# PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. PABLO CALLOS, ACCUSED-APPELLANT.

*G.R. Nos. 123913-14. October 11, 2001*

Ponente: BUENA, J.

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**BUENA, J.:**

This is an appeal from the decision[1] rendered on February 28, 1995, by the Regional Trial Court of Naga City, Branch 20, in Criminal Cases Nos. RTC 93-4582 & RTC 93-4583, which found accused-appellant Pablo Callos guilty of two (2) counts of the crime of rape.

In Criminal Case No. 93-4582, accused-appellant Pablo Callos was charged in an Information dated February 17, 1993 which reads:

> "That sometime and during the fourth week of January 1992 in Barangay La Purisima, Quipayo, Municipality of Clabanga (sic), Province of Camarines Sur, Philippines and within the jurisdiction of this Honorable Court, the above named accused, with abuse of confidence, by means of force and intimidation, did then and there, willfully, unlawfully and feloniously have carnal knowledge with one Rizza B. Villadarez, a 15 year old girl, against her will and consent, to the damage and prejudice of the offended party.
>
> "ACTS CONTRARY TO LAW."[2]
>
> In Criminal Case No. 93-4583, accused-appellant Pablo Callos was charged in an Information dated February 18, 1993 which reads:
>
> "That sometime and during the first week of February, 1992, in Barangay La Purisima, Quipayo, Municipality of Calabanga, Province of Camarines Sur, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with abuse of confidence, by means of force and intimidation, did then and there, willfully, unlawfully and feloniously have carnal knowledge with one Rizza Villadarez, a 15 year old girl, against her knowledge and consent, to the damage and prejudice of the offended party.
>
> "ACTS CONTRARY TO LAW."[3]

Upon arraignment, accused-appellant, assisted by counsel, entered a plea of "not guilty." Subsequently, trial on the merits ensued. Thereafter, the trial court rendered judgment, the dispositive portion of which reads:

> "WHEREFORE, judgment is hereby rendered declaring accused Pablo Callos guilty beyond reasonable doubt of the offenses charged, and is hereby sentenced to suffer the penalty of Reclusion Perpetua in Criminal Case No. RTC 93-4582; likewise the same penalty of Reclusion Perpetua in Criminal Case No. RTC 93-4583 (sic); and to indemnify the offended party in the amount of P50,000.00 as moral damages.
>
> "SO ORDERED."[4]

The trial court summarized the testimony of private complainant, as follows:

> "Rizza Villadarez, 17 years old, was born on September 1, 1976 as shown by her birth certificate (Exh. B),

single and a resident of La Purisima, Quipayo, Calabanga, Camarines Sur. She knew the accused, Pablo Callos, since she was a child and calls him uncle, being the husband of her auntie Remedios, the sister of Rizza's father, Ruben Villadarez, whose house was about 15 houses away from that of the accused in La Purisima, Quipayo, Calabanga, Camarines Sur. Prior to January 1992, Rizza's relationship with the accused and his three (3) children were alright, and the former whenever he had problems would often see Rizza's father. Rizza had looked up to her auntie Remedios as her second parent. But in the evening of the last week of January 1992, she was watching TV together with her 2 brothers and 2 sisters at her Nana Ilay's place about 5 houses away from their house, when at about 8:00 o'clock, she went home to get money to buy junk foods. At that time her parents were at her grandparents' place in Sta. Cruz, Calabanga, Camarines Sur, going there at 7:00 o'clock after dinner, as they were summoned by their sister. While she was getting money in her room and that of her brothers and sisters, she suddenly noticed Pablo Callos to be (sic) behind her and told her not to shout. She became frightened. Pablo Callos got his bolo from his waist and poked it by the right side of her waist. He then proceeded in removing her shorts and panty and then his pants, with his other hand holding his bolo. Then she was made to lie on the pavement, and then placed himself on top of her with her body and thighs coming in contact with his stomach and his penis inserted in her private part. She felt that accused was making a push and pull motion while she was feeling painful on (sic) her private part. She could not understand the pain. While performing the above acts, he was holding the bolo with his right hand, with his left hand touching the pavement, while she was crying. It did not take long for him to make the push and pull motion. After he stopped, he told her not to reveal the incident to anybody as he would kill all the members of her family. He put on his pants and repeated his threat that he will kill the members of her family if she will reveal what happened. Then he left. She then dressed up and then rejoined her brothers and sisters at her Nana Ilay's in watching TV.

