



Mis PDC Batt
MISAELO DOMINGO C. BATTUNG III
Division Clerk of Court
Third Division

MAR 23 2021

Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-appellee,

G.R. No. 239138

Present:

-versus-

LEONEN, J., Chairperson,
GESMUNDO*,
INTING,
DELOS SANTOS, and
ROSARIO, JJ.

JOSELITO SALAZAR y
GRANADA,
Accused-appellant.

Promulgated:
February 17, 2021

Mis PDC Batt

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DECISION

LEONEN, J.:

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

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

* Designated additional Member per Raffle dated February 15, 2021.
¹ *People v. Ilao*, 463 Phil. 785 (2003) [Per J. Quisumbing, En Banc].
² *Rollo*, p. 18-19.

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

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

Contrary to law.³

Upon arraignment, Salazar pleaded not guilty to the charge. Trial then ensued.⁴

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

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

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

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

Later, a woman knocked on the door. Salazar approached the woman and asked her of his brother's whereabouts. The woman did not stay for long. Salazar then told AAA to dress up so that they could head home. However, they proceeded to the house of a certain Becka, Salazar's cousin, instead.

³ CA *rollo*, p. 35.

⁴ *Id.* at 35.

⁵ *Id.* at 36.

⁶ *Id.*

⁷ *Id.*

When Becka asked AAA why she was with Salazar, AAA told her what had happened. Becka then gave her some money and helped her get away.⁸

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

AAA was only fifteen years old at the time of the incident.¹¹

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

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

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

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

The Regional Trial Court convicted the accused,¹⁶ thus:

⁸ Id.

⁹ Id.

¹⁰ Id. at 37.

¹¹ Id. at 35.

¹² Id. at 37.

¹³ Id. at 38.

¹⁴ Id.

¹⁵ Id.

¹⁶ Id. at 35-52. The Decision dated March 14, 2016 in Crim. Case No. 150471 was penned by Judge Nicanor A. Manalo, Jr., of the Regional Trial Court of Pasig city, Branch 158.

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

In accordance to *Article 2219(3) of the Civil Code of the Philippines*, as regards to moral damages[,] the accused must pay [AAA] the amount of seventy five thousand (P75,000.00). Likewise, the accused must pay exemplary damages in the amount of thirty thousand pesos (P30,000.00) by way of example in order to deter others from committing the same bestial act especially against minor victim [sic].

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

SO ORDERED.¹⁷ (Emphasis in the original, citation omitted)

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

The Medico-Legal Report also supported AAA's claim that she was raped.²¹

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

¹⁷ Id. at 51-52.

¹⁸ Id. at 40.

¹⁹ Id. at 40-42.

²⁰ Id. at 51.

²¹ Id. at 45.

²² Id. at 46.

²³ Id. at 46-48.

²⁴ Id. at 48.

²⁵ Id. at 50.

against Salazar his failure to present his brother Jimmy as a witness, because he was the one who can corroborate his story.²⁶

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

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

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

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

Moreover, AAA's assertion that she was punched in the abdomen is negated by the lack of external signs of injury based on the Medico-Legal Report.³¹ Furthermore, there was nothing in the Report showing that the lacerations were caused by the alleged rape, considering that the lacerations were already healed. At most, the report only proves that AAA had a previous sexual intercourse, which she admitted to have occurred sometime in October 2012.³²

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

On the other hand, the Office of the Solicitor General argued that Salazar's guilt was proven beyond reasonable doubt.³⁴

²⁶ Id. at 51.

²⁷ Id.

²⁸ Id. at 17-33.

²⁹ Id. at 25-27.

³⁰ Id. at 28.

³¹ Id. at 28-29.

³² Id. at 29-30.

³³ Id. at 31.

³⁴ Id. at 60-80.

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

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

Moreover, the absence of any external sign of injury does not necessarily negate rape, because proof of injury is not an element of the crime.³⁸

The Solicitor General further contended that Salazar's bare denial must fail in the face of the positive identification by AAA.³⁹

The Court of Appeals affirmed the conviction of Salazar,⁴⁰ thus:

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

SO ORDERED.⁴¹ (Emphasis in the original)

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

³⁵ Id. at 66–70.

³⁶ Id. at 70–71.

