

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. WILSON SUAREZ Y VILLONES, SANTIAGO SUAREZ Y VILLONES (INDETERMINATE), RICARTE DARIA Y TENGSON (INDETERMINATE) AND NENA DARIA Y RIPOL (AC...

G.R. NOS. 153573-76. April 15, 2005

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

On October 1, 2001, Wilson Suarez y Villones, Santiago Suarez y Villones, Ricarte Daria y Tengson and Nena Daria y Ripol, were charged with rape in the information[1] that reads:

The undersigned 2[nd] Assistant City Prosecutor upon Sworn Complaint originally filed by Salome Montales in behalf of her minor daughter Jenalyn Montales accuses WILSON SUAREZ y VILLONES, SANTIAGO SUAREZ y VILLONES, RICARTE DARIA y TENGSON and NENA DARIA y RIPOL of the crime of RAPE UNDER RA 8353 ART. 266-A PAR. 1(a) AND ART. 266(b), committed as follows:

That on or about the 16[th] day of September 2001, in the City of Marikina, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, by means of force, coercion and intimidation and with lewd design, intent to cause or gratify their sexual desires or abuse and maltreat complainant JENALYN MONTALES, a minor, 14 years old, did then and there willfully, unlawfully and feloniously have sexual intercourse with said complainant against her will and consent which debases or demeans the intrinsic worth and dignity of said child as a human being.

That accused NENA DARIA, having knowledge of the commission of the crime, without having participated therein as principal or accessory, took part subsequently to its commission by then and there willfully, unlawfully and feloniously allowed the commission thereof in her presence without preventing them which she could have easily done but which she failed to do.

CONTRARY TO LAW.

On even date, Wilson, Santiago and Ricarte, were also charged with the crime of acts of lasciviousness.

All the accused entered a plea of not guilty. Thereafter, joint trial on the merits ensued.

The prosecution established that on September 15, 2001, Luzviminda Olaya sought permission from Salome Montales to allow her 14-year old daughter, Jenalyn Montales, to attend the birthday party of Santiago at his house in Ubas Street, Malanday, Marikina City. Jenalyn arrived at the party at 10 o'clock[2] in the evening accompanied by Salvador Olaya, Marlyn Altoza, Luzviminda, Jeffrey Olaya and Jocelyn Teraza. Aside from the celebrant, also present were accused-appellant and the spouses Ricarte and Nena.[3]

The celebration lasted until the early morning of September 16, 2001. When it was over, Jenalyn slept on the sofa while accused-appellant, Santiago and Ricarte slept on the mat spread out beside the sofa.

At around 2 o'clock in the morning of September 16, 2001, accused-appellant suddenly pulled down Jenalyn to the floor, forcibly undressed her and inserted his penis into her vagina. She could not shout as accused-appellant covered her mouth with clothes. While she was being raped by accused-appellant, Santiago and Ricarte held her hands and thighs, sucked her breasts and kissed her body. Jenalyn tried to awaken Jeffrey and Jocelyn to no avail. Nena woke up and focused the flashlight on her but did not do anything to help. When Jenalyn momentarily freed herself from accused-appellant, she ran to the comfort room nearby but the latter pursued her and, while sporting a knife, raped her again.

Jenalyn does not know the way back to their house in Antipolo as it was her first time in Marikina City. Thus, she waited until 8 o'clock in the morning and left Santiago's house together with Luzviminda, Jeffrey and Jocelyn. She told them of her harrowing experience but they only laughed at her.

When her mother later learned of her ordeal from a neighbor, they immediately reported the incident to the police. On September 26, 2001, Jenalyn was examined by Dr. Michael A. Maunahan, who found deep, healed hymenal lacerations about 5-11 days old.[4]

Accused-appellant denied having raped Jenalyn. He claimed that Salome harbored ill-feelings against his family because he and his uncle, Salvador, failed to reciprocate her feelings. At the same time, he insisted that Salome only wanted to extort money from them.

Santiago admitted that Jenalyn attended his birthday celebration but denied that they molested her. Nena also disclaimed that Jenalyn was raped. On the contrary, she averred that it was the latter who flirted with accused-appellant and during the celebration, Jenalyn even masturbated in their presence. She insisted that although Ricarte was her husband and related to accused-appellant and Santiago, she would not side with them if they committed something wrong.

Jeffrey, Jocelyn and Jomel Papillera likewise attended Santiago's birthday celebration but they alleged that they did not notice any rape incident.

