

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. CARLITO ROSARE, ACCUSED-APPELLANT.

G.R. No. 118823. November 19, 1996

Ponente: REGALADO, J.

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REGALADO, J.:

In an information filed on June 22, 1992, with the Regional Trial Court, Branch 5, Legazpi City, herein accused-appellant Carlito Rosare, alias "Lit", was charged with having raped Rosalina Orubia, a 30 year old mental retardate with the mental capacity of an eight or nine-year old child, allegedly committed as follows:

"That on or about the 11th day of May, 1992, in the City of Legazpi, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design, did then and there wilfully, unlawfully and feloniously and by means of force, have carnal knowledge of one ROSALINA ORUBIA against her will and without her consent, to her damage and prejudice.

CONTRARY TO LAW."[1]

The facts are succinctly and correctly summarized in the Brief for Appellee filed by the Solicitor General, thus:

"The victim Rosalina Orubia is a person with mild mental retardation. Even at the age of thirty (30) when the rape incident transpired, her mental capacity is similar to that of an eight (8) or nine (9) year old child. She has such a poor learning capacity with an I.Q. ranging from fifty (50) to seventy (70). She was only able to pass and finish Grades I to VI because her teachers took pity on her. Although she can perform some minor household chores and run simple errands, she cannot be trusted to perform more complicated tasks or to ride alone in a public transportation. However, despite her mild retardation, the victim is capable of telling the truth and narrating in detail, incidents as they transpired (tsn., Dr. C. Belmonte, Mar. 2, 1994, pp. 6-13; Exhs. 'D' to 'D-1').

On May 11, 1992, at about 6:00 p.m., the victim was in her house, located at Barangay San Francisco, Legazpi City. Suddenly, appellant, who also happens to be her cousin (as appellant's mother is the sister of the victim's father), pulled (ginuyod) and dragged her towards the cogonal area where she was stripped naked (tsn., R. Orubia, April 6, 1994, pp. 5-6).

After stripping the victim naked, appellant removed his pants and underwear and placed himself on top of her. He inserted his penis in her vagina, causing the victim to feel pain and discomfort. After doing the pumping motion, he terminated the sexual intercourse and stood up. The victim likewise stood up, put on her clothes and went home. She did not shout, cry out, or run away during the ordeal, as she was afraid of appellant who threatened to kill her if she did so (tsn., R. Orubia, April 6, 1994, pp. 6-9).

When the victim went home, she told her parents about the rape incident. Her parents took her to the office of the Barangay Captain. In turn, the latter told them to go to the Police Headquarters to file the necessary complaint (tsn., R. Orubia, April 6, 1994, pp. 9-10; tsn., A. Orubia, Feb. 23, 1994, pp. 5-9; Exhs. 'A' to 'A-3'; tsn., SPO4 Morano, April 18, 1994, pp. 3-4; Exhs. 'E' to 'E-1').

Thereafter, the police advised them to go to the City Health Office to have the victim examine. Dr. Sarah Vasquez issued a medico-legal certificate dated May 14, 1992 after conducting a gynecologic examination on the victim. Her findings are the following: 'Hymenal laceration at 6 o'clock and 7 o'clock'. In layman's terms, there was hymenal laceration due to the penetration of the penis in the vagina (tsn., Dr. S. Vasquez, Mar. 4, 1994, pp. 19-22; Exh. 'B')."[2]

On December 29, 1994, the trial court rendered judgment[3] finding herein appellant guilty of the crime of statutory rape as defined under Article 335(3) of the Revised Penal Code and sentencing him to suffer the penalty of reclusion perpetua with the accessory penalties thereof and to pay the complainant, Rosalina Orubia, P50,000.00 as moral damages, as well as the costs.

Hence, this appeal, on the lone assignment of error that the court a quo erred in convicting appellant of the crime charged despite the fact that the prosecution failed to prove his guilt beyond reasonable doubt. He also contends that the information filed against him alleges carnal knowledge through force, whereas his conviction was based on the finding that the victim is a mental retardate which fact is not alleged in the information nor sufficiently established by substantial evidence. Furthermore, he insists that the victim's testimony is replete with inconsistencies and facts which are not in accord with human nature and experience.

Appellant contends that he cannot be convicted of statutory rape because the fact that the victim was a mental retardate was never alleged in the information and, absent this element, the acts charged negate the commission of the offense for which he was convicted by the lower court.

