



**Republic of the Philippines
Supreme Court
Manila**

FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 201447

Present:

- *versus* -

SERENO, *CJ.*,
Chairperson,
LEONARDO-DE CASTRO,
BERSAMIN,
VILLARAMA, JR., and
REYES, *JJ.*

ANASTACIO AMISTOSO y
BROCA,
Accused-Appellant.

Promulgated:

JAN 09 2013

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DECISION

LEONARDO-DE CASTRO, J.:

Before the Court is the appeal of accused-appellant Anastacio Amistoso y Broca (Amistoso) of the Decision¹ dated August 25, 2011 of the Court of Appeals in CA-G.R. CR.-H.C. No. 04012, affirming with modification the Decision² dated March 23, 2006 of the Regional Trial Court (RTC) of Masbate City, Branch 48, in Criminal Case No. 10106, which found Amistoso guilty beyond reasonable doubt of the qualified rape

¹ *Rollo*, pp. 2-13; penned by Associate Justice Ramon M. Bato, Jr. with Associate Justices Juan Q. Enriquez, Jr. and Florito S. Macalino, concurring.

² *CA rollo*, 47-51; penned by Judge Jacinta B. Tambago.

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of his daughter AAA.³

Amistoso was charged by the Provincial Prosecutor of Masbate in an Information⁴ dated August 30, 2000,⁵ which reads:

The undersigned 3rd Assistant Provincial Prosecutor upon a sworn complaint filed by private offended party, accuses ANASTACIO AMISTOSO y BROCA, for VIOLATION OF ANTI-RAPE LAW OF 1997 (art. 266-A, par. 1 sub par. (d) committed as follows:

That on or about the 10th day of July 2000, at about 8:00 o'clock in the evening thereof, at x x x Province of Masbate, Philippines and within the jurisdiction of this Honorable Court, the above-named accused with lewd design and with intent to have carnal knowledge with [AAA], a 12-year old girl, did then and there wilfully, unlawfully and feloniously succeed in having carnal knowledge with the victim against her will and without her consent.

With the aggravating circumstance of relationship, accused being the father of the victim.

When arraigned on July 23, 2002, Amistoso pleaded not guilty to the crime charged.⁶

Trial on the merits ensued.

The prosecution presented three witnesses: AAA,⁷ the victim herself; Dr. Ulysses V. Francisco (Francisco),⁸ the Municipal Health Officer who conducted the physical examination of AAA; and Senior Police Officer (SPO) 4 Restituto Lipatan (Lipatan),⁹ the police investigator on duty at the

³ The real name of the victim is withheld to protect her identity and privacy pursuant to Section 29 of Republic Act No. 7610, Section 44 of Republic Act No. 9262, and Section 40 of A.M. No. 04-10-11-SC. See our ruling in *People v. Cabalquinto*, 533 Phil. 703 (2006).

⁴ Records, p. 2.

⁵ The Information is actually dated "August 30, 3000," an obvious typographical error.

⁶ Records, p. 44.

⁷ TSN, September 3, 2003.

⁸ TSN, February 5, 2004.

⁹ TSN, September 16, 2004.

police station on July 13, 2000. The prosecution also submitted as documentary evidence the Complaint¹⁰ dated July 13, 2000 filed by BBB, AAA's mother, against Amistoso; AAA's Affidavit¹¹ dated July 13, 2000; Dr. Francisco's Medico-Legal Report¹² dated July 13, 2000; AAA's Certificate of Live Birth;¹³ AAA's elementary school records;¹⁴ and a photocopy of the page in the Police Blotter containing the entries for July 13, 2000.¹⁵

The evidence for the prosecution presented the following version of events:

AAA was born on June 2, 1988, the second of five children of Amistoso and BBB. Their family lived in a one-room shanty in Masbate. On July 10, 2000, AAA was exactly 12 years, one month, and eight days old.

