

## THIRD DIVISION

[ G.R. No. 147968, December 04, 2002 ]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. ROGELIO BITANCOR ALIAS "BOY," APPELLANT.**

### DECISION

**PANGANIBAN, J.:**

In this Decision, the Court reiterates the familiar doctrine that the lone credible testimony of the victim in a prosecution for rape is sufficient to sustain a verdict of conviction. Courts take judicial notice of the fact that, more often than not, rape is committed in solitude and is witnessed only by the complainant and the offender. Thus, a finding of innocence or guilt is oftentimes dependent on the assessment of their credibility.

#### Statement of the Case

Rogelio Bitancor appeals the February 1, 2001 Decision<sup>[1]</sup> of the Regional Trial Court (RTC) of Bohol (Branch 50) in Criminal Case No. 96-67, convicting him of rape. The dispositive portion of the assailed Decision reads as follows:

"PREMISES considered, the Court hereby finds accused guilty beyond reasonable doubt of the crime of rape. As this offense was committed before the enactment of R.A. 7695, otherwise known as the Heinous Crimes Law, the offense is punishable under Article 335 of the Revised Penal Code.

"Accordingly, there being no aggravating or mitigating circumstance, the Court hereby sentences the accused Rogelio Bitancor, alias Boy to the penalty imposable under the said law, which is reclusion perpetua. He is further ordered to indemnify the victim the amount of P200 in actual damages, and P50,000 in moral damages."<sup>[2]</sup>

The Complaint, dated July 27, 1996,<sup>[3]</sup> charged appellant as follows:

"That sometimes [sic] in the evening of 22 July 1996, at night o'clock [sic] more or less, in sitio Camonggayan, Barangay Catungawan Sur, [M]unicipality of Guindulman, [P]rovince of Bohol, Philippines and within the preliminary jurisdiction of this Honorable Court, the said accused did then and there wilfully, unlawfully and feloniously by means of violence and intimidation have sexual intercourse with the complainant against her will."<sup>[4]</sup>

During his arraignment on November 13, 1997, appellant, assisted by his counsel,<sup>[5]</sup> pleaded not guilty to the charge.<sup>[6]</sup> After pre-trial and trial in due course, the lower court rendered the assailed judgment.

## **The Facts**

### **Version of the Prosecution**

In its Brief,<sup>[7]</sup> the Office of the Solicitor General (OSG) presents the prosecution's version of the facts in this wise:

"Complainant Donafaye Amparo was born on July 24, 1985. She was turning eleven (11) when her harrowing experience happened [o]n the evening of July 22, 1996. She knew appellant because they were neighbors at Sitio Camonggayan, Guindulman, Bohol.

"On that fateful night, complainant and thirteen (13) year old Jackelyn Aranay were walking on their way home after watching television at the residence of Vicente and Monda Bernaldez. While walking, they noticed appellant following them. They got scared and ran. But complainant stumbled down and appellant caught up with her. Jackelyn continued running and left complainant behind. Appellant held complainant's hands and brought her to [a] nearby gemelina tree. There, appellant forcibly removed her panty and inserted his finger into her vagina. Soon afterwards, appellant also inserted his penis into her vagina. Complainant felt pain, but was not able to shout for help as appellant was covering her mouth. She bit his fingers and tried to run away but appellant caught up with her again. Thereupon, appellant boxed her thighs, raised her up and threw her to the ground five (5) times. Thereafter, appellant warned her not to report to anyone or he would kill her. Complainant went home but did not tell about the incident, fearful that appellant would kill her.

"Trinidad Amparo, complainant's mother, testified that she learned of the rape incident four (4) days after or on July 26, 1996. Trinidad brought complainant and her youngest son Orley to Goniang Olivar, a 'hilot'. Trinidad noticed that complainant was having difficulty walking. The latter also complained of pain in her body. Goniang, the 'hilot,' also noticed swellings in complainant's body.

"Back home, Trinidad asked complainant how she got the swellings on her body, but the latter did not answer. Later in the afternoon, however, complainant finally confided to her mother what appellant did to her. She also confided her initial reluctance to reveal what happened because of appellant's threat to kill her.

