

## PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. CESAR MASALIHIT Y MONDIDO, ACCUSED-APPELLANT.

*G.R. No. 124329. December 14, 1998*

Ponente: BELLOSILLO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-124329/>

---

### BELLOSILLO, J.:

N O T H I N G can really be more abhorring than when the crime (of rape) is perpetrated by the victim's own flesh and blood;<sup>[1]</sup> and, the perpetrator certainly deserves, without any tinge of hesitation, the supreme penalty of death.

Before we condemn, however, the crime must first be positively established and that the accused is guilty sans any scintilla of doubt. This is elementary and fundamental in our criminal justice system. Any suspicion or belief that the accused is guilty - no matter how strong - cannot substitute for the quantum of evidence that is required to prove his guilt beyond reasonable doubt.

Many times over we have been called upon to review death sentences for the heinous crime of rape. This is one such case. Cesar Masalihit y Mondido, accused-appellant, was charged with and convicted of having on New Year's Day '94 sexually assaulted his own daughter Analyn C. Masalihit, then only fourteen (14) years of age, for which he was sentenced to die. His case is now with us to pass upon once again with finality.

What is the evidence against the accused? Let us carefully examine and analyze the evidence for the prosecution as recounted by complaining witness Analyn Masalihit -

Fiscal Velazco:

Q:

Where were you sleeping? In what part of your house were you sleeping on January 1, 1994 at about 1:00 o'clock in the morning?

Analyn Masalahit:

A:

There was no room, sir.

Q:

And how about your father? Where did he sleep that evening?

A:

Beside my brother, sir.

Q:

And how about you? Was there anybody beside you?

A:

The accused slept beside my brother because we were accompanied by our neighbor and my neighbor was beside me.

Q:

Who was that neighbor of yours?

A:

Ate Pilar, sir.

Q:

Now, a while ago, you mentioned that you were raped in the early morning (of 1:00 o'clock in the morning) of January 1, 1994.

A:

Yes, sir.

Q:

Do you understand what is the meaning of rape?

A:

Yes, sir.

Q:

What do you understand by rape?

A:

Being raped by a person, sir.

Q:

Now, who raped you?

A:

My father, sir.

Q:

You mean the accused?

A:

Yes, sir.

Q:

Please tell the Honorable Court how you were raped by your father, if you still recall.

A:

I was then sleeping when I woke up, I felt that there was something heavy above me, and I sensed that there was a person on top of me, sir.

Q:

What did you do upon feeling that there was something heavy on top of you?

A:

When I woke up, I saw my father, sir.

Q:

What did you do?

A:

Because I was frightened, I ran towards the side of our house, and then I "bumaluktot."

Q:

And what did your father do?

A:

He was just silent, sir.

Q:

Now, what was his appearance when you woke up and saw him?

A:

He was wearing shorts, sir.

Q:

Was he wearing his shorts?

A:

He was pulling up his shorts, sir.

Q:

And how about you? Were you wearing something?

A:

My panty was lowered down, sir.

Q:

What was that something heavy?

A:

On top of me, sir, and I was lying on my back, sir.

Q:

Now, what about your father. What was he doing when you first noticed him on top of you?

A:

When I noticed him, I suddenly stood up, sir.

Q:

How about you? After you stood up did you feel something?

A:

Yes, sir.

Q:

What did you feel?

A:

I felt pain on my private organ, sir.

Q:

Did you notice anything from your private organ?

A:

None, sir, but he was wiping something, sir.

Q:

What was he wiping?

A:

I do not know because it was dark. He put off the light, sir.

Q:

So, how were you able to recognize your father if your house was dark at that time?

A:

Because the moon was bright and our house has holes, butas-butas.

Q:

Now, what part of your body was he wiping?

A:

My private organ, sir.

Q:

And you said you were sleeping at that time. How were you be able to know or how did you notice that he was wiping your organs?

A:

I was suddenly awakened, sir, as if I was awakened, sir.

Q:

How many times were you raped?

A:

Twice, sir.

Q:

And in that incident that occurred on January 1, 1994, was this the first time or was this the second time?

A:

I do not recall, sir.

Q:

Now, did you confront your father right after that incident?

A:

No, sir, because I was afraid.

Q:

What made you afraid?

