



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

THE PEOPLE OF THE
PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 240662

Present:

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

-versus-

Promulgated:

RAYMUNDO RAPIZ y
CORREA,
Accused-Appellant.

SEP 16 2020

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DECISION

LAZARO-JAVIER, J.:

The Case

This appeal assails the Decision¹ dated February 7, 2018 of the Court of Appeals in CA-G.R. CR HC No. 08109 entitled “*People of the Philippines v. Raymundo Rapiz y Correa*” which affirmed appellant’s conviction for simple rape, thus:

WHEREFORE, premises considered, the appeal is **DENIED**. The assailed January 29, 2016 *Decision* of the Regional Trial Court, Branch 275,

* Designated as additional member vice J. Mario V. Lopez.

¹ Penned by Associate Justice Victoria Isabel A. Paredes and concurred in by Presiding Justice Romeo F. Barza and Associate Justice Mario A. Lopez (now a member of this Court), all members of the First Division, *CA rollo*, pp. 96-102.

Las Piñas City, in Criminal Case No. 15-1121, is **MODIFIED** in that the awards of civil indemnity and moral damages are **INCREASED** to **₱75,000.00 EACH**; and appellant is further **ORDERED** to **PAY** **₱75,000.00** as exemplary damages. Except as otherwise modified herein, the rest of the assailed *Decision* **STANDS**.

SO ORDERED.²

Facts

The Charge

Raymundo Rapiz y Correa (appellant) was charged with the rape of AAA³ in Criminal Case No. 15-1121, viz.:

That on or about the 2nd day of April 2015, in the City of Las Piñas, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design and by means of force, threat, and intimidation and did then and there willfully, unlawfully and feloniously have carnal knowledge with complainant AAA, against her will and consent.

CONTRARY TO LAW.⁴

The case was raffled to the Regional Trial Court (RTC), Branch 275, Las Piñas City. On arraignment, appellant pleaded not guilty.⁵ Trial on the merits ensued.

Proceedings before the Trial Court

Prosecution's Version

On **April 2, 2015**, AAA (complainant) and appellant were left all alone in the latter's house. When she heard appellant call for her, she immediately approached but he suddenly pointed a deadly weapon at her. She got shocked and was unable to react when he undressed her and himself too. He asked her to lie down on the bed, after which, he got on top of her and inserted his penis into her vagina. He threatened to kill her and her mother if she would tell her mother about the incident. Before her mother arrived, appellant tightly held her hands, went outside, and sharply stared at her. She could not do anything but cry.⁶

² *Id.* at 101.

³ 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.

⁴ *CA rollo*, p. 43.

⁵ *Id.* at 44.

⁶ *Id.*

On **April 3, 2015**, appellant brought her near a balete tree. There, he **hugged her, kissed her on the lips, fondled her breasts, and touched her vagina**. He lay near her and slept. They went back to appellant's house by **11 o'clock in the evening**.⁷

On **April 4, 2015**, around **11 o'clock in the evening**, appellant told her to go to the Canon Vulcanizing Shop where he was working. When she got there, appellant locked the door of the shop. **He proposed to court her**, but she refused because she thought he is her uncle, that is, she believed that he and her mother are cousins. Appellant got mad and no longer talked to her. They were able to go home by **1 o'clock in the morning**.⁸

On **April 6, 2015**, around **midnight**, appellant **promised to buy her a pair of slippers and dress** in Baclaran. They later **went there**, but he did not make good his promise. He just made another promise to buy for her another time. He then **took her to a zoo and kissed her there**. They went home afterwards.⁹

On **April 7, 2015**, her mother, BBB, filed a complaint before the *barangay* **against appellant's live-in partner**. The reason for the complaint was that complainant and appellant's live-in partner had apparently gotten into a fight. Appellant's live-in partner was jealous whenever complainant conversed with appellant. Complainant attended the hearing before the *barangay* where **she disclosed that appellant had inserted his penis into her vagina three (3) to four (4) times already** and it all happened in appellant's house.¹⁰

Medico-legal officer Police Senior Inspector Reah Mangroba Cornelio, M.D. (Dr. Cornelio) examined complainant and made the following findings:

x x x

HYMEN: Presence of deep healed lacerations at 3 and 9 o'clock positions and deep healing laceration at 6 o'clock position.¹¹

x x x

Conclusion

Medico-legal evaluation shows clear evidence of recent blunt penetrating trauma to the hymen.¹²

Defense's Version

⁷ *Id.* at 44

⁸ *Id.* at 44-45.