Prior to July 10, 2000, Amistoso had often scolded AAA, maliciously pinched AAA's thighs, and even whipped AAA. At around 11:00 a.m. of July 10, 2000, Amistoso was again mad at AAA because AAA, then busy cooking rice, refused to go with her father to the forest to get a piece of wood which Amistoso would use as a handle for his bolo. Because of this, a quarrel erupted between Amistoso and BBB. In his fury, Amistoso attempted to hack AAA. BBB ran away with her other children to her mother's house in another *barangay*. AAA though stayed behind because she was afraid that Amistoso would get even madder at her.

¹⁰ Records, p. 4.

¹¹ Id. at 5.

¹² Id. at 56.

¹³ Id. at 95.

¹⁴ Id. at 52.

¹⁵ Id. at 77.

On the night of July 10, 2000, AAA had fallen asleep while Amistoso was eating. AAA was awakened at around 8:00 p.m. when Amistoso, already naked, mounted her. Amistoso reached under AAA's skirt and removed her panties. AAA shouted, "Pa, *ayaw man!*" (Pa, please don't!), but Amistoso merely covered AAA's mouth with one hand. Amistoso then inserted his penis inside AAA's vagina. The pain AAA felt made her cry. After he had ejaculated, Amistoso stood up. AAA noticed white substance and blood coming from her vagina. Amistoso told AAA not to tell anyone what happened between them, otherwise, he would kill her.

The following day, July 11, 2000, AAA left their residence without Amistoso's consent to hide at the house of a certain Julie, a recruiter. AAA narrated to Julie her ordeal in Amistoso's hands. BBB subsequently found AAA at Julie's house. On July 13, 2000, AAA told BBB what Amistoso did to her. BBB brought AAA to the Department of Social Welfare and Development (DSWD), which in turn, brought AAA to Dr. Francisco for physical examination.

Thereafter, BBB and AAA went to the police for the execution of AAA's Affidavit and the filing of BBB's Complaint against Amistoso. A Municipal Circuit Trial Court in Masbate, after conducting the necessary preliminary examination, issued an Order of Arrest against Amistoso on July 13, 2000. Amistoso was arrested the same day and the fact thereof was entered in the Police Blotter by SPO4 Lipatan.

Dr. Francisco's findings in his Medico-Legal Report dated July 13, 2000 were as follows:

Hymen: Old hymenal lacerations noted at 7 and 3 o'clock corresponding to the face of the clock.

Vaginal canal: Showed less degree of resistance and admits about two of the examiner[']s fingers.

REMARKS:

Physical Virginity has been lost to [AAA]¹⁶

Dr. Francisco explained on the witness stand that the cause of AAA's hymenal lacerations was the penetration of a blunt object, which could be a penis. He also opined that a hymenal laceration, just like any wound, would take at least a week to heal. Upon further questioning, he answered that "[i]n minimum it would heal in one week time except when there is no infection."¹⁷

The lone evidence for the defense was Amistoso's testimony.¹⁸

Amistoso recounted that on July 10, 2000, he was working, unloading diesel and kerosene, at his employer's warehouse. After finishing his work at around 8:00 p.m., Amistoso had dinner at his employer's place before going home. The distance between his employer's warehouse and his house was about a kilometer, a 10-minute hike away.

When Amistoso arrived home, he found the door and the windows to the house tied shut. The house was primarily made of nipa with bamboo flooring. It was raised a foot from the ground. Amistoso's children were inside the house with BBB and an unknown man. Although he could not see inside the house, Amistoso heard BBB and the man talking. Amistoso suspected that BBB and the man were having sexual intercourse because they did not open the door when Amistoso called out. Amistoso was told to wait so he did wait outside the house for 15 minutes. Meanwhile, BBB and the man made a hole in the floor of the house from where they slipped out,

¹⁶ Id. at 56.

¹⁷ TSN, February 5, 2004, p. 10.

