

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. SALVADOR LOMERIO, DEFENDANT-APPELLANT.

G.R. No. 129074. February 28, 2000

Ponente: GONZAGA-REYES, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-129074/>

GONZAGA-REYES, J.:

Accused-appellant SALVADOR LOMERIO (hereafter SALVADOR) prays for the reversal of the Decision[1] of the Regional Trial Court of Antipolo, Rizal, Branch 74 dated January 16, 1977 finding him guilty of the crime of RAPE based on an Information which alleges:

"That on or about the 23[rd] day of March, 1993 in the Municipality of Antipolo Province of Rizal, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with lewd designs and by means of force and intimidation did then and there willfully, unlawfully and feloniously have sexual intercourse with a minor ten (10) years old girl, Leonila Bunagan, without her consent and against her will.

CONTRARY TO LAW."[2]

On August 22, 1994, SALVADOR entered a plea of not guilty upon arraignment, trial then proceeded with the prosecution presenting the following witnesses: Vilma Bunagan, mother of the victim, Leonila Bunagan (hereafter LEONILA), private complainant, Dr. Hesusa Nieves Vergara, Medico legal Officer, Camp Crame, Quezon City, Dr. Renato Bautista, Medico Legal Officer, NBI Manila, Marvie Bunagan, Concepcion Bahiawag, Social Worker and Roberto Bunagan. The prosecution offered Exhibits "A" to "G" as evidence.

The defense for its part presented SALVADOR as its lone witness and offered no documentary evidence.

The version of the People as presented by the Solicitor General narrates the details of the crime, viz:

"On May 23, 1993, Vilma Bunagan, together with her eldest son Roberto, went to her parents' house at Tuazon St., Marikina, Metro Manila to bring her two-year-old son who was sick. She left behind in their Antipolo house her other five children, namely, LEONILA, Marvie, Lotis, Marichu and Edmar, who were the ages 10, 8, 7, 6 and 1, respectively.

Worried that something bad could happen to her children while unattended by an adult companion, because her husband Mario was staying in Divisoria and working as a mason, Vilma instructed Roberto to fetch his younger brother and sisters from Antipolo. Roberto, however, failed to do so as he went for an interview for a job on the same day (TSN, Nov. 9, pp. 3-9; July 3, 1995, p.4).

At about 8:00 p.m., Vilma asked her youngest brother, Salvador Lomerio (SALVADOR), to fetch the children from Antipolo and bring them to Marikina. SALVADOR agreed and left that night for Antipolo in the company of Roberto (TSN, Nov. 9, 1994, pp. 7-8; Nov. 22, 1994, p.5; July 3, 1995, p. 3).

SALVADOR and Roberto arrived at the house in Antipolo at about 11:00 p.m. Roberto left behind SALVADOR who stayed for the night. LEONILA was awakened when the two arrived. LEONILA opened the door for SALVADOR and thereafter went back to sleep. SALVADOR stayed in the sala smoking cigarettes

while LEONILA and her brother and sisters were lying down. Later, SALVADOR took off his clothes and went near LEONILA. SALVADOR then got LEONILA's hands and pinned her down. After taking off her shorts and panty, SALVADOR placed himself on top of LEONILA and then forcibly inserted his organ in hers for a long time. LEONILA was hurting. All she could do was cry. SALVADOR went back to the sala and slept (TSN, Nov. 22, 1994, pp. 5-8).

Again, at about 12:00 midnight of the same date, Salvador went back to LEONILA and raped her for the second time. SALVADOR threatened LEONILA that he would kill all of them if she would report the rapes to anybody. Marvie was likewise raped by SALVADOR in the early morning of the following day (TSN, Nov. 22, 1994, pp. 8-10; March 13, 1995, pp. 3-5).

As if nothing untoward happened, Salvador instructed the children to dress up so they could go to Tuazon in Marikina and join their mother (TSN, Nov. 22, 1994, p.10)."[3]

Vilma Bunagan, the mother of LEONILA testified that she learned of the rape on March 25, 1993 from a "kumare", Anita Fernandez who heard of it from a certain Totoy, who is one of the playmates of Marvie, sister of LEONILA. When Vilma asked LEONILA, the latter confirmed that SALVADOR abused her. Vilma then brought Marvie and LEONILA to Camp Crame to have the two girls examined after which, she filed a complaint against SALVADOR with the Coge Police Station.

