

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. IGNACIO PORAS, ACCUSED-APPELLANT.

G.R. No. 177747. February 16, 2010

Ponente: BRION, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-177747/>

BRION, J.:

We resolve in this Decision the appeal from the November 8, 2006 decision of the Court of Appeals (CA) in CA-G.R. CR-HC No. 00905.[1] The CA affirmed the January 12, 2004 decision of the Regional Trial Court (RTC), Branch 222, Quezon City,[2] finding appellant Ignacio Poras (appellant) guilty beyond reasonable doubt of the crime of rape and sentencing him to reclusion perpetua.

THE CASE

The prosecution charged the appellant before the RTC with the crime of rape under an amended Information[3] that reads:

That on or about the 27[th] day of November 1994 in Quezon City, Philippines, the said accused did then and there, willfully, unlawfully and feloniously have sexual intercourse with the undersigned complainant [AAA],[4] a minor 13 years of age, while the latter was deprived of reason or otherwise unconscious, in the following manner, to wit: having been made to drink milk with sleeping substance, as a result of which the undersigned was reduced into a state of unconsciousness and deprived of her willpower, accused Ignacio Poras y Benedicto had sexual intercourse with the undersigned, against her will and without her consent.

CONTRARY TO LAW. [underscoring in the original]

The appellant was arraigned and pleaded not guilty to the amended charge.[5] The prosecution presented the following witnesses in the trial on the merits that followed: AAA; Dr. Rosaline Cosidon (Dr. Cosidon); and BBB. The appellant solely testified in his own defense.

AAA first took the witness stand for the prosecution on September 20, 1995. The RTC subsequently ordered the re-taking of her testimony because the stenographer who took the transcript of stenographic notes of the proceedings on September 20, 1995 and December 4, 1995 went on absence without leave (AWOL), and the transcript of stenographic notes could no longer be located.

AAA testified that she lives in Barangay Pingkian, Pasong Tamo, Quezon City with the appellant and CCC, her godmother's daughter. She was 13 years old at the time of the incident complained of.[6] AAA recalled that on the night of November 27, 1994, the appellant offered her coffee with milk. She refused the proffered drink, but the appellant got angry and insisted that she drink it.[7] She did as ordered, and forthwith fell asleep. She saw the appellant beside her when she woke up in the early morning of the next day. The appellant was moving on top of her and touching her private parts. She also noticed that the strap of her bra had been removed, and her panty already lowered to her knees. When she pushed the appellant, the latter raised his brief and went to his room, threatening to kill her if she would disclose the incident to anyone. She did not call for help because she felt

weak.[8]

AAA further testified that she slept at the sala of the house with CCC, while the appellant slept alone in his room. She recalled that CCC was no longer beside her when she woke up, but was lying outside of the mat where they slept. According to her, it was not the appellant's usual practice to prepare coffee for her.[9] She did not reveal the incident to her brother DDD when the latter came home because she was afraid that he (DDD) would side with the appellant. She instead disclosed the incident to her school friend, "Jennifer." Jennifer accompanied AAA to her (AAA's) aunt, BBB, who, in turn, reported the matter to the Sangandaan Police Station.[10] The police took her testimony and referred her to Camp Crame for medical examination.[11]

AAA further narrated that she had known the appellant since she was six (6) years old and resented him because he was a "manyakis."[12] According to AAA, the appellant often pressed his penis against her buttocks when she was younger.[13]

On cross examination, AAA declared that she had been living with the appellant and her siblings ever since her mother died on January 31, 1994. She declared that the appellant first raped her when she was in Grade II.[14] She recalled that CCC was sleeping beside her when the appellant asked her to drink coffee in the evening of November 26, 1994. She fell asleep after drinking the coffee. She saw the appellant lying beside her when she woke up.[15] She also saw blood on the rear end of her panty.[16] She was certain that the appellant had raped her because the latter was putting on his briefs and shorts when she woke up.[17]