"The following morning, Trinidad, together with her sister-in-law, went to the Guindulman Police Station to report the rape incident. The police forthwith arrested appellant whom complainant readily identified as the person who raped her.

"Dr. Lina Cero, medical officer of the Jagna District Hospital, examined complainant and found discoloration of the skin (erythema) on the anterium perimeum and the mons pubis which was tender to touch. She explained that the discoloration could have been caused by trauma reaction like hypersensitivity, probably because of an erected penis. It was tender to touch, meaning it was painful when touched. She also found that the periurethral and perihymenal areas were swollen. Both

sides of the labial folds had fresh wounds, which could have been inflicted less than a week ago. She also found several hymenal lacerations. Hence, Dr. Cero concluded that there was penetration of the vagina, though it was not full.

"Dr. Cero observed that there was an abnormal gait in complainant's manner of walking indicating pain or discomfort in the perineal area of her thigh. She also found erythema on the buttocks with faint hematoma on the right thigh indicating pain on the buttocks and right thigh when touched. She sent specimen to the laboratory to determine the presence of spermatozoa in complainant's sex organ.

"Medical Technologist Corazon Jamila testified that Dr. Cero gave her a slide with vaginal smear for examination. Her findings reveal non-motile spermatozoa. Although the examination was conducted more or less seven (7) days after the incident, it was possible that spermatozoa could still be found in the victim's vagina."<sup>[8]</sup> (Citations omitted)

### **Version of the Defense**

In his Brief,<sup>[9]</sup> appellant denies the charge and gives his version of the facts, thus:

"**JOSEFA ACERON** testified that on July 22, 1996, she was watching TV in the house of Monda Olalia, together with the victim and Jacquelyn. At 9:00 p.m., they decided to go home. Nobody was following them when they were going home. When they passed the house of Gideon Castelo, Abar, younger brother of the victim, her mother and elder sister joined them on their way home. She executed a joint affidavit with Jacquelyn Aranay to prove that the victim was not raped by the accused on July 22, 1996.

"**FELIPE ACERON** denied the claim of Trinidad Amparo, mother of the victim, that it was he and his father who tried to prevent the accused from raping the victim because if that was the case, he will be the one to personally file a case against the accused because the victim's father is his cousin. He is not related to the accused.

"**GORGONIA OLAIVAR** testified that she is a 'hilot'. On July 24, 1996, Donafaye together with his mother Trinidad went to her place complaining of back ache so she massaged the victim. She noticed a hematoma at Donafaye's back and when she asked about it, the mother answered that her daughter fell from a swing in school.

"**JACQUELYN ARANAY** testified that on July 22, 1996, she and Josefa went to Minda's residence in order to watch TV. Upon arrival at Minda's house, they saw the victim watching TV. They left the house at around 9:00 p.m. On their way home, they passed at Gideon's house and thereat they saw Abner, the mother of Josefa and Nenie Bitancor watching TV and the latter joined them in going home. While they were walking, she did not notice the accused following them. She even saw the victim and Abner proceed to their house. On July 27, 1996, the accused was arrested for allegedly raping the victim. However, Abner the younger brother of the victim told her that his sister was not raped but fell from a swing. Abner made the statement in front of many people.

"**GIDEON CASTULO** testified that on July 22, 1996 at around 9:00 p.m. while he was fixing his motorcycle, many people were watching TV in his house, among them Abner, younger brother of the victim. He did not see the accused at the date and time of the alleged rape.

"**FIDEL BESAS** testified that on July 22, 1996, there was a mahjong game in his house and the accused arrived at around 7:00 p.m. He requested the accused to collect the tong for him because he was not feeling well. The accused did not leave his house from 7:00 up to 12:00 p.m. when the mahjong game ended.

"**VISITACION DECENA** testified that the only reason she can think of why the Amparo family charged his brother with rape is revenge because the cousin of the victim's father was imprisoned for almost thirteen (13) years for raping the accused's younger sister, Ruby. When she had a fight with Trinidad, mother of the victim, the latter told her that they have taken their revenge because her brother Rogelio is already in jail.

