

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. EMILIANO CAPAREDA, APPELLANT.

G.R. No. 128363. May 27, 2004

Ponente: CALLEJO, SR., J.

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CALLEJO, SR., J.:

This is an appeal from the Decision[1] of the Regional Trial Court of Cagayan de Oro City, Branch 25, in Criminal Cases Nos. 92-2054, 92-2085, 92-2086 and 92-2087 convicting the appellant Emiliano Capareda of four (4) counts of rape under Article 335, paragraph 1 of the Revised Penal Code.

The appellant was charged of rape under four (4) separate Informations, the accusatory portions of which except for the date of the offense charged are similarly worded, viz:

Criminal Case No. 92-2054

That sometime in the month of June 1992, at 8:00 o'clock, P.M., more or less, at Zone 4, Pasil, Kauswagan, Cagayan de Oro City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with force and intimidation, did then and there, willfully, unlawfully and feloniously, have carnal knowledge with complainant-victim, RIZALYN LUFERA, accused forcing himself sexually on the latter, a 13-year-old minor, against her will.[2]

Criminal Case No. 92-2085

That sometime in the month of July 1992, at 8:00 o'clock in the evening, more or less, at Zone 4, Pasil, Kauswagan, Cagayan de Oro City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with force and intimidation, did then and there, willfully, unlawfully and feloniously, have carnal knowledge with complainant-victim, RIZALYN T. LUFERA, accused forcing himself sexually on the latter, a 13-year-old minor, against her will.[3]

Criminal Case No. 92-2086

That sometime in the 2nd week of the month of July 1992, at 8:00 o'clock, P.M., at (sic), more or less, at Pasil, Kauswagan, Cagayan de Oro City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with force and intimidation, did then and there, willfully, unlawfully and feloniously, have carnal knowledge with complainant-victim, RIZALYN LUFERA, accused forcing himself sexually on the latter, a 13-year-old minor, against her will.[4]

Criminal Case No. 92-2087

That sometime in the month of June 12, 1992, (sic) at 8:00 o'clock, P.M., more or less, at Zone 4, Pasil, Kauswagan, Cagayan de Oro City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with force and intimidation, did then and there, willfully, unlawfully and feloniously, have carnal knowledge with complainant-victim, RIZALYN LUFERA, accused forcing himself sexually on the latter, a 13-year-old minor, against her will.[5]

Upon his arraignment on March 16, 1994, the appellant pleaded “not guilty” to the charge.[6] Thereafter, a joint trial ensued.

The Case for the Prosecution

Rizalyn Torres Lufera was born on June 19, 1979.[7] She and her younger brother Ricardo Torres and their mother Jocelyn Torres Lufera resided in the two-storey house of the latter’s parents, the spouses Cariño and Victorina Torres, at Zone 4, Pasil, Kauswagan, Cagayan de Oro City.[8] Rizalyn’s parents had been separated since she was still an infant. She grew up under the joint care of her mother and her grandparents, as well as her aunts and uncles.[9]

The ground floor of the house had two bedrooms, one occupied by Rizalyn’s grandparents and the other occupied by her three unnamed uncles who were then still studying. Rizalyn, her mother and her younger brother Ricardo, occupied one of the three rooms in the second floor.[10]

The appellant Emiliano Capareda was the brother-in-law of Cariño Torres, being the second husband of Anita Torres Vda. de Dagsang, Cariño Torres’ sister.[11] The couple resided in Banlag, Valencia, Bukidnon. Sometime in the last week of May 1992, a relative of Anita and Cariño died.[12] The appellant, together with his wife Anita and her son by her previous husband, Almor Dagsang, attended the interment and, thereafter, stayed for some time in the house of Cariño Torres.[13] The couple occupied the living room in the second floor, as the two other rooms were respectively occupied by Rizalyn’s uncle and her two single aunts.[14] Nevertheless, Emiliano and Anita had their clothes placed in Rizalyn’s room and had access therein.[15]

In June 1992, Rizalyn was thirteen years old[16] and a first year high school student at the Misamis Oriental General Comprehensive High School. She was a bright student and belonged to the first section of the science class.[17] To maintain her academic status, every night, after taking dinner and doing her part of the household chores, Rizalyn would go up to their room and study her lessons.[18]

At around 8:00 p.m. on June 10, 1992, while Rizalyn was studying her lessons, the appellant entered the room to get some things and to change his clothes.[19] Ricardo, Rizalyn’s brother, and the other occupants of the house were on the ground floor.[20] Rizalyn was shocked when suddenly, the appellant held her by her shirt collar and poked his right clenched fist at her.[21] He gave Rizalyn dagger looks and warned her, saying, “Hoy, ‘Zalyn bantay lang kon mutug-an ka sa imong Mama” (“Hoy, ‘Zalyn beware if you will report to your mother”). He then pushed her to the floor and laid on top of her. The appellant removed his short pants and briefs and pulled down Rizalyn’s shorts and underwear. He spread her thighs, inserted his penis into her vagina and made push and pull movements. Rizalyn felt severe pain in her vagina and cried. Satiated, the appellant stood up and wiped his penis. He put on his briefs and short pants and left the room, leaving the sobbing Rizalyn alone. She kept the shocking experience to herself because of the appellant’s warning.[22]

At around 8:00 p.m. on June 12, 1992, Rizalyn was in her room studying. She was reading a book while lying prostrate on the floor, face down. The appellant collared her anew. She was more terrified this time because the appellant was armed with an eighteen-inch bolo. The appellant warned her that if she reported the matter to her mother, he would kill all of them. Fearing for her life, as well as those of her mother and brother, Rizalyn complied when the appellant ordered her to lie flat on the floor. The appellant undressed himself, then Rizalyn, and again inserted his private organ into her vagina.[23]

