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SECOND DIVISION

[G.R. No. 150382. October 2, 2003]

PEOPLE OF THE PHILIPPINES, *appellee, vs.* **EDDIE BASITE,** *appellant.*

SYNOPSIS

Appellant herein was charged of raping a 19-year midwifery student at the Cordillera College, La Trinidad, Benguet. Sonia, the victim herein, was allegedly on her way to her parents' house when the appellant followed her. Upon reaching her, he threatened to stab her with his knife and thereafter, the appellant succeeded raping Sonia. While he was putting on his clothes, Sonia grabbed the knife and stabbed him on the left shoulder. Wounded the accused ran away. Sonia continued her journey to her parents' home. And along the way met several people to whom she related her story, which led to the identification of the felon. The accused denied the rape charge and presented two witnesses for his defense. The trial court, however, gave credence to the prosecution witnesses and convicted the appellant of simple rape. He was sentenced to *reclusion perpetua.* He appealed his conviction.

According to the Supreme Court, there was nothing on record that would impel a deviation from the findings and conclusion of the trial court. The victim testified in a categorical, straightforward and consistent manner. She unwaveringly and positively identified the appellant was her defiler without any purpose other than to seek justice for the crime committed against her. Accused failed to impute any motive against complainant that would tarnish her credibility at the witness stand. The decision of the trial court was affirmed.

SYLLABUS

1. **REMEDIAL LAW; EVIDENCE; CREDIBILITY OF WITNESSES; ASSESSMENT BY THE TRIAL COURT IS RESPECTED UNLESS CERTAIN FACTS OF SUBSTANCE OR VALUE WERE OVERLOOKED.** — We have consistently held that this Court will not disturb the findings of the trial

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court as to the credibility of witnesses. The trial court can best evaluate the credibility of witnesses and their testimonies because of its opportunity to observe the witnesses and their demeanor, conduct and attitude especially under cross-examination. Its assessment is respected unless certain facts of substance and value were overlooked which, if considered, might affect the result of the case.

2. **ID.; ID.; EXPERT WITNESS; THE PURPOSE OF HIS PRESENTION IS TO ASSIST THE COURT IN THE DETERMINATION OF THE ISSUE BEFORE IT.** — As to the opinions of defense expert witness Dr. Bandonill, it is important to note that the testimony of expert witnesses must be construed to have been presented not to sway the court in favor of any of the parties, but to assist the court in the determination of the issue before it. It has been said of expert testimonies — Although courts are not ordinarily bound by expert testimonies, they may place whatever weight they may choose upon such testimonies in accordance with the facts of the case. The relative weight and sufficiency of expert testimony is peculiarly within the province of the trial court to decide, considering the ability and character of the witness, his actions upon the witness stand, the weight and process of the reasoning by which he has supported his opinion, his possible bias in favor of the side for whom he testifies, the fact that he is a paid witness, the relative opportunities for study and observation of the matters about which he testifies, and any other matters which deserve to illuminate his statements. The opinion of the expert may not be arbitrarily rejected; it is to be considered by the court in view of all the facts and circumstances in the case and when common knowledge utterly fails, the expert opinion may be given controlling effect. The problem of the credibility of the expert witness and the evaluation of his testimony is left to the discretion of the trial court whose ruling thereupon is not reviewable in the absence of abuse of discretion.

3. **CRIMINAL LAW; RAPE; LONE TESTIMONY OF CREDIBLE COMPLAINANT MAY STAND TO CONVICT THE ACCUSED.** — In rape offenses, the lone testimony of the complainant, if credible, straightforward, convincing and otherwise consistent with human nature and the ordinary course

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of things, may stand to convict the accused. The credibility of the complainant's testimony is of utmost significance.

