

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. ARNOLD MALONES, APPELLANT.

G.R. Nos. 124388-90. March 11, 2004

Ponente: CALLEJO, SR., J.

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CALLEJO, SR., J.:

In a criminal complaint^[1] filed by Aileen Marilou P. Generoso, with the assistance of her mother Lucia P. Generoso, the appellant Arnold Malones was charged with three counts of rape, said to have been committed on December 23, 1994, December 31, 1994 and January 24, 1995. The corresponding indictments read:

Criminal Case No. 44761

That on or about December 23, 1994, in the Municipality of Janiuay, Province of Iloilo, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with deliberate intent, by means of force, did then and there wilfully, unlawfully and feloniously have carnal knowledge of Aileen Marilou Generoso, eleven (11) years of age, against her will and consent.^[2]

Criminal Case No. 44762

That on or about December 31, 1994, in the Municipality of Janiuay, Province of Iloilo, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with deliberate intent, by means of force, did then and there wilfully, unlawfully and feloniously have carnal knowledge of Aileen Marilou Generoso, eleven (11) years of age, against her will and consent.^[3]

Criminal Case No. 44763

That on or about January 24, 1995, in the Municipality of Janiuay, Province of Iloilo, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with deliberate intent, by means of force, did then and there wilfully, unlawfully and feloniously have carnal knowledge of Aileen Marilou Generoso, eleven (11) years of age, against her will and consent.^[4]

When arraigned, the appellant entered a plea of not guilty to the charges.^[5] The cases were consolidated and tried jointly.

The Case for the Prosecution^[6]

Aileen Marilou Generoso, born on June 11, 1983,^[7] is the adopted daughter of spinster Lucia Generoso, 67 years of age.^[8] Aileen lived with her adopter at Capt. Tirador Street, Janiuay, Iloilo.^[9] In 1994, she was enrolled as a grade IV pupil at St. Julian Academy.^[10]

At about 8:00 p.m. of December 23, 1994, Aileen saw their dog go out of the gate of their residential compound.^[11] She immediately gave chase to bring her pet back. At the gate of the compound, and while beckoning her pet,^[12] the appellant Malones came out of nowhere and suddenly grabbed her.^[13] He dragged her to the banana grove inside the compound,^[14] about eight arms-length away from the gate.^[15] After stripping

Aileen naked and removing his pants and underwear, the appellant forced her to the ground[16] and placed himself on top of her. He inserted his penis into her vagina and began the pumping motion to consummate the carnal assault. Satiated, the appellant stood up, dressed himself and went away. When the appellant had gone, Aileen picked herself up, put on her clothes and went home. His threats to kill her prevented her from divulging her sad tale to anyone.[17]

A week after the first incident or on December 31, 1994, Aileen was standing beside the compound's gate when the appellant grabbed her and dragged her anew to the banana grove. He undressed Aileen and made her lie down on the ground. After taking off his trousers and underwear, he mounted her and inserted his erect penis into her vagina. Aileen grimaced in pain as the appellant executed the push-and-pull movements. After ravishing Aileen, the appellant put on his clothes and left. Aileen herself stood up, and went home. As in the first incident, Aileen, out of fear, kept the traumatic ordeal to herself.[18]

At about 6:00 p.m., on January 24, 1995, Aileen was outside the compound's gate waiting for her mother to arrive from Iloilo City. While her back was turned, the appellant suddenly appeared and grabbed her by the arms. She instinctively tried to shout for help but the appellant covered her mouth. He dragged her again to the banana grove where he once again forcibly undressed her. He then instantly stripped himself naked, made her lie on the ground and went on top of her. He inserted his penis into her vagina and made pumping motions. Once again, Aileen felt excruciating pain in her vagina. After satisfying his lust, the appellant got up, picked up his pants and underwear and nonchalantly walked away. Left alone and feeling sore, Aileen put on her clothes and slowly walked to the direction of an abandoned junk jeep beside the compound's gate. She climbed up and sat there, and patiently waited for her mother to arrive.[19]

Meanwhile, at about 7:30 p.m., Lucia arrived from Iloilo.[20] She passed by the gate, but did not notice Aileen. Failing to find Aileen inside the house, she looked for her in the surrounding premises. After almost an hour of searching, Lucia found Aileen seated inside the junk jeep crying, her hair disheveled. When Lucia pressed her to talk about what happened, Aileen refused to answer.[21]

Lucia gingerly brought her daughter inside the house. She asked Aileen to join her for supper, but the poor girl was beside herself. Apprehensive that something bad had happened to her, Lucia confronted Aileen. For the first time, Aileen told her mother what the appellant had earlier done to her, and that she had been previously raped by the appellant on December 23 and 31, 1994.[22]

That same night, at around 9:00 p.m., Myrna, Lucia's laundry woman, dropped by Lucia's house. Accompanied by Aileen's relatives, Myrna asked Lucia if she could bring Aileen to the nearby plaza where a benefit dance was being held. Lucia acceded to balm the child's wounded spirit.[23] There, Aileen danced and for a moment forgot what befell her.[24] When she returned home at around 11:30 p.m., she was again asked by her mother about the rape incidents. Aileen stuck to her story and pointed to the appellant as the one who ravished her.[25]