On April 18, 2002, the Regional Trial Court, Branch 272, Marikina City, rendered a consolidated decision[5] the dispositive portion of which reads:

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

- 1) Accused Wilson Suarez y Villones is found GUILTY beyond reasonable doubt of the crime of rape as charged in Criminal Case No. 2001-3977-MK and is sentenced to suffer the penalty of Reclusion Perpetua; to indemnify the private complainant the amount of Php50,000.00 and another Php50,000.00 for moral damages; Criminal Case No. 2001-3978-MK for Acts of Lasciviousness against same accused is ordered DISMISSED;
- 2) Accused Nena Daria y Ripol is ordered ACQUITTED as accomplice in Criminal Case No. 2001-3977-MK for failure of the prosecution to prove her guilt beyond reasonable doubt;
- 3) Accused Santiago Suarez y Villones is found GUILTY beyond reasonable doubt for Acts of Lasciviousness in Criminal Case No. 2001-3979-MK and is sentenced to suffer the indeterminate penalty of imprisonment ranging from four (4) years and Two (2) Months as minimum to Six (6) years as maximum and to pay the private complainant the amount of Php30,000.00 as moral damages; Criminal Case No. 2001-3977-MK for rape is DISMISSED against the said accused;
- 4) Accused RICARTE DARIA y TENGSON is found GUILTY beyond reasonable doubt for acts of lasciviousness in Criminal Case No. 2001-3980-Mk and is sentenced to suffer the indeterminate penalty of imprisonment ranging from Four (4) years and Two (2) Months as minimum to Six (6) years as maximum and to pay the private complainant the amount of Php30,000.00 as moral damages; Criminal Case no.

2001-3977-MK for rape is likewise DISMISSED against said accused.

The Jailwarden of Marikina City Jail is ordered to immediately release the person of NENA DARIA y RIPOL unless validly held for some other offense.

SO ORDERED.[6]

Only Wilson interposed an appeal.[7] He assails Jenalyn's credibility arguing that she was not even certain whether she was kissed simultaneously or one at a time by accused-appellant, Santiago and Ricarte. He finds improbable that rape could be perpetuated in front of an audience. He also observes that Jenalyn was inconsistent as to the time she slept and when she was allegedly raped. He insists that Jenalyn should have left the house of Santiago immediately after the rape instead of waiting until 8 o'clock in the morning. For him, it was unusual for a girl who claims to have been raped to run to the comfort room without putting on her undergarments. It is also irregular that Jenalyn disclosed the ordeal to her mother ten (10) days after its alleged commission.

The Office of the Solicitor General refutes the foregoing allegations. It argues that a rape victim is not expected to keep an accurate account of her traumatic experience. It is likewise immaterial whether Jenalyn was kissed simultaneously or one at a time or whether the victim slept at 2 o'clock in the morning of September 16, 2001 or earlier. What is important is that the prosecution overwhelmingly established that the accused-appellant had carnal knowledge of Jenalyn against her will and without her consent.

It must be emphasized at the outset the settled rule that the testimony of a rape victim of tender or immature age deserves full credit.[8] In the recent case of *People v. Pacheco*[9] we held that:

When the offended party is a young and immature girl between the age of 12 to 16, as in this case, courts are inclined to give credence to her version of the incident, considering not only her relative vulnerability but also the public humiliation to which she would be exposed by court trial if her accusation were untrue. Testimonies of youthful rape victims are, as a general rule, given full faith and credit, considering that when a girl says she has been raped, she says in effect all that is necessary to show that rape was indeed committed.

In finding accused-appellant guilty, it is not as if the trial court relied on the victim's testimony without any critical assessment at all. The trial court gave credence to the complainant's testimony only after it has satisfied itself that the same was competent and credible as shown by the manner in which she testified and her demeanor on the witness stand.[10]

The trial court observed, thus:

The testimony of the private complainant Jenalyn Montales was given in a straight forward and candid manner. She positively identified one of the accused in the person of Wilson Suarez who inserted his penis into her vagina while being laid on the floor where Wilson was also lying. She cannot shout as Wilson put his clothes in the mouth. The second incident was when she went inside the comfort room and with a knife pointed on her, Wilson succeeded in inserting his penis into her vagina. The defense of denial by the accused is an intrinsically weak defense which must be buttressed by strong evidence of non-culpability to merit credence. (*People vs. Sagun*, 303 SCRA 382). Hence, it cannot prosper against the positive identification of the accused by the victim. The rule is that when the rape victim's testimony is straight forward and candid, unshaken by rigid cross-examination and unflawed by inconsistencies or contradictions in its material points, the same must be given full faith and credit. (*People vs. Caratay*, 316 SCRA 251). Further, failure to shout or offer tenacious resistance did not make voluntary the complainant's submission to the criminal acts of the accused. (*People vs. Vergel*, 316 SCRA 199). The court notes that the complainant is a 14-year old and still of tender age and thus is not in a position to physically resist the acts of a man heavier and taller than her considering further that the complainant was then still under the effects of liquor.[11] [Emphasis supplied]

Findings of the trial court on the credibility of witnesses and their testimonies are generally accorded great respect by an appellate court.[12] Well-settled is the rule that findings of facts and assessment of credibility of witnesses is a matter best left to the trial court because of its unique position of having observed that elusive and incommunicable evidence of the witnesses' deportment on the stand while testifying, which opportunity is denied to the appellate courts. For this reason, the trial court's findings are accorded finality, unless there appears in the record some fact or circumstance of weight which the lower court may have overlooked, misunderstood or misappreciated and which, if properly considered, would alter the results of the case.[13]

The perceived inconsistencies or contradictions by the defense refer to minor and insignificant details which, if considered, would not alter the outcome of the case. They do not even refer to the gravamen of the crime. Discrepancies referring only to minor details and collateral matters — not to the central fact of the crime — do not affect the veracity or detract from the essential credibility of witnesses' declarations, as long as these are coherent and intrinsically believable on the whole. The Court has recognized that even the most candid of witnesses make erroneous, confused or inconsistent statements, especially when they are young and easily overwhelmed by the atmosphere in the courtroom.[14] It would be too much to expect a 14-year-old to remember each detail of her harrowing experience.

