

THE PEOPLE OF THE PHILIPPINES, APPELLEE, VS. GREGORIO CARPIO @ “GORIO,” APPELLANT.

G.R. NO. 170840. November 29, 2006

Ponente: TINGA, J.

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TINGA, J.:

For review before the court is the Decision[1] of the Court of Appeals affirming with modification the Judgment[2] dated 6 August 1997 of the Regional Trial Court (RTC)[3] Branch 32, of Agoo, La Union, finding appellant Gregorio Carpio @ Gorio guilty beyond reasonable doubt of two counts of the crime of statutory rape and sentencing him to suffer the penalty of reclusion perpetua in each case.

On 4 March 1994, appellant was charged with two counts of rape in two (2) separate Informations[4] filed by 2nd Assistant Provincial Prosecutor Rogelio C. Hipol, the texts of which read:

Criminal Case No. A-2758

That sometime in the year 1991, when the aforementioned [AAA][5] was still 9 years old, in the Municipality of Rosario, Province of La Union, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, by using force and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of the aforementioned offended girl against her will and without her consent, to her damage and prejudice.

CONTRARY TO LAW.

Criminal Case No. A-2759

That sometime in the month of June to the middle of August, [sic] 1993, when the aforementioned [AAA] was still 10 or 11 years old, in the Municipality of Rosario, Province of La Union, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, by using force and intimidation, did then and there willfully, unlawfully, and feloniously have carnal knowledge of the aforementioned offended girl and against her will and without her consent, to her damage and prejudice.

CONTRARY TO LAW.

When arraigned, appellant pleaded not guilty to both charges.[6] Trial promptly ensued thereafter. The prosecution presented the following witnesses: (1) AAA, the minor victim; (2) BBB,[7] mother of the victim; and (3) Dr. Elflida Bautista, Medico-Legal Officer II of the Doña Gregoria Memorial Hospital, Agoo, La Union. The prosecution sought to establish the following facts:

AAA is the natural child of BBB, born on 20 October 1982.[8] At the time of her pregnancy and after giving birth, BBB stayed with her aunt Gloria Carpio and the latter's husband Gregorio, appellant herein. The Carpio spouses wanted to adopt AAA, but BBB did not consent to such. When she was capacitated to return to work, BBB entrusted her child to the care of her mother CCC,[9] and not the Carpio spouses.[10]

The sexual assault on AAA began sometime in 1991, when the child was nine (9) years old and a Grade 2 pupil at Damortis Elementary School in Nagtagaan, Rosario, La Union.[11] She was living with her grandmother CCC in Nagtagaan, about 25 meters away from the house of appellant. She lived there and not with her mother because Nagtagaan was nearer her school.[12]

Around after lunch on the day she was raped, the appellant summoned AAA from her home to remove his earwax.[13] He brought her to a nipa hut, about only six (6) meters away from his house.[14] After removing the earwax of appellant, he brought her to the room of his house. The appellant locked the door, lay the victim on the bed and undressed her. Thereafter, he removed her panties and forcibly inserted his finger and penis in her vagina. The victim cried in pain, but every time she would cry out "Mama," the appellant would spank or pinch or slap her.[15]

When the appellant had finished ravishing the victim, he dragged her to the bathroom to perform fellatio on him. AAA refused. She was later allowed to go home, but not before the accused threatened her to keep silent about what had happened.[16] When AAA went home, she did not report the incident to her grandmother or to anyone else.

According to AAA, the abuse continued until 1993. In the three (3) years that AAA was repeatedly raped by the appellant, she never told anyone of her ordeal.[17] According to AAA, the rape would always occur after lunch, when the appellant's wife and children were not around.[18] She was afraid to tell her mother out of fear that she might be castigated or reprimanded.[19]

On 25 December 1993, BBB invited Julieta Flores,[20] a kumadre and neighbor in Nagtagaan, to join them for Christmas celebrations in their house in Agoo. On the same day, AAA was with CCC in Nagtagaan for festivities thereat. It was on this occasion that BBB learned from Julieta Flores the perfidious acts committed by the appellant. Flores told her that sometime a few years back, she had seen appellant drag AAA to a dark place behind his house. Although it was almost dusk, she could see that appellant kissing AAA. When she saw them in that position, she made a coughing sound which prompted the appellant to look back and bring AAA to the front of his house.[21]

BBB was unnerved by her talk with her kumadre. Thus, on 27 December 1993, she went to Nagtagaan to see her daughter. When she asked her daughter about what she had heard, it was then that AAA broke down and told her mother about what appellant had been doing to her.[22]

