

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. REYNALDO VELASQUEZ Y OCAMPO, ACCUSED-APPELLANT.

G.R. Nos. 137383-84. November 23, 2000

Ponente: GONZAGA-REYES, J.

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GONZAGA-REYES, J.:

Before us is an appeal from the Decision[1] of the Regional Trial Court of xxx City, National Capital Judicial Region, Branch 275 (RTC) dated February 11, 1998 convicting Reynaldo Velasquez y Ocampo of two counts of rape.

The accused, Reynaldo Velasquez y Ocampo (VELASQUEZ) was charged with the crimes of rape and forcible abduction with rape in two informations which read as follows:

In Criminal Case No. 97-0035:

"That on or about the 1st day of January 1997, in the Municipality of xxx, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, by means of force, violence and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge with one AAA, who is 15 years of age, against her will and consent."

In Criminal Case No. 97-0036:

"That on or about the 1st day of January, 1997, in the Municipality of xxx, Metro Manila Philippines and within the jurisdiction of this Honorable Court, the above-named accused, did then and there, for the purpose of having carnal knowledge with AAA, a fifteen (15) year old minor, by the use of force and intimidation, willfully, unlawfully and feloniously, with lewd design forcibly abduct the said complainant and have sexual intercourse with her, without her consent and against her will and consent."

On February 20, 1997, VELASQUEZ was arraigned and with assistance of counsel entered a plea of not guilty to both crimes charged.[2] Thereafter, joint trial ensued.

The prosecution through the Office of the Solicitor General posits the following version of the facts as testified to by the main prosecution witnesses, AAA:

"AAA, born on September 11, 1981, resides at xxx.

On January 1, 1997, around 6:00 in the morning, while walking home in xxx, AAA was approached by Reynaldo Velasquez, who asked her where she was going.

At that point, AAA saw Reynaldo carry a gun. The latter then poked the gun at the right ribs of AAA and thereafter held her arms.

Reynaldo called a taxi on which the two boarded. The taxi went towards xxx. They then proceeded to xxx, where Reynaldo's grandmother's house is located. AAA was unable to say anything or shout inside the taxi, out of fear.

Inside the house, Reynaldo talked to AAA and told her that she could not do anything. AAA however warned Reynaldo that he would be jailed. Reynaldo instead answered that it would never happen and that he would not let her go home.

AAA then stood up but Reynaldo pulled her dress and forced her to sit down. Reynaldo warned AAA that if she attempted to move, he would then harm her and kill her.

Reynaldo started to pull down AAA and made her lie on the floor. He removed her underwear, including her panty. AAA at this point could not move because Reynaldo pointed the gun at her.

Reynaldo covered the face of AAA with the use of a pillow and then sexually molested her. AAA felt pain when Reynaldo inserted his penis inside her vagina while making a pumping movement. This happened at around 8:00 in the morning of the same day.

After the sexual molestation, AAA was ordered to dress up. She was told not to make any move while Reynaldo took his breakfast.

While Reynaldo was taking his meal, AAA pleaded to his uncle who was inside the house and drunk that she was not related to Reynaldo and she must go home. Unfortunately, said uncle could not understand her.

Reynaldo suddenly stood up and threatened AAA not to tell anybody what happened. He asked AAA to simply do what he wanted, to fix herself and to comb her hair.

While combing her hair, AAA saw a small screwdriver on the table. She hid said object in her pocket.

AAA and Reynaldo stayed at the second floor of the house of the latter's grandmother until late in the morning.

Around 11:00 in the morning, AAA told Reynaldo that she wanted to go home. They then went downstairs and proceeded inside a room. Reynaldo asked AAA to lie down. Again, Reynaldo sexually assaulted his victim, and inserted his penis inside AAA's vagina.

While Reynaldo was sexually molesting AAA, the latter pulled out the screwdriver and stabbed him on the neck. This retaliatory move of AAA angered Reynaldo who then held her hands and boxed her.

AAA became very frightened. She seated herself in a corner, fearing that Reynaldo might hit her again.

At this moment, Reynaldo's grandmother, probably noticing the commotion, shouted at the two. AAA then begged Reynaldo to allow her to go home.

AAA and Reynaldo went out of the room at around 5:00 in the afternoon of the same date. They sat at the front of the house. AAA continuously begged Reynaldo to allow her to go home, but the latter still refused to do so. Thereafter, Reynaldo bought a softdrink.

At this point, AAA walked away from the house, going towards the squatter's area thereat. Reynaldo followed her and shouted at her.

