PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. CORNELIO SUPNAD, ACCUSED-APPELLANT.

G.R. Nos. 133791-94. August 08, 2001

Ponente: PUNO, J.

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PUNO, J.:

Before us for automatic review is the Decision rendered by the Regional Trial Court, Branch 32 of Agoo, La Union,[1] in Criminal Case Nos. A-3216 to A-3219, finding accused-appellant Cornelio Supnad guilty of four counts of rape and imposing on him the penalty of death in each case. The accused-appellant was charged with rape for the sexual violations he allegedly committed against his twelve-year old niece, private complainant Nery Ann E. Lorenzo. He was indicted in four separate Informations, viz:

In Criminal Case No. 3216:

> "That sometime in March, 1996, in the Municipality of Tubao, Province of La Union, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused with lewd design, did then and there, by means of force and intimidation and against the will and consent of the aforenamed offended party, NERY ANN E. LORENZO, a 12 year old child, wilfully, unlawfully and feloniously have carnal knowledge of the latter, to her damage and prejudice.
>
> Contrary to law."[2]

In Criminal Case No. 3217:

> "That sometime in February, 1996, in the Municipality of Tubao, Province of La Union, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused with lewd design, did then and there, by means of force and intimidation and against the will and consent of the aforenamed offended party, NERY ANN E. LORENZO, a 12 year old child, wilfully, unlawfully and feloniously have carnal knowledge of the latter, to her damage and prejudice.
>
> Contrary to law."[3]

In Criminal Case No. 3218:

> "That sometime in January, 1996, in the Municipality of Tubao, Province of La Union, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused with lewd design, did then and there, by means of force and intimidation and against the will and consent of the aforenamed offended party, NERY ANN E. LORENZO, a 12 year old child, wilfully, unlawfully and feloniously have carnal knowledge of the latter, to her damage and prejudice.
>
> Contrary to law."[4]

In Criminal Case No. 3219:

> "That sometime in February, 1996, in the Municipality of Tubao, Province of La Union, Philippines, and

> within the jurisdiction of this Honorable Court, the above-named accused with lewd design, did then and there, by means of force and intimidation and against the will and consent of the aforenamed offended party, NERY ANN E. LORENZO, a 12 year old child, wilfully, unlawfully and feloniously have carnal knowledge of the latter, to her damage and prejudice.
>
> Contrary to law."[5]

During arraignment, accused-appellant entered a plea of "NOT GUILTY" for each of the charges. Joint trial of the four cases thereafter ensued.

The prosecution presented as its witnesses the following: (1) Nery Ann Lorenzo; (2) Dr. Melinda O. Javellonar, a medical doctor; and (3) Juliana Garcilla, Nery Ann's aunt.

At the time she took the stand, Nery Ann was 14 years of age, having been born on August 20, 1983, a high school sophomore, and a resident of Muntinlupa City. She declared that before the institution of the present complaint, she, together with her two younger brothers, was living with the accused-appellant Cornelio Supnad and his wife Leonilla in Amallapay, Tubao, La Union. The spouses were Nery Ann's relatives, as Leonilla is the eldest sister of her mother.

The parents of Nery Ann separated some years back. Her father had left them. The last news she heard about him was that he was living with another woman in Laguna. Her mother, faced with the responsibility of putting food on the table, sought greener pastures. She took her chances in a foreign land, and became an overseas worker. She entrusted Nerry Ann and her brothers to the care of Cornelio and Leonilla.

Nery Ann testified that one night in January 1996, she and her two younger brothers were left with the accused-appellant because her Aunt Leonilla went to the spouses' other house in Pasig for the whole month of January. The three of them were already sleeping side by side on the bamboo floor when she felt someone pull her. It was her Uncle Cornelio. He dragged her outside, and brought her to his room, adjacent to where she was sleeping. Once inside, he laid her down on his bed. He removed his clothes first before undressing her. Forthwith, he inserted his penis into her vagina which caused her pain. He then sucked her breast and made his penis stay in her private organ for a while. As soon as he had imposed his bestial will against his young niece, the accused-appellant warned Nery Ann not to reveal the incident to anybody. The threat created fear in her mind and she decided not to tell anyone about what happened.

