

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. ATANACIO MENDOZA, APPELLANT.

G.R. Nos. 143844-46. November 19, 2002

Ponente: PANGANIBAN, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-nos-143844-46/>

PANGANIBAN, J.:

A rape victim, especially one who is of tender age, would not normally concoct a story of defloration, allow an examination of her private parts and undergo a public trial, if she is not motivated solely by the desire to have her ravisher apprehended and punished. As long as her testimony meets the test of credibility, the accused may be convicted on that sole basis.

Statement of the Case

Atanacio Mendoza appeals the March 23, 2000 “Joint Judgment”[1] of the Regional Trial Court (RTC) of Calamba, Laguna (Branch 34) in Criminal Case Nos. 6059-98-C, 6060-98-C and 6061-98-C, convicting him of three (3) counts of rape. The dispositive portion of the assailed Decision reads as follows:

“In Criminal Case No. 6059-98-C

“This Court finds accused Atanacio Mendoza GUILTY beyond reasonable doubt of the crime of Rape as defined and penalized under Article 335 of the Revised Penal Code, as amended, and hereby sentences him to suffer the penalty of RECLUSION PERPETUA with all its attendant accessory penalties.

“Accused is further directed to indemnify complaining witness Marilyn Bernardo the sum of Fifty Thousand (Php50,000.00) Pesos as and for moral damages.

“In Criminal Case No. 6060-98-C

“This Court finds accused Atanacio Mendoza GUILTY beyond reasonable doubt of the crime of Rape as defined and penalized under Articles 266-a and 266-b of the Revised Penal Code, as amended, and hereby sentences him to suffer the penalty of RECLUSION PERPETUA with all its attendant accessory penalties.

“Accused is further directed to indemnify complaining witness Marilyn Bernardo the sum of Fifty Thousand (Php50,000.00) Pesos as and for moral damages.

“In Criminal Case No. 6061-98-C

“This Court finds accused Atanacio Mendoza GUILTY beyond reasonable doubt of the crime of Rape as defined and penalized under Articles 266-a and 266-b of the Revised Penal Code, as amended, and hereby sentences him to suffer the penalty of RECLUSION PERPETUA with all its attendant accessory penalties.

“Accused is further directed to indemnify complaining witness Jennifer Fernandez the sum of Fifty Thousand (Php50,000.00) Pesos as and for moral damages.”[2]

Three separate Informations,[3]all dated July 31, 1998,charged appellant as follows:

Criminal Case No. 6059-98-C

“That sometime in March 1997, at Brgy. Parian, Municipality of Calamba, Province of Laguna and within the jurisdiction of this Honorable Court, the above-named accused, through force, violence and intimidation and with lewd design did then and there wilfully, unlawfully and feloniously have carnal relation with one MARILYN BERNARDO y BUNO fifteen (15) years old minor, against her will and consent, to her damage and prejudice.”[4]

Criminal Case No. 6060-98-C

“That sometime in February 1996, at Brgy. Parian, Municipality of Calamba, Province of Laguna and within the jurisdiction of this Honorable Court, the above-named accused, while conveniently armed with a handgun, through force, violence and intimidation and with lewd design did then and there wilfully, unlawfully and feloniously have carnal relation with one MARILYN BERNARDO y BUNO fifteen (15) years old minor, against her will and consent, to her damage and prejudice.”[5]

Criminal Case No. 6061-98-C

“That on or about March 25, 1998, at Brgy. Parian, Municipality of Calamba, Province of Laguna and within the jurisdiction of this Honorable Court, the above-named accused, through force, violence and intimidation and with lewd design did then and there wilfully, unlawfully and feloniously have carnal relation with one JENNIFER FERNANDEZ y MATA sixteen (16) years old minor, against her will and consent, to her damage and prejudice.”[6]

During his arraignment on September 16, 1998, appellant, assisted by his counsel,[7] pled not guilty to the charges.[8] After a joint trial of the cases, the lower court rendered the assailed Judgment.

The Facts

Version of the Prosecution

In its Brief, the Office of the Solicitor General (OSG), presents the prosecution’s version of the facts as follows:[9]

“Criminal Cases No. 5059-98-C and 6060-98-C

“Sometime in February 1996, Marilyn Bernardo, who was then fifteen (15) years old, and her eleven-year brother Jose Bernardo were entrusted by their mother to the care of appellant, their mother’s godson. Their mother left their house in Centerville, Calamba, Laguna to visit her relatives in Batangas. Their father was not living with them, having separated from their mother.

“Around 1:00 o’clock in the morning, Marilyn, who was then sleeping in her mother’s room together with her younger brother Jose, was roused from her sleep when she felt somebody, who turned out to be appellant, touching her body. Appellant threatened Marilyn not to move or shout or tell anyone what was happening or else he would shoot her. Marilyn felt a gun pointed at her.

“Appellant inserted his finger into Marilyn’s private part and ordered her to remove her clothes. Out of fear, Marilyn removed her clothing. When appellant went on top of her, Marilyn tried to resist by boxing appellant but she was eventually overpowered by the former who succeeded in inserting his penis into her organ. The frightened victim felt pain and could only cry as she was being defiled by appellant.

