

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ADRIANO
SEGUIS A.K.A. “JUNIOR”; ROSALITO ESTEBE A.K.A.
“DODONG”; RODRIGO DOQUILA A.K.A.
“LOLONG”; (AT LARGE), ELMER CANICO (AT ...**

G.R. No. 135034. January 18, 2001

Ponente: PUNO, J.

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PUNO, J.:

Juliet A. Magamayo, a nineteen-year-old barrio lass from an obscure town in Surigao del Norte complains that she has been ravished, then robbed by seven men, who, following her accounts, were definitely no Romeos. She claims they did not only forcibly take her gold ring, they stole her innocence as well. She claims they did not only dispossess her of a gold bracelet, they also divested her of her sense of security. She claims they did not only deprive her of her last remaining fifty pesos, they denied her furthermore a future.

Juliet pointed to the following men as the ones who committed the outrage against her womanhood: Adriano Seguis a.k.a. Junior, Rosalito Estebe a.k.a. Dodong, Rodrigo Doquila a.k.a. Lolong, Elmer Canico, Loloy Gibertas, Berfel dela Cruz, and a certain John Doe. They were charged with the crime of robbery with multiple rape and were indicted in an Amended Information which reads:

"That on or about August 19, 1995, in Barangay Togbongon, City of Surigao, Philippines and within the jurisdiction of this Honorable Court, the above named accused, conspiring, confederating together and with mutual understanding with one another, with lewd designs and by means of force and intimidations (sic), did then and there willfully, unlawfully and feloniously have carnal knowledge of Juliet A. Magamayo, while the latter was already sleeping, by taking turns in raping her against her will and without her consent and on same occasion, accused with intent to gain and by means of violence and intimidation, took, stole and carried away the following personal belongings of Juliet A. Magamayo, to wit:

1. Gold bracelet

P 500.00

2. Gold ring

4,000.00

3. Cash money

50.00

T O T A L

P 4,550.00

in the total amount of FOUR THOUSAND FIVE HUNDRED FIFTY (P4,550.00) PESOS, Philippine currency, to the damage and prejudice of said Juliet A. Magamayo in the aforesaid amount of P4,550.00 and such other damages as may be allowed by law.

Contrary to law.

Surigao City, Philippines, August 21, 1995."[1]

Of the seven accused, the record reveals that five of them remain at large. Only the first two were placed under the custody of the authorities: Seguis and Estebe, and they are the appellants in this case. During arraignment, both entered a plea of NOT GUILTY. Trial then proceeded.

The prosecution's version of the story is based mainly on the private complainant's recollection of what happened that dreadful night. The offended party is one Juliet A. Magamayo, a nineteen-year old unmarried girl residing at San Jose, Mainit, Surigao del Norte. According to her, in the afternoon of August 18, 1995 at about 3 o'clock, she went to Barangay Togbongon, Surigao City, a few kilometers away from the city proper. Her purpose was to collect a loan of fifty pesos from Michael Balantucas, a friend of long standing whom she met when she was still staying with her elder sister in Togbongon. She arrived there after approximately one hour of travel. As customary with friends, they exchanged pleasantries and stories, and basically caught up with old times. A while later, accused Loloy Gibertas and Elmer Canico who were on their way to fetch water passed by the house. Michael introduced them to Juliet. They shook hands and talked a little before the two eventually left. Michael then invited Juliet to stay in their home for the night because darkness was closing in. Michael was living with his younger brother Rolando and younger sister Lilibeth since their parents already died. Juliet agreed as she has slept in the place before. She thought that it was too late and perilous to go back home.

Little did Juliet know that, in a cruel twist of fate, danger would visit her in the very refuge where she sought safety. Following a dinner of cooked bananas plus a few more stories, she and the Balantucas siblings prepared to retire. Juliet and Lilibeth slept in the house's only bedroom, which was lighted by a kerosene lamp. Michael was just outside the room's doorway while Rolando stayed in the sala. At about midnight, Juliet was awakened by the noise brought about by the commotion of five men who entered the house. She got up and saw Rodrigo Doquila pointing a knife at the throat of a crouching Michael. She noticed that Lilibeth was not beside her anymore as it turned out that the young girl went to the kitchen to relieve herself. Afraid, she shouted for help to Michael who understandably could not do anything being himself mentally preoccupied with, in a manner of speaking, saving his own neck.

