

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. MARCIANO ALMAREZ @ “SANOY”, ACCUSED-APPELLANT.

Ponente: DE GUIA-SALVADOR, R., J.

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DE GUIA-SALVADOR, R., J.:

This is an appeal from the 11 November 2011 Decision of the Regional Trial Court of Gumaca, Quezon, Branch 61, in Criminal Case No. 5175-G, finding accused-appellant Marciano Almarez (“appellant”) guilty beyond reasonable doubt of the crime of rape.

THE ANTECEDENTS

In an Information filed on 05 January 1996, appellant was charged with the crime of rape committed against AAA[1], a mentally retarded minor girl, viz.:

“That on or about the 23[rd] day of December 1994, at Barangay [YYY], in the Municipality of Mulanay, Province of Quezon, Philippines and within the jurisdiction of this Honorable Court, the above-named [appellant], armed with a bolo, with lewd design, by means of force and intimidation, did then and there willfully, unlawfully, and feloniously have carnal knowledge of said [AAA], a 16-year old mentally retarded girl, against her will.

Contrary to law. ”

Arraigned on 31 May 2006 with the assistance of a counsel de officio, appellant pleaded “not guilty” to the charge.[2]

During trial, the prosecution presented the testimonies of the victim AAA and her mother MMM. For the defense, only appellant testified.

The Facts

Version of the Prosecution

The Solicitor General summarized the testimonies of the prosecution witnesses in the Appellee’s Brief as follows:

“6. [AAA] is mentally handicapped. Her abnormal behavior has been observed since she was three (3) years old. She suffers convulsions and has difficulties in walking and speaking. On consultation with a doctor from Lucena, it was explained to [AAA's] mother that her daughter has a brain complication. Not surprisingly, [AAA] never attended school.

7. [AAA's] condition is not a secret. Appellant, a neighbor, himself observed that she is 'not normal' '(d)ahil po parang iba ang pag-iisip niya at siya ay hinihimatay.'

8. Testifying with great difficulty, [AAA], testified how she was raped or iniyot by appellant when she was sixteen (16) years old.

9. On December 23, 1994, when the sun was still up, at the kaingin or sagingan more or less [one] half a

kilometer away from the house, of [AAA] in Barangay [YYY], Mulanay, Quezon, appellant ordered [AAA] to lie down and placed his bolo knife or itak in front of her. He then removed her underwear and inserted his penis or 'buto' in her vagina or 'puki.'

10. Appellant's penis was inside the [AAA's] vagina for quite sometime. The latter's vagina hurt when appellant inserted his penis and she bled.

11. After she was raped, [AAA] went home asking for help from [MMM]. [MMM] saw her bleeding and immediately asked what happened.

12. [AAA] ... told [MMM] that she was raped by appellant. [MMM] then brought her to the Municipal Building of Mulanay, where she was attended to by one Dr. Morales. Dr. Morales told [MMM] that [AAA] was 'talagang nakuhaan.'

13. Subsequently, the [MMM] decided to verify where the rape took place. She went to the sagingan where she saw [AAA's] sapin. On December 31, 2009, [AAA] executed a Sinumpaang Salaysay, thumbmarked by her and signed by [MMM]."[3]

Version of the Defense

Appellant sought to establish his defenses of denial and alibi, as well as ill-motive on the part of MMM to falsely accuse him of raping her daughter AAA. The Public Attorney's Office (PAO) summed up appellant's version of the incident, thus:

[Appellant] denied he raped [AAA]. He was in his father's place, when the alleged rape incident happened on December 23, 1994. He knows [AAA] and her family, being the neighbors of his common-law-wife.... He [resides at] his father's house which is about one (1) kilometer away [from AAA's house].... The father of [AAA] was already dead when he got acquainted with her and she lives only with her mother. The case was maliciously filed against him because [AAA's] mother.... has a grudge against him as his common-law wife is the concubine or kabit of [MMM's nephew] ("kabit ng kabit ko"), and [MMM] did not like it that her nephew was fuming mad.

The distance between the house of his father and that of [AAA] could be traversed by walking for less than an hour. [The entire day] of December 23, 1994 [appellant] never left his parent's house...

