PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ALLAN JUNIO Y CORTEZ, ACCUSED-APPELLANT.

G.R. No. 110990. October 28, 1994

Ponente: BELLOSILLO, J.

Read online (full-text search, related cases, audio case brief): https://batas.org/library/g-r-no-110990/

BELLOSILLO, J.:

Fantasizing that the rape charge filed against him was perhaps an opportunity to project the immensity of his manhood, the accused bounces in his defense that if he indeed inserted his organ into complaining victim's the latter should have suffered serious if not devastating lacerations in her hymen. But the Court is not amused with his display of vanity and narcissism, for rape can be committed even with the slightest insertion.

Eleven-year old victim Maryjane Nicolas narrates that on 26 March 1992, at around nine o'clock in the evening, she and her two (2) younger sisters were sleeping in the bedroom of their house at 103 Palyasan, Bgy. Burgos, Rodriguez, Rizal. Later, she woke up and found herself lying down on the cold cement floor of their living room, already without her shorts and pantie. She looked around and saw a naked man whose face was covered. Immediately, the man laid on top of her and inserted his organ into hers. She struggled and pushed him away, uncovering his face in the process. She recognized accused-appellant who resides only some three houses away. She told him to leave. But he would not; instead, he followed her to the bedroom and held her on her buttocks and sex organ. Escaping from his hold, she went back to the living room and switched on the lights, forcing him to put on his underwear and pants, and then leave, after which, she went back to sleep.[1]

Maryjane's mother, Melinda, was not in their house when the incident happened. She was vending "balut" in the neighborhood. It was around one o'clock the following morning when she arrived. She was surprised to find the front door of their house locked from the inside. She locked it from the outside before leaving the night before to enable her to use her key and enter their house in the early hours of the following morning without waking up her children. Since she could not open the door when she arrived, she called out for Maryjane. It was her seven-year old May-anne who opened the door and told her that a man had entered their house. Melinda then woke Maryjane up and asked her what happened. Maryjane just cried and could not answer.[2] Later in the morning, Maryjane confessed to her mother that it was accused-appellant Allan Junio who entered their house. She could not reveal to her mother what exactly happened for fear that appellant might kill her as he threatened to.[3]

At around eleven o'clock that same morning Melinda, suspecting that something had happened to her daughter, reported the incident to the barangay authorities who immediately turned to the police. The police, upon learning from Maryjane the identity of her defiler, promptly arrested the accused and detained him at the municipal jail.[4]

Then, in the afternoon, while Maryjane and her mother were in the police station giving their respective statements,[5] they were called in by Mayor Lito Manuel of Rodriguez, Rizal. Inside the Mayor's Office, Maryjane told the Mayor in private that the accused had raped her. Mayor Manuel gave her P200.00 and advised her to go to Camp Crame, Quezon City, to undergo physical examination.[6]

On 30 March 1992, before undergoing physical examination, Maryjane admitted to her mother that she was raped

by Allan Junio. Thus Maryjane and her mother promptly returned to the police station and gave additional statements.[7] The following day, Maryjane was examined by Dr. Jesusa O. Nieves, Senior Inspector, Philippine National Police, who thereafter issued her Medico-Legal Report No. M-0560-92.[8] Dr. Nieves later testified that "[b]ased on my examination, my findings on the genitalia reveals a recent loss of virginity" which had occurred within seven (7) days from the time of examination, as evidenced by "healing lacerations at 8:00 o'clock and 4:00 o'clock."[9]

On 6 April 1994, a Complaint-Information duly signed by Maryjane, assisted by her mother, and 2nd Asst. Prosecutor Romulo I. Nañola charging accused Allan Junio of rape was filed with the Regional Trial Court of San Mateo, Rizal,[10] and raffled to Branch 76.[11] On 22 April 1992, the accused entered a plea of "not guilty." On 15 July 1992, pending trial, the accused then detained in the Municipal Jail of Rodriguez, Rizal, escaped.[12] Nevertheless, trial continued in absentia during which the prosecution presented its witnesses, including Maryjane. Then, sometime in August 1992, 3rd Asst. Prosecutor Jose V. Nitura moved to dismiss the case, attaching to his motion an Affidavit of Desistance dated "April 1992," signed by Maryjane Nicolas and her mother, Melinda Nicolas. Notwithstanding the supposed "Affidavit of Desistance" Maryjane continued to testify and in fact completed her testimony on 18 November 1992.

