

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. DANTE GAUFO Y DILAO, APPELLANT.

G.R. No. 132146. March 10, 2004

Ponente: SANDOVAL-GUTIERREZ, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-132146/>

SANDOVAL-GUTIERREZ, J.:

This is an automatic review of the Decision[1] of the Regional Trial Court, Branch 255, Las Piñas City in Criminal Case No. 94-2210 convicting Dante Gaufo y Dilao, appellant, of statutory rape and sentencing him to suffer the penalty of death. He was likewise ordered to indemnify the victim the sum of P50,000.00 and to pay the costs.

The Information[2] filed against appellant reads:

“That on or about the 6[th] day of February 1994, in the Municipality of Las Piñas, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, by means of force and intimidation, did then and there wilfully, unlawfully and feloniously have carnal knowledge with one Imee Comandao y Bito, a ten (10)-year old minor female, against her will.

“Contrary to law.”

Upon being arraigned, appellant, with the assistance of his counsel de oficio, pleaded not guilty to the crime charged.[3] Pre-trial proceedings having been terminated, trial on the merits ensued.

Imee Comandao, complaining witness, testified that in the afternoon of February 6, 1994, appellant, whom she called “Kuya Dante,” was drinking liquor with her father Rogelio Comandao and two others in their house located at Lily Street, San Antonio Valley 17, Talon, Las Piñas City. About 3:00 o’clock that same afternoon, she was asked by her mother to buy chicharon at the nearby store.[4] She borrowed appellant’s bicycle and, together with her sister and cousin, proceeded to the store.[5] Appellant followed them. Upon reaching the store, he invited Imee to a bicycle ride.[6] He then instructed her sister and cousin to bring home the chicharon. When appellant and Imee reached a grassy vacant lot along Dama de Noche Street in the same village, they stopped and alighted from the bicycle. He told her to follow him to his house to get money.[7] Imee refused, explaining that she had to be home as she would still wash the dishes. But he did not allow her to go.[8] Just when she was about to leave, he struck the back of her head with a piece of wood. She fought back and shouted for help. At that instance, he boxed her belly, causing her to fall and faint.[9] Later, when she regained consciousness, she found herself on a woman’s lap inside a tricycle on its way to a hospital. Imee felt pain all over her body, especially in her sex organ then bleeding. She observed she was not wearing her underwear anymore.[10]

That same day, about 3:30 in the afternoon, Nonito Dagohoy, a resident of 22 Dama de Noche St., also in San Antonio Valley 17, was on his way home after playing basketball. He heard a young girl groaning at a grassy area near the basketball court.[11] Immediately, he searched the place and saw a man, whom he identified as the appellant, naked and was on top of Imee who was lying on the grass. He noticed that appellant was punching her face and body.[12] Fearing that appellant might be armed, Nonito hurriedly left the place and called the people

near the area for assistance. They surrounded the grassy area and waited for appellant to come out.[13] Nonito managed to crawl quietly through the grass and saw appellant perspiring profusely. Before appellant could put on his brief (tainted with blood) and pants, Nonito held him and called his companions. Appellant tried to fight back but they were able to subdue him.[14] They brought him to the basketball court and tied him to a post until the police arrived. They then helped Imee who was still unconscious. Her dress was torn and her face, body and sex organ were bleeding. They immediately brought her to the hospital.[15]

Rogelio Comandao, Imee's father, recounted that at noontime of February 6, 1994, he was at home drinking liquor when appellant arrived on his bicycle and joined him.[16] He knows appellant who works in a rattan factory located in the neighborhood. His children call him "Kuya Dante." [17] An hour after, two other visitors joined them.[18] Around 3:00 o'clock that same afternoon, appellant suddenly left without any explanation.[19] Later that same afternoon, Rogelio came to know that his daughter Imee was raped and was brought to the Perpetual Help Medical Center in Las Piñas.[20] So he rushed to the hospital and saw Imee being treated. She told him that her injuries were inflicted by "Kuya Dante" (referring to appellant).[21] Later, she was transferred to the Philippine General Hospital, Manila.[22]

On February 7, 1994, Dr. Ludivino J. Lagat, Medico-Legal Officer of the National Bureau of Investigation, Manila, examined Imee. His Medico-Legal Report Living Case No. MGO-94-01[23] states:

"PHYSICAL EXAMINATION:

x x x, semi-conscious, x x x.

