

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. DANILO SUNGA Y VIRAY, ACCUSED-APPELLANT.

Ponente: LIBREA-LEAGOGO, C.C., J.

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LIBREA-LEAGOGO, C.C., J.:

Before this Court is an appeal from the Decision[1] dated 02 October 2013 of the Regional Trial Court, Third Judicial Region, Branch 54, Macabebe, Pampanga in the case entitled “People of the Philippines v. Danilo V. Sunga,” docketed as Criminal Case No. 05-3771(M) and Criminal Case No. 05-3835 (M), the dispositive portion of which reads:

“WHEREFORE, in view of the foregoing, the prosecution having proven the guilt of accused Danilo V. Sunga beyond reasonable doubt of the offenses of Acts of Lasciviousness and of Qualified Rape, said accused is convicted of the offenses charged and is hereby sentenced to suffer the following penalties:

a)

In Criminal Case No. 05-3771(M), accused is hereby sentenced to an indeterminate penalty of six (6) months of arresto mayor as minimum, to six years of prision correccional as maximum, and to pay (BBB) P5,000.00 for moral damages and P2,000.00 for exemplary damages, and to pay the cost;

b)

In Criminal Case No. 05-3835(M), accused is hereby sentenced to suffer the penalty of reclusion perpetua, and is ordered to pay (AAA) P75,000.00 as civil indemnity; P75,000.00 for moral damages; P30,000.00 for exemplary damages, to deter other persons from sexually molesting their children, and to pay the cost.

Considering that accused has undergone preventive imprisonment, he shall be credited in the services of his sentence with the time he has undergone preventive imprisonment subject to the conditions provided for by law.

SO ORDERED.”[2]

Accused-appellant filed his Brief[3] dated 01 August 2014. Plaintiff-appellee also filed its Brief[4] dated 12 January 2015. Accused-appellant filed a Manifestation[5] dated 28 January 2015 that the filing of a reply is dispensed with. Thus, the appeal is submitted for decision.

FACTUAL ANTECEDENTS

The real identities of private complainants and the members of their immediate family are withheld. Private complainant in Criminal Case No. 05-3835(M) is referred to as “AAA”, private complainant in Criminal Case No. 05-3771(M) is referred to as “BBB”, the latter's husband is referred to as “CCC,” private complainants' mother is referred to as “DDD” and their other sister is referred to as “EEE.”[6]

Accused Danilo Sunga y Viray was charged with Attempted Rape in an Information[7] dated 16 August 2005 docketed as Criminal Case No. 05-3771(M) and Rape in relation to R.A. No. 7610 in an Information[8] dated 13 October 2005 docketed as Criminal Case No. 05-3835(M), both filed with the Regional Trial Court of Macabebe, Pampanga, and raffled off to Branch 54, the accusatory portions of which read:

Criminal Case No. 05-3771(M)

“That on or about the 15[th] day of August, 2005, in the municipality of Macabebe, province of Pampanga, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design, without the consent and permission of private complainant (BBB), and by means of force and intimidation, did then and there willfully, unlawfully and feloniously commence the commission of the crime of rape directly by overt acts, to wit: while (BBB) is (sic) taking her bath(,) accused suddenly pushed forcefully the door to (sic) open, while the latter at that time is (sic) under the influence of liquor, embraced and kissed repeatedly the private complainant and threatened to the (sic) kill (sic) if she shouted, but said accused did not perform all the acts of execution which would constitute the crime of rape as a consequence by reason of causes other than his own spontaneous desistance, that is, complainant resisted and shouted for help.

Contrary to law.”[9]

Criminal Case No. 05-3835(M)

“That on or about the 29th day of July, 2005 in the municipality of Macabebe, province of Pampanga, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused **DANILO V. SUNGA**, taking advantage of the tender age and innocence of of the private offended party (AAA), a 16 year old minor and of his moral ascendancy over her, being her legitimate father, with lewd designs, did then and there willfully, unlawfully and feloniously had carnal knowledge of (AAA) against her will and consent by inserting his penis into her vagina, thereby debasing, degrading and demeaning her intrinsic worth and dignity as a child and endangering her health as well as her moral, psychological and emotional well-being.

Contrary to law.”[10]

In the Inquest Resolution[11] dated 16 August 2005, it was stated that the warrantless arrest was found valid, hence, the arresting officers were ordered to deliver accused to the Warden of Pampanga Provincial Jail, City of San Fernando, Pampanga.

In the Order[12] dated 30 August 2005 in Criminal Case No. 05-3771(M), the trial court made a judicial determination of probable cause that the offense charged in the Information dated 16 August 2005 has been committed and that the accused is probably guilty thereof; confirmed the detention of the accused at the Pampanga Provincial Jail; and set the case for the arraignment of the accused. When arraigned on 27 September 2005,[13] the accused entered a plea of not guilty. Pre-trial in Criminal Case No. 05-3771(M) was held and a Pre-trial Order[14] dated 06 June 2006 was issued, wherein the parties stipulated on the jurisdiction of the court, the identity of the accused as the person charged in the Information, and the identity of private complainant.

In the Order[15] dated 19 January 2006 in Criminal Case No. 05-3835(M), the trial court made a judicial determination of probable cause that the offense charged in the Information dated 13 October 2005 has been

committed and that the accused is probably guilty thereof; and set the case for arraignment. When arraigned on 31 January 2006,[16] the accused entered a plea of not guilty to the charge of rape in relation to R.A. No. 7610. Pre-trial in Criminal Case No. 05-3835(M) was held and a Pre-trial Order^{xvii} dated 06 June 2006 was issued, wherein the parties stipulated on the jurisdiction of the court, the identity of the accused as the person charged in the Information, and the identity of private complainant.

Joint trial ensued.

The prosecution presented the following witnesses: “BBB,”[18] “AAA,”[19] “CCC,”[20] Dr. Mariglo Grace Y. Chincuanco[21](“Dr. Chincuanco,” for brevity),[22] and PO2 Irma Hernandez (“PO2 Hernandez,” for brevity).[23] The prosecution and the defense stipulated on the testimony of PO2 Roberto C. Arevalo (“PO2 Arevalo,” for brevity),[24] that he arrested the accused upon the complaint of BBB, and that he executed an Affidavit of Arrest (Exhibit “E”).

