PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ALBERT ERNEST WILSON, ACCUSED-APPELLANT.

G.R. No. 135915. December 21, 1999

Ponente: GONZAGA-REYES, J.

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GONZAGA-REYES, J.:

This is a review of the decision rendered by Branch 171 of the Regional Trial Court of Valenzuela, Metro Manila dated September 30, 1998 finding the accused-appellant guilty of rape under Section 11 of Republic Act 7659.

On September 16, 1996 at about 11:40 p.m., 12 year old Veronica Pasco, assisted by her father, Pio Pasco, Sr. executed a sworn statement at the Valenzuela police station alleging that on June 27 and July 12, 1996, Albert Ernest Wilson, the live-in boyfriend of her mother, raped her and that earlier that afternoon of September 16th at around 4:30 p.m. when the two of them were alone in the house, the said Albert Ernest Wilson attempted to rape her but the phone rang and while he answered the phone she ran away.[1] A Criminal Complaint for attempted rape arising from the September 16, 1996 incident only was filed in court against the said accused.[2] The following day or on September 17, 1996 Veronica was brought to the Philippine National Police Crime Laboratory for physical examination and it was found the she has healed lacerations at 5 and 7 o'clock and that she is no longer a virgin.[3] That same day, September 17, 1996, the father of the complainant filed a motion for reinvestigation in view of the medico-legal findings and the second sworn statement executed by Veronica wherein she stated that the accused succeeded in raping her on September 16, 1996. She explained that she previously alleged that the rape was not consummated because she feared her father might kill the accused if he found out that she was in fact raped.[4] The motion for reinvestigation filed by the prosecution was granted and an Amended Information for consummated rape arising from the September 16, 1996 incident was filed in court on September 18, 1996. The Amended Information[5] reads:

> AMENDED INFORMATION
>
> The undersigned complainant accuses ALBERT ERNEST WILSON @Suny @Kano of the crime of rape committed as follows:
>
> That on or about September 16, 1996 in Valenzuela, Metro Manila and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design and by means of force and intimidation employed upon the person of Veronica Pasco y Delistal, 12 years old, did then and there willfully, unlawfully and feloniously have sexual intercourse with me, against my will and without my consent.
>
> Contrary to law.
>
> (Sgd)
> Veronica Pasco y Delistal
> Complainant
>
> Assisted by:

(Sgd)
Pio Pasco
Father
Subscribed and sworn before me this 17th day of September 1996 in Valenzuela, Metro Manila.

(Sgd.)
Eriberto A. Aricheta
Asst. City Prosecutor

The accused was arraigned on October 18, 1996 and pleaded not guilty to the crime charged.[6]

Veronica or Nica testified in court that her mother and father have long been separated and that she and her brother Pio Jr., or Jay-R lived with their maternal grandmother until her mother and live-in boyfriend, the accused, transferred them to their new house at No. 570-A Coloong I, Valenzuela, Metro Manila. She said that the accused, whom she calls Uncle Sony owns a bar at the Puerto Azul and he provides for her food and education. She filed this case because he raped her on September 16, 1996 at around 4:30 in the afternoon when her mother went to the municipal hall and her brother was still in school. She said that the appellant dragged her to the bedroom and laid her on the bed. He undressed her, pulled her legs apart, placed himself on top of her and inserted his penis inside her vagina. The phone rang and when the accused stood up to answer the phone she got up, got dressed and ran out the house.[7]

Dr. Rosaline Cosidon, the PNP Medico-legal Officer who examined Nica testified in court to confirm the findings in the Medico Legal Report. She stated that she interviewed Nica prior to the physical examination and during the said interview Nica told her that on September 16, 1996 the accused tried to rape her but she was able to run away. Dr. Cosidon also testified that a vaginal laceration takes a few days to heal whereas in Nica's case no fresh laceration was found.[8] The Medico-Legal Report states:

Medico-legal Report no. M-1369-96

Case: alleged rape
Victim : Pasco, Veronica, D
Birthdate; March 12, 1984
Time and date received: 1240H 17 September 1996

FINDINGS:

General and Extragenital:
Fairly developed, fairly nourished and coherent female subject. Breasts are conical with pale brown areola and nipples from which no secretion could be pressed out. Abdomen is flat and soft.

