

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROLANDO DOMINGO Y MELEBO AND DANTE TAMBALO Y SAPUNGGAY, ACCUSED-APPELLANTS.

G.R. No. 97921. September 08, 1993

Ponente: REGALADO, J.

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REGALADO, J.:

For stifling the voice of conscience and heeding instead the call of diablerie, accused-appellants Rolando Domingo y Melebo and Dante Tambalo y Sapunggay now face the grim prospect of spending the rest of their lives behind prison bars, in expiation of a grievous wrong committed for a momentary satisfaction of lust.

On October 6, 1989, a complaint signed by Rosemarie Tulisana was filed with the Regional Trial Court, National Capital Judicial Region, Branch XLIX, charging herein appellants with the crime of rape allegedly committed in this wise:

“That on or about October 1, 1989, in the City of Manila, Philippines, the said accused, conspiring and confederating together and mutually helping each other, did then and there wilfully, unlawfully and feloniously with lewd designs, by means of threats, force and intimidation have carnal knowledge with the undersigned complainant, a minor, 15 years of age, by then and there entering the ladies’ quarter(s) where the undersigned complainant (was) sleeping alone, kissing and mashing her breasts, threatening to box her should she resist, removing her pajama and panty and inserted his penis (in)to her private parts, then suc(c)eeded in having carnal knowledge of her, against her will and consent while accused DANTE TAMBALO Y SAPUNGGAY stood guard outside the door of the ladies’ quarter(s).

Contrary to law.”[1]

Upon arraignment, both accused, assisted by counsel de oficio, entered pleas denying their guilt[2] but, after trial on the merits, the court a quo handed down its decision on May 9, 1990 finding them guilty as charged and disposing as follows:

“WHEREFORE, judgment is hereby rendered finding the Accused ROLANDO DOMINGO and DANTE TAMBALO guilty beyond reasonable doubt, as Principals, (of) the crime of ‘Rape’ defined in and penalized by Article 335 of the Revised Penal Code, and hereby metes on each of them the penalty of RECLUSION PERPETUA, with all the accessory penalties of the law, and hereby condemns them to pay, jointly and severally, to the Private Complainant Rosemarie Tulisana the amount of P20,000.00 as and by way of moral damages, and to pay the costs.

The Accused are hereby credited (with) the full period of their detention during the pendency of this case provided that they agreed in writing to abide by and comply strictly with the rules and regulations of the City Jail of Manila.

SO ORDERED.”[3]

Having thus failed to convince the court below of their professed innocence, appellants availed of their constitutional right to appeal and now contend before us that the lower court erred (1) in finding that the sexual intercourse between appellant Rolando Domingo and complainant Rosemarie Tulisana was not voluntary on the part of the latter; (2) in giving full faith and credence to the testimony of the complainant which is tainted with contradictions and suspicion; and (3) in finding that the prosecution was able to present the required quantum of proof to support a judgment of conviction.[4]

As is to be expected in criminal cases, especially in the crime of rape where the contingencies hinge on the credibility of the participants, the presentation of the prosecution is generally in sharp contrast with the submission of the defense. It is best, therefore, to reproduce hereunder the version of the People vis-a-vis that of accused-appellants as now presented to us, one may assume, after much rationalization or contrivance.

The brief filed by the Solicitor General has concisely synthesized the facts of the case for the appellee, with documentation based on the transcript of stenographic notes of the trial and which we have reviewed, to wit:

“6. Rosemarie Tulisana was a 15-year old provincial lass from Surigao del Norte, who was working in a ladies’ bag factory in a three-storey building at 1438 Metrica Street, Sampaloc, Manila. The factory had eighteen employees, including Tulisana and the two appellants. Appellants were both 21 years of age and both come from the town of Gerona, Tarlac. (TSN, January 3, 1990, at 9--10; TSN, February 28, 1990, at 7; TSN, March 26, 1990, at 3.)

