

## THIRD DIVISION

[ G.R. No. 239138, February 17, 2021 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
JOSELITO SALAZAR Y GRANADA, ACCUSED-APPELLANT.**

### DECISION

**LEONEN, J.:**

People react differently to distressing situations. In rape cases, victims are not burdened to show physical resistance when they are intimidated. Intimidation is addressed to the victim's perception and is, therefore, subjective.<sup>[1]</sup> This Court will not burden victims of rape of proving physical resistance, especially when their assailants assaulted them and coerced them with a lethal weapon.

The Court of Appeals elevated the records of this case to this Court in compliance with its Resolution, which gave due course to the Notice of Appeal filed by accused-appellant Joselito Salazar y Granada (Salazar).<sup>[2]</sup>

Salazar was charged with the crime of rape under Article 266-A, paragraph 1, in relation to Article 266-B, paragraph 1 of the Revised Penal Code. The accusatory portion of the Information read:

On or about February 24, 2013, in Pasig City, and within the jurisdiction of this Honorable Court, the accused, by means of force and intimidation, did then and there willfully [sic], unlawfully, and feloniously succeed in having carnal knowledge with [AAA], 15 years old, a minor, against her will and consent.

Contrary to law.<sup>[3]</sup>

Upon arraignment, Salazar pleaded not guilty to the charge. Trial then ensued.<sup>[4]</sup>

The prosecution presented the following witnesses: (1) AAA, the victim; and (2) Police Senior Inspector Jasmine Marie O. Balbuena (PSI Balbuena).

According to AAA, she attended a fiesta at Barangay Kalawaan, Pasig City, on February 23, 2013 at around 1:00 p.m. While she was drinking soda at a store, Salazar approached her and invited her to go with him to meet Jimmy. Jimmy was AAA's then boyfriend.<sup>[5]</sup>

When they arrived at Salazar's house, Salazar forced AAA to go inside. He poked her waist with a four (4) inch long and one (1) inch thick metal, closed the door, and ordered her to lie down. AAA pleaded for Salazar to stop, but he ordered her to keep quiet. When she tried to stop him from removing her clothes, Salazar punched her abdomen.<sup>[6]</sup>

While AAA was in pain, Salazar removed her shorts and underwear and pulled up her blouse and bra. Salazar then caressed her breast and licked her vagina. Thereafter, he removed his pants and repeatedly inserted his penis into her vagina. AAA testified that she was not able to fight back because Salazar was too strong and she feared for her life since a pair of scissors was just lying around.<sup>[7]</sup>

Later, a woman knocked on the door. Salazar approached the woman and asked her of his brother's whereabouts. The woman did not stay for long. Salazar then told AAA to dress up so that they could head home. However, they proceeded to the house of a certain Becka, Salazar's cousin, instead. When Becka asked AAA why she was with Salazar, AAA told her what had happened. Becka then gave her some money and helped her get away.<sup>[8]</sup>

Upon getting home, AAA told her uncle and mother that Salazar had just raped her. They then filed a blotter against Salazar and caused his arrest later on.<sup>[9]</sup> Furthermore, AAA revealed that in the event that she gets pregnant, Salazar told her that he will leave his wife to be the father of the child.<sup>[10]</sup>

AAA was only fifteen years old at the time of the incident.<sup>[11]</sup>

The Medico-Legal Report on AAA stated that there was a recent blunt force trauma to her genitalia and was negative for spermatozoa. There was also a shallow healed laceration on her hymen's 3 o'clock position, but there were no signs of external physical injury found on AAA.<sup>[12]</sup>

Salazar denied the accusations. He narrated that on that day, AAA and Jimmy made plans to meet at Gilbert Santos' (Gilbert) house and told Salazar about it. He agreed to go with them. At around 1:00 p.m., he and his wife were cooking at their house when AAA asked him to accompany her to Gilbert's house as planned. Later, his brother arrived at 2:00 p.m. He then left them and went home.<sup>[13]</sup>

At around 3:00 p.m., Salazar went to Becka's house alone where he had a drinking spree until 5:00 p.m. with his relatives. Afterwards, he went home to sleep.<sup>[14]</sup>

Emelia Roxas, Salazar's neighbor and another defense witness, testified that she saw Salazar in front of their house at around 3:00 p.m. She narrated that Salazar arrived without any companion and that she saw him drinking until about 4:00 p.m. Dexter Cabarles (Cabarles) also testified that he had a drinking spree with Salazar and his other co-workers from 8:00 a.m. until 2:00 p.m. They were with Jimmy, but AAA was not with them. He then accompanied Salazar to his house at around 2 p.m.<sup>[15]</sup>

The Regional Trial Court convicted the accused,<sup>[16]</sup> thus:

**WHEREFORE**, premises considered, judgment is hereby rendered finding the accused, Joselito Salazar y Garganda [sic], **GUILTY BEYOND REASONABLE DOUBT** of the crime of Rape penalized under **Article 266(a) in relation to paragraph 1 of Article 266(b) of the Revised Penal Code**. Accordingly, he is hereby sentenced to suffer Reclusion Perpetua.

