ Penned by Associate Justice Elihu A. Ybañez, with Associate Justices Romulo V. Borja and Mario V. Lopez; concurring; *rollo*, pp. 69-103.

² Penned by Judge Jacob T. Malik; *rollo*, pp. 28-67.

In a Second Amended Information dated June 23, 2004, private respondents Carampatana, Oporto and Alquizola were charged, together with Christian John Lim, Emmanuel dela Cruz, Samuel Rudinas, Jansen Roda, Harold Batocoy, and Joseph Villame, for allegedly raping AAA,³ to wit:

That on or about 10:30 o'clock in the evening of March 25, 2004 at Alson's Palace, Maranding, Lala, Lanao del Norte, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused conspiring, confederating and mutually helping one another, did then and there willfully, unlawfully and feloniously, with lewd designs forcefully drunk AAA, a 16-year-old minor, with an intoxicating liquor and once intoxicated, brought said AAA at about dawn of March 26, 2004 at Alquizola Lodging house, Maranding, Lala, Lanao del Norte and also within the jurisdiction of this Honorable Court, and once inside said lodging house, accused RAYMUND CARAMPATANA and JOEPHEL OPORTO took turns in having carnal knowledge against the will of AAA while accused MOISES ALQUIZOLA, with lewd designs, kissed her against her will and consent.

CONTRARY TO LAW.⁴

Upon arraignment, accused, assisted by their respective counsels, entered a plea of not guilty to the offense charged.⁵

Following pre-trial,⁶ trial on the merits ensued. Accused Christian John Lim, however, remains at-large.

The factual antecedents follow:

On March 25, 2004, around 8:00 a.m., AAA attended her high school graduation ceremony. Afterwards, they had a luncheon party at their house in Maranding, Lala, Lanao del Norte. AAA then asked permission from her mother to go to the Maranding Stage Plaza because she and her bandmates had to perform for an election campaign. She went home at around 4:00 p.m. from the plaza. At about 7:00 p.m., AAA told her father that she would be attending a graduation dinner party with her friends. AAA, together with Lim, Oporto, and Carampatana, ate dinner at the house of one Mark Gemenio at Purok, Bulahan, Maranding. After eating, Lim invited them to go to

³ In line with the Court's ruling in *People v. Cabalquinto*, G.R. No. 167693, September 19, 2006, 502 SCRA 419, 426; citing Rule on Violence Against Women and their Children, Sec. 40; Rules and Regulations Implementing Republic Act No. 9262, Rule XI, Sec. 63, otherwise known as the "Anti-Violence Against Women and their Children Act," the real names of the rape victims will not be disclosed. The Court will instead use fictitious initials to represent them throughout the decision. The personal circumstances of the victims or any other information tending to establish or compromise their identities will likewise be withheld.

⁴ Records, pp. 39-40.

⁵ *Id.* at 58, 86, 157-162.

⁶ *Id.* at 157-172.

Alson's Palace, which was merely a walking distance away from Gemenó's house. Outside the Alson's Palace, they were greeted by Aldrin Montesco, Junver Alquizola, and Cherry Mae Fiel. After a while, they went inside and proceeded to a bedroom on the second floor where they again saw Montesco with Harold Batocoy, Jansen Roda, Emmanuel dela Cruz, Samuel Rudinas, a certain Diego, and one Angelo. Rudinas suggested that they have a drinking session to celebrate their graduation, to which the rest agreed.

They all contributed and it was Joseph Villame who bought the drinks – two (2) bottles of Emperor Brandy. Then they arranged themselves in a circle for the drinking spree. Two (2) glasses were being passed around: one glass containing the sweetener (Pepsi) and the other glass containing the liquor. At first, AAA refused to drink because she had never tried hard liquor before. During the session, they shared their problems with each other. When it was AAA's turn, she became emotional and started crying. It was then that she took her first shot. The glasses were passed around and she consumed more or less five (5) glasses of Emperor Brandy.

Thereafter, she felt dizzy so she laid her head down on Oporto's lap. Oporto then started kissing her head and they would remove her baseball cap. This angered her so she told them to stop, and simply tried to hide her face with the cap. But they just laughed at her. Then, Roda also kissed her. At that time, AAA was already sleepy, but they still forced her to take another shot. They helped her stand up and make her drink. She even heard Lim say, "*Hubuga na, hubuga na,*" (*You make her drunk, you make her drunk*). She likewise heard someone say, "You drink it, you drink it." She leaned on Oporto's lap again, then she fell asleep. They woke her up and Lim gave her the Emperor Brandy bottle to drink the remaining liquor inside. She tried to refuse but they insisted, so she drank directly from the bottle. Again, she fell asleep.

The next thing she knew, Roda and Batocoy were carrying her down the stairs, and then she was asleep again. When she regained consciousness, she saw that she was already at the Alquizola Lodging House. She recognized that place because she had been there before. She would thereafter fall back asleep and wake up again. And during one of the times that she was conscious, she saw Oporto on top of her, kissing her on different parts of her body, and having intercourse with her. She started crying. She tried to resist when she felt pain in her genitals. She also saw Carampatana and Moises Alquizola inside the room, watching as Oporto abused her. At one point, AAA woke up while Carampatana was inserting his penis into her private organ. She cried and told him to stop. Alquizola then joined and started to kiss her. For the last time, she fell unconscious.

When she woke up, it was already 7:00 a.m. of the next day. She was all alone. Her body felt heavy and exhausted. She found herself with her

shirt on but without her lower garments. The upper half of her body was on top of the bed but her feet were on the floor. There were also red stains on her shirt. After dressing up, she hailed a *trisikad* and went home. When AAA reached their house, her father was waiting for her and was already furious. When she told them that she was raped, her mother started hitting her. They brought her to the Lala Police Station to make a report. Thereafter, they proceeded to the district hospital for her medical examination.

Dr. Cyrus Acusta of the Kapatagan District Hospital examined AAA in the morning of March 26, 2004, and found an old hymenal laceration at 5 o'clock position and hyperemia or redness at the posterior fornices. The vaginal smear likewise revealed the presence of sperm.

On the other hand, accused denied that they raped AAA. According to the defense witnesses, in the evening of March 25, 2004, Oporto, Carampatana, Lim, and AAA had dinner at Gemenos house. Gemenos then invited Oporto to attend the graduation party hosted by Montesco at Alsons Palace, owned by the latters family. When they reached the place, Oporto told Montesco that they had to leave for *Barangay* Tenazas to fetch one Arcie Ariola. At about 11:30 p.m., Oporto and Carampatana returned to Alsons Palace but could not find AAA and Lim. The party subsequently ended, but the group agreed to celebrate further. AAA, Rudinas, Dela Cruz, Lim, and Oporto contributed for two (2) bottles of Emperador Brandy and one (1) liter of Pepsi.