AAA reiterated that CCC was no longer on the mattress where they slept when she (AAA) woke up. She further stated that their residence - a rented house - measures 4 ½ x 6 meters. The house has a sala that is approximately 3 ½ square meters wide,[18] and a room that measures 2 ½ x 1 square meters. This room has no door, but has a wooden bed inside. The sala and the room are separated by a wooden partition.[19]

Dr. Cosidon, Medico-Legal Officer of the PNP Crime Laboratory in Quezon City, testified that she conducted a medical examination of AAA on December 4, 1994 at the request of the Deputy Chief of Police of the Sangandaan Police Station.[20] The examination yielded the following findings:

Medico-Legal Report No. M-1736-94

x x x x

GENITAL:

There is a moderate growth of pubic hair. Labia majora are full, convex and coaptated with the light brown labia minora presenting in between. On separating the same is disclosed an elastic, fleshy-type hymen with deep-healed lacerations at 3 and 9 o'clock positions. External vaginal orifice offers moderate resistance to the introduction of the examining index finger and the virgin sized vaginal speculum. Vaginal canal is narrow with prominent rugosities. Cervix is normal in size, color and consistency.

CONCLUSION:

Subject is in non-virgin state physically. There are no external signs of application of any form of violence.

REMARKS:

Vaginal and peri-urethral smears are negative for gram-negative diplococcic and for spermatozoa.[21]

Dr. Cosidon stated that the lacerations could have been caused by a hard object such as a finger or a fully erect penis.[22]

BBB, testified that the appellant was the live-in partner of her sister. BBB recalled that on December 2, 1994, AAA told her that the appellant had raped her.[23] She reported the incident to the police on December 4, 1994. After taking the statement of AAA, the police told BBB to bring her to Camp Crame for medical examination.[24]

The defense presented a different version of events.

The appellant testified that he knew AAA because the latter's mother, FFF, was his common-law wife. Prior to FFF's death in February 1994, the appellant lived with FFF and her five (5) children in a rented house in a squatter's area in Barangay Pingkian. This house has a small room made of plywood, with a wooden bed inside.[25]

The appellant further stated that he looked for a job after the death of FFF and stayed at a friend's house on Santiago Street, San Francisco, Del Monte, Quezon City, but he still visited his wife's children in Barangay Pingkian.[26] The appellant maintained that he was at the La Loma Cockpit Arena on November 27, 1994, and slept at the place of his friend Larry.[27]

The appellant recalled that he was in Negros when BBB informed him of his wife's death. He went to Manila to attend the wake which lasted for three (3) days. Thereafter, he looked for a job and stayed at Larry's house in Quezon City to take care of the latter's fighting cocks.[28] FFF's children occasionally visited him there to ask for support. The children got angry when he told them not to ask for money. The appellant transferred residence to Tandang Sora in December 1994 to take care of his brother's fighting cocks. He was arrested by the police in Pingkian on December 4, 1994.[29]

On cross examination, the appellant stated that Larry's house was about an hour away from his (appellant's) former house in Pingkian. FFF's children visited him at work in May 1994, but he did not give them any money as they were already of age. According to him, he did not marry FFF because the latter's former marriage was still subsisting.[30]

The RTC also ordered the re-taking of the appellant's testimony because the court stenographer who attended the proceedings went AWOL and failed to submit the transcript of stenographic notes of the proceedings. The appellant essentially reiterated his previous court testimonies.

The RTC convicted the appellant of rape in its decision of January 12, 2004 under the following terms:

WHEREFORE, premises considered, finding the accused Ignacio Poras GUILTY beyond reasonable doubt of the crime of rape under Article 266-A of the Revised Penal Code, said accused is hereby sentenced to suffer the penalty of Reclusion Perpetua and ordered to pay private complainant AAA a civil indemnity of P50,000.00 and moral damages of P50,000.00.

Considering that the accused is a detention prisoner, let the period of his detention be credited in the service of his sentence.

With costs de officio.

