

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
RODEGELIO TURCO, JR., AKA “TOTONG”, ACCUSED-APPELLANT.**

G.R. No. 137757. August 14, 2000

Ponente: MELO, J.

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MELO, J.:

Accused-appellant Rodegelio Turco, Jr. (aka "Totong") was charged with the crime of rape in Criminal Case No. 2349-272, Branch I of the Regional Trial Court of Basilan of the 9th Judicial Region, stationed in Isabela, Basilan, under the following Information:

That on or about the 8th day of July, 1995, and within the jurisdiction of this Honorable Court, viz., at Km. 6, Begang Barangay, Municipality of Isabela, Province of Basilan, Philippines, the above-named accused, by the use of force, threat and intimidation, did then and there willfully, unlawfully and feloniously grab the undersigned complainant by her neck, cover her mouth and forcibly make her lie down, after which the said accused mounted on top of her and removed her short pant and panty. Thereafter, the said accused, by the use of force, threat and intimidation, inserted his penis into the vagina of the undersigned complainant and finally succeeded to have carnal knowledge of her, against her will.

CONTRARY TO LAW.

(p. 6, Rollo.)

At his arraignment on November 8, 1995, accused-appellant entered a plea of not guilty, after which trial ensued.

The prosecution's version of the generative facts, as gathered from the testimony of its witnesses - Alejandra Tabada, mother of the victim; PO3 Celso Y. Tan Sanchez, the police officer who investigated the case; Orlando Pioquinto, brother-in-law of the victim; Escelea Tabada, the 13-year-old victim; and Felicitas delos Santos Timorata, the medical record clerk who used to be the medical officer under Dr. Rimberto Sanggalang, the physician who physically examined the victim after the incident - is abstracted in the Appellee's Brief in this wise:

Escelea Tabada and appellant Rodegelio Turco were neighbors in lower Begang, Isabela, Basilan, their houses being only about sixty (60) meters apart (p. 6 and p. 8, t.s.n.; August 19, 1996). Escelea was then staying with her father, Alejandro and her deaf grandmother, Perseveranda (p. 9, id). She was twelve (12) years and six (6) months old at the time of incident, having been born on December 3, 1982 (p. 3, id).

The nightmare of Escelea began in the evening of July 1995. At around seven o'clock (7:00 p.m.) in the evening, Escelea, after (pp. 11-12, id) [sic]. She was accompanied by a certain Cory Macapili, the granddaughter of her neighbor, Leonora Cabase (p. 13, id).

Cory left upon reaching Escelea's home. Escelea went upstairs to join her grandmother who was already sleeping in the room. About to enter the said room, Escelea heard a call from outside. She recognized the voice and when she asked who was it, the party introduced himself as the appellant, viz:

Q. After you heard your named was mentioned, what did you say if any?

A. I answered: "Who is that?"

Q. Did the person calling your name answer you?

A. I heard, sir, "me Totong".

Q. When you say the person who called your name "Lea" was "Totong" you are referring to whom?

A. Rodegelio, sir.

(p. 15, id; Underscoring supplied)

She recognized appellant Turco immediately as she had known him for four (4) years and appellant is her second cousin (p. 34, id). Unaware of the danger that was about to befall her, Escelea forthwith opened the door. Appellant Turco, with the use of towel, covered Escelea's face. Appellant, aside from covering the victim's mouth, even placed his right hand on the latter's neck.

Appellant bid Escelea to walk. When they reached a grassy part, near the pig pen which was about twelve (12) meters away from the victim's house, appellant lost no time in laying the victim on the grass, laid on top of the victim and took off her shortpants and panty (pp. 17-19, id). Escelea tried to resist by moving her body but to no avail. Appellant succeeded in pursuing his evil design-by forcibly inserting his penis inside Escelea's private part. The victim felt terrible pain (p. 20, id). Still dissatisfied, after consummating the act, appellant kissed and held the victim's breast. Thereafter, appellant threatened her that he will kill her if she reports the incident to anybody, thus:

"He threatened me, that if you will reveal the incident to anybody I will kill you.