"**ROGELIO BITANCOR** vehemently denied the charge imputed against him. He testified that the Amparo family is out for revenge because of the imprisonment of Felipe Amparo, cousin of the victim's father, who raped his sister Ruby. He likewise testified that on July 22, 1996, he was at the house of his neighbor, Edie Besas, because there was a mahjong session going on. He left the place at around 12:00 o'clock midnight."

[10] (Citations omitted)

### **Ruling of the Trial Court**

The trial court gave credence to the positive testimonies of the prosecution witnesses. It explained as follows: "x x x [A] criminal case is not won by the number of witnesses but by the quality of their testimony. The negative testimonies of the defense witnesses pales in comparison with the positive assertions of the prosecution witnesses."

It also said appellant's claim that "this case was fabricated by the victim's parents to avenge the earlier conviction of the victim's distant relative appears to be too far fetched and contrived. If at all, the accused would have a more credible motive for revenge as the victim in that earlier rape case was his own younger sister!"<sup>[11]</sup>

Hence, this appeal.<sup>[12]</sup>

### **Issue**

Appellant submits this sole issue for our consideration:

"The lower court erred in finding the accused-appellant guilty of the crime of rape although the prosecution failed to prove his guilt beyond reasonable doubt."<sup>[13]</sup>

### **The Court's Ruling**

The appeal has no merit.

### **Sole Issue:**

### **Sufficiency of the Prosecution Evidence**

Appellant assails the sufficiency of the prosecution evidence because allegedly: 1) the testimony of private complainant is not credible; 2) the charge was merely fabricated; and 3) his defense of alibi was wrongly disregarded by the lower court, considering that he had presented more witnesses than the prosecution.

We disagree. In reviewing rape cases, this Court has always been guided by the following principles: (a) an accusation of rape can be made with facility -- if it is hard to prove, it is even more difficult for the accused to disprove; (b) in view of the intrinsic nature of the crime in which 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 not draw strength merely from the weakness of that for the defense.<sup>[14]</sup> In the instant case, the records and the evidence support the conclusion that the prosecution's version of the incident is much more credible than that of the defense.

It is well-entrenched jurisprudence that the lone testimony of the victim in a prosecution for rape, if credible, is sufficient to sustain a verdict of conviction. The rationale is that, owing to the nature of the offense, the only evidence that can be adduced to establish the guilt of the accused is usually only the offended party's testimony.<sup>[15]</sup>

Verily, when a woman says she has been raped, she says in effect all that is necessary to show that rape has been committed; and if her testimony meets the test of credibility, the accused may be convicted on that sole basis.<sup>[16]</sup> Appellant's denial cannot prevail over private complainant's direct, positive and categorical assertion that rings with truth. Denial is inherently a weak defense which cannot outweigh positive testimony.<sup>[17]</sup> As between a categorical statement that has the earmarks of truth on the one hand and bare denial, on the other, the former is generally held to prevail.<sup>[18]</sup>

Further, the RTC gave credence to the testimony of the offended party. Since the trial court had the opportunity to examine her demeanor and conduct on the stand, we do not find any reason to depart from its findings.<sup>[19]</sup>

Time and time again, we have said that the assessment of the credibility of witnesses and their testimonies is a matter best undertaken by the trial court, because of its unique, firsthand opportunity to observe them under examination. Its findings on such matters are binding and conclusive on appellate courts. That is, unless it has overlooked, misapprehended or misinterpreted some facts or circumstances of weight and substance.<sup>[20]</sup> Appellate courts have access only to inanimate transcripts of the stenographic notes of the witnesses' testimonies during the trial and the various pieces of documentary evidence adduced by both parties. Hence, they generally rely on the trial court's assessment regarding the credibility of the witnesses.<sup>[21]</sup>

Appellant also assails private complainant's identification of him as her ravisher. He alleges that the darkness made it impossible for her to positively identify her attacker. While it may be true that the crime took place in a dark area, this fact did not prevent the identification of the criminal. As testified to by Gideon Castulo, the place where the crime took place was illumined by the light coming from his house.<sup>[22]</sup>