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Anent the damages, the trial court was correct in ordering the appellant to pay the heirs of the victim ₱50,000.00 as civil indemnity. Additionally, the appellant is ordered to pay them ₱25,000.00 as temperate damages.

IN VIEW WHEREOF, the impugned decision is *AFFIRMED* with the *MODIFICATION* that the appellant is sentenced to suffer the penalty of *reclusion perpetua* and to pay the heirs of the victim, Jonnifer Losaria, ₱50,000.00 as civil indemnity and ₱25,000.00 as temperate damages. Costs against the accused-appellant.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Vitug, Panganiban, Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, Corona, Carpio Morales, Callejo, Sr., and *Tinga, JJ.,* concur.

Azcuna, J., is on leave.

THIRD DIVISION

[G.R. No. 148902. September 29, 2003]

PEOPLE OF THE PHILIPPINES, *appellee, vs.* **DANILO ANDRADE,** *appellant.*

SYNOPSIS

The penalty of *reclusion perpetua* was imposed upon herein appellant by the Regional Trial Court of Butuan City after finding him guilty beyond reasonable doubt of the crime of rape committed against Melanie N. Morales, then 13-years old. In rendering judgment against appellant, the trial court gave credence to the testimony of the complainant and rejected appellant's defense of alibi. According to the trial court, the

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sole testimony of the victim was sufficient to convict appellant of rape. Hence, this appeal.

The Supreme Court had carefully reviewed the records and found no reason to disturb the lower court's judgment convicting appellant. The Court found no reason to doubt the victim. Her testimony was straightforward and candid, unshaken by rigid examination, and unflawed by inconsistencies or contradictions in its material points, hence, must be given full faith and credit. The defense failed to cast doubts on her credibility, as she stuck to her story during the cross-examination. Moreover, her claims were supported by the medical findings. According to the Court, it is inconceivable that a young girl would cry rape, allow an examination of her private parts, undergo the trouble and the humiliation of public and open trial, and put herself and her family under public scrutiny, if she were not motivated to bring to justice the person who had defiled her. Furthermore, the time-tested rule is that the evaluation of the credibility of a witness by the trial court is given great weight and respect by appellate courts, unless it is shown to have overlooked, misunderstood or misapplied some fact or circumstance of weight and substance that would have affected the result of the case. The Court did not find any reason to deviate from the general rule.

SYLLABUS

1. **REMEDIAL LAW; EVIDENCE; CREDIBILITY OF WITNESSES; TESTIMONY OF THE VICTIM MUST BE GIVEN FULL FAITH AND CREDIT IF STRAIGHTFORWARD AND CANDID, UNSHAKEN BY RIGID CROSS-EXAMINATION, AND UNFLAWED BY INCONSISTENCIES OR CONTRADICTIONS IN ITS MATERIAL POINTS.**— The testimony of complainant clearly shows that she resisted the sexual advances of appellant, but was forced and intimidated to submit to his will. The defense failed to cast doubts on her credibility, as she stuck to her story during the cross-examination. Moreover, her claims were supported by the medical report of Dr. Rhodora Gliceria Monton-Anino, who had examined her the day after the rape incident. We thus find no reason to doubt the victim. It is inconceivable that a young girl would cry rape, allow an examination of her private parts, undergo the trouble and the humiliation of public

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and open trial, and put herself and her family under public scrutiny, if she were not motivated to bring to justice the person who had defiled her. It is highly unlikely for a young Filipina of decent repute to admit publicly that she was raped, unless that statement is the truth. In this case, since the testimony of the victim was straightforward and candid, unshaken by rigid cross-examination, and unflawed by inconsistencies or contradictions in its material points, it must be given full faith and credit.

2. **ID.; ID.; ID.; DELAY IN REPORTING THE RAPE DOES NOT IMPLY THAT THE CHARGE IS NOT TRUE.—** In general, delay in reporting rape does not imply that the charge is not true, as the victim usually prefers to bear the ignominy of pain silently, rather than to reveal her harrowing experience and expose her shame to the world. It is understandable for a victim to take some time to come to terms with the rape and muster enough courage to bring her defiler to justice. Such delay is not unusual, especially when the victim is a minor. In this case, however, there was no delay in reporting the rape. Complainant told her mother about it the same day it occurred. They then filed a Complaint against appellant the next day. Complainant's failure to report the alleged first rape does not belie her narration of the supposedly second incident that occurred on December 28, 1996. Evidence of the first occurrence of rape is not a requirement for proving the second one.