The first witness of the prosecution, BBB, testified, inter alia, that: she knows the accused because he is her father; she identified him in open court; on 15 August 2005, she was inside their house, taking a bath; since accused knew that her mother, husband and their other companions were outside the house, he came in, drunk; she was taking a bath inside the bathroom, but she was not able to lock the door since she knew that her other companions were outside; accused was drunk and wanted to rape her; he went inside the bathroom and touched her body but she was able to fight back; she was so nervous; she shouted and her husband was able to hear her; the bathroom has a curtain that is why she did not see him enter; accused touched her breasts, but she was able to push him and ran away; accused was drunk and looked like a demon; when her husband heard her shouting, he came in; accused is a maniac; he had many victims and from the time that accused did it to them, there were others who have spoken up; he molested a neighbor's 5-year old child; since their childhood, accused was selfish and never gave them food to eat, and were it not for their relatives, they would not have survived; since they were young, the accused, a drunkard, always beat up their mother;[25] her younger sister AAA told them that she was being molested by the accused since she (AAA) was ten (10) years old; when AAA learned that the accused was already detained, AAA came to her, embraced her and told her that the accused had been sexually molesting her; she identified her Sinumpaang Salaysay and her signature therein in open court;[26] accused had not done anything to her aside from holding her breasts; she did not witness the accused molesting her younger sister AAA, but her younger brother did;[27] when the accused was already detained, her younger sister who witnessed the incident asked AAA to speak up; that happened while they were at their house in Caduang Tete; and AAA cried and embraced her saying that she (AAA) was only ten (10) years old when the accused molested her.[28]

The next prosecution witness is AAA, who identified the accused in open court.[29] She testified, inter alia, that: on 29 July 2005, she was at their house; accused undressed her, removed all her clothes and then mashed her body; accused inserted his penis into her vagina; she was very afraid of the accused; she locked herself inside the room; she did not relay that particular incident to anyone because she was afraid; the other members of their household only knew about this incident when her sister BBB caused the incarceration of the accused; when she learned about the incarceration of the accused, she reported the matter to her sister BBB and their mother; she underwent medico-legal examination, and the result was positive;[30] when the incident happened, her mother was also inside the house; she and the accused were in the kitchen when the latter inserted his penis into her vagina; her mother was sleeping inside the room; at that time, only the three of them were in the house; that incident was not the first time as there were several other times prior to that; there were no other incident after the 29 July 2005 incident;[31] the kitchen was more or less ten (10) meters away from the room where her mother was sleeping; and the incident happened at the floor of the kitchen.[32]

The prosecution's third witness is CCC who testified, inter alia, that: the accused is his father-in-law as his wife

BBB is the daughter of the accused; on 15 August 2005 at about 8:00 in the evening, he was outside their house having a conversation with his friend; his wife shouted “aah help me”; at that time he knew that she was taking a bath inside the bathroom located inside their house; he hurriedly went inside the house, which is about eight (8) to ten (10) meters away from their gate where he was conversing with his friend; when he reached the bathroom, he saw the accused holding his wife who is naked; his wife was being held by the accused who was drunk, and she was shouting; his wife was crying and fighting back; the accused was mashing his wife's body parts; the accused was only wearing shorts without a top; he pushed the accused and held him out of the bathroom; he and his sister-in-law EEE proceeded to the police headquarters of Macabebe, Pampanga, while the accused was in the house; they reported the incident for blotter and filed a case against the accused; he executed a written statement regarding the incident, which he identified in open court; he, his wife and the accused were living in the same house for about five (5) years already; when he pushed the accused away from his wife, he noticed that the accused looked as if he was possessed by a demon; he knew that the accused was drunk because he smelled him;[33] when he ran towards the bathroom, the door was closed but not locked because the lock was broken;[34] he personally witnessed that the accused was mashing the breast of his wife; the sentence “narinig ko na sumisigaw ang aking asawa kaya mabilis akong pumasok sa bahay at noong nakita ko ang akin biyenan na si Danilo Sunga na lasing at palabas nag banyo” in his sworn statement is wrong; when they made the complaint, they were told that the mistake could no longer be erased or removed;[35] and when he saw his wife and the accused inside the bathroom, there was no other person therein.[36]

The next witness for the prosecution is Dr. Chincuanco who testified, inter alia, that: AAA came with her sister and asked her to do medical examination because AAA was sexually assaulted; based on the record of the patient, it was stated that she saw the victim on 16 August 2005; since AAA was still a minor, she asked the consent of the guardian who brought her in; after that, she asked what transpired or why the victim went to their institution for medico-legal examination, and put it on record; upon learning the history of the victim, she asked when it happened and when the initial assault happened; she immediately performed a complete physical examination of the patient, including the general appearance of the patient, but concentrated on the external genitalia of the patient; based on her findings, the labia majora and the minora were noted to be “non-hyperemic”, meaning they do not have any swelling or dilemma, but on the examination of the hygienal surface, she noted deep-healed lacerations at 3 and 10 o'clock positions; there were no conclusive medical findings with regard to the hymenal lacerations because the absence of hymenal lacerations would not preview sexual intercourse; sometimes, hymenal surface could be too thick or elastic, and some patients would have previous lacerated hymenal lacerations without even having sexual (intercourse); she could not totally say if AAA was sexually abused, but all she could say is that there were raptures or lacerations of the hymen; it is possible that something was inserted in AAA's genitalia that caused said lacerations at 3 and 10 o'clock positions; she could say that inserting a male organ in the genitalia of a woman would cause the same laceration; the date of the incident was on 29 June 2005 while the examination happened on 16 August 2005; she identified her signature on the medico-legal report;[37] the entry in the medico-legal report “DOI June 29, 2005” refers to DOI as “the date of incident”; as reported to her by AAA when the latter came for examination, the last incident happened on 29 June 2005 but according to AAA, she had been sexually assaulted since she was ten (10) years old;[38] and the handwritten medico-legal was signed by BBB, who also signed the consent for AAA.[39]

PO2 Hernandez testified, inter alia, that: she was a member of the PNP since 07 January 2004 until the present; she was assigned to the Macabebe Police Station since September 2004, specifically to the women and children's desk; she reported for duty on 17 August 2005; on that day, AAA and BBB went to their station and filed complaints about their father; she logged in the complaints and reported the matter to their chief of police; she and her co-policemen were then instructed to respond to the place of the incident; she did not accompany her

co-police officers; the incident was written in the police blotter by PO1 Edwin Lagura; aside from the said incident, there was also another complaint about the alleged rape filed by BBB, who is also the daughter of the accused; his co-police officers' response was relayed to them through their declarations, and then they filed the cases with the Office of the Provincial Prosecutor; the Salaysays were specifically executed by BBB and AAA; said statements were taken by PO3 Joseph Mercado as she was already off duty;[40] she was the one who took the declarations of the victims and prepared the police investigation report; she was the investigator in-charge of the instant case; she identified the police investigation report and her signature therein; she also prepared a request for medical examination; BBB filed a complaint for attempted rape; there is also a blotter regarding the alleged rape wherein the private complainant is AAA; the request for physical examination on AAA was dated 16 August 2005; the rape was committed on 29 July 2005 as the date 29 August 2005 appearing in the salaysay signed by AAA is a typographical error because they were in a hurry; the request for physical examination indicates that the date of the alleged rape of AAA is 29 July 2005; she learned that the statement that they prepared contained a wrong date of commission and that the correct date is 29 July 2005 when they already filed the case; it is only now that she had the opportunity to correct it; she identified the police investigation report that she prepared with respect to the case of attempted rape filed by BBB;[41] the first time that the complainants went to their office was on 15 August 2005; their police investigator helped her because it was already nighttime when they had placed it in the police blotter on the 15[th], and on the 16[th] they prepared the statement of BBB; and the accused was already arrested at the time that she prepared BBB's sworn statement.[42]