Several persons were in the room at that time: AAA, Carampatana, Oporto, Dela Cruz, Rudinas, Roda, Batocoy, Villame, and Lim. Also present but did not join the drinking were Gemenos, Montesco, Angelo Ugnabia, Al Jalil Diego, Mohamad Janisah Manalao, one Caga, and a certain Bantulan. Gemenos told AAA not to drink but the latter did not listen and instead told him not to tell her aunt. During the drinking session, AAA rested on Oportos lap. She even showed her scorpion tattoo on her buttocks. And when her legs grazed Batocoy's crotch, she remarked, "*What was that, penis?*" Roda then approached AAA to kiss her, and the latter kissed him back. Oporto did the same and AAA also kissed him. After Oporto, Roda and AAA kissed each other again.

Meanwhile, earlier that evening, at around 9:00 p.m., Moises Alquizola was at the Alquizola Lodging House drinking beer with his cousin, Junver, and Fiel. They stopped drinking at around midnight. Fiel then requested Alquizola to accompany her to Alsons Palace to see her friends there. They proceeded to the second floor and there they saw AAA lying on Oportos lap. Fiel told AAA to go home because her mother might get angry. AAA could not look her in the eye, just shook her head, and said, "I just stay here." Alquizola and Fiel then went back to the lodging house.

After thirty minutes, they went to Alson's Palace again, and saw AAA and Oporto kissing each other. AAA was lying on his lap while holding his neck. Subsequently, they went back to the lodging house to resume drinking.

After drinking, Batoctoy offered to bring AAA home. But she refused and instead instructed them to take her to the Alquizola Lodging House because she has a big problem. AAA, Lim, and Carampatana rode a motorcycle to the lodging house. When they arrived, AAA approached Alquizola and told him, "*Kuya, I want to sleep here for the meantime.*" Alquizola then opened Room No. 4 where AAA, Oporto, and Carampatana stayed. There were two beds inside, a single bed and a double-sized bed. AAA lay down on the single bed and looked at Carampatana. The latter approached her and they kissed. He then removed her shirt and AAA voluntarily raised her hands to give way. Carampatana likewise removed her brassiere. All the while, Oporto was at the foot of the bed. Thereafter, Oporto also removed her pants. AAA even lifted her buttocks to make it easier for him to pull her underwear down. Oporto then went to AAA and kissed her on the lips. Carampatana, on the other hand, placed himself in between AAA's legs and had intercourse with her. When he finished, he put on his shorts and went back to Alson's Palace to get some sleep. When he left, Oporto and AAA were still kissing. Alquizola then entered the room. When AAA saw him, she said, "*Come Kuya, embrace me because I have a problem.*" Alquizola thus started kissing AAA's breasts. Oporto stood up and opened his pants. AAA held his penis and performed *fellatio* on him. Then Oporto and Alquizola changed positions. Oporto proceeded to have sexual intercourse with AAA. During that time, AAA was moaning and calling his name. Afterwards, Oporto went outside and slept with Alquizola on the carpet. Oporto then had intercourse with AAA two more times. At 3:00 a.m., he went back to Alson's Palace to sleep. At around 6:00 a.m., Oporto and Carampatana went back to the lodging house. They tried to wake AAA up, but she did not move so they just left and went home. Alquizola had gone outside but he came back before 7:00 a.m. However, AAA was no longer there when he arrived.

On February 28, 2006, the RTC found private respondents Carampatana, Oporto and Alquizola guilty beyond reasonable doubt of the crime of rape. It, however, acquitted Dela Cruz, Rudinas, Roda, Batoctoy, and Villame for failure of the prosecution to prove their guilt beyond reasonable doubt. The dispositive portion of the Decision reads:

WHEREFORE, in view of the foregoing considerations, judgment is hereby rendered:

- a) Finding accused Raymund Carampatana GUILTY beyond reasonable doubt of the crime charged, and the Court hereby sentences him to

suffer the indivisible prison term of *reclusion perpetua*; to pay AAA the amount of ₱50,000.00 for and by way of civil indemnity;

- b) Finding accused Joefhel Oporto GUILTY beyond reasonable doubt of the crime charged, and the court hereby sentences him to suffer a prison term of six (6) years and one (1) day of *prision mayor* as minimum to twelve (12) years also of *prision mayor* as maximum; to pay AAA the sum of ₱50,000.00 as moral damages and another amount of ₱50,000.00 as civil indemnity;
- c) Finding accused Moises Alquizola GUILTY beyond reasonable doubt as ACCOMPLICE in the commission of the crime charged, and the court hereby sentences him to suffer an indeterminate prison term of six (6) years and one (1) day of *prision mayor* as minimum to twelve (12) years and one (1) day of *reclusion temporal* as maximum; to pay AAA the amount of ₱30,000.00 as moral damages and another sum of ₱30,000.00 for and by way of civil indemnity;
- d) Finding accused Emmanuel dela Cruz, Samuel Rudinas, Jansen Roda, Harold Batocoy and Joseph Villame NOT GUILTY of the crime charged for failure of the prosecution to prove their guilt therefor beyond reasonable doubt. Accordingly, the Court acquits them of said charge; and
- e) Ordering accused Carampatana, Oporto and Alquizola to pay, jointly and severally, the amount of ₱50,000.00 as attorney's fees and expenses of litigations; and the costs of suit.

The full period of the preventive imprisonment of accused Carampatana, Oporto and Alquizola shall be credited to them and deducted from their prison terms provided they comply with the requirements of Article 29 of the Revised Penal Code.

Accused Raymund Carampatana surrendered voluntarily on 26 March 2004 and detained since then up to the present. Accused Alquizola also surrendered voluntarily on 26 March 2004 and detained since then up to this time, while accused Joefhel Oporto who likewise surrendered voluntarily on 26 March 2004 was ordered released to the custody of the DSWD, Lala, Lanao del Norte on 31 March 2004, and subsequently posted cash bond for his provisional liberty on 17 September 2004 duly approved by this court, thus resulted to an order of even date for his release from the custody of the DSWD.

Let the records of this case be sent to the archive files without prejudice on the prosecution to prosecute the case against accused Christian John Lim as soon as he is apprehended.

SO ORDERED.⁷

Aggrieved by the RTC Decision, private respondents brought the case to the CA. On June 6, 2008, the appellate court rendered the assailed

⁷ Rollo, pp. 66-67.

Decision reversing the trial court's ruling and, consequently, acquitted private respondents. The decretal portion of said decision reads:

WHEREFORE, finding reversible errors therefrom, the Decision on appeal is hereby **REVERSED** and **SET ASIDE**. For lack of proof beyond reasonable doubt, accused-appellants RAYMUND CARAMPATANA, JOEFHEL OPORTO and MOISES ALQUIZOLA are instead **ACQUITTED** of the crime charged.

SO ORDERED.⁸

In sum, the CA found that the prosecution failed to prove private respondents' guilt beyond reasonable doubt. It gave more credence to the version of the defense and ruled that AAA consented to the sexual congress. She was wide awake and aware of what private respondents were doing before the intercourse. She never showed any physical resistance, never shouted for help, and never fought against her alleged ravishers. The appellate court further relied on the medical report which showed the presence of an old hymenal laceration on AAA's genitalia, giving the impression that she has had some carnal knowledge with a man before. The CA also stressed that AAA's mother's unusual reaction of hitting her when she discovered what happened to her daughter was more consistent with that of a parent who found out that her child just had premarital sex rather than one who was sexually assaulted.