The following day, on 28 December 1993, BBB took AAA to the Doña Gregoria Memorial Hospital.[23] The medical examination conducted on AAA revealed that AAA's genetalia bore reddish discoloration, with "old hymenal lacerations at 9 and 3:00 o'clock positions." [24]

Dr. Elflida Bautista (Dr. Bautista), who examined AAA, testified that she examined AAA when the child was just eleven (11) years old and found old lacerations of the hymen which could have been obtained two (2) months to two (2) years prior to the examination. Dr. Bautista opined that the two lacerations she found on the hymen of AAA are not normal to an 11-year old child whose hymen should still be intact.[25]

In his defense, appellant, on the other hand, unsurprisingly espoused an altogether different scenario. He presented the following witnesses to bolster his claims: (1) DDD,[26] great-grandmother of AAA and mother-in-law of the appellant; (2) Cipriano Lagao, teacher at Damortis Elementary School; (3) Gloria Carpio, wife of appellant and half-sister of CCC; (4) Lydia Mapalo, friend of appellant; (5) Bartolome De Mesa, owner of a cockpit in Aringay, La Union; (6) Santiago Reyes, manager of a cockpit in Sto. Tomas, La Union; and (7) EEE,[27] sister of BBB. Appellant likewise testified on his behalf.

The defense of appellant consisted of denial and alibi. He asserted that in 1991, AAA was staying in the house of Gloria Dumo, sister of BBB, and the former's husband Alfredo Dumo, in Damortis, Sto. Tomas, La Union. He further maintained that AAA stayed with the Dumo couple from the time she was in Grade 1 until Grade 4.[28] Appellant denied that he raped AAA in 1991 in their nipa hut and house in Nagtagaan.[29]

Appellant endeavored to prove that he was a sentenciador in four (4) cockpits within the La Union area, presenting several certifications to that effect. He explained that he would report for work between 9 o'clock and 9:30 in the morning and would leave work at 5 o'clock in the afternoon.[30] Therefore, although AAA would frequently visit his house from 1991 to 1993 to play with his daughter, he was never home or that he would not talk to her and leave the house.[31] His duty at the cockpits would be from Thursday to Sunday. On Mondays to Wednesdays, the appellant claims to have been in the house of Gregorio and witness Lydia Mapalo where they played mahjong.[32] This was corroborated by the testimony of appellant's wife, Gloria Carpio, who averred that whenever she would see AAA, her husband would either be playing mahjong or working at the cockpit. Moreover, although she was a barangay official, her work did not require her to be constantly present at the barangay hall. Thus, she would be home everyday to care for the house and her small child.[33]

Appellant theorizes that the charges against him might have been propelled by the quarrel between the victim's mother and his wife. This alleged quarrel happened more than a decade past, sometime in 1980, with BBB purportedly uttering the words, "I will make an accusation against your husband." [34]

Appellant further implicates another relative, Alfredo Dumo, as the possible perpetrator of the rapes imputed to him. Alfredo Dumo is the husband of BBB's sister, and an uncle by affinity of AAA. Appellant claims that after he was apprehended and detained in the provincial jail of San Fernando, La Union,[35] he was visited by his mother-in-law, DDD, who then told him that it was Dumo who had raped AAA.[36] This claim was attested to by DDD in her testimony before the trial court. She narrated that after she was hospitalized, she stayed in the house of CCC for three (3) months in 1993.[37] During one of her stays in the house of CCC, at around 12 o'clock in the evening, she witnessed Alfredo Dumo, in his briefs, bending and walking towards AAA, who was asleep in the sala of the house with CCC and the former's cousin. Allegedly, Alfredo went under AAA's blanket, on top of the victim and started the "push and pull" movement.[38]

Notwithstanding, the trial court found appellant guilty of rape on both counts and sentenced him in each case to reclusion perpetua, to indemnify the victim for damages in the amount of P50,000.00, and to pay costs of the proceedings.[39]

Conformably with this Court's decision in *People v. Mateo*,[40] appellant's appeal by way of automatic review was transferred to the Court of Appeals. On 17 October 2005, the appellate court rendered its decision affirming the appellant's conviction, but with modification as to damages awarded to the private complainant. The dispositive portion of the said decision states:

"WHEREFORE, the decision of the Regional Trial Court of Agoo, La Union, in Criminal Case Nos. A-2758 and A-2759, finding accused-appellant Gregorio Carpio guilty beyond reasonable doubt of the crime of statutory rape and sentencing him to suffer the penalty of reclusion perpetua in each case is hereby AFFIRMED with MODIFICATION that accused-appellant is ordered to pay P50,000.00 as civil indemnity and another P50,000.00 as moral damages in each case.

SO ORDERED." [41]

Appellant maintains that the court a quo gravely erred: (1) in giving weight and credence to the incredible and inconsistent testimonies of the prosecution witnesses; and (2) in convicting the accused-appellant of the crime charged despite the fact that his guilt was not proven beyond reasonable doubt.

