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WHEREFORE, in view of the foregoing, the decision of the Regional Trial Court of Makati City, Branch 62, in Criminal Cases Nos. 98-1805-06, finding accused-appellant guilty of two counts of rape and sentencing him to suffer the penalty of *Reclusion Perpetua* in each case and to pay complainant Tessie Apolinar moral damages in the amount of ₱50,000.00 is *AFFIRMED* with *MODIFICATION*. As modified, accused-appellant is further ordered to pay complainant the sum of ₱50,000.00 as civil indemnity in each of the two cases. Costs against accused-appellant.

SO ORDERED.

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

FIRST DIVISION

[G.R. Nos. 141773-76. January 22, 2003]

PEOPLE OF THE PHILIPPINES, *plaintiff-appellee, vs.* **ROSENDO LAYOSO @ SENDONG,** *accused-appellant.*

SYNOPSIS

Accused-appellant was convicted of four counts of rape by the Regional Trial Court San Carlos City, Pangasinan, and was sentenced to suffer the penalty of *reclusion perpetua* for each count. In his appeal before the Court, appellant claimed that the trial court failed to appreciate in his favor the testimonies of all the prosecution witnesses on cross-examination. The said testimonies, especially that of private complainant Marlene Nitoya, are fraught with inconsistencies which demonstrate the improbability of the four incidents of rape or, at least, created doubts as to their commission.

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The Supreme Court affirmed appellant's conviction. According to the Court, the commission of the four acts of rape were established by the testimony of complainant Marlene Nitoya herself. Assuming *arguendo* that the testimonies of the said prosecution witnesses must be disregarded, it will not result in the acquittal of appellant because their testimonies are merely corroborative of Marlene's narration. The Court noted that Marlene was steadfast and unwavering in her testimony that she was raped on four separate occasions by appellant. She could not have been mistaken in her identification of the appellant as the latter lives within her neighborhood. In the face of his positive identification by complainant, appellant's self-serving defenses of denial and alibi cannot prevail. Moreover, Marlene's testimony is corroborated by the findings of the medical examination which indicated that she was in a non-virgin state, physically confirming that Marlene was indeed raped by appellant.

SYLLABUS

1. **REMEDIAL LAW; EVIDENCE; CREDIBILITY OF WITNESSES; TESTIMONIES OF VICTIMS WHO ARE YOUNG AND OF TENDER AGE DESERVE FULL CREDENCE AND SHOULD NOT BE SO EASILY DISMISSED AS A MERE FABRICATION ESPECIALLY WHERE THEY HAVE ABSOLUTELY NO MOTIVE TO TESTIFY AGAINST THE ACCUSED; CASE AT BAR.**— Assuming *arguendo* that the testimonies of the said prosecution witnesses must be disregarded, this will not result in the acquittal of accused-appellant because their testimonies are merely corroborative of Marlene's narration. The commission of the four acts of rape were established by the testimony of Marlene Nitoya herself. Rape, by its very nature, is committed with the least possibility of being seen by the public. More often than not, this crime is committed in the presence of only the victim and her defiler. Thus, we have not hesitated before and will not be disinclined now to uphold the conviction of an accused on the basis of the lone testimony of a private complainant who testifies in no uncertain terms that he was the author of the beastly acts of rape committed upon her person. In the case at bar, Marlene was steadfast and unwavering in her testimony that she was raped on four separate occasions by accused-appellant. She could not have been mistaken in her

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identification of the accused-appellant as the latter lives within her neighborhood. In the face of his positive identification by Marlene, accused-appellant's self-serving denial and alibi cannot prevail. Moreover, her testimony is corroborated by the findings of the medical examination which indicated that she was in a non-virgin state, physically confirming that Marlene was indeed raped by accused-appellant. The testimonies of victims who are young and of tender age deserve full credence and should not be so easily dismissed as a mere fabrication especially where they have absolutely no motive to testify against the accused, as in this case.

2. CRIMINAL LAW; RAPE; COMMITTED WHEN THERE IS PENETRATION OF THE FEMALE ORGAN NO MATTER HOW SLIGHT.— Accused-appellant assails as incredible Marlene's testimony that the sex act on October 22, 1998 last only two minutes while that on December 14, 1998 lasted one and one half (1½) hours. These discrepancies do not negate or discredit, at the very least, the absence of intrusion of the penis of accused-appellant into the labia of the pudendum of Marlene. Settled is the rule that in rape cases, what is material is that there is penetration of the female organ no matter how slight. In a long line of decisions, we have ruled that the only essential point is to prove at least the introduction of the male organ into the labia of the pudendum.

