PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. LOLITO MORENO Y LANCION ALIAS “LOLOY”, ACCUSED-APPELLANT.

G.R. No. 115191. December 21, 1999

Ponente: BUENA J.

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BUENA J.:

This is an appeal from the decision[1] f the Regional Trial Court (Branch 38) of Boac, Marinduque convicting accused-appellant LOLITO MORENO of rape committed against his 14-year-old cousin TIFFANY MORENO, and sentencing him to reclusion perpetua and to pay the private complainant the sum of P30,000.00 as moral damages and P525.00 as actual litigation expenses.

The complaint[2] or rape was filed before the Municipal Trial Court of Mogpog, Marinduque, on November 11, 1991 by Froilan M. Moreno, father of the private complainant. After conducting the preliminary examination and finding insufficient evidence[3] o warrant the filing of a case for rape in court, municipal trial judge Eduardo Mirafuente recommended to the Provincial Prosecutor the dismissal of the complaint for rape.[4] Upon a review of the aforestated resolution of the Municipal Trial Court, the provincial prosecutor[5] esolved to set the case for re-investigation.[6] After due proceedings in the Provincial Prosecution Office which found probable cause against accused-appellant,[7] an information[8] was filed with the Regional Trial Court of Boac, Marinduque, Branch 38, charging him with the crime of rape committed as follows:

> "That on or about the 7th day of July 1991, at around 12:00 o’clock noontime, in barangay Sayao, municipality of Mogpog, province of Marinduque, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused entered the secluded house of complainant, and by means of force, violence and intimidation, did, then and there willfully, unlawfully and feloniously lie on top of his 14-year old cousin, complainant Tiffany Moreno y Pakaigui, who was alone and then and there forcibly succeeded in having carnal knowledge of her against her will and consent, and to her damage and prejudice.
>
> CONTRARY TO LAW."

During arraignment, accused-appellant expressed his willingness to enter a plea of guilty to the lesser offense of simple seduction. However, the private complainant’s father and another relative refused to lower the charge from rape to simple seduction, hence accused-appellant pleaded not guilty to the charge of rape.[9] Thereafter, trial ensued. The prosecution presented as its witnesses, private complainant Tiffany Moreno and her father Froilan Moreno, and on rebuttal, Gervacio Recamara, barangay captain of Sayao, Mogpog, Marinduque. The parties stipulated on the genuineness and due execution of the medical certificate (Exh. C) issued by Dr. Reynaldo Montegrejo, rural health physician of Mogpog, Marinduque; the sworn statement of private complainant made before the provincial prosecutor (Exh. A); the statement signed by private complainant before the barangay captain of Sayao, Mogpog, Marinduque; (Exh. B); and private complainant’s birth certificate (Exh. D).[10]

For its part, the defense had as its witnesses accused-appellant Lolito Moreno, his wife Delia Moreno and Liza Leynes-Palomares, Delia Moreno’s goddaughter.

The facts, according to the prosecution, are as follows:

Around 12:00 noon of July 7, 1991, private complainant, then 14 years old, was allegedly raped by accused-appellant, her first-degree cousin, being the son of her father's brother, at her parents' house situated in a coconut land in Ilaya, Sayao, Marinduque.[11] She testified that she was alone in the kitchen frying fish when the accused-appellant suddenly appeared.[12] Upon seeing him, she did not greet him but instead told him that he should not come in because she was alone and her parents were away.[13] She did not inform him where her parents were at that time.[14] Instead of heeding her, accused-appellant held both of her hands and pointed a bolo at her body so she would not shout.[15] She tried to free herself (nagpalag-palag) from his hold.[16] Then, accused-appellant lifted her with his lower arms at the level of his abdomen as if carrying something loaded on his lower arms.[17] When he lifted her, he did not lay down his bolo but continued to point the bolo against her body.[18] Accused-appellant carried her to the living room which was about 8 feet away from the kitchen with the bolo still pointed against her.[19] Private complainant did not make any outcry at all.[20]

Accused-appellant then laid her down in a makeshift bed (papag) with the bolo still in his hand.[21] He undressed her[22] by pulling down the pair of shorts she was wearing[23] with the bolo now on the makeshift bed (papag).[24] The t-shirt she was wearing was not removed.[25] When her shorts was fully removed from her body,[26] accused-appellant returned the bolo to its scabbard on his waist, removed his own shorts and underwear,[27] and immediately went on top of her while holding her hands.[28]