Pursuant to Section 8, Rule 112 of the Rules of Court, we have decided to motu proprio take cognizance of the resolution issued by the investigating prosecutor in I.S. No. 92-0197 dated June 2, 1992, which formed the basis of and a copy of which was attached to the information for rape filed against herein appellant. Therein, it is clearly stated that the offended party is suffering from mental retardation. We hold, therefore, that this should be deemed a substantial compliance with the constitutional mandate that an accused be informed of the nature of the charge against him. More importantly, appellant cannot feign ignorance of the victim's mental condition considering that they are first cousins and very close.[4] In their association, aside from the fact that appellant lives only around half a kilometer away from the house of the victim.[5] The element of surprise on the part of the defense can definitely not be invoked in this case, hence it cannot be said that appellant was in any way deprived of the opportunity to adequately prepare for his defense.

In the case of *Commonwealth vs. Stephens*,[6] the issue involved was whether the carnal knowledge of a woman who was insane at the time of the commission of the act constitutes rape where there is no proof that the act was accomplished with physical force and such insanity was not alleged in the information. The court held that:

"Appellant also contends that there cannot be a conviction because the indictment charged the commission of the act forcibly and against the will of the alleged victim, while the evidence at most proved carnal knowledge of a woman who was insane. There is no merit in this objection. x x x

Common-law rape may be committed in one of several ways, and it is not necessary to set out in the indictment the means or the method employed. It was not required that the indictment allege that the victim was insane and incapable of giving her conscious consent. A forcible ravishment is one done against a woman's will; if it is done against her will, it is of necessity without her consent; if she is insane or too weak of mind to give a rational consent, then it follows that she has been forcibly ravished. x x x

x x x (C)arnal knowledge of an insane woman, knowing her to be insane, is rape. There is a lack of capacity to consent, and it is presumed that the act was done without her consent, hence it is against the female's will; the force required may be in the wrongful act itself. It follows that such act is done 'forcibly and against her will.' In an indictment the office of the words 'against her will' is merely to negative consent." (Italics supplied)

Moreover, there exists ample and convincing proof to show that the victim is a mental retardate, as may be gleaned from the following facts:

1. The victim was basically asked purely leading questions on direct examination by the fiscal, without any objection from the defense counsel, and also when further questioned by the court. Apparently, she could answer only leading questions.
2. There was no question raised about complainant's mental retardation. Her deficient mentality stuck out like a sore thumb at the center. Her behavior as a mental retardate was so obvious that even the investigating fiscal, who is not a man of science,[7] was able to observe it during the preliminary investigation and which thereby prompted him to recommend the victim for psychiatric examination.
3. In the victim's own testimony, she was spanked by her mother when she returned home on the night of the incident. Bearing in mind that the victim was already 30 years of age at that time, such form of punishment normally inflicted on small children is a mute but eloquent witness to the blatant reality that she is not in a normal mental state or level.
4. Appellant was definitely no stranger to complainant Rosalina Orubia. She is his first cousin and his house is only a few meters away from where she lives. It would have been quite impossible for him not to have known or at least heard about the victim's mental condition. It is not far-fetched to conclude that it was precisely his knowledge that the victim is a mental retardate which emboldened him to commit the offense.
5. An expert witness, Dr. Chona Belmonte, testified and confirmed that the victim is a mental retardate based on the psychiatric examination she conducted on her.

It is argued by appellant that since the victim was not subjected to a series of psychological and other related tests, and the doctor who conducted a preliminary examination on the victim failed to make an official report but merely issued an initial certification about her condition, there is nothing to support the findings of the trial court that the victim is a mental retardate. We disagree.

Prosecution witness Dr. Chona Belmonte, who was admitted by appellant to be an expert witness, testified that the initial examination she conducted on the victim constituted sufficient basis to conclude that the latter is a mental retardate with a mental capacity of a child between eight and nine years of age. She explained that during the examination, she observed that the victim's performance was really compatible with that of a person with mild mental retardation. This, together with the other circumstances obtaining in this case, is considerably adequate to prove the mental condition of complainant.

The victim's straightforward, consistent and unwavering testimony is equally revealing. Witness these exchanges:

"ASST. CITY PROS. RUBIO:

Q:

Do you know Carlos Rosare?

A:

Yes, sir.

Q:

Why do you know him?

A:

His mother is the sister of my father.

Q:

Now, if this Carlos Rosare is around, will you please point to him?

A:

Yes, sir.

