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prosecution of violators of environmental laws.[34] Legal actions to achieve this end, however, must be done in accordance with established rules of procedure that were intended, in the first place, to achieve orderly and efficient administration of justice.

WHEREFORE, we *DENY* the petition for lack of merit.

SO ORDERED.

Davide, Jr., C.J. (Chairman), Vitug, Ynares-Santiago, and *Azcuna, JJ.*, concur.

THIRD DIVISION

[G.R. Nos. 138195-96. July 10, 2003]

PEOPLE OF THE PHILIPPINES, *petitioner-appellee, vs.* **NICANOR ROA,** *accused-appellant.*

SYNOPSIS

Accused-appellant was convicted of two counts of rape by the Regional Trial Court of Valenzuela City and was sentenced to suffer the penalty of *reclusion perpetua*. In his appeal before the Court, appellant assailed the testimony of the complainant. According to appellant, a close scrutiny of her testimony readily exhibited inconsistencies which go to the very core of her credibility. Appellant argued that "the fact that complainant was already sleeping would make it impossible for him to lay her down again because these circumstances did not appear to be in consonance with the normal course of human nature; and that while the complainant attributed her pregnancy to appellant, she nevertheless admitted that she was already pregnant before May 25, 1997 when the alleged rape subject of the first case occurred.

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[34] *Mustang Lumber, Inc. v. Court of Appeals*, 327 Phil. 214 (1996).

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The Supreme Court affirmed appellant's conviction. The Court failed to see anything unusual or not being "in consonance with the normal course of human nature" to "lay down" one who has been awakened. As for complainant's attribution of her pregnancy to appellant, albeit she admitted that she was already pregnant before the first rape incident, the same did not infirm her credibility. While, given her youth, she may erred in attributing her pregnancy to appellant on account of the May 25, 1997 incident, what matters is that she was positive in her claim about the occurrence of the sexual assault on her, as shown in her testimony which the trial court did find, as did the Court, to be candid and bereft of any indication that it was fabricated.

SYLLABUS

1. **REMEDIAL LAW; EVIDENCE; CREDIBILITY OF WITNESSES; TESTIMONY OF VICTIM FOUND TO BE CANDID AND BEREFT OF ANY INDICATION THAT IT WAS FABRICATED.**— This Court fails to see anything unusual or not being "in consonance with the normal course of human nature" to "lay down" one who has been awakened. As for Nina's attribution of her pregnancy to appellant, albeit she admitted that she was already pregnant *before* the first rape incident, the same does not infirm her credibility. While, given her youth, she may erred in attributing her pregnancy to appellant on account of the May 25, 1997 incident, what matters is that she was positive in her claim about the occurrence of the sexual assault on her, as shown in her following *verbatim* testimony which the trial court did find, as does this Court, to be candid and bereft of any indication that it was fabricated.

2. **ID.; ID.; ADMISSIONS; ADMISSION BY SILENCE; SILENCE OF ACCUSED DEEMED ADMISSION OF THE CHARGES.**— The prosecution having by its evidence *prima facie* established appellant's guilt beyond reasonable doubt, the burden of evidence shifted on him. Appellant's evidence, however, is weak and fails to controvert the positive declaration of Nina who was not shown to have any reason to falsely charge him. His admitted silence when Nina's mother confronted and even cursed him by his claim, betrays his guilt just as his passivity does when he was allegedly maltreated and haled into jail by Nina's father on account of the incidents. For an innocent

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man would certainly strongly protest and deny a false accusation and do something positive to spare himself of punishment. But he did not. Following Section 32 of Rule 130 of the Revised Rules on Evidence, he is, by his silence, deemed to have admitted the charges.

3. CIVIL LAW; DAMAGES; EXEMPLARY DAMAGES; EVEN IF AN AGGRAVATING CIRCUMSTANCE IS NOT ALLEGED IN THE INFORMATION BUT IS ESTABLISHED DURING THE TRIAL, THE COMPLAINANT MAY STILL BE ENTITLED TO EXEMPLARY DAMAGES.— More. In *People v. Catubig,* this Court held that if an aggravating circumstance is not alleged in the information but is established during trial, the complainant may still be entitled to exemplary damages. In the case at bar, although the use by appellant of bladed weapon was not alleged in the information, the testimony of Nina that he did use one suffices to entitle her to exemplary damages of ₱25,000.00 for each count.

