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SECOND DIVISION

[G.R. No. 139833. February 28, 2003]

PEOPLE OF THE PHILIPPINES, *plaintiff-appellee, vs.* **JOEL GABAWA *Y* BANGGAY,** *accused-appellant.*

SYNOPSIS

Appellant was found guilty by the trial court of the crime of rape for sexually abusing Eusebia Paloa, who was suffering from chronic schizophrenia at the time of the commission of the crime. Appellant was sentenced to suffer the penalty of *reclusion perpetua*. Hence, this appeal.

In affirming the conviction of appellant, the Supreme Court ruled that mental deficiency affects the weight accorded to the testimony, not its admissibility. Accordingly, an adjudication of feeblemindedness or unsoundness of mind does not render a witness incompetent, as long as her mental condition or mental maturity is not impaired at the time of her production for the examination. It is established that schizophrenic persons do not suffer from clouding of consciousness and gross deficits of memory. Though she may not have totally lost her memory, it was shown that Eusebia was suffering from an impairment of judgment, which made her incapable of giving an intelligent consent to the sexual act. It has been held that where the rape victim is feeble-minded, even if there may have been no physical force employed on the victim, the force required by the statute is the sexual act itself.

The Court further ruled that when a rape victim's account is straightforward and candid, and is corroborated by the medical findings of the examining physician, the same is sufficient to support a conviction for rape. And even assuming then that Eusebia consented to have sexual intercourse with appellant, the copulation would fall under the third paragraph of Article 335 of the Revised Penal Code since the complainant was mentally ill. Sexual intercourse with an insane, deranged, or mentally deficient, feebleminded, or idiotic woman is rape, pure and simple.

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SYLLABUS

1. **CRIMINAL LAW; RAPE; ESSENTIALLY COMMITTED IN RELATIVE ISOLATION AND IT IS USUALLY ONLY THE VICTIM WHO CAN TESTIFY IN RESPECT OF THE FORCED COITUS.**— [T]he crime of rape is essentially, at least almost always, one committed in relative isolation or even secrecy; hence, it is usually only the victim who can testify in respect of the forced coitus.

2. **ID.; ID.; THE GRAVAMEN OF THE OFFENSE IS CARNAL KNOWLEDGE OF A WOMAN AGAINST HER WILL OR WITHOUT HER CONSENT; THE PHRASE "DEPRIVED OF REASON," CONSTRUED.**— In rape, the gravamen of the offense is carnal knowledge of a woman against her will or *without her consent*. To warrant a conviction for rape under paragraph (2) of Article 335, a woman need not be proven as completely insane or deprived of reason. The phrase "deprived of reason" has been construed to include those suffering from mental abnormality or deficiency; or some form of mental retardation; the feeble-minded but coherent; or even those suffering from mental abnormality or deficiency of reason.

3. **REMEDIAL LAW; EVIDENCE; ADMISSIBILITY OF; TESTIMONIAL EVIDENCE; QUALIFICATION OF WITNESSES; AN ADJUDICATION OF FEEBLEMINDEDNESS OR UNSOUNDNESS OF MIND DOES NOT RENDER A WITNESS INCOMPETENT, AS LONG AS HER MENTAL CONDITION IS NOT IMPAIRED AT THE TIME OF HER PRODUCTION FOR THE EXAMINATION; CASE AT BAR.**— Mental deficiency affects the weight accorded to the testimony, not its admissibility. Accordingly, an adjudication of feeblemindedness or unsoundness of mind does not render a witness incompetent, as long as her mental condition or mental maturity is not impaired at the time of her production for the examination. It is established that schizophrenic persons do not suffer from a clouding of consciousness and gross deficits of memory. Though she may not have totally lost her memory, it was shown that Eusebia was suffering from an impairment of judgment, which made her incapable of giving an intelligent consent to the sexual act. It has been held that where the rape victim is

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feeble-minded, even if there may have been no physical force employed on the victim, the force required by the statute is the sexual act itself. ... [T]he insanity or intellectual weakness of a witness, no matter what form it assumes, is not a valid objection to her competency if, at the time she is testifying, she has mental capacity to distinguish between right and wrong, so far as the facts in issue and her testimony thereon are involved, understands the nature and obligation of an oath, and can give a fairly intelligent and reasonable narrative of the matters about which she testifies.

