



Republic of the Philippines
Supreme Court
 Manila

FIRST DIVISION

SUPREME COURT OF THE PHILIPPINES
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PEOPLE OF THE PHILIPPINES,
 Plaintiff-Appellee,

G.R. No. 232157

Present:

PERALTA, *C.J.*, Chairperson,
 CAGUIOA,
 J. REYES, JR.,
 LAZARO-JAVIER, and
 LOPEZ, * *JJ.*

- versus -

Promulgated:

NOEL DOLANDOLAN,
 Accused-Appellant.

JAN 08 2020 *with certificate*

x-----x

DECISION

CAGUIOA, J.:

Before the Court is an ordinary appeal¹ filed by accused-appellant Noel Dolandolan (accused-appellant) assailing the November 22, 2016 Decision² of the Court of Appeals (CA) in CA-G.R. CR-HC No. 08128, which affirmed the Decision³ dated September 30, 2015 of the Regional Trial Court of XYZ, Zambales, Branch 70 (RTC), in Criminal Case No. RTC-1712-I. The RTC found accused-appellant guilty beyond reasonable doubt of the crime of Rape.

The Facts

The Information⁴ filed against accused-appellant for the rape of AAA⁵ reads:

* On official leave.

¹ See Notice of Appeal dated December 15, 2016; *rollo*, pp. 18-21.

² *Rollo*, pp. 2-17. Penned by Associate Justice Ramon A. Cruz and concurred in by Associate Justices Marlene Gonzales-Sison and Henri Jean Paul B. Inting (now a Member of the Court).

³ *CA rollo*, pp. 47-54. Penned by Judge Marifi P. Chua.

⁴ Records, pp. 2-3.

⁵ The real name of the victim, her personal circumstances and other information which tend to establish or compromise her identity, as well as those of her immediate family, or household members, shall not be disclosed to protect her privacy, and fictitious initial shall, instead, be used, in accordance with *People v. Cabalquinto* [533 Phil. 703 (2006)] and Amended Administrative Circular No. 83-2015 dated September 5, 2017.

That on or about the 10th day of February, 1995, at nighttime, Brgy. [NBL], in the municipality of [BLT], Province of Zambales, Philippines, and within the jurisdiction of this Honorable Court, the said accused, by means of force and intimidation and with the use of a sharp pointed instrument, forcibly take, kidnap and deprive [AAA] of her liberty and take her to [NBL, BLT], Zambales, and thereafter at the point of said sharp pointed instrument, did then and there willfully, unlawfully and feloniously have carnal knowledge of said [AAA], a minor of fifteen (15) years old, against her will and consent, to the damage and prejudice of the latter.

CONTRARY TO LAW.⁶

After his arrest and upon his motion, accused-appellant was released on recognizance of his father on account of his purported minority.⁷ Also, upon motion, the case was remanded to the prosecutor's office for reinvestigation. However, for failure of accused-appellant to file his counter-affidavit, the case was returned to the RTC and the charge against him was maintained.⁸ Later, it was found that accused-appellant was charged with another rape case filed by another minor woman before the City Prosecutor's Office of Olongapo City.⁹ Hence, the Department of Social Welfare and Development prayed for the revocation of his release on recognizance.¹⁰ When the father of accused-appellant failed to produce accused-appellant despite the RTC's order, a warrant of arrest was issued on November 12, 1998.¹¹

It appears that accused-appellant was only arrested on November 7, 2012.¹²

Upon arraignment, accused-appellant pleaded not guilty to the crime charged. Thereafter, pre-trial and trial ensued.¹³

During trial, the prosecution presented: (1) AAA; and (2) Dr. Crizalda Abrigo-Peralta (Dr. Abrigo-Peralta). The CA summarized the version of the prosecution as follows:

x x x On February 10, 1995, when [AAA] was 15 years old, she went with two of her friends to a *peryahan* in [Brgy. RTD, XYZ,] Zambales. When her friends went home, she was left alone in the *peryahan* playing games with bets and promenading when [accused-appellant], an employee of the *peryahan* and who she has not met before, introduced himself to her. During her direct examination, she narrated that [accused-appellant] invited her to his place, and that he talked to her in a pleasant manner and she thought that the intention of [accused-appellant]

⁶ Id. at 2.

⁷ *Rollo*, p. 3.

⁸ Id.

⁹ Id.

¹⁰ Id.

¹¹ Id.

¹² Id.

¹³ Id.

was just to befriend her. [Accused-appellant] forced her to walk with him for more than an hour to his place at [Brgy. NBL, BLT, Zambales] then brought her to a *sapaan*, or a creek. [Accused-appellant] was holding something which looked like a knife which he pointed at her. [Accused-appellant] then raped her by inserting his private part to her private part. She cried because of too much pain. After that, her parents saw her in the place where it happened and they took her to the police. Thereafter, her mother accompanied her to the hospital because she was traumatized by the incident. She presented a Medico-legal Certificate dated February 13, 1995.