The appellant raped Rizalyn anew two more times in July 1992. The appellant sneaked upon Rizalyn while the latter was studying in her room and, while holding a bolo, threatened to kill her and her family if she reported the matter to her mother. The appellant then proceeded to rape her. Petrified, Rizalyn did nothing but to submit herself to the appellant’s bestial desires. Since the appellant was still living with them and kept close watch on her

actions, Rizalyn kept her harrowing ordeal to herself. She noticed the appellant giving her menacing looks whenever she conversed with a relative.[24]

Meanwhile, Jocelyn noticed that Rizalyn had not had her monthly menstruation. She also noticed Rizalyn vomiting every now and then and had frequent fevers and colds.[25] Jocelyn confronted Rizalyn, who then confessed that the appellant had raped her on four separate occasions, in June and July 1992, while she was alone in her room. Jocelyn was shocked at her daughter's revelation.[26]

On August 31, 1992, Jocelyn brought Rizalyn to the Northern Mindanao Regional Training Hospital at Cagayan de Oro City[27] where Dr. Olivia Sumampan of the Obstetrics and Gynecology Department conducted an examination on her. The examination disclosed that Rizalyn was already six (6) weeks pregnant.[28] Because of her pregnancy, Rizalyn was forced to discontinue her schooling effective the first week of September 1992.[29] Rizalyn signed a criminal complaint charging the appellant for the crime of rape. Earlier, or on September 4, 1992, she had given a sworn statement to the Criminal Investigation Section of the Integrated National Police. On December 4, 1992, a warrant was issued for the appellant's arrest.

On March 26, 1993,[30] Rizalyn Torres Lufera gave birth to a baby girl. Sometime in February 1994, SPO2 Exudio Vidal of the PNP-CIS Regional Office apprehended the appellant at Barangay Tipolo, Quezon, a locality in Bukidnon bordering Davao.[31]

The Case for the Appellant

The appellant admitted to having had sexual intercourse with Rizalyn. However, he claimed that she consented to have sexual intercourse with him since they were sweethearts. Prior to June 1992, when he and his family frequented the house of Cariño Torres, he and Rizalyn would go swimming at sea. On those occasions, he and Rizalyn developed feelings of mutual understanding ("Nagkasabot ang among kasingkasing"). Since the second week of June 1992 until August 1992, he and Rizalyn had sexual intercourse almost every night and at dawn in the ground floor, and in the second floor of the house of the Torreses. The only times that he and Rizalyn did not have sexual intercourse was when he went to Bukidnon or to Scions, Calaanan, Cagayan de Oro City.[32]

The appellant's testimony was corroborated by his stepson, Almor Dagsang, who was then barely twelve years old. He testified that he saw the appellant and Rizalyn having sexual intercourse on two occasions. He belied Rizalyn's asseveration that his stepfather raped her because it was Rizalyn who made advances on the appellant. He recounted that one early morning, while his mother and the other occupants of the house were away, Rizalyn went upstairs and seduced the appellant into having sexual intercourse with her. Almor was about three meters away from Rizalyn and the appellant. Even as the appellant tried to persuade Rizalyn to stop for fear that someone might see them, Rizalyn refused because she was enjoying the sexual intercourse. Almor, ashamed at what he saw, just closed his eyes.

On another occasion, while they were watching the television one evening, Almor told the appellant that he was already going upstairs to sleep. Rizalyn stopped him and told him to continue viewing the television and that she would just be the one to lie down with her step-grandfather. Later that night, he saw Rizalyn and the appellant hugging each other.[33]

On April 3, 1996, the trial court promulgated its Decision[34] convicting the appellant of the crimes charged. The dispositive portion of the decision reads:

WHEREFORE, premises considered, this Court finds the accused Emiliano Capareda guilty beyond reasonable doubt of the consummated crime of Rape as charged in the four (4) separate complaints, and sentences the accused Emiliano Capareda for the four (4) separate crimes, Criminal Case No. 92-2054; Criminal Case No. 92-2085; Criminal Case No. 92-2086; and Criminal Case No. 92-2087, to suffer an imprisonment of Reclusion

Perpetua for each crime committed on Rizalyn Torres Lufera and to indemnify the offended party the sum of P50,000.00 and to acknowledge the offspring Marjorie Torres Lufera as his child and accused is ordered to provide a monthly support of P2,000.00 per month which shall be correspondingly increased as the need of the child arise.[35]

The appellant assails the decision of the trial court contending that:

THE COURT A QUO ERRED IN FINDING THAT THE GUILT OF THE ACCUSED-APPELLANT FOR THE CRIME CHARGED HAS BEEN PROVEN BEYOND REASONABLE DOUBT.[36]

The appellant contends that the prosecution failed to prove beyond cavil that he coerced, intimidated or forced Rizalyn into having sexual intercourse with him. He avers that Rizalyn consented to have sexual intercourse with him, as shown by her failure to resist when he undressed her and inserted his private organ into her vagina.

According to the appellant, Rizalyn did not even shout while she was being undressed, and even when he lay on top of her. Her mouth was not covered, but she did not even shout despite the extreme pain she experienced as the appellant inserted his penis into her vagina. The appellant asserts that Rizalyn could have ran while the appellant was undressing her, or stomped her feet to call the attention of her relatives who were on the ground floor of the house. Rizalyn did not seek anyone's help. As it was, Rizalyn lay motionless, without exerting any degree of resistance. All the foregoing circumstances, the appellant concludes, are proof of her consent to the sexual congress with him.

