G.R. No. 225642-43

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REPUBLIC OF THE PHILIPPINES
Supreme Court
Manila

THIRD DIVISION

January 17, 2018

G.R. No. 225642-43

PEOPLE OF THE PHILIPPINES, Plaintiff-Appellee
vs.
JUVY D. AMARELA AND JUNARD G. RACHO, Accused-Appellant

D E C I S I O N

MARTIRES, *J.:*

This is an appeal from the 17 February 2016 Decision1 of the Court of Appeals *(CA)* in CA-G.R. CR HC Nos. 01226-MIN and 01227-MIN affirming *in toto* the 26 June 2012 Joint Judgment2 of the Regional Trial Court, Branch 11 of Davao City *(RTC).* The RTC found Juvy D. Amarela *(Amarela)* and Junard G. Racho *(Racho)* guilty beyond reasonable doubt of two (2) different charges of rape.

THE FACTS

The two (2) Informations in this case read:

Criminal Case No. 64,964-09

That on or about February 10, 2009, in the City of Davao, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, through force, did then and there willfully, unlawfully and feloniously have carnal knowledge of [AAA], against her will, immediately after boxing her legs.3

Criminal Case No. 64,965-09

That on or about February 11, 2009, in the City of Davao, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, through force, did then and there willfully, unlawfully and feloniously have carnal knowledge of [AAA], against her will, immediately after grappling her.4

These two (2) cases were jointly tried before the RTC, and Amarela and Racho's appeals, although separate, were consolidated in the CA on 13 November 2015.5

> The RTC summarized the factual milieu of this case:
>
> Prosecution presented [AAA], single, housekeeper and a resident of [XXX], Calinan, Davao City. On February 10, 2009, at around 6:00 o'clock in the evening, she was watching a beauty contest with her aunt at Maligatong, Baguio District, Calinan, Davao City. The contest was being held at a basketball court where a make-shift stage was put up. The only lights available were those coming from the vehicles around.
>
> She had the urge to urinate so she went to the comfort room beside the building of the Maligatong Cooperative near the basketball court. Between the cooperative building and the basketball court were several trees. She was not able to reach the comfort room because [Amarela] was already waiting for her along the way. Amarela suddenly pulled her towards the day care center. She was shocked and was no match to the strength of Amarela who pulled her under the stage of the day care center. He punched her in the abdomen which rendered her weak. Then Amarela undressed her. She tried to resist him but he was stronger. He boxed her upper thigh and she felt numb. He placed himself on top of her and inserted his penis inside her vagina and made a push and pull movement. She shouted for help and then three (3) men came to her rescue [so] Amarela fled.
>
> The three (3) persons brought her to a hut. But they closed the hut and had bad intentions with her. So she fled and hid in a neighboring house. When she saw that the persons were no longer around, she proceeded on her way home. She went to the house of Godo Dumandan who brought her first to the Racho residence because Dumandan thought her aunt was not at home. Dumandan stayed behind So Neneng Racho asked her son [Racho] to bring her to her aunt's house instead.
>
> x x x x
>
> [AAA] then said that [Racho] brought her to a shanty along the way against her will. She was told to lie down. When she refused, [Racho] boxed her abdomen and she felt sick. She resisted by kicking him but he succeeded in undressing her. He, then, undressed himself and placed himself on top of [AAA]. [Racho] then inserted his penis into [AAA]'s vagina. After consummating the act, [Racho] left her. So [AAA] went home alone.
>
> When she reached home, her parents were already asleep. She went inside her room and cried. The following morning, she decided to leave home. Her mother was surprised at her decision until eventually, [AAA] told her mother about what happened to her. She told her [eldest] brother first who got very angry.
>
> They reported the matter to the police and eventually [Amarela] and [Racho] were arrested.6

For the defense, Amarela testified for himself denying that he had anything to do with what happened with AAA:

> Defense presented [Amarela] who confirmed the fact that on February 10, 2009, he attended the fiesta celebrations in Maligatong, Baguio District, Calinan, Davao City. He said he met private complainant, [AAA], at the cooperative building at around 4:00 o'clock in the afternoon. [AAA] asked him if he knew a person by the name of Eric Dumandan who was allegedly her boyfriend. After a while, Eric Dumandan passed by and so he told him that [AAA] was looking for him. Then he left.
>
> Amarela said he had a drinking spree with his friend Asther Sanchez. While drinking, he felt dizzy and fell down from the bench. So Sanchez brought him to the house of his elder brother Joey in Tawan-tawan. He did not know what happened next because he slept and woke up at six o'clock in the morning.7

On his part, Racho confirmed that he went with AAA to bring her home but also denied raping her:

> Defense also presented [Racho], a resident of Sitio Maligatong, Barangay Tawan-tawan, Baguio District, Calinan, Davao City. He testified that he was at the house of his mother on February 10, 2009. At around 10:00 o'clock in the evening, [AAA] arrived with Godo Dumandan. [AAA] was asking for help while crying because she was allegedly raped by three persons in the pineapple plantation.
>
> His mother advised her to just take a bath and change clothes and sleep at his brother's house. But [AAA] wanted to go home. Since he was the only one who was not drunk, Racho was instructed by [his] mother to accompany [AAA] in going to her aunt's house.
>
> When they reached Caniamo, [AAA] did not want to be brought to her aunt's house because she knows the latter would just scold her. Instead, she wanted to be conveyed to their house at Ventura. Since Ventura was far, Racho did not go with her and instead went back home.
>
> When asked about the charge of rape against him, Racho said he could not have done that because his hand is impaired while showing a long scar on his left arm. This was a result allegedly of a hacking incident on September 21, 2008. He offered a Medical Certificate (Exh. 1) issued by Dr. Lugi Andrew Sabal of the Davao Medical Center which indicates that Racho was confined in the said hospital from September 21, 2008 up to October 1, 2008 after an operation on his left forearm. He said that his left arm was placed in a plaster cast but that he removed the cast after three (3) months. He said that even after he removed the cast, his arm was still painful and he could not move it around.
>
> Racho said he was surprised when policemen came to his house on February 11, 2009 and invited him to the police station because there was a complaint for rape against him.
>
> Anita Racho testified that she was at home in the evening of February 10, 2009 together with her husband and sons Bobby and [Racho]. Godo Dumandan arrived together with [AAA] who was allegedly raped by three (3) men. [AAA] appeared madly and wet so she advised her to take a bath and not to go home anymore since it was late. [AAA] insisted on going home, so she asked her son [Racho] to accompany her. [Racho] at first refused pointing to his elder brother Bobby to accompany her. He eventually brought [AAA] home. He came back at around 10:00 o'clock in the evening and then he went to sleep.
>
> The following day, she was surprised when [Racho] was arrested allegedly for raping [AAA]. [Racho] denied raping [AAA].8

Ruling of the Trial Court

In its joint judgment, the RTC found AAA's testimony, positively identifying both Amarela and Racho, to be clear, positive, and straightforward. Hence, the trial court did not give much weight to their denial as these could not have overcome the categorical testimony of AAA. As a result, Amarela and Racho were convicted as follows:

> In view of all the foregoing, judgment is hereby rendered in Criminal Case No. 64964-09 finding [Amarela] GUILTY beyond reasonable doubt of the crime of RAPE and hereby imposes upon him the penalty of *reclusion perpetua.*
>
> He is further sentenced to pay [AAA] the sum of FIFTY THOUSAND PESOS (₱50,000.00) as civil indemnity and the further sum of FIFTY THOUSAND PESOS (₱50,000.00) as moral damages.
>
> In Criminal Case No. 64965-09, judgment is hereby rendered finding [Racho] GUILTY beyond reasonable doubt of the crime of RAPE and hereby imposes upon him the penalty of *reclusion perpetua.*
>
> He is further sentenced to pay [AAA] the sum of FIFTY THOUSAND PESOS (₱50,000.00) as civil indemnity and the further sum of FIFTY THOUSAND PESOS (₱50,000.00) as moral damages.9

The Assailed CA Decision

Before the CA, Amarela and Racho pointed out that although there were other witnesses, the only material testimony on record was that of AAA. They argued that there were several circumstances casting doubt on AAA' s claim that she was raped because her testimony does not conform to common knowledge and to ordinary human experience.

In the assailed decision, the CA affirmed the RTC's judgment *in toto* finding no reason to reverse the trial court's factual findings. It held:

[AAA] has testified in a straightforward manner during her direct examination and remained steadfast in her cross-examination that Amarela sexually abused her on February 10, 2009, and [Racho] abused her five hours later. The first rape incident took place in the daycare center. She was pulled by Amarela while she was on her way to the comfort room located at the back of the x x x cooperative building. Private complainant, full of mud and wet, with dress tom, took refuge at the house of her boyfriend and sought for help. Her boyfriend's father took her to the house of the in-laws of her cousin. [AAA], who was still wet and muddy, begged the mother-in-law of her cousin that she be taken to the house of her aunt. While the in-laws of her cousin helped her by having escorted her to her aunt's house, it turned out however, that [Racho] her escort had another plan in mind. [Racho] sexually abused [AAA], who had no more strength to fight him.

The records render no reason to reverse the factual findings of the court *a quo*. Both of the appellants' denials miserably fail in contrast to [AAA's] positive identification of the accused-appellants as the person who sexually abused her. There is no doubt in our mind that both appellants had carnal knowledge of [AAA]. Her credibility is cemented by her lack of motive to testify against the two appellants, Amarela and [Ra.cho]. There is no evidence to suggest that she could have been actuated by such motive. The People has ably demonstrated the existence of the elements of Rape under the Revised Penal Code, as amended by R.A. No. 8353, or the Anti-Rape Law of 1997, which states:

x x x x

The Court sees no reason to deviate from the well-entrenched rule that in matters of credibility of witnesses, the assessment made by the trial court should be respected and given preponderant weight. [AAA's] ordeal is so traumatic that she would rather forget the whole incident. But once a rape victim has decided to seek justice, that means she is willing to recall the dastardly detail of the animalistic act committed on her person.

