

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. BUTCHOY DE LA TORRE AND FE DE LA TORRE, APPELLANTS.

G.R. Nos. 121213 and 121216-23. January 13, 2004

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TINGA, J.:

The present cases are remarkably different, if not altogether unique, in two aspects. Appealed are nine (9) rape convictions of the same accused for ravishing the same hapless young girl. And found guilty are a husband and wife tandem.

Appellant-spouses Butchoy and Fe de la Torre were charged in nine (9) separate Amended Complaints with rape committed during the months of September, October and December 1992 in Barangay Tumarbong, Roxas, Palawan. The victim, Baby Jane Dagot, was then only sixteen (16) years old.

The first Amended Complaint dated February 23, 1994 charged the appellants with rape as follows:

That on or about the 2[nd] week of September, 1992, at Barangay Tumarbong, in the Municipality of Roxas, Province of Palawan, Philippines, and within the jurisdiction of this Honorable Court, the accused Butchoy de la Torre, in conspiracy and confederating with his wife, Fe de la Torre, by means of force, threat and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge with one BABY JANE DAGOT, a girl of 16 years of age against her will and consent, to her damage and prejudice.

That Fe de la Torre is hereby accused as a co-principal for indispensable cooperation in the commission of the crime by threatening Baby Jane Dagot with a bladed weapon if ever said minor refused to submit to perform a sexual act with Butchoy de la Torre.

CONTRARY TO LAW.[1]

The other Amended Complaints are similarly worded except for changes in the dates of commission of the offenses. The second to the seventh complaints charged the appellants with rape perpetuated in the remaining weeks of the month of September as well as the whole month of October.[2] The last amended complaint charged the appellants with rape in the second week of December 1992.[3]

The nine criminal cases were consolidated and joint trial conducted before the Regional Trial Court of Palawan and Puerto Princesa City, Branch 47. On March 2, 1995 Judge Eustaquio Z. Gacott, Jr. found the appellants guilty of all nine (9) counts of rape charged in the nine Amended Complaints and sentenced them to reclusion perpetua for each count. They were also ordered to indemnify the complainant the sum of P5,000.00 as actual damages and P90,000.000 as moral and exemplary damages, and to pay the costs.

Appellant Fe de la Torre employed Baby Jane Dagot as housemaid in July 1992 in Langogan, Puerto Princesa City, Palawan. After a week's stay in Langogan, Fe brought Baby Jane to New Buncag, Puerto Princesa City. In September 1992, they transferred to Tumarbong, Roxas, Palawan. It was in Tumarbong where Baby Jane first met Fe's husband, appellant Butchoy dela Torre.[4]

As recounted by Baby Jane, the initial rape incident occurred in the first week of September 1992. She could not

remember the exact date but in that fateful night, as in previous nights, Baby Jane and the appellant-spouses were asleep on the floor of the same bedroom. At around 12:00 o'clock midnight, appellant Fe de la Torre woke Baby Jane and her husband Butchoy. Baby Jane was surprised to see that Fe was holding a lighted kerosene lamp and a scythe.[5] Fe ordered her husband to transfer and lie beside Baby Jane. As appellant Butchoy did not comply, Fe herself transferred so that Baby Jane was between her and Butchoy. Fe put down the scythe and the lamp and proceeded to take Butchoy's clothes off and then Baby Jane's. Butchoy offered no resistance but Baby Jane objected and cried to no avail. Fe then ordered Butchoy to have sex with Baby Jane. Baby Jane, fearful of the spouses and the dawning realization of what would happen to her, could not ward off his advances. Butchoy placed himself on top of Baby Jane, inserted his penis into her vagina and did a push and pull motion.[6] Baby Jane felt pain. All the while, Fe was standing beside them, holding the lamp and the scythe.[7] After the sexual intercourse, Butchoy kissed her on the neck and fondled her breasts.[8] Baby Jane found it revolting but could not do much to refuse him, as she was afraid of Fe. When Butchoy was finished, he threw her clothes to her and got dressed. Baby Jane immediately put on her clothes. She wanted to leave the room but Fe prevented her from doing so.[9] They all went back to sleep. Baby Jane could not sleep. The following morning, Baby Jane saw that there was blood on her panty.[10]