⁹ *Id.* at 45.

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.* at 46.

Appellant Raymundo Rapiz testified that complainant's mother BBB had falsely accused him of raping her daughter because **he refused to lend her ₱1,500.00**. BBB needed the money so she and complainant could go back to Mindoro.¹³

He worked at a vulcanizing shop owned by a certain Jonivie Canon and her husband, Antonio Canon (Spouses Canon). He used to reside in Montanes Compound at No. 358, Barrio Talon, Angela Road, Las Piñas City. The compound was owned by Antonio Jesus Montanes. On March 20, 2015, he chose to move and live in the vulcanizing shop because he was ashamed of the behavior of complainant and her mother. Both allegedly arrived at the compound on March 3, 2015, fighting and cursing each other – “Narinig ko pa yung sigaw nya doon na ‘*Tang ina ka. Kahit hubaran kita sa kalsada pagpilihan kita sa mga lalaki wala kang magagawa*’.”¹⁴

Complainant and her mother were supposed to help him wash his clothes, but it never happened. Instead, BBB made complainant work as a canteen helper near the vulcanizing shop. BBB even told every man in the canteen to treat complainant as if she were his wife.¹⁵

The spouses Canon testified on appellant's character. They knew him to be industrious, very helpful, and accommodating to his relatives. They believed that appellant could not have raped complainant because he had a live-in partner, a certain Ana. In the later part of March 2015, appellant approached Antonio Canon and told him the latter stories on how BBB would do everything to put him in jail. Eventually, BBB's wish happened.¹⁶

The Trial Court's Ruling

By Decision¹⁷ dated January 29, 2016, the trial court found appellant guilty as charged. The trial court observed that **complainant could write her name but did not know how to read. She could only count up to ten (10) in Filipino and up to thirty (30) in English.** She gave a truthful and accurate narration on how appellant sexually ravished her. By reason of **appellant's moral ascendancy over her**, being **her mother's cousin**, he was **able to unduly influence and intimidate** her into having sexual relations with him. The inconsistencies in complainant's testimony were badges of truth. Her testimony on her sexual ravishment was corroborated by Dr. Cornelio's medico-legal. The supposed inconsistency as to the actual time the rape incident took place, *i.e.*, “April 2, 2015 at 4 o'clock in the afternoon” was indicated in the request for genital examination issued by Police Senior Inspector Joylene Bulan while “April 2, 2015 at 9:10 o'clock in the morning” was indicated in Dr. Cornelio's medico-legal report - - Refers to a trivial, if

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.* at 47.

¹⁷ *Id.* at 43-56.

not irrelevant, detail. For time is not an element of rape. Appellant's denial is a weak defense when pitted against complainant's positive and categorical testimony. Further, BBB's alleged resentment against appellant for the latter's supposed refusal to lend her money is too shallow a reason, nay, motivation to falsely charge appellant with rape.¹⁸ The trial court decreed:

WHEREFORE, in view of the foregoing disquisitions, the court finds Raymundo Rapiz guilty with moral certainty of rape under Article 266-A paragraph 1(a) of the Revised Penal Code, as amended by Republic Act No. 8353, without the possibility of parole. He is sentenced to suffer the penalty of reclusion perpetua and to pay AAA the amounts of P50,000.00 as indemnity and P50,000.00 as moral damages, with the interest at the rate of 6% *per annum* from the date of finality of this judgment until fully paid.