APPEARANCES OF COUNSEL

The Solicitor General for petitioner-appellee.
Public Attorney's Office for accused-appellant.

D E C I S I O N

CARPIO MORALES, *J.*:

On appeal is the Joint Decision of the Regional Trial Court of Valenzuela City, Branch 171, finding appellant Nicanor Roa guilty of two counts of rape in Criminal Case Nos. 6294-V-97 and 6295-V-97 and sentencing him to suffer *reclusion perpetua* for each count.

Two separate informations were filed on August 4, 1997 charging appellant as follows:

Criminal Case No. 6294-V-97

That on or about the 29th day of July, 1997 in Valenzuela, Metro Manila and within the jurisdiction of this Honorable Court, the above-named accused, by means of force and intimidation employed upon

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the person of MA. NINA DELA CRUZ, 14 years old, did then and there willfully, unlawfully and feloniously lie with and have sexual intercourse with her against her will and without her consent.

Contrary to law.[1]

Criminal Case No. 6295-V-97

That on or about the 25th day of May, 1997 in Valenzuela, Metro Manila and within the jurisdiction of this Honorable Court, the above-named accused, by means of force and intimidation employed upon the person of MA. NINA DELA CRUZ, 14 years old, did then and there willfully, unlawfully and feloniously lie with and have sexual intercourse with her against her will and without her consent.

Contrary to law.[2]

Upon arraignment on August 15, 1997, appellant pleaded not guilty[3] to both cases. Joint trial thereafter ensued.

Culled from the records of the cases are the following facts established by the prosecution:

On May 25, 1997, around 12:30 a.m., then 15-year old[4] Ma. Nina de la Cruz (Nina) was sleeping in her room located at the third floor of the residence of her adopting parents, Maxima and Melencio de la Cruz, in Ilang-Ilang St., Balubaran, Valenzuela City.[5] Sleeping in the same room but on a separate bed was Nina's 23-year old mentally deranged brother.[6]

Nina was awakened when appellant, who had resided with the de la Cruzes since 1976, he being one of the workers in the

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[1] *Rollo* at 6.

[2] *Id.* at 7.

[3] Records at 10.

[4] Based on the certification from the local Civil Registry of Valenzuela City (Records at 73-a), complainant was born on January 18, 1982, hence, she was 15 years old on the dates of the crimes charged.

[5] Transcript of Stenographic Notes (TSN), September 22, 1997 at 4.

[6] TSN, October 24, 1997 at 18.

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family metal craft business,[7] armed with a bladed weapon, suddenly entered her room.[8] Appellant then covered her mouth, held her hand and removed her shorts and panty[9] after which he removed his pants and brief, went on top of her and inserted his penis into her vagina.[10] After satisfying his carnal desire, appellant warned her not tell anyone about what happened and left the room.[11]

More than two months after the May 25, 1997 incident or on July 29, 1997, around 1:25 a.m., Nina was, like her brother with whom she shared her bedroom, sleeping.[12] She was once again awakened when appellant, also again armed with a bladed weapon, suddenly entered her room.[13] Just like the May 25, 1997 incident, appellant removed her shorts and panty,[14] after which he too removed his pants and brief and threatened Nina that he'll kill her if she shouted.[15] Appellant thereafter went on top of her and inserted his penis into her vagina.[16] His carnal desire satisfied, appellant left the room.[17]

In late July 1997, Nina's mother, after confirming from Nina herself that she was pregnant, confronted appellant about the incidents but he remained silent.[18] Appellant was thereupon

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[7] TSN, October 24, 1997 at 16-17.

[8] TSN, September 22, 1997 at 5.

[9] *Id.* at 6.

[10] *Id.* at 7.

[11] *Id.* at 8-9.

[12] *Id.* at 9.

[13] *Id.* at 9-10.

[14] *Id.* at 10.