The rape was repeated once a week from the second week of September 1992 on to the fourth week of October 1992. Baby Jane had her menarche in the month of November 1992 and was spared from the appellants' abuse that month.[11] However she was again raped in the second week of December. This was to be the last. Baby Jane testified that the subsequent rape incidents were carried out in the same manner as the first.[12] She felt pain during the first and second rapes, but did not feel pain anymore in the succeeding rape incidents.[13]

In December 1992, Fe brought Baby Jane with her to Langogan.[14] When Fe went out to check on her rattan business, Baby Jane was left alone in the house. Baby Jane took the chance to slip out of the house and go to her godmother Lucita Talamisan, who was then the barangay captain of Langogan. She narrated her ordeal to her godmother.[15] While Baby Jane was at the barangay captain's home, Fe arrived and told Baby Jane not to report the matter. Fe threatened to twist the facts about the rape, that she caught Baby Jane and her husband in the act and would file a complaint against them.[16]

Baby Jane thereafter proceeded to her parents' home and related to them her abuse in the hands of the appellant-spouses. Her father brought her to the police station in San Rafael, Puerto Princesa. They were advised to have her medically examined. She underwent the medical examination on February 1993 at the Provincial Health Office of Palawan conducted by Dr. Joselito Vicente, Municipal Health Officer.[17] The Medico-Legal Certificate revealed the following:

External findings:

(-) signs of physical injuries

Pelvic examination:

External findings = minimal distribution of pubic hair

Healed hymenal lacerations=2:00 o'clock

4:00 o'clock

10:00 o'clock

Vaginal vault admits one finger with ease[18]

The prosecution presented Dr. Marideth de Leon, Assistant Provincial Health Officer, to testify on the findings of

Dr. Joselito Vicente. Dr. de Leon concluded from the healed lacerations that when Baby Jane was examined, there had been sexual intercourse possibly two or three weeks before the examination. Clearly there was previous insertion into the vaginal canal, but she could not determine from the medical findings when the first intercourse occurred.[19]

The appellant-spouses denied the allegations of rape. In their version of the events, from September to October 1992, neither they nor Baby Jane were in Tumarbong but were in Puerto Princesa instead. They stayed in Tumarbong for less than a month.[20] Butchoy asserts that they stayed there for only a week.[21] Fe explains that they had to leave for Puerto Princesa since her daughter-in-law gave birth in October 1992. When they went to Puerto Princesa, they took Baby Jane with them.[22] In Tumarbong, Baby Jane and the appellants slept in separate rooms divided by a sawali wall. The appellants profess that they had no quarrel with Baby Jane herself,[23] but surmise that the imputations of rape against them may have been instigated by Baby Jane's father, Rafael Dagot.

Rafael Dagot was employed by appellant Fe dela Torre as a capataz in her rattan business. She allegedly caught him stealing some of the rattan and selling them to others without her consent. Fe claims that Rafael asked for forgiveness and offered to have Baby Jane work for them as their maid. She forgave him, allowed him to continue to work for her and also employed Baby Jane as her maid. Rafael also allegedly owes them a total of P11,500.00 in cash which he borrowed on May 1991. However when Fe tried to collect from Rafael through the barangay captain, Rafael allegedly transferred to another place and she no longer saw him.[24] The appellants imply that Rafael filed the complaints for rape against them to escape payment of his debt.[25]

The appellants also insist that Baby Jane was already married to one Eddie Tabi when they took her as their maid. This explains why, according to them, Baby Jane was no longer a virgin.[26]

In this appeal, the appellants impute error to the trial court in believing Baby Jane's account of the supposed rape, and in not according them their right to be presumed innocent.[27] The appellants proceed from the theory that the alleged rape as narrated by the complainant is fantastic and unbelievable. In Baby Jane's narration, it was Fe who ordered Butchoy to have sexual intercourse with Baby Jane. The appellant-spouses argue that it is unnatural for a wife like Fe to intensely desire that her husband have sex with their maid. There is no evidence of anything wrong or unusual about the appellants' marriage or their sexual habits that would support the complainant's story. Even assuming that the sexual encounters had actually taken place, the appellants insist that the prosecution failed to prove that they did so against Baby Jane's will. Evidence for the prosecution fails to explain how all nine rapes could have occurred over a period of several months unless Baby Jane gave her full cooperation. The appellants insist that the trial court merely relied on the weakness of the evidence for the defense to convict them and hence deprived them of their right to the presumption of innocence.