³⁷ Id. at 71.

³⁸ Id. at 72.

³⁹ Id. at 74.

⁴⁰ *Rollo*, pp. 2–12. The Decision dated September 20, 2017 was penned by Associate Justice Rosmari D. Carandang (Chair) and concurred in by Associate Justices Stephen C. Cruz and Nina G. Antonio-Valenzuela of the Second Division of the Court of Appeals, Manila.

⁴¹ Id. at 11.

⁴² Id. at 7.

⁴³ Id. at 8.

AAA's claim that she was punched in the abdomen, according to the appellate court, is not negated by the lack of external injuries, because blows at the abdominal area usually leave no marks. The existence of other bruises, if any, may not yet be visible considering that the examination was conducted approximately 12 hours after the incident. Ultimately, proof of injuries is not required because it is not an element of rape.⁴⁴

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

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

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

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

As to the damages, the Court of Appeals modified the award. Civil indemnity and exemplary damages in the amount of ₱75,000.00 each were awarded.⁴⁹

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

⁴⁴ Id.

⁴⁵ Id. at 9.

⁴⁶ Id. at 9-10.

⁴⁷ Id. at 10.

⁴⁸ Id. at 11.

⁴⁹ Id.

⁵⁰ Id. at 13-14.

⁵¹ Id. at 36.

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

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

Accused-appellant's conviction is affirmed.

I

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

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

As an element of rape, force must be "sufficient to consummate the purposes which the accused had in mind."⁵⁶ On the other hand, "intimidation must produce fear that if the victim does not yield to the bestial demands of the accused, something would happen to her at that moment or even thereafter as when she is threatened with death if she reports the incident."⁵⁷

In cases where the accused used a knife to threaten the victim, this Court held that this strongly suggests force, or at least intimidation, which is clearly adequate to bring the victim to submission.⁵⁸

In *People v. Salazar y Rapis*,⁵⁹ this Court held that intimidation is present when the accused threatened the victim with a knife, thus:

When appellant threatened the victim with a knife during the sexual intercourse, intimidation, as an element of rape, was therefore, present. It is not necessary that force and violence be employed. Intimidation is sufficient, and this includes the moral kind, i.e., threatening the victim with

⁵² Id. at 18.

⁵³ Id. at 23–26; and 27–30.

⁵⁴ *People v. Tionloc*, 805 Phil. 907, 915 (2017) [Per J. Del Castillo, First Division].

⁵⁵ Id.

⁵⁶ Id.

⁵⁷ Id. at 915–916 citing *People v. Frias*, 718 Phil. 173 (2013) [Per J. Reyes, First Division].

⁵⁸ *People v. Bertulfo*, 431 Phil. 535 (2002) [Per C.J. Davide, Jr., First Division].

⁵⁹ 327 Phil. 663 (1996) [Per J. Hermosisima, Jr., First Division].

a knife. When this kind of intimidation exists and the victim is cowed into submission as a result thereof, thereby rendering resistance futile, it is unreasonable to expect her to resist with all her might and strength. Such intimidation, in this particular case, was enough to render [the victim] incapable of offering any resistance because of fear for her life.⁶⁰ (Citations omitted)

In any event, neither the presence of or use of a deadly weapon, nor physical violence are essential to find force or intimidation.⁶¹ Force or intimidation is relative. It depends on the circumstances of the rape, as well as the size, age, strength, and relation of the parties. There is force and intimidation as long as the actions of the accused are “sufficient to consummate the bestial desires of the malefactor against the victim.”⁶² It is not required that the force or intimidation employed be so great that it is irresistible, but it must only be enough to consummate the purpose of the accused.⁶³

Intimidation must be considered in light of the victim’s perception and judgment. It is enough that it produces fear in the victim’s mind.⁶⁴ In *People v. Galagati*,⁶⁵

... It is only necessary that such force is sufficient to consummate the purpose for which it was inflicted. Similarly, intimidation should be evaluated in light of the victim's perception at the time of the commission of the crime. It is enough that it produced the fear in the mind of the victim that if she did not yield to the bestial demands of her ravisher, some evil would happen to her at that moment or even thereafter. Hence, what is important is that because of force and intimidation, the victim was made to submit to the will of the appellant.⁶⁶

In rape cases, victims are not burdened to show physical resistance when they are intimidated. Intimidation is addressed to the victim’s perception and is, therefore, subjective.⁶⁷

In *People v. Gacusan*:⁶⁸

[D]ifferent people react differently to a given type of situation, and there is no standard form of human behavioral response when one is confronted with a strange, startling or frightful experience. One person may react aggressively, while another may show cold indifference. Also, it is improper to judge the actions of children who are victims of traumatic

⁶⁰ Id. at 669–670.