GENITAL:
There is scanty growth of pubic hair. Labia majora are full, convex and coaptated with pinkish brown labia minora presenting in between. On separating the same, disclosed an elastic, fleshy type hymen with shallow healed lacerations at 5 and 7 o'clock positions. External vaginal orifice offers moderate resistance to the introduction of the examining finger and the virgin sized speculum. Vaginal canal is narrow with prominent rugosities. Cervix is firm and closed.

CONCLUSION:
Subject is a non-virgin. There are no external signs of recent application of any form of trauma at the time of examination.

REMARKS:
Vaginal and peri-urethral smears are negative for gram-negative diplococci and for spermatozoa

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The accused denied the accusation and claimed that he could not have raped Nica at 4:30 p.m. of September 16, 1996 because Nica's mother and brother were both in the house at that time. He also argued that the physical evidence i.e., no fresh laceration was found in Nica's vagina, negates Nica's accusation of any rape committed the day before her physical examination. Moreover, Nica's contradictory versions of the alleged rape lead to only one conclusion i.e., that the accusation is fabricated.

Nica's brother, Jay-R, testified for the defense and stated that Nica was not raped by their Uncle Suny in the afternoon of September 16, 1996. Jay-R said that he was in the house together with Nica, their mother and Uncle Suny and that Nica left the house before their mother and Uncle Suny left to check on Uncle's Suny motorbike.

The trial court found the accused guilty of rape and imposed the death penalty pursuant to Section 11 of Republic Act 7659; the dispositive portion of the decision states:

> Wherefore, accused Albert Ernest Wilson @Suny @Kano is hereby sentenced to death.
>
> The accused is hereby ordered to indemnify the offended party the sum of P50,000.00.
>
> Let the whole records of this case be forwarded immediately to the Supreme Court for automatic review.
>
> SO ORDERED.[9]

This case is before us on automatic review.

The accused-appellant raises the following assignments of error:

> I
> THE TRIAL COURT ERRED WHEN IT IGNORED THE GLARING DISCREPANCIES BETWEEN PRIVATE COMPLAINANT'S (1) ATTEMPTED RAPE SWORN STATEMENT (Exhibit "1") AND ATTEMPTED RAPE CRIMINAL COMPLAINT (EXHIBIT '3") ON THE ONE HAND AND THE CONSUMMATED RAPE TESTIMONY, ON THE OTHER.
>
> II
> THE TRIAL COURT ERRED WHEN IT IGNORED THE INCONSISTENCIES AND MATERIAL CONTRADICTIONS IN PRIVATE COMPLAINANT'S TESTIMONY WHICH ENGENDER DOUBTS ON THE GUILT OF ACCUSED-APPELLANT.
>
> III
> THE TRIAL COURT ERRED WHEN IT DID NOT CONSIDER THE UNNATURAL AND UNCOMMON BEHAVIOR OF PRIVATE COMPLAINANT AFTER THE ALLEGED RAPE.
>
> IV
> THE TRIAL COURT ERRED WHEN IT HELD THAT THE PROSECUTION'S STORY IS MORE CREDIBLE DESPITE THE CLEAR, POSITIVE TESTIMONY OF ACCUSED-APPELLANT THAT NO RAPE OCCURRED ON SEPTEMBER 16, 1996.
>
> V
> THE TRIAL COURT ERRED WHEN IT IGNORED THE TESTIMONY OF PRIVATE COMPLAINANT'S BROTHER THAT CORROBORATED THE TESTIMONY OF THE ACCUSED-APPELLANT ON MATERIAL POINTS.
>
> VI
> THE TRIAL COURT ERRED WHEN IT REFUSED TO GIVE CREDENCE TO THE CLAIM OF PRIVATE COMPLAINANT'S BROTHER THAT HE WAS IN THEIR RESIDENCE AT NO. 570-A, COLOONG I, VALENZUELA AT 3:30 P.M. OF SEPTEMBER 16, 1996.

