

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. EFREN G. DE TAZA, APPELLANT.

G.R. Nos. 136286-89. September 11, 2003

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

On automatic appeal is the October 27, 1998 Joint Decision[1] of Branch 88 of the Regional Trial Court of Cavite City finding appellant Efren G. De Taza guilty of four counts of rape in Criminal Case Nos. 249-97, 250-97, 251-97 and 252-97 and imposing on him the death penalty in each.

The accusatory portions of the complaints against appellant read as follows:

Criminal Case No. 249-97

That on or about May 15, 1993, in the City of Cavite, Republic of the Philippines and within the jurisdiction of this Honorable Court, the above-named accused, then being the stepfather of the undersigned complainant, by means of force, violence and intimidation, did, then and there, wil[l]fully, unlawfully and feloniously have carnal knowledge of the latter, a minor, 13 years of age, without consent and against her will.[2]

Criminal Case No. 250-97

That on or about August 20, 1995, in the City of Cavite, Republic of the Philippines and within the jurisdiction of this Honorable Court, the above-named accused, then being the stepfather of the undersigned complainant, by means of force, violence and intimidation, did, then and there, wil[l]fully, unlawfully and feloniously have carnal knowledge of the latter, a minor, 15 years of age, without consent and against her will.[3]

Criminal Case No. 251-97

That on or about May 21, 1996, in the City of Cavite, Republic of the Philippines and within the jurisdiction of this Honorable Court, the above-named accused, then being the stepfather of the undersigned complainant, by means of force, violence and intimidation, did, then and there, wil[l]fully, unlawfully and feloniously have carnal knowledge of the latter, a minor, 16 years of age, without consent and against her will.[4]

Criminal Case No. 252-97

That on or about April 28, 1996, in the City of Cavite, Republic of the Philippines and within the jurisdiction of this Honorable Court, the above-named accused, then being the stepfather of the undersigned complainant, by means of force, violence and intimidation, did, then and there, wil[l]fully, unlawfully and feloniously have carnal knowledge of the latter, a minor, 17 years of age, without consent and against her will.[5]

From the evidence for the prosecution, the following are established:

Complainant Jocelyn S. Fructuoso is one of two children of former live-in partners Philippine Air Force (PAF) Sergeant Jimmy Fructuoso and Magdalena Silos.[6] When the couple parted ways, Jocelyn and her older brother Judan lived with their mother.

While Jocelyn and Judan were in grade school, they took up music lessons with appellant, a member of the airbase squadron and band instrumentalist of the PAF.[7] As music teacher, appellant became close to the children as well as to their mother. Romance in fact blossomed between appellant and Magdalena who are said to have eventually contracted marriage on August 21, 1991.[8]

Appellant and Magdalena, together with Jocelyn and Judan, resided in Mascardo St., San Antonio, Cavite City.[9]

On May 15, 1993, Jocelyn, then 13 years old, along with her best friend Norielyn Tome, attended the fiesta at Narvaez, Baylen, now General Emilio Aguinaldo, Cavite. Jocelyn returned home with Norielyn at around 6:00 p.m. of the same day[10] at which time only appellant and Judan were at home, Magdalena having gone to "Luksuhin." Infuriated as Jocelyn did not ask his permission to attend the fiesta, appellant instructed Judan to get the sisilan, a piece of wood used for washing clothes.[11] Judan did as instructed and Jocelyn repaired to her bedroom, one of three[12] in the house, the other being her brother's, and the third appellant's and her mother. Appellant followed her, bringing with him the sisilan.[13] Appellant then told Jocelyn to lie face down and to pull down her shorts and panty.[14] As Jocelyn obliged, appellant hit her several times with the sisilan,[15] drawing her to cry.[16] Appellant then went out of her room and instructed Norielyn to go home.[17]

That same night, after taking her supper, Jocelyn went to her room.[18] Soon after, Arnold, Norielyn's brother, arrived and was outside the jalousie-covered window of Jocelyn's room[19] when appellant asked him to leave.[20]

Still on the same night, while Judan was already asleep, appellant went inside Jocelyn's bedroom, locked the door and asked her why Arnold was there, to which she replied that her mother had instructed that Arnold "accompany" them.[21] This drew the ire of appellant who thought that Arnold was her boyfriend.[22]

Appellant then told Jocelyn to stand up and take off her clothes.[23] When she refused, he punched her on the abdomen.[24] She held on to the waistband of her shorts but he threw her on her bed and succeeded in removing her shorts and panty.[25] He then started kissing her vagina[26] even while she tried to keep her thighs together and pleaded him to stop.[27] He, however, forced her to spread her legs[28] and then stood up and removed his shorts.