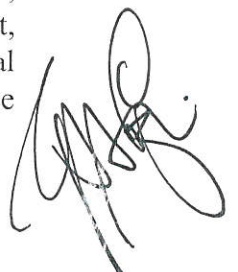
During her cross-examination, she averred that [accused-appellant] was just strolling around the *peryahan* when, without talking to her, he kissed her and forced her to go with him by threatening her with bodily harm. [Accused-appellant] used a weapon which looked like a stick or a ballpen. Although there were many people at the *peryahan*, she did not scream, shout nor do anything to alarm other people around her because she was already afraid. She could no longer recall at what time they left [RTD] or arrived in [NBL], or for how long and for how far they walked. She likewise did not resist [accused-appellant] while walking to [NBL] because she was taken by fear. She [could not] say if she was taken to a house in [NBL], but they met a few people. She denied being brought to a *sapa* or a creek. She also [could not] say that the alleged attack happened in a house; in fact she [could not] recall in what area she was raped, but it was a vacant lot and it was dark. [Accused-appellant] forced her, kissed her while holding the stick, and then inserted his penis in her private part. It was at the place of [accused-appellant] where her mother found her.

On re-direct examination, private complainant stated that at the time of the incident, she was small and thin, while [accused-appellant] was older and bigger than her.

The prosecution also formally offered private complainant's *Sinumpaang Salaysay* which she executed on February 13, 1995. She narrated therein that on the night of February 10, 1995, while she was on her way to a *sayawan* in [RTD, XYZ,] Zambales, [accused-appellant] pointed a ballpen-like knife at her, dragged her to a field and they passed by [AGH]. [Accused-appellant] then made her ride a tricycle until they reached [STG, BLT,] Zambales. After that, [accused-appellant] made her walk until they reached a place beside a river in [NBL, BLT,] Zambales where [s]he was raped by [accused-appellant]. [Accused-appellant] held both of private complainant's hands, removed her shorts and panties. He then pulled down his pants and inserted his penis to her private part. Because a ballpen-like knife [was] pointed at her, she just followed [accused-appellant] out of fear. She did not shout while they were riding the tricycle because [accused-appellant] warned her not to shout, otherwise he [would] kill her.

x x x x

Dr. Crizalda Abrigo-Peralta appeared before the RTC and identified the Medico-Legal Certificate dated February 19, 1995 of AAA that she issued. The Medico-Legal Certificate states that there was redness and swelling around the vaginal canal which [could] be caused by trauma, tension and pressure. The vaginal canal was also positive for blood clot, meaning that there was something that entered inside the vaginal canal that caused the bleeding, specially that she was a child. She found the



hymen to be intact, and that there was no laceration. Dr. Abrigo-Peralta explained that the hymen's elasticity, especially since the private complainant was young at that time, allowed for slight penetration without causing laceration. In her examination of private complainant, her hymen was intact but inside the vaginal canal, there were blood clots which could indicate that there was rubbing of some foreign object inside.

On cross-examination, Dr. Abrigo-Peralta negated any hematoma or bruises on the body of the private complainant, or any spermatozoa in her vagina. She also stated that the erythema or redness in private complainant's vaginal canal could also be caused by any foreign body like bottles or vibrators.¹⁴

On the other hand, the defense presented the sole testimony of accused-appellant, who alleged that:

x x x [I]n 1995, he was 18 years old and residing with his parents and sibling at [Brgy. LPB, BLT,] Zambales. At that time, he was working at a *peryahan* in [Brgy. RTD, XYZ,] Zambales, which was in operation in the place for about two (2) weeks during the fiesta. He courted private complainant for a week before he brought her to his house to introduce [her] to his parents. They left [Brgy. RTD] at about 10 o'clock or 11 o'clock in the evening. At that time, private complainant had not yet accepted him as her boyfriend. He did not know her age. When they reached his house, his parents were awake and he was scolded. Private complainant stayed in their house the whole evening until morning but they did not sleep. [Accused-appellant], his parents and private complainant stayed awake the whole evening just sitting outside their house. His father told him that he [would] bring private complainant home in the morning because her parents might already be looking for her. Between 1995 to 2012 when he was arrested, he claimed to be just in their place in [Brgy. LPB] but he did not receive any notice for him to appear before the [RTC].

His Judicial Affidavit dated June 8, 2015 was also offered as part of his testimony. He narrated therein that he met private complainant at a *peryahan* in [Brgy. RTD, XYZ,] Zambales. He worked at the *peryahan* while private complainant [was] a bettor who had been playing at the *peryahan* for about a week. Two days after he saw her, [accused-appellant] asked private complainant if he could court her, to which she acceded. Almost a week later, or on February 10, 1995, he asked her if she wanted to come with him to his place to meet his father. Private complainant agreed. Private complainant waited for [accused-appellant] until the *peryahan* closed around 11 o'clock PM or 12 o'clock midnight. x x x [Accused-appellant] woke his parents, but only his father woke up. He told his father that there was a girl from [Brgy. RTD] with him. His father scolded him and told him that the girl's parents would surely look for her. His father sat in front of [accused-appellant] and private complainant and watched them until morning. His father told private complainant to go home in the morning because her parents would look for her. Nothing happened between [accused-appellant] and private complainant because his father was watching them. The following day, private complainant asked if there [was] a river where she could take a bath. [Accused-