The next morning, Lucia confronted the appellant's employer, Mario Dalman, her next-door-neighbor and lessee, about the appellant's full name. Failing to get the information she wanted, she headed off to the appellant's boarding house. On her way, she met the appellant who told her that his surname was Malones. Armed with this information, Lucia hurried off to the Janiuay Police Station to report what befell Aileen. After entering the incident in the police blotter, the lawmen, with Lucia in tow, rushed to the public market where they found the appellant and apprehended him.[26]

After the appellant's arrest, Lucia brought Aileen to the Janiuay District Hospital for physical examination. She was examined by Dr. Noel Roy G. Gigare, the Chief of the hospital. The next day, Dr. Gigare issued a Medico-Legal Report which stated as follows:

Findings:

- Undeveloped breast, brownish nipple & areola with no secretion when pressed.
- Abdomen soft with no enlarged organ noted.
- Absence of pubic hair.
- On internal examination, the same disclosed a hidden labia minora with majora presented in between, vaginal canal admits one finger with ease. Presence of old hymenal lacerations at 2, 7 & 9 o'clock. Presence of whitish secretions noted in vaginal canal.

Remark:

Absence of spermatozoa and patient is in non-virgin state physically.[27]

Dr. Gigare testified that he examined Aileen upon the request of the police authorities. He opined that Aileen's "non-virgin" condition could have been caused by the insertion of a hard object or by sexual intercourse. He stated that the healed lacerations at 2, 7, and 9 o'clock positions were more than two (2) weeks old.[28] He noted, however, that Aileen tested negative for spermatozoa.[29]

From the hospital, Lucia and Aileen proceeded to the police station where they filed a complaint for three counts of rape against the appellant and later executed their individual sworn statements.[30]

The Case for the Appellant[31]

The appellant testified that he was single, 26 years old, and lived in a boarding house located at Don Tiburcio Lotero Street, Janiuay, Iloilo.[32] He worked as a helper in the textile business of his employers, Spouses Mario and Barbara Dalman.[33]

The appellant denied ever raping Aileen and claimed to be a mere victim of circumstances. He insinuated that Lucia is a lesbian, who in the fit of jealous rage, fabricated the charges against him. He averred that Vivian, with whom Lucia had a relationship, has been flirting with him.

He claimed that on December 23, 1994, after a day's work, he went to his boarding house to take an afternoon nap. Upon waking up at 4:00 p.m., he went to a billiard hall. He stayed there for about two hours, after which he went back to his boarding house. He never left his room again that night.[34]

As to the second incident of rape, the appellant claimed that in the late afternoon of December 31, 1994, Mario passed by the billiard hall to invite him to spend the New Year at his place. Mario explained that he intended to prepare duck for their media noche feast. The appellant acceded and arrived at Mario's place at past 6:00 p.m. There, he met Mario's kith and kin.[35] After a while, he volunteered to cook the duck outside the house. While he was preparing the duck, he by chance saw Vivian, Mario's next-door-neighbor, whom he consulted about the proper way of cooking the dish. At about that time, Lucia stepped out of her house, bristling mad, spitting, and calling Vivian to keep away from him. Vivian did so, docilely.[36] After that unpleasant episode, he spent the night welcoming the New Year at Mario's house and never left until 6:00 a.m. of the following day to go home.[37]

At around 4:00 p.m., on January 24, 1995, the appellant was at the public market helping Mario tend the store. Thereafter, as he wont, he went to his boarding house and took a catnap. At around 5:00 p.m., he returned to the store and together with Mario proceeded to the carnival at the town plaza. After an hour, the two went to Mario's place.[38] About half an hour later, Mario invited him to go to the benefit dance. He acceded. He went home to freshen himself up and change clothes.[39] After fifteen minutes, he returned to Mario's house. Upon his arrival,

Remos, Mario's brother, asked him to fetch Myrna and Aileen. At about 9:00 p.m., he proceeded to the house of Lucia, who was then eating supper with Myrna, Aileen, and Vivian. He waited for them at the sala. Ten minutes later, Lucia stood up from the table and asked him who their companions were. After being assured that Myrna would join them, Lucia obliged and instructed Myrna and Aileen to dress up. Vivian then approached him and, so he invited her too. But, before Vivian could utter a word, Lucia indignantly called her. Thereafter, they all went to the soiree and made a night of it until midnight.[40]

The appellant recounted that he went to work early the following morning, at about 5:00 a.m. When he finished his task, he returned to his boarding house to change clothes. When he went back to his workplace, he got word from Mario that he just missed the policemen who were looking for him. Anxious, he ran after the lawmen and caught up with them at the entrance of the public market. Lucia was with them. After a brief conversation, the police arrested him and brought him to the police station. The day after his arrest, he was visited in jail by the Spouses Dalman and a certain Maria Elena, whom he later found to be the biological mother of Aileen. He told his visitors that he was innocent and they all believed him.[41]

The testimony of the appellant was corroborated, in part, by his employer, Mario Dalman, who said that the appellant had been his helper since May 1994. He confirmed inviting the appellant to his place on December 31, 1994 to spend the New Year with them. At his place, the appellant cooked the duck, had dinner, and left at around 10:00 p.m.[42]