X X X

X X X

X X X"

THE TRIAL COURT'S DECISION

On 23 May 2012, the trial court promulgated the Decision dated 11 November 2011, finding appellant guilty of raping AAA. The decretal portion of the decision reads:

"WHEREFORE AND IN VIEW OF ALL THE FOREGOING, the court finds [appellant] GUILTY beyond reasonable doubt of rape and he is hereby sentenced to suffer the penalty of RECLUSION PERPETUA, instead of Death, in view of the enactment of Republic Act No. 9346, prohibiting the imposition of the death penalty and to pay the victim the amount of Fifty Thousand Pesos (P50,000.00), as civil indemnity, Fifty Thousand Pesos (P50,000.00), as moral damages, and Thirty Thousand Pesos (P30,000.00), as exemplary damages.

SO ORDERED."

The Issue

Unable to accept the verdict of guilt, appellant is now before this Court, via the present appeal, faulting the trial court as follows:

“THE COURT A QUO GRAVELY ERRIED IN CONVICTING THE ACCUSED-APPELLANT OF THE CRIME CHARGED DESPITE THE PROSECUTIONS' FAILURE TO OVERTHROW THE CONSTITUTIONAL PRESUMPTION OF INNOCENCE IN HIS FAVOR.[4]”

The Court's Ruling

The appeal is bereft of merit.

The crime of rape is defined under Article 266-A, paragraph 1 of the Revised Penal Code, as amended by Republic Act No. 8353, as follows:

ART. 266-A. Rape; When and How Committed. - Rape is committed.

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

a) Through force, threat or intimidation;

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

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

d) When the offended party is under twelve (12) years of age or is demented, even though none of the circumstances mentioned above be present.[5]

The gravamen of the offense of rape is sexual intercourse with a woman against her will or without her consent.[6] The phrase “deprived of reason” in the aforequoted provision refers to mental abnormality, deficiency, or retardation.[7] A mental retardate is not capable of giving her consent to a sexual act. In order to successfully prosecute a crime of rape of a mental retardate, two elements must be established: (1) the mental retardation of the victim, and (2) the sexual congress between the accused and the victim.[8] In this case, the prosecution was able to prove both elements with moral certainty through the credible testimony of the victim.

First element: AAA suffers from mental retardation

Mental retardation[9] is a disorder in which a person’s overall intellectual functioning is well below average, with an intelligence quotient (IQ) of around 70 or less. Individuals suffering from mental retardation also have a significantly impaired ability to cope with common life demands and lack some daily living skills expected of people in their age group and culture. The impairment may interfere with learning, communication, self-care, independent living, social interaction, play, work, and safety.

Mental health clinicians have defined four degrees of severity of mental retardation based on IQ score. These are (1) mild retardation (IQ range 53-68), (2) moderate (IQ range 36-52), (3) severe (IQ range 20-35), and (4) profound (IQ range below 20).[10]

In *People v. Dalandas*,[11] Supreme Court clarified that “clinical evidence is necessary in borderline cases when it is difficult to ascertain whether the victim is of a normal mind or is suffering from a mild mental retardation.” Medical evidence is not a condition sine qua non in all cases of rape or sexual crimes to prove that the victim is a mental retardate or is suffering from mental deficiency or some form of mental disorder.[12] In fact, mental retardation may be established by proof other than clinical evidence, such as by the testimonies of witnesses,[13] and the observation by the trial court.[14]

In *People v. Almacin*,^[15] and *People v. Dumanon*,^[16] no clinical evidence was presented by the prosecution but the mental retardation of the victims were ruled to have been duly established. In *Almacin*, the Supreme Court concluded that the victim was mentally incapable of agreeing or refusing to engage in the sexual intercourse because she was illiterate and unschooled; while in *Dumanon*, the High Court sustained the trial court's observation and conclusion that the victim was a mental retardate based on her physical appearance and on her difficulty to understand and answer the questions during her testimony. Guided by these rulings, We hold that the trial court correctly ruled that AAA is a mental retardate, despite the absence of a clinical evaluation of her mental capacity.

First, the mental retardation of AAA manifested in her outward physical appearance and demeanor, such that the defense counsel made no objection, and the Presiding Judge instantly granted the prosecution's request to be allowed to ask leading questions during AAA's direct examination, thus:

“PROSECUTOR BIGORNIA:

We have another witness, Your Honor, [AAA].