As Jocelyn tried to stand up, appellant went on top of her and inserted his penis into her vagina.[29] Despite her pleas for appellant to stop, he, while holding a kitchen knife, told her to keep quiet[30] and went on to satisfy his lust with a warning against telling anyone about what transpired, otherwise he would kill her mother.[31]

Upon Magdalena's return in the afternoon of the following day or on May 16, 1993, Jocelyn told her what appellant did to her.[32] Magdalena thus confronted appellant inside Jocelyn's bedroom. When appellant came out of the bedroom, he gave Jocelyn a dagger look. On the same day, appellant left their residence.[33]

On May 27, 1993, Magdalena, along with another woman, brought Jocelyn to the National Bureau of Investigation (NBI) in Manila[34] where she was examined by Dr. Valentin Bernales, Medico-Legal Officer. Dr. Bernales came up with the following findings:

- No evident sign of extragenital physical injuries noted on the subject at the time of the examination.
- Hymen, intact and its orifice small (1.5 cm. in diameter) as to preclude complete penetration by an average-sized, adult, Filipino male organ in full erection without producing genital injury.[35] (Emphasis and underscoring supplied)

By Jocelyn's account, no case was filed against appellant, Magdalena having concluded that "[w]ala naman palang nangyari." [36]

On May 1, 1995, Magdalena and her children transferred to another residence in Melrose St., also in San Antonio, Cavite City.[37] In July of that same year, appellant lived with them again.[38]

In late evening of August 20, 1995, while Jocelyn was sleeping in her room, she felt someone beside her.[39] She soon realized that it was appellant who told her not to make any noise and that he was going to sleep there.[40] Jocelyn covered herself with a blanket but appellant pulled it and asked her to remove her shorts.[41] She tried to shout but appellant choked her and told her not to cry because her mother, who was sleeping in their bedroom, might be awakened.[42] He then took off his shorts, forcibly took off Jocelyn's shorts and panty and went on top of her.[43] When she tried to struggle, appellant got a decorative wineglass on top of her bed and threatened to hit her with it if she made any noise,[44] leaving her no choice but to keep quiet. Appellant then inserted his penis into her vagina,[45] after which he put on his shorts and warned her not to tell anyone for, as nobody believed her the first time she complained, no one would believe her if she did the second time.[46] Appellant then left Jocelyn's bedroom.

After the second incident, as Jocelyn pondered that her mother would not believe her anyway, she did not bother to tell her about it.[47] She instead left their house and proceeded to the house of her aunt Roda Doctor in Sangley Point.[48] Jocelyn, however, did not reveal to her aunt what appellant did to her.[49]

Magdalena later fetched Jocelyn, telling her that appellant no longer lived with them.[50] Two weeks after Jocelyn went back home, however, appellant lived with them again.[51]

On March 20, 1996, appellant got mad at Jocelyn because she came home late. As punishment, he locked her inside her room.[52] The following morning, or on March 21, 1996, she begged that she be allowed to go out of the room, but to no avail.[53] At that time, both her mother and brother had left.[54]

When Jocelyn sensed that appellant was about to leave for work, she went up her dresser and jumped over to the room of her brother with the intention of escaping.[55] As she was about to go out of her brother's room, appellant, telling her that she could not leave,[56] pulled her to his and her mother's room.[57] While she tried to free herself from him, he pushed her towards the bed.[58] She then warned him that if he would sexually assault her again, she would report him to police authorities.[59] He countered, however, that before she could report, he would kill her.[60] He then removed his pants and told Jocelyn to remove her shorts and panty.[61] While she was crying, she obliged, albeit[62] she tried to push him but felt something pointed at the side of her neck.[63] Appellant then inserted his penis into her vagina[64] after which, he asked her if she would still have the courage to report to the police because if she had, he would kill her. She told him that she would not report to the police as all she wanted was to go to school.[65] Jocelyn then took a bath and put on her school uniform.[66] He thereafter brought her to school. Afraid of him and thinking that no one would believe her anyway, she did not report the incident to anyone.[67]

On April 28, 1996, around noon, Jocelyn asked permission from her mother to attend a fiesta. Magdalena, however, told her to ask permission from appellant which she did.[68] Appellant consented. In the meantime, as Magdalena was having a siesta on the sofa, appellant asked Jocelyn to go to her bedroom so that she could massage him. When she refused, appellant told him that she could not leave for the fiesta.[69] And indeed she was not able to.[70]

Around 6:00 p.m. of that same day of April 28, 1996, while Jocelyn was inside her bedroom, appellant went inside, locked the door,[71] and asked her to lie down but she refused. Appellant thus removed her short pants[72] after which he pushed her towards the bed, warning her not to make any noise. He then took off his shorts, removed Jocelyn's panty, and went on top of her as he inserted his penis into her vagina.[73] Jocelyn could only cry "silently" as his hands were on her throat and he did not want her mother to hear her crying.[74] While

appellant was on top of her, Magdalena knocked on the door and called Jocelyn's name. Appellant ordered her not to respond. He, however, told Magdalena to wait as they were just talking.[75] Appellant then put on his shorts and warned her not to tell her mother what transpired.[76]

The following morning, Jocelyn reported the incident the day before (the fourth) to her mother who did not believe her, however. Jocelyn then asked her to make a choice — whether she (Jocelyn) would leave or ask appellant to leave. Magdalena chose the first.[77]

Jocelyn thus went to her best friend Norielyn's house and stayed there until around 8:00 p.m. of April 29, 1996 when her aunt Roda fetched her and brought her to her aunt Sylvia Lagula's house at Padre Pio St., Cavite City[78] where she stayed until May 10, 1996. On May 11, 1996, she was sent to her grandfather's house in Asingan, Pangasinan, where she stayed for a year.[79]

On April 2, 1997, Jocelyn was examined by Dr. Gloria A. Liberato, Medical Officer III of the Medicare Community Hospital of Asingan. The results of her examination, which were incorporated in a Medico-Legal Certification,[80] revealed the following:

- Healed hymenal laceration at 9:00, 3:00, 7:00 and 5:00 o'clock (sic) position.
- Hymenal orifice admits 2 fingers with slight difficulty. (Emphasis supplied)

By Dr. Liberato's account, the "ages" of the hymenal lacerations in Jocelyn are consistent with the dates of the alleged sexual assaults on her.[81]

Appellant denied the charges against him,[82] he surmising that the filing of the cases against him could have been spawned by the beatings and humiliations Jocelyn received from him.

