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THIRD DIVISION

[G.R. No. 148134. July 8, 2003]

PEOPLE OF THE PHILIPPINES, *plaintiff-appellee, vs.* **GEORGE BUENAFLOR** *y* **LABNOTIN,** *accused-appellant.*

SYNOPSIS

Appellant was found guilty by the trial court of the crime of rape for sexually abusing his fifteen-year old stepdaughter. He was sentenced to suffer the penalty of *reclusion perpetua.* Hence, this appeal anchored on appellant's claim that he and the victim were sweethearts and live-in partners.

In affirming the conviction of appellant, the Supreme Court ruled that the findings of the trial court on the credibility of witnesses and their testimonies are accorded great respect. It is the trial judge who sees the behavior and demeanor of the witness in court, her apparent possession or lack of intelligence, as well as her understanding of the obligation of an oath. The evaluation or assessment made by the trial court acquires greater significance in rape cases because from the nature of the offense, the only evidence that can oftentimes be offered to establish the guilt of the accused is the victim's testimony. In the case at bar, no compelling reason exists to disturb the trial court's finding disregarding the testimonies of the defense witnesses and upholding the credibility of the victim who stood firm on her claim and unshakable in her testimony.

The Court likewise held that the trial court correctly imposed on appellant the penalty of *reclusion perpetua* as the Information against him did not allege any qualifying circumstance.

SYLLABUS

1. REMEDIAL LAW; EVIDENCE; CREDIBILITY OF WITNESSES; FINDINGS THEREON BY TRIAL COURT, GENERALLY ACCORDED GREAT RESPECT ON APPEAL; CASE AT BAR.— [T]he findings of the trial court on the credibility of witnesses and their testimonies are accorded great respect. It is the trial judge who sees the behavior and demeanor of the

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witness in court, her apparent possession or lack of intelligence, as well as her understanding of the obligation of an oath. The evaluation or assessment made by the trial court acquires greater significance in rape cases because from the nature of the offense, the only evidence that can oftentimes be offered to establish the guilt of the accused is the victim's testimony. In the case at bar, no compelling reason exists to disturb the trial court's finding disregarding the testimonies of the defense witnesses and upholding the credibility of Merly who stood firm on her claim and unshakable in her testimony.

2. **CRIMINAL LAW; RAPE; ESTABLISHED BY THE PROSECUTION IN CASE AT BAR; PENALTY.—** The prosecution, principally through Merly's testimony, has clearly established that on May 5, 1996 the appellant forced himself on Merly who was then barely fifteen (15) years old. He threatened her with bodily harm, with a bolo at his side, while having carnal knowledge with her. The trial court correctly imposed on him the penalty of *reclusion perpetua* as the Information against the appellant did not allege any qualifying circumstance.

APPEARANCES OF COUNSEL

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

D E C I S I O N

PUNO, *J.*:

Merly Marcaida, a fifteen-year old young girl from Irosin, Sorsogon, suffered in silence for more than three years in the vile hands of appellant, her "stepfather." After the last incident on May 5, 1996, she finally left home and mustered up enough courage to tell her tale.

Before this Court on review is the Decision[1] and Resolution[2] of the Regional Trial Court of Irosin, Sorsogon dated January

[1] Records, pp. 124-135.

[2] *Id.* at 141-142.

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26, 2000 and February 16, 2000, respectively in Crim. Case No. 1193, finding accused-appellant George Buenaflor *y* Labnotin guilty beyond reasonable doubt of the crime of rape, and imposing upon him the penalty of imprisonment of *reclusion perpetua*.[3]

In an Information[4] dated August 26, 1996, accused-appellant George Buenaflor was charged with the crime of Rape, committed as follows:

That on or about the 5th day of May 1996 at sitio Kalian, Barangay Bagsangan, municipality of Irosin, province of Sorsogon, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, by means of force and intimidation, did then and there, wilfully, unlawfully and feloniously had (*sic*) carnal knowledge of one Merly Marcaida, against her will and without her consent, to her damage and prejudice.

CONTRARY TO LAW.

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[3] The trial court, in its Decision dated January 26, 2000 found the accused guilty beyond reasonable doubt of the crime of rape, and first sentenced him to suffer the capital penalty of death.

On February 10, 2000, the accused filed his Motion for Reconsideration seeking to reduce the death sentence imposed on him. He claims, per ruling of this Court in the case of *People vs. Garcia*, (281 SCRA 483-484, 489) that the additional attendant circumstances in Republic Act No. 7659 should be considered as special qualifying circumstances distinctly applicable to the crime of rape and, if not pleaded as such, could only be appreciated as generic aggravating circumstances. The Information filed against the accused did not allege the qualifying circumstances of relationship and minority, hence, the accused cannot be meted the penalty of death but only *reclusion perpetua*.