"PHYSICAL INJURIES:

Abrasions, still with small amount of blood clots all reddish; 9.0 x 3.0 cms., right side, lower portion; 2.0 x 1.0 cms., right elbow, 2.0 x 1.0 cms., left elbow, 3.0 cms., shoulder, right, linear.

Contusion, 4.0 x 2.0 cms., post-auricular area, left.

Contused-abrasion, 3.0 x 2.0 cms., right orbit 3.0 x 2.0 cms., left orbit 12.0 x 6.0 cms., right cheek 10.0 x 8.0 cms., left cheek.

Contusion hematoma, left pinna.

Lacerations, 2.0 cms., left mandible, left side, 1.0 cms. left gingival 1.5 cms. gingiva-buccal area, left side.

"GENITAL EXAMINATION:

x x x, Labia majora and minora, edematous, coaptated. Fourchette, tense, congested with laceration. Vestibular mucosa, congested. Hymen, short, thin, with deep laceration at 7:00 o'clock position corresponding to the face of a watch, edges of which are sharp and congested, bleeding on slight touch. Hymenal orifice, admits a tube, 2.0 cms. in diameter. Vaginal walls, tight with abrasion at the posterior fornix. Rugosities, prominent.

"CONCLUSION:

- The above-described physical injuries were noted on the body of the subject at the time of examination, ages of which are compatible with alleged date of infliction (Feb. 6, 1994).

- Fresh hymenal lacerations."

Dr. Lagat, on the witness stand, identified and confirmed the above findings. He testified that Imee was still in a semi-conscious state when he examined her. The hymenal laceration at 7:00 o'clock position in her vagina could

have been caused by a penetration of a “fully erect male sex organ.”[24]

SPO2 Nicolas Maamo identified the articles recovered at the scene of the crime, such as the bloodstained brief,[25] the bicycle,[26] the ball cap,[27] the sunglasses[28] – all belonging to appellant – and Imee’s pair of slippers.[29]

Appellant, 24 years old and single, vehemently denied the charge. He testified that on February 6, 1994, at past 3:00 o’clock in the afternoon, he was at Dama de Noche St., San Antonio Valley, Las Piñas City looking for Imee who earlier borrowed his bicycle. He then heard a shout somewhere at a grassy area where he used to pass by to get rattan. When he checked the place, he found Imee lying unconscious. Suddenly two persons punched him at his chin and face, causing him to pass out. After he regained consciousness, he carried Imee to bring her home. At this juncture, a passerby shouted, “Rapist!” Instantly, several persons arrived and mauled him. They then tied him to a post at the basketball court. Two policemen brought him to the police station. He explained that his brief has bloodstains because the persons who mauled him smeared his brief with Imee’s blood.[30]

On January 5, 1998, the trial court rendered its Decision, the dispositive portion of which reads:

“WHEREFORE, and in the light of the foregoing, the Court finds the accused DANTE GUAFO y DILAO guilty beyond reasonable doubt of the crime of statutory rape and he is hereby sentenced to suffer the penalty of death, to indemnify the victim and her family the sum of P50,000.00 and to pay the costs.

“SO ORDERED.”

In this appeal, appellant ascribes to the trial court the following errors:

“I

THE COURT A QUO COMMITTED REVERSIBLE ERROR IN CONVICTING THE APPELLANT OF STATUTORY RAPE NOTWITHSTANDING THE WEAKNESS OF THE PROSECUTION’S CIRCUMSTANTIAL EVIDENCE; and

II

THE COURT A QUO ERRED IN IMPOSING THE DEATH PENALTY ON THE APPELLANT DESPITE THE ABSENCE OF ANY QUALIFYING OR AGGRAVATING CIRCUMSTANCE IN THE INFORMATION.”[31]

Article 335 of the Revised Penal Code, as amended by Republic Act No. 7659, provides:

“Art. 335. When and how rape is committed. – 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 or is demented.

The crime of rape shall be punished by reclusion perpetua.

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.

x x x”

The elements of rape under the above provisions are: (1) the offender had carnal knowledge of a woman; and (2)

such act was accomplished through force or intimidation; or when the victim is deprived of reason or otherwise unconscious; or when the victim is under 12 years of age or is demented.[32]

Appellant contends that there is no eyewitness to prove the commission of rape. He argues that while Imee testified that he boxed her belly, causing her to lose consciousness, such testimony does not establish that he had carnal knowledge of her. Moreover, the circumstantial evidence presented by the prosecution is insufficient to warrant his conviction of rape.

