

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. NIDO GARTE, ACCUSED-APPELLANT.

Ponente: COSICO, J.

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COSICO, J.:

Nido Garte was indicted before the Regional Trial Court, Branch 89 of Quezon City for four counts of rape defined and penalized under Article 266-A in relation to paragraph 1, Art. 266-B of the Revised Penal Code, as amended by Republic Act No. 8353, as alleged in the following accusatory portions of the Amended Informations with the corresponding docket numbers in each of the criminal cases, which state:

Criminal Case No. Q-01-106123

“That on or about the first week of April, 2001 in Quezon City, Phiippines, the above-named accused with force and intimidation did then and there, willfully, unlawfully and feloniously commit acts of sexual assault upon the person of one RAQUEL T. GARTE his own daughter a minor 17 years of age by then and there inserting his penis inside her vagina and thereafter had carnal knowledge of her against her will and without her consent, to her damage and prejudice.

CONTRARY TO LAW.”[1]Criminal Case No. Q-01-106124

“That on or about the 23[rd] of May, 2001 in Quezon City, Phiippines, the above-named accused with force and intimidation did then and there, willfully, unlawfully and feloniously commit acts of sexual assault upon the person of one RAQUEL T. GARTE his own daughter a minor 17 years of age by then and there inserting his penis inside her vagina and thereafter had carnal knowledge of her against her will and without her consent, to her damage and prejudice.

CONTRARY TO LAW.”[2]Criminal Case No. Q-01-106125

“That on or about the second week of April, 2001 in Quezon City, Phiippines, the above-named accused with force and intimidation did then and there, willfully, unlawfully and feloniously commit acts of sexual assault upon the person of one RAQUEL T. GARTE his own daughter a minor 17 years of age by then and there inserting his penis inside her vagina and thereafter had carnal knowledge of her against her will and without her consent, to her damage and prejudice.

CONTRARY TO LAW.” [3]

Criminal Case No. Q-01-106126

“That on or about the 8[th] day of August, 2000 in Quezon City, Phiippines, the above-named accused with force and intimidation did then and there, willfully, unlawfully and feloniously commit acts of sexual assault upon the person of one RAQUEL T. GARTE his own daughter a minor 17 years of age by then and there inserting his penis inside her vagina and thereafter had carnal knowledge of her against her will and without her consent, to her damage and prejudice.

CONTRARY TO LAW.” [4]

During the arraignment, accused-appellant Garte pleaded not guilty to the four (4) counts of rape and invoked the defense of denial and alibi.[5] After pre-trial, trial on the merits ensued. The prosecution presented documentary

evidence and testimonies of the following witnesses, namely, (1) Raquel T. Garte; (2) Linda Garte; (3) P/S Insp. Mary Ann Gajardo. Meanwhile, opting not to present any documentary evidence, the defense presented the lone testimony of accused-appellant Nido Garte [“Garte”]. Verily, in discrediting accused-appellant’s defense of denial and alibi, the trial court gave greater weight to the prosecution’s evidence of accused-appellant’s culpability and found the testimony of the rape victim, Raquel T. Garte (“Raquel”) as credible. Consequently, the trial court adjudged accused-appellant guilty of the crimes charged. The pertinent portions of the said Decision[6] read as follows:

“WHEREFORE, premises considered, judgment is rendered finding accused Nido Garte guilty for four (4) counts of the crime of Rape defined and penalized under Article 266-A in relation to subsec. 1, Art. 226-B, RPC or R.A. 8353. Accordingly, he is hereby sentenced to suffer death for each count of rape as charged in the four (4) informations docketed as Q-01-106123, Q-01-106124, Q-01-106125, and Q-01-106126.

He is further ordered to pay complainant for each count of rape the sum of P75,000.00 as civil indemnity x x x or a total of P300,000.00 and the sum of P50,000.00, as moral damages for each count of rape, or a total of P200,000.00.

With costs de officio.

SO ORDERED.”[7][Decision, pp. 10-11]

This case before the Court is Garte’s appeal from the judgment of conviction.

The Facts

According to the prosecution’s version of the events which led to the filing of the criminal cases of rape against accused-appellant, it appears that Garte and the rape victim are related to one another being father and daughter. Raquel narrated that she was raped four (4) times by her father which rape started on August 8, 2000, and was repeated again sometime in the first and second weeks of April and yet again on May 23, 2001. The victim testified that during the four (4) occasions when accused-appellant raped her, the latter used a bladed weapon to subdue her resistance and thereafter told her not to report the incidents to her mother. The victim related that whenever she was raped, accused-appellant would start by taking off her clothes, and then proceed in kissing her on various parts of her body and thereafter placing himself on top of her inserting his penis into her private part.

