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and is ordered to pay a *FINE* of Five Thousand Pesos (₱5,000.00), with a *STERN WARNING* that a repetition of the same or similar acts will be dealt with more severely.

SO ORDERED.

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

Carpio, J., on official leave.

FIRST DIVISION

[G.R. No. 147943. December 12, 2002]

PEOPLE OF THE PHILIPPINES, *plaintiff-appellee, vs.* **RICO B. BAGAUA,** *accused-appellant.*

SYNOPSIS

Accused-appellant Rico B. Bagaua was convicted of rape by the Regional Trial Court of Tuao, Cagayan, and was sentenced to suffer the penalty of *reclusion perpetua.* In his appeal before the Court, appellant claimed that although he embraced and kissed the private complainant, he did not have carnal knowledge of her. He further contended that his guilt was not proven beyond reasonable doubt for failure of the prosecution to prove the element of force or intimidation. He argued that the trial court erred in basing its judgment on the contradictory and inconsistent testimonies of the prosecution witnesses.

The Supreme Court affirmed appellant's conviction. The alleged inconsistencies cited by appellant between the testimonies of private complainant and her son are really minor in character and insufficient to cast doubt on the said witnesses' credibility. The Court noted the fact that witness Marcial Solar was only five years old when the incident happened and seven years old when he testified in court. Considering Marcial's tender age

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and the trauma he went through after witnessing the sexual assault on her mother, he cannot be expected to recall every detail of the incident. The Court said that a few discrepancies and inconsistencies in the testimonies of witnesses referring to minor details and not actually touching upon the central fact of the crime do not impair the credibility of the witnesses. Instead of weakening their testimonies, such inconsistencies tend to strengthen their credibility because they discount the possibility of their being rehearsed. The Court also upheld the trial court's finding that private complainant's testimony was clear, sincere, positive and credible, and that she had no reason to falsely charge appellant of rape.

SYLLABUS

1. **CRIMINAL LAW; RAPE; GUIDING PRINCIPLES IN REVIEWING RAPE CASES.**— Rape is a serious offense with grave consequences both for the appellant and the complainant, hence the review of a judgment of conviction for rape must be done with utmost care. In reviewing rape cases, we are guided with three settled principles, namely: (a) An accusation for rape can be made with facility; it is difficult to prove but more difficult for the accused, though innocent, to disprove the same; (b) In view of the intrinsic nature of the crime of rape where only two persons are usually involved, the testimony of the complainant must be scrutinized with extreme caution; and (c) The evidence for the prosecution must stand or fall on its own merits and cannot be allowed to draw strength from the weakness of the evidence for the defense.

2. **ID.; ID.; ELEMENT OF CARNAL KNOWLEDGE; ESTABLISHED BY TESTIMONY OF VICTIM AND CORROBORATED BY THE MEDICAL FINDINGS.**— Accused-appellant also contends that the findings of the medical doctor who examined the private complainant do not prove that there was rape. To be sure, a medical examination, standing alone, is not sufficient to prove nor disprove the fact of rape because it is merely corroborative in character and is not an essential element of rape. Contrary to accused-appellant's contention, Dr. Cecille C. Paragua's medical findings corroborated private complainant's claim that she was sexually violated by accused-appellant. When the testimony of a rape

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victim is consistent with the medical findings, sufficient basis exists to warrant a conclusion that essential requisites of carnal knowledge has thereby been established.

3. **REMEDIAL LAW; EVIDENCE; DEFENSE OF DENIAL; IF UNSUBSTANTIATED BY CLEAR AND CONVINCING EVIDENCE IS A NEGATIVE SELF-SERVING ASSERTION THAT DESERVES NO WEIGHT IN LAW.**— Accused-appellant only raised the defense of denial. It is well-settled that denial, if unsubstantiated by clear and convincing evidence, is a negative self-serving assertion that deserves no weight in law. Between the positive assertions of the prosecution witnesses and the negative averments of the accused, the former indisputably deserve more credence and are entitled to greater evidentiary weight. Thus, the categorical statements of the prosecution witnesses must prevail over the bare denials of accused-appellant.