4. **CRIMINAL LAW; RAPE; TENACIOUS RESISTANCE AGAINST RAPE IS NOT REQUIRED, NEITHER IS A DETERMINED OR A PERSISTENT PHYSICAL STRUGGLE ON THE PART OF VICTIM NECESSARY.**— 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 rape victim.

5. **REMEDIAL LAW; EVIDENCE; A RAPE VICTIM'S STRAIGHTFORWARD ACCOUNT CORROBORATED BY MEDICAL FINDINGS OF EXAMINING PHYSICIAN IS SUFFICIENT TO SUPPORT CONVICTION FOR RAPE.**— When the victim's testimony is corroborated by the physician's finding of penetration, there is sufficient foundation to conclude the existence of the essential requisite of carnal knowledge. ... When a rape victim's account is straightforward and candid, and is corroborated by the medical findings of the examining physician, the same is sufficient to support a conviction for rape.

6. **CRIMINAL LAW; RAPE; COMMITTED IN CASE OF SEXUAL INTERCOURSE WITH AN INSANE, DERANGED, OR MENTALLY DEFICIENT, FEEBLEMINDED, OR IDIOTIC WOMAN; CASE AT BAR.**— And even assuming then that Eusebia consented to have sexual intercourse with appellant, the copulation would fall under the third paragraph of Article 335 of the Revised Penal Code in view of the fact that the complainant was mentally ill. Sexual intercourse with an insane, deranged, or mentally deficient, feebleminded, or idiotic woman is rape, pure and simple.

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7. **CIVIL LAW; DAMAGES; INDEMNITY *EX DELICTO* AND MORAL DAMAGES; AWARDED IN CASE AT BAR.**— [I]n ruling upon appellant's civil liability, the trial court only awarded indemnity *ex delicto* of Fifty Thousand Pesos (₱50,000.00). Moral damages are automatically awarded in rape cases, without need of proof, for it is assumed that the victim sustained mental, physical and psychological suffering. Pursuant to prevailing jurisprudence, Eusebia should also be awarded moral damages in the amount of Fifty Thousand Pesos (₱50,000.00).

APPEARANCES OF COUNSEL

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

D E C I S I O N

AUSTRIA-MARTINEZ, *J.*:

Before us is an appeal from the decision, dated January 12, 1999, rendered by the Regional Trial Court of Iloilo City (Branch 30), convicting accused Joel Gabawa *y* Banggay of rape in Criminal Case No. 46933, sentencing him to suffer *reclusion perpetua* and ordering him to indemnify the offended party in the amount of Fifty Thousand Pesos (₱50,000.00)

In criminal complaint dated August 30, 1996, Eusebia Paloa, 35 years old, assisted by her mother Concordia F. Paloa, accused Joel Gabawa *y* Banggay of rape, committed as follows:

"That on or about the 10th day of July, 1996, in the Municipality of San Enrique, Province of Iloilo, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, taking advantage of the mental derangement of the undersigned, did then and there willfully, unlawfully and feloniously have sexual intercourse with her who could not freely consent to the sexual act on account of her mental state.

"CONTRARY TO LAW."[1]

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[1] *Rollo*, p. 7.

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On January 8, 1997, accused was arraigned and pleaded not guilty. Thereafter, trial ensued.

The prosecution presented its witnesses namely: Teresita C. Alarba, Dr. Sharon Faith B. Pagunsan, Dr. Mariano Hembra, private complainant Eusebia Paloa and SPO2 Ma. Mae Palabrica.