SO ORDERED.¹⁹

Proceedings Before the Court of Appeals

On appeal, appellant faulted the trial court for rendering the verdict of conviction. He argued: a) the trial court erred in giving weight to complainant's and BBB's inconsistent and incredible testimonies on the circumstances surrounding the rape incident; b) the prosecution was unable to prove that the alleged rape actually happened on April 2, 2015 because complainant, on cross, testified that it happened on March 16, 2015. Further, there was a conflict between complainant's testimony and BBB's, *i.e.* complainant said she immediately informed her mother about the incident, while BBB asserted she learned of the incident only on April 9, 2015; c) **complainant's actions during and after the alleged rape incident were inconsistent with those of a real rape victim: she could have resisted and shouted for help considering she was already a twenty (20) year old woman. She even visited appellant at the vulcanizing shop two (2) days later and went with him to Baclaran on the following day;** and d) his defense of denial has more weight considering the incredible testimonies of complainant and her mother.²⁰

The Office of the Solicitor General (OSG), through Assistant Solicitor General Bernard Hernandez and Senior State Solicitor Ma. Zorayda Tejones-Zuñiga, countered that complainant's testimony sufficiently established all the elements of rape. She is a credible witness because no woman would concoct a story of defloration and allow the examination of her private parts in the process. The medico-legal report materially corroborated complainant's tale of sexual ravishment. Time is not an element of the crime of rape, thus, whether the incident happened on April 2, 2015, or on another date is immaterial. The inconsistencies between the testimonies of complainant and her mother hinge on minor details which do not deviate from the fact that the

¹⁸ *Id.* at 47-56.

¹⁹ *Id.* at 56.

²⁰ *Id.* at 39-40.

rape incident did occur. Also, the alleged grudge that BBB had against him is too trivial a reason to impel her and complainant to falsely charge him with rape. Appellant's story that he was in the vulcanizing shop at the time the rape happened does not hold water because the vulcanizing shop is only about eight (8) meters away from his house. Nor can his defense of denial be accorded credence. The award of civil indemnity and moral damages should be increased from ₱50,000.00 to ₱75,000.00 each. Complainant should also be awarded ₱30,000.00 as exemplary damages.²¹

The Ruling of the Court of Appeals

By its assailed Decision²² dated February 7, 2018, the Court of Appeals affirmed in the main, with modification increasing the awards of civil indemnity and moral damages to ₱75,000.00 each and awarding exemplary damages of ₱75,000.00.

The Present Appeal

Appellant now seeks anew a verdict of acquittal. Both appellant²³ and the OSG²⁴ manifested that, in lieu of their supplemental briefs, they were adopting their respective briefs in the Court of Appeals.

Issue

Did the Court of Appeals err in convicting appellant of rape?

Ruling

We acquit.

The general rule is 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.²⁵

Yet, the constitutional presumption of innocence of the accused demands no less than a moral certainty of his guilt free of reasonable doubt. More, the prosecution evidence must stand or fall on its own merits, and cannot be allowed to draw strength from the weakness of the defense. The

²¹ *Id.* at 70-85.

²² *Supra* note 1.

²³ *Rollo*, pp. 17-19.

²⁴ *Id.* at 22-24.

²⁵ *People v. Umanito*, 784 Phil. 581, 586 (2016).

testimony of the complainant must be scrutinized with utmost caution, and unavoidably, her own credibility must also be put on trial.²⁶

The crime of Rape is defined and penalized under Article 266-A of *The Revised Penal Code (RPC)*, viz.:

Article 266-A. Rape: When And How Committed. - Rape is committed:

1) By a man who shall have carnal knowledge of a woman under any of the following circumstances:

a) Through force, threat, or intimidation;

b) When the offended party is deprived of reason or otherwise unconscious;

c) By means of fraudulent machination or grave abuse of authority; and

d) When the offended party is under twelve (12) years of age or is demented, even though none of the circumstances mentioned above be present.

x x x x

The elements of rape under paragraph 1 of Article 266-A of the RPC are: (1) the offender is **a man who had carnal knowledge of a woman**; and (2) he **accomplished such act through force or intimidation** upon her; or she is deprived of reason or otherwise unconscious; or she is under 12 years of age or is demented. The RTC and the CA both found that complainant's testimony clearly established appellant's **carnal knowledge of her against her will by employing threat and intimidation**.

