

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RENATO CAPARANGA JOSE, ACCUSED-APPELLANT.***G.R. No. 128789. May 24, 1999*Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-128789/>**PER CURIAM:**

Accused-appellant Renato Caparanga Jose seeks reversal of the judgment of conviction rendered by Branch 274 of the Regional Trial Court of the National Capital Judicial Region stationed in Parañaque, Metro Manila on December 10, 1996 sentencing him to death for the crime of statutory rape.

The victim was then a child of barely 5 years of age, as alleged in the information and as duly proved by the Certificate of Live Birth presented at the trial (Record, p. 201; Exhibit "E"). The child acquired a sexually transmitted disease as a result of the abuse upon her innocence. From the gram staining examination conducted on her, the victim was found positive for both intracellular and extracellular gram negative diplococci, the microorganism that causes gonorrhea. The presence of sperm cells was likewise positively noted on the specimen taken from the child (Record, p. 199; Exhibit "C" [gram staining examination report]). All these were unmistakable signs that the child was sexually molested and abused. Thus, on February 21, 1995, an Information was filed against the suspect pointed at by the victim, charging herein accused-appellant as follows:

That on or about the 6th day of February 1995, in the Municipality of Parañaque, Metro Manila, Philippines and within and jurisdiction of this Honorable Court, the above-named accused, by means of force and intimidation did then and there willfully, unlawfully and feloniously, have carnal knowledge of the complainant Agapita Tria's daughter named Aimzyl Tria, who is a minor, 5 years old, against her will.

CONTRARY TO LAW.

(Record, p. 2.)

At the arraignment, accused-appellant pleaded not guilty. Thence, trial ensued where the prosecution adduced the following evidence as summarized in the decision of the trial court, thusly:

On February 6, 1995, the victim, Aimzyl Tria a five-year old girl, was left alone in her home at 5146 P. Dandan Street, La Huerta, Parañaque, Metro Manila, watching cartoons on the television set. While she was televiewing, the accused arrived. The accused told the victim to go up to the master's bedroom of the house located upstairs wherein two (2) beds were placed therein. The accused made her lie down on the soft bed, and thereafter, removed her clothes. She was then wearing a "sando" and shorts while the accused was in t-shirt and shorts. After undressing her, the accused inserted his middle and index fingers into her private part and put out his tongue to wet the same ("nilawayan"). He did this act to the victim twice. She began to move she felt so much pain. However, all her efforts to move away were in vain due to the superior strength of the accused. At this juncture, the accused placed again his tongue on the private part of the victim. Thereafter, the accused inserted his penis into her private part twice. She saw something like sputum ("parang sipon") which came out of his penis.

The victim then tried again to move away due to the extreme pain that she felt. However, the accused held her tender legs to bring her closer to him. She did not shout because he told her to keep quite so that the people

will not hear her. She became afraid as they were the only ones left in the house. Her father was then in Bicol for a vacation. The accused then told her not to tell anyone after raping her.

There was another instance wherein the victim was again raped by the accused. This happened while she was taking a bath inside the bathroom located at the ground floor of their house in Parañaque. She was then alone in the house when suddenly the accused entered the bathroom where she was taking a bath. The accused removed his shorts, and thereafter, told her to sit on his lap facing him. The victim was naked since she was not yet through taking a bath. He again inserted his penis into her vagina twice, and she, like in the previous occasion, felt so much pain. She again observed something like sputum ("parang sipon") coming out of the penis of the accused.

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The mother of the victim, Agapita Tria, noticed some mucus on the underwear of her daughter on February 7, 1995 ("Napansin ko ang mga panty ng anak ko na may uhog"). She asked her daughter about it but the latter did not answer and appeared to be so afraid. She did not press her daughter to talk, although her refusal to talk was apparent, and instead, she just continued observing her.

On February 8, 1995, the victim's mother again saw the mucus on the underwear of her daughter which she noticed on February 7, 1995. She again noticed the mucus on the panties of her daughter on the succeeding days. These series of unusual phenomena made her impatient so much so that she emphatically asked her daughter as to what happened to her, and told her not to be afraid, and tell her mother the truth if there was somebody who had done something to her private part.

Finally, the victim told her mother that "inano daw siya ni Kuya Nat niya." The victim used the word "inano" since at that time, she did not know yet the word "rape". When her mother asked her what she meant by "inano", she answered that "iano ng kamay ni Kuya Nat ang pepe niya", and that he placed his tongue into her private part before he inserted his penis into it.

(Record, pp. 499-502.)

In order to verify what really happened to her child, the mother brought her the following day to Dr. Priscilla Buenavista's clinic in Baclaran, Parañaque for examination. The physician examined the victim and took a vaginal smear specimen which was then sent to Medici Diagnostic Clinilab, Inc. for analysis. That same day, Dr. Buenavista was informed about the results of the gram staining analysis of the vaginal smear specimen, which she herself had, thereafter, an opportunity to personally look at under the microscope. The victim was found positive for both intracellular and extracellular gram negative diplococci and the presence of sperm cells was likewise noted (Exhibit "C"). Dr. Buenavista eventually decided to refer the patient and her mother to the National Bureau of Investigation for the proper handling of the case and to the Philippine General Hospital, or The Research Institute for Topical Medicine for the treatment of the disease (tsn, August 14, 1995, p. 10).

