

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. SERGIO BETONIO, ACCUSED-APPELLANT.

G.R. No. 119165. September 26, 1997

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

The rape of a thirteen-year-old girl by her uncle who took advantage of his moral ascendancy and who on appeal had the gall to claim a “forbidden love affair” with the victim, goes beyond the reprehensible into the intolerable. We stress that in rape cases, the trial court’s assessment of the credibility of witnesses -- the complainant’s, most of all -- is usually accorded respect by appellate courts and is often determinative of an appeal’s outcome.

The Case

This is an appeal from the Decision [1] dated May 7, 1993 of the Regional Trial Court of Tagbilaran City, 7th Judicial Region, Branch 3, [2] in Criminal Case No. 7220, finding appellant guilty of rape.

On April 30, 1991, Bertila A. Betonio, mother of Victim Loreta Betonio, filed a Complaint[3] before the 9th Municipal Circuit Trial Court of the Municipality of Guindulman, Province of Bohol, charging Accused-appellant Sergio Betonio of rape. An amended Complaint dated June 18, 1991, this time signed by Loreta, was thereafter filed.[4] After preliminary investigation, Third Asst. Provincial Prosecutor Dionisio P. Calibo, Jr. filed before the Regional Trial Court the following Information dated June 25, 1991:

The undersigned, Third Assistant Provincial Prosecutor, upon a sworn amended complaint signed and filed by the offended girl (a minor) and her mother, a copy of which is marked as Annex “A” and attached to the record, hereby accuses Sergio Betonio of Bato, Guindulman, Bohol of the crime of Rape committed as follows:

That on or about the month of April, 1990, in the municipality of Guindulman, province of Bohol, Philippines and within the jurisdiction of this Honorable Court, the above-named accused who is an uncle of the victim, through force and intimidation and with the use of a knife, did then and there, willfully, unlawfully and feloniously have sexual intercourse with his niece, Loreta Betonio, a virgin, who was only a little over 12 years of age at the time of the incident, against the will and without the consent of the latter; to the damage and prejudice of the offended party.

Acts contrary to the provisions of Article 335 of the Revised Penal Code as amended by R.A. 2632 and 4111 with the aggravating circumstance of abuse of confidence as the accused was then entrusted with the custody of the minor victim.” [5]

During his arraignment, appellant, assisted by Counsel de Oficio Perpetuo G. Magallano, pleaded not guilty. After trial, the appellant was found guilty beyond reasonable doubt. The dispositive portion of the assailed Decision reads:

WHEREFORE, premises considered, this Court finds the accused Sergio Betonio guilty beyond reasonable

doubt of the crime of Rape, and hereby sentences him to an imprisonment of reclusion perpetua, and to suffer the accessory penalties imposed by law. He is further sentenced to pay the offended party the amount of P3,000.00 by way of reimbursement of actual expenses, and another sum of P50,000.00 as moral damages, but without subsidiary imprisonment in case of insolvency.

With cost de oficio.

SO ORDERED.”[6]

The FactsVersion of the Prosecution

The prosecution presented three witnesses: (1) Dr. Jean Tabuga de Paz, who conducted a medical examination of the victim, Loreta Arquita Betonio; (2) the complainant herself and (3) her mother, Bertila Arquita Betonio.

Their testimonies were summarized by the trial court as follows:

The first witness to testify for the prosecution was Dr. Jean Tabuga de Paz, 30 years old, married, resident physician of the Governor Celestino Gallares Memorial Hospital, Tagbilaran City, graduate of Medicine from the Remedios Trinidad Romualdez Foundation University, Tacloban City.

She testified that she graduated Medicine in 1987 from the aforesaid Remedios Trinidad Romualdez Foundation University, College of Medicine; that she passed the medical board examinations in February, 1989; that she had her post-graduate internship training at the Governor Celestino Gallares Memorial Hospital in 1988; that during her PGI training years, she had examined some rape victims; that after passing the board examination, she was appointed municipal health officer of Buluan, Maguindanao, from April, 1989 to October, 1990; and that in October, 1990, she transferred at the Gov. Celestino Gallares Memorial Hospital as resident physician until at present.

(She) also testified that as a resident physician of the Gov. Celestino Gallares Memorial Hospital, she had so far examined four (4) rape victims, but she did not know if the first three cases reached the Court. What she remembered is that the first case was settled amicably before the barangay court, the second was likewise settled, the third one, the rapist went at large, and the fourth was the present case.

