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THIRD DIVISION

[G.R. No. 142751. September 30, 2003]

PEOPLE OF THE PHILIPPINES, *appellee, vs.* **RODRIGO "RUDY" OPELIÑA and MARY ROSE LEONES OPELIÑA,** *appellants.*

SYNOPSIS

The trial court found appellants guilty beyond reasonable doubt of having conspired together in raping their househelper. They were sentenced to suffer the penalty of *reclusion perpetua*. Hence, the present appeal.

In affirming the conviction of appellants, the Supreme Court ruled that the absence of extra-genital injuries on the victim does not negate the occurrence of rape, proof of injury not being an essential element thereof. The failure of the victim to shout for help does not likewise negate rape.

The Court likewise ruled that in cases involving married couples under facts and circumstances similar to those obtaining in the present case, it had appreciated the presence of conspiracy. In the case at bar, it was established by the prosecution that appellant Mary Rose summoned the victim into their bedroom, locked the door to prevent her escape, pinned her down while Rogelio had sexual intercourse with her, told her thrice to just bear the pain, and cautioned her not to divulge what transpired among them. Clearly, appellants conspired in the commission of the rape.

SYLLABUS

1. **CRIMINAL LAW; RAPE; NOT NEGATED BY ABSENCE OF EXTRA-GENITAL INJURIES ON VICTIM.**— That no extra-genital injuries were noted in Merrylin does not necessarily negate the occurrence of rape, proof of injury not being an essential element thereof.

2. **ID.; ID.; NOT NEGATED BY FAILURE OF THE VICTIM TO SHOUT FOR HELP; CASE AT BAR.**— That Merrylin failed to shout

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to awaken the other occupants of the house does not mean that she submitted herself to appellants voluntarily. Failure of the victim to shout for help does not negate rape. At all events, Merrylin explained that she was unable to make any outcry as Rodrigo was covering her mouth with his hand.

3. ID.; ID.; PRIOR SEXUAL INTERCOURSE WITH A DIFFERENT PERSON IS IRRELEVANT IN A RAPE CASE.— The attempt of the defense witnesses to depict Merrylin as a sexually promiscuous woman deserves scant consideration. For prior sexual intercourse with a different person is irrelevant in a rape case.

4. ID.; CONSPIRACY; WHEN PRESENT.— A conspiracy exists when two or more persons come to an agreement concerning the commission of a felony and decide to commit it. It may be inferred from the acts of the accused which evince a joint or common purpose and design, concerted action and community of interest, before, during and after the commission of the crime.

5. ID.; ID.; APPRECIATED IN RAPE CASES INVOLVING MARRIED COUPLES; CASE AT BAR.— In cases involving married couples under facts and circumstances similar to those obtaining in the present case, this Court had appreciated the presence of conspiracy. ... In the instant case, it was established by the prosecution that Mary Rose summoned Merrylin into their bedroom, locked the door to prevent her escape, pinned her down while Rogelio had sexual intercourse with her, told her thrice to just bear the pain, and cautioned her not to divulge what transpired among them. Clearly, appellants conspired in the commission of the rape.

6. ID.; RAPE; THE PENALTY SHALL BE *RECLUSION PERPETUA* TO DEATH IF RAPE IS COMMITTED BY TWO OR MORE PERSONS.— Article 266-B of the Revised Penal Code provides that whenever rape is committed by two or more persons, the penalty shall be *reclusion perpetua* to death. In the case at bar, the Information sufficiently alleged that appellants conspired and mutually helped one another in the commission of the crime. There being no aggravating circumstance, however, the proper imposable penalty is *reclusion perpetua*.

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APPEARANCES OF COUNSEL

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

D E C I S I O N

CARPIO MORALES, *J.*:

Appellants, spouses Rodrigo "Rudy Opeliña and Mary Rose Leones Opeliña, having been found guilty beyond reasonable doubt of the crime of rape by the Regional Trial Court (RTC), Branch 19, Cagayan de Oro City in a December 16, 1999 decision, they lodged the present appeal.

