

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ANDREW PACINA Y NEGAPATAN, ACCUSED-APPELLANT.

G.R. No. 123150. August 16, 2000

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

In affirming the conviction of appellant, we rely on the well-settled rule that the credibility of witnesses and their testimonies is best left to the discretion of the trial court which, unlike a review court, observed the demeanor and conduct of witnesses while testifying and thus was in a better situation to assess their capacity for truth. Also, a “sweethearts” defense collapses when confronted with credible testimony on the use of force, corroborated by medical findings.

The Case

Andrew Pacina y Negapatan appeals the June 19, 1995 decision of the Regional Trial Court of Cebu City (branch 17),[1] convicting him of rape and sentencing him to reclusion perpetua. Dated July 30, 1993, a Complaint treated as an Information[2] was filed against him charging him with the rape of Joceline P. Yosores, as follows:

“That on or about the 21st day of July, 1993, at about 10:00 in the morning, in the City of Cebu, Philippines, and within the jurisdiction of this Honorable Court, the said accused, with deliberate intent, with the use of force and violence, did then and there willfully, unlawfully and feloniously have carnal knowledge with the undersigned complainant and against the latter’s will.”[3]

On August 9, 1993, appellant, assisted by Counsel Bernardito A. Florido, pleaded not guilty to the charge against him.[4] Thereafter, pretrial and trial on the merits ensued. On June 19, 1995, the trial court rendered its assailed 15-page decision,[5] the dispositive portion of which reads:

“WHEREFORE, premises considered, the Court finds the accused Andrew N. Pacina GUILTY beyond reasonable doubt of the offense of rape as charged in the information defined and penalized under Article 335 of the Revised Penal Code and is hereby sentenced to suffer the penalty of RECLUSION PERPETUA; to pay the parents and the offended party by way of moral damages under Article 2219 (3) of the New Civil Code of the Philippines the sum of Five Hundred Thousand Pesos (P500,000.00) and attorney’s fees of Twenty-Thousand Pesos (P20,000.00) under Article 2208 (11) of the same code and to pay the costs.”[6] (Capitalization in original)

On June 30, 1995, appellant filed his Notice of Appeal.[7] Thereafter, on February 10, 2000, this Court received his Brief.[8] On May 31, 2000, the case was deemed submitted for decision when the Office of the Solicitor General filed the Appellee’s Brief.[9] The filing of reply brief was considered waived, as none was filed within the reglementary period. The delay in the filing of the Briefs was caused by the failure of the trial court to transmit to this Court the transcripts of stenographic notes (TSN), in spite of several Resolutions ordering their immediate elevation. They were completed and finally submitted only on November 3, 1999.[10]

The Facts

According to the Prosecution

In the People's Brief, the Office of the Solicitor General synthesized the prosecution's version of the facts as follows:

"Joceline Yosores, (17years old), a high school student, and her three sisters were boarders of a room in a house owned by Marilou Pacina located at 52-A Don Pedro Cui Street, Cebu City (pp. 3-4, TSN, October 15, 1993).

"At about 10:00 in the morning of July 21, 1993, Joceline Yosores was lying down in her bunk and together with Dina Descarten and Raul Seares [was] watching television (TV) and listening to the radio inside the aforesaid rented room (pp. 4 & 5, October 15, 1993). By and by, appellant, nephew of Marilou Pacina, arrived. He requested Joceline that he be allowed to lie down on a vacant bunk (p. 5. id). Joceline refused for the reason that they were all female boarders in that room (Id). Appellant, together with Dina Descarten and Raul Seares then left the room. Joceline remained in the room lying down (pp. 5 & 6, TSN, October 15, 1993).

"Moments later, appellant returned to Joceline's room, locked the door, turned on the volume x x x of the TV [to the full] (p.6, TSN, Oct 15, 1993; p. 25, TSN, Nov. 8, 1993). Appellant sat beside Joceline and held her hands up, palms clasped together (Id). Joceline told appellant, "whatever is in your mind, please don't proceed." (Id) Appellant did not listen and he continued pressing himself on top of Joceline (p. 7, TSN, Oct. 15, 1993). Joceline struggled and shouted, "you help me, Dina, open the door." (p. 27, TSN, Nov. 8, 1993) but nobody heard her call. Annoyed, appellant pinned Joceline against the bed by using his knees in spreading her legs (Id). Appellant kneeled on Joceline's vagina (p. 4, TSN, Nov. 23, 1993). Joceline pushed and kicked appellant away but her strength was no match to appellant's (p. 7. TSN, Oct 15, 1993). When Joceline tried to shout again, appellant covered Joceline's mouth (p. 30 TSN, Nov. 8, 1993). In struggling against appellant, Joceline's head hit the bed (p. 29, Ibid.) Sensing Joceline's weakened condition, appellant removed Joceline's maong shorts and panty (p. 7, TSN, Oct. 15, 1993). Appellant kissed Joceline on the lips and touched her breast. Appellant took off his shorts (id). Already naked, appellant inserted his penis inside Joceline's vagina. Joceline felt extreme pain on her vagina and lower abdomen. (p. 9, TSN, Oct. 15, 1993).