[15] *Ibid.*

[16] *Id.* at 11.

[17] *Id.* at 11-12.

[18] *Id.* at 4.

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asked to leave as he did,[19] he proceeding to Melencio de la Cruz's father's house at Iba, Hagonoy, Bulacan.[20] On physical examination on August 2, 1997, Nina was found to have at least two lacerations on the genital area, and fifteen to sixteen weeks pregnant.

On the other hand, appellant, who was 55[21] when he testified on November 16, 1998, denied that he raped Nina on May 25, 1997 or on July 29, 1997. He claimed that on May 25, 1997, around 12:30 a.m., he was at work in the glass factory of Melencio de la Cruz's niece Dory de la Cruz at Hagonoy; that on July 29, 1997, he was back at the house of the de la Cruzes at Balubaran after Melencio de la Cruz rehired him;[22] and on July *23*, 1997, he was confronted about the alleged rape and cursed by Maxima "but [he] did not retaliate [and] just remained silent,"[23] and on even date he left and went to the house of Melencio de la Cruz's father at Iba, Hagonoy, Bulacan.[24] Melencio de la Cruz, together with his bodyguard later maltreated him and haled him into the Hagonoy jail where he was detained. He did not complain, however.

Finding for the prosecution, the trial court rendered the Joint Decision on appeal the dispositive portion of which reads:

> WHEREFORE, finding accused Nicanor Roa *y* Rabino Guilty beyond reasonable doubt of the offense charged:
>
> CRIMINAL CASE NO. 6294-V-97
>
> He is hereby sentenced to suffer the penalty of *Reclusion Perpetua* and to pay the costs. To indemnify the offended party the amount of ₱75,000.00.

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[19] *Id.* at 3-4.

[20] *Id.* at 4; TSN, January 25, 1999 at 8-9.

[21] TSN, November 16, 1998 at 2.

[22] TSN. January 25, 1999 at 2.

[23] *Id.* at 7.

[24] *Ibid.*

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CRIMINAL CASE NO. 6295-V-97

He is hereby sentenced to suffer the penalty of *Reclusion Perpetua* and to pay the costs.

He is further ordered to indemnify the offended party the sum of ₱75,000.00.

SO ORDERED.[25]

Appellant assails the credibility of the testimony of Nina, a close scrutiny of which he claims readily exhibits inconsistencies which go to the very core of her credibility,[26] he citing the following portions of her testimony:

FISCAL RAZON: (To the witness)

Q: Madam Witness, we noticed that you are pregnant, will you kindly tell this Court *how were you able to become pregnant and who is the father of the baby inside your womb?*

A: *Yes, sir, Mang Nick.*

x x x x x x x x x

Q: Now, Madam Witness, on May 25, 1997 at around 12:30 in the morning, do you remember where you were?

A: Yes, sir.

Q: Where were you?

A: I was inside the room sleeping.

Q: Where was your room situated then?

A: At the third floor.

Q: What is this address?

A: 41 Ilang-Ilang St., Balubaran, Valenzuela, Metro Manila.

Q: And what were you doing on that date and time?

A: I was sleeping, sir.

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[25] *Rollo* at 31-32.

[26] *Id.* at 57.

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Q: And who were or was your companion, if any, inside your bedroom?

A: My brother, sir.

Q: How old or young was your brother then?

A: 23 years, sir.

x x x x x x x x x

Q: *And after removing our short and panty, what happened next?*

A: *He made me lay down.*

x x x x x x x x x[27]

ATTY. RODRIGUEZ (to the witness)

Q: And you claim to have been raped by this accused in these cases on May 25, 1997?

A: Yes, ma'am.

Q: And you claimed that the accused in these cases is the father of that baby you are conceiving?

A: Yes, ma'am.

Q: Wherein the truth and in fact *you were already conc[ei]ving that baby even before or prior to May 25, 1997. Is that correct?*

A: Yes, ma'am.

x x x x x x x x x[28] (Italics supplied)

Appellant argues that "the fact that she was already sleeping would make it impossible for [him] to lay her down again because these circumstances do not appear to be in consonance with the normal course of human nature;"[29] and that while Nina attributed her pregnancy to appellant, she nevertheless admitted

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[27] TSN, September 22, 1997 at 3-6.