3. **ID.; ID.; ID.; TRIAL COURT'S EVALUATION THEREOF GIVEN GREAT WEIGHT AND RESPECT.—** The time-tested rule is that the evaluation of the credibility of a witness by the trial court is given great weight and respect by appellate courts, unless it is shown to have overlooked, misunderstood or misapplied some fact or circumstance of weight and substance that would have affected the result of the case. In this case, we do not find any reason to deviate from this general rule.

4. **CRIMINAL LAW; RAPE; EXACT DAY OF THE WEEK OR PRECISE TIME WHEN RAPE WAS COMMITTED IS NOT REQUIRED IN PROVING THE CRIME.—** The exact day of the week when rape was committed is not required in proving it; neither is the precise time. Besides, the determination of which day of the week August 17, 1995 fell pertains to the alleged first rape, which is not the subject of the Complaint.

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5. REMEDIAL LAW; EVIDENCE; CREDIBILITY OF WITNESSES; POLICE BLOTTER CANNOT PREVAIL OVER TESTIMONY IN OPEN COURT.— A police blotter, like any other extrajudicial statement, cannot prevail over testimony in open court. The declaration of a child-victim during an initial investigation cannot be expected to be completely coherent with her testimony taken in much greater detail during the trial of the case. Because of the rapist's threats on her life, her fear of public humiliation or simply lack of courage, it would not be uncommon for a young, immature girl to conceal for a time the rape perpetrated on her.

6. CRIMINAL LAW; RAPE; NOT NEGATED BY THE FACT THAT THE WIFE OF ACCUSED IS A TRUSTED FRIEND OF COMPLAINANT.— That the wife of appellant is a trusted friend of complainant does not disprove the occurrence of the rape. The point is that the latter never ate lunch at his house when she knew she would be alone with him; she was always with his wife, Mayeth. Otherwise, serious doubts would have indeed been cast on the claim of complainant that she had resisted the rape or that it had ever occurred at all.

7. ID.; ID.; ELEMENT OF FORCE AND INTIMIDATION; IT IS NOT ESSENTIAL FOR THE VICTIM TO HAVE RESISTED HER ASSAILANT TO DEATH.— Force and intimidation need not be overwhelming to constitute rape. It is not essential for the victim to have resisted her assailant to death. Physical resistance need not be established when threats and intimidation were employed and the victim submitted herself to the rapist because of fear.

8. ID.; ID.; NOT DISPROVED BY ABSENCE OF SPERMATOZOA.— The absence of spermatozoa does not disprove rape. In this case, the examination made by Dr. Monton-Anino sufficiently supports penetration. A careful reading of the medical certificate she issued would reveal that it does not contradict complainant's claim.

APPEARANCES OF COUNSEL

The Solicitor General for plaintiff-appellee.
Public Attorney's Office for accused-appellants.

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DECISION

PANGANIBAN, *J.*:

In rejecting the present appeal, this Court has carefully reviewed the records and found no reason to disturb the lower court's judgment convicting appellant.

The Case

Danilo Andrade appeals the April 16, 2001 Decision[1] of the Regional Trial Court (RTC) of Butuan City, Branch 4, in Criminal Case No. 7203, convicting him of rape. The dispositive portion of the assailed Decision reads as follows:

"WHEREFORE, in view of all the foregoing, the Court finds accused Danilo Andrade *y* Monter guilty beyond reasonable doubt of the crime of rape provided in Article 335, paragraph 1 of the Revised Penal Code, as amended by Republic Act No. 7659.

"Consequently, accused Danilo Andrade *y* Monter is sentenced to the single indivisible penalty of *reclusion perpetua* with its accessory penalties conformably with Art. 41 of the Revised Penal Code which he shall serve at the Davao Prison and Penal Farm at Panabo, Davao del Norte. He shall be entitled to the benefits of his preventive imprisonment conformably with Article 29 of the Revised Penal Code, as amended.