"Joceline again shouted for help, but nobody responded. The TV and the radio were still on full volume (pp. 8 & 9, TSN, Oct. 15, 1993). Joceline lost consciousness. When she regained consciousness, appellant was sitting beside [her] (p.10, id). Appellant put on his brief and shorts. He warned Joceline not to tell the incident to anybody, otherwise, something [would] happen to her and the members of her family. Appellant left the room. (id)

"Joceline felt pain [i]n her body and vagina. Blood flowed profusely from her vagina prompting her to change clothes several times (id.). Joceline stayed inside the room until her sister Manuel[a] arrived. Fearful of appellant's warning, Joceline did not tell the incident to Manuela (p. 13,TSN, Oct. 15, 1993).

"At about 1:00 o'clock in the afternoon, Joceline forced herself to go to school (id) but was not able to stay long for her body and vagina ached with pain (id). Feeling dizzy and hardly able to walk, Joceline returned to her boarding house at about 2:00 o'clock pm, (p. 14, ibid). She slept inside her room. When she awoke, she found herself confined at the Cebu Community Hospital (id). When asked by Manuela why she was bleeding, Joceline revealed that she was raped by appellant. Joceline stayed in the hospital for a week, (p. 15, TSN, Oct. 15, 1993) where she underwent [a]n operation to remove blood clots due to vulvar hematoma (p. 9, TSN, Dec. 6, 1993).

"The medical examination conducted by Dra. Asuncion Hipolito Libre, revealed the following injuries sustained by Joceline: (I) vulvar hematoma on the left side of the labia majora; and (ii) hymenal laceration[s] at 3:00 and 9 o'clock positions (pp. 6 & 7, TSN, Dec. 6, 1993). Dra. Libre referred Joceline to Dra. Michelline Buot, a psychiatrist who conducted three sessions with Joceline. Dra. Buot diagnosed that Joceline suffered post-traumatic stress disorder as a result of the rape experience. Joceline was found to be in state of physical and emotional shock (id). She prescribed medicines 'to help lessen her sleep disturbance and depression.' (id).

According to the defense

The appellant admits having had sexual intercourse with the victim, but insists that it was consensual. The trial court summarized the evidence for the defense as follows (unedited):

“On the other hand, the evidence for the defense as established thru the oral testimony of Andrew Pacina, Dina Descarten, Mylah Descarten, Christabel Negapatan, Luisito Lecias, Sabiniano Labra, Abelardo Lecias, Erwin Costillas, Ruth Costillas, Raul Seares, Antonio (Tony) Desoujo, Fil Anthony Negapatan, Orlando Leyese and Hilda Ladaga and the exhibits they had identified substantially shows that accused Andrew Pacina is 21 years old, third year student in Bachelor of Science in Marine Transportation at the University of the Visayas (U.V.) and resides at the ground floor in the house of his aunt at 52-A Don Pedro Cui St., Cebu City with her sister Gladys. Mary Rose or Mitos is Andrew’s other sister who resides somewhere in Lahug, Cebu City but serves as the caretaker of the said boarding house.

“Four (4) months before July 21, 1993 private complainant Joceline Yosores and accused Andrew Pacina were already sweethearts. This started in February 1993 but they kept this relationship a secret because Joceline’s mother does not like it. Being students, both of them used to study at night in their boarding house together.

“The relationship of Joceline and Andrew started when they were introduced to each other by a female friend. At first Andrew was attracted to Joceline because he had to know her very well. He courted Joceline because he had an honest intention. That was before his birthday on March 21, 1993. Andrew told Joceline that he likes her. Joceline did not answer. When he asked Joceline again while she was washing downstairs, she just smiled and he considered that gesture as a affirmative answer especially when she said, ‘sige na lang’. His brief courtship lasted for only two (2) days. They did not, however, give each other love notes, cards or gifts except that Joceline gave Andrew a kiss on his birthday. Their plan to see a movie did not materialize because Joceline wanted to see Sharon Cuneta movie which Andrew did not like. Although the relationship was kept a secret, Joceline happened to tell Hilda Ladaga and Ladaga also told the accused what she heard from Joceline. Maybe the other co-boarders Dina and Raul sensed it.

“Joceline like the other boarders used to lie down on Andrew’s bed downstairs until a time came when only the two of them were in his room. They kissed and he undressed her. He asked for sexual intercourse but she did not answer. Andrew made the attempt to have sex with Joceline but Christabel Negapatan, his cousin knocked at the door because of a long distance call for Andrew. That was in the first week of July 1993. Christabel asked him why he did not pass thru the door. Christabel knew the real reason when she visited Andrew at the Bagong Buhay Rehabilitation Center (BBRC).