4. **ID.; ID.; CREDIBILITY OF WITNESSES; NOT IMPAIRED BY DISCREPANCIES AND INCONSISTENCIES REFERRING TO MINOR DETAILS AND NOT RELEVANT TO THE CENTRAL FACT OF THE CRIME.**— The alleged inconsistencies cited by accused-appellant between the testimonies of private complainant and her son are really minor in character and insufficient to cast doubt on the said witnesses' credibility. Worth noting is the fact that Marcial Solar was five years old when the incident happened and seven years old when he testified in court. Considering Marcial's tender age and the trauma he went through after witnessing the sexual assault on her mother, he cannot be expected to recall every detail of the incident. In any event, we have time and again said that a few discrepancies and inconsistencies in the testimonies of witnesses referring to minor details and not actually touching upon the central fact of the crime do not impair the credibility of the witnesses. Instead of weakening their testimonies, such inconsistencies tend to strengthen their credibility because they discount the possibility of their being rehearsed. As regards the alleged inconsistencies between private complainant's testimony and her sworn statement, we held in *People v. Villadares* that these inconsistencies do not impair the witness' credibility as affidavits are taken *ex parte* and are often incomplete or inaccurate for lack of or absence of searching inquiries by the investigating officer.

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APPEARANCES OF COUNSEL

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

D E C I S I O N

YNARES-SANTIAGO, *J.*:

This is an appeal from the decision[1] of the Regional Trial Court of Tuao, Cagayan, Branch 11, in Criminal Case No. 646-T, finding accused-appellant guilty beyond reasonable doubt of the crime of rape and sentencing him to suffer the penalty of *reclusion perpetua* and to pay the private complainant Maridel Solar the amounts of ₱50,000.00 as civil indemnity and ₱50,000.00 as moral damages.

The information reads:

That on or about May 31, 1997, in the Municipality of Piat, Province of Cagayan, and within the jurisdiction of this Honorable Court, the said accused Rico B. Bagaua with lewd design and by the use of force and intimidation did then and there willfully, unlawfully and feloniously hold the breast, embrace, kiss held the private parts and have sexual intercourse with the offended party Maridel S. Solar against her will.

Contrary to law.[2]

When arraigned on January 13, 1998, accused-appellant entered a negative plea. After trial on the merits, the trial court rendered the appealed judgment, the dispositive portion of which reads:

WHEREFORE, and in view of all the foregoing, the court finds the guilt of the accused Rico B. Bagaua of the crime of rape defined and penalized under Article 266-A of the Revised Penal Code to have been duly established beyond reasonable doubt and hereby sentences

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[1] Penned by Judge Orlando D. Beltran.

[2] *Rollo*, p. 6.

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him to suffer the penalty of *Reclusion Perpetua*. He is further sentenced to pay the private complainant Maridel Solar the amount of ₱50,000.00 as civil indemnity *ex-delicto* plus the amount of ₱50,000.00 as moral damages.

SO ORDERED.[3]

The prosecution established the following facts:

On May 31, 1997 at around 9:00 in the morning, private complainant and her 5-year old son, Marcial Solar, went to their farm about 200 meters away from their house at Sta. Barbara, Piat, Cagayan to gather *camote* tops. On their way to the farm, accused-appellant appeared and grabbed private complainant from behind. He turned her around and embraced her. Private complainant fought back but accused-appellant was too strong for her. He hit her stomach causing her to fall on the ground. He undressed then lay on top of her and removed her shorts and panties. He inserted his penis into her vagina. She struggled but to no avail. All the while her son was on the side shouting. After he satisfied his lust, accused-appellant ran away. Private complainant likewise ran towards the house of *barangay* captain Ramon Soriano and reported the incident. That same day, she underwent medical and physical examination.

