

## PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ARMANDO PADILLA Y VITONIO, ACCUSED-APPELLANT.

*G.R. Nos. 111956 and 111958-61. March 23, 1995*

Ponente: DAVIDE, JR., J.

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### DAVIDE, JR., J.:

Accused Armando Padilla y Vitonio was charged with rape in five separate sworn complaints filed by Catherine Ramos y Moral, assisted by her mother, Carmencita Ramos, with the Regional Trial Court (RTC) of Manila on 24 August 1992. These complaints were docketed as Criminal Cases Nos. 92-109470 to 92-109474.

No bail was recommended by the City Prosecutor in each case. The accused's application for bail was denied by the trial court sometime after his arraignment.[1]

The cases were consolidated and assigned to Branch 35 of the RTC. Upon being arraigned on 5 October 1992,[2] the accused pleaded not guilty to the charges.

After trial on the merits, the trial court promulgated its decision on 21 June 1993[3] the dispositive portion of which reads as follows:

WHEREFORE, judgment is rendered pronouncing accused ARMANDO PADILLA y VITONIO guilty beyond reasonable doubt, as principal of RAPE on five (5) counts and sentencing him to reclusion perpetua for each count or to five (5) reclusion perpetuas.

Said accused is ordered to pay the offended girl and her parents the sum of P150,000.00 for moral damages.

### SO ORDERED.[4]

The version of the prosecution as established by the testimonies of the offended party, Dr. Annabelle Soliman (NBI Medico-Legal Officer), and Juan Monge (NBI agent), was summarized by the trial court as follows:

The complainant, Catherine Moral Ramos, is the eldest child of the spouses Rafael G. Ramos and Carmencita Moral-Ramos. She was born on June 24, 1979. (Exhibit J.)

Rafael G. Ramos is a taxicab operator under the name and style of "Moonways". He has two units, one of which was assigned to the accused to drive. Aside from his duties as one of the drivers of Rafael G. Ramos, the accused was also tasked to convey the three children of the said spouses, who are of school age, one of whom was the complainant, to their school.

One night in December 1991, about dawn, while the household of Rafael Ramos was still fast asleep, the complainant was awakened by the presence of the accused inside her bedroom, poking a knife at her left waist. He scaled the wall and entered the room through an open window. At the point of his knife, the accused said to the complainant, "Do not shout or else I will stab you." The threat of the accused scared her. He then forced her to go downstairs to the ground floor, covering her mouth all the while and his knife poked at her left waist. He laid her

on the floor, raised her dress up to her neck, removed her panty, opened the zipper of his pants, put out his male organ, went on top of her, and inserted his private part into hers. Because that was her first experience with a man, she felt intense pain in her private organ. After he was satisfied, the accused left the complainant, this time passing through the door. But before he left he warned her not to tell her parents what happened or else he would kill her. On account of the threat of the accused, she did [not] report to her parents what he did to her that night.

That first assault on her chastity was repeated sometime in June 1992, before she celebrated her 13th birthday on June 24 of that year. During lunch break, the accused called the complainant, who was then inside the school campus of Our Lady of Sacred Heart School, on the pretext that her mother had a message for her. Innocently, she heeded his call, but on her way out he grabbed her hand and poked a knife wrapped in a small towel at her left waist. He then warned her not to make any false move, or else he would kill her. Scared of the threat, the complainant boarded the taxicab of the accused as ordered by the latter. He took her to Prince Hotel in Sta. Mesa, Manila. Once inside one of the hotel rooms, he undressed her, pushed her on the bed, removed his pants and underwear, placed himself on top of her and inserted his penis into her private parts. The complainant tried to evade the sexual assault of the accused by closing her legs. However, he forcibly separated them. All the while, the accused was holding his knife still wrapped in the towel. After the act, complainant noticed something sticky on her private part, as the accused wiped his male organ. Afterwards the accused brought back the complainant to her school. But before he left he warned her not to report to anyone what happened to them, otherwise he would kill her. She proceeded to her seat controlling herself and holding her tears because she did not want her classmates to see her crying. She did not also report to anybody what the accused did to her on that date.