“Out of Andrew’s previous girlfriends, namely Rosemarie Romualdez, Jonaline Ybanez, Connie Monar, Yvonne Maglasang and Cheryl Andradaga, he only had sexual intercourse for several occasions with Connie Monar which was his first experience.

“Accused made four (4) attempts to have sex with Joceline and he succeeded in the fourth attempt on July 21, 1993 inside Joceline’s rented room in the second floor of the same boarding house. There are four (4) rooms in the second floor all occupied by boarders. There is also a sala where there is a table and a chair. Placed on the chair was a notebook (Exhibit ‘6’) belonging to the accused.

“July 20, 1993 was the birthday of Fil Negapatan, a cousin of Andrew and a co-boarder. They celebrated the day outside with Christian Salvado, brothers Louie and Ding Lecias. The cousin of the Lecias brothers is married to the brother of Andrew’s father. Culminating the celebration, Fil Negapatan and Andrew brought to their boarding house two (2) call girls from Junquera St., Cebu City and had sex with them there except Andrew because he did not like his partner. This was noticed by the lady boarders including Joceline in the early morning hours of July 21, 1993. Some of the girls were peeping thru the door. Joceline, Dina, May or Manuela were then sleeping in the sala at the second floor when the boys arrived and the latter made some signs to the two girls to keep quiet and brought them to Ding’s room. After the call girls left, Andrew talked to

Joceline who was sitting on the foam near the door of Ding's room. Andrew embraced Joceline but told him not to embrace her because he had aids already and told him to take a bath. Thereafter, Andrew went back to Ding's room upstairs where he lay down.

"Two (2) days after his attempt, accused made another try to have sex with Joceline but the latter refused fearing that her sister May or Manuela would arrive. That was the time when Mitos, Andrew's sister and Hilda Ladaga were seen downstairs.

"The third attempt of Andrew was made inside the room of the Descarten sisters Myla and Dina at about 10:00 o'clock in the morning when Joceline and Andrew had no classes as the latter's class was still in the afternoon. At first they were in Joceline's room but the two of them transferred to the room of the Descarten sisters because Joceline was afraid of May's arrival which was expected anytime. They asked Dina and she agreed after telling her that they would just talk to each other. Andrew took off his shirt. He rolled Joceline's T-shirt up to her chest but five (5) minutes later, Andrew heard Myla's voice downstairs. So they put on their clothes and went out.

"During his fourth attempt to have sex with Joceline (Joy), she was wearing a large black T-shirt that reached her knees. Joceline was the one who personally completely removed her panty although he did not tell her he wanted to have sex with her. Then he kissed her lips, neck, down to her breast and back to her lips. Joceline leaned on the wall and also kissed Andrew. His left hand was on her breast while his right hand was on her vagina with an inserted middle finger. She did not complain and went down on bed. Maybe she enjoyed what the accused was doing. Joceline readily opened her legs when accused was about to insert his penis inside her vagina and he placed them on his shoulders. Accused made several strokes for about five (5) or seven (7) times and as the penetration was completed, she said 'aray' without any protest. She was grimacing in pain. Her voice was not loud enough to be heard by people outside the room. Joceline wiped off and cleaned the ejaculated semen in her belly as a result of the accused's withdrawal technique and accused put on his shorts and brief without cleaning himself.

"Accused was aware of Joceline's operation as a result of the injuries in her vagina. This is different from his sexual experience with Miss Monar who was also a virgin but did not bleed.

"After the coitus, Raul knocked at the door who was afraid of the expected arrival of Manuela the sister of Joceline. Raul was previously in joy's room with Dina. Andrew thought that Raul left the house after the former locked the door. Andrew had no intention of marrying Joy until he learned that she was a virgin. He did not even have the intention to have sexual intercourse with her but it just happened to them. After the incident, Andrew slept in his room downstairs and woke up at 4:00 o'clock in the afternoon when his Sir [sic] Tarazona, the treasurer of Bantayan town asked him to send a Telex as they were going to Badian the following day to attend a derby. Andrew left the boarding house at 6:00 o'clock in the evening of the same day. July 21, 1993 to the place of a certain Alex at the back of the Holy Cross in Basak and arrived at 8:00 o'clock that evening where he slept as requested by Alex who needed his company. He had slept in this house for about five (5) times.

"The following day July 22, 1993, accused woke up at 6:00 o'clock in the morning. Mitos his sister called Andrew not to leave the house as she was coming with a policeman because of a charge that he raped Joy. Mitos did not tell Andrew to marry Joy. Neither did Andrew tell Mitos that he would marry Joy because he was already rattled. Accused was actually arrested at 10:00 o'clock that morning. Accused did not tell policeman Gandiongoo nor the relatives of Joy of his intention to marry her, when Andrew was brought to the hospital. He wanted to get inside but the relatives of joy would not let him in.