Mario testified that on January 24, 1995, after closing the store, he and the appellant perambulated the carnival ground. Thereafter, they drank two bottles of beer each. At about 9:00 p.m., the two of them went to his place and rested. Half an hour later, the appellant went to his boarding house to change his clothes. After a while, he saw the appellant with Aileen and company as they went to the benefit dance. He did not go with them as he stayed home.[43]

Mario's wife, Barbara, also corroborated her husband's story and that of the appellant. She said that her family had been renting a small house owned by Lucia at the latter's compound since October 24, 1993.[44] On December 31, 1994, she invited the appellant to celebrate the New Year with them. As it was his first time to come to their place, she waited for him at the compound's gate. The appellant arrived at around 6:00 p.m. Thereafter, she prepared the chicken while the appellant helped out in cooking the duck. During that time, Aileen and a certain Baby Anne kept her company. She said that the appellant spent the night with them and left only early the following morning.[45]

At around 5:00 p.m., on January 24, 1995, Barbara helped Aileen prepare hogwash in order to make good time for the night's benefit dance. The two of them chatted for almost four (4) hours until her husband and the appellant came. An hour later, she saw Lucia arrive from Iloilo. Thereafter, the appellant, Aileen and some of her husband's relatives went to the benefit dance.[46]

Barbara added that they were evicted by Lucia because the appellant had frequented the compound and had hooked up with Baby Anne, Lucia's girl, whom the appellant fancied.[47]

After trial on the merits, the Regional Trial Court of Iloilo City, Branch 37, rendered its decision, the dispositive portion of which reads:

WHEREFORE, this Court finds the accused, ARNOLD MALONES:

- In Criminal Case No. 44761 GUILTY beyond reasonable doubt of the crime of Statutory Rape, the victim being under 12 years old at the time of the commission of the crime on her, and hereby sentences him to suffer the penalty of RECLUSION PERPETUA.

- In Criminal Case No. 44762 GUILTY beyond reasonable doubt of the crime of Statutory Rape, the victim being under 12 years old at the time of her Rape, and hereby sentences him to suffer the penalty of RECLUSION PERPETUA.

- In Criminal Case No. 44763 GUILTY beyond reasonable doubt of crime of Statutory Rape, the victim being under 12 years old at the time of her Rape, and hereby sentences him to suffer the penalty of RECLUSION PERPETUA.

Accused is, likewise, ordered to indemnify the victim for moral damages in the amount of P50,000.00.

SO ORDERED.[48]

In his brief, the appellant asserts that:

- THE TRIAL COURT ERRED IN HOLDING THAT ACCUSED IS PUTTING UP THE DEFENSE OF ALIBI.

- THE TRIAL COURT ERRED IN NOT APPRECIATING THE TESTIMONY OF DR. GIGARE WHO EXAMINED THE MINOR AILEEN MARILLOU GENEROSO.[49]

The appellant argues that the testimony of Aileen is not supported by the physical evidence on record. If it was true that he molested the victim on January 24, 1995, at around 5:30 p.m., and that he ejaculated, he wonders why Dr. Gigare's medical report found the victim negative of spermatozoa. He posits that the propinquity, a little less than nine hours, of the alleged rape and the physical examination conducted on the victim, should have yielded a positive finding for spermatozoa.[50]

The appellant also questions the behaviors of Lucia and Aileen after the alleged rape. He points out that both exhibited conduct or behavior grossly contrary to ordinary human experience. Despite allegedly being informed of her daughter's rape, Lucia did nothing that night except allow her to attend a party. The appellant argues that Lucia should not have waited until the next morning to report the incident. This actuation of Lucia and Aileen's savored night's escapade, indicate that they were lying through their teeth.[51]

The appeal is bereft of merit.

A rape charge is a serious matter with pernicious consequences both for the appellant and the complainant; hence, utmost care must be taken in the review of a decision involving conviction of rape.[52] In rape cases, we are guided by three principles: (1) an accusation for rape can be made with facility; it is difficult to prove but more difficult for the accused, though innocent, to disprove; (2) in view of the intrinsic nature of the crime of rape where only two persons are usually involved, the testimony of the complainant must be scrutinized with extreme caution; and (3) the evidence for the prosecution must stand or fall on its own merits, and cannot be allowed to draw strength from the weakness of the evidence for the defense.[53]

Conviction or acquittal in a rape case more often than not depends almost entirely on the credibility of the complainant's testimony because by the very nature of this crime, it is usually only the victim who can testify as to its occurrence. In rape cases, the accused may be convicted solely on the basis of the testimony of the victim, provided that such testimony is credible, natural, convincing and consistent with human nature and the normal course of things. And, in the evaluation of the credibility of the complainant's testimony, the sound determination and conclusion by the trial court is accorded much weight and respect.[54]

It is settled that once a woman cries rape, she is saying all that is necessary to show that rape was, indeed, committed. If her testimony meets the test of credibility, such is sufficient to convict the accused. The credibility of the victim is almost always the single most important issue to hurdle. In this regard, the trial judge is in the best

position to assess the credibility of the complainant, having personally heard her and observed her deportment and manner of testifying during the trial. Absent any showing that the trial judge overlooked, misunderstood, or misapplied some facts or circumstances of weight which would affect the result of the case, or that the judge acted arbitrarily, the trial judge's assessment of credibility deserves the appellate court's highest respect.[55]

Prescinding from these principles and after a meticulous review of the evidence in these cases, we find no cogent reason to disturb the findings of the trial court. In these cases, Aileen was direct, unequivocal and consistent in answering the questions propounded to her. She testified:

1[st] Incident of Rape
December 24, 1994
(Criminal Case No. 44761)

PROS. CHIN:

Q

We go first to the date of Dec. 23, 1994 which you said you had a meeting with Arnold, now with this meeting on Dec. 23, 1994 can you still remember if there was an incident between you and Arnold on Dec. 23, 1994?