Accused-appellant inserted his penis into her vagina,[29] guiding his organ with his right hand while his left hand was holding her right upper arm.[30] The bolo was no longer held by the accused-appellant but was placed in the makeshift bed.[31] However, on cross-examination, private complainant testified that while accused-appellant was on top of her making push and pull movements, the bolo and scabbard were in the accused-appellant's waist.[32] She tried to free herself (nagapilig-pilig po ako) from accused-appellant's hold[33]by twisting her body from right to left[34] but to no avail. She felt pain when accused-appellant inserted his organ inside her organ.[35] After about two (2) minutes on top of private complaint, accused-appellant jerked her (inayod po ako) and then left.[36]

Private complainant then proceeded to finish her cooking.[37] Her parents were in the farm at that time and they returned only in the afternoon of the same day, July 7, 1991.[38] They did not ask her what happened.[39] The following day, July 8, 1991, however, she was asked by her mother who had raped her[40] because private complainant was apparently previously examined by a "manghihilot" and was found to be already pregnant.[41] Private complainant replied that it was accused-appellant who raped her.[42] When asked by the trial court who caused her pregnancy, private complainant replied that it was accused-appellant Lolito Moreno[43] because "it was only him who 'halay' me"[44] but she originally denied having sexual relations with accused-appellant prior to July 7, 1991. When subsequently asked by the trial court to clarify her statements, she then admitted that prior to July 7, 1991 she had sexual relations with accused-appellant but she could not remember the date when accused-appellant had sexual relations with her for the first time.[45] She claimed that on a certain day prior to July 7, 1991, the date of which she could not remember, accused-appellant had sexual relations with her without her consent.[46]

Three months later, or on October 5, 1991,[47] private complainant was brought by her parents before the barangay captain of Sayao to report the alleged rape incident.[48] She executed a "Malayang Salaysay" before the barangay captain (Exh. B).[49]

On October 8, 1991, she was brought for medical examination to the Rural Health Unit, Department of Health, Mogpog, Marinduque, where she was examined by Dr. Reynaldo Montegrejo, Rural Health Physician of Mogpog,

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Marinduque, who issued a Medical Certificate dated October 17, 1991 (Exh. C) with the following findings:

> "Labias Minora and Majora - presence of smegma; no sign of injury.
>
> Hymen - healed lacerated, wounds, located at 5 o'clock; 8 o'clock; 11 o'clock positions.
>
> Fossa Navicularis - healed lacerated wound, about 1 cm.
>
> Internal examination - admit 1 (one) non-lubricated small finger and 2 (two) lubricated fingers; no instrumentation done."[50]

The same examining physician suggested that private complainant submit to a pregnancy test and in connection therewith, referred her to the Marinduque Provincial Hospital. The pregnancy test revealed that private complainant was about five (5) months pregnant.[51]

Froilan Moreno, father of private complainant, testified that on July 7, 1991, at noontime, he was working in the farm while his wife, the mother of private complainant was selling foodstuff in school.[52] He went back to their house around 12:00 noon[53] just as private complainant finished frying fish. He noticed that private complainant was crying while seated on a bench but he did not ask her why she was crying.[54] His wife was not in their house when he arrived and he did not know what time she arrived because he immediately went back to the farm.[55]

Sometime in October, 1991 he noticed that the belly of private complainant was enlarging.[56] He had his daughter examined by a "licensed hilot" who later informed him that she was pregnant.[57] He asked her to tell the truth regarding her pregnancy for almost three (3) days and it was only on the third day that she told him that it was accused-appellant who raped her. Upon learning this he went to the barangay captain of Sayao, Mogpog, Marinduque where he had a confrontation with accused-appellant and the latter's wife, Delia Moreno.[58] He asked accused-appellant "why he did it to his [my] daughter" however accused-appellant did not answer but instead he got angry.[59] The following day he went back to the barangay captain and asked for permission to file the case in court.[60]

On cross-examination, Froilan Moreno testified that he and his wife talked about the enlargement of private complainant's belly only in October, 1991.[61] Prior to their confrontation before the barangay captain, he first summoned accused-appellant but it was the latter's wife, Delia Moreno who went to his house. He asked her why accused-appellant did it to his daughter but she said she does not know.[62] She told him that she would talk to accused-appellant.[63]

