

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RONALDO SALUDO, ACCUSED-APPELLANT.

G.R. No. 178406. April 06, 2011

Ponente: LEONARDO-DE CASTRO, J.

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LEONARDO-DE CASTRO, J.:

On appeal is the Decision[1] dated February 24, 2006 of the Court of Appeals in CA-G.R. CR.-H.C. No. 01553, which affirmed with modification the Joint Judgment[2] of the Regional Trial Court (RTC), Branch XLII, of Pinamalayan, Oriental Mindoro, in Criminal Case Nos. P-5428, P-5429, P-5430, and P-5431, finding accused-appellant Ronaldo Saludo guilty of four counts of rape, and sentencing him to reclusion perpetua and ordering him to indemnify the victim in the amount of P50,000.00 for each count of rape, without subsidiary imprisonment. The Court of Appeals, in addition to the penalties imposed by the court a quo, ordered Saludo to pay the victim P50,000.00 moral damages for each count of rape.

Consistent with our decision in *People v. Cabalquinto*,[3] the real name of the rape victim in this case is withheld. Instead, fictitious initials are used to represent her. Also, the personal circumstances of the victim or any other information tending to establish or compromise her identity, as well as those of her immediate family or household members, are not disclosed in this decision.[4] In this regard, the herein rape victim is referred to as AAA.

In four separate Informations dated August 14, 1995, accused-appellant was charged with four counts of rape committed against AAA on April 10,[5] April 26,[6] May 19,[7] and June 21, 1995.[8] Except for the dates of the commission of the crime, the Informations were identically worded, thus:

CRIM. CASE NO. 5429

That on or about the 10[th] day of April 1995 at around 9:00 o'clock in the evening, in barangay xxx, municipality of xxx, province of xxx, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, by means of force and intimidation, motivated by lewd and unchaste design, did then and there willfully, unlawfully and feloniously lay with and have carnal knowledge with one [AAA], a 14-year-old girl, against her will and without her comment.

During his arraignment on September 5, 1995, accused-appellant entered a plea of not guilty to all four charges against him.[9]

The prosecution presented the oral testimonies of AAA, the victim; CCC, AAA's mother; and Dr. Jorge Palomaria, the physician who physically examined AAA. They testified as to the following:

The first witness, the prosecution presented was the complainant, [AAA]. She testified that she is 14 years old, single, student, and presently residing at x x x.

She personally knows the accused Ronaldo Saludo who is a long time neighbor, living just a few meters away from their hut at x x x. There were several houses clustered in between their respective houses.

[AAA] declared that her parents have been separated for a long time. Her father left them for Manila bringing with him her two sisters. From that time on her mother, three years old sister [BBB], and herself, live in a small hut. The siding of their hut is made of nipa shingles and anyone could easily have access inside the hut.

That last April 10, 1995 at around 9:00 p.m., she and [BBB] were left in their hut. Her mother was in a nearby chapel having a "pabasa", as it was a Holy Monday. She slept in one side of their hut while [BBB] slept on the other side. She was awakened when she felt someone entered their hut. It was accused Ronaldo Saludo at a distance of around five meters away from where she was. Immediately after seeing the accused already standing inside their hut, she also stood up, and shouted "Putang ina mo, anong ginagawa mo sa aming bahay." Accused approached her and closed her mouth with his hand. Complainant pushed the accused but the latter poke a "balisong" knife at her.

There and then, Ronaldo Saludo took off her shorts and panty. Then accused placed himself on top of her, tried hard to insert her (sic) organs to hers. Ultimately, accused succeeded in raping her.

Ronaldo Saludo threatened her that she and her mother would be killed, if she would tell to anybody what have transpired. After he uttered his threat to her, Ronaldo Saludo left the place.

On the very same evening her mother returned home from the chapel. She did not tell her what had happened because of the threat that she and her mother would be killed.

[AAA] underwent sexual experiences against her will with the use of force and intimidation, not once but three more times.

The exact sequence of the startling events happened again on April 26, May 19 and June 21, 1995, in the hands of Ronaldo Saludo everytime her mother is in Manila transporting bananas. Despite those horrifying sexual experiences, complainant continued to attend her classes at the x x x National High School. She did not inform anybody what had happened to her. Neither, did she tell her teachers nor close friends and classmates that she was sexually abused by the accused. She was so much afraid that accused would make good his threat to kill her and her family.

