THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. CELESTINO JUNTILLA Y ALLARCOS, ACCUSED-APPELLANT.

G.R. No. 130604. September 16, 1999

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PER CURIAM:

Before this Court is the decision of Branch 8 of the Regional Trial Court of Malaybalay, Bukidnon[1] sentencing accused-appellant, Celestino Juntilla y Allarcos to death for the horrible crime of raping his sixteen (16) year old daughter, Nena Juntilla.[2]

In an information dated January 10, 1997, accused was charged as follows:

> "That on or about the 14th day of October, 1996, in the evening, at Purok 8 barangay Laligan, municipality of Valencia, province of Bukidnon, Philippines, and within the jurisdiction of this Honorable Court, the above named accused, with lewd design did then and there willfully, unlawfully and criminally have sexual intercourse with his daughter, NENA JUNTILLA, a 16 year old minor, against her will."[3]
>
> The relevant facts are undisputed.

Private complainant is the daughter of the accused, being the youngest of six children. When she was only two years old, her mother died. Thereafter, three of her siblings lived with their relatives in Davao. Private complainant however continued to live with her father, accused, Celestino Juntilla, in his farm in Agusan del Sur.[4]

In December 1995, private complainant and the accused transferred to Laligan, Valencia, Bukidnon.[5]

On the evening of October 14, 1996, while private complainant was sleeping in her room, she woke with a start to find that her father was on top of her and had already taken off her panties. She kicked him and tried to resist him, but to no avail. Accused was able to consummate the vile act of rape.[6]

The next day, private complainant reported the incident to her uncle, Julie Juntilla. Her uncle then promptly brought her to the barrio kagawad who accompanied her to the barangay captain.[7] Since she was a minor, her case was turned over to a local social worker of the Department of Social Welfare and Development.[8]

Nine (9) days after the rape, on October 23, 1996, private complainant was examined by the municipal health officer of Valencia, Dr. Marilyn Agbayani.[9] Dr. Agbayani issued a medical certificate[10] with the following findings:

> "External Genitalia - no physical change in color, no contusion, no hematoma.
>
> Internal Exam: admits two fingers without resistance xxx hymen not appreciated."

On the same day, October 23, 1996, private complainant, Nena Juntilla, filed a criminal complaint for rape against the accused.

In convicting the accused, the trial court held that it has "no reason to doubt that the crime of rape as charged had

been committed." The trial court gave full credence to the testimony of private complainant and relied on the "apparent sincerity" that private complainant displayed during her testimony. In its decision the trial court states:

> "... It is most difficult to believe that she (i.e. the private complainant), at her young age and still immature mind, had lied on such a grievous crime against her own father. She has no motive to do it and the accused failed to adduce evidence of any."

Regarding the results of the medical examination, the trial court held:

> "The fact that the doctor's findings of Nena's external genitals showed 'no change of color, no contusion, no hematoma' is of no consequence. Nena was only examined nine (9) days after she was sexually abused. Outward signs of inflicted physical force could have already healed."

Citing Republic Act No. 7659 as basis, the trial court imposed the maximum penalty of death on accused, Celestino Juntilla, to wit:

> "Being the daughter of the accused and only 16 years of age when she was raped, the crime committed is punishable by death as provided for under Sec. 10 of Republic Act No. 7659, amending Article 335 of the Revised Penal Code, which provides that:
>
> The death penalty shall also be imposed if the crime of rape is committed (under) any of the following attendant circumstances:
> 1. when the victim is under eighteen (18) years of age, and the offender is the parent, ascendant step-parent, guardian, relative by consanguinity or affinity with the third civil degree, or the common-law spouse of the parent of the victim.
>
> 2. x x x x

"WHEREFORE, judgment is hereby rendered finding accused Celestino Juntilla guilty beyond reasonable doubt of the crime of rape and is hereby sentenced to suffer the maximum penalty of DEATH as ordained under Section 10 of Republic Act No. 7659. Accused is also ordered to indemnify private complainant Nena Juntilla the sum of FIFTY THOUSAND (P50,000.00) Pesos."

SO ORDERED. (Underscoring ours.)

The judgment is now before this Court for automatic review pursuant to Art. 47 of the Revised Renal Code as amended by R.A. 7659.