A

Yes, sir.

Q

What was that incident about?

A

He also dragged me towards the banana plantation.

Q

When he dragged you towards the banana plantation on Dec. 23, 1994, what did he do then to you?

A

He removed my shorts and panty.

Q

After removing your shorts and panty, what did you do?

A

He also removed his pants and brief.

Q

After removing his pants and brief, what did he do?

A

He lied (sic) on top of me.

Q

By the way, what time was that if you can still remember when he dragged you in (sic) the banana plantation

on Dec. 23, 1994?

A

At 8:00 o'clock in the evening.[56]

...

Q

On Dec. 23, 1994 when you said that he lied on top of you after dragging you towards the banana plantation, what did he do when he lied (sic) on top of you?

A

He inserted his penis into my vagina.

Q

When he inserted his penis into your vagina, what then did he do?

A

He made a pumping motion in and out.

Q

For how long did he make those pumping motion in and out?

A

For quite sometime.

Q

And after making that pumping motion while the penis was inside your vagina, after that what did he do?

A

He removed his penis from my vagina and then he inserted again to my vagina.

Q

And then what did he do?

A

He removed his penis from my vagina and then he stood up and wear (sic) again his pants and brief.

Q

After he went away, what did you do?

A

I also wore my panty and shorts.

Q

After you wore your panty back and shorts did you go home?

A

Yes, sir.

Q

When you went home did you tell somebody or your mother specifically what happened to you on that day that incident which happened between you and Arnold Malones?

A

No, sir.

Q

Why did you not tell your mother about that? Or anybody about that matter?

A

Because he tell (sic) me that he will kill me.[57]

2[nd] Incident of Rape

December 31, 1994

(Criminal Case No. 44762)

PROS. CHIN:

Q

Aileen you also said that there was that incident which also happened between you and Arnold Malones on Dec. 31, 1994, my question is what was that incident about?

A

He dragged me towards the banana plantation.

Q

Before this Arnold drag (sic) you towards the banana plantation on Dec. 31, 1994, where were you situated then at that time?

A

I was outside our house.

Q

Where specifically?

A

Just beside our gate.

Q

And what were you doing then outside the gate?

A

I was standing there.

Q

When Arnold dragged you towards the banana plantation on December 31, 1994, what happened then when he dragged you?

A

He again removed my shorts and panty.

Q

How about Arnold, what did he do with his pants?

A

He also removed his pants and brief.

Q

After removing his pants and brief, what did he do to you?

A

He lied (sic) on top of me.

Q

What did he do after he lied on top of you?

A

He inserted his penis to my vagina.

Q

And after the insertion of that penis to your vagina, what happened or what did he do?

A

He again make (sic) a pumping motion in and out.

Q

How did you feel when he made those pumping motion when the penis was inside your vagina?

A

I felt pain.

Q

Will you please tell us for how long did this Arnold do that pumping motion?

A

For quite sometime.

Q

After that what did Arnold Malones do?

A

He wore his pants and brief and then went away.

Q

After he went away, what did you do on your part?

A

I also wear (sic) my panty and shorts.

Q

And then you went home?

A

Yes, sir.[58]

3[rd] Incident of Rape

January 24, 1995

(Criminal Case No. 44763).

PROS. CHIN:

Q

Aileen, you said on January 24, 1995 you were at the gate of your compound at Capt. Tirador St., Janiway, Iloilo, now my question is, while you were at the gate on January 24, 1995 of that compound what unusual incident happened?

A

Yes, sir.

Q

What was that unusual incident?

A

When I was about to turn my back Arnold Malones hold (sic) my hands and he dragged me to the banana plantation.

Q

This banana plantation where you said Arnold Malones dragged you, how far is this from the gate where you were standing and you are located at that time?

A

For about 8 arms-length.

Q

That Arnold Malones whom you said dragged you towards the banana plantation, is he inside the courtroom?

A

Yes, sir.

Q

Will you please tell us or point to us where Arnold Malones is?

A

Witness pointing to the man in the accused bench whose name is Arnold Malones.

...

Q

When Arnold Malones dragged you towards the banana plantation, what happened then when he dragged you?

A

He removed my shorts and also my panty and then he also removed his t-shirt.

Q

How about his pants, what did he do with his pants?

A

He also removed his pants.

Q

How about his underwear or his brief?

A

He also removed his brief.

Q

After Arnold Malones removed his brief and removed your shorts and your panty, what then did he do?

A

He made me lie down.

Q

Where did he made (sic) you lie down?

