

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. JOSE SANTOS Y RUIZ, APPELLANT.

G.R. Nos. 137828-33. March 23, 2004

Ponente: SANDOVAL-GUTIERREZ, J.

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SANDOVAL-GUTIERREZ, J.:

For automatic review is the Decision[1] dated November 27, 1998 of the Regional Trial Court, Branch 78, Malolos, Bulacan in Criminal Cases Nos. 1267-M-97 to 1272-M-97 convicting Jose Santos y Ruiz, appellant, of six (6) counts of rape and sentencing him to suffer the supreme penalty of death in each count and to pay P50,000.00 as moral damages.

The Information in Criminal Case No. 1267-M-97 charges appellant as follows:

“That sometime in the year 1996, in the municipality of Balagtas, province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, and with the use of force, violence and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of the said Vanessa Bancefra y Reyes, 13 years of age, against her will.

“CONTRARY to law.”[2]

The other five (5) Informations in Criminal Cases Nos. 1268-M-97 to 1272-M-97 read:

“That sometime in the year 1997, in the municipality of Balagtas, province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, and with the use of force, violence and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of the said Vanessa Bancefra y Reyes, 13 years of age, against her will.

“CONTRARY to law.”[3]

Upon arraignment on September 26, 1997, appellant, assisted by counsel, pleaded not guilty to the crimes charged. Trial ensued thereafter.

The evidence for the prosecution shows that complainant Vanessa Bancefra, thirteen (13) years old, is the daughter of spouses Ronnie Bancefra and Cristina Santos. After the disappearance and long absence of Vanessa’s father, her mother, on September 15, 1990, cohabited with appellant. Sometime in 1992, Vanessa and her three (3) siblings lived with their mother and appellant at First Avenue, Caloocan City. After two (2) years, or in 1994, they transferred to Longos, Balagtas, Bulacan. On June 28, 1996, Cristina and appellant were married.

Sometime in 1996, at about 8:00 o’clock in the evening, appellant, Vanessa and her mother Cristina were at home in Longos, Balagtas, Bulacan. Appellant, then sitting on the stairs of their house, instructed his wife Cristina to buy food in the market. While Vanessa was watching television, appellant suddenly entered the house and sat beside her. Frightened, she moved away but he came closer and placed his arm on her shoulder which she removed abruptly. At that instance, he lighted a cigarette and went out of the house. When he returned, he closed

the front door and ordered her to lie down. She refused, hence, he pushed her to the sofa. She resisted by kicking him but to no avail. He undressed her. Then he also removed his shorts and brief and placed himself on top of her. While holding her arms, he inserted his penis inside her vagina and made push and pull movements which caused her pain. After about half a minute, he stopped then resumed his bestial acts. After ravishing her, appellant put on his clothes and ordered her to wear her panty and shorts. She cried and noticed some blood on her vagina. She told him that she will “report the incident.” However, he threatened to kill her and her family. Meanwhile, at about 8:30 o’clock in the evening, her mother arrived from the market. Vanessa did not report the incident to her mother because of appellant’s threat.

Sometime in 1997, while Vanessa’s mother was in the market and her brother Samuel was in their neighbor’s house, appellant sexually abused her for the second time. She was watching television when he forced her to lie down. Again she refused but he pushed her to the sofa and undressed her. After removing his clothes, he went on top of her and inserted his penis into her vagina, making push and pull movements. After having carnal knowledge of her, he threatened to kill her should she inform anybody about it. She cried while dressing up and kept the incident to herself.

Also in 1997, appellant sexually ravished Vanessa for the third time. That evening, her brother and her mother were away. She was then cooking while appellant was watching television. He called her but she ignored him. He then grabbed her hands and pulled her to the sofa. Again, against her will and consent, he undressed her, placed himself on top of her and inserted his penis inside her vagina, making push and pull movements. At that instance, she felt pain. After sexually abusing her, appellant smoked a cigarette and threatened to kill her if she reports the incident to anyone. All she could do was to cry.

For the fourth time, appellant had carnal knowledge of Vanessa, also in 1997. That evening, she was alone, reading a book and watching television. Appellant approached her, held her hands and dragged her to the sofa. He then ordered her to lie down and forcibly undress her. He also removed his clothes and placed himself on top of her. As in the past, she felt pain when he inserted his penis inside her vagina. She resisted by pushing him away. Still he succeeded in sexually abusing her. Once more, he threatened her.

For the fifth time and sixth times, also in 1997, appellant sexually ravished Vanessa through force and violence. He made similar threats should she report the incidents to anyone.