(p. 21, id; Underscoring supplied)

Finally, after having satisfied his lust, appellant hurriedly went home. Escelea, on the other hand, upon reaching home, discovered that her shortpants and panty were filled with blood (p. 23, id). For almost ten (10) days, she just kept to herself the harrowing experience until July 18, 1995 when she was able to muster enough courage to tell her brother-in-law, Orlando Pioquinto, about the said incident. Orlando in turn informed Alejandro, the victim's father, about the rape of his daughter. Alejandro did not waste time and immediately asked Escelea to see a doctor for medical examination (p. 27, id).

Escelea was accompanied by her sister Clairlyn Pioquinto to the Provincial Hospital. She was examined by Dr. Rimberto Sanggalang. After the issuance of the medical certificate, they went to Isabela Municipal Station and filed Escelea's complaint against appellant (pp. 30-33, id).

(pp. 97-100, Rollo.)

The defense presented Leonora Cabase, neighbor of accused-appellant; her granddaughter Corazon Macapili, and accused-appellant himself. Accused-appellant denied the charge. The defense that the victim and him were sweethearts was also advanced. Leonora Cabase mentioned this in her direct testimony.

In reaching a moral certainty of guilt, the trial court held:

While the accused denies the charge of rape, his witness, Mrs. Leonora Cabase was trying to project that the complainant Escelea Tabada and the accused Rodegelio Turco, Jr. are sweethearts. In the case of *People vs. Casil*, 241 SCRA 285, the Supreme Court agrees with the trial court that the "sweetheart story" was a mere concoction of appellant in order to exculpate himself from criminal liability. The claim of voluntary love affair is an affirmative defense, the allegation of a love affair needed proof. Nowhere in the record of the case that the same was substantiated, though mentioned by Mrs. Leonora Cabase. The accused and/or his witnesses must

present any token of the alleged relationship like love notes, mementos or pictures and the like. Such bare allegation of the defense, not to mention its utter lack of proof, is incredulous. It is hard to understand how such a relationship could exculpate a person from the rape of a terrified young child barely a little over the age of twelve (12) years old. Indeed, a love relationship, even if true, will not necessarily rule out force (*People vs. Sergio Betonio*, G.R. No. 119165, September 26, 1997, *Case Digests of Supreme Court Decisions*, Vol. 36, No. 3, September 1-29, 1997, pp. 695-697).

There are guiding principles in rape cases as cited in *People vs. Victor Abrecinoz*, G.R. No. 122474, October 17, 1997, *Case Digests of Supreme Court Decisions*, Vol. 37, No. 1, October 2-31, 1997, pp. 157-160, and they are: (1) an accusation for rape can be made with facility, it is difficult to prove but more difficult for the person accused, though innocent, to disprove it; (2) in view of the intrinsic nature of the crime of rape where two persons are usually involved, the testimony of the complainant must be scrutinized with extreme caution; and (3) the evidence for the prosecution must stand or fall on its own merit, and cannot be allowed to draw strength from the weakness of the evidence for the defense. Thus, the credibility of the complainant is a paramount importance, and if her testimony proves credible, the accused may be convicted on the basis thereof.

It should be noted that the complainant and the accused are second degree cousin or they are sixth civil degree relatives. The mother of the accused is a first degree cousin of the father of the complainant. In the culture of the Filipino family on extended family, the relationship between the complainant and the accused being only second degree cousin, it becomes the duty of an older relative (the accused) to protect and care for a younger relative (the complainant). It is very hard to understand or comprehend why a cousin files a case of rape against her cousin, unless it is true. There is no showing that there was compelling motive why the case be filed against the accused, except that the rape really happened.

