

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
FERNANDO MOLINA, DEFENDANT-APPELLANT.***G.R. No. L-30191. October 27, 1973*

Ponente: FERNANDO, J.

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From a rape conviction, the accused, Fernando Molina, elevated the case to us. There was no denial of the sexual act having been committed, but he would impress on us that the element of force had not been shown. Consequently, he would have us reverse, there being an insistence on his part that his version of the occurrence was the more credible. At the very least then, he could and does rely on the constitutional presumption of innocence^[1] to overcome which there must be proof beyond reasonable doubt. A careful reading of the evidence, however, yields more than enough support for sustaining the decision of the lower court, especially so as the testimony of the offended party, barely in her teens, as to how this unfortunate occurrence transpired meets the test of moral certainty.

The testimony as to the guilt of the accused is to the effect that as the evening of April 7, 1968 was just commencing, about half-past six, the thirteen-year-old Jesusita Saquin, who had just finished watering her flower plants beneath her house in barrio Kinangay Norte, Clarin, Misamis Occidental, was approached by the accused Fernando Molina. He seized her from behind, covered her mouth with the palm of his hand, and dragged her to a brook about 40 meters away from her house. She tried to free herself from his grip, but she failed.^[2] On reaching that spot, she was boxed on the epigastric region by appellant, who laid her down face upward.^[3] While in that position and after kissing both of her cheeks, he did warn her not to raise an outcry, otherwise he would strangle her to death, a threat he could have carried out as he had one hand on her neck.^[4] She was, as a consequence, silenced.^[5] Appellant was thus enabled to raise her skirt and remove her panties,^[6] depositing it just about a foot away from her feet.^[7] He then placed himself on top of her. Easily, he accomplished what he had in mind, as her feeble strength could not stop his design to have sexual intercourse.^[8] After he was through, appellant ordered Jesusita to stand up. She did so immediately, put on her panties stained with blood, and ran towards her house.^[9] While thus being subjected to such unwelcome and unsought-for act, father noticed her disappearance from home.^[10] He was worried, as it was not her wont to leave her house without permission from any member of the family. Apprehensive, he began his search for her.^[11] Soon an elder brother, Miguel, went to their father's house, only to be informed that Jesusita was missing, with their father looking for her.^[12] Not long after, she made her appearance. She was in tears and explained the cause thereof. She had been raped by the appellant near the brook.^[13] The younger brother Alberto was able to get hold of appellant, whom he did take by the hand to bring him to the Saquin house.^[14] When nearing that place, he hit him on the back with a piece of plastic wire. Appellant, however, was able to free himself from Alberto and to run away.^[15] The family thus learned of the sad affair and decided to file a complaint against the appellant.^[16] That they did the next morning, when Jesusita and her father, brothers Miguel and Alberto and a friend, Leoncia Dula, went to the municipal mayor of Clarin, Antero Roa, for that purpose. They were advised to have Jesusita examined by a physician.^[17] That was done by a Dr. Herman Garcia, senior resident physician of the provincial hospital, who performed a vaginal and internal

examination of Jesusita and found her hymen lacerated, the time of such occurrence being fixed as less than twenty-four hours previously, her vaginal opening capable of admitting two fingers.[18] After such medical examination, they went to the office of Assistant Provincial Fiscal Ceferino Paredes, before whom Jesusita signed the necessary affidavits. The next day, April 9, 1968, she subscribed and swore to the criminal complaint against the appellant before the Municipal Judge of Clarin, Misamis Occidental.[19]

As set forth at the outset, the accused, who admitted that there was indeed such sexual intercourse, but denied the use of force, was found guilty and sentenced to reclusion perpetua. In his appeal, with full recognition of the prevailing doctrine that he was up against a formidable obstacle in his hope for a reversal, he would challenge the lower court's finding on the question of credibility.[20] Again, as mentioned earlier, he did rely on the constitutional presumption of innocence which, in his opinion, was not overcome, the proof against him not showing his culpability beyond reasonable doubt. So his counsel[21] did vigorously argue in a brief notable for its thoroughness. It could have been improved, had there been no undue reliance on American authorities and, what is worse, on such a secondary source as American Jurisprudence. It was not entirely out of levity that the late Professor Moore, speaking of such work as well as Corpus Juris, noted that the text thereof appeared to be the product of a far from accurate thinking of impecunious young lawyers not yet established in practice. He did add, in a more serious vein, that to the extent that it would yield the impression of a so-called American common law, it is likely to incur the vice of inaccuracy, especially so after the epochal decision in *Erie R.R. Co. v. Tompkins*.^[22] By this time, with one hundred ten volumes of Philippine Reports as well as fifty-one volumes of Supreme Court Reports Annotated, Philippine lawyers, especially in criminal law cases, are well advised to rely primarily on Philippine decisions. More specifically, with reference to prosecutions for rape, with the offended party being a person of tender years, as in this case, much enlightenment is applied by opinions coming from such eminent jurists as Chief Justices Avanceña, Paras, Bengzon and Concepcion, and Justices Torres, Villamor, Romualdez, Villa-Real, Pablo and Dizon. For all the labored attempts of counsel then, we have no justification for a reversal.