We are not convinced. Case law has it that the failure of the victim to shout or offer tenacious resistance does not make voluntary the victim's submission to the criminal acts of the accused.[37] Resistance is not an element of rape and the absence thereof is not tantamount to consent.[38] The law does not impose upon a rape victim the burden of proving resistance.[39] In fact, physical resistance need not be established in rape when intimidation is exercised upon the victim and she submits herself against her will to the rapist's lust because of fear for life or personal safety.[40] Indeed, it has been said that, in rape cases, it is not necessary that the victim should have resisted unto death or sustained injuries in the hands of the rapist. It suffices that intercourse takes place against her will or that she yields because of a genuine apprehension of great harm.[41]

We have also held that intimidation must be viewed in the light of the perception of the victim at the time of the commission of the crime, not by any hard and fast rule.[42] The test is whether the threat or intimidation produces fear in the mind of a reasonable person – that if one resists or does not yield to the desires of the accused, the threat would be carried out.[43] In the instant case, Rizalyn was cowed into submission because of the appellant's very real and present threat of physical harm on her person. The appellant was armed with an eighteen-inch long bolo and threatened Rizalyn when he raped her on June 12, 1992 and in July 1992. She was barely thirteen years old at the time of the rape incidents and, at such a tender age, must have been overcome with fear of serious physical harm, thus, did not resist the bestial desires of the appellant.

We note that Rizalyn's father left his family when she was yet an infant. Helpless and homeless, Jocelyn and her children had to live with Rizalyn's grandparents at Zone 4, Pasil, Kauswagan, Cagayan de Oro City. Rizalyn grew up without her father and looked up to her uncles and her grandfather as the only tangible and credible male models of moral and spiritual leadership that only a father could have been. The same could be said of her relationship with and her regard for the appellant, who was the husband of her grandmother, Anita Torres.

The appellant further argues that Rizalyn's demeanor in the aftermath of the sexual intercourse was inconsistent with the normal human conduct and behavior of one who had been forcibly sexually assaulted. He contends that after the alleged sexual molestation, Rizalyn concealed the alleged crime by placing her bloodied panty among her other soiled clothes and underwear. She even had to change her underwear before going to bed. Moreover,

barely five minutes after the alleged traumatic ordeal, she immediately went to bed and slept as if nothing traumatic had happened. The appellant insists that the following morning, she underwent with her usual routine as if she was not raped at all. Rizalyn had every opportunity to confide in her aunt while the appellant was still asleep, but she kept mum about the incident. She even went to school, apparently unperturbed. The appellant notes that the following evening, Rizalyn again studied her lessons and did not even undertake the precaution of bolting her door to prevent another untoward incident.[44] All the foregoing circumstances, the appellant asserts, undoubtedly negate rape.

The contention does not hold water. We have repeatedly ruled that different people react differently to the same situation, and not every victim of a crime can be expected to act reasonably and conformably to the expectations of everyone.[45] For this reason, that Rizalyn was calm and composed after the raping incidents is not a ground for disbelieving her testimony as unusual for a rape victim. There is no standard form of human behavioral response when one is confronted with a frightful experience.[46] The victim's mien, rather than composure, could mean resignation, considering her continuing suffering, or apoplexy and numbness as aftermaths of her ordeal.[47]

Rizalyn's initial reluctance to reveal to her mother, grandparents and relatives the sexual assault upon her person does not detract from her credibility, her hesitation being attributable to her age, and the appellant's threats of physical harm and death against her and the other members of her family.[48] This Court has ruled that it is not proper to judge the actions of children who have undergone traumatic experiences by the norms of behavior expected under the circumstances from mature persons. The range of emotion shown by rape victims is yet to be captured even by calculus. It is, thus, unrealistic to expect uniform reactions from rape victims.[49] The workings of the human mind, placed under a great deal of emotional and psychological stress (such as during rape), are unpredictable, and different people react differently. There is no standard form of behavioral response when one is confronted with a strange, startling, frightful or traumatic experience – some may shout, some may faint, and some may be shocked into insensibility.[50]

The natural reluctance of a young lass like Rizalyn to report immediately to the mother and relatives that the appellant had raped her is understandable, especially considering that it was her granduncle who sexually assaulted her. Often, a victim involving a thirteen-year-old girl would rather suffer in silence the onslaught on her honor rather than reveal her story.[51] Thus, her delay in reporting the rape ought not to be taken against her, nor used to weaken her credibility.[52] The Court takes judicial notice of a young woman's inbred modesty and shyness and her antipathy in publicly airing acts which blemish her honor and virtue. Rape stigmatizes the victim, not the perpetrator.[53] Rape is a harrowing experience and the shock concomitant to it may linger for a while. Oftentimes, victims would rather bear the ignominy and the pain in private than reveal their shame to the world or risk the rapist's making good the threat to do them harm.[54]

Still and all, it should be observed that the private complainant was subsequently able to narrate the harrowing details of her ordeal, thus:

Q

You said you were raped by your stepgrandfather. Please tell this Honorable Court how?

A

While I was studying in my room located at the second floor, Emiliano Capareda went upstairs and suddenly went inside my room and when he was already inside my room, he held the collar of my shirt with his left hand.

Q What was on his right hand, if any?

A At that particular time, Emiliano Capareda was not holding anything with his right hand, but he showed only his right hand with a clinch (sic) fist.

Q Will you kindly illustrate for the benefit of this Honorable Court how you (sic) stepgrandfather do (sic) these two things.

...

A (Witness demonstrating by holding the collar of the shirt of the interpreter with her left hand and with her right hand showing a clinch [sic] fist).

Q And what was your position when your stepgrandfather held your collar and at the same time showed his right hand with a clinch (sic) fist?