She further testified that she personally examined the victim Loreta Betonio, who was then 13 years old, on May 2, 1991; that on account of the examination, she issued a certified medico-legal certificate (Exhibit A), with the following findings:

“P.P.E.: LMP = April 1991 - With newly

grown hair at the head

about 3 cm long

* With several cigarette burn

scars, left, hand

* Medium speculum inserted with

ease

* Cervix smooth with scanty mucoid

discharged

“I.E.: I = With myrtiform carbuncles

admits 2 fingers with ease

= Allegedly raped for several

times anytime during the

periods in between April

1990 - 1991

= Negative for spermatozoa”

She likewise testified that she also prepared a handwritten medical record (Exhibits A-1 and A-2), and a zerox copy thereof was likewise certified by her (Exhibit A-3). That from her examination of the victim, she was first raped in April, 1990 and then in 1991.

On cross-examination by Atty. Teofilo D. Baluma, Dr. de Paz admitted that she has limited experience on rape cases; that of the cases she has examined, this is the first case that reached the court. She also testified that at the time of the examination of the victim, there were newly grown hair on the victim’s head, showing that she was shaved. She also admitted that she sympathized with the misfortune of the victim, but that she was not bias [sic] in her favor. On the new hair growing on the head of the victim, she explained that her hair on the head were [sic] probably cut off about a month to the time she made the examination. She also testified that per information given her by the victim, the latter was raped on many occasions, and that the last one was on April 28, 1991, four days before her examination on May 2, 1991. She also admitted that at the time of the examination, the victim was accompanied by Miss Anita Dospueblos, the chief of the DSWD of Bohol. She further declared that there were burn scars found at the left hand of Loreta, but they were not signs of burning from fraternity or sorority rituals.

The second witness to testify for the prosecution was Loreta Arquita Betonio, 14 years old, single, high school student, and temporarily residing in Cagayan de Oro City, care of DSWD, Region 10, more particularly at sitio Macanhan, barangay Carmen, Cagayan de Oro City.

She declared that she is the victim and complainant in the instant case; that she knows the accused Sergio Betonio, who is her uncle, he being the younger brother of her father Romeo Betonio; that her co-complainant Bertila Betonio is her own mother with whom she is living with in Cagayan de Oro City, care of DSWD, Region 10, Cagayan de Oro City. She also declared that her father’s whereabouts is not known. She likewise declared that she was born in barangay Bato, Guindulman, Bohol; that her mother used to live in barangay Balagnan, Balingasag, Misamis Oriental, together with her father. However, she could not recall when her father left the conjugal home. What she remembered, however, is that she was born on December 10, 1977, and that her family lived in Balagnan, Balingasag, for about one and a half years, until she was brought to barangay Bato, Guindulman, Bohol, to lived with her uncle accused Sergio Betonio and her grandfather Norberto Betonio.

She further declared that living with her then in her grandfather’s house were her grandmother Ursula Betonio, uncle Norberto Betonio, Jr., Julie Betonio, Lita Betonio, Zosima Betonio and Sergio Betonio, but thereafter they all left the ancestral home of her grandmother to look for a living, leaving her, her grandfather and Sergio Betonio. She also testified that she took her primary and elementary grades in the Guindulman Central Elementary School, which was about five kilometers from Bato, Guindulman; that her grandmother spent for her schooling in Grade I; that when she was in Grade II, it was her aunt Lilia who worked in Cebu who shouldered her school expenses; that when she was in Grade III, it was her uncle accused Sergio Betonio who spent for her schooling; and from Grades IV to VI, it was her two aunts Zosima and Lolita, who were in Manila, who answered for her school expenses.

She likewise testified that on March 5, 1987, her grandmother Ursula died, leaving her grandfather and uncle Sergio Betonio in the ancestral home. That it was after the death of her grandmother when her aunts Lita and Zosima went to Manila to work as domestic helpers, while her aunt Julie worked in a bakery in Guinacot, Guindulman. His uncle Norberto, Jr. also went to Cebu to look for a living, thus leaving her, her grandfather and uncle Sergio Betonio; and that it was in April, 1990, that she was raped by Sergio Betonio in their house at Bato, Guindulman, Bohol; that Sergio Betonio threatened her with a knife when he sexually molested her. She was in fact told by Sergio not to report the rape incident to anybody. She also declared that she was deflowered inside the room at midnight.