The examination conducted by Dr. Jesusa Nieves Vergara, Medico Legal Officer, Camp Crame, Quezon City reveals that LEONILA is in virgin state physically as there was an absence of external signs of recent application of violence although there are congestions or redness on the genital and sex organ of LEONILA which could have been caused by possible penetration on the labia minora.[4]

SALVADOR as the lone witness for the defense testified that on March 23, 1993, he was at the Bunagan's house to accompany the children of his sister. There was no bedroom in the house and the children slept on the floor in the main sala while he slept on one side near the window and was separated from the children. When he woke up at about 6:00 o'clock in the morning, he did not remember any unusual incident that happened on that night except that he accidentally touched the breast of LEONILA when he woke up. He apologized to her. SALVADOR believes that the accidental touching of LEONILA's breasts triggered the filing of the complaint for rape.

On January 16, 1997, the trial court found SALVADOR guilty of Statutory Rape. The dispositive portion of the judgment reads:

"WHEREFORE, the Court finds the accused Salvador Lomerio guilty beyond reasonable doubt of the offense of Statutory Rape as defined and penalized under Art. 335 (c) of the Revised Penal Code and considering against him two aggravating circumstances of nocturnity and abuse of confidence, accused Salvador Lomerio is hereby sentenced to suffer the indivisible penalty of Reclusion Perpetua (the offense was committed before the effectivity of the Heinous Crimes law); to pay the offended party P100,000.00 in moral damages, and to pay costs.

SO ORDERED."[5]

SALVADOR maintains his innocence and seeks the reversal of the quoted decision on these grounds:

I

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED FOR RAPE AS THERE WAS NO RAPE AT ALL.

II

THE TRIAL COURT GRAVELY ERRED IN GIVING FULL WEIGHT AND CREDENCE TO THE

TESTIMONIES OF THE VICTIM WHICH ARE UNNATURAL TO A PERSON HAVING BEEN ALLEGEDLY RAPED.

III

THE TRIAL COURT ERRED IN GIVING CREDENCE TO THE INCONSISTENT AND REHEARSED TESTIMONIES OF PROSECUTION WITNESSES.[6]

The overwhelming evidence of the prosecution against SALVADOR clearly establishes his guilt beyond reasonable doubt.

In claiming that no rape at all was committed, SALVADOR relies on some portions of the direct examinations of Vilma Bunigan, LEONILA, Dr. Jesusa Nieves, and Dr. Renato C. Bautista. SALVADOR also capitalizes on the medico legal finding that "complainant is in virgin state with no signs of injury in the genitalia" and concludes that "in the absence of these injuries, there is doubt that rape was committed against the victim".[7]

Contrary to SALVADOR's claim, the testimonies of Vilma Bunigan, LEONILA, Dr. Jesusa Nieves, and Dr. Renato C. Bautista, taken in their entirety tell a credible account of the rape of LEONILA by SALVADOR.

In a prosecution for rape, courts exercise circumspection in determining the credibility of the victim. If her testimony meets the test of credibility, the accused may be convicted on the basis thereof.[8] The convincing and credible testimony of LEONILA sealed the conviction of SALVADOR. Moreover, the prosecution also drew its strength from its other witnesses, particularly from Marvie, LEONILA's sister who saw how SALVADOR ravished LEONILA that fateful night. Marvie, then eight years old, was also allegedly raped by SALVADOR the morning after he raped LEONILA.

We recognize the doctrine that testimonies of rape victims who are of tender age are credible. The revelation of an innocent child whose chastity was abused deserves full credit as the willingness of the complainant to face police investigation and to undergo the trouble and humiliation of public trial is eloquent testimony of the truth of her complaint.[9] In this case, LEONILA was proven to be only ten years old when SALVADOR raped her.

Furthermore, the issue of credibility is best addressed to the trial court judge who observed first hand the demeanor and deportment of the witnesses. Appellate courts will not disturb the findings on the credibility, or lack of it, accorded by the trial court to the testimony of witnesses, unless it be clearly shown that the trial court had overlooked or disregarded arbitrarily certain facts and circumstances of significance in the case.[10]

SALVADOR insists that the inconsistencies in the testimony of LEONILA as to the location of the floor where she was sleeping on, which brother or sister woke up, or the size of the room, taint the credibility of LEONILA. We are not persuaded. The so-called lapses in the testimony of LEONILA are trivial and do not touch upon the material aspects of the crime.