The prosecution filed its Formal Offer of Evidence[43] dated 20 September 2010 in Criminal Case No. 05-3771(M), offering Exhibits "A" to "E". In the Order[44] dated 21 September 2010, it was stated that: public prosecutor Ramon A. Tomas manifested that he cannot yet submit his Formal Offer of Evidence in Criminal Case No. 05-3835(M) for the reason that what was marked in Court was a photocopy of the certificate of live birth of AAA and the same has not yet been compared with the original and that the case be set on 05 October 2010 for the required comparison; the Court admitted the prosecution's Formal Offer of Evidence in Criminal Case No. 05-3771(M); set the case on 05 October 2010 for the identification and marking of the prosecution's documentary exhibits in Criminal Case No. 05-3835(M); gave the prosecution five (5) days from 05 October 2010 within which to submit its Formal Offer of Evidence in Criminal Case No. 05-3835(M); gave the defense ten (10) days from receipt of prosecution's Formal Offer of Evidence within which to submit its comment thereto; and set the cases for the initial presentation of defense evidence on 23 November 2010. The accused filed his Comment/Opposition to the Prosecution's Formal Offer of Evidence[45] dated 15 December 2010. In its Order[46] dated 26 May 2011 in Criminal Case No. 05-3771(M), Exhibits "A" to "E" and submarkings were admitted by the trial court.

On 05 October 2010, BBB testified, inter alia, that: AAA is her sister; their parents are DDD and Danilo Sunga; she is older than AAA; the fact of birth of AAA was duly registered in the Office of the Civil Registrar in Masantol; she produced the Certification of Birth of AAA; and the date of birth of AAA is 24 January 1989.[47]

The prosecution filed its Formal Offer of Evidence, etc.[48] dated 25 March 2011 in Criminal Case No. 05-3835(M), offering Exhibits "A" to "N," to which the accused filed his Comment/Opposition[49] dated 24 May 2011. In its Order[50] dated 02 June 2011, the trial court admitted Exhibits "A" to "H" and "J" to "N" with submarkings.

The defense presented its lone witness, accused Danilo Sunga y Viray.[51] He testified, inter alia, that: in July 2005, he was residing at Caingin, Masantol, Pampanga and in August 2005, he transferred his residence to Caduang Tete, Macabebe, Pampanga; in July 2005, he was the only one staying at Caingin, Masantol, Pampanga as his wife and children transferred residence in July to the house bought by his daughter in Macabebe; AAA is his daughter; in July 2005, AAA was not living with him at Caingin, Masantol, Pampanga because he was then in

Bulacan where he had a part time job and when he went home to Masantol, only his wife was there as his children have already transferred to Macabebe; he no longer saw AAA in July 2005 because the latter was already living in another house;[52] the whole month of July 2005, he was residing in Caduang Tete, Macabebe, Pampanga; at that time, AAA was also residing at the same place; in July 2005, he and AAA were residing under the same roof; there were times when he and AAA met each other and there were times when they did not because he sometimes went to their house in Masantol, Pampanga; he met his daughter AAA on 29 July 2005 at their residence in Macabebe, Pampanga; he does not know anything about the alleged crime of rape filed by AAA and he was surprised when he was taken by the policemen; he did not sexually abuse AAA on 29 July 2005; he was arrested on 29 July 2005 at about 8:00 in the evening and was brought to the jail of Macabebe, then he was transferred to San Fernando, Pampanga; he also does not know anything about the alleged attempted rape of his other daughter BBB which allegedly took place on 15 August 2005; he does not have a misunderstanding with AAA prior to July 2005; he and his other daughter BBB had a misunderstanding before 15 August 2005; BBB took her parents for granted and did not give them money; the reason why AAA and BBB filed the cases against him was because they were against the things that they (AAA and BBB) were doing; since he was detained, AAA and BBB and his wife did not visit him in jail;[53] before 15 August 2005, he and his family, including his wife and daughter AAA, resided in Caduang Tete, Macabebe, Pampanga; his son-in-law, the husband of his daughter BBB, was also living with them; he does not know of any reason why AAA, who was still a minor at that time, would charge him of rape; the municipality of Masantol is adjacent to the municipality of Macabebe; it would only take a few minutes to go from Macabebe to Masantol; on 29 July 2005, he was at Caingin, Masantol, Pampanga with his parents Estella and Patricio; his daughter BBB does not have a house, and sometime in August 2005, she resided at the house of her parents-in-law in Apalit; when his other daughter left for the United States, his wife and BBB occupied the house; on 15 August 2005, he was arrested at the house where her daughter BBB was staying; he was sleeping at that time and was arrested without any reason; he does not know of any reason why BBB filed a case against him; he does not have a misunderstanding with AAA and BBB, and he does not know of any reason why they filed a case against him except for the fact that “hawak kami sa leeg,”[54] which means that he and his wife, as their parents, were taken for granted;[55] and at present, his wife is still staying with their children together with BBB.[56]

The assailed Decision[57] dated 02 October 2013 was promulgated,[58] finding the accused guilty of acts of lasciviousness in Criminal Case No. 03-3771(M) and qualified rape in Criminal Case No. 05-3835(M), the decretal portion of which was earlier quoted.[59]

Accused filed a Notice of Appeal[60] dated 05 November 2013, which was given due course in the Order[61] dated 28 November 2013. In a Commitment Order,[62] the trial court committed the body of the accused to the Director of Prisons, Muntinlupa City.

