



Republic of the Philippines  
Supreme Court  
Baguio City

SECOND DIVISION

PEOPLE  
OF THE  
PHILIPPINES,

Plaintiff-Appellee,

G.R. No. 187740

Present:

-versus-

CARPIO, J.,  
Chairperson,  
BRION,  
DEL CASTILLO,  
PEREZ, and  
PERLAS-BERNABE, JJ.

MANUEL  
CATACUTAN,

TOLENTINO y  
Accused-Appellant.

Promulgated:

APR 10 2013

X ----- X

DECISION

PEREZ, J.:

For consideration is an appeal by appellant Manuel Tolentino y Catacutan from the Decision<sup>1</sup> dated 28 November 2008 of the Court of Appeals in CA-G.R. CR-H.C. No. 02505, affirming with modification the 15 September 2006 Decision<sup>2</sup> of the Regional Trial Court (RTC) of Malolos, Bulacan, Branch 13, which found him guilty beyond reasonable doubt of the crime of rape.

On 26 April 2000, appellant was charged in an Information which reads as follows:

<sup>1</sup> Penned by Associate Justice Edgardo P. Cruz with Associate Justices Fernanda Lampas-Peralta and Normandie B. Pizarro, concurring. *Rollo*, pp. 2-14.

<sup>2</sup> Presided by Presiding Judge Andres B. Soriano. *CA rollo*, pp. 22-33.

That on or about the 20<sup>th</sup> day of January, 2000, in the municipality of Baliuag, province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused did then and there willfully, unlawfully and feloniously, with lewd designs, have carnal knowledge of the said [AAA],<sup>3</sup> 11 years of age, minor, against her will and without her consent.<sup>4</sup>

Appellant pleaded not guilty. Trial proceeded.

AAA's and appellant's families own separate watermelon stores located along a highway in Bulacan. Their stores are adjacent to each other. At around 3:00 a.m. of 20 January 2000, AAA, then 11 years old, was sleeping beside her 10-year old brother and 2-year old nephew inside the store when she was awakened by a mosquito bite and saw appellant lying on top of her. Her parents meanwhile were sleeping in an adjacent room. Appellant ordered AAA to follow him. AAA asked permission to urinate first before appellant brought her to a vacant lot at the back of the store. Appellant undressed her, laid on top of her and inserted his penis into her vagina while pointing a knife at her chest, and threatening to kill her family if she reports the incident. Afterwards, appellant took her earrings and watch and other valuables inside the house.<sup>5</sup>

BBB, AAA's mother, woke up at dawn and found their store in disarray. She immediately went out of the store and saw appellant, together with a certain Doro and Noel, inside a jeep. She asked Doro why the latter did not notice the robbing of her store and the person who did it. Before Doro could answer, BBB saw AAA stand up and say: "*Nanay, Nanay umalis na po tayo dito ninakaw po iyong hikaw ko, yung relo ko. Umalis na po tayo papatayin po tayo.*" It was at that point when AAA intimated to BBB that she was raped by appellant and who also threatened to kill her whole family. Upon learning of the rape incident, BBB fainted.<sup>6</sup> When she regained consciousness, there were already police officers inside the store.<sup>7</sup>

On the same day, AAA was brought to the Philippine National Police (PNP) Crime Laboratory to undergo medical examination. Dr. Ivan Richard

---

<sup>3</sup> Pursuant to Republic Act No. 9262, otherwise known as the "Anti-Violence Against Women and Their Children Act of 2004" and its Implementing Rules, the real name of the victim, together with that of her immediate family members is withheld, and fictitious initials instead are used to represent her, both to protect her privacy. *People v. Cabalquinto*, 533 Phil. 703 (2006).

<sup>4</sup> Records, p. 1.

<sup>5</sup> TSN, 5 October 2000, pp. 3-13; TSN, 5 December 2000, pp. 4-5.

<sup>6</sup> TNS, 15 March 2001, pp. 5-7.

