

## PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. TEDDY MAGAYON, ACCUSED-APPELLANT.

Ponente: ROMILLA-LONTOK, J.

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### ROMILLA-LONTOK, J.:

Before Us on intermediate appeal is the Decision dated January 28, 1999 of the Regional Trial Court of Pinamalayan, Oriental Mindoro, Branch 41, in Criminal Case No. P-5558, convicting the appellant of the crime of Rape under Article 335 of the Revised Penal Code, and sentencing the accused to a penalty of reclusion perpetua. The dispositive portion is as follows:

“WHEREFORE, in the light of the foregoing, this Court finds accused Teddy Magayon guilty beyond reasonable for the crime of RAPE under Article 335, paragraph 3 of the Revised Penal Code and he is hereby sentenced to suffer the penalty of Reclusion Perpetua and to indemnify the offended party, Anabel Amar, the sum of Fifty Thousand (P50,000.00) Pesos as moral damages (People vs Bondoy, 222 SCRA 216) and to pay the cost.

The accused is credited in full for the period of his preventive imprisonment in accordance with the Revised Penal Code.”

Facts antecedent to the appeal are as follows:

Appellant Teddy Magayon was charged of Rape in an information which reads as follows:

“That on or about the 9th day of August, 1996, at 9:00 o'clock in the morning of August 9, 1996, more or less, in barangay Rosacarra, Municipality of Bansud, province of Oriental Mindoro, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with lewd and unchaste design, did then and there willfully, unlawfully and feloniously lay with and have carnal knowledge of one ANABEL AMAR, a nine-year-old girl, against her will and without her consent.”[1]

The accused when arraigned, pleaded not guilty. Pre-trial and trial were set.

The prosecution presented five witnesses, namely: Milagros Gayos, Dra. Preciosa Soller, Francisco Asi, Anabel Amar herself and Mrs Violeta Nazareno.

Milagros Gayos is the grandmother of Anabel Amar, the offended party. She testified that Anabel Amar was almost ten (10) years old in 1996. She was the one who filed the complaint for Anabel. The mother, Lily Mariscal, being married to the uncle of Teddy Magayon, was not interested to pursue a case against Teddy. Sometime in August, 1996, Francisco Asi confirmed to her that Teddy raped Anabel. She had Anabel examined. Upon advise of the doctor she filed a complaint against Teddy with the police authorities of Bansud. She executed an affidavit (Exhibit “A”).

Dra. Preciosa Soller, the Municipal Health Officer of Bansud testified as to having examined Anabel on September 4, 1996. She prepared a Medico-Legal Report (Exhibit “B”) with the findings as follows:

“Perinium – 1) Abrasion left side along the labia minora & majora

- 2) Hymen- destroyed completely with remnants at the right side
- 3) Vaginal laceration, complete, posterior portion with inflammation of the edges
- 4) No semen recovered, vaginal rugae present

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REMARKS:

1. Physical Virginity lost"[2]

Dr. Soller confirmed that the lacerations on Anabel's hymen could have been caused by the insertion of an erect penis. Since the laceration was still inflamed, it could have been inflicted within seven (7) days from the time of examination.

Francisco Asi stated that he knew Teddy Magayon even prior to August 9, 1996. Teddy is a resident of their place. He also knows Anabel who also resides in Bansud. At about 9:00 o' clock in the morning of August 9, 1996 he was at home preparing to haul bananas; he saw Teddy about two arms length away from him pulling up and down a little girl on top of him whom he held by the waist. Teddy was leaning on a wooden sledge (kangga). The little girl was Anabel Amar. Francisco shouted at Teddy "Toy ano gang ginagawa mong iyan sa bata?". Anabel was trying to extricate herself (nagpupumiglas) from the hold of Teddy. He passed by the two and after that "magkakasunod na kami." They parted ways at the junction. Francisco Asi identified the affidavit ("Exhibit "C") he executed in connection with said incident, affirmed the truth and correctness of the contents thereof and confirmed that the signature thereon is his.[3]

Anabel Amar testified that she is ten (10) years old. On August 9, 1996, at about 9:00 o' clock in the morning while her eleven (11) year old brother was in their house, her uncle Teddy took her out of the house, brought her somewhere else and raped her. The rape took about two (2) minutes. She did not tell anybody about the rape.