A I was sitting on the floor.

Q What was the position of your stepgrandfather at that time when he held your collar and showed his right hand with a clinch (sic) fist?

A When he held my collar with his left hand and showing his right clinch (sic) fist, he was bending his body.

Q Now, after he held your collar with left hand and showing his right clinch (sic) fist, what did he do next to you?

A

After Emiliano Capareda poked his right clinch fist at me, he warned me by saying, “Hoy, ‘Zalyn bantay lang kon mutug-an ka sa imong Mama”, (“Hoy, ‘Zalyn beware if you will report to your mother”) staring at me with a dogger (sic) look and pushed me to the floor.

Q What other words, if any, uttered (sic) by the accused at this time when you were already pushed to the floor?

A There were no more words uttered by the accused.

COURT : Ask her how did she feel.

Q

Now, at the time the accused held your collar with your (sic) left hand and clinched (sic) his right fist and pushed you to the floor staring at you with a dogger (sic) look, what did your (sic) feel?

A I was afraid.

Q What else did you feel?

A I got mad at him and I cried.

Q When he pushed you to the floor and staring at you with a dogger (sic) look, what did he do next?

A

After Emiliano Capareda held my collar and showed me his right clinch (sic) fist, he pushed me to the floor and he then laid on top of me and then removed his short pants and brief.

Q

After this, what did he do next to you?

A

After Emiliano Capareda removed his pants and brief, he then pulled up my skirt and then he pulled down my short pants and panty and spread my thighs.

Q When the accused did this to you, what was your feeling?

A When Emiliano Capareda did this to me, “nasilag ako” (meaning, I hated him) because I was raped by him.

Q After the accused spread your thighs, what did he do next to you?

A After spreading my two thighs, Emiliano Capareda made a push and pull movement.

Q Towards what part of your body?

A Towards my vagina.

Q What was your feeling then at that time when the accused made a push and pull movement towards your vagina?

A While Emiliano Capareda was making a push and pull movement in my vagina, I felt pain.

Q While the accused was making a push and pull movement towards your vagina and you were hurt, what did you do, if any?

A I just cried.

Q A while ago you said that you hated him for raping you. Now, why did you feel in this manner?

A I hated Emiliano Capareda because he raped me.

Q What is your relationship to Emiliano Capareda?.

A I am his granddaughter.

Q Now, after the accused made a push and pull movement towards your vagina, what did he do next, if any?

A

After Emiliano Capareda made a push and pull movement towards my vagina, he then stood up and wiped his penis and then he wore back his brief and short pants and then he left me crying inside the room.

Q At this time, where was you (sic) mother, Jocelyn Torres Lupera (sic)?

A All this time, my mother was in (sic) the first floor of the house.

Q Who was with her, if you know?

A

She was with my younger brother, Ricardo, my grandparents, Cariño and Victorina Torres, my aunts, Grace and Merced Torres, and my uncles, Marvin, Darwin and Mariel.

Q On June 12, 1992 at around 8:00 o'clock in the evening, where were you?

A At 8:00 o'clock in the evening of June 12, 1992, I was at the second floor in my room.

Q What were you doing there?

A I was still studying my lessons.

Q What was your (sic) position while studying?

A

I was lying flat with my face on the floor.

Q

Was there an unusual incident that occurred at this time?

A

This time, Emiliano Capareda did the same thing to me. He raped me again.

Q

Now, starting from the very beginning of June 12, 1992, can you tell the Honorable (sic) how did Emiliano Capareda do this thing to you?

A

While I was studying in our room, Emiliano Capareda pretended to come inside our room and then he held my collar with his left hand and showed me a long bolo on his right hand.

Q How long is this bolo?

A As long as this. (Parties agreed that the length of the bolo is about 18 inches as demonstrated by the witness.)

Q When he collared you and showed you the 18 inches (sic) bolo on his right hand, what was your feeling?

A This time, I became more terrified because he showed me a long bolo.

Q Comparing this feeling right now when you were showed a bolo, how would you compare it with your feeling during the first incident of rape?

A Comparing the first and the second incident, I am more terrified during the second incident.

Q After collaring you and showing you a bolo, what did the accused do to you next?

A He then ordered me to lie on the floor facing the ceiling.

Q Did you comply with his order?

A I just followed his order because he was carrying a weapon.

Q What did he do next to you?

A Just like the first incident, Emiliano Capareda (sic) laid on top of me and then removed his shirt, his short pants and then his brief and after that he undressed me.

Q

Before these things occurred, what words were uttered to you by the accused.

A

Before Emiliano Capareda laid on top of me and then removed his shirt, short pants and his brief and then undressed me, he warned me by saying “Bantay ka lang kong mutugan ka sa imong Mama kay pamatyon ko kamong tanan” (meaning, “Beware. If you will report this to your mother, I will kill you all.”)

Q When he uttered those threats to you, did you believe him?

A Yes, Sir. I believe (sic) him.

Q When he said, “I will kill you all,” did you understand to whom he was referring?

A Yes, Sir. I know that he was referring to me and to my family.

Q Now, a while ago, you said that the accused did to you what he did to you during the first incident. On June 12, 1992, what did the accused do to you, specifically?

A He then again raped me.

Q How?

A He forced me.

Q How was this rape done to you?

A When Emiliano Capareda undressed me already, he inserted his penis in my vagina.

Q How?

A He made a push and pull movement.

Q What did you feel when he made a push and pull movement towards your vagina?

A I still felt the pain.

Q Where?

A In my vagina.

Q And after he did this to you, what did he do next to you?

A After Emiliano Capareda raped me, he then stood up and wiped his penis and then he left just what (sic) he did during the first incident.