The trial court granted the above motion of the accused. In its Resolution dated February 16, 2000 the trial court, in the dispositive portion ruled, as follows:

> WHEREFORE, in view of the foregoing premises, the Court hereby MODIFIES the dispositive portion of its previous DECISION dated January 26, 2000 by commuting the sentence of the accused from *DEATH TO RECLUSION PERPETUA* and ordering the accused George Buenaflor *y* Labnotin to indemnify the offended party MERLY MARCAIDA the amount of ₱50.000.00 as moral damages, and to pay the costs.

[4] "Information," Records, p. 1.

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Accused-appellant pleaded not guilty to the offense charged and was tried for the crime of rape. He is the common-law husband of private complainant Merly Marcaida's mother Josephine. The latter has been cohabiting with the accused for more than ten (10) years, out of which four (4) children were born. Merly, on the other hand, is Josephine's legitimate daughter with her deceased husband.

The evidence of the prosecution is based mainly on the testimony of Merly. She testified that in the morning of May 5, 1996, she was washing clothes in the river of Sitio Kalian, Bagsangan, Irosin, Sorsogon, some ten (10) meters away from their house. She was then alone in the river, while the appellant and her three half-brothers were left in their house. The accused called out for her, and she was told to come to the house, which she did. The appellant then sent her three (3) half-brothers out of the house, and with a bolo in his hand, pulled her into the bedroom. Once inside the room, the appellant stripped her of her shorts and underwear while she was standing. She asked the appellant what he was going to do with her; he warned her not to tell anybody what he would do with her. The appellant forced her to lie down on the mat but she tried to push him away. She did not succeed in shoving him off because he was very strong. While she was in the supine position, the appellant removed his shorts and underwear, held her legs, and straddled her. His first attempt to insert his penis into her vagina failed. The appellant proceeded to kiss and embrace her while doing some pumping motions until he succeeded in penetrating her and satisfying his bestial desire. Merly felt pain but could do nothing. The appellant was too strong, and had a bolo at his side while ravishing her. Before the appellant left, he again warned her not to tell on him or else he will kill all of them. She returned to the river to resume her washing.[5]

A few days after, she revealed to her mother the incident. Her mother would not believe her. That was the last straw for Merly. She decided to leave home, and sought refuge in the

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[5] TSN, 26 February 1997, pp. 7-13.

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house of Jose Gobres in Monbon, Irosin, Sorsogon. Jose Gobres is the husband of her cousin Myrna Gobres. Merly confided to them all that had happened. The Gobres spouses helped her hide from her mother and the appellant by bringing her to Puting Sapa and recommending her to work as a housemaid for the Barangay Captain. When the latter knew of her ordeal, he helped them in reporting the case to the police authorities.[6]

Merly testified that appellant has raped her on several occasions. The first time was committed in 1993 when she was in Grade 3, and while they were still residing in Matnog. Between 1993 and 1996, countless other incidents of rape occurred. On May 9, 1995 she even bore a child, conceived by the appellant. The child died a few minutes after birth.[7] We reproduce Merly's clear and straightforward testimony, *viz*:

CROSS-EXAMINATION BY ATTY. ARRIESGADO:[8]

q- Madam witness, you have stated that you had been raped by your stepfather several times before and until May 5, 1996, do I get you right?
a- Yes.

q- And will you please tell the honorable court that you get (*sic*) pregnant when your stepfather had raped you?
a- Yes, sir.

q- Will you please tell this hon. court when did you deliver that baby which was conceived by your stepfather?
a- May 9, 1995.

q- Do we understand from you that before May 1995 you have (*sic*) frequent sexual intercourse with your stepfather, do I get you right?
a- Yes.

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[6] *Id.* at 14-17.

[7] *Id.* at 13, 17; TSN, 27 August 1997, pp. 5-7.

[8] TSN, 05 November 1997, pp. 6-8.

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q- And those sexual intercourse you first associate you have been forced to have sexual intercourse and then the succeeding sexual intercourse there was no force anymore, do I get you right?
a- No, that is not true.

q- Will you please tell this hon. court how frequent that sexual intercourse occurs (*sic*) previous to May 1995?
a- In one week time sometimes three times.

q- And when you became pregnant that is one month or three months old, do you have also an occasion to have sexual intercourse with your stepfather?
a- Yes.

q- Did your mother notice when you became pregnant?
a- Yes, sir.

q- What did your mother do?
a- She just have me drink one glass of a very bitter herbal medicine.

q- And what happened when you took the herbal medicine?
a- Then after that I was told to take cortal tablets.

q- And you took those herbal medicine & cortal tablets?
a- I don't want to take those cortal tablets but she forced me.

q- It was your mother who forced you to take the herbal medicine and the cortal tablets?
a- My mother and stepfather the two of them.

x x x x x x x x x

QUESTION BY THE COURT:

q- Where is the child now?
a- Dead already.