Claiming that he lived in a boarding house in Quezon City from April 1995 to November 1995, it was impossible for him to have raped Jocelyn in Cavite in August 1995 (subject of the second information).[83]

He proffered, however, that he had a close relationship with Jocelyn, more than that of a stepfather with his stepdaughter — "it's like having a mutual understanding x x x and that [they] care for each other,"[84] to a point that they had sexual relationship,[85] in support of which he showed before the court a photocopy of Jocelyn's photograph[86] which he claims she gave to him.[87]

Finding for the prosecution, the trial court, which noted Jocelyn to be crying while testifying,[88] as did the prosecution,[89] rendered the joint decision on review, the dispositive portion of which reads:

WHEREFORE, all the foregoing premises considered, we find the accused Efren G. de Taza guilty of raping his own stepdaughter on four separate occasions, accordingly hereby sentences him to suffer the supreme penalty of death in each of the four (4) cases, and is hereby ordered to pay the victim the amount of P50,000.00 as civil indemnity in each case; P50,000.00 as moral damages in each case; and P50,000.00 as exemplary damages in each case; or a total of P600,000.00.

SO ORDERED.[90]

In brushing aside appellant's defense, the trial court held:

x x x

We find the said motive imputed against the complainant to be grossly implausible and insufficient to make her concoct a false charge against her stepfather. It is highly inconceivable that she would claim having been raped just because her stepfather spansks or berates whenever she commits mistakes. Mere disciplinary chastisement is not strong enough to make daughters in a Filipino family invent a charge that would only bring

shame and humiliation upon her and her family and make her the object of gossip among her classmates and friends. It is unbelievable that Jocelyn would fabricate a serious criminal charge just to get even with her stepfather, if it were not true. It has been repeatedly held that no young Filipina of decent repute would falsely and publicly admit that she had been ravished and abused considering the social stigma thereof.

x x x

Similarly, the accused's claim that he was staying in a boarding house in Quezon City when he was studying at the UST at the time the second rape incident took place, cannot be taken seriously. The distance and travel time between his boarding house in Kamuning and Cavite City did not foreclose the commission of the felony. It is a cardinal rule that for alibi to prosper, the accused must prove that he was somewhere else when the crime was committed and it was physically impossible for him to have been at the scene of the crime. So too, alibi cannot prevail over positive identification of the accused by the prosecution witness.

x x x

Except for a single photograph of the complainant which the latter allegedly gave him before her departure to Asingan, accused was never able to present any credible evidence to show that he and complainant were indeed sweethearts. This sweetheart theory is but a mere concoction of the accused as a last ditch effort in order to exculpate himself from criminal liability.

x x x[91]

In his Brief, appellant assigns to the trial court the following errors:

I.

THE LOWER COURT ERRED IN ACCORDING CREDENCE TO THE TESTIMONY OF THE COMPLAINANT.

II.

THE LOWER COURT ERRED IN CONVICTING THE ACCUSED.[92]

In his Brief, appellant draws attention to matters testified on by Jocelyn which to him create doubts on the credibility of her testimony.[93] He particularly cites her account of the May 15, 1993 incident (subject of the first information) that appellant was able to insert his penis into her vagina, to wit:[94]

x x x

[ATTY. LA TORRE:]

Q:

From the time he supposedly inserted his organ in your organ and up to the time that he withdrew his organ, how long did it take place?

A:

It's quite a long time but I do not [k]now how long, I do not know the duration because one, I did not have any watch at that time and second I will not even look at the time anymore, sir.

Q:

But, according to you, you felt pain because his organ was inserted inside yours?

A:

Yes, sir.

x x x,[95]

which is belied by the medico-legal report conducted on her following such incident indicating that there was no evident sign of extra-genital injuries and that her hymen was still intact.[96]

As did the trial court, this Court finds the following accounts of Jocelyn of the four rape incidents, which accounts were punctuated by her crying, candid, straightforward and persuasive:

x x x

[PROS. LU:]

Q:

On that particular date and place, that was May 15, 1993, do you remember anything unusual that happened?

A:

Yes, sir.

x x x

Q:

After that, what happened?

A:

The accused entered my bedroom after locking my door, Sir.

Q:

Did you see the accused actually lock the door?

A:

Yes, sir.

Q:

What type of lock is there on that door?

A:

That lock which you press, Sir.

Q:

The same kind of lock which is used inside this courtroom?

A:

It looks like this one, Sir.

Q:

Witness is pointing to the lock of the door leading to the chamber of this Hon. Court.