“7. All the workers stayed in a dormitory within the factory premises. Some slept in the kitchen located on the ground floor, others on the second and third floors. Tulisana shared a room in the second floor with two other female employees named Mely and Merly, sleeping either on the floor or on a wooden table inside the room. Some male workers slept in another room on the second floor which doubled as work spaces during the daytime. (TSN, January 3, 1990, at 13-14; TSN, March 26, 1990, at 21.)

“8. On October 1, 1989, at around 8:00 o’clock in the evening, only a few workers were inside the factory building as it was a Sunday. Tulisana was eating supper in the kitchen. Appellants were likewise also in the kitchen, drinking beer with two other male companions. (TSN, January 3, 1990, at 35-36; TSN, March 26, 1990, at 20, 23.)

“9. Appellant Domingo tried to offer some beer to Tulisana, but the latter turned it down. However, Tulisana exchanged pleasantries with appellants and had no reason not to converse with them as she considered them as her older brothers. (TSN, January 3, 1990, at 36-37; TSN, March 26, 1990, at 25.)

“10. Tulisana left the kitchen and went up to her room to sleep. On her way up she met Mely who was going downstairs to wash some laundry and who asked Tulisana not to lock the door so that she could enter without disturbing the latter. Tulisana agreed. Inside her room, Tulisana was alone because Merlie, her other roommate, had left the previous night and had not yet returned. Tulisana changed into a sando and pajama pants. Although she wore no brassiere, she had her panty on. Tulisana did not lock the door of the room (TSN, January 3, 1990, at 5; TSN, February 7, 1990, at 2, 3-4.)

“11. At around 8:30 o’clock, having changed her clothing, Tulisana spread a carton on top of the table, got her blanket and pillow, and lay down on the table to sleep. She left the light in the room on.

“12. At around 9:00 o’clock, Tulisana suddenly woke up, sensing the presence of other people inside the room. She thought that they were just getting their pillows and blankets that were stored inside the room. (TSN, March 26, 1990, at 24-25.)

“13. All of a sudden, Tulisana felt someone holding her forehead and holding her right breast. Opening her eyes, she saw that it was appellant Tambalo holding her forehead and appellant Domingo, who was on her left side, pressing her breast. Tulisana struggled to get up while telling appellants to stop. However, Domingo

threatened to strike her with his fist if she shouted. Appellant Domingo ordered his companion to go outside and guard the door. The other appellant complied and posted himself outside the room, content with peeping into the room through a hole in the door and enjoying what he saw. (TSN, January 3, 1990, at 18-20; TSN, February 7, 1990, at 7-9, 12; TSN, February 14, 1990, at 15-17; TSN, March 26, 1990, at 22-28.)

“14. Tulisana tried to ward off appellant Domingo with her left hand and run away, but he held her and pinned her down. Tulisana asked him what he was going to do with her. Appellant Domingo replied with a warning not to make a sound. The threats succeeded in scaring and silencing Tulisana. (TSN, January 3, 1990, at 20; TSN, February 7, 1990, at 20.)

“15. Appellant Domingo tossed away Tulisana’s blanket and pillow, and then pulled off her pajama pants and panty. Tulisana made it clear to appellant Domingo that she wanted him to stop, pleading:

“Huwag, Rolando.”

(TSN, January 3, 1990, at 20-22; TSN, February 7, 1990, at 10).

“16. Determined to satisfy his lust, appellant Domingo ignored the girl’s entreaties, pulled down his pants and underwear and went on top of Tulisana. He again ordered her not to shout, threatening to box her if she did. To drive home the point, appellant Domingo shoved his fist in front of her face as if to strike her. Fearing for her safety, Tulisana kept quiet. (TSN, February 7, 1990, at 13-16; March 26, 1990, at 29.)

“17. Appellant Domingo then began to kiss Tulisana and mash her breasts. He ordered the girl to hold his penis and insert it into her vagina. Shocked into submission, Tulisana tried to comply, but was unable to insert appellant Domingo’s penis. Angered, Domingo said that he would do it himself. (TSN, February 7, 1990, at 16-18.)