VII
THE TRIAL COURT ERRED WHEN IT IGNORED THE TESTIMONIES OF THE MEDICO LEGAL DOCTORS WHICH ESTABLISHED THAT THERE WAS NO INDICATION OF FORCIBLE SEXUAL INTERCOURSE ON SEPTEMBER 16, 1996.

VIII
THE TRIAL COURT ERRED WHEN IT CONCLUDED THAT THE REASON FOR THE ABSENCE OF A FRESH HYMENAL LACERATION IS THAT THE SEPTEMBER 16, 1996 ALLEGED RAPE WAS NOT THE FIRST SEXUAL ABUSE COMMITTED AGAINST THE PRIVATE COMPLAINANT.

IX
THE TRIAL COURT ERRED WHEN IT HELD THAT THERE IS NO CLEAR SIGN THAT PRIVATE COMPLAINANT'S TESTIMONY IS FABRICATED.

The accused-appellant maintains that the accusation for consummated rape which allegedly occurred on September 16, 1996 is sheer fabrication as shown by her own contradictory statements. The private complainant, assisted by her father, executed a sworn statement before the police that the appellant attempted to rape her on September 16, 1996 and that she was previously raped by the appellant on June 27 and July 12, 1996. A criminal complaint for attempted rape allegedly committed on September 16, 1996 was filed in court on September 17, 1996. The following day, September 18, 1996, an Amended Complaint for consummated rape arising from the same September 16, 1996 incident was filed. Nica's proffered explanation for the sudden change in the nature of the accusation, i.e., that she feared her father might kill the appellant if he finds out that she was raped, cannot be believed as allegations of previous acts constituting consummated rape are already contained in her first sworn statement. The appellant contends that it is unbelievable for a young girl to have omitted to tell the police investigator when she executed her first sworn statement the crucial detail that the appellant's penis penetrated her if it really happened. It appears that the second sworn statement alleging acts constituting consummated rape was executed as an afterthought to pursue other motives than to tell the truth.

Accused-appellant also points out inconsistencies in Nica's testimony that erode her credibility. He claims that Nica's behavior immediately after the alleged consummated rape supports his contention that the accusation is false. Nica testified that after she was able to free herself from the appellant she went to her friend Juvy and together they went to Malanday to pawn her ring to raise enough money to go to her father. Further questioning however revealed that her father lives within walking distance from the appellant's house where Nica used to reside. When she saw her father at the grocery store she told him that she no longer wanted to live with her mother because the latter burned all her clothes. The accused-appellant points out that Nica did not really intend to see her father to ask for help; after the alleged rape she just went out with a friend and it appears that she accidentally saw her father at the Denmark Grocery in Malanday. Instead of immediately narrating to her father the incident about the alleged rape she complained about her mother's burning her clothes. Accused-appellant also contends that another indication that Nica made up the accusation for consummated rape is her account of the incident. She stated that appellant's right hand held both her hands to prevent her from struggling while his left hand undressed her and that the appellant's hand held her mouth to silence her and at the same time appellant undressed himself. It was not possible for the accused to have done all that Nica said he did with his two hands.

