

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. ROMEO VALDEZ, APPELLANT.

G.R. Nos. 133194-95 and 141539. January 29, 2004

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

Appellant Romeo Valdez, who was indicted for three counts of rape of his daughter in Criminal Case Nos. 7176, 7177, and 7178 before the Regional Trial Court (RTC) of Masbate, Masbate and was convicted in the first and third, comes to this Court on appeal under Sec. 3 (c), Rule 122 of the Revised Rules of Court.

The three separate informations charged appellant with violating Article 335[1] of the Revised Penal Code (prior to its amendment by Republic Act Nos. 7659[2] and 8353[3]) as follows, quoted verbatim:

IN CRIMINAL CASE NO. 7176

That on or about April 2, 1993 in the afternoon thereof at No. 17, Mabini St., Municipality of Masbate, Philippines, within the jurisdiction of this Honorable Court, the above-named accused, by means of force and intimidation, did then and there, willfully, unlawfully and feloniously have carnal knowledge with ROMELA M. VALDEZ, his 17 year old daughter against the latter's will and without her consent.

CONTRARY TO LAW.[4]

IN CRIMINAL CASE NO. 7177

That on or about the 3rd week of October 1993 (sic) in the morning thereof at No. 17, Mabini St., Municipality of Masbate, Province of Masbate, Philippines, within the jurisdiction of this Honorable Court, the above-named accused, by means of chemical or drug used and/or mixed in the soft drink of ROMELA M. VALDEZ, his 17 year old daughter, which rendered the latter unconscious, willfully, unlawfully and feloniously did lie and succeeded in having carnal knowledge of said ROMELA M. VALDEZ without the latter's consent and against her will.

CONTRARY TO LAW.[5]

IN CRIMINAL CASE NO. 7178

That on or about the second week of November 1992 in the afternoon thereof at No. 17, Mabini St., Municipality of Masbate, Province of Masbate, Philippines, within the jurisdiction of this Honorable Court, the above-named accused while armed with a handgun entered the room of ROMELA M. VALDEZ his 17 year old daughter, who was then and there alone and by means of force and intimidation, willfully, unlawfully and feloniously did lie and succeeded in having carnal knowledge of said ROMELA M. VALDEZ without the latter's consent and against her will.

CONTRARY TO LAW.[6] (Underscoring supplied)

From the evidence of the prosecution, the following have been established.

Romela, who was born out of wedlock to appellant and Nora Mercaida at Masbate, Masbate on December 29, 1975, was still a small child when she was brought to Manila to live with her grandparents and aunts. It was only in the summer of 1990, when she was vacationing in Masbate, that her mother took her to meet her father, appellant Romeo Valdez, at his residential apartment at Nursery Street, Masbate, Masbate.[7]

After that meeting in 1990, Romela lived with her mother and appellant, first at a house at Ibingay, Masbate, Masbate, and later in a unit of his apartment building at Mabini Street, Masbate, Masbate.

While in Masbate, Romela enrolled at the Masbate National Comprehensive High School and after graduation she took summer classes at the Masbate Colleges.

Sometime in the third week of October 1992,[8] while her mother was in Manila,[9] Romela and her friends Cathy Alix and Rhodora Villanueva were at appellant's apartment where they took some snacks and were served Coca-cola by appellant.[10]

After Romela's friends left at around 6:00 p.m., appellant advised Romela to consume the remaining softdrinks so that it would not go to waste. Romela obliged. About five to ten minutes following her consumption of the remaining softdrinks, Romela, became dizzy and fell asleep.[11]

As she woke up at 2:00 a.m. of the following morning, Romela found herself naked, with appellant sleeping on the floor. Noticing that her bed sheets were soiled with fresh blood and feeling pain in her breast and private organ, she immediately repaired to the bathroom and took a bath. On stepping out of the bathroom, she saw appellant already awake, prompting her to run outside and head towards the rooftop of the apartment.[12]

Appellant, with gun in hand, followed Romela and demanded to know "[T]o whom are you going to report?," warning her that he was a powerful man who knew the officials of Masbate province including a certain colonel who was also staying at his apartment building.[13]

Berating her father for what he had done, Romela descended from the rooftop ahead of appellant, locked herself in the bedroom and cried helplessly. Pounding on the door, appellant warned her not to report the incident to anyone or he would kill her and the person to whom she would report.[14]