According to you, he pressed the lock?

A:

Yes, Sir.

Q:

Do you know where your brother was at that time?

A:

He was already asleep, Sir.

Q:

What time was that when the accused entered your room?

A:

About 8:00 o'clock, Sir.

Q:

And, after locking the door, what else did the accused do, if any?

A:

He asked me what my Kuya Arnold was doing in the house, Sir, I told him that it was the instruction of my mother for him to accompany us.

Q:

What did the accused say, if any, after you answered that way?

A:

He got angry because he thought Arnold was my boyfriend, Sir.

Q:

What did the accused do when he got angry?

A:

He asked me to stand up, Sir.

Q:

Did you stand up?

A:

Yes, sir.

Q:

After that what did the accused do?

A:

He asked me to remove my clothes, Sir.

Q:

Did you remove your clothes?

A:

No, Sir.

Q:

What did the accused do when you refused to remove your clothes?

A:

He punched me on my abdomen, Sir.

Q:

And, what happened to you after you were hit?

A:

He was asking me to remove my clothes, Sir.

COURT:

Put on record also that while testifying the witness is crying.

PROS. LU:

Q:

Did you remove your clothes?

A:

No, Sir.

Q:

What did the accused do when you still refused to remove your clothes?

A:

He was the one who removed my clothes, Sir.

Q:

What did the accused remove first?

A:

My short pants, Sir.

Q:

What did you do while he was removing your short pants?

A:

I was holding on to it, Sir.

(Witness demonstrating by holding at the portion of the short pants on the waistline)

Q:

Did the accused succeed in removing your short pants?

A:

No, Sir, he threw me towards the bed and he removed my short pants.

Q:

When he removed your short pants, how were you positioned on the bed?

A:

I was lying at my back, Sir.

Q:

So you were lying face up?

A:

Yes, Sir

x x x

Q:

How did the accused remove your short pants while you were lying on bed?

A:

He pulled it down, Sir.

Q:

Witness demonstrating by extending both his hands forward and drawing the same towards her.

COURT:

Towards him.

INTERPRETER:

Towards her to demonstrate how the accused pulled the short pants towards him.

PROS. LU:

Q:

What portion of the short pants did the accused hold when he was removing your short pants?

A:

The waistline, Sir.

Q:

And, according to you, the accused succeeded in removing your short pants from you.

A:

When he pulled down my short pants my panty went with this, Sir.

Q:

Your panty and your short pants were removed at the same time?

A:

Yes, Sir.

Q:

After pulling down or taking off your short pants and panty. what else did the accused do, if any?

A:

He kissed me, Sir.

Q:

Where did he kiss you?

A:

In my private part, Sir.

Q:

How was he positioned while he was doing that?

A:

He was seated on the floor, Sir.

Q:

While he was removing your short pants and panty, what did you do, if any?

A:

I tried to stop him from doing that, Sir.

Q:

How did you try to stop him?

A:

I was crying, Sir.

x x x

Q:

What were you doing at the time that the accused was doing this from you?

A:

I was still trying my best to keep my thighs together, but then when he was already angried (sic) he punched both my thighs, Sir.

x x x[97]

Q:

Were you hurt when he punched your thighs?

A:

Yes, Sir.

Q:

What happened after he punched your thighs?

A:

He stood up and then he removed his short pants and then I stood up also and tried to put on my short but he laid on top of me (dinaganan).

Q:

Were you able to put on your shorts?

A:

No, Sir.

Q:

So your shorts were completely removed from your body?

A:

Yes, Sir.

Q:

Was he able to remove his shorts?

A:

Yes, Sir.

Q:

When he laid on top of you were you still on top of the bed?

A:

I was already sitting down, Sir.

Q:

That was when he started laying on top of you?

A:

Yes, Sir.

Q:

Was the accused completely naked or he was wearing something on the upper portion of his body?

A:

Yes, Sir.

Q:

How about you, were you completely naked at that time?

A:

No, Sir, I was still wearing a t-shirt.

Q:

After he laid on top of you what else happened?

A:

He inserted his penis into my private part, Sir.

Q:

Was the accused succes[s]ful in doing that?

A:

Not yet, Sir, because I was pleading to him.

Q:

What exactly were you saying?

PROS. LU:

For the record, your Honor, we would like to make it of record that the witness is crying as [s]he is testifying.

COURT:

Put that on record.

A:

I was telling him, Sir, "huwag po, ayoko na po."

PROS. LU:

Q:

What was the reaction of the accused, if any?

A:

He told me to keep quiet, Sir, and I saw that he was already holding a knife which was being used to chop pork, but I do not know where it came from and where he got it.

x x x

Q:

What else did the accused do after telling you to keep quiet?

A:

He inserted his penis into my vagina, Sir.

x x x

Q:

Was he able to insert his penis?

A:

I know that he was able to because I felt pain, Sir.

Q:

For how long did the penis stay inside your private part?

A:

I do not know I cannot determine, Sir.

Q:

But during all the time that his penis was inside your private part were you feeling pain?

A:

Yes, Sir.

Q:

Was the accused making any movement or motions while his penis was inside your private part?

A:

Yes, Sir.

Q:

What kind of movement was the accused doing?

