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SO ORDERED.

Puno (Chairman), Panganiban, Sandoval-Gutierrez, and *Corona, JJ.*, concur.

FIRST DIVISION

[G.R. No. 126113. June 25, 2003]

PEOPLE OF THE PHILIPPINES, *appellee, vs.* **ANTONIO GUIHAMA** *y* **BARANDA,** *appellant.*

SYNOPSIS

Accused-appellant was charged with the crime of rape with homicide committed against his sister-in-law, Merly Paculaba. The lifeless and naked body of Merly Paculaba was found at the tomato plantation in Tabuc Suba, Jaro, Iloilo City on March 27, 1993. Semen was scattered on the victim's buttocks and a knife was found about 10 meters from the body. The prosecution presented several witnesses to prove its case against appellant. Fernando Jeculina testified that on the same day, while on his way home, he saw appellant holding the hands of the victim while dragging her towards the tomato plantation. The examining physician who conducted the autopsy on the victim declared that the estimated time of her death jibes with the time after witness Jeculina saw appellant with the victim. Also, the victim's mother testified that the victim had complained to her that appellant kept following her at the place where she worked. Policemen who went to the house of the appellant testified that they saw blood stains on the very step of the stairs of the house of the appellant on the very morning after the discovery of the dead body of the victim. They also found appellant's left hand with a bandage. After considering all the evidence presented, the trial court found appellant guilty as charged, and sentenced him to *reclusion perpetua*. It found enough circumstantial

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evidence to prove beyond reasonable doubt the guilt of appellant. Hence, appellant filed the instant appeal assailing the credibility of the prosecution witnesses and the sufficiency of the circumstantial evidence to warrant his conviction.

In affirming the decision of the trial court with modification as to award of damages, the Supreme Court held that where the culpability or innocence of the accused hinges on the credibility of the witnesses and the veracity of their testimonies, the findings of trial courts are given the highest degree of respect. Hence, their findings on such matters are binding and conclusive on appellate courts, unless some fact or circumstance of weight and substance has been overlooked, misapprehended or misinterpreted. Here, the Court found that none of the arguments raised by appellant presents any compelling reason for it to disregard the factual findings of the trial court. Furthermore, the Court was satisfied that the evidence adduced against appellant constitutes an unbroken chain leading to the one fair and reasonable conclusion that appellant was the perpetrator of the crime. According to the Court, the requirement of proof beyond reasonable doubt in criminal law does not mean such a degree of proof as to exclude the possibility of error and produce absolute certainty. Only moral certainty is required or that degree of proof which produces conviction in an unprejudiced mind. This was sufficiently established in the case at bar.

SYLLABUS

1. **REMEDIAL LAW; EVIDENCE; CREDIBILITY OF WITNESSES; FAILURE OF WITNESS TO IMPLICATE ACCUSED IN HER INITIAL REPORT TO THE POLICE SHOULD NOT BE TAKEN AGAINST HER; CASE AT BAR.**— Appellant specifically raises two arguments against the testimony of Pakulaba. The first is that, while Pakulaba testified that she saw appellant on the dike at around 6:30 p.m. on March 27, 1993 waiting for someone, it was not disclosed who appellant was waiting for. Hence, it cannot be concluded that appellant was waiting for the victim. The second argument is directed at Pakulaba's credibility. Appellant contends that Pakulaba's testimony, declaring that she suspected appellant from the beginning, is inconsistent with her report to the police wherein, instead of mentioning the name of appellant as a suspect,

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she stated that Merly was raped by a unknown person or persons. Both arguments are ineffective. The first is erroneous because the trial court, in the first place, did not draw any conclusion from the testimony of Pakulaba that appellant waited for Merly at the dike. The testimony of Pakulaba was simply to establish the presence of appellant at the dike at that particular time. and nothing more. As to the second argument, Pakulaba's failure to implicate appellant in her initial report to the police should not be taken against her. Pakulaba was not an eyewitness to the crime and suspected appellant only because of their conversation on the dike. Consequently, she could not be expected to accuse appellant before the police.

2. **ID.; ID.; ID.; ONCE A PERSON HAS GAINED FAMILIARITY WITH ANOTHER, IDENTIFICATION BECOMES QUITE AN EASY TASK EVEN FROM A CONSIDERABLE DISTANCE.**— Neither are we persuaded by the argument that there was not enough lighting for Jaculina to effectively see appellant pulling and dragging Merly because the nearest lamp post was 50 meters away. Jaculina testified that he was only 5 meters away from appellant and Merly. From that distance, and facilitated by the fact that the witness was already acquainted with appellant and Merly, there would have been no difficulty in identifying the two. Once a person has gained familiarity with another, identification becomes quite an easy task even from a considerable distance.