We are not convinced.

In determining the guilt or innocence of the accused in cases of rape, the courts have been traditionally guided by three settled principles, namely: (a) an accusation for rape is easy to make, difficult to prove and even more difficult to disprove; (b) in view of the intrinsic nature of the crime, the testimony of the complainant must be scrutinized with utmost caution; and (c) the evidence of the prosecution must stand on its own merits and cannot draw strength from the weakness of the evidence for the defense.[33]

We have carefully scrutinized the records of the instant case. Unfortunately, the evidence on record negates appellant's contention. We find that the testimonies of the witnesses for the prosecution, combined together, clearly point to the appellant as the one who raped Imee.

- As recounted by Imee, she and appellant were together that late afternoon of February 6, 1994. He invited her to ride on his bicycle. When they reached a grassy vacant lot, he stopped and alighted from his bicycle. He asked her to follow him. When she refused, he hit her head. She was able to fight back and shout for help, but he punched her abdomen, causing her to lose consciousness.
- Upon regaining her bearing, Imee noticed she had no more underwear and she felt pain all over her body, especially in her vagina then bleeding.
- Imee's account was corroborated by Nonito Dagohoy. Just about the same time of the incident, he was passing along that grassy vacant lot when he heard a groaning of a young girl. When he scanned the area, he saw appellant, naked and on top of Imee lying on the ground. Nonito likewise noticed that appellant was beating her.
- Nonito left the place to call for assistance. He came back with some people and they surrounded the area. He quietly crawled through the grass and saw appellant heavily perspiring and about to put on his brief smeared with blood. At this moment, Nonito and his companions seized him.
- Nonito and his companions then helped Imee, who was lying unconscious, with no underwear. There was blood on her face, body, and genital organ. They rushed her to the hospital.
- At the hospital, Imee revealed to her father that her injuries were inflicted by appellant.
- Recovered at the scene of the crime were appellant's bloodstained brief, bicycle, ball cap and sunglasses, as well as Imee's pair of slippers.
- The Medico-Legal Report and testimony of Dr. Ludivico J. Lagat show that Imee's hymen had deep fresh hymenal lacerations which could have been caused by a penetration of an erect penis. The injuries all over her body were inflicted by appellant as she struggled to resist his attack.

Undoubtedly, the above circumstances constitute an unbroken chain which leads to one fair and reasonable conclusion that appellant, to the exclusion of any other person, perpetrated the crime charged.[34] The sequence of events, as established by the testimonies of prosecution witnesses, negates the possibility that a person other than the appellant committed the crime. Indeed, the combination of all these circumstances, or circumstantial

evidence, produces a conviction beyond reasonable doubt that appellant is guilty of rape.[35]

Appellant's defense that other unknown persons raped Imee cannot be given credence. It is too unconvincing and obviously a concoction – a product of a desperate attempt to exculpate himself from criminal liability. Certainly, it cannot overcome the categorical and positive testimony of the victim that it was appellant who dragged her to the grassy area, hit her with a piece of wood, and punched her abdomen until she fainted. She cannot be mistaken of his identity since she knows him well – she even calls him “Kuya Dante.” To be sure, there is no proof or any indication that Imee and the rest of the prosecution witnesses were animated by improper motive in testifying against appellant. We have held that where there is no evidence and nothing to indicate that the principal witnesses for the prosecution were impelled by any improper motive, the presumption is that they were not and that their testimonies are thus entitled to full faith and credit.[36]

The trial court correctly appreciated the credibility of the prosecution witnesses. It did not err in rejecting appellant's version, finding it “not worthy of faith and credit.” Once again, we must reiterate the familiar rule that the task of taking on the issue of credibility is a function properly lodged with the trial court, whose findings are entitled to great weight and accorded the highest respect by the reviewing courts, unless certain facts of substance and value were overlooked or misappreciated such as would alter the conviction of the appellant.[37] There is no such fact of substance and value in this case.

We find, however, that the trial court erred in concluding that the crime committed by appellant is statutory rape. While the Information alleges that Imee was 10 years old when the crime was committed on February 6, 1994, the prosecution failed to present her Certificate of Live Birth or any other evidence to prove her age.[38]

As regards appellant's second assigned error, we agree with his contention that the trial court erred in imposing upon him the penalty of death. The trial court considered the use of a piece of wood as a deadly weapon and, therefore, a qualifying circumstance. Suffice it to state that, as a rule, in order that a qualifying or aggravating circumstance may be appreciated, it must be alleged in the Information and proven during trial.[39] Here, no such circumstance has been alleged in the Information which justifies the imposition of death. Thus, the proper imposable penalty is reclusion perpetua as provided in Art. 335 of the Revised Penal Code, as amended, quoted earlier.

