

## PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. CIPRIANO CABALLES, ACCUSED-APPELLANT.

*G.R. Nos. 93437-45. July 12, 1991*

Ponente: REGALADO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-nos-93437-45/>

---

### REGALADO, J.:

Criminally charged before Branch X of the Regional Trial Court of Cebu[1] with nine (9) cases of rape in Criminal Cases Nos. CBU-8473 to 8481, inclusive, upon the corresponding complaints filed by his own daughter, complainant Arlene Caballes, which, except for the dates of commission of the felony, were identically worded as having been committed thus -

"That on or about the 17th day of January, 1986, at 12:00 midnight, in the City of Cebu, Philippines, and within the jurisdiction of this Honorable Court, the said accused, being the father of the undersigned Arlene Caballes, armed with '3 cantos', with deliberate intent and by use of force and intimidation upon said Arlene Caballes, did then and there have sexual intercourse with said Arlene Caballes against her will.

"CONTRARY TO LAW."[2]

herein accused-appellant, Cipriano Caballes, pleaded his innocence to each charge of rape allegedly committed on January 17, 19, 23 and 27, February 12 and 28, March 19 and 29, and April 5, 1986.

The joint trial of said cases culminated in the conviction of therein accused in a decision rendered by the trial court sentencing him to suffer the penalty of reclusion perpetua in each case, to indemnify complainant Arlene Caballes in the sum of P10,000.00 also in each of the said nine cases, and to pay the costs.[3]

The series of facts resulting in these cases as found and recounted by the trial court in its decision, having been extensively quoted and discussed by the prosecution and appellant in their respective briefs, the reproduction thereof in full hereunder is called for:

"ARLENE CABALLES, 14 years old, single, 2nd Year high school student, residing at Sambag I, Cebu City, testified that she is the complainant in nine (9) Criminal Cases Nos. CBU-8473 to 8481, for Rape; against her own father, CIPRIANO CABALLES (Exhibits 'A' to 'I'). She is one of the daughters of the accused and Leonora Zosa Caballes. Her parents sired four children, namely: Agnes, the eldest and is 16 years old, then she is the second, followed by Alvin, 9 years old and then the youngest, Rosanna, 7 years old. They resided in the upper floor of a two-storey house which is two fathoms in width by one and a half fathoms in length and the entire undivided space is also where the whole family sleeps. The ground floor occupants are her grandparents Estanislao and Josefina Zosa, and her three cousins, who were the daughters of her aunt Florencia Zosa, namely: Julieta, Dolores and Estela.

"On January 9, 1986, her mother, Leonora Zosa Caballes, died. After her mother's death, the family lived in the same place. In the evening, the members of the family retire in the usual place for sleeping. All of them sleep on the floor because there was no bed in their one-room abode. Her elder sister, Agnes, stays in one side of the room where their mother while still alive and Agnes used to sleep. She sleeps beside her younger brother and

younger sister. Few days after the death of her mother she noticed that the attitude of her father towards her somewhat changed because she was not allowed to go out of the house while her sisters and brother were free. She gradually realized that her father wanted to own and possess her.

"On January 17, 1986, at midnight, while the rest of the family were sleeping, her father woke her up and whispered to her to undress. When she saw her father naked, she got scared and did not move. Because of her refusal, her father poked a three-cantos knife at her neck and he undressed her by pulling down her skirt and her panty until they were removed from her body. Her father then told her to sit up and when she did, he pulled her t-shirt off her head. She cried and her father threatened to kill her if her cries will be heard by others. She was frozen with fear and was unable to shout. Lying down totally naked, her father placed himself on top of her, opened her thighs and slowly inserted his penis into her vagina. He stayed on top of her for about four (4) minutes 'panting and he liked it'. She felt pain in her organ. After her father pulled out his penis, he told her to dress up. Her father lied (sic) down on the place where she earlier slept while she sidled up with her elder sister to avoid being molested again. Because of what happened, she did not sleep well the rest of the evening.

"At 4:00 o'clock in the morning, January 18, 1988, she woke up and prepared food for her younger sister and brother who will go to school. She did not tell her elder sister what their father did to her because of the threat on her life should she squeal on her father.