4. **ID.; ID.; MEDICAL CERTIFICATE NOT INDISPENSABLE TO PROVE RAPE.** — On this matter, jurisprudence holds that even without a medical examination, the accused may still be convicted of rape as long as the testimony of the complainant meets the test of credibility and resolutely points to the accused as the author of the crime. A medical certificate is not indispensable to prove rape.

5. **ID.; ID.; RUPTURE OF THE HYMEN IS NOT NECESSARY TO WARRANT CONVICTION OF RAPE.** — For rape to be consummated, rupture of the hymen is not necessary, nor is it essential that the vagina sustains a laceration. Research in medicine even points out that negative findings are of no significance, since the hymen may not be torn despite repeated coitus. Entry of the labia or lips of the female organ, without rupture of the hymen or laceration of the vagina, is sufficient to warrant conviction. In this case, Sonia categorically testified that accused-appellant inserted his penis into her vagina and she felt pain when he did so.

APPEARANCES OF COUNSEL

The Solicitor General for plaintiff-appellee.
Guillermo R. Bandonill, Jr. for accused-appellant.

D E C I S I O N

BELLOSILLO, *J.*:

EDDIE BASITE was convicted by the trial court of simple rape, sentenced to *reclusion perpetua* and ordered to pay complaining witness ₱50,000.00 as civil indemnity and ₱50,000.00 as moral damages.[1] He now appeals his conviction.

Sonia Pa-ay, a polio victim, was at the time of the rape nineteen (19) years old and a student of midwifery at the Cordillera College, Buyagan, La Trinidad, Benguet.

[1] Penned by Judge Pedro M. Sabundayo, Jr., RTC-Br. 64, Abatan, Buguias, Benguet, promulgated 20 June 2000; *Rollo*, pp. 18-44.

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On 1 September 1996 at around 10:30 in the morning, Sonia was in Natuel, Buguias, Benguet, on her way to her parents' home in Tinoc, Ifugao, to get her allowance. As she was walking, she met Eddie Basite who was headed towards the opposite direction. They passed by each other. A few seconds later, Sonia heard footsteps behind her. When she looked back she saw Eddie Basite following her. He reached her, held her by both hands and told her to go down with him. Sonia resisted. But the accused Eddie Basite pulled out a knife from his waistband, thrust it at her neck and threatened to stab her if she continued to resist. He ordered her to lie down on the ground and out of fear she obeyed.

The accused undressed himself and forcibly removed Sonia's pants and underwear. He placed himself on top of her, inserted his penis into her vagina and made a push and pull movement. Sonia felt pain in her vagina. She resisted but the accused threatened to stab her. When he was through with the sexual assault, he warned her not to relate the incident to anyone or else he would stab her. Sonia pleaded with the accused to allow her to go home. Upon seeing that the accused had laid down his knife beside her head while he was putting on his clothes, Sonia grabbed the knife and stabbed him on the left shoulder. Wounded, the accused ran away.

Sonia tried to put on her clothes, but losing her balance she rolled down the cliff and lost consciousness. When she recovered, she felt pain all over her body and could not find her bearings in her weakened state. She fell asleep and woke up at around midnight. She made her way up the mountain by the light of the moon. She reached the place where she was raped and rested for a while until she decided to continue on her way to her parents' house in Tinoc, Ifugao.

Along the way she passed by a house where she was offered *camote* to eat. While she was eating some soldiers arrived and offered to accompany her home. On their way they met four (4) men, one of whom turned out to be a brother of the accused who identified Eddie Basite as the person described by Sonia.

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He proposed that they go to the place where the rape allegedly took place. When they reached the crime scene Sonia found her bag and retrieved it. The brother asked Sonia to go with him to Abatan to see Eddie and talk to him and their relatives but she refused. Sonia proceeded instead to Monsoyohoy to wait for her uncle Nazario Habungan who, she learned earlier, was going home and would pass by Monsoyohoy.