On June 23, 1997, when appellant was not at home, Vanessa mustered enough courage to reveal to her mother that he sexually abused her several times. This was prompted by the revelation of her youngest sister Hannah that appellant also sexually molested her by inserting his finger in her vagina.

Immediately, Cristina accompanied Vanessa to the Balagtas Police Station to report the incidents and to the PNP Crime Laboratory at Camp Olivas, PNP, San Fernando, Pampanga for her physical examination. Dr. Edgardo O. Gueco, who examined her, issued a Medico-Legal Report[4] with the following findings:

“GENITAL:

PUBIC HAIR: Absent

LABIA MAJORA: Full, convex and coaptated

LABIA MINORA: Light brown and slightly

hypertrophied

EXTERNAL VAGINAL ORIFICE: Offers strong resistance to the introduction of the examining little finger.

VAGINAL CANAL: Narrow with prominent vaginal folds.

CERVIX: Normal

PERI-URETHRAL AND VAGINAL SMEARS:

Negative for the presence of spermatozoa.

REMARKS: Subject is in non-virgin state physically.”

Dr. Gueco confirmed on the witness stand that “the lacerations in Vanessa’s hymen were deep, healed at 6 and 11 o’clock positions[5] and shallow, healed at 4 and 7 o’clock positions.”[6]

The defense raised the defenses of alibi and denial. He testified that he worked in the Philippine Refining Company, Paco, Manila. He reported early in the morning and went home late in the evening. Hence, he could not have raped Vanessa on the dates she mentioned.

On November 27, 1998, the trial court rendered a Decision, the dispositive portion of which reads:

“WHEREFORE, in view of the foregoing, the Court hereby finds accused JOSE SANTOS GUILTY beyond reasonable doubt of six (6) counts of Rape defined and penalized under Article 335 of the Revised Penal Code, as amended by Republic Act No. 7659, and hereby sentences him to suffer six (6) DEATH penalties (one for each count) and to pay private complainant Vanessa Bancefra the amount of Fifty Thousand (P50,000.00) as moral damages.

“SO ORDERED.”[7]

Hence, this automatic review.

Appellant, in his brief, ascribes to the trial court the following errors:

“A

“THE COURT A QUO ERRED IN FINDING AND CONSEQUENTLY CONCLUDING THAT THE ACCUSED IS THE STEPFATHER OF THE PRIVATE COMPLAINANT.

“B

“THE COURT A QUO ERRED IN ACCORDING FULL CREDENCE AND WEIGHT TO PRIVATE COMPLAINANT’S VERSION OF THE RAPE INCIDENTS.

“C

“THE COURT A QUO ERRED IN TOTALLY DISREGARDING THE UNDISPUTED FACT THAT ON ACCOUNT OF ACCUSED’ WORK AS A CARPENTER IN THE PHILIPPINE REFINING COMPANY AT PACO, MANILA, HE LEAVES HOME EARLY IN THE MORNING AND COMES BACK HOME LATE IN THE EVENING.

“D

“THE COURT A QUO ERRED IN FINDING THE ACCUSED GUILTY BEYOND REASONABLE DOUBT OF THE FELONY OF RAPE ON SIX (6) COUNTS.

“E

“THE COURT A QUO ERRED IN IMPOSING ON ACCUSED SIX (6) PENALTIES OF DEATH DESPITE THE INSUFFICIENCY THEREFOR OF THE EVIDENCE.”

As alleged in the Informations, the crimes charged were committed sometime in 1996 and 1997. Thus, the law applicable to the cases at bar is Article 335 the Revised Penal Code, as amended by Republic Act No. 7659,[8] which provides:

“Article 335. When and how rape is committed. — Rape is committed by having carnal knowledge of a woman under any of the following circumstances:

- By using force or intimidation;
- When the woman is deprived of reason or otherwise unconscious; and
- When the woman is under twelve years of age or is demented.

The crime of rape shall be punished by reclusion perpetua.

x x x

x x x

x x x

The death penalty shall also be imposed if the crime of rape is committed with any of the following attendant circumstances:

- 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

X X X

X X X."

Rape under the above provisions is either simple or qualified. It is qualified when the age of the victim (below 18) and her relationship with the appellant are both alleged in the Information and proved.[9]

Here, the prosecution did not allege in the six (6) Informations the qualifying circumstance that appellant is the victim's step-parent. Also, while the Informations allege that the victim was 13 years old when she was sexually abused by appellant, however, the prosecution failed to prove such minority. Thus, appellant may only be charged of simple rape.

Simple rape is committed under any of the following circumstances:

- By using force or intimidation;
- When the woman is deprived of reason or otherwise unconscious; and
- When the woman is under twelve years of age (statutory rape) or is demented.

