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THIRD DIVISION

[G.R. Nos. 140868-69. August 5, 2003]

PEOPLE OF THE PHILIPPINES, *appellee, vs.* **NAZARIO BUATES *Y* BITARA,** *appellant.*

SYNOPSIS

Appellant herein was charged with two counts of rape. Appellant denied that the raped his fourteen year-old niece on two occasions. He claimed that the victim merely fabricated the charges on suspicion that he was spreading vile rumors against her. The trial court found appellant guilty of two counts of rape and was sentenced to suffer *reclusion perpetua* on each count. In this appeal, appellant principally assailed the credibility of the victim for not informing any member of her family about the alleged sexual assault for nearly nine years.

The Supreme Court affirmed the judgment of the trial court. The Court found no cogent reason to overturn the conclusion of the trial court. Private complainant's testimony gave honest, candid and categorical account of the sexual assaults perpetrated by the appellant against her. Even on cross-examination, the private complainant was consistent in her recollection of the details of her defloration. A rape victim who testifies in an honest and straightforward manner and remains consistent in a credible witness.

SYLLABUS

1. **REMEDIAL LAW; EVIDENCE; PRINCIPLES GUIDING THE COURT IN REVIEWING RAPE CASES.** — In the review of rape cases, we are almost invariably guided by the following principles: (1) an accusation for rape can be made with facility; it is difficult to prove but more difficult for the person accused, though innocent, to disprove it; (2) in view of the intrinsic nature of the crime of rape where only two persons are usually involved, the testimony of the complainant must be scrutinized with extreme caution; and (3) the evidence for the prosecution must stand or fall on its own merits and cannot be allowed to

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draw strength from the weakness of the evidence for the defense. Therefore, the credibility of the private complainant is crucial to the outcome of these cases for it is well-settled that conviction or acquittal depends almost entirely on the credibility of the victim's testimony.

2. **CRIMINAL LAW; RAPE; THROUGH FORCE AND INTIMIDATION; WHEN COMMITTED; PRESENT IN CASE AT BAR.** — There being force and intimidation during the rape on July 28, 1990, it is pointless to discuss whether or not the private complainant was below 12 years of age on said date. Under the law, having carnal knowledge of a woman through force and intimidation or when she is below 12 years of age constitutes rape. Proof of either is sufficient to convict the culprit. Neither did the absence of a weapon, such as a knife, during the second sexual assault on August 14, 1993 discount the existence of rape. It is not necessary that the force or intimidation employed in accomplishing the crime be so great or of such character as could not be resisted. The force necessary in rape is relative depending on the age, the size and the strength of the parties. The private complainant was only 14 years of age when the appellant, whom she positively identified then, raped her a second time in 1993.

3. **REMEDIAL LAW; EVIDENCE; CREDIBILITY OF WITNESSES; TRIAL COURT'S VIEW IS ACCORDED DUE RESPECT; RATIONALE.** — Generally, the Court accords due deference to the trial court's views on the issue of credibility. It is in a better position to assess the credibility of witnesses considering its opportunity to observe their demeanor as well as their deportment and manner of testifying during the trial.

4. **ID.; ID.; ID.; ESTABLISHED WHEN THE VICTIM TESTIFIES IN AN HONEST AND STRAIGHTFORWARD MANNER; CASE AT BAR.** — Private complainant's testimony gave an honest, candid and categorical account of the sexual assaults perpetrated by the appellant against her. Even on cross-examination, the private complainant was consistent in her recollection of the details of her defloration. She never wavered in pointing to appellant as her rapist on both occasions. A rape victim who testifies in an honest and straightforward manner and remains consistent is a credible witness. Besides,

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it being instinctive for a very young, unmarried woman to protect her honor, it is difficult to believe that she would fabricate a tale of defloration, allow the examination of her private parts, reveal her shame to the small town where she grew up and permit herself to be the subject of gossip and public trial if she had not really been ravished. The alleged motive of the private complainant in filing rape charges against the appellant does not inspire belief. The appellant failed to establish that the private complainant was suffering from such moral debauchery as to be capable of weaving an intricate tale of serious offense against her own uncle in a malicious design to avenge an imagined rumor-mongering.