"On January 19, 1986, she went to sleep together with her younger brother and sister. Her elder sister, Agnes, was washing clothes outside. Her father was then out of the house. About 11:00 P.M. that evening, her father woke her up and whispered to her to undress. When she did not move, her father slapped her but she was able to parry his hand. She cried and undressed herself. Her father laid on top of her and inserted his penis to her vagina and made a push and pull motion for about 4 minutes and enjoyed his act. After he pulled out his penis, he put on his brief. She wore her panty and skirt. Her father warned her not to reveal the incident to anyone or he will kill her. She went back to sleep on the very same place where she was abused because her father insisted that she sleep with her younger brother and sister. She was afraid to disobey for he might step on her or kick her. The next day she did not tell her relatives because of the threat.

"About midnight also on January 23, 1986, while she was sleeping on the floor together with her younger brother and sister and her elder sister Agnes was sleeping three fathoms away from them on the other side of the room, she was touched by her father and when she woke up, he told her to undress. She refused and her father slashed her duster. With her duster torn, her father removed her panty and abused her again with the warning that she should allow him to do it otherwise he will kill her. After her father pushed and pulled his penis while inside her vagina for about three minutes, she felt pain. Her father put on his brief while she changed clothes because her duster was already torn. She lied (sic) down back to the same place with her younger brother while her father slept next to him. Her elder sister, Agnes, was as usual sleeping at the other side of the room three meters away from them. After this third encounter, she attempted to transfer to her elder sister but out of fear that she might be maltreated, she had to obey her father's order that she sleep with her younger brother and sister. The next succeeding days she did not tell anyone of her ordeal because of her father's warning.

"On January 27, 1986, midnight, her father woke her up and said that he wants to make love with her again but will not insert his penis into her vagina. Because of the standing threat to kill her, she passively acceded. Her father removed her skirt. When she cried, her father pressed his fist on her mouth and it hurt her. So she stopped crying. He removed her panty and took off her T-shirt. He removed his brief and laid (sic) on top of her. Then he inserted his penis into her vagina and executed a push and pull movement of his organ for about five minutes. Thereafter, he pulled out his penis, wore his brief. She cried and was indignant for having been devoured by her own father. He warned her that if her grandmother sleeping downstairs will hear her cry, he will kill her. She put on her clothes and lied (sic) down with her side towards her younger brother and sister. Her father who was sitting beside her then fondled her breasts for about a minute, after which he took away his hands, lied down and went to sleep. She went back to sleep and woke up (at) 3:00 o'clock in the morning and

prepared breakfast for her younger sister and brother. The next day she did not tell her relatives about what has been being done (sic) to her by her father. She suffered shock and started pondering on her predicament.

"The fifth time she was abused by her father was on midnight of February 12, 1986. Sleeping at that time in the one-room house was her elder sister who was three meters away on one side of the room, and she and her younger sister and brother on the other side. She wanted to sleep beside her elder sister but the latter told her to sleep with their younger sister and brother because she might be reprimanded by their father and their father might step on her. So she slept in her usual place with her younger sister and brother. She was awakened when her father touched her left side and told her to undress. She refused. Her father took off his brief and persuaded her to allow him to make love because he will insert his penis into the vagina but take it out immediately. When she did not comply, he threatened to kill her and said why should she refuse when he will not insert his penis. Her father removed her duster first and then her panty. Her father fondled her breasts for about three minutes, then laid (sic) on top of her and inserted his penis slowly into her vagina then he pushed his organ, pulled it and pushed it again and continued this movement for about four minutes. After that, his (sic) father pulled out his penis and put on his brief. She slept beside her younger sister while her father slept beside her and kept on fondling her breasts. Later, she parried his hands and he got mad. At 4:00 o'clock in the morning, he woke up and prepared the food for her younger sister and brother. By daytime, she did not tell any of her relatives what her father did to her that night and on previous nights because he always threatened to kill her if she tells on him. She took a bath and hurriedly washed her panty for fear of being detected by others that her own father abused her and he (father) might maltreat her. On this fifth sexual incident she has had with her father, her 16 year old elder sister, Agnes, became aware already because she herself confided to her that while she was sleep, her father also fondled her breasts.