Teresita C. Alarba of Barangay Paga, San Enrique, Iloilo testified that: on July 10, 1996, private complainant Eusebia Paloa spent the day washing clothes for her; around 5:00 o'clock in the afternoon, her nephew, Randy Cabaging and accused Joel Gabawa came by and drank coffee; Eusebia ate supper at her house; Eusebia complained of body aches, and the accused, a bone setter (*hilot*), massaged Eusebia's shoulders and chest; Eusebia and the accused left her house together at about 7:00 o'clock in the evening; the following morning, she saw Eusebia in her kitchen which is separated from her house, lying in a fetal position and "bloody in her female organ"; Eusebia's underwear and short pants were bloody; she changed Eusebia's clothes before sending her home; she knew Eusebia even before the incident on July 10, 1996 because Eusebia used to roam around; Eusebia was not in a proper state of mind, and she talked nonsense.[2]

Dr. Sharon Faith B. Pagunsan, the Rural Health Physician of San Enrique, Iloilo, testified as follows: On July 11, 1996 she examined Eusebia on which basis, she issued a Medical Report with the following findings:

"Physical Findings:

"— came in ambulatory, oriented as to time, place and person

"— kempt, non-violent, non-agitated, inappropriate affect (apathetic)

"— (+) delusions — "*na-apektuhan ang bata, nag-gua ang dugo, kag nagsakit ang kilid ko*"; "*santol man lang ang gin-kaon ko, ti acid man na, paano mag-form sang human — ang dugo halin to ya sa likod ko nga bukol kag nag-gua sa obaryo*"

"— (+) flight of ideas

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[2] TSN, April 29, 1997, pp. 3-6.

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"— Head and Extremities: no remarkable findings

"— Chest and Abdomen: no remarkable findings

"— Breasts: no remarkable findings

"— External Genitalia: labia gape a little exposing the open hymen with single orifice(+) fresh blood coming from a lacerated fourchette at 6 o'clock position, 1st-degree laceration extending from the rim outwards is about 1 cm. and from the rim inwards is about 0.6 cm."[3]

When examined Eusebia's genitalia, she saw fresh blood coming from it. It is consistent with the injuries having been inflicted within the first 24 hours and it is possible that the injury was caused by sexual intercourse with a man.[4] Four days later, on July 15, 1996, she conducted further examination of Eusebia and issued a Medical Report, portions of which are herein quoted verbatim:

"— Genitalia: Thick hymen with circular opening: (+) complete laceration at 7 o'clock position

"Internal examination: admits 2 fingers with ease Cervix firm, closed, posteriorly located, non-tender Vaginal wall slightly lax with vaginal rugosities, smooth surface except on posterior portion proximal third of vaginal wall

(+) blood on examining fingers

"Speculum examination: cervix, posteriorly located, slightly pinkish, non-violaceous, (-) erosions, (-) discharges (+) clotted blood on the posterior vaginal vault (+) erythematous abrasions at the posterior wall proximal third of vaginal wall, triangular in shape about 3.5 X 5 cm. diameter, which bled on pressure

"Diagnosis: First Degree Laceration of Fourchette at 6 o'clock position, Complete Laceration of Hymen at 7 o'clock position, Abrasions at Proximal Third of Posterior Vaginal Wall."[5]

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[3] Original Records, p. 8.

[4] TSN, June 10, 1997, pp. 8-9 and 13.

[5] Original Records, p. 9.

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Dr. Mariano Hembra, a psychiatrist of the Western Visayas Medical Center, testified: On July 16, 1996, he was on duty at the Pototan Mental Health Unit and Eusebia was referred to him by Dr. Pagunsan for evaluation and complete psychiatry examination. The psychiatry examination revealed that Eusebia was suffering from chronic schizophrenia on July 10, 1996, the date of the alleged rape incident. Eusebia may be cured if treated and, in fact after undergoing treatment, Eusebia recovered from chronic schizophrenia sometime in December, 1996. Patients with chronic schizophrenia have good memories and could remember what happened to them after they were cured. The patient, if cured, would be able to remember if the allegation that she was raped is mere hallucination or true.[6]

The prosecution presented Eusebia as a witness after she was evaluated by Dr. Hembra as capable and fit to testify in Court.