¹⁴ Id. at 3-5.

appellant] then took her to a nearby falls about 30 meters away, accompanied by his younger brother and they swam. After only five minutes in the water, people arrived and invited them to the barangay but [accused-appellant] was taken to the police station at the Municipal Hall of [XYZ]. The police told him that he was being charged with rape. x x x¹⁵

Ruling of the RTC

In its Decision¹⁶ dated September 30, 2015, the RTC convicted accused-appellant of the crime of Rape. The dispositive portion of the said Decision stated:

WHEREFORE, foregoing considered, the Court finds Noel Dolandolan GUILTY beyond reasonable doubt of the crime of Rape and is sentenced to suffer the penalty of *Reclusion Perpetua* without eligibility for parole and is ordered to pay Php50,000.00 as moral damages, Php50,000.00 as civil indemnity and Php20,000.00 as exemplary damages.

SO ORDERED.¹⁷

The RTC held that although the prosecution failed to establish the crime of Kidnapping, it successfully proved the crime of Rape through force and intimidation.¹⁸

While there were contradictions in AAA's written statement in relation to her testimony, the RTC held that said variance did not alter the essential fact that AAA was raped. Further, the claim of rape was supported by the medical records, which accused-appellant failed to sufficiently refute.¹⁹

Finally, the RTC held that while the defense presented a certificate of live birth stating that accused-appellant was born on May 29, 1978, another certification was issued indicating that accused-appellant was actually born on September 15, 1972 and as such, was already 23 years old at the time of the commission of the crime.²⁰

Aggrieved, accused-appellant appealed to the CA.

Ruling of the CA

The CA affirmed the RTC's Decision but increased the award of exemplary damages to ₱30,000.00.²¹ The CA held that although there were

¹⁵ Id. at 5-6.

¹⁶ CA rollo, pp. 47-54.

¹⁷ Id. at 54.

¹⁸ Id. at 50-51.

¹⁹ See id. at 51-52.

²⁰ Id. at 54.

²¹ Rollo, p. 16.

glaring inconsistencies between AAA's *Sinumpaang Salaysay* and her open court testimony, AAA never wavered in her claim that accused-appellant inserted his private part into her private part after pointing a ballpen-like knife at her.²² Further, the CA held that the inconsistencies in AAA's testimony (1) referred only to inconsequential matters and (2) were justified, considering that 18 long years had lapsed between the time the incident occurred and the time AAA was presented in court.²³

Hence, the instant appeal.

Issue

Whether the RTC and the CA erred in convicting accused-appellant of the crime of Rape.

The Court's Ruling

The Court finds merit in the appeal. The prosecution failed to prove the guilt of accused-appellant beyond reasonable doubt.

In *People v. Salidaga*,²⁴ the Court explained:

It is inherent in the crime of rape that the conviction of an accused invariably depends upon the **credibility of the victim** as she is oftentimes the sole witness to the dastardly act. Thus, the rule is that when a woman claims that she has been raped, she says in effect all that is necessary to show that rape has been committed and that if her testimony meets the crucible test of credibility, the accused may be convicted on the basis thereof. However, the courts are not bound to treat the testimony of the victim as gospel truth. **Judges are duty-bound to subject her testimony to the most rigid and careful scrutiny lest vital details which could affect the outcome of the case be overlooked or cast aside.**²⁵

The Court has held that "when the issue is the credibility of witnesses and of their testimonies, the trial court is generally deemed to have been in a better position to observe their deportment and manner of testifying during the trial."²⁶ However, appellate courts may review the factual findings of the trial court when the lower court overlooked certain facts of substance and value²⁷ or when the lower court's findings of fact are contradicted by evidence on record.²⁸

In *People v. Bermas*,²⁹ the Court discussed the peculiar nature of Rape charges in this wise:

²² Id. at 10.

²³ Id. at 13-14.

²⁴ 542 Phil. 295 (2007).

²⁵ Id. at 307-308. Emphasis and underscoring supplied.

²⁶ *People v. Lagramada*, 436 Phil. 758, 766 (2002).

²⁷ Id. at 766.

²⁸ *Mendoza v. People*, 500 Phil. 550, 559 (2005).

²⁹ G.R. No. 234947, June 19, 2019.

x x x [I]n rape cases, the accused may be convicted on the basis of the lone, uncorroborated testimony of the rape victim, provided that her testimony is **clear, convincing, and otherwise consistent with human nature**. This is a matter best assigned to the trial court which had the first-hand opportunity to hear the testimonies of the witnesses and observe their demeanor, conduct, and attitude during cross-examination. Hence, the trial court's findings carry very great weight and substance.

However, it is equally true that in reviewing rape cases, the Court observes the following guiding principles:

- (1) an accusation for rape can be made with facility; it is difficult to prove but **more difficult for the person accused, though innocent, to disprove;**
- (2) in view of the intrinsic nature of the crime where **only two persons are usually involved, the testimony of the complainant must be scrutinized with extreme caution;**
- (3) 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.