⁶¹ *People v. Galagati*, 788 Phil. 670 (2016) [Per J. Peralta, Third Division].

⁶² *People v. Neverio*, 613 Phil. 507, 514–515 (2009) [Per J. Velasco, Jr., Third Division].

⁶³ *People v. Bertulfo*, 431 Phil. 535 (2002) [Per C.J. Davide, Jr., First Division].

⁶⁴ Id.

⁶⁵ 788 Phil. 670 (2016) [Per J. Peralta, Third Division].

⁶⁶ Id. at 686 citing *People v. Victoria*, 763 Phil. 96 (2015) [Per J. Villarama, Jr., Third Division].

⁶⁷ *People v. Ilao*, 463 Phil. 785 (2003) [Per J. Quisumbing, En Banc].

⁶⁸ 809 Phil. 773 (2017) [Per J. Leonen, Second Division].

experiences “by the norms of behavior expected under the circumstances from mature people.” . . .

Furthermore, a victim should never be blemished for her lack of resistance to any crime especially as heinous as rape. Neither the failure to shout nor the failure to resist the act equate to a victim's voluntary submission to the appellant's lust.⁶⁹ (Citations omitted)

In this case, accused-appellant questions the element of force, threat, or intimidation, because there was no resistance on the part of AAA when the incident happened. His argument is untenable.

As determined by the Regional Trial Court and the Court of Appeals, AAA was threatened and forced to yield to accused-appellant's lust. When they reached the house, accused-appellant threatened and poked AAA with a metal stick to make her lie down. Moreover, contrary to accused-appellant's contention, AAA tried to resist and stop him from removing her clothes, but the accused-appellant punched her in the abdomen; thus:

PROS. DE GUZMAN:

.....

Q: In the house of Kuya Bong. Did you actually arrive in the house of Kuya Bong?

A: Yes, sir.

Q: Were you able to get inside the said house?

A: Yes, sir.

Q: Did Kuya Bong force you to get inside the said house?

A: Yes, sir.

Q: While inside the said house, what did Kuya Bong do?

A: He closed the door and then a metal fell which he used to poke me by the side of the waistline and he made me lie down.

Q: Can you still describe the metal object you are referring?

A: I will try, sir.

COURT:

Q: Paano? Ano itsura ng metal?

A: Around 4 inches in length, 4 by 1 inch.

PROS. DE GUZMAN:

Q: After the said object was poked to you by Kuya Bong, what did he do?

A: He is forcing to remove my clothes but I tried to stop him, sir.

Q: Did Kuya Bong stop in removing your dress, your clothes?

⁶⁹ Id. at 784-785.

- A: No, sir, I am trying to stop him from opening the zipper of my shorts but then he punched me on my stomach.
- Q: After Kuya Bong punched you in your stomach, what do you feel?
- A: When I was twisting in pain, he was able to remove my shorts and panty.⁷⁰

The testimony of AAA reveals that she was forced, threatened, and intimidated, rendering her subservient to accused-appellant's control. The alleged absence of resistance is belied by the fact that accused-appellant had to punch AAA in the abdomen for him to be able to remove her clothes. Fearing for her life, accused-appellant was able to have carnal knowledge with AAA against her will. Her failure to call for help is not because she consented to the sexual intercourse, but because she was paralyzed by terror. Although the pair of scissors was not pointed at her, accused-appellant's actions leading to the incident already created fear in the mind of AAA:

PROS. DE GUZMAN:

.....

- Q: After that, what did Kuya Bong do to you?
- A: He ate my breast and then next is my organ.
- Q: While doing those things, what did you do?
- A: I am afraid at that time but I don't know what to do because there was a scissor beside the electric fan.
- Q: You were not able to call for help?
- A: No, sir.