Eusebia testified as follows: At around 8:00 o'clock in the morning of July 10, 1996, she went to the house of Teresita Alarba in Barangay Paga, San Enrique, Iloilo to help in washing clothes. Late in the afternoon, Randy Cabaging and accused Joel Gabawa arrived at the house and drank coffee. At about 7:00 o'clock in the evening, she and accused Joel went out of the house and proceeded to a vacant lot at the back of the house. Despite her resistance, accused took off her pants and underwear and was able to rape her because he applied force on her. She tried to resist but the accused was stronger than her. Accused raped her by inserting his penis into her vagina. She felt pain when the penis of the accused was inside her vagina. She did not shout because she was afraid that the accused might box her. Accused had sexual intercourse with her for about 5 minutes, after which, he left her without a word. Despite feeling pain, she did not cry because the rape had already been done. She put on her panty and pants and proceeded to the kitchen of Teresita located in the annex of the house and slept there until she was discovered by Teresita the following morning. She informed her mother, Concordia F. Paloa, about what

[6] TSN, October 22, 1997, pp. 4-9.

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happened to her and she was brought to Dr. Sharon Faith B. Pagunsan at about 4:00 o'clock in the afternoon of July 11, 1996 for examination.[7]

When asked in open court to identify and point out the accused, Eusebia positively identified the accused, who was among other detained accused, seated on a bench in the courtroom.[8]

SPO2 Ma. Mae Palabrica, a member of the Philippine National Police of San Enrique, Iloilo, testified: While on duty on July 11, 1996, she received a report from the mother of private complainant Eusebia that the latter was raped on the evening of July 10, 1996 by a person who Eusebia could identify through his face only. She interviewed Eusebia who seemed incoherent and illogical and referred her to the Rural Health Physician for physical and mental examination. After her physical examination, SPO2 Palabrica and SPO1 Aquilino de Otoy brought Eusebia, along with her mother and a relative, to Hacienda Edma, Brgy. Paga, San Enrique, Iloilo, where the incident allegedly took place for Eusebia to point to them the person who allegedly abused her. Before they arrived at Hacienda Edma, they passed by a group of laborers from the sugarcane field and Eusebia pointed to a person, telling them that he was the perpetrator. SPO1 de Otoy called the person and asked him if he knew Eusebia who was sitting at the back of the jeep and his answer was that he did not rape her. The person pinpointed by Eusebia is the accused Joel Gabawa.[9]

The prosecution rested its case after having offered its documentary evidence.

Thereafter, despite being given sufficient time to prepare for its evidence, the defense presented no witnesses but simply offered the Medical Report of Dr. Pagunsan as its evidence.[10]

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[7] TSN, January 28, 1998, pp. 4-16.

[8] TSN, January 28, 1998, pp. 4 and 9.

[9] TSN, April 1, 1998, pp. 4-8.

[10] Original Records, p. 119.

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On January 12, 1999, the trial court rendered its verdict in this wise:

"IN VIEW THEREOF, this Court finds Joel Gabawa *y* Banggay guilty beyond reasonable doubt of the crime of Rape committed under paragraph 3, Art. 335 of the Revised Penal Code as amended by R.A. No. 7659 and hereby sentences him to suffer the penalty of *RECLUSION PERPETUA* and to pay the victim the amount of ₱50,000.00 as indemnity.

"SO ORDERED."[11]

Hence, herein appeal on a lone assignment of error:

"THE TRIAL COURT GRAVELY ERRED IN CONVICTING ACCUSED-APPELLANT OF THE CRIME OF RAPE DESPITE THE INSUFFICIENCY OF THE PROSECUTION'S EVIDENCE."[12]

Appellant assails the finding of the trial court that the prosecution has presented enough evidence to prove beyond reasonable doubt that appellant is guilty of rape by having sexual intercourse with complainant Eusebia Paloa on July 10, 1996 on the following grounds:

(a) Complainant was suffering from chronic schizophrenia. Eusebia would have no capacity to remember later on what happened several months back if she was then afflicted with chronic schizophrenia. Not only could she not state in detail how she was raped but, worse, she failed to demonstrate that she put up any resistance to the alleged sexual assault committed against her.