This must be so as the guilt of an accused must be **proved beyond reasonable doubt**. Before he is convicted, there should be **moral certainty** — a certainty that convinces and satisfies the reason and conscience of those who are to act upon it. Absolute guarantee of guilt is not demanded by the law to convict a person of a criminal charge but there must, at least, be moral certainty on each element essential to constitute the offense and on the responsibility of the offender. Proof beyond reasonable doubt is meant to be that, all things given, the mind of the judge can rest at ease concerning its verdict. x x x³⁰

In light of the foregoing principles and after a careful review of the records and transcripts of stenographic notes of the instant case, the Court believes, and accordingly holds, that there are substantial discrepancies between AAA's *Sinumpaang Salaysay*³¹ dated February 13, 1995 (*Sinumpaang Salaysay*) and her testimony, both during her direct examination and her cross-examination, which discrepancies were never reconciled, explained, corrected, or justified by the prosecution. As a result, the Court doubts the credibility of AAA. Thus, the guilt of accused-appellant has not been proved beyond reasonable doubt.

The discrepancies as to circumstances leading up to the alleged rape are substantial

In AAA's *Sinumpaang Salaysay*, she stated that accused-appellant threatened her with a ballpen knife while she was on her way to a *sayawan* and transported her *via* tricycle to the purported scene of the crime, *viz.:*

³⁰ Id. at 5-6. Citations omitted; additional emphasis and underscoring supplied.

³¹ Records, p. 6.

08. T - Isalaysay mo nga kung paano ka hinalay ni Noel Dolandolan?

S - Ganito po iyon, habang ako ay papunta sa may sayawan sa [RTD], [XYZ], Zambales ay tinutukan ako ni Noel Dolandolan ng isang di baleng ball pen na kutsilyo. Ako ay hinila sa may bukid at x x x dumaan kami sa may [AGH]. Pagkatapos ay isinakay niya ako sa tricycle hanggang [STG], [BLT], Zambales. Pagkatapo[s] ay pinalakad nya ako hanggang doon sa pinaghalayan sa akin.³²

When AAA was presented for her direct testimony on March 5, 2013, she narrated that she met accused-appellant at a *peryahan* and that he introduced himself to her, spoke to her in a pleasant manner, and invited her to his place. Thereafter, they walked together for about an hour. Unlike her statements in her *Sinumpaang Salaysay*, there was no mention of a *sayawan*, of being threatened at knife-point to accompany accused-appellant, or of a tricycle ride to the purported scene of the crime:

Q Can you recall where were you on February 10, 1995?

A I was then at a peryahan when he took me, Ma'am.

x x x x

Q And then what were you doing at the carnival?

A I was playing games in that carnival with bets, then I was also promenading.

Q Who was your companion at that time?

A I was alone, Ma'am.

Q What time was it?

A 7:00 o'clock in the evening.

Q Can you recall anything unusual that happened in that night?

A There was, Ma'am.

Q What was it?

A He invited me Ma'am but then I did not know where he was taking me.

Q Who was the person who invited you?

A Noel Dolandolan, Ma'am.

Q Prior to that date on February 10, 1995, did you know already Noel Dolandolan?

A No, Ma'am.

Q How did you know that it was Noel Dolandolan who invited you?

A He introduced himself to me.

³² Id.

Q How did he introduce, I withdraw that. When did he introduce himself to you?

A Also during that evening when the incident happened.

x x x x

Q And then where did he invite you?

A There at their place, Ma'am. I was taken there.

Q How did he take you?

A **We walked, Ma'am up to their place.**

Q So, you went with him?

A No, Ma'am.

Q So, how was he able to take you to that place when he just introduced himself to you?

A **He talked to me in a pleasant manner and I thought that his intention was just to be friend to me.**

Q Where did he again bring you?

A I think in their house, Ma'am. It was [their] house at [LPB].

x x x x

Q And you said you just walked until you reached [LPB]. How far was [LPB], how many minutes did you walk until you reached [LPB]?

A For quite a long time, Ma'am.

Q **Did it take you one (1) hour?**

A **Yes, Ma'am.**

Q **So the two (2) of you were just walking?**

A **Yes, Ma'am.**

Q So when you reached [LPB], what happened?

A He did what he has to do with me.

Q What did he do?

A He forced me, Ma'am but I did not want him to do that.³³

During her cross-examination on September 17, 2013, AAA's recollection again changed, this time with her saying that while she was at the *peryahan*, accused-appellant directly threatened her with a ballpen-like *stick* and forced her to accompany him to the purported scene of the crime. In direct contrast to her direct testimony, AAA stated on cross-examination that accused-appellant never spoke to her and never invited her to his house, viz.:

Q Madam Witness, you stated during your direct testimony that you were in the [peryahan] located at Brgy. [RTD], [XYZ], Zambales on February 10, 1995, is that correct?

