PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. DELFIN RONDERO, ACCUSED-APPELLANT.

G.R. No. 125687. December 09, 1999

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PER CURIAM:

When an accused appeals from the judgment of the trial court, he waives the constitutional safeguard against double jeopardy and throws the whole case open for review of the appellate court, which is then called to render such judgment as law and justice dictate, whether favorable or unfavorable.[1] With this precept in mind, this Court as the ultimate dispenser of justice, will not hesitate to render the proper imposable penalty, whenever it sees fit, even the supreme penalty of death.

Before us is an appeal from a decision rendered by the Regional Trial Court of Dagupan City, Branch 41, sentencing herein accused-appellant Delfin Rondero y Sigua to suffer the penalty of reclusion perpetua for the crime of homicide.

The facts of the case are as follows:

On the evening of March 25, 1994, Mardy Doria came home late from a barrio fiesta. When he noticed that his nine year old sister, Mylene, was not around, he woke up his parents to inquire about his sister's whereabouts. Realizing that Mylene was missing, their father, Maximo Doria, sought the help of a neighbor, Barangay Kagawad Andong Rondero to search for Mylene. Maximo and Andong went to the house of a Barangay Captain to ask for assistance and also requested their other neighbors in Pugaro, Dagupan to look for Mylene.

The group began searching for Mylene at around 1:00 o'clock in the morning of March 26, 1994. They scoured the campus of Pugaro Elementary School and the seashore in vain. They even returned to the school and inspected every classroom but to no avail. Tired and distraught, Maximo started on his way home. When he was about five (5) meters away from his house, Maximo, who was then carrying a flashlight, saw herein accused-appellant Delfin Rondero pumping the artesian well about one (1) meter away. Accused-appellant had an ice pick clenched in his mouth and was washing his bloodied hands.[2]

Maximo hastily returned to the school and told Kagawad Andong what he saw without, however, revealing that the person he saw was the latter's own son.[3] Maximo and Andong continued their search for Mylene but after failing to find her, the two men decided to go home. After some time, a restless Maximo began to search anew for her daughter. He again sought the help of Andong and the barangay secretary. The group returned to Pugaro Elementary School where they found Mylene's lifeless body lying on a cemented pavement near the canteen.[4] Her right hand was raised above her head, which was severely bashed, and her fractured left hand was behind her back. She was naked from the waist down and had several contusions and abrasions on different parts of her body. Tightly gripped in her right hand were some hair strands. A blue rubber slipper with a tiny leaf painted in red was found beside her body while the other slipper was found behind her back.

Half an hour later, five (5) policemen arrived at the scene and conducted a spot investigation. They found a pair of shorts[5] under Mylene's buttocks, which Maximo identified as hers. Thereafter, Maximo led the policemen to the

artesian well where he had seen accused-appellant earlier washing his hands. The policemen found that the artesian well was spattered with blood.[6] After the investigation, the policemen, together with Maximo, went back to their headquarters in Dagupan City. There, Maximo disclosed that before they found Mylene's body, he saw accused-appellant washing his bloodstained hands at the artesian well.[7] Acting on this lead, the policemen returned to Pugaro and arrested accused-appellant.

An autopsy of the body of the victim conducted by the Assistant City Health Officer of Dagupan City, Dr. Tomas G. Cornel, revealed the following injuries:

> EXTERNAL FINDINGS
> 1. Contusion hematoma, anterior chest wall, along the midclavicular line, level of the 2nd intercostal space, right.
> 2. Contusion hematoma, along the parasternal line, level of the 1[st] intercostal space, left.
> 3. Contusion hematoma, posterior aspect, shoulder, left.
> 4. Contusion hematoma, anterior axillary line, level of the 3[rd] intercostal space. left.
> 5. Contusion hematoma, anterior aspect, neck.
> 6. Contusion hematoma, lower jaw, mid portion.
> 7. Contusion hematoma, periorbital, right.
> 8. Lacerated wound, 1"x ½" x ½", maxillary area, right.
> 9. Contusion hematoma, temporal area, left.
> 10. Contusion hematoma, mid frontal area.
> 11. Lacerated wound ½" x ¼" x ¼", frontal area, left.
> 12. Contusion hematoma, occipital area, right.
> 13. Abrasion, medial anterior aspect, elbow, left.
> 14. Abrasion, lateral aspect, buttock, right.
> 15. Abrasion, antero lateral aspect, iliac crest, right.
> 16. Contusion hematoma, upper lip.
> 17. Avulsion, upper central and lateral incisors.
> 18. Fresh laceration of the hymen at 1:00 o'clock, 6:00 o'clock and 9:00 o'clock position. Fresh laceration of the labia minora at 6:00 o'clock and 9:00 o'clock position.
>
> INTERNAL FINDINGS
> Massive intracranial hemorrhage with brain tissue injury. Fracture of the right occipital bone.
>
> Note:
> Vaginal smear was done at the Gov. Teofilo Sison Memorial Prov'l Hosp. Laboratory and the result showed no sperm cell seen. (March 26, 1994)
>
> Cause of death: Cardio Respiratory Arrest
> Due to: Massive Intracranial Hemorrhage Traumatic[8]

For Mylene's burial, her parents spent P5,043.00 during her wake,[9] P9,000.00 for funeral expenses[10] and P850.00 for church services and entombment.[11]

On March 28, 1994, the hair strands which were found on the victim's right hand and at the scene of the crime, together with hair specimens taken from the victim and accused-appellant, were sent to he National Bureau of Investigation (NBI) for laboratory examination.[12]

Meanwhile, on March 30, 1994, accused-appellant was formally charged with the special complex crime of rape with homicide in an information which reads:

> The undersigned 4th Assistant City Prosecutor accuses DELFIN RONDERO y Sigua, of Pugaro District,

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> Dagupan City, of the crime of RAPE WITH HOMICIDE, committed as follows:
>
> That on or about the 26th day of March, 1994, in the city of Dagupan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, DELFIN RONDERO y Sigua, did then and there, wilfully, unlawfully, criminally, and forcibly have carnal knowledge with one MYLENE J. DORIA, a 9-year old girl, against her will and consent, and thereafter, with intent to kill, criminally and unlawfully employed violence against her person, thereby causing the death of said MYLENE J. DORIA, as evidenced by the Autopsy Report issued by Dr. Tomas G. Cornel, Asst. City Health Officer, this city, to the damage and prejudice of the legal heirs of said deceased, MYLENE J. DORIA in the amount of not less than FIFTY THOUSAND PESOS (P50,000.00), Philippine currency, and other consequential damages.
>
> Contrary to Article 335 in relation to Article 249 of the Revised Penal Code.

Accused-appellant pleaded not guilty at his arraignment. In the meantime, the NBI sent a fax message to the Dagupan City Police Station saying that it could not conduct an examination on the hair strands because the proper comparative specimens were not given. The NBI suggested that hair strands be pulled, not cut, from the suspect and from the victim on the four regions of their heads so that all parts of the hair strands, from root to tip, may be presented.[13] Thereupon, accused-appellant, who executed a "waiver of detention" including a waiver of the provisions of Section 12, Article III of the Constitution on the rights of the accused during custodial investigation,[14] was allegedly convinced by a certain Major Wendy Ocampo to give sample hair strands. Another police officer went to the Doria's residence to get hair samples from Mylene, who had not yet been interred. The hair strands taken from accused-appellant and the victim were later indorsed to the NBI for laboratory testing.[15] Comparative micro-physical examination on the specimens showed that the hair strands found on the right hand of the victim had similar characteristics to those of accused-appellant's, while the hair specimen taken from the crime scene showed similar characteristics to those of the victim's.[16] Alicia P. Liberato, the NBI Senior Forensic Chemist who conducted the microscopic examination on the hair samples, later reiterated the aforesaid findings in court.[17]