She further declared that she felt pain as Sergio sexually abused her. In fact, she cried because of pain; that she did not, however, shout because she was threatened; that she did not report the incident to her grandfather because Sergio told her not to report to anybody otherwise he would kill her. That for the sexual assault, she felt pain on her vagina and found the same bleeding; that for the rape that was committed on her person, she was ashamed, worried and sad. That she was examined and treated by Dr. Jean de Paz, who issued in her favor a medical certificate (Exhibit A). She further declared that she was shavened [sic] (gui-upawan) by Sergio on March 28, 1991, and on the following day, for reason of jealousy, Sergio undressed her in front of many people, including teenagers.

She also testified that on one occasion while cooking nilugao (porridge), her uncle Sergio Betonio approached her and took a lighted firewood and hit with it her left arm resulting to her injuries and permanent scars.

On cross-examination by Atty. Baluma, Loreta Betonio declared that she executed an affidavit in connection with this case (Exhibit C); that she had her complaint filed before Judge Abundio T. Payot of the 9th MCTC of Guindulman-Duero, Bohol. She also affirmed the truthfulness of her affidavit which was in Cebuano, and which was translated into English. She also admitted that, indeed, she was sent to school by accused Sergio Betonio, among others. She further declared that her grandfather's house has a neighbor -- the house of her aunt-in-law Diding, who is married to his uncle Rufo Betonio; that their houses are just 3 meters apart from each other; that despite the knowledge of her uncle Rufo of what Sergio did to her, yet he was afraid to confront Sergio. She, however, admitted that she did not personally report the incident to Diding and Rufo because of her fear of Sergio who threatened to kill her if she would report it to anybody.

She further declared that she started living with her grandfather when she was only 1 and 1/2 years old, until she was 13 years old; that she slept in a small room, one of the two rooms in the second storey of the house. There was no bed in her room, which was about 2 and 1/2 meters wide. She also declared that when her grandmother was still alive, she slept with her, but after her death on March 5, 1987, she slept with her aunt Lita until the latter left for Manila to work thereat; that she continued sleeping alone in the room where she used to sleep with Lita; that it was at this point of time that Sergio ordered her to massage him, and when she would refuse, he would box her, that is why she was forced to obey Sergio's command to massage him. Not only contented or [sic] ordering her to massage him, he would order her to sleep with him right after massaging him. She further declared that at that time she was not yet menstruating because she had her first menstruation only in November, 1990. She likewise declared that sometime in 1990, Sergio went to Cebu to work as a carpenter, but because he was asthmatic, he decided to stop working and returned to Bohol. She also declared that her mother came to Bohol after receiving an anonymous letter from Guindulman, Bohol, which turned out to be written by her aunt Gorgonia Betonio Olano, asking her mother to come to Bohol to rescue her.

She further declared that she knows Marjun Timbal, their neighbor; that Marjun Timbal is older than her; that he was not courting her. She also admitted that she was examined by Dr. Ernesto Piezas and Dr. Jean de Paz. It was Dr. Piezas who first examined her, but she was examined again by Dr. de Paz because of their fear that she might

be pregnant because she did not have her monthly menstruation; that Dr. Piezas issued her a medical certificate. She also declared that she was undressed or put naked by Sergio, then she was made to massage him. It was in April, 1990; that after massaging him, she was made to sleep with him. Thereafter, she noticed that Sergio started to fondle her private parts, sucked her nipple and likewise licked her vagina, like a dog; that she got mad and angry so that she protested and resisted the advances of Sergio, but with his brute force, she was overpowered by him. She claimed that she was only about 4'10" and born on December 10, 1977, while the accused is taller than her, standing 5'1", of medium built and more bigger [sic] than her.

The third witness to testify for the prosecution was Bertila Arquita Betonio, 39 years old, married, housekeeper, third year high school, and a resident of c/o Home For Women and Girls, DSWD, sitio Macanhan, Carmen, Cagayan de Oro City. She declared that she is the co-complainant of her daughter Loreta Betonio; that she signed the complaint in connection with this case (Exhibit D), dated April 30, 1991, identifying her signature therein and that of Judge Abundio T. Payot before whom she subscribed the same (Exhibits D-1 and D-2).

