

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. RICHARD R. DEAUNA, APPELLANT.

G.R. Nos. 143200-01. August 01, 2002

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

Recantations and affidavits of desistance given by rape victims, especially after the trial court has already convicted the accused, cannot negate or degrade credible and clear testimonies rendered in open court. Solemn trials and credible declarations in court cannot be mocked and placed at the mercy of out-of-court, uncross-examined post facto statements.

The Case

Richard R. Deauna appeals the Decision[1] of the Regional Trial Court (RTC) of San Mateo, Rizal (Branch 76), dated July 30, 1999, in Criminal Case Nos. 3609 and 3610, finding him guilty beyond reasonable doubt of two (2) counts of rape and sentencing him to reclusion perpetua for each count. The dispositive portion of the assailed Decision reads as follows:

“WHEREFORE, premises considered, judgment is hereby rendered as follows:

“1. In Crim. Case No. 3609, finding accused Richard R. Deauna guilty beyond reasonable doubt of the crime of Rape as defined and penalized under Art. 335 of the Revised Penal Code as amended, and sentencing him to suffer the penalty of Reclusion Perpetua, and to indemnify the private complainant Josephine T. Deauna in the amount of P50,000.00 as moral damages and to pay the costs.

“2. In Crim. Case No. 3610, finding accused Richard R. Deauna guilty beyond reasonable doubt of the crime of Rape as defined and penalized under Art. 335 of the Revised Penal Code as amended, and sentencing him to suffer the penalty of Reclusion Perpetua, and to indemnify private complainant Josephine T. Deauna in the amount P50,000.00 as moral damages and to pay the costs.”[2]

During his arraignment on July 15, 1998,[3] appellant, assisted by his counsel,[4] pleaded not guilty.

In two (2) separate Informations both dated May 13, 1998,[5] appellant was accused of raping his daughter as follows:

In Criminal Case No. 3609-98:

“That in or about the month of July 1997, in the Municipality of Rodriguez, Province of Rizal, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, being the legitimate father of the complainant Josephine Deauna with lewd design and by means of force and intimidation[,] did then and there wilfully, unlawfully and feloniously have carnal knowledge with said Josephine Deauna against her will and consent.”[6]

In Criminal Case No. 3610-98:

“That in or about the month of September, 1996, in the Municipality of Rodriguez, Province of Rizal, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, being the legitimate father of the complainant Josephine Deauna with lewd design and by means of force and intimidation[,] did then and there wilfully, unlawfully and feloniously have carnal knowledge with said Josephine Deauna against her will and consent.”[7]

The Facts

Version of the Prosecution

In its Brief, the Office of the Solicitor General (OSG) narrates the two instances of sexual abuse in this manner:

“Sometime in September 1996, victim Josephine Deauna who was 19 years old at that time, was at their house in Block 10-A, Lot 7 of Nylon Street, Litex Village San Jose, Montalban, Rizal. She was lying down while her sister Jasmin was already sleeping when a man suddenly held her hand. She recognized the man to be her father, appellant Richard Deauna. Appellant proceeded to kiss Josephine’s neck, who was at that time lying on her stomach. Then appellant touched her breasts. Thereafter, appellant inserted his finger in Josephine’s vagina and played with it (‘Pinaglaruan niya ng kanyang daliri ang aking ari.’).

“While Josephine was lying on her stomach, she felt appellant insert his penis in her vagina and felt pain at the penetration. Josephine, however, could not do anything because she was afraid of her father. When appellant withdrew, he warned Josephine not to tell her mother about this incident.

“In another incident, one evening in July 1997, Josephine was already sleeping when appellant approached her again. Appellant kissed her neck and started playing with her body, particularly feeling her breasts. Appellant proceeded to touch her vagina and succeeded in having intercourse with her. Josephine kept her eyes shut and did not do anything for fear of her father.

“Josephine later told her mother [of] these incidents but the latter refused to believe her. Thus, on August 2, 1997, Josephine went to the National Bureau of Investigation (NBI) to report the two (2) criminal incidents. There, she gave her sworn statements and the Medico-Legal expert in the person of Dr. Noel Minay subjected Josephine to a medical genital examination. The expert witness testified as follows:

‘Q: Now, Dr. per your findings in the genital, it is stated here, may I be allowed to read, your honor, please? Hymen, thin, wide, with an old healed laceration at 9 o’clock position. In layman’s language, doctor, will you please explain what I read in your report?

A: This means that there was an old tear at the virgin head of the subject at 9 o’clock position of the virgin head and the virgin head was also thin, sir.