On July 29, 2008, AAA, through her private counsel, filed a Petition for *Certiorari*⁹ under Rule 65, questioning the CA Decision which reversed private respondents' conviction and ardently contending that the same was made with grave abuse of discretion amounting to lack or excess of jurisdiction.

Thus, AAA raises this lone issue in her petition:

THE RESPONDENT COURT OF APPEALS ACTED WITH GRAVE ABUSE OF DISCRETION IN ACQUITTING THE PRIVATE RESPONDENTS.¹⁰

The private respondents present the following arguments in their Comment dated November 7, 2008 to assail the petition:

I.

A JUDGMENT OF ACQUITTAL IS IMMEDIATELY FINAL AND EXECUTORY AND THE PROSECUTION CANNOT APPEAL THE ACQUITTAL BECAUSE OF THE CONSTITUTIONAL PROHIBITION AGAINST DOUBLE JEOPARDY.

⁸ *Id.* at 102. (Emphasis in the original)

⁹ *Id.* at 3-27.

¹⁰ *Id.* at 10.

II.

THE PETITIONER FAILED TO PROVE THAT THERE IS GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION ON THE PART OF PUBLIC RESPONDENT.

III.

CERTIORARI WILL NOT LIE UNLESS A MOTION FOR RECONSIDERATION IS FIRST FILED.

IV.

THE OFFICE OF THE SOLICITOR GENERAL IS THE APPELLATE COUNSEL OF THE PEOPLE OF THE PHILIPPINES IN ALL CRIMINAL CASES.¹¹

The Office of the Solicitor General (*OSG*) filed its own Comment on April 1, 2009. It assigns the following errors:

I.

THE PRIVATE COMPLAINANT MAY VALIDLY APPEAL AN ORDER OF ACQUITTAL AS TO THE CIVIL ASPECT OF THE CRIME.

II.

THE APPELLATE DECISION OF ACQUITTAL IS NULL AND VOID FOR HAVING BEEN RENDERED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION, AN EXCEPTION TO THE PRINCIPLE OF DOUBLE JEOPARDY.¹²

The Court will first resolve the procedural issues.

At the onset, the Court stresses that rules of procedure are meant to be tools to facilitate a fair and orderly conduct of proceedings. Strict adherence thereto must not get in the way of achieving substantial justice. As long as their purpose is sufficiently met and no violation of due process and fair play takes place, the rules should be liberally construed.¹³ Liberal construction of the rules is the controlling principle to effect substantial justice. The relaxation or suspension of procedural rules, or the exemption of a case from their operation, is warranted when compelling reasons exist or when the purpose of justice requires it. Thus, litigations should, as much as possible, be decided on their merits and not on sheer technicalities.¹⁴

¹¹ *Id.* at 241-242.

¹² *Id.* at 292, 298.

¹³ *Regional Agrarian Reform Adjudication Board v. CA*, G.R. No. 165155, April 13, 2010, 618 SCRA 181, 184.

¹⁴ *Asia United Bank v. Goodland Company, Inc.*, G.R. No. 188051, November 22, 2010, 635 SCRA 637, 645.

As a general rule, the prosecution cannot appeal or bring error proceedings from a judgment rendered in favor of the defendant in a criminal case. The reason is that a judgment of acquittal is immediately final and executory, and the prosecution is barred from appealing lest the constitutional prohibition against double jeopardy be violated.¹⁵ Section 21, Article III of the Constitution provides:

Section 21. No person shall be twice put in jeopardy of punishment for the same offense. If an act is punished by a law and an ordinance, conviction or acquittal under either shall constitute a bar to another prosecution for the same act.

Despite acquittal, however, either the offended party or the accused may appeal, but only with respect to the civil aspect of the decision. Or, said judgment of acquittal may be assailed through a petition for *certiorari* under Rule 65 of the Rules of Court showing that the lower court, in acquitting the accused, committed not merely reversible errors of judgment, but also exercised grave abuse of discretion amounting to lack or excess of jurisdiction, or a denial of due process, thereby rendering the assailed judgment null and void.¹⁶ If there is grave abuse of discretion, granting petitioner's prayer is not tantamount to putting private respondents in double jeopardy.¹⁷

As to the party with the proper legal standing to bring the action, the Court said in *People v. Santiago*:¹⁸

It is well-settled that in criminal cases where the offended party is the State, the interest of the private complainant or the private offended party is limited to the civil liability. Thus, in the prosecution of the offense, the complainant's role is limited to that of a witness for the prosecution. If a criminal case is dismissed by the trial court or if there is an acquittal, an appeal therefrom on the criminal aspect may be undertaken only by the State through the Solicitor General. Only the Solicitor General may represent the People of the Philippines on appeal. The private offended party or complainant may not take such appeal. However, the said offended party or complainant may appeal the civil aspect despite the acquittal of the accused.

In a special civil action for *certiorari* filed under Section 1, Rule 65 of the Rules of Court wherein it is alleged that the trial court committed a grave abuse of discretion amounting to lack of jurisdiction or on other jurisdictional grounds, the rules state that the petition may be filed by the person aggrieved. In such case, the aggrieved parties are the State

¹⁵ M. GUBAT, THE REVISED RULES OF CRIMINAL PROCEDURE ANNOTATED 481 (3rd ed. 2009).

¹⁶ *Id.* at 481-482.

¹⁷ *Goodland Company, Inc. v. Co and Chan*, G.R. No. 196685, December 14, 2011, 662 SCRA 692, 701.

¹⁸ 255 Phil. 851 (1989).

and the private offended party or complainant. The complainant has an interest in the civil aspect of the case so **he may file such special civil action questioning the decision or action of the respondent court on jurisdictional grounds. In so doing, complainant should not bring the action in the name of the People of the Philippines. The action may be prosecuted in [the] name of said complainant.**¹⁹

Private respondents argue that the action should have been filed by the State through the OSG. True, in criminal cases, the acquittal of the accused or the dismissal of the case against him can only be appealed by the Solicitor General, acting on behalf of the State. This is because the authority to represent the State in appeals of criminal cases before the Supreme Court and the CA is solely vested in the OSG.²⁰

Here, AAA filed a petition for *certiorari* under Rule 65, albeit at the instance of her private counsel, primarily imputing grave abuse of discretion on the part of the CA when it acquitted private respondents. As the aggrieved party, AAA clearly has the right to bring the action in her name and maintain the criminal prosecution. She has an immense interest in obtaining justice in the case precisely because she is the subject of the violation. Further, as held in *Dela Rosa v. CA*,²¹ where the Court sustained the private offended party's right in a criminal case to file a special civil action for *certiorari* to question the validity of the judgment of dismissal and ruled that the Solicitor General's intervention was not necessary, the recourse of the complainant to the Court is proper since it was brought in her own name and not in that of the People of the Philippines. In any event, the OSG joins petitioner's cause in its Comment,²² thereby fulfilling the requirement that all criminal actions shall be prosecuted under the direction and control of the public prosecutor.²³

Private respondents further claim that even assuming, merely for the sake of argument, that AAA can file the special civil action for *certiorari* without violating their right against double jeopardy, still, it must be dismissed for petitioner's failure to previously file a motion for reconsideration.

