

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. REGALADO BURLAT Y BANAWA ALIAS &#8220;DADONG&#8221;; ACCUSED-APPELLANT.**

*G.R. No. 129238. February 22, 2001*

Ponente: PARDO, J.

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**PARDO, J.:**

The case is an appeal from the decision[1] of the Regional Trial Court, Oroquieta City, Branch 13 convicting Regalado Burlat y Banawa of rape, sentencing him to reclusion perpetua and to pay the victim, Judith v. Masayon, the amount of thirty thousand pesos (P30,000.00) and the costs.

On May 14, 1996, Assistant Provincial Prosecutor Cecilia S. Carriaga-Omandam of Oroquieta City filed with the Regional Trial Court, Oroquieta City an information charging Regalado Burlat y Banawa alias "Dadong" with rape, committed as follows:

"That on or about October 21, 1995, at about 3 :00 o ' clock in the afternoon, more or less, in barangay New Cartagena, municipality of Plaridel, province of Misamis Occidental, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, armed with deadly weapon, by means of violence and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of the complainant JUDITH V. MASA YON, a 15-year old minor, against her will.

"CONTRARY TO LAW, with the presence of aggravating circumstance of using a deadly weapon in the commission of rape."[2]

At the arraignment on June 10, 1996, accused Burlat pleaded not guilty to the crime charged.[3] Trial ensued.

On October 21, 1995, at around 3:00 in the afternoon, Judith Masayon went to the store of accused Regalado Burlat near her house in Barangay New Cartagena, Plaridel, Misamis Occidental. She needed to buy matches for cooking. Judith arrived at the store and found accused Burlat tending the store alone and drinking "Kulafu," a local wine. The store of accused was part of the kitchen of his house. When Judith tendered her payment for the matches, she was standing near the door of the store leading to the kitchen. Suddenly, accused Burlat grabbed her hands and pulled her inside the kitchen. Once inside, accused Burlat took hold of a knife and threatened Judith by saying, "Try to shout and I will stab you with the knife." [4] Then, accused Burlat closed the door of the store. Meanwhile, Judith managed to take a burning piece of wood from the stove and thrust it at accused Burlat. However, accused was able to parry the thrust with his knife. He gained possession of the burning wood and returned it to the stove. He boxed Judith twice on her lower right shoulder, causing her to fall to the ground. Before she could get up, accused Burlat boxed her again on her thighs. Then, he removed Judith's skirt and panty. He removed his short pants. He mounted her and forced her thighs to spread open. He held his penis and inserted it in Judith's sex organ. She felt excruciating pain and lost consciousness. She regained consciousness at around 5:00 in the afternoon and found herself still in the kitchen of accused Burlat. She saw her panty and skirt beside her. She noticed accused Burlat in the sala. When accused Burlat realized that she was already awake, he warned

her not to tell her mother about the incident, or else, he would cut her tongue. She went home and kept the incident to herself. When she reached her house, she was alone because her mother was in another town, Looc, and her father was in Maigo.

Several months later, or on March 3, 1996, Judith's mother noticed that her daughter's stomach had grown big. She brought Judith to a midwife who, after examining her concluded that she was pregnant. It was then that Judith told her mother about the rape. Judith was thereafter taken to the police authorities to report the crime. Judith executed a sworn statement, on the basis of which a complaint for rape was filed against accused Burlat. Judith and her mother proceeded to the provincial hospital at Oroquieta City for further examination. Dr. Georgina Sta. Maria conducted an examination of Judith and issued a medical certificate, stating that the patient had a fetus inside her womb. On June 16, 1996, Judith gave birth to a baby girl, but the baby died two weeks after delivery .

Judith alleged that she never ventured near the house of accused Burlat after the rape even if her parents worked for accused by picking and gathering coconuts. Judith also stated that accused Burlat threatened her even after the incident, when they saw each other in church and once near the river of the town while she was washing her clothes.

On the other hand, accused Regalado Burlat, 65 years old, vehemently denied that he raped Judith Masayon. According to him, on October 21, 1995, he was not at home because he left for Looc, a neighboring barangay, at around 1:00 in the afternoon to deliver bamboo sticks ordered by Eleuterio Loquero.[5]

At around 2:00 in the afternoon, accused Burlat arrived at the house of Eleuterio Loquero, in Looc, Plaridel, Misamis Occidental. After being paid for the bamboo sticks, accused Burlat walked to the market place, about half a kilometer away from Loquero's house to buy fish. Thereafter, he went home. He went to the terminal area where motorcabs for Sibolen were parked, waiting for passengers to transport. Finally, at around 4:00 of the same afternoon, the vehicle whereon the accused rode left Looc. Thereafter, he proceeded to his house by riding a carabao. He reached his house at around 5:00 in the afternoon.[6]

After due trial, on January 30, 1997, the trial court rendered a decision, the dispositive portion of which states:

"WHEREFORE, premises considered, the Court finds accused Regalado Burlat guilty beyond reasonable doubt of the crime of rape, defined and penalized under Article 335 of the Revised Penal Code, amended by Republic Act No. 7659, and there being no aggravating circumstance, and considering further that the complainant was only fifteen years old during the commission of the crime, said accused Regalado Burlat y Banawa alias "Dadong" is hereby sentenced to an imprisonment of RECLUSION PERPETUA, with the accessory penalties provided by law, to indemnify the victim the amount of P30,000.00 and to pay the costs. Said accused must be credited according to law of the time that he was placed under preventive imprisonment."[7]

Hence, this appeal.[8]

In his brief, accused-appellant Regalado Burlat invokes the defense of alibi and claims that several witnesses can attest to his absence at the scene of the crime at the time of the alleged incident. He also contends that the trial court should not have given credence to Judith Masayon's testimony because of her delay in reporting the alleged rape and the inconsistent statements therein.