At the trial, Dr. Cornel, the physician who conducted the autopsy on Mylene at around 9:30 o'clock in the morning of March 26, 1994, testified that the victim's death probably occurred before 11:00 o'clock in the evening of March 25, 1994 judging from the rigidity of her lower and upper extremities. He explained that the contusions and hematoma found on Mylene's body were possibly caused by a blunt instrument, a clenched fist or a piece of wood.[18] The lacerated wounds on her face may have been caused by a bladed instrument, not necessarily sharp, or by hitting her head on a concrete wall with jagged edges. The abrasions on her elbow, right buttock and upper hip may have been caused by a rough object that came in contact with her skin.[19] Dr. Cornel also explained that the victim's upper and lateral incisors may have been avulsed by a sudden blow in the mouth using a blunt instrument, stone or wood. He added that the fresh hymenal lacerations at 1:00 o'clock, 6:00 o'clock and 9:00 o'clock positions and the fresh laceration of the labia minora at 6:00 o'clock and 9:00 o'clock positions could have been caused either by sexual intercourse or by an object forcibly inserted in Mylene's vagina.[20]

Accused-appellant resolved not to testify at the trial, opting instead to present his wife and his father as witnesses to account for his whereabouts on the night of the gruesome incident.

Christine Gonzales, wife of accused-appellant, testified that on March 25, 1994, at around 7:00 o'clock in the evening, she had a quarrel with her husband. Accused-appellant was then slightly drunk and apparently irked when supper was not yet ready. He slapped his wife and shouted invectives at her, causing a disturbance in the neighborhood and prompting his father, who lived just a house away, to intervene. When accused-appellant refused to be pacified, his father hit him in the nose, mouth and different parts of the body.[21] His father left accused-appellant profusely bleeding. Accused-appellant then changed his blood-stained clothes and went to bed

with his wife. It was a little after 8:00 o'clock in the evening.

Christine woke up the next day at around 7:00 o'clock in the morning. She washed some clothes including the blood-stained ones her husband wore the night before. After doing the laundry, she went out to pay her father a visit. On her way back home, Christine was informed by a child that her husband was arrested by the police. Christine rushed home and found some policemen taking the newly washed undershirt and short pants of accused-appellant from the clothesline. The policemen brought Christine with them to the police headquarters for questioning. When asked about the blood on her husband's clothes, Christine told them about their quarrel the night before.[22]

Accused-appellant's father, Leonardo Rondero, corroborated Christine's story. He testified that on the night in question, at around 7:00 o'clock in the evening, he was resting at home, located only a house away from his son's, when he heard the latter having a heated discussion with Christine. Embarrassed at the scene that his son was creating at such an hour, Leonardo went to he couple's house to pacify the slightly inebriated accused-appellant. Accused-appellant ignored his father and continued shouting at his wife. Leonardo then hit him several times causing his nose and mouth to bleed profusely that it stained his sando and short pants. Startled at the injuries that his son sustained, Leonardo went home. Early the next morning, March 26, 1994, at around 1:30 o'clock, Leonardo was awakened by his neighbor, Maximo Doria, who sought his assistance to search for his missing nine-year old daughter Mylene. Leonardo willingly obliged. Thus, Maximo, Leonardo and the barangay secretary searched the nearby houses for hours but failed to find Mylene.[23]

On October 13, 1995, the trial court rendered judgment[24] convicting accused-appellant of the crime of murder and sentencing him to death. The dispositive portion of the decision reads:

> WHEREFORE:
>
> For the crime you had wilfully and deliberately committed, this court finds you guilty beyond reasonable doubt of the crime of murder defined and punished by Section 6 of Republic Act No. 7659, in relation to Article 248 of the Revised Penal Code, together with all its attendant aggravating circumstances without any mitigating circumstance of whatever nature.
>
> You, Delfin Rondero, are hereby therefore sentenced to die by electrocution pursuant to Article 81 of Republic Act No. 7659, for your heinous crime as charged in the information as a punishment and as an example to future offenders.
>
> You are hereby further ordered to indemnify the heirs of the victim by paying to them an amount of P60,000.00 for the loss of life of Mylene J. Doria; P15,000.00 for consequential damages and P100,000.00 as moral damages.
>
> May God have mercy on your soul.
>
> SO ORDERED.[25]

Accused-appellant moved for reconsideration. On November 10, 1995, the trial court issued an order modifying its earlier decision, convicting accused-appellant of the crime of homicide and sentencing him to suffer the penalty of reclusion perpetua instead, on the ground that under Section 10 of Republic Act No. 7610, otherwise known as the "Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act," the penalty for homicide is reclusion perpetua when the victim is under twelve (12) years of age.[26]