On July 7, 1995 there is a good reason for her mother to be suspicious as her abdomen is becoming bigger and bigger. And so, [AAA] confronted her mother and told her - "Inay, kung ako ay magsasabi sa iyo, huwag mo akong bugbugin sapagkat ako ay buntis at ang nakabuntis sa akin ay si Ronaldo Saludo." She also informed her mother regarding the threat of the accused to kill them if she would divulge what had happened to them.

The following day, July 8, 1995 they finally decided to transfer their residence from x x x in order to escape from the accused as he might make good his threat. With such decision, [AAA] had to quit schooling.

On July 9, 1995, [AAA] and her mother [CCC] went to the municipal (sic) police station of x x x, and thereat executed their respective sworn statement relative to the incident in question

And, on July 16, 1995 [AAA] voluntarily subjected herself to the medical examination.

Dr. Jose G. Palomaria, in his medico-legal report made the following finding:

P.E.

(Physical Examination) ABDOMEN: With palpable mass occupying the lower half of the abdomen, globular with the smooth surface probably the uterus, fundic height is one finger below the umbilicus.

I.E.

(Internal Examination) Normal external genital except for old hymenal laceration at 1, 3, 5 and 9 o'clock position with whitish vaginal discharge in minimal amount.

- With (laceration) violaceous, soft cervix compatible to a pregnancy.

Suggesting: Doppler examination, Preg. Test. DX: P.U. 17-18 weeks, Gravida one.[10]

The prosecution submitted AAA's Certificate of Live Birth to establish that she was born on January 14, 1981[11] and that she was 14 years old when the alleged rape took place.

Saludo himself; Enrique Perez, Sr., a neighbor of AAA and accused-appellant in Barangay XXX; Renato Naling, a kagawad of Barangay XXX; Jimmy de Castro, Municipal Mayor of XXX; and Sheryl Perez, Enrique Perez, Sr.'s daughter, testified for the defense. The defense's version of events, based on said witnesses' testimonies, is as follows:

For his defense, accused maintains his innocence. He knows [AAA] from childhood and her mother [CCC], since he reaches the age of reason. In fact they are neighbors living just 20 meters away from his house at x x x. There are several houses clustered in between their houses. One of them is the house of [DDD], a cousin of [CCC], which is just behind [CCC's] house. Other houses therein are owned by the mother and a brother of [CCC] not far away from the house of the latter.

Accused did not deny his presence in the neighborhood. He declares that in the evening of April 10, 1995, he was in his house with Mayor Jimmy de Castro and other political leaders. There was a political meeting to promote the candidacy of de Castro who was then a mayoralty candidate. After the meeting, which ended at around 10:00 o'clock in the evening, they proceeded to a "pabasa" in a nearby chapel. Accused brought with him a lamp (Aladdin), and even saw [CCC] (mother of complainant) serving snacks to the participants of the "pabasa". At around 1:00 o'clock in the morning, the mayor and his group went home, leaving behind accused who preferred to stay until 3:00 o'clock in the morning. He reasoned out that it would be impossible for him to commit the act implicated upon him as he was at the above stated place, at time and date in question.

Mayor Jimmy de Castro confirmed that his political leaders, Ronaldo Saludo and a certain Eddie Red, were all the time present during the political rally. He even requested the accused to entertain the participants. He likewise confirmed that after the meeting they proceeded to a "pabasa" in a nearby chapel and stayed there until 1:00 in the morning but could not ascertain the accused's whereabouts when they were already at the chapel.

Moreover, accused vehemently denied the accusation levelled (sic) against him regarding that incident on April 26, May 19 and June 21, 1995. He claims that these charges against him are all baseless, untrue and fabricated.

He explained that sometime in April or May 1995, [AAA] and a certain Jerry Manongsong eloped. They planned to get married and so Jerry, together with his uncles, aunts and grandmother went to the house of [AAA] to ask for her hand in marriage (pamanhikan). Unfortunately [CCC], the mother of [AAA] outrightly rejected the marriage proposal, because Jerry was jobless.