A

On the ground.

Q

After he made you lie down on the ground, what did he do?

A

He lied (sic) on top of me.

Q

After he lied (laid) on top of you, what did he do?

A

He inserted his penis into my vagina.

Q

And when he inserted his penis into your vagina, what did he do next?

A

He made a pumping motion in and out.

Q

When this penis of Arnold Malones got into your vagina, what did you feel?

A

It was painful.

Q

How long did Arnold Malones made (sic) that pumping motion of in and out when his (sic) on top of you?

A

For quite a time.

Q

When he made that pumping motion which lasted for quite sometime, what happened after that?

A

He removed his penis from my vagina and then a moment after he inserted again into my vagina.

Q

And when he inserted again his penis into your vagina, what did he do next?

A

He removed his penis from my vagina and then he stood up and went away.

Q

When Arnold Malones after he made a second pumping motion on you, you said that he stood up and went away, what did he do with his pants and brief which you said he removed?

A

He wore it again.

Q

How about your shorts and your panty, what happened to that after Arnold went away?

A

I wore it again.

Q

When Arnold made that second motion of pumping in and out when the penis was in your vagina, how did you feel for the second time?

A

It was painful.

Q

After this Arnold went away and you were left alone at the banana plantation and after you said that you wear (sic) back your shorts and your panty, what then did you do?

A

I sat on a junk jeep.[59]

The foregoing testimony of the victim says it all. Jurisprudence has recognized the inbred modesty of the Filipina, especially a young child, who would be unwilling to allow examination of her private parts, suffer the humiliation of a public trial, endure the ordeal of recounting the details of an assault on her dignity unless her purpose is to bring the perpetrator to the bar of justice and avenge her honor. Testimonies of rape victims who are young and immature demand full credence.[60]

Moreover, the physical evidence corroborates Aileen's testimony. The medico-legal report of Dr. Gigare on the evidence of the non-virgin state of Aileen is the definitive proof that penetration did, in fact, occur. That Aileen had healed hymenal lacerations at the 2, 7, and 9 o'clock positions, proves that, at least two weeks prior to her examination, she had been raped. It is settled that when the victim's testimony is corroborated by the physician's finding of penetration, there is sufficient foundation to conclude the existence of the essential requisite of carnal knowledge.[61] Laceration, whether healed or fresh, is the best physical evidence of forcible defloration.[62]

The appellant harps on the negative findings of spermatozoa on the medico-legal report as proving that no rape was committed. But the absence of spermatozoa does not disprove rape.[63] It has been long settled that absence of spermatozoa does not necessarily mean that rape was not committed; the slightest penetration of the female

organ is enough.[64] The lacerations of the victim's hymen sufficiently established that sexual intercourse took place. In any case, a negative sperm-detection test is immaterial to the crime of rape, it being firmly settled that the important consideration in rape is penetration and not emission.[65]

Even the absence of physical injuries on the victim's body, an issue raised below, does not negate rape. In rape, force need not always produce physical injuries. The absence of external signs of physical injuries and the failure of the victim to shout for help do not negate rape. It is not inconceivable that Aileen did not sustain a single bruise on her body after she was dragged and pushed to the ground. Medical examination of the victim is merely corroborative in character and is not an element of rape.[66] The absence of external signs of physical injuries does not necessarily negate rape.[67] Also, failure of the victim to shout for help does not negate rape.[68] At all events, Aileen explained that she was unable to make any outcry because the appellant was covering her mouth with his hand. Be that as it may, the absence of struggle or an outcry from the victim is immaterial to the rape of a child below 12 years of age. The law presumes that such a victim, on account of her tender age, does not and cannot have a will of her own.[69]

The appellant's contention also during the trial that it was impossible for him to have committed the rape in a place near a house and within earshot of the many occupants in the house is untenable. We have held in a number of cases that lust is no respecter of time and place. Several times, the Court has held that rape can be committed even in places where people congregate, in parks along the roadsides, in school premises, in a house where there are other occupants, in the same room where other members of the family are also sleeping, and even in places which to many, would appear unlikely and high risk venues for its commission. Besides, there is no rule that rape can be committed only in seclusion.[70]

The appellant next argues that the actuations of the complainant were not typical of a rape victim. We disagree. Behavioral psychology teaches that people react to similar situations dissimilarly.[71] Their reactions to harrowing incidents may not be uniform. Aileen's conduct of going to the dance party should not be taken against her. It should be borne in mind, in this connection, that the victim was only a naive eleven-year-old child when the crimes were committed on her. She was too young to totally comprehend the consequences of the dastardly acts inflicted on her by the appellant. Rape victims, especially child victims, should not be expected to act the way mature individuals would when placed in such a situation. It is not proper to judge the actions of children who have undergone traumatic experience by the norms of behavior expected from adults under similar circumstances. The range of emotions shown by rape victims is yet to be captured even by calculus. It is, thus, unrealistic to expect uniform reactions from rape victims.[72] Indeed, we have not laid down any rule on how a rape victim should behave immediately after she has been abused. This experience is relative and may be dealt with in any way by the victim depending on the circumstances, but her credibility should not be tainted with any modicum of doubt. Different people act differently to a given stimulus or type of situation, and there is no standard form of behavioral response when one is confronted with a strange or startling or frightful experience.[73]

