

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. DOMINADOR PILI Y ORTIZ, ACCUSED-APPELLANT.

G.R. No. 124739. April 15, 1998

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

In view of the intrinsic nature of rape where only two persons are usually involved, courts are cautioned to minutely scrutinize the words and actions of the victim. In this case, we meticulously examined the testimony of the complainant, but we find no reason to disturb the trial court's finding which gave it full faith and credence.

The Case

This is an appeal from the Decision[1] dated December 22, 1995 of the Regional Trial Court of Quezon City, Branch 219, in Criminal Case No. Q-94-55418 convicting Dominador Pili y Ortiz of rape.[2]

In a Complaint dated March 9, 1994, Fe Dejucos Revilla accused Dominador Pili of rape. Assistant City Prosecutor Leonil G. Reas treated the said Complaint as the Information and filed it in the aforementioned Court, with a certification that the accused opted not "to avail himself of the right to preliminary investigation." [3] The accusatory portion of the Information reads as follows:

"The undersigned accuses DOMINADOR PILI y CORTEZ [sic] of the crime of RAPE committed as follows:

That on or about the 6th day of March, 1994, in Quezon City, Philippines, the said accused by means of force and intimidation, to wit: by [sic] then and there wilfully, unlawfully and feloniously at knife point undress the undersigned and thereafter have carnal knowledge with the undersigned complainant against her will and without her consent.

CONTRARY TO LAW." [4]

Upon arraignment, the accused, assisted by Counsel Henry B. Inting of the Public Attorney's Office, [5] pleaded not guilty. After trial, the lower court rendered the assailed Decision, the dispositive portion of which reads:

"WHEREFORE, finding the accused DOMINADOR PILI guilty beyond reasonable doubt of the crime of [r]ape, defined and penalized under Article 335 of the Revised Penal Code, as amended by R.A. 7659, the Court hereby sentences him to suffer the penalty of [r]eclusion [p]erpetua, to pay the complainant the amount of P30,000.00 as moral damages, and to pay the costs."

Hence, this appeal. [6]

The Facts

Version of the Prosecution

The prosecution's version of the facts, as summarized by the solicitor general in the Appellee's Brief, is as

follows:[7]

“At around 8:00 o’clock in the evening of 6 March 1994, private complainant Fe Revilla [‘Fe,’ for brevity] was in the company of long time friends Raquel Castaneda and Carlito Ocenas who came to visit her at her house in Freedom Park III, Batasan Hills, Quezon City (TSN, 7 June 1994, pp. 3-4).

While enjoying their tattle, appellant and his Muslim companion, Ashmad, unexpectedly arrived. The two joined in the conversation when suddenly, appellant pulled out a fan knife and jeered, ‘Trip kong manggulo ngayon’ [I feel like creating trouble] (Ibid., p. 5).

Thereafter, Ashmad left the group. Meantime, Fe and her friends were immobilized with fear and apprehension over appellant’s conduct (Ibid.).

Soon, appellant left the house (Ibid.). Feeling quite relieved, Fe rose from her seat to prepare coffee. Minutes later, however, appellant came back, still in his uncharacteristic mood, and reiterating that he wants to stir trouble (Ibid., p. 6).

Since Raquel and Carlito became apprehensive of appellant’s presence, they left without even tasting their coffee (Ibid., p. 6).

Taking advantage of Fe’s sudden isolation, appellant bodily seized her and told her to go to bed with him (Ibid., p. 7). Initially, Fe resisted. When appellant, however, aimed his knife at Fe while the latter was already tangled in his embrace, Fe could only plead for mercy and entreat appellant about her children and the consequences of his act.

Ostensibly unmoved by her cry for mercy, appellant pushed Fe to the nearby bed, about five (5) steps away (Ibid., p. 9). Thereafter, appellant pulled down his trousers and went on top of his victim. Appellant thereafter slid his victim’s one-length dress up to her shoulders and removed her underwear. Then, appellant introduced his organ into hers and began to pump until apparently he realized that his victim was menstruating. (Ibid., p. 11).

Appellant inquired from Fe if indeed she was menstruating and despite receiving an affirmation, appellant lit a lighter and checked on his victim’s pudendum (Ibid., p. 11). Although he already pulled out his organ from his victim, appellant now took time in kissing his victim all over her face (Ibid., pp. 11-12).