In the Appellant's Brief,[42] appellant reiterates his innocence of the crimes charged. He argues that in rape cases, the victim's testimony must be clear, convincing and free from material contradictions.[43] Contrariwise, appellant maintains that private complainant's testimony lacks elements of truthfulness.

Particularly, appellant points out that AAA's "recollection of her ordeal in the hands of the accused-appellant and with her uncle Alfredo Dumo is very uniform and without difference in the way the alleged acts were committed." [44] He underscores the fact that the crimes were alleged in the Informations to have been committed sometime in the year 1991 and sometime in the month of June to the middle of August 1993, yet private complainant could not even remember the precise dates when the dastardly acts were committed.[45]

Moreover, appellant asserts that while AAA readily revealed to her mother that appellant allegedly raped her, she was afraid to reveal her same experience with Alfredo Dumo.[46]

It is apparent that appellant advocates that the actual violator of AAA was not himself, but Alfredo Dumo. He finds it significant to point out that his wife and Alfredo's wife are both called Glory. Appellant seeks to cast doubt on the credibility of the alleged eyewitness account of Julieta Flores because in her testimony, BBB confirmed that the exact words said to her by the former was that she "saw AAA and the husband of Glory behind the house." [47] He likewise capitalizes on the failure of the prosecution to put Julieta Flores on the witness stand.

Any review of a rape case begins with the settled reality that accusing a person of this crime can be done with facility. Thus, the testimony of the complainant must always be scrutinized with great caution. It may not be easy for her to prove the commission of rape; yet it is even more difficult for the accused, though innocent, to disprove his guilt. This principle must be viewed in relation to that which holds that the evidence for the prosecution must stand or fall on its own merits; it cannot draw strength from the weakness of the evidence for the defense.[48]

After a judicious and painstaking study of the arguments of the parties and of the records a quo, we reach the inescapable conclusion that the prosecution has effectively established its case and as thus, appellant's contentions deserve scant consideration.

Findings of facts of trial courts carry great weight and will not be disturbed on appeal unless shown to be contrary to facts or circumstances of weight and substance in the record. For generally, the evaluation of the credibility of witnesses and their testimonies is a matter best undertaken by trial courts, because of their unique opportunity to observe the witnesses and their demeanor, conduct and attitude, especially under cross-examination.[49] In this case, we find no cogent reason to depart from this settled rule. The evidence fully sustains the trial court's findings and conclusions.

AAA was all of nine (9) years old when her sufferings began. It is ludicrous to believe that a child of such tender years would concoct such grave accusations against her granduncle if the same were not true. Even more, it is preposterous to imagine that a child of her age would already have such intimate knowledge of the sexual acts she described in her testimony, with such clarity and coherence, unless the same were borne of personal experience.

During direct examination, AAA recounted the crime against her in particular detail, and with obvious distress testified that:

x x x x

Q

When you were still in Grade 4[,] what did the accused Gregorio Carpio do to you?

A

He called for me to remove his earwax from his ear and after that he brought me to their house.

ATTY. RIVERA:

May we make of record that the witness is crying.

FISCAL:

Q

Where were you at that instance when he called for you to clean his earwax?

A

At our house.

Q

[AAA] are [sic] you able to continue testifying now because you are crying?

A

Yes, sir.

Q

And to what particular place did the accused bring you?

A

To their house.

Q

By the way, when the accused came to your house to call for you to clean his earwax[,] who were your companions?

A

My grandmother.

Q

And what was the comment of your grandmother when the accused called for you to clean his earwax?

A

My grandmother was then washing clothes.

Q

Did the accused ask permission from your grandmother so that you would go with the accused to clean his earwax?

A

No, sir.

Q

And what did you answer Gorio when he was calling for you to clean his earwax?

A

The first time he called for me I went.

Q

And he brought you to their house?

A

Yes, sir at (sic) their hut.

Q

That hut or kubo[,] how far is it from the accused's house?

A

It is very near.

Q

Again, with your seat now as a point of reference[,] will you please look outside and point to any object to indicate the house of the accused, will you please point outside where the hut is?

A

Very near. (Witness pointing to a distance of around 6 meters.)

Q

By the way [AAA], in proceeding to that hut[,] could you pass by the house of the accused?

A

No, sir you must have to pass first the hut.

Q

What did the accused do to you when he brought you inside the nipa hut?

A

When I had already removed the earwax[,] he took me to their room and undressed me and removed my panty and forcibly inserted his finger as well as his penis.

Q

That room which you mentioned[,] is that the room of the hut or house?

A

The room of their house.