"On July 21, 1993 at about 9:30 o'clock in the morning a certain Raul Seares who is eighteen years old and close friend of Andrew Pacina visited the latter at the boarding house in Don Pedro Cui, Cebu City. He is also from Bantayan Cebu. Seares knows some of the boarders in Andrew's residence like Mitos Pacina, Fil Negapatan, Christian Salvado, Dina Descarten, Ding, Louie and Joy Yosores and Joy's sisters. Seares went

inside the room of Joy and watched TV with Dina and Joy. At 10:00 o'clock that morning Seares left Joy's room and went inside the room of Andrew Pacina who was asleep downstairs. Seares woke Andrew up who jokingly told him that Joy was looking for him. Seares was prompted to say that because while he was in Joy's room, Joy asked him where his friend Andrew was in the presence of Dina. Then Seares went outside to eat and when he returned to Andrew's room at 11:00 o'clock, Andrew was no longer there. Seares proceeded to Joy's room where he saw Dina, Joy and Andrew.

"During Seares' several visits he saw Andrew kissing Joy in his presence. On one occasion Joy asked Andrew to get water for her but Andrew asked Joy to kiss him first which she did. There was also an occasion in the kitchen where their lips touched each other.

"Dina Descarten, a co-boarder of Joceline (Joy) and a student was also inside Joy's room on July 21, 1993 at 9:00 o'clock in the morning watching TV. At that time Joy was lying on her assigned bed at the upper portion of the double-decked bunkbed. Minutes later after Dina saw Raul Seares seated on a stool inside the same room, Dina fell asleep. Less than half an hour later, Dina woke up and saw Seares already seated on the bed she was occupying. Andrew was there also sitting on the bed of Hermie where Joy at that time was lying down. Thereafter, Dina left the room to study since she had her exams that day. Seares also left to smoke at the dining table (Exhibit '1-A-5') at the sala outside the four (4) rooms in the second floor about three to five meters from Joy's room. Dina went to her room and sat on her bed (Exhibit '1-A-6') which was separated only by a lawanit wall adjoining the deck of Joy in the next room. While studying, Dina observed nothing unusual in the second floor like a commotion. Neither did she hear loud voice from the TV and radio.

"When Joy's sister Manuela arrived from school at 11:00 o'clock in the morning of July 21, 1993, Dina Descarten was already in the dining table folding the clothes of her co-boarders. Fil Negapatan was also there while Andrew was standing near the door of Dina's room. After Manuela entered their room, she did not notice any altercation nor of raised voices. At 11:30 o'clock in the morning, Joy went out of their room and asked Manuela to buy for her sanitary napkin. Since Manuela had classes at 12:00 o'clock, she jokingly told Joy without malice that she would ask Andrew to buy it for her (Dina) as there were times when Dina also requested Fil to do it for her. Dina went to school in the afternoon and upon her return she saw Joy in the sala upstairs. Joy asked her to accompany her to prepare for dinner as she was ashamed to go downstairs where she cooked at past 6:00 o'clock in the evening. That same evening Dina learned from her co-boarder that Joy was to be brought to the hospital for heavy menstruation by her sisters Bernie and Medtudia who were accompanied by a Tomboy, Fil Negapatan and a certain Alex using the car of Alex. Dina visited Joy in the hospital together with brothers Ding and Louie Lecias. They talked to Joy and it was her sisters who told Dina that Joy was raped. Dina told Joy that it would not have happened had she accompanied them to the pier. Dina is not related to Andrew but a townmate from Bantayan Island, Cebu. The only boarders in the house of Marilou Pacina who are not from Bantayan are Hilda Ladaga, the Yosores sisters and brothers Ding and Louie Lecias. Hilda Ladaga is the only occupant of one (1) room in the second floor of the boarding house. In connection with his case, Dina Descarten had executed an affidavit (Exhibit '12').

"The room occupied by the Yosores sisters in the boarding house of Marilou Pacina is located at the second floor which adjoins the room of Dina Descarten. The room of the Yosores sisters which has a dimensions of 2.43 x 2.55 meters and accommodates four (4) double-deck beds measuring .67 x 1.87 meters and two (2) cabinets with a dimension of .50 x .40 meters. From the floor line to the lower bunk is .36 meter and from the lower bunk to the upper bunk is .73 meters. Engr. Sabiniano Labra who prepared the sketch (Exhibit '1') on August 24, 1993 did it at the request of Mitos Pacina, the sister of Andrew. The walls of the room are made of sawali and tongue groove wood. On the top of the walling are wood grills measuring .05 meter clearance between each grill and .5 meter in height. In going inside the room of the Yosores sisters one could see the cover window at the left side.

"Fil Anthony Negapatan a first cousin of Andrew Pacina was in the boarding house owned by Marilou Pacina on July 21, 1993 at 7:00 to 8:00 o'clock in the evening. It was Bernie who asked Fil if they could use the car

of Alex Leyese who was also around in bringing Joy to the hospital right after Joy went to the comfort room at the groundfloor. Upon arrival at the hospital, Joy walked towards the emergency room held by her sister and Fil was left outside. Thereafter, Bernie called Fil for Joy to tell Bernie something and when Fil went inside, Joy told him to call Andrew, Andrew was not around when Joy was brought to the hospital that evening. He was at the place of Alex Leyese in Basak, Cebu City. Joy did not tell Fil why she wanted to call Andrew. Fil had executed an affidavit in connection with this case.