[28] TSN, October 24, 1997 at 24.

[29] *Rollo* at 58.

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that she was already pregnant *before* May 25, 1997[30] when the alleged rape subject of the first case occurred.

Appellant's appeal is devoid of merit.

This Court fails to see anything unusual or not being "in consonance with the normal course of human nature" to "lay down" one who has been awakened.

As for Nina's attribution of her pregnancy to appellant, albeit she admitted that she was already pregnant *before* the first rape incident, the same does not infirm her credibility. While, given her youth, she may erred in attributing her pregnancy to appellant on account of the May 25, 1997 incident, what matters is that she was positive in her claim about the occurrence of the sexual assault on her,[31] as shown in her following *verbatim* testimony which the trial court did find, as does this Court, to be candid and bereft of any indication that it was fabricated:

FISCAL RAZON: (To the witness)

Q: Now, Madam Witness, on May 25, 1997 at around 12:30 in the morning, do you remember where you were?

A: Yes, sir.

Q: Where were you?

A: I was inside the room sleeping.

Q: Where was your room situated then?

A: At the third floor.

Q: What is this address?

A: 41 Ilang-Ilang St., Balubaran, Valenzuela, Metro Manila.

Q: And what were you doing on that date and time?

A: I was sleeping, sir.

Q: And who were or was your companion, if any, inside your bedroom?

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[30] *Ibid.*

[31] *People v. Villaluna*, 303 SCRA 518 (1999).

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A: My brother, sir.

Q: How old or young was your brother then?

A: 23 years, sir.

Q: While you were sleeping were you able to sleep continuously up to the following morning?

A: No, sir.

Q: Why?

A: Because someone enter my room.

Q: Why? How was he able to enter your room, was your room open or lock?

x x x x x x x x x

A: It was opened, sir.

Q: And in what particular portion of the place inside your bedroom? Was it on the floor or in other place?

A: At the bed, sir.

Q: And who was with you, if any, when you were in your bed while you were sleeping?

A: None, sir.

Q: Now, according to you you noticed that a man entered your place, your bedroom, what happened when you noticed him entered your bedroom?

A: He covered my mouth and held my hand.

Q: And after that, what did he do?

A: He undressed me.

Q: What was the first part of your clothing did that man remove?

A: My short, sir.

Q: What was the next part of your clothing did he remove?

A: My panty.

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Q: And after removing your short and panty, what happened next?

A: He made me lay down.

Q: What about he what did he do to you?

A: Then he undressed himself.

Q: What was the first part of his clothing did he remove?

A: His pants.

Q: And then?

A: His brief.

Q: And after he removed his pant and brief, what did he do?

A: He made me lay down, he inserted his penis into my vagina.

Q: What was his position when he inserted his penis into your vagina?

A: He was on top of me.

Q: Now, how long did he take to insert his penis into your vagina?

A: Three minutes, sir.

Q: What was your feeling during all the time that he was inserting his penis into your vagina?

A: I felt pain and I was crying.

Q: Why did you not ask help of shout when according to you, your brother was inside your bedroom?

A: I cannot because he was holding a knife.

Q: What hand was he carrying a bladed weapon?

A: His left hand.

Q: And to what direction of portion did he point the bladed weapon?

A: At my neck, sir.

x x x x x x x x x

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Q: Now, on July 29, 1997 at around 1:25 early in the morning, do you still remember where you were?

A: I was in the room, sir.

Q: And also the same room were you staying before?

A: Yes, sir.

Q: What were you doing?

A: I was sleeping, sir.

Q: Who was with you at that time inside the bedroom?

A: My brother, sir.

Q: Were you able to sleep well that night?

A: No, sir.

Q: Why, will you kindly tell the reason?

A: Because he enter the room again.

Q: Who enter the room?

A: Mang Nick.

Q: And when he entered the room, what did he do next?

A: He undressed me, he removed my short and my panty and then he made me lay down then he removed his pants and brief.