RULING

Accused-appellant assigns a lone error, viz:

THE TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT OF THE CRIMES CHARGED.[63]

Accused-appellant contends, inter alia, that: the prosecution was not able to establish the required proof in order to overcome the presumption of his innocence; Dr. Chincuanco claimed that private complainant AAA related to her that she was raped on 29 June 2005, not on 29 July 2005, as AAA has claimed in open court; since the records manifestly show the confused and irreconcilable testimonies of prosecution witnesses AAA and Dr. Chincuanco as to the date of commission of rape, serious doubt is necessarily created as to his culpability; the time of the

commission of the crime assumes importance when it creates serious doubt as to the commission of rape or the sufficiency of the evidence for purposes of conviction, as in the case at bar; BBB had a deep grudge against him, as he was perceived as an irresponsible father because when they were still children, he never provided for their basic needs; BBB hated him for always beating her mother; it is quite possible that the instant charges are false and concocted and was filed primarily because of BBB's ill feelings against him; he had a misunderstanding with BBB because the latter treated him and her mother as "good for nothing"; she did not consult him on financial matters whenever the family would have money; AAA averred that the alleged rape occurred at the kitchen of their house while her mother was sleeping in the room; given this scenario, it is quite improbable that he could perpetrate the crime without any resistance from AAA, who could have easily shouted for help; clearly, this circumstance made AAA's account unconvincing; Dr. Chincuanco's finding is not decisive as she herself stated that the presence of lacerations on the victim's hymen would not necessarily prove sexual intercourse; he denied having committed the crimes; although his defense consists of denial and alibi, still, the constitutional presumption of innocence stands when the prosecution has utterly failed to prove his guilt beyond reasonable doubt.

Plaintiff-appellee ripostes, inter alia, that: the evidence proves beyond reasonable doubt that accused-appellant is guilty of acts of lasciviousness; there is moral certainty that accused-appellant committed the crime of acts of lasciviousness penalized under Article 336 of the Revised Penal Code; accused-appellant committed lascivious conduct when he intentionally touched the breasts and other private parts of BBB against her will; in cases of acts of lasciviousness, it is not necessary that intimidation be irresistible; in this case, BBB was sufficiently intimidated when, while taking a bath in the privacy of their bathroom, her own father suddenly entered and touched her breasts and stroked her body; aside from the moral and physical ascendancy of the accused-appellant, BBB was alarmed by the knowledge that her father had molested other girls in their neighborhood; her fears were also compounded by her belief that accused-appellant looked like a "demon" and was a sex "maniac"; the evidence proved beyond reasonable doubt that accused-appellant is guilty of qualified rape punished under Article 266-A and 266-B, paragraph 6(1) of the Revised Penal Code, as amended; the prosecution was able to establish beyond reasonable doubt that accused-appellant had carnal knowledge of AAA, which he accomplished by using moral ascendancy over AAA rather than using force, threat, and intimidation; his sexual abuse of his daughter AAA commenced when she was ten (10) years old, hence, moral ascendancy did not anymore require physical force, and intimidation; the penalty for acts of lasciviousness should be modified in accordance with the Indeterminate Sentence Law; it is recommended that accused-appellant be sentenced to an imprisonment of six months of arresto mayor, as minimum, to four years and two months of prision correccional, as maximum; as for qualified rape, the trial court correctly imposed the penalty of reclusion perpetua; and it must be emphasized that it should be without the benefit of parole pursuant to Republic Act No. 9346.

The appeal is bereft of merit.

The constitutional presumption of innocence of the accused demands no less than a moral certainty of his guilt free of reasonable doubt.[64] A conviction in a criminal case must be supported by proof beyond reasonable doubt, which means a moral certainty that the accused is guilty.[65] It is a fundamental rule in criminal procedure that the State carries the onus probandi in establishing the guilt of the accused beyond a reasonable doubt, as a consequence of the tenet *ei incumbit probatio, qui dicit, non qui negat*, which means that he who asserts, not he who denies, must prove, and as a means of respecting the presumption of innocence in favor of the man or woman on the dock for a crime.[66] (I)n a criminal case, an appeal, as in this case, throws open the entire case xxx for review, and the appellate court can correct errors, though unassigned, that may be found in the appealed judgment.[67]

In the instant case, the prosecution was able to establish the guilt of the accused beyond reasonable doubt for the crime of acts of lasciviousness in Criminal Case No. 05-3771(M), and qualified rape in Criminal Case No. 05-3835(M).

With respect to Criminal Case No. 05-3771(M), Article 336 of the Revised Penal Code provides:

“ART. 336. Acts of Lasciviousness. — Any person who shall commit any act of lasciviousness upon other persons of either sex, under any of the circumstances mentioned in the preceding article, shall be punished by prison correccional.”

The elements of this crime are: (1) the offender commits any acts of lasciviousness or lewdness; (2) it is done under any of the following circumstances: (a) by using force or intimidation, or (b) when the offended party is deprived of reason or otherwise unconscious, or (c) when the offended party is under 12 years of age; and (3) the offended party is another person of either sex.[68] Lewdness is defined as an “obscene, lustful, indecent, and lecherous” act which signifies that form of immorality carried on a wanton manner.[69]

In the instant case, BBB identified accused-appellant in open court.[70] She testified that: on 15 August 2005, she was inside their house taking a bath when accused-appellant, his father, who was drunk at that time, went inside the bathroom and touched her breasts and other body parts; she shouted, and she was able to push him away.[71] The testimony of BBB was corroborated by her husband CCC, who testified that: on 15 August 2005, at about 8:00 in the evening, he was having a conversation with one of his barkada outside their house when he heard his wife BBB shouting, asking for help; he hurriedly went inside the house; upon reaching the bathroom, he saw accused-appellant holding his wife BBB while the latter was naked, shouting, crying and fighting back; accused-appellant was mashing BBB's body parts; he pushed accused-appellant and held him out of the bathroom; and he proceeded to the police station to have the case blottered.[72] To Our mind, the straightforward and corroborated testimony of the victim BBB clearly establishes all the elements of the crime for acts of lasciviousness.

Accused-appellant claims that the case was filed by BBB against him because of a misunderstanding between him and the latter.

We are unswayed.

Here, accused-appellant testified that BBB has taken them for granted and was not giving them money, that “(g)inawa nya kaming walang kwenta, pag may dumarating na pera, sila lang po ang nagdedesisyon.”[73] and that “hawak (sila) (accused-appellant and his wife) sa leeg”.[74] However, he also testified that he does not know of any reason or ill motive on the part of BBB in instituting the case against him.[75] Thus, as correctly pointed out by the trial court, it was accused-appellant who had ill feelings against BBB regarding money matters and not the other way around.[76] Consequently, the failure of accused-appellant to establish ill motive on the part of BBB to falsely accuse him does not destroy BBB's candid and straightforward testimony. On the other hand, accused-appellant's defense consists merely of denial which is uncorroborated by any other evidence. (It has been held that (d)enial is an intrinsically weak defense which must be buttressed with strong evidence of non-culpability to merit credibility.[77] Thus, the uncorroborated denial of accused-appellant cannot prevail over the categorical testimony of his daughter BBB and her positive identification of accused-appellant.