After overtaking AAA, Reynaldo pulled the latter's clothes and boxed her again. They then went back to the house. AAA could not resist her aggressor who was continuously hurting her.

Inside the house, Reynaldo, while holding the gun, told AAA that he would like to kill a person. AAA, however, discovered that said weapon was merely a short toy pellet gun.

AAA continued to plea to Reynaldo and asked him if she could call her parents. Reynaldo refused, fearing that AAA might tell her parents what had happened.

AAA, however, was able to convince Reynaldo that she had previously called her parents informing them that she was at a friend's house, and that she would again call her parents just to tell them that she would soon be

home.

Reynaldo believed AAA and went inside his grandmother's room to get money for the phone call.

Once her sexual predator was inside the room, AAA immediately ran towards a neighbor's house. She saw a man and told him what Reynaldo did to her. She then begged for help.

The man called BB, a barangay tanod of xxx. Castro sought the assistance of his companions and proceeded to the place.

When Castro's group arrived in the area, the people thereat informed them that there was a woman hiding under the table in one of the houses. They then brought said woman (AAA) to the barangay headquarters.

AAA informed the tanods that Reynaldo had sexually molested her, and that the latter's gun was merely a toy.

The tanods went back to the place and looked for Reynaldo. At first, the latter's grandmother denied the presence of her grandson. However, after being convinced that it would instead help Reynaldo if he surrenders, the latter voluntarily surrendered to the barangay tanods.

On January 2, 1997, at around 1:30 in the afternoon, Dr. Alvin David, a Medico-Legal Officer II of the National Bureau of (Investigation), examined AAA and found a healed laceration in the hymen of the victim."^[3]

On the other hand, VELASQUEZ vehemently denies that he raped AAA and alleges his own version of the events which transpired as testified to by the defense witnesses as follows:

"Accused REYNALDO VELASQUEZ testified that on January 1, 1997, he met AAA xxx. AAA asked him where he will go. When told that he is going to his lola, AAA asked if she could go with him. They took 4 rides. First, they boarded a jeep, then a bus then another jeep, and last, a tricycle. When they arrived at the house of his lola in xxx, his lola and uncle Tony were there. He and AAA ate breakfast while his uncle entertained them. After breakfast, they went outside the house and talked with the neighbors until 3:00 o'clock p.m., afterwhich, they went back to the house. At around past 10:00 o'clock in the evening, AAA asked if she can call her mother. She also told him that they have to go home. He then asked money from his lola. When they were about to board a tricycle, he told AAA to wait for a while because he forgot to bring his toy gun. When he went outside after taking the gun, however, AAA was already gone.

Marilyn Puntay testified that she rents a room on the ground floor of the house of accused' grandmother. In the morning of January 1, 1997, she saw accused and AAA alighting from a tricycle. She also saw the two ate breakfast while Tony entertained them. She also saw AAA and accused entered a vacant room adjacent to hers. Only plywood and cartoons divide the rooms. She heard the two talking and at times laughing aloud. The door of the room occupied by the two was closed, however, it is not locked.

On cross-examination, she said she saw accused and AAA alighted from a tricycle and not from a taxi."^[4]

On February 11, 1998, the RTC rendered its decision finding the accused VELASQUEZ guilty beyond reasonable doubt of two counts of rape; the dispositive portion of the decision reads as follows:

"WHEREFORE, the Court finds the accused REYNALDO VELASQUEZ y OCAMPO GUILTY beyond reasonable doubt of two counts of Rape as charged in Criminal Cases Nos. 97-0035 and 97-0036. Accordingly, the accused is sentenced to suffer the penalty of RECLUSION PERPETUA for each case.

The accused is ordered to pay the victim AAA Campomanes the amount of ONE HUNDRED THOUSAND PESOS (P100,000) as civil indemnity.

SO ORDERED."^[5]

Hence this appeal where VELASQUEZ ascribes the following errors to the trial court:

I

THE TRIAL COURT ERRED IN GIVING FULL FAITH AND CREDENCE TO THE TESTIMONY OF PRIVATE COMPLAINANT WHICH IS NOT EVEN SUPPORTED BY THE RESULT OF HER MEDICAL EXAMINATION.