Sometime in the second week of the following month, or in November, 1992, at about 3:00 p.m., appellant forced Romela out from the bathroom of their apartment unit and pulled her onto the bed. While Romela struggled, appellant boxed her thighs and forced her to spread her legs. With a revolver, appellant asked her, as she did, to masturbate him while he kissed her and fingered her private organ, causing her pain. He then laid on top of her, forced his penis into her vagina and began pushing and pulling, causing her pain. The whole process took almost 30 minutes.[15]

Helpless at gunpoint and with appellant's hand covering her mouth, Romela was unable to shout for help. Afterwards, she was again warned, under pain of death, not to report the incident to anyone. Believing that appellant would really kill her, Romela once more kept silent and did not report the incident to the police.[16]

In the afternoon of April 2, 1993, appellant again subjected his daughter to his bestial desires. Seeing that Romela was about to leave the apartment, appellant took his gun from under the bed, pointed it at her and told her to undress. When she did not obey him, appellant pulled Romela to the bed and removed her dress himself. He then began masturbating, after which, at gun point, he told Romela to hold his "testicles" and stroke his penis. Appellant then proceeded to kiss Romela's private parts and suck her breasts. Although she struggled against him, appellant laid himself on top of her. He then inserted his penis inside her vagina, and went on pushing and pulling.[17]

In pain, crushed under appellant's weight and aware that he was still holding a gun, Romela was unable to defend herself against appellant. Helpless, fearful and ashamed of her sexual violation at the hands of her own father, she again did not report the incident to the police.[18]

On April 4, 1992, after her mother arrived in Masbate, Masbate, Romela finally found a way out of her sorry plight. Taking advantage of her mother and appellant not being on good terms and his having gone to his paramour in Lomboy, she obtained permission from her mother to go to Manila. Borrowing money from her friends, she left for Manila on a boat that same night and proceeded to the residence of Juana Mercaida, her maternal grandmother, in Antipolo.[19]

Even then, Romela, fearing for her grandparents' health, did not tell them of what had happened to her in Masbate.

One day, after she was almost hit by car, Romela's cousin, Rosemarie Mercaida, confronted her about her persistent depression and absent-mindedness. It was then that she confided to her cousin that she had not had her menstruation for four months and was afraid that she might be pregnant.

Pressed by Rosemarie to divulge who could have impregnated her, Romela finally revealed that she had been raped by appellant.

Accompanied by her grandmother, Romela proceeded to the offices of the NBI in Manila where she was examined by Dr. Maximo L. Reyes and investigated.[20]

The result of the examination of Romela by Dr. Reyes, as stated in Living Case No. MG-93-589,[21] reads as follows:

GENERAL PHYSICAL EXAMINATION:

Height: 162.0cm. Weight: 126.0 lbs.

Normally developed, fairly nourished, conscious, coherent, cooperative, ambulatory subject.

Breasts, developed, hemispherical, doughy, Areolae, light brown, each measuring 5.0 cm. in diameter. Nipples, light brown, protruding each measuring 1.3 cm. in diameter.

GENITAL EXAMINATION: No extragenital physical injuries noted.

Pubic hair, fully grown, abundant. Labia majora and minora, gaping. Fourchette, lax. Vestibular mucosa, pinkish. Hymen, tall, thin, intact and distensible. Hymenal orifice, annular, admits a tube 2.5 cm. in diameter with moderate resistance. Vaginal walls, lax. Rugosities, shallow.

CONCLUSIONS:

- No evident sign of extragenital physical injuries noted on the subject at the time of examination.
- Hymen, intact but distensible and its orifice wide (2.5 cm. in diameter) as to allow complete penetration by an average-sized, adult, Filipino male organ in full erection without producing any hymenal laceration.[22] (Emphasis supplied)

Per Dr. Reyes, Romela's vagina had been penetrated by a man several times.[23]

Upon taking the stand, appellant, firmly denying the charges against him, [24] claimed that Romela was only induced to file the complaints against him by her mother, Nora Mercaida, her grandmother, Juana Mercaida, and her uncles, Noli and Nestor Mercaida[25] in view of (1) his refusal to marry Nora whom he referred to as a some-time "live in partner" and with whom he had four daughters, the eldest being Romela;"[26] (2) his refusal

to give Nora a share in his apartment at Mabini Street, Masbate which, by his claim, has a market value of P1,450,000.00;[27] (3) his refusal, on various occasions, to provide money to Nora;[28] (4) his discontinuation of monetary support for his three other children by Nora, who were residing with their grandparents in Manila;[29] and (5) his having told Romela that he might realize P5,000,000.00 as his share in the possible sale of Matabao Island.[30]