If the young girl thought that that would be the first and last of her uncle's beastly attack, she was terribly mistaken. The succeeding two months saw the accused-appellant ravage her again. On two nights in February and once in March of 1996, Nery Ann narrated that he raped her in his room. Then on August 7, 1996, she reported the matter to the police officers of Tubao, La Union, before whom she executed a sworn statement.

Dr. Melinda O. Javellonar, resident physician at the Baguio General Hospital OB-Gyne Department, Baguio City, recalled that on August 6, 1996, she conducted a medical examination on Nery Ann E. Lorenzo, who personally told her that she has been sexually assaulted. She made an external inspection of Nery Ann's genitalia, particularly the vulva, labia, urethral meatus, and the introitus. She found an old laceration on the child's hymen at the 10:00, 6:00, and 3:00 positions.[6] She opined that the wound may have been caused by the penetration of any object or by trauma, such as struggle injuries for example. She surmised that it could have also been caused by a penis. She could not determine the exact time the laceration was inflicted.

Lastly, the prosecution presented Juliana Garcilla, as corroborating witness. Nery Ann is her niece, being the daughter of her sister, Maria. Juliana testified that on June 30, 1996, she went to Amallapay, Tubao, La Union for a vacation. She stayed at the house of accused-appellant. She then heard rumors that Nery Ann was raped by her

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uncle. She tried to personally verify from her the rumor. Nery Ann did not answer but only cried. She then left for Muntinlupa without asking accused-appellant about the incident. In August, 1996, Juliana returned to Amallapay. The rape rumor refused to die. She talked to her sister Concepcion Estonillo who advised her to accompany Nery Ann for a check-up. She brought Nerry Ann to the DGMH to find out whether she was still a virgin. She learned from the attending physician that the girl has lost her virginity. At that point, her niece confessed to her that, "It is true my uncle Cornelio Supnad raped me." Forthwith, she helped Nerry Ann institute a complaint against Cornelio.

The defense, on the other hand, first presented Lydia Estonillo, the sister-in-law of the accused-appellant and an aunt of Nery Ann. She is a neighbor of accused-appellant as her house is located just some eight to ten meters away from his house. Lydia declared that sometime in 1996, she heard stories that Nery Ann was raped by the accused-appellant. When her niece went to visit their house and play with her cousins, she confronted her about it. She asked Nery Ann, "What did your uncle do to you?" The young girl answered, "None, Auntie." She asked her a second time, the question now more direct to the point, "Did he had (sic) sexual intercourse with you?" Again, Nery Ann replied, "No, Auntie." She noted that during that occasion, the girl appeared "normal and happy."[7]

The accused-appellant himself took the stand and proffered his defense of denial. Cornelio is 64 years old, a retired supervisor of a glass plant, and a resident of Amallapay, Tubao, La Union and Barrio Ugong, Pasig City, Metro Manila. He acknowledged that he is an uncle by affinity of Nery Ann as his wife is the eldest sister of the girl's mother. He stated that prior to the case, Nery Ann, together with her brothers Nemy Lorenzo (Baldo) and Mark Anthony Lorenzo (Macmac), was living with him. He also declared that he and his wife maintain a house in Pasig. Often, he or she, or the two of them would go there. When his wife is away, the children were left to his care. When both of them were away, his brother-in-law, Alfredo Estonillo, the husband of witness Lydia Estonillo, slept in his house. He recalled that from January 20, 1996 to February 15, 1996 he was in Pasig. He likewise went there on February 28, 1996 and stayed up to March 10, 1996.

The accused-appellant denied all the charges of Nery Ann against him. He denied having sexual intercourse with her. He denied entering the room of Nery Ann in January 1996 and pulling her to his room. He claimed he did not enter the room where she was sleeping in February and March that same year. While he admitted having a drink with Alfredo on some occasions, he refuted Nery Ann's statement that he ever laid on top of her. He added that whenever his wife is gone, Baldo usually slept beside him. He did so in the month of January. In February, Baldo again slept beside him, and this time with his brother Macmac. He noted that Nery Ann frequently slept on the balcony.

Accused-appellant could not suggest a reason why Nery Ann filed the charges against him. He thought he was a loving uncle and a good provider to the children. He was strict with them but he never inflicted on them any physical harm. He alleged that even if he knew Nery Ann was getting money from his pocket without his permission, he just let those incidents pass. He remembered, however, having once caught the girl red-handed. He scolded and reprimanded her for it. Nery Ann, as a result, ran away to the house of his brother-in-law, Graciano Estonillo.