II

THE TRIAL COURT ERRED IN FINDING ACCUSED GUILTY BEYOND REASONABLE DOUBT OF TWO (2) COUNTS OF RAPE.[6]

In support of his appeal, VELASQUEZ attacks the credibility of the victim, AAA, and claims that her testimony is not worthy of belief for being inconsistent and contrary to human nature and experience. VELASQUEZ points out several allegations made by AAA in her testimony which taint her credibility. First, AAA stated that she was boxed twice by VELASQUEZ yet no evidence was presented to show that AAA suffered any bruise, contusion or injury as a result therefrom. Second, AAA contradicted herself when she claimed that VELASQUEZ's uncle did not understand her when she told him that VELASQUEZ raped her as he was apparently drunk yet on cross-examination she stated that the latter just laughed and said that she and VELASQUEZ were already a couple. Third, it is unbelievable that AAA did not have any opportunity to shout or cry for help considering that she had all the opportunity to do so when she allegedly stabbed VELASQUEZ on the neck with a screwdriver. Had she shouted, she would have caught the attention of other people inside the house. Her failure to do so is precisely why VELASQUEZ's uncle laughed and did not believe her claim that she was raped since she was not acting in a manner, which was reflective of the truth. Finally, defense witness Marilyn Puntay's testimony to the effect that she saw AAA and VELASQUEZ alight from a tricycle corroborates VELASQUEZ's testimony that AAA voluntarily accompanied him to his grandmother's house and contradicts AAA's claim that she was forced into a taxi. Given the weakness of her testimony, it is VELASQUEZ's position that the only conclusion that can be drawn is that the charges against him were fabricated. He should consequently be acquitted of the crimes charged.

After a careful review of the case, we resolve to affirm the judgment of conviction.

VELASQUEZ's defense consists only of a denial of AAA's accusation against him. He claims that he did not forcibly take AAA to his grandmother's house in Las Piñas but that she voluntarily accompanied him there. He also denies that he sexually assaulted and raped her.

VELASQUEZ's denial and his attempt at discrediting the testimony of the complainant, AAA, do not persuade us.

Time and again this Court has ruled that the findings of the trial court on the credibility of witnesses and their testimonies are accorded great respect unless the court a quo overlooked substantial facts and circumstances, which if considered, would materially affect the result of the case.[7] The evaluation or assessment made by the trial court acquires greater significance in rape cases because from the nature of the offense the only evidence that can oftentimes be offered to establish the guilt of the accused is the complainant's testimony.[8]

After a careful review of AAA's testimony, we find no cogent and legal basis to disturb the trial court's finding upholding the credibility of the complainant AAA who remained steadfast on her assertions and unfaltering in her testimony on the unfortunate incident. In her testimony, AAA positively identified the accused VELASQUEZ as her assailant and narrated the manner by which she was abducted and twice raped by VELASQUEZ as follows

"PROS. MANGROBANG:

Q:

Madam Witness, at about six o'clock in the morning of January 1, 1997, do you remember where were you?

A:

Yes, I was at xxx, sir.

Q:

Where is this xxx located?

A:

xxx.

Q:

What were you doing then?

A:

I was about to go home, sir.

Q:

When you were about to go home during that particular date and time, do you remember of any unusual incident?

A:

Yes, sir.

Q:

What was the usual incident?

A:

That person called me. He is Reynaldo Velasquez. He approached me and called my name.

Q:

After approaching you, what did he tell you?

A:

He asked where I was going.

Q:

After asking where you were going, what happened next, if any?

A:

I saw his toy gun. At that time I did not know that it was a toy gun. I only came to know later that it was a toy gun.

Q:

What did he do with the toy gun?

A:

He poked the gun at me. Here at my right rib and he held my arms.

Q:

After Reynaldo Velasquez poked his gun at you and he held your arms, what did he do next?

A:

He called for a taxi and then we boarded the taxi.

Q:

After you were brought inside the taxi, where did you go, if any?

A:

We proceeded to the direction of Alabang. I am not familiar with that place.

Q:

By the way, what did you do when you were brought inside the taxi?

A:

I could not do anything because I was afraid. I could not shout because I was afraid.

Q:

What happened next after you and Reynaldo Velasquez boarded the taxi?

A:

We proceeded to his lola's residence.

Q:

Do you know where is this located?

A:

I do not know the place, sir. Somewhere at xxx.

Q:

Is this a subdivision?

A:

Yes, xxx, sir.

Q:

Here in xxx?

A:

Yes, sir.

Q:

After you were brought by Reynaldo Velasquez to the house of his grandmother at xxx, what happened next?

A: I was inside the house and he was talking with me.

Q:

What did he tell you inside the house?

A:

He told me that I could not do anything if he would force me.

Q:

What was your reaction?