From the outset it should be noted that while the appellants assail the credibility of the complainant's testimony, they actually do not point to specific inconsistencies or contradictions in her testimony. True, the trial court relied solely on the testimony of the complainant regarding the rape incidents, but the determinative question before the trial court was whether the complainant's testimony is credible.

The test to determine the value of the testimony of a witness is whether such is in conformity with knowledge and consistent with the experience of mankind. Further, the credibility of witnesses can also be assessed on the basis of the substance of their testimony and the surrounding circumstances.[28]

The appellants point to the unusual manner of commission of the crime, involving as it did not only the sexual assault by the man but also the participation of his wife, to discredit the complainant's testimony. Under the Revised Penal Code,[29] however, an accused may be considered a principal by direct participation, by

inducement, or by indispensable cooperation. This is true in a charge of rape against a woman, provided of course a man is charged together with her. Thus, in two cases this Court convicted the woman as a principal by direct participation since it was proven that she held down the complainant in order to help her co-accused spouse consummate the offense.

In *People v. Villamala*,^[30] the Court found the husband and wife guilty for raping their neighbor and “kumare” in this factual setting, viz: the wife visited the victim at her home on the pretext of inquiring as to the whereabouts of her husband. Once inside, she whistled for her husband and he immediately appeared at the doorstep. The wife then suddenly pinned her “kumare” to the floor. The husband forcefully removed the victim’s skirt and panties, removed his shorts, placed himself on top of the victim and consummated the rape. In the more recent *People v. Saba*,^[31] the accused married couple victimized a fourteen (14) year-old epileptic who stayed at their home for treatment by the wife who was a reputed healer. On the pretext of conducting a healing session, the wife ordered the victim to lie down on the floor then pinned the victim’s hands to the floor and covered her mouth while her husband removed his pants and briefs and the victim’s panties and raped the young girl. These two cases show not only the possibility but the reality of rape committed by a woman together with a man.

A close look at the cited cases reveals a common thread that not only links them but also explains why the offenses were committed in the fashion they were. This consists of the close relationship between the parties and the attendant conducive environment. The victim and the felons were familiar with each other and there was a certain bond of trust between them. The same kindred relationship and suitable setting are extant in the present case. Indeed, the proximity of the victim to the accused spouses was established by the particular circumstances of their relationship. The backdrop presented the offenders with a tempting opportunity to satisfy their twisted desires upon a conveniently placed victim.

The appellants argue that the prosecution failed to present any evidence of aberrant sexual behavior on their part that would justify the trial court’s conclusion that the rape occurred as described by the complainant. This argument must fail since the sexual habits of the appellant-spouses do not constitute an essential element of the offense of rape. The prosecution only has to prove that there was carnal knowledge of the complainant and that it was done against her will. The trial court’s evaluation of the evidence resulted in the appellants’ conviction and a close scrutiny of its judgment leads us to affirm it.

The greatest weight is accorded to the findings and conclusions reached by the lower court regarding the credibility of witnesses and their testimony, owing to the court’s unique position to see, hear and observe the witnesses testify. Unless it is shown that the court overlooked or misunderstood some facts or circumstances of weight and substance which would affect the outcome of the case, or that its findings of fact and conclusions on the credibility of witnesses are not supported by the evidence on record, its determination is left undisturbed.^[32] In the present case, we see no need to overturn this well-settled principle.

Herein appellants do not refer to any inconsistency in the complainant’s testimony that would discredit her or would lead this Court to doubt her version of the story. Baby Jane’s testimony was straightforward and simple, positively identifying the appellants as her abusers and clearly narrating the circumstances of her defloration.

PROSECUTOR GUAYCO:

Q

While you were residing with Butchoy de la Torre and Fe de la Torre in Tumarbong, Roxas, was there any incident that transpired sometime in September 1992?