“Abelardo Lecias the brother of Luisito Lecias arrived at the boarding house from the pier who met his mother from Manila at 12:30 o’clock in the afternoon of July 21, 1993. He distributed chocolates brought by his mother and gave some to Joy who was in the living room upstairs. Raul Seares who is a frequent visitor was also there. Abelardo and his brother are occupants of another room in the same boarding house upstairs. Abelardo had noticed nothing unusual on Joy at that time. Andrew told Abelardo about his relationship with Joy and he was afraid of impregnating her.

“Abelardo learned of the rape incident the following morning of July 22, 1993 from Bernie in the kitchen beneath Abelardo’s room. He asked confirmation of the incident from Dina who only told him that Joy was bleeding. There was a commotion in the house because Joy’s sisters were angry. Dina and Joy’s sister told Luisito Lecias after Joy was brought to the hospital that Joy was raped. It was Manuela (May) who told Luisito, Abelardo and Dina who visited Joy in the hospital that they would file a case against Andrew. Abelardo did not execute an affidavit in connection with this case.

“During Erwin Costillas’ visit in the hospital where Joy was confined and in the presence of Hilda Ladaga also a boarder in the same boarding house of Marilou Pacina for a short time, nothing was mentioned about marriage although Joy told Hilda that Andrew is her boyfriend. Hilda had not always met them on their way out from the boarding house. Hilda also saw them many times hugging and caressing each other in the house. Erwin Costillas also saw them because he is a frequent visitor being a boyfriend of Hilda Ladaga. Ruth Costillas is a sister of Erwin and they are Andrew’s cousins.

“It was Antonio (Tony) Despujo a photo-journalist who took pictures of the different locations of the same boarding house (Exhibits ‘2’ to ‘2-J’). There were no occupants in the room where the incidents took place when the pictures were taken. It was clean. Actually, it was a certain Gabby Malaga who took the pictures at the request of the family of the accused who paid for it.”[11]

Trial Court’s Ruling

The trial court rejected the sweethearts defense of appellant and gave full credence to the testimony of private complainant that he had raped her. It noted her vaginal injuries that required immediate medical attention, as well as her psychological state after the rape. It ruled that such circumstances debunked Pacina’s allegation that the sexual intercourse was consensual. It also noted that the testimonies of the defense witnesses could not be given credence vis-a-vis complainant’s detailed and credible narration of how she had been raped.[12]

Assigned Errors

In his Brief,[13] appellant presents the following assignment of errors:

“I

The trial court erred in finding that accused took flight in clear indication of guilt.

“II

The trial court erred in the finding that accused and complainant were not sweethearts.

“III

The trial court erred in not appreciating in favor of the accused-appellant the testimonies of the defense witnesses.

“IV

The trial court erred in not appreciating the conduct of the complainant immediately after the rape as indicative of improbability of rape.

“V

The lower court erred in not finding that the prosecution failed to prove the offense charged beyond reasonable doubt.”

Simply stated, the foregoing assignment raises two main issues: (1) the credibility of witnesses and (2) the sufficiency of the evidence for the prosecution.

The Court’s Ruling

We find no merit in this appeal. However, the Court *motu proprio* modifies the awarded damages to conform with existing jurisprudence.

First Issue:

Credibility of Witnesses

Basic is the rule that the findings of the trial court on the credibility of witnesses and their testimonies are entitled to the highest respect and will not be disturbed on appeal, in the absence of any clear showing that it overlooked, misunderstood or misapplied some facts or circumstance of weight and substance which would have affected the result of the case. This is because the trial court, having seen and heard the witnesses themselves and observed their behavior and manner of testifying, was in a better position to decide the question of credibility.[14] In the present case, we find no reason to disturb its factual findings.

Credibility of Complainant

Complainant Joceline Yosores testified that she was raped by Andrew Pacina on the morning of July 21, 1993. She recalled that she was in her rented room with fellow boarders Dina Descarten and Raul Seares when the appellant joined them. Later, the three left her alone, after which appellant returned. We quote below the portion of Yosores’ testimony narrating the circumstances of her violation.

“X X X

X X X

X X X

Q

When they went out of the room, what were doing then?

A

I remained lying down.

ATTY. NAVARRO:

Q

After they left, do you recall what happened next?

A

Later on Andrew Pacina arrived, locked the door of the room and increased the volume of the TV.

Q

You said a while ago that the radio was on because the two companions of Andrew Pacina were listening. At this juncture, when he returned to the room, was the radio still on?

A

Yes, sir.

Q

And these TV and radio were situated inside your room?

A

Yes, sir.