In reviewing rape cases, we are guided by the following principles: (1) to accuse someone of rape is easy, but to disprove it is difficult though the accused may be innocent; (2) considering that in the nature of things, only two persons are usually involved in the crime of rape, the testimony of the complainant should be scrutinized with great caution; and (3) the evidence for the prosecution must stand or fall on its own merit and not be allowed to draw strength from the weakness of the evidence for the defense. Corollarily to these is the dictum that where a victim of rape says that she has been defiled, she says in effect all that is necessary to show that rape has been inflicted on her, and so long as her testimony meets the test of credibility, the accused may be convicted on the basis thereof.[10] In the light of these principles, we examined the testimony of the victim and found no reason to overturn the trial court's assessment of her credibility.

An extract from Vanessa's testimony, quoted hereunder, indubitably shows that appellant, in all six (6) instances, had carnal knowledge of her by using force and intimidation, thus:

For G.R. No. 137828:

"X X X

X X X

X X X

Q.

Why did you lodge a complaint against your stepfather?

A.

Because he raped me, sir.

Q.

How many times did he rape you?

A.

Six times, sir.

Q.

When was the first time it took place?

A.

In the year of 1996, sir.

x x x

x x x

x x x

Q.

Where were you when the first sexual abuse was committed by your stepfather?

A.

I was in our house.

Q.

And where is your house located at that time?

A.

At Balagtas, Bulacan.

Q.

What time was that when the first sexual abuse was committed by your stepfather?

X X X

X X X

X X X

A.

In the evening, sir.

Q.

Who was your companion at that time, if any?

A.

Only Jose Santos, sir.

X X X

X X X

X X X

COURT:

Q.

What happened next?

A.

He sat beside me, your Honor.

Q.

When Jose Santos sat beside you, what did you do if you did any?

A.

I moved a little, your Honor.

Q.

Why

A.

Dahil ginigitgit po nya ako.

FISCAL:

Q.

Now, when you moved a little away from him what did he do if he did any?

A.

He still sat beside me, sir.

Q.

What about you what did you do?

A.

I stayed in that position, sir.

Q.

So you did not move anymore?

A.

Yes, sir.

Q.

What happened next?

x x x

x x x

x x x

A.

He told me to lie down, sir.

Q.

Did you accede, Madam witness?

A.

No, I did not.

Q.

And what did Jose Santos do when you did not accede to his request?

A.

He pushed me, sir.

Q.

What happened to you?

A.

I fell lying down on the sofa.

x x x

x x x

x x x

Q.

What happened next after you fell down on the sofa?

A.

He removed my shorts, sir.

Q.

Did you not try to resist when your stepfather was removing your short pants?

A.

I tried.

Q.

How did you resist?

A.

I kicked him.

Q.

What happened next?

A.

He removed my panty.

x x x

x x x

x x x

Q.

What about your upper apparel?

A.

He rolled it up.

Q.

And after that what did he do?

A.

He lied on top of me.

Q.

Before he lied on top of you, did he say something, madam witness?

A.

Yes, sir.

Q.

What did he utter before he lied on top of you?

A.

Not to tell to anybody.

Q.

What else did he utter?

A.

He will kill all of us.

X X X

X X X

X X X

Q.

When Jose Santos lied on top of you, what was the first thing he did?

X X X

X X X

X X X

A. He held my two hands.

X X X

X X X

X X X

Q.

While the accused was holding your both hands, what else did he do?

A.

He inserted his penis to my vagina.

Q.

And what did you feel when he inserted his penis to your vagina?

A.

Pain, sir.

Q.

When he inserted his penis, what was the movement of his body?

A.

Push and pull movement, sir.

Q.

And for how long did he make push and pull movements?

A.

½ minute.

Q.

And after that ½ minute, what did he do?

A.

Dumagan po sya.

x x x

x x x

x x x

Q.

For how long did he stay on top of you?

A.

One minute, sir.

Q.

And after the lapse of one minute, what did he do?

A.

He continued his push and pull movement?

Q.

For this second time around for how long did he do this push and pull movement?

A.

For a long time, matagal din po.

Q.

And after that what did he do?

x x x

x x x

x x x

A.

He removed his penis.

x x x

x x x

x x x

Q.

What about you what did you do?

A.

I cried, sir.

Q.

Aside from crying what did you do?

A.

I told him that I will report the incident.

Q.

What was the response of Jose Santos?

A.

According to him if I will report the incident he will kill us.

X X X

X X X

X X X

Q.