<sup>7</sup> TSN, 18 May 2001, p. 8

Viray (Dr. Viray) conducted a physical examination on AAA. His findings were encapsulated in Medico-Legal Report No. MR-019-2000, as follows:

FINDINGS:  
GENERAL AND EXTRAGENITAL:

PHYSICAL BUILT:	Light built
MENTAL STATUS:	Coherent female child
BREAST:	Conical in shape with pinkish brown areola and nipples from which no secretions could be pressed out
ABDOMEN:	Flat and soft
PHYSICAL INJURIES:	None noted

GENITAL:

PUBIC HAIR:	Scanty growth
LABIA MAJORA:	Full, convex and coaptated
LABIA MINORA:	In between labia majora, pinkish brown in color
HYMEN:	Elastic fleshy type with the presence of shallow fresh laceration at 6 o'clock position
POSTERIOR FOURCHETTE:	V-shape, congested with abrasion measuring .5 x .5 cm.
EXTERNAL VAGINAL ORIFICE:	Offers strong resistance to examining little fingers
VAGINAL CANAL:	Narrow with prominent rugosities
CERVIX:	N/A
PERI-URETHRAL & PERI-VAGINAL SMEARS:	Negative for both spermatozoa and gram (-) diplococci
CONCLUSION:	Findings are compatible with recent loss of virginity. There are no external signs of application of any form of trauma. <sup>8</sup>

Dr. Viray testified that he found fresh laceration on the vagina that could have been caused only within twenty-four (24) hours.<sup>9</sup>

Appellant was apprehended almost immediately after the rape incident was reported.

---

<sup>8</sup> Records, p. 40.

<sup>9</sup> TSN, 30 June 2000, p. 6.

Police Officer Maximo Santiago (Santiago) conducted an investigation of both accused and the victim at the police station. He directed both parties to present their underwear for examination. He did not find any bloodstain on appellant's underwear. He admitted that he caused the filing of the complaint against appellant despite his belief that appellant was innocent.<sup>10</sup> Santiago further narrated that AAA told him that appellant had 2 or 3 "*bolitas*" or "*bukol*" (lump) in his private part. Santiago immediately examined appellant and found no lumps in his private part.<sup>11</sup>

Appellant also testified on his behalf, raising denial and alibi as defenses. He denied raping AAA and averred that he slept from 8:00 p.m. of 19 January 2000 until he was awakened by the police between 3:00 to 4:00 a.m. of 20 January 2000. He was arrested and brought to the police station. He claimed that there was a feud between the two families.<sup>12</sup> He later divulged that he recently almost got into a fistfight with appellant's stepfather over the installation of electrical power.<sup>13</sup>

Gloria Tolentino (Gloria), appellant's mother, corroborated his son's testimony. She recalled that while she was tending to her watermelon store at around 3:00 a.m., she saw appellant sleeping in a wooden bed. Gloria recounted that prior to the arrest, appellant and AAA's stepfather had an altercation and almost came to blows over the installation of electrical power.<sup>14</sup>

Luzviminda Francisco, appellant's aunt, also attested to the claim of appellant that he was sleeping on the wooden bed in the store at around 3:00 a.m. of 20 January 2000.<sup>15</sup>

Lastly, Macario dela Cruz, neighbor of appellant, stated that he went to check on his chickens located some 5 meters away from appellant's watermelon store at around 3:00 a.m. of 20 January 2000. He saw appellant sleeping on the wooden bed. He did not notice anything unusual at that time except when he saw the policemen come and arrest appellant.<sup>16</sup>

---

<sup>10</sup> TSN, 12 November 2001, pp. 4-6.

<sup>11</sup> TSN, 9 October 2003, pp. 4-5.

<sup>12</sup> TSN, 13 February 2003, pp. 6-10.

<sup>13</sup> TSN, 13 February 2006, pp. 6-7.

<sup>14</sup> TSN, 26 February 2002, pp. 5, and 14-15.

<sup>15</sup> TSN, 30 May 2005, pp. 7-10.

<sup>16</sup> TSN, 12 December 2005, pp. 7-12.