A:

Because I have read in the newspaper that the father killed his daughter, sir.

Q:

Now, did he say something to you?

A:

None, sir[2] (underscoring supplied).

From the above dialogue, there is nothing to establish the fact of sexual intercourse - much less, to a degree of moral certainty. No mention is made that the organ of accused-appellant ever touched that of complaining witness; nor that complaining witness even saw what could have been the mischievous organ; much less that accused-appellant displayed any lewd designs. There being no carnal knowledge, there could not be any rape; hence, his conviction for rape cannot be sustained. Although a female's statement of actual penetration is not required in the prosecution for rape, some evidence, other than inference, is essential to prove intercourse.[3] There is none in the present case. For, not even Analyn's Ate Pilar nor Analyn's brother who were supposed to be sleeping with her at the time of the alleged rape was presented to confirm Analyn's claim that she was raped by her father. The conclusion then is inevitable that the testimonies of her Ate Pilar and her brother, if presented, would have been adverse to the prosecution.

By definition, rape is committed by having carnal knowledge of a woman with the use of force or intimidation, or when she is deprived of reason or otherwise unconscious, or when she is under twelve (12) years of age or is demented.[4] Carnal knowledge or sexual intercourse is a must-element in the crime of rape. Although full penetration is not required to sustain a conviction for rape, there must at least be proof beyond reasonable doubt of the entrance of the male organ within the labia of the pudendum of the female organ. Penetration of the penis into the lips of the female organ even without rupture or laceration of the hymen suffices to warrant conviction for rape.[5] But under Art. 335 of the Revised Penal Code, under which the accused was prosecuted, actual

penetration of the female sex organ by the male sex organ is required as an element of rape. This penetration constitutes carnal knowledge which is synonymous with sexual intercourse.[6]

The trial court found that there was sexual intercourse. That conclusion, unfortunately, could have only been inferred from the fact that when Analyn woke up she found accused-appellant on top of her wiping her private parts. This is merely a sweeping generalization that cannot provide adequate basis for the conclusion that there was indeed carnal knowledge and therefore rape was perpetrated. While the intention of the prosecution might have been to establish that what was wiped out was semen or fluid released in orgasm by her father, neither Analyn nor any witness for that matter ever said so, much less, that it was preceded by an intercourse. Besides, that it could have possibly been the d  nouement of self-indulgence by the father - who after coming home from a drinking spree found in the lure of the night a young body in his daughter lying before him, perhaps scantily clothed or bare at least to the waist - is not remote, otherwise, it could have been infused serum-like into her genitalia with nothing more to wipe out. This is a missing link, a vacuity, a vital element that is miserably lacking in the successful prosecution of the case.

It is settled jurisprudence that in criminal cases the prosecution has the onus probandi in establishing the guilt of the accused. *Ei incumbit probatio qui dicit, non que negat*, i.e., he who asserts, not he who denies, must prove. The prosecution in the instant case failed to discharge this burden. This is especially significant in rape cases for, generally, in the prosecution thereof, the only two (2) parties who can testify as to the occurrence are the complainant and the accused. Often enough, their respective testimonies are diametrically contradictory.[7] Quite interestingly, when this incident took place, there were two (2) other persons present at that time according to Analyn, namely, her brother Angelo and her Ate Pilar. But, as already adverted to, for reasons known only to the prosecution, none of them was presented to augment the anemic and decrepit testimony of Analyn; worse, no explanation was ever given for their non-presentation. Could it be that calling them to the witness stand would further enervate the evidence for the prosecution?

For the lone and uncorroborated testimony of the offended party to be sufficient to convict accused-appellant of rape, it must be clear and free from any serious contradiction. Complaining witness' testimony must be impeccable and must ring throughout with, or bear the stamp of, absolute truth and candor.[8] In crimes against chastity, the testimony of the injured woman should not be received with precipitate credulity. The crime of rape is of such a nature that it can only be established by clear and positive evidence; the same cannot be made to depend on inference or dubious circumstantial evidence.[9]