Q

When you came from the hut going to the house of the accused[,] were there any persons inside the house?

A

None, sir.

x x x x

COURT:

Q

Was there a bed inside the room?

A

Yes, sir.

Q

Did he lay you down on the bed?

A

Yes, sir.

Q

When Gorio undressed you[,] what else did he do[?] [D]id he remove his clothes?

A

He removed his pants and then he did the push and pumping.

Q

About you [sic] when he did the push and pumping were you lying on the bed?

A

Yes, sir.

Q

Where is [sic] Gorio[?] [W]here was he?

A

I was lying and he was on top of me.

Q

Did you see his penis?

A

Yes, sir.

Q

What other part of your body did he touch?

A

He even touched my breast.

Q

Did he kiss your breast?

A

No, sir.

Q

About you [sic] did he kiss your lips, your face or any part of your body?

A

Yes, sir.

Q

Where what part of your body?

A

Here on my lips.

Q

Where else?

A

On my lips only.

FISCAL:

Q

You said that before the accused inserted his penis he first inserted his finger into your vagina is that correct?

A

Yes, sir.

Q

Which finger did he use?

A

His right thumb.

Q

What did you feel when he was inserting his finger inside your vagina?

A

It is (sic) painful (naapges).

Q

Did you shout?

A

Yes, sir.

Q

By the way, how old are (sic) you when you were in Grade 4?

A

Nine (9) years old.

Q

In spite of the fact because (sic) of pain did the accused insist on inserting his finger inside your vagina?

A

Yes, sir.

Q

Was he able to insert his finger inside your vagina?

A

Yes, sir.

Q

And according to you you felt pain?

A

Yes, sir.

Q

About what time of the day was it when the accused brought you inside that room of their house?

A

After lunch.

Q

You said that the accused inserted his right thumb inside your vagina was the accused able to insert the entirement of his finger?

A

Yes, sir.

Q

How long was the accused able to insert his right thumb inside your vagina?

A

For quite a long time.

Q

After the accused had inserted his right thumb inside your vagina[,] what else did he do?

A

After that he forcibly inserted his penis into my vagina and dragged me into their bathroom and wanted me to suck his penis but I refused to do so.

Q

Before the accused actually brought you inside the bathroom[,] was he able to insert his penis inside your vagina?

A

Yes, sir.

Q

Was his penis then erect?

A

Yes, sir.

Q

And what did you feel when the accused inserted his erect penis inside your vagina?

A

It is [sic] painful and hurting (naapges and nasakit).

x x x x

Q

Did you actually see the erect penis of the accused?

A

Yes, sir.

Q

And up to what extent was his penis inserted into your vagina?

A

I did not notice or did not see what (sic) I know he was able to insert it.

Q

And did you shout when the accused inserted his erect penis inside your vagina?

A

When I said Mama, he will (sic) spank me and pinch me or slap me.

Q

And were you then crying when the accused was then inserting his erect penis?

A

Yes, sir.

Q

In spite of your crying did the accused still persist on inserting his erect penis inside your vagina?

A

Yes, sir.

x x x x

Q

How far is the bathroom from the room where he took you?

A

Very near, a distance of 6 meters.

Q

When the accused took you inside the bathroom you are [sic] still naked?

A

I was already dressed up.

Q

About [sic] the accused did he put on his pants?

A

He was already on his pants.

Q

Did you say that he brought you to the bathroom so he could put his penis inside your mouth?

A

Yes, sir.

Q

Was he able to put his penis on (sic) your mouth?

A

No, sir, I did not suck it.

FISCAL:

Q

When the accused brought you inside that bathroom did he lock the room?

A

Yes, sir.

x x x x

FISCAL:

Q

This Gregorio Carpio alias "Gorio[,] " will you be able to identify him?

A

Yes, sir.

Q

If Gregorio Carpio alias Gorio is inside the courtroom[,] will you please point to him?

A

That one[,] sir. (Witness pointing to the accused who is now seated inside the courtroom and when asked his name he answered Gregorio Carpio.)

Q

By the way, when you refused to suck the penis inside the bathroom what happened next?

A

He told me to go home and he also said do not ever tell your Mama about this and told this in a very threatening manner.

Q

When you arrived home was your grandmother there?

A

Yes, sir.

Q

Did you report to her what happened?

A

No, sir because I was afraid.

Q

Afraid of whom?

A

I was afraid to tell because of the threatening words.

Q

Of whom?

A

Of Gregorio Carpio.

Q

Did you also report what happened to your mother [BBB]?

A

No, sir. [I]t was a certain "Kumadre" of hers who told her.

Q

Do you know the name of that "kumadre" of your mother?

A

Julieta.

Q

What is her surname?