Q: Do you know how old is this lacerations at 9 o’clock position on the private part of the victim?

A: This old tearing of the hymen is compatible with the alleged rape, sir.

Q: And what could have caused this old lacerations [sic] at 9:00 o’clock position?

A: Normally, it is produced by sexual relation with a man, sir.

Q: It could have been caused by an erected penis for that matter?

A: Yes, sir.

Q: And do you affirm and confirm the truthfulness and correctness of your medico-legal findings, doctor?

A: I do, sir.

Q: Likewise, in your findings, doctor, it states hymenal orifice admits a tube with this 2.5 cms. in diameter, will you kindly explain or enlighten us, Doctor, what does it mean?

A: This means that the opening of the virgin head when the glass tube of 2.5 cms. in diameter readily admits the tube without difficulty, sir.

Q: So, does it mean that the private complainant was already somewhat used?

A: Yes, sir.”[8]

Version of the Defense

On the other hand, appellant advances the theory that complainant was insane when she testified in court, and that the alleged rape incidents did not actually happen. He presents his version of the facts as follows:

“The defense for its part, offered the testimony of five (5) witnesses:

“1. Dr. Pamela Paredes, 28 years old, married, a psychologist at the NBI and residing at No. 68 Masbate St., Phase II, Horacio dela Costa Homes II, Novaliches, Quezon City, testified that she personally conducted and administered the battery of examinations and interviews on the private complainant. After said examinations and interviews, she found out that private complainant Josephine Deauna was emotionally maladjusted, which means that that there is a difficulty in displaying natural emotion especially under threatening circumstances. She also testified that the emotion of Josephine Deauna appears to be less stable, which means that when confronted with a situation that is threatening to herself, private complainant becomes overwhelmed by the situation. For the subject to be considered a psychotic, you have to consider other diagnostic criteria, and the result of the diagnostic test done in favor of private complainant did not reveal any sign of psychosis. During the time of evaluation from October 23 to 25, 1996, the subject did not manifest symptoms or signs which could indicate psychosis which mean[s] that she was not insane and was acting normally.

“2. Josefa Deauna, 51 years old, married, teacher and residing at Block 10-A, Lot 7, Utex Village, Montalban, Rizal, testified that she is the wife of the accused Richard Deauna and the mother of the private complainant[.] Josephine Deauna never complained to her about the alleged sexual abuses committed by her father and [instead] she went directly to the NBI. The reason why private complainant lodge[d] her complaint before the NBI, is that she harbored a grudge against her father as she was being disciplined and whipped (napalo) by her father prior to the filing of the complaint.

“3. Dr. Anne Marie Rios, 33 years old, single, doctor by profession and residing at 1425 Guadalupe, Bliss 3, Makati City testified that she [was] connected with the National Center for Mental Health as Medical Officer III and tasked with the evaluation and treatment of mentally ill patients. She also testified that, it was Dr. Made[l]on Carcereny who first attended to the case of Josephine Deauna. On January 27, 1999, while she was on 24-hour duty, she was able to confer with Josephine Deauna but only for a brief moment. Josephine Deauna is now undergoing psychological examination and pending the submission of the psychological report as well as the reports from the Haven Center, Philippine Mental Association and University of the East, she [could] not make a conclusive and final report about the mental state of the subject.

“4. Dr. Jay Madelon Carcereny, 28 years old, married, doctor by profession, and residing at No. 42, Juan Luna St., San Lorenzo Village, Makati City, testified that he [was] connected with the National Center for Mental Health as Medical Officer III. That on December 21, 1998, he attended to a patient by the name of Josephine Deauna. He took the history of the patient and then proceed[ed] with the medi[c]al status examination. Based on the examination, the history and his observation of the patient, he concluded that Josephine Deauna was suffering from mental insanity and he prescribed her the necessary medication on continuing basis.

“During the initial consultation, he noted that the subject (Josephine Deauna) was insane because her thought processes were loose, there was derailment in the words used, and depersonalization (a strange sense of the personal self or the body) was evident. Josephine manifested that she was already dead and was brought back to life. The mental state of Josephine Deauna may be brought about by a situation, strong enough to bring her to the so called breaking point. There is doubt that when she testified in court, she was expressing her thoughts or feelings, truthfully or intelligently as her judgment [was] already clouded. It is possible that she may or may not have been raped. She is also incompetent to stand the rigors of trial, meaning, when put under pressure, she might give answers that are not true. However, he [could] not say when the patient’s insanity started but it

[did] not develop within a short period of time.