“18. Tulisana tried to avoid penetration by squirming her body, but appellant Domingo again ordered her not to move. Thereafter, he succeeded in entering the girl and consummating the rape. Tulisana cried out in pain (TSN, February 7, 1990, at 19-21, 24.)

“19. Having satisfied himself, appellant Domingo got off and dressed up. Before leaving, appellant Domingo threatened to kill her if she told anyone about what he had done to her. When appellant Domingo opened the door to leave, Tulisana saw appellant Tambalo outside. The two appellants left at the same time. (TSN, February 7, 1990, at 24, 27.)

“20. Tulisana saw blood on her vagina and on the carton mat, which she wiped away, afraid that Mely might see it. She tore up the carton the next day and threw it into a trash can. At around 9:45 o’clock, Mely entered the room. Unable to sleep immediately or tell her roommate about the rape, the young girl instead cried silently. (TSN, January 3, 1990, at 24; [TSN,] February 7, 1990, at 26, 29, 30; TSN, February 14, 1990, at 4?5.)

“21. The next day, October 2, 1989, Tulisana and the two appellants reported for work as usual. She avoided appellants and did not talk to them. (TSN, February 14, 1990, at 6-7.)

“22. On October 3, 1989, Tulisana could no longer bear to keep silent. That morning, she told her design manager about the incident. The latter instructed her to report it to her older sister. Tulisana and her sister went to the police and filed a complaint. That night, the police arrested both appellants. (TSN, January 3, 1990, at 26-27; TSN, February 14, 1989, at 7-10.)

“23. On October 4, 1989, Tulisana was examined by a medico-legal physician of the Western Police District, who made the following findings:

‘1. Breasts are fully developed, hemispherical in shape and with small brownish nipples and areolas;

- '2. Abdomen is flat, firm and without striae of pregnancy;
- '3. Hymen is relatively thin, circular in shape and with a deep old healed laceration at 5 o'clock position almost extending to the base and with rounding of edges;
- '4. Introitus vagina admits two (2) examining fingers with relative ease, while vault is almost dry;
- '5. Vaginal wall is firm and with less prominent rugosities;
- '6. Last menstrual period - September 28, 1989 for 3 days.

'O P I N I O N :

'The above finding is consistent with a girl who is no longer a virgin.'

Aside from the foregoing findings, no other physical injuries were noted.”[5]

On the other hand, appellants offer a totally different account, banking on the usual defenses in rape cases, that is, denial and the “sweetheart theory,” thus:

“Rolando Domingo, 21 years old, single and a factory worker at 1438 Metrica Street, Sampaloc, Manila, declared on direct examination that the complainant Rosemarie Tulisana became his girlfriend on September 20, 1989. On October 1, 1989, at about 7:00 o'clock in the evening, he, together with Orlando Ombollo, the accused Dante Tambalo, Imbot and the complainant were drinking E.S.Q. at the first floor of the factory. They were sitting on top of the table. Seated next to him was the complainant. The drinking session lasted for two (2) hours, after which he whispered to the complainant to go ahead upstairs. She agreed and said she would be waiting for him. She left and proceeded to the room at the second floor of the building. After one (1) minute, he followed her and went inside her room. (TSN, pp. 7-12)

“He kissed her forehead down to her lips, her face and breasts by lifting her sando. He removed her sando. Her turn came and she kissed him. When they felt the warmth of their bodies and passions were running high, he removed her jogging pants, panty and sando. For his part, he took off his shirt and pants. Then, he went on top of the complainant who was lying on the table. She began to hold his private organ, placed it in front of her private part and finally inserted it. She felt happy and for him the feeling was mutual. Unfortunately, before reaching the clima(c)tic stage, somebody opened and peeped at the door. (Ibid., pp. 13-16)

“He noticed that it was the accused Dante Tambalo who opened the door but closed it again. A mixed reaction of fear and shame engulfed his whole being. He and the Complainant stood up and put on their clothes. He went out of the room and went to talk to Dante. He instructed him not to tell anybody about what he saw. (Ibid., pp. 17-18)

