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SECOND DIVISION

[G.R. Nos. 137587 & 138329. July 29, 2003]

PEOPLE OF THE PHILIPPINES, *appellee, vs.* **TEOFILO MADRONIO *Y* ISIP,** *appellant.*

SYNOPSIS

Accused-appellant was charged with rape committed against Desiree Morecho on February 01, 1997 in Quezon City. Desiree, who was already sixteen years of age but has a mental age of a mere seven-year old, recounted how appellant ravished her, through force and intimidation. Appellant denied the accusation against him. Giving credence to the positive testimony of the complainant and rejecting appellant's self-serving denial, the Regional Trial Court of Quezon City found appellant guilty as charged and sentenced him to *reclusion perpetua.* Appellant assailed his conviction before the Supreme Court. He averred that the trial court erred in giving credence and full probative weight to Desiree's testimony considering her shaky account of the events as they transpired and the circumstances surrounding the commission of the crime.

The Supreme Court found no reason to deviate from the trial court's findings and conclusions. According to the Court, when the credibility of the witness is in issue, the trial court's assessment is accorded great weight unless it is shown that it has overlooked a certain fact or circumstance of weight which the lower court may have overlooked, misunderstood or misappreciated and which, if properly considered, would alter the results of the case. Furthermore, when a minor says she has been raped, she says in effect all that is necessary to show that rape has been committed. For no woman would weave a tale of sexual assaults to her person, open herself to examination of her private parts and later be subjected to public trial or ridicule if she was not, in truth, a victim of rape and impelled to seek justice for the wrong done to him. Likewise, appellant's denials cannot prevail over Desiree's positive testimony. Denials are self-serving negative evidence which cannot prevail over the positive, straightforward and unequivocal testimony of the

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complainant. Consequently, the Court affirmed the decision of the trial court but modified the award of damages.

SYLLABUS

1. **REMEDIAL LAW; EVIDENCE; GUIDING PRINCIPLES IN THE REVIEW OF RAPE CASES.**— In reviewing rape cases, we are always guided by the following principles: (a) an accusation of rape can be made with facility – if it is hard to prove, it is even more difficult for the accused to disprove; (b) in view of the intrinsic nature of the crime in which only two persons are usually involved, the testimony of the complainant must be scrutinized with extreme caution; and (c) the evidence for the prosecution must stand or fall on its own merits and not draw strength merely from the weakness of that for the defense.

2. **ID.; ID.; CREDIBILITY OF WITNESSES; TRIAL COURT'S ASSESSMENT WITH RESPECT THERETO ACCORDED GREAT WEIGHT.**— It has often been said, to the point of being repetitive, that when the credibility of the witness is in issue, the trial court's assessment is accorded great weight unless it is shown that it has overlooked a certain fact or circumstance of weight which the lower court may have overlooked, misunderstood or misappreciated and which, if properly considered, would alter the results of the case. The trial court has the unique advantage of monitoring and observing at close range the demeanor, deportment and conduct of the witness as they regale the trial court with their testimonies. In this case, the trial court ruled that Desiree is a credible witness and that her testimony is entitled to full probative weight; we find no reason to deviate from its findings and conclusions.

3. **ID.; ID.; DENIALS; CANNOT PREVAIL OVER VICTIM'S POSITIVE, STRAIGHTFORWARD AND UNEQUIVOCAL TESTIMONY.**— The appellant's denials cannot prevail over Desiree's positive testimony. Denials are self-serving negative evidence which cannot prevail over the positive, straightforward and unequivocal testimony of the victim.

4. **CRIMINAL LAW; RAPE; ELEMENTS.**— Rape is committed by having carnal knowledge of a woman under any of the following circumstances: (1) by using force or intimidation;

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(2) when the woman is deprived of reason or otherwise unconscious; and (3) when the woman is under 12 years of age, even though neither of the circumstances mentioned in the two next preceding paragraphs shall be present, the gravamen of rape is carnal knowledge against a woman against her will or without her consent.

5. **ID.; ID.; ELEMENT OF FORCE AND INTIMIDATION; TENACIOUS RESISTANCE OR PERSISTENT PHYSICAL STRUGGLE NOT REQUIRED.**— In this case, the prosecution adduced proof beyond reasonable doubt that the appellant, through force and intimidation, raped the victim. Intimidation is that which produces a reasonable fear that it would be carried out if the victim resists the lust of the accused. Rape is committed when the victim submits herself against her will out of fear for her life or personal safety. Tenacious resistance against rape is not required; neither is a determined or a persistent physical struggle on the part of the victim necessary. In fact, the law does not even impose the burden of proving resistance on the part of the victim of rape.

