



Republic of the Philippines
Supreme Court
 Manila

FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
 Plaintiff-Appellee,

G.R. No. 207763

Present:

SERENO, C.J.,
Chairperson,
 LEONARDO-DE CASTRO,
 BERSAMIN,
 VILLARAMA, JR., and
 REYES, JJ.

- versus -

ROLANDO RONDINA,
 Accused-Appellant.

Promulgated:

JUN 30 2014

X-----X

DECISION

REYES, J.:

For automatic review is the Decision¹ dated September 27, 2012 of the Court of Appeals (CA) in CA-G.R. CEB CR-HC No. 00594, affirming the conviction² of accused-appellant Rolando Rondina (Rondina) on September 13, 2004 in Criminal Case No. 99-2293 by the Regional Trial Court (RTC) of Basey, Samar, Branch 30 for the crime of simple rape under Article 266-A of the Revised Penal Code (RPC), as amended by Republic Act (R.A.) No. 8353, known as the Anti-Rape Law of 1997, and the imposition of the penalty of *reclusion perpetua*, civil indemnity of ₱50,000.00, and moral damages of ₱50,000.00.

¹ Penned by Associate Justice Zenaida T. Galapate-Laguilles, with Associate Justices Edgardo L. Delos Santos and Pamela Ann Abella Maxino, concurring; CA *rollo*, pp. 93-107.

² Issued by Presiding Judge Jovito C. Abarquez; records, pp. 157-165.

A

Factual Antecedents

On December 15, 1998, an information³ was filed against Rondina charging him of rape, as follows:

The undersigned Public Prosecutor, based upon the sworn complaint of victim [AAA]⁴ hereby, accuses ROLANDO RONDINA, alias “Lando”, of the crime of Rape, committed as follows:

That on or about the 30th day of August, 1998, about 12:00 o’clock noon, at Barangay [XXX], Municipality of [YYY], Province of Samar, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design and lustful intent and by means of force, violence and intimidation, did then and there, wilfully, unlawfully and feloniously have carnal knowledge with one [AAA], without her consent and against her will.

CONTRARY TO LAW.⁵

Rondina was arraigned on February 8, 1999, and he pleaded “not guilty.” Trial ensued, with the prosecution presenting three witnesses, namely, AAA, the victim, BBB, AAA’s grandmother, and Teodulo Gultian (Captain Gultian), *Barangay* Captain of XXX, town of YYY in Samar, and a first cousin of AAA’s grandfather. The testimony of Dr. Francis Gerald Mijares (Dr. Mijares), the attending physician who examined AAA, was dispensed with upon the parties’ stipulation that AAA submitted herself to medical examination a week after the incident. Rondina testified alone for his defense.

According to the prosecution, the rape happened in this manner: Sometime around noon of August 30, 1998, AAA, allegedly only 14 years old, lay awake beside a wall of their house while her 1-year-old sister was sleeping next to her. She heard a noise coming from the kitchen, and suddenly Rondina was on top of her. Poking a knife at her chest, he warned her not to tell her parents, stuffed her mouth with a face towel, and quickly removed her shorts and underwear. He then inserted his penis into her vagina and made a push and pull movement, keeping at this for a “long time.” AAA felt pain in her organ, and just before he finished, she felt him discharge something inside her. He pulled out his penis, and she noticed blood oozing from her vagina. He sat beside her while she remained supine and crying.⁶ At that exact moment, BBB entered the house and overheard Rondina and AAA talking in a low voice. In the kitchen, she was surprised

³ Id. at 1.

⁴ The real name of the victim, her personal circumstances and other information which tend to establish or compromise her identity, as well as those of her immediate family or household members, shall not be disclosed to protect her privacy and fictitious initials shall, instead, be used, in accordance with *People v. Cabalquinto*, (533 Phil. 703 [2006]), and A.M. No. 04-11-09-SC dated September 19, 2006.

⁵ Records, p. 1.

⁶ Id. at 157-158.

to see AAA and Rondina on the floor still naked from the waist down. She angrily demanded to know what they were doing, but AAA said nothing and just cried, still in terror of Rondina, as the latter quickly put on his clothes and ran out through the kitchen. At first, BBB told no one what she saw that day, having been kept busy in the farm. But the next day, she told CCC, AAA's mother, and two days later, after AAA had left for Tacloban where she worked as a laundrywoman,⁷ CCC and BBB sought the help of Captain Gultian, who advised them to get a medical report on AAA.⁸

On September 7, 1998, CCC brought AAA to the Eastern Visayas Regional Medical Center in Tacloban City, where she was attended by Dr. Mijares. His medical certificate⁹ showed the following results:

P.E. Findings:

= Negative pertinent P.E. Findings

Ob-Gyne findings:

= Pelvic exam

external genitalia - grossly normal

introitus - nulliparous

hymen - intact, elastic, open

vagina - admits one (1) examining finger with ease

Speculum exam:

cervix - small, pinkish

(+) scanty whitish discharge

= Internal exam:

cervix - close, non-tender on wriggling

uterus - small

adnexae - (-) masses, tenderness

Laboratory results:

UCG – negative

Grams stain result: Grams (+) rods = +++

e. cells = ++

REMARKS:

CONCLUSIONS: 1. The above[-]described physical injuries are found in the body of the subject the age of which is compatible to the alleged date of infliction.

x x x x

On September 9, 1998, AAA, accompanied by CCC and Captain Gultian, executed a complaint affidavit before the National Bureau of Investigation (NBI) charging Rondina with rape. On September 17, 1998, Rondina was arrested on a warrant.