That she personally knows Sergio Betonio, whom she identified in court; that Sergio is the younger brother of her husband, therefore the victim Loreta Betonio is Sergio's own niece; that Loreta was born on December 10, 1977 (Exhibits E and E-1). She also declared that on April 27, 1991, she came home to Guindulman, Bohol, from Cagayan de Oro City, after she received an anonymous letter (which turned out to be written by Gorgonia Olano, a close relative of her husband). She was accompanied by her cousin Remedios Gardinab; that arriving at Guindulman, Bohol, she went to the police headquarters to seek police assistance, so that she was accompanied by policeman Bernaldez to the house of her father-in-law Norberto Betonio where her daughter Loreta was then living, taking a service jeep of the PNP of Guindulman driven by another policeman. Reaching the house of Norberto Betonio at Bato, Guindulman, at about 9:00 o'clock in the evening of the same day, policeman Bernaldez, and her cousin went up the house, leaving her and the driver in the jeep. A little later, policeman Bernaldez came down from the house with Loreta and Sergio. On board the police jeep, they proceeded to the police headquarters. Although he was not invited, Sergio decided to go with them to the police headquarters. At the police headquarters, Loreta was investigated, and she complained that she was abused and raped by Sergio. Sergio, in her presence and in the presence of Remedios Gardinab and a policeman, pleaded forgiveness, claiming that she raped Loreta only once. In short, Sergio admitted having sexually molested his niece Loreta.

She further testified that since it was already late in the evening of April 27, 1991, they decided to stay and pass the night in the municipal building of Guindulman. In that evening, as everybody was about to sleep, Sergio was overheard shouting, "Nang Bertila, pasayloa ko kay kas-a ra man nako guilugos si Loreta". (Nang Bertila, please forgive me. I only had one sexual intercourse with Loreta), to which she said, "Sergio, I cannot forgive you. You have ruined the future of Loreta". To this, Sergio countered, "Pity me, Manang, because I am sick with asthma". Witness Bertila Betonio further declared that in the morning of the next day, still in the premises of the municipal building, Sergio again asked for forgiveness from her, repeating the same statements of forgiveness made by him in the evening; that he also asked forgiveness from Loreta, but the latter told him she could not forgive him. She also admitted that for coming to Bohol to testify, she spent about P3,000.00

From the foregoing testimonies, the trial court culled the following findings:

Loreta Betonio, the offended party, was left by her father Romeo Betonio, but claimed by accused Sergio Betonio to be Aurelio Betonio. That Romeo Betonio left Loreta to the care of his father Norberto, Sr. since Loreta was only one and one-half years old. That Loreta's parents separated when she was only a child for reason known only to the couple.

For Loreta's schooling, her grandparents, uncles and aunts alternately shouldered the expenses therefor. When she was in her first grade, her grandmother spent for her schooling; on the second grade, it was her unmarried

aunt who was working in Cebu who spent for her; in the third grade; it was accused Sergio Betonio who was working in Cebu as carpenter who spent for her schooling; on her grades IV to VI, it was Zosima and Lita who were working in Manila, after the death of their mother, who first supported her early schooling.

That living with Loreta at the residence of her grandparents were her grandfather Norberto, Sr., accused Sergio Betonio and Julita, who was working in a bakery in Guinacot, Guindulman, and who would only come home on Sundays. Loretas' grandmother died on March 5, 1987.

The record will show that there were two rooms in the Betonio house. In one room Sergio sleeps while on the other room was where Norberto was sleeping. However, Norberto usually sleeps downstairs on a bench, so that it was Loreta who slept in the other room. It was in March, 1990, that Sergio made Loreta to massage him. Sergio would call Loreta to come to his room to massage him. At first, everything was on the level. However, as the massaging went on, the devil and erotic desire came to shape up in the mind of Sergio, as he would now kiss and embrace Loreta to which the latter began to suspect. Sergio would now order Loreta to sleep with him after massaging. After Loreta became weary of the intention, she started to resist but failed because of the force and intimidation exerted on her person by Sergio. And so sometime in April, 1990, by means of force and intimidation and with the use of a knife, Sergio was able to have sexual intercourse with Loreta against her will, after having woke her up. At first Loreta resisted. In fact, she kicked the thigh of Sergio, but being of weaker sex and tender age, she succumbed to Sergio's threat, intimidation and force. Thereafter, they had several sexual intercourse, still against Loreta's will, but the only time she could remember was sometime in April, 1990.