6. **ID.; ID.; NOT NEGATED BY FAILURE OF VICTIM TO SHOUT FOR HELP.**— Although "mentally challenged," Desiree was able to recount how the appellant ravished her, through force and intimidation, in a direct, clear and unequivocal manner in both the direct and cross-examinations: x x x. It bears stressing that Desiree, although already a teener at sixteen, had a mental age of a mere seven-year-old. Technically then, she was only a child who could easily be cowed with fear, particularly when threatened by a knife. In such a situation, Desiree, or any child for that matter, could not be expected to act like an adult. Furthermore, Desiree's failure to shout for help does not negate the fact that she was raped. We held in *People v. Emilio* that the failure of the victim to shout for help does not negate the commission of rape. The workings of the human mind under emotional stress are unpredictable, such that people react differently to startling situations. In this case, the appellant threatened to stab Desiree if she shouted or made a sound. Fearing for her life, she no longer resisted. The appellant forcibly separated her legs and successfully consummated the bestial act.

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7. **ID.; ID.; NOT NEGATED BY PRESENCE OF OLD HEALED LACERATION ON VICTIM'S HYMEN.**— The presence of an old healed laceration on Desiree's hymen does not negate the commission of rape. A freshly broken hymen is not an essential element of the crime. Neither does this render Desiree's testimony incredible. Even if the victim had an old healed laceration in her hymen, she would still feel pain if the appellant forcibly inserted his penis into her vagina. When a minor says she has been raped, she says in effect all that is necessary to show that rape has been committed. For no woman would weave a tale of sexual assaults to her person, open herself to examination of her private parts and later be subjected to public trial or ridicule if she was not, in truth, a victim of rape and impelled to seek justice for the wrong done to her.

8. **ID.; ID.; IMPOSABLE PENALTY.**— The trial court, thus, correctly found the appellant guilty beyond reasonable doubt of rape under Article 335 of the Revised Penal Code. In the absence of any mitigating or aggravating circumstances, the penalty of *reclusion perpetua* was correctly imposed, conformably to Article 63 of the Revised Penal Code.

9. **CIVIL LAW; DAMAGES; CIVIL INDEMNITY; AWARD THEREOF REDUCED TO ₱50,000.00; MORAL DAMAGES; AWARDED WITHOUT NEED OF PROOF OTHER THAN THE FACT OF RAPE ITSELF.**— However, we agree with the OSG that the award for civil indemnity should be reduced to ₱50.000. Similarly, we agree that in line with recent jurisprudence, the victim is entitled to moral damages in the amount of ₱50,000 without need of proof other than the fact of rape itself. It is assumed that the victim of rape has suffered moral injuries entitling her to an award therefor.

APPEARANCES OF COUNSEL

The Solicitor General for plaintiff-appellee.
David E. Calvario for accused-appellant.

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DECISION

CALLEJO, SR., *J.*:

Before us on appeal is the Decision[1] of the Regional Trial Court of Quezon City, Branch 219, finding Teofilo Madronio *y* Isip guilty beyond reasonable doubt of rape, sentencing him to suffer *reclusion perpetua*, and ordering him to pay the victim Desiree Morecho *y* Ong the amount of ₱75,000 as civil indemnity.

The Charge

Appellant Teofilo Madronio was charged with rape under a Criminal Complaint which reads:

> The undersigned accuses TEOFILO MADRONIO *Y* ISIP of the crime of RAPE, committed as follows:
>
> That on or about the 1st day of February, 1997 in Quezon City, Philippines, the above-named accused, with lewd designs and by means of force and intimidation, did, then and there, wilfully, unlawfully and feloniously have carnal knowledge with the undersigned, DESIREE MORECHO *Y* ONG, a minor 16 years of age, without her consent and against her will.[2]

Another Criminal Complaint was filed, charging Jun dela Cruz *y* Villanueva with forcible abduction which reads:

> That on or about the 1st day of February, 1997 in Quezon City, Philippines, the above-named accused, did, then and there, wilfully, and unlawfully and feloniously, with lewd designs and by means of force and intimidation abduct DESIREE MORECHO *Y* ONG, a minor 16 years of age, at Litex Fairview, this City, and was forced to go with him and brought her at Merville Subdivision, Pasay City, all against the will and without the consent of the undersigned.[3]

When arraigned, assisted by counsel, both the accused entered their respective pleas of not guilty. On motion of the prosecution, the trial of the two cases was consolidated.