"At midnight of February 28, 1986, while sleeping in their one-room house with her elder sister, younger brother and sister, her left side was touched by her father who told her to take off her jogging pants. When she defied, her father spread her thighs and forcibly opened wide the garter of her jogging pants and pulled it down and then he took off subsequently her panty. She refused the advances but her father scolded her and told her not to refuse because he will not insert his penis into her vagina. He took off his brief, laid on top of her and again inserted his penis into her vagina and for about three minutes, he pushed and pulled his organ. And again she cried because of what her own father has done to her. She noticed something wet on her vagina but didn't know what it was all about. She does not know what an orgasm is because before her father, she has not yet met a man. He put on his brief and slept beside her younger brother. Although her elder sister, Agnes, sleeps within the confines of their one-room house three meters away from her and her younger brother and sister, she wanted to sleep with Agnes but could not for fear of being stepped on or kicked by her father because in the past, she was already kicked by her father twice for trying to avoid him by sleeping with her elder sister. And so, as usual, she woke up at 4:00 o'clock in the morning and prepared food for her younger sister and brother who will be going to school. She did not tell her aunt nor any relative of what her father has been doing to her because she was forewarned and threatened to be killed.

"In the evening of March 19, 1986, she went to sleep with her T-shirt and shorts and panty on. At midnight, her father woke her up and told her to undress. She refused and told her father not to molest her because she is his very own daughter. Her father countered that he will make love again and she should not be afraid because he will not insert his penis. She cried because she does not believe him anymore. Her father had only his brief and she noticed his penis bulging inside the brief. Upon taking off his brief, she saw his erected penis. Her father then laid on top of her, thrust his penis into her vagina and for about three minutes of push and pull movement, her father stopped and put on his brief. She cried while putting on her panty and shorts. For the rest of the evening she was unable to sleep because her father slept beside her. By 4:00 o'clock in the morning, while her father was still sleeping, she got up and cooked for their breakfast and prepared the food for her younger sister and brother who were schooling. During the time she was abused, her elder sister Agnes was sleeping in the place where she used to sleep. At daytime, she had a conversation with her grandmother, aunt, elder sister and some cousins but she never mentioned what her father has been doing to her.

"In the midnight of March 29, 1986, while sleeping in their one room house beside her younger brother, her father transferred her younger brother and told her to take off her duster. She refused and pleaded with her father to spare her because she is his own flesh. Her father pressed his fist on her mouth and then pulled her strapless duster with his two hands from the garter above her breast and way down below. Then her father took off forcibly also her panty that one side was partially torn. After she was totally naked, her father took off his briefs and laid on top of her, stuck his penis into her vagina and pulled it, pushed it again and again for about three minutes. His usual warning was not to tell anyone about his acts. Then he put on his underwear, slept beside her younger sister, while she put back her panty and duster and slept beside her younger brother. As usual, her elder sister Agnes was just sleeping in her usual place. She got up at 4:00 o'clock in the morning and prepared the food for breakfast.

"On April 5, 1986, midnight, while sleeping beside her younger brother in their one-room house, her father transferred her younger brother and placed the latter beside her younger sister. Then her father told her to take off her city short pants. She refused and told her father she cannot bear anymore what he has been doing to her. He pressed his fist against her mouth and she felt pain. Her father, who was sitting near her feet while she was lying on her back, forcibly pulled down her shorts, destroying the button and the lock of the zipper. When her shorts was taken off, her father pulled down also her panty, leaving her T-shirt on only. When she was naked from the waist down, her father took off his underwear and laid on top of her. He inserted his penis into her vagina and undulated for about three minutes. She cried looking at her father during three minutes of his sexual self-satisfaction. Thereafter, his father placed on his underwear and she dressed up and slept beside her younger sister. That night her sleep was on and off. By 4:00 o'clock in the morning, she got up and prepared the breakfast.