⁷ TSN, June 7, 1999, p. 34.

⁸ Records, pp. 159-160.

⁹ Exhibit "1", "1-A", and "1-B", folder of exhibits, p. 1.

The version of the defense paints a lovers' tryst. According to Rondina, 24 years old, a laborer in a rice mill, he met AAA on August 10, 1998 at a benefit dance held during their town fiesta. They danced three times to slow music, and in the course of the evening she agreed to be his sweetheart. He visited her several times at home, and each time her parents were around. On August 29, 1998, a Saturday, at around 7:00 p.m., Rondina again saw AAA, and it was then that he broached an "intimate" proposal to her. She agreed, but told him to come back at noon the next day since her parents would be away in the farm. Rondina returned as agreed, and AAA herself opened the door. AAA led him to the kitchen, and there the lovers lost no time kissing and caressing each other. AAA took off her bra and shorts, and Rondina also took off his shorts. Rondina insisted that he and AAA still had their underwear on when BBB arrived just when they were about to commence the sexual act. He denied that he used a towel and a knife to facilitate the rape.¹⁰

BBB caught them half-naked, and she angrily demanded, "*birat ano hin pagbuhat niyo hito?*" ("why did you do it?").¹¹ But AAA just cried, while Rondina quickly arose and feebly tried to explain that he and AAA already had an understanding. BBB refused to be pacified and Rondina had to leave. He put on his shorts and exited through the kitchen. Believing that he committed no crime, Rondina was surprised when the police came to his rented house and arrested him on September 16, 1998.¹² He also claimed that Captain Gultian tried to extort money from him.¹³

On September 13, 2004, after three changes in the presiding judge, the last judge, Honorable Jovito C. Abarquez, having personally observed only the demeanor and testimonies of Captain Gultian and of Rondina but not those of the complainant and her grandmother, the RTC rendered judgment against Rondina, the dispositive portion of which reads:

WHEREFORE, PREMISES CONSIDERED, JUDGMENT is hereby rendered finding accused ROLANDO RONDINA guilty beyond reasonable doubt of the crime of RAPE defined and penalized under Article 335 of the Revised Penal Code as amended by Republic Act No. 8353 and the Court hereby sentences him to suffer the penalty of Reclusion Perpetua and to indemnify the private complainant, [AAA], in the amount of Php 50,000.00 as civil indemnity and moral damages in the amount of Php 50,000.00.

SO ORDERED.¹⁴

¹⁰ Records, p. 161.

¹¹ CA rollo, p. 97.

¹² Records, p. 161.

¹³ TSN, May 3, 2004, p. 22.

¹⁴ Records, p. 165.

On October 4, 2004, Rondina filed a notice of appeal to the Supreme Court, but conformably to this Court's decision in *People v. Mateo*,¹⁵ the Court transferred the case to the CA for intermediate review. At the CA, Rondina raised a lone error, *to wit*: THE TRIAL COURT ERRED IN CONVICTING [RONDINA] OF THE CRIME CHARGED DESPITE THE FACT THAT HIS GUILT WAS NOT PROVEN BEYOND REASONABLE DOUBT.¹⁶

On September 27, 2012, the CA affirmed the conviction of Rondina, as follows:

WHEREFORE, premises considered, the *Decision* dated 13 September 2004 of the Regional Trial Court (RTC), 8th Judicial Region, Branch 30, Basey, Samar, in Criminal Case No. 99-2293, finding accused-appellant Rolando Rondina guilty beyond reasonable doubt of the crime of simple rape is hereby **AFFIRMED** in all respects except that he is further **ORDERED** to pay AAA interest on all damages awarded at the rate of six percent (6%) per annum from the finality of this judgment until fully paid.

SO ORDERED.¹⁷

The case is again with this Court on automatic final review, and meanwhile, Rondina has been in detention since 1998.

Ruling of the Court

This Court votes to acquit the accused.

Discussion

The crime of rape is now found in Article 266-A of the RPC

R.A. No. 8353, known as the "Anti-Rape Law of 1997," was signed into law by President Fidel V. Ramos on September 30, 1997 and took effect on October 22, 1997, becoming Article 266-A to 266-D of Title VIII of the RPC under Crimes Against Persons. Providing for a broader definition of rape, it reclassified rape from a Crime Against Chastity to a Crime Against Persons. Article 266-A of the RPC now reads:

¹⁵ G.R. Nos. 147678-87, July 7, 2004, 433 SCRA 640.

¹⁶ CA *rollo*, p. 43.

¹⁷ Id. at 106-107.

Article 266-A. *Rape, When and How Committed.* – Rape is committed-

- 1) By a man who shall have carnal knowledge of a woman under any of the following circumstances:
 - a) Through force, threat or intimidation;
 - b) When the offended party is deprived of reason or is otherwise unconscious,
 - c) By means of fraudulent machination or grave abuse of authority;
 - d) When the offended party is under twelve (12) years of age or is demented, even though none of the circumstances mentioned above be present;

- 2) By any person who, under any of the circumstances mentioned in paragraph 1 hereof, shall commit an act of sexual assault by inserting his penis into another person's mouth or anal orifice, or any instrument or object, into the genital or anal orifice of another person.