In this appeal, accused-appellant raises the following assignment of errors:

> I. THE LOWER COURT ERRED IN FINDING ACCUSED-APPELLANT GUILTY OF THE CRIME OF

> MURDER AMENDED TO HOMICIDE AND SENTENCING HIM TO SUFFER LIFE IMPRISONMENT (sic) AND TO INDEMNIFY THE AGGRIEVED PARTY IN THE AMOUNT OF P175,000.00 BASED ONLY ON CIRCUMSTANTIAL EVIDENCE.
>
> II. THE LOWER COURT COMMITTED GRAVE ERROR IN CONVICTING THE ACCUSED OF HOMICIDE.
>
> III. THE LOWER COURT COMMITTED GRAVE ERROR IN FINDING ACCUSED GUILTY TO (sic) THE CRIME OF HOMICIDE DESPITE ILLEGAL ARREST AND ILLEGAL DETENTION OF ACCUSED-APPELLANT.[27]

The appeal has no merit.

Accused-appellant argues that the circumstantial evidence presented by the prosecution is not strong enough to sustain his conviction, asserting that Maximo Doria's testimony that he saw him about a meter away washing his bloodied hands at an artesian well was highly improbable inasmuch as it was dark at that time. Accused-appellant also considered it strange that when Maximo saw him, he did not bother to ask if he had seen Mylene. Finally, accused-appellant alleges that the slippers presented in court as evidence are not the same ones which were recovered at the scene of the crime since the pictures presented in court did not show the leaf painted in red on the left slipper.

Section 4, Rule 133 of the Revised Rules of Court provides:

> Sec. 4. Circumstantial evidence, when sufficient.- Circumstantial evidence is sufficient for conviction if:
>
> (a) There is more than one circumstance;
> (b) The facts from which the inferences are derived are proven; and
> (c) The combination of all the circumstances is such as to produce a conviction beyond reasonable doubt.

Circumstantial evidence is that evidence which proves a fact or series of facts from which the facts in issue may be established by inference.[28] Such evidence is founded on experience and observed facts and coincidences establishing a connection between the known and proven facts and the facts sought to be proved.[29] Circumstantial evidence is sufficient for conviction in criminal cases when there is more than one circumstance, derived from facts duly given and the combination of all is such as to produce conviction beyond reasonable doubt. The test for accepting circumstantial evidence as proof of guilt beyond reasonable doubt is: the series of circumstances duly proved must be consistent with each other and that each and every circumstance must be consistent with the accused's guilt and inconsistent with his innocence.

In the case at bar, the prosecution avers that there are several circumstances availing which, when pieced together, point to accused-appellant as the author of the gruesome crime committed on the night of March 25, 1994, to wit:

> 1. A few hours after the victim's probable time of death, Maximo saw accused-appellant, with an ice pick clenched in his mouth, washing his bloodied hands at an artesian well.[30]
>
> 2. A pair of slippers which Maximo identified as belonging to accused-appellant was found at the scene of the crime. One was found beside the victim's body while the other was under her buttocks.[31] Maximo positively pointed to accused-appellant as the owner of the pair of slippers because of a distinguishing mark of the painting of a red leaf on the left slipper. Maximo said accused-appellant used to frequent their house wearing the same pair of slippers for over a year.[32]

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> 3. The hair strands which were found on Mylene's right hand and the hair strands taken from accused-appellant were shown to have similar characteristics when subjected to microscopic examination.[33]
>
> 4. Accused-appellant's undershirt and short pants which he wore on the night of March 25, 1994 had bloodstains. His wife admitted having washed the undershirt and short pants in the early morning of March 26, 1994.[34]

Contrary to the allegations of accused-appellant, the evidence presented by the prosecution is sufficient to sustain his conviction. Maximo stated on the witness stand that he was able to identify accused-appellant because he focused his flashlight on him while he was washing his bloodstained hands at an artesian well located only a meter away from where Maximo was standing.[35] Maximo considered it wise not to talk to accused-appellant because at that time he had an ice pick clenched in his mouth and looked slightly drunk. As to the allegation that the slippers presented in court were not the same ones recovered at the scene of the crime, suffice it to say that the photographs taken of the crime scene were not focused only on the pair of slippers; hence, the red leaf may be too minuscule to be noticed. In any case, the pair of slippers shown in the photographs corroborate the testimony of the prosecution's witnesses that a pair of rubber slippers were indeed recovered at the scene.