"After April 5, 1986, when she could no longer bear the evil deeds of her father, she planned to run away from home. Agnes, her elder sister, came to know about it and requested her (Arlene) that they leave the house together. Agnes confided her fear that she'll be the next to devoured (sic) by her father because in the past, their father made some advances on her (Agnes) already. In fact, her elder sister intimated to her that what has been going on in the house is not unknown to her (Agnes) because of the sound of the floor. And so on April 12, 1986, the two sisters implemented their decision to quit home. They ran away and sought refuge in the house of their uncle, Romeo Zosa, in Lapulapu City. Because her uncle was then in Mindanao, the complainant told the wife of her uncle everything that happened. Upon knowing the whole sordid thing and fearing that the violent father of her nieces might discover that she was hiding them and will surely maul her, she (the aunt) transferred the girls to her sister's house. Few days later, the complainant, accompanied by her elder sister Agnes and their other aunt, Veronica Bustanillo, reported the matter to the police headquarters at Ramos Police Station. After the arrest of her father, she and her father had a confrontation before Asst. City Fiscal Solima and in the presence of the Police investigator Arturo Sayson, Captain Colina, her grandmother, aunt Veronica Bustanillo, her uncle Nilo Zosa (brother of her deceased mother), her father asked for forgiveness for what he did to her and said that if forgiven he will send his daughters to their aunt in Mindanao and he will have nothing to do with them anymore. Complainant, however, refused to forgive her father.

"On the same month that she escaped from her house, she submitted herself to an examination at the Cebu City Medical Center and was issued a medical certificate (Exhibit 'J')." [4]

As a witness for the People and on cross-examination, complainant stated that it was only during the first time that she was abused by herein appellant that the "3-cantos" knife was used by the latter to intimidate her into agreeing to and keeping quiet about the detestable act. On the second to the ninth incidents of sexual assault, appellant either painfully pressed his fist against her mouth or slapped her or persuaded her to allow him to make love to her promising that he would not insert his penis into her vagina or do so only halfway or take it out immediately, constantly with a standing threat that he would kill her if she told anyone what had happened. She could not state with precision the exact duration of nor the manner in which each sexual congress was carried out. She is, however, certain of the seriousness of the charges she made against her father, but because of what her father did

to her, she cannot forgive him.

The prosecution likewise presented Agnes Caballes, the elder sister of complainant, who materially corroborated the latter's testimony and who herself had, at one time, been subjected to molestation by appellant, having been fondled by him and similarly silenced into mute submission for fear of his ire and violent character; and, Dr. Claudia Vilma Borromeo, a resident physician of the Cebu City Medical Center assigned to the out-patient department, who testified that on April 21, 1986 she examined Arlene Caballes. Following said examination, the good doctor issued a medical certificate which states:

"P.E. Finding:

Introitus - admits one finger with ease

Hymen - intact; no lacerations

For sperm analysis - (-) negative"[5]

Dr. Borromeo testified that it is possible for a woman's hymen to remain intact even after having been raped if said hymen is lax, thick and resistant. After the examination conducted by her, she found Arlene's hymen to be thick and very elastic. As to the negative sperm count on complainant's genital organ, she explained that a sperm normally has a lifetime of about two (2) days and she examined Arlene several days after the last alleged sexual attack.[6]

The defense, on the other hand, presented appellant who denied the charges brought against him by his daughter. He testified that since the death of his wife, his daughters Arlene and Agnes had been sleeping in the ground floor of the two-storey house together with their grandparents and cousins; that the present accusations were all lies and fabrications because his daughters wanted to do as they please without anyone stopping them; and, that the filing of the complaints against him was upon the instigation of some persons, particularly Aniano Tago, Josefina Zosa and Veronica Bustanillo, who all had an axe to grind against him.[7]

Appellant assails the trial court's judgment of conviction with the following assignment of errors:

### "I

THE LOWER COURT ERRED IN GIVING CREDENCE TO THE TESTIMONIES OF [A] COMPLAINANT ARLENE CABALLES AND [B] HER SISTER AGNES CABALLES BECAUSE OF THEIR APPARENT AND PRACTICAL IMPROBABILITY AND WHOSE CONDUCT AND PASSIVITY HAVE CAST DOUBT UPON THEIR SINCERITY, CANDOR AND VERACITY.

### "II

THE LOWER COURT ERRED IN NOT HOLDING THAT THE MEDICAL FINDINGS OF DR. CLAUDIA VILMA BORROMEO [EXH. 'J'] BEARS CONSISTENCY WITH THE TRUE PHYSICAL VIRGINITY OF COMPLAINANT ARLENE CABALLES, WHICH NEGATES ALLEGATIONS OF PREVIOUS SEXUAL CONGRESS OF ARLENE CABALLES WITH APPELLANT.