“Jose was awakened by the resistance put up by Marilyn and saw appellant on top of [his] sister. He was however too afraid to do anything because appellant threatened to kill him.

“Before leaving, appellant warned Marilyn and Jose not to tell anyone otherwise he would kill them.

“When her mother arrived in the afternoon of the following day, Marilyn did not report the incident because she was frightened of appellant’s threat.

“This sexual outrage was repeated sometime in March 1997 when at around 2:00 o’clock in the morning, appellant entered Marilyn’s room, poked something at her back, and warned her that if she shouted, he would shoot her. Appellant then inserted his finger into her private part. Marilyn boxed appellant and pleaded with him. Appellant ignored her plea and went on top of her saying, ‘Umayos ka, umayos ka’. Notwithstanding the resistance put up by Marilyn, appellant succeeded in consummating his lust. Before leaving, appellant warned Marilyn not to tell anyone, otherwise he would kill her and her family.

“Again, Jose was awakened by the resistance put up by [his] sister and tried to leave the room. Appellant pulled his arms and told him to stay. Frightened and intimidated, he went back to sleep.

“The siblings’ mother was not in their house when appellant repeated his sexual assault on Marilyn.

“Sometime in the early part of 1998, Marilyn revealed to her mother that she was sexually assaulted by appellant. Ruben Cabatbat, a barriomate and a fellow member of the victim’s mother in a religious organization, learned about the incident from the victim and assisted her and her mother in prosecuting appellant.

“On June 15, 1998, Marilyn was examined by Dr. Lorna P. Sta. Maria. The medical examination revealed that Marilyn’s hymen had ‘old-healed lacerations at 3 o’clock and 6 o’clock position.’

“On June 18, 1998, Marilyn was emboldened to report to the authorities the sexual assaults committed against her by appellant after learning that Jennifer Fernandez had already filed a similar case against appellant.

“Criminal Case No. 6060-98-C

“Around 2:00 o’clock in the afternoon of March 25, 1998, Jennifer Fernandez was on her way to school at Pulo National High School when she saw appellant waiting for her at the corner of Centerville which was near her house in Barangay Paciano Rizal, Calamba, Laguna. Appellant told Jennifer to go with him. When Jennifer refused, appellant threatened her by saying that something would happen to her. Frightened, Jennifer went with appellant who held her arms. Jennifer tried to resist by boxing appellant to no avail.

“Appellant forced Jennifer to board a passenger jeep where they were the only passengers. They alighted at Parian, Calamba, Laguna, where a tricycle was already waiting for them. Jennifer was made to board the tricycle which brought them to Riverview Hotel. At the hotel premises, appellant left her inside the tricycle. Jennifer did not run nor shout as she was very frightened of appellant. She also heard appellant telling the tricycle driver to guard her otherwise he would hold the driver accountable.

“Appellant subsequently returned and dragged Jennifer inside one of the rooms of the hotel. Once inside the room, appellant ordered Jennifer to undress. When she refused, appellant slapped her three times and threatened her, ‘Kung hindi ka papayag, papatayin kita.’ Frightened Jennifer undressed and appellant kissed her private parts. Jennifer tried to resist by boxing appellant. She also cried and pleaded with appellant to desist from what he was doing. Appellant responded by boxing Jennifer on the stomach, causing the latter to twist in pain. Appellant then mounted her and inserted his manhood into her private part. After appellant had ejaculated inside Jennifer, he took a towel and wiped the semen on his organ. He told Jennifer to dress-up.

“After appellant and Jennifer had left the room and were outside of the hotel, Jennifer ran away and boarded a jeep. She proceeded to her school where her crying drew queries from her classmates but she did not reveal to them the reason for her tears as she was afraid of the threat made by appellant. Jennifer went home at around 5:00 o’clock in the afternoon and just stayed in her room where she continued crying.

“Sometime in the early part of 1998, Jennifer revealed to her parents that she was sexually assaulted by appellant.

“On June 2, 1998, Dr. Charisa Juangco examined Jennifer. The medical examination revealed that Jennifer had an old healed laceration at 5:00 o’clock and 7:00 o’clock position.’

“On June 3, 1998, Jennifer reported her ordeal to the authorities. She was afraid to report it earlier because appellant threatened to kill her and her family.”[10] (Citations omitted)

Version of the Defense

Appellant denied the charges. Before the RTC, he testified that Marilyn Bernardo had filed the cases against him as an offshoot of a quarrel. That quarrel was supposedly between his wife, Fely; and Marilyn’s mother, Prescilla Bernardo[11] -- a preacher herself, who belonged to the same religious group as he. He said that when Prescilla advised him to leave Fely, he ignored said advice and thereafter absented himself from the preaching activities of the group. His acts allegedly enraged Prescilla, who then concocted the charges against him.[12] He averred further that he hardly left his house during the months of February 1996 and March 1997.[13]

As regards the rape charge of Jennifer Fernandez, appellant alleged that on March 25, 1998, he attended the birthday party of his neighbor and friend, Mario Manaig. He was in Mario’s house from ten o’clock in the morning of that day until two o’clock the next morning, March 26, 1998.[14]