Did you examine your private part before you wore your panty?

A.

Yes, sir.

Q.

What did you see or find out?

A.

Blood, sir.

X X X

X X X

X X X

Q.

And upon arrival of your mother, what did you do?

A.

None. Because Jose Santos was looking at me at that time.

Q.

So you did not tell this matter to your mother, is it not?

A.

No. I did not.

COURT:

Q.

Why?

A.

For fear. He might kill us.

x x x

x x x

x x x.”[11]

For G.R. No. 137829:

“Q.

When was the second time around that accused raped you?

x x x

x x x

x x x

A.

1997, sir.

X X X

X X X

X X X

Q.

The same place where you were raped the first time by your stepfather?

A.

Yes, sir.

X X X

X X X

X X X

Q.

While playing on the sofa, do you recall of any unusual incident that transpired?

A.

Yes, sir.

Q.

What was it?

A.

He raped me.

Q.

Whom are you referring to?

A.

Jose Santos.

Q.

The same Jose Santos who raped you the first time?

A.

Yes, sir.

Q.

How did he rape you?

A.

He instructed me to lie down.

Q.

Did you accede?

A.

No, sir.

Q.

After you refused to follow the order of the accused, what did you do if you did any?

A.

I sat down.

x x x

x x x

x x x

Q.

. . .What did he do?

A.

He pushed me.

Q.

After you were pushed by the accused, what happened to you?

A.

I fell down.

Q.

On the sofa?

A.

Yes, sir.

Q.

And after you fell down on the sofa, what transpired next?

A.

He removed his shorts.

Q.

You are referring to the accused?

A.

Yes, sir.

Q.

What else did he remove?

A.

His brief.

Q.

What about his upper dress?

A.

He also removed his T-shirt.

Q.

The dress of the accused was removed by him while you were lying on the sofa?

A.

Yes, sir.

Q.

After removing his clothes, what else did he do?

A.

He removed my shorts.

Q.

And after removing your shorts, what else did he do?

A.

He removed my panty.

Q.

What about your upper apparel?

A.

He just rolled it up.

Q.

Did you not try to resist while accused was removing your shorts and panty?

x x x

x x x

x x x

A.

I was resisting.

Q.

What kind of resistance were you making?

A.

I kicked, sir.

x x x

x x x

x x x

Q.

After removing your shorts and panty, what else did he do?

A.

He laid on top of me.

x x x

X X X

X X X

Q. When the accused laid on top of you, what did he do next?

A. He inserted his penis.

COURT:

Where?

A.

In my vagina.

FISCAL

Q.

While the accused was on top of you, what were you doing?

A.

I was resisting (pumapalag).

Q.

When the accused laid on top of you and inserted his private part, could you demonstrate to the court the movement of his body?

A.

It was in a push and pull movement.

Q.

For how long?

A.

1 minute.

x x x

x x x

x x x

Q.

x x x. What else did he do?

A.

He told me not to report the incident.

Q.

When he uttered that words, was he on top of his voice?

A.

Yes, sir.

Q.

How would you describe the appearance of the accused when he uttered the words?

A.

Mad, sir.

Q.

After the utterances, what did you feel?

A.

I got afraid.

Q.

You did not report this incident to anybody?

A.

No, sir.

“I was afraid of him.”[12]

For G.R. No. 137830:

“Q.

What about the third time accused raped you?

A.

1997.

Q.

In what place?

A.

Longos, Balagtas, sir.

Q.

You are referring to the same house?

A.

Yes, sir.

Q.

Can you not tell the exact time, is it in the morning, afternoon, evening?

A.

Evening, sir.

Q.

Who were with you at that time, the third time you were raped by your stepfather?

A.

Jose Santos.

x x x

x x x

x x x

Q.

The third time around you were raped by your stepfather, what exactly were you doing at that time?

A.

I was cooking, sir.

Q.

With whom?

A.

I was alone.

x x x

x x x

x x x

Q.

While in the kitchen cooking food, do you recall of any unusual incident?

A.

Yes, sir.

Q.

Tell the court.

A.

He raped me.

Q.

How did he rape you the third time around?

A.

He called me.

Q.

Did you follow?

A.

No, sir.

Q.

When you refused to follow him, what did you do if you did any?

A.

I told him I was cooking.

Q.

What was the response of the accused?

A.

According to him, only for a short while (sandali lang).

Q.

Did you accede to his request?

A.

No, sir.

Q.

What did he do?

A.

He approached me.

Q.

Upon approaching you, what else did he do?

A.

He held me.

Q.

What part of your body?

A.

In my hands, sir.

Q.

Both hands?