Q What about you when he left you, what was your feeling or reaction?

A I was afraid and I cried.

Q Before he left you, what words, if any, did he utter to you?

A He did not utter anything before he left me.

Q Sometime in the month of July 1992 at around 8:00 o'clock in the evening, where were you?

A I was again in (sic) the second floor of our house, particularly inside our room.

Q What were you doing there?

A I was again studying my lesson.

Q What was your position while studying?

A I was again lying on the floor.

Q Now, while you were lying on the floor, what unusual incident, if any, occurred?

A I was raped by Emiliano Capareda.

Q How was this third incident done to you by the accused?

A

This time, Emiliano Capareda pretended to spread their mat where he and his wife will sleep and then he entered our room and then afterward he collared me again and showed me again his long bolo.

...

Q After he collared you and showed you his long bolo, about 18 inches long, what did he do next?

A

Just the same Emiliano Capareda laid on top of me. He undressed himself and then he undressed me and spread my thighs and then he inserted his penis in my vagina.

Q How did he insert his penis to your vagina?

A He inserted his penis on my vagina by making a push and pull movement.

Q And what did you feel when he made a push and pull movement for the third time?

A I still felt the pain.

Q What else did you feel?

A I hated him and I cried.

Q When he was making a push and pull movement towards your vagina, what did you do?

A I just did nothing.

Q You did not utter any word to your stepgrandfather?

A I did not say any word to my stepgrandfather because I was afraid of him.

Q

During the second rape incident of June 12, 1992 while he was making the push and pull movement towards your vagina, what did you do towards your stepgrandfather, Emiliano Capareda?

A I did nothing.

Q Why?

A Because I was afraid of him.

Q

During the first incident sometime in the month of June 1992 while he was making a push and pull movement, what did you do with your stepgrandfather, if any?

A I did nothing, sir, while he was making a push and pull movement towards my vagina.

Q Why?

A Because I was afraid of him.

...

Q When he left you after the third incident, what words, if any, did he to you? (sic)

A When Emiliano Capareda left me after the incident of July 1992, he did not utter anything.

Q On the second week of July 1992, at around 8:00 o'clock in the evening, where were you?

A I was again in (sic) the second floor, inside our room.

Q What were you doing then?

A I was again studying my lesson.

Q What was your position while studying?

A I was again lying on the floor.

Q While you were studying lying on the floor, what was incident occurred (sic), if any?

A I was again raped by Emiliano Capareda.

Q How?

A He raped me and forced me.

Q This time, how was it done?

A This time, Emiliano Capareda went inside our room and then he collared me and showed me his long bolo.

Q When he did this to you for the fourth time, what was your reaction?

A I was again afraid or terrified.

Q What were you afraid of?

A I was afraid because he showed me his long bolo.

Q What words, if any, uttered (sic) to you by the accused?

A

This time, the accused again warned me by saying, "Magbantay lang ako kay kong motugan ako sa akong Mama, pamatyon mi niyang tana" (meaning, I will just watch out because if I will report to my mother, he will kill us all).

COURT : Ask her whether she believe (sic) this.

Q When the accused uttered those things, do (sic) you believe him?

A Yes, Sir. I believe (sic) him when he uttered those threatening words.

Q When he uttered "I will kill you all," what was your reaction?

A I was afraid.

Q When he uttered, "I will kill you all," did you understand to whom was he referring that?

A Yes, Sir.

Q Who was he referring to?

A He was referring to me and to my family.

Q Who is this family?

A

My mother, Jocelyn Torres, my younger brother, Ricardo Torres Lupera (sic), my grandparents, Cariño and Victorina Torres, my aunts and my uncles.

Q Do you love you (sic) mother and your brother?

A Yes, Sir.

Q How about your aunts and uncles?

A Yes, Sir?

Q How about your grandparents?

A Yes, Sir.

Q After he collared you and showed you his long bolo, what did he do next to you, this time?

A He then placed his bolo at my side, then he undressed me and then he undressed himself.

Q Now, after he undressed you first and then the accused undressed himself, what did he do next to you?

A Then he laid on top of me.

Q While he was lying on top of you, what did he do next?

A He then spread my two thighs and then he made a push and pull movement.

Q Where is this push and pull movement directed to?

A He made a push and pull movement towards my vagina.

Q When the accused made a push and pull movement towards your vagina, what did you feel?

A I felt pain on my vagina.

Q What was the caused (sic) of this pain inside your vagina?

A I felt pain on my vagina because he inserted his penis and he made a push and pull movement.

Q

During this first incident in the month of June 1992, you said you felt pain in your vagina. What was the caused (sic) of this pain during the first incident?

A I felt pain on my vagina because he inserted his penis inside my vagina.

Q On June 12, 1992, during the second incident, you said you felt pain in your vagina. What was the caused (sic) of that pain?

A I still felt pain on my vagina because he inserted his penis and made a push and pull movement towards my vagina.

Q During the third incident, you said you felt pain in your vagina. What was the caused (sic) of that pain?

A I felt pain because he inserted his penis inside my vagina.

Q Aside from the pain which you felt inside your vagina, what was your other feeling while he was inserting his penis towards my (sic) vagina?

A I was afraid.

Q What else?

A I cried.

Q What else?

A No more.

Q You said you were afraid. To whom you are afraid?

A I was afraid of Emiliano Capareda.

Q Why were you afraid of him?

A Because I was raped by him.

Q Aside from being afraid for being raped, why you were (sic) afraid of Emiliano Capareda?

A

Aside from being afraid for being raped, I was afraid because he threatened me (sic) to kill me and my family if I will report the incident to my mother and because he showed me a long bolo.