On rebuttal, the prosecution presented Gervacio Recamara, barangay captain of Sayao, Mogpog, Marinduque who testified that on October 5, 1991, private complainant, Froilan Moreno and his wife, and Lolito Moreno and his wife had a confrontation before him regarding the accusation that accused-appellant twice raped the private complainant.[64] The barangay captain noticed that Froilan Moreno and accused-appellant were already having a heated argument, hence he stopped them. Thereafter, Froilan Moreno left. The barangay captain further testified that after Froilan Moreno left, he told accused-appellant that "it might be true what is being complained about him," then accused-appellant admitted that he really raped (hinalay) the private complainant but only once.[65]

For its part, the defense put up denial and alibi. Accused-appellant, a 38-year-old farmer, on direct examination, originally claimed that on July 7, 1991, around 12:00 noon, he was in his house located near the river of Sayao and about half a kilometer away from the house of private complainant.[66] Still on direct examination, he later claimed that on July 7, 1991, from 7:00 a.m. to 3:00 p.m., he was in Sta. Cruz, Marinduque.[67] When asked by the trial court to clarify his previous statements, accused-appellant admitted that on July 7, 1991, around 12:00 noon, he was in his house together with his wife doing nothing.[68] He further testified that on August 7, he learned for the first time that private complainant was accusing him of rape because his wife, who was earlier

fetched by Froilan Moreno's wife,[69] told him that he was being accused of having raped private complainant.[70] He did not react to that statement.[71] He denied having had any confrontation with private complainant's family before the barangay captain but admitted having received summons from the latter.[72]

Accused-appellant's wife, Delia Moreno, on the other hand, testified that on July 7, 1991, around 12:00 noon, she was with accused-appellant and Liza Leynes in Sta. Cruz, Marinduque for the purpose of renting a wedding gown for Liza Leynes.[73] They allegedly left their residence at 7:00 a.m. to fetch Liza Leynes in Tarug, Mogpog and stayed in Sta. Cruz, Marinduque from 11:00 a.m. until 3:00 p.m.[74] They arrived back in Sayao at 7:00 p.m.[75] She further claimed that private complainant and her family filed a case against accused-appellant because private complainant learned that she was pregnant and her boyfriend had left for Manila.[76] They allegedly pointed to her husband as the culprit because he was the one who was in Marinduque[77] and she suspected that private complainant had a liking (crush) on accused-appellant.[78]

The defense also presented Liza Leynes-Palomares, a goddaughter of Delia Moreno, to corroborate the testimony of the latter that on July 7, 1991, around 12:00 noon, they were in Sta. Cruz, Marinduque to rent gowns for her wedding.[79]

At the conclusion of the trial, the trial court in a decision[80] dated November 12, 1993, found the accused-appellant guilty beyond reasonable doubt of the crime of rape and sentenced him accordingly.[81] The trial court ruled that "[a]lthough there were some inconsistencies noticed by the court from the testimony of Tiffany Moreno, those were on minor matters and did not reflect on the element attendant in the execution of the sexual intercourse. Tiffany Moreno was very certain that it was herein accused who sexually abused her on July 7, 1991 while alone at their residence."[82] The trial court found private complainant's testimony to be "credible" and "straight-forward."[83] All told, the trial court found "...the private complainant's version to be credible enough to be relied upon."[84]

Accused-appellant is now before this Court seeking the reversal of his conviction on account of the following errors allegedly committed by the trial court:

> I
> THE COURT A QUO ERRED IN GIVING EVIDENTIARY WEIGHT TO THE INCREDIBLE, IMPLAUSIBLE, INCONSISTENT IF NOT CONTRADICTORY TESTIMONY OF COMPLAINANT RELATIVE TO THE ASSAILED INCIDENT.
>
> II
> THE COURT A QUO ERRED IN CONCLUDING THAT COMPLAINANT WAS SEXUALLY ASSAULTED BY APPELLANT CONSIDERING THAT SHE DID NOT OFFER ANY TENACIOUS RESISTANCE.
>
> III
> THE COURT A QUO ERRED IN NOT GIVING EXCULPATORY WEIGHT TO THE EVIDENCE ADDUCED BY THE DEFENSE.
>
> IV
> ON THE ASSUMPTION THAT APPELLANT IS GUILTY, THE COURT A QUO ERRED IN CONVICTING HIM OF RAPE AS THE CRIME COMMITTED WAS ONLY SEDUCTION.