The defense of appellant was corroborated by his wife, Fely Mendoza; as well as by Mario Manaig and Cecille Manaig. Cecille and Fely further testified that Jennifer Fernandez confided to them that she had been raped by her own brother, Ricardo Salazar. Allegedly, she did not file a complaint against him for fear that he might eject her from his house.[15]

Another witness, Maria Lydia Borlongan, resident manager of the Riverview Resort and Hotel, testified that during her 24-hour duty on March 25, 1998, she could not recall any rape that had taken place in one of the hotel rooms.[16]

The Trial Court’s Ruling

The RTC gave credence to the clear and positive testimonies of private complainants. It said: “Complaining witnesses in the cases at bar are both minors x x x [a]nd this circumstance, standing alone, overwhelms the constitutional presumption of innocence in favor of the accused. And ranged against the positive clear testimonies of the complaining witnesses, the defense of alibi and fabrication invoked by the accused cannot hope to succeed.”[17]

Hence, this appeal.[18]

The Issues

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

“I.

“The trial court gravely erred in holding that the fact of minority of both complaining witnesses in Criminal Cases Nos. 6059-98-C, 6060-98-C and 6061-98-C standing alone, overwhelms the constitutional presumption of the innocence of the accused.

“II.

“The trial court gravely erred in holding that the delay of the disclosure of the complaining witnesses to disclose the fact of rape cannot reverse the wheels of guilt of the accused.

“III.

“The trial court gravely erred when it failed to consider and appreciate evidence for the appellant that the incident of rape against Jennifer Fernandez was allegedly committed inside a hotel, or that the alleged assault against Marilyn Bernardo was committed inside a room in the company of the victim’s brother.

“IV.

“The trial court gravely erred in holding that the inconsistency in the sworn statement of Marilyn Buno Bernardo against her declaration in Court do[es] not unnecessarily discredit her.

“V.

“The trial court gravely erred in holding that appellant is guilty of the crime punished under Article 335 in Criminal Case No. 6061-98-C in the judgment received on March 31, 2001.

“VI.

“The trial court gravely erred in holding [that] the appellant is guilty of the crime of rape as defined and penalized under Articles 266-A and 266-B of the Revised Penal Code, as amended, in Criminal Case No. 6060-98-C in the judgment received on April 6, 2000.”[19]

In the main, this Court is being asked to reverse the lower court on two grounds: (1) the incredible testimony of complainants and (2) the prosecution’s failure to rebut the constitutional presumption of innocence in favor of appellant.

The Court’s Ruling

The appeal is partly meritorious.

First Issue:

Credibility of Private Complainants

Appellant faults private complainants for their long delay in reporting the alleged crimes. He asserts that it was unnatural for Marilyn Bernardo to wait for two years after the supposed first rape before filing the charges. He also casts doubts on her credibility by citing material inconsistencies between her Sworn Statement and her testimony. Finally, he contends that it was improbable for him to have raped Marilyn inside a bedroom she shared with her brother.

We disagree. When it comes to the issue of credibility of witnesses, we generally defer to the assessment of the trial court, because it had the singular opportunity to observe their demeanor.[20] Thus, its findings are conclusive, unless it is shown that certain facts of substance and value have been plainly overlooked.[21] In the present case, a review of the records and the transcripts shows that the RTC had ample opportunity to examine the testimony of the complaining witnesses. Appellant has not given us sufficient reason to overturn the lower court’s factual findings.

Moreover, in the prosecution of rape cases, it is well-settled that long silence and delay in reporting the crime cannot detract from the victim’s credibility,[22]especially where the delay is satisfactorily explained.[23]

In Jennifer’s case, reporting the crime four months after it occurred is hardly unreasonable. Meanwhile, in the case of Marilyn, the fact that she waited two years before she reported the dastardly deeds was justified by her fear. She explained as follows:

“FISCAL:

Q I noticed that you were only investigated on June 18, 1998 in the incidence that you have narrated happened on February 1996 and March 1997. Can you tell us why it was only on June 18, 1998 when you gave your statement to the investigator?

WITNESS:

A Because I was very afraid of him, sir, and the reason why I gave my statement on June 18, 1998 I learned that somebody [h]as filed a case against him.

Q Do you know who[‘s] this somebody whom you said filed a case against the same accused Atanacio Mendoza?

A Yes, sir.

Q Who?

A Jennifer Fernandez, sir.

Q You said the reason why you did not immediate[ly] give your statement because you were afraid of the accused. Why were you afraid of the accused?

WITNESS:

A Because he threatened me that he will kill me and my mother and brother, sir.

“FISCAL:

Q This Atanacio Mendoza the accused in these two case[s], do you know where he was residing?

A Yes sir.

Q Where?

A He is our neighbor at Centerville, sir.”[24]

It must be noted that a young girl, unlike a mature woman, cannot be expected to have the courage and the intelligence to report immediately a sexual assault committed against her, especially when a death threat hangs over her head.[25] It is not proper to judge the action of children who have undergone traumatic experiences by the norms of behavior expected of mature individuals under similar circumstances.[26] This is especially true in the case at bar, in which the malefactor was a trusted friend and neighbor.