Loreta could not reveal to her grandfather Norberto, Sr. nor to her uncles and aunts and other relatives and friend or neighbors about it because of the continuing threat or intimidation and force that Sergio exerted or imposed on her, who is especially of a tender age and, therefore, can be easily threatened, intimidated or forced or even, at the least, influenced to do or say one way or the other.

Much later, after the first rape incident, there was an occasion when Loreta's hair was cut short or shaved purposely by Sergio who was angry at Loreta's coming home very late in [sic] one evening when she was commanded to buy medicine for his asthma in the town proper, especially having learned that at the time a suitor of Loreta, one Marjun Timbal, had the occasion to talk to her.

It was also on April 24, 1991, that Bertila, Loreta's mother, received an (anonymous) letter from Bato, Guindulman, Bohol, informing her of her daughter's plight at the hands of Sergio. And immediately, Bertila went to Bato, Guindulman, accompanied by a relative in order to support and help morally or otherwise her beleaguered daughter, so to speak. That the anonymous letter turned out to be written by the grandaunt of Loreta, defense witness Gorgonia Olano, who in the course of her testimony of December 3, 1991, testified categorically that she was the author of the letter and she sent it out of pity of Loreta.

It was also gathered from the prosecution witness Dr. de Paz that Loreta was not anymore a virgin as her vagina has been penetrated by a penis through force. This was likewise corroborated by the testimony of Dr. Piezas who was utilized as a witness for the defense, but in open court admitted that in his examination of Loreta, he found her hymen to have been lacerated, thus showing she had a previous sexual intercourse with a man. In fact, he claimed that there were old healed laceration in the vagina of the victim, which he estimated to be about 3 to 6 months old at the time of examination."

Version of the Defense

The defense presented four witnesses: (1) Silveria Decale Betonio, (2) Gorgonia Betonio Olano, (3) Dr. Ernesto Libres Piezas, and (4) Appellant Sergio Betonio. Their testimonies were summarized by the court a quo [7] as follows:

The first witness to testify for the defense was Silveria Decale Betonio, 33 years old, married, housekeeper,

Grade IV, and a resident of Bato, Guindulman, Bohol. She testified that she knows complainant Loreta Betonio being the niece of her husband Rufo Betonio; that their house is about three meters away from the house of her father-in-law Norberto Betonio; that before April, 1991, and before Sergio was jailed, she had a talk with Loreta; that she knows Loreta used to massage Sergio; that Sergio is sickly so that Loreta had to massage him; that knowing that Loreta used to massage Sergio, she confronted her that the almost nightly massaging might result to something nasty, but Loreta denied, claiming nothing wrong happened between them. She also declared that there was a time that she noticed Loreta massaging Sergio, but it was in the presence of her father-in-law Norberto, Sr.

The second witness to testify for the defense was Gorgonia Olano, 51 years old, married, farmer, Grade V, and a resident of Bato, Guindulman, Bohol. She testified that the complainant victim Loreta Betonio is her grandniece because Romeo, the father of the said victim, is her nephew; that she wrote the letter (Exhibit 4) to Bertila Betonio on instruction of Loreta. She also claimed that before writing the letter, she had a talk with Loreta and that in their conversation Loreta told her to send a letter to her mother because she could no longer bear the physical punishment she received from Sergio. In fact, she admitted seeing Sergio beating Loreta before sending the letter; and that she wrote it out of pity of [sic] Loreta.

The third witness for the defense was Dr. Ernesto Libres Piezas, 50 years old, married, MHO, Guindulman, Bohol, MD-SWU, 1971, and a resident of Poblacion, Guindulman, Bohol. He testified that he examined one Loreta Betonio on April 29, 1991, and as a consequence thereof, he issued a medical certificate (Exhibit 5); that he made an internal examination of the victim and found her hymen was lacerated; he also found some old laceration, showing that the victim Loreta has had experienced previous sexual intercourse. However, he admitted that he did not find any physical injury on the victim; and that the old healed lacerations were about 3 to 6 months old.