After a formal offer of evidence, the prosecution rested. Thereafter, the case was reset for the presentation of the evidence by the defense. Later, however, the defense waived the testimonies of its witnesses; instead, it presented two (2) documents, i.e., a Motion to Dismiss and an Affidavit of Desistance which, according to the prosecution, have both been withdrawn by the complainant herself when she subsequently proceeded with her testimony.[13]

On 1 February 1993, the accused was re-arrested by the police. On 25 March 1993, the Regional Trial Court of San Mateo, Rizal, Br. 76, rendered its decision finding the accused guilty of rape beyond reasonable doubt, sentenced him to reclusion perpetua, and ordered him to indemnify Maryjane in the amount of P30,000.00.

The accused is now before us on appeal.

In reviewing rape cases, we are guided by these time-honored principles: (a) An accusation for rape can be made with facility; it is difficult to prove, but more difficult for the person accused, though innocent, to disprove; (b) In view of the intrinsic nature of the crime of rape where only two (2) persons are usually involved, the testimony of the complainant must be scrutinized with extreme caution; and, (c) The evidence for the prosecution must stand and fall on its own merits, and cannot be allowed to draw strength from the weakness of the evidence for the defense.[14] A careful assessment of the evidence more than sufficiently shows that accused-appellant is guilty beyond doubt of the crime charged.

The candid and straightforward narration by victim Maryjane of how she was raped, as borne by the records and the transcript of stenographic notes, bears the earmarks of credibility. And, courts usually lend credence to the testimony of a young girl especially where the facts point to her having been a victim of sexual assault.[15] For sure, Maryjane would not make public the offense, undergo the troubles and humiliation of a public trial and endure the ordeal of testifying to all its gory details if she had not in fact been in fact raped, for no decent Filipina would publicly admit she had been raped unless it was the truth.[16] As a rule, a victim of rape will not come out in the open if her motive were not to obtain justice, and her testimony as to who abused her is credible where she has absolutely no motive to incriminate and testify against the accused,[17] as in the instant case. Thus, when a woman says that she has been raped, she says in effect all that is necessary to show that rape was committed and if her testimony meets the test of credibility, the accused may be convicted solely on the basis thereof.[18] And considering that Maryjane was then only eleven-years old, accused is guilty of statutory rape.

On the other hand, the attempt of accused-appellant Junio to muddle the case of the prosecution is unavailing. He

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

argues that the testimonies and statements of prosecution witnesses are replete with contradictions. Thus, Maryjane in her first extrajudicial statement averred that accused-appellant merely made an attempt on her virtue, which allegation was echoed by her mother in the latter's own statement to the police,[19] only to return three days later to charge accused-appellant of rape. Then, in her open court testimony, Maryjane merely said that accused-appellant held her on her buttocks and organ,[20] which was also repeated by her mother on the witness stand.

The argument is totally bereft of merit. Maryjane cannot be blamed for her seeming vacillation which is more apparent than real. Her initial reluctance to inform her mother and the authorities that she was indeed raped is conceivable considering her tender age and the humiliation she will suffer. A young woman who has just been sexually assaulted is not expected to immediately regain composure as she is at that point confused and dazed by the experience.[21] This Court has said that "the silence of the offended party in a case of rape, or her failure to disclose her defilement without loss of time to persons close to her and to report the matter to the authorities, does not perforce warrant the conclusion that she was not sexually molested and that her charges against the accused are all baseless, untrue and fabricated. Other relevant facts and circumstances must be considered to determine the veracity of the accusation."[22] Fear of reprisal not only from the accused but from the members of his family as well is a valid excuse for the momentary reticence of the victim and prosecution witnesses.[23] Thus, there is nothing unusual with Maryjane's hesitation as this is perfectly in accord with human nature. The victim of rape being then in a very tender age and utterly innocent of the ways of the world, her temporary silence could be understandable.[24]

While Maryjane indeed said in open court that accused-appellant held her on her buttocks and organ, she explained that that happened after the rape. Thus, she testified -

> FISCAL JOSE V. NITURA -
>
> Q. At that time you pushed Allan Junio, what what his position relative to your position?
>
> MARYJANE NICOLAS -
>
> A. He was lying on top of me, sir.
>
> Q. What did you feel while he was lying on top of you?
>
> A. That his organ was inserted into my organ and I felt the pain, sir.
>
> Q. After you pushed him while he was on top of you, what happened next?
>
> A. After I pushed him, he was removed on top of me, afterwards, he stood up and went to the corner and I told him to go away, sir.
>
> x x x x
>
> Q. What happened thereafter?
>
> A. He held me on my buttocks and on my organ, sir.[25]