During the first time that she was raped, Raquel told the unfortunate incident (“pambababoy”) to her mother, Linda Garte[8] who did not believe her. During the second rape, she told her half-sister, Nenita Titoy who got mad and told her not to go back to their house. On the third rape incident, she did not inform her mother of what transpired for fear that accused-appellant might kill them. Finally, during the fourth rape incident, unable to contain her ordeals, Raquel again told her mother about the rapes and thereafter, the two of them, together with Nenita Titoy went to Camp Karingal where the victim executed a sworn affidavit[9]. Afterwards, the trio proceeded to Camp Krame where Raquel underwent a medical examination.

Besides Linda Garte, the prosecution presented as corroborating witness, P/S Insp. Mary Ann Gajardo[10], the medico-legal officer who physically examined[11] Raquel on June 19, 2001. Gajardo stated that the victim had a deep healed laceration on her genitalia and was in a non-virgin state. Gajardo declared that such laceration might have been caused by a blunt object, such as an erected penis, inserted in the vaginal canal of the victim. Nevertheless, the witness could not approximate the time when such laceration could have been inflicted which, she declared, could have been inflicted in a week, a month or even years.

Meanwhile, the defense presented the lone testimony of accused-appellant Garte[12] who denied the charges against him. He claimed that he hardly sees his daughter as his work as a tricycle driver compels him to leave the

house as early as 4 AM, only to return at around 8 PM. Accused-appellant stated that his usual workday was that he would return home to eat lunch and rest for an hour and thereafter proceed to ply his route in Sikatuna Toda. He denied having deviated from such routine and he has no idea why his daughter would impute rape charges against him considering that he and his family had a harmonious relationship with one another.

The Ruling of the Regional Trial Court

In adjudging the guilt of accused-appellant and imposing upon him the supreme penalty of death for each count of rape, the trial court in its May 19, 2005 Decision ruled:

“In a clear, direct, positive, straightforward manner and continuous crying on the witness stand, complainant declared that she was ravished or raped four times by no less than her father. It has been said that a witness who testifies in a categorical, straightforward, spontaneous and frank manner and remains consistent on her accusation is a credible witness. x x x [Id. at 8]

x x x

Similarly, it is clear from the testimony of the complainant that she was raped four times under threats, force and in the presence of a knife and her efforts to resist the unpardonable act of the accused, who is her father, and pleas for mercy, did not deter his evil lustful spirit in committing the crime. This situation clearly proved the crime of rape. x x x

In light of the foregoing considerations, accused’s denial of the offense through alibi is faceless and has no significant force at all in this proceedings.

In the first place, accused was positively identified by the complainant as the author of the crime x x x Secondly, it is admitted by the accused that his route in plying his tricycle was in Sikatuna Area. Hence, it is not physically or inherently impossible for him to be in his house at the time of the commission of the crime simply because it is located in Sikatuna and he can easily negotiate to reach his house with the aid of his tricycle. [Id. at 9]”

With the ruling of the Supreme Court in the case of *People vs. Efren Mateo y Garcia* promulgated on July 7, 2004 in G.R. Nos. 147678-87 which modified the pertinent provisions of law insofar as they provide for direct appeals from the Regional Trial Courts to the Supreme Court in cases where the penalty imposed is death, reclusion perpetua or life imprisonment, the instant action is now brought before us in this appeal.

The Present Appeal

The sole assigned error brought before this Court is:

WHETHER OR NOT THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT OF FOUR (4) COUNTS OF RAPE WHEN HIS GUILT HAS NOT BEEN PROVEN BEYOND REASONABLE DOUBT.

In this regard, accused-appellant lays stress[13] to the incredibility and inconsistency in the statements uttered by Raquel which cast doubts on the veracity of her claims. For instance, the discrepancies in the two sworn affidavits[14] executed by the latter on the number of times she was raped were left unexplained. Moreover, as per testimony of Raquel, she reported the rape incident twice to her mother who, on the other hand, stated that she was told only once of such matter. Another inconsistency found in the victim’s testimony was with respect to the weapon used by accused-appellant during the rape. For, on one hand, during direct examination, Raquel testified that her father used a bladed weapon during the commission of the rapes; and, on the other hand, on cross-examination, she testified that accused-appellant only used a pointed knife once, and a gun on the other rapes. Lastly, the claim that the victim was raped during daytime (lunchtime) is contrary to human experience

considering the high probability of being discovered.