A

Munar.

x x x x

Q

After that first incident[,] [AAA][,] did the accused do it to you again for the second time when you were still in Grade 4?

A

Yes, sir[.] [H]e did it again.

x x x x

Q

Can you recall for how many times?

A

I cannot count how many times but it was for many times.

Q

In those succeeding times[,] where did the accused insert his penis inside your vagina?

A

There at their house.

Q

On those other occasion [sic] where were the wife and the 3 children of the accused?

A

They went somewhere else.

Q

Did you report also what happened on those occasions to your grandmother?

A

I did not tell it to anybody.

Q

Why not?

A

Because I was afraid.

Q

Let us go to the time when you were already in Grade 5, where were you residing when you were in Grade 5?

A

My mother took me here in Agoo.

Q

Before you were brought by your mother to Agoo when [you were] in Grade 5[,] did the accused again did (sic) to you again when you were still in Grade 4?

A

Yes, sir.

Q

About for how many times did the accused do that again to you when you were in Grade 5?

A

For many times more.

Q

Can you recall how many times did (sic) the accused insert his penis inside your vagina when you were already in Grade 5?

A

For many times more.

Q

In what place did the accused do that to you?

A

There in their room of their house.

x x x x

COURT:

Q

Do you remember the date when the kumadre of your mother saw Gorio Carpio[,] the accused[,] drag you at (sic) the back of their house?

A

Yes, sir[,] [T]hat was in 1991 and 1992 when I was still in Grade 4.

Q

About the time when you were in Grade 5 what was the date?

A

In 1993.

Q

That was last year is it not?

A

Yes, sir.

x x x x

Q

Just for the record when you were already in Grade 5 on those other occasions when the accused did it to you what does it exactly mean?

A

The same thing.

Q

You mean to say he inserted his penis inside your vagina?

A

Yes, sir.[50]

In its decision, the trial court made the following telling observations of private complainant:

x x x x [T]he Honorable Court observed the deportment and demeanor of the complainant as she testified in Court. The minor look[ed] very young at fourteen years. She was of tender age, fragile and innocent in looks. She is a typical Filipina girl, shy and demure. She spoke in a soft but audible voice. Being in 5th grade[,] she was able to to [sic] answer all questions thrown to her in an intelligent manner. She answers in a clear, positive and straight forward manner, She did not look scared although she cried several times in the course of her testimony.

x x x x

The Honorable Court finds the victim to have testified in a clear, straightforward and convincing manner. Her testimony is credible. The Honorable Court finds nothing extraordinary about it x x x x.[51]

Having reviewed the testimonies adduced by the prosecution and the recounting of events by the victim herself, the Court finds that indeed the crimes as charged have been committed against AAA. AAA withstood the difficulties of not only her direct examination, but the rigors of cross-examination by the defense as well.

Although at times having broken down and cried, AAA nonetheless managed to give an unambiguous, categorical and forthright testimony. Her apparent vulnerability from the recent traumatic events in her life only serve to reinforce the strength and plausibility of her allegations.

We have no reason to believe that AAA was motivated by any other reason than to seek justice and vindication for the wrong done against her. As the Court of Appeals aptly pointed out, "the revelation of an eleven year-old child whose chastity was abused deserves full credit as her willingness to face police investigation and to undergo the trouble of humiliation of a public trial is eloquent testimony of the truthfulness of her complaint." [52]

Moreover, the medical certificate and testimony of Dr. Bautista corroborate AAA's allegations of rape. Dr. Bautista found two old hymenal lacerations at 9 o'clock and 3 o'clock positions in her examination of AAA. The rupture of AAA's hymen, she explained, was caused by the insertion of a hard object, possibly an erect human penis. [53]

Appellant discredits the private complainant's testimony as replete with inconsistencies and he calls attention to AAA's failure to remember the dates on which she claimed to have been raped by appellant. To these, the Court has repeatedly held that it is natural for inconsistencies to creep into the testimony of a rape victim who is of tender age. [54] Courts expect minor inconsistencies when a child-victim narrates the details of a harrowing experience like rape. [55] Inconsistencies in a rape victim's testimony do not impair her credibility, especially if the inconsistencies refer to trivial matters that do not alter the essential fact of the commission of rape. [56] It should be pointed out that victims of rape hardly retain in their memory the dates, number of times and manner they were violated, and it is for this reason that the exact date of the commission of the rape is not an essential element of the crime. [57] If nothing more, these minor inconsistencies in fact are badges of candidness and naturalness on the part of the witness.