In accordance to **Article 2219(3) of the Civil Code of the Philippines**, as regards to moral damages[,] the accused must pay

[AAA] the amount of seventy five thousand (P75,000.00). Likewise, the accused must pay exemplary damages in the amount of thirty thousand pesos (P30,000.00) by way of example in order to deter others from committing the same bestial act especially against minor victim [sic].

Meanwhile, considering that the accused had undergone preventive imprisonment in relation to the instant case, he shall be credited in the service of his sentence with the time during which he had undergone such preventive imprisonment, subject to the requirements and limitations provided under **Article 29 of the Revised Penal Code**.

**SO ORDERED.**<sup>[17]</sup> (Emphasis in the original, citation omitted)

The trial court found that all the elements of rape under Article 266-A were present.<sup>[18]</sup> First, Salazar had carnal knowledge of AAA, as proven in AAA's categorical testimony, when he repeatedly inserted his penis into her vagina against her will.<sup>[19]</sup> Second, he succeeded in consummating the act through force, threat, and intimidation when he poked her with a metal and punched her in the abdomen. Moreover, AAA was threatened when she saw the pair of scissors.<sup>[20]</sup>

The Medico-Legal Report also supported AAA's claim that she was raped.<sup>[21]</sup>

Furthermore, against the straightforward and categorical testimony of AAA, Salazar only offered bare denial.<sup>[22]</sup> His alibi that he went to a drinking spree at the time of the incident was not supported by evidence.<sup>[23]</sup> The testimony of other witnesses do not coincide with Salazar's testimony. Particularly, Cabarles narrated that he was drinking with Salazar at the time that Salazar claimed he was cooking with his wife.<sup>[24]</sup> Defense witness Roxas' testimony also contradicted Salazar's story. Roxas claimed that he saw Salazar in front of their house at around 3:00 p.m., contrary to Salazar's testimony that he was at Becka's house at that time.<sup>[25]</sup> The trial court also took against Salazar his failure to present his brother Jimmy as a witness, because he was the one who can corroborate his story.<sup>[26]</sup>

Ultimately, the trial court held that Salazar failed to show that it was physically impossible for him to be at the scene of the crime when it was committed. Contrarily, he admitted that he was with AAA on that day.<sup>[27]</sup>

Upon appeal, Salazar argued that trial court erred in giving credence to AAA's testimony and in finding him guilty of rape.<sup>[28]</sup>

Salazar questioned AAA's credibility, because her supposed demeanor during and after the rape was contrary to human conduct. AAA did not shout for help even though it could be heard from the room that someone was taking a bath at the house, and that a woman knocked on the door. Throughout the duration of the incident, AAA neither made an attempt to get away, nor did she try to get the scissors while Salazar talked to the woman.<sup>[29]</sup>

Salazar claimed that the prosecution failed to establish the circumstances which created a state of fear in AAA's mind. AAA admitted that the pair of scissors were not held by Salazar and that she was not in a state of panic while on the way to Becka's house.<sup>[30]</sup>

Moreover, AAA's assertion that she was punched in the abdomen is negated by the lack of external signs of injury based on the Medico-Legal Report.<sup>[31]</sup> Furthermore, there was nothing in the Report showing that the lacerations were caused by the alleged rape, considering that the lacerations were already healed. At most, the report only proves that AAA had a previous sexual intercourse, which she admitted to have occurred sometime in October 2012.<sup>[32]</sup>

Lastly, Salazar argued that the trial court erred in failing to consider his denial. While denial is an inherently weak defense, the case must still be dismissed if the prosecution's case cannot stand on its own merit.<sup>[33]</sup>

On the other hand, the Office of the Solicitor General argued that Salazar's guilt was proven beyond reasonable doubt.<sup>[34]</sup>