We take note of the fact that the victim in this case is a child. Ample margin of error and understanding should be accorded to young witnesses who, much more than adults, would be gripped with tension due to the novelty of the experience of testifying before a court.[11] To LEONILA's credit, she was forthright and consistent in describing how SALVADOR raped her, as can be seen from the following:

"Q:

Do you recall anything that happened that night?

A:

He was then at the sala and smoking a cigarette while we were on the bedroom and already lying down. During

the night he took off is pants and went on top of me.

Q:

Where did Salvador take off his clothes, in the sala or in your room?

A:

At the sala, mam.

Q:

Where were you sleeping that night?

A:

On the floor, mam.

Q:

Where is the floor located in the bedroom or in the sala?

A:

In the bedroom.

Q:

Who were with you who were sleeping with you in the bedroom?

A:

Marvie, Lotis and Edmar.

Q:

You mentioned earlier that Salvador took off his clothes and then what did he do afterwards?

A:

He took off his clothes but I was then sleeping and he went near me and got my hands and pinned them down and he went on top of me and then he (witness demonstrating pumping motion).

Q:

Did he take off his clothes that night?

A:

Shorts and panty.

Q:

Did he take off your shorts and panty before he went on top of you?

A:

Yes, mam.

Q:

When you mentioned that he placed himself on top of you and pinned your arms. Did he insert his organ in

your sex organ?

A:

Yes, mam.

Q:

What did you do feel when he inserted his organ to your sex organ?

A:

It hurt and I cried and cried.

Q:

How long did he insert his organ to your sex organ?

A:

For a long time, mam.

Q:

What did you do?

A:

I cried and cried.

Q:

Did anyone of your brothers and sisters wake up due to your crying?

A:

There was, mam, my younger sister.

Q:

What is the name of your younger brother or sister who woke up?

A:

Edmar, mam.

Q:

Did you notice anyone of your brothers and sisters who also woke up that night?

A:

Yes, mam.

Q:

Who else woke up that night?

A:

He was the only one.

Q:

How long did he insert his organ to your sex organ?

A:

For a long time.

Q:

What did he do afterwards?

A:

After that he left.

Q:

And then what happened afterwards?

A:

He went to lay down in the sala and went to sleep.

Q:

Do you recall anything else that happened that night?

A:

There was at around 12:00 o'clock.

Q:

What happened at around 12:00 o'clock that night?

A:

He went back to me.

Q:

What did Salvador do to you?

A:

He again went on top of me.

Q:

Did he take off his clothes?

A:

He took off his shirt, but he did not take off his pants.

Q:

When he was on top of you at around 12:00 o'clock, did he take off his short?

A:

Yes, mam.

Q:

Did he take off your shorts or panty at around 11:00 o'clock?

A:

Yes, mam.

Q:

Did he insert his organ to your sex organ at around 11:00 o'clock?

A:

Yes, mam.

Q:

How long did he insert his organ to your sex organ?

A:

For a long time, mam.

Q:

What did you do?

A:

I cried and cried.

Q:

Did Salvador threaten you?

A:

Yes, mam.

Q:

What did Salvador tell you?

A:

That he was going to kill us whenever we reported.[12]

SALVADOR's defense that the only unusual thing that happened on the night of the rape was his accidental touching of LEONILA's breast cannot override LEONILA's positive assertion that SALVADOR defiled her. Denial is an intrinsically weak defense which must be buttressed by strong evidence of non-culpability to merit credence.[13] It is an established rule that an affirmative testimony is far stronger than negative testimony, especially so when it comes from the mouth of a credible witness.[14] Thus, SALVADOR's defense of denial cannot prevail over the unwavering and consistent testimony of LEONILA.

Moreover, Marvie corroborates LEONILA's testimony when the former testified that:

Q:

When you mentioned earlier that Salvador Lomerio pinned down the thighs of your sister, can you describe how he pinned down your sister?

A:

He used his two (2) thighs to pinned down the thighs of my ate, mam.

Q:

What exactly was he doing while he was pinning down the thighs of your sister?

A:

He was inserting his sex organ on the sex organ of my sister, mam.