(b) Prosecution witness Teresita Alarba has no personal knowledge about the rape allegedly committed by appellant because when the appellant and Eusebia left her house, Teresita did not see them anymore until she saw Eusebia in her kitchen at 7:00 o'clock in the morning.

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[11] *Rollo*, p. 62.

[12] *Rollo*, p. 42.

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(c) Dr. Sharon Faith Pagunsan did not categorically conclude that the bleeding in the external genitalia of the complaining victim was caused by a sexual intercourse with a man.

We find the appeal of Joel Gabawa to be devoid of merit.

The probative value of the testimony of Teresita Alarba lies not on whether she actually witnessed the alleged rape. It was simply meant to show that the appellant was with the private complainant, Eusebia, on the night the alleged rape occurred; that the only person seen with the complainant before the crime in question was committed was appellant and that Teresita saw Eusebia in her kitchen the following morning "bloody in her female organ."

Needless to stress, the crime of rape is essentially, at least almost always, one committed in relative isolation or even secrecy; hence, it is usually only the victim who can testify in respect of the forced coitus.

Article 335 of the Revised Penal Code, as amended by Republic Act No. 7659, provides:

"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 years of age or is demented.

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

In rape, the gravamen of the offense is carnal knowledge of a woman against her will or *without her consent*. To warrant a conviction for rape under paragraph (2) of Article 335, a woman need not be proven as completely insane or deprived of reason. The phrase "deprived of reason" has been construed to include those suffering from mental abnormality or deficiency; or some form of mental retardation; the feeble-minded but

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coherent; or even those suffering from mental abnormality or deficiency of reason.[13]

Was Eusebia suffering from chronic schizophrenia when she was raped?

Schizophrenia has been defined as a psychotic disorder of unknown etiology, characterized by disturbance in thinking, involving a distortion of the usual logical relations between ideas, a separation between the intellect and the emotions so that the patient's feelings and his or her manifestations seem inappropriate to his or her life situation, and a reduced tolerance for the stress of interpersonal relations so that the patient retreats from social intercourse into his or her own fantasy life and commonly into delusions and hallucinations, and may, when untreated or unsuccessfully treated, go on to marked deterioration or regression in his or her behavior though often unaccompanied by further intellectual loss.[14]

That Eusebia was suffering from schizophrenia at the time of the rape was established by the unrebutted testimony of Dr. Hembra. However, the fact alone that Eusebia suffered from schizophrenia did not render her incompetent to testify on the rape incident. Mental deficiency affects the weight accorded to the testimony, not its admissibility. Accordingly, an adjudication of feeblemindedness or unsoundness of mind does not render a witness incompetent, as long as her mental condition or mental maturity is not impaired at the time of her production for the examination.[15] It is established that schizophrenic persons do not suffer from a clouding of consciousness and gross deficits of memory.[16] Though she may not have totally lost her memory, it was shown that Eusebia was suffering from an impairment of

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[13] *People vs. Cañaveral, supra; People vs. Almacin*, 303 SCRA 399, 410 (1999); *People vs. Guerrero*, 242 SCRA 606, 617 (1995).

[14] *People vs. Baid*, 336 SCRA 656, 663-664 (2000), citing Webster's *Third New International Dictionary* (unabridged) 2030 (1993).

[15] Section 21 (a) and (b), Rule 130, Revised Rules of Court.

[16] *People vs. Baid, supra.* 671, citing A. Tasman, G. Kay, & Lieberman, *Psychiatry* 947-948 (1997).