A:

The motion looks like a push up move, Sir. (parang nagpu-push-up).

x x x[98]

Q:

Now, at around 8:00 in the evening of August 20, 1995, do you know of anything unusual that happened?

A:

We had a fight then, big fight in the house with my brother and myself taking sides and we fought against him.
(Witness pointed to the accused).

x x x

Q:

After this quarrel, what else happened?

A:

After that quarrel was over and it was already in the evening when we already rested, I went inside my bedroom then de Taza entered my bedroom, Sir.

Q:

How did you know that de Taza entered your bedroom when, according to you, you were already sleeping?

A:

I felt that he was already beside me, Sir.

Q:

You only felt him, you did not see him?

A:

Yes, Sir.

Q:

Why, was the light inside your room off at that time?

A:

Yes, Sir.

Q:

And the room was dark?

A:

Not really dark, Sir.

Q:

Where was the light coming from?

A:

From the outside of the window, Sir.

Q:

So with that kind of light inside your room you were still able to recognize the accused in this case?

A:

Yes, Sir, I know that it was him.

Q:

How did you come to know that it was him, did you see his face?

A:

Yes, Sir, he spoke up and then I saw his face.

Q:

What did he say?

A:

He said that I should not make any noise, Sir.

Q:

Did you recognize his voice?

A:

Yes, Sir.

Q:

What else did he say aside from telling you not to make any noise?

A:

According to him, he was going to sleep there.

x x x

Q:

Now, after telling you to keep quiet or not to make any noise, what else did the accused say, if any?

A:

He told me to remove my short pants, Sir.

Q:

Did you follow him?

A:

No, Sir.

Q:

What did he do when you disobeyed him?

A:

I had a blanket covering myself and he was trying to pull the blanket but I was trying to place it between my bed and my body, I was trying to tuck in the blanket between my body and the bed, Sir.

Q:

Who succeeded, you or him?

A:

He won, Sir.

x x x

Q:

When this accused pulled the blanket or cover from [the] top of your body, what was your reaction?

A:

I was afraid because I knew that he was going to do to me what he was doing at the past, Sir.

Q:

Did it not occur to you to shout for help considering that your mother was inside your house at that time?

A:

I was able to shout but when I was lying he was choking me, Sir, and I could not breathe.

Q:

What else did the accused do?

A:

He told me not to cry because my mother might be awakened, Sir.

Q:

Did you follow him?

A:

No, Sir, I continued crying.

Q:

You were crying loudly or silently?

A:

I wanted to cry aloud but he was strangling me, Sir.

x x x

Q:

After pulling away that blanket from your body, what else did the accused do?

A:

He removed his short pants, Sir.

Q:

After removing his shorts was he already fully naked?

A:

Yes, Sir.

Q:

What else did he do after removing his shorts?

A:

And then he approached me and he ordered me to remove my short pants.

Q:

And you followed him?

A:

No, Sir.

Q:

What did the accused do when you did not obey him?

A:

He approached me, Sir, and he removed my short pants.

Q:

Was he able to remove your shorts?

A:

Yes, Sir.

Q:

So after removing your shorts, you were left wearing only your panty and your shirt?

A:

And when he removed my short pants, Sir, he also removed my panty at the same time.

Q:

After doing that, what else did the accused do?

A:

He laid on top of me, Sir.

Q:

And after laying on top of you, what did you do?

A:

I was trying to struggle myself free, Sir, but he told me not to make any noise because my mother might be awakened, after [w]hich he took something on top of my bed, Sir.

Q:

What was that something?

A:

It was wine glass with a flower inside which is used as a display thing only, Sir.

Q:

What did the accused do with that wine glass?

A:

He was going to hit me with it, Sir.

Q:

How did you know that he was going to do that, did he hit you with that glass?

A:

No, Sir, what he told me was that if I make a noise he was going to hit me with that thing and I was afraid that is why I kept quiet.

Q:

What else happened after that?

A:

He inserted his penis into my private part, Sir.

Q:

Was he able to do that?

A:

Yes, Sir.

Q:

What else did he do aside from inserting his penis?

A:

He was in a hurry doing whatever he was doing and then I wanted to cry aloud but then he was still strangling me, and with the warning that I should not make any noise because my mother might be awakened, Sir.

Q:

When his penis was inside your private part, was he making any other motion or movements?

A:

Yes, Sir, the same thing, as if he was doing a push up.

x x x[99]

Q:

What was the unusual happening?

A:

The evening before March 21, 1996 he got angry at me because I came home late and he locked me inside my room, Sir.

Q:

What else happened after he locked you?

A:

When he locked my door that evening, Sir, I was left alone inside my room, I was shouting but he did not allow me to go out, I was able to go asleep but the following morning when I woke up which is March 21, 1996, I again shouted for them to let me go out of the room, but he did not allow me to get out of the room, but I was already afraid because my mother left and I was afraid that he might do the same thing to me that morning.

Q:

What happened after you shouted for help, did anybody open your room?

A:

They left me alone, Sir.

Q:

Who left you?

A:

My mother and my elder brother, Sir.

Q:

And what happened after they left?