"Rizza further testified that in the evening in the first week of February, her parents were at her grandparents' place and her brothers and sisters were inside their house. But she went outside their house to go to her friend when Pablo Callos suddenly appeared with a bolo in a scabbard tied around his waist with a rope and coming from behind her, stood beside her not knowing from what direction he came from. He dragged her to a vacant pigpen at the backyard of her Nana Rose, their neighbor, which was made of wood and cemented flooring telling her not to shout, otherwise, he would kill her. He again removed her shorts and panty and his pants and made her lie down on the cemented floor of the pigpen, placed himself on top of her, inserted his penis into her vagina and then he held her left upper arm with his other hand holding a bolo. She felt pain. He kissed her on her neck. He made a push and pull motion which did not take him long, and he stood up. He put on his pants, and again threatened her that he will kill her family if she would reveal what happened to them. He then left, and then she stood up and then went home. She did not anymore proceed to her friend. Because of fear toward the accused, Rizza did not tell anybody of what the accused did to her on the last week of January 1992 and in the first week of February. Accused then frequented their house but always with a bolo, but at which instances there were other people around seeing to it that Rizza would not reveal the incidents. In several instances after January 1992 whenever he would find a chance to see Rizza, accused would again repeat his threat, for which reason she was afraid of him. On one occasion, when the accused came, Rizza immediately went to their backyard where her mother was feeding the animals. But accused followed her to make certain that she would not tell her mother about the incidents. She did not tell her anything because of fear. Months thereafter, she did not know that she was pregnant. But her mother submitted her to an ultrasound examination and that was the time that her pregnancy was confirmed. But despite the repeated inquiry of her parents, Rizza would not tell them anything as she was afraid of the threats of Pablo Callos. It was during her delivery at the place of her grandparents at Sta. Cruz, Calabanga, Camarines Sur, attended by midwife Felicitas Vale, and her parents, her grandmother, Adela Batalla, her uncle Rico Batalla, and her aunt Marissa Batalla were around that she finally revealed that accused Pablo Callos abused her. Because she found (sic) difficulty in her delivery, the midwife told her to reveal who caused her pregnancy, otherwise, she will undergo sufferings in such delivery. After finally revealing the truth, Rizza was able to deliver a child. Upon Rizza's revelation, her parents cried."[5]


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The accused-appellant told a different version, as follows:

> "Pablo Callos denied having raped Rizza Villadarez one evening in the last week of January 1992 inside their house in La Purisima, Quipayo, Calabanga, Camarines Sur, nor on the evening of the first week of February 1992 at the pigpen at the backyard of a certain Ponso and threatening to kill all the members of her family if she would tell anybody of what happened to her. He admitted, however, that he had a relationship with Rizza in November 1991. It was All Souls' Day when his wife was away when Rizza arrived in their house and was asking what food his wife cooked. Accused told Rizza just to see for herself. Accused then was taking a bath when Rizza came near the faucet and stared at his body and commented: `Natitrip co an hawak mo.' (I crave for your body). Accused told her not to be joking. Rizza came near him and held his organ, and thereafter they forgot themselves and had a sexual intercourse in the bathroom near the faucet. That was 5:00 o'clock in the afternoon. Three weeks thereafter, a Saturday, about 9:00 o'clock in the morning while his wife was in the market, accused had another sexual intercourse with Rizza in his house. She was then to ask for camote tops and his children were around playing. Within November 1991, he had intercourse with Rizza for five (5) times, and after that they had ceased to have sexual relation, as accused decided to stop it since his wife is related to Rizza Villadarez, and that accused had no more money to give her. He gave her P300.00 after their sexual intercourse. On the third week of November, she again asked P200.00. What he has given her had a total of P1,900.00. In November he gave Rizza P1,900.00, and P900.00 in February 1992 which he borrowed from the owner of the comprada without the knowledge of his wife. Although she knew his income from his farm, he would harvest for the payment of his loan with the comprada. Rizza did not like to end their relationship in December 1991, but accused avoided her. There were times that he again saw her. However, he had not noticed her in his house in the month of January 1992 as he was always in his farm, and neither did he meet her in February 1992. But in April when he was causing the harvest near his house, Rizza harvested too. On May 9, 1992 she attended the birthday party of his child."[6]

In his assignment of error, accused-appellant alleges that:

> "1. The trial court erred in failing to give credence to the testimonies of witnesses for the accused.
>
> "2. The trial court erred in finding the accused guilty beyond reasonable doubt of the crime charged, which is not supported by evidence."

As the assigned errors are interrelated, the Court shall discuss them jointly.

Accused-appellant claims that the trial court failed to consider the testimony of his witness Marilyn Labrador that complainant Rizza Villadarez has been with his family on several occasions after the alleged two incidents in January and February, 1992, viz.: on the second week and last week of April 1992 harvesting in the farm of the accused, and on May 9, 1992 during the birthday party of the accused's child. According to the accused, these would show that he never threatened complainant, and that he did not use force and intimidation on the complainant during their sexual intercourse, for otherwise, Rizza Villadarez would not be going to his residence and be with his family even after the said incidents.