¹⁸ TSN, September 20, 2005.

crawled under the house, and fled.

Amistoso said the children had been sleeping inside the house, but BBB woke the children up. When BBB and her lover fled, the children were left together. However, Amistoso also said that he slept alone in the house on the night of July 10, 2000.¹⁹

Amistoso did not take any action after catching BBB and her lover. He did not chase after BBB and her lover when the two fled on July 10, 2000; he did not report the incident to the police; and he did not file charges of adultery against BBB in the days after.

Amistoso believed that BBB, afraid she got caught with another man, manipulated AAA to falsely charge Amistoso with rape. Amistoso averred that BBB actually wanted to reconcile with him and apologized to him in May 2001 for what had happened, but he refused.²⁰

On March 23, 2006, the RTC rendered its Decision finding Amistoso guilty of qualified rape, to wit:

In view of the foregoing, this Court is convinced and so holds that the prosecution has proved the guilt of accused Anastacio Amistoso beyond reasonable doubt of qualified rape, punished under Article 266-B, par. 5, sub. Par. 1.

WHEREFORE, accused **ANASTACIO AMISTOSO**, having been convicted of **Qualified Rape**, he is hereby sentenced to the capital penalty of **DEATH**; to pay the victim the sum of Seventy[-]Five Thousand Pesos (PhP75,000.00) as indemnity; to pay the said victim the sum of Fifty Thousand Pesos (PhP50,000.00) as for moral damages, and to pay the costs.²¹

¹⁹ Id. at 10-11.

²⁰ Id. at 12.

²¹ CA *rollo*, p. 51.

On appeal, the Court of Appeals affirmed Amistoso's conviction for qualified rape but modified the penalties imposed. Below is the decretal portion of the Decision dated August 25, 2011 of the appellate court:

WHEREFORE, the appeal is **DISMISSED** and the assailed Decision dated March 23, 2006 of the Regional Trial Court of Masbate City, Branch 48, in Criminal Case No. 10106 is **AFFIRMED WITH MODIFICATION**.

Accused-appellant Anastacio Amistoso is sentenced to suffer the penalty of *reclusion perpetua* without eligibility for parole. In addition to civil indemnity in the amount of ₱75,000.00, he is ordered to pay the victim ₱75,000.00 as moral damages and ₱30,000.00 as exemplary damages.²²

Hence, Amistoso comes before this Court via the instant appeal with a lone assignment of error:

THE TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY OF THE CRIME CHARGED DESPITE THE PROSECUTION'S FAILURE TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.²³

Amistoso argues that the defense of denial and alibi should not be viewed with outright disfavor. Such defense, notwithstanding its inherent weakness, may still be a plausible excuse. Be that as it may, the prosecution cannot profit from the weakness of Amistoso's defense; it must rely on the strength of its own evidence and establish Amistoso's guilt beyond reasonable doubt. Amistoso asserts that the prosecution failed even in this regard.

Amistoso was charged in the Information with statutory rape under Article 266-A, paragraph 1(d) of the Revised Penal Code, as amended. The elements of said crime are: (1) that the accused had carnal knowledge of a

²² Rollo, p. 13.

²³ CA rollo, p. 35.

woman; and (2) that the woman is below 12 years of age or is demented.

According to Amistoso, there is no proof beyond reasonable doubt that he had carnal knowledge of AAA. AAA's claim that Amistoso was able to insert his penis into her vagina on July 10, 2000 was contrary to the physical evidence on record. Dr. Francisco testified that hymenal lacerations would take a minimum of one week to heal; but in his Medico-Legal Report, prepared on July 13, 2000, just three days after AAA's alleged rape, he stated that AAA's hymenal lacerations were already healed. Amistoso also asserts that AAA had ulterior motive to falsely accuse him of rape. AAA admitted that Amistoso had been maltreating her and that she had already developed hatred or ill feeling against Amistoso. Such admission casts doubts on the veracity and credibility of AAA's rape charge and raises the question of whether the act complained of actually occurred.