.....

[COURT:]

- Q: What was he wearing?
- A: He was wearing a pants and a t-shirt, your Honor.
- Q: How was he able to insert his penis if he have clothes on?
- A: He removed his clothes.
- Q: When did he remove his clothes?
- A: After he ate my vagina, that was the time that he removed his pants, your Honor.
- Q: When he was removing his pants, did you not have time to run away?
- A: No, your Honor, because I was already naked.
- Q: I thought you said that he just put up your blouse.
- A: Yes, your Honor but my panty and shorts he removed [sic].

⁷⁰ CA rollo, pp. 40-42.

- Q: You heard someone taking a bath, so that person could hear you. Why did you not scream?
A: I was scared and trembling, your Honor.⁷¹

Clearly, accused-appellant was able to have sexual intercourse with AAA because he forced and intimidated her. AAA's subsequent failure to scream for help or run away cannot be taken against her. As clarified by jurisprudence, people react differently to distressing situations. This Court will not burden victims of rape with the proof of physical resistance, especially when their assailants assaulted them and coerced them with a lethal weapon.

II

In resolving rape cases, this Court has laid down principles with respect to weighing testimonies and evidence:

... (1) an accusation of rape can be made with facility and while the accusation is difficult to prove, it is even more difficult for the accused, though innocent, to disprove; (2) considering that in the nature of things, only two persons are usually involved in the crime of rape, the testimony of the complainant should be scrutinized with great caution; and (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. . . .⁷²

Consequently, the testimony of the victim is paramount in rape cases. If it is credible, it may be the only basis for the accused's conviction, considering that the nature of rape generally limits the evidence to the testimony of the victim.⁷³ Thus, the role of the trial court is essential, because it is in the best position to assess the credibility of the victim. Absent any proof that the judge erred in appreciating the testimony, the credibility of the testimony stands.⁷⁴ In *People v. Abangin*:⁷⁵

It is settled that once a woman cries rape, she is saying all that is necessary to show that rape was indeed committed. If her testimony meets the test of credibility, such is sufficient to convict the accused. The credibility of the victim is almost always the single most important issue to hurdle. In this regard, the trial judge is in the best position to assess the credibility of the complainant, having personally heard her and observed her deportment and manner of testifying during the trial. Absent any showing that the trial judge overlooked, misunderstood, or misapplied some facts or circumstances of weight which would affect the result of the case,

⁷¹ *Id.* at 42–44.

⁷² *People v. Galagati*, 788 Phil. 670, 684 (2016) [Per J. Peralta, Third Division] citing *People v. Padilla*, 617 Phil. 170 (2009) [Per J. Peralta, En Banc].

⁷³ *Id.*

⁷⁴ *People v. Abangin*, 358 Phil. 303, 313 (1998) [Per C.J. Davide, Jr., First Division].

⁷⁵ 358 Phil. 303 (1998) [Per C.J. Davide, Jr., First Division].

or that the judge acted arbitrarily, the trial judge's assessment of credibility deserves the appellate court's highest respect.⁷⁶ (Citations omitted)

In this case, accused-appellant attempts to discredit the prosecution in claiming that AAA's testimony is incredible. However, he failed to prove that the testimony of AAA was misappreciated by the trial court. Accused-appellant anchors his defense on the fact that AAA's testimony is unsupported by the Medico-Legal Report, particularly that there is no finding of fresh laceration, physical mark of assault, and spermatozoa. His contention deserves scant consideration.

In *People v. ZZZ*,⁷⁷ this Court has held that the absence of fresh hymenal laceration does not disprove rape, thus:

[M]ere touching, no matter how slight of the labia or lips of the female organ by the male genital, even without rupture or laceration of the hymen, is sufficient to consummate rape. The absence of fresh hymenal laceration does not disprove sexual abuse, especially when the victim is a young girl[.]⁷⁸ (Citation omitted)

Even an intact hymen will not negate the commission of rape.⁷⁹ Moreover, proof of physical injuries is not an element of rape. In *ZZZ*:

The absence of external signs or physical injuries on the complainant's body does not necessarily negate the commission of rape, hymenal laceration not being, to repeat, an element of the crime of rape. A healed or fresh laceration would of course be a compelling proof of defloration. What is more, the foremost consideration in the prosecution of rape is the victim's testimony and not the findings of the medico-legal officer. In fact, a medical examination of the victim is not indispensable in a prosecution for rape; the victim's testimony alone, if credible, is sufficient to convict.⁸⁰ (Citation omitted)

Hence, the lack of fresh hymenal lacerations and spermatozoa in the Medico-Legal Report does not negate rape. As explained by the Court of Appeals, the finding of "not fresh but shallow healed"⁸¹ laceration is not incompatible with the evidence of rape. Quoting PSI Balbuena's testimony during trial:

COURT:

xxx

Q: There can be penetration without lacerations?

⁷⁶ Id. at 313.

⁷⁷ G.R. No. 229862, June 19, 2019, <<http://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65253>> [Per J. Leonen, Third Division].

⁷⁸ Id. citing *People v. Osing*, 402 Phil. 343 (2001) [Per J. Melo, Third Division].

⁷⁹ Id.

⁸⁰ Id. citing *People v. Araojo*, 616 Phil. 275, 288 (2009) [Per J. Velasco, Jr., Third Division].

⁸¹ *Rollo*, p. 9.

A: In this case, your Honor, since she already has previous history, there is more surface area if the penis entered the hymen, there is more surface area for it to expand, since there is already a space at the 3:00 o'clock position.

Q: Meaning, if there was penetration the day before, it could happen that no fresh lacerations would be caused?

A: It could be possible in this case but since collaborated it with abrasion, with the anatomical position of male genitalia, it's a little bit curved upwards so, if you're going to insert it, it would somehow hit the posterior part.

Q: Conversely, if something happened on February 24 and there was penetration, would there always be fresh lacerations upon examination?

A: Not all cases, your Honor.

Q: Meaning there can be penetration without laceration?

A: Yes, your Honor, there is also possibility that there are some pregnancies with no laceration.

xxx

Q: Could it be possible that because of the lacerations already existing and you were saying that the hymen has already expanded, that is a reason why fresh lacerations would no longer be detected?

A: It's possible in this case that no fresh laceration could be incurred depending... (interrupted[])

Q: Because the hymen has already expanded?

A: Because it has more surface area to expand. It's also very elastic.⁸² (Emphasis supplied, citation omitted)

Likewise, the absence of spermatozoa from AAA does not disprove rape. As the lower courts correctly held, the basic element of rape is carnal knowledge, not the presence of spermatozoa.⁸³ In *People v. Servano*.⁸⁴

Furthermore, the absence of spermatozoa is not a defense since the overriding consideration in rape cases is not the emission of semen but the unlawful penetration of the female genitalia by the male organ. . . .⁸⁵ (Citation omitted)

By the same token, the absence of marks of physical assault will not discredit AAA's testimony because this is not an element of rape.

Ultimately, the paramount consideration in rape cases is the victim's testimony and not necessarily the medical findings. A medical examination of the victim is not indispensable in a prosecution for rape.⁸⁶

⁸² Id. at 9–10.

⁸³ Id. at 10.

⁸⁴ 454 Phil. 256 (2003) [Per J. Corona, En Banc].

⁸⁵ Id. at 282 citing *People v. Bato*, 382 Phil. 558 (2000) [Per J. Pardo, First Division].

⁸⁶ *People v. Otos*, 661 Phil. 724 (2011) [Per J. Brion, Third Division].

In this case, the lower courts found AAA's testimony credible. The trial judge held that AAA's testimony is candid, categorical, and straightforward. She revealed in detail how the accused-appellant brought her to a house and raped her. Her testimony is consistent on material points. Thus, absent any irregularity, her testimony should be given full faith and credit.

III

Accused-appellant offers the defense of denial. He contends that the lower courts erred in failing to give credence to his alibi.

