

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROLANDO PAGDAYAWON, ACCUSED-APPELLANT.

G.R. No. 130522. February 15, 2001

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-130522/>

PER CURIAM:

Rolando Pagdayawon was charged upon the sworn complaint of his stepdaughter Lori Pagdayawon with the crime of rape under Article 335, par. 3 of the Revised Penal Code as amended. The Information^[1] reads:

"The undersigned Prosecutor, upon sworn complaint filed by LORI PAGDAYAWON, a copy of which is attached, accuses ROLANDO PAGDAYAWON of the crime of RAPE under Article 335, par. 3 of the Revised Penal Code, as amended by R. A. 7659, committed as follows:

That on or about September 16, 1996, in the City of Davao, Philippines and within the jurisdiction of this Honorable Court, the above-mentioned accused, by means of force and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge with his stepdaughter Lori Pagdayawon, 11 years of age, against the will of the latter.

CONTRARY TO LAW."

Complainant Lori was an eleven year old girl when she filed a complaint for statutory rape on September 20, 1996 against accused Rolando Pagdayawon, a policeman, the husband of her mother Hazel delos Reyes Pagdayawon. In her accusatory affidavit, Lori claimed that she had been repeatedly sexually molested by her stepfather since she was still nine (9) years old. The last time was on September 16, 1996, in the house where she was living with the accused after her mother left home for good. She revealed her ordeal to her teacher and the matter was brought to the attention of the police authorities. Medical examination revealed old healed hymenal laceration.

Lori is the daughter of Hazel delos Reyes and a certain Levy Bienvenide. According to her mother, Lori was born on February 24, 1985 at Macabebe, Pampanga. They moved to Davao City sometime in 1985 or 1986 where Hazel got married to the accused Rolando in a civil ceremony and thereafter started to live as husband and wife. There were frequent family quarrels after which Hazel would leave the conjugal home and return thereafter. Sometime in April 1996, the couple quarreled again; Hazel left the conjugal home but left Lori behind as the latter was going to school and Rolando was sending her to school.

The rape subject of the complaint occurred at about 9:00 o'clock in the evening of September 16, 1996^[2]. According to Lori, Rolando followed her to her room, locked the door and the windows and then raped her.

Dr. Danilo Ledesma conducted a medical examination of the complainant two days after, which revealed old deep hymenal laceration at 8:00 o'clock position, which is more than 4 months old.^[3] Dr. Ledesma testified that subsequent sexual intercourse would not cause laceration of the hymen if the penis of the man is not more than 2.5 cms. in diameter.^[4]

The accused denied that he raped Lori, and claimed that he has been sexually impotent since 1986. He presented a medical certificate issued by a government physician showing that he is sterile^[5] but he admitted that he made

love to his wife prior to April 1996[6]. Several witnesses were presented by the defense to show that Lori had many male and female friends with whom she often went out, and stayed out till late at night, that she was an incorrigible liar, that she was once spanked by the accused and was overheard to threaten the latter that she would retaliate. The accused also claimed that Lori's mother fabricated the charge to get rid of the accused and to live or marry another man with whom she was pregnant at the time the rape case was filed. Also, the defense claims that a teacher of Lori could have suggested that the accused was molesting her, as she was living alone with her stepfather.

The trial court rejected the defense put up by the accused, and found him guilty of statutory rape:

"WHEREFORE, finding the accused guilty beyond reasonable doubt of the crime of statutory rape, he is hereby sentenced to suffer the penalty of DEATH together with all the accessory penalties, and to indemnify LORI PAGDAYAWON, the offended party, in the amount of P50,000.00.

His immediate confinement at the National Penitentiary is hereby ordered.

Costs de officio.

SO ORDERED."[7]

The case is before us on automatic review.

Accused-appellant seeks a reversal or modification of the decision of the trial court, claiming that there was no convincing proof as to the age of Lori at the time of the alleged rape incident and that Lori only stated that "the accused had sex with her xxx similar to what a husband and wife does."