3. ID.; ID.; PHYSICAL RESISTANCE NEED NOT BE ESTABLISHED WHEN INTIMIDATION IS EXERCISED UPON THE VICTIM AND SHE SUBMITS HERSELF AGAINST HER WILL TO THE RAPIST'S LUST OUT OF FEAR FOR HER LIFE AND PERSONAL SAFETY.— Marlene's failure to shout or offer adequate resistance against accused-appellant is of no moment. Physical resistance need not be established in rape when intimidation is exercised upon the victim and she submits herself against her will to the rapist's lust out of fear for her life and personal safety. It was held in *People v. Las Piñas, Jr.*, citing *People v. Dreu,* that the test is whether the threat or intimidation produces a reasonable fear in the mind of the victim that if she resists or does not yield to the desires of the accused, the threat would be carried out. Where resistance would be futile, offering none at all does not amount to consent to the sexual assault. It is not necessary that the victim should have resisted unto death or sustained physical injuries in the hands of the

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rapist. It is enough if the intercourse takes place against her will or if she yields because of genuine apprehension of harm to her if she did not do so. Indeed, the law does not impose upon a rape victim the burden of proving resistance. In the case at bar, accused-appellant threatened Marlene with bodily harm prior to and after the commission of each rape. The record shows that accused-appellant was a 24-year old man "at the peak of his masculine vigor" while Marlene, a thin, 14-year old schoolgirl who, in accused-appellant's own words "kept herself mostly at home." The contrasting physiques of the two parties further stress the futility of any physical resistance that Marlene might have wanted to put up. Accordingly, Marlene's well-founded perception that accused-appellant was capable of making good his threats to her life was enough to cow her into submission to his sexual assaults and maintain a tight-lipped secrecy about the rape incidents. To silence and intimidate a young barrio lass like Marlene would not have required that degree of force that would otherwise have been necessary in order to force an older and stronger woman into submission.

APPEARANCES OF COUNSEL

The Solicitor General for plaintiff-appellee.

De Guzman Bautista Imus & Cayago Law Office for accused-appellant.

D E C I S I O N

YNARES-SANTIAGO, *J.*:

On April 14, 1999 accused-appellant Rosendo Layoso @ Sendong was charged with four counts of rape under four (4) separate Informations filed before the Regional Trial Court of San Carlos City, Branch 57.[1] The four similarly-worded Informations, except for the dates of commission, contained the following allegations, to wit:

Criminal Case No. SCC-3040[2]

[1] Presided by Judge Bienvenido R. Estrada.

[2] Record, Criminal Case No. SCC-3040, p. 1.

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That on or about October 22, 1998, in the evening, in Barangay Dumpay, Municipality of Bautista, Province of Pangasinan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, by means of force, threat and intimidation, did then and there willfully, unlawfully and feloniously have sexual intercourse with Marlene B. Nitoya, a minor of 14 years old, against her will and consent and to her damage and prejudice.

The three other Informations alleged that the rape was committed on November 18, 1998 (Criminal Case No. SCC-3041)[3]; on December 14, 1998 (Criminal Case No. SCC-3042)[4]; and on February 23, 1999 (Criminal Case No. SCC-3043).[5]

Accused-appellant pleaded "not guilty" on arraignment. The four cases were jointly tried.

Complainant Marlene B. Nitoya[6] is the daughter of Teodora and Juanito Nitoya, having been born to them on February 15, 1984.[7] She was 14 years old when the first three acts of rape were committed; while the fourth rape occurred a few days after she turned 15 years old.

On October 22, 1998 at 8:00 in the evening, Marlene went out to buy kerosene at her Aunt Flory's store, about 15 meters from her house. While she was on her way, accused-appellant suddenly pulled her left arm, kissed her face and threatened to kill her if she shouted. He smelled of alcohol. He dragged Marlene to the bamboo grove at the back of the store.[8] There, he forced Marlene to lie down on the ground. When she refused, he kicked her. He then removed her panties, mounted himself on top of her and inserted his penis into her private parts. Marlene was

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[3] Record, Criminal Case No. SCC-3041, p. 1.

[4] Record, Criminal Case No. SCC-3042, p. 1.

[5] Record, Criminal Case No. SCC-3043, p. 1.