On June 24, 1992, birthday of the complainant, at lunch time, the accused again went to the school of the complainant and called her. He told her that her mother had a message because it was her birthday. Not seeing any knife in the hands of the accused, complainant believed him and followed him to his taxicab. Her brother and sister were already in their classrooms. The accused directed her to sit in front beside him. Once they were inside the taxicab, the accused picked up a knife and poked it at her while he was driving the car with his left hand. He took her to the Town and Country Motel in Sta. Mesa, Manila. Once inside one of the rooms of the motel, he pulled open her polo shirt held close by automatic buttons, removed her skirt, panty and shoes, undressed himself, and then placed himself on top of her. She was unable to offer any resistance because of her fear as he continuously held and poked his knife on her right waist. Moreover, he warned her not to make any false move, or else he would stab her. While on top of her the accused inserted his penis into the private organ of the complainant and made the push-pull act. After he had satisfied himself he wiped his and her private organs. Then he brought her back to school. Crying, she went straight to the comfort room where she composed herself. Because of fear she did not also report to her parents what the accused did to her at lunchtime that day.

On July 25, 1992, a Saturday, the private complainant had a practice in church choir. At about 7:00 o'clock in the morning, her father instructed the accused to bring her to school for the practice. But instead, the accused took her to the Town and Country Motel, and there again raped her, employing threats and intimidation, and at the point of a knife.

On the following Saturday, August 1, 1992, the private complainant was supposed to go to her school to practice with the church choir. However, instead of bringing her to school, the accused, by means of threats and intimidation, and at the point of a knife, forced her to go with him in the taxi he was driving to the Town and Country Motel and there once more violated her chastity and raped her.

On August 2, 1992, Sunday, unable to endure any longer the rapes she suffered from the hands of the accused, the complainant reported to her mother what said accused had been doing to her.

On August 3, 1992, complainant Catherine Ramos and her mother Carmencita Ramos went to the National Bureau of Investigation and reported the crimes committed by the accused on the complainant. Her sworn statement (Exhibit I, etc.) was taken and a physical examination was conducted on her person by Dra. Annabelle L. Soliman, Medico-Legal Officer of the NBI. The results of her physical examination confirmed that the complainant is no longer a virgin. The medico-legal report (Exhibit B) states inter alia that "old-healed complete hymenal laceration (is) present" in her private organ.[5]

The accused told a different story. He took special pride in declaring that he was in fact seduced by the complainant. The trial court summarized his story in this wise:

During the time — from April 1991 to July 27 or 28, 1992 — that he had been driving one of the taxicabs of Rafael Ramos, accused observed his daughter Catherine Ramos unusually close to him (accused). According to their housemaid Alma, the accused was the type of the complainant.

On November 15, 1991, accused and his employer had a beer drinking spree in the house of the latter, which lasted up to 9:30 o'clock in the evening. In the course of the spree, the complainant secretly told the accused, while he was getting beef from the refrigerator, to come back at 1:00 o'clock at dawn of the following morning. According to the accused she threatened him that if he did not do so, she would ask her mother not to allow him to ply the route of his taxis, and that if he leaves his employment with the Ramoses, she would inform his wife that they are lovers. Because of those threats of the complainant, he got scared.

Consequently, on November 16, 1991, at around 12:45 o'clock in the morning, the accused returned to the place of the Ramoses. He found the complainant waiting upstairs. So, he gave her the signal by snapping his fingers and making the "palatak" sound with his tongue. She came down and allowed him to enter, woke Alma, who was sleeping on the sofa, and directed her to go up-stairs and sleep in the bedroom. After making sure that her parents were asleep, she turned off the light, sat with him on the sofa, and they kissed and caressed each other. Because of the noise coming from the sofa, they transferred to the back of the seat and there had their first sexual intercourse.

