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SECOND DIVISION

[G.R. No. L-37798. July 15, 1985]

THE PEOPLE OF THE PHILIPPINES, *plaintiff-appellee, vs.* **RAMON DADAEG,** *defendant-appellant.*

SYLLABUS

1. **REMEDIAL LAW; EVIDENCE; CREDIBILITY OF WITNESSES; WHEN TESTIMONY OF OFFENDED PARTY SHOULD BE ACCORDED BELIEF.**— The first error could be disposed of easily. It was contended that the trial court should not have given credence to the testimony of Teofila Dangan. In support of such an assertion as to the complainant having failed to substantiate her story, reference was made to the outside patient's record card of her medico-legal examination where it was pointed out that she likewise admitted to having been previously "abused" several times by appellant almost monthly for the period of five months. The use of the word "abused" is indicative that she did not consent to the sexual act. Moreover, the lower court explained why her testimony should be accorded belief. Thus: "The offended party, a little bit over 13 and almost a child at the time of the incident, and who appeared to be fair-skinned, pretty and well-formed at fourteen at the time she took the witness stand, declared in a clear, straightforward manner before the Court. With spontaneity and natural demeanor she related the incident to the Court in the manner already narrated. Her story was corroborated by Benjamin Bagona who saw the accused abusing the offended girl."

2. **ID.; ID.; ALIBI; FOR DEFENSE OF ALIBI TO PROSPER, IT IS REQUIRED THAT THERE BE FULL, COMPLETE AND SATISFACTORY EVIDENCE.**— It is quite understandable why in the brief for the appellant no reference was made to the defense of alibi. It is bereft of any persuasiveness at all. It failed to satisfy the standard set forth in the recent case of *People v. Imbo*, namely, that for such a defense to prosper, it is required that there be full, complete, and satisfactory evidence. Moreover, there is relevance to this excerpt from *People v. Cudalina*: "It suffices to state that this Court when confronted with the defense of alibi in rape cases has invariably found it unconvincing and unsatisfactory."

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3. **CRIMINAL LAW; RAPE; THE LAW DOES NOT REQUIRE THE PRESENCE OF SPERM FOR A PROSECUTION FOR RAPE TO PROSPER.**— Much less is a reversal called for just because of the error assigned that the trial court did not appreciate "the absence of sperm." In the recent case of *People v. Baraca*, it was made clear once again that such a submission cannot be taken seriously. No such requirement for a prosecution for rape to prosper has been imposed by law. Reference was made to two other cases, *People v. Felix* and *People v. Ludovice*.

4. **ID.; ID.; WHEN CONSUMMATED.**— There is likewise no merit to the fourth error assigned, namely, that the trial court "erred in giving credence as against the accused, on the rupture of the hymen, the same being old as testified to by the examining physician, Dr. Natividad G. Martin." As refuted in the brief for appellee: "This contention is not only untenable but misleading as well. Dr. Natividad G. Martin did not appear in court to testify in the present case on account of her poor health. The hospital records of the medical examination she conducted on Teofila Dangan on April 20, 1966 were identified and presented in court through Dr. Eleazar Rivera, chief of Puerto Princesa Hospital and immediate superior of Dr. Martin. Dr. Martin was the only competent person to testify on the actual physical examinations she conducted and on how she arrived at her conclusion." Moreover, as pointed out in such brief: "In the consummation of rape it is not essential nor material that the hymen be ruptured. As long as there is penetration of the labia of the female organ by the male organ, no matter how slight it may have been, rape is already consummated."

APPEARANCES OF COUNSEL

The Solicitor General for plaintiff-appellee.
Telesforo Paredes for defendant-appellant.