At this juncture, Elmer Canico grabbed the hair of Juliet and commanded her to lie down on the floor. Loloy Gibertas held her right hand even as someone else was holding her left. She struggled and twisted her body, so another man had to restrain her legs. Elmer Canico removed his pants and brief, and knelt in front of her. He stripped Juliet of her pants and underwear before continuing to place himself on top of the woman. He inserted his penis into her vagina then made a push and pull movement. Feeling pain, she fought to free herself. She kicked her legs but Canico did not seem to mind a bit. After satisfying his lust, he stood up and put on his pants. He replaced Loloy Doquila in guarding Michael with a knife.

The next time, it was Doquila who introduced his penis into the lady's private part. Perhaps realizing the futility of her struggle, Juliet tried to appeal to their sense of mercy. She begged him to stop, mainly because of the pain. This also proved fruitless. He made the same push and pull movements stopping only afterwards when he was able to satisfy his lust. Doquila was replaced by Loloy Gibertas who had coital intercourse with the hapless victim. Again she resisted and shouted for help. The men around her told her to remain silent if she does not want to get killed. Shortly, Gibertas stood up and informed Berfel dela Cruz that it was his turn. Like the others before

him, and like the others soon to follow, he forced himself on Juliet. When he had his fill, the unidentified man also had sexual contact with her.

Almost after the five predators finished ravaging their prey, Adriano Seguis and Rosalito Estebe came into the room. Juliet already knew them even before this incident. She recognized the two that night by means of a flashlight which Estebe brought to illuminate the area. Earlier, the small kerosene lamp had been extinguished by the five men. As expected, Estebe laid himself on top of the girl, who fought weakly against her new tormentor. He rammed his penis into her vagina. He got up on his feet only after some minutes of sexual activity. Then Elmer Canico returned to the bedroom and Juliet heard him announce that it was his turn again. For the second time that early morning, he succeeded in copulating with her. The last one to have carnal knowledge of Juliet against her will was Adriano Seguis. The latter inserted his male organ into her private part and performed the same push and pull maneuverings using his buttocks. The victim begged him to stop for she could not bear it anymore. Seguis told her to keep quiet.

When Seguis was done, he rose to his feet and went to the kitchen. He came back with a plate of rice which he gave to the sobbing lady. Juliet pretended to eat the rice only so that she would not be raped anymore. She did not utter a word but cried a river of tears over her heartbreaking experience. She requested Seguis to help her up and she sat down in a corner. Rosalito Estebe was seated on a nearby trunk. When Seguis tried to blame her for what took place, she answered that the five men sexually abused her. Michael appeared and Juliet asked him how it happened. Michael replied that he also did not know because they were all asleep when the incident started. Seguis and Estebe warned them not to tell anybody of what transpired otherwise they might all be killed. It was about one o'clock in the morning when the two remaining accused left.

Juliet discovered later on that she had been despoiled of her gold ring worth P4,000.00 and her gold bracelet worth P500.00. Furthermore, her cash money amounting to P50.00 was no longer in her pant's pocket. She admitted though that she was not aware who among the accused carried away the aforementioned personal belongings while she was being assaulted by them.

The prosecution presented two other witnesses who corroborated Juliet's testimony. Michael Balantucas confirmed that the seven accused indeed illegally entered their house and took turns in sexually defiling Juliet. The rapes were committed right before his eyes. He observed how one by one each of them was able to impose his own bestial will against the lady. He very much wanted to help his visitor whom he only invited that night. But as much as he wanted to, he could not do anything, since all the while that the rape was going on, somebody was pointing a knife at his throat. He was practically rendered impotent by the threat that something bad might happen to him or his siblings.