The appellant claims that the charges against him were trumped up, borne by the desire of Aileen's lesbian adopter to exact revenge upon him because of extreme jealousy. The appellant's position is tenuous, if not flimsy. Not a few persons accused of rape have attributed similar motives to those who brought the charges against them. It has been held that no mother in her right mind would possibly stoop so low as to subject her daughter to the hardships and shame concomitant to a rape prosecution just to assuage her own hurt feelings.[74] It is unnatural for a parent to use her offsprings as an engine of malice, especially if it will subject a daughter to embarrassment and even stigma.[75] It is hard to believe that a mother would sacrifice her own daughter and present her to be the subject of a public trial if she, in fact, has not been motivated by an honest desire to have the culprit punished.[76] In *People v. Zabala*, [77] we said:

[I]ndeed, it is highly inconceivable that a mother would willfully and deliberately corrupt the innocent mind of her nine-year old daughter and put into her lips the lewd description of a carnal act just to satisfy a personal grudge or anger against the appellant.

In fact, Lucia, when she came to know of the rape, and after being assured by Aileen of the culprit, early the next morning, immediately went to the boarding house of the appellant to confront him. Thereafter, she proceeded to the police station to report the matter. Subsequently that day, Lucia had her child medically examined and executed their sworn statements regarding the incident. All the foregoing acts were done a day after the commission of the crime. The promptness and spontaneity of these deeds manifested the natural reactions of a parent whose child had just undergone sexual molestation, and evinced nothing more than an instant resolve to denounce the ravisher, and to protect whatever honor they had left.

We reject the claim that Lucia's reaction after learning that Aileen was raped, was not consistent with human nature. We do not find it unnatural or amiss for Lucia to have allowed Aileen to go to the dance that night. She felt sorry for Aileen and felt that allowing her to go to the party would assuage the child's feeling. Besides, Lucia wanted to be sure that Aileen was telling the truth and going to the party may aid the child in getting back her equanimity. That is why when Aileen returned home, Lucia queried her again of the rape incidents. That Lucia waited until the next day to report the matter to the police would not dent a bit her credibility. From the records, it appears that Lucia was gathering information and was being careful before she made any accusations against the appellant. The fact that Lucia appeared calm that night and had tolerated the appellant's presence by being one of her daughter's companions does not detract from her credibility. Again, people react differently to different situations and in the present case, the conduct of the victim's mother at that time would not detract from the veracity of the charges against the appellant.

The appellant's denial of the charges against him is futile in the light of Aileen's testimony that he raped her three times. Denial is inherently a weak defense. It cannot prevail over positive identifications, unless buttressed by strong evidence of non-culpability.[78]

The appellant's defense of alibi must also fail. Well-settled is the rule that alibi is an inherently weak defense which cannot prevail over the positive identification of the accused by the victim.[79] Aileen has positively identified the appellant as the one responsible for the assault on her chastity.[80] His alibi cannot, thus, exonerate him from liability.

In addition to the positive identification made by Aileen, the appellant's alibi place him adjacent to the scene of the crime. The rule is well-settled that in order for the defense of alibi to prosper, it is not enough to prove that appellant was somewhere else when the offense was committed but it must likewise be demonstrated that he was so far away that it was not possible for him to have been physically present at the place of the crime or its immediate vicinity at the time of its commission. In *People v. Bracamonte*,[81] we said –

Alibi, the plea of having been elsewhere than at the scene of the crime at the time of the commission of the felony, is a plausible excuse for the accused. Let there be no mistake about it. Contrary to the common notion, alibi is in fact a good defense. But to be valid for purposes of exoneration from a criminal charge, the defense of alibi must be such that it would have been physically impossible for the person charged with the crime to be at the locus criminis at the time of its commission, the reason being that no person can be in two places at the same time. The excuse must be so airtight that it would admit of no exception. Where there is the least possibility of accused's presence at the crime scene, the alibi will not hold water.[82]

While the appellant in this case testified that he was at his boarding house at around 8:00 p.m. of December 23, 1994, he admitted that the boarding house was just a block away, or roughly a 5-minute walk from where the incident happened.[83] Considering how near he was to the place where the crime was committed, the appellant's

alibi cannot be given any value. Moreover, only the appellant supported his own theory of alibi. Already a weak defense, alibi becomes even weaker by reason of the failure of the defense to present any corroboration.[84] Alibi cannot be sustained where it is not only without credible corroboration, but also where it does not, on its face, demonstrate the physical impossibility of the accused's presence at the place and time of the commission of the crime.[85]