We disagree with the observation that Jenalyn's unusual behavior after the alleged rape cast doubt on her credibility. Concededly, she seems uncertain whether or not she was wearing panties when she went to the comfort room. However, the hesitation of the 14-year-old victim should not be taken against her. Given the circumstances, she could not be expected to be accurate in every detail and error-free in her narration.

A truth-telling witness is not always expected to give an error-free testimony, considering the lapse of time and the treachery of human memory. Thus we have followed the rule in accord with human nature and experience that honest inconsistencies on minor and trivial matters serve to strengthen, rather than destroy, the credibility of a witness, especially of witnesses to crimes which shock the conscience and numb the senses. More importantly, the alleged inconsistencies referred to by the defense pertain to matters extraneous to the crime of rape that do not detract from the fact that the offended party had indeed been sexually defiled.[15]

It must be stressed that people may react differently to the same set of circumstances. There is no standard reaction of a victim in a rape incident.[16] Furthermore, not every victim of rape can be expected to act with reason or in conformity with the usual expectations of everyone. The workings of a human mind placed under emotional stress are unpredictable; people react differently. Some may shout, some may faint, while others may be shocked into insensibility.[17]

The delay on the part of the complainant in disclosing the sexual defilement to her mother is understandable. As the records would show, complainant did not immediately inform her mother about the incident because of fear. [18] Besides, it does not follow that because Luzviminda laughed at the allegation of the complainant that she was raped, then, they were not threatened at all by the accused-appellant. It could be that Luzviminda could not be easily cowed as Jenalyn because she did not suffer the same fate as the complainant; she was also related to the accused-appellant.

Besides, long silence and delay in reporting the crime of rape has not always been construed as an indication of a false accusation. This principle applies with greater force where, as in this case, the offended party was barely 14 years old and unlettered, and was therefore susceptible to intimidation and threats to physical harm.[19] More significantly, the 10-day delay is not unreasonable. We have had cases where the delay in reporting the crime lasted for months, yet the testimonies of the victims therein were found to be plausible and credible.

Whether the accused took turns in kissing the complainant or simultaneously ravished her do not negate the fact

that she was assaulted. It may be that accused-appellant ravaged her first and while he was on top of her, Santiago and Ricarte were kissing the other parts of her body. In her direct examination, complainant never claimed that accused-appellant just stood by and watched the other two take their turns after he was done with her. It was never shown that he relinquished his hold on her when Santiago, then Ricarte, kissed her.

Besides, whether she was kissed one at a time or simultaneously, is not far-fetched or impossible. In fact, we have had cases which are more fantastic, if not weird, in details. In *People v. De la Torre*[20] the wife forced her husband and housemaid to engage in sex in her presence. In *People v. Villamala*[21] the wife trapped her kumare to have sex with her husband while in *People v. Saban*,[22] the wife watched her husband assault a 14-year-old epileptic girl. Thus:

The appellants point to the unusual manner of commission of the crime, involving as it did not only the sexual assault by the man but also the participation of his wife, to discredit the complainant's testimony. Under the Revised Penal Code, however, an accused may be considered a principal by direct participation, by inducement, or by indispensable cooperation. This is true in a charge of rape against a woman, provided of course a man is charged together with her. Thus, in two cases this Court convicted the woman as a principal by direct participation since it was proven that she held down the complainant in order to help her co-accused spouse consummate the offense.

In *People v. Villamala*, the Court found the husband and wife guilty for raping their neighbor and "kumare" in this factual setting, viz. the wife visited the victim at her home on the pretext of inquiring as to the whereabouts of her husband. Once inside, she whistled for her husband and he immediately appeared at the doorstep. The wife then suddenly pinned her "kumare" to the floor. The husband forcefully removed the victim's skirt and panties, removed his shorts, placed himself on top of the victim and consummated the rape. In the more recent *People v. Saba(n)*, the accused married couple victimized a fourteen (14) year-old epileptic who stayed at their home for treatment by the wife who was a reputed healer. On the pretext of conducting a healing session, the wife ordered the victim to lie down on the floor then pinned the victim's hands to the floor and covered her mouth while her husband removed his pants and briefs and the victim's panties and raped the young girl. These two cases show not only the possibility but the reality of rape committed by a woman together with a man.[23]

The prosecution need not prove aberrant sexual behavior to justify the claim that Wilson, Santiago, and Ricarte simultaneously or one after the other, kissed her. The sexual preference of the accused does not constitute an essential element of the crime of rape. All the prosecution needs to prove was carnal knowledge of the complainant by the accused against her will and without her consent.[24]

Complainant's credibility should not be put to doubt simply because she could not remember whether she slept at 11 p.m. or at 2 a.m. At this juncture, it must be stated that the time when the crime was committed is not an essential element of rape.[25] Whether she slept at 11 p.m. or at 2 a.m., the fact that she was assaulted by the accused-appellant in the early morning of September 16, 2001 remains. Besides, both the prosecution and defense witnesses merely gave estimates of time as to when they arrived at the birthday party, when they left and when they slept. Nobody was categorical or exact about the time. It would therefore be unfair to expect the complainant to recall with certainty the time when she repaired for sleep. On this note, she even candidly admitted on cross examination that she was not conscious of the time.[26]

As to whether the mother of the victim noticed her torn pants, we find the same irrelevant and refers only to a collateral matter. It is too trite to even consider.