After an examination of the evidence on record we find no cogent reason to set aside or disturb the factual findings of the trial court upholding the version of the prosecution. Lori testified:

"PROS. GARCIA, JR:

Q: Tell this Court, why did you initiate a complaint against Rolando?

A: Because he raped me.

Q: Try to recall, how did he rape you?

A: First, he caressed me and later on he removed my short pants and my panty.

Q: After doing these, do you know what happened?

A: He told me not to tell my mother of what he did to me.

Q: So, what happened then after your clothes were removed?

A:

After that, he kissed the different parts of my body and he kissed my vagina. After that, he inserted his penis to my vagina.

Q: Did you allow these?

A: I agreed because I was forced.

Q:

How did he force you, Lori?

A: He pointed his gun at me.

Q: Where was your mother at that time?

A: She left.

Q: Why?

A: Because she quarreled with my father.

Q: Do you believe at that time that your stepfather will shoot you?

ATTY. ALEGARBES:

Your Honor, please, I think the question is not proper.

COURT:

No, it's a proper question.

PROS. GRACIA, JR:

Because she was being threatened with a gun.

COURT:

Answer.

WITNESS:

A. Yes, sir.

PROS. GARCIA, JR:

Q: Why do you have that belief?

A:

Because he can fire anytime. He can fire to my mother, he can fire to the walls and to the ceiling of our house, and he can fire anywhere.

Q: How did you feel when your stepfather had intercourse with you?

A: Pain, sir.

xxx xxx xxx

PROS. GARCIA, JR:

Q: What prompted you to file the case against your father?

ATTY. ALEGARBES:

Already answered, Your Honor.

COURT:

Answer.

WITNESS:

A:

Because I don't want him to continue what he is doing to me. That is why I decided to file a case against him.

COURT: (To witness)

Q: What was that he was doing to you?

A: He had sex with me, Your Honor.

Q: You said that Pagdayawon has been continuously doing it to you?

A:

Sometimes when he comes home from duty and sometimes when he is drunk, and sometimes when my mother is not around.

Q: When was the first time and when was the last time?

A:

The first time was in 1993, Your Honor, and that last time was on September 16, 1996.

PROS. GARCIA, JR.:

Q: Where did these happen?

ATTY. ALEGARBES:

That is very vague, Your Honor.

PROS. GARCIA, JR.:

Q: I am referring to the last act on September 16, 1996; where did this happen?

A: In our house, Sir.

Q: Where is this house located?

A: In NHA, Bangkal.

Q: Where was your mother at that time?

A: She left our home. She was not in the house because she quarreled with my father.

ATTY. ALEGARBES:

I believe the answer will be quoted exactly as testified by the witness-"naglayas siya".

PROS. GARCIA, JR.:

She abandoned our home because she quarreled with my father.

(To witness)

Q: How many persons were living then at NHA, Bangkal on September 16, 1996.

ATTY. ALEGARBES:

I believe there are several people living in NHA, Bangkal.

That is very vague, Your Honor.

PROS. GARCIA, JR.:

Q: In your house in NHA, Bangkal?

A: My father and myself were left there.

Q: What time was this when he had intercourse with you on September 16, 1996?

A: Around 9:00 o'clock in the evening.

Q: How many times did he do this to you at that particular evening?

A: Once, sir.

Q: Did you allow this?

A: Yes, because I was afraid of his gun because he placed it on his side.

xxx xxx xxx

ATTY.ALEGARBES:

(Cross-examination)

Q:

So, are you implying to this Honorable Court now that on the night that you alleged you were raped, your mother was still around?

A:

In the morning of September 16, 1996, my mother left because she reported to work in Livearn, and in the evening, she went home drunk. That was the time that they quarreled, then, my mother left.

Q:

What time in the evening on that particular evening of September 16, 1996 did your mother arrive drunk?

A: Around 8:35, sir.

Q: The accused also arrived at home after drinking together with his relative about 8:35?