Dr. Cecille C. Paragua, a resident physician at Nuestra Señora de Piat District Hospital, reported the following results:

1. Erythema at 3:00 o'clock position
2. Hymenal Laceration at 3:00, 5:00 8:00 & 11:00 o'clock position, old
3. Vaginal Smear (+) sperm.[4]

In his defense, accused-appellant admits that he embraced and kissed the private complainant but denies having carnal knowledge of her. He recalled that on May 31, 1997, at around 9:00 in the morning, he saw her and Marcial, her son, walking

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[3] *Rollo*, p. 16.

[4] Records, p. 3.

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near the river bank. He approached her and tried to embrace and kiss her but she resisted. He then noticed that Marcial was crying, so he stopped and went home. Later that day, he was surprised when one of the *barangay* councilmen went to their house and informed his father that Maridel Solar had charged him with rape.

In his Brief, accused-appellant raises the following assignment of errors:

I

THE TRIAL COURT ERRED IN CONVICTING ACCUSED-APPELLANT DESPITE THE FACT THAT HIS GUILT WAS NOT PROVEN BEYOND REASONABLE DOUBT.

II

THE TRIAL COURT ERRED IN CONVICTING ACCUSED-APPELLANT ON THE BASIS OF THE INCONSISTENT AND CONTRADICTORY STATEMENTS OF THE WITNESSES FOR THE PROSECUTION.

Rape is a serious offense with grave consequences both for the appellant and the complainant, hence the review of a judgment of conviction for rape must be done with utmost care.[5] In reviewing rape cases, we are guided with three settled principles, namely: (a) An accusation for rape can be made with facility; it is difficult to prove but more difficult for the accused, though innocent, to disprove the same; (b) In view of the intrinsic nature of the crime of rape where only two persons are usually involved, the testimony of the complainant must be scrutinized with extreme caution; and (c) The evidence for the prosecution must stand or fall on its own merits and cannot be allowed to draw strength from the weakness of the evidence for the defense.[6]

Challenging the evidence of the prosecution, accused-appellant claims that although he embraced and kissed the private complainant he did not have carnal knowledge of her. He further

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[5] *People v. Somodio*, G.R. Nos. 134139–40, February 15, 2002.

[6] *People v. Ollamina*, G.R. No. 133185, February 6, 2002.

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contends that his guilt was not proven beyond reasonable doubt for failure of the prosecution to prove the element of force or intimidation. He argued that the trial court erred in basing its judgment on the contradictory and inconsistent testimonies of the prosecution witnesses. Moreover, a careful reading of the testimony of Marcial shows that there was no force employed upon the private complainant. Private complainant's testimony that she was hit on her stomach by accused-appellant does not appear in her affidavit. Lastly, the trial court's finding that he was armed with a bolo is not supported by the evidence on record.

Accused-appellant's arguments entail a re-examination of the credibility of the witnesses. The task of determining the truth between the conflicting claims belongs to the trial court, which had the unique opportunity to meet the witnesses face to face and observe their demeanor on the stand. Hence, great reliance is placed by appellate courts on the assessment made by the trial court on the credibility of the witnesses.[7] We find no reason to depart from the findings of facts of the trial court.

The trial court found that the private complainant's testimony was clear, sincere, positive and credible,[8] and that she had no reason to falsely charge accused-appellant of rape.[9] She testified as follows:

PROS. REYES:

Q. In the morning of May 31, 1997 at about 9:00 o'clock, where were you?
A. We went to pick *camote* tops.

x x x x x x x x x

Q. Who was your companion?
A. My five (5) year old son named Marcial Solar.

Q. You mean, your son is five (5) years old?

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[7] *People v. Bartolome*, G.R. No. 138365, April 16, 2002.

[8] Record, p. 94.

[9] *Ibid.*

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A. Seven (7) years old now, sir. He was five (5) years old then.

Q. While gathering *camote* tops, where was your son?
A. He was inside, sir.

Q. And while gathering *camote* tops, what happened?
A. Rico Bagaua suddenly appeared near us.

Q. What did this Rico Bagaua do when he suddenly appeared?
A. He embraced me, sir.

Q. What part of your body did Rico Bagaua grab?
A. Left side of my body, sir.

Q. What particular part of your body?
A. He took hold of my left back.

Q. And what else did he do?
A. He boxed me, sir.

Q What part of your body was boxed?
A My stomach, sir.