With regard to the testimonies of Jeffrey Olaya and Jocelyn Teraza that no rape occurred, suffice it to say that Jeffrey is a relative of the accused-appellant, hence, his testimony should be received with caution. Significantly,

Jeffrey's and Jocelyn's testimonies were negative averments vis-à-vis complainant's affirmative testimony. The familiar rule on evidence is that an affirmative testimony is far weightier than a negative one, especially when the former comes from a credible witness.[27]

Jenalyn positively identified accused-appellant as the perpetrator of the crime. It is well-settled that a categorical and positive identification of an accused, without any showing of ill-motive on the part of the eyewitness testifying on the matter, prevails over alibi and denial, which are negative and self-serving evidence undeserving of real weight in law unless substantiated by clear and convincing evidence.[28] The defense never imputed ill-motive on the part of the complainant.

The fact that Dr. Maunahan found deep, healed hymenal lacerations about 5-11 days old when he examined the victim on September 26, 2001, corroborated Jenalyn's claim that she was raped on September 16, 2001. When a rape victim's account is straightforward and candid, and is corroborated by the medical findings of the examining physician, the same is sufficient to support a conviction for rape.[29] Where a rape victim's testimony is corroborated by the physical findings of penetration, there is sufficient basis for concluding that sexual intercourse did take place.[30]

Pertinently, we held in *People v. Pacheco*,[31] that:

... private complainant's testimony of her defilement is corroborated by physical evidence of penile invasion as shown by hymenal lacerations she suffered. While we are not unmindful of this Court's pronouncement that a victim's hymenal lacerations need not necessarily prove carnal knowledge, nonetheless, Dr. Aletha Silang's findings of "positive hymenal laceration, complete with raw edges at, 10 o'clock, 3 o'clock, 6 o'clock, and 8 o'clock positions" carries convincing weight as corroborative evidence in the light of the private complainant's accusation that she was sexually abused.

The defense also attempted to discredit the prosecution by claiming that the charges were instigated by the victim's mother. We find this hard to believe. A mother would not subject her daughter, more so a minor, to the indignities of a rape trial just because her feelings was not reciprocated by the accused-appellant and his uncle, Salvador, who was not even presented to testify on this matter. If indeed Salome harbored ill-feelings against Salvador and the accused-appellant, then she would not have easily acceded to her daughter's request to join the company of Salvador and attend the birthday party of accused-appellant's brother. It is unnatural for a parent to use her offspring as an engine of malice, especially if it will subject her to embarrassment, and even stigma, as in this case.[32]

We do not subscribe to the proposition that Jenalyn would have been blinded and unable to identify Nena if, indeed, the flashlight was focused on her. The beam of the light should be directly focused on one's face or eyes to be blinded. It was never shown that the flashlight was directly focused on the face or eyes of the complainant. What can be merely implied from her testimony was that Nena focused the flashlight on them during the rape. On that testimony alone, it could not be deduced, much less concluded, that the glare of the light was directed on complainant's face which effectively blinded her. It could be that the light was focused on the other parts of their bodies. Thus, the conclusion that complainant was blinded by the glare of the light and could not identify Nena, does not stand on solid ground.

In a last ditch effort to discredit the 14-year-old complainant, the defense attempted to picture her as a girl of loose morals. Suffice it to state that such debasement of her character does not necessarily cast doubt on her credibility, nor does it negate the existence of rape. It is a well-established rule that in the prosecution and conviction of an accused for rape, the victim's moral character is immaterial, there being absolutely no nexus between it and the odious deed committed. Even a prostitute or a woman of loose morals can be the victim of

rape, for she can still refuse a man's lustful advances.[33]

It is doctrinal that the requirement of proof beyond reasonable doubt in criminal law does not mean such a degree of proof as to exclude the possibility of error and produce absolute certainty. Only moral certainty is required or that degree of proof which produces conviction in an unprejudiced mind.[34] The prosecution sufficiently established that accused-appellant had carnal knowledge of the 14-year-old complainant against her will and consent. Plainly, she was raped.

The trial court properly imposed the penalty of reclusion perpetua on accused-appellant. Under Article 266-B of the Revised Penal Code, the penalty is reclusion perpetua when a man had carnal knowledge of a woman against her will and without her consent, through force, threat and intimidation. [35] It also correctly awarded Jenalyn the amount of P50,000.00 as civil indemnity and another P50,000.00 as moral damages. Civil indemnity is in the nature of actual and compensatory damages, and is obligatory upon conviction for rape.[36] As to moral damages, it is automatically awarded to rape victims without the necessity of proof, for it is assumed that she suffered moral injuries entitling her to such award. Such award is separate and distinct from civil indemnity.[37]

WHEREFORE, the decision of the Regional Trial Court of Marikina City, Branch 272, in Criminal Case No. 2001-3977-MK finding accused-appellant Wilson Suarez y Villones guilty beyond reasonable doubt of rape and sentencing him to suffer the penalty of reclusion perpetua and to indemnify Jenalyn Montales the amounts of P50,000.00 as indemnity and another P50,000.00 as moral damages, is AFFIRMED.