Before going to the NBI, the victim's mother thought of reporting the incident to the police in order to prevent the possible escape of the accused. At the Parañaque Station, she executed a Sinumpaang Salaysay (Exhibit "H"). The Parañaque Police gave her a referral letter to the NBI for medico-legal examination of her daughter.

The NBI medico-legal officer, Dr. Valentin T. Bernales, conducted both a physical and genital examination of the victim. He issued a medico-legal report of his findings (Exhibit "D"). His most notable findings on the genitalia of the victim are that there was the healing wound with pus formation at the root of the hymen, that the vestibular mucosa is congested, and that, the hymen is intact.

On the strength of the foregoing evidence, which established that the victim was under twelve years of age, that she had in fact been sexually abused, and that she positively identified accused-appellant as her molester, Judge Amelita G. Tolentino of the trial court rendered a judgment of conviction, which accordingly disposed:

WHEREFORE, this Court finds the accused Renato Caparangan Jose guilty beyond reasonable doubt of the crime of rape defined and penalized under Article 335 of the Revised Penal Code, as amended by Republic Act. No. 7659, and hereby sentences him to suffer the supreme penalty of DEATH.

The Court hereby orders the accused to indemnify the victim, Aimzyl Tria, in the amount of FIFTY THOUSAND PESOS (P50,000.00) as moral damages.

SO ORDERED.

(Record, p. 514-515.)

Accused-appellant, now before this Court, anchors his appeal in the lone assigned error, the catch-all argument that his guilt has not been proved beyond reasonable doubt.

Accused-appellant commiserates with the victim for he is convinced beyond any cloud of doubt of the fact that the latter was sexually abused. He, however, counts on the possibility that the victim, Aimzyl Tria, may have been mistaken in pointing to him as the perpetrator of the crime. Accused-appellant stresses that although "(I)t is true that during the direct examination, the victim pointed to the accused as the one who raped her, however, the trial court failed to appreciate the fact that, given the tender age of the accused, she could have easily mistaken her 'Kuya Nat' as the person who actually raped her". This, according to accused-appellant, "is made possible by the fact that her Kuya Nat is the only adult male other than her own father whom she knows and who could be pointed to as the perpetrator of the rape" (Rollo, p. 63).

Since accused-appellant already concedes that fact that the crime of rape had indeed been committed against Aimzyl Tria, the only issue left to be resolved in the present case is whether or not accused-appellant was indeed the perpetrator of said crime, as ruled by the trial court.

We affirm the conviction of accused-appellant.

The lone issue presented in the instant case boils down to one involving the credibility of the victim as a witness. As a basic and fundamental rule, that trial court's factual findings, especially its assessment of credibility of witnesses, are generally accorded great weight and respect on appeal. In *People vs. Laceste* (G.R. No. 127127, July 30, 1998), the Court once again reiterated the rule that "when the issue is one of credibility of witnesses, appellate courts will generally not disturb the findings of the trial court unless it plainly overlooked certain facts of substance and value that, if considered, might affect the result of the case. This is so because the trial court is in a better position to decide the question, having heard the witnesses and observed their deportment and manner of testifying during the trial." Can we consider the fact that the victim/witness was merely five years old when she positively identified accused-appellant as her sexual violator and knew no other adult man other than her father and the accused-appellant, as a fact of substance and value which was overlooked by the trial court in its assessment of the credibility of the victim as a witness and which, if considered, will affect the result of the case?

We rule in the negative.

The trial court had overlooked nothing in this regard. There is nothing extant in the record of the case which the Court may consider supportive of the conclusion that at the age of five when she was sexually violated, Aimzyl actually knew no other adult man except her father and herein accused-appellant. Such claim by accused-appellant simply remained in the realm of speculation, a figment of accused-appellant's imagination. It holds no water. Even after repeatedly perusing each and every page of the record, the Court found it entirely bereft of any circumstance whatsoever to discredit the victim-child as a witness.

Contrary to accused-appellant's contention, the tender age of the victim/witness in the present case, in fact, works

in her favor. Thus, we have ruled that the revelation of an innocent child whose chastity was abused, deserves full credence (People vs. Cagto, 253 SCRA 455 [1996]; People vs. Galimba, 253 SCRA 722 [1996]; People vs. Esquilla, 254 SCRA 140 [1996].) Testimony of child-victims are given full weight and credit (People vs. Digno, 250 SCRA 237 [1995]).