[6] TSN, June 9, 1999, p. 19; TSN, June 2, 1999, p. 2; TSN, May 24, 1999, pp. 2-3.

[7] Record, Criminal Case No. SCC-3040, p. 10.

[8] TSN, June 30, 1999, pp. 9-11.

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not able to shout for help out of fear that accused-appellant might kill her.[9]

Marlene's ordeal was repeated on November 18, 1998 at the same time and place.[10]

On December 14 1998, Marlene was washing her face at the pump well near her grandmother's house when accused-appellant embraced her from behind, covered her mouth, repeatedly kissed her and threatened to kill her if she shouted. He forced her to lie flat on the basement of the pump well, lay on top of her, raised her skirt, removed her panties[11] and inserted his penis into her vagina.

The fourth rape incident happened on February 23, 1999 between 7:30 to 8:30 in the evening. Marlene was again about to buy kerosene at the store of her Aunt Flory when, all of a sudden, accused-appellant grabbed her from behind, covered her mouth with his right hand and brought her to a secluded place fronting the store. He forced her to lie down, removed her panties and threatened to kill her with a bamboo stick if she told anybody what he was about to do. He kissed her on the lips and neck then inserted his penis into her vagina. After he finished having carnal knowledge of Marlene, he again threatened to kill her if she told anyone about it.

Marlene went home and washed her genitals. That night she had difficulty sleeping because she felt pain in her private parts. When her parents arrived at 10:00 in the evening, she told her mother that she was raped by accused-appellant four times. They went to the PNP of Basista, Pangasinan to report the matter and then to the San Carlos General Hospital where she was physically examined.[12]

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[9] TSN, June 9, 1999, pp. 23-24; TSN, July 7, 1999, p. 3; TSN, June 30, 1999, pp. 12-17.

[10] *Ibid.*, p. 24.

[11] *Id.*; TSN, July 26, 1999, pp. 3-8.

[12] TSN, June 9, 1999, pp. 20-23, 25; TSN, June 23, 1999, pp. 8, 12-13; TSN, June 30, 1999, pp. 2-8.

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Marlene explained that she remembered the three rapes because she marked the dates on the calendar; while the fourth rape happened close to her birthday.[13] She knew accused-appellant because he lived 15 meters away from their house and just 5 meters away from the store of her Aunt Flory.

Both Juanito and Teodora Nitoya corroborated the testimony of Marlene that she reported to them that she was raped by accused-appellant.[14]

Victoriano Nitoya Marlene's uncle, testified that sometime in the last week of February 1999, Marlene reported to him that accused-appellant threatened her with a bamboo stick and forcibly brought her to a bamboo plantation where she was raped.[15]

Dr. Ma. Salome G. Romero, the attending physician who examined Marlene, testified that her internal examination of the hymen of Marlene showed that it had complete healed lacerations at 9 o'clock position, healed multiple partial lacerations. The possible cause of this was the penetration of the male organ into the vulva of the patient. Dr. Salome likewise found that the vaginal canal easily admitted two fingers, which is unusual for her age.[16]

In his defense, accused-appellant vehemently denied the four acts of rape and raised the defense of alibi. He claimed that the cases were filed against him because Marlene's family wanted to avenge an incident which involved him and Marlen's cousin, Robert Nitoya.[17]

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[13] *Ibid.*, p. 25.

[14] TSN, May 24, 1999, pp. 2-6 and 12-14; TSN, June 2, 1999, pp. 2-3, 9-14.

[15] TSN, June 9, 1999, pp. 4-5.

[16] TSN, May 31, 1999, pp. 3-8; Record, Criminal Case No. SCC-3040, p. 100.

[17] TSN, September 20, 1999, p. 2.

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He claimed that from October 3, 1998 to October 31, 1998, he was selling fruits in Manila with his elder brother, Ador Layoso. He only returned to Basista, Pangasinan on All Saints' Day. After Halloween, he went to Brgy. Tanolong, Bayambang, Pangasinan, to help his brother-in-law, Jun Casingal, harvest *palay*. He stayed there from November 8, 1998 to November 21, 1998. It was only on November 22, 1998, that he went back to his house in Dumpay, Pangasinan.

On December 14, 1998, he again harvested *palay* in the rice field from 7:00 a.m. to 5:00 in the afternoon. Afterwards, he stayed in his house the whole evening.