“The following day, the private complainant called for him inside her room at the second floor. She quarrelled with him, suspecting that he spread the rumors about what happened to them. He kept silent and had to be patient, knowing that he even told his companions that nothing happened. She further quarrelled with him at the factory until such time when she had him arrested by the police on October 3, 1989. (Ibid., pp. 18-19)

“Continuing his direct testimony, he belied the testimony of the complainant that she felt pain when his private organ was inserted into her private part. In fact, her private part was already loose. Likewise, he belied her testimony on the blood oozing from her private part as there was none. (Ibid., pp. 20-21)

“The accused Dante Tambalo, 21 years old, married, a worker of Saint Jude factory for ladies' bags located at No. 1438 Metrica Street, Sampaloc, Manila testified that on October 1, 1989 at about 7:00 o'clock in the evening, he, together with his co-workers, namely: his co-accused Rolando Domingo, the private complainant Rosemarie Tulisana, Imbot and Olan, had a drinking spree at the ground floor of the said factory. They were drinking E.S.Q. and after two (2) hours they stopped. (TSN, pp. 2-5, March 26, 1990)

“After their drinking session, the complainant went upstairs after the accused Rolando Domingo whispered something to her. Rolando followed her. Two (2) minutes elapsed and he (Dante) also went upstairs to sleep, but he first proceeded to get his blanket and pillow at the room of the complainant on the second floor where they usually placed their blankets and pillows. (Ibid., p. 6)

“As he and Rolando did not have a permanent place to sleep, the sister of the latter brought the blanket and the pillow inside the room of complainant. However, he failed to get these items because when he pushed the door of said room, he felt ashamed and left when he saw Rolando on top of the complainant who were both naked. He proceeded to the other room to sleep. (Ibid., p. 9)

“After about two (2) minutes when he was already lying down, Rolando arrived and told him not to tell anybody about what he saw. He acceded. (Ibid., p. 9)

“In the morning of October 3, 1989, the complainant confronted him at the second floor of the factory where they were working. The complainant got mad at him considering that she suspected that he and Rolando spread the rumor about what happened. He reacted and said he had nothing to do with the rumor and perhaps somebody was responsible for it. As anger turned into hatred, the complainant on that day caused his and Rolando’s arrest by the police of Police Station No. 4 in Sampaloc, Manila. (Ibid., pp. 10-11)

“Subsequently, they were brought to the Headquarters of the Western Police District where they were investigated. As to his having been implicated in the alleged crime of rape, he (Dante) told the police that he did not know anything about the case. On the other hand, Rolando said to the police that what happened to him and the complainant was a voluntary act.”[6]

Article 335 of the Revised Penal Code provides that one of the ways by which rape can be committed is by having carnal knowledge of a woman by using force or intimidation, the same mode allegedly employed by appellants in the case at bar. Since appellant Domingo admits having had carnal knowledge of complainant, only the elements of force and/or intimidation therefore need to be proved.[7]

In this connection, it bears mention that it is the policy of the Court, founded on reason and experience, to sustain the factual findings of the trial court on the rational assumption that the latter is in a better position to assess the evidence before it, particularly the testimonies of the witnesses who reveal much of themselves by their deportment on the stand. The exception to the rule is where such findings are clearly arbitrary or erroneous as when they are tainted with bias or hostility or are so lacking in basis as to suggest that they were reached without the careful study and perceptiveness that should characterize a judicial decision.[8] We do not find that exception to be attendant in this case.

The trial court arrived at a judgment of conviction by relying on the testimony of complainant Rosemarie Tulisana in keeping with settled jurisprudence that since rape is essentially an offense of secrecy, not generally attempted except in dark or deserted and secluded places away from prying eyes, the crime usually commences solely upon the word of the offended woman herself, and conviction invariably turns only upon her credibility as the People’s single witness of the actual occurrence.[9]

Complainant, testifying in a categorical, spontaneous, candid and straightforward manner as may be concluded from the findings of the trial court,[10] was able to establish the elements of force and intimidation employed upon her by the appellants in this manner:

“FISCAL FORMOSO:

Please explain to us how that rape happened?