We would like to manifest for the record that the victim in this case [AAA] is a mentally handicapped person. May we ask that the Honorable Court take judicial notice of her demeanor the way she speak [and] her manner..... Considering the condition of this witness may we be allowed to ask leading questions.

ATTY. CABAGUE:

We are amenable, Your Honor.

COURT:

Counsel is allowed to ask leading questions considering the mental defect of the witness.”^[17]

Second, at the time AAA testified on 10 October 2007, she was already 29 years old,^[18] yet she cannot speak clearly (“utal”). Thus, on motion of the prosecution and without any objection from the defense counsel, the trial court allowed her sister to translate her answers during her testimony.^[19]

Third, appellant admitted that AAA is not a normal person. During his cross-examination, appellant made his assessment of AAA's mental condition in this wise:

“Q Did you notice Mr. witness, if there was anything unusual about the condition of [AAA]?

A Yes, maám.

Q What is that observation?

A Hinihimatay po siya. She would faint.

x x x

x x x

x x x

Q

Other than that fainting spell, would you say that [AAA] based on your observation is a normal child?

A

No, she is not normal, maám.

Q

Based on your observations you are saying that [AAA] is not normal?

A

Yes, maám.

Q What is your basis for saying that?

A Dahil po parang iba and pag-iisip niya at siya ay hinihimatay, maám.

Q In your opinion, [AAA] is not normal because of that condition that she did not seem to be in the right mind and also she would faint, is that what you are saying?

A Yes, maám.[20]

Fourth, the credible testimony of MMM on her daughter's mental capacity bolstered the conclusion of the latter's mental retardation.[21] MMM testified as follows:

“Q

Mrs Witness, as the mother of [AAA], what can you say about her condition?

A

[AAA] is abnormal since she was three (3) years old because she suffered convulsion that is why she was not able to go to the school maám.

Q

You mean to say that [AAA] never attended school?

A Yes, Maám. Pilay na siya at di na makapagsalita ng maayos noon.

Q When you say that she is abnormal what do you mean by that?

A Kulang and kanyang pag-iisip.

X X X

X X X

X X X

Q

Mrs. Witness do you know if [AAA] is still suffering from mental handicap up to now?

A

Yes, Maám.

Q

Was [AAA] suffering from that same condition on December 22, 1994?

A Yes, maám.”[22]

In fine, as observed by the trial court and as acknowledged[23] by appellant himself, AAA indeed suffers from mental retardation.

Second element: Appellant had carnal knowledge of AAA

Appellant contends that the prosecution failed to establish his guilt beyond reasonable doubt as it heavily relied on the incredible, incoherent and inconsistent testimony of AAA. He stresses that AAA “does not really know what she was saying while testifying and does not really understand the questions propounded to her.”[24] He points out that AAA was asked leading questions which she mainly answered with a positive answer of “Yes” or “Opo” and was merely coached to pinpoint appellant as the rapist.[25] This was allegedly compounded by AAA's contradictory statement on whether appellant is armed with a bolo when he perpetrated the crime.

Appellant's contentions fail to persuade.

All persons, who can perceived, and perceiving, can make known their perception to others, may be witnesses, except those enumerated under Rule 130 of the Rules of Court to be disqualified.[26] Among the persons disqualified to become witnesses are those whose mental condition, at the time of their testimony, is such that they are incapable of intelligently making their perceptions to others.[27] A mentally retarded person may be a credible witness as mental retardation per se does not affect credibility. The acceptance of her testimony depends on the quality of her perceptions and the manner she can make them known to the court.[28]

The rule is long and well-settled that the findings of the trial court pertaining to the credibility of witnesses are entitled to great weight and respect since it has the unique opportunity to observe their demeanor on the witness stand.[29] Such findings are, in fact, accorded finality,[30] unless there appears in the record some fact or circumstance of weight which the lower court may have overlooked, misunderstood, or misappreciated and which, if properly considered, would alter the results of the case.[31] Far from yielding reasons of such strength or cogency as would warrant a departure from the foregoing principles, however, Our circumspect perusal of the record confirms that despite her mental retardation, AAA testified in a clear, straightforward, and concise manner in recounting how appellant raped her. We therefore sustain the trial court in giving weight to AAA's credible

open court narration of how appellant raped her on 23 December 1994, thus:

“Q Ano ang ginawa sayo ni [appellant]?”

A Iniyot po ako doon.