In his Appellant's Brief, accused-appellant argues that "...the evidence adduced by the prosecution, consisting mainly on (sic) the incredible, unworthy and inconsistent, nay contradictory testimony of complainant, failed to pass the exacting test of moral certainty."[85] Accused-appellant contends that "[w]ithout doubt, complainant perverted the truth when she insisted it was the alleged rape on July 7, 1991 that caused her pregnancy,"[86]

relying mainly on the medical certificate which indicated that private complainant was already five (5) months pregnant when she was examined in October 1991.[87] Accused-appellant also faults private complainant's lack of "tenacious resistance" while she was allegedly being raped by the accused-appellant, citing the absence of body injuries like bruises and contusions, hard struggle, outcry, scratches or kicks; and questions her actuation after the alleged rape, that of resuming to fry fish, as "highly unusual and uncommon."[88] Accused-appellant justifies his inconsistent statements regarding his whereabouts on July 7, 1991, around 12:00 noon, by claiming that he suffered a nervous breakdown and argues that his alibi "...was amply corroborated on material points."[89] Lastly, accused-appellant asserts that he should be held liable only for seduction considering that private complainant allegedly had a "crush" on him and that "they are related to each other, their fathers being brothers."[90]

On the other hand, the Office of the Solicitor General (OSG) maintains that "[u]nless there is a showing that the trial court had overlooked, misunderstood or misapplied some fact of (sic) circumstance of weight and substance that would have affected the result of the case, the appellate court will not disturb the factual findings of the lower court."[91] According to the OSG, the inaccuracies in the testimony of private complainant are minor and trivial, hence, do not adversely affect her credibility.[92] The OSG insists that "the inaccuracies pertain to minor details that do not go into the essence of the crime of rape."[93] The OSG further argues that while the force, violence or intimidation used by accused-appellant against private complainant did not leave physical marks on the latter, it affected her will and marred her psyche.[94] "The threat of being hacked to death with a bolo was sufficient to instill fear on complainant causing her to submit her will to appellant's bestial desire."[95] Finally, the OSG submits that "the defense of alibi cannot prevail over the positive identification of the accused by the witness."[96]

While the version of the defense is not entirely satisfactory, as in any criminal prosecution, conviction must rest on proof beyond reasonable doubt. The State must rely on the strength of its own evidence and not on the weakness of the evidence of the defense. The Court is constrained to reverse the conviction of the accused-appellant Lolito Moreno y Lancion on the ground of reasonable doubt.

In rape cases, the following guidelines and principles are well-entrenched: (1) 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 it; (2) in view of the intrinsic nature of the crime of rape where two persons are usually involved, the testimony of the complainant must be scrutinized with extreme caution; and (3) the evidence for the prosecution must stand or fall on its own merits, and cannot be allowed to draw strength from the weakness of the evidence for the defense.[97]

In the case at bar, the prosecution failed to meet the standard necessary to secure conviction. Well-settled is the rule that in the crime of rape alleged to have been committed by force, it is imperative for the prosecution to establish that the element of voluntariness on the part of the victim be absolutely lacking. Otherwise stated, the prosecution must prove that force or intimidation was actually employed by the accused-appellant upon his victim to achieve his end. Failure to do so is fatal to its cause.[98] Private complainant's actuation before, during and after the alleged rape fails to convince us that the sexual intercourse was truly against her will. First, when accused-appellant allegedly held her and pointed a bolo against her body without any verbal threat from the accused-appellant to hold her silence, she did not even try to make an outcry or otherwise vigorously resist the accused-appellant, even while she was being carried to the makeshift bed (papag). When she was held by the accused-appellant, all she did was to twist her body from right to left. While the accused was on top of her, she likewise merely twisted her body from right to left.

"ATTY. SOTTO:

"Q:

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When you ... I reform. When he held your arms, what did you do?

A:

I tried to free myself, sir. (nagpalag-palag)

Q:

That was all that you did?

A:

Yes, sir... (TSN, June 7, 1993, p.22.)

xxx

Q:

From that moment when he lifted you and until he was able to lay down you (sic) on the living room, you did not make any outcry?

A:

No, sir... (TSN, June 7, 1993, p.24.)