It is also pointed out that Nica kept changing her testimony during direct, cross, re-direct and re-cross examinations regarding what actually happened when the appellant allegedly raped her and the resulting material contradictions in her testimony are tell-tale signs of fabrication. On direct examination Nica said she wore a dress on the day of the incident, while on cross examination she said she wore shorts and t-shirt. On re-direct examination she stated that the appellant compelled her to fit two pieces of clothing before he raped her whereas during re-cross, she stated that she was compelled to try on the clothes after he raped her. No contusion or mark

indicating struggle was found in Nica's body; nor was any fresh laceration found in her vagina to support her allegation that she struggled with the accused, and yet he allegedly succeeded in penetrating her. Two medical doctors testified that it is quite improbable for an alleged rape victim not to have fresh vaginal laceration within twenty-four hours after the incident because it takes approximately seven days for a vaginal laceration to heal. The healed lacerations in Nica's vagina and her testimony regarding the previous sexual assaults on June 27 and July 12, 1996 should not have been considered by the trial court in determining the veracity of the accusation for consummated rape allegedly committed on September 16, 1996, which is the subject of the information for which the accused-appellant was arraigned.

Further, the testimony of Nica's brother, Pio Jr. or Jay-R that he was in the house together with Nica, their mother and the appellant on the afternoon of the alleged rape on September 16, 1996 is unrebutted. Jay-R categorically stated that Nica left the house that afternoon before their mother and the accused-appellant left to go the motorcycle repair shop to look into the latter's motorbike. Jay-R's testimony supports the appellant's contention that it is impossible for the alleged rape to have been committed on September 16, 1996 because they were all in the house that afternoon. In sum the appellant argues that the evidence on record points to his innocence of the crime charged.

The Solicitor-General filed a Manifestation recommending the acquittal of the accused. The appellee emphasized the duty of the prosecution to prove the guilt of the accused beyond reasonable doubt and contends that a judgment of conviction cannot be based on the apparent weakness of the defense in disputing the accusation but should be based on the strength of the evidence for the prosecution. An accusation for rape is easy to concoct and even more difficult for the accused to rebut. The testimony of the victim must be subjected to close scrutiny to determine if it is clear, consistent and in harmony with human experience; otherwise the accused is entitled to an acquittal. The Solicitor-General states that the material contradictions in Nica's testimony and the physical evidence negating the accusation of rape lead to the inescapable conclusion that the guilt of the accused was not proved beyond reasonable doubt.

The appeal has merit.

We note that the first sworn statement Nica executed before the police on September 16, 1996 narrated she has been previously raped by the accused on June 27 and July 12, 1996 and that the accused tried to rape her again on September 16, 1996 but she was able to run away. For some reason not borne by the records, only the September 16, 1996 incident became the subject of the information for attempted rape, Nica's assertion that she was previously raped on two other occasions was apparently not taken into account in filing the charges. A separate criminal complaint for the June 27, 1996 alleged rape was filed but it was dismissed in a resolution issued by the Department of Justice on June 18, 1998 reversing the findings of the City Prosecutor.[10] It is not on record if a separate complaint for the July 12, 1996 incident was filed. Thus, the evidence on record to establish that Nica was raped by the accused on July 12, 1996 may only be taken to test her credibility or to establish a plan or scheme of the accused, but may not be passed upon by this Court as a separate accusation for rape for which the accused may be convicted.[11] Since the Information upon which the accused was arraigned pertains only to the accusation for alleged consummated rape on September 16, 1996, only the evidence relevant to this charge shall be evaluated by the Court to determine if the guilt of the accused was proven beyond reasonable doubt.

The main argument raised by the defense that Nica's narration of the rape is riddled with inconsistencies and improbabilities need not be addressed as the purported inconsistencies are not substantial and refer to minor details which would by themselves not ruin the credibility of the narration. However, what this Court finds disturbing is the manifest variance between Nica's two sworn statements executed a day apart. Nica's first sworn statement before the police authorities that the accused only attempted to rape her on September 16, 1996

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contradicts her second sworn statement executed the following day that the rape was consummated. In her first sworn statement taken a few hours after the September 16, 1996 incident, she stated that earlier that day, the accused tried to rape her again but she was able to run away. The defense is correct that Nica could not have failed to tell the police authorities that the accused succeeded in consummating the rape on that day, if indeed it was so. Nica's first sworn statement is quoted as follows:[12]