Throughout our recorded history, rape has been invariably regarded with unmitigated odium, and meted the highest penalties allowed in our statute books. By its very nature, a charge of rape must be resolved by giving primordial consideration to the credibility of the victim's testimony,¹⁸ since conviction may be solely based thereon, provided it is credible, natural, convincing, and consistent with human nature and the normal course of things.¹⁹ For when a woman says she was raped, she says in effect all that is necessary to show that rape was committed. So if her testimony meets the test of credibility, conviction may issue on the basis thereof.²⁰

The constitutional presumption of innocence of the accused demands no less than a moral certainty of his guilt free of reasonable doubt. Moreover, the prosecution evidence must stand or fall on its own merits, and cannot be allowed to draw strength from the weakness of the defense. The testimony of the victim must be scrutinized with utmost caution, and unavoidably, her own credibility must also be put on trial.²¹

The Supreme Court as the court of last resort is obligated to conduct a comprehensive and extensive assessment of a conviction for rape,²² and in the Court's review of the decisions of the RTC and the CA, the Court has followed the oft-cited guiding principles, to wit:

¹⁸ *People v. Noveras*, 550 Phil. 871, 881 (2007).

¹⁹ *People v. Nazareno*, 574 Phil. 175, 191-192 (2008).

²⁰ *People v. Paculba*, G.R. No. 183453, March 9, 2010, 614 SCRA 755, 764; *People v. Mingming*, 594 Phil. 170, 190 (2008); *People v. Capareda*, 473 Phil. 301, 331 (2004).

²¹ *People v. Jalosjos*, 421 Phil. 43, 68 (2001).

²² *People v. Ogarte*, G.R. No. 182690, May 30, 2011, 649 SCRA 395, 406; *People v. Celocelo*, G.R. No. 173798, December 15, 2010, 638 SCRA 576, 584.

A rape charge is a serious matter with pernicious consequences both for the accused and the complainant, so that utmost care must be taken in the review of a decision involving conviction of rape. Thus, the Court has consistently adhered to the following guiding principles, to wit: (1) an accusation for rape can be made with facility, while the accusation is difficult to prove, it is even more difficult for the accused, albeit innocent, to disprove; (2) considering that, in the nature of things, only two persons are usually involved in the crime of rape, the testimony of the complainant must be scrutinized with extreme care; and (3) the evidence for the prosecution must succeed or fail on its own merits, and cannot be allowed to derive strength from the weakness of the evidence for the defense. Corollary to the above principle is the rule that the credibility of the victim is always the single most important issue in the prosecution of a rape case.²³ (Citations omitted)

The elements of rape under paragraph 1 of Article 266-A of the RPC are: (1) the offender is a man who had carnal knowledge of a woman; and (2) he accomplished such act through force or intimidation upon her; or she is deprived of reason or otherwise unconscious; or she is under 12 years of age or is demented. The RTC and the CA both found that AAA's testimony clearly established that Rondina had sexual intercourse with her without her consent and against her will; that to satisfy his lust, he employed force and threats. There being only one witness to her harrowing experience, it behooves this Court to go over AAA's testimony anew in detail:

[PROSECUTOR AGERICO A. AVILA:]

Q Do you recall where were you around 12:00 o'clock noon of August 30, 1998?

A I was in the house.

Q And where is your house located?

A Along the side of the road.

Q What barangay, municipality and province?

A Brgy. [XXX], [YYY], Samar.

Q Who were with you in the house at that time?

A My one[-]year[-]old sister.

Q Who else were there in the house aside from you and your younger sister?

A Only the two (2) of us.

Q Why, where were your father and your mother then?

A They were in the mountain.

x x x x

Q While you.... where were you particularly situated while you were lying down?

A I was near the wall of the house.

Q So, while you were near the wall of your house lying down, do you recall of any incident that transpired? What happened if any?

A I heard a noise which noise came from a bamboo.

Q From what bamboo did the noise come from?

A Near the kitchen.

²³ *People v. Cabanilla*, G.R. No. 185839, November 17, 2010, 635 SCRA 300, 311-312.

X X X X

Q **So, after hearing the sound of the bamboo, what did you observe next if any?**

A **He placed himself on top of me.**

Q You said he. A person? Did you understand the question?

A Yes, Sir.

Q **And did you know the person who went on top of you?**

A **No.**

Q But, would you be able to recognize this person if you will see him again?

A Yes.

X X X X

Q After the person whom you pointed in Court went on top of you, what did he do to you?

A He poked a knife at me and placed a face towel inside my mouth.

X X X X

Q **To what part of the body was the knife pointed to?**

A **On my chest.**

X X X X

Q **So, after this person you pointed to in Court pointed a knife and placed a hand towel in your mouth, did he say anything?**

A **He said, "Don't tell your father and mother because if you will tell them, I will kill you."**

Q After he uttered those words, what did he do next if any?

A After uttering those words, he took off my shorts and underwear.

Q **After taking off your shorts and your underwear, what did he do next if any?**

A **He inserted his penis into my organ.**

Q **So, when he inserted his penis to your organ, what did you feel if any?**

A **I felt pain.**

Q **So, while his penis was inside your organ, what did he do?**

A **He was making push and pull actions.**

Q **For how long in your estimate did he do his push and pull action?**

A **A long time.**

X X X X

Q **What did you notice in your organ when he made the push and pull movement?**

A **I was feeling pain.**

Q **Did you notice if he discharged anything in your organ?**

A **Yes.**

Q **And what did you notice?**

A **There was a blood.**

Q **When did you notice this blood coming from you?**

A **After he finished.**

- Q **When he finished, what did he do?**
A **He sat in my side.**
Q **How about you, what did you do?**
A **I was crying.**
Q **So, while he was sitting by your side, what happened if any?**
A **My grandmother arrived.**

x x x x

- Q Where was Rolando Rondina when your grandmother arrived?
A He was on my side.
Q Left or right side?
A Right side.
Q Did he already put his pants on when your grandmother arrived?
ATTY. MARIO NICOLASORA
Leading, Your Honor.