On 15 September 2006, the RTC rendered a Decision with the following dispositive portion:

WHEREFORE, premises considered, the Court finds the accused guilty beyond reasonable doubt of the crime of rape as charged herein and hereby sentences him to suffer the penalty of RECLUSION PERPETUA.

The accused is likewise directed to indemnify the private complainant in the amount of SEVENTY-FIVE THOUSAND (₱75,000.00) PESOS.<sup>17</sup>

The trial court found the victim's accusation of rape as credible and found appellant guilty.

Appellant filed with the Court of Appeals a Notice of Appeal dated 19 September 2006.<sup>18</sup>

On 28 November 2008, the Court of Appeals promulgated a Decision, the dispositive portion of which reads:

WHEREFORE, the appealed decision of the Regional Trial Court of Bulacan (Malolos, Branch 13) is AFFIRMED with MODIFICATIONS in that the award of [₱]75,000.00 as civil indemnity is REDUCED to [₱]50,000.00 and that accused-appellant is further ordered to pay to AAA the sum of [₱]50,000.00 as moral damages.<sup>19</sup>

Appellant filed a Notice of Appeal on 18 December 2008.<sup>20</sup>

Both parties opted not to file Supplemental Briefs.<sup>21</sup>

In his Brief, appellant contends that the prosecution failed to prove his guilt beyond reasonable doubt. He questions the credibility of the victim's testimony. Appellant alleges that the victim's testimony is "highly incredible [and] not in consonance with reason and common experience."<sup>22</sup> Appellant argues that based on AAA's testimony, no force was employed in undressing AAA. Appellant emphasizes that the knife he allegedly used to

---

<sup>17</sup> CA *rollo*, p. 33.

<sup>18</sup> Id. at 34.

<sup>19</sup> *Rollo*, p. 13.

<sup>20</sup> Id. at 15.

<sup>21</sup> Id. at 26 and 32.

<sup>22</sup> CA *rollo*, p. 50.

threaten AAA was never found nor offered in evidence. Moreover, appellant stresses that AAA did not offer any resistance to the alleged rape and she did not try to escape from accused when she had the opportunity to do so. Under these circumstances, appellant submits that it is evident that the alleged threats were only imagined by AAA.<sup>23</sup>

In the prosecution of rape cases, conviction or acquittal depends on the credence to be accorded to the complainant's testimony because of the fact that usually, the participants are the only eyewitnesses to the occurrences. Thus, the issue ultimately leads to credibility.<sup>24</sup>

On this score, findings of fact of the trial court are not to be disturbed on appeal since conclusions as to the credibility of witnesses in rape cases depends heavily on the sound judgment of the trial court which is in a better position to decide the question, having heard the witnesses and observed their deportment and manner of testifying.<sup>25</sup>

The factual findings of the RTC are further strengthened by the affirmation of the Court of Appeals.

The legal adage that when a woman, especially a girl-child, says she had been raped, she says in effect all that is necessary to prove that rape was really committed, finds yet another application in this case.<sup>26</sup> The rationale of this jurisprudential principle is that, "no young woman, especially of tender age, would concoct a story of defloration, allow an examination of her private parts, and thereafter pervert herself by being subjected to public trial, if she was not motivated solely by the desire to obtain justice for the wrong committed against her."<sup>27</sup>

During the direct examination, AAA recounted the rape incident and positively identified appellant as the perpetrator, thus:

PROS. JOSON:

Q: Miss witness, during that time that you were sleeping, was there any occasion for you to be awaken[ed]?

---

<sup>23</sup> Id. at 51-54.

<sup>24</sup> *People v. Lizano*, G.R. No. 174470, 27 April 2007, 522 SCRA 803, 808-809.

<sup>25</sup> Id. at 809.

<sup>26</sup> *People v. Dion*, G.R. No. 181035, 4 July 2011, 653 SCRA 117, 137 citing *People v. Saban*, 377 Phil. 37, 45 (1999); *People v. Dacallos*, G.R. No. 189807, 5 July 2010, 623 SCRA 630, 636; *People v. Pioquinto*, G.R. No. 168326, 11 April 2007, 520 SCRA 712, 720.