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[1] Penned by Judge Jose C. Mendoza.

[2] Exhibit "H," Records, p. 2.

[3] Exhibit "I," *id.* at 4.

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The Case of the Prosecution[4]

Desiree Morecho *y* Ong, Edna Morecho's eldest daughter by her second husband, was born on December 15, 1980. In 1997, Desiree was in Grade IV, Special Education (SPED) of the Abad Santos Elementary School. Although she was more than sixteen years old, her mental age was that of a seven-year-and-four-month-old child. Desiree was forced to stop schooling since her half sister Janet Francisco, a resident of 79-A Scout Tuazon, Timog Avenue, Quezon City, had just given birth. Janet's housemaid had left and she requested Desiree to wash clothes for her and help in the household chores. Thenceforth, Desiree stayed with Janet. Janet introduced Desiree to accused Teofilo Madronio, nicknamed "Bogs," who worked as a car washer in the area. Since then, Teofilo and Desiree had frequent talks.

At or about 2:00 p.m., on February 1, 1997, Desiree was in the terrace hanging clothes she had just washed. Teofilo waved at her, as if motioning her to go down. Remembering the bottle of softdrink she had to return to the store, she went downstairs and approached Teofilo, who told her that he would bring her to SM Fairview Branch, Quezon City. Desiree agreed. The two proceeded to the mall and walked around for a while. Teofilo later brought her to his house at *Mangga-manggahan* Fairview, Quezon City, which was vacant at the time. After closing the door, Teofilo stripped himself naked. When Desiree asked Teofilo why he was taking off his clothes, he replied that he would just do something with her.[5] He then undressed Desiree. He poked a *balisong* (fan knife) at her and told her not to shout, otherwise she would be stabbed. He then ordered Desiree to lie down on the bed. Afraid for her life, Desiree did as she was told even as Teofilo placed the *balisong* under the pillow. With the use of his hands, Teofilo forcibly spread her legs and inserted his penis inside her vagina. She felt excruciating pain as the appellant made pumping motions ("*yumuyugyog*"). She resisted but Teofilo

[4] The prosecution presented Dr. Erlinda Marfil, Dr. Antonio Vertido, Desiree Morecho, Edna Morecho, and SPO1 Eduardo Frias.

[5] TSN, 14 October 1997, p. 22.

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was quick to hold her hands.[6] After Teofilo had satiated his lust, he dismounted from Desiree. He cooked rice and ordered Desiree to buy viand from the nearby store. When Desiree returned, they ate, and thereafter slept.

As it was getting dark and Teofilo was still asleep, Desiree went out of the house and met Jun dela Cruz, a baker at Litex. He offered to take her to his sister's house. Desiree refused, and told him that she would go home all by herself. Jun refused and insisted on bringing her home, telling her "*Basta, basta, ihahatid kita*!" He pulled her and bit her on the shoulder.[7] Desiree had no other recourse but to go with Jun, who then brought her to his sister's house in Merville Subdivision, Pasay City, where they slept. Desiree was suddenly awakened when she felt someone kissing her lips. It was Jun, he was removing her brassiere and kissing her breasts.

While Jun was asleep, Desiree told his sister what Jun had just done to her, to which the latter replied that Jun wanted to get married. When asked if she wanted to marry Jun, Desiree answered in the negative.[8] Desiree thereafter sneaked out of the house to try to find her way back home. Desiree met an old woman along the way, who brought her to the Department of Social Welfare and Development (DSWD) in Pasay City, where Desiree related that she was raped.

In the meantime, Janet had started looking for Desiree. Fearing that she was lost, Janet phoned her mother, inquiring whether Desiree was there. Janet was alarmed when she learned that Desiree was not with her mother. She then asked around. Edna was also concerned about her missing daughter and went to Janet's house, and she had the incident reported and entered in the police blotter in Station 10 of the Kamuning Police Station. Janet later learned that Desiree was last seen with Teofilo.

On February 3, 1997, Janet saw Teofilo and asked where her sister was. Teofilo told her that she was gone. Janet then

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[6] TSN, 20 August 1997, pp. 22-23.

[7] TSN, 21 October 1997, p. 3.

[8] TSN, 20 August 1997, p. 29.