In the afternoon of February 23, 1999, he had a drinking spree with some friends, including Robert Nitoya. The drinking session lasted up to 8:30 in the evening. In the course of the gathering, he and Roberto were involved in a fist-fight, causing him to lose one tooth. It was because of this incident that these cases were allegedly filed against him.[18]

On November 9, 1999, the trial court rendered a joint decision,[19] the dispositive portion of which reads:

WHEREFORE, judgment is hereby rendered in the following cases, as follows:

1. In Criminal Case No. SCC-3040, the Court finds the accused guilty beyond reasonable doubt of the crime of rape as defined in and penalized by Article 355 of the Revised Penal Code, as amended by R.A. 7659, and hereby ordered to serve the penalty of *reclusion perpetua* and to indemnify Marlene Nitoya the sum of ₱50,000.00 and to pay her exemplary damages of ₱25,000.00 and to pay the cost.

2. In Criminal Case No. SCC-3041, the Court finds the accused guilty beyond reasonable doubt of the crime of rape as defined in and penalized by Article 355 of the Revised Penal Code, as amended by R.A. 7659, and hereby ordered to serve the penalty of *reclusion perpetua* and to indemnify Marlene

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[18] *Ibid.*, pp. 3-5; TSN, September 24, 1999, pp. 3-8.

[19] Penned by Judge Bienvenido R. Estrada.

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Nitoya the sum of ₱50,000.00 and to pay her exemplary damages of ₱25,000.00 and to pay the cost.

3. In Criminal Case No. SCC-3042, the Court finds the accused guilty beyond reasonable doubt of the crime of rape as defined in and penalized by Article 355 of the Revised Penal Code, as amended by R.A. 7659, and hereby ordered to serve the penalty of *reclusion perpetua* and to indemnify Marlene Nitoya the sum of ₱50,000.00 and to pay her exemplary damages of ₱25,000.00 and to pay the cost.

4. In Criminal Case No. SCC-3043, the Court finds the accused guilty beyond reasonable doubt of the crime of rape as defined in and penalized by Article 355 of the Revised Penal Code, as amended by R.A. 7659, and hereby ordered to serve the penalty of *reclusion perpetua* and to indemnify Marlene Nitoya the sum of ₱50,000.00 and to pay her exemplary damages of ₱25,000.00 and to pay the cost.

SO ORDERED.[20]

Hence, this appeal where accused-appellant raises the following errors:

A. THAT THE HONORABLE JUDGE ERRED IN NOT CONSIDERING THE TESTIMONIES OF THE PROSECUTION WITNESSES ON CROSS-EXAMINATION.

B. THAT THE HONORABLE JUDGE ERRED IN DISREGARDING THE INCONSISTENCIES IN THE PROSECUTION'S TESTIMONIES.

C. THAT THE HONORABLE JUDGE ERRED IN NOT CONSIDERING THE INCREDIBILITY OF THE COMPLAINANT'S TESTIMONIES.[21]

Accused-appellant claims that the trial court failed to appreciate in his favor the testimonies of all the prosecution witnesses on cross-examination. The said testimonies, especially that of private complainant Marlene Nitoya, are fraught with inconsistencies

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[20] *Rollo*, p. 36.

[21] *Ibid.*, pp. 50-51.

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which demonstrate the improbability of the four incidents of rape or, at least, created doubts as to their commission. He asserts that these inconsistencies relate to vital points, *i.e.*, the time of their commission, number of times rape was committed, the *locus criminis*, the time of reporting the incidents of rape and the testimony of the complainant Marlene Nitoya herself.

According to accused-appellant, Teodora testified that Marlene reported to her that the four counts of rape were all committed at 7:00 in the evening. This, however, was belied by the testimony of Marlene, who stated that the four incidents of rape all took place at 8:00 in the evening.

The testimonies as to the number of times rape was committed were likewise incongruous. Juanito Nitoya testified that Marlene reported to him that she was raped three times — on October 22, 1998, November 18, 1998 and February 23, 1999. This was contradicted by Marlene and Teodora who both testified that there were four acts of rape committed on Marlene.

The testimonies as to the place of the commission of the four rapes are also dubious. Teodora Nitoya testified that the alleged rape on February 23, 1999 took place inside their house, while the alleged rapes on October 22, 1998 and November 18, 1998 occurred in an isolated place where there were bamboos. This was disproved by Marlene, whose testimony never showed that any of the alleged rapes took place inside their house.