With respect to Criminal Case No. 03-3835(M), (in order) (t)o determine the guilt or innocence of the accused in rape cases, the courts are guided by three settled principles: (a) an accusation for rape is easy to make, difficult to prove and even more difficult to disprove; (b) in view of the intrinsic nature of the crime, the testimony of the complainant must be scrutinized with utmost caution; and (c) the evidence of the prosecution must stand on its own merits and cannot draw strength from the weakness of the evidence for the defense.[78]

Articles 266-A and 266-B of the Revised Penal Code provide:

“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:

a) Through force, threat, or intimidation;

x x x x

ART. 266-B. Penalties. — Rape under paragraph 1 of the next preceding article shall be punished by reclusion perpetua.

x 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 x”

We find that the prosecution was able to establish the guilt of accused-appellant beyond reasonable doubt for qualified rape in Criminal Case No. 05-3835(M). The circumstances of minority and relationship were pleaded in the Information[79] and were duly proven by the prosecution. AAA also positively identified accused-appellant in open court.[80]

To sustain a conviction for qualified rape, the following elements must concur: a) the victim is a female over 12 years but under 18 years of age; b) 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; and c) the offender has carnal knowledge of the victim either through force, threat or intimidation; or when she was deprived of reason or is otherwise unconscious; or by means of fraudulent machinations or grave abuse of authority.[81]

In the present case, the prosecution was able to establish that AAA, who was born on 24 January 1989, is the daughter of accused-appellant and DDD, as shown in her Certificate of Live Birth (Exhibit “N”)[82] and that at the time of the commission of the crime on 29 July 2005, she was still a 16-year old minor. Likewise, the fact that AAA is his daughter was admitted by accused-appellant in the course of his testimony.[83]

Accused-appellant had carnal knowledge of AAA. The victim AAA testified:

“Fiscal Magdasoc

x x x x

Q Mr. (sic) Witness, on the 29[th] day of July 2005, do you remember any untoward incident on that day?

A Yes, sir

Q What are you (sic) during that time?

A I was in the house, sir.

Q And what happened during that time, Ms. Witness?

A He undressed me, sir. Court

Q When you said ,“he”, you are referring to?

A Danilo Sunga, Your Honor

x x x x

Fiscal Magdasoc

Q Ms. Witness, you mentioned that he undressed you, was he able to undress you?

A Yes, sir.

x x x x

Q

After he was able to undress you, what happened next?

A

He removed all my clothes, sir, and after that “inano na po ako”. After that he did something to me (inano na po ako)

Q

Will you tell the Court what is that particular act that is (sic) done to you?

A

He mashed all over my body, sir.

Q

And what else did the accused did (sic) to you?

A

After that he inserted his penis to my vagina, sir.

Q

Was he successful in doing so?

A

Yes, sir.

Q What did you do when he inserted his organ to your vagina?

A I was afraid of him, sir.

Q And what is your reaction?

A I was afraid of him, sir. (Witness is crying.)

Q Did it take a long time for him to do this things?

A Yes, sir.

Q And what else happened after that?

A None anymore, sir.

Q What did you do after this thing happened to you?

A I locked myself inside the room, sir.

Q After you lock (sic) yourself inside your room, what else happen (sic)?

A None anymore, sir.

Q Do (sic) you relay this particular incident to other (sic) person?

A I did not sir, because I was afraid, sir.

x x x x

Court

Q Where were you and the accused when he inserted his penis in your vagina?

A We were in the kitchen, ma'am.

x x x x

Q

What about your mother? Where was your mother?

A

She was inside the room, sleeping, ma'am.

Q

What about the other members of the household, where were they?

A

They all left, ma'am.

x x x x

Q

After this incident on July 29, 2005, did the accused inserted (sic) his penis to your vagina?

A

No more incident after July 29, 2005, ma'am.

x x x x”[84]

In resolving issues pertaining to the credibility of the witnesses, this Court is guided by the following principles: (1) the reviewing court will not disturb the findings of the lower courts, unless there is a showing that the lower courts overlooked or misapplied some fact or circumstance of weight and substance that may affect the result of the case; (2) the findings of the trial court on the credibility of witnesses are entitled to great respect and even finality, as it had the opportunity to examine their demeanor when they testified on the witness stand; and (3) a witness who testifies in a clear, positive and convincing manner is a credible witness.[85]

The trial court found the testimony of AAA quite convincing and straightforward.[86] There is nothing in the records that warrants the disturbance of such finding. (It) has (been) repeatedly recognized that the trial court is in the best position to assess the credibility of witnesses and their testimonies because of its unique position of having observed that elusive and incommunicable evidence of the witnesses' deportment on the stand while testifying, which opportunity is denied to the appellate courts. xxx The appellate courts will generally not disturb such findings unless it plainly overlooked certain facts of substance and value that, if considered, might affect the result of the case, which is not obtaining in the instant case.[87] Relieving the harrowing experience, AAA's candid testimony reflected her pain, as she even criedl[88] in the course thereof.

The trial court also correctly held that the prosecution need not prove that accused-appellant employed force, threat or intimidation in the commission of the crime. Accused-appellant's moral ascendancy over AAA takes the place of the force and intimidation that is required in rape cases.[89] Accused-appellant, being the father of the victim AAA, has moral ascendancy over her, which made AAA submit to his will. (It has been held that) when the offender is the victim's father, there need not be actual force, threat or intimidation.[90] To this Court's mind, there can be no greater source of fear or intimidation than your own father—one who, generally, has exercised authority over your person since birth.[91]

It is doctrinally settled that factual findings of the trial court, especially on the credibility of the rape victim, are accorded great weight and respect and will not be disturbed on appeal.[92] Here, We do not find any reason to reevaluate the factual findings of the trial court.

The trial court likewise found that the accusation of AAA against accused-appellant was bolstered by the findings of Dr. Chincuanco, who conducted the physical examination of AAA's genitalia.[93] The Medico-Legal OB-Gyne[94] report (Exhibits “E”, “F” and “G”) dated 10 August 2005 issued by Dr. Chincuanco states that there were “deep-healed lacerations at 3 and 10 o'clock positions.” (Indeed), (w)hen the victim's testimony is corroborated by the physician's finding of penetration, there is sufficient foundation to conclude the existence of the essential requisite of carnal knowledge.[95] (H)ymenal lacerations, whether healed or fresh, are the best evidence of forcible defloration.[96]

Accused-appellant asserts that the irreconcilable testimonies of AAA and Dr. Chincuanco as to the date of commission of rape necessarily creates serious doubt as to his culpability.

We are unconvinced.

Dr. Chincuanco testified that, as relayed to her by AAA, the date of the last rape incident was on 29 June 2005,[97] which was the date she indicated as DOI (date of incident) in the Medico-Legal-OB-Gyne (Exhibits “E”, “F” and “G”)[98] dated 10 August 2005, while AAA testified that the last incident of rape occurred on 29 July 2005. (However, it must be emphasized that) the date of the commission of rape is not an essential element of the crime.[99] The date and time of the commission of the crime of rape becomes important only when it creates serious doubt as to the commission of the rape itself or the sufficiency of the evidence for purposes of conviction,[100] which is not obtaining in the instant case.