Q:

And how did your sister react to this?

A:

She was crying, mam.[15]

In foisting the defense that no rape at all was committed, SALVADOR harps on the findings of the medico legal that LEONILA is in virgin state with no signs of injury in the genitalia. SALVADOR directs the attention of this Court to some portions of the testimonies of Dr. Jesusa Nieves and Dr. Renato C. Bautista to show that another object could have caused the congestion in LEONILA's sex organ. SALVADOR then impresses upon this Court the possibility that a finger of another person could have caused the redness in the labia minora of LEONILA. Contrary to SALVADOR's claim, Dr. Nieves and Dr. Bautista did not absolutely rule out rape as borne out by their testimonies:

DIRECT EXAMINATION OF DR. BAUTISTA:

Q:

Can you say something else about your conclusion is it conclusive, would it definitely preclude a conclusion that there was rape from this findings?

A:

Actually, mam, our job is only to state whether there was sexual intercourse or not.

Q:

So, from your findings could you surmise that there was sexual intercourse?

A:

I would say that there was a possibility that there was a sexual intercourse, your honor, but I would like to point out there is no medical evidence to prove that there was such.[16]

DIRECT EXAMINATION OF DR. NIEVES-VERGARA

Q:

What could have been the cause of this redness?

A:

Forcible entry of a hard blunt object.

Q:

So, what are usually the causes of a hard blunt object which could cause such congestion?

A:

An erect male sex organ, your honor.

Q:

So, what is your conclusion from your examination?

A:

Based on my findings my conclusion is that the victim is in virgin state physically.

Q:

When you said that the victim is in virgin state physically could you state in layman's term?

A:

I only mean to say that considering the absence of alteration on the hymen I consider the victim as virgin.

Q:

Are you aware of the concept of rape in legal jurisprudence?

A:

The slightest penetration even only the labia was touched by the male sex organ.

Q:

When you say labia which part of the female genitary is that?

A:

It is the outermost part of the upper lip.

Q:

Upper lip of?

A:

Upper lips of the female sex.

xxx

COURT:

Q:

With the congestion on the vestibule which you found, Doctor, is it your opinion that there is a possible penetration of the labia minora?

A:

Yes, your honor, a pressure was applied on the area.[17]

The term "carnal knowledge" as used in the Revised Penal Code, unlike its ordinary connotation of sexual intercourse, does not necessarily require that the vagina be penetrated or that the hymen be ruptured.[18] In fact, rape is deemed consummated even when the man's penis merely enters the labia or lips of the female organ, e.g., by "the mere touching of the external genitalia by a penis capable of consummating the sexual act".[19] In the case at bar, the straightforward and credible testimony of LEONILA as to how SALVADOR raped her and the medical finding that LEONILA's hymen suffered congestion due to the forcible entry of a hard blunt object, convince this Court with clear certainty that SALVADOR had carnal knowledge with LEONILA.

SALVADOR asserts that the testimonies of the witnesses of the prosecution were inconsistent and rehearsed. Again, SALVADOR merely relies on the selected portions of the testimonies of the prosecution witnesses[20] referring to certain details about the rape incident, i.e. whether it happened on the floor of the sala or the bedroom, whether there were three or five people in the bedroom, or whether she was awakened only by the cry of Elmer, whether a knife was used during the rape, but these details do not detract from the essential import of the testimonial evidence that LEONILA was raped by the accused-appellant on March 23, 1993. Although the responses were not perfect, it was reasonably ascertainable from the testimonies of LEONILA, Marvie and Robert that SALVADOR had a knife with him but was not holding any object in his hand while raping LEONILA, that when Marvie woke up, the rape was not yet finished. The other so-called inconsistencies relied upon by SALVADOR relate to minor matters and do not vitiate the finding that the rape was more than adequately proven. Errorless recollection of a harrowing incident cannot be expected of a witness especially when she is recounting details of an experience so humiliating and so painful as rape.[21] Moreover, the minor lapses contradict SALVADOR's claim that the testimonies were rehearsed. We believe that the lapses serve to strengthen rather than weaken the credibility of the witnesses because they erase any suspicion of coached or rehearsed testimony.[22] This Court has consistently held that where there is no evidence to show any dubious reason or improper motive why a prosecution witness should testify falsely against the accused or implicate him in a serious offense, the testimony deserves full faith and credit.[23]