A:

I just cried and told him "you will be imprisoned", but he told me he will not be jailed.

Q:

What else happened after that?

A:

According to him he will not allow me to go home.

Q:

After he did not allow you to go home, what did you do next?

A:

I was frightened and I stood up.

Q:

Were there other persons inside the house at that very moment?

A:

His uncle, sir. I noticed that he was drunk and he was not aware of what was happening.

Q:

What else happened after that?

A:

I stood up but he pulled my dress and I was made to sit down. Then, he told me, if I am going to leave the house, he would harm me.

Q:

What did you do when he threatened to harm you if you leave the house?

A:

He told me I will not be able to go home alive. So I just stayed because I was afraid.

Q:

What did he do next, if any?

A:

He pulled me and then made me lie on the floor, sir.

Q:

After he made you lie on the floor, what did he do next?

A:

He removed my underwear including my panty, sir.

Q:

How about you, what did you do when he removed your panty?

A

I could not move because I was afraid he might fire the gun that he pointed at me.

Q:

What did you do when he removed your panty?

A:

He covered my face with a pillow, sir.

Q:

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

A:

I felt pain, sir.

Q:

What did the accused do after he inserted his penis inside your vagina?

A:

He made an up and down movements, sir. (Witness is crying)

Q:

What happened after that?

A:

I dressed up and he told me not to move.

Q:

What did you do when he told you not to move?

A:

I remained seated and then he took his breakfast.

Q:

By the way, you said a while ago that his uncle was present and appeared to be drunk, where was his uncle then when the accused inserted his penis inside your vagina?

A:

He was lying in the living room, sir. There was a curtain in between the place where we were and the living room where the uncle was. So, he was not able to see us.

Q:

And what did you do when this person was having a breakfast?

A:

I was pleading to his uncle. I told him he is not my relative and he should allow me now to go home. He did not understand me.

Q:

When did you first meet the accused?

A:

In a party sir.

Q:

When was that?

A:

I do not remember, sir.

Q:

In other words, that incident of January 1 was the second time you met and saw the accused?

A:

Yes, sir.

Q:

After you pleaded to the accused that you be allowed to go home, do you remember what happened next?

A:

I was pleading to the uncle but he could not understand. Then he suddenly stood up and I was told not to tell anything to anybody.

Q:

Who told you that?

A:

Reynaldo Velasquez, sir.

Q:

After Reynaldo Velasquez asked you to just stay and say yes to all what he is going to say to you, what did you do next, if any?

A:

He told me to fix my self and he would bring me home.

Q:

What did you do after telling you to fix yourself and bring you home

A:

I fixed myself and my hair and after placing the comb to (sic) the table near the mirror, I saw a screw driver which is just small and I hide it in my pocket.

Q:

Do you remember what time did this person sexually abused you?

A:

8 o'clock in the morning, sir.

Q:

Until what time did you stay at the said house if you remember?

A:

About 7 in the evening, sir.

Q:

So, you stayed in that house from 8 a.m. to 7 p.m.?

A:

We stayed upstairs up to noontime. I think about 11:00. After I told him that we would go home, we went downstairs. He told me to stay there for a while and then bring me home.

Q:

When you went downstairs, was there anything unusual that happened?

A:

There was, sir.

Q:

What was that?

A:

He used me again.

Q:

When you say "ginamit niya ako muli", what do you mean?

A:

He inserted his penis again into my vagina, sir.

Q:

How did he do that? How did he insert his penis into your vagina?

A:

He made me lie down and inserted his penis into my vagina and as he was in the act of doing the up and down movements on top of my body, I slowly got the screw driver from my pocket and I stabbed his neck. I stabbed him on the neck with the screw driver.

Q:

What did Reynaldo Velasquez do after you stabbed him on the neck?

A:

He held my hands and boxed me, sir.

Q:

What happened next after he boxed you?

A:

I just seated myself down because I was afraid he may box me again. Then his grandmother was shouting at us. I asked him to allow me to go home. So, we went out of the room.

Q:

What time was that when you and Reynaldo Velasquez went out of the room?

A:

About 5 o'clock in the evening, sir.

Q:

And after you went outside the room, what did you do next, if any?

A:

We stayed in front of the house of his grandmother. We did not go home. Then he bought coke.

Q:

After Reynaldo Velasquez bought a coke, what happened?

A:

I was sitting, pleading to him that he would bring me home but he did not agree, sir.

Q:

What did you do next after he refused you to go home?

A:

I just walked towards outside the squatter's area, he followed and shouted at me, sir.