For her part, Lilibeth Balantucas recounted, among other things, that she woke up at around midnight to answer a call of nature. She went to the kitchen to urinate when five men suddenly entered the bedroom. She identified them to be the accused Elmer Canico, Lolong Doquila, Loloy Gibertas and Berfel dela Cruz. However, she did not know the fifth person. Tagging along were Adriano Seguis and Rosalito Estebe who pulled and dragged her out of the house. She was able to recognize them because of the light coming from an electric bulb located in the kitchen. Outside, Seguis and Estebe ordered her to keep quiet, or else they would kill her. Out of extreme fear, she did not make any sound. After about one hour, they also went inside the room. Lilibeth remained where she was as they told her not to move.

Going back to Juliet's testimony, it appears that later in the morning of August 19, 1995, someone fetched Francisco Pecante, a member of the local CVO, who initially investigated the incident. Then he sought Perfecto Pagas, the barangay captain of Togbongon. Together, they brought the victim to the Surigao Provincial Hospital

where she was physically examined and medically treated.

The attending physician, Dr. Panfilo Jorge Tremedal III, testified that on August 19, 1995, he was a resident doctor of the hospital. He checked up the person of Juliet Magamayo who complained that she has been raped. Among his findings was an abrasion of the labia majora. In his expert opinion, the injury could have probably been caused by a blunt object like an erect human penis. Another member of the medical staff was also presented by the prosecution: Elsa Adlawan who was employed as a medical technologist by the hospital. She declared that on the same date, she received a vaginal specimen taken from Juliet for a laboratory evaluation for the presence of spermatozoa. After conducting the required tests, she determined the said specimen to be positive for spermatozoa.

With the prosecution resting its case, the defense made its counter-presentation of the facts. It first offered Nilda Cabug-os, who, per her own declaration, is a friend of the victim but not related to her. She recalled that Juliet arrived at her house in Togbongon at about four o'clock in the afternoon of August 18, 1995, purportedly to collect a sum of money Michael Balantucas owed her. They have only conversed for a brief moment when Juliet went her way, returning after about two hours in the company of a male escort, one Jeffrey Lerio. Later, Juliet would again leave the house with Jeffrey for an undisclosed destination. By the time the clock struck eight, Juliet came back to the house. As a matter of hospitality, Nilda extended an invitation to her guest to spend the night in their abode, which invitation Juliet readily accepted. The latter was already sleeping when some young men came to drop by. She rose to entertain her visitors. More than that, she went out with them. And although she asked Nilda's permission, she did not say where they were going. It was the last time she saw her that night.

The next morning greeted Nilda with a neighbor's story that Juliet allowed herself to have sexual intercourse with several men in the house of Michael Balantucas. She replied that she and her husband cautioned her about going out so late in the night but Juliet's persistence made them yield. She remembered that Juliet was wearing maong pants and a blouse on the day of the incident. She also wore a cheap wristwatch worth about P35.00, a small belt worth approximately P30.00, a headband and shoes made of cloth. She did not notice any fancy jewelry.

Another witness, Perfecto Pagas, gave evidence that he is a barangay kagawad of Togbongon for three years, although a tricycle driver by vocation. He came to know of Juliet not only because she is a frequent passenger but allegedly due to her reputation in the locality of associating herself with different men. According to Pagas, sometime in March 1995, Juliet complained to him in the office of the barangay council that she was raped by five men. She did not identify any names. The complaint was not pursued as he heard later on that she has been paid. He admitted too that he failed to enter the complaint in the official records on the excuse that Juliet anyway did not return anymore.

In his defense, the accused Adriano Seguis testified that on March 9, 1995, Juliet approached him and made a request for him to bear witness in a rape case she was about to file. It was not clear whether this is the same incident of the alleged rape that she complained to Kagawad Pagas. He claimed that it was the first time that they met, although they became acquaintances after. At any rate this is not the reason why he refused her. He simply had no knowledge of the incident.

Seguis must have felt history repeating itself right before his very eyes. On the morning of August 19, 1995, at 6 a.m., he arrived at the residence of Michael Balantucas. He went there together with his co-accused Rosalito Estebe pursuant to a prior agreement that they would help Michael in harvesting his crop of palay. In the uncanniest of coincidences, Juliet, who was already there when he arrived, again was apparently involved in another case of rape which happened the previous night, and once more asked him to testify for her. This time the request was coupled with a threat that she would implicate him in the legal action if he refused to cooperate. For

the second time in as many instance, he rejected her plea. For scorning her twice, he incurred her fury. She made good her threat and implicated him.