The inconsistencies, if any, in AAA's testimony are minor details. They are too inconsequential and immaterial to affect the heart of the issue. These lapses do not detract from the overwhelming testimony of the prosecution witnesses who positively identified the malefactor. [58] What is material is that all the elements of statutory rape have been properly alleged and adequately proved in this case. In statutory rape, only two elements need to be established: (1) that the accused had carnal knowledge of the offended party; and (2) that the offended party was below twelve (12) years of age at the time of the sexual assault. Force or intimidation, not being an essential element of the crime, need not be proven. [59]

Appellant avers that AAA's recollection of her ordeal in his hands and with Alfredo Dumo was very uniform. Thus, he asserts that this engenders the suspicion that AAA's testimony was coached, rehearsed or contrived.

The Court finds no reason to reverse the assessment of the trial court that private complainant is a trustworthy witness and that the crimes as alleged have satisfactorily been proved. It must be stressed that the allegation that Alfredo Dumo raped private complainant is independent of the allegations against appellant. Indeed, while it appears that testimonies were introduced in trial to demonstrate Dumo's culpability for raping AAA, the claim that another person is also responsible for other dastardly acts does not negate the commission of rape by appellant when this has been demonstrated in vivid detail by private complainant herself. [60] The preparations made by BBB and counsel to file complaints for rape against Alfredo Dumo highlight the autonomy of the charge of rape against the separate culprits. [61]

Moreover, AAA's unequivocal recounting of her horrific experiences by both men vastly differ in circumstances. For example, appellant was alleged to have raped AAA in the daytime and in his home when his family was out. Furthermore, AAA could no longer count the multitude of times she was sexually abused by appellant. On the other hand, the alleged rapes by Dumo were purported to have been done at night, with relatives within the

immediate surroundings of the scene of the crime, and after Dumo supposedly drank with CCC until the latter was intoxicated, in order to facilitate the rape. Dumo allegedly raped AAA on eight (8) weekends, both on Saturdays and on Sundays.[62]

Thus, appellant has miserably failed to demonstrate that AAA is confused by her circumstances. Conversely, AAA has in fact shown a clear-headed remembrance of her sufferings from each of her offenders.

It is of no moment that as appellant puts it, private complainant "readily revealed to her mother that the accused-appellant allegedly raped her, [yet] she was afraid to reveal her same experience with Alfredo Dumo." [63] Contrary to his assertions, the records amply show that private complainant has had the tendency to carry the burden of her ordeals by herself. AAA was simply forced by circumstances to divulge her experiences when confronted by her mother, in the case of appellant, and when testifying in court, in the case of Alfredo Dumo.

In the same manner, the attempt to discredit the credibility of the eyewitness account as told to BBB by her kumadre is without merit. Albeit BBB admits that appellant was only referred to as "the husband of Glory" and although both appellant's and Alfredo Dumo's wives are named Glory, the circumstances of time and place coupled with the unambiguous identification of appellant by AAA as the rapist for these cases at bar, can lead to no conclusion other than that it was appellant who committed the deplorable acts as charged. We note the prosecution's attempts to subpoena Julieta Flores to testify in trial, however for naught.[64] The court orders[65] and subpoena return[66] demonstrate the earnest efforts made by the prosecution to present the testimony of the eyewitness. Ultimately, Julieta Flores's testimony would merely have been corroborative and not essential to establishing the fundamental elements of the instant cases.

Upon the other hand, appellant's alibi and denial of the crimes charged are inherently weak. It is in fact the defense of alibi that should be considered with suspicion and always received with caution, not only because it is inherently weak and unreliable, but also because it is easily fabricated.[67] For alibi to prosper, the appellant must not only prove that he was somewhere else when the crime was committed. He must also convincingly demonstrate the physical impossibility of his presence at the locus criminis at the time of the incident.[68]

In the case at bar, appellant failed to show that it would have been physically impossible for him to be at the scene of the crime on the occasions of the rape. Not only were the alleged locations of his alibi all within the same province, there is no evidence that appellant never absented himself from work or the purported mahjong sessions with his friends in the three years that the rapes were alleged to have been committed. It is likewise inconceivable that appellant's wife never once left him alone in their home, as it is absurd to believe his claim that he never spoke with AAA whenever she was at his house.

On the contrary, it was adequately established that appellant lived but a few meters from AAA's home. It is easy to see how the crimes could have been committed with facility. Moreover, being the husband of a grandaunt, he exercised moral ascendancy over the child.[69] Not only that, as observed by the trial court, the appellant is a "bulky and hulking" man.[70] A nine-year old child would have been no match for his physical size.

Thus, we sustain the finding of guilt and the consequent penalty imposed as pronounced by the RTC and the Court of Appeals. Noteworthy is the fact that both Informations for statutory rape allege that the crimes were committed prior to both the passage of the law imposing death for rape cases,[71] as well as the new rape law.[72] Article 335 of the Revised Penal Code then provided:

Article 335. When and how rape is committed. â€œ Rape is committed by having carnal knowledge of a woman under any of the following circumstances:

1. By using force or intimidation;
2. When the woman is deprived of reason or otherwise unconscious; and
3. When the woman is under twelve years of age or is demented.