[CCC] even made a remark - "Bubuntisan lang ng bubuntisan lang si [AAA] ay wala namang trabaho". With a feeling of rejection, the Manongsong family approached Councilman Naling to intercede for them, but the latter was hesitant to take steps as they were already rejected. Without recourse, Jimmy [Jerry] approached Brgy. Capt. Wenceslao Saludo (father of the accused) instead and confined (sic) his predicament. By chance, was Ronaldo Saludo and two (2) other councilman having a drinking spree. Ronaldo Saludo jokingly made a remark - "Mabuti pang ako ang nakabuntis, yon pala'y magpapabuntis din lamang, mabuti pa na ako na nang may ganansiya pa".

Accused vividly remembers that everytime [AAA] would be in the store, fronting their house, he would jokingly greet her - "Ako na lang ang magiging tatay niyan" [AAA] would just laugh. However, it was a different thing to [CCC], She resented it and took it seriously. She confronted and scolded Ronaldo Saludo for

making such undisciplined remarks.

Accused recalls that the only reason, the complainant and her mother would charged him of rape is because of his uncalled for remarks. However, he explains that it was merely a practical joke he played. He had no intention whatsoever to malign or cause damage neither to the complainant nor to her mother.[12]

For rebuttal, the prosecution called upon AAA once more and Jerry Manongsong (Manongsong) to belie the defense witnesses' testimonies:

They disclaim that there was no "pamanhikan" that ever took place, as they were not sweetheart. Jerry Manongsong admitted to have executed an affidavit dated August 04, 1995 (Exh. G). He was misled to sign another one in the month of September 1995 by Brgy. Capt. Wenceslao Saludo in Calapan, and not in the presence of Prosecutor Antonio Baldos.[13]

After trial, the RTC rendered its Decision on July 22, 1999 finding accused-appellant guilty of four counts of rape, thus:

ACCORDINGLY, the court finds accused RONALDO SALUDO GUILTY beyond reasonable doubt, as principal, of the crime of RAPE (4 counts) defined and penalized in Art. 335 of the RPC, and hereby sentences him to suffer FOUR (4) RECLUSION PERPETUA, together with the accessory penalties provided by law and to pay the cost.

Accused is likewise ordered to indemnify the victim AAA the amount of P50,000.00 in each count of rape, without subsidiary imprisonment.

The accused shall be entitled to the full term of his preventive imprisonment, if he has any to his credit, provided that he shall agreed to abide with the disciplinary rules imposed upon convicted prisoners, otherwise he shall be entitled to only four-fifths of the preventive imprisonment.

The bail bond posted by the accused for his provisional liberty is hereby ordered cancelled and forthwith a warrant of arrest be issued.[14]

The records of these cases were forwarded to us for review and we accepted accused-appellant's appeal in our Resolution[15] dated September 11, 2000. The People, through the Office of the Solicitor General (OSG), filed its Appellee's Brief on February 6, 2003[16] while accused-appellant filed his Appellant's Brief on September 19, 2002.[17]

Conformably with our decision in *People v. Mateo*,[18] we remanded accused-appellant's appeal to the Court of Appeals where it was docketed as CA-G.R. CR.-H.C. No. 01553.

The Court of Appeals, in its Decision dated February 24, 2006, affirmed the judgment of conviction of the RTC, but with the modification that accused-appellant was further ordered to pay AAA moral damages in the amount of P50,000.00 for each count of rape. The appellate court decreed:

WHEREFORE, the Decision dated July 22, 1999 rendered by the Regional Trial Court of Pinamalayan, Oriental Mindoro, Branch XLII, in Criminal Cases Nos. P-5428, P-5429, P-5430 and P-5431, finding the accused-appellant guilty beyond reasonable doubt of the crime of rape on four (4) counts to suffer the penalty of four (4) reclusion perpetua and to indemnify the victim the amount of P50,000.00 in each count of rape is AFFIRMED with the MODIFICATION that the accused-appellant is further ordered to pay private complainant the amount of P50,000.00 for each count of rape as moral damages.[19]

On July 4, 2007, the case records were forwarded to us for review a second time.[20]

In the Resolution dated August 1, 2007,[21] we required the parties to file their respective supplemental briefs, if

they so desire. However, the parties submitted separate manifestations stating that they were waiving the filing of supplemental briefs and opting, instead, to stand by the briefs they had previously filed.