In an unexpected turn of events, the defense called to the witness stand Michael Balantucas who previously testified for the prosecution. He was this time singing a different tune. He claimed that his conscience was bothering him, and he could not suffer the burden of seeing two innocent men go to jail. That is why he elected to testify even though he was aware that he was courting criminal prosecution in changing his testimony. Michael recanted his former testimony by declaring that in the evening of August 18, 1995, he was staying at his house with Juliet and his siblings, Rolando and Lilibeth, when at around ten o'clock, five men arrived. These five were the accused Lolong Doquila, Elmer Canico, Loloy Gibertas, Berfel dela Cruz, and a certain Rolando Ezperanza. They had a talk with Juliet wherein it was agreed that they would "rent"[2] her (i.e., have sex with her) that night for a fee of one thousand pesos. While the lady supposedly kept her part of the bargain, the men did not. Instead they even had the audacity to take her bracelet and wristwatch when they left at about two o'clock dawn. Juliet was enraged. She wanted to bring her "customers"[3] to court not to collect the bill but to charge them with rape. When Seguis and Estebe arrived the next day, she asked the three of them (including Michael) to testify in her behalf, otherwise she would implicate them. As far as Michael knows, he was the only one who acceded to the lady's demand.

Rosalito Estebe basically towed the same story line as the two other witnesses. He testified that he knows Juliet as she often comes to Togbongon where he lives. One time, on March 1995, he saw her engage in sexual intercourse with multiple partners in their barrio. He himself did not take part in the orgy. Later, she asked him to be her witness as she intended to file rape charges against the persons who had sex with her. He refused as he heard that she has been paid the sum of P1,000.00. Subsequently on May 14, 1995, which was the fiesta in Togbongon, Juliet again requested him to be a witness in the complaint for rape she has filed against Ricky Antallan, Michael Balantucas, Jeffrey Lerio, Lolong Doquila, Elmer Canico and Berfel dela Cruz. When he rejected her, she implicated him in the present case.

In rebuttal, Juliet denied that she agreed to have sex with anyone for P1,000.00. She reiterated her stand that she was abused by all seven men. Furthermore, it is not true that she merely implicated Seguis and Estebe after the two declined to be her witnesses. Both also had sex with her.

After trial, the lower court pronounced the following sentence:[4]

"WHEREFORE, premises considered, the Court finds each of the accused, Adriano Seguis or Adriano Seguis Jr. and Rosalito Estebe, guilty beyond reasonable doubt as a principal (sic) of the crime of simple rape under Article 335 of the Revised Penal Code, and hereby sentences each of them to suffer the penalty of reclusion perpetua; and to pay one-half of the costs.

Each of the said accused is ordered to indemnify the victim, Juliet Magamayo, in the amount of P50,000.00 for the rape committed by him."[5]

Hence, the present appeal. In their brief, appellants raised the lone assigned error, to wit:

"THE LOWER COURT ERRED IN FINDING THE ACCUSED-APPELLANTS GUILTY THOUGH NOT OF THE CRIME CHARGED BUT ONLY OF SIMPLE RAPE WITHOUT THEIR GUILT HAVING BEEN PROVED BEYOND REASONABLE DOUBT."

It is to be noted that the accused in this case were originally indicted for the felony of robbery with multiple rape, a special complex crime punishable under Art. 294, par. 1 of the Revised Penal Code and which is committed "when the robbery shall have been accompanied by rape." The said provision, needless to say, covers cases of multiple rapes.[6] This is primarily due to the fact that the juridical concept of this crime does not limit the

consummation of rape against one single victim or to one single act, making other rapes in excess of that number as separate, independent offense or offenses. All the rapes are merged in the composite, integrated whole that is robbery with rape, so long as the rapes accompanied the robbery. It does not matter too whether the rape occurred before, during, or after the robbery.