As regards the place and time of reporting the crimes, Juanito Nitoya claimed that at 8:00 in the morning of February 23, 1999, he reported to the police the alleged incidents of rape of October 22, 1998, November 18, 1998 and February 23, 1999. Accused-appellant contends that if it were true that Marlene was raped at eight o'clock in the evening of February 23, 1999, then Juanito Nitoya could not have reported an incident that has not yet occurred.

In sum, the arguments of accused-appellant boil down to the credibility of the prosecution witnesses.

When the credibility of witnesses is in issue, the trial court's assessment is accorded great weight because it has the unique

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opportunity to hear the testimony of witnesses and observe their deportment and manner of testifying.[22] Thus, on appeal, the trial court's findings are accorded finality unless there appears in the record some fact or circumstance of weight which the lower court may have overlooked, misunderstood or misappreciated and which if properly considered, would alter the results of the case.[23] We find no sufficient justification to deviate from this time-honored principle in this appeal.

We have thoroughly reviewed the records of this case, together with the evidence and we find no cogent reason to depart from the conclusion reached by the trial court.

The alleged inconsistencies of prosecution witnesses Juanito Nitoya, Teodora Nitoya, and Victoriano Nitoya are more apparent than real. Their testimonies do not in any way detract from the fact that Marlene was raped by accused-appellant. These alleged inconsistencies are *diminimis* in nature and in no way destroy their credibility. What is important is that the prosecution witnesses were consistent in relating the significant and indispensable components of the principal occurrence of rape.

Assuming *arguendo* that the testimonies of the said prosecution witnesses must be disregarded, this will not result in the acquittal of accused-appellant because their testimonies are merely corroborative of Marlene's narration. The commission of the four acts of rape were established by the testimony of Marlene Nitoya herself. Rape, by its very nature, is committed with the least possibility of being seen by the public. More often than not, this crime is committed in the presence of only the victim and her defiler.[24] Thus, we have not hesitated before and will not be disinclined now to uphold the conviction of an accused on the basis of the lone testimony of a private complainant

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[22] *People v. Manlod*, G.R. Nos. 1422901-02, July 23, 2002.

[23] *People v. Dy, et al.*, G.R. Nos. 115236-37, January 29, 2002, citing *People v. Alvarez*, G.R. Nos. 135552-53, June 21, 2001.

[24] *People v. Digma*, 345 SCRA 185 (2000); *People v. Tagaylo*, 345 SCRA 284 (2000).

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who testifies in no uncertain terms that he was the author of the beastly acts of rape committed upon her person.

In the case at bar, Marlene was steadfast and unwavering in her testimony that she was raped on four separate occasions by accused-appellant. She could not have been mistaken in her identification of the accused-appellant as the latter lives within her neighborhood. In the face of his positive identification by Marlene, accused-appellant's self-serving denial and alibi cannot prevail. Moreover, her testimony is corroborated by the findings of the medical examination which indicated that she was in a non-virgin state, physically confirming that Marlene was indeed raped by accused-appellant.

The testimonies of victims who are young and of tender age deserve full credence and should not be so easily dismissed as a mere fabrication[25] especially where they have absolutely no motive to testify against the accused,[26] as in this case.

Accused-appellant assails as incredible Marlene's testimony that the sex act on October 22, 1998 lasted only two minutes while that on December 14, 1998 lasted one and one half (1½) hours. These discrepancies do not negate or discredit, at the very least, the absence of intrusion of the penis of accused-appellant into the labia of the pudendum of Marlene. Settled is the rule that in rape cases, what is material is that there is penetration of the female organ no matter how slight.[27] In a long line of decisions, we have ruled that the only essential point is to prove at least the introduction of the male organ into the labia of the pudendum.[28]

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[25] *People v. Atienza, 326* SCRA 802 (2000).

[26] *People v. Arofo, et al.*, G.R. No. 139433, April 11, 2002, citing *People v. Gonzales*, 338 SCRA 678 (2000) and *People v. Dabon,* 216 SCRA 656 (1992).

[27] *People v. Faigano*, 254 SCRA 10 (1996).

[28] *People v. Perez,* G.R. Nos. 141647-51, March 6, 2002 citing People *v. Campuhan,* 329 SCRA 270 (2000); *People v. Lazaro*, 249 SCRA 235 (1995).