"Accused is also ordered to indemnify the offended party the sum of Fifty Thousand Pesos (₱50,000.00). In addition, accused is also ordered to pay the offended party moral damages in another sum of Fifty Thousand (₱50,000.00) Pesos."[2]

The Complaint,[3] dated February 27, 1997, charged appellant in these words:

"That [on] or about the morning of December 28, 1996 at Brgy. Bitan-agan, Butuan City, Philippines and within the jurisdiction of

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[1] Penned by Judge Cipriano B. Alvizo Jr.; *rollo*, pp. 33-39.

[2] Assailed Decision, pp. 6-7; *rollo*, pp. 38-39.

[3] Certified by 2nd Assistant City Prosecutor Felixberto L. Guiritan; *id.*, pp. 12-13.

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this Honorable Court, the above-named accused, did then and there willfully, unlawfully and feloniously have carnal knowledge with Melanie N. Morales, a minor by using force and intimidation and against her will."[4]

Upon his arraignment on October 15, 1997, appellant, assisted by his counsel *de parte*,[5] pleaded not guilty.[6] After trial in due course, the court *a quo* rendered the assailed Decision.

The Facts

Version of the Prosecution

In its Brief,[7] the Office of the Solicitor General (OSG) presents the prosecution's version of the facts in the following manner:

"On December 28, 1996, about 11:30 o'clock in the morning, while complainant Melanie N. Morales (Melanie) was on her way home to Bitan-agan, Butuan City from the creek after washing clothes, she saw x x x Danilo Andrade (appellant), a neighbor, seated under a [star apple] tree. Melanie did not pay attention to him and proceeded to walk home. As she walked past him, appellant pulled her left hand and dragged her towards the bushes. Melanie was 13 years old at that time.

"Melanie shouted for help but appellant covered her mouth and pointed a bolo at her, with a warning not to make any noise. Melanie struggled (*'kisi-kisi'*) in vain. Appellant was able to push her down. While lying down, appellant remove[d] her pants and her panty. All the while, Melanie struggled to free herself but her strength was no match to that of appellant. She was trying to close her thighs but he was able to keep her legs apart. He removed his pants, placed himself on top of Melanie and inserted his penis into her vagina. Melanie felt pain in her organ. She told him to stop because she felt pain but appellant continued, making push and pull movements, until

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[4] Complaint, p. 1; *id.*, p. 12.

[5] Atty. Carlito B. Yebes.

[6] *See* Order dated October 15, 1997; records, p. 30.

[7] Signed by Assistant Solicitors General Carlos N. Ortega and Josefina C. Castillo and Solicitor Violeta A. Ticzon; *rollo*, pp. 86-106.

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he was satisfied. Appellant then stood up, put on his clothes and warned Melanie not to tell anyone, otherwise he would kill her. Upon reaching home, Melanie immediately told her mother, Nena Morales, about the rape because it was the second time that she was sexually abused by appellant.

"About noontime of the same day, while Maria Estrada was on her way to the house of Nena Morales to get the bathrobe the latter borrowed from her, Estrada saw appellant running downhill going towards the *barangay* proper. As Estrada reached Nena's house, she learned about the rape incident. Forthwith, Melanie, her mother and Estrada went to the *barangay* captain but the latter was not in, so they went home.

"On their way back, Melanie, Nena and Estrada passed by the house of appellant, which was along the way to Nena's house. Nena talked to Mayeth, appellant's wife. Nena told her about the incident. Mayeth went to fetch appellant in the field. When appellant and Mayeth came back, Nena confronted him but he denied, saying he did not rape Melanie but he only hugged and kissed her. Mayeth was enraged and hit appellant. Afterwards, appellant apologized to Nena and Melanie and asked for forgiveness. Mayeth then said that it would be better for her and appellant to leave the place because of the scandal that he did. Estrada, however, commented that they should not leave if appellant had not done anything wrong. However, Nena, just to prevent the couple from leaving the place, pretended by saying that she would no longer bring the matter to the *barangay* captain. Nena, Melanie and Estrada then went home.

"On the following morning, December 29, 1996, Melanie and Nena went to the office of the Barangay Captain and reported the matter to Barangay Kagawad Angeles Apatan, who accompanied them to the police station at Barangay Amparo. Thereat, Melanie executed her affidavit and a complaint for rape against appellant was filed, after which appellant was arrested. Melanie and Nena then proceeded to the City General Hospital at Languihan, Butuan City for medical examination.