- Appellant's lone assignment of error reads: "[The trial court erred in finding your accused guilty beyond reasonable doubt of the crime of rape under an information charging commission of the crime by means of force, violence and intimidation, based upon the evidence presented]."^[23] To support such a contention, stress is laid on inconsistencies allegedly vitiating the testimony of the offended party. What was said by Justice Dizon in *People v. Modelo*^[24] is relevant. Thus: "As stated heretofore, appellant claims that the testimony of the offended party not only stands uncorroborated but is plagued with inconsistencies. After examining the record, we are left with the conviction that the alleged inconsistencies or contradictions in the testimony of the offended party do not materially impair her credibility, bearing as they do on mere details. In other words, we are of the opinion that the inconsistencies pointed out in appellant's brief are not sufficient to render unbelievable the offended party's clear and positive testimony * * *."^[25] Equally in point is this observation of Justice Villa-Real in *People v. De Guzman*:^[26] "An examination of the evidence in the record inclines us to the belief that the offended party's testimony, by its consistency and simplicity, reveals a sincerity indicating truth."^[27] Moreover, if there is anything apparent from our past decisions on rape cases, with the offended parties being young and immature girls from the ages of twelve to sixteen,^[28] it is that there is considerable receptivity on the part of this Tribunal to lend credence to their version of what transpired, considering not only their relative vulnerability but also the shame and embarrassment to which such a gruelling experience as a court trial, where they are called upon to lay bare what perhaps should be shrouded in secrecy, did expose them to. This is not to say that an uncritical acceptance should be the rule. It is only to emphasize that skepticism should be kept under control. In the appropriate language of Justice Antonio, speaking for this Court in *People v. Gan*:^[29] "It is undisputed that the victim of the heinous offense was only a young girl of 14 years, a virgin, innocent and unsophisticated, and as a student of a religious school, there is no reason for her to concoct a story of defloration, allow an examination of her private parts and thereafter pervert herself by being

subjected to a public trial; if she was not motivated solely by a desire to have the culprit apprehended and punished. No young Filipina of decent repute would publicly admit that she had been criminally abused, unless that is the truth. For it is her natural instinct to protect her honor." [30] It was not an easy task therefore for appellant, considering the state of the law, to elicit a favorable response to his plea for acquittal. Moreover, the fact that seventeen pages of the twenty-six-page brief would deal with what he would consider the failure of the offended party to make patent her resistance to the act of sexual aggression, cannot avail in view of the prevailing doctrine as set forth in the latest case of *People v. Olden*. [31] In the language of the then Justice, now Chief Justice, Makalintal: "Appellants point out that even assuming that they had sexual intercourse with Edwina Maranga there is no evidence that they employed force or intimidation. It is true that she could have shown greater physical resistance to their advances than she actually did. Another woman would probably have tried to fight them off, even to the jeopardy of life or limb. But not all women are of the same mettle. What is clear and undisputable here is that Edwina was far from being a willing victim; and if her protestations lacked vigor and vehemence it was obviously because of the fact that some of the men who took turns with her were armed with guns and others with bolos which they displayed to cow her into submission. If there was no appreciable force employed, there was definitely intimidation." [32] It cannot be said, then, that there was such an error committed by the lower court in finding the accused guilty beyond reasonable doubt.

- There is merit of course in the proposition advanced by appellant that unless the evidence presented by the prosecution did suffice to overcome the constitutional presumption of innocence, he was entitled to an acquittal. So it was clearly held in the 1968 decision of *People v. Alto* [33] and reaffirmed in 1970 in *People v. Pagkaliwagan*. [34] Where, as did happen here though, the accused did offer his own version, there is nothing that legally precludes the trial court from an appraisal thereof. It could lead then to lending greater credibility to what was testified to by the prosecution. That is how the lower court viewed the matter. Thus: "The accused denied the testimony of Jesusita Saquin that he dragged her towards the brook, gagged and raped her there." [35] The succeeding paragraph of the decision follows: "The accused has not shown any convincing evidence that Jesusita Saquin was in love with him. While he had allegedly been writing to her love letters, he was unable to exhibit any love letter from her. He gave sole emphasis on the alleged Christmas card * * * as evidence of her love for him, but there is nothing in this Christmas card to show she cared for him. Jesusita bought some Christmas cards, signed it and gave it to Leoncia Dula without any address. It was Leoncia Dula who wrote the name of Fernando Molina on the Christmas card and who sent it to the accused. That was the reason why there are two types of writing on it." [36] Why the testimony of appellant was far from persuasive was then discussed therein in this manner: "Had Jesusita agreed to have sexual intercourse with the accused, he would have brought her to a more decent place, let us say, a private house. He need not be afraid she [would] resist and create a commotion. He, however, brought her to an isolated place [in] the banana plantation, away from houses so that in the event she resisted, no one could come to her aid. The court conducted an ocular inspection of the premises and saw the place where Jesusita was raped." [37] The matter was pursued further thus: "Again, had Jesusita given her consent, she would not have filed this complaint. She would persuade her father to arrange the marriage because he had already seduced her and dishonored her. On the contrary, she lost no time in filing the complaint. She preferred to undergo the harrowing experience of being investigated over and over again in public about what the accused did to her. She submitted to the medical examination no matter how embarrassing it was to show her private parts to the doctor. All these are just to seek a redress. Jesusita is just like a typical Filipina, innocent and shy. It is for the protection of this type of our girls that our laws have increased the penalty for rape to life imprisonment." [38]