Amistoso further claims lack of showing that AAA was below 12 years old or demented when she was supposedly raped on July 10, 2000. According to the prosecution's own evidence, AAA was precisely 12 years, one month, and eight days old on July 10, 2000; while the prosecution did not at all present any evidence of AAA's mental condition.

Amistoso's appeal is without merit.

Reproduced hereunder are the pertinent provisions of the Revised Penal Code, as amended:

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.**

X X X X

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

X 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. (Emphases supplied.)

Amistoso was specifically charged in the Information with statutory rape under Article 266-A, paragraph (1)(d) of the Revised Penal Code, as amended. It is undisputed that AAA was over 12 years old on July 10, 2000, thus, Amistoso cannot be convicted of statutory rape. Nonetheless, it does not mean that Amistoso cannot be convicted of rape committed under any of the other circumstances described by Article 266-A, paragraph 1 of the Revised Penal Code, as amended, as long as the facts constituting the same are alleged in the Information and proved during trial. What is controlling in an Information should not be the title of the complaint, nor the designation of the offense charged or the particular law or part thereof allegedly violated, these being, by and large, mere conclusions of law made by the prosecutor, but the description of the crime charged and the

particular facts therein recited.²⁴ In addition, the Information need not use the language of the statute in stating the acts or omissions complained of as constituting the offense. What is required is that the acts or omissions complained of as constituting the offense are stated in ordinary and concise language sufficient to enable a person of common understanding to know the offense charged.²⁵

In this case, a perusal of the Information against Amistoso reveals that the allegations therein actually constitute a criminal charge for qualified rape under Article 266-A, paragraph (1)(a), in relation to Section 266-B, paragraph (1) of the Revised Penal Code, as amended.

The elements of rape under Article 266-A, paragraph (1)(a) of the Revised Penal Code, as amended, are: (1) that the offender had carnal knowledge of a woman; and (2) that such act was accomplished through force, threat, or intimidation.²⁶ But when the offender is the victim's father, there need not be actual force, threat, or intimidation, as the Court expounded in *People v. Fragante*²⁷:

It must be stressed that the gravamen of rape is sexual congress with a woman by force and without consent. In *People v. Orillosa*, we held that actual force or intimidation need not be employed in incestuous rape of a minor because the moral and physical dominion of the father is sufficient to cow the victim into submission to his beastly desires. When a father commits the odious crime of rape against his own daughter, his moral ascendancy or influence over the latter substitutes for violence and intimidation. The absence of violence or offer of resistance would not affect the outcome of the case because the overpowering and overbearing moral influence of the father over his daughter takes the place of violence and offer of resistance required in rape cases committed by an accused who did not have blood relationship with the victim. (Citations omitted.)

²⁴ *People v. Banihit*, 393 Phil. 465, 475-476 (2000).

²⁵ *People v. Cadampog*, G.R. No. 148144, April 30, 2004, 428 SCRA 336, 345.

²⁶ *People v. Atadero*, G.R. No. 183455, October 20, 2010, 634 SCRA 327, 337.

²⁷ G.R. No. 182521, February 9, 2011, 642 SCRA 566, 579-580.

Then to raise the crime of simple rape to qualified rape under Article 266-B, paragraph (1) of the Revised Penal Code, as amended, the twin circumstances of minority of the victim and her relationship to the offender must concur.²⁸

The foregoing elements of qualified rape under Article 266-A, paragraph (1)(a), in relation to Article 266-B, paragraph (1), of the Revised Penal Code, as amended, are sufficiently alleged in the Information against Amistoso, viz: (1) Amistoso succeeded in having carnal knowledge of AAA against her will and without her consent; (2) AAA was 12 years old on the day of the alleged rape; and (3) Amistoso is AAA's father.