SO ORDERED.

Davide, Jr., C.J., Carpio, and Azcuna, JJ., concur.

Quisumbing, J., please see dissent.

[1] Rollo, pp. 4-5.

[2] TSN, 28 January 2002, p. 51 (Jenalyn Montales).

[3] Id. at 53.

[4] TSN, 6 February 2002, p. 11 (Michael A. Maunahan).

[5] Rollo, pp. 17-72. Penned by Presiding Judge Reuben P. De la Cruz.

[6] Id. at 71-72.

[7] Id. at 73.

[8] People v. Blancaflor, G.R. No. 130586, 29 January 2004, 421 SCRA 354, 359.

[9] G.R. No. 142887, 2 March 2004, 424 SCRA 164, 174-175.

[10] People v. Guambor, G.R. No. 152183, 22 January 2004, 420 SCRA 677, 682.

[11] Rollo, p. 68.

[12] Supra, note 9 at 174.

[13] Supra, note 10 at 683.

[14] People v. Estado, Jr., G.R. No. 150867, 5 February 2004, 422 SCRA 198, 205.

- [15] *People v. Ballester*, G.R. No. 152279, 20 January 2004, 420 SCRA 379, 384.
- [16] *Supra*, note 9 at 175.
- [17] *People v. Alberio*, G.R. No. 152584, 6 July 2004.
- [18] TSN, 6 February 2002, pp. 19-20 (Jenalyn Montales).
- [19] *Supra*, note 15 at 384.
- [20] G.R. Nos. 121213 & 121216-23, 13 January 2004, 419 SCRA 18.
- [21] G.R. No. L-41312, 29 July 1997, 78 SCRA 145.
- [22] 377 Phil. 37 (1999).
- [23] *Supra*, note 20 at 24-25.
- [24] *Id.* at 25.
- [25] *People v. Cachapero*, G.R. No. 153008, 20 May 2004, 428 SCRA 744, 750.
- [26] TSN, 13 February 2002, p. 34 (Jenalyn Montales).
- [27] *People v. Agsaoay, Jr.*, G.R. Nos. 132125-26, 3 June 2004, 430 SCRA 450, 465.
- [28] *People v. Intong*, G.R. Nos. 145034-35, 5 February 2004, 422 SCRA 134, 139.
- [29] *Supra*, note 10 at 682.
- [30] *People v. Valdez*, G.R. Nos. 133194-95 & 141539, 29 January 2004, 421 SCRA 376, 393.
- [31] *Supra*, note 9 at 175.
- [32] *Supra*, note 20 at 33.
- [33] *Supra*, note 27 at 466.
- [34] *People v. Guihama*, G.R. No. 126113, 25 June 2003, 404 SCRA 655, 668.
- [35] Article 266-A, Revised Penal Code.
- [36] *People v. Sabardan*, G.R. No. 132135, 21 May 2004, 429 SCRA 9, 28.
- [37] *Id.* at 28-29.

DISSENTING OPINION

QUISUMBING, J.:

With due respect, I am inclined to grant herein appellant's plea for the reversal of his conviction based on the assigned errors committed by the trial court, as follows:

- THE COURT A QUO GRAVELY ERRED IN GIVING WEIGHT AND CREDENCE TO THE INCREDIBLE TESTIMONY OF THE PRIVATE COMPLAINANT.
- THE COURT A QUO GRAVELY ERRED IN HOLDING THAT THE GUILT OF THE ACCUSED-APPELLANT HAS BEEN PROVEN BEYOND REASONABLE DOUBT.[1]

Let me elucidate the grounds for my dissent in detail.

At issue in this case are (1) the credibility and veracity of the victim's testimony, and (2) the sufficiency of the evidence to warrant the appellant's conviction for rape beyond reasonable doubt. It should, however, be noted that only Wilson Suarez y Villones filed a notice of appeal, hence we are concerned here only with his conviction for rape.

Appellant vehemently denies the accusations against him, and asserts that Jenalyn's testimony is false and unbelievable for being stamped with serious inconsistencies and improbabilities. Among them are the following:

- (1) On direct examination, Jenalyn claimed that the three accused kissed her entire body one at a time. On cross-examination, she said that the three accused kissed her all at the same time;
- (2) Jenalyn alleged that Nena Daria witnessed the incident. But, it seems contrary to human experience that Daria, wife of one of the accused, would passively watch her husband have sex with another woman;
- (3) Jenalyn asserted that she was molested from the time that she was intoxicated at more or less 2:00 a.m. Yet, she earlier claimed she already felt dizzy and vomited shortly after their arrival;
- (4) It is not normal for a girl who has been raped to run to the comfort room without putting on her pedal pants and panty, when the lights were turned on; and
- (5) Jenalyn could not have waited until the morning at around 3:00 a.m., and then go home only at 8:00 a.m. when the spouses Olaya told her to go.