Appellant denies the charge and claims that "the reason why a case was filed against him is that she (private complainant) wanted to live with other people."[11] Insisting on his innocence, appellant raised the lone assignment of error that:

> "THE COURT A QUO GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT OF THE CRIME OF RAPE."[12]

Appellant contends that during private complainant's cross-examination, she testified that she did not make an effective resistance; rather, she only made a "token" resistance. Appellant also points out that it was only during her cross examination that private complainant made the belated claim that he had a bolo by his side at the time of the rape. Appellant claims that this is inconsistent with her testimony on direct examination.[13]

Appellant also argues that private complainant's credibility is impaired by her failure or delay to report the alleged acts of rape committed against her by the appellant since she was 10 years old. Appellant alleges that she "had ample opportunity to report the incidents" but did not do so. He argues that such failure or delay to report the rape incidents is an unnatural reaction on the part of private complainant, and casts doubt on the credibility of

her present accusation.[14]

We find appellant's claim that the charge was brought against him by private complainant because she "wanted to live with other people"[15] to be flimsy and incredible. It is contrary to human experience to charge one's own flesh and blood with so grave an offense only because of such a whim or a caprice.

In fact, we find that the alleged reluctance of private complainant to live with her own father is, rather, indicative of the veracity of her charges. It is more consistent with normal human behavior for one who is sexually abused by her own father to want to leave the family home, the place of her disgrace. Truly, the fact that private complainant wanted so badly to live away from her father bolsters her claim of repeated sexual abuse by him.

Moreover, appellant's denials are not supported by clear and convincing evidence. His denials are self-serving statements which deserve no weight in law and cannot be given greater evidentiary weight over the testimony of private complainant, who testified on affirmative matters.[16]

We affirm the finding of the trial court not only because of the settled rule that the trial court's assessment of the credibility of witnesses is entitled to great respect on appeal because it had the opportunity to observe the witnesses' demeanor and deportment on the witness stand,[17] but more so because it is unnatural and highly improbable that a young girl would come out with such serious an accusation, risking not only her honor and reputation, but her family's as well.

We have held time and time again that no woman especially one who is of tender age would concoct a story of defloration, allow an examination of her private parts and thereafter permit herself to be subjected to public trial, if she is not motivated solely by the desire to have the culprit apprehended and punished.[18] In a nutshell, "a rape victim will not come out in the open if her motive is not to obtain justice."[19]

Considering further that "youth and immaturity are generally the badges of truth and sincerity,"[20] we find no reason to doubt the trial court's finding that private complainant's testimony deserved more credence than that of appellant's.

Private complainant's testimony taken on November 22, 1996 was candid, straightforward and honest. She did not waver during the direct and cross examinations conducted.

On November 22, 1996, she testified before the Municipal Trial Court of Valencia, Bukidnon as follows:[21]

> Q: Why did you file this complaint for "Rape" against your father?
> A: Because he raped me and what he did to me sir, is not good.
>
> Q: When was the first time when he raped you?
> A: When I was yet ten (10) years old sir, I cannot remember what year was that sir.
>
> Q: Where was your mother at that time when your father raped you?
> A: When my father did the raping to me, my mother was at that time dead already sir.
>
> x x x x x x x x x
> Q: Did not your father ask forgiveness to you for what he did?
> A: He did not, sir.
>
> Q: Are you going to forgive him?
> A: No, sir.
>
> Q: Why?
> A: I just not forgive him, sir.

Q: Did you suffer so much from the (hands) of your father since you were then 10 years old?
A: Yes, sir.

On April 23, 1997, before the Regional Trial Court she remained steadfast. During her direct examination she testified:[22]

Q: Now on October 14, 1996, in the evening, can you recall where you were?
A: Yes ma'am.

Q: Where were you?
A: There at our residence.

Q: Where is your residence located?
A: At Laligan, Valencia, Bukidnon.

Q: Now who were with you in your house during that time on October 14, 1996?
A: My father.

Q: Your father Celestino Juntilla?
A: Yes ma'm.

Q: Now what time did you go to sleep, Nena on October 14, 1996?
A: At 7:00 o'clock.

Q: Do you usually sleep in your house, you have a room?
A: Yes ma'am.

Q: How about your father where does he sleep?
A: There at his room.

Q: While you were sleeping Nena, can you recall if you were awakened in that particular evening?
A: Yes ma'am.

Q: Why were you awakened? You said he "removed my panty", who removed your panty?
A: My father.

Q: Celestino Juntilla?
A: Yes ma'am.

Q: After he removed your panty, what did he do next if any?
A: He inserted his penis to my vagina.

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Q: Was that the first time that you were raped by your father, Nena?
A: For several times already.

Q: How old were you when your father raped you for the first time?
A: I was ten (10) years old.

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Q: Now, Nena, you have charged your own father for rape, are your really sincere and honest in charging of the rape against your father?
A: Yes, ma'am.

Q: Now will you resent later on if your father will be convicted because of your charge?
A: No ma'am.

Q: Now what do you want from this court as far as your father is concerned of what he had done to you?
A: I want him to be imprisoned for life.