Indeed, in proving rape, resort to inference is not correct. Inference means a truth or proposition drawn from another which is supposed or admitted to be true. It is a process of reasoning by which a fact or proposition sought to be established is deduced as a logical consequence from other facts, or a state of facts, already proved or admitted.[10] The fact or proposition sought to be established in the case at bench is the crime of rape which the prosecution attempted to prove by showing that there was carnal knowledge. But, as already discussed, the prosecution failed precisely to establish the fact of carnal knowledge. It therefore follows that rape was not likewise proved. Thus, while inferences are permissible in the proof of a crime, the law requires in the making of the inference that "in the experience of mankind the existence of the one fact (that which is inferred) ordinarily and logically follows from the existence of the other (that which has been proved)."[11]

The medical findings did not in any way support the claim of complaining witness that she was indeed raped by accused-appellant. A ruptured hymen is not synonymous with rape. If at all, it may only prove that complaining witness had prior sexual intercourse but not necessarily with accused-appellant. Dr. Godwyn N. Bernardo, the examining physician, could not be certain that the lacerations - which were no longer fresh as the examination was done five (5) months after the alleged sexual molestation - were the result of a sexual encounter, as they

could have also been caused by any blunt object, a finger, or by Analyn herself.[12] In *People v. Batis*[13] we held -

The trial court went on to state that "x x x the fact of sexual intercourse was substantially corroborated by the medical findings of Dr. Soliva who conducted the examination. It goes to show that it is not incredible for a man to rape his own flesh and blood daughter. Neither was it impossible to commit rape in a small space which was occupied by members of a family especially with a callous mother and the rapist was the father."

Such sweeping statements of the trial court create the impression that rape and sexual intercourse mean one and the same thing when in fact they are not. That a female is found to have had sexual intercourse does not necessarily mean that she was raped x x x

In fine, the medical report adds nothing to bolster the prosecution's claim that complainant was raped by appellant. Rather, it merely confirms that as early as one year ago, the complainant has already engaged in sexual intercourse. While this confirmation does not discount the possibility that appellant could have taken advantage of complainant on the stated dates, the evidence adduced at the trial is not sufficient to pass the test of moral certainty which is sufficient to convict the accused (underscoring supplied).

We do not agree with the trial court that "the accused had nothing exculpatory to offer except his testimony denying to have committed the crime of rape imputed against him." [14] Although denial is weak, it still constitutes a valid defense. Considering the nature of the crime of rape where normally only two (2) persons are involved, denial becomes the most plausible line of defense. In *People v. Ignacio*[15] we held -

The accused-appellant's defense is no less convincing either. It is a mere denial. Nevertheless, considering that he was the defendant and not the prosecutor, we do not see what more he could have said at the trial beyond that spirited denial. After all, it was a negative averment. It was not for the accused-appellant to prove that he did not rape his daughter but for the prosecution to prove that he did rape her. *Ei incumbit probatio qui dicit non qui negat*. He who asserts, not he who denies, must prove.

Another nemesis of the prosecution is credibility. The court a quo held that the variances in the testimony of the complaining witness refer only to matters of minor importance. We disagree. In her *Sinumpaang Salaysay*[16] dated 30 May 1994 complaining witness declared -

Tanong:

Kailan at saan naganap ang sinasabi mong pagsamantala sa iyo, kung iyong matatandaan?

Sagot:

Iyong pong unang panggagahasa ay hindi ko na po natatandaan, ang ika-2 po ay noong Enero 1, 1994, ang oras humigit kumulang sa ala-una ng madaling araw, habang ako ay natutulog sa sahig ng aming bahay.

Barely two months after, or on 20 July 1994, complaining witness made a conflicting narration during the preliminary examination -

Tanong:

Ito bang ginawa sa iyo ng tatay mo ay naulit uli?

Sagot:

Bago mangyari ito ay nagalaw na niya ako noong taong 1992 at pagkatapos ng pangyayaring ito ay lagi na niya akong hinihipuan.[17]

But when placed on the witness stand during the trial, complaining witness said -

Fiscal Velazco:

How many times were you raped?

Analyn Masalihit:

Twice, sir.

Q: And in that incident that occurred on January 1, 1994, was this the first time or was this the second time?