Q

How far were these TV and radio located from where you were lying down?

A

From my place, the TV and radio [were] about three to four meters.

Q

Now, after he locked the door and increased the volume of the TV, what happened next?

A

He sat beside me and held [both of my] hands.

“x x x

x x x

x x x

INTERPRETER:

Witness demonstrating both hands up and both pal[ms] clasp[ed] together.

ATTY. NAVARRO:

Q

When he was already holding your hands down on the bed, what happened next?

A

I told him, whatever it is on your mind, please don't proceed.

Q

What was the response of the accuses at that juncture?

A

He did not listen to me and he continued pressing himself on top of me.

ATTY. NAVARRO:

We would like to manifest for the record, your honor, that the witness is in tears.

“X X X

X X X

X X X

Q

You mentioned a while ago that he was on top of you, what happened then?

A

He pinned me down using his knee and tried to push him away, but I was too weak and I even kicked him, boxed him but I was not able to overpower him.

Q

What happened?

A

He removed my shorts and panties.

Q

What else happened?

A

He kissed me on my lips and touched my breasts.

Q

What else happened?

A

He also took his clothes off.

Q

What was he wearing at that time?

A

Black shorts.

Q

He took off his black shorts?

A

Yes, sir.

“x x x

x x x

x x x

Q

After he undressed you and after he undressed himself, what happened next?

A

He placed his organ inside my organ.

Q

Did his organ actually penetrate your organ?

A

Yes, sir.

Q

What did you feel when his organ penetrated your organ?

A

My organ and lower abdomen were very painful.

Q

At this juncture, what did you do, if any?

A

I asked help from Dina.

Q

In what way did you ask for help?

A

I shouted [for] Dina to open the door by shouting “Dina, please help me open the door.”

“x x x

x x x

x x x

Q

Did you notice if somebody heard your call for help?

A

Nobody sir.

“x x x

x x x

x x x

Q

Since nobody came to help you because nobody heard according to you, what happened next?

A

I lost consciousness.

Q

Did you regain consciousness later

A

Yes, sir.

Q

When you regained consciousness, what did you observe?

A

Andrew Pacina sat beside me and then wore back his shorts and briefs.

Q

After he dressed himself up with his shorts and briefs, what did he do, if anything?

A

He put my clothes on and warned me not to tell the incident to anybody otherwise, something [would] happen to me, my parents, brothers and sisters.

Q

Did he actually leave the room after he warned you?

A

Yes, sir.

Q

At this juncture, after he left the room, how did you feel?

A

My body and my organ were very painful and my blood [was] oozing from my organ.

“x x x

x x x

x x x[15]

To impugn the credibility of complainant, appellant cites her unusual behavior before and after the alleged rape. He expresses bewilderment the Yosores did not immediately report the incident to anyone. Instead, she covered up the cause of her profuse bleeding by making it appear as menstruation. Furthermore, she performed her normal routine for the rest of the day.

The arguments do not persuade. Yosores has explained that she did not tell her sisters of the rape because she was afraid appellant would make real his threats against her family. Likewise, she was shocked by the unexpected incident and was at a loss on how to deal with it.

True, the unusual behavior of a victim after an alleged rape could seriously impair her credibility and lead to the acquittal of the accused.[16] However, this principle finds no application to the present case, because complainant's assertion of forced coitus was corroborated by Dr. Maria Asuncion Hipolito-Libre, who testified as follows:

“Q

And of course with your experience you would know whether or not a woman's vagina is injured because of violence or force.

A

Yes, sir.

“X X X

X X X

X X X

“Q

Last July 1993, can you recall having attended to a patient by the name of Joceline Yosores?

A

Yes.

“X X X

X X X

X X X

Q

When you first saw her, will you please describe to the Honorable Court what her physical condition was?

A

She was very tired and I saw her in the operating room. I also saw the injuries.

“X X X

X X X

X X X

Q

Madam witness, in this certificate, you have describe two injuries. One is vulvar hematoma and another is hymenal laceration, 3 and 9 o'clock. We will go over these injuries one by one. First is hymenal laceration, 3 and 9 o'clock. Please tell the Honorable Court what you observed in this particular injury.

A

There was laceration in the hymen 3 o'clock and 9 o'clock. 3 o'clock was 2 cm. Deep and 9 o'clock was 9 cm. Deep. It was bleeding profusely.

Q

Let us go to the cause. Would you say that this particular injury would have [resulted] from a violent insertion of a penis of a man?

A

There was an insertion at the vagina because there was a laceration at the hymen.

Q

You are very definite laceration of the hymen assuming there was insertion of the penis?

A

Yes, sir.

Q

For this particular injury, what procedure did you undertake to cure this injury?

A

We sutured the bleeding point.

Q

Now, we go to vulvar hematoma. In layman's language or term, will you please describe to the honorable court the nature of this particular injury?

A

The vulvar hematoma was about seven centimeters deep. So there is hematoma when there is accumulation of the blood thereby the blood vessel inside was ruptured.

