

## THIRD DIVISION

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

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

### DECISION

**PANGANIBAN, J.:**

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

Statement of the Case

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

"In Criminal Case No. 6059-98-C

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

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

"In Criminal Case No. 6060-98-C

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

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

"In Criminal Case No. 6061-98-C

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

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

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

Criminal Case No. 6059-98-C

"That sometime in March 1997, at Brgy. Parian, Municipality of Calamba, Province of Laguna and within the jurisdiction of this Honorable Court, the above-named accused, through force, violence and intimidation and with lewd design did then and there wilfully,

unlawfully and feloniously have carnal relation with one MARILYN BERNARDO y BUNO fifteen (15) years old minor, against her will and consent, to her damage and prejudice."

[4]

Criminal Case No. 6060-98-C

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

Criminal Case No. 6061-98-C

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

[6]

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

#### The Facts

##### Version of the Prosecution

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

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

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

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

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

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

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

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

"This sexual outrage was repeated sometime in March 1997 when at around 2:00 o'clock in the morning, appellant entered Marilyn's room, poked something at her back, and warned her that if she shouted, he would shoot her. Appellant then inserted his finger

into her private part. Marilyn boxed appellant and pleaded with him. Appellant ignored her plea and went on top of her saying, 'Umayos ka, umayos ka'. Notwithstanding the resistance put up by Marilyn, appellant succeeded in consummating his lust. Before leaving, appellant warned Marilyn not to tell anyone, otherwise he would kill her and her family.

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

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

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

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

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

#### "Criminal Case No. 6060-98-C

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

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

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

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

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

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

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

### Version of the Defense

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

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

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

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

### The Trial Court's Ruling

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

Hence, this appeal.<sup>[18]</sup>

### The Issues

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

"I.

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

"II.

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

"III.

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

"IV.

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

"V.

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

"VI.

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

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

#### The Court's Ruling

The appeal is partly meritorious.

#### First Issue:

#### Credibility of Private Complainants

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

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

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

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

"FISCAL:

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

WITNESS:

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

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

A Yes, sir.