Relying on *People v. Wilson*,[27] appellant wants us to disregard the testimony of Marilyn because of the alleged “substantial inconsistency” between her Sworn Statement and her open court testimony. In the former, she alleged that during the February 1996 rape incident, “x x x hindi po natuloy na ipasok niya ang kanyang ari sa akin x x x”[28] but in the latter, she said that he was able to insert his penis fully into her vagina.[29]

Appellant’s reliance on *Wilson*[30] is misplaced. That case pertains to two different Sworn Statements executed a day apart. The first affidavit charged the accused with attempted rape; the second, with consummated rape. The latter Statement resulted in the filing of an amended Complaint changing the charge from attempted to consummated rape. No plausible explanation was offered by the victim for the sudden change. Moreover, the physical evidence did not corroborate the allegation. Hence, the accusation was deemed unworthy of credence.

In the present case, we find nothing suspicious that would lead us to believe that the charges were fabricated. The inconsistency cited does not by itself destroy the credibility of Marilyn as to what transpired in February 1996 and

March 1997. She ably clarified this seeming inconsistency during her testimony when she explained that in February 1996, appellant had not been able to insert his penis fully into her vagina after placing his finger inside, but succeeded later in March 1997.[31] Verily, declarations made in court are given more weight than statements taken ex parte, because the latter are almost always incomplete and inaccurate.[32]

As to the improbability of committing rape in a public place as pointed out by appellant, we have consistently held that rape is no respecter of time and place.[33] It can be committed even in places where people congregate, in parks, along the roadside, within school premises, inside a house or where there are other occupants, and even in the same room where there are other members of the family who are sleeping.[34]

It must be noted that in the case of Marilyn, her younger brother who was sleeping beside her was awakened by the sound of his sister apparently “fighting” someone else. He then saw appellant “on top” of her. The boy clearly narrated what he saw in this wise:[35]

“FISCAL:

“Q Now sometime in February 1996, do you recall having seen or witnessed any unusual incident that happened to your sister Marilyn Bernardo?

A Yes, sir.

Q Please tell the Court what that unusual incident that happened to your sister that you witnessed all about?

A I saw Atanacio Mendoza on top of my sister sir.

Q And in what place did you see the accused on top of your sister on that date of February 1996?

A In our house.

Q And how did you happen to see that?

A I was awakened because I felt that my sister was fighting.

Q When you said you were awakened because your sister was fighting with the accused, what did you do when you woke up?

A Nothing sir because I was afraid.

Q Why were you afraid?

A Because I was told that we will be killed.

Q By whom?

A By Atanacio Mendoza.

FISCAL:

Q You said this incident happened in your house, what part of your house did you see the accused on top of your sister when your sister was fighting him?

A In the bedroom of my mother sir.

Q Who were inside the room where you said you saw the accused on top of your sister?

A Only the two of us, my sister and I.

Q When you said your sister, you are referring to Marilyn Bernardo.

A Yes, sir.

Q And after you were threatened that you would be killed and you said you were scared, what happened next, if any?

A That's it, sir. I was not able to do anything because I was afraid.

Q How about the accused, what did he do next after you said you were threatened?

A Nothing more.

x x x x x x x x

Q How about on March 1997, do you recall also of any unusual incident that happened to your sister which you witnessed?

A The same sir.

Q When you said the same, what do you mean?

A [Katulad] din noon.

Q The man you saw or you saw again was Atanacio Mendoza on top of your sister?

A Yes, sir.

Q When did this incident took place?

A Inside the room of my mother.

Q In the same bedroom of your mother where you saw the accused on top of your sister?

A Yes, sir.

Q What was your sister doing at the time you saw him for the second time that the accused was on top of your sister?

A She was fighting sir.

Q Who were inside the bedroom?

A The two of us sir.

Q And then what did you do when you again saw the accused on top of your sister and your sister was fighting?

A I was then to go out of the room when he pulled my arms and told me not to leave the room.

Q Did you notice anything at the time the accused told you not to leave the room?

A Yes, sir.

Q What was he holding?

A I cannot recall because his hands were at the back of my sister.

Q And when you were told not to leave the room, what did you do?

A I just slept and was frightened.”[36]

Second Issue:

Sufficiency of the Prosecution Evidence

Appellant contends that the prosecution failed to present evidence sufficient to convict him of the offenses charged.

We are partly convinced. In order for rape to be consummated, there must be proof of the entry or the sliding of the male organ into the labia of the pudendum of the female organ.[37] Full penetration is not necessary. As held in *People v. Campuhan*,[38] “touching when applied to rape cases does not simply mean mere epidermal contact, stroking or grazing of organs, a slight brush or a scrape of the penis on the external layer of the victim’s vagina, or the mons pubis. x x x There must be sufficient and convincing proof that the penis indeed touched the labia or slid into the female organ, and not merely stroked the external surface thereof, for an accused to be convicted of consummated rape.”[39]

As to the charge that the first rape incident happened in February 1996, Marilyn testified during her direct examination that appellant had been able to insert his penis fully into her vagina.[40] On cross-examination, when asked to clarify her Sworn Statement, in which she said “hindi po niya natuloy maipasok ang kanyang ari sa akin,” she explained as follows:

“ATTY. SAMUELA:

Q. Madam witness, just a while ago you just testified that in February 1996, the accused in this case was able to insert his penis in your private part. In fact, you did not come to know if and when he stopped his penis. Now, you are telling in this Sinumpaang Salaysay that ‘hindi po natuloy ipasok niya ang kanyang ari sa akin’. Will you please tell the Honorable Court which is true in your statement a while ago and the statement appearing in this Sinumpaang Salaysay?

x x x x x x x x

WITNESS:

A Because on February 1996 he first inserted his finger into my private part, sir, and then he went on top of me. But he was not able to insert his private part into my private part, sir. But on March 1997, that was the time when he was able to do what he wanted to do with me, sir.”[41]

On re-direct examination, she declared:

“FISCAL

Q Now, when asked by the defense counsel regarding that incident of February 1996 you said that the accused was able to insert his penis into your private part and your answer was ‘yes’, now you were referring to your statement regarding the same incident wherein you stated the following:

Hindi po natuloy na maipasok niya ang ari niya sa akin?

FISCAL:

Q What do you mean by that?

A ‘Hindi po nakabaon, nakapatong lang.’

Q When you said that ‘hindi nakabaon at nakapatong lang’, can you elaborate that?

A Because when he is trying to insert his private part into mine I was resisting and fighting so he was not able to insert his private part.”[42]

The words of Marilyn -- “nakapatong lang” -- show that there was no entry into her private part. There is nothing

in her testimony that would prove that appellant's penis reached the labia of her pudendum.

Although the testimony of a child must be received with due consideration on account of her tender age, the Court endeavors at the same time to harness only what in her story appears to be true, acutely aware of the equally guaranteed rights of the accused.[43] Hence, based on the testimony of Marilyn, we cannot conclude with moral certainty that appellant should be held liable for consummated rape.

In contrast, her testimony regarding the March 1997 incident indicated certainty that the penis of appellant penetrated her vagina. Her consistent and firm declaration "Nakuha na niya ang pagkababae ko" meant that he was able to insert his penis fully into her vagina. Recounting her ordeal, she testified thus:

"FISCAL:

Q Tell us, why the accused was in your house in the morning of March 1997?

A Because he was trusted by my mother to look [after] us, sir.

Q How was he entered into your room?

A 'Sinusubaybayan po niya kami', sir.

Q x x x. What did he do to you after he entered the room?

A He again touched my body, sir.

Q What did you do when he was touching your body?

A I was again surprised, sir.

Q What did you tell him when you were surprised that he was touching your body?

A I told him not to do it, sir.

Q And when you told him not to do it what did he do?

A He again poked something at my back and again told me that if I made a noise or shout, he will shoot me, sir.

Q What did you feel when you were threatened by the accused?

A I was very afraid, sir, because I felt pain when he pointed something at my back, sir.

Q After he touched you and threatened you, what did he do next?

A He inserted his finger into my private part, sir.

Q What did you do when he inserted his finger to your private part?

A I was boxing him and pleading him not to do what he was doing but he forced me and went on top of me, sir.

Q What did you feel when he inserted his finger to your private part?

A It was very painful, sir.

Q You said he went on top of you, what did he do when he was on top of you?

A I was boxing him so that I could keep away from him, but he was forcing me and told me 'umayos ka, umayos ka' but I continue[d] boxing and kicking him, sir.

Q What happened after you said you were pleading him, boxing him and he was forcing you?

A He went on top of me, sir.

Q While on top of you, what did he do?

A 'Nakuha na niya ang gusto niya', sir.

Q When you said, when he was able to get what he wanted to get, what do you mean by that?

A He abused me, sir, 'nakuha ang pagkababae ko'.

Q After you said that he was able to do his purpose, what did he do next?

A He threatened me, sir.

Q How did he threaten you?

A Not to tell anybody what happened to me, sir, or else he will kill us.

Q What did you feel when you were threatened by the accused?

A I was very afraid and whenever I see him I get m[a]d at him and always afraid of him, sir.

Q You said that whenever you see him, you got afraid with him. Why?

A 'Napakahayop niya.'"[44]

As to Jennifer's accusation of rape, the evidence on record convincingly proves the consummation of rape.

Time and time again, we have said that a rape victim, especially one of tender age, would not normally concoct a story of defloration, allow an examination of her private parts and thereafter permit herself to be subjected to a public trial, if she is not motivated solely by the desire to have the culprit apprehended and punished.[45] Thus, when a woman -- more so if she is a minor -- says that she has been raped, she says in effect all that is necessary to show that rape was committed. And as long as the testimony meets the test of credibility, the accused may be convicted on that sole basis.[46]

Jennifer readily recounted her traumatic experience as follows:

FISCAL:

Q At around 2:00 o'clock in the afternoon of March 25, 1998, tell us where you were if you could still recall?

A I was then going to school sir.

x x x x x x x x

Q And while you were walking in that afternoon of March 25, 1998 going to your school, do you recall of any incident that happened to you?

A Yes, sir.

Q Could you tell the Court what was that unusual incident that happened to you?

A I was then going to the school when Atanacio Mendoza waited for me in the corner of Centerville.

Q Where was this Centerville where Atanacio was waiting for you or 'inaabangan ka'?

A It is near our house, sir.

Q And where is [your] house located? What barangay and municipality?

A Brgy. Paciano Rizal, Calamba, Laguna.