Appellant further claimed that the account of Romela, who on a previous occasion pleaded for him to marry her mother,[31] was belied by the findings contained in the medico-legal certificate issued by the NBI, particularly those which noted that there were no extragenital injuries on Romela's body and that her hymen was still intact.[32]

Appellant argued that, even granting that Romela's hymen was distensible up to 2.5 to 2.7 centimeters, it would have still been lacerated if the alleged rapes had indeed taken place since his private part measures 4 centimeters in diameter, more or less, when expanded; and that if Romela had truly experienced bleeding after the first rape, "there should have been [a] scar or injury in her private part." [33]

Appellant points to a number of alleged inconsistencies and improbabilities which impeach Romela's testimony. Thus he avers that her claims that she was raped sometime during the third week of October 1992, and then again around the second week of November 1992, and finally on April 2, 1993 are unbelievable given her continued stay with him in his apartment until April 2, 1993,[34] whereas she could have fled at anytime since she was completely free to come and go as she pleased and, in fact, went unescorted to the Miss Foundation pageant of the Masbate Colleges.[35]

Appellant likewise avers that Romela never said anything about the alleged molestations to her mother although the latter stayed with them in the same apartment for three weeks in December, 1992 and again from February to April 1993; and that neither did her mother raise any concerns about her daughter's well-being even after the latter had already left for Manila,[36] as in fact, it was not until June 17, 1993, more than two months after she arrived at Manila from Masbate that Romela filed a complaint with the NBI.[37]

Appellant furthermore maintains that Romela could not have been the victim of multiple rapes since throughout the period from October 1992 until she left for Manila on April 2, 1993, she was "living normally" with "no mental disturbance whatsoever,"[38] in support of which appellant submitted a number of pictures[39] showing her attending social functions from December 1992 to February 1993, and a Certification from the College Registrar,[40] a Certificate of Scholarship,[41] and various examination booklets[42] from the Masbate Colleges showing that she obtained fair ratings in her subjects for school year 1992-1993.

Finally, appellant assails Romela's capacity for truth, honesty and integrity by submitting her Permanent Record[43] for first and second year high school from Roosevelt College, Cainta, Rizal which "falsely" indicates that her father is a certain Raymundo Valdez, a veterinarian, and that she was born in Antipolo, Rizal. Appellant theorizes that she provided false information in her high school record because her mind was "poisoned" by her grandparents.[44]

The appealed Decision[45] of December 15, 1997, disposed as follows:

WHEREFORE, judgment is rendered as follows:

(1) ACQUITTING the accused in Criminal Case No. 7177 on grounds of reasonable doubt;

(2) Finding the accused GUILTY beyond reasonable doubt in Criminal Case Nos. 7176 and 7178 of the crime of Rape and hereby sentences the accused Romeo Valdez y Labnotin to suffer the penalty of reclusion perpetua in each of the two (2) counts;

(3) Ordering the accused to indemnify the victim Fifty Thousand (P50,000.00) Pesos as exemplary damage in both cases and One Hundred Thousand (P100,000.00) Pesos in each of the two (2) counts for moral damages.

SO ORDERED.[46]

His Motion for Reconsideration[47] of the trial court's Decision having been denied by Order of February 30, 1998,[48] appellant filed the instant appeal. In his Brief,[49] he proffers the following:

LONE ASSIGNED ERROR

THE TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT OF THE CRIME OF RAPE DESPITE THE INSUFFICIENCY OF THE PROSECUTION EVIDENCE.[50]

Citing *People v. Subido*,[51] appellant questions the alleged failure of the trial court to apply the following well-settled principles in reviewing rape cases: (1) an accusation for rape can be made with facility; it is difficult to prove but more difficult for the person accused, though innocent, to disprove it; (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.[52]

For conviction to be had in the crime of rape, the following elements must be proven beyond reasonable doubt: (1) that the accused had carnal knowledge of the victim; and (2) that said act was accomplished (a) through the use of force or intimidation; or (b) when the victim is deprived of reason or otherwise unconscious; or (c) when the victim is twelve years of age, or is demented.[53] It is settled that the foregoing elements may be established by the sole testimony of the victim, provided it is credible, natural, convincing, and consistent with human nature and the normal course of things.[54]

Furthermore, in rape through force or intimidation the force employed by the guilty party need not be irresistible. It is only necessary that such force is sufficient to consummate the purpose for which it was inflicted. Similarly, intimidation should be evaluated in light of the victim's perception at the time of the commission of the crime. It is enough that it produced the fear in the mind of the victim that if she did not yield to the bestial demands of her ravisher, some evil would happen to her at that moment or even thereafter. Hence, what is important is that because of force and intimidation, the victim was made to submit to the will of appellant.[55]

In the first and third cases, as the following testimony of Romela clearly establishes, she was raped by the accused, through force and intimidation, on the second week of November 1992 and on April 2, 1993:

Q

You also charged your father that on the second week of November, 1992 in the afternoon thereof you were again assaulted and abused by your father in that apartment where you live. Is that correct?