Fe could now only cry. When a vehicle suddenly blew its horn, Fe distracted appellant by saying that a visitor just came (Ibid., p. 12). Appellant said he could not care. When a car’s horn again sounded, Fe reiterated that a cousin may have arrived (Ibid., p. 13).

This time, appel[l]ant budged. Taking this as her cue, Fe pushed appellant and ran as fast as she could (Ibid.).

Fe scampered to the direction of the Barangay Lupon (Ibid., p. 13). By chance, Rev. Reynaldo Cabangon [“Rev. Cabangon,” for brevity], a pastor, happened to meet a distressed Fe on the road who was crying and uttering that she was raped and molested by a certain “Domeng” (TSN, 7 June 1994, p. 14).

At around 10:40 o’clock that evening of the same date, Fe’s sworn statement was taken (Exh. “C,” Records, p. 85).

The following morning, or on 7 March 1994 at 11:00 o’clock a.m., a medical examination was conducted on private complainant.

Thus, Medico-Legal Report No. M-0429-94 states:

“SPECIMEN SUBMITTED:

Person of Fe D. Revilla, about 38 years old and a resident of Freedom Park 3, Batasan Hills, QC.

PURPOSE OF LABORATORY EXAMINATION:

To determine physical signs of sexual intercourse.

FINDINGS:**GENERAL AND EXTRAGENITAL:**

Fairly developed, fairly nourished and coherent female subject. Breasts are pendulous with dark brown areola and nipples [sic] from which no secretion [sic] could be pressed out. Abdomen is flat and soft. There is an abrasion at the left scapular region, measuring 2 by 2 cm, 14 cm from the posterior midline.

GENITAL:

There is abundant growth of pubic hair. Labia majora are full, convex and gaping with the dark brown, hypertrophied labia minora presenting in between. On separating the same are disclosed carunculae myrtiliformis. External vaginal orifice offers slight resistance to the introduction of the examining index finger.

CONCLUSION:

Subject is in non-virgin state physically.

Barring unforeseen complication it is estimated that the above injury will resolve in 3 to 5 days.”

At around 8:45 o'clock in the evening of 7 March 1994, police officers apprehended appellant at his residence in 98 Freedom Park, Batasan Hills, Quezon City, where appellant voluntarily came with the police officers to the precinct for investigation (TSN, 31 Aug. 1994, pp. 6-8).

On 9 March 1994, private complainant Fe Revilla signed a complaint for [r]ape against appellant.”

Version of the Defense

Appellant interposes denial and alibi. In the Appellant's Brief, the defense adopted the trial court's narration as its version of the facts, which is reproduced as follows:[8]

“The accused DOMINADOR PILI, 38 years old carpenter, married, and a resident of 98 Dama de Noche St., Freedom Park, Batasan Hills, Quezon City. His testimony was offered to deny the allegations stated in the Information and to prove that on March 6, 1994 at 8:00 o'clock in the evening, he was at the residence of Ricardo Malto at Freedom Park, Batasan Hills, Quezon City watching [sic] TV with other persons; that the complainant's motive in filing the complaint against him was to seek revenge as he was against her relationship with his brother.

He declared, among others, that at around 7:00 o'clock in the evening of March 6, 1994, he went to the house of Johnny Corpuz also at Freedom Park to borrow a betamax tape; that he was not able to borrow the tape but he stayed there for less than an hour; that he left at about 10 minutes to 8:00 o'clock and then he proceeded [sic] to the house of Ricardo Malto about 120 meters away arriving there before 8:00 o'clock; that there he joined the brother, sister, mother of Ricardo Malto and Eric Absoler in watching a basketball game on TV staying there for less than an hour because he was already sleepy; that he left the residence of Ricardo Malto about 15 minutes to 9:00 o'clock; that during the time he was there, Johnny Corpuz came and asked him to look after his house, seven children, and their dog because he was going to the province; that at around 9:00 o'clock in the evening, he headed for home and Ricardo Malto even lighted his way with the use of a rechargeable lamp; that when he reached home, his wife prepared coffee and they talked about the preparation

for her birthday the next day, March 7; that thereafter, he went to bed after telling his wife to wake him up at 10:00 o'clock the following morning because he would look after the children and the house of Johnny Corpuz who left for the province; that while he was asleep, his wife woke him up the following morning because there was a policeman looking for him; that the policeman had no warrant of arrest but at about 9:00 o'clock in the morning he went to the police precinct; that he talked to Major Collado who asked him to come back at 9:00 o'clock in the evening since the investigator was not around; that he then went home with his wife and brought home food for her birthday; that in the afternoon of same day, some policeman arrived and arrested him although they had no warrant with them; that he was with his wife when he was brought to the precinct; that he did not rape the complainant; that he was familiar with the house of the complainant because it is very near his place and he was the one who made its window upon the order of his brother; and that the door of her house is that of a refrigerator.