"In the afternoon of December 29, 1996, Melanie was examined by Dr. Rhodora Gliceria Monton-Anino, medical officer of City General Hospital, Languihan, Butuan City, who thereafter issued a medical certificate (Exhibit 'B'). Dr. Anino found an old hymeneal laceration at 3, 5, 8 o'clock positions; fourchette intact, round in contour; the introitus admitted easily a vaginal speculum; erosions at the anterior

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lip of the cervix; negative for spermatozoa. Dr. Anino later testified and explained that the normal form of fourchette is V-shape while the contour is rounded if there is a stretch on it, and that based on her examination, the cervical erosions could be caused by an infection or force applied on it such as constant rubbing of the penis to the cervix."[8]

Version of the Defense

On the other hand, the defense, in its Brief,[9] narrates its version of the facts in this wise:

"Accused Danilo Andrade denied having anything to do with the crime ascribed against him as he was then working in the farm of Elit Obungen at Nocnocan. In refuting the charge against him, he testified that the private complainant's mother, Nena Morales, is his paramour. The illicit relationship started in 1992 when Nena Morales used to tempt him by going to his farm house to borrow soap and fetch water. On several occasions, Nena Morales used to wear shorts. In 1995, he got married. But this did not stop Nena Morales from seeing him in Bitan-agan. After arriving from Cagayan de Oro, he proceeded to his farm and later to the house of his sister. Nena Morales followed him. Thereat, Nena Morales told him that he would not be able to see her anymore because she would be floating in [the] Agusan River. Nena Morales also told him that he will not have peace in his family as she is going to make trouble. After telling him that she would commit suicide, Nena Morales went to his house many times drunk. As he kept on avoiding her, he later learned that Nena Morales slashed herself. When Nena Morales recovered, she went to his house and created trouble. As proof that he and Nena Morales were lovers, they used to check in at a hotel. They also had sexual intercourse in the farm several times.

"Mayet Andrade corroborated the foregoing testimony of the accused. She testified that it is not true that they asked forgiveness from Nena Morales about the incident. Instead, she only confronted Nena Morales why she filed a case against the accused. Nena Morales told her that she was only filing the case against the accused because

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[8] Appellee's Brief, pp. 3-7; *id.*, pp. 90-94. Citations omitted.

[9] Signed by Attys. Amelia C. Garchitorena, Elpidio C. Bacuyag and Maximo B. Usita Jr. of the Public Attorney's Office (PAO); *id.*, pp. 57-70.

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she wanted to take revenge. In her conversation with the private complainant, the latter told her that she was not raped by the accused.

"SPO2 Teofilo Maquilling Pame identified the police blotter and the entries made therein on December 30, 1996 regarding the complaint of the victim, Melanie Morales for x x x attempted rape, which allegedly happened on December 28, 1996 at Purok 4, Bitan-agan, Butuan City."[10]

Ruling of the Trial Court

Weighing the merits of the evidence presented by the prosecution and the defense, the court *a quo* held that the sole testimony of the victim was sufficient to convict appellant of rape.

The trial court rejected the "hell-hath-no-fury-like-a-woman scorned" defense proffered by appellant. According to him, in order to take revenge for his refusal to continue their sexual relations, complainant's mother convinced her daughter to file the Complaint against him. In dismissing this argument, the trial court held that just to assuage her own hurt feelings, no mother would stoop so low to subject her daughter to the hardship and the shame concomitant with a rape prosecution. It would be quite unnatural for a parent to use her offspring as a means to sow malice, especially if the latter would be subjected to embarrassment and lifelong stigma in the process. Moreover, it found that the alleged illicit relationship between appellant and complainant's mother had not been substantiated.

The lower court likewise rejected the defense of alibi. The claim of appellant that he was working in Nocnocan when the crime occurred in Bitan-agan cannot exculpate him. The two towns were shown to be only three kilometers away from each other. In fact, it was in his house in Bitan-agan where he was arrested by the police the next day.

Hence, this appeal.[11]

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[10] Appellant's Brief, pp. 3-4; *id.*, pp. 61-62. Citations omitted.