True, a motion for reconsideration is a *condicio sine qua non* for the filing of a petition for *certiorari*. Its purpose is for the court to have an opportunity to correct any actual or perceived error attributed to it by re-examination of the legal and factual circumstances of the case. This rule, however, is not absolute and admits well-defined exceptions, such as: (a) where the order is a patent nullity, as where the court *a quo* has no

¹⁹ *People v. Santiago*, *supra*, at 861-862. (Emphasis ours)

²⁰ *Bautista v. Pangilinan*, G.R. No. 189754, October 24, 2012, 684 SCRA 521, 534.

²¹ 323 Phil. 596 (1996).

²² *Rollo*, pp. 272-301.

²³ *Merciales v. CA*, 429 Phil. 70, 79 (2002).

jurisdiction; (b) where the questions raised in the *certiorari* proceedings have been duly raised and passed upon by the lower court, or are the same as those raised and passed upon in the lower court; (c) where there is an urgent necessity for the resolution of the question and any further delay would prejudice the interests of the Government or of the petitioner or the subject matter of the action is perishable; (d) where, under the circumstances, a motion for reconsideration would be useless; (e) where petitioner was deprived of due process and there is extreme urgency for relief; (f) where, in a criminal case, relief from an order of arrest is urgent and the granting of such relief by the trial court is improbable; (g) where the proceedings in the lower court are a nullity for lack of due process; (h) where the proceedings were *ex parte* or in which the petitioner had no opportunity to object; and (i) where the issue raised is one purely of law or where public interest is involved.²⁴

Here, petitioner's case amply falls within the exception. AAA raises the same questions as those raised and passed upon in the lower court, essentially revolving on the guilt of the private respondents. There is also an urgent necessity to resolve the issues, for any further delay would prejudice the interests, not only of the petitioner, but likewise that of the Government. And, as will soon be discussed, the CA decision is a patent nullity for lack of due process and for having been rendered with grave abuse of discretion amounting to lack of jurisdiction.

For the writ of *certiorari* to issue, the respondent court must be shown to have acted with grave abuse of discretion amounting to lack or excess of jurisdiction. An acquittal is considered tainted with grave abuse of discretion when it is shown that the prosecution's right to due process was violated or that the trial conducted was a sham. The burden is on the petitioner to clearly demonstrate and establish that the respondent court blatantly abused its authority such as to deprive itself of its very power to dispense justice.²⁵

AAA claims in her petition that the CA, in evident display of grave abuse of judicial discretion, totally disregarded her testimony as well as the trial court's findings of fact, thereby adopting hook, line, and sinker, the private respondents' narration of facts.

The term "grave abuse of discretion" has a specific meaning. An act of a court or tribunal can only be considered as with grave abuse of discretion when such act is done in a capricious or whimsical exercise of judgment as is equivalent to lack of jurisdiction. It must be so patent and gross as to amount to an evasion of a positive duty or to a virtual refusal to

²⁴ *Republic v. Bayao*, G.R. No. 179492, June 5, 2013, 697 SCRA 313, 323.

²⁵ *People v. CA*, G.R. No. 198589, July 25, 2012.

perform a duty enjoined by law, or to act at all in contemplation of law, as where the power is exercised in an arbitrary and despotic manner by reason of passion and hostility.²⁶ There is grave abuse of discretion when the disputed act of the lower court goes beyond the limits of discretion thus effecting an injustice.²⁷

The Court finds that the petitioner has sufficiently discharged the burden of proving that the respondent appellate court committed grave abuse of discretion in acquitting private respondents.

It appears that in reaching its judgment, the CA merely relied on the evidence presented by the defense and utterly disregarded that of the prosecution. At first, it may seem that its narration of the facts²⁸ of the case was meticulously culled from the evidence of both parties. But a more careful perusal will reveal that it was simply lifted, if not altogether parroted, from the testimonies of the accused, especially that of Oporto,²⁹ Carampatana,³⁰ and Alquizola,³¹ the accused-appellants in the case before it. The appellate court merely echoed the private respondents' testimonies, particularly those as to the specific events that transpired during the crucial period - from the dinner at Gemeno's house to the following morning at the Alquizola Lodging House. As a result, it presented the private respondents' account and allegations as though these were the established facts of the case, which it later conveniently utilized to support its ruling of acquittal.

Due process requires that, in reaching a decision, a tribunal must consider the entire evidence presented, regardless of the party who offered the same.³² It simply cannot acknowledge that of one party and turn a blind eye to that of the other. It cannot appreciate one party's cause and brush the other aside. This rule becomes particularly significant in this case because the parties tendered contradicting versions of the incident. The victim is crying rape but the accused are saying it was a consensual sexual rendezvous. Thus, the CA's blatant disregard of material prosecution evidence and outward bias in favor of that of the defense constitutes grave abuse of discretion resulting in violation of petitioner's right to due process.³³

²⁶ *Yu v. Reyes Carpio*, G.R. No. 189207, June 15, 2011, 652 SCRA 341, 348.

²⁷ Dissenting Opinion of then Associate Justice Claudio Teehankee in *Chemplex (Phils.), Inc. v. Hon. Pamatian*, 156 Phil. 408, 457 (1974).

²⁸ *Rollo*, pp. 72-78.

²⁹ *Id.* at 38-41.

³⁰ *Id.* at 46-48.

³¹ *Id.* at 42-43.

³² *Equitable PCIBank v. Caguioa*, 504 Phil. 242, 249 (2005).

³³ *Id.*

Moreover, the CA likewise easily swept under the rug the observations of the RTC and made its own flimsy findings to justify its decision of acquittal.

First, the appellate court held that AAA was, in fact, conscious during the whole ordeal. The fact that she never showed any physical resistance, never cried out for help, and never fought against the private respondents, bolsters the claim of the latter that the sexual acts were indeed consensual.

But the CA seemed to forget that AAA was heavily intoxicated at the time of the assault. Article 266-A of the Revised Penal Code (*RPC*) provides:

Art. 266-A. *Rape, When and How Committed.* – *Rape is committed*–

1. By a man who shall have carnal knowledge of a woman under any of the following circumstances:

- a. Through force, threat or intimidation;
- 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.

Under the aforecited provision, the elements of rape are: (1) the offender had carnal knowledge of the victim; and (2) such act was accomplished through force or intimidation; or when the victim is deprived of reason or otherwise unconscious; or when the victim is under twelve years of age.³⁴ Here, the accused intentionally made AAA consume hard liquor more than she could handle. They still forced her to drink even when she was already obviously inebriated. They never denied having sexual intercourse with AAA, but the latter was clearly deprived of reason or unconscious at the time the private respondents ravished her. The CA, however, readily concluded that she agreed to the sexual act simply because she did not shout or offer any physical resistance, disregarding her testimony that she was rendered weak and dizzy by intoxication, thereby facilitating the commission of the crime.³⁵ The appellate court never provided any reason why AAA's testimony should deserve scant or no weight at all, or why it cannot be accorded any credence. In reviewing rape cases, the lone testimony of the victim is and should be, by itself, sufficient to warrant a judgment of conviction if found to be credible. Also, it has been established

³⁴ *People v. Padigos*, G.R. No. 181202, December 5, 2012, 687 SCRA 245, 255.