3. **ID.; ID.; ID.; NOT AFFECTED BY INITIAL RELUCTANCE OF WITNESSES AND THEIR WILLINGNESS TO BE INVOLVED IN CRIMINAL INVESTIGATIONS.**— Jaculina's failure immediately to inform the family of Merly about the incident he witnessed was adequately explained. Knowing that the two were in-laws, Jaculina assumed that he witnessed a mere family problem and deemed it best not to get involved. His delay in reporting the incident to the police is also understandable. The initial reluctance of witnesses and their willingness to be involved in criminal investigations are common and have been declared not to affect credibility. Moreover, contrary to appellant's claim that it was months after the incident that Jaculina came out in the open, records show that Jaculina's sworn statement was submitted to the Office of the City Prosecutor for Iloilo City just two weeks after the incident.

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4. **ID.; ID.; ID.; FINDINGS OF THE TRIAL COURT WITH RESPECT THERETO GIVEN THE HIGHEST DEGREE OF RESPECT.**— In the end the rule is settled that where the culpability or innocence of the accused hinges on the credibility of the witnesses and the veracity of their testimonies, the findings of trial courts are given the highest degree of respect. Hence, their findings on such matters are binding and conclusive on appellate courts, unless some fact or circumstance of weight and substance has been overlooked, misapprehended or misinterpreted. In the case at bar, none of the arguments raised by appellant presents any compelling reason for us to disregard the factual findings of the trial court.

5. **ID.; ID.; DIRECT EVIDENCE; NOT THE ONLY MATRIX FROM WHICH A TRIAL COURT MAY DRAW ITS CONCLUSION AND FINDING OF GUILT.**— Direct evidence of the commission of a crime is not the only matrix from which a trial court may draw its conclusion and finding of guilt. In rape with homicide, the evidence against the accused is usually circumstantial. The nature of the crime, where only the victim and the rapist would have been around during its commission makes the prosecution of the offense particularly difficult since the victim could no longer testify against the perpetrator. Thus, resorting to circumstantial evidence is almost always inevitable and to demand direct evidence to prove in such instance the modality of the offense and the identity of the perpetrator would be unreasonable.

6. **ID.; ID.; WEIGHT AND SUFFICIENCY; CIRCUMSTANTIAL EVIDENCE; REQUISITES TO SUSTAIN CONVICTION.**— The rules on evidence and precedents to sustain the conviction of an accused through circumstantial evidence require the presence of the following requisites: 1) there are more than one circumstance; 2) the inference must be based on proven facts; and 3) the combination of all circumstances produces a conviction beyond reasonable doubt of the guilt of the accused.

7. **ID.; ID.; PROOF BEYOND REASONABLE DOUBT; THAT DEGREE OF PROOF WHICH PRODUCES CONVICTION IN AN UNPREJUDICED MIND.**— It is doctrinal that the requirement of proof beyond reasonable doubt in criminal law does not mean such a degree of proof as to exclude the possibility of error and produce absolute certainty. Only moral certainty is required or that degree of proof which produces conviction

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in an unprejudiced mind. This was sufficiently established in the case at bar.

8. **ID.; ID.; ALIBI; TO PREVAIL, ACCUSED MUST ESTABLISH BY POSITIVE, CLEAR AND SATISFACTORY PROOF PHYSICAL IMPOSSIBILITY TO BE AT CRIME SCENE AT TIME OF ITS COMMISSION; CASE AT BAR.**— Appellant's defense of denial and alibi should be rejected. Alibi is generally considered a weak defense because of the facility with which it can be fabricated. Thus, courts have always looked upon it with suspicion and have received it with caution. For alibi to prevail, the defense must establish by positive, clear and satisfactory proof that it was physically impossible for the accused to have been at the scene of the crime at the time of its commission, and not merely that the accused was somewhere else. The crime was approximated to have been committed between 6:45 p.m. and 8:45 p.m. of March 27, 1993. Appellant stated he was inside his house on March 27, 1993 from 7:00 p.m. until 5:00 a.m. the next day. Appellant's house was a mere 150 meters away from the place of the incident. Prior to that, appellant said he was just walking around Tabuc Suba, Jaro, Iloilo City. Clearly, the alleged whereabouts of appellant do not make it impossible for him to be in the place of the incident at the probable time of death. Appellant's defense of alibi, therefore, fails. Furthermore, it cannot overcome the positive identification made by Jaculina of appellant pulling and dragging the victim that fatal night.

9. **CRIMINAL LAW; RAPE; LUST IS NO RESPECTER OF TIME AND PLACE.**— The presence of several houses near the place where Jaculina saw appellant pulling and dragging Merly is no indication that said incident never happened. We have held, time and again, that rape can be committed even in places where people congregate, in parks, along the roadside, in school premises, in a house where there are other occupants, in the same room where other members of the family are also sleeping and even in places which to many would appear unlikely and high risk venues for its commission. Lust is no respecter of time and place. Indeed, the mere fact that Merly had been raped and killed in such a location without anyone knowing about it until the next day is enough to disprove appellant's point.