The initial sexual liason between the complainant and the accused was followed by many others on different dates and in various places, sometimes in the house of the Ramoses, sometimes in his own house, in the Prince Hotel, in the Town and Country Hotel and in some other places, sometimes daily, sometimes twice a week, weekly and on Saturdays, because the complainant was so crazy about him.

The accused admitted that he and the complainant had sex in December 1991, in June 1992, before June 24, 1992, on June 24, 1992 which is her birthday, on July 25, 1992, but denied they had sexual intercourse on August 1, 1992, because according to him, she had her menstruation on said date. He admitted though that he took her to the Town and Country Motel where they merely kissed, caressed and fondled each other, and finally he implanted kiss marks on the upper and lower parts of her breast.

The accused denied he has threatened and intimidated the complainant by pointing a knife at her. He maintains that all their sexual connections were with her consent freely and voluntarily given.[6]

The trial court chose to give full credence to the version of the offended party. It said:

In view of the nature of rape cases where almost always only the lone testimony of the complaining witness is available to the People to prove the crime, and the great difficulty faced by the accused to disprove it, especially where, as in this case, the issue is centered on whether the coitus was consummated with or without force and intimidation, the Court examined and evaluated at length and with utmost caution the whole evidence, particularly that of the complainant. At the end, the Court is convinced and morally certain that the narration of the offended girl in these cases rings with truth throughout. The Court closely observed her demeanor and manner of testifying.

She showed no signs of insincerity or falsehood in her action and behavior on the witness chair. The Court, therefore, finds her version trustworthy and reliable, unlike that of the accused.

Between December 1991 and August 1, 1992, during which period the accused ravished the offended girl five times, she was about six months over 12 years old and one month over thirteen years old. At such age she was not far removed in physical and mental immaturity from a girl eleven years and eleven months old with whom sexual intercourse, though consented, is considered rape. The reason is, a girl of that immature age can be easily coerced and intimidated. Intimidation here includes the moral kind such as the fear caused by threatening her with a knife. (See *People vs. Garcines*, 57 SCRA 653).

In these cases the evidence has clearly established that the offended girl never consented to have sexual intimacy with the accused. What the evidence convincingly reveals is that she was forced and intimidated by the accused to submit to his lustful desire. The testimonies of the complainant have proved:

[Here follows an extensive reproduction of the transcripts of the stenographic notes of the complainant's testimony]

The tender years of complaining witness Catherine Ramos lends credibility to her above narrations. The threats and intimidations employed by the accused as detailed in her testimony were sufficient to instill fear in her which compelled her to submit to his lustful desires and afterwards to keep to herself the violation of her chastity. It is difficult to believe that the victim in these cases who is too young, who has barely finished her elementary grades (she was in first year high school when she testified on November 20, 1992 — see *tsn*, Nov. 20, 1992, p. 26), without any prior carnal experience, would fabricate a tale of defloration, allow the examination of her private parts, and afterwards undergo the anguish, shame and humiliation of a public trial if she were not motivated by an honest desire to bring before the bar of justice the person who ravished her and seek vindication of the gravious [sic] wrong he did to her.

The medico-legal officer of the NBI, who physically examined the complainant on August 3, 1992, declared that her examination of the genital organ of the offended girl disclosed an old healed complete laceration of her hymen at 4:00 o'clock position; that the laceration could have been inflicted approximately four months and beyond from the date of the examination; and that she found rugosities in the hymenal orifice which usually occur after five to seven intercourses. These findings are all compatible with the testimony of complainant about her harrowing experience from the hands of the accused.