Q: Now, Nena, if your father will ask forgiveness from you do you think you can forgive him?
A: No ma'am.
x x x x x x x x x

Private complainant's candid and straightforward narration of how she was raped bears the earmarks of a truthful witness.[23] The rule is that when an alleged victim of rape says she was violated, she says all that is necessary to show that rape has been inflicted on her and so long as her testimony meets the test of credibility, the accused may be convicted on the basis thereof.[24]

Truly, a rape victim's testimony is entitled to greater weight when she accuses a close relative of having raped her, as in the present case where the charge is brought by a daughter against her own father.[25]

The alleged discrepancies which appellant points to in the testimonies of private complainant during her direct and cross examination are more apparent than real. This is readily observable upon a review of the transcript of records.

During her direct examination, private complainant testified:[26]

Q: Now after he inserted his penis to your vagina, what happened next?
A: I felt pain.

Q: Did you resist?
A: I resisted.

Q: How did you resist?
A: I kicked him.

Q: Did you shout for help?
A: I shouted.

Upon cross examination, the private complainant's story did not falter:[27]

Q: You said your father on October 14, 1996 at around 7:00 o'clock in the evening raped you, I hear you correct on that?
A: Yes sir.

Q: Since that is the last time for the several times that the rape have been done by your father, you did not anymore resist, correct?
A: I resisted.

Q: What did you do when he was about to remove your panty?
A: I kicked him.

Q: Where did you kick him?
A: At his thigh.

Q: How many times did you kick your father?
A: Only once.

Q: A token resistance?
A: Yes sir.

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Q: Why did you not fight back?
A: Because he had a bolo beside him.

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The Solicitor General correctly pointed out that there were no inconsistencies, considering that private complainant, as a witness, “would naturally merely answer the questions propounded to her and nothing more."[28]

We agree with the Solicitor General. Private complainant’s testimony that she resisted and shouted for help does not contradict her testimony during the cross examination that she put up only a token resistance because appellant had a bolo beside him. The fact remains that private complainant resisted. The fact that private complainant did not describe the measure of resistance she employed during her direct examination does not indicate prevarication but merely a lack of facility to express herself.[29]

Given private complainant’s tender age and the trauma of her experience, we cannot expect her to immediately recall and give an exact and detailed description of the rape. In People vs. Rabosa,[30] we held that a rape victim cannot be expected to mechanically keep and give an accurate account of the traumatic and horrifying experience she had undergone.

Even assuming that a mere “token” resistance was made, such cannot absolve appellant.

The case of People vs. Manggasin[31] involved a young girl who was sexually molested at age 12 and which abuse lasted until she was 17. In that case, accused-appellant was the common law spouse of the private complainant’s mother. We ruled that accused-appellant exercised moral ascendancy over complainant which made the threats effective. Physical resistance need not be established in rape when intimidation is exercised upon the victim and the latter submits herself against her will to the rapist’s embrace because of fear for her life and personal safety.

The aforementioned ruling is applicable to the case at bar considering that appellant is private-complainant’s father whose moral ascendancy cannot be doubted. Also, the fact that appellant had a bolo by his side at the time of the rape is enough to intimidate private complainant.

Private complainant’s delay in instituting the complaint does not weaken the case for the prosecution. It is not uncommon for a young girl to conceal assaults on her virtue, especially when the rapist is living with her.[32] In People vs. Caloma,[33] we ruled that even a delay of 8 years is not a sign of fabrication.

We have consistently held that delay or vacillation in making a criminal accusation does not necessarily adulterate the credibility of witnesses.[34] We are not about to change the rules in mid-stream.

We reiterate the rule that the medical examination of the victim as well as the medical certificate are merely corroborative in character and are not indispensable elements in rape. What is important is that the testimony of private complainant be clear, unequivocal and credible.[35]

Besides, the fact that there were no physical changes in color, no contusion, no hematoma in the external genitalia, does not render the occurrence of rape improbable. The doctrine is well settled that the absence of external injuries does not negate rape.[36] Even the absence of spermatozoa is not an essential element of rape.[37] This is because in rape, the important consideration is not the emission of semen but the penetration of the female genitalia by the male organ.[38]

Applying the foregoing rules, we do not find any cogent reason to reverse or modify the trial court’s finding that the accused-appellant is guilty of the crime charged against him.

Under Article 335 of the Revised Penal Code, as amended by Section 11 of R.A. 7659, simple rape is punishable by reclusion perpetua. However, the attendance of certain qualifying circumstances in the commission thereof may take the case out of the purview of simple rape where the penalty of reclusion perpetua is increased one degree higher resulting in the imposition of the death penalty. Among these circumstances is where the offended party is under eighteen years of age and the offender is a parent of the victim. In such cases, the concurrence of the minority of the victim and her relationship to the offender should be alleged and proved.[39] In the instant case, it was specifically alleged in the information that private complainant was the daughter of appellant and she was only 16 years of age when she was raped.[40] Private complainant's age and relationship to appellant was established through her testimony. Appellant did not belie such testimony. We thus find that the minority of the victim was duly proved and affirm the trial court's imposition of the death penalty.