There being only one witness to her harrowing experience, the Court must go over complainant's testimony with close scrutiny. Complainant testified on what happened to her on April 2, 2015:

Fiscal Castillo

Q: You said that you got frightened. What did you do when you got frightened after your Tito Raymundo threatened you to kill you if you don't go near him?

Witness:

A: I did not do anything. I just remained silent.

Fiscal Castillo:

Q: After you go near your Tito Raymundo, what did he do next?

Witness:

²⁶ *People v. Rondina*, 737 Phil. 410, 419 (2014).

A: He removed all my clothes

Fiscal Castillo:

Q: What were you then wearing?

Witness:

A: I was wearing a short and a t-shirt.

Fiscal Castillo:

Q: How did your Tito Raymundo remove your clothes?

Witness:

A: He held both of my hands and then he cover[ed] my mouth.

Fiscal Castillo:

Q: What [did] he [use] in covering your mouth?

Witness:

A: His hands, Prosecutor.

Fiscal Castillo:

Q: Which hand?

Witness:

A: His right hand, Prosecutor.

Fiscal Castillo:

Q: Which hand [did] he [use] in holding your hand?

Witness:

A: Left hand, Prosecutor.

Fiscal Castillo:

Q: Now, how did your Tito Raymundo remove your clothes?

Witness:

A: HINAWAKAN NIYA NGA PO.

x x x

Fiscal Castillo:

Q: Will you please demonstrate it to the Honorable Court?

Witness:

A: He used both of his hands in removing my clothes.

Fiscal Castillo:

Q: Which [was] [removed] first, your t-shirt o[f] your shorts?

Witness:

A: My T-shirt, Prosecutor.

Fiscal Castillo:

Q: And after your T-shirt was remove[d] by your Tito Raymundo, what did he do next?

Witness:

A: Then he remove[d] also my bra, Prosecutor.

Fiscal Castillo:

Q: And what else did he do after removing your bra?

Witness:

A: Then he remove[d] my shorts, Prosecutor.

Fiscal Castillo:

Q: While your Tito Raymundo [was] removing your clothes, referring to your t-shirt, bra and your shorts, what were you doing?

Witness:

A: Nothing, Prosecutor.

Fiscal Castillo:

Q: Why [did] [you] not shout?

Witness:

A: Because I was frightened at that time, Prosecutor.

Fiscal Castillo:

Q: Why [did] [you] not run away?

Witness:

A: NATAKOT NA NGA PO AKO KAMI LANG PONG DALAWA NUON.

x x x

Q: What did your Tito Raymundo do after removing your t-shirt, bra and your shorts?

Witness:

A: BINABOY NIYA PO AKO.

Fiscal Castillo:

Q: What do you mean by your answer "BINABOY"? What exactly did he do to you?

Witness:

A: PINASOK NIYA PO YONG ARI NIYA SA ANO KO PO.

x x x

Fiscal Castillo:

Q: What do you mean by your statement "ANO"?

Witness:

A: PINASOK NIYO PO YONG TETE NIYA SA HARAPAN KO PO.

x x x

Fiscal Castillo:

Q: What do you mean by your statement "HARAPAN"?

Witness:

A: BINABOY NIYA PO AKO DAHIL MAY GUSTO PO SIYA SA AKIN.

x x x

Fiscal Castillo:

Q: Will you please point to the Interpreter what part of your body were you referring when you said "HARAPAN KO PO"?

Witness:

A: Here. (And the witness is referring to her vagina).

Court:

So there was this insertion of the penis to the vagina of the witness.

Fiscal Castillo:

Q: What did you feel Madam Witness when your Tito Raymundo inserted his penis in your vagina?

Witness:

A: It was painful. There was pain.

Fiscal Castillo:

Q: And for how long the male organ of your Tito Raymundo remained inside your vagina?