SO ORDERED.[31]

The records of this case were originally transmitted to this Court on appeal. Pursuant to our ruling in *People v. Mateo*,[32] we endorsed the case and its records to the CA for appropriate action and disposition.

The CA, in its decision dated November 8, 2006, affirmed the RTC decision with the modification that the appellant be held liable for rape under Article 335, as the rape was committed prior to the enactment of the Anti-Rape Law of 1997. It relied on the evaluation made by the RTC regarding AAA's credibility, as the trial

court had the unique opportunity to observe the witnesses' attitude, conduct, and demeanor. According to the appellate court, the victim's testimony proved that the appellant had sex with her while she was unconscious. The CA added that the totality of established circumstances constituted an unbroken chain of events leading to a fair and reasonable conclusion that the appellant had raped the victim. In addition, Dr. Cosidon's findings that the victim suffered deep-healed lacerations on her private parts corroborated AAA's testimony.

The CA further observed that minor inconsistencies in the victim's testimony strengthened her credibility because they eliminated the chance of a rehearsed testimony. The appellate court also noted that the victim's delay in reporting the rape was not an indication of a fabricated charge; victims of harrowing experiences would rather bear their ignominy and pain in private rather than reveal their shame to the world.

Finally, the CA stated that the appellant's uncorroborated alibi and denial cannot prevail over the victim's positive testimony. It ruled that the appellant failed to show that it was physically impossible for him to be at the crime scene at the time of its commission.

In his brief,[33] the appellant argued that the RTC erred in convicting him of the crime charged despite the prosecution's failure to prove his guilt beyond reasonable doubt. According to the appellant, AAA gave different versions of the incident, but never testified that there was any penetration of her private parts. AAA only concluded that she had been raped when she learned of the result of the medical examination and because she felt weak when she woke up.

THE COURT'S RULING

We find that the prosecution failed to prove the appellant's guilt beyond reasonable doubt of the crime of rape. We convict him instead of the lesser of acts of lasciviousness, included in rape, as the evidence on record shows the presence of all the elements of this crime.

Circumstantial Evidence Insufficient To Establish Carnal Knowledge

The review of a criminal case opens up the case in its entirety. The totality of the evidence presented by both the prosecution and the defense is weighed, thus, avoiding general conclusions based on isolated pieces of evidence.

In a charge of rape, the review begins with the reality that rape is a very serious accusation that is painful to make. At the same time, it is a charge that is not hard to lay against another by one with malice in her mind. Because of the private nature of the crime that justifies the acceptance of the lone testimony of a credible victim to convict, it is not easy for the accused, although innocent, to disprove his guilt. These realities compel us to approach the appeal with great caution, and to scrutinize the statements of the victim on whose sole testimony conviction or acquittal depends.[34]

By definition, rape is committed by having carnal knowledge of a woman with the use of force or intimidation, or when she is deprived of reason or otherwise unconscious, or when she is under twelve (12) years of age or is demented. Although full penetration is not required to sustain a conviction of rape, there must at least be proof beyond reasonable doubt of the entrance of the male organ within the labia of the pudendum of the female organ.

In this case, no direct evidence exists showing the required penetration; AAA could not have seen the appellant insert his penis into her vagina because she was unconscious. However, direct evidence of the commission of the crime is not the only basis from which courts may draw their findings and conclusions. Where the victim could not testify on the actual penetration that the crime of rape requires because she had been rendered unconscious at the time of the crime, Rule 133, Section 4, of the Revised Rules on Evidence allows the courts to rule on the basis

of circumstantial evidence, thus:

Sec. 4. Circumstantial evidence, when sufficient. - Circumstantial evidence is sufficient for conviction if:

There is more than one circumstance;

The facts from which the inferences are derived are proven; and

The combination of all the circumstances is such as to produce a conviction beyond reasonable doubt.