He further told the Court that sometime in May, 1992, he was living with his brother Ricardo, his parents and his family at his present address; that at the time, Ricardo whose wife was then working in Saudi Arabia, was cohabiting with the complainant, whose husband in turn was in the Bahamas; that he and his mother, who was living with them in an extended room, did not approve of their relationship; that the relationship ended upon the arrival of Ricardo's wife in November 1993; that Ricardo and the complainant actually separated sometime in January, 1994, and he felt good about the separation but he had no ill feeling against her when she left; that he told the two to end their relationship because it was embarrassing to her sister-in-law but the complainant told him that someday he and his brother would kneel before her; that the complainant had been harboring ill feelings against him because of his objection to their relationship; that the complainant testified in his favor in another criminal case which he filed against a certain Rex Lucero, before the rape incident happened; that she testified for him because of his brother; and that despite her favorable testimony, he still disapproved of their relationship.

RICARDO PILI, 42 years old, member of the Philippine Marines, married, and a resident of No. 420 E. Mabini St., Sabang, Baliwag, Bulacan. His testimony was offered to (sic) that he lived with the private complainant without the benefit of marriage for at least two (2) years; that the complainant wrote him and the accused after their separation informing him that she would file a case against him but he was able to prevent it when he built a shanty for her.

He declared, among others, that in 1991, the accused, his brother, and his family was (sic) residing in his house at 98 Dama de Noche, Freedom Park, Batasan Hills, Q.C.; that he has two (2) children with his wife who is working as a domestic helper in Saudi Arabia; that the complainant, who has two children of her own, was his former live-in partner since May 21, 1991; that he had no children with her; that according to the complainant, prior to their relationship, she also had an affair with Manuel D. Laxima, the former barangay captain of Batasan Hills, but (sic) they just went to motels and that they had a love child whom they sent to the United States; that the accused, who is married with 4 children, was against their relationship because he was ashamed of it; that when he proposed to end the relationship, the complainant told him, 'Magsisisi kayong dalawa'; that he severed his relationship with the complainant sometime in September, 1993; that because of the severance, the complainant told him that he and the accused would regret it later and one day they would kneel in front of her; that a week after the instant case was filed against the accused, he met her at Ever Emporium at Commonwealth Avenue and invited her for a talk; that when he asked her if his brother did rape her, she just laughed; and that the complainant was then a barangay secretary.

On cross-examination, he replied that on March 6, 1994 at round 8:00 o'clock in the morning, he went to the police station upon learning that the accused was detained for having allegedly abused Fe Revilla; that he was in Fort Bonifacio when the crime supposedly happened; that he never saw the accused before he went to the police station but he was of the impression that he was in Cavite where he was working; that he did not (sic) know the day to day activities of the accused although he knew for a fact that he went home on weekends; and that he never talked to the accused or his wife prior to his knowledge of the incidence (sic).

RICARDO MALTO, 30 years old, married, and a resident of Freedom Park III, Batasan Hills, Quezon City. His testimony was offered to prove that at the time of the incident, the accused was actually in his house watching a basketball game on television until 9:00 o'clock.

He declared among others, that the accused was a neighbor who used to watch TV in their house; that he also [sic] knows the complainant because she is also from Freedom Park III and a former adviser in the Kabataang Barangay; that the house of the accused is 10 meters away from his house while that of the complainant is approximately 15 meters away; that in the evening of March 6, 1994, he was at his house lying in a hammock and watching television with his brothers and sisters and one Eric Ansoler; that at around 8:00 o'clock in the evening of the said day, the accused arrived and joined them in watching basketball game on TV; that the accused stayed for an hour and left before 9:00 o'clock in the evening which could have been also 8:30 o'clock; that he lighted the was [sic] of the accused with an emergency lamp until the latter reached his own house; and that thereafter he did not know where else he went, if he ever did go anywhere.