D E C I S I O N

FERNANDO, *C.J.*:

The task of a lawyer called upon to defend an accused found guilty of rape calls for the utmost exertion of legal skill. It is to be expected considering the seriousness of the crime and

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the severity of the penalty that the brief to be submitted should be impressed with a high degree of persuasiveness. Unfortunately, that expectation was not fulfilled in this case of appellant Ramon Dadaeg. He was found guilty of the crime of rape and sentenced to the penalty of *reclusion perpetua* plus indemnification to the offended party in the amount of ₱12,000.00. All counsel was able to submit to this Court was a five-page typewritten brief with five assignment of errors. The trial court, so counsel would impress on this Court, erred "in giving credit to the testimony of Teofila Dangan, complaining witness, when said testimony suffers self-contradiction and serious inconsistencies; in not giving credit to the evidence of defense that accused was conducting periodical tests to his classes including Teofila Dangan on the alleged date and time of the commission of the crime of rape; in not appreciating the absence of sperm, considering that the medical examination was conducted only six days after the alleged date of the commission of the crime of rape; in giving credence as against accused, on the ruptures of the hymen when said ruptures were months old as testified to by the examining physician, Dr. Natividad Martin; in not acquitting accused on grounds of reasonable doubt and on insufficiency of evidence."[1] In support of the above errors, he devoted fully two and a half pages. Under the circumstances, the burden of ascertaining whether or not guilt was proved beyond reasonable doubt, an indispensable requirement in view of the constitutional presumption of innocence[2] was attended with even greater difficulty. After a thorough examination of the records of the case, this Court is of the view that the ably-written opinion of the then Court of First Instance Judge, Jose Capangyarihan, is entitled to affirmance, with the modification that the indemnification must be raised to ₱30,000.00.

As testified by complainant, Teofila Dangan, on April 14, 1966, at about 9:30 in the morning, appellant Ramon Dadaeg,

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[1] Brief for Defendant-Appellant, 3.

[2] Article IV, Section 19 of the Constitution provides: "In all criminal prosecutions, the accused shall be presumed innocent until the contrary is proved. * * *."

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a teacher of Community School in Roxas, Palawan, dismissed his grade six class.[3] He did so during the recess period after he had reviewed his class on the periodical test given on the day before.[4] Two of his pupils, the complainant and Perlita Sibuya, were homeward bound when appellant asked the former to stay so that she could help in the correction of the test papers.[5] She was persuaded to go to the house of appellant's father, the place where the test papers were to be corrected.[6] She was left alone with him, and they proceeded to their destination.[7] All of a sudden appellant grabbed her, dragging her towards the bushes.[8] She put up a struggle but was overpowered.[9] She was thrown to the ground.[10] She shouted for help, but appellant silenced her with a knife.[11] Then he stripped her of her garments and placed himself on top of her.[12] He put the knife aside, unzipped his trousers and tried to insert his organ into hers.[13] She struggled but in vain, appellant finally succeeding in having carnal knowledge of his victim, at that point quite weak and exhausted.[14] There was an eyewitness, one Benjamin Bagona, who was on top of a nearby camias tree.[15] He was thus able to see what was done to complainant.[16] Appellant warned her

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[3] T.s.n., Session of July 11, 1967, 7.

[4] *Ibid.*

[5] *Ibid.*, 8.

[6] *Ibid.*

[7] *Ibid.*, 9.

[8] *Ibid.*, 10.

[9] *Ibid.*

[10] *Ibid.*

[11] *Ibid.*, 12.

[12] *Ibid.*, 10.

[13] *Ibid.*

[14] *Ibid.*, 47.

[15] *Ibid.*, 42.

[16] *Ibid.*, 43.

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on pain of being killed not to mention the incident to anybody.[17] Complainant, after putting her panties ran home crying.[18] For a few days, she remained silent due to such threats.[19] As gossip spread about what was done to her, she finally confessed to her parents.[20] That, in brief, is the version given by her in her testimony.