A

Yes, sir.

Q

And how did your father did that to you on the second week of November, 1992?

A

I was inside the bathroom of our house when he went inside the bathroom and took me outside and forced me

to lie down but I kept on struggling. He would even boxed my thigh if I will not spread my legs. He forced himself on me. He was also masturbating. He was kissing my private organ. He was forcing himself on me. It was very painful. He was even pointing his gun to me and told me not to shout. He was covering my mouth.

Q

At about what time more or less did this thing happen to you on that second week of November, 1992?

A

3:00 o'clock in the afternoon.

Q

Was your father Romeo Valdez able to force himself on you?

A

Yes, sir. It penetrated because it is painful.

Q

And for how long this sexual abuse on you on that particular date lasted where your father was on top of you?

A

About 30 minutes.

Q

You mean that whole incident from the start, from the bathroom up to the time that you were brought to the bed?

A

Yes, sir. While I was still in the bathroom he kept pulling me to the bed and he was carrying that gun.

Q

Why did you not shout? It was 3:00 o'clock in the afternoon and there were residents nearby?

A

I cannot shout because he was pointing his gun to me.

x x x

Q

After that incident when your father was through with you, what did you do?

A

Nothing, sir because he kept on telling me not to report it to anybody because he will kill me and the person to whom I will report the matter and I believed that he will really kill me.

Q

Why do you believe your father? Is your father a bad man?

A

Because he is a powerful man and everybody in Mabini is afraid of him.

x x x

Q

Again you charged your father of another rape and this allegedly happened on April 2, 1993 on the same apartment where you are residing with your father. Will you please tell the court what happened on April 2, 1993?

A

That day I was inside the apartment and about to leave. When he saw me he again get his gun under the bed and poked it on me and told me to undress. When I did not undress myself he pulled me to the bed. The gun was placed on top of the bed. I was struggling hard because he was pulling my dress. He was again forcing himself on me. He was masturbating and even told me to hold his testicles but I would not look at it. If he is not satisfied he would kissed my private organ and breast whenever my legs are spread.

PROS. CASTILLO

(continuing)

Q

But did you hold his “bayag” or testicles?

A

Yes, sir and he even told me to do it faster while he was holding the gun.

Q

Let us clarify that thing. What did you hold, is it the testicles or penis?

A

His testicles to have it masturbate.

Q

You are referring to the penis not testicles?

A

His penis.

Q

And on that date on April 2, 1993 was your father able again to sexually abuse you?

A

Yes, sir because I felt pain and he was able to lie on top of me.

Q

While he was on top of you that date after you were told to masturbate him, did he again make that push and pull motion?

A

Yes, sir.

Q

And this push and pull motion of your father while he was lying on top of you how long did it last more or less?

A

I cannot estimate but it lasted long.

Q

What did you feel while your father was on top of you making that push and pull motion?

A

It is painful and I have difficulty in breathing because he is big and I kept on struggling.

Q

Can you say with certainty that the penis was inside your private organ when he made that push and pull motion?

A

Yes, sir.

Q

Why did you not kick him while he was on top of you?

A

I cannot because he was very big and strong and he kept on pointing that gun to me.[56] (Emphasis supplied)

While conceding that the crime of rape is consummated upon the slightest penetration of the labia of the woman's pudendum,[57] appellant contends that Romela's claim that there was repeated painful penetration of her vagina is belied by the findings contained in the medico-legal certificate issued by the NBI, particularly that which found her hymen still intact and no extragenital injuries on her body.