JOHNNY CORPUZ, 37 years old, married, Security Officer and a resident of No. 38 Kennedy St., Freedom Park IV, Batasan Hills, Quezon City. His testimony was offered to show that [at] the time of the incident, he saw the accused at the residence of Ricardo Malto watching a basketball game on TV and that he requested the accused to look after his children because he was going to the province.

He stated, among others, that he knows the accused, the complainant, and Sgr. (sic) Ricardo Pili and that he knows that the complainant and Sgt. Ricardo Pili lived together in the house of the accused; that at around 8:00 o'clock in the evening of March 6, 1994, he was in his house and that later he passed by the house of Ricardo Malto and saw the accused watching TV; that talking through the window, he entrusted his children and his dog to the accused since he was going to Isabela for 3 days; that the accused was watching TV with Ricardo, his brothers, sisters, mother and other people outside; and that he hurriedly left so that he could catch the bus which was to leave at 10:00 o'clock in the evening.

On cross-examination, he replied that at around 7:00 o'clock in the evening of March 6, 1994, the accused dropped by his house to borrow a betamax tape; that the accused talked to his wife because he was in the bathroom; that since the tape he wanted to borrow was not available, the accused left his house at around 7:30 in the evening; that he was able to talk to the accused for a few minutes at the house of Ricardo Malto before he left for Isabela that evening; that he learned about the incident from his children when he returned; and that the house of Ricardo Malto is about 150 meters away from his.

ORLANDO TIGOLO, 48 years old, market vendor, married, and a resident of No. 28 Col. Divino Concepcion, Marikina. The testimony of the witness was offered to establish the fact that sometime in December, 1993, the complainant told him that someday the Pili brothers would kneel before her.

He narrated that he came to know the complainant, through Ricardo Pili, during a dance session held every Friday in their area; that she was then residing at the house of Ricardo Pili, her live-in partner; that one Friday, the complainant angrily told him, in the presence of the wife of the accused, his 'compareng buo', that time would come when the Pili brothers would kneel before her for she was not a rag to be thrown away after being used; and that he learned [sic] to know about the rape charged against the accused on December 6, 1993, when he dropped by their house.

The complainant was recalled to the witness stand to testify as rebuttal witness. She declared, among others, that she was not a live-in partner of Ricardo Pili because the Pili brothers arrived in their place only in April, 1992; that she did not live with Ricardo because she had her own house at Freedom Park; that she never went out with Ricardo to Ever Emporium during the pendency of the case; that she had no child by Mr. Laxima nor had she any relationship with him; that she was the barangay secretary from 1991 to 1993; that Ricardo Pili was not the one who asked Dominador Pili to build her house as it was Jose Hatulan who constructed it; that the window in Exhibit 1-A was that of a store and not of her house (Exh. 1, 1-A) and the door of her house opens toward the inside (Exh. J and J-1); that she does not know Orlando Tigolo so she could not have danced

with, or talk to him, and she saw him for the first time in court; and that sometime [sic] attended the social activities at Freedom Park as the barangay secretary.

As earlier stated, the defense presented Gil Piquero and Ricardo Pili as sur-rebuttal witnesses. Their respective testimonies are as follows:

GIL PIQUERO, 43 years old, married, self employed and a resident of 91 Everlasting St., Freedom Park III, Batasan Hills, Quezon City. The testimony of the witness was offered to show that he is the Purok leader of Freedom Park 3, Batasan Hills, Quezon City, and that he personally knows that the complainant and Ricardo Pili lived as husband and wife at Freedom Park III and that the accused had caused the construction of her sari-sari store.

He declared, among others, that he knew the complainant because they were both in the barangay, she holding the position of barangay secretary; that he knew the accused and his brother because they were his neighbors; that, as a purok leader, he knew for a fact that Ricardo Pili and the complainant were live-in partners for one (1) year at Sgt. Pili's house at Dama de Noche St., and that the accused constructed her sari-sari store because he always passed by it on his way to the multi-purpose hall; and that a certain Hatulan helped the accused construct the sari-sari store.

On cross-examination, the witness clarified that his friendship with the accused was not really personal but [sic] he knew the latter as a carpenter in their place; that Ricardo Pili was a friend but not a close friend; that he is an accused in three cases, two attempted homicide and one for acts of lasciviousness before the court; and that the accused requested him to testify in his favor.”[9]

The Issues

Appellant submits the following assignment of errors:[10]

“I

The trial court committed serious errors in the appreciation of the evidence presented both by the prosecution and the defense which amount to grave abuse of discretion.