As she was walking towards Monsoyohoy she met her uncle Nazario and other relatives on the way and she narrated her ordeal to them. Together with some companions they proceeded to the Abatan Police Station to report the incident and to file a complaint. As they were passing through Bot-oan on their way to Abatan they saw Eddie alighting from a yellow Ford Fiera. He appeared to have injured his right hand. Nazario approached the accused and held him by the shoulder and told him to go with them to Abatan. Eddie pushed Nazario's arm and ran away. Nazario and his companions gave chase and caught up with the accused.[2]

Gilbert Sacla, testifying for the prosecution, said that he saw Nazario and his companions run after the accused. Since he was then the Barangay Captain of Bot-oan, Gilbert called a stop to the commotion. He learned that Eddie was being accused of having molested Sonia. Gilbert brought Eddie to the police station. The accused went with him willingly.[3]

At the police station, Sonia was advised to undergo medical examination. She went to the Abatan Emergency Hospital for the physical examination, and to the Lutheran Hospital for the laboratory tests. She was issued a medical certificate. The following day, 3 September 1996, Sonia filed her Sworn Statement[4] and a criminal complaint[5] was formally lodged with the Fiscal's Office against Eddie Basite.

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[2] TSN, 19 November 1998, pp. 4-6.

[3] TSN 1 October 1998, pp. 2-5.

[4] Original Records, pp. 11-15.

[5] *Id*, p. 5.

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On 2 October 1996 an *Information* for Rape was filed against the accused[6] who pleaded not guilty when arraigned. A *Motion for Bail* was filed but it was denied.[7]

The prosecution presented Dr. Relante Raper of the Abatan Emergency Hospital who testified on the medical findings he made upon examination of Sonia Pa-ay. When Sonia presented herself for examination, Dr. Raper observed that her clothes were muddy. He found mud on her right breast and on her pubic hair. There were multiple healing scratches and contusions on her arms, legs and inner thighs which could have been caused by the application of an external force or the impact of a fall. Internal examination revealed that there were no lacerations, scratches or bleeding on the perineal area and her hymen was intact. The vagina admitted one (1) finger with difficulty. A whitish mucoid discharge found over the *labia minora* was sent to the Lutheran Hospital for microscopy.[8] Examination of the discharge yielded negative for sperm.[9] Dr. Raper clarified that it was possible, even for a married woman, to have an intact hymen since there are some hymen that are very elastic.[10]

The accused denied having raped Sonia. To support his defense, the accused presented two (2) witnesses, Lidot Lacbao and Dr. Ronald Bandonill. Lidot Lacbao recalled that in the early morning of 2 September 1996 he received complainant Sonia Pa-ay in his home and offered her *camote* to eat. The girl was limping. She had scratches on her arms and legs and her clothes were muddy. The girl told him that she had slept in the forest and that she met a man who accosted her but that she stabbed him. Lidot asked her if she had been raped. She replied that she had not been raped since she stabbed the man and if she did not, he would have done something to her.[11]

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[6] *Rollo*, pp. 9-10.

[7] Order of 11 November 1998, Original Records, pp. 206-212.

[8] TSN, 2 July 1998, pp. 35-37; Original Records, pp. 149-151.

[9] Original Records, p. 149.

[10] TSN, 2 July 1998, pp. 2-5.

[11] TSN, 5 May 1999, pp. 2-5.

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The accused presented Dr. Ronald Bandonill of the NBI-CAR, Baguio City, as an expert witness to dispute the findings of prosecution witness Dr. Relante Raper. Based on Dr. Raper's findings that there was no bleeding or scratches inside the genitalia and that the injuries were only outside the genital area and on the upper and lower extremities of Sonia, Dr. Bandonill opined that there was no insertion into the vagina and there was no physical contact or sexual intercourse.[12] Otherwise, the genital area would have shown signs of trauma such as inflammation, redness, swelling and even bleeding if the hymen was the type that was easily lacerated. Dr. Bandonill added that the Medico-Legal Certificate issued by Dr. Raper was incomplete and incomprehensive and not compatible with standard Medico-Legal Reports of the NBI in rape cases.[13]

The trial court agreed with Dr. Bandonill that the Medico-Legal Certificate issued by Dr. Raper was insufficient to conclude that sexual intercourse actually took place, since it failed to indicate whether the labia and vagina of private complainant were thoroughly examined to determine sexual contact.[14] However, it still found the accused guilty beyond reasonable doubt of the crime charged based on Sonia's spontaneous, forthright and positive testimony identifying the accused as the person who raped her.