A

Something happened, Sir.

COURT:

Q

When was this?

A

It happened in September, Your Honor, but I cannot remember the exact date.

Q

What year?

A

1992, Your Honor.

Q

Can you remember what week? First, second or what?

A

I cannot remember, your Honor.

COURT:

Go ahead.

PROSECUTOR GUAYCO:

Q

Now, this incident that happened to you, what is this?

A

That was when Fe de la Torre told her husband to use me but I resisted. But she removed our clothes.

COURT:

Q

You mean Fe de la Torre.

A

Yes, Your Honor.

Q

Whose clothes?

A

Both of us, Your Honor.

Q

You and who?

A

Butchoy de la Torre, Your Honor.

Q

What do you mean by “to use me”?

A

To have sexual intercourse (“ing bubuli”) with me, Your Honor.

PROSECUTOR GUAYCO:

Q

Where did this happen?

A

At Tumarbong, Sir.

Q

Where in Tumarbong?

A

In the house of Fe de la Torre, Sir.

Q

What happened next after that?

A

Butchoy de la Torre already used me, Sir.

COURT:

Q

Be more specific. What is that “use me”?

A

After that Butchoy de la Torre had sexual intercourse with me while Fe de la Torre was also present.

Q

And Fe de la Torre was doing what?

A

Fe de la Torre was holding a big kerosene lamp and also a scythe.

Q

Is that a weapon?

A

Yes, Your Honor, a “karit” or “sangget” in Cuyuno dialect, Your Honor.

COURT:

Go ahead.

PROSECUTOR GUAYCO:

Q

Was this Fe de la Torre saying something while the incident was going on?

A

Yes, Sir.

Q

What was she saying?

A

That I can leave the house only if I marry Butchoy de la Torre, Sir.

COURT:

Q

Now, you said Fe de la Torre removed your clothes and also that of Butchoy. While she was doing that did you not object?

A

I objected, Your Honor. I resisted. I even cried, but she forced me.

Q

But Fe de la Torre is smaller than you, did you not fight her?

A

How could I fight her when she was holding that scythe, Your Honor.

Q

Can you describe that scythe?

A

It is sharp and we are using it in the house, Your Honor.

Q

But Butchoy de la Torre was not threatening you?

A

No, Sir.

Q

Why did you allow Butchoy de la Torre to have sex with you without you resisting?

A

Fe de la Torre ordered him, Your Honor.

Q

Butchoy de la Torre?

A

Yes, Your Honor.

Q

You heard that?

A

Yes, Your Honor.

Q

How? What were the words uttered by Fe de la Torre in ordering her husband?

A

We were sleeping in the same room, Your Honor, on the floor and I heard Fe de la Torre ordering her husband to transfer to my side but Butchoy objected. So, Fe de la Torre was the one who transferred to the other side of her husband and Butchoy was already between us.

PROSECUTOR GUAYCO:

Q

After that what happened next?

A

After that Fe de la Torre took off our clothes.

Q

Was it not Butchoy de la Torre who took off your clothes?

A

It was Fe de la Torre who took off Butchoy de la Torre's clothes, Sir.

COURT:

Q

What time of the night was this?

A

It was about 12:00 midnight.

x x x

PROSECUTOR GUAYCO:

Q

After your clothes were taken off, what happened next, Madam Witness?

A

Butchoy de la Torre placed himself on top of me.

COURT:

Q

While on top of you, what was happening?

A

While he was on top of me, Butchoy de la Torre was doing the push and pull motion, Your Honor, (“aga ayud-ayud”) while Fe was holding a scythe and a lamp.

Q

Was Fe de la Torre lying down or standing while this was going on?

A

She was standing holding a lamp, Your Honor.

Q

Only a lamp?

A

Also the scythe.

Q

This push and pull motion, what was that?

A

While he was having sex with me he was doing that motion, Sir.

Q

Was his penis inside your vagina when he was doing that push and pull motion?

A

Yes, Your Honor.

Q

Did you enjoy it?

A

No, Your Honor. In fact I don't want it.

Q

What did you feel?

A

It was painful, Your Honor.

Q

Why was it painful?