We agree with the findings of the trial court that the date appearing on the report of Dr. Chincuanco is a result of an error made either by AAA herself who could have been nervous or, at the very least, uncomfortable, being subjected to a physical examination of her genitalia by a stranger even if that stranger is a doctor; or the error could have resulted because the doctor misheard AAA.[101] To Our mind, what prevails is the positive testimony of AAA in open court that the last incident when the accused-appellant had carnal knowledge of her was on 29 July 2005.[102] AAA's testimony is supported by her Sinumpaang Salaysay (Exhibit “B”)[103] dated 17 August 2005 which stated that the last incident of rape was committed on 29 July 2005. Even accused-appellant was in the locus criminis as he himself testified that in July 2005, he and AAA were living in the same house, at Caduang Tete, Macabebe, Pampanga and that they saw each other on 29 July 2005.[104]

Discrepancies referring only to minor details and collateral matters—not to the central fact of the crime—do not affect the veracity or detract from the essential credibility of witnesses' declarations, as long as these are coherent and intrinsically believable on the whole. For a discrepancy or inconsistency in the testimony of a witness to serve as a basis for acquittal, it must establish beyond doubt the innocence of the appellant for the crime charged. [105]

Accused-appellant posits that AAA averred that the alleged rape occurred in the kitchen of their house while her mother was sleeping in the room, as such, it is improbable that he could perpetrate the crime without any resistance from AAA, who could have easily shouted for help, thus making AAA's account unconvincing.

We are not persuaded.

(I)t does not follow that because the victim failed to shout for help or struggle against (her) attacker means that she could not have been raped. The 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 each other. And physical resistance need not be established in rape when intimidation is exercised upon the victim and the latter submits herself against her will to the rapist's advances because of xxx the exercise of the moral ascendancy of the rapist over the victim.[106] (Also,) (p)resence of other family members is not a valid defense in rape cases since rape may be carried out in the same room where the family members are staying.[107]

As testified to by AAA, she did not relay the incident to anyone because she was afraid of her father, herein accused-appellant, and she only reported the same when her sister BBB had already caused the incarceration of their father.[108] Behavioral psychology teaches us that, even among adults, people react to similar situations differently, and there is no standard form of human behavioral response when one is confronted with a startling or frightful experience. xxx (It) has (been) repeatedly stated that no standard form of behavior could be anticipated of a rape victim following her defilement xxx.[109]

Further, even accused-appellant could not ascribe any ill motive that could have compelled AAA to charge him

for the crime of qualified rape. He even testified that he and AAA do not have any misunderstanding.[110] Settled is the rule that where no evidence exists to show any convincing reason or improper motive for a witness to falsely testify against an accused, the testimony deserves faith and credit.[111] (N)o young girl would concoct a sordid tale of so serious a crime as rape at the hands of her own father, undergo medical examination, then subject herself to the stigma and embarrassment of a public trial, if her motive were other than a fervent desire to seek justice.[112] “(N)ot even the most ungrateful and resentful daughter would push her own father to the wall as the fall guy in any crime unless the accusation against him is true.”[113]

Accused-appellant contends that although his defense consists of denial and alibi, still, his constitutional presumption of innocence stands when the prosecution has clearly and utterly failed to prove his guilt beyond reasonable doubt.

The contention is utterly devoid of merit.

(M)ere denial, like alibi, is inherently a weak defense and constitutes self-serving negative evidence which cannot be accorded greater evidentiary weight than the declaration of credible witnesses who testify on affirmative matters.[114] It has been held that for the defense of alibi to prosper, the accused must prove the following: (i) that he was present at another place at the time of the perpetration of the crime; and (ii) that it was physically impossible for him to be at the scene of the crime during its commission. Physical impossibility involves the distance and the facility of access between the crime scene and the location of the accused when the crime was committed; the accused must demonstrate that he was so far away and could not have been physically present at the crime scene and its immediate vicinity when the crime was committed.[115]

At first, accused-appellant testified that in July 2005, he was staying at Caingin, Masantol, Pampanga, while his wife and children were staying at Caduang Tete, Macabebe, Pampanga, and that he had a part time job in Bulacan.[116] He also testified that he never saw AAA in July 2005 because she was already living in another house.[117] But he also testified that in July 2005, he was already residing at Caduang Tete, Macabebe, Pampanga, and there were times when they see each other and there were times when they do not because he goes to their residence at Masantol, Pampanga; and that he and AAA saw each other in July 2005. Then, he testified that in 29 July 2005, he was at their house in Masantol, Pampanga.[118] However, accused-appellant failed to establish that it was physically impossible for him to be at the scene of the crime at the time of its commission. In fact, he testified that Masantol and Macabebe were adjacent and that it would only take a few minutes to go from Macabebe to Masantol.[119]

We now review the penalties and damages imposed by the trial court.

In Criminal Case No. 05-3771(M), the trial court imposed upon accused-appellant the indeterminate penalty of six (6) months of *arresto mayor*, as minimum, to six years of *prision correccional*, as maximum and to pay BBB moral damages in the amount of Php5,000.00 and Php2,000.00 for exemplary damages.

We modify.

The penalty for acts of lasciviousness under Article 336 of the Revised Penal Code is *prision correccional* in its full range. Applying the Indeterminate Sentence Law, the minimum of the indeterminate penalty shall be taken from the full range of the penalty next lower in degree, i.e. *arresto mayor*, which ranges from 1 month and 1 day to 6 months. The maximum of the indeterminate penalty shall come from the proper penalty that could be imposed under the Revised Penal Code for Acts of Lasciviousness, which, in this case, absent any aggravating or mitigating circumstance, is the medium period of *prision correccional*, ranging from 2 years, 4 months and 1 day to 4 years and 2 months.[120] While it has been established that accused-appellant is the father of BBB, We could

not consider the relationship as an aggravating circumstance in the instant case, for the same was not alleged in the Information[121] in Criminal Case No. 05-3771(M). Consequently, the xxx circumstance of relationship, even if established during trial, could not affect the criminal penalty of the accused by virtue of its non-allegation in the information.[122] Accordingly, the indeterminate penalty ranging from six (6) months of arresto mayor, as minimum, to four (4) years and two (2) months of prision correccional, as maximum, should be meted upon accused-appellant.

The award xxx of moral damages to (BBB) xxx is appropriate, in the same way that moral damages are awarded to victims of rape even without need of proof because of the presumption that the victim has suffered moral injury, rests on settled jurisprudence. xxx (Also,) (e)xemplary damages should be awarded in order to deter fathers with perverse tendencies and aberrant sexual behavior from preying upon their xxx daughters.[123] In line with prevailing jurisprudence, (this) Court modifies the awarded damages as follows: xxx P30,000.00 as moral damages; and P10,000.00 as exemplary damages xxx.[124] We additionally impose the amount of Php20,000.00 as civil indemnity. Also, all of the aforementioned amounts shall bear legal interest at the rate of 6% per annum from the date of finality of this (decision).[125]

With respect to Criminal Case No. 05-3835(M), the trial court imposed upon accused-appellant the penalty of reclusion perpetua and ordered him to pay AAA, Php75,000.00 as civil indemnity, Php75,000.00 as moral damages, and Php30,000.00 as exemplary damages.