The last witness to testify for the defense was accused Sergio Olaer Betonio himself, 33 years old, single, BDRC detention prisoner, carpenter, Grade V, and a resident of Bato, Guindulman, Bohol. He admitted that he is the accused in the instant case. However, he denied raping his niece Loreta Betonio. He also admitted that in April, 1990, and the succeeding months thereafter, he was at home in Bato, Guindulman, Bohol; that his niece Loreta is charging him for sexual abuse because she got mad at him when he whipped her on March 28, 1991; that he used a coconut palm in whipping her, but she did not suffer any injury; that he whipped her at about 12:00 o'clock midnight when Loreta did not return home early after commanding her to buy medicine for asthma at noon yet of the day; that Loreta filed the case against him because he cut her hair or shaved her; that the reason for Loreta in filing the present case was a retaliation for his having whipped her at midnight of March 28, 1991. He further denied having pleaded for mercy from Bertila Betonio, the wife of his brother Aurelio not Romeo; that Bertila, the mother of Loreta, filed the case against him because she was mad at him for having whipped her daughter Loreta; besides, she wanted to get Loreta from him. He also testified that he knows one Marjun Timbal, the son of Angeles and Precy Timbal. He likewise admitted having executed a counter-affidavit and subscribed it before Judge Abundio Payot (Exhibit 6), but declined to admit the contents thereof."

The trial court evaluated the defense witnesses' testimonies, as follows:

On the other hand, the evidence for the defense would show that accused Sergio Betonio lived with his widowed father Norberto, Sr. in Bato, Guindulman, Bohol, together with the offended party. His father Norberto, Sr. was the one supporting Loreta since she was a small child because her parents left her to his care. In fact, in her third grade, it was Sergio who spent for her schooling out of his earning as a carpenter in Cebu.

The defense evidence would also bear out that accused arrived in Guindulman sometime in March, 1991, and on March 28, 1991, in Bato, Guindulman, accused Sergio Betonio had an asthma attack, so that at about noon time he commanded Loreta to buy medicine. And because it took time for Loreta to come home, he borrowed some medicine for asthma from a neighbor. That it was in the afternoon of March 28, 1991, that accused

Sergio and his father were looking for Loreta but could not find her because she was nowhere to be found. However, at 12:00 o'clock midnight Loreta arrived, and not satisfied of her explanation for coming home late, Sergio beat her by way of discipline, because he suspected that Loreta had a happy time with her lover Marjun Timbal. Furthermore, accused Sergio Betonio admitted that he had to cut or shave the hair of Loreta so that she would not roam around anymore. He also claimed that on April 26, 1991, he got a surprise in his life when in the evening of that day some policemen came to their house calling for Loreta and when Loreta went downstairs, he followed her to accompany her to the police headquarters where Loreta lodged a complaint for rape against him, resulting to (sic) his detention in the municipal jail of Guindulman."

The defense, for the first time in this appeal before us, claims that "complainant plunged herself into what might be termed 'BAWAL NA PAG-IBIG' or a forbidden love affair" [8] with accused-appellant.

The Error Assigned

Appellant Sergio Betonio assigns a solitary error against the trial court:

The lower court erred in finding accused-appellant guilty of the crime of rape, without his guilt having been proved beyond reasonable doubt." [9]

The Court's Ruling

The appeal is bereft of merit. Guiding Principles in the Review of

Rape Cases

The Constitution mandates that "(i)n all criminal prosecutions, the accused shall be presumed innocent until the contrary is proved, x x x." [10] This constitutional presumption of innocence guarantees that no person shall be convicted unless the prosecution proves his guilt beyond reasonable doubt. By proof beyond reasonable doubt is not meant "such a degree of proof as, excluding possibility of error, produces absolute certainty. Moral certainty only is required, or that degree of proof which produces conviction in an unprejudiced mind." [11] Moral certainty is "a certainty that convinces and satisfies the reason and conscience of those who are to act upon it x x x" [12]

In order to faithfully observe the foregoing constitutional guarantee, the Court formulated the following principles in reviewing rape cases: "(1) an accusation of rape, while easy to make, is difficult to prove and even harder for the person accused, though innocent, to disprove; (2) rape, by its very nature, would involve only two persons; hence, the testimony of the complainant should be scrutinized with the greatest caution; (3) the evidence for the prosecution must stand or fall on its own merits, and will not be allowed to draw strength from the weakness of the defense's evidence." [13]

It is clear that the review of this case primarily involves an appreciation of questions of fact and requires a thorough evaluation of the credibility of witnesses, most specially of the complainant-victim. In this connection, it is well-entrenched that the trial court is in the best position to assess the credibility of witnesses and their testimonies, "because of its unique opportunity to observe the witnesses firsthand and note their demeanor, conduct and attitude under grilling examination. These are the most significant factors in evaluating the sincerity of witnesses and in unearthing the truth, especially in the face of conflicting testimonies. Through its observations during the entire proceedings, the trial court can be expected to determine, with reasonable discretion, whose testimony to accept and which witness to disbelieve. Verily, findings of the trial court on such matters will not be disturbed on appeal unless some facts or circumstances of weight have been overlooked, misapprehended or misinterpreted so as to materially affect the disposition of the case." [14]