Accused-appellant assails the decision of the trial court. He argues that the trial court already entertained reasonable doubt as to his guilt when it ruled that the Medico-Legal Certificate issued by Dr. Raper was incomprehensive and inconclusive as to the occurrence of sexual contact between him and complainant. Accused-appellant reasons that the court *a quo* should have taken this point in his favor and acquitted him. Furthermore, the credibility of private complainant is suspect as her testimony is inconsistent with the testimonies of the other witnesses, particularly Lidot Lacbao and Dr. Raper. Sonia's testimony, if

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[12] TSN, 31 May 2000, p. 87-98.

[13] *Id.*, p. 93.

[14] *Rollo*, p. 36.

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related to the testimonies of these two witnesses, would supposedly establish the untrustworthiness of her version of the events.

Sonia allegedly confessed to Lidot Lacbao that she had not been raped by accused-appellant, and that she had stabbed her assailant before he could do anything wrong to her. Sonia's declarations that she felt pain and blood in her vagina are belied by the medical finding that her hymen is intact. Dr. Raper also found that there were multiple healed scratches and contusions on her arms and legs which may have been caused by her fall, but it is doubtful that these wounds would have been healed the very next day when she was examined by the doctor.

The trial court allegedly erred in not taking these testimonies into consideration and relying solely on the declarations of Sonia, and in disregarding Dr. Bandonill's expert testimony, especially in view of its ruling that the Medico-Legal Certificate was inadequate to prove the alleged sexual intercourse.

The accused fails to persuade us. In rape offenses, the lone testimony of the complainant, if credible, straightforward, convincing and otherwise consistent with human nature and the ordinary course of things, may stand to convict the accused.[15] The credibility of the complainant's testimony is of utmost significance. In this case the trial court gave credence and full probative weight to the testimony of Sonia Pa-ay.

We have consistently held that this Court will not disturb the findings of the trial court as to the credibility of witnesses. The trial court can best evaluate the credibility of witnesses and their testimonies because of its opportunity to observe the witnesses and their demeanor, conduct and attitude especially under cross-examination. Its assessment is respected unless certain facts of substance and value were overlooked which, if considered, might affect the result of the case.[16]

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[15] *People v. Dawisan*, G.R. No. 122095, 13 September 2001, 365 SCRA 138, 146.

[16] *People v. Yato*, G.R. Nos. 136317-18, 22 November 2001, 370 SCRA 284, 293.

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There is nothing on record that would impel us to deviate from the findings and conclusion of the trial court. Sonia Pa-ay testified in a categorical, straightforward and consistent manner. As observed by the trial court, she tearfully narrated the details of the sexual abuse she suffered at the hands of accused-appellant and the circumstances leading and subsequent thereto.[17] She *unwaveringly and positively identified Eddie Basite as her defiler* without any purpose other than to seek justice for the crime committed against her.[18] Accused-appellant failed to impute any motive against complainant that would tarnish her credibility at the witness stand.