A.

Yes, sir.

Q.

After holding your both hands, what did he do next?

A.

He brought me to the sofa.

Q.

How did he bring you to the sofa?

A.

He pulled me, sir.

x x x

x x x

x x x

Q.

What happened after you were brought to the sofa?

A.

He raped me.

Q.

How did he rape you?

A.

He lay on top of me.

Q.

Before he lay on top of you, did he do something to himself?

x x x

X X X

X X X

A.

Yes, he removed his clothes.

FISCAL

Q.

What kind of clothes?

A.

T-shirt, shorts and brief.

Q.

After removing those clothes, what did he do next?

A.

He undressed me.

Q.

Did you allow yourself to be undressed by the accused?

A.

No, sir.

Q.

When you said no, what do you mean by that?

A.

‘TUMATAYO PO AKO.’

Q.

Were you able to stand up?

A.

No, sir.

Q.

Why?

A.

‘DINAGANAN PO NIYA AKO.’

Q.

After your dress was removed by the accused, what did he do next if he did any?

A.

He lay on top of me.

Q.

What did he do?

A.

Inserted his penis into my vagina.

Q.

How did you know?

A.

He lay on top of me.

Q.

You said his penis was inserted in your private part, how did you know that he inserted his penis in your vagina?

A.

I felt it, sir.

Q.

What did you feel?

A.

It was painful, sir.

Q.

How would you describe the movement of the body of the accused while he was lying on top of you and inserted his private part to your private part?

A.

Push and pull movement.

Q.

For how long?

A. 1 minute, sir.

Q. What about you, during that span of 1 minute, what were you doing while accused was lying on top of you?

A. I was crying.

Q. Aside from crying, what else were you doing?

A. I told him that I will report him regarding what he did to me.

X X X

X X X

X X X

Q.

What was the response of accused when you told him you would report the incident?

A.

He told me ‘TRY IT AND IT WILL KILL YOU.’”[13]

For G.R. No. 137831:

“Q.

What about the 4[th] time?

A.

In 1997.

Q.

Can you not remember also the month and date?

A.

No, sir.

Q.

Is it in the morning, afternoon or evening?

A.

Night, sir.

Q.

What place?

A.

Longos, Balagtas, Bulacan.

Q.

You are referring to the same house where the 1[st], 2[nd] and 3[rd] incident happened?

A.

Yes, sir.

Q.

What were you doing as you said you were raped by your stepfather?

A.

I was reading a book at the stairs.

x x x

x x x

x x x

Q.

x x x. What did you do?

A.

I entered the house and drank water.

x x x

x x x

x x x

Q.

x x x. What else did he do?

A.

He approached me.

Q.

Upon approaching you, what did he do next?

A.

He asked me the reason why I do not want to approach him.

Q.

What was your answer?

A.

I told him that I am reading a book.

Q.

After that, what transpired next?

A.

He said that I am 'makulit'.

Q.

After that, what happened next?

A.

He brought me to the sofa.

Q.

How did the accused bring you to the sofa?

A.

He brought me there by holding my hands.

Q.

Both hands?

A.

Yes, sir.

x x x

x x x

x x x

Q.

Was he able to bring you to the sofa?

A.

Yes, sir.

Q.

What did he do with you at the sofa?

A.

He made me lie on the sofa.

Q.

What else did he do after you were lied on the sofa?

A.

He removed his dress.

Q.

What kind of dress was removed by the accused?

A.

Shorts, T-shirt and brief.

Q.

After removing his shorts, T-shirt and brief, what did he do next?

A.

He removed my dress.

Q.

What were you doing when accused was in the act of removing your dress?

A.

I was resisting.

Q.

In spite of that resistance, your dress was finally removed?

A.

Yes, sir.

Q.

What kind of dress?

A.

Shorts and panty.

Q.

What about the upper?

A.

He rolled it up.

Q.

After your shorts and panty were removed by the accused, what did he do next?

A.

He lay on top of me.

Q.

When he lied on top of you, what did he do next?

.

His body was on a push and pull movement.

x x x

x x x

x x x

COURT

Q.

Before the push and pull movement, what did the accused do?

A.

He inserted his penis in my vagina.

FISCAL

Q.

How did you know that he inserted his penis in your private part?

A.

My vagina was painful.

Q.

And he started his push and pull movement?

A.

Yes, sir.

Q.

For how long did he move, push and pull movement?

A.

1 minute, sir.

Q.

What were you doing during that span of 1 minute while he was already on top of you?

A.

I cried, sir.

Q.

Aside from crying, what else did you do?

A.

I am resisting.

Q.