A

Because of his penetration, Your Honor. He inserted his penis inside my vagina.

Q

Was that the first time you experienced sex?

A

Yes, Your Honor.

Q

There was no blood?

A

Only my panty was filled with blood, Your Honor.

Q

But you said your clothes were taken off?

A

After the rape I put on my panty and the next morning I saw my panty with blood.

Q

That was the first time he had sexual intercourse with you?

A

Yes, Your Honor.

Q

The husband did not complain to the wife why she was doing it?

A

He did not complain, Your Honor.

Q

But you could feel the penis of Butchoy de la Torre harden as it entered your vagina?

A

Yes, Your Honor, it was painful.

Q

So, it was not only Fe de la Torre who wanted Butchoy to have sex with you, Butchoy also wanted to do it?

A

But he was also told by Fe de la Torre to have sex with me, Your Honor.

Q

But Butchoy did not complain that he did not want to have sex with you?

A

He did not complain, Your Honor.

x x x

PROSECUTOR GUAYCO:

Q

This push and pull motion that Butchoy de la Torre did, how long did it take?

A

For sometime, Sir.

COURT:

Q

How many minutes?

A

I cannot tell, Your Honor.

PROSECUTOR GUAYCO:

Q

Did Butchoy de la Torre kiss you?

A

Yes, Sir, on my neck.

Q

Not on your face or lips?

A

No, Sir.

COURT:

Q

So Butchoy liked you also?

A

I did not notice that, Your Honor, but he was ordered by his wife to do it.

PROSECUTOR GUAYCO:

Q

Was there any touching of your breasts or squeezing some parts of your body while he was having sex with you?

A

Yes, Sir.

COURT:

Q

Your breasts, for example?

A

My nipple was fondled, Your Honor, by him.

Q

That was before his penis was inserted in your vagina or after?

A

After, Your Honor.

PROSECUTOR GUAYCO;

Q

Do you like what Fe de la Torre and Butchoy de la Torre did to you?

A

No, Sir.

COURT:

Q

Did you not feel, while Butchoy de la Torre's penis was inside you and doing the push and pull if he finished his act?

A

I did not feel, Your Honor.

Q

He only suddenly stopped?

A

Yes, Your Honor.[33]

Baby Jane never wavered in her testimony even under intense cross-examination by the defense. She forthrightly answered the questions and re-affirmed her attestations during the direct. The cross-examination only served to clarify certain details in the commission of the offense and reinforced the truth of her narration.

ATTY. PADON:

Q

Madam Witness, you were awakened by Fe de la Torre before the intercourse?

A

Yes, Sir.

Q

And you were already awaken (sic), you saw her holding a lamp and a scythe?

A

Yes, Sir.

Q

And you said, Madam Witness, that Fe de la Torre told her husband to rape you?

A

Yes, Sir.

Q

What was the exact words uttered by Fe de la Torre?

A

“Magpaluyo kaw sa kilid.” (You move to the other side.)

COURT:

Q

But the Court thought she was holding a lamp and a scythe, so she was not lying anymore?

A

She was seated between us, Your Honor.

Q

About the sexual intercourse, what was the command of Fe de la Torre to Butchoy de la Torre?

A

And then Fe de la Torre told him to undress or remove his clothes, but Butchoy did not obey her. So, this Fe de la Torre put down the scythe and the lamp which she was holding and she was the one who removed the clothes of Butchoy and my clothes.

Q

And immediately upon removal of the clothes of Butchoy, you saw the penis of Butchoy already?

A

No, Your Honor.

Q

You did not see him naked?

A

I saw him naked but I did not focus my eyes to his penis.

Q

Who was undressed first, Butchoy de la Torre or you?

A

It was Butchoy, your Honor.

Q

You did not resist when you were being undressed?

A

I asked her why but she did not reply.

Q

But you could feel that the private organ of Butchoy de la Torre entered your body, is that right?

A

Yes, Your Honor.

ATTY. PADON:

Q

What was the position of Butchoy de la Torre when Fe de la Torre removed his clothes?

A

He was standing and after Fe de la Torre removed his clothes, he sat down already.

Q

How about you what was your position when Fe de la Torre removed your clothes?