Appellant denies Jenalyn's accusations. He also points out that it was strange that it was only on the tenth day after the alleged rape took place, and after Jenalyn's mother heard the information from their neighbor of what transpired, that Jenalyn told her mother of her ordeal. He also maintains that denial of the alleged offense by the accused should not always be frowned upon by the court, since there are occasions where the same could actually be the real and simple truth.

The Office of the Solicitor General (OSG), for the State, recommends affirming the trial court's decision. It avers that the trial court is in the best position to determine the credibility of the witness and that a rape victim should not be expected to keep an accurate account of her traumatic experience. The OSG also stresses that there is no rule that rape can be committed only in seclusion since lust is no respecter of time or place. Finally, it argues that the victim's failure to immediately disclose the incident to her mother does not prove that the charges are baseless and fabricated.

In the review of rape cases, we are guided by the following principles: (1) An accusation for rape can be made with facility; it is difficult to prove but more difficult for the person accused, though innocent, to disprove it; (2) In view of the intrinsic nature of the crime of rape where two persons are usually involved, the testimony of the complainant must be scrutinized with extreme caution; (3) The evidence for the prosecution must stand or fall on its own merits, and cannot be allowed to draw strength from the weakness of the evidence for the defense.[2]

Time and again we have stressed that in rape, the lone testimony of the complainant is enough to sustain conviction, provided that such testimony meets the test of credibility. Thus, the testimony should not only come from the mouth of a credible witness, it should likewise be credible and reasonable in itself, candid, straightforward, and in accord with human experience.[3]

An appeal from a decision involving conviction for reclusion perpetua opens the entire case for review.

Generally, however, the credibility of witnesses is a matter best assigned to the trial court which had the first-hand opportunity to hear their testimonies and observe their demeanor, conduct, and attitude during cross-examination.

Such matters cannot be gathered easily from a mere reading of the transcripts of stenographic notes. Hence, the trial court's findings carry great weight and substance.[4] They are binding and conclusive on appellate courts unless some facts or circumstances of weight and substance have been overlooked, misapprehended or misinterpreted.[5]

In our review of the evidence on record in this case, several inconsistencies and improbabilities appear in Jenalyn's testimony. We shall discuss them in detail now.

When asked how she identified Nena Daria, she explained that she did so because Nena was carrying a flashlight directed at her and the accused. Her testimony reads:

Pros. Ramolete:

Q: Did you see the face of Nena Daria there?

Witness [Jenalyn]:

A: Yes, sir.

Q: Aside from watching you and the accused doing something bad to you, what else was Nena Daria doing then?

A: She was focusing her flashlight on us.

Q: Where was she then when she was focusing her flashlight on you?

A: She was at the door because there was no door and she was just there and she was not doing anything to prevent them.

Q: How sure are you that it was Nena Daria who was focusing that flashlight on you?

A: I saw her, sir.

Q: How were you able to recognize her?

A: Because she was holding the flashlight and she was focusing it on me so I recognized her.[6]

If indeed a flashlight was beamed on Jenalyn, in our view, the flood of light would have blinded her. She would not be in a position to identify clearly the person holding the flashlight. The glare could make a person's profile indistinct. While those in front of the flashlight could be lighted clearly, those at the back would be in the dark.

Jenalyn also testified that after she came out of the comfort room, the appellant inserted his thumb into her genitalia. On this point, her testimony reads:

Pros. Ramolete:

Q: After Wilson again molested you, what transpired next?

Witness [Jenalyn]:

A: After doing bad to me Wilson inserted his thumb into my vagina and twisted it in my vagina, sir.

Q: In the comfort room?

A: No more sir in the sala.[7]

Earlier, Jenalyn stated that she had neither panty nor pants on and wore them only in the morning when they were about to leave.[8] It seems rather unnatural that a girl who says she had been raped would come out of the comfort room half-naked, and would remain so in the sala with other people present for some time.

Moreover, her testimony on whether or not she was naked when she ran to the comfort room, leaves unexplained contradictions. During her direct examination, Jenalyn testified as follows:

Pros. Ramolete:

Q: After Nena Daria opened the light or turned on the light, what was Wilson... what happened next?

Witness [Jenalyn]:

A: I went to the comfort room which has no door and which was only covered by plywood, sir.

Q: What were you wearing then?

A: I was not wearing pedals or panty sir.[9]

However, on cross-examination, she gave a different account, thus:

Atty. Larracas:

Q: Why did you not wear your panty and your pedal pants before going to the comfort room?

Witness [Jenalyn]:

A: When I went there, I was still wearing my pedal pants and panty.

Q: You mean you went to the comfort room with your panty and with your pedal pants on?

A: Yes, ma'am.

Q: The alleged rape was already finished at that time?

A: No, ma'am.

Q: So you were raped with pedal pants and panty on?

A: No, ma'am. All were taken off.

Q: At what point in time did you wear or put on your pants and panty?

A: When we were about to leave.[10]

Why she did not directly inform her mother soon after the alleged rape is left unexplained. It was a neighbor, one Agapito Manzano, who did. However, according to Jenalyn, the appellant had threatened Luzviminda and her, if they reported to her mother what earlier transpired. Yet, in her earlier testimony, Jenalyn said that when told about the offense, Luzviminda merely laughed at her. On this point, Jenalyn's testimony reads:

Pros. Ramolete:

Q: Who were your companions in going home?