A related rule is that the totality or the unbroken chain of the circumstances proved leads to no other logical conclusion than the guilt of the appellant.[35]

In the present case, the lower courts convicted the appellant of rape based on the following circumstances: (a) the appellant made AAA drink coffee which made her fall asleep; (b) AAA saw the appellant lying beside her, moving on top of her, and touching her private parts when she woke up; (c) AAA's panty had been lowered to her knees, and the strap of her bra had been removed; (d) the appellant put on his briefs and shorts after AAA pushed her; (e) AAA felt pain in her private parts, and saw blood stains on her panty; (f) the appellant threatened to kill AAA if she disclosed the incident to anyone; and (g) the examining physician found deep-healed lacerations in AAA's vagina.

The test to determine whether or not the circumstantial evidence on record is sufficient to convict the accused requires that the duly proven series of circumstances must be consistent with each other, and that each and every circumstance must be consistent with the accused's guilt and inconsistent with his innocence.[36] In other words, the circumstantial evidence must do more than just raise the mere possibility or even the probability of guilt. It must engender moral certainty.

In the present case, we can only conclude, after due consideration of the evidence adduced, that the circumstantial evidence failed to clearly establish an unbroken chain leading to the fair and reasonable conclusion that the appellant raped AAA.

First, the result of the medical examination did not in any way support AAA's claim that the appellant had sex with her. Dr. Cosidon testified that the deep-healed lacerations on the victim's hymen could have also been caused by a finger, and that these lacerations could have been present even before November 27, 1994. To directly quote from the records:

ATTY. IGNACIO BANDAL, JR.:

Q:

Dr., will you please, you said seven (7) days or more on deep healed lacerations you mentioned. [sic] Could it be possible that this [sic] lacerations at 3 and 9 o'clock positions in your Medico Legal Report No. M-1736-94, could it happened a long time ago or before November 27, 1994? [sic]

DR. COSIDON:

A:

It could be possible.

Q:

Now, could it be possible that this deep laceration that your finding the 3 and 9 o'clock position [sic] could have been caused by a finger of any person inserted to the vagina?

A:

Could be possible.

x x x [emphasis ours][37]

In addition, we cannot equate a ruptured hymen with rape. In *People v. Domantay*,^[38] we had occasion to expound on the evidentiary value of a finding of hymenal lacerations, as follows:

[A] medical certificate or the testimony of the physician is presented not to prove that the victim was raped but to show that the latter had lost her virginity. Consequently, standing alone, a physician's finding that the hymen of the alleged victim was lacerated does not prove rape. It is only when this is corroborated by other evidence proving carnal knowledge that rape may be deemed to have been established.

Thus, while the healed lacerations are undisputed, they can only prove, in the absence of any other evidence, that AAA has had prior sexual experience. Specific proof of penile contact, on or about the time the appellant allegedly raped her, is missing.

Even assuming, for the sake of argument, that the appellant succeeded in inserting his fingers in AAA's vagina, this act still would not suffice to convict the appellant of rape. In 1994, the insertion of one or more fingers into a woman's vagina without her consent did not constitute rape. It was only in 1997 that the law on rape was expanded to include this act.^[39]

Second, we find it highly unlikely that the appellant inserted his penis into AAA's vagina while the latter's panty was lowered to her knees. Common sense and ordinary human experience show that penile penetration is extremely difficult, if not almost impossible under this situation, unless the victim's legs were spread apart. If the appellant's intention had been to consummate sexual coitus with AAA, he would have completely removed her (AAA's) underwear, given that he had the opportunity as she was then asleep.