It might not be amiss to note that Maximo was not shown to have had any motive to impute so grave a wrong on accused-appellant. Prior to the incident, accused-appellant used to frequent Maximo's house for a visit.[36] On the night of the incident, Maximo even sought the help of accused-appellant's father to search for Mylene.

On the other hand, the testimonies of the witnesses for the defense are incredulous, to say the least. Leonardo Rondero, accused-appellant's father, testified that he mauled his son in an effort to pacify him during a heated altercation with his wife, Christine. Leonardo said that he felt embarrassed because his son was shouting invectives at Christine and was causing a scene in the neighborhood so he hit the accused-appellant several times. Leonardo's curious way of pacifying his son resulted in bodily injuries on the latter. Strangely, despite his sustained injuries and profuse bleeding, accused-appellant and his wife just went to sleep after Leonardo left.[37] We find it unnatural that a father, a barangay kagawad, would repeatedly hit his son in an effort to pacify him in the middle of a marital spat. We find it even more unnatural that one who was bleeding profusely would act so insouciant as to just to go to sleep without attending to his injuries.

Accused-appellant alleges that while in the custody of police officers, some hair strands were taken from him without his consent and submitted to the NBI for investigation, in violation of his right against self incrimination. Aside from executing a waiver of the provisions of Article 125 of the Revised Penal Code, accused-appellant executed a waiver of the provisions of Article III, Section 12 of the Constitution regarding the rights of an accused during custodial investigation.[38] It appears, however, that the waivers were executed by the accused without the assistance of a counsel of his own choice.

The use of evidence against the accused obtained by virtue of his testimony or admission without the assistance of counsel while under custodial investigation is proscribed under Sections 12 and 17, Article III of the Constitution, to wit:

> Sec. 12. (1) Any person under investigation for the commission of an offense shall have the right to be informed of his right to remain silent and to have competent and independent counsel preferably of his own choice. If the person cannot afford the services of counsel, he must be provided with one. These rights cannot be waived except in writing and in the presence of counsel.
>
> (2) No torture, force, violence, threat, intimidation or any other means which vitiate the free will shall be used against him. Secret detention places, solitary, incommunicado, or other similar forms of detention are

prohibited.

(3) Any confession or admission in violation of this or Section 17 hereof shall be inadmissible in evidence against him.

x x x x x x x x x

Sec. 17. No person shall be compelled to be a witness against himself.

The aforesaid rules are set forth in the Constitution as a recognition of the fact that the psychological if not physical atmosphere of custodial investigations in the absence of procedural safeguards is inherently coercive in nature. However, to paraphrase Justice Sanchez in the case of Chavez vs. Court of Appeals,[39] "Compulsion does not necessarily connote the use of violence; it may be the product of unintentional statements. Pressure which operates to overbear his will, disable him from making a free and rational choice or impair his capacity for making rational judgment would be sufficient. So is moral coercion tending to force testimony from the unwilling lips of the defendant." Needless to say, the above-mentioned provisions are an affirmation that "coercion can be mental as well as physical and that the blood of the accused is not the only hallmark of an unconstitutional inquisition."[40]

It bears emphasis, however, that under the above-quoted provisions, what is actually proscribed is the use of physical or moral compulsion to extort communication from the accused-appellant and not the inclusion of his body in evidence when it may be material. For instance, substance emitted from the body of the accused may be received as evidence in prosecution for acts of lasciviousness[41] and morphine forced out of the mouth of the accused may also be used as evidence against him.[42] Consequently, although accused-appellant insists that hair samples were forcibly taken from him and submitted to the NBI for forensic examination, the hair samples may be admitted in evidence against him, for what is proscribed is the use of testimonial compulsion or any evidence communicative in nature acquired from the accused under duress.