Appellant's contention does not lie. On cross-examination, Dr. Reyes patiently explained that, medically, the laceration or non-laceration of a woman's hymen is not, by itself, determinative of whether she has experienced sexual intercourse. Citing the books of Solis and Taylor, Dr. Reyes explained that the laceration of the hymen may be caused by other factors such as horseback riding, instrumentation as a result of a disease, riding on a bicycle, or passage of dark-clotted blood during menstruation. Conversely, the doctor declared that it is also possible for a woman with a distensible or elastic hymen to have engaged in sexual intercourse several times without laceration of her hymen.[58]

Dr. Reyes's medical opinion is not new. In *People v. Llanto*,[59] this Court had occasion to take note of instances when penetration was shown to have occurred even though the victim's hymen remained intact:

That Cristy was allegedly raped by the accused in many instances other than on November 12, 1999 and her hymen remained intact do not lend support to the cause of the accused. In *People v. Caballes* [199 SCRA 152 (1991)], the fourteen year-old victim was raped nine times by her father in a span of four months.

x x x A medical examination upon the victim showed that the victim's hymen was thick and very elastic. It

had no lacerations and remained intact. The examining physician presented by the prosecution opined that it is possible for a woman's hymen to remain intact even after having been raped if it is lax, thick and elastic. x x x

x x x

In *People v. Santos*, [343 SCRA 503 (2000)], the accused was charged of raping the helpless eight-year old complainant. He assailed the credibility of the victim as according to him it was impossible for her to have been raped up to twenty times, but her hymen remained intact. The Court found no merit in the accused's contention, viz:

"We find no merit in the contention of accused-appellant. Dr. Cenido thoroughly discussed these intriguing hymenal qualities, but the accused-appellant would, understandably so, pretend to find the whole concept as obscure. He said that, as a general rule, a hymen that is intact would negate prior sexual intercourse but that the rule was not absolute as penetration can happen with or without rupturing the hymen. He confirmed that there were women whose hymens remained intact even after giving birth owing to the fact that their hymens must be very elastic. x x x

x x x

Applying these rulings to the case at bar, it is possible for the victim's hymen to remain intact despite repeated sexual intercourse. Dr. Soliman testified that during the examination on Cristy, a tube 2.5 centimeters in diameter was inserted into her hymenal opening without any injury. Her hymenal opening is wide at 2.5 centimeters in diameter so as to allow complete penetration by an average-sized adult Filipino male organ in full erection, about 2.5 centimeters, without producing genital/hymenal injury. Likewise, whether the accused's penis fully or only partially penetrated the victim's genitalia, it is still possible that her hymen would remain intact because it was thick and distensible or elastic. We stated in *People v. Aguinaldo* [316 SCRA 819 (1999)] that the strength and dilability of the hymen varies from one woman to another such that it may be so elastic as to stretch without laceration during intercourse, or on the other hand, may be so resistant that its surgical removal is necessary before intercourse can ensue. In some cases even, the hymen is still intact even after the woman has given birth [citing *People v. Almaden*, 305 SCRA 157 (1999)].

In view of Dr. Soliman's medical examination and opinion and the foregoing rulings of this Court that support the finding that a thick and elastic hymen can remain intact despite several instances of sexual intercourse, we find that the trial court was not in error in not admitting the expert testimonies of the defense witnesses who did not examine Cristy.[60] (Emphasis and underscoring supplied)

More importantly, Dr. Reyes testified that from his medical examination of Romela, particularly his finding that her vaginal walls were lax and the rugosities (the vaginal lining) were shallow, she had indeed experienced sexual intercourse several times.[61] Again on cross-examination, he stated:

ATTY. MANLAPAZ

When the hymen is still intact, can you possibly determine whether there was intercourse or not? Yes or no?

WITNESS

A

That, the doctor will not be able to answer categorically. It needs a lot of explanation, Your Honor.

ATTY. MANLAPAZ

(continuing)

Q

I will reform my question for your satisfaction. You examined the subject, now, you found her hymen to be intact. Can you determine from the appearance of the hymen which you found to be intact whether she has intercourse or not?

A

Yes, not with the hymen alone but I will have to go on with other procedures because [as] what I have stated, an intact hymen does not necessarily mean that she did not have any sexual intercourse. She could have multiple sexual intercourse with an intact hymen.

Q

My question is very simple. You are making it complicated with your answer. I will repeat my question. You examine[d] the subject. Now, you found the hymen of the subject to be intact. With the hymen alone, can you determine whether that subject has intercourse or not?

A

No.

Q

What do you mean by no?

A

That is why I am telling you. It is not only the hymen that is accounted for in case of virginity or sexual act. You have to determine first whether that particular hymen will admit only the examining finger of a physician. If ever it admits or barely admits the examining finger of a physician and the rugosities is obliterate and the vaginal walls is tight then the doctor can presume that this is a virgin hymen untouched by human hand. But of the doctor finds out during the examination that the hymen is intact and yet it accommodates a tube of 2.5 with a vaginal wall that is lax and it admits a tube of 2.5 cm. then, with the rugosities that is shallow, then, it only means one thing, that she had multiple intercourses despite of the fact that the hymen is still intact.

x x x[62] (Emphasis and underscoring supplied)

And further on re-direct and re-cross:

ON RE-DIRECT EXAMINATION BY PROS. CASTILLO

Q

You said the hymen did not break. Now, is it possible doctor that even if the hymen did not break if there was penetration the woman would bleed?