A:

De Taza was left behind, Sir, he did not open the door yet, when I felt that de Taza was about to leave for work at Sangley that morning I went up my dresser, because you can transfer to the other room by climbing the cabinet, so I climbed the cabinet, I jumped over the room of my elder brother, because I wanted to escape that morning, Sir.

Q:

What happened after that?

A:

When I was already able to jump over the "tokador" and I was already about to go out of the room of my brother, de Taza was there, Sir, and he told me "huli ka, akala mo makakatakas ka."

Q:

What happened after that?

A:

When he found me, Sir, he brought me inside the room of my mother, but before he could close the door of my

mother (sic) I still tried to struggle free to escape but he prevailed upon me towards the bed of my mother, this time I already warned him that "if he was going to repeat the same thing I would report him to the police authorities," however, he told me that before I could report the matter to the police he would kill me.

Q:

How was the accused able to take you to your mother's bedroom, did you voluntary go with him, did he drag you, did he carry you, or what?

A:

He pulled me, Sir.

Q:

By the hands?

A:

By the arms, Sir.

Q:

When the accused pushed you towards the bed, was the room of the door already locked or not?

A:

Yes, Sir, he was able to lock the door already.

Q:

What happened after you were pushed on the bed?

A:

That particular day he was wearing his uniform, Sir, consisting of white uniform and navy blue pants, after which he removed his pants and he was naked down.

Q:

How about you what were you wearing at that time?

A:

My house dress, Sir, consisting of short and t-shirt.

Q:

Were you wearing any underwear?

A:

Yes, Sir.

Q:

So what happened after the accused removed his pants and was already half naked from the waist down

A:

I was already crying loudly but he threatened me that I will not reach night time anymore, Sir. (Hindi ka na aabutin ng gabi).

Q:

What else happened after that?

A:

He told me to remove my short pants and my panty so that he can get over with it, but I also allowed him to do it because I told him I wanted to go to school, so that I could escape from the house, Sir.

Q:

You mean to say that you removed your own shorts and panty?

A:

Yes, Sir.

Q:

And after removing your short pants and panty you yourself laid down on the bed?

A:

No, Sir.

Q:

What happened after you removed your shorts and panty?

A:

I told him I do not like anymore, Sir. And I told him that I will not tell to my mother anymore about what happened in the past as long as he does not do it to me anymore at that time at that particular day, Sir.

Q:

If according to you, you do not want it anymore, then why did you remove your shorts and panty?

A:

So that I will be able to get out of the house already, so that he will allow me to go to school, Sir.

Q:

You mean to say you removed your shorts and panty because you realized that even if you do not remove it he will still do what he intended to do?

A:

Yes, Sir, because we were the only two people left in the house, I had no choice anymore.

Q:

After you removed your short and panty, what did the accused do?

A:

He approached me and I told him, "ayoko na."

Q:

Were you crying at that time or not?

A:

I was crying, sir.

Q:

And what was the reply of de Taza when you told him that you do not want anymore?

A:

He told me that I will no be able to get out of the room if I will not follow him, Sir.

Q:

Was he armed at that time or not?

A:

When I was already lying on the bed, Sir, I was pushing him away from me and I was trying to escape from him, then I felt that there was something pointed at the side of my neck.

Q:

What was the sharp thing?

A:

Maybe it was a knife, Sir but I was not able to see it but I felt it beside my neck.

Q:

What happened after you felt that pointed thing at the side of your neck?

A:

He inserted again his penis into my private part, Sir.

x x x[100]

Q:

Now, at about 6:00 in the evening of April 28, 1996, do you remember where were you?

A:

Yes, sir.

Q:

Where were you?

A:

I was at home, Sir.

x x x

Q:

Now, at around 6:00 in the evening, what happened?

A:

While I was already inside my bedroom, I did not notice that he came in at the room, while he was already in the room, he locked the door and after which he asked me to lie down on the bed, Sir.

Q:

Where was your mother at that time, if you know?

A:

She was already in their bedroom, Sir.

Q:

Now did you follow the orders of the accused for you to lie down on the bed?

A:

No, sir.

Q:

So what happened after you refused?

A:

He got mad and he removed my short pants, Sir.

Q:

By the way, what were you wearing at that time?

A:

Short pants and t-shirt, Sir.

Q:

Were you wearing any underwear at that time?

A:

Yes, Sir.

Q:

So he removed your short pants and left your panty?

A:

Yes, Sir.

Q:

And, what happened after that?

A:

He pushed me towards my bed and I was crying but he told me, Sir, not to make a noise.

Q:

And what else happened after that?

A:

He removed his short pants, Sir.

Q:

And what else did he do?

A:

He approached me and then he removed my panty, Sir.

Q:

Was he able to remove your panty?

A:

Yes, Sir.

Q:

And what did he do after that?

A:

He laid on top of me, Sir,

Q:

When he removed his shorts was he already completely naked from the waist down or was he wearing an underwear?

A:

He was naked down already, Sir.

Q:

So after removing your panty when he laid on top of you, you were completely naked from the waist down and he was already naked from the waist down?

A:

Yes, Sir.

Q:

What happened when he was on top of you?

A:

He inserted his penis into my vagina, Sir.

x x x[101] (Emphasis and underscoring supplied).