WITNESS:

I was caught by surprise when suddenly somebody held my forehead and held me (o)n the breast, sir.

FISCAL FORMOSO:

Was it on the left or right breast?

WITNESS:

Right breast, sir.

FISCAL FORMOSO:

Who held your forehead, if you know?

WITNESS:

Dante, sir.

FISCAL FORMOSO:

And who held your right breast?

WITNESS:

Rolando, sir.

x x x

FISCAL FORMOSO:

Did you hear any sound coming from them while holding your right breast and your forehead?

WITNESS:

Yes, sir.

FISCAL FORMOSO:

What were those?

WITNESS:

Rolando said, 'huwag kang sumigaw'.

FISCAL FORMOSO:

After that what happened?

WITNESS:

He removed my (p)ajama, sir.

FISCAL FORMOSO:

What else did he tell you?

WITNESS:

He told me, 'kapag sumigaw ka, susuntukin kita'.

x x x

FISCAL FORMOSO:

When Rolando was removing your (p)ajama, where was Dante at that time?

WITNESS:

He was already outside because he was ordered by Rolando to do so, sir.

FISCAL FORMOSO:

What were the words uttered by Rolando to Dante?

WITNESS:

Rolando said, 'kausa, doon ka muna sa labas maghintay ka'.

FISCAL FORMOSO:

Did Dante obey the words of Rolando?

WITNESS:

Yes, sir.

FISCAL FORMOSO:

Now, after Dante went out of the room, what did Rolando do?

WITNESS:

He removed my (p)ajama together with my panty, and then he told me not to shout because by doing so (sic) he would kill me, sir.

x x x

FISCAL FORMOSO:

What was the first thing that Rolando did after removing your (p)ajama and your panty?

WITNESS:

Pinatungan niya po ako.

x x x

FISCAL FORMOSO:

After placing himself on top of you, what did he do next?

WITNESS:

He did like this, sir.

INTERPRETER:

Witness is demonstrating by raising (her) left hand giving the direction by squeezing (her) hand up and down.

FISCAL FORMOSO:

Did you notice where were the hands of Rolando at the time he laid on top of you?

WITNESS:

He pressed his hands into my forearms, sir.

x x x

COURT:

When Rolando was lying on top of you moving up and down, did you hear if he uttered anything?

WITNESS:

Yes, he was threatening me by saying, 'susuntokin kita kapag sumigaw ka'.

x x x

FISCAL FORMOSO:

When he went out did you hear him if he uttered anything?

WITNESS:

Yes, he told me, 'hu(w)ag akong magsusumbong kahit kanino, at kapag malaman ko papatayin kita'.^[11]

Appellants argue that the threat of being boxed is not sufficient reason for a woman to yield her honor and chastity to a man.^[12] Suffice it to say that the working of the mind when placed under such emotional stress is unpredictable. In this given situation, some may shout, some may faint, and some may be shocked into insensibility.^[13] To complainant's mind at that point in time, appellant Domingo was determined to do whatever he intended to do. In fact, to drive home his point, he even shoved his fist in front of complainant's face as if to strike her.^[14] The thought of appellant Dante Tambalo being outside, waiting to come to Domingo's support anytime his help would be needed simply transfixed her mind, overpowering and discouraging any attempt to thwart the sexual assault. She may have failed to successfully resist appellant Domingo's advances at the actual time of the sexual assault itself, but such is not a manifestation of consent, but rather an indication of involuntary submission.^[15]

The defense also faults complainant for not duly resisting appellant Domingo, considering that her right hand was free during the intercourse.^[16] The fact that, while coitus was going on between complainant and her abuser, she had a free hand to resist the appellant's further advances is no argument that no resistance was employed. Besides, the law does not impose a burden on the rape victim to prove resistance. What has to be proved by the prosecution is the use of force or intimidation by the accused in having sexual intercourse with the victim.^[17]