A

Yes, sir.

PROS. CASTILLO

(continuing)

Q

Of your own knowledge doctor, what part of the organ would bleed?

A

Vaginal walls and the rugosities would bleed because bleeding will not necessarily come from the hymen.

Q

If the hymen is broken doctor, will the woman bleed?

A

Yes, sir.

PROS. CASTILLO

That is all, Your Honor.

COURT

Proceed.

ON RE-CROSS EXAMINATION BY ATTY. MANLAPAZ

Q

In the re-direct examination you admitted Dr. Reyes that the bleeding could have resulted from the injury of the vaginal walls?

A

Yes, sir.

Q

You did not mention this in your medical certificate that there were injuries in the vaginal walls. Right?

A

No, sir.

x x x

COURT

Question from the Court.

Q

Why did you not mention that in the medical certificate that there were injuries in the vaginal walls?

A

It was included, sir. Vaginal wall is laxed.[63] (Emphasis supplied)

In sum, Dr. Reyes's medical findings and expert opinions are fully supportive of Romela's testimony as to her sexual violation at the hands of appellant.

In contrast, appellant did not present an expert witness of his own to rebut Dr. Reyes's testimony. Neither did he present any proof of his claim that the diameter of his sexual organ exceeded the Filipino average of 2.5 to 2.7 centimeters in full erection.

Where a rape victim's testimony is corroborated by the physical findings of penetration, there is sufficient basis for concluding that sexual intercourse did take place.[64]

Appellant zeroes in on Romela's failure to immediately flee the Mabini Street apartment and report her harrowing experience to her mother and the police as giving rise to reasonable doubt as to the truth of her testimony.

Contrary to appellant's simplistic reasoning, there can be no hard and fast rule with respect to a victim's reaction to the physical and psychological trauma attendant to the crime of rape. In *People v. Silvano*,^[65] cited by the Solicitor General and involving similar factual circumstances, this Court stated:

Appellant further contends that her daughter's acts after the alleged rape, such as going to school the next day, leaving their home after more than two weeks had lapsed since the incident and reporting the same only when confronted by her mother are inconsistent with the behavior of a rape victim. The contention is without merit. The behavior and reaction of every person cannot be predicted with accuracy. It is a time-honored precept that "different people react differently to a given situation 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." Not every rape victim can be expected to act conformably to the usual expectations of every one. Some may shout; some may faint; and some may be shocked into insensibility; while others may openly welcome the intrusion.

The failure of the victim to immediately reveal his father's incestuous acts is not indicative of fabricated charges. It should be noted that:

"Many victims of rape never complain or file criminal charges against their rapists. They prefer to bear the ignominy and pain rather than reveal their shame to the world or risk rapists making good their threats to kill or hurt their victims." [citing *People v. Silvafan*, 151 SCRA 617, 629 (1987); and *People v. Cabrerias*, 314 Phil. 250 (1995), 244 SCRA 362]

The victim herein is in no case different. Her shame and genuine fear of what appellant might do to her or her brothers had temporarily sealed her lips. This is why she left their home, the scene of her defilement where her appellant father resides and went to her maternal grandmother's place. Only when confronted why she would not come back to their house did she reveal the avalanche of shame and degradation that had befallen her at that tender age of 16 years from her very own father. It is not uncommon for a young girl at such age to be intimidated into silence and conceal for sometime the violation of her honor, even by the mildest threat against her life. Silence is not an odd behavior of rape victims who do not always immediately go to the rooftop and denounce their assailants. This "natural reticence or aversion of the victims to reveal the humiliation attaching to the crime" is a "stigma they will have to bear indefinitely thereafter." The fear of these young victims of reprisals upon them or their families easily cows them into submission and silence. Worse, in incestuous rape, that fear which compels non-revelation is further reinforced by the moral ascendancy of the rapist over his ravished relative. As the father of the victim, appellant whom she called "Daddy" had assumed parental authority over her during her formative years. Undisputedly, he exerts strong moral influence over complainant.^[66] (Emphasis supplied)

In Romela's case, her testimony with respect to the first and third case clearly conveys, in no uncertain terms, not only the fear and ordeal she was subjected to during each rape, but the abiding feelings of hopelessness, anxiety, shame and disgrace which continued to distress her thereafter:

Q

Why did you not go out and report this incident to the police?