Q:

What did he do to you after shouting at you?

A:

He pulled me and boxed me again.

Q:

What else happened after that?

A:

We returned to the house of his lola because he was hurting me.

Q:

After bringing you back to the house where he sexually abused you, what happened next?

A:

He told me that he wanted to kill a person.

Q:

You said a while ago that Reynaldo poked a gun at you will you describe what kind of gun is this?

A:

I came to know later that it is just a pellet gun, sir.

Q:

Is this a long firearm, or a short firearm?

A:

Short, sir.

Q:

You said you stayed in the house of Reynaldo's lola until 7 o'clock in the evening, what happened after 7 o'clock?

A:

I told him that we have to look for a pay phone outside.

Q:

Did he allow you to look for a pay phone?

A:

No, he did not allow me. He told me, I might be telling my parents something against him.

Q:

What happened when he did not allow you to call your parents at home?

A:

I just fabricated a story that I have already called up my parents at home and that I told my parents that I am in the house of a friend and will be coming back home.

Q:

After you made such story, did Reynaldo allow you to go home?

A:

Yes, he got money (barya) from the room of his lola. He went alone inside because I would not enter the room of his lola.

Q:

Where did you call?

A:

I was not able to call up through the phone. While in the room of his lola getting money, I ran away towards their neighbors.

Q:

What happened next after you ran towards their neighbors?

A:

I saw a man who asked me what happened and I told him what Reynaldo did to me. So, that man told me to report the matter to the barangay. I asked his help and he called the Barangay Tanod.

Q:

Do you know the name of this person who called the barangay tanod?

A:

I do not know because he is just a neighbor of the lola of Reynaldo?

Q:

What happened after the neighbor of the lola of Reynaldo called the barangay tanod?

A:

A barangay tanod accompanied me to their headquarters in the barangay sir.

Q:

How about Reynaldo, what happened to him?

A:

The barangay tanods told me that they will look for him and I told them that he has a gun with pellets. I told them that the gun is not really a gun but a toy gun so that they will not hesitate to apprehend him, sir.

Q:

What did the barangay tanods do to the person of Reynaldo Velasquez, if you know?

A:

They jailed him and then my mother fetched me.

Q:

If you see this Reynaldo Velasquez again, would you be able to recognize him?

A:

Yes, sir.

Q:

Will you please look around the courtroom and see if he is around?

A:

Yes, that person sitting there. (Witness pointing to a person who identified himself as Reynaldo Velasquez upon being asked by the official interpreter of the Court, Ms. Nene Javier),"[9]

The mere fact that AAA did not attempt to escape when the opportunity presented itself should not be construed as a manifestation of consent and does not necessarily negate her charge of rape or taint her credibility considering that VELASQUEZ employed force and intimidation in the sexual assault. AAA attempted to resist by pushing her legs together to prevent VELASQUEZ from consummating his lustful advances.[10] Unfortunately, her attempts proved futile as his strength eventually overpowered hers.

What further bolsters AAA's credibility is the fact that she immediately reported the commission of the rape as soon as Estifanio Castro rescued her. A complainant's act in immediately reporting the commission of rape has been considered by this Court as a factor in strengthening her credibility[11] and we find such ruling in point given the circumstances surrounding the assault against AAA.

Moreover, VELASQUEZ has not alleged any improper motive on the part of AAA to falsely impute such a terrible crime to him. Neither is there any evidence of such improper motive. In the absence of such motive, it is presumed that no such motive exists. The testimony of a rape victim has oft been held as credible where, as in this case, she has no strong ulterior motive to testify against the accused.[12] The trial court thus correctly ruled as follows:

"Guided by these principles, the Court has to carefully examine the testimony of the private complainant AAA. She was put in the witness stand for three times, during direct examination, cross-examination and in rebuttal. In all these three occasions, the Court was able to observe the demeanor of AAA. She appears to be credible in the witness stand and her testimony is not only spontaneous but is credible enough to withstand doubt and malice or ulterior motives against the accused. The story narrated by AAA deserves credence as the same appears logical and in consonance with human experience."[13]

VELASQUEZ's claim that AAA's testimony is contradicted by the findings of the medical report[14] as testified to by Dr. Alvin David, who stated that based on his examination, he discovered a healed laceration which was about four months old and that he did not find any fresh lacerations when he examined AAA the day following the commission of the alleged rape is also unconvincing. The absence of hymenal lacerations does not disprove sexual abuse.[15] To support a conviction for rape, the court may rely solely on the testimony of the victim provided such testimony is credible, natural, convincing and consistent with human nature and the normal course of things. By its very nature, rape is committed with the least possibility of being seen by the public.[16] In the present case, AAA's testimony, stating in detail the circumstances surrounding the occurrence of the two rape

incidents, is controverted only by the denial of the accused. Besides, Dr. David testified that it was possible that AAA did not sustain any new lacerations even if she was raped the day before his examination.[17]