What kind of resistance?

A.

I was swinging my body.

x x x

x x x

x x x

Q.

Was there a conversation that transpired between you and the accused after he was through with this push and pull movement?

A.

Yes, sir.

Q.

Tell us the conversation that transpired between you and the accused after the incident?

A.

He told me not to report the incident to anybody and if I would try to do so, he will kill me.

Q.

So you did not report this matter?

A.

No, sir.”[14]

For G.R. No. 137832:

“Q.

We are now on the 5[th] incident, do you recall the date of the 5[th] incident?

A.

No, sir.

Q.

Can you recall the year?

A.

Yes, sir.

Q.

What year?

A.

1997.

Q.

In what place?

A.

Longos, Balagtas, Bulacan.

Q.

You are referring to the same place where the 1[st], 2[nd], 3[rd] and 4th incident happened?

A.

Yes, sir.

Q.

At what time?

A.

Night, sir.

Q.

Who was your companion, if any, that night?

A.

Jose Santos.

x x x

x x x

x x x

Q.

What were you doing that time?

A.

Watching television, sir.

x x x

x x x

x x x

Q.

After watching television, what did you do?

A.

I read a book.

Q.

After watching television, what did the accused do?

A.

He called me, sir.

x x x

x x x

x x x

Q.

Did you follow the call of Jose Santos?

A.

No, sir.

Q.

When you did not accede to the call of Jose Santos, what did you do if you did any?

A.

I continued reading the book.

Q.

What about Jose Santos, what did he do?

A.

He kept on calling me.

Q.

What else did he do?

A.

He approached me.

Q.

Upon approaching you, what did Jose Santos do next?

A.

He held one of my hands.

Q.

After holding your one hand, what did he do?

A.

He pulled me, sir.

Q.

Where?

A.

Sofa, sir.

Q.

What did he do with you?

A.

He undressed me.

Q.

What was removed from you?

A.

My shorts and panty.

Q.

What did you do when accused Jose Santos was in the process of removing your shorts and panty?

A.

Kicking, sir.

Q.

Aside from that kicking, what did you do?

A.

I am resisting.

Q.

Inspite of that resistance, was the accused able to remove your shorts and panty?

A.

Yes, sir.

Q.

What was your position when the accused removed your shorts and panty?

A.

Lying on the sofa.

Q.

After the accused removed your short pants and panty, what transpired next?

A.

He removed his clothes.

Q.

What kind of clothes were removed by the accused?

A.

Shorts and brief.

Q.

After undressing himself, what did he do next?

A.

He lied on top of me.

Q.

And upon lying on top of you, what did he do?

A.

His body moved, push and pull.

Q.

Now, when the accused was already lying on top of you, moving in a push and pull movement, what did you feel?

A.

Painful, sir.

Q.

What pain?

A.

‘MAHAPDI’, sir.

Q.

In what particular part of your body did you feel that pain?

A.

My vagina, sir, because he inserted his penis in my vagina.

Q.

While the accused was on top of you and having that kind of push and pull movement, what exactly did you do?

A.

I am resisting.

Q.

And for how long did the accused stay on top of you?

A.

1 minute, sir.

x x x

x x x

x x x

Q.

What else did he utter?

A.

That once I report the incident, I will be killed.

Q.

What was the appearance of Jose Santos when he threatened you?

A.

Mad, sir.

Q.

When accused threatened you, was he on top of his voice?

A.

Yes, sir.

Q.

So you did not report that 5[th] incident?

A.

I did not.

Q.

Why?

A.

Because I am afraid of Jose Santos.

Q.

Afraid of what?

A.

He might kill all of us.”[15]

For G.R. No. 137833:

“Q.

What about the last rape, June 7, 1997, are you sure of that?

A.

Yes, sir.

Q.

How come you recall the exact date of this last rape?

A.

I tried to remember that date.

x x x

x x x

x x x

Q. Do you remember the time?

A. No, sir.

Q. Is it in the morning, afternoon, night time?

A. Night time, sir.

Q. In what place?

A. Longos, Balagtas, Bulacan.

Q. The same place where the 1[st], 2[nd], 3[rd], 4[th] and 5[th] incident took place?

A. Yes, sir.

Q. In what part of the house?

A. At the sofa, sir.

x x x

x x x

x x x

Q.

x x x. What did Jose Santos do?

A.

He called me.

Q.

Did you follow his call?

A.

No, sir.

Q.

When you did not follow his call, what did he do?

A.

He approached me.

Q.

What did he do upon approaching?

A.

He took my one hand.

Q.

What did he do?

A.

He pulled me to the sofa.