On the other hand, the blood-stained undershirt and short pants taken from the accused are inadmissible in evidence. They were taken without the proper search warrant from the police officers. Accused-appellant's wife testified that the police officers, after arresting her husband in their house, took the garments from the clothesline without proper authority.[43] This was never rebutted by the prosecution. Under the libertarian exclusionary rule known as the "fruit of the poisonous tree," evidence illegally obtained by the state should not be used to gain other evidence because the illegally obtained evidence taints all evidence subsequently obtained. Simply put, accused-appellant's garments, having been seized in violation of his constitutional right against illegal searches and seizure, are inadmissible in court as evidence.

Nevertheless, even without the admission of the bloodied garments of the accused as corroborative evidence, the circumstances obtaining against accused-appellant are sufficient to establish his guilt.

Having disposed of the foregoing, we now come to the issue of whether accused-appellant should be convicted of the special complex crime of rape with homicide.

It is a jurisprudential rule that an appeal throws a whole case to review and it becomes the duty of the appellate court to correct such error as may be found in the judgment appealed from whether they are made the subject of assigned errors or not.[44]

The trial court dismissed the charge of rape holding that it has not been adequately proven due to the absence of spermatozoa in the victim's private part. It is well settled that the absence of spermatozoa in the victim's private part does not negate the commission of rape for the simple reason that the mere touching of the pudenda by the male organ is already considered as consummated rape. Mylene Doria was naked from waist down when she was

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found. Her private organ had hymenal lacerations at 1:00 o'clock, 6:00 o'clock and 9:00 o'clock positions. There were fresh lacerations in the labia minora at 6:00 o'clock and 9:00 o'clock positions as well. The trial judge even noted that "it can be conclusively deduced that her sex organ was subjected to a humiliating punishment." While the examining physician speculated that the lacerations could have been caused by a piece of wood or rounded object, he did not rule out the possibility of forcible sexual intercourse.

The presence of physical injuries on the victim strongly indicates the employment of force on her person. Contusion was found on Mylene's face, arms and thighs. In rape cases, when a woman is forcibly made to lie down, she will utilize her elbow as the fulcrum so that abrasions will be observed. In an attempt to stand, the victim will flex her neck forward. The offender will then push her head backwards, causing hematoma at the region of the occiput. To prevent penetration of the male organ, she will try to flex her thighs and the offender will give a strong blow to the inner aspects of both thighs so that the victim will be compelled to straighten them.[45]

As aptly observed by the Solicitor General, aside from the hymenal lacerations, the examining physician testified that Mylene sustained abrasions on her left elbow, right buttock and right upper hip and contusion hematoma at the occipital area, i.e., back part of the head, right side.[46] Indeed, the physical evidence indubitably tells a harrowing crime committed against nine-year old Mylene Doria in a manner that no words can sufficiently describe.

Anent accused-appellant's third assignment of error, it might be true that accused-appellant's warrantless arrest was not lawful. The police officers who arrested him had no personal knowledge of facts indicating that he was the perpetrator of the crime just committed. His warrantless arrest was not based on a personal knowledge of the police officers indicating facts that he has committed the gruesome crime but solely on Maximo's suspicion that he was involved in the slaying of Mylene since he was seen washing his bloodied hands in the early morning of March 26, 1994.[47] Nevertheless, it is hornbook knowledge that any irregularity attending the arrest of an accused is deemed waived when, instead of quashing the information for lack of jurisdiction over his person, the accused voluntarily submits himself to the court by entering a plea of guilty or not guilty during the arraignment and participating in the proceedings.

Finally, we reiterate that when an accused appeals from the sentence of the trial court, he waives the constitutional safeguard against double jeopardy and throws the whole case open to the review of the appellate court, which is then called to render judgment as the law and justice dictate, whether favorable or unfavorable, and whether they are made the subject of assigned errors or not. This precept should be borne in mind by every lawyer of an accused who unwittingly takes the risk involved when he decides to appeal his sentence.

Accused-appellant's guilt having been established beyond reasonable doubt for the rape and brutal slaying of Mylene Doria, this Court has no other recourse but to impose the penalty of death upon accused-appellant Delfin Rondero y Sigua. Under Article 335 of the Revised Penal Code, as amended by Republic Act No. 7659, "when by reason or on occasion of the rape, a homicide is committed, the penalty shall be death." At this juncture, it should be stated that four justices of the court have continued to maintain the unconstitutionality of R.A. No. 7659 insofar as it prescribes the death penalty; nevertheless, they submit to the ruling of the majority to the effect that this law is constitutional and that the death penalty can be lawfully imposed in the case at bar.