Complainant was brought by her father and her grandfather to the Puerto Princesa Hospital where she was examined by Dr. Natividad Martin.[21] The medico-legal certificate signed by Dr. Martin reads as follows: "[To whom it may concern]: This is to certify that Teofila Dangan, 13 years old, female, student was physically examined on April 20, 1966 in Puerto Princesa Hospital with the following findings: A. [External Examination] 1. Head, neck, chest, back, abdomen, extremities — No visible external physical injury. B. [Internal Examination] 1. Redness at the vaginal opening. 2. Hymen — Ruptured completely at 5:00 o'clock and 8:00 o'clock; ruptured incompletely at 4:00 o'clock, old lacerations. 3. Cervix — Admits one finger readily. C. [Microscopic Examination] 1. Vaginal smear — Negative for sperm."[22]

In convicting appellant, the trial court appraised fairly and objectively his defense consisting of an alibi. According to the decision now on appeal: "The accused testified that he did not leave the school house from 7:30 to 12:00 o'clock that morning. This was corroborated by Erlinda Cacatian, one of his pupils, who told the Court that she saw her teacher in school within that span of time and that she was with Teofila Dangan during the whole morning and was therefore in a position to tell that she too (Teofila) did not leave the school premises that morning.

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[17] *Ibid.*, 11.

[18] *Ibid.*, 15.

[19] *Ibid.*, 17.

[20] *Ibid.*, 19-24.

[21] *Ibid.*, afternoon session of July 11, 1967, 7-10.

[22] Exhibit C.

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Dadaeg declared that he started his classes at 7:40 and dismissed the class for recess after the first period. Classes resumed at 9:45 o'clock and from 10:55, to 11:55, he conducted his examination for Science and Social Studies. After the test, he dismissed the class for noon break. Then he walked home with some students and one councilor Maramba. On his way home, he saw Benjamin Bagona climbing a coconut tree while one Mrs. Yara was below piling the coconuts. In the afternoon, he conducted his classes as usual. Denying the charge against him, Dadaeg declared that the same was filed against him in vengeance for he helped some cultural minorities, the Batacs, in filing a complaint for land grabbing against one Rosario Malaque, the grandfather of Teofila Dangan."[23]

To repeat, the judgment as modified in terms of an increase in the indemnification must be affirmed.

1. The first error could be disposed of easily. It was contended that the trial court should not have given credence to the testimony of Teofila Dangan. In support of such an assertion as to the complainant having failed to substantiate her story, reference was made to the outside patient's record card of her medico-legal examination where it was pointed out that she likewise admitted to having been previously "abused" several times by appellant almost monthly for the period of five months. The use of the word "abused" is indicative that she did not consent to the sexual act. Moreover, the lower court explained why her testimony should be accorded belief. Thus: "The offended party, a little bit over 13 and almost a child at the time of the incident, and who appeared to be fair-skinned, pretty and well-formed at fourteen at the time she took the witness stand, declared in a clear, straightforward manner before the Court. With spontaneity and natural demeanor she related the incident to the Court in the manner already narrated. Her story was corroborated by Benjamin Bagona who saw the accused abusing the offended girl."[24]

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[23] Decision of the lower court, 3.

[24] *Ibid.*, 4.