In fine, accused-appellant advances that such inconsistent statements cannot suffice to establish moral certainty of his culpability.

On the other hand, the Solicitor General posits^[15] that the alleged inconsistencies and contradictions in the victim's testimony cannot discredit her testimony which she gave in a clear, direct, positive and straightforward manner and tearful account of the sexual ravishment she suffered in the hands of accused-appellant, her own father, for four times. Accused-appellant failed to allege, much less prove, any reason to show that Raquel falsely accused her own father of a crime which may not only cost him his life but also deprive herself and her siblings of a father.

The alleged inconsistencies pointed out by accused-appellant refer to extraneous matters which do not disprove the crimes charged. Furthermore, there is no inconsistency or discrepancy between the Sinumpaang Salaysay and her handwritten affidavit for Raquel should not be expected to remember all the details of the rape and the exact dates of the incidents because of the confusion, fear and pain brought by such experience. It is quite understandable that when Raquel executed her Sinumpaang Saylaysay what was fresh in her young mind were the three recent rape incidents. In addition, accused-appellant's contention that it is unusual that he would rape his own daughter in broad daylight is without merit as there is nothing unusual about a rape being committed in broad daylight. Rape can be committed anywhere and anytime – in public places, or in secluded places, during nighttime or during daytime. Finally, whether accused-appellant used a gun or a bladed weapon is not relevant since it is not an important component of the crime of rape. What is important is that it was shown that the assailant used force or intimidation in cowing the victim into submitting to his desires. The use of a weapon is not an element of the crime of rape so long as the evidence shows the use of force, violence and intimidation. In the same wise, whether Raquel told her mother, once or twice about the rape committed by her father is of no moment. It is likewise not an element of the crime of rape.

Nonetheless, the Solicitor General recommends a modification of the award of damages conformable with jurisprudence as follows: (1) P75,000.00 as civil indemnity for each count of rape; (2) P75,000.00 as moral damages for each count of rape; and (3) P25,000.00 as exemplary damages for each count of rape.

This Court's Ruling

We affirm accused-appellant's conviction for each count of rape.

We again lay stress that as long as a witness' testimony is straightforward, candid and unflawed by inconsistencies or contradictions in its material points, and her demeanor is consistent with one who has been victimized to thus bolster credibility with the verity born out of human nature and experience, credibility can be accorded to the rape victim.^[16]

Accused-appellant's reliance on the alleged discrepancies between Raquel's Sinumpaang Salaysay and handwritten sworn affidavit on the number of times she was raped is untenable. We take note of the steadfast doctrine prevailing in our criminal justice system that inconsistencies found in the ex parte affidavits do not necessarily downgrade the credibility of a witness.^[17] Almost always, ex parte affidavits are considered incomplete and often inaccurate.^[18] They are products sometimes of partial suggestions and at other times of want of suggestions and inquiries, without the aid of which witnesses may be unable to recall the connected circumstances necessary for accurate recollection.^[19]

In this regard, the Court takes note of the fact that although Raquel's educational attainment is that of a second year high school student, the latter admitted^[20] however that she was not well versed in written English. This

would account for the non-inclusion of the first rape, more so if we consider the disparity in the dates of the commission of the first rape which occurred a year before the commission of the subsequent rapes. As testified to by Raquel, she was not able to mention the August 8, 2000 rape incident as she was confused at the time.[21] Added to this, the evidence on hand also show that Raquel was not beside the policeman when the Sinumpaang Salaysay was prepared and that thereafter, she just signed the same without reading it.[22]Significantly, the records reveal that the handwritten affidavit, executed subsequent to the Sinumpaang Salaysay, is a supplemental affidavit for Raquel's earlier sworn statement.

Also worthwhile to note is the fact that while on the stand, Raquel remained firm and steadfast that what she stated in her sworn affidavits were correct despite the consistent prodding of the defense counsel as shown from the following excerpts of her testimony taken during cross-examination, to wit:

“Q:-- Which one did you first execute, the typewritten or the handwritten statement?

A:-- The typewritten, sir.

Q:-- So you are saying that this second one August 8, 2000 was really the first time that your father allegedly did something wrong to you?