A

I was still lying down and then she pulled me to stand up and then she removed my clothes.

Q

When you were already standing, you just allowed Fe de la Torre to remove your clothes?

A

I cannot resist because I was afraid, Sir. Even her husband was also afraid.[34]

The trial court noted that Baby Jane was only sixteen years old when the incidents occurred, and had barely finished the second grade of elementary schooling. She was young, unlettered, and unsophisticated. Given her background she was innocent in the ways of the world and incapable of fabricating the charges of rape against the appellants, and making up such a shocking tale of sexual perversity.

Additionally, the defense has not imputed to her any ill motive to indict the appellants with trumped up charges. The appellants have categorically manifested that they had no quarrel with Baby Jane and effectively erased any evil intention that may be attributed to her. Their claim is that the charges were instigated by Baby Jane's father, Rafael Dagot. This is absurd. It is unnatural for a parent to use her offspring as an engine of malice, especially if it will subject her to embarrassment, and even stigma, as in this case.[35] In like manner, a father would not subject his daughter to the indignities of a rape trial just to evade payment of a debt.

The appellants even tried to show that Baby Jane was a girl of loose morals, by having Rafael Dagot's neighbor, Gloria Mijares, testify that Baby Jane was already married to one Eddie Tabi and that Baby Jane had lived with said Eddie Tabi for more than a year before working for the appellants as a maid. But the witness testified to no such thing, saying only that allegedly Eddie Tabi had proposed marriage to Baby Jane but she refused him.[36] The testimony could not even be given much credit for being hearsay.

Baby Jane's behavior during and after the rape incidents reinforce the trial court's findings of rape. She objected to Fe's acts of removing her clothes, but her resistance was restricted by her fear of the appellants. The scythe that Fe held in her hands and threats of bodily harm should she refuse effectively intimidated her into submitting to Butchoy's onslaught. Afterwards, she could tell no one of the ordeal she had gone through as she was constantly under Fe's watchful eye. In addition, she did not know any of their neighbors nor their neighborhood well enough to report the incident. When the opportunity to escape presented itself, she took it. She reported the matter to the authorities and this led to the filing of the Amended Complaints against the appellants. Her actions testify to the truth of her allegations of rape for a young girl would not make up a story of sexual exploitation and undergo the humiliation of a medical examination of her private parts and a court trial that would dissect each and every aspect of the sexual abuse committed against her if it were not true.[37]

But then, on the basis of the evidence adduced by the prosecution, the appellants may be convicted only of the rape committed in the first week of September 1992. The evidence for the prosecution proves only the first charge of rape. Baby Jane's testimony on the commission of the eight other charges does not satisfy the standard of proof beyond reasonable doubt to justify the appellants' conviction. We quote the transcript of the trial:

COURT:

Q

You have just described your first sexual intercourse which happened on September 1992, was it done to you again the next week?

A

It happened once every week, Your Honor.

PROSECUTOR GUAYCO:

Q

How about on the second week of September 1992, did this happen to you again?

A

Yes, Sir, it happened again.

COURT:

Q

When?

A

On the second week of September, Your Honor.

Q

1992 also?

A

Yes, Sir.

Q

It happened the same way as the first with the wife holding a lamp and a scythe?

A

Yes, Sir.

PROSECUTOR GUAYCO:

Q

How about the third week, did it happen again?

A

Yes, Your Honor, the same thing happened again.

Q

How about on the fourth week of September 1992, did it happen again?

A

The same, Sir.

COURT:

Q

It also happened on the fourth week?

A

Yes, Your Honor.

Q

The same procedure? The same threats?

A

Yes, Your Honor.

x x x

POSECUTOR GUAYCO:

Q

This incident that transpired in the first week of September 1992, did it happen again on the first week of October 1992?

A

Yes, Sir.

Q

How about in the second week of October 1992, did it happen again?

A

Yes, Sir.

COURT:

Q

The same thing happened where Fe de la Torre was holding a scythe and a lamp?

A

Yes, Your Honor.

Q

And what happened the first time, happened again several times?

A

Yes, Your Honor.

Q

So, in the month of October 1992, how many times had this Butchoy de la Torre have sex with you?