5. **ID.; ID.; ID.; ID.; NO STANDARD FORM OF BEHAVIORAL RESPONSE WHEN UNDERGOING A SHOCKING OR STARTLING EXPERIENCE.** — The appellant cannot successfully impugn the credibility of the private complainant on account of her alleged "normal" behavior after both sexual assaults. It must be borne in mind that different people respond differently to a given stimulus or type of situation and there is no standard form of behavioral response when one undergoes a shocking or startling experience. The demeanor of the private complainant was understandable in the light of the circumstances in both incidents of rape. She did not immediately disclose her misfortune to anybody because of the death threats from the appellant. Being in her early teens, she was obviously cowed into silence as the appellant warned her not to divulge the incident to anybody, otherwise she and her family would be killed. Such threat from the appellant, for sure, generated much fear in her mind.

6. **ID.; ID.; ID.; ID.; NOT AFFECTED BY THE DELAY IN MAKING A CRIMINAL ACCUSATION.** — It has been held in a number of cases that delay or vacillation in making a criminal accusation does not necessarily impair the credibility of a witness if such delay is satisfactorily explained. Fear of reprisal, social humiliation, familial considerations and economic reasons have been held as sufficient explanations.

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APPEARANCES OF COUNSEL

The Solicitor General for plaintiff-appellee.
Public Attorneys Office for accused-appellant.

D E C I S I O N

CORONA, *J.*:

This is a petition for review on *certiorari* of the decision[1] of the Regional Trial Court of Tabaco, Albay, Branch 16, in Criminal Case Nos. T-3001 and T-3002 convicting herein appellant, Nazario B. Buates, of two counts of rape and sentencing him to suffer the penalty of *reclusion perpetua* for each count.

The appellant, Nazario Buates *y* Bitara, was charged with two counts of the crime of rape defined and penalized under Article 335 of the Revised Penal Code in two separate informations which, save for the date, time and age of the victim when the crimes were alleged to have been committed,[2] are identically worded:

Criminal Case No. T-3001

That on August 14, 1993 at 7:00 o'clock in the evening, more or less, at Barangay San Roque, Municipality of Malilipot, Province of Albay, Philippines and within the jurisdiction of the Honorable Court, the above-named accused, with lewd and unchaste design, by means of force, threat and intimidation and while armed with a knife, did then and there wilfully, unlawfully and feloniously have carnal knowledge with his own niece, JENNIFER BUATES, 14 years of age, against her will and consent, to her damage and prejudice.

Upon being arraigned, herein appellant, assisted by his counsel, entered separate pleas of "not guilty" to both charges. Pre-trial was waived by the appellant at that time when pre-trial was not yet mandatory in criminal cases.

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[1] Penned by Judge Cezar A. Bordeos. Original Records. pp. 140–150.

[2] In Criminal Case No. T-3002. the crime was alleged to have been committed on July 28. 1990 at around 5:00 in the afternoon when the victim was then allegedly 11 years old.

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Considering that the two criminal cases involved the same accused and the same victim, and the difference in the two informations referred only to the time of the commission of the offenses and the age of the victim, the parties agreed to a joint trial.

It appears from the evidence adduced by the prosecution that, on July 28, 1990, at around 5:00 p.m., Jennifer Buates was on her way home to San Jose, Malilipot, Albay, when the appellant called her, allegedly to give her something. As Jennifer approached the appellant, the latter pointed a knife at her and told her to undress. Fearful for her life, Jennifer undressed, followed by the appellant. Thereafter, he ordered her to lie down on the grassy portion of the area. He spread her legs and inserted his penis into her vagina while she cried and felt severe pain. The appellant appeared to have shivered before finally pulling out his penis. He instructed Jennifer to dress up and warned her not to tell her family about the incident, otherwise they would all be killed.[3]

After the incident on July 28, 1990, the appellant often followed Jennifer from school and succeeded in molesting her several times more before August 14, 1993. On the latter date, Jennifer was walking back home from the store at around 7:00 p.m. when the appellant suddenly covered her mouth and led her to a *pili* tree near the road. The appellant told her to undress and lie down. Thereafter, he removed his pants and underwear before inserting his penis into her vagina. Jennifer felt pain but could not resist the sexual assault that lasted for about ten minutes due to appellant's threats.[4]

In December 1994, Jennifer went to live with her grandmother in Angono, Rizal, one month after her own father allegedly molested her on November 16, 1994. Subsequently, she stayed with an aunt in Sta. Cruz, Manila before transferring to another aunt, a certain Enrica Provido, to whom she finally revealed her harrowing experience in the hands of the appellant and her

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[3] TSN, November 11, 1998, pp. 4–8.

[4] *Id.*, pp. 13–16.