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judgment, which made her incapable of giving an intelligent consent to the sexual act. It has been held that where the rape victim is feeble-minded, even if there may have been no physical force employed on the victim, the force required by the statute is the sexual act itself.[17]

We find no reason to disregard the trial court's appreciation of the competence of Eusebia to testify on the alleged rape since the same is aptly based on the evaluation of the examining psychiatrist, Dr. Hembra. There is nothing on record that would cast doubt on the knowledge and integrity of Dr. Hembra as an expert witness. The qualifications and expertise of Dr. Hembra were admitted by the defense.[18] We reproduce verbatim the testimony of Dr. Hembra:

"Q Once a patient is treated from chronic schizophrenia shall we say, doctor, to be able to separate the truth and can distinguish from what is not the truth?

"A Even the patient was already recovered from the illness, this patient has a good reality testing at least to be able to understand what surrounds her or what is being asked of her.

"Q Meaning, she would know how to perceive what is the truth, doctor?

"A Yes, ma'am.

"Q If hallucination stop whatever that she is telling if ever she is telling the truth, that is no longer hallucination, doctor?

"A Granting the patient has already recovered, if the things would be seen what the patient has perceived, she was not having mental disorder.

"Q If the patient has already recovered from chronic schizophrenia and she would tell after recovery that she was raped, it is no longer hallucination?

"ATTY. CALANZA:

We object, your Honor.

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[17] *People vs. Rosare*, 264 SCRA 398, 416 (1996), citing *Commonwealth vs. Stephens*, 17A 2d 919.

[18] TSN, October 22, 1997, p. 3.

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"Court:

The Court would first clarify this matter before making any ruling, you testified that after the patient has recovered, she could be in control of her faculties and whatever happens to her she would tell the truth and she could make proper judgment. The Court would like to clarify whether the event that happened when the patient was still suffering from chronic schizophrenia could be remembered by the patient and the judgment made by the patient clearly and objectively after she has recovered, we have no question to any event after she recovered, how about those events which happened when she was suffering from chronic schizophrenia?

"A Patient with chronic schizophrenia have good memory, the memory was not impaired, it means that it has anything to do with the memory, the memory is still intact, secondly, if there is any impairment on the perception of judgment, definitely during the time the patient is suffering from chronic schizophrenia there is impairment of patient's judgment, as well as its perception from the time the illness started.

"Once she was treated there the patient goes back to what we call normal perception and normal judgment.

"Court:

She could remember what happened to her after she recovered from chronic schizophrenia, she could now remember what happened to her as a normal person?

"A Yes, she could remember.

"Court:

She could remember and distinguish events which happened to her?

"A She could distinguish if the patient was normal.

"Court:

That would be all for the Court. Proceed.

Q Any hallucination which she had during the time she was suffering from chronic schizophrenia, it would appear that she has now forgotten as she has recovered, doctor?

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"A I would not agree with the word "forgotten" that would not apply to this patient already remember whatever hallucination that she have like for example, she can hear voices telling her to run, that she could still remember what voices before were telling, what they were asking.

"Q On the other hand, if she may remember that hallucination but she would know that it is hallucination now that she has recovered?

"A She can differentiate the hallucination from reality.

"Q In this particular case, at that time when she first stated that she was raped and the alleged incident happened on July 20, 1996, she was then suffering from chronic schizophrenia?

"A Yes, Ma'am.

"Q But now that she has recovered, she will be able to remember that she was raped, her statement that she was raped is hallucination or not?

"A Even the patient is presently in the normal stage, she can distinguish if that alleged rape was part of her mental illness though or it is reality if it is true."[19]

Thus, the insanity or intellectual weakness of a witness, no matter what form it assumes, is not valid objection to her competency if, at the time she is testifying, she has mental capacity to distinguish between right and wrong, so far as the facts in issue and her testimony thereon are involved, understands the nature and obligation of an oath, and can give a fairly intelligent and reasonable narrative of the matters about which she testifies.[20]

Hereunder is a material portion of the transcript of Eusebia's testimony in open court:

"Q And while you and Joel Gabawa were already there at the vacant lot at the backyard of the house of Teresita Alarba, was there anything that happened to you?