AAA's straightforward and categorical testimony detailed her harrowing experience when she was raped by Salazar. She also positively identified Salazar as the person who raped her.<sup>[35]</sup> The Solicitor General pointed out that a candid testimony bears the badges of credibility, especially when the victim has no motive against the accused.<sup>[36]</sup>

Salazar's contention that AAA's testimony is unbelievable because she did not cry for help is untenable. The Solicitor General averred that the law does not impose the burden of proving resistance upon the victim. Reactions to assaults differ from one person to another. AAA's response towards the incident does not invalidate her claims.<sup>[37]</sup>

Moreover, the absence of any external sign of injury does not necessarily negate rape, because proof of injury is not an element of the crime.<sup>[38]</sup>

The Solicitor General further contended that Salazar's bare denial must fail in the face of the positive identification by AAA.<sup>[39]</sup>

The Court of Appeals affirmed the conviction of Salazar,<sup>[40]</sup> thus:

**WHEREFORE**, premises considered, the instant appeal is **DENIED** for lack of merit. The assailed RTC Decision dated March 14, 2016 is hereby **AFFIRMED** with modification granting additional monetary award of P75,000.00 as civil indemnity, and increasing the amount of exemplary damages to P75,000.00. All monetary awards shall earn 6% interest per annum until paid.

**SO ORDERED.**<sup>[41]</sup> (Emphasis in the original)

In affirming the trial court, the Court of Appeals ruled that there was sufficient proof of force, threat, and intimidation.<sup>[42]</sup> AAA's failure to cry for help and escape does not undermine her testimony. People react differently to a stimulus. Although the pair of scissors was not pointed towards her, its presence created fear in AAA's mind. AAA's fear can also be explained by the fact that she was punched by Salazar.<sup>[43]</sup>

AAA's claim that she was punched in the abdomen, according to the appellate court, is not negated by the lack of external injuries, because blows at the abdominal area

usually leave no marks. The existence of other bruises, if any, may not yet be visible considering that the examination was conducted approximately 12 hours after the incident. Ultimately, proof of injuries is not required because it is not an element of rape.<sup>[44]</sup>

The Court of Appeals held that a victim's lack of resistance is not tantamount to voluntariness or consent, more so when the victim was intimidated into submission. Hence, AAA's failure to cry for help does not negate rape.<sup>[45]</sup>

Moreover, the lack of fresh hymenal laceration and spermatozoa does not detract from the commission of the rape. Hymenal injury is not an element of rape; thus, its absence will not negate rape. As also clarified by PSI Balbuena, penetration does not always result to lacerations. Likewise, rape requires carnal knowledge, not ejaculation. Thus, the presence of spermatozoa is also not a requirement of rape.<sup>[46]</sup>

The Court of Appeals did not give credence to Salazar's denial because he failed to establish where he was at the time of the crime. The testimonies of the other defense witnesses as to his whereabouts at the time of the incident were inconsistent. Roxas narrated that Salazar was at a drinking spree between 3:00 and 4:00 p.m. but could not confirm his whereabouts prior to 3:00 p.m. Meanwhile, Cabarles testified that he was drinking with Salazar from 8:00 a.m. until 2:00 p.m., to which Salazar's testimony contradicted when he said that he accompanied AAA to meet Jimmy at 1:00 p.m.<sup>[47]</sup>

The Court of Appeals then concluded that as between the positive and categorical testimony of AAA and Salazar's bare denial, the former should prevail.<sup>[48]</sup>

As to the damages, the Court of Appeals modified the award. Civil indemnity and exemplary damages in the amount of P75,000.00 each were awarded.<sup>[49]</sup>

Subsequently, Salazar filed his Notice of Appeal,<sup>[50]</sup> which was given due course; thus, the Court of Appeals elevated the records of the case to this Court.<sup>[51]</sup>

In a Resolution, this Court required the parties to file their Supplemental Briefs.<sup>[52]</sup> Both parties manifested that they would no longer file their supplemental briefs.<sup>[53]</sup>

The issue for this Court's resolution is whether or not accused-appellant is guilty of rape.

Accused-appellant's conviction is affirmed.

## I

The elements of rape by sexual intercourse under Article 266-A, paragraph 1 of the Revised Penal Code are the following: "(1) the offender is a man; (2) the offender had carnal knowledge of a woman; and (3) such act was accomplished by using force, threat[, ] or intimidation."<sup>[54]</sup>

In rape by force, threat, or intimidation, the prosecution must establish that there is no consent or voluntariness on the part of the victim, and that the accused employed force, threat, or intimidation to consummate the crime.<sup>[55]</sup>