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own father. Consequently, Enrica called Jennifer's mother, Gliceria Buates, in Bicol and related her daughter's ordeal.[5]

Gliceria confronted her husband, Marciano Buates, about their daughter's revelation and asked him to leave the house. When Marciano refused, Gliceria sought the assistance of their *barangay* captain and reported the matter to the police. Meanwhile, Jennifer was prevailed upon by Enrica to lodge a complaint against the appellant.[6]

During the investigation, Jennifer underwent physical examination at the Municipal Health Unit of Malilipot, Albay.[7] Dr. Arsenia M. Moran, M.D. testified that she conducted a physical examination on Jennifer Buates on June 25, 1998 and issued a medical certificate[8] with the following findings:

HYMEN: healed laceration, incomplete at 2,8,9,10,11 o'clock and complete at 3,7,12 o'clock with rounded non-coaptable borders and retraction of the edges.

Dr. Moran also testified that private complainant already had the lacerations in her genitalia for sometime and that the same may have been due to sexual intercourse. However, this witness stated that hymenal lacerations, such as those sustained by the private complainant, could also be caused by trauma or other strenuous activities.[9]

Appellant Nazario Buates denied that he raped his niece on those two occasions. He claimed that Jennifer merely fabricated the charges on suspicion that he was spreading vile rumors against her (*sawsawan ng bayan*). Appellant learned of the motive from his sister after his temporary detention in connection with these criminal cases.[10]

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[5] *Id.*, pp. 16–17; TSN, February 23, 1999, pp. 3–7.

[6] November 11, 1998, p. 19.

[7] *Id.*, pp. 20–22.

[8] Exhibit "C."

[9] TSN, February 23, 1999, pp. 13–18.

[10] TSN, May 17, 1999, pp. 3–7.

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Serafina Benitez and Victor Bonafus were presented as witnesses by the defense. They corroborated the testimony of the appellant. Serafina Benitez testified that, on June 24, 1998, she passed by the residence of a certain Roberto Base in Barangay San Roque, Malilipot, Albay. She chanced upon Jennifer and her friend, Madelyn Gabon, conversing in the porch of Roberto's house. From a distance of about three meters, she overheard Jennifer, who was in tears, telling her friend that she would file a case against the appellant for saying that she was a *sawsawan*.[11]

For his part, Victor Bonafus stated that he saw Jennifer with Madelyn in front of the house of Roberto Base in the afternoon of June 24, 1998. From a distance of two meters, Victor also heard Jennifer telling her friend that she was extremely mad at the appellant for spreading the rumor that she was a *pasa-pasa*, which he interpreted to mean that Jennifer had passed from one man to another.[12]

Gliceria was presented by the defense as a hostile witness. She identified and affirmed in court the contents of her sworn statement[13] against her husband, Marciano Buates.[14]

By way of rebuttal, Jennifer was recalled to the witness stand and belied that she merely fabricated the criminal charges against the appellant. She likewise belied the testimonies of defense witnesses Serafina and Victor. According to Jennifer, she was at home on the date and at the time the said defense witnesses claimed to have chanced upon her conversing with Madelyn at the house of Roberto.[15]

On October 14, 1999, the trial court rendered a decision finding the appellant guilty beyond reasonable doubt of the crime of rape in both cases, the dispositive portion of which read:

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[11] TSN, April 13, 1999, pp. 5–6.

[12] *Id.*, pp. 20–22.

[13] Exhibit "1."

[14] TSN, February 23, 1999, pp. 22–26.

[15] TSN, June 15, 1999, pp. 2–3.

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WHEREFORE, premises considered, the accused NAZARIO BUATES *Y* BITARA of San Roque, Malilipot, Albay is hereby found GUILTY beyond reasonable doubt of two (2) counts of rape and he is hereby sentenced to suffer the penalty of:

1. Imprisonment of *RECLUSION PERPETUA* and to pay Jennifer Buates the sum of FIFTY THOUSAND PESOS (₱50,000.00) as indemnity and to pay the cost in Criminal Case No. T-3001; and

2. Imprisonment of *RECLUSION PERPETUA* and to pay Jennifer Buates, the sum of FIFTY THOUSAND PESOS (₱50,000.00) as indemnity and to pay the cost in Criminal Case No. T-3002.

SO ORDERED.[16]

In his Brief,[17] appellant raised the following assignments of error before us:

I

THE COURT *A QUO* GRAVELY ERRED IN GIVING WEIGHT AND CREDENCE TO THE INCREDIBLE TESTIMONY OF JENNIFER BUATES.