In his Appellant's Brief, accused-appellant made the following assignment of errors:

I

THE TRIAL COURT ERRED IN NOT REJECTING THE HIGHLY PREPOSTEROUS, IF NOT OBVIOUSLY REHEARSED TESTIMONY OF THE PRIVATE COMPLAINANT IN CRIMINAL CASES NOS. 5428, 5429, 5430 AND 5431.

II

THE TRIAL COURT ERRED IN GIVING FULL FAITH AND CREDENCE TO THE PRIVATE COMPLAINANT'S TESTIMONY CONSIDERING THAT SHE DID NOT OFFER ANY TENACIOUS RESISTANCE AND CONSIDERING THE FACT THAT THERE WAS DELAY IN REPORTING THE ALLEGED RAPES TO THE AUTHORITIES.

III

THE TRIAL COURT ERRED IN NOT GIVING EVIDENTIARY WEIGHT TO THE EVIDENCE ADDUCED BY THE ACCUSED-APPELLANT WHICH WAS AMPLY CORROBORATED ON MATERIAL POINTS BY DISINTERESTED WITNESSES.

IV

THE TRIAL COURT ERRED IN CONVICTING ACCUSED-APPELLANT OF FOUR (4) COUNTS OF RAPE DESPITE THE FAILURE OF THE PROSECUTION TO SUBSTANTIATE HIS GUILT BEYOND REASONABLE DOUBT.

Accused-appellant harps on the following purported holes in AAA's testimony: (1) AAA did not categorically state that accused-appellant succeeded in inserting his penis into her vagina; (2) according to AAA, the rapes happened at night, but she did not say that there was enough light for her to clearly identify accused-appellant; (3) AAA and her mother CCC gave contradicting reasons as to why the alleged rapes were divulged almost three months after the first alleged rape took place; and (4) AAA did not offer any tenacious resistance during the alleged sexual assaults, thus, the requisite of force and intimidation for the crime of rape was lacking.

Accused-appellant is essentially challenging AAA's credibility and the weight attributed by the RTC to the prosecution's evidence. However, these are factual matters on which the findings of the trial court, as a general rule, bind the appellate courts. In *People v. Malejana*,^[22] citing *People v. Flores*,^[23] we provided the following explication that:

When the credibility of the witnesses is at issue, appellate courts will not disturb the findings of the trial court, the latter being in a better position to decide the question, having heard the witnesses and observed their deportment and manner of testifying during the trial unless certain facts of substance and value had been overlooked which, if considered, might affect the results of the case. The underlying reason for this principle has been explained as follows:

Having the opportunity to observe them, the trial judge is able to detect that sometimes thin line between fact and prevarication that will determine the guilt of the accused. That line may not be discernible from a mere reading of the impersonal record by the reviewing court.

The record will not reveal those tell-tale signs that will affirm the truth or expose the contrivance, like the angry flush of an insisted assertion or the sudden pallor of a discovered lie or the tremulous mutter of a

reluctant answer of the forthright tone of a ready reply. The record will not show if the eyes have darted in evasion or looked down in confession or gazed steadily with a serenity that has nothing to distort or conceal. The record will not show if tears were shed in anger, or in shame or in remembered pain, or in feigned innocence. Only the judge trying the case can see all these on the basis of his observations arrive at an informed and reasoned verdict.

There is no reason for us to depart from the general rule in this case. Reviewing the records of the case ourselves, we do not find any fact or circumstance overlooked, misunderstood or misapplied by the RTC, which, if considered, would have warranted a modification or reversal of the outcome of the case. Consequently, we are according high respect, if not conclusive effect, to the factual findings of the RTC, including its assessment of the credibility of the witnesses and the probative weight thereof, as well as the conclusions of the trial court based on its factual findings, especially since such findings had been affirmed by the Court of Appeals.[24]

Article 335 of the Revised Penal Code, as amended by Republic Act No. 7659,[25] describes how the crime of rape is committed:

ART. 335. When and how rape is committed. - 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.

Whenever the crime of rape is committed with the use of a deadly weapon or by two or more persons, the penalty shall be reclusion perpetua to death.