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told him that they better talk and go to the *barangay* and discuss the matter there. Before the *barangay* authorities, Janet accused Teofilo of raping her sister. Teofilo denied the accusation. Teofilo was brought to Station 10 of the Kamuning Police Station. While in the custody of the police Teofilo in the presence of Edna, admitted that he used ("*ginalaw*") Desiree.[9] He accompanied Edna to his house at *Mangga-manggahan* but Desiree was not there.

Edna went back to *Mangga-manggahan* and showed a photograph of her daughter Desiree to the residents, inquiring if they had seen her. When Edna showed the picture to the owner of the bakery where Jun worked, she was told that Desiree had left with the latter. When she found Jun, Edna was told that Desiree was in the custody of the DSWD, Pasay City. That same day, February 4, 1997, Desiree was reunited with her mother, and thereafter revealed her ordeal: she was raped by Bogs, while Jun kissed her on the lips and breasts.

On February 5, 1997, Desiree was examined by a doctor at the Medico-Legal Office of the National Bureau of Investigation (NBI) who rendered a preliminary report which reads:

1. No evident sign of extragenital physical injury noted on the body of the subject at the time of examination.
2. Hymen, with old healed laceration at 7 o'clock position corresponding to the face of the watch, edges rounded, non-coaptable.[10]

Dr. Antonio S. Vertido conducted physical and genital examinations of Desiree and filed Living Case Report No. MG-97-206 which reads:

GENERAL PHYSICAL EXAMINATION:

Height 156.0 cms. Weight: 109 lbs.

Normally developed, fairly nourished, conscious, coherent, cooperative, ambulatory subject.

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[9] TSN, 1 December 1997, p. 11.

[10] Records, p. 10.

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Breasts, developed, hemispherical, doughy. Areolae, brown, 3.5 cms. in diameter. Nipples, brown, protruding, 1.0 cm. in diameter.

No extragenital physical injuries noted.

GENITAL EXAMINATION:

Pubic hair, fully grown, abundant. Labia majora, gaping. Labia minora, coaptated. Fourchette, lax. Vestibular mucosa, pinkish. Hymen wall, thick, with a complete old healed laceration at 7:00 o'clock, edges rounded, non-coaptable. Hymenal orifice admits a tube 2.5 cms. in diameter. Vaginak (*sic*) walls, lax. Rugosities, shallow.

CONCLUSIONS:

1. No evident signs of extragenital physical injuries were noted on the body of the subject at the time of examination.

2. Complete, old healed hymenal laceration, present.[11]

Dr. Vertido noticed that the victim showed signs of retardation. He requested the Neuro-Psychiatric Services of the NBI to conduct a neuro-psychiatric examination of Desiree.

In the meantime, on February 6, 1997, Desiree and Edna executed their respective sworn statements.[12] On February 10, 1997, a criminal complaint for rape was filed against Teofilo with the city prosecutor. On April 29, 1997, after the neuro-psychiatric examination, Dr. Erlinda R. Marfil, NBI Neuro-Psychiatric Services Chief, submitted her report where she stated that, although Desiree was already sixteen years of age, her mental age was that of a mere seven-year-and-four-month-old child, and that she had an intelligence quotient (IQ) of 47. Desiree's mental status was summarized, thus:

Grasp of general information and judgment were poor.

Physical and Neurological Examination:

Physical and neurological examinations are within normal limits.

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[11] Exhibit "E." Records. p. 45.

[12] Records. pp. 8–9.

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Psychological Examination:

Psychological Tests reveal Mental Retardation with a Mental Age of (7) seven years and (4) four months and an IQ of 47.[13]

The Evidence of the Accused Teofilo Madronio

For his part, appellant Teofilo Madronio denied having raped Desiree. He testified that on February 1, 1997, Desiree went down from their house and asked him to accompany her to buy something at the 7-11 Grocery Store in Kamuning, Quezon City. He agreed. They proceeded but Desiree was not able to buy anything. Desiree then asked him if they could go to SM Mega Mall, to which Teofilo agreed. They rode a jeepney bound for Edsa, took a bus headed for Fairview, Quezon City, and then boarded a tricycle to *Mangga-manggahan* where his house was located. They stayed there and rested for about ten minutes. Feeling hungry, Teofilo cooked rice and asked Desiree to buy viand from the nearby store. Desiree agreed. When she came back with the viand, they ate. Teofilo told Desiree that they should rest for a while. Desiree then asked if she could go outside, to which Teofilo agreed. He fell asleep. Unknown to him, Desiree had left the house. When he woke up, Desiree was nowhere to be found.[14]

The Evidence of the Accused Jun dela Cruz

For his part, accused Jun dela Cruz denied the charge against him. He testified that he worked as a baker in Litex. In the morning of February 1, 1997, he was on his way home to Pasay City when he saw Desiree who told him that she wanted to go with him. Jun refused because he did not know Desiree. But Desiree was insistent so he brought her along with him to Pasay City. He later brought her to the DSWD office where she was found. Edna came looking for her daughter, and Jun accompanied her to the DSWD office.