<sup>27</sup> *People v. Candaza*, 524 Phil. 589, 606 (2006) citing *People v. Rosare*, 332 Phil. 435, 451 (1996).

x x x x

Q: May we know the reason why you were awoken[ed] at that time?

A: I saw Manuel on top of me, sir.

Q: You are referring to accused Manuel Tolentino, the accused in this case?

A: Yes, sir.

Q: While the accused was on top of you, what happened after that?

A: *“Noon pong nakita ko siya na nakapatong sa akin, pinababa niya po ako. Tapos po, nagpunta po kami sa dilim at saka po niya ako hinubaran[,]”* sir.

Q: Miss witness, may we know the reason why you agreed with him to go to the dark place?

A: Because he was pointing a knife at me, sir.

Q: You said a knife was pointed at you. On what part of your body the knife was pointed at you?

A: Here, sir.

INTERPRETER:

Witness pointing to her breast.

PROS. JOSON

Q: What kind of knife was pointed at you, Miss witness?

A: *“Lanseta[,]”* sir.

Q: At the time the accused pointed that knife to you, where was he?

A: He was behind me, sir.

Q: After that you said you [went] with him in the dark, while you were in the dark, what happened?

ATTY. PERONA

Already answered, Your Honor.

COURT:

We will allow the witness to answer.

A: While we were in the dark place, that was the time that he raped me, sir.

PROS. JOSON

Q: Miss witness, please narrate to the Honorable Court the detail how you were raped by the accused? Miss witness, let us begin to the time the accused undressed you. When he undressed you, what happened?

A: After undressing me, he went on top of me, sir.

Q: What was your apparel at that time?

A: I was wearing a night clothes, sir.

Q: Were you wearing skirt or short?

ATTY. PERONA

Leading, Your Honor.

COURT:

Reform.

PROS. JOSON:

Q: Can you describe your exact apparel?

A: I have my pajama on with a blouse, sir.

Q: Do you have underwear?

A: Yes, sir.

Q: What [was] your underwear?

A: Panty, sir, and brassiere.

Q: You said the accused undressed you. When the accused undressed you, what happened after that?

A: After that, the accused went on top of me and raped me, sir.

Q: Why did you say that the accused raped you?

A: Because I was hurt when he raped me, sir.

PROS. JOSON:

We want to make it of record that the private complainant is crying.

Q: Miss witness, you said you were hurt at that time. What hurt you at that time?

A: His penis, sir.

Q: What was he doing with his penis?

A: He inserted his penis in my vagina, sir.

Q: Was he able to succeed?

A: Leading, Your Honor.

COURT:

Reform.

PROS. JOSON

Q: Why did you say that the accused inserted his penis inside your vagina?

A: I felt it, sir.

Q: What did you feel?

A: It's hurting, sir.



- Q: Aside from hurting, what did you feel?  
A: I was scared, sir.
- Q: Why were you scared?  
A: Because I am afraid he might kill us all, sir.
- Q: Why did you say that he might kill you all?  
A: Because he already threatened me that if I will report the matter, he will kill us all, sir.
- Q: What made you believe that the accused has the capacity to scare you?  
A: Because of his knife which is pointed at me, sir.<sup>28</sup>

AAA's testimony is indeed clear and straightforward. Her sworn statement<sup>29</sup> taken before the police station jived in all material details with her testimony during trial. Moreover, the medico-legal's finding of fresh laceration bolstered AAA's claim that she was raped only a few hours before she underwent medical examination.

AAA's failure to shout for help, although her siblings were sleeping beside her and her parents were on the other room, does not detract from the credibility of her claims. She explained to the court's satisfaction that appellant, while holding a knife, had threatened to kill her family if she reported the incident. An 11-year old child like AAA can only cower in fear and submission in the face of a real threat to her life and her family's posed by an armed assailant.