A: I do not recall, sir.[18]

Again, we refer to *People v. Ignacio*[19]-

It is difficult to understand how she could have forgotten the time of the alleged second rape, which she first said followed within an hour of the first rape, or, as she later swore, at 8 o'clock the following morning. That was about twelve hours later. One does not recall an experience like this with such an amazing disharmony of memory as if it had happened many years ago with entangled participation of many persons in a hodge-podge of tumultuous events. This was a one-on-one confrontation. No less significantly, they supposedly took place less than two years before she testified on September 24 and October 13, 1987. Strangely, her testimony was a blurred recollection of the details of a harrowing happening that should have been etched deeply in her mind.

On another point, complaining witness explained before the trial court -

Fiscal Velazco:

Now did you confront your father right after the incident?

Analyn Masalihit:

No, sir, because I was afraid.

Q: What made you afraid?

A: Because I have read in the newspaper that the father killed his daughter, sir.

Q: Now, did he say something to you?

A: None, sir.[20]

But complaining witness told a different story in her *Sinumpaang Salaysay* -

Tanong:

Maari bang isalaysay mo ang buong pangyayari?

Sagot:

Natutulog ako noon nang bigla na lamang akong nagising dahil sa nakadagan na katawan ng aking tatay na sapilitan akong kinukubawan. Wala po akong magawa dahil malakas ang tatay ko. Naisakatuparan niya ang makamundong pagnanasa. Ng siya ay makaraos ay pinaupo po niya ako at nilamas niya ang aking maseselang bahagi ng katawan ko. Sinabi pa po ng tatay ko na huwag akong magsumbong kahit kanino.

However, during preliminary examination, she told the investigating prosecutor -

Tanong:

Mayroon ka bang natatandaang hindi pangkaraniwang pangyayari na ikinagising mo?

Sagot:

Nagising ako nang maramdaman ko na may humihipo sa aking ari at pagdilal ng mata ko ay nakita ko si Cesar Masalihit na tatay ko at ang aking short at panty ay nakababa na hanggang sa tuhod at ako ay bumangon at itinaas ko ang aking short at panty at sumandal ako sa may dingding. Naramdaman ko rin na bago ako magising na nakapasok ang ari niya sa ari ko at pagdilal ko ay hinugot niya ito, at pagkatapos noon ay sinabi niya na hindi na niya uulitin at pagkatapos noon ay natulog na siya at ako naman ay natulog na sa may dingding.

We simply cannot consider the above variances as relating only to minor matters. On the contrary, they refer to the core issues of the controversy. Under the circumstances, notwithstanding the insinuations in the course of the preliminary examination, we are constrained to acquit the accused-appellant for the reason that the crime of rape has not been established beyond reasonable doubt. The testimony of the offended party at the preliminary examination which attempted to incriminate the accused was never introduced in the trial of the case. Any view to the contrary, we surmise, could only be based, although erroneously, on the testimony of Analyn during the preliminary examination. But, we repeat, what could have been particularly damning for the accused in the preliminary examination was never introduced during the trial in the court below. We are specifically referring to the element of carnal knowledge or sexual intercourse the absence of which negates rape.

While it is true that we have so far recognized the doctrine - although we have reservations about its wisdom - that when a woman cries rape, she says in effect all that is necessary to show that she has been raped, in the instant case, the actual narration of facts by the complaining witness when asked what she understood by rape disproves the commission of the very offense charged, as one of the indispensable elements of the crime is missing, i.e., carnal knowledge or sexual intercourse.

Proof beyond reasonable doubt is required to convict an accused. Absolute certainty of guilt is not demanded by the law to convict one of any criminal charge, but moral certainty is required nevertheless.[21] If there is reasonable doubt as to the guilt of the accused, he should be acquitted. We cannot rest easy with a death sentence founded on the frail testimony of Analyn. With this seed of doubt implanted in our minds, our conscience will not allow us to convict accused-appellant with the lean and inferior quality of evidence presented against him. While the prosecution utterly failed to establish the elements of rape, nay, to prove the guilt of the accused beyond reasonable doubt, we are not saying that he did not rape his daughter; for he might have, possibly. Yet, we have no choice but to acquit accused-appellant. Mas vale que queden sin castigar diez reos presuntos, que se castigue uno inocente.[22]

WHEREFORE, the prosecution having failed to prove that rape was committed and that accused-appellant CESAR MASALIHIT Y MONDIDO is guilty thereof beyond reasonable doubt, he is ACQUITTED of the crime charged and ordered immediately released from custody unless held lawfully for another cause. Costs de oficio.