Mrs. Violeta Nazareno is a Social Worker of Bansud to whom Anabel's case was referred for assistance. She knows that Anabel was born on September 28, 1986 based on the birth certificate (Exhibit "E") given by Milagros Gayos.

After the prosecution rested its case, Teddy Magayon, through counsel, filed a demurrer to the evidence.[4] The same was denied.[5] A hearing was set for the presentation of defense evidence. Accused through counsel waived his right to present his defense. He prayed that the case be submitted for decision after submission of memoranda by the parties.[6]

The trial court convicted the accused of the charge.

Accused appealed on the lone assignment of error that:

THE TRIAL COURT ERRED IN CONVICTING THE ACCUSED-APPELLANT FOR THE CRIME OF RAPE WHEN HIS GUILT WAS NOT PROVEN BEYOND REASONABLE DOUBT.

Accused-appellant maintains that the trial court erred in giving credence to the testimonies of the prosecution witnesses.

In instant case there is an eyewitness to the rape of Anabel. Francisco Asi was only two arms length away when he witnessed the incident. His testimony reads, to wit:

"Q. On August 9, 1996 at about 9:00 o' clock in the morning, where were you?

A. I was in my house preparing to haul bananas.

Q. Where is your house situated?

A. At Barangay Rosacarra, Bansud, Oriental Mindoro.

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Q. While you were preparing to haul banana, do you remember having seen this Teddy Magayon whom you identified a while ago?

A. Yes, sir.

Q. What was Teddy Magayon doing?

A. I saw Teddy Magayon holding the little girl. (Witness demonstrating imaginary pulling up and down.

Q. How far were you from the two referring to the girl and Teddy Magayon in that position?

A. Two arms length only.

Q. Will you please describe to this Court the position of Teddy Magayon when you said you saw him doing that motion which you described before this Court?

A. He was leaning on a wooden sledge (kangga).

Q. Were you able to recognize that person being held by Teddy Magayon?

A. Yes, sir Anabel Amar.

Q. What did you do when you saw them in that position?

A. I shouted him in Tagalog "Toy ano gang ginagawa mong iyan sa bata," What are you doing?

Q. To whom were you addressing that point?

A. To Teddy Magayon, sir.[7]

Francisco Ylagan Asi gave a written statement (Exhibit "C") to the police authorities of Bansud, Oriental Mindoro. The pertinent portion of his aforesaid statement reads, to wit:

"03. T- Ano naman ang nais mong tukuyin na hindi pangkaraniwang pangyayari na iyong nasaksihan.

S- Nakita ko nga po na si Anabel Amar ay kasalukuyng ginagahasa ni Teddy Magayon.

"04. T- Kailan mo nakita itong si Teddy Magayon na ginagahasa itong si Annabel?

S- Noon pang Agosto 9, 1996, araw ng Biyernes na ang oras ay humigit kumulang sa alas 9:00 ng umaga.

"05. T- Saan lugar mo nakita itong si Teddy na ginagahasa itong si Annabel?

S- Doon po sa parting damuhan na sa bandang itaas ng aming bahay sa Rosacara, Bansud, Silangang Mindoro.

"06. T- Nang makita mong ginagahasa ni Teddy si Annabel ano ang iyong naging reaktion?

S- Kunyari po ay nilampasan ko sila para mapansin ako at bumalik din ako kaagad at noong balik ko "TOY ANO GANG GINAGAWA MO SA BATANG IYAN?"

"07. T- Ano naman ang naging reaktion din ni Teddy na nakita mo sila?

S- Kunyari po ay baliwala sa kanya ang nakita ko sa kanila at kunyari ay naninigarilyo itong si Teddy.

"08. T- Maaari mo bang isalaysay dito sa Pagsisiyasat na ito ang ditalyadong nasaksihan mo?

S- Ang nakita ko po ay nakasakay silang dalawa sa kangga at nakaupo itong si Teddy habang nakakaang itong si Annabel na kalong ni Teddy na hawak sa bay-awang si Annabel ay niyuyugyug na pataas at paibaba.

"09. T- Napansin mo ba itong si Annabel ay walang pante at ito namang si Teddy ay walang salawal?