After a meticulous scrutiny of the records, this Court finds no error in the trial court's grant of full weight and

credence to the testimonies of Loreta Betonio and the other prosecution witnesses.[15] Loreta's testimony that her uncle sexually assaulted her without her consent was straightforward, unwavering and clear.[16] We note that Loreta is a simple barrio lass barely in her teens, innocent and naïve to the ways of the world. It is highly unlikely that she would accuse appellant, a close relative, of so serious a crime as rape if this was not the plain truth or if her motive was not purely to bring the perpetrator of her violation to justice. We see no reason to withhold credence from Loreta's testimony that she was the victim of sexual abuse by her uncle Sergio Betonio. [17] We hold that the court a quo did not overlook or misunderstand any material facts that may alter appellant's conviction. Thus, we accord to the assailed decision the respect and binding effect that it deserves. [18] Indeed, the presumption of innocence in appellant's favor has been sufficiently overcome.

Fear, Not Love

Denying that he raped Loreta, appellant vehemently alleges consent by the minor. This defense, raised for the first time on appeal, posits that the sexual intercourse with complainant is explained by their "forbidden love affair." Appellant also alleges that the girl lodged her complaint "to exact revenge." [19] He adds that Loreta's delay in reporting the alleged rape belies the charge against him; appellant labels such delay "irregular" because Loreta lived in the same house with her grandfather, and some of her relatives lived only three to five meters away from the crime scene.[20] He also argues that the physical examination conducted on her the next day "never revealed any presence of spermatozoa or injuries on the perineum, the external parts of complainant's private organ, nor a fresh indicia of forceful intercourse, but healed lacerations which the doctor opined to have occurred [sic] some 3 to 6 months ago." [21]

The Court is not persuaded. The facts plainly reveal that Loreta submitted to the lust of Appellant Sergio Betonio out of fear, not out of love. Aside from appellant's blood relationship with Loreta, the following circumstances demonstrate his influence and moral ascendancy over her: he was responsible for her living expenses; he paid for her schooling for one year; he asked her to massage his whole body at odd hours, day or night; and he shamed her by shaving her hair close to the scalp and by stripping her naked in public.[22]

Contrary to appellant's claim of an illicit but voluntary love affair, the records show clearly that Appellant Sergio intimidated her and instilled fear in her heart. Being an affirmative defense, the allegation of a love affair needed proof. Up to the end, however, such claim remained unsubstantiated. Appellant did not present any token of the alleged relationship like love notes, mementos or pictures.[23] The other defense witnesses did not even mention it. Such bare allegation of the defense, not to mention its utter lack of proof, is incredulous. We find it hard to understand how such a relationship could exculpate a person from the rape of a terrified young child. Indeed, a love relationship, even if true, will not necessarily rule out force.[24]

On the other hand, Sergio's threats intimidated Loreta and kept her from immediately reporting the sordid incidents of the rape. Her testimony bears this out:

FISCAL LIGASON:

Q

The following morning when you were raped by your uncle sometime in April 1990, did you not bother to report the incident to your grandfather?

A

I did not report because I was afraid because Sergio Betonio threatened me with a knife.

COURT:

Q

Do you mean to say that you attempted to report the incident to your Lolo but the accused Sergio Betonio threatened you with a knife?

A

He told me not to report the incident to anybody including my grandfather Lolo Norberto otherwise he will kill me.

FISCAL LIGASON:

Q

What about to your barangay captain, did you have in mind to report the matter to the barangay captain?