The defense further submits that although appellant Domingo threatened to kill her if she resisted, still this circumstance did not justify her submission to him, for the latter was not armed with any weapon. On this tenuous premise, the defense posits that there was therefore no authentic apprehension and real fear of immediate death or great bodily harm on the part of complainant.^[18]

We are not persuaded. As we have heretofore held, in using force it is not necessary that the offender is armed with a weapon, as the use of a weapon serves only to increase the penalty. Intimidation can be addressed to the mind as well.^[19]

Clearly then, the sexual congress which transpired between complainant and appellant Domingo was not the result of mutual passion but of a unilateral lecherous act on the part of the latter. Complainant was unable to put up a resistance for she was also intimidated by the presence of appellant Tambalo who posted himself as a guard outside the room, coupled with the circumstances that appellants were emboldened by having drunk bottles of liquor a few minutes earlier^[20] and that no one could possibly come to her aid, since her other co-workers were

on the ground floor, the men having their drinking spree[21] and her roommate doing her laundry.[22]

Being aware of all these attendant circumstances, complainant could not but have believed that it would be futile for her to resist. Cowed into submission, she was a malleable prey to the libidinous designs of her molester. Her apparent “voluntariness and cooperation,” as appellants would put it,[23] were actually evidentiary of the intimidation to which she was subjected by the presence of appellants. Indeed, her actuations reveal her resignation to the fact that she could not do anything against appellants who are years older than her and endowed with physical strength which her frail body could not possibly overcome.

She could not immediately recover from the initial shock that befell her such that despite the fact that her roommate, Mely, already returned to the room, she did not have the courage to tell the latter about the incident. The threats of appellant Domingo still lingered in her mind. This explains why it took her a long time before she could sleep and she just cried silently.[24]

Moreover, at her age, she was still evidently innocent of and ignorant to the ways of the world. Her naivete was apparent during the sexual intercourse itself when, after blood oozed out of her genitalia, she mistook it for her menstruation.[25] In fact, when she was compelled to insert the private organ of appellant Domingo into hers, she had a hard time doing so for, according to her, she could not see her vaginal orifice.[26] It is, therefore, hard to believe that she could fabricate a story or fantasize a scenario with details which are unknown to an ingenue.

In their effort to discredit complainant, appellants would make capital of the fact that when she was examined by Dr. Ceñido of the NBI Medico-Legal Division three days after the incident, it was found that she had a deep old healed laceration of the hymen as a result of an injury that happened a month or several months before the examination.[27] They consequently assert that, contrary to her asseveration, she was no longer a virgin at the time of the alleged rape.[28] We reject this hypothesis.

The mere fact that complainant had a long-healed laceration in the hymen at the time appellant Domingo had sexual intercourse with her is not incompatible with her claim that she was still a virgin. For, as we held in *People vs. Tapao*: [29]

“x x x While it may be true that the ‘vaginal canal easily admits 1 finger’ and that there are ‘healed lacerations, external orifice of the vagina, 6 o’clock and 1 o’clock,’ the rupture of the hymen is not a sure index of a sexual experience. A host of other causes than penetration of the vagina by a penis can bring about laceration of the hymen. Masturbation, accidental violence, exaggerated separation of thighs, rigorous and excessive physical exercise and activities are among the other factors that may cause laceration of the hymen independently of the act of sexual intercourse.”

Besides, the contention is immaterial since, whether the laceration of the hymen is newly sustained or not, this fact will not negate the consummation of the crime of rape. The victim’s virginity is not an element of the crime and is, therefore, inconsequential; what is material is that she had been forced and/or intimidated to have sex with the felon, as in the present case.

Appellant Domingo does not deny having engaged in sexual intercourse with complainant, although he claims that their sexual act was but the culmination of mutual passion and lust. To support his contention, he banks on the sweetheart theory often used as a defense in rape cases.[30] That defense, however, is untenable in the case at bar.