10. **CIVIL LAW; DAMAGES; ACTUAL DAMAGES; SHOULD BE SUPPORTED BY RECEIPTS BUT WHERE DEFENSE**

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DID NOT CONTEST THE CLAIM, IT SHOULD BE GRANTED.— The victim's mother. Jaminadan, testified that she spent a total of ₱6,800 for burial expenses which were supported by receipts. Jaminadan also presented an itemized list of other burial expenses totaling ₱23,320. The trial court awarded only ₱6,800 as actual damages on the ground that they were the only ones duly supported with receipts. Ordinarily, receipts should support claims of actual damages, but where the defense did not contest the claim, it should also be granted.

11. **ID.; ID.; ID.; AWARD OF LOSS OF EARNING CAPACITY; FORMULA.**— We also award damages for loss of earning capacity using the formula laid out in *People v. Garcia, et al.*, as follows:

Age of Victim	=	21 years old
Life Expectancy	=	2/3 (80 – age of victim at the time of death)
	=	39.33
Gross Annual Income	=	₱12,000
Living Expenses	=	50% of Gross Annual Income
Loss of Earning Capacity	=	Life Expectancy x (Gross Annual Income – Living Expenses)
	=	₱236,000

12. **ID.; ID.; AWARD OF CIVIL INDEMNITY, MORAL DAMAGES AND ATTORNEY'S FEES, PROPER IN CASE AT BAR.**— Furthermore, in line with current jurisprudence, we should increase the award of civil indemnity to ₱100,000 and award moral damages in the amount of ₱50,000. The services of a private attorney were also secured to prosecute the case for a fee of ₱25,000. We deem it just and equitable that said amount be likewise recovered by the victim's heirs under Article 2208 (11) of the Civil Code.

APPEARANCES OF COUNSEL

The Solicitor General for plaintiff-appellee.
Jose Romi S. Maranon for accused-appellant.

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DECISION

AZCUNA, *J.*:

This is an appeal from the decision[1] of the Regional Trial Court of Iloilo City, Branch 38, in Criminal Case No. 40460, entitled "*People of the Philippines v. Antonio Guihama y Baranda.*" The trial court found appellant guilty beyond reasonable doubt of the crime of rape with homicide committed against his sister-in-law, Merly Jaminadan.[2]

On May 14, 1993, an information was filed against appellant as follows:[3]

> That on or about the 27th day of March, 1993, in the City of Iloilo, Philippines and within the jurisdiction of this Court, said accused, armed with a knife, by means of violence and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of Merly Jaminadan against her will, and by reason or on occasion thereof, with intent to kill, hit and wound Merly Jaminadan with the knife he was then provided at the time, thus causing upon said Merly Jaminadan various injuries on the vital parts of her body which caused her death.

Appellant pleaded not guilty to the information and trial ensued.[4]

The Prosecution's Evidence

A total of ten witnesses were presented by the prosecution, namely: Merlinda Cahilig Pakulaba, Angelita Jaminadan, Mary Ann Aranas, Dr. Tito Doromal, Fernando Jaculina, and police officers Andres Magnitico, Evan Deramas, Rene Lauron, Cornelio Lopez and Rely Liza.

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[1] *Rollo*, p. 52.

[2] The records also refer to the victim as "Merle".

[3] *Rollo*, p. 10.

[4] Certificate of Arraignment. Records, p. 10, Order dated June 7, 1993, Records, p. 13.

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Merlinda Cahilig Pakulaba (Pakulaba) is the older half-sister of Merly Jaminadan (Merly) on her mother's side and is, consequently, also appellant's sister-in-law.[5] Pakulaba testified[6] that on March 27, 1993, at about 6:30 p.m., she was on her way home and walking on top of a dike in San Isidro, Tabuc Suba, Jaro, Iloilo City when she came across her husband and appellant talking with each other. Pakulaba invited her husband and appellant to go home with her. Pakulaba's husband went with her while appellant was left behind because, according to him, he was waiting for someone. As they left, appellant made a comment that Merly is very much loved by her mother and laughed out loud as if insinuating something. Pakulaba later asked her husband what they talked about and her husband said that appellant had asked him whether Merly would be going home early.

Pakulaba's house is located just 1 meter away from her mother's house, where Merly was also residing. Pakulaba testified that upon getting home, she and her husband prepared dinner. Pakulaba saw from her house Merly arrive at her mother's house at around 7:00 p.m. However, Merly did not stay long. Pakulaba heard their younger brother tell Merly to go to appellant's house as instructed by their mother, who was already there taking care of appellant's children. Pakulaba then saw Merly leave for appellant's house, which is about 150 meters away from their house.