A

I did not report the matter to the barangay captain because I was afraid because he threatened me.”[25]

As pointed out by the Solicitor General, Loreta could not really be expected to report the incident to her grandfather or to rely on him for help, as she had seen him mauled by appellant. When her hair was cut almost to the scalp, her grandfather merely gazed helplessly at her.[26] In fact, Loreta felt safe and secure enough to tell her grievous tale only when her mother came to see her. It must be emphasized that the victim in this case is a mere thirteen-year- old barrio lass in whom appellant’s threat could engender a well-grounded fear. We reiterate that “it is not uncommon for young girls to conceal for some time the violation of their honor because of the threats on their lives.”[27]

Finally, puerile is the defense’s insistence that the alleged rape on April 28, 1991 could not have happened because there was no sperm or substantial injury on her private organ indicating forced sexual intercourse. It is hornbook doctrine that “x x x lack of lacerated wounds does not negate sexual intercourse. Moreover, the fact that hymenal lacerations were found to be ‘healed round edge’ and no spermatozoa was found does not necessarily negate rape. A freshly broken hymen is not an essential element of rape. For that matter, the medical examination of the victim in crimes against chastity is not an indispensable element for the successful prosecution of the crime, as her testimony alone, if credible, is sufficient to convict the accused.”[28]

We note, however, that the trial court erred in awarding P50,000.00 as moral damages. We scoured the records for proof to support such award but found none. Hence, we shall delete it. We, however, grant the victim an indemnity of P50,000.00, which needs no proof other than the conviction of the accused for the rape proved.[29] We also affirm the claim of P3,000.00 for actual damages, since proof therefor was duly shown.

WHEREFORE, the appeal is DENIED and the conviction of appellant is AFFIRMED, except that the award of moral damages is deleted. However, we grant the offended party, Loreta A. Betonio, indemnity in the sum of P50,000.00. Costs against appellant.

SO ORDERED.

Narvasa, C.J., (Chairman), Romero, Melo and Francisco, JJ., concur.

[1] Rollo, pp. 16-28.

[2] Judge Pacito A. Yape presiding.

[3] Record, p. 1.

[4] Ibid., p. 42.

[5] Ibid., p.40.

[6] Decision, p. 13; rollo, p. 28.

[7] The statement of facts in Appellant's Brief is not comprehensive. In fact, it admitted that "[w]hen she (Loreta) tried to resist, her uncle (the appellant) threatened her with a knife, and finally was able to have carnal knowledge of her." (p. 4; rollo, p. 53). In fairness to the appellant, we are reproducing the trial court's more objective summary of the defense's factual presentation.

[8] Appellant's Brief, p. 6; rollo, p. 55.

[9] Appellant's Brief, p. 3; rollo, p. 84.

[10] Paragraph 2, Section 14, the Constitution.

[11] Section 2, Rule 133, Rules of Court.

[12] People vs. Lavarias, 23 SCRA 1301, 1306, June 29, 1968, per Fernando, J.

[13] People vs. Ramirez, G.R. No. 97920, pp. 11-12, January 20, 1997, per Panganiban, J.; citing People vs. Guamos, 241 SCRA 528, 531, February 21, 1995.

[14] People vs. San Juan, G.R. No. 105556, p. 11, April 4, 1997, per Panganiban, J.; citing People vs. Ombrog, G.R. No. 104666, pp. 11-12, February 12, 1997.

[15] See Decision, pp. 11-12; rollo, pp. 26-27.

[16] See TSN, pp. 1-3, November 13, 1997.

[17] See People vs. Oarga, 259 SCRA 90, 98, July 17, 1996, per Narvasa, C.J., People vs. Burce, G.R. No. 108604-10, p. 20, March 7, 1997, per Romero, J., and People vs. Manzana, 250 SCRA 152, 161, November 17, 1995, per Mendoza, J.

[18] People vs. Acabo, 259 SCRA 75, 88-89, July 17, 1996, per Francisco, J.

[19] Appellant's Brief, p. 10; rollo, p. 59.

[20] Ibid., pp. 6-7; rollo, pp. 55-56.

[21] Ibid., pp. 7-8; rollo, pp. 56-57.

[22] See Appellant's Brief, pp. 10-11, and Appellee's Brief, p. 20; rollo, pp. 59, 60, and 84.

[23] People vs. Malabago, G.R. No. 108613, p. 16, April 18, 1997, per Panganiban, J.

[24] People vs. Joel Corea, G.R. No. 114383, March 3, 1997.

[25] TSN, p. 3, November 13, 1991.

[26] Appellee's Brief, pp. 15-16; rollo, p. 84.

[27] People vs. Manzana, supra, pp. 161-162.

[28] People vs. Juan, supra, pp. 18-19; citing People vs. Cura, 240 SCRA 234, 243, January 18, 1995.

[29] People vs. Eduardo Caballes, G.R. No. 102723-24, June 19, 1997.

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