“5. Richard Deauna, 49 years old, married, small businessman, and presently residing at Blo[c]k 2, Lot 13, Tanguile St., Duraville Homes, Ampid, San Mateo, Rizal testified that there are five (5) reasons why his daughter accused him of rape. First, he whipped her three (3) times (napalo ko siya ng tatlong beses), one of which was on October 22, 1996 when he whipped her because she dropped her course after making down payment and for being rude. Second, she saw a case on a TV Program involving a father and a child of his, who ha[d] a case and commented that it would be exciting if it happen[ed] in real life. Third, she wanted to join the PMA course but he forced her to take commerce. Fourth, she wanted her mother and [her] father [to] be separated. Fifth, because she was insane. He first noticed her odd behavior in 1995, when she would always have dagger looks whenever she would wake up. Josephine easily gets angry. During the time that he was detained, his daughter visited him many times and she even gave him a gift last December 1998. Josephine even asked money from him, kissed him and gave him a letter.

“He also testified that he went to the NBI on two (2) occasions and referred to the Neuro-Psychiatric Division because his daughter Josephine Deauna stay[ed] with them and he did not know that there was a case filed against him by his daughter. He was aware that his daughter Josephine Deauna filed a complaint for rape accusing him of raping her younger sister, Jasmin Jane Deauna. Despite the charges against him, he was trying to understand his daughter because he knew that she was mentally sick.”[9]

Ruling of the Trial Court

The trial court rejected the defense that the complainant had been insane or suffering from psychosis when she testified in court, and that the rape charges had merely been fabricated by reason of such mental illness. It explained its ruling as follows:

“The defense is primarily anchored on the alleged mental insanity or psychosis on the part of the private complainant so as to concoct a story of rape against her own father. This allegation that the private complainant [was] mentally deranged assumes significance only when shown that at the precise time she testified in court, she had been clearly shown to be suffering from such illness, so as to undermine her ability to give statements voluntarily, knowingly and intelligently. On the other hand, on the three occasions that she testified in Court, her testimonies were consistent, straightforward, and no significant lapses of memory or thought processes were evident. Moreover, it is not conclusive that the victim was suffering from psychosis as the different physicians that were presented by the defense had different diagnosis as to the subject’s (Josephine Deauna’s) mental state. It is possible that initially, she was suffering from emotional maladjustment and due to the abuses committed against her by her father, she reached the so called ‘breaking point’ making her more prone to psychological or mental relapse. Thus, the victim in this case would not file a charge as serious as rape against her very own father simply because she was maltreated; only her desire to seek justice would be compelling enough to implicate her own flesh and blood.”[10]

Hence, this appeal. [11]

The Issues

In his Brief, appellant submits the following alleged errors for our consideration:

“I

The court a quo committed reversible error in convicting the accused-appellant of the crime of rape notwithstanding the prosecution’s failure to establish his guilt beyond reasonable doubt.

“II

The court a quo erred in according credence and weight to the testimony of the private complainant although her averments are not in accordance with the medical findings, and are inherently pregnant with material flaws that belie her credulity.”[12]

The Court’s Ruling

The appeal has no merit.

First Issue:

Sufficiency of the Prosecution’s Evidence

Appellant claims that the prosecution’s evidence is insufficient to sustain a conviction. He avers that the testimony of complainant is uncorroborated and materially inconsistent with the medical findings of the examining doctor. He adds that her conduct after the alleged rape incident renders her accusations highly dubious. He points to alleged uncertainty as to the cause of her vaginal lacerations and insists that such uncertainty should be resolved in his favor. Moreover, he explains that she merely concocted the rape charges, allegedly because of a grudge against him for having disciplined her.

We are not persuaded. As regards the argument that the vaginal lacerations could have been caused by reasons other than penile penetration, suffice it to say that the presence or the absence of vaginal lacerations is of no moment. It is settled that a hymenal rupture or any indication of vaginal laceration or genital injury is not necessary for the consummation of rape.[13] Their absence does not negate a finding of forced sexual coitus,[14] which may still be proven when there are other pieces of evidence on record to establish it.[15]

Verily, the accused may be convicted on the basis of the lone uncorroborated testimony of the rape victim, provided that her testimony is clear, credible, convincing and otherwise consistent with human nature and the normal course of things.[16] When a rape victim’s testimony is straightforward, unflawed by any material or significant inconsistency, it deserves full faith and credence and cannot be discarded.[17]

Indubitably, the fact of rape and the identity of the perpetrator were sufficiently established by the prosecution on the basis of the clear, coherent and candid narration by the victim of the sexual abuse she suffered in the hands of her father. She recounted her sordid experience as follows:

“Q: Do you remember of any unusual [incident] that happened to you sometime in September, 1996?