### **SO ORDERED.**

Davide, Jr., Melo, Puno, Kapunan, Mendoza, Martinez, Quisumbing, Purisima, and Pardo, JJ., concur.

Panganiban, J., agrees with J. Bellosillo that appellant should be acquitted but joins J. Vitug in his call for a legislative reexamination of RA 7659, the Death Penalty Law.

Vitug, J., see dissenting opinion

Romero, J., concurs in the dissenting opinion of J. Vitug.

---

[1] Quoted from the original Majority Opinion.

[2] Testimony of Analyn Masalihit, TSN, 16 May 1995, pp. 4-8.

[3] *Martinez v. People*, 422 P2d 44.

[4] Art. 335, Revised Penal Code. The crime charged was committed on 1 January 1994 or before the effectivity of RA No. 8353 expanding the definition of rape and reclassifying the same as a crime against persons which was only approved on 30 September 1997.

[5] *People v. Galimba*, G.R. Nos. 111563-64, 20 February 1996, 253 SCRA 723.

[6] 65 Am Jur 2d, Rape, § 2.

[7] *People v. Subingsubing*, G.R. Nos. 104942-43, 25 November 1993, 228 SCRA 174.

[8] *People v. Clarin*, No. L-47200, 30 October 1981, 108 SCRA 682, 693.

[9] *People v. Fortin*, 97 Phil. 94 (1955).

[10] *Black's Law Dictionary*, 4th Ed.

[11] See Note 4.

[12] TSN, 7 June 1995, pp. 22-23.

[13] G.R. Nos. 94188-89, 17 December 1992, 216 SCRA 685-686.

[14] Decision, p. 5; Rollo, p. 18.

[15] G.R. No. 90318, 24 July 1992, 211 SCRA 802.

[16] Exh. "B, Records, p. 2.

[17] Records, p. 6.

[18] See Note 5, at p. 7.

[19] See Note 15, at p. 800.

[20] See Note 18.

[21] See Note 9.

[22] Articulated by Mr. Justice Sanchez, quoting Alfonso El Sabio, in *People v. Cunanan*, No. L-17599, 24 April 1967, 19 SCRA 769.

#### DISSENTING OPINION

VITUG, J.:

The life of the accused in this case literally has hanged by the thread until fate has decreed that his life is to be spared from an impending execution, ironically in the case at bench, through a perceived lapse on the part of the prosecution.

With due respect, I cannot join my colleagues in absolving the accused from the crime of rape.

The question of whether or not a person may be convicted for the commission of an offense depends on whether or not there is, in the mind of the court, moral certainty that a crime has been done and that the accused is the person who has committed it. In my view, these requirements have been sufficiently met in the case before the Court. The fact of rape has been established and the identity of the perpetrator has been duly proven, as so adverted to in both the testimony of the complainant before the trial court and the police investigation report. I

give in to the statement that the questions propounded by the judge and the answer given during the preliminary investigation which could have clinched the case for the prosecution have been rightly discarded for not having been referred to in the testimony of the complainant. Nevertheless the evidence on hand, I still submit, can be held sufficient to establish the guilt beyond reasonable doubt of accused-appellant.

The initiatory complaint, signed by Analyn C. Masalihit and filed with the 2nd Municipal Circuit Trial Court ("MCTC") of Silang-Amadeo, Cavite, on 08 June 1994, Charged the accused with the crime of rape, briefly described to have been committed, as follows:

"That on or about 1:00 o'clock in the morning at the 1st day of January 1994 at the house of Cesar Masalihit at Phase IV-B, Bgy. Ipil III, Municipality of Silang, Province of Cavite, Philippines and within the jurisdiction of this Honorable Court the above-named accused by means of force, violence and intimidation did then and there, wilfully, unlawfully and feloniously abuse, ravish and have carnal knowledge with one Analyn Masalihit against her will and without her consent to the moral damage as may be awarded to her." [1]

Finding probable cause for the commission of the offense, the MCTC forwarded the case to the Office of the Provincial Prosecutor of Cavite for appropriate action. On 10 October 1994, the Assistant Provincial Prosecutor filed with the Regional Trial Court the corresponding information. Arraigned, the accused pleaded, "not guilty," to the charge. The presentation of evidence by the prosecution and by the defense followed shortly thereafter.