³³ TSN, March 5, 2013, pp. 4-8; records, pp. 77-81. Emphasis and underscoring supplied.

A Yes, Sir.

Q What were you doing in the [*peryahan*]?

A I was strolling around because it was then our fiesta, Sir.

x x x x

Q You already knew [accused-appellant] in this case before February 10, 1995, is that correct?

A Not yet, Sir.

Q So, you only knew him on February 10, 1995?

A I do not know him very well, Sir. I just saw him there.

Q What was he doing in the [*peryahan*]?

A He was working there, Sir.

x x x x

Q And you had no companion at that time?

A I had a companion during that time, Sir.

Q What was the name of your companion?

A My friends, Sir.

Q What are their names?

A I cannot anymore recall the names of my friends during that time, Sir.

x x x x

Q So, this statement in page 4 wherein you were asked: Who was your companion at that time? And your answer: I was alone, Ma'am, is not true?

A I was alone because my friends went home and I was the only one who stayed there, Sir.

x x x x

Q In what part of the [*peryahan*] did he operate or did he work on?

A I do not know, Sir because he was just strolling around there.

Q Then, Madam Witness, you stated that he started talking to you?

A No, Sir.

Q He did not talk to you?

A No, Sir.

Q How did you know him?

A He kissed me and he forced me, Sir.

Q He forced you to do what?

A To go with him, Sir.

Q How did he force you, Madam Witness?

A Sapilitan po.

x x x x

Q Now, Madam Witness, you also stated just a while ago that he forced you and he forcibly took you at that time?

A Yes, Sir.

Q So you are saying now that he threatened you?

A Yes, Sir.

Q He threatened you with bodily harm?

A Yes, Sir.

Q He used a weapon, Madam Witness?

A Yes, Sir.

Q What weapon did he use?

A It looked like a stick, it looked like a ballpen, Sir.

Q A stick looked like a ballpen?

A Yes, Sir.

Q Now, you are a resident of Brgy. [RTD], [XYZ], Zambales where the [peryahan] is located?

A Yes, Sir.

Q And that is a [peryahan] and you will agree with me that there were many people around, is that correct?

A There were many people, Sir.

Q And yet you are saying that you were being threatened with bodily harm so that he can take you, and yet you did not scream, you did not shout, you did not do anything to alarm other people around you, is that correct?

A I was already afraid, Sir.

x x x x

Q And you stated also, Madam Witness that you walked from [RTD] to [BLT] in [NBL]. You also stated: *Sinabi mo rin sa direct testimony na naglakad kayo mula [RTD] hanggang [BLT]*. What time did you leave [RTD]?

A I do not know, Sir.

Q How about the time you arrived in [NBL]?

A I do not also remember, Sir.

Q How many hours did you walk from [RTD] to [NBL]?

A I cannot recall anymore, Sir.

x x x x

ATTY. LAPPAY:

x x x So, Madam Witness but you walked for a long time, is that correct?



A Yes, Sir.

Q And in that span of time, you also did not resist [accused-appellant] who was holding a mere stick, that is correct?

A I was not able to do that because I was stricken by fear, Sir.

Q Am I correct to say, Madam [W]itness, that you voluntarily went with [accused-appellant] to their house in [NBL]?

A No, Sir.³⁴

The Court notes that the claim that AAA was threatened at knife-point while on her way to a *sayawan* is starkly different and absolutely inconsistent with the claim that accused-appellant befriended her in a *peryahan* and thereafter invited her to his house. While seemingly immaterial, the contradictory statements that: (1) accused-appellant and AAA took a tricycle to the scene of the crime; (2) accused-appellant and AAA walked for about an hour while talking; and, (3) accused-appellant and AAA walked for a period of time that AAA could no longer recall, all the while under threat of violence — taken with all other evident discrepancies undoubtedly calls AAA's credibility into question.

*There were substantial discrepancies
as to the place of the alleged rape*

In like manner, there were substantial discrepancies as to the place where the alleged rape purportedly occurred. In her *Sinumpaang Salaysay*, AAA described the circumstances surrounding the alleged rape as follows:

06. T - Ano ba ang ginawa sa iyo ni Noel Dolandolan?

S - Hinalay po niya ako.

07. T - Kailan at saan ka niya hinalay?

S - Noon pong gabi ng Biyernes, petsa Pebrero 10, 1995, sa tabi ng ilog sa may [NBL], [BLT], Zambales.

x x x x

09. T - Paano ka ba hinalay ni Noel Dolandolan?

S - Hinawakan po niya ang aking dalawang kamay pagkatapos ay inalis niya ang aking short pant at pantie. Matapos niyang maalis ang aking short pant at pantie ay ibinaba niya ang kanyang pantalon. At saka niya ipinasok ang kanyang ari sa aking ari.

10. T - Noong tinutukan ka niya ng isang [ballpen] na kutsilyo o patalim, ano ang ginawa mo?

S - Sinunod ko na lang po ang gusto niya, dahil po sa pagkatakot.³⁵

³⁴ TSN, September 17, 2013, pp. 3-10; records, pp. 108-115. Emphasis and underscoring supplied.