### "III

THE LOWER COURT ERRED IN CONVICTING APPELLANT FOR THE CRIME OF RAPE SANS STRONG AND CONVINCING EVIDENCE OF GUILT."[8]

I. Anent the first assigned error, appellant alleges that, considering that the room shared by the members of his family as sleeping quarters only measured 2 fathoms in width by 1-1/2 fathoms in length and with the illumination

afforded by the light filtering through the gaps in the bamboo flooring, the consummation of the alleged rapes as described could not have escaped notice by appellant's other children who slept in the same room. Moreover, he faults Agnes Caballes, complainant's elder sister, for maintaining her silence or for failing to confront her father or sister despite having been a witness to acts which she considers ignominious and odious. That conduct, appellant contends, is irreconcilable with sincerity and candor.

We agree with the Solicitor General's refutation of this alleged error:

"First, contrary to appellant's claim, the silence of Agnes about what she saw is understandable. She is still very young, 16 years old. From her testimony, the appellant who is her father is a violent person. In fact, the appellant frequently maltreated his daughters Agnes and complainant Arlene. Undoubtedly, appellant has instilled fear on (sic) his daughters, and this could be the reason why Agnes just kept silent. Agnes' silence does not mean she approves of the sexual act committed by his father on his sister, Arlene. While the act is detestable and odious to Agnes' conscience, yet Agnes was powerless to talk due to constant fear.

"On this point, the trial court said:

'Complainant and her sister, Agnes, were one in disclosing that they were frequently maltreated by their father, although the latter countered that they were corporal punishments done by a father towards his daughters whenever they commit mistakes. What remained undenied is that lately, after the accused had already made sexual advances with complainant, he maltreated his two teenage daughters without any reason at all. The fear he instilled on (sic) his daughters by his unmitigated floggings caused complainant Arlene to bow down to his carnal cravings and Agnes' docile submission to his evil advances, like fondling her (Agnes') breasts.' (p. 19, dec., p. 140, rec.; Crim. Case No. CBU--8473)

"Second, the act was so embarrassingly humiliating that Agnes preferred to keep quiet about it and kept the knowledge to herself because others who may come to know about the act might ridicule not only her father and her sister but her family as a whole. This is the most normal human behavior in analogous situations and verifiable by human observation and experience.

"In fact, the complainant Arlene testified that, at one time, she was in a hurry to wash her panty so that nobody would notice what his (sic) father had done to her because the act was so embarrassing. x x x"[9]

This argument of the Solicitor General is bolstered by the trial court's observation, to wit:

"On the part of Agnes, she must have been only trying to play asleep because she already knew something have (sic) been going on between her father and her sister. In fact, during the first carnal act, Agnes was awakened by the movement and sound of the mat and saw her naked father on top of her undressed younger sister who was then crying, so much so that she (Agnes) shouted enough for them to hear: 'What are you doing there?' Their younger brother and sister may have doozed (sic) off in those nine instances when complainant was raped. Children are known to be sound sleepers (P. vs. Mustacisa, G.R. 51777, Mar. 25, 1988). Even while her mother was still alive, Agnes was already aware of the lustful desires of her father because whenever the latter has a chance to touch her while sleeping, he fondles her breast.[10]

The Solicitor General further aptly submits:

"It is strange that appellant assails largely the actuation of Agnes, the elder sister of complainant Arlene, but not Arlene's. Is it because Agnes' truthfulness corroborates Arlene's complaints? It must be emphasized that even without the testimony of Agnes, the lone testimony of complainant Arlene is enough to convict. In fact, the assigned error boils down to credibility of witnesses. In this case, both Agnes' and Arlene's testimonies are more than credible, and even without Agnes, the trial court finds the testimony of complainant 'coherent, straight-forward and credible,' thus:

x x x

'On the witness stand, complainant Arlene Caballes testified in a firm, spontaneous and straight-forward manner and in open court pointed an accusing finger at her father and in an avenging tone, re-affirmed her accusation as the man who raped her nine times."[11]

The father exercises such strong moral and physical influence and control over his daughter that the force or violence, threat or intimidation upon her need not be of such nature and degree as would be required in other cases.[12] The overpowering and overbearing moral influence of the father over the daughter takes the place of violence and offer of resistance required in rape cases committed by an accused having no blood relationship with the victim.[13]