Amistoso cannot claim that he had been deprived of due process in any way. He adequately understood from the Information that he was being charged with the rape of his own daughter AAA to which he proffered the defense of denial and alibi, totally refuting the fact of AAA's rape regardless of how it was purportedly committed.

Now as to the truth of the charge in the Information, the RTC found, and the Court of Appeals affirmed, that the prosecution was able to prove beyond reasonable doubt all the elements and circumstances necessary for convicting Amistoso for the qualified rape of AAA. The RTC accorded credence and weight to the testimonies of the prosecution witnesses, especially the victim AAA, and disbelieved the denial and alibi of Amistoso.

In *People v. Aguilar*,²⁹ the Court explained that:

²⁸ *People v. Espino, Jr.*, G.R. No. 176742, June 17, 2008, 554 SCRA 682, 704.
²⁹ G.R. No. 177749, December 17, 2007, 540 SCRA 509, 522-523.

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. (Citations omitted.)

There is no cogent reason herein for the Court to depart from the general rule and reverse any of the factual findings of the RTC, as affirmed by the Court of Appeals.

AAA gave a clear, consistent, and credible account of the events of July 10, 2000, in a straightforward and candid manner:

ASST. PROS. LEGASPI
continuing)

Q Now, remember where you were on July 10, 2000, at about eleven o'clock in the morning?

x x x x

A At our house.

x x x x

Q Do you recall if there was an incident happened on that particular day and time?

x x x x

A My mother and my father have a quarell (sic).

Q Why did they have a quarell (sic)?

x x x x

A My father got mad at me because I refused to go with him to get a piece of wood for a handle of our bolo.

x x x x

Q And what happened after that?

A He attempted to hack me.

Q And what did your mother do?

A She ran away.

x x x x

Q Did she return on that day to your house?

A No, she did not.

Q On July 10, 2000, at around eight o'clock in the evening where were you?

A At our house.

Q And who was with you in your house.

A My father.

Q What were you doing at that time?

A I was sleeping.

Q While you were sleeping, do you recall having been awakened?

A Yes, sir.

Q Why were you awakened?

A Because my father mounted on me.

Q And what did you notice from him when he mounted on you?

A That he was already naked.

Q When he mounted on top of you, what did he do?

A He removed my panty.

COURT
to the witness)

Q What about your clothes?

A No, only my panty.

x x x x

ASST. PROS. LEGASPI
continuing)

Q What did (sic) you wearing at that time?

A A skirt.

x x x x

Q What did you do when he removed your panty?

A I shouted.

COURT
to the witness)

Q What was your shouted (sic) about?

A In order to stop him.

x x x x

ASST. PROS. LEGASPI
continuing)

Q When you shouted “ayaw man”, what did your father do?

A He covered my mouth.

Q After he covered your mouth, what did he do next.

A He inserted his penis into my vagina.

x x x x

Q And what did you feel?

A I felt pain.

Q Because you felt pain, did you cry?

A Yes, sir.

Q What happened after that?

A After that he stood up.

Q Did you feel if there was an ejaculation?

A Yes, there was.

Q Did you notice a white substance in your vagina?

A Yes, sir.

Q After your father had sexual intercourse with you, what did you notice after that?

A There was a blood coming from me.

Q What did your father tell you?

A That I must not tell anybody, otherwise he will kill us.³⁰

AAA's aforequoted testimony already established the elements of rape under Article 266-A, paragraph (1)(a) of the Revised Penal Code, as amended. AAA had positively and categorically testified that Amistoso's penis had entered her vagina, so Amistoso succeeded in having carnal knowledge of AAA. The Court reiterates that in an incestuous rape of a minor, actual force or intimidation need not be employed where the overpowering moral influence of the father would suffice.³¹

That Dr. Francisco, during his physical examination of AAA on July 13, 2000, already found healed lacerations, does not negatively affect AAA's credibility nor disprove her rape. Worth repeating are the following pronouncements of the Court in *People v. Orilla*³²:

³⁰ TSN, September 3, 2003, pp. 12-17.