Later that evening, their mother arrived and asked where Merly was. Their younger brother informed her that Merly had already left. Their mother then assumed that they must have missed each other on the way and that Merly decided to sleep in the house of appellant.

The following morning, a child came to the house bringing a pair of slippers belonging to Merly. The child said he found the slippers on the pathway near some banana plants. Pakulaba felt nervous and immediately went to where the slippers were

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[5] TSN, February 14, 1995, p. 23.

[6] *Id.*, pp. 3-14.

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found. It was then that she discovered the lifeless and naked body of Merly. The victim had multiple wounds on the body and was covered in blood. Pakulaba immediately screamed for help.

When investigated by the police, Pakulaba declared that she suspected appellant as the assailant because of the comment he made, the day before, about Merly being loved by their mother very much. Pakulaba also told the police that Merly and appellant had previously quarreled because appellant kept watching Merly's whereabouts.

Angelita Jaminadan (Jaminadan), Merly's mother, testified[7] that on March 27, 1993, she went to appellant's house at around 7:00 a.m. to take care of appellant's children and do the housekeeping chores. Appellant and his wife were also in the house with Jaminadan. While thereat, appellant requested Jaminadan to have Merly come to his house as he and his wife will be eating out. At around 5:00 p.m., Jaminadan went to her house to leave a message for Merly, that she should go to appellant's house as soon as she comes home. Jaminadan came back to appellant's house at around 5:30 p.m. Appellant was gone by that time.

Jaminadan went home at around 8:00 p.m. When she got home, she asked her husband why Merly did not go to appellant's house. Her husband answered that Merly had already left.

The following morning, a child came to their house saying that he saw a pair of slippers belonging to Merly. Jaminadan instructed Pakulaba to go with the child to where he saw the slippers. Moments later she heard Pakulaba shouting. Jaminadan immediately went to where Pakulaba was and saw the body of Merly lying slightly on her belly with no clothing below the waist. She also noticed semen scattered on Merly's buttocks and that her throat was severed. After seeing Merly's body, Jaminadan fainted.

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[7] TSN, March 7, 1995, pp. 4-12.

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Jaminadan further testified that four days before Merly's death, the latter had complained to her that appellant kept watching or following her at the place where she worked.

Fernando Jaculina (Jaculina) testified[8] that on March 27, 1993, at about 7:30 p.m., while he was on his way home, he saw appellant and Merly together. He observed that appellant was holding the hands of Merly and was pulling and dragging her towards a tomato plantation. He knew appellant and Merly as both were residents of Barangay San Isidro. Although it was already dark, Jaculina said that he was able to identify them because there was light coming from a lamp post 50 meters away. Jaculina said that he did not mind them because he knew that appellant and Merly were in-laws and assumed that they were just having some family problem.

Andres Magnitico (Magnitico) was one of the policemen who first arrived at the crime scene. He testified[9] that on March 28, 1993, at around 7:00 a.m., the police received a report about a cadaver of a woman found in Tabuc Suba, Jaro, Iloilo City. Magnitico, along with Lauron, Deremas and Peciente, immediately proceeded to the reported location of the body.

At the crime scene, the police team first saw the victim's bloodied body with a bloody panty beside it. They surveyed the surrounding areas to look for evidence and found a bloody *Batangueño* knife about 10 meters away from the body. They also gathered information from people living in the nearby houses and learned that appellant was "interested" in the victim. They thus went to appellant's house, which was just 100 to 150 meters from the crime scene. Only appellant's wife was home, who told them that appellant left early that morning to drive a jeepney.

A search for appellant then commenced. Checkpoints were set up, but these yielded negative results. The policemen then decided to return to appellant's house. Upon reaching the house, the policemen noticed for the first time blood on the stairways

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[8] TSN, November 25, 1994, pp. 3-7.

[9] TSN, August 22, 1994, pp. 4-16.

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that had already dried up. They also found appellant already inside the house with his left hand bandaged. The policemen asked him if he could help them identify the assailant of his sister-in-law. When appellant refused to cooperate, they "invited" him to the police headquarters.

At the police headquarters, the policemen questioned appellant about his injured hand. Appellant answered that his hand was struck by the hood of a jeepney he was driving. Police Officer Cornelio Lopez then took over in the interrogation. It was to him that appellant admitted killing the victim. Having obtained an oral confession, the policemen and appellant returned to the latter's house where appellant surrendered a bloody kitchen knife, his pair of bloody slippers and his brief.