Atty. Arriesgado:

q- Please tell this hon. court how old that child?
a- After it was delivered after a few minutes he died.

Court:

Put on record that the witness is crying.

Prosecution witness, Myra Gobres, corroborated the testimony of Merly that the latter visited her at her house in Monbon,

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Irosin, Sorsogon on May 26, 1996. She and her husband were then having their siesta. Merly was crying and asked them to hide her because she could no longer bear her defiorations in the hands of her stepfather.[9]

Dr. Nerissa Tagum, the medico-legal officer who examined Merly, stated in her report the following findings:[10]

INTERNAL EXAMINATION:

— Multiple old hymenal lacerations at 1, 4, 5, 7, 9 & 10 o'clock positions

— Vagina admits 2 fingers with ease

— Cervix closed, no vaginal bleeding

Microscopic Findings:

— Negative for spermatozoa

Dr. Tagum testified that the multiple lacerations could be caused by sexual intercourse, as well as the insertion of the finger or an instrument.

The appellant denies having raped Merly. He claims that Merly was his sweetheart and live-in partner. He, however, presented conflicting statements surrounding the alleged relationship.

The defense assigns as error the following:

THE REGIONAL TRIAL COURT OF IROSIN, SORSOGON (BRANCH 55) HAS COMMITTED AN ERROR IN NOT ABSOLVING AND FREEING THE ACCUSED-APPELLANT OF THE SERIOUS CRIME CHARGED DUE TO PRESENCE OF REASONABLE DOUBT.

We find no reason to doubt the testimony of Merly. As the trial court ruled, Merly's declaration[11] before the police

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[9] *Id.* at 1-5.

[10] Exhibit "C", Records, p. 11.

[11] Exhibit "B", Records, p. 10.

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investigator of PNP-Irosin, her narration[12] in the course of the preliminary examination conducted by the presiding judge of MTC Irosin, and her testimony in open court during the trial were consistent in substance. She was unwavering in her claim that she was raped by the appellant, her mother's common-law husband. The trial court found her to be a credible witness, without any ill-motive to lie, her testimony clear, candid and straightforward.

It has been held in a long line of cases that the findings of the trial court on the credibility of witnesses and their testimonies are accorded great respect. It is the trial judge who sees the behavior and demeanor of the witness in court, her apparent possession or lack of intelligence, as well as her understanding of the obligation of an oath. The evaluation or assessment made by the trial court acquires greater significance in rape cases because from the nature of the offense, the only evidence that can oftentimes be offered to establish the guilt of the accused is the victim's testimony.[13] In the case at bar, no compelling reason exists to disturb the trial court's finding disregarding the testimonies of the defense witnesses and upholding the credibility of Merly who stood firm on her claim and unshakable in her testimony.

The evidence for the defense was anchored solely on the claim of the appellant that he and Merly were sweethearts and live-in partners. He alleged that the several incidents of sexual intercourse between him and Merly, including that of May 5, 1996, were consensual. He likewise admitted to have impregnated Merly whose baby, however, died immediately after birth. At first, he denied during his direct testimony in open court that he had any relations with Josephine Marcaida (mother of Merly) who was also living with them in the same house together with the younger siblings of Merly. As the trial court observed, the appellant was trying to imply that the mother of the victim consented to his having an affair with her very young daughter

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[12] Preliminary Investigation, Records, pp. 12-14.

[13] *People vs. Nardo*, G.R. No. 133888, 01 March 2001.

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while all of them were living under one roof. The incredible story could only be concocted by the morally perverted appellant. He had no independent proof that he and Merly were sweethearts and that Merly's mother consented to such an illicit and immoral arrangement.