While he contends that he and complainant are sweethearts, his assertion stands unsubstantiated and uncorroborated by any other witness. His is the burden of proof for this affirmative allegation. Not only was his claim categorically denied by complainant,[31] but there was also no substantial evidence such as love notes,

mementos or pictures presented by him to support it. Moreover, even granting that he and complainant were really sweethearts, that fact alone would not negate the commission of rape. A sweetheart cannot be forced to have sex against her will. From a mere fiancée, definitely a man cannot demand sexual submission and, worse, employ violence upon her on a mere justification of love. Love is not a license for lust.[32]

Appellants also venture the specious argument that the words “Huwag, Rolando” uttered by complainant were more of a romantic gesture than a manifestation of resistance, and that she was then inciting appellant Domingo to pursue his romantic advances.[33] This casuistry does not merit consideration. Far from being a romantic gesture, said words were undeniably indicative of complainant’s pitiful objection to and pathetic remonstrance against the sexual abuse to which she was being subjected.

Furthermore, we cannot subscribe to the pretension of appellant Domingo that complainant shared with him the plan for the latter to gain access to her room for their relationship to ripen into a full-blown romance; and that she left the door of the room unlocked so that he could have easy access thereto.[34] This was belied by complainant herself who said that the reason why she left the door unlocked was because she was asked by her roommate, Mely, to leave it open so that the latter, after washing her laundry, could enter the room without having to disturb or awaken complainant.[35]

We cannot, therefore, understand how appellants could consider that agreement of the girls as evidence that complainant is a woman of loose morals.[36] Her failure to consider her safety by not locking the door is but a further indication of her artless and trusting nature, with the added circumstance that she considered appellants as her older brothers.[37] It did not enter her mind that the very people in whom she reposed confidence were actually satyrs. Moreover, if the lovemaking was mutual, appellant Domingo could not have carelessly left the door unlocked on the lame excuse that he was then in a hurry so he forgot.[38] Actually, he was in such haste so he could carry out his salacious plan without the same being discovered by the other workers in the factory.

In rape cases, the conduct of the woman immediately following the alleged assault is of utmost importance. The fact that two days after the incident, having recovered from the shock thereof, complainant reported the matter to her design manager, then to her sister, and after which they proceeded to the police for investigation and to a doctor for examination negates the fabrication imputed to her by the defense. Complainant’s willingness to face police investigators and to submit to an intimate physical examination is a mute but eloquent testimony of the truth of her charges against appellants.[39]

Appellants further contend that complainant made up the rape story, as her supposed lovemaking with appellant Domingo resulted in a rumor that circulated among their co-workers and she suspected appellants to have propagated the same.[40] This putative motive which appellants concocted and ascribed to complainant is too ridiculous to inspire belief. Contrarily, there is nothing incredible in her testimony which, unlike the desperate theory espoused by appellants on their bare assertions, is in conformity to common knowledge and consistent with human experience.

As we have long held, when a woman says that she has been raped, she says in effect all that is necessary to show that rape has been committed. Her testimony is credible where she has no motive to testify against the appellants, as in the case at bar. Verily, a rape victim would not publicly disclose that she had been raped and undergo the trouble and humiliation of a trial if her motive was not to bring to justice the persons who had abused her. More specifically, no young Filipina of decent repute would publicly admit that she has been criminally abused and ravished unless it is the truth. It is her natural instinct to protect her honor.[41]

What tells heavily against appellant Domingo is the fact that after his arrest and while being detained at the city jail, he pleaded to complainant, through his sister, for forgiveness and even offered to marry her, obviously to

induce the latter to withdraw the charge.[42] Under our law and jurisprudence on evidence, such an offer to compromise and of marriage is an implied admission of guilt.[43] Moreover, if it were true that he and complainant mutually planned their lovemaking and that the latter was really his sweetheart, there would be no sense or necessity for him to beg for forgiveness from her.

As for appellant Dante Tambalb, his defense consists of a simple denial which, as a form of negative evidence, cannot prevail over the positive testimony and identification of complainant herein. Furthermore, there is no scintilla of doubt that appellants conspired, confederated and mutually helped each other for the consummation of the crime charged, which is not implausible or incredible considering that they are not only co-workers but even townmates.[44] Their combined efforts made possible the criminal defloration of a provincial girl who came to the city to earn a decent living, not knowing that a horrible nightmare awaited her and would leave a permanent emotional scar on her life.