A: Yes, sir.

Q: Will you kindly tell this Court what happened to you?

A: Jasmin was then sleeping when suddenly a man held my hand and I recognized him as my papa, sir.

Q: What is the name of your papa?

A: Richard, sir.

Q: Is he inside the courtroom?

A: Yes, sir.

Q: Kindly point to your papa?

A: There, sir.

Interpreter:

Witness pointed to a person who answered by the name of Richard Deauna.

Pros. Ramolete:

Q: And what happened next?

A: I was surprised, sir, because I was then lying face down when suddenly he kissed me on my neck and touched my breast, sir.

Q: What else happened?

A: Then he inserted his finger on my private part, sir.

Q: After that, what happened?

A: After that he inserted his penis in my vagina, sir.

Q: What else did your father do to you before inserting his penis to your vagina?

A: He played my vagina with his finger, sir (pinaglaruan niya ng kanyang daliri ang aking ari).

Q: How was your father able to insert his penis to your vagina?

A: 'Nakadapa po ako ng ipinasok niya ang ari niya sa ari ko', sir.

Q: You want to tell this Court that he went on top of you while you were facing down?

A: I sleep that way, sir.

Q: Was he able to insert into your private organ his private part?

A: Yes, sir.

Q: What did you do when your father was doing this to you?

A: None, sir.

Q: Why?

A: Because I was afraid of him, sir.

Q: What did you feel, Miss witness, when your father inserted his penis to your vagina?

A: It was painful, sir.

Q: And after that, Miss witness, what happened next?

A: My father told me not to tell it to my mother and then he left, sir.

x x x x x x x x

Q: Sometime in July, 1997, did your father again abuse you?

A: Yes, sir.

Q: Where at?

A: In Montalban, sir.

Q: Will you kindly tell the Hon. Court what happened then on July, 1997?

A: I was then sleeping when he again approached me, sir.

Q: What time, more or less, was that when he approached you?

A: Night time and sometimes in the morning, sir.

Q: That incident of July 1997 happened in the evening or morning?

A: Evening, sir.

Q: Please continue your statement, Miss witness?

A: He kissed me, sir.

Q: Where?

A: On my neck, sir.

Q: Then what did he do next?

A: He was playing with my body, sir.

Q: When you said he was playing with your body, you mean your breast?

A: Yes, sir.

Q: What part of his body did he use in playing your breast?

A: His hand, sir.

Q: What did he do when he played your breast with his hand?

A: None, sir, I just closed my eyes so that I could not see him.

Q: Aside from that, what else?

A: No more, sir.

Q: Aside from playing your breast, what else did your father do?

A: He was also playing with my vagina, sir.

Q: With what?

A: With his finger, sir.

Q: What else did your father do to you that evening of July, 1997?

A: That's all, sir.

Q: You said a while ago that this incident that happened [in] September, 1996 was repeated [in] July, 1997, do you still confirm that?

A: Yes, sir.

Q: Did he also insert his penis to your private part?

[TSN does not indicate any answer]

Q: Will you kindly tell this Hon. Court how was your father able to insert his penis into your private part?

A: He just inserted it, sir.

Q: Will you describe to this Hon. Court how he inserted his penis into your vagina?

A: I did not see it because I closed my eyes but I could only feel it, sir.

Q: Where was he positioned when he inserted his penis into your vagina?

A: I was lying face down and he was behind my back, sir.

Q: What did you do, Miss witness, when your father was doing that to you?

A: None, sir.

Q: Why?

A: Because I was afraid of him, sir.”[18]

As regards the allegation of appellant that his daughter merely fabricated the charges of rape against him in retaliation for his having whipped her, we find it hard to believe that she would concoct a tale of rape against her father, simply to take revenge for the physical maltreatment inflicted upon her. This Court has declared that parental punishment is not a sufficient reason for a daughter to falsely charge her father with rape.[19] Even when chastised or consumed with revenge, a daughter, more so a young woman like the victim, would have to have a certain amount of psychological depravity to concoct a story that could take the life or the liberty of her father and drag herself and the rest of the family to shame and humiliation.[20]

Indeed, several persons accused of rape have attributed the charges brought against them to family feuds, resentment or revenge, but such alleged motives have never swayed the Court from lending full credence to the testimony of a complainant who remains steadfast throughout the entirety of her testimony.[21] Moreover, settled is the doctrine that no young and decent lass will publicly cry rape, particularly against her father, if such was not the truth or if justice was not her sole objective.[22]

Second Issue:

Credibility of Complainant's Testimony

In determining the credibility of the testimony of private complainant, the pivotal question to be resolved is whether she was insane when she testified in court on the rape incidents. In this connection, we may well note that during the pendency of the appeal, she submitted to this Court numerous letters[23] and manifestations[24] including an affidavit of desistance,[25] essentially stating that her father had not raped her, and that she had been insane when she testified in court.