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[13] *Id.* at 48.

[14] TSN, 8 June 1998, pp. 3–5.

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The Verdict of the Trial Court

On February 18, 1999, the trial court rendered a decision finding Teofilo Madronio guilty beyond reasonable doubt in Criminal Case No. Q97-69739 and acquitting accused Jun dela Cruz in Criminal Case No. Q97-69740, the decretal portion of which reads:

> WHEREFORE, in Criminal Case No. Q97-69739, finding accused Teofilo Madronio GUILTY of having committed RAPE (*sic*) reasonable doubt, the Court hereby sentences him to suffer the penalty of *Reclusion Perpetua*; to indemnify the complainant in the amount of ₱75,000.00; and to pay the costs.
>
> In Criminal Case No. Q97-69740, finding that the prosecution was not able to establish the guilt of the accused beyond reasonable doubt, the Court hereby ACQUITS accused Jun dela Cruz of the crime charged.[15]

In his brief, the appellant alleges that the trial court committed the following errors:

I

THE LOWER COURT ERRED GRIEVOUSLY IN HOLDING THAT ACCUSED-APPELLANT APPLIED FORCE AND INTIMIDATION AND THEREFORE HE COULD BE CONVICTED OF THE CRIME OF RAPE.

II

THE TRIAL COURT COMMITTED GRIEVOUS ERROR IN HOLDING THAT ACCUSED-APPELLANT'S SIMPLE DENIAL THAT HE DID NOTHING TO DESIREE IS SELF-SERVING AND INSUFFICIENT TO OVERCOME THE POSITIVE ASSERTION OF DESIREE.

III

THE TRIAL COURT ERRED GRIEVOUSLY IN NOT ACQUITTING APPELLANT ON THE GROUND OF REASONABLE DOUBT.[16]

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[15] Records, p. 126.

[16] *Rollo*, p. 47.

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The appellant avers that the trial court erred in giving credence and full probative weight to Desiree's testimony considering her shaky account of the events as they transpired and the circumstances surrounding the commission of the crime. The appellant contends that since Desiree had an old hymenal laceration as evidenced by the medical examination report of the NBI Medico-Legal Office, she was no longer a virgin. This belies her claim that she felt pain when the appellant allegedly ravished her. The prosecution failed to prove that he forced and intimidated the victim into having sexual intercourse with him. For one thing, the appellant avers, Desiree could have shouted for help since the house where she was brought was small and filled with people, but she did not.

The Office of the Solicitor General, on the other hand, avers that it had established all the elements of the crime of rape. It emphasizes that the testimony of the appellant pales in comparison with Desiree's positive identification of the appellant as the perpetrator and the testimony of the other prosecution witnesses. The OSG contends that Desiree was intimidated by the appellant when he poked his knife at her and threatened to kill her if she shouted and when he forcibly spread her legs and inserted his penis inside her vagina.

With respect to the old hymenal laceration found by Dr. Vertido, the OSG pointed out that, as explained by the doctor himself, it could not be determined when Desiree sustained the wound; neither could it be used to determine the number of times she had had sexual intercourse.

The contention of the appellant is barren of merit.

In reviewing rape cases, we are always guided by the following principles: (a) an accusation of rape can be made with facility — if it is hard to prove, it is even more difficult for the accused to disprove; (b) in view of the intrinsic nature of the crime in which only two persons are usually involved, the testimony of the complainant must be scrutinized with extreme caution; and (c) the evidence for the prosecution must stand or fall on its

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own merits and not draw strength merely from the weakness of that for the defense.[17]

It has often been said, to the point of being repetitive, that when the credibility of the witness is in issue, the trial court's assessment is accorded great weight unless it is shown that it has overlooked a certain fact or circumstance of weight which the lower court may have overlooked, misunderstood or misappreciated and which, if properly considered, would alter the results of the case.[18] The trial court has the unique advantage of monitoring and observing at close range the demeanor, deportment and conduct of the witness as they regale the trial court with their testimonies.[19] In this case, the trial court ruled that Desiree is a credible witness and that her testimony is entitled to full probative weight; we find no reason to deviate from its findings and conclusions.