x x x x

- A Yes.
PROS. AVILA
Q What was he wearing at that time?
A He was wearing short pants.
Q Was he with an underwear?
A Yes.
ATTY. NICOLASORA
The question is leading.
COURT
GO AHEAD. DID HE TAKE OFF HIS UNDERWEAR?
A Yes.
PROS. AVILA
Q **While this accused was sitting beside you, was he still naked at that time?**
ATTY. NICOLASORA
We object, leading.
COURT
LET THE WITNESS ANSWER.
PROS. AVILA
A **Yes.**
Q So, when your grandmother arrived, what did the accused do?
A He ran towards the kitchen.
Q **What did your grandmother do when she arrived in your house?**
A **My grandmother asked me, “[AAA], who was that?”**
Q **What did you answer?**
A **I did not answer because I was afraid that he might kill me.**
Q Going back when he removed his underwear. After removing his underwear, what did he do next if any?
A He placed his penis inside my organ.
Q Before that, did he ... what did he do to your legs if any?
ATTY. NICOLASORA
Leading, Your Honor.
COURT
SUSTAINED.

PROS. AVILA

Q Before he inserted his organ to your organ, what did he do to you?

ATTY. NICOLASORA

Assuming that the accused [did] something.

COURT

LET THE WITNESS ANSWER.

PROS. AVILA

A Immediately after taking off his short pants and underwear, he placed himself on top of me and placed his organ inside my organ.

Q What was your position?

A I was prostrate.

Q How about the person whom you pointed to, what was his position when he inserted his penis inside your organ?

A He was on top of me.

Q **All the time while he was making the push and pull movement, where was the knife all the while?**

A **On my chest.**

Q **It was on your chest all the while until he finished?**

A **No.**

Q **So sometimes, where would he placed his knife?**

A **It was no longer on my chest.**

Q **Do you know the accused personally?**

A **I don't know him.**

Q **So, how were you able to identify him?**

A **I could hear his name from other persons.**

Q **Why, where is he a resident of?**

A **He is living with Tiyng.**

Q Do you know the surname of this Tiyng?

A I don't know the surname.

Q In what barangay is the accused living?

A I don't know where he is a resident of.

Q How about this Tiyng, where does he resides?

A In Brgy. [XXX].

Q **Since you did not inform your grandmother about the incident, who was the first person whom you informed?**

A **I did not tell anybody.**

Q So, how come that you were able to file a Complaint?

A Because I told my mother about the incident just before I left for Tacloban.

Q How long was that after the incident?

A I cannot remember.

Q How many days after the incident before you went to Tacloban?

A About two (2) days.

Q What was your purpose in going to Tacloban?

A Because when the incident happened, I was working in Tacloban.

x x x x

Q Did you go to the house of the Brgy. Chairman?

A Only my mother went there.

Q With respect to this case, did you submit yourself for medical check-up?

A Yes, Sir.

Q Where?

A In Tacloban.

X X X X

[CROSS-EXAMINATION BY ATTY. NICOLASORA]

Q At that time of incident at 12:00 noon of August 30, 1998, the windows and door of your house were opened?

A Yes, Sir.

Q **You mean, all the windows were opened?**

A **Yes.**

Q **There is a house located on the right side of your house?**

A **Yes.**

Q **Will you please try to tell us whose house is that?**

A **Ging-Ging.**

Q If you are in your house, you could see it directly?

COURT:

YOU HAVE NOT SPECIFIED THE DISTANCE.

ATTY. NICOLASORA

Q **How far is the distance of the house located on the right side of your house?**

A **From where I am sitting, up to that wall of the Chamber, which is about two (2) meters.**

COURT:

DO YOU KNOW ARMS LENGTH? HOW MANY ARMS LENGTH?

A **Two (2) arms length.**

ATTY. NICOLASORA

Q Immediately before the incident, you noticed that the windows near your house were opened?

COURT:

WHETHER THERE WAS A WINDOW ON THE RIGHT SIDE.

ATTY. NICOLASORA

Q On the right side of your house, does the house nearest you [have] a window?

A No, Sir.

Q To the left side, is there a window?

A Yes.

Q **How far is your house to that house?**

A **About two (2) arms length.**

Q Who lives in this house?

A I don't know who owns the house.

Q Did you notice if there were persons before the incident happened?

A I did not notice.

Q Is there a house at the back of your house?

A None, Sir.

Q How about on the front portion of your house, is there a house?

A None.

Q Would you agree with me that there are number of houses located in your house aside from the left and right houses?

PROS. AVILA

Vague, Your Honor.

ATTY. NICOLASORA

Q **Aside from these two (2) houses located on the left and right side of your house, are there other houses in the immediate vicinity?**

A **There are other houses.**

X X X X

Q **There are a number of people living within the vicinity?**
A **Yes.**

x x x x

Q Alright, at 12:00 o'clock noon of August 30, 1998?
A There was none.

x x x x

Q At 12:00 o'clock noon, am I correct that you heard a sound of bamboo in your kitchen?
A Yes.

x x x x

Q When for the first time did you notice a person in your house on August 30, 1998?

COURT:

SHE NOTICED A PERSON WHEN HE WAS ALREADY LYING DOWN ON HER AND POKING A KNIFE ON HER.