The prosecution's evidence established beyond reasonable doubt all elements of rape committed against AAA on four occasions. The supposed defects in AAA's testimony, pointed out by accused-appellant, do not diminish AAA's credibility.

It should be remembered that the declarations on the witness stand of rape victims who are young and immature deserve full credence. 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.[26]

Rape is a painful experience which is oftentimes not remembered in detail. For such an offense is not analogous to a person's achievement or accomplishment as to be worth recalling or reliving; rather, it is something which causes deep psychological wounds and casts a stigma upon the victim, scarring her psyche for life and which her conscious and subconscious mind would opt to forget. Thus, a rape victim cannot be expected to mechanically keep and then give an accurate account of the traumatic and horrifying experience she had undergone.[27]

Here, AAA was only 14 years old when she was mercilessly corrupted by a conscienceless human being with bestial desires. With more reason must we accord to her greater understanding, consideration, and sensitivity as she relives, through her testimony, her harrowing experiences at accused-appellant's hands.

Although AAA failed to describe the incidents of rape in more detail, it is still plain and clear from her testimony that accused-appellant, through force and intimidation, was able to successfully have carnal knowledge of AAA on four separate dates:

FISCAL BALLOCANAG:

Q

After you pushed Ronaldo Saludo and uttering these words what did Ronaldo Saludo do if any?

A

He poked a balisong knife on me.

Q

What happened after that?

A

He removed my shorts including my panty, sir.

Q

After that what transpired next?

A

He lie down on top of me and tried hard to insert his penis into my vagina.

(witness is weeping)

Q

When Ronaldo Saludo undressed you and went on top of you will you inform this court how Ronaldo undressed himself?

A

He is already naked, sir.

Q

After Ronaldo Saludo went on top of you what did you do if any?

A

I tried to push him away, sir.

Q

What happened next?

A

He raped me, sir.

Q

What happened next?

A

He told me not to tell anybody what happened because if I will do so he will kill me as well as my mother with that I became angry and afraid.

Q

After that incident on April 10, 1995 which you have just narrated was there any other incident that transpired between you and Ronaldo Saludo?

A

Yes, sir.

x x x x

Q

What happened on April 26, 1995 pm?

A

Again Ronaldo Saludo raped me, sir.

Q

How did Ronaldo Saludo raped you?

A

He threatened my life, sir.

Q

So it appears from your testimony that Ronaldo Saludo raped you on April 10 and another on April 26, 1995, is that correct?

A

Yes, sir.

x x x x

Q

After that incident on April 26, 1995 was there any other incident that happened between you and Ronaldo Saludo?

A

Yes, sir.

Q

When was that?

A

May 19, 1995, sir.

Q

What transpired on May 19, 1995?

A

Again Ronaldo Saludo entered my residence, sir.

Q

What happened?

A

He again threatened my life.

Q

What else did he do aside from threatening your life?

A

He again raped me, sir.

x x x x

Q

After that incident on May 19, was there any incident that transpired between you and Ronaldo?

A

Yes, sir.

Q

When was that?

A

June 21, 1995, sir.

Q

Was it in the afternoon?

A

In the evening, sir.

x x x x

Q

The same is true on that night which happened on June 21, 1995?

A

Yes, sir. [28] (Emphases ours.)

As put down on record, AAA broke down and cried as she was giving her testimony before the RTC. Such tears were a clear indication that she was telling the truth. As it has been repeatedly held, no woman would want to go through the process, the trouble and the humiliation of trial for such a debasing offense unless she actually has been a victim of abuse and her motive is but a response to the compelling need to seek and obtain justice.[29]

Moreover, AAA's testimony is corroborated by the medical findings of Dr. Palomaria, the examining physician.

Dr. Palomaria testified that AAA had an old hymenal laceration at 1, 3, 5 and 9 o'clock positions and was, in fact, pregnant at the time of the examination. It is well-settled that when the victim's testimony is corroborated by the physician's finding of penetration, there is sufficient foundation to conclude the existence of the essential requisites of carnal knowledge. Lacerations, whether healed or fresh, are the best physical evidence of forcible defloration.[30]

Accused-appellant's contention that AAA could not have positively and clearly identified her assailant because the rapes were committed at nighttime, deserves scant consideration. We agree with the following observation of the Solicitor General:

It is true that it was nighttime when appellant perpetrated the dastardly acts. However, the darkness was not such as to absolutely preclude anyone from seeing anything as shown by AAA's declarations.