A: No, my father arrived ahead of my mother.

Q: And, according you, when the accused arrived, he also continued drinking together with his relatives?

A: Yes, sir.

Q: And, they continued drinking until 12:00 o'clock midnight?

A:

At around 8:35 in the evening, my mother arrived. They quarreled with my father because my father asked her why she arrived late, maybe she was with her "barkadas". My mother answered that she was caught in the traffic. So, they quarreled and my father told my mother to leave. So, she left. At around 9:00 o'clock P.M., I went inside the room and my stepfather followed me. He locked the door and the windows and that was the time he started sexually abusing me when my mother was not around already."[8]

The court rejected the attempts of the defense to discredit the version of the prosecution. Thus:

"But even if the testimonies of these witness for the defense are true that Lori Pagdayawon has male and female friends and goes out at night, these facts alone does not make impossible and implausible the claim of

Lori that she was raped on September 16, 1996 by Rolando Pagdayawon. Even prostitutes and those prone to sexual dalliance can be the subject of rape. (People vs. Samson Samillano, G. R. No.62088, March 6, 1992). Even among sweethearts rape is not impossible (People vs. Tismo, 204 SCRA 535). Regardless of how Lori Pagdayawon is painted out to be, her claim that she was raped on September 16, 1996 can not be categorically ruled out. She is an intelligent witness and her testimony to the fact that she was raped is straightforward, which even the counsel for the accused conceded (p. 18, t.s.n., April 18, 1997). Thus, "the testimony of the victim who was only 12 years old at the time of the rape as to the circumstances of the rape must be given weight, for testimony of young and immature rape victims are credible" (People vs. Guibao, 217 SCRA 64). Besides, as ruled in People vs. Fernando Cabodac y Oras alias "Buboy Serrano", G. R. No.93928-31, May 8, 1992:

'As this Court had occasion to rule in People vs. Baylon (L-35785, 29 May 1974, 57 SCRA 114), where the victims are of tender years, "there is marked receptivity on its part to lend credence to their version of what transpired," a matter that is not to be wondered at, since the State, as parens patriae, is under the obligation to minimize the risk of harm to those who, because of their minority are not yet able to fully protect themselves'."[9]

In rape cases, the evaluation of the credibility of witnesses is addressed to the sound discretion of the trial judge whose conclusion thereon deserves much weight and respect because the judge had the direct opportunity to observe them on the stand and ascertain if they were telling the truth or not[10]. We find no reason to deviate from the general rule that factual findings of the trial court should not be disturbed on appeal, as they are not clearly arbitrary or unfounded[11].

Besides, the testimony of a rape victim, who is young or of tender age, is credible and deserves full credit, especially where the facts point to her having been a victim of sexual assault[12]. Certainly the victim would not make public the offense, undergo the trial and humiliation of a public trial if she had not in fact been raped[13].

As regards the penalty, the punishment for statutory rape, under Article 335, par. 3 of the Revised Penal Code is death. The two elements that must be established to hold the accused guilty of statutory rape are: 1) that the accused had carnal knowledge of a woman, and 2) that the woman is below 12 years of age. Thus the age of the victim, as an essential element for the conviction thereof, must unquestionably be proved by the prosecution[14]. The death penalty cannot be imposed where there is no evidence at all of the age of the victim or where the evidence is weak, unreliable and insufficient[15].

In this case, the victim herself,[16] and her mother[17] testified that she was born on February 24, 1985. The accused-appellant himself[18] testified that he was informed by the victim's mother that Lori's birthday is February 24, 1985 and that when he first met the victim's mother in 1985, she already had a child, Lori, almost one year old[19]. Accused-appellant affirmed in court his statement in his counter-affidavit[20] that he was told by the victim's mother that Lori was born on February 24, 1985[21].