Still and all, this does not change the nature of the felony. It is essentially a crime against property. The following are its elements: (1) the taking of personal property is committed with violence or intimidation against persons; (2) the property taken belongs to another; (3) the taking is done with *animo lucrandi*; and, (4) the robbery is accompanied by rape. To sustain a conviction, it is imperative that the robbery itself must be conclusively established; just as the fact that it was the accused who committed it be proved beyond reasonable doubt. The prosecution must be able to demonstrate the level of their participation with legal and moral certainty, including the existence of a conspiracy, if any. Otherwise, those who were charged should be acquitted, at least for the robbery. Proof of the rape alone is not sufficient to support a conviction for the crime of robbery with rape.

This is exactly the factual conclusion of the trial court, whose findings, to reiterate, "are accorded great weight and respect as trial judges are undeniably in the best position to weigh the declaration of witnesses in light of their opportunity to observe physically the witnesses' conduct and attitude during trial." [7] Thus said the court:

"x x x However there is no sufficient evidence pointing to the herein two accused as the ones who divested the victim of her money and valuables. The complainant herself admitted that she did not know who among the many accused took her gold ring, bracelet and cash. All that she became aware of after her horrible experience was she no longer had the aforementioned items.

x x x There is a complete lack of evidence pointing to Adriano Seguis or Rosalito Estebe as the ones who took the valuables in question. In the absence of proof of conspiracy among the accused to commit the crime of robbery, they are liable only for their own separate and individual acts."

But the lower court's finding of their non-participation in the robbery does not mean that they are totally guiltless. They will still be held accountable for whatever unlawful acts they may have committed, and for which acts they were charged. In a criminal action for robbery with rape, where the prosecution failed to prove the robbery or the participation of the accused in it, the latter may still be convicted for the rape. As already mentioned, the trial court has ruled that the appellants had carnal knowledge of the private complainant by using force and intimidation. It convicted them of one count of rape each because there was no showing that they conspired or assisted each other in committing those rapes.

We affirm the conviction.

This Court has steadfastly adhered to the rule that when a woman testifies that she has been raped, and if her testimony meets the test of credibility, the accused may be convicted on the basis thereof. [8] A rape victim who testifies in a categorical, straightforward, spontaneous and frank manner, and remains consistent, is a credible witness. [9] If her story had only been contrived, she would not have been so composed and consistent throughout her entire testimony in the face of intense and lengthy interrogation. [10] In the case at bar, the victim gave a direct and straight narration of the events which only evinces the truthfulness of her testimony. Her story is corroborated on its material points by an impartial and unbiased witness, Lilibeth Balantucas, who has absolutely no personal interest in the outcome of this suit. Also, the medical evidence is consistent with the theory that the complainant had been a victim of rape.

In addition, Juliet's credibility is bolstered by her instantaneous report of the crime to the police. The incident occurred in the early morning of August 19, 1995, and the very next day, or on August 20, 1995, she executed her affidavit before the authorities of the Surigao City Police.

Besides, the appellants failed to prove any ulterior or improper motive which could have induced the victim and her witness to testify against or falsely implicate them in the commission of the crime.[11] Indeed, if an accused had really nothing to do with the crime, it is against the natural order of events and human nature and against the presumption of good faith that the prosecution witness would falsely testify against the former.[12] Thus, we adhere to the established rule that in the absence of any evidence to show that the witnesses for the prosecution were actuated by any improper motive, their identification of the accused-appellants should be given full faith and credit.[13]

Appellants' defense that they were merely implicated by Juliet as they refused to testify in her favor is far from convincing. Both of them testified that they are not even close friends of Juliet. As correctly pointed out by the Solicitor-General, "It is quite contrary to human experience that a woman would narrate to somebody how she was used sexually for a fee (and was not paid) and thereafter request said person whom she hardly knew to testify in her favor to support her complaint." [14] Also, such motive if availing is attributable only to Juliet. The same cannot be imputed to the other vital witness Lilibeth, who, to repeat, does not have any interest in this case and yet explicitly declared that appellants were among the seven men who went to their house the night of August 18, 1995.

In support of their lone assignment of error, the accused advanced several arguments designed to destroy the credibility of the witness herself and then her testimony. We are not impressed by these arguments.

I

Appellants' basic submission is a mere restatement of their defense. They assert that they were not present at the scene of the crime during the supposed moment that it was unfolding. On the contrary, they arrived there only at six o'clock the following morning allegedly to help Michael Balantucas harvest his palay.