A:-- Yes, sir.

Q:-- So that is written in this salaysay is not correct?

A:-- That is true and correct?

ATTY. USMAN:

I repeat. On No. 3 of the salaysay which stated that, s[i]mula noong April 2001, that was the first one?

A:-- Yes, sir.

Q:-- So that August 8 alleged incident that occurred August 8, 2000 is not correct?

A:-- The difference Your Honor the first one that actually happened was on August 8 and the April one that is the second incident.” [TSN, July 16, 2003 at 7]

Considering the foregoing, the Court finds such alleged discrepancy in Raquel's sworn affidavits on the non-inclusion of the first rape is a trivial matter which do not in any way cast doubt on her credibility.

In the same manner, we rule that the alleged inconsistency with respect to the weapons used in the commission of the rapes is likewise unavailing as we find the same as a mere extraneous matter and does not remove the fact that the crime of rape was repeatedly committed by accused-appellant against the victim through the use of force and intimidation. For this matter, it has been held that force, violence or intimidation in rape is a relative term, depending not only on the age, size, and strength of the parties but also on their relationship with one another.[23] Considering that the assailant is no less than the victim's own father who wields parental influence over her person, the crime undoubtedly was committed with facility.[24] Accused-appellant's moral ascendancy over the former substitutes for violence or intimidation.[25]

Besides, it is also important to stress that errorless testimony cannot be expected of a rape victim for she may not be able to remember and recount every ugly detail of the harrowing experience and appalling outrage, especially so since she might in fact be trying to remember them, as they are painful to recall.[26] What is important is that she was able to testify of the circumstances which establish the fact of rape.

Meanwhile, the alleged inconsistency between the testimonies of Raquel and her mother, Linda as to the number

of times Raquel informed the latter of the rape incidents is again a trivial matter which does not remove the fact that the latter corroborated the claim of her daughter that she was raped by her father, Linda's husband. True, Linda admitted that she first had doubts in the truthfulness of Raquel's claim -- considering its disturbing implications, but in the end, she herself was convinced from her observations of her daughter's conduct who always appeared to be frightened.[27] Thus, she, together with her other daughter Nenita, accompanied Raquel to seek assistance from the authorities. In our mind, such act all the more bolsters Raquel's credibility as it would be unnatural for relatives of the victim in search of justice to impute the crime to innocent persons and not to those who were actually responsible therefor.[28] This is especially true in the instant case considering that the prosecution witness is not only the mother of the victim but also the wife of accused-appellant.

On the matter of accused-appellant's contention on the improbability of the commission of the rapes during daytime, well-settled is the rule that lust is no respecter of time and place, and in this case, also of kinship.[29] Thus, in *People v. Silvano*[30] the Supreme Court held:

"None-consensual acts of sex can be done even in places where people congregate, in parks, along the roadsides, in school premises, in a house where there are other occupants and even in places which to many, would appear unlikely and high risk venues for its commission. In any case, there is no rule that rape can be committed only in seclusion."

Needless to state, credibility can be accorded so long as there is consistency in the narration of the principal occurrence and in the positive identification of the accused.[31] What is clear is that the responsibility of accused-appellant for the crimes charged were indubitably established by both the sworn affidavits and Raquel's testimony.[32] Indeed, if there is any inconsistency between the two, these are minor and incidental.[33] Mere inconsistencies on non-material points are not enough to deny weight to the entire testimony; often, in fact, such discrepancies reassure against the likelihood of a rehearsed testimony.[34]

In this connection, it also bears stressing that there is marked compatibility between Raquel's testimony and the physical evidence on hand. Physical evidence is evidence of the highest order.[35] It speaks eloquently than a hundred witnesses.[36] Such physical evidence supports the conclusion that sexual intercourse did indeed take place and the victim point to accused-appellant as the one responsible for such acts done to her. Verily, no woman would concoct a story of defloration, allow an examination of her private parts and subject herself to public trial and ridicule if she has not, in truth, been raped and impelled to seek justice for the wrong done to her.[37] For a woman to admit that she has been raped is painfully difficult by itself; to declare to the world that she has been raped by her own father, evokes unfathomable emotions -- one, a sense of betrayal of trust by the person who Raquel counted on to protect and shield her from such evils, and hardships that only the victim alone will have to bear for the rest of her life. Further, the fact that accused-appellant failed to allege any improper motive on the part of his daughter and wife on why they would impute such a serious offense against him taking into account the gravity of the penalty corresponding to the crime charged if found guilty is again telling of the victim's truthfulness. Such being the case, with such strong anchorage, we rule that no error was committed by the trial court in according credibility to Raquel as we also find her and her testimony, credible.