Witness [Jenalyn]:

A: Luzviminda Olaya, Jeffrey Olaya and Jocelyn [Teraza], sir.

Q: Did you tell them what Wilson did to you on your way home?

A: Yes, sir.

Q: What was her reaction?

A: None, sir. They just laughed at me.

Q: Did Jeffrey hear what you told Luzviminda?

A: Yes, sir.

Q: What was his reaction?

A: They did not say anything, they just looked at me, sir.

Q: What about Jocelyn, what did she do?

A: Same thing, sir.

Q: Did you narrate your ordeals to your mother?

A: Yes, sir.

Q: When was that?

A: September 26, 2001, sir.

Q: Why did you not report this matter to your mother the following day after you reached your home?

A: They threatened me and Luzviminda not to report the matter to my mother and my mother would kill me if she would know what happened to me, sir.[11]

As pointed out by the appellant, Jenalyn also made an inconsistent narration of how she was kissed by the three accused.[12] Was she kissed in different parts of her body by them one at a time or by the three together?

In her direct examination, Jenalyn said the celebration that led to the rape lasted up to 1:00 a.m. the following day. Later, she said she went to sleep at around 11:00 p.m. after the guests left and after they cleaned the place. Yet she claimed it was around 2:00 a.m. the following day, when she was raped. Her testimony on this point reads:

Pros. Ramolete:

Q: After that celebration, what time more or less did that celebration last?

Witness [Jenalyn]:

A: Up to 1:00 in the early morning.

Q: What did you do after those visitors went home?

A: I cleaned the litters.

...

Q: And after cleaning the litters, what else did you do, if any?

A: I went to sleep, sir.

Q: Where?

A: At the sofa, sir.

...

Q: But were you able to take your sleep?

A: Yes, sir.

Q: What time more or less were you able to sleep?

A: Around 11:00 in the evening.

...

Q: What time more or less did that rape incident happen?

A: 2:00 in the early morning, sir.

Q: What date?

A: September 16, 2001, sir.[13]

But, during cross-examination she said she was still awake at 2:00 a.m.

Atty. Larracas:

Q: At about what time did Salvador and Marlyn Olaya go home in the early morning? Was it three o'clock?

Witness [Jenalyn]:

A: I do not know.

Q: What time?

A: I do not know.

Q: So you were still [awake] when Salvador Olaya and Marlyn Olaya went home?

A: I was still [awake].

...

Q: At about what time did you go to sleep?

A: Two o'clock in the early morning.

Q: Was Salvador Olaya and Marlyn Olaya still in the house when you go to sleep?

A: They already left.

Q: How did you know that it was two o'clock?

A: Because they bade goodbye.[14]

In the same cross-examination, Jenalyn had contradictory answers as to the time her companions left.

Although these inconsistencies may be lapses concerning details that might be attributed to lack of attention or poor memory, nonetheless their frequency, especially on critical points, casts doubts on the credibility of her testimony as a whole. We are unable to sweep them away and allay our doubts concerning the actual occurrence of the alleged rape.

Moreover, Jenalyn's companion, Jeffrey Olaya, testified under oath, on the witness stand, that no rape occurred:

Atty. Larracas:

Q: Jenalyn claimed that she was raped in the house of Santiago Suarez at that time she attended the birthday celebration of Santiago Suarez, since you were there what can you say about this claim of Jenalyn Montales?

Witness [Jeffrey]:

A: I will be surprised because I do not know of any rape that happened.

Q: Were you [awake] from two o'clock in the morning [of] September 16, 2001?

A: Yes, ma'am.[15]

...

Atty. Larracas:

Will you side with your relatives Mr. witness?

Pros. Ramolete:

That is improper.

Atty. Larracas:

That was the point, your Honor of the cross.

Pros. Ramolete:

Your Honor please, I am must emphasizing..

Court:

Witness may answer the question.

Witness [Jeffrey]:

No, ma'am, if they really committed any wrong.

Atty. Larracas:

No further question.[16]

The alleged torn pants of Jenalyn, which were unnoticed by her mother and companions, merely added to the doubt on the details of the victim's version. Her mother, Salome Montales, testified on this score as follows:

Atty. Larracas:

Did you find anything unusual on your daughter on that morning?

Witness [Salome]:

None yet, ma'am.

...

Atty. Larracas:

And her pants were not destroyed that morning?

Witness [Salome]:

I did not notice yet.[17]

Witness Jeffrey Olaya also had doubts on the torn pants:

Atty. Larracas:

Q: Jenalyn said that her pedal pants was destroyed and she covered the destroyed parts of her pedal pants, what can you say about this?

Witness [Jeffrey]:

A: It would be embarrassing if from Wilson Suarez' place up to our place, we would allow her to walk in that situation.

Q: So what will you do Mr. witness?

Pros. Ramolete:

That will be argumentative, your Honor.

Court:

Sustained. Reform the question.

Atty. Larracas:

You said that it will be embarrassing, were you embarrassed?

Witness [Jeffrey]:

A: If that would be her condition, I would really be embarrassed.

Q: And was it her condition?