[Racho] would have us believe that the charge against him was merely fabricated because, according to him, being raped by two different assailants, on two different occasions and only hours apart, is contrary to the normal course of things.

We are not convinced.

The Supreme Court has once said that rape in itself is prompted by the abnormal need of a man to overpower and control a woman by way of sexual abuse. There is no typical mode, norm, or circumstance in committing rape or sexual abuse for the evil in man has no conscience. In fact, in a catena of cases, the Supreme Court had ruled that rape is no respecter of time or place. Thus, we cannot agree with [Racho]'s argument that just because [AAA] had been raped five hours earlier, the possibility that she might get raped again is nil.

Undeterred, appellants posit that [AAA's] testimony is not substantially corroborated by medical findings as the medical certificate does not show any physical injuries resulting from the alleged use of force by the appellants.

We do not agree.

> The absence of any superficial abrasion or contusion on the person of the offended party does not militate against the claim of the latter whose clear and candid testimony bears the badges of truth, honesty, and candor. It must be stressed that *the absence or presence of visible signs of injury on the victim depends on the degree of force employed by the accused to consummate the purpose which he had in mind to have carnal knowledge with the offended woman.* Thus, the force employed in rape need not be so great nor of such a character as could not be resisted. It is only that the force used by the accused is sufficient to enable him to consummate his purpose.
>
> Appellant Amarela also argues that [AAA] could not have identified her assailant because it was very dark at the place where [AAA] was allegedly pulled by her assailant and the place where she was allegedly raped.
>
> [AAA], in her re-direct examination, testified that she knew it was Amarela who raped her because she saw Amarela's fact while Amarela brought her from the cooperative building to the daycare center.
>
> Time and time again, the High Court has repeatedly ruled that positive identification prevails over denial, a negative defense that is inherently unreliable. We have no reason to doubt [AAA's] unwavering assertions positively establishing the identities of the two accused-appellants. We find the guilt of each of the accused-appellants to have been proven beyond reasonable doubt.
>
> FOR THESE REASONS, the assailed judgment is AFFIRMED *in toto.* 10

OUR RULING

More often than not, where the alleged victim survives to tell her story of sexual· depredation, rape cases are solely decided based on the credibility of the testimony of the private complainant. In doing so, we have hinged on the impression that *no young Filipina of decent repute would publicly admit that she has been sexually abused, unless that is the truth, for it is her natural instinct to protect her honor.* 11 However, this misconception, particularly in this day and age, not only puts the accused at an unfair disadvantage, but creates a travesty of justice.

The "women's honor" doctrine surfaced in our jurisprudence sometime in 1960. In the case of *People v. Tana,* 12 the Court affirmed the conviction of three (3) armed robbers who took turns raping a person named Herminigilda Domingo. The Court, speaking through Justice Alejo Labrador, said:

> It is a well-known fact that women, especially Filipinos, would not admit that they have been abused unless that abuse had actually happened. This is due to their natural instinct to protect their honor. We cannot believe that the offended party would have positively stated that intercourse took place unless it did actually take place.13

This opinion borders on the fallacy of *non sequitor.* And while the factual setting back then would have been appropriate to say it is natural for a woman to be reluctant in disclosing a sexual assault; today, we simply cannot be stuck to the *Maria Clara* stereotype of a demure and reserved Filipino woman. We, should stay away from such mindset and accept the realities of a woman's dynamic role in society today; she who has over the years transformed into a strong and confidently intelligent and beautiful person, willing to fight for her rights.

In this way, we can evaluate the testimony of a private complainant of rape without gender bias or cultural misconception. It is important to weed out these unnecessary notions because an accused may be convicted solely on the testimony of the victim, provided of course, that the testimony is credible, natural, convincing, and consistent with human nature and the normal course of things.14 Thus, in order for us to affirm a conviction for rape, we must believe beyond reasonable doubt the version of events narrated by the victim.

In an appeal from a judgment of conviction in rape cases, the issue boils down, almost invariably, to the credibility and story of the victim and eyewitnesses. The Court is oftentimes constrained to rely on the observations of the trial court who had the unique opportunity to observe the witnesses firsthand and note their demeanor, conduct and attitude under grilling and at times unfriendly, examination.15 It has since become imperative that the evaluation of testimonial evidence by the trial court be accorded great respect by this Court; for it can be expected that said determination is based on reasonable discretion as to which testimony is acceptable and which witness is worthy of belief.16 Although we put a premium on the factual findings of the trial court, especially when they are affirmed by the appellate court,17 this rule is not absolute and admits exceptions, such as when some facts or circumstances of weight and substance have been overlooked, misapprehended, and misinterpreted.

We follow certain guidelines when the issue of credibility of witnesses is presented before us, to *wit:*

First, the Court gives the highest respect to the R TC' s evaluation of the testimony of the witnesses, considering its unique position in directly observing the demeanor of a witness on the stand. From its vantage point, the trial court is in the best position to determine the truthfulness of witnesses.