Accused-appellant harps on the fact that the trial court discounted the Medico-Legal Certificate issued by Dr. Raper. This allegedly shows reasonable doubt as to the fact of sexual intercourse between accused-appellant and private complainant. On this matter, jurisprudence holds that even without a medical examination, the accused may still be convicted of rape as long as the testimony of the complainant meets the test of credibility and resolutely points to the accused as the author of the crime. A medical certificate is not indispensable to prove rape.[19]

The defense further avers that Sonia's testimony of rape is inconsistent with the findings of Dr. Raper that there were no lacerations in her vagina and that her hymen was intact. But the absence of fresh lacerations in the vagina does not prove that private complainant was not sexually abused. For rape to be consummated, rupture of the hymen is not necessary, nor is it essential that the vagina sustains a laceration. Research in medicine even points out that negative findings are of no *significance, since the hymen may not be torn despite repeated* coitus. Entry of the labia or lips of the female organ, without rupture of the hymen or laceration of the vagina, is sufficient to warrant conviction.[20] In this case, Sonia categorically testified

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[17] *Rollo*, p. 37.

[18] TSN, 2 April 1998, p. 5.

[19] See Notes 12 and 15.

[20] *People v. Gabayron*, G.R. No. 102018, 21 August 1997, 278 SCRA 78, 93.

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that accused-appellant inserted his penis into her vagina and she felt pain when he did so.[21]

Sonia's testimony is also alleged to be inconsistent with Lidot Lacbao's statement that she denied having been abused by the man who accosted her. If we look at the records however, Lidot Lacbao's statement would be inconsistent with the attitude of disclosure that Sonia so far had with the other people she met after the rape incident. Sonia related what had happened to her, *i.e.*, she had been raped by accused, to the soldiers who came to the house and who offered to accompany her home to report the incident to the *barangay*, and to the four (4) men she and the soldiers met while on their way.[22] One of the four (4) men was accused's brother, who himself identified the accused and offered to bring Sonia to his relatives to talk things over[23] She later met her uncle and told him she had been raped.[24] Lidot Lacbao's testimony becomes doubtful when viewed against the whole of complainant's behavior after the rape and her testimony during trial.

As to the opinions of defense expert witness Dr. Bandonill, it is important to note that the testimony of expert witnesses must be construed to have been presented not to sway the court in favor of any of the parties, but to assist the court in the determination of the issue before it.[25] It has been said of expert testimonies —

> Although courts are not ordinarily bound by expert testimonies, they may place whatever weight they may choose upon such testimonies in accordance with the facts of the case. The relative weight and sufficiency of expert testimony is peculiarly within the province of the trial court to decide, considering the ability and character of the witness, his actions upon the witness stand, the weight

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[21] TSN, 2 April 1998, p. 7.

[22] *Id*, p. 23; Original Records, p. 12.

[23] *Id*, pp. 23-24; *ibid.*

[24] *Id*, p. 25; *ibid.*

[25] *Espiritu v. CA*, G.R. No. 115640, 15 March 1995, 242 SCRA 362, 371.

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and process of the reasoning by which he has supported his opinion, his possible bias in favor of the side for whom he testifies, the fact that he is a paid witness, the relative opportunities for study and observation of the matters about which he testifies, and any other matters which deserve to illuminate his statements. The opinion of the expert may not be arbitrarily rejected; it is to be considered by the court in view of all the facts and circumstances in the case and when common knowledge utterly fails, the expert opinion may be given controlling effect. The problem of the credibility of the expert witness and the evaluation of his testimony is left to the discretion of the trial court whose ruling thereupon is not reviewable in the absence of abuse of discretion.[26]

Dr. Bandonill's expertise in the medical examination of rape victims was displayed in court. He clearly explained the external and internal changes that happen to a woman's body after consensual intercourse and rape, and what findings may be had in the examination of a rape victim. Dr. Bandonill's opinion on the rape case is based on the findings made by Dr. Raper in his Medico-Legal Certificate. He did not personally examine private complainant. Based on the Medico-Legal Certificate alone, Dr. Bandonill surmised that there was no sexual contact between accused-appellant and complainant. He was however also of the view that the physical examination and Medico-Legal Certificate of Sonia Pa-ay were incomplete and not comprehensive as compared to the required Medical Report of the NBI.[27] As the trial court found, the Certificate failed to indicate whether the labia and vagina of the private complainant were thoroughly examined to determine if sexual contact took place.[28]