Q

Please tell the honorable court on what particular portion of the vagina you see or find this injury?

A

On the left side of the labia majora.

“x x x

x x x

x x x

Q

Now, based on what you saw on these injuries of vulvar hematoma. Can you honestly say this was the result of a normal and careful coitus on the part of Joceline Yosores?

A

No, sir.

Q

Will you please elaborate your answer?

A

Because if there is hematoma, there is always force anywhere on the body.

Q

So, in this particular injury, there was force applied on the injured portion, am I correct to say?

A

Yes, sir.

“x x x

x x x

x x x[17]

The appellant contends that since Yosores was a virgin when they had sex, her vaginal bleeding should have been considered normal. During the cross-examination of complainant, appellant’s counsel implied that the reason for such bleeding was something in the former’s blood constitution which delayed the coagulation of the blood.[18] He argued that hemorrhage was a rare complication that could be present in a severe compound laceration of the hymen, and surgical intervention might be necessary to control the bleeding,[19] as in private complainant’s case. However, even if we ignore Yosores’ hymenal laceration, it is noteworthy that there was another external vaginal injury — vulvar hematoma — which supported her claim that appellant knelt on her vagina to force her to spread her legs.[20]

Thus, even if we concede that the defense witnesses, whose testimonies pointed to events before and after the rape, had no ill motive in testifying for the appellant, we agree with the trial court’s resolution to give more credence to the testimony of complainant. Her narration of rape, done in a pained but cohesive manner, was supported by the medical findings on her vaginal injuries and the prescriptions therefore.

Second Issue:

Sufficiency of Prosecution Evidence

In the review of rape cases, the Court is guided by the following principles:

“(a) an accusation of rape can be made with facility and while the accusation is difficult to prove, it is more difficult for the person accused, though innocent, to disprove the charge;

“(b) considering that, in the nature of things, only two (2) persons are usually involved in the crime of rape, the testimony of the complainant should be scrutinized with great caution; and

“(c) the evidence for the prosecution must stand or fall on its own merit, and cannot be allowed to draw strength from the weakness of the evidence for the defense.”[21]

Likewise, jurisprudence holds that as long as the complainant’s testimony meets the test of credibility, the accused may be convicted on the basis thereof.[22]

Appellant Andrew Pacina was convicted of rape as defined in article 315[23] of the revised Penal Code; that is, he had carnal knowledge of Joceline Yosores through the use of force. He had not denied having had sexual

intercourse with Yosores. However, he resolutely insisted that she was his sweetheart, and that she had consented to their coitus.

In response to this claim, the trial court observed:

“The claim of the accused that he and the victim were sweethearts does not inspire belief, taking into consideration the fact that there is nothing in the notebook allegedly claimed by the accused as his own to indicate that Joceline scribbled some love notes that were intended for him. This notebook was considered as a scrap of paper by the boarders and everybody in the house was free to write on it which was then left for sometime in the sala of [the] second floor where four rooms for the boarders are located. Further, as testified to by Dina Descarten a witness for the defense, Joceline (Joy) had a boyfriend by the name of Joel and another one a barkada of Andrew who is from Urgello. (TSN-Mendoza, p. 17, Feb. 22, 1994). If at all Joceline would have [shown] an expression of anger and jealousy when Andrew and his cousin Fil brought two (2) prostitutes to the boarding house in the early dawn of July 21, 1993 which was known to the co-boarders and the victim the following morning. Undoubtedly, force was employed by the accused to attain his purpose in having sex with Joceline at about 10:00 o'clock in the morning of July 21, 1993 which resulted in vulvar hematoma on the victim's vagina, an injury which could not have happened in consented, gentle or voluntary sexual intercourse. This is seven (7) centimeters deep with accumulation of the blood because the blood vessel was ruptured on the left side of the labia majora as shown in the pictures (Exhibit 'N' and submarkings and Exhibit 'O'). According to Dr. Libre there was force applied and the injury was probably caused by an erected penis or a knee had forcefully rested on the injured portion. This vulvar hematoma (Exhibit 'M-3') necessitated the evacuation of the hematoma of the blood clots and closing them. This is fatal and involves the process of dissecting the injured portion, removing the blood clot and closing the injured portion by suturing. The two (2) injuries of 3:00 o'clock and 9:00 o'clock hymenal laceration and vulvar hematoma (Exhibit 'M-3') resulted from a violent sexual assault on the victim's person like rape. This emergency operation by Dr. Libre was considered necessary because of profuse bleeding and the patient was very pale in [a] state of shock. There was rupture of the blood vessels under the skin of the left labia majora which resulted [in] intenal hemorrhaging and bluish color of the outer skin. This vulvar hematoma could not have been the result of rough and consen[sual] sexual intercourse. This was the result of accused's pressing of his knee against the victim's vagina using body weight to weaken her fail body in the course of the struggle.”[24]

Appellant has not given us ample reasons to overturn these observations. In any event, even assuming that he and the private complainant were indeed sweethearts, this fact alone would not negate the commission of rape. Time and again, we have said that love is not a license to rape.[25] A man cannot use force or intimidation on his sweetheart in order to satisfy his carnal desires.[26] In this case, it has been established that coitus took place, not with the victim's consent, but through force and intimidation.