As pointed out by the trial court, "the prosecutrix was tenderly fourteen (14) years old when she initially succumbed to the bestial acts of her father. Arlene was young, uninitiated in sex and would not have the slightest idea that the accused who was her own father would have the gall to devour his own flesh and blood. x x x As can be recalled, the accused, in the first sexual beachhead, threatened his daughter Arlene, with a tres-cantos knife. On the subsequent sexual satisfaction with his daughter, he slapped Arlene and on other occasions, he pressed his fist on her mouth in total disregard of her (sic) daughter's tearful plea to spare her because she is his own flesh and blood."[14]

Given complainant's naivete and inexperience in matters of sexuality, it was improbable that she would fabricate matters about the rapes committed against her person or concoct lies against her own father, knowing fully well the seriousness of such charges, even granting that she harbored abhorrence for his ways, and run the risk of subjecting herself to humiliating and embarrassing scrutiny wrought by a public trial.[15] We have repeatedly held that when a woman testifies that she has been raped, she says all that is necessary to signify that the crime has been committed. For no young decent Filipina woman would publicly admit that she had been criminally ravished unless that is the truth, for her natural instinct is to protect her honor,[16] and unless motivated by an honest desire to seek justice.[17]

Rape is a crime which is not normally committed in the presence of witnesses, hence, the court merely relies on the credibility of complainant's testimony as weighed against the credibility of the accused.[18] To warrant a conviction in rape charges, however, the victim's testimony must be clear and free from contradictions.[19] In the case at bar, the court a quo was satisfied with Arlene's demeanor on the witness stand when it stated that "all told, the Court finds the coherent and straight-forward testimony of the complainant credible." [20] Oft-repeated is the judicial principle that the findings of the trial court on the credibility of witnesses are entitled to the highest respect,[21] considering that it had vantage opportunity to see, hear and observe the witnesses testify and to weigh their testimonies.[22] Absent any abuse of discretion, oversight or disregard of circumstances of weight as would call for a contrary conclusion, this Court is not disposed to disturb His Honor's findings.[23]

II. Appellant obstinately maintains that the findings in the medical examination conducted on Arlene Caballes, are indicative of the true physical virginity of complainant. In other words, she has supposedly never had any previous sexual experience at the time she was examined thus belying her testimony and imputation against appellant.

What appellant fails to consider is that while the physical condition alone of complainant's genital organ ostensibly does not indicate that she has been the victim of sexual assaults by her father, there is that equal probability, which was established in this case as a fact, that she has had sexual intercourse albeit against her will, under the loathsome circumstances herein before narrated and borne out by the evidence for the prosecution which appellant has failed to successfully impeach.

The testimony of Dr. Claudia Vilma Borromeo, the examining physician who attended to Arlene Caballes, sufficiently explains and rebuts appellant's contentions on this point, in this wise:

"Q - Dr., the charge here is rape. Is it possible for a woman to be raped and still her hymen remains intact?

A - Yes, it is possible.

Q - Will you explain to us why it is possible?

A - Some women have lax, thick and husky hymen which can resist any degree of penetration.

Q - What is the average number?

A - There are a lot of them.

Q - What is the percentage out of 100 women?

A - 50 to 60%.

Q - If there is actual penetration is it possible that the hymen would remain intact?

A - As I said yes.

Q - Can you explain that?

A - As what I said, some vaginal opening are (sic) equipped with hymen that is thick, lax and resistant.

Q - In cases of women where they have thick and lax hymen what usually happens to this hymen during sexual intercourse?

A - Usually this is lacerated.

Q - When there is no complete penetration, even if the hymen is thin, let's say there was fractional penetration, is it possible that the hymen would not break?

A - Depending on the degree of penetration and the force of the penetration.

Q - Is it possible for a woman to be raped 9 times and still would not sustain any injury or laceration in her hymen?

A - As I said depending on the degree of penetration and the force of the penetration. And also depending on the kind of hymen a woman has.

Q - Can you explain a little more on that?

A - As I said if the woman has a thick, elastic or lax hymen and just a very slight degree of penetration like 1/8, 1/4 fractions proportion, then the hymen may not break."