Q Ano ang ginawa sa katawan mo ng iniyot ka?

A Dito po. (the witness is pointing to her vagina.)

Q Ano ang pinag-iyot sa iyo?

A Buto[32] po.

Q Ano ang hitsura ng buto, tanda mo kung ano ang hitsura ng buto?

A Kuwan po, ay.

Q Ipinasok niya ang buto?

A Oo.

Q Saan ipinasok ang buto?

A Sa ilalim po.

Q Sa ilalim ng ano?

A Sa ilalim ng puki.

Q Nasaan ang puki mo?

A [Narito] po. (witness is pointing to her vagina).

x x x

x x x

x x x

Q Masakit ba ng ipinasok niya?

A Oo.

Q Gusto mo ng ipinasok niya o ayaw mo?

A Masakit.

Q Humingi ka ng tulong?

A Opo.

Q Kanino ka humingi ng tulong?

A Sa Ina ko po.

x x x

x x x

x x x

Q

Si [appellant] ba ang nag-iyot sa iyo?

A

Oo.

Q

Tinanggal ba niya ang panty mo?

A

Oo.

Q

Siya ang nagtanggal ng panty mo?

A

Oo.

Q

Saan ka iniyot sa sagingan, sa kaingin?

A

Opo.

x x x

x x x

x x x

Q

Dinugo ka ba?

A

Oo.

Q

Saan galing ang dugo?

A

Dito po. (witness is pointing to her legs.)

x x x

x x x

x x x

Q

Meron bang ibang tao [na] nang-iyot sa iyo, sigurado ka [na] si [appellant] ang nag-iyot sa iyo?

A

Oo.” [33]

It bears emphasis that leading questions in the direct examination are allowed when there is difficulty in getting direct and intelligible answers from a witness who is ignorant, or is of feeble mind, pursuant to Section 10, Rule 132 of the Rules of Court. In this case, the prosecutor manifested and sought permission to ask leading questions in his direct examination of AAA. The defense was “amenable”[34] to the manifestation and the Presiding Judge gave her permission considering the mental defect of the witness.[35] Having so agreed that AAA is among those witnesses qualified to be asked leading questions during direct examination, appellant is now estopped from interposing any objection thereto.

On the alleged inconsistency of AAA on whether appellant was armed with a bolo at the time of the rape incident, the trial court correctly ruled[36] and the Solicitor General aptly argued[37] that such lone contradictory statement of AAA is so inarguably minor and insignificant as to affect her credibility. Suffice it to stress that such inconsistency pertains to a minor detail which does not actually touch upon the central fact of the crime and does not impair the witness' credibility.[38] Instead of weakening a witness' testimony, such inconsistency tends to strengthen his credibility, because it discounts the possibility of such testimony being rehearsed.[39]

Anent the failure of the physician who examined AAA to testify in court, this will not weaken the case for the prosecution. The medical examination of the victim, as well as the medical certificate, are merely corroborative in character and are not indispensable elements for conviction in rape.[40] This is because the credible disclosure of a minor that the accused raped her is the most important proof of the sexual abuse.[41]

As to appellant's defenses of denial and alibi, they cannot prevail over AAA's positive identification of the former as her ravisher. Mere denial of involvement in a crime cannot take precedence over the positive testimony of the offended party. Besides, unsubstantiated by clear and convincing evidence, appellant's denial cannot be given greater evidentiary value than the credible and straightforward testimony of the victim who testified on affirmative matters.[42]

Neither will appellant's alibi that he was at the house of his father at the time of the rape incident prevail over the positive and categorical assertion of AAA. For alibi to prosper, it is incumbent upon the appellant to prove that (1) he was not at the crime scene at the time the offense was committed; and (2) it was physically impossible for him to be at the scene of the crime at the time of its commission.[43] Physical impossibility refers to distance and the facility of access between the crime scene and the location of the accused when the crime was committed.[44] Having admitted that he was merely one (1) kilometer away therefrom[45] and he could reach the crime scene on foot 30 minutes, and in 5 minutes if on board a jeepney,[46] appellant failed to demonstrate the physical impossibility of his being at the scene of the crime at the time of its commission. Moreover, in the absence of credible corroboration from independent witnesses,[47] appellant's alibi cannot be sustained as it entirely depends on his self-serving assertion.