S- Si Annabel po ay walang pante habang si Teddy naman ay nakababa ang kanyang pantalon hanggang hita.

"10. T- Ano pang ang ibang napansin mo kay Anabel habang siya ay ginagahasa ni Teddy?

S- Umiiyak po siya at nagpupumiglas na makawala ngunit sa kanyang kaliitan ay hindi po siya makawala sa

pagkahawak ni Teddy.”[8]

Anabel Amar herself stated on direct examination as follows:

“Q. How old are you now?

A. Ten years old, sir.

Q. On August 9, 1996, in the morning where were you?

A. I was in the house, sir.

Q. According to you you are ten years old, when were you born?

A. September 18, 1997, sir.

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Q. On said date at about 9:00 in the morning do you remember any unusual incident that took place.

A. Yes sir, my t-shirt and short were removed.

Q. Who removed your T-shirt and short?

A. My uncle Teddy, sir.

Q. After your t-shirt and shorts were removed, what happened next?

A. He raped me, sir.

Q. Why did you say you were raped by Teddy Magayon?

A. I felt it, sir.

Q. What did you feel?

A. I felt pain, sir.

Q. Where did you feel pain?

A. Witness placing his (sic) palm over her private organ “dito po”.

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Q. How about you where were you raped?

A. Outside the house because my uncle Teddy brought me somewhere, sir.

Q. For how long a time did the accused raped you on August 9, 1996?

A. Around two minutes, sir.

Q. What happened next?

A. Both of us entered the house.

Q. In connection with what happened to you on August 9, 1996 do you remember having executed an affidavit?

A. Yes, sir.”

Anabel identified her sworn statement (Exhibit “D”) and confirmed the signature (Exhibit “D-1”) thereon as hers.

Annabel, in her written statement, narrated about three (3) instances of sexual abuse inflicted upon her by accused, thus:

“06. T-

S- Tatlong beses po.

“07. T- Kailan nangyari ito?

S- Ito pong buwan ng Agosto, 1996, at hindi ko alam ang petsa pero ang tanda ko lang po ay araw ng Sabado.

“08. T- Maaari mo bang isalaysay ang pangyayari?

S- Ako po ay pinauwi ng aking ina doon sa Maimon tuwing araw ng Biernes, pagdating ko po doon ay umalis ang aking ina patungo dito sa Rosacara at namile, naiwan po sa aming bahay sa bundok ay kaming magkapatid ni Rolly at ang Tiyo Teddy. Magkatabi po kaming natulog at nagising na lamang ako ng ako ay gisingin ni Tiyo Teddy at sinabi na huwag akong mag-iingay baka magising si Rolly. Hinubaran po ako ng short at t-shirt at ako ay pinahiga. Tinakot po ako ng ako ay papatayin kapag nagising si Rolly. Pilit po niyang ipinasok sa akin ang kanyang ari.

“09. T- Kailan naman nangyari iyong padalawang paggamit sa iyo ni Tiyo Teddy mo?

S- Tanghali po kinabukasan ng ako ay ipagsama ni Tiyo Teddy para kumuha ng puso ng saging at ako ay muli niyang tinakot at ginamit doon sa sagingan.

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“12. T- Kailan naman nangyari itong patatlong panggagahasa sa iyo?

S- Ang tanda ko po ay Biernes ng ako ay kaunin ni Tiyo Teddy kay Lola Mila at ipagsama ako pauwi doon sa amin sa bundok. Nakasakay po ako sa kangga at si Tiyo Teddy ay sa kalabao. Pagdating sa kogonan ay hinila ako sa kangga at dinala ako sa kogonan at ako ay muling hinindot. May nakakita po sa aming tao na nakasakay sa kalabaw ay hiniyawan si Tiyo Teddy.”[9]

Aforesaid written statements of Francisco Asi and Anabel Amar (Exhibits “C” and “D”) were offered as parts of the testimonies of the respective affiants.