A

Because I know nothing will happen and wherever I go he is always there and follows me besides I was also afraid and ashamed.

Q

You said you were ashamed. Why were you ashamed?

A

I was ashamed because everybody in that place know us and they will tell me that it is my own father who made that dastardly act to me.[67] (Emphasis supplied)

Indeed, it was only the fear that appellant's repeated acts of lechery had resulted in her pregnancy, coupled with the persistent questioning by her cousin, that finally drove Romela to disclose the truth to her grandmother and ultimately the NBI.

Under these circumstances, the delay in the filing of the rape complaints against the appellant is readily understandable, and the trial court cannot be faulted for considering Romela's testimony as credible, convincing and consistent with the normal course of things.

Significantly, appellant failed to substantiate his claim that the charges against him were motivated by the desire of Romela's mother, Nora Mercaida, to extort money from him. Nowhere does the record show that Romela, or any of her maternal relatives for that matter, demanded money or property in exchange for the withdrawal of the charges against appellant. In the words of the trial court:

Accused unabash[ed]ly claims that the mother, Nora Mercaida motivates and/or manipulates the mind of Romela to file this instant case because of anger coupled with the fact that he will be receiving as inheritance a cool sum of Five Million (P5,000,000.00) Pesos. This contention is utterly baseless. If at all, his testimony is self-serving. It is inconceivable that a mother would draw her daughter, into a rape scam with all its attendant scandal and humiliation just because of a supposed dispute over an admittedly inchoate inheritance. x x x[68]

And the trial court correctly gave little weight to appellant's assertions that the alleged falsities contained in Romela's permanent high school record proves that she is inherently untrustworthy. As it correctly pointed out, these pertain to "[c]ollateral or minor matters which do not at all touch upon the commission of the crime itself nor affect Romela's credibility." [69]

All told, this Court finds and affirms that appellant's guilt was indeed proven with moral certainty.

Under Art. 335 of the Revised Penal Code, which was in force at the dates of the commission of the felonies, the penalty for rape with the use of a deadly weapon was "reclusion perpetua to death." However, the penalty of death may not be imposed since the aggravating circumstance of Romela's relationship to appellant was not proven beyond reasonable doubt. While during the trial Romela testified that appellant is her father and appellant, in turn, repeatedly admitted that Romela is his daughter, this Court has held that, because of the serious and irrevocable nature of the death penalty, the bare testimony of the complainant and the admission of the accused are not sufficient for its imposition; the relationship between the victim and the accused must be sufficiently established by competent and independent evidence.[70]

Moreover, conformably with prevailing jurisprudence, the damages awarded by the trial court must be modified such that Romela is entitled to civil indemnity of P50,000.00 for each count of rape and moral damages of P50,000.00 also for each count.

WHEREFORE, the judgment on review is hereby **AFFIRMED** with **MODIFICATION**. Appellant Romeo Valdez is found **GUILTY** beyond reasonable doubt of two counts of **RAPE** and is hereby sentenced to the penalty of reclusion perpetua for each. He is also hereby **ORDERED** to pay private complainant Romela Valdez P50,000.00 as civil indemnity and P50,000.00 as moral damages.

SO ORDERED.

Vitug, (Chairman), Sandoval-Gutierrez, and Corona, JJ., concur.

[1] Art. 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, even though neither of the circumstances mentioned in the two next preceding paragraphs shall be present.

The crime of rape shall be punished by reclusion perpetua.

Whenever the crime of rape is committed with the use of a deadly weapon or by two or more persons, the penalty shall be reclusion perpetua to death.

When by reason or on the occasion of the rape, the victim has become insane, the penalty shall be death.

When the rape is attempted or frustrated and a homicide is committed by reason or on the occasion thereof, the penalty shall be likewise death.

When by reason or on the occasion of the rape, a homicide is committed, the penalty shall be death.

[2] AN ACT TO IMPOSE THE DEATH PENALTY FOR CERTAIN HEINOUS CRIMES which took effect on December 31, 1993; Vide: People v. Simon, 234 SCRA 555, 569 (1994).

[3] AN ACT EXPANDING THE DEFINITION OF THE CRIME OF RAPE RECLASSIFYING THE SAME AS A CRIME AGAINST PERSONS, AMENDING FOR THE PURPOSE ACT NO. 3815, AS AMENDED, OTHERWISE KNOWN AS THE REVISED PENAL CODE, AND FOR OTHER PURPOSES which took effect on October 22, 1997.