The chronology of events, as found by the trial court,[45] support this conclusion of criminal confederacy. Shortly before the incident occurred, appellants had a drinking spree in the kitchen on the ground floor of the factory. Both of them entered complainant's room afterwards, where appellant Tambalo pressed and held complainant's forehead, while appellant Domingo held and pressed her right breast. Tambalo then left the room and posted himself outside the door of the room as ordered by Domingo. Complainant could recognize Tambalo as she saw his mouth, eyes and nose peeping through the hole of the door. When Domingo had satisfied his lust, he left together with Tambalo. These facts explicitly prove appellants' concerted action towards the realization of the crime, for which both of them should be held accountable.

WHEREFORE, the appealed judgment is hereby AFFIRMED, with the modification that the award for moral damages is hereby increased to P30,000.00 in accordance with the present jurisprudential policy.

SO ORDERED.

Narvasa, C.J., (Chairman), Padilla, Nocon, and Puno, JJ., concur.

[1] Original Record, 1.

[2] Ibid., 8.

[3] Ibid., 76; Per Judge Romeo J. Callejo.

[4] Brief for the Appellants, 1; Rollo, 57.

[5] Brief for the Appellee, 3-9; Rollo, 123-129.

[6] Brief for the Appellants, 5-8; Rollo, 61-64.

[7] Original Record, 50.

[8] People vs. Labarias, G.R. No. 87165, January 25, 1993.

[9] People vs. Nuñez, 208 SCRA 34 (1992).

[10] Original Record, 60.

[11] TSN, January 3, 1990, 18-25.

[12] Brief for the Appellants, 13; Rollo, 69.

- [13] *People vs. Cruz*, 203 SCRA 682 (1991).
- [14] Original Record, 61.
- [15] *People vs. Cruz*, *supra*.
- [16] TSN, February 7, 1990, 12.
- [17] *People vs. Adlawan*, G.R. Nos. 100917-18, January 25, 1993.
- [18] Brief for the Appellants, 14; Rollo, 70.
- [19] *People vs. Abonada*, 169 SCRA 530 (1989).
- [20] TSN, February 28, 1990, 25.
- [21] *Ibid.*, January 3, 1990, 35.
- [22] Original Record, 65.
- [23] Brief for the Appellants, 10; Rollo, 66.
- [24] TSN, January 3, 1990, 25-26; TSN, February 7, 1990, 28.
- [25] *Ibid.*, *id.*, 24.
- [26] *Ibid.*, February 7, 1990, 16-18.
- [27] *Ibid.*, January 3, 1990, 7, 8
- [28] Brief for the Appellants, 15; Rollo, 71.
- [29] 108 SCRA 351 (1981).**
- [30] TSN, February 28, 1990, 26, 29.
- [31] Brief for the Appellants, 8; Rollo, 64.
- [32] *People vs. Tismo*, 204 SCRA 535 (1991).
- [33] Brief for the Appellants, 13-14; Rollo, 69-70.
- [34] *Ibid.*, 11; Rollo, 67.
- [35] TSN, January 3, 1990, 16; TSN, February 7, 1990, 4.
- [36] Brief for the Appellants, 11; Rollo, 67.
- [37] TSN, March 26, 1990, 25.
- [38] *Ibid.*, February 28, 1990, 29.
- [39] *People vs. Cruz*, *supra*, Fn. 13.
- [40] Brief for the Appellants, 18; Rollo, 74.
- [41] *People vs. Cabilao*, 210 SCRA 326 (1992).
- [42] TSN, March 21, 1990, 12-13, 18.

[43] Section 24, Rule 130, Rules of Court; *People vs. Gerones*, 193 SCRA 263 (1991).

[44] Original Record, 34-35.

[45] Original Record, 74-75.

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