Witness:

A: NANGHIHINA NA PO AKO NUON NOONG SINUOT NIYA PO.

x x x

Fiscal Castillo:

Q: Why [did] [you] not shout to call the attention of the people outside while your Tito Raymundo [was] inserting his penis into your vagina?

Witness:

A: Because he was threatening me, Prosecutor.

Fiscal Castillo:

Q: In what manner was he threatening you then?

Witness:

A: He tightly [held] my hands and I could not go outside the house. KASI PO PAG LUMABAS PO AKO PAPATAYIN NIYA PO AKO.

Fiscal Castillo:

Q: What was your position Madam Witness when your Tito Raymundo [was] inserting his penis into your vagina?

Witness:

A: I was lying, Prosecutor.

x x x

Q: Why were you then lying when your Tito Raymundo was removing your t-shirt, bra and shorts?

Witness:

A: NAGHIHINA NA NGA PO AKO.²⁷

In reviewing the foregoing testimony, we adhere to the guidelines laid down in *People v. XXX*,²⁸ viz.:

Specifically, for the review of rape cases, the Court has consistently adhered to the following established principles: **a) an accusation of rape**

²⁷ CA rollo, pp. 48-51.

²⁸ 828 Phil.770, 782-783 (2018).

can be made with facility; it is difficult to prove, but more difficult for the person accused, though innocent, to disprove; b) 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; and c) 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.

Following these principles, the Court has also refined how rape is proved. The credibility of the complainant is the single most important issue in the prosecution of rape cases. **The categorical and candid testimony of the complainant suffices, and a culprit may be convicted solely on the basis of her testimony, provided that it hurdles the test of credibility. It should not just come from the mouth of a credible witness, it should likewise be credible and reasonable in itself, candid, straightforward and in accord with human experience. Where the discrepancies and contradictory statements on important details in the testimony seriously impair its probative value, cast serious doubt on its credibility, and erode the integrity of the testimony, the Court should acquit the accused.**

It is true that the Court accords great respect to the trial court's findings on witnesses' credibility. This is because trial provides judges with the opportunity to detect cues and expressions that could suggest sincerity or betray lies and ill will, not reflected in the documentary or object evidence. The exception, of course, is when the trial court and/or the CA overlooked or misconstrued substantial facts that could have affected the outcome of the case. (Emphasis supplied)

Stated differently, where the credibility and reliability of witnesses and their respective testimonies are key, then:

First, if you believe the evidence of the accused, obviously you must acquit.

Second, if you do not believe the testimony of the accused but you are left in reasonable doubt by it, you must acquit.

Third, even if you are not left in doubt by the evidence of the accused, you must ask yourself whether, on the basis of the evidence which you do accept, you are convinced beyond a reasonable doubt by that evidence of the guilt of the accused.²⁹

While we believe complainant's claim of sexual intercourse with appellant, the prosecution evidence does not prove beyond a reasonable doubt that this was the result of or was accomplished through force or intimidation or moral ascendancy.

It is the prosecution's burden to prove beyond a reasonable doubt the elements of the crime of rape, which includes as above stated that an accused had carnal knowledge of a complainant through force or

²⁹ *R. v. Lake*, 2005 NSCA 162 (CanLII), <<http://canlii.ca/t/1m8c8>>, retrieved on 2019-07-01.

intimidation. Lack of consent through any of the modes mentioned in the RPC or case law as where moral ascendancy is involved **is not to be presumed.**

However, where an **accused alleges consent to the sexual act as a defense,** it is **his burden of evidence** to prove this allegation by **substantial evidence.** Thus:

Consensual sexual congress as an affirmative defense needs convincing proof such as love notes, mementos, and credible witnesses attesting to the consensual romantic relationship between the offender and his supposed victim. Having admitted to carnal knowledge of the complainant, the burden shifts to the appellant to prove his defense by substantial evidence.... Furthermore, even assuming arguendo, that there was some form of amorous relationship, such averment will not necessarily rule out the use of force or intimidation by appellant to have sex against her will.³⁰