II

Certain material un rebutted facts were brushed aside which, if properly appreciated, would tilt the scale toward the innocence of the accused.

III

The quantum of evidence required to overthrow the presumption of innocence has not been mustered contrary to the trial court's findings.”

Simply put, appellant questions the trial court's assessment of the credibility of the witnesses and the sufficiency of the prosecution's evidence.

The Court's Ruling

The appeal is bereft of merit.

Credibility of Witnesses

It is doctrinally settled that “the assessment of the credibility of witnesses and their testimonies is a matter best undertaken by the trial court, because of its unique opportunity to observe the witnesses firsthand and to 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.”[11] In the instant case, appellant has failed to present any substantial evidence or argument to convince us to modify or reverse the findings of the trial court. On the contrary, after careful examination of the records, we find the trial court’s judgment, except the grant of moral damages, worthy of affirmation.

This Court has repeatedly expressed that “in view of the intrinsic nature of the crime of rape where only two persons are usually involved, the testimony of the complainant must be scrutinized with extreme caution.”[12] In keeping with this principle, we exhaustively examined the complainant’s testimony and found it sufficient to support the conviction of rape.

Carnal knowledge of a woman constitutes rape under any of the following instances: (1) when force or intimidation is used; (2) when the woman is deprived of reason or is otherwise unconscious; or (3) when she is under twelve years of age.[13] In the present case, complainant testified that appellant, intimidating her with a knife, forced himself upon her. Her testimony is as follows:

“FISCAL PURUGANAN

Q What happened when Dominador Pili or the accused [was] left in the house?

A He suddenly grabbed me and told me to go with him to bed.

Q What immediately did you do when the accused started grabbing you and forcing you to go with him to bed?

A We wrestled with each other inside the house and in fact things inside our house were [in] disarray[,] and because Mr. Pili was holding the door, my left thigh was caught in between the door.

Q What else was Dominador Pili doing while he was pushing the door against you?

A He suddenly pulled out his fan knife and pointed the same at the right side of my body while the left hand was holding my neck.

Q What was your position in relation to the accused while he was pointing his knife at your left?

A He was pointing the knife with his right hand at the left side of my body while the left hand was embracing me.

Q Where were you facing at that time?

A I was facing the door while the fan knife was pointing at the right side of my body with his right hand and the left hand was embracing me.

Q So, the accused was at your back or behind your back?

A We were facing each other ma’am.

Q You said earlier that you are facing the door and now you said that you are facing the accused, will you clarify the position with respect to the accused at the time he was pointing the knife at you?

A We were facing each other and suddenly he pulled out his fan knife and pointed at my right side and told me to go with him to bed while my left thigh was pinned between the door and his left hand was embracing me.

Q The door you are referring to were [sic] you were pinned by the accused, where does it lead to? Was the

door going outside or inside?

A The door will open if you pull it from the inside.

Q Is that your main door?

A Yes ma'am.

Q What did you do when the accused poke[d] the knife at your right waist?

A I cried and asked for mercy from him and told him not to harm me and have mercy with [sic] my children and his four (4) children because if he continue [sic] raping me, things will not be bright for us.

Q What did the accused do after you pleaded?

A He told me he doesn't give a damn whatever happens.

Q What happen [sic] after that Mrs. Witness?

A He did not listen to me and brought me to bed and [I] can't do anything because he will kill me.

Q How far was the bed from the door?

A About 5 steps ma'am.

Q What happened after he pulled you to bed?

A When we reached the bed, he pulled me and pulled down his pants and went over me.

Q What happened when the accused went over you?

A He pulled my dress up to my shoulder.

Q What happened after he pulled your dress up to your shoulder?

A He removed my panty ma'am.

Q What happened after he pulled your dress up to your shoulder and remove[d] your panty?

A I was crying for the Lord to protect me from this [J]udas.

Q What happened after he pulled down your underwear?

A He inserted his penis in my vagina.

Q What did you do when he inserted his penis to your vagina?

A I was crying ma'am.

Q Was he able to insert his penis to your vagina?

