

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. REYNALDO BALAJADIA Y PESTAÑO, ACCUSED-APPELLANT.

G.R. No. 96988. August 02, 1993

Ponente: DAVIDE, JR., J.

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DAVIDE, JR., J.:

In a sworn complaint filed with the Regional Trial Court (RTC) of Malabon, Metro Manila by the offended party, Marlene Zinampan y de Jesus, on 22 December 1989,[1] the accused was charged with the crime of robbery with rape. The complaint recounts that:

"on or about the 16th day of December, 1989, in Malabon, Metro Manila, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with intent of (sic) gain and by means of force and intimidation employed upon the person of one MARLENE ZINAMPAN y DE JESUS, that is, by pointing an icepick at the latter, did then and there wilfully, unlawfully and feloniously take, rob and carry away cash money amounting to P200.00 and one (1) earring worth P500.00, with the total amount of P700.00; that in the course of said robbery, said accused, with the use of force, violence and intimidation, did then and there wilfully, unlawfully and feloniously lie with and have sexual intercourse with said MARLENE ZINAMPAN Y DE JESUS, against the latter's will and without her consent."

The case was docketed as Criminal Case No. 8759-MN and was raffled off to Branch 72 of the said court.

Trial ensued after the accused entered a plea of not guilty. The witnesses presented by the prosecution were Dr. Louella T. Nario, Dolores Zinampan -- the offended party's mother and the offended party herself. Those presented by the defense were Luis Andaya, Wilson Zamora, Rodel Cantos, Cecilia Zamora and accused Reynaldo Balajadia.

In a decision promulgated on 3 September 1990,[2] the trial court found the accused guilty as charged. The decretal portion thereof reads as follows:

"WHEREFORE, premises considered, judgment is hereby rendered finding the accused GUILTY beyond reasonable doubt of the crime of robbery with rape defined and penalized under Article 294, par. 2 of the Revised Penal Code. It having been committed with the use of a deadly weapon, said accused is hereby sentenced to life imprisonment of Reclusion Perpetua (as provided for in P.D. No. 767 dated August 15, 1975), together with all the accessory penalties thereof.

The accused who is a detention prisoner shall be credited in full the period of detention he had already undergone in connection with this case if he signed the agreement allowing himself to be treated while still in detention in the same manner and subject to the same rules and regulations governing prisoners serving sentence by virtue of final judgment. Otherwise, he shall only be credited with 4/5 thereof."

The prosecution's evidence, upon which the judgment of conviction is anchored, is condensed in the Appellee's Brief as follows:

"Complainant, Marlene Zinampan, is a twenty (20) year old graduate of Medical Technology who works as

Production (sic) Coordinator in Interphase Electronics Corporation (TSN, January 10, 1990, p. 2; TSN, July 30, 1990, p. 16). On the other hand, appellant Reynaldo Balajadia is a five foot seven (5'7") high school drop-out who works allegedly as a jeepney driver (Record, p. 72). Victim and appellant are strangers to each other although both lived within Sto. Rosario Village, Bgy. Baritan, Malabon (TSN, July 23, 1990, p. 2).

At about ten thirty (10:30) in the evening of December 16, 1989, complainant, by means of public transportation, headed for home after attending her office's Christmas party celebration. By the time she reached the corner of Gov. Pascual and General Luna Streets, Malabon, the place where she used to wait for tricycles to bring her home, it was already 11:30 P.M. As it was already late, there were few tricycles that plied the streets.

At any rate, desirous of reaching her home soonest, complainant boarded a passing pedicab which was driven by a young man and in which a male passenger (later identified as appellant) was already seated. As appellant manifested that he would be the first one to alight, complainant acquiesced to take the inner seat, between appellant and where the pedicab driver was astride.

While passing through the dimly-lit street fronting Jose Rizal High School, appellant swiftly placed his left arm around complainant's neck and, with an icepick thrust on her right side, demanded from complainant to immediately hand over to him her valuables. Complainant, fearful for her safety, acceded without any resistance by delivering to appellant her watch, earrings and wallet containing two hundred (P200.00) pesos (TSN, February 28, 1990, pp. 23-24). Entertaining lustful desires upon complainant, appellant directed the pedicab driver to go straight to the direction of Ginza Lodge. The pedicab driver objected to appellant's plan as complainant was pleading for her freedom but the pedicab driver and complainant's protestations were silenced when appellant wielded his icepick against them.