Second, absent any substantial reason which would justify the reversal of the RTC's assessments and conclusions, the reviewing court is generally bound by the lower court's findings, particularly when no significant facts and circumstances, affecting the outcome of the case, are shown to have been overlooked or disregarded.

And third, the rule is even more stringently applied if the CA concurred with the RTC.18

After a careful review of the records and a closer scrutiny of AAA's testimony, reasonable doubt lingers as we are not fully convinced that AAA was telling the truth. The following circumstances, particularly, would cast doubt as to the credibility of her testimony: (1) the version of AAA's story appearing in her affidavit-complaint differs materially from her testimony in court; (2) AAA could not have easily identified Amarela because the crime scene was dark and she only saw him for the first time; (3) her testimony lacks material details on how she was brought under the stage against her will; and (4) the medical findings do not corroborate physical injuries and are inconclusive of any signs of forced entry.

First, AAA narrates that she was on her way to the comfort room, isolated from the crowd at the beauty contest and made it easy for Amarela to grab her without anyone noticing:

Q: Now, you said that you watched the beauty contest at around 7:00 in the evening on Feb. 10, 2009. After that, Ms. Witness, while watching, what did you do?

A: I was on my way to the CR.

Q: And where is the CR located?

A: Near the coop.

Q: Can you please tell us the name of that cooperative?

A: Cooperative.

Q: Can you recall the exact name?

A: Maligatong Cooperative.

Q: And, where is this Maligatong Cooperative, Ms. Witness, in relation to the basketball court where the beauty contest was held?

A: It's near.

x x x x

Q: Now, between the basketball court and the cooperative you referred to, what separates these two buildings?

A: Durian trees and cacao.

Q: You said that you were going to the CR located at the back of the Maligatong Cooperative to relieve yourself. And, were you able to go to the CR at the back of the Maligatong Cooperative?

A: Nomore.

Q: Why not?

A: [Amarela] was waiting for me.

Q: Exactly, can you please tell us the location where he was waiting for you?

A: At the back of the cooperative.

Q: And, upon seeing [Amarela] at the back of the cooperative, Ms. Witness, tell us what happened?

A: He pulled me.

Q: Going to what place?

A: Going towards the day care center.19

Meanwhile, her affidavit-complaint would indicate that Amarela pulled AAA away from the beauty contest stage to the day care center:

> 6. At around 6:00 in the afternoon, I, my aunt [BBB] together with her siblings and grand children went back to Maligatong Cooperative Building to watch a beauty contest. My companions stayed at the multicab at the parking area of said building, while my cousin [CCC] and I went closer to the stage. While at there, the person of [Amarela], drunk, suddenly appeared and introduced himself to me. I resisted to get his hand on my hands because he is holding it tightly and forcibly brought me to the back portion of the building. I asked for help but nobody heard me maybe because of the high volume of the sound system.
>
> 7. While at the back of said building I saw my boyfriend Eric Dumandan coming and [Amarela] told him, *"Ran* (Eric's palayaw) *naa si gemma diri!"* and Eric responded, *"ahh! tinga-a."*
>
> 8. When Eric left us, [Amarela] grabbed me going to the purok beside the daycare center of Sitio Maligatong, Brgy. Tawan-Tawan, Baguio District [more or less] 20 meters away from the [cooperative] building. I shouted for help but still nobody heard me.20

It has often been noted that if there is an inconsistency between the affidavit and the testimony of a witness, the latter should be given more weight since affidavits being taken *ex parte* are usually incomplete and inadequate.21 We usually brush aside these inconsistencies since they are trivial and do not impair the credibility of the rape victim.22 In this case, however, the version in AAA's affidavit-complaint is remotely different from her court testimony. At the first instance, AAA claims that she was pulled away from the vicinity of the stage; later, in court, she says that she was on her way to the rest room when she was grabbed. By this alone, we are hesitant to believe AAA's retraction because it goes into whether it was even possible for Amarela to abduct AAA against her will.

If we were to take into account AAA's initial claim that Amarela pulled her away from the vicinity of the stage, people facing the stage would easily notice that a man was holding a woman against her will. Thus, AAA's version that she was on her way to the rest room, instead of being pulled away from the crowd watching the beauty contest, would make it seem that nobody would notice if AAA was being taken away against her will. If indeed AAA was on her way to the rest room when she was grabbed by Amarela, why does her sworn statement reflect another story that differs from her court testimony? To our mind, AAA's testimony could have been concocted to just make her story believable rather than sticking to her original story that Amarela introduced himself and pulled her away from the stage. We cannot say that this inconsistency is simply a minor detail because it casts some doubt as to whether AAA was telling the truth - that she was abducted against her will before she was raped.

Although we cannot acquit Amarela solely based on an inconsistency, this instance already puts AAA's credibility in question. Again, we must remember that if we were to convict based solely on the lone testimony of the victim, her testimony must be clear, straightforward, convincing, and consistent with human experience. We must set a high standard in evaluating the credibility of the testimony of a victim who is not a minor and is mentally capable.

