

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. EDUARDO DE DIOS Y EXCONDE, DEFENDANT-APPELLANT.***G.R. No. 58174. July 06, 1990*

Ponente: PADILLA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-58174/>**PADILLA, J.:**

This is an appeal from the judgment\* rendered in Criminal Case No. 784(245) of the Court of First Instance of Baguio and Benguet finding the defendant-appellant, Eduardo de Dios guilty of the crime of Rape and sentencing him to suffer the penalty of reclusion perpetua, to pay the offended party the amounts of P30,000.00, as moral damages; P20,000.00, as attorney's fees; and P10,000.00, for actual expenses; and to pay the costs.

As grounds for the appeal, the appellant, through counsel, questions the credibility of the witnesses for the prosecution and the sufficiency of the evidence presented to support his conviction.

The record of this case shows that immediately prior to the occurrence of the incident complained of, the complainant, Concepcion Guanzon, then twenty four (24) years of age and an industrial pharmacist by profession, and the accused, Eduardo de Dios, were sweethearts, Connie, as the complainant is called, was in love with the accused, nicknamed Eddie, in the latter part of 1972.[1] Connie was very much in love with Eddie and she sent him many affectionate letters, sometimes three (3) in a day, including one (1) where she wrote nothing else but "I love you" twenty-nine (29) times.[2] Her love for Eddie did not diminish despite her having been informed that Eddie had contracted marriage with one Venus Joy Mesina, for she (Connie) had been assured that steps had been taken to annul said marriage.[3] Connie, in her letters, would now and then re-assure Eddie of her trust and love for him. She would also ask Eddie to seek comfort in prayers and to ask for heavenly intercession so that the petition for the annulment of his marriage would be granted and they could be "free as a bird." [4]

Shortly before noon of 22 March 1973, while Connie was attending to her mother who was confined at the Makati Medical Center, Eddie and his mother came for a visit. They brought with them the papers granting the petition for the annulment of Eddie's marriage to Venus Joy. As the mother of Connie was reading the said papers, Connie and Eddie slipped out of the room unnoticed and went to the hospital chapel to say a few prayers, after which Connie guided Eddie in a tour of the hospital premises. Upon reaching the hospital lobby, Connie decided to go back to her mother.

Eddie, however, chided her, saying: "Pambihira ka naman. Ngayon lang tayo nagkita gusto mo ng umakyat." But Connie insisted on going back as her mother was alone. Eddie told Connie, however, that they will just fetch his sister Cecille from the Assumption College, a few city blocks from the hospital. Connie demurred saying that she was not properly attired and was only wearing a pair of slippers, but Eddie insisted, saying: "Susunduin natin si Cecille. Babalik tayo agad." Eddie prevailed. Upon boarding their Kombi, which had, in the meantime, arrived at the front entrance of the hospital, upon summons of Eddie, the latter told the driver: "Kay Cecille." [5] But they did not go to Cecille. Connie was brought to Baguio City instead.

After stopping for a while at Jojo's restaurant in San Fernando, Pampanga, they arrived at Eddie's house at 96

Kennon Road, Baguio City, at about 6:00 o'clock in the evening of the same day (22 March 1973). After getting the house keys from the caretaker, Eddie gave some money to the driver and told him to buy food.[6] After taking supper, Eddie invited Connie to rest in one of the rooms. But, Connie refused, saying that she would prefer to stay in the sala. Thereupon, Eddie held her by the arm and dragged her inside a room. He then tried to force himself upon Connie. Connie pleaded and begged that Eddie desist from doing what he had in mind since they were getting married anyway, but, Eddie ignored her entreaties and kept on forcing himself upon her.[7] The uncontroverted testimony of Connie as to the manner she was raped by the appellant is, as follows:

"Q Now, what happened then after that?

A After that, he told me, 'Halika na. Matulog ka na sa isang cuarto.' I told him to go ahead and I will stay where I am and that I am not going to sleep there.

Q What time was this now?