The prosecution presented Lori's baptismal certificate[22] which stated that she was born on February 24, 1985[23]. Such documentary evidence constitutes independent proof corroborating the testimony of Lori and her mother. This Court pointed out in People vs. Pine[24]:

"To be sure, the testimony of a person as to her age, although hearsay, is admissible as evidence of family tradition. It cannot, however, be considered proof of age beyond reasonable doubt. In those cases in which we held the victims' testimonies as to their age to be admissible, their testimonies were corroborated by the testimonies of the mothers, the fathers, or the grandfathers of the victim or by documentary evidence, such as baptismal certificates, school records, and the like. xxx"

The accused-appellant invites attention to the fact that the mother of Lori was "evasive" when asked in court about the source of the information contained in the baptismal certificate, thus:

"ATTY. ALEGARBES:

Q:

When you left Macabebe, Pampanga, this Lori Pagdayawon was already born- your child Lori was already born?

A: Yes, sir.

xxx xxx xxx

Q: And you lied before the priest who baptized Lori that she was born in Davao City?

A: No, she was born in Macabebe, Pampanga.

xxx xxx xxx

Q:

Exhibit "B" mentions Lori delos Reyes, born on the 24th day of February 1985 in Davao City, is this correct?

A: That is erroneous, sir.

COURT (To witness):

Q: But the details that were placed there in the Certificate of Baptism came from you, is it not?

A: When my daughter was baptized by Fr. Tongol, they were the ones who made the entries there.

ATTY.ALEGARBES:

Q:

This Fr. Tongol took this information from you because you were the one who supplied this to Fr. Tongol, is it not?

A:

No, the one who typed that Certificate of Baptism was the cousin of Rolando Pagdayawon, Sgt. Bienvenido Barrios.

Q: Do not evade from my question. My question is: You supplied this information that is typed in this particular document by yourself?

A: They were the ones who prepared that.

Q: My question is: you supplied the information that is typed here in this document?

A: They knew where my child was born.

ATTY. ALEGARBES:

She is trying to evade from the question, Your Honor.

WITNESS:

A:

I cannot remember whether I told them that she was born in Davao City or somewhere else, but they knew that Lori was born in Macabebe, Pampanga."[25]

In his Reply Brief, accused-appellant points out that Lori's mother lied before the priest who baptized Lori when she misrepresented Lori's father as Crisostomo delos Reyes whereas she testified that Lori's father was Levy Bienvenide; also that Lori was born in Davao City as stated in the baptismal certificate but she testified that Lori was born in Macabebe, Pampanga. We rule, however, that the baptismal certificate and Hazel's testimony are consistent that Lori was born on February 24, 1985, and the fact that there was a discrepancy in the statement of her birthplace is not material to the determination of her age.

The trial court thus made a categorical finding that the victim, although looking older than her age, was only 11 years, 6 months and 21 days old when the rape was committed:

"The victim Lori Pagdayawon, although looking older than her age, was only 11 years, 6 months and 21 days old when the rape was committed, having been born on February 24, 1985. This was testified to by her mother, whose testimony on this point deserves credence (Sec. 40, Rule 130, Rules of Court; *People vs. Samson Samillano*, G. R. No.62088, March 6, 1992), and as evidenced by the Certificate of Baptism (Exh. B) and practically confirmed by the accused in his Counter-Affidavit when he declared that when he started living together with Lori's mother in 1985, Lori was then "about 7 to 8 months old" (Exh. H, H-1, Exh. 5). Being then a child below 12 years of age, at the time of the sexual congress force, intimidation or physical evidence of injury becomes immaterial. (*People vs. Danilo Palicte*, G. R. No.101088, Jan.27, 1994). Even if the victim consented to the sexual act, it would still be rape (*People vs. Emmanuele Espino y Cobe*, G. R. No.104948, March 7, 1994). For in statutory rape:

When a female under 12 years old age is the victim of rape, it is utterly of no consequence that no force or intimidation is used by the rapist, or that his prey is not deprived of reason or rendered unconscious. It suffices that there is carnal knowledge of the latter, without more. This is apparent from the terms of Article 335 of the Revised Penal Code, viz: "Art. 335. When and how rape is committed.- Rape is committed by having carnal knowledge of a woman under any of the following circumstances: 1. By using force or intimidation; 2. When a woman is deprived of reason or otherwise unconscious; and 3. When the woman is under 12 years of age, even though neither of the circumstances mentioned in the 2 preceding paragraphs shall be present." xxx That there was no struggle or outcry from the victim is not therefore exculpatory or even mitigating. Force or intimidation is not a factor in determining the existence of rape in the cases at bar, where mere sexual conjugation suffices to give rise to the crime, the victim being under 12. Such force or intimidation would serve merely to aggravate the liability for the offense. (*People vs. Garga*, G. R. No.109396-97, July 17,1996)."[26]

The trial court also correctly pointed out that even assuming that the victim was more than 12 years of age, there was force and intimidation, and this was a case of rape committed by a stepfather against his stepdaughter:

"Even assuming that the victim was more than 12 years of age when the sexual act was committed, the fact is that the sexual act was committed with force and intimidation. For it is hard to believe that any daughter would simply give in to her father's lascivious designs had not her resistance been overpowered. (*People vs. Lucas*, 181 SCRA 316). There was force and intimidation, as testified to by the victim, because he pointed his gun at her. And even if there was no force nor intimidation exerted, his moral ascendancy over her is enough. As was held in the case of *People vs. Nicasio Casil y Villas*, G. R. No.110836, February 13, 1995, in rape committed by a father against his daughter, the father's moral ascendancy over his daughter substitutes for violence and intimidation. This principle applies to this case of rape by a stepfather committed against his stepdaughter (*People vs. Matrimonio*, 215 SCRA 613).

'In a rape committed by a father against his own daughter, the former's moral ascendancy and influence over the latter substitutes for violence and intimidation. That ascendancy or influence necessarily flows from the father's parental authority, which the Constitution and the laws recognize, support and enhance, as well as from the children's duty to obey and observe reverence and respect towards their parents. Such reverence and respect are deeply ingrained in the minds of Filipino children and are recognized by law. Abuse of both by a father can subjugate his daughter's will, thereby forcing her to do whatever he wants. The Court has applied the foregoing principle in the case of a sexual assault of a stepdaughter by the stepfather, and of a goddaughter by a

godfather in the sacrament of confirmation." (People vs. Matrimonio, G. R. Nos. 822233-24, Nov. 13, 1992).

It should also be noted that appellant is the victim's stepfather who had assumed parental authority over her during her formative years. Undeniably, there was moral ascendancy on the part of appellant over the victim. Thus in a similar case, we stressed that since the victim was only twelve years old at the time of the incident and her attacker was her own stepfather, whom she in fact called "Tatay," he exerted a strong moral influence over her. (People vs. Vicente Titor alias "Tingting", G. R. No. 113690, June 27, 1995.)"[27]

Section 11 of Republic Act No.7659[28] which amended Art. 335 of the Revised Penal Code reads:

"SEC. 11 Article 335 of the same Code (Revised Penal Code, as amended) is hereby amended to read as follows:

"ART. 335. When and how rape is committed.- Rape is committed by having carnal knowledge of a woman under any of the following circumstances:

1. By using force or intimidation;
2. When the woman is deprived of reason or otherwise unconscious; and
3. When the woman is under twelve years of age or is demented.

"The crime of rape shall be punished by reclusion perpetua.

"Whenever the crime of rape is committed with the use of a deadly weapon or by two or more persons, the penalty shall be reclusion perpetua to death.

"When by reason or on the occasion of the rape, the victim has become insane, the penalty shall be death.

"When the rape is attempted or frustrated and a homicide is committed by reason or on the occasion thereof, the penalty shall be reclusion perpetua to death.

"When by reason or on the occasion of the rape, a homicide is committed, the penalty shall be death.