ATTY. NICOLASORA

Q Before the incident, you have not seen that person who laid on top of you?

COURT:

IMMEDIATELY BEFORE?

ATTY. NICOLASORA

Prior to the incident.

A No, Sir.

Q So, you were lying prostrate on the flooring of your house allegedly when the incident transpired?

A Yes, Sir.

Q You were looking directly upward when the incident transpired?

A Yes, Sir.

x x x x

Q You did not see what was actually placed inside your organ?

A No.

Q You did not sustain any injury during the incident?

A No.

Q You said during your direct examination that after he laid on top of you, he seated on your right side?

A Yes.

Q **He stayed there for a long period of time?**

A **Yes.**

Q **While he was sitting on your right side, he did not do anything to you?**

A **He did nothing.**

Q Am I correct to say, to hear from you during the direct examination, you did not tell your grandmother anything about the incident?

A Yes.

Q And when she arrived at your house, she did not do anything?

A Yes.

ATTY. NICOLASORA

That will be all, Your Honor.

COURT:

RE-DIRECT?

PROS. AVILA

x x x x

Q You said you did not sustain any injury during the incident. Where did the blood come from?

A From my organ.

Q After the incident while he was sitting along side with you, did he try to converse with you?

A No.

x x x x

COURT:

ALRIGHT, CLARIFICATORY.

Q After he took out his organ from your organ, what did you do with your panty and short pants?

A I put my underwear and short pants on.

Q You said that while he was sitting beside you, he was still naked?

A Yes.

Q Was he still naked when your grandmother arrived?

A Yes.

Q So, when he ran to your kitchen, he was still naked?

A Yes.

Q What did he do with his pants and brief?

A He took it with him.

Q **When you said you told your mother what happened to you, whom did you mention? You said you told your mother what happened, what did you tell?**

A **I said, "Nay, I was raped by Lando."**

Q **So, before Lando raped you, you knew his name already?**

A **Yes, I was familiar with his name because I could hear his name from other persons.**

Q And this Lando you are referring to is the person you pointed to before?

A Yes.

Q And he is the person you referred to, whom your mother understood?

A Yes.

Q Your mother knew this Lando already?

A No.

Q When you told your mother about this Lando, did your mother already know this Lando?

A Yes, because she could hear his name from other persons.

Q **When you told your mother, you proceeded to Tacloban, while your mother went to the Brgy. Chairman?**

A **My mother told the Brgy. Chairman the next day.**

Q **But you proceeded to Tacloban?**

A Yes.

Q But your mother went to Tacloban for your medical check-up?

A Yes.

x x x x.²⁴ (Emphasis ours)

According to the appellate court, AAA's testimony says it all and bears the hallmarks of truth, that her positive identification of Rondina was made with moral certainty and thus sufficient to convict him, and that considering AAA's age, it was hard to believe that she could have concocted such an ignominious tale, told in a guileless and straightforward manner, unless it was the truth.

The Court disagrees.

The victim's narration is inconsistent with the physical evidence of the supposed rape by a stranger

It has been held that when the victim's testimony is corroborated by the physician's finding of penetration, there is sufficient foundation to conclude the existence of the essential requisite of carnal knowledge; that laceration, whether healed or fresh, is the best physical evidence of forcible defloration.²⁵ The Court, however, finds no physical evidence of sexual penetration and no corroboration of other vital details in AAA's narration of the rape.

At the outset, it must be stated that Dr. Mijares' medical report was not testified to, and therefore it is at best a hearsay evidence. At the hearing scheduled on October 17, 2001, Dr. Mijares appeared, after several subpoenas and warnings from the court, but instead of presenting him to be examined on his medical report on the alleged rape of AAA, Prosecutor Filotea Estorninos manifested that she was dispensing with his testimony provided the defense agreed to the prosecution's offer of stipulation that AAA submitted herself to medical examination one week after the alleged rape, to which the defense acceded.²⁶ Nonetheless, even granting it to be admissible, the report clearly shows that AAA suffered no lacerations in her hymen, whether recent or healed and whether deep or superficial, nor other similar injuries consistent with violent sexual assault. AAA's hymen is described as "intact, elastic, open," and the report nowhere indicates that she is in a non-virgin state. The report carries a pre-typed conclusion that "[t]he above[-]described physical injuries are found in the body of the subject the age of which is compatible to the alleged date of infliction," but being a

²⁴ TSN, June 7, 1999, pp. 4-33.

²⁵ *People v. Clores, Jr.*, G.R. No. 130488, June 8, 2004, 431 SCRA 210, 216.

²⁶ See RTC Order dated October 17, 2001, records, p. 90.

mere *pro-forma* printed statement, the “conclusion” serves only to further render the report of mere hearsay value.

It is true that the absence of lacerated wounds in AAA’s vagina does not negate sexual intercourse.²⁷ Laceration of the hymen, considered the most telling and irrefutable physical evidence of sexual assault, is not always essential to establish the consummation of the crime of rape. In the context used in the RPC, “carnal knowledge,” unlike its ordinary connotation of sexual intercourse, does not necessarily require that the vagina be penetrated or that the hymen be ruptured.²⁸ But when the victim says that the accused inserted his penis into her vagina and pushed and pulled inside her “for a long time,” and she felt pain and blood oozed from her organ, the stark absence of any vaginal tear or laceration will have to be medically explained, or else, the Court is left with no inference other than that the charge of rape may have been a mere fabrication.

