PEOPLE OF THE PHILIPPINES, APPELLEE, VS. RODERICK SANTOS Y YAMAT, APPELLANT.

G.R. Nos. 135454-56. November 13, 2001

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

Delay in reporting a rape does not necessarily taint the victim's testimony, provided it is satisfactorily explained, as in this case.

Statement of the Case

Roderick Santos seeks the reversal of the August 11, 1998 Joint Decision[1] of the Regional Trial Court of Macabebe, Pampanga,[2]finding him guilty beyond reasonable doubt of two counts of statutory rape in Criminal Case Nos. 98-2027-M and 98-2028-M and for acts of lasciviousness in Criminal Case No. 98-2029-M. The assailed Decision disposed as follows:

> "WHEREFORE, the Court finds the accused guilty beyond reasonable doubt of two counts of statutory rape penalized under Art. 335, par. 3 and acts of lasciviousness penalized under Art. 336 both of the Revised Penal Code. He is hereby sentenced to two (2) counts reclusion perpetua and imprisonment of 12 years and one (1) day of reclusion temporal and to pay the victim the sum of P150,000.00 and to pay the cost."[3]

Three separate Informations, all dated January 28, 1998, were filed by the Office of the Provincial Prosecutor, charging appellant as follows:

> Criminal Case No. 98-2027-M
>
> "That in or about and within the month of August, 1993, in the Municipality of Masantol, Province of Pampanga, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, RODERICK SANTOS y YAMAT, by means of force, violence and intimidation did then and there succeed in having carnal knowledge [of] Mila C. Bonifacio, an eight (8) year old, a minor, against her will and without her consent."[4]
>
> Criminal Case No. 98-2028-M
>
> "That on or about the 1[st] day of January, 1994, in the Municipality of Masantol, Province of Pampanga, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, RODERICK SANTOS y YAMAT, by means of force, violence and intimidation, did then and there wilfully, unlawfully and feloniously succeed in having carnal knowledge [of] Mila C. Bonifacio, a nine (9) year old, a minor, against her will and without her consent."[5]
>
> Criminal Case No. 98-2029-M
>
> "That on or about the 24[th] day of March, 1995, in the Municipality of Masantol, Province of Pampanga, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, RODERICK SANTOS y YAMAT, with lewd design, did then and there wilfully, unlawfully and feloniously commit acts of

> lasciviousness upon the person of Mila C. Bonifacio, a nine (9) year old, a minor, by then and there kissing her face and neck, by means of force and against her will."[6]

Upon his arraignment on April 3, 1998, appellant, duly assisted by Atty. Venancio Viray, pleaded not guilty to all the charges. Trial on the merits proceeded in due course. Thereafter, the trial court rendered the assailed Decision.

The Facts

Version of the Prosecution

In its Brief,[7] the Office of the Solicitor General adopted the trial court's narration of facts as follows:

> "From all the evidence presented, the Court finds that private complainant Mila Bonifacio was born on June 2, 1985 at Cambagi, Masantol, Pampanga [to] her parents, Alfredo Bonifacio and Juana Bonifacio. [Her u]ncle married accused'[s] sister. They are not related by consanguinity or affinity.
>
> "Sometime in August of 1993, private complainant was 8 years and 2 months old then when, at about four o'clock in the afternoon, her father ordered her to deliver the hammer the former borrowed from the accused at the latter's house, which is just a house away from the house of the private complainant. Upon handing the hammer to Roderick Santos, the latter who was with his niece Kit-Kit at that time, asked her (Kit-Kit) to buy cigarettes at the store. When Kit-Kit left, accused closed the door of the house and dragged private complainant upstairs. There, accused kissed her on her body and despite her resistance, accused was able to remove her shorts and panty and after undressing himself too, forcibly raped her. She felt pain and she bled.
>
> "After the accused had satisfied his lust, Mila tried to leave the house but accused instantly closed the door and window preventing her [from] leav[ing] for fear that she might report the incident to the authorities. He further told her not to report to anybody, otherwise, `he will kill her.' Then he set her free.
>
> "Similarly, on January 1, 1994, when private complainant was eight years and seven months old then, while she was in their house with her sister Alma, she saw accused [go] to the house of his (accused['s]) sister, whose house is just near the house of the private complainant. When her sister Alma left their house, accused proceeded [to] the second floor, and there, he kissed her on her neck. Accused laid her on both hands, accused successfully inserted his penis into her vagina for a long time. Mila felt pain and was aware that she again bled for the second time. After that, accused left. Again, she did not tell her sister about the matter when the latter returned to their house nor her parents because of the threat on her life.
>
> "For the third time, on March 24, 1995, complainant was then nine years and nine months old, she and her sister Alma were taking a bath at 10:00 o'clock in the morning. Again, she saw accused [go] to the house of his sister. At 12:00 o'clock high noon, while Mila was fixing their beddings at the second floor of their house, accused arrived, kissed her body and neck, this time for a while only. Aside from kissing her, accused removed her shorts and panty and thereafter, inserted his penis into her vagina. After that, accused went away.
>
> "To date, because her friends ha[ve] known that she [had been] molested by the accused, `she became ashamed and suffered sleepless nights.'
>
> "During the private complainant's elementary years, she studied at the Cambasi Elementary School at Masantol, Pampanga. One of her teacher[s] was Mrs. Engracia Bonifacio, who is likewise her relative and godmother. [O]n the afternoon of October 8, 1997, Mila Bonifacio narrated her ordeal to Mrs. Bonifacio. Immediately, the latter summoned her (private complainant's) father Alfredo Bonifacio and told him about the said rape incidents.
>
> "When confronted by her father who immediately arrived at the said school, Mila confessed that she was indeed raped by the accused. Alfredo reported the matter to the Barangay Captain and subsequently to the Masantol Police Headquarters, where the private complainant was investigated.

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> "Thereafter, on October 23, 1997, Mila together with her father, uncle and an aunt, sought the assistance of CIS at Camp Olivas, San Fernando, Pampanga where she (Mila) was again investigated. A medical examination was conducted upon the person of Mila Bonifacio by Dra. Marie Antonette Golding, a resident on duty assigned [to] the Department of OB-Gyne. Dra. Golding confirmed that on October 21, 1997, at the JBL Hospital, she examined the private complainant anent her complaint that she was sexually abused. The findings show that there was already a healed laceration at [the] six o'clock position or injury to the hymen existed."[8]

Version of the Defense

On the other hand, appellant, in his Brief,[9] narrates his version of the events as follows:

> "The Office of the Provincial Prosecutor of Pampanga filed the Information charging the accused [of] two (2) counts of Rape and one (1) count of Act of Lasciviousness.
>
> "It is stressed that even before the Statement of the complainant Mila Bonifacio was taken by [a] CIS Investigator, and prior to the issuance of Resolution of Judge Serafin B. David of the Municipal Circuit Trial Court of Masantol-Macabebe, Pampanga, accused was already arrested at about 7:30 a.m. of 23 October 1997, by x x x P/SI Dominador Limin Cunan and Roger A. Valez, Joseph F. Carreon and PO3 William A. Felarca, without any warrant of arrest.
>
> "These three (3) cited criminal cases - 2 counts of RAPE and one (1) count of Acts of Lasciviousness [--] were jointly tried, [and] hereunder are the undisputed facts:
>
> "Accused and private complainant are neighbors; residents of Brgy. Cambasi, Masantol, Pampanga. x x x [T]hey know each other.
>
> Rape victim informed Mrs. Engracia Bonifacio of the said incidents for the first time on October 8, 1997, or more than four (4) years [from] the first alleged commission of the offense of Rape.
>
> "There is no record that this alleged offenses were brought to the attention of the Barangay Officials of the Barangay where both accused and complainant [reside] or to the PNP Masantol, Pampanga before October 23, 1997.
>
> "Accused-Appellant since August 29, 1992, left Brgy. Cambasi, Masantol, Pampanga, to work at a Balutan in Calamba, Laguna. Accused-Appellant never returned to Brgy. Cambasi, Masantol, Pampanga in the month of August 1991 and 1993. Accused-Appellant went to Brgy. Cambasi, Masantol, Pampanga on January 1, 1994.
>
> "Accused-Appellant denied he rape[d]/molested private complainant [i]n August 1993 [and on] January 1, 1994, [or committed] Acts of Lasciviousness on March 24, 1995, respectively.
>
> "On August 11, 1998, a Joint Decision o[n] these criminal offense[s], was rendered, adverse to accused-appellant. Accused-appellant interposed an appeal[;] hence, this Appeal praying that [the] questioned decision be recalled/reversed, acquitting accused of all the criminal charges."[10]