Appellant's alibi that he was sleeping at the time of the rape incident deserves scant consideration. It is an oft-repeated principle that alibi is an inherently weak argument that can be easily fabricated to suit the ends of those who seek its recourse. Thus, an alibi must be supported by the most convincing evidence – a credible corroboration from disinterested witnesses. Further, for alibi to prosper, appellants must prove not only that they were somewhere else when the crime was committed, but also that it was physically impossible for them to have been at the scene of the crime or within its immediate vicinity.<sup>30</sup>

---

<sup>28</sup> TSN, 5 October 2000, pp. 6-10.

<sup>29</sup> Records, pp. 3-5.

<sup>30</sup> *People v. Lopez*, G.R. No. 176354, 3 August 2010, 626 SCRA 485, 498-499 citing *People v. Cantere*, 363 Phil. 468, 479 (1999) and *People v. Delim*, G.R. No. 175942, 13 September 2007, 533 SCRA 366, 379.

Appellant's alibi, in the case at bar, was corroborated by his relatives and a neighbor who are not considered impartial witnesses. Moreover, there was no showing that it was physically impossible for appellant to have been at the *locus criminis* at the time of the commission of the rape. Appellant was allegedly seen sleeping in a wooden bed in the store situated adjacent to the store of AAA with an estimated distance of only 8 meters.<sup>31</sup>

Alibi cannot prevail over the victim's positive identification of the accused as the perpetrator of the crime,<sup>32</sup> especially when the victim remained steadfast in her testimony when subjected to the rigors of cross-examination.

Under Article 266-A of the Revised Penal Code, rape, which is punishable by *reclusion perpetua* is committed by having carnal knowledge of a woman under any of the following circumstances:

- 1) By a man who 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 otherwise unconscious;
  - c) By means of fraudulent machination or grave abuse of authority; and
  - 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. (Emphasis supplied).

Hence, the trial court correctly imposed the penalty of *reclusion perpetua* for the rape of AAA, who was then under 12 years old, as evidenced by her birth certificate.<sup>33</sup> We increase the amount of moral damages and civil indemnity from ₱50,000.00 each to ₱75,000.00,<sup>34</sup> considering that the crime committed is statutory rape. We additionally award exemplary damages in the amount of ₱30,000.00. Exemplary damages are imposed in a criminal case as part of the civil liability when the crime was committed with one or more aggravating circumstances, minority in this case.<sup>35</sup> Also, in line with current jurisprudence,<sup>36</sup> all the monetary

---

<sup>31</sup> TSN, 10 April 2003, p. 4.

<sup>32</sup> *People v. De Jesus*, G.R. No. 186528, 26 January 2011, 640 SCRA 660, 671 citing *People v. Dela Cruz*, G.R. No. 175929, 16 December 2008, 574 SCRA 78, 91.

<sup>33</sup> Records, p. 12.

<sup>34</sup> *People v. Lansangan*, G.R. No. 201587, 14 November 2012.

<sup>35</sup> *People v. Lupac*, G.R. No. 182230, 19 September 2012.


awards for damages shall earn interest at the legal rate of 6% per *annum* from date of finality of this Decision until fully paid.

**WHEREFORE**, the appeal is **DISMISSED**. The Decision dated 28 November 2008 of the Court of Appeals in CA-G.R. CR-H.C. No. 02505 is **AFFIRMED WITH MODIFICATION**. Appellant Manuel Tolentino y Catacutan is ordered to pay AAA the following amount:

- 1) Seventy-Five Thousand Pesos (₱75,000.00) as civil indemnity;
- 2) Seventy-Five Thousand Pesos (₱75,000.00) as moral damages; and
- 3) Thirty Thousand Pesos (₱30,000.00) as exemplary damages.

All monetary awards for damages shall earn interest at the legal rate of 6% per *annum* from date of finality of this Decision until fully paid.

**SO ORDERED.**


  
**JOSE PORTUGAL PEREZ**  
Associate Justice

WE CONCUR:

  
**ANTONIO T. CARPIO**  
Associate Justice  
Chairperson

  
**ARTURO D. BRION**  
Associate Justice

  
**MARIANO C. DEL CASTILLO**  
Associate Justice

  
**ESTELA M. PERLAS-BERNABE**  
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.

  
**ANTONIO T. CARPIO**  
Associate Justice  
Chairperson

#### 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