After trial, the lower court convicted the accused-appellant thus:

> "From the evidence on record, the prosecution was able to prove the guilt of the accused by sufficient evidence beyond reasonable doubt.
>
> WHEREFORE, in view of all the foregoing considerations, the accused Cornelio Supnad is hereby found GUILTY of the four counts of rape for which he was charged and he is hereby sentenced to suffer the penalty of DEATH in each of the four (4) cases. He is likewise ordered to indemnify the victim Nery Ann Lorenzo y

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Estonillo for damages in the amount of P 50,000.00 for each rape and to pay the cost of the proceedings.

SO ORDERED."[8]

The trial court sentenced him to death, "on the first ground that he is the guardian of the victim Nery Ann Lorenzo, and also on the second ground that at the time of the commission of the alleged rape, the victim was under 18 years of age, she being only 12 to 13 years of age, and that the accused is the relative of the victim by affinity within the third civil degree because the wife of the accused, Leonilla Supnad, and the mother of the victim, Maria Estonillo Lorenzo, are sisters."[9]

The cases were elevated to this Court for automatic review. In his brief, the accused-appellant made the following assignment of errors:

"I

THE COURT A QUO GRAVELY ERRED IN FINDING THAT THE GUILT OF THE ACCUSED-APPELLANT FOR THE CRIMES CHARGED HAS BEEN PROVEN BEYOND REASONABLE DOUBT.

II

ASSUMING THAT THE GUILT OF THE ACCUSED HAD BEEN PROVEN BEYOND DOUBT THE COURT A QUO ERRED IN IMPOSING THE SUPREME PENALTY OF DEATH."[10]

We affirm the conviction, but with modifications.

This Court has steadfastly adhered to the rule that when a woman testifies that she has been raped, and if her testimony meets the test of credibility, the accused may be convicted on the basis thereof.[11] A rape victim who testifies in a categorical, straightforward, spontaneous and frank manner, and remains consistent, is a credible witness.[12] In the cases at bar, the trial court found that the victim gave a direct and straight narration of the events.

In support of his first assigned error however, the accused-appellant precisely reproves the trial court allegedly for its blind acceptance of Nery Ann's testimony and for categorizing the same as overwhelmingly straightforward, logical and convincing. This, he argues, despite her miserable failure to narrate the details of the alleged sexual abuse, and her evasiveness to answer questions propounded to her by the prosecution.

The argument fails to impress. While it is true that there were occasions when Nery Ann could not immediately reply to the questions being asked of her, such can hardly be taken as evasiveness or refusal to answer. Nery Ann could not immediately reply because she was at times crying. She cried every time she was made to recollect and narrate every sordid detail of her harrowing experience; especially when she was asked to relate how her uncle dragged her to his room and unleashed his savage lust on her. The conduct of the young witness was understandable. Her tears were precipitated by the overwhelming emotional forces within her seeking an escape valve. Apropos in this regard is the trial court's observation, viz.:

"The victim although she appears to be intelligent was overcome by emotion that she clamp(ed) down and does (sic) not answer question(s) regarding details of the rape. It would not be fair to use the word "refuse" to describe why the victim took a long time to answer questions because it was not a refusal but the hardship to accept the truth, the fear of reprisal and the agony and ordeal of recollecting and recalling the crime in all its sordid details. The complainant is asked to repeat all over again in her mind the heinous crime committed on her by the accused. That it was only after a long and tortuous cajoling and reassuring, after soothing words of encouragement, support and understanding that the complainant opened up. But when she did, the truth came out in torrents from her mouth. When she found her courage and confidence the details of the story came out

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from her quivering and trembling mouth with (sic) hesitation or evasion."[13]

Nery Ann's intermittent pauses and halts, coupled with her crying, should make her more credible. The crying of the victim during her testimony is high evidence of the rape charge with the verity borne out of human nature and experience.[14]

In sum, we agree with the trial court's finding that Nery Ann's testimony should be given full faith and credit.[15] We have constantly adhered to the rule that testimonies of rape victims who are young and immature are credible.[16]