The inculpatory portion of the Information[1] dated April 20, 1998 charging appellants for the rape of their househelper Merrylin Rambuyon (Merrylin) reads as follows:

That on April 5, 1998, at about midnight, at Gemini Street, Phase I, Villa Ernesto Subdivision, Gusa, Cagayan de Oro City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, who are spouses, conspiring, confederating together and mutually helping one another, with force, violence and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of one Merrylin Labanes Rambuyon, a 15 year old minor, and househelper of both accused, against the latter's will by then and there inviting (by accused Mary Rose Leones Opeliña) the said minor to their (accused couple's) bedroom, while both accused were all naked, and while the said minor victim was already inside the bedroom accused Mary Rose Leones Opeliña locked the bedroom's door, and accused Rodrigo "Rudy" Opeliña undressed the said victim, pushed her to the bed, accused Mary Rose Leones Opeliña held the right arm of the victim tightly while the other accused held the minor's other arm, then accused Rodrigo "Rudy" Opeliña started kissing the victim's face, ears and down to her breasts, laid himself on top of her and inserted his penis on the victim's vagina, to which the victim cried and shouted for help as she felt pain everytime the penis of the accused penetrated her vagina walls, at this point accused Mary

[1] *Rollo* at 2.

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Rose Leones Opeliña told the victim to just bear the pain, his penis had full penetration on her vagina, which unlawful acts were done all against the victim's will, with threats to kill her should she report the same to anybody.

Contrary to Article 335 of the Revised Penal Code as amended by R.A. 8353.

When arraigned on May 22, 1998,[2] appellants, duly assisted by counsel, pleaded not guilty to the charge, whereupon trial commenced.

The following facts are not disputed or refuted.

Private complainant Merrylin was hired as a househelper in Cagayan de Oro City by appellants on April 1, 1998. Four days later or on April 5, 1998, at about midnight, Merrylin was awakened from her slumber in the living room located at the ground floor of appellants' 2-storey house by appellant Mary Rose Opeliña (Mary Rose). She was told to open the main door of the house upon the arrival of Mary Rose's husband, appellant Rodrigo Opeliña (Rodrigo). Soon after, Rodrigo arrived and proceeded to the bedroom at the ground floor of the house which he shared with his wife. After Merrylin lay down to sleep, she heard Mary Rose call for her and so she went inside appellants' bedroom.

Upon entering appellants' room, Rodrigo and Mary Rose undressed themselves until both were stark naked. Mary Rose immediately locked the door,[3] while Rodrigo approached Merrylin, held her shoulders, removed her clothes, dragged her and pushed her to the bed. He then mounted Merrylin, kissed her lips, licked her neck and sucked her breasts. He proceeded to insert his penis into her vagina and made "pumping" motions.[4] All this time, Mary Rose was by Merrilyn's right side, holding her down by pinning her hand to the bed and telling her to "bear the

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[2] Records at 30.

[3] TSN, August 17, 1998 at 55.

[4] *Id.* at 14.

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pain."[5] Mary Rose subsequently told her husband "that is enough, Rod, let's do it next."[6]

Rodrigo thereupon proceeded to mount his wife and have sexual intercourse with her.

Thus spawned the charge of rape against appellants.

From the evidence for the prosecution consisting of the testimonies of Merrylin, radio station reporter Willy Baylon, social worker Aida Ramber and Dr. Tammy L. Uy and some documents, the following details of the post-sexual intercourse with Merrylin were established.

As Rodrigo started to have sexual intercourse with Mary Rose, Merrylin started to put on her clothes and noticed that her vagina was bleeding. Sensing what Merrylin was doing, Mary Rose told her to stay in the room "because your *Kuya* would fuck you again."[7] Merrylin, however, pleaded to be allowed to leave because she felt severe pain in her vagina, but the same fell on deaf ears, and she could not open the door.[8] At dawn of the day following, at approximately 3 a.m., Merrylin was finally able to get out of the room after Mary Rose unlocked the door. She then returned to the living room and tried, with much difficulty, to sleep.

At about 5 a.m., Mary Rose woke Merrylin up and the two repaired to a nearby river to do their laundry. While at the river, Mary Rose told Merrylin not to talk about what had occurred.[9] After they returned home, Merrylin hanged the laundered clothes and was soon advised by Rodrigo to take her breakfast.

Merrylin refused to eat, however. She just proceeded to tend to appellants' one year old child. As the child soon fell asleep,

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[5] *Id.* at 16.

[6] TSN, August 17, 1998 at 17.

[7] *Id.* at 18.

[8] TSN, August 19, 1998 at 73.

[9] TSN, August 17, 1998 at 24.