In a further effort to exculpate himself, appellant also asserts that MMM fabricated the rape accusation against him out of resentment for his being rival of MMM's nephew over the amorous affection of a certain Merlie Ramos.[48] We reject such assertion for no mother in her right mind would subject her child to the humiliation, disgrace, and trauma attendant to the prosecution of rape cases, unless she was motivated by her desire to incarcerate the person for her child's defilement.[49] It is highly inconceivable that a mother would willfully and deliberately corrupt the innocent mind of her young daughter and put into her lips the lewd description of a carnal act to justify a personal grudge or anger[50] against appellant. And, when there is no evidence to show any dubious reason or improper motive for a prosecution witness, like MMM, to testify falsely against an accused, her testimony is worthy of full faith and credit.[51]

CRIMINAL AND CIVIL LIABILITY

Article 266-B, paragraph 1 of the RPC, as amended by R.A. 8353, punishes rape of a mental retardate with reclusion perpetua. While it correctly sentenced appellant to suffer such penalty, the trial court failed to take into account that under Section 3 of Republic Act No. 9346, "persons convicted with reclusion perpetua ... shall not be eligible for parole under Act No. 4103, otherwise known as the Indeterminate Sentence Law, as amended." [52] Hence, a modification of the penalty is in order to disqualify appellant from availing the benefits of parole.

Even as these matters will not warrant further modification of the penalty, it bears stressing, nonetheless, that the trial court erred in appreciating AAA's minority on the strength of her mother's testimony alone, and in

considering as an aggravating circumstance appellant's admitted knowledge of the mental disability of AAA at the time he raped the victim,[53] despite the absence of any allegation to the effect in the information.

The Supreme Court laid down in *People v. Pruna*[54] the guidelines in appreciating age, either as an element of the crime or as a qualifying circumstance, thus:

“1. The best evidence to prove the age of the offended party is an original or certified true copy of the certificate of live birth of such party.

2. In the absence of a certificate of live birth, similar authentic documents such as baptismal certificate and school records which show the date of birth of the victim would suffice to prove age.

3. If the certificate of live birth or authentic document is shown to have been lost or destroyed or otherwise unavailable, the testimony, if clear and credible, of the victim's mother or a member of the family either by affinity or consanguinity who is qualified to testify on matters respecting pedigree such as the exact age or date of birth of the offended party pursuant to Section 40, Rule 130 of the Rules on Evidence shall be sufficient under the following circumstances:

- If the victim is alleged to be below 3 years of age and what is sought to be proved is that she is less than 7 years old;

- If the victim is alleged to be below 7 years of age and what is sought to be proved is that she is less than 12 years old;

- If the victim is alleged to be below 12 years of age and what is sought to be proved is that she is less than 18 years old.

4. In the absence of a certificate of live birth, authentic document, or the testimony of the victim's mother or relatives concerning the victim's age, the complainant's testimony will suffice provided that it is expressly and clearly admitted by the accused.

5. It is the prosecution that has the burden of proving the age of the offended party. The failure of the accused to object to the testimonial evidence regarding age shall not be taken against him.”

In the present case, the prosecution failed to establish the age of AAA in accordance with the guidelines above by first showing that other authentic documents, such as baptismal certificate, was lost or destroyed or otherwise unavailable, without the fault of the prosecution before presenting MMM to testify on her daughter's age.[55]

As to the aggravating circumstance that the offender knew of the mental disability of the offended party at the time of the commission of the crime, such cannot be appreciated against appellant in the absence of any allegation to the effect in the Information. Aggravating or qualifying circumstance shall not be appreciated unless alleged in the Information[56] as required under Sections 8 and 9, Rule 110 of the Rules of Court.[57] A contrary ruling would result in a denial of the right of the accused to be informed of the charges against him, and hence a denial of due process.[58]

On appellant's civil liability, the trial court correctly awarded in favor of AAA civil indemnity and moral damages of Php50,000.00 each. In rape cases, civil indemnity is mandatorily awarded upon the finding of the fact of rape,[59] while moral damages are awarded pursuant to Article 2219 of the Civil Code without need of proof other than the fact of rape because it is assumed that the victim has suffered moral injuries entitling her to such an award.[60]

Intended to serve as a deterrent to serious wrongdoings, and as a vindication of undue sufferings and wanton invasion of the rights of an injured or a punishment for those guilty of outrageous conduct,[61] exemplary damages can be awarded, not only under Article 2230[62] of the Civil Code where an aggravating circumstance attended the commission of the crime, but also pursuant to Article 2229[63] of the same Code, where the circumstances of the case show the highly reprehensible or outrageous conduct of the offender.[64] Being downright reprehensible and outrageous, carnal knowledge of a mentally retarded woman justifies the award of exemplary damages. We therefore sustain the trial court's award of exemplary damages in the amount of Php 30,000.00 in favor of AAA.