As for the December 31, 1994 rape, the appellant claimed that he was at the Dalman residence celebrating the New Year's eve. He even assisted in the cooking chores on that date and went home only the following morning. Although supported by testimonies of his employers, they do not exculpate him. Mario testified that after partaking supper, the appellant left at around 10:00 p.m. On the other hand, Barbara said that the appellant arrived at their place at around 6:00 p.m. and slept over. Aside from the inconsistency between the testimonies of his corroborative witnesses, none of them kept so close a watch on the appellant as to be able to account for his whereabouts during the entire period, from 6:00 p.m. to 6:00 a.m. of the next morning. Barbara claimed that while she was preparing food that night, Aileen and a certain Baby Anne kept her company. But not much evidentiary weight can be given to this testimony as it would not be possible for her to notice everything that was going on inside or outside of their house, especially since she was busy with her own chores. The appellant could have raped Aileen before 6:00 p.m., or perhaps, at any time thereafter, he could have slipped away from his employer's house unnoticed and committed the crime stealthily in the meantime, as the crime scene was only a stone's throw away from where he was. Alibi, especially when corroborated mainly by relatives and friends of the accused, is held by this Court with extreme suspicion for it is easy to fabricate and concoct.[86]

Anent the third incident of rape, the appellant's alibi is similarly, in no manner, "airtight." He cannot seek exculpation on Barbara's negative testimony that the latter was with Aileen from 5:00 p.m. to 9:00 p.m. of January 24, 1995. Not only is it uncorroborated, it contradicted the testimony of the appellant. Barbara testified that on January 24, 1995, at about 5:00 p.m., she helped Aileen prepare hogwash to make good time for the benefit dance. Thereafter, they chatted until her husband and the appellant arrived at about 9:00 p.m.[87] In contrast, the appellant said that he and Mario arrived at the latter's place at about 5:30 p.m., talked for awhile, and after 30 minutes he went to his boarding house to change clothes to get ready for the benefit dance.[88] While Mario vouched for the appellant's company that night, he testified that they arrived at his place at about 9:00 p.m.[89] Such glaring inconsistency between the testimonies of the appellant and of his corroborative witnesses cast serious doubts as to the veracity of his alibi. Corroborative testimony is not credible if tainted with bias, particularly in cases where the witnesses are closely associated to the accused as to be interested in his acquittal.[90] In this case, the appellant's witnesses consist of his employers. Considering that they are bound by friendship to the appellant, it is inconceivable that they would be inclined to make excuses for him to help free him from culpability.[91] Alibi is treated with disfavor simply because it is easily fabricated on the part of the accused, his friends, relatives and supporters.[92] More so, when the corroborating testimonies are marred by discrepancies.[93]

It may not be amiss to remark additionally, that Barbara's story is not easy to accept. Scuttlebutt she might be, she would not waste her time chatting to an eleven-year-old child for four long hours without let up. There is also an indication that she had been moved to testify in favor of the appellant to get even with Lucia who evicted them. Lucia's belated revelations further add to the dubiety of her asseverations. Despite her close ties with the appellant, she never made any effort to divulge at once what she knew.

In sum, we find the appellant's defenses of denial and alibi to be unavailing in the face of the positive and credible testimony of the prosecution witnesses. His guilt has been satisfactorily proved beyond reasonable doubt.

The trial court correctly found the appellant guilty of three (3) counts of statutory rape. Aileen was born on June

11, 1983. She was, accordingly, eleven (11) years and six (6) months old at the time of the first and the second rape incidents on December 23, 1994 and December 31, 1994, respectively, and eleven (11) years and seven (7) months old at the time of the third rape incident on January 24, 1995. She was clearly less than twelve years old at the time of the three rape incidents subject of her complaints.

Rape is defined and penalized under Article 335 of the Revised Penal Code, as amended, by Section 11, R.A. 7659 which provides:

ARTICLE 335. When and how rape is committed. – Rape is committed by having carnal knowledge of a woman under any of the following circumstances.

- By using force or intimidation.
- When the woman is deprived of reason or otherwise unconscious; and
- When the woman is under twelve years of age or is demented.

The crime of rape shall be punished by reclusion perpetua.

As for the civil liabilities of the appellant, we modify the monetary award granted by the trial court.

The trial court awarded the victim the sum of P50,000 as moral damages. In accordance with current rulings, moral damages in the amount of P50,000 should be awarded for each count of rape. In addition, the victim should be given civil indemnity in an amount of P50,000 for each count of rape. This is separate and distinct from the award of moral damages which is automatically granted in rape cases.[94]

This is not the first time that a child has been snatched from the cradle of innocence by some beast to sate its deviant sexual appetite. To curb this disturbing trend, the appellant should, likewise, be made to pay exemplary damages, which, in line with prevailing jurisprudence, is pegged at P25,000, for each count of rape.[95]

WHEREFORE, the Decision of the Regional Trial Court of Iloilo City, Branch 37, finding appellant guilty of three (3) counts of statutory rape in Criminal Case Nos. 44761, 44762 and 44763, and imposing upon him the penalty of reclusion perpetua for each of the three counts of rape is AFFIRMED with the MODIFICATION that he is ordered to pay the offended party P150,000 as civil indemnity, or P50,000 for each count of rape; P150,000 as moral damages, or P50,000 for each count; and P75,000 as exemplary damages, or P25,000 for each count of rape.

SO ORDERED.

Quisumbing, (Acting Chairman), Austria-Martinez, and Tinga, JJ., concur.
Puno, (Chairman), J., on leave.

[1] Records, p. 10. (Criminal Case No. 44761.)

[2] Id. at 2.

[3] Records, p. 1. (Criminal Case No. 44762.)

[4] Records, p. 1. (Criminal Case No. 44763.)