II

THE COURT *A QUO* ERRED IN NOT FINDING THAT JENNIFER BUATES WAS IMPELLED BY IMPROPER MOTIVE IN FILING THE TWO (2) CRIMINAL COMPLAINTS AGAINST NAZARIO BUATES.

III

THE COURT *A QUO* ERRED IN FINDING THAT THE GUILT OF THE ACCUSED-APPELLANT IN CRIMINAL CASE T-3001, AUGUST 14, 1993, HAS BEEN PROVEN BEYOND REASONABLE DOUBT.

IV

THE COURT *A QUO* GRAVELY ERRED IN FINDING THAT THE GUILT OF THE ACCUSED-APPELLANT IN CRIMINAL CASE T-3002, HAS BEEN PROVED BEYOND REASONABLE DOUBT.

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[16] See Note No. 1.

[17] *Rollo*, pp. 37–55.

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Appellant principally assails the credibility of Jennifer, claiming that her actuations after the alleged commission of each act of rape were not typical of a rape victim. Specifically, appellant points out that Jennifer continued to take a bath alone and fetch water from the river near where the appellant allegedly raped her on July 28, 1990. She also took the same path on her way to school where the second sexual assault allegedly took place on August 14, 1993. Moreover, Jennifer remained respectful of the appellant. In addition, she did not inform any member of her family about the alleged sexual assaults in 1990 and 1993 but only after several years, in 1998.

At any rate, appellant is emphatic that the prosecution failed to prove that Jennifer was threatened on both occasions by him. It was not categorically shown that said appellant pointed a knife at Jennifer during the sexual assault on July 28, 1990. It also failed to establish that she was below 12 years old on the said occasion. Regarding the alleged subsequent sexual assault on August 14, 1993, the identity of the perpetrator, who was admittedly not armed, was doubtful inasmuch as the alleged crime occurred at around 7:00 p.m. in an isolated place and the attacker, who came from behind, immediately covered her mouth.

On the other hand, the appellee, represented by the Office of the Solicitor General (OSG), maintains that the trial court did not err in giving full faith and credence to Jennifer's testimony pointing to the appellant as the perpetrator of both crimes. The prosecution was able to prove beyond reasonable doubt the liability of the appellant in each case.[18]

In the review of rape cases, we are almost invariably guided by the following principles: (1) an accusation for rape can be made with facility; it is difficult to prove but more difficult for the person accused, though innocent, to disprove it; (2) in view of the intrinsic nature of the crime of rape where only two persons are usually involved, the testimony of the complainant must be scrutinized with extreme caution; and (3) the evidence for the prosecution must stand or fall on its own merits and cannot be allowed to draw strength from the weakness of the

[18] *Rollo*, pp. 83–115.

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evidence for the defense.[19] Therefore, the credibility of the private complainant is crucial to the outcome of these cases for it is well-settled that conviction or acquittal depends almost entirely on the credibility of the victim's testimony.[20]

Generally, the Court accords due deference to the trial court's views on the issue of credibility. It is in a better position to assess the credibility of witnesses considering its opportunity to observe their demeanor as well as their deportment and manner of testifying during the trial.[21] Here, after analyzing the evidence, the court *a quo* gave full faith and credence to the testimony of the private complainant that appellant did in fact rape his niece, Jennifer Buates on July 28, 1990 and August 14, 1993.

We do not find any cogent reason to overturn the conclusion of the trial court. Private complainant's testimony gave an honest, candid and categorical account of the sexual assaults perpetrated by the appellant against her. Even on cross-examination, the private complainant was consistent in her recollection of the details of her defloration. She never wavered in pointing to appellant as her rapist on both occasions. A rape victim who testifies in an honest and straightforward manner and remains consistent is a credible witness.[22]

Besides, it being instinctive for a very young, unmarried woman to protect her honor, it is difficult to believe that she would fabricate a tale of defloration, allow the examination of her private parts, reveal her shame to the small town where she grew up and permit herself to be the subject of gossip and public trial if she had not really been ravished.[23] The alleged

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[19] *People vs. Gallo*, 284 SCRA 590, 612 [1998]; *People vs. Butron*, 272 SCRA 352, 357–358 [1997]; *People vs. Corea*, 269 SCRA 76, 88 [1997].