Q:

Will you point to him?

A:

That man, sir. (witness pointed to a man seated inside the courtroom, who when asked of his name answered, Carlito Rosare). On May 11, 1992, more or less 6:00 p.m. where were you?

A:

In my house.

Q:

Where is your house located?

A:

At Barangay San Francisco, Legazpi City.

Q:

While there at your house on said time, do you recall of (sic) any unusual incident?

A:

Yes, sir.

Q:

What was that?

A:

I was pulled (ginuyod) by Carlito.

Q:

To where? To what place were you dragged?

A:

Towards the cogonal area.

Q:

Were you able to reach that cogonal area?

A:

Yes, sir.

Q:

Upon reaching that place, what did the accused or Carlito Rosare do?

A:

Carlito stripped me naked.

Q:

After you were stripped naked, what did he do next?

A:

He removed his pants.

Q:

What about his brief? Did he remove the same?

A:

Yes, sir.

Q:

Now after he removed his pants together with his brief, what did he do next?

A:

He placed himself on top of me.

x x x

Q:

After he placed himself on top of you, what did he do next?

A:

He inserted his penis inside my vagina.

Q:

What did you feel when he inserted his private organ into yours?

A:

Painful.

Q:

For how long did he stay on top of you?

A:

In a short time.

Q:

Now, after he was through with having - ah or after the sexual intercourse, what did he do next?

A:

He made in and out of his organ (sic)

Q:

Now, after that, what did he do next?

A:

He stood up.

Q:

And after he stood up, what did he do next?

A:

He put on his pants.

COURT:

Q:

What about you? What did you do when he stood up?

A:

I dressed up also.

Q:

After both of you were dressed up, where did you and Carlito go?

A:

I went home and Carlito went home also.

ASST. CITY PROS. RUBIO: (continuing)

Q:

Now, you said you were dragged.

ATTY. GOMEZ:

Misleading, Your Honor. The witness testified that the she was pulled, not dragged.

COURT:

Sustained.

ASST. CITY PROS. RUBIO:

Q:

You said that you were pulled by Carlito Rosare at the cogonal area. Why did you not shout?

A:

I was afraid.

Q:

Why were you afraid?

A:

He threatened me.

Q:

With what?

A:

He will kill me if I shout.

Q:

You also claimed that Carlito Rosare removed your skirt and panty at the cogonal area and thereafter removed his pants and brief. While Carlito Rosare was removing his pants and brief, why did you not run away?

A:

I was afraid."[8]

On cross-examination, complainant Rosalina Orubia remained steadfast in her testimony:

"ATTY. GOMEZ:

Q:

Now, when you were pulled towards that cogonal area, you said you were stripped of your dress. How did Carlito Rosare remove your dress?

(Witness has no answer)

COURT:

Q:

Were you the one who removed your clothes?

A:

It was Carlito Rosare who remove my clothes.

ATTY. GOMEZ: (continuing)

Q:

Carlito removed your clothes by using his two hands?

A:

Yes, sir.

Q:

And after that you lie (sic) down of course, is it not?

A:

No, sir.

Q:

You waited for Carlito to remove his pants?

A:

Yes sir.

Q:

And that was the time that you lie (sic) down when he removed his pants?

A:

Yes, sir."[9]

On further questions of the trial court, the victim continued to narrate her ordeal with the same innocent simplicity and consistency, to wit:

"Q:

On May 11, 1992, was that the first time that you had sexual intercourse with Carlito Rosare?

A:

Yes sir.

Q:

Before that, did Carlito make an intimation of any linking to you?

A:

No, sir.

Q:

What did he tell you, if any, when you were pulled at the cogonal area?

A:

None, sir.

Q:

Now, you said that when Carlito Rosare was removing his pants, were you already naked lying down?

A:

Not yet, sir.

Q:

But you were naked already?

A:

Yes, your Honor.

Q:

Standing?

A:

Yes, Your Honor.

Q:

In front of him?

A:

Yes, Your Honor.

Q:

While he was removing his pants, why did you not run away?

A:

I was afraid.

Q:

What were you afraid of?

A:

He told me that he's going to kill me.

Q:

When did he tell you that?

A:

When he was stripping me naked.

Q:

What did you feel when he told you that he's going to kill you?