³⁵ Records, p. 6. Emphasis and underscoring supplied.

Consistent with AAA's *Sinumpaang Salaysay*, AAA stated during her direct examination that she was brought to a creek and raped by force and intimidation, *viz.* :

Q You said that you were brought to [NBL], and you don't know where [NBL] is. In what particular place did he bring you in [NBL]?

A I could recall that he brought me to a "sapaan", to a creek, Ma'am.

Q So he forced you to do something at the creek?

A Yes, Ma'am.

Q What did he do exactly?

A He was holding something which looked like a knife and he pointed that to me.

Q And then what happened?

A The thing happened which was supposed to happen. *Nangyari ang dapat mangyari.*

PROS. NON

Your Honor, it seemed that the witness had difficulty of narrating what really happened, Your Honor. So may I request that she be allowed to continue to testify later. May I request that this case be called last or if there is no more time, that she will testify on the next hearing x x x.

x x x x

Q Madam Witness, you said you were brought to [NBL] by [accused-appellant]. What did [accused-appellant] do to you?

A *Hinalay niya po ako.*

Q How did he rape you?

A He inserted his private part to my private part.

Q What did you do when he was doing that to you?

A I was crying because of too much pain.³⁶

On cross-examination however, AAA denied that she was raped at or near a creek. Instead, she first stated that she did not know, or could not remember the place of the purported crime. Thereafter, she again changed her answer and testified that she was raped in a dark, vacant lot, as shown below:

Q x x x [Y]ou said that you were brought to [NBL], in what place in [NBL] did he take you?

A I do not know that, Sir.

Q But can you describe in what location in [NBL], was it a house?

A I do [not] know, Sir if it is a house.

³⁶ TSN, March 5, 2013, pp. 8-11; id. at 81-84. Emphasis and underscoring supplied.

Q But did you meet many people around, Madam Witness?
A Few people, Sir.

x x x x

Q You went to a creek also?
A No, Sir.

Q Now, he did not bring you to a *sapa*, a creek?
A No, Sir.

Q Now, Madam Witness, the alleged attack happened in a house, is that correct?
A No, Sir.

Q So, where did it happen, Madam Witness, [i]f you can still remember?
A I do not know, Sir because he forced me.

Q You did not know where it happened?
A Because I became afraid of him, Sir.

Q Now, Madam Witness, you said that he forced himself upon you, he started kissing you, Madam Witness?
A He kissed me and I was forced, Sir.

Q And of course, at this time, Madam Witness, he was still holding that stick?
A Yes, Sir.

x x x x

Q Madam Witness, you said that after he raped you, he took you to their house, is that correct?
A No, Sir.

Q So, where did he take you?
A In a vacant lot which was dark, Sir.

Q And after that, what happened?
A He inserted his penis in my private part, Sir.

Q Can you tell us, how that was done, Madam [W]itness?

PROS. NON:

May I pray again that it be placed on record that the witness is crying probably, she cannot anymore continue her testimony.³⁷

Again, while seemingly innocuous, the glaring inconsistencies as to the place where the purported crime was committed cast reasonable doubt on AAA's testimony.

³⁷ TSN, September 17, 2013, pp. 10-12; id. at 115-117. Emphasis and underscoring supplied.

There were substantial discrepancies as to where AAA was found after the alleged rape

Finally, AAA gave inconsistent accounts as to where she was found after the purported rape — whether at accused-appellant's house or at the scene of the crime. During her direct examination, AAA stated:

Q So after that, what happened?

A **After that, he brought me to their house.**

Q After he raped you, he brought you to your house?

COURT

Sa bahay niya o sa bahay niyo?

WITNESS

A My parents saw me **in the place where it happened** and they took me.

PROS. NON

Q Where did you[r] parents take you?

A To the police, Ma'am.³⁸

AAA was similarly vague during her cross-examination. Despite having stated that she was found at accused-appellant's place but not at his house, she eventually admitted that she did not actually remember the details:

Q Now, Madam Witness, you said that your mother found you?

A Yes, Sir.

Q Where did she find you, Madam Witness?

A **There at their place, Sir.**

Q **In their house, Madam Witness?**

A **No, Sir.**

Q You do not remember, Madam Witness?

A **No, I cannot remember, Sir.**³⁹

The substantial inconsistencies affect AAA's credibility

It bears reiterating that the complainant's credibility is the single most important issue in a prosecution for Rape.⁴⁰ In *People v. Lagramada*,⁴¹ the Court recognized that —

³⁸ TSN, March 5, 2013, p. 11; id. at 84. Emphasis and underscoring supplied.

³⁹ TSN, September 17, 2013, p. 13; id. at 118. Emphasis and underscoring supplied.

⁴⁰ *People v. Buenaflor*, 412 Phil. 399, 408 (2001).