Accused-appellant also continues to rely upon his theory that the victim's mother has an ax to grind against him and that this is the reason why she used her child as a instrument to pin the blame on him. He asserts that the victim's mother wants to get even with him because he decided to end his illicit amorous relations with her and intended to marry his girlfriend. When this kind of argument was presented to the Court as early as in the case of People vs. Villaroya, (101 Phil. 1061 [1957]), we ruled that "hatred cannot be considered sufficient motive to testify falsely to convict a person for a crime punishable by death." This view is still applicable in the present case, especially so where a five-year old victim also testified as witness. Moreover, as the trial court correctly pointed out, accused-appellant's testimony on the matter was in itself unconvincing. We quote the trial court thusly:

The defense utterly failed to present a certain Tessie Lampera to whom the accused allegedly confided his illicit relationship with Mrs. Tria. Neither was he able to present his alleged girlfriend to testify in his behalf. In fact, the mother of his girlfriend appeared during one of the court hearings that her daughter vehemently denies any knowledge of the case and refuses to be involved therein.

(Record, p. 544.)

Besides, in the case involving the crime of rape of a child of the very tender age of five, the Court will additionally consider the fact that no mother in her right mind would possibly stoop so low as to subject her daughter to the hardships and shame concomitant to a rape prosecution just to assuage her own hurt feelings (cf. People vs. Gecom, 254 SCRA 82 [1996]; People vs. Cervantes, 265 SCRA 832 [1996]). It is unnatural for a parent to use her offsprings as an engine of malice, especially if it will subject a daughter to embarrassment and even stigma (People vs. Dones, 254 SCRA 696 [1996]; People vs. Alimon, 257 SCRA 658 [1996]; People vs. Balisnomo, 265 SCRA 98 [1996]). It is hard to believe that a mother would sacrifice her own daughter and present her to be the subject of a public trial if she, in fact, has not been motivated by an honest desire to have the culprit punished (People vs. Henson, 270 SCRA 634 [1997]).

Altogether, the conviction judgment of the trial court is well supported by the evidence and the penalty imposed on accused-appellant is in pursuance of Section 11 of Republic Act No. 7659, otherwise known as the Death Penalty Law, which pertinently provides:

The death penalty shall also be imposed if the crime of rape is committed with any of the following attendant circumstances.

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4. when the victim is a religious or a child below seven (7) years old.

As to the award for damages, the Court takes occasion to reiterate the distinction between civil indemnity, which for the present time has been fixed by the Court in the amount of P75,000.00 for death-sentence cases (People vs. Penis, G.R. No. 127903, July 9, 1998), and moral damages, which the Court has set in the amount of P50,000.00 for rape cases, over and above the aforementioned civil indemnity (People vs. Prades, G.R. No. 127569, July 30, 1998). As clarified in Prades, indemnity is one thing, moral damages is another, to wit:

The lower court, however, erred in classifying the award of P50,000.00 to the offended party as being in the character of moral damages. Jurisprudence has elucidated that the award authorized by the criminal law as civil indemnity ex delicto for the offended party, in the amount authorized by the prevailing judicial policy and

aside from other proven actual damages is itself equivalent to actual or compensatory damages in civil law. For that matter, the civil liability *ex delicto* provided by the revised penal code, that is, restitution, reparation and indemnification, all corresponds to actual or compensatory damages in the Civil Code, since the other damages provided therein are moral, nominal, temperate or moderate, liquidated, and exemplary or corrective damages, which have altogether different concepts and fundamentals.

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. . . The Court has also resolved that in crimes of rape, such as that under consideration, moral damages may additionally be awarded to the victim in the criminal proceeding, in such amount as the Court deems just, without need for pleading or proof of the basis thereof as has heretofore been the practice. Indeed, the conventional requirement of *allegata et probata* in civil procedure and for essentially civil cases should be dispensed with in criminal prosecutions for rape with the civil aspect included therein, since no appropriate pleadings are filed wherein such allegations can be made.

Corollarily, the fact that complainant has suffered the trauma of mental, physical and psychological sufferings which constitute the bases for moral damages are too obvious to still require the recital thereof at the trial by the victim, since the Court itself even assumes and acknowledges such agony on her part as a gauge of her credibility. What exists by necessary implication as being ineludibly present in the case need not go through a testimonial charade.

(pp. 18-20)

The trial court must, therefore, be corrected for "indemnifying" the victim in the amount of P50,000.00 as moral damages.

Other than this matter relating to indemnity, the Court affirms the decision of the trial court convicting accused-appellant of rape and accordingly sentencing him to death. Albeit four Members of the Court maintain their position that Republic Act No. 7659 insofar as it prescribes the death penalty is unconstitutional, they nevertheless submit to the ruling of the majority that the law is constitutional and that the death penalty should be imposed in this case.

WHEREFORE, accused-appellant's conviction of the crime of rape and the corresponding imposition upon him of the supreme penalty of death are hereby AFFIRMED, with the MODIFICATION that accused-appellant Renato Caparanga Jose is ordered to indemnify the offended party, Aimzyl Tria, in the amount of P75,000.00 as civil indemnity, and to pay the additional amount of P50,000.00 as moral damages.

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

### **SO ORDERED.**

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

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