A Around 8:00 o'clock.

Q What did the accused do when you told him that you preferred to stay in the sala?

A He said, 'Halika na', and he was dragging me already. He was holding me by the arm and I resisted and said I will stay in the sala. But then he was dragging me already inside one of the two adjoining rooms with a common toilet. And little by little, he managed to drag me inside the room with two beds.

Q Now, what happened inside the room?

A The struggle started. He was trying to embrace and kiss me. He was trying to hold my breast while we were both standing. This went on for sometime and every now and then, he would sit on the bed and rest when he got tired saying, 'Pinahihirapan mo ako talaga.' Then he would continue again and in one renewed struggle, he dragged me and pulled me into the bed with him but I succeeded in warding him off (sic).

Q Now, while you were standing before he dragged you into the bed when you were there inside the room, what were you doing to ward off (sic) his attempts?

A I would push him away or hold his hand or suddenly staying in a half-sitting position or I would hold on to my pants with one hand and fought with him with the other hand.

Q Now, when he finally succeeded in dragging you to the bed with him, what happened?

A I found an occasion wherein he was resting for a while because he got tired of the struggle and I jumped out of bed and I went to the toilet and locked myself inside.

Q What did the accused do when you did this?

A When he realized what I was doing, he ran immediately but fortunately, I was already inside the toilet and the door was locked already.

Q So, what happened?

A I stayed there for about an hour and heard him or after that I heard some scratches or noise on the door knob. Then the door knob fell. Then he placed it back again and ...

Q What happened when the door knob fell?

A I ran into the room again but the struggle again started.

Q What happened back in the room?

A He was concentrating in removing my pants while we were standing and once he pulled me into the bed with him putting both arms around my waist and he pulled me into the bed with him. This went on for sometime and a struggle again continued and he was not able to succeed. This went on for some time. It seems a long long time and when he got tired, he would just lie back and catch his breath. At this moment, this was around 2:00 o'clock or 3:00 o'clock already, he was just lying there beside me. He was breathing heavily and then he was breathing softly. Then I knew he was already asleep.

Q Now, when you realized at that point that the accused had fallen asleep, what did you do?

A I transferred to the other room and locked myself including the door in the toilet leading to the other room where he was. I locked it inside and also the door in the corridor.

Q Now, did you or what did you do in the other room?

A I could not sleep. I was fully awake and my mind was in circles and I was thinking about my mother, my parents what they would think because of my disappearance. Also, I was trying to gather my thoughts whether they would come after me or had abandoned me already. I was so confused and I must have dozed off for a few minutes and when I learned, I just saw the accused besides (sic) me fumbling with my pants again. I pushed him away and the struggle started again.

Q About what time was this again?

A Around 5:00 o'clock or 6:00 o'clock. I think he entered the room through the corridor because he had the key may be. He opened it.

Q This was about 5:00 o'clock or 6:00 o'clock, what date?

A March 23.

Q What happened when as you said you felt the accused fumbling with your pants?

A The struggle again started and he pinned me down with his full weight and he was pressing his forearm against my neck under my chin. With his right hand he was fumbling my bra at the back.

Q Did he succeed in removing your bra?

A No because the snap of my bra is in front and he thought it was at the back. He was looking at the back. Fortunately, my snap is at the front and he could not open. He was trying to remove my shirt but my shirt has no opening. It is a long sleeve T-shirt and he could not pull it over or out of my head.

Q What happened then?

A Then he was starting to concentrate on my pants but I was successful and he was not able to remove my pants. It was intermittent because he would just lie back and catches (sic) his breath. On this occasion, he was hopeless and he remained silent for a while and he said that we were leaving soon as the combi arrived. When he said this, I jumped out of the bed and went out of (to) the sala and sat on one of the solo chairs there.

Q What about the accused, what did he do when you jumped out of the bed as you said and ran to the sala?

A He was right behind me and followed me in the sala.

Q What happened then in the sala?