A Yes ma'am."[14]

The above-quoted testimony is bereft of equivocation and constitutes an unmistakable narration of consummated rape. "It is a truism that when an alleged victim of rape says that she was violated, she says in effect all that is necessary to show that rape has been inflicted on her, and so long as her testimony meets the test of credibility, the accused may be convicted on the basis thereof." [15] This is so in the instant case, in which the trial court found the testimony of the complainant "plausible and credible." [16]

"The rule in rape cases is that physical resistance need not be established when intimidation is exercised upon the

victim and the latter submits herself, against her will, to the rapist's embrace because of fear for life and personal safety.”[17] The complainant clearly testified that appellant brandished a knife at her and threatened to kill her with it. She was obviously cowed into submission by the real and present threat of physical harm on her person. Besides, although no laceration was found on the genital area of the victim, who had had four children, the abrasion on her left shoulder is enough evidence of the struggle that ensued.[18]

Several witnesses corroborated the testimony of the complainant on the circumstances before and after the alleged act. Among them was Carlito Ocenar who positively testified that the accused was present in the house of the complainant on the evening of March 6, 1994:

“PROS. PURUGANAN:

Q Mr. Witness, do you remember where you were on March 6, 1994?

WITNESS:

A Yes, [ma'am].

PROS. PURUGANAN:

Q Tell the Honorable Court what date and time?

A At about 7:00 o'clock in the evening, more or less, I was at the house of Fe Revilla, a victim of this case[;] my companion was her friend Raquel Castaneda, ma'am.

Q Why were you in the house of the complainant on said date and time?

A Because they were friend [sic] and they were conversing because they have not seen each other for a long time, [ma'am].

Q What happened while you and Raquel were [sic] conversing with the complainant?

A While we were talking [with] each other, all of a sudden two (2) male persons arrived and their name[s] are Dominador Pili and a certain Asmad, a certain Muslim, [ma'am].

Q What happened when Dominador Pili and a certain Asmad, the Muslim, arrived?

A While we were inside the house of the victim, all of a sudden Asmad immediately went home and after that Dominador Pili brought out a fan knife brandishing the knife in front of the complainant and us, [ma'am].

Q What did you do when Dominador Pili [was] brandishing the knife?

A What I did while sitting, I signed to Raquel no [sic] to [be] afraid because they were neighbors, [ma'am].

Q What happened next, Mr. [W]itness?

A After that while Dominador Pili [was] brandishing his beinte nueve (29) Raquel asked permission to leave because she was afraid and I go [sic] with her, [ma'am].”[19]

After a close observation of the demeanor on the stand of said witness, whose narration tallied with that of the complainant, the trial court characterized him as reliable and credible.

Pastor Reynaldo Cabangon's testimony on what transpired after the alleged molestation, in turn, dovetails with complainant's narration. He recounted that he was on his way to the radio station when he saw the complainant in the vicinity of the chapel.[20] He said that the complainant, who was crying, asked his help, as she was raped and molested by a certain “Doming.”[21] He brought her to the Barangay Lupon and left her there, because he had to

go to the radio station.[22] The trial court[23] observed, and we agree, that the testimony of said witness was limited to what he personally knew, and that his story was believable and trustworthy.

The complainant testified that Pastor Cabangon brought her to the Barangay Lupon, where he referred her to Ramon Erfello, another Lupon member, who subsequently brought her to the police station.[24] This was confirmed by Cabangon[25] and SPO3 Abdon Micosá. On the witness stand, the latter testified that the complainant went to the police station to file a complaint. Thereafter, he was asked by the desk officer to accompany said complainant to the place where the accused could possibly be apprehended.[26] The trial court commented that this “proves the fact that the complainant did not waste time in making an outcry after the harrowing experience.”[27]

Appellant contends that certain portions of the testimony of complainant are patently false and inconsistent with ordinary human experience and the normal order of things. The defense stresses that it is unimaginable how the accused-appellant could poke a knife at the right side of the complainant’s body when they were facing each other, with the left hand of accused-appellant embracing the complainant. If accused-appellant was holding the knife with his right hand, he must have poked it at the left side of complainant’s body.[28] We are not persuaded. The partners must have been constantly moving as the ravager tried to pin down the victim, who tried to struggle away until, overcome by force, she succumbed to the intimidation.

The defense also points out: “We are amazed how the penis of the accused-appellant [could] be inside complainant’s vagina while the former [was] in a kneeling position, his right hand holding a lighter probing the latter’s vagina if she had menstruation.”[29] This is a clutch at straws. The acts described were not necessarily simultaneous. That the narration of the events, which were in themselves traumatic, was less than letter-perfect is understandable, considering that the story was extracted through questions and answers in open court.

