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SECOND DIVISION

(G.R. No. 53498. December 16, 1985)

PEOPLE OF THE PHILIPPINES, *plaintiff-appellee, vs.* **INOCENCIO SOTEROL** *y* **ENGCONG,** *defendant-appellant.*

SYLLABUS

1. **REMEDIAL LAW; EVIDENCE; CREDIBILITY OF WITNESSES; FINDINGS OF FACT OF THE TRIAL COURT GENERALLY NOT DISTURBED ON APPEAL; CASE AT BAR.—** The question of whether or not the sexual intercourse in question is free and voluntary, hinges on the credibility of witnesses, the determination of which is largely addressed to the sound discretion of the trial court. Appellate courts will generally not disturb the findings of the trial court, considering that it has unequalled competence to consider and determine the credibility of witnesses, in view of its unique opportunity to observe the demeanor of witnesses on the stand, an opportunity not afforded the appellate court, unless it has plainly overlooked certain facts of substance and value that, if considered, might affect the result of the case. In the case at bar, We find no reason to disturb the findings of the trial court as stated in its decision as follows: "The prosecution evidence is clear and convincing. The testimony of the complainant was straight-forward, unequivocal and given with a demeanor so natural which could only be done by a victim of sexual assault by her own ravenous uncle under the circumstances described. She was innocent and seemingly timid young minor who grew up in a *barrio*, completely detached from public scrutiny under a court atmosphere she never experienced before, and yet she subjected herself to the ordeal and ignominy of an open discussion of how her virginity was lost and gave birth as a result thereof."

2. **ID.; ID.; ID.; SIX MONTH DELAY IN FILING COMPLAINT DOES NOT AFFECT CREDIBILITY AND WAS SUFFICIENTLY EXPLAINED IN CASE AT BAR.—** Appellant contends that the complainant's six month delay in filing her complaint and her silence after the alleged rape render her charge incredible. The complainant's failure to report the

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rape incident earlier had however been fully and satisfactorily explained. The complainant testified that she did not report the incident immediately because she believed her uncle's threat to kill her. Complainant was also afraid that if she had told her father about the incident, her father would surely react violently and kill her uncle, which would result in her father's imprisonment and thus the loss of the family's breadwinner.

3. **ID.; ID.; ID.; ABSENCE OF CRY FOR HELP DOES NOT NEGATE COMMISSION OF RAPE IN CASE AT BAR.**— It is further pointed out that complainant did not shout for help from the other occupants of the house. But the other occupants of the house were sleeping far from other occupants of the house were sleeping far from complainant's room. The two laborers were sleeping in another room on the ground floor far from complainant's room, while her parents were sleeping upstairs. And complainant could not scream as appellant was gagging her mouth before she lost consciousness.

4. **ID.; ID.; WEIGHT AND SUFFICIENCY IN RAPE CASES.**— Appellant's claim that he and complainant were sweethearts was not substantiated by testimonial or substantial evidence. The testimony of Pedro Millan that he saw Inocencio and Lilibeth dancing does not confirm that there was a love relationship between the two, while the testimony of Rosalia Sefuentes that Lilibeth told her that she and Inocencio are sweethearts is hearsay. No love-notes, mementoes or pictures were presented by the defense to attest to the truth of appellant's claim that he and Lilibeth were sweethearts. Furthermore, appellant seriously contradicted himself many times regarding the number of sexual intercourse he had with complainant. At first, he testified that they had four, then on cross-examination, he said that they had more than a hundred, and finally, he asserted that there were only twenty. This Court, in the case of *People vs. Alviz, Jr.*, reiterating earlier decisions, ruled that when a woman testifies that she has been raped, she says all that is needed to signify that the crime has been committed. This is so against any man committing the crime. It is more so when the accusing words are against a close relative.

5. **CIVIL LAW; DAMAGES; INDEMNITY IN RAPE CASES RAISED TO ₱30,000.**— With the modification that the amount of indemnity to be paid the complainant by the appellant be increased to ₱30,000.00 and child support to ₱1,000.00 a month.