A I learned that the driver arrived and he knocked. We waited there for about an hour before the driver arrived. He knocked.

Q What happened during this hour that you were waiting for the driver?

A As usual, he was saying the same things all over again.

Q What things?

A That he love (sic) me, that how the entire family was so proud of me. That he was learning practically the business of his father very well and he asked me if I don't love him anymore. He said also that anyway we are going to get married.

Q What were you doing or what did you say during this time?

A I was just sitting there crying most of (the) time with my eyes closed and my hands over my eyes like this. (Witness demonstrating). Sometimes, he would attempt to touch me on the shoulder or on the face but I would push his hand. I would push his hand aside.

Q Now, what happened when the combi arrived?

A He told the driver to buy some food to eat at the grocery so we could bring it on our way home, or it (sic) on our way home. So, the driver went to the grocery and arrived after about thirty minutes. He knocked at the door again and opened the door and then he told the driver to bring his purchases in the kitchen. Then he sent out again the driver and locked the door.

Q What happened?

A He opened, - he said again that we were going to eat in the house first before leaving. So, he opened two or three can (sic) goods and started eating.

Q What about you?

A I did not eat. I refused.

Q Did you drink anything?

A Yes, I finished half of the glass of pine-apple juice which the accused prepared in the kitchen.

Q Was there anyone else in the house at that time?

A No one was at the house.

Q Now, did anybody arrive while you were there in the sala while the accused is (sic) eating?

A Yes, sir, the woman caretaker knocked again and so the accused opened the door a little and she said that she was able to talk with Mrs. de Dios and that Mrs. de Dios said that we must go home at once. That the accused must go home at once to Manila but that he must call up first his mother. And then the caretaker left and the accused closed the door again.

Q Now, did the accused phone his mother?

A No, sir.

Q What happened after that?

A After eating to his heart's content, he sat back very leisurely on the sofa and then he lighted a cigarette.

Q What about you, what were you doing there during this time?

A I was just staring at him with increasing anger and hatred.

Q What happened then?

A He would utter some remarks like. 'Takot na takot ka. Pambihira ka talaga oo.' Then also he said, 'Wala ka bang nararamdaman kahit kaunting desire? Siguro hindi ka tunay na babae.'

Q What about you, what were you doing at the time?

A I was glaring at him, looking at him with dagger eyes.

Q What happened after that?

A After that, he was trying to drag me again inside the room but I was pulling and I was holding on the sofa but little by little, he managed to bring me to the room with two beds drawn together.

Q What happened there?

A Inside the room, he concentrated again on removing my pants while we were standing. Then he pushed me into the bed, and while he pushed me into the bed, he removed his shirt and his shoes and while we were struggling on the bed, he removed his pants and his supporter.

Q Now, what happened in bed?

A I was just struggling again but he pinned me down with his full weight sideways and he is (sic) pinning both my arms under my head. One of his hands concentrated in removing my pants, but I managed or sometimes I managed to free my forearm which he pinned under my head holding them with his left hand. When I managed to get free, he concentrated in pinning them again and when it is (sic) pinned, he will (sic) concentrate in removing my pants.

Q Did he succeed this time?

A About thirty minutes, yes. About thirty minutes I began to weaken because of the struggle and for not having eaten anything and for lack of sleep. He was able to remove my pants and my panty together.

Q Now, what happened when your pants and panty were removed?

A I tried to avoid and to fight him particularly with my lower portion of the body by putting my legs firmly together or sometimes entwine them.

Q What did the accused trying (sic) to do after he has (sic) removed your pants and panty?

A He was holding my organ and he was trying to open my legs by putting his right hand between them and stretching them.

Q And what happened, was he able to part your legs?

A Yes, sir, what he did next was to go on top of me and stretched my legs apart with his right hand and with his right leg and stretched it (sic) wider with his knees which he planted between my legs. And then at the same time with his right hand, he was holding my neck, half strangling me.

Q How did the accused manage to part your legs?