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2. The trial court was correct in disregarding the defense of alibi. As so well put in the decision: "The alibi of the accused deserves no consideration. Aside from its inherent weakness, the corroborative testimony of Erlinda Cacatian is also of doubtful credibility. From the tenor of her testimony, it appears that when she testified to the presence of both parties in school, she seemed to have been particularly alerted to watch the whereabouts of these two individuals — which is obviously unnatural. While she claimed to be the seatmate and good friend of Teofila Dangan, it is surprising why she did not care to inquire into the whereabouts of Teofila during the latter's long absence from the class from April 18 up to the end of classes on May 5, 1966. Neither did she greet her in Court on the day of trial. This only shows that they are neither seatmates nor good friends. The truth of the matter, as she readily admitted in open court, is that she was boarder in the house of Councilor Maramba, a close friend of the accused and a witness for the defense. It is not far that she was coached to fabricate her story in Court. As a young girl of 16 at the time of the incident, Erlinda could not have closely watched Dadaeg and Teofila on the date of the incident as young girls like her are prone to play with other girls during recess and/or engage themselves in other youthful frolic. Mrs. Yara's testimony to the effect that Benjamin Bagona picked coconuts for her on the day in question cannot be believed. She admitted that she had never employed Benjamin Bagona before and after April 14, 1966 because she was then employing other people in gathering coconuts. Why she employed him on that very day of the incident is a question that provokes the Court to look closer into the credibility of her testimony. She could remember with precision Benjamin Bagona's whereabouts on April 14, 1966 yet she could not recall the date Dadaeg asked her to testify or the date she came to Puerto Princesa to testify in this case — dates which are more significant and later than the date she supposedly employed Benjamin Bagona in her coconut farm."[25] It is quite understandable why in the brief for the appellant no reference was made to the

[25] *Ibid.*, 4-5.

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defense of alibi. It is bereft of any persuasiveness at all. It failed to satisfy the standard set forth in the recent case of *People v. Imbo*,[26] namely, that for such a defense to prosper, it is required that there be full, complete, and satisfactory evidence.[27] Moreover, there is relevance to this excerpt from *People v. Cudalina*:[28] "It suffices to state that this Court when confronted with the defense of alibi in rape cases has invariably found it unconvincing and unsatisfactory."[29]

3. Much less is a reversal called for just because of the error assigned that the trial court did not appreciate "the absence of sperm." In the recent case of *People v. Baraca*,[30] it was made clear once again that such a submission cannot be taken seriously. No such requirement for a prosecution for rape to prosper has been imposed by law. Reference was made to two other cases, *People v. Felix*[31] and *People v. Ludovice*.[32]

4. There is likewise no merit to the fourth error assigned, namely, that the trial court "erred in giving credence as against the accused, on the rupture of the hymen, the same being old as testified to by the examining physician, Dr. Natividad G. Martin."[33] As refuted in the brief for appellee: "This contention is not only untenable but misleading as well. Dr. Natividad G. Martin did not appear in court to testify in the present case on account of her poor health. The hospital records of the medical examination she conducted on Teofila Dangan on April 20, 1966 were identified and presented in court through Dr. Eleazar Rivera, chief of Puerto Princesa Hospital and immediate superior of

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[26] L-36759, August 31, 1982, 116 SCRA 355.

[27] *Ibid.*, 360-361.

[28] L-34969, April 29, 1975, 63 SCRA 499.

[29] *Ibid.*, 507.

[30] L-48360, June 24, 1985.

[31] G.R. No. 62281-82, July 16, 1984, 130 SCRA 456.

[32] L-34986, March 23, 1984, 128 SCRA 361.

[33] Brief for the Appellee, 15.

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Dr. Martin (tsn., March 12, 1968, pp. 76-93). Dr. Martin was the only competent person to testify on the actual physical examinations she conducted and on how she arrived at her conclusion."[34] Moreover, as pointed out in such brief: "In the consummation of rape it is not essential nor material that the hymen be ruptured. As long as there is penetration of the labia of the female organ by the male organ, no matter how slight it may have been, rape is already consummated."[35]

5. The last error assigned, namely that appellant should be acquitted on ground of reasonable doubt need no refutation in view of the foregoing.

WHEREFORE, the appealed decision finding appellant Ramon Dadaeg guilty beyond reasonable doubt of the crime of rape and sentencing him to suffer the penalty of *reclusion perpetua* is affirmed with the modification that complainant Teofila Dangan will be indemnified in the sum of ₱30,000.00. Costs against appellant.

Makasiar, Aquino, Concepcion Jr., Abad Santos, Escolin, and *Cuevas, JJ.*, concur.

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[34] *Ibid.*

[35] *Ibid.*, 16.