[20] *People vs. Fundano*, 291 SCRA 356, 367 [1998]; *People vs. Lusa*, 288 SCRA 296, 303 [1998]; *People vs. Julian*, 270 SCRA 733, 746 [1997]; *People vs. Quitoriano*, 266 SCRA 373, 376 [1997].

[21] *People vs. Bali-balita*, 340 SCRA 450, 467 [2000].

[22] *People vs. Mendiola*, 337 SCRA 418, 429 [2000].

[23] *People vs. Ranido*, 288 SCRA 369, 380 [1998]; *People vs. Taneo*, 284 SCRA 251, 269 [1998].

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motive of the private complainant in filing rape charges against the appellant does not inspire belief. The appellant failed to establish that the private complainant was suffering from such moral debauchery as to be capable of weaving an intricate tale of serious offense against her own uncle in a malicious design to avenge an imagined rumor-mongering.

The appellant cannot successfully impugn the credibility of the private complainant on account of her alleged "normal" behavior after both sexual assaults. It must be borne in mind that different people respond differently to a given stimulus or type of situation and there is no standard form of behavioral response when one undergoes a shocking or startling experience.[24] The demeanor of the private complainant was understandable in the light of the circumstances in both incidents of rape. She did not immediately disclose her misfortune to anybody because of the death threats from the appellant. Being in her early teens, she was obviously cowed into silence as the appellant warned her not to divulge the incident to anybody, otherwise she and her family would be killed. Such threat from the appellant, for sure, generated much fear in her mind.

Admittedly, the private complainant continued to take a bath alone and fetch water from the river near where she was first raped by the appellant. She also went to school alone despite the fact that the appellant always waited for her on the way to their house. It must be emphasized, however, that the private complainant was under constant threat from the appellant. She harbored the pain in her heart to keep her embarrassing defloration a secret. Besides, she testified that their house was located in the uphill portion of Barangay San Roque, Malilipot, Albay. Due to the relative isolation of the place, the water supply of the family had to be sourced from down the Bulawan river.[25] Likewise, from their remote location, the private complainant had to walk about 20 minutes to reach the *barangay* road where she could take a ride to school.[26] In other words, and as correctly

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[24] *People vs. Luzorata*, 286 SCRA 487, 491 [1998].

[25] TSN, November 11, 1998, p. 16; TSN, February 1, 1999, pp. 6–7.

[26] TSN, February 1, 1999, p. 5.

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pointed out by the OSG, their lowly station in life simply offered no other option for the private complainant but to continue doing those things.

It was extremely ludicrous for the appellant to claim the continued respect and affection of the private complainant solely from the latter's customary act of obtaining his blessing (*pagmamano*). The private complainant herself clarified that the practice was an involuntary gesture to keep the public from getting wind of her sorry episode of defloration and to maintain her honor.[27]

Moreover, it was not correct for appellant to claim that the private complainant lodged a complaint with the police only in 1998, or several years after she was raped by the appellant. The private complainant testified that she went to the police station after the first rape on July 28, 1990 but was unable to say anything[28] for fear that the appellant might make good his threats. And later, even when private complainant was already living with her aunt in Manila, her family in Bicol remained vulnerable to appellant's threats. Her silence notwithstanding, rumors still began to spread in their town that she was a girl of loose morals (*sawsawan ng bayan*). To make matters worse, she learned that the appellant and his family were the ones fanning the rumors. This proved to be the last straw for the private complainant. She lodged a complaint with the police authorities in Malilipot, Albay if only to set matters straight and redeem her besmirched reputation. It has been held in a number of cases that delay or vacillation in making a criminal accusation does not necessarily impair the credibility of a witness if such delay is satisfactorily explained. Fear of reprisal, social humiliation, familial considerations and economic reasons have been held as sufficient explanations.[29]

The appellant next argues that the prosecution was unable to prove the existence of force, threat or intimidation in both cases.

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[27] TSN, November 11, 1998, pp. 30–32.

[28] TSN, February 1, 1999, p. 9.

[29] *People vs. Lusa, supra*, p. 305 citing *People vs. Fuensalida*, G.R. No. 119963, November 6, 1997.