Ruling of the Trial Court

Giving credence to the victim's testimony, the trial court, in its Decision, brushed aside the protestations of innocence interposed by appellant. It disbelieved his alibi that he could not have committed the offenses being imputed to him, because he was working as a laborer in Calamba, Laguna, from May 29, 1992 up to October 20, 1997. It ruled thus:

> "The Court believes that indeed accused committed the crime of statutory rape against the person of complainant Mila Bonifacio, who at the time x x x the sexual abuse was committed, x x x was only eight years and two (2) months old [i]n August 1993; eight years and seven months old on January 1, 1994; and nine years and nine months old on March 24, 1995."[11]

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Hence, this appeal.[12]

Issues

Appellant submits the following assignment of errors for this Court's consideration:

> "I
>
> The honorable trial court gravely erred in finding credence in the testimony of private complainant Mila Calara Bonifacio.
>
> "II
>
> The honorable trial court gravely erred in convicting the accused despite lack of evidence to sustain a conviction beyond reasonable doubt."[13]

The Court's Ruling

The appeal is not meritorious.

First Issue:
Credibility of Complainant

Appellant faults private complainant for her unreasonable and unjustified delay in reporting the alleged crimes. He casts serious doubts on her true motive by pointing out that she filed[14] the three charges more than four years after the first rape had supposedly taken place. He likewise questions her credibility by citing material inconsistencies in her testimony.

We disagree. We have consistently held that the assessment of the credibility of witnesses and their testimonies is best left to the trial court because of its unique opportunity to observe them firsthand and to note their demeanors and attitudes on the witness stand. Hence, its findings are accorded great weight and deemed binding and conclusive on appellate courts, unless some facts or circumstances of weight and substance have been overlooked or misinterpreted.[15]

In this case, the trial court had the opportunity to hear and examine the testimony of the victim and was convinced of her credibility. Futile is the attempt of appellant to cast serious doubts on her credibility by citing delay in the reporting of the incidents and by pointing to certain inconsistencies in her testimony.

First, delay in reporting a crime of rape has not always been construed as an indication of a false accusation.[16] In fact, this Court has repeatedly held that it is not uncommon for young girls to conceal for some time the assault on their virtue because of the rapist's threat on their lives. x x x [R]ape is a traumatic event, and the shock concomitant with it may linger for a while.[17]

Second, the victim satisfactorily explained her reason for not immediately reporting the offenses: she was afraid for her life because appellant had repeatedly threatened to kill her. She testified thus:

> "FISCAL DATU
>
> Questioning
>
> Why did the accused not want you to leave?

WITNESS

Answering

Maybe because I might report what he did, sir.

Q

Did the accused talk to you after raping you?

A

Yes, sir.

Q

What did he tell you, if any?

A

He told me not to report what he did to me, sir.

Q

Why did he not want you to report what he did to you?

A He said if I will report, he will kill me, sir."

x x x x x x x x x

Q

Did you tell your parents what Roderick Santos did to you in August 1993 and on January 1, 1994?

A

No, sir.

Q

Why did you not tell them?

A

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Because he threatened me, sir."[18]

Third, the alleged inconsistencies adverted to by appellant do not detract from the victim's credibility, since they refer only to minor details surrounding the rape incidents. Rape, being a harrowing experience, is usually not fully remembered. Rather, the victim of such an atrocity is normally inclined to forget certain details surrounding the execrable event and sweep them into her dustbin of unwanted experiences and memories.[19] What is important is her complete and vivid narration of the rape itself, which the trial court herein found to be truthful and credible.

Second Issue:
Sufficiency of the Evidence

Appellant alleges that the evidence proffered by the prosecution is too weak and insufficient to convict him of the offenses charged. We are not convinced. From the evidence on record, sexual intercourse with the victim was convincingly proven.