The medico-legal officer further testified that her external examination of the body of the victim also reveals two contusions on the right breast and one on the left breast, which are about one to four days old. The doctora opined that these contusions could have been caused by forcible hitting with a hard object, by strong pressure or impact, or by the sucking effect of the lips. The offended girl swore she sustained them on August 1, 1992, when the accused pressed hard her chest with his two hands, which made her lose her breath.[7]

It described the version of the accused as "preposterous and outrageous." It said:

On the other hand, the contention of the accused that it was the complainant who seduced him to have sex with her, or else she would ask her mother not to allow him to drive their taxicab, and if he leaves his employment with her parents, she would tell his wife that they are lovers is not only flimsy as to be unworthy of belief, but also preposterous and outrageous as it is like pouring salt into an open bleeding wound; it adds insult to injury. It is highly incredible that a girl between 12 and 13 years old, inexperienced[d], of low education having barely finished her elementary grades would seduce a man, 32 years old and has a wife, to copulate with her. Certainly, that is not the usual and ordinary way young Filipino girls conduct themselves. We have no test of the truth of human

testimony except its conformity to our common knowledge, usual observation and day to day experience. It may sound trite but in many decisions the Supreme Court held that evidence, to be believed, must not only proceed from the mouth of a credible witness but must be credible in itself, such as the common experience and observation of man can approve as probable under the circumstances.

More than this, the Court's disbelief of the version of the accused presented on the witness chair, gains further strength from the failure of the defense to cite any reason for the sudden change of attitude of the offended girl, to fabricate a story of rape against him. It should be recalled that just a day or two earlier, or on August 1, 1992 to be specific, according to the accused, they were together inside a hotel room ready to do the sexual act were it not for the menstrual cycle of the girl. But on August 3, 1992, she was at the NBI denouncing him for his bestial act.[8]

The accused seasonably appealed to us from the judgment. In his brief, he submits the following assignment of errors:

### I.

THE TRIAL COURT ERRED IN RELYING SOLELY ON THE INCREDIBLE AND INCONSISTENT TESTIMONY OF COMPLAINANT AND IN RULING THAT AS A MATTER OF LAW, THE GUILT OF THE APPELLANT WAS PROVEN BEYOND REASONABLE DOUBT.

### II.

THE TOTALITY OF THE EVIDENCE POINT TO THE FACT THAT COMPLAINANT CONSENTED TO THE CONSUMMATION OF THE CARNAL ACTS.[9]

At the heart of these assigned errors is the issue of the credibility of the witnesses. It is doctrinally settled that such issue is to be resolved primarily by the trial court because it is in a better position to decide the question, having heard the witnesses and observed their deportment and manner of testifying. Accordingly, its findings thereon are entitled to the highest degree of respect and will not be disturbed on appeal in the absence of any showing that the trial court overlooked, misunderstood, or misapplied some facts or circumstances of weight and substance which would have affected the result of the case.[10]

The trial court gave full faith and credence to the testimony of the complainant because "[s]he showed no signs of insincerity and falsehood in her action and behavior on the witness stand"; "her narration ... in these cases rings with truth throughout"; and "her version [is] trustworthy and reliable." Undoubtedly, it carefully observed her deportment and manner of testifying and used potent aids in understanding her testimony such as her gesture, the inflection of her voice, and the emphasis she gave to words, phrases, or sentences. Since these cannot be incorporated into the record, such aids are not available to this Court in the examination of her testimony and we must, therefore, rely on the good judgment of the trial court.[11] The accused has not shown to us that the trial court erred in its judgment on the sincerity, candor, and truthfulness of the complainant or that it overlooked, misunderstood, or misapplied some facts or circumstances of weight and substance which would have affected the result of these cases.

Indeed, we do not doubt the truthfulness of the complainant's testimony. When she was first sexually assaulted in 1991 she was only about 12 1/2 years old, having been born on 24 June 1979,[12] and in grade six at the Manila Christian Day School at Ramon Magsaysay Street, Manila. When she testified on 20 November 1992, she was a first-year high school student at the Our Lady of Sacred Heart School[13] in Plaridel Street, Quezon City. When she and her mother reported to the National Bureau of Investigation on 3 August 1992 the sexual assaults committed on her by the accused, she voluntarily gave her statement and then allowed its Medico-Legal Officer,

Dr. Soliman, to examine her private parts. Thereafter, she submitted herself to the ordeal of a public trial where she was subjected to intense grilling during the grueling cross-examination. Despite this, she stood by her story.