"A Yes, Sir.

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[19] TSN, October 22, 1997, pp. 7-9.

[20] Vicente J. Francisco, *The Revised Rules of Court in the Philippines*, Vol. VII, 1997 ed., p. 236, citing Underhill's *Criminal Evidence*, 5th Ed., Vol. I, p. 611.

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"Q What happened to you?
"A He raped me.
"Q You said "he raped me," you mean Joel Gabawa raped you?
"A Yes, Sir.
"Q And when you say Joel Gabawa raped you, you are referring to this accused Joel Gabawa whom you earlier identified before this Honorable court?
"A Yes, Sir.
"Q When you said Joel Gabawa raped you, please tell the court how did Joel Gabawa rape you, what did he do to you?
"A He took off my underwear, despite my resistance he was able to rape me because he applied force.
"Q At that time what were you wearing then?
"A I was wearing a long cotton black pants.
"Q Now you said the accused Joel Gabawa removed your panty by applying force on you and he was able to remove your panty despite your resistance, what about your long pants, what happened to your long pants?
"A He also took my pants
"Q Which was removed first, a long pants?
"A My long pants.
"Q And while the accused Joel Gabawa was removing your long pants, what did you do?
"A I was struggling.
"Q You were struggling for the purpose of preventing him to remove your long pants?
"A Yes, Sir.
"Q And after removing your long pants, that was the time that he removed your panty?
"A Yes, Sir.
"Q And while he was removing your panty you said you resisted, is that correct?
"A Yes, Sir.

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"Q Despite of your resistance you said he was able to remove your panty, can you tell the court why he was able to remove your panty despite your resistance?

"A Because he was stronger than me that's why he was able to took(*sic*) off my panty.

"Q And what happened after the accused was able to remove your panty?

"A He raped me then.

"Q When you said "he raped you," please tell the court what did the accused actually do to you?

"A He applied force to me and then raped me.

x x x x x x x x x

PROS. BARRIOS:

"Q When you said the accused raped you, what was the situation of the accused?

"A He had no clothes on.

"Q What about brief or pants?

"A He was only wearing shorts.

"Q Because he was wearing short, can you tell the court how he was able to rape you?

"A He took off his shorts and brief.

"Q And what did he do with his private parts when you said he raped you?

"A He inserted his penis into my vagina.

"Q And after inserting his penis or private part into your vagina, what action did he do?

"A He was exerting force.

"Q You mean to tell the court the accused Joel Gabawa was exerting force when his penis was already inside your vagina?

"A Yes, sir.

"Q What about you, what did you feel?

"A I moved and then Joel Gabawa left.

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"Q Did you feel pain when the penis of Joel Gabawa was inside your vagina?

"A Yes, Sir.

"Q How long did Joel Gabawa rape you by having his penis inside your vagina?

"A Around 5 minutes.

"Q Before when you were already naked because Joel Gabawa removed your panty and Joel Gabawa also removed his pants and brief and you said you were resisting, did you shout?

"A No, Sir.

"Q Why were you not able to shout?

"A Because I was afraid to shout.

"Q Why were you afraid to shout?

"A I'm afraid that he might box me."[21]

Our own meticulous review of the testimony of private complainant Eusebia reveals that said testimony is plain, straightforward, to the point and unflawed by any material or significant inconsistency, thus deserving of full faith and credit. Her testimony indicates that she could understand questions particularly relating to the incident and could give responsive answers to them.

On the alleged lack of resistance on the part of Eusebia, it is clear from the above-quoted testimony that Eusebia categorically stated that she tried to resist appellant's assault but, due to his physical strength, her efforts to ward off his attack proved futile; and that appellant inserted his penis in her vagina and exerted force inside for about five minutes. 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 rape victim.[22]

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[21] TSN, January 28, 1998, pp. 8-12.