Q When you said the accused Atanacio Mendoza was at the corner of Centerville, Paciano Rizal, Calamba, Laguna and you were then walking, what did he do to you?

A He told me to go with him and I answered him I do not want but he told me that If I will not go with him something will happen to me.

Q Did he tell you why he wanted you to go with him?

A Yes, sir.

Q What did he tell you?

A He just told me to go with him and if I will not, something will happen to me.

Q When he said if you will not go something will happen to you, what did you feel?

A I was afraid sir.

Q And what did you do after you were threatened by the accused that if you will not go with him something will happen to you?

A Because I was very afraid I just went with him but I was fighting him.

Q How were you fighting him?

A While he was holding my arm, I was boxing him.

Q And where were you brought by the accused?

A He boarded me in a passenger jeep and brought me to Riverview Hotel.

Q That passenger jeep where you said you were made to ride, was there any passenger at that time?

A None, sir.

Q Do you know the driver of the jeep?

A No, sir.

Q Do you know if the driver is known to the accused?

A No, sir.

Q You said you were brought by the accused to Riverview, where is that Riverview where you said you were brought by the accused?

A In Parian when we alighted from the passenger jeep there was already a tricycle waiting for us and he made [m]e board the tricycle and the driver of the tricycle brought us inside the Riverview and he left me inside the tricycle and took a number and brought me inside the room.

Q When you were left inside the tricycle why did you not run and shout?

A Because he is known to the tricycle driver and he told the tricycle driver to guard me and I was very afr[a]id.

Q Before the accused left and g[o]t a number, was there any conversation between the tricycle driver and the accused?

A None sir.

Q How were you able to say that the driver of the tricycle is known to the accused?

A Because the accused told the tricycle driver to guard me 'at kung may mangyari diyan, mananagot ka sa akin.'

Q You said you were brought and dragged inside the room by the accused, can you demonstrate how you were dragged by the accused?

A He was holding my arms telling me to enter the room but I answered him I do not want to enter the room but he pulled and dragged me until I was able to enter the room.

Q Inside the room, what did the accused do to you?

A Inside the room he ordered me to undress myself and I answered I do not want, he was forcing me, I was fighting him so finally I removed my clothes against my will.

Q You said the accused was forcing you to remove your clothes, how was he forcing you?

A He was pushing me sir while I was moving backwards and then he slapped me and he also told me 'Kung hindi ka papayag, papatayin kita.'

Q How many times were you slapped by the accused?

A Three times sir.

Q When the accused told you if you will not agree he will kill you, what did you feel?

A I was afraid sir, 'kaya wala na akong nagawa'.

Q You said finally you undressed yourself, after you have undressed yourself out of fear what did the accused do to you?

A He kissed my body.

Q And what portion of your body were you kissed by the accused?

A My private part sir.

Q What did you do when the accused was kissing your private part?

A 'Nandidiri ako.'

Q Aside from that what did you do?

A I was fighting him and requested him to stop. (Witness is crying)

I was requesting him to stop but it seems that he did not hear me. He just told me to stop crying. I was just crying then.

Q You said you were fighting him also when he was kissing your private part, how were you fighting?

A I was boxing him.

(The witness is demonstrating by swaying her hand closed fist)

Q What did you do after the accused was kissing your private part and on your part you were trying to box him?

A He boxed me on my stomach. 'Namimilipit ako sa sakit.' I said 'Aray ko,' and I told him to stop but he continued inserting his private part into my private part.

Q What was his position in relation to you at the time you said he was inserting his private part into your private part?

A He was on my top. 'Nakadagan siya.'

Q While the accused was inserting his private part into your organ, what were you doing?

A I was moving backwards and told him to stop because it was very painful but he did not stop.

Q And he did not stop despite your pleas?

A 'Noong nilabasan na siya itinigil na niya ang pagganon sa akin.'

Q Now after he stopped what did he do next?

A He took the towel and wiped yong lumabas sa kanya and told me to dress myself.

Q After you were told to dress yourself, what did you do?

A So I dressed up.

Q After you dressed up after you were told by the accused, what did you do next?

A I told him that I will be going out and he told me not to go out and wait for him because I do not know how to open the door which was locked. I was not able to go out.

Q But finally, were you able to go out of the room?

A No, sir.

Q What happened after you were asked by the accused to wait for him so you can go out?

A So I waited inside the room and was crying.

Q After you waited for him, what happened next?

A So he opened the door and we went outside. I ran away from him inside and boarded the jeep and proceeded to the school. In the school I continued crying.

Q How about the accused where did he go?

A I do not know sir because I left him inside the motel, I did not mind him.

Q Tell us why you proceeded to the school?

A Because I was afraid to go home sir because he might go to our house because his house is near our house.

Q In the school what did you do there?

A I only cried.

Q What happened after you said you continued to cry in the school?

A My classmates were asking me why, I was crying and answered them 'nothing'. That's my problem.

Q Why did you not tell your classmates?

A I was afraid.

Q Afraid of him?

A From Tasyo.

Q Why were you afraid of Tasyo?