Upon arrival at Ginza Lodge, appellant alighted and forcibly pulled complainant out of the pedicab. Wrapping his arm around her shoulder and holding her upper arm presumably to show a normal behavior of any consenting couple checking in, but squeezing hard said upper arm at the slightest resistance on the part of complainant, appellant and complainant thus proceeded to the cashier for room (sic) assignment.

Appellant brought complainant to the room assigned, locked the door and placed a chair thereto. Brandishing the icepick, appellant then ordered complainant to remove her clothing. Overcome by fear, complainant docilely obeyed appellant's peremptory order and stripped herself of her intimate garments. After removing his own clothing, appellant shoved complainant to the bed in the room. Against her vigorous but futile protestations and struggle, appellant succeeded in having carnal intercourse with complainant.

The despicable act swiftly consummated, appellant ordered his weakened victim to put on her dress. Either stricken with a pang of conscience, or assured that an 'insurance' or 'leverage' had served its purpose, or most probably being of no material use to him, appellant returned to complainant the wristwatch, piece of earring, and the wallet but minus the cash money of P200.00 in it which he had earlier forcibly taken from the latter (TSN, January 10, 1990, p. 18). Thereafter, in the same manner that he entered the motel, appellant together with complainant checked out and boarded the waiting pedicab. Before appellant alighted at Tonsuya St., he sternly warned complainant never to report the incident to the police.

It was two o'clock in the morning of the following day (December 17, 1989), when complainant finally reached her home. Immediately, she woke up her mother, Dolores Zinampan and related the harrowing experience she had just undergone. Seeing her daughter's skirt messed up with her own blood, she instructed her daughter to clean and dress up. Thereafter complainant, accompanied by her uncle and grandfather, went to the Malabon Police Station to report the incident (Exhibit F, Record, p. 84).

Upon official request made by police investigator Daniel Cruz (Exhibit C, Record, p. 14), NBI Medico Legal Officer Dr. Louella Nario on December 18, 1989 or less than 48 hours after the commission of the crime, conducted an examination of the body of complainant. The physician found complete lacerations on her

vagina, and the hymen was ruptured at 1:00 o'clock and 7:00 o'clock, a circumstance highly indicative of the probable fact that complainant was a virgin at the time of the commission of the rape (TSN, February 14, 1990, p. 17). The lacerations on the hymen were likewise edematous and bled on slight manipulation. After the examination, the physician issued a medical certificate (Exhibit A, Record, p. 11).

On December 20, 1989, appellant was apprehended within the vicinity of his residence (Exhibit D, Record, p. 15; TSN, January 10, 1990, p. 27)."[3]

Finding this summary to be fully supported by the transcripts of the stenographic notes of the testimonies of the prosecution witnesses and the other records, we hereby adopt the same as our own.

On the other hand, the defense presented a different version which the trial court summarized as follows:

"Accused Reynaldo Balajadia on the other hand, maintained that he was already on board the pedicab on his way home when a woman, who turned out to be the herein complainant, requested for a ride. The woman took the inner seat and was noticed by the accused to be well-dressed with make-up but somewhat intoxicated. As the complainant was leaning on him, the accused asked her if she will go with him to a motel. The complainant replied by asking what they will be doing thereat, to which the accused replied that they will do what a husband and a wife usually do. The complainant did not say anything to this, but her silence the accused interpreted as conformity to his proposal. The accused then told the pedicab driver to go to the Ginza Motel which took them twenty (20) to thirty (30) minutes to reach.

At the Ginza Motel, the pedicab stopped near the guardhouse and the accused and the complainant went to the counter to pay and were guided to room No. 45 at the second floor of the hotel. Thereat, the complainant undressed first after which the accused kissed her, touched her breast and eventually put himself on top of her to have sexual intercourse with the complainant. After consumating (sic) the act, the accused and the complainant dressed up and the accused told the complainant that he will be bringing her home which the accused did, on the same pedicab that brought them to the hotel.

The accused added that it was the complainant who told the driver of the pedicab to wait for them and she even left her bag at the pedicab when she returned thereto to tell the driver thereof to wait for them.

Employees of the hotel corroborated the testimony of the accused and they added that in the process of alighting from the pedicab and the returning thereto by the complainant, in the making of the payment at the counter and in the leading by roomboy (sic) of the complainant and the accused to their assigned hotel room, they (hotel personnel) did not notice anything unusual in the accused as well as in the complainant particularly the latter. The (sic) claimed that had they noticed anything unusual, or involuntariness on the part of the complainant, they would have refused admission of the couple to the hotel.