We find the defenses untenable.

"The crime of rape is essentially one committed in relative isolation or even secrecy, hence, it is usually only the victim who can testify with regard to the fact of the forced coitus."[9] Thus, the conviction or acquittal of the accused virtually depends on the credibility of the complainant's testimony. If found credible, the lone declaration

of facts given by the complainant would be sufficient to sustain a conviction.[10]

After a review of the evidence, we find that the trial court properly accorded due weight and credence to Judith's testimony. Generally, the trial court's assessment of the credibility of the witnesses is accorded great respect and will not be disturbed on appeal unless a material or substantial fact has been overlooked or misappreciated, which may alter the outcome of the case. In this instance, we examined the record and are convinced that accused-appellant committed the crime charged.

Accused-appellant's claim that the testimony of Judith Masayon was replete with inconsistencies can not be sustained. On the contrary, we find that the alleged inconsistencies are minor in nature and further showed that the statements were not fabricated. Such inconsistencies in fact bolstered the credibility of the victim.

Moreover, there was no showing of any ill-motive on the part of the complainant to falsely impute a serious charge to accused-appellant. It is highly inconceivable that a young barrio lass "would fabricate a charge of defloration, allow a medical examination of her private parts, subject herself to public trial, and tarnish her family's honor and reputation unless she was motivated solely by a potent desire to seek justice for the wrong committed against her." [11] Accused-appellant himself admitted that he had no disagreement or differences with Judith or with her parents. Where there is no evidence to show any dubious reason or improper motive why a prosecution witness would testify falsely against an accused or falsely implicate him in a crime, the testimony is worthy of full faith and credit.[12]

Accused-appellant's alibi cannot prevail over the positive testimony of the prosecution witness and her clear identification of accused-appellant as the perpetrator of the crime.[13]

The failure of the victim to immediately report the incident to her family or to the police authorities does not detract from her credibility or indicate a fabricated charge.[14] The six month delay was due to the threats of accused-appellant. It is not uncommon for rape victims to conceal for sometime the assaults on their virtue or person because of the rapist's threats on their lives.[15]

Article 335 of the Revised Penal Code, as amended by RA 7659, provides that rape is committed when the offender has carnal knowledge of a woman by using force or intimidation. 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. Finding accused-appellant guilty of rape, we shall sentence him to reclusion perpetua, considering the absence of aggravating or mitigating circumstances to modify the penalty.

The trial court granted an award of P30,000.00 in favor of the victim, without denoting its purpose. In accordance with recent jurisprudence, an award of P50,000.00 should be given to the victim by way of civil indemnity.[16] Further, moral damages may be awarded in the amount of fifty thousand (P50,000.00) pesos for the suffering endured by the victim because of the bestial act committed against her.

WHEREFORE, the Court AFFIRMS with modification the conviction of accused Regalado Burlat y Banawa for rape. The Court hereby sentences him to reclusion perpetua, with all the accessory penalties of the law, and to pay the victim, Judith Masayon, the amount of fifty thousand (P50,000.00) pesos as civil indemnity and fifty thousand (P50,000.00) pesos as moral damages, and costs.

### **SO ORDERED.**

Davide, Jr., C.J., Puno, Kapunan, and Ynares-Santiago, JJ., concur.

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[1] In Criminal Case No. 1329-13-1031, Judge Vicente T. Baz, Jr., presiding.

- [2] Trial Court Record, p. 1.
- [3] Certificate of Arraignment, Trial Court Record, p. 45.
- [4] TSN, July 23, 1996, p. 4.
- [5] TSN, September 2, 1996, p. 3.
- [6] TSN, September 10, 1996, pp. 4-6.
- [7] Trial Court Record, p. 136.
- [8] Notice of Appeal, Rollo, p. 138.
- [9] *People v. Quijada*, 321 SCRA 426, 432 [1999], citing *People v. Sagun*, 303 SCRA 382 [1999].
- [10] *People v. Barbera*, G.R. No. 130609, May 30, 2000.
- [11] *People v. Mitra*, G.R. No. 130669, March 27, 2000.
- [12] *People v. Babera*, *supra*, Note 10.
- [13] *People v. Cortes*, G.R. No. 129693, January 24, 2000.
- [14] *People v. de Guzman*, G.R. No. 124368, June 8, 2000.
- [15] *People v. Baltazar*, G.R. No. 115990, March 31, 2000, citing *People v. Tayaban*, 296 SCRA 497, 509 (1998) and *People v. Bartolome*, 296 SCRA 615, 628 (1998).
- [16] *People v. Cambi*, G.R. No. 127131, June 8, 2000.

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