It is well settled that for a conviction of rape, medical findings of injuries in the victim's genitalia are not essential.[102] *People v. Vidal*[103] holds that absence of such injuries in the complainant's private part does not negate rape as proof of hymenal laceration is not an element of rape. Even if there were no hymenal laceration found when she was first examined, this does not necessarily negate rape.[104] What counts is that there was a penetration, however slight, of the labia minora. The above-quoted findings of Dr. Bernales on his examination of Jocelyn on May 17, 1993, two days after the May 5, 1993 incident - subject of the first information, merely rule out complete penetration.

In another vein, appellant posits that given the traumatic consequences of rape incidents, it is inconceivable for Jocelyn not to report or confide to anybody what she claims she went through,[105] despite the fact that she was already far from his reach and was already within the secure confines of her other relatives.[106]

Many victims of rape, however, never complain or file criminal charges against the rapist for they prefer to silently bear the ignominy and pain rather than reveal their shame to the world or risk the offender's ire and drive him to carry out his threats.[107]

In Jocelyn's case, as reflected above, she did reveal the first rape incident. She chose not to reveal the second rape incident, however, because, to her, her mother would not believe it anyway as she did not with respect to the first. Jocelyn, however, thereafter left their residence to live with her aunt but was later fetched by her mother after she advised her that appellant had gone.

With respect to the third incident, Jocelyn was again, as reflected above, overcome by appellant's threats and nursed the idea that no one would believe her.

To this Court, Jocelyn's delay in charging appellant does not infirm her credibility.

Appellant likewise posits that complainant was acting normally even in his company after the alleged rape incidents.[108] He cites the instances when he brought Jocelyn to school, when they celebrated his birthday in Banog's Nest, and when he taught her how to drive,[109] all of which run counter to the customary reaction of a victim of such offenses, more so of a minor.[110]

It is a settled doctrine in rape cases, however, that no standard form of behavior is expected, for the workings of a human mind when placed under emotional stress are unpredictable.[111]

Finally, appellant submits that the motivation to expose him apparently did not come from Jocelyn but from her mother who had a falling out with him.[112]

This Court has consistently ruled that it would be too high a price for parents to pay in exposing their daughter to public ridicule and indignity, coupled with the rigors of a public trial, just to vent ire on the accused.[113]

In fine, appellant's conviction is well-taken.

In imposing the death penalty, the trial court appreciated the following circumstances provided for in Republic Act 7659 (Death Penalty Law) which took effect on December 31, 1993:

x x x

- when the victim is under eighteen (18) years of age and the offender is a parent, ascendant, step-parent, guardian, relative by consanguinity or affinity within the third civil degree, or the common-law spouse of the parent of the victim.

x x x

- when committed by any member of the Armed Forces of the Philippines or the Philippine National Police or any law enforcement agency.

x x x (Emphasis supplied)

It should be recalled that the first incident occurred on May 15, 1993 before the effectivity of the Death Penalty Law. Consequently, appellant cannot be sentenced to death for it. As to the three other rape incidents which took place in 1996, the abovequoted provisions of the Death Penalty Law apply.

For the above-stated first circumstance to render appellant liable for rape in its qualified form, however, it is necessary that minority and relationship be established. In the case at bar, Jocelyn's minority was duly established since a certified copy of her birth certificate shows that she was born on May 8, 1980.[114] Appellant's relationship to her as stepfather, however, was not sufficiently proved. The prosecution failed to offer any marriage contract of appellant and Magdalena to establish that indeed Jocelyn is appellant's stepdaughter.[115] Thus, the first circumstance cannot be appreciated against appellant.

As to the above-stated sixth circumstance, it is undisputed that appellant was a member of the AFP, he being a member of the PAF during the rape incidents. With the enactment of the Republic Act 8353 (Anti-Rape Law), however, which took effect on October 22, 1997, said qualifying circumstance was amended as follows:

- When committed by any member of the Armed Forces of the Philippines or para-military units thereof or the Philippine National Police or any law enforcement agency or penal institution, when the offender took advantage of his position to facilitate the commission of the crime. (Emphasis supplied).

R.A. 8353 thus further requires that the offender should take advantage of his position to facilitate the commission of the offense. The presence of such element is, however, absent in the case at bar. Since said law is favorable to the offender and, therefore, should be given retroactive application, appellant cannot be convicted of rape in its qualified form.

As to the civil aspect of the case, the award by the trial court of civil indemnity of P50,000.00[116] and moral damages of P50,000.00[117] is maintained, appellant being liable for only simple rape.

Since it was established, albeit not alleged in the information, that during the May 15, 1993 rape, appellant used a kitchen knife, such use of a deadly weapon, an aggravating circumstance,[118] entitles Jocelyn to the award of exemplary damages.[119]

WHEREFORE, the Joint Decision dated October 27, 1998 of the Regional Trial Court, Branch 88, Cavite City, finding appellant Efren G. de Taza guilty of four counts of rape is **AFFIRMED** with **MODIFICATION**.

Appellant is hereby found guilty of simple rape on four counts and sentenced in each to 1) suffer the penalty of reclusion perpetua and 2) to pay complainant Jocelyn S. Fructuoso the amounts of P50,000.00 as civil indemnity and P50,000.00 as moral damages.