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Merrylin went outside the house, reflecting on what had happened to her. It was then that Arthur Leones, Mary Rose's father, called her and ordered her to get inside the house. She ignored him, however, prompting him to go outside, pull her hair and thrice slam her head on the wall.[10]

Merrylin thus went inside the house and told her friend Titing, a neighbor of appellants on whose solicitation she was hired as appellants' househelper, that she had been mauled by Arthur. Titing proceeded to seek help from police authorities. In the meantime, Mary Rose took her child from the bed, she telling Merrylin that she would report her to the police because she left her child unattended. At about 9:00 p.m., a policeman arrived and brought Merrylin, who was accompanied by Ely Agbu, another friend, to a police station — "office of Agora" — where Mary Rose was already reporting that Merrylin had left her child unattended. Overcome by fear at Mary Rose's presence, Merrylin only reported her maltreatment by Arthur Leones.[11] After she was interviewed by the policeman, she was accompanied by the police to the Northern Mindanao Medical Center for determination of the presence of head injuries. None was found, however.

As Merrylin and Ely were starting to walk on their way home, a taxicab stopped in front of them and asked them what happened. Ely replied that Merrylin was raped by her employer, drawing the driver to bring them to a radio station, DXCC, where Merrylin was interviewed by reporter Willy Baylon. Merrylin was later brought to the Department of Social Welfare and Development (DSWD) in Macanhan, Carmen, Cagayan de Oro.

At the DSWD, Merrilyn recounted the rape incident to social worker Aida Ramber who instructed her to proceed to the National Bureau of Investigation (NBI) for physical examination. On the same day, at the NBI Medico-Legal Division, Northeastern

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[10] *Id.* at 26.

[11] *Id.* at 28.

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Mindanao Regional Office, Dr. Tammy L. Uy, medico-legal officer, conducted a physical examination on her which yielded the following results:

GENITAL EXAMINATION:

Pubic hairs, fully grown, scanty. Labiae majora and minora, both coaptated. Fourchette, moderately tight. Vestibular mucosa, pinkish, with abrasion at its posterior aspect, and with fibrin. Hymen, tall, thick, fleshy, with healing, complete laceration at 6:00 o'clock position, with fibrin bleeds on slight manipulation, and with congested, edematous edges. Hymenal orifice, originally annular, admits a glass tube of 2.5 cms. With moderate resistance. Vaginal walls, tight; rugosities, prominent.

CONCLUSION:

Genital findings, compatible with sexual intercourse with man on or about the alleged date of commission of rape.[12] (Emphasis supplied)

On April 8, 1998 or three days after the commission of the alleged rape, Merrylin executed a sworn statement[13] before Supervising Agent Patricio S. Bernales at the NBI.

Appellants denied the accusation. Rodrigo admitted, however, that on account of an agreement between Merrylin and his wife Mary Rose that he and Merrylin would have sexual intercourse so that the supposed unborn child in Merrylin's womb would be aborted, he was forced to have sexual intercourse with Merrylin in Mary Rose's presence, and Merrylin actually enjoyed their coitus because she responded by embracing him tightly.

Mary Rose, corroborating Rodrigo's version, declared that Merrylin had approached her and told her that she wanted to have sexual intercourse with Rodrigo in order to abort the fetus that she suspected was in her womb. She thus agreed to the proposition because she wanted to help her.

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[12] Exhibit "A". Records at 470.

[13] Exhibit "D". Records at 6.

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Finding for the prosecution, the trial court convicted appellants by the assailed decision of December 16, 1999, the dispositive portion of which reads:

> WHEREFORE, the court finds both accused guilty beyond reasonable doubt of the crime of rape committed by accused on the person of Merrylin Rambuyon, and so it hereby sentences them to *reclusion perpetua*, orders them solidarily, to indemnify her in the sum of ₱75,000, to pay her moral damages in the sum of ₱50,000.00 and to pay the costs.
>
> The accused's custodian is hereby ordered to ship them to the proper higher authorities following promulgation without delay.
>
> SO ORDERED.[14]

Hence, the present appeal, appellants assigning the following errors to the trial court:

> I. THE TRIAL COURT ERRED IN GIVING FULL FAITH AND CREDENCE TO THE TESTIMONY OF PRIVATE COMPLAINANT AND DISREGARDING THE THEORY OF THE DEFENSE.
>
> II. THE TRIAL COURT ERRED IN FINDING ACCUSED SPOUSES GUILTY BEYOND REASONABLE DOUBT OF HAVING CONSPIRED TOGETHER TO RAPE PRIVATE COMPLAINANT.[15]

Appellants posit that Merrylin's claim that she was forced to have sexual intercourse is rendered suspect by the absence of extra-genital injuries on her body,[16] as well as by the fact that the other occupants of the house did not hear any unusual noise or commotion at the time the rape was allegedly committed;[17] that Merrylin's conduct immediately after the incident belies that she was raped;[18] that Merrylin's complaint

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[14] *Rollo* at 50.