The award of P50,000.00 as indemnity to the heirs of the victim is increased to P75,000.00 in line with our ruling in People vs. Mahinay.[48] The award of moral damages in the sum of P100,000.00 is reduced to P50,000.00. Further, accused-appellant is ordered to pay the sum of P15,000.00 as consequential damages.

WHEREFORE, the decision of the Regional Trial Court, Branch 41, Dagupan City finding accused-appellant

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Delfin Rondero y Sigua guilty beyond reasonable doubt of the crime of homicide is MODIFIED. Accused-appellant Delfin Rondero y Sigua is found guilty beyond reasonable doubt of the charge of special complex crime of rape with homicide committed against Mylene J. Doria and is accordingly sentenced to suffer the supreme penalty of DEATH. He is also ordered to pay the heirs of the victim the sum of P75,000.00 by way of civil indemnity, P50,000.00 as moral damages and P15,000.00 as consequential damages.

In accordance with Section 25 of Republic Act No. 7659, amending Article 83 of the Revised Penal Code, upon finality of this decision, let the records of this case be forwarded to the Office of the President for possible exercise of pardoning power.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Panganiban, Quisumbing, Purisima, Pardo, Buena, Gonzaga-Reyes, Ynares-Santiago, and De Leon, Jr., JJ., concur.

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[1] Lontoc vs. People, 74 Phil 513, 519 [1943].

[2] TSN, December 27, 1994, p. 9.

[3] TSN, January 23, 1995, p. 17.

[4] TSN, December 27, 1994, pp. 9-11.

[5] Exh. "C".

[6] TSN, December 27, 1994, pp. 15-20.

[7] TSN, January 23, 1995, p. 19.

[8] Exh. "A".

[9]Exh. "P".

[10] Exh. "P-1".

[11] Exh. "P-2".

[12] Exh. "G".

[13] Exh. "H".

[14] Records, p. 7.

[15] Exh. "I".

[16] Exh. "J".

[17] TSN, April 17, 1995, p. 5.

[18] TSN, November 21, 1994, pp. 7-10.

[19] TSN, November 21, 1994, pp. 10-14.

[20] TSN, November 21, 1994, pp. 15-16; 22.2

[21] TSN, September 27, 1995, pp. 3-4.

[22] TSN, September 27, 1995, pp. 4-6.

[23] TSN, August 16, 1995, pp. 11-15.

[24] Penned by Judge Victor T. Llamas, Jr.

[25] Rollo, pp. 27-28.

[26] Records, pp. 217-220.

[27] Rollo, p. 55.

[28] People vs. Songcuan, 176 SCRA 354 [1989].

[29] VII Francisco, The Revised Rules of Court in the Philippines, p. 600, 1997 ed., citing 1 Jones on Evidence, 2nd Ed., Sec. 6.

[30] TSN, December 27, 1994, p. 9.

[31] TSN, February 6, 1995, p. 4.

[32] TSN, December 27, 1994, p. 13.

[33] Exh. "J".

[34] TSN, December 27, 1995, p. 5.

[35] TSN, December 27, 1994, p. 9.

[36] TSN, December 27, 1994, p. 13.

[37] TSN, September 27, 1995, p. 4.

[38] Records, p. 7.

[39] 24 SCRA 663 [1968].

[40] Blackburn v. Alabama, 361 US 199.

[41] US vs. Tan Teng, 23 Phil 145 [1912].

[42] US vs. Ong Siu Hong, 36 Phil 735 [1917].

[43] TSN, September 27, 1995, p. 6.

[44] Tabuena vs. Sandiganbayan, 268 SCRA 332 [1997].

[45] Pedro Solis, Legal Medicine, pp. 501-502 (1987).

[46] TSN, November 21, 1994, pp. 13-14.

[47] TSN, January 23, 1995 p. 19; TSN, February 6, 1995, p. 16.

[48] G.R. No. 122485, February 1, 1999.

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