[11] This case was deemed submitted for decision on December 10, 2002, upon receipt by this Court of appellee's Brief. Appellant's Brief was received on July 29, 2002. The filing of a reply brief was deemed waived, because none was filed within the reglementary period.

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Issues

In his Brief, appellant raises the following alleged errors for our consideration:

"I

The trial court erred in not rejecting the highly implausible and conflicting testimony of the private complainant anent the crime charged.

"II

The trial court erred in convicting the accused-appellant of rape considering that the private complainant did not offer any tenacious resistance.

"III

The trial court erred in not giving full faith and credence to the evidence proffered by the defense.

"IV

The trial court erred in rendering a verdict of conviction despite the failure of the prosecution to establish the guilt of the accused-appellant beyond reasonable doubt."[12]

The Court's Ruling

The appeal has no merit.

First and Fourth Issues:

Sufficiency of the Prosecution Evidence

Rape is committed, *inter alia*, when a man has carnal knowledge of the victim with the use of force and intimidation.[13] In this case, the victim is a 13-year-old girl from Butuan City.[14]

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[12] Appellant's Brief, pp. 4-5; *rollo*, pp. 62-63. Original in upper case.

[13] *People v. Gastador*, 365 Phil. 209, 225, April 14, 1999; *People v. Painitan*, 349 SCRA 266, 272, January 16, 2001.

[14] *See* Certificate of Live Birth; records, p. 9.

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To demonstrate how clearly and convincingly she narrated her defilement, we extensively quote her testimony as follows:

"PROSECUTOR GUIRITAN:

Q And, how far were you to Danilo when you saw him seated for the first time under the star apple tree?
A He was also about five (5) brazas from where I was.

Q When you saw him, what did you do?
A I did not pay attention to him. I proceeded my way.

Q What happened after that?
A When I proceeded walking, he pulled my hands.

COURT: (to the witness)

Q Your two (2) hands?
A Left hand.

PROSECUTOR GUIRITAN:

Q And when he pulled your [hand], what happened to your basin of washed clothes?
A The basin with the laundered clothes fell and the clothes got dirty.

Q After he pulled your left hand, what else did he do to you after that?
A After pulling my hands, he dragged me towards where the bushes are.

Q How far [were the] bushes to the place whe[re] your left hand was first pulled by Danilo?
(Witness indicating the distance from where she is seated to the main door of the courtroom which is 8.3 meters as previously measured.)

Q After he brought you to that bushes or grassy place, what happened next after that?
A I shouted for help.

Q How many times did you shout?
A Many times.

Q Then, what did he do to you?
A He covered my mouth.

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Q What else did he do to you after he covered your mouth?

ATTY. CHAVEZ:

Your Honor, may I request that the interpreter stay here.

COURT: (to the witness)

You face here.

(Witness faced the Court and the Interpreter is seated facing the Judge's table and the witness.)

A He pointed a bolo at me and he warned me not to make any noise.

PROSECUTOR GUIRITAN:

Q When he pointed that bolo towards you, what did you do also?
A I struggled.

ATTY. CHAVEZ:

May I request that the word *'kisi-kisi'* be —

COURT: (to the Stenographer)

Place there in parenthesis the word *'kisi-kisi'*.

WITNESS:

I struggled (*'kisi-kisi'*).

PROSECUTOR GUIRITAN:

Q What else?
A When I was struggling he removed my clothes.

Q By the way, at that time, what were you wearing?
A I was wearing a T-shirt and pants.

Q Long pants?
A Yes, sir.

Q What was your position when he removed your T-shirt?
A He did not remove my T-shirt. It was only the pants.

Q And what was your position? Were you still standing or already lying down when he removed your pants?

ATTY. CHAVEZ:

Your Honor[,] please, no basis.

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COURT:

Sustained.

Do not suggest an answer to the witness.

PROSECUTOR GUIRITAN:

We submit, Your Honor.

Q What was your position?
A I was already lying down.

Q Now, what else happened after he removed your pants?
A He also removed my pants.

Q Were you wearing panty that time?
A Yes, sir.

Q What was the color of your panty, if you still could recall?
A I think that was colored pink.

Q What did you do when Danilo Andrade removed your pants and your panty?
A I was still struggling trying to free myself.

Q And what did he do to you also after he was able to remove your pants and panty?
A He also removed his clothes.