It would be highly improbable for LEONILA, a ten-year-old girl, to cry rape against SALVADOR, her own uncle. By saying that she was raped, LEONILA also embroiled her own sister Marvie into the case when the latter corroborated LEONILA's testimony. Marvie's testimony revealed that SALVADOR also raped her the day after he raped LEONILA. These two young and inexperienced girls could not have woven an intricate story of defoliation that will forever mar their lives. Truly, they must have been impelled by a desire so strong as to let justice find its way.[24]

SALVADOR cannot also impute any ill motive on the part of the mother of LEONILA in pursuing this case against him. No mother in her right mind would subject her child to the humiliation, disgrace and trauma attendant to a prosecution for rape, if she were not motivated solely by her desire to incarcerate the person responsible for her child's defilement or if the same is not true.[25] In filing this case, Vilma Bunagan did not only expose her daughter LEONILA but also her other daughter, Marvie, to the ignominy that rape victims must face. Vilma Bunagan was not daunted by the fact that SALVADOR is her brother and that she would earn the wrath of their parents who have demanded that she retract the charge against SALVADOR. To our mind, the mother's zeal in prosecuting this case evinces the truth that she merely seeks justice for her daughter whose honor has been debased.

In a feeble attempt to overturn the judgment of conviction, SALVADOR questions the composed behavior of LEONILA after the rape. We have time and again declared that there is no standard form of behavior that is expected of rape victims right after they have been defiled because people react differently to emotional stress.[26] This experience is relative and may be dealt with in many ways by the victim depending on the

circumstances, but her credibility should not be tainted with any modicum of doubt.[27]

Based on the testimonies of LEONILA and Marvie, prior to March 23, 1993, SALVADOR had repeatedly raped them. According to LEONILA, she was five years old when SALVADOR began to rape her.[28]

The rape that occurred on March 23, 1993 was just the last of the many rapes that SALVADOR committed against LEONILA. It is therefore not difficult to fathom the psychological trauma that LEONILA experienced every time her uncle would sexually abuse her. SALVADOR's threat to kill LEONILA and her family if she would tell anyone of the rape[29] naturally frightened the child-victim. The silence or "composed reaction" of LEONILA as SALVADOR describes it, does not therefore impair her claim that he raped her.

SALVADOR also faults Marvie for not helping LEONILA if the former truly saw him rape LEONILA. This reasoning must likewise fail. Marvie, was only eight years old when she witnessed the rape on March 23, 1993. Marvie could have been gripped by fear when she saw the accused rape LEONILA.

The trial court therefore correctly ruled that SALVADOR is guilty beyond reasonable doubt of the offense of Statutory Rape and should suffer the penalty of reclusion perpetua. Article 335 of the Revised Penal Code applies to this case because the rape was committed prior to the passage of the Heinous Crimes Law.[30] Article 335 states that rape is committed by having carnal knowledge of a woman under any of the following circumstances:

- By using force or intimidation;
- When the woman is deprived of reason or otherwise unconscious; and
- When the woman is under twelve years of age even though neither of the circumstances mentioned in the two next preceding paragraphs shall be present.

The birth certificate[31] of LEONILA shows that she was born on November 10, 1982 and this was admitted by SALVADOR during the formal offer of evidence.[32] Since the prosecution established that LEONILA was only ten years old when the rape occurred on March 23, 1993, the crime SALVADOR committed falls under the third paragraph of Article 335.

We do not, however agree with the trial court that the aggravating circumstances of nighttime and abuse of confidence are present in this case. The elements of nocturnity as an aggravating circumstance are: (a) when it facilitated the commission of the crime; or (b) when especially sought by the offender to insure the commission of the crime or for the purpose of impunity, or (c) when the offender took advantage thereof also for purposes of impunity.[33] There are two tests for nocturnity as an aggravating circumstance: the objective test, under which nocturnity is aggravating because it facilitates the commission of the offense; and the subjective test, under which nocturnity is aggravating because it was purposely sought by the offender.[34] These two tests should be applied in the alternative.[35] In this case, the subjective test is not passed because there is no showing that SALVADOR purposely sought the cover of nighttime. The mere fact that the rape was committed at nighttime with nothing more does not make nocturnity in this particular case an aggravating circumstance.