Magnitico's fellow policemen, Evan Deramas and Rene Lauron, corroborated his testimony.[10]

Cornelio Lopez (Lopez) took the witness stand and testified[11] that appellant had confessed to him that he killed Merly. Thereafter, he asked appellant about the murder weapon and appellant said that it was in his house. Because of appellant's confession he sent a team of policemen to the house of appellant. When the policemen came back, they brought with them a bloody knife, a brief and a pair of slippers. Upon being shown these items, appellant confirmed that the kitchen knife was the weapon he used in killing Merly and that the brief and slippers were what he wore when he committed the crime.

Rely Liza was presented by the prosecution simply to identify a police blotter which contained two entries: Pakulaba's report of the crime to the police and the arrest of appellant.[12]

Mary Ann Aranas (Aranas) a forensic chemist of the National Bureau of Investigation (NBI) testified[13] that her office received

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[10] Decision, p. 4; *Rollo*, p. 36.

[11] TSN, December 19, 1994, pp. 4-7.

[12] TSN, January 23, 1995, p. 8.

[13] TSN, July 5, 1993, pp. 4-17.

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an endorsement from the Jaro Police Station in Iloilo City, requesting a blood typing of the blood found on the recovered panty, fan knife, brief, kitchen knife and slippers. Aranas said that the test conducted on the panty, fan knife and slippers showed that the blood found thereon was human, while the brief and kitchen knife proved positive for the presence of blood, but due to the insufficiency of the sample, it could not be determined if it was human or not.

In addition, Aranas testified that the NBI also received from the Jaro Police Station specimen taken from the victim's vagina and fingernails. The specimen tested positive for the presence of seminal stains and human tissues.

Dr. Tito Doromal testified[14] that he conducted the autopsy on Merly's body at 10:45 a.m. on March 28, 1993. His findings were that Merly died of asphyxia by suffocation, secondary to stab wounds. He also placed the time of death at around 14 to 16 hours prior to the autopsy.

The Defense's Evidence

Appellant anchors his defense on denial and alibi. In his testimony,[15] appellant claimed that on March 27, 1993, he was on his way home with Romeo Baterna whom he met at the Jaro Plaza. Romeo Baterna accompanied appellant to his house because the former wanted to borrow appellant's jeepney the following week and needed to know where appellant lives. Along the way, near the small market, they met Hipolito Villegas. Appellant and Romeo Baterna arrived in appellant's house at about 7:00 a.m. Romeo Baterna stayed only for a few minutes and then left, while appellant stayed home and never left until 5:00 a.m. the next morning.

Appellant stated that at 5:00 a.m., he went to his father's house to drive his jeepney. While trying to start the engine appellant saw a loose bolt and tried to tighten it. His finger hit a sharp object in the process and was injured. Because of the

[14] TSN, July 30, 1993, pp. 11-13.

[15] TSN, August 18, 1995, pp. 5-29.

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wound, he decided not to drive anymore and instead went to the hospital for treatment. From the hospital, appellant headed home.

Appellant recalled arriving home by 10:00 a.m. While resting thereat, policemen came and began searching the house. One of the policemen told him that he was being arrested. Appellant said that the policemen took something from his house but could not tell what it was because it was wrapped. After the search, he was brought to the police station.

Appellant denied committing the crime charged. He also denied having met Pakulaba and her husband in the evening of March 27, 1993 and that he orally confessed to the police. He also asserted that Jaculina's testimony, that he was seen pulling and dragging Merly, is a mere fabrication. Appellant further claimed that his wife's family resents him because they think he is lazy and a lowly jeepney driver, while his wife is an educated person.

Elnora Cahilig[16] *Guihama* (Nene),[17] wife of appellant, testified[18] that on March 27, 1993, appellant left the house at 5:00 a.m. and returned at around 2:00 p.m. After resting for an hour, appellant departed for the repair shop where his jeepney was being repaired. Appellant returned at 5:00 p.m. At 5:30 p.m., Nene's mother arrived. Shortly after that, appellant went out again. At around past 7:00 p.m., Nene's mother went home. After a while, appellant returned, this time accompanied by Romeo Baterna. Romeo Baterna left a few minutes later, while appellant stayed home and did not leave anymore.

Nene said that appellant left the house the next morning at around 5:00 a.m. to drive his jeepney. At around 7:00 a.m., she received information that Merly had died. Later, her sister and brother-in-law came to their house looking for appellant. Policemen came afterwards also looking for appellant. Nene

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[16] "Cajilig" in the TSN.

[17] Nickname given by her mother, TSN, March 7, 1995, p. 20.

[18] TSN, June 5, 1995, pp. 4-19.

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claimed that the policemen went to the kitchen and took a knife and a brief.

Nene also testified that her family does not like appellant and objected to their marriage.

Hipolito Guihama Villegas testified[19] that he came across appellant on March 27, 1993 at around 6:30 p.m. in the market place. He said appellant had a companion whom he did not recognize. He further declared that he was also with appellant the following day when appellant injured his finger while testing the motor of his jeepney.