Q: Why did you not shout and ask for help?

A: I was scared.

Q: Why were you scared?

A: Because he tells me that he will kill me if I will shout.

Q: Was he carrying anything?

A: Yes, sir.

Q: What was he carrying?

A: A knife, sir.

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Q: Will you kindly demonstrate before this Court the length of the bladed weapon he was carrying during the May 25 incident (Witness demonstrating)

COURT:

How do you estimate the size?

FISCAL RAZON:

Six inches, Your Honor.

FISCAL RAZON: (To the witness)

Q: That include the handle.

A: No, sir.

FISCAL RAZON:

Ten inches including the handle.

COURT:

Do you agree?

ATTY. RODRIGUEZ:

Yes, your Honor.

FISCAL RAZON: (To the witness)

Q: What about the bladed weapon he was carrying during the July 29 incident, will you kindly tell this Court how long?

A: It was the same bladed weapon that he was carrying on May 25, sir.

Q: After he removed his pants and brief, what did he do to you?

A: He inserted his penis into my vagina.

Q: And he was on your top at that time?

A: Yes, sir.

x x x x x x x x x[32]

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[32] TSN, September 22, 1997 at 4-11.

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The prosecution having by its evidence *prima facie* established appellant's guilt beyond reasonable doubt, the burden of evidence shifted on him. Appellant's evidence, however, is weak and fails to controvert the positive declaration of Nina who was not shown to have any reason to falsely charge him. His admitted silence when Nina's mother confronted and even cursed him by his claim, betrays his guilt just as his passivity does when he was allegedly maltreated and haled into jail by Nina's father on account of the incidents. For an innocent man would certainly strongly protest and deny a false accusation and do something positive to spare himself of punishment. But he did not.

Following Section 32 of Rule 130 of the Revised Rules on Evidence which provides:

> SECTION 32. *Admission by silence.* — An act or declaration made in the presence and within the hearing observation of a party who does or says nothing when the act or declaration is such as naturally to call for action or comment if not true, and when proper and possible for him to do so, may be given in evidence against him.

he is, by his silence, deemed to have admitted the charges.

In fine, this Court finds that the trial court committed no error in finding appellant guilty beyond reasonable doubt of two counts of rape.

On the civil aspect of the cases, the trial court ordered appellant to indemnify complainant ₱75,000.00 for each count of rape. In accordance with prevailing jurisprudence, however, the amount of ₱50,000.00 for each count should be awarded for purposes of civil indemnity.[33] And following *People v. Sitao*,[34] the victim should also be awarded moral damages of ₱50,000.00 for each count.

More. In *People v. Catubig*,[35] this Court held that if an aggravating circumstance is not alleged in the information but

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[33] *People v. Ferrer*, G.R. No. 139695, August 26, 2002.

[34] G.R. No. 146790, August 22, 2002.

[35] 363 SCRA 621 (2001).

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is established during trial, the complainant may still be entitled to exemplary damages. In the case at bar, although the use by appellant of bladed weapon was not alleged in the information, the testimony of Nina that he did use one suffices to entitle her to exemplary damages of ₱25,000.00 for each count.

WHEREFORE, the appealed Decision dated March 30, 1999 of the Regional Trial Court of Valenzuela City, Branch 171, finding appellant Nicanor Roa guilty beyond reasonable doubt of two counts of rape and sentencing him in each case to suffer the penalty of *reclusion perpetua* is *AFFIRMED with the MODIFICATION* that for each count, appellant is ordered to pay complainant, Ma. Nina de la Cruz, the amounts of ₱50,000.00 as civil indemnity, ₱50,000.00 as moral damages, and ₱25,000.00 as exemplary damages.

SO ORDERED.

Puno (Chairman), Panganiban, and *Corona, JJ.*, concur.

Sandoval-Gutierrez, J., on official leave.

THIRD DIVISION

[G.R. No. 140183. July 10, 2003]

TEODORO K. KATIGBAK and BIENVENIDO E. MERELOS, *petitioners, vs.* **THE SANDIGANBAYAN and PEOPLE OF THE PHILIPPINES,** *respondents.*