Q.

What did he do while in the sofa?

A.

He instructed me to lie down.

Q.

Did you lie down?

A.

No, sir.

Q.

When you did not lie down?

A.

He pushed me.

Q.

What happened to you after you were pushed by Jose Santos?

A.

I fell down.

Q.

And after you fell down on the sofa, what did Jose Santos do?

A.

He removed his clothes.

Q.

What did he remove?

A.

Shorts and brief.

Q.

While in the process of removing his shorts and brief, what did you do?

A.

I tried to stand up.

Q.

Were you able to stand up?

A.

No, sir.

Q.

Why?

A.

He lied on top of me (dinaganan ako).

Q.

When he was already undressed?

A.

Yes, sir.

Q.

What about you, were you already undressed at that time when he lied on top of you?

What did he do when he lied on top of you?

A.

He removed my shorts and panty.

Q.

Was he able to remove your shorts and panty?

A.

Yes, sir.

Q.

After removing your shorts and panty, what did he do next?

A.

He made push and pull movement.

Q.

When the accused was already lying on top of you, making push and pull movement, what did you feel?

A.

Painful, sir.

Q.

Painful of what?

A.

Vagina, sir.

Q.

Why?

A.

Because he was raping me.

Q.

So what made your private part painful at that time?

A.

He inserted his penis in my vagina.

Q.

When he was on top of you?

A.

Yes, sir.

Q.

For how long did he make that push and pull movement?

A.

1 minute, sir.

Q.

When the accused was lying on top of you and making push and pull movement, what exactly did you do?

A.

I am resisting and crying

x x x

x x x

x x x

Q. There was no short conversation that transpired between you and the accused?

A. There was.

Q. What was it?

A. He told me not to report.

Q. The incident?

A. Yes, sir.

Q. Any other?

A. Yes.

Q. What?

A. According to him, if I report the incident he will kill all of us.

Q. So you did not report the incident?

A. No, sir.

Q. Why?

A. I was afraid.

Q. Of what?

A. He will kill all of us.”[16]

The trial court found Vanessa’s testimony credible since it was forthright, direct and straightforward; and that being credible, her testimony is sufficient to sustain the conviction of appellant of rape in all six (6) counts, thus:

“Private complainant narrated in a straightforward, detailed and unwavering manner how the accused forcibly made her lie and, thereafter, lied on top of her with his body making a push-and-pull movement. Her testimony, viewed in its entirety and on the face of the supporting evidence of the prosecution and her instinctive demeanor in court, well deserves evidentiary weight and credence sufficient to warrant a finding for the State.”

We stress the well-settled doctrine that the lower court’s assessment of the credibility of a witness is accorded great respect owing to its direct opportunity to observe the latter’s demeanor during trial. In *People vs. Ayuda*,[17] we held:

“It is doctrinally settled that the factual findings of the trial court, especially on the credibility of the rape victim, are accorded great weight and respect and will not be disturbed on appeal. This is so because the trial court has the advantage of observing the victim through the different indicators of truthfulness or falsehood, such as the angry flush of an insisted assertion, the sudden pallor of a discovered lie, the tremulous mutter of a reluctant answer, the forthright tone of a ready reply, the furtive glance, the blush of conscious shame, the hesitation, the yawn, the sigh, the candor or lack of it, the scant or full realization of the solemnity of an oath, or the carriage and mien. x x x.”

In his brief, appellant assails Vanessa’s credibility by pointing flaws to her testimony, specifically her inability to recall the exact time and dates of the commission of each crime.

It bears stressing that “an impeccable recollection cannot reasonably be expected from the victim of a horrendous crime, such that minor contradictions in her testimony are perceived to enhance, rather than detract from, her credibility.”[18] The exact time or date of the commission of rape is not an element of the crime. What is decisive is that the prosecution has sufficiently proved that the appellant committed the crime charged.[19] Moreover, a close scrutiny of the records shows that the supposed flaws bear on relatively minor points and, even taken as a whole, they fail to debunk the gravamen of the accusation that appellant had sexually ravished the victim six (6) times by using force or intimidation.

Neither are we persuaded by appellant’s claim that his work in the Philippine Refining Company at Paco, Manila required him to be there early in the morning until late evening, and as such, it was physically impossible for him to have been at home every time the alleged crimes were committed.

On this point, appellant should have established by sufficient proof that not only was he in Paco, Manila when the crimes were committed but also it was physically impossible for him to have been at the scene of the crimes. Obviously, considering the present means of transportation, it was not physically impossible for appellant to be at Longos, Balagtas, Bulacan when the crimes were committed.