A He would start giving me fist blows so that my legs would part and then he placed his knees between again and planted them and stretched them wider.

Q Then what happened?

A Then I felt his right hand going down to his penis.

Q Then?

A And at the time his face, his left face was pressed against my neck under my chin. Then he was guiding his penis inside to my organ. Then I felt a stab of pain. And then the accused (sic) body was moving fast and for a few seconds he fell on me and stopped moving.

Q Now, what did you do?

A I was lying there very tired and exhausted and I was mentally black. I did not know what to do. I was just lying dead there." [8]

Complainant thought that that was the end of the world for her. She felt lost and abandoned.[9]

After taking supper in the evening of the same day, 23 March 1973, appellant tried again to make love to Connie. But she refused and pleaded to be left alone. Appellant acceded and allowed her to sleep in the other bedroom.[10]

The following morning, however, accused entered the bedroom occupied by complainant and again tried to force himself upon her, but he did not succeed as she resisted and locked herself in the bathroom. Accused forced open the bathroom door, so that complainant ran to the sala. Accused followed her there, but he was interrupted by a knock at the door.[11]

Accused answered the knock and later told complainant to accompany him to a neighbor's house where accused placed a telephone call to his mother, but he was not able to contact his mother so that he instructed the neighbor to tell his mother, if and when she should call, that they would be on their way to Quezon City.[12]

They returned to accused's house at No. 96 Kennon Road. While they were seated in the sala, the driver of the accused knocked and told the accused that he had a visitor. Accused ordered complainant to go inside the bedroom, and when complainant refused, accused dragged her into the room and closed the door. Soon complainant heard someone calling her by name. She recognized the voice as that of her sister, Mrs. Rosalinda Antiporda, so that she went out of the room and ran to her sister. She embraced her sister and, crying on her shoulder, she said: "Ate Inday, pinuwera niya ako. Ilayo mo na ako agad." Her sister told Connie that their mother had instructed her to find out if Connie had gone with the accused of her own free will, and if so, to see to it that they are properly married; but, if not, to bring Connie home. Complainant told her sister: "Pinuwera niya ako. Ilayo mo na ako agad." [13]

The incident was immediately reported to the Baguio City Police Department, soon after which complainant was brought to the Baguio City General Hospital where she was examined by a surgeon and a gynecologist. Complainant was found to have sustained the following lesions:

"Hematoma, old 2-3 days, supraclavicular area, bilateral;

Hematoma, old, upper quadrant left breast;

Hematoma, medial aspect, left thigh;

Hematoma, left posterior iliac crest." [14]

"Hematoma, right & left lateral aspects of neck;

Hematoma, left upper portion of left breast;

Contusion, posterior commissure, more to the left;

Laceration hymen, 7 o'clock position, vagina admits 2 fingers

Bleeding, moderate, dark red blood, smear for sperm cell - negative." [15]

After a day's rest at the Bayanihan Hotel in Baguio City, complainant was brought down to Manila where she was confined at the ABM Sison Hospital for ten (10) days because of shock.[16]

Thereafter, a criminal complaint was filed before the Court of First Instance of Baguio and Benguet, docketed therein as Criminal Case No. 784(245), charging accused with the crime of Abduction with Rape, committed as follows:

"That on or about the 22nd day of March, 1973, in Makati, Rizal, the above-named accused, did then and there wilfully, unlawfully, and feloniously, and with lewd design, forcibly abduct the undersigned complainant against her will, and did then and there bring her up to the City of Baguio, Philippines, and within the jurisdiction of this Honorable Court, where, on the 23rd day of March, 1973, the said accused did then and there wilfully, unlawfully and feloniously, and by means of force and violence, have carnal knowledge of the undersigned complainant likewise against her will.