> MALAYA AT KUSANG LOOB NA SALAYSAY NI VERONICA PACO Y DELISTAL NA KINUHA AT ITINALA NI SPO1 JESUS G. SAGISI DITO SA SILID SIYASATAN NG VALENZUELA POLICE STATION NGAYONG IKA 11:40 NG GABI PETSA 16 NG SETYEMBRE 1996 SA HARAP NG KANYANG MAGULANG NA SI PIO PASCO Y CALIXTO.
>
> =
>
> xxxxxxx xxxxxxxxxxx xxxxxxxx
>
> 05. T- Muli sabihin mo sa akin ang iyong tunay na pangalan at iba't-ibang bagay hinggil sa iyong buong pagkatao?
>
> S- Ako po si VERONICA PASCO Y DELISTAL, 12 taong gulang, isang grade six student po ng Colloong Elementary School, at nakatira sa Numero 570 Coloong I, Valenzuela, Metro Manila.
>
> 06. T- Ano naman ang iyong dahilan at ikaw ay narito sa aming himpilan at nagbibigay ng iyong malaya at kusang loob na salaysay?
>
> S- Para sabihin sa inyo ang ginawa sa akin nitong si Sunny na pangalawang asawa ng aking Nanay.
>
> 07. T- Ano naman ang ginawa sa iyo nitong si Sunny?
>
> S- Dahil ginalaw po niya ako.
>
> 08. T- Kailan at saan nangyari ito?
>
> S- Dalawang beses po niya akong ginalaw, yong una noong petsa 27 ng Hunyo 1996 ang pangalawa ay noong 12 Hulyo 1996, at pinagtangkaan niya uli ako kaninang alas 4:30 ng hapon petsa 16 ng Setyembre 1996, lahat po ay nangyari doon sa bahay namin.
>
> 09. T- Maaari mo bang ituro sa akin kung nandito ngayon sa kuwartong ito ang sinasabi mong SUNNY na siyang pangalawang asawa ng iyong Nanay?
>
> S- (Affiant then looks around the investigation room) Siya po (And pinpointed a male person believed to be a foreigner, who when asked about his identity identified himself as one ALBERT ERNEST WILSON, 45 years old, live in partner of mother's victim, native of Kent England and residing also on same address; aka SUNNY)
>
> 10. T- Ngayon sabihin mo sa akin ang buong pangyayari kung saan ikaw ay ginalaw nitong pangalawang asawa ng iyong Nanay?
>
> S- Noong June po, natutulog po ako, at ang aking Nanay ay umalis at ang naiwan itong si Kano (Referring to suspect ALBERT ERNEST), naalaala ko po na bago ako natulog ay mayroon akong nakitang isang baso sa aming la mesa na may lamang tubig, dahil nga po nauuhaw ako ito po ay aking ininom dito naramdaman ko po na ako ay nahihilo kaya ako ay nakatulog, at ng magising ako ng mga alas-singko ng hapon ay naramdaman ko na masakit ang buo kong katawan at ng aking ulo, kinabukasan nagkaroon ako ng menstruation, gusto ko man sitahin itong si KANO wala ako nagawa dahil natatakot po ako. At noong Hulyo 12, 1996 sinama po niya ako sa Baclaran nitong si KANO, tapos ibinili niya ako ng mga damit at mga alas dos ng hapon kami po ay umuwi pagdating namin ng bahay ay wala na pong tao doon. At ang sabi niya sa akin ay sukatin po raw ang mga