Rape is committed by having carnal knowledge of a woman under any of the following circumstances: (1) by using force or intimidation; (2) when the woman is deprived of reason or otherwise unconscious; and (3) when the woman is under 12 years of age, even though neither of the circumstances mentioned in the two next preceding paragraphs shall be present, the gravamen of rape is carnal knowledge against a woman against her will or without her consent.[20]

In this case, the prosecution adduced proof beyond reasonable doubt that the appellant, through force and intimidation, raped the victim. Intimidation is that which produces a reasonable fear that it would be carried out if the victim resists the lust of the accused. Rape is committed when the victim submits herself

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[17] *People v. Delos Santos*, G.R. No. 134525, February 28, 2003; *People v. Corral*, G.R. Nos. 145172–74, February 28, 2003; *People v. Bagaua*, G.R. No. 147943, December 12, 2002; *People v. Ochea*, G.R. Nos. 146452-53, December 10, 2002; *People v. Bitancor*, G.R. No. 147968, December 4, 2002.

[18] *People v. Layaso*, G.R. Nos. 141773-76, January 22, 2003.

[19] *People v. Ramos*, G.R. No. 142577, December 27, 2002.

[20] *People v. Esperida*, G.R. Nos. 139637-38, January 22, 2003.

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against her will out of fear for her life or personal safety.[21] Tenacious resistance against rape is not required; neither is a determined or a persistent physical struggle on the part of the victim necessary. In fact, the law does not even impose the burden of proving resistance on the part of the victim of rape.[22]

Although "mentally challenged," Desiree was able to recount how the appellant ravished her, through force and intimidation, in a direct, clear and unequivocal manner in both the direct and cross-examinations:

Q: How did you come to know "Bogs'?"
A: My sister told me that his name is "Bogs" and he introduced himself to me (witness pointing to Teofilo Madronio).
Q: What did Bogs do to you, if any?
A: He brought me to their house.
Q: Do you know where is his house?
A: In Mangga-manggahan, ma'am.
Q: Do you know where is this Mangga-manggahan?
A: In Fairview, ma'am.
Q: When "Bogs" brought you to this house, what happened?
A: First, he made me eat and then he removed his clothes.
Q: And then what happened after he removed his clothes?
A: He inserted his penis into my vagina.
Q: What were you wearing then?
A: I was waring (*sic*) a stripe[d] shirt and shorts.
Q: When you said "Bogs" inserted his penis into your vagina, was your shorts removed?
A: Yes, ma'am.
Q: Who removed your shorts?
A: Bogs, ma'am (witness pointing to Teofilo Madronio).

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[21] *People v. Manalo*, G.R. Nos. 144989-90, January 31, 2003.

[22] *People v. Gabawa*, G.R. No. 139833, February 28, 2003.

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Q: Now, when Bogs inserted his penis inside your vagina, did you shout?

A: No, ma'am.

Q: Why?

A: I did not shout because there was a *balisong* hidden under the pillow.

Q: Who placed that "*balisong*" under the pillow?

A: "*Siya po*" (witness pointed to Teofilo Madronio).

Q: Did you see Bogs placed (*sic*) the "*balisong*" under the pillow?

A: Yes, ma'am, I saw it, and he showed it to me.

Q: When Bogs showed the *balisong* to you, what did he say, if any?

A: At first, he told me that we would just go to SM and then he told me also that I should not tell my sister about it.

Q: Where were you at that time when he told you that he will bring you to SM?

A: My sister asked me to wash their clothes and I was in the terrace and I was hanging the clothes because my sister do[es] not have any housemaid.

Q: While you were hanging the clothes, Bogs arrived?

A: Yes, ma'am.

Q: That was the time when Bogs tell (*sic*) you he will bring you to SM?

A: Yes, ma'am.

Q: Did he bring you to SM?

A: Yes, ma'am.

Q: And then from SM where did you proceed?

A: We went to the house of Bogs.

Q: By the way, what did you do at SM?

A: We just went around the mall, ma'am.

Q: You said that from SM you proceeded to Bogs' place?

A: Yes, ma'am.

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Q: When you reached the house at Fairview, what did he do, if any?

A: Bogs was already lying down, he doesn't have any shirt anymore.

Q: Was he wearing shorts or pants at that time?

A: Yes, ma'am.

Q: You said from SM you proceeded to Fairview and upon arrival at Fairview he removed his dress?