AAA categorically testified that it was appellant who entered their hut and, thereafter, raped her on April 10 and 26, 1995, May 19, 1995 and June 21, 1995, AAA could not have mistaken appellant for somebody else since appellant was her long time neighbor and their houses were only thirty (30) meters away from each other. In fact, being neighbors, AAA was already familiar with appellant's physical feature.

Thus, it has been held that identification of a person is best established through familiarity with his physical feature.

Assuming that AAA's hut was in total darkness when the rapes happened, the same did not prevent AAA from recognizing her attacker because of their geographical propinquity during the violation.[31]

Indeed, there is no doubt that AAA recognized accused-appellant for she had ample time and opportunity to see the latter's face during the carnal act that took place on four different nights. In truth, a man and a woman cannot be physically closer to each other than during a sexual act.[32]

In another attempt to discredit AAA, accused-appellant questions AAA's behavior during and after the rapes.

Accused-appellant plays up the fact that during the sexual assault, AAA did not offer any tenacious resistance; and argues that the requisite of force and intimidation for the crime of rape is lacking.

We disagree. Physical resistance need not be established in rape when threats and intimidation are employed and the victim submits herself to the embrace of her rapist because of fear.[33] As we have ruled in *People v. Bayani*[34]:

[I]t must be emphasized that force as an element of rape need not be irresistible; it need but be present, and so long as it brings about the desired result, all considerations of whether it was more or less irresistible is beside the point. So must it likewise be for intimidation which is addressed to the mind of the victim and is therefore subjective. Intimidation must be viewed in the light of the victim's perception and judgment at the time of the commission of the crime and not by any hard and fast rule; it is therefore enough that it produces fear -- fear that if the victim does not yield to the bestial demands of the accused, something would happen to her at that moment or even thereafter as when she is threatened with death if she reports the incident. Intimidation includes the moral kind as the fear caused by threatening the girl with a knife or pistol. And when such intimidation exists and the victim is cowed into submission as a result thereof, thereby rendering resistance futile, it would be extremely unreasonable, to say the least, to expect the victim to resist with all her might and strength. If resistance would nevertheless be futile because of continuing intimidation, then offering none at all would not mean consent to the assault so as to make the victim's participation in the sexual act voluntary.[35]

Also in *People v. Fraga*,[36] we held:

The test is whether the threat or intimidation produces a reasonable fear in the mind of the victim that if she

resists or does not yield to the desires of the accused, the threat would be carried out. Where resistance would be futile, offering none at all does not amount to consent to the sexual assault. It is not necessary that the victim should have resisted unto death or sustained physical injuries in the hands of the rapist. It is enough if the intercourse takes place against her will or if she yields because of genuine apprehension of harm to her if she did not do so. Indeed, the law does not impose upon a rape victim the burden of proving resistance.[37]

Accused-appellant in this case held a knife against AAA during the rapes. The act of holding a knife by itself is strongly suggestive of force or, at least, intimidation, and threatening the victim with a knife is sufficient to bring a woman into submission.[38] In addition, AAA did testify as to her attempts to push accused-appellant away from her, but the latter, being a man more than twice AAA's age, could have easily pinned her down by lying on top of her.

Accused-appellant further avers that AAA's behavior during and after the alleged rapes were not in accordance with human conduct and experience. AAA did not shout for help when she saw accused-appellant naked in her house. Also, despite several opportunities for AAA to inform her mother, relatives, and friends of the rapes, or to report the incidents to the authorities, still she did not. In particular, after the alleged rape that took place on April 10, 1995, AAA woke up early as if nothing unusual happened to her and proceeded with her daily routine, like helping her mother cook the food and clean the house.