In all, we find the testimony of Joceline Yosores adequately proved that Andrew Pacina had indeed raped her. Her assertion of forced coitus was substantially corroborated by the medical findings on her vaginal injuries and treatments thereof. Likewise, the psychological trauma of her violation was manifested in her testimony.

Damages

We do not, however, agree with the trial court's grant of P500,000 as moral damages. Moral damages are not intended to enrich the victims; rather, they are awarded to allow them to obtain means for diversion and amusement that could serve to alleviate their moral and psychological sufferings. In the light of the circumstances in the case at bar and consistent with existing jurisprudence,[27] we deem P50,000 as a reasonable amount for moral damages. Likewise, appellant should be ordered to pay private complainant P50,000 as indemnity ex delicto.[28]

WHEREFORE, the appeal is DENIED and the challenged Decision AFFIRMED, with the MODIFICATION that

appellant is ordered to PAY complainant P50,000 as moral damages and P50,000 as indemnity ex delicto. Costs against appellant.

SO ORDERED.

Melo, (Chairman), Vitug, Purisima, and Gonzaga-Reyes, JJ., concur.

[1] Penned by Judge Jose P. Burgos.

[2] The Complaint was signed by Joceline P. Yosores and certified by Prosecutor Ramon Jose G. Duyungco.

[3] Rollo, p. 11.

[4] Records, p. 24.

[5] Rollo, pp. 166-180.

[6] Ibid. p. 180.

[7] Records, p. 303.

[8] Rollo, pp. 107- 165. The Appellant's Brief was signed by Atty. Bernardito A. Florido.

[9] Rollo, pp. 188-208. This was signed by Solicitor General Ricardo P. Galvez, Assistant Solicitor General Nestor J. Ballacillo, and Solicitor Primo G. Sio Jr.

[10] Rollo, p. 92.

[11] Rollo, pp. 170-175.

[12] RTC Decision, records, pp. 286-300.

[13] Rollo, p. 133.

[14] *People v. Cabebe*, 290 SCRA 524, May 21, 1998; *People v. Dela Cruz*, 276 SCRA 191, July 24, 1997; *People v. Corea*, 269 SCRA 76, March 3, 1997; *People v. Frago*, 232 SCRA 653, May 31, 1994.

[15] TSN, October 15, 1993, pp. 6-10.

[16] See *People v. Ibay*, GR no. 132690, August 10, 1999, in which private complainant alleged that she had been raped by the accused in the middle of the night. The circumstances showed that her identification of the accused was dubious, given the time and circumstances of the alleged rape. See also *People v. Ratunil*, GR No. 137270, June 29, 2000, in which private complainant alleged that she had been raped by appellant; yet, instead of expressing anger and disgust with appellant, she even asked money from him.

[17] TSN, December 6, 1993, pp. 5-9.

[18] TSN, November 23, 1993, p. 7.

[19] Pedro P. Solis, *Legal Medicine*, 1987 revised ed., p. 494.

[20] TSN, November 23, 1993, pp. 4-6.

[21] *People v. Tabanggay*, GR No. 130504, June 29, 2000; *People v. Sta. Ana*, 291 SCRA 188, June 26, 1998; *People v. Ramirez*, 266 SCRA 335, January 20, 1997; *People v. Sinatao*, 249 SCRA 554, Oct. 25, 1995; *People v. Teves*, 246 SCRA 236, July 14, 1995; *People v. Guamos*, 241 SCRA 528, February 21, 1995; *People v. Morre*,

217 SCRA 219, January 18, 1993; *People v. Casinillo*, 213 SCRA 777, September 11, 1992; *People v. dela Cruz*, 207 SCRA 449, March 23, 1992.

[22] *People v. Hofileña*, GR No. 134772, June 22, 2000.

[23] It must be noted that Republic Act No. 8353, “The Anti-Rape Law of 1997” which took effect on October 22, 1997 expanded the definition of rape and reclassified it as a crime against persons.

[24] Rollo, pp. 176-177.

[25] *People v. Gecomio*, 254 SCRA 82, 110, February 23, 1996.

[26] *People v. Laray*, 253 SCRA 654, 662-663, February 20, 1996; *People v. Tayaban*, 296 SCRA 497, September 25, 1998.

[27] *People v. Ignacio*, 294 SCRA 542, August 24, 1998; *People v. Vergel*, GR. No. 128813, October 4, 1999.

[28] The award for civil indemnity, which is separate and distinct from the award of moral damages, is mandatory upon the finding of the fact of rape. *People v. Bañago*, 309 SCRA 417, June 29, 1999.

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