Romeo Baterna in his testimony[20] corroborated appellant's claim that he accompanied appellant to his house on March 27, 1993.

After considering all the evidence presented, the trial court found appellant guilty in the aforementioned decision that has the following dispositive portion:[21]

> WHEREFORE, the court finds the accused, Antonio Guihama *y* Baranda, guilty beyond reasonable doubt for the crime of Rape with Homicide penalized under Article 335 of the Revised Penal Code as amended and sentences him to suffer a penalty of *Reclusion Perpetua* and to pay the heirs of Merle Jaminadan the sum of ₱6,800.00 as actual damages and ₱50,000.00 as civil indemnity by reason of her death.

The Court's Ruling

Appellant's conviction was based on circumstantial evidence. The trial court barred the admissibility of appellant's alleged oral confession as well as the evidence said to have been recovered in his house, *i.e.*, the bloody kitchen knife, brief and slippers, declaring all of these to have been obtained in violation of the constitutional rights of appellant. Regardless

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[19] TSN, June 16, 1995, pp. 3-15.

[20] TSN, August 21, 1995, pp. 5-10.

[21] *Rollo*, pp. 50-51.

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of said exclusion, however, the trial court found enough circumstantial evidence to prove beyond reasonable doubt the guilt of appellant.

The appeal rests largely on appellant's contention that the alleged circumstantial evidence is insufficient to convict him. Appellant primarily targets the testimonies of Pakulaba and Jaculina, claiming that these were inconsistent and not in conformity with normal human reaction and experience.

Appellant specifically raises two arguments against the testimony of Pakulaba. The first is that, while Pakulaba testified that she saw appellant on the dike at around 6:30 p.m. on March 27, 1993 waiting for someone, it was not disclosed who appellant was waiting for. Hence, it cannot be concluded that appellant was waiting for the victim. The second argument is directed at Pakulaba's credibility. Appellant contends that Pakulaba's testimony, declaring that she suspected appellant from the beginning, is inconsistent with her report to the police wherein, instead of mentioning the name of appellant as a suspect, she stated that Merly was raped by an unknown person or persons.[22]

Both arguments are ineffective. The first is erroneous because the trial court, in the first place, did not draw any conclusion from the testimony of Pakulaba that appellant waited for Merly at the dike. The testimony of Pakulaba was simply to establish the presence of appellant at the dike at that particular time, and nothing more. As to the second argument, Pakulaba's failure to implicate appellant in her initial report to the police should not be taken against her. Pakulaba was not an eyewitness to the crime and suspected appellant only because of their conversation on the dike. Consequently, she could not be expected to accuse appellant before the police.

Appellant contends that Jaculina's testimony is fabricated, based on the following reasons:

1. Jaculina said that when he saw appellant dragging and pulling Merly there were several houses nearby. Thus, it is

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[22] Police blotter, Exhibit T and 1, Records, p. 409.

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highly improbable that appellant would commit a crime in such a populated area.

2. Jaculina testified that the nearest light post from where he, appellant and Merly were situated was about 50 meters away. Thus, there was no sufficient lighting for him actually to see appellant and Merly.

3. Assuming Jaculina did witness appellant pulling and dragging Merly, it is contrary to human experience for Jaculina not to report immediately the incident to the family of Merly who lived nearby.

4. After learning that Merly had been raped and killed, Jaculina did not immediately report to the police what he saw that night.

We are not convinced by these reasons.

The presence of several houses near the place where Jaculina saw appellant pulling and dragging Merly is no indication that said incident never happened. We have held, time and again, that rape can be committed even in places where people congregate, in parks, along the roadside, in school premises, in a house where there are other occupants, in the same room where other members of the family are also sleeping and even in places which to many would appear unlikely and high risk venues for its commission. Lust is no respecter of time and place.[23] Indeed, the mere fact that Merly had been raped and killed in such a location without anyone knowing about it until the next day is enough to disprove appellant's point.

Neither are we persuaded by the argument that there was not enough lighting for Jaculina to effectively see appellant pulling and dragging Merly because the nearest lamp post was 50 meters away. Jaculina testified that he was only 5 meters away from appellant and Merly. From that distance, and facilitated by the fact that the witness was already acquainted with appellant and Merly, there would have been no difficulty

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[23] *People v. Estomaca*, G.R. Nos. 134288-89, January 15, 2002.