Q In the month of June 1992, you said that you were also afraid. To who you were (sic) afraid of?

A I was afraid of Emiliano Capareda.

Q Why you were afraid during the first incident of June 1992?

A I was afraid of him because he threatened me that he will kill me and poked his clinch (sic) right fist towards me.

Q During the second incident of June 12, 1992, you said you were afraid. To whom you were (sic) afraid of?

A I was afraid of Emiliano Capareda.

Q Why were you afraid of Emiliano Capareda?

A I was afraid of Emiliano Capareda because he raped me.

Q What else was the caused (sic) of your fear towards Emiliano Capareda?

A

Aside from being raped, I was also afraid of Emiliano Capareda because I was threatened by him that he will kill me and showed to me his long bolo.

Q Now, in the third incident of July 1992, you said that you were afraid. To whom you were (sic) afraid of?

A I was afraid of Emiliano Capareda.

Q Why were you afraid of him?

A Because he raped me.

Q What else was the caused (sic) of your fear?

BA ecause he poked his long bolo and threatened me that he will kill me and my family if I will report the incident to my mother.[55]

Even under grueling cross-examination by the infatigable counsel of the appellant, Rizalyn never wavered in her testimony that the appellant had forced her to have sexual intercourse with him; that he poked a bolo at her on June 12, 1992 and in July 1992; and, threatened to kill her and her family if she reported the defilement on her person to anyone, especially to her mother. We find that her testimony bears the hallmarks of truth. It is consistent on material points. When a rape victim's testimony is straightforward and candid, unshaken by rigid cross-examination and unflawed by inconsistencies or contradictions in its material points, the same must be given full faith and credit.[56]

Established is the rule that the testimonies of rape victims, especially child victims, are given full weight and credit.[57] It bears emphasis that the victim was barely thirteen when she was raped. In a litany of cases, this Court has applied the well-settled rule that when a woman, more so if she is a minor, says that she has been raped, she says, in effect, all that is necessary to prove that rape was committed, for as long as her testimony meets the test of credibility.[58] No young girl, indeed, would concoct a sordid tale of so serious a crime as rape at the hands of a close kin, undergo medical examination, then subject herself to the stigma and embarrassment of a public trial, if her motive were other than an earnest desire to seek justice.[59] This holds true especially where the complainant is a minor, whose testimony deserves full credence.[60] Certainly, Rizalyn's testimony is entitled to great weight especially when she accuses a close relative of having ravished her. For there can be ascribed no greater motivation for a woman abused by her own kin than that innate yearning of the human spirit to declare the truth to obtain justice.[61]

In the review of rape cases, we are almost invariably guided by the following principles: (1) an accusation of rape can be made with facility; it is difficult to prove but more difficult for the accused, though innocent, to disprove; (2) 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; and (3) the evidence for the prosecution must stand or fall on its own merits and cannot be allowed to draw strength from the weakness of the evidence for the defense.[62]

In a prosecution for rape, therefore, the victim's credibility becomes the single most important issue, and when

her testimony satisfies the test of credibility, an accused may be convicted solely on the basis thereof.[63] In the instant case, we find no reason to doubt that Rizalyn was telling the truth when she declared that the appellant had sexually ravished her on four separate occasions in the months of June and July 1992. Rizalyn's credibility was not successfully assailed by the appellant.

The essence of rape as defined under Article 335 of the Revised Penal Code[64] is carnal knowledge of a woman against her will. The appellant failed to show that Rizalyn consented to have sexual intercourse with him. On the contrary, the evidence showed that the carnal acts were done against her will.

Finally, the "sweetheart defense" proffered by the appellant is barren of factual consideration. The alleged "illicit love affair" angle appears to be a mere fabrication of the appellant's, to exculpate himself from the rape charges filed against him. Having admitted to having had carnal knowledge of the complainant on the dates and times in question, the appellant bears the burden of proving his affirmative defense by clear and convincing evidence.[65] The appellant, however, failed to discharge his burden. A "sweetheart defense" should be substantiated by some documentary and/or other evidence of the relationship.[66] Other than his self-serving assertions and those of his biased stepson, there is no support to appellant's claim that he and complainant were lovers. The appellant failed to adduce in evidence any mementos, love letters, notes, pictures, or any concrete proof of a romantic nature. Moreover, even if we were to assume that the appellant and the private complainant were indeed lovers, this fact would not have precluded rape, as it did not necessarily mean there was consent. A love affair could not have justified what the appellant did – subjecting Rizalyn to his carnal desires against her will.[67] The Court has previously taken judicial cognizance of the fact that in rural areas in this country, young ladies by custom and tradition act with circumspection and prudence, and that great caution is observed so that their reputation remains untainted.[68] It is unbelievable that Rizalyn would have participated in, much less initiated, these alleged romantic trysts.

The appellant's reliance on the testimony of his stepson Almor is desperation personified with the finding of the trial court and this Court that Rizalyn's testimony as to when and how the appellant despoiled her is the truth. The testimony of Almor in defense of the appellant cannot prevail over that of Rizalyn.