To make matters worse for the defense, appellant's propensity to lie was exposed more clearly by his conflicting statements on his relationship with Josephine. Under cross examination, he denied the relationship. Later, however, he admitted the relationship, *viz*:

CROSS-EXAMINATION BY PROS. PURA:[14]

q- So Mr. Witness when you testified that you are cohabiting with the mother of Merly Marcaida, you are now contradicting your previous testimony that you have no relation to the mother of Merly Marcaida because as you said you have relation with Merly Marcaida?

a- We live together in the same house.

q- But you recall your testimony that it was Merly Marcaida to whom you have a relationship and not to her mother?

a- Yes, the witness nod. (*sic*)

q- In fact you stated at that time when you testified before this court that you met Merly Marcaida in Masbate and that she went to Kalian alone and left her mother and siblings?

a- Yes.

q- But now you are telling us that it was really you and the mother of Merly Marcaida which (*sic*) has (*sic*) a relationship sexually? (*sic*)

a- Yes, sir.

x x x x x x x x x

q- And how many children do you have with the mother of Merly Marcaida?

a- Four.

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[14] *Id.* at 4-5.

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q- But you will recall telling the court that you have never have (*sic*) a child with the mother of Merly Marcaida because you have no relation.
a- Yes, I remember that.

q- And you remember telling that to the court?
a- Yes.

q- And now you are again telling us a different story?
a- She is really my former live-in partner.

Pros. Pura:

That's all.

The law governing the instant case is Section 11 of Republic Act No. 7659 (AN ACT TO IMPOSE THE DEATH PENALTY ON CERTAIN HEINOUS CRIMES, AMENDING FOR THAT PURPOSE THE REVISED PENAL LAWS, AS AMENDED, OTHER SPECIAL PENAL LAWS, AND FOR OTHER PURPOSES), amending Art. 335 of the Revised Penal Code, to wit:

Section 11. Article 335 of the same Code is hereby amended to read as follows:

Art. 335. When and how rape is committed. — 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 twelve (12) years of age or is demented.

The crime of rape shall be punished by *reclusion perpetua*.

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.

When by reason or on the occasion of the rape, the victim has become insane, the penalty shall be death.

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When the rape is attempted or frustrated and a homicide is committed by reason or on the occasion thereof, the penalty shall be *reclusion perpetua* to death.

When by reason or on the occasion of the rape, a homicide is committed, the penalty shall be death.

The *death penalty* shall also be imposed if the crime of rape is committed with any of the following attendant circumstances:

1. When the *victim is under eighteen (18) years of age* and the *offender is* a parent, ascendant, step-parent, guardian, relative by consanguinity or affinity within the third civil degree, or *the common-law spouse of the parent of the victim.*

2. when the victim is under the custody of the police or military authorities.

3. when the rape is committed in full view of the husband, parent, any of the children or other relatives within the third degree of consanguinity.

4. when the victim is a religious or a child below seven (7) years old.

5. when the offender knows that he is afflicted with Acquired Immune Deficiency Syndrome (AIDS) disease.

6. when committed by any member of the Armed Forces of the Philippines or the Philippine National Police or any law enforcement agency.

7. when by reason or on the occasion of the rape, the victim has suffered permanent physical mutilation.

[Italics supplied.]

The prosecution, principally through Merly's testimony, has clearly established that on May 5, 1996 the appellant forced himself on Merly who was then barely fifteen (15) years old. He threatened her with bodily harm, with a bolo at his side while having carnal knowledge with her. The trial court correctly imposed on him the penalty of *reclusion perpetua* as the Information against the appellant did not allege any qualifying circumstance.

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IN VIEW THEREOF, the Resolution of the Regional Trial Court of Irosin, Sorsogon in Crim. Case No. 1193, dated February 16, 2000, finding appellant George Buenaflor *y* Labnotin guilty beyond reasonable doubt of the crime of rape, and imposing upon him the penalty of imprisonment of *reclusion perpetua* is *AFFIRMED* with the *MODIFICATION* that the appellant is ordered to pay the offended party Merly Marcaida the amounts of ₱50,000.00 as moral damages,[15] and ₱50,000.00 as civil indemnity *ex delicto*.[16]

SO ORDERED.

Panganiban, Sandoval-Gutierrez, Corona, and *Carpio Morales, JJ.,* concur.

THIRD DIVISION

[G.R. Nos. 148368-70. July 8, 2003]

PEOPLE OF THE PHILIPPINES, *plaintiff-appellee, vs.* **EDUARDO FABIAN *Y* MARI,** *accused-appellant.*

SYNOPSIS

Appellant was found guilty by the trial court of three counts of rape for sexually abusing a fifty-one year old widow. He was sentenced to suffer the penalty of *reclusion perpetua* for each count. On appeal, appellant faulted the trial court in giving credence to the testimony of the victim and in not appreciating his "sweetheart defense."

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[15] *People vs. Sitao*, G.R. No. 146790, 22 August 2002.

[16] *People vs. Ferrer*, G.R. No. 139695, 26 August 2002.