The scenario created by the prosecution is that of a *barrio* maiden whose purity was being forcibly assailed in a sudden attack, and the attacker is a stranger, one who naturally has no demands upon the victim’s affections nor exercises moral ascendancy over her. It thus beggars belief that without putting up a resistance, AAA just lay still on her back and mutely suffered the shame and pain of her repeated violation by Rondina. She did not even raise a shout or a whimper, yet it was noonday, the windows and doors of her house were open, there were people within a few arms’ length in the vicinity, and her grandmother BBB lived just a house away. After her attacker had fled, still she raised no outcry.

In *People v. Dizon*,²⁹ the accused had a gun and he threatened to kill the victim, but she vigorously resisted and tried to stop the sexual assault; she kicked and pushed the accused away to prevent him from consummating his lustful desire; she screamed for help, although no one came. In this appeal, the medicolegal report³⁰ found no external injuries whatsoever sustained by AAA, indicating that she did not resist. Yet from her testimony, her hands were unrestrained, and although Rondina poked a knife at her in the beginning, he later laid it beside her.

Unbelievably, too, despite the threat of injury or death, and with her mouth stuffed with a towel as her attacker forcibly entered her repeatedly, AAA could still take notice that Rondina ejaculated inside her. With such

²⁷ *People v. Banig*, G.R. No. 177137, August 23, 2012, 679 SCRA 133, 148, citing *People v. Ortoa*, 599 Phil. 232, 246-247 (2009).

²⁸ *People v. Colorado*, G.R. No. 200792, November 14, 2012, 685 SCRA 660, 673, citing *People v. Tagun*, 427 Phil. 389, 403-404 (2002).

²⁹ 463 Phil. 581 (2003).

³⁰ Exhibits “1”, “1-A”, and “1-B”, folder of exhibits, p. 1.

mental sangfroid, one wonders how AAA could have failed to devise any resistance.

Significantly, too, the Court finds it curious that AAA completely overlooked making any further mention of the knife and towel used by Rondina. She was absolutely sure he used a knife to threaten her, and then both she and BBB testified that he stuffed AAA's mouth with a face towel to gag her. Yet they told nothing of the whereabouts of these objects, and neither AAA nor BBB saw Rondina leave the house with the knife and towel. If then Rondina left them behind in the house, where are these vital evidence? Towards the end of her testimony, BBB made an unbidden mention of the towel stuffed into AAA's mouth when she saw her,³¹ but this was an obvious concoction, since she did say that in the *sala*, she first overheard them talking softly in the kitchen. Also, upon seeing them half naked in the kitchen, she immediately demanded from AAA what they had done. Why would she ask her if she already saw AAA gagged with a towel?

Incidentally, the RTC noted that AAA's minority has not been established by any documentary or other evidence, nor even alleged in the information.³²

AAA made contradictory claims that rendered her chief testimony doubtful.

In addition to the inconsistencies this Court has already noted, AAA lied during her testimony on June 7, 1999, 10 months after the alleged incident, when she was asked if she knew the man who suddenly sprung and laid on top of her. She answered with an emphatic "No," and when pressed further she said she would recognize him if she saw him again. But in her complaint-affidavit which she executed on September 9, 1998 at the NBI, she admitted that in fact she knew him.

- Q Do you know LANDO personally?
A Yes.
Q How did you know him?
A He is residing in our Barangay.³³

³¹ TSN, June 21, 2000, p. 11.

³² Records, p. 164.

³³ Records, p. 8.

AAA also admitted as much when she said she told her mother, “*Nay, I was raped by Lando.*”³⁴ The medicolegal report itself states that she was being examined for alleged rape “by a known person.” For “Lando” was not a stranger, being a resident in the same *barrio* for one year already, whose rented house was a mere 20 meters away from AAA’s.³⁵ AAA admitted that she had heard his name from the neighbors, and that she knew that he lived in the house of Tiyng, another *barangay* resident.

Also, AAA testified that when BBB arrived and Rondina ran away (although BBB twice mentioned that he walked out), BBB asked her, “[AAA], who was that?” But having first overheard them talking in a low voice, and later seeing AAA and Rondina half-naked, BBB’s natural reaction would logically have been to exclaim, as the accused claimed in his testimony, “*birat ano hin pagbuhat niyo hito?*” or “why did you do it!”³⁶

Then, AAA said that as soon as Rondina was through raping her, she put her shorts back on, and when BBB arrived, Rondina fled;³⁷ but BBB said she saw AAA on her back half-naked and talking softly to Rondina. BBB likewise executed an affidavit stating that upon seeing her, Rondina took to flight; but in her testimony, BBB corrected the defense lawyer who tried to get her to repeat what she said. The counsel said, “He went out of the kitchen door and went outside the house of [CCC],” but BBB clarified that “he walked”.³⁸ A little later, she repeated that he walked.³⁹

The testimony of BBB only bolstered the story of Rondina

The RTC and the CA relied heavily on BBB’s testimony, and this Court is reproducing pertinent portions thereof:

[PROS. FILOTEA M. ESTORNINOS]

Q You said you are residing in [XXX] and [CCC] is also residing in [XXX], how far or how close is the house of [CCC] to your house?

A One house away from my house.

Q On August 30, 1998 at about 12:00 noon, can you still recall where were you then?

A At that time[,] I was about to visit my daughter [CCC].

Q Were you in fact visit the house of [CCC]?

A Yes, I went upstairs.

Q When you went upstairs[,] were you able to get inside the house?

A Yes.

³⁴ TSN, June 7, 1999, p. 32.

