

EN BANC

[G.R. No. 149893, April 02, 2003]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
MELCHOR RABAGO, ACCUSED-APPELLANT.**

DECISION

PER CURIAM:

For automatic review by this Court is the decision^[1] of the Regional Trial Court, Branch 15, of Cebu City, dated June 27, 2001, in Criminal Case No. CBU-50105, finding the appellant Melchor Rabago guilty beyond reasonable doubt of rape as follows:

WHEREFORE, in view of the foregoing, the court finds accused, Melchor Rabago **GUILTY** beyond reasonable doubt of the crime of rape as defined by Article 266-A and penalized by Article 266-B of the Revised Penal Code in relation to Republic Act 8353 and he is hereby sentenced to suffer the mandatory penalty of DEATH. The accused is further ordered to pay the victim, AAA, the sum of P50,000.00 as moral damages, P75,000.00 as civil indemnity and P50,000.00 as exemplary damages.^[2]

On March 30, 1999, appellant was charged under an information which states:

That on the 13th day of January, 1999, at about 7:00 o'clock in the evening, at Sitio [REDACTED], Barangay [REDACTED], Municipality of [REDACTED], Province of [REDACTED], Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design and by means of force and intimidation, did then and there willfully, unlawfully and feloniously lie and succeed in having carnal knowledge with his own daughter AAA, a minor who is only thirteen (13) years old, against her will and consent.

CONTRARY TO LAW.^[3]

Upon his arraignment on July 13, 1999,^[4] appellant, assisted by his counsel, Atty. Anacleto Debalucos, pleaded not guilty. After trial, the court *a quo* rendered the assailed decision.

The testimonies of three witnesses for the prosecution, namely the complainant AAA, her mother [REDACTED], and Dr. Daphne Rana, were presented to establish the following facts:

AAA is the only daughter among the eight children of appellant Melchor Rabago and [REDACTED].^[5] On the date of the alleged rape, she was residing with her family in [REDACTED].^[6]

On January 13, 1999, at around 9:00 p.m., while sleeping on the floor of their house with her 4-month old brother, the complainant was awakened when appellant covered her mouth with his hands, undressed her, and took off her panty. Appellant touched her body starting from the neck, left breast, stomach area, going downwards to her thighs. Appellant, already naked then, rubbed his penis on the complainant's vagina. He raised her right leg and thereafter made a push-and-pull movement, with his penis inside her vagina.^[7] The complainant struggled and tried to extricate herself, but appellant proved too strong for her.^[8] She felt pain and noticed that blood dripped from her.^[9] When appellant was through, he left to change. Upon returning, he threatened the complainant with a knife, telling her that he would kill her mother and her brothers if she reports to her mother what happened.^[10]

On January 22, 1999, eight days after the incident, the complainant eventually told her mother what happened.^[11] They immediately reported the occurrence to the Office of the Barangay Captain, which then reported the same to the police.^[12] The next day, AAA was examined by Dr. Nueva Tagaloguin, Medico-Legal Officer of Don Vicente Sotto Memorial Medical Center. The Medical Report indicated a healed laceration in AAA's hymen at the 3 o'clock and 9 o'clock positions.^[13]

The evidence for the defense is the lone testimony of appellant, who claims innocence of the accusation of his daughter against him. He testified that on January 13, 1999, he was working in his farm from morning until afternoon. He arrived home at 7:00 p.m. and ate supper with his wife and children at 9:00 p.m. At 10:00 p.m., he and his family all went to sleep on the floor of their one-room house. He denies having raped his daughter AAA.^[14]

The trial court gave credence to the young complainant's testimony, which it observed to be "sincere, straightforward and forthright." It ruled that the minor inconsistencies in her testimony such as the variances in the time of rape did not impair the veracity of her declarations. It upheld the evidence presented to prove the minority of the complainant and the latter's relationship to appellant. It dismissed appellant's bare denial as a mere afterthought, manifestly outweighed by the complainant's clear and positive testimony. ^[15]

In his lone assignment of error, appellant alleges that the trial court erred in finding him guilty beyond reasonable doubt of the crime of rape and in sentencing him to the penalty of death.^[16]

In reviewing rape cases, we are guided by the following principles: (1) to accuse a man of rape is easy but to disprove it is difficult although the accused may be innocent; (2) considering the nature of things, and that only two persons are usually involved in the crime of rape, the testimony of the complainant should be scrutinized with great caution; (3) the evidence for the prosecution must stand or fall on its own merits and not be allowed to draw strength from the weakness of the evidence of the defense.^[17]

At the heart of almost all rape cases is the issue of credibility of the witnesses.^[18]

And when credibility is in issue, it is well settled that we generally defer to the findings of the trial court. Having heard the witnesses themselves and observed their deportment during trial, the trial court is in a better position to decide the question.^[19]

In the present case, we find no material discrepancy in the testimony of the complainant that would seriously taint her credibility and warrant a reversal of the trial court's findings. The complainant tearfully narrated her traumatic ordeal on that fateful night of January 13, 1999, as follows:

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Q: You said you slept at about 7:00 o'clock in the evening of January 13, 1999, were you awoken[ed] [at] any time while you were [asleep]?