Court:

Already answered. . .[18]

The foregoing testimonies of the mother and of Jeffrey were corroborated by Jocelyn Teraza, who is not a relative of the accused,

Court:

Considering that the testimony would just be corroborating to the testimony, why don't you try to make a stipulation, to expedite the proceedings?

...

Atty. Larracas:

Third, that Jenaly[n] Montales was not raped on that whole time that she was with Jenalyn from ten o'clock in the evening of September 15, 2001 up to six o'clock in the morning of September 16, 2001 when they left the house of Wilson Suarez;

...

Atty. Larracas:

Fifth, she will corroborate the testimony of Jeffrey Olaya that they left the house of Santiago Suarez at around six o'clock in the morning of September 21, 2001 and they did not observe any unusual on the manner of walking on the part of Jenalyn Montales and they did not observe any tear on any part of her clothing at that time; she will corroborate the testimony of Wilson Suarez as to the testimonies of Wilson Suarez, Santiago Suarez and Nena Daria as to the things that transpired during the party. That will be all. (Emphasis supplied.)

...

Court:

So any comment?

Pros. Ramolete:

To expedite this proceeding, of course this witness will deny all these things but on the part of the defense evidence so with those alleged statements to be made by this witness, we will have no objection, your Honor please, as collaborating testimonies.[19]

As frequently stressed, in rape cases, the quantum of proof required is one beyond reasonable doubt, to be applied in an exacting measure, for a rape charge is easy to concoct. Thus, this Court will not condemn a person if there exists the slightest hint of reasonable doubt as to his guilt.[20]

Appellant offers an explanation why the rape charge was brought against him. He says it was motivated by a grudge by the victim's mother against appellant and his cousin, Salvador Olaya. Even if this assertion is too trite to merit consideration[21] in order to constitute a sufficient defense, what matters is that there are grounds for reasonable doubt. Absolute certainty of guilt is not demanded by the law to convict one of any criminal charge, but moral certainty is required nonetheless.[22] In *dubilis reus est absolvendus*. All doubts should be resolved in favor of the accused.

In this case, we find the inconsistencies in the testimony of the complainant highly significant. Her unusual behavior after her alleged rape gives rise to doubt in our minds regarding the credibility of her version of events. We are not saying that the accused did not rape the victim; for he might have.[23] Yet, it is also possible that he did not, based on the evidence on hand. Given this uncertainty and doubt, we are constrained to reverse appellant's conviction by the trial court. Mas vale que queden sin castigar diez reos presuntos, que se castigue uno inocente.[24] It is better to set a guilty man free than to imprison an innocent man.[25]

Accordingly, I vote that appellant WILSON SUAREZ y VILLONES be ACQUITTED on the ground of reasonable doubt.

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- [1] Rollo, p. 82.
- [2] *People v. Molleda*, G.R. No. 153219, 1 December 2003, 417 SCRA 53, 57.
- [3] *People v. Sodsod*, G.R. Nos. 141280-81, 16 June 2003, 404 SCRA 39, 53.
- [4] *People v. Federico*, G.R. No. 146956, 25 July 2003, 407 SCRA 290, 296 citing *People v. Bontuan*, G.R. Nos. 142993-94, 5 September 2002, 388 SCRA 436, 444.
- [5] *People v. Daramay, Jr.*, G.R. Nos. 140235 & 142748, 9 May 2002, 382 SCRA 119, 129.
- [6] TSN, 28 January 2002, pp. 106-108 (Jenalyn Montales).
- [7] TSN, 6 February 2002, pp. 17-18 (Jenalyn Montales).
- [8] TSN, 13 February 2002, p. 50 (Jenalyn Montales).
- [9] TSN, 6 February 2002, p. 15 (Jenalyn Montales).
- [10] TSN, 13 February 2002, p. 50 (Jenalyn Montales).
- [11] TSN, 6 February 2002, pp. 18-20 (Jenalyn Montales).
- [12] TSN, 28 January 2002, pp. 102-104 (Jenalyn Montales); TSN, 13 February 2002, p. 46 (Jenalyn Montales).
- [13] *Id.* at 63-65, 80, 82-83.
- [14] TSN, 13 February 2002, pp. 34, 39-40 (Jenalyn Montales).
- [15] TSN, 12 March 2002, p. 11 (Jeffrey Olaya).
- [16] *Id.* at 14.
- [17] TSN, 16 January 2002, pp. 56, 58 (Salome Montales).
- [18] TSN, 12 March 2002, p. 12 (Jeffrey Olaya).
- [19] TSN, 14 March 2002, pp. 3-5 (Jocelyn Teraza).
- [20] *People v. Mariano*, G.R. No. 134309, 17 November 2000, 345 SCRA 1, 10.
- [21] See *People v. Lou*, G.R. No. 146803, 14 January 2004, 419 SCRA 345, 351.
- [22] *People v. Masalihit*, G.R. No. 124329, 14 December 1998, 300 SCRA 147, 162.
- [23] *Id.* at 163.
- [24] *People v. Cunanan*, No. L-17599, 24 April 1967, 19 SCRA 769, 784.
- [25] *People v. Capili*, G.R. No. 130588, 8 June 2000, 333 SCRA 354, 366.

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