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Accused-appellant likewise makes issue of the fact that Marlene failed to offer adequate resistance against her alleged perpetrator in all the four occasions of rape considering that they all occurred near an inhabited place. Under the circumstances, Marlene's failure to shout or offer adequate resistance against accused-appellant is of no moment. Physical resistance need not be established in rape when intimidation is exercised upon the victim and she submits herself against her will to the rapist's lust out of fear for her life and personal safety.[29]

It was held in *People v. Las Piñas, Jr.*,[30] citing *People v. Dreu,* [31] that the test is whether the threat or intimidation produces a reasonable fear in the mind of the victim that if she resists or does not yield to the desires of the accused, the threat would be carried out. Where resistance would be futile, offering none at all does not amount to consent to the sexual assault. It is not necessary that the victim should have resisted unto death or sustained physical injuries in the hands of the rapist. It is enough if the intercourse takes place against her will or if she yields because of genuine apprehension of harm to her if she did not do so. Indeed, the law does not impose upon a rape victim the burden of proving resistance.

In the case at bar, accused-appellant threatened Marlene with bodily harm prior to and after the commission of each rape. The record shows that accused-appellant was a 24-year old man "at the peak of his masculine vigor" while Marlene, a thin, 14-year old schoolgirl who, in accused-appellant's own words "kept herself mostly at home."[32] The contrasting physiques of the two parties further stress the futility of any physical resistance that Marlene might have wanted to put up.[33]

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[29] *People v. Pine*, 346 SCRA 383 (2000); *People v. Pecayo, Sr.*, 347 SCRA 95 (2000).

[30] G.R. No. 133444, February 20, 2002.

[31] 334 SCRA 62 (2000).

[32] *Rollo*, p. 151.

[33] *People v. Malabago*, 271 SCRA 464 (1997).

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Accordingly, Marlene's well-founded perception that accused-appellant was capable of making good his threats to her life was enough to cow her into submission to his sexual assaults and maintain a tight-lipped secrecy about the rape incidents. To silence and intimidate a young barrio lass like Marlene would not have required that degree of force that would otherwise have been necessary in order to force an older and stronger woman into submission.

Based on the foregoing considerations, we hold that accused-appellant Rosendo Layoso @ Sendong is guilty beyond reasonable doubt of the four counts of rape. Articles 266-A and 266-B of the Revised Penal Code, as amended by Republic Act No. 8353, otherwise known as the "Anti-Rape Law of 1997,"[34] provide that when the rape was committed through force and intimidation, the person guilty thereof shall be penalized with *reclusion perpetua.*

However, the trial court erred in awarding exemplary damages in the amount of ₱25,000.00 in all four counts of rape. The joint decision of the trial court failed to state the rationale and legal basis for its award in favor of the rape-victim. Article 2230 of the Civil Code provides that "(i)n criminal offenses, exemplary damages as a part of the civil liability may be imposed when the *crime was committed with one or more aggravating circumstances.*"[35] The records of these cases show that no aggravating circumstance attended the commission of these separate acts of rape; hence the award of exemplary damages has no factual and legal basis.[36]

Furthermore, consistent with prevailing jurisprudence,[37] the award of moral damages in the amount of ₱50,000.00 should

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[34] The law became effective on October 22, 1997 (*People v. Maceda*, 353 SCRA 228 [2001]).

[35] Italics ours.

[36] *People v. Optana*, 351 SCRA 485 (2001).

[37] *People v. Manlod, supra*, note 21.

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be imposed against accused-appellant for each count of rape, in addition to the civil indemnity in the amount of ₱50,000.00.[38]

WHEREFORE, in view of all the foregoing, the joint decision of the Regional Trial Court of San Carlos City, Pangasinan, Branch 57, in Criminal Cases Nos. SCC-3030 to 3043, finding accused-appellant Rosendo Layoso @ Sendong guilty beyond reasonable doubt of four counts of rape, and sentencing him to suffer the penalty of *reclusion perpetua* in each case, is *AFFIRMED* with the *MODIFICATION* that he is ordered to pay the complainant, Marlene B. Nitoya, in each case, the amount of ₱50,000.00 as moral damages in addition to the amount of P50,000.00 as civil indemnity. The award of exemplary damages is *DELETED* for lack of factual and legal basis.

SO ORDERED.

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

THIRD DIVISION

[G.R. No. 142000. January 22, 2003]

TAGAYTAY HIGHLANDS INTERNATIONAL GOLF CLUB INCORPORATED, *petitioner, vs.* **TAGAYTAY HIGHLANDS EMPLOYEES UNION-PGTWO,** *respondent.*

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[38] *People v. Caldona*, 353 SCRA 308 (2001); *People v. Nogar*, 341 SCRA 206 (2000).