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in identifying the two. Once a person has gained familiarity with another, identification becomes quite an easy task even from a considerable distance.[24]

Jaculina's failure immediately to inform the family of Merly about the incident he witnessed was adequately explained. Knowing that the two were in-laws, Jaculina assumed that he witnessed a mere family problem and deemed it best not to get involved. His delay in reporting the incident to the police is also understandable. The initial reluctance of witnesses and their willingness to be involved in criminal investigations are common and have been declared not to affect credibility.[25] Moreover, contrary to appellant's claim that it was months after the incident that Jaculina came out in the open, records show that Jaculina's sworn statement[26] was submitted to the Office of the City Prosecutor for Iloilo City just two weeks after the incident.

In the end the rule is settled that where the culpability or innocence of the accused hinges on the credibility of the witnesses and the veracity of their testimonies, the findings of trial courts are given the highest degree of respect. Hence, their findings on such matters are binding and conclusive on appellate courts, unless some fact or circumstance of weight and substance has been overlooked, misapprehended or misinterpreted.[27] In the case at bar, none of the above arguments raised by appellant presents any compelling reason for us to disregard the factual findings of the trial court.

Having settled the issues on the credibility of the witnesses, we now determine whether the circumstantial evidence, taken as a whole, is sufficient to convict appellant.

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[24] *People v. Reyes*, 309 SCRA 672 (1999).

[25] *People v. Competente*, 207 SCRA 591 (1992).

[26] Exhibit S, Records, p. 408.

[27] *People v. Basquez*, G.R. No. 144035, September 27, 2001; *People v. Jaberto*, 307 SCRA 93 (1999); *People v. Deleverio*, 289 SCRA 547 (1998).

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Direct evidence of the commission of a crime is not the only matrix from which a trial court may draw its conclusion and finding of guilt.[28] In rape with homicide, the evidence against the accused is usually circumstantial. The nature of the crime, where only the victim and the rapist would have been around during its commission makes the prosecution of the offense particularly difficult since the victim could no longer testify against the perpetrator. Thus, resorting to circumstantial evidence is almost always inevitable and to demand direct evidence to prove in such instance the modality of the offense and the identity of the perpetrator would be unreasonable.[29]

The rules on evidence and precedents to sustain the conviction of an accused through circumstantial evidence require the presence of the following requisites: 1) there are more than one circumstance; 2) the inference must be based on proven facts; and 3) the combination of all circumstances produces a conviction beyond reasonable doubt of the guilt of the accused.[30]

We have affirmed a number of convictions for rape with homicide based on purely circumstantial evidence. In *People v. Develles*,[31] the body of the victim was found in a river under waist-deep water. Prior to that, the accused therein was seen by witnesses talking to the victim by the river bank. He was also seen holding the victim by the hands, presumably to detain her or prevent her from leaving. The autopsy revealed the victim was raped and killed by a full grown adult and that the time of death was just minutes after the accused and the victim were last seen talking to each other.

In *People v. Magana*,[32] one witness testified that he saw the accused therein strangling the victim. Two other witnesses testified that they also saw the accused very near the place

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[28] *People v. Gallarde*, 325 SCRA 835 (2000).

[29] *People v. Rayos*, 351 SCRA 336 (2001).

[30] *People v. Mendez*, G.R. No. 147671, November 21, 2002.

[31] 208 SCRA 101 (1992).

[32] 259 SCRA 380 (1996).

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where the victim's body was found looking uneasy, walking back and forth as if waiting for somebody. The autopsy conducted on the victim estimated her time of death to be at about the time the three witnesses saw the accused. Also, the victim's mother testified that her daughter told her one week prior to the incident that the accused would always look at her in a "bad way" whenever they met. We affirmed the conviction of the accused.

In a more recent case entitled *People v. Corfin*,[33] we upheld the conviction of the accused based on the following circumstances: 1) the accused was the last person seen with the victim; 2) said accused and the victim were seen together near the dry creek; 3) the accused was seen leaving said place alone; and 4) the body of the victim was found in the dry creek.

Going back to this case, the trial court enumerated no less than seven pieces of circumstantial evidence against appellant. We quote in full the relevant portion of the assailed decision:

> In the instant case, the prosecution was able to prove the following circumstances: First, when Merlinda Pakulaba [*sic*] and her husband left, the accused stayed behind in the irrigation dike purportedly to wait for someone. He commented that the victim is very much loved by her mother and at the same time laughing meaningfully; second, around 7:30 on the evening, Fernando Jaculina saw the accused holding the hands of the victim while dragging her towards the tomato plantation, the very place where the victim was discovered dead the following morning; third, the blood stains were seen by the police on the very step of the stairs of the house of the accused on the very morning after the discovery of the dead body of the victim; fourth, the accused suffered a wound in his left middle finger; fifth, the recovery of a fan knife belonging to the victim near her cadaver suggesting her vehement and violent resistance on the lustful advance of the accused causing the injury on his left middle finger; sixth, the presence of spermatozoa on the buttocks of the victim as seen by her mother after the discovery of her dead body; seventh, Dr. Tito Doromal opined after the necropsy examination he conducted at 10:45 in the morning of March 28, 1993, that the victim died between 14 to 16 hours before he conducted said

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[33] G.R. No. 131478, April 11, 2002.