[15] *Id.* at 74.

[16] *Id.* at 88.

[17] *Id.* at 89-90.

[18] *Id.* at 90-91.

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for rape was a mere afterthought, her primary purpose of going to the police authorities being only to report the mauling incident involving Mary Rose's father;[19] that Merrylin had a paramour with whom she had sexual intercourse, thus lending credence to their version that she suspected that she was pregnant and initiated the idea of sexual intercourse with Rodrigo to abort her child;[20] and that Merrylin's failure to make any outcry during the incident renders her charge dubious.[21]

After a considered review of the records of the case, this Court finds that the trial court did not err in finding appellants guilty beyond reasonable doubt of the crime of rape.

As the following account of Merrylin, which was uttered with sobs, shows, there is no doubt that force attended the sexual intercourse:

Q: When *Ate* [Mary Rose] called you up what happened?

A: I went inside the room.

x x x x x x x x x

Q: When you were inside the room what happened?

A: They undressed themselves.

Q: Who undressed themselves?

A: *Ate* and *Kuya*.

x x x x x x x x x

Q: What were their positions while they were undressing themselves?

A: They were standing beside the bed.

Q: How far were they from one another?

A: Very near.

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[19] *Id.* at 91.

[20] *Id.* at 92.

[21] *Ibid.*

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Q: Can you point a distance (sic) to approximate the distance to one of the other?

A: About 50 cm.

x x x x x x x x x

Q: After you observed your *Ate* and *Kuya* undressing themselves what happened next?

A: *Kuya* went near me.

Q: When he was near you what happened?

A: *Kuya held my two shoulders.*

Q: How many hands were used by *Kuya*?

A: Both hands.

Q: After you were held by *Kuya* what happened next?

A: *He dragged me towards the bed.*

Q: When you were near the bed what happened next?

A: *Kuya pushed me to lie down on the bed on my back.*

Q: When you were on the bed what happened next?

A: When I was lying on the bed, *Ate held my right hand.*

Q: Where was your *Ate* when she was holding your hand?

A: She was on the bed Sir.

Q: After that what happened next?

COURT: (*Witness at this point is sobbing*)

A: *Kuya* mounted on (sic) me and kissed my lips.

Q: After *Kuya* mounted on (sic) you and kissed your lips what happened next?

A: He licked my neck and sucked my breasts.

Q: How may breast (sic) were sucked?

A: Both.

Q: After that what happened next?

A: Then he fucked me.

x x x x x x x x x

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Q: What did you feel when *Kuya* made pumping motions?

A: I felt severe pain.

Q: Where?

A: In my vagina Sir.

COURT: *At this juncture, the witness is sobbing while testifying.*

Q: Do you know the reason why the pumping movements being (sic) done?

A: Yes, your Honor because he inserted his penis inside my vagina.

Q: *While he was doing that where is your Ate*?

A: *She was holding my hand.*

COURT: (*Witness this time is crying already*)

Q: In relation to your body where was your *Ate*, is your *Ate* at the right side, left side or at your head?

A: On my right side.

x x x x x x x x x

Q: What did you observe before your *Kuya* stop pumping motions (sic)?

A: I felt severe pain.

Q: Where?

A: In my vagina.

Q: While *Kuya* was on top of you can you tell this court if you were dressed at that time.

A: I was undressed Sir.

Q: Who undressed you?

A: *Kuya.*

Q: When was that done?

A: At that time he held me.

Q: When you were at bed at that time?

A: While I was still standing.

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Q: Are you referring to the time he approached you and held your shoulder?

A: Yes, Sir that was the time he undressed me.

x x x x x x x x x

Q: How about your *Ate* did you hear from her?

A: Yes, Sir.

Q: What was that?

A: She said, "bear it Lyn".

Q: Can you remember the exact words uttered?

A: She said, "bear the pain Lyn".

Q: How many times she said that (sic)?

A: Three (3) times.

Q: Where was your *Kuya* when your *Ate* said that?

A: He was still on top of me he was still fucking me and panting.

COURT: (*All throughout witness is crying*)

Q: Where was your *Ate* specifically located at that time when she said that (sic) words: "bear the pain Lyn" and saying it three times?

A: Beside me Sir holding my hand.

Q: *Did you struggle to free yourself from Ate and Kuya*?

A: *I was wriggling to free myself from them but they held me.*

x x x x x x x x x

Q: When your *Kuya* stop (sic) pumping what happened next?