[4] Records Vol. I at 1.

[5] Records Vol. II at 1.

[6] Records Vol. III at 1.

[7] Transcript of Stenographic Notes (TSN), April 26, 1994 at 2-4.

[8] The information in Criminal Case No. 7177 alleged the offense to have been committed in 1993.

[9] TSN, April 26, 1994.

[10] Id. at 6.

[11] Id. at 6-7.

[12] Id. at 7.

[13] Ibid.

[14] Id. at 8.

[15] Id. at 10-12.

- [16] Id. at 12-13.
- [17] Id. at 13-14.
- [18] Id. at 14-15.
- [19] Id. at 15-17.
- [20] Id. at 17-19.
- [21] Exhibit “A,” Rollo at 22-41.
- [22] Exhibits “A-4” and “A-5,” Records Vol. III at 72.
- [23] TSN, October 12, 1994 at 5.
- [24] TSN, January 26, 1996 at 2.
- [25] Id. at 2, 7-8, 23.
- [26] Id. at 2; TSN, October 17, 1996 at 16.
- [27] TSN, January 26, 1996 at 2-3; TSN, October 17, 1996 at 16.
- [28] TSN, January 26, 1996 at 2-3; TSN, October 17, 1996 at 17.
- [29] TSN, October 17, 1996 at 16.
- [30] Id. at 17.
- [31] Id. at 15.
- [32] TSN, January 26, 1996 at 7-8.
- [33] Id. at 10-12.
- [34] Id. at 22.
- [35] Id. at 19.
- [36] Id. at 20-23.
- [37] Exhibit “1,” Records Vol. II at 6.
- [38] TSN, January 26, 1996 at 12-19.
- [39] Exhibits “8” to “8-C,” Records Vol. III at 121-122.
- [40] Exhibit “9,” Records Vol. III at 123.
- [41] Exhibit “10,” Records Vol. III at 124.
- [42] Exhibits “11” to “11-C,” Records Vol. III at 125-127.
- [43] Exhibit “12,” Records Vol. III at 128.
- [44] TSN, January 26, 1996 at 23-26.
- [45] Rollo at 22-41.
- [46] Id. at 41.

[47] Records at 156-159.

[48] Id. at 160.

[49] Rollo at 129-144.

[50] Appellant's Brief, Rollo at 131.

[51] 253 SCRA 196 (1996).

[52] Id. at 204, citations omitted; vide: *People v. Lizada*, G.R. Nos. 143468-71, January 24, 2003.

[53] *People v. Colisao*, 372 SCRA 20, 28 (2001) citing *People v. De Leon*, 320 SCRA 495, 504 (1999).

[54] *People v. Burgos*, 370 SCRA 325, 331-332 (2001) citing *People v. Garcia*, G.R. No. 117406, January 16, 2001, 349 SCRA 67; *People v. Barcelona*, 325 SCRA 168 (2000); *People v. Bonghanoy*, 308 SCRA 383 (1999).

[55] *People v. Flores*, 372 SCRA 421, 430-431 (2001) citing *People v. Grefiel*, 215 SCRA 596 (1992); *People v. Plaga*, 202 SCRA 53 (1991); *People v. Saldivia*, 203 SCRA 461 (1991); and *People v. Vitancur*, G.R. No. 128872, November 22, 2000.

[56] TSN, April 26, 1994 at 10-15.

[57] Rollo at 139 citing *People v. Navarro*, 221 SCRA 684 (1993); *People v. Hernandez*, 49 Phil. 980 (1925).

[58] TSN, October 12, 1994 at 15-21.

[59] G.R. No. 146458. January 20, 2003.

[60] Ibid.

[61] TSN, October 12, 1994 at 5.

[62] Id. at 17-18.

[63] TSN, October 12, 1994 (PM) at 11-13.

[64] *People v. Musa*, 371 SCRA 234, 247 (2001) citing *People v. Segui*, 346 SCRA 178 (2000).

[65] 309 SCRA 362 (1999).

[66] Id. at 392-393, citations omitted.

[67] TSN, April 26, 1994 at 15.

[68] Rollo at 32-33.

[69] Id. at 37 citing *People v. Jones*, 137 SCRA 166 (1985); *People v. Rosario*, 159 SCRA 192 (1988).

[70] *People v. Mendoza*, G.R. Nos. 146693-94. July 31, 2003 citing *People v. Marcelo*, 369 SCRA 661, 678 (2001).

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