Such submission must fail for obvious reasons. We have ruled that the defense of alibi is inherently weak and crumbles in the light of positive declarations of truthful witnesses who testified on affirmative matters that the accused-appellants were at the scene of the incident and were the victim's assailants and perpetrators of the crime.[15] In the present case, the appellants were positively identified by the victim, thus:

"Prosec. Menor : After that person was finished, what happened next?

Juliet : Then Adriano Seguis and Rosalito Estebe went up the house.

Q : Did they enter the room?

A : Yes, sir. Rosalito entered the room first.

Q : By the way, do you know personally Rosalito Estebe?

A : Yes, sir.

Q : For how long have you known him prior to the incident?

A : A long time, sir.

Q : In Barangay Togbongon?

A : Yes, sir.

Q : You knew him because you have stayed in Togbongon, Surigao City?

A : Yes, sir. It was Jolly who introduced (sic) to me.

Q :

How were you able to recognize that it was Rosalito Estebe and Adriano Seguis who entered the room?

A : Because Rosalito and Adriano called for Michael "Tol".

Q : My question, how were you able to recognize Rosalito Estebe and Adriano Seguis.

A : Estebe was bringing (sic) a flashlight.

Q : How about Adriano Seguis?

A : He was there sitting near the head of Michael.

Q : Was the room still lighted at that time.

A : No more, sir, only the flashlight.

Q : Did you see the face of Rosalito Estebe?

A : Yes, sir.

Q : How were you able to see the faces of Adriano Seguis and Rosalito Estebe?

A : The light from the flashlight was moving around.

Q : Are you very sure that the two persons who came late were Adriano Seguis and Rosalito Estebe?

A : Yes, sir."[16]

In addition, there is the testimony of Lilibeth Balantucas, pointing to the two appellants as among those who entered their house at around midnight. Her testimonial narrative proved that Seguis and Estebe were in the Balantucas' residence at precisely or about the same time Juliet was being raped. It forthrightly contradicted the assertions of the two that they arrived there only about six o'clock in the morning of the next day. According to her:

"x x x

Prosec. Menor: You said you slept at about 12:00 (sic) o'clock in the evening, what time did you awake up?

Lilibeth:

At 12:00 because I want to urinate.

Q : Where did you go after you wake (sic) up?

A : To the kitchen.

Q : When you reached the kitchen of your house, what happened next?

A : Then some men entered our room.

Q : How many were they?

A : Five persons.

Q : How about you?

A : I was outside because I was afraid and I was pulled.

Q : By whom?

A : Dodong Estebe, Adriano Seguis.

Q : Including Estebe and Seguis, how many persons were there in the house, all in all?

A : Seven persons.

Q : What did Seguis and Estebe do to you?

A : Seguis and Estebe held my hands and told me to keep quite or they would kill me.

x x x

Q :

Considering that it was nighttime, how were you able to recognize them when they were able to drag you outside?

A : Because there was a light.

Q : Light from what?

A : From electric bulb.

Q : And where was that electric bulb located or placed?

A : Outside.

Q : Are you referring to the post?

A : No, sir, it was came from our kitchen.

Q : Kitchen of your house?

A :

Yes, sir."[17]

Moreover, the defense of alibi is an issue of fact that hinges on credibility, the relative weight of which the trial court assigns to the testimony of the witnesses. Such assessment, unless patently and clearly inconsistent, must be accepted, for verily a careful evaluation of the record does not reveal that the trial court's rejection of the defense of alibi is inconsistent with the evidence on record.[18]

Lastly, it puzzles this court why the appellants, despite their plea of alibi, never testified as to their whereabouts the night of August 18, 1995. Neither did they present any witness who can plausibly confirm that they were indeed in another place at that period. For the defense of alibi to be appreciated, it is not enough to prove that the accused was somewhere else when the offense was committed. It must likewise be shown that he was so far away that it was not possible for him to be physically present at the place of the crime or its immediate vicinity at the time of its commission. The rule is settled that for the defense of alibi to prosper, the requirement of time and place must be strictly met.[19]

II

Appellants contend that private complainant is not credible as she is known in the locality as a "scheming 19-year old woman, of loose morals, engaged in the oldest trade, and wise in her ways with the world." [20] Consequently, it is a misplaced gesture of sympathy and compassion to consider her truthful and a paragon of a Filipina's inbred modesty and Christian virtues. The record, however, is bereft of any evidence that Juliet is a woman for hire,

except for the statements of witnesses Nilda Cabug-os, Perfecto Pagas, and appellant Rosalito Estebe to the effect that she is often seen in the company of men. These recitals by themselves cannot be made sufficient basis for accepting the veracity of the allegation. Greater amount of quantitative and qualitative proof is needed.