Not every victim of rape can be expected to act with reason or in conformity with the usual expectations of everyone. The workings of a human mind placed under emotional stress are unpredictable; people react differently. Some may shout, some may faint, while others may be shocked into insensibility.[39] And although the conduct of the victim immediately following the alleged sexual assault is of utmost importance as it tends to establish the truth or falsity of the charge of rape, it is not accurate to say that there is a typical reaction or norm of behavior among rape victims, as not every victim can be expected to act conformably with the usual expectation of mankind and there is no standard behavioral response when one is confronted with a strange or startling experience, each situation being different and dependent on the various circumstances prevailing in each case.[40][]

As to how CCC came to know of her daughter AAA's rape is immaterial. The fact still remains that AAA was sexually abused by accused-appellant and AAA's delay in disclosing her sexual defilement to CCC is understandable. As AAA testified, after every rape, she was threatened by accused-appellant not to report the same to anyone, otherwise, accused-appellant would kill AAA and her mother. We have declared in a number of cases that delay or vacillation in making a criminal accusation does not necessarily impair the credibility of witnesses if such delay is satisfactorily explained. Fear of reprisal, social humiliation, familial considerations, and economic reasons have been considered as sufficient explanations.[41]

Accused-appellant merely raised denial and alibi as his defenses. We have oft pronounced that both denial and alibi are inherently weak defenses which cannot prevail over the positive and credible testimony of the prosecution witness that the accused committed the crime. Thus, as between a categorical testimony which has a ring of truth on one hand, and a mere denial and alibi on the other, the former is generally held to prevail.[42] As the Court of Appeals pointed out:

Private complainant, in open court, positively identified accused-appellant as the assailant in these four (4) rape incidents. Such a categorical and positive identification of an accused, without any showing of ill-motive on the part of the witness testifying on the matter, prevails over alibi and denial, which are negative and self-serving evidence undeserving of real weight in law. Fundamental is the rule in evidence that alibi is the weakest of all defenses, because it is easy to concoct and difficult to disprove. For it to prosper, it is not enough for the accused to prove that they were somewhere else when the crime was committed; they must likewise

demonstrate that it was physically impossible for them to have been at the scene of the crime at the time.

In this case, accused-appellant completely failed to establish that it was physically impossible for him to have been at the scene of the crime at the time the rape incidents happened. Moreover, accused-appellant's allegation that these cases were filed as a result of his jokes is apparently unconvincing. Such is a very flimsy reason for a woman, especially a minor, to file a rape case. The humiliation brought about by going to open court and submitting oneself to medical examination is too much a burden for a woman, such as private complainant, which cannot be merely surpassed by jokes allegedly uttered by the accused-appellant.[43]

Also, the testimonies of the defense's four witnesses that AAA eloped with Manongsong and it was Manongsong, not accused-appellant, who impregnated AAA, were negated by the prosecution's evidence. Manongsong, when presented as a rebuttal witness, categorically declared that he had no relationship at all with AAA, much more, that he had eloped with her. Manongsong even stated that he was deceived by accused-appellant's father, a barangay captain, into signing an affidavit favoring accused-appellant. Said affidavit was not signed in the presence of Prosecutor Antonio Baldos as insinuated by the defense.[44]

All told, we find no reason to reverse the judgment of conviction rendered by the RTC against accused-appellant, and affirmed by the Court of Appeals.

We now come to the propriety of the penalties imposed on accused-appellant.

Article 335 of the Revised Penal Code, as amended by Republic Act No. 7659, imposes the penalty of reclusion perpetua when the rape was committed with force and intimidation. But the imposable penalty becomes reclusion perpetua to death when the rape is committed with the use of a deadly weapon. While AAA, in the instant case, testified that accused-appellant was able to rape her after threatening her with a knife, the use of a deadly weapon in the commission of the rape was not alleged in the Informations. Thus, even when it was proved, accused-appellant's use of a knife cannot be appreciated as a qualifying circumstance, and it cannot affect the penalty to be imposed upon accused-appellant. Accordingly, accused-appellant should be sentenced to reclusion perpetua for each of the four counts of simple rape.

We likewise affirm the award by the Court of Appeals of P50,000.00 as civil indemnity and P50,000.00 as moral damages to AAA for each count of rape, being in accordance with law and jurisprudence. An award of civil indemnity ex delicto is mandatory upon a finding of the fact of rape, and moral damages may be automatically awarded in rape cases without need of proof of mental and physical suffering.[45]

However, we additionally award exemplary damages pursuant to Article 2229 of the New Civil Code, which reads:

ART. 2229. Exemplary or corrective damages are imposed, by way of example or correction for the public good, in addition to the moral, temperate, liquidated or compensatory damages.