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examination which time jibes with the time after Fernando Jaculina saw the accused forcibly dragging the victim towards the tomato plantation. Certainly these circumstances as gleaned from herein factual findings form an unbroken chain which had a fair and reasonable conclusion pointing to the accused as the perpetrator of the crime. Hence, even disregarding the accused oral confession and consequent discovery of the physical evidence, still the prosecution was able to show the guilt of the accused for the crime charged by means of proof beyond reasonable doubt.[34]

Considering all the circumstances mentioned and in light of previous rulings, we are satisfied that the evidence adduced against appellant constitutes an unbroken chain leading to the one fair and reasonable conclusion that appellant was the perpetrator of the crime.

It is doctrinal that the requirement of proof beyond reasonable doubt in criminal law does not mean such a degree of proof as to exclude the possibility of error and produce absolute certainty. Only moral certainty is required or that degree of proof which produces conviction in an unprejudiced mind.[35] This was sufficiently established in the case at bar.

Appellant's defense of denial and alibi should be rejected. Alibi is generally considered a weak defense because of the facility with which it can be fabricated. Thus, courts have always looked upon it with suspicion and have received it with caution. For alibi to prevail, the defense must establish by positive, clear and satisfactory proof that it was physically impossible for the accused to have been at the scene of the crime at the time of its commission, and not merely that the accused was somewhere else.[36]

The crime was approximated to have been committed between 6:45 p.m. and 8:45 p.m. of March 27, 1993. Appellant stated he was inside his house on March 27, 1993 from 7:00 p.m.

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[34] Decision, *Rollo*, p. 48.

[35] *People vs. Guarnes*, 160 SCRA 522 (1988).

[36] *People v. Cortes*, 226 SCRA 91 (1993).

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until 5:00 a.m. the next day. Appellant's house was a mere 150 meters away from the place of the incident. Prior to that, appellant said he was just walking around Tabuc Suba, Jaro, Iloilo City. Clearly, the alleged whereabouts of appellant do not make it impossible for him to be in the place of the incident at the probable time of death.

Appellant's defense of alibi, therefore, fails. Furthermore, it cannot overcome the positive identification made by Jaculina of appellant pulling and dragging the victim that fatal night.[37]

We now address the civil liability imposed by the trial court.

The victim's mother, Jaminadan, testified that she spent a total of ₱6,800 for burial expenses which were supported by receipts.[38] Jaminadan also presented an itemized list of other burial expenses totaling ₱23,320.[39] The trial court awarded only ₱6,800 as actual damages on the ground that they were the only ones duly supported with receipts. Ordinarily, receipts should support claims of actual damages, but where the defense did not contest the claim, it should also be granted.[40]

We also award damages for loss of earning capacity using the formula laid out in *People v. Garcia, et al.*, as follows:[41]

Age of Victim	=	21 years old
Life Expectancy	=	2/3 (80 – age of victim at the time of death)
	=	39.33
Gross Annual Income	=	₱12,000[42]
Living Expenses	=	50% of Gross Annual Income

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[37] *People v. Magana*, 259 SCRA 380 (1996).

[38] Exhibits W and Y, Records, pp. 413-414.

[39] Exhibit X, Records, p. 415.

[40] *People v. Arellano*, 334 SCRA 775 (2000).

[41] G.R. No. 145505, March 14, 2003.

[42] TSN, March 7, 1995, p. 10.

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Loss of Earning Capacity	=	Life Expectancy x (Gross Annual Income – Living Expenses)
	=	₱236,000

Furthermore, in line with current jurisprudence, we should increase the award of civil indemnity to ₱100,000 and award moral damages in the amount of ₱50,000.[43]

The services of a private attorney were also secured to prosecute the case for a fee of ₱25,000.[44] We deem it just and equitable that said amount be likewise recovered by the victim's heirs under Article 2208 (11) of the Civil Code.

WHEREFORE, the assailed decision of the Regional Trial Court of Iloilo City, Branch 38, in Criminal Case No. 40460 is hereby *AFFIRMED*, with modifications as to the damages awarded. Appellant is ordered to pay the heirs of the victim ₱30,120 as actual damages, ₱236,000 as loss of earning capacity, ₱100,000 as civil indemnity, ₱50,000 as moral damages and ₱25,000 as attorney's fees.

Costs *de officio*.

SO ORDERED.

Davide, Jr., C.J. (Chairman), Vitug, Ynares-Santiago, and *Carpio, JJ.*, concur.

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[43] *People v. Maguera*, G.R. No. 139906, March 5, 2003.

[44] TSN, March 7, 1995, p. 15.