[5] Records, p. 48. (Criminal Case No. 44761.)

[6] The prosecution presented three witnesses, namely, Aileen Marilou Generoso, Lucia Generoso, and Dr. Noel

Roy G. Gigare.

[7] Records, p. 20. (Criminal Case No. 44761.)

[8] TSN, 12 July 1995, p. 3 (Lucia Generoso).

[9] TSN, 17 August 1995, p. 2 (Aileen Marilou Generoso).

[10] Id. at 13.

[11] Id. at 7.

[12] Id. at 27.

[13] Id. at 7.

[14] Id.

[15] Id. at 3.

[16] Id. at 7.

[17] Id. at 7-8.

[18] Id. at 9-10.

[19] Id. at 3-5.

[20] TSN, 12 July 1995, p. 3 (Lucia Generoso).

[21] Id. at 4.

[22] Id. at 4-5.

[23] Id. at 10.

[24] TSN, 17 August 1995, p. 24 (Aileen Marilou Generoso).

[25] TSN, 12 July 1995, p. 16 (Lucia Generoso).

[26] Id. at 10-12.

[27] Records, p. 15. (Criminal Case No. 44761.)

[28] TSN, 11 July 1995, p. 10.

[29] Id. at 13.

[30] Records, pp.11-14. (Criminal Case No. 44761.)

[31] The defense presented as witnesses: Arnold Malones, Mario Dalman, and Barbara Dalman.

[32] TSN, 12 September 1995, p. 21 (Arnold Malones).

[33] Id. at 3.

[34] Id. at 5-6.

[35] Id. at 7.

[36] Id. at 11.

- [37] Id.
- [38] Id. 11-12
- [39] Id. at 14.
- [40] Id. at 15-17.
- [41] Id. at 17-19.
- [42] TSN, 15 September 1995, pp. 9-10 (Mario Dalman).
- [43] Id. at 3-6.
- [44] TSN, 2 October 1995, p. 4 (Barbara Dalman).
- [45] Id. at 9-11.
- [46] Id. at 6-8.
- [47] Id. at 11.
- [48] Records, p. 116. (Criminal Case No. 44761.)
- [49] Rollo, p. 81.
- [50] Id. at 84.
- [51] Id. at 85.
- [52] *People v. Anggit*, 390 SCRA 46 (2002).
- [53] *People v. Flores*, 372 SCRA 421 (2001).
- [54] *People v. Padilla*, 355 SCRA 741 (2001).
- [55] *People v. Abangin*, 297 SCRA 655 (1998).
- [56] TSN, 17 August 1995, pp. 5-7 (Aileen Marilou Generoso).
- [57] Id. at 8.
- [58] Id. at 8-10.
- [59] Id. at 2-5.
- [60] *People v. Gozum*, 135 SCRA 295 (1985).
- [61] *People v. Brondial*, 343 SCRA 600 (2000).
- [62] *People v. Acala*, 307 SCRA 330 (1999).
- [63] *People v. Freta*, 354 SCRA 385 (2001).
- [64] *People v. Magana*, 259 SCRA 380 (1996).
- [65] *People v. Barera*, 262 SCRA 63 (1996).
- [66] *People v. Velasquez*, 377 SCRA 214 (2002).
- [67] *People v. Manrique*, 383 SCRA 241 (2002).

- [68] People v. Barcelona, 325 SCRA 168 (2000).
- [69] People v. Alcartado, 334 SCRA 701 (2000).
- [70] People v. Tan, Jr., 264 SCRA 425 (1996).
- [71] People v. Ibay, 233 SCRA 15 (1994).
- [72] People v. Montemayor, G.R. Nos. 124474 & 139972-78, January 28, 2003.
- [73] People v. Talaboc, 256 SCRA 441 (1996).
- [74] People v. Cervantes, 265 SCRA 832 (1996).
- [75] People v. Balisnomo, 265 SCRA 98 (1996).
- [76] People v. Henson, 270 SCRA 634 (1997)
- [77] G.R. Nos. 140034-35, August 14, 2003.
- [78] People v. Elona, 388 SCRA 547 (2002).
- [79] People v. Losano, 310 SCRA 707 (1999).
- [80] TSN, 17 August 1995, p. 3 (Aileen Marilou Generoso).

[81] 257 SCRA 680 (1996).

- [82] Id. at 384.
- [83] TSN, 12 September 1995, p. 22 (Arnold Malones).
- [84] People v. Malimit, 264 SCRA 615 (1996).
- [85] People v. Aliposa, 263 SCRA 471 (1996).
- [86] People v. Enoja, 321 SCRA 7 (1999).
- [87] TSN, 2 October 1995, pp. 6-7 (Barbara Dalman).
- [88] TSN, 12 September 1995, p. 12 (Arnold Malones).
- [89] TSN, 15 September 1995, p. 5 (Mario Dalman).
- [90] People v. Gailo, 316 SCRA 733 (1999).
- [91] People v. Galvez, 355 SCRA 246 (2001).
- [92] People v. Bello, 327 SCRA 1 (2000).
- [93] People v. Araneta, 300 SCRA 80 (1998).
- [94] People v. Acala, *supra*.
- [95] People v. Marquez, 347 SCRA 510 (2000).

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