Denial is an inherently weak defense and is generally viewed upon with disfavor, because it is easily concocted but difficult to disprove. Thus, denial will not prevail over positive identification of the accused.⁸⁷ For an alibi to prosper, it must be proved that the accused was in another place during the commission of the crime, rendering it physically impossible for the accused to be at the scene of the crime. Further, an alibi must be corroborated by a disinterested witness.⁸⁸

Bare, unsubstantiated denial is "negative self-serving evidence which cannot be given greater evidentiary weight than the testimony of the complaining witness who testified on affirmative matters."⁸⁹ In *People v. Galagati*.⁹⁰

Like alibi, denial is an inherently weak and easily fabricated defense. It is a self-serving negative evidence that cannot be given greater weight than the stronger and more trustworthy affirmative testimony of a credible witness . . . Besides, no woman would cry rape, allow an examination of her private parts, subject herself (and even her entire family) to humiliation, go through the rigors of public trial, and taint her good name if her claim were not true.⁹¹ (Citations omitted)

Here, accused-appellant's defense is unsubstantiated. As pointed out by the Court of Appeals, Roxas and Cabarles' claims are different from that of accused-appellant's. Accused-appellant contended that at the time of the incident, he was at their house with his wife when AAA asked him to accompany her to Gilbert's house. When his brother, Jimmy, arrived at 2:00 p.m., he left AAA with Jimmy.

⁸⁷ *People v. Pancho*, 462 Phil. 193 (2003) [Per J. Sandoval-Gutierrez, Third Division].

⁸⁸ *People v. Velasco*, 722 Phil. 243 (2013) [Per J. Leonardo-De Castro, First Division].

⁸⁹ *People v. Pancho*, 462 Phil. 193, 206 (2003) [Per J. Sandoval-Gutierrez, Third Division] citing *People v. Musa*, 422 Phil. 563 (2001) [Per J. Mendoza, En Banc].

⁹⁰ 788 Phil. 670 (2016) [Per J. Peralta, Third Division].

⁹¹ *Id.* at 688.

Other defense witnesses' testimonies do not coincide with his alibi. Roxas testified that she saw accused-appellant between 3:00 and 4:00 p.m., but cannot account where accused-appellant was prior to that. On the other hand, Cabarles' statement that he had a drinking spree with the accused-appellant from morning until 2:00 p.m. is contrary to accused-appellant's story.

Moreover, accused-appellant failed to prove that it was physically impossible for him to be at the crime scene at the time it was committed. Fatal to his alibi, he admitted that he was with AAA at that time and that they were near the vicinity.

Thus, between accused-appellant's unsubstantiated alibi and AAA's positive and credible testimony, the latter must prevail.

Having established the elements of rape under Article 266-A, paragraph 1, we affirm the conviction of accused-appellant.

In line with jurisprudence,⁹² ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages, and ₱75,000.00 as exemplary damages shall be awarded to the victim.

WHEREFORE, in view of the foregoing, the Decision of the Court of Appeals dated September 20, 2017 in CA-G.R. CR-HC No. 08182 is hereby **AFFIRMED with MODIFICATION**. Accused-appellant Joselito Salazar y Granada is found **GUILTY** beyond reasonable doubt of the crime of rape and is sentenced to suffer the penalty of *reclusion perpetua*. He is further **ORDERED** to indemnify AAA ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages, and ₱75,000.00 as exemplary damages. All damages awarded shall earn interest at the legal rate of six percent (6%) per annum from finality of this Judgment until fully paid.⁹³

SO ORDERED.


MARVIC M.V.F. LEONEN
Associate Justice

⁹² See *People v. Jugueta*, 783 Phil. 806, 828 (2016) [Per J. Peralta, En Banc].

⁹³ See *Nacar v. Gallery Frames*, 716 Phil. 267 (2013) [Per J. Peralta, En Banc].

WE CONCUR:


ALEXANDER G. GESMUNDO
 Associate Justice

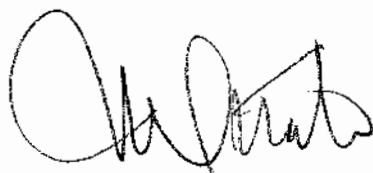

HENRI JEAN PAUL B. INTING
 Associate Justice


EDGARDO L. DELOS SANTOS
 Associate Justice


RICARDO R. ROSARIO
 Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, 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

CERTIFIED TRUE COPY

Mis-DCBatt
MISAELO DOMINGO C. BATTUNG III
 Division Clerk of Court
 Third Division

MAR 23 2021