A

Once every week, Your Honor.

Q

So how many times?

A

Four times, Your Honor.

Q

So first, second, third and fourth week?

A

Yes, Your Honor.

x x x

COURT:

Q

During the first intercourse and the second, did you feel pain?

A

Yes, Your Honor.

Q

How about on the third time?

A

It was not painful anymore.

Q

And subsequently, no more?

A

No more, Your Honor.

Q

Why no more pain?

A

I don't know but I did not feel pain anymore.

Q

Is it because you already approved of the intercourse?

A

No, Your Honor.

Q

But you did not resist or struggle?

A

I was between a woman and a man, Your Honor, I could not struggle.

Q

But you did not resist or struggle?

A

I struggled but in vain, Your Honor.

Q

Because you were afraid?

A

I was afraid, Your Honor.

Q

But Fe de la Torre did not injure you, why were you afraid?

A

She was threatening me with that scythe that she would strike me with that scythe.

Q

So because you were afraid of physical harm you allowed yourself to be used by Butchoy de la Torre?

A

Yes, Your Honor, because despite my struggle Fe de la Torre was there, armed.

x x x

PROSECUTOR GUAYCO:

Q

Now, did this incident also happen in the second week of December?

A

Yes, Sir.

COURT:

Q

How about in November?

A

There was none, Your Honor.

Q

So you were free that November?

A

Yes, Your Honor.

PROSECUTOR GUAYCO:

Q

Now, in these nine incidents, did you really like what was done to you by the accused?

A

No, Sir.[38]

Each and every charge of rape is a separate and distinct crime; hence, each of the eight other rape charges should be proven beyond reasonable doubt. The prosecution is required to establish, by the necessary quantum of proof, the elements of rape for each charge.[39] Baby Jane's testimony on the first rape charge was explicit, detailing the participation of each appellant in the offense and clearly illustrating all the elements of the offense of rape. However her simple assertion that the subsequent rapes occurred in exactly the same manner as in previous incidents is clearly inadequate and grossly insufficient to establish to a degree of moral certainty the guilt of the appellants insofar as the eight rape charges are concerned. Her testimony was too general as it failed to focus on material details as to how each of the subsequent acts was committed. Even her testimony on cross-examination did not add anything to support her accusations of subsequent rape. Thus, only the rape alleged to have been committed on September 1992 was proven beyond reasonable doubt and the appellants may be penalized only for this offense.

Article 335 of the Revised Penal Code provides that whenever the crime of rape is committed with the use of a deadly weapon the penalty is reclusion perpetua to death. The use by the appellants of a bladed weapon, alleged in the Amended Complaint and sufficiently proven in this case, qualifies the rape.[40] In the absence of any mitigating or aggravating circumstance, the penalty that the appellants shall suffer is the lesser penalty of reclusion perpetua.[41]

In accordance with jurisprudential law, the complainant in a rape case is entitled to civil indemnity, which is actually in the nature of actual or compensatory damages, in the amount of P50,000.00, as well as moral damages in the amount of P50,000.00. Civil indemnity[42] and moral damages[43] are automatically granted once the fact of rape has been established. Exemplary damages are awarded under Article 2230 of the Civil Code if there is an aggravating circumstance, whether ordinary or qualifying. Since the commission of the rape was attended by the qualifying circumstance of use of a deadly weapon, exemplary damages of P25,000.00 should also be given to the complainant.[44]

WHEREFORE, the judgment of the Regional Trial Court of Palawan and Puerto Princesa City is MODIFIED. In Criminal Case No. 11199, the appellants are found GUILTY beyond reasonable doubt of rape qualified with the use of a deadly weapon and are accordingly sentenced to suffer the penalty of reclusion perpetua and ordered to indemnify the offended party the sum of Fifty Thousand Pesos (P50,000.00) as civil indemnity, Fifty Thousand Pesos (P50,000.00) as moral damages and Twenty-five Thousand Pesos (P25,000.00) as exemplary damages. With respect to Criminal Cases No. 11313 to No. 11320, the appellants are ACQUITTED for failure of the prosecution to prove their guilt beyond reasonable doubt.

SO ORDERED.