A Because of his threat.”[47]

Furthermore, Jennifer’s testimony is strongly supported by the medical findings conducted by the medicolegal expert[48] three months after the incident. The Medical Report showed that the victim had old healed lacerations at the five o’clock and the seven o’clock positions. This finding is consistent with penile invasion.[49] Where the victim’s claim of rape is corroborated by the physical findings of penetration, there exists sufficient basis for concluding that sexual intercourse did take place.[50]

Defense of Denial and Alibi

As consistently held by this Court, alibi and denial cannot prevail over the positive identification of the accused as the perpetrator of the crime.[51] For the defense of alibi to prosper, the accused must establish clearly and convincingly that it was physically impossible for him to have been at the crime scene when it happened. In the present case, appellant failed to show, by clear and convincing proof, that it was physically impossible for him to have been at the loci criminis.

Neither can we accept the theory of appellant that it was Prescilla Bernardo, his godmother and Marilyn’s mother, who instigated her daughter to file the charges. We reiterate that it is unnatural for a mother to use her daughter as an engine of malice, especially if it will subject her offspring to embarrassment and lifelong stigma. A mother would not sacrifice the honor of her daughter to give vent to a grudge that would tarnish the latter’s reputation forever.[52]

Finally, the trial court erred in ruling that the acts committed by appellant in Criminal Case No. 6060-98-C were covered by Articles 266-a and 266-b of the Revised Penal Code. Republic Act No. 8353 or “The Anti-Rape Law of 1997” reclassified the crime of rape as a crime against person and renumbered it from Article 335 to Articles 226-A to 226-B of the Revised Penal Code. The amendment took effect on October 22, 1997.[53] On the other hand, the crime charged herein was committed in February 1996. Hence, appellant can only be held liable under the old Article 335[54] of the Revised Penal Code.

Under Article 6 in relation to Article 335 of the Revised Penal Code, rape is merely attempted when the offender commences the commission of the crime directly by overt acts, but does not perform all the acts of execution by reason of some cause or accident other than his own spontaneous desistance. The penalty is two (2) degrees lower than the imposable penalty of reclusion perpetua. Two (2) degrees lower is prision mayor, the range of which is six (6) years and one (1) day to twelve (12) years. Applying the Indeterminate Sentence Law, and in the absence of any mitigating or aggravating circumstance, the maximum of the penalty to be imposed upon the accused shall be taken from the medium period of prision mayor, the range of which is eight (8) years and one (1) day to ten (10) years; while the minimum shall be taken from the penalty next lower in degree, which is prision correccional, the range of which is from six months and one (1) day to six (6) years.

Likewise, pursuant to prevailing jurisprudence, P50,000 is awarded to the victim as indemnity ex delicto for each count of consummated rape,[55] and P30,000 for the attempted rape.[56] In addition, moral damages in the amount of P50,000[57] is awarded to her for the consummated rape and P15,000[58] for the attempted rape.

WHEREFORE, the assailed Joint Judgment is AFFIRMED with the following MODIFICATIONS:

1. In Criminal Case No. 6060-98-C, appellant is found GUILTY of attempted rape and is sentenced to an

indeterminate penalty of two (2) years of prision correccional, as minimum, to ten (10) years of prision mayor, as maximum. He is also ordered to pay Marilyn Bernardo P30,000 as civil indemnity and P15,000 as moral damages.

2. In Criminal Case No. 6059-98-C, appellant is found GUILTY of simple rape and sentenced to suffer the penalty of reclusion perpetua. He is likewise ordered to pay Marilyn Bernardo P50,000 as civil indemnity in addition to the P50,000 already imposed as moral damages.

3. In Criminal Case No. 6061-98-C, appellant is found GUILTY of simple rape and sentenced to suffer the penalty of reclusion perpetua. He is also ordered to pay Jennifer Mendoza P50,000 as civil indemnity in addition to the P50,000 already imposed as moral damages.

SO ORDERED.

Puno, (Chairman), Sandoval-Gutierrez, and Carpio-Morales, JJ., concur.
Corona, J., on official leave.

[1] Rollo, pp. 34-47. Penned by Judge Antonio M. Eugenio Jr.

[2] Assailed Judgment, pp.13-14; rollo, pp. 46-47.

[3] Rollo, pp. 11-13. Signed by Assistant Provincial Prosecutor Macario A. Agosila and approved by Provincial Prosecutor George C. Dee.

[4] Id., p. 11; Crim. Case No. 6059-98-C, p. 4.

[5] Id., p. 12; Crim. Case No. 6060-98-C, p. 25.

[6] Id., p. 13; Crim. Case No. 6061-98-C, p. 14.

[7] Atty. Rodel Paderayon.

[8] Order dated September 16, 1998; Crim. Case No. 6059-98-C, p. 8; Crim. Case No. 6060-98-C, p. 29; Crim. Case No. 6061-98-C, p. 21.

[9] Rollo, pp. 135-197. Appellee's Brief was signed by Assistant Solicitor General Carlos N. Ortega, Assistant Solicitor General Azucena R. Balanon-Corpuz and Solicitor Raymund I. Rigodon.

[10] Appellee's Brief, pp. 6-11; rollo, pp. 145-150.

[11] TSN, September 27, 1999, p. 5.

[12] Ibid.

[13] Id., p. 6.

[14] TSN, September 13, 1999, p. 4.