Second, we also find it dubious how AAA was able to identify Amarela considering that the whole incident allegedly happened in a dark place. In fact, she had testified that the place was not illuminated and that she did not see Amarela's face:

Direct Examination

Q: Now, what separates this beauty contest from what you were testifying a while ago as the daycare center?

A: Coconut trees, durian trees, and cacao.

Q: ·what else?

A: Several trees.

Q: How about grass?

A: Yes, sir.

Q: Now, can you please tell us the illumination in that place?

A: It was dark.

Q: Why is it that it was dark?

A: Because there was no lighting.23

Cross-Examination

Q: Since it was already night time, it was very dark at that time, correct?

A: Yes, ma'am.

Q: And when you went to the CR to relieve yourself which CR was located at Maligatong Cooperative building, it was also dark on your way?

A: Yes, ma'am.

x x x x

Q: Now, while under the makeshift stage of that day care center, it was dark, very dark?

A: Yes, ma'am.

Q: And you cannot see the face of [Amarela], was not clear to you because it was very dark, correct?

A: Yes, ma' am.24

Re-Direct Examination

Q: At the time that you said that while [Amarela] was undressing you could not see his face, would you confirm that?

A: Yes, sir.

> Q: What about his body?
>
> A: No, sir.
>
> Q: Why, Ms. Witness?
>
> A: It was dark.
>
> x x x x
>
> Q: Now, at the time that you were raped you said that it was too dark, how did you then identify that [Amarela] was the one who raped you?
>
> A: I know him when he brought me from the Coop.
>
> Q: From the Coop. to the day care center that was the time that you identified him?
>
> A: Yes, sir.25

From AAA's testimony, we are unsure whether she was able to see Amarela given the lighting conditions in the crime scene. In her re-direct examination, AAA clarified that she identified Amarela while she was being pulled to the day care center. Even so, the prosecution failed to clarify as to *how* she was able to do so when, according to AAA herself, the way to the day care center was dark and covered by trees. Thus, leaving this material detail unexplained, we again draw reservations from AAA's testimony.

Proving the identity of the accused as the malefactor is the prosecution's primary responsibility. The identity of the offender, like the crime itself, must be established by proof beyond reasonable doubt. Indeed, the first duty of the prosecution is not to prove the crime but to prove the identity of the criminal, for even if the commission of the crime can be established, there can be no conviction without proof of identity of the criminal beyond reasonable doubt.26

Third, her claim that she was forcibly brought under a makeshift stage, stripped naked, and then raped seems unrealistic and beyond human experience. She said:

Q: At the day care center, where exactly did he bring you?

A: Under.

Q: Under what?

A: Under the makeshift stage.

Q: You said there was also a makeshift stage at the day care center?

A: Yes.

Q: Was it finished makeshift stage or not?

A: Not yet finished.

Q: You said that he brought you under that makeshift stage?

A: Yes.

Q: Please tell us how did you fit in that makeshift stage?

A: Because the flooring is about 2 feet high.

Q: Since you said he pulled you towards that makeshift stage, what was your reaction, Ms. Witness?

A: I was scared.

Q: And what did you do?

A: I did not know what to do then.

x x x x

Q: Now, after that, what happened, Ms. Witness?

A: He pushed me under.

Q: What happened after that?

A: He [punched] me in my abdomen.

Q: What else did he do to you?

A: I felt weak.

Q: After that what happened?

A: He undressed me.

Q: While he was undressing you, what did you do, Ms. Witness?

A: I was just lying down.

x x x x

Q: What else did he do to you while you were resisting his advances?

> A: He boxed my upper left thigh.
>
> Q: .What did you feel when he boxed your left thigh?
>
> A: I felt numbness.
>
> x x x x
>
> Q: Now, you said that he undressed you, Ms. Witness, and you said he also undressed himself. What, then, [did he] do to you?
>
> A: He placed himself on top of me.
>
> Q: What did he do after that?
>
> A: He inserted his penis in my sex organ.27

From this, AAA would like us to believe that Amarela was able to undress himself and AAA, and place himself on top of her while under a 2- feet high makeshift stage. It is physically impossible for two human beings to move freely under a stage, much more when the other person is trying to resist sexual advances. Moreover, AAA failed to mention how exactly Amarela pulled her to the makeshift stage without any sign of struggle or resistance. If indeed she was being held against her will, AAA could have easily called for help or simply run away.

Fourth, the challenge to AAA's credibility is further supported by the medical findings of the medico-legal officer. The medico-legal certificate dated 12 February 2009 would reflect that AAA had no pertinent physical findings/or physical injuries:28

FINDINGS			
GENERAL PHYSICAL FINDINGS			
Height	5 feet & 4 inches	Weight	44 Kg
General Survey	Awake, afebrile, not in respiratory distress		
Mental Status	Conscious, coherent, respond well to questions when asked and maintained eye to eye contact		
Pertinent Physical Findings/Physical Injuries	Normal Findings		
ANO-GENITAL EXAMINATION			
External Genitalia	Normal findings		
Urethra and Periurethral Area	Normal findings		
Perihymenal Area and Fossa Narvicularis	(+) Hyperemic/Erythematous perihymenal area.		