Finally, the awarded civil indemnity, moral and exemplary damages shall earn interest at the legal rate of 6% per annum from the date of finality of this judgment until fully paid.[65]

WHEREFORE, the appealed Decision dated 11 November 2011 is AFFIRMED with the MODIFICATION declaring that appellant Marciano Almarez @ "Sanoy" is not eligible for parole, and that the award of damages in favor of the rape victim shall earn interest at the legal rate of 6% per annum reckoned from the finality of this judgment until fully paid.

SO ORDERED.

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

Garcia, R.R., and Bueser, D.Q., JJ., concur.

[1] The Supreme Court in *People v. Cabalquinto*, G.R. No. 167693, September 19, 2006, 502 SCRA 419, instructed that the real name of the rape victim should be withheld. Fictitious initials will be used to represent her, and no information tending to establish or compromise her identity and her immediate family member/s shall be disclosed.

[2] Records, p. 24

[3] Rollo, pp. 138-139. Citations omitted.

[4] Rollo, p. 104

[5] Emphasis supplied.

[6] *People v. Taguilid*, G.R. No. 181544, 11 April 2012

[7] *Id.*, citing *People v. Reyes*, 315 SCRA 563, 577; *People v. Andaya*, G.R. No. 126545, April 21, 1999, 306 SCRA 202; *People v. Guerrero*, 242 SCRA 606; and *People v. Nguyen Dinh Nhan*, 200 SCRA 292

[8] *People v. Magabo*, G.R. No. 139471, January 23, 2001, 350 SCRA 126, cited in *People v. Butiong*, *supra*.

[9] Defined in the Merriam- Webster 11[th] Collegiate Dictionary as the "sub-average intellectual ability equivalent to or less than an IQ of 70 that is accompanied by significant deficits in abilities (as in communication or self-care) necessary for independent daily functioning, is present from birth or infancy, and is manifested especially by delayed or abnormal development, by learning difficulties, and by problems in social adjustment".

- [10] People vs. Butiong, G.R. No. 168932, 19 October 2011
- [11] Id., 394 SCRA 433
- [12] People v. Acero, G.R. Nos. 146690-91, 17 March 2004, citing People v. Dumanon, G.R. No. 123096, December 18, 2000, 348 SCRA 461
- [13] People vs. Limio, 429 SCRA 597 (2004)
- [14] People vs. Mario Dumanon, et al., 348 SCRA 461 (2000)
- [15] G.R. No. 113253, 19 February 1999, 303 SCRA 399
- [16] G.R. No. 123096, December 18, 2000, 348 SCRA 461
- [17] TSN, 10 October 2007, pp. 16-17
- [18] TSN, 10 October 2007, p. 17
- [19] TSN, 10 October 2007, p. 18
- [20] TSN, 04 February 2009, pp. 04-05
- [21] People v. Dalandas, 442 Phil. 688 (2002) citing People v. Dumanon, 401 Phil. 658 (2000)
- [22] TSN, 10 October 2007, p. 04
- [23] TSN, 04 February 2009, pp. 04-05
- [24] Rollo, pp. 104
- [25] Rollo, pp. 104-105
- [26] Section 20, Rule 130, Rules of Court
- [27] Section 21(a), Rule 130, Rules of Court
- [28] Id.
- [29] People vs. Suarez, G.R. No. 153573-76, April 15, 2005
- [30] People vs. Iglesia, 365 SCRA 156
- [31] People vs. Marino, G.R. No. 168693, June 19, 2009
- [32] The vernacular word for “penis.”
- [33] TSN, 10 October 2007, pp. 18-21
- [34] TSN, 10 October 2007, pp. 16-17
- [35] Id.
- [36] Page 12 of the appealed Decision
- [37] Rollo, pp. 149-150
- [38] People v. Tion, 608 SCRA 299 (2009)
- [39] People vs. Lim, supra