"Contrary to law and with the aggravating circumstance of the offense complained of having been committed with the use of a motor vehicle."[17]

When arraigned, the accused pleaded not guilty to the commission of the offense. However, the accused did not take the witness stand to contradict or rebut the testimony of the complainant as to the manner she was raped by the accused. The accused, instead, presented the love letters sent to him by Connie, and the testimonies of the driver, Julian Cartano, and their neighbors in Baguio City, Josefa Solano and Federico Estoque, who both claimed to have seen the complainant and the accused holding each other's shoulders ("magka-akbay") and talking and laughing like newly-weds. They also stated that they did not see any injuries on the complainant.

We have carefully gone over the voluminous record of the case and there is nothing in it that would justify a reversal or change in the findings and conclusions of the trial court. The complainant appears to have testified in a forthright manner and her testimony as to the manner she was raped by the appellant is, not only uncontradicted by the appellant, but also supported by documentary and testimonial evidence. The lesions found in different parts of her body and the torn dress she was wearing at the time of the attack are ample proofs of a struggle and resistance against the assault. It would also appear that the violation of her person and honor was immediately reported to the police authorities and the complainant had no motive to falsely accuse the appellant whom she had loved and would have married had it not been for the happening of the lamentable and dastardly event.

If the complainant had voluntarily consented to have sex with the appellant, as the latter would want it to appear, her most natural reaction would have been to conceal it or keep silent, as this would bring disgrace to her honor and reputation, as well as to her family. Perhaps, she could have gone ahead and married her boyfriend. But, the complainant did not choose to be silent. She, instead, publicly and openly proclaimed the wrong done to her and vehemently denounced the appellant, shutting out even the possibility of a happy and blissful married life, and exposed herself to the ordeal and embarrassment of a public trial and heaped upon herself unwanted humiliation.

To be sure, the complainant, a respectable woman of good family and breeding, would not have told a story of rape if such were not a fact, considering the dishonor, the shame and the social humiliation that accompany the accusation and the adverse effects upon her very future. Besides, if it were true that she had agreed to elope with the appellant as to have sex with him, it is inconceivable that the mere appearance of her sister, Mrs. Rosalinda Antiporda, who went to Baguio City in search for her and to arrange for her marriage to the appellant, if necessary, should have changed her from a loving sweetheart to one who detested her boyfriend and later accused him of such a beastly and shameful crime. That unwavering and firm denunciation of the appellant negates consent.

The appellant, in his Brief, contends that the trial court should not have given credence to the testimony of the

complainant that she had been raped by the appellant, pursuant to the rule of "Falsus in uno, falsus in omnibus," since the trial court itself did not give weight and credence to her claim that she had been forcibly abducted by the appellant from the Makati Medical Center at Makati, Rizal to Baguio City.

The rule, however, is settled that courts may believe one part of the testimony of a witness and disbelieve another part, and courts are not required to accept or reject the whole of the testimony of a particular witness. In one case,[18] the Court said:

"There is nothing improper or illegal in the actuation of the trial Court in partly crediting and partly rejecting the testimonies of prosecution witnesses. Significant is the fact that the trial Court supported its findings in this case with the objective evidence. It is perfectly reasonable for a trier of facts to believe the testimony of a witness with respect to some facts and disbelieve it with respect to other facts in the ascertainment of the truth."

The appellant also points at alleged defects in the testimony of the complainant, which would render said testimony not worthy of credence, to wit:

- (1) Connie could not pinpoint the time she was allegedly raped and had three different versions - one at around 2:00 or 3:00 o'clock in the afternoon of March 23, 1973, another at noontime of the same day, while another was in the morning of the said day;
- (2) Connie testified that during the preliminary investigation of the case, she presented to the Fiscal the clothes she was wearing on the day she was raped but that the Fiscal told her to just present them in court, whereas the Fiscal denied said claim saying that all he received were sworn statements in support of the complaint and the counter affidavit of the accused;
- (3) Connie's claim that her clothes were torn during the struggle was disproved when said clothes were presented and did not show such kind of damage; there was only a separation of the seams ("tastas");
- (4) Connie's claim that she did not know what to do because that was the first time she was alone with Eddie is not true as she herself admitted that she and Eddie went to La Mesa Dam by themselves on February 11, 1973;
- (5) Connie's claim that she had not seen Eddie for four (4) months is also belied by her testimony that she saw Eddie on February 11, 1973;
- (6) Connie's claim that Eddie had tried to rape her for 100 times is exaggerated;
- (7) Connie's claim that her panty was full of blood is belied by her testimony that the blood did not seep through her pants;
- (8) The leisurely trip of Connie and Eddie to the Grotto in Baguio City belies her claim that she was raped by Eddie prior to such trip;
- (9) The romantic boating in the lagoon of Burnham Park, after the alleged rape, also negates complainant's claim that she was raped;
- (10) Connie's refusal to go with the Baguio City policemen to the police headquarters runs counter to her claim that she was raped by Eddie; and
- (11) Connie's testimony in court is at variance with her affidavit (Exh. 7).

These defects, however, refer to relatively minor details which may be attributed to deficiencies in observation and recollection, or misapprehension of misleading, confusing and taxing questions during cross-examination, but they do not indicate a wilful attempt to commit a falsehood. Besides, the contradictory statements have been satisfactorily explained by the complainant.

Complainant explained the difference in her statement of the time she was raped by the appellant, saying that she did not have a watch at the time and she was preoccupied in trying to ward off the advances of the appellant as to take notice of the precise time.[19]

Considering that the complainant was very busy fending off the appellant, it is indeed not improbable for her to have lost all consciousness of the passage of time.

As for the condition of the dress she was wearing at the time, it is not really very material whether the fibers of her dress were broken or that it was merely separated at the seams ("tastas"). Either condition conveys the same message and that is, there was a struggle between the appellant and complainant.

With respect to the alleged inconsistency between the testimony of the complainant that her panty was full of blood and her declaration that the blood in her panty did not seep to her pants, the complainant explained that she found a napkin which she placed on her private part to stem the flow of blood. Her testimony reads as follows:

"Q Was the bleeding of your vagina or private part profused?

A Yes, your Honor. Not so much but it was really bleeding.

Q That it even went through from the panty to the pants?

A No, your Honor. I found a napkin and I placed this napkin. I found one piece in the toilet and I placed it because it was bleeding."[20]

The failure of the complainant to shout for help or attempt to escape from the appellant has also been satisfactorily explained by her. She declared that the appellant had threatened to leave her to fend for herself in a strange place if she should make a scene or shout or do anything against his wishes and she was afraid of what strangers might do to her if she were alone.[21] Besides, she was confused and did not know what to do. She thought that it was the end of the world for her. She felt forlorn and abandoned and even thought of marrying the appellant although she despised him for what he had done to her.[22]

With respect to the Baguio City policemen, the complainant explained that the men who went to the house at No. 96 Kennon Road on 23 March 1973 were in civilian clothes and she did not know them to be policemen. Believing that they were strangers, she really could not confide in them or relate to them her predicament and tragedy. She was also afraid of falling into the hands of other men who would rape her again. Besides, she did not understand a word of what they said. Her testimony reads:

"Q You said the man was in civilian clothes and that you could not understand what they were talking about, what happened after that?

A The man went near the door and was saying something to me but I did not understand him. So, I just kept silent.

Q Now, why did you not step out of the room?

A I don't know. I was thoroughly confused and the fear that the accused might have me kidnapped or pass me to another man to be raped crossed (sic) my mind. I was so confused."[23]

As for her going with the appellant to the Grotto at Naguilian Road and then boating in the Burnham Park lake, the complainant explained that she thought it best to go outside the house on 23 March 1973, rather than stay in the house where the appellant was trying hard to force himself again on her for another sexual intercourse with him. She said:

"Q What happened after the man left?

A The accused told me that we were going out.

Q About what time was that?

A Around 5:00 o'clock past.

Q And did he say where you were going?

A No, he did not mention it.

Q Why did you not ask him?

A I did not or it did not matter anymore.

Q Did you go with him?