Accused-appellant, however, urges that the cases at bar were filed against him allegedly because he admonished the complainant when he caught her red-handed stealing money from him. We find it unnatural for a 12-year old, naive, and innocent barrio lass to concoct a story of rape which would drag herself to a lifetime of shame just because she resented being reprimanded by the accused-appellant.[17] Her unwavering sincerity and candor while testifying in court convinces us that she was impelled by a desire to obtain justice for the dastardly act committed upon her person. Indeed, a girl of tender age like the complainant would not invent a story of defloration, let alone against her own relative, allow an examination of her private parts and face a public trial, if she is not motivated solely by the desire to have the culprit apprehended and punished.[18]

Accused-appellant then puts Nery Ann to task for the length of time it took her to file the present charges. The complaint was instituted only in August of 1996, seven months after the first of the series of rapes occurred. The failure of the victim to immediately report the rape is not necessarily an indication of a fabricated charge.[19] It is not uncommon for young girls to conceal for some time the assault on their virtues because of the rapist's threat on their lives, more so when the offender is someone that she knew and is living with her.[20] In the case at bar, Nery Ann's attacker is her own uncle in whose house she, and her brothers, lived. He threatened her and she believed his threats. The delay therefore was sufficiently explained, and hence, could not affect her credibility.

In stark contrast to the convincing recital of facts in Nery Ann's testimony is the accused-appellant's own evasiveness, offering only for his defense, his bare denials. Denial, like alibi, is inherently a weak defense and cannot prevail over the positive and credible testimony of the prosecution witness that the accused committed the crime.[21] As between a categorical testimony which has a ring of truth, on one hand, and a bare denial on the other, the former is generally held to prevail.[22] A mere denial constitutes negative evidence which cannot be accorded greater evidentiary weight than the declaration of credible witnesses who testify on affirmative matters.[23] Against the positive identification by the private complainant, the mere denials of the accused cannot prevail to overcome conviction by the trial court.[24]

We disagree, however, with the trial court's conclusion that the accused-appellant must be held liable for the three other counts of rape. Nery Ann's testimony on the commission of these three other felonies cannot satisfy the standard of proof beyond reasonable doubt to justify the conviction of the accused-appellant. Her testimony on how her uncle allegedly abused her sexually on these different occasions consists of the following:

"Prosecutor Catbagan

x x x

Q

After that incident, do you recall of any occasion that he did (sic) same thing to you?

A

Yes, sir.

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Q

And when was that?

A

February, sir.

Q

The same year?

A

Yes, sir.

Q

And where did he rape you that month of February 1996?

A

The same room, sir.

Q

Do you recall the exact date when he did that to you in February 1996?

A

No, sir.

Q

In February 1996, how many times did he did (sic) the same thing to you or how many times did he rape you?

A

Two (2) times, sir.

Q

You mentioned that you committed the same thing in February 1996 the second time in his room. That is the second time in February 1996. The third time, where did he rape you again?

A

The same.

Q

Do you remember what time did he rape you the second and third time of February 1996?

A

No, sir.

Q

Do you remember if it is a day time or a night time?

A

Night time.

Q

How about the third time, was it the same that done (sic) at night time?

A

Yes, sir.

Q

And after February 1996, do you recall if this Cornelio Supnad had sexual intercourse with you?

A

Yes, sir.

Q

And how many times did he had (sic) sexual intercourse with you?

A

Only once, sir.

Q

Where did he had (sic) sexual intercourse with you?

A

In his own room.

Q

Was it night time or day time?

A

Night time.

x x x"[25]

In People v. De Leon,[26] we ruled that each and every charge of rape is a separate and distinct crime, hence, each of the three other rapes charged should be proven beyond reasonable doubt. This entails on the part of the prosecution the duty to establish, by the necessary quantum of proof, the elements of rape for each indictment. Nery Ann's simple assertion that her uncle had sexual intercourse with her twice in February and once in March is clearly inadequate and grossly insufficient to establish the guilt of the accused-appellant insofar as the three other rape charges are concerned.[27] Her testimony was too general as it failed to focus on material details. In People v. Garcia,[28] we emphasized:

> "x x x the indefinite testimonial evidence that complainant was raped every week is decidedly inadequate and grossly insufficient to establish the guilt of appellant therefor with the required quantum of evidence. So much of such indefinite imputations of rape, which are uncorroborated by any other evidence, fall within this category."[29]

The accused-appellant, in his second assigned error, contends that the death penalty should not be imposed upon

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him as the Informations did not allege his relationship with the victim. Plaintiff-appellee, thru the Solicitor General, agrees and likewise submits that the imposition of the death penalty was erroneous.