The contents of her most recent correspondence[26] to this Court is reproduced hereunder:

“Ako po si JOSEPHINE DEAUNA at malamang ay naalala po ninyo ako dahil marami na po akong ipinadala sa inyong sulat. Isasalaysay ko po sa iyo ang buong katotohanan sa likod ng rape case ko laban sa father ko and this letter can send me to jail or to a room in the National Center for Mental Health but for the sake of truth ay OK lang sa akin.

“Noong 2nd year high school po ako ay may nakita akong libro na nakatago tungkol sa sex at binuklat ko ito may perma pa nga ito ni papa dito ko nalaman ang iba't-ibang positions at pinaglaruan ko po ang aking ari. May nakita naman ako sa TV na kapag ipasok mo ang little finger mo sa ari mo at maluwig na ay hindi ka na virgin kaya nasigurado ko sa sarili ko na hindi na ako virgin pero walang ginawa si papa sa akin na masama. Ang masama lang niyang ginawa ay ang pagpapaluin ako ng paluin ng sinturon. Sinabi ko sa sarili ko na gaganti ako sa trato niya sa'ken at naisip ko nga na idemanda siya ng rape dahil may napanood din ako sa TV tungkol dito. Dahil nga sa hindi na ako virgin ay napaniwala ko silang lahat hanggang sa ngayon na nakokonsensiya na ako dahil hindi ko maakalang habambuhay na si papa sa kulungan. Sana po ay makalaya na si papa lalo ngayon na umuunti na ang ipon ng pamilya namin. Siguro ang kasalanan lang ni papa ay ang pagpapaluin ako.

“Humihingi po ako ng tawad sa lahat ng kasinungalingan ko sa korte at nagpapasalamat po ako sa inyo at sa DSWD na tumutulong sa akin.

“Kayo na po sana ang umintindi ng kalagayan ko.

Lubos na gumagalang,

(SGD.) JOSEPHINE DEAUNA”[27]

Accordingly, we shall also endeavor to scrutinize and evaluate private complainant's declaration that she was insane when she testified before the trial court, as well as her recantation of her allegations of rape against her father.

After carefully reviewing the records of the case, we find that her state of mind was normal, and that she was not suffering from insanity or psychosis when she testified as a prosecution witness. A perusal of her testimony on September 2, 1998 (during direct examination) and October 7, 1998 (during cross-examination) shows her narration to be rational, sensible and comprehensible. Clearly, there was no indication or sign of insanity on her part when she narrated the sexual transgressions committed by her father.

However, it appears that she manifested in her deportment and demeanor, some form of insanity or mental

derailment thereafter or during the course of the proceedings, when she again testified in court, this time as a defense witness. As can be gleaned from her testimony as a defense witness on January 8, 1999, she obviously gave unsettling and unnatural responses when queried by the trial judge regarding an affidavit of desistance she had executed. We reproduce the pertinent testimony hereunder:

“COURT:

Q: Can I have the letters? I just want to read it. Josephine, when you copied this letter, did you read the letter?

A: Yes, sir.

Q: Did you understand what was written here?

A: Yes, sir.

Q: If you understood what was written here, there is a portion here which says, I will read it to you. ‘Na ang paratang ko na rape laban sa papa ko na si Richard Deauna noong September 1996 at July 1997 ay hindi totoo.’ Did you read this portion?

A: Yes, sir.

Q: Did you understand what was written here?

A: Yes, sir.

Q: What you are saying here is that your rape charge against your father is not true?

A: ‘Sexual molestation po.’

Q: I am repeating my question again, you are saying in that letter that the rape charge against your father is not true. Do you confirm that?