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DECISION

CONCEPCION JR., *J.*:

This is an appeal from the decision of the then Court of First Instance of Davao, Branch I, convicting Inocencio Soterol *y* Engcong of the crime of RAPE.

The Information[1] dated July 12, 1979 charged the defendant-appellant as follows:

"The undersigned at the instance of the offended party accuses INOCENCIO SOTEROL *Y* ENGCONG of the crime of Rape under Article 335 of the Revised Penal Code, committed as follows:

That on or about June, 1978 in the Municipality of Panabo, Province of Davao, Philippines, and within the jurisdiction of this Court, the above-mentioned accused by means of force and intimidation, did then and there wilfully, unlawfully and feloniously have carnal knowledge with the complainant, Lilibeth Soterol, against her will.

Contrary to Law."

The facts according to the prosecution are as follows:

"One evening in June, 1978 Lilibeth Soterol, then sixteen years of age, was suddenly awakened in her sleep by someone gagging her mouth. She was alone in her bedroom on the ground floor of their two-storey house. After a while, she realized that it was her uncle, the defendant-appellant Inocencio Soterol, who was trying to quiet her.

Lilibeth struggled to get free of her uncle's hold but the latter pressed himself on her and threatened to kill her if she moved or made any noise. Eventually, Lilibeth weakened in her resistance and fainted. When she regained consciousness, appellant had already left her room. She realized, however, that he had raped her and that she was bleeding. All she could do then was cry. She did not report the incident to her parents because appellant had threatened to kill her if she did. Moreover, she was afraid that if she told her parents about it, her father would kill his uncle and no one would be left to support her brothers and sisters.

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[1] p. 38, Original Record.

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But because of the incident, Lilibeth became pregnant. Since she could not conceal her situation anymore, she ran away from home. She went to Davao City but was eventually traced there by her parents. She then told them what had happened. They brought her back home and accompanied her to the authorities to file charges against appellant."[2]

The defendant-appellant on the other hand admitted that he had sexual intercourse with his niece Lilibeth, not just once, but several times because they were sweethearts. He said that he had been courting Lilibeth since February 1978 and that she finally accepted his love in June of the same year, after which they had sexual intercourse several times in her room by mutual agreement.

The trial judge rejected the defense's theory and gave credence to the complainant's testimony, finding the same clear and convincing. Defendant-appellant was found guilty beyond reasonable doubt of the crime charged as follows:

"WHEREFORE, judgment is rendered finding the accused Inocencio Soterol guilty beyond reasonable doubt as principal of the crime of rape, hereby convicting and sentencing him to *reclusion perpetua*, together with all the accessories of the law.

"The accused is ordered to pay moral damages of ₱10,000.00 and to support the child at the rate of not less than ₱200.00 a month until it reaches the age of majority.

Costs against the accused."[3]

The case is now before Us on appeal, with the defendant-appellant raising the following assignment of errors:

I

THE LOWER COURT ERRED IN CONVICTING THE ACCUSED-APPELLANT BASED ON THE TESTIMONY OF THE LONE GOVERNMENT WITNESS, THE COMPLAINANT HERSELF; and

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[2] p. 50, *Rollo*.

[3] p. 90. Original Record.

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II

THE LOWER COURT ERRED IN NOT HOLDING THAT THERE WAS VOLUNTARINESS ON THE PART OF THE COMPLAINANT WHEN SHE HAD SEXUAL INTERCOURSE WITH THE APPELLANT.

We find no merit in the appeal.

It is admitted by the appellant that he had sexual intercourse with his niece, Lilibeth, on that early morning of June, 1978. The question now is, whether or not it was with her consent.