No proof of any ulterior motive for her to implicate the accused has been offered. We cannot believe that the complainant, a lass of tender age, would tell a story of defloration, allow the examination of her private parts, undergo the expense, trouble, and inconvenience of a public trial where she had to bare the traumatic and harrowing experience she suffered and be subjected to harassment, embarrassment, and humiliation during cross-examination, unless she was in fact raped and that she was motivated to do so solely to seek justice and obtain redress for the abominable and wicked acts committed upon her.[14] We have repeatedly ruled that no young and decent Filipina would publicly admit that she was ravished unless that is the truth for it is her natural instinct to protect her honor.[15] If a complainant had voluntarily consented to have sex with the accused, her most natural reaction would be to conceal this fact as it would bring disgrace to her honor and reputation as well as to her family.[16]

It is equally settled that where there is no evidence, and nothing to indicate that a witness for the prosecution was actuated by improper motive, the presumption is that he was not so actuated and his testimony is entitled to full faith and credit.[17] The accused has not shown us any plausible and acceptable reason why the complainant would charge him with a heinous offense.

Regarding the alleged inconsistencies stressed in the first assigned of error, the trial court had earlier disposed of them thus:

The inconsistencies in her declaration on minor and incidental details do not detract against the credibility of her version; on the contrary, they enhance belief for such should be expected from a young girl like the complainant, without any previous experience and appearance on a witness chair, and the tedious and rigid cross-examination she underwent in the hands of a determined defense counsel.[18]

Our own evaluation of the testimony of the complainant discloses that, indeed, whatever inconsistencies she committed were trivial. Courts cannot expect rape victims to keep an accurate account of a traumatic and harrowing experience especially so since they might be trying not to remember them,[19] as they are painful to recall.[20] Inconsistencies on minor and trivial matters only serve to strengthen rather than weaken the credibility of a witness because they erase any suspicion of rehearsed testimony.[21]

There is, as well, no persuasiveness in the suggestion that the complainant was not intimidated. The accused was unable to disprove her positive testimony that he used a knife to compel her to submit to his bestial desires. If it was only on 2 August 1992 that she finally revealed her ordeal, it was because his threats deterred her from doing so earlier. He succeeded in implanting a continuing fear in the mind of this young, immature, and innocent girl that he is capable of carrying out his threats more so because he told her that he was brave, had in fact hacked somebody, and had chased a neighbor with a bolo.[22] One cannot expect a 12-year-old complainant to act like an adult or mature and experienced woman who would have the courage and intelligence to disregard threats to her life and complain immediately that she had been sexually assaulted.[23]

The trial court correctly disregarded the accused's version. The story he concocted is, indeed, incredible, preposterous, and outrageous. To us, it taxes one's credulity beyond limit; it offends sensibilities and insults the intelligence even of an average man. It is inconceivable and unimaginable that the complainant, at her tender age and sweet innocence, against whom no proof of sexual perversity or of loose morality had been shown, would seduce the accused who was then about 30 years old.[24] The accused is not at all inexperienced with women and ignorant of sex. By his own testimony, he is in fact a man who finds pleasure in illicit sex. He openly declared on direct examination that he is single but has a "live-in partner"[25] with whom he has a child.[26]

The rape charged in Criminal Case No. 92-109470 was committed in the complainant's dwelling at nighttime, while the rapes charged in Criminal Cases Nos. 92-109471 to 92-109474 were committed through the use of a motor vehicle. Dwelling, nighttime, and the use of a motor vehicle are aggravating circumstances in rape.[27] They were proven by the prosecution without objection from the accused. His own evidence showed the presence of such aggravating circumstances.