³⁵ *People v. Hon. Cabral*, 362 Phil. 697, 712 (1999).

that when a woman declares that she has been raped, she says in effect all that is necessary to mean that she has been raped, and where her testimony passes the test of credibility, the accused can be convicted on that basis alone. This is because from the nature of the offense, the sole evidence that can usually be offered to establish the guilt of the accused is the complainant's testimony itself.³⁶ The trial court correctly ruled that if AAA was not truthful to her accusation, she would not have opened herself to the rough and tumble of a public trial. AAA was certainly not enjoying the prying eyes of those who were listening as she narrated her harrowing experience.³⁷

AAA positively identified the private respondents as the ones who violated her. She tried to resist, but because of the presence of alcohol, her assaulters still prevailed. The RTC found AAA's testimony simple and candid, indicating that she was telling the truth. The trial court likewise observed that her answers to the lengthy and humiliating questions were simple and straightforward, negating the possibility of a rehearsed testimony.³⁸ Thus:

Atty. Jesus M. Generalao (on direct):

x x x x

Q: Now, you said also when the Court asked you that you went asleep, when did you regain your consciousness?

A: They woke me up and wanted me to drink the remaining wine inside the bottle of Emperor Brandy.

x x x x

Q: What do you mean that they hide you (*sic*) to drink the remaining contained (*sic*) of the bottle of Emperor Brandy?

A: They gave me the bottle, sir, and I was trying to refuse but they insisted.

Q: Who handed over to you that bottle, if you can remember?

A: It was Christian John Lim, sir.

Q: Did you drink that Emperor directly from the bottle?

A: Yes, sir.

Q: What happened after that?

A: I fell asleep again, sir.

Q: When did you regain your consciousness?

A: When somebody was carrying me down to the spiral stairs.

³⁶ *People v. Rivera*, 414 Phil. 430, 453 (2001).

³⁷ *Rollo*, p. 55.

³⁸ *Id.*

Q: Can you remember the person or persons who was or who were carrying you?

A: Yes, sir.

Q: Who?

A: They were Jansen Roda and Harold Batoctoy.

Q: If you can still remember, how did Jansen Roda and Harold Batoctoy carry you?

A: I placed my hands to their shoulder (*sic*), sir:

x x x x

Q: After that, what happened, if any?

A: I was already asleep, sir, when we went downstairs.

Q: You mean to say that you cannot remember anymore?

A: Yes, sir.

Q: Now, when again did you regain your consciousness?

A: When we entered the room and the light was switch (*sic*) on, I was awakened by the flash of light.

Q: Do you have any idea, where were you when you were awakened that (*sic*) flash of light.

A: Yes, sir.

Q: Where?

A: Alquizola Lodging House, sir.

x x x x

Q: When you regained your consciousness from the flash of light, what happened?

A: I loss (*sic*) my consciousness again, sir.

Q: So, you fell asleep again?

A: Yes, sir.

x x x x

Q: When did you wake-up (*sic*) again?

A: When I feel (*sic*) heavy on top of me, sir.

Q: So you wake-up (*sic*) again, whom did you see?

A: It was Joefhel Oporto, sir.

Q: He was on top of you?

A: Yes, sir. (Witness is crying while answering)

Q: What was you (*sic*) reaction when you found that Joefhel Oporto was on top of you?

A: I was starting to cry, sir.

Q: Aside from starting to cry, what else is (*sic*) your reaction?

A: I was saying don't because I feel pain my private organ (*sic*).

Q: What did Joeffel Oporto do, when you (*sic*) those words?

A: He was kissing on the different part (*sic*) of my body then he sexually abused me.

ATTY. GENERALAO: We want to make it on record, Your Honor, that the witness is crying.

x x x x

ATTY. GENERALAO: May I continue, Your Honor.

COURT: Continue.

ATTY. GENERALAO: Aside from Joeffel Oporto was found (*sic*) on top of you, who else was there inside that room?

A: Moises Alquizola and Raymund Carampatana, sir.

Q: With respect to Raymund Carampatana, what was he doing?

A: He was at my feet while looking at us.

Q: Was it dress (*sic*) up or undressed?

A: Dressed up, sir.

Q: What about Moises Alquizola, what was he doing?

A: He was beside us standing and looking at me, sir.

Q: Was he dressed up or undressed?

A: I could not remember, sir.

x x x x

Q: After that, what happened?

A: I went asleep again, sir.

Q: Then, when again did you or when again did you wake up?

A: When I feel (*sic*) pain something inside my private part (*sic*), I saw Raymund Carampatana, sir.

Q: On top of you?

A: No, sir, because he was in between my legs, sir.

Q: What was your reaction?

A: I was starting to cry again, sir, and told him don't.

Q: At that point, who else was inside that room when you found Raymund Carampatana?

A: Only the three of them, sir.

Q: Including Moises Alquizola?

A: Yes, sir.

Q: What was he doing?

A: He was started (*sic*) to kiss me.

Q: Where in particular?

A: In my face, sir.

Q: Then after that, what happened?

A: I fell asleep again, sir.

Q: Now, before you went asleep again (*sic*), what did you feel when you said that you feel (*sic*) something in your private part when you saw Raymund Carampatana?

A: He inserted his penis in my private organ, sir.

Q: Then after that you fell asleep again?

A: Yes, sir.

Q: When did you wake-up (*sic*)?

A: I woke up at about 7:00 o'clock a.m in the next (*sic*) day, sir.³⁹

On the other hand, the RTC was not convinced with the explanation of the defense. It noted that their account of the events was seemingly unusual and incredible.⁴⁰ Besides, the defense of consensual copulation was belatedly invoked and seemed to have been a last ditch effort to avoid culpability. The accused never mentioned about the same at the pre-trial stage. The trial court only came to know about it when it was their turn to take the witness stand, catching the court by surprise.⁴¹ More importantly, it must be emphasized that when the accused in a rape case claims that the sexual intercourse between him and the complainant was consensual, as in this case, the burden of evidence shifts to him, such that he is now enjoined to adduce sufficient evidence to prove the relationship. Being an affirmative defense that needs convincing proof, it must be established with sufficient evidence that the intercourse was indeed consensual.⁴² Generally, the burden of proof is upon the prosecution to establish each and every element of the crime and that it is the accused who is responsible for its commission. This is because in criminal cases, conviction must rest on a moral certainty of guilt.⁴³ Burden of evidence is that logical necessity which rests on a party at any particular time during the trial to create a *prima facie* case in his favor or to overthrow one when created against him. A *prima facie* case arises when the party having the burden of proof has produced evidence sufficient to support a finding and adjudication for him of the issue in litigation.⁴⁴ However, when the accused alleges consensual sexual congress, he needs convincing proof such as love notes, mementos, and credible witnesses attesting to the romantic or sexual relationship between the offender and his supposed victim. Having admitted to carnal knowledge of the complainant, the burden now shifts to the accused to prove his defense by substantial evidence.⁴⁵

³⁹ Rollo, pp. 49-53.