A: ‘May itatanong po ako. Kasi po sa legal terms po, hindi ko alam ang ibig sabihin ng or the real meaning of rape. Halimbawa po ba ang isang babae ginalaw po siya tapos hindi siya pumalag pero wala siyang magawa. Kasi po, nakapag-aral po ako, second year college po, pero hindi po ako abogado. Ang mga books po namin ay hindi sinasabi po ang meaning ng ano, ito ang ganyan. Ang nakikita ko po sa rape ay iyong napapanood ko sa TV iyon tipo bang nagpupumiglas iyong babae, iyong tipo bang magsasabing ayaw niya, ayaw niya. Kaya lang po ang nangyari po kasi, natatakot po ako pero hindi po ako lumaban. Kasi ganito po, totoo naman po, pagdating sa mga legal terms, inaamin ko po ignorante ako doon. Kasi kahit sino naman po, hindi ko po naman speciality ang...’

Q: So what do you mean by rape?

A: As I understand, ‘iyong inaatake siya ng lalaki tapos nagpupumiglas-pumiglas siya tapos parang sinasabi niya, ayaw niya, ayaw niya, parang ganoon po.’

Q: So what you wrote there is true or not? The portion that I read to you, is that true or not?

A: ‘Hindi ko po masasagot iyan ng oo o hindi, ang gusto ko pong malaman ay kung ano po ang rape sa legal...’[28] (Italics supplied)

True enough, the records show that the victim was diagnosed to have been suffering from psychosis or insanity on December 21, 1998, or just a few weeks before she testified on her affidavit of desistance. The diagnosis was made by Dr. Jay Madelon Carcenery of the National Mental Hospital, who testified as follows:

“Q: Doctor, do you have an occasion to attend to a patient by the name of Josephine Deauna?

A: Yes, sir.

Q: When did she seek medical attendance?

A: On December 21, 1998, sir.

Q: And what happened when she consulted you?

A: I took the history of the informant which was her mother and after that I took the medical status

examination, sir.

Q: In connection with the mental examination, did you reduce that into a written form?

A: Yes, sir.

X X X X X X X X X

Q: Now, Ms. Witness, what is your findings in connection with Josephine Deauna?

A: I find the patient to be suffering from mental insanity based on the mental status examination, the history and observation, sir.”[29]

Appellant relies on this subsequent finding of insanity on the part of the victim. He theorizes that her mental impairment had already been present even before the alleged rape incidents and was what caused her to file the rape charges against him. However, the records reveal that it was not yet present at the time of the rape incidents or immediately thereafter.

One of the defense witnesses, Dr. Pamela Paredes, testified that the victim had not been insane or psychotic at the time of the first rape on September 1996, as evidenced by a psychological evaluation she conducted on the victim in October of that year. We quote Dr. Paredes’ testimony:

“Q: In your report it is mentioned here that she thought that she was an outcast. Will you confirm that finding of yours?

A: As I said, the subject is emotionally maladjusted and it [seems] that she is poor in personal relation but this alone does not constitute that the subject is psychotic, sir.

Q: With your findings stated in this Exh. 2 will you please tell the Court if this has any relation with regards [sic] to her mental capability?

A: The impression on the emotional maladjustment, it could be said that emotional maladjustment, there is a difficulty in thinking, that the subject is psychotic. For the subject to be psychotic, you have to consider other diagnostic criteria, sir.

Q: Did you conduct any diagnostic examination with regards to the victim Josephine Deauna?

A: The result of the diagnostic test done on the subject did not reveal any sign of psychosis, sir.

X X X X X X X X X

Q: So it is very clear, Madam Witness, that this Josephine Deauna is not psychotic and definitely at the time of the examination there was no psychotic signs found?

A: A person to be defined or called psychotic, this should constitute that subject getting out of touch of reality or has a difficulty in her thought processes. However, at the time of evaluation which was on October 23 to 25, 1996, the subject did not manifest symptoms or signs which could indicate psychosis, sir.

Q: In layman’s language[,] how [would] you describe the victim then?

A: During that period, she was not insane, sir.”[30] (Italics supplied)

The normal state of mind of the victim was unperturbed even after the foregoing initial mental examination and remained intact during the early and the middle part of the trial. As mentioned earlier, it was only on December 21, 1998 that she was found to be suffering from insanity or psychosis. This finding is consistent with the official report dated March 2, 1999,[31] on the mental evaluation of victim showing that she was suffering from psychosis or insanity and was not fit to stand the rigors of trial.

Although one of the expert witnesses testified that the mental illness of the victim could have existed prior to the diagnosis made on her on December 28, 1998, no clear and categorical statement to this effect was presented. In any event, courts are not bound by the opinions of expert witnesses on such matters, especially when they appear

to be merely speculative and conjectural, as in this case.