³¹ *People v. Orillosa*, G.R. Nos. 148716-18, July 7, 2004, 433 SCRA 689, 698.

³² 467 Phil. 253, 274 (2004).

The absence of fresh lacerations in Remilyn's hymen does not prove that appellant did not rape her. A freshly broken hymen is not an essential element of rape and **healed lacerations do not negate rape**. In addition, **a medical examination and a medical certificate are merely corroborative** and are not indispensable to the prosecution of a rape case. **The credible disclosure of a minor that the accused raped her is the most important proof of the sexual abuse.** (Emphases supplied, citations omitted.)

In addition, while Dr. Francisco testified that hymenal lacerations normally heal in one week, he did not foreclose the possibility of hymenal lacerations healing in less than a week when there is no infection, to wit:

COURT
to the Witness)

Q In your opinion Doctor, how many days more or less would the hymenal lacerations heal?

A In most cases this laceration is the same with any wound and it would heal for one week.

x x x x

PROS. LEGASPI
on re-direct)

Q When you made mentioned as to the period of healing of this hymenal lacerations[,] when you said within one week time, could it be possible that it heals less [than] a week?

x x x x

A **In minimum it would heal in one week time except when there is no infection.**³³ (Emphasis supplied.)

Even the twin circumstances for qualified rape, namely, minority and relationship, were satisfactorily proved by the prosecution. That AAA was 12 years old on July 10, 2000 and that she is Amistoso's daughter were established by AAA's Certificate of Live Birth³⁴ and Amistoso's

³³ TSN, February 5, 2004, pp. 8-10.

³⁴ Records, p. 95.

admission³⁵ before the RTC.

The Court is not persuaded by Amistoso's insinuation that AAA and BBB were only falsely accusing him of rape out of hatred and ill feeling.

Alleged motives of family feuds, resentment, or revenge are not uncommon defenses, and have never swayed the Court from lending full credence to the testimony of a complainant who remained steadfast throughout her direct and cross-examinations, especially a minor as in this case.³⁶

Moreover, the Court finds it difficult to believe that a young girl would fabricate a rape charge against her own father as revenge for previous maltreatment, ruling in *People v. Canoy*³⁷ as follows:

We must brush aside as flimsy the appellant's insistence that the charges were merely concocted by his daughter to punish him for bringing in his illegitimate daughters to live with them and for maltreating her. It is unthinkable for a daughter to accuse her own father, to submit herself for examination of her most intimate parts, put her life to public scrutiny and expose herself, along with her family, to shame, pity or even ridicule not just for a simple offense but for a crime so serious that could mean the death sentence to the very person to whom she owes her life, had she really not have been aggrieved. Nor do we believe that the victim would fabricate a story of rape simply because she wanted to exact revenge against her father, appellant herein, for allegedly scolding and maltreating her. (Citations omitted.)

Neither is the Court convinced that BBB would use and manipulate her own daughter AAA to wrongfully accuse Amistoso, her husband and AAA's father, of rape, just to cover-up her alleged affair with another man. It is unthinkable that a mother would sacrifice her daughter's honor to satisfy her grudge, knowing fully well that such an experience would

³⁵ TSN, September 20, 2005, p. 10.

³⁶ *People v. Ardon*, 407 Phil. 104, 123 (2001).

³⁷ 459 Phil. 933, 944 (2003).

certainly damage her daughter's psyche and mar her entire life. A mother would not subject her daughter to a public trial with its accompanying stigma on her as the victim of rape, if said charges were not true.³⁸

The Court rejects Amistoso's defense of denial and alibi for the very same reasons stated in *People v. Abulon*³⁹:

Nothing is more settled in criminal law jurisprudence than that alibi and denial cannot prevail over the positive and categorical testimony and identification of the complainant. Alibi is an inherently weak defense, which is viewed with suspicion because it can easily be fabricated. Denial is an intrinsically weak defense which must be buttressed with strong evidence of non- culpability to merit credibility.