Here, appellant **did not raise** the affirmative defense of consensual sex. He in fact **denied having carnal knowledge** of complainant. Hence, it **behooves the prosecution to prove** each of the elements of rape **beyond a reasonable doubt,** especially that the **sex** between complainant and accused **occurred through force, intimidation or moral ascendancy.** This the **prosecution evidence distinctly failed.**

First. Complainant mentioned that appellant threatened her with a weapon. Interestingly, the type of weapon was never identified by complainant. She never described how it was used to threaten her. Instead, she proceeded to describe how she felt weak and felt that she had no other choice but to comply with appellant's directives. As her testimony progressed, there was no longer any mention of the purported weapon. Did appellant continue to threaten her with it? Did appellant bring it with him when they went to the bedroom? What did appellant do with the weapon while he was raping her? We will never know.

Surely, a person who has been threatened with a weapon will definitely remember what was used on him on her, especially in cases where a person is threatened to do something against his or her will, more so in the heinous crime of rape. Testimonial evidence, to be believed, must come not only from the mouth of a credible witness, but must also be credible, reasonable, and in accord with human experience. A credible witness must, therefore, be able to narrate a convincing and logical story.³¹ In this case, the weapon disappeared from the narrative without any logical explanation. Such omission leads us to conclude that the "weapon" was contrived by complainant to give color to her claim that she was threatened by appellant.

³⁰ *People v. Mantis*, 477 Phil. 275, 287 (2004); *People v. Nogpo*, 603 Phil. 722 (2009); *People v. Pascua*, 453 Phil. 946 (2003).

³¹ *Sps. De Leon v. Bank of the Philippine Islands*, 721 Phil. 839, 850 (2013).

Second. Intimidation is peculiarly addressed to the mind of the person against whom it may be employed, and its presence is basically incapable of being tested by any hard and fast rule. Intimidation is normally best viewed in the light of the perception and judgment of the victim at the time and occasion of the crime.³²

Complainant's claim that she was intimidated into submitting herself to appellant's lewd designs is likewise incredible. True, appellant is her mother's cousin and exercises moral ascendancy over her. But, complainant was already 20 years old at the time and she was of sound body since she was able to work as a helper at a nearby canteen. She may be illiterate, but the same cannot be considered as equivalent to mental retardation. She is of sufficient mental aptitude and is perfectly capable of at least resisting appellant's advances, if indeed his advances were unwanted.

The rule is that in making a diagnosis of mental retardation, a thorough evaluation based on history, physical, and laboratory examination made by a clinician is necessary.³³ The reason for this requirement is well-explained in both medical and psychology literature: mental retardation is a recognized clinical syndrome usually traceable to an organic cause, which determinants are complex and multifactorial.³⁴ As the boundaries between normality and retardation are difficult to delineate, proper identification requires competent clinical evaluation of psychosomatic parameters in conjunction with medical and laboratory tests.³⁵

Here, the record is bereft of any evidence that a comprehensive medical evaluation was had to properly determine complainant's mental status. There is as well no allegation about deficiencies in her mental state.

In the absence of a weapon, appellant's threat of killing her would have been an idle threat, or at least considerably less threatening. Complainant never once mentioned that appellant forcibly held her or pushed her to a lying position. Appellant only laid his hands on her when he covered her mouth and seemingly took his time in taking off her clothes. Also, nowhere is it indicated in her testimony that appellant continually threatened to kill her if she did not comply with his wishes. Not once did she resist appellant's advances. We note that appellant threatened complainant only once and before he made his move on her. We simply find it implausible that a single threat, a weak one at that, would immediately deprive a woman of her free will and immediately subject her to the whims and caprices of a man without even giving the slightest resistance.

Admittedly, not all victims react the same way. Some people may cry out, some may faint, some may be shocked into insensibility, while others may appear to yield to the intrusion. Some may offer strong resistance while others

³² See *People v. Mateo*, 588 Phil. 543, 558 (2008).

³³ *People v. Lamarroza*, 359 Phil. 440, 448-449 (1998).