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It is noted that there was no underlying reason why the complainant and/or her father would bring an action against the accused, except that the accused had raped Escelea Tabada on July 8, 1995, at about 7:00 o'clock in the evening. If it were not true that she was raped by the accused, why would she expose herself to an embarrassment and traumatic experience connected with the litigation of this rape case. We are aware of the Filipino culture especially on virginity. We likened it as a mirror, once dropped and broken, it can no longer be pieced together ... not ever. This is true among the Filipino folks that the complainant belonged, poor and helpless and everything is entrusted to God. The complainant is a young girl, a little over twelve (12) years old and almost illiterate, having attended school up to Grade III only. So poor that her family cannot even buy the cheapest television set and she has to go to a house of a neighbor for the meager joy of seeing a television show ... and expose herself to the danger of the dark night. All said, it is very difficult to be poor. Going to the court is a shout for help ... let us try to hear it.

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WHEREFORE, under the above circumstances and evaluation, this court finds the accused "GUILTY" of rape and sentences him to suffer the penalty of reclusion perpetua and to indemnify the complainant the amount of Fifty Thousand Pesos (P50,000.00) for moral damages without subsidiary imprisonment in case of insolvency.

x x x

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(pp. 33-37, Rollo.)

In accused-appellant's brief, he assigns the following alleged errors:

I

THAT THE HONORABLE COURT A QUO SERIOUSLY ERRED IN FINDING THE ACCUSED GUILTY OF RAPE BASED ON THE TESTIMONIES OF THE COMPLAINANT ESCELEA TABADA AND HER WITNESS.

II

THAT THE HONORABLE COURT A QUO SERIOUSLY ERRED IN RULING THAT THE PROSECUTION, BASED ON THE AFFIDAVITS AND ORAL TESTIMONIES OF THE COMPLAINANT AND ITS WITNESSES WAS ABLE TO PROVED [sic] BEYOND REASONABLE DOUBT THAT THE ACCUSED COMMITTED THE CRIME OF RAPE AGAINST THE COMPLAINANT.

III

THAT THE HONORABLE COURT A QUO SERIOUSLY ERRED IN SENTENCING THE ACCUSED TO SUFFER THE PENALTY OF RECLUSION PERPETUA AND TO INDEMNIFY THE COMPLAINANT THE AMOUNT OF P50,000.00 REPRESENTING MORAL DAMAGES BASED ON THE EVIDENCES PRESENTED BY THE PROSECUTION.

(p. 101, Rollo.)

He particularly argues that his conviction is not supported by proof beyond reasonable doubt considering that other than the written statement of the complainant before the Police Station of Isabela and before the Clerk of Court of the Municipal Trial Court, and her testimony during direct examination, no other evidence was presented to conclusively prove that there was ever rape at all; that she only presumed that it was accused-appellant who attacked her since she admitted that immediately upon opening the door, the perpetrator hastily covered her face with a towel; that nothing in her testimony clearly and convincingly shows that she was able to identify accused-appellant as the perpetrator; that complainant implicated accused-appellant only because her father forced her to do so; and lastly, that no actual proof was presented that the rape of the complainant actually happened considering that although a medical certificate was presented, the medico-legal officer who prepared the same was not presented in court to explain the same.

We agree with the trial court.

As aptly recalled by the trial court, there are three guiding principles in the review of rape cases, to wit: (1) an accusation of rape can be made with facility; it is difficult to prove but more difficult for the person accused, although innocent, to disprove; (2) in view of the intrinsic nature of the crime of rape where only two persons are usually involved, the testimony of the complainant is scrutinized with extreme caution; and (3) the evidence for the prosecution stands or falls on its own merits and cannot be allowed to draw strength from the weakness of the defense (*People vs. Gallo*, 284 SCRA 590 [1998]; *People vs. Balmoria*, 287 SCRA 687 [1998]; *People vs. Auxtero*, 289 SCRA 75 [1998]; *People vs. Sta. Ana*, 291 SCRA 188 [1998]).

Accordingly, the primordial consideration in a determination concerning the crime of rape is the credibility of complainant's testimony.