That being the case, it is well-settled that a categorical and positive identification of an accused, without any showing of ill-motive on the part of the eyewitness testifying on the matter, prevails over alibi and denial, which are negative and self-serving evidence undeserving of real weight in law unless substantiated by clear and convincing evidence.[38] The defense of alibi cannot be sustained without credible corroboration and when upon its face, does not demonstrate the physical impossibility of the accused-appellants' presence at the place and time of the commission of the offense.[39]

In fine, by the very nature of the crime of rape, conviction or acquittal depends almost entirely on the credibility

of the complainant's testimony because of the fact that usually only the participants can testify as to its occurrence.[40] It is perfectly acceptable to sustain a conviction of rape based solely on the testimony of the victim, where her testimony, per se, is credible, natural, convincing, and free from serious contradiction, and her sincerity and candor, free from suspicion.[41] As we have mentioned earlier, there is nothing in the records that would cast doubt as to the credibility or veracity of the testimony of Raquel for this Court to disregard the same.

The Proper Penalty

Accused-appellant is charged with violation of Article 266-A in relation to paragraph 1, Art. 266-B of the Revised Penal Code, as amended by Rep. Act No. 8353, which provides:

“Art. 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:

- Through force, threat or intimidation;

x x x

Art. 266-B. Penalties. –

x x x

The death penalty shall also be imposed if the crime of rape is committed with any of the following aggravating/qualifying circumstances:

1) When the victim is under eighteen (18) years of age and the offender is a parent, ascendant, step-parent, guardian, relative by consanguinity or affinity within the third civil degree, or the common law spouse of the parent of the victim.

x x x”

The totality of the circumstances in this case warrants a finding that accused-appellant on the dates stated in the four (4) Amended Informations succeeded in having carnal knowledge of Raquel, his own daughter. As borne by the records, Raquel during the tearful account of the events categorically testified that during the four instances where accused-appellant raped her, the latter would insert his penis inside her vagina. Verily, the fact of carnal knowledge is consummated by the mere touching of the woman's labia of the pudendum by the male sex organ.[42] In addition, in case of incestuous rape, force or intimidation need not even be proven.[43] The overpowering moral influence of the father over the daughter takes the place of violence and offer of resistance required in rape cases committed by an accused unrelated to the victim.[44]

In view of the foregoing, we entertain no doubt of accused-appellant's culpability. We are sufficiently convinced that the prosecution has satisfactorily proven accused-appellant's guilt beyond reasonable doubt of the crime charged.

Notwithstanding, with the enactment of Republic Act No. 9346[45] which prohibits the imposition of the death penalty, we are constrained to impose the penalty of reclusion perpetua for each count of rape. Under Section 2(a) of the said law, the “penalty of reclusion perpetua shall be imposed when the law violated makes use of the penalties of the Revised Penal Code”. That being the case, considering that accused-appellant is being charged with four (4) counts of rape defined and penalized under the Revised Penal Code, as amended, the penalty of reclusion perpetua shall be imposed, in lieu of the death penalty, for each count.

Accused-Appellant's Civil Liability

We affirm the trial court's award of P75,000.00 as civil indemnity and P50,000.00 as moral damages for each

count of rape. Civil indemnity is in the nature of actual and compensatory damages, and is obligatory upon conviction for rape.[46] In this respect, although the prevailing jurisprudence in rape cases pegs the amount of civil indemnity in the sum of P50,000.00 where the imposable penalty is reclusion perpetua, there have been instances[47] where the Supreme Court did not hesitate to award a greater amount of civil indemnity. Thus, in *People v. Caraang*[48] in ruling that the victim is entitled to civil indemnity in the amount of P75,000.00, the High Court ruled:

“this Court has previously ordered the accused to pay civil indemnity in the amount of P75,000, so long as the crime was committed under circumstances that would justify the imposition of the death penalty – even if that penalty had not yet been imposed—because the crime was committed before the effectivity of the Death Penalty Law.”

We find no reason why the foregoing rationale cannot be made to apply to the case at bar considering that before the enactment of R.A. No. 9346, the imposable penalty for accused-appellant’s crimes is death. We are of the view that considerations of equity and substantial justice will best be served with the award of a higher amount of P75,000 as civil indemnity.