³⁵ TSN, May 3, 2004, pp. 7-8.

³⁶ CA *rollo*, p. 97.

³⁷ TSN, June 7, 1999, p. 32.

³⁸ TSN, June 21, 2000, p. 10,

³⁹ Id. at 11.

- Q Why, is there no [shutter] of the door?
A It was open when I arrived.
Q When you arrived what did you see if ever?
A I saw Lando.
Q Who is this Lando you are referring to?
A That one. ([W]itness pointing to a person when asked his name answers to the name Lando).
Q **What was Lando doing when you saw him?**
A **When I arrived[,] I saw him by the side of [AAA].**
Q **How did you observe him?**
A **He was naked from the waist down.**
Q **How about your granddaughter [AAA], have you seen [her]?**
A **Yes, I saw [her].**
Q **Where was she?**
A **She was lying beside him.**
Q **You said Lando was beside [AAA,] what was the position of Lando when you saw him?**
A **He was sitting down.**
Q What happened when you went inside the house and you saw Lando?
A When I arrived at the house he was already beside [AAA].
Q When you went inside the house you saw Lando, what did he do?
A When I saw him he went down.
Q Where did he pass through?
A By the door of the kitchen.
Q How about you where did you enter when you went inside the house?
A At the front door.
Q When Lando left through the kitchen door and you said he was naked[,] what did he do with respect to his clothings?
A He was holding his short pants when he went out.
Q When you said naked what do you mean by naked?
A He was naked from the waist down without any clothing, he was holding his brief and short pants.
Q What did you do when you saw Lando in that particular situation?
A I asked [AAA] what was that all about and she said nothing.
Q What was the demeanor of [AAA] when you asked her?
A She was crying.
Q For how long did you stay in that house of [CCC]?
A Not very long.
Q Why?
A Because I already asked her what had happened.
Q How about you[,] what did you feel as a grandmother when you saw Lando and [AAA] in that particular situation?
A I got mad because he did something bad to my granddaughter.
Q Who is this person as you claim when you saw?
A Lando.
Q Do you know his family name?
A I forgot his family name.
Q Is he a native of Brgy. [XXX]?
A He lives there but he is not [from] that place.
Q With whom is he living in Brgy. [XXX]?
A He lives in the house of Remedios.
Q Do you know a person by the name of Teying?
A He is the son of Remedios.

- Q How about [AAA] at the time you saw her, what was the condition of the body of [AAA] when you first saw her?
- A She was naked from the waist down.
- Q When you went up[,] what did [AAA] do?
- A She was crying.
- Q How about her clothing[,] what did she do?
- A It was on her waist.
- Q And when you asked her[,] was she still naked when you asked her what is that?
- A Yes.
- Q Was she able to put on something on the lower portion of her body after you asked her?
- A Yes she was able to put on her underwear.
- Q As you said you got mad at Lando as he did something bad to your granddaughter what did you do if any?
- A I asked [AAA] what was that all about and she said nothing and she was crying.
- Q How about [CCC,] did you talk with [CCC] with respect to what you have seen?
- A Yes in the morning.
- Q You mean to say the following day?
- A Yes.
- Q Why did it take you to tell [CCC] on the following morning what you have seen?
- A Because I have so many obligation to do considering that we are only farmer.
- Q When you told [CCC] about what happened to your granddaughter, what did you and [CCC] do?
- A We went to the Brgy. Captain.

x x x x

ATTY. NICOLASORA [On cross-examination]

- Q When you arrived in the house of [AAA] you saw [AAA] lying naked is that correct?
- A Yes.
- Q **What was her position[,] was she face up or was she lying on her side?**
- A **Lying face up.**
- Q For the first time that you saw [AAA], you did not see her crying?
- A She was already crying because she was already half-naked.
- Q Before you enter[ed] the house of your daughter [CCC] on August 30, 1998 at 12:00 o'clock, you did not heard [sic] any sound emanating from the house?
- A I did not hear any sound only two of them inside.
- Q **When you first saw Lando[,] he was just sitting beside AAA?**
- A **Yes.**
- Q **They were talking small voice?**

x x x x

- A **Yes, they were talking to each other.**
- Q **But you were not able to hear the voice[,] what they were talking?**
- A **No, because they were talking secretly [sic].**

- Q At the time you saw Lando[,] you were surprised why he was naked below? [sic]
- A Yes.
- Q You could hardly speak at that time when you first saw Lando naked below?
- A I was not able to say anything because I was surprised.
- Q It was only at that time when Lando saw you and bringing along with him his brief and pants?
- A Yes.
- Q **He went out of the kitchen door and went outside the house of [CCC].**
- A **He walked.**

x x x x

- PROS. ESTORNINOS [on re-direct]
- Q **Please tell the Court whether you have seen them talking?**
- A **Yes[,] they were talking.**
- Q **Why do you say that they were talking?**
- A **Because I could hear them talking.**
- Q And when Lando pick[ed] up his pants and brief, he ran or walk slowly?
- A **He walked in going the door.**
- PROS. ESTORNINOS
That is all your honor.
- COURT
- Q **You said Lando and [AAA] were talking, is that correct?**
- A **Yes.**
- Q **Did you hear what Lando was talking?**
- A **No, because he is talking in a low voice.**
- Q When Lando saw [you, he] immediately went out by the door of the kitchen?
- A Yes.
- Q **Why did you say now that Lando was [stuffing] something in the mouth of [AAA] and poking [bladed] weapon on her?**
- A **Because [AAA] could not shout because the face towel was on her mouth.**
- Q **Are you sure of that?**
- A **Yes[,] I am sure about that.**⁴⁰ (Emphases ours)

The RTC summarized BBB's testimony as follows:

During the cross-examination, said witness [BBB] averred that when she arrived in the house[,] [AAA] was lying half[-]naked and with face up crying. That she did not hear any sound when she entered the house and Lando was sitting beside [AAA] and they were talking to each other, but she was unable to hear what they were talking [about] because they were **talking secretly** and she was surprised and could not say anything when she first saw Lando.