That the trial court considered Dr. Bandonill's expert testimony to rule on the sufficiency of the Medico-Legal Certificate issued by Dr. Raper does not mean that the court *a quo* doubted accused-appellant's guilt. The trial court merely used Dr. Bandonill's testimony to determine for itself if that Medico-Legal Certificate would satisfactorily show the results of a complete and thorough

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[26] *People v. Baid*, G.R. No. 129667, 31 July 2000, 336 SCRA 656, 675.

[27] TSN, 31 May 2000, pp. 93-94, 97.

[28] *Rollo*, p. 36.

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physical examination of Sonia Pa-ay, consistent with the physical examinations being conducted by the NBI and Dr. Bandonill.

Accused-appellant finally contends that the trial court should have considered the mitigating circumstance of voluntary surrender in his favor. He explains that he voluntarily surrendered to then Barangay Captain Gilbert Sacla, and willingly went with him and complainant's relatives to the police station in Abatan. We are not persuaded.

A surrender to be voluntary must be spontaneous, showing the intent of the accused to submit himself unconditionally to the authorities, either because he acknowledges his guilt, or he wishes to save them the trouble and expense necessarily incurred in his search and capture. If none of these two (2) reasons impelled the accused to surrender, because his surrender was obviously *motivated more by an intention to insure his safety*, his arrest being inevitable, the surrender is not spontaneous.[29]

The conduct of accused-appellant after the commission of the offense, of running away after having been stabbed by private complainant and of fleeing from complainant's relatives when they tried to bring him to the authorities, do not show voluntary surrender as contemplated under the law. It appears that accused-appellant willingly went to the police authorities with Gilbert Sacla only to escape the wrath of private complainant's relatives who were pursuing him and who appeared to be thirsting for his blood.

In the instant case, the guilt of accused-appellant Eddie Basite has been proved beyond reasonable doubt. Paragraph 1 of Art. 335 of *The Revised Penal Code* punishes with *reclusion perpetua* an accused who has carnal knowledge of a woman with the use of force or intimidation. The use of a deadly weapon, which would otherwise have qualified the crime, is not alleged in the *Information*, hence even if proved, may not be appreciated against accused-appellant.

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[29] *People v. Nicholas*, G.R. No. 142044, 23 November 2001, 370 SCRA 473, 484.

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WHEREFORE, the assailed Decision of the court *a quo* finding accused-appellant EDDIE BASITE *guilty of simple rape* and sentencing him to *reclusion perpetua* and to pay complaining witness Sonia Pa-ay the amount of ₱50,000.00 as civil indemnity and ₱50,000.00 as moral damages is *AFFIRMED*. Costs against accused-appellant.

SO ORDERED.

Quisumbing, Austria-Martinez, Callejo, Sr. and Tinga, JJ., concur.

FIRST DIVISION

[A.C. No. 6061. October 3, 2003]

DR. RAUL C. SANCHEZ, *complainant, vs.* **ATTY. SALUSTINO SOMOSO,** *respondent.*

SYNOPSIS

Complainant filed a complaint-affidavit before the Commission on Bar Discipline of the Integrated Bar of the Philippines (IBP-CBD). The respondent allegedly issued two checks as payment of the hospital bills he incurred during his confinement at the Sta. Lucia General Hospital in which the complainant was his attending physician. When deposited, the checks were dishonored. Respondent promised to redeem the dishonored checks in cash, but he never did. Complainant filed an *estafa* case against the respondent but somehow he was able to evade arrest. Thus, he filed this administrative complaint. Respondent failed to file an answer to the complaint; thus, the IBP-CBD recommended a six-month suspension from the practice of law against the respondent.

The Supreme Court accepted the findings and recommendation of the IBP. According to the Court, the