The crime of rape shall be punished by reclusion perpetua.

x x x x

The minority of the private complainant was alleged in the Information and proven with certainty. There is thus no impediment in affirming the sentence of reclusion perpetua for each count of rape.

Anent the civil liability of appellant, we modify the award of damages in line with prevailing jurisprudence. Consequently, the court finds Carpio liable to AAA in the amount of P75,000.00 as civil indemnity, P75,000.00 as moral damages and P25,000.00 as exemplary damages for each count of rape.[73] The award of civil indemnity, which is in the nature of actual or compensatory damages, is mandatory upon a conviction of rape.[74] On the other hand, the award of moral damages is automatically granted in rape cases

without need of further proof other than the commission of the crime because it is assumed that a rape victim has actually suffered moral injuries entitling her to such award.[75] Finally, the presence of the qualifying circumstance of minority necessitates the award of exemplary damages.[76]

WHEREFORE, the decision of the RTC in Criminal Case Nos. A-2758 and A-2759, as well as the decision of the Court of Appeals in CA-G.R.CR—H.C. No. 01339, are **AFFIRMED WITH MODIFICATION**. Appellant GREGORIO CARPIO @ "GORIO" is sentenced, in each of the criminal cases subject of this review, to suffer the penalty of reclusion perpetua and to pay the victim AAA (to be identified through the Informations in this case), the amounts of P75,000.00 as civil indemnity, P75,000.00 as moral damages and P25,000.00 as exemplary damages plus costs.

SO ORDERED.

Quisumbing, (Chairperson), Carpio, Carpio Morales, and Velasco, Jr., JJ., concur.

[1] Rollo, pp. 3-22. Penned by Associate Justice Eliezer R. De Los Santos and concurred in by Associate Justices Eugenio S. Labitoria and Jose C. Reyes, Jr.

[2] CA rollo, pp. 26-58.

[3] Presided by Executive Judge Leo M. Rapatalo.

[4] CA rollo, pp. 9-10.

[5] The real name of the victim is withheld per R.A. No. 7610 and R.A. No. 9262. See *People v. Cabalquinto*, G.R. No. 167693, 19 September 2006.

[6] Records, p. 71.

[7] The real name of the victim's mother is withheld to protect her and the victim's privacy, also pursuant to R.A. No. 7610 and R.A. No. 9262.

[8] CA rollo, p. 28.

[9] The real name of the victim's grandmother is likewise withheld pursuant to R.A. No. 7610 and R.A. No. 9262.

- [10] TSN, 6 September 1994, pp. 5-6.
- [11] TSN, 11 March 1994, pp. 2-3.
- [12] Id. at 5.
- [13] Id.
- [14] Id. at 7.
- [15] Id. at 5-12.
- [16] Id. at 13-14.
- [17] TSN, 22 March 1994, pp. 12-14.
- [18] Id. at 14-15.
- [19] TSN, 11 April 1994, p. 4.
- [20] Also referred to as Julieta Munar in the case records.
- [21] TSN, 26 August 1994, pp. 5-8.
- [22] Id. at 8-10.
- [23] Id. at 12.
- [24] Rollo, p. 5.
- [25] TSN, 21 September 1994, pp. 7-8.
- [26] The real name of the victim's great-grandmother withheld per R.A. 7610 and R.A. 9262.
- [27] The real name of the victim's aunt withheld per R.A. No. 7610 and R.A. No. 9262.
- [28] TSN, 6 January 1997, pp. 6-8.
- [29] Id. at 8.
- [30] Id. at 2-5.
- [31] TSN, 10 January 1997, pp. 4-8.
- [32] Supra note 28 at 15-16.
- [33] TSN, 15 November 1996, pp. 5-9.
- [34] Id. at 14.
- [35] Rollo, p. 6.
- [36] TSN, 6 January 1997, p. 11.
- [37] TSN, 30 January 1995, p. 8.
- [38] TSN, 21 August 1995, pp. 2-6.
- [39] CA rollo, p. 58.
- [40] G.R. Nos. 147678-87, 7 July 2004, 433 SCRA 640.

[41] CA rollo, p. 21.

[42]Id. at 253-268.

[43] Id. at 261, appellant citing *People v. Subido*, 323 Phil. 240 (1996).

[44] Id.

[45] Id. at 265.

[46] Id. at 264.

[47] Id. at 263, citing TSN, 6 September 1994, p. 14.