At the time the accused committed the crime, the imposition of the death penalty under Article 335 of the Revised Penal Code for rape committed with the use of a deadly weapon was barred by Section 19(1), Article III of the Constitution. Although the death penalty provided for in Article 335 was later reimposed by R.A. No. 7659,[28] the constitutional provision against ex post facto laws comes to the rescue of the accused. The accused is lucky. He should not, however, forget that sexual perverts like him deserve no place in our society.

The award for moral damages should be modified. It should be increased to P50,000.00 in each case but only in favor of the complainant and not of her parents as well since none of them testified. We also find appropriate an award of P25,000.00 in each case as exemplary damages to deter other sexual perverts or two-legged beasts from sexually assaulting or molesting hapless and innocent girls.

WHEREFORE, the instant appeal is DISMISSED and the decision of Branch 35 of the Regional Trial Court of Manila in Criminal Cases Nos. 92-109470, 92-109471, 92-109472, 92-109473, and 92--109474 finding accused ARMANDO PADILLA Y VITONIO guilty of rape in five (5) counts and sentencing him to suffer the penalty of reclusion perpetua in each count is AFFIRMED, subject to the foregoing modifications regarding the awards for moral and exemplary damages.

Costs against accused ARMANDO PADILLA Y VITONIO.

**SO ORDERED.**

Padilla, (Chairman), Bellosillo, Quiason, and Kapunan, JJ., concur.

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[1] Original Records (OR), 87.

[2] Id., 62.

[3] OR, 195-214; Rollo, 20-39. Per Judge Ramon P. Makasiar.

[4] Id., 214; Id., 39.

[5] OR, 197-199; Rollo, 22-24.

[6] OR, 199-200; Rollo, 24-25.

[7] OR, 200-201, 212-213; Rollo, 25-26, 37-38.

[8] OR, 213; Rollo, 38.

[9] Appellant's Brief, 8; Rollo, 67.

[10] People vs. Florida, 214 SCRA 227 [1992]; People vs. Matrimonio, 215 SCRA 613 [1992].

[11] U.S. vs. Macuti, 26 Phil. 170 [1913]; People vs. Kyamko, 222 SCRA 183 [1993].

[12] TSN, 20 November 1992, 23.

[13] Id., 26, 28.

[14] *People vs. Patilan*, 197 SCRA 354 [1991]; *People vs. Saldivia*, 203 SCRA 461 [1991]; *People vs. Tismo*, 204 SCRA 535 [1991]; *People vs. Magpayo*, 226 SCRA 13 [1993].

[15] *People vs. Gan*, 46 SCRA 667 [1972]; *People vs. Gamez*, 124 SCRA 260 [1983]; *People vs. Alcantara*, 126 SCRA 425 [1983]; *People vs. Ramilo*, 146 SCRA 258 [1986], cited in *People vs. Patilan*, supra note 14; *People vs. De Guzman*, 216 SCRA 754 [1992].

[16] *People vs. Tismo*, supra note 14.

[17] *People vs. Simon*, 209 SCRA 148 [1992].

[18] OR, 214; Rollo, 39.

[19] *People vs. Adlawan*, 217 SCRA 489 [1993].

[20] *People vs. Abuyan*, 211 SCRA 662 [1992]; *People vs. Olivar*, 215 SCRA 759 [1992].

[21] *People vs. Lase*, 219 SCRA 584 [1993]; *People vs. Jumamoy*, 221 SCRA 333 [1993]; *People vs. Ducay*, 225 SCRA 1 [1993].

[22] TSN, 27 November 1992 (afternoon session), 65-67.

[23] *People vs. Olivar*, 215 SCRA 759 [1992].

[24] He was 31 years old when he testified on 4 January 1993 (TSN, 4 January 1993, 6).

[25] *Id.*, 6, 13.

[26] TSN, 6 January 1993, 8.

[27] *People vs. Moreno*, 220 SCRA 292 [1993].

[28] This Act reimposes the death penalty and took effect on 31 December 1993. See *People vs. Simon*, 234 SCRA 555 [1994].

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