The defense also asks why the victim did not escape when the first opportunity presented itself. This is really a minor point. When a rape victim becomes paralyzed with fear, she cannot be expected to think and act coherently. Her failure to immediately take advantage of the early opportunity to escape does not automatically vitiate the credibility of her account. In any event, the Court notes that she eventually managed to escape.

Next, appellant contends that the medical finding does not support the claim of the complainant[30] that her thigh was caught in the door as she wrestled with the accused. Again, this is captious reasoning. It is common knowledge that the constitution and physical make-up of individuals vary. The fact that no abrasion or contusion was found on complainant’s left thigh does not necessarily negate the possibility that, indeed, her left thigh was caught in the door.

The defense further argues that complainant’s narration of the attempted apprehension of the accused on the day of the incident itself is implausible.[31] If the policemen went to the house of the accused to apprehend him, they should have been more assertive of their right to enforce their duty. This is easily explained by the fact that the policemen could not have arrested the accused, as they had no warrant of arrest. Hence, they only invited him for questioning.

The defense likewise asserts that if the appellant was really guilty, he would have escaped, considering that he had stayed in his house the next day, after having been apprised of the complaint lodged against him the night before. It contends that the non-flight of the accused is a categorical indicium of innocence. We do not agree. This Court has repeatedly held that “there is no law or principle which guarantees that non-flight per se is proof, let alone conclusive proof, of one’s innocence and, as in the case of alibi, such defense is unavailing when placed astride the undisputed fact that there is positive identification of the felon.”[32]

The defense also assails the credibility of Carlito Ocenar. If said witness really saw the accused brandishing a knife and uttering threatening statements, he should have asked the neighbors or the authorities for assistance. His abject indifference to the danger that lurked around a friend is labeled as abnormal. We cannot subscribe to this idea. It is true that said witness -- as a concerned citizen, more so as a friend -- should have done something to help the complainant. But it must be stressed that not everyone can be expected to be brave and heroic. As stated by the trial court in its decision, "gone are the days of the knights in shining armor." [33] His cowardice or unconcern does not, by itself, negate the credibility of his corroborative testimony.

Finally, appellant ascribes ill motive to the complainant who allegedly wanted to hit back at him for his opposition to her extramarital affair with his brother. To quote the appellant: "Apparently, the trial court has become oblivious of the commonplace occurrence in our midst that crimes more heinous and dastardly than rape have been committed in the name and by reason of 'LOVE' or lack thereof. A spurned or abandoned suitor or lover is at times driven by a devilish force to commit acts only heartless beasts can do." [34] We disagree. The alleged ill motive, even if true, is too flimsy and inconsequential. Granting *arguendo* that the accused and the complainant did not get along well, the Court does not see how the complainant, a married woman, could demean her womanhood, risk public censure, and expose herself to the rigors, embarrassments and headaches of a public trial, if her motive was other than to secure justice.

Denial and Alibi

In comparison with the clear and straightforward testimony of the complainant and her witnesses, the defenses of denial and alibi, which appellant relies upon, are discredited and shopworn. "In the case of alibi, it is elementary case law that the requirements of time and place be strictly complied with by the defense, meaning that the accused must not only show that he was somewhere else but that it was also physically impossible for him to have been at the scene of the crime at the time it was committed." [35] This the defense utterly failed to do. The appellant testified that he was watching basketball in the house of Ricardo Malto when the incident happened. [36] He stated further that the distance between the house of Ricardo and that of the offended party could be traversed in "a minute, maybe 2 to 3 minutes." [37] Clearly, the proximity of the houses in question refutes the defense of alibi. In any event, "we have ruled so many times to the point of triteness that denial and alibi cannot prevail over positive identification." [38]

Damages

The trial court awarded moral damages to the complainant in the amount of P30,000. This award cannot be sustained for lack of evidentiary basis, no proof having been adduced in its support. On the other hand, civil indemnity of P50,000 must be awarded in line with current jurisprudence. Such award is automatically given to the offended party without need of further evidence other than the fact of the commission of the rape. [39]

WHEREFORE, the appeal is DENIED and the assailed Decision is AFFIRMED, with the MODIFICATION that Appellant Dominador Pili is ordered to PAY Fe Revilla the amount of P50,000 as civil indemnity, but the award of moral damages is DELETED. Costs against appellant.

SO ORDERED.

Davide, Jr. (Chairman), Bellosillo, Vitug, and Quisumbing, JJ., concur.