His Honor, Judge Eleuterio F. Guerrero, after reciting his evaluation of the evidence, found for the prosecution; he concluded:

"WHEREFORE, this Court finds the accused CESAR MASALIHIT Y MONDIDO 'GUILTY' beyond reasonable doubt as principal of the crime of rape, defined and penalized under paragraph 1 of Article 335 of the Revised Penal Code, as amended by R.A. No. 7659, and there being proven the aggravating circumstance of relationship with the complainant without any mitigating circumstance to offset the same, hereby sentences him to suffer the penalty of DEATH to be executed on a date to be set for such purpose by the authorities in accordance with law; to pay the offended party, Analyn Masalihit, the amount of P50,000.00 by way of indemnity, P25,000.00; as moral damages, and P25,000.00, as exemplary damages, without subsidiary imprisonment in case of insolvency in view of the penalty imposed upon the accused, and to pay the costs." [2]

The Solicitor General, who has recommended an affirmance in toto of the judgment of conviction, summarizes the prosecution's factual version of the case.

"It was about an hour past midnight of January 1, 1994 when the smoke from the firecrackers had hardly cleared and the noise that usually welcomed the new year had almost died out. Sleeping at their house in Bulihan in Silang, Cavite, was fourteen-year old Analyn Masalihit, private complainant herein. Beside her slept Angelo Masalihit, her eleven-year old brother. There was nobody else at home with them when they went to bed. Their neighbor, Ate Pilar, who usually accompanied them at home, joined her family and slept in her house as it was New Year. Their father, appellant, was then in a drinking spree just outside the house while their mother, who is separated from appellant, lived in Imus, Cavite. (TSN, May 16, 1995, pp. 3-5, 11-15)

"While private complainant was sleeping, she was suddenly roused by a distinct feeling that her private parts were being wiped. She also felt something heavy on top of her, like there was somebody on top of her. Sure enough, when private complainant woke up completely she saw that it was her father. Appellant quietly pulled up his shorts and left the house. At this point, private complainant noticed that her panty had been lowered. Filled with fright and shock after realizing that something unthinkable had just happened to her, that of being ravished by her own father, private complainant immediately stood up and ran to one corner of the house and there stayed speechless. (TSN, May 16, 1995, pp. 6, 18-20)

"Subsequent to the above incident, private complainant felt pain in her private parts which she had to endure for a few days thereafter. It took longer still for her to break her self-imposed silence and muster the courage to tell her mother or anybody about her traumatic and horrifying experience because of fear that, just like from what she has read in the newspapers about how some fathers raped and killed their daughters, she would end up with the same fate. It was only the greater fear of again being sexually abused by appellant which prompted private complainant to later tell her mother and grandmother regarding appellant's assault of her (private complainant) virtue. In the meantime, however, private complainant slept in their house only when her father was not around; otherwise, she would stay in the adjacent house of her aunt. (TSN, May 16, 1995, pp. 6-8, 20-21)

"On May 27, 1994, private complainant submitted herself for medical examination. The examining physician, Dr. Godwyn Bernardo, rural health doctor assigned in Imus, Cavite, found three (3) hymenal lacerations which were almost completely healed, and which he explained may have been caused by the penetration of a blunt object or a male organ. (TSN, June 7, 1995, pp. 8, 15-18, 26; Exhibit C, medical certificate)."[3]

In any review of a decision of a trial court convicting an accused of rape, the Court is guided by the now accepted norms (a) that an accusation for rape can easily be made, and, although rape may not be easy to prove, it is, however, even more difficult to disprove; (b) that since the crime, by its very nature, would generally involve only the offender and the victim, great care must be exercised in scrutinizing the testimony of the complainant; and (c) that the case for the prosecution must depend on the merits of its own evidence and not be allowed to draw strength from the weakness of the defense.[4] All these, the Court observes each time with deep sense of responsibility and duty and, when confronted particularly by a death penalty situation, it spares neither time nor effort in the review process in order to ensure that nothing of substance is missed that might yet point to the innocence of the accused. The Court is certainly beholden to the sanctity of human life and constantly mindful that no punishment can be graver than a sentence to terminate that life. Like in previous cases, the Court, still coming to grips with yet another unfortunate saga, must exercise the greatest circumspection in passing upon its verdict.