[48] *People v. Miranda*, G.R. No. 169078, 10 March 2006, 484 SCRA 555-561; citing *People v. Fernandez*, G.R. Nos. 139341-45, 25 July 2002, 385 SCRA 224.

[49]*People v. Soriano*, 433 Phil. 190, 201 (2002); citing *People v. Napiot*, 311 SCRA 772 (1999); *People v. Maglente*, 306 SCRA 546 (1999); *People v. Banela*, 301 SCRA 84 (1999).

[50] *Supra* note 11 at 5-19.

[51] CA rollo, pp. 49-51.

[52]Id. at 19.

[53] *Supra* note 25 at 6.

[54] *People v. Boromeo*, G.R. No. 150501, 3 June 2004, 430 SCRA 533. See also *People v. Torres*, G. R. No. 149557, 16 March 2004, 425 SCRA 563; *People v. Cortezano*, G.R. No. 123140, 23 September 2003, 411 SCRA 431; *People v. Baluya*, 430 Phil. 349 (2002); *People v. Velasquez*, G.R. Nos. 132635 & 143872—75, 21 February 2001, 352 SCRA 455.

[55] *People v. Boromeo*, *supra*. See also *People v. Velasco*, G.R. Nos. 135231-33, 28 February 2001, 353 SCRA 138.

[56] *People v. Boromeo*, *supra* note 54 at 547. See also *People v. Siao*, 383 Phil. 988 (2000); *People v. Gaorana*, 352 Phil. 487 (1998).

[57] *People v. Tupaz*, 439 Phil. 381, 391 (2002. See also *People v. Sancha*, 382 Phil. 646, 654-655 (2000).

[58] See *People v. Baluya*, *supra*; *People v. Baccay*, 348 Phil. 322, 329 (1998).

[59] *People v. Oliva*, 347 Phil. 146, 159 (1997); *People v. Mahinay*, 362 Phil. 86, 105 91999), citing *People v. Lagrosa Jr.*, G.R. Nos. 105956-57, 23 February 1994, 230 SCRA 298; *People v. Andres*, 324 Phil. 124, 128 (1996); *People v. Abordo*, G.R. No. 101187, 23 July 1993, 224 SCRA 725; *People v. Oarga*, 328 Phil. 395, 399-401 (1996); *People v. Ligotan*, 331 Phil. 98, 105 (1996); *People v. Tampos*, 455 Phil. 844, 860-861 (2003); *People v. Jusayan*, G.R. No. 149785, 28 April 2004, 428 SCRA 228.

[60] See *People v. Llambo*, 380 Phil. 759, 774 (2000).

[61] TSN, 21 September 1994, p. 5.

[62] TSN, 22 April 1994, pp. 5-15.

[63]CA rollo, p. 264.

[64] Records, pp. 84, 86, 91. See also TSN, 21 September 1994, p. 11.

[65] Dated 21 September 1994 and 8 November 1994.

[66] Dated 26 September 1994, with first indorsement dated 3 October 1994.

[67] Velasco v. People, G.R. No. 166479, 28 February 2006, 483 SCRA 649, 665. See also People v. Dela Cruz, 459 Phil. 130, 136 (2003); People v. PO3 Pelopero, 459 Phil. 811, 833 (2003); People v. Arbois, L-36936, 5 August 1985, 138 SCRA 24.

[68] People v. Teodoro, G.R. No. 170473, 12 October 2006, citing Velasco v. People, supra. See also People v. Alfaro, G.R. Nos. 136742-43, 30 September 2003, 412 SCRA 293; People v. Limio, G.R. Nos. 148804-06, 27 May 2004, 429 SCRA 597; People v. Besmonte, 445 Phil. 555, 569-570 (2003); People v. Lachica, 431 Phil. 764, 780-781 (2006).

[69] CA rollo p. 55.

[70] Id.

[71] R.A. No. 7659, otherwise known as the "Death Penalty Law," was approved on 13 December 1993.

[72] R.A. No. 8353, also known as the "Anti-Rape Law of 1997" took effect on 22 October 1997.

[73] People v. Cabalquinto, G.R. No. 167693, 19, September 2006; People v. Salome, G.R. No. 169077, 31 August 2006; People v. Quiachon, G.R. No. 170236, 31 August 2006.

[74] People v. Dimaano, G.R. No. 168168, 14 September 2005, 469 SCRA 647, 669-670; People v. Glodo, G.R. No. 136085, 7 July 2004, 433 SCRA 535, 549.

[75] People v. Dimaano, supra. See also People v. Antonio, G.R. No. 157269, 3 June 2004, 430 SCRA 619, 627.

[76] People v. Teodoro, supra note 67. See also People v. Quiachon, supra note 73.

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