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> damit na aming pinamili, dito ako ay naghubad ng aking bestida at nang aking isusuot and damit na aking isusukat sa loob ng aming kubeta bigla na lang po siyang pumasok sa loob ng kubeta at ako ay kanyang hinila papuntang kuwarto dito pilit niyang hinubad ang aking damit at panty at bigla na lang pong pumatong sa akin at kiniskis niya ang kanyang ari hanggang siya'y labasan ng kanyang tamod sa kumot at nakaraos at sinabayan po siyang umalis. Kinabukasan po niyon nagsumbong po ako sa Nanay ko at ang sabi po niya sa akin siya ay hindi naniniwala na ako raw ay ginalaw ng kanyang asawa na si KANO at ako raw ay gumagawa ng kuwento. At simula noon pumunta na ako sa aking Lola na tapat rin ng aming bahay, at mula noon hindi na po ako umwi ng aming bahay. At noong Agosto 27, 1996 mga bandang alas 5:00 ng hapon pumunta itong Nanay ko sa aking Lola at ako ay kanyang kinaladkad papunta sa bahay at ang sabi niya po sa akin, hindi raw ako puwedeng umalis ng bahay na hindi niya ako napapatay. Dahil sa aking takot doon uli ako tumira. At noong bandang alas 4:30 ng hapon petsa 16 ng Setyembre 1996 na sa loob po ako ng bahay sa aming kuwarto at ang sabi ng aking Nanay na ako raw ay humingi ng SORRY kay KANO at siya po ay umalis, kaming dalawa lang po ni KANO ang naiwan dahil ang aking nakatatandang kapatid ay nasa eskwelahan. Habang nandoon ako sa kuwarto pumasok po itong si KANO, dito po nasabi ko sa kanya na "sorry po sa nagawa kong kasalanan" at ang sagot niya sa akin ay "NO" dahil ang sabi niya sa akin ay siya raw ang amo sa bahay at ang sabi niya "PAG HINDI AKO NAGHUBAD SIYA PA RIN ANG AMO PERO KUNG MAGHUHUBAD AKO, MASUSUNOD DAW LAHAT PATI NA ANG AKING BIBILHIN". Dito bigla na lang po niya akong hinawakan sa kanang kamay pagbitaw po niya ay huhubarin na po niya ng dalawang kamay ang aking damit at ng biglang tumawag sa telepono dito po ay hindi natuloy ang kanyang balak. Noong sinasagot po niya ang telepono dito po nagkaroon ng tsansa upang makatakas at ako ay pumunta sa bahay ng aking kaibigan na si JUVY at ikinuwento ko sa kanya ang pangyayari hanggang ako ay kanyang samahan sa aking Tatay sa Malanday at dito ko isinumbong kung ano ang ginagawa ng aking Nanay at ang kanyang kinakasamang KANO. (Emphasis supplied)

The above statement categorically stated that rape was not consummated on September 16, 1996. Dra. Cosidon, the Medico-Legal officer who examined Nica, testified in court that Nica told her prior to the physical examination that the accused tried to rape her the day before but she was able to run away.[13] The following day, September 17, 1996, her father filed a motion for reinvestigation to change the accusation from attempted rape to consummated rape based on Nica's second sworn statement of the same date that the accused-appellant succeeded in raping her on September 16, 1996. In her second sworn statement[14] Nica explained that she did not state in her first sworn statement that the accused raped her because she feared her father might kill the accused-appellant if he found out. Nica gave the same explanation in court when asked why she changed her accusation from attempted to consummated rape.[15] Nica's explanation does not inspire belief as detailed allegations of two previous sexual assaults on June 27 and July 12, 1996 are already contained in her first sworn statement. Nica also testified during cross-examination that when she met her father in Malanday, she immediately told him that the appellant raped her on June 27 and July 12, 1996.[16] Thus, she had nothing to fear from her father at the time she made her first sworn statement. Nica's vacillation raises a grossly disturbing doubt as to the truthfulness of her statements and is to our mind fatal to her credibility. While there is no evidence that would explain the sudden change in the nature of the accusation or why there was piece-meal prosecution of the three incidents which Nica narrated in one sworn statement, we cannot ignore the blatant fact that there was no credible explanation why Nica's second statement contradicted her earlier declaration.