The trial court described complainant as "a young girl, a little over twelve (12) years old and almost illiterate,

having attended school up to Grade III only. So poor that her family cannot even buy the cheapest television set and she has to go to a house of a neighbor for the meager joy of seeing a television show ... and exposes herself to the danger of the dark night." But verily, age, youth, and poverty are not guarantees of credibility. Hence, thorough scrutiny must be made by the Court.

Complainant narrated the incident in this wise:

Q While you went upstairs and about to enter the room of your grandmother, did you hear anything?

A Yes, sir.

Q What was that?

A I heard a call, sir.

Q How was the call made?

A It is just by saying: "Lea".

Q After you heard your name was mentioned, what did you say if any?

A I answered: "Who is that?"

Q Did the person calling your name answer you?

A I heard, sir, "me Totong".

Q When you say the person who called your name "Lea" was "Totong", you are referring to whom?

A Rodegelio, sir.

Q When you say "Rodegelio", you are referring to Rodegelio Turco, Jr., the accused in this case?

A Yes, sir.

Q After the person calling your name "Lea" identified himself as "Totong", what did you do?

A I opened the door, sir.

Q And when you opened the door, what happened next?

A Totong with the use of towel covered my face, sir.

Q Aside from covering your face with a towel, what else did he do?

A He covered my mouth, sir.

Q Aside from covering your mouth, what else did he do?

A He placed his right hand on my neck, sir.

Q Aside from placing his right hand ... when he placed his right hand on your neck, where was he? Was he in front or behind?

A He was at my back, sir.

Q After placing his right hand on your neck behind you, what did "Totong" do next with that position?

A He covered my mouth, sir.

Q After covering your mouth and face, what did he do next?

A He told me to walk, sir.

Q Where did he bring you?

A I don't know exactly where he brought me, sir.

Q But you know very well that he brought you to a certain place?

A I don't know exactly the place where he brought me, sir.

Q Is it far from your house where you were forcibly taken?

A Yes, sir.

Q Do you have a copra kiln?

ATTY. G.V. DELA PENA III:

The witness already answered that she does not know where she was brought, leading, Your Honor.

COURT: (Questioning the witness)

Q According to you, from your house you were brought by the accused to a place which you do not know?

A Yes, Your Honor.

Q What place?

A Pig pen, Your Honor.

Q Do you know the owner, of that pig pen?

A Our pig pen, Your Honor.

Q Who owned that pig pen?

A My father, Your Honor.

Q How far is that pig pen to your house?

A (From this witness stand to that road outside of this building).

COURT:

It is about 12 meters. Alright, continue.

PROSECUTOR M.L. GENERALAO: (Continuing)

Q You stated in answer to the question of the Honorable Court that you were brought to the pig pen or the place where you were sexually abused, were you place inside or outside?

ATTY. G.V. DELA PENA III:

Leading, Your Honor.

PROSECUTOR M.L. GENERALAO:

I will withdraw.

Q Will you please explain to the Court what particular place of the pig pen that you were brought by the

accused?

A Inside the grasses, sir.

Q When you were already inside the grasses near this pig pen, what did the accused do to you?

A He put me down, sir.

Q When you were already down on the ground, what did the accused do next?

A He mounted on me, sir.

Q And when the accused was already on top of you, what did he do next?

A He molested me, sir.

Q Before he molested you, did he remove anything from your body?

A Yes, sir.

Q What?

A My shortpants and panty, sir.

Q You stated that the accused while on top of you removed your pants and panty, did he totally remove it from your body?

A Yes, sir.

Q After removing your shortpants and panty, what else did the accused do?

A He abused me, sir.

Q You said that he abused you, how did he abuse you?

A He put his private part inside my private part, sir.

Q When the accused was on top of you and he forcibly abused you, what did you do?

A I tried to move my body, sir.

Q While you were trying to move your body and while the accused was on top of you, what did the accused do?

A He tried to insert his private part to my private part, sir.

Q And was he able to insert his private part?