³⁴ *Ibid.*

³⁵ *Ibid.*

may be too intimidated to offer any resistance at all. Resistance is not an element of rape. A rape victim has no burden to prove that she did all within her power to resist the force or intimidation employed upon her. As long as the force or intimidation is present, whether it was more or less irresistible is beside the point.³⁶ But in this case, complainant's total passivity is baffling. Her narration of the events simply does not make sense and makes her testimony incredible.

Nor can moral ascendancy be considered to have supplanted force and intimidation in this case. For moral ascendancy can only be considered if rape of minor was committed by a close kin or a relative within the third civil degree by consanguinity or affinity. *People v. Gacusan*³⁷ explains:

Recent cases reiterating that moral ascendancy replaces violence or intimidation in rape committed by a close-kin cited *People v. Corpuz*.

In *Corpuz*, the accused was the live-in partner of the victim's mother. The victim, AAA, was 13 years old when accused Corpuz started raping her. The repeated rape incidents made AAA pregnant.

Accused Corpuz admitted his sexual encounters with AAA. He insisted, however, that he never forced himself to AAA since he even courted her. Similarly, he admitted that he was the father of AAA's child.

Nonetheless, this Court affirmed his conviction and held that:

[I]n rape committed by a close kin, such as the victim's father, stepfather, uncle, or the common-law spouse of her mother, it is not necessary that actual force or intimidation be employed; moral influence or ascendancy takes the place of violence or intimidation.

In *People v. Fraga*, accused Fraga raped the daughters of his common-law partner. Fraga tried evading his conviction by shifting from his defense of alibi to lack of force or intimidation. While this Court affirmed Fraga's conviction since force and intimidation was sufficiently proven, it also emphasized that:

[A]ccused-appellant started cohabiting with complainants' mother in 1987. As the common-law husband of their mother, he gained such moral ascendancy over complainants that any more resistance than had been shown by complainants cannot reasonably be expected.

In *People v. Robles*, accused Robles raped his common-law wife's daughter. This Court affirmed his conviction and likened Robles' moral ascendancy over the victim to that of a biological father; thus:

Moral ascendancy and influence by the accused, stepfather of the 12 year--old complainant, and threat of bodily harm rendered complainant subservient to appellant's lustful desires... Actual force or intimidation need not even be employed for rape to be committed where the overpowering influence of a father over his daughter suffices. (citations omitted)

³⁶ *People v. Bisora*, 810 Phil. 339, 344 (2017).

³⁷ 809 Phil. 773, 785-787 (2017).

Complainant is a full grown 20-year old woman at the time of her alleged sexual ravishment. More, appellant is not even considered a close kin under the law, being her mother's cousin. Verily, moral ascendancy cannot be taken into account and considered as substitute for threat or intimidation.

Indeed, rape is essentially a crime committed through force or intimidation, that is, against the will of the female. It is also committed without force or intimidation when carnal knowledge of a female is alleged and shown to be without her consent. Carnal knowledge of the female with her consent is not rape, provided she is above the age of consent or is capable in the eyes of the law of giving consent. The female must not at any time consent; her consent, given at any time prior to penetration, however reluctantly given, or if accompanied with mere verbal protests and refusals, prevents the act from being rape, provided the consent is willing and free of initial coercion.³⁸ Here, there is no doubt that complainant had impliedly given her consent for appellant to have carnal knowledge of her. Her actions, or lack thereof for that matter, speaks for itself.

Third. The reasonable doubt on the nature of complainant and appellant's sexual congress is reinforced by their subsequent actuations. Time and again, this Court has emphasized that a woman's conduct immediately after the alleged assault is of critical value in gauging the truth of her accusations. It must coincide with logic and experience.³⁹ Here, complainant's actuations whenever she was with appellant are not those of a woman whose virtue had been outraged.

Complainant admitted that the following day, on April 3, 2015, she had gone to rendezvous with appellant to a balete tree. There, he hugged her, kissed her on the lips, fondled her breasts, and touched her vagina. He lay near her and slept. She never mentioned that she was threatened or forced to go with him. There is reasonable doubt that she voluntarily submitted to appellant's ministrations while shielded by the balete tree from prying eyes.