We affirm.

The age of AAA and her relationship to accused-appellant qualifies the rape committed against her in accordance with Article 266-B of the Revised Penal Code. The circumstances of minority and relationship were pleaded in the Information.[126] These facts were also proven with the presentation of the Certificate of Live Birth[127] indicating that AAA was born on 24 January 1989, as such, she was only sixteen (16) years old on the date of the commission of the crime on 29 July 2005, and that accused-appellant is the father of AAA. Such fact was also admitted by the accused-appellant during the trial.[128] (Thus, the trial court correctly imposed the penalty of reclusion perpetua,) in accordance with Section 2 of Republic Act No. 9346 which imposes the penalty of reclusion perpetua in lieu of death, when the law violated makes use of the nomenclature of the penalties of the Revised Penal Code.[129] Section 3 of Republic Act No. 9346 further provides that persons convicted of offenses punished with reclusion perpetua, or whose sentences will be reduced to reclusion perpetua, shall not be eligible for parole under Act No. 4103, otherwise known as Indeterminate Sentence Law, as amended.[130]

In rape cases, the award of civil indemnity is mandatory upon proof of the commission of rape, whereas moral damages are automatically awarded without the need to prove mental and physical suffering. Exemplary damages are also imposed, as example for public good and to protect minors from all forms of sexual abuse.[131] Thus, We affirm the award of Php75,000.00 as civil indemnity, Php75,000.00 as moral damages and Php30,000.00 as exemplary damages in line with recent jurisprudence.[132] (In addition,) an interest of six percent (6%) per annum on all the damages awarded shall be imposed, to be computed from the date of the finality of this judgment until fully paid.[133]

WHEREFORE, premises considered, the appeal is DENIED. The Decision dated 02 October 2013 of the Regional Trial Court, Third Judicial Region, Branch 54, Macabebe, Pampanga in Criminal Case No. 05-3771(M) finding accused-appellant Danilo Sunga y Viray guilty beyond reasonable doubt of the crime of acts of lasciviousness, and Criminal Case No. 05-3835(M) finding accused-appellant Danilo Sunga y Viray guilty beyond reasonable doubt of qualified rape is AFFIRMED with MODIFICATIONS, as follows:

- In Criminal Case No. 05-3771(M), accused-appellant is sentenced to suffer the indeterminate penalty of

imprisonment from six (6) months of *arresto mayor*, as minimum, to four (4) years and two (2) months of *prision correccional*, as maximum; to pay the victim BBB moral damages which is hereby increased to Thirty Thousand Pesos (Php30,000.00), and exemplary damages, to Ten Thousand Pesos (Php10,000.00); and to pay BBB the amount of Twenty Thousand Pesos (Php20,000.00) as civil indemnity, and interest on all damages at the rate of rate of 6% per annum from the date of finality of this Decision until fully paid; and

- In Criminal Case No. 05-3835(M), accused-appellant is sentenced to suffer the penalty of *reclusion perpetua*, without eligibility for parole, and to pay the victim AAA the amount of Seventy Five Thousand Pesos (Php75,000.00) as civil indemnity, Seventy Five Thousand Pesos (Php75,000.00) as moral damages, Thirty Thousand Pesos (Php30,000.00) as exemplary damages, and interest on all damages at the rate of 6% per annum from the date of finality of this Decision until fully paid.

SO ORDERED.

Lazaro-Javier, and Sadang, JJ., concur.

[1] Rollo, pp. 44-58

[2] *Id.* at 58

[3] *Id.* at 31-43

[4] *Id.* at 83-101

[5] *Id.* at 110-113

[6] Per Supreme Court's Resolution dated 19 September 2006 in A.M. No. 04-11-09-SC, as well as the ruling in *People v. Cabalquinto* (G.R. No. 167693, 19 September 2006, 502 SCRA 419), pursuant to Republic Act No. 9262 or the "Anti-Violence Against Women and Their Children Act of 2004" and its implementing rules, the real names of the victims and their immediate family members other than the accused are to be withheld and fictitious initials are to be used instead. The exact addresses of the victims are likewise to be deleted; cf. *People of the Philippines v. Floro Buban Barcelá*, G.R. No. 208760, 23 April 2014

[7] Record [Crim. Case No. 05-3771(M)], p. 2

[8] Record [Crim. Case No. 05-3835(M)], pp. 3-4

[9] Record [Crim. Case No. 05-3771(M)], p. 2

[10] Record [Crim. Case No. 05-3835(M)], p. 3

[11] Record [Crim. Case No. 05-3771(M)], p. 3

[12] *Id.* at 9

[13] *Id.* at 14, 16

[14] *Id.* at 33-34

[15] Record [Crim. Case No. 05-3835(M)], p. 18

[16] *Id.* at 26, 28

[17] *Id.* at 34-35

- [18] TSNs, 15 August 2006, pp. 4-9; 12 September 2006, pp.4- 7
- [19] TSN, 26 September 2006, pp. 4-12
- [20] TSN, 06 March 2007, pp. 4-12
- [21] Record [Crim. Case No. 05-3835(M)], p. 12; sometimes spelled as Chingcuangco in some parts of the record and rollo
- [22] TSN, 29 April 2008, pp. 4-20
- [23] TSNs, 28 October 2008, pp. 3-6; 10 March 2009, pp. 3-10; 20 October 2009, pp. 4-7
- [24] Record [Crim. Case No. 05-3771(M)], p. 119; record [Crim. Case No. 05-3835(M)], p. 106
- [25] TSN, 15 August 2006, pp. 4-9
- [26] TSN, 12 September 2006, pp. 4-5
- [27] Id. at 6
- [28] Id. at 6-7
- [29] TSN, 26 September 2006, p. 4
- [30] Id. at 4-9
- [31] Id. at 9-11
- [32] Id. at 11-12
- [33] TSN, 06 March 2007, pp. 5-9
- [34] Id. at 10
- [35] Id. at 10-11
- [36] Id. at 11-12
- [37] TSN, 29 April 2008, pp. 8-17
- [38] Id. at 18-19
- [39] Id. at 20
- [40] TSN, 28 October 2008, pp. 4-6 CA-G.R. CR-HC No. 06603 Decision 25
- [41] TSN, 10 March 2009, pp. 3-9
- [42] TSN, 20 October 2009, pp. 6-7
- [43] Record [Crim. Case No. 05-3771(M)], pp. 120-121
- [44] Id. at 128
- [45] Id. at 134-136
- [46] Id. at 141;
- [47] TSN, 05 October 2010, pp. 3-5