We find merit in the argument. A reading of the four informations filed against the accused-appellant will reveal that while they averred the fact of minority of the victim, all of them failed to specify her relationship with the offender. The absence of such an allegation constitutes a fatal defect. In order to characterize rape as heinous and justify the imposition of the supreme penalty, the concurrence of the minority of the victim and her relationship to the offender as a single special qualifying circumstance must be alleged.[30]

It is now settled that qualifying circumstances must be properly pleaded in the indictment. Indeed, it would be a denial of the right of the accused to be informed of the charges against him and, consequently, a denial of due process, if he is charged with simple rape and be convicted of its qualified form punishable with death, although the attendant circumstance qualifying the offense and resulting in capital punishment was not alleged in the information on which he was arraigned.[31]

Since the informations filed against the accused-appellant charged only the felony of simple rape for its failure to properly allege an attendant qualifying circumstance, specifically that of his being a relative by affinity within the third civil degree (uncle) of the victim-complainant or his supposedly being her guardian, we hold that the penalty which should be meted to him is only that of reclusion perpetua.

Finally, we hold that the additional grant of P50,000.00 in favor of the private complainant Nery Ann as moral damages is in order. A conviction for rape carries with it the award of moral damages to the victim since it is recognized that her injury is concomitant with and necessarily results from the odious crime of rape to warrant per se an award.[32] Moral damages in the amount of P50,000.00 are automatically granted in rape cases without need of proof for it is assumed that the victim has suffered moral injuries entitling her to such an award.[33]

IN VIEW WHEREOF, the judgment under review is hereby MODIFIED. Accused-appellant Cornelio Supnad is declared GUILTY of one felony of Rape in Criminal Case No. A-3218, and sentenced to suffer the penalty of reclusion perpetua and to indemnify Nery Ann Lorenzo the sum of Fifty Thousand Pesos (P50,000.00) as civil indemnity and another Fifty Thousand Pesos (P50,000.00) as moral damages.

With respect to Criminal Case Nos. A-3216, A-3217, and A-3219, the accused-appellant is ACQUITTED for failure of the prosecution to prove his guilt beyond reasonable doubt.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Melo, Vitug, Kapunan, Mendoza, Panganiban, Quisumbing, Pardo, Buena, Gonzaga-Reyes, Ynares-Santiago, and De Leon, Jr., JJ., concur.
Sandoval-Gutierrez, J., (on leave).

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[1] Hon. Leo M. Rapatalo, Presiding Judge.

[2] Rollo, p. 7.

[3] Rollo, p. 8.

[4] Rollo, p. 9.

[5] Rollo, p. 10.

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[6] Medico-Legal Certificate, Exhibit A, Original Records, p. 6.

[7] TSN, November 11,1997, p. 7.

[8] Decision, p. 48; Rollo, p. 66.

[9] Decision, pp. 47-48; Rollo, pp. 65-66.

[10] Brief for the Accused-appellant, p. 1; Rollo, p. 87.

[11] People vs. Balmoria, 287 SCRA 687 (1998).

[12] People vs. Perez, 296 SCRA 17 (1998).

[13] Decision, pp. 36-37; Rollo, pp. 54- 55.

[14] People v. Celis, 317 SCRA 79 (1999).

[15] People v. Victor, 292 SCRA 186 (1998).

[16] Id., at 195.

[17] See People v. Lapiz, G.R. No. 129239, September 5, 2000.

[18] People v. Alcartado, G.R. Nos. 132379-82, June 29, 2000.

[19] People v. Casil, 241 SCRA 285 (1995).

[20] People v. Traya, 332 SCRA 499 (2000).

[21] People v. Bello, 237 SCRA 347 (1994).

[22] People v. Basao, 310 SCRA 743 (1999).

[23] People v. Cerveto, 315 SCRA 611 (1999).

[24] People v. Manuel, 236 SCRA 545 (1994).

[25] TSN, October 20, 1997, pp. 8 - 10.

[26] 319 SCRA 743 (1999).

[27] Id., at 755-756.

[28] 281 SCRA 463 (1997).

[29] Id., at 481-482.

[30] People v. Ramos, 296 SCRA 559 (1998).

[31] People v. Garcia, supra.

[32] People v. Tejero, 308 SCRA 660 (1999).

[33] People v. Alba, 302 SCRA 811 (1999).

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