Hymen	(+) Complete laceration at 9 o clock and 3 o clock positions with minimal bloody secretion on the lacerated area.
Perineum	Normal findings
Discharge	None
Internal and Speculum exam	Not done
Anal Examination	Good Sphincteric tone
DIAGNOSTIC AND EVIDENCE GATHERING	
Forensic Evidence and Laboratory Results	Pending laboratory results (Spermatocyte determination gram staining).
IMPRESSONS	
Anogenital findings are diagnostic of blunt force or penetrating trauma.29	

Insofar as the evidentiary value of a medical examination is concerned, we have held that a medico-legal report is not indispensable to the prosecution of a rape case, it being merely corroborative in nature.30 In convicting rapists based entirely on the testimony of their victim, we have said that a medico-legal report is by no means controlling.31 Thus, since it is merely corroborative in character, a medico-legal report could even be dispensed with.32

A medico-legal's findings are at most corroborative because they are mere opinions that can only infer possibilities and not absolute necessities. A medico-legal, who did not witness the actual incident, cannot testify on what exactly happened as his testimony would not be based on personal knowledge or derived from his own perception. Consequently, a medico-legal's testimony cannot establish a certain fact as it can only suggest what most likely happened.

In the same way, a medico-legal's findings can raise serious doubt as to the credibility of the alleged rape victim. Based on the testimony of the medico-legal officer who conducted the medical examination on AAA, she diagnosed that the ano-genital findings were caused by a blunt force or penetrating trauma.

In a study conducted by Radostina D. Miterva,33 the most common sites for lacerations were determined, "in rape victims with ring-shaped hymens, lacerations were most commonly located as followed at dorsal recumbence of the patient: (1) one laceration at 6 o'clock position in 42.02% of cases; (2) two lacerations at 5 and 7 o'clock positions in 24.55% cases; (3) three lacerations at 3, 6 and 9 o'clock positions in 45.36% of cases; and (4) four lacerations at 3, 5, 6 and 9 o'clock positions in 25% of cases."

These findings were supported by an earlier study that described patterns of genital injury resulting from sexual abuse.34

However, in a similar study comparing injuries from consensual and non-consensual intercourse, the authors discovered that the statistical results of the locations of vaginal laceration are almost the same.35 Their findings suggest that

the injuries are similar after consensual and non-consensual intercourse.36

From all this, we observe that a specific location of a vaginal laceration cannot distinguish consensual from non-consensual sex. Rather, other factors should be considered (such as, the frequency of lacerations and whether they are located in different positions) to determine whether the sexual act was consensual or not. If the frequency of lacerations is located in different areas of the vaginal orifice, then it would be a good indicator that there was sexual abuse. On the other hand, if the lacerations are found in a specific area, it could indicate forced rape, but could also suggest consensual intercourse.

In the instant case, the lacerations were found only at the 9 o'clock and 3 o'clock positions of the hymen. Considering the locality of these lacerations, we cannot completely rule out the probability that AAA voluntarily had sex that night. Moreover, the absence of bruises on AAA's thighs-when she said she was punched there twice-reinforces the theory that AAA may have had consensual intercourse.

Rape is essentially a crime committed through force or intimidation, that is, *against the will of the female.*37 It is also committed without force or intimidation when carnal knowledge of a female is alleged and shown to be *without her consent.*38 Carnal knowledge of the female with her consent is not rape, provided she is above the age of consent or is capable in the eyes of the law of giving consent.39 The female must not at any time consent; her consent, given at any time prior to penetration, however reluctantly given, or if accompanied with mere verbal protests and refusals, prevents the act from being rape, provided the consent is willing and free of initial coercion.40

Although Amarela or Racho did not raise consensual intercourse as a defense, We must bear in mind that the burden of proof is never shifted and the evidence for the prosecution must stand or fall on its own merits. Whether the accused's defense has merit is entirely irrelevant in a criminal case. It is fundamental that the prosecution's case cannot be allowed to draw strength from the weakness of the evidence for the defense.41

As to Racho's case, we note that AAA testified only once for both criminal cases.*1âwphi1* This means that both Amarela and Racho were convicted based on her lone testimony. When we rely on the testimony of the private complainant in rape cases, we require that her testimony be entirely credible, trustworthy, and realistic. For when certain parts would seem unbelievable, especially when it concerns one of the elements of the crime, the victim's testimony as a whole does not pass the test of credibility. Since we doubt AAA's account on how she was raped by Amarela, we have to consider her testimony against Racho under the same light.