The accused, however, admitted that he and the complainant were total strangers not having met nor seen each other before this incident."[4]

The trial court rejected the defense's version thus:

"The complainant is single, with a stable and promising employment. She has a boyfriend and was in probable state of virginity. She was noticed by the Court to be a normal person not suffering from any visible mental or vice related defect. Under ordinary and normal circumstances, the complainant would not have agreed to the proposal of a total stranger that they go into a motel and thereat do the thing a husband and a wife usually do, which was to have sexual intercourse with one another.

At the first opportunity, which was at 2:00 o'clock in the morning of December 17, 1989, the complainant and her relatives were already at the police headquarters to report that the complainant was raped at the Ginza Hotel. This is very much consistent with what a true victim of rape will do under ordinary circumstances."[5]

Accused appeals from the judgment of conviction,[6] and in his Brief for the Accused-Appellant, avers that the trial court erred:

"I

X X X IN NOT HOLDING THAT THE PRIVATE COMPLAINANT WILLINGLY AND WILFULLY WENT WITH THE ACCUSED AND HAD SEXUAL INTERCOURSE WITH HIM.

II

X X X IN BELIEVING PRIVATE-COMPLAINANT'S VERSION WHICH IS PATENTLY FALSE.

III

X X X IN NOT DECLARING COMPLAINANT'S ACCUSATION AS A MERE CONCOCTION UNDESERVING OF ANY CONSIDERATION.

IV

X X X IN NOT DISMISSING THE ROBBERY ASPECT OF THE CASE NOTWITHSTANDING THE TOTAL ABSENCE OF EVIDENCE TO SUPPORT THE SAME."

At the bottom of these assigned errors lies the issue of the credibility of witnesses. The defense suggests that because of its four witnesses -- all employees of the Ginza Hotel -- who testified on the actuations of the complainant and the accused shortly before the alleged rape, it was clearly proven that the complainant willingly and wilfully went with the accused and had sexual intercourse with him. Settled of course is the rule that in the determination of values and credibility of evidence, witnesses are to be weighed, not numbered.[7] Accordingly, the testimony of a single witness may be sufficient to produce a conviction if the same appears to be trustworthy and reliable.[8] If credible and convincing, that alone would be sufficient to convict the accused.[9] Also firmly established is the doctrine that when the issue of the credibility of witnesses is raised, appellate courts will generally not disturb the findings of the trial court considering that the latter is in a better position to decide the question, having heard the witnesses themselves and observed their deportment and manner of testifying during the trial, unless certain facts of value have been plainly overlooked which, if considered, might affect the result of the case.[10]

Our own review of the evidence yields no compelling reason to depart from the aforementioned rules. On the contrary, we have found more reasons to accord full faith and credence to the complainant's story.

There is absolutely no evidence to show that the complainant, then 20 years old, single, a virgin and a Medical Technology graduate working as a Production Coordinator in the Interphase Electronics Corporation, is a woman of loose morals, a sex pervert or a prostitute. Nor is there any credible evidence to indicate that she was under the influence of drugs or alcohol at the time she boarded the pedicab at around 10:30 o'clock in the evening of 16 December 1989. We cannot therefore accept the fantastic tale woven by the accused -- a high school drop-out and jeepney driver totally unknown to the complainant -- that the complainant immediately welcomed his suggestion that they proceed to a motel to do what a husband and wife would do; voluntarily went with him to the motel; told the pedicab driver to wait for them; left her bag with the said pedicab driver; followed the accused from the motel's guardhouse, through the cashier's office, then up to Room 34 at the second floor where she then sat on the bed; undressed ahead of the accused; and had sexual intercourse with him after he kissed her, fondled her breasts and laid on top of her.

If indeed the complainant had voluntarily agreed to accept a stranger's lewd suggestion that she savor the pleasures of illicit sex, she would have then kept the experience, whether the same was one of excruciating pain or indescribable ecstasy, completely to herself. As borne out by the records, however, what the complainant immediately did thereafter belies all suggestion that her participation in the sexual act was voluntary and with her consent. Upon reaching home at 2:00 o'clock in the early morning of 17 December 1989 with her skirt messed up by her own blood, the complainant woke her mother up and related to her the harrowing ordeal that she had just undergone. Then, after complying with her mother's instruction to clean herself and dress up, the complainant, accompanied by her uncle and grandfather, proceeded to the Malabon Police Station to report the incident. On 18 March 1989, pursuant to an official request made by police investigator Daniel Cruz, the complainant submitted to a medical examination conducted by NBI Medico-Legal Officer Dr. Louella Nario. The latter then discovered complete lacerations in the complainant's vagina with the hymen ruptured at 1:00 o'clock and 7:00 o'clock, a circumstance highly indicative of the probable fact that the complainant was a virgin at the time she was raped.