A That was much better than to stay in the house where he might attempt again.

Q Where did you go?

A He told his driver to go to the Grotto.

Q Where, in Baguio?

A Here in Baguio.

Q Did he tell you why you were going there?

A He said we were going to pray but the car just went around and did not stop. And then he told the driver to go to Burnham Park and there he hired a boat and he told me to go on it.

Q Did you get into the boat?

A Yes, sir.

Q Why?

A I did not know where else to go. I was gathering my thoughts what had happened. I felt that what had happened was the end of the world for me and I was feeling so alone and I was thinking that my parents and my family have abandoned my (sic) already."[24]

With regard to variances in the testimony of the complainant and her affidavit (Exhibit 7), suffice it to state that "an affidavit, being taken ex-parte, is almost always incomplete and often inaccurate, sometimes from partial suggestion, sometimes for want of suggestions and inquiries, without the aid of which the witness may be unable to recall the connected collateral circumstances necessary for the correction of the first suggestion of his memory and for his accurate recollection of all that belongs to the subject."[25]

The appellant also assails the trial court for not giving due weight and credence to the testimonies of defense witnesses Julian Cartano, Josefa Solano and Federico Estoque who claimed to have seen the complainant and the appellant holding each other's shoulders ("magka-akbay") and talking and laughing like newly-weds, and that they did not see any injuries on the complainant.

It cannot be denied, however, that only the complainant and the appellant, and no other, can testify to the rape committed in this case. Consequently, the testimonies of the defense witnesses who did not actually see the commission of the offense cannot prevail over the positive testimony of the complainant that she was raped by the appellant with a full and straight-forward revelation of its details. Besides, it is possible that the defense witnesses could not have seen the injuries sustained by the complainant since the injuries on her breast, thigh and

private part were amply covered by her clothes while the injuries on her neck were covered by her long hair.[26]

Going over the voluminous record of the case, the Court cannot escape the thought that there had surged an over-powering fit of passion which blinded the appellant and led him to commit the crime. Was he overcome by bestial instinct? Or was he provoked or incited to execute the act? Only the appellant knows. Unfortunately, he did not take the witness stand to explain his side. But we cannot hold this against him, for an accused has the right to remain silent and no adverse inference should be drawn from that silence. Besides, settled is the rule that in order to gain conviction, the prosecution must rely on the strength of its evidence rather than on the weakness of the defense. In the instant case, the Court is satisfied that the guilt of the appellant has been proven with moral certainty and beyond reasonable doubt; hence, we affirm the judgment of the trial court.

WHEREFORE, the judgment appealed from should be, as it is, hereby **AFFIRMED**, with costs against the defendant-appellant.

**SO ORDERED.**

Melencio-Herrera, (Chairman), Paras, Sarmiento, and Regalado, JJ., concur.

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\* Penned by Judge George C. Macli-Ing.

[1] tsn of August 15, 1974, p. 750

[2] Exhibit 5-H

[3] tsn of August 15, 1974, p. 750

[4] Exh. 5-D-1

[5] tsn of August 14, 1974, pp. 674-677

[6] Id., pp. 682, 684-685

[7] Id., p. 733

[8] Id., pp. 686-698

[9] Id., p. 702

[10] Id., p. 703

[11] Id., p. 705

[12] Id., p. 706

[13] Id., pp. 707-708

[14] Exhibit B

[15] Exhibit C

[16] Exhibit K

[17] Original Record, p. 3

[18] People vs. Sarol, G.R. No. 66240, October 8, 1985, 139 SCRA 125, 131

[19] tsn of October 8, 1974, p. 817

[20] tsn of October 9, 1974, p. 926

[21] tsn of August 14, 1974, p. 739

[22] Id., pp. 701-702

[23] Id., p. 700

[24] Id., pp. 701-702

[25] People vs. Laredo, G.R. Nos. 81249-51, May 14, 1990 and cases cited therein.

[26] tsn of October 8, 1974, p. 833

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