⁴⁰ Id. at 4-11.

In the re-direct examination, [BBB] claimed that she saw Lando and [AAA] **talking to each other because she could hear them talking and further averred that accused just walked in going to the door after picking [up] his pants and brief.** And in the court's clarificatory questions, [BBB] contended that Lando and [AAA] were talking to each other but she could not hear what Lando was talking about because he was **talking in a low voice x x x.**"⁴¹ (Emphasis ours)

While the natural reaction of a rape victim would have been to make an outcry after the danger to her had passed,⁴² the truth is BBB saw no towel stuffed in AAA's mouth, and in fact there was no need to gag AAA because, as she herself admitted, throughout her ordeal, she chose to just cry quietly. BBB admitted that she initially overheard her granddaughter talking with Lando in a low voice, or "secretly," which could only have meant that they both desired to avoid discovery. It is also important to mention that BBB saw no knife either beside AAA or in the hand of Rondina as he walked out.

The victim's and her family's actuactions after the alleged rape defy logic and ordinary experience

Time and again, the Court has emphasized that a woman's conduct immediately after the alleged assault is of critical value in gauging the truth of her accusations.⁴³ One important test is that it must coincide with logic and experience.⁴⁴ If indeed she was raped, AAA's utter failure not only to resist Rondina's advances but also to shout for help before, during or after the rape are truly baffling, and defy the ordinary standards of human behavior. A stranger suddenly materialized who obviously had unholy intentions, he quickly placed himself on top of her and raped her, yet AAA did not shout for help, knowing that the neighbors were just nearby. Incomprehensibly, too, after the dastardly rape, which went on for a "long time," AAA stayed half naked and supine, and with her face looking up she carried on a hushed conversation with her supposed attacker, who just sat still beside her, also half-naked like her. While a rape victim is not expected to resist until death, it is contrary to human experience that AAA did not even make an outcry or put up a resistance,⁴⁵ particularly since throughout her ordeal, her hands were free of restraint, and Rondina's knife lay by her side most of the time, if indeed he had a knife.

The neighbors were just a few arms' length nearby, and her granduncle was the *barangay* captain, so after Rondina fled, AAA had no more reason to still be afraid. Yet AAA did not even tell her mother the first

⁴¹ Records, p. 159.

⁴² *People v. Aballe*, 410 Phil. 131, 144 (2001).

⁴³ *People v. Herrick*, G.R. No. 85137, July 12, 1990, 187 SCRA 364, 373.

⁴⁴ *People v. Cartuano, Jr.*, 325 Phil. 718, 745 (1996).

⁴⁵ *People v. Ollamina*, 426 Phil. 726, 737 (2002).

night, or the next night, choosing instead to return to her employer in Tacloban two days later rather than report the incident. It has been held that “the victim’s instant willingness, as well as courage, to face interrogation and medical examination could be a mute but eloquent proof of the truth of her claim.”⁴⁶ But as the RTC noted, it was BBB, not AAA, who told CCC the next day.⁴⁷ The second morning, she and CCC went to the *barangay* hall. BBB’s delay in telling CCC defies logic, she merely saying she was busy farming.⁴⁸ The *barangay* chief was a first cousin of her husband, and CCC’s uncle, yet she and CCC waited two days to report the rape incident.

Conclusion

A most regrettable outrage was committed upon the family’s name and honor. This is clear from BBB’s fury when she exclaimed, “*Birat ano hin pagbuhat niyo hito?*” Unfortunately, there is less evidence than the modicum demanded by law to build a case for rape. The Court has a duty, and it is to set the accused free.

WHEREFORE, accused-appellant Rolando Rondina is hereby **ACQUITTED** of the crime of simple rape. His immediate **RELEASE** from detention is hereby ordered, unless he is being held for another lawful cause. Let a copy of this Decision be furnished to the Director of the Bureau of Corrections, Muntinlupa City for immediate implementation, who is then directed to report to this Court the action he has taken within five (5) days from his receipt of this Decision.

SO ORDERED.


BIENVENIDO L. REYES
Associate Justice

⁴⁶ *People v. Rapisora*, 403 Phil. 194, 206 (2001).

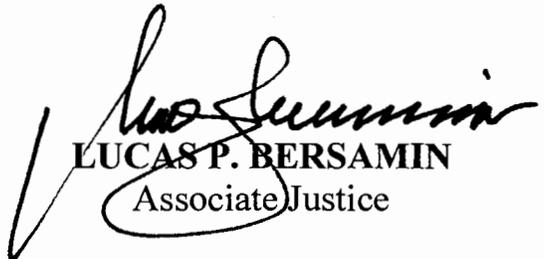
⁴⁷ Records, p. 159.

⁴⁸ Id.

WE CONCUR:


MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson


TERESITA J. LEONARDO-DE CASTRO
Associate Justice


LUCAS P. BERSAMIN
Associate Justice


MARTIN S. VILLARAMA, JR.
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


MARIA LOURDES P. A. SERENO
Chief Justice