Appellant’s defense of denial is inherently weak. We have held that “the defense of denial assumes significance only when the prosecution’s evidence is such that it does not prove guilt beyond reasonable doubt. Mere denial, unsubstantiated by clear and convincing evidence, is negative self-serving evidence which cannot be given greater evidentiary weight than the testimony of the complaining witness who testified on affirmative matters.” [20]

As earlier stated, considering that the qualifying circumstance of relationship between appellant and herein victim was not alleged in the Informations and that her age, although alleged therein, was not proved, appellant cannot be

convicted of six (6) counts of qualified rape and sentenced to suffer the death penalty in each count. He should only be convicted of six (6) counts of simple rape and meted the penalty of reclusion perpetua in each count.

Anent the award of damages, we observed that the trial court awarded the victim only moral damages in the amount of P50,000.00.

In *People vs. Pancho*,^[21] we reiterated that upon a finding of the fact of rape, the award of civil indemnity is mandatory. If the death penalty is imposed, the indemnity ex delicto should be P75,000.00. Where, as here, the death penalty is not decreed, the victim should be entitled to P50,000.00 only (for each count of simple rape).

Also, in line with current jurisprudence, we award the victim moral damages of P50,000.00 in each count of simple rape without need of pleading or proof of the basis thereof.^[22] This is so because the anguish and pain she has endured are evident.

WHEREFORE, the assailed Decision of the Regional Trial Court, Branch 78, Malolos, Bulacan, in Criminal Cases Nos. 1267-M-97 to 1272-M-97 is hereby **AFFIRMED** with **MODIFICATION** in the sense that appellant Jose Santos y Ruiz is found guilty beyond reasonable doubt of six (6) counts of simple rape and is sentenced to suffer the penalty of reclusion perpetua in each count. He is ordered to pay the victim, Vanessa R. Bancefra, P50,000.00 as civil indemnity and P50,000.00 as moral damages in each count.

Costs de officio.

SO ORDERED.

Davide, Jr., C.J., Puno, Quisumbing, Ynares-Santiago, Carpio, Austria-Martinez, Corona, Carpio-Morales, Callejo, Sr., Azcuna, and Tinga, JJ., concur.

Vitug, and Panganiban, JJ., on official leave.

[1] Penned by Judge Gregorio S. Sampaga.

[2] Rollo at 8.

[3] Id. at 10-19.

[4] Exhibit "B", Records at 106.

[5] Id. at 12-13.

[6] Id. at 24.

[7] Rollo at 35.

[8] "An Act To Impose The Death Penalty On Certain Heinous Crimes, Amending For That Purpose The Revised Penal Code, As Amended, Other Special Penal Laws, And For Other Purposes," which took effect on December 31, 1993, *People vs. Simon*, 234 SCRA 555, 569.

[9] *People vs. Pancho*, G.R. Nos. 136592-93, November 24, 2003, citing *People vs. Bartolome*, 323 SCRA 836 (2000).

[10] *People vs. Garces, Jr.*, G.R. No. 132368, January 20, 2000, 322 SCRA 834, citing *People vs. Tabion*, G.R. No. 132715, October 20, 1999, 317 SCRA 126; *People vs. Tresballes*, G.R. No. 126118, September 21, 1999, 314 SCRA 774; *People vs. Monfero*, G.R. No. 126367, June 17, 1999, 308 SCRA 396; *People vs. Tayaban*, G.R. No.

128481, September 25, 1998, 296 SCRA 497.

[11] TSN, November 7, 1997 at 3-14.

[12] TSN, November 21, 1997 at 1-8.

[13] Id. at 8-12.

[14] Id. at 12-17.

[15] TSN, November 28, 1997 at 1-5.

[16] Id. at 5-10.

[17] G.R. No. 128882, October 2, 2003 at 10, citing *People vs. Invencion*, G.R. No. 131636, March 5, 2003.

[18] Id. at 11, citing *People vs. Colisao*, 372 SCRA 20 (2001).

[19] *People vs. Abon*, G.R. No. 130662, October 14, 2003 at 13, citing *People vs. Invencion*, G.R. No. 131636, March 5, 2003.

[20] *People vs. Pancho*, supra, citing *People vs. Colisao*, 372 SCRA 20 (2001) and *People vs. Musa*, 371 SCRA 234 (2001).

[21] Id., citing *People vs. Dalisay*, G.R. No. 133926, August 6, 2003.

[22] Id., citing *People vs. Salalima*, 363 SCRA 193 (2001) and *People vs. Agustin*, G.R. Nos. 132524-25, 365 SCRA 667 (2001).

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