On 21 December 1989, the complainant signed the complaint for robbery with rape which was then filed with the court a quo on 22 December 1989. Thereafter, she testified in court, described how the crime was committed -- publicly exposing in the process her defloration and the dishonor suffered in the hands of the accused -- and underwent the ordeal of a rigorous cross-examination.

The complainant's behavior after the commission of the crime is entirely consistent with the natural and logical reaction to the wrong committed against her without her consent, and further enhanced and strengthened the truthfulness of her story, demonstrated her courage to expose the evil deeds of the accused and stressed her urgent cry for justice. In this regard, it is apropos to re-state the summary we made in *People vs. Tismo*[11] of certain rules in rape cases:

"However, equally settled is the rule that when a woman says she has been raped, she says in effect all that is necessary to show that rape has been committed and that if her testimony meets the test of credibility, the accused may be convicted on the basis thereof.

The reason for this seems quite obvious, especially with respect to the Filipina. Considering a Filipina's inbred modesty and antipathy in airing publicly things that affect her honor, it is hard to conceive that she would assume and admit the ignominy she had undergone if it were not true. A complainant would not risk ruining her future and exposing herself to ridicule if her charge were not true. If she does undergo the expense, trouble and inconvenience of a public trial, suffer the scandals, embarrassments and humiliation such action would indubitably invite, as well as allow an examination of her private part, it is to bring to justice the person who had abused her. Indeed, if a complainant had voluntarily consented to have sex with the accused, her most natural reaction would have been to conceal it and keep it as this would bring disgrace to her honor and reputation as well as to her family."

Accused wants this Court to give credence to the net effect of the testimonies of the defense witnesses. According to him, the complainant "did not offer any resistance nor make any vocal protestation to prevent the accused from accomplishing his alleged odious intention" and that "there was no immediate danger to her [complainant's] person as the accused did not have any assault weapon in his hand at the time they alighted from the pedicab as well as at the time the accused was registering and paying in the presence of the cashier on duty, CECILIA ZAMORA and the roomboy, RODEL CANTOS." [12] We simply cannot accept these suggestions as it was established that the accused armed himself with an icepick and actually threatened the complainant with death. The latter testified as follows:

"FISCAL:

x x x

Q And what happened after that?

A Nothing happened until we reached the place near the Jose Rizal Highschool and all of a sudden he placed his arm around my neck and the other hand with an icepick pointed by my rightside and said: 'This is a hold-up' and told to me to give him my money and jewelry.

Q What did you do after he placed his arm around your neck and pointed an icepick on your ribs?

A I was surprised when he said that, so I immediately removed my earrings and my watch and even my wallet inside my bag and other valuables, I gave it to him.

Q Why did you give it all to him?

A Because I got scare (sic), when he announced the hold-up, so I gave it all to him because I was advised by my grandfather always that in case I will be held-up, I would rather give all my belongings so that I would be safe.

Q Thereafter what happened?

A After that he instructed the tricycle boy to go straight towards Governor Pascual. The tricycle driver was at first objecting but then the accused pointed the icepick to him.

Q After that what happened?

A While the tricycle was going on, I pleaded to him to set me free anyway he has taken all my valuables.

Q Did he heed to (sic) your plea to set you free?

A No, sir he told me to keep quiet or else I will be killed.

Q What else happened after that?

A He told the tricycle boy to go on and said we will go to Ginza Motel. I still pleaded to him to set me free.

Q How did you register your plea to the accused?

A I pleaded for his mercy and I cried but he would not listen to me at all.

Q What happened after that?

A While traveling whenever we would meet a vehicle he would tighten his hold on me and his icepick was placed hard telling (sic) me to keep quiet.

Q What happened after that?

A The tricycle boy was objecting but he is (sic) insisting that we go to the motel until we reached the said place.

Q Do you know the motel where you were brought?

A Accordingly it is Ginza (sic) Motel.

Q How did you know that it was Ginza (sic) Motel?