[22] *People vs. Ortega*, G.R. No. 137824, September 17, 2002; *People vs. Escaño*, G.R. Nos. 140218-23, February 13, 2002; *People vs. Fraga*, 330 SCRA 669, 690 (2000); *People vs. Cantos, Sr.*, 305 SCRA 786, 798 (1999).

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Appellant succeeded in penetrating Eusebia's vagina and this fact was confirmed by the examination conducted by Dr. Pagunsan on July 11, 1996, which is within 24 hours of the sexual assault of Eusebia on July 10, 1996. The examination disclosed "fresh blood coming from a lacerated fourchette at 6 o'clock position, 1st-degree laceration extending from the rim outwards is about 1 cm. and from the rim inwards is about 0.6 cm."[23] When the victim's testimony is corroborated by the physician's finding of penetration, there is sufficient foundation to conclude the existence of the essential requisite of carnal knowledge.[24]

It is further noteworthy that appellant was positively identified not only in open court during the trial but likewise on July 11, 1996, the day after the rape, when Eusebia pointed to appellant as the one who raped her when appellant was chanced upon with a group of laborers near Hacienda Edma. SPO2 Ma. Mae Palabrica testified that when appellant was simply asked if he knew Eusebia, appellant instead replied that he did not rape her. Such testimony remains unrebutted.

As against the positive declaration of Eusebia and the physical evidence of forced coitus, appellant offered nary a defense. When a rape victim's account is straightforward and candid, and is corroborated by the medical findings of the examining physician, the same is sufficient to support a conviction for rape.[25]

And even assuming then that Eusebia consented to have sexual intercourse with appellant, the copulation would fall under the third paragraph of Article 335 of the Revised Penal Code in view of the fact that the complainant was mentally ill. Sexual

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[23] TSN, June 14, 1995, p. 6-7; Original Records, p. 6.

[24] *People vs. Belen*, G.R. Nos. 137991-92, June 10, 2002; *People vs. Brondial*, 343 SCRA 600, 621 (2000); *People vs. Rosales*, 313 SCRA 757, 763 (1999).

[25] *People vs. Cañaveral*, G.R. No. 133790, August 1, 2002; *People vs. Arillas*, 333 SCRA 765, 772 (2000).

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intercourse with an insane, deranged, or mentally deficient, feebleminded, or idiotic woman is rape, pure and simple.[26]

We note that in ruling upon appellant's civil liability, the trial court only awarded indemnity *ex delicto* of Fifty Thousand Pesos (₱50,000.00). Moral damages are automatically awarded in rape cases, without need of proof, for it is assumed that the victim sustained mental, physical and psychological suffering.[27] Pursuant to prevailing jurisprudence, Eusebia should also be awarded moral damages in the amount of Fifty Thousand Pesos (₱50,000.00).[28]

WHEREFORE, the decision of the Regional Trial Court of Iloilo City (Branch 30) dated January 12, 1999, in Criminal Case No. 46933, finding appellant, Joel Gabawa *y* Banggay, guilty beyond reasonable doubt of the crime of rape, sentencing him to suffer the penalty of *Reclusion Perpetua* and ordering him to pay the victim Eusebia Paloa the sum of Fifty Thousand Pesos (₱50,000.00) as civil indemnity is *AFFIRMED* with *MODIFICATION* to the effect that appellant is also ordered to pay victim Paloa the amount of Fifty Thousand Pesos (₱50,000.00) as moral damages and the costs.

SO ORDERED.

Bellosillo, Mendoza, Quisumbing and *Callejo, Sr., JJ.*, concur.

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[26] *People vs. Lubong*, 332 SCRA 672, 892 (2000); *People vs. Omar*, 327 SCRA 221, 229 (2000).

[27] *People vs. Alcantara*, 355 SCRA 601, 607 (2001).

[28] *People vs. Belen*, G.R. Nos. 137991-92, June 10, 2002; *People vs. Makiling*, G.R. No. 139329, October 23, 2001; *People vs. Carbonell*, G.R. Nos. 140789-92, September 28, 2001.