(Emphasis supplied.)[24]

As to the condition of the hymen and the negative sperm analysis, local jurisprudence is replete with decisional holdings that total penetration is not essential. Any penetration of the female genitalia by the male organ is sufficient. Entry of the labia or lips of the female organ merely, without rupture of the hymen or laceration of the vagina, is sufficient to warrant conviction.[25] Moreover, the absence of spermatozoa does not disprove the consummation of rape, the important consideration being, not the emission of semen, but penetration.[26]

As earlier noted, quite telling is Dr. Borromeo's testimony on this score:

"Q - Is it possible that a woman raped 9 times may still be negative of any presence of spermatozoa?

A - The lifetime of sperms is more or less 2 days. I examined the patient on April 21 while the incident happened on April 17, so there was a lapse of 4 days. Normally the lifetime of sperms is 24 hours." [27]

III. We cannot but reject appellant's contention that the lower court convicted him of the crime of rape as charged "sans strong and convincing evidence of guilt." Appellant in this case has done nothing more than to deny having committed the offenses charged, as most felons are wont to do. Contrarily, complainant's testimony gives an indubitably credible and detailed account of the commission of the dastardly acts. Appellant's mere denial constitutes self-serving negative evidence which cannot be accorded greater evidentiary weight than the declaration of credible witnesses on affirmative matters. Furthermore, as between a positive and categorical testimony which has a ring of truth on one hand, and a bare denial on the other, the former is generally held to prevail. [28]

To our minds, and after a careful evaluation of the facts and the evidence on record, full reliance may be placed on the prosecution's evidence which definitely establish, beyond any reasonable doubt, appellant's culpability for the extremely revolting, reprehensible and unnatural felonies with which he is charged. Consequently, he must suffer the full punitive sanctions of the law in expiation of his criminal and bestial perversion.

WHEREFORE, the decision appealed from is **AFFIRMED**, with the modification that the indemnity to be paid by accused-appellant to complainant for each crime of rape is increased to P30,000.00 in accordance with the current jurisprudential rule.

**SO ORDERED.**

Melencio-Herrera, (Chairman), Paras, Padilla, and Sarmiento, JJ., concur.

---

[1] Presided over by Judge Leonardo B. Cañares.

[2] Rollo, 122-124.

[3] Ibid., 142.

[4] Ibid., 125-132.

[5] Exhibit "J"; Original Record, 69.

[6] TSN, April 9, 1987, 3.

[7] TSN, August 6, 1987, 9.

[8] Brief for Appellant, 1-2.

[9] Brief for Appellee, 23-24.

[10] Rollo, 138.

[11] Brief for Appellee, 27.

[12] *People vs. Franco*, 114 SCRA 737 (1982).

[13] *People vs. Erardo*, 127 SCRA 250 (1984); *People vs. Cariño*, 167 SCRA 285 (1988), *People vs. Ramos*, 167 SCRA 439 (1988).

[14] Rollo, 139.

- [15] *People vs. David*, 177 SCRA 551 (1989).
- [16] *People vs. Abonada*, 169 SCRA 530 (1989).
- [17] *People vs. Selfaison*, 1 SCRA 235 (1961); *People vs. Gan*, 46 SCRA 667 (1972); *People vs. Estebal*, 173 SCRA 209 (1989).
- [18] *People vs. Basiga*, 169 SCRA 76 (1989); *People vs. Barranco*, 177 SCRA 103 (1989).
- [19] *People vs. Geneveza*, 169 SCRA 153 (1989).
- [20] *Rollo*, 142.
- [21] *People vs. Villamala, et al.*, 78 SCRA 145 (1977).
- [22] *People vs. Payao*, 68 SCRA 70 (1975).
- [23] *People vs. Modelo*, 35 SCRA 639 (1970); *People vs. Ordonio*, 68 SCRA 397 (1975).
- [24] *TSN*, April 9, 1987, 2-3.
- [25] *People vs. Alvarez*, 163 SCRA 745 (1988), citing *People vs. Oscar*, 48 Phil. 527 (1925) and *People vs. Hernandez*, 49 Phil. 980 (1925).
- [26] *People vs. Jose*, 37 SCRA 450 (1971); *People vs. Sato*, 163 SCRA 602 (1988); *People vs. Ando, Jr.*, 180 SCRA 412 (1989).
- [27] *TSN*, April 9, 1987, 3.
- [28] *People vs. Biago*, 182 SCRA 411 (1990).

**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.