⁴⁰ *Id.* at 58-59.

⁴¹ *Id.* at 57-58.

⁴² *People v. Alcober*, G.R. No. 192941, November 13, 2013, 709 SCRA 479, 488.

⁴³ *Timbal v. CA*, 423 Phil. 617, 623 (2001).

⁴⁴ *People v. Mirandilla*, G.R. No. 186417, July 27, 2011, 654 SCRA 761, 772.

⁴⁵ *People v. Mantis*, 477 Phil. 275, 287 (2004).

Here, the accused themselves admitted to having carnal knowledge of AAA but unfortunately failed to discharge the burden required of them. Carampatana narrated that upon reaching the room at the lodging house, AAA lay down on the bed and looked at him. He then approached her and they kissed. He removed her shirt and brassiere. Thereafter, Oporto also removed AAA's lower garments and then went to kiss AAA. Carampatana then placed himself in between AAA's legs and had intercourse with her.⁴⁶ On the other hand, Oporto himself testified that he had sexual intercourse with AAA three times. While Carampatana was removing AAA's shirt and brassiere, Oporto was watching at the foot of the bed. Then he removed her pants and underwear, and AAA even lifted her buttocks to make it easier for him to pull the clothes down. When Carampatana left after having sexual intercourse with AAA, according to Oporto, he then stood up, opened his pants, and took out his penis so that AAA could perform *fellatio* on him. Then he proceeded to have sexual intercourse with AAA. Afterwards, Oporto went outside and slept with Alquizola on the carpet. After a few minutes, he woke up and went back to the room and again had intercourse with AAA. He went back to sleep and after some time, he woke up to the sound of AAA vomiting. Shortly thereafter, he made love with AAA for the third and last time.⁴⁷ Despite said shameless admission, however, the accused failed to sufficiently prove that the lack of any physical resistance on AAA's part amounts to approval or permission. They failed to show that AAA had sexual intercourse with them out of her own volition, and not simply because she was seriously intoxicated at that time, and therefore could not have given a valid and intelligent consent to the sexual act.

The RTC also noticed that Fiel, one of the defense witnesses, was showy and exaggerated when testifying, even flashing a thumbs-up to some of the accused after her testimony, an indication of a rehearsed witness.⁴⁸ To be believed, the testimony must not only proceed from the mouth of a credible witness; it must be credible in itself such as the common experience and observation of mankind can approve as probable under the attending circumstances.⁴⁹

When it comes to credibility, the trial court's assessment deserves great weight, and is even conclusive and binding, if not tainted with arbitrariness or oversight of some fact or circumstance of weight and influence. The reason is obvious. Having the full opportunity to observe directly the witnesses' deportment and manner of testifying, the trial court is in a better position than the appellate court to properly evaluate testimonial evidence.⁵⁰ Matters of credibility are addressed basically to the trial judge who is in a better position than the appellate court to appreciate the weight

⁴⁶ *Rollo*, p. 48.

⁴⁷ *Id.* at 40-41.

⁴⁸ *Id.* at 60.

⁴⁹ *People v. Dejillo*, G.R. No. 185005, December 10, 2012, 687 SCRA 537, 553.

⁵⁰ *People v. Apattad*, G.R. No. 193188, August 10, 2011, 655 SCRA 335, 349.

and evidentiary value of the testimonies of witnesses who have personally appeared before him.⁵¹ The appellate courts are far detached from the details and drama during trial and have to rely solely on the records of the case in its review. On the matter of credence and credibility of witnesses, therefore, the Court acknowledges said limitations and recognizes the advantage of the trial court whose findings must be given due deference.⁵² Since the CA and the private respondents failed to show any palpable error, arbitrariness, or capriciousness on the findings of fact of the trial court, these findings deserve great weight and are deemed conclusive and binding.⁵³

The CA continued, belaboring on the fact that the examining physician found old hymenal laceration on AAA's private organ. The lack of a fresh hymenal laceration, which is expected to be present when the alleged sexual encounter is involuntary, could mean that AAA actually consented to the fornication. According to Dr. Acusta, when sex is consensual, the vagina becomes lubricated and the insertion of the penis will not cause any laceration. It presumed that complainant, therefore, was no longer innocent considering the presence of old hymenal laceration that could have resulted from her previous sexual encounters. The defense, however, failed to show that AAA was sexually promiscuous and known for organizing or even joining sex orgies. It must be noted that AAA was a minor, barely 17 years old at the time of the incident, having just graduated from high school on that same day. In a similar case,⁵⁴ the Court held:

x x x Indeed, **no woman would have consented to have sexual intercourse with two men — or three**, according to Antonio Gallardo — **in the presence of each other, unless she were a prostitute or as morally debased as one**. Certainly, the record before Us contains no indication that Farmacita, a 14-year old, first-year high school student, can be so characterized. On the contrary, her testimony in court evinced the simplicity and candor peculiar to her youth. In fact, appellants could not even suggest any reason why Farmacita would falsely impute to them the commission of the crime charged.⁵⁵

No woman, especially one of tender age, would concoct a story of defloration, allow an examination of her private parts, and be subjected to public trial and humiliation if her claim were not true.⁵⁶ And even if she were indeed highly promiscuous at such a young age, the same could still not prove that no rape was actually committed. Even a complainant who was a woman of loose morals could still be the victim of rape. Even a prostitute may be a victim of rape. The victim's moral character in rape is immaterial where, as in this case, it is shown that the victim was deprived of

⁵¹ *Valbueco, Inc. v. Province of Bataan*, G.R. No. 173829, June 10, 2013, 698 SCRA 57, 77.

⁵² *People v. Vergara*, G.R. No. 177763, July 3, 2013, 700 SCRA 412, 421.

⁵³ *People v. Apattad*, *supra* note 50, at 350.

⁵⁴ *People v. Soriano*, 146 Phil. 585 (1970).