As to the aggravating circumstance of abuse of confidence, it is essential to show that confidence between the parties must be immediate and personal, such as would give the accused some advantage or make it easier for him to commit the criminal act.[36] The confidence must be a means of facilitating the commission of the crime, the culprit taking advantage of the offended parties' belief that the former would not abuse said confidence.[37] In this case, the bare allegation that the victim's mother asked SALVADOR to fetch her children from Antipolo to Marikina does not prove that she reposed such confidence in SALVADOR that he could have used to his advantage in committing the crime.

The aggravating circumstance that is present in the case at bar is relationship since LEONILA is the niece of SALVADOR. In crimes against chastity, such as rape, relationship is aggravating.[38] However, the penalty herein of reclusion perpetua would not be affected because it is an indivisible penalty which must under Article 63 of the Revised Penal Code, be applied regardless of any mitigating or aggravating circumstance that may have attended the commission of the crime of rape.[39]

In accordance with current rulings, accused-appellant SALVADOR must pay civil indemnity in the amount of P50, 000.00 and moral damages in the amount of P50,000.00 which is automatically granted in rape cases, separate and distinct from the indemnity.[40]

WHEREFORE, the decision of the Regional Trial Court of Antipolo, Rizal, Branch 74, in Criminal Case No. 93-9893 is hereby AFFIRMED with the MODIFICATION that accused-appellant is ordered to pay Leonila Bunagan the amount of P50,000.00 as indemnity and P50,000.00 as moral damages.

SO ORDERED.

Melo, (Chairman), Vitug, Panganiban, and Purisima, JJ., concur.

[1] Per Judge Francisco A. Querubin.

[2] Rollo, p. 1.

[3] Records, pp. 91-93.

[4] TSN, March 6, 1995, p. 8.

[5] Records, p. 26.

[6] Ibid., p. 43.

[7] Ibid., p. 48.

[8] People vs. Lacaba, G.R. No. 130591, November 17, 1999, citing People vs. Cragto, 253 SCRA 455 (1996).

[9] People of the Philippines vs. Mengote, G.R. No. 130491, March 25, 1999 citing People vs. Baculi, 246 SCRA 756 (1996); People vs. Junio, 237 SCRA 826 (1994); People vs. Victor, 292 SCRA 186 (1998).

[10] People vs. Sagun, G.R. No. 110554, February 19, 1999, citing People vs. Tahuyan, 218 SCRA 464 (1993) citing People vs. Simbulan, 214 SCRA 537 (1992).

[11] People vs. Garigadi, G.R. No. 110111, October 26, 1999, citing People vs. De la Cruz, 276 SCRA 352 (1997), citing People vs. Salazar, 221 SCRA 170 (1993).

[12] TSN, November 22, 1994, pp. 189-192.

[13] Sagun, supra, citing People vs. Burce, 269 SCRA 293 (1997).

[14] Ibid., citing People vs. Antonio, 233 SCRA 283 (1994).

[15] TSN, March 13, 1995, pp. 234-235.

[16] TSN, March 6, 1995, p. 225.

[17] TSN, March 6, 1995, pp. 6-8.

[18] People vs. Quiñanola, G.R. No. 126148, May 5, 1999.

[19] Ibid., citing People vs. Cabebe, 290 SCRA 543 (1998); People vs. De la Peña, 233 SCRA 573 (1994) cited in People vs. Castromero, 280 SCRA 421 (1997).

[20]

LEONILA BUNAGAN

Q:

Do you recall anything that occurred that night?

A:

He was then at the sala and smoking a cigarette while we were on the bedroom and already lying down.

Q:

Where were you sleeping that night?

A:

At the sala.

Q:

Where were you sleeping that night?

A:

On the floor, mam.

Q:

Where is the floor located, in the bedroom or in the sala?

A:

In the bedroom. (TSN, dated 11/22/94, p. 6)

xxx

Q:

Did he take off his clothes that night?

A:

No, mam. (TSN dated 11/22/94, p.7)

Q:

Did anyone of your brothers o sisters wake up due to your crying?

A:

There was, mam, my younger sister.

Q:

What is the name of your younger brother or sister who woke up?

A:

Edmar, mam.

xxx

Q:

Who else woke up that night?

A:

He was the only one. (TSN dated 11/22/94, p. 8)

Q:

How many rooms do you have?