A: *Ate* said, "that is enough Rod," and "let's do it next". (Emphasis and italics supplied)

That no extra-genital injuries were noted in Merrilyn does not necessarily negate the occurrence of rape, proof of injury not being an essential element thereof.[22]

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[22] *People v. Flores*, 372 SCRA 421, 431 (2001) (citation omitted).

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Nor does Merrylin's resumption of discharging her duties as househelper after the rape took place militate against the commission of rape, there being no standard form of human behavioral response when one has just been confronted with an experience as heinous as the crime of rape, not to mention the fact that not every victim of a crime can be expected to act reasonably and conformably with the expectation of mankind.[23]

As for appellants' branding as mere afterthought the filing of the rape charge against them, this Court is not persuaded. For Merrylin gave a credible explanation why she failed to immediately report the rape incident — Mary Rose was already at the police station on the night of April 6, 1998 when she (Merrilyn) arrived there to report the rape incident. Thus she declared, quoted *verbatim*:

Q: When you arrived there what happened?

A: *When we arrived there I saw Ate Rose who had it blottered because she said that I left her child unattended.*

Q: How about you what happened?

A: The policeman asked me "what happened to you 'Day'? and I told him I was mauled by my employer and *Ate* Rose was there at that time.

Q: What else happened while in said station?

A: While there I saw *Ate* Rose smiling. Probably she thought I will not file a case against them. x x x

A: *I did not report the rape incident, only the mauling incident because I was afraid of Ate Rose because she was there during that time.*[24] (Italics supplied)

Appellants would have this Court believe that Merrylin initiated the sexual intercourse because she suspected that she was pregnant and wanted to abort the fetus in her womb.

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[23] *People v. Sevilla*, 320 SCRA 107, 114 (1999) (citation omitted).

[24] TSN, August 17, 1998 at 27-28.

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Such claim is too incredible to deserve even a tad of consideration, given Mary Rose's admission that she was not close to Merrylin as she was in fact in their employ for only four days. Evidence to be believed must not only proceed from the mouth of a credible witness but must foremost be credible in itself.[25]

But even assuming that Mary Rose was indeed overly-benevolent and she genuinely wanted to help Merrylin, she (Mary Rose), being a nursing graduate,[26] would have known that such an absurd, bizarre proposal in no way would accomplish Merrylin's alleged purpose.

That Merrylin failed to shout to awaken the other occupants of the house does not mean that she submitted herself to appellants voluntarily. Failure of the victim to shout for help does not negate rape.[27] At all events, Merrylin explained that she was unable to make any outcry as Rodrigo was covering her mouth with his hand.[28]

As for the claim of appellants' witnesses that Merrylin acted as though nothing was amiss after the incident, the same does not help appellants' cause any. It bears noting that these witnesses are members of the immediate family of or close to appellants: Thus Melissa Leones Baterna is Mary Rose's sister. Josephine Cabaraban is a frequent house guest who has been Mary Rose's friend since childhood. And Arthur Leones is Mary Rose's father. The testimonies of close relatives and friends are necessarily suspect and cannot prevail over the unequivocal declaration of the complaining witness.[29]

The attempt of the defense witnesses to depict Merrylin as a sexually promiscuous woman deserves scant consideration.

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[25] *People v. Saban*, 319 SCRA 36, 46-47 (1999) (citations omitted).

[26] TSN, December 1, 1999 at 2.

[27] *People v. Barcelona*, 325 SCRA 168, 176 (2000) (citation omitted).

[28] TSN, August 19, 1998 at 66.

[29] *People v. Barbosa*, 362 SCRA 260, 273 (2001) (citation omitted).

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For prior sexual intercourse with a different person is irrelevant in a rape case.[30]

In a last-ditch attempt to exculpate themselves from liability, appellants posit that they were charged with rape by Merrylin because she was mauled by Mary Rose's father.[31] Such position is too shallow to merit consideration.

Not a few persons accused of rape have attributed the charges brought against them to resentment or revenge, but such alleged motives have never swayed this Court from lending full credence to the testimony of a complainant who, as in this case, remained steadfast throughout her testimony.[32]

Contrary to the assertion of appellants, the prosecution was able to prove conspiracy between them. A conspiracy exists when two or more persons come to an agreement concerning the commission of a felony and decide to commit it.[33] It may be inferred from the acts of the accused which evince a joint or common purpose and design, concerted action and community of interest,[34] before, during and after the commission of the crime.[35]

In cases involving married couples under facts and circumstances similar to those obtaining in the present case, this Court had appreciated the presence of conspiracy. Thus under the following facts of the recent case of *People v. Saban*,[36] to wit:

x x x x x x x x x

Normelita then called her husband, telling him: "*Oly, maghubo ka na ng salawal.*" Frightened, Normita struggled and exerted efforts

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[30] *People v. Marcelo*, 369 SCRA 661, 671 (2001) (citations omitted).