"FISCAL OPIS:

"Q:

What did you do at the time the accused was on top of you?

A:

I was trying to free my body, sir. (nagapilig-pilig po ako).

xxx

COURT:

(to witness)

Q:

What do you mean by "nagapilig-pilig po ako"?

A:

I was moving my body, your honor.

Q:

In what manner?

A:

By moving her (sic) body twisting right to left, sir... (TSN, June 7, 1993, pp.6-7.)

We have previously ruled that "[t]he test of sufficiency of force or intimidation in the crime of rape under Art. 335 of the Revised Penal Code, is whether it produces a reasonable fear in the victim that if she resists or does not yield to the bestial demands of the accused, that which the latter threatened to do would happen to her or to those

dear to her.[99] Private complainant's conduct failed to convince us that the "force or intimidation" allegedly employed by accused-appellant produced such a reasonable fear in private complainant. The Court cannot bring itself to believe that there was force or intimidation of such character as to render private complainant helpless to resist the assault against her virtue.

Assuming that accused-appellant did point a bolo against her while he held and carried her to the makeshift bed, when private complainant's shorts was being removed, he no longer pointed the bolo against her but the bolo was lying on the papag. She could have grabbed that bolo and defended herself. When private complainant was lying on the makeshift bed without her shorts and accused-appellant was undressing himself, he no longer pointed the bolo against her but had earlier replaced it in its scabbard tied to his waist. At these precise moments, private complainant was no longer in extreme danger of her life. She could have tried to escape then. Even as accused-appellant was allegedly sexually attacking her, accused-appellant guided his penis into her vagina using his right hand, and his left hand to hold private complainant's right upper arm. It is clear therefore that private complainant's left arm was free from restraint and she could have vigorously resisted the alleged sexual assault by grabbing the bolo which allegedly was in its scabbard tied to the waist of accused-appellant and by defending herself against her purported assailant. Therefore, her actuations before and during the alleged sexual assault did not show the kind of resistance expected of a young woman defending her virtue and honor. A much more vigorous opposition to the assault on her virtue is only to be expected of an inexperienced victim on the threshold of womanhood.

> "COURT:
>
> (to witness)
>
> xxxxxx
>
> "Q:
>
> When you said he was already on top, inserted his organ to your organ, which hand did he use in guiding his organ?
>
> A:
>
> The right hand, sir.
>
> Q:
>
> And which hand was holding you then when he was guiding his organ to you?
>
> A:
>
> The left hand, sir.
>
> Q:
>
> And which arm of yours was being held by him?
>
> A:
>
> My right upper arm, sir.
>
> Q:
>
> So his left arm was holding your right arm?
>
> A:

Yes, sir.

Q:

The bolo was no longer in the hand of the accused?

A:

Yes, sir.... (TSN, June 7, 1993, p. 30.)

xxxxxx

Q:

About when he was removing your shorts, where was the bolo?

xxxxxx

Q:

Let me clarify this. According to you while ago (sic) Lolito Moreno was carrying you - he was holding the bolo pointing to you. When your shorts was removed by Lolito Moreno, you said the bolo was on the papag. And then you said that after your shorts was removed, he removed his shorts and brief and you said that before he removed his shorts and brief he returned the bolo to the scabbard. So, in between after your shorts was removed to (sic) the time he removed the brief and shorts, he returned the bolo to the scabbard?

A:

Yes, sir, he returned the bolo to the scabbard before he removed his shorts.

Q:

When you said Lolito Moreno went on your top (sic), the bolo was on the papag. Did he at any time after removing his shorts and brief, remove the scabbard with the bolo from his waist? Or where was the bolo after Lolito Moreno had removed his brief and shorts after the time he went on top of you?

A:

In his waist, sir.

Q:

You made the push and pull on your top with the bolo and scabbard on his waist?

A:

Yes, your honor.

ATTY. SOTTO:

(to witness)

Q:

Did you not say that he lay down his bolo on the papag?

COURT

That is recorded already."

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(TSN, June 7, 1993, p.33.)

Even the conduct of the private complainant after the alleged rape is inconsistent with that of a barrio girl of tender age who had been subjected to a harrowing experience under the bestial act of a rapist. As we have previously held, "[t]he conduct of the victim immediately following the alleged sexual assault is of utmost importance as tending to establish the truth or falsity of the charge of rape."[100] In the case at bar, after the alleged rape, private complainant merely finished her cooking.