Generally, expert opinions are regarded, not as conclusive, but as purely advisory in character. A court may place whatever weight it chooses upon such testimonies. It may even reject them, if it finds that they are inconsistent with the facts of the case or are otherwise unreasonable.[32]

Even assuming that the victim was already insane during her earlier testimony, this fact alone will not render her statements incredible or inadmissible in evidence. Her mental imbalance or abnormal state of mind would not automatically affect her credibility.[33] Indeed, even a mental retardate or feeble-minded person may qualify as a competent witness, considering that all persons who can perceive and, perceiving, can make known their perception to others, may be witnesses.[34]

Unsoundness of mind does not per se render a witness incompetent. One may be insane, yet be capable in law of giving competent testimony. The general rule is that lunatics or persons affected with insanity are admissible as witnesses, if they have sufficient understanding to apprehend the obligation of an oath and are capable of giving correct accounts of the matters that they have seen or heard with respect to the questions at issue.[35]

In this case, it is quite evident that the victim was not only competent to testify, but turned out to be a credible and convincing witness for the prosecution. Verily, sufficient in itself to establish appellant's criminal liability were her detailed accounts of the two (2) rape incidents establishing the fact of rape and identifying her father as her ravisher, as indicated in the September 2, 1998 and the October 7, 1998 transcripts of stenographic notes. The longstanding rule is that when a woman says that she has been raped, she says in effect all that is necessary to show that rape has been committed. If her testimony meets the test of credibility, the accused may be convicted solely on that basis.[36]

How then should we evaluate a supposedly insane person's declarations in the letters/manifestations she submitted to this Court stating that she was insane when she testified on the alleged rape incidents. As confirmed by the evidence on record, Josephine's insanity was diagnosed on December 28, 1998, and a Report released by the National Mental Hospital dated March 2, 1999 verified this finding. Her unsound mental condition is, therefore, presumed to continue up to the present until a contrary finding can be established, or a report to the effect that she is no longer insane can be produced. Considering that appellant has not presented any substantial proof that his daughter has regained her sanity and is now capable of expressing her thoughts freely, conscientiously and intelligently, we cannot ascribe much value or credence to her declarations after December 28, 1998. Moreover, it is not impossible that he or his family may have been taken advantage of her lack of mental fortitude to persuade her to write those letters.

As regards the recantation of the victim, we emphasize that mere retraction by a prosecution witness does not necessarily vitiate her original testimony.[37] If such testimony was sufficiently clear, consistent and credible to establish the crime beyond reasonable doubt, a conviction may be based on it, notwithstanding its subsequent retraction. It has long been held that retractions are generally unreliable and are looked upon with considerable disfavor by the courts.[38]

Recently, in *People v. Nardo*,[39] the Court gave scant consideration to numerous letters of recantation made by the victim after the accused had already been convicted by the trial court.

"Be that as it may, recantations are frowned upon by the courts. A recantation of a testimony is exceedingly unreliable, for there is always the probability that such recantation may later on be itself repudiated. Courts look with disfavor upon retractions, because they can easily be obtained from witnesses through intimidation or monetary consideration. A retraction does not necessarily negate an earlier declaration. Especially, recantations made after the conviction of the accused deserve only scant consideration." [40] (Italics supplied)

The Separate Opinion of Mr. Justice Reynato S. Puno in *Alonte v. Savellano* explains the rationale for rejecting recantations in these words:

“Mere retraction by a witness or by complainant of his or her testimony does not necessarily vitiate the original testimony or statement, if credible. The general rule is that courts look with disfavor upon retractions of testimonies previously given in court. x x x. The reason is because affidavits of retraction can easily be secured from poor and ignorant witnesses, usually through intimidation or for monetary consideration. Moreover, there is always the probability that they will later be repudiated and there would never be an end to criminal litigation. It would also be a dangerous rule for courts to reject testimonies solemnly taken before courts of justice simply because the witnesses who had given them later on changed their minds for one reason or another. This would make solemn trials a mockery and place the investigation of the truth at the mercy of unscrupulous witnesses.”[41] (Italics supplied)

To be sure, recantations made by witnesses must be viewed with utmost caution and circumspection, because the motivations behind them may not necessarily be in consonance with the truth. Moreover, to automatically uphold them in any form would allow unscrupulous witnesses to trifle with the legal processes and make a mockery of established judicial proceedings, to the detriment of the entire justice system.

