

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
DOMINADOR CELIS @ ADOR, DEFENDANT-APPELLANT.***G.R. No. L-26977. September 30, 1970*

Ponente: FERNANDO, J.

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This appeal of the accused from a conviction for the crime of rape committed against an offended party who was only eleven years of age, the penalty of reclusion perpetua being imposed as well as an indemnity in the amount of P1,000.00 awarded, does not pose any question of complexity. Appellant would seek a reversal based solely on what he would allege to be the errors committed by the lower court in lending credence to the testimony of the victim and its failure to sustain his defense of alibi sought to be reinforced by the imputation that the perpetrator of such carnal act was none other than her own father. A close and thorough scrutiny of the evidence of record persuades us that the conclusion reached by the lower court is in accordance with law. We affirm.

The testimony of the offended party, Victoria Guanzon, was clear as to how the offense of rape was perpetrated by the accused in his house at Sevilla, Atlag, Malolos, Bulacan. Not only was he practically a neighbor, but he was likewise a fourth-degree cousin of her father. On July 19, 1965, she was asked by the wife of the accused, Carmen Cruz, to fetch water for them. That completed, a request came from him to go inside a room to get a comics magazine.[1]

She did as she was told. The accused followed her, closed the door, covered her mouth with a palm of his hand and forced her to lie down on a bed. Through force, he relieved her of her panties and placed himself on top of her. She kicked and struggled to no avail. He succeeded in his design; the act was consummated. After it was all over, the accused threatened to kill her if she would not keep her silence and refrain from informing her parents of this sordid incident.[2] Nor did accused stop there. On three other occasions, the next two days following and the Sunday after that, he had carnal knowledge of the victim, his wife apparently all the while unaware of what was going on. It was explainable as while the acts were being performed, she was somewhere else.[3]

As the offended party testified, were it not for her parents getting suspicious as she had money with her and she had moreover difficulty in urinating, such occurrences would not have been brought to light. She had to relate to her father what transpired. She was then taken to a Doctor B. Santos, an uncle, in whose clinic she was examined. Afterwards, she was brought to the Provincial Hospital on July 29, 1965, where she had to go through the same procedure. This was done by Dr. Lydia V. Camanga, a junior resident physician of the Provincial Hospital of Bulacan. After seeing no signs of external injuries, Dr. Camanga proceeded with her internal examination. The medical certificate issued the next day was to the effect that while the labia mejora and labia menora were intact, there were multiple healed lacerations of the hymen "at 3 o'clock, 6 o'clock, 9 o'clock and 11 o'clock;" and that the vaginal orifice would admit two fingers, with its wall intact. She was found negative for spermatozoa.[4]

It was on the basis of such evidence that the lower court found the accused guilty as charged, rejecting as incredible his imputation that he did see on one occasion the father of the offended party embracing her, the

appearances indicating that they had just had intercourse and disbelieving his plea of alibi, his version being that he was, during the week beginning July 19, 1965, at another place, Namayan, Malolos, Bulacan with his half-brother and another man.

In this appeal, the accused would have us reverse, insisting on the defenses thus raised, which, on their face, lacked persuasiveness and which cannot offset the probative value inherent in the testimony of the offended party as well as Dr. Camanga. Nor does it detract from the weight to be accorded the recital made by the offended party considering her tender age. A citation from a recent case is in point: "Much stress is laid on the alleged incompetence of witness Adela Camasis who was only 11 years old, the defense claiming that she cannot be expected to narrate what she had seen because of her tender age. This contention is untenable. The rule is well-settled that unless a child's testimony is punctured with serious inconsistencies as to lead one to believe that he was coached, if he can perceive and make known his perception, he is considered a competent witness. Such a situation does not here obtain, for, as the trial court has observed, Adela showed that she was able to relate well her impression of what she had seen despite the rigid cross-examination she was subjected to by the defense. The trial court, therefore, did not err in giving credence to her testimony." [5]

The enormity of an offense committed against a helpless victim who is not even in her teens has been underscored by the explicit provision that rape is committed by having carnal knowledge of a woman when "the woman is under twelve years of age, even though neither of the circumstances mentioned in the two next preceding paragraphs shall be present." [6] There is not even a need, therefore, of using force or intimidation, or of the victim being deprived of reason or otherwise unconscious, as set forth in such paragraphs of this article of the Revised Penal Code. There is not the least justification for deviating in any particular from the enforcement and application of such a mandate of the law intended to minimize the incidence of this particular offense, the perpetrator of which has forfeited the least claim to sympathy. [7]

WHEREFORE, the decision of the lower court of July 19, 1966 is affirmed. Costs against appellant.

Reyes, Dizon, Makalintal, Zaldivar, Castro, Teehankee, Villamor, and Makasiar, JJ., concur.

Barredo, J., did not take part.

Concepcion, C. J., on official leave.

[1] T.s.n., hearing of October 11, 1968, pp. 2-10.

[2] Ibid, pp. 10-15.

[3] Ibid, pp. 15-21.

[4] Ibid, pp. 84-90. Also Exh. A.

[5] *People v. Cidro*, 105 Phil. 238, 242-243 (1959). Justice Bautista Angelo cited the following cases: *U.S. v. Ambrosio*, 17 Phil. 295 (1910); *U.S. v. Buncad*, 25 Phil. 530 (1913); *U.S. v. Tan Teng*, 23 Phil. 145 (1912); *People v. Sasota*, 52 Phil. 281 (1928); *People v. Tumayao*, 56 Phil. 587 (1932).

[6] Art. 335, Revised Penal Code.

[7] Cf. *People v. Bangalao*, 94 Phil. 354 (1954); *People v. Yu*, L-13780, Jan. 28, 1961, 1 SCRA 199; *People v. Obaldo*, L-13976, April 29, 1961, 1 SCRA 1197.

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