It is basic that where there is no showing that the complainant was impelled by an improper motive in making the accusation against the accused, her complaint is entitled to full faith and credit.[69] Considering her young age, it would have been highly improbable for Rizalyn to fabricate a charge so humiliating to her and her family, had she not been truly subjected to the painful experience of sexual abuse.[70] We additionally consider the fact that it is hard to believe that a mother would sacrifice her own daughter and present her to be the subject of a public trial if she, in fact, has not been motivated by an honest desire to have the culprit punished.[71] It is quite unnatural for a parent to use her offspring as an engine of malice, especially if it will subject a daughter to embarrassment and even stigma.[72]

More telling of the appellant's culpability is his flight after the charges against him had been filed. The appellant himself on cross-examination admitted that although he had known that charges had already been filed against him, he did not file a counter-affidavit in all the four complaints upon his wife's instructions. His wife promised to talk to her brother Cariño Torres to convince them to withdraw the complaints.[73] The appellant also testified that he knew that a subpoena was served at their address at Banlag, Valencia, Bukidnon on October 5, 1992 which was received by his wife.[74] The appellant, however, ignored the subpoena and continued to stay in Kipulot, Bukidnon, under the pretext of preaching for the Seventh Day Adventist Church. He managed to elude arrest for more than a year until he was finally arrested in February 1994. The appellant cannot feign ignorance of the warrant for his arrest which was issued as early as November 1992. The policemen tried to serve the warrant of arrest on the appellant but the latter was nowhere to be found. The appellant himself testified that while he was in

Kipulot, his wife Anita Torres frequented the residence of her brother Cariño Torres to persuade them that she and the appellant would be the one to shoulder the expenses of Rizalyn's delivery, and to give support for the child.[75] The appellant was, therefore, constantly communicating with his wife, Anita Torres, and as such, the issuance of the warrant for her husband's arrest could not have escaped her attention. The appellant was fully aware of the pending charges against him. In fact, in the first week of September, he and his wife went to Rizalyn's residence for the purpose of pleading for forgiveness, in the hope that the latter would withdraw her complaint against the appellant. But Rizalyn and her family were resolute in prosecuting the case against the appellant.[76]

While we affirm the appellant's conviction, the trial court's decision must be modified with respect to the award of damages. We note that the trial court failed to specify and particularize the damages given to Rizalyn.

Evidently, as the text of the decision indicates, the amount of P50,000 was intended as indemnification to the private complainant. In accordance with current case law, we award Rizalyn civil indemnity in the amount of P50,000 for each count of rape,[77] or a total of P200,000 for all four counts. Civil indemnity is automatically granted once the fact of rape had been established. We also deem it proper to award the complainant moral damages in the amount of P50,000 for each count of rape. Moral damages are automatically granted to the victim in rape cases without need for further proof other than the commission of the crime.[78] The fact that the victim suffered the trauma of mental, physical and psychological sufferings which constitute the bases for moral damages is too obvious to still require the recital thereof at the trial by the victim, since the Court itself even assumes and acknowledges such agony on her part as a gauge of her credibility. Accordingly, for the appellant's conviction in the four criminal cases filed against him by the complainant, the latter is entitled to moral damages in the amount of P200,000.

The alternative aggravating circumstance of relationship under Article 15 of the Revised Penal Code cannot be considered in the instant case considering that the relationship between a step-grandniece and her step-grandfather is not one of the relatives specifically enumerated therein.[79]

Apropos the penalty imposed by the trial court, Article 335, paragraph 3 of the Revised Penal Code provides that whenever the crime of rape is committed with the use of a deadly weapon or by two or more persons, the penalty shall be reclusion perpetua to death.

In rape cases, "use of a deadly weapon" or "by two or more persons" are special aggravating circumstances. During the trial, the prosecution was able to prove that the appellant used a bolo to intimidate the victim into having sexual intercourse with him, once on June 12, 1992 and twice in July 1992. This circumstance was not, however, alleged in the information. Section 8[80] and Section 9[81] of Rule 110 of the Revised Rules on Criminal Procedure, as amended,[82] provides that aggravating as well as qualifying circumstances must be alleged in the information; otherwise, they cannot be considered in imposing the appropriate penalty against the accused even if proven during the trial. Being favorable to the accused, the said rule may be applied retroactively in this case. In any event, the death penalty, even if appropriate, may not be imposed, considering that its imposition was yet suspended at the time of the commission of the crimes under consideration.

Nonetheless, the circumstance of use of a bolo may be appreciated as basis for an award of exemplary damages in line with current jurisprudence.[83] Consequently, the victim is entitled to P25,000 as exemplary damages for each of the three counts of rape as she was intimidated by the appellant into sexual congress with the use of a bolo.[84]

IN LIGHT OF ALL THE FOREGOING, the September 23, 1999 Decision of the Regional Trial Court of Cagayan de Oro City, Branch 25, in Criminal Cases Nos. 92-2054, 92-2085, 92-2086 and 92-2087 is hereby **AFFIRMED** with **MODIFICATION**. The appellant Emiliano Capareda is **ORDERED** to pay the complainant

Rizalyn Torres Lufera for EACH count of rape the amount of P50,000 as civil indemnity; P50,000 as moral damages; and, P25,000 as exemplary damages.

SO ORDERED.

Quisumbing, (Acting Chairman), Austria-Martinez, and Tinga, JJ., concur.
Puno, (Chairman), J., on official leave.

[1] Penned by Judge Noli T. Catli.

[2] Exhibit "A;" Records, p. 2

[3] Exhibit "B;" Id. at 14.

[4] Exhibit "C;" Id. at 30.

[5] Exhibit "D;" Id. at 42.

[6] Id. at 63.

[7] Exhibit "G;" Records, p. 121.

[8] TSN, 2 December 1999, p. 3.

[9] Id. at 3; TSN, 3 December 1999, p. 6.

[10] TSN, 3 December 1999, pp. 6-7.

[11] TSN, 2 December 1999, p. 4.

[12] TSN, 17 August 1994, p. 5.

[13] TSN, 2 December 1999, p. 14.

[14] TSN, 3 December 1999, p. 7; TSN, 17 August 1994, p. 16.

[15] TSN, 3 December 1999, p. 9.