Puno, (Chairman), Quisumbing, Austria-Martinez, and Callejo, Sr., JJ., concur.

[1] Crim. Case No. 11199, RTC; Records, p. 14-15.

[2] Crim. Case No. 11313 (on or about the 2nd week of September 1992), RTC; Records, pp. 24-25; Crim. Case No. 11314 (on or about the 3rd week of September 1992), RTC; Records, pp. 17-18; Crim. Case No. 11315 (on or about the 4th week of September 1992), RTC; Records, pp. 18-19; Crim. Case No. 11316 (on or about the 1st week of October 1992), RTC; Records, pp. 16-17; Crim. Case No. 11317 (on or about the 2nd week of October 1992), RTC; Records, pp. 14-15; Crim. Case No. 11318 (on or about the 3rd week of October 1992), RTC; Records, pp. 13-14; Crim. Case No. 11319 (on or about the 4th week of October 1992), RTC; Records, pp. 14-15.

[3] Crim. Case No. 11320, RTC; Records, pp. 15-16.

[4] TSN, July 21, 1994, pp. 62-63.

[5] Id, p. 85.

[6] TSN, July 20, 1994, p. 14.

[7] Ibid.

[8] Id., p. 16.

[9] TSN, July 21, 1994, pp. 92-93.

[10] TSN, July 20, 1994, p. 15.

[11] Id., p. 18.

[12] Id., pp. 17-19.

[13] Id., p. 19.

[14] TSN, July 21, 1994, pp. 94-95.

[15] TSN, July 20, 1994, p. 21.

[16] Id., p. 23.

[17] Id., pp. 23-24.

[18] Crim. Case No. 11199, RTC; Records, p. 8.

[19] TSN, September 28, 1994, pp. 171-173.

[20] TSN, December 12, 1992, pp. 205-206.

[21] TSN, December 14, 1994, p. 266.

[22] TSN, December 12, 1994, p. 205.

[23] TSN, December 12, 1994, p. 214; December 14, 1994, pp. 269, 282-283.

[24] TSN, December 12, 1994, pp. 220-223.

[25] Ibid.

[26] Id., pp. 208-209.

[27] Rollo, p. 67.

[28] People v. Gazmen, G.R. No. 11034, August 16, 1995, 247 SCRA 414, 419-420.

- [29] Art. 17, Revised Penal Code.
- [30] No. L-41312, July 29, 1997, 78 SCRA 145.
- [31] G.R. No. 110559, November 24, 1999, 319 SCRA 36.
- [32] *People v. Solomon Purazo*, G.R. No. 133189, May 5, 2003; *People v. Villanueva*, G.R. Nos. 146464-67, November 15, 2002.
- [33] TSN, July 20, 1994, pp. 10 -17.
- [34] TSN, 21 July 1994, pp. 85-90.
- [35] *People v. Escobar*, G.R. Nos. 122980-81, November 6, 1997, 281 SCRA 498, 505.
- [36] TSN, February 1, 1995, pp. 304-306.
- [37] *People v. Quarre*, G.R. Nos. 140729-30, February 15, 2002; *People v. Adijio*, G.R. Nos. 136003-04, October 17, 2000, 343 SCRA 316.
- [38] TSN, July 20, 1994, pp. 17-21.
- [39] *People v. Supnad*, G.R. Nos. 133791-94, August 8, 2001, 362 SCRA 346; *People v. de Leon*, G.R. No. 130985, December 3, 1999, 319 SCRA 743.
- [40] *People v. De Leon*, G.R. No. 128436, December 10, 1999, 320 SCRA 495; *People v. Sagarino*, G.R. Nos. 135356-58, September 4, 2001, 364 SCRA 438; *People v. Nerio*, G.R. No. 142564, September 26, 2001; *People v. Esteban Victor*, G.R. No. 127904, December 5, 2002.
- [41] Art. 63 (2), Revised Penal Code.
- [42] *People v. Taperla*, G.R. No. 142860, January 16, 2003.
- [43] *People v. Cantomayor*, G.R. No. 145522, December 5, 2002.
- [44] *People v. Silverio Montemayor*, G.R. No. 124474 and No. 139972-78, January 28, 2003.

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