Appellant is further sentenced to pay Jocelyn S. Fructuoso in Criminal Case No. 249-97 P25,000.00 as exemplary damages.

Costs against appellant.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Vitug, Panganiban, Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, Corona, Callejo, Sr., and Tinga, JJ., concur.
Puno, and Azcuna, JJ., on official leave.

[1] Penned by Judge Christopher O. Lock (now Deputy Court Administrator).

[2] Exhibit "A."

[3] Exhibit "B."

[4] Exhibit "C."

[5] Exhibit "D."

[6] Transcript of Stenographic Notes (TSN), January 26, 1998 at 8; TSN, April 17, 1998 at 4-5.

[7] TSN, January 26, 1998 at 11; TSN, June 2, 1998 at 6-7; TSN, July 15, 1998 at 5.

[8] TSN, January 26, 1998 at 11; TSN, July 15, 1998 at 4.

[9] TSN, January 26, 1998 at 14.

[10] Id. at 16.

[11] Id. at 19.

[12] Id. at 30.

[13] Id. at 20.

[14] Id. at 21.

[15] Id. at 23.

[16] Id. at 24.

[17] Id. at 27.

[18] Id. at 17.

[19] Id. at 31.

[20] Id. at 32.

[21] Id. at 35.

- [22] Ibid.
- [23] Id. at 36.
- [24] Ibid.
- [25] Id. at 37-39.
- [26] Id. at 40.
- [27] Id. at 40-42.
- [28] Id. at 42.
- [29] TSN, March 18, 1998 at 6-8.
- [30] Id. at 8-9.
- [31] Id. at 14.
- [32] Id. at 17-18.
- [33] Id. at 18-19.
- [34] Id. at 19-20.
- [35] Exhibit "G."
- [36] TSN, March 18, 1998 at 22-23.
- [37] Id. at 23.
- [38] Id. at 24.
- [39] Id. at 26.
- [40] Id. at 27.
- [41] Id. at 29.
- [42] Id. at 31.
- [43] Id. at 32-34.
- [44] Id. at 34-35.
- [45] Id. at 35.
- [46] Id. at 37.
- [47] Id. at 38.
- [48] Id. at 38-39.
- [49] Id. at 40.
- [50] Ibid.
- [51] Id. at 41.
- [52] Id. at 42.

- [53] Id. at 42-43.
- [54] Id. at 43.
- [55] Id. at 43-44.
- [56] Id. at 44.
- [57] Id. at 44-45.
- [58] Ibid.
- [59] Id. at 45.
- [60] Ibid.
- [61] Id. at 46-47.
- [62] Id. at 47.
- [63] Id. at 49-50.
- [64] Id. at 50.
- [65] Id. at 51.
- [66] Id. at 51-52.
- [67] Id. at 52.
- [68] TSN, April 3, 1998 at 6.
- [69] Id. at 6-7.
- [70] Id. at 8.
- [71] Ibid.
- [72] Id. at 8-9.
- [73] Id. at 9-11.
- [74] Id. at 11.
- [75] Id. at 12.
- [76] Id. at 14.
- [77] Id. at 15.
- [78] Id. at 15-16.
- [79] Id. at 16-17.
- [80] Exhibit "F."
- [81] TSN, May 18, 1998 at 13.
- [82] TSN, July 15, 1998 at 5.
- [83] Id. at 7-8.

[84] TSN, July 20, 1998 at 11.

[85] Id. at 13.

[86] Exhibit "1."

[87] TSN, July 20, 1998 at 3.

[88] TSN, Jan. 26, 1988 at 25.

[89] TSN, April 3, 1998 at 13-14.

[90] Rollo at 49.

[91] Rollo at 45-a - 47.

[92] Id. at 229.

[93] Id. at 230.

[94] Ibid.

[95] TSN, April 30, 1998 at 25.

[96] Rollo at 230.

[97] TSN, January 26, 1998 at 16, 34-45.

[98] TSN, March 18, 1998 at 6-12.

[99] Id. at 24-36.

[100] Id. at 42-50.

[101] TSN, April 3, 1998 at 5-11.

[102] *People v. Villadares*, 354 SCRA 86 (2001).

[103] 353 SCRA 194 (2001).

[104] *People v. Libo-on*, 358 SCRA 152 (2001).

[105] Ibid.

[106] Ibid.

[107] *People v. Barrias*, 360 SCRA 150 (2001).

[108] Rollo at 232.

[109] Id. at 232-233.

[110] Id. at 232.

[111] *People v. Burgos*, 370 SCRA 325 (2001).

[112] Rollo at 233.

[113] *People v. Mirafuentes*, 349 SCRA 204 (2001).

[114] Exhibits "E" and "E-1."

[115] *People v. Alcoreza*, 366 SCRA 655 (2001).

[116] *People v. Ferrer*, G.R. No. 139695, August 26, 2002.

[117] *People v. Sitao*, G.R. No. 146790, August 22, 2002.

[118] The first rape was committed at the time when the imposition of the death penalty was prohibited and all death penalties imposed were reduced to reclusion perpetua pursuant to Article III Section 19 of the 1987 Constitution.

[119] *People v. Catubig*, 363 SCRA 621 (2001).

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