Exemplary damages are intended to serve as deterrent to serious wrongdoings, as a vindication of undue sufferings and wanton invasion of the rights of an injured, or as punishment for those guilty of outrageous conduct.[46] Being corrective in nature, exemplary damages can be awarded, not only in the presence of an aggravating circumstance, but also where the circumstances of the case show the highly reprehensible or outrageous conduct of the offender.[47] Accused-appellant herein is liable for exemplary damages for raping a minor, AAA, with the use of a knife and threats on the lives of AAA herself and her family, on four separate occasions, until AAA became pregnant. Consequently, accused-appellant should pay AAA exemplary damages in the amount of P30,000.00 for each count of rape, in line with existing jurisprudence.[48]

WHEREFORE, the instant appeal is DENIED and the Decision dated February 24, 2006 of the Court of Appeals

in CA-G.R. CR.-H.C. No. 01553 is AFFIRMED WITH MODIFICATION that the accused-appellant Ronaldo Saludo is additionally ordered to pay the victim AAA the amount of P30,000.00 exemplary damages for each of the four (4) counts of rape.

SO ORDERED.

Corona, C.J., (Chairperson), Velasco, Jr., Del Castillo, and Perez, JJ., concur.

[1] Rollo, pp. 3-30; penned by Associate Justice Aurora Santiago-Lagman with Associate Justices Rebecca de Guia-Salvador and Amelita G. Tolentino, concurring.

[2] CA rollo, pp. 30-38; penned by Judge Manuel C. Luna, Jr.

[3] G.R. No. 167693, September 19, 2006, 502 SCRA 419.

[4] People v. Guillermo, G.R. No. 173787, April 23, 2007, 521 SCRA 597, 599.

[5] Criminal Case No. 5429.

[6] Criminal Case No. 5428.

[7] Criminal Case No. 5430.

[8] Criminal Case No. 5431.

[9] Records, p. 22.

[10] RTC Decision, CA rollo, pp. 31-33.

[11] Records, p. 92.

[12] RTC Decision, CA rollo, pp. 34-35.

[13] Id. at 35.

[14] Id. at 37-38.

[15] Id. at 42.

[16] Id. at 157-189.

[17] Id. at 113-137.

[18] G.R. Nos. 147678-87, July 7, 2004, 433 SCRA 640, 657-658.

[19] Rollo, pp. 29-30.

[20] Id. at 1.

[21] Id. at 35.

[22] G.R. No. 145002, January 24, 2006, 479 SCRA 610, 620-621.

[23] 322 Phil. 24, 36 (1996).

[24] People v. Bulan, 498 Phil. 586, 598 (2005).

[25] Took effect on December 31, 1993.

- [26] *People v. Turco, Jr.*, 392 Phil. 498, 512 (2000).
- [27] *People v. Cula*, 385 Phil. 742, 753 (2000).
- [28] TSN, October 24, 1995, pp. 9-27.
- [29] *People v. Alcazar*, G.R. No. 186494, September 15, 2010, 630 SCRA 622, 633.
- [30] *People v. Belen*, 432 Phil. 881, 893 (2002).
- [31] CA rollo, pp. 176-177.
- [32] *People v. Bitancor*, 441 Phil. 758, 770 (2002).
- [33] *People v. David*, 461 Phil. 364, 384-385 (2003).
- [34] 331 Phil. 169 (1996).
- [35] *Id.* at 193.
- [36] 386 Phil. 884 (2000).
- [37] *Id.* at 907.
- [38] *People v. Buates*, 455 Phil. 688, 702 (2003).
- [39] *People v. Suarez*, 496 Phil. 231, 244 (2005).
- [40] *People v. Atadero*, G.R. No. 183455, October 20, 2010.
- [41] *People v. Fuensalida*, 346 Phil. 463, 472 (1997).
- [42] *People v. Narido*, 374 Phil. 489, 508 (1999).
- [43] Rollo, pp. 28-29.
- [44] TSN, January 18, 1999, pp. 3-5, 8-11.
- [45] *People v. Atadero*, G.R. No. 183455, October 20, 2010.
- [46] *Id.*
- [47] *People v. Dalisay*, G.R. No. 188106, November 25, 2009.
- [48] *Id.*

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