Third, considering that AAA was an unmarried 13-year old, she would have been in unusually deep sleep in order not to feel the pain and sensation reasonably expected from the insertion of a penis into her young, vaginal canal. We are baffled how could she have slept through a consummated sexual intercourse and awakened only after its completion. While AAA alleged that she had been drugged, this state - by itself and in the absence of any other evidence - only gives rise to the possibility of a consummated act of rape; the conviction in a rape case though must rest on evidence, not on mere possibility.^[40]

Fourth, we cannot equate AAA's testimony of pain in her private parts with rape. Carnal knowledge, not pain, is the element of consummated rape and we believe that it would be a dangerous proposition to equate a victim's testimony of pain, in the absence of any other evidence, with carnal knowledge. The peril lies in the facility of asserting pain. Pain, too, can come from various reasons other than carnal knowledge; it is also subjective and is easy to feign.^[41]

Fifth, the testimonies of the other prosecution witnesses did not establish with moral certainty that the appellant raped AAA. BBB's testimony that AAA admitted to her that she had been raped by the appellant is clearly hearsay and is inadmissible for the purpose of showing that the appellant raped AAA. The prosecution likewise failed to explain why BBB only reported the incident to the police on December 4, 1994, when AAA disclosed the rape to her as early as December 2, 1994.

Likewise strangely missing, in our view, was any corroborative statement from CCC who, from AAA's testimony, was sleeping beside her on the night of the alleged rape. According to AAA, CCC was still beside her, but was no longer on the mattress they shared, when she (AAA) woke up and found the appellant lying beside her. The

implication from AAA's testimony is that CCC slept through the whole incident of rape. We find this unusual if indeed AAA had been drugged into sleep and if the appellant had taken his time in ravishing her during her asleep. If indeed the appellant had ample time for the rape and did it silently so that CCC never awakened, it would have been unusual - as we already noted - for AAA's panty to have been simply pulled down to her knees in a position that made penile insertion extremely difficult. In sum, AAA's testimony on the details of the alleged rape, and the fact of rape, does not simply add up into a coherent whole.

Finally, we cannot help but observe that AAA, in her direct testimony, revealed that she merely came to the conclusion that the appellant had raped her after being told by the examining physician that the result of the medical examination was "positive," and that something had happened to her. For clarity and precision, we directly quote from the records:

FISCAL LORNA CHUA CHENG:

Q:

Miss witness, during your direct examination, you testified that you were allegedly raped by your step-father Ignacio Poras, why do you say that you were allegedly raped while you were asleep then?

[AAA]:

A:

Because when I woke up, I saw him beside me and because of the result of the medical examination.

Q:

Why, were you able to talk to the doctor who examined you?

A:

Yes, Ma'am.

Q:

What did he [sic] tell you, if any?

A:

He [sic] told me it is positive.

Q:

What do you mean by positive?

A:

That there was something that happened.

COURT:

Q:

Something happened to whom?

A:

To me, sir.

x x x [42] [emphasis supplied]

AAA, to our mind, jumped from the premise that the examination was "positive" into the conclusion that she had been raped.[43] True, she was unconscious and could not have seen whether there had been actual penile contact. To conclude, however, that the appellant had raped her because she saw him lying beside her when she woke up, and because the examining physician later told her that something had happened to her, is not sufficient; it does not prove, to the point of moral certainty, that the appellant, to the exclusion of other possibilities, had raped her.

For one, when Dr. Cosidon told AAA that "it is positive," and that something "had happened" to her, the doctor could have simply been confirming what she wrote in her medico-legal report, that she found the victim to be in a non-virgin state, with deep-healed hymenal lacerations - a finding that did not necessarily mean that AAA had been raped on the occasion that gave rise to the medical examination. As previously discussed, Dr. Cosidon did not discount the possibility that the deep-healed lacerations could have been inflicted before November 27, 1997 and that a finger could have also caused these lacerations. In fact, Dr. Cosidon could not have concluded that AAA had been raped; whether the facts alleged and proven constitute the crime of rape is a legal conclusion for this Court to make.[44]

We are not unmindful of decided cases where the victim was unconscious and was not aware of the sexual intercourse that transpired, yet the accused was found guilty on the basis of circumstantial evidence.

In *People v. Sabardan*,[45] the victim felt dizzy and lost consciousness after the accused forced her to drink beer. On waking up, she found herself completely naked and felt severe pains in her vagina. The Court upheld the culpability of the accused for rape.