With respect to appellant's civil liability, the trial court correctly awarded the victim P50,000.00 as civil indemnity. Such award is mandatory upon the finding of the fact of rape.[40] The victim should also be awarded P50,000.00 as moral damages without need of pleading or proof of basis thereof.[41]

WHEREFORE, the appealed Decision dated January 5, 1998 of the Regional Trial Court, Branch 255, Las Piñas City in Criminal Case No. 94-2210 is hereby **AFFIRMED** with **MODIFICATION** in the sense that appellant Dante Gaufo y Dilao is found guilty beyond reasonable doubt of simple rape and is sentenced to suffer the penalty of reclusion perpetua.

Appellant is ordered to pay complainant Imee Comandao P50,000.00 as moral damages, in addition to the civil indemnity of P50,000.00 awarded by the trial court.

Costs de oficio.

SO ORDERED.

Davide, Jr., C.J., Vitug, Quisumbing, Ynares-Santiago, Carpio, Austria-Martinez, Corona, Carpio-Morales, Callejo, Sr., Azcuna, and Tinga, JJ., concur.
Puno, J., on leave.

Panganiban, J., on official leave.

[1] Penned by Judge Florentino M. Alumbres; Rollo at 21-33.

[2] RTC Records at 1.

[3] Id. at 39.

[4] Transcript of Stenographic Notes (TSN), October 3, 1994 at 9-11, 23-24; January 18, 1995 at 5.

[5] TSN, October 3, 1994 at 11, 24.

[6] Id. at 9, 20.

[7] Id. at 11-14.

[8] Id. at 14-15.

[9] Id. at 15-16.

[10] RTC Decision dated January 5, 1998, RTC Records at 234.

[11] TSN, September 5, 1994 at 4-8.

[12] Id. at 8-9.

[13] Id. at 11.

[14] Id. at 12, 34.

[15] Id. at 13; RTC Decision, *supra* at 233.

[16] TSN, September 5, 1994 at 17-18.

[17] Id. at 29-31.

[18] Id. at 19.

[19] Id. at 29.

[20] Id. at 6-8.

[21] Id. at 9-12.

[22] RTC Decision, *supra* at 234.

[23] Exhibit “E,” RTC Records at 199.

[24] TSN, April 20, 1995 at 4-5, 7-8, 11-13, 16, 18.

[25] Exhibit “G-2-A.”

[26] Exhibit “H.”

[27] Exhibit “I.”

[28] Exhibit “J.”

[29] Exhibit “K.”

[30] TSN February 17, 1997 at 2-8.

[31] Rollo at 61.

[32] Eduardo Limos y de Vera, G.R. Nos. 122114-17, January 20, 2004.

[33] People vs. Orquina, G.R. No. 143383, October 8, 2002, 390 SCRA 510; People vs. Carlito Marahay, G.R. Nos. 120625-29, January 28, 2003, citing People vs. Amante, G.R. Nos. 149414-15, November 18, 2002.

[34] People vs. Geron, G.R. No. 113788, October 17, 1997, 281 SCRA 36.

[35] People vs. Whisenhunt, G.R. No. 123819, November 14, 2001, 368 SCRA 586, 605, citing People vs. Casingal, 337 SCRA 100 (2000).

[36] People vs. Charles Joy Flores, G.R. No. 137497, February 5, 2004, citing People vs. Constantino, 235 SCRA 384 (1994).

[37] People vs. Ilagan, G.R. No. 144595, August 6, 2003.

[38] People vs. Pruna, G.R. No. 138471, October 10, 2002, 390 SCRA 577, 604.

[39] People vs. Baroy, G.R. Nos. 137520-22, May 9, 2002, 382 SCRA 56; People vs. Codilla, G.R. Nos. 100720-23, June 30, 1993, 224 SCRA 104.

[40] People vs. Escaño, G.R. Nos. 140218-23, February 13, 2002, 376 SCRA 670; People vs. Arizapa, G.R. No. 131814, March 15, 2000, 328 SCRA 214.

[41] People vs. Baroy, *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.