[16] Rizalyn was born on June 19, 1979. Exhibit "G;" Records, p. 121.

[17] TSN, 17 August 1994, p. 8; TSN, 3 December 1999, pp. 3-4.

[18] TSN, 3 December 1999, pp. 4-5.

[19] TSN, 2 December 1999, p. 4.

[20] Id. at 6.

[21] Id. at 4.

[22] Id. at 5-6.

[23] Id. at 6-8.

[24] Id. at 8-14.

[25] TSN, 17 August 1994, p. 6.

- [26] TSN, 2 December 1999, p. 15.
- [27] TSN, 17 August 1994, p. 7,
- [28] TSN, 19 August 1994, pp. 3-7; Exhibit “E;” Records, p. 119.
- [29] TSN, 17 August 1994, p. 11; TSN, 3 December 1999, p. 3; TSN, 20 December 1999, p. 8.
- [30] Exhibit “F,” Records, p. 120.
- [31] TSN, 16 September 1994, pp. 3-4.
- [32] TSN, 4 October 1995, pp. 12-16.
- [33] TSN, 8 June 1995, pp. 4-8.
- [34] Records, pp. 142-147.
- [35] Id. at 147.
- [36] Rollo, p. 108.
- [37] People v. Pepito, G.R. Nos. 147650-52, October 16, 2003.
- [38] People v. Dizon, 367 SCRA 417 (2001).
- [39] People v. Talavera, G.R. Nos. 150983-84, November 21, 2003.
- [40] People v. Umbana, G.R. Nos. 146862-64, April 30, 2003.
- [41] People v. Dagami, G.R. No. 136397, November 11, 2003.
- [42] People v. Molleda, G.R. No. 153219, December 1, 2003.
- [43] People v. Lambid, G.R. Nos. 133066-67, October 1, 2003.
- [44] TSN, 3 December 1999, pp. 13-15.
- [45] People v. Hermenio (Herminio) Canoy, G.R. Nos. 148139-43, October 15, 2003.
- [46] People v. Palarca, 382 SCRA 741 (2002).
- [47] People v. Rabosa, 273 SCRA 142 (1997).
- [48] People v. Puerta, 363 SCRA 684 (2001).
- [49] People v. Conde, 380 SCRA 159 (2002).
- [50] People v. Negosa, G.R. Nos. 142856-57, August 25, 2003.
- [51] People v. Manlod, 385 SCRA 134 (2002).
- [52] People v. Montefalcon, 305 SCRA 169 (1999).
- [53] People v. Galeno, 359 SCRA 180 (2001).
- [54] People v. Burgos, 370 SCRA 325 (2001).
- [55] TSN, 2 December 1999, pp. 4-13.
- [56] People v. Andrade, G.R. No. 148902, September 29, 2003.

- [57] People v. Pulanco, G.R. No. 141186, November 27, 2003.
- [58] People v. Binarao, et al., G.R. Nos. 134573-75, October 23, 2003.
- [59] People v. Pepito, G.R. Nos. 147650-52, October 16, 2003.
- [60] People v. Esperanza, G.R. Nos. 139217-24, June 27, 2003.
- [61] People v. Abon, G.R. No. 130662, October 15, 2003.
- [62] People v. Buates, G.R. Nos. 140868-69, August 5, 2003.
- [63] People v. Dalisay, G.R. No. 133926, August 6, 2003.
- [64] Before the effectivity of the Anti-Rape Law of 1997.
- [65] People v. Manalo, G.R. No. 143704, March 28, 2003.
- [66] People v. Sabredo, 331 SCRA 663 (2000).
- [67] People v. Flores, 372 SCRA 421 (2001).
- [68] People v. De la Cruz, 359 SCRA 667 (2001).
- [69] People v. Velasco, 353 SCRA 138 (2001).
- [70] People v. Viernes, 372 SCRA 231 (2001).
- [71] People v. Serrano, 353 SCRA 161 (2001).
- [72] People v. Jose, 307 SCRA 571 (1999).
- [73] TSN, 4 October 1995, pp. 21 & 23.
- [74] Id. at 22.
- [75] Id. at 24.
- [76] Id. at 23.
- [77] People v. Molleda, G.R. No. 153219, December 1, 2003.
- [78] People v. Dizon, G.R. No. 144053, December 11, 2003.
- [79] Article 15 of the Revised Penal Code provides:

Art. 15. Their concept. Alternative circumstances are those which must be taken into consideration as aggravating or mitigating according to the nature and effects of the crime and the other conditions attending its commission. They are the relationship, intoxication, and the degree of instruction and education of the offender.

The alternative circumstance of relationship shall be taken into consideration when the offended party is the spouse, ascendant, descendant, legitimate, natural, or adopted brother or sister, or relative by affinity in the same degree of the offender. (underscoring ours).

- [80] Sec. 8. Designation of the offense. – The complaint or information shall state the designation of the offense given by the statute, aver the acts or missions constituting the offense, and specify its qualifying and aggravating circumstances. If there is no designation of the offense, reference shall be made to the section or subsection of the statute punishing it.

[81] Sec. 9. Cause of the accusation. – The acts or omissions complained of as constituting the offense and the qualifying and aggravating circumstances must be stated in ordinary and concise language and not necessarily in the language used in the statute but in terms sufficient to enable a person of common understanding to know what offense is being charged as well as its qualifying and aggravating circumstances and for the court to pronounce judgment.

[82] The 2000 Rules on Criminal Procedure which took effect on December 1, 2000.

[83] *People v. Evina*, G.R. Nos. 124830-31, June 27, 2003.

[84] *People v. Catubig*, 363 SCRA 621 (2001).

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