A Because he mentioned that name before and I saw the sign upon entering it.

Q What happened there upon your arrival at the Ginza Motel?

A We alighted from the tricycle and his arm was still around me upon paying the (sic) counter.

Q In what part of your body was he holding?

A On my left upper arm.

INTERPRETER:

Witness demonstrating her left upper arm.

FISCAL:

Q What did you do while he was paying the counter boy?

A I was 'pumapalag' but he kept on tightening his hold.

Q Did you not inform the counter boy where the accused was paying that you were being brought there against your will?

A No, sir because I was scared and I know (sic) that he was armed.

Q What then if you know (sic) that he was armed, did you not run away?

A Because I am afraid that I might be overtaken me (sic) and I might be killed.

Q What happened after the accused paid the counter boy at the Ginza Motel?

A Then I saw (sic) the roomboy had left, I was brought upstairs then he closed the door even (sic) placed a chair against the door.

Q Of course, you have to walk the stairs in going up, did it not occur to your mind to run away while he was bringing you up inside the room?

A I cannot run away because he was tightening his hold on my left shoulder and I was afraid that I might be killed, as what I have read in the newspapers that they kill the victim.

Q Once inside the room at Ginza Motel what transpired there?

A He was forcing me to undress and was even brandishing the icepick to me. I continued pleading for his mercy and said 'Mama maawa na kayo.' He did not listen to me at all and he said just keep quiet or else he will kill me.

Q What happened after that?

A Despite my plea for mercy because I was scared I removed my dress and he continuously pointing (sic) the icepick to me." [13]

At the police station in the early morning hours of 17 December 1989 where she reported the robbery with rape, the complainant spontaneously revealed to the investigator that her assailant was armed with an icepick. This fact was recorded in the police blotter at "0310H" of 17 December 1989 (Exhibit "F").

Against the complainant's positive testimony, nothing but a self-serving denial was offered by the accused.

We thus affirm the trial court's finding and conclusion that the accused is guilty as charged.

The lower court sentenced the accused to "life imprisonment or Reclusion Perpetua." We have repeatedly declared that life imprisonment is not the same as or synonymous with reclusion perpetua. [14]

Pursuant to the proviso in the second paragraph of Article 294 of the Revised Penal Code, the penalty for the crime of robbery with rape is reclusion perpetua to death. In view of the first paragraph of Section 19, Article III

of the 1987 Constitution prohibiting the imposition of the death penalty, only reclusion perpetua may be imposed.

The trial court failed to award the complainant moral damages. Under the circumstances in this case, and conformably with recent case law, the latter should be awarded moral damages in the sum of P40,000.00.

WHEREFORE, judgment is hereby rendered AFFIRMING the challenged decision of Branch 72 of the Regional Trial Court of Malabon, Metro Manila in Criminal Case No. 8759-MN, subject to the modifications above indicated. As modified, the words "life imprisonment" in the dispositive portion thereof are deleted and the accused is hereby ordered to pay the complainant, Marlene Zinampan y de Jesus, the sum of Forty Thousand Pesos (P40,000.00) as moral damages.

Costs against the accused-appellant.

SO ORDERED.

Feliciano, (Chairman), and Romero, JJ., concur.

Bidin, J., joins J. Melo in his dissenting opinion.

[1] Original Records (OR), 1-2. The sworn complaint contains a certification by 2nd Assistant City Fiscal Bayani Jamias that he had conducted an examination of the complainant and her witnesses and that on the basis of her statement and other evidence, there is reasonable ground to believe that a crime has been committed and that the accused is probably guilty thereof.

[2] OR, 163-169. Per Judge Benjamin M. Aquino, Jr.

[3] Brief for the Appellee, 4-10.

[4] OR, 166-167.

[5] OR, 168.

[6] Id., 170.

[7] People vs. Candado, 84 SCRA 508 [1978].

[8] People vs. Salazar, 58 SCRA 467 [1974]; People vs. Boduso, 60 SCRA 60 [1974]; People vs. Lazo, 198 SCRA 274 [1991].

[9] People vs. Aquino, 197 SCRA 578 [1991]; People vs. Sarol, 198 SCRA 286 [1991].

[10] People vs. Garcia, 89 SCRA 440 [1979]; People vs. Tismo, 204 SCRA 535 [1991]; People vs. Simon, 209 SCRA 148 [1992].

[11] Supra., at 553-554. Citations omitted.

[12] Brief for the Accused-Appellant, 27.