[1] Rollo, pp. 29-43. It was penned by Judge Jose Catral Mendoza.

[2] Rollo, p. 43.

[3] Records, p. 2

[4] Records, p. 1.

[5] Records, p. 13.

[6] The case was deemed submitted for decision on December 23, 1997 upon receipt by this Court of Appellee's Brief. The filing of a reply brief was deemed waived.

[7] Appellee's Brief, pp. 4-9; Rollo, pp. 138-143. This was signed by Solicitor General Silvestre H. Bello III, Assistant Solicitor General Pio C. Guerrero, Assistant Solicitor General Antonio G. Castro and Solicitor Ma. Theresa Dolores C. Gomez-Estoesta.

[8] Appellant's Brief, pp. 2-12, Rollo pp. 85-95. The 25-page single-spaced Brief was signed by Atty. Venancio B. Padilla, counsel for the appellant.

[9] Appellant's Brief, pp. 7-13; Rollo, pp. 90-96.

[10] Ibid., pp. 14-15; Rollo, pp. 97-98.

[11] People vs. San Juan, G.R. No. 105556, April 4, 1997, per Panganiban, J.; People vs. Ombrog, G.R. No. 104666, February 12, 1997; People vs. Cogonon, G.R. No. 94548, October 4, 1996; People vs. Decena, 235 SCRA 67, August 4, 1994; People vs. Balisteros, 237 SCRA 499, October 7, 1994.

[12] People vs. Erese, G.R. No. 120579, November 5, 1997, per Panganiban, J.; People vs. Julian, G.R. Nos. 113692-93, April 4, 1997; People vs. Butron, G.R. No. 112986, May 7, 1997; People vs. San Juan, supra.

[13] Article 335, Revised Penal Code; People vs. Corea, G.R. No. 114383, March 3, 1997; People vs. Caballes, G.R. No. 1102723-24, June 19, 1997; People vs. Erese, supra.

[14] TSN, June 7, 1994, pp. 7-11.

[15] People vs. Butron, supra; People vs. Ramirez, G.R. No. 97920, January 20, 1997; Anciro vs. People, 228 SCRA 629, December 17, 1993; People vs. Repollo, 237 SCRA 436, October 7, 1994.

[16] Decision, p. 14; Rollo, p. 122.

[17] People vs. Rabosa, G.R. Nos. 119362 and 120269, June 9, 1997, per Kapunan, J.; People vs. Ramos, 245 SCRA 405, June 27, 1995; People vs. Padre-e, 249 SCRA 422, October 24, 1995; People vs. Conte, 247 SCRA 583, August 23, 1995.

[18] TSN, August 10, 1994, p. 7

[19] TSN, September 5, 1994, pp. 5-8.

[20] TSN, June 20, 1994, pp. 8-9.

[21] Ibid., p.5.

[22] Id.

[23] Decision, p. 12; Rollo, p. 40.

[24] TSN, June 7, 1994, p.13.

[25] TSN, June 20, 1994, p. 9.

[26] TSN, August 31, 1994, pp. 6-7.

[27] Decision, p. 12; Rollo, p. 120.

[28] Appellant's Brief, p. 17; Rollo, p. 100.

[29] Ibid., p. 21; Rollo, p. 104.

[30] TSN, June 7, 1994, pp. 7, 8.

[31] Appellant's Brief, pp. 18-20; Rollo, pp. 101-103.

[32] People vs. Amania, 248 SCRA 486, September 21, 1995, per Regalado, J.; People vs. Desalisa, 229 SCRA 35, January 4, 1994; People vs. Parica, 243 SCRA 557, April 21, 1995.

[33] Decision, p. 12; Rollo, p. 120.

[34] Appellant's Brief, p. 24; Rollo, p. 107.

[35] People vs. Amania, supra, per Regalado, J.; People vs. Flores, 217 SCRA 613, January 27, 1993; People vs. Magana, G.R. No 105673, July 26, 1996; People vs. Marquez, 153 SCRA 700, September 14, 1997.

[36] TSN, February 8, 1995, p. 16.

[37] TSN, February 8, 1995, p. 22.

[38] People vs. Fuensalida, G.R. No. 119963, November 6, 1997; per Regalado, J.; People vs. Errojo, 229 SCRA 49, January 4, 1994.

[39] People v. Caballes, G.R. No. 102723-24, June 19, 1997.

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