Moreover, it is unlikely that even a prostitute would agree to have sex continuously with five to seven men for one night for a fee of P1,000.00. And it is even more unlikely that she would go to the extent of filing a case against them, two of whom are acquaintances, have her parts physically examined, and testify in court how she was ravaged by them just to get even for their failure to pay. Obviously, the reason why Juliet went to court and opted to suffer the ordeal of being interrogated on her harrowing experience is to obtain justice.

III

Appellants next call our attention on the so-called badges or telltale signs of a perfected contract for sexual services between Juliet and the accused. The appellants would like to impress upon this Court that an agreement would lend credence to their theory that she allowed herself to be used that night by five men who in turn reneged on their word of paying her. As a consequence of which, she was left with no choice but to file this action and include the appellants as well for refusing her request to be her witnesses. In the alternative, the agreement should demonstrate that if there was any sexual activity participated in by the woman and the appellants, it was at least consensual.

First. They argue that if it were true that Juliet was raped no less than eight times and by seven different men, she should have sustained more injuries than mere superficial linear abrasion on the labia majora. This should manifest that every intercourse was done, not with force and intimidation, but with care and finesse. Suffice it to say that the absence of external signs of physical injuries does not negate rape.[21] This is especially true if we take into consideration that two men held Juliet's hands while she was being raped in succession. Be that as it may, whatever wounds she might have suffered is consistent with the hypothesis that she was raped. As opined by Dr. Tremedal, an acknowledged expert witness, her scars, by their very nature, must have been caused by a blunt object hitting the vagina with force, such as an erect male penis during sexual intercourse.

Second. Appellants ask how come Seguis and Estebe preferred not to rape Lilibeth Balantucas herself who was already at their complete control during the time that complainant was allegedly being gang-raped by the other five accused inside the room? Why did they wait for the five to finish and leave behind in the process a "fresh, sweeter, and younger"[22] Lilibeth? They claim that this is unnatural for people driven by lust and bestial desire, unless there was a prior arrangement made by them with the victim. We are not persuaded. Lust is not a respecter of time, place and circumstances, nor of persons and relationships,[23] and neither is it a conformist to reason and good taste, nor common sense even. When a man is overcome by lustful passions, certainly it would be too much to expect that he will still concern himself with the age, scent or appearance of his prospect.

Third. Appellants contend that Juliet's act of telling Adriano Seguis, before she was raped by the latter, that she could not take it anymore is indicative of the existence of a prior agreement with the seven accused for a fee of P1,000. Again, the argument lacks merit. When Juliet told Seguis that she could not take it, she was not asking for a "recess or timeout"[24] as they insist, but was actually pleading that he no longer rape her as she has suffered enough in the hands of the other accused.

Fourth. They assert that the subsequent act of Seguis and Estebe in socializing with the victim and the Balantucas siblings negates any idea of a misdeed. A reality check, however, would show that the accused stayed for a while after raping Juliet not to socialize with them, as in fact the two warned them not to tell anybody of what happened or they would be killed. Although it is correct that Seguis later showed some signs of remorse towards the victim, his acts were belated and could no longer erase his crime. The ambiguous attitude of Seguis is understandable.

While succumbing to his uncontrollable lust, he remained quite sympathetic to the plight of Juliet, who was an old acquaintance. Nevertheless, the apparent regret shown by Seguis after the act of rape could not undo what he had done. It was too late for recriminations.