It is true that affidavits are generally subordinated in importance to open court declarations.[17] The general rule is that variance between an extrajudicial sworn statement of the complainant and her testimony in court does not impair the complainant's credibility when the said variance does not alter the essential fact that the complainant was raped. Variance as to the time and date of the rape, the number of times it was committed or the garments which the accused or the complainant wore at the time of the incident do not generally diminish the complainant's credibility.[18] However, the serious discrepancy between the two sworn statements executed a

day apart by the complainant in this case, bearing on a material fact, is very substantial because it pertains to the essential nature of the offense, i. e., whether the offense was consummated or merely attempted. In People vs. Ablaneda[19] wherein a housewife executed a sworn statement for attempted rape and later changed the accusation to consummated rape without a rational explanation, this Court held that the general rule does not apply when the complainant completely changed the nature of her accusation. In this case, Nica materially altered her accusation as regards the September 16 incident. In her first sworn statement she mentioned that the accused tried to rape her again on September 16 but she was able to run away whereas in court she narrated in detail how the accused succeeded in raping her that day. The contradiction does not concern a trivial or inconsequential detail but involves the essential fact of the consummation of the rape. Nica failed to explain to the satisfaction of this Court her contradictory statements.

More importantly, the physical evidence does not corroborate Nica's testimony. She stated that the appellant penetrated her and was able to pump his penis in and out of her vagina and that it was painful.[20] The physical examination conducted less than twenty-four hours after she was allegedly raped revealed no external signs of recent application of trauma. Dr. Cosidon who testified for the prosecution, and whose testimony is corroborated by the expert witness for the defense, stated that vaginal laceration takes a few days to heal.[21] While the absence of fresh laceration nor of any sign of trauma in the victim's body does not necessarily negate rape[22] the testimony of the alleged victim must be credible and not inconsistent with the physical evidence. Accordingly, we agree with the Solicitor-General that Nica's accusation of consummated rape on September 16, 1996 is not worthy of credence, and the charge against the appellant in this case must perforce be dismissed.

Wherefore, the decision of the trial court is reversed and set aside. The accused is hereby acquitted of the charge of consummated rape. The Director of the Bureau of Corrections is ordered to effect his immediate release from custody unless he is being held in custody for some other legal cause.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Panganiban, Quisumbing, Purisima, Pardo, Buena, Ynares-Santiago, and De Leon, Jr., JJ., concur.

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[1] p. 13, OR.

[2] p. 2, OR.

[3] p. 20, OR.

[4] p. 11, OR.

[5] p. 20, OR.

[6] p. 39, OR.

[7] Veronica Pasco, tsn., pp. 13-15, November 6, 1996.

[8] Cosidon, tsn., pp. 19, 24-25, 41, June 25, 1997.

[9] p. 427, OR.

[10] Exh 61, Folder of Exhibits.

[11] People vs. Antido, 278 SCRA 425.

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[12] P. 3, OR.

[13] Cosidon, tsn., p. 19, June 25, 1997.

[14] p. 14, OR.

[15] Pasco, tsn., p. 12, February 25, 1997.

[16] Ibid., tsn., p. 35, February 21, 1997.

[17] People vs. Padeo, 267 SCRA 64; Sumalpong vs. Court of Appeals, 268 SCRA 764.

[18] People vs. Travero, G.R. No. 110823, July 28, 1997; People vs. Ramos, G.R. No. 129439, September 25, 1998; People vs. Sardonido, G.R. No. 121205-09, June 29, 1999; People vs. Yabut, G.R. No. 133186, July 29, 1999.

[19] 19 G.R. No. 128075, September 14, 1999.

[20] Pasco, tsn., pp. 58, 69, March 21, 1997.

[21] Tsn., pp. 21-22, June 10, 1998.

[22] People vs. Pajaro, 265 SCRA 668; People vs. Galimba, 253 SCRA 722; People vs. Erardo, 277 SCRA 643.

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