In *People v. Gaufo*,[46] the victim was hit on her head by the accused but she fought back and asked for help. The accused then punched her abdomen causing her to lose consciousness. Upon regaining her bearings, she noticed that her underwear was missing, her vagina was bleeding and her body was painful. The combination of these circumstances, among others, led the Court to adjudge the accused guilty of rape.

In *People v. Perez*,[47] this Court ruled that the victim's positive identification of the accused as the person who came to her room and covered her nose and mouth with a foul smelling handkerchief until she lost consciousness, the blood and white substance found in her aching vagina, her torn shorts and her missing panty, all led the Court to the conclusion that accused had raped her while she was unconscious.

In all these cases, the totality of the circumstances led to no other logical conclusion than the fact of rape and its commission by the accused. Other cases, however, are also on record where this Court did not hesitate to set aside convictions in rape cases involving unconscious victims where the circumstantial evidence was found insufficient to convict.

In *People v. Sumarago*,[48] the victim testified that the accused boxed her, rendering her unconscious. When she regained consciousness, she had a severe headache. However, she still had her clothes on. She suspected that the appellant had carnal knowledge of her because her vagina was painful. The examining physician also found incomplete lacerations on her private parts. In acquitting the accused,[49] the Court explained:

There is no proof beyond reasonable doubt that the appellant's penis entered the labia of the pudendum of Norelyn. It is possible that while [the victim] was unconscious, the appellant undressed her, removed her panties and inserted his private organ into her vagina; and after satisfying himself, put her clothes back on before she regained consciousness. But such possibility is not synonymous with evidence. That the appellant had carnal knowledge of the victim cannot be presumed simply because she felt pain in her vagina when she regained consciousness, and that for over a period of time, the appellant warned her not to tell anybody.

In *People v. Arcillas*,^[50] the accused hit the victim with a wooden stick on the head rendering her unconscious. When she woke up, she found herself covered in blood. The laboratory examination showed that she was positive for sperm cells in her private parts. In setting aside the accused's conviction of rape with frustrated homicide, this Court held that although the prosecution amply proved that private complainant had been clubbed into unconsciousness by the accused, the proffered evidence was inadequate to prove that she had been raped. The mere presence of spermatozoa in the vagina, according to the Court, did not prove that the accused raped the private complainant since these sperm cells could have been introduced by sexual contact earlier or later than the alleged rape.

Similarly, in *People v. Daganta*,^[51] the accused was acquitted of the charge of raping a minor. According to the prosecution, the accused invited the supposed victim to his room and once inside, the accused started kissing her on the cheek and then on her lips. He then sprayed an insect repellent on her face, rendering her unconscious. When she woke up, she found the accused sitting outside his room. The lower portion of her umbilicus was painful; she felt pain in her private parts when she urinated. The physical examination of the alleged victim revealed that there was hymenal laceration at five o'clock indicative of the entry of a hard object into her private parts. Despite all these, the Court reversed the lower court decision based on reasonable doubt, and held that the prosecution's evidence was hazy, contradictory and sorely lacking in material details. It added that the chain of circumstances did not show a coherent and consistent story that would give rise to a certitude sufficient to convince this Court to impose on the accused the grave penalty of reclusion perpetua.

Finally, in *People v. Masalihit*,^[52] the victim saw the accused on top of her and wiping his private parts when she woke up. Nonetheless, the Court acquitted the accused because there was no evidence showing that the act of "wiping" was preceded by an intercourse; the prosecution also failed to show that what was wiped was semen.