A Yes, sir.

Q What did you feel when his private part was already inside your private part?

A I felt pain, sir.

Q Will you please explain why you felt when the private part of the accused was already inside your private part?

A I felt pain when he already finished, sir.

Q By the way, before July 8, 1995, were you had been raped? Will you please tell us whether you have already experienced or you have already your menstruation at that time?

A No, sir.

Q Now you stated to the Honorable Court ... after the accused had sexually abused you and you said you felt pains after he consummated the sexual act, after that what did he do next after consummating the act?

A After consummating his desire, he raised my panty and shortpants then he kissed me and hold my nipple, sir.

Q After the accused had raised your shortpants and panty, embraced you, kissed you and hold your breast, did he tell you anything?

A He threatened me, "that if you will reveal the incident to anybody I will kill you."

Q In what dialect? In Chavacano, sir.

A After the accused embraced you, kissed you and hold your nipple and threatened you in Chavacano dialect, what happened next after that?

No more, sir.

(tsn, Aug. 19, 1996, pp. 14-22.)

On cross-examination, the victim did display some apparent confusion when the defense counsel asked her about the events that transpired before the ill-fated July 8, 1995. The query prompted her to narrate the incident prior to said date when she also watched television at the home of Leonora Cabase, and that when she arrived home, accused-appellant came and called her "Lea" and when she asked who was it, he answered "so Totong". When she asked what he wanted, he said he wanted to borrow a guitar. She said that she could not lend him the guitar since her father was not yet around. He insisted but to no avail, and hence he just went home. She went to sleep afterwards. On re-direct examination, she clarified that when accused-appellant came to borrow the guitar on July 8, 1995, it was about 5:30 o'clock in the afternoon. Lastly, she said that the incident of the borrowing of the guitar and the incident that transpired at 7 o'clock in the evening on July 8, 1995 were separate incidents.

Significantly, three things could be perceived: complainant's youth, her apparent confusion concerning the events that transpired, and her fear of both accused-appellant and her father.

At the outset, it should be remembered that the declarations on the witness stand of rape victims who are young and immature deserve full credence (*People vs. Bernaldez*, 294 SCRA 317 [1998]). Succinctly, when the offended parties are young and immature girls from the ages of twelve to sixteen, courts are inclined to lend credence to their version of what transpired, considering not only their relative vulnerability but also the shame and embarrassment to which they would be exposed by court trial if the matter about which they testified were not true (*People vs. Clopino*, 290 SCRA 432 [1998]). In addition, we take cognizance of the trial court's observation on the segment of the Filipino society to which the victim belongs - almost illiterate, having attended school up to the third grade only, and so poor that she had to go to a neighbor's house to watch television, yet one who values her virginity which like a "mirror, once dropped and broken ... can no longer be pieced together ... not ever," this being "true among the Filipino folks [to which] complainant belonged, poor and helpless everything is entrusted to God" (p. 35, Rollo).

The victim's relatively low level of intelligence explains the lapses in her testimony, having intermingled two incidents. Nonetheless, it can easily be gathered from the record that the defense counsel may have contributed to this confusion when he asked the victim what transpired "before" the incident (tsn, August 19, 1996, p. 37). Minor lapses in a witness' testimony should be expected when a person recounts details of an experience so humiliating and so painful to recall as rape (*People vs. Gementiza*, 285 SCRA 478 [1998]). Rape, as a harrowing experience, is usually not remembered in detail. For, such an offense is not something which enhances one's life experience as to

be worth recalling or reliving but, rather, something which causes deep psychological wounds and casts a stigma upon the victim for the rest of her life, which her conscious or subconscious mind would prefer to forget (People vs. Garcia, 281 SCRA 463 [1997]). These lapses do not detract from the overwhelming testimony of a prosecution witness positively identifying the malefactor (People vs. Baccay, 284 SCRA 296 [1998]). Further, the testimony of a witness must be considered and calibrated in its entirety and not by truncated portions thereof or isolated passages therein (People vs. Natan, 193 SCRA 355 [1991]).