"FISCAL OPIS

xxxxxx

"Q:

After the accused your house ... after he had gone over your top and after he inserted his private part to your private part, what did you do?

A:

I finished my cooking, sir." (TSN, June 7, 1993, p.10.)

Froilan Moreno's testimony that he saw private complainant crying for about 10 minutes when he arrived at their house appears unconvincing considering his own testimony that he did not inquire from her why she was crying.[101] It is hardly believable and indeed unnatural for a father who sees his daughter crying for about 10 minutes not to ask her what was troubling her.

The foregoing considered, we find the conduct of the private complainant to be inconsistent with human experience and behavior. What she did before, during, and after she was allegedly raped was not in accord with normal human conduct and experience.

Coming now to the credibility of the testimony of private complainant, we are guided by the ruling that "[b]y the very nature of the crime of rape, conviction or acquittal depends almost entirely on the credibility of the complainant's testimony because of the fact that usually only the participants can testify as to its occurrence."[102] The trial court found private complainant’s testimony to be "coherent," "straight-forward," and "credible enough to be relied upon." We disagree.

Inconsistencies in the testimony of private complainant on material and substantial matters detract from the credibility of her testimony. First, her testimony on the exact location of the bolo allegedly used by accused-appellant in satisfying his bestial desire, while the latter was on top of private complainant, was not coherent and straight-forward.[103] When asked by the trial court, private complainant claimed that while accused-appellant was on top of her, the bolo was on the makeshift bed but when the trial court clarified later on, she testified that the bolo was in the scabbard on accused-appellant’s waist.[104] Second, when asked by the trial court, private complainant testified that she did not have sexual intercourse with accused-appellant prior to July 7, 1991,[105] but she claimed that it was accused-appellant who impregnated her.[106] When she was asked for the second time by the trial court if there was any occasion prior to July 7, 1991 that accused-appellant had sexual intercourse with her, she admitted that there was such an occasion.[107] The foregoing inconsistencies and contradictions in private complainant’s testimony cannot be considered as minor and trivial as they impugn the credibility of her testimony. We find that the trial court erred in relying on the testimony of private complainant in convicting the accused-appellant. We reiterate that "[t]rial courts must keep in mind that the prosecution must be able to overcome the constitutional presumption of innocence beyond a reasonable doubt to justify the conviction of the accused."[108] As we have ruled:

> "Rape is a very emotional word, and the natural human reactions to it are categorical: admiration and sympathy for the courageous female publicly seeking retribution for her outrageous violation, and condemnation of the rapist. However, being interpreters of the law and dispensers of justice, judges must look at a rape charge without those proclivities, and deal with it with extreme caution and circumspection. Judges must free themselves of the natural tendency to be overprotective of every woman decrying her having been sexually abused, and demanding punishment for the abuser. While they ought to be cognizant of the anguish and humiliation the rape victim goes through as she demands justice, judges should equally bear in mind that their responsibility is to render justice based on the law."[109]

Even as the prosecution failed to prove the use of force, violence and intimidation by the accused-appellant, we cannot convict the accused-appellant of the crime of simple seduction without offense to the constitutional rights of the accused-appellant to due process and to be informed of the accusation against him. The charge of rape does not include simple seduction.

WHEREFORE, for failure of the prosecution to establish the guilt of the accused-appellant of the crime of rape as charged beyond reasonable doubt, the decision of the trial court in Criminal Case No. 1-93 is REVERSED and accused-appellant Lolito Moreno y Lancion is ACQUITTED and ordered immediately released unless there are other legal grounds for his continued detention.

The Director of Prisons is DIRECTED to implement this Decision and to report to this Court immediately the action taken hereon within five (5) days from receipt hereof.

SO ORDERED.

Bellosillo, (Chairman), Mendoza, Quisumbing, and De Leon, Jr., JJ., concur.

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[1] Original Record (OR), Criminal Case No. 1-93, pp. 114-129; Rollo, pp. 12-27 per Executive Judge Romulo A. Lopez.

[2] OR, p. 1.

[3] Ibid., at p.27.

[4] Ibid., at p. 26.

[5] Restituto L. Opiz.

[6] OR, p. 30.

[7] Ibid., at p. 35.

[8] Rollo, p. 33.

[9] With the assistance of Atty. Diosdado Sotto, Jr. of the Public Attorney’s Office.