The defense deplores the long interval of over five months between the alleged commission of the rape on 01 January 1994 and the filing of the complaint on 08 June 1994. Perhaps it could have indeed been sooner than actually done but it is not really all that strange that an offended party in a rape case procrastinates in coming up with a complaint to the authorities.[5] Strong apprehensions, brought about by fear, stress, or anxiety can easily put the offended party, as well as her family, to doubt, suspicion or even distrust on what should otherwise be a positive attitude of bringing the culprit to justice. The Court has thus heretofore considered justified the filing of complaints for rape months, even years, after the commission of the offense. In *People vs. Malagar*,[6] the Court has observed:

"Vacillation in the filing of complaints by rape victims is not an uncommon phenomenon. This crime is normally accompanied by the rapist's threat on the victim's life, and the fear can last for quite a while. There is also the natural reluctance of a woman to admit her sullied chastity, accepting thereby all the stigma it leaves, and to then expose herself to the morbid curiosity of the public whom she may likely perceive, rightly or wrongly, to be more interested in the prurient details of the ravishment than in her vindication and the punishment of the rapist. In *People vs. Coloma* [222 SCRA 255] we have even considered an 8-year delay in reporting the long history of rape by the victim's father as understandable and so not enough to render incredible the complaint of a 13-year old daughter."[7]

The trial court, in my view, aptly brushed aside the claim that the complaint had been ill-motivated. Said the court:

"As to the claim of the accused that the instant charge was inspired by his father-in-law and estranged wife, such an excuse is too lame to be legally accepted as true by the Court. On the contrary, the Court, taking into account the relationship between accused and complainant as father and daughter to each other, is more inclined to accept the view that complainant had no ulterior motive to fabricate a story of rape against her own father, filed a complaint in the instant case and expose herself and her family to public ridicule in denouncing the accused, her own father, for such rape." [8]

Verily, it would be unthinkable for a daughter to accuse her own father, [9] submit herself for examination of her most intimate parts, put her life to public scrutiny, and expose her, along with her family, to likely shame, pity or even ridicule, [10] not just for a simple offense but for a crime so serious that could mean a death sentence on the very person to whom she owes her life. How such a young woman could accept all these consequences, if not truly for truth and justice, is beyond me. Neither can I accept the theory that accused-appellant has been wrongly charged simply to vindicate Merlinda Masalihit, mother of Analyn, with whom accused-appellant has had a "serious quarrel" prior to the alleged incident. A mother scarcely would sacrifice her own daughter to public trial if her motive were otherwise than to have the culprit punished. [11]

Quite telling of all, of course, is the testimony of the young victim herself, hereunder quoted, in pertinent parts, thus:

"FISCAL VELAZCO:

Now, on the first day of January, about one o'clock in the morning, January 1, 1994, also at 1:00 o'clock in the morning, do you recall of any incident that occurred?

"A Yes, sir.

"Q What was that unusual incident?

"A I was raped by my father, sir.

"x x x x x x x x

"Q Do you understand what is the meaning of rape?

"A Yes, sir.

"Q What do you understand by rape?

"A Being raped by person, sir.

"Q Now, who raped you?

"A My father, sir.

"Q You mean the accused.

"A Yes, sir.

"Q Please tell the Honorable Court how you were raped by your father, if you still recall?

"WITNESS:

I was then sleeping when I woke up, I felt that there was something heavy above me, and I sensed that there was a person on top of me, sir.

"x x x x x x x x

"Q Now, what about your father. What was he doing when you first noticed him up on top of you?

"A When I noticed him, I suddenly stood up, sir.

"Q How about you? After you stood up did you feel something?

"A Yes, sir.

"Q What did you feel?

"A I felt on my private organs, sir."

The above narration, coupled with the statement she gave during the police investigation, i.e., that "(n)aisakatuparan niya (referring to her father) ang makamundong pagnanasa," which has formed part of her testimony, leaves no room for doubt in my mind of accused-appellant's guilt. At all events, when a young woman of fourteen years of age states that she has been "raped," common sense tells me that it is all that should be needed to prove that her honor, indeed, has been violated in a manner that the law prescribes.