- [40] *People v. Ortega*, G.R. No. 186235, 25 January 2012; *People v. Dion*, G.R. No. 181035, 4 July 2011
- [41] *People v. Amistoso*, G.R. No. 201447, 09 January 2013; *People v. Cabungan*, G.R. No. 189355, 23 January 2013
- [42] *People vs. An*, G.R. No. 169870, 04 August 2009
- [43] *People vs. Manalili*, G.R. No. 191253, 28 August 2013, citing *People vs. Flora*, 389 Phil. 601
- [44] *People vs. Bravo*, G.R. No. 185282, citing *People vs. Jacinto*, G.R. No. 182239, 16 March 2011, 645 SCRA 590, citing *People vs. Trayco*, G.R. No. 171313, 14 August 2009, 596 SCRA 233
- [45] TSN, 09 October 2008, p. 10.
- [46] TSN, 04 February 2009, pp. 08-09.
- [47] *People vs. Lagman*, G.R. No. 197807, 16 April 2012; see *Escamilla vs. People*, G.R. No. 188551, 13 February 2013.
- [48] TSN, 09 October 2008, p. 07-08.
- [49] *People vs. Manalili*, G.R. No. 191253, 28 August 2013, citing *People vs. Lomerio*, 383 Phil. 434, 452 (2000), and *People vs. Tuazon*, 563 Phil. 74, 88 (2007) .
- [50] *Id.*
- [51] *People vs. Gallego*, G.R. No. 130603; *People vs. Aleta*, G.R. No. 179708, April 16, 2009 citing *People vs. Comiling*, G.R. No. 141405, March 4, 2004, 424 SCRA 698, 721.
- [52] *People vs. Castro*, G.R. No. 188901, 15 December 2010.
- [53] Article 266-B, paragraph 5, sub-paragraph 10 of the RPC
- [54] G.R. No. 138471, 10 October 2002. Cited in *People vs. Flores*, G.R. No. 177355, 15 December 2010; *People vs. Ogarte*, G.R. No. 182690, 30 May 2011; and *People vs. Lupac*, G .R. No. 182230, 12 September 2012.
- [55] In *People vs. Alejo*, G.R. No. 149370, 23 September 2003, no birth certificate or any similar authentic document was presented and offered in evidence to prove the rape victim's age. Noting that no evidence that said certificate of birth was lost or destroyed or was unavailable without the fault of the prosecution, the Supreme Court ruled that the testimony of the rape victim, corroborated by her mother, is not sufficient proof of minority.
- [56] *People vs. Rebucan*, G.R. No. 182551, 27 July 2011.
- [57] SEC. 8. Designation of the offense. - The complaint or information shall ... aver the acts or omissions constituting the offense, and specify its qualifying and aggravating circumstances. If there is no designation of the offense, reference shall be made to the section or subsection of the statute punishing it.
- SEC. 9. Cause of the accusation. - The acts or omissions complained of as constituting ... the qualifying and aggravating circumstances must be stated in ordinary and concise language and not necessarily in the language used in the statute but in terms sufficient to enable a person of common understanding to know what offense is being charged as well as its qualifying and aggravating circumstances and for the court to pronounce judgment.
- [58] *Dela Paz vs. People*, G.R. No. 177294, 19 February 2008.
- [59] *People vs. Tamayo*, G.R. No. 188855, 08 December 2010, citing *People vs. Cadap*, G.R. No. 190633, 5 July 2010.

[60] People vs. Tabio, G.R. No. 179477, 06 February 2008, citing People vs. Pagsanjan, 442 Phil. 667 (2002).

[61] People vs. Laog, G.R. No. 178321, 05 October 2011, quoting People vs. Catubig, G.R. No. 137842, August 23, 2001, 363 SCRA 621.

[62] Art. 2230. In criminal offenses, exemplary damages as a part of the civil liability may be imposed when the crime was committed with one or more aggravating circumstances. Such damages are separate and distinct from fines and shall be paid to the offended party.

[63] Art. 2229. Exemplary or corrective damages are imposed, by way of example or correction for the public good, in addition to the moral, temperate, liquidated or compensatory damages.

[64] People v. Laog, *supra*.

[65] People v. Vitero, G.R. No. 175327, 03 April 2013.

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