- [48] Record [Crim. Case No. 05-3835(M)], pp. 128-130
- [49] Id. at 144-147
- [50] Id. at 149
- [51] TSNs, 14 June 2011, pp. 3-6; 21 February 2012, pp. 3-9; 22 May 2012, pp. 3-10
- [52] TSN, 14 June 2011, pp. 3-6
- [53] TSN, 21 February 2012, pp. 3-9
- [54] TSN, 22 May 2012, pp. 3-7
- [55] Id. at 7
- [56] Id. at 10
- [57] Record [Crim. Case No. 05-3771(M)], pp.160-174; record [Crim. Case No. 05-3835(M)], pp. 166-180
- [58] Id. at 176; id. At 182
- [59] Supra note 2
- [60] Record [Crim. Case No. 05-3835(M)], p. 183; record [Crim. Case No. 05-3771(M)], p. 177
- [61] Id. at 185; id. at 179
- [62] Id. at 186; id. at 180
- [63] Rollo, p. 31
- [64] Cf. People of the Philippines v. Rolando Rondina, G.R. No. 207763, 30 June 2014
- [65] Cf. People of the Philippines v. Felimon Patentes y Zamora, G.R. No. 190178, 12 February 2014
- [66] Cf. People of the Philippines v. Gilbert Reyes Wagas, G.R. No. 157943, 04 September 2013
- [67] People of the Philippines v. Armando Dionaldo y Ebron, et al., G.R. No. 207949, 23 July 2014
- [68] People of the Philippines v. Renato Dela Cruz, G.R. No. 192820, 04 June 2014
- [69] People of the Philippines v. Domingo Dominguez, Jr. alias “Sandy”, G.R. No. 180914, 24 November 2010
- [70] TSN, 15 August 2006, p. 4
- [71] Id. at pp. 4-7
- [72] TSN, 06 March 2007, pp. 4-8
- [73] TSN, 21 February 2012, pp. 8-9
- [74] TSN, 22 May 2012, pp. 7-8
- [75] Id. at 7
- [76] Record [Crim. Case No. 05-3771(M)], p. 168
- [77] People of the Philippines v. Floro Buban Barcelá, G.R. No. 208760, 23 April 2014
- [78] People of the Philippines v. Herminigildo B. Tabayan, G.R. No. 190620, 18 June 2014

- [79] Record [Crim. Case No. 05-3835(M)], p. 3
- [80] TSN, 26 September 2006, p.4 CA-G.R. CR-HC No. 06603
- [81] People of the Philippines v. Floro Buban Barcela, *supra*
- [82] Record [Crim. Case No. 05-3835(M)], p. 143
- [83] TSN, 14 June 2011, p. 5
- [84] TSN, 26 September 2006, pp. 4-11
- [85] People of the Philippines v. Joel Dioquino y Garbin, G.R. No. 191390, 02 April 2014
- [86] Record [Crim. Case No. 05-3835(M)], p. 175
- [87] People of the Philippines v. Virgilio Antonio y Rivera, G.R. No. 208623, 23 July 2014
- [88] TSN, 26 September 2006, p. 7
- [89] People of the Philippines v. Hermenigildo Delen y Escobilla, G.R. No. 194446, 21 April 2014
- [90] People of the Philippines v. Jesus Burce, G.R. No. 201732, 26 March 2014
- [91] People of the Philippines v. Oliver A. Buclao, G.R. No. 208173, 11 June 2014
- [92] *Id.*
- [93] Record [Crim. Case No. 05-3835(M)], p. 177
- [94] *Id.* at 12, 136-137
- [95] People of the Philippines v. Gabriel Ducay y Balan, G.R. No. 209590, 19 November 2014
- [96] People of the Philippines v. Valentin Sabal y Parba, Jr., G.R. No. 201861, 02 June 2014, citing *People v. Perez*, G.R. No. 182924, 24 December 2008, 575 SCRA 653, 681
- [97] TSN, 29 April 2008, pp. 12, 18
- [98] Record [Crim. Case No. 05-3835(M)], pp. 12, 136-137
- [99] People of the Philippines v. Bernabe Pareja y Cruz, G.R. No. 202122, 15 January 2014
- [100] *Id.*
- [101] Record [Crim. Case No. 05-3835(M)], p. 179
- [102] TSN, 26 September 2006, pp. 4, 11
- [103] Record [Crim. Case No. 05-3835(M)], p. 9
- [104] TSN, 21 February 2012, pp. 4-5
- [105] People of the Philippines v. Virgilio Antonio y Rivera, *supra*, citing *People v. Laog*, G.R. No. 178321, 05 October 2011, 658 SCRA 654 106 *People of the Philippines v. Renato Besmonte*, G.R. No. 196228, 04 June 2014, citing *People v. Jastiva*, G.R. No. 199268, 12 February 2014
- [107] People of the Philippines v. Oliver A. Buclao, *supra*
- [108] TSN, 26 September 2006, pp. 7-8

- [109] People of the Philippines v. Floro Buban Barcelá, *supra*
- [110] TSN, 21 February 2012, p. 8
- [111] People of the Philippines v. Hermenigildo Delen y Escobilla, *supra*
- [112] People of the Philippines v. Jesus Burce, *supra*
- [113] People of the Philippines v. Oliver A. Buclao, *supra*
- [114] *Id.*
- [115] People of the Philippines v. Renato Besmonte, *supra*
- [116] TSN, 14 June 2011, pp. 4-5
- [117] *Id.* at 6
- [118] TSNs, 21 February 2012, pp. 3-5; 22 May 2012, pp. 3-4
- [119] TSN, 22 May 2012, p. 4
- [120] People of the Philippines v. Bernabe Pareja y Cruz, *supra*
- [121] Record [Crim. Case No. 05-3771(M)], p. 2 CA-G.R. CR-HC No. 06603
- [122] People of the Philippines v. Renato Dadulla y Capanas, G.R. No. 172321, 09 February 2011
- [123] People of the Philippines v. Domingo Dominguez, Jr., alias “Sandy”, *supra*
- [124] People of the Philippines v. Bernabe Pareja y Cruz, *supra*
- [125] *Id.*
- [126] Record [Crim. Case No. 05-3835(M)], p. 3
- [127] *Id.* at 143
- [128] TSN, 14 June 2011, p. 5
- [129] People of the Philippines v. Renato dela Cruz, *supra*
- [130] People of the Philippines v. Renato Besmonte, *supra*
- [131] People of the Philippines v. Oliver A. Buclao, *supra*
- [132] People of the Philippines v. Renato dela Cruz, *supra*
- [133] People of the Philippines v. Virgilio Antonio y Rivera, *supra*

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