A: Yes, ma'am.

Q: And then he lie down?

A: Yes, ma'am.

Q: When he was lying down naked, what did he tell you, if any?

A: He told me not to tell my sister about it.

Q: Now, you said that Bogs showed you a *balisong*, when he showed you that *balisong* what did he tell you?

x x x x x x x x x

A: *"Sabi po niya hoy huway (sic) kang maingay, itong balisong iaano ko 'to sa'yo."*

Q: What do you mean by "*iaano*?"

A: "*Isasaksak*," ma'am.

Q: Then, what did he do, after telling you that, after whowing (*sic*) you the *balisong* and tell you *"hoy, huway (sic) kang maingay isasaksak ko `to sa'yo?"*[23]

COURT

Q: You said that "*iaano*" means "*isasaksak*," why did you say that "*isasaksak*?"

A: *"Sabi po niya sa akin huwag daw po akong maingay kasi kung mag-iingay daw po ako iaano daw po niya sa akin `yong balisong."*

COURT INTERPRETER

Witness motioning her hand towards her stomach while saying that "*iaano ko 'to sa'yong balisong.*"

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[23] TSN, 20 August 1997, pp. 8–18.

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COURT

Q: Did he use the word "*isasaksak*?"

A: Yes, your honor.

Q: Now, what else did Bogs tell you, if any?

A: None, ma'am, that's it.

Q: Now, you earlier said that Bogs inserted his penis inside your vagina, what did you feel when he inserted his penis inside your vagina?

A: It was painful, ma'am.

Q:, When you felt pain did you resist?

A: No, ma'am.

Q: Why did you not resist?

PROS. CHUA CHENG

May we request Atty. Mallabo to stop making any side comment, we all know that the witness is a retardate.

A: I was already resisting but then he held my two hands (witness demonstrating how she resisted extending her both arms).

Q: You said that you were already resisting but Bogs held your hands, what happened?

A: *"Yon na nga po, `yong ari po niya inano sa ari ko."*

Q: What do you mean by "inano?"

A: *"Bale po 'yong ari po niya ipinasok sa ari ko."*

Q: While his penis was inside your vagina, what was his movement, if any?

A: *"Yumuyugyog po."*

Q: After that, what happened? After the pumping motion, what happened?

A: After that, he slept and then I went outside and I was seen by that person . . . .[24]

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[24] *Id.* at 19–23.

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Q: Will you please tell us why did you immediately go down when Madronio raised his hand and signaled you to immediately go down?

A: No, sir, because I was to return a Coke 500 bottle.

Q: Did you not tell the police that when Madronio said, . . . You came down because Madronio made a sign like that to do (*sic*)? *Kinawayan ka?*

A: Yes, sir.

Q: As a matter of fact, you removed the lock of the gate?

A: Yes, sir, because my sister was giving her child a bath.

Q: And after that you went to Madronio and you asked him to accompany you?

FISCAL

No basis, your Honor.

COURT

Objection sustained.

ATTY. CALVARIO

Q: Did not ask Madronio you (*sic*) to accompany him to SM?

A: No, sir.

Q: Who asked you to accompany you to SM?

A: He did, sir.

Q: It was Madronio who accompanied you to SM?

A: Yes, sir.

Q: And what did you do at SM?

A: We just walked around, sir.

Q: How long did you stay at SM?

A: Just for a while, sir, and then we went to their place, his place.

Q: When you say "to his place," you are referring to his house?

A: Yes, sir.

Q: Was there anybody inside the house at the time?

A: No, sir.

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Q: You were alone?
A: Yes, sir.

Q: What happened after you went inside the house?
A: He removed my shorts, sir.

Q: How about his clothes? Madronio's clothes?
A: —

Q: Your answer was he removed "my shorts." What else did he do?
A: He also removed my shirt and my bra.

Q: So you are already naked?
A: Yes, sir.

Q: How about him? Did he also remove his clothing?
A: Yes, sir.

Q: Did you not ask why he was removing his clothing?
A: I asked him *"bakit ka naghuhubad?"*

Q: And what was his answer?
A: *"Wala, may gagawin lang ako sa iyo."*

Q: Did you not ask him what he was going to do?
A: No, sir.

Q: And then did he ask you to lie down?
A: Yes, sir.

Q: After you lay down, what did he do?
A: He was on top of me, sir.

Q: He immediately placed himself on top of you?
A: Yes, sir.