In sentencing VELASQUEZ, the trial court overlooked the fact that he was charged with simple rape in Criminal Case No. 97-0035 and forcible abduction with rape in Criminal Case No. 97-0036 and erroneously convicted VELASQUEZ of two counts of simple rape only. Considering that the prosecution was able to prove beyond reasonable doubt that VELASQUEZ forcibly abducted AAA and then raped her twice, he should be convicted of the complex crime of forcible abduction with rape and simple rape. The penalty for complex crimes is the penalty for the most serious crime which shall be imposed in its maximum period.[18] Rape is the more serious of the two crimes and is punishable with reclusion perpetua under Article 335 of the Revised Penal Code and since reclusion perpetua is a single indivisible penalty, it shall be imposed as it is.[19] The subsequent rape committed by VELASQUEZ can no longer be considered as a separate complex crime of forcible abduction with rape but only as a separate act of rape punishable by reclusion perpetua.[20]

Finally, VELASQUEZ is further ordered to pay AAA P50,000.00 as moral damages and P50,000.00 as civil indemnity for each count of rape in accordance with prevailing jurisprudence.[21]

WHEREFORE, the judgment of conviction of the Regional Trial Court is AFFIRMED with the MODIFICATION that the accused-appellant Reynaldo Velasquez y Ocampo is found guilty beyond reasonable doubt of the crimes of Simple Rape in Criminal Case No. 97-0035 and Forcible Abduction with Rape in Criminal Case No. 97-0036. He is hereby sentenced to suffer two counts of reclusion perpetua in each case, and to pay the victim, AAA, P50,000.00 as moral damages and P50,000.00 as civil indemnity for each count of rape. SO ORDERED.

Melo, (Chairman), Vitug, and Panganiban, JJ., concur.

[1] Penned by Judge Alfredo R. Enriquez.

[2] Record, 27.

[3] Appellee's Brief, 3-9; Rollo, 85-91.

[4] Appellant's Brief, 6-8; Rollo, 52-54.

[5] Decision, 8; Rollo, 25.

[6] Appellant's Brief, 8; Rollo, 54.

[7] People vs. Cheng Ho Chua, 305 SCRA 28, 36 [1999].

[8] People vs. Alitagtag, 309 SCRA 325, 335 [1999].

[9] TSN, April 10, 1997, pp. 2-6.

[10] People vs. Tayaban, 296 SCRA 497, 506 [1998].

[11] People vs. Perez, 296 SCRA 17, 28 [1998].

[12] People vs. Escala, 292 SCRA 48, 59 [1998].

[13] Decision, 6; Rollo, 23.

[14] "GENERAL PHYSICAL EXAMINATION:

Height: 153.0 cms. Weight: 86.5 lbs.

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

Breasts, developed, hemispherical, doughy. Areolae, light brown, 2.6 cms in diameter. Nipples, light brown, protruding, 0.8 cm in diameter.

No extragenital physical injury noted.

GENITAL EXMINATION:

Pubic hair, fully grown, abundant. Labia majora and minora, coaptated. Fourchette, lax. Vestibular mucosa, pinkish. Hymen, tall, thick, with an old healed complete laceration at 6:00 o'clock position corresponding to the face of a watch, edges rounded, non-coaptable. Hymenal orifice admits a tube 2.5 cms in diameter. Vaginal walls, lax. Rugosities, shallow.

CONCLUSIONS:

1. No evident sign of extagenital physical injury were noted on the body of the subject at the time of examination.
2. Old-healed hymenal laceration, present."

[15] People vs. Ayo, 305 SCRA 543, 549 [1999].

[16] People vs. Medina, 300 SCRA 98, 106-107 [1998].

[17] TSN, July 31, 1997, 4-5.

[18] Article 48, Revised Penal Code.

[19] People vs. Bacaslo, 210 SCRA 206, 214 [1992].

[20] People vs. Fortich, 281 SCRA 600, 622-623 [1997]; People vs. Julian, 270 SCRA 733, 754-755 [1997].

[21] People vs. Lomibao, G.R. No. 135855, August 3, 2000, p. 18.

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