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

"1. When the victim is under eighteen (18) years of age and the offender is a parent, ascendant, step-parent, guardian, relative by consanguinity or affinity within the third civil degree, or the common-law spouse of the parent of the victim.

"2. When the victim is under the custody of the police or military authorities.

"3. When the rape is committed in full view of the husband, parent, any of the children or other relatives within the third degree of consanguinity.

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

"5. When the offender knows that he is afflicted with Acquired Immune Deficiency Syndrome (AIDS) disease.

"6. When committed by any member of the Armed Forces of the Philippines or the Philippine National Police or any law enforcement agency.

"7. When by reason or on the occasion of the rape, the victim has suffered permanent physical mutilation." (underscoring supplied).

The qualifying circumstances of minority and relationship that would warrant imposition of the death penalty were specifically alleged and proven.

Accordingly, the trial court did not err when it held that the prosecution had established the guilt of the accused beyond reasonable doubt and in imposing the supreme penalty. The civil indemnity is increased to P75,000.00 pursuant to prevailing jurisprudence. An additional award of P50,000.00 by way of moral damages is likewise awarded irrespective of proof thereof.[29]

Four justices of the Court, however, have continued to maintain the unconstitutionality of Republic Act No. 7659 insofar as it prescribes the death penalty. Nevertheless, they submit to the ruling of the majority to the effect that the law is constitutional and that the death penalty can be lawfully imposed in the case at bar.

WHEREFORE, the judgment finding Rolando Pagdayawon guilty of the crime of statutory rape and sentencing him to suffer the penalty of DEATH together with all the accessory penalties is AFFIRMED, with the MODIFICATION that the civil indemnity to be paid to the offended party is increased to P75,000.00 and an additional award of P50,000.00 by way of moral damages is also granted.

In accordance with Section 25 of Republic Act No. 7659, amending Article 83 of the Revised Penal Code, upon the finality of the 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., Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Panganiban, Quisumbing, Pardo, Buena, Gonzaga-Reyes, Ynares-Santiago, De Leon, Jr., and Sandoval-Gutierrez, JJ., concur.

[1] Original Records, p. 1.

[2] TSN, April 18, 1997 at p. 13.

[3] Exh. "C".

[4] TSN, March 20, 1997, p. 6.

[5] Exhibit "6".

[6] TSN, May 7, 1997, pp. 20-21.

[7] Penned by Judge Wenceslao E. Ibabao.

[8] TSN, April 18, 1997, pp. 115-116; 118-121; 137.

[9] Decision, p. 5, Rollo, p. 45.

[10] *People vs. Digma*, G.R. No. 127750-52, prom. November 20, 2000; *People vs. Venerable*, 290 SCRA 15; *People vs. Baccay*, 284 SCRA 296.

[11] *People vs. Pecayo, Sr.*, G.R. No. 132047, prom. December 14, 2000.

[12] *People vs. Pine*, G.R. No. 133441, prom. November 29, 2000.

[13] *People vs. Victor*, 292 SCRA 186.

[14] *People vs. Rebose*, 308 SCRA 499 [1999]; *People vs. Gopio*, G.R. No. 133925, prom. November 29, 2000.

[15] *People vs. de la Cruz*, G.R. No. 131167-68, prom. August 23, 2000.

[16] TSN, April 18, 1997, p. 5.

[17] TSN, March 19, 1997, p. 6.

[18] TSN, May 7, 1997, p. 20.

[19] At p. 19.

[20] Exhibit "5".

[21] TSN, May 7, 1997, pp. 18-19.

[22] Exhibit "B".

[23] Exhibit "B-1".

[24] G.R. No. 133441, prom. November 29, 2000; People vs. Digma, G.R. 127750-52, November 20, 2000.

[25] Rollo, p. 72.

[26] Rollo, p. 47-48.

[27] Rollo, pp. 48-49.

[28] Republic Act No. 8353, "The Anti-Rape Law of 1997" , was not yet in effect when the crime was committed.

[29] People vs. Prades, 293 SCRA 411 (1998).

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.