Q Which clothes did he remove?
A His pants, sir.

Q What was he wearing at that time?
A It was '*maong*' pants.

Q When he removed his pants, what did he also do to you?
A After removing his pants he placed himself on top of me.

Q Now, you said [a] while ago that accused was bringing a bolo, what did he do with the bolo at that time?

ATTY. CHAVEZ:

Your Honor, although the premise is ['what'], I think that's leading, Your Honor.

COURT:

May I have the question.

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(Court Stenographer reading the question propounded last by the prosecutor.)

COURT:

It's a legitimate question. Answer the question.

ATTY. CHAVEZ:

I submit, Your Honor.

WITNESS:

A He pointed the bolo at me.

PROSECUTOR GUIRITAN:

Q Now, you said after he removed his own pants and after he also removed your pants and panty he placed himself on top of you. What do you mean by that, Miss Witness, when you said he placed himself on top of me?

x x x x x x x x x

A He inserted his penis to my vagina.

PROSECUTOR GUIRITAN:

Q How did you notice that his penis already entered your vagina?

A Because I felt the pain.

Q At that time when he already inserted his penis towards your vagina, what did you do, Miss Witness, aside from the fact that you felt pain in it?

A I told him to stop because it was very painful but he did not stop.

(At this juncture, the witness is crying.)"[15]

The testimony of complainant clearly shows that she resisted the sexual advances of appellant, but was forced and intimidated to submit to his will. The defense failed to cast doubts on her credibility, as she stuck to her story during the cross-examination. Moreover, her claims were supported by the medical report of

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[15] TSN, January 5, 1998, pp. 14-19.

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Dr. Rhodora Gliceria Monton-Anino, who had examined her the day after the rape incident.

We thus find no reason to doubt the victim. It is inconceivable that a young girl would cry rape, allow an examination of her private parts, undergo the trouble and the humiliation of public and open trial, and put herself and her family under public scrutiny, if she were not motivated to bring to justice the person who had defiled her.[16] It is highly unlikely for a young Filipina of decent repute to admit publicly that she was raped, unless that statement is the truth.[17] In this case, since the testimony of the victim was straightforward and candid, unshaken by rigid cross-examination, and unflawed by inconsistencies or contradictions in its material points, it must be given full faith and credit.[18]

Second Issue:

The Victim's Credibility

In attacking the credibility of the victim, appellant argues that complainant reported only the second, but not the first, alleged rape incident. He argues that even if the frequency of commission is not an element of the crime, the fact that she did not bother to take steps to put her supposed rapist behind bars after he had ravished her the first time militates against her reliability.

We clarify. In general, delay in reporting rape does not imply that the charge is not true, as the victim usually prefers to bear the ignominy of pain silently, rather than reveal her harrowing experience and expose her shame to the world.[19] It is

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[16] *People v. Cordero*, 351 SCRA 383, 395, February 7, 2001; *People v. Albior*, 352 SCRA 35, 45, February 19, 2001.

[17] *People v. Loyola*, 351 SCRA 263, 267, February 6, 2001.

[18] *People v. Elpedes*, 350 SCRA 716, 725, January 31, 2001; *People v. Queigan*, 352 SCRA 150, 165, February 19, 2001.

[19] *People v. Jimenez*, 356 SCRA 508, 521, April 16, 2001; *People v. Velasquez*, 352 SCRA 455, 479, February 21, 2001; *People v. Guntang*, 354 SCRA 50, 82, March 8, 2001; *People v. De la Peña*, 354 SCRA 186, 192, March 12, 2001.

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understandable for a victim to take some time to come to terms with the rape and muster enough courage to bring her defiler to justice. Such delay is not unusual, especially when the victim is a minor.

In this case, however, there was no delay in reporting the rape. Complainant told her mother about it the same day it occurred. They then filed a Complaint against appellant the next day. Complainant's failure to report the alleged first rape does not belie her narration of the supposedly second incident that occurred on December 28, 1996. Evidence of the first occurrence of rape is not a requirement for proving the second one.

Appellant contends that the testimony of the victim is riddled with inconsistencies. According to him, a proof that her testimony is not credible is the fact that she initially testified that the rape had taken place on August 17, 1995, a Saturday, only to retract her claim when she was shown a 1995 calendar showing that the date fell on a Thursday.