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This argument of the appellant is belied by the testimony of the private complainant which we have already ruled to be credible. Recounting her horrible experience on July 28, 1990, the private complainant testified, as follows:

Q And after that, what happen (*sic*)?
A When I approached him, I asked him why he has (*sic*) a knife.
Q And what was his reaction, if any, after you asked him why he has (*sic*) a knife?
A He told me that he was going to do something there.
Q And what happen (*sic*) next?
A After that, he approached me and told me to keep quiet and after that he told me to remove my dress.
Q And what did you do after you were told to remove your dress?
A I obeyed what my uncle told me because I was afraid.
Q While you were undressing, what did the accused do with his knife?

x x x x x x x x x

A That knife was pointed in my right side of my body.
Q And because of that threat made by the accused on you by means of knife, what did you feel if any?
A I was afraid, sir.
Q And because you were afraid, what did you do after you were being told to undress by the accused?
A After I undressed myself he told me to lie down.
Q And what did you do when you were told by the accused to lie down?
A I lie (*sic*) down.
Q What happen (*sic*) next after you lie (*sic*) down?
A After I lie (*sic*) down he also removed his shirt and pants.
Q And what happened after he removed his shirt and pants?
A He immediately put his body on top of me.

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Q When the accused after undressing put his body on top of you, what happen (*sic*) next?

A He spreaded (*sic*) my legs and he inserted his penis in my vagina.

INTERPRETER:

At this juncture the witness is crying.

PROS. PIFANO:

Q What happen (*sic*) after the accused inserted his penis on your vagina?

I also would like to make it of record that while testifying the accused is shedding tears.

WITNESS:

A It took him a long time to insert his penis into my vagina and after that he was somewhat shivering and after that he removed his penis in (*sic*) my vagina.

Q And what did you feel when accused inserted his penis in your vagina?

A It was very painful sir.

Q After the accused has removed his penis from your vagina, what happen (*sic*) next?

A After that incident I was crying and he told me to dress up and he also told me that I should not told (*sic*) my parents about the incident because he will kill us all.[30]

As to the unfortunate event on August 14, 1993, the private complainant vividly recalled that:

Q And what did you feel when the accused sexually abused you on August 14, 1993?

A It was painful sir and I felt numb and what I was thinking was his threat on me.

Q What is that threat made upon you?

A He threatened that he will kill us.[31]

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[30] TSN, November 11, 1998, pp. 5–7.

[31] *Id.*, pp. 14–15.

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In a desperate attempt to exculpate himself, the appellant contends that it was not clear from the testimony of the private complainant if he was holding and pointing the knife at her while having sexual intercourse on July 28, 1990. There is no need to belabor this issue since the act of holding a knife, by itself, is strongly suggestive of force or at least intimidation, and threatening the victim with it is more than sufficient to bring a woman to submission.[32]

There being force and intimidation during the rape on July 28, 1990, it is pointless to discuss whether or not the private complainant was below 12 years of age on said date. Under the law, having carnal knowledge of a woman through force and intimidation or when she is below 12 years of age constitutes rape. Proof of either is sufficient to convict the culprit.

Neither did the absence of a weapon, such as a knife, during the second sexual assault on August 14, 1993 discount the existence of rape. It is not necessary that the force or intimidation employed in accomplishing the crime be so great or of such character as could not be resisted.[33] The force necessary in rape is relative depending on the age, the size and the strength of the parties.[34] The private complainant was only 14 years of age when the appellant, whom she positively identified then, raped her a second time in 1993.

Section 11 of RA 7659[35] explicitly states:

x x x x x x x x x

Whenever the crime of rape is committed with the use of a deadly weapon or by two or more persons, the penalty shall be *reclusion perpetua* to death.

x x x x x x x x x

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[32] *People vs. Reynaldo*, 291 SCRA 701, 713–714 [1998].

[33] *People vs. Alfeche*, 294 SCRA 352, 372 [1998].

[34] *People vs. Mostrales*, 294 SCRA 701, 710–711 [1998]; *People vs. Moreno*, 294 SCRA 728, 739 [1998].

[35] Death Penalty Law.

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There being no mitigating nor aggravating circumstances in both cases, the lower penalty should be imposed. Thus, the trial court correctly imposed the penalty of *reclusion perpetua* and the award of ₱50,000 for each count of rape. Pursuant to prevailing jurisprudence, an additional award of ₱50,000 for each count should be given the private complainant by way of moral damages.[36]

WHEREFORE, the joint decision of the Regional Trial Court of Tabaco, Albay, Branch 16, in Criminal Case Nos. T-3001 and T-3002 is hereby *AFFIRMED* with the *MODIFICATION* that the appellant is ordered to pay the private complainant an additional amount of ₱50,000 for each count of rape as moral damages.

SO ORDERED.

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

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[36] *People vs. Reyes*, 315 SCRA 563, 578 [1999].