[13] TSN, 10 January 1990, 7-12.

[14] People vs. Baguio, 196 SCRA 459 [1991]; People vs. Penillos, 205 SCRA 546 [1992]; People vs. Garcia, 215 SCRA 349 [1992].

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DISSENTING OPINION

MELO J.:

I dissent from the majority opinion which is anchored on absence of evidence "that the complainant is a nymphomaniac, a promiscuous woman, or a prostitute" and the presumption - that no young Filipina of decent repute would publicly admit that she has been criminally abused and ravished unless it is the truth - totally ignoring the concrete evidence on record. Complainant's behavior, action, and inaction, as clearly revealed by the evidence on record, do not jibe with her protestation of lack of consent to their sexual congress. Upon alighting from the pedicab, instead of telling the pedicab driver to call the police, she instructed the pedicab driver to wait for them:

Q - While you were alighting from the tricycle according to you, you told the tricycle driver not to leave no matter what happened. That is contained in your sworn statement Exhibit B?

A - Yes, Sir.

Q - To quote question and answer No. 9 appearing on page 2 of your sworn statement marked as Exhibit B in answer to question No. 9 which reads: Q - Ano pa ang pangyayari?" you answered: "A - Nang kami ay lumabas ay akbay pa rin ako at sumakay siya nang tricycle na pinagsakyan namin. Kasi sinabihan ko itong tricycle boy na huwag kaming iwan ano mang mangyari."

Did the accused also tell the tricycle boy not to leave the hotel premises and wait for you?

A - No, Sir.

(TSN, Feb. 28, 1990, pp. 49-50)

From the moment that she and accused--appellant alighted from the pedicab, she had many occasions and opportunities to raise an outcry for help. She did nothing of the sort but instead she freely followed accused-appellant in registering at the cashier's counter and entering Room 34 of the lodge. They alighted from the pedicab near the guard house towards which she could have immediately run as there were persons there, among whom were Luis Andaya, the cashier of Ginza Lodge, and Wilson Zamora, bellboy, but she did not. When the roomboy, Rodel Cantos, met them, she could have told him that she was being forced to go with accused. Again she did not. When they were registering at the cashier's desk, she could have told Cecila Zamora, the cashier on duty at that time, that she (complainant) was being brought to the lodge against her will. Again she did not. It is to be emphasized that at the time they were registering, by her own testimony, complainant was standing behind accused-appellant -

A - The roomboy was behind me while I was behind the accused.

(TSN p. 11, July 30, 1990)

and accused-appellant was not holding any icepick with which, she had previously alleged he had threatened her -

Q - While the accused was paying the receptionist with his right hand was he still holding the icepick with his right hand also?

A - No, Sir.

Q - In other words, when he was making payments he was already no longer holding the icepick which he was

keeping at that time?

A - No, Sir

Q - That was still the situation until you reached the room assigned to you?

A - Yes, Sir.

(TSN, Feb. 28, 1990, p. 48)

Q - But when you were in front of the cashier his right hand was empty?

A - Yes, Sir.

Q - And still it did not occur to you to seek help from the cashier and the roomboy who were both present at that time?

A - Yes, Sir. I was not able to do anything.

Q - It was the roomboy who guided you to the second floor?

A - No, Sir. He left after he said the room number and so, we two only who went up.

Q - He did not even try to point to you or the accused where the room is located?

A - No, Sir.

(TSN, July 30, 1990, pp. 17-18)

Yet, during all this time and all the way up to Room 34 she did not ask for help or raise an outcry. This but shows that she went with accused-appellant knowingly, voluntarily, and willingly.

Finally, I find it absurd that a would-be rapist would parade himself and his would-be victim in front of several persons who could be potential witnesses against him. Four (4) lodge employees, Cecilia Zamora, Luis Andaya, Wilson Zamora, and Rodel Cantos, who were in the best position to observe the behavior and demeanor of complainant and accused-appellant, categorically testified that they did not notice anything unusual in the behavior of complainant and accused-appellant. These lodge employees are impartial witnesses, not related in any manner to accused-appellant. True, they may be working in an establishment of low repute, but this does not mean that they will countenance the commission of a crime. There is not a shred of evidence on record that they are suborned witnesses. Their testimony must thus be given full credit.

I am thus of the opinion that - complainant freely and voluntarily consented to have sexual intercourse with accused-appellant.

I, therefore, DISSENT from the majority opinion and Vote for the acquittal of accused-appellant.

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