The records disclose that not a shred of evidence was adduced by appellant to corroborate his alibi. Alibi must be supported by credible corroboration from disinterested witnesses, otherwise, it is fatal to the accused. Further, for alibi to prosper, it must be demonstrated that it was physically impossible for appellant to be present at the place where the crime was committed at the time of its commission. By his own testimony, appellant clearly failed to show that it was physically impossible for him to have been present at the scene of the crime when the rapes were alleged to have occurred. Except for the first incident, appellant was within the vicinity of his home and in fact alleged that he was supposedly even sleeping therein on the occasion of the second and third incidents. (Citations omitted.)

Except for his own testimony, Amistoso presented no other evidence to corroborate his alibi that he was working at his employer's warehouse when AAA was raped. Amistoso even admitted that his employer's warehouse was only a kilometer or a 10-minute hike away from the house where AAA was raped, so it was not physically impossible for Amistoso to be present at the scene of the crime at the time it occurred.

Amistoso's version of events is also implausible and irrational. Amistoso claimed that his wife BBB was having an affair with another

³⁸ *People v. Leonardo*, G.R. No. 181036, July 6, 2010, 624 SCRA 166, 199.
³⁹ G.R. No. 174473, August 17, 2007, 530 SCRA 675, 695-696.

man, but he could not even identify the man. He did not see the man on the night of July 10, 2000, but purportedly heard BBB and the man talking inside the house and concluded that the two were having sexual intercourse. Amistoso further said he wanted to hack BBB and her lover, yet, he patiently waited outside for 15 minutes before entering the house. It appears physically impossible for BBB and her lover, both fully grown adults, to escape by crawling through the one-foot space beneath the house. And finally, Amistoso was unable to explain why he did not run after BBB and her lover nor took any legal action against the two even days after catching them having sexual intercourse; where were the children, who BBB supposedly left behind after running away with her lover on the night of July 10, 2000, as Amistoso claimed he slept alone at the house that same night; and how would BBB, the spouse allegedly guilty of having an affair, benefit in influencing AAA to falsely charge Amistoso with rape.

For the qualified rape of his daughter AAA, the Court of Appeals was correct in imposing upon Amistoso the penalty of *reclusion perpetua* without the eligibility of parole, in lieu of the death penalty, pursuant to Republic Act No. 9346;⁴⁰ and ordering Amistoso to pay AAA the amounts of ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages, and ₱30,000.00 as exemplary damages. The Court adds that Amistoso is liable to pay interest on all damages awarded at the legal rate of 6% per annum from the date of finality of this Decision.⁴¹

WHEREFORE, in view of the foregoing, the instant appeal of Anastacio Amistoso y Broca is **DENIED**. The Decision dated August 25, 2011 of the Court of Appeals in CA-G.R. CR.-H.C. No. 04012 is **AFFIRMED with the MODIFICATION** that Amistoso is further


⁴⁰ Entitled "An Act Prohibiting the Imposition of Death Penalty in the Philippines."
⁴¹ *People v. Arpon*, G.R. No. 183563, December 14, 2011, 662 SCRA 506, 539-540.

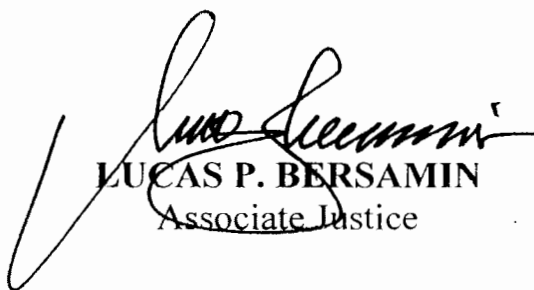
ORDERED to pay interest on all damages awarded at the legal rate of 6% per annum from the date of finality of this Decision.

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