What other conclusion could the trial court arrive at then, except that it was "satisfied from the evidence that the accused raped Jesusita in the manner described in the information." [39] So is this Court.

WHEREFORE, the appealed decision of January 14, 1969 is affirmed. With costs against appellant.

Makalintal, C.J., Zaldivar, Ruiz Castro, Teehankee, Barredo, Makasiar, and Esguerra, JJ., concur.
Antonio, J., took no part.

[1] According to the Revised Constitution: "In all criminal prosecutions, the accused shall be presumed innocent until the contrary is proved, * * *." Article IV, Section 19. There was a similar provision in the 1935 Constitution, Article III, Section 1, par. 17.

[2] T.s.n., Session of October 2, 1968, 2, 18, 21-22.

[3] Ibid, 3, 24, 27.

[4] Ibid, 3, 24.

[5] Ibid, 3-4.

[6] Exhibits A and B.

[7] Ibid, 4-5, 33.

[8] Ibid, 4, 18, 24-25, 28, 36-38; Session of November 22, 1968, 18.

[9] T.s.n., Session of October 2, 1968, 4-5.

[10] Ibid, 47, 53.

[11] Ibid, 53-54.

[12] Ibid, 53-54.

[13] Ibid, 6, 47-48, 53.

[14] Ibid, 48.

[15] Ibid, 48-49.

[16] Ibid, 6, 50.

[17] Ibid, 6.

[18] Ibid, 30-32.

[19] Ibid, 7-8.

[20] Cf. *People v. Carandang*, L-31012, August 15, 1973.

[21] The brief was prepared by Attorney Manuel J. Jimenez, Jr.

[22] 304 US 64 (1938).

[23] Brief for the Defendant-Appellant, 1.

[24] L-29144, October 30, 1970, 35 SCRA 639.

[25] Ibid, 643.

[26] 51 Phil. 105 (1927).

[27] Ibid, 111.

[28] Some of the decisions where the offended party was twelve years of age follow: *United States v. Javier*, 31 Phil. 235 (1915); *United States v. Andaya*, 34 Phil. 690 (1916); *People v. Obaldo*, L-13976, April 29, 1961, 1

SCRA 1197. These are some of the decisions involving victims from thirteen to fifteen years of age: *People v. Modelo*, L-29144, October 30, 1970, 35 SCRA 639; *People v. De Guzman*, 51 Phil. 105 (1927); *People v. Alqueza*, 51 Phil. 817 (1928); *People v. Soriano*, L-29057, October 30, 1970, 35 SCRA 633; *People v. Gan*, L-33446, August 18, 1972, 46 SCRA 667; *United States v. Rojo*, 10 Phil. 369 (1908); *People v. Apiado*, 53 Phil. 325 (1929); *People v. Lomibao*, 55 Phil. 616 (1931); *De los Santos v. People*, 69 Phil. 321 (1940). In these cases, the offended party was sixteen: *United States v. Soto*, 14 Phil. 384 (1909); *People v. Alfaro*, 91 Phil. 404 (1952); *People v. Bacsa*, 104 Phil. 136 (1958); *People v. Selfaison*, 110 Phil. 839 (1961); *People v. Amit*, L-30102, February 27, 1971, 37 SCRA 793.

[29] L-33446, August 18, 1972, 46 SCRA 667.

[30] *Ibid*, 675-676.

[31] L-27570, September 20, 1972, 47 SCRA 45.

[32] *Ibid*, 52-53.

[33] L-18660, November 29, 1968, 26 SCRA 342, per Castro, J.

[34] L-29948, November 26, 1970, 36 SCRA 113, per Teehankee, J.

[35] Decision of the lower court, Appendix to the Brief for the Defendant-Appellant, 4.

[36] *Ibid*, 5.

[37] *Ibid*.

[38] *Ibid*, 5-6.

[39] *Ibid*. 6.

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