As a rule, a victim of rape will not come out in the open and make public the offense committed against her, undergo the agony and the humiliation of a public trial or endure the ordeal of testifying on all the sordid details of the crime, if she has not been truthful as to whether she has in fact been raped and by whom or if she has not been motivated by the desire to obtain justice.[20]

Thus, "when a woman, more so if she is a minor, says that she has been raped she says in effect all that is necessary to show that rape was committed. And as long as the testimony meets the test of credibility, the accused may be convicted on the basis thereof. Well-entrenched is the doctrine which is founded on reason and experience that when the victim testifies that she has been raped, and her testimony is credible, such testimony may be the sole basis of conviction."[21]

In the case at bar, the victim readily testified and recounted the harrowing experience appellant had inflicted on her person, not only once but on three separate occasions. The two rape incidents, which had occurred in August, 1993 and on January 1, 1994, were narrated by her as follows:

"FISCAL DATU

Questioning

Q Where did Roderick Santos kiss you?

A He kissed my body, sir.

Q What did you do when Roderick Santos was kissing you?

A I tried to prevent him, sir.

Q How did you try to prevent him?

A I was pushing him, sir.

Q After that what happened next?

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WITNESS

Answering

He removed my shorts and my panty, sir.

FISCAL DATU

Questioning

Q What about him, did you see him [remove] his clothes?

A Yes, sir.

Q After Roderick Santos removed his clothes and was able to remove your shorts and your panty, what happened next?

A He raped me, sir.

Q You said Roderick Santos raped you, will you please tell this Honorable Court how did Roderick Santos rape you?

A He inserted his penis into my vagina, sir.

Q What did you feel when he inserted his penis into your vagina?

A I was hurt, sir.

Q How long did Roderick Santos rape you?

A For a long time, sir.

Q When Roderick Santos was raping you, did you not scream for help?

A I was shouting, sir.

Q How did you shout?

A I said, `Help me!' (Saupan yu ku pu.)

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x x x x x x x x x

Q Did accused Roderick Santos repeat what he did to you in August 1993?

A He repeated it on March 24, 1994, sir.

x x x x x x x x x

Q What was that unusual incident that took place on January 1, 1994?

A I was with my sister then, sir, and when my sister left me, Roderick Santos came.

Q Where did Roderick Santos proceed?

A Roderick Santos went to the house of his sister, sir.

Q And then what happened next?

A My sister left and I was alone then, sir.

Q And then, while you were alone in the house, what happened next?

A Roderick Santos went to our house and went upstairs, sir.

Q And then what happened next?

A He kissed me, sir.

Q What part of your body did the accused kiss x x x?

A He kissed my neck, sir.

Q How old were you then on January 1, 1994?

A I was ten (10) years old then, sir.

Q While Roderick Santos was kissing you on the neck, what did you do?

A I pushed him, sir.

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Q How did you push him?

A I was pushing him with [both of my] hands, sir.

Q Did you push him hard?

A Yes, sir.

Q Despite the fact that you were pushing him hard, what did Roderick Santos do, if he did any?

A He held my hands, sir.

Q And then what happened next?

A He removed my shorts and my panty, sir.

Q After he removed your shorts and your panty, what happened next?

A He inserted his penis into my vagina, sir.

Q Did the accused do it standing or lying on the floor?

A We were lying [down], sir.

Q How long did the accused rape you for the second time on January 1, 1994?

A For a long time, sir.

Q What did you feel, if any, when Roderick Santos inserted his penis into your vagina?

A It was painful, sir.

Q Did you bleed after he raped you?

A Yes, sir."[22]

The March 24, 1995 incident, which had led to appellant being charged with acts of lasciviousness, was also recounted by the victim as follows:

"Q Did you see Roderick Santos c[o]me to your house on March 24, 1995?

A No, sir, I did not see him [enter] our house because I was then upstairs[.]

Q At what time were you upstairs?

A At 12:00 noon, sir.

Q While you were upstairs at 12:00 noon, do you recall any unusual incident that took place?

A Yes, sir.

Q Tell this Honorable Court what was that unusual incident?

A While I was fixing our beddings then, sir, Roderick Santos came.

Q And then what happened next?

A He kissed me, sir.

Q Where?

A He kissed my body, sir.

Q How long did he do the kissing o[f] your body?

A For a while only, sir.

Q And what particular part of your body did Roderick Santos kiss x x x?

A He kissed me on the neck, sir.

Q Did he also touch your private parts?

A No, sir.

Q Aside from kissing you, what else did Roderick Santos do?

A He removed my panty, sir.