Q. When Rico Bagaua grabbed you, what did you do?
A. I fought back, sir.

Q. Will you demonstrate how you fought back Rico Bagaua?
A. We grappled with each other.

Q. After that?
A. When we were grappling, he warned me not to tell what happened to my husband or else he will kill me and my son.

x x x x x x x x x

Q. What was your position when he removed you short pant and your panty?
A. I fell on the ground and I was lying on my back.

Q. All the while when this Rico Bagaua was doing this, what was your son doing?
A. He was shouting, sir.

Q. When he was removing your shorts and your panty, what did you do?
A. I struggled, sir.

Q. What happened next?
A. He raped me.

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x x x x x x x x x

Q. What did you fell when Rico Bagaua was on the act of raping you?
A. I felt the penetration.[10]

The ordeal of the private complainant in the hands of accused-appellant was rendered even more revolting since it was done in the presence of her 5-year old son. Marcial Solar testified as follows:

Q. Do you remember one time your mother brought you along when she went to gather *camote* tops?
A. Yes, sir.

Q. Does she usually bring you along when she gathers *camote* tops?
A. Yes, sir.

Q. Do you remember one time when your mother brought you to gather *camote* tops something happened?
A. Yes, sir.

Q. What was that something which happened?
A. When we were going out of the cornfield, that's the time Rico Bagaua suddenly appeared.

Q. Can you still remember what your mother was doing when Rico Bagaua suddenly appeared?
A. Yes, sir.

Q. What was your mother doing at that time?
A. She was picking-up *camote* tops, sir.

Q. How about you, what were you doing at that time?
A. I was playing, sir.

Q. While your mother was gathering *camote* tops and you were playing, Rico Bagaua suddenly appeared you said. When Rico Bagaua appeared, what did he do if you still remember?
A. He was walking in the cornfields, sir.

Q. What did he do?
A. He went towards where we were, sir.

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[10] TSN, March 2, 1999, pp. 3–5.

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Q. Did Rico Bagaua do anything to your mother?

ATTY. DARAN:

May we object on that, your Honor. Very Leading.

COURT:

The Court *motu-propio* allowed leading questions considering the tender age of the witness.

ATTY. DARAN:

Anyway the question was already answered. He told that Rico Bagaua was just walking in the cornfields.

COURT:

Witness may answer.

A. He went on top of my mother, sir.

PROS. REYES

Q. Before he went on top of your mother, can you remember what did he do?

A. He removed the short pant of my mother, sir.

x x x x x x x x x

Q. Did you see Rico Bagaua box your mother?

A. Yes, sir.

Q. Where did he box your mother?

A. Her stomach (The witness pointing his mid-section.)

Q. And when Rico Bagaua boxed your mother what did your mother do?

A. She lost consciousness, sir.

x x x x x x x x x

Q Did you see the buttocks of Rico Bagaua?

A Yes, Sir.

Q. What did he do with his buttocks?

A. His buttocks was moving, sir.[11]

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[11] TSN, April 14, 1999, pp. 3–8.

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As against the foregoing testimonies, accused-appellant only raised the defense of denial. It is well-settled that denial, if unsubstantiated by clear and convincing evidence, is a negative self-serving assertion that deserves no weight in law. Between the positive assertions of the prosecution witnesses and the negative averments of the accused, the former indisputably deserve more credence and are entitled to greater evidentiary weight. Thus, the categorical statements of the prosecution witnesses must prevail over the bare denials of accused-appellant.[12]