⁵⁵ *Id.* at 589. (Emphasis ours)

⁵⁶ *People v. Zabala*, 456 Phil. 237, 243.

reason or was rendered unconscious through intoxication to enable the private respondents to have sex with her. Moreover, the essence of rape is the carnal knowledge of a woman against her consent.⁵⁷ A freshly broken hymen is not one of its essential elements. Even if the hymen of the victim was still intact, the possibility of rape cannot be ruled out. Penetration of the penis by entry into the lips of the vagina, even without rupture or laceration of the hymen, is enough to justify a conviction for rape. To repeat, rupture of the hymen or laceration of any part of the woman's genitalia is not indispensable to a conviction for rape.⁵⁸

Neither does AAA's mother's act of hitting her after learning about the rape prove anything. It is a truism that "the workings of the human mind when placed under emotional stress are unpredictable, and the people react differently."⁵⁹ Different people react differently to a given type of situation, and there is no standard form of behavioral response when one is confronted with a strange, startling or frightful experience.⁶⁰ At most, it merely indicates the frustration and dismay of a mother upon learning that her daughter had been defiled after partying late the night before. It is a settled rule that when there is no showing that private complainant was impelled by improper motive in making the accusation against the accused, her complaint is entitled to full faith and credence.⁶¹ So if AAA in fact consented to the sexual act, why did she still need to immediately tell her parents about it when she could have just kept it to herself? Why did she ever have to shout rape? She was not caught in the act of making love with any of the private respondents,⁶² nor was she shown to have been in a relationship with any of them of which her family disapproved.⁶³ She never became pregnant as a result of the deed. And if AAA cried rape to save her reputation, why would she have to drag the private respondents into the case and identify them as her rapists? Absent any circumstance indicating the contrary, she brought the charge against the private respondents simply because she was, in fact, violated and she wants to obtain justice. Her zeal in prosecuting the case, even after the CA had already acquitted the private respondents, evinces the truth that she merely seeks justice for her honor that has been debased.⁶⁴ Unfortunately, the CA chose to ignore these telling pieces of evidence. Its findings are against the logic and effect of the facts as presented by AAA in support of her complaint,⁶⁵ contrary to common human experience, and in utter disregard of the relevant laws and jurisprudence on the crime of rape.

⁵⁷ *People v. Baluya*, 430 Phil. 349, 363 (2002).

⁵⁸ *People v. Dimacuha*, 467 Phil. 342, 350 (2004).

⁵⁹ *People v. Buenviaje*, 408 Philo. 342, 346 (2001).

⁶⁰ *People v. Jorolan*, 452 Phil. 698, 714 (2003).

⁶¹ *People v. Balya*, *supra* note 57.

⁶² *People v. Singson*, G.R. No. 194719, September 21, 2011, 658 SCRA 185, 192.

⁶³ *People v. Ramos*, 467 Phil 376, 389 (2004).

⁶⁴ *People v. Baluya*, *supra* note 57, at 364.

⁶⁵ *Chempex (Phils.), Inc. v. Hon. Pamatian*, *supra* note 27.

Lastly, the trial court pronounced that Alquizola was not part of the conspiracy because his participation in the crime was uncertain,⁶⁶ citing *People v. Lobrigo*.⁶⁷ It found that his participation was not in furtherance of the plan, if any, to commit the crime of rape.⁶⁸ The Court, however, finds that the RTC erred in ruling that Alquizola's liability is not of a conspirator, but that of a mere accomplice. To establish conspiracy, it is not essential that there be proof as to previous agreement to commit a crime, it being sufficient that the malefactors shall have acted in concert pursuant to the same objective. Conspiracy is proved if there is convincing evidence to sustain a finding that the malefactors committed an offense in furtherance of a common objective pursued in concert.⁶⁹ Proof of conspiracy need not even rest on direct evidence, as the same may be inferred from the collective conduct of the parties before, during or after the commission of the crime indicating a common understanding among them with respect to the commission of the offense.⁷⁰

In *Lobrigo*, the Court declared:

We note that the testimonies of witnesses with respect to Gregorio's and Dominador's participation in the crime conflict on material points.

Doubt exists as to whether Gregorio and Dominador were carrying weapons during the mauling and whether they participated in the mauling by more than just boxing the victim. **Noel stated that they did not, Domingo stated that they did.**

In conspiracy, evidence as to who administered the fatal blow is not necessary. In this case, the rule is not applicable because conspiracy with respect to Gregorio and Dominador is not proven. Their exact participation in the crime is uncertain.⁷¹ (Emphasis Supplied)

In *People v. Dela Torre*,⁷² the Court upheld the findings of the lower courts that there was conspiracy:

The RTC held that:

While [it] is true that it was only Leo Amoroso who actually ravished the victim based on the testimony of the private complainant that Amoroso succeeded in inserting his penis to her private parts and that Reynaldo dela Torre and Ritchie Bisaya **merely kissed her and fondled her private parts**, accused [D]ela Torre can likewise be held liable for the bestial acts

⁶⁶ *Rollo*, p. 63.

⁶⁷ 410 Phil. 283, 291 (2001).

⁶⁸ *Rollo*, p. 62.

⁶⁹ *People v. Peralta*, 134 Phil. 703, 722-723 (1968).

⁷⁰ *People v. Gambao*, G.R. No. 172707, October 1, 2013, 706 SCRA 508, 527.

⁷¹ *People v. Jabonera*, *supra* note 67. (Emphasis ours)

⁷² 588 Phil. 937 (2008).

of Amoroso as it is quite apparent that the three of them conspired and mutually helped one another in raping the young victim.

The Court of Appeals held that:

[W]hile [Dela Torre] did not have carnal knowledge with [AAA], his tacit and spontaneous participation and cooperation of pulling her towards the parked jeep, molesting her and doing nothing to prevent the commission of the rape, made him a co-conspirator. As such, he was properly adjudged as a principal in the commission of the crime.⁷³

Here, unlike in the foregoing case of *Lobrigo*, Alquizola’s participation in the crime is not at all uncertain. As the caretaker of the Alquizola Lodging House, he provided a room so the rape could be accomplished with ease and furtiveness. He was likewise inside the room, intently watching, while Oporto and Carampatana sexually abused AAA. He did not do anything to stop the bestial acts of his companions. He even admitted to kissing AAA’s lips, breasts, and other parts of her body. Indubitably, there was conspiracy among Carampatana, Oporto, and Alquizola to sexually abuse AAA. Hence, the act of any one was the act of all, and each of them, Alquizola including, is equally guilty of the crime of rape. While it is true that the RTC found Alquizola guilty as mere accomplice, when he appealed from the decision of the trial court,⁷⁴ he waived the constitutional safeguard against double jeopardy and threw the whole case open to the review of the appellate court, which is then called upon to render such judgment as law and justice dictate, whether favorable or unfavorable to the accused-appellant.⁷⁵

Finally, the Court notes that although the prosecution filed only a single Information, it, however, actually charged the accused of several rapes. As a general rule, a complaint or information must charge only one offense, otherwise, the same is defective.⁷⁶ The rationale behind this rule prohibiting duplicitous complaints or informations is to give the accused the necessary knowledge of the charge against him and enable him to sufficiently prepare for his defense. The State should not heap upon the accused two or more charges which might confuse him in his defense.⁷⁷ Non-compliance with this rule is a ground⁷⁸ for quashing the duplicitous complaint or information under Rule 117 of the Rules on Criminal Procedure and the accused may raise the same in a motion to quash before