We are not persuaded. The exact day of the week when rape was committed is not required in proving it; neither is the precise time.[20] Besides, the determination of which day of the week August 17, 1995 fell pertains to the alleged first rape, which is not the subject of the Complaint.

Appellant further argues that the actuations of complainant were not typical of a rape victim. She testified that she became afraid of appellant after he had raped her on August 17, 1995. But upon the invitation of appellant's wife, complainant still took her lunch at his house several times from January to March 1996.

The first rape is not an issue here. That the wife of appellant is a trusted friend of complainant does not disprove the occurrence of the rape. The point is that the latter never ate lunch at his house when she knew she would be alone with him; she was

[20] *People v. Sernadilla*, 350 SCRA 243, 257, January 24, 2001; *People v. Macaya*, 351 SCRA 707, 714, February 15, 2001; *People v. Awing*, 352 SCRA 188, 198, February 19, 2001.

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always with his wife, Mayeth. Otherwise, serious doubts would have indeed been cast on the claim of complainant that she had resisted the rape or that it had ever occurred at all.

The defense insists that complainant did not vigorously reject the sexual advances of appellant. Otherwise, she would have been able to escape from his hold when he was no longer pointing his bolo at her.

Force and intimidation need not be overwhelming to constitute rape. It is not essential for the victim to have resisted her assailant to death.[21] Physical resistance need not be established when threats and intimidation were employed and the victim submitted herself to the rapist because of fear.[22]

Appellant argues that the testimony of the victim is not supported by the physical evidence on record. According to him, although she concluded that he had ejaculated inside her vagina because she allegedly felt something warm inside, the doctor reported that she did not find any spermatozoa during the medical examination.

The absence of spermatozoa does not disprove rape.[23] In this case, the examination made by Dr. Monton-Anino sufficiently supports penetration.[24] A careful reading of the medical certificate she issued would reveal that it does not contradict complainant's claim.

The time-tested rule is that the evaluation of the credibility of a witness by the trial court is given great weight and respect by appellate courts, unless it is shown to have overlooked, misunderstood or misapplied some fact or circumstance of weight

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[21] *People v. Vidal*, 353 SCRA 194, 202, February 28, 2001.

[22] *People v. Rapisora*, 350 SCRA 299, 308, January 25, 2001; *People v. Cuadro*, 352 SCRA 537, 547-548, February 22, 2001.

[23] *People v. Freta*, 354 SCRA 385, 392, March 14, 2001; *People v. Santos*, 354 SCRA 708, 720-721, March 20, 2001; *People v. Albior, supra*, p. 45.

[24] *People v. Albior, supra*; *People v. Freta, supra*; *People v. Santos, supra*.

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and substance that would have affected the result of the case.[25] In this case, we do not find any reason to deviate from this general rule.

Third Issue:

Evidence for the Defense

Appellant contends that the trial court erred in overlooking the fact that after the incident was recorded on the police blotter on December 30, 1996, no succeeding entry was made for the next three months. The police blotter[26] indicated that appellant had merely held the hand of complainant and attempted to kiss her. There was no mention of rape. According to appellant, the blotter shows that the rape charge against him was a mere afterthought.

We disagree. A police blotter, like any other extrajudicial statement, cannot prevail over testimony in an open court. The declaration of a child-victim during an initial investigation cannot be expected to be completely coherent with her testimony taken in much greater detail during the trial of the case.[27] Because of the rapist's threats on her life, her fear of public humiliation or simply lack of courage, it would not be uncommon for a young, immature girl to conceal for a time the rape perpetrated on her.[28]

WHEREFORE, the appeal is hereby ***DENIED***, and the assailed Decision ***AFFIRMED***.

SO ORDERED.

Puno (Chairman), Sandoval-Gutierrez, and *Carpio Morales, JJ.*, concur.

Corona, J., on leave.

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[25] *People v. Mirafuentes*, 349 SCRA 204, 212, January 16, 2001; *People v. Optana*, 351 SCRA 485, 511, February 12, 2001.

[26] Exhibit "9"; records, p. 126.

[27] *People v. Santos, supra.*

[28] *People v. Albior, supra*, p. 46; *People v. Queigan, supra*, p. 159.