[10] OR, p. 88.

[11] TSN, June 7, 1993, p. 3.

[12] Ibid.

[13] Ibid., p. 21.

[14] Ibid.

[15] Ibid., p. 4.

[16] Ibid., p. 22.

[17] Ibid., p. 23.

[18] Ibid.

[19] Ibid., p. 24.

[20] Ibid.

[21] Ibid., p. 25.

[22] Ibid., p. 4.

[23] Ibid., pp. 26-27.

[24] Ibid., p. 32.

[25] Ibid., p. 27.

[26] Ibid., p. 28.

[27] Ibid., pp. 28, 32-33.

[28] Ibid., p. 5.

[29] Ibid.

[30] Ibid., p. 30.

[31] Ibid., pp. 30-31.

[32] Ibid., pp. 33-34.

[33] Ibid., p. 6.

[34] Ibid., p. 7.

[35] Ibid.

[36] Ibid.

[37] Ibid., p. 10.

[38] Ibid., p. 11.

[39] Ibid.

[40] Ibid.

[41] Ibid., p. 36.

[42] Ibid., p. 11.

[43] Ibid., p. 37.

[44] Ibid., p. 38.

[45] Ibid., pp. 38, 40.

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[46] Ibid., p. 41

[47] OR, p. 5.

[48] TSN, June 7, 1993, p. 12.

[49] OR, p. 5.

[50] Ibid., pp. 9-10.

[51] Ibid., p. 10.

[52] TSN, June 9, 1993, pp. 3-4.

[53] Ibid., p. 4.

[54] Ibid., pp. 11-12.

[55] Ibid., p. 13.

[56] Ibid., p. 5.

[57] Ibid., pp. 5-6.

[58] Ibid., pp. 6-7.

[59] Ibid., p. 7.

[60] Ibid.

[61] Ibid., p. 14.

[62] Ibid., pp. 17-18.

[63] Ibid., p. 18.

[64] TSN, July 6, 1993, p. 15.

[65] Ibid., p. 16.

[66] TSN, June 10, 1993, pp. 3, 5.

[67] Ibid., pp. 3-4.

[68] Ibid., pp. 4-5.

[69] Ibid., pp. 5-6.

[70] Ibid., p. 7.

[71] Ibid.

[72] Ibid.

[73] TSN, June 10, 1993, p. 11.

[74] Ibid., pp. 11-12.

[75] Ibid., p. 13.

[76] Ibid., p. 19.

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[77] Ibid.

[78] TSN, June 11, 1993, p. 5.

[79] TSN, July 6, 1993, p. 3.

[80] Original Record (OR), Criminal Case No. 1-93, pp. 114-129; Rollo, pp. 12-27, per Executive Judge Romulo A. Lopez.

[81] OR, pp. 114-129.

[82] Rollo, p. 23.

[83] Ibid.

[84] Ibid., p. 26.

[85] Rollo, pp. 53-54.

[86] Ibid., p.54.

[87] Ibid.

[88] Ibid., pp. 61-62.

[89] Ibid., pp. 62-63.

[90] Ibid., pp. 63-64.

[91] Ibid., p. 122, citing People vs. Sendon, 209 SCRA 597 (1992).

[92] Ibid., p. 123.

[93] Ibid., p. 124.

[94] Ibid., p. 126.

[95] Ibid., p. 127.

[96] Ibid., p. 131, citing People vs. Tahuyan, 218 SCRA 461 (1993).

[97] People vs. Antido, 278 SCRA 425, 440 (1997).

[98] People vs. Subido, 253 SCRA 196, 205 (1996).

[99] People vs. Adora, 275 SCRA 441, 468 (1997).

[100] People vs. Miñano, 220 SCRA 681, 692 (1993).

[101] TSN, June 9, 1993, p. 12.

[102] People vs. Abuan, 284 SCRA 46, 53 (1998).

[103] TSN, June 7, 1993, p. 33

[104] TSN, June 7, 1993, pp. 30-31, 33-34.

[105] TSN, June 7, 1993, pp. 37-38, 40.

[106] The medical certificate revealed that on October 8, 1991, private complainant was approximately five (5)

months pregnant.

[107] TSN, June 7, 1993, pp. 37-41.

[108] People vs. Manansala, 273 SCRA 502, 519 (1997).

[109] Ibid.

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