IV

On another point, appellants keep harping on the one hundred eighty-degree turn around made by Michael on the stand. They say that if the alleged sexual congresses were true, and witnessed by Michael, it is highly unthinkable that, despite the risk of facing criminal prosecution for false testimony and perjury, he would still recant his previous testimony in court in favor of the two. They stress that Juliet and Michael are more than good friends; and, the latter by force of circumstance should not hesitate to defend the complainant's position.

The Court fails to be impressed with the recantation of Michael Balantucas for several reasons. A recantation does not necessarily cancel an earlier declaration.[25] Like any other testimony, it is subject to the test of credibility based on the relevant circumstances and especially the demeanor of the witness on the stand. Moreover, it should be received with caution as otherwise it could "make solemn trials a mockery and place the investigation of truth at the mercy of unscrupulous witnesses." [26]

In any event, the eyewitness accounts of Juliet herself and Lilibeth are more than sufficient to prove beyond doubt the participation of the appellants in the commission of the assault. Even if the trial court had not given credence to the first testimony of Michael, there still is enough indication to ascertain their culpability. His declaration is merely cumulative, or additional evidence of the same kind tending to establish the same point or factual issue.

V

Lastly, appellants put private complainant to task for alleged marked contradictions and pure improbabilities surrounding her story. For instance, they assert that it would be highly doubtful for Juliet not to notice who took away her gold ring and gold bracelet, if in the first place there were any. So too are they puzzled with how consistent she is in her perception of how long each accused raped her. To them this is a sure sign that her performance on the stand is rehearsed.

The submission deserves scant attention. Verily, one cannot expect a victim of such nerve-racking experience to become aware of every minute detail of the event, or question her keenness to observe one aspect of it but not another. It is understandable for the poor victim not to remember who particularly among the seven took away her valuables. At that point, her ring and bracelet were not that important to her. Regarding the time, it could well be the only thing that concerned her mind. In any event, these contradictions or improbabilities, as appellants would put it, cannot erode the credibility of Juliet's testimony.

IN VIEW WHEREOF, the Decision of the Regional Trial Court of Surigao City in Criminal Case No. 4581 is AFFIRMED in toto. Costs against appellants.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Kapunan, Pardo, and Ynares-Santiago, JJ., concur.

[1] Information, signed by Third Asst. City Prosecutor Ignacio B. Macarine, Rollo, p. 6.

[2] TSN, March 18, 1997, p.8.

[3] Judgement, p. 8; Rollo, p. 29.

[4] Decision penned by Judge Diomedes M. Eviota, RTC-Br. 32, Surigao City.

- [5] Judgement, p. 12; Rollo, p. 33.
- [6] *People vs. Bernardino, et. al.*, 92 Phil. 1070 (1952).
- [7] *People vs. Vivar*, 235 SCRA 257 (1994).
- [8] *People vs. Balmoria*, 287 SCRA 687 (1998).
- [9] *People vs. Perez*, 296 SCRA 17 (1998).
- [10] *Ibid.*
- [11] *People vs. Doctolero*, 193 SCRA 632 (1991).
- [12] *People vs. Rostata, Jr.*, 218 SCRA 657 (1993).
- [13] *People vs. Apawan*, 235 SCRA 355 (1994).
- [14] Brief for Plaintiff-Appellee, p. 9; Rollo, p. 106.
- [15] *People vs. Abdul*, 310 SCRA 246 (1999).
- [16] TSN, November 21, 1995, p. 18.
- [17] TSN, February 16, 1996, p. 7.
- [18] *People vs. Apa-ap, Jr.*, 235 SCRA 486 (1994).
- [19] *People vs. Atrejenio*, 310 SCRA 229 (1999).
- [20] Brief for the Accused-Appellants, p. 9; Rollo, p. 60.
- [21] *People vs. Luzorata*, 286 SCRA 487 (1998).
- [22] Brief for the Accused-Appellants, p.13; Rollo, p. 64.
- [23] *People vs. Gementiza*, 285 SCRA 478 (1998).
- [24] Brief for the Accused-Appellants, p.14; Rollo, p. 65.
- [25] *People vs. Dalabajan*, 280 SCRA 696 (1997).
- [26] *People vs. Davatos*, 229 SCRA 647 (1994); *People vs. Ubina*, 97 Phil 515 (1955).

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