The Court finds that the victim had no motive to falsely testify against accused-appellant. Her testimony deserves the credence accorded thereto by the trial court (People vs. Luzorata, 286 SCRA 487 [1998]). Pertinently, no woman, especially one of tender age, would concoct a story of defloration, allow an examination of her private parts, and thereafter pervert herself by being subjected to a public trial if she was not motivated solely by the desire to have the culprit apprehended and punished (People vs. Taneo, 284 SCRA 251 [1998]).

Another point to consider is the blood relationship between accused-appellant and the victim. At this juncture, we reiterate the trial court's observation thereon - the mother of accused-appellant being a first degree cousin of the victim's father, that makes the victim and accused-appellant second degree cousins or sixth civil degree relatives. Filipino culture, particularly in the provinces, looks at the extended family as closely-knit and recognizes the obligation of an older relative to protect and take care of a younger one. On the contrary, in the instant case, the victim initiated the prosecution of her cousin. If the charge were not true, it is indeed difficult to understand why the victim would charge her own cousin as the malefactor. Too, she having no compelling motive to file said case against accused-appellant, the conclusion that the rape really happened is logically reinforced.

As regards the initial delay of the victim in reporting the rape incident, suffice it to state that the delay and initial reluctance of a rape victim to make public the assault on her virtue is not uncommon (People vs. Gallo, supra). In the case at bar, the victim's fear of her father who had moral ascendancy over her, was explicit. She testified that she did not disclose the incident to her father because of fear both of her father as well as of accused-appellant (tsn, August 19, 1996, pp. 23-24). Such reaction is typical of a twelve-year-old girl and only strengthens her credibility.

The issue of credibility of the victim having been settled, there are a few points presented by the defense that must be passed upon:

1. Other than their blood relationship, was there an intimate relationship between accused-appellant and the victim? The theory initially advanced by the defense in the proceedings before the court a quo is the "sweetheart theory". In this regard, we agree with the trial court that the "sweetheart story" was a mere concoction of accused-appellant in order to exculpate himself from criminal liability. In People vs. Venerable (290 SCRA 15 [1998]), we held that the sweetheart theory of the accused was unavailing and self-serving where he failed to introduce love letters, gifts, and the like to attest to his alleged amorous affair with the victim. Hence, the defense cannot just present testimonial evidence in support of the theory that he and the victim were sweethearts. Independent proof is necessary, such as tokens, mementos, and photographs. It is likewise remarkable, a confession possibly of the bankruptcy of this theory that accused-appellant has not insisted on this defense in his brief, seemingly abandoning this line.

We, therefore, conclude that whatever familiarity and supposed closeness there was between accused-appellant and the victim, is explained not by an intimate relationship but by their blood relationship. Hence, it is noticeable that on the day of the incident, when accused-appellant called upon the victim and the latter asked who he was, the victim knew right away that her caller was accused-appellant when the latter replied "Si Totong".

Accused-appellant, in his direct testimony, tried to deny any blood relation with the victim Escelea Tabada and

touched on the apparent friendship between them, as follows:

Q You mentioned earlier that you know the complainant, why do you know the complainant Escelea Tabada?

A I only know her when I was already in jail, sir.

Q You mean to say that you never knew the complainant before you were arrested?

A I do not know her, sir.

COURT: (Questioning the witness)

Q Why, are you not related to the Tabadas?

A No, Your Honor.

ATTY. G.V. DELA PENA III: (Continuing)

Q Have you ever seen the complainant in Begang?

A The complainant is at Begang, sir.

Q And you mentioned that you were not related with the complainant, Mr. Witness?

A Yes, sir, we are only close.

Q So, in other words, Mr. Witness, you and the complainant Escelea Tabada were already friends?

A Yes, sir.

(tsn, June 16, 1998, pp. 42-43.)