In rape cases, the prosecution bears the primary duty to present its case with clarity and persuasion, to the end that conviction becomes the only logical and inevitable conclusion. The Constitution requires moral certainty or proof beyond reasonable doubt; a conviction cannot be made to rest on possibilities.^[53]

In the case before us, the pieces of circumstantial evidence do not indubitably lead to the conclusion that appellant is guilty of the crime charged. When two antithetical interpretations may be inferred from the circumstantial evidence presented, the situation calls for the application of the equipoise rule - i.e., when the evidence is consistent with a finding of innocence and also compatible with a finding of guilt, then the evidence is at equipoise and does not fulfill the test of moral certainty sufficient to support a conviction.^[54]

Lewd or Lascivious Design Proven

Notwithstanding the prosecution's failure to prove the appellant's guilt for rape, the Court holds that sufficient evidence exists to convict him of acts of lasciviousness under Article 336 of the Revised Penal Code. A charge of acts of lasciviousness is necessarily included in a complaint for rape.^[55] The elements of acts of lasciviousness are: (1) that the offender commits any act of lasciviousness or lewdness; (2) that it is done under any of the following circumstances: (a) by using force or intimidation, (b) when the offended woman is deprived of reason or otherwise unconscious; or (c) when the offended party is under twelve (12) years of age; and (3) that the offended party is another person of either sex.^[56]

"Lewd" is defined as obscene, lustful, indecent, or lecherous. It signifies that form of immorality related to moral impurity, or that which is carried on a wanton manner.^[57]

AAA's testimony during direct examination showed how the appellant committed lewd conduct against her:

x x x x

ASSISTANT CITY PROSECUTOR LORNA CHUA CHENG:

Q:

Miss witness, you said when you woke up on November 27, 1994, you saw the accused embracing you, what did he do to you while embracing you?

[AAA]:

A:

He was touching me.

Q:

What part of your body was he touching?

A:

My organ.

Q:

What was he using while touching you?

A:

His fingers.

Q:

After that what happened?

A:

When I was fully awakened he told me not to tell anybody.

Q:

And while the accused was still touching your private part, were you still having your panty on? [sic]

A:

No more.[58] [emphasis ours]

AAA likewise confirmed on cross examination that the appellant fondled her breasts. During the re-taking of her direct examination, AAA reiterated that the appellant touched her private parts.

Undeniably, the evidence confirms that appellant committed lewd acts against the victim when he touched her private parts. An examination of AAA's testimony shows that she did not consent to the touching of her private parts. In fact, she immediately pushed the appellant when she saw him lying beside her and touching her private parts when she woke up. The appellant's act of touching AAA's private parts demonstrated lewdness that constituted acts of lasciviousness.

The imposable penalty for the crime of acts of lasciviousness under Article 336 of the Revised Penal Code, as amended, is prision correccional in its full range. Applying the Indeterminate Sentence Law, the minimum of the indeterminate penalty shall be taken from the full range of arresto mayor which has a range of one (1) month and one (1) day to six (6) months. Absent any modifying circumstances attendant to the crime, the maximum of the

indeterminate penalty shall be taken from the medium period of prision correccional or two (2) years, four (4) months and one (1) day to four (4) years and two (2) months. Accordingly, the appellant is hereby meted an indeterminate penalty of six (6) months of arresto mayor, as minimum, to four (4) years and two (2) months of prision correccional, as maximum.

In addition, we award the amounts of P30,000.00 moral damages, P20,000.00 civil indemnity, and P2,000.00 exemplary damages to the victim in accordance with prevailing jurisprudence.[59]

WHEREFORE, premises considered, the November 8, 2006 decision of the Court of Appeals in CA-G.R. CR-HC No. 00905 is MODIFIED as follows:

The conviction for the crime of rape under Article 335 of the Revised Penal Code is VACATED, and —

(1)

we find appellant Ignacio Poras GUILTY of the crime of acts of lasciviousness penalized under Article 336 of the same Code;

2)

(we SENTENCE the appellant to suffer the indeterminate penalty of imprisonment for six (6) months of arresto mayor, as minimum, to four (4) years and two (2) months of prision correccional, as maximum; and

(3)

we ORDER him to PAY the victim the amounts of P30,000.00 as moral damages; P20,000.00 as civil indemnity; and P2,000.00 as exemplary damages.

Costs against appellant Ignacio Poras.

SO ORDERED.

Carpio, (Chairperson), Del Castillo, Abad, and Perez, JJ., concur.