The alleged inconsistencies cited by accused-appellant between the testimonies of private complainant and her son are really minor in character and insufficient to cast doubt on the said witnesses' credibility. Worth noting is the fact that Marcial Solar was five years old when the incident happened and seven years old when he testified in court. Considering Marcial's tender age and the trauma he went through after witnessing the sexual assault on her mother, he cannot be expected to recall every detail of the incident.[13] In any event, we have time and again said that a few discrepancies and inconsistencies in the testimonies of witnesses referring to minor details and not actually touching upon the central fact of the crime do not impair the credibility of the witnesses. Instead of weakening their testimonies, such inconsistencies tend to strengthen their credibility because they discount the possibility of their being rehearsed.[14]

As regards the alleged inconsistencies between private complainant's testimony and her sworn statement, we held in *People v. Villadares*[15] that these inconsistencies do not impair the witness' credibility as affidavits are taken *ex parte* and are often incomplete or inaccurate for lack of or absence of searching inquiries by the investigating officer.

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[12] *People v. Baroy*, G.R. Nos. 137520-22, May 9, 2002.

[13] *People v. Balano*, 355 SCRA 627, 638 [2001].

[14] *People v. Givera*, 349 SCRA 513, 530 [2001].

[15] 354 SCRA 86, 96 [2001].

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Losing no time, private complainant reported the incident to the *barangay* captain and the police authorities; submitted herself to physical and medical examination; and pursued zealously the case against the accused-appellant. Settled is the rule that no woman would openly admit that she was raped and consequently subject herself to an examination of her private parts, undergo the trauma and humiliation of a public trial, and embarrass herself with the need to narrate in detail how she was raped, if she was not raped at all.[16] Equally settled is the principle that when a woman says that she has been raped, she says in effect all that is necessary to show that rape has been inflicted on her.[17]

Accused-appellant also contends that the findings of the medical doctor who examined the private complainant do not prove that there was rape. To be sure, a medical examination, standing alone, is not sufficient to prove nor disprove the fact of rape[18] because it is merely corroborative in character and is not an essential element of rape.[19] Contrary to accused-appellant's contention, Dr. Cecille C. Paragua's medical findings corroborated private complainant's claim that she was sexually violated by accused-appellant. When the testimony of a rape victim is consistent with the medical findings, sufficient basis exists to warrant a conclusion that essential requisites of carnal knowledge has thereby been established.[20]

Finally, we agree with the accused-appellant that the trial court's finding that he was armed with a bolo was not supported by evidence on record. Nevertheless, his conviction of the crime charged still stands as the prosecution has sufficiently established his guilt with moral certainty.

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[16] *People v. Arofo*, G.R. No. 139433, April 11, 2002.

[17] *People v. Villaruel*, G.R. No. 135401, March 6, 2002.

[18] *People v. Sandoval*, 348 SCRA 476, 486 [2000].

[19] *People v. Velasquez*, G.R. Nos. 142561–62, February 15, 2002.

[20] See note I, *supra*.

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Anent the award of damages, the trial court correctly awarded the amount of ₱50,000.00 as civil indemnity and ₱50,000.00 as moral damages. Civil indemnity is mandatory upon the finding of the fact of rape; it is distinct from and should not be denominated as moral damages which are based on different jural foundations and assessed by the court in the exercise of sound discretion.[21]

WHEREFORE, in view of the foregoing, the decision of the Regional Trial Court of Tuao, Cagayan, Branch 11, in Criminal Case No. 646-T, finding accused-appellant Rico Bagaua guilty beyond reasonable doubt of the crime of rape and sentencing him to suffer the penalty of *reclusion perpetua* and to pay the private complainant Maridel Solar the amounts of ₱50,000.00 as civil indemnity and ₱50,000.00 as moral damages, is *AFFIRMED*. No costs.

SO ORDERED.

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

Carpio, J., on official leave.

THIRD DIVISION

[A.M. No. MTJ-00-1308. December 16, 2002]

BONIFACIO LAW OFFICE Represented by Atty. RICARDO M. SALOMON JR., *complainant, vs.* **Judge REYNALDO B. BELLOSILLO, Metropolitan Trial Court, Branch 34, Quezon City**, *respondent.*

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[21] *People v. Padrigone*, G.R. No. 137664, May 9, 2002.