A:

Two (2) rooms, mam.

xxx

Q:

So you were four then sleeping in that room. How many beds are there inside that room?

A:

There were two beds.

Q:

How big was that bed?

A:

It is big, mam.

Q:

Miss witness, when you sleep, who is sleeping beside you?

A:

Marvie and Lotis.

Q:

So you were three then in that room?

A:

We are five, mam. (TSN dated 11/22/94, p. 21)

Q:

Now Miss witness, when you stated that your uncle put himself on top of you, does he has any object in his hand?

A:

None, mam.

xxx

Q:

When you were crying, did your brothers and sisters notice that you were crying then?

A:

No, mam, it was only Edmar. (TSN dated 11/22/94, p. 23)

MARVIE BUNAGAN

Q:

And what did Salvador say if any?

A:

He told me that if we tell anybody, he is going to kill us, mam.

Q:

Did Salvador Lomerio have a knife with him?

A:

Yes, mam. (TSN dated 3/13/95, p. 5)

xxx

Q:

So you mean to say that only after the incident that you were awoken because of the cry of Edmar?

A:

Yes, mam.

Q:

You did not actually see what was happening before Edmar cried?

A:

Yes, mam. (TSN dated 3/13/95, p. 9)

Q:

When you were awoken by the cry of Edmar, all the things already happened between your uncle and your sister Ate Leonila?

A:

When I woke up it was not yet finished, mam. (TSN dated 3/13/95, p. 11)

ROBERT BUNAGAN

Q:

Did Leonila Bunagan tell you that she was raped on March 23, 1993?

A:

Yes mam, she told me.

xxx

Q:

Did she tell you if the accused was holding any instrument in threatening her?

A:

He was holding a biente nueve, mam. (TSN dated 7/3/95, pp. 5 and 6)

[21] *People vs. Calayca*, 301 SCRA 192 (1999), p.200.

[22] *Garigadi*, supra, citing *People vs. Pamor*, 237 SCRA 462 (1994); *People vs. Padilla*, 242 SCRA 629 (1995); *People vs. Conde*, 252 SCRA 681 (1996).

[23] *Quiñanola*, supra, citing *People vs. Banguis*, G.R. No. 121626, June 28, 1996.

[24] *People vs. Rivera*, G.R. No. 130607, November 17, 1999 citing *People vs. Vitor*, 245 SCRA 392 (1995); *People vs. Dado*, 244 SCRA 655 (1995).

[25] *People vs. Siulvano*, G.R. No. 127356, June 29, 1999 citing *People vs. Romua*, 272 SCRA 818 (1997); *People vs. San Juan*, 270 SCRA 693 (1997); *People vs. Zaballero*, 274 SCRA 627 (1997); *People vs. Bugarin*, 273 SCRA 384 (1997).

[26] *Sagun*, supra.

[27] *Ibid.*, citing *People vs. Luzorata*, 286 SCRA 487 (1998).

[28] TSN, November 22, 1994, pp. 14-18.

[29] TSN, November 22, 1994, p.192.

[30] Republic Act No. 7659 took effect on December 31, 1993.

[31] *Rollo*, Exhibit "A", p.90.

[32] *Ibid.*, p. 101.

[33] *People vs. Narciso*, 262 SCRA 1(1996), p. 11.

[34] *People vs. Parazo*, 272 SCRA 512 (1997), p. 525 citing *People vs. Garcia*, 94 SCRA 14 (1979) and *People vs. Palon*, 127 SCRA 529 (1984).

[35] *Ibid.*

[36] *People vs. Gelera*, 277 SCRA 450, p. 460. Citing *US vs. Torida*, 23 Phil 189 (1912) and *US vs. Luchico*, 49 Phil 689 (1926); *People vs. Hanasan*, 29 SCRA 534 (1969).

[37] *Ibid.*

[38] *People vs. Perez*, 270 SCRA 526 (1997), p. 536 citing *People vs. Porres*, 58 Phil 578 (1993); *People vs. Lucas*, 181 SCRA 316 (1990)

[39] Ibid., pp. 536-537, citing *People vs. Matrimonio*, 215 SCRA 613 (1992) citing *People vs. Porres*, *supra*; *People vs. Lucas*, *supra*.

[40] *Garigadi*, *supra*.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.