⁷³ *People v. Dela Torre, supra*, at 943. (Citations omitted)
⁷⁴ *Rollo*, p. 81.
⁷⁵ *Supra* note 44.
⁷⁶ Revised Rules of Criminal Procedure, Rule 110, Section 13.
⁷⁷ *Supra* note 15, at 90.
⁷⁸ **Section 3. Grounds.** — The accused may move to quash the complaint or information on any of the following grounds:
x x x x
(f) That more than one offense is charged except when a single punishment for various offenses is prescribed by law;
x x x x

he enters his plea,⁷⁹ otherwise, the defect is deemed waived.⁸⁰ The accused herein, however, cannot avail of this defense simply because they did not file a motion to quash questioning the validity of the Information during their arraignment. Thus, they are deemed to have waived their right to question the same. Also, where the allegations of the acts imputed to the accused are merely different counts specifying the acts of perpetration of the same crime, as in the instant case, there is no duplicity to speak of.⁸¹ There is likewise no violation of the right of the accused to be informed of the charges against them because the Information, in fact, stated that they “took turns in having carnal knowledge against the will of AAA” on March 25, 2004.⁸² Further, allegations made and the evidence presented to support the same reveal that AAA was indeed raped and defiled several times. Here, according to the accused themselves, after undressing AAA, Carampatana positioned himself in between her legs and had intercourse with her. On the other hand, Oporto admitted that he had sexual intercourse with AAA three times. When two or more offenses are charged in a single complaint or information but the accused fails to object to it before trial, the court may convict him of as many offenses as are charged and proved, and impose upon him the proper penalty for each offense.⁸³ Carampatana, Oporto, and Alquizola can then be held liable for more than one crime of rape, or a total of four (4) counts in all, with conspiracy extant among the three of them during the commission of each of the four violations. Each of the accused shall thus be held liable for every act of rape committed by the other. But while Oporto himself testified that he inserted his sexual organ into AAA’s mouth, the Court cannot convict him of rape through sexual assault therefor because the same was not included in the Information. This is, however, without prejudice to the filing of a case of rape through sexual assault as long as prescription has not yet set in.

Anent the appropriate penalty to be imposed, rape committed by two or more persons is punishable by *reclusion perpetua* to death under Article 266-B of the RPC. But in view of the presence of the mitigating circumstance of voluntary surrender and the absence of an aggravating circumstance to offset the same, the lighter penalty of *reclusion perpetua* shall be imposed upon them,⁸⁴ for each count. With regard to Oporto, appreciating in his favor the privileged mitigating circumstance of minority, the proper imposable penalty upon him is *reclusion temporal*, being the penalty next lower to *reclusion perpetua* to death. Being a divisible penalty, the Indeterminate Sentence Law is applicable. Applying the Indeterminate Sentence Law, Oporto can be sentenced to an indeterminate penalty the

⁷⁹ **Section 1. Time to move to quash.** — At any time before entering his plea, the accused may move to quash the complaint or information.

⁸⁰ *People v. Lucena*, 408 Phil. 172, 191 (2001).

⁸¹ *Supra* note 15, at 91; citing Regalado, Remedial Law Compendium, Vol. 2, 9th ed., p. 271.

⁸² *Supra* note 4.

⁸³ Revised Rules of Criminal Procedure, Rule 120, Section 3.

⁸⁴ Revised Penal Code, Art. 63, par. 3.

minimum of which shall be within the range of *prision mayor* (the penalty next lower in degree to *reclusion temporal*) and the maximum of which shall be within the range of *reclusion temporal* in its minimum period, there being the ordinary mitigating circumstance of voluntary surrender, and there being no aggravating circumstance.⁸⁵ With that, the Court shall impose the indeterminate penalty of imprisonment from six (6) years and one (1) day of *prision mayor* as minimum to twelve (12) years and one (1) day of *reclusion temporal* as maximum, for each count of rape committed.⁸⁶ However, Oporto shall be entitled to appropriate disposition under Section 51, R.A. No. 9344,⁸⁷ which extends even to one who has exceeded the age limit of twenty-one (21) years, so long as he committed the crime when he was still a child,⁸⁸ and provides for the confinement of convicted children as follows:⁸⁹

Sec. 51. Confinement of Convicted Children in Agricultural Camps and Other Training Facilities. – A child in conflict with the law may, after conviction and upon order of the court, be made to serve his/her sentence, in lieu of confinement in a regular penal institution, in an agricultural camp and other training facilities that may be established, maintained, supervised and controlled by the BUCOR, in coordination with the DSWD.

Hence, in the proper execution of judgment by the lower court, the foregoing provision should be taken into consideration by the judge in order to accord children in conflict with the law, who have already gone beyond twenty-one (21) years of age, the proper treatment envisioned by law.

As to their civil liability, all of them shall pay AAA the amount of ₱50,000.00 as civil indemnity and another ₱50,000.00 as moral damages, in each case. Exemplary damages of ₱30,000.00 shall likewise be imposed by way of an example and to deter others from committing the same bestial acts.

WHEREFORE, PREMISES CONSIDERED, the petition is **GRANTED**. The assailed Decision dated June 6, 2008 of the Court of Appeals in CA-G.R. CR HC No. 00422-MIN is **REVERSED AND SET ASIDE**. The Court hereby renders judgment:

a) Finding accused-respondent Raymund Carampatana **GUILTY** beyond reasonable doubt of four (4) counts of

⁸⁵ Revised Penal Code, Art. 64 (2).

⁸⁶ *People v. Monticalvo*, G.R. No. 193507, January 30, 2013.

⁸⁷ Entitled *AN ACT ESTABLISHING A COMPREHENSIVE JUVENILE JUSTICE AND WELFARE SYSTEM, CREATING THE JUVENILE JUSTICE AND WELFARE COUNCIL UNDER THE DEPARTMENT OF JUSTICE, APPROPRIATING FUNDS THEREFOR AND FOR OTHER PURPOSES*.

⁸⁸ *People v. Jacinto*, G.R. No. 182239, March 16, 2011.

⁸⁹ *People v. Sarcia*, G.R. No. 169641, September 10, 2009.


rape, and the Court hereby sentences him to suffer the penalty of *reclusion perpetua* in each case;

- b) Finding accused-respondent Joeffel Oporto **GUILTY** beyond reasonable doubt of four (4) counts of rape, and the Court hereby sentences him to suffer the indeterminate penalty of imprisonment from six (6) years and one (1) day of *prision mayor* as minimum to twelve (12) years and one (1) day of *reclusion temporal* as maximum, in each case; and
- c) Finding accused-respondent Moises Alquizola **GUILTY** beyond reasonable doubt of four (4) counts of rape, and the Court hereby sentences him to suffer the penalty of *reclusion perpetua* in each case.


The Court hereby **ORDERS** the accused-respondents to pay AAA, jointly and severally, the amounts of ₱50,000.00 as civil indemnity, ₱50,000.00 as moral damages, and ₱30,000.00 as exemplary damages, for each of the four (4) counts of rape. The case is **REMANDED** to the court of origin for its appropriate action in accordance with Section 51 of Republic Act No. 9344.

Let the records of this case be forwarded to the court of origin for the execution of judgment.

SO ORDERED.



DIOSDADO M. PERALTA
Associate Justice

WE CONCUR:


PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson



MARIANO C. DEL CASTILLO
Associate Justice


MARTIN S. VILLARAMA, JR.
Associate Justice


BIENVENIDO L. REYES
Associate Justice


ATTESTATION

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


PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson, Third Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


MARIA LOURDES P. A. SERENO
Chief Justice