[1] Penned by Associate Justice Celia C. Librea-Leagogo, and concurred in by Associate Justice Rodrigo V. Cosico, and Associate Justice Edgardo F. Sundiam; rollo, pp. 3-33.

[2] Penned by Judge Rogelio M. Pizarro; CA rollo, pp. 25-29.

[3] Id., at 11.

[4] The Court shall withhold the real name of the victim-survivor and shall use fictitious initials instead to represent her. Likewise, the personal circumstances of the victims-survivors or any other information tending to establish or compromise their identities, as well as those of their immediate family or household members, shall not be disclosed.

[5] Records, pp. 48-49.

[6] TSN, May 31, 2000, pp. 5-7.

[7] Id., at 11-12.

[8] Id., at 9-10.

[9] Id., at 12-13.

- [10] *Id.*, at 14-16.
- [11] *Id.*, at 17-18.
- [12] A colloquial corruption of the word "maniac," referring to an oversexed individual.
- [13] TSN, May 31, 2000, pp. 19-21.
- [14] TSN, April 18, 2001, pp. 2-3.
- [15] *Id.*, at 8-9.
- [16] *Id.*, at 10.
- [17] *Id.*, at 11.
- [18] *Id.*, at 12-13.
- [19] TSN, October 30, 1995, pp. 5-9.
- [20] TSN, March 6, 1996, p. 4.
- [21] Records, p. 155.
- [22] TSN, March 6, 1996, pp. 7-9.
- [23] TSN, April 22, 1996, pp. 3-4.
- [24] *Id.*, at 5-6.
- [25] TSN, May 15, 1998, pp. 3-7.
- [26] *Id.*, at 9-11.
- [27] *Id.*, at 12-13.
- [28] TSN, August 10, 1998, p. 2.
- [29] *Id.*, at 3.
- [30] *Id.*, at 4-6.
- [31] CA rollo, p. 29.
- [32] G.R. Nos. 147678-67, July 7, 2004, 433 SCRA 640, 656.
- [33] CA rollo, pp. 96-110.
- [34] *People v. Fabito*, G.R. No. 179933, April 16, 2009.
- [35] See *People v. Moran, Jr.*, G.R. No. 170849, March 7, 2007, 517 SCRA 714.
- [36] *People v. Canlas*, 423 Phil. 665 (2001).
- [37] TSN, March 6, 1996, pp. 8-9.
- [38] 366 Phil. 459, 479 (1999).
- [39] *People v. Quijano Sr.*, 451 Phil. 729 (2003).
- [40] *People v. Abino*, 423 Phil. 263 (2001).

- [41] *People v. Quarre*, 427 Phil. 422 (2002).
- [42] TSN, September 25, 1995, p. 2.
- [43] *People v. Masalihit*, 360 Phil. 332 (1998).
- [44] See *People v. Valenzuela*, G.R. No. 182057, February 6, 2009, 578 SCRA 157, 175.
- [45] G.R. No. 132135, May 21, 2004, 429 SCRA 9.
- [46] 469 Phil. 66 (2004).
- [47] 366 Phil. 741 (1999).
- [48] 466 Phil. 956 (2004).
- [49] The Court, however, found the accused guilty for the other four (4) counts of rape.
- [50] 401 Phil. 963 (2000).
- [51] 370 Phil. 751 (1999).
- [52] *Supra* note 43.
- [53] *Id.* at 39.
- [54] *People v. Erguiza*, G.R. No. 171348, November 26, 2008, 571 SCRA 634.
- [55] *People v. Abulon*, G.R. No. 174473, August 17, 2007, 530 SCRA 675, 704.
- [56] *People v. Mingming*, G.R. No. 174195, December 10, 2008, 573 SCRA 509, 534-535.
- [57] *People v. Lizada*, 444 Phil. 67 (2003).
- [58] TSN, September 25, 1995, pp. 3-4.
- [59] *People v. Abello*, G.R. No. 151952, March 25, 2009.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.