Q After removing your pan[t]y, what else happened?

A He inserted his penis into my vagina, sir.

Q And then what happened next?

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A Afterwards he went away, sir."[23]

Although it seems from the above testimony that appellant should have been charged with another count of rape, he may be convicted only of acts of lasciviousness, because that was the offense alleged in the Information against him. The accused cannot be convicted of an offense that is higher or not necessarily included in the offense charged in the complaint or information. In People v. Bacule[24] this Court explained:

> "An accused person cannot be convicted of an offense higher than that with which he is charged in the complaint or information on which he is tried. It matters not how conclusive and convincing the evidence of guilt may be, but an accused cannot be convicted of any offense, unless it is charged in the complaint or information on which he is tried or is necessarily included therein. He has a right to be informed of the nature of the offense with which he is charged before he is put on trial. To convict an accused of a higher offense than that charged in the complaint or information on which he is tried would be an unauthorized denial of that right."[25]

As for damages, we modify the P150,000 award imposed by the trial court. The current policy of this Court is to award civil indemnity ex delicto in the amount of P50,000 for each count of rape upon an indubitable showing of its commission.[26] We have likewise awarded moral damages to the victim in a rape case without need of independent proof other than its commission. It is assumed that the offended party has suffered moral injuries entitling her to the award of such damages.[27] As for the acts of lasciviousness committed by appellant against the victim herein, the Court awards P30,000 following its ruling in People v. Velasquez.[28]

WHEREFORE, the appealed Decision is AFFIRMED with the MODIFICATION that appellant shall pay the victim the amount of P50,000 as indemnity ex delicto and another P25,000 as moral damages for each count of rape, plus P30,000 for acts of lasciviousness. Costs against appellant.

SO ORDERED.

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

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[1] Penned by Judge Reynaldo V. Roura; rollo, pp. 19-22.

[2] Third Judicial Region, Branch 55, Macabebe, Pampanga.

[3] Assailed Decision, p. 4; rollo, p. 22.

[4] Information, p. 1; rollo, p. 7.

[5] Information, p. 1; rollo, p. 8.

[6] Information, p. 1; rollo, p. 9.

[7] Signed by Assistant Solicitor General Maria Aurora P. Cortes and Solicitor Gabriel Francisco A. Ramirez Jr.

[8] Appellee's Brief, pp. 3-5; rollo, pp. 88-90. Citations omitted.

[9] Appellant's Brief was signed by Atty. Mario M. Arzadon.

[10] Appellant's Brief, pp. 3-6; rollo, pp. 53-56.

[11] Assailed Decision, p. 4; rollo, p. 22.

[12] This case was deemed submitted for decision on July 20, 2001 upon receipt by this Court of appellee's Brief. Appellant's Brief was filed on January 9, 2001. The filing of a reply brief was deemed waived, as none had been

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submitted within the reglementary period.

[13] Appellant's Brief, p. 6; rollo, p. 56. Upper case used in the original.

[14] The cases were filed on October 23, 1997.

[15] People v. Raul Tagaba and Jaime Tolibas, GR Nos. 112792-93, October 6, 2000, per Quisumbing, J.

[16] People v.Alimon, 257 SCRA 658, June 28, 1996.

[17] People v. Malabago, 271 SCRA 464, April 18, 1997.

[18] TSN, April 13, 1998, pp. 9-12.

[19] People v. Atuel, 261 SCRA 339, September 3, 1996.

[20] People v. Apilo, 263 SCRA 582, October, 28, 1996.

[21] People v. Bolatete, 303 SCRA 709, February 25, 1999, per Gonzaga-Reyes, J.

[22] TSN, April 13, 1998, pp. 7-11.

[23] TSN, April 13, 1998, pp. 13-14.

[24] 323 SCRA 734.

[25] People v. Bacule, 323 SCRA 734, 749, January 28, 2000, per Kapunan, J.

[26] People v. Manayan, GR Nos. 142741-43, October 25, 2001; People v. Bolatete, 303 SCRA 709, February 25, 1999; People v. Gementiza, 285 SCRA 478, January 29, 1998.

[27] People v. Manayan, supra, citing People v. Prades, 293 SCRA 411, July 30, 1998.

[28] GR Nos. 132635 & 143872-75, February 21, 2001.

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