A: I was awoken[ed] at about 9:00 o'clock in the evening, when my father undressed me and then covered my mouth with his hands.

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Q: Were you wearing your panty when you [went] to sleep that night?

A: Yes, [S]ir.

Q: What happened to your panty?

A: He removed it.

Q: After he undressed you by removing your panty and covering your mouth with his hands, what next did he do to you?

A: He kept on touching my body.

Q: What part of your body did he touch?

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A: From the neck to the left breast going to the stomach and going down.

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Q: After he touched your lower inner thigh, what happened next?

A: He was already naked during that time and then he rubbed his penis to my vagina. And then he raised my legs and [made] a push and pull movement.

Q: When the accused made the push and pull

movement, where was his penis?

A: In my vagina.

Q: In which part of the vagina?

A: At the middle.

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Q: How long did he make that push and pull motion with his penis inside the middle of your vagina?

A: About one hour.

Q: And during that time that he was making that push and pull motion, what did you do?

A: I struggled to extricate [myself] from him.

Q: Were you able to extricate yourself from him?

A: No, because he was very strong.

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Q: When your father was pushing his penis at the middle of your vagina, what did you feel?

A: It was painful.

Q: And did you notice whether blood came out from your vagina?

A: Yes, [S]ir.

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Q: After your father was through consummating the sexual intercourse with you, would you please tell the court what happened next?

A: He went inside the room[,] then changed and immediately removed the cloth which he tied to my mouth.

Q: And then what happened after that?

A: When he returned, he threatened me with a knife and told me that [if] I will tell my mother, he will kill my brother and my mother.^[20]

The foregoing candid and direct account by the complainant strongly establishes, beyond doubt, the fact of rape and the identity of appellant as the perpetrator of the

crime.

It bears emphasis that the complainant was only fourteen years old when she testified. A young girl's revelation that she has been raped, coupled with her voluntary submission to medical examination and her willingness to undergo public trial where she could be compelled to give out details of an assault on her dignity, cannot be so easily dismissed as a mere concoction.^[21] In the case at bar, the complainant remained steadfast throughout her entire testimony in the face of intense and lengthy interrogation. Moreover, the fact that, as shown by the records, she cried while at the witness stand^[22] further bolsters the credibility of the rape charge.^[23]

Furthermore, we take cognizance of our holding that the testimony of a rape victim against her father is entitled to great weight, since reverence and respect for elders is deeply ingrained in Filipino children and is also recognized by law.^[24] It is against human nature for a girl to fabricate a story that would expose herself as well as her family to a lifetime of dishonor, especially when her charge could mean the death of her own father.^[25]

We note that the variances in the complainant's testimony as to the time of the rape^[26] are but minor inconsistencies. We have ruled on numerous occasions that minor inconsistencies in rape cases will not necessarily derail the testimony of the offended party, for rape victims cannot be expected to be precise in recounting the details of a clearly harrowing experience.^[27] As long as the testimony is consistent on material points, slightly conflicting statements will not undermine the witness' credibility nor the veracity of the testimony.^[28] Besides, specification of the exact time of the commission of rape is not important, as it is not an element of the crime.^[29]

The complainant's testimony is, moreover, supported by the medical examination on the complainant conducted by a medico-legal officer ten days after the incident. The medical report showed healed lacerations in the complainant's hymen.^[30] Laceration, whether healed or fresh, is the best physical evidence of forcible defloration.^[31] It is settled that when the victim's claim of rape is corroborated by the physical findings of penetration, there exists sufficient basis for concluding that sexual intercourse did take place.^[32]

Against the foregoing evidence of the prosecution, which the trial court found convincing beyond doubt, appellant interposed the defense of denial. His testimony stating that nothing out of the ordinary happened on January 13, 1999 was unsubstantiated by any independent evidence. A plain denial, which is a negative self-serving evidence, cannot stand against the positive identification and categorical testimony of a rape victim.^[33] Hence appellant's weak defense of denial fails in light of the complainant's positive declarations.

In his brief,^[34] appellant asserts that the prosecution failed to prove with sufficiency the existence of force, threat or intimidation, as required by the first paragraph of Article 266-A of the Revised Penal Code, as amended.^[35]