[15] TSN, June 30, 1999, p. 13 and TSN, February 10, 1999, p. 7.

[16] TSN, April 19, 1999, p. 5.

[17] RTC Judgment, p. 10; rollo, p. 43.

[18] This case was deemed submitted for resolution on January 25, 2002, upon this Court's receipt of the

Appellee's Brief. The filing of a reply brief was deemed waived, as none had been filed within the reglementary period.

[19] Appellant's Brief, p. 9; rollo, p. 78; signed by Atty. Samuel S. Samuela. Original in upper case.

[20] *People v. Managaytay*, 305 SCRA 316, March 25, 1999.

[21] *People v. Cana*, GR No. 139229, April 22, 2002; *People v. Villanueva*, 254 SCRA 202, February 28, 1996.

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

[23] *People v. Errojo*, 229 SCRA 49, January 4, 1994; *People v. Gornes*, 230 SCRA 270, February 23, 1994; *People v. Dela Peña*, 232 SCRA 72, April 29, 1994; *People v. Abutin*, 259 SCRA 500, July 26, 1996.

[24] TSN, December 2, 1998, pp. 10-11.

[25] *People v. Olivar*, 215 SCRA 759, November 13, 1992.

[26] *People v. Alimon*, 257 SCRA 658, June 28, 1996; *People v. Razonable*, 330 SCRA 562, April 12, 2000; citing *People v. Remoto*, 244 SCRA 506, May 29, 1995.

[27] 321 SCRA 409, December 21, 1999.

[28] Marilyn Bernardo's Sinumpaang Salaysay; Crim. Case No. 6059-98-C, p. 2.

[29] TSN, December 2, 1998, p. 6.

[30] *Supra*.

[31] TSN, December 2, 1998, pp. 18-19.

[32] *People v. Castillo*, 261 SCRA 493, September 6, 1996; *People v. Aliposa*, 263 SCRA 471, October 23, 1996; *People v. Sumbillo*, 271 SCRA 428, April 18, 1997.

[33] *People v. Gecomio*, 254 SCRA 82, February 23, 1996; *People v. San Juan*, 270 SCRA 693, April 4, 1997.

[34] *People v. Tan Sr.*, 264 SCRA 425, November 20, 1996; *People v. Sangil Sr.*, 276 SCRA 532, July 31, 1997; *People v. Ambray*, 303 SCRA 697, February 25, 1999; *People v. Villar*, 322 SCRA 393, January 19, 2000.

[35] TSN, January 18, 1999, p. 3.

[36] *Id.*, pp. 3-5.

[37] *People v. Collado*, 353 SCRA 381, March 1, 2001.

[38] 329 SCRA 270, March 30, 2000.

[39] *Id.*, p. 280, per Bellosillo, J.

[40] TSN, December 2, 1998, p. 6.

[41] *Id.*, pp. 18-19.

[42] TSN, December 9, 1998, pp. 7-8.

[43] *People v. Campuhan*, *supra*, p. 286.

[44] TSN, December 2, 1998, pp. 7-9.

- [45] *People v. Ramirez*, 266 SCRA 335, January 20, 1997.
- [46] *People v. Butron*, 272 SCRA 352, May 7, 1997; *People v. Santos*, GR Nos. 135454-56, November 13, 2001.
- [47] TSN, October 14, 1998, pp. 3-8.
- [48] Dr. Charisa C. Juangco.
- [49] TSN, November 27, 1998, p. 4.
- [50] *People v. Villaraza*, GR No. 143703, November 29, 2001.
- [51] *People v. Taneo*, 284 SCRA 25, January 16, 1998; *People v. Dacibar*, 325 SCRA 725, February 17, 2000.
- [52] *People v. Cura*, 240 SCRA 234, January 18, 1995; *People v. Alimon*, 257 SCRA 658, June 28, 1996; *People v. Bracamonte*, 257 SCRA 380, June 17, 1996.
- [53] *People v. Padilla*, 301 SCRA 265, January 20, 1999.
- [54] This article provides: “Art. 335. When and how rape committed. – Rape is committed by having carnal knowledge of a woman under any of the following circumstances:
1. By using force or intimidation;
 2. When the woman is deprived of reason or otherwise unconscious; and
 3. When the woman is under twelve years of age, even though neither of the circumstances mentioned in the two next preceding paragraphs shall be present.
- The crime of rape shall be punished by reclusion perpetua.
- Whenever the crime of rape is committed with the use of deadly weapon or by two or more persons, the penalty shall be reclusion perpetua to death.
- When by reason or on the occasion of the rape, the victim has become insane, the penalty shall be death.
- When the rape is attempted or frustrated and a homicide is committed by reason or on the occasion thereof, the penalty shall be likewise death.
- When by reason or on the occasion of the rape, a homicide is committed, the penalty shall be death.”
- [55] *People v. Mahinay*, 302 SCRA 455, February 1, 1999.
- [56] *People v. Cruz*, 259 SCRA 109, July 17, 1996; *People v. Lucas*, 232 SCRA 537, May 25, 1994.
- [57] *People v. Catubig*, GR No. 137842, August 23, 2001.
- [58] *People v. Saladino*, 353 SCRA 819, March 7, 2001.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.