Civil Liability

Although the RTC correctly granted moral damages to the victim in the amount of P50,000[42] for each act of rape, it erred in not granting her another P50,000 as indemnity *ex delicto* pursuant to current jurisprudence.[43] She is likewise entitled to exemplary damages of P25,000, because the aggravating circumstance of father-daughter relationship was duly proven.[44]

WHEREFORE, the appealed Decision of the RTC of San Mateo, Rizal (Branch 76) in Criminal Case Nos. 3609 and 3610 is hereby **AFFIRMED** with the following modification: appellant is further ordered to pay the victim the additional amounts of P50,000 as indemnity *ex delicto* and P25,000 as exemplary damages for each act of rape. Costs against appellant.

SO ORDERED.

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

[1] Rollo, pp. 31-38; penned by Judge Jose C. Reyes Jr.

[2] Rollo, p. 38; records, p. 202.

[3] Records, Vol. I, p. 68.

[4] Atty. Victoriano Amado.

[5] Rollo, pp. 16-19; signed by 3rd Asst. Provincial Prosecutor Nestor V. Gapuzan.

[6] *Ibid.*, p. 16; records, Vol. 1, p. 1.

[7] *Id.*, p. 18; *id.*, Vol II, p. 1.

[8] Appellee's Brief, pp. 2-6; rollo, pp. 282-286. This was signed by Asst. Solicitors General Carlos N. Ortega and Maria Aurora P. Cortes and Solicitor Karinna R. Salle-Gatdula.

[9] Appellant's Brief, pp. 7-10; rollo, pp. 229-232. This was signed by Attys. Arceli A. Rubin, Elpidio C. Bacuyag and Gaudencio A. Barboza Jr. of the Public Attorney's Office.

[10] Decision, pp. 7-8; rollo, pp. 37-38.

[11] The case was deemed submitted for resolution on December 21, 2001, upon receipt by this Court of appellant's Reply Brief.

[12] Appellant's Brief, p. 1; rollo, p. 223. Original in upper case.

- [13] *People v. Lerio*, 324 SCRA 76, January 31, 2000.
- [14] *People v. Almacin*, 303 SCRA 399, February 19, 1999.
- [15] *People v. Dizon*, 309 SCRA 669, July 2, 1999.
- [16] *People v. Sale*, 345 SCRA 490, November 22, 2000; *People v. Alicante*, 332 SCRA 440, May 31, 2000.
- [17] *People v. Penaso*, 326 SCRA 311, February 23, 2000.
- [18] TSN, September 2, 1998, pp. 13-16.
- [19] *People v. Guiwan*, 331 SCRA 70, April 27, 2000; *People v. Baybado*, 335 SCRA 712, July 14, 2000.
- [20] *People v. Cruz*, 337 SCRA 680, August 14, 2000.
- [21] *People v. Itdang*, 343 SCRA 624, October 18, 2000.
- [22] *People v. Tabanggay*, 334 SCRA 575, June 29, 2000.
- [23] Dated June 13, July 3, July 10 and August 6, 2000; rollo, pp. 49-52.
- [24] Dated January 22, 2001; rollo, pp. 142-148.
- [25] Dated October 20, 2000; rollo, p. 147.
- [26] Letter dated February 16, 2002.
- [27] Rollo, p. 334.
- [28] TSN, January 8, 1999, pp. 6-7.
- [29] TSN, March 2, 1999, pp. 3-4.
- [30] TSN, December 9, 1998, pp. 12-13.
- [31] Rollo, pp. 53-55; records, pp. 179-181.
- [32] Francisco, *Evidence*, 1996 ed., p. 357.
- [33] *People v. Omar*, 327 SCRA 221, March 3, 2000.
- [34] *Dulla v. CA*, 326 SCRA 32, February 18, 2000.
- [35] Francisco, *Evidence*, supra, 1996 ed., p.122.
- [36] *People v. Tagaylo*, 345 SCRA 284, November 20, 2000; *People v. Dumaguing*, 340 SCRA 701, September 20, 2000; *People v. Llambo*, 323 SCRA 791, January 28, 2000.
- [37] *People v. Amban*, 327 SCRA 71, March 1, 2000.
- [38] *People v. Gonzales*, 338 SCRA 678, August 24, 2000.
- [39] 353 SCRA 339, March 1, 2001, per curiam.
- [40] *Ibid.*, p. 351.
- [41] 287 SCRA 245, 293-294.
- [42] *People v. Gonzales Jr.*, GR Nos. 143143-44, January 15, 2002.
- [43] *People v. Narido*, 316 SCRA 131, October 1, 1999.
- [44] *People v. Catubig*, GR No. 137842, August 23, 2001.

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