Accused-appellant's indulgence in other alleged inconsistencies is simply a result of his confusion on the chronology of events, if they were not minor and trivial differences, which is not worthy of the full attention of this Court. After all, inconsistencies on minor, trivial or inconsequential matters do not affect the credibility of a witness.[26]

The prosecution cannot be faulted likewise for not presenting May-anne as a witness, as stressed by the defense. It

has been held time and again that the non?presentation of certain witnesses is not a sufficiently plausible defense, and the matter of whom to present as witness by the prosecution is addressed to the sound discretion of the fiscal or the prosecution handling the case.[27] Unfavorable inferences made on the non-presentation of seven-year old May-anne are mere speculations which cannot defeat, much less weaken, the positive testimony of the victim herself. In fact, in rape cases, the accused may be convicted solely on the testimony of the complaining witness provided such testimony is credible, natural, convincing and otherwise consistent with human nature and the course of things.[28]

The appellant's submission that the execution of an Affidavit of Desistance by complainant who was assisted by her mother supported the "inherent incredibility of prosecution's evidence"[29] is specious. We have said in so many cases that retractions are generally unreliable and are looked upon with considerable disfavor by the courts. The unreliable character of this document is shown by the fact that it is quite incredible that after going through the process of having accused-appellant arrested by the police, positively identifying him as the person who raped her, enduring the humiliation of a physical examination of her private parts, and then repeating her accusations in open court by recounting her anguish, Maryjane would suddenly turn around and declare that "[a]fter a careful deliberation over the case, (she) find(s) that the same does not merit or warrant criminal prosecution."[30]

Thus, we have declared that at most the retraction is an afterthought which should not be given probative value. It would be a dangerous rule to reject the testimony taken before the court of justice simply because the witness who has given it later on changed his mind for one reason or another. Such a rule will make a solemn trial a mockery and place the investigation at the mercy of unscrupulous witnesses. Because affidavits of retraction can easily be secured from poor and ignorant witnesses, usually for monetary consideration, the Court has invariably regarded such affidavits as exceedingly unreliable.[31]

While "[t]he offenses of seduction, abduction, rape or acts of lasciviousness, shall not be prosecuted except upon a complaint filed by the offended party or her parents, grandparents, or guardian, nor in any case, if the offender has been expressly pardoned by the above named persons, as the case may be,"[32] the pardon to justify the dismissal of the complaint should have been made prior to the institution of the criminal action.[33] Here, the motion to dismiss to which the affidavit of desistance is attached was filed after the institution of the criminal case. And, affiant did not appear to be serious in "signifying (her) intention to refrain from testifying"[34] since she still completed her testimony notwithstanding her earlier affidavit of desistance. More, the affidavit is suspect considering that while it was dated "April 1992," it was only submitted sometime in August 1992, four (4) months after the Information was filed before the court a quo on 6 April 1992, perhaps dated as such to coincide with the actual filing of the case.

Finally, we find too preposterous and unfeeling the submission of appellant that "the deep laceration at 8:00 o'clock and shallow laceration at 4:00 o'clock found in the hymen of the complainant were more consistent with the possible insertion of appellant's right middle finger and its consequent movement done in fingering a woman's organ to excite and arouse her, preparatory to coitus, than the actual penetration of her private organ by accused-appellant's penis x x x x The natural pressure resulting from the penetration of appellant's penis in the vagina of an eleven-year old child must be too severe such that lacerations if caused will be found all around the entrance of the organ not just on the left and right (sides)."[35] The arguments of accused-appellant who has failed to substantiate his pronouncements are not facts but rather mere self-pleasing statements consistent with his self-infatuation.

WHEREFORE, the judgment of the court a quo finding accused-appellant ALLAN JUNIO y CORTEZ guilty beyond reasonable doubt of the crime of rape, imposing upon him a prison term of reclusion perpetua, and to pay the costs is AFFIRMED. However, the indemnity to complaining witness Maryjane D. Nicolas in the amount of

Turn this case into an audio lecture - facts, issues, ruling and doctrine - at batas.org

P30,000.00 is increased to P50,000.00.

SO ORDERED.