⁴¹ *Supra* note 26.

x x x [M]inor variations between the affidavit and the testimony of the complainant are normally not enough to cast doubt upon her credibility and truthfulness. After all, errorless statements and testimonies cannot be expected, especially when she is recounting details of a harrowing experience. In accordance with human nature and experience, there can be honest inconsistencies on minor and trivial matters, but these serve to strengthen rather than destroy her credibility, especially when the crime is shocking to the conscience and numbing to the senses. Hence, she is ordinarily not deemed discredited by such discrepancies — for example, whether or not she was able to buy ice before the rape, or whether the accused held both of her hands or only one of them.⁴²

While inconsistencies and contradictions in the complainant's testimony do not necessarily impair her credibility, "for said inconsistencies to be dismissed so as to give full credence to the alleged victim, **they must be minor, trivial and as far as practicable, few and far between.**"⁴³

In the instant case, the transcripts of stenographic notes unequivocally show that AAA gave conflicting accounts in her *Sinumpaang Salaysay*, direct examination, and cross-examination about the circumstances surrounding the purported rape, specifically as regards: (1) where she met accused-appellant; (2) the circumstances surrounding said meeting; (3) the circumstances leading up to the alleged rape; (4) the place of the alleged rape; and (5) the place where she was eventually found. The allegation that AAA was threatened at knife-point while on her way to a dance (*sayawan*) is completely inconsistent with the claim that accused-appellant befriended AAA in a carnival (*peryahan*) and invited her to his house. Similarly, the categorical statement that AAA was raped near a creek or *sapaan* is completely inconsistent with the statement that she was raped in a dark vacant lot, which statements are inconsistent with her other statement that she did not know where she was raped.

Contrary to the findings of the RTC and the CA therefore, the discrepancies in AAA's testimony, taken as a whole, cannot be considered minor or trivial. She gave manifestly contradictory accounts of the circumstances surrounding the purported rape and forgot many other details. As a result, the Court cannot help but wonder whether AAA's recollection and narration is truthful or even reliable. This constitutes material doubt as to the credibility of AAA and the guilt of accused-appellant.

Worse, the prosecution never even attempted to explain, reconcile, or justify the inconsistencies.

⁴² Id. at 771-772.

⁴³ *People v. Buenaflor*, supra note 40, at 409. Emphasis and underscoring supplied.

Substantial inconsistencies were never reconciled nor justified

While the Court recognizes that a “truth-telling witness is not always expected to give an error-free testimony, considering the lapse of time and treachery of human memory”⁴⁴ the prosecution bears the burden of reconciling and explaining any lapses, errors, or inconsistencies in said testimony, in accordance with the principle that 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.”⁴⁵

In this instant case, the prosecution never bothered to explain or reconcile the evident inconsistencies in AAA’s testimony. In fact, the Court notes that during AAA’s re-direct examination, the prosecution focused solely on the age and physical size of AAA in relation to accused-appellant.⁴⁶ AAA was never asked to clarify or correct the conflicting statements made in her *Sinumpaang Salaysay vis-a-vis* her testimony in open court or the conflicting statements made during her direct examination and her cross-examination. This omission is fatal to the case.

Even assuming *arguendo* that the inconsistencies could be considered minor and reasonable in view of the long period of time that lapsed between the purported incident in 1995 and the date AAA was finally presented in court in 2013,⁴⁷ the Court cannot disregard or overlook the same to the prejudice of accused-appellant who did not in any way contribute to the 18-year delay.

Notably, although the warrant was issued on November 12, 1998, accused-appellant was only arrested on November 7, 2012.⁴⁸ Accused-appellant claims, however, that he never attempted to evade prosecution or delay the proceedings. During his cross-examination on June 9, 2015, accused-appellant stated:

Q This date of accusation happened in 1995, where were you from 1995 to 2012?

A **I was there in our place.**

Q Where?

A [LPB].

Q **You have not received any notice from the Court that you should appear in court?**

A **There was none.**⁴⁹

⁴⁴ *People v. Alcantara*, 471 Phil. 690, 700 (2004).

⁴⁵ *People v. Bermas*, supra note 29, at 6. Emphasis and underscoring omitted.

⁴⁶ TSN, September 17, 2013, pp. 13-14; records, pp. 118-119.

⁴⁷ *Rollo*, p. 14.

⁴⁸ *Id.* at 3.

⁴⁹ TSN, June 9, 2015, p. 11; records, p. 211. Emphasis and underscoring supplied.

In his re-direct examination, accused-appellant confirmed that he did not go into hiding, *viz.*:

Q Mr. Witness, did you hide during the period that you did not come to the court during the hearing of this case?

A: No, Sir.⁵⁰

Accused-appellant's claims, while self-serving, were neither denied nor rebutted by the prosecution.

It is certainly possible, even probable, that AAA's testimony would not have been infected with the aforementioned contradictions had accused-appellant been arrested and the complainant presented at an earlier date. Unfortunately, the Court cannot entertain "what-ifs" when the life and liberty of a person is at stake certainly, as "[i]t is not proper to torture the minds of the members of this Court by placing them in the trying position of running the risk of convicting an innocent man, all because of the prosecution's failure to do its duty of gathering evidence to establish his guilt beyond reasonable doubt."⁵¹

The prosecution was remiss in its duty and failed to sufficiently explain, reconcile, or justify the many substantial inconsistencies in AAA's testimony. As such, and given the particular nature of a charge of Rape, *i.e.*, that the court is often called upon to determine the innocence or guilt of an accused based solely on the conflicting testimony of two people, the Court is constrained to acquit accused-appellant on the basis of reasonable doubt.