The question of whether or not the sexual intercourse in question is free and voluntary, hinges on the credibility of witnesses, the determination of which is largely addressed to the sound discretion of the trial court. Appellate courts will generally not disturb the findings of the trial court, considering that it has unequalled competence to consider and determine the credibility of witnesses, in view of its unique opportunity to observe the demeanor of witnesses on the stand, an opportunity not afforded the appellate court, unless it has plainly overlooked certain facts of substance and value that, if considered, might affect the result of the case.[4] In the case at bar, We find no reason to disturb the findings of the trial court as stated in its decision as follows:

"The prosecution evidence is clear and convincing. The testimony of the complainant was straight-forward, unequivocal and given with a demeanor so natural which could only be done by a victim of sexual assault by her own ravenous uncle under the circumstances described. She was innocent and seemingly timid young minor who grew up in a *barrio*, completely detached from public scrutiny under a court atmosphere she never experienced before, and yet she subjected herself to the ordeal and ignominy of an open discussion of how her virginity was lost and gave birth as a result thereof."[5]

Appellant contends that the complainant's six month delay in filing her complaint and her silence after the alleged rape

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[4] *People vs. Seculles*, 132 SCRA 659.

[5] p. 88, Original Record.

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render her charge incredible. The complainant's failure to report the rape incident earlier had however been fully and satisfactorily explained. The complainant testified that she did not report the incident immediately because she believed her uncle's threat to kill her. Complainant was also afraid that if she had told her father about the incident, her father would surely react violently and kill her uncle, which would result in her father's imprisonment and thus the loss of the family's breadwinner.

Appellant also argues that it is highly improbable for complainant to have forgotten the exact date when she was raped. But complainant did not completely forget. She tried to recall that it happened on June 17, 1978, when examined by the trial judge. Anyway, the exact date of the incident is not controverted as appellant has admitted that he had sexual intercourse with complainant in June, 1978.

It is further pointed out that complainant did not shout for help from the other occupants of the house. But the other occupants of the house were sleeping far from complainant's room. The two laborers were sleeping in another room on the ground floor far from complainant's room, while her parents were sleeping upstairs. And complainant could not scream as appellant was gagging her mouth before she lost consciousness.

Appellant's claim that he and complainant were sweethearts was not substantiated by testimonial or substantial evidence. The testimony of Pedro Millan that he saw Inocencio and Lilibeth dancing does not confirm that there was a love relationship between the two, while the testimony of Rosalia Sefuentes that Lilibeth told her that she and Inocencio are sweethearts is hearsay. No love-notes, mementoes or pictures were presented by the defense to attest to the truth of appellant's claim that he and Lilibeth were sweethearts. Furthermore, appellant seriously contradicted himself many times regarding the number of sexual intercourses he had with complainant. At first, he testified that they had four, then on cross-examination, he said that they had more than a hundred, and finally, he asserted that there were only twenty.

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This Court, in the case of *People vs. Alvis, J.*,[6] reiterating earlier decisions, ruled that when a woman testifies that she has been raped, she says all that is needed to signify that the crime has been committed. This is so against any man committing the crime. It is more so when the accusing words are against a close relative.

WHEREFORE, with the modification that the amount of indemnity to be paid the complainant by the appellant be increased to ₱30,000.00 and child support to ₱1,000.00 a month, the judgment appealed from should be as it is hereby AFFIRMED.

SO ORDERED.

Abad Santos, Escolin, Cuevas, and *Alampay, JJ.*, concur.

SECOND DIVISION

(G.R. No. 37762. December 19, 1985)

PEOPLE OF THE PHILIPPINES, *plaintiff-appellee, vs.* **EDUARDO B. NERI,** *defendant-appellant.*

SYLLABUS

1. **ADMINISTRATIVE LAW; REVISED ADMINISTRATIVE CODE, AS AMENDED; PERMIT TO CARRY FIREARMS; RULE FOR ISSUANCE.**— The fact that the firearm in question was issued to the accused by the Provincial Governor of Lanao del Norte to be used in the performance of his duties as Deputy Governor and that the accused had been issued a permit by the Acting PC Provincial Commander to carry said firearm outside his residence is not a valid defense in this case. Section 881 of Article IV of the Revised Administrative Code, as amended,

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[6] 117 SCRA 362.