Four Justices of the Court 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.

Going to the matter of damages that should be awarded to private complainant, the amount of P75,000.00 as civil indemnity is proper. In People vs. Victor[41] and People vs. Delos Santos,[42] we ruled that the award of civil indemnity should be P75,000 if the crime of rape is committed or effectively qualified by any of the circumstances under which the death penalty is authorized by present law.

In addition, the Court hereby orders appellant to pay the amount of P50,000.00 in accordance with prevailing jurisprudence.[43]

WHEREFORE, the decision of the Regional Trial Court of Malaybalay, Bukidnon, Branch 8, in Criminal Case No. 8262-97 finding accused-appellant CELESTINO JUNTILLA y ALLARCOS guilty beyond reasonable doubt of the crime of rape and sentencing him to suffer the maximum penalty of death is AFFIRMED with the MODIFICATION that accused-appellant is ordered to pay the private complainant, NENE JUNTILLA, the sum of P75,000.00 as civil indemnity and P50,000.00 as moral damages.

In accordance with Article 83 of the Revised Penal Code, as amended by Section 25 of Republic act 7659, upon finality of this decision, let the records of the case be forthwith forwarded to the Office of the President for possible exercise of the power to pardon.

No pronouncement as to costs.

SO ORDERED.

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

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[1] In Criminal Case No. 8262-97.

[2] Rollo, p. 11.

[3] Rollo, p. 5.

[4] TSN, April 23, 1997, p. 6.

[5] TSN, April 23, 1997, p. 7.

[6] TSN, April 23, 1997, p. 8.

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[7] TSN, April 23, 1997, p. 11.

[8] TSN, April 29, 1997, p. 4.

[9] TSN, April 29, 1997, p. 17.

[10] RTC Records, p. 3.

[11] TSN, May 20, 1997, pp. 9-12.

[12] Rollo, p. 26.

[13] Rollo, p. 31.

[14] Rollo, p. 33.

[15] TSN, May 20, 1997, p. 11.

[16] People vs. Guibao, 217 SCRA 64 (1993).

[17] People vs. Ato, G.R. 123540, March 30, 1999; People vs. Ramirez, 266 SCRA 335 (1997); People vs. Corea, 269 SCRA 76 (1997); People vs. Antipona, 274 SCRA 328 (1997); People vs. Tadulan, 271 SCRA 233 (1997).

[18] People vs. Butron, 272 SCRA 352 (1997); People vs. Rabosa, 273 SCRA 142 (1997); People vs. Esguerra, 256 SCRA 657 (1996).

[19] People vs. Castromero, 280 SCRA 421 (1997).

[20] People vs. Lusa, 288 SCRA 296 (1998).

[21] RTC Records, p. 9; TSN, November 22, 1996, pp. 1-2.

[22] TSN, April 23, 1997, pp. 8-17.

[23] People vs. Calayca, G.R. No. 121212, January 20, 1999.

[24] People vs. Ambay, G.R. No. 127177, February 25, 1999.

[25] People vs. Carullo, G.R. No. 129289, July 29, 1999; People vs. Tabugoca, 285 SCRA 312 (1998).

[26] TSN, April 23,1997, p. 9.

[27] TSN, April 23, 1997, pp. 27-28.

[28] Rollo, p. 71.

[29] People vs. Villanueva, 253 SCRA 155 (1995).

[30] 273 SCRA 142 (1997).

[31] G.R. No. 130599-600, April 21, 1999.

[32] People vs. Vitor, 245 SCRA 392 (1995).

[33] 222 SCRA 255 (1993).

[34] People vs. Plasencia, 249 SCRA 674 (1995).

[35] People vs. Brandares. G.R. No. 130092, July 26, 1999.

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[36] People vs. Managaytay. G.R. No. 126916, March 25, 1999; People vs. Davatos, 229 SCRA 647 (1994); People vs. Querido, 229 SCRA 745 (1994); People vs. Casipit, 232 SCRA 638 (1994); People vs. Bautista, 236 SCRA 102 (1994); People vs. Alimon, 257 SCRA 658 (1996).

[37] People vs. Caballes, 274 SCRA 83 (1997).

[38] People vs. Dones, 254 SCRA 696 (1996).

[39] People vs. Cantos, G.R. No. 129298, 14 April 1999; People vs. Mangasin, G.R. Nos. 130599-600, April 21, 1999.

[40] Rollo, p. 5.

[41] 292 SCRA 186, 200 (1998).

[42] G.R. No. 121906, September 17, 1998.

[43] People vs. Prades, G.R. No. 127569, July 30, 1998.

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