Padilla, (Chairman), Davide, Jr., Quiason, and Kapunan, JJ., concur.

---

[1] TSN, 15 July 1992, pp. 2-6.

[2] Id., 21 May 1992, pp. 3-8.

[3] Id., 15 July 1992, p. 7.

[4] Id., pp. 8-10.

[5] The statements were captioned "Kusang-loob na Salaysay," see Exhs. "A" and "F," Original Records, pp. 100 and 105.

[6] TSN, 15 July 1992, pp. 7-10.

[7] The additional statements were captioned "Karagdagang Salaysay," see Exhs. "B" and "G," Original Records, pp. 101 and 106.

[8] Exh. "D," Original Records, pp. 9 and 103.

[9] TSN, 1 July 1992, pp. 3-4.

[10] Original Records, p. 1.

[11] Judge Jose C. Reyes, Jr., presiding.

[12] Original Records, p. 69.

[13] See Order of the court a quo, dated 20 January 1993, Original Records, p. 110.

[14] People v. Casinillo, G.R. No. 97441, 11 September 1992, 213 SCRA 777, citing People v. Aldana, 175 SCRA 635; People v. Calixto, 193 SCRA 303; People v. Tismo, 204 SCRA 535.

[15] People v. Abuyan, Jr., G.R. Nos. 95254-55, 21 July 1992, 211 SCRA 662.

[16] See People v. Grefiel, G.R. No. 77228, 13 November 1992, 215 SCRA 596, citing People v. Robles, G.R. No. 53569, 23 February 1989, 170 SCRA 557; People v. Villaflores, G.R. No. 66039, 8 June 1989, 174 SCRA 70; People v. Estolano, G.R. No. 57737, 28 January 1991, 193 SCRA 383; People v. Santiago, No. L-46132, 28 May 1991, 197 SCRA 556.

[17] People v. Dabon, G.R. No. 102004, 16 December 1992, 216 SCRA 656.

[18] People v. Biendo, G.R. No. 84731, 16 December 1992, 216 SCRA 626.

[19] Brief for Accused-Appellant, p. 6.

[20] Id., p. 7.

[21] People v. Abuyan, Jr., see Note 15.

[22] People v. Yambao, G.R. No. 77778, 6 February 1991, 193 SCRA 571, 579, citing People v. Hortillano, G.R. No. 71116, 19 September 1989, 177 SCRA 729.

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

[23] See People v. Peran, G.R. No. 95259, 26 October 1992, 215 SCRA 152.

[24] People v. Alvarez, G.R. No. 73071, 11 September 1992, 213 SCRA 722.

[25] TSN, 15 July 1992, p. 6.

[26] People v. Castor, G.R. No. 93664, 11 December 1992, 216 SCRA 410.

[27] People v. Samillano, G.R. No. 62088, 6 March 1992, 207 SCRA 50, citing People v. De la Cruz, G.R. No. 83260, 18 April 1990, 184 SCRA 416; People v. Fernandez, G.R. No. 80481, 27 June 1990, 186 SCRA 830; People v. Nabunat, G.R. No. 84392, 7 February 1990, 182 SCRA 52; People v. Marilao, G.R. No. 71681, 5 September 1989, 177 SCRA 271; People v. Campana, No. L-37325, 30 August 1983, 124 SCRA 271.

[28] People v. Alvarez, see Note 24.

[29] Brief for Accused-Appellant, p. 11; Rollo, p. 43.

[30] Affidavit of Desistance, par. 3; Original Records, p. 73.

[31] Flores v. People, G.R. Nos. 93411-12, 20 July 1992, 211 SCRA 622, citing De Guzman v. Intermediate Appellate Court, G.R. No. 69386, 4 April 1990, 184 SCRA 128; People v. Galicia, No. L- 39235, 25 July 1983, 123 SCRA 550.

[32] Third par. of Art. 344, The Revised Penal Code.

[33] People v. Entes, G.R. No. 50632, 24 February 1981, 103 SCRA 162, cited by People v. Soliao, G.R. No. 91131, 19 February 1991, 194 SCRA 250, which in turn is cited in People v. Villorente, G.R. No. 100198, 1 July 1992, 210 SCRA 647.

[34] Affidavit of Desistance, par. 4; Original Records, p. 73.

[35] Brief for Accused-Appellant, pp. 17-18; Rollo, pp. 17-18.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at https://batas.org

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.