A:

I was afraid,"[10]

A witness who testifies in a categorical, straightforward, spontaneous and frank manner and remains consistent is a credible witness. The candid and unwavering narration by the victim here of how she was raped, as borne out by the records and the transcript of stenographic notes, bears the earmarks of credibility. We are satisfied that Rosalina Orubia, the hapless complainant, is a credible witness and that her testimony is worthy of judicial acceptance.[11]

Appellant faults the trial court for giving full faith and credence to the testimony of the victim, theorizing that the same is inconsistent with human nature and experience in that the victim failed to make an outcry despite the fact that her siblings were inside their house which was only ten meters away from the scene of the crime; she did not answer when she heard her mother calling, which could have deterred the commission of the act; she acted normally immediately after and despite her alleged ravishment; and it was never shown that the victim suffered

from shock, bleeding or pain. Furthermore, the victim admitted during her cross-examination that her mother constantly discussed the incident with her and even instructed her on what to say in court.

We once again reiterate the oft-repeated holding that not every witness to or victim of a crime can be expected to act reasonably and conformably to the usual expectations of everyone. People may react differently to the same situation. One person's spontaneous, or unthinking or even instinctive, response to a horrible and repulsive stimulus may be aggression, while another's may be cold indifference.[12] Yet, it can never be successfully argued that the latter are any less sexual victims than the former.[13]

The reaction of the unfortunate Rosalina Orubia, who has the mentality of an eight or nine-year old child, is to be expected from a child of such tender years. She lost no time in telling her mother about what happened immediately upon reaching home. The records affirm that she instinctively narrated her ordeal to her mother, and ultimately to the court.

Her ingenuous narration before the court below of when and how appellant ravished her was so clear and convincing as to leave no doubt that it was a contrived or exaggerated story. Verily, the court a quo was correct and justified in believing her. Courts usually lend credence to testimonies of young girls, especially where the established facts indubitably point to their having been sexually assaulted. Besides, it is inconceivable that a young girl would invent such a sordid tale of her being defiled by the accused unless it was the truth. Time and again, this Court has held that when an alleged victim of rape says that she was violated, she says in effect, all that is necessary to show that rape has been inflicted on her and so long as her testimony meets the tests of credibility, the accused may be convicted on the basis thereof.[14]

As insightfully observed by the Solicitor General:

"Given the low I.Q. of the victim, it is impossible to believe that she could have fabricated her charges against appellant. She definitely lacked the gift of articulation and inventiveness. Even with intense coaching, assuming this happened as appellant insists that the victim's mother merely coached her on what to say in court (pp. 6-7, Appellant's Brief), on the witness stand where she was alone, it would eventually show with her testimony falling irretrievable pieces. But this did not happen. During her testimony, she proceeded, though with much difficulty, to describe the sexual assault in such a detailed manner (tsn., R. Orubia, Apr. 6, 1994). Certainly, the victim's testimony deserves utmost credit." [15]

Appellant then digresses to impute an existing old grudge between his parents and those of the victim as the reason behind the filing of the present case against him. He avers that Rosalina's mother, who is the sister of appellant's father, got angry when their father left his properties to herein appellant's father. This contention is baseless.

It is inconceivable that a mother would draw her daughter, a mental retardate at that, into a rape scam with all its attendant scandal and humiliation just because of a supposed dispute over property. No mother in her right mind could possibly wish to stamp her daughter falsely with the stigma that follows a heinous crime that is rape.[16] And considering that in this case the victim is suffering from a mental abnormality, we cannot fathom how Rosalina's mother could be so heartless as to expose her daughter to public ridicule just get even with the family of appellant. That would be senseless truculence at its peak. More importantly, it bears emphasis that the alleged contention between the two families arose way back in 1981,[17] hence, it is quite incomprehensible how any alleged intention to avenge an old grudge would materialize only in 1992, or after more than ten years.

In the end, appellant could only offer an alibi, alleging that on the date and time of the incident, he was in Naga City where he worked as a helper in the gravel and sand business of his employer, Jun Evasco. He claims that on May 11, 1992, at around 11:30 in the morning, he was at his house in San Francisco, Legazpi City and that after

eating lunch, he proceeded to San Francisco proper to cast his vote. Thereafter, he took a bus and went back to Naga City where he arrived at 5:30 in the afternoon. He asserts that he was in a hurry to go back to Naga City that afternoon because they had to make a trip to Manila the following day. His testimony was sought to be corroborated by a former household helper in the house of Jun Evasco.

A cursory appraisal of the testimonies of appellant and his witness leaves much to be desired therefrom. Appellant himself was very exact whenever there was any reference made with respect to time. Thus, he vividly recalled that he arrived in San Francisco, Legazpi City at 11:30 A.M., cast his vote at 12:30 p.m., Took a bus for Naga City at 2:45 P. M., arrived in Naga City at 5:20 P.M., and took his supper at 7:00 P.M. But, irony of ironies, he conveniently forgot the date when he left for Manila which was only supposed to be on the day following the date of the incident, and yet he surprisingly remembered that on the day they were supposed to leave for Manila, he woke up at 5:30 and they left at 7:00 in the morning.

The testimony of his corroborating witness, Maria Theresa Odilla, did not fare any better. Worse, she displayed a suspiciously uncanny ability to recall with precision even the minutest details of the events as they happened on that fateful day. This witness testified that she was sure that appellant was in the house of Jun Evasco, their employer, in Naga City between 5:00 and 6:00 P.M. of May 11, 1992 because she had a wristwatch; that her co-employee, a certain Minda Medalla, was then cleaning near the sala, while appellant was resting near the main door of the house; that during all the time that appellant was there, they just talked; that at 6:00 P.M., appellant was still seated near the main door; that at that time also, the ten-wheeler truck in which appellant assisted as helper was parked inside the garage.

Moore, in his Treatise of Facts, states that in many cases, especially where it is sought to prove an alibi, judges have expressed their lack of confidence in testimony from mere recollection as to the exact moment of an occurrence. Men generally take so little note of the passing of time that an approach to accuracy is all that can be expected. When one tries to fix some event as occurring on that day, when there was nothing to fix it at the time, it is very uncertain; and more than uncertain is it to try and recollect the exact hour or half-hour in the day when something occurred with nothing to fix it in one's mind at the time.[18] If a witness should testify to a minute recollection of the circumstances attending a long-past incident which required only momentary and perfunctory attention, his testimony, however honest, would deserve little consideration if opposed to the probabilities and to facts about which there can be no great doubt.[19]

In the case at bar, it befuddles this Court how appellant and his witness could have recounted with the utmost exactitude of time, place, and circumstance the events which took place on that fateful day. We can only regard with suspicion the testimony of the corroborating witness for the defense with respect to a circumstance so trivial and commonplace when it occurred that a witness could hardly be supposed to have noticed and charged her memory with it, when there was no special reason why she should observe it.[20]

Appellant's all too familiar and discredited defense of alibi cum denial does not inspire the slightest belief or consideration. The doctrine consistently upheld by this Court is that alibi and denial cannot prevail over the positive identification of the accused as the perpetrator of the crime. In addition thereto, appellant has failed to establish that it was physically impossible for him to have been at the crime scene when it happened.[21] It is virtually a sacramental rule that in order for the defense of alibi to prosper, it is not enough to prove that appellant was somewhere else when the offense was committed but it must likewise be demonstrated that he was so far away that it was not possible for him to have been physically present at the place of the crime or its immediate vicinity at the time of its commission.[22]

There is not an iota of doubt that appellant is guilty of the crime charged and that, legally, he is in a no-win

situation. The testimony of the victim, Rosalina Orubia, bears the signum of truth, and is further corroborated by the medical examination conducted on her three days after the sexual assault. The examination revealed that there was a superficial laceration on the hymen which took one to two days to heal. On the basis, therefore, of both the physical and testimonial evidence presented by the prosecution, we find that the trial court did not err in convicting appellant of the crime of rape.

Nonetheless, we find and so hold that appellant cannot be held liable for statutory rape. The age of the victim is an essential element in the crime of statutory rape,[23] but the information filed in the case at bar does not contain any averment thereof, even at least with regard to the mental age of the victim.[24] This notwithstanding, appellant may still be convicted of rape under paragraph 2 of Article 335 of the Code on the basis of the facts and evidence as hereinbefore discussed.

In addition, while there may have been no physical force employed on the victim, considering however that she is feeble-minded, there is authority to the effect that the force required by the statute is the sexual act itself, to wit:

"Appellant contends in the instant case that it was not shown that the carnal knowledge was by force. It is plain, however, 'forcibly' does not mean violently, but with that description of force which must be exercised in order to accomplish the act for there is no doubt that unlawful connection with a woman in a state of unconsciousness, produced by profound sleep, stupor or otherwise, x x x amounts to rape. x x x (T)his force may be constructive x x x where the female was an idiot, or had been rendered insensible by the use of drugs or intoxicating drinks, x x x she was incapable of consenting, and the law implied force. x x x In such a case the force required by the statute is the wrongful act. x x x A man who, knowing of a woman's insanity takes advantage of her helpless condition to gratify his own lustful desires, is guilty of felonious rape, though he uses no more force than that involved in the carnal act, and though the woman offers no resistance to the consummation of his purpose." [25] (Italics supplied)

Accordingly, appellant can also be held liable even under the first paragraph of Article 335 of the Revised Penal Code. Women, like the ill-fated girl in this case, must be protected, not only against the lecherous members of the opposite sex, but against themselves as well; and men who, knowing of their imbecility, take advantage of their helpless condition to gratify their own satyric desires, are guilty of rape, though they use no more force than that involved in the carnal act, and though the woman offers no resistance to the consummation of their purpose.

In the language of Lord Chief Justice Campbell in *Regina v. Richard Fletcher*: [26] "It would be monstrous to say that these poor females are to be subjected to such violence, without the parties inflicting it being liable to be indicted. If so, every drunken woman returning from market, and happening to fall down on the roadside, may be ravished at the will of the passers-by." [27] Indeed, our judicial experience attests that all the foregoing pronouncements laid down in those foreign jurisdictions are as true and applicable here as they are therein.

WHEREFORE, under the foregoing modified rationale and legal basis, the appeal of accused-appellant Carlito Rosare is DISMISSED and the impugned judgment of the court a quo is hereby AFFIRMED.

SO ORDERED.

Romero, Puno, Mendoza, and Torres, Jr., JJ., concur.

[1] Original Record, 2.

[2] Rollo, 61-63.

[3] Penned by Presiding Judge Vladimir B. Brusola; rollo, 21.

- [4] TSN, April 6, 1994, 10-11.
- [5] Ibid., February 23, 1994, 22.
- [6] 17 A 2d 919.
- [7] People vs. Nguyen Dinh Nhan, G.R. No. 93433, August 5, 1991, 200 SCRA 292.
- [8] TSN, April 6, 1994, 5-9.
- [9] TSN, April 6, 1994, 13-14.
- [10] TSN, April 6, 1996, 22-23.
- [11] People vs. Gecomio, G.R. Nos. 115035-36, February 23, 1996.
- [12] People vs. Balisteros, et al., G.R. No. 110289, October 7, 1994, 237 SCRA 499.
- [13] People vs. Rejano, G.R. No. 105669-70, October 18, 1994, 237 SCRA 627.
- [14] People vs. Repollo, G.R. No. 108872, October 7, 1994, 237 SCRA 476.
- [15] Brief for the Appellee, 10-11; rollo, 68-69.
- [16] People vs. Sabellina, et al., G.R. Nos. 93514-15, December 1, 1994, 238 SCRA 492.
- [17] TSN, June 21, 1994, 7.
- [18] Vol. II, 989.
- [19] Op, cit., 821.
- [20] Op, cit., 867.
- [21] People vs. Alimon, G.R. No. 87758, June 28, 1996.
- [22] People vs. Barera, G.R. No. 99867. September 19, 1996.
- [23] People vs. Vargas, G.R. No. 116513. June 26, 1996.
- [24] The Court has consistently held that for statutory rape, not only the chronological, but also the mental, age of the victim must be considered. This doctrine was applied where the victim was 13 years old, but with the mental capacity of 5 years (People vs. Manlapaz, L-41819, February 28, 1979, 88 SCRA 704); 31 years old, but with the mentality of 7 years (People vs. Gallano, G.R. No. 51565, October 23, 1981, 108 SCRA 405); 13 years old, but with the mental level of 7 years (People vs. Burgos, L-40494, July 30, 1982, 115 SCRA 767); 14 years old, but with the mental state of 5 years (People vs. Munar, L-40462, July 31, 1984, 131 SCRA 44); 17 years old, but with the mental age of 7 years (People vs. Asturias, G.R. No. 61126, January 31, 1985, 134 SCRA 405); 23 years old, but mentally 8 to 9 years of age (People vs. Sunga, L-45083, June 24, 1985, 137 SCRA 130).
- [25] Commonwealth vs. Stephens, supra, Fn. 6.
- [26] 10 Cox, C.C. 248, L.R. 1 C.C. 39.
- [27] As quoted in Gore v. State, 46 SE 671.

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