The prosecution must establish the guilt of the accused beyond reasonable doubt based on the strength of its own evidence

The Court, in *People v. Lagramada*,⁵² explained:

In a criminal prosecution, the law always presumes that the defendant is not guilty of any crime whatsoever, and this presumption stands until it is overcome by competent and credible proof. Where two conflicting probabilities arise from the evidence, the one compatible with the presumption of innocence will be adopted. It is therefore incumbent upon the prosecution to establish the guilt of the accused with moral certainty or beyond reasonable doubt as demanded by law.

When a person cries rape, society reacts with sympathy for the victim, admiration for her bravery in seeking retribution for the crime committed against her, and condemnation for the accused. However, being interpreters of the law and dispensers of justice, judges must look at each rape charge sans the above proclivities and deal with it with caution

⁵⁰ *Id.* Emphasis and underscoring supplied.

⁵¹ *People v. Lagramada*, supra note 26, at 778.

⁵² Supra note 26.

and circumspection. Judges must free themselves of the natural tendency to be overprotective of every girl or woman decrying her defilement and demanding punishment for the abuser. While they ought to be cognizant of the anguish and humiliation the rape victim goes through as she demands justice, they should equally bear in mind that their responsibility is to render justice in accordance with law.

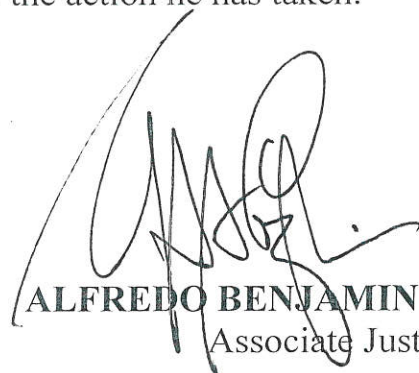
Hence, accused shall be presumed innocent until the contrary is proved. Before the accused in a criminal case may be convicted, the evidence must be strong enough to overcome the presumption of innocence and to exclude every hypothesis except that of the guilt of the defendant. If the inculpatory facts and circumstances are capable of two or more explanations, one of which is consistent with the innocence of the accused and the other consistent with his guilt, then the evidence does not pass the test of moral certainty and will not suffice to support a conviction.⁵³

As already explained, AAA's many contradictory statements, which the prosecution never bothered to explain or justify, raise material doubt on AAA's credibility. In finding for accused-appellant, the Court makes no pronouncement as to the truth or falsity of AAA's claims. It considers only the *slightest possibility* that the facts are not as the complainant claims. Under the Constitution, however, this *possibility* — no matter how rare or unlikely — constitutes more than sufficient basis for an acquittal. This is what it means to be presumed innocent until the contrary is proved, beyond reasonable doubt.

WHEREFORE, in view of the foregoing, the appeal is hereby **GRANTED**. The November 22, 2016 Decision of the Court of Appeals in CA-G.R. CR-HC No. 08128 is hereby **REVERSED** and **SET ASIDE**. Accordingly, accused-appellant Noel Dolandolan is **ACQUITTED** of the crime charged on the ground of reasonable doubt, and is **ORDERED IMMEDIATELY RELEASED** from detention unless he is being lawfully held for another cause. Let an entry of final judgment be issued immediately.

Let a copy of this Decision be furnished the Superintendent of the New Bilibid Prison, Muntinlupa City for immediate implementation. The said Superintendent is **ORDERED** to **REPORT** to this Court within five (5) days from receipt of this Decision the action he has taken.

SO ORDERED.



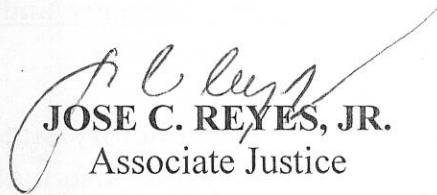
ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

⁵³ Id. at 779-780. Emphasis and underscoring supplied.

WE CONCUR:



DIOSDADO M. PERALTA
Chief Justice
Chairperson



JOSE C. REYES, JR.
Associate Justice

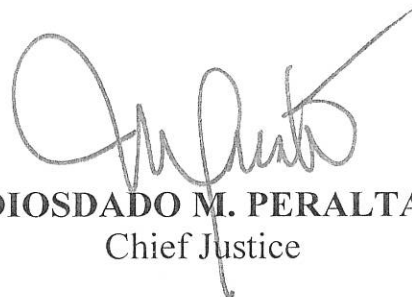


AMY C. LAZARO-JAVIER
Associate Justice

(On official leave)
MARIO V. LOPEZ
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



DIOSDADO M. PERALTA
Chief Justice