The Court is not persuaded. Complainant Rizza Villadarez testified on redirect that after the incidents in January and February 1992, she did not go to the house of the accused-appellant anymore. Between the testimonies of Marilyn Labrador, who is accused's sister, and Remedios Villadarez-Callos, who is the accused's wife on the one hand, and that of complainant Rizza Villadarez, on the other, the trial court chose to give credence to that of the complainant Rizza Villadarez. Well-settled is the rule that when the question of credence as to which of the conflicting versions of the prosecution and the defense is in issue, the trial court's answer is generally viewed as correct and entitled to the highest respect.[7] Even assuming for the sake of argument, that Rizza still went to accused-appellant's house after she was raped by the appellant, this fact alone would not lead to the conclusion that accused-appellant did not rape the private complainant. On cross-examination, complainant Rizza Villadarez

testified that after the incidents in January and February 1992, she still continued in her studies and attended classes for about five (5) months, during which period she pretended in school and at home as if nothing happened to her as she was afraid of the accused. If ever she still went to the house of the accused after she was raped by the latter, it could be because she did not want her parents to notice and ask her why she no longer went to his uncle's house. What she understands is that, as long as she did not tell on the accused, the latter would not kill her and the members of her family.

Accused-appellant also argues that the testimony of the complainant is not straightforward and thus must not be given more weight than that of the defense because when complainant was asked what happened after she was made to lie down, she answered, "He kissed me." But when asked where accused-appellant kissed her, she answered "He did not kiss me."

The court is not persuaded. Ample margin of error and understanding should be accorded to the young complainant who, naturally would be gripped with tension, certainly much more than adults, when required to relive an experience she would most definitely rather forget.[8] Errorless testimony cannot be expected of a rape victim for she may not be able to remember and recount every ugly detail of the harrowing experience and appalling outrage she went through, especially so since she might in fact be trying not to recall the same, as they are too painful to remember.[9]

Appellant further contends that complainant was not straightforward in her testimony because when asked what time of the day she was raped by the accused-appellant for the second time, she answered "I cannot remember." According to appellant, it would be significant for complainant to remember the time of the day when she was allegedly raped for the second time, especially considering the horrible experience she allegedly had at the hands of the appellant.

Contrary to appellant's assertion that complainant could not remember the time of the day when she was raped for the second time, complainant testified on direct examination that she was raped in the evening[10] and, on cross-examination, that it happened at about 9 o' clock in the evening, thus:[11]

> "Q
>
> When your uncle Pablo approached you, considering that there was already past incident that he allegedly done (sic) to you, you were not able to shout for help?
>
> "A
>
> His bolo was poked to me. (sic)
>
> "Q
>
> What time was that when you were in front of the house of Ponso Igarta?
>
> "A
>
> About 9:00 o'clock."

At any rate, this Court has held that in the crime of rape, the time of its commission is not a material ingredient of the offense.[12]

As to the allegation of accused-appellant that there are inconsistencies on matters of significance in the testimonies of prosecution witnesses as Ofelia Villadarez, who is the mother of private complainant, testified that her daughter was raped in 1990, suffice it to state that it could have been a mere slip of the tongue or a typographical error. At any rate, that the testimony of private complainant's mother did not jibe with that of

private complainant's testimony is not fatal to the prosecution's cause for the latter's testimony is only corroborative. In rape cases, the accused may be convicted solely on the testimony of the victim, provided that such testimony is credible, natural, convincing and consistent with human nature and the normal course of things.[13] In the case at bar, the rape victim's testimony is credible, natural, convincing and consistent with human nature and the normal course of things. Her credibility is augmented by the fact that she has no motive to testify against the accused and there is no evidence which even remotely suggests that she could have been actuated by such motive.[14]

In his bid to obtain reversal of his conviction, appellant hammers on the fact that the cases were brought to the attention of the authorities only after the lapse of several months, especially when the stomach of private complainant was already big; that on cross examination, private complainant was assured by her father several times that nothing will happen to her if she reveals the father of the child she is conceiving but that despite this, private complainant would not reveal anything until after several months; that the lapse of time would create a suspicion on the truthfulness of the allegations of private complainant against the accused.

The Court finds appellant's contentions to be without merit.