In her testimony, AAA claimed that Racho was instructed to bring her to her aunt's house, but instead forced her to go inside a house along the way. While inside the house, Racho supposedly boxed AAA's abdomen, undressed himself, placed himself on top of AAA, and inserted his penis into AAA's vagina. Afterwards, Racho got dressed and left AAA to go home by herself.42

We find it odd that AAA was not brought to the police right after she arrived at Godo Dumandan's house to seek help. Instead, she was brought to the Racho residence where she told Neneng Racho what happened. Again, instead of reporting the incident to the police, AAA insisted that she be brought to her aunt's

house nearby. This is way beyond human experience. If AAA had already told other people what happened, there was no reason for her not to report the incident to the proper authorities.

Faced with AAA's doubtful narration before she went home alone, we are inclined to believe Racho's version that they parted ways when AAA insisted that she wanted to go home. To begin with, Racho did not even want to bring AAA to her aunt's house nearby.43 If he had the intention to have sex with AAA, Racho would not have declined her mother's instruction. To add, Racho said he left AAA by herself because he did not want to bring AAA to her house since this was in another town from her aunt's house.44 His reason for leaving AAA to go home alone is supported by the fact that he was able to immediately come home right after he left with AAA. Unlike AAA's testimony, the version offered by Racho is corroborated by the testimony of his mother.

Undeniably, the defenses of denial and alibi are commonly raised in rape cases. Nevertheless, we have dismissed such defenses for being inherently weak, self-serving, and, more often than not, uncorroborated. To recall, Racho did not deny that he accompanied AAA to her aunt's house, but he said he left her when AAA insisted that she wanted to go home. Racho's mother corroborated this part of the story. To our mind, if the denial and alibi are readily available, Racho could have easily raised these defenses and denied that AAA ever came to the house. His mother could have likewise covered up this story, but she did not and confirmed that Racho was with AAA that night. If indeed Racho raped AAA that night, the best defense available for him was alibi which he thought he did not have to raise, given that he was telling the truth when he left AAA by herself to go home. To our mind, these are badges of truth which persuade us that Racho might be telling the truth.

In the end, what needs to be stressed here is that a conviction in a criminal case must be supported by proof beyond reasonable doubt or moral certainty that the accused is guilty.45 Absolute guarantee of guilt is not demanded by the law to convict a person of a criminal charge but there must, at least, be moral certainty on each element essential to constitute the offense and on the responsibility of the offender.46 Thus, the prosecution has the primordial duty to present its case with clarity and persuasion, to the end that conviction becomes the only logical and inevitable conclusion.47

The prosecution in this case miserably failed to present a clear story of what transpired. Whether AAA's ill-fated story is true or not, by seeking relief for an alleged crime, the prosecution must do its part to convince the court that the accused is guilty. Prosecutors are given ample resources of the government to present a logical and realistic account of every alleged crime, and they should, to the best of their ability, present a detailed story to get a conviction. But here we cannot ascertain what happened based on the lone testimony of AAA. It should have been the prosecution's duty to properly evaluate the evidence if it had enough to convict Amarela or Racho.

Henceforth, we are constrained to reverse the R TC and the CA rulings due to the presence of lingering doubts which are inconsistent with the requirement of guilt beyond reasonable doubt as quantum of evidence to convict an accused in a criminal case. Amarela and Racho are entitled to an acquittal, as a matter of right, because the prosecution has failed to prove their guilt beyond reasonable doubt.

WHEREFORE, premises considered, the 26 June 2012 Joint Judgment of the Regional Trial Court, Branch 11 of Davao City, in Criminal Case Nos. 64964-09 and 64965-09, as well as the 17 February 2016 Decision of the Court of Appeals in CA-G.R. CR HC Nos. 01226 and 01227-MIN are hereby **REVERSED** and **SET ASIDE.**

Accused-appellants Juvy D. Amarela and Junard G. Racho are **ACQUITTED** of the charge of rape on the ground of reasonable doubt. Their **IMMEDIATE RELEASE** from custody is hereby ordered unless they are being held for other lawful cause.

SO ORDERED.

SAMUEL R. MARTIRES
Associate Justice

WE CONCUR:

PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson

LUCAS P. BERSAMIN
Associate Justice

MARVIC M.V.F. LEONEN
Associate Justice

ALEXANDER G. GESMUNDO
Associate Justice

A T T E S T A T I O N

I attest that the conclusions in the above Decisionhad 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

C E R T I F I C A T I O N

Pursuant to the 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

Footnotes

1 *Rollo,* pp. 3-14

2 CA *rollo* (CA-G.R. CR HC No. 01226-MIN), pp. 22-28.

3 Records (Criminal Case No. 64,964-09), p. I.

4 Records (Criminal Case No. 64,965-09), p. I.

5 CA *rollo* (CA-G.R. HC No. 01227-MIN), pp. 81-82.

6 CA *rollo* (CA-G.R. No. 01226-MIN), pp. 23-24.

7 *Id.* at 24-25.

8 *Id.* at 25-26.

9 *Id.* at 27-28.

10 *Rollo,* pp. 10-13.