In the meantime, the award of moral damages is proper as it is automatically awarded to rape victims without the necessity of proof, for it is assumed that she suffered moral injuries entitling her to such award.[49] Such award is separate and distinct from civil indemnity.[50] Moreover, we rule that the award of exemplary damages is likewise appropriate in the instant case taking into account that the relationship of accused-appellant and the rape victim was admitted by the former during the pre-trial[51] and the trial proper. The victim is also entitled to the award of exemplary damages in the amount of P25,000 for each count of rape in order to deter other individuals with aberrant sexual behavior.[52]

WHEREFORE, premises considered, the decision of the Regional Trial Court, Branch 89 of Quezon City in Criminal Cases Nos. Q-01-106123, Q-01-106124, Q-01-106125 and Q-01-106126 finding accused-appellant Nido Garte GUILTY beyond reasonable doubt of the crime of rape under Article 266-A in relation to paragraph 1 of Art. 226-B of the Revised Penal Code, as amended by Republic Act No. 8353, in each case is AFFIRMED with MODIFICATION in that, accused-appellant is sentenced to suffer the penalty of reclusion perpetua for each count of rape and is also hereby ordered to pay Raquel T. Garte P75,000 as civil indemnity; P50,000 as moral damages; and P25,000 as exemplary damages, in each case.

SO ORDERED.

Sundiam, and Librea-Leagogo, JJ., concur.

[1] Records at 94.

[2] Id. at 95.

[3] Id. at 96.

[4] Id. at 97.

[5] Id. at 100-101.

[6] Id. at 196-206.

[7] Id. at 205-206.

- [8] Direct Examination, TSN, September 3, 2003.
- [9] Sinumpaang Salaysay dated July 26, 2001.
- [10] TSN, February 4, 2004.
- [11] Medical Legal Report No. M-1580-01 dated June 20, 2001; Records at 169.
- [12] Direct Examination, TSNs, May 3, 2004, June 10, 2004, June 16, 2004 and September 7, 2004.
- [13] Brief for the Accused-Appellant, Rollo at 36-49.
- [14] Records at 163 and 164.
- [15] Brief for the Appellee, Rollo at 65-93.
- [16] *People v. Macapal, Jr.*, 463 SCRA 387, 397-398 [2005].
- [17] *People v. Caraang*, 418 SCRA 321, 350-351 [2003]
- [18] *Id.* at 351.
- [19] *Ibid.*
- [20] TSN, July 16, 2003 at 6.
- [21] *Id.* at 7.
- [22] *Ibid.*
- [23] *People v. Silvano*, 309 SCRA 362, 384 [1999].
- [24] *Ibid.*
- [24] *Ibid.*
- [26] *Id.* at 387.
- [27] TSN, October 1, 2003 at 4.
- [28] *People v. Ancheta*, 431 SCRA 42,51[2004].
- [29] *People v. Silvano*, *supra.* at 385.
- [30] *Id.* at 385-386.
- [31] *People v. Caraang*, *supra.* at 352.
- [32] *Ibid.*
- [33] *Ibid.*
- [34] *Ibid.*
- [35] *People v. Larrañaga*, 421 SCRA 530, 571 [2004].
- [36] *Ibid.*
- [37] *People v. Corpuz*, G.R. No. 168101, February 13, 2006.
- [38] *Ibid.*

[39] *Ordinario v. People*, 428 SCRA 773, 779 [2004].

[40] *People v. Digma*, 345 SCRA 185, 192 [2000].

[41] *People v. Burgos*, 279 SCRA 697, 707[1997].

[42] *People v. Silvano*, 309 SCRA 383 [1999].

[43] *People v. Corpuz*, *supra*.

[44] *Ibid*.

[45] Otherwise known as “An Act Prohibiting the Imposition of Death Penalty in the Philippines”, approved on June 24, 2006.

[46] *People v. Suarez*, 456 SCRA 333, 349 [2005].

[47] *People v. Bañago*, 309 SCRA 417 [1999] and *People v. Caraang*, 418 SCRA 321 [2003].

[48] *Supra*.at 363.

[49] *People v. Suarez*, *supra*. at 352.

[50] *Ibid*.

[51] Records at 105-108.

[52] *People v. Borromeo*, 430 SCRA 533, 553 [2004].

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