However, on cross-examination, he notably crumbled:

Q Now, you stated in your direct examination that you are not related to the Tabadas in San Antonio Begang, Isabela, Basilan, is that right?

A Yes, sir, we are only close.

Q Is it not a fact Mr. Witness that your mother is the first cousin of the father of Escelea Tabada?

A They are cousins, sir.

Q So, indeed you are related to the Tabadas?

A Yes, sir.

Q So, when you said that you are not related to the Tabadas, you were not telling the truth?

A Yes, sir.

(ibid, p. 51.)

2. Accused-appellant argues that no actual proof was presented that the rape actually happened since the medico-legal officer who prepared the medical certificate was not presented in court to explain the same.

In *People vs. Bernaldez* (supra), the court a quo erred in giving weight to the medical certificate issued by the examining physician despite the failure of the latter to testify. While the certificate could be admitted as an exception to the hearsay rule since entries in official records (under Section 44, Rule 130, Rules of Court) constitute exceptions to the hearsay evidence rule, since it involved an opinion of one who must first be

established as an expert witness, it could not be given weight or credit unless the doctor who issued it is presented in court to show his qualifications. We place emphasis on the distinction between admissibility of evidence and the probative value thereof. Evidence is admissible when it is relevant to the issue and is not excluded by the law or the rules (Section 3, Rule 128, Rules of Court) or is competent. Since admissibility of evidence is determined by its relevance and competence, admissibility is, therefore, an affair of logic and law. On the other hand, the weight to be given to such evidence, once admitted, depends on judicial evaluation within the guidelines provided in Rule 133 and the jurisprudence laid down by the Court. Thus, while evidence may be admissible, it may be entitled to little or no weight at all. Conversely, evidence which may have evidentiary weight may be inadmissible because a special rule forbids its reception (Regalado, Remedial Law Compendium, Vol. II, 1998 ed., p. 550).

Withal, although the medical certificate is an exception to the hearsay rule, hence admissible as evidence, it has very little probative value due to the absence of the examining physician. Nevertheless, it cannot be said that the prosecution relied solely on the medical certificate (stating that there was "[h]ymen rupture, secondary to penile insertion" as well as "foul-smelling discharges." The diagnosis was "[r]uptured hymen secondary to rape" [p. 68, Record]). In fact, reliance was made on the testimony of the victim herself which, standing alone even without medical examination, is sufficient to convict (People vs. Topaguen, 369 SCRA 601 [1997]). It is well-settled that a medical examination is not indispensable in the prosecution of rape (People vs. Lacaba, G.R. No. 130591, November 17, 1999; People vs. Salazar, 258 SCRA 55 [1996]; People vs. Venerable, supra). The absence of medical findings by a medico-legal officer does not disprove the occurrence of rape (People vs. Taneo, supra). It is enough that the evidence on hand convinces the court that conviction is proper (People vs. Auxtero, supra). In the instant case, the victim's testimony alone is credible and sufficient to convict.

As a final observation, it must be said that the amount awarded by the trial court in favor of Escelea Tabada as indemnification (P50,000.00 for moral damages) for the rape is incomplete based on established jurisprudence and must be modified. In People vs. Betonio (279 SCRA 532 [1977]), we held that the award of P50,000.00 to the victim as indemnity for rape not committed or qualified by any of the circumstances under the Death Penalty Law, needs no proof other than the conviction of the accused for the raped proved. This is different from the P50,000.00 awarded as moral damages which also needs no pleading or proof as basis thereof (People vs. Prades, 293 SCRA 411 [1998]).

WHEREFORE, the appealed decision is hereby AFFIRMED, with the MODIFICATION that accused-appellant Rodegelio Turco, Jr. aka "Totong" is ordered to indemnify the offended party, Escelea Tabada, in the amount of Fifty Thousand (P50,000.00) Pesos in addition to the sum of P50,000.00 already awarded by the trial court as moral damages.

SO ORDERED.

Vitug, Panganiban, Purisima, and Gonzaga-Reyes, JJ., concur.

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