Q: What was your, he and you, position when he was on top of you?
A: I was lying down and he was on top of me, sir. *Nakadagan.*

Q: And you said he inserted his penis inside your vagina at that time?
A: Yes, sir.

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Q: How did he insert his penis?
A: I was already lying down and he was holding his penis and inserting it in my vagina.
Q: He inserted it with the use of his hand?
A: Yes, sir.
Q: Did you open your legs?
A: No, sir.
Q: How was he able to insert his penis when you did not open your leg[s]?
A: He was the one who spread my legs, sir.
Q: And you acceded?
A: No, sir.
Q: Aside from opening, separating your legs, what else did he do?
A: That was all and afterwards he cooked, sir.
Q: So after that, he cooked, and then what was that he cooked?
A: Rice, sir.
Q: What else?
A: No more, sir.
Q: And did you eat what he cooked?
A: Yes, sir.
Q: And then after that what did you do?
A: Nothing else, sir, he slept.
Q: After that what did you do when he was sleeping?
A: I went out, sir.
Q: Did you ever return while Madronio . . . Where was Madronio . . . Did you ever return where Madronio was sleeping?
A: No, sir.
Q: Why?
A: Because it was already dark there in their place, sir.[25]

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[24] *Id.* at 19–23.

[25] TSN, 14 October 1997, pp. 17–26.

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It bears stressing that Desiree, although already a teener at sixteen, had a mental age of a mere seven-year-old. Technically then, she was only a child who could easily be cowed with fear, particularly when threatened by a knife. In such a situation, Desiree, or any child for that matter, could not be expected to act like an adult. Furthermore, Desiree's failure to shout for help does not negate the fact that she was raped. We held in *People v. Emilio*[26] that the failure of the victim to shout for help does not negate the commission of rape. The workings of the human mind under emotional stress are unpredictable, such that people react differently to startling situations.

In this case, the appellant threatened to stab Desiree if she shouted or made a sound. Fearing for her life, she no longer resisted. The appellant forcibly separated her legs and successfully consummated the bestial act.

The presence of an old healed laceration on Desiree's hymen does not negate the commission of rape. A freshly broken hymen is not an essential element of the crime.[27] Neither does this render Desiree's testimony incredible. Even if the victim had an old healed laceration in her hymen, she would still feel pain if the appellant forcibly inserted his penis into her vagina. When a minor says she has been raped, she says in effect all that is necessary to show that rape has been committed.[28] For no woman would weave a tale of sexual assaults to her person, open herself to examination of her private parts and later be subjected to public trial or ridicule if she was not, in truth, a victim of rape and impelled to seek justice for the wrong done to her.[29]

The appellant's denials cannot prevail over Desiree's positive testimony. Denials are self-serving negative evidence which cannot

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[26] G.R. Nos. 144305-07, February 6, 2003.

[27] *People v. Maceda*, 353 SCRA 228 (2001).

[28] *People v. Ochea*, G.R. Nos. 146452-53, December 10, 2002.

[29] *People v. Sarazan*, G.R. Nos. 123269-72 & 131243, January 22, 2003.

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prevail over the positive, straightforward and unequivocal testimony of the victim.[30]

The trial court, thus, correctly found the appellant guilty beyond reasonable doubt of rape under Article 335 of the Revised Penal Code. In the absence of any mitigating or aggravating circumstances, the penalty of *reclusion perpetua* was correctly imposed, conformably to Article 63 of the Revised Penal Code. However, we agree with the OSG that the award for civil indemnity should be reduced to ₱50,000.[31] Similarly, we agree that in line with recent jurisprudence, the victim is entitled to moral damages in the amount of ₱50,000 without need of proof other than the fact of rape itself. It is assumed that the victim of rape has suffered moral injuries entitling her to an award therefor.[32]

WHEREFORE, the February 18, 1999 Decision of the Regional Trial Court, Branch 219, of Quezon City is hereby *AFFIRMED WITH MODIFICATION*. The award for civil indemnity is reduced to ₱50,000. In addition, the victim Desiree Morecho *y* Ong is entitled to ₱50,000 as moral damages.

Costs against the appellant.

SO ORDERED.

Bellosillo (Chairman), Austria-Martinez, and *Tinga, JJ.*, concur.

Quisumbing, J., on official leave.

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[30] *People v. Gallo*, 318 SCRA 157 (1999).

[31] *People v. Apilo*, 263 SCRA 582 (1996).

[32] *People v. Marahay*, G.R. Nos. 120625-29, January 28, 2003.