Delay in reporting rape is neither unknown nor uncommon[15] and does not by itself undermine the charge, where the delay is grounded on death threats from the accused, as in this case.[16] In People vs. Bea, Jr.,[17] this Court held that it is not uncommon for a young girl at the tender age of 16 years to be intimidated into silence and conceal for sometime the violation of her honor, even by the mildest threat against her life. In the case at bar, complainant, for fear that accused-appellant might make good his threats, could not bring herself to tell her parents that accused-appellant raped her. This is understandable for young girls usually conceal for some time the facts of their ordeal[18] and, unlike a mature woman, cannot be expected to have the courage and intelligence to immediately report a sexual assault committed against her, particularly when they are threatened against revealing the offense.[19] Add to this is the fact that whenever accused-appellant would find a chance to see complainant, the former would repeat his threat.

Finally, accused-appellant claims that intimidation and force is wanting contrary to the allegation of private complainant and that the latter's testimony that she did not resist when the accused removed her shorts and panty negates the findings of the trial court that there was force and intimidation employed by the accused when he allegedly raped the private complainant.

The court is not persuaded. Both on the first and second incidents, appellant employed force and intimidation upon private complainant by poking a bolo at the latter. As testified by the complainant -

> "Q
>
> Who was that somebody who suddenly entered?
>
> "A
>
> Pablo Callos.
>
> "Q
>
> Where did he enter?
>
> "A
>
> In the room.
>
> "Q


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How did you notice that he entered?

"A

When I moved back I noticed that he was behind me.

"Q

What was he doing?

"A

He only told me not to shout.

"Q

What did you do when he told you not to shout?

"A

I was frightened.

"Q

After he told you not to shout, what happened next?

"A

He got his bolo and poked it at me.

"Q

From where did he get that bolo?

"A

By his waist.

"Q

In what part of your body did he poke that bolo?

"A

Here at my side.

"Q

Which side?

(Witness pointing to her right side by the waist.)

"Q

After he poked the bolo at the right side of your waist, what happened next?

"A

He removed my panty.

"Q

What were you wearing at that time?

"A

I was wearing shorts.

"COURT:

"Q

And what about your other garment?

"A

T-shirt.

"FISCAL JACOB:

"Q

After he removed your panty, what happened next?

"A

He also removed his pants.

"Q

When he removed his pants, where was the bolo?

"A

He was holding it.

"Q

Can you describe how he removed his pants?

"A

He was holding the bolo, at the same time removed his pants with his other hand." (pp. 8-14, TSN, May 3, 1994)

Appellant raped private complainant at the point of a bolo and threatened to kill her and her family if she revealed the incident to anybody. The act of holding a bolo by itself is strongly suggestive of force or at least intimidation, and threatening the victim with a bolo is sufficient to bring a woman to submission.[20]

The trial court, therefore, did not err in finding the accused-appellant guilty beyond reasonable doubt of the crime of rape.

Aside from the award of P50,000.00 as moral damages, private complainant Rizza Villadarez is entitled to indemnity of P50,000.00 for each count of rape, or a total of P100,000.00. Civil indemnity of P50,000.00 is automatically given to the offended party without need of further evidence other than the fact of the commission of the rape.[21]


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WHEREFORE, the decision appealed from is hereby AFFIRMED, with the MODIFICATION that additional civil indemnity in the amount of P50,000.00 for each count of rape or a total of P100,000.00 is awarded to private complainant.

**SO ORDERED.**

Bellosillo, (Chairman), Mendoza, Quisumbing, and De Leon, Jr., JJ., concur.

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[1] Penned by Judge Gloriosa S. Navarro.

[2] Information, Rollo, p. 4.

[3] Information, Rollo, p. 5.

[4] RTC Decision, Rollo, pp. 31-32.

[5] RTC Decision, pp. 4-5, Rollo, pp. 70-71.

[6] RTC Decision, p. 12, Rollo, p. 78.

[7] People vs. Erardo, 277 SCRA 643 [1997].

[8] People vs. Marcelo, 305 SCRA 105 [1999].

[9] People vs. Venerable, 290 SCRA 15 [1998].

[10] TSN, May 3, 1994, p. 16.

[11] TSN, May 27, 1994, pp. 21-22.

[12] People vs. Dimapilis, 300 SCRA 279 [1998].

[13] People vs. Medina, 300 SCRA 98 [1998].

[14] People vs. Prades, 293 SCRA 411 [1998].

[15] People vs. Gallo, 284 SCRA 590 [1998].

[16] People vs. Sta. Ana, 291 SCRA 188 [1998].

**[17] 306 SCRA 653 [1999].**

[18] People vs. Escala, 292 SCRA 48 [1998].

[19] People vs. Manggasin, 306 SCRA 228 [1999].

[20] Cf. People vs. Reynaldo, 291 SCRA 701 [1998].

[21] People vs. Pili, 289 SCRA 118 [1998].


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