The trial court found Anabel's testimony to be worthy of full faith and credit. Anabel is of immature and tender age. Testimonies of youthful rape victims are, as a general rule, given full faith and credit, considering that when a girl says she has been raped, she says in effect all that is necessary to show that rape was indeed committed.[10] The revelation of an innocent child whose chastity has been abused deserves full credit, as her willingness to undergo the trouble and the humiliation of a public trial is an eloquent testament to the truth of the complaint.[11]

This credibility given by the trial court to the rape victim is an important aspect of evidence which appellate courts can rely on because of its unique opportunity to observe the witnesses, particularly their demeanor, conduct and attitude during direct and cross-examination by counsel. Absent any showing that the trial judge overlooked, misunderstood, or misapplied some facts or circumstances of weight which would affect the result of the case, his assessment of credibility deserves the appellate court's highest respect.[12]

The accused attempts to make capital of Anabel's statement that the rape on August 9, 1996 lasted for only two minutes as juxtaposed with Francisco Asi's declaration that after the rape, he again saw Teddy and Anabel after fifteen (15) minutes at their place of destination. This Court cannot see any inconsistency in said statements. What this court perceives is that Teddy took some time after the rape before leaving the place and proceeding to their destination. In fact, the next time Francisco Asi passed by the sleigh he saw Teddy puffing a cigarette making it appear as if nothing happened.

Accused likewise considers it very unlikely for the little girl of nine to be so composed after the rape that she told nobody about the incident and played with the other children. Failure of the victim, however, to report the rape is not necessarily an indication of fabricated charge nor can it be taken against her.[13]

There is no standard of behavior when one is confronted with a strange, startling or frightful event especially in the heinous crime of rape. Court has not laid down any rule on how a rape victim should behave immediately after her ravishment.[14] There is no standard behavior for rape victims with which this Court can compare Anabel's comportment, as there is no model form of behavioral response when one is confronted with an unusual occurrence. Rape victims show no uniform reactions especially if the victim is a very young girl of not yet ten.

This Court accorded the medico legal report paramount consideration. Said report will not lie. Said report spoke of “hymen” which was destroyed completely with remnants at the right side and “vaginal laceration” which was “complete” and with inflammation of the edges of the posterior portion. The same report eloquently established not simply “lost physical virginity” but a defloration so brutal as to inflict tremendous physical suffering for a girl of a very tender age.

Upon a careful review of the records of the instant case, this Court finds no cogent reason to disturb the findings of the trial court.

Anent the award of damages, civil indemnity which is in the nature of actual or compensatory damages is mandatory upon a conviction for rape at an amount of P75,000.00 in crimes qualified by circumstances which would have merited the death penalty, prior to its abolition.[15] The award of moral damages is automatically granted in rape cases without need of further proof other than the commission of the crime because it is assumed that a rape victim has actually suffered moral injuries entitling her to such award at the increased amount of P75,000.00 in accordance with prevailing jurisprudence. As held in *People vs. Catubig*, the presence of an aggravating circumstance, whether ordinary or qualifying, entitles the offended party to an award of P25,000.00 as exemplary damages. xxx xxx xxx [16]

WHEREFORE, in view of the foregoing, the Decision dated January 28, 1999 of the Regional Trial Court of Pinamalayan, Oriental Mindoro, Branch 41, in Criminal Case No. P-5558 is AFFIRMED with the modification that civil indemnity is awarded at P75,000.00 and exemplary damages at P25,000.00. The award of moral damages is increased to P75,000.00.

**SO ORDERED.**

Barrios, (Chairman) and Guariña, III, JJ., concur.

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[1] Records, p. 1.

[2] Ibid., p. 7.

[3] TSN, July 17, 1997, pp. 3-7.

[4] Record, pp 59-66

[5] Record, p. 67

[6] Record, p. 77

[7] TSN, July 17, 1997, pp. 4-6.

[8] Records, pp. 6 - 6-B.

[9] Exhibit “D”

[10] *People vs. Suarez*, 456 SCRA 333.

[11] *People vs. Dimaano*, 465 SCRA 647.

[12] *People of the Philippines vs. Dimaano*, supra.

[13] *People of the Philippines vs. Bertulfo*, G.R. #143790, May 7, 2002.

[14] *People of the Philippines vs. Montes*, 416 SCRA 103.

[15] People of the Philippines vs. Cayabyab, 465 SCRA 681.

[16] People of the Philippines vs. Cayabyab, *supra*.

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