[31] TSN, November 29, 1999 at 21.

[32] *People v. Itdang*, 343 SCRA 624, 631 (2000) (citation omitted).

[33] Art. 8, Revised Penal Code.

[34] *People v. Antonio*, 336 SCRA 366, 374 (2000) (citation omitted).

[35] *Ibid.*

[36] 319 SCRA 36 (1999).

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to resist the invasion on her womanhood by Rolando but to no avail, because Normelita pinned down her (Normita's) hands on the floor. When Normita tried to shout, Normelita covered her mouth. Rolando then removed his pants and brief and forcibly removed the panty of Normita. While Normelita continued pinning down Normita's hands on the floor, Rolando covered her mouth.

Rolando succeeded in inserting his sexual organ into Normita's (*nagtagumpay siyang makuha ang aking pagkababae*) by positioning his knees in between Normita's thighs. Seminal fluid was oozing from the sexual organ of Rolando "*tumutulong parang lamad lamad.*" There was blood in the private organ of Normita. Lying on her side, Normelita laughed and laughed while watching her husband consummate the lecherous ordeal in the treatment room. After satisfying his lust, Rolando stood up, put on his pants and brief. Normelita warned Normita not to divulge the incident to anybody,

this Court held that there was conspiracy.

In *People v. Villamala*,[37] under the following similar facts, the accused married couple was convicted of rape:

The rather unique feature about this case was that a couple, now appellants Vicente C. Villamala and Gaudiosa Villamala, were jointly prosecuted for the crime of rape allegedly perpetrated on the complainant Eustaquia Bentulan. x x x

x x x x x x x x x

While the two seated side by side were conversing, complainant heard Gaudiosa whistle, and immediately thereafter, her husband, appellant Vicente Villamala entered the house. No sooner was he inside when Gaudiosa, who was at Eustaquia's left side, placed her left arm around her neck and pinned the latter to the floor, the left leg of appellant being thrust between Eustaquia's knees. In that situation with Gaudiosa choking her neck, she was unable to extricate herself, being held fast by the bigger and taller Gaudiosa. Vicente in turn took advantage of the situation and through force removed complainant's black skirt and panties. Such torn garments appellant Vicente Villamala threw aside, removed his short pants, and placed himself on top of Eustaquia. Thus he was able to consummate the sexual act, with Gaudiosa continuing to hold and pin to the floor the victim's neck and left leg.

[37] 78 SCRA 145 (1977).

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In the instant case, it was established by the prosecution that Mary Rose summoned Merrylin into their bedroom, locked the door to prevent her escape, pinned her down while Rogelio had sexual intercourse with her, told her thrice to just bear the pain, and cautioned her not to divulge what transpired among them. Clearly, appellants conspired in the commission of the rape.

Article 266-B of the Revised Penal Code provides that whenever rape is committed by two or more persons, the penalty shall be *reclusion perpetua* to death. In the case at bar, the Information sufficiently alleged that appellants conspired and mutually helped one another in the commission of the crime. There being no aggravating circumstance, however, the proper imposable penalty is *reclusion perpetua*.

With respect to the civil aspect of the case, this Court reduces the trial court's award of civil indemnity to ₱50,000.00 in accordance with the latest jurisprudence on rape which is not effectively qualified by any circumstance for which the imposition of the death penalty is authorized by the present amended law.[38]

WHEREFORE, the judgment on review is hereby *AFFIRMED* with *MODIFICATION*.

As modified, appellants Rodrigo "Rudy" Opeliña and Mary Rose Leones Opeliña are found GUILTY beyond reasonable doubt of the crime of RAPE in Criminal Case No. 98-311, and are hereby sentenced to 1) each suffer the penalty of *reclusion perpetua* and 2) pay jointly and severally private complainant Merrylin Rambuyon ₱50,000.00 as civil indemnity, and ₱50,000.00 as moral damages.

SO ORDERED.

Puno, Panganiban, and *Sandoval-Gutierrez, JJ.,* concur.

Corona, J. (Chairman), on leave.

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[38] *People v. Alemania*, G.R. Nos. 146521-22, November 13, 2002.