Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

-versus-

ANECITO ESTIBAL *y* CALUNGSAG,
Accused-Appellant.

G.R. No. 208749

Present:

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

Promulgated:

November 26, 2014

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DECISION

REYES, *J*:

For automatic review is the Decision[1] dated March 25, 2013 of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 05374, which upheld the Decision[2] dated November 24, 2011 of the Regional Trial Court (RTC) of Pasig City (stationed in Taguig City), Branch 69, in Criminal Case No. 139521, convicting Anecito Estibal *y* Calungsag (accused-appellant) of the crime of Rape under Article 266-A(2), in relation to Article 266-B(5)(1) of the Revised Penal Code, as amended by Republic Act (R.A.) No. 8353[3] and

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* Additional member per Special Order No. 1883 dated November 25, 2014 in view of the inhibition of Associate Justice Francis H. Jardeleza.

1 Penned by Associate Justice Remedios A. Salazar-Fernando, with Associate Justices Normandie B. Pizarro and Manuel M. Barrios, concurring; CA *rollo*, pp. 100-109.

2 Issued by Judge Lorifel Lacap Pahimna; records, pp. 158-167.

3 AN ACT EXPANDING THE DEFINITION OF THE CRIME OF RAPE, RECLASSIFYING THE SAME AS A CRIME AGAINST PERSONS, AMENDING FOR THE PURPOSE ACT NO. 3815, AS AMENDED, OTHERWISE KNOWN AS THE REVISED PENAL CODE, AND FOR OTHER PURPOSES

in further relation to Section 5(a) of R.A. No. 8369.[4] The *fallo* of the RTC decision reads:

> WHEREFORE, finding accused Anecito Estibal y Calungsag guilty beyond reasonable doubt of Rape, he is hereby sentenced to suffer the penalty of Reclusion Perpetua without eligibility for parole in lieu of the death penalty; and to pay AAA[5] the amount of PhP 75,000.00 as civil indemnity; PhP 75,000.00 as moral damages, and PhP 25,000.00 as exemplary damages.
>
> SO ORDERED.[6] (Citation omitted)

Antecedent Facts

The accusatory portion of the Information[7] for rape against the accused-appellant filed on February 6, 2009 reads:

> That on or about the 5th day of February, 2009 in the City of Taguig, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, while taking advantage of his moral authority and ascendancy and with his intention to gratify his sexual desire upon his daughter [AAA], by means of force, violence and intimidation did then and there willfully, unlawfully and feloniously succeed in having sexual intercourse with the latter against her will and consent, the said crime having been attended by the qualifying circumstances of relationship and minority, as the said accused being the natural father of the victim, a thirteen (13)[-]year[-]old, a minor at the time of the commission of the crime, which is aggravated by the circumstances of abuse of superior strength and dwelling, all to the damage and prejudice of the said victim [AAA].
>
> **CONTRARY TO LAW**.[8]

The accused-appellant, 43 years old, pleaded not guilty upon arraignment on March 9, 2009. But during the pre-trial, BBB, wife of the accused-appellant and mother of AAA, the minor victim, disclaimed any further interest to pursue the case. Her reasons were that she pitied the accused-appellant and, according to her, AAA had already forgiven her father. But having entered the accused-appellant's plea, the trial court

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4 AN ACT ESTABLISHING FAMILY COURTS, GRANTING THEM EXCLUSIVE ORIGINAL JURISDICTION OVER CHILD AND FAMILY CASES, AMENDING BATAS PAMBANSA BILANG 129, AS AMENDED, OTHERWISE KNOWN AS ACT OF 1980, APPROPRIATING FUNDS THEREFOR AND FOR OTHER PURPOSES

5 The real name of the victim, her personal circumstances and other information which tend to establish or compromise her identity, as well as those of her immediate family or household members, shall not be disclosed to protect her privacy and fictitious initials shall, instead, be used, in accordance with *People v. Cabalquinto* (533 Phil. 703 [2006]), and A.M. No. 04-11-09-SC dated September 19, 2006.

6 Records, p. 167.

7 Id. at 1-2.

8 Id. at 1.

refused to entertain their desistance.[9]

At the trial, four witnesses came forward to testify for the prosecution. The testimony of the first witness, Dr. Jesille Baluyot (Dr. Baluyot) who conducted the medicolegal examination on AAA, was stipulated by the prosecution and the defense, as follows:

> 1. That she is a Police Chief Inspector of the PNP particularly assigned at the PNP Crime Laboratory as Medico Legal Examiner;
>
> 2. That she was the one who conducted the medico-legal examination on the minor victim on February 5, 2009;
>
> 3. That she reduced her examination into writing and issued the Initial Medico Legal Report Case No. R09-288 which Anogenital findings are diagnostic of previous blunt force or penetrating trauma (to the hymen);
>
> 4. And that she also issued other documents in relation to the examination.[10]

The parties also agreed to stipulate on the testimonies of Michael Estudillo (Estudillo) and Ronillo Perlas (Perlas), members of the *Barangay* Security Force (BSF) who arrested the accused-appellant as he was coming home from work at 6:00 p.m. on February 5, 2009, to wit:

> 1. That BSF Michael Estudillo and BSF Ronilo Perlas are members of the Barangay Security Force x x x;
>
> 2. That in the evening of February 5, 2009 while they were on duty at x x x, the minor victim and her mother appeared at their office and reported that the victim was molested or sexually abused by the accused; and that based on this report, they proceeded to the house of the perpetrator;
>
> 3. That while on their way, they met the accused and informed him about the complaint of the minor victim and eventually arrested him without the corresponding warrant of arrest and brought to their office;
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> 4. That based on the incident, they referred the case to the Taguig City Police Station for proper disposition; and
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> 5. That they have no personal knowledge as to the incident.[11]

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9 *See* Brief for the Appellee, CA *rollo*, p. 79.
10 Records, p. 62.
11 Id. at 85-86.

Concerning AAA and BBB, several subpoenas were sent to their address for the taking of their testimonies, but they never appeared. On April 13, 2010, it was reported to the court that they had moved out of their house, and subsequent subpoenas were returned unserved.[12]

The prosecution's last witness, Police Officer 3 Fretzie S. Cobardo (PO3 Cobardo), was the officer assigned at the Philippine National Police (PNP) Women and Children Protection Center of Taguig City. It was she who investigated the above incident and took down the sworn statement of AAA late in the evening of February 5, 2009. Her testimony was also stipulated, as follows:

> 1. that she is a member of the PNP assigned at the Women and Children Protection Desk, Taguig City Police Station;
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> 2. that she was the investigating officer at the time the accused was brought to the police station;
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> 3. that she personally encountered the private offended party and the accused;
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> 4. that she brought the private offended party to the PNP Crime Laboratory for Genito Physical Examination;
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> 5. that she was present at the time the private offended party executed an affidavit complaint;
>
> 6. that she was the one who brought the private offended party and the accused for inquest proceedings;
>
> 7. that she has no personal knowledge as to the incident which gave rise to this case;
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> 8. that Exhibit "A" was the same document executed by the mother of the victim as well as the victim herself before her;
>
> 9. that Exhibit "G" was the same Medico Legal Report that was transmitted to her by the PNP Crime Laboratory;
>
> 10. that she was the one who received the Initial Medico-Legal Report.[13]

On clarificatory questioning by the court, PO3 Cobardo narrated how she was trained to prepare for her assignment as desk officer at the PNP Women and Children Protection Center; that during her investigation of AAA and BBB, they were both crying; that without being asked leading questions and without being coached by her mother, AAA, 13 years old and a first-year high school student, revealed in detail how the accused-appellant

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12 Id. at 89.

13 Id. at 102-103.

abused her for several years and how he raped her that morning of February 5, 2009; that AAA told that the first time she was raped by her father was when she was in Grade III, but this was the first time she was telling anyone about the rapes; that BBB told PO3 Cobardo that she could not imagine how her husband could commit such an outrage against their own daughter; that from her own observations of AAA's demeanor, PO3 Cobardo was convinced that she was telling the truth.[14]

The accused-appellant's defense consisted mainly of denial. From his testimony, the court learned that the accused-appellant, his wife BBB and their two children, AAA and CCC, lived in a one-room house in Taguig City; that he and his wife were employed as security guards in Taguig City; that on February 4, 2009, his wife was on night duty and came home the next morning; that on the night of the alleged rape, he and his two children retired for the night at around midnight, and thus, he could not have sexually abused his daughter AAA between 1:00 a.m. and 2:00 a.m. on February 5, 2009; that he and his wife used to fight about her brothers Romulo and Rey Santos, whom he now suspected of influencing AAA to file the complaint for rape against him, although he treated them as his own brothers; that he was arrested by the *Barangay Tanod* at 6:00 p.m. on February 5, 2009 as he was coming from work.[15]

Relying on PO3 Cobardo's testimony of what AAA narrated to her, the RTC **considered the spontaneity of the declarations made by AAA as confirmed by PO3 Cobardo** as part of the *res gestae,* and convicted the accused-appellant. The court said:

> Thus, the court considers the spontaneity of the declarations made by AAA as confirmed by PO3 Cobardo. Moreover, there is nothing on record that would compel the court to believe that said prosecution witness has improper motive to falsely testify against the accused-appellant. Accordingly, it shall uphold the presumption of regularity in the performance of her duties.
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> Further, the testimony of PO3 Cobardo was corroborated by the findings of Dr. Jesille Baluyot of a shallow healed lacerations at 4 and 8 o'clock and deep healed laceration at 5 o'clock positions in the hymen of AAA which Anogenital findings are diagnostic of previous blunt force or penetrating trauma.[16] (Citations omitted)

Below is the pertinent portion of PO3 Cobardo's testimony cited by the RTC:

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14 TSN, May 25, 2010, pp. 6-9.
15 TSN, December 7, 2010, pp. 6-15.
16 CA *rollo*, p. 60.

COURT –

Some questions from the Court.

Q PO3 Cobardo[,] you were the one who investigated the minor victim in this case?
A Yes[,] Your Honor.

Q Could you tell the Court what is the appearance of the victim at the time of the investigation?
A At that time Your Honor the victim was together with her mother, they were crying.

Q Both were crying?
A Yes[,] Your Honor.

Q When you conducted the investigation[,] the mother was present?
A Yes[,] Your Honor, the mother was present.

Q You were aware of course when you inquired the age of the minor?
A Yes[,] Your Honor.

Q When she narrated the incident[,] was she coached by the mother?
A No[,] Your Honor, the victim was not coached by the mother. It was the victim who stated all the incident.

Q Did you make, did you use leading questions in conducting, propounding the questions?
A No[,] Your Honor.

Q How did you ask the victim? Was it in a question and answer where first you will ask the victim to narrate the incident?
A Yes[,] Your Honor. First I asked the victim to narrate the incident.

Q And then you propounded question in the question and answer form?
A Yes[,] Your Honor.

Q After obtaining all the facts relative to the incident?
A Yes[,] Your Honor.

Q And you found out that, was that the first time that the incident happened or several times already?
A During that interview[,] Your Honor[,] I found out that the victim was sexually abused by her father several times when she was in Grade III.

Q You mentioned that the victim and her mother during your investigation were both crying?
A Yes[,] Your Honor[.]

Q Did you inquire why?
A The mother told me that she could not imagine that her husband molested their daughter.

Q How about the daughter? Did you inquire? Did you allow her some time to rest?
A She was crying[,] Your Honor[,] since it was her first time to reveal the incident.

Q So you asked her why she was crying?
A Yes[,] Your Honor.

Q Because, I notice, actually I noticed in the preliminary question you stated "hindi ako magagalit, kahit ano ang sasabihin mo sa akin, naiintindihan mo ba lahat ng sinabi ko". It may be a preliminary question because you have attended seminars on this. Is that right?
A Yes[,] Your Honor.

COURT –
So judging from the preliminary question[,] I know that you had undergone seminars on how to conduct questions on child abuse cases.
WITNESS
Yes[,] Your Honor.

COURT –

Q Are you convinced that the victim is telling the truth?
A Yes[,] Your Honor, I am convinced.

Q Why are you convinced? Convinced based on your questions that you propounded, why are you convinced?
A Because for a father and daughter relationship it's not good, it's not easy to accused [sic] your father of sexual abuse.

Q So judging from the appearance of the minor she would be able to tell the Court that she is telling the truth?
A Yes[,] Your Honor.

Q How many seminars have you attended relative to on how to conduct examination on child abuse?
A Many times already[,] Your Honor.

x x x x[17]

Significantly, it appears from the sworn statement,[18] executed by AAA before PO3 Cobardo, that she first revealed her ordeal to her cousin DDD that same afternoon of February 5, 2009. With DDD's help, BBB confronted her daughter AAA, who told her that the accused-appellant did not only rape her that morning, but had sexually abused her several times since she was in Grade III.

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17 TSN, May 25, 2010, pp. 6-9.
18 Records, pp. 6-8.

Appeal to the CA

On appeal to the CA, the accused-appellant maintained that due to the absence of AAA's testimony, the prosecution failed to establish the circumstances proving beyond reasonable doubt that he raped his daughter; that the testimonies of the prosecution witnesses PO3 Cobardo, BSF Estudillo and BSF Perlas, not being themselves victims or witnesses to the "startling occurrence" of rape, cannot create the hearsay exception of *res gestae* [literally, "things done"]; and, that the medical findings of Dr. Baluyot do not prove that he had carnal knowledge of AAA but only that she had had sexual relations.

In its appellee's brief, the Office of Solicitor General (OSG) asserted that although AAA did not personally testify, and none of the prosecution witnesses had any direct knowledge of the sexual molestation of AAA by the accused-appellant, his guilt was fully established by *circumstantial evidence*. In particular, the OSG argued that the testimony of PO3 Cobardo concerning what AAA narrated to her during her investigation was part of the *res gestae* pursuant to Rule 130 of the Rules of Court. The OSG reasoned that AAA had just undergone a startling occurrence at the time she told PO3 Cobardo that she had been raped by her father that morning, a statement which PO3 Cobardo found spontaneous and credible; that the gap between the sexual assault and the time when AAA made her narration to PO3 Cobardo was too short to permit fabrication by AAA of such a serious accusation against her own father; and, that AAA made the charge in the presence of her mother could only have lent credence to her claim. Moreover, the claim of rape by AAA is corroborated by Dr. Baluyot's finding that she has genital lacerations, in contrast to the accused-appellant's only defense of a general and uncorroborated denial.

The appellate court agreed with the RTC and the OSG that the testimonies of the three prosecution witnesses, PO3 Cobardo, BSF Estudillo and BSF Perlas, form part of the *res gestae*, although none of them was a participant, victim or spectator to the crime. According to the CA, "they heard what [AAA] said when she reported the sexual abuse committed against her by accused-appellant Estibal."[19] To further quote the CA:

> Thus, in this case, even if prosecution witnesses BSF Estudillo, BSF Perlas and PO3 Cobardo were not present during the startling occurrence experienced by AAA, they heard what she said when she reported the sexual abuse committed against her by accused-appellant Estibal. There is no merit to the argument of accused-appellant Estibal that, since prosecution witnesses BSF Estudillo, BSF Perlas and PO3 Cobardo were "neither participants or victims or spectators to the crime of rape being charged against the accused-appellant" their testimonies could

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19 CA *rollo*, p. 106.

not be considered as part of the *res gestae.*

The testimonies of said prosecution witnesses comply with the above-mentioned requisites, *viz.*, there is no question that the sexual abuse committed by accused-appellant Estibal against her daughter AAA was a startling occurrence and a traumatic experience, at that; she had no opportunity to contrive or devise falsehood when she reported the crime to BSF Estudillo and BSF Perlas and narrated the incident to PO3 Cobardo hours after the incident; and, the statements she made was relative to her sexual abuse by accused-appellant Estibal and its attending circumstances.

There might be an intervening period between the time the crime of rape was committed and the first time it was reported by AAA to the prosecution witnesses. However, said intervening period of less than twenty-four (24) hours is so short a time for AAA to fully recover physically and emotionally from such a traumatic and harrowing experience, considering her tender age of only thirteen (13) years and the fact that her abuser is her own biological father.

Res gestae refers to statements made by the participants or the victims of, or the spectators to, a crime immediately before, during, or after its commission. These statements are a spontaneous reaction or utterance inspired by the excitement of the occasion, without any opportunity for the declarant to fabricate a false statement. An important consideration is whether there intervened, between the occurrence and the statement, any circumstance calculated to divert the mind and thus restore the mental balance of the declarant; and afford an opportunity for deliberation.

Indeed, the statements made by AAA before BSF Estudillo, BSF Perlas and PO3 Cobardo were spontaneous and her utterances were inspired by the excitement of the occasion, without any opportunity to fabricate a false statement.

There is, of course, no hard and fast rule by which spontaneity may be determined although a number of factors have been considered, including, but not always confined to: (1) the time that has lapsed between the occurrence of the act or transaction and the making of the statement, (2) the place where the statement is made, (3) the condition of the declarant when the utterance is given, (4) the presence or absence of intervening events between the occurrence and the statement relative thereto, and (5) the nature and the circumstances of the statement itself. The Supreme Court, in *People v. Manhuyod,* has explained the import of the first four factors; thus:

> "x x x (C)ases are not uniform as to the interval of time that should separate the occurrence of the startling event and the making of the declaration. What is important is that the declarations were voluntarily and spontaneously made 'so nearly contemporaneous as to be in the presence of the transaction which they illustrate or explain, and were made under such circumstances as necessarily to exclude the ideas of design or deliberation.'

> "As to the second factor, it may be stressed that 'a statement made, or an act done, at a place some distance from the place where the principal transaction occurred will not ordinarily possess such spontaneity as would render it admissible.'
>
> "Anent the third factor, '[a] statement will ordinarily be deemed spontaneous if, at the time when it was made, the conditions of the declarant was such as to raise an inference that the effect of the occurrence on his mind still continued, as where he had just received a serious injury, was suffering severe pain, or was under intense excitement. Conversely, a lack of spontaneity may be inferred from the cool demeanor of declarant, his consciousness of the absence of all danger, his delay in making a statement until witnesses can be procured, or from the fact that he made a different statement prior to the one which is offered in evidence.'
>
> "With regard to the fourth factor, what is to be considered is whether there intervened between the event or transaction and the making of the statement relative thereto, any circumstance calculated to divert the mind of the declarant which would thus restore his mental balance and afford opportunity for deliberation."[20] (Citations omitted)

Automatic review by the Supreme Court

Without the *res gestae* exception, the evidence of the prosecution would consist mainly of hearsay statements by PO3 Cobardo, BSF Estudillo and BSF Perlas all reiterating what AAA allegedly told them. The same question, whether *res gestae* as an exception to the hearsay rule must be appreciated from the factual circumstances of the case, is now before this Court in this automatic review.

To pardon her father, AAA chose to ignore the trial court's subpoenas to testify in her rape complaint, thus leaving missing a vital component in the prosecution's case, her eyewitness account. But in itself, her pardon would not have worked the dismissal of the rape case since it was given after the complaint was filed in court.

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[20] Id. at 106-108.

AAA never appeared at the trial proper despite several subpoenas for her to testify, and subsequent subpoenas could not be served after her family moved to a new but unknown address on April 13, 2010. Recall that at the pre-trial, BBB told the court that she was no longer interested in pursuing the case against the accused-appellant since her daughter had already pardoned him. It has, however, been held that even if it is construed as a pardon, AAA's desistance is not by itself a ground to dismiss the complaint for rape against the accused-appellant once the complaint has been instituted in court.[21]

In *People v. Bonaagua*,[22] the accused tried to invoke the affidavit of desistance executed by the minor victim's mother stating that they would no longer pursue the rape cases against him. But the high court pointed out that since R.A. No. 8353, or the Anti-Rape Law, took effect in 1997, rape is no longer considered a crime against chastity. Having been reclassified as a crime against persons, it is no longer considered a private crime, or one which cannot be prosecuted except upon a complaint filed by the aggrieved party. Thus, pardon by the offended party of the offender will not extinguish his criminal liability.

"As a rule, a recantation or an affidavit of desistance is viewed with suspicion and reservation. Jurisprudence has invariably regarded such affidavit as exceedingly unreliable, because it can easily be secured from a poor and ignorant witness, usually through intimidation or for monetary consideration. Moreover, there is always the probability that it would later on be repudiated, and criminal prosecution would thus be interminable."[23]

The gravity of the crime of rape and its imposable penalty, *vis-á-vis* the ease with which a charge of rape can be made, compels the Supreme Court to conduct a thorough review of rape every conviction.

A charge of rape by its very nature often must be resolved by giving primordial consideration to the credibility of the victim's testimony.[24] Because conviction may rest solely thereon, the victim's testimony must be credible, natural, convincing, and consistent with human nature and the normal course of things,[25] it must be scrutinized with utmost caution, and

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21 *See People v. Montes*, 461 Phil. 563, 584 (2003); *Victoriano v. People*, 538 Phil. 974, 984 (2006).
22 G.R. No. 188897, June 6, 2011, 650 SCRA 620.
23 *Victoriano v. People*, supra note 21.
24 *People v. Noveras*, 550 Phil. 871, 881 (2007).
25 *People v. Nazareno*, 574 Phil. 175, 191-192 (2008).

unavoidably, the victim's credibility must be put on trial as well.[26]

But if for some reason the complainant fails or refuses to testify, as in this case, then the court must consider the adequacy of the circumstantial evidence established by the prosecution. In *People v. Canlas*,[27] the Court said:

> Where the court relies solely on circumstantial evidence, the combined effect of the pieces of circumstantial evidence must inexorably lead to the conclusion that the accused is guilty beyond reasonable doubt. Conviction must rest on nothing less than moral certainty, whether it proceeds from direct or circumstantial evidence.[28]
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> x x x x
>
> x x x Circumstantial evidence is that evidence which proves a fact or series of facts from which the facts in issue may be established by inference. It is founded on experience, observed facts and coincidences establishing a connection between the known and proven facts and the facts sought to be proved. Conviction may be warranted on the basis of circumstantial evidence provided that: (1) there is more than one circumstance; (2) the facts from which the inferences are derived are proven; and (3) the combination of all the circumstances is such as to produce a conviction beyond reasonable doubt. With respect to the third requisite, it is essential that the circumstantial evidence presented must constitute an unbroken chain which leads one to a fair and reasonable conclusion pointing to the accused, to the exclusion of others, as the guilty person.[29] (Citations omitted)

The Court is called upon to review the verdict of conviction below, keeping in mind the following principles as guidance: (1) an accusation for rape can be made with facility, while the accusation is difficult to prove, it is even more difficult for the accused, albeit innocent, to disprove; (2) considering that, in the nature of things, only two persons are usually involved in the crime of rape, the testimony of the complainant must be scrutinized with extreme care; and (3) the evidence for the prosecution must succeed or fail on its own merits, and cannot be allowed to derive strength from the weakness of the evidence for the defense.[30]

In essence, the *res gestae* exception to the hearsay rule provides that the declarations must have been "voluntarily and spontaneously made *so nearly contemporaneous as*

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26 *People v. Jalosjos*, 421 Phil. 43, 68 (2001).
27 *People v. Canlas*, 423 Phil. 665 (2001).
28 Id. at 669.
29 Id. at 677.
30 *People v. Ogarte*, G.R. No. 182690, May 30, 2011, 689 SCRA 395, 405.

***to be in the presence of the transaction which they illustrate and explain,* and were *made under such circumstances as necessarily to exclude the idea of design or deliberation.*"**

Section 36 of Rule 130 of the Rules of Court provides that "a witness can testify only to those facts which he knows of his personal knowledge; that is, which are derived from his own perception, except as otherwise provided in these rules." *Res gestae,* one of eleven (11) exceptions to the hearsay rule, is found in Section 42 of Rule 130, thus:

> Sec. 42. *Part of res gestae*. – Statements made by a person while a startling occurrence is taking place or immediately prior or subsequent thereto with respect to the circumstances thereof, may be given in evidence as part of the *res gestae*. So, also, statements accompanying an equivocal act material to the issue, and giving it a legal significance may be received as part of the *res gestae*.

In *People v. Ner*,[31] this Court elaborated on Section 36 of Rule 130 as follows:

> [T]hat declarations which are the natural emanations or outgrowths of the act or occurrence in litigation, *although not precisely concurrent in point of time*, if they were yet voluntarily and spontaneously made *so nearly contemporaneous as to be in the presence of the transaction which they illustrate and explain*, and were *made under such circumstances as necessarily to exclude the idea of design or deliberation*, must, upon the clearest principles of justice, be admissible as part of the act or transaction itself.[32] (Italics in the original)

The Court enumerated three essential requisites for the admissibility of a given statement as part of *res gestae*, to wit:

> All that is required for the admissibility of a given statement as part of *res gestae,* is that it be made under the influence of a startling event witnessed by the person who made the declaration before he had time to think and make up a story, or to concoct or contrive a falsehood, or to fabricate an account, and without any undue influence in obtaining it, aside from referring to the event in question or its immediate attending circum[s]tances.[33] (Citations omitted)

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31 139 Phil. 390 (1969).

32 Id. at 404-405, citing *Louisville N.A. & C. Ry. Co. v. Buck*, 19 NE 453, 458.

33 Id. at 405.

There are then three essential requisites to admit evidence as part of the *res gestae*, namely: (1) that the principal act, the *res gestae*, be a startling occurrence; (2) the statements were made before the declarant had the time to contrive or devise a falsehood; and (3) that the statements must concern the occurrence in question and its immediate attending circumstances.[34]

In *People v. Dianos*,[35] the Court acknowledged that there are no hard and fast rules in determining the spontaneity of a declaration, but at least five factors have been considered:

> By *res gestae*, exclamations and statements made by either the participants, victims, or spectators to a crime, *immediately before, during or immediately after the commission of the crime,* when the circumstances are such that the statements constitute nothing but *spontaneous* reaction or utterance inspired by the excitement of the occasion there being no opportunity for the declarant to deliberate and to fabricate a false statement become admissible in evidence against the otherwise hearsay rule of inadmissibility. x x x.
>
> There is, of course, no hard and fast rule by which spontaneity may be determined although a number of factors have been considered, including, but not always confined to, (1) the time that has lapsed between the occurrence of the act or transaction and the making of the statement, (2) the place where the statement is made, (3) the condition of the declarant when the utterance is given, (4) the presence or absence of intervening events between the occurrence and the statement relative thereto, and (5) the nature and the circumstances of the statement itself. x x x.[36] (Citations omitted and italics in the original)

In *People v. Jorolan*,[37] the Court emphasized that there must be no intervening circumstances between the *res gestae* occurrence and the time the statement was made as could have afforded the declarant an opportunity for *deliberation* or *reflection*; in other words, the statement was unreflected and instinctive:

> An important consideration is whether there intervened between the occurrence and the statement any circumstance calculated to divert the mind of the declarant, and thus restore his mental balance and afford opportunity for deliberation. His statement then cannot be regarded as unreflected and instinctive, and is not admissible as part of the <u>*res gestae*</u>. **An example is where he had been talking about matters other than the occurrence in question or directed his attention to other matters**.[38] (Citation omitted and emphasis ours)

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34 *People v. Manhuyod, Jr.*, 352 Phil. 866, 882 (1998).
35 357 Phil. 871 (1998).
36 Id. at 885-886.
37 452 Phil. 698 (2003).
38 Id. at 713.

In *People v. Salafranca*,[39] the Court cited two tests in applying the *res gestae* rule: a) the act, declaration or exclamation is so intimately interwoven or connected with the principal fact or event that it characterizes as to be regarded as a part of the transaction itself; and b) the said evidence clearly negatives any premeditation or purpose to manufacture testimony.

> The term *res gestae* has been defined as "those circumstances which are the undesigned incidents of a particular litigated act and which are admissible when illustrative of such act." In a general way, *res gestae* refers to the circumstances, facts, and declarations that grow out of the main fact and serve to illustrate its character and are so spontaneous and contemporaneous with the main fact as to exclude the idea of deliberation and fabrication. The rule on *res gestae* encompasses the exclamations and statements made by either the participants, *victims*, or spectators to a crime immediately before, during, or immediately after the commission of the crime when the circumstances are such that the statements were made as a *spontaneous* reaction or utterance inspired by the excitement of the occasion and there was no opportunity for the declarant to deliberate and to fabricate a false statement. The test of admissibility of evidence as a part of the *res gestae* is, therefore, whether the act, declaration, or exclamation is **so intimately interwoven or connected with the principal fact or event that it characterizes as to be regarded as a part of the transaction itself, and also whether it clearly negatives any premeditation or purpose to manufacture testimony**.[40] (Citations omitted, emphasis ours and italics in the original)

By way of illustration, in *People v. Villarama*,[41] the 4-year-old rape victim did not testify, but the accused, an uncle of the victim, was convicted on the basis of what the child told her mother. The Court said:

> The critical factor is the ability or chance to invent a story of rape. At her age, the victim could not have had the sophistication, let alone the malice, to tell her mother that her uncle made her lie down, took off her panties and inserted his penis inside her vagina.
>
> The shock of an unwelcome genital penetration on a woman is unimaginable, more so to a four-year-old child. Such a brutal experience constituted unspeakable trauma. The fact that Elizabeth was still crying when her parents arrived reinforces the conclusion that she was still in a traumatic state when she made the statements pointing to appellant.
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> x x x [I]n *Contreras*, the victim's statement that she had been sexually molested by the accused was not received under the *res gestae* exception to the hearsay rule, because her statement did not refer to the incident witnessed by Nelene but to a general pattern of molestation of her and her companions by the accused. In contrast, Elizabeth's declaration to

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39 G.R. No. 173476, February 22, 2012, 666 SCRA 501.
40 Id. at 513-514.
41 445 Phil. 323 (2003).

> her mother regarding the then just concluded assault were so full of details specific to the incident that there could be no doubt she was referring to the same incident witnessed by Ricardo Tumulak.[42]

In *People v. Velasquez*,[43] the 2-year-old rape victim told her mother the following: a) "*Si Tatang kakayan na ku pu.*" ("*Tatang* has been doing something to me."); and b) "*I-tatang kasi, kinayi ne pu ing pekpek ku kaya masakit ya.*" ("Because *Tatang* has been doing something to my private part, that is why it hurts.") The girl then showed her mother her private part, which was swollen and oozing with pus, and then she gestured by slightly opening or raising her right foot, and using her right finger, to show what the accused had done to it.[44] The Court ruled:

> We hold, therefore, that Aira's statements and acts constitute *res gestae*, as it was made immediately subsequent to a startling occurrence, uttered shortly thereafter by her with spontaneity, without prior opportunity to contrive the same. Regail's account of Aira's words and, more importantly, Aira's gestures, constitutes independently relevant statements distinct from hearsay and admissible not as to the veracity thereof but to the fact that they had been thus uttered.
>
> Under the doctrine of independently relevant statements, regardless of their truth or falsity, the fact that such statements have been made is relevant. The hearsay rule does not apply, and the statements are admissible as evidence. Evidence as to the making of such statement is not secondary but primary, for the statement itself may constitute a fact in issue or be circumstantially relevant as to the existence of such a fact.[45] (Citation omitted)

In *People v. Lupac*,[46] the Court accepted as part of *res gestae* the 10-year-old victim's denunciation of her uncle to a neighbor whom she met soon after she managed to get away from her uncle after the rape, uttering the words "*hindot*" and "*inano ako ni Kuya Ega.*"[47]

In *People v. Moreno*,[48] shortly after the three accused left the house where the complaining victims worked as maids, the maids told their employers, who had just arrived, that they had been raped. The employers testified in court on these statements. The Court held that the maids' statements were part of *res gestae* since they were spontaneously made as soon as the victims had opportunity to make them without threat to their lives. The Court said:

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42 Id. at 335-337.
43 405 Phil. 74 (2001).
44 Id. at 98.
45 Id. at 99-100.
46 G.R. No. 182230, September 19, 2012, 681 SCRA 390.
47 Id. at 393.
48 G.R. No. 92049, March 22, 1993, 220 SCRA 292.

> This exception is based on the belief that such statements are trustworthy because made instinctively, "while the declarant's mental powers for deliberation are controlled and stilled by the shocking influence of a startling occurrence, so that all his utterances at the time are the reflex products of immediate sensual impressions, unaided by retrospective mental action." Said natural and spontaneous utterances are perceived to be more convincing than the testimony of the same person on the witness stand.[49] (Citations omitted)

But in *People v. Contreras*,[50] the accused was acquitted in one of several statutory rape charges because, among other things, the prosecution failed to present the victim, a 6-year-old girl, and the court found that her alleged *res gestae* statement referred not to the incident or circumstance testified to by the witness but rather to a general pattern of molestation which she and her companions had endured for some time already.

AAA's statements to the *barangay tanod* and the police do not qualify as part of *res gestae* in view of the missing element of spontaneity and the lapse of an appreciable time between the rape and the declarations which afforded her sufficient opportunity for reflection.

In *People v. Manhuyod, Jr.*,[51] the Court stressed that in appreciating *res gestae* the element of spontaneity is ***critical***. Although it was acknowledged that there is no hard and fast rule to establish it, the Court cited a number of factors to consider, already mentioned in *Dianos.* The review of the facts below constrains this Court to take a view opposite that of the RTC and the CA.

It is of particular significance to note that in her sworn statement to the police, AAA admitted that she first revealed her ordeal of sexual abuse to her cousin DDD in the afternoon of February 5, 2009, although her mother BBB had returned from her overnight guard duty that morning. Shocked by what AAA told him, DDD relayed to BBB "*na may problema [si AAA]*." BBB thus confronted her, and AAA in her own words narrated that, "*kaya kinausap na po ako ni Mama kung ano ang problema ko kaya sinabi ko na po ang ginawa sa akin ni Papa ko po kaya nalaman na lahat ni Mama ang panggagahasa sa akin ni Papa*."[52]

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49 Id. at 304.
50 393 Phil. 277 (2000).
51 352 Phil. 866 (1998).
52 Records, p. 7.

After an anguished silence of five years, finally AAA found the courage to reveal to her mother her heart-rending saga of sexual abuse by her own father. Emboldened by her cousin DDD's moral support, AAA told her mother that she had been hiding her dark secret since Grade III. But as soon as BBB learned, events quickly took their logical course. With BBB now leading the way, BBB and AAA sought the help of the *barangay tanod* that same day between 5:00 p.m. and 6:00 p.m. to have the accused-appellant arrested. At around 6:00 p.m., they were able to arrest him as he was coming home. Later that night, AAA accompanied by BBB gave her statement to PO3 Cobardo of the PNP women's desk.

AAA's revelation to DDD and BBB set off an inexorable chain of events that led to the arrest of the accused-appellant. There is no doubt, however, that there was nothing spontaneous, unreflected or instinctive about the declarations which AAA made to the *barangay tanod* and later that night to the police. Her statements were in fact a re-telling of what she had already confessed to her mother earlier that afternoon; this time however, her story to the *tanods* and the police was in clear, conscious pursuit of a newly formed resolve, exhorted by her mother, to see her father finally exposed and put behind bars. AAA made her declarations to the authorities precisely because she was seeking their help to punish the accused-appellant. There was then nothing spontaneous about her so-called *res gestae* narrations, even as it is remarkable to note that while AAA was giving her said statements to the police, her father was already being held in detention, and the investigation was conducted exactly to determine if there was a basis to hold him for trial for rape.

Res gestae speaks of a quick continuum of related happenings, starting with the occurrence of a startling event which triggered it and including any spontaneous declaration made by a witness, participant or spectator relative to the said occurrence. The cases this Court has cited invariably reiterate that the statement must be an unreflected reaction of the declarant, undesigned and free of deliberation. In other words, the declarant is spontaneously moved merely to express his instinctive reaction concerning the startling occurrence, and not to pursue a purpose or design already formed in his mind. In *People v. Sanchez*,[53] the Court belabored to explain that startling events "*speak for themselves, giving out their fullest meaning through the unprompted language of the participants*:"[54]

> *Res gestae* means the "things done." It "refers to those exclamations and statements made by either the participants, victims, or spectators to a crime immediately before, during, or immediately after the commission of the crime, when the circumstances are such that the statements were made as a spontaneous reaction or utterance inspired by the excitement of the occasion and there was no opportunity for the

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53 G.R. No. 74740, August 28, 1992, 213 SCRA 70.

54 Id. at 79.

> declarant to deliberate and to fabricate a false statement." A spontaneous exclamation is defined as "a statement or exclamation made immediately after some exciting occasion by a participant or spectator and asserting the circumstances of that occasion as it is observed by him. The admissibility of such exclamation is based on our experience that, under certain external circumstances of physical or mental shock, a stress of nervous excitement may be produced in a spectator which stills the reflective faculties and removes their control, so that the utterance which then occurs is a spontaneous and sincere response to the actual sensations and perceptions already produced by the external shock. Since this utterance is made under the immediate and uncontrolled domination of the senses, rather than reason and reflection, and during the brief period when consideration of self-interest could not have been fully brought to bear,' the utterance may be taken as expressing the real belief of the speaker as to the facts just observed by him." In a manner of speaking, the spontaneity of the declaration is such that the declaration itself may be regarded as the event speaking through the declarant rather than the declarant speaking for himself. Or, stated differently, "x x x the events speak for themselves, giving out their fullest meaning through the unprompted language of the participants. The spontaneous character of the language is assumed to preclude the probability of its premeditation or fabrication. Its utterance on the spur of the moment is regarded, with a good deal of reason, as a guarantee of its truth.[55] (Citations omitted)

The RTC and the CA held that the inculpatory statements of AAA to the *barangay tanod* and the police are part of the *res gestae* occurrence of the rape. This is error. It is obvious that AAA had by then undergone a serious deliberation, prodded by her mother, whose own outrage as the betrayed wife and grieving mother so emboldened AAA that she finally resolved to emerge from her fear of her father. Here then lies the crux of the matter: AAA had clearly ceased to act unthinkingly under the immediate influence of her shocking rape by her father, and was now led by another powerful compulsion, a new-found resolve to punish her father.

Hearsay evidence is accorded no probative value for the reason that the original declarant was not placed under oath or affirmation, nor subjected to cross-examination by the defense, except in a few instances as where the statement is considered part of the *res gestae*.

This Court has a situation where the incriminatory statements allegedly made by AAA were conveyed to the trial court not by AAA herself but by PO3 Cobardo, BSF Estudillo and BSF Perlas. In particular, PO3 Cobardo made a summation of what she claims was AAA's narration of her ordeal, along with her own observations of her demeanor during the

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[55] Id. at 78-79.

investigation. But unless the prosecution succeeded in invoking *res gestae*, their testimonies must be dismissed as hearsay, since AAA's statements were not subjected to cross-examination consistent with the constitutional right of the accused-appellant to confront the evidence against him.

Hearsay testimony is devoid of probative value, and unless it is part of *res gestae*, the appealed decision runs contrary to the well-settled rule against admitting hearsay evidence, aptly described as "evidence not of what the witness knows himself but of what he has heard from others."[56] The hearsay rule puts in issue the trustworthiness and reliability of hearsay evidence, since the statement testified to was not given under oath or solemn affirmation, and more compellingly, the declarant was not subjected to cross examination by the opposing party to test his perception, memory, veracity and articulateness, on whose reliability the entire worth of the out-of-court statement depends.[57] It is an immemorial rule that a witness can testify only as to his own personal perception or knowledge of the actual facts or events. His testimony cannot be proof as to the truth of what he learned or heard from others.[58] But equally important, Section 14(2) of the Bill of Rights guarantees that "*[i]n all criminal prosecutions, the accused shall x x x enjoy the right x x x to meet the witnesses face to face x x x.*" By allowing the accused to test the perception, memory, and veracity of the witness, the trial court is able to weigh the trustworthiness and reliability of his testimony. There is no gainsaying that the right to confront a witness applies with particular urgency in criminal proceedings, for at stake is a man's personal liberty, universally cherished among all human rights.

In *Patula v. People*,[59] the Court rendered a helpful disquisition on hearsay evidence, why it must be rejected and treated as inadmissible, and how it can be avoided:

> To elucidate why the Prosecution's hearsay evidence was unreliable and untrustworthy, and thus devoid of probative value, reference is made to Section 36 of Rule 130, *Rules of Court*, a rule that states that a witness can testify only to those facts that she knows of her personal knowledge; that is, which are derived from her own perception, except as otherwise provided in the *Rules of Court*. The personal knowledge of a witness is a substantive prerequisite for accepting testimonial evidence that establishes the truth of a disputed fact. **A witness bereft of personal knowledge of the disputed fact cannot be called upon for that purpose because her testimony derives its value not from the credit accorded to her as a witness presently testifying but from the veracity and competency of the extrajudicial source of her information.**

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56 Supra note 51, at 880, citing Francisco, Evidence 244, 3rd Ed. (1996).
57 *Country Bankers Ins. Corp. v. Lianga Bay*, 425 Phil. 511, 520 (2002).
58 RULES OF COURT, Rule 130, Section 36.
59 G.R. No. 164457, April 11, 2012, 669 SCRA 135.

In case a witness is permitted to testify based on what she has heard another person say about the facts in dispute, the person from whom the witness derived the information on the facts in dispute is not *in court* and *under oath* to be examined and cross-examined. The weight of such testimony then depends not upon the veracity of the witness but upon the veracity of the other person giving the information to the witness without oath. The information cannot be tested because the declarant is not standing in court as a witness and cannot, therefore, be cross-examined.

It is apparent, too, that a person who relates a hearsay is not obliged to enter into any particular, to answer any question, to solve any difficulties, to reconcile any contradictions, to explain any obscurities, to remove any ambiguities; and that she entrenches herself in the simple assertion that she was told so, and leaves the burden entirely upon the dead or absent author. **Thus, the rule against hearsay testimony rests mainly on the ground that there was no opportunity to cross-examine the declarant. The testimony may have been given under oath and before a court of justice, but if it is offered against a party who is afforded no opportunity to cross-examine the witness, it is hearsay just the same**.

Moreover, the theory of the hearsay rule is that when a human utterance is offered as evidence of the truth of the fact asserted, the credit of the assertor becomes the basis of inference, and, therefore, the assertion can be received as evidence only when made on the witness stand, subject to the test of cross-examination. However, if an extrajudicial utterance is offered, not as an assertion to prove the matter asserted but without reference to the truth of the matter asserted, the hearsay rule does not apply. For example, in a slander case, if a prosecution witness testifies that he heard the accused say that the complainant was a thief, this testimony is admissible not to prove that the complainant was really a thief, but merely to show that the accused uttered those words. This kind of utterance is hearsay in character but is not legal hearsay. The distinction is, therefore, between *(a)* the fact that the statement was made, to which the hearsay rule does not apply, and *(b)* the truth of the facts asserted in the statement, to which the hearsay rule applies.

Section 36, Rule 130 of the *Rules of Court* is understandably not the only rule that explains why testimony that is hearsay should be excluded from consideration. Excluding hearsay also aims to preserve the right of the opposing party to cross-examine the *original* declarant claiming to have a direct knowledge of the transaction or occurrence. If hearsay is allowed, the right stands to be denied because the declarant is not in court. It is then to be stressed that the right to cross-examine the adverse party's witness, being the only means of testing the credibility of witnesses and their testimonies, is essential to the administration of justice.

To address the problem of controlling inadmissible hearsay as evidence to establish the truth in a dispute while also safeguarding a party's right to cross-examine her adversary's witness, the *Rules of Court* offers two solutions. The first solution is to require that *all* the witnesses in a judicial trial or hearing be examined only in court *under oath or affirmation*. Section 1, Rule 132 of the *Rules of Court* formalizes this solution, *viz.*:

> "Section 1. *Examination to be done in open court*.– The examination of witnesses presented in a trial or hearing shall be done in open court, and under oath or affirmation. Unless the witness is incapacitated to speak, or the question calls for a different mode of answer, the answers of the witness shall be given orally."

The second solution is to require that *all* witnesses be *subject to the cross-examination by the adverse party*. Section 6, Rule 132 of the *Rules of Court* ensures this solution thusly:

> "Section 6. *Cross-examination; its purpose and extent*.—Upon the termination of the direct examination, the witness may be cross-examined by the adverse party as to any matters stated in the direct examination, or connected therewith, with sufficient fullness and freedom to test his accuracy and truthfulness and freedom from interest or bias, or the reverse, and to elicit all important facts bearing upon the issue."

Although the second solution traces its existence to a Constitutional precept relevant to criminal cases, *i.e.*, Section 14, (2), Article III, of the 1987 *Constitution*, which guarantees that: "*In all criminal prosecutions, the accused shall x x x enjoy the right x x x to meet the witnesses face to face x x x,*" the rule requiring the cross-examination by the adverse party equally applies to non-criminal proceedings.

We thus stress that the rule excluding hearsay as evidence is based upon serious concerns about the trustworthiness and reliability of hearsay evidence due to its not being given under oath or solemn affirmation and due to its not being subjected to cross-examination by the opposing counsel to test the perception, memory, veracity and articulateness of the out-of-court declarant or actor upon whose reliability the worth of the out of-court statement depends.[60] (Citations omitted, emphasis ours and italics in the original)

When inculpatory facts are susceptible of two or more interpretations, one of which is consistent with the innocence of the accused, the evidence does not fulfill or hurdle the test of moral certainty required for conviction.

It is well-settled, to the point of being elementary, that when inculpatory facts are susceptible to two or more interpretations, one of which is consistent with the innocence of the accused, the evidence does not fulfill or hurdle the test of moral certainty required for conviction.[61] A forced application of the *res gestae* exception below results if the Court says

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[60] Id. at 152-155.

[61] *People v. Timtiman*, G.R. No. 101663, November 4, 1992, 215 SCRA 364, 373, citing *People v. Remorosa*, G.R. No. 81768, August 7, 1991, 200 SCRA 350, 360.

that AAA's incriminatory statements were spontaneous and thus part of a *startling occurrence*. It produces an outright denial of the right of the accused-appellant to be presumed innocent unless proven guilty, not to mention that he was also denied his right to confront the complainant. As the Court held in *People v. Ganguso*:[62]

> An accused has in his favor the presumption of innocence which the Bill of Rights guarantees. Unless his guilt is shown beyond reasonable doubt, he must be acquitted. This reasonable doubt standard is demanded by the due process clause of the Constitution which protects the accused from conviction except upon proof beyond reasonable doubt of every fact necessary to constitute the crime with which he is charged. The burden of proof is on the prosecution, and unless it discharges that burden the accused need not even offer evidence in his behalf, and he would be entitled to an acquittal. Proof beyond reasonable doubt does not, of course, mean such degree of proof as excluding the possibility of error, produces absolute certainty. Moral certainty only is required, or that degree of proof which produces conviction in an unprejudiced mind. The conscience must be satisfied that the accused is responsible for the offense charged.[63] (Citations omitted)

This Court's views are not a condonation of the bestiality of the accused-appellant but only indicate that there is reasonable doubt as to his guilt entitling him to acquittal. As the Court stated in *People v. Ladrillo*:[64]

> Rape is a very emotional word, and the natural human reactions to it are categorical: sympathy for the victim and admiration for her in publicly seeking retribution for her outrageous misfortune, and condemnation of the rapist. However, being interpreters of the law and dispensers of justice, judges must look at a rape charge without those proclivities and deal with it with extreme caution and circumspection. Judges must free themselves of the natural tendency to be overprotective of every woman decrying her having been sexually abused and demanding punishment for the abuser. While they ought to be cognizant of the anguish and humiliation the rape victim goes through as she demands justice, judges should equally bear in mind that their responsibility is to render justice based on the law.[65] (Citation omitted)

It needs no elaboration that in criminal litigation, the evidence of the prosecution must stand or fall on its own merits and cannot draw strength from the weakness of the defense.[66] "[T]he burden of proof rests on the [S]tate. The accused, if he so chooses, need not present evidence. He merely has to raise a reasonable doubt and whittle away from the case of the prosecution. The constitutional presumption of innocence demands no

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62 320 Phil. 324 (1995).
63 Id. at 335.
64 377 Phil. 904 (1999).
65 Id. at 918.
66 *People v. Subido*, 323 Phil. 240, 251 (1996).

less,"[67] even as it also demands no less than a moral certainty of his guilt.[68]

WHEREFORE, accused-appellant Anecito Estibal *y* Calungsag is hereby **ACQUITTED**. His immediate **RELEASE** from detention is hereby **ORDERED**, unless he is being held for another lawful cause. Let a copy of this Decision be furnished to the Director of the Bureau of Corrections, Muntinlupa City for immediate implementation, who is then directed to report to this Court the action he has taken within five (5) days from receipt hereof.

SO ORDERED.

BIENVENIDO L. REYES
Associate Justice

WE CONCUR:

PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson

DIOSDADO M. PERALTA
Associate Justice

MARTIN S. VILLARAMA, JR.
Associate Justice

JOSE PORTUGAL PEREZ
Associate Justice

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67 *People v. Tadepa*, 314 Phil. 231, 236 (1995).
68 1987 CONSTITUTION, Article III, Section 14(2).

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