Again, on April 4, 2015, around 11 o'clock in the evening, she voluntarily went to the vulcanizing shop. She did not state that appellant threatened or compelled her to go to there in the middle of the night. When she got there, appellant locked the door of the shop and proposed to court her – which can be construed as an attempt to formalize, or at least put a label on, their relationship. She refused mainly because he is her alleged uncle, which caused appellant to get mad and stop talking to her. Again, the Court observes that the actuations of both parties are those of lovers trying to determine if they should move forward and have a deeper connection after their physical communion with each other.

Thereafter, on April 6, 2015, appellant promised to buy her a pair of slippers and dress in Baclaran. When they went there, he did not make good his promise, but made another promise to buy for her another time. He then

³⁸ *People v. Amarela, et al.*, 823 Phil. 1188, 1211-1212 (2018).

³⁹ *People v. Laurente*, 406 Phil. 337, 348 (2001).

took her to a place with many animals and kissed her there. This time, there is no doubt that complainant went with appellant willingly – this little excursion could even be considered a date. Complainant was apparently comfortable and at ease in appellant's company that she would allow herself to be seen in public with him and even be kissed by him.

Taking into account all the foregoing considerations, the Court concludes that there is reasonable doubt on the element of force, threat or intimidation in this case. There is no moral certainty as to the crime of rape to speak of.

Reasonable doubt may arise from the evidence adduced or from the lack of evidence, and it should pertain to the facts constitutive of the crime charged. While no test definitively determines what is reasonable doubt under the law, the view is that it must involve genuine and irreconcilable contradictions based, not on suppositional thinking, but on the hard facts constituting the elements of the crime.⁴⁰

It has been repeatedly ruled that in criminal litigation, the evidence of the prosecution must stand or fall on its own merits and cannot draw strength from the weakness of the defense. The burden of proof rests on the prosecution. Thus, its failure to discharge its burden in this case entitles appellant to an acquittal⁴¹ as a matter of right. Surely, where the evidence of the prosecution is concededly weak, even if the evidence for defense itself is equally weak, an accused must be duly accorded the benefit of the doubt in view of the constitutional presumption of innocence that an accused enjoys.⁴²

ACCORDINGLY, the appeal is **GRANTED**. The assailed Decision dated February 7, 2018 of the Court of Appeals in CA-G.R. CR HC No. 08109 is **REVERSED** and **SET ASIDE**. Appellant **RAYMUNDO RAPIZ y CORREA** is **ACQUITTED** of rape on ground of **REASONABLE DOUBT**.

The Director of the National Bilibid Prisons, Muntinlupa City, Metro Manila is ordered to immediately **RELEASE RAYMUNDO RAPIZ y CORREA** from detention unless he is being held in custody for some other lawful cause; and to **REPORT** to this Court his compliance within five (5) days from notice.

SO ORDERED.


AMY C. LAZARO-JAVIER
Associate Justice

⁴⁰ *People v. Ramos*, 369 Phil. 84, 101 (1999).

⁴¹ *People v. Tionloc*, 805 Phil. 907, 920 (2017).

⁴² *Astorga v. People*, 480 Phil. 585, 596 (2004).

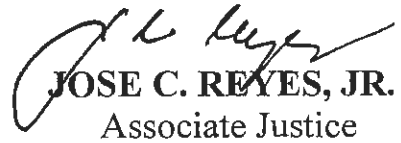
WE CONCUR:



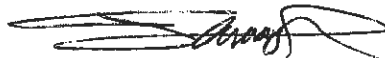
DIOSDADO M. PERALTA
Chief Justice
Chairperson



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice



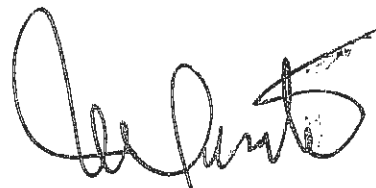
JOSE C. REYES, JR.
Associate Justice



SAMUEL H. GAERLAN
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