11 *People v. Gan,* 150-B Phil. 593, 603 (1972); *People v. Sarmiento,* 183 Phil. 499, 506 (1979); *People v. Gamez,* 209 Phil. 209, 218 (1983); *People v. Quidi/la,* 248 Phil. 1005, 1017 (1988); *People v. Fabro,* 269 Phil. 409, 419 (1990) citing *People v. Sambangan,* 211 Phil. 72, 76 (1983); People *v. Pati/an,* 274 Phil. 634, 648 (1991) citing *People v. Rami/o,* 230 Phil. 342, 351 (1986); *People v. Esquila,* 324 Phil. 366, 373 (1996); *People v. Manahan,* 374 Phil. 77, 88 (1999); *People v. Dreu,* 389 Phil. 429, 435 (2000) citing *People v. Barcelona,* 382 Phil. 46, 57 (2000); *People v. Durano,* 548 Phil. 383, 396 (2007) citing *People* v. *Domingo,* 297 Phil. 167, 188 (1993); *People v. Madsali,* 625 Phil. 431, 446 (2010) citing *People v. Loyola,* 404 Phil. 71, 77 (2001).

12 109 Phil. 912(1960).

13 *Id.* at 914-915.

14 *People v. Zamoraga,* 568 Phil. 132, 140 (2008); *People v. Achas,* 612 Phil. 652, 662 (2009); *People v. Banig,* 693 Phil. 303, 312 (2012); *People v. Gahi,* 727 Phil. 642, 657 (2014); *People v. Pita/la,* G.R. No. 223561, 19 October 2016.

15 *People v. Parcia,* 425 Phil. 579, 585-586 (2002).

16 *Id.* at 586.

17 *People v. Nerio, Jr.,* 764 Phil. 565, 575 (2015) citing *People v. CA,* 755 Phil. 80, 111 (2015); *People v. Regaspi, 768* Phil. 593, 598 (2015) citing *People v. Cabungan,* 702 Phil. 177, 188-189 (2013).

18 *People v. Pareja,* 724 Phil. 759, 773 (2014) citing *People v. Sanchez,* 681 Phil. 631, 635-636 (2012).

19 TSN, 12 May2009, pp. 16-17.

20 Records (Criminal Case No. 64,964-09), p. 3.

21 *People v. Manigo,* 725 Phil. 324, 333 (2014) citing *People v. Villanueva, Jr.,* 611 Phil. 152, 172 (2009).

22 *People v. Velasco,* 722 Phil. 243, 254 (2013), *People v. Laurino,* 698 Phil. 195, 201 (2012); *People v. Villamar,* G.R. No. 202187, 10 February2016, 783 SCRA 697, 707.

23 TSN, 12 May 2009, p. 19.

24 TSN, 19 May 2009, pp. 2-6.

25 *Id.* at l5.

26 *People* v. *Caliso,* 675 Phil. 742, 752 (2011) cited in *People* v. *Espera,* 718 Phil. 680, 694 (2013).

26 *People* v. *Caliso,* 675 Phil. 742, 752 (2011) cited in *People* v. *Espera,* 718 Phil. 680, 694 (2013).

27 TSN, 12 May 2009, pp. 21-25.

28 Records (Criminal Case No. 64,964-09), p. 9.

29 Id.

30 *People v. Pamintuan,* 710 Phil. 414, 424 (2013) citing *People v. Opong,* 577 Phil. 571, 593 (2008); *People v. Lou,* 464 Phil. 413, 423 (2004); *People v. Baltazar,* 385 Phil. 1023, 1036 (2000); *People v. Lasola,* 376 Phil. 349, 360 (1999).

31 *People v. Ferrer,* 415 Phil. 188, 199 (2001).

32 *People v. Dion,* 668 Phil. 333, 351 (2011).

33 Localization and Number of Defloration Lacerations in Annular Hymens, *J Biomed Clin Res* Suppl. 1 Vol. 2 No. 1, 2009.

34 M.S. Sommers, Defining Patterns of Genital Injury from Sexual Assault, TRAUMA VIOLENCE & ABUSE, Vol. 8, No. 3, July 2007.

35 S. Anderson, et. al., Genital Findings of Women After Consensual and Nonconsensual Intercourse, Journal of Forensic Nursing, Vol. 2, No. 2, Summer 2006.

36 Id.

37 *People v. Butiong.* 675 Phil. 621, 631 (2011).

38 *Id.* at 631-632.

39 *Id.* at 632.

40 Id.

41 *People v. Cruz,* 736 Phil. 564, 571 (2014) citing *People v. Painitan, 4*02 Phil. 297, 312 (2001); *People v. Bormeo,* 292-A Phil. 691, 702-703 (2014) citing *People v. Quintal,* 211 Phil. 79, 94 (1983); *People* v. *Garcia,* 289 Phil. 819, 830 (1992).

42 TSN, 11 March 2009, pp. 29-32.

43 TSN, 22.February 2012, p. 6.

44 TSN, 6 June 2011, p. 7.

45 *People v. Bautista,* 426 Phil. 391, 413 (2002).

46 *People v. Jampas,* 610 Phil. 652, 669 (2009).

47 *Id.* 670.

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