Nor can the sexual assault on Analyn be really disputed. The medical report prepared by Dr. Godwyn N. Bernardo, rural health physician in Imus, Cavite, indicates that Analyn has suffered a lacerated and ruptured hymen; viz:.

"EXT: Normal looking, pubescent perineal area (-) lacerations

INT: Speculum examination not done (upon patients request)

Hymen with healed laceration.

Lacerations observed at 11:00 o'clock, 7:00 o'clock, 5:00 o'clock

DX: Hymen, Ruptured membrane."[12]

The offense charged in this case is punishable, under Article 335 of the Revised Penal code, as amended by Section 11 of Republic Act No. 7659,[13] by terminating the life of the accused.

I take the opportunity to strongly urge a prompt re-examination of the death penalty law. The determination of when to prescribe the death penalty lies, in the initial instance, with the law-making authority, the Congress of the Philippines, subject to the conditions that the Constitution itself has set forth; viz: (1) That there must be compelling reasons to justify the imposition of the death penalty; and (2) That the capital offense must involve a heinous crime. It appears to me that the fundamental law did not contemplate a simple "reimposition" of the death penalty to offenses theretofore already provided in the Revised Penal Code or, let alone, just because of it. The term "compelling reasons" would indicate that there must first be a marked change in the milieu from that which has prevailed at the time of adoption of the 1987 Constitution, on the one hand, to that which exists at the enactment of the statute prescribing the death penalty, upon the other hand, that would make it distinctively inexorable to allow the re-imposition of the death penalty. Most importantly, the circumstances that would characterize the "heinous nature" of the crime and make it so exceptionally offensive as to warrant the death penalty must be spelled out with great clarity in the law albeit without necessarily precluding the Court from exercising its power of judicial review given the circumstances of each case. To venture, in the case of murder, the crime could become "heinous" within the Constitutional concept when, to exemplify, the victim is unnecessarily subjected to a painful and excruciating death or, in the crime of rape when the offended party is callously humiliated or even brutally killed by the accused. The indiscriminate imposition of the death penalty could somehow constrain courts to apply, perhaps without consciously meaning to, stringent standards for conviction, not too unlikely beyond what might normally be required in criminal cases, that can, in fact, result in

undue exculpation of offenders to the great prejudice of victims and society.

I vote for the affirmance of the trial court's decision convicting the accused for the crime of rape but I would strongly urge a re-examination by Congress of the propriety and wisdom of the law in the imposition of the death penalty.

[1] Ibid.

[2] Ibid., p. 20.

[3] Brief for plaintiff-appellee, pp. 2-5.

[4] *People vs. Tacipit*, 242 SCRA 241; *People vs. Sanchez*, 250 SCRA 14.

[5] *People vs. Montefalcon*, 243 SCRA 617.

**[6] 238 SCRA 512.**

[7] At p. 521.

[8] *Rollo*, p. 18.

[9] *People vs. Lao*, 249 SCRA 137.

[10] *People vs. Bantasil*, 249 SCRA 367.

[11] *People vs. Tabao*, 240 SCRA 758.

[12] *Records*, p. 3.

[13] The amendatory law, Republic Act No. 7659, became effective on 31 December 1993 (*People vs. Godoy*, 250 SCRA 676). The more recent enactment, Republic Act No. 8353, entitled "AN ACT EXPANDING THE DEFINITION OF THE CRIME OF RAPE, RECLASSIFYING THE SAME AS A CRIME AGAINST PERSONS, AMENDING FOR THE PURPOSE ACT NO. 3815, AS AMENDED, OTHERWISE KNOWN AS THE REVISED PENAL CODE, AND FOR OTHER PURPOSES," being neither favorable nor unfavorable to the accused, is inconsequential in this instance.

**ABOUT BATAS.ORG**

# Study smarter at BATAS.org

*The Philippine bar review and law-school companion built around how your brain actually remembers.*

**The complete Philippine law library - free for everyone.**

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

**Audio case-brief lectures.**

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

**Bar review built on the science of memory.**

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

**The full law